

UNDERSTANDING THE 2023 REGULATIONS: LICENSES AND PERMITS PROCESSES

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**A PUBLICATION TO NIGERIAN MIDSTREAM AND DOWNSTREAM PETROLEUM
REGULATORY AUTHORITY (NMDPRA) MAGAZINE “GAS: EMERGING GLOBAL GOLDMINE”**

VOL. 2 2023.

www.nmdpра.gov.ng

The Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) also known as the Authority, introduced a new regulation pertaining to the assignment and transfer of licenses and permits in the petroleum industry titled “Assignment and Transfer of License and Permit Regulations 2023”.

These regulations took effect from February 27, 2023, and is aimed at establishing a streamlined procedure for such assignments or transfers, while also prescribing fees and providing sanctions for non-compliance.

Applicable to activities related to midstream and downstream petroleum operations, these regulations encompass various forms of licenses and permits assignment or transfer. These include assignments or transfers resulting from mergers, acquisitions, reorganizations within a group company, establishment of new companies, devolution of ownership, share exchange or transfer, private placements, public listings, and testamentary instruments.

The primary objectives of these regulations encompass three key aspects. Firstly, they seek to provide a clear and uniform procedure for licensees and permit holders when assigning or transferring licenses or permits. Subsequently, they outline the fees associated with such assignments or transfers. Furthermore, they define the appropriate sanctions and administrative penalties in cases of non-compliance.

To ensure transparency and compliance, licensees and permit holders are required to notify the Authority in advance of any name change resulting from corporate restructuring or rebranding. Once the change of name is approved, the licensee or permit holder must apply for a new license or permit in the new name, return the previous license or permit for cancellation, and fulfil the prescribed fees associated with the name change. Prior to the assignment or transfer of a license or permit, the transferor must notify the Authority of their intention, providing details about the proposed transferee, the reasons and methods for the assignment or transfer, and the potential technical and economic value of the transaction. The transferor must also submit the original or a certified copy of the license or permit, along with any other information and documents specified by the Authority's guidelines. Upon receipt of the notification, the Authority has a period of 21 working days to communicate its decision to the transferor regarding the approval or rejection of the transaction. If no decision is received within this timeframe, the transferor is granted permission to proceed. In the case

of approval, the transferor is required to publish a notice of the application in the format prescribed by the Authority. Once the Authority's decision is received, the transferee must follow the established procedure, including applying for the assignment or transfer of the license or permit to their company. They must submit certified copies of the title documents, demonstrate their technical and financial capabilities, provide any additional information as directed by the Authority, and pay the prescribed fees outlined in the schedule accompanying the regulations. Within 90 days of receiving the application, the Authority will notify the applicant in writing of its consent or refusal. If consent is refused, the applicant can make further representations within 21 days of receiving the refusal. Failure to receive a decision within the specified timeframe will be considered as approval.

It is important to note that these regulations emphasize that no license or permit, along with its associated rights and obligations, can be assigned or transferred without the prior written consent of the Authority. Non-compliance with these regulations, including directives or the provision of false information, may result in administrative penalties and the suspension, cancellation, or revocation of licenses or permits.

The fees applicable to the assignment and transfer of licenses and permits in midstream and downstream petroleum operations are outlined in the accompanying schedule. These fees are either a fixed processing fee or 5% of the transaction value, whichever is higher, based on the specific facility or operation.

The Authority retains discretionary powers to amend, suspend, or revoke licenses or permits in cases of non-compliance with the regulations or applicable laws. Appeals against decisions made by the Authority can be made to the Federal High Court within 30 days of receiving the decision.

In another development, the Authority has rolled out six newly gazetted regulations on March 22nd, 2023. The essence of these regulations reverberates across diverse facets of midstream and downstream petroleum operations. Encompassing critical aspects such as petroleum measurement, license and permit transfers, natural gas pipeline tariffs, gas pricing, domestic demand, delivery, and petroleum transportation and shipment, the Authority demonstrates a comprehensive approach to ushering in a new era of sustainable growth in these sectors.

At the helm of the unveiling was Engr. Farouk Ahmed, the visionary Authority Chief Executive of the NMDPRA. He illuminated the core purpose of these regulations – not just to bolster regulatory clarity but to establish a robust framework that empowers stakeholders with a precise understanding of their rights and responsibilities.

This precision, in turn, becomes the bedrock for a conducive business environment that kindles sustainable growth and investment. However, this announcement bore more than just regulatory updates. Engr. Ahmed revealed a transformative requirement effective March 31st, 2023: any entity seeking to engage with the NMDPRA must be registered and issued a permit. This bold step brings accountability, structure, and adherence to the forefront of industry operations, safeguarding the interests of both players and consumers. While these six regulations mark a significant step forward, The Authority is poised for a more comprehensive transformation.

With 14 additional regulations in the pipeline, the Authority is laying the groundwork for a regulatory framework that encapsulates the intricacies of the industry. These forthcoming regulations will further solidify the Authority's commitment to holistically address every facet of the midstream and downstream sectors. However, the Authority's dedication extends beyond regulations alone.

The launch of the Midstream and Downstream Oil and Gas Industry Service Permit (MDOGISP) Portal illustrates the Authority's proactive approach to streamlining service providers within the industry. This technological leap fosters enhanced collaboration, streamlines processes, and elevates service quality across both sectors.

The MDOGISP Portal, inaugurated to fulfil these objectives, is set to serve as a central hub for coordinating and regulating service providers' activities in the midstream and downstream segments of the industry, creating a seamless experience for both service providers and stakeholders and ensuring efficient and high-quality service delivery throughout the Sector.

As these regulations take Centre stage, a metamorphosis within the Nigerian midstream and downstream landscape is on the horizon. With regulatory clarity, sustainability, and growth as guiding principles, the Authority steers the course towards a thriving energy sector that underpins Nigeria's sustainable future.