

*Extraordinary*



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**B 134**

**PETROLEUM INDUSTRY ACT, NO. 6, 2021**  
**MIDSTREAM GAS FLARE REGULATIONS, 2023**



ARRANGEMENT OF REGULATIONS

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**B 136**

## S. I. No. 11 of 2023

**PETROLEUM INDUSTRY ACT, NO. 6, 2021**  
**MIDSTREAM GAS FLARE REGULATIONS, 2023**

[14th Day of March, 2023]

Commence-  
ment

**In exercise of the powers conferred on it by section 33 (y) of the Petroleum Industry Act, No. 6, 2021 (“Act”) and all other powers enabling it in that behalf, the Nigerian Midstream and Downstream Petroleum Regulatory Authority (“Authority”) makes these Regulations —**

PART I — GENERAL PROVISIONS

1. The objectives of these Regulations are —

Objectives

- (a) reduction of the environmental and social impact caused by excessive flaring and venting of flare gas ;
- (b) protection of the environment ;
- (c) prevention of waste of natural resources ; and
- (d) to set criteria for gas flaring in midstream petroleum operations for safety purposes, which includes emergency shutdown with depressurisation.

2. These Regulations shall apply to flaring and venting of flare gas in midstream petroleum operations.

Application

PART II — ACCESS TO FLARE GAS FROM MIDSTREAM OPERATIONS

3. Flaring in midstream petroleum operations may occur in the categories of —

Midstream  
flaring  
categories

- (a) safety flaring —
  - (i) initial start-up flaring during commissioning and start-up phases of a plant or process unit,
  - (ii) pilot gas, and
  - (iii) relief devices ;
- (b) continuous flaring when the plant or process unit is in operation ; and
- (c) non-continuous operational flaring on a planned or unplanned basis for scheduled maintenance, equipment shutdowns, and mechanical equipment failures.

4.—(1) The authority shall have the right to take free of charge or any payment, natural gas at the flare in midstream petroleum operations.

Access to  
flare gas

(2) The Authority may, upon application by a licensee or permit holder to repurpose flare gas from midstream petroleum operations, grant a permit to access flare gas subject to terms and conditions as the Authority may determine.

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(3) A permit to access flare gas shall be valid for a term of one calendar year and renewable for a further term of one year.

(4) The Authority may, upon application by a third party to repurpose flare gas from midstream petroleum operations, grant a permit to access such flare gas subject to payment of prescribed fees and service charges, and the submission of an investment proposal by the third party.

Revocation  
of access to  
flare gas

**5.**—(1) The Authority shall revoke any permit to access flare gas where the —

- (a) permit holder fails to comply with the terms and conditions of the permit ;
- (b) permit holder intentionally provides inaccurate information in connection with the issuance of the permit ;
- (c) permit holder is dissolved or enters into bankruptcy proceedings; or
- (d) purpose for which the permit was obtained would negatively impact health, safety, environment or public interest.

(2) A revocation of a permit to access flare gas shall not release the permit holder from any obligations arising from these Regulations.

Assignment

**6.** A permit holder may assign or transfer its interest or rights under the permit provided that the —

- (a) transferee satisfies the minimum technical and financial requirements necessary to become a permit holder and assumes all obligations of the permit holder ; and
- (b) transferee complies with the provisions of the Assignment or Transfer of Licence and Permit Regulations, 2023 and other relevant regulations, guidelines or directives issued by the Authority.

PART III — CONTINUED FLARING

Permit to  
flare

**7.**—(1) The Authority may, upon application by a licensee or permit holder to flare gas, grant a permit to a licensee or permit holder to allow the flaring or venting of flare gas for a specific period, as stipulated in guidelines to be issued by the Authority, where it is required for —

- (a) facility start-up ; or
- (b) strategic operational reasons, including testing.

(2) The application for a permit to flare gas in subregulation (1), shall be subject to —

- (a) submission of valid justification for flaring or venting ; and
- (b) payment of the prescribed fees.

**8.—(1)** A person engaged in midstream petroleum operations shall not flare or vent flare gas beyond limits set by the Authority.

Prohibition against venting and excessive flaring of flare gas

(2) A licensee or permit holder shall, prior to the issuance of a licence to operate, engage with the Authority to determine the maximum number of major flaring events and quantity of gas flared.

(3) The quantity of gas flared and number of major flaring events in subregulation (2), shall include all planned maintenance, facility start-up or strategic operational reasons including testing.

(4) The Authority may exempt a licensee or permit holder who vents flare gas during a declared national emergency, from the payment of penalties.

**PART IV — REPORTING OF GAS FLARE DATA**

**9.—(1)** A licensee or permit holder shall maintain a daily log of each occurrence of the flaring and venting of flare gas within its facilities, which shall be submitted to the Authority within 21 days following the end of each month.

Flare gas logs

(2) A licensee or permit holder shall install metering equipment in its facilities which shall provide the data for all flare gas logs, and the data shall include the date, time, duration and quantities of the venting or flaring of flare gas within the facilities.

(3) All flare gas logs shall comply with the form and manner stipulated in the Metering and Data Collection Standards issued by the Authority.

(4) A licensee or permit holder shall keep copies of flare gas logs in safe custody for not less than 36 months.

**10.—(1)** A licensee shall submit an annual report to the Authority each year by 31st March for the previous year.

Quarterly and annual reporting

(2) The annual report shall include all flare gas data with respect to each facility in the form and manner specified by the Authority which shall consist of —

(a) information regarding the quantity of flare gas utilised or repurposed at the facility ; and

(b) the quantity of all flare gas flared by the licensee.

(3) A licensee shall submit a quarterly report to the Authority within 21 days following the end of each quarter.

(4) All flare gas data shall be subjected to quarterly and annual reconciliation as may be determined by the Authority.

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Metering and safety standards

**11.—**(1) Metering equipment used for measuring the flaring and venting of flare gas shall be manufactured, operated, calibrated and inspected in conformity to the Metering and Data Collection Standards issued by the Authority.

(2) Metering equipment used for measuring flare gas shall have accuracy in conformity to the Metering and Data Collection Standards issued by the Authority.

PART V — MISCELLANEOUS PROVISIONS

Conflicts

**12.** Where there is a conflict or inconsistency between the provisions of these Regulations and provisions of any other regulation in relation to the flaring of gas in midstream petroleum operations, the provisions of these Regulations shall take precedence and supersede any other regulation to the extent of the conflict or inconsistency.

Penalties for venting or flaring of flare gas

**13.—**(1) A licensee shall be liable to pay a penalty for venting or flaring of flare gas of USD0.50 per 28.317 standard cubic metres (one thousand standard cubic feet) of flare gas flared or vented beyond the limit set by the Authority by not more than one million standard cubic feet (1MMSCF).

(2) A licensee shall be liable to pay a penalty for venting or flaring of flare gas of USD1.00 per 28.317 standard cubic metres (one thousand standard cubic feet) of flare gas flared or vented beyond the limit set by the Authority more than one million standard cubic feet but less than ten million standard cubic feet (between 1-10MMSCF).

(3) A licensee shall be liable to pay a penalty for venting or flaring of flare gas of USD1.50 per 28.317 standard cubic metres (one thousand standard cubic feet) of flare gas flared or vented beyond the limit set by the Authority by greater than ten million standard cubic feet (>10MMSCFD).

(4) All midstream flare gas penalties collected shall be for the account of the Midstream and Downstream Gas Infrastructure Fund and shall be utilised for midstream and downstream gas infrastructure investment within the host community of a designated facility.

Offences

**14.—**(1) A person who —  
(a) fails to obtain a licence or permit required in these Regulations,  
(b) fails to provide information required in these Regulations,  
(c) fails to submit information required within the stipulated time frame,  
(d) makes a false declaration to the Authority or wilfully furnishes information so required which is in any respect false, inaccurate, incomplete or insufficient, or



(e) fails to comply with any provisions of these Regulations or any directives given or condition of any permit or licence issued in these Regulations,

is liable to a penalty issued by the Authority of not more than USD 100,000 and in addition, any permit, licence or authorisation granted to that person may be suspended, cancelled or terminated.

(2) Notwithstanding the provisions of these Regulations, all penalties shall be paid within 14 days of the date of the penalty demand order issued by the Authority, and failure to comply with such penalty demand order shall attract a 20% surcharge penalty for each day of non-compliance.

**15.** The fees in the Schedule to these Regulations shall be applicable to flare gas in midstream petroleum operations in Nigeria.

Fees  
Schedule

**16.—(1)**The Authority may request a licensee or permit holder to provide data relating to flare gas, facility maintenance management and operations.

Reporting

(2) Where a request for data is made under subregulation (1), the licensee or permit holder shall provide such data in the required format, within 30 calendar days of the date of the request.

**17.** The Authority may issue guidelines, directives, and notices for the effective implementation of these Regulations.

Authority  
to make  
guidelines

**18.** In these Regulations —

“*Act*” means the Petroleum Industry Act No. 6, 2021 ;

“*declared national emergency*” means a state of emergency resulting from a danger or threat of danger to a midstream facility as confirmed by the Authority ;

“*flare gas*” means any hydrocarbon or substance that is directed to and combusted in the flare system or incinerator in a midstream petroleum operation resulting from but not limited to pilot gas, relieving devices, blow down, facility start up, testing, mal-operation or deliberate burning ;

“*flare gas data*” means the dynamic pressure, volume and temperature (PVT) data, and other logs and records generated in the course of production activities, submitted to the Authority in these Regulations, which shall include —

- (a) gas quantity ;
- (b) flow rates ;
- (c) facility name ;
- (d) facility terrain ;
- (e) coordinates, and reports relating to the data ;
- (f) historical flare gas data per facility ;

- (g) historical flare gas data per flare stack ;
- (h) flared gas composition by stack ; and
- (i) any other data that may be required by the Authority ;

“*gas flaring*” means burning or incineration of gas from a flare stack ;

“*major flaring event*” means major combustion in the flare system or incinerator in a midstream petroleum operation resulting from but not limited to blow down for maintenance, facility start-up and shutdown, testing, or deliberate burning outside the operating or set parameters ;

“*mal-operation*” means operation of facility or equipment outside its operating parameters resulting in faulty or abnormal operation ;

“*Metering and Data Collection Standards*” means flare gas Metering and Data Collection Standards and requirements issued by the Authority ;

“*NGN*” means Nigerian Naira ;

“*permit holder*” means a person that has been granted a permit to access flare gas by the Authority ;

“*permit to access flare gas*” means a permission granted to a permit holder by the Authority to take flare gas at a flare point ;

“*planned maintenance*” means prescribed maintenance either routine or stipulated ;

“*safety flaring*” means flaring undertaken to ensure safe operations at a facility ;

“*start-up*” means the act of starting a process, an equipment, system or a plant or facility ;

“*strategic operational reason*” means consideration to certain operations but not limited to relieving devices, blow down, facility start up and testing ;

“*testing*” means the act of examining or validating the integrity of an equipment, system or a facility during operation ;

“*venting*” means releasing of hydrocarbon or substance into the atmosphere from midstream gas processing facilities.

Citation

**19.** These Regulations may be cited as the Midstream Gas Flare Regulations, 2023.

## SCHEDULE

*Regulation 15*

## FEES

The following application fees shall be payable in respect of flare gas in midstream petroleum operations :

<i>S/N</i>	<i>Permits</i>	<i>Application Fees</i>
1.	Permit to Access Flare Gas	NGN 100,000
2.	Permit to Flare	NGN 100,000

Made at Abuja this 14th day of March, 2023.

ENGR. FAROUK AHMED  
*Authority Chief Executive*  
*Nigerian Midstream and Downstream*  
*Petroleum Regulatory Authority*