MIDSTREAM AND DOWNSTREAM PETROLEUM DISPOSAL OF CONFISCATED MATERIALS AND EQUIPMENT REGULATIONS, 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021
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Arrangement of Regulations

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[ ]	Commencement
In the exercise of the powers conferred on it by sections 29(2), 33, and 125(4) 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 —	
1. The objectives of these Regulations are to — (a) provide common, simplified, and documented processes for the disposal of confiscated materials and equipment in the Nigerian midstream and downstream petroleum industry; (b) outline the procedure for the disposal of confiscated materials and equipment in the Nigerian midstream and downstream petroleum industry; and (c) encourage transparency and accountability in the use of financial resources generated from the disposal of public properties.	Objectives
2. These Regulations shall apply to activities relating to or connected with the disposal of confiscated materials and equipment in the Nigerian midstream and downstream industry.	Application
3. (1) As provided under the Act, the Authority shall have powers to confiscate and dispose of materials and equipment used by persons engaging in specified activities under the Act without a valid licence or permit. (2) The Authority shall dispose of confiscated materials and equipment not later than 12 calendar months from the date of confiscation.	General Powers of the Authority
4. (1) From the commencement of these Regulations, the Authority shall put in place a control system to ensure adequate safeguards to prevent loss, damage, or theft of confiscated materials and equipment. (2) The requirement for storage of confiscated materials and equipment shall include: (a) periodic inventory; and (b) reporting of discrepancies, loss or theft.	Storage & Safekeeping of Confiscated Property

(3) Within 30 days of the commencement of these Regulations, the Authority shall cause to be opened a Register of Confiscated Materials and Equipment wherein a record of all confiscated materials and equipment existing prior to the commencement of these Regulations shall be kept.

(4) Upon opening the Register as in sub-regulation 4(3), any material or equipment confiscated by the Authority pursuant to its powers under the Act, shall be recorded in Register within 5 days of confiscation.

(5) The following information shall be recorded in the Register in respect of each confiscated material or equipment:
   (a) Date of confiscation.
   (b) Property description for ease of identification.
   (c) Category of property (whether fixture or fittings).
   (d) Reason for confiscation.
   (e) Location of property.
   (f) Unique identification code.

(6) Once an identification code has been assigned to a property in custody of the Authority, no change shall be made during the life of the property while in custody of the Authority for any purpose whatsoever. The identification code may be removed from the property only after it is sold, scrapped, or otherwise disposed of.

(7) The Authority shall take periodic inventory of the Register at the end of every quarter and the result of the physical count of the properties shall be reconciled with the records in the Register.

(8) Where the result of an inventory reveals any form of discrepancy or where a determination has been made that a confiscated property has been lost or stolen, the Authority shall take the following steps:
   (a) In the case of inaccurate recording of confiscated property in the Register, the Authority shall investigate the matter before amending the Register.
   (b) In the case of loss or theft of a confiscated property, the Authority shall cause a thorough investigation with a view to

determining whether an officer of the Authority has acted negligently and become liable for the loss, theft, or unauthorized use of the property.	
5. (1) Within 60 days after the commencement of these Regulations, the Authority Chief Executive shall constitute a Disposal Committee comprised of 7 members of staff of the Authority. (2) The Committee shall be responsible for coordinating the disposal of confiscated properties. (3) Subject to the approval of the Authority Chief Executive, the Committee may engage the services of external experts through consultancies to beef up any skill-gap in the disposition of confiscated properties. (4) The Committee shall keep records of its activities and provide a report upon completion of any disposal exercise.	Disposal Committee
6. (1) All confiscated properties pursuant to the enabling provisions of the Act shall be disposed on as is basis and I accordance with the disposal procedure provided in these Regulations. (2) Prior to the disposal of any confiscated property by the Authority, the Authority shall give notice to each person the Authority knows, or reasonably suspects has a beneficial interest in the property, and such notice shall include- (a) the description of the property; (b) the grounds upon which the property was confiscated; (c) information about how to dispute the forfeiture; and (d) including the dispute period. (3) As soon as practicable after the notice is issued, the notice must be published in- (a) the Federal Gazette; or in a national daily; or (b) in such other manner as shall be approved by the Authority. (4) After the expiration of the notice period, the Committee shall submit to the Authority Chief Executive, a written proposal for the disposal of identified confiscated properties for approval. (5) The proposal shall be signed by the Chairperson of the committee and co-signed by the Secretary. (6) The proposal shall be presented to the Authority Chief Executive for approval before implementation and before incurring	Disposal Procedure

	expenses relating to the disposal activity.	
7.	(1) Properties confiscated by the Authority may be disposed of in any manner including- (a) sale by public tender; (b) sale by public auction; (c) outright sale at a fixed price; or (d) donation to a "deserving cause"; and/or (e) destruction; dumping, burying, or burning. (2) Where the disposal is by public tender, the award in the disposal of confiscated properties shall be made to the highest rated bidder whose bid shall be equal to or above the reserve price. The procedure shall be through open bid, restricted bid, or request for quotation. (3) Where the disposal is by public auction, the Authority shall use an auctioneer from a pre-qualified list or appoint one through an appropriate competitive and transparent method. The Disposal Committee shall approve of the selected auctioneer. (4) The Authority shall opt for outright sale at a fixed price where some of the items to be disposed may be obtained by displaying goods for sale with a market price. In choosing this method, the Authority shall consider the cost of valuing the asset(s) and the cost of advertising the subject property(ies). (5) The Authority shall opt to use conversion or recycling of properties as a disposal method where- (a) where the properties have no identifiable residual usefulness to the procuring entity and may still have some value that may be obtained through conversion into another form or recycling; or (b) on grounds of public interest, legal or human rights issues or environmental considerations; or (c) where there is the potential of obtaining monetary return from conversion or recycling. (6) The Authority, after considering the environmental effects and obtaining the relevant clearance, may destroy, dump, bury or burn confiscated properties only when all other disposal options have been eliminated and no conversion into another form or	Disposal Methods

recycling possibilities can be identified.

(7) Where property is being disposed by means of public tender, all tenders shall be in writing and submitted to the office of the Authority Chief Executive.

(8) The Authority Chief Executive shall have the discretion to cancel the sale of any confiscated property offered for sale by auction or tender where no bid or tender meets the minimum bid or tender set before the sale, or the Authority Chief Executive does not consider any of the bids or tenders acceptable.

(9) Where two or more tenders in respect of a property are in the same amount, the first tender received by the Authority shall be given precedence.

(10) The Authority shall give notice in writing to the person whose bid or tender in respect of a property has been accepted and shall by such notice prescribe the period within which the sale must be completed.

(11) Where a person whose bid or tender has been accepted does not complete the sale within the period prescribed by the Authority in its notice referred to in sub-regulation 7(10), the Authority Chief Executive may cancel that sale and accept he next best acceptable bid or tender.

(12) The Authority may require a deposit from the person who submits a bid or tender to guarantee the completion of a sale.

(13) Where a person whose bid or tender has been accepted in accordance with the provisions of these Regulations, fails to complete the sale within the time prescribed by the Authority, the deposit paid by such person shall be forfeited to the Authority in its entirety.

(14) Notwithstanding anything herein contained, where the Authority considers a confiscated property to be unsuitable for sale or insufficient in value to justify a sale, the Authority may dispose of such property in any other manner including the execution of a release or discharge.

(15) When items have been disposed through any of the methods prescribed by these Regulations, a standard disposal

certificate(s) shall be prepared accordingly and same shall be duly signed by the Authority Chief Executive.	
8. (1) All proceeds from the disposal confiscated property referred to in Section 125(4)(c) of the Act shall be calculated within 30 days after the disposal exercise and the same less expenses, shall be remitted by the Authority into the Consolidated Revenue Funds account of the Federal Republic of Nigeria not later than 90 days from the date the last sale was completed.	Proceeds of Disposition
9. The Authority may issue guidelines, directives, and notices for effective implementation of these Regulations.	Guidelines
10. In these Regulations — "Act" means the Petroleum Industry Act, No. 6, 2021; "*Disposal Committee*" means the Committee set up by the Authority Chief Executive for coordinating disposal of confiscated materials and equipment; "*Proceeds*" means monies realised from the sale of confiscated materials and equipment less expenses; "*Property/Properties*" means materials and equipment seized or confiscated by the Authority in the exercise of its powers under the Act.	Interpretation
11. These Regulations may be cited as the Midstream and Downstream Petroleum Disposal of Confiscated Materials and Equipment Regulations, 2023.	Citation

Made at Abuja this ..... day of 2023

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Engr. Farouk Ahmed
Authority Chief Executive
Nigerian Midstream and Downstream Petroleum Regulatory Authority