

LEGAL NOTICE NO.

THE PETROLEUM ACT, 2019

(No. 2 of 2019)

In exercise of the powers conferred by Section 101 of the Petroleum Act, 2019 the Cabinet Secretary for Petroleum and Mining makes the following draft Regulations for public comments:

**THE DRAFT PETROLEUM (IMPORTATION) (QUOTA ALLOCATION) REGULATIONS,
2022**

Citation 1. These Regulations may be cited as the Draft Petroleum (Importation)(Quota Allocation) Regulations, 2022.

Interpretation 2. In these Regulations, unless the context otherwise requires —

“Authority” means the Energy and Petroleum Regulatory Authority established under Section 9 of the Energy Act No. 1 of 2019;

“Cabinet Secretary” has the same meaning as in the Petroleum Act;

“Forecast country gross demand” means the projected petroleum demand used for the planning of the country’s import requirements;

“Free-on-board” means the price of petroleum products which excludes load-port handling, insurance, premiums and freight;

“Import requirements” means the quantities of refined petroleum products imported for consumption in Kenya in any given calendar year under the open tender system;

“Independent Petroleum Retail Stations” means petroleum retail stations that not affiliated to an oil marketing company through a franchise;

“Open Tender System” has the same meaning as in the Petroleum Act;

“Oil Marketing Company” means a company licensed by the Authority to import petroleum into the country and is eligible to participate in the open tender system;

“Petroleum Act” means the Petroleum Act No. 2 of 2019;

“Petroleum products quota allocation” means the percentage of import requirements, allocated to National Oil Corporation of Kenya as established under Regulation 3 of these Regulations;

“Quota-holder” means a licensed entity who has been allocated petroleum products import quota;

“Strategic Reserve Facility.” means a petroleum bulk storage depot designated as such by the Cabinet Secretary through a gazette notice;

“Transit petroleum demand” means the quantity of petroleum products imported through Kenya but meant for consumption outside Kenya.

Petroleum Products
Quota Allocation

3. (1) There is established a percentage of the import requirements to be known as the Petroleum Products Quota Allocation.
- (2) The Petroleum Products Quota Allocation shall be imported by the National Oil Corporation of Kenya.
- (3) The Petroleum Products Quota Allocation shall be as set out in the First Schedule.
- (4) The purpose of the Quota Allocation will be to ensure-
 - (i) Security of supply in times of uncertainties;
 - (ii) Price stabilization in an un-regulated pricing regime; and
 - (iii) Strategic stock requirement as may be specified by the Cabinet Secretary are met.

Commercial terms and
freight costs

4. (1) All commercial terms of trade, will be as determined in the Open Tender System.
- (2) Provided that the commercial terms in sub-regulation (1) shall not compromise the security of supply of the country or the quality of petroleum products as specified by Kenya Standards and the requirements of the pipeline operator.
- (3) The free-on-board price will be based on the provisions of the Open Tender System agreement.

Re-allocation of Petroleum
Import Quota

5. (1) Where a quota-holder has not contracted for the total quantity by the 1st day of every month of the quarter, it shall return the unused portion of the import-quota quantity to the Open Tender System for re-allocation.
- (2) The Cabinet Secretary shall re-allocate the unused import quota through the Open Tender System.

(3) Where the circumstance in sub-regulation 5(1) occurs, National Oil Corporation of Kenya will be ineligible to participate in the tender.

(4) A quota holder that has failed to import its full allocation in two (2) consecutive years shall forfeit the unused portion to the Open Tender System until the Cabinet Secretary advises otherwise.

(5) Re-allocations in sub-regulation 5(1) shall be undertaken as per the terms and conditions of the Open Tender System.

Priority to purchase petroleum products

6. (1) Priority to purchase petroleum products from the quota holder shall be given to retail stations operated or franchised by the quota-holder and operators of independent petroleum retail stations.

(2) Provided that independent petroleum retail station operators in sub-regulation (1) make a commitment to uplift the petroleum products on arrival in the form and manner that will be determined by the quota holder.

Capacity allocation

7. (1) The Kenya Pipeline Company Limited shall allocate up to a maximum of 30% of its total storage capacity for the purpose of Petroleum Products Quota Allocation.

(2) Provided that the product is evacuated as per the Transport and Storage Agreement.

FIRST SCHEDULE

Reg. 3(3)

<i>Petroleum Products</i>	<i>Maximum Percentage Allocation</i>
Dual Purpose Kerosene	30
Automatic Gasoil	30
Premium Motor Spirit	30
Liquefied Petroleum Gas	30

Made on this.....day of 2021
Cabinet Secretary for Petroleum and Mining