

GOVERNMENT OF INDIA
MINISTRY OF CHEMICALS AND FERTILIZERS
DEPARTMENT OF FERTILIZERS

LOK SABHA

UNSTARRED QUESTION NO. 744 TO BE ANSWERED ON: 26.07.2024

MRP FOR NON-UREA FERTILIZERS UNDER NBS POLICY

744. SHRI SRIBHARAT MATHUKUMILLI:
SHRI APPALANAIDU KALISSETTI:

Will the Minister of CHEMICALS AND FERTILIZERS be pleased to state:

- (a) the details of the guidelines issued by the Government to evaluate the reasonableness of Maximum Retail Prices (MRPs) for non-urea fertilizers under the Nutrient Based Subsidy (NBS) Policy;
- (b) the measures taken/proposed to be taken by the Government to ensure compliance with the guidelines, particularly the process for companies to self-assess and refund unreasonable profits;
- (c) the total amount of unreasonable profit refunded or recovered by the Government since the implementation of these guidelines;
- (d) the impact of these guidelines on the retail prices of non-urea fertilizers and any changes observed in the market since their implementation specifically in Vishakhapatnam, Andhra Pradesh; and
- (e) the measures taken/proposed to be taken by the Government to ensure that farmers in Vishakhapatnam, Andhra Pradesh, are not adversely affected by unreasonable profit margins on non-urea fertilizers and the mechanisms in place for them to report any grievances?

ANSWER

**THE MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS
(SMT. ANUPRIYA PATEL)**

(a) & (b): The detailed guidelines dated 15.11.2019 & 18.01.2024 issued for evaluation of reasonableness of MRP's of Phosphatic & Potassic (P&K) fertilizers by P&K fertilizer companies under the Nutrient Based Subsidy (NBS) Scheme are at **Annexure A and B** respectively. The Reasonability guidelines dt. 15.11.2019 provides for submission of final audited cost by the companies based on which reasonableness of MRP is evaluated and profit beyond 12% on cost of sales is treated as unreasonable. The Reasonability Guidelines dated 18.01.2024 provides for submission of audited cost data by companies and evaluation of reasonableness of MRP which is 8% for importers, 10% for manufactures and 12% for integrated manufactures.

(c): Till date recovery of Rs. 99.41 crores on account of unreasonable profit has been done by the Department.

(d) & (e): The guidelines for evaluation of reasonableness of MRP's of P&K fertilizers under the NBS Scheme are applicable to all fertilizer companies under NBS scheme with same impact across the country. An Aadhar based Complaints' Portal is in place to <https://complaints.dbtfert.nic.in/Complaint/> to report any grievances.

Annexure referred to in reply to part (a) & (b) of Lok Sabha Unstarred Question No. 744 for answering on 26.07.2024

Annexure-‘A’

No. 23011/1/2018-MPR
Government of India
Ministry of Chemicals & Fertilizers
Department of Fertilizers

Shastri Bhawan, New Delhi
Dated the 15th November, 2019

OFFICE MEMORANDUM

Sub:Implementation of the Nutrient Based Subsidy (NBS) policy for Phosphatic and Potassic (P&K) Fertilizers.

In continuation of this Division's OM No. 23011/5/2013-MPR dated 3.5.2019 on the subject mentioned, the undersigned is directed to issue the detailed guidelines for evaluation of reasonableness of MRP's of P&K fertilizers under the NBS Scheme to be effective from 1.4.2012 as below:

- i. The present format of data collection will continue to be used for collection of cost data from the P&K Companies.
- ii. The online module for online submission of cost data by the companies will be developed by NIC at the earliest.
- iii. After implementation of the online module of data submission, the Companies will be required to submit the final audited cost data once in a year for the previous financial year by August of every year.
- iv. In case of non-submission of cost data by the companies within the stipulated time, the further subsidy payment of the company will be stopped till the time the company furnishes the requisite cost data to the Department of Fertilizers.
- v. The Department of Fertilizer will complete the process of examination of reasonableness for the previous financial year by October of every year. In case of late submission of the cost data, DoF will complete the reasonable exercise within two months of the submission of the cost data by the company.
- vi. The profits earned above 12% will be treated as 'unreasonable profit'.
- vii. No deduction of Taxes/ Dividends paid by the companies will be granted while computing the reasonable profit.
- viii. The unreasonable amount of profit i.e. profit over and above reasonable profit will be recovered from the defaulting companies.
- ix. If a company is habitual defaulter of fixing unreasonable MRPs, matter will be placed before IMC to consider taking action against the company which may include levy of penal interest on the recovery, removable of any grade/ grades of fertilizers of that company or removal of the fertilizer company itself from the NBS scheme.

- x. If profit margin of a company for a product is found unreasonable, company will be provided an opportunity to represent/ furnish inputs prior to adjustments from the subsidy payments. In doing so, any onetime factor will also be appropriately considered. In such cases, company will be issued notice to represent/ furnish comments within 14 days. FICC will be asked to examine the comments received from the company within 15 days and thereafter final decision to be taken by DoF within 30 days of receipt of company's response. If the company doesn't reply within 14 days, it will be presumed that company has nothing to represent and accordingly, the amount over and above the reasonable profit will be recovered.
- xi. Profit margin will be evaluated for each product/ company wise instead of unit wise subject to the condition that the company maintains same MRP for a particular product irrespective of the unit in which it is manufactured. However, reasonableness evaluation of indigenous and imported products will be done separately.
- xii. Formula for calculating the reasonableness of MRP will be as below: -
- If $\text{Net MRP} + \text{Subsidy} \leq 1.12 * \text{Cost of sales}$, profit margin is reasonable.
- If $\text{Net MRP} + \text{Subsidy} > 1.12 * \text{Cost of sales}$, profit margin is unreasonable.
- Here, $\text{Net MRP} = \text{MRP} - \text{Discount} - \text{Dealers' Margin}$
2. This issues with the approval of Competent Authority.

Sd/-
(Geeta Mishra)
Under Secretary to the Govt. of India
Tel: 23386151

To,

Director (CE), FICC,
R. K. Puram, New Delhi.

Annexure referred to in reply to part (a) & (b) of Lok Sabha Unstarred Question No.
744 for answering on 26.07.2024

Annexure-‘B’

F.No.23011/9/2023-P&K
Government of India
Ministry of Chemicals and Fertilizers
Department of Fertilizers

205-D, Shastri Bhawan
Dated 18th January, 2024

OFFICE MEMORANDUM

Subject: Guidelines for evaluation of reasonableness of Maximum Retail Prices (MRPs) of Phosphatic and Potassic (P&K) fertilizers under the Nutrient Based Subsidy (NBS) Policy-Regarding.

In exercise of powers conferred by section 3 of the Essential Commodity Act, 1955, under Fertilizer (Control) Order, 1985 section 25(1) restriction on sale and use of fertilizers as per terms and conditions which are laid down as per govt. policies are prescribed. Accordingly, the govt. has implemented the Nutrient Based Subsidy (NBS) Policy w.e.f. 01.04.2010.

2. The undersigned is directed to refer to the various OMs/Orders on the above subject issued by this Department from time to time and directed to issue the detailed guidelines for evaluation of reasonableness of MRP's of Phosphatic and Potassic (P&K) fertilizers under the Nutrient Based Subsidy (NBS) Policy.

3. The salient features/provisions of the guidelines are as below: -

- i. These guidelines will be effective from 01.04.2023 onwards.
- ii. GST will be excluded from evaluation of reasonableness of MRPs.
- iii. Differential Profit percentage will be allowed for P&K Fertilizer Companies based on the category to which they belong i.e. 8% for Importers, 10% for Manufacturers and 12% for Integrated Manufacturers. **(detailed formula of calculation along with details of categorisation are at Annexure-I)**
- iv. The basis of evaluation of reasonableness of MRPs will be the Total Cost of Sales i.e. is the Cost of Production/Import (except profit on self- manufactured intermediates for manufacturing finished fertilizers), Administrative Overheads, Selling and Distribution Overheads (except promotional expenses), Net Interest and Financing charges.
- v. The Total Cost of Sales will not include the following: any interest beyond the net interest and financing charges (ie.Net Interest and Financing Charges = Actual interest expenses -Interest Income shown in P&L a/c): GST/IGST paid on inputs/imports of fertilizers which are eligible for input tax credit.

- vi. Deduction of discount or promotional expenditure except the prescribed Dealer's margin will not be permitted.
- vii. Deduction for Dealer's margin will be allowed to the extent of 2% of MRP for DAP & MOP and 4% of MRP for all other grades of fertilizers under NBS (TSP, MAP, SSP, NPKs & PDM).
- viii. Reasonability will be evaluated for all fertilizer grades for which subsidy is received by P&K fertilizer companies under NBS scheme on segment basis. (i.e. for all the P&K grades taken together for which subsidy has been realized under NBS scheme by the company) However, the 3 categories of Integrated manufacturer, Manufacturer and Importers will be considered as three separate categories/ segments (i.e. for ex. all imported finished products would come under Importers category).
- ix. Companies will report P&K fertilizers under NBS as a separate Segment in their Audited Annual Accounts. However, the 3 categories of Integrated manufacturer, Manufacturer and Importers will be considered as three separate categories/ segments.
- x. Companies will self-assess unreasonable profit earned by them based on Cost Auditor's Report alongwith audited cost data approved by the Board of Directors (BoD) and refund unreasonable profit to DoF upto 10th October for the previous financial year (Self-assessment based on the Cost auditor's report) (i.e. for FY 2023-24 upto 10th October,2024). In case, companies do not refund unreasonable profit earned above the prescribed limit within prescribed time limit, then an interest @ 12% per annum on pro-rata basis would be charged on the refund amount from the next day of end of financial year (i.e. in case of FY 2023-24, the interest would be charged from 1st April,2024).
- xi. The Cost Auditor's Report alongwith audited cost data approved by the BoD will be submitted in the online module upto 10th October for the previous financial year (i.e. for FY 2023-24 upto 10th October, 2024).
- xii. All companies/cooperatives (except SSP & PDM units which are very small units) under NBS will set-up an Audit Committee (composition as prescribed in Companies Act, 2013) to review the Cost Auditor's Report alongwith audited cost data on reasonableness of MRPs before placing it before the BoD for their approvals.
- xiii. In case of non-submission of Cost Auditor's Report alongwith audited cost data approved by BoD by the companies upto 10th October for the previous financial year, further subsidy payment of the company will be stopped till the time the company furnishes the requisite cost data to the DoF and a penalty @ Rs. 1000 per day would be charged from next day of time limit specified for submission of cost data (i.e. for FY 2023-24 penalty would be charged from 11th October, 2024 onwards).
- xiv. Examination of the reasonability of MRPs as submitted by the P&K Fertilizer Companies shall be completed timely by DoF/ FICC by 28th February for each completed previous financial year (i.e. for FY 2023-24 by 28th Februry,2025).
- xv. DoF will place a report on unreasonable profit earned by the companies and recovered by the Department before the IMC.

xvi. **Reporting mechanism by the Companies**

In view of Government vision of transparency and good governance, cost auditor will report following in its report: -

- a. The updated cost data format will be used for online submission of data (DoF will issue updated cost data format along with auditor report format).
 - b. Compliance by the Company with all the policy parameters issued by DoF in relation to NBS scheme from time to time.
 - c. Company has not used any other subsidized fertilizers in production of P&K fertilizers under NBS scheme.
 - d. Company has not earned any profit on self- manufactured intermediaries for manufacturing finished fertilizers.
 - e. Subsidy claims submitted by company to the DoF are in line with NBS policy/Notification issued from time to time by DoF.
 - f. Production/Import of P&K fertilizers figures submitted in IFMS and Cost sheet are same. If any difference is there, then reason for the same alongwith justification has to be given.
 - g. Company has submitted Imported Goods (Raw Material/Finished Fertilizers) details (Bill of Entry, Invoice, Bill of Lading etc.) in IFMS within 7 days from generation of Bill of Entry.
 - h. Confirmation that the data submitted by the company in IFMS is correct.
 - i. Any expansion/ Setup of new plant of Fertilizers (DAP/NPKs, SSP, PDM, Bio Fertilizers, Organic Fertilizers etc.)
 - j. Capacity utilization of plants in India.
 - k. Total raw material/intermediates viz. rock phosphates, Phosphoric acid, Ammonia, Natural Gas, Urea, Potash etc. consumed during the year in domestic production of fertilizers under NBS.
 - l. Any other information that company/auditor may like to disclose.
- xvii. If the scrutiny of reasonableness of MRPs by DoF does not match with self-assessment, the company will be provided an opportunity to represent/furnish inputs prior to adjustments from the subsidy payments. In such cases, DoF /FICC will issue notice to represent/furnish comments within 14 days. FICC (P&K Cost Analysis Cell) will be asked to examine the comments received from the company within next 15 days and thereafter final decision will be taken by DoF within 7 days of receipt of FICC's (P&K Cost Analysis Cell) response. If company does not reply within 14 days, it will be presumed that company has nothing to represent and accordingly, the amount over and above the reasonable profit will be recovered with Interest @ 12 % p.a. on pro-rata basis from next day of end of financial year under examination. (i.e. in case of FY 2023-24, the interest would be charged from 1st April,2024)

- xviii. The unreasonable amount of profit i.e. profit over and above reasonable profit not refunded by the companies based on self-assessment or based on the examination of DoF, would be adjusted from subsequent subsidy payments along with interest, if any.
- xix. In case of any dispute related to implementation of guidelines, the litigation shall be decided by Courts having jurisdiction in New Delhi.

4. This issue with the approval of the competent authority.

Sd/-
(Nirmla Devi Goel)
Under Secretary to the Govt. of India
Tele 011-23386151

To

P&K Cost Cell, FICC

Copy to DG-FAI, New Delhi for conveying to all the P&K Companies under NBS scheme.

Enclosure to Draft Guidelines dated 18.01.2024

Particulars	Category/Segment		
	A. Integrated Manufacturers	B. Manufacturers	C. Importers of Fertilizers
a. Profit Margin	12% of Total Cost of Sales	10% of Total Cost of Sales	8% of Total Cost of Sales
b. Equation for Reasonableness Criteria	<p>If Net MRP + Subsidy \leq 1.12*Total Cost of Sales, profit margin is reasonable.</p> <p>If Net MRP + Subsidy $>$ 1.12*Total Cost of Sales, profit margin is unreasonable.</p>	<p>If Net MRP + Subsidy \leq 1.10*Total Cost of Sales, profit margin is reasonable.</p> <p>If Net MRP + Subsidy $>$ 1.10*Total Cost of Sales, profit margin is unreasonable.</p>	<p>If Net MRP + Subsidy \leq 1.08*Total Cost of Sales, profit margin is reasonable.</p> <p>If Net MRP + Subsidy $>$ 1.08*Total Cost of Sales, profit margin is unreasonable.</p>
c. Total cost of sales	Cost of Production/Import (Except profit on self- manufactured intermediaries for manufacturing finished fertilizers) + Administrative Overheads + Selling and Distribution Overheads (Except promotional expenses) + Net Interest and Financing Charges/expenses (Actual interest expenses - Interest Income shown in P&L a/c). (GST/IGST paid on inputs/imports of fertilizers which are eligible for input tax credit will not be included in the total cost of sales.)		
d. Dealer's margin	Deduction for dealer's margin will be allowed to the extent of 2% of MRP for DAP & MOP and 4% for MAP, TSP, NPKs, SSP, PDM and any other.		
e. Discount	Deduction of any discount or promotional expenditure except prescribed dealer's margin would not be permitted.		
f. MRP	Maximum Retail Price printed on Bag.		
g. Net MRP	Net MRP = MRP – Dealer's Margin (2% of MRP for DAP & MOP and 4% of MRP for MAP, TSP, NPKs, SSP, PDM and any other) – Indirect Taxes (GST) on MRP		

h. Net Interest and Financing Charges	No interest would be allowed beyond the Net Interest and Financing Charges/expenses i.e. (Interest and Financing Charges - Interest Income) (interest Income is the income shown in financial statement i.e. P&L account) in Total Cost of Sales.
i. Evaluation methodology	Profit margin has to be evaluated for entire P&K fertilizers segment-wise. However, Integrated Manufacturer, Manufacturer and Importer of Fertilizers will be considered as separate segment.(Inter-segment set-off of profit/loss will not be permitted)
A. Integrated manufacturers are	<ul style="list-style-type: none"> i. Companies which have/develop capacities in India covering the entire value chain from raw material stage i.e. rock phosphate and Ammonia to finished fertilizers i.e. DAP/NPKs in India; and ii. Companies which utilize 100% of their plant capacities; and iii. Companies which set-up new production facilities for chemical fertilizers, alternate innovative fertilizers (DAP/NPKs, Bio-fertilizers, Organic Fertilizers, PDM and SSP etc.) with capacity of at least 5 LMT; or Invest to increase the existing production capacity by at least 20% or at least 5 LMT, whichever is higher after 01.04.2023.
B. Manufacturers are	Those entities which are inducted under NBS Scheme with DoF as per guidelines for manufacturing and selling finished fertilizers manufactured in their own factory within India and which does not fall in the category of integrated manufacturers.
C. Importers are	Those entities which are inducted under NBS Scheme with DoF as per guidelines for selling imported finished fertilizers.
