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PETROLEUM INDUSTRY ACT, NO. 6, 2021
NIGERIA UPSTREAM PETROLEUM DECOMMISSIONING AND
ABANDONEMENT REGULATIONS, 2023



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S. I. No. 50 of 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021
NIGERIA UPSTREAM PETROLEUM DECOMMISSIONING AND
ABANDONEMENT REGULATIONS, 2023

[24th Day of May, 2023]

Commence-
ment

In exercise of the powers conferred by section 232 and 233 of the Petroleum Industry Act, No. 6, 2021 and all other powers enabling the Nigerian Upstream Petroleum Commission (“the Commission”) in that behalf, the Commission makes the following Regulations —

1. The objectives of these Regulations are to —

Objectives

(a) ensure the decommissioning and abandonment of petroleum wells, installations, structures, utilities, plants and pipelines for upstream petroleum operations on land and offshore are conducted in accordance with good international petroleum industry practice ; and

(b) set the framework for the establishment and administration of a decommissioning and abandonment fund.

2. These Regulations shall apply to —

Application

(a) the decommissioning and abandonment of facilities used in upstream petroleum operations in Nigeria ; and

(b) wells, installations and facilities associated with upstream petroleum operations under a licence or lease saved under section 311 (2) of the Act and licences and leases granted under the Act.

3.—(1) A licensee or lessee engaged in upstream petroleum operation shall within one year from the commencement of these Regulations, submit to the Commission a decommissioning and abandonment plan and where a decommissioning and abandonment plan exists, provide an updated decommissioning and abandonment plan in accordance with these Regulations.

Decommi-
ssioning and
abandonment
plan

(2) A licensee or lessee engaged in upstream petroleum operation in Nigeria shall conduct its operations in accordance with a decommissioning and abandonment plan approved by the Commission.

(3) The requirement for decommissioning and abandonment plan under these Regulations shall apply to upstream petroleum operations, irrespective of whether there is a decommissioning and abandonment plan previously approved —

(a) under any other law by an approving authority before the coming into effect of the Act ; or

(b) by the Commission prior to these Regulations.

(4) A decommissioning and abandonment plan pursuant to these Regulations shall be as prescribed by the Commission.

(5) All new licensees and lessees shall submit a decommissioning and abandonment plan to the Commission as part of a field development plan.

(6) A decommissioning and abandonment plan submitted pursuant to these Regulations by existing or new licensees or lessees, in the lease area, shall state the amount to be contributed annually to the Decommissioning and Abandonment Fund.

(7) A licensee or lessee that holds more than one licence or lease in respect of which decommissioning and abandonment plans have been submitted to the Commission, —

(a) may, notwithstanding subregulation (6) of this regulation, apply in writing to the Commission to make the annual contributions in respect of each licence or lease into a single Fund account ; and

(b) shall, where such application in this regulation is approved, ensure that the annual statement of accounts submitted to the Commission is in accordance with section 233 (9)(b) of the Act.

(8) The annual contribution into a decommissioning and abandonment plan shall be reviewed every ten years, provided that, where there are significant changes in cost, technology or addition of assets to be decommissioned before the tenth year, the Commission may direct a licensee or lessee may apply to the Commission for approval of a review of such yearly contribution.

(9) The Commission shall approve a decommissioning and abandonment plan, which complies with —

(a) good international petroleum industry practice ;

(b) standards prescribed by the International Maritime Organisation on offshore petroleum installations and structures ;

(c) Guidelines issued by the Commission pursuant to section 232 (1)(b) of the Act ; and

(d) the criteria prescribed in section 232(6) of the Act.

(10) A decommissioning and abandonment plan submitted pursuant to these Regulations shall meet the requirements for approval in subregulation (9) of this regulation and shall be deemed approved upon the approval of the Field Development Plan to which it relates.

(11) A decommissioning and abandonment plan shall from the effective date of the approval govern any decommissioning or abandonment operations.

4.—(1) A licensee or lessee shall communicate to the Commission for approval, any update to the decommissioning and abandonment plan prior to implementation of the decommissioning and abandonment operations.

Updating decommissioning and abandonment plan

(2) The Commission shall review the proposed update and approve, where it meets the requirements pursuant to subregulation (9) of this regulation.

5.—(1) A licensee or lessee who pursuant to an approved decommissioning and abandonment plan intends to —

Implementation of approved decommissioning and abandonment plan

(a) suspend or abandon any well ;

(b) decommission any installation, structure, utility, plant or pipeline within its upstream operations ; and

(c) decommission and abandon all or part of a facility in an oil or gas field,

shall pay applicable fees and obtain approval of the commission prior to the commencement of the execution of the abandonment or decommissioning.

(2) In an emergency, a licensee or lessee may proceed to suspend a well that is at immediate risk to personnel, environment or the asset and shall immediately inform the Commission of the risk.

(3) The notification in subregulation (2) of this regulation shall be in writing and include details of the risk, action taken and suspension plan, which shall be forwarded to the Commission for approval within 30 days from commencement of the operations.

(4) An abandonment or decommissioning activity shall be conducted as follows —

(a) where the abandonment relates to a well after drilling, on the grounds that the well is dry or uneconomic or for any other reason, a licensee or lessee may apply to the Commission to permanently plug and abandon the well ; and

(b) the application shall be made as soon as the well drilling results are known and provide the well summary information, the details of the downhole mechanical condition of the well, and the proposed method of plugging and abandonment in compliance with relevant guidelines and these Regulations.

(5) The Commission shall approve such application without delays upon receipt of the application, a licensee or lessee shall permanently plug and abandoned the well and make a report to the Commission in the form prescribed in guidelines.

(6) Notwithstanding the provisions of this Regulation, and subject to Regulation 31, any well drilled by the licensee or lessee shall be plugged and

abandoned in accordance with these Regulations upon the termination of the production or the use of such well.

(7) An application to suspend a well by licensee or lessee shall be made to the Commission in the form prescribed, stating the justification for the suspension.

(8) Upon approval of an application pursuant to this regulation, the well suspension operation shall be conducted by the licensee or lessee in a manner that the well may —

(a) be re-entered safely ;

(b) be secured using pressure control equipment without compromising the barriers in place ; and

(c) in such a way that it does not affect the final abandonment of the well.

(9) The approval to suspend a well under this section shall be subject to the following condition —

(a) the suspension shall be for a period of three years, which may be extended, upon application by a licensee or lessee to the Commission ; and

(b) The application for extension under this regulation shall be made not later than three months to the end of the initial three year period.

(10) Where a licensee or lessee fails to make the application or the Commission declines approval for the extension of the suspension of the well, the licensee shall, unless directed by the Commission, complete the abandonment of the well within one month of the expiration of the three year period, failing which the Commission shall access the decommissioning and abandonment fund and engage a third party to undertake the abandonment of the well.

(11) A licensee or lessee shall make an application to the Commission in the form prescribed for approval to decommission installations, structures, utilities, plants or pipelines on land at least 12 months prior to the proposed commencement date of the decommissioning, provided that where there is a safety related issue, an emergency application may be made to the Commission.

(12) A licensee or lessee shall make an application to the Commission in the form prescribed for approval to decommission and abandon all or part of an oil field on land at least twelve months prior to a proposed commencement date of the decommissioning, provided that where there is a safety related issue, an emergency application may be made to the Commission.

(13) An application under subregulations (1) and (2) of this regulation shall be accompanied with a decommissioning programme in the form prescribed by the Commission, which shall comprise of—

- (a) the facilities location on a field ;
- (b) part of the facilities, including installation or pipeline as agreed with the Commission under an approved field development plan ;
- (c) an executive summary, outlining the background to the decommissioning proposals and highlighting the essential features of the proposed method of decommissioning, the chosen decommissioning options, key execution decisions, key risk management considerations and details on schedule ;
- (d) background information, supported by diagrams, schematics and relevant photographs including—
 - (i) location and main infrastructure map of all onshore and offshore areas relevant to the programme,
 - (ii) the relative location, type, and status of any other adjacent facilities, such as telephone cables, other pipelines and platforms, which would have to be taken into consideration,
 - (iii) information about any commercial activity in the area, and
 - (iv) any other background information relevant to the decommissioning programme ;
- (e) description of items to be decommissioned, inclusive of diagrams, covering—
 - (i) support structures for fixed installations at the time of removal, type, size, arrangement and weights,
 - (ii) where an application is made pursuant to subregulation 15 (2) (c), a list of wells including, satellite wells, whether active, suspended or abandoned, which are directly linked to the installation by infrastructure and details with regard to the plug and abandonment, shall be included in the application pursuant to the provisions of these Regulations,
 - (iii) offshore and onshore loading facilities relevant to the programme, and
 - (iv) any other installed items,

provided that for all items described under subregulation 15(3)(e), the programme shall include an inventory listing of the amount, type and relative location of all materials including hydrocarbons, sludges, sacrificial anodes and any radioactive material such as Low Specific Activity scale, and where exact quantities cannot be verified, estimates shall be calculated ;

(f) Removal and disposal methods stating —

(i) the removal and disposal option, describing the removal method and the disposal route, recognising any potential trans-frontier shipment of waste issues, and considering that installations and structures on land, except for buried transportation pipelines and gathering lines, shall be completely removed and the environment restored to its original condition, unless such complete removal will result in significant environmental damage, in which case the licensee or lessee shall remain liable for any residual liability arising from the installation, structure or pipeline not removed.

(ii) how the principles of the waste hierarchy are to be met and complying with environmental Regulations, including the extent to which the installation or any part of it, including the topsides and the materials contained within it, may be re-used, recycled or scrapped.

(iii) details of any cleaning or removal of waste materials, including cleaning methods, cleaning agents and disposal of residues.

(iv) Naturally Occurring Radioactive Material (NORM) survey report, and a clear outline of how the decontamination and disposal of any radioactive material, including low specific activity scale, may be addressed,

(v) water clearance above any remains, and

(vi) predicted degradation, movement and stability of any remains ;

(g) an environmental evaluation study or post impact assessment, environmental remediation and restoration plan, for the decommissioning programme.

(h) a comparative assessment of alternative decommissioning options or disposal options shall analyse the impacts of considered listed options against the following criteria, based on quantitative assessment and clearly indicating the rationale for the chosen decommissioning and abandonment options —

(i) safety,

(ii) environmental,

(iii) engineering, including risks of major project failure,

(iv) socio-economic, and

(v) technology ;

(i) report of an interested party consultations in compliance with these or any other Regulations ;

(j) letters of support from named partners, contractors or concessionaires, where applicable, demonstrating their agreement with the proposed decommissioning approach ;

(k) estimate of the cost of the proposed measures, which shall include details of the category of expenditures, based on best estimate and the indication of any potential deviations in the estimate that may account for any difference in final outcome at implementation ;

(l) schedule, indicating details of the decommissioning time scale for the proposed option, including a schedule showing the dates at which the various stages of the decommissioning are expected to start and finish ;

(m) details of the arrangements by which the licensee or lessee is to keep the Commission informed of the progress of decommissioning ; and

(n) a description of the post-decommissioning monitoring and maintenance phase, including steps to be taken to ensure maintenance and safety, where any installation, structure or pipeline remained disused and in position or are to be partly removed.

(14) The Commission shall monitor the implementation of the decommissioning and abandonment programme to ensure compliance by the licensee or lessee.

(15) In addition to any directives as may be issued by the Commission during the implementation of the programme, a licensee or lessee shall submit periodic reports to the Commission on the execution of the decommissioning and abandonment programme and attend review meetings as may be required.

6.—(1) In respect of the decommissioning of infrastructure on offshore fields, a licensee or lessee shall make an application to the Commission in the form prescribed for approval to decommission offshore installations, structures, utilities, plants or pipelines, not involving the abandonment of wells, at least 60 months prior to the proposed start date of the decommissioning.

Decommissioning of infrastructure on offshore fields

(2) The licensee or lessee shall make an application to the Commission in the form prescribed for approval for the decommissioning and abandonment of all or part of oil or gas field offshore, at least 60 months prior to the proposed commencement date of the decommissioning.

(3) An application under this regulation shall be accompanied with a decommissioning programme in a form prescribed by the Commission which shall in addition to the requirement in Regulation 15(2)(c) comprise of —

(a) a description of items to be decommissioned, inclusive of diagrams, covering —

(i) support structures for offshore fixed and floating installations at the time of removal, type, size, arrangement and weights,

(ii) topsides for offshore fixed and floating installations, type, size, configuration, equipment and weights,

(iii) subsea equipment and installations on or in the seabed, size, weight, height above seabed, whether piled or not, type of construction and material, details of interaction between equipment and other uses of the sea, such as fishing,

(iv) pipelines, flow lines and umbilicals—lengths, diameters, type of construction, the extent of burial, trenching and details of any concrete mattresses, frond mattresses, grout bags, rock-dump or other materials used to cover the lines,

(v) details of any subsea facilities that form part of the pipelines, such as production line and manifold, umbilical termination assembly, riser anchor bases,

(vi) information about the stability of the pipelines including details of any spanning or exposure, such as survey data and history to support information given in this regulation shall be included as an annexure to the programme, live pipeline survey information as may be relevant,

(vii) details of interaction between any part of the pipelines and other uses of the sea, such as fishing activity, both historical and depending on the field, it may be necessary to estimate future activity, and

(viii) materials on the seabed, such as drill cuttings, (amount, composition, dimensions), debris and any other materials ;

(b) where there is related equipment that is not covered by the decommissioning programme, details shall be provided for such equipment and explanation of why it is not part of the programme ;

(c) proposals for identification and removal of seabed debris following decommissioning works ;

(d) the area covered for debris clearance should include a 500-meter radius around any installation and a 100-meter (50 meters either side of the pipeline) corridor along the length of any pipelines ;

(e) verification of seabed clearance by an independent organisation appointed by the licensee or lessee shall be in accordance with the criteria prescribed in guidelines issued by the Commission ;

(f) for the removal and disposal methods, details of any materials and remains on the seabed after decommissioning ;

(g) proposals covering the post-decommissioning phase —

(i) seabed sampling surveys to monitor levels of hydrocarbons, heavy metals and other contaminants in sediments and biota, and

(ii) inspection and maintenance, where any installation, structure or pipeline remained disused and in position or are to be partly removed,

(a) the programme is in accordance with the approved decommissioning and abandonment plan ;

(b) the programme addresses considerations and recommendations raised by the Commission and the public consultations in the light of individual circumstances ;

(c) the potential for reuse of a transportation pipeline together with other existing facility in connection with further hydrocarbon developments is considered before decommissioning ;

(d) all feasible decommissioning options have been considered and a satisfactory comparative assessment has been made ;

(e) any removal or partial removal of an installation, structure or transportation pipeline is to be performed in a manner that guarantees sustainable environmental development ;

(g) any recommendation to leave an installation, structure or gathering line in place is made with regard to its likely deterioration and to the present, possible and future effects on the environment and in the case of offshore installations and structures, consistent with the applicable good international petroleum industry practices ; and

(h) relevant environmental, technical, and commercial regulations or standards are complied with.

(2) The Commission shall not approve a decommissioning application that does not meet the requirement of these Regulations.

(3) Where the Commission fails to make and communicate its decision on the application to the licensee or lessee within 12 months the application shall be deemed approved by the Commission.

12.—(1) The decommissioning and abandonment pursuant to these Regulations shall commence with an application by the licensee or lessee for approval accompanied by a decommissioning and abandonment programme.

(2) The Commission shall within 120 days of receipt upon an application from a licensee or lessee, communicate its decision to the applicant.

(3) An approval by the Commission pursuant to these Regulations shall be subject to directives issued by the Commission on the implementation of the approval.

(4) Where an application is rejected by the Commission, the licensee or lessee shall be given 180 days within which to resubmit an amended application that meets the requirements of the Commission.

(5) Where the licensee or lessee fails to submit an amended application within the time specified in subregulation (4), the Commission may invoke its

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power to access the Fund to implement the decommissioning and abandonment of the facilities and notify the licensee or lessee accordingly pursuant to section 233(3) of the Act.

13.—(1) Upon the receipt of an application for decommissioning and abandonment, the Commission shall in conjunction with a licensee or lessee, conduct public consultations with relevant stakeholders before giving approval.

Requirement for public consultation.

(2) The relevant stakeholders referred to in subregulation (1) of this regulation shall include communities likely to be affected by the decommissioning and abandonment activities, public authorities and bodies, and other interested parties with respect to the planned decommissioning.

(3) The Commission shall, in carrying out the consultations under this subregulation, required the licensee or lessee to —

(a) provide the Commission with necessary information to enable the Commission indicate on the Commission's website that the programme has been issued for consultation alongside a link to the consultation programme ;

(b) choose the mode of consultation appropriate for effective and inclusive engagement with stakeholders, taking into account the nature and location of the project and the key issues to be consulted on ;

(c) ensure that appropriate information and risks are disclosed to stakeholders in a timely, understandable, accessible and appropriate manner and format, well in advance of the proposed consultations ;

(d) hold meetings with relevant stakeholders, communities likely to be affected and the public to explain the impacts and proposed mitigation measures, and to receive their oral or written views on it ;

(e) where the consultations involve holding meetings, ensure that the venues of and time for the meetings are convenient to the relevant stakeholders, communities likely to be affected by the project and the public are represented ; and

(f) ensure that the comments received during consultations are recorded, and taken into account.

(3) Notwithstanding subregulation (2) of this regulation, where the decommissioning and abandonment relates to abandonment of wells or emergency decommissioning, therequirements specified in this regulation shall not apply.

14.—(1) Where a licensee or lessee proposes a change to an approved decommissioning and abandonment programme, such changes shall be submitted to the Commission for review and approval.

Changes to the decommissioning and abandonment programme

(2) The Commission shall within 60 days of receipt of the licensee or lessee's proposed changes, under subregulation (1) of this regulation notify the licensee or lessee of its approval or non-approval of such changes, failure of which shall result in such revisions or changes being deemed approved.

(3) Where the proposed change is during the execution of the decommissioning and abandonment programme, the licensee or lessee shall obtain approval of the Commission before the execution of such change.

Post-completion of decommissioning and abandonment programme

15.—(1) Upon completion of decommissioning and abandonment a licensee or lessee shall —

(a) notify the Commission in writing within six months of the completion of decommissioning and abandonment ; and

(b) submit an end of operations report, including —

(i) statement of measures for monitoring, maintenance and management of any abandoned well and the decommissioned site,

(ii) statement of procedure for maintaining of installations or pipelines that may still exist, and

(iii) the actual cost incurred and any other relevant information that may be necessary ;

(c) submit results of all post completion monitoring surveys established in subregulation (1)(a)(i) of this regulation, upon completion of each survey.

(2) Upon the completion of the last survey as provided in the statement of measures pursuant to subregulation (1)(a)(i), any further work shall depend on the results of the monitoring surveys and shall be agreed with the Commission.

Power of the Commission to direct decommissioning and abandonment

16.—(1) The Commission, may by written notice, direct a licensee or lessee to decommission and abandon a well, installation, structure, utility, plant or pipeline, associated with a licence or lease and the licensee or lessee shall comply with such directives.

(2) The powers of the Commission under this regulation may be exercised notwithstanding the timing proposed in the decommissioning and abandonment plan.

(3) The Commission may exercise its powers under any of the following circumstances —

(a) in compliance with good international petroleum industry practices ;

(b) where any part or all of the area of a licence or lease has been surrendered ; or

(c) upon voluntary or mandatory relinquishment of any part or all of the area of the licence or lease.

17.—(1) The obligation to carry out the decommissioning and abandonment of a well, installations, structure, utilities, plants or pipeline associated with a licence or lease under these Regulations, shall in respect of a licence or lease —

Obligations
for
decommi-
ssioning and
abandonment

(a) terminated by expiration of time, the obligation shall be on the licensee or lessee of the expired licence or lease ;

(b) terminated by surrender, the obligation shall be on the licensee or lessee of the surrendered licence or lease ;

(c) terminated by revocation, the obligation shall be on the licensee or lessee of the revoked licence or lease ; and

(d) that has been assigned, wholly or partly, with the consent of the Minister in accordance with the Act or any enactment preserved by the Act, the obligation shall be on the assignee to the extent that the assignee has assumed obligations.

(2) The Commission may, prior to the termination of a licence or a lease, request in writing that the licensee or lessee refrains from conducting specific decommissioning and abandonment programme regarding certain facilities, including wells.

(3) Pursuant to subregulation (2) of this regulation, the licensee or lessee shall deliver the facilities to the Commission or a party designated by the Commission.

(4) Pursuant to subregulation (3) of this regulation, the licensee or lessee shall be relieved of any future obligation relating to decommissioning and abandonment of such facilities and the remaining balance amount in the decommissioning and abandonment fund shall be accessed by the Commission for the purpose of future decommissioning and abandonment.

18.—(1) The Commission shall maintain a database of upstream petroleum installations, structures and pipelines on land and offshore, used in the petroleum operations and their status.

Database of
installations,
structures
and assets

(2) The database pursuant to this subregulation (1) of this regulation shall be a public document and shall be published on the Commission's website annually.

(3) For the purposes of, maintaining and updating the database pursuant to this regulation, a licensee or lessee shall submit information relating to its upstream petroleum operations, installations, structures, and pipelines to the Commission in the prescribed form and within the time frame specified by the Commission.

19.—(1) There shall be set up for each licence or lease, a decommissioning and abandonment fund (“the Fund”).

(2) The Fund under subregulation (1) of this regulation, shall be set up —

(a) by the licensee or lessee, in respect of petroleum operations under the licence or lease ;

(b) not later than 90 days from the date of commencement of production in the case of new licences or leases ; and

(c) 90 days from the date of commencement of these Regulations for existing licenses or leases of a producing field.

(3) A licensee or lessee shall submit notice of the setting-up of the Fund pursuant to subregulation (1) of this regulation not later than 14 days from the date of setting up the fund.

(4) The Fund shall be in an escrow account held by the Central Bank of Nigeria, except that —

(a) in the case of a licence or lease held by an International Oil Company (IOC) in a joint venture arrangement with NNPC Limited or a licence or lease under a Production Sharing Contract with NNPC Limited, a minimum of 15% of the IOCs counter-part annual contribution to the Fund proportionate to its percentage equity interest contribution in the licence or lease shall be held by the Central Bank of Nigeria ;

(b) the IOC may open a decommissioning and abandonment fund account in line with the provisions of the Act and these regulations with a foreign financial institution to hold the balance of its counter-part annual contribution to the Fund ; and

(c) the foreign financial institution shall have a minimum credit rating of A+ or its equivalent published by either Standard and Poor 500, Fitch Ratings Inc. or Moody’s Investors Service Inc.

(5) Where the rating of the financial institution falls below A+, the licensee or lessee shall within 30 days apply to the Commission for approval of another financial institution that meets the minimum credit rating for the purpose of opening a new escrow account and transfer of the funds to the new account opened.

(6) The Commission shall within 14 days notify the licensee or lessee of its approval or non-approval of the proposed financial institution, failing which the application shall be deemed approved.

(7) The Commission, in collaboration with the Central Bank of Nigeria and Licensee and lessee shall establish guidelines for the administration of the Funds held by the Central Bank of Nigeria.

(8) The Commission shall be a party to every escrow agreement in respect of an escrow account set up to hold the decommissioning and Abandonment Fund pursuant to these Regulations

(9) The Commission shall have access to the funds in the escrow account pursuant to the provisions of these Regulations.

(10) An escrow agreement pursuant to this regulation shall in the minimum contain the following —

(a) restriction on the use of the funds to implementation of decommissioning and abandonment plan ;

(b) funds in the escrow account shall be in US Dollar ;

(c) rules for authorising disbursement of funds from the escrow account, such that —

(i) the licensee or lessee is only able to access funds from the escrow account in accordance with the decommissioning and abandonment plan approved by the Commission, provided that the Commission shall co-sign the relevant disbursement request, and

(ii) the Commission shall have independent rights to access the funds in the escrow account in the circumstances contemplated by the Act and these Regulations ; and

(d) in the case of the Fund that is held by a foreign financial institution, investment of the Fund by the institution shall only be in stable investments allowed by the Trustees investment Act and Pension Reforms Act.

(11) An escrow account set up pursuant to these Regulations shall be kept free from any encumbrances, attachment or distress from creditors, including but not limited to a charge, pledge, lien, guarantee, letter of credit or garnishee order of a court.

(12) Any fund set aside under any licence or lease for decommissioning and abandonment prior to the commencement of these Regulations shall be transferred to the Decommissioning and Abandonment Fund set up pursuant to these Regulations in respect of the licence or lease.

(13) An escrow account set up pursuant to these Regulations shall be interest-bearing and any accrued interest or earning shall be added to the Fund.

(14) The accrued interest or earning may be used to offset a licensee or lessee's required contribution to the Fund in subsequent years.

20.—(1) The contributions to the Fund shall be made by yearly payments of the cash amount stipulated in the applicable decommissioning and abandonment plan by the licensee or lessee. Contributions to the Fund

(2) In the case of a joint venture, the contributions to the Fund shall be made by yearly payments of the cash amount stipulated in the applicable decommissioning and abandonment plan by the individual parties to the joint venture agreement pro-rata their respective participating interest in such joint venture.

(3) Where the Fund referred to in subregulation (2) of this regulation is partly held in a financial institution in Nigeria and a foreign financial institution, the following conditions shall apply —

(a) NNPC Ltd shall pay a 100% of its contributions into the part of the account held by the Central Bank of Nigeria ;

(b) the IOC shall pay a minimum of 15% of its pro-rata of the total contribution to the Fund into the account held by the Central Bank of Nigeria ;

(c) the minimum percentage paid by the IOC shall increase to 25% of the total contribution after three years and thereafter, its full contribution from the fifth year ; and

(d) the IOC's contribution held in a foreign financial institution shall be ring fenced by such financial institution for stable investments allowed by the Trustees Investment Act and Pension Reforms Act.

(3) In the case of a Production Sharing Contract with NNPC, the Funds may be partly held in Central Bank of Nigeria and a foreign financial institution, in line with the provisions of this regulation.

Utilisation
of the Fund

21.—(1) The Fund shall be used to pay for decommissioning and abandonment costs.

(2) The licensee or lessee shall have access to the Fund upon receipt of a written approval from the Commission pursuant to these Regulations to undertake the decommissioning programme and shall use such funds only for conducting an approved decommissioning and abandonment plan.

(3) The Commission shall authorise the refund of any expenditure incurred by the licensee or lessee who carries out decommissioning or abandonment of a facility in an emergency situation from his contribution to the Fund.

(4) Where there is an excess in the Fund after the complete decommissioning and abandonment of petroleum operations within a licence or lease area that has been approved by the Commission, and there is no post completion survey or work to be performed by the licensee or lessee, the excess shall be considered income for production sharing or tax purposes and the amount after the withholding of profit oil and any tax shall be returned to the licensee or lessee.

(5) Where the Fund is not sufficient to cover the decommissioning and abandonment expenditure, the licensee or lessee shall cover such difference to fulfil the obligations in full and such additional expenditure or difference shall be cost recoverable and tax deductible.

(6) The depletion of the Fund shall not excuse a licensee or lessee's obligation to fully implement a decommissioning and abandonment plan and completely decommission and abandon petroleum operations within a licence or lease area.

(7) Where a licensee or lessee fails to comply with the decommissioning and abandonment plan, the Fund shall be accessed by the Commission to pay for the performance by a third party of such lessee or licensee's obligations pursuant to section 232 of the Act.

(8) Notwithstanding such third party's performance of the lessee or licensee's decommissioning and abandonment obligation, the lessee or licensee shall remain liable for the complete decommissioning and abandonment of petroleum operations within the licence or lease area.

(9) The Commission shall access the Fund only after it has provided a written notice to the respective licensee or lessee of the non-compliance and the licensee or lessee has failed to rectify the non-compliance within 180 days of receipt of the written notice.

(10) Where a licensee or lessee becomes insolvent or bankrupt, the decommissioning and abandonment fund shall be accessed by the Commission to pay for the performance by a third party of the lessee's or licensee's obligations pursuant to section 232 of the Act.

(11) Where the Commission decides to apply the Fund pursuant to subregulation (1) of this Regulation, the Commission shall manage the Fund in accordance with the applicable laws.

(12) Where the Commission applies the Fund pursuant to subregulation (4) of this Regulation, the procurement of any goods, works or services required to undertake decommissioning and abandonment shall be subject to the provisions of the Public Procurement Act.

22. The licensee or lessee shall, not later than 90 days succeeding the end of each calendar year, submit to the Commission and the Federal Inland Revenue Service, a statement of accounts with respect to its contributions into the Fund for the preceding year.

Reporting

23. Where the whole or part of an interest in the licence or lease is assigned, novated or otherwise transferred to another party, the proportionate legal and equitable interests, rights and obligations of the licensee or lessee in respect of the decommissioning and abandonment obligations under the Act and these Regulations, shall be deemed to be attached to the property transferred to the transferee.

Deemed liability of an assignee

24.—(1) A Licensee or lessee, who fails to submit an abandonment and decommissioning plan with respect to a licence or lease within the time prescribed in these Regulations shall be liable to an administrative penalty of USD\$500,000 for every year of non-compliance, payable to the Commission or revocation of the relevant licence or lease interest in line with section 96 of the Act.

(2) A licensee or lessee who fails to set-up the decommissioning and abandonment Fund within the time prescribed in these Regulations shall be liable to an administrative penalty USD\$500,000 for every year of non-compliance, payable to the Commission or revocation of the licensee's or lessee's interest in line with section 96 of the Act.

(3) A licensee, lessee or interest holder in a license or lease who fails to make the yearly contribution to the Fund in the manner prescribed in the abandonment and decommissioning plan under these Regulations, shall be liable to an administrative penalty of the one year contribution to the Commission in addition to the sum due and payable to the Fund for the period or revocation of the licensee's or lessee's interest in line with section 96 of the Act, provided that such penalty shall apply to the individual parties to a joint venture agreement or Contracting Parties in a Production Sharing Contract who bear liability for such default severally rather than jointly, and as applicable, pro-rata their respective working interest in such joint venture or Production Sharing Contract.

(4) Where a party to a Joint Venture or Production Sharing Contract defaults in funding its annual Decommissioning and Abandonment obligation, in addition to penalties listed in subregulation (3) of this regulation, the Commission shall within 60 days of the default, authorise the lifting of the defaulting party's share of crude oil equivalent to the value of the Decommission and Agreement obligation in default, with the Bill of Lading, naming the abandonment escrow account as the beneficiary of the proceeds.

(4) Where the proceeds of the lifting referred to in subregulation (3) of this regulation exceed the value of default, any amount above the default value shall be transferred from the escrow account to the account of the defaulting party and shall form part of the escrow agreement.

(5) A licensee or lessee who commences or carries out an abandonment or suspension of a well without the approval of the Commission or who commences or carries out any decommissioning programme without the approval of the Commission as provided for in these Regulations shall be liable to an administrative penalty of USD\$1,000,000 payable to the Commission.

(6) Penalties payable under these Regulations may be paid in Dollar or Naira, subject to the prevailing exchange rate published by the Central Bank of Nigeria at the time of payment.

(7) Penalties payable under these Regulations shall not be cost recoverable.

25. In these Regulations —

Interpretation

“*Abandonment*”, means plugging and abandonment of a well ;

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

“*Decommission*” has the meaning as defined under the definition of “*decommissioning and abandonment*” in the Act ;

“*Decommissioning Programme*” means a programme pursuant to section 232(6) of the Act ;

“*Fund*” means the decommissioning and abandonment fund as defined in Regulation 33(1);

“*Regulation*” means this Upstream Decommissioning and Abandonment Regulations ;

“*Standards prescribed by the International Maritime Organisation on offshore petroleum installations and structures*” means the Resolution of the International Maritime Organisation No. A672 (16) of 19 October 1989 on the Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone, as amended ;

“*Suspended Well*”, means a well or part of a well in which drilling or production operations have temporarily ceased ;

“*Well*” means a hole drilled into the earth for the purpose of locating, evaluating, producing or enhancing the production of petroleum or injection of any fluid into a subterranean reservoir and includes borehole.

26. These Regulations may be cited as the Nigeria Upstream Decommissioning and Abandonment Regulations, 2023. Citation

MADE at Abuja this 24th day of May, 2023.

ENGR. GBENGA KOMOLAFE, FNSE
Commission Chief Executive
Nigerian Upstream Petroleum Regulatory Commission

EXPLANATORY NOTE

*(This note does not form part of these Regulations
but is intended to explain its purport)*

These Regulations seeks to ensure the decommissioning and abandonment of petroleum wells, installations, structures, utilities, plants and pipelines for upstream petroleum operations on land and offshore are conducted in accordance with good international petroleum industry practice ; and set the framework for the establishment and administration of a decommissioning and abandonment Fund.