

OPERATIONALISING THE PETROLEUM INDUSTRY ACT (PIA) (1)

NIGERIAN UPSTREAM PETROLEUM REGULATORY COMMISSION (NUPRC) ISSUES SEVEN (7) NEW REGULATIONS

Introduction

Following the enactment of the Petroleum Industry Act (PIA), the Petroleum industry in Nigeria has been characterized by regulatory and institutional modifications aimed at implementing the provisions of the PIA.

The repeal and harmonization of extant laws, bifurcation of regulatory responsibility for upstream, midstream and downstream petroleum sectors and commercialisation of the NNPC are worthy of mention as significant events that have trailed the enactment of the PIA.

Upon the establishment of the Nigerian Upstream Petroleum Regulatory Commission ("NUPRC") and the Nigerian Midstream and Downstream Petroleum Authority ("the Authority"), both regulatory bodies have since proceeded to exercise their statutory duties which include the issuance of Regulations.

Sequel to its establishment, NUPRC in year 2023, issued seven (7) Regulations and is currently undertaking a review of seven (7) draft Regulations following comments received from stakeholders at its consultative forum. We have undertaken a review of the said Regulations and provided a concise summary below.

i. Production Curtailment and Domestic Crude Oil Supply Obligation Regulations, 2023

In line with the provisions of Sections 8(c) and 109 of the PIA, the Regulations embody a cooperative strategy involving both NUPRC and the Authority. This approach aims to assess the local demand for feedstock, identify any supply shortages, and subsequently facilitate the negotiation and execution of bilateral contracts to alleviate these shortages. These agreements operate on a willing buyer, willing seller basis.

The Regulations outline comprehensive directives on the curtailment of production and the use of crude oil for export and domestic crude oil supply obligations. The supply of crude by a Lessee is subject to domestic crude oil supply obligations (DCSO) imposed by NUPRC. In ascertaining the DCSO, Regulation 10(1) mandates NUPRC to publish on its official website and in three national newspapers, the domestic crude refining requirements of operating refineries in Nigeria based on information provided to NUPRC by the Authority on the crude oil requirements of refineries in operation in Nigeria pursuant to Sec. 109 (3) of the PIA.

ii. Frontier Basins Exploration Fund Administration Regulations, 2023

Further to the obligations imposed on the Nigerian National Petroleum Company Limited (NNPCL) by Section 9 of the PIA to allocate 30% of its profits derived from upstream petroleum operations to the development of frontier basins within the country, these Regulations provide for the establishment and management of a Fund to foster development of Nigeria's frontier basins.

By the Regulations, NUPRC in consultation with Nigerian National Petroleum Company Limited (NNPCL) is to establish an escrow account called the "Frontier Exploration Fund Escrow Account" (Escrow Account) into which the NNPCL is to domicile 30% of its profit oil and 30% of profit gas.

iii Upstream Decommissioning and Abandonment Regulations, 2023.

The Regulations mandate Operators to submit a comprehensive D&A plan to NUPRC. The plan is expected to meet certain requirements in compliance with good international petroleum industry

practices. Notably, offshore operators must conform to the standards set forth by the International Maritime Organisation for offshore installations and structures as part of their decommissioning and abandonment endeavours.

iv. Significant Crude Oil and Gas Discovery Regulations, 2023

The Regulations set guidelines to ensure the optimal utilization of petroleum resources which fall within the ambit of a Petroleum Prospecting License. The Regulations define significant crude oil discovery as that which is substantial in terms of reserves and possesses the potential of being commercial but cannot be declared so due to factors such as the absence of pipelines within the existing system and insufficient development on the reserves. The Regulations also set a timeline and mode of notification when such discovery is made by a Licensee or Lessee to NUPRC.

v. Gas Flaring, Venting, and Methane Emission (Prevention of Waste and Pollution) Regulations, 2023

To reduce and manage the negative impacts of emissions, waste and pollution associated with oil and gas developments, the Regulations set out ground rules that complement the Gas Flaring Commercialisation Programme initiated by the Federal Government. By the Regulations, the Federal Government reserves the right to take natural gas designated for flaring and grant permit to gas producers to access disposed gas for commercialisation, subject to stipulated conditions.

In occasional instances, NUPRC may ask a licensee or lessee to provide gas data. It is therefore essential for licensees or lessees to consistently document their Fugitive and Methane Emissions Data (FMED)

within their licensed or permitted areas, adhering to the specific format and procedures outlined in NUPRC's guidelines.

There is also a restriction on the assignment of the interest or rights to access flare gas to third parties except the transferee satisfies minimum technical and financial requirements stipulated under the Regulations and obtain an express approval from NUPRC.

vi. The Nigerian Upstream Petroleum Unitization Regulations, 2023

The Regulations establish rules, principles, and procedures for the unitization of the development of oil and gas from a petroleum reservoir that extends beyond the boundaries of a license or lease area.

Licensees or lessees are obligated by the Regulations to promptly notify NUPRC upon discovering a petroleum reservoir within their licensed or leased area, which is situated in a geological trap extending into one or more adjacent licenses or leases. The notification is expected to be made within two weeks of the discovery. Thereafter, a detailed report outlining information required by the Regulations will be submitted to NUPRC within 60 days.

vii. The Nigerian Upstream Petroleum Measurement Regulations, 2023.

The guidelines within the Regulations aim to ascertain the precise measurement of hydrocarbons produced in upstream petroleum operations and to guarantee an accurate calculation of petroleum revenue accruable to the government. The Regulations mandate lessees to install appropriate metering equipment. This process involves the Lessees engaging licensed metering service providers as outlined in the Regulations.

Conclusion

The issuance of the foregoing Regulations is a testament of NUPRC's efforts at discharging its technical and commercial regulatory functions. Whilst it is expected that a couple of other Regulations will be issued to clarify some statutory obligations and processes in the PIA such as bidding rounds, applicable royalties, rents and fees for leases and licenses in the new dispensation, these Regulations together with the draft Regulations under review are certainly a welcome development in the promotion of transparency, good governance and accountability in the administration of petroleum resources in Nigeria.

For more information on how any or all of these Regulations impact on your business operations, please do not hesitate to contact the undersigned.

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