

**Upstream Decommissioning and Abandonment Regulations  
Under Section 232 and 233  
Petroleum Industry Act (2021).**

**COMMENCEMENT DATE: DD/MM/**

**General**

1. These regulations shall apply to the decommissioning and abandonment of facilities used in upstream petroleum operations in Nigeria, including wells, all installations and facilities associated with upstream petroleum operations under a licence or lease saved under Section 311 (9) of the Petroleum Industry Act (the Act) and Licences and Leases granted under the Act.
2. The Commission shall administer the provisions of these regulations, including the provisions of any guidelines and directives issued by the Commission, from time to time, for the effective implementation of the provisions of these regulations and the abandonment and decommissioning provisions of the Act.

**Requirements for a decommissioning and abandonment plan**

3. Every Upstream petroleum operation in Nigeria shall be conducted subject to a decommissioning and abandonment plan approved by the Commission. The decommissioning and abandonment plan shall comply with the requirements as provided in these regulations and the Act.
4. The requirement for a decommissioning and abandonment plan under these regulations shall apply to upstream petroleum operations whether there is a decommissioning and abandonment plan previously approved under any other law by an approving authority before the coming into effect of the Act or by the Commission.
5. A decommissioning and abandonment plan pursuant to these regulations shall be in the form and manner prescribed by the Commission.
6. A licensee or lessee of an existing upstream petroleum operation shall within one year from the coming into effect of these regulations submit to the Commission a decommissioning and abandonment plan or in the case that a decommissioning and abandonment plan already exists, an updated decommissioning and abandonment plan in accordance with these regulations.
7. All new licensees and lessees shall submit a decommissioning and abandonment plan to the Commission in accordance to these regulations and the Act as part of a field development plan.
8. A decommissioning and abandonment plan submitted pursuant to these regulations by existing licensees or lessees or new licensees or lessees shall state the amount to be contributed annually to the respective decommissioning and abandonment fund set up for each licence or lease by the licensees or lessees in respect of any upstream petroleum operations.

9. The annual contribution provided for in a decommissioning and abandonment plan may, subject to the approval or directives of the Commission, be reviewed from time to time as required during the period of the licence or lease or until the cessation of petroleum operations to which the plan relates.

10. A decommissioning and abandonment plan shall meet the following general and specific requirements as the case may be:

- (1) General Requirements such as compliance with good international petroleum industry practice
- (2) Specific requirements in the case of offshore operations, compliance with Standards prescribed by the International Maritime Organisation on offshore petroleum installations and structures
- (3) Guidelines issued by the Commission pursuant to section 232 (1) of the Act

#### **Approval of a decommissioning and abandonment plan**

11. A decommissioning and Abandonment plan submitted pursuant to sub regulation 6 which meets the requirement pursuant to sub regulation 10 of these regulation and the Act shall be approved by the Commission.

12. A decommissioning and abandonment plan submitted pursuant to sub regulation 7 which meets the requirement pursuant to sub regulation 10 of this regulation shall be deemed approved upon the approval of the Field Development Plan to which it relates.

13. A decommissioning and abandonment plan approved by the Commission shall from the effective date of the approval govern any decommissioning or abandonment program relating to the relevant upstream petroleum operations.

#### **Provision to update A Decommissioning and Abandonment plan**

14. The licensee or lessee may prior to the execution of the decommissioning and abandonment programme, propose an update to the approved decommissioning and abandonment plan and submit it to the Commission. The Commission shall review the proposed update and approve if it meets the requirement pursuant to sub regulation 10.

#### **Execution of decommissioning and abandonment pursuant to an approved decommissioning and abandonment plan**

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

- (a) suspend or abandon any well;
- (b) decommission any installation, structure, utility, plant or pipeline; and
- (c) decommission and abandon all or part of an oil or gas field;

shall obtain the prior approval of the Commission to the abandonment or decommissioning.

Commented [E51]: Define "suspend" in definition section to include permanent suspension.

(2) An abandonment or decommissioning activity pursuant to this regulation shall be conducted in the manner prescribed as follows:

(a) In respect of the abandonment of a well soon after drilling, on the grounds that the well is dry or uneconomic or for any other reason, a licensee or lessee may abandon the well and make a report to the Commission in the form prescribed.

(i) The report shall be made as soon as the well drilling results are known and shall provide the well summary information, the details of the downhole mechanical condition of the well, and the method of plugging and abandonment in compliance with relevant guidelines and regulations.

(ii) Notwithstanding the provisions of this regulation, and subject to regulation 31 of these Regulations, 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.

(b) In respect of the suspension of a well, a licensee or lessee shall make an application to the Commission in the form prescribed for approval to suspend a well stating the technical reason and justification for the suspension.

(i) An application for suspension of a well may be for any well in relation to upstream petroleum operations.

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

(i) be re-entered safely; and

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

(iii) not jeopardising the future final abandonment of the well.

Provided that any suspended well pursuant to this regulation may be abandoned after three (3) years of the suspension in accordance with the provisions of these regulations, unless otherwise directed by the Commission.

(c) In respect of the decommissioning of infrastructure or fields on land, the 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 twenty-four (24) months prior to a proposed start date of the decommissioning.

(d) In respect of the decommissioning and abandonment of all or part of an oil field on land, the 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 thirty-six (36) months prior to a proposed start date of the decommissioning.

(3) An application under sub-regulations 1 and 2 of these regulations shall be accompanied with a decommissioning programme in a form prescribed by the Commission which shall comprise of-

(a) all of the facilities located on a field,

- (b) part of the facilities, including installation(s) or pipeline(s) 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(s) 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.
  - (iv) Any other background information relevant to consideration of 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 sub regulation 15(c), a list of all wells (including satellite wells and whether active, suspended or abandoned), which are directly linked to the installation by infrastructure. Details in regard to the plug and abandonment shall be included pursuant to the provisions of these Regulations.
  - (iii) Offshore and onshore loading facilities relevant to the programme.
  - (iv) Any other installed items.

For all items described under sub regulation (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 including Low Specific Activity scale. 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, 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).

- (ii) an indication of how the principles of the waste hierarchy will be met as well as 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, will 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, will be addressed.
  - (v) water clearance above any remains.
  - (vi) predicted degradation, movement and stability of any remains.
- (g) an environmental evaluation studies/post impact assessment, environmental remediation and restorative plan, for the decommissioning programme.
- (h) a comparative assessment of alternative decommissioning options, or otherwise disposal options (the comparative assessment 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) Technical, including risks of major project failure;
  - (iv) Societal; and
  - (v) Economic.
- (i) report of any required interested party consultations in compliance with these or any other regulations
- (j) letters of support from named Partners 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 will keep the Commission informed of the progress of decommissioning.

- (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.

#### **Decommissioning of infrastructure on offshore fields**

16(1) In respect of the decommissioning of infrastructure on offshore fields, the 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 thirty-six (36) months prior to the proposed start date of the decommissioning .

(2) In respect of decommissioning and abandonment of all or part of an oil or gas fields offshore, 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 fields offshore, at least forty-eight (48) months prior to the proposed start 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 comprise in addition to the requirement in regulation 15(2) (c) -

- (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) For 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 end manifold, umbilical termination assembly, riser anchor bases).
  - (vi) Information about the stability of the pipelines including details of any spanning or exposure (survey data and history to support information given in this section should be included as an annexure to the programme, live pipeline survey information 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).

- (viii) Materials on the seabed – drill cuttings (amount, composition, dimensions), debris, 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. As a minimum, the area covered for debris clearance should include a 500meter radius around any installation and a 100meter (50meter either side of the pipeline) corridor along the length of any pipelines. Following the work, verification of seabed clearance by an independent organisation is required.
- (d) For the removal and disposal methods, details of any materials and remains on the seabed after decommissioning.
- (e) Proposals covering the post-decommissioning phase –
  - (i) Seabed sampling surveys to monitor levels of hydrocarbons, heavy metals and other contaminants in sediments and biota.
  - (ii) Inspection and maintenance where any installation, structure or pipeline remained disused and in position or are to be partly removed. Where any installation, structure or pipeline is partly removed, the licensee or lessee shall remain liable for any residual liability arising from the installation, structure or pipeline not removed in accordance with the approved decommissioning and abandonment plan.
- (f) Analysis indicating that the proposal complies with the standards prescribed by the international maritime organisation on offshore petroleum installations and structures.

**Approval of an application to abandon a well**

17. (1) An application for abandonment of a well shall be reviewed and decided upon by the Commission within 60 working days upon the receipt of a valid application with all supporting documentation.

(2) The Commission shall approve the application to abandon a well if the Commission is satisfied with the proposed method of abandonment of a well.

(3) The Commission shall issue a written notification of its approval or refusal to approve within the time frame specified in sub-regulation (1). Where the Commission fails to notify the licensee or lessee of its decision within the time prescribed, the application shall be deemed to have been granted.

**Approval of an application to suspend a well**

18(1) An application for suspension of a well shall be reviewed and decided upon by the Commission within 60 working- days upon receipt of a valid application.

(2) The Commission shall consider the following when approving an application under this regulation –

- (a) whether further potential use for the well has been demonstrated.
- (b) the presence of any installed infrastructure.
- (c) whether the abandonment of the well is being planned as part of a wider decommissioning campaign.
- (d) And any other requirements as may be set by the Commission.

(3) The Commission shall issue a written notification of its approval or refusal to approve an application to suspend a well within the time frame specified in sub-regulation (1). Where the Commission fails to notify the licensee or lessee of its decision within the time prescribed, the application shall be deemed to have been granted.

**Abandonment of a well or wells as part of decommissioning of a field or part of a field**

19. Where the abandonment of a well or wells is a component of the decommissioning and abandonment of a field or part of a field, the abandonment application shall be incorporated in the application for the decommissioning programme as provided for in these regulations and the timelines for decision by the Commission shall be as determined for such decommissioning programme.

**Rejection of an application for abandonment or suspension of a well**

20. (1) An application for the abandonment or suspension of a well which in the opinion of the Commission is required to be abandoned or suspended shall not be refused by the Commission unless the licensee or lessee have been given an opportunity to make an amendment or modification of the application within a reasonable time.

(2) Where the licensee or lessee fails to make an amendment or modification of the application within the time specified or makes an amendment or modification of the application which in the opinion of the Commission does not meet the requirement for approval, the Commission shall refuse to approve the application and notify the licensee or lessee of its decision in writing.

(3) where the Commission refuses an approval under the circumstances of sub-regulation (2), the Commission shall have such abandonment carried out by a third party to be financed from the decommissioning and abandonment fund.

**Notification of Abandonment or suspension of a well**

21. A licensee or lessee shall notify the Commission in writing in the form prescribed by the Commission, of the completion of abandonment or suspension of a well pursuant to an approval granted under these regulations.

**Approval of application for decommissioning by the Commission**

22. (1) The Commission shall approve an application for decommissioning pursuant to these regulations within two hundred- and forty (240) days after the submission of the application



and notify a licensee or lessee in writing of its decision if the application satisfies the following criteria-

- (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) where applicable, 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 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.
- (f) 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.
- (g) relevant environmental, technical, and commercial regulations or standards are complied with; and
- (h) where applicable, in line with subregulation 6(2)(b) of these Regulations.
- (i) and any other requirements as may be set by the Commission.

(2) If the Commission is not satisfied with the decommissioning application, the Commission shall not approve the application and shall notify the licensee or lessee of its decision in writing stating the reasons for the refusal. .

(3) Where the Commission fails to make and communicate a decision on the application to the licensee or lessee within 240 days as prescribed in this sub-regulation, the application shall be deemed approved.

#### **Rejection of an application for a decommissioning and abandonment programme**

23. (1) An application for a decommissioning programme pursuant to these regulations may be rejected by the Commission where it does not meet the requirements for approval, provided that the licensee or lessee shall be given an opportunity to submit an amended or modified application within sixty (60) days.

(2) Where the licensee or lessee fails to submit an amended or modified application within the time specified or submits an amended or modified application which is not in compliance with the approved decommissioning and abandonment plan, the Commission shall refuse to approve the application and notify the licensee or lessee of its decision in writing.

(3) Where the Commission refuses an approval under the circumstances of sub-regulation (2), the Commission shall have such decommissioning and abandonment programme carried out by a third party to be financed from the decommissioning and abandonment fund, pursuant to section 233(3) of the Act.

**Requirement for public consultation**

24. (1) Prior to the submission of an application for any decommissioning and abandonment programme as provided for in this regulation, a licensee or lessee shall, except for abandonment of wells, conduct public consultations with stakeholders, including communities affected by the activities, public authorities and bodies and other interested parties with respect to the planned decommissioning programme.

(2) A licensee or lessee shall, in carrying out the consultations under this sub-regulation —

- (a) (i) Announce its decommissioning programme by placing a public notice in two (2) or more appropriate national and local newspapers and place the same information on its publicly accessible website.  
  
(ii) A notice under this sub-regulation shall indicate where copies of the decommissioning programme can be viewed and to whom representations should be submitted, as well as, where applicable, the dates and place of public consultations.
- (b) Provide the Commission with necessary information to enable the Commission to 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;
- (d) 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;
- (e) 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;
- (f) 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; and
- (g) Ensure that the comments received during consultations are recorded, made publicly available and taken into account.

25. The report of the public consultation under this regulation including measures taken by the licensee or lessee to take into account the outcome of the consultations shall be submitted to the Commission with the application.

### **Execution of a decommissioning programme**

26. (1) Once an application of a decommissioning programme has been approved by the Commission, a licensee or lessee shall commence execution of the programme.

(2) A licensee or lessee shall keep the Commission informed of the progress of the execution of the programme, including providing regular reports and updates envisaged under the approved programme in the form prescribed by the Commission. The Commission may request meetings with a licensee or lessee at which progress could be reviewed.

### **Changes to the approved decommissioning programme**

27. Any revisions to the programme shall be subject to the approval by the Commission. If a licensee or lessee contemplates any changes to the approved decommissioning programme, such changes shall be submitted to the Commission for review and approval.

### **Post-completion of decommissioning and abandonment programme**

28.(1) Once a licensee or lessee has executed the approved decommissioning and abandonment programme, a licensee or lessee shall in writing notify the Commission of the completion of the decommissioning and abandonment programme.

(2) A licensee or lessee shall upon the completion of the decommissioning and abandonment programme submit to the Commission a written report, in line with the decommissioning and abandonment plan, stating out measures established by the licensee or lessee for the monitoring, maintenance and management of the abandoned wells and the decommissioned site as well as any remains of installations or pipelines that may still exist, pursuant to the scope and duration of the monitoring requirements under the decommissioning programme approved by the Commission.

(3) A licensee or lessee shall submit the results of all post completion monitoring surveys to the Commission. On completion of the last intended survey as provided by the licensee or lessee in its statement of measures pursuant to sub-regulation 2, any further work shall depend on the results of the monitoring surveys and shall be agreed with the Commission.

### **Decommissioning and abandonment required by the Commission**

29.(1) The Commission, may at any time by written notice, require a lessee or a licensee to commence decommissioning and abandonment of a well, installation, structure, utility, plant and pipeline, where such decommissioning and abandonment may be required under good international petroleum industry practices, irrespective of the timing proposed in the decommissioning and abandonment plan.

(2) The licensee or lessee shall comply with any notice under regulation 28(1).

### **Enforcement by the Commission**

30. The Commission shall enforce compliance to the provisions of these regulations in the following manner:

(i) In respect of a Licence or Lease which has expired, was surrendered, or terminated and no decommissioning and abandonment has been executed by the licensee or lessee, or where there is still remaining unfulfilled decommissioning and abandonment

obligations, the Commission shall require the licensee or lessee of the expired licence or lease to execute the decommissioning and abandonment in line with the previously approved decommissioning and abandonment plan and in compliance to these regulations.

(ii) In respect of licence or lease that has been transferred or divested by the licensee or lessee prior to the execution of any decommissioning and abandonment obligation provided for in a decommissioning and abandonment plan, the obligation to execute the decommissioning and abandonment programme under a decommissioning and abandonment plan relating to the licence or lease shall be enforced against the transferee of the licence or lease who acquires its interest with the prior approval and consent of the Minister or the Commission as the case may be in accordance with the law.

31. Prior to the termination of a licence or a lease for any reason, the Commission may request in writing that the licensee or lessee refrains from conducting specific decommissioning and abandonment programme regarding certain facilities, including wells. In such a case, the licensee or lessee shall deliver the facilities, in good working order and fit for further working again, to the third party designated by the Commission, and the licensee or lessee shall be relieved of any future obligation relating to decommissioning and abandonment of such facilities and any remaining amounts in the decommissioning and abandonment fund shall be transferred to the Commission for the purpose of future decommissioning and abandonment.

#### **Database of installations, structures and assets**

32. (1) The Commission shall keep and maintain a database of upstream petroleum installations, structures and pipelines on land and offshore Nigeria. The database shall include a list of all installations, structures and pipelines used in the operations and their status.

(2) The database pursuant to this sub regulation 1 shall be a public document and shall be published in the Commission's website.

(3) The database shall be subject to yearly review and update by the Commission.

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

(5) In addition to the requirement to make the database public by publishing it on its website, the Commission shall issue an annual publication of the database to the public.

#### **Requirement for establishment of a decommissioning and abandonment fund for Petroleum Operations Under a Licence or Lease**

33.(1) There shall be established for each license or lease a decommissioning and abandonment fund (the Fund). Not later than three (3) months from the date of commencement of production in the case of new licences or leases, or one year from the effective date of these Regulations for existing licenses or leases of a producing field. The Fund shall be established by the license or lease holder(s), in respect of petroleum operations under the licence or lease, for the purpose of fulfilling its obligations and liabilities with respect to decommissioning and abandonment pursuant to a decommissioning and abandonment plan.

(2) Notice of the establishment of the Fund pursuant to subregulation (1) shall be issued to the Commission not later than 14 days from the date of establishment of the fund by the licence or lease holder (s).

(3) The Fund shall be in the form of an escrow account held by a financial institution that is not an affiliate of the licence or lease holder (s).

(4) The financial institution must shall be a reputable commercial bank licensed by the Nigerian Central Bank and must meet the following criteria:

- (a) a minimum credit rating of A+ or its equivalent published by either Standard & Poor 500, Fitch Ratings Inc. or Moody's Investors Service Inc..
- (b) maintain the minimum credit rating for the life of the escrow account.

(5) The financial institutions' rating shall be assessed semi-annually to ensure the minimum rating is maintained, failure of which, the licensee or lessee shall within one (1) month apply to the Commission for approval, another financial institution that meets the minimum credit rating for the purpose of opening a new escrow account with the new financial institution and transfer of the funds to the account.

(6) The Commission shall within fourteen (14) days notify the licensee or lessee of its approval or non-approval and failure of which the application shall be deemed approved.

(7) The Commission shall be a party to the Escrow agreement in respect of the escrow account in sub-regulation (3) and shall have access to the funds in the escrow account pursuant to the provisions of these regulations.

(8) The escrow agreement shall in the minimum contain the following:

- (a) The strict limitation to the use of the funds in the escrow account for executing the decommissioning and abandonment programme
- (b) Funds in the escrow account is in a relatively stable current (US Dollar) to prevent value erosion.

(9) The escrow account shall be kept free of any encumbrances from creditors, including but not limited to a charge, pledge, lien, guarantee, letter of credit or garnishee order of a court of competent jurisdiction.

(10) The escrow account shall be interest-bearing with any accrued interest being part of the fund.

#### **Contributions to the fund**

34.(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 licence or lease holder(s), provided that in the case of a licence or lease under a production sharing contract, or any other contractual arrangement, the contributions will be made by the Concessionaire on behalf of the licence or lease holder (s).

(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.

(3) The yearly contribution provided for in the decommissioning and abandonment plan shall be based on –

- (a) an estimate by the licensee or lessee of the applicable decommissioning and abandonment costs, projected forward based on its projected cash flow for each year on a nominal basis; and divided by
- (b) the estimated life of the facilities.

(4) The estimated life of the facilities referred to in subregulation (2)(a) of this regulation shall be based on the –

- (a) estimated life of the field, in case of facilities used for upstream petroleum operations; and
- (b) period of time for which the safe operations of the facilities were designed, in case of facilities used for midstream petroleum operations, which meet the condition of section 8(d) of the Act

(5) The estimates for costs required in this regulation shall be made based on good international petroleum industry practice and shall be subject to approval by the Commission in line with the Act.

(6) The yearly contribution shall be deposited to the fund on or before the end of each calendar year.

(7) The estimated yearly contribution pursuant to subregulation (2) of this regulation shall be reviewed every 10 years following the first submission, except where due to significant changes in cost, technology or addition of assets to be decommissioned occurs, the licensee or lessee may apply to the Commission for a review of the estimated yearly contribution prior to the 10-year period.

(8) Contributions to the Fund shall be eligible for cost recovery and shall be tax deductible, provided that the cost of executing the decommissioning and abandonment program disbursed from the Fund shall not be eligible for cost recovery or deductible for tax purposes.

#### **Use of the fund**

35. (1) The decommissioning and abandonment fund shall be exclusively used to pay for decommissioning and abandonment costs.

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

(3) The abandonment funds may be invested in the asset classes that present a reasonable low risk profile, subject to the unanimous agreement of all the parties to the escrow account.

(4) Where there is an excess in the Fund after the decommissioning and abandonment has been carried out and approved by the Commission, 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 licence or lease holder(s).

(5) Where the Fund is not sufficient to cover the decommissioning and abandonment expenditure, the licence or lease holder(s) shall cover such difference to fulfil the obligations in full.

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

(2) 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 60 days upon receipt of the written notice.

(3) Where a lessee or a licensee 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 such lessee's or licensee's obligations pursuant to section 232 of the Act.

(4) If the Commission makes a decision to apply the Fund pursuant to subregulation (1) of this regulation, the Commission shall be responsible to manage the Fund in accordance with the applicable laws, and the procurement of any goods, works or services required to undertake decommissioning and abandonment shall be subject to the laws and regulations applicable to public procurement.

#### **Reporting**

37. The Licence or Lease holder(s) shall furnish the Commission not later than thirty (30) days after the end of each calendar year a statement of accounts with respect to its decommissioning and abandonment contributions into the fund in the form prescribed by the Commission. A copy of such statement shall be provided by the Licence or Lease holder(s) to the Federal Inland Revenue Service within the same timeline.

#### **Decommissioning and abandonment liabilities in case of assignment**

38.(1) Where the whole or part of an interest in the Licence is assigned, novated or otherwise transferred to another party, the proportionate legal and equitable interests, rights and obligations of the Licensee in respect of any decommissioning and abandonment obligations under the Act and these regulations, shall be deemed to be attached to the property transferred to the transferee and such legal and equitable interest, rights and obligations shall be deemed to become the interests, rights and obligations of the transferee.

#### **Penalties**

39.(1) License or lease holder(s), who fails to submit an abandonment and decommissioning plan with respect to a licence of lease within the time prescribed in these regulations shall be liable to an administrative penalty of Five Hundred Thousand 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.

(2) License or lease holder(s) who fails to establish the Fund within the time prescribed in these regulations shall be liable to an administrative penalty of Five Hundred Thousand 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) Any Licensee or 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.

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

(5) All penalties payable under these regulations may be paid in Nigerian Naira subject to the prevailing exchange rate set by the Central Bank of Nigeria (CBN) at the time of payment.

#### **Interpretation**

40. In addition to the definitions contained in the Petroleum Industry Act, 2021 the following definitions shall apply to these Upstream Decommissioning and Abandonment Regulations.

"abandonment", means plugging and abandonment of a well;

"Act" means Petroleum Industry Act, 2021;

"Convention on the Continental Shelf" means the United Nations Convention on the Territorial Sea and the Contiguous Zone of 29 April 1958, as amended;

"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;

"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;

"United Nations Convention on the Law of the Sea", means the United Nations Convention on the Law of the Sea of 10 December 1982, as amended;

"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.

#### **Short title**

These Regulations may be cited as the Upstream Decommissioning and Abandonment Regulations and are regulations under sections 232 and 233 of the Petroleum Industry Act, 2021.