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PETROLEUM INDUSTRY ACT, NO. 6, 2021
NIGERIAN UPSTREAM PETROLEUM UNITISATION
REGULATIONS, 2023



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S. I. No. 41 of 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021
NIGERIAN UPSTREAM PETROLEUM UNITISATION
REGULATIONS, 2023

[24th Day of May, 2023]

Commence-
ment

In exercise of the powers conferred on it by sections 10(f) and 80 (9) of the Petroleum Industry Act, No. 6, 2021 ("the Act") and all other powers enabling it in that behalf, the Nigeria Upstream Petroleum Regulatory Commission ("the Commission") makes the following Regulations —

1. The objective of these Regulations is to establish rules, principles and procedures for the implementation of unitisation of oil and gas from a petroleum reservoir that extends beyond the boundaries of a licence or lease area into an area to which another licence or lease relates.

Objective

2. These Regulations applies to licences and leases granted under the Act, whose petroleum reservoir extends beyond the boundaries of its licence or lease area, to which a different person is the licensee or lessee and a declaration of commercial discovery has been made.

Application

3.—(1) A licensee or lessee may in carrying out geophysical activities involving the acquisition of geophysical data within its licence or lease boundary, shoot across the boundary, into any adjoining licence or lease area to a distance of not more than two kilometres.

Preliminary
activities to
oil discovery

(2) The acquisition of geological data pursuant to these Regulations shall be with the prior approval of the Commission and notification to the licensee or lessee of the adjoining licence or lease area.

(3) A licensee or lessee shall process and interpret any geophysical, geotechnical and geological data acquired pursuant to this regulation and may make available to a licensee or lessee of adjoining licence or lease area the processed data or any interpretation of the data.

(4) A licensee or lessee shall map all geological traps in its licence or lease area considered to straddle one or more adjoining licence or lease boundaries with the knowledge of any other party.

4.—(1) A licensee or lessee who identifies a petroleum reservoir in a geological trap in its licence or lease area, which appears to straddle one or more adjoining licences or leases, shall notify the Commission of such discovery within two weeks of well suspension or abandonment.

Notification
of
hydrocarbon
discovery

(2) The notification referred to in subregulation (1) of this regulation shall be followed by a full report within 60 days, stating, for each straddling petroleum reservoir, the following information —

(a) detailed report about each straddling petroleum reservoir, relating to —

- (i) the parcel and subparcel in which the exploration well is located and, where the discovery was made,
- (ii) name or identification of the reservoir,
- (iii) the date the reservoir was identified,
- (iv) the bottom hole location and the depth of the well,
- (v) a preliminary estimate of the location and aerial extent of the petroleum reservoir encountered in the well,
- (vi) details of the geological structure or underground formation and field in which the reservoir is located,
- (vii) the results of all assessments of the reservoir,
- (viii) where the quantity of production of petroleum and water from the well that resulted in the discovery has been determined, and
- (ix) where the preliminary estimate of the quantity of recoverable petroleum in the petroleum reservoir has been made ;

(b) the studies showing the existence of each petroleum reservoir that was identified ; and

(c) any other relevant information as may be necessary to validate petroleum discovery in the licence or lease area.

(3) Where a petroleum reservoir referred to in subregulation (2) of this regulation extends into an area which is part of a licence or a lease issued to a different licensee or lessee, the licensee or lessee shall notify such other licensee or lessee in writing of the extension.

(4) The Commission shall, in writing, notify the licensees or lessees of the adjoining licences or leases identified in the report that the reservoir extends to their licence or lease area.

Determination
of straddling
reservoirs

5.—(1) The Commission shall require a licensee or lessee into whose licence or lease area, a reservoir extends to confirm if the reservoir straddles.

(2) A licensee or lessee may provide confirmation required by —

- (a) carrying out exploratory activities, including drilling a confirmatory well ; or
- (b) providing a rebuttal based on existing information available to the licensee or lessee.

(3) Where the licensee or lessee carries out exploratory activities, including drilling a confirmatory well and the result does not confirm that the reservoir straddles, the Commission shall declare the reservoir as not straddling.

(4) Where the result confirms that the reservoir straddles, the Commission shall direct the parties to enter into a unitisation agreement.

(5) Where the licensee or lessee presents a rebuttal, the Commission shall make a determination based on all the information provided by the parties on whether or not the reservoir straddles, and the Commission's decision shall be final.

6.—(1) Where the Commission directs the joint development of a reservoir pursuant to these Regulations, the Commission shall require the licensee or lessee to do the following —

Joint development agreement

(a) enter into a Pre-Unitisation Agreement (PUA) prior to executing a Unitisation Agreement ; and

(b) execute a Unitisation Agreement for the joint development of the reservoir.

(2) Notwithstanding the provisions of subregulation (1)(a) of this regulation, the parties may execute a Unitisation and Unit Operating Agreement (UUOA) where the straddling reservoir is a Brown-Brown.

(3) The agreements under this regulation shall be subject to the approval of the Commission before the execution of the agreement by the parties.

7. Where a petroleum reservoir extends beyond the boundary of a licence or lease into an adjacent area which is not covered by a licence or lease, and the licensee or lessee has made a declaration of a commercial discovery in relation to such reservoir, the Commission may —

Extension to areas not covered by a licence or lease

(a) require the licensee or lessee to make an application for extension to cover the licence or lease area and the Commission may approve the application, where the applicant fulfills conditions prescribed by the Commission ; or

(b) conduct a bid exercise pursuant to the Act for the area not covered by a licence or lease that the reservoir straddles.

8.—(1) The parties to a joint appraisal programme under a pre-unitisation agreement may make a declaration of commercial discovery pursuant to section 78(8)(a) of the Act.

Declaration pursuant to a pre-unitisation agreement

(2) Where the declaration under subregulation (1) of this regulation is made, the parties may apply to the Commission for approval that a unit agreement is not required and submit proposals for separate field development plans.

(3) The Commission shall within 90 days approve a declaration and an application for separate development, where compared to joint development of the reservoir, it will not result in —

(a) a lower overall maximum economic recovery ;

(b) higher overall capital or operating costs or both; or

(c) lower overall royalty revenues from the commercial discovery.

(4) The Commission shall communicate its decision to the parties, within the period specified in subregulation (3) of this regulation.

Time frame for the execution of joint development agreement

9. The parties to a —

(a) pre-unitisation agreement, shall have a minimum period of 12 months to conclude and execute the PUA from the time the Commission directs the parties to jointly develop the reservoir as a unit ; and

(b) unitisation agreement, shall have a minimum period of 12 months to conclude and execute the unitisation and unit operating agreement from the time the Commission directs.

Petroleum production before the execution of a Pre-Unitisation Agreement

10.—(1) Where one or more parties to a Pre-Unitisation Agreement are engaged in independent production of petroleum from their respective area before the decision to unitise the reservoirs from the areas, the parties shall continue producing from their respective areas until the execution of a Pre-Unitisation Agreement.

(2) Notwithstanding the provisions of subregulation (1) of this regulation, the Commission may order the termination of such operations until there is a Pre-Unitisation Agreement, where the Commission is of the opinion that the operations may negatively affect the optimal recovery of petroleum from petroleum reservoirs or the rights of other licensees or lessees.

Appointment of independent consultant

11.—(1) The Commission may issue a directive in writing to the licensees or lessees to jointly appoint an independent consultant to develop terms and conditions of the unit agreement, where the licensees or lessees are unable to reach an agreement within the time prescribed in these Regulations.

(2) The terms and conditions for the appointment of consultant shall be as may be determined by the Commission.

(3) The Commission shall appoint a consultant for the parties, where the licensees or lessees fail to appoint a consultant within 90 days of the directive of the Commission.

(4) The parties shall be responsible for the remuneration of the consultant appointed pursuant to subregulations (1) and (3) of this regulation.

(5) Where a licensee or lessee fails to agree on the remuneration of the consultant, the Commission shall determine the remuneration of the consultant.

(6) A party who fails to pay the remuneration of the consultant shall be in breach of these Regulations and shall in addition to paying the consultant, be liable to pay an administrative fine to the Commission, 100% of the remuneration due and payable to the consultant.

(7) In addition to the administrative fine imposed for non-payment of the remuneration determined by the Commission, the Commission shall not issue permits and approvals to the licensee or lessee for their operations until the remuneration is paid.

12. The parties to unit agreement may modify the agreement, subject to the approval of the Commission.

Modification
of a unit
agreement

13. Where a unit agreement does not provide for the effective date of determination and redetermination, the effective date shall be determined from the date of completion of such determination or redetermination and shall not have a retroactive effect.

Effective
date for
determination
and
redetermination

14.—(1) Unitisation of any straddling reservoirs which extend outside the territory of Nigeria shall be carried out in accordance with the applicable international agreements or treaties to which Nigeria is a party, or in the absence of such international agreements or treaties, based on consultations with competent authorities of such other jurisdiction.

Trans-
boundary
matters

(2) The Commission shall, pursuant to subregulation (1) of this regulation, notify the foreign country through the appropriate authority.

15. In these Regulations —

Interpretations

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

“*applicable law*” shall include laws, regulations and guidelines related to unitisation ;

“*Brown-Brown*” means a designation referring to a straddling field or straddling reservoir from which there has been production from each concession prior to unitisation ;

“*infrastructure*” means machinery, tools, equipment, articles, supplies, pipes, drilling or production platforms, naval devices, plants, and other facilities acquired, supplied, leased or owned in any other way for use in upstream petroleum operations ;

“*licensing round*” means the licensing round as contemplated under section 74(1) of the Act ;

“*licensing round guidelines*” shall be the licensing round guidelines as defined in section 75 of the Act ;

“*maximum economic recovery*” means the recovery of economically recoverable petroleum in a manner that creates the maximum project value for investors and the State, through —

- (a) creating infrastructure in an optimal configuration ;
- (b) achieving optimal levels of field performance ;
- (c) creating cost effective production ;

(d) applying new and emerging technologies to their optimum effect ; and

(e) permitting decommissioning in the most effective way ;

“notice” means any notice, consent, request and other documents authorised or required to be given pursuant to regulations under the Act ;

“operator” means a company with the characteristics to be appointed as operator pursuant to the provisions of a Joint Operating Agreement (“JOA”) by the members of the JOA to manage and conduct the petroleum operations in a safe and efficient manner on behalf of the JOA ;

“Parcel” has the same meaning assigned to it under the Act ;

“these Regulations” means Upstream Petroleum Unitisation Regulations ;

“royalty” or “royalties” means a royalty or royalties in accordance with section 306 of the Act ;

“unitisation agreement” means an agreement pursuant to section 80 of the Act ; and

“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.

Citation

16. These Regulations may be cited as the Upstream Petroleum Unitisation Regulations, 2023.

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

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

EXPLANATORY NOTE

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

These Regulations seeks to establish rules, principles and procedures for the implementation of unitisation of oil and gas from a petroleum reservoir that extends beyond the boundaries of a licence or lease area into an area to which another licence or lease relates.