

Extraordinary



Federal Republic of Nigeria

Official Gazette

No. 233

Lagos - 7th June, 2023

Vol. 110

Government Notice No. 87

The following is published as supplement to this *Gazette* :

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Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 202/62023/350

Annual Subscription from 1st January, 2023 is Local : ₦50,000.00 Overseas : ₦65,000.00 [Surface Mail] ₦80,000.00 [Second Class Air Mail]. Present issue ₦3,000 per copy. Subscribers who wish to obtain *Gazette* after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

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PETROLEUM INDUSTRY ACT, NO. 6, 2021
FRONTIER BASINS EXPLORATION ADMINISTRATION
REGULATIONS, 2023



ARRANGEMENT OF REGULATIONS

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S. I. No. 46 of 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021
FRONTIER BASINS EXPLORATION ADMINISTRATION
REGULATIONS, 2023

[24th Day of May, 2023]

Commence-
ment

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

1. The objectives of these Regulations are to —

Objectives

(a) provide the general rules for the exercise of the Commission’s responsibilities with respect to frontier basins in Nigeria pursuant to section 9 of the Act ;

(b) provide a procedure for the administration of the Frontier Exploration Fund ; and

(c) attract investment to the frontier basins in Nigeria.

2. These Regulations applies to unlicensed acreages in the frontier basins and any other operations as may be authorised by the Commission relating to exploration activities in the frontier basins in upstream petroleum operations.

Application

3.—(1) The Commission shall, in consultation with NNPC Limited, establish a Frontier Exploration Fund Escrow Account (the “Escrow Account”) into which the NNPC Limited shall transfer 30% of profit oil and 30% of profit gas in accordance with section 9(4) of the Act.

Frontier
Exploration
Fund
Escrow
Account

(2) The Escrow Account shall be divided into United States Dollar account and Naira account, both of which shall be maintained with a commercial bank —

(a) licenced by the Central Bank of Nigeria ; and

(b) with a minimum credit rating of ‘A’ issued by at least two rating agencies incorporated in Nigeria and registered with the Securities and Exchange Commission.

4. The NNPC Limited or any of its subsidiaries entitled to profit oil from any production sharing contract, profit sharing contract and risk service contract (“the Contract”) shall not later than 21 days from the end of each quarter, remit into the Escrow Account 30% of —

Funding of
Escrow
Account

(a) profit oil under its contract ; and

(b) profit gas and natural gas liquids under its contracts,
provided that the NNPC Limited shall remit into the escrow account as an

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initial payment, the 30% of profit oil and 30% of profit gas received for the period commencing on the 1st day of July, 2022 to the effective date of these Regulations.

Reconciliation
of payments
into the
Escrow
Account

5.—(1) NNPC Limited shall in respect of each contract to which these Regulations applies, within one month from the effective date of these Regulations with respect to existing contracts and one month from the commencement of production of oil or gas for any future contract, submit to the Commission its monthly entitlement model for oil and gas, which includes full and accurate records of —

(a) the volume of oil and gas produced monthly, not later than the 15th day of each month following the month of production profit oil and gas, allocated and lifted ;

(b) information from the Contracts for gas produced or distributed ;

(c) the proceeds received from the disposal of oil and gas disposed of monthly, not later than the 15th day of each month following the month the proceeds are received ;

(d) all remittances made in respect of cost, tax and royalty ;

(e) forecast on oil and gas production, distribution and sales ;

(f) fiscal oil and gas prices for the period ; and

(g) any other documents as may be required by the Commission from time to time.

(2) The information to be submitted pursuant to this regulation shall be in a manner prescribed by the Commission and the Commission may use the information provided in the reconciliation of payments into the Fund by NNPC Limited.

Administra-
tion of the
Frontier
Escrow
Account

6. The Commission shall —

(a) be responsible for the administration of the fund in the Escrow Account ;

(b) ensure that the funds in the Escrow Account are applied solely for the purpose of exploration and development of oil and gas resources in the frontier acreages of Nigeria.

Authorisation
of
expenditure
from the
Escrow
Account

7.—(1) Payments from the Escrow Account shall be —

(a) in accordance with the terms and conditions of an Escrow Account Agreement between the Commission, NNPC Limited and the Escrow Account Holder ; and

(b) for exploration and development of oil and gas resources in the frontier acreages of Nigeria pursuant to Section 9 of the Act.

(2) The terms and conditions of the Escrow Account Agreement shall include the —

- (a) purpose of the Escrow Account ;
- (b) commission to be earned by the Escrow Account Holder ;
- (c) conditions for the release of funds ; and
- (d) other terms that may be necessary for the effective administration of the escrow account.

(3) Funds from the account shall be released only where a written request to release funds is received by the Account Holder from the Commission.

(4) The written request shall be under the seal of the Commission signed by the Commission Chief Executive and the Executive Commissioner responsible for Finance in the Commission.

(5) The written request shall state —

- (a) the name and account details of the party to whom payments are to be made ;
- (b) the amount to be paid ;
- (c) the purpose for which the payment is to be made ; and
- (d) any other relevant information relating to the request for payment.

(6) The request shall be accompanied by a certified true copy of the notice of the appropriation approval of the budget covering the expenditure from the National Assembly and a certified true copy of the annual frontier fund exploration and development plan.

(7) The Commission shall enter into an Escrow Account Agreement with an Escrow Account Holder.

(8) The expenditure from the Escrow Account shall be based on the terms and conditions contained in the Escrow Account Agreement.

(9) The terms and conditions of the Escrow Account Agreement are as follows —

- (a) the account holder shall release funds from the account, only where a request to release funds is authorised by the Commission Chief Executive and the Executive Commissioner responsible for Finance in the Commission;
- (b) the request shall state —
 - (i) the name and account details of the party to whom funds are to be released,
 - (ii) the amount to be released, and
 - (iii) purpose for which the request is made ;

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(c) the request shall be accompanied by a certified true copy of the notice of the appropriation approval of the budget covering the expenditure from the National Assembly and a certified true copy of the annual frontier fund exploration and development plan.

(d) commission to be earned by the Escrow Account Holder ;

(e) the purpose of the Escrow Account ;

(f) the conditions for the release of fund ; and

(g) the seal of the Commission.

Obligations
of an
Escrow
Account
Holder

8.—(1) An Escrow Account Holder shall, at the end of each quarter, provide to the Commission and NNPC Limited, a report on the performance of the Escrow Account, which shall form part of the annual report for submission to the National Assembly by the Commission.

(2) The quarterly report by an Escrow Account Holder shall contain the —

(a) interest accruing to the Escrow Account on monthly basis ;

(b) applicable negotiated interest rate for the relevant months ;

(c) basis of calculation of such accrued interest ; and

(d) opening and closing balance for the period of the report.

Application
of the
Frontier
Exploration
Fund

9.—(1) The Commission may, in accordance with section 9(1) and (2) of the Act authorise the use of funds from Escrow Account for the following —

(a) promotional activities approved by the Commission for exploration in the frontier basin, including —

(i) publication of information and promotion materials,

(ii) press releases,

(iii) trade conferences, seminars, and workshops, and

(iv) road shows ;

(b) implementation of an exploration and portfolio management strategy for exploration of open acreages in the frontier basins, including —

(i) the strategy for exploration and portfolio management,

(ii) delineation of acreages in the frontier basins,

(iii) award of petroleum exploration licences for exploration in the frontier basin acreages, and

(iv) funding of exploration activities in the frontier basins, including drilling and testing programs for prospects and leads in frontier basin acreages ;

(c) improving information on petroleum resource base in the frontier basins through data acquisition and analysis, data processing, data interpretation, data reprocessing, data analysis, data storage, archiving and retrieval ;

(d) funding studies on analysis and evaluation of unassigned acreages in frontier basins ;

(e) funding NNPC Limited’s drilling and testing of any prospects or leads identified from exploration activities under petroleum exploration licences issued by the Commission, which the Commission, in line with section 9(2) of the Act, requests NNPC Limited to drill or test ; and

(f) funding activities and projects of NNPC Limited in the frontier basins pursuant to the Commission’s strategy for exploration and portfolio management in the frontier basins.

10.—(1) The Commission shall, from the commencement of these Regulations issue an annual Frontier Basin Exploration and Development Plan (“the FBED Plan”).

Role of the Commission in respect of Frontier Basins

(2) The first FBED Plan shall be issued and published on the website of the Commission within three months of the commencement of these Regulations and shall expire on the 31st of December, 2023.

(3) The FBED Plan shall thereafter be issued and published on the Commission’s website by the 1st of January of every succeeding year.

(4) The FBED Plan shall contain the —

(a) strategy of the Commission for exploration and portfolio management of exploration activities in the frontier acreages for the year under review, including work programme submitted by NNPC Limited for exploration activities in the frontier basins for the year under review ;

(b) proposed amount ear-marked by the Commission to be spent from the Escrow Account in that particular year on activities described in the plan, including any amount approved by the Commission for NNPC Limited to spend on activities in the frontier basin in accordance with the directives of the Commission;

(c) promotional activities of the Commission relating to exploration in the frontier basins for the year under review ;

(d) strategy for improving information on petroleum resource base in the frontier basins for the year under review ;

(e) analysis and evaluation studies planned for unassigned acreages in frontier basins for the year under review ; and

(f) details of any proposed drilling or testing operations by NNPC Limited on any prospects or leads identified from exploration activities under a petroleum exploration licence issued by the Commission in line with section 9(2) of the Act, which the Commission has requested NNPC Limited to drill or test in the year under review.

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Frontier
Basin
Exploration
and
Development
Plan
Committee

11.—(1) The Commission shall establish a Frontier Basin Exploration and Development Plan Committee (“Frontier Committee”).

(2) The Frontier Committee shall —

(a) prepare the annual FBED Plan for the approval of the Board of the Commission ;

(b) prepare the financial proposal for the funding of the activities contained in the annual FBED Plan, which shall upon approval by the Board of the Commission, be the basis of the appropriation request by the Commission to the National Assembly on funding of activities in the frontier basins for the year ;

(c) prepare, where directed by the Board of the Commission, additional financial proposals, which shall be the basis of any supplementary budgetary approval by the National Assembly in the year under review ;

(d) prepare the guidelines for the Commission, selection criteria of third-party contractors other than NNPC Limited, to perform any activity in the frontier acreages in relation to the functions of the Commission pursuant to section 9 of the Act ;

(e) implement the annual FBED Plan ;

(f) present to the Board of the Commission, a quarterly report on the implementation of the FBED Plan, including details of every expenditure in the quarter under review ; and

(g) carry out quarterly performance review of NNPC Limited’s activities and performance in relation to NNPC Limited’s work programs for exploration in the frontier basins approved by the Commission.

Composition
of the
Frontier
Committee

12.—(1) The Frontier Committee shall comprise of the —

(a) Commission Chief Executive, who shall be the Chairman ;

(b) Executive Commissioner, Exploration and Acreage Management ;

(c) Executive Commissioner, Economic Regulation and Strategic Planning ;

(d) Executive Commissioner, Development and Production ;

(e) Executive Commissioner, Health, Safety, Environment and Community ;

(f) Commission’s Secretary and Legal Adviser ;

(g) Head of Exploration ;

(h) Head of Acreage Management ; and

(i) any other officer of the Commission that the Commission Chief Executive may designate in writing.

(2) The Frontier Committee may carry out its function under these Regulations through relevant technical committees comprised of officers of the Commission as may be necessary.

13.—(1) The Commission shall, pursuant to section 9 of the Act and these Regulations establish a Frontier Basin Data Catalogue, which shall comprise of —

Data base of
frontier
basins in
Nigeria

- (a) existing geophysical and geological data ;
- (b) gravity data ;
- (c) electromagnetic data ;
- (d) Full Tension Gradiometer data ;
- (e) aeromagnetic data ;
- (f) non-conventional data ; and
- (g) any other data as the Commission may determine.

(2) The Frontier Basins Data Catalogue shall be hosted in the National Data Repository and shall be in the form prescribed by the Commission.

(3) Any data relating to the frontier basin in the custody of any government agency or acquired by third party under any licence, approval or authorisation before the coming into effect of the Act shall be included in the Frontier Basin Catalogue.

(4) The data catalogue established pursuant to subregulation (1) of this regulation shall provide —

- (a) the record of the surveys, logs, well reports, analysis, interpretations, reports, studies, evaluations and any other relevant information obtained on the basis of data sets contained in the catalogue ;
- (b) names of all prospects and leads in both licenced and unlicenced areas within the frontier basins ;
- (c) list of all prospects and leads based on their prospectivity and priority ; and
- (d) a technical and commercial basis required for a petroleum exploration licence to be granted to a prospective licensee to carry out exploration activities relating to any of the leads and prospects in the frontier basins.

(5) The Commission shall —

- (a) identify all prospects and leads in both licenced and unlicenced areas within the frontier basins ;
- (b) create a priority list of all the prospects and leads in the frontier acreage, on the basis of their prospectivity ; and
- (c) establish the technical and commercial basis for issuing petroleum exploration licences to prospective licensees to carry out exploration activities in the frontier basins.

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Activities of the NNPC Limited in the frontier basins

14. Pursuant to these Regulations, activities of the NNPC Limited in the frontier basins to which funds from the Escrow Account may be applied are as follows —

(a) activities related to drilling of prospects or leads pursuant to a request by the Commission under section 9(2) of the Act ; and

(b) any other activity by NNPC Limited in the frontier basins approved by the Commission pursuant to the Commissions’ exploration and portfolio management strategy under section 9(1)(b) of the Act.

Approval of drilling of prospects or leads by NNPC Limited

15.—(1) The Commission shall, before requesting NNPC Limited to carry out drilling or testing operations in anyprospects or leads in the frontier basins, establish that —

(a) the holder of the petroleum exploration licence covering the area of the prospect or lead is not interested in a petroleum prospecting licence in relation to the area pursuant to section 71(5) of the Act ;

(b) a third-party has not shown interest in the area pursuant to a bid process for the grant of a petroleum prospecting licence in accordance with the Act ; and

(c) the Commission has evaluated all relevant data and interpretations of the data relating to the prospects or leads and ensure that the funds contained in the Escrow Account are sufficient to cover the estimated budget, including the service fees to be paid to NNPC Limited under the programme.

(2) The Commission shall not request NNPC Limited to carry out any drilling or testing operations in any prospects or leads unless —

(a) the request is under a planned activity contained in an annual FBED Plan ;

(b) NNPC Limited has submitted a work programme for the drilling or testing programme, stating details of the work to be carried out, the timeline for the execution of the programme and the budget ; and

(c) the Commission has benchmarked the NNPC Limited work programme and budget with a work programme and budget proposal from a third-party commercial entity to optimise value.

Exploration activities of NNPC Limited in the Frontier Basins

16.—(1) The exploration activity or project shall be in the frontier basins.

(2) The activity shall form part of the Commission’s strategy for exploration and portfolio management in the frontier basins.

(3) Where the NNPC Limited activity includes a multi-well drilling campaign, the Commission shall reappraise the activity at the conclusion of each drilling exercise to determine whether to continue funding for the activity.

(4) The NNPC Limited activity shall be delivered under a service contract.

(5) The service contract shall include a right of first refusal in NNPC Limited's favour to any petroleum prospecting licence, which the Commission may at any time offer for bidding in any bidding exercise involving any area containing any prospector lead that NNPC Limited have concluded drilling or testing operations pursuant to the contract.

17. Payment shall not be made to NNPC Limited from the Escrow Account for any activity unless there is a contract with the Commission.

Payment to
NNPC
Limited
from the
Escrow
Account

18.—(1) The Commission may, pursuant to section 9(1)(a)(b)(c) and (d) of the Act, engage a third party other than NNPC Limited to carry out independently, or in partnership with NNPC Limited, activities in the frontier basins in furtherance of the specific functions of the Commission in relation to the frontier basins.

Engagement
and payment
to other
parties

(2) Payment shall not be made to any third party from the Escrow Account for any activity unless it is under a contract with the Commission.

19.—(1) Drilling or testing of any prospects or leads shall not be conducted in the frontier basin except under a petroleum prospecting licence or petroleum mining lease granted pursuant to the Act or any other licence or lease granted under any other law preserved by the Act.

Drilling and
testing of
prospects or
leads by a
party other
than NNPC
Limited in
the frontier
basins

(2) The Commission shall not request any party other than NNPC Limited to conduct a drilling or testing of any prospects or leads in the frontier basins pursuant to section 9(2) of the Act and NNPC Limited.

20.—(1) The Commission shall prepare an annual report of all activities and expenditures from the Frontier Exploration Fund.

Reports

(2) The report under this regulation shall be submitted to the National Assembly by the 31st of March of the succeeding year and shall be accompanied by a statement of account issued by the Escrow Account Holder stating the details of monies received into the Escrow Account for the year, releases made from the Escrow Account in the year and the parties to which the releases were made.

(3) A copy of the report and accompanying statement by the Escrow Account Holder shall be submitted to the Minister of Petroleum Resources, the Minister of Finance and the Accountant-General of the Federation for their information and records.

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(4) The Commission shall publish the report and accompanying statements on its website.

Interpretations

21. In these Regulations —

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

“*Contract*” means the contracts stipulated under section 9 (4) of the Act and any other contract that the Commission may enter into in relation to activities in the frontier basins ;

“*Escrow Account*” means the account established pursuant to regulation 3 (1) of these Regulations.

Citation

22. These Regulations may be cited as the Frontier Basins Exploration Administration 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 note does not form part of these Regulations
but is intended to explain its purport)*

These Regulations seeks to provide the general rules for the exercise of the Commission’s responsibilities with respect to frontier basins in Nigeria pursuant to section 9 of the Act ; provide a procedure for the administration of the Frontier Exploration Fund ; and attract investment to the frontier basins in Nigeria.