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OIL & GAS SYNOPSIS

MINISTERIAL REGULATIONS ON NIGERIAN CONTENT: An Overview of the Nigerian Oil and Gas Research and Development Regulation



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Overview Industry analysts forecast a positive turn for Nigerian oil and gas in 2023, with onshore volume recovery, incremental growth from shallow water projects, and discernible increases in onshore drilling activity set to potentially offset recent dips in oil production and concerns around energy security.

These and other trends and developments signal the emergence of significant indigenous players, including strategic alliances with international partners that may be brought into further focus by current, transformative market developments.

These include the enactment of the Petroleum Industry Act 2021; the expected deregulation of the downstream sector; the successful disposal of 57 marginal fields; the implementation of gas policy; increasing investments in gas infrastructure; ongoing bid rounds for flare gas commercialisation; and an upcoming deep offshore mini bid round for seven offshore blocs recently announced by the Nigerian Upstream Petroleum Regulatory Commission.

These emerging opportunities raise significant structuring and compliance considerations in an era of petroleum industry transformation fuelled by extensive regulatory reform and market diversification.

Since the Nigerian Oil & Gas Industry Content Development Act in April 2010 (NOGICDA), the practical implications of implementing minimum mandatory indigenisation prescriptions while balancing local content capacity gaps remain highly topical.

This overview of the Ministerial **Regulation for Nigerian Oil and Gas Research and Development** is part of a 7-part series that highlights key features and regulatory compliance requirements with business structuring, investment, contracting, transactional, and operational implications for existing and prospective participants in the Nigerian oil and gas industry.

The regulations were developed by and under the supervision of the Nigerian Content Development and Monitoring Board based on its interpretation of the NPGICDA and practice and issued by the Nigerian Minister of State for Petroleum (MOSP) with the expressed objective of clarifying and providing pragmatic strategies for the consistent implementation and enforcement of Nigerian Content.

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- **the Regulation for the Further Growth of Indigenous Capacity;**
- **the Regulation for the Establishment of Operations in Nigeria;**
- **the Regulations for the Registration of Oil and Gas Professionals with Nigerian Professional Bodies**
- **the Regulation for Training in the Oil and Gas Industry;**
- **the Nigerian Oil and Gas Industry Technology Transfer Regulation;**
and
- **the Nigerian Oil and Gas Industry Enforcement and Compliance Regulation.**

Introduction and application

Inadequate infrastructure and facilities, an underdeveloped technological and intellectual property framework, underfunding, knowledge and skill retention, an inadequately facilitative regulatory framework, and limited R&D capacity have been critical challenges to operating in the Nigerian petroleum industry, particularly from an indigenous participation perspective.

The NOGICDA, in Section 36, empowers the Minister to make regulations prescribing requirements and targets for the growth of research and development in the Nigerian oil and gas industry. The MOSP issued the Nigerian Oil and Gas Research and Development Regulation 2021 (the “Regulations”) on 26th February 2021, which outlines such requirements and targets to stimulate the utilisation of Nigerian facilities and intellectual resources for finding research solutions to industry problems within the petroleum industry and providing for the funding of research and development (R&D) activities.

The Regulations propose a framework and requirements that aim to help address such challenges in a bid to establish a foundation for R&D as essential requirements with which operators, service providers, and entities involved in any project, operation, activity, or transaction in the industry must comply.

Submission of Research and Development Plans

The Regulations require that, within six months of the submission of a Nigerian Content Plan to the Nigerian Content Development and Monitoring Board (NCDMB), all operators must submit a Research and Development Plan (R&D Plan) presenting programmes and budgets for the promotion of R&D in Nigeria about their work programmes and activities.

Scope of Research and Development

Operators must undertake R&D that has engineering studies, including reservoir management production facilities and drilling, geological and geophysical studies, safety and environmental studies and local materials substitution studies in scope.

Board Approval

The NCDMB must evaluate and approve the R&D Plan, and in so doing, must consider the specific needs and knowledge gaps indicated by the operator. The NCDMB has the discretion to withhold its approval of any R&D Plan submitted by an operator where the plan contains inaccurate information regarding the nature and objectives of the research to be carried out or where the operator has outstanding obligations to the NCDMB from a prior R&D undertaking. Where the NCDMB does not approve an operator’s R&D Plan, the operator must submit a revised plan and perform any outstanding obligations within 14 days of receiving the NCDMB’s notification.

Contents of Research and Development Plans

R&D Plans are required to include full descriptions of revolving 3 to 5-year plans for the oil and gas R&D initiatives proposed to be undertaken in Nigeria, the purpose and expected outcome of such initiatives, the nature and objectives of the R&D projects proposed to be implemented under the Plan, the research scope and the planned expenditure.

Suspension of Research and Development Plan

Where there is a deviation from the R&D Plan that is not rectified by the operator within 14 days of the NCDMB's notification, the NCDMB may order the suspension of the implementation of the plan. Upon notification, the operator must suspend all activities related to the Plan. Within 14 days of the suspension, the operator must submit a written representation to the NCDMB stating the reason for the deviation and its effect or otherwise on the R&D plan. The NCDMB may reverse the order of suspension, where it is satisfied with the operator's representation or rectification of the deviation.

Continuing Obligations

Operators have the following continuing obligations:

- (i) to update approved R&D Plans every six (6) months from relevant dates of approval.
- (ii) to submit written progress reports on R&D activities to the NCDMB on the first working day of each quarter.
- (iii) to carry out programmes and make expenditure promoting the R&D relating to their activities and in compliance with the R&D Plans.
- (iv) to publish findings of their R&D activities in the NCDMB's journal.

Extension of Timelines for filing Research and Development Plans

Where any operator is unable to meet the timelines for the submission of its R&D plan or quarterly report, it must, no later than 7 days before the submission due date, file a request for an extension of time with the NCDMB. The NCDMB is required to examine the request and to notify the applicant of the outcome within 7 days of receipt of the request and, where it grants the extension of time, must specify the period so granted. The Regulation only authorises the NCDMB to consider and grant one application for extension in each year.

Partnership for Research and Development

To carry out research projects, an operator may enter into a partnership agreement with another operator, an academic institution or an international organisation founded to carry out scientific research, in compliance with the provisions of NOGICDA and the other Ministerial Regulations.

Protection of intellectual property rights

The Operator shall be vested with the intellectual property rights inherent in the results and findings of its R & D activities in accordance with the Trademarks Act, and Patents and Designs Act.

Implementation of Research Findings

Upon the successful completion of an R&D Plan by an operator, the operator shall take steps to implement the result/findings from its research as part of its operations/processes.

Duty of an Operator to Engage in Education, Attachment and Training

An operator shall carry out a programme and make expenditure for the promotion of education, attachments, training, research and development in Nigeria in relation to its work programme and activities as provided in the Ministerial Regulations on Training made under the NOGICDA. Such programmes and expenditures must be to the NCDMB's satisfaction.

Duty of an Operator to Fund Research and Development

Operators must fund R&D activities to the NCDMB's satisfaction following its consideration of the operator's individual project and the funding needs of such project, without prejudice to the NCDMB's right of the Board to fund R&D activities in line with the Regulations of the Nigerian Content Development Fund.

Power of the Board to make Guidelines

The NCDMB has the power to issue guidelines from time to time as may be necessary to ensure the practical implementation of the objectives of the Regulation.

Sanctions

Any operator in breach of the Regulations will be liable to such fines, sanctions or penalties as may be determined under the Nigerian Oil and Gas Industry Enforcement and Compliance Regulations 2021 or as may be determined by the NCDMB from time to time.

For further information, please send an email to ogteam@uubo.org.

This update has been provided by **Godson Iwuozo, Elo Adhekpukoli, Mesuabari Mene-Josiah, and Folake Elias-Adebowale** of the Oil & Gas team at Udo Udoma & Belo-Osagie. For more information about our oil & gas practice offering, please email us at uubo@uubo.org.

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