

NEWSLETTER

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A REVIEW OF THE SIGNIFICANT CRUDE OIL AND GAS DISCOVERY REGULATIONS, 2023

INTRODUCTION

As a component of its regulatory framework over the upstream oil and gas subsector, the Nigerian Upstream Petroleum Regulatory Commission (“Commission”) has recently issued the Significant Crude Oil and Gas Discovery Regulations, 2023. The regulations which apply to Petroleum Prospecting Licences (PPLs) granted under the PIA that have made significant crude oil and gas discoveries in accordance with the provided procedures, exist to ensure the optimal exploitation of petroleum covered by PPLs, through the retention of significant crude oil and gas discoveries. Essentially, the regulations establish documentation requirements for declaring significant crude oil and gas discoveries, outline the

terms and conditions for such declarations, and ensure effective coordination of these discoveries by the Commission. They provide a meticulous framework aimed at optimising the exploitation of petroleum resources.

SIGNIFICANT CRUDE OIL AND GAS DISCOVERY DEFINITION

The regulations start by defining a Significant Crude Oil Discovery as a substantial crude oil find that is potentially commercial but cannot be declared as such due to factors like the absence of required and available infrastructure or the need for joint development with other discoveries.

Similarly, a Significant Gas Discovery is a substantial natural gas find that has potentially commercial reserves but cannot be declared as commercial due to factors including the absence of a local market, the need to identify export markets, or infrastructure limitations. These definitions are crucial for determining the regulatory treatment of such discoveries, including their retention by licensees and lessees in the petroleum sector.

REQUIREMENT OF DECLARATION

The regulations require a licensee to declare a Significant Crude Oil Discovery or Significant Gas Discovery within 60 days after completing an appraisal program, as per section 78(4)(a) of the PIA. This declaration must be submitted in writing to the Commission and should include details such as the applicable licence, the area of the discovery, confirming data, proposed retention period, and the licensee's interest in the area.

The Commission may also require a licensee to relinquish parcels covering the structure of a discovery where the licensee declares the area as of no interest. The licensee is obligated to pay an approval fee for the declaration, and where a licensee fails to declare within the specified timeframe, the Commission may issue a notice of non-declaration, after which the licensee has 30 days to make the declaration.

RETENTION

Upon approval of the declaration by the Commission, a licensee is entitled to retention of the area where the significant discovery was made. While the Commission has 90 days within which to approve the declaration of significant oil or gas discovery, such approval grants a

minimum retention period of five years for onshore and shallow water areas, and eight years for deep-water areas. Where however the Commission fails to convey approval within the specified timeframe, it shall be assumed that the maximum retention period under the PIA has been approved. The retention period may also be extended at the Commission's discretion.

Where an area is retained by the PPL holder, the regulations stipulate that the retained area should not exceed the outer boundary of the declared discovery, along with a two-kilometer zone surrounding it. At the expiration of the retention period however, any area of the PPL containing the retention area that is not covered by a petroleum mining lease or an appraisal period, shall be relinquished to the Commission.

WHERE A DECLARATION FAILS TO MEET THE CRITERIA FOR APPROVAL

If a declaration of significant crude oil or gas discovery by a licensee does not meet the criteria for approval set under the Act and the regulations, the Commission is required to take certain actions. Within 90 days of the application by the licensee, the Commission must inform the licensee in writing that the declaration doesn't meet the requirement. The licensee is then given 30 days to decide whether they intend to declare a commercial discovery or state that the discovery is of no interest.

If the licensee intends to declare a commercial discovery, they are granted a two-year period to submit a field development plan for the area. If the licensee declares that the discovery is of no interest, the Commission has the authority, as per section 78(15) of the Act, to require the licensee to relinquish the parcels covering the structure of such a discovery from its licence area.

DRILLING FURTHER APPRAISAL WELLS

After the approval of the declaration of a Significant Gas Discovery or Significant Crude Oil Discovery, a licensee or lessee intending to drill additional appraisal wells must apply to the Commission for approval. This application needs to be submitted within 180 days for onshore assets and 240 days for offshore assets, starting from the declaration or the grant of the retention period by the Commission. The application for drilling further appraisal wells should include details such as the description of the appraisal well, data acquisition program including coring and MDT sampling, casing and logging program, and a well contingency plan.

The Commission is mandated to either approve or decline the application for drilling further appraisal wells within 60 days of receiving the licensee's application. Additionally, the licensee is required to pay an approval application fee for these further appraisal programs.

CONCLUSION

These regulations signify a concerted effort to create a structured environment for petroleum exploitation and the declaration of significant discoveries. The careful delineation of criteria, procedural steps, and Commission oversight seem to provide a solid foundation for this. However, the authorities must ensure that the framework operates fairly, facilitating industry growth while preventing undue exploitation or monopolisation of resources. Adjustments might be necessary as implementation unfolds, and feedback from industry stakeholders becomes available.

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