



Aligning Work Plans and Budgets to Achieve Production Targets: A Commentary on the Nigerian Upstream Petroleum (Commercial) Regulations, 2025

Introduction

As Nigeria's oil and gas production capacity continues to increase, the Nigerian Upstream Petroleum Regulatory Commission ("**NUPRC**") is responding with regulatory reforms aimed at improving operational efficiencies across the upstream value chain in order to sustain this growth trajectory. One of such key reforms is the Nigerian Upstream Petroleum (Commercial) Regulations, 2025 (the "**Regulations**") issued by the NUPRC further to its powers under the Petroleum Industry Act, 2021 (the "**PIA**") to regulate commercial activities in Nigeria's upstream petroleum operations. The Regulations generally provide the structure for the approval and continuous regulatory evaluation of the commercial components of upstream activities, including field development plan, annual work programme and status report, and operation budgets for upstream licences and leases granted pursuant to, and those preserved by, the PIA.

In this article, our aim is to describe and examine the key provisions of the Regulations and their potential impact on upstream petroleum operations. We conclude that the framework introduced by the Regulations is welcome, but further refinement is necessary in light of the concerns highlighted in our analysis below to ensure a more predictable investment environment, reduce administrative burdens, and better align regulatory requirements with operational realities.

Field Development Plan and Phase Development Plan

(a) *Approval of Plan*

A field may be developed either through a single plan or in phases¹ if it is complex or expensive to complete it at once. A licensee or lessee submitting an application to the NUPRC for approval of a single-phase field development plan ("**FDP**") or a multi-phase field development plan ("**PDP**") or their respective amendments must include the (a) scope of the FDP and work breakdown structure, (b) work activities, deliverables and milestones schedule, (c) forecast annual hydrocarbon production and price estimates, and (d) annual cost estimates using a "Class 3 project gate" estimate (that is, a budget-level cost estimate for making investment decisions) to reflect pricing scenarios of a lower case of -10%, a base case, and an upper case of +20%.² The requirement for the upper case estimate is critical, as it ensures that risks such as cost inflation, supply chain challenges, unforeseen technical and operational issues, regulatory changes, bureaucratic bottlenecks and political issues are accounted for in the FDP and PDP from the start.

The annual cost estimates in (d) above must cover (i) costs of acquiring rights to the licence or lease, (ii) estimated royalties, (iii) estimated direct production costs, (iv) estimated operating costs, including security, regulatory and statutory charges, (v) estimated decommissioning and abandonment costs, (vi) estimated financing costs, (vii) estimated depreciation and amortisation, (viii) estimated capital expenditure, and (ix) a commercial evaluation reflecting that the project expenditure allows for maximum economic recovery.³ The Regulations define "maximum economic recovery" to mean "*recovery of economically recoverable petroleum in a manner that creates the maximum project value for the investors and the State ...*".⁴ By implication, licensees and lessees are expected to explore strategies that balance cost-effective and optimal production with ensuring a reasonable return on investment.

In its evaluation of the FDP or PDP for approval, the NUPRC will take into account the "Class 3 project gate" pricing estimates mentioned above, allowance for maximum economic recovery, indication of a positive return on investment that accounts for opportunity cost, benchmarks against similar projects

¹ See generally, the PIA s. 79(14).

² Regulation 3(1).

³ Regulation 3(1)(d).

⁴ Regulation 20.

and international best practice, positive Economic Value Added⁵ which ensures a high return above the cost of financing, and any other relevant legal or regulatory requirement.⁶ By the Regulations, the regulator will also consider the profitability of the FDP or PDP using finance metrics such as Net Present Value, Internal Rate of Return, Break-even Analysis, Return on Investment and Economic Sensitivity Analysis.⁷

(b) *Cost Overruns*

In the event a project suffers cost overrun during implementation, the prior approval of the NUPRC will be required for the amendment of the approved FDP to reflect the revised cost estimates.⁸ This provision, however, adds to the existing administrative bottlenecks in the oil and gas industry and will potentially create significant delays in oil and gas contracting cycles. This is because the requirement for the NUPRC's approval for cost overrun can result in at least three (3) additional layers of approvals.

First, the approval of the management committee in a joint venture arrangement (or board of directors in an incorporated joint venture) will be required to exceed budgetary allocations and estimates. Second, the approval of the Nigerian Content Development and Monitoring Board under the contracting framework of the Local Content Act⁹ may also be required to alter the pricing of contracts already entered into or to be awarded. Third, under the Regulations, the NUPRC's consent is also now required to exceed cost estimates in the approved FDP and PDP. This may also inadvertently derail Mr. President's publicly-declared objective of reducing the length of the contracting cycle in the oil and gas industry.

The implication of the foregoing is that operators will now be required to obtain the NUPRC's consent for expenditure above the upper-case budget approved by the NUPRC, regardless of how minimal the amount may be. Without clear metrics to guide its decisions, the NUPRC may refuse to approve such expenditures, potentially resulting in arbitrary decisions. Such decisions (including delays in making such decisions) could impact work timelines and result in additional cost overruns.

It is very likely to be the case that the NUPRC views the Regulations as an essential tool to ensure that the Federation obtains the benefits and advantages that it should ordinarily obtain from petroleum operations in Nigeria. In this wise, the NUPRC is essentially preventing operators from "writing off" significant profits (with its impact on tax revenues and statutory charges) on the basis of uncontrolled and unjustified price escalations after securing FDP approvals.

We are of the view that the approval levels for additional expenditure should be layered into two (2) tiers. The law should allow licensees and lessees to incur costs above the upper case, up to a specified cap, exercising good judgment and only as long as such decision is in the best economic interest of the

⁵ Ibid. Economic Value Added (EVA) is defined in the Regulations as "*the assessment of the value created above the required return on invested capital... A positive EVA signifies that the project is expected to generate returns exceeding its cost of capital, thereby adding value.*"

⁶ Regulation 3(2).

⁷ Regulation 3(3). "Return on Investment" measures the profit or loss generated by a project in comparison to the total capital investment. (See regulation 20). The Regulations, however, leave the other finance metrics undefined. Summarily, [Net Present Value](#) measures the total value of all future cash flows over the entire life of the project by answering the question of whether the project's future profit is worth more than its initial cost. [Internal Rate of Return](#) is a capital budgeting measurement used to determine the profitability of an investment or project over its lifetime based on predicted cashflows. [Break-even Analysis](#) indicates the point at which a project's total revenue equals the total costs incurred. [Economic Sensitivity Analysis](#) tests how a project's results might change if important variables such as future oil prices, production volume, drilling costs, or interest rates change, in order to determine the project's resilience and impact on the project's overall value. These definitions are generally illustrative and not authoritative.

⁸ Regulation 4(2).

⁹ Nigerian Oil and Gas Industry Content Development Act, 2010.

relevant licensee or lessee. Where the expenditure is likely to exceed the cap, then the licensee or lessee must apply to the NUPRC for further approval.

Further, the Regulations fail to provide for a timeframe for the approval of a revised cost estimate in the FDP by the NUPRC. We do not consider the timeline provided in regulation 8(5) for the NUPRC's approval or disapproval of amendment to an annual work programme and status report as extending to the amendment of an FDP to accommodate cost overruns. This lack of clarity on timelines is likely to create uncertainty for licensees and lessees. It also raises critical questions concerning the potential disruption of contractual arrangements with supply chain providers and other third party contractors, impact of the delay in approval on projected production volumes and financing repayment schedules, and whether deemed consent may apply if the NUPRC fails to respond within a reasonable time, as is provided under regulation 8(5).

Pending revisions to the Regulations, licensees and lessees in the oil and gas industry can mitigate the impact of the Regulations on cost increases by ensuring that cost estimates adopt an upper case that correctly reflects escalation risks (such as delay, inflation, FX fluctuations legal changes, and macro-economic shocks).

Annual Work Programme and Status Report

(a) *Submission Obligation and Process*

The Regulations mandate licensees and lessees to submit annual work programme and status reports on the licence or lease area in the format prescribed by the NUPRC together with the payment of the requisite application fee.¹⁰ The operator in a joint licence or lease is responsible for the submission of the annual work programme and status report on behalf of the non-operating licensee(s) or lessee(s).¹¹ The application for approval must be made between October 15 and November 16 in each year, and the NUPRC's approval will be valid for the entirety of the following year.¹² The Regulations prohibit licensees and lessees from carrying out any activity listed in the annual work programme and the status report without the NUPRC's prior approval.¹³

Where there is a health and safety emergency, the licensee may take any step in accordance with the annual work programme and the status report pending NUPRC approval. The licensee or lessee must, however, notify the NUPRC within forty-eight (48) hours of that activity.¹⁴ The licensee or lessee will also be required to provide the details and cost implication of the emergency event by way of an application to the NUPRC to amend the approved work programme.¹⁵

(b) *Submission Checklist*

A licensee or lessee is required to include, in its application to the NUPRC for approval of an annual work programme and status report, the following information: (i) list of proposed activities and timelines, as well as activities relating to host community development, local content programmes, and manpower development; (ii) work breakdown plan; (iv) estimated costs; (v) requisite regulatory approvals; and (vi) an evaluation of the licensee or lessee's performance in the prior year in the prescribed manner.¹⁶

he application will also be accompanied by details of the concession (licence or lease) situation; evidence of payment of statutory fees, rents and royalties; statement of reserves situation or reservoir

¹⁰ Regulation 5(1)-(3).

¹¹ Regulation 5(4).

¹² Regulation 5(5)-(6).

¹³ Regulation 5(7).

¹⁴ Regulation 5(8).

¹⁵ Regulation 5(9).

¹⁶ Regulation 6(1).

studies; details of production status and forecast; details of any injunction or court orders affecting the operations; organisational structure and statement of staff disposition; and five-year strategic plan for the development of the licence or lease area.¹⁷

In implementing the project, an application submitted for approval of the milestone engineering design, fabrication, construction and other similar activities must include a summary report on the status of the project.¹⁸

The Regulations' comprehensive approach for approving work programmes and status reports is commendable, as it ensures (a) a holistic project governance approach which promotes long-term project viability and mitigates risks that could jeopardize the operations of licensees and lessees, (b) the promotion of socio-economic development by mandating licensees and lessees to demonstrate a clear commitment to contributing to the national economy, and (c) accountability for optimal resource management. However, there is no doubt that these measures add administrative bottlenecks. Licensees and lessees in the oil and gas industry (including their service providers) must therefore factor the approval cycles of the NUPRC in project planning and timelines.

(c) Conditions for Approval and Disapproval

The NUPRC is mandated to approve an annual work programme and status report before 1st January of the following year. The factors to be considered in granting approval are: (a) commercial and economic viability, (b) operational feasibility and environmental sustainability, (c) alignment with occupational safety and industrial health requirements, (d) up-to-date payment of relevant statutory fee and annual data submission fee, and (e) provision of beneficial ownership information.¹⁹ It seems clear to us that the NUPRC may refuse to approve an annual work programme and status report where a licensee or lessee is unable to show that it has discharged all due financial obligations imposed by law.

Similarly, an application for the approval of the annual work programme and status report may not be approved by the NUPRC where it falls short of the stipulated requirements.²⁰ The NUPRC will then notify the licensee or lessee of its decision with reasons and may require the licensee or lessee to submit a new application within a specified period.²¹ The new application will be subject to the payment of prescribed fees.²²

On the import of "commercial and economic viability" of an annual work programme in (a) above, the Regulations set out parameters involving cost estimates which the NUPRC must take into account. The NUPRC is to ensure: (x) an alignment of costs with benchmark costs established by the NUPRC; (y) that cost estimates guarantee optimal government share and acceptable economic returns that account for the opportunity cost of the investment; and (z) that the cost estimate is within the "Class 3 project gate" pricing estimates. Any cost in excess of those estimates must be classified as a new plan which requires a separate approval.²³

(d) Ineligible Expenditure

Licensees and lessees must expend funds for the upstream project only within the budget approved by the NUPRC. Costs incurred outside of the approved annual work programme and status report will not be considered eligible project expenditures, except in health and safety emergency cases.²⁴

¹⁷ Regulation 6(2).

¹⁸ Regulation 4(1).

¹⁹ Regulation 7(1).

²⁰ Regulation 9(1).

²¹ Regulation 9(2).

²² Regulation 9(3).

²³ Regulation 7(2).

²⁴ Regulation 5(10).

In addition to the cost overrun concerns already raised, this provision overlooks other expenditures that may arise and cumulatively exceed the contingencies budgeted in the annual work programme, such as a default arising from budgeting failure (e.g. non-payment to third party contractors and inability to meet up with debt service, which suggests that the project has underperformed and, therefore, projections (or models) were inaccurate). The implication of the provision is that such costs cannot be recovered by investors from future revenues in the absence of a prior approval from the NUPRC. This directly affects the return on investment to sponsors, lenders, and other investors, who may eventually need to assume a greater risk appetite.

(e) Modification of Work Programme and Status Report

The Regulations allow for the amendment of an approved annual work programme and status report by the licensee or lessee before or after the commencement date or where the NUPRC issues a directive to that effect.²⁵ A request for amendment initiated by the licensee or lessee must be submitted no later than thirty (30) days prior to the implementation date of the proposed activities of the licensee or lessee.²⁶ It must be accompanied with proof of payment of the prescribed fee and a justification for the request.²⁷

The NUPRC may, upon its evaluation of a licensee or lessee's performance based on information gathered during engagement on work plan implementation, request a modification of an annual work programme and status report.²⁸ Here, the licensee or lessee will be required to, within thirty (30) days of notice, effect the relevant changes in the annual work programme and status report or propose how to accommodate the changes in a manner acceptable to the NUPRC. In this instance, a licensee or lessee will not be required to pay any new fee.²⁹

To manage timelines and avoid delays, the Regulations provide that the NUPRC must promptly approve or disapprove an application for the amendment of the annual work programme and status report and communicate the same to the licensee or lessee.³⁰ Failure of the NUPRC to comply with this provision within thirty (30) days of receipt of the application will result in a deemed approval.³¹ By inference, we assume that this timeline also applies where the amendment is initiated by the NUPRC. The amended annual work programme and status report will effectively supersede the prior approved versions.³²

(f) Reporting Obligations and Evaluation of Performance

Under the Regulations, licensees and lessees must provide half-yearly reports which will contain information on: (a) the execution status of the approved work programme, challenges encountered and solutions implemented; (b) the licensee or lessee's compliance with applicable laws; (c) any modification in implementation of the work programme; (d) the occurrence of any significant incident, including environmental or safety incidents, during the period and mitigation strategies; (e) research and development carried out during the period; (f) local content initiatives during the period; (g) any other matters as the NUPRC may require.

However, the Regulations do not provide for submission deadlines and methods, whether physical, electronic or both. The implication is that this creates ambiguity for licensees and lessees regarding compliance and gives the NUPRC the flexibility to determine the submission method and deadline on a case-by-case basis, potentially leading to inconsistencies. In the absence of a clear directive, licensees and lessees will have to wait for clarification from the NUPRC. In addition, some flexibility in

²⁵ Regulation 8(1).

²⁶ Regulation 8(3).

²⁷ Regulation 8(2).

²⁸ Regulation 12(3).

²⁹ Regulation 8(4).

³⁰ Regulation 8(5).

³¹ Regulation 8(6).

³² *Supra* n30.

the timelines may be necessary, given the other reporting obligations of the licensees and lessees under the law.

In the exercise of its oversight functions, the NUPRC is empowered by the Regulations to conduct periodic evaluations of the implementation of approved work programmes.³³ To facilitate this, the NUPRC may visit the licensee or lessee and inspect their operation areas by providing at least forty-eight (48) hours' written notice.³⁴ The notice must include a list of places, equipment, operations and books to be inspected.³⁵ In our view, this requirement ensures the licensee or lessee has reasonable time to make necessary preparations, including gathering any required documents and ensuring necessary safety protocols are in place for the inspection.

Conclusions from the inspection will be communicated to the licensee or lessee in writing. The NUPRC may also issue an advice, opinion or directives, as the case may be, to ensure the efficient implementation of the work programme.³⁶

(g) Discontinuation of Work Programme

Work programmes may be discontinued at any time of the year.³⁷ In furtherance of this, licensees or lessees are required to give a written notice of their intention to the NUPRC at least thirty (30) days prior to the proposed date of discontinuance.³⁸ Also, the notice must provide for reasons for the discontinuance and other relevant information on the status of the licensee or lessee's operations.³⁹ The NUPRC is required to confirm receipt of the notice within fourteen (14) days. We are convinced that this confirmation will be by way of a formal notification to the licensee or lessee and not a mere stamp impression on the application as acknowledgment.

Approval of the request to discontinue a work programme is subject to the NUPRC's satisfaction with the reasons provided. The NUPRC's decisions here may well, in practice, largely be subjective, given that the Regulations do not contain clear parameters or guiding principles for the NUPRC to consider. By a literal reading of the Regulations, a licensee or lessee may be compelled by the NUPRC to continue with the work programme even where such licensee or lessee has good reasons to believe such approach offers no real economic value to its business and investors. However, the likelihood of this happening in practice is very low. In our view, and to give comfort to investors and sponsors, there should be clear parameters to be considered by the NUPRC, similar to the clear metrics set out for consideration by the NUPRC when an application for approval of the work programme and status report is submitted.

Also, the Regulations lack clarity on the timeline for approval by the NUPRC. In our view, this may lead to a significant period of uncertainty for the licensee or lessee. A delay by the NUPRC could also have consequential impact on the licensee or lessee's operations, making it difficult to plan for the future, and potentially exposing it to financial and operational risks.

Upon approval of the request to discontinue, the licensee or lessee will be required to submit a new application by furnishing the information stipulated for work programme application as earlier discussed.⁴⁰ A licensee or lessee's failure to submit a new application within a time specified by the NUPRC may be deemed as an intention to surrender its licence or lease, potentially allowing the NUPRC to direct the surrender of the licence or lease.⁴¹

³³ Regulation 11(1).

³⁴ Regulation 11(2) and (3).

³⁵ Regulations 11(4).

³⁶ Regulation 11(5).

³⁷ Regulation 13(1).

³⁸ Regulation 13(2)(a).

³⁹ Regulation 13(2)(b).

⁴⁰ Regulation 13(3).

⁴¹ Regulation 13(4).

Other Reporting Obligations

In addition to the obligation to submit half-year reports, licensees and lessees are mandated to submit (i) annual planned maintenance and integrity assessment reports and (ii) end of project reports for each project to the NUPRC.⁴² While the Regulations failed to provide for deadlines for submissions, the reports must comply with the format prescribed in any guidelines issued by the NUPRC and include information on actual expenditures incurred.⁴³

In our view, the multiple reporting obligations under the Regulations effectively increase the administrative burden for licences and lessees giving the loads of financial, environmental, and technical reporting requirements under applicable laws, usually with strict timelines and further complicates the ease of doing business. It should be sufficient for the NUPRC to require licensees and lessees to maintain records, which the NUPRC may request for review during physical inspections or from time to time (not exceeding once in any given year). We also expect that clarification on the deadlines for submission will be provided by the NUPRC at a later time.

The Regulations allow the NUPRC to request for clarification from a licensee or lessee for major discrepancies between approved cost estimates and the costs actually incurred in implementing the work programme.⁴⁴ This provision should not be read to mean that licensees and lessees can depart from approved costs estimates given that the Regulations clearly provide for the NUPRC's approval for every increase of approved expenditure estimates. Where costs have been incurred without the NUPRC's approval (and not arising by way of health or safety measure), the NUPRC is likely to disregard such additional costs in determining what is due to the government. This will ensure accountability, transparency and prudent allocation of resources in upstream petroleum operations.

Review of the Regulator's Decision

A licensee or lessee who is not satisfied with the decision of the NUPRC in relation to an annual work programme and/or status report is required to apply in writing to the NUPRC within thirty (30) days of receipt of the NUPRC's decision.⁴⁵ The NUPRC also has thirty (30) days to review the prior decision and provide a written response.⁴⁶ It is noteworthy that the NUPRC's decision following the review is final, but without prejudice to any other right of the licensee or lessee.⁴⁷ This means, a licensee or lessee may decide to challenge the decision at the NUPRC Alternative Dispute Resolution Centre before considering a court of law.

Breach and Sanctions

A defaulting licensee or lessee may be given a warning notice by the NUPRC on the nature of the breach and remedial steps.⁴⁸ The NUPRC may also impose monetary penalties. The penalties are generally pegged at ₦10,000,000 (Ten Million Naira) for each of the (i) failure to submit an annual work programme and status report, (ii) provision of false or misleading information in a work programme, (iii) failure to comply with the reporting obligations, (iv) non-participation in engagements as required by the NUPRC, and (v) implementation of activities outside the scope of the approved work programme (in addition to the applicable amendment fees for revising the work programme to include such activities). Additionally, the sum of ₦1,000,000 (One Million Naira) is payable every day the breaches in (i) and (iii) continue.⁴⁹

⁴² Regulation 19(1).

⁴³ Regulation 19(2).

⁴⁴ Regulation 19(3).

⁴⁵ Regulation 18(1) and (2).

⁴⁶ Regulation 18(3).

⁴⁷ Regulation 18(4).

⁴⁸ Regulation 16.

⁴⁹ See generally, regulation 17.

Conclusion

Overall, the Regulations present a comprehensive framework that brings greater clarity to the commercial activities central to upstream petroleum operations. The Regulations also set benchmarks aimed at promoting cost efficiency, optimal resource utilization, profitability, accountability, stakeholder dialogues and regular performance evaluation. The numerous reports and other disclosures that the Regulations call for help to make the regulator well-informed about the developments in the oil and gas industry and, therefore, better equipped to anticipate and address pervasive challenges, vary the Regulations and shape policy for the good of the industry and citizens.

However, the framework requires further refinement to address the gaps highlighted in our analysis above. These include the lack of clarity on timelines for approvals and the submission of reports, concerns around cost overruns, multiple reporting obligations, and non-consideration of other contingencies that may necessitate incurring unapproved expenditures. We are convinced that addressing these issues would ensure a more predictable investment environment, reduce administrative burdens, and better align regulatory requirements with operational realities.

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