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AN ANALYSIS OF THE

Nigerian Upstream Petroleum Decommissioning and Abandonment Regulations 2026 and its Impact on Upstream Petroleum Operations

Introduction

The Nigerian Upstream Petroleum Decommissioning and Abandonment Regulations 2026 ("the 2026 Regulations"), recently issued by the Nigerian Upstream Petroleum Regulatory Commission (the "Commission") pursuant to sections 232 and 233 of the Petroleum Industry Act 2021 ("PIA"), for the regulation of the decommissioning and abandonment of the wells, installations and facilities used in upstream petroleum operations in Nigeria. The 2026 Regulations revoke the Nigeria Upstream Decommissioning and Abandonment Regulations 2023 ("the 2023 Regulations"), with saving provisions for prior regulatory actions and permits.[1] In this article we explain the 2026 Regulations, how they differ from the 2023 Regulations, and key issues for licensees, lessees, operators, investors and financiers to note.

Overview of Decommissioning and Abandonment in Nigeria

The decommissioning and abandonment ("D&A") of operating assets and facilities is a critical process in the oil and gas sector with impacts on the surrounding area or environment which have to be restored as much as possible to pre-operational conditions.

Under the PIA and the 2026 Regulations, a licensee or lessee engaged in upstream petroleum operations is required to submit a D&A Plan along with applications for approval of work programmes or field development plans.

[1] Regulation 25 of the 2026 Regulations

Key Provisions of the Nigerian Upstream Petroleum Decommissioning and Abandonment Regulations, 2026

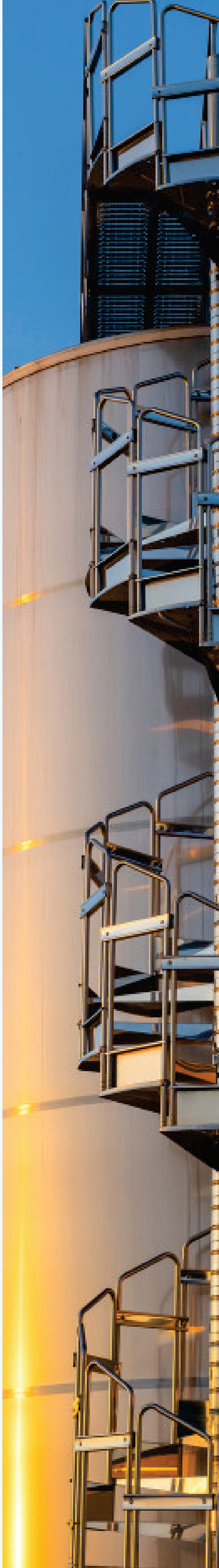
The 2026 Regulations have the key objectives of ensuring that D&A of wells, installations, structures, utilities, plants and pipelines (onshore and offshore) are conducted in accordance with good international petroleum industry practice, and to set the framework for the establishment and administration of a D&A Fund.[2] The following are the key provisions under the 2026 Regulations:

The Decommissioning and Abandonment Plan

The D&A Plan operates as the foundational compliance document for every licensee and lessee, setting out how an asset will be retired, and the amount to be contributed annually to the D&A Fund[3]. A licensee or lessee's operations must comply with an approved D&A Plan, whether approved under prior regulatory regime before the PIA came into effect, or by the Commission after the PIA[4]. Any D&A Plan approved within an FDP before the 2026 Regulations, an updated plan must be submitted within six months of commencement of the 2026 Regulations, that is, by 9 September 2026.[5]

The Decommissioning Programme

There is a key difference between the D&A Plan and the decommissioning programme, in that the D&A Plan is the high-level, lifecycle funding and strategy document, while the decommissioning programme is the detailed execution-stage programme that governs the actual works to decommission specific installations or fields. Under the PIA, the decommissioning programme must set out certain matters pertaining to the D&A, including costs estimates for proposed works, details of the measures to be taken to shutdown operations, clear descriptions of the proposed methods (which must align with best practice), steps to safeguard any installation left in position or partly removed, and an assessment of the environmental and social impact of the measures.[6] The 2026 Regulations replicate these provisions but prescribe the contents of the decommissioning programme in greater detail, requiring, for example, a description of the items to be decommissioned (with diagrams), a list of linked wells, including satellite wells, whether active, suspended or abandoned, and relevant loading facilities.[7]



[2] Regulation 1 of the 2026 Regulations
[3] Regulation 3(6) of the 2026 Regulations
[4] Regulation 3(3) of the 2026 Regulations
[5] Regulation 3(5)(c) of the 2026 Regulations
[6] Section 232(6) of the PIA
[7] Regulation 5(13) of the 2026 Regulations

The application for the approval of the decommissioning of onshore installations, plants, pipelines and fields, must be submitted at least 12 months before the proposed commencement date of the D&A along with a decommissioning programme containing details of the relevant facilities, the proposed method of decommissioning, the removal and disposal of waste and radioactive materials, an environmental evaluation study or post-impact assessment, remediation and restoration plans, among others. [8]

For offshore assets, the decommissioning applications, must be submitted at least 60 months before the proposed commencement date. The application must be accompanied by a decommissioning programme containing details of the facilities to be decommissioned.[9] The Commission may consider applications for abandonment of wells within 60 days of the application,[10]

Well Plugging, Suspension and Abandonment

The 2026 Regulations set out a clear regime for the plugging of oil and gas wells. Where a well is found to be dry or uneconomic, the operator may apply to permanently plug and abandon the well and the Commission is required to approve the application without delay. [11]

In an emergency, an operator may suspend a well that is an immediate risk to personnel, the environment or the asset, and must immediately notify the Commission, with details of the risk, the action taken and the suspension plan for approval within 30 days.[12] Wells in production may also be shut-in for operational reasons for a period not exceeding one year, unless the Commission expressly approves a longer period.[13]

There is a discrepancy to note in the 2026 Regulations in relation to the timeline for the suspension of a well. Regulation 5(9)(b) of the 2026 Regulations sets the maximum suspension at four years, subject to an extension approved by the Commission, while regulation 5(10) still refers to three years, which appears to be carried over from the revoked 2023 Regulations. This inconsistency in the length of the suspension period is important because regulation 5(10) fixes the point at which an operator must complete abandonment of the well. An operator relying on the four-year period in regulation 5(9)(b) therefore risks the Commission treating the suspension as overdue at the end of three years.

[8] Regulations 5(11), 5(12) and 5(13) of the 2026 Regulations
[9] Regulation 6 of the 2026 Regulations
[10] Regulation 7 of the 2026 Regulations
[11] Regulation 5(4) of the 2026 Regulations
[12] Regulation 5(2) and (3) of the 2026 Regulations
[13] Regulation 5(9)(a) of the 2026 Regulations

Implications of Overdue Well Suspension and Commission Takeover

Where an operator fails to make an application for the abandonment of, or an extension for the suspension of a well, or where the Commission refuses the application for the abandonment or extension for suspension of a well, and the operator fails to complete the abandonment of the well within the expiration period, the Commission would access the D&A Fund and engage a third party for the purpose of undertaking the abandonment of the well.[14] Where the Fund is not sufficient to cover the abandonment expenditure, the licensee or lessee would cover the difference since[15] the operator is still generally liable for the D&A of petroleum operations within the licence or lease area.[16] The practical effect is that, once the third party permanently plugs and abandons the well, the operator loses that well as a productive asset while still bearing the cost of its abandonment.

The Decommissioning and Abandonment Fund

A separate D&A Fund is required to be set up for each licence or lease.[17] The D&A Fund is established as an interest-bearing escrow account, with an escrow agent and agreement between the parties. The Commission must be a party to every escrow agreement, with independent rights to access the funds subject to the provisions of the PIA and the 2026 Regulations. The escrow account may be held in any qualifying financial institution with a credit rating, of at least A+ national rating for Nigerian banks and A+ international rating for escrow funds held offshore. The preference in the 2026 Regulations is for the D&A Fund to be in a Nigerian financial institution. However, where the relevant licences or leases are held in a joint venture of international oil company (IOC) and NNPC Limited, or where an IOC holds a participating or economic interest in the licence or lease, the D&A Fund may be held offshore with at least 15% held in a Nigerian financial institution. The 2026 Regulations on the location of the D&A Fund are materially different from the 2023 Regulations which mandated locally established D&A Funds.

[14] Regulations 5(10), 9(2), and 12(5) of the 2026 Regulations
[15] Regulation 21(5) of the 2026 Regulations
[16] Regulation 21(8) of the 2026 Regulations
[17] Regulation 19 of the 2026 Regulations; the Fund must be set up within 180 days following approval of the Work Programme for a PPL within 180 days following the grant of the lease/approval of the FDP for PML, and within 180 days following the approval of a D&A Plan where none existed before the commencement of the 2026 Regulations

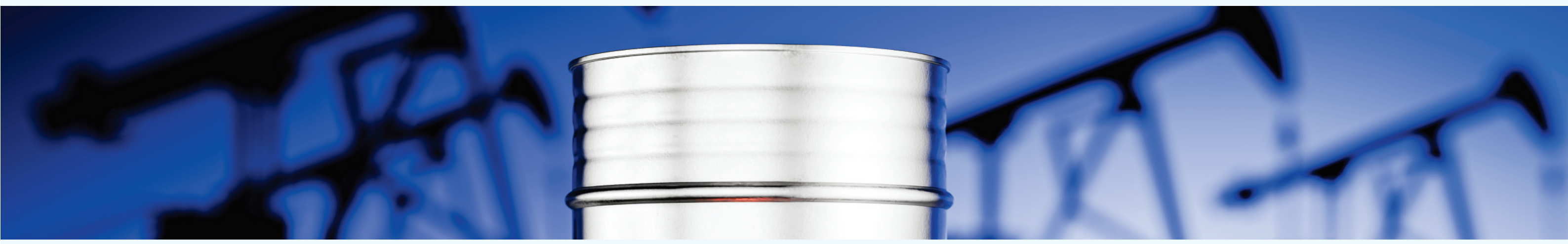
The D&A Fund is to be used to pay for decommissioning and abandonment costs only [18] and accrued interest thereon is added to the D&A Fund and counted towards future contributions.[19] The escrow account must also be kept free from any encumbrances or liens. The depletion of the D&A Fund does not remove the obligation to fully implement a D&A Plan, and any shortfall in the D&A Fund remains the licensee's or lessee's obligation.[20]

Contributions to the D&A Fund take the form of an annual payment of the cash amount stipulated in the approved D&A Plan. In a joint venture,[21] each party contributes pro rata to its participating interest in the joint venture. Where the D&A Fund is held partly in Nigeria and partly offshore, NNPC Limited pays 100% of its contribution into the Nigerian account, while an IOC pays a minimum of 15% of its pro-rata contribution into the Nigerian account, subject to periodic review.[22] The D&A Fund for the leases or licenses held by NNPC Limited with production sharing contracts (PSC), may also be held partly in Nigerian and partly in foreign financial institutions.[23]

Power of the Commission to Direct Decommissioning and Abandonment

The Commission may, by written notice, direct an upstream operator to decommission and abandon a well, installation, structure, utility, plant or pipeline, and the operator must comply with such direction. The Commission may also an upstream operator to stop a planned decommissioning and require the delivery of the relevant facilities to the Commission or its designee; in that case the upstream operator is relieved of future D&A obligations for those facilities, and the remaining D&A Fund balance is accessed by the Commission.[24]

In addition, where an upstream operator transfers, assigns or novates all or part of an interest in a licence or lease, the proportionate legal and equitable rights and obligations relating to D&A are deemed to attach to the transferred interest and become obligations of the transferee.[25] The obligation passes to the assignee only to the extent the assignee has assumed it with the consent of the Minister of Petroleum Resources, and a transferor is relieved of further responsibility only where the Commission approves the transfer and the new operator assumes all of the relevant obligations.[26] Because that relief depends on Commission approval and on the precise scope of the obligations assumed, parties should address D&A liabilities expressly in their assignment or novation agreements and confirm the position with the Commission before completion.



[18] Regulation 21(1) of the 2026 Regulations
[19] Regulation 19(14)&(15) of the 2026 Regulations
[20] Regulation 21(6) of the 2026 Regulations
[21] Regulation 20(2) of the 2026 Regulations
[22] Regulation 20(3) of the 2026 Regulations
[23] Regulation 20(4) of the 2026 Regulations
[24] Regulations 16 and 17 of the 2026 Regulations
[25] Regulation 23 of the 2026 Regulations
[26] Regulation 17(1)(d) of the 2026 Regulations; Section 232(13) of the PIA

Penalties

- Failure to submit a D&A Plan or establish the D&A Fund within the prescribed period Imposes an administrative penalty of US$500,000 for each year of non-compliance.

- Failure to make the annual contribution into the escrow account results in a penalty equal to one year's contribution, in addition to the outstanding sum due to the D&A Fund, and potential revocation of the interest, licence or lease. Furthermore, where an upstream operator defaults on its annual D&A funding obligation, the Commission may, within 60 days of default, authorise the lifting of the defaulting party's crude oil equivalent to the value of the obligation in default, naming the escrow account as beneficiary; any excess proceeds are returned to the defaulting party.

- Commencing a decommissioning programme, or a well abandonment or suspension, without the Commission's approval invokes an administrative penalty of US$1,000,000.[27]

Fiscal and Cost Implications

The 2026 Regulations and the PIA carry costs and penal consequences that licensees and lessees should build into field economics and project models. Under the PIA, contributions to the D&A Fund are eligible for cost recovery and are tax deductible but decommissioning and abandonment costs disbursed from the D&A Fund are neither cost recoverable nor tax deductible. The fiscal relief is therefore taken once, and cannot be claimed again on the same money when it is later spent on decommissioning, so no double deduction arises.[28]

However, where the D&A Fund is insufficient to meet the actual decommissioning and abandonment expenditure, the licensee or lessee must fund the shortfall, and that additional expenditure is cost recoverable and tax deductible.[29] Any excess remaining after completion is treated as income for production sharing or tax purposes and is returned to the licensee or lessee subject to applicable tax.[30]

The administrative penalties are not cost recoverable, so a defaulting operator bears the penalties, and any additional sums due on a D&A funding default.[31] Penalties may be paid in Naira or Dollars at the exchange rate published by the Central Bank of Nigeria (CBN).[32] In a joint venture (JV) or production sharing contract (PSC), funding default penalties fall on the defaulting party pro rata its working interest in the JV or PSC.[33]

[27] Regulation 24(6) of the 2026 Regulations
[28] Section 233(11) of the PIA
[29] Regulation 21(5) of the 2026 Regulations
[30] Regulation 21(4) of the 2026 Regulations
[31] Regulation 24(8) of the 2026 Regulations
[32] Regulation 24(7) of the 2026 Regulations
[33] Regulation 24(3) of the 2026 Regulations

What has changed since the 2023 Regulations?

Below are some of the material changes in the 2026 Regulations compared with the 2023 Regulations:

Area	2023 Regulations	2026 Regulations	Nature of change
D&A Plan submission trigger	Plan to be submitted within one year of the regulations' commencement	Tied to development milestones: PPL holders submit the plan with the Work Programme approval application; PML holders submit along with the Field Development Plan (FDP) approval application	Shift from flat deadline to milestone-based
Existing/legacy plans	Updated plan required within one year of commencement of the regulations.	Operators with an approved D&A Plan must submit an updated plan within six months, i.e. by 9 September 2026.	New transitional obligation
Timeline to establish the D&A Fund	90 days	180 days from Work Programme approval (PPL) or lease grant (PML); for existing assets without an approved plan, 180 days after the plan is approved	Timelines extended
D&A Fund domiciliation	Held with the CBN, except IOCs in JVs or PSCs with NNPC Limited, in which case up to 85% of the D&A Fund can be held offshore in a qualifying institution	Any Nigerian or eligible foreign financial institution meeting a minimum A+ rating (A+ national); or A+ international); with at least 15% of D&A Fund retained in Nigeria. The change removes the requirement that the D&A Fund be held in Nigeria.	Liberalised D&A Fund domiciliation
Well suspension period	Maximum of three years	Maximum of four years, extendable on justification per Commission guidelines	Extended period
Well shut-in for Operational Reasons	No equivalent express mechanism	Commission approval required for well shut in.	New/clarified limit
Drafting consistency	Coherent three-year suspension reference	Inconsistency: Regulation 5(9)(b) sets four years but Regulation 5(10) refers to a three-year period (hold over from 2023 Regulations)	Operators to note the ambiguity

Recommended Next Steps for Upstream Oil and Gas Operators

- Operators with a D&A Plan within an approved Field Development Plan must submit an updated plan by the 9 September 2026 deadline. The consequence of default is a yearly penalty of US$500,000.

- For new assets, licensees or lessees, operators should incorporate D&A Plan into the Work Programme approval process (for PPLs) and the FDP approval process (for PMLs), since submission is now tied to these stages rather than to the initial flat deadline.

- Set up the D&A Fund within 180 days of the relevant trigger, notify the Commission within 14 days of set-up, and ensure the escrow account is held in qualifying financial institutions.

- Potential investors or asset purchasers should verify the existence and adequacy of the approved D&A Plan and the state of the D&A Fund as part of assets acquisition due diligence. This matters because the 2026 Regulations make D&A obligations follow the asset to the transferee, and because a transferor is relieved of further responsibility after the Commission approves a transfer. The allocation of pre- and post-completion liabilities and with appropriate indemnities will be crucial in the negotiations.

- Prepare ahead for the mandatory public consultation with host communities pre-acquisition, review database of installations and assets, and plan for post-completion assets database, regulatory reporting and any residual liability and indemnities for partly removed structures.

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