

SPECIAL ISSUE



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GAZETTE NOTICE NO. 9271

THE STATUTORY INSTRUMENTS ACT

(Cap. 2A)

REGULATORY IMPACT STATEMENTS

AND

DRAFT PETROLEUM REGULATIONS

IT IS notified for the general information of the public that the Energy and Petroleum Authority, pursuant to the provisions of Section 8 of the Statutory Instruments Act, Cap. 2A, has prepared a Regulatory Impact Statements of proposed Petroleum Regulations on the impacts and likely impacts of the proposed Petroleum Regulations on stakeholders, members of the public and other persons likely to be affected by the proposed Regulations listed below:

1. The Draft Petroleum (Upstream Petroleum Management and Administration) Regulations, 2025;
2. The Draft Petroleum (Upstream Petroleum Operations) Regulations, 2025;
3. The Draft Petroleum (Local Content) Regulations, 2025;
4. The Draft Petroleum (Upstream Petroleum Costs Management) Regulations, 2025;
5. The Draft Petroleum (Upstream and Midstream Environment, Health and Safety) Regulations, 2025;
6. The Draft Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 2025
7. The Draft Petroleum (Upstream Petroleum Access to Land) Regulations, 2025; and
8. The Draft Petroleum (Marine Refuelling) Regulations, 2025.

1. The proposed Regulations have been developed pursuant to sections 50 (4), 101, 108, 126, 127 of the Petroleum Act, Cap. 308, the main objective of the Regulations is to provide for—

- (a) Set out detailed procedures to guide upstream petroleum activities, ensuring consistency, transparency, and legal clarity;
- (b) Enhance governance, transparency, and accountability in the allocation, transfer, and termination of petroleum rights;

- (c) To incorporate the relevant Constitutional principles and values in the management of upstream petroleum operations;
- (d) To provide for the roles and responsibilities of the Government, the Authority, contractors, operators, local communities, other licensees/ permit holders and other stakeholders in upstream petroleum operations;
- (e) Set out detailed procedures to guide the classification, recording, and reporting of upstream costs, ensuring consistency, transparency, and accountability;
- (f) Provide for the roles and responsibilities of the Government, the Authority, contractors, operators, other licensees/ permit holders and other stakeholders in management of upstream costs;
- (g) Provide a framework to ensure that all upstream petroleum costs are duly incurred, paid, and accurately reported and in adherence to international accounting standards;
- (h) Promote effective management of environmental, health, and safety (EHS) risks associated with upstream and midstream petroleum activities;
- (i) Standardize procedures to ensure operational safety, environmental protection, and occupational health in midstream and upstream sector;
- (j) Enhance environmental health and safety (EHS) accountability and regulatory oversight in the design, construction, operation, maintenance, and decommissioning of petroleum facilities;
- (k) Maximize value addition through local content development and local participation in the petroleum industry;
- (l) Promote participation of Kenyans and local entities in provision of goods and services in the petroleum industry value chain and related industries that will sustain economic development;
- (m) Promote onshore upstream petroleum projects while looking to protect the rights and freedoms of project affected persons, project proponents and owners or occupiers of land;
- (n) Prescribe the format for preparation, submission, review, approval and implementation of land access, acquisition and resettlement frameworks; and

(o) Establishing a licensing framework for crude oil transportation, natural gas pipeline, storage, marine fuel vendors and refuelling vessels.

Cabinet Secretary for Energy, in consultation with the Board for the management of the Energy & Petroleum Regulatory Authority invites stakeholders in the petroleum sector and members of the public to submit their comments and proposals on the Regulations and the Regulatory Impact Statements within thirty (30) days from the date of this Notice.

Written comments and proposals on the Regulations and Regulatory Impact Statements may be submitted in the following format:

TEMPLATE FOR SUBMISSION OF COMMENTS AND PROPOSALS ON THE PROPOSED PETROLEUM REGULATIONS (LIST SPECIFIC REGULATION)

NAME OF ENTITY/PERSON

DATE:

COUNTY:

PART A: GENERAL COMMENTS AND PROPOSALS

- 1.
- 2.
- 3.

PART B: COMMENTS AND PROPOSALS ON THE PROPOSED PETROLEUM REGULATIONS AND REGULATORY IMPACT STATEMENT

No Regulation or Paragraph in Regulatory Impact Statement	Comment or Justification Proposal
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- 1.
- 2.
- 3.

The written memorandum should be delivered during official working hours from 8.00 am – 5.00 pm on weekdays or by email addressed to:

*Director-General,
Energy and Petroleum Regulatory Authority,
Eagle Africa Centre,
Longonot Road, Upperhill,
Nairobi.
P.O Box 42681 – 00100
Tel: 0709336000
Email: directorgeneral@epra.go.ke*

The Regulations and the Regulatory Impact Statements are available free of charge at the offices of the Energy & Petroleum Regulatory Authority and on the Authority's website at www.epra.go.ke (provide specific link)

The Cabinet Secretary responsible for the Energy, in consultation with the Board for the management of the energy & Petroleum Regulatory Authority also invites all stakeholders in the petroleum sector and members of the public to attend the public engagements and submit their comments and proposals on the Regulations and the Regulatory Impact Statements.

Dated the 11th June, 2025.

DANIEL KIPTOO BARGORIA,
Director-General.

GAZETTE NOTICE NO. 9272

THE PETROLEUM ACT

(Cap. 308)

IN EXERCISE of the powers conferred by sections 101 and 126 of the Petroleum Act Cap. 308 the Cabinet Secretary for Energy and Petroleum on recommendation of the Authority makes the following Regulations—

THE PETROLEUM (MIDSTREAM CRUDE OIL AND NATURAL GAS PIPELINE AND STORAGE OPERATIONS) REGULATIONS, 2025

PART I – PRELIMINARY

Citation

1. These Regulations may be cited as the Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 2025

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Petroleum Act (Cap. 308) and any amendments thereto;

“Authority” means the Energy and Petroleum Regulatory Authority (EPRA) established under Section 9 of the Energy Act (Cap.314) or its successor;

“Best Petroleum Industry Practices” means such practices, methods, standards and procedures generally accepted and followed internationally by prudent, diligent, skilled and experienced operators in midstream petroleum operations, including practices, methods, standards and procedures intended to—

- (a) transport and store petroleum by maximizing efficiency in a technically and economically sustainable manner;
- (b) promote operational safety and prevention of accidents; and
- (c) protect the environment by minimizing the impact of midstream petroleum operations;

“Common User” means a person who receives an approval from the Authority to enter into a transportation or storage agreement with a Licensee to utilise a common user facility;

“Ceiling Tariff” means the highest possible tariff set by the Authority to govern transportation and storage agreements between Licensees and Common Users;

“Emergency Response Plan” means specific written procedures to respond to an actual or imminent event, outside the scope of normal operations, that requires prompt and coordinated actions and resources to protect the health, safety or welfare of people or to limit damage to property or the environment;

“Energy and Petroleum Tribunal” means the tribunal established under section 25 of the Energy Act(Cap.314) or its successor;

“Environmental Authority” means the National Environment Management Authority (NEMA) established under the Environmental Management and Co-ordination Act (Cap. 387) or its successor;

“Kenya Maritime Authority” means the Kenya Maritime Authority established under section 3 of the Kenya Maritime Authority (Cap. 370) or its successor;

“National Land Commission” means the National Land Commission (NLC) established under the National Land Commission Act (Cap. 281) or its successor;

“Midstream Operations” has the same meaning as provided for in the Act, except as limited by Regulation 3;

“Permit Holder” means a person who has been issued a permit from the Authority to construct commission a pipeline or a storage depot;

“Licensee” means a person who receives a licence from the Authority to operate a constructed and commissioned pipeline or storage depot;

“National Construction Authority” means the National Construction Authority established under section 3 of the National Construction Authority Act (Cap. 118) or its successor;

“National Environment Tribunal” means the tribunal established under section 125 of the Environmental Management and Co-ordination Act (Cap. 387) or its successor;

“Pipeline” has the same meaning as provided for in the Act in relation to midstream operations under these Regulations.

“Project Proponent” means a person who applies to the Authority to construct and commission a midstream pipeline or a storage depot;

“Safety Case” means the document required under these Regulations demonstrating that there are effective means of reducing risk at a facility or during activities to the required level;

“Storage Depot” means a midstream facility consisting of one or more tanks for storing crude oil and/or natural gas;

“Tariff” means a set of prices, rates, charges, and any cost associated with capacity, transport and storage of crude oil and natural gas by means of midstream pipeline or depot and may include any adjustments, as approved by the Authority.

Application

3. These Regulations shall apply to the construction and operation of crude oil and natural gas pipeline and storage facilities and jetty in Kenya, including—

- (a) permits to construct pipelines and storage depots; and
- (b) licences to operate pipelines and storage facilities;

PART II—CONSTRUCTION PERMITTING PROCESS*Construction Permit*

4. (1) A person shall not undertake construction works or modification of crude oil and natural gas pipelines and bulk storage facilities, except in accordance with the terms and conditions of a valid Construction Permit issued by the Authority under the Petroleum Act;

(2) The Authority may direct a person to cease the construction of crude oil and natural gas pipelines and bulk storage facilities where—

- (a) the construction is being undertaken without a valid Construction Permit issued by the Authority;
- (b) the construction is in breach of the terms and conditions set forth by the Authority; or
- (c) the approval of the Construction Permit was based on false information or forged documents.

Application for a Construction Permit

5. (1) A person who undertakes the construction of crude oil and natural gas pipelines and bulk storage facilities without a valid Construction Permit issued by the Authority commits an offence and is liable on conviction to the fines and penalties set out in the Eighth Schedule.

(2) A person who wishes to construct crude oil and natural gas pipelines and bulk storage facilities shall apply for a Construction Permit to the Authority in the prescribed manner.

(3) An application under sub-regulation (1) and as set out in Part I of the First Schedule, shall be accompanied by:-

- (4) specify the name and address of the project proponent;
- (5) be accompanied by:-

 - (a) the business registration certificate and tax documents of the project proponent; and
 - (b) evidence of sufficient technical and financial capacity to undertake the construction works, including relevant past experience in similar projects.

- (6) be accompanied by a description of the project, including—

 - (a) proposed location;
 - (b) detailed layout plans and specifications prepared by a professional engineer;
 - (c) physical planning approvals from concerned County Governments;
 - (d) a copy of the detailed engineering designs and specifications prepared by a professional engineer or firm(s) registered as such; the engineering designs in sub-regulation (6)(a) shall, at the minimum, take into consideration the provisions of the relevant Kenya Standards for crude oil and natural gas pipelines and bulk storage facilities;
 - (e) a priced bill of quantities prepared by the respective class of Engineers;
 - (f) an outline of the methods of financing the project;
 - (g) proof of ownership of the land on which the crude oil and/or natural gas pipelines and/or bulk storage facilities are to be constructed;
 - (h) a letter of allotment from the relevant Authority in case the title deed is yet to be issued;

- (i) a duly registered lease for a minimum period of twenty-five (25) years shall be provided in case the title deed is not in the name of the entity undertaking the development;
- (j) an Environmental and Social Impact Assessment license issued by NEMA;
- (k) an approval from the relevant County Government;
- (l) relevant permits, licences or approvals as the case may be from relevant authorities.
- (m) an environment liability policy; and
- (n) any other document that may assist the Authority to make proper determination on the application
- (o) be accompanied by a safety case as prescribed by environment, safety and health regulations under the Act;
- (p) be accompanied by a contractor's all risk insurance policy as specified in guidelines issued and amended from time to time by the Authority;

(7) The Authority shall consider every application received under this regulation and may, if satisfied that the project proponent meets the prescribed requirements, grant to it, within forty-five (45) days, the permit to construct and commission a pipeline.

(8) The Authority shall, in granting or rejecting an application for a permit, take into consideration the factors under section 75 and sub-section 87(1) of the Act.

(9) The application in sub-regulation (1) shall be accompanied by proof of payment of the prescribed fees set out in the Sixth Schedule.

Form and Validity of a Construction Permit

6. (1) Where no construction works have commenced after issuance of a Construction Permit, the permit shall be valid for a period of twelve (12) months from the date of issue or until such date of extension as allowed by the Authority shall expire.

(2) Where construction works have commenced within the validity period of the permit, the Construction Permit shall be valid for a maximum period of sixty (60) months from the date of issue.

(3) The Construction Permit holder may make an application for extension of the validity period by providing documents as required by the Authority.

(4) The extension of the validity period of a Construction Permit shall be to a maximum of—

- (a) Six (6) months where construction works have not commenced; and
- (b) twenty-four (24) months where construction works have commenced.

(5) A Construction Permit holder shall be required to make a fresh application where the Construction Permit cannot be extended further as provided for in sub-regulation (5).

Determination of Application for a Construction

7. (1) The Authority shall determine an application for a Construction Permit within forty-five (45) days of receipt of such an application;

(2) Provided that the application is materially complete, does not offend the provisions of any written law and meets the prescribed requirements, the Authority may grant a Construction Permit to the applicant;

(3) The Authority may, prior to making a determination to grant a Construction Permit, take into consideration suitability of the site after due assessment—

- (a) The Construction Permit issued under sub-regulation (2) shall contain such terms and conditions that the Authority may deem fit based on the site location and scale of the project;
- (b) The Authority shall, prior to issuing the permit, notify the applicant of the nature of the terms and conditions proposed to be imposed in the construction permit;

(c) The applicant shall within thirty (30) days of receiving a notification of the nature of the conditions proposed to be imposed, give a written undertaking to the Authority that as the permit holder, the applicant shall abide by the stipulated terms and conditions of the Construction Permit;

(4) The undertaking in sub-regulation (6) shall be in the format prescribed in Part I, Part II and Part III of the Second Schedule;

(5) The Authority shall only issue the Construction Permit once the applicant has executed the undertaking in sub-regulation (6) failing which any Construction Permit granted shall be null and void;

(6) The Authority shall reject an application under these Regulations where the application does not meet the requirements for granting a Construction Permit;

(7) The Authority shall notify the applicant of such rejection in sub-regulation (9), specifying the reasons thereof within seven (7) days of such rejection;

(8) Where the rejection in sub-regulation (10) relates to –

(a) incomplete information, the applicant may make a fresh application providing the requisite information or documents; and

(b) the unsuitability of the site, the decision of the Authority shall be final and if the applicant is not satisfied with the Authority's decision, they may appeal to the Tribunal;

Obligations of a Construction Permit Holder

8. (1) In undertaking construction of a pipeline or storage depot, the Construction Permit holder shall –

(a) comply with the terms and conditions of the Construction Permit as stipulated by the Authority;

(b) as applicable, engage only contractors who are licensed by the relevant authorities for their class of work;

(c) ensure that the construction project is supervised by a Practising Professional Engineer at a minimum;

(d) comply with the Environmental Impacts Mitigation Plan approved by the relevant authorities;

(e) comply with Government policy on local content; and

(f) comply with directions issued by the Authority from time to time;

Validity of the Construction Permit

9. (1) A construction permit is valid, subject to sub-regulations (9) and (10), for five (5) years and shall be in the form prescribed in the Second Schedule of these Regulations.

(a) Where no construction has commenced, a construction permit shall be valid for a period of twenty-four (24) months.

(b) Where construction work has commenced within the initial validity period under sub-regulation (9), a construction permit shall be valid for a maximum period of sixty (60) months.

Application for Extension of Construction Permit

10. (1) A midstream permit holder may apply, at least sixty (60) days before expiry of the permit, by providing justification and supporting documents as may be required by the Authority, to extend the validity period of its construction permit to a maximum of –

(a) another two (2) years under sub-regulation 9; or

(b) three (3) years under sub-regulation 10.

(2) An application under sub-regulation (11) shall be accompanied by;

(i) updated documents as required under sub-regulation 9(2);

(ii) a summary of the project management timeline and milestones achieved during construction;

(iii) a justification for the renewal application and the required extension; and

(iv) a fee prescribed in the Sixth Schedule.

(3) A midstream permit holder shall make a new application under this regulation where its construction permit cannot be extended beyond the maximum periods provided by sub-regulation (11).

(4) If the Authority rejects an application, it shall notify the project proponent and grant it thirty (30) days from the delivery of said notification to stop the construction.

Application for Amendment of Construction Permit

11. (1) Where the Authority requires a midstream permit holder to, or where a midstream permit holder requires to amend construction permit, the midstream permit holder shall apply to the Authority to amend a construction permit

(2) The construction permit may be amended to—

(a) update its corporate name;

(b) increase the maximum pipeline or storage capacity;

(c) modify the pipeline route or the location of a pipeline facility or of a storage depot;

(d) change a design approved under regulation 18;

(e) make operational changes that alter the capacity of the pipeline or the storage depot; or

(f) Make any other justifiable change.

(3) An application under sub-regulation (15) shall be accompanied by updated documents as required under sub-regulation 9(2) when seeking to amend a construction permit; or

(4) An application under sub-regulations (15) and (16) shall be accompanied by a fee prescribed in the Sixth Schedule.

(5) The Authority shall retain the same expiry date of a permit on its amendment.

Emergency Works

12. (1) A construction permit shall be subject to the terms and conditions prescribed by the Authority and shall allow regular maintenance and emergency works.

(2) After the completion of emergency works the contractor shall notify the Authority within thirty (30) days giving details of the works carried out.

PART III—LICENCING PROCESS

(3) A person who wishes to operate a crude oil and natural gas pipeline and/or storage facility shall, before commencing such operation, obtain an operating license from the Licensing Authority.

(4) The application shall be in the form prescribed in the Second Schedule, and shall be accompanied by—

(a) a disclosure of the nominal capacity of the midstream pipeline or storage depot and the capacity available to Common Users.

(b) an environmental liability policy providing insurance cover against damage caused by pollution and clean-up expenses, with a limit stipulated in guidelines issued and amended from time to time by the Authority.

(c) a contractor's all risk insurance policy as specified in guidelines issued and amended from time to time by the Authority;

(d) policy providing insurance cover against damage caused by pollution and clean-up expenses, with a limit stipulated in guidelines issued and amended from time to time by the Authority.

(e) a chart of the Licensee's organization and operational structure;

(f) a construction integrity and quality certificate from a qualified independent organisation;

(g) a decommissioning plan;

- (h) a local content plan under section 50 of the Act for the period of operation;
- (i) a proposed tariff and methodology for Common Users under Part VII of these Regulations; and
- (j) a fee prescribed in the Sixth Schedule.

(5) The Authority may, within thirty (30) days of receiving the application—

- (a) grant an operating licence and set a ceiling tariff accordingly, either without conditions or subject to such conditions as the Authority may deem fit; or
- (b) justifiably reject an application for grant of such licence.

(6) An operating licence is valid for a maximum of twenty-five (25) years, subject to annual audits under regulation 32, and shall be in the form prescribed in the Third Schedule of these Regulations.

(7) An operating licence shall be renewed by the Authority under Regulation 12 for as many times as necessary to meet the end of a pipeline or storage depot operating life.

PART IV—OPEN ACCESS

13. (1) A Common User shall, before entering into a transportation or storage agreement with a Licensee, apply to the Authority for an approval.

(2) The licensee of a common user facility shall develop and submit to the Authority for approval a standard agreement to be signed by users.

(3) The agreement in sub-regulation (2) shall contain the minimum requirements listed in the Eighth Schedule.

(4) An application under sub-regulation (1) shall—

- (a) specify the name and address of the Common User;
- (b) be accompanied by the registration documents of the Common User;
- (c) state the corporate name of the Licensee;
- (d) state the name and route of the pipeline or the name and address of the storage depot;
- (e) state the volume of crude oil or natural gas to be transported or stored;
- (f) provide a declaration of the name plate capacity of the midstream pipeline or storage depot and the capacity that is available to Common Users;
- (g) be accompanied by an initialled final draft of the transportation or storage agreement; and
- (h) be accompanied by a fee prescribed in the Sixth Schedule.

(5) The Authority shall consider every application received under this regulation and may, if satisfied with the information provided by the Common User, grant to it, within forty-five (45) days, an approval to use the common facility and to execute the transportation or storage agreement.

(6) The Authority shall, in granting or rejecting an application under sub-regulation (3), analyse the draft agreement provided by the applicant and its compliance with the requirements prescribed by guidelines issued and amended from time to time by the Authority.

Access to Common User Facilities

14. (1) A Common User who intends to access a common user facility shall apply to the Authority under regulation 11.

(2) A Licensee shall provide open access to its facility and apply tariffs equal to or lower than the ceiling tariff set by the Authority, provided that the Common User—

- (a) Notifies the Licensee and requests access to spare capacity available in its pipeline or storage depot;
- (b) Submits a copy of the notification under paragraph(a)(i) to the Authority, within seven (7) days from its delivery to the Licensee;

- (c) Undertakes to comply with access standards and criteria required by the Licensee and approved by the Authority; and
- (d) receives an approval under regulation 11;
- (e) the Licensee evaluates if its pipeline or storage terminal has sufficient available capacity to transport or store the volumes requested by the Common User; and
- (f) Negotiates with the Common User and agrees, within ninety (90) days from receiving a notification under paragraph(i)(1), the tariffs and contractual terms and conditions applicable to the access;
- (g) The Common User notifies the Authority, immediately after the period under paragraph (ii)(2), the result of the negotiation and evaluation under this regulation.

(3) And, where applicable, the Authority—

- (a) successfully mediates any commercial, technical, or legal disagreement between the Licensee and the Common User, within thirty (30) days from receiving a notification under sub-regulation (2)(b)(iii); or
- (b) adjudicates an unresolved disagreement between the Licensee and the Common User, with the support of expert witnesses sponsored by the Licensee or the Common User.
- (c) The Authority shall direct a Licensee or a Common User, as the case may be, to—
- (d) adjust the terms of an agreement under regulation 11(5)(g) that breach an operating licence or that the Authority considers unreasonable or otherwise inappropriate;
- (e) allocate to Common Users any spare capacity in a facility; and
- (f) provide and implement solutions to technical issues that prevent transportation or storage for a Common User on an open access basis.

(4) A Licensee shall inform the Authority when any action under sub-regulation (2)—

- (a) increases the operating expense of a pipeline or storage depot;
- (b) requires additional capital expense to increase transportation or storage capacity; or
- (c) creates insurmountable integrity and safety risks

(5) The Authority shall consider any information under sub-regulation (4) and take appropriate action which may include adjusting the ceiling tariff of an operating licence to make the access of a Common User commercially viable.

(6) A Licensee or any of its employees or agents who provides false or misleading information to the Authority under sub-regulation (5) commits an offence under the Act and these Regulations.

Terms and Conditions for Open Access

15. The terms and conditions for open access shall be in accordance with X Schedule. The same shall be reviewed from time to time by the Authority.

Tariffs

16. The Authority shall set ceiling tariffs in accordance with regulation 10 (3) (a) and the Licensee shall provide accounting and any other relevant information to the Authority to support its assessment of costs and determination of tariffs.

Application for Renewal and Amendment

17. (1) A permit holder, Licensee or Common User who intends to renew an—

- (a) operating licence; or
- (b) approval to use common facilities;

shall apply to the Authority at least thirty (30) days before its expiry date.

(2) An application under sub regulation (1)(a) shall be accompanied by—

- (a) updated documents as required under sub-regulation 10(2);
- (b) a summary of the integrity management system of the operating asset, highlighting its fit-for-service condition and remaining life;
- (c) information on the operational history of the facility, including details of incidents, if any;
- (d) environmental audit reports;
- (e) an updated decommissioning plan;
- (f) history of legal disputes in the past five (5) years; and
- (g) a fee prescribed in the Sixth Schedule.

(3) An application under sub regulation (1)(b) shall be accompanied by a fee prescribed in the Sixth Schedule.

(4) An operating licence or an approval to use common facilities remains valid from the date of application under sub-regulation (1) to the date the Authority approves or rejects its renewal.

(5) If the Authority is satisfied that the project proponent, Licensee, or Common User continues to meet the requirements of the permit, licence or approval, the Authority will renew it within thirty (30) days of receiving the application.

(6) If the Authority rejects an application, it shall notify the Licensee or Common User and grant it thirty (30) days from the delivery of said notification to stop the cooperation, or use.

(7) Where the Authority requires a Licensee to, or where a Licensee requires to amend operating license, the Licensee shall apply to the Authority to amend an operating license.

(8) A licensee shall apply to the Authority to amend an operating licence to—

- (a) adjust the maximum pipeline and storage capacity;
- (b) modify the pipeline route or the location of a pipeline facility or of a storage depot;
- (c) Update its corporate name;
- (d) make operational changes that alter the capacity of the pipeline or the storage depot
- (e) modify pipeline or storage tariffs; or
- (f) Make any other justifiable change.

(9) An application under sub-regulation (7) shall be accompanied by updated documents as required under sub-regulation 10(2) when seeking to amend an operating licence.

(10) A Common User may apply to the Authority to amend an approval to use common facilities to update its corporate name, and its application shall be accompanied by updated documents as required under sub-regulation 10(2).

(11) An application under sub-regulations (7), (8) or (9) shall be accompanied by a fee prescribed in the Sixth Schedule.

(12) The Authority shall retain the same expiry date of a licence on its amendment.

Transfer of a License Permit

18. (1) A licensee shall not transfer or otherwise divest any rights, powers or obligations conferred or imposed upon the licensee by the licence or permit without the consent of the licensing authority.

(2) The licensing authority may, on application by any of the following persons, transfer a licence or permit—

- (a) in the case of a death of the licensee, to the legal representative;
- (b) in the case of the bankruptcy of the licensee or assignment for the benefit of the licensee's creditors generally, to the lawfully appointed trustee or assignee;

(c) in the case of a corporation in liquidation, to the lawfully appointed liquidator;

- (d) in any case where the licensee becomes subject to a legal disability, to any person lawfully appointed to administer the licensee's affairs; or
- (e) in the case of voluntary transfer of the undertaking, to the new owner of the undertaking.

(3) The licensing authority shall satisfy itself of the legal, technical and financial competence of the transferee to carry out the undertaking.

(4) The transferee shall undertake in writing to comply with the conditions of the licence or permit.

(5) The licensing authority shall not withhold any consent to any application to transfer unless it has reason to believe that public interest is likely to be prejudiced by the transfer.

Suspension and Revocation

19. (1) The licensing authority may suspend or revoke an operating license or construction permit where—

(2) The undertaking or the execution of the works related thereto has not commenced at the expiry of the period specified in the licence or permit, or at the expiry of any extended period which the Authority may allow—

- (a) it is satisfied that the licensee is either not operating in accordance with the terms and conditions of the licence, permit or the provisions of this Act; or
- (b) the licensee is adjudged bankrupt.

(3) Unless otherwise specified in the licence or permit, the licensing authority may give a licensee fourteen days' notice to show cause why the licence or permit should not be revoked.

(4) A notice under sub- regulation (2) shall set out the relevant condition of the licence or permit or the requirement of the Act to which the breach relates;

- (a) specify the acts, omissions or other facts which, in the opinion of the Authority or the licensing authority, constitute a contravention of the conditions of the licence or permit or requirements of the Act, and the reasons why the licensing authority is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and

- (b) be served upon the licensee at the licensee's principal place of business and shall take effect from the date of service.

(5) The licensing authority shall determine the matter within thirty (30) days from the expiry of the notice.

(6) A suspension or revocation of a licence or permit shall not indemnify the licensee against any penalties for which such person may have become liable under the Act

Display of Licenses and Permits

20. (1) A licensee or permit holder shall cause to be displayed within the premises, the licence or permit, or a certified copy.

(2) A licensee or permit holder who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings

Grievance and Redress

21. (1) Where the licensing authority refuses to grant a permit under this section, it shall notify the applicant of such refusal specifying the reasons thereof and shall deliver such notice to the applicant.

(2) Where the applicant is aggrieved by the decision of the Licensing Authority, the applicant may appeal to the Tribunal within thirty (30) days of receipt of such conditions or decision.

Standards

22. An applicant shall prepare detailed layout plans and specifications in accordance with Standards approved by the Kenya Bureau of Standards (KEBS) and Best Petroleum Industry Practices, as the case may be.

Location and Route

23. The applicant shall provide a detailed survey map of the pipeline route, and the proposed storage facility location as stipulated in the Petroleum Land Access Regulations, 2025.

Construction

24. (1) The construction permit holder shall comply with the relevant Laws, Regulations, Standards approved by the Kenya Bureau of Standards (KEBS) and Best Petroleum Industry Practices during the construction.

(2) The construction permit holder shall inform the Authority, at least seven (7) days in advance, of the planned construction and detail to start the construction of its pipeline or storage depot;

Operation and Maintenance

25. The licensee shall undertake operation, and maintenance works in compliance with the relevant Laws, Regulations, Standards approved by the Kenya Bureau of Standards (KEBS) and Best Petroleum Industry Practices.

Decommissioning

26. The licensee shall undertake decommissioning in compliance with the Petroleum Operations Decommissioning Regulations.

Record Keeping and Reports

27. (1) A Licensee shall keep accurate records according to best petroleum industry practices as prescribed in schedule XX

(2) A Licensee shall, unless otherwise directed by the Authority, keep the records under sub-regulation (1) for a period of seven (7) years from the date the record is made.

(3) The Authority may request copies of any record kept by the Licensee shall submit certified copies as prescribed by the Authority within thirty (30) days.

Inspections

28. (1) The Authority may appoint qualified representatives to act as technical inspectors and provide them with an identification document stating—

- (a) that he or she is an inspector for the purposes of the Act and these Regulations;
- (b) the term of his or her appointment; and
- (c) the geographical jurisdiction of his or her technical inspections.

(2) A technical inspector may, after providing necessary identification documents—

- (a) enter any area and facility under a permit or licence;
- (b) inspect and test any pipeline or storage depot;
- (c) take samples of any substance being transported by a pipeline or stored in a tank;
- (d) require a Licensee to produce books, records, documents, maps, or plans relating to a pipeline or a storage depot; and
- (e) inspect, take extracts from, and make copies of any of books, records, documents, maps, or plans under sub-regulation 2 (d).

Audits and Inspections

29. (1) A pipeline or a storage depot shall be periodically inspected by its Licensee, in accordance with best petroleum industry practices, the standards under regulation 17 or following the recommendation of a manufacturer, to verify compliance.

(2) The Authority may carry out random or scheduled technical inspections, and an inspector performing said inspection shall provide a copy of their report to the Licensee as soon as reasonably practicable and in any event no later than thirty (30) days from the end of the inspection.

(3) The Authority shall carry out a comprehensive operational audit of the midstream pipeline or storage depot at least once every twelve (12) months.

(4) A Licensee shall give an inspector free access to its pipeline or storage depot, including any related records, equipment, ancillary installations, and infrastructures.

(5) A Licensee or any of its employees or agents who obstruct, interfere with or refuse to provide an inspector access to any premises or documents commits an offence under the Act and these Regulations.

(6) If an inspector becomes aware, during an operational audit or technical inspection, of problems in the pipeline or storage depot or of any non-compliance with the Act, these Regulations or the terms and conditions of a midstream operating licence, the Authority shall—

- (a) notify the Licensee;
- (b) specify the problem found or the provision breached;
- (c) set a timeframe in accordance with the license for the Licensee to rectify the problem or cure the breach; and
- (d) commence a process under regulation 15 to suspend or revoke the license, if applicable.

(7) The Authority may also appoint a qualified technical inspector to continuously monitor the progress of the construction of a midstream pipeline or storage depot.

(8) A permit holder shall give free access to a technical inspector appointed under sub-regulation (7) to carry out scheduled or random inspections at its construction site, including access to any related records, equipment, ancillary installations, and infrastructures.

(9) A permit holder or any of its employees or agents who obstruct, interfere with, or refuse to provide a technical inspector access to any premises or documents commits an offence under the Act and these Regulations.

Inspection Report

30. (1) The Authority shall, within thirty (30) days from technical inspection under regulation 32(2), issue an inspection report to a Licensee.

(2) The inspection report issued under sub-regulation (1) is valid based on the recommendations, without prejudice to any further inspections carried out by the Authority.

(3) The Authority shall, within thirty (30) days from an technical and EHS audit under regulation 32 (3), issue an audit report to a Licensee.

(4) The audit report issued under sub-regulation (3) is valid for one (1) year, without prejudice to any further audits carried out by the Authority.

PART VI – OFFENCES AND PENALTIES*General Penalties*

31. (1) The Authority may, without prejudice to any penalty, imprisonment, suspension or revocation that may be imposed under the Act to a permit holder, Licensee, Common User or any of its employees and agents, suspend or revoke a licence, permit or approval issued to a permit holder, Licensee or Common User who contravenes any provision of these Regulations

(2) A person who contravenes any provisions of these regulations commit an offence and shall be liable upon conviction to a fine not exceeding 1 million (Offences Schedule)

Disclosure of Information

32. (1) No person shall obstruct, hinder, withhold information or provide false information as may be requested by the Authority

(2) A person who contravenes sub-regulation (1) commits an offence and shall be liable on conviction to the fines and penalties prescribed in the Eighth Schedule

Appeals

34 (1) A person has the right to appeal against the decision of the Authority, where the Authority—

- (a) refuses to grant or renew a licence, permit or certificate or revokes a licence, permit or certificate; or

- (b) imposes conditions on a licence, permit or certificate; or
- (c) refuses to replace or amend a licence, permit or certificate; or
- (d) suspends or revokes a license, permit or certificate.

(2) A person aggrieved by the reasons in sub-regulation (1), may appeal to the Tribunal within thirty (30) days of receipt of the Authority's decision

PART VII – MISCELLANEOUS

Ownership

35. (1) A Licensee shall be a body corporate registered under the laws of Kenya.

(2) Any assignment, transfer or change in voting rights or sale of shares in the entity owning a midstream pipeline or storage depot or a Licensee shall be approved by the Cabinet Secretary as recommended by the Authority.

Procurement

36. A permit holder or a Licensee shall procure all goods, works and services required for the construction or operation of a pipeline or storage depot in accordance with its local content plan under regulations 9 (2) (i) and 10 (2) (i).

Confidentiality

37. (1) Information obtained by the Cabinet Secretary or the Authority relating to any matter under these Regulations may be published or otherwise disclosed to a third-party—

- (a) when the project proponent or Licensee from whom the information was obtained gives a prior approval to the Cabinet Secretary or the Authority; or
- (b) when the disclosure and use of such information is for an authorised purpose established under section 104 of the Act.

(2) Disclosure of any information under this regulation is subject to the provisions of the Access to Information Act (Cap. 7M).

Register of Licenses and Permits

38. (1) The Authority shall keep a register of all construction permits and operating licenses it issues and shall individually record their—

- (a) terms and conditions;
- (b) amendments;
- (c) duplicates;
- (d) suspensions or revocations; and
- (e) accompanying fees paid to the Authority.

(2) Any person may, inspect the register during the Authority's working hours.

(3) Before a person gains access to the register, he or she shall pay a fee prescribed in the Sixth Schedule.

(4) The fee under sub-regulation (3) does not apply to government ministries and government departments and constitutional and statutory bodies carrying out investigative, research and oversight responsibilities.

Monetary Correction

39. (1) The Authority may, from time to time, update fees to capture any material escalation of its administrative costs, currency fluctuation or inflation.

(2) The Cabinet Secretary may, from time to time, update fines set under these Regulations.

(3) Fees and fines under these regulations shall be paid via bank transfer into a designated government account to be informed by the Authority.

Lacunae

40. Matters not covered in the Act, these Regulations, permits or licences and which concern midstream petroleum operations shall be determined by the Authority on a case-by-case basis.

Guidelines

41. The Cabinet Secretary and the Authority may issue and update guidelines from time to time for the implementation of these Regulations.

FIRSTSCHEDULE

Regulations 9(2) and 9(8)

CONSTRUCTION PERMIT

APPLICATION FORM

This application is hereby submitted under the Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 202X for the construction of a pipeline or storage depot as follows.

Project proponent: (full corporate name)	
Address: (full corporate address)	
Nature: (transportation pipeline or storage)	
Product: (crude oil or natural gas)	
Volume: (maximum pipeline or storage capacity)	
Location: (pipeline route or address of storage depot)	

Enclosed documents

(*tick the boxes as appropriate*)

- copy of registration and tax documents
- detailed layout plans and specifications prepared by a professional engineer
- county government approvals
- National Construction Authority approvals
- safety case
- evidence of technical and financial capabilities
- local content plan
- contractor's all risk insurance policy or a preliminary policy accompanied by an undertake to provide a contractor's all risk insurance policy within sixty (60) days after the date of the grant of a permit
- points between which the pipeline is to run
- copy of environment impact assessment licence
- copy of authorisation from the Cabinet Secretary
- land survey
- marine survey
- copy of fee payment receipt
- Electronic data files with Global Positioning System (GPS) latitude and longitude coordinates of the proposed pipeline route or the storage depot.

The electronic versions of the documents listed above shall be submitted in the form and manner prescribed by the Authority

DECLARATION

1. I have read and understood the relevant sections of the Petroleum Act, 2019 and the Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 2021 and agree to abide by them.

2. I hereby certify that the information given above is to my knowledge true and accurate.

3. I understand that it is an offence to give false information in an application for a construction permit.

4. I commit to conduct an honest midstream petroleum business.

5. I acknowledge that our company shall only construct and commission a pipeline or storage depot as approved by the Authority.

6. I acknowledge that our company shall not start constructing a pipeline or storage depot before obtaining a permit from the Authority.
Date: (dd-mm-yyyy)
Signature:(project proponent's representative)

Date of issuance: (dd-mm-yyyy of issuance)
Signature:(Authority's representative)

SECOND SCHEDULE

Regulations 10(2) and 10(4)

OPERATING LICENCE

FORM OF PERMIT	
Construction permit no.: xxxx/yyyy	
This construction permit is hereby granted under the Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 202x exclusively to the named midstream permit holder to carry on midstream petroleum businesses as follows.	
Midstream permit holder: (full corporate name)	
Address: (full corporate address)	
Expiry date: (dd-mm-yyyy of first expiry date)	
Renewal: (dd-mm-yyyy of new expiry date in case of renewal)	
Nature: (transportation pipeline or storage)	
Product: (crude oil or natural gas)	
Volume: (maximum pipeline or storage capacity)	
Location: (pipeline route or address of storage depot)	

Terms and conditions

1. The midstream permit holder shall—
 - (a) start works within twenty-four (24) months from issuance of this permit, unless when an unforeseen circumstance arises;
 - (b) inform the Authority about an unforeseen circumstance that can delay the start of works and may request an extension to the period of twenty-four (24) months mentioned above;
 - (c) carry out its regular works and not deviate from its approved project unless during an emergency;
 - (d) notify the Authority as soon as practicable after starting any emergency works;
 - (e) submit detailed information and drawings of any emergency works to the Authority within sixty (60) days from starting said works for the Authority's approval in reasonable time;
 - (f) carry out a satisfactory test before notifying the Authority about the completion of the project's construction ;
 - (g) comply with all applicable environment, safety and health laws and regulations and Environment Impact Assessment licenses; and
 - (h) shall pay all necessary fees associated with this permit on a timely basis.
2. The Licensee is allowed to—
 - (a) construct and commission a pipeline or a storage depot—
 - (i) of the product and volume specified in this permit;
 - (ii) of the design specified in its approved project;
 - (iii) along the route or in the position specified in its approved project, including in relation to the seabed; and
 - (b) carry out works and do all other things in the location specified in this permit as are necessary for, or incidental to, the construction .
3. The Licensee is subject to liability under tort and the contract laws.
4. This permit is valid for five (5) years and may not be altered, revised, or modified, except with the consent of the project proponent.

FORM OF LICENCE	
Operating licence no.: xxxx/yyyy	
This operating licence is hereby granted under the Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 202X exclusively to the named Licensee to carry on midstream petroleum businesses as follows.	
Licensee:(full corporate name)	
Address:(full corporate address)	
Expiry date:(dd-mm-yyyy of first expiry date)	
Renewal: (dd-mm-yyyy of new expiry date in case of renewal)	
Nature:(transportation pipeline or storage)	
Product:(crude oil or natural gas)	
Volume:(maximum pipeline or storage capacity)	
Location: (pipeline route or address of storage depot)	
Pipeline tariffs or storage charges: (if any)	

Terms and conditions

1. The Licensee shall—
 - (a) start operations within six (6) months from issuance of this licence, unless when an unforeseen circumstance arises;
 - (b) inform the Authority about an unforeseen circumstance that can delay the start of operations and may request an extension to the period of six (6) months mentioned above;
 - (c) comply with all applicable environment, safety and health laws and regulations;
 - (d) pay all necessary fees associated with this licence on a timely basis;
 - (e) notify the Authority as soon as practicable after starting any emergency works; and
 - (f) submit detailed information and drawings of any emergency works to the Authority within sixty (60) days from starting said emergency works for the Authority's approval in reasonable time.
2. The Licensee is allowed to—
 - (a) operate the pipeline or storage depot specified in this licence;
 - (b) operate any station, system, equipment, installation, and infrastructure associated with the pipeline or storage depot; and
 - (c) carry out works and do all such other things in the location specified in this licence as are necessary for, or incidental to, the operation.
3. The Licensee is subject to liability under tort and the contract laws.
4. This licence is valid for twenty-five (25) years and may not be altered, revised, or modified, except with the consent of the Licensee.

Date of issuance: (dd-mm-yyyy of issuance)

Signature:(Authority's representative)

APPLICATION FORM

This application is hereby submitted under the Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations 202x for the operation of a pipeline or storage depot as follows.

Midstream permit holder: (full corporate name)	
Address: (full corporate address)	
Nature: (transportation pipeline or storage)	

Product: (crude oil or natural gas)	
Volume: (maximum pipeline or storage capacity)	
Location: (pipeline route or address of storage depot)	
Construction permit: (number)	
Enclosed documents <i>(tick the boxes as appropriate)</i> <ul style="list-style-type: none"> <input type="checkbox"/> a declaration of the nominal capacity of the midstream pipeline or storage depot and the capacity that is available to Common Users. <input type="checkbox"/> copy of environmental liability policy <input type="checkbox"/> copy of construction integrity and quality certificate <input type="checkbox"/> copy of fee payment receipt <input type="checkbox"/> third party all risks insurance policy or a preliminary policy accompanied by an undertake to provide a third party all risk insurance policy within sixty (60) days after the date of the grant of a licence <input type="checkbox"/> organizational structure <input type="checkbox"/> local content plan <input type="checkbox"/> proposed tariff and methodology for Common Users <input type="checkbox"/> Electronic data files with Global Positioning System (GPS) latitude and longitude coordinates of the proposed pipeline route or the storage depot. <p>The electronic versions of the documents listed above shall be submitted in the form and manner prescribed by the Authority.</p> <p>Declaration</p> <ol style="list-style-type: none"> 1. I have read and understood the relevant sections of the Petroleum Act, 2019 and the Petroleum (Midstream Crude Oil and Natural Gas Pipeline and Storage Operations) Regulations, 202X and agree to abide by them. 2. I hereby certify that the information given above is to my knowledge true and accurate. 3. I understand that it is an offence to give false information in an application for an operating licence. 4. I commit to conduct an honest midstream petroleum business. 5. I acknowledge that our company shall only operate a pipeline or storage depot as approved by the Authority. 6. I acknowledge that our company shall not put a pipeline or storage depot into operation before obtaining a licence from the Authority. <p>Date: (dd-mm-yyyy)</p> <p>Signature: (Licensee's representative)</p>	

THIRD SCHEDULE

Regulations 4 (3), 6 (2), 9 (2), 10 (2), 11 (5) (h), 9 (17), 12 (2) (g), 12 (3), 12 (10), 15 (4), and 39 (3)

FEES

The Authority may update any and all fees from time in accordance with regulation 43, and the updated fees shall take effect on the day of their publication on the Authority's website or in the Gazette, whichever occurs first.

The Authority may update any and all fees from time in accordance with regulation 43, and the updated fees shall take effect on the day of their publication on the Authority's website or in the Gazette, whichever occurs first.

Regulation	Description	Fee (KSh.)
4(3)	Approval for reconnaissance studies	500,000.00
6(2)	Authorisation for midstream projects	1,000,000.00
9(2)	Construction permit	2,000,000.00
10(2)	Operating licence	2,000,000.00
11(5)(h)	Approval to use common facilities	500,000.00
9 (17)	Renewal of construction permit	1,000,000.00
12(2)(g)	Renewal of operating licence	1,000,000.00
12(3)	Renewal of approval to use common facilities	500,000.00
12(10)	Amendment of permits, licences and approvals	500,000.00
15(4)	Replacement of permits and licences	100,000.00
39(3)	Access to register of licences and permits	15,000.00

FOURTH SCHEDULE

Regulations 6 (7), 15 (4), 25 (3), 27 (6), 31 (5), 31 (9) and 33 (2)

OFFENCES AND PENALTIES

The Cabinet Secretary may update any and all penalties from time in accordance with regulation 43, and the updated penalties shall take effect on the day of their publication on the Authority's website or in the Gazette, whichever occurs first.

Regulation	Offence	Penalty (KSh.)
6(7)	Undertaking a midstream pipeline or storage project without authorisation	No less than 10,000,000.00
15(4)	Failure to display a licence or permit	No more than 1,000,000.00
25(3)	Obstruction, encroachment, squatting or interference with land	No less than 1,000,000.00
27(6)	False or misleading information to increase a ceiling tariff	No more than 10,000,000.00
31(5)	Failure to give access to Licensee's premises or documents during inspection	No less than 10,000,000.00
31(9)	Failure to give access to midstream permit holder's premises or documents during inspection	No less than 10,000,000.00
33(2)	General offence	No less than 5,000,000.00

FIFTH SCHEDULE

Regulations 11 (2), (3), and (4)

A Common User Facility Licensee shall enter into a service agreement with Users and shall, on the minimum, contain the following provisions as prescribed by Regulation 11(2), (3) and (4) of these Regulations –

Licensee obligations and responsibilities.
Users' obligations and responsibilities
Ownership of products and custodial responsibilities
Processes and responsibilities for settlement of payments due to Kenya Revenue Authority and any other statutory payments levied on products
Procedures for receipt of products including receipt scheduling, quantity measurements, product quality specifications and certification
Procedures for coordination and scheduling of products deliveries
Stock accounting procedures, including measurements, stock variances, and reporting
Allowable stock losses for each logistics service contracted
Product quality management including standards, specifications, methods for determination
Procedures for handling off-specification products and dispute resolution process
A list of tariffs for each logistics service offered, billing, and payments
Process for handling disputes and claims
Situations constituting Force Majeure.
Procedures for governing facility access, security, safety, environment, and hygiene

The electronic versions of the documents listed above shall be submitted in the form and manner prescribed by the Authority

GAZETTE NOTICE NO. 9273

THE PETROLEUM ACT

(No. 2 of 2019)

IN EXERCISE of the powers conferred by Section 101 of the Petroleum Act No. 2 of 2019, the Cabinet Secretary for Energy and Petroleum makes the following Regulations –

THE PETROLEUM (MARINE REFUELLING) REGULATIONS, 2025

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Petroleum (Marine Refueling) Regulations, 2025.

Interpretation

2. In these Regulations, unless the context otherwise requires –

“Adulterated petroleum” means a refined grade of petroleum product mixed with another petroleum grade or a miscible solvent, thereby altering the product specifications and performance standards;

“Agent” means a person appointed in writing by the Authority to perform any of its functions;

“Authority” means the Energy and Petroleum Regulatory Authority established under Section 9 of the Energy Act No. 1 of 2019;

“Cabinet Secretary” means Cabinet Secretary responsible for Petroleum appointed in accordance with Article 152 of the Constitution of Kenya, 2010.

“Certificate” means a document issued by the Authority that serves as proof that the holder has met set requirements;

“Class” in relation to contract works, means any of the tiers of contract works set out in the Third Schedule of the National Construction Authority Act Chapter 449A in respect of which a contractor may be licensed by the National Construction Authority;

“Contractor” means a person registered under Section 15 of the National Construction Authority Act Chapter 449A;

“Consumer” means any person who is supplied or entitled to be supplied with petroleum;

“County Government” has the meaning assigned to it in Article 176 of the Constitution;

“Designated Dock or Wharf” means a specific, officially assigned location where Petroleum Marine Transporataion Vessels can be moored while not in operation

“Designated Marine Refuelling Location” means a specific location officially assigned exclusively to an operator of either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel for operations;

“EMCA” means the Environmental Management and Coordination Act No. 8 of 1999;

“Emergency Response Plan” means a documented set of procedures and instructions designed to mitigate the cause and effects of incidents or accidents involving petroleum, such as spills, fires, explosions, or leaks.

“Energy Act” means the Energy Act No. 1 of 2019;

“Engineer” means a person registered as such under Section 16 of the Engineers Act No. 43 of 2011;

“Environment Liability Policy” means a statement of commitment by a party to the laws, regulations and other policy mechanisms concerning environmental issues;

“Inboard Engine” means a propulsion system for boats comprising an engine, gearbox, and propeller unit mounted internally;

“KCGS” or Kenya Coast Guard Service is a specialized maritime force of the Republic of Kenya, responsible for law enforcement on national waters, including on the oceans, lakes and rivers. The force is mandated to maintain maritime safety, security, pollution control and sanitation.

“KEBS” or “Kenya Bureau of Standards” means a body corporate established under the Standards Act CAP 496 responsible for promotion of the standardisation of the specification of commodities, and provision for the standardisation of commodities and codes of practice;

“KEFS” or “Kenya Fisheries Service” means a body corporate established under the Fisheries Management and Development Act CAP 378 responsible for the conservation, management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing;

“KFS” or “Kenya Forest Service” means a body corporate established under the Forest Conservation and Management Act CAP

385 responsible for the deveoplement and sustainable management including conservation and rational utilization of all forest resources for the socio-economic development of the country and for connected purposes;

“KMA” or “Kenya Maritime Authority” means a body corporate established under the Kenya Maritime Authority Act CAP 370 responsible for monitoring, regulating and coordinating activities in the maritime industry;

“KMFRI” or Kenya Marine Fisheries Research Institute is a State Corporation established in 1979 by the Science and Technology Act, Cap 250 mandated to undertake research in marine and freshwater fisheries, aquaculture, environmental and ecological studies in order to provide scientific data and information for sustainable development of the Blue Economy

“KPA” or “Kenya Ports Authority” means a body corporate established under the Kenya Ports Authority Act CAP 391 responsible for maintaining, operating, improving and regulating all scheduled seaports under act;

“Kenya Standard” means a specification or code of practice declared by the Council under the Standards Act;

“KWS” or “Kenya Wildlife Service” means a body corporate established under the Wildlife Conservation and Management Act CAP 376 responsible for the protection, conservation and management of wildlife in Kenya;

“Licence” means a document granted under the Petroleum Act by the Authority to a person authorizing the sale and transport of petroleum;

“Licensee” means a holder of any licence issued under these regulations;

“Licensing Authority” means a body corporate, including the Authority, with powers to grant, revoke or suspend a licence issued under the Petroleum Act;

“Marine Refuelling Business” means a concern carrying out the sale of petroleum products from either an Onshore Marine Refuelling Facility or a Marine Refuelling Vessel

“Marine Refuelling Vessel” means a vessel dispensing site or premises where petroleum is received and stored in bulk in one or more tanks and dispensed to consumers for their own use;

“Marine Refueling Service” means the retail and dispensing of petroleum products from either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel;

“Ministry” means the Ministry for the time being responsible for petroleum in Kenya;

“Modification” means any change in the facility that alters the existing technical design, storage capacity or impacts on compliance with local environmental, health and safety requirements or any change requiring County Government approval;

“NEMA” or “National Environment Management Authority” means the body responsible for the management of the environment as established under the Environmental Management and Coordination Act, 1999;

“NCA” or “National Construction Authority” means the body responsible for the accreditation and certification of skilled construction workers and construction site supervisors as established under the National Construction Authority Act Chapter 449A;

“Non civilian” means natural or juridical persons who are part of the military or government agencies involved in defense and security.

“Onshore Marine Refuelling Facility” means an onshore retail dispensing site or premises where petroleum is stored in bulk in one or more tanks and dispensed to consumers for their own use.

“Outboard Engine” means a propulsion system for boats comprising an engine, gearbox, and propeller unit mounted externally;

“OSHA” means Occupational Safety and Health Act 2007

“Permit” means an authorization document granted to a person to enable the carrying out of any activity in the petroleum marine business in accordance to these regulations

“Person” means any natural or juridical person; “Petroleum Act” means the Petroleum Act No. 2 of 2019;

“Petroleum business” means a concern carrying out the sale or transport of petroleum;

“Petroleum Marine Transportation Business” means a concern to carry on the transportation of petroleum by marine vessel within Kenya’s inland and coastal waters for the purposes of supplying marine refuelling vessels or onshore marine refuelling facilities;

“Petroleum Marine Transport Vessel” means a boat that transports petroleum within Kenya’s inland and coastal waters for the purposes of supplying marine refuelling vessels or onshore marine refuelling facilities;

“Skipper” means a person who captains a marine refuelling vessel or a petroleum marine transport vessel;

“Specifications” means a description of any commodity by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age or other characteristics, or to any substance or material of or with which, or the manner in which, any commodity may be manufactured, produced, processed, treated, tested or sampled;

“Spill Containment System” is a set of structures and devices designed to prevent, control, and mitigate the spread petroleum products to minimise environmental contamination and safety risks.

“Third parties” means other petroleum business licensees and their agents carrying out business with a licensee

“Tribunal” means the Energy and Petroleum Tribunal established under Section 25 of the Energy Act;

“WRA” or “Water Resources Authority” means The state corporation established under Section 11 of the Water Act (Cao. 372) with the mandate of regulating the management and use of water resources in Kenya.

Application

3. Unless otherwise stated, these Regulations shall apply to;

- (a) the construction and licencing of petroleum marine facilities;
- (b) the storage, trade, transportation, and dispensing of petroleum products to fuel Marine Vessels within Kenya’s inland and coastal waters;

4. Except as otherwise provided, these Regulations shall not apply to –

- (a) Petroleum contained in a marine vessel for consumption by the vessel’s engine;
- (b) Petroleum transported in containers whose combined volume does not exceed five hundred (500) litres for consumption by the vessel’s engine;
- (c) Marine petroleum tankers involved in the import and export of petroleum products;
- (d) Ships as defined under the Merchant Shipping Act CAP 389; and
- (e) Non civilian application;

PART II –CONSTRUCTION PERMITS FOR ONSHORE MARINE REFUELING FACILITIES, MARINE REFUELING VESSELS, AND PETROLEUM MARINE TRANSPORT VESSELS

Construction Permit

5. (1) A person shall not undertake construction works or modification of an Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel except in accordance with the terms and conditions of a valid Construction Permit issued by the Authority under the Petroleum Act;

(2) The Authority may direct a person to cease the construction of an Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel where –

- (a) the construction is being undertaken without a valid Construction Permit issued by the Authority;

(b) the construction is in breach of the terms and conditions set forth by the Authority; or

(c) the approval of the Construction Permit was based on false information or forged documents.

(3) A person who undertakes the construction of an Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel without a valid Construction Permit issued by the Authority commits an offence and is liable on conviction to the fines and penalties set out in the Eighth Schedule.

Application for a Construction Permit

6. (1) A person who wishes to construct an Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel shall apply for a Construction Permit to the Authority in the prescribed manner.

(2) An application under sub-regulation (1) and as set out in Part I of the First Schedule, shall be accompanied by:-

- (a) a copy of the detailed engineering designs and specifications prepared by a professional engineer or firm(s) registered as such;
- (b) the engineering designs in sub-regulation (2)(a) shall, at the minimum, take into consideration the provisions of the relevant Kenya Standards for Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel;
- (c) a priced bill of quantities prepared by the respective class of Engineers;
- (d) an outline of the methods of financing the project;
- (e) proof of ownership of the land on which the Onshore Marine Refuelling Facility is to be built or ownership of the Marine Refuelling Vessel or Petroleum Marine Transport Vessel;
- (f) for Onshore Marine Refuelling Facilities a letter of allotment from the relevant Authority in case the title deed is yet to be issued;
- (g) for Onshore Marine Refuelling Facilities a duly registered lease for a minimum period of five (5) years shall be provided in case the title deed is not in the name of the entity undertaking the development;
- (h) an approved Environmental and Social Impact Assessment licence issued by NEMA;
- (i) an approval from the relevant County Government;
- (j) relevant permits, licences or approvals as the case may be from KMA, KPA, WRA, KeFS, KFS and KWS authorizing the construction of either Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel
- (k) an environment liability policy; and
- (l) any other document that may assist the Authority to make proper determination on the application.

(3) The application in sub-regulation (1) shall be accompanied by proof of payment of the prescribed fees set out in the Sixth Schedule.

Form and Validity of a Construction Permit.

7. (1) A Construction Permit for an Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel shall be in the form set out in Part II (A) , Part II(B) and Part II(C) of the First Schedule.

(2) Where no construction works have commenced after issuance of a Construction Permit, the permit shall be valid for a period of twelve (12) months from the date of issue or until such date of extension as allowed by the Authority shall expire.

(3) Where construction works have commenced within the validity period of the permit, the Construction Permit shall be valid for a maximum period of thirty-six (36) months from the date of issue.

(4) The Construction Permit holder may make an application for extension of the validity period by providing documents as required by the Authority.

(5) The extension of the validity period of a Construction Permit shall be to a maximum of –

- (a) six(6) months where construction works have not commenced; and
- (b) twenty-four (24) months where construction works have commenced.

(6) A Construction Permit holder shall be required to make a fresh application where the Construction Permit cannot be extended further as provided for in sub-regulation (5).

Determination of application for a Construction Permit.

8. (1) The Authority shall determine an application for a Construction Permit within forty-five (45) days of receipt of such an application;

(2) Provided that the application is materially complete, does not offend the provisions of any written law and meets the prescribed requirements, the Authority may grant a Construction Permit to the applicant;

(3) The Authority may, prior to making a determination to grant a Construction Permit, take into consideration suitability of the site after due assessment;

(4) The Construction Permit issued under sub-regulation (2) shall contain such terms and conditions that the Authority may deem fit based on the site location and scale of the project;

(5) The Authority shall, prior to issuing the permit, notify the applicant of the nature of the terms and conditions proposed to be imposed in the construction permit;

(6) The applicant shall within thirty (30) days of receiving a notification of the nature of the conditions proposed to be imposed, give a written undertaking to the Authority that as the permit holder, the applicant shall abide by the stipulated terms and conditions of the Construction Permit;

(7) The undertaking in sub-regulation (6) shall be in the format prescribed in Part I, Part II and Part III of the Second Schedule;

(8) The Authority shall only issue the Construction Permit once the applicant has executed the undertaking in sub-regulation (6) failing which any Construction Permit granted shall be null and void;

(9) The Authority shall reject an application under these Regulations where the application does not meet the requirements for granting a Construction Permit;

(10) The Authority shall notify the applicant of such rejection in sub-regulation (9), specifying the reasons thereof within seven (7) days of such rejection;

(11) Where the rejection in sub-regulation (10) relates to –

(a) incomplete information, the applicant may make a fresh application providing the requisite information or documents; and

(b) the unsuitability of the site, the decision of the Authority shall be final and if the applicant is not satisfied with the Authority's decision, they may appeal to the Tribunal;

Obligations of a Construction Permit holder.

9. (1) In undertaking construction of an Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel, the Construction Permit holder shall –

- (a) comply with the terms and conditions of the Construction Permit as stipulated by the Authority;
- (b) as applicable, engage only contractors who are licensed by the National Construction Authority (NCA), Kenya Maritime Authority (KMA) and the Kenya Ports Authority (KPA) for their class of work;
- (c) ensure that the construction project is supervised by a practising Professional Engineer;
- (d) comply with the Environmental Impacts Mitigation Plan approved by NEMA;
- (e) comply with Government policy on local content; and

(f) comply with directions issued by the Authority from time to time;

Compliance with Statutory Obligations

10. (1) The Construction Permit holder shall, notwithstanding anything contained in the permit, comply with the provisions of the Petroleum Act and all other written laws.

PART III – LICENCING OF ONSHORE MARINE REFUELING FACILITIES AND MARINE REFUELING VESSELS

Licensing of Onshore Marine Refuelling Facilities and Marine Refuelling Vessels

11. (1) A person shall not sell or store petroleum products on either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel without a valid licence issued by the Authority under the Petroleum Act.

(2) A person who undertakes the business of selling or storing of petroleum products on either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel without a valid licence commits an offence and shall on conviction be liable to the fines and penalties as set out in the Eighth Schedule.

Application for Licence to operate Onshore Marine Refuelling Facilities and Marine Refuelling Vessels

12. (1) A person wishing to apply for a Licence to operate an Onshore Marine Refuelling Facility or Marine Refuelling Vessel shall do so in the prescribed manner and the application shall be accompanied by the documents set out in the Part I of the Third Schedule.

(2) The application in sub-regulation (1) shall also be accompanied by:

(a) Proof of payment of the applicable fees as set out in the Sixth Schedule; and

(b) An environment liability policy in the form set out in the Seventh Schedule.

(3) The Authority may request for additional documents to enable satisfactory review of the licence application.

(4) The Authority shall review an application for a Licence to operate an Onshore Marine Refuelling Facility or Marine Refuelling Vessel within thirty (30) days of receipt.

(5) Provided that the application is materially complete, does not offend the provisions of any written law, and meets the prescribed requirements, the Authority may grant a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel to the applicant.

(6) The Authority shall reject an application under these Regulations where the application does not meet the requirements for granting a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel.

(7) Where the Authority rejects an application for the grant of a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel, the Authority shall give the applicant reasons for the refusal in writing within seven (7) days of such rejection.

Form and Duration of a Licence to operate an Onshore Marine Refuelling Facility or Marine Refuelling Vessel

13. (1) A Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel shall be in the form set out in Part I and Part II of the Fifth Schedule respectively.

(2) A Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel shall be valid for the period of one year shall be subject to such conditions as the Authority may prescribe.

(3) Notwithstanding sub-regulation (2), the Authority may at any time suspend or revoke a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel if the licensee commits breach of the Petroleum Act, these Regulations or the conditions of the Licence.

(4) Unless otherwise specified in the a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel, the

Authority may give a licensee fourteen (14) days' notice to show cause why the licence should not be suspended or revoked.

(5) The Authority shall determine the matter in sub-regulation (4) within thirty (30) days from the date of expiry of the notice period.

(6) The suspension or revocation of a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel shall not indemnify the licensee from any penalties for which the licensee may have become liable under the Petroleum Act or any other written law.

Renewal of a Licence to operate an Onshore Marine Refuelling Facility or Marine Refuelling Vessel

14. (1) An application for renewal of a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel shall be made to the Authority at least thirty (30) days before the expiry date.

(2) The application in sub-regulation (1) shall be accompanied by the documents set out in the Fourth Schedule and proof of payment of the prescribed fees as set out in the Sixth Schedule.

(3) Where an application for renewal is made thirty (30) days before expiry, and the Authority has not made a determination by the date of expiry, the Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel shall be deemed to be valid until a determination on the application for renewal is made.

Amendment of a Licence to operate an Onshore Marine Refuelling

15. (1) A person may make an application for amendment of a Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel.

(2) A licence may be amended where –

Facility or Marine Refuelling Vessel

- (a) the details captured are erroneous;
- (b) there is a change in the licence details that were unforeseen at the time of making the application.

(3) The reason for amendment in sub-regulation (2) shall not include transfer of an Onshore Marine Refuelling Facility or Marine Refuelling Vessel business or change in control.

(4) An application under sub-regulation (1) shall be submitted in the prescribed manner as set out in Part IV of the Third Schedule

(5) An application for amendment shall be accompanied by the prescribed fees as set out in the Sixth Schedule.

(6) A Licence to operate either an Onshore Marine Refuelling Facility or Marine Refuelling Vessel amended under these Regulations shall retain the existing expiry date.

(7) A Licence to operate either Onshore Marine Refuelling Facility or Marine Refuelling Vessel amended under sub-regulation (6) shall contain the word "Amended".

Obligations of the Licensee.

16. (1) A licensee authorized to operate an Onshore Marine Refuelling Facility or Marine Refuelling Vessel shall –

- (a) sell petroleum products specified in the licence;
- (b) purchase petroleum or petroleum products from a holder of a valid Petroleum Business Licence;
- (c) purchase or sell petroleum that meets KS EAS 158, KS EAS 177, any other relevant Kenya Standard or International Standard ratified by KEBS;
- (d) not offer for sale adulterated petroleum products or petroleum products meant for export;
- (e) shall display EPRA approved prices and adhere to the pricing guidelines set by the Authority;
- (f) ensure that the petroleum dispensing pumps are calibrated and provided with valid calibration certificates within the time period specified by law;
- (g) not under-dispense or sell petroleum products at prices above those determined by the Authority;

(h) not hoard petroleum products;

(i) ensure that the construction or operations of either Onshore Marine Refuelling Facility or Marine Refuelling Vessel comply with all applicable laws;

(j) institute appropriate environmental, health and safety control measures;

(k) Obtain consent from the Authority prior to transferring or otherwise divesting any rights, powers or obligations conferred or imposed upon the licensee by the licence or permit;

(l) Inform the Authority or its agents in writing of any changes of address or any other material particulars submitted as part of the application for the licence within thirty (30) days of the relevant change taking effect; and

(m) ensure compliance with petroleum road tanker, jetty or barge, discharge procedures to maintain quality of product and safety on the Onshore Marine Refuelling Facility or Marine Refuelling Vessel

(2) A person who fails to meet the conditions in sub-regulation (1) commits an offence and shall be liable to penalties specified in the Eighth Schedule and, where such an offence is not specifically listed, the general penalty specified under the Petroleum Act.

Suspension and Revocation of a Licence

17. (1) The Authority may at any time revoke or suspend a licence issued under the Petroleum Act and these Regulations if the licensee commits breach of the Petroleum Act, these Regulations, or the terms and conditions specified in the licence.

(2) Unless otherwise specified in the licence, the Authority may give the licensee fourteen days (14) days to show because why the licence should not be suspended or revoked setting out the specific breach.

(3) The Authority shall determine the matter in sub-regulation (2) within thirty (30) days from the expiry of the notice period.

(4) The Authority or its agent may reinstate a licence revoked or suspended under sub-regulation (1) if satisfied that the reasons for the revocation or suspension no longer exist.

(5) Any suspension or revocation of a licence shall not indemnify the licensee from any penalties for which the licensee may have become liable under the Petroleum Act or any other law.

(6) The Authority may publish a list of names of Onshore Marine Refuelling Facilities or Marine Refuelling Vessels which may have Designation and Location Requirements committed any offence under the Petroleum Act or of these Regulations.

Transfer of a Licence

18. (1) A licensee shall not transfer or otherwise divest any rights, powers, or obligations without the consent of the Authority as prescribed under Section 83 of the Petroleum Act.

(2) An application to transfer a licence shall be lodged in the form and manner prescribed by the Authority.

PART IV – MARINE REFUELLED OPERATIONS

Designation and Location Requirements

19. (1) Marine refuelling vessels shall –

(a) only be designated as such upon approval by the Authority;

(b) have its permanent location designated by a relevant State bodies;

(c) be exempted from (20) (1) (b) for the purposes of;

(i) replenishment of petroleum stocks from a licenced fuel loading facility

(ii) maintenance (iii) inspection and calibration

(iv) mitigation against adverse events such as natural calamities or security threats

(v) translocation authorized by the Authority

(d) maintain a minimum distance of 300 metres away from jetties, quay, pier jetty, wharf, dock, harbor, passenger embarkation areas, boat traffic routes, piers, and ecologically sensitive areas

such as mangroves, animal breeding sites, and protected areas, as designated by the relevant State bodies or agencies;

(e) maintain a minimum distance of 75 metres from the shore and at least 75 metres apart from each other; and

(f) with respect to (20) (1) (e) for inland waterways with a width of less than 150m, the minimum distance from the shore shall be half the width of the waterways at the point of location;

(g) The marine refuelling boats operator shall at all times ensure that the vessel is well anchored so as to prevent straying away.

(2) Onshore Marine refuelling facilities shall—

(a) only be designated as such upon approval by the Authority;

(b) maintain a minimum distance of 300 metres away from jetties, quay, pier jetty, wharf, dock, harbor, passenger embarkation areas, boat traffic routes, piers, and ecologically sensitive areas such as mangroves, animal breeding sites, and protected areas, as designated by the relevant State bodies or agencies;

(c) maintain a minimum distance of 150 metres apart from each other or any marine refuelling vessel;

(d) with respect to (20) (2) (c) for enclosed inland waterways with a shoreline of less than 150m, the minimum distance from another Onshore Marine refuelling facility shall be half the length of the shoreline;

(3) no marine vessels except for the purposes of refuelling shall be allowed to operate or be anchored within a designated marine refuelling location;

(4) no open ignition source shall be allowed within a designated marine refuelling location;

(a) smoking is prohibited on boats and vessels and in the dispensing area during fuelling.

(b) all open flames shall be extinguished; engines, motors shall be shut down; and all ports, windows, doors, and hatches shall be closed.

(5) Fuelling shall not take place at night except under the following conditions;

(a) well-lit conditions using intrinsically safe lighting equipment

(b) active emergency preparedness and response

Regulatory Compliance to Marine, Port and relevant Authorities

20. (1) Marine refuelling vessels shall;

(a) Comply with applicable requirements of the Merchant Shipping Act of 2019 and the Merchant Shipping (Vessel Safety) Regulations of 2012, Merchant Shipping (Vessel Licensing) Regulations of 2012, and in particular;

(i) Carry on board a valid Vessel License,

(ii) Carry on board a valid Local Safety Certificate,

(iii) Carry on board a valid insurance cover.

(b) Be constructed from materials that do not react or deteriorate when in contact with fuels or oils,

(c) As much as applicable maintain oil spill contingency plan and equipment;

(d) Provide within the vessel a sludge tank or a means to collect oil spillage and water run offs,

(e) crew competency in firefighting and oil spill containment.

Refuelling Operations and Safety Measures

21. (1) refuelling shall only be permitted in designated refuelling locations and using storage tanks conforming to Kenya Standards or provided as part of the marine outboard engine by the marine outboard engine manufacturer

(2) A designated refuelling area shall either be;

(a) A marine refuelling vessel at its designated location

(b) An onshore marine refuelling facility

(c) A marine vessel propelled by a marine outboard engine not carrying passengers conveying petroleum products from a fuel storage container to the outboard engines fuel storage tank via a hand-crank fuel pump through a petroleum grade hose.

(3) With regard to (22) (2) (c);

(a) the fuel storage containers must be securely stored in a designated section of the marine vessel isolated from passengers, other cargo and direct sunlight, rain or water ingress.

(b) At the point of refuelling all passengers must disembark from the marine vessel

(4) When refuelling, the fuel vendor shall follow the below basic procedures as a minimum;

(a) ensure that the marine vessel being refuelled is moored next to the marine refuelling vessel or onshore refuelling facility and remains stable throughout the refuelling process.

(b) ensure that the retail dispensing pump(s) and equipment is suitable for operations in marine environment as per KS EAS 977, any other relevant Kenya Standard or International Standard ratified by KEBS;

(c) ensure that the hoses from the dispenser to the dispensing nozzle meets the KS EAS 977, KS EAS 978 and any other relevant Kenya or international Standards in particular the length, material and safety provisions;

(d) prior to fuelling, ensure that the engine of the vessel being fuelled is turned off and there are no signs of leaks from the tanks or fuel lines.

(e) supply an absorbent cloth or a fuel catch to prevent spillage of fuel from the dispensing nozzle prior to and after refuelling

(f) to avoid and manage any build up of static electricity during the refuelling process, the dispensing nozzle must be kept in contact with the fuel tank being refilled.

(5) dosing of fuel with engine lubricant shall be done on the marine vessel as per manufacturer's recommendations prior to refuelling.

(6) The Marine Refueling Vessel or Onshore Marine Refueling Facility must display clear legible instructions printed in red capital letters on a white background. These signs shall be prominently posted in the dispensing area and shall provide specific guidelines for "Before Fueling," "During Fueling," and "After Fueling."

Environmental Protection Measures

22. (1) Any person licenced to provide Marine Refueling Services shall implement pollution control measures, including:

(a) installation of Spill Containment Systems;

(i) for above ground storage at Onshore Marine Refuelling Facilities, spill containment shall include bund systems;

(ii) for Marine Refuelling Vessels, spill containment shall include double walled hulls in the vessel design and a boom system permanently placed around the vessel; and

(iii) provide a product recovery system to collect oil spillages and contaminated fuel such as an oil water separator compliant with effluent discharge requirements as set by EMCA (Water Quality Regulation, 2024).

(b) provision of oil-absorbent materials and spill kits for emergency use during refuelling;

(c) shall secure spill containment booms, absorbent material, and other weather-sensitive equipment under his ownership;

(d) implementing proper waste management measures, including:

(i) proper procedures must be in place for the handling, storage, and disposal of hazardous wastes, including used oil and contaminated materials as required under Environmental Management and Coordination Act (Waste Management Regulation, 2024); and

(ii) providing adequate facilities for the disposal of waste associated with marine refuelling from refuelled vessels to prevent marine pollution as provided under Environmental Management and Co-ordination Act (Waste Management Regulation, 2024)

(e) conduct water quality tests for monitoring purposes on annual basis or post remediation as provided under Environmental Management and Coordination Act (Water Quality Regulation, 2024).

Safety

23. (1) Any person licenced to provide Marine Fueling Services shall comply with all provisions of the Occupational Safety and Health Act 2007 and any subsequent legislation. The licensee shall;

(a) establish, implement and maintain an Emergency Response Plan

(b) conduct safety drills at least annually

(c) comply with fire risk reductions rules

(d) maintain and replenish first aid kit

(2) provide visible and audible high level alarm for monitoring fuel levels in the fuel storage tanks on the Marine Refuelling Vessel or Onshore Marine Refuelling Facility

(3) The Marine Refuelling Vessels shall have suitably designed energy absorbing fenders system on the side

(4) Onshore Marine Refuelling Facilities or Marine Refuelling Vessels;

(a) shall be fitted with safety warning signages and placards indicating the risk levels, zoning and hazards as set out in the Ninth Schedule

(b) shall be of a unique colour as set out in the Ninth Schedule

(c) shall be fitted with strobe lights of colour and flashing pattern as set out in the Ninth Schedule

(d) Shall be equipped with a radio communication device as prescribed by the Merchant Shipping Radio Communications Regulations 2012 or any other subsidiary regulations

(e) The operators shall at all times adhere to the safety and weathers alerts from relevant State bodies.

(5) An attendant or supervisor shall be on-duty at all times when the vessel is offshore and be responsible for supervising, observing, or controlling the dispensing of petroleum products.

(6) The person in sub-regulation (5) shall;

(a) Be familiar with the dispensing system and emergency shutoff controls.

(b) Ensure the marine craft is properly moored and all connections are made.

(c) Prevent the filling of petroleum products into non-compliant portable containers.

(d) Be within 2 metres of the dispensing controls during the fuelling operation; and

(e) Maintain a direct, clear, unobstructed view of both the vessel fuel filler neck and the emergency fuel shutoff control.

Training

24. The boat owners shall designate, train, and certify operators as required by KMA regulations.

PART V—PETROLEUM MARINE TRANSPORTATION BUSINESS LICENCE

Requirement for Licence

25. (1) A person shall not carry out the business of transportation of petroleum by Marine Vessel except in accordance with a licence issued under the Petroleum Act and these Regulations.

(2) A person who undertakes the business of transportation of petroleum by a Marine Vessel without a valid licence commits an offence and shall on conviction be liable to the fines and penalties as set out in the Eighth Schedule.

Application for Licence

26. (1) A person who intends to carry out the business of transportation of petroleum by a Marine Vessel shall make an application to the Authority for a licence in the prescribed manner.

(2) The application in sub-regulation (1) shall be accompanied by the documents listed in the Part I of the Third Schedule..

(3) The Authority may from time to time request for additional documents to those listed in the Part I of the Third Schedule..

(4) The application in sub-Regulation (1) shall be accompanied by the fees set out in the Sixth Schedule.

(5) The Authority shall review an application submitted under sub-regulation (1) within thirty (30) days of receipt.

(6) Provided that the application is materially complete, does not offend the provisions of any written law and meets the prescribed requirements, the Authority, upon consideration of the application, may grant a Petroleum Marine Transportation Business Licence without conditions or subject to such conditions as the Authority may deem fit.

(7) The Authority shall reject an application where such an application fails to meet the requirements for granting of a Petroleum Marine Transportation Business Licence.

(8) Where the Authority rejects an application for a Petroleum Marine Transportation Business Licence, the Authority shall give the applicant reasons for the rejection in writing within seven (7) days of such rejection.

Environment Liability Policy

27. An application for a Petroleum Marine Transportation Business Licence shall be accompanied by an Environment Liability Policy in the format set out in the Seventh Schedule.

Form and duration of licence

28. (1) A Petroleum Marine Transportation Business Licence shall be in the format set out in the Part III of the Fifth Schedule.

(2) The licence in sub-regulation (1) shall contain such conditions as may be determined by the Authority from time to time.

(3) A licence issued under these Regulations shall be valid for the period of one year

Renewal of licence

29. (1) An application for renewal of a Petroleum Marine Transportation Business Licence shall be made to the Authority at least thirty (30) days prior to the expiry date.

(2) An application for renewal in sub-regulation (1) shall be made in the prescribed format and shall be accompanied by the documents set out in the Fourth Schedule and proof of payment of the prescribed fees as set out in the Sixth Schedule.

Obligations of Marine Transportation Business licensees

30. (1) In carrying out Petroleum Marine Transportation Business, a licensee shall —

(a) transport petroleum products specified in the licence that meet the Kenya Standard;

(b) ensure that the business complies with the requirements of the Petroleum Act and all other applicable laws;

(c) transport petroleum for persons who hold valid Petroleum Business Licences issued under the Petroleum Act;

(d) load petroleum from logistics facilities licensed under the Petroleum Act;

(e) discharge petroleum only to licensed Marine Refuelling Vessels or Onshore Marine Refuelling Facilities, or to end-users for own consumption

(f) ensure that all marine vessels used in the transportation of petroleum have valid Petroleum Marine Transport Vessel Permits issued by the Authority;

(g) ensure that the marine vessels used in the transportation of petroleum are piloted by persons in possession of valid Skipper Certificates issued under this regulation;

(h) ensure that there is an Emergency Response Plan that meets the criteria set by the Authority;

- (i) implement regular pre-loading Petroleum Marine Transport Vessel inspection in accordance with a checklist approved by the Authority from time to time;
- (j) ensure that the provisions of these Regulations and the conditions of the licence and Petroleum Marine Transport Vessel permits are known to, and understood by all persons employed in or about the licensed premises or the petroleum marine vessels;
- (k) ensure that unauthorized persons do not have access to the Petroleum Marine Transport Vessels.
- (l) Ensure no passenger shall be allowed to board the Petroleum Marine Transport Vessels.
- (m) Petroleum Marine Transport Vessels;
 - (i) shall be fitted with safety warning signages and placards indicating the risk levels, zoning and hazards as prescribed by the Authority on the Ninth Schedule
 - (ii) shall be of a unique colour as prescribed by the Authority on the Ninth Schedule
 - (iii) shall be fitted with strobe lights of colour and flashing pattern as prescribed by the Authority on the Ninth Schedule
 - (iv) Shall be equipped with a radio communication device as prescribed by the Merchant Shipping Radio Communications Regulations 2012 or any other subsidiary regulations
 - (v) the operators shall at all times adhere to the safety and weather alerts from relevant State bodies.
 - (vi) Shall have signage, placards reflective tapes and chevrons mounted as prescribed by the Authority on the Ninth Schedule

(2) A petroleum marine transportation business licensee who fails to comply with the requirements listed in sub-regulation (1) commits an offence and shall on conviction be liable to the fines and penalties set out in the Eighth Schedule.

Journey Plans

31. (1) A Petroleum Marine Transportation Business licensee shall ensure that a Journey Plan duly signed by the licensee or the authorized representative accompanies each petroleum delivery.

(2) The Journey Plan in sub-regulation (1) shall specify the:

- (a) registration number of the marine vessel;
- (b) date and time of travel;
- (c) type of cargo on board;
- (d) name and national identification card number of the skipper;
- (e) name of the authorizing officer;
- (f) route of travel, designated stopping and resting points;
- (g) maximum allowed continuous piloting time by an individual skipper which shall not exceed four (4) hours;
- (h) rest period after continuous piloting, which shall not be less than thirty (30) minutes;
- (i) combined piloting hours including rest period(s) shall not exceed ten (10) hours in any twenty-four (24) hour period

PART VI- PETROLEUM MARINE TRANSPORT VESSEL PERMIT

Prohibition against use of petroleum marine transport vessel without permit

32. (1) A person shall not use or cause to be used a Petroleum Marine Transport Vessel for transportation of petroleum on inland and coastal waters unless it is in possession of a valid Petroleum Marine Transport Vessel Permit issued under the Petroleum Act.

(2) A person who operates or causes to be used a petroleum marine vessel without a valid permit shall commit an offence and shall on conviction be liable to the fines and penalties set out in the Eighth Schedule.

Application for a permit

33. (1) A person intending to use or cause to be used a Petroleum Marine Transport Vessel shall apply to the Authority for a permit in the prescribed manner accompanied by the documents listed in Part IV of the Fifth Schedule.

(2) The application in sub-regulation (1) shall be accompanied by the fees set out in the Sixth Schedule.

(3) The Authority shall review an application submitted under sub-regulation (1) within thirty (30) days of receipt.

(4) The Authority shall reject an application for a Petroleum Marine Transport Vessel Permit where such an application does not meet the requirements.

(5) Where the Authority rejects an application for a Petroleum Marine Transport Vessel Permit, the Authority shall give the applicant reasons for the rejection in writing within seven (7) days of such rejection.

Form and duration of permit

34. (1) A person applying for a Petroleum Marine Transport Vessel Permit shall be guided by the requirements set out in Part II of the Third Schedule

(2) A Petroleum Marine Transport Vessel Permit shall be in the format set out in Part IV of the Fifth Schedule

(3) The permit in sub-regulation (1) shall be valid for the period specified in the permit.

Renewal of a Permit

35. (1) An application for renewal of a permit shall be made to the Authority at least thirty (30) days prior to the expiry date.

(2) An application for renewal in sub-regulation (1) shall be in the prescribed manner and shall be accompanied by the documents set out in Part II of the Third Schedule.

(3) The application in sub-regulation (1) shall be accompanied by proof of payment of the fees as set out in the Sixth Schedule.

Vessel tracking

36. (1) A licensed Petroleum Marine Transport Vessel shall be equipped with a properly functioning vessel tracking device with a Global Positioning System (GPS) capable of generating reports of distance, location and speed.

(2) The reports in sub-regulation (1) shall be availed to the Authority whenever required.

(3) Evidence of installation of the tracking system in sub-regulation (1) shall be provided as part of the requirements for licence application as specified in the Part II of the Third Schedule.

Designated Dock or Wharf

37. (1) A person shall not cause a Petroleum Marine Transport Vessel to be berthed or anchored in an area other than a designated dock or wharf.

(2) Where a Petroleum Marine Transportation Business licensee has developed an exclusive dock or wharf for their Petroleum Marine Transport Vessel(s), the licensee shall ensure that it is constructed in a manner such as to minimize impacts on safety, health and the environment.

(3) No person shall cause a Petroleum Marine Transport Vessel to be docked within one hundred (100) metres from a residential area.

Designated Dock or Wharf

38. (1) A dock or wharf for Petroleum Marine Transport Vessels shall:

- (a) only be designated as such upon approval by the Authority;
- (b) have its location designated by a relevant State bodies or County Governments;
- (c) be located at a minimum distance of;
 - (i) 500 metres away from jetties, quay, pier jetty, wharf, dock, harbor, passenger embarkation areas, boat traffic routes, piers, and

ecologically sensitive areas such as mangroves, animal breeding sites, and protected areas, as designated by the relevant State bodies or agencies;

- (ii) 500 metres from an onshore marine refueling facility
- (iii) 500 metres from an marine refueling vessel
- (iv) 200 metres from one another

(d) with respect (39) (1)(c) for inland waterways with shore lengths of less than the distances specified, the minimum distances shall be half the length of the waterways at the point of location;

39. (1) no marine vessels except for Petroleum Marine Transport Vessels shall be allowed to operate or be anchored within a designated dock or wharf.

40. (1) No open ignition source shall be allowed within a designated dock or wharf and:

- (a) smoking shall be prohibited on boats, vessels and in the designated dock or wharf;
- (b) all open flames shall be extinguished;
- (c) engines and motors shall be shut down and all electrical ports, windows, doors, and hatches shall be closed.

41. (1) All designated docks or wharfs shall be;

(a) well marked with bouys and strobe lights as set out in the Ninth Schedule

(b) well lit using intrisically safe lighting equipment

Skipper Certificate

PART VII – SKIPPER CERTIFICATION

Skipper Certificate

42. (1) A person shall not pilot a Petroleum Marine Transport Vessel unless he is in possession of a valid Skipper Certificate

(2) A person who pilots A Petroleum Marine Transport Vessel without a valid Skipper Certificate commits an offence and shall on conviction be liable to the fines and penalties as set out in the Eighth Schedule.

Application for Certificate

43. (1) A person who intends to pilot a Petroleum Marine Transport Vessel shall make an application to the Authority for a Skipper Certificate in the prescribed manner as set out in Part V of the Fifth Schedule.

(2) The application in sub-regulation (1) shall be accompanied by the documents listed in Part III of the Third Schedule and the fees set out in the Sixth Schedule.

(3) The Authority may from time to time request additional documents to those listed in the Part III of the Third Schedule.

(4) The Authority shall review an application submitted under sub- regulation (1) within thirty (30) days of receipt.

(5) The Authority shall reject an application where such an application fails to meet the requirements for granting a Skipper Certificate.

(6) Where the Authority rejects an application for a Skipper Certificate, the Authority shall give the applicant reasons for the rejection in writing within seven (7) days of such rejection.

Form of Certificate

44. (1) A Skipper Certificate shall be in the format set out in Part V of the Fifth Schedule.

(2) A Skipper Certificate issued under these Regulations shall be valid for the period of one year.

Possession of Skipper Certificate

45. (1) A Skipper shall at all times when piloting or in any way controlling a Petroleum Marine Transport Vessel have in his possession the Skipper Certificate, or a certified copy thereof.

(2) A Skipper Certificate issued under these Regulations:

- (a) remains the property of the Authority;
- (b) may be modified, suspended, revoked or amended at any time in accordance with the provisions of the Petroleum Act, 2019;
- (c) may not be tampered with or defaced in any manner; and
- (d) is not transferable.

Renewal of a Skipper Certificate

46. (1) An application for renewal of a Skipper Certificate shall be made at least thirty (30) days prior to its expiry.

(2) An application for renewal in sub-regulation (1) shall be in the prescribed manner and shall be accompanied by the documents set out in Part III of the Third Schedule and proof of payment of the fees set out in the Sixth Schedule.

Obligations of Certificate Holder

47. (1) A Skipper shall:

- (a) not pilot a Petroleum Marine Transport Vessel unless such a vessel has a valid Petroleum Marine Transport Vessel Permit issued by the Authority;
- (b) not allow another person who is not in possession of a valid Skipper Certificate to pilot or take control of a Petroleum Marine Transport Vessel in his custody;
- (c) not tamper with the quality of the petroleum products in his custody;
- (d) not divert petroleum destined for export into the local market;
- (e) ensure operation of the Petroleum Marine Transport Vessel in accordance with the requirements of the Petroleum Act and pertinent regulations;
- (f) transport petroleum for petroleum business licensee(s) in possession of valid licences issued under the Petroleum Act;
- (g) load petroleum from petroleum logistics facilities in possession of a valid licence issued under the Petroleum Act;
- (h) discharge petroleum to a facility in respect of which a licence has been issued under the Petroleum Act, to an end-user for own consumption
- (i) comply with the Emergency Response Plan that has been developed by the Petroleum Marine Transportation Business Licensee
- (j) implement regular pre-loading vessel inspection in accordance with a checklist approved by the Authority;
- (k) comply with arrangements for the safe Docking or Berthing of Petroleum Marine Transport Vessel in accordance with the Emergency Response Plan;
- (l) dock a Petroleum Marine Transport Vessel in designated docking or berthing areas;
- (m) not to berth a Petroleum Marine Transport Vessel outside Designated Dock or Wharf unless;
 - (i) Temporarily at a designated marine refueling area while offloading petroleum products
 - (ii) Temporarily at a jetty terminal to load petroleum product
 - (iii) Temporarily at a dry dock for maintenance
 - (iv) otherwise instructed by the Authority or any other relevant State bodies
- (n) be in possession of and adhere to the journey plan, which shall be signed by the owner of the Petroleum Marine Transport Vessel or the authorized representative; and
- (o) not carry unauthorized passengers or cargo.

(2) A person who fails to comply with the requirements listed in sub-regulation (1) commits an offence and shall on conviction be liable to the fines and penalties as set out in the Eighth Schedule.

PART VIII – MISCELLANEOUS

Display of Permits and Licences

48. (1) A Construction Permit or a Marine Refuelling Business Licence, or a certified copy thereof, shall be displayed in a conspicuous position at the premises in respect of which it is issued.

(2) All the Licences, Permits and Certificates issued under the Petroleum Act and this Regulation:

- (a) remain the property of the Authority;
- (b) may be suspended, revoked or amended by the Authority at any time in accordance with the Petroleum Act;
- (c) shall not be tampered with or defaced in any manner; and
- (d) shall not be transferred without the written consent of the Authority.

(3) A person who contravenes sub-regulation (1) commits an offence and shall be liable on conviction to the fines and penalties as set out in the Eighth Schedule.

Reporting of Accidents or Incidents

49. (1) A Marine Refuelling Business or Petroleum Marine Transportation Business licensee shall notify the Authority within Forty Eight (48) hours of occurrence of an accident or incident as set out in the Tenth Schedule. The threshold of reportable accidents or incidences includes those ones causing:-

- (a) loss of life or permanent disability;
- (b) damage to property or the environment
- (c) an oil-spill of 100 litres or more or an accidental gas release of 100 kilograms or more in quantity; or
- (d) a fire or an explosion resulting in (a) or (b) above.

(2) The information to be submitted to the Authority shall be as set out in the Tenth Schedule.

(3) A person licensed to undertake Marine Refuelling Business or Petroleum Marine Transportation Business who fails to comply with this Regulation commits an offence and shall be liable on conviction to the fines and penalties as set out in the Eighth Schedule.

Investigation of Accidents or Incidents

50. (1) A person licensed to undertake Marine Refuelling Business or Petroleum Marine Transportation Business shall investigate any accident or incident reported under Regulation 49 within Fourteen (14) days or any such extended period as approved by the Authority from the date of the incident and submit a report containing the:

- (a) cause of the accident;
- (b) all effects of the accident; and
- (c) proposed remedial measures and timelines thereof.

(2) The Authority shall review the report under sub-regulation (1) within thirty (30) days and shall either:

- (a) accept the report; or
- (b) request for adjustment; or
- (c) reject the report giving reasons and other directives.

(3) Notwithstanding sub-regulations (1) and (2), the Authority may undertake its own investigation.

(4) Where required, the Marine Refuelling Business or Petroleum Marine Transportation Business owner or operator whose facility was involved in the accident or incident shall grant access to the Authority to undertake investigations.

Inspections

51. The Authority may enter and inspect any Marine Refuelling Facility or Petroleum Marine Transportation vessel or any premises where Marine Refuelling Business or Petroleum Marine Transportation Business is conducted or suspected to be conducted for purposes of

inspections pursuant to the provisions of the Petroleum Act or Regulations made thereunder.

Disclosure of information

52. (1) No person shall obstruct, hinder, withhold information or provide false information as may be requested by the Authority provided that such information is requested.

(2) A person who contravenes sub-regulation (1) commits an offence and shall be liable on conviction to the fines and penalties prescribed in the Eighth Schedule.

Appeals

53. (1) A person has the right to appeal against the decision of the Authority where the Authority:

- (a) refuses to grant or renew a licence, permit or certificate or revokes a licence, permit or certificate; or
- (b) imposes conditions on a licence, permit or certificate; or
- (c) refuses to replace or amend a licence, permit or certificate; or
- (d) suspends or revokes a license, permit or certificate.

(2) A person aggrieved by the reasons in sub-regulation (1), may appeal to the Tribunal within thirty (30) days of receipt of the Authority's decision.

General Penalties

54. A person who commits an offence under these regulations for which no express penalty is provided shall on conviction be liable to the penalties prescribed under Section 99 of the Petroleum Act.

Transitional Clause

55. (1) All existing licensees shall be required to comply with these Regulations within the periods, from the date of these Regulations coming into force, as listed below:

- (a) in the case of Marine Refuelling Facilities:
 - (i) comply with these within twenty four (24) months from the date of coming into force of these Regulations;
- (b) in the case of Petroleum Marine Transport Vessel:
 - (i) comply with these within twenty four (24) months from the date of coming into force of these Regulations;
- (c) in the case of Petroleum Marine Transport Vessel Skippers:
 - (i) comply with these within twenty four (24) months from the date of coming into force of these Regulations;
- (d) in the case of Marine Refuelling Operations:
 - (i) comply with these within twenty four (24) months from the date of coming into force of these Regulations;

Repeal

56. Where no exclusion has been made as listed in sub-regulation (1), the requirements of these Regulations shall be effective immediately from the date of coming into force of these Regulations.

Dated.....2025

J. OPIYO WANDAYI,

Cabinet Secretary Ministry of Energy and Petroleum

FIRST SCHEDULE

Regulation 6(1) and 7(1)

**PART I – REQUIREMENTS FOR CONSTRUCTION PERMIT FOR
ONSHORE MARINE REFUELLING FACILITY, MARINE
REFUELLING VESSEL OR PETROLEUM MARINE TRANSPORT
VESSEL**

1.	Certificate of Incorporation / Business Registration Certificate;
2.	CR12 from the Registrar of companies (should not be older than 1 year at the time of submission of the application).

	<i>Further, if a Limited company appears as part of the shareholders, provide the company's CR12 plus all the Directors' IDs);</i>
3.	Legible Copies of Identification Documents (IDs/Passports for all the directors);
4	Outline of the methods of financing of the project;
5.	Valid Work Permits Class "G" for all foreign directors working in Kenya (<i>Foreign directors not resident in Kenya should provide a notarized declaration. Further, any employee given Powers of Attorney by a foreign director should provide a copy of their identification document</i>);
6.	For Onshore Marine Refuelling Facilities, Development permission from the respective County Government (including County Physical Planning Office);
7.	Approval to construct Onshore Marine Refuelling Facility, Marine Refuelling Vessel or Petroleum Marine Transport Vessel from the relevant State bodies (Kenya Maritime Authority / Kenya Ports Authority/ Water Resources Authority whichever is applicable);
8.	Mechanical engineer's drawings specifying materials and design/ operational limitations (Petroleum tank(s) designs, pipe-work, and for marine vessels, the layout including General drainage and OWS layout/ designs);
9.	For Onshore Marine Refuelling Facilities, Civil engineer's drawings showing details of petroleum tank cradle and backfill designs; Forecourt layout and surface designs; General drainage and OWS layout/ designs;
10.	Certified copies of valid practicing Certificates issued by the Engineers Board of Kenya as per the Engineers Act (2011) for Engineers or Consulting Firms that shall have prepared the designs under items 8 & 9 above; and
11.	Valid Environmental Impact Assessment license from NEMA approving the development of the project/facility. This requirement shall not apply to Petroleum Marine Transport Vessels
12.	Proof of ownership/lease of the land on which the onshore marine refuelling facility is to be built or ownership of the marine refuelling vessel or petroleum marine transport vessel

PART II (A)– FORM OF ONSHORE MARINE REFUELLING FACILITY CONSTRUCTION PERMIT



PERMIT NO.

THE PETROLEUM ACT, 2019

ONSHORE MARINE REFUELLING FACILITY CONSTRUCTION PERMIT

Construction Permit is hereby granted

.....to construct the following petroleum Facility (is):

Construction of: Onshore Marine Refuelling Facility

.....

On premises situated at: :

Plot No. :

Water Body :

Street/Market :

Town/County :

This Permit expires on :

Dated this:

Signature

(SEAL)

Director General Energy & Petroleum Regulatory Authority Conditions:

- As per Section 76(1) and (2) of the Petroleum Act

PART II (B)– FORM OF MARINE REFUELLING VESSEL CONSTRUCTION PERMIT



PERMIT NO.

THE PETROLEUM ACT, 2019

MARINE REFUELLING VESSEL CONSTRUCTION PERMIT

Construction Permit is hereby granted to _____ of P.O. Box

.....to construct the following petroleum Facility (is):

Construction of: Marine Refuelling Vessel

.....

Vessel builder :

Vessel builder Address :

Water Body :

Town/County :

This Permit expires on :

Dated this:

Signature

(SEAL)

Director General Energy & Petroleum Regulatory Authority

Conditions:

- As per Section 76(1) and (2) of the Petroleum Act

PART II (C)– FORM OF PETROLEUM MARINE TRANSPORT VESSEL CONSTRUCTION PERMIT



PERMIT NO.

THE PETROLEUM ACT, 2019

PETROLEUM MARINE TRANSPORT VESSEL CONSTRUCTION PERMIT

Construction Permit is hereby granted to _____ of P.O. Box _____ to

construct the following petroleum Facility (is):

Construction of: Petroleum Marine Transport Vessel

.....

Vessel builder :

Vessel builder Address :

Water Body :

Town/County :

This Permit expires on : _____
 Dated this: _____
 Signature _____
 (SEAL)

Director General Energy & Petroleum Regulatory Authority

Conditions:

1. As per Section 76(1) and (2) of the Petroleum Act

SECOND SCHEDULE

Regulation 9(7)

PART I – FORM OF WRITTEN UNDERTAKING FOR
ONSHORE MARINE REFUELLING FACILITY



WRITTEN UNDERTAKING TO THE ENERGY & PETROLEUM
REGULATORY AUTHORITY

(Standard Form as approved by EPRA)

WHEREAS Regulation 9(6) of the Petroleum (Marine Refuelling) Regulations 2025, made under the authority of the *Petroleum Act 2019* requires an applicant for a Construction Permit to make a written undertaking to the Energy and Petroleum Regulatory Authority (EPRA) within thirty (30) days of receiving notification of grant of a Construction Permit;

THEREFORE Iof P.O. Box being the person who intends to construct or have a petroleum retail station constructed, hereby warrants to abide by the terms and conditions stipulated in the Construction Permit issued by EPRA.

Permit No.:	Petroleum Facility:
Vessel Builder:	Location:
Vessel Builder Address:	Town/County:
Water Body:	Permit Expiry Date:
Full Name Of Applicant:	Phone Number:
Signature Of Applicant Or Person Authorized By Said Applicant To Commit The Applicant And To Act As His Agent In This Matter:	Date:
If The Name Of The Signee Is Different From The Owner, Please Print Signee's Name Here:	Phone Number:

A person who furnishes false information in any permit application under the Petroleum Act No. 2 of 2019 or in any statement required to be furnished under the Act, or pursuant to the Petroleum (Marine Refuelling) Regulations 2025, is on conviction, liable to such fines and penalties as prescribed by the Authority.

PART II – FORM OF WRITTEN UNDERTAKING FOR MARINE
REFUELLING VESSEL



WRITTEN UNDERTAKING TO THE ENERGY & PETROLEUM
REGULATORY AUTHORITY

(Standard Form as approved by EPRA)

WHEREAS Regulation 9(6) of the Petroleum (Marine Refuelling) Regulations 2025, made under the authority of the *Petroleum Act 2019* requires an applicant for a Construction Permit to make a written undertaking to the Energy and Petroleum Regulatory

Authority (EPRA) within thirty (30) days of receiving notification of grant of a Construction Permit;

THEREFORE Iof P.O. Boxbeing the person who intends to construct or have a petroleum retail station constructed, hereby warrants to abide by the terms and conditions stipulated in the Construction Permit issued by EPRA.

Permit No.:	Petroleum Facility:
Vessel Builder:	Location:
Vessel Builder Address:	Town/County:
Water Body:	Permit Expiry Date:
Full Name Of Applicant:	Phone Number:
Signature Of Applicant Or Person Authorized By Said Applicant To Commit The Applicant And To Act As His Agent In This Matter:	Date:
If The Name Of The Signee Is Different From The Owner, Please Print Signee's Name Here:	Phone Number:

A person who furnishes false information in any permit application under the Petroleum Act No. 2 of 2019 or in any statement required to be furnished under the Act, or pursuant to the Petroleum (Marine Refuelling) Regulations 2025, is on conviction, liable to such fines and penalties as prescribed by the Authority.

PART III – FORM OF WRITTEN UNDERTAKING FOR MARINE
TRANSPORT VESSEL



WRITTEN UNDERTAKING TO THE ENERGY & PETROLEUM
REGULATORY AUTHORITY

(Standard Form as approved by EPRA)

WHEREAS Regulation 9(6) of the Petroleum (Marine Refuelling) Regulations 2025, made under the authority of the *Petroleum Act 2019* requires an applicant for a Construction Permit to make a written undertaking to the Energy and Petroleum Regulatory Authority (EPRA) within thirty (30) days of receiving notification of grant of a Construction Permit;

THEREFORE Iof P.O. Boxbeing the person who intends to construct or have a petroleum retail station constructed, hereby warrants to abide by the terms and conditions stipulated in the Construction Permit issued by EPRA.

Permit No.:	Petroleum Facility:
Vessel Builder:	Location:
Vessel Builder Address:	Town/County:
Water Body:	Permit Expiry Date:
Full Name Of Applicant:	Phone Number:
Signature Of Applicant Or Person Authorized By Said Applicant To Commit The Applicant And To Act As His Agent In This Matter:	Date:
If The Name Of The Signee Is Different From The Owner, Please Print Signee's Name Here:	Phone Number:

A person who furnishes false information in any permit application under the Petroleum Act No. 2 of 2019 or in any statement required to be furnished under the Act, or pursuant to the Petroleum (Marine Refuelling) Regulations 2025, is on conviction, liable to such fines and penalties as prescribed by the Authority.

THIRD SCHEDULE

PART I - REQUIREMENTS FOR APPLICATION FOR NEW BUSINESS LICENCE FOR ONSHORE MARINE REFUELING FACILITY, MARINE REFUELLING VESSEL OR PETROLEUM MARINE TRANSPORTATION

Regulation 12(1), 26(2), 26(3)

1.	Certificate of Incorporation / Business Registration Certificate;
2.	<i>CR12 from the Registrar of companies (should not be older than 1 year at the time of submission of the application. Further, if a Limited company appears as part of the shareholders, provide the company's CR12 plus all the Directors' IDs);</i>
3.	Legible Copies of Identification Documents (IDs/Passports for all the directors);
4.	Valid Work Permits Class "G" for all foreign directors working in Kenya (<i>Foreign directors not resident in Kenya should provide a notarized declaration. Further, any employee given Powers of Attorney by a foreign director should provide a copy of their identification document);</i>
5.	For an Onshore Marine Refuelling Facility, proof of land ownership (copy of title deed in the name of company/director(s)). In the case of long-term land lease, copy of duly registered lease agreement in the name of the Applicant company valid for at least twelve (12) months plus the title deed of the land owner or an allotment letter in the name of the proponent certified by the County Government;
6.	For Marine Refuelling Vessel and Petroleum Marine Transport Vessel proof of vessel ownership (copy of certificate of registration in the name of company/director(s)). In the case of long-term vessel lease, copy of duly notarized lease agreement in the name of the Applicant company valid for at least twelve (12) months plus the certificate of registration of the vessel owner ;
7.	A valid Tax Compliance Certificate for the applicant from the Kenya Revenue Authority;
8.	A valid Single Business Permit for the premises of operation from the respective County Government;
9.	A valid Environmental Impact Assessment licence from NEMA for the facility;
10.	A valid Fire Clearance Certificate for the facility from the respective County Government;
11.	For an Onshore Marine Refuelling Facility, certificate of Compliance with the Physical Planning Act 2019 (PPA5 or PPA2);
12.	A valid certificate of registration of the facility as a work place from the Directorate of Occupational Safety and Health Services;
13.	A valid calibration certificate for each petroleum storage tank at the facility;
14.	A valid certificate of calibration of the petroleum dispensing units' meters from the Department of Weights and Measures;
15.	A pressure test report for the petroleum tanks and pipelines at the facility (for new facilities);
16.	A colour photo of the facility clearly showing the dispensing and storage area;
17.	A summary Emergency Response Plan for the facility; and
18.	A duly executed Environment Liability Policy in accordance with Section 79 of the Act.

PART II – REQUIREMENTS FOR APPLICATION AND RENEWAL OF PETROLEUM MARINE TRANSPORT VESSEL PERMIT

Regulation 34(1) , 35(2), 36(3)

1.	Vessel Registration Certificate for each vessel (<i>Attach a certified valid lease agreement if vessel not in the name of the applicant);</i>
2.	A valid Fire certificate for each vehicle from the County Government;
3.	A valid calibration certificate for the petroleum storage tank on the vessel
4.	A valid Vessel Inspection Certificate from the Kenya Maritime Authority for each Vessel.
5.	A valid Petroleum Marine TransportVessel Skipper Certificate
6.	Evidence of installation of the Global Positioning System (GPS) tracking system capable of generating reports of distance, location and speed

PART III – REQUIREMENTS FOR APPLICATION AND RENEWAL OF SKIPPER CERTIFICATE

Regulation 43(2) , 43(3), 46(2)

1.	Identification Document (ID) for the applicant;
2.	A valid certificate of fitness of the applicant from a doctor approved by the Directorate of Occupation Safety and Health and Services;
3.	Basic training on petroleum safety from an institution approved by Technical and Vocational Education and Training Authority or National Industrial Training Authority.
4.	A valid Certificate of Competency (CoC) or Small Boat Operators Licence (BOL) or Pilotage Licence (PL) for the applicant for the appropriate class of Vessel issued by relevant Kenya Maritime Authority (KMA);
5.	A Police Clearance Certificate of the applicant (<i>should not be older than 1 year at the time of submission of the application); and</i>
6.	A colour Passport size photo of the applicant.

PART IV – LICENCE AMENDMENT APPLICATION FORM FOR ONSHORE MARINE REFUELLING FACILITY, MARINE REFUELLING VESSEL, PETROLEUM MARINE TRANSPORTATION OR SKIPPER CERTIFICATE

Regulations 15 (4)

1. Licence number for the licence you wish to amend:_____

2. Indicate the type of amendment you would wish to make (*tick as appropriate*):

Change of Premises

Change of Business/Company /Skipper Name Addition of petroleum product tanks Decommission of petroleum product tanks

3. (a) Criteria to be met for amendment of a licence is attached in this regulation.

a. Change of Premises

i. A valid Single Business Permit for the premises of operation from the respective County Government

b. Change of Business/Company Name

- i. Certified copy of CR12 from the Registrar of companies (Not older than one (1) year) for limited companies; and
- ii. Certified copy of Certificate of Change of Name
- c. Addition of petroleum product tanks
 - i. Tanks inspection reports by an accredited competent person in compliance with the Kenya Standards or international standards ratified by the Kenya Bureau of Standards;
- d. Decommission of petroleum product tanks
- i. Tank decommissioning reports by an accredited competent person;

FOURTH SCHEDULE

REQUIREMENTS FOR APPLICATION FOR RENEWAL OF BUSINESS LICENCE FOR ONSHORE MARINE REFUELLING FACILITY, MARINE REFUELLING VESSEL OR PETROLEUM MARINE TRANSPORT VESSEL

Regulation 14(2), 29(2)

1.	<i>CR12 from the Registrar of companies (should not be older than 1 year at the time of submission of the application. Further, if a Limited company appears as part of the shareholders, provide the company's CR12 plus all the Directors' IDs);</i>
2.	Legible Copies of Identification Documents (IDs/Passports for all the directors);
3.	Valid Work Permits Class "G" for all foreign directors working in Kenya (<i>Foreign directors not resident in Kenya should provide a notarized declaration. Further, any employee given Powers of Attorney by a foreign director should provide a copy of their identification document</i>);
4.	A valid Tax Compliance Certificate for the applicant from the Kenya Revenue Authority;
5.	A valid Single Business Permit for the premises of operation from the respective County Government;
6.	For an Onshore Marine Refuelling Facility, proof of land ownership (copy of title deed in the name of company/director(s)). In the case of long-term land lease, copy of duly registered lease agreement in the name of the Applicant company valid for at least six (6) months plus the title deed of the land owner or an allotment letter in the name of the proponent certified by the County Government;
7.	For Marine Refuelling Vessel and Petroleum Marine Transport Vessel proof of vessel ownership (copy of certificate of registration in the name of company/director(s)). In the case of long-term vessel lease, copy of duly notarized lease agreement in the name of the Applicant company valid for at least six (6) months plus the certificate of registration of the vessel owner ;
8.	An acknowledgement from NEMA of having submitted an annual Environmental Audit report for the facility (<i>the acknowledgement should not be older than 1 year at the time of submission of the application</i>);
9.	A valid Fire Clearance Certificate for the facility from the respective County Government;
10.	A valid certificate of registration of the facility as a work place from the Directorate of Occupational Safety and Health Services;

11.	A valid calibration certificate for each petroleum storage tank at the facility;
12.	A valid certificate of calibration of the petroleum dispensing units' meters from the Department of Weights and Measures;
13.	A summary Emergency Response Plan for the facility; and
14.	A duly executed Environment Liability Policy in accordance with Section 79 of the Act.

FIFTH SCHEDULE

PART I - FORM OF PETROLEUM BUSINESS LICENCE FOR ONSHORE MARINE REFUELLING FACILITY

Regulation 13(1)
THE PETROLEUM ACT, 2019

ONSHORE MARINE REFUELLING FACILITY BUSINESS LICENCE

No. EPRA/PET _____

Licence is hereby granted to _____ of
P.O. Box _____

to carry on the following petroleum businesses:

LICENCE NAME

On premises situated at : _____

Plot No. : _____

Designated Marine : _____

Refuelling Area

Water Body : _____

Street/Market : _____

Town/County : _____

This licence expires on : _____

Dated this: _____

Signature

(SEAL)

Director General Energy & Petroleum Regulatory Authority

Conditions:

1. As per Section 76(1) and (2) of the Petroleum Act

PART II - FORM OF PETROLEUM BUSINESS LICENCE FOR MARINE REFUELLING VESSELS

Regulation 13(1)
THE PETROLEUM ACT, 2019

MARINE REFUELLING VESSEL BUSINESS LICENCE

No. EPRA/PET _____

Licence is hereby granted to _____ of
P.O. Box _____

to carry on the following petroleum businesses:

LICENCE NAME

On premises situated at : _____

Designated Marine : _____

Refuelling Area

Water Body : _____

Beach/Marine Area : _____
 Town/County : _____
 This licence expires on : _____
 Dated this: _____
 Signature

(SEAL)
Director General Energy & Petroleum Regulatory Authority
 Conditions:

- As per Section 76(1) and (2) of the Petroleum Act

PART III - FORM OF BUSINESS LICENCE FOR PETROLEUM MARINE TRANSPORTATION

Regulation 28(1)



THE PETROLEUM ACT, 2019

**PETROLEUM MARINE TRANSPORTATION
BUSINESS LICENCE**

No. EPR/PET _____

Licence is hereby granted to _____ of
P.O. Box _____

to carry on the following petroleum businesses:

LICENCE NAME

On premises situated at : _____
 Plot No. : _____
 Building : _____
 Street/Market : _____
 Town/County : _____
 This licence expires on : _____
 Dated this: _____

Signature

(SEAL)

Director General Energy & Petroleum Regulatory Authority

Conditions:

- As per Section 76(1) and (2) of the Petroleum Act

PART IV—FORM OF PETROLEUM MARINE TRANSPORT VESSEL PERMIT

Regulation 34(2)

THE PETROLEUM ACT, 2019



PETROLEUM MARINE TRANSPORT VESSEL PERMIT

PERMIT

PERMIT NO.

This Petroleum Marine Transport Vessel Permit authorizes the transportation of: Petroleum Products Liquefied Petroleum Gas (Tick as appropriate) in the petroleum marine transport vessel whose details appear below;

Marine Vessel No.

Hull ID No. (HIN)/IMO No.

Maximum Capacity.

Petroleum Marine Transporter.....
 Water Body.....
 This Permit Expires on.....
 Dated this.....
 Signature.....

Director-General/CEO

PART V—FORM OF SKIPPER CERTIFICATE

Regulation 43(1)

THE PETROLEUM ACT, 2019



SKIPER CERTIFICATE

PERMIT

Class.

Number.

Name.

National ID.

KMA Coc/BOL/PL No.

This Certificate authorizes the Hotel to plot a Petroleum Marine Transport Vessel

Date of Issue.

Expiry Date.

SIXTH SCHEDULE

Regulation 6(3), 12 (2)(a), 14(2), 15(5), 26(4), 29(2), 33(2), 35(3), 43(2), 46(2) FEES SCHEDULE

Description- Category of Licence Fees	New Applica tion (Amoun t in Kshs)	Extensi on Applicat ion (Amount in Kshs)	Amendm ent Applicat ion (Amount in Kshs)
Marine Refuelling Vessel Construction Permit	5,000	2,000	1,000
Onshore Marine Refuelling Facility Construction Permit	5,000	2,000	1,000
Petroleum Marine Transport Vessel Construction Permit	5,000	2,000	1,000
Description- Category of Licence Fees	New Applica tion (Amoun t in Kshs)	Renewal Applicatio n (Amount in Kshs)	Amendm ent Applicat ion (Amount in Kshs)
Onshore Marine Refuelli ng Facilities Business Licence	5,000	2,000	1,000
Marine Refuelling	5,000	2,000	1,000

Vessels Business Licence			
Petroleum Marine Transportation Business Licence	5,000	2,000	1,000
Petroleum Marine Transport Vessel Permit	2,000	1,000	500
Skipper Certificate	750	500	250

SEVENTH SCHEDULE

Regulation 12 (2)(b), 27

ENVIRONMENT LIABILITY POLICY

(NAME OF COMPANY) is committed to the protection and preservation of the environment. We will continuously improve our performance and initiate additional projects and activities that will further reduce our impacts to the environment.

Our commitment to the environment extends to our customers, our staff and the community from where we operate. We are committed to:

- Complying with all applicable environmental preservation and sustainability legislation;
- Preventing pollution whenever possible through efficient waste management strategies that promote waste minimization, re-use, recovery, recycling, as appropriate;
- Promoting and continually investing in technologies that provide alternatives to business travel and transport;
- Adopting a procurement programme which takes into account the environmental impact of products and services;
- Promoting the protection and enhancement of biodiversity and ecosystems through employee awareness programs and stakeholder engagement;
- Ensuring our staff are aware of the environmental impacts of their work activities and encouraging them through regular awareness and training to minimize those impacts;
- Communicating our environmental commitment and efforts to our customers, staff and the community; and
- Pursuing a programme of continuous improvement by reviewing our Environmental Management System and related objectives and targets, policies and practices.
- Reporting to the relevant State bodies, accidents or incidents causing pollution of the environment, investigating the accidents/incidents and undertaking clean up or restoration of the affected areas.

Signature:

Designation:

Stamp/Seal:

Review date:

This policy will be reviewed on a regular basis to evaluate continued relevance and to monitor compliance.

EIGHTH SCHEDULE

Regulations 5(3), 11(2), 16(2), 30 (2), 32(2), 42(2), 47 (2), 48 (3), 49(2), 52(2)

OFFENCES, FINES AND PENALTIES

Regulations	Offence	Fine and Penalty
30(2)	Failure to meet marine transportation business licensees obligations	On admission of offence, Kshs. 20,000 for each offence; or Upon conviction, a

		fine of not less than Kshs 500,000, or imprisonment for a term of not less than 3 years, or both such fine and imprisonment, as prescribed in the Petroleum Act (s 99(2)(a)).
32(2)	Operating a Marine Transport Vessel without a valid Petroleum Marine Transport Vessel Permit	On admission of offence, Kshs. 20,000 for each offence; or Upon conviction, a fine of not less than Kshs 1,000,000, or imprisonment for a term of not less than 3 years, or both such fine and imprisonment, as prescribed in the Petroleum Act (s 74(3)(b)).
42(2)	Piloting a Marine Transport Vessel without Skipper Certificate	Kshs 50,000
47(2)	Failure to meet Skipper obligations	Kshs 20,000
48(3)	Failure to display valid construction permit and or petroleum marine business licence	Not exceeding KShs. 1,000,000 as prescribed in the Petroleum Act (s 80(2)).
49(2)	Failure to report accidents/incidents	Kshs 100,000
52(2)	Failure to disclose requested information	Kshs 100,000

NINTH SCHEDULE

SAFETY SIGNAGE, COLOUR CODING, STROBES, VESSEL TRACKING AND COMMUNICATION

Regulation 22 (4) (a) (b) (c), 30 (1)(m), 41 (1)(a)

Type of Assets	Colour Code	Strobe Colour and Signalling Sequence	Bouy Colour	Minimum Safety Signage	CB Band Communication Channel
Marine Refuelling Vessel	Orange	Amber	Red	i. No Smoking ii. Refuelling Procedures iii. Hazardous Area	CB Channel 13 (27.11500 Mhz)
Onshore Marine Refuelling Facility	Blue	Amber	Red	i. No Smoking ii. Refuelling Procedures iii. Hazardous Area	CB Channel 13 (27.11500 Mhz)

Petroleum	Red	Amber	Red	i. No Smo king ii. Refue lling iii. Proce dures Hazar dous Area	CB Channel 13 (27.11500 Mhz)
Marine					
Transport Vessel					

TENTH SCHEDULE

ACCIDENT REPORTING FORM

Regulation 49 (1)

1. Name of Licensee: _____
2. Facility Registration No.: _____
3. Accident Location:
 1. County _____
 2. Sub-County _____
 3. Location _____
 4. GPS Coordinates _____
 5. Village _____
4. Time and Date of the Accident: _____
5. Date Reported to Licensee: _____
6. Date Reported to the Authority: _____
7. Cause of Accident: _____
8. Accident Impact: _____
9. Police Reference and Reported Date(*as applicable*): _____
10. Reported By:
 - a. Name: _____
 - b. Postal address: _____
 - c. Email Address: _____
 - d. Telephone: _____

Supporting Documents: (*As applicable including scene photos*)

GAZETTE NOTICE NO. XXXX

THE PETROLEUM ACT

(Cap. 308)

IN EXERCISE of the power conferred by section 126 (1) of the Petroleum Act, 2019, the Cabinet Secretary for Energy and Petroleum and on the recommendation of the Authority makes the following Draft Regulations for public comments—

DRAFT PETROLEUM (UPSTREAM PETROLEUM MANAGEMENT AND ADMINISTRATION) REGULATIONS, 2025

PART 1 – PRELIMINARY

1. These Regulations may be cited as the Petroleum (Upstream Petroleum Management and Administration) Regulations, 2025.

2. In these Regulations, unless the context otherwise requires,

“Act” means the Petroleum Act (Cap. 308);

“Advisory Committee” means National Upstream Petroleum Advisory Committee as provided in the Act;

“Participating interest” means an interest held by the Government of Kenya directly or through an appointee in the conduct of upstream petroleum operations;

“Permit holder” means any person who holds a non-exclusive exploration permit;

“Petroleum policy” means the national petroleum policy provided for under Section 5 of the Act;

“Strategic plan” means the national upstream petroleum strategic plan.

Application

3. These Regulations shall apply to the management and administration of upstream petroleum.

PART 2 – CONSTITUTION OF BLOCKS

4. (1) The Cabinet Secretary in consultation with the Advisory Committee may divide or redivide any unlicensed onshore or offshore areas into blocks.

(3) When constituting petroleum blocks the Cabinet Secretary shall ensure the potential for efficient exploration using prudent exploration methods is realised.

(4) In establishing the size, shape and location of blocks due consideration shall be given to—

- (a) any existing rights, uses or other restrictions relating to the areas in question;
- (b) available technical data;
- (c) any individual topographical features that may require special consideration in the division of blocks;
- (d) retaining as far as practically possible a uniform size and shape for each block; and,
- (e) any other matter the Cabinet Secretary may deem relevant.

(5) Blocks shall be organised into numbered areas defined by specific geographical co-ordinates.

(6) Following the establishment of any new block or a change in the constitution of any block, the newly constituted blocks;

- (a) shall be published in the Kenya Gazette;
- (b) shall be published in the website of the Ministry;
- (c) may be published in any electronic media or at least two newspapers of national circulation.

PART 3 – NATIONAL PETROLEUM STRATEGIC PLAN

5. (1) The Cabinet Secretary, upon the publication of the national petroleum policy shall commence the development or review of, the national petroleum strategic plan which shall guide the implementation of the national petroleum policy.

(2) The Cabinet Secretary, shall within forty-five (45) days after the publication of a national petroleum policy;

- (a) identify all relevant stakeholders in the petroleum operations.
- (b) inform all stakeholders of the procedure and methodology for the iteration of the strategic plan;
- (c) communicate to stakeholders the scope of the strategic plan.
- (d) Assess the impact of petroleum operations to the local community.
- (e) Assess the potential environmental, economic and, social impact of petroleum operations.
- (f) Assess Environmental, Social and Governance (ESG) values applicable for petroleum operations

(3) The Cabinet Secretary shall ensure proper records are maintained of any proceedings or submissions in relation to development or review of the strategic plan.

(6. (1) During the stakeholder consultation, the Cabinet Secretary shall publish a notice of stakeholder consultation on the website of the Ministry, any electronic media, any two newspapers of nationwide circulation, and the Kenya Gazette.

(2) A notice to relevant stakeholders concerning consultation on a strategic plan shall—

- (a) set out a summary of the strategic plan in sufficient detail to enable stakeholders to engage effectively in the consultation.
- (b) explain how stakeholders may access the details of strategic plan.
- (c) invite written comments on or objections to the strategic plan.
- (d) specify the person or body to which the comments are to be submitted and any required format for submissions; and
- (e) specify a date by which the comments are required to be received in order to be considered in the consultation, which shall allow a reasonable time period for the submission of comments after publication of the notice.

(3) In the course of any stakeholder consultation required under these Regulations, the Cabinet Secretary shall make arrangements for the public to obtain copies, at a reasonable cost, of relevant documents relating to the strategic plan which are in the possession of the Cabinet Secretary.

(4) The Cabinet Secretary shall ensure that comments or objections, received through the consultation process, are properly documented and considered.

7. (1) The strategic plan shall contain such information as the Cabinet Secretary may consider appropriate which may include the following—

- (a) any initiatives designed to achieve the objectives and priorities identified in the national petroleum policy on operations;
- (b) The budgetary requirements for the implementation of the strategic plan;
- (c) an elaboration of the state institutions and parties with responsibility for implementing elements of the strategic plan;
- (d) implementation matrix of the strategic plan;
- (e) elaboration of any potential challenges to implementing the actions and consider any possible strategies to mitigate the effects of those challenges;
- (f) Monitoring and evaluation criteria of the strategic plan.

8. The Cabinet Secretary shall:

- a. publish the final strategic plan on the Ministry's Website; and,
- b. Inform the public through the website of the Ministry, any electronic media or in at least two newspapers of national circulation of the publication of the document and how the document may be accessed.

9. (1) The Cabinet Secretary shall within three (3) months after the end of each financial year, prepare and publish on the Ministry's website a report on the implementation of the strategic plan.

(2) The report on the implementation of the petroleum strategic plan shall provide sufficient information to assess the progress and effectiveness of actions undertaken with respect to each element of the strategic plan.

PART 4 – LICENSING

10. (1) The Cabinet Secretary may, from time to time, initiate a licensing exercise for the allocation of petroleum rights, through issuance of a non-exclusive exploration permit or entering into a petroleum agreement where the Cabinet Secretary is satisfied that—

- (a) there are open areas or blocks that are suitable for licensing;
- (b) licensing the areas or blocks shall be in accordance with the Act and any applicable national petroleum policy and strategy; or,

- (c) any other preliminary assessment the Cabinet Secretary may require has been carried out and any other results of such assessment(s) have been sufficiently considered.

Non-exclusive exploration permits

11. (1) An application for a non-exclusive exploration permit under regulations 15, 16 or 17 shall be made by a juridical person by completing and submitting the application form in the First Schedule to the Authority for issuance of a permit in accordance with the Act and these Regulations.

(2) The information provided with the form shall be sufficiently detailed to enable a proper consideration of—

- (a) the purpose of the application;
- (b) the identity of the applicant;
- (c) the proposed area;
- (d) the proposed work plan;
- (e) potential environment, social and economic impacts, including proposed mitigations in respect of the proposed non-exclusive exploration activity.
- (f) the technical capacity of the applicant;
- (g) the financial capacity of the applicant;
- (h) the legal capacity of the applicant;
- (i) the financial capacity of the applicant;
- (j) detailed information on the technology to be applied; and,
- (k) any proposed commercial arrangements with respect to the use and marketing of data obtained under the non-exclusive exploration permit.

(3) All applications shall be accompanied by the requisite fee as specified in Eighth Schedule.

(4) The Authority shall, in evaluating other criteria in an application under sub-regulation 1, satisfy itself that an applicant possesses the technical, financial, legal and professional capacity to undertake the petroleum operations in the proposed area.

12. (1) A non-exclusive exploration permit issued under these Regulations shall be issued by the Authority in the form provided under the Second Schedule and shall—

- (a) Identify with reasonable precision the geographical area to which the permit applies;
- (b) state the permitted activities for data collection;
- (c) allow data collection activities for a specified duration not longer than three (3) years; and,
- (d) state any other such restrictions and conditions as the Authority may deem fit.

(2) The Authority shall inform the County Government affected by the non-exclusive exploration activities of the nature and status of such non-exclusive exploration activities.

13. (1) Prior to issuing a non-exclusive exploration permit, the Authority and an applicant shall enter into an agreement governing aspects of permitted activities and the use of data generated by those activities, the duration of which may extend beyond the period of the permit's validity, and on any other matter the Authority may require to be included.

(2) A summary of the terms and conditions of the agreement may be attached to the permit with such exclusions as may be deemed necessary to preserve the confidentiality of commercially sensitive material.

(3) In the event of a conflict arising from the interpretation or application between the provisions of a non-exclusive exploration permit and the accompanying agreement, the provisions the accompanying agreement shall take precedence.

14. (1) A non-exclusive exploration permit or any accompanying agreement shall prescribe the terms governing the following aspects as applicable—

- (a) the date of issue of the permit;
- (b) the duration of the permit;
- (c) the area to which the permit relates;
- (d) the type of non-exclusive exploration activity for which the permit is issued;
- (e) the required work plan and deliverables;
- (f) required work standards;
- (g) the revenue sharing mechanism;
- (h) the performance security;
- (i) liability for environmental damage;
- (j) health and safety obligations;
- (k) data reporting;
- (l) data licensing rights and any restrictions;
- (m) model licensing agreements;
- (n) transfer and assignment;
- (o) cost management
- (p) any other terms or conditions the Authority may prescribe.

15. The Authority may issue a non-exclusive exploration permit to a juridical person who wishes to use the data obtained for scientific, research or educational purposes, on direct application by that person, provided that the petroleum operations authorized under such permit shall not be for any commercial purposes.

16. (1) Where the Authority receives a direct application for a non-exclusive exploration permit for any commercial purpose, the Authority shall make a determination, in accordance with these Regulations, as to whether there are sufficient grounds to justify engaging in direct negotiations with the applicant.

(2) Upon making a determination to engage in direct negotiations with an applicant under sub-regulation (1), the Authority shall publish a public notice in its website or any two (2) newspapers of national circulation and any other electronic media following the form in the Third Schedule—

- (a) providing the details of the applicant with whom the Authority intends to enter into direct negotiations;
- (b) inviting any objections that a person may have with respect to the intended negotiations within fourteen (14) days of publication;
- (c) inviting any party who may have a competing interest in the area under consideration to register an interest with respect to that area within fourteen (14) days of the publication of the notice.

(3) Where one or more additional persons register a credible interest in the area under consideration, the Authority shall conduct a competitive licensing in accordance with the Act and these Regulations.

(4) If, upon the end of the notice period, the Authority is satisfied that—

- (a) no reasonably justified additional competing interest in the area has been registered within the required notice period; and,
- (b) no reasonably justified objection has been registered within the required notice period,

then the Authority shall commence direct negotiations with the applicant.

17. (1) Notwithstanding Regulation 16, the Authority shall conduct a competitive licensing process for a non-exclusive exploration permit where:

- (a) more than one applicant has applied for a non-exclusive exploration permit for the same area and activity;
- (b) there is sufficient data in relation to an exploration area to warrant competition;

- (c) or under any other circumstance that may warrant competition.

(2) The Authority shall, in conducting competitive licensing under sub-regulation (1), appoint committees to carry out bid opening, evaluation, negotiations, or implementation monitoring.

(3) The Authority shall prepare and avail to interested applicants competitive licensing documentation with respect to each competitive licensing, block or area and such documentation shall—

- (a) outline a description of activities that may be conducted by the successful applicant under the non-exclusive exploration permit;

- (b) establish the required terms and conditions for participation in the competitive licensing including—

- (i) the legal, technical and financial qualification criteria and required evidence; and

- (ii) any financial security instruments required;

- (c) establish the technical, financial and legal parameters that bids shall be subjected to; and

- (d) establish a timeline for the receipt of bids, evaluation and the negotiation of the final terms and conditions of the permit with a successful applicant.

(4) The Authority shall publish a notice of the competitive licensing process in its website and in at least two (2) newspapers of national circulation. The notice shall—

- (a) provide a general description of the subject and the required submissions;

- (b) set out the method and conditions to obtain bid documents; and,

- (c) contain any other relevant matter.

(5) The bid opening committee shall, following the closing of the period for submitting applications, open received applications, and record the names, addresses and other necessary details. Representatives of the applicants may attend the bid opening and a register of attendees shall be maintained.

(6) The evaluation committee shall evaluate each received application in the following sequential stages—

- (a) confirmation of the applicant's eligibility to participate in the process;

- (b) confirmation of the applicant's compliance with the conditions set out in the competitive licensing documentation under sub-regulation (3);

- (c) evaluation of the applicant's technical capacity;

- (d) evaluation of the applicant's legal capacity; and

- (e) evaluation of the applicant's financial capacity.

(7) The evaluation committee shall ensure that each stage in the conduct of the tender and the evaluation process is properly documented.

(8) During the evaluation, the Authority may openly request any further information or clarification from all of the applicant's as deemed necessary to evaluate the applications.

(9) Upon conclusion of the evaluation, the committee shall prepare a detailed evaluation report which shall include appropriate recommendations to the Authority.

(10) Following the evaluation process the Authority shall—

- (a) inform all applicants of the outcome of the evaluation; and,

(b) invite the successful applicant to negotiate the terms and conditions for the award of the non-exclusive exploration permit.

(11) In the event that there are two (2) or more indistinguishable applications received on the same area such that there is no clear successful applicant, the Authority may invite the relevant applicants to submit an enhanced bid in order to determine the successful bidder.

(12) In the event that negotiations with a successful applicant are not concluded within thirty (30) days from the date of the notice of intention to award, the Authority may within fourteen (14) days invite the next highest ranked applicant on the relevant area to enter into negotiations for the award of the non-exclusive exploration permit.

(13) Upon the successful conclusion of negotiations, the parties shall execute the finalised agreement and the Authority shall formally issue the non-exclusive exploration permit in accordance with the law.

(14) The Authority shall publish in its website the details of all awards of a non-exclusive exploration permit including details of the identities of the permit-holders, the permit areas, the duration of the permit, the activities permitted and any further details as the Authority may deem fit.

18. (1) A non-exclusive exploration permit holder shall comply with the provisions of the Petroleum (Upstream Petroleum Operations) Regulations in conducting petroleum operations

19. (1) The permit holder may apply in writing to the Authority for an extension of the duration of the non-exclusive exploration permit no later than ninety (90) days prior to the expiry of the non-exclusive exploration permit. Any extension period granted by the Authority shall not exceed a cumulative period of fifty percent (50%) of the initial duration of the permit.

(2) The permit holder's application shall—

- (a) Outline its performance of its obligations up until the date of expiry of the non-exclusive exploration permit;
- (b) State its justifications for requiring an extension to complete the work plan;
- (c) Outline any further work it may propose to add to the work plan, if applicable; and,
- (d) Provide an acceptable performance security for the intended extension period.

(3) The Authority shall, if satisfied that the permit holder has performed the obligations under the non-exclusive exploration permit grant the extension subject to any conditions that it may deem appropriate.

20. (1) Where the permit holder has breached any of the obligations under the permit, the Authority may suspend or revoke a non-exclusive exploration permit in accordance with section 81 of the Act.

(2) A suspension or revocation of a permit shall not abdicate the permit holder from complying with any other order or direction issued by the Authority in accordance with the Act or these Regulations

Awarding petroleum agreements

21. (1) The Cabinet Secretary may award rights through a petroleum agreement to an applicant if the Cabinet Secretary is satisfied the applicant is sufficiently qualified to undertake the proposed activities under a petroleum agreement as provided for in the Act.

(2) Prior to any licensing, the Cabinet Secretary shall assess the financial, technical, and legal capacity of applicants to perform activities under the petroleum agreement.

(3) The Cabinet Secretary shall require applicants to submit detailed and relevant information to enable a proper assessment of the applicants' suitability to conduct petroleum operations. Information required shall include the information outlined in Fifth Schedule covering an applicant's—

- (a) legal and administrative capacity;
- (b) financial capacity; and
- (c) technical capacity.

(4) Applicants shall provide accurate and up-to-date information. Any applicant shall immediately inform the Cabinet Secretary of any material changes affecting its capacity that occur during the licensing process or the duration of any petroleum agreement.

Bidding Rounds

22. (1) Where the Cabinet Secretary has decided to initiate a bidding round for purposes of entering into a petroleum agreement, the Advisory Committee shall advise the Cabinet Secretary in accordance with section 13 of the Act on relevant matters with respect to the bidding round including—

- (a) the strategic and policy objectives of the bidding round which may include—
 - (i) providing further understanding of Kenya's petroleum resources;
 - (ii) the responsiveness of the applicant to the policy objective of the bid round;
 - (iii) the proposed work program on any minimum requirements to set out to the invitation to bid or tender documents;
 - (iv) the proposal for the initial participating interest and additional participating interests to be held by the Government;
 - (v) promotion and marketing of open acreage and petroleum potential;
 - (vi) promoting security of oil and gas supply; providing opportunities for development of local content; and
 - (vii) any other objectives as the Cabinet Secretary may consider appropriate.
- (b) key parameters of the bidding round including—
 - (i) the areas to be made available for licensing;
 - (ii) fiscal terms that reflect value for Kenya and the objectives of the bidding round;
 - (iii) pre-qualification criteria and procedures;
 - (iv) bid evaluation criteria; and
 - (v) model terms and conditions to apply to petroleum agreements.
- (c) key administrative aspects of the bidding round including—
 - (i) bid submission procedures;
 - (ii) bidding round schedule for the receipt and consideration of bids;
 - (iii) details of required submissions;
 - (iv) details of any financial security required;
 - (v) the establishment of committees to assist the Cabinet Secretary in the tender process; and
- (d) any other relevant matter.

23. Subject to Regulation 22, the Cabinet Secretary shall commence the bidding round through pre-qualification and—

- (a) issue a notice on the Ministry's website, two (2) newspapers of wide national circulation and any other electronic media inviting interested applicants to apply for prequalification and outlining the following information—
 - (i) an overview of the proposed bidding round schedule and offered areas;
 - (ii) the qualification criteria;
 - (iii) the mode of application for prequalification including the submission timeframe, location and fees; and,
 - (iv) any other information that the Cabinet Secretary deems necessary.
- (b) assess the applications received to develop a list of prequalified applicants;
- (c) inform any applicants who do not meet the requirements for prequalification; and,

(d) invite successfully prequalified applicants to participate in the bidding round.

24. (1) Following the pre-qualification process, the Cabinet Secretary shall issue the bidding round documentation to all pre-qualified applicants.

(2) The bidding round documentation shall contain sufficient information to enable applicants to participate in the bidding and may include, , the categories of information outlined in Sixth Schedule 6 including—

- (a) an overview of the proposed bidding round schedule and offered areas;
- (b) qualification criteria and required submissions;
- (c) the availability and conditions of access to relevant geological or geophysical data;
- (d) bid security conditions;
- (e) bid evaluation criteria;
- (f) the applicable fiscal terms that that bidders should quote;
- (g) local content;
- (h) the terms and conditions for the preparation and submission of bids;
- (i) the application fees applicable to the bidding round;
- (j) the model terms and conditions for petroleum agreements; and
- (k) any other categories deemed necessary or desirable.

25. (1) The Cabinet Secretary shall appoint a bid opening committee which shall, following the closing of submissions for the bidding round, open received bids and record the names, addresses and other necessary details.

(2) Representatives of the bidders may attend the tender opening and a register of attendees will be kept.

26. (1) The Cabinet Secretary shall appoint an evaluation committee which shall, following the opening of bids, evaluate each bid in the following sequential stages;

- (a) confirmation of the eligibility of the bidding entity as pre-qualified;
- (b) confirmation that the bid complies with all administrative conditions and is accompanied by evidence of the required security;
- (c) assessment and ranking of the bids on the basis of technical, financial and legal capacity in accordance with the established bidding criteria.

(2) During the evaluation, the Cabinet Secretary may openly request any further information or clarification from all of the applicants as is deemed necessary to evaluate the bids.

(3) The Cabinet Secretary shall ensure that all bids are properly ranked according to the established bidding criteria for the bidding round and shall determine the successful bidder for each available block.

(4) Upon conclusion of the evaluation, the committee shall prepare a detailed evaluation report which shall include appropriate recommendations to the Cabinet Secretary.

(5) In the event that there are two (2) or more indistinguishable bids received on the same block such that there is no clear successful bidder, the Cabinet Secretary may invite the relevant bidders to submit an enhanced bid in order to determine the successful bidder.

27.(1) Upon considering the evaluation report, the Cabinet Secretary shall—

- (a) inform all bidders through a notice of intention to award of the identity of any bidder selected to commence negotiation for the award of a petroleum agreement;
- (b) publish the results of the bid evaluation on the Ministry's website, or two (2) newspapers of wide national circulation and any other electronic media; or,

(c) take any other appropriate action in accordance with these Regulations and the Act.

(2) Where an unsuccessful bidder considers there are grounds to appeal the results of the bid evaluation, the unsuccessful bidder may appeal to the Energy and Petroleum Tribunal within fourteen (14) days of receiving the notice of the intention to award.

28.(1) The petroleum agreement shall be negotiated and finalised in good faith on the basis of submitted bids and, the model contractual terms and conditions.

(2) In the event that negotiations with a selected bidder are not concluded within thirty (30) days from the date of the notice of intention to award, the Cabinet Secretary may within fourteen (14) days invite the next highest ranked bidder on the relevant block to enter into negotiation for the award of a petroleum agreement.

(3) Upon the successful conclusion of negotiations, the Cabinet Secretary shall execute the finalised agreement in accordance with the Act and publish the details of the successful bidders on the Ministry's website or a two (2) newspaper of national circulation and any other electronic media.

Direct Negotiations

29. (1) The Cabinet Secretary may initiate direct negotiations in respect of a petroleum agreement on the recommendations of the Advisory Committee, in accordance with section 18 of the Act and these Regulations.

(2) The Cabinet Secretary upon receipt of applications for direct negotiations, shall confirm that applicants meet the appropriate financial, technical, legal, and administrative capacity requirements to be awarded a petroleum agreement prior to initiating the notice required under this Regulation.

(3) Upon confirmation that the applicants in sub regulation (2) meet the requirements, the Cabinet Secretary shall submit the applications to the Advisory Committee for consideration.

(4) The Cabinet Secretary may, upon the recommendation of the Advisory Committee make a determination as to whether there are sufficient grounds to justify engaging in direct negotiations for a petroleum agreement with an applicant as provided for in the Act.

(5) Upon determination to engage in direct negotiations with an applicant, Cabinet Secretary shall publish a public notice in the Ministry website or any two (2) newspapers of national circulation and any other electronic media following the form in Fourth Schedule—

- (a) providing the details of the applicant with whom the Cabinet Secretary intends to enter into direct negotiations;
- (b) inviting any objections that a person may have with respect to the intended negotiations within fourteen (14) days of publication;
- (c) inviting any party who may have a competing interest in the area under consideration to or register an interest with respect to that area within fourteen (14) days of the publication of the notice.

(6) Where one or more additional parties register a credible interest in the block under consideration, the Cabinet Secretary shall conduct the licensing exercise by means of a competitive bidding round in accordance with the Act and these Regulations.

(7) If, upon the end of the notice period, the Cabinet Secretary is satisfied that—

- (c) no reasonably justified additional competing interest in the block has been registered within the required notice period; and,
- (d) no reasonably justified objection has been registered within the required notice period,

then the Cabinet Secretary shall commence direct negotiations with the applicant interested in the block with the advice of the Advisory Committee.

30. (1) Where the Cabinet Secretary is advised to enter into direct negotiations with an applicant for the award of a petroleum agreement, the Advisory Committee shall recommend to the

Cabinet Secretary an appropriate criteria for the negotiation of the petroleum agreement.

(2) The Cabinet Secretary, shall—

- (a) establish suitable objectives for the negotiation that include but are not limited to the following—
 - (i) achieving work commitments and timeframes that achieve the objectives of the negotiation;
 - (ii) achieving acceptable fiscal criteria that reflect value for Kenyans;
 - (iii) ensuring acceptable technical, financial, legal and administrative capability to safeguard Kenya's interests; and
 - (iv) ensuring acceptable safety and environmental arrangements considering the risks associated with petroleum operations under the petroleum agreement.
- (b) establish the information required from an applicant applying to enter into direct negotiations that comply with the information outlined in Fifth Schedule , including payment of an application fee; and

(3) The Advisory Committee shall review the outcome of the concluded negotiations and make recommendations to the Cabinet Secretary.

(4) Upon the execution of the petroleum agreement, the Cabinet Secretary shall publish details of the contractor on the Ministry's website and the Kenya Gazette.

31. (1) Proceedings relating to a competitive licensing process, competitive bidding or direct negotiations process with respect to a non-exclusive exploration permit or a petroleum agreement shall terminate—

- (a) Where the process concludes with the issuance of a non-exclusive exploration permit and execution of the accompanying agreement with respect to such permit or the execution of a petroleum agreement in accordance with these Regulations;
- (b) Where the Cabinet Secretary or the Authority, as the case may be, on the advice of a committee or the Advisory Committee so declares;
- (c) Upon the occurrence of any event or condition that results in termination as may be expressly provided for in the bid documentation;

Provided that the Cabinet Secretary or the Authority, as the case may be, shall notify any participating applicant, bidder or entity of the termination of such proceedings and the notification shall be published in the Ministry's website and Kenya Gazette.

(2) The Cabinet Secretary or the Authority, as the case may be, shall discharge any bid security that is still in place on the date of the notification in sub-regulation (1).

32. (1) A contractor shall provide and maintain a security for the performance of the contractor's minimum work and expenditure obligations.

(2) Any performance security under sub-regulation (1) shall be—

- (a) be agreed in the petroleum agreement; .
- (b) drawn in favour of the Cabinet Secretary for a specified amount;
- (c) include terms providing for the immediate and unconditional release or payment of the secured amount;
- (d) in the form of a local bank guarantee, parent company bank guarantee, or a combination thereof; and,
- (e) valid throughout the duration of each phase of the exploration period.

(3) The contractor shall submit the performance security to the Cabinet Secretary, within ninety (90) days after execution of the petroleum agreement but before the commencement of the initial exploration period.

(4) The Cabinet Secretary shall, in writing, either confirm that the performance security is acceptable or provide justifications for rejecting the security within fourteen (14) days of receiving the proposed performance security.

(5) The contractor may, no later than sixty (60) days prior to the commencement of a subsequent exploration phase, request the Cabinet Secretary to exchange the security or otherwise alter the terms of the security to reduce the secured amount in proportion to the obligations already performed by the contractor and confirmed by the Authority as having been duly performed.

(6) The contractor shall submit supporting documents that confirm the extent of the obligations already performed under the petroleum agreement.

PART 5 – REQUIREMENTS AND PROCEDURES FOR UNITIZATION

33. (1) Where a contractor has informed the Cabinet Secretary of a discovery that extends into more than one contract area within Kenya, the Cabinet Secretary shall confer with the Authority to enable the Authority to make a decision as to whether to require joint development of the discovery between the affected contractors in accordance with a unitization agreement. The Authority shall inform the affected contractors of its decision within ninety (90) days.

(2) Within ninety (90) days of receiving a decision requiring contractor(s) to proceed with the joint development of a discovery in accordance with regulation 31, the affected contractor(s) shall negotiate and submit to the Authority a pre-unitization agreement covering—

- (a) the proposed initial interests of the contractor(s);
- (b) allocation of responsibility for the preparation of draft work programmes and budgets;
- (c) the procedures for review and approval of any pre-unitization operations; and
- (d) the procedures for negotiation of the unitization agreement.

(3) Following the submission of the pre-unitization agreement, the contractor(s) shall expeditiously negotiate a unitization agreement with a view to maximizing the economic recovery of petroleum from the reservoir(s).

(4) The unitization agreement shall include the following matters—

- (a) a process to prepare and submit a joint development plan for the reservoir(s) to the Authority;
- (b) procedures for evaluating reserves and their distribution in the joint development area;
- (c) principles for apportionment of produced petroleum from the reservoir(s) to each contractor;
- (d) designation of an operator;
- (e) procedures governing the frequency and methods for re-evaluating the parties' respective interests during the development including procedures for the resolution of any technical or other disputes; and
- (f) any other terms the Authority may require.

(5) The contractor(s) shall submit the unitization agreement and any other related documents affecting joint operations between the contractor(s) to the Authority for approval within 24 months.

(6) If the contractors propose to redetermine their interests in the joint development or to amend a unitization agreement or any other document affecting joint operations, the details of such redetermination or amendment shall be submitted to the Authority for prior approval.

(7) Where a discovery extends beyond the contractor's license area into an unlicensed area within Kenya, the Authority shall deliberate as to the most effective and beneficial way to ensure the additional area is licensed to enable efficient development of the discovery.

(8) Where a discovery extends beyond the contractor's license area into a neighbouring country's territory, the Cabinet Secretary shall, following the advice of the Advisory Committee, expeditiously initiate steps, to reach an agreement between Kenya and the neighbouring country establishing a legal framework for development of the discovery.

34.(1) The parties to a unitization agreement shall submit a joint development plan to the Authority for the reservoir(s) within eighteen (18) months from the approval of the unitization agreement, or such longer time as the Authority may approve.

(2) The joint development plan shall conform to the requirements of the Act relating to field development plans.

(3) The Contractors shall propose an allocation criterion for costs in the joint development plan.

(4) Where a joint development plan is not submitted within the time limit established, the Authority may contract an independent third-party expert to prepare the joint development plan, in accordance with best petroleum industry practices and at the expense of the contractors.

(5) The relevant Contractors shall be jointly and severally liable for the costs incurred under sub-regulation (4).

(6) Where the contractor(s) fail to cooperate with the independent third-party expert in the preparation of the joint development and production plan or where the contractors fail to agree to jointly implement the joint development and production plan in sub-regulation (4), the provisions of section 36 (7) of the Act shall apply..

PART 6 – TRANSFER OR ASSIGNMENT OF PETROLEUM RIGHTS

35. (1) An application for approval of an assignment pursuant to section 26 of the Act shall be submitted to the Cabinet Secretary by the Contractor using the form provided in Seventh Schedule.

(2) The contractor and proposed transferee shall provide to the Cabinet Secretary—

- (a) a report on the status of work carried out under the petroleum agreement against the approved work programme;
- (b) copies of all relevant documentation relating to the proposed transfer including copies of all agreements;
- (c) all documentation necessary to establish the prospective transferee's technical, financial, legal and administrative capacity to hold petroleum rights in Kenya and to perform contractors obligations under a petroleum agreement; and
- (d) any such other information as the Cabinet Secretary may request to enable a fully informed decision on the proposed transfer.

(3) Once the Cabinet Secretary receives the transfer of interest, the Cabinet Secretary shall seek advice from Authority.

(4) Upon receipt of recommendation from the Authority, the Cabinet Secretary shall refer the application and recommendation to the Advisory Committee within fourteen (14) days to assess suitability of transferee and the acceptability of the proposed transfer; and

(5) The Cabinet Secretary may grant permission for a proposed transfer if he is satisfied that—

- (a) the contractor is not in default of any obligation under the petroleum agreement, the Act and any other relevant Kenyan law;
- (b) the prospective transferee has provided sufficient financial security for the execution of obligations under the petroleum agreement;
- (c) the proposed transferee possesses technical, financial, legal and administrative capacity to hold petroleum rights in Kenya and to perform contractor's obligations under a petroleum agreement
- (d) there is no reason to believe that the transfer of that interest shall be against Kenyan public interest or safety as provided under the Kenyan law;

(e) the Kenya Revenue Authority has assessed the taxes payable with respect to the transfer; and

(f) the Authority has had sufficient opportunity to examine the proposed transfer and make recommendations.

(6) The contractor and the proposed transferee shall ensure the continuity of effective insurance arrangements to cover the risks of operations under the petroleum agreement as required by the Act and the applicable contract.

(7) The Cabinet Secretary shall require an assignee to provide a performance security in accordance with Regulation 32 for the performance of the obligations of the contractor as a condition precedent of the approval of any transfer.

(8) The Cabinet Secretary shall issue a written decision to approve or reject the transfer.

(9) Where the Cabinet Secretary rejects the recommendations of the Authority under this section, the Cabinet Secretary shall provide his reasons for the rejection in writing to the Authority, within fourteen (14) days.

PART 7 – TERMINATION OF PETROLEUM RIGHTS

36. (1) A petroleum agreement shall specify the procedure for termination of the petroleum agreement including criteria that entitle the parties to terminate the agreement.

(2) Where the Authority has reached a determination that there are sufficient grounds to justify the suspension or termination of a petroleum agreement under the terms of that petroleum agreement or the Act, it shall notify the Advisory Committee of this decision, outlining its reasoning and providing any relevant information supporting its view along with any relevant additional evidence.

(3) Upon receiving a notification from the Authority under sub-regulation (1), the Advisory Committee shall promptly consider the information provided by the Authority and make appropriate recommendations to the Cabinet Secretary.

(4) Upon receiving the advice of the Advisory Committee under sub-regulation (3), the Cabinet Secretary shall promptly consider the information provided by the Advisory Committee.

(5) If the Cabinet Secretary deems it necessary, he may conduct any additional inquiries necessary to determine whether to proceed with a formal notice to suspend or terminate the contractor as provided in the Act or in the petroleum agreement.

37. (1) If the Cabinet Secretary determines that there are sufficient grounds to justify the suspension or termination of a petroleum agreement, he may issue a formal notice to the contractor in accordance with the Act or the petroleum agreement.

(2) The notice shall stipulate—

- (a) the grounds for termination;
- (b) any information supporting the Cabinet Secretary's decision to issue the notice; and
- (c) if applicable under the petroleum agreement—
 - (i) any actions required to remedy the circumstances forming grounds for termination; and
 - (ii) the date by which such actions must occur to allow the Cabinet Secretary to withdraw the notice.

38. (1) If, after serving a formal suspension or termination notice to the contractor, the Cabinet Secretary is satisfied that the contractor has undertaken remedial action within the prescribed notice period, the Cabinet Secretary will formally withdraw such notice.

(2) The Cabinet Secretary shall notify the Advisory Committee of its decision on the withdrawal of a notice of suspension or termination.

39. Where a notice of suspension has been issued and the Cabinet Secretary is not satisfied that the circumstances that warranted commencing suspension procedures have been adequately remedied so as to justify withdrawing the notice within the time period stipulated in the notice of suspension, the Cabinet Secretary may commence the process to terminate the petroleum agreement in accordance to the Act and these Regulations.

40. Where a notice of termination has been issued and the Cabinet Secretary is not satisfied that the circumstances that warranted commencing termination procedures have been adequately remedied so as to justify withdrawing the notice within the time period stipulated in the notice of termination, the Cabinet Secretary may terminate the petroleum agreement in accordance to the Act and these Regulations. The Cabinet Secretary shall formally notify the contractor that he has terminated the petroleum agreement.

41. (1) Where a petroleum agreement or non-exclusive exploration permit terminates or otherwise expires—

- (a) the transfer of ownership or responsibility for the contract area and facilities to any party or the decommissioning of and rehabilitation of the contract area or permit area and facilities shall proceed as contemplated under the petroleum agreement or non-exclusive exploration permit and the Act;
- (b) the contractor or permit holder shall, within thirty (30) days of the date of termination, deliver to the Cabinet Secretary and the Authority, in the required format:—
 - (i) all records including financial statements, contracts with respect to the petroleum agreement or non-exclusive exploration permit and activities executed or planned under the petroleum agreement or non-exclusive exploration permit;
 - (ii) all plans or maps of the contract area or permit area which were prepared by or on the instructions of the contractor or permit holder;
 - (iii) all technical data, diagrams, models, profiles, and charts which were prepared by the contractor or permit holder in relation to activities executed or planned under the petroleum agreement or non-exclusive exploration permit; and
 - (iv) other documents and information as the Cabinet Secretary or Authority may require.

(2) A contractor or permit holder shall ensure that, upon termination of a petroleum agreement or non-exclusive exploration permit and before cessation of production, all wells and facilities are left in a state of good repair to the satisfaction of the Authority and in accordance with the Law.

(3) Notwithstanding the termination or expiry of a petroleum agreement or non-exclusive exploration permit, a contractor or permit holder shall not be relieved of environmental liability.

(4) The liability of a contractor in respect to decommissioning shall survive the petroleum agreement in accordance with the Law.

PART 8 – TRANSPARENCY AND ACCOUNTABILITY

42. (1) The Cabinet Secretary and the Authority shall publish in their respective websites a summary of the applicable procedures for the allocation of petroleum rights as provided for in the Act and other Laws on information access.

(2) The Cabinet Secretary shall, from time to time, publish the details of how citizens may access information required to be stored under these Regulations in accordance with the prevailing national government policy concerning publication of upstream licensing and operations.

43. (1) The Cabinet Secretary shall maintain a register of up-to-date information on upstream petroleum operations and related activities in secure formats as provided for in the transparency and accountability framework established in accordance with section 119 of the Act and any other information as the Cabinet Secretary may require, including—

- (a) identifying information on the applicable petroleum agreement and its location;
- (b) identifying information on the corporate entities (including the beneficial owners of such entities and their representatives) or individuals holding or applying for petroleum agreement;
- (c) relevant dates of operations, submissions and any significant event in relation to the award of the petroleum agreement; and

(d) any information on assignment of petroleum rights, transfer, extensions, termination or any other significant dealing or event related to the petroleum agreement.

PART 9 – FISCAL OBLIGATIONS

44. (1) A contractor shall pay a signature bonus prior to the award of a petroleum agreement,

(2) The Cabinet Secretary shall;

- i. Specify the amount of the signature bonus to be paid in sub-regulation (1) or
- ii. Allow for competitive bidding of the amount of signature bonus in sub-regulation (1)

(3) A contractor shall pay the bonus to the National Government.

45. (1) The contractor shall pay an annual surface fee for the contract area calculated per square kilometre for the acreage held under a petroleum agreement at the beginning of each contract year.

(2) The surface fees specified in sub regulation (1) above shall apply during exploration, development and production phases.

(3) The contractor shall pay the amount calculated in sub regulation (1) to the Ministry.

(4) The contractor shall submit to the Authority evidence of payments under the Act and these Regulations.

46. (1) The accounting officer of the Ministry shall collect and administer signature bonus, surface fees, and other fees as may be prescribed under the petroleum agreement.

(2) The accounting officer shall open a bank account with a reputable local bank which is solely dedicated to the fees.

(3) The fees shall be deposited by the contractor in the account specified in sub regulation (2).

(4) All funds under sub regulation (3) shall be utilised by the Ministry to promote upstream petroleum operations except for training.

(5) Before funds may be withdrawn the accounting officer shall sufficiently document the following—

- a) the purpose and relevance of the activity.
- b) the anticipated costs for the activity.
- c) any necessary incidental expenses related to the proposed activity.

(6) The accounting officer shall cause to be maintained accurate books of accounts and other records in relation to the fund of all activities and undertakings financed from the fund.

(7) No later than three (3) months after the end of each financial year, the accounting officer shall prepare and sign statement of accounts for the fees relating to that financial year in accordance with the relevant laws.

PART 10- TRAINING FUND

47. (1) The training fund established under subsection 52(2) of the Act may comprise—

- (a) such training fees prescribed under petroleum agreements;
- (b) such monies as may be appropriated by the National Assembly out of the Consolidated Fund;
- (c) any grants, gifts, donations or bequests;
- (d) any interest earned on the moneys in the fund;
- (e) any authorized reallocations into the fund;
- (f) such monies as may be allocated for that purpose from investments, fees or levies imposed or administered by the Cabinet Secretary or the Authority for training and development; and,

(2) monies accruing to or received by the Cabinet Secretary or the Authority from any other source and set aside for training.

48. The training fund shall be used to finance the training of Kenyans and the development of institutional academic capacity in upstream petroleum operations and related programmes through—

- (a) Any level of academic training;
- (b) Local and international programmes;
- (c) Tailor-made and existing programmes;
- (d) Developing institutional frameworks and programmes;
- (e) Supporting initiatives for institutional capacity improvement; and,
- (f) Any other means that support the objective of the training fund.

49. The fund shall be managed, administered, and operated in accordance with the national values and principles of governance, principles of public finance and values and principles of public service.

50. (1) The administration, management and operations of the training fund is vested in the Ministry.

(2) The accounting officer of the Ministry or a person designated by him in writing shall be the administrator of the training fund.

(3) There is established the Upstream Petroleum Training Fund Committee which shall support the administration, management, and operations of the training fund.

- (4) The Training Fund Committee shall comprise—
 - (a) the administrator of the fund or an authorized representative who shall be the chairperson;
 - (b) the person in charge of human resources management at the Ministry or an authorized representative who shall be the secretary;
 - (c) the person in charge of petroleum at the Ministry or an authorized representative;
 - (d) the person in charge of upstream petroleum at the Authority or an authorized representative;
 - (e) three (3) employees in the department responsible for upstream petroleum in the Ministry who shall be appointed by the accounting officer in a manner to reflect diversity in seniority, expertise, gender;

(5) The administrator may, on recommendation of the training fund committee, co-opt not more than three (3) persons who are knowledgeable in the matters prescribed for under these Regulations or any other relevant matter. The co-opted persons shall serve for specific purpose and time.

(6) The Training Fund Committee established under sub-regulation (3) shall be responsible for—

- (a) developing the Training Fund Manual;
- (b) developing the annual training work plan and budget;
- (c) preparing annual reports;
- (d) developing procedures and criteria for beneficiaries, programmes, initiatives fund allocation;
- (e) overseeing the utilization of the fund;

(7) The Training Fund Committee shall prepare procedures or other instruments to govern its proceedings.

51. (1) The training fund manual under the Ninth Schedule shall govern the operations of the fund and shall at the minimum provide for—

- (a) procedures for and considering making applications for funding;
- (b) criteria for the identification of beneficiaries, programmes and initiatives;
- (c) criteria for allocation of funds;

(d) responsibilities and obligations of the Training Fund Committee, administrator, secretary and beneficiaries;

- (e) dispute resolution;
- (f) a framework for monitoring and evaluation;
- (g) standard documents to be used;

(2) The training fund committee shall review the training fund manual from time to time.

52. (1) On the recommendation of the Training Fund Committee, the administrator shall maintain a bank account with a reputable local bank to collect and administer moneys of the fund.

(2) The bank account shall not be used for any other purposes than as provided for in these Regulations.

(3) The bank account shall be jointly operated with the express authority of the Training Fund Committee by at least two (2) of its members and the person in charge of accounts in the Ministry.

(4) Training Fund Committee shall authorize the closure of any bank account of the fund.

53. (1) At least three months before the commencement of each financial year, the Training Fund Committee shall prepare estimates of all income and expenditure required for the purposes of these Regulations for the following year and shall present such estimates to the Cabinet Secretary for approval.

(2) Training Fund Committee may prepare supplementary estimates and shall present such estimates to the Cabinet Secretary for approval.

(3) No funds of the training fund shall be reallocated to any other programmes or votes of other budgets.

54. (1) At least three months before the commencement of each financial year, the Training Fund Committee shall submit a plan for the specific proposed training activities during the following year to the Cabinet Secretary for approval.

(2) The annual training plan shall outline—

- (a) the total expected available funds for the relevant year;
- (b) the proposed training needs and programs for Kenyans for the relevant year;
- (c) the proposed institutional development initiatives of academic institutions for the relevant year;
- (d) the purpose and relevance of any proposed training programs or institutional development initiatives;
- (e) the proposed recipients of the training or development initiatives;
- (f) the anticipated costs for the proposed training or institutional development initiatives;
- (g) the providers of the proposed training or institutional development initiatives;
- (h) the proposed dates and duration for the training or institutional development initiatives;
- (i) any necessary incidental expenses related to the proposed activities; and,
- (j) any other relevant information.

55. (1) Any Kenyan national or academic institution desiring to undertake a programme or initiative for which the training fund is established may make an application to the Ministry as may be prescribed by the manual or Training Fund Committee and shall provide the complete, relevant and accurate information to support an application in a timely manner.

(2) A person who is a recipient of funds from the fund shall abide by these Regulations and any other applicable requirements as may be prescribed in writing.

(3) A person who is a recipient of the fund shall be held liable for the loss or misuse of such funds and shall indemnify the fund thereof.

56. (1) The administrator shall maintain a database containing all expertise, skills, knowledge acquired to the country's upstream petroleum knowledge base.

(2) The administrator shall maintain a register of all beneficiaries of the fund in sufficient detail.

57. (1) The administrator shall cause to be kept accurate books of accounts and other books and records in relation to the Fund of all receipts, activities and undertakings financed from the Fund.

(2) Financial records shall be maintained in manual and electronic form.

(3) The administrator shall develop mechanisms to ensure that financial records are safeguarded, accurate, reliable and free from fraud.

(4) Any alteration or deletion of any financial record or data whether electronic or manual must be authorised and approved in writing by the administrator on the recommendation of the Training Fund Committee.

(5) All Journal entries and vouchers shall be supported by sufficient explanations, authorizations, and documentation to facilitate the accounting adjustments.

(6) All receipts and payment vouchers shall be properly supported by the appropriate authorization and documentation.

(7) All receipts and payment vouchers shall be, or made out, in indelible ink and shall contain adequate narration of the particulars of the services, goods or works procured and being paid for.

(8) The administrator shall ensure that proper control systems exist for safe keeping of assets.

(9) The administrator shall put in place proper processes and procedures, both electronic and manual, for the effective, efficient, economical, and transparent use of the Fund's assets.

(10) No later than three (3) months after the end of each financial year, the administrator shall prepare, sign and a statement of accounts for the training fund relating to that financial year in accordance with the relevant laws.

PART 11– OFFENCES AND PENALTIES

58. A person who contravenes provision of these Regulations for which no specific penalty is provided for, the provisions of section 124 of the Act shall apply.

PART 12- MISCELLANEOUS PROVISIONS

59. The Cabinet Secretary in consultation with the Authority may issue any further guidelines, processes, instructions, forms, or templates to contractors as may be considered necessary, practical, or prudent for the effective operationalization of these Regulations.

60. A contractor or any person requiring access to land or an interest in land for upstream petroleum operations shall comply with the provisions of the Act, applicable laws and guidelines as may be issued by Cabinet Secretary and the Authority.

PART 13 – SAVINGS AND TRANSITIONAL PROVISIONS

61. (1) Subject to regulation 62, the Petroleum (Exploration and Production) Regulations, 1984 (L.N. 193/1984) are repealed.

(2) Subject to regulation 54 and sub-regulation (3), the Petroleum (Exploration and Production) (Training Fund) Regulations, 2006 (L.N. 132/2006) are repealed.

(3) The administrator of the fund shall cause to be transitioned into the fund established under these Regulations, any monies, books of accounts and other records of the fund established under the Petroleum (Exploration and Production) (Training Fund) Regulations, 2006 (L.N. 132/2006).

62. Notwithstanding regulation 61, anything done under the provisions of the Petroleum (Exploration and Production) Regulations, 1984 (L.N. 193/1984) and the Petroleum (Exploration and Production) (Training Fund) Regulations, 2006 (L.N. 132/2006) before the commencement of these Regulations shall be deemed to have been done under the provisions of these Regulations, provided that it is consistent with these Regulations.

63. These Regulations shall come into force on the date of their publication in the Kenya Gazette.

FIRST SCHEDULE

Regulation 11

APPLICATION FORM FOR NON-EXCLUSIVE EXPLORATION PERMIT

Information to accompany non-exclusive exploration permit application under these Regulations—

APPLICANT OVERVIEW		
LEAD APPLICANT/PERMIT HOLDER		
	Name	Percentage participation
1		
OTHER CONSORTIUM MEMBERS (if applicable)		
2		
3		
4		
...		
Date of application:		

APPLICANT DETAILS (provide for all consortium members)	
Name:	
Nationality :	
Home office address:	
Phone	
Email:	
Website:	
Applicant Representative Details in Kenya	
Name	
Phone:	
Address:	
Email:	
Website:	
Physical address in Kenya:	
Parent company information (if applicable)	
Provide information on ownership structure the group and parent company up to the ultimate controlling entities (include all details as outlined above)	

PROPOSED PERMIT AREA(S) UNDER APPLICATION			
	Area Details		
	Location and Coordinates	Size (km ²)	Order of preference
A			
B			
...	(Add rows if necessary)		
Include a map of the proposed permit area(s).			
Objectives of the proposed data acquisition/proposed exploration:			
A			
B			

...	(Add rows if necessary)
	Technical understanding of the area(s)
	A summary of the geology of the permit area.
	Results of any known previous prospecting and exploration work in relation to the permit area
	Play or plays to be addressed in the permit and a description of the critical risks associated with them that demonstrates the applicant's understanding of the petroleum system.
	(Add rows if necessary)

PROPOSED WORK PROGRAMME & BUDGET	
Outline the objectives of the proposed activities	
Provide a statement of the proposed minimum work programme that—	
<ul style="list-style-type: none"> - states its objectives and estimated cost; - identifies the technical rationale, milestones, and deliverables of the programme; and - details of the technology to be applied in the execution of the work programme. 	
PROPOSED WORK PROGRAMME	ESTIMATED COST
TOTAL	
ANY OTHER REVELANT INFORMATION	

	TIMING AND DURATION OF WORK PROGRAMME		
	Activity	Start date:	End date:
	(add rows if necessary)		

	TECHNICAL CAPACITY OF THE APPLICANT		
	Current analogous licenses held		
	Analogous licenses held over previous five (5) years		
	Technical qualifications (previous analogous experience)		

	Outline the equipment type and specifications to be used by the applicant:
	(add rows if necessary)

	FINANCIAL CAPACITY OF THE APPLICANT (For the last three (3) years)	year 1	year 2	year 3
A	Value of assets, in millions of USD			
B	Value of liabilities, in millions of USD			
C	Net value, in millions of USD (a - b)			
	Attach appropriate supporting documentation			

DETAILS OF FUNDING FOR PROPOSED WORK PROGRAMME	
(Add rows if necessary)	

Relevant Insurance Policies in place	
Evidence of appropriate insurance arrangements commensurate to the risks implicated by the proposed work programme.	Amounts
(Add rows if necessary)	

IMPACT OF THE PROPOSED EXPLORATION ACTIVITIES (Describe anticipated potential impacts and relevant mitigation measures)	
Details of NEMA licence:	
Economic:	
Social:	
Cultural:	
Environment:	
Other:	
PROPOSED MITIGATION MEASURES	
Economic:	
Social:	
Cultural:	
Environment:	
Other:	

DETAILS OF PROPOSED COMMERCIAL TERMS (COMMERCIAL APPLICANTS ONLY)	
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(e.g., proposed revenue share arrangements or other commercial proposal)	
(Add rows if necessary)	

RESEARCH PROPOSAL (NON-COMMERCIAL APPLICANTS ONLY) (e.g., research subject, relevant background)	
(Append additional supporting material if necessary)	
RESEARCHER DETAILS (NON-COMMERCIAL APPLICANTS ONLY) (Provide identity, professional titles, curriculum vitae and contact details of researchers)	
(Append additional supporting material if necessary)	

AUTHORISED SIGNATORY OF THE APPLICANT	
Signature of applicant	
Signature of co-applicant(s) if applicable	

EVIDENCE OF PAYMENT OF APPLICATION FEES	

SECOND SCHEDULE

Regulation 12

NON-EXCLUSIVE EXPLORATION PERMIT TEMPLATE

Non-Exclusive Exploration Permit No. xxx	
Petroleum (Upstream Petroleum Management and Administration) Regulations, 2024	
Non-Exclusive Exploration Permit	
Pursuant to the conditions set out in Section 23 of the Petroleum Act, 2019 ("the Act"), the Petroleum (Upstream Petroleum Management and Administration) Regulations, 2024 and in this Non-Exclusive Permit, the Authority hereby grant to _____, a corporation duly organised and existing under the laws of _____ and registered at _____, ("permit-holder") this Non-Exclusive Exploration Permit.	
This Non-Exclusive Exploration Permit allows the permit-holder a non-exclusive right to conduct the activities with respect to the non-exclusive exploration area described in the attached Agreement.	
The permit-holder shall conduct activities in accordance with the provisions of the Act, any relevant regulations, any conditions attached to the permit and the terms and conditions of any Agreement, which forms an integral part of this Permit.	
This Non-Exclusive Exploration Permit commences from	

for a term of [] years [subject to renewal]	
Dated this _____ day of _____, 20____	
Signed _____	
Name _____	
Designation _____	

Non-Exclusive Exploration Agreement

A non-exclusive exploration permit under these Regulations shall include the following terms and conditions:

1. Agreement participants and operator designation
2. Non-exclusive exploration area
3. Agreement duration
4. Work plan and deliverables
5. Standard of work
6. Ownership and use of data
7. Government rights to access and use data
8. Permit-holder rights to license and use data
9. Data reporting;
10. Revenue sharing mechanism
11. Performance security;
12. Requirements for reporting;
13. Protection of the environment;
14. Environmental liability;
15. Safety standards
16. Confidentiality
17. Permit-holder's indemnification of the government
18. Termination provisions
19. Relevant fees, taxes, levies and duties;
20. Force majeure;
21. Dispute resolution
22. Model licensing agreements;
23. Cost management;
24. Transfer and assignment of interests;
25. Governing law and jurisdiction

THIRD SCHEDULE

NOTICE OF DIRECT NEGOTIATIONS (NON-EXCLUSIVE PERMITS)

Regulation 16

Notice of Direct Negotiations

1. The Authority intends to enter into direct negotiations for a non-exclusive exploration permit related to *[INSERT AREA DETAILS]* with the following applicant: *[INSERT APPLICANT DETAILS]*

2. Any objections that a person may have with respect to the intended negotiations should be submitted within fourteen (14) days of publication of this notice to the address below: *[INSERT CONTACT DETAILS]*

3. Any party who also wishes to register an interest with respect to that block within fourteen (14) days of publication should communicate their intention to: *[INSERT CONTACT DETAILS]*

If the Authority deems that no or insufficient additional interest in the block or area has been demonstrated within the required time period, the Authority will commence the proposed direct negotiations with the applicant.

FOURTH SCHEDULE

Regulation 29

NOTICE OF DIRECT NEGOTIATIONS (PETROLEUM AGREEMENTS)

Notice of Direct Negotiations

1. The Cabinet Secretary intends to enter into direct negotiations for a petroleum agreement related to *[INSERT BLOCK DETAILS]* with the following applicant: *[INSERT APPLICANT DETAILS]*

2. Any objections that a person may have with respect to the intended negotiations should be submitted within fourteen (14) days of publication of this notice to the address below: *[INSERT CONTACT DETAILS]*

3. Any party who also wishes to submit a bid or register an interest with respect to that block within fourteen (14) days of publication should communicate their intention to:

[INSERT CONTACT DETAILS]

If the Cabinet Secretary deems that no or insufficient additional interest in the block has been demonstrated within the required time period, the Cabinet Secretary with advice of the Advisory Committee will commence the proposed direct negotiations with the applicant.

FIFTH SCHEDULE

Regulation 21, 30

APPLICATION FORM FOR A PETROLEUM AGREEMENT UNDER DIRECT NEGOTIATIONS

Applicants for a petroleum agreement under these Regulations shall provide information as outlined below (or as otherwise directed by the Cabinet Secretary):

Applicant information

1. If a consortium is proposed the information shall be provided for all consortium members.

2. Applicant(s) name (corporate and legal name)

3. Proposed interests

4. Proposed lead contractor

5. Director names, addresses

6. Representative Contact details (Name, Address, Phone, Email)

7. Parent company information (shareholders, place of incorporation, addresses, Phone, Email)

8. Date of Application

Block information

1. Proposed license area(s) for negotiation.

2. Statement of priority order interest for each block (if more than one block is applied for)

Financial capacity

1. Net value: assets and liabilities

2. Audited financial statements for last three (3) years

Technical capacity

Information on the Applicants' ongoing and previous projects specifying:

1. The total area held and location;

2. The operated and non-operated production and investment for the last three (3) years;

3. A short summary of the applicant's experience in relevant projects stating the role and level of responsibility for each project (i.e., as operator or consortium member).

4. Declaration of any details (or absence thereof) of any regulator-imposed penalty or administrative measure applied to the applicant due to environmental damage over the past five (5) years.

Evidence of environmental, safety and health operational competence

Geological Assessment

To the extent feasible, applicants shall provide:

1. A description of the regional location and geological significance within the respective sedimentary basin / surrounding area.

2. A written summary of the potential prospects observed in the areas under application, together with a forecast of hydrocarbon accumulation data and estimates of future production.

3. Forecast of stratigraphy / lithology and target horizons.	
4. Structural map (or isopach map, if relevant for stratigraphic prospect) of each potential horizon.	
5. Brief description of prospects and leads.	
6. Estimation of potential future resources for each observed prospect.	
7. Report on the possible impacts of exploration and production on the environment, together with the planned mitigation, monitoring and rehabilitation measures.	
Proposed work programme according to proposed phases	
1. Seismic and other surveys (quantity and estimated cost)	
2. Reprocessing (quantity and estimated cost)	
3. Reprocessing (quantity and estimated cost)	
4. Details of technology to be applied in the proposed work programme.	
Assessment of impact on the environment	
Report on the possible impacts of exploration and production on the environment, together with the planned mitigation, monitoring and rehabilitation measures.	
Financial proposals	
Any fiscal terms proposed by the applicant:	
1. Bonuses	
2. Production sharing percentages between the applicant and the Government	
3. Cost recovery limit	
4. Any Other	
Other information	
Any other information deemed appropriate.	
Date----- ---	Signature of Applicant..

SIXTH SCHEDULE

Regulation 24

CONTENT OF BID GUIDANCE DOCUMENT

A bid guidance document issued under these regulations shall contain the information below:

1.0 INTRODUCTION
2.0 REGULATORY FRAMEWORK
2.1. Overview of Licensing Authority and other relevant regulatory bodies
2.2. Overview of the laws and regulations applicable to the Bid Round
2.3. Overview of the legal instruments applicable to petroleum rights
3.0 FISCAL FRAMEWORK
3.1. Overview of applicable fiscal terms applicable rights awarded under the Bid Round
4.0 BLOCK OVERVIEW
4.1. Geological background
4.2. Description of the location and characteristics of blocks offered
4.3. Block map and designations
5.0 DATA ACCESS
5.1. Overview of available data for each block
5.2. Procedure for access to data
5.3. Requirements to purchase data (if applicable)
5.4. Confidentiality requirements

6.0 AWARD CRITERIA AND PROCEDURE	
6.1. Overview of required bidding items	
6.2. Bidding expectations including any minimum required bids	
6.3. Evaluation criteria	
6.4. Evaluation procedure	
7.0 BID SUBMISSION MODALITIES	
7.1. Required bid validity period	
7.2. Required financial security and conditions	
7.3. Overview of dispute resolution procedures	
8.0 BID ROUND SCHEDULE	
8.1. Deadline for submitting queries	
8.2. Deadline for submission of bids	
8.3. Date for announcement of winners	
8.4. Intended timeline and procedures for negotiation and finalisation of agreement	
9.0 APPLICATION CONTENT	
Required submissions	
9.1. Technical	
9.1.1. Geological and geophysical evaluation for block(s)	
- A description of the regional location and geological significance within the respective sedimentary basin / surrounding area.	
- A written summary of the potential prospects observed in the areas under application, together with a forecast of hydrocarbon accumulation data and estimates of future production.	
- Forecast of stratigraphy / lithology and target horizons.	
- Structural map (or isopach map, if relevant for stratigraphic prospect) of each potential horizon.	
- Brief description of prospects and leads.	
- Estimation of potential future resources for each observed prospect.	
- Report on the possible impacts of exploration and production on the environment, together with the planned mitigation, monitoring and rehabilitation measures.	
9.1.2. Proposed work programme in required format	
9.1.3. Overview of objectives for work programme	
An outline of the objectives for each element of the proposed work programme.	
9.1.4. Evidence of technical competence relevant to proposed work programme	
Information on the Applicants' ongoing and previous projects specifying:	
- the total area held and location;	
- the operated and non-operated production and investment for the previous three (3) years;	
- a short summary of the bidder's experience in relevant projects stating the role and level of responsibility for each project (i.e., as operator or consortium member).	
- Declaration of any details (or absence thereof) of any regulator-imposed penalty or administrative measure applied to the bidder due to environmental damage over the past five (5) years.	
-	
9.1.5. Evidence of environmental, safety and health operational competence	
9.1.6. Details of technology to be applied in the proposed work programme.	
9.2. Financial	
9.2.1. Financial bids required by the terms of the bidding round	
For example:	
- bonuses	
- production sharing percentages between the Contractor and the Government	
- cost recovery limit	
- other	
9.2.2. Evidence of financial capacity and/or funding to conduct proposed work programme	
9.2.3. Certified financial statements detailing assets and liabilities	
9.2.4. Required financial security for participation in the bidding round	
9.2.5. Overview of procurement strategy	
Outline any initiatives that support local content.	
9.3. Legal and administrative:	
9.3.1. Composition of bidding entity, corporate structure and key personnel	
If a consortium is proposed, the information shall be provided for all consortium members.	

- Applicant(s) name
Proposed interests
Proposed lead company
- Legal name and physical address
- Director and shareholders names, addresses
- Representative Contact details (Name, Address, Phone, Email, website)
- Parent company information (shareholders, place of incorporation) Date of Application
9.3.2. Confirmation of prequalification
9.3.3. Evidence of payment of the required application fee
9.3.4. Evidence of purchased pre-bid data
9.3.5. Evidence of pre-qualification

SEVENTH SCHEDULE

Regulation 35

APPLICATION TO TRANSFER INTEREST IN A PETROLEUM AGREEMENT

Proposed Transfer Form
Applicant details
Petroleum Agreement/License
Contractor Details
Proposed Transfer information
Transferee details
Summary of transfer proposal
Reasons for proposed transfer
Agreement Status
Report on the status of work carried out under the petroleum agreement against the approved work programme;
Contractor's remaining interests in Kenya Petroleum Interests
Transferee Qualifications information
Proposed Transferee Legal and Administrative details as outlined in Fifth Schedule.
Proposed Transferee Technical Capacity as outlined in Fifth Schedule.
Proposed Transferee Financial Capacity as outlined in Fifth Schedule.
Overview of Proposed Transferee performance security and insurance arrangements
Undertaking
Undertaking that Transferor is in compliance with all Kenyan laws and regulations, no outstanding fees/taxes

EIGHTH SCHEDULE

Regulations 11

SCHEDULE OF FEES

Application	Amount (USD dollars)
Application for a Non-Exclusive Exploration Permit (Commercial applicants)	5,000
Application for a Non-Exclusive Exploration Permit (Non-Commercial applicants)	500
Application under a bidding round	20,000
Application for direct negotiations for a petroleum agreement	30,000

NINTH SCHEDULE**CONTENT OF THE UPSTREAM TRAINING FUND MANUAL**

Regulation 51

1.0	Introduction
1.1	Purpose of the Manual
1.2	Scope of the Fund
1.3	Source of the training fund
2.0	Management and Administration
2.1	Guiding principles

2.2	Roles and Responsibilities
2.2.1	Role of Administrator
2.2.2	Upstream Training Fund Committee
2.3	Meeting and decision-making procedures
2.3.1	Decision making process
2.3.2	Conflict of Interest
3.0	Planning for training
3.1	Training Needs assessment
3.2	Training projections
3.3	Annual training plan
3.4	Modes of training
4.0	Training Programs
4.1	Guiding principles for identify training programs
4.2	Training programs evaluation process
4.3	Training plans
4.4	Quarterly reporting on Training
5.0	Training and Administration
5.1	Nomination of Kenyans and Institutions
5.1.1	Criteria for Kenya Nationals (Individuals)
5.1.2	Procedure for Selection
5.1.3	Criteria for Institutions
5.1.4	Procedure for selection
5.2	Application forms
5.3	Communication of decisions
6.0	Funding of Training Programs
6.1	Training budgets and approvals
6.1.1	Budget preparation
6.1.2	Budget review and approval
6.1.3	Budget monitoring and reporting
7.0	Bonding requirements
7.1	Length and amount of Bond
7.1.1	Bond period determined by course duration
7.1.2	Bond Period determined by cost of training
7.2	Calculation of Bonding the amount
7.3	Components of the Bond
7.4	Liquidated Damages
7.5	Eligibility for Bonding
7.5.1	Bonding Merger
7.5.2	Concurrent Bonds
7.5.3	Forfeiture of Bonding agreements
7.5.4	Transfer of bond obligations
7.6	Sureties
7.6.1	Number of Sureties
7.6.2	Qualification of a Surety
7.6.3	Death of a Surety
7.6.4	Surety commitment
7.6.5	Release of a Surety
7.7	Bonding Instrument/Training Bond Form
8.0	Monitoring and Evaluation
8.1	Monitoring and evaluation reporting
8.2	Training Impact Assessments
8.3	Independent Audits
9.0	Review of the Training Fund Manual

GAZETTE NOTICE NO. 9274

THE PETROLEUM ACT

(Cap. 308)

IN EXERCISE of the power conferred by Sections 126 and 127 of the Petroleum Act, (Cap. 308) the Cabinet Secretary makes the following Regulations—

PETROLEUM (UPSTREAM PETROLEUM OPERATIONS) REGULATIONS, 2024

PART I – PRELIMINARY

1. These Regulations may be cited as the Petroleum (Upstream Petroleum Operations) Regulations, 2024.

2. (1) In these Regulations, unless the context requires—

“Act” means the Petroleum Act (Cap. 308);

“Authority” means the Energy and Petroleum Regulatory Authority as established under the Energy Act, (Cap. 314);

“calibration” means the establishment of the relationship between the measured value and the reference value with known uncertainty;

“casing” means pipes installed in wells, the purpose of which is to isolate permeable intervals impregnated with fluids;

“contractor” has the meaning assigned to it in the Act;

“contract area” means the area covered by a petroleum agreement, and any such area as may be modified in accordance with the terms of the petroleum agreement, including through amendments, surrender, withdrawal, extension, or otherwise;

“critical equipment” means equipment and other systems determined to be essential in preventing the occurrence of or mitigating the consequences of an uncontrolled event including machinery, piping, blowout preventers, wellheads and related valves, flares, alarms, interlocks, fire protection equipment and other monitoring, control, and response systems;

“cuttings” means rock fragments from the drilling process;

“custody transfer” means the transfer of ownership or possession of petroleum from one party to another;

“data” means all qualitative or quantitative data, associated information, documents, reports and images including—

(a) raw data;

(b) edited or composite data;

(c) analyzed, interpreted or processed data;

(d) reprocessed data; and

(e) samples

whether in physical, digital or other format, obtained through upstream petroleum operations;

“decommissioning” means abandonment, recovery, removal and disposal, or if applicable re-deployment, of wells, flow lines, pipelines, facilities, infrastructure and assets related to upstream petroleum operations;

“development” means the planning, placement, construction and installation of facilities needed for production of petroleum;

“enhanced recovery” means the use or the expanded use of any process for the displacement of crude oil from an oil well other than primary and secondary recovery methods.

“escrow account” means an account used as a guarantee for financial obligations, subject to specific rules to be complied with fully by the parties;

“exploration” means the set of operations carried out in onshore or offshore blocks for data acquisition using geological, geochemical, geophysical exploration and appraisal wells or any other method with a view to locating petroleum deposits;

“facility” includes –

(a) any structure, device, roads, or other associated installations or infrastructure including pipelines, rail stations, pump stations, compressor stations and equipment constructed, placed or used in order to carry out upstream petroleum operations;

(b) vessel, vehicle or craft when stationary and used for drilling or support of on-going upstream petroleum operations; and

(c) vessel, vehicle or craft for transportation of petroleum in bulk when connected to a facility for loading of petroleum;

“field development plan” means a plan for the development of a commercial discovery prepared and approved pursuant to the Act and these regulations;

“fiscal metering” means metering carried out in connection with purchase, sale, and the calculation of taxes;

“fixed platform” means an offshore platform that is permanently fixed to a water body bed;

“hazard and operability study” means, a structured and systematic examination of a planned or existing process or operation in order to identify and evaluate problems that may present risks to personnel or equipment or prevent effective operation;

“in-field metering” means the measurement of produced fluids directly at the production site or within a field or Block for purposes of operations optimization, resource and cost allocation, as applicable.

"maximum efficient production rate" means the rate at which the maximum ultimate economic petroleum recovery is obtained from a commercial field without excessive rate of decline in reservoir pressure, and consistent with best petroleum industry practice;

"metering system" means the mechanical parts, instrument parts, sampling system and computer parts, as well as pertinent documentation and procedures, used for the fiscal measurement of production of petroleum;

"ministry" means the Ministry for the time being responsible for petroleum in Kenya and its successors;

3. (1) The Purpose of these Regulations is to provide requirements applicable to upstream petroleum operations, including activities of exploration, appraisal, development, production, abandonment, and decommissioning.

(2) These Regulations apply to upstream petroleum operations and upstream petroleum facilities located onshore and offshore of Kenya.

(3) These Regulations shall not apply to the midstream and downstream petroleum activities as defined in the Act unless explicitly provided in these Regulations.

PART II -EXPLORATION, APPRAISAL, DEVELOPMENT, PRODUCTION, ABANDONMENT AND DECOMMISSIONING OPERATIONS

4. (1) A contractor, permit holder, sub-contractor or any person engaged in upstream petroleum operations shall comply with requirements of the Act, these Regulations and any other applicable law.

(2) A contractor, a permit holder or any person engaged in upstream petroleum operations shall ensure that all its subcontractors, employees and any other person acting for it complies with the Act, these Regulations, and any other applicable law.

DIVISION 1 – EXPLORATION AND APPRAISAL OPERATIONS

Sub-Division 1 - Contractor's exploration schedule

5. (1) The duration of an exploration period shall be defined in a petroleum agreement. An exploration period may be sub-divided into an initial exploration period, a first additional exploration period and a second additional exploration period.

(2) A contractor shall have a right to request the Cabinet Secretary in writing to enter a subsequent exploration period, subject to fulfilment of its minimum work and expenditure obligations as provided in a petroleum agreement.

(3) Where the Contractor exercises the right provided under sub-regulation (2), the contractor shall, not later than thirty (30) days prior to the expiration of an initial or additional exploration period, apply to the Cabinet Secretary in writing by providing the following information:

(a) request for approval to enter a subsequent exploration period;

(b) confirmation of the fulfilment of its minimum work and expenditure obligations accompanied by supporting documentation;

(c) the proposed area for surrender; and

(d) any other information as may be required.

(4) Upon receipt of a written request the Cabinet Secretary may, if satisfied that the contractor met the requirements specified in sub-regulation (3), grant a request to enter a subsequent exploration period in accordance with the petroleum agreement.

(5) Where a contractor fails to fulfil its minimum work and expenditure obligations, the Cabinet Secretary may reject the request to enter a subsequent exploration period and exercise its rights as provided in the petroleum agreement.

(6) Subject to sub-regulations 34(5) and (6) and upon application by a contractor, the Cabinet Secretary may, on justifiable reason, grant an extension to an exploration period provided that: -

(a) the application for an extension shall be made not later than ninety (90) days before the expiry of that exploration period.

(b) the cumulative durations of extensions granted within any exploration period shall not exceed fifty percent (50%) of the initial duration of that exploration period.

(a) Notwithstanding paragraph (b) above, the Cabinet Secretary may grant an extension of less than fifty percent (50%) of the initial duration of an exploration period.

6. Any part of the contract area shall be relinquished in accordance with the Act and the petroleum agreement.

7. (1) Upon commencement of an exploration period a contractor shall undertake exploration operations and fulfil the minimum exploration work and expenditure obligations in accordance with the petroleum agreement.

(2) The minimum exploration work and expenditure obligations may consist of the geological, geochemical and geophysical studies, seismic survey and the drilling of a particular number of exploration and appraisal wells and a commitment on a minimum expenditure.

(3) The content and the time limits for the fulfilment of the minimum exploration work and expenditure obligation shall be determined in the petroleum agreement.

(4) Where a contractor is in default of a contractor's minimum work and expenditure obligations, the Cabinet Secretary may, suspend or terminate the petroleum agreement and recall the provided performance security as provided in relevant petroleum agreements and any other law.

8. (1) A contractor shall only conduct petroleum operations in accordance with the approved annual work program and budget.

(2) A contractor shall submit and present to the Cabinet Secretary and the Authority the annual work program and budget in the first and subsequent years within the period specified in a petroleum agreement and the Act.

(3) Such submission and presentation shall be sixty (60) days after the execution date for the first contract year or three (3) months before the beginning of the year to which the programme shall apply for the subsequent years.

(4) The Contractor shall submit the Work Program and Budget and supporting documentation in both electronic format and hardcopies.

(5) Any costs incurred by the Contractor prior to the approval of the work program and budget shall not be recoverable.

9. (1) The Work Program and Budget submitted to the Cabinet Secretary shall include a technical and financial description of each type of petroleum operation in such form as may be prescribed by the Authority from time to time.

(2) Each Work Programme and Budget submitted to the Cabinet Secretary shall be consistent with the Minimum Work Programme and Expenditure Obligations set out in the respective petroleum agreement corresponding to the current Exploration Period.

(3) Each budget item in the annual work programme and budget shall outline, with sufficient detail, the following: -

(a) the cumulative expenditure projected at the end of each quarter of the budget year;

(b) the latest forecast of cumulative petroleum costs projected for the budget year; and

(c) the expenditure projected in subsequent years to complete the budget item.

(4) The annual work program shall contain:

(a) a summary of the actual activities performed in the previous contract year and, where any such activities have not been performed or have been partially performed, reasons for such non-performance.

(b) Activities to be performed and corresponding budget for the contract year

(5) Annual work program and budget shall contain:

(a) A status of participating interests

(b) Where applicable, status of surrender obligations

(c) Status of performance securities

(d) Status of annual payments

(e) Status of community development and investment projects

(f) Status of any concluded and ongoing litigations and other legal risks related to the Petroleum Agreement

10. The Authority shall within fifteen (15) days upon submission of the Work Program and Budget advise the Cabinet Secretary on its approval.

11. (1) Upon receiving the Authority's advice, the Cabinet Secretary may approve or suggest any modifications to a proposed work programme and budget, he shall do so in writing within fifteen (15) days and forward the same to the contractor.

(2) Within fifteen (15) days a contractor shall consider the inclusion of such modifications and revisions considering best petroleum industry practice and submit to the Cabinet Secretary and the Authority the revised annual work programme and budget.

(3) Upon such submission under sub regulation (2) the Cabinet Secretary with the advisory of the Authority may approve the annual work program and budget submitted in writing within fifteen (15) days with or without conditions or, with reasons, reject the revised annual work program and budget.

(4) Any petroleum costs incurred by the Contractor prior to the approval of the annual work program and budget shall not be recoverable.

(5) Upon receipt of written approval from the Cabinet Secretary, the Contractor shall implement the approved annual Work Program and Budget.

12. (1) A proposed amendment to the approved annual work program and budget shall be submitted to the Authority and Cabinet Secretary for approval together with justifications thereof.

(2) The submission referred to under sub-regulation 12) shall be applicable where:

(i) An operator envisages that expenditure in a budget item as approved in the work programme and budget will exceed 10%.

(ii) A contractor proposes material changes to an approved annual work program and budget.

(3) The provisions of Regulation 9 and 11 shall apply to proposed amendments to an approved Work Program and Budget *mutatis mutandis*.

(4) Upon such submission of the revised annual work programme and budget, the Cabinet Secretary with the advisory of the Authority may approve the revised annual work program and budget in writing within fifteen (15) days with or without conditions or, with reasons, reject the revised annual work program and budget.

Sub-Division 2- Surveys

13. A contractor or a permit holder shall not conduct any survey without prior approval of the Authority.

14. (1) A contractor or a permit holder shall apply in writing to the Authority for approval of a survey not less than thirty (30) days prior to commencement of a survey. The application shall include the following information:

- (a) a duly filled application form as provided in Schedule I;
- (b) evidence of payment of applicable fee as prescribed in Schedule IX;
- (c) a description, type and purpose of the survey to be conducted;
- (d) a proposed distance or area to be covered by the survey;
- (e) a proposed start date of the survey;
- (f) an estimated duration of the survey;
- (g) methodology and equipment to be used;
- (h) name and address of the person conducting the survey where such person is not a contractor;
- (i) name and contact details of the person who will have responsibility for communications with the Authority regarding the survey;
- (j) a survey program comprising of-

(i) a brief description of the geology and pre-existing geophysical information relating to the area and its relationship to the objectives of the geological, geophysical or any other survey to be undertaken;

(ii) a map, of such type and scale acceptable to the Authority, of the operational area showing the proposed operational grid; and

(iii) an environmental impact assessment and emergency response plan for the areas where geological and geophysical operations are to be carried out.

(k) where a survey is conducted within or in the vicinities of environmental protection areas it shall be accompanied by a cadastral map in a form approved by the relevant authority demonstrating the boundaries of any such areas and their buffer zones where the survey is to be undertaken.

(2) The Authority may request a contractor or permit holder to provide additional information about the proposed survey. Such request shall be in writing and shall describe the information that is requested and prescribe the period within which such information shall be provided.

15. (1) Within twenty-one (21) days of the Authority receiving the application and is satisfied that there is enough information to make a decision on contractor's or permit holder's application under sub- regulation 14(1), the Authority shall grant or reject the approval specifying the reasons for the decision.

(2) The Authority may grant an approval subject to terms and conditions detailed in the approval.

(3) A contractor or permit holder shall not transfer a survey approval except with the prior approval in writing of the Authority.

(4) A contractor or permit holder is required to conduct surveys in compliance with Kenya laws, standards, terms and conditions of the approval and to submit data and reports as provided in these Regulations.

(5) Where a contractor or permit holder intends to amend a survey programme, referred to under paragraph 14(1)(j), the contractor or permit holder shall submit the amended survey programme to the Authority for approval at least fourteen (14) days before implementing the proposed change.

Sub-Division 3 - Drilling permit

16. A contractor or permit holder shall not drill any well or conduct any drilling operations without a drilling permit for each well.

17. (1) A contractor or permit holder shall apply for a drilling permit to the Authority in writing not less than two (2) months prior to the commencement of any drilling operations.

(2) An application for a drilling permit shall include:

- (a) a duly filled application form as provided in Schedule II;
- (b) evidence of payment of applicable fees as prescribed in Schedule IX;
- (c) the global positioning system (GPS) location of each well;
- (d) a confirmation by a contractor of its ability to mobilise onshore or offshore drilling units and personnel, construct a well site, access roads to the well site, facilitate transportation of equipment, supplies, and materials to the well site during drilling, monitoring, appraisal and evaluation activities;
- (e) a well plan that shall be prepared in compliance with the structure and contents provided in Schedule II; and
- (f) a list of relevant stakeholders and the local community likely to be affected by the operations and their respective contact details.

18. (1) The Authority shall-

- (a) arrange for a public participation in compliance with Section 24 (8) of the Act and Regulation 23; and
- (b) inform a contractor or permit holder in writing of the Authority decision within two (2) months after the receipt of the application and all supporting documentation.

19. (1) The Authority shall approve an application by issuing a drilling permit under Regulation 20 if the Authority is satisfied that:

- (a) the information and the well plan include the information specified in Schedule II;
- (b) the well plan is appropriate for the nature and scale of each well activity;
- (c) the well plan shows that the risks identified by a contractor in relation to each well activity will be managed in accordance with any relevant law and best petroleum industry practices; and
- (d) the way that each well activity will be carried out will not result in any new or increased detrimental risk to or effect on any operation.

(2) The Authority shall not approve a drilling permit if it is not satisfied that the well plan meets the requirements specified in Schedule II.

20. (1) A drilling permit issued by the Authority is subject to terms and conditions specified in such drilling permit

(2) The Authority may reject an application for a drilling permit to an applicant for reasons of:

- (a) public safety, or
- (b) any other reasonable justification.

(3) A drilling permit shall be valid for the period specified in the drilling permit and may be renewed.

(4) A person shall not transfer a drilling permit except with the prior approval in writing by the Authority.

(5) An application for the renewal of the drilling permit shall be made to the Authority by a contractor not later than thirty (30) days before the expiration of the drilling permit.

(6) An application for the renewal of the drilling permit shall be accompanied by the requirements in sub-regulation 17(2) and such other information as may be required by the Authority.

(7) A contractor shall execute well activities and drilling operations in compliance with applicable laws, best petroleum industry practices and terms and conditions of the drilling permit.

21. (1) A well plan approved by the Authority under these Regulations by issue of a drilling permit shall not be changed or modified without the prior approval of the Authority.

(2) A contractor or permit holder may apply to the Authority for the revision of a drilling permit explaining the reasons for changes or modifications and submit a revised well plan.

(3) A contractor or permit holder shall make an application under sub-regulation (2) for approval of a revision of the drilling permit and a well plan if any of the following circumstances exists –

- (a) a change in the understanding of the geology or underground formation that may have a significant impact on the integrity of a well or a well activity to which the approved well plan relates, as determined in such plan;
- (b) the occurrence or potential occurrence of a significant new detrimental risk to or effect on the integrity of a well or a well activity to which the approved well management plan relates, as determined in such plan;
- (c) a significant increase in a detrimental risk to or effect on the integrity of a well or a well activity to which the approved well management plan relates as, determined in such plan; or
- (d) any other substantial change.

22. (1) Each well shall be identified by a unique designation which a contractor shall obtain from the Authority.

(2) The designation of a well may not be altered because a part of the hole was deviated, or the well was re-drilled to a lower target.

(3) Notwithstanding sub-regulation (2), where a well exists but an additional wellbore is drilled directionally to a different target area, other prefixes, suffixes or any other additional letters or characters, shall be appended to the designation of the wellbore as shall be directed by the Authority.

Sub-division 4- General provisions related to upstream petroleum operation permits

23. (1) The Authority shall within forty-five (45) days upon receipt of the permit application as prescribed under these Regulations:

- (a) engage relevant stakeholders and the local community whose participation is desirable or whose interests may be affected by petroleum operations, subject to the permit application and permitting activities;
- (b) inform identified stakeholders and the local community of the scope of the permit application under consideration; collect and facilitate feedback received from the stakeholders.

(2) The procedure and schedule adopted for public participation shall be appropriate to ensure a permitting application and any proposed operations are duly considered by relevant stakeholders.

24. Any permit issued under these Regulations shall cease to be in force at the earliest of the following –

- (a) when the Authority grants a permit that replaces the previously issued permit;
- (b) when the Authority revokes a permit under regulation 27;
- (c) on the expiry date stated in the permit; or,
- (d) upon expiration or termination of the relevant petroleum agreement.

25. The Authority may suspend or revoke a permit issued under these Regulations where –

- (a) a contractor or permit holder has misrepresented any material facts during the permit application or issuance process;
- (b) a contractor or permit holder has not complied with the Act, applicable regulations or a direction given by the Authority in relation to an issued permit;
- (c) a contractor or permit holder has not complied with the terms and conditions of a permit or associated application documents, where applicable;
- (d) when a contractor or permit holder requests permit cessation;
- (e) a petroleum agreement or non-exclusive exploration permit is suspended or terminated, as the case may be; or
- (f) the Authority is satisfied for any other reason that a permit should be suspended or revoked.

26. (1) Where the Authority considers it may be necessary to suspend or revoke a permit issued under these Regulations, the Authority shall, at least thirty (30) days prior to suspension or revocation –

- (a) give a contractor or permit holder a written notice stating the Authority's intention to suspend or revoke a permit; and
- (b) include in the notice –
 - (i) an explanation of the reasons why the Authority is considering the suspension or revocation;
 - (ii) a date by which a contractor may give the Authority any information that a contractor wants the Authority to consider before deciding whether to suspend, or revoke a permit; and
 - (iii) any other information that the Authority considers appropriate.

(2) In exceptional circumstances, the Authority may suspend or revoke a drilling permit without a notice, where the reasons justify such immediate suspension or revocation.

27. (1) If the Authority gives a contractor a notice under paragraph 26(1)(a), the Authority shall, within twenty-one (21) days after the date mentioned in sub-paragraph 25(1)(b)(ii) has passed –

- (a) suspend or revoke a permit; or
- (b) decide not to suspend or to revoke a permit.

(2) The Authority shall not suspend or revoke a permit issued under these Regulations unless the Authority –

- (a) has taken all information provided under sub- paragraph 26(1)(b)(ii) into account; and
- (b) is satisfied that a reason for suspension or revocation under sub-paragraph 26(1)(b)(i) exists.

(3) Fourteen (14) days after making a decision under sub- regulation (1), the Authority shall notify a contractor in writing of the decision.

(4) If the decision is to suspend or to revoke a permit the notice shall specify —

- (a) the date on which the suspension or revocation of a permit takes effect; and
- (b) the reasons for the decision.

Sub-division 5 - Methods and procedures for drilling wells

28. (1) A contractor or permit holder shall ensure that well barriers are designed to ensure well integrity and that the barrier functions are safeguarded during the lifetime of a well.

(2) Well barriers shall be designed to ensure that unintended well influx and outflow between formations and to the external environment is prevented.

(3) At least two (2) independent barriers shall be installed during all well activities and operations, including for suspended or abandoned wells.

(4) The well barriers shall be designed to ensure that their performance can be verified in accordance with Kenya Standards or best petroleum industry practices as approved by the Authority.

(5) During drilling and well operation, well barriers shall be tested by an independent and competent entity approved by the Authority.

(6) If one barrier fails, activities shall not be carried out in the well other than activities intended to restore or replace the barrier which has failed.

(7) A contractor or permit holder shall ensure that pumping and fluid capacity is available on the facility or on vessels in the event of well intervention.

(8) The need for pumping and fluid capacity in the event of well intervention referred to under sub-regulation (7) shall be included in the activity-specific risk assessment.

29. (1) A contractor or permit holder shall ensure that well control equipment is designed and capable of activation in a manner that ensures both barrier integrity and well control in accordance with Kenya Standards or best petroleum industry practices as approved by the Authority.

(2) When drilling a top-hole section through risers or conductors, equipment shall be installed with a capacity to divert shallow gas and formation fluids away from the well site.

(3) The pressure control equipment used in well interventions shall have remotely controlled valves with mechanical locking mechanisms in the open position.

(4) Well intervention equipment shall have a remotely controlled blind shear ram as close to the christmas tree as possible.

(5) Floating facilities shall have an alternative activation system for activating critical functions of the blowout preventer for use in the event of an evacuation.

(6) Floating facilities shall have the capacity to disconnect the riser package after the blind shear ram has cut the work string.

(7) A contractor or permit holder shall ensure that in the event of loss of well control, it is possible to regain well control by intervening directly or by drilling a relief well.

(8) A contractor or permit holder shall prepare and submit to the Authority for approval an action plan describing how the lost well control can be regained.

30. (1) A contractor or permit holder shall implement measures to handle conditions when shallow gas or other formation fluids are found.

(2) When drilling in shallow formations, the selection of well design and drilling parameters shall ensure the prevention of gas or formation fluid from the well which pose a threat to personnel and facilities.

(3) The measures put in place by a contractor or permit holder under these Regulations shall be in accordance with Kenya Standards and best petroleum industry practices approved by the Authority.

31. (1) Where a well has been suspended, the contractor or permit holder shall permanently plug petroleum-bearing zones and abandon the well within three (3) years unless the well is continuously monitored.

(2) A contractor or permit holder shall ensure that it is possible to monitor well integrity of a suspended well.

(3) A contractor or permit holder shall not abandon radioactive sources in the well and where radioactive source cannot be removed, it shall be abandoned in a manner that ensures safety to human health and the environment and in accordance with relevant laws, and best petroleum industry practices as approved by the Authority.

(4) To the extent possible the location of a suspended well shall be restored to the original site condition.

32. (1) A contractor or permit holder shall ensure that choke and choke manifold are pressure tested in accordance with Kenya Standards and best petroleum industry practices approved by the Authority.

(2) The blowout preventer with associated valves and other pressure control equipment on the facility shall be pressure tested and function tested in accordance with Kenya standards and best petroleum industry practices approved by the Authority.

(3) A contractor or permit holder shall ensure that the blowout preventer and associated valves and other pressure control equipment on the facility undergo a complete inspection by a competent body approved by the Authority every five (5) years.

(4) A contractor or permit holder shall develop and provide to the Authority a blowout contingency plan.

Sub-division 6 - Discovery, commerciality and appraisal

33. Where the presence of petroleum within a reservoir is encountered during drilling operations, and the petroleum is shown to be producible, the petroleum accumulation shall be considered a discovery.

34. (1) A contractor is required within forty-eight (48) hours to notify the Cabinet Secretary of any such discovery of petroleum or other minerals in the relevant contract area in compliance with section 27 of the Act. The notification shall include the following information:

- (a) a contract and a block number in which the discovery was made;
- (b) name of the discovery well; and
- (c) data or information used to confirm the discovery.

(2) Not later than sixty (60) days after the notification made in sub-regulation (1), the contractor shall complete and test such exploration well and shall, within thirty (30) days after completion and testing, submit an initial discovery report. The initial discovery report shall include information which was submitted in the original notification specified in sub-regulation (1) and the following information:

- (a) the rate or quantity of production of petroleum and water from the discovery well; and
- (b) the physical and chemical properties of the petroleum from the discovery well that have been determined.

(3) Where the contractor considers that a discovery merits appraisal, the contractor shall obtain approval of its proposed

appraisal work programme and budget from the Cabinet Secretary in accordance with the relevant petroleum agreement.

(4) The contractor shall commence execution of the approved appraisal work programme and budget within sixty (60) days upon approval by the Cabinet Secretary.

(5) Where the appraisal period commences in the initial exploration period or first additional exploration period, the contractor shall expeditiously undertake and complete the approved appraisal work programme and budget with respect to the discovery within a period reasonably required to determine whether or not the discovery is commercial, but in any event, such period shall not go beyond the second additional exploration period.

(6) In the event of a discovery in the last year of the second additional exploration period, the Cabinet Secretary shall, at the request of the contractor, extend the term of the second additional exploration period in respect to the prospective area of the discovery and for the period of time reasonably required to expeditiously complete the approved appraisal work programme and budget with respect to such discovery and to determine whether or not the discovery is commercial, but in any event, such extension to the second additional exploration period shall not exceed two (2) years.

(7) Notwithstanding sub-regulation 5(6), an approved appraisal work programme and budget obligations shall be in addition to, and shall not discharge the contractor from, its respective minimum work and expenditure obligations under a petroleum agreement.

(8) A contractor shall conduct a separate appraisal for each discovery unless otherwise decided by the Cabinet Secretary or as otherwise provided for in the relevant petroleum agreement.

(9) Where a contractor decides that a discovery does not merit an appraisal the discovery area shall be relinquished in accordance with the Act, applicable regulations and the petroleum agreement.

35. (1) Within ninety (90) days from completing appraisal work, a contractor shall determine whether the discovery is a commercial discovery or not and notify the Cabinet Secretary in accordance with sub-regulation 35(2). The decision to declare commerciality shall be based on best petroleum industry practice and at the discretion of a contractor based on the result of the appraisal operations.

(2) Upon completion of the appraisal work, a contractor shall submit an appraisal report in addition to the declaration of commerciality if any, ensuring that the appraisal report includes all available technical and economic data relevant to determination of commerciality, including:

- (a) location and areal extent of commercial discovery
- (b) geological and geophysical conditions, which may be in the nature of structural configuration;
- (c) physical properties and the extent of reservoir rocks, areas, thickness and depth of pay zones, pressure, volume and temperature analysis of the reservoir fluids;
- (d) preliminary estimates of crude oil or natural gas reserves;
- (e) recovery drive mechanisms;
- (f) anticipated production performance per reservoir and per well; and
- (g) fluid characteristics, including API gravity, sulphur percentage, sediment, wax, asphaltenes, CO₂ and water percentage and refinery assay pattern.

(3) The Cabinet Secretary may request a contractor to provide additional information as required.

(4) Where a contractor does not declare that discovery is commercial, the discovery area shall be relinquished except for cases provided in the Act and respective petroleum agreement.

36. (1) When a commercial discovery is declared, a contractor shall establish a preliminary demarcation of the proposed development area on a map which shall correspond as closely as possible to the extent of the field or fields within the contract area.

(2) The final development area shall be established under the approved field development plan.

(3) An approved development area shall only be altered with prior approval from the Cabinet Secretary when—

- (a) a new field or fields are discovered under or overlying the deposit(s) included in the area already demarcated;

(b) the Cabinet Secretary, on the basis of technical and/or economic reasons provided by a contractor, authorises two separate fields to be developed jointly in accordance with provisions in the Act, petroleum regulations and petroleum agreements.

DIVISION 2 – FIELD DEVELOPMENT OPERATIONS

Sub-division 1 - Field development plan

37. A contractor shall not commence development operations without prior approval of the field development plan and receipt of all other permits, approvals and consents that may be required under applicable Kenya laws or petroleum agreements.

38. (1) Where a discovery is declared commercial, a contractor shall prepare and submit to the Authority a field development plan for the field(s) within one hundred and eighty (180) days from the declaration of commerciality or within the period specified in the petroleum agreement or as otherwise agreed by the Authority and Cabinet Secretary.

(2) A field development plan shall—

(a) be based on sound engineering and economic principles and in accordance with best petroleum industry practices and considering the maximum efficient rate of production appropriate to the commercial discovery, and

(b) shall comply with requirements of section 30 of the Act, the petroleum agreement and Schedule III of these Regulations.

(3) With submission of a field development plan a contractor shall enclose the evidence of payment of applicable fees as prescribed in Schedule IX.

39. (1) The Authority shall review the contents of the field development plan submitted by a contractor and where any of the items required under sub-regulation 38 (2) are missing, the Authority shall notify a contractor to submit any such missing items.

(2) As soon as practicable after receipt of a content compliant field development plan the Authority shall commence assessing the field development plan over the period specified in the petroleum agreements and make recommendations to the Cabinet Secretary on approval, amendment or rejection of the field development plan in accordance with the petroleum agreement(s).

(3) Upon receipt of Authority's recommendations on the field development plan, the Cabinet Secretary shall undertake further assessment of the plan and shall approve or reject such plan as soon as practicable, but not later than sixty (60) days upon receipt of the Authority's recommendations.

40. (1) The Cabinet Secretary shall approve a field development plan if the Cabinet Secretary is satisfied that—

(a) the plan includes the information required under sub-regulation 38(2);

(b) the plan demonstrates that the applicant will manage the field

(i) in accordance with sound engineering principles, codes, standards and specifications;

(ii) in a manner that is consistent with best petroleum industry practices; and

(iii) compatible with optimum long-term recovery of the petroleum.

(c) All applicable laws have been complied with.

(2) Where the Cabinet Secretary is not satisfied that the plan meets the requirements of sub-regulation (1), the Cabinet Secretary shall within thirty (30) days notify the Authority and the contractor requesting modifications within a specified period.

(3) Upon making modifications to the field development plan in accordance with the notification of a Cabinet Secretary, a contractor shall resubmit the modified field development plan to the Cabinet Secretary via the Authority for approval.

(4) The Cabinet Secretary in approving a field development plan may approve it with attached terms and conditions that a contractor shall comply with.

41. (1) The Cabinet Secretary shall upon approval of the field development plan submit it to the Parliament for ratification in accordance with Section 31 of the Act.

(2) Upon ratification of the field development plan in accordance with sub-regulation (1) a contractor shall proceed promptly and without undue delays, and in any case not later than one hundred and eighty (180) days, to commence the implementation of the development works in accordance with the development plan and the development and production work programme and budget approved in accordance with Regulation 11.

42. (1) A contractor shall only conduct development and production petroleum operations in accordance with an approved annual development and production work program and budget.

(2) A contractor shall submit and present to the Cabinet Secretary and the Authority the annual development and production work program and budget upon ratification of the field development plan and each subsequent year, in accordance with sub-regulation (3).

(3) An initial development work programme and budget shall be presented to the Cabinet Secretary and the Authority sixty (60) days after the approval and ratification of the FDP or, in the case of a subsequent development and production work programme and budget, three (3) months before the beginning of the year to which the programme relates.

(4) The Contractor shall submit the development and production work program and budget and supporting documentation in both electronic format and hardcopies.

(5) Any costs incurred by the Contractor prior to the approval of the development and production work program and budget shall not be recoverable.

43. (1) The annual development and production work program and budget submitted to the Cabinet Secretary and the Authority shall include a technical and financial description of each type of petroleum operation in such form as may be prescribed by the Authority from time to time.

(2) Each annual development work programme and budget shall be consistent with the obligations set out in the respective approved and ratified field development plan or revised field development plan as the case may be.

(3) Each budget item in the annual development and production work programme and budget shall outline, with sufficient detail, the following:-

- (a) the cumulative expenditure projected at the end of each quarter of the relevant contract year;
- (b) the latest forecast of cumulative petroleum costs projected for the relevant contract year; and
- (c) the expenditure projected in subsequent years to complete the budget item.

(4) The annual development and production work program and budget shall contain the following information:

- (a) a status of participating interests;
- (b) a summary of the actual activities performed in the previous contract year and, where any such activities have not been performed or have been partially performed, the reasons for such non-performance;
- (c) activities to be performed and the corresponding budget for the relevant contract year;
- (d) with respect to production, the requirements under Schedule V;
- (e) where applicable, the status of surrender obligations;
- (f) where applicable, the status of performance securities;
- (g) the status of annual payments;
- (h) the status of community development and social investment projects;
- (i) the status of any concluded and ongoing litigations and other legal risks related to the Petroleum Agreement; and

(j) any other information as the Cabinet Secretary or Authority may require.

44. The approval of the submitted annual development and production work program and budget shall be in accordance with the provisions of Regulation 11.

45. (1) A proposed amendment to the approved annual development and production work program and budget shall be submitted to the Authority and Cabinet Secretary for approval together with justifications thereof.

(2) The submission referred to under sub-regulation (1) shall be applicable where:

- (i) An operator envisages that expenditure in a budget item as approved in the work programme and budget will exceed 10%.
- (ii) A contractor proposes material changes to an approved annual work program and budget.

(3) Upon such submission of the revised development work programme and budget, the Cabinet Secretary with the advisory of the Authority may approve the revised annual development and production work program and budget in writing within fifteen (15) days with or without conditions or, with reasons, reject the revised annual work program and budget.

46. (1) A contractor shall only make a variation or alteration to an approved field development plan in accordance with these Regulations.

(2) A contractor shall apply to the Authority for approval of a revision to an approved field development plan in case of significant deviation in or alteration of the terms and conditions under which a field development plan has been approved as well as any significant alteration of plan, facilities, or use of the facilities. The application shall be accompanied by the proposed revision.

(3) A deviation is considered significant when—

- (a) A contractor proposes to make changes in the development strategy or management strategy of the field;
- (b) A contractor proposes to make changes to the number, inclusion or exclusion of field or fields;
- (c) Cessation of production, permanently or for the long term, before the date proposed in the field development plan;
- (d) A contractor proposes a change or a new method for the petroleum recovery, such as enhanced recovery and injection of fluids, where such change would result or results in a significant increase in cost;
- (e) A contractor proposes to make any change that requires a revision of the technical configuration and design, design of facilities and economic aspects of the project which would result or results in a 10% increase in cost;
- (f) Any other proposed change that the Authority considers significant.

47. (1) The Authority shall consider an application made under sub-regulation 46(2) within sixty (60) days of submission thereof and may, within that period, request a contractor to provide additional information.

(2) The Cabinet Secretary shall within twenty-one (21) days upon advise from the Authority, consider the revision of the field development plan.

(3) The Cabinet Secretary may approve the revision of the field development plan subject to terms and conditions that a contractor shall be required to comply with.

(4) The Cabinet Secretary shall, within fourteen (14) days of the approval of the revision of the field development plan, submit the revised field development plan to Parliament for ratification in accordance with section (31) of the Act.

Sub-division 2 - Permit to construct upstream petroleum facilities and design approval

48. Unless the context otherwise requires, this Sub-division shall apply to the construction, operation and maintenance of upstream petroleum facilities.

49. (1) A contractor or permit holder shall apply to the Authority for a permit to construct upstream petroleum facilities.

(2) A permit to construct upstream petroleum facilities falling under sub-regulation (1) shall include among others -

- (a) petroleum gathering facilities;
- (b) petroleum storage and handling facilities;
- (c) petroleum processing facilities;
- (d) other facilities that may be required under the Act.

50. (1) A contractor or permit holder shall apply for a permit to construct upstream petroleum facilities to the Authority in writing not less than three (3) months prior to commencement of any construction operations;

(2) A contractor, and where applicable a permit holder, shall provide the following in the application under sub-regulation (1)

- (a) an application form as provided in Schedule IV;
- (b) evidence of payment of applicable fees as prescribed in Schedule IX;
- (c) design of the facility approved by the relevant authorities of Kenya that is based on sound engineering and economic principles and in accordance with best petroleum industry practice and applicable Kenya laws. Such design shall include:
 - (i) the Front-End Engineering Design and
 - (ii) Detailed Engineering Design documents, including piping and instrumentation design document.
- (d) a copy of the applicant's design-standard policy;
- (e) a plot plan of the site and an equipment list showing the equipment to be installed;
- (f) an annex of the codes and standards applicable to the construction of the facility;
- (g) all processes and procedures required to deliver safe construction and operation of the facilities;
- (h) where applicable, a hazard and operability (HAZOP) study and an environmental impact assessment license for the proposed facilities and operations approved in accordance with Kenya laws;
 - (i) a copy of all other relevant approvals, authorisations, licences and permits required under applicable Kenya law to commence building, construction or installation processes; and
 - (j) any other information that the Authority may require.

51. The Authority shall -

- (a) review the application submitted by a contractor or permit holder and where any of the items required under sub-regulation 50(2) are missing, the Authority shall notify a contractor or permit holder to submit the missing items;
- (b) arrange for a public participation in compliance with Sub-section 24 (8) of the Act and Regulation 23; and
- (c) inform a contractor or permit holder in writing of the decision of the Authority within two (2) months after the receipt of the application and all required documentation.

52. (1) The Authority shall approve an application under regulation 49 by issuing a permit if the Authority is satisfied that -

- (a) submitted application contains information specified in Schedule IV and accompanied with all documentation required under sub-regulation 50(2);
- (b) a contractor or permit holder has all necessary processes and procedures in place to deliver safe construction and operations of facilities;
- (c) an environmental impact assessment license for the proposed facilities and operations has been approved in accordance with Kenya law; and
- (d) a contractor or permit holder has provided any other information as may be requested by the Authority.

(2) The Authority may at its discretion approve or reject an application for a permit to construct upstream petroleum facilities and shall, upon rejection of an application, provide reasons thereto.

53. (1) An upstream petroleum facility construction permit shall be for the period specified in the permit which may be renewed.

(2) An upstream petroleum facility construction permit issued by the Authority shall be subject to terms and conditions specified in such permit.

(3) A contractor or permit holder is required to conduct construction operations in compliance with applicable Kenya laws, standards, best petroleum industry practices approved by the Authority.

(4) A person shall not transfer an upstream petroleum facility construction permit except with the prior approval in writing of the Authority. Such application shall include: -

- i. Permit number
- ii. Official company search
- iii. Technical and financial capability of the transferee

(5) Where applicable, an application for the renewal of the upstream petroleum facility construction permit shall be made to the Authority by a contractor or permit-holder not later than sixty (60) days before the expiration of the existing permit with justification of extension required.

54. (1) An upstream petroleum facility construction permit issued by the Authority under these Regulations shall not be changed or modified without the prior approval of the Authority.

(2) A contractor or permit holder may apply to the Authority for the revision of an upstream petroleum facility construction permit accompanied by the documents required under sub-regulation 50(2) explaining the reasons for changes or modifications

55. (1) A contractor or permit holder shall prior to commencement of construction, building or installation of the upstream facilities located onshore or offshore submit to the Authority the final designs and plans or construction works for approval.

(2) The contractor or permit holder shall seek any other necessary approvals from relevant authorities in compliance with Kenyan law.

(3) For facilities specified in sub-regulation 49(2) a contractor or permit holder shall seek an approval of design during the process of applying for a upstream petroleum facility construction permit.

(4) A contractor shall submit to the Authority for approval documents specified in sub-regulation 50(2).

(5) A contractor shall pay the design approval fee as prescribed in Schedule IX and include evidence of such payment in the submission of designs for approval

(6) For the avoidance of doubt, a contractor or permit holder shall remain liable for the designs, plans, construction, and installation works associated with an upstream onshore or offshore facility.

Sub-division 3 - Requirements for design, construction, and installation of onshore upstream petroleum facilities

56. (1) A contractor or permit holder shall ensure that onshore upstream petroleum facilities are designed, constructed, supplied, installed and maintained in compliance with applicable Kenyan laws and best petroleum industry practices as approved by the Authority.

(2) In designing petroleum facilities and selecting appropriate material and equipment a contractor shall comply with Kenya standards or best petroleum industry practises approved by Authority.

(3) During the design and fabrication of process and auxiliary facilities, human factors and technical safety requirements as well as environmental sustainability shall be taken into account.

(4) A contractor shall ensure that the choice and location of a facility and its components is based on a hazard and operability (HAZOP) study, area classification and ventilation assessment.

(5) A contractor shall ensure that the facility is in as far as reasonably practicable designed with redundancy in the vital operating and safety systems.

(6) A contractor or permit holder shall ensure that during design—

- (a) equipment and materials used for process and auxiliary facilities are fit for purpose;
- (b) equipment and facilities are secured against abnormal loads, including dimensioning accidental events;
- (c) account is taken of the environment in which the installations are to be placed and to which they are subjected; and
- (d) probable changes in future operational conditions are considered.

(7) A contractor shall ensure that facility design considers provisions for future monitoring and maintenance.

57. (1) Valves and actuators shall be designed and produced in such a way as to be able to withstand the loads to which they may be subjected.

(2) Valves and actuators which are part of an emergency shutdown system shall be able to resist the dimensioning fire and explosion loads to which they may be subjected.

(3) Valves with great significance to safety shall be tested in accordance with standards approved by the Kenya Bureau of Standards and best petroleum industry practices approved by the Authority.

(4) There shall be two levels of safety with functionally different types of safety devices to offer protection for abnormal loads.

58. (1) A contractor shall ensure that rotating machinery is compliant with the requirements of Kenya standards and best petroleum industry practices approved by the Authority.

(2) When choosing rotating machinery, a contractor shall ensure that—

- (a) consideration shall be given to reliability, energy efficiency, ease of operation and maintenance, previous experience with the machinery;
- (b) preference shall be given to utilizing the latest technology available without detrimentally affecting other relevant considerations;
- (c) the rotating machinery and its components shall be designed and installed to ensure that it does not cause unacceptable risk to people, property and to the environment;
- (d) the rotating machinery and its components shall at maximum operational load withstand the environmental loads to which it may be subjected;
- (e) rotating machinery intended to be functioning during accident situations, shall be protected against destruction by dimensioning loads from fire, explosion and accident;
- (f) rotating machinery performing critical functions shall be fitted with equipment monitoring critical parameters, such as pressure, temperature and vibrations;
- (g) foundations with supporting structures shall have sufficient strength and rigidity to prevent harmful deformations and reduce vibrations;
- (h) a shut-in valve on the inlet to pumps in light hydrocarbon or crude service should be installed;
- (i) combustion engines are fitted with an automatic device to prevent the engine from over speeding in the event that inflammable gas is sucked into the air inlet;
- (j) if a water-cooled spark arrestor is used, a signal is given in the control room in the event of a water supply failure;
- (k) air exchangers and drive shafts need to be properly enclosed to prevent personnel injury;
- (l) combustion engines and turbines are supplied with combustion air from non-hazardous areas;
- (m) exhaust gas is conveyed to separate non-hazardous areas and exhaust gas ducts shall be designed in such way that possible sparks from the combustion will not become an ignition source;

(n) exhaust gas is to the extent possible emitted away from the installation, so as not to cause inconvenience to people or cause hazardous situations;;

(o) for compressors, a check valve should be placed downstream of the final discharge stage to prevent backflow in the event of a leak or piping failure;

(p) relief valves shall be placed on the inlet scrubber(s) and downstream of each stage of compression;

(q) high/low pressure switches shall be placed on the inlet and outlet of each stage;

(r) high temperature shutdowns shall be placed on the discharge of each compressor stage;

(s) electric motors shall adhere to Kenya standards and best petroleum industry practices approved by the Authority.

(t) totally enclosed frame motors shall adhere to Kenya standards and best petroleum industry practices approved by the Authority and shall be explosion proof and supplied with positive-pressure ventilation from a source of non-contaminated air.

59. (1) When selecting materials for a facility and auxiliary facilities during the design, a contractor and permit holder shall consider the loads and environmental conditions that may be experienced during fabrication, installation, maintenance and operation.

(2) A contractor and permit holder shall, in selecting materials for a facility or auxiliary facilities—

- (a) consider its compatibility with process fluids and operating conditions;
- (b) ensure that materials meet requirements of Kenya standards and best petroleum industry practices approved by the Authority regarding strength, ductility, durability, toughness, corrosion, erosion, and other forms of decay of materials, where applicable;
- (c) consider the fire resistance attributes of the materials, where applicable; and
- (d) ensure that, where new materials are introduced, the material is verified by means of necessary analyses, calculations and tests so that stipulated safety criteria and compatibility considerations are met.

(3) During operation, a contractor shall continually monitor facilities and installations to mitigate or maintain the required parameters specified in these Regulations.

60. (1) Design of process and auxiliary facilities shall be in accordance with sound engineering principles and best petroleum industry practices; flow rates and capacities for the facilities shall be specified in relation to reaction times and capacity. Additionally, the reliability of control systems and operational aspects, the vibration and noise levels, pressure fluctuations and water hammer effects shall be taken into account.

(2) During the design of process and auxiliary facilities, a contractor or permit holder shall consider planned manning levels, operation and maintenance suitability.

(3) A contractor or permit holder shall ensure that process and auxiliary facilities are designed so that efficiency and reliability is maintained at the lowest and highest design capacities, temperatures and pressures.

(4) A contractor or permit holder shall take measures to ensure that instrumentation and control equipment for process and auxiliary facilities has two levels of safety and a high level of reliability.

(5) Process and auxiliary facilities shall be fitted with devices for pressure relief offering protection against overpressure.

(6) Pressure vessels shall be inspected and maintained periodically to ensure the integrity of the vessels.

(7) Drainage devices shall be designed to avoid accidental outflow of petroleum and other fluids.

(8) The risk of self-ignition or pyrolysis shall be assessed in connection with the choice of materials and procedures for inspection and maintenance.

(9) In designing process and auxiliary facilities, the effect of anticipated changes in the petroleum characteristics over time shall be taken into consideration.

(10) Process and auxiliary facilities shall be designed so that auxiliary facilities are not negatively affected by the process facilities.

61. (1) A contractor shall stipulate limit values for dew point, purity, pressure variations and temperature of the air.

(2) The facilities shall have adequate compressor and receiver capacity to ensure stable operational conditions.

(3) A facility shall be designed and equipped to meet the emission levels set out in Kenyan laws, standards and best petroleum industry practices approved by the Authority.

62. (1) Heating facilities including boilers, vessels, heat exchangers and pipe installations shall be designed in accordance with Kenyan laws, standards and best petroleum industry practices approved by the Authority.

(2) Where flammable heating media are used, a contractor shall put in place measures to ensure that no ignition occurs in the event of leakage from the facilities.

(3) A contractor shall employ heat recovery on process effluents.

(4) A contractor shall carry out energy audits to ensure efficiency in accordance with Kenyan laws.

63. A contractor shall ensure that inert gas facilities are designed—

- (a) in accordance with Kenyan laws, standards and best petroleum industry practices approved by the Authority so that the choice of location takes into consideration possible consequences of leakages;
- (b) with instrumentation for detection of inert gas leakages;
- (c) to protect structures that may be cooled down by leakages from vessels containing inert gas in liquid form;
- (d) to ensure that hoses and couplings used for liquid inert gas are fit for purpose; and
- (e) to ensure hose couplings for distribution of inert gas are of a special type different from other couplings.

64. (1) A facility design shall be subjected to a safety analysis function evaluation chart and hazard and operability (HAZOP) study before the completion of the detailed design and upon modification of an existing facility.

(2) An authorised officer of the Authority shall be present at the reviews under sub-regulation (1).

(3) A detailed facility design and the piping and instrumentation diagram shall be made available for review.

Sub-division 4 - Requirements for design, construction, and installation of offshore upstream petroleum facilities

65. (1) A contractor shall ensure that offshore petroleum facilities are designed, constructed, supplied, installed and maintained in compliance with applicable Kenyan laws, standards and best petroleum industry practices approved by the Authority to guarantee the safety and operability of the facility.

(2) In designing offshore petroleum facilities and selecting appropriate material and equipment a contractor shall comply with Kenyan laws, standards and best petroleum industry practices approved by the Authority.

(3) All installations shall be fabricated from fit for purpose material of adequate strength.

(4) During design and fabrication of process and auxiliary facilities, the safety and securing of personnel, the environment and material assets shall be considered.

(5) A contractor shall ensure that the choice and location of an offshore facility and its components is based on a risk analysis, area classification and ventilation.

(6) A contractor shall ensure that an offshore facility is in as far as reasonably practicable designed with redundancy in the vital operating and safety systems.

(7) A contractor shall ensure that during design of offshore facilities -

- (a) equipment and materials used for process and auxiliary facilities are suit for purpose;
- (b) equipment and facilities are secured against abnormal loads, including dimensioning accidental events;
- (c) account is taken of the environment in which the installations are to be placed and to which they are subjected;
- (d) probable changes in future operational conditions are considered;
- (e) electrical installations either contained in explosion-proof enclosures, be intrinsically safe, or be purged and pressurized; and
- (f) control systems allow for gas detection systems to automatically shut down the facility in high gas leakage levels.

(8) A facility design shall be subjected to a safety analysis function evaluation chart and hazard and operability (HAZOP) study in accordance with regulation 64.

(9) A contractor shall notify relevant authorities about the location of fixed and mobile platforms and required changes to shipping lanes, navigation aids and nautical charts. A contractor shall comply with all relevant Kenyan Laws and obtain all relevant approvals and permits.

66. (1) Notwithstanding the provisions of regulation 65, an application for a permit to construct or install a fixed or mobile platform shall be made in writing and shall—

- (a) state the location at which it is intended to be constructed, installed or placed;
- (b) state the reasons, including the geological evidence, for the selection of that location;
- (c) be accompanied by copies of an equipment arrangement plan and reports, recommendations and criteria used by contractor in determining the design;
- (d) state particulars of—
 - (i) the depth of the lake or offshore area, the nature of the lake-bed or sea-bed and sub-soil at that location;
 - (ii) the maximum and minimum air and water temperatures likely to occur at that location during the period in which the fixed platform is expected to be in that location;
 - (iii) the characteristics of the waves taken into consideration in determining the design of the fixed platform;
 - (iv) the water current data taken into consideration in determining the design;
 - (v) the maximum wind speed and the direction of winds;
 - (vi) details of estimated marine growth on the fixed platform taken into account in determining the design;
 - (vii) particulars of the plan for transportation of materials and personnel, including safety consideration; and
 - (viii) the safety equipment provided including lifesaving, firefighting, radio or radio-telephone equipment.
- (e) for a mobile platform, documents confirming platform certification by an independent competent body in accordance with Kenya standards and best petroleum industry practices;
- (f) evidence of payment of prescribed fees under Schedule IX; and
- (g) include any other information as the Authority may require.

(2) The Authority shall process an application under sub-regulation (1) within sixty (60) days from the date of application.

(4) The Authority shall not grant consent under sub-regulation (1) unless it is satisfied that the mobile platform is in accordance with safety requirements as to load line, construction or otherwise and that the safety equipment including lifesaving, firefighting, radio or radio-telephone equipment is adequate.

(5) Where a contractor requires to move a mobile platform an application to the Authority for consent to move a mobile platform shall be made in writing at least seven (7) days before the proposed moving and shall include—

- (a) particulars of the proposed moving and the times at which the operation is proposed to be carried out at the locations concerned; and
- (b) particulars of any buoy or under water obstructions proposed to be left at a location from which the mobile platform is to be moved.

(6) The construction or installation of a fixed platform and placement of mobile platforms shall be done in accordance with the terms and conditions of the permit issued by the Authority, Kenyan Laws, standards and best petroleum industry practices approved by the Authority.

(7) Notwithstanding the provisions of these Regulations, in the case of an emergency situation, a contractor shall take immediate action as is necessary to protect life, the environment and equipment and shall notify the Authority giving details of the causes of the incident, the action taken and preventive measures being undertaken to ensure the incident does not reoccur.

67. (1) A fixed platform shall not be constructed or installed in a contract area, unless—

- (a) at least ninety (90) days before the construction or installation is commenced, notice of intention to commence construction or installation of that platform has been given to the relevant authorities in compliance with Kenyan Laws; and
- (b) required approvals and permit was obtained in accordance with these Regulations.

(2) The Authority may inspect prefabricated parts or sections prior to installation in a manner determined by the Authority and in accordance with best petroleum industry practices as approved by the Authority.

(3) The construction, installation and maintenance of a fixed platform shall be done in accordance with the terms and conditions of the approval issued by the Authority, Kenyan laws, and in accordance with Kenyan standards and best petroleum industry practices approved by the Authority.

(4) The Authority may examine the fixed platform at any time during the construction or installation by providing due notification to a contractor.

68. (1) A contractor or its subcontractors shall not, in any part of the contract area, use a mobile platform for or in connection with offshore petroleum operations unless—

- (a) it is used and maintained in accordance with these Regulations, Kenyan standards and best petroleum industry practices approved by the Authority; and
- (b) required approvals and permits of the Authority was obtained in accordance with these Regulations.

(2) A contractor when so requested by the Authority, shall produce for inspection any documents issued by an independent competent body relating to the use and maintenance of the mobile platform.

DIVISION 3 - PETROLEUM PRODUCTION

69. (1) A contractor shall obtain approval from the Authority prior to commencing test production.

(2) A contractor shall not later than one (1) month prior to the planned commencement of petroleum production, submit to the Authority a written application for approval of the test production that shall include:

- (a) the objectives of the test production;
- (b) a plan and programme for the test;
- (c) description of geological and reservoir engineering objectives;
- (d) a specification of the facilities and parameters that will be used;
- (e) a description of systems and equipment for measuring produced petroleum;
- (f) a detailed and itemised budget;
- (g) a description of safety and environmental protection systems planned or implemented;
- (h) a summary of the environmental and social impact assessment, unless not required due to existing studies or for other special reasons as approved;
- (i) evidence of payment of prescribed fees under Schedule IX; and
- (j) Any other information that the Authority may require.

(3) A contractor shall treat petroleum produced during test production as petroleum produced during commercial operation, unless otherwise specified in the approval of test production. Further, the Contractor shall store such produced petroleum for subsequent utilization or sale.

(4) The written approval by the Authority of the test production shall stipulate conditions to be complied with by a contractor on—

- (5) the duration of such test production;
- (6) the method of test production;
- (7) the volumes of petroleum to be produced;
- (8) facilities to be utilized;
- (9) sale of petroleum;

(10) particular measures related to health, safety, and environment and, occupational safety and health, including mitigating or remedial measures to be taken; and

- (11) any other relevant condition.

(12) A test production approval shall be for a period of not more than six (6) months, unless special circumstances justify a longer test production period.

70. (1) A contractor shall not produce petroleum without a production permit issued by the Authority.

(2) Prior to the commencement of production from any field the contractor and the Authority shall review the maximum efficient production rate for the field(s) specified in the field development plan, agree on its validity and establish dates on which such rate shall be re-examined and potentially revised.

(3) Sub-regulation (1) does not apply to a test production which shall be performed in compliance with Regulation 69.

71. (1) Not later than two (2) months prior to the planned commencement of petroleum production a contractor shall, apply for an annual production permit.

- (2) An application for a production permit shall include—

- (a) a duly filled application form as provided in Schedule V;
- (b) evidence of payment of applicable fees as prescribed in Schedule IX
- (c) supporting documents defined in Section 32 of the Act.

(3) Additionally, a contractor shall submit the following documentation:

- (d) the production plan and schedule for each reservoir unit;
- (e) production forecast statement, broken down in calendar quarters, showing the total quantity of petroleum that a contractor estimates to produce, store, transport and sell during each calendar year consistent with the approved field

development plan. The production forecast statement shall also include the following:

- (i) proven reserves (developed and undeveloped);
- (ii) probable reserves; (iii) possible reserves;
- (iv) accumulated production (oil and gas);
- (v) accumulated injection of natural gas;
- (vi) stock of natural gas; and
- (vii) volume withdrawn from the stock of natural gas.
- (c) the monthly production reports for the last twelve (12) calendar months, if applicable for each reservoir unit;
- (d) historical and updated reservoir monitoring data, analysis and other related data with comments on deviations from earlier forecasts;
- (e) proposed production rates;
- (f) the estimated monthly production volumes for each reservoir unit for the period applied for;
- (g) the estimated total production volumes for each reservoir unit for the period applied for;
- (h) the estimated total injection of gas, water, fluids into the reservoir for the purpose of pressure maintenance, secondary or tertiary (enhanced) recovery;
- (i) the estimated volumes requested to be flared, vented or injected during the period applied for; and
- (j) any other information the Authority may require

(4) The production permit may identify the quantity of petroleum which may be extracted, consumed, injected, flared or vented.

(5) An application for a renewal of production permit shall be made to the Authority by a contractor not later than two (2) months before the expiration of the existing permit and shall be in compliance with requirements stipulated under sub-regulations (2) and (2)(3) above.

72. (1) The Authority shall -

- (a) arrange for a public participation in compliance with sub-section 24 (9) of the Act and regulation 23; and
- (b) inform a contractor in writing of the decision of the Authority within two (2) months after the receipt of the application and all required documents.

73. (1) The Authority shall issue a production permit if satisfied that: -

- (c) the information provided in the application is provided in accordance with Regulation 71 and Schedule IV;
- (d) a contractor has all necessary processes and procedures in place to deliver safe construction and operations of facilities;
- (e) an environmental and social impact assessment for the proposed facilities and operations have been approved in accordance with Kenya law; and
- (f) any other matter it considers appropriate.

(2) The Authority in issuance of a production permit may consider the following:

- (a) the size of the reservoir;
- (b) the type of petroleum;
- (c) the projected rate of production; and
- (d) other factors of importance for the optimal depletion of petroleum from a field.
- (e) (3) The Authority may consider any reasonable matter in deciding to approve or reject an application for a production permit and will provide a reasonable justification for its decision.

74. (1) The Authority may reject an application for a production permit on the basis of;

- (a) public safety, or
- (b) any other reasonable justification.

(2) A production permit issued by the Authority may be subject to conditions specified in such permit.

(3) A contractor shall conduct petroleum production operations in compliance with applicable Kenyan laws, standards and best petroleum industry practices approved by the Authority and the terms and conditions of the issued permit.

(4) A person shall not transfer a production permit except with the prior approval in writing of the Authority.

75. (1) Production shall be for the period specified in the permit and such permit shall be renewed annually.

(2) An application for the renewal of a production permit shall be made not later than two (2) months before the expiration of the existing permit.

76. (1) A production permit issued by the Authority under these Regulations shall not be changed or modified without the prior approval of the Authority.

(2) A contractor may apply to the Authority for the revision of a production permit and such application shall be accompanied by the documents required under regulation 71 explaining the reasons for changes or modifications.

77. (1) A contractor shall use approved methods and practices acceptable to the Authority for the production of petroleum from a reservoir and shall in particular take all necessary steps to:

- (a) obtain the initial physical characteristics of the reservoir fluids and reservoir parameters including
 - (i) temperature;
 - (ii) Pressure;
 - (iii) gas-oil ratio;
 - (iv) bubble point pressure;
 - (v) porosity;
 - (vi) viscosity; and
 - (vii) relative permeability in relation to fluid saturations and fluid gravities,
 - (viii) and submit to the Authority detailed data, results and analyses as soon as possible after the commencement of production from a reservoir;

- (b) obtain periodic data required under these Regulations at intervals approved by the Authority; and

- (c) ensure that each reservoir produces within the limits of the optimum potential rate of the reservoir.

(3) The Authority may give directions to a contractor to ensure the proper exploitation of petroleum.

78. (1) A contractor shall produce and continually monitor the reservoir performance, including pressure and flow conditions, produced or injected volumes per well and composition of petroleum in accordance with a reservoir management plan submitted and approved as part of the field development plan.

(2) A contractor shall with the prior approval of the Authority, produce in each calendar year the quantity that has been approved by the Authority in the production permit and shall be required to comply with domestic supply obligation as provided for in the Petroleum Agreement.

(3) The total monthly production and injection volumes of the field shall be apportioned to each well on a monthly basis

79. (1) A contractor shall with the approval of the Authority commence a study to determine the economic practicability of enhanced recovery and its recommended timing prior to or upon the attainment of a ten percent (10%) decline or any other level of decline

as may be applicable per field for the initial pressure of a reservoir determined by the consideration of the average current reservoir pressure weighted as appropriate.

(2) A full report of the study undertaken under sub-regulation (1) shall be submitted to the Authority as soon as possible and in any case not later than six (6) months after the attainment of the pressure decline stipulated in sub-regulation (1).

(3) Where new methods for pressure maintenance, secondary or tertiary (enhanced) recovery are proposed and such methods are not specified in the approved field development plan, a contractor shall apply to the Authority for revision of the field development plan in compliance with these Regulations.

(4) When submitting the revised field development plan, a contractor shall additionally provide the following information:

- (a) information on the number of wells to be used for injection of steam, liquids and gases and description of the injection systems such as details of pumps, compressors, treatment plants and their injection capacity;
- (b) specification of flowlines to be used in the injection process; and
- (c) details on the timeline for construction and installation of any equipment and plant necessary for pressure maintenance or secondary or tertiary (enhanced) recovery upon commencement of production.
- (d) any other information the Authority may require.

(5) A contractor shall, in the annual development and production work programme and budget, provide information on the volumes of water and natural gas, steam and other liquids or chemicals to be injected.

80. (1) A contractor shall not drill a disposal well or alter an existing well to be a disposal well without prior obtainment of a disposal well permit required under the Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2024.

(2) A contractor shall not drill an injection well or alter an existing well for the purpose of commercial injection, including for purposes of—

- (a) pressure maintenance;
- (b) enhanced recovery;
- (c) gas storage; and
- (d) other commercial purpose.

without prior obtainment of a drilling permit or approval of revision of a drilling permit and associated well plan, and approval of a field development plan or its modification as provided in these Regulations.

DIVISION 4 OPERATION AND MAINTENANCE OF UPSTREAM PETROLEUM FACILITIES

77. (1) Every petroleum facility shall be operated in compliance with the Act, any other applicable Kenyan laws, standards and best petroleum industry practices approved by the Authority.

(2) Not later than ninety (90) days prior to commencement of petroleum operations a contractor shall submit to the Authority for approval a code of operations for the facility.

(3) Equipment and protective systems intended for use in potentially explosive atmospheres on installations, and devices for use outside the potentially explosive atmosphere, shall comply with the requirements contained in any other written law.

(4) Prior to commencement of petroleum operations, a contractor shall submit to the Authority for approval a code of operations for the facility. The code shall be reviewed by contractor in accordance with a schedule or triggers agreed with the Authority and substantial changes implemented or to be implemented into facility operation shall be approved by Authority.

78. (1) A contractor shall notify the Authority in writing not less than thirty (30) days before any planned shut-down of a facility.

(2) A contractor shall, immediately notify the Authority and Cabinet Secretary—

- (a) on the occurrence of any operational incident resulting in the shut-down of the facility or any part of the facility or resulting in putting out of use of any plant, machinery or installation; or
- (b) on the occurrence of any other emergency resulting in the shut-down.

(3) The notification under sub-regulation (2) shall state—

- (a) the reasons for the shut-down or putting out of use of the facility, its estimated duration and its possible effect on the production commitment of the facility; and
- (b) the steps, if any, taken or proposed to be taken to avoid a recurrence of the incidents or circumstances that led to the shut-down or putting out of use.

(4) Based on notification received from a contractor the Cabinet Secretary may, in accordance with section 71 of the Act order that the petroleum activities be suspended to the extent necessary or may impose particular conditions to allow continuation of the activities.

(5) Petroleum operations may be suspended by the Cabinet Secretary, where any of the following circumstances exist—

- (a) extreme weather conditions including floods, wind or any other conditions that may affect the operation of the facility;
- (b) political instability including war that may lead to disruption of petroleum activities;
- (c) operations resulting into acute pollution to the environment; and
- (d) any other condition likely to affect public or employee's health and safety or safety of property.

79. Any person responsible for structures, facilities, equipment and any other property used for and in connection with petroleum operations shall maintain such in good condition and repair.

80. (1) Process and auxiliary facilities with equipment and components shall be subject to condition monitoring and maintenance in accordance with a maintenance schedule.

(2) Maintenance shall comprise of routine, preventative, scheduled, turn-around maintenance or any other type of maintenance as a contractor may deem necessary.

(3) Preventative maintenance schedules on critical equipment shall be prepared and submitted to the Authority annually at the beginning of each calendar year.

(4) Testing conditions for facilities, equipment and components shall be specified in the maintenance schedule.

(5) Registration of failures and replacements in order to ensure compliance with specified criteria shall be included in the maintenance schedule.

(6) The facilities shall be periodically examined for corrosion, and corrosion protection systems and any devices installed shall be checked regularly, in accordance with Kenya standards and best petroleum industry practices approved by the Authority, to ensure effective performance.

(7) Leak detection shall be carried out regularly. All scheduled turn-around maintenance shall be submitted to the Authority at least three (3) months prior to its commencement and a monthly progress report of the maintenance shall be submitted to the Authority until completion.

(8) As soon as practicable, but not later than forty-eight (48) hours, a contractor shall notify the Authority of unplanned maintenance works, causes for such maintenance and tentative schedule for completion of maintenance works. Upon completion of the unplanned maintenance works, a contractor shall furnish the Authority with a report within fourteen (14) days.

(9) Operational experience may be collected and treated systematically for use in regularity analyses and for improvements of equipment and operations of importance to safety.

(10) A contractor shall document condition monitoring and maintenance necessary for maintaining the specified safety level at the facility.

(11) A contractor shall define the responsibility for initiation, implementation and verification of condition monitoring and maintenance.

81. (1) A contractor shall take measures to prevent the occurrence of leaks and promptly identify and stop any leaks from piping or other equipment within the facility.

(2) A contractor shall document any leaks identified under sub-regulation (1) and submit a report to the Authority within forty-eight (48) hours after detection of the leak, indicating measures taken to rectify the leak.

(3) Where a contractor detects a leak under sub-regulation (1), the contractor shall;

(a) repair the leak immediately and in any case not more than seven (7) days after the leak is detected; and

(b) undertake a component recheck after repair and if the leak is still present or a new leak is created by the repair, perform further maintenance until the leak is stopped.

82. (1) A contractor shall conduct monitoring of petroleum facilities and associated equipment in accordance with the manufacturer's manual, Kenya standards and best petroleum industry practices approved by the Authority and submit records to the Authority.

(2) Pipeline valves and pressure relief valves shall be marked or noted so that their location is readily obvious to a contractor and any other person performing the monitoring.

(3) Where liquids are observed dripping from a pump seal, the seal shall be checked promptly with a portable detector to determine if a leak of volatile organic compound is present.

(4) Where a relief valve operates and venting to the atmosphere occurs, a contractor shall monitor the valve promptly.

(5) The pressure relief devices which are tied in, to either a flare header or vapour recovery device shall be exempted from the monitoring requirements.

(6) When a leak is located, a weatherproof and readily visible tag bearing an identification number and the date on which the leak was identified shall be affixed to the leaking component and the location, tag number, dates and stream composition of the leak shall be noted on a survey log.

(7) When the leak is repaired, the date of repair and instrument reading of component recheck after maintenance shall be entered in the survey log and the tag discarded.

(8) A contractor shall retain the survey log for at least two (2) years after the inspection is completed or any other period requested by the Authority.

(9) Where the Authority requests, a contractor shall demonstrate to the satisfaction of the Authority why the repairs could not be completed within the initial seven (7) day period in Sub-Regulation 81(3)(a).

83. (1) A contractor may from time-to-time review leak monitoring requirements and shall request the Authority in writing for approval of the revised leak monitoring requirements.

(2) The request for approval under sub-regulation (1) shall include data developed to justify modifications in the monitoring schedule.

(3) Where the Authority finds an excessive number of leaks during an inspection, or where the person in charge of a facility finds and reports an excessive number of leaks in a given area during scheduled monitoring, the Authority may increase the required frequency of contractor's inspections for that part of the facility.

(4) Where the Authority is satisfied that the monitoring requirements referred to under sub-regulation (1) complies with the requirements of the Act and these Regulations, the Authority shall approve the monitoring schedule within fourteen (14) days from the date of submission by a contractor.

84. (1) A contractor shall use monitoring and testing methods that meet Kenyan standards and best petroleum industry practices approved by the Authority.

(2) A contractor may use alternative monitoring methods if it is demonstrated to the satisfaction of the Authority that the alternative methods shall achieve equivalent or higher control efficiency.

85. (1) The piping arrangement shall comply with applicable Kenya standards or best petroleum industry practices as approved by the Authority.

(2) In addition to loads prescribed in Kenya standards or best petroleum industry practices approved by the Authority, loads caused by abnormal conditions, such as fluids hammer, shall be taken into account in analysis of load effect.

(3) In analyses of load effect, a contractor shall –

(a) take into consideration the loads transferred to associated equipment; and

(b) in the case of piping arrangements on installations with large movements, give special consideration to deformations and movements of the installation under specified environmental conditions.

86. (1) A contractor shall ensure that rigid pipes smaller than three fourths (¾) inches are protected if exposed to the hazard of being broken by an externally applied force.

(2) A contractor shall ensure that vessels used for the storage of high-pressure petroleum have an allowance for thermal expansion in accordance with Kenya standards and best petroleum industry practices approved by the Authority.

87. (1) A contractor shall put in place measures and adopt standards for fluid loading and unloading facilities and operations. Such measures and standards shall be in compliance with Kenyan laws, standards and best petroleum industry practices approved by the Authority.

(2) The measures referred to under sub-regulation (1) shall provide mechanisms for preventing and minimizing pollution to the environment, accidents and the danger to the health and safety of the employees.

88. (1) A contractor shall ensure that fired experimental equipment, fired pilot plant units, and unfired equipment, which is a part of, and adjacent to the experimental or pilot plant units, are located in an open area or enclosure isolated from unrelated gas or light oil processing equipment.

(2) The requirement of sub-regulation (1) does not exclude the temporary use of operating equipment for experimental or pilot plant purposes when protection equivalent to isolation is provided.

(3) For purposes of these Regulations, "experimental equipment" does not include equipment used in routine testing or analysis.

(4) A contractor shall make provision for the handling of oil and samples with a minimum release of gases and vapours.

(5) A contractor shall ensure that safe access is provided to elevated parts of equipment where employees are required to perform work.

Sub-division 3 - Measurement of petroleum

89. (1) A person shall not bypass a metering system.

(2) Contractors shall be responsible for ensuring that all metering equipment comply with these Regulations.

(3) A contractor shall implement redundancy or backup systems to ensure continuous metering accuracy and data integrity in the event of equipment failure.

90. (1) A contractor shall for the purposes including but not limited to a custody transfer, fiscal metering, reservoir management measure or weigh all petroleum produced and saved from the contract area, by a method or methods approved by the Authority.

(2) When technology or methods not described in recognised standards are to be used, criteria for development, testing and operation are required to be submitted to the Authority.

(3) A contractor shall submit for approval to the Authority the system of measurement, proposed methods, equipment and procedures to be used to measure production and sales of petroleum.

(4) An application referred to in sub-regulation (2) shall be accompanied by at least the following information:

- (a) full specification, with dimensioned drawings and relevant descriptive material;
- (b) proposed operating procedures, including calibration and routine control;
- (c) method for taking and keeping samples; and
- (d) methods of laboratory analysis proposed for the determination of all physical and chemical parameters.

(5) The Authority shall be given unrestricted access to the metering stations, the control room, other equipment and systems used for measurement of petroleum.

(6) A contractor shall not make any alteration in the method or methods of measuring or weighing or any appliances used for that purpose without the written approval of the Authority.

(7) The frequency at which metering equipment or appliances are calibrated or tested shall be in accordance with the recommendation of the manufacturer and shall meet Kenya standards and best petroleum industry practices approved by Authority.

(8) The Authority shall at all times be present when an equipment or appliance for metering petroleum is being calibrated, re-calibrated, tested, verified, compared or measured to ensure that the equipment or appliance is in accordance with Kenya standards and best petroleum industry practices accepted methods and procedures agreed to by the Authority.

(9) The Authority shall have the right to test and establish the accuracy of fiscal metering appliances or equipment at any time without prior notice to a contractor.

(10) The measuring or weighing equipment shall not be repaired, altered or undergo maintenance without prior authorisation from the Authority. The Authority representative shall be present during repairs, maintenance or alterations of such equipment.

91. (1) A contractor, shall develop, implement and maintain a quality management system for petroleum measurement in accordance with these Regulations, Kenya standards and best petroleum industry practices approved by the Authority.

(2) A contractor shall prepare a quality assurance manual for the operation of the metering systems in accordance with best petroleum industry practices approved by the Authority.

(3) A contractor shall ensure that procedures relating to operation, maintenance, calibration, verification and control are followed.

(4) A contractor shall document the functional scope and areas of responsibility of the personnel who carry out tasks in connection with the metering system and shall describe the duties, responsibilities and authority of the personnel.

(5) A contractor shall nominate a person responsible for the metering system. The nominated person shall be responsible for ensuring that procedures relating to operation, maintenance, calibration, and control are followed.

(6) All personnel carrying out tasks related to the metering systems shall possess documented qualifications within the relevant technical field.

92. (1) The readings of a metering system shall be in SI units, pressure may be in bar, and temperature may be in degree Celsius.

(2) The net volume of crude oil shall be determined in units of cubic metres at a temperature of 15°C and pressure of 1 atmosphere (101325 Pa). The volume in barrels at 60°F and 14.696 Psi shall also be reported.

(3) The volume of gas shall be determined in units of cubic metres at a temperature of 0°C and a pressure of 1 atmosphere (101325Pa). The volume in cubic feet at 60°F and 14.696 psi shall also be reported.

(4) The alternative readings in oil field units may be determined by the Authority.

(5) A contractor shall report petroleum measurements to the Authority in SI units; and convert and report to the Authority the net volume of oil in barrels.

93. (1) A contractor shall use gas composition from continuous flow proportional gas chromatography or from automatic flow proportional sampling for determining energy content.

(2) A contractor shall ensure that two independent systems are installed for sales gas metering stations.

(3) When oil or gas is analysed to determine physical and/or chemical properties and the analysis results are used for sale or allocation purposes, this shall be carried out by an accredited laboratory approved by the Authority.

(4) In determining barrels of oil equivalent for gas, a conversion factor of 5.8 million British Thermal Units (BTU) per barrel shall be used except as otherwise determined by the Authority.

94. (1) In-field metering of produced Petroleum for allocation to field(s) or Blocks shall adhere to measurement uncertainty thresholds not exceeding $\pm 1\%$ for liquid hydrocarbons and $\pm 2\%$ for natural gas.

(2) Any deviation from the specified measurement uncertainty thresholds or industry standards shall be reported within twenty-four (24) hours to the Authority.

(3) Reports submitted in accordance with sub-regulation ((2) shall include information regarding the nature of the deviation, its potential impact on measurement accuracy, and corrective actions taken to address the issue.

(4) In-field metering equipment shall undergo regular calibration at intervals specified by the manufacturer or as dictated by industry best practices, but not less than once per year.

(5) Detailed records of all metering data, calibration results, and maintenance activities shall be maintained and kept for a minimum of ten (10) years or as otherwise provided in these Regulations.

(6) Such information, kept as prescribed under sub-regulation ((5) above, shall be readily available to the Authority.

95. (1) The metering system shall be designed so that metering errors are avoided or compensated for.

(2) The maximum allowable measurement uncertainty for flow meters shall not exceed:

- (a) for crude oil meters used for fiscal and custody transfer- 0.3% of standard volume;
- (b) for gas meters used for fiscal and custody transfer - 0.1 % of mass;
- (c) for fuel gas meters – 1.5% of standard volume;
- (d) for flare gas meters – 5.0% of standard volume;
- (e) for liquified natural gas (LNG) used for sales measurement – 0.50 % of measured energy contents per ship load.

(3) A contractor shall document the total uncertainty of the metering system and prepare an uncertainty analysis for the metering that gives a confidence level of 95 % or higher.

(4) LNG shall be measured and analysed at the place of loading. A contractor shall be responsible for, and shall document, that the measurement system is in accordance with Kenya standards and best petroleum industry practices approved by the Authority.

(5) A contractor may determine liquefied natural gas volumes in connection with loading by use of traceable measured vessel tanks and calibrated level gauges or any other method approved by the Authority.

(6) The allowable uncertainty with respect to individual components of the metering system shall meet Kenya standards and best petroleum industry practices approved by the Authority.

(7) A contractor may use a linearity band as a test criterion when accepting meters.

(8) The repeatability requirement shall meet Kenya standards and best petroleum industry practices approved by the Authority.

96. The Authority shall place seals on all valves, downstream of a metering station, to prevent offloading of petroleum without authorization.

97. (1) The installations of a fiscal metering system for the custody transfer of liquids shall include the following key components compatible with the fluid being measured:

- (a) main inlet pipe;
- (b) main outlet pipe;
- (c) with a flow metering device;
- (d) a calibrated closed verification circuit (bidirectional tester), verification tank or connections to third party certification equipment, such as a transfer meter, a portable calibration verification closedcircuit or other meter verification device;
- (e) a sampling device actuated by the meter outlet flow;
- (f) temperature and pressure measuring or compensating devices;
- (g) computer system, prover and man-machine interface (MMI) system.
- (h) any other component as the Authority may require.

(2) The installations of fiscal metering system for custody transfer of gas shall include the following key components and shall be compatible with the gas to be measured:

- (a) an orifice plate meter or other equipped with a flow computer or similar device;
- (b) a set of measuring tubes duly configured and with the necessary straight extensions both upstream and downstream;
- (c) a sampling device actuated by the meter outlet flow;
- (d) a temperature and pressure measuring or compensating device.
- (e) any other component as the Authority may require.

98. (1) A contractor shall ensure that a metering system, including installation and equipment, comply with Kenya laws, Kenya standards and best petroleum industry practices approved by the Authority.

(2) A contractor shall ensure that

- (a) the metering system is suitable for
 - (i) the relevant type of measuring,
 - (ii) the liquid or gas properties, and
 - (iii) the petroleum quantities to be measured.
- (b) the metering system can measure the full range of planned petroleum flow without any component operating outside the specified working range;
- (c) errors in measurement that may be caused by similar drifting in duplicated instruments due to process conditions are minimised;
- (d) each part of the metering system is easily accessible for maintenance, inspection and calibration;
- (e) external conditions do not affect the operation and maintenance of the metering system;
- (f) it is possible to safely remove an individual element from a metering system for custody transfer measurements without a shut-down of the production system;
- (g) the metering system shall, to the extent possible, be equipped with duplicated instrument functions for signals from primary meters and instrumentation for facilitating condition-based monitoring and reducing the need for preventive maintenance;
- (h) signals from parallel metering runs shall be used in connection with condition monitoring.
- (i) wireless communication between different parts of the fiscal metering system may be used ensuring that the metering system integrity is maintained.
- (j) parameters related to the fiscal calculations are readily accessible in the computer part of the metering system or through a service computer; and
- (k) provision is made for condition monitoring.

99. (1) Multiphase meters shall not be used for fiscal metering.

(2) Notwithstanding sub-regulation (1), the Authority may, in circumstances where single-phase metering of petroleum is not possible, approve the use of multiphase meters for fiscal metering.

(3) A contractor shall present a concept with an estimate of the expected measurement uncertainty to the Authority before submitting a field development plan.

(4) A contractor shall document to the satisfaction of an Authority the following elements of multiphase meters to allow its use -

- (a) the description of the main principles of the operations and maintenance philosophy;
- (b) the possibility to calibrate meters against test separator or other reference;
- (c) redundancy in sensors and robustness in the design of the metering concept;
- (d) relevant pressure, volume and temperature model and representative sampling opportunity to be able to perform a sound pressure, volume and temperature model (PVT) calculation;
- (e) design of inlet pipes to ensure similar conditions if multiple meters are used in parallel;
- (f) flexibility in the system for handling varying gas volume fraction (GVF);
- (g) a description of the planned method for condition monitoring and planned calibration interval;
- (h) a description of the planned method and interval for sampling and updating PVT data; and
- (i) any other information that the Authority may require.

(5) Where multiphase meters are part of the fiscal metering system, they shall be treated as other fiscal metering equipment and shall be in accordance with these Regulations, Kenya standards and best petroleum industry practices approved by Authority.

100. (1) A contractor shall ensure that—

- (a) the mechanical part of the metering system is designed to meet Kenya standards and best petroleum industry practices approved by the Authority;
- (b) during design, provision is made for necessary redundancy and the possibility of verification of the gas and liquid metering devices;
- (c) when turbine meters are used for liquid metering, a permanent prover is available for calibration of the metering devices and it is possible to calibrate the prover at the place of operation; and
- (d) where other types of flow meters are used for liquid metering, permanent equipment for calibration of the metering device is available.

(2) A contractor shall ensure that surrounding equipment do not affect the measured signals.

101. A contractor shall ensure that the metering system instrumentation is able to measure pressure, temperature, density and composition of petroleum to ensure representative input signals for the fiscal calculations.

102. (1) A contractor shall ensure that the computer part of the metering system shall be designed to ensure that fiscal calculations can be carried out within the stipulated maximum allowable measurement uncertainty;

(2) The computer part of the metering system shall be equipped with various security functions to ensure that the fiscal values cannot be changed as a result of incidents of a technical nature or as a result of a manual fault.

(3) The computer part shall have uninterruptible power supply. A power failure shall not be able to cause measured fiscal data to be lost from the storing unit of the computer.

(4) The computer part shall be capable of detecting any faults and documenting the various fiscal parameters, and the fiscal volumes calculated.

(5) Any fault detection shall trigger an alarm and activate an automatic back-up of the system.

103. (1) A contractor shall carry out sampling in a manner that will ensure that representative samples are collected.

(2) Sampling shall be automatic and flow proportional with additional functionality for sampling to be carried out manually.

(3) A contractor shall ensure that for oil and condensate the necessary mixing equipment is installed upstream of the sampling probe.

(4) The Authority shall prescribe the frequency and manner in which sampling is done.

104. (1) A contractor shall ensure calibration and verification of a metering system is undertaken at the place of operation prior to start-up.

(2) The Authority shall be present when calibrations and verifications are carried out.

(3) When calibration of a mechanical part of a metering system is taking place a contractor shall ensure –

(a) the prover volume shall be calibrated:

(i) before the metering system is delivered from the place of manufacture;

(ii) prior to start-up at the place of operation.

(b) the mechanical parts that are critical to measurement uncertainty shall be measured or subjected to flow calibration in order to document calibration curve.

(c) the fully assembled fluid metering system shall be flow tested at the place of manufacture and a functional test shall be performed upon installation and prior to start-up at the place of operation.

(4) When calibration of the instrument part of the metering system is taking place a contractor shall ensure –

(a) the instrument loops are calibrated and the calibration results are accessible;

(b) the instrument loops are calibrated at a number of values necessary to detect any non-linearity errors within its working range.

(c) calibration of the instrument loops shall be carried out using the display reading of the visual signal from the computer part.

(5) When verification of computer part of the metering system is taking place a contractor shall ensure –

(a) verification is carried out for each metering tube to confirm that all functions are operational.

(b) each independent program routine is verified to show that calculations are carried out with accuracy requirements equal to or better than those in Regulation 95.

(c) integration shall be verified with at least three values in the flow range.

(d) calculations for calibrations provided in paragraph 3 of these sub-regulation shall be verified. This includes K-factor in respect of the individual calibration and the average value within the predetermined range of variation.

(6) The Authority may develop guidelines for any aspect of metering not covered under these Regulations.

105. (1) A contractor shall ensure that the metering system is maintained to the standard according to which it is designed.

(2) A contractor shall ensure that the equipment which is an integral part of the metering system, and which is of significant importance to the measuring uncertainty, shall be calibrated using traceable equipment before start of operation, and subsequently be maintained to that standard.

(3) A contractor shall ensure that a meter prover volume is calibrated annually. Calibration shall also be carried out if the volume may have changed as a result of equipment failure.

(4) For operation of the flow meters a contractor shall ensure that—

(a) where turbine meters are used for metering of petroleum, they are calibrated against the permanent meter prover with a repeatability that conforms with the manufacturer's recommendation; Kenya standards and best petroleum industry practices approved by the Authority;

(b) the calibration factor for the flow meters is within the control limits according to the recommendation of the manufacturer standards, Kenya standards and best petroleum industry practices approved by the Authority;

(c) flow meters installed after a work-over, modification or replacement are immediately calibrated to verify that they meet the requirements for linearity and repeatability.

(5) For operation of the instrument part a contractor shall ensure that—

(a) sensors are monitored continually and regularly calibrated in accordance with these Regulations, Kenya standards and best petroleum industry practices approved by the Authority;

(b) calibration comprises of several values in the sensor's operating range;

(c) where the outlet signals from the sensors deviate from the pre-set limits, necessary maintenance and subsequent new calibration is undertaken;

(d) calibration methods used ensure that systematic metering errors are avoided or compensated for;

(e) gas densitometers are verified against calculated density or other relevant methods;

(f) online gas chromatographs are validated against a traceable reference gas with a stipulated frequency;

(g) pursuant to the uncertainty statement referred to in Regulation 95, validation criteria are stipulated and if a gas chromatograph is outside the stated criteria during validation, calibration is performed and new factors are established;

(h) new validation is performed following a correction to confirm that the gas chromatograph is within the given test criteria; and

(i) variations in gas composition are monitored and, where variations exceed $\pm 5\%$, a reference gas with a different calorific value and a new linearity test is considered.

(6) For operation of the computer part a contractor shall ensure that—

(a) all data is filed regularly.

(b) procedures are in place for handling of fault messages from the computer part or faults otherwise discovered.

(c) where software changes and replacement of computer parts are done, an independent verification is carried out for the calculation requirements of the computer part.

106. (1) The Authority shall have an unrestricted access to petroleum installations for inspection of metering systems, verification of the operations and measurement reports.

(2) The inspections shall include:

(a) verification of the metering systems installed according to these Regulations, Best Petroleum Industry Practices approved by the Authority and in accordance with the manufacturers' recommendations;

(b) inspection of the state of the metering systems and instruments;

(c) verification of seals and respective control sheets;

(d) monitoring of inspections of tanks and metering systems;

(e) monitoring of calibration of the systems and instruments;

(f) monitoring of the measuring operations;

(g) verification of calculations of the volumes;

(h) verifications of computer systems;

- (i) monitoring of the sampling and laboratory analysis operations;
- (j) verification of the measurement, testing and calibration reports; and
- (k) Any other matter the Authority may deem necessary to inspect.

(3) The contractor shall provide all the information, instruments and equipment necessary for the inspections and should fully cooperate with the Authority.

107.

(2) when a fault is detected in a meter, such meter shall be removed from operation for its adjustment or calibration and replaced by another calibrated meter approved by the Authority.

(3) when the fault is detected the production affected will be considered to be production from the preceding calibration or during the twenty-one (21) days immediately prior to calibration; and

(4) A contractor shall notify the Authority in writing within twenty-four (24) hours of the occurrence of a fault in the production measuring system, and of any other operational incidents that may cause an error in measurement or when there is total or partial interruption of measurement. A notification shall include an estimate of the volumes affected.

108. (1) The measuring points of petroleum shall be operated and maintained in such a way as to prevent any loss or theft of production and guarantee precise and adequate measurement.

(2) The components of the measuring devices for sales (measuring units and tanks) shall be sealed in order to prevent any falsification.

(3) Any tamper proof seals shall be approved by the Authority, numbered and recorded.

(4) A list of the numbers on the seals and the location of the measuring installations shall be kept at the field installations and be available for inspection by the Authority.

(5) The computer part of the metering system shall include sufficient security functions to ensure that the fiscal values cannot be changed as a result of incidents of a technical nature or as a result of a manual fault.

Sub-division 4 – Viable use and sustainable markets for associated and/or non- associated natural gas

109. (1) The terms and conditions related to development and production of natural gas shall be specified in the relevant petroleum agreements;

(2) A contractor may use natural gas in operations as a fuel and for re-injection, provided that the use is made in reasonable quantities and the re-injection is carried out in a manner compatible with the best petroleum industry practices and is subject to approval of the field development plan and the requirements set out in Regulation 38(2).

(3) Where any excess natural gas may require flaring, a contractor shall submit the request for consideration of approval by the Authority in accordance with the Act and any other written laws.

110. (1) Where a contractor makes a natural gas discovery under the terms of a petroleum agreement, within a period specified in such agreement, a contractor shall prepare and submit to Cabinet Secretary and the Authority a report that shall include, among others:

- (a) potential market for natural gas,
- (b) expected volumes for such market,
- (c) infrastructure potentially required to access such market,
- (d) expectations of price for the natural gas supplied to such market, and
- (e) identify options including time frames for marketing the natural gas within three (3) years after the discovery evaluation is completed.

(2) A contractor shall be responsible for investigating market opportunities and seek to develop a market for natural gas produced from the relevant development area and may sell such natural gas in accordance with the petroleum agreement and any other written law.

(3) The Cabinet Secretary shall review and approve all natural gas contracts prior to execution.

DIVISION 4 – DECOMMISSIONING AND ABANDONMENT OPERATIONS

Sub- division 1 - Plugging and abandonment of wells

111. (1) A contractor shall not plug and abandon a well without a plugging and abandonment permit for the well.

(2) Notwithstanding of the sub-regulation (1), a contractor may suspend a well upon approval of the Authority for the purpose of conversion to production wells, injection wells, mitigating an emergency or for any other reason.

112. (1) A contractor shall apply for a well plugging and abandonment permit to the Authority in writing at least two (2) months before the commencement of plugging and abandonment operations and shall be accompanied by an abandonment plan.

(2) An application for well plugging and abandonment permit shall include:

- (a) a duly filled application form as provided in Schedule VI;
- (b) evidence of payment of applicable fees as prescribed in Schedule IX;
- (c) the global positioning system (GPS) location of each well;
- (d) a well plugging and abandonment plan as provided in Schedule VI;
- (e) a list of relevant stakeholders and the local community likely to be affected by the operations and their respective contact details, and
- (f) any other relevant information required by the Authority.

(3) Where it is determined based on best petroleum industry practices that a well requires to be immediately plugged and abandoned, the contractor shall apply to the Authority for approval before commencement of such plugging and abandonment operations. The application shall contain all available information under sub-regulation (2).

(4) The Authority shall within seven (7) days upon receipt of an application under sub-regulation (3), approve or reject the application. Regulations 113, 114, 115, 116, 117, and 118 shall apply as far as practicable based on the available information and prevailing circumstances.

113. The Authority shall

- (a) submit a copy of the well plugging and abandonment plan to the Government agency responsible for environmental management in accordance with Section 24(5)(e) of the Act for review and approval;
- (b) arrange for a public participation in compliance with subsection 24(9) of the Act and Regulation 23.
- (c) inform a contractor in writing of the decision of the Authority within two (2) months upon submission of an application.

114. (1) The Authority shall issue a plugging and abandonment permit if the Authority is satisfied that -

- (a) the information and the well plugging and abandonment plan include the information specified in Schedule VI;
- (b) the well plugging and abandonment plan is appropriate for the nature and scale of plugging and abandonment operation; and
- (c) the Health, Safety and Environment components of the well plugging and abandonment plan is approved by the Government agency responsible for environmental management.

(2) The Authority shall not approve a well plugging and abandonment permit if it is not satisfied that it meets the requirements of sub-regulation (1).

(3) The Authority may consider any reasonable matter in deciding to approve or reject an application for a well plugging and abandonment permit and will provide a reasonable justification for its decision.

115. (1) The Authority may reject a well plugging and abandonment permit for the following reasons:

- (a) public safety or
- (b) other reasonable justification.

(2) A well plugging and abandonment permit issued by the Authority is subject to conditions specified in such well plugging and abandonment permit.

(3) A well plugging and abandonment permit shall be for the period required to complete all required well plugging, abandonment, reclamation and restoration operations.

(4) A contractor is required to conduct well plugging, abandonment and restoration operations in compliance with applicable laws, standards, terms and conditions of the issued permit.

(5) A person shall not transfer a well plugging and abandonment permit except with the prior approval in writing by the Authority.

116. (1) A well plugging and abandonment permit issued by the Authority under these Regulations shall not be changed or modified without the prior approval of the Authority.

(2) A contractor may apply to the Authority for the revision of well plugging and abandonment permit accompanied by the documents required under sub-Regulation 112(2) explaining the reasons for changes or modifications.

117. (1) Where a well is to be plugged and abandoned, the plugging and abandonment shall be done in a safe and efficient manner and shall be in accordance with the well plugging and abandonment plan approved by the Authority.

(2) The abandonment of a well must guarantee the isolation of geological formations by means of cement plugs or appropriate alternatives, to prevent the leakage and migration of fluids.

(3) The removal of equipment from wells must be preceded by diagnoses to assess the technical conditions.

(4) Well abandonment must be differentiated according to the architecture and path of the well and the characteristics of the reservoirs.

(5) A risk assessment shall be carried out in relation to all wells which must be permanently abandoned as a consequence of radioactive sources which may have been left in the well.

(6) Well plugging and abandonment shall be undertaken in accordance with applicable Kenyan laws, standards, and Best Petroleum Industry Practices approved by the Authority.

(7) The location of an abandoned well shall be restored immediately after the abandonment, unless otherwise authorized by the Authority, to near the original site condition to the extent possible.

(8) Onshore wells shall be marked with the well name and number in a manner approved by the Authority.

(9) A contractor shall obtain an independent verification from an independent and competent entity approved by the Authority that well plugging and abandonment have been completed in accordance with the approved well plugging and abandonment plan.

118. (1) An inspection shall be carried out by the Authority after the well has been plugged and abandoned.

(2) The scope and frequency of post-abandonment inspections shall be determined by a contractor but, as a minimum, twice within fifteen (15) months from the completion of the abandonment.

(3) Any requirement for an additional inspection shall be based on the stability, degradation and environmental impact.

Sub- division 2 – Decommissioning and abandonment of petroleum facilities

119. A contractor or permit holder shall comply with the following requirements in execution of decommissioning and abandonment operations of petroleum facilities:

- (a) decommissioning operations shall be conducted in accordance with applicable Kenya laws, standards, or best petroleum industry practices approved by Authority and provisions of

petroleum agreements to guarantee integrity of the abandoned wells and decommissioned facilities;

- (b) ensure, to the satisfaction of the Authority, safety of local communities in the areas previously subjected to the petroleum operations;
- (c) ensure, to the satisfaction of the Authority, funding of the amount necessary for the decommissioning operations in compliance with Kenya law and terms of a petroleum agreement;
- (d) ensure, to the satisfaction of the Authority, the adequate removal, reuse, recycling and disposal of materials and equipment resulting from the dismantling of the installations;
- (e) ensure, to the satisfaction of the Authority, correct handling, treatment, transport and final disposal of all the waste produced, including naturally occurring radioactive material and drill cuttings in compliance with applicable law.²⁰²⁴
- (f) any other requirement the Authority may prescribe.

120. (1) A contractor shall prepare and submit a field decommissioning plan to the Authority as part of the field development plan, which shall be the preliminary field decommissioning plan.

(2) A contractor shall update the preliminary field decommissioning plan and shall submit it to the Authority as part of the application for a production permit in accordance with Section 32 of the Act and these Regulations.

(3) The field decommissioning plan shall include the forecast of the funds necessary for its implementation, including a breakdown of the calculation of the cost of abandonment of the wells and dismantling of facilities, which forms an integral part thereof.

(4) Upon commencement of production, a contractor shall review and update field decommissioning plan and submit it to the Authority 90 (ninety) days prior to the beginning of each subsequent calendar year. If the Authority recommends an amendment to the updated field decommissioning plan, a contractor shall submit the amended plan for approval.

(5) The Authority shall review the updated field decommissioning plan or an amendment within 60 (sixty) days from the date of submission of the plan or amendment.

(6) The Authority shall upon the review under Sub-regulations (2) or (5) issue its decision in writing. In the case of a rejection, the reasons shall be provided to by the contractor and the contractor shall within thirty (30) days resubmit a revised plan to the Authority for review within sixty (60) days of such resubmission.

(7) Resubmission of the revised plan out of time or non-compliance with directions given by the Authority to the contractor amounts to an offence under Regulation 155.

121. A contractor shall not decommission or abandon an upstream petroleum facility without a permit. Such a permit shall also amount to an approval of the final decommissioning plan.

122. (1) A contractor shall apply for a permit to decommission or abandon an upstream petroleum facility to the Authority in writing at least twelve (12) months before commencement of decommissioning or abandonment operations and the application shall be accompanied by a final decommissioning plan.

(2) An application for a permit to decommission or abandon shall include:

- (a) a duly filled application form as provided in Schedule VII;
- (b) evidence of payment of applicable fees as prescribed in Schedule IX;
- (c) a final field decommissioning plan as provided in Schedule VII;
- (d) an environmental and social impact licence;
- (e) a list of relevant stakeholders and the local community likely to be affected by the operations and their respective contact details; and

(f) (f) any other relevant information required by the Authority.

123. The Authority shall

(a) arrange for a public participation in compliance with sub-section 24 (9) of the Act and regulation 23; and

(b) inform a contractor in writing of the decision of the Authority within six (6) months upon submission of an application.

124. (1) The Authority shall not grant a permit to decommission or abandon an upstream petroleum facility if it is not satisfied that it meets the requirements of sub-regulation 122(2).

(2) The Authority may reject an application for a permit to decommission or abandon an upstream petroleum facility for reasons of;

(a) public safety, or

(b) other reasonable justification.

(3) A permit to decommission or abandon an upstream petroleum facility issued by the Authority is subject to conditions specified in such permit.

(4) A permit to decommission or abandon an upstream petroleum facility shall be for the period required to complete all required decommissioning, abandonment and restoration operations.

(5) A contractor is required to conduct decommissioning or abandonment operations in compliance with applicable laws, standards and terms and conditions of the permit.

(6) A person shall not transfer a permit to decommission or abandon an upstream petroleum facility except with the prior approval in writing of the Authority.

125. The Authority shall approve an application by issuing a permit to decommission or abandon an upstream petroleum facility under Regulation 122 if the Authority is satisfied that

(a) the information and the final decommissioning plan include the information specified in Schedule VII;

(b) the final decommissioning plan is appropriate for the nature and scope of decommissioning and abandonment operation; and

(c) the environmental impact assessment is approved by the Government agency responsible for environmental management.

126. (1) A permit to decommission or abandon an upstream petroleum facility issued by the Authority under these Regulations shall not be changed or modified without the prior approval of the Authority.

(2) A contractor may apply to the Authority for the revision of decommissioning and abandonment permit accompanied by the documents required under sub-regulation 122(2) explaining the reasons for changes or modifications.

127. (1) A contractor is required to conduct decommissioning, abandonment and restoration operations of upstream petroleum facilities in compliance with applicable Kenya laws, standards, terms and conditions of the issued permit and best international practices approved by the Authority.

(2) On execution of a decommissioning plan a contractor shall ensure that all areas affected by the petroleum operations are restored to as near original state as possible, unless otherwise provided in the approved final decommissioning plan.

(3) Upon completion of decommissioning, abandonment and restoration operations of upstream petroleum facilities a contractor shall obtain an independent verification, from an independent and competent entity approved by the Authority, that the decommissioning has been completed in accordance with the approved final decommissioning plan.

128. (1) The Authority may direct a contractor to dismantle petroleum facilities in total or partially in compliance with the framework provided in Schedule VII. Such dismantling options shall be approved by the Authority in the final decommissioning plan.

(2) In the process of decommissioning and dismantling onshore or offshore petroleum facilities a contractor shall comply with Kenyan laws, standards, and Best Petroleum Industry Practices approved by the Authority.

129. (1) A decommissioning fund shall be established in compliance with the Act and requirements of the petroleum agreement.

(2) A contractor shall pay the funds in accordance with the requirements of the Act and respective petroleum agreement.

(3) Decommissioning funds shall be set aside in a separate US Dollar interest bearing escrow account in the joint names of the contractor and the Government, established at a mutually acceptable financial institution in Nairobi, Kenya to be used solely for paying the decommissioning costs.

(4) The escrow account shall be controlled by a committee comprised of one (1) representatives of the contractor, one (1) official of the Ministry, one (1) official of the Authority, and one (1) representative of the County Government within which a major portion of a field(s) is located.

(5) The committee members shall administer and account for the funds in the escrow account only for activities outlined in the final field decommissioning plan.

(6) An escrow agent shall comply, at all times, with the minimum credit rating requirements determined by the Central Bank of Kenya

(7) An escrow agreement shall complement the petroleum agreement and shall be implemented to meet the decommissioning and abandonment requirements.

130. (1) A contractor shall submit the report on implementation of a decommissioning plan, not later than three (3) months after decommissioning has been completed.

(2) The report specified in sub-regulation (1) shall include:

(a) information on the decommissioning work carried out;

(b) how the plugging and abandonment of wells was executed;

(c) the description of final abandonment or dismantling of petroleum facilities covered by the decommissioning plan, where applicable;

(d) an overview of actual expenditures;

(e) monitoring activities;

(f) an independent verification report as required under sub-regulation 127(3); and

(g) any other information that may be required by the Authority.

(3) The Authority may, on receipt of a report under this regulation, request for additional information.

(4) Subject to sub-regulation 131(2), where the Authority is satisfied that all decommissioning work completed in compliance with approved field decommissioning plan and terms and conditions of the permit to decommission or abandon an upstream petroleum facility the Authority shall issue a completion certificate to a contractor.

(5) Where the Authority is not satisfied that all decommissioning operations were completed in compliance with the final field decommissioning plan or terms and conditions of the permit to decommission or abandon an upstream petroleum facility, it may require a contractor, in writing, to rectify deficiencies within the period specified in such requirement.

131. (1) A contractor or permit holder shall be liable for damage or loss arising in connection with decommissioning of upstream petroleum facilities in compliance with Section 44 of the Act and any other applicable Kenyan law.

(2) Notwithstanding sub-regulation 130(4), and subject to sub-regulation 127(3) a contractor or permit holder shall retain residual liability in perpetuity for abandoned facilities in compliance with Kenyan law.

(3) Where upstream petroleum facilities are transferred to the National Government their maintenance and liability is assumed by the National Government upon financial compensation by the contractor to the National Government for future decommissioning and abandonment. Such financial compensation shall be determined by the Cabinet Secretary with the advisory of the Authority.

(4) Where upstream petroleum facilities are transferred to the National Government the decommissioning fund shall also be transferred and the slot of the contractor in the committee established under 129(4) shall be taken over by the National Government.

PART III - DATA MANAGEMENT AND REPORTING

Division 1 – General requirements applicable to data management and reporting

132. The ownership of all data shall be vested in the National Government.

133. The Authority may license a person who wishes to obtain any proprietary data rights under such terms and conditions as may be prescribed in a licensing agreement.

134. (1) A contractor or a non-exclusive exploration permit holder shall -

- (a) prepare, document and retain data, documents and information necessary to ensure that petroleum operations are planned and executed in a prudent manner as from time to time defined by the Cabinet Secretary or the Authority; and
- (b) ensure that documents demonstrating compliance with requirements stipulated under these Regulations and any other applicable law can be provided.

(2) The documents and information specified in sub-regulation (1) shall be -

- (a) available in Kenya; and
- (b) provided to the Authority and an authorised person in compliance with Kenya laws.

(3) Unless otherwise provided, a contractor shall keep the documents and information for as long as the documents provide necessary information about the petroleum operations of that contractor, sub-contractor, or a non-exclusive exploration permit holder, but in any case, for a minimum period of not less than ten (10) years.

(4) Where a contractor wishes to destroy any data or documents or information relating to petroleum operations it shall submit to the Authority a list of the documents and information prior to the destruction of the documents or information.

(5) Upon the receipt of the list specified in sub-regulation (4), the Authority may within a reasonable time request a contractor to submit the documents or information specified in the list for safekeeping.

(6) A contractor or a non-exclusive exploration permit holder shall provide all data to the Authority upon surrender or termination of petroleum rights granting instruments.

(7) No person shall publish, distribute, share, sell, license or otherwise deal in data acquired in Kenya without prior written approval of the Cabinet Secretary.

135. (1) A contractor or a non-exclusive exploration permit holder shall ensure that all reports and data submitted to the Authority or Cabinet Secretary is submitted in the manner specified by the Authority or Cabinet Secretary.

(2) Unless otherwise provided, all reports and data required to be submitted to the Cabinet Secretary or the Authority under the Act, these Regulations, petroleum agreements, shall be submitted in physical, hard, and electronic format where applicable.

(3) Subject to sub-regulation (1) the Cabinet Secretary or the Authority may require a contractor or non-exclusive exploration permit holder to submit data and information to an authorised person in a manner directed by the Authority.

(4) A contractor or a non-exclusive exploration permit holder shall keep the Cabinet Secretary, or the Authority regularly and

fully informed about petroleum operations conducted under petroleum agreement or a permit.

(5) A contractor and where applicable a non-exclusive exploration permit holder shall provide the Authority with all information, data, samples, interpretations and reports, including, but not limited to -

- (a) progress and completion reports;
- (b) reports which deal with location surveys, seabed conditions and seafloor hazards and any other report which deals with the location of wells, platforms or pipelines;
- (c) reservoir investigations and estimates regarding reserves, field limits and economic evaluations relating to future operations;
- (d) daily, weekly, monthly, and other regular reports on petroleum operations;
- (e) comprehensive final reports upon the completion of each specific project or operation; and
- (f) contingency programmes and reports on safety and accidents;
- (g) final well reports,
- (h) PVT reports,
- (i) measurement and calibration reports,
- (j) report on natural gas market study,
- (k) well tests reports,
- (l) core analysis,
- (m) well surveys,
- (n) velocity surveys, and
- (o) health safety and environment report.

(6) A contractor or a non-exclusive exploration permit holder shall submit to the Authority and may retain for itself copies of the following data during the petroleum agreement period: -

- (a) data,
- (b) well logs,
- (c) maps,
- (d) seismic tapes,
- (e) other geological, geochemical and geophysical information,
- (f) portions of core samples,
- (g) cuttings and fluid samples and
- (h) copies of reports, studies and analyses.

(7) A contractor shall, within ninety (90) days after the end of each calendar year, or other period which may be prescribed in petroleum agreement, submit to the Authority a report covering petroleum operations performed in the contract area during that calendar year.

(8) A report under sub-regulation (7) shall include

- (a) a statement of
 - (i) the number of exploration wells, appraisal wells and development wells drilled,
 - (ii) the depth of each well specified in sub-paragraph (i), and
 - (iii) a map on which drilling locations are indicated;
- (b) a statement of any
 - (i) petroleum encountered during petroleum activities,
 - (ii) fresh-water layers encountered, and
 - (iii) other minerals discovered;
- (c) a statement of the quantity of petroleum produced and of all other minerals produced from the same reservoir or field;
- (d) a statement of the quantity of petroleum flared and re-injected and on the quantity of produced water;
- (e) a summary of the nature and extent of all exploration activities in the contract area; and
- (f) a general summary of all petroleum activities in the contract area.

(g) Any other information as may be required by the Authority.

136. (1) A contractor or non-exclusive exploration permit holder shall submit to the Authority all raw data arising out of petroleum operations within the time frame and manner prescribed under these Regulations, petroleum agreement, permit or as may be specified by the Authority.

(2) Geological, geochemical, geophysical and engineering data to be submitted to the Authority shall include a set of the raw data and a set of processed data from all work carried out and all samples taken together with interpretive material whether resulting from the survey or from the integration of other regional geological, geochemical, geophysical and engineering surveys, data and interpretations, with that or other surveys or other work both within or outside of Kenya.

(3) A contractor shall submit to the Authority gravity and magnetic data respectively which shall include—

- (a) the position, elevation and value of gravity relative to a recognized datum, stated for every observation point;
- (b) where raw field gravity data has been recorded on magnetic tape or any other storage media, one copy of the media in standard industry format or as may be specified by the Authority;
- (c) the position, elevation, and the value of the magnetic field intensity relative to a recognized datum, for every observation point; and
- (d) where raw field magnetic data has been recorded on magnetic tape or any other storage media, one copy of the media in standard industry format or as may be specified by the Authority.
- (e) Any other data as the Authority may require

(4) Seismic data submitted to the Authority shall include—

- (a) copies of observer's daily reports;
- (b) a navigation tape on format approved by the Authority;
- (c) a copy of all record sections on the producible film which shall show all stacking velocities used, clearly displayed on the record section, together with the results of all weathered zone and velocity surveys acquired for whatever purpose;
- (d) copies of all field tapes made before brute stack in formats prescribed by the Authority;
- (e) final stack tape of all seismic lines in a readable format that shows all stacking velocities above the record section and processing parameters on the header;
- (f) copies of shot point base maps on appropriate scales on reproducible film; and
- (g) any other data as the Authority may require.

(5) A contractor or non-exclusive exploration permit holder shall submit to the Authority all data, whether processed, interpreted, reprocessed or re-interpreted, at no cost to the Authority.

137. (1) A non-exclusive exploration permit holder shall submit in a form acceptable to the Authority

- (a) a daily and quarterly activity reports in such detail as to allow an assessment of the progress of the work programme;
- (b) within three (3) months from the cessation of the Permit all relevant data, reports and results of the activities carried out under the permit; and
- (c) submit a copy of all data acquired during a non-exclusive exploration activity.
- (d) Any other information as the Authority may require.

(2) Nothing in this section shall prevent the Authority from attaching additional reporting conditions to the permit and which relate to the management and reporting of data.

138. A contractor shall submit in a form acceptable to the Authority -

(a) All daily reports, including drilling logs, from a drilling and well activity providing a summary of the day's operations specifying the present depth of any drilling operation, lithologies penetrated, mud gas shows, testing operations, drilling difficulties and associated cost, and at least a twenty-four (24) hour forecast of the operations;

- (b) a well completion report within ninety (90) days after the completion of any well;
- (c) well repair, recompletion or modification reports detailing the operation and the results, in a form acceptable to the Authority, within forty-five (45) days after the completion of the operation; and
- (d) an end of well test report after testing the well.
- (e) directional survey, measurement while drilling, kick sheet;
- (f) Any other information as the Authority may require.

139. (1) A contractor shall report all raw well-log data acquired from both open and cased-hole sections, whether acquired by electric wireline methods, associated surface systems or any other methods approved by the Authority.

(2) A contractor shall complete all appropriate well log data in accordance with applicable American Petroleum Institute (API) Header and support attribute information.

(3) A contractor shall submit raw data without additional editing, filtering, or making other corrections to the data set acquired from the well.

(4) A contractor shall report all field prints of the acquired logs at 1:200 and or 1:500 scale including hard copies and digitalcopies of the logs.

(5) A contractor shall create for each well a logging summary which shall contain information for all well-logging operations as prescribed in guidelines issued by the Authority.

(6) The logging summary file incorporating all logging activities shall be cumulatively generated and stored.

(7) In reporting the well log data contractor shall use the format and quality specified in guidelines issued by the Authority

(8) Contractor shall acquire caliper, bit size, neutron, density, acoustic, gamma ray, resistivity, Spontaneous Potential, and cement bond logs as a minimum in every well.

140. (1) A contractor or where applicable a non-exclusive exploration permit holder shall submit to the Authority complete copies of all final reports prepared from the results of field investigations, specialised studies, or other activities relating to the contract or permit area within three (3) months after the completion of the activities or progress reports within three (3) months after the completion of a twelve (12) month period of a continuing survey, whichever is sooner.

(2) Reports required under sub-regulation (1) shall contain, where applicable, the following information—

- (a) the location of the survey, including the method of determining the positions of metering or observations with estimates of their accuracy, including, for marine or airborne surveys, the method of navigation used;
- (b) the composition of the field party;
- (c) the dates when the surveys were commenced and finished;
- (d) the type of survey, and the methods and equipment used;
- (e) the purpose of laboratory or desktop studies, its results and conclusions, together with all supporting geological and engineering data, whether raw, corrective or interpretive that a contractor has used in carrying out the work both within or outside Kenya; and
- (f) the records of data, including where applicable, the time and location of an observation or metering, together with observational data in their original form, and in their processed or corrected form, with a complete and adequate description of

the method of processing or correction applied, and methods of analysis.

(3) Geological reports shall include—

- (a) the interpretation of the stratigraphy, structure, tectonics and any other factors related to the petroleum potential of the area as well as correlation with other areas;
- (b) the geological maps, sections, and columns prepared from the results of the surveys; and
- (c) any other information pertinent to the survey or the report or as may be required by the Authority.

(4) Geophysical surveys shall, without limitation, include seismic surveys, ground magnetic surveys, ground gravity surveys, electrical surveys, aeromagnetic surveys, airborne gravity surveys and other airborne surveys.

(5) The seismic survey reports shall without limitation, include—

- (a) the type and characteristics of the explosives or other source of seismic energy and characteristics of the signal generated;
- (b) for offshore surveys, a map or maps showing the positions of shot points and the depths of operation of seismic energy source;
- (c) copies of fathometer records;
- (d) for onshore surveys, a map or maps showing the positions of shot points, the elevation of shot points with reference to mean sea level, and the depth below surface of the seismic energy source, together with the locations of all weathered zone surveys, up-hole surveys and velocity surveys;
- (e) where a shot hole is used, the depth to ground water and a driller's lithological log;
- (f) results of all interpretations made on seismic data, including velocity maps and seismic maps in time and depth; and
- (g) sections, prospect montages, and interpretive integrations with all geological and engineering data used of whatever kind both within and outside Kenya.

(6) Gravity survey reports shall without limitation, include—

- (a) a description of every gravity base station, including the position, elevation, and adopted gravity value;
- (b) the value of any terrain or topographic correction which may have been evaluated including the method used to evaluate it;
- (c) in the case of marine or airborne surveys, the course and speed of the vessel or aircraft, together with the depth of the water or height above terrain, as the case may be;
- (d) the density determination on rocks, or derived values;
- (e) the gravity-meter closure charts showing misclosures or adjustments; and
- (f) all gravity anomaly maps and profiles prepared as part of the survey, all interpretive material, whether resulting from the survey or integration of other surveys or other work or data both within and outside Kenya.

(7) The magnetic survey reports shall without limitation, include—

- (a) for marine surveys, the water depth and the position of the magnetometer sensor relative to the vessel;
- (b) for magnetic vector metering, the values of observed components or directions;
- (c) a description of every magnetic base station, including the position, elevation and adopted magnetic values;
- (d) the magnetic properties of all rock samples measured;
- (e) the magnetometer drift curves, calibration details, and loop closure charts, showing misclosures and adjustments; and
- (f) all magnetic anomaly maps and profiles prepared as part of the survey.

141. (1) Notwithstanding any confidentiality requirements a contractor shall report to the Authority estimates of petroleum resources and reserves on an annual basis, irrespective if they have not changed from when they were last reported.

(2) The report referred to under sub-regulation (1) shall contain—

- (a) a brief description of a contract area including a geological description, prospectively of the area, activities undertaken during the year and planned activities for the following year, which shall lead to a better understanding of the resource potential;
- (b) petroleum initially-in-place;
- (c) estimated ultimate recovery;
- (d) remaining recoverable resources including—
 - (i) estimates of petroleum reserves;
 - (ii) contingent resources; (iii) prospective resources;
 - (iv) unconventional resources; and
- (v) whether and how each of the resource classes in the summation were adjusted for risk.

(3) The Authority may require a contractor to provide further information relating to petroleum resources and reserves.

(4) The reserves referred to under sub-regulation (1) shall be presented as proven, possible and probable in accordance with the Society of Petroleum Engineers Petroleum Resource Management System or any other system approved by the Authority.

(5) In presentation of reserves, a contractor shall provide a detailed description of the types of tests performed including—

- (a) production and formation testing;
- (b) well logs and core analysis that indicates that the zone is petroleum-bearing and other analyses undertaken to determine commercial producibility of the accumulation;
- (c) analogues that have demonstrated commercial producibility by actual production and formation testing; and
- (d) economic assumptions used to calculate the reserve estimates.
- (e) any other information as the Authority may require.
- (6) The annual petroleum reserve estimates shall include—
- (a) a reconciliation of a contractor's reported petroleum reserve estimates for the current year against the corresponding petroleum reserve estimates for the previous year; and
- (b) an explanation of any changes between the two.
- (c) any other information as the Authority may require.

142. (1) A contractor shall submit to the Authority, the following information on production parameters:

- (a) gross or net production;
- (b) individual well performance;
- (c) wellhead pressures;
- (d) bottom hole pressure and water and gas injection volumes;
- (e) oil production rate, injection rate, gas-oil ratio and water oil ratio, water produced,
- (f) survey report of reservoir pressure,
- (g) date and type of any well servicing,
- (h) method used for quality control and treatment of the injected fluid,
- (i) report on unusual performance problems and remedial measures taken or considered;
- (j) history matching and production forecasts;
- (k) production statement;

(l) annual petroleum production reports

(m) any other information as the Authority may require

(3) A production statement submitted to the Authority under Sub-Regulation 142(1)(k) shall be on a monthly basis showing the following information separately for each producing field and in aggregate for the development area: -

- (a) the quantity and quality of petroleum produced and saved;
- (b) the quantities of Petroleum used for the purposes of carrying on drilling and production operations and pumping to field storage as well as quantities injected into the formation
- (c) the quantities of petroleum lost due to spills, leakages, or any other unforeseeable circumstances
- (d) the quantities of Natural Gas flared and/or vented
- (e) the size of Petroleum stocks held at the beginning of the Month in question;
- (f) the size of petroleum stocks held at the end of the Month in question;
- (g) The quantities of natural gas re-injected
- (h) The number of days in the Month during which Petroleum was produced from each Field.
- (i) The Gas-Oil ratio for each Reservoir and Field for the relevant Month
- (j) Water production, water injection and Reservoir pressure data for each Reservoir and Field
- (k) The number of days in the Month during which Petroleum was produced from each Development Area within the Contract Area

(4) All quantities shown in the production statement shall be expressed in both volumetric terms (barrels of Oil and standard cubic metres of Gas) and in the case of Oil in weight (metric tonnes).

(5) Notwithstanding sub regulation (4) above, the contractor shall additionally report measured volumes, temperature, and pressure at the time of measurement (ambient conditions)

(6) At the end of each month aggregated statements in respect of the three Months comprising that Quarter shall be submitted for each of the items (a) to (k) in sub-regulation (3) above. Additionally, the average daily production rate for the Quarter shall be calculated.

(7) The Production Statement for each Month shall be submitted Authority not later than seven (7) days after the end of such Month

(8) The Operator shall use all reasonable effort to ensure that Daily, Weekly and Monthly production targets shall be met without detrimentally affecting the reservoir.

(9) Where a contractor does not meet monthly production threshold, justifications shall be provided to the Authority within seven (7) days with a plan outlining how the threshold for the quarter of occurrence shall be met.

(10) Where the reservoir has been detrimentally affected, the operator shall also outline remedial measures undertaken or under consideration in the justification for failing to meet the target production for consideration by the Authority.

143. (1) Notwithstanding Regulation 142 above the contractor shall prepare a daily production statement which shall include:

- (a) Petroleum volumes produced every day from different fields;
- (b) Planned or unplanned Downtime;
- (c) Causes of unplanned downtime; and
- (d) Preventive and/or remedial measures for unplanned downtimes.
- (e) Any other additional information

(2) The Contractor shall submit an aggregated weekly production statement clearly outlining petroleum volumes produced every day from each field for that week and any outstanding issues as identified in the daily production statement.

144. (1) A Contractor shall evaluate and maintain well integrity where unusual well performance problems are identified for the safety of all personnel and equipment.

(2) The Operator shall notify the Authority within forty-eight

(48) hours of identifying unusual well or reservoir performance behaviour duly reporting the following;

(a) any resulting Non-Productive Time

(b) corresponding increase or decrease in production.

(c) detailed description of remedial measures already undertaken or being considered for implementation

(3) Where the unusual performance potentially constitutes a departure from the parameters outlined in the Field Development Plan or dynamic model predictions for either the well or the reservoir performance the Authority may request for additional data necessary for the review of whether the unusual performance constitutes a material departure from predicted behavior.

145. (1) A contractor prior to start-up of the metering system shall possess, maintain and provide to the Authority documentation including -

(a) safety reports outlining emergency response plans, risk assessments, and safety equipment documentation

(b) engineering reports which shall include but not be limited to;

i. Design reports with layout, equipment specifications, piping and instrumentation diagrams (P&IDs), and other technical design details;

ii. Instrumentation and Control (I&C) report with sufficient detail on selection, installation, calibration, and integration of sensors, transmitters, controllers, and other I&C device

iii. Commissioning and Testing Plan outlining the procedures for commissioning, testing, and validating the performance of the metering station.

iv. Any other engineering report the Authority may request.

(c) operational plans detailing how the metering station will be operated, including procedures for routine maintenance, monitoring, and troubleshooting.

(d) documentation for all equipment installed at the metering station, including meters, valves, pumps, and control systems.

(e) progress plan for the project up to the time of application for consent to use;

(f) quality assurance reports demonstrating compliance with quality standards and protocols. these shall include regular audits and inspections to ensure that processes and equipment meet quality requirements.; and

(g) startup plan outlining the steps and procedures for bringing the metering station online safely and efficiently. This plan shall include testing procedures, commissioning activities, and contingency plans for addressing any issues that may arise during startup.

(2) A contractor shall establish and maintain an archive which shall contain documentation in respect of the metering system.

(3) A contractor shall notify the Authority of any changes to the metering system that affect the quality of fiscal metering or figures reported from the metering including the following—

(a) an annual plan for activities within the technical field in question;

(b) procedure for ownership allocation of petroleum between licensees in production licences;

(c) metering errors;

(d) fiscal metering data that have been corrected based on calculations;

(e) changes in calibration intervals;

(f) changes in calculation software; and

(g) changes in aspects that formed the basis of the consent for start-up

(4) A contractor shall provide to the Authority quarterly reports on its petroleum measurement. Such reports shall contain the following information as a minimum:

- (a) all measurements, analyses and calculations made for the determination of production in a field;
- (b) information relating to daily production and respective transportation or storage;
- (c) when a measurement is carried out in a tank with a volume greater than daily production, the measurement shall be adjusted according to the production of each day;
- (d) the measurement report forms shall be presented to the Authority for approval, and in the case of reports prepared using electronic means, they shall contain all the calculation formulas used;
- (e) all the measurements, inspections, analyses and calculations made during the calibration of measurement instruments and systems shall be recorded in reports, which shall be drafted immediately following calibration and shall include information to enable the Authority to check traceability; and
- (f) Any other information the Authority may require.

(5) Without limiting sub-regulation (4), the reports shall include in particular:

- (a) a contractor's name;
- (b) identification of the field or installation;
- (c) date and time the report was produced;
- (d) period of production or movement of fluid;
- (e) identification of the measuring points;
- (f) values recorded (totals, levels, temperatures, pressures);
- (g) gross, corrected and net volumes of production or transfer;
- (h) results of laboratory analyses;
- (i) correction factors with the parameters and methods used for their determination;
- (j) names, designations and signatures of all persons responsible for the report

(6) Measurement, test and calibration reports shall be filed and be available for examination by the Authority or an authorised person.

Division 2- Samples

146. (1) A contractor shall correctly collect, label, preserve, retain in Kenya and submit to Authority the samples in the nature of:

- (a) cuttings;
- (b) conventional cores;
- (c) sidewall cores;
- (d) liquid and gas;
- (e) logs; and
- (f) test data.

(g) any other substance or data the Authority may require.

(2) A contractor may remove for examination and analysis samples and specimens of rock and petroleum found in the course of petroleum operations.

(3) A contractor shall correctly label and preserve for reference of a period of at least two (2) years any samples of the strata or water encountered in any borehole or well taken by a contractor and samples of petroleum or other fluids in a contractor area.

(4) A contractor shall submit to the Authority a representative specimen of any sample obtained in conduct of petroleum operation as detailed in Schedule VIII, where the quantity of the core, cutting or sample is available to a contractor.

(5) The Authority shall have access to the samples taken under sub-regulation (1) at all times; and may require that representative specimens not exceeding one half of any sample be delivered to the Authority.

(6) The Authority upon a receipt of a written request may authorise a contractor to export a specimen or sample abroad for the purposes of analysis, subject to such conditions as the Authority may determine. A contractor shall provide the Authority a report about the progress of the analysis within twelve (12) months after the authorisation being given or such other period the Authority may determine.

(7) Upon a receipt of a written request the Authority may provide access to samples in its possession to prospective contractors, subject to receipt of justifications and payment of a fee stipulated in Schedule IX of these Regulations.

147. (1) A contractor shall collect samples of drill cuttings from geological formations during the drilling operations for purposes of analysis.

(2) Sampling shall commence as soon as returns of the drilling fluid have been established.

(3) A contractor shall collect samples of drill cuttings from a development well from the reservoir section for purposes of analysis.

(4) The sampling interval shall not exceed five (5) metres for an exploration well.

(5) The sampling interval in the reservoir shall not exceed five (5) metres for an appraisal and development well if a conventional core is not taken.

148. (1) A contractor may collect a conventional core

(a) for purposes of determining the reservoir properties; and

(b) from the entire reservoir section from

(i) each of the selected appraisal wells, and

(ii) a selected development well after a discovery has been made.

(2) The contractor may take a sidewall core where necessary.

(3) The core samples shall be placed in core boxes or other boxes approved by the Authority, with accurate labels of—

(a) the well number;

(b) the number of the core box; and

(c) the interval of coring.

149. (1) A contractor shall sample all formation fluid recovered from formation or other nonroutine production tests.

(2) A contractor shall provide as soon as possible the Authority with a copy of the results of the analysis of any sample made under sub-regulation (1).

(3) A sample of all formation fluids recovered shall be submitted to the Authority, the quantity of which shall be determined by the quantity available and by mutual agreement between a contractor and the Authority.

(4) Samples shall be labelled with waterproof ink and packaged in sample bottles as agreed to by the Authority.

150. (1) A contractor shall carry out well logging in each well for analysis. As a minimum this shall comprise caliper, bit size, neutron, density, gamma ray, resistivity and spontaneous potential logs.

(2) A contractor shall carry out formation testing to establish-

(a) the pressure gradient and type of fluids in a formation; and

(b) the production capability of the well,

(c) the reservoir properties,

(d) any other information as may be required.

PART IV – INSPECTIONS OF UPSTREAM PETROLEUM OPERATIONS AND FACILITIES

151. The Cabinet Secretary, the Authority or a person authorized in writing by them, may inspect any upstream petroleum operations, facilities document and records and other related matters.

152. (1) In compliance with Regulation 151 the Cabinet Secretary or the Authority may appoint qualified representatives to act as inspectors and provide them an identification document stating—

- (a) that a person is an inspector for the purposes of the Act and these Regulations;
- (b) the term of inspector's appointment; and
- (c) any other relevant information.

(2) A technical inspector may—

- (a) enter any permit or contract area;
- (b) inspect and test any upstream petroleum operations and facilities;
- (c) take samples;
- (d) require a contractor or a permit holder to produce books, records, documents, maps, or plans relating to any upstream petroleum operations and facilities;
- (e) inspect, take extracts from, and make copies of any of books, records, documents, maps, or plans under paragraph (d); and
- (f) conduct other activities to effect regulation 151.

153. (1) The Cabinet Secretary, the Authority or an inspector may at any time and upon at least a twenty-four (24)-hours' notice to a contractor and permit holder to enter the contract area or its premises to—

- (a) examine or check anything which a contractor or permit holder is authorised by the Act and these Regulations to perform, install, construct, abandon, decommission or take possession of;
- (b) inspect and make abstracts or copies of any logs, records, maps, accounts or other documents which a contractor is required to make or keep in accordance with the Act and these Regulations; and
- (c) carry out any other function under the Act and these Regulations.

(2) Notwithstanding sub-regulation (1) the Cabinet Secretary, the Authority or an inspector may at any time and without notice inspect upstream petroleum operations, facilities, and related matters for the purpose of ascertaining compliance with these Regulations or any other applicable law.

(3) An inspector shall identify himself or herself upon arrival at the contract area, a facility or any other location, premises, structure, or place where upstream petroleum operations and related matters are undertaken.

(4) An inspector shall not, in exercising his or her powers under these Regulations, unreasonably interfere with or delay the operations of a contractor or permit holder.

(5) An inspector may make any investigation necessary to determine compliance with these Regulations or any other applicable law.

(6) Where an inspector suspects or finds that any upstream petroleum operations or facilities are not compliant with these Regulations or any other applicable law, the inspector shall issue notice in writing to the person-in charge to remedy the non-compliance immediately.

154. (1) A contractor or permit holder shall allow an inspector at any time, to have access to and to take notes from samples, documents, data, reports and records concerning upstream petroleum operations.

(2) Where information obtained under sub-regulation (1) is subject to applicable confidentiality requirements such information shall be treated as confidential and shall not be disclosed to any other party

except where the information is required to be used or published in accordance with applicable laws, petroleum agreement or by a lawful order to disclose.

PART V – OFFENCES AND PENALTIES

155. (1) Subject to any other offence or penalty specifically prescribed under the Act or these Regulations, a person who—

- (a) contravenes any provision of these Regulations for which no specific penalty is provided under relevant laws or the Act as may be relevant;
- (b) fails to comply with any direction given under these Regulations;
- (c) fails to allow any inspection authorised under these Regulations;
- (d) fails to make an application, notification, report or other submission required by these Regulations; or
- (e) unlawfully publishes, distributes, shares, sells, licences or otherwise deals in data acquired in Kenya,

commits an offence and shall on conviction be liable to the penalty prescribed in section 124 of the Act.

(2) Where a continuing offence is committed, a person shall on conviction be liable to a fine or imprisonment as determined by the Act or these Regulations, and in addition, a fine of the amount prescribed in section 124 of the Act in respect of each day the offence continues to be committed.

(3) The penalties imposed under these Regulations shall be in addition to and not in derogation of any liabilities in respect of payment of compensation, suspension or revocation of any permit, consent or approval granted under these Regulations or such other remedy provided for in law, a petroleum agreement or permit.

PART VI – MISCELLANEOUS

156. (1) The Authority shall keep a register of all permits, certificates, consents and approval and changes thereto and shall individually record their—

- (a) terms and conditions;
- (b) amendments;
- (c) duplicates;
- (d) suspensions, revocations or termination;
- (e) accompanying fees paid to the Authority; and
- (f) Any other relevant information.

(2) Any person may, during the Authority's working hours, inspect the register subject to paying a fee prescribed in Schedule IX.

(3) The fee under sub-regulation (2) above does not apply to officers of the National Government, parliament, judiciary or the Authority or the Authority's authorised representatives, for official purposes while on duty.

157. (1) A contractor, permit holder or other such person dissatisfied with a decision of the Authority in respect of any matter provided for under these Regulations may make a complaint to the Authority in writing.

(2) The Authority shall acknowledge the receipt of the complaint in writing within five (5) days and attend to the complaint within thirty (30) days.

(3) Where a contractor is not satisfied with the Authority's response to the complaint, a contractor may appeal to the Tribunal within thirty (30) days of the receipt of the Authority's response to the complaint.

158. (1) The Cabinet Secretary in consultation with the Authority may, from time to time, revise any fees or forms to capture any material escalation of its administrative costs, currency fluctuation, inflation or such other matter as the Authority may deem necessary.

(2) The Cabinet Secretary may, from time to time, update fines set under the Act concerning these Regulations with the aim of improving retribution and reparation.

(3) Fees under these Regulations shall be paid via bank transfer into a designated government account to be informed by the Authority.

159. Matters not covered in the Act, these Regulations, permits or approvals and which concern upstream petroleum operations shall be determined by the Cabinet Secretary or the Authority as the case may be, on a case-by-case basis.

160. The Cabinet Secretary and the Authority may update guidelines from time to time for the implementation of these Regulations.

SCHEDULE I – SURVEY APPROVAL APPLICATION FORM

Regulation 14(1)(a)

This application is hereby submitted under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 for approval of petroleum survey as follows:

Applicant's details:	
1. Name of applicant (full corporate name):	
2. Applicant's Address (full corporate address):	
3. Petroleum Agreement/Permit name and number:	
4. Phone number:	
5. Fax:	
6. Email address:	

Survey details:	
1. Type of the survey:	
2. Purpose of the survey:	
3. Area to be covered by the survey:	
4. Proposed start and finish date for the survey:	
5. Methodology and equipment to be used:	
6. Name of the person conducting the survey:	
7. Contact details of the person conducting the survey:	
8. Name of the person responsible for communications with the Authority regarding the survey application:	
9. Contact details of the person responsible for communications with the Authority regarding the survey application (full name, address, telephone number and email address):	
Enclosed documents: (tick the boxes as appropriate)	
<input type="checkbox"/> copy of the applicant's registration documents	
<input type="checkbox"/> survey program	
<input type="checkbox"/> map of the operational area	
<input type="checkbox"/> environmental impact statement	
<input type="checkbox"/> cadastral map	
<input type="checkbox"/> copy of fee payment receipt	
<input type="checkbox"/> other supporting documents (specify, where applicable)	

Declaration:

- I/We have read and understood the relevant sections of the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024 and other relevant laws or applicable laws as may be relevant and agree to abide by them.
- I/We hereby confirm that the information provided in this application is to my knowledge true and accurate.
- I/We understand that it is an offence to give false information in an application for a survey approval.
- I/We acknowledge that our company shall conduct surveys as approved by the Authority.
- I/We hereby confirm that we and our contractors have technical and financial capability to conduct operations subject to the approval.
- I/We acknowledge that our company shall not commence and conduct any survey operations prior to obtaining an approval from the Authority.

Date: (dd-mm-yyyy)	
Name of Authorised Applicant's representative	
Signature:	

FOR OFFICIAL USE ONLY

Date application received	
Name of Authorized Authority Representative	
Signature and stamp	

FORM OF SURVEY APPROVAL

Regulation 14(1)(a)

Survey Approval no.: xxxx/yyyy

This survey approval is hereby issued under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 exclusively to the named applicant to conduct the survey (-es) as follows:

Applicant name:

Address: (full corporate address)

Phone number:

Email address:

Type and purpose of survey: (description of the survey):

Area to be covered by survey: (description of the area or distance of survey):

Expiry date: (dd-mm-yyyy of first expiry date):

Renewal: (dd-mm-yyyy of new expiry date in case of renewal):

Terms and conditions:

1. The applicant or a person conducting a survey on behalf of the applicant shall—

a. commence work within _____ (_____) months from issuance of this approval, unless when an unforeseen circumstance arises;

b. inform the Authority about an unforeseen circumstance that can delay the start of works and may request an extension to the period of _____ (_____) months mentioned above;

c. execute survey works under submitted survey program and not deviate from its approval except for during an emergency;

d. comply with all applicable laws and regulations and best industry practices;

e. procure and maintain an adequate insurance cover;

f. provide data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024, Petroleum Agreement;

g. submit the amended survey programme, where an applicant intends to deviate from the approved program.

h. other terms and conditions

2. This approval is valid for _____ (_____)

and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy of issuance)

Signature and stamp: (Authority's representative)

SCHEDULE II – DRILLING PERMIT APPLICATION FORM

Regulation 17(2)(a)

This application is hereby submitted under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 for the drilling permit as follows:

Applicant's details:	
1. Name of applicant (full corporate name):	
2. Applicant's Address (full corporate address):	
3. Petroleum Agreement name and number:	
4. Phone number:	
5. Fax:	
6. Email address:	

Permit details:

1. Type of permit requested	
2. Well(s) name and description	
3. Description of well activities	
4. Proposed start and finish date of work	
5. Description of methodology to be used	

6. Description of equipment to be used	
7. Name of a sub-contractor (where such person is not a contractor)	
8. Address of a sub-contractor	
9. Name of the person responsible for communications with the Authority regarding the permit application	
10. Contact details of the person responsible for communications with the Authority regarding the permit application (full name, address, telephone number and email address)	

Enclosed documents: (tick the boxes as appropriate)	
<input type="checkbox"/> copy of the applicant's registration documents	
<input type="checkbox"/> complete well plan	
<input type="checkbox"/> global positioning system (GPS) location of each well	
<input type="checkbox"/> environmental impact statement license	
<input type="checkbox"/> copy of fee payment receipt	
<input type="checkbox"/> other supporting documents (specify, where applicable)	

Declaration:

1. I/We have read and understood the relevant sections of the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024 and other relevant laws or applicable laws as may be relevant and agree to abide by them.

2. I/We hereby confirm that the information provided in this application is to my knowledge true and accurate.

3. I/We hereby undertake that our company, its contractors and sub-contractors poses the ability to construct a well site, access road to the well site, facilitate mobility of equipment, supplies, and materials to the well site during drilling, monitoring, appraisal and evaluation activities

4. I/We hereby confirm that we and our contractors have technical and financial capability to conduct operations subject to the approval.

5. I/We understand that it is an offence to give false information in an application for a drilling permit.

6. I/We acknowledge that our company and our contractors and sub-contractors shall conduct drilling operations as approved by the Authority.

7. I/We acknowledge that our company and our contractors and sub-contractors shall not commence and conduct drilling operations and drill a well prior to obtaining a drilling permit from the Authority.

Date: (dd-mm-yyyy)	
Name of Authorised Applicant's representative	
Signature:	

FOR OFFICIAL USE ONLY

Date application received	
Name of Authorized Authority Representative	
Signature and stamp	

Date: (dd-mm-yyyy)

Authorised Applicant's representative:(full name)

Authorized Signature: (Applicant's representative)

CONTENTS OF THE WELL PLAN

Regulation 17(2)(e)

Description of information

1. The name and number of the well(s).
2. The location of the well(s), in the form of
 - a. the elevation, latitude and longitude of the well; and
 - b. the basin and sub-basin (if applicable) in which the well is located; and
 - c. the map sheet name; and

- A map showing the location of the well within the block in which it will be drilled.
- A description of each well activity.
- A description of
 - the philosophy of and description of the design, construction and conduct of drilling operations and management of the well; and
 - the possible production or injection activities of the well, showing that each well activity will be carried out in accordance with applicable law and best petroleum industry practices, codes, standards and specifications.
- The proposed timelines for carrying out each well activity, including estimated commencement and cessation dates.
- Well performance objectives against which the performance of each well activity is to be measured and measurement criteria that define those performance objectives.
- An explanation of how a contractor identified and will mitigate risks, including how a contractor will identify, monitor, mitigate and otherwise deal with -
 - a well integrity hazard; and
 - a significant increase in an existing risk for the well, including the possibility of continuing a well activity for the purpose of dealing with the well integrity hazard or the risk.
- Details of chemicals and other substances that may be -
 - in, or added to, treatment materials to be used for the purposes of drilling or hydraulic fracturing undertaken in the course of each well activity; or
 - otherwise introduced into a well or underground formation in the course of each well activity; or
 - otherwise used in the course of each well activity.
- The proposed total volume and composition of fluids and other materials to be used in the course of each well activity.
- The estimated total volume and composition of returned fluids and other materials from the well and arrangements for the management of those fluids and materials.
- Arrangements for the management of any produced formation materials that result from drilling, well testing or production.
- Details of when and how a Contractor will notify the Authority, and give the Authority reports and information, about
 - each well activity; and
 - well integrity hazards; and
 - significant increases in existing risks for the well; and
 - other matters relevant to the conduct of each well activity.
- An explanation of the way that a Contractor will keep information required by the well management plan.
- A list of the principal Kenya and international standards that apply in relation to each well activity and plant used in connection with each well activity.
- If the well management plan relates to a drilling activity, the following -
 - Anticipated total depth (TD) in measured depth (MD) and TVD (true vertical depth) of the well.
 - well objectives or well targets
 - the proposed path of the well;
 - the estimated spud date and completion date for the well;
 - a description of the rig and configuration of any blow-out prevention equipment and their method of operation;
 - contingency plan for operational problems
 - Well prognosis

- h. the casing programme, including design safety factors for burst, collapse or tension;
- i. the complete casing cementation programme;
- j. a description of downhole barriers and procedures for testing those barriers;
- k. the formation evaluation programme (including cutting and fluid sampling, coring, wireline logging and mud logging);
- l. the drilling fluids programme;
- m. the geological prognosis for the well;
- n. the name and address of the drilling contractor;
- o. the names and addresses of other contractors and subcontractors involved in the drilling activity and the nature of the services that they are to provide;
- p. the name and contact details of the person who will have responsibility for communications with the Authority regarding the drilling activity;
- q. details of the insurance held by a Contractor in relation to the well and the drilling activity.

Drilling Permit no.: xxxx/yyyy

FORM OF DRILLING PERMIT

Regulation 20

This drilling permit is hereby issued under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 exclusively to the named applicant to conduct the drilling and well operations as follows:

Applicant name:

Address: (full corporate address):

Type and purpose permit: (description of issued permit):

Commencement date (dd-mm-yyyy of permit issue date):

Expiry date: (dd-mm-yyyy of first expiry date):

Renewal: (dd-mm-yyyy of new expiry date in case of renewal):

Terms and conditions:

1. The applicant or a person conducting drilling operations on behalf of the operator shall—

- (a) commence work within _____ (____) months from issuance of this permit, unless when an unforeseen circumstance arises;
- (b) conduct drilling operations under submitted well program except for during an emergency or reapproval by Authority;
- (c) comply with all applicable laws and regulations and best industry practices;
- (d) procure and maintain an adequate insurance cover;
- (e) provide data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024, Petroleum Agreement;
- (f) submit the amended well programme, where an applicant intends to deviate from the approved program;
- (g) other terms and conditions

2. This permit is valid for _____ (____) _____ and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy of issuance)

Signature and stamp: (Authority's representative)

SCHEDULE III – FIELD DEVELOPMENT PLAN

Structure and Content of Field Development Plan

Regulation 38(2)(b)

Section 1. Executive summary

The Executive Summary should state the essential features of the development including:

- (a) a brief description of the petroleum reservoirs, reserves, development strategy, facilities and pipelines
- (b) an outline map showing the field limits, Development Area boundary contours of fluid contacts, existing and proposed contract boundaries
- (c) an estimate of base ultimate recovery, and the minimum, base and maximum petroleum production profiles of:
 - (i) gas, in thousand cubic metres and billion cubic feet per year
 - (ii) oil, in thousand metric tonnes and in million US barrels per year
- (d) a statement of intent towards any parts of the field not addressed by the plan, including any commitment for later development of that area, or to the later stages of a phased development. Any provision for the development of other hydrocarbons in the area should also be identified.
- (e) the essential elements of the Field Management Plan
- (f) project schedule and total capital cost
- (g) a statement of the provision for decommissioning and an undertaking that the field will be decommissioned in accordance with the requirements of the applicable law.

Section 2. Field description, which shall include -

A Field description should include the description of the field on which the development has been based, including a baseline for future modifications as development proceeds.

2.1 Seismic Interpretation and Structural Configuration, which shall include -

- (a) a brief summary of the extent and quality of the seismic survey and
- (b) the structural configuration of the field presented using appropriate figures and maps.

2.2 Geological Interpretation and Reservoir Description, which shall include -

- (a) the stratigraphy of the reservoirs,
- (b) facies variations,
- (c) the geological correlation within the reservoir and any other relevant geological factors that may affect the reservoir parameters (both vertically and horizontally) and thereby influence reservoir continuity within the field should be described in summary form.

Figures and maps should be provided where appropriate. The geological data provided should reflect the basis of reservoir subdivision,

2.3 Geological Model which shall describe –

how the seismic mapping of surfaces and faults, the reservoir subdivision and the log analysis were integrated to build a 3D geological model of the field.

2.4 Petrophysics and Reservoir Fluids, which shall include –

- (a) a brief summary of the key field petrophysical parameters incorporating log, core, Special Core Analysis (SCAL) and well test data.

A summary of the field Pressure-Volume Temperature (PVT) description and fluid analyses should be included.

2.5 Petroleum Initially in Place, which shall include -

- (a) The volumetric and any material balance estimates of petroleum initially in place for each reservoir unit together with a description of the cause and degree of uncertainty in these estimates.

The basis of these estimates should be available and referenced.

2.6 Reservoir Modelling Approach, which shall include -

- (a) Description of the means of representing the field, either by an analytical method, some form(s) of numerical simulation, or by a combination of these, should be briefly described.
- (b) Where the reservoir has been subdivided for reservoir modelling into flow units and compartments stating the basis for division.
- (c) A description of the extent and strength of any aquifer(s).
- (d) Where Drill Stem or Extended Well Tests (DSTs or EWTs) have been performed, the implications of these on history matching and predicted production performance should be given.

2.7 Reservoir Development, Improved and Enhanced Recovery Processes (as and where applicable), which shall include-

- (a) The chosen recovery process should be described and justified (e.g., depletion, pressure maintenance, aquifer support).
- (b) Description of methods for targeting IOR (either mechanical or operational). Where none are proposed this should be justified.
- (c) For all oil or condensate reservoirs, the potential for application of improved recovery processes beyond conventional methods (EOR) should be described.
- (d) Where a field demonstrates economic potential for EOR, a Contractor should set out their firm plans to implement this.
- (e) For phased development, the expected recovery rate and recoverable volumes presented for each phase;

2.8 Wells Design and Production Technology, which shall include -

- (a) A description of selected production strategy for the field that shall include the long- and short-term production plans
- (b) The basic requirements for well-completion design, including the potential for water shut off, artificial lift, stimulation and sand production should be discussed. A reference to a Wells Basis of Design document should be provided.
- (c) The methods used to optimise production should be summarised, including reference to the methods used for integrated modelling of wells, flowlines and production facilities.

Section 3. Development and management plan

This section should set out the form of the development, describe the facilities and infrastructure, and establish the basis for field management during the construction and production phases.

3.1 Preferred Development Plan, Reserves and Production Profiles, which shall include -

- (a) The proposed reservoir development which indicates the drilling programme, well locations, expected reservoir sweep and any provision for a better-than-expected geological outcome.
- (b) An estimate of the range of reserves for each reservoir should be given with a brief explanation of how the uncertainty was determined and explicit statements of probability where appropriate. For more complex reservoirs, in particular where EOR processes need to be considered, the range of reserves for each reservoir flow unit and compartment should be given. The assumed economic cut off should be stated.
- (c) Expected production profiles, for total liquids, oil, gas, gas usage and flare, associated gas liquids and produced water for the life of the field are required. Where fluids are to be injected, annual and cumulative injection profiles should be provided.
- (d) The measurement point at which production shall be measured and the respective shares of petroleum allocated.
- (e) The anticipated date for Cessation of Production (CoP), together with the underlying assumptions,

3.2 Drilling and Production Facilities, which shall include -

- (a) The drilling section should briefly describe the drilling package and well workover capability. There should be a description of the proposed well-completion philosophy and figure(s) showing casing and completion, with main components' diameters and depths relative to the lithological main units and reservoir depths. A

reference to a wells Basis of Design (which is consistent with the reservoir development and management plan, section 2.7 and 2.8).

(b) The production facilities section should describe the major equipment and infrastructure items and identify the design and operating parameters used as the basis of design. Estimated jacket and topsides weights should be provided for platform developments. A clear indication of system bottlenecks and limitations that can give rise to production constraints should also be given together with details of the contingencies available to maintain production in the event of major equipment failure(s). The scope and flexibility for future modification and expansion to address any potential for upside, incremental and satellite field development should also be identified, including any spare capacity provided for in the facilities/pipelines design to allow for future development (including the application of improved oil recovery techniques) or third-party tie-ins.

3.3 Process Facilities

This section should provide a brief description of the operating envelope and limitations of the processing plant. The use and disposal of separator gas should be described. The section should also include:

- (a) A summary of the main and standby capacities of major utility and service systems, together with the limitations and restrictions on operation. The design and operating philosophy for key equipment items should be discussed. A process flow diagram and a piping and instrumentation diagram should both be provided;
- (b) A summary of the methods of well testing and metering petroleum produced and utilised
- (c) Plant layout
- (d) A brief description of systems for collecting and treating oil, water and other discharges
- (e) A brief description of any fluid treatment and injection facilities
- (f) A brief description of the main control systems and their interconnections with other onshore or offshore facilities, where applicable
- (g) Provision of space or utilities for future EOR facilities or future developments
- (h) Expected production efficiency and a brief description of any new technologies to be deployed

A reference to a facilities Basis of Design (which is consistent with the reservoir development and management plan) should be provided.

3.4 Project Planning, which shall include -

- (a) Schedules defining key events and decision dates in the detailed design, procurement, construction and commissioning stages of major elements of the development should be provided.
- (b) The schedules should be provided in addition to work programs and budgets that are developed and approved as required by petroleum agreement.

3.5 Operation and maintenance strategy which shall include -

- (a) A description of the facilities operations and maintenance strategy that the company would expect to adopt and
- (b) high level maintenance schedule.

3.6 Preliminary decommissioning plan, which shall include -

- (a) A description of the proposed methods of decommissioning and decommissioning plan should be included to show the basis for the decommissioning expenditure estimates. Steps taken in the design to facilitate eventual decommissioning of the production petroleum facilities should be identified.
- (b) A calculation of the quarterly accrual charges to be paid by a Contractor to the decommissioning fund for the overall field decommissioning costs.;

3.7 Costs, which shall include -

- (a) Cost information is required by the Authority to assess the economics of the development. Capital (capex), operational (opex)

and decommissioning expenditure profiles are required to be provided.

- (b) The costs should be provided in addition to work programs and budgets that are developed and approved as required by petroleum agreement.
- (c) The cost breakdown shall be accompanied with the economic justification for the proposed development option.

3.8 Field Management Plan, which shall include -

- (a) Principles and objectives that a Contractor will hold to when making field-management decisions and conducting field operations and, in particular, how economic recovery of oil and gas will be maximised over field life.
- (b) The plan, as described here and in different sections of the FDP, shall show clear and consistent linkage, between reservoir development plans, well designs and subsea facilities, and process facilities.
- (c) The rationale behind the data gathering and analysis proposed in order to resolve the existing uncertainties and understand dynamic performance of the field during both the development drilling and production phases should be outlined.
- (d) The potential for workover, re-completion, re-perforation and further drilling should be described.
- (e) Where developments include common user facilities assessment of capacity constraints shall be assessed.
- (f) The methods to be used to set production priorities should be given.
- (g) For gas reservoirs the criteria for installation of additional compression should be identified.

3.9 Brief description of alternative development concepts that were considered and reasons and justification for selection of preferred development concept.

Section 4. Environmental impact assessment, which shall include -

- (a) A detailed environmental impact assessment for the field, which identifies current and possible environmental issues and concerns and
- (b) a plan for ensuring environmental compliance during the life of the field.

This Environmental Impact Assessment shall be prepared and approved in compliance with relevant laws or applicable laws as may be relevant.

Section 5 Health, Safety, Sustainability and Security provision, which shall include -

- (a) A contractor's proposal for ensuring the sustainability, safety, health, security and welfare of persons and facilities in or about the proposed upstream petroleum operations.

Section 6 Local content provisions, which shall include –

- (a) A Contractor's proposals for stimulating local content, which shall cover:
 - (i) employment, including employment of local personnel and training,
 - (ii) knowledge and technology transfer
 - (iii) local goods and services

References

In addition to content provided in this Annex, Contractor may be required to provide any such other data and information as the law requires and as the Cabinet Secretary otherwise requires that is relevant to the field development plan.

SCHEDULE IV – PERMIT TO CONSTRUCT UPSTREAM PETROLEUM FACILITIES

APPLICATION FORM

Regulation 50(2)(a)

This application is hereby submitted under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 for the permit to construct selected upstream petroleum facilities.

Applicant's details:

1. Name of applicant (full corporate name):	
2. Applicant's Address (full corporate address):	
3. Petroleum Agreement name and number:	
4. Phone number:	
5. Fax:	
6. Email address:	

Permit details:

1. Type of permit requested	
2. Description of proposed petroleum facilities	
3. Proposed start and finish date of work	
4. Name of a sub-contractor (where such person is not a contractor)	
5. Address of a sub-contractor	
6. Name of the person responsible for communications with the Authority regarding the permit application	
7. Contact details of the person responsible for communications with the Authority regarding the permit application (full name, address, telephone number and email address)	

Enclosed documents:

(Tick the boxes as appropriate)

<input type="checkbox"/> copy of the applicant's registration documents
<input type="checkbox"/> facility design
<input type="checkbox"/> copies of design approval (where applicable)
<input type="checkbox"/> copies of procedures to deliver safe construction and operations of facilities
<input type="checkbox"/> environmental impact assessment
<input type="checkbox"/> copies of environmental impact assessment approval
<input type="checkbox"/> copies of other approvals required under the law
<input type="checkbox"/> copy of fee payment receipt
<input type="checkbox"/> other supporting documents (specify, where applicable)

Declaration:

1. I/We have read and understood the relevant sections of the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024 and other relevant laws or applicable laws as may be relevant and agree to abide by them.
2. I/We hereby confirm that the information provided in this application is to my knowledge true and accurate.
3. I/We hereby confirm that we and our contractors have technical and financial capability to conduct operations subject to the permit.
4. I/We understand that it is an offence to give false information in an application for a permit to construct.
5. I/We acknowledge that our company shall conduct construction operations as approved by the Authority and other state bodies of Kenya.
6. I/We acknowledge that our company shall not conduct any construction operations prior to obtaining an approval from the Authority.

Date: (dd-mm-yyyy)	
Name of Authorised Applicant's representative	
Signature:	

FOR OFFICIAL USE ONLY

Date application received	
Name of Authorized	
Signature and stamp	

FORM OF PERMIT TO CONSTRUCT SELECTED PETROLEUM FACILITIES

Regulation 50(2)(a)

Permit no.: xxxx/yyyy

This permit to construct is hereby issued under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 exclusively to the named applicant to construct facilities specified in this permit as follows:

Applicant name:

Address: (full corporate address):

Phone number:

Email address:

Facilities to be built/constructed: (description of the survey):

Location: (description of the area or distance of survey):

Expiry date: (dd-mm-yyyy of first expiry date): _____ Renewal: (dd-mm-yyyy of new expiry date in case of renewal): _____

Terms and conditions:

1. The applicant or a person conducting a survey on behalf of the applicant shall—

a. commence work within _____ (____) months from issuance of this permit, unless when an unforeseen circumstance arises;

b. inform the Authority about an unforeseen circumstance that can delay the start of works and may request an extension to the period of _____;

c. execute construction works under the application and not deviate from its approval except for during an emergency;

d. comply with all applicable laws and regulations and best industry practices;

e. procure and maintain an adequate insurance cover;

f. provide data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024, Petroleum Agreement;

g. other conditions (specify here): _____

2. This permit is valid for _____ (____) _____ and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy of issuance)

Signature and stamp:

(Authority's representative)

SCHEDULE V – PRODUCTION PERMIT

APPLICATION FORM

Regulation 71(2)(a)

This application is hereby submitted under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 for the production permit.

Applicant's details:

1. Name of applicant (full corporate name):

2. Applicant's Address (full corporate address):

3. Petroleum Agreement name and number:

4. Phone number:

5. Fax:

6. Email address:

Permit details:

1. Type of permit requested

2. Name of the field

3. Name of production wells

4. Proposed start date of production

5. Proposed production rate (maximum efficient production rate):

6. Estimated monthly production volumes for each reservoir units

7. Estimated total production volumes for each reservoir unit

8. Estimated total of injection of gas, water, special fluids for pressure maintenance and/or secondary or tertiary (enhanced) recovery	
9. Estimated volumes requested to be flared, vented or injected	
10. Name of the person responsible for communications with the Authority regarding the permit application	
11. Contact details of the person responsible for communications with the Authority regarding the survey (full name, address, telephone number and email address)	
Enclosed documents: (Tick the boxes as appropriate)	
<input checked="" type="checkbox"/> copy of applicant's registration documents	
<input checked="" type="checkbox"/> report on the petroleum reservoir	
<input checked="" type="checkbox"/> copy of approved field development plan	
<input checked="" type="checkbox"/> copy of approved environmental impact assessment study report of the upstream petroleum operations	
<input checked="" type="checkbox"/> production plan and schedule for each reservoir unit	
<input checked="" type="checkbox"/> production forecast statement	
<input checked="" type="checkbox"/> historical and updated reservoir monitoring data, analysis and other related data	
<input checked="" type="checkbox"/> field decommissioning plan	
<input checked="" type="checkbox"/> all relevant environmental licenses and reports as maybe required by law	
<input checked="" type="checkbox"/> copy of fee payment receipt	
<input checked="" type="checkbox"/> other supporting documents (specify, where applicable)	

Declaration:

1. I/We have read and understood the relevant sections of the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024 and other relevant laws or applicable laws as may be relevant and agree to abide by them.

2. I/We hereby confirm that the information provided in this application is to my knowledge true and accurate.

3. I/We hereby confirm that we and our contractors have technical and financial capability to conduct operations subject to the permit.

4. I understand that it is an offence to give false information in an application for a survey approval.

5. I acknowledge that our company shall conduct petroleum production operations as approved by the Authority and other state bodies of Kenya.

6. I acknowledge that our company shall not commence and conduct any petroleum production operations prior to obtaining an approval from the Authority.

Date: (dd-mm-yyyy)	
Name of Authorised Applicant's representative	
Signature:	

FOR OFFICIAL USE ONLY

Date application received	
Name of Authorized	
Signature and stamp	

Permit no.: xxxx/yyyy

FORM OF PRODUCTION PERMIT

Regulation 71(2)(a)

This production permit is hereby issued under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 exclusively to the named applicant to construct facilities specified in this permit as follows:

Applicant name:

Address: (full corporate address)

Phone number:

Email address: Petroleum Agreement name and number: _____

Block/field/reservoir: _____

Commencement date: (dd-mm-yyyy): _____

Expiry date: (dd-mm-yyyy of first expiry date): _____

Renewal: (dd-mm-yyyy of new expiry date in case of renewal): _____

Proposed production rate (maximum efficient production rate): _____

Estimated monthly production volumes for each reservoir units _____

Estimated total production volumes for each reservoir unit _____

Estimated total of injection of gas, water, special fluids for pressure maintenance and/or secondary or tertiary (enhanced) recovery: _____

Estimated volumes requested to be flared, vented, or injected:

Terms and conditions:

1. The applicant or a person conducting petroleum production operations shall -

a. commence production operations within _____ ()

b. execute production operation under the application and not deviate from its approval except for during an emergency;

c. comply with all applicable laws and regulations and best industry practices;

d. procure and maintain an adequate insurance cover;

e. provide data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024, Petroleum Agreement;

f. other conditions (specify here): _____

2. This permit is valid for _____ () _____ and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy of issuance)

Signature and stamp:

(Authority's representative)

SCHEDULE VI – WELL PLUGGING AND ABANDONMENT PERMIT

APPLICATION FORM

Regulation 112(2)(2)(a)

This application is hereby submitted under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 for the well plugging and abandonment permit.

Applicant's details:	
1. Name of applicant (full corporate name):	
2. Applicant's Address (full corporate address):	
3. Petroleum Agreement name and number:	
4. Phone number:	
5. Fax:	
6. Email address:	

Permit details:	
1. Type of permit requested	
2. Name/Type of well(s) to be plugged and abandoned	
3. Total depth or the measured depth of the well	
4. Description of associated facilities to be decommissioned (if applicable):	
5. Methodology and equipment to be used	
6. Proposed start and finish date of work	
7. Name of a sub-contractor responsible for well plugging and abandonment (where such person is not an applicant)	
8. Address of a sub-contractor responsible for well plugging and abandonment (where such person is not an applicant)	
9. Name and Contact Details of the person responsible for communications with the Authority regarding the permit application	
10.	

Enclosed documents: (tick the boxes as appropriate)	
<input type="checkbox"/>	copy of applicant's registration documents
<input type="checkbox"/>	copy of well plugging and abandonment plan
<input type="checkbox"/>	global positioning system (GPS) location of each well
<input type="checkbox"/>	description of well associated facilities to be abandoned
<input type="checkbox"/>	environmental impact assessment license
<input type="checkbox"/>	copy of fee payment receipt
<input type="checkbox"/>	other supporting documents (specify, where applicable)

Declaration:

1. I/We have read and understood the relevant sections of the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024 and other relevant laws or applicable laws as may be relevant and agree to abide by them.

2. I/We hereby confirm that the information provided in this application is to my knowledge true and accurate.

3. I/We hereby confirm that we and our contractors have technical and financial capability to conduct operations subject to the permit.

4. I/We understand that it is an offence to give false information in an application for a drilling permit.

5. I/We acknowledge that our company and our contractors and sub-contractors shall conduct well plugging and abandonment operations as approved by the Authority.

6. I/We acknowledge that our company and our contractors and sub-contractors shall not commence and conduct well plugging and abandonment operations prior to obtaining a permit from the Authority.

7. Date: (dd-mm-yyyy)	
Name of Authorised Applicant's representative	
Signature:	

FOR OFFICIAL USE ONLY

Date application received	
Name of Authorized	
Signature and stamp	

CONTENTS OF A WELL PLUGGING AND ABANDONMENT PLAN

Regulation 112(2)(2)(d)

Description of information

1. The name and number of the well(s).
2. The location of the well(s), in the form of
 - a) the elevation, latitude and longitude of the well; and
 - b) the basin and sub-basin (if applicable) in which the well is located; and
 - c) the map sheet name and block number.
3. Total depth or measured depth of the well
4. Justification for the plug and abandonment of each well;
5. The name and address of contractors and sub-contractor(s) responsible for well plugging and abandonment and the nature of the services that they are to provide;
6. The name and contact details of the person who will have responsibility for communications with the Authority regarding the well plugging and abandonment activity;
7. The proposed timeline for well plugging and abandonment activity, including estimated commencement and cessation dates.
8. A list of the principal Kenya and international standards that apply in relation to well plugging and abandonment.
9. Description of well plugging and abandonment methodology including methodology for restoration of the individual well site, well site access road and removal of all equipment, supplies and materials which shall include among others:
 - a) details of the sequence of the operations
 - b) preliminary results of the well
 - c) current status and proposed plugging and abandonment well schematic
 - d) the number and the proposed depth of plugs
 - e) the type of cement to be used
 - f) the post abandonment well status
 - g) the health, safety and environment plan

- h) well barriers
- i) site remediation and restoration plan
- j) the proposed method, scope and timing for the survey of plugged and abandoned wells.

10. Such methodology is subject to approval by the Authority.

FORM OF WELL PLUGGING AND ABANDONMENT PERMIT

Well Plugging and Abandonment Permit

Regulation 115

Permit no.: xxxx/yyyy

This plugging and abandonment permit is hereby issued under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 exclusively to the named applicant to conduct the plugging and abandonment operations as follows:

Applicant name:

Address: (full corporate address)

Type and purpose permit: (description of issued permit):

Name/Type of well(s) to be plugged and abandoned:

Commencement date (dd-mm-yyyy of permit issue date):

Expiry date: (dd-mm-yyyy of first expiry date)

Renewal: (dd-mm-yyyy of new expiry date in case of renewal)

Terms and conditions:

1. The applicant or a person conducting well plugging and abandonment operations on behalf of the operator shall—

(a) commence work within _____ (_____) months from issuance of this permit, unless when an unforeseen circumstance arises;

(b) conduct well plugging and abandonment operations under submitted well program except for during an emergency or reapproval by Authority;

(c) comply with all applicable laws and regulations and best industry practices;

(d) procure and maintain an adequate insurance cover;

(e) provide data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024, Petroleum Agreement;

(f) submit the amended well plugging and abandonment plan, where an applicant intends to deviate from the approved program;

(g) other terms and conditions (specify)

2. This permit is valid for _____ (_____) _____ and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy of issuance)

Signature and stamp: (Authority's representative)

SCHEDULE VII – PERMIT TO DECOMMISSION OR ABANDON AN UPSTREAM PETROLEUM FACILITY

APPLICATION FORM

Regulation 122(2)(a)

This application is hereby submitted under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 for the permit to decommission or abandon an upstream petroleum facility.

Applicant's details:

1. Name of applicant (full corporate name):	
2. Applicant's Address (full corporate address):	
3. Petroleum Agreement name and number:	
4. Phone number:	
5. Fax:	
6. Email address:	

Permit details:	
1. Type of permit requested	
2. Description of facilities to be decommissioned	
3. Proposed start and finish date of work	
4. Description of methodology to be used	
5. Description of equipment to be used	
6. Name of a sub-contractor (where such person is not a contractor) responsible to execute work	
7. Address of a sub-contractor	
8. Name of the person responsible for communications with the Authority regarding the survey	
9. Contact details of the person responsible for communications with the Authority regarding the survey (full name, address, telephone number and email address)	

Enclosed documents: (tick the boxes as appropriate)	
<input type="checkbox"/> copy of applicant's registration documents	
<input type="checkbox"/> copy of final abandonment plan	
<input type="checkbox"/> environmental impact statement	
<input type="checkbox"/> copy of fee payment receipt	
<input type="checkbox"/> other supporting documents (specify, where applicable)	

Declaration:

1. I/We have read and understood the relevant sections of the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024 and other relevant laws or applicable laws as may be relevant and agree to abide by them.

2. I/We hereby confirm that the information provided in this application is to my knowledge true and accurate.

3. I/We hereby confirm that we and our contractors have technical and financial capability to conduct operations subject to the permit.

4. I/We understand that it is an offence to give false information in an application for a permit to decommission or abandon an upstream petroleum facility.

5. I/We acknowledge that our company and our contractors and sub-contractors shall conduct decommissioning and abandonment of facilities as approved by the Authority.

6. I/We acknowledge that our company and our contractors and sub-contractors shall not commence and conduct well plugging and abandonment operations prior to obtaining a permit from the Authority.

1. Date: (dd-mm-yyyy)	
Name of Authorised Applicant's representative	
Signature:	

FOR OFFICIAL USE ONLY

Date application received	
Name of Authorized	
Signature and stamp	

STRUCTURE AND CONTENT OF FINAL DECOMMISSIONING AND ABANDONMENT PLAN

Regulation 122(2)(c)

The Final Abandonment Plan shall contain the following minimum content:

1. Description of the history of the oilfield;
2. Geographical location of the installations and wells;
3. Complete inventory and description of the installation, oil pipelines and wells, including the location, depth and type of material of the installations to be abandoned;
4. Variation of climatic conditions in the region;
5. Environmental and Socio-economic Impact Study, including the results of specific studies relating to fauna, hydrocarbons and heavy metals resulting from the operational activities;
6. Inventory of hazardous chemical materials found in the installations and plans for their removal;

g) description of production logs and deposits;

7. Consideration about the possibility of continuing the production operations, covering technical, financial, safety, environmental and socio-economic aspects;

8. Description of the dismantling options, in relation to the technical, economic, environmental and safety aspects, and assessment of the impact on other users of the sea and land (including the possibility of use of the installation for other activities in the area, such as fishing, agriculture and industrial activities);

9. Presentation of the preliminary process of public engagement to the respective users.

10. Detailed description of the recommended dismantling solution, including:

- a) Description of the methodology of comparative assessment and the results of all the compared assessments;
- b) Measures and procedures for the correct dismantling, removal and disposal/reuse of the installations, in accordance with current practice in the petroleum industry;
- c) Measures and procedures to mitigate the environmental impact and appropriately rehabilitate the landscape, in accordance with the applicable law and current practice in the petroleum industry;
- d) Procedures for the removal of hazardous chemical materials, neutralisation and disposal;
- e) List of safety measures on the basis of a documented risk analysis;
- f) Aspects related with the management and supervision of abandonment plans;
- g) Time horizon and schedule for the implementation of the dismantling activities.

11. Methodology used for preparing the estimate of abandonment costs, estimate of costs and opportunities/vulnerabilities in relation to costs.

12. Post-abandonment monitoring plans.

13. Measures to manage potential risks arising post decommissioning.

FORM OF PERMIT TO DECOMMISSION OR ABANDON AN UPSTREAM PETROLEUM FACILITY

Permit to Decommission or Abandon an Upstream Petroleum Facility

Regulation 123(a)

Permit no.: xxxx/yyyy

This permit to decommission or abandon an upstream petroleum facility is hereby issued under the Petroleum (Upstream Petroleum Operations) Regulations, 2024 exclusively to the named applicant to decommission or abandon an upstream petroleum facility as follows:

Applicant name:

Address: (full corporate address)

Petroleum Agreement name and number:

Type and purpose permit: (description of issued permit):

Description of facilities to be decommissioned or abandoned:

Commencement date (dd-mm-yyyy of permit issue date):

Expiry date: (dd-mm-yyyy of first expiry date)

Renewal: (dd-mm-yyyy of new expiry date in case of renewal)

Terms and conditions:

1. The applicant or a person conducting decommissioning and abandonment operations on behalf of the operator shall—

- (a) commence work within _____ (_____) months from issuance of this permit, unless when an unforeseen circumstance arises;

- (b) conduct decommissioning and abandonment operations under submitted final decommissioning plan except for during an emergency or reapproval by Authority;
- (c) comply with all applicable laws and regulations and best industry practices;
- (d) procure and maintain an adequate insurance cover;
- (e) provide data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream Petroleum Operations) Regulations, 2024, Petroleum Agreement;
- (f) submit the amended final decommissioning plan, where an applicant intends to deviate from the approved plan;
- (g) other terms and conditions (specify) _____

2. This permit is valid for _____ (_____) and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy of issuance)

Signature and stamp:

(Authority's representative)

SCHEDULE VII - FRAMEWORK FOR DISMANTLING OF ONSHORE PETROLEUM FACILITIES

Regulation 128

Component of the Installation	Use on Land		
	Inside Nature Reserves	<800m (1) from Dwellings	Other Locations
Storage tanks	Remove	Remove	Remove
Surface equipment (e.g., separators, generators, pumps, motors)	Remove	Remove	Remove
Surface tubing	Remove	Remove	Remove
Underground tubing (<0.9 m below the surface) (2)	Best Option (3)	Best Option (3)	Best Option (3)
Underground tubing (>0.9 m below the surface) (2)	Best Option (3)	Keep	Keep
Buildings	Best Option (3, 4)	Best Option (3, 4)	Best Option (3, 4)
Infrastructures inside installations (for example, roads, galleries, land work, electricity transmission lines, services)	Best Option (3, 4)	Best Option (3, 4)	Best Option (3, 4)
Removal of Foundations and Underground Equipment (e.g., stakes, cement, cable supports, power supply cable, instrument cable)	Best Option (3, 4)	Best Option (3, 4)	Best Option (3, 4)
Water wells	Best Option (3, 4)	Best Option (3, 4)	Best Option (3, 4)

Notes:

1. ASTM E1527 Phase 1 (Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process) minimum distance from brownfields or voluntary cleaning.

2. Pipes buried at a depth of at least 0.9 metres may be safely abandoned on site after cleaning/purification.

3. The most viable option to be determined by a contractor on the basis of a specific comparative assessment of each site.

4. Without prejudice to these requirements, the installations may be left wholly or partially at the site where they will have a new use (such as the recovery of live resources) or may be left without causing unjustified interference with other users, in accordance with Note 3.

SCHEDULE VII - FRAMEWORK FOR DISMANTLING OFFSHORE PETROLEUM FACILITIES

Regulation 128

Component of the Installation	Water Depth	
	< 400 m	> 400 m
Topsides	Remove	Remove
Floating Units (FPSO, TLP, FSO, FPU, CALM, etc.)	Remove	Remove
Oil offloading lines (OOLs), fluid transfer lines (FTLs), other connections between Floating Units	Remove	Remove
Substructures (SPJ, SCPT, all others fixed to the seabed)	Total or partial removal (1, 2, 4)	Total or partial removal (1, 2)
Subsea well head and production equipment	Best Option (2)	Best Option (2, 6)
Umbilicals including associated risers and structures, such as SCM, SDU, UTA, etc.	Best Option (2)	Best Option (2, 6)
Mooring systems for floating installations (wire & chain, tendons, suction piles etc.)	Best Option (3)	Keep
Export pipes, field flow lines	Best Option (3, 5, 8)	Keep
Risers/riser components and associated structures with pipes/flow lines, such as F/PLET, F/PLEM, valve manifolds etc.	Best Option (7)	Keep

Notes:

1. Partial removal is permitted if it is determined to be the best option on the basis of the specific comparative assessment of the location. The options of reefs are applicable in both cases of total or partial removal. The directives of IMO Resolution A.672(16) establish the necessity of an unobstructed column of water of not less than 55 m above any partially removed installation or structure.

2. A contractor will determine the most viable option on the basis of a specific comparative analysis of the site.

3. Establish the necessity that there is an unobstructed water column at a depth of under 55 m above any partially removed installation or structure.

4. In the case of fixed installations in less than 400 m of water and weighing more than 4000 MT in air, excluding the deck and superstructure, they may be partially removed. Notwithstanding these requirements, the installations may be kept totally or partially at the site where they will have a new use (such as the recovery of a live resource) or may be left without causing unjustifiable interference with other users of the sea in accordance with Note 2.

5. The Entities under Contract will determine the most viable option for the correction of each crossing of the coast. A crossing of the coast is defined as the region in which a pipe transits from the sea to land.

6. In depths of water >400 m, the Entities under Contract may select an abandonment in situ or "Keep" as the Best Option, and they must present a comparative evaluation of the specific site.

7. For risers/riser components and structures only at <400 m (such as F/PLET, F/PLEM, valve manifolds etc.), the Entities under Contract must carry out a comparative assessment of the specific site in order to determine the Best Option.

8. In the case of export pipes and flow lines located in areas where trawling is not usually practised, and in areas where these lines are buried, partially buried or corroded, the Entities under Contract may select abandonment on site or "Keep" as the Best Option.

SCHEDULE VIII - QUANTITY OF THE CORE, CUTTING OR SAMPLE TO BE PROVIDED TO THE AUTHORITY

Regulation 146(4)

Item	Core, cutting or sample	Quantity of core, cutting or sample	Period for giving core, cutting or sample
1	Drill cuttings	200 g dry weight per sample interval	Six (6) months after the rig release date.

2	Full hole conventional core	One-third	Six (6) months after the rig release date
3	Full hole conventional core	Remainder of the core	As soon as practicable after the expiry, surrender, cancellation, revocation or termination of right granting instrument
4	Gaseous petroleum samples	300 cm ³	As soon as practicable after the expiry, surrender, cancellation, revocation or termination of the relevant instrument
5	Fluid petroleum samples	1 L	For a sample collected during the drilling of a well — the period ending on the day 6 months after the rig release date. For a sample collected during a test on a completed well — as soon as practicable after the expiry, surrender, cancellation, revocation or termination of the relevant instrument.
6	Sidewall core material	All	Eighteen (18) months after the rig release date.
7	Palynological, paleontological or petrological material	All	Eighteen (18) months after the rig release date

SCHEDULE IX – APPLICATION/APPROVAL FEES

The Authority may update any and all fees from time in accordance with regulation 146, and the updated fees shall take effect on the day of their publication on the Authority's website or in the Gazette, whichever occurs first.

Anchor Regulation	Description	Fee (USD)
14(1)(b)	Survey approval, renewal or modification	5,000.00
17(2)(b)	Drilling permit or modification	10,000.00
38(3)	Field development plan approval or modification	25,000.00
50(2)(b)	Permit to construct upstream petroleum facilities	20,000.00
54(2), 55(5)	Design approval or modification of permit to construct	10,000.00
66(1)(f)	Permit construct, install fixed platform or to place mobile platforms offshore	20,000.00
69(2)(2)(i)	Test production	1,000.00
71(2)(b)	Production permit	30,000.00
112(2)(b)	Plugging and abandonment permit	5,000.00
122(2)(b)	Permit to decommission or abandon an upstream petroleum facility	15,000.00
156(2)	Access to register of permits and approvals	100.00

GAZETTE NOTICE NO.9275

PETROLEUM (LOCAL CONTENT) REGULATIONS, 2025

IN EXERCISE of the power conferred by Section 50(4) of the Petroleum Act (Cap. 308) the Cabinet Secretary makes the following Regulations

PART I- PRELIMINARY

1. These regulations may be cited as the Petroleum (Local Content) Regulations, 2025

1. In these Regulations, unless the context otherwise requires –

“Bid rigging” means the manipulation of a tendering process by dishonest means;

“Cartelization” means a collection of businesses that act together as a single producer and agree to influence prices for certain goods, works and services by controlling supply through their production and marketing activities;

“Foreigner” means a person who is not a citizen of Kenya;

“Foreign Company” means a company incorporated outside Kenya;

“Front” means to deceive or behave in a particular manner to conceal the fact that a Company is not a Local Entity;

“Local Entity” means an entity registered under any Kenyan Laws that has:

a) at least fifty-one percent of its equity owned by a citizen of Kenya;

b) Kenyan citizens holding at least eighty percent of executive and senior management positions; and

c) Kenyan citizens having eighty percent (80%) of the shareholding and ultimate beneficial ownership of the entity;

“Long-term local content plan” means a plan that covers a period of five years and above as specified in the First Schedule;

“Petroleum Contract” means petroleum agreement, petroleum license or any other agreement between parties engaged in Petroleum Operations;

“Petroleum Industry” means the sector where petroleum operations are carried out;

“Petroleum Operations” means all or any of the operations related to the upstream, midstream and downstream petroleum sector;

“Start” means the date of the petroleum agreement, the grant of license, permit or the commencement of mid or upstream petroleum operations as the case may be when the exploration or production sharing contract becomes effective or, in the case of midstream operations the contract relating to any aspect of petroleum storage, transportation and refining. The award of production license resets the period to the Start with regards to oil production operations;

“Sub-Plan” means a detailed plan within a long term local content plan or an annual local content plan;

“Sub-Contractor” means a person or firm contracted by the Contractor or a licensee or any other entity involved in the upstream, midstream or downstream operations to perform a specified component of the Contractor’s or licensee’s obligations under a license issued pursuant to the Act; and,

“Technical Core Staff” includes but not limited to engineers, technicians, geo-scientists, environmentalists and occupational health and safety experts;

2. The Purpose of these Regulations is to: –

(1) Maximize value addition through Local Content development and local participation in the petroleum industry.

(2) Promote participation of Kenyans and Local Entities in provision of goods, works and services in the petroleum industry value chain and related industries that will sustain economic development.

(3) Promote creation of employment through the use of local expertise along the entire value chain of the petroleum industry and to retain the requisite skills within the country.

(4) Develop local capacity along the entire value chain of the petroleum industry through education, skills and technology transfer, research and development.

(5) Enhance local ownership and use of local assets, goods, works and services in the Petroleum Industry.

(6) Achieve the minimum levels of local participation in employment and supply of goods, works and services.

(7) Promote development of competitiveness of local businesses.

(8) Provide for a robust, transparent monitoring, enforcing and reporting mechanisms for local content obligations.

3. These Regulations shall apply to the Petroleum Industry.

4. (1) A contractor, licensee or permit holder engaged in Petroleum Operations shall comply with requirements of the Act, these Regulations and any other applicable law.

(2) A contractor, licensee or permit holder engaged in Petroleum Operations shall ensure that all its subcontractors, agents and any other

person acting for it complies with the Act, these Regulations, and any other applicable law. Such contractor, licensee or permit holder shall be liable for any non-compliance by its agents.

(3) Any person who contravenes the provisions of these Regulation shall commit an offense and be liable to the penalties prescribed in the Act.

5. The Authority in consultation with relevant agencies shall: -

(a) Develop and keep under regular review, a comprehensive register of local expertise, goods, works and services categories required to meet the needs of the petroleum industry;

(b) Assess the capacity of the local industry to supply the goods, works and services identified under sub-regulation (1);

(c) Develop and maintain a database that shall contain details of Local Entities and individuals who meet the criteria as may be set out by the Authority from time to time; and,

(d) Develop guidelines including targets, format and measures aimed at progressively enhancing the capabilities of local enterprises to compete effectively on quality, price, quantity and reliability in the supply of goods, works and services required in the petroleum industry.

PART II- LOCAL CONTENT OBLIGATIONS

6. (1) A contractor, licensee, or permit holder shall at all times establish and maintain a functional physical office in Kenya.

(2) The contractor, licensee or permit holder shall ensure—

(a) that its physical project office is kept open on each business day ; and,

(b) that at least one authorized officer of the contractor, licensee or permit holder is present at all times when the office is open.

(3) The contractor, licensee, or permit holder carrying out Petroleum Operations shall maintain records related to Local Content development and implementation in the physical office established in sub-regulation (1) in strict compliance with these Regulations.

(4) The contractor, licensee, or permit holder shall, during working hours, for purposes of assessment and verification, allow the Authority or an authorised officer, access to their facilities, documentation or information required for the verification of local content compliance.

7.

(1) Subject to Sub-Regulation (2), a contractor, licensee, or permit holder shall:

(a) Give priority for the employment and engagement of qualified and skilled Kenyans at all levels of the value chain; and,

(b) give priority to services and works provided and goods assembled, produced and manufactured in Kenya where the goods meet the specifications of Kenya Standards or best petroleum industry practices as approved by the Authority; and,

(c) give priority to services and works provided and goods assembled, produced and manufactured by Kenyan entities.

(2) A contractor, licensee, or permit and common user holder shall comply with the obligations in sub-regulation (1) above by satisfying the thresholds provided in the Schedule. The Cabinet Secretary shall, on the advice of the Authority, conduct a five (5) yearly review of the minimum local content levels specified in the Schedule

PART III- LOCAL CONTENT PLANS

8. Whenever:

(a) a prospective contractor, licensee, or permit holder submits a bid for the award of a petroleum agreement or makes an application for a license, permit or approval for the grant of a right to engage in petroleum operations; or,

(b) a contractor, licensee, or permit holder enters into a contract period, year or phase as may be defined in a petroleum agreement, license, permit or other approval;

such contractor, licensee, or permit holder shall submit a local content plan to the Authority in accordance with these regulations.

UPSTREAM PETROLEUM

9.

(1) The Cabinet Secretary or the Authority shall:

- during bidding rounds;
- during the application of a non-exclusive exploration permit; and,
- during the submission of a field development plan;

require the submission of a long-term local content plan from prospective bidders, applicants or contractors as the case may be.

(2) Long-term local content plans shall be reviewed by the Cabinet Secretary in the case of sub-regulation (1)(a) and the Authority in the case of sub-regulations (1)(b) and (1)(c).

(3) A long-term local content plan submitted under sub-regulation (1) shall correspond to and be reviewed together with the activities in the respective work programme and budget obligations.

(4) A contractor or permit holder shall revise a long-term local content plan at least once in every five (5) years and shall

submit such revised plan to the Authority together with the work programme and budget.

10. –

(1) A contractor or permit holder shall submit an annual local content plan to the Authority which shall correspond to and be reviewed together with the activities in the respective work programme and budget obligations

MIDSTREAM AND DOWNSTREAM PETROLEUM

11.

(1) An applicant for a construction permit, business license, operating license or approval for common use shall submit a long-term local content plan to the Authority.

(2) The local content plan submitted in sub-regulation (1) shall correspond with and be reviewed together with the intended activities under an application for a construction permit, business license, operating license or common use approval.

(3) A business licensee, operating licensee or common user shall revise a long-term local content plan at least once in every five (5) years and shall submit such revised plan to the Authority together with an application for renewal of a business license, operating license or common use approval.

12. A construction permit holder, business licensee, operating licensee or common user shall submit a short-term local content plan which shall correspond with and be reviewed together with the intended activities under an application for renewal of a construction permit, business license, operating license or common use approval.

13. (1) A contractor, licensee, or permit holder shall submit to the Authority:

- Long-term Local Content Plan which corresponds with the obligations of the:
 - Petroleum Contract sixty (60) days after the execution of the contract;
 - permit within sixty (60) days of the issue date of a non-exclusive exploration permit; and,
 - field development plan at the submission of the field development plan to the Authority.
- Annual Local Content Plan which corresponds with the annual work program and is consistent with the Long-term Local Content Plan three (3) months before the beginning of the subsequent contract or license year.

14. (1) The Authority shall review and make a determination on the submitted Long-term Local Content Plan within ninety (90) days

(2) The Authority shall, review and make a determination on a submitted annual Local content plan within thirty (30) days.

(3) The Authority may require the contractor, licensee, or permit holder to amend the Long-term Local Content plan where necessary to ensure continued consistency with annual Local Content plans.

15. (1) A contractor, licensee, or permit holder carrying out Petroleum Operations shall achieve the minimum local content levels specified in the First Schedule.

(2) Without limiting sub-regulation (2), the Authority shall take into account the work programme specified in the respective petroleum contracts or non-exclusive exploration permit in determining the minimum content to be achieved.

16. (1) A local content plan shall have the following sub-plans:

- Employment and Training;
- Succession Plan for positions not held by Kenyans;
- Research and Development;
- Technology Transfer;
- Legal Services;
- Financial Services;
- Insurance services; and
- Any other sub-plan the Authority may prescribe from time to time.

17. (1) The Employment and Training Sub-Plan submitted by a contractor, licensee, or permit holder carrying out Petroleum Operations to the Authority shall include;

- Employment
 - an outline of the hiring needs with the required skills;
 - estimated expenditure that will be incurred; and
 - a time frame within which the contractor, licensee, or permit holder will provide employment opportunities for the Kenyans.
- Training
 - an outline of the training needs with a breakdown of the skills needed;
 - list of available on the job training openings;
 - project specific training requirements;
 - anticipated expenditure that will be incurred; and
 - efforts made and procedures adopted for the accelerated training of Kenyans.

(2) The contractor, licensee, or permit holder shall provide to the Authority a bi-annual report on the employment and training activities undertaken not later than thirty (30) days after the last day of June and December including: -

- number of persons recruited during that period;
- status and terms of the employment;
- nationality of the persons employed;
- number of persons trained;
- number of trainings undertaken by the participants and field of trainings;
- skills shortages in the Kenyan workforce; and
- any other information required by the Authority for the purpose of implementing these Regulations.

18. (1) The contractor, licensee, or permit holder shall, apply for recommendation from the Authority prior to making any application for work permits for Foreigners to the Government ministry, department or agency responsible for immigration.

(2) The application referred to under subregulation (1) shall include—

- job titles:

- (b) certified or notarised academic transcripts and curriculum vitae accompanied by recommendations certifying the experience and job history referenced;
- (c) a description of responsibilities;
- (d) the duration of the proposed employment in Kenya;
- (e) evidence that Kenyan nationals are not qualified for the job;
- (f) a training plan for the replacement of the Foreigner with Kenyan citizens; and,
- (g) any other information required by the Authority for purposes of implementing the provisions of the Act and these Regulations.

19. (1) A contractor, licensee, or permit holder carrying out upstream and midstream petroleum operations shall submit to the Authority a Succession sub-Plan for any employment position that is held by a non-Kenyan to ensure that the minimum Local Content levels specified in the First Schedule are met.

(2) The Succession sub-Plan shall make provision for and require Kenyans to understudy a position held by a Foreigner for a maximum period of four (4) years after which the position occupied by the Foreigner shall be assumed by the Kenyan.

20. (1) A contractor, licensee, or permit holder carrying out upstream and midstream petroleum operations shall submit research and development sub-Plan and budget to the Authority for the promotion of education, industrial attachments and training in the country in relation to its overall work programme and activities.

(2) The Research and Development sub-plan and budget submitted under sub-regulation 1 shall: -

- (a) outline a revolving three to five (3-5) year programme in-line with the Long-term Local Content Plan for petroleum related research and development initiatives to be undertaken in the country;
- (b) provide details of the estimated expenditure that will be made in implementing the Research and Development sub-Plan;
- (c) provide for public calls for proposals for research and development initiatives associated with the operations and criteria for selecting proposals which qualify for support; and,
- (d) provide the manner in which they shall collaborate with the Kenyan learning institutions and Kenyan citizens.

21. (1) A contractor, licensee, or permit holder carrying out upstream and midstream petroleum operations shall submit a technology transfer plan to the Authority.

(2) Subject to sub-regulation (1) the Technology Transfer Plan submitted shall include a programme of planned initiatives aimed at promoting the effective transfer of technologies from the contractor, licensee or permit holder carrying out upstream and midstream petroleum operations to a Local Entity, established centers of excellence and citizens.

22. (1) A contractor, licensee, or permit holder engaged in upstream and midstream petroleum operations shall:

- (a) support and facilitate technology transfer by the formation of joint ventures, partnering of licensing agreements between Local Entities or citizens and foreign companies or contractors and service companies or supply companies; and
- (b) Partner with already accredited centers of excellence for continuous skills and knowledge transfer.

(2) A contractor, licensee, or permit holder carrying out upstream and midstream petroleum operations, upon request by the Authority or on its own initiative, with the approval of the Cabinet Secretary shall support the establishment or upgrading of any facility in Kenya for technical, vocational or commercial work and technology transfer.

23. A contractor, licensee, or permit holder carrying out upstream and midstream petroleum operations shall submit a Technology Transfer report to the Authority no later than sixty (60) days after the end of each year stating the technology transfer initiatives being pursued and the current results in relation to the Technology Transfer sub-Plan.

24. (1) A contractor, licensee, or permit holder shall insure all insurable risks related to Petroleum Operations in compliance with the provisions of the Insurance Act, Cap 487.

(2) The insurable risks shall be insured through a Local Entity engaged in insurance brokerage or where applicable, a reinsurance broker.

(3) The contractor, licensee, or permit holder carrying out Petroleum Operations shall seek approval from the Authority before procuring offshore insurance services.

(4) In granting an approval under sub-regulation (3), the Authority shall ensure that reasonable efforts have been made to engage a Local Entity.

25. (1) A contractor, licensee, or permit holder carrying out Petroleum Operations that requires legal services shall give preference to the maximum extent possible to the services of a local Kenyan legal practitioner or law firm whose principal office is located in the country.

(2) A non-local legal practitioner will only be hired where it has been proved to the satisfaction of the Authority that there is no Kenyan legal practitioner with the capacity to offer the service.

26. The Legal Services sub-Plan submitted to the Authority shall include: -

(1) a comprehensive report on legal services utilized in the preceding twelve (12) months highlighting the nature of services, the firms involved and the amount paid; and

(2) forecast of legal services required during the ensuing twelve (12) months where applicable, and the projected expenditure for the services.

27. (1) A contractor, licensee, or permit holder carrying out Petroleum Operations that requires financial services shall give preference to Kenyan financial institutions.

(2) A non-local financial institution will only be engaged where it has been proved to the satisfaction of the Authority that there is no Kenyan financial institution with the capacity to offer the service.

28. A contractor, licensee, or permit holder carrying out Petroleum Operations who has submitted a Financial Services sub-Plan shall specify the following:

(1) the financial services utilized in the preceding twelve (12) months highlighting the nature of services, the firms involved and the amount paid; and

(2) a forecast of financial services required in the ensuing twelve (12) months and the projected expenditure for the financial services.

29. A Contractor, licensee, or permit holder carrying out Petroleum Operations shall maintain a bank account in Kenya with a Kenyan bank for purposes of financial transactions.

Part V. INFORMATION AND REPORTING

30. (1) A contractor, licensee, or permit holder carrying out upstream and midstream petroleum operations shall submit quarterly reports for the goods, works and services procured in each quarter of the year to the Authority.

(3) The quarterly reports in sub-regulation (1) shall be submitted no later than thirty (30) days after the end of each quarter.

(1) The reports submitted under sub-regulation (1) shall be in the form and manner prescribed by the Authority from time to time.

31. (1) A contractor, licensee, or permit holder engaged in Petroleum Operations shall no later than sixty days after the end of each year submit to the Authority an annual Local Content performance report covering all its projects and activities for the year under review.

(2) The report shall be in a format to be prescribed by the Authority and shall: -

(a) specify by category the expenditure of the Local Content on both current and cumulative cost basis;

(b) indicate the employment achievement in respect to the number of Kenyans and foreigners, their terms of employment and rank;

- (c) indicate the number of employees who have ceased employment and the reason thereof;
- (d) indicate the training, industrial and technology transfer availed to the employees;
- (e) indicate the actual procurement of goods, works and services; and
- (f) any other information the Authority may require.

32. Upon submission of the Local Content performance report, the Authority shall review the performance report compliance with the annual Local Content plan, these Regulations and the Act.

33. The Authority shall ensure that public education and sensitization activities are undertaken to educate the public and industry stakeholders about the Local content policies strategies to enhance their implementation.

34. (1) A contractor, licensee, or permit holder carrying out Petroleum Operations shall; –

- (a) communicate Local content policies, procedures and obligations set out in these Regulations to all its agents and sub-contractors; and
- (b) monitor and ensure compliance with local content policies, procedures and obligations set out in these Regulations.

(2) Notwithstanding sub-regulation (1), a contractor, licensee, or permit holder carrying out Petroleum Operations shall make available the local content policies, procedures and obligations on their respective websites.

35. (1) The Authority shall review guidelines and procedures for the effective implementation of these Regulations.

(2) Without limiting sub-regulation (1), the Authority shall, in consultation with relevant institutions, review guidelines for compliance by a contractor, licensee, or permit holder carrying out Petroleum Operations in respect of the following: -

- (a) requirements and targets for the growth of research and development of the petroleum industry in Kenya;
- (b) minimum standards, facilities, personnel and technology for training in the petroleum industry in Kenya;
- (c) investment in or setting up a facility, factory, production unit or other operation in the country to carry out any production or manufacturing or to provide any petroleum related service otherwise imported into the country; and
- (d) any other guidelines as may be determined by the Authority from time to time, generally for the implementation of these Regulations.

Part VI .MONITORING

36. The Authority shall monitor, inspect and verify the activities of each Contractor, licensee, or permit holder to ensure compliance with these Regulations.

37. (1) The Authority may for the purposes of enforcing these Regulations initiate an investigation into an activity of contractor, licensee, or permit holder carrying out Petroleum Operations.

(2) Without limiting sub-regulation (1), the Authority may launch investigations to ensure that: -

- (a) the Local Entity principal is not diluted by the operation of a Front; or
- (b) Bid Rigging and Cartelization are avoided in the procurement process.

38. A person who contravenes provision of these Regulations shall be liable to the penalties provided for, under section 124 of the Act.

39.(1) Subject to any other offence or penalty specifically prescribed under the Act , a person who—

- (a) fails to comply with any direction given under these Regulations;
- (b) fails to allow inspection authorised under these Regulations; or

- (c) fails to make a submission, notification or report required by these Regulations;

commits an offence and is liable on conviction to a fine not exceeding Kenya shillings one (1) million or imprisonment of not more than six (6) months or both.

40. (1) A contractor, licensee, or permit holder dissatisfied with a decision of the Authority in respect of any matter provided for under these regulations may make a complaint to the Authority in writing.

(2) The Authority shall acknowledge the receipt of the complaint in writing within five (5) days and attend to the complaint within thirty (30) days.

(3) Where a contractor, licensee, or permit holder is not satisfied with the Authority's response to the complaint, the contractor, licensee, or permit holder may appeal to the Tribunal within thirty (30) days of the receipt of the Authority's response to the complaint.

41. A contractor, licensee, or permit holder engaged in Petroleum Operations shall comply with these Regulations three (3) months after publication in the Kenya gazette.

FIRST SCHEDULE

MINIMUM LOCAL CONTENT IN EMPLOYMENT, GOODS, WORKS AND SERVICES

Part 1- LOCAL CONTENT LEVELS TO BE ATTAINED FROM DATE OF EFFECTIVENESS OF LICENCE OR PETROLEUM AGREEMENT

Regulations 9, 12 and 16

UPSTREAM

Item	Start	5 Years	10 Years
1. Goods, Works and Services	10%	As per Part 2	As per Part 2
2. Employment & training			
(a) Management staff	30%	75%	100%
(b) Core Technical Staff	10%	40%	55%
(c) Other staff	80%	100%	100%

MIDSTREAM

Item	Start	5 Years	10 Years
2. Employment & training			
(d) Management staff	30%	75%	100%
(e) Core Technical Staff	10%	40%	55%
(f) Other staff	80%	100%	100%

DOWNTSTREAM

Item	Start	5 Years	10 Years
2. Employment & training			
(g) Management staff	90%	100%	100%
(h) Core Technical Staff	90%	100%	100%
(i) Other staff	100%	100%	100%

Part 2- Specific Levels to Be Achieved for Goods, Works and Services (Onshore)

1. Front End Engineering Design (FEED), Detailed Engineering and Other Engineering Services

Description	Start	5 Years	10 Years	Measuring Unit
1FEED and detailed engineering on onshore facilities	15%	30%	50%	Man-Hour

2. Fabrication and Construction

Description	Start	5 Years	10 Years	Measuring Unit
2.1: Terminal or oil movement systems	0%	10%	20%	Number
2.2: Drilling modules or packages	30%	50%	70%	Number
2.3: Accommodation module	60%	70%	100%	Number
2.4: Pipeline Systems	10%	40%	80%	Linear Metres
2.5: Utilities module of packages	10%	40%	80%	Number

3. Materials

Description	Start	5 Years	10 Years	Measuring Unit
3.1: Steel plates, flat sheets, sections	40%	80%	100%	Tonnage
3.2: Steel pipes	40%	80%	100%	Tonnage
3.3: Low voltage cables	60%	80%	90%	Length
3.4: High voltage cables	60%	80%	90%	Length
3.5: Valves and pumps	15%	35%	55%	Number
3.6: Drilling mud-barite bentonite	30%	50%	80%	Tonnage
3.7: Cement	60%	80%	90%	Tonnage
3.8: Heat exchangers and other piping accessories	10%	20%	40%	Number
3.9: Steel ropes and other mooring accessories	30%	60%	80%	Tonnage
3.10: Protective paints	10%	50%	75%	Litres
3.11: Glass reinforced epoxy (GRE) pipes	10%	30%	60%	Tonnage

4. Well Drilling Services

Description	Start	5 Years	10 Years	Measuring Unit
4.1: Reservoir services	10%	20%	40%	Spend
4.2: Well completion services (permanent gauges & intelligent wells)	10%	20%	40%	Spend
4.3: Wirelines services (electric open holes, electric closed hole, slickline)	10%	25%	50%	Man-Hour
4.4: Logging While Drilling (LWD) (direction and inclination or Gamma ray)	10%	25%	55%	Man-Hour
4.5: Production or drilling service	10%	30%	60%	Man-Hour
4.6: Seismic data acquisition services	10%	40%	70%	Length
4.7: Well overhauling or stimulation services	10%	30%	60%	Man-Hour

4.8: Wellhead services	10%	30%	60%	Man-Hour
4.9: Directional surveying services	10%	20%	50%	Man-Hour
4.10: Cutting disposal services	40%	60%	80%	Man-Hour
4.11: Recutting inspection services	20%	45%	70%	Man-Hour
4.12: Cased hole logging services (gyro, perforation, gauges, gyro PLT performance, PLT gauges)	20%	50%	80%	Man-Hour
4.13: Well watch services	10%	30%	50%	Man-Hour
4.14: Cement services	20%	50%	70%	Man-Hour
4.15: Coiled tubing services	20%	35%	70%	Man-Hour
4.16: Mud-Pumping services	10%	40%	70%	Man-Hour
4.17: Fluid or bottom hole sampling services	20%	50%	60%	Man-Hour
4.18: OCTS services (cleaning hard banding, recutting, rethreading, storage)	10%	40%	70%	Man-Hour
4.19: Well crisis management services	10%	15%	40%	Man-Hour
4.20: Petrophysical interpretation services	15%	40%	60%	Volume/ Man-Hour
4.21: Extended well test or early production services	10%	10%	20%	Man-Hour
4.22: Rental of drill-pipe	10%	50%	65%	Man-Hour

5. Research and Development Relating to In-Country Services

Description	Start	5 Years	10 Years	Measuring Unit
5.1: Engineering studies-reservoir, facilities, drilling etc.	10%	20%	40%	Spend
5.2: Geological and geophysical services	10%	25%	40%	Spend
5.3: Safety and environmental studies	20%	50%	70%	Spend
5.4: Local materials substitution studies	20%	40%	70%	Spend

6. Exploration, Subsurface, Petroleum Engineering & Seismic Services

Description	Start	5 Years	10 Years	Measuring Unit
6.1: Onshore seismic data acquisition services	10%	30%	40%	Spend
6.2: Seismic data processing services	30%	40%	50%	Spend
6.3: Geophysical interpretation services	10%	30%	70%	Spend

6.4: Geological evaluation services (organic geochemistry, petrology, diagenesis, Geostratigraphy, fluid characterization, PVT, core analysis, flooding) services	10%	30%	60%	Spend
6.5: Mud logging services	10%	20%	50%	Spend
6.6: Coring services	10%	20%	30%	Spend
6.7: Well testing services	10%	30%	60%	Spend
6.8: Drilling rigs (land)	10%	40%	50%	Man-Hour
6.9: Snubbing services	10%	30%	60%	Spend

7. Supply and Disposal Services

Description	Start	5 Years	10 Years	Measuring Unit
7.1: Disposal, distribution and waste transport services	80%	90%	100%	Spend
7.2: Rental of Cranes and Special Vehicles	30%	40%	50%	Spend
7.3: Freight forwarding, logistic management services	80%	90%	100%	Spend
7.4: Supply base, warehouse, storage services	80%	90%	100%	Spend
7.5: Truck, package product, transportation services	80%	90%	100%	Spend

8. Health, Safety and Environment Services

Description	Start	5 Years	10 Years	Measuring Unit
8.1: Site clean-up services	90%	100%	100%	Man Hour
8.2: Pollution control	20%	35%	50%	Spend
8.3: Waste water treatment and disposal services	40%	60%	90%	Man Hour
8.4: Fire and gas protection system services	40%	60%	80%	Man Hour
8.5: Ventilation, heating, sanitary services	50%	70%	85%	Man Hour
8.6: Waste disposal, drainage services	50%	80%	90%	Man Hour
8.7: Industrial cleaning services	50%	80%	90%	Man Hour

8.8: Safety, protection, security, fire-fighting systems services	30%	50%	100%	Man Hour
8.9: Preservation of mechanical and electrical components services	35%	55%	90%	Spend
8.10: Equipment brokerage services	30%	50%	100%	Man Hour
8.11: Temporary accommodation camp services	50%	60%	80%	Spend
8.12: Catering services	100%	100%	100%	Spend
8.13: Cleaning and laundry services	100%	100%	100%	Spend
8.14: Security services	100%	100%	100%	Spend
8.15: Medical services	40%	80%	100%	Spend
8.16: Information Technology services	30%	50%	80%	Spend
8.17: Other supporting services	50%	80%	90%	Spend

Part 3 – Local Content Levels for Offshore Mid & Upstream Petroleum

	Item	Start	5 Years	10 Years
1	Offshore Mid & Upstream Petroleum: Goods, Works Services, Recruitment and Training	10%	15%	20%

GAZETTE NOTICE NO. 9276

THE PETROLEUM ACT (CAP. 308)

IN EXERCISE of the power conferred by sections 126 and 127 of the Petroleum Act (Cap. 308) the Cabinet Secretary makes the following Regulations—

PETROLEUM (UPSTREAM PETROLEUM COSTS MANAGEMENT) REGULATIONS, 2025

PART I- PRELIMINARIES

1. These regulations may be cited as Petroleum (Upstream Petroleum Costs Management) Regulations, 2025

2. (1) The terms that are used in these Regulations and not explicitly defined in these Regulations shall have the same meaning as ascribed to them under the Act.

(2) In these Regulations, unless the context otherwise requires,
“Act” means the Petroleum Act (Cap. 308);

“affiliate” means a person directly or indirectly controlling or controlled by or under direct or indirect common control with another person;

“arm’s length” means all transactions, between parties each having independent interests whether affiliated or not, shall be conducted as if they were unrelated, ensuring transparency and fairness in cost allocations and pricing;

“cost petroleum” means the portion of the total value of petroleum produced and saved from the Contract Area which the Contractor is

entitled to take in a particular period, for the recovery of Petroleum Costs as provided in the Act and the Petroleum Agreement;

“development costs” in respect to a development area, means costs incurred in carrying out development activities in accordance with an approved development plan and the relevant annual development work programmes and budgets;

“exploration costs” in respect to a contract area, means, costs incurred in carrying out exploration activities in accordance with an approved annual exploration and appraisal work programmes and budget;

“joint property” means all property acquired and held jointly by parties to a Petroleum Agreement for use upstream petroleum operations;

“petroleum costs” means all expenditure duly incurred and paid by the contractor in carrying out upstream petroleum operations under a Petroleum Agreement;

“petroleum produced and saved” means gross petroleum produced minus impurities such as water or solids produced along with petroleum, petroleum recycled to the reservoir, petroleum used in petroleum operations or flared or otherwise unavoidably lost under the provisions of the petroleum agreement;

“production costs” in respect to a development area, means costs incurred in relation to production activities, which are of an operating nature only, but excludes development and decommissioning costs, in accordance with approved annual production work programmes and budgets;

“shared costs” means common upstream petroleum costs incurred and allocated to more than one contract area with prior approval of the Authority;

“time-writing costs” means costs incurred as a consequence of professional work provided by other departments or affiliates of the contractor and such costs are allocable to various project authorizations for expenditure or cost centres based on the man-hours spent on an activity and the recorded time translates to an associated cost;

“uplift” means a percentage of the debt portion of development costs incurred and paid during a given fiscal for a development area.

3. (1) These Regulations shall apply to the management of costs in the conduct of upstream petroleum operations.

(2) These Regulations shall not apply to a non-exclusive exploration permit under which the authorized operations are exclusively for non-commercial purposes.

4. The objective and purpose of these Regulations shall be to:

(a.) harmonize and standardize cost management in the conduct of upstream petroleum operations;

(b.) ensure accountability and transparency; and,

(c.) ensure the effective, economic and efficient utilization of petroleum resources.

5. Notwithstanding any other provision in a petroleum agreement, non-exclusive exploration permit or these Regulations, no petroleum costs shall be recovered unless such costs have been allowed and approved by the Authority in accordance with these Regulations.

PART 2 - COST RECOVERY

6. (1) The contractor shall keep detailed accounts of petroleum cost in accordance with Regulation 16.

(2) All recoverable petroleum costs incurred and paid for by the contractor and duly entered in the contractor's books of accounts, shall be recovered by taking and separately disposing from a total volume of crude oil or natural gas produced and saved from the contract area.

(3) Recoverable petroleum costs shall be limited, in any contract year, to an amount not exceeding a percentage determined in respective Petroleum agreements, of the total petroleum produced and saved from the contract area in any contract year.

(4) Recoverable petroleum costs shall be recovered from the date they have been prudently incurred and paid, when commercial production begins, without any adjustment or indexation, until the termination of a petroleum agreement.

(5) To the extent that, in any contract year, the recoverable petroleum costs exceed the cost petroleum set recovery limit available in each contract year, the unrecovered excess shall be carried forward for recovery in the subsequent contract year(s) until the termination of the petroleum agreement.

(6) Where the balance of recoverable petroleum costs is less than the set cost recovery limit for the cost petroleum during the year, the excess shall become part of and be included in profit petroleum during that year.

7. (1) Petroleum costs duly incurred and paid while undertaking upstream petroleum operations shall only be recovered from revenues generated from the Contract Area in which they were incurred.

(2) Where a Contractor undertakes exploration, development or production simultaneously, or in any combination thereof in a Contract area, such costs shall nevertheless be classified in accordance with Regulation 16 and recovered in accordance with Regulation 8.

(3) Where a Contractor undertakes upstream, midstream or downstream operations simultaneously, or in any combination thereof, such midstream or downstream costs shall not be recovered under the Petroleum Agreement.

8. The order of recovery of recoverable petroleum costs in any petroleum agreement shall be:

- (a.) Production costs
- (b.) Development Costs
- (c.) Uplift
- (d.) Exploration Costs
- (e.) Decommissioning Costs

9. (1) The net proceeds of the following transactions shall be credited to the joint account for cost recovery purposes under the contract;

- i the net proceeds of any insurance or claim in connection with the upstream petroleum operations or any assets charged to the accounts under the contract;
- ii revenue received from other parties for the use of property or assets charged to the accounts under the contract;
- iii any adjustment received by the contractor from the suppliers or manufacturers or their agents in connection with defective equipment or material the cost of which was previously charged by the contractor under the contract;
- iv rentals, refunds or other credits received by the contractor which apply to any charge which has been made to the accounts under the contract;
- v proceeds from all sales of surplus material or assets charged to the account under the contract; and
- vi the prices originally charged to the accounts under the contract for inventory materials subsequently exported from Kenya.
- vii Any other credits to the joint account for cost recovery purposes under the petroleum agreement.

10. There shall be no duplication of charges or credits in the accounts under a petroleum agreement.

11. Subject to other written laws, petroleum costs duly incurred, charged and paid shall be recovered as prescribed in Regulation 8 and the First Schedule of these Regulations.

12. Costs and expenses specifically described as non-recoverable costs in the Second Schedule shall not be recovered.

13. (1) Where expenditure approved in the work programme and budget exceeds the budget by more than 10%, the Contractor shall seek approval from the Authority before incurring the extra expenditure.

(2) Where the contractor utilizes less than 80% of the approved work programme and budget, the contractor shall as soon as practicable and in any case not later than at the time of the submission of the annual expenditure report, notify the Authority in writing with appropriate justifications.

(3) Where the Authority is not satisfied with the justifications provided under sub-regulation (2), the Authority shall inform the Contractor and may recommend to the Cabinet Secretary the recall of a performance security in accordance with the petroleum agreement and the Act.

PROJECT FINANCING

14. (1) All petroleum projects shall maintain a maximum debt-equity ratio of 70:30 for the financing of Development Costs.

(2) Such debt-equity ratio for a contractor shall be prescribed in the respective Petroleum Agreement.

(3) Deviation from the debt-equity ratio stipulated in the Petroleum Agreement must be justified with detailed financial analysis and shall be approved by the Cabinet Secretary with the recommendation of the Authority.

(4) Notwithstanding sub-regulation (3) above, the debt portion of the project's total Development Costs shall not exceed 75%.

15. (1) The interest on any debt undertaken to finance development operations shall not be recoverable.

(2) Notwithstanding sub-regulation 1, Uplift shall be recovered to cover the cost of financing.

(3) The percentage applicable to such Uplift shall be expressly stipulated in a petroleum agreement and adhered to by the Contractor.

(4) Such percentage, as stipulated in the Petroleum Agreement, shall not exceed 15% of the debt portion of the total Development Costs.

(5) The applicable Uplift for any Petroleum Agreement shall be recovered in accordance with Regulation 8.

PART 3- COST CLASSIFICATION

16. (1) The contractor shall classify all costs under cost centres and sub-divisions of these cost centres for the efficient control of all costs under the petroleum agreement,

(2) As a minimum the a contractor shall classify costs in the following divisionsns

- a. Exploration Costs,
- b. Developments costs,
- c. Production costs, and
- d. Decommissioning costs.

(3) Exploration costs shall be classified into, but not limited to:

- i. Geological, geochemical, paleontological, topographical and other surveys;
- ii. Each individual geophysical survey;
- iii. Each individual Exploration or Appraisal well;
- iv. Infrastructure (roads, airstrips);
- v. Support facilities (warehouses), including an allocation of common service costs (costs related to various Petroleum Operations);
- vi. An allocation of general and administrative costs.

(4) Development cost shall be classified into, but not limited to:

- I. Capital or operating costs incurred before the commencement of commercial production in a development area; and
- II. Capital costs incurred after the commencement of commercial production in a development area, which relate to development activities.
- III. The aforementioned costs may be classified as but not limited to:
- vii. Geological, geochemical, geophysical, and other surveys;
- viii. Each individual Development Well;
- ix. Gathering facilities;

- x. Field facilities;
- xi. Pipelines and trunk lines, flow lines;
- xii. Tank farms and other storage facilities for Petroleum;
- xiii. Infrastructure within the development Area and Outside the Development Area;

- xiv. Support facilities, including an allocation of common service costs (cost related to various Petroleum Operations);
- xv. An allocation of general and administrative costs;
- xvi. Engineering and design studies.

(5) Production costs shall be classified into, but not limited to:

- i. Geological, geochemical, geophysical, and other surveys;
- ii. Each individual production well;
- iii. Gathering facilities;
- iv. Field facilities;
- v. Pipelines and trunk lines, flow lines;
- vi. Tank farms and other storage facilities for Petroleum;
- vii. Infrastructure within the development area and outside the development area;
- viii. Support facilities, including an allocation of common service costs (cost related to various Petroleum Operations);
- ix. An allocation of general and administrative costs;
- x. Engineering and design studies.

(6) Decommissioning costs shall be classified into, but not limited to:

- i. Geological, geochemical, geophysical, and other surveys;
- ii. Each individual Development Well;
- iii. Gathering facilities;
- iv. Field facilities;
- v. Pipelines and trunk lines, flow lines;
- vi. Tank farms and other storage facilities for Petroleum;
- vii. Infrastructure within the development Area and Outside the Development Area;
- viii. Support facilities, including an allocation of common service costs (cost related to various Petroleum Operations);
- ix. An allocation of general and administrative costs;
- x. Engineering and design studies

PART 4- SPECIFIC PROVISIONS

17. The contractor or permit holder shall pay to the all taxes, duties, fees and levies in accordance with applicable laws.

18. (1) Any payment made or amount received in Kenyan shillings or in United States Dollars shall be converted from Kenyan shillings into United States Dollars, or from United States dollars into Kenyan shillings on the basis of the monthly average of the mean of the daily official buying and selling exchange rates between the currencies in question as published by the Central Bank of Kenya for the month and year in which the relevant transaction was made.

(2) Any payment made or amount received in currencies other than United States Dollars or Kenyan Shillings shall be converted into United States dollars or Kenyan shillings on the basis of the monthly average of the mean of the daily buying and selling exchange rates between the currencies in question as published by the Central Bank of Kenya for the month and year in which the relevant transaction was made.

(3) The average monthly exchange rate calculated in accordance with sub-regulation (1) and, where relevant, the exchange rates

employed pursuant to sub-regulation (2), shall be identified in the relevant statements required under the Act, these Regulations and Petroleum Agreement.

(4) Any gain or loss from an exchange of currency arising in the course of transactions while undertaking petroleum operations shall be credited or charged to the joint accounts of a respective Petroleum Agreement or non-exclusive permit.

(5) The Contractor or non-exclusive permit holder shall endeavour at all times to maintain an accurate record of the exchange rate list used in converting Kenya Shilling, United States Dollars or any other currency as provided for in these Regulations and such records shall be availed to the Authority for Audit purposes.

19. (1) The provisional rate for the parent company overhead shall be in accordance with a petroleum agreement and shall be adjusted to the actual expenditure within sixty (60) days of the end of the quarter. Such adjustments shall be booked in the next quarter's financial statements.

(2) The actual expenditure shall not exceed the provisional rate provided under a petroleum agreement.

(3) A contractor shall submit to the Cabinet Secretary for approval, sixty (60) days after the execution date for the first contract year the proposed basis of allocating parent company overheads charge to the Contractor.

(4) Where a contractor proposes to change the approved basis of allocation in sub-regulation (3) above, the contractor shall submit the proposed basis of allocation to the Cabinet Secretary for approval ninety (90) days before beginning of a contract year.

(5) The contractor shall provide to the Cabinet Secretary:

- a. A detailed breakdown of all parent company overheads outlining the contribution of the headquarter support to the petroleum operations, during the submission of the Work Program and Budget.
- b. Evidence of cost incurred and paid to support Parent company.
- c. Certification of parent company overheads by an independent auditor of good international standing which shall state in their opinion whether such overheads were duly incurred, paid and appropriately charged.
- d. Notwithstanding sub-regulation 5(c), submission of audit certification shall not absolve the Contractor from any obligations under these Regulations.

20. (1) The contractor shall submit to the Cabinet Secretary for review sixty (60) days after the execution date for the first contract year, policies, internal controls and procedures for recording and reporting of time-writing for approval.

(2) The policies, internal controls and procedures shall be in accordance with best petroleum industry practice.

(3) Any amendments to these policies, internal controls and procedures shall be submitted to the Cabinet Secretary ninety (90) days before the beginning of subsequent contract years for approval.

(4) At the time of submission of the annual work program and budget, the contractor shall provide manpower plan which shall include but not be limited to:

- a. Applicable rates chargeable for skilled and non-skilled labour
- b. Justification of the rates
- c. Hours to be worked
- d. Allocation to each Contract area
- e. Designation, experience and number of personnel
- f. Expected deliverables

(5) Upon implementation of the work programme and budget, the contractor shall provide the following information in the quarterly and annual expenditure reports submitted under Regulation 34

- a. Approved time logs indicating actual hours worked
- b. Actual rates charged and justification for the same

c. Allocation to Contract area

d. Deliverable outcomes of time-writing activities carried out including but not limited to; technical reports, samples, processed and/or unprocessed and/or interpreted data, maps, and studies reports.

e. Cost certifications of rates and hours charged from a competent independent auditor of good international standing.

f. Any other information as may be directed by the Cabinet Secretary

21. (1) Where a contractor holds more than one block and allocates a portion of the shared costs to each block, the criteria used for such allocation shall be clearly outlined and presented to the Cabinet Secretary for approval during the submission of the work programme and budget.

(2) Where a contractor fails to provide a suitable allocation criterion the Cabinet Secretary shall prescribe an appropriate allocation criteria.

(3) Where such criteria are applied, the contractor shall ensure that it is applied accurately and consistently.

(4) Failure to adhere to sub-regulation (3) shall render any additional costs ineligible for cost recovery and shall be borne wholly by the contractor.

(5) Where a contractor proposes to change the approved allocation criteria, the contractor shall submit the proposed criteria to the Cabinet Secretary for approval

22. (1) The Contractor shall prepare books of accounts and records on accrual basis.

(2) Notwithstanding sub-regulation (1) for the purposes of determining recoverable costs, upstream petroleum costs shall be recognized on a cash basis.

(3) All accruals in an accounting period shall be reversed at the beginning of the subsequent month or quarter.

(4) The contractor shall fully and comprehensively disclose accrued petroleum costs and subsequent adjustments in its annual expenditure reports.

SERVICE AND SUPPLY CONTRACTS

23. (1) The Contractor shall submit to the Cabinet Secretary, sixty (60) days after the execution date for the first contract year, its procurement policies, procedures, and internal controls for approval

(2) Any amendments to these policies, procedures and internal controls shall be submitted to the Cabinet Secretary, ninety (90) days before the beginning of subsequent contract year for approval.

(3) The contractor's procurement policies, procedures and internal controls, shall be in accordance with the Act and best petroleum industry practice.

24. (1) The contractor shall submit to the Authority for approval sixty (60) days after the execution date for the first contract year, an anticipated annual schedule of the service and supply contracts along with the annual work programme and budget, or ninety (90) days before the beginning of subsequent contract years.

(2) The schedule of service and supply contracts shall comply with the petroleum agreement and applicable local content requirements.

(3) The schedule of service and supply contracts shall include but shall not be limited to:

- a. a description of the goods, services and works to be procured;
- b. procurement method to be used and justification thereof;
- c. the estimated contract sum;
- d. the estimated duration of the contract.

25. (1) Subject to prescribed thresholds in a Petroleum Agreements, a contractor shall submit executed service and supply contracts to the Cabinet Secretary for review, not later than thirty (30) days after the end each quarter, with a contract summary stating:

- a. description of the goods, services and works provided;
- b. procurement method used;
- c. the consideration for the contract;
- d. The duration of the contract;
- e. the names of sub-contractors or suppliers;
- f. classification of contracts as either local or international;
- g. a brief description of the efforts made to find a Kenyan supplier or contractor including the names of businesses considered and the reasons for rejecting them; and,
- h. Any other information the Cabinet Secretary may require.

INVENTORY MANAGEMENT

26. (1) As far as practicable, and consistent with efficient and economical operation, only material required for upstream petroleum operations shall be procured by the contractor for use in the upstream petroleum operations.

(2) The contractor shall:

- (a.) control the acquisition, location, storage and disposition of materials which are subject to accounting record control, physical inventory and adjustment for overages and shortages;
- (b.) provide codes for every category of inventory items and label inventory in a manner that allows ease of identification for inspection;
- (c.) keep track of all controllable material and assets used in petroleum upstream operation by maintaining an inventory movement register;
- (d.) implement contingency planning for inventory to mitigate the effects of supply chain disruptions; and,
- (e.) utilize inventory management systems or software tailor made for the petroleum industry to improve efficiency and accuracy in inventory management.

(3) Within thirty (30) days after the end of each quarter, the contractor shall notify the Cabinet Secretary, in writing, of all controllable material and assets acquired during the preceding quarter indicating the quantities, costs and location of each controllable material and assets.

(4) At reasonable intervals, but at least once a year, with respect to all controllable material and assets, and once every three (3) years with respect to immovable property and assets, inventories of the controllable materials, property and assets under respective petroleum agreement for each block, shall be taken by the contractor.

(5) Any repair or replacement costs incurred by the contractor resulting from the contractor's failure to adhere to the maintenance schedule as prescribed in the Petroleum (Upstream Operations) Regulations 2024, shall not be recoverable.

(6) The contractor shall give the Authority at ninety (90) days written notice of its intention to take such inventory so that the Cabinet Secretary may be represented when such inventory is taken. Such notice period shall commence on the date of receipt of the notice by the Cabinet Secretary.

(7) The notice referred to in sub-regulation (6) shall be accompanied by a current list of annual inventory count and list of valued inventories.

(8) The contractor shall clearly state the principles upon which valuation of the inventory has been based and shall provide the Cabinet Secretary with a full report of this inventory within thirty (30) days from the conclusion thereof.

(9) In the event of defective material, property and assets, any adjustment received by the contractor from the suppliers or manufacturers of such material, property and assets or their agents will be credited to the joint account under the petroleum agreement for each block.

27. (1) The valuation criteria for material, property and assets purchased from, or sold to affiliates, or transferred to or from activities of the contractor, other than petroleum operations under the petroleum

agreement for each block, shall be:

- a. New material, property and asset (hereinafter referred to as condition A) shall be valued at the prevailing market price which shall not exceed the price prevailing in an arm's length transaction on the open market;
- b. Used material, property and assets which are in sound and serviceable condition and are suitable for reuse without reconditioning (hereinafter referred to as condition B) shall be priced at not more than seventy-five percent (75%) of the prevailing market price of the Condition A
- c. Used material, property and asset which cannot be classified as condition B, but which, after reconditioning, will be further serviceable for original function as good second-hand condition B or is serviceable for original function, but substantially not suitable for reconditioning (hereinafter referred to as condition C) shall be priced at not more than fifty percent (50%) of the prevailing market price of the material, property and assets in condition A
- d. Material, Property and assets which cannot be classified as condition B or condition C shall be priced at a value commensurate with their use.
- e. The cost of reconditioning shall be charged to the reconditioned material, property and assets, provided that the condition C material, property and assets value plus the cost of reconditioning does not exceed the value of condition B material, property and assets.

28. (1) Before an assignment of rights under the petroleum agreement takes place, a special inventory may be taken by the contractor at the request of the assignee provided that the costs of such inventory are borne by the assignee.

(2) The contractor shall give the Cabinet Secretary at least thirty (30) days written notice of its intention to take special inventory so that the Cabinet Secretary may be represented when such inventory is taken. Such notice period shall commence on the date of receipt of the notice by the Cabinet Secretary.

29. (1) Reconciliation of inventory shall be made by the contractor, with a list of shortages and overages being determined; and the inventory statement shall be adjusted accordingly by the contractor.

(2) The shortages and overages resulting from the physical inventory shall be reflected in the inventory records of controllable material and assets and the contractor shall provide reasonable explanation for such shortages and overages.

30. Inventory shall be charged to the joint account upon utilization in activities that are directly related to activities of a block.

PART 5- ACCOUNTING AND FINANCIAL REPORTING

31. The contractor or a non-exclusive permit holder shall;

1) Maintain and regularly update detailed and accurate accounting and financial records, in accordance with relevant laws, best petroleum industry practice and reporting standards approved by the Authority.

2) Unless otherwise provided, all records required under the Act and these Regulations shall be submitted in hard copies, and electronic format where applicable.

3) Make original records available for the inspection and use by the Cabinet Secretary and the Authority, as the case may be, in carrying out their functions under the Act and these Regulations.

DIVISION 1-Reports and Financial records for Non-Exclusive Exploration Permit

32. (1) A holder of a non-exclusive exploration permit, shall prepare and submit to the Authority for approval, reports and financial records which shall include :

- a. A detailed work programme and budget for the proposed non-exclusive exploration operations.
- b. Licensing and marketing strategy which shall include the pricing for the data to be marketed and the basis for this price.
- c. All copies of invoices and receipts pertaining to fees paid by

third parties for purchase of data on a quarterly basis.

- d. Quarterly reports of data sales within thirty (30) days of completion of the preceding fiscal quarter
- e. Quarterly Cost statement within thirty (30) days of completion of the preceding fiscal quarter, related to data acquisition, processing, reprocessing, interpretation, packaging and marketing of the data.
- f. an annual statement of data sales within sixty (60) days after the lapse of the preceding contract year, clearly indicating for each license the client name, the amount of data in kilometres or square kilometres sold, the rate at which the data was sold in US dollars, the total revenue and the revenue share to be paid to the Cabinet Secretary
- g. Any other statement, record, or report that the Authority may prescribe.

DIVISION 2- Details of Reports and Financial records to be provided under a Petroleum Agreement

33. (1) A Contractor shall submit a proposed outline of a chart of accounts to the Cabinet Secretary alongside submissions of annual work programme and budget sixty (60) days after the execution date for the first contract year for approval.

(2) The chart of accounts shall include sub-accounts or additional levels of detail within each main account category and such accounts, sub-accounts and additional details shall have codes or numbering systems used to organize and categorize systematically.

(3) The Cabinet Secretary shall review and approve the proposed outline of chart of accounts alongside the annual work programme and budget, and shall follow the stipulated review and approval process for an annual work programme and budget as provided for in Petroleum (Upstream Petroleum Operations Regulations) 2024, including the review and approval process for proposed amendments to the outline of chart of accounts.

(4) In undertaking reviews under Regulation 33 the Authority shall incorporate other relevant state agencies.

(5) The Cabinet Secretary shall approve the final version of the chart of accounts as agreed upon by the Contractor and Cabinet Secretary.

(6) Any proposed revisions to the final chart of accounts shall be submitted to the Cabinet Secretary for approval before adoption by the Contractor.

Monthly and Quarterly Reports

34. (1) No later than fourteen (14) days after the end of each month, the Contractor shall submit to the Authority a report on its expenditure and receipts relating to the upstream petroleum operations.

(2) The monthly expenditure and receipts report shall include:

- a. the actual expenditure and receipts for the month pursuant;
- b. cumulative expenditure and receipts for the previous months of that budget year;
- c. the actual cumulative Petroleum costs to date;
- d. the latest forecast cumulative cost at the year-end;
- e. evidentiary support of expenditure including but not limited to technical reports, studies carried out;
- f. any variations between budgeted costs and actual costs and the Contractor's explanation for each variation on a line-by-line basis; and,
- g. the total payroll costs segregated between Kenyan and non-Kenyan personnel and the total expenditure segregated between Kenyan and non-Kenyan goods and services.

(3) The expenditure and receipts report shall be prepared on an accrual basis so that expenditure is recorded as incurred when title to goods passes, or when work is executed.

(4) Where the contractor is constituted by more than one entity, each such entity shall provide details of its financial accounts related to the upstream petroleum operations such financial accounts shall be deemed to have been jointly agreed and approved among all contractor

parties.

(5) No later than thirty (30) days after the end of each quarter, the contractor shall submit an aggregated expenditure and receipts report in respect of the three months comprising a quarter.

35. (1) No later than seven (7) days after the end of each month, the Contractor shall provide to the Cabinet Secretary a monthly sales statement.

(2) The monthly sales statement shall show calculations of the value of Petroleum produced and sold from the Contract area. The statements shall include the following information: -

- a. inventory of petroleum in storage at the beginning and at the end of the month;
- b. the value of stocks of petroleum held at the beginning of the reporting month;
- c. quantities of petroleum produced and saved;
- d. quantities of petroleum sold by the Contractor during the preceding month constituting arm's length sales together with corresponding sale prices;
- e. quantities of petroleum sold by the Contractor during the preceding month that did not constitute arm's length sales together with corresponding sale prices;
- f. The quantities Petroleum recycled to the reservoir, Petroleum used in Petroleum Operations or otherwise unavoidably lost;
- g. the value of stocks of petroleum held at the end of the reporting month; and,
- h. inventory of petroleum in storage at the end of the reporting month.

36. (1) The Contractor shall prepare and submit to the Cabinet Secretary, quarterly, statement providing calculations of the value petroleum produced and saved and in stock each quarter from the Contract area in accordance with the Act and a petroleum agreement.

(2) Produced Volume, gross and net production by Block or field, as applicable.

(3) Pricing Information with details on the average prices received for each product.

(4) Revenue Calculation based on the production volume and pricing for sales during the quarter.

(5) Production efficiency, average realized prices compared to benchmark prices, and profit margins.

37. (1) No later than thirty (30) days after the end of each quarter, the Contractor shall submit a quarterly cost recovery statement to the Cabinet Secretary.

(2) The quarterly cost recovery statement under this section shall contain, but not limited to, the following information—

- a. Recoverable petroleum costs carried forward from the previous quarter, if any;
- b. recoverable petroleum costs during the quarter;
- c. cumulative recoverable petroleum costs at the end of the quarter;
- d. quantity and value of Cost Petroleum taken disposed of by the Contractor for the quarter;
- e. amount of recoverable petroleum costs to be carried forward into the next quarter if any;
- f. the total cumulative amount of petroleum costs recovered up to the end of that Quarter; and
- g. value of the Government's share of production under a Petroleum Agreement.

(3) The items in the cost recovery statement shall be presented following the provisions of Regulation 16

(4) The cost recovery information required pursuant to the sub-regulation (3) shall be presented in detail so as to enable Cabinet Secretary to identify how the costs are being recovered.

38. (1) The Contractor shall prepare and submit, with respect to

each quarter, a profit-sharing statement to the Cabinet Secretary not later than thirty (30) days after the end of such quarter, containing the following information:

- a. The total amount of profit petroleum for the quarter in question.
- b. The share of profit petroleum according to the value of the R-Factor at the end of the quarter.
- c. The amount of Profit Petroleum due to each party where Government chooses to exercise its participation rights.

39. The contractor shall provide to the Cabinet Secretary on a quarterly basis, an inventory statement containing but not limited to:

- a. description and codes of all controllable material and assets specified in the manuals prepared by Contractor;
- b. the amount charged to the joint account for each controllable material and asset;
- c. controllable material and assets purchased in the quarter
- d. controllable material and assets sold in the quarter
- e. the date on which each all controllable material and assets was charged to the joint account; and
- f. the status of recovery of costs for such controllable material and assets pursuant to auditing and adjustments

Annual statements and reports

40. The contractor shall submit the annual work program and budget in accordance with Regulations 16 and 33, the Act, Petroleum (Upstream petroleum operations) Regulations 2024, and a petroleum agreement.

41. (1) Not later than sixty (60) days after the end of each contract year the contractor under a petroleum agreement shall submit to the cabinet secretary and the authority an annual profit sharing statement.

(2) The contractor shall prepare an annual profit-sharing statement containing the following information: -

- a. The calculation of the applicable profit petroleum as provided for in respective petroleum agreement for the contract year.
- b. The total amount of profit petroleum shared between the government and the contractor for the contract year.
- c. The respective amount of profit petroleum for government and the contractor for the contract year.
- d. The amount of profit petroleum paid to each joint venture party where government chooses to exercise its participation rights for the contract Year.

42. (1) A contractor shall within thirty (30) days after the end of each contract year, appoint an independent auditor of international standing approved by the Authority to audit the accounts and records of upstream petroleum operations.

(2) The cost of the audit under sub regulation 1 shall be chargeable to the joint account.

(3) The contractor shall, not later than one hundred and twenty (120) days submit the audit report under sub-regulation 1 which shall state in the opinion of the independent auditors whether the audited accounts and records:

- a. reflect a true and fair view of the actual expenditure of the contractor in accordance with the provisions of the petroleum agreement.
- a. Reflect the value of petroleum revenue as fairly determined by the arm's length disposals of petroleum during the year.

DECOMMISSIONING

43. (1) A contractor shall comply with the provisions of the Petroleum (Upstream Petroleum Operations) Regulations 2024 in conducting petroleum operations

(2) The amount to be deposited to the fund for each quarter shall

be determined in accordance with the following formula:

$$FTA = (ECA-ABF) \times CPP/PRR$$

Where:

- i. FTA is the amount to be accrued for future plugging and abandonment and decommissioning costs in respect of the relevant calendar quarter.
- ii. ECA is the total estimated cost of plugging and abandonment and decommissioning operations established pursuant to these regulations, Operations regulations, Petroleum Agreement, and the Act
- iii. CPP is the volume of petroleum produced during the calendar quarter in which the plugging and abandonment and decommissioning accrual was booked.
- iv. PRR is the contractor's estimated remaining recoverable reserves at the end of the calendar quarter in which the plugging and abandonment and decommissioning accrual was booked; as such estimate may be revised by the contractor from time to time.
- v. AFB is the accrued decommissioning fund at the end of the previous calendar quarter including accrued interest on the escrow account.

44. (1) The contractor shall provide a decommissioning fund statement no later than thirty (30) days after the end of each quarter in a contract year, following the first payment into the relevant fund.

(2) The decommissioning fund statement shall detail—

- a. total estimated decommissioning costs;
- b. the amount deposited into the fund for the previous quarter;
- c. the total amount in the fund;
- d. details of all previous payments into the fund including any accrued interest; and
- e. any further information as the Cabinet Secretary may direct.

45. (1) During the decommissioning period, the Contractor shall submit:

- a. A decommissioning cost statement which shall provide details as outlined in the approved budgets in the decommissioning plan thirty (30) days after the end of the quarter to the Cabinet Secretary.
- b. A decommissioning report as prescribed in the Petroleum (Upstream Petroleum Operations) Regulations 2024.
- c. Any other information the Cabinet Secretary may require.

PART 6 - AUDITS

46. (1) An audit shall be conducted in accordance with the Act, these Regulations and a Petroleum Agreement.

(2) The audit and inspection right shall extend to the operations beyond the Delivery Point, as prescribed in a petroleum agreement, which affect the measurement and valuation of Petroleum.

(3) The contractor shall cooperate with the Authority, or persons authorized by the Authority, as the case may be.

(4) The Authority retains the right to review and audit the contractor's books and records, with respect to petroleum operations.

(5) The contractor shall, in relation to an audit:

- a. Provide prompt access to complete and verifiable documents and records in original format, as required for the audit;
- b. Provide prompt and accurate answers to all queries relating to the audit
- c. Bear the burden of proof that petroleum costs are duly incurred, paid and charged.

(6) Where the Authority intends to conduct an audit under sub-regulation (1), the Authority shall give the contractor thirty (30) days written notice.

(7) The Authority shall have the right to access and inspect all

sites, plants, facilities, warehouses and offices of the contractor directly or indirectly serving its activities under the Petroleum Agreement and to visit and make direct inquiries to the contractor's personnel associated with those activities.

(8) Where the Authority requires further supporting documents to verify charges made, the contractor shall promptly provide such information.

(9) Nothing in these Regulations shall be construed as limiting any other the right of the Authority or any government officer or a government entity pursuant to any power granted by law, to audit or cause to be audited the books and accounts of a contractor.

47. A non-exclusive permit holder shall put in place an accounting system to track revenues and costs associated with operations related to the permit and shall allow auditing as maybe required by the Authority

48. All books of accounts, records and documents shall be preserved by the contractor in original format and be made available to the Authority on request until the later of the following dates, whichever is later:

- a. Ten (10) years after the termination of a petroleum agreement ;
- b. if any cost, amount or issue is under dispute, the date by which that dispute is resolved.

49. (1) Where an audit by the Authority has established a discrepancy, the Authority shall notify the contractor or permit holder within ninety (90) days of the issuance of the final audit report.

(2) The contractor shall respond to the Authority within sixty (60) days upon receipt of the notice of discrepancy, either by accepting each audit findings or raising an objection to the findings and shall provide a comprehensive response to each discrepancy.

(3) The authority shall deem the audit findings accepted where:

- a. The contractor accepts the findings of the audit, or;
- b. The time period for raising an objection under sub-regulation (2) has lapsed.

(4) Any dispute that may arise as the result of an audit under this section shall be resolved in accordance with the dispute resolution mechanisms in the relevant petroleum agreement.

50. (1) On the acceptance of the audit findings, or the subsequent resolution of any discrepancy or dispute, the contractor and the Authority, as the case may be, shall make adjustments as may be necessary.

(2) Subject to any adjustments under sub regulation (1) reports and statements shall be considered final.

(3) Notwithstanding any contrary provisions herein or in the Petroleum Agreement, if in a subsequent period an issue or error is identified, or in circumstances where fraud or willful misconduct is alleged to have occurred at any period, the Authority shall have the right to re-examine reports and statements otherwise considered final or not previously audited.

51. (1) Where the Authority, at any time during the implementation of a petroleum agreement, observes an exception, anomaly or any other discrepancy with respect to any matter provided for under these Regulations, it shall communicate such exceptions, anomaly or discrepancy to the contractor through a notice of exception.

(2) Upon receipt of a notice of exception, the contractor or a permit holder shall, within the period prescribed by the Authority therein, provide adequate response to the Authority.

(3) Subject to sub regulation (1), the Authority may, upon satisfaction that any exception, anomaly or discrepancy has been adequately addressed by the Contractor or permit holder, issue a notice of clearance in accordance with confirming that the matter has been closed.

52. Any question or dispute arising from anything done under these Regulations, shall be resolved in accordance with the Act and Petroleum Agreement.

53. The Cabinet Secretary in consultation with the Authority may

issue any further guidelines, processes, instructions, forms, or templates to contractors or permit holders, as may be considered necessary, practical or prudent for the effective operationalization of these Regulations, which may be amended from time to time.

54. (1) A person who:

- i. provides false or misleading information or fails to furnish information required to the Government or its appointed representative, in any matter in these Regulations commits an offence, and shall on conviction be liable to penalties as prescribed under section 48 of the Act.
- ii. fails to give access or allow any inspection authorised under these regulations commits an offence and is liable on conviction to a fine not less than twenty million Kenya shillings.
- iii. contravenes provisions of these Regulations for which no specific penalty is provided for, shall on conviction be liable to penalties as prescribed under section 124 of the Act.

FIRST SCHEDULE
Recoverable Costs
Regulation 11

1. Labour and related costs

- i. Salaries and wages of employees of the operator and its affiliate(s) for portion of their time spent performing management, administrative, legal, accounting, treasury, tax, employee relations, computer services, engineering, geological, geophysical, and all other functions for the benefit of petroleum operation, whether temporarily or permanently assigned to the contract area, as well as the cost of employee benefits, customary allowances and personal expenses incurred under the usual practice of the operator and its affiliate(s) and amounts imposed by governmental authorities, which are applicable to such employees.
- ii. For purposes of costs recovery, gross salaries and wages for the contractor's employees shall not exceed commercial obtainable salaries and wages in best petroleum industry practice and shall be reviewed and approved by the Authority on annual basis.

2. Transportation and Employee Relocation

- i. Transportation of material and other related costs such as origin services, expediting, crating, dock charges, forwarder's charges, surface and air freight, and customs clearance and other destination services.
- ii. Transportation of employees as required in the conduct of upstream petroleum operations, including employees of the operator's affiliate(s) whose salaries and wages are chargeable under sub-clause (i) and 3(ii).
- iii. Relocation costs of the contract area vicinity of employees permanently or temporarily assigned to upstream petroleum operations. Relocation costs from the contract area vicinity, except when an employee is re-assigned to another location classified as a foreign location by the operator. Such costs include transportation of employees' families and their personal and household effects and all other relocation costs in accordance with the usual practice of the operator and its affiliate(s)

1. Charges for services

- i. The actual costs of contract services, professional consultants, and other services performed by third parties other than services provided by the contractor or its affiliate(s), but the prices paid by the contractor shall not be higher than those generally charged for comparable services.
- ii. Costs of technical services, such as but not limited to, engineering, and related data processing, performed by the contractor and its affiliate(s) for the direct benefit of upstream petroleum operations, engineering and related data processing, performed by the contractor provided such costs shall not exceed those currently prevailing if performed by third parties in normal arm's length transaction for like services.

iii. Costs of use of equipment and facilities for the direct benefit of the upstream petroleum operations, furnished by contractor or its affiliate(s) at rates commensurate with the cost of ownership, or rental, and the cost of operation thereof, but such rates shall not exceed those currently prevailing in the general vicinity of the contract area in normal arm's length transactions on the open market for like services and equipment.
Material and equipment
i. The cost of material, equipment and supplies purchased or furnished by the operator for use in upstream petroleum operations shall be charged to the joint account on the basis set forth below. So far as it is reasonably practical and consistent with efficient and economical operations, only such material shall be purchased for or transferred to the joint property as may be required for immediate use and/or for approved work programmes and the accumulation of surplus stock shall be avoided.
ii. Except as otherwise provided in sub-clause (iii) below, material purchased, leased or rented shall be charged at the actual net cost incurred by the operator. "Net cost" shall include, but shall not be limited to, such items as vendor's invoice price, transportation, duties, fees and applicable taxes less all discounts actually received.
iii. Material purchased or transferred from the contractor or its affiliate(s) shall be charged at the prices specified here below—
a) New material (condition "A") shall be valued at the current international net cost which shall not exceed the price prevailing in normal arm's length transactions on the open market;
b) Used material (conditions "B", "C" and "D")—
i. material which is in sound and serviceable condition and is suitable for re-use without reconditioning shall be classified as condition "B" and priced at seventy-five per cent (75%) of the current price of new material defined in clause (iii)(a) above;
ii. material which cannot be classified as condition "B" but which after reconditioning will be further serviceable for its original function shall be classified as condition "C" and priced at fifty percent (50%) of the current price of new material as defined in clause (iii)(a) above. The cost of reconditioning shall be charged to the reconditioned material provided that the value of condition "C" material plus the cost of reconditioning do not exceed the value of condition "B" material;
iii. material which cannot be classified as condition "B" or condition "C" shall be classified as condition "D" and priced at a value commensurate with its use
Inventories
All Inventories charged to the joint account for activities that are directly related to upstream petroleum operations for a contract area.
Uninsured damages and Losses to Joint Property
All costs or expenses necessary for the repair or replacement of joint property resulting from damages or losses incurred by fire, flood, storm, theft, accident, or any other cause, except insofar as those costs and expenses are caused by the willful misconduct of the operator and not insured. The operator shall furnish the Government and non-operator(s) written notice of damages or losses for each damage or loss in excess of fifty thousand U.S. dollars (U.S.\$50,000) as soon as the loss has come to the notice of the contractor.
Insurance
Premiums for insurance required under the contract, provided that a party not participating in such insurance shall not share in the costs unless such insurance is compulsory under the laws of Kenya and provided further, that if such insurance is wholly or partly placed with an affiliate of the contractor such premiums shall be recoverable only to the extent generally charged by competitive

insurance companies other than an affiliate of the contractor.
Legal expenses
All costs or expenses of litigation or legal services otherwise necessary or expedient for the protection of the joint property or other interest in the contract area, including but not limited to legal counsel's salaries and fees, court costs and cost of investigation or procuring evidence. These services may be performed by the operator's legal staff or an outside firm as necessary.
Duties and Taxes
All duties, taxes (except taxes based on income, profit or gains), fees, and governmental assessments of every kind and nature which have been paid by the contractor with respect to the contract unless specifically excluded under this contract.
2. Offices, Camps and Miscellaneous Facilities
Cost of establishing, maintaining and operating the offices, sub-offices, camps, warehouses, housing and other facilities directly serving upstream petroleum operations. The costs shall be allocated to the operations served on an equitable basis.
3. General and Administrative Expenses
i This charge shall be made monthly for services of all personnel and officers of the operator and its affiliate(s) outside Kenya and those not otherwise provided herein. It shall include services and related office costs of personnel performing management, administrative, legal, accounting, treasury, tax, employee relations, computer services, purchasing, engineering, geological, geophysical, and all other functions for the direct benefit of upstream petroleum operations. General and administrative expenses incurred wholly and exclusively for the Kenyan operations are wholly deductible. General and administrative expenses which have not been incurred wholly and exclusively incurred for Kenyan operations will be charged on an allocation criterion provided by the contractor subject to approval of the Cabinet Secretary and Kenyan Tax Authorities.
ii Within ninety (90) days following the end of each quarter, the operator shall determine the actual costs incurred in performing such services, and shall charge or credit the joint account for the difference between the actual cost incurred for the quarter and the provisional rate charged during the quarter.
iii On request of the Government or a non-operator, the operator shall make available at its Kenyan office all supporting documents used for the determination of the charges. Such documents shall include but shall not be limited to time allocation reports prepared by employees providing services described in part, cash vouchers supporting cash expenses included in the overhead pool, inter-company billings supporting charges for services provided by operator's affiliates (e.g. building rentals, telecommunications paid by the operator's parent company), summary or impersonalized computer run supporting salaries, wages and employee benefits and other such documents as may be mutually agreed.
4. Any other petroleum costs incurred and paid in the conduct of upstream petroleum operations and approved as recoverable by the Authority.
SECOND SCHEDULE
Non-Recoverable Costs
Regulation 12
Non-Recoverable Costs
Costs and expenses not specifically identified as recoverable in this clause shall not be recoverable by the contractor. Such non-recoverable costs and expenses include, but are not limited to, the following:
a) taxes on income or profit paid to any government authority;
b) any payment made to the government by reason of the failure of the contractor to fulfil its minimum work and expenditure obligations in respect of the initial exploration period, the first additional exploration period, or the second

additional exploration period;
c) cost of any letter of guarantee, if any;
d) signature bonus;
e) surface fees;
f) training fees and other related costs.
g) costs of marketing or transportation of petroleum beyond the delivery point;
h) interest, arrangement costs and any foreign exchange costs relating to loans or other financing arrangements raised by the contractor for capital expenditure in upstream petroleum operations;
i) any accounting provision for depreciation and/or amortization, excluding any depreciation and/or amortization expressly permitted;
j) costs incurred before the Effective Date; Any foreign exchange and currency hedging costs;
k) Donations or charitable contributions and/or services relating to public relations;
l) Costs that were not incurred within an approved Annual Work Program and Budget;
m) Decommissioning Costs actually incurred which have been effectively funded from the decommissioning fund through contributions made to such fund which are already recovered;
n) Costs in excess of those in line with the international market price for goods or services of similar quality supplied on similar terms prevailing at the time such goods or services were obtained or ordered by the contractor;
o) Expenditures on research and development of new equipment, materials and techniques;
p) Costs for which the records do not exist or which are not adequately documented;
q) Costs of litigation, arbitration, mediation, expert determination or settlement, in respect of any dispute whether or not such costs are awarded to a contractor by a court, tribunal or an expert;
r) Fines and penalties imposed under the laws of Kenya;
s) Costs due to a violation to this contract or the laws and regulations applicable to the upstream petroleum operations, including any amount spent on indemnities or penalties arising from the non-fulfilment of contractual obligations, such as any payment made to the government by reason of the failing of the contractor to fulfil its minimum exploration work and expenditure obligations;
t) Costs incurred as a result of wilful misconduct or negligence of the contractor, its agents or subcontractors, including any payments for any kind of damages;
u) The acquisition costs or any other payments or charges in relation with the transfer of an interest in accordance with the petroleum agreement, including but not limited to any payments of considerations, private overriding royalties net profits and interests;
v) Interest and financing charges incurred on loans or other forms of financial accommodation raised by the contractor for expenditure in upstream petroleum operations;
w) Corporate social responsibility costs or social investment project costs, community development project costs; and
x) Any costs not reasonably required for the upstream petroleum operations;
y) any recoverable costs recovered elsewhere under the Kenyan laws.

GAZETTE NOTICE NO. 9277

THE PETROLEUM ACT

(No. 2 of 2019)

IN EXERCISE of the powers conferred by subsection (1) of section 126 of the Petroleum Act, 2019, the Cabinet Secretary, Ministry of Energy and Petroleum, on the recommendation of the Authority, makes the following Draft Regulations for public comments—

PETROLEUM (UPSTREAM AND MIDSTREAM ENVIRONMENT, HEALTH AND SAFETY) REGULATIONS, 2024

PART I – PRELIMINARY

1. These Regulations may be cited as the Petroleum (Upstream and Midstream Environment, Health and Safety) Regulations, 2024.

(2) In these Regulations, unless the context otherwise required—

“Act” means the Petroleum Act, 2019;

“accident” means an occurrence or event that results in loss of life, personal injury, property damage, and/or environmental damage;

“approved standard” means a standard under the Standards Act, CAP 496.

“asphyxiant gas” means any gas the release of which may create asphyxiating conditions due to displacement of oxygen;

“Authority” means the Energy and Petroleum Regulatory Authority established under the Energy Act, 2019;

“completion and well workover fluids” means fluids used to clean the wellbore and stimulate the flow of petroleum, or simply used to maintain downhole pressure (this may include solid material, residual drilling fluids, weighted brines or acids, petroleum, methanol and glycols and other types of performance-enhancing additives; after use, these fluids may contain contaminants including solid material, oil, and chemical additives);

“contractor” means the person with whom the national government concludes a petroleum agreement and includes a subcontractor or agent;

“decommissioning” means abandonment, recovery, removal and disposal, or if applicable re-deployment, of wells, flow lines, pipelines, facilities, infrastructure and assets related to upstream and midstream petroleum operations;

“dimensioning fire” means a fire which in accordance with the defined acceptance criteria under these Regulations represents an unacceptable risk, and which consequently serves as a basis for design and operation of installations and facilities;

“drilling waste” means all materials or chemicals, solid liquid or gases, associated with drilling for exploration, development, or production of crude oil or natural gas, and directional drilling for pipeline construction, including the solid materials, fragments of rock and other materials brought to the surface during the drilling process and any liquid mixture of water, sediment, drilling muds, chemical additives or other wastes that are pumped into a borehole while drilling and are specifically related to drilling activity;

“EIA license” means an environmental impact assessment license, granted in accordance with the Environmental Management and Co-ordination Act, 1999 and its subsidiary legislation;

“emergency” means a present or imminent event, outside the scope of normal operations, that requires prompt action and co-ordination of resources to protect the health, safety or welfare of people or to limit damage to property and the environment;

“Environmental Liability Policy” means an insurance policy that covers the cost of restoring damage caused by petroleum operations, resulting in pollution of land, water, air, and biodiversity damage under the Act.

“fire division” means a wall or division made of incombustible materials or an open-air separation designed to minimise the probability of a fire spreading horizontally or vertically;

“flaring and venting management plan” means a projection of flaring and venting quantities and associated emissions over the lifetime of the installation with an associated plan of actions/projects/investments which the licensees plan to undertake to manage and minimise flaring and venting quantities and associated emissions.

“Flaring and venting” are controlled processes to dispose of gas, essential for emergency and safety purposes on oil and gas installations, and in situations where it may not be feasible for the gas to be used, exported or re-injected.

“flowback fluid” means a water-based solution that flows back to the earth's surface after completing the hydraulic fracturing of a reservoir (this may include chemical additives, mud, clay, dissolved metal ions and total dissolved solids);

“fugitive emissions” means any releases of gas from lease production, gathering, compression, or gas plant equipment components, including emissions from valve stems, pressure relief valves, flanges and connections, gas-operated valves, compressor and pump seals, pumping well stuffing boxes, casing-to-casing bradenheads, pits, and sumps, that cannot reasonably be captured and sold or routed to a vent or flare;

“gathering system” means facilities employed to collect, compress, and transport petroleum to another petroleum gathering system, a plant, compression facility, transmission line or other facility;

“hazardous substance” means any chemical, waste, gas, medicine, drug, plant, animal or microorganism which is likely to be injurious to human health or the environment;

“hydrostatic testing water” means water used in pressure testing to detect leaks and verify onshore equipment and pipeline integrity (chemical additives such as corrosion inhibitors, oxygen scavengers, biocides and dyes may be added to the water to prevent internal corrosion or to identify leaks);

“incident” means an unexpected event or occurrence that does not result in serious injury or illness but may result in property or environmental damage;

“disposal well” means a well, in which fluids associated with oil and natural gas production are injected for water disposal or any other purpose;

“low pressure separator gas” means gas separated or liberated from a gas-liquid stream in a low-pressure separation facility which may include separators, treaters, free water knockouts, and other associated equipment;

“major accident” means an occurrence such as a significant fire, explosion, release of a substance, failure of equipment or materials that results from uncontrolled developments in the course of petroleum operations, that results in loss of life, personal injury, property damage, and/or environmental damage;

“midstream” means the petroleum industry sector involved in the planning, development, construction, commissioning, operation and decommissioning of crude oil and natural gas pipelines and storage depots;

“midstream operator” means, as the case may be, a project proponent, a licensee, midstream permit holder and their agents;

“midstream petroleum operations” means all or any of the operations related to petroleum transportation, storage, refining operations, or natural gas processing operations that are related to multiple development areas including operations for the liquefaction of natural gas;

“NORM” means Naturally Occurring Radioactive Material;

“NEMA” means the National Environment Management Authority established under the Environmental Management and Co-ordination Act, 1999 for the time being;

“officer” means a person who is employed by a government agency or authorized by a government agency to execute any function under the Act and these Regulations;

“oily waste” means a specific type of oilfield waste that contains oil generated primarily during oil production;

“person” means any human being regarded as an individual, which includes, but is not limited to, employees, managers, public officers, inspectors, visitors at a facility, and third-party contractors;

“person-in-charge” means person appointed by a contractor, permit holder or a midstream operator in accordance with these Regulations to be in charge of a specified activity or operation;

“petroleum agreement” means any agreement, license, contract or other arrangement between the Government and a contractor to conduct upstream petroleum operations in accordance with the provisions of the Act;

“produced sand” means sand produced from a reservoir and separated from the formation fluids during petroleum processing;

“produced water” means water that comes out of a well with the petroleum during production which may contain soluble and non-soluble oil, organic compounds, suspended solids, dissolved solids, and other material used in the production process;

“production facilities” means production, separation, treating, compression, flowlines, storage, and other production handling equipment employed in the production of petroleum;

“safety case” means a document required under these Regulations demonstrating that there are effective means of reducing risk at a facility or during activities to the required level;

“safety zone” means a demarcated area established around a facility under the Petroleum Act;

“storage depot” means a midstream facility consisting of one or more tanks for storing crude oil and natural gas;

“tank vapours” means gases which emanate from a wash or storage tank containing petroleum, water or other materials;

“Tribunal” means the Energy and Petroleum Tribunal established under the Energy Act 2019;

“waste characterisation” is the assessment of the physical, chemical, and toxicological characteristics (i.e. properties) of a waste, in order to determine its appropriate handling, treatment, and disposal;

“waste manifest” is a document that provides identification and tracking information on the waste being transported;

“waste storage area” means an area of a facility controlled by a contractor, permit holder or a midstream operator that is used for the purpose of collecting and storing waste produced by operations;

“waste treatment” means to apply any method, technique or process such as neutralization and stabilization, that is designed to change the physical, chemical, and/or biological character or composition of waste or a component of waste to reduce the hazards the waste presents.

PART II – APPLICATION

2. (1) These Regulations shall apply to the environmental, health and safety requirements of upstream and midstream petroleum operations and facilities including the design, construction, installation, operation, maintenance, modification and decommissioning of—

- (i) onshore and offshore upstream petroleum operations, facilities and related equipment; and
- (ii) midstream petroleum operations, facilities and related equipment.

(2) These Regulations shall not apply to facilities—

- (a) used in any downstream petroleum operations.

PART III – SAFETY REQUIREMENTS

1. Division 1 – General Safety Requirements

3. (1) Upstream and midstream petroleum operations shall be conducted in a manner that—

- (a) minimises, as far as practicable, any risk to the safety and health of persons or any risk to public safety that may arise from the operations and related activities;

- (b) secures the safety and health of persons at or near facilities where upstream and midstream petroleum operations and related activities are being conducted; and
- (c) enables contractors to continually develop safety practices that reflect technological advancement and advances in best petroleum industry practices.

(2) Upstream and midstream petroleum facilities shall be designed, constructed, installed, operated, maintained, modified and decommissioned in accordance with a safety case that has been approved by the Authority.

4. (1) A contractor, permit holder or a midstream operator shall take necessary measures—

- (a) to prudently identify and assess the risks related to its operations and facilities;
- (b) to minimise, as far as practicable, any risk to the safety and health of persons or any risk to public safety that may arise from operations and related activities;
- (c) to limit, as far as practicable, the effects of any incidents, hazards or accidents on human health and the environment;
- (d) to adopt technical, operational and organisational practices and solutions that reduce risks to an acceptable level;
- (e) to ensure that adequate and appropriate recovery measures are put in place to deal with the effects of any incidents, hazards or accidents;
- (f) to ensure that occupational safety and health measures in all operations are satisfactory to protect the safety and health of workers; and
- (g) to institute procedures that allow the continuing development of safety practices that reflect technological advancement and advances in best petroleum industry practices.
- (h) To adopt measures necessary for environmental protection
 - (i) to ensure compliance with any applicable Kenyan safety and health laws and in addition ensure that—
 - (ii) responsibility and authority during each petroleum activity is clearly defined and coordinated at all times;
 - (iii) all workers and personnel accessing a facility or participating in a petroleum activity are sufficiently informed of all relevant safety documentation and reporting procedures; and
 - (iii) any person acting under a contractor's or a midstream operator's authority in performing upstream and midstream petroleum operations, complies with the Act, these Regulations and any other applicable law or administrative direction.

(2) A contractor, permit holder or a midstream operator shall demonstrate to the Authority that it has taken all necessary measures to ensure safety and health of workers and all persons in the vicinity of operations, general public safety and the protection of the environment and property as specified under these Regulations, any approved standards and best petroleum industry practices.

(3) A contractor, permit holder or a midstream operator shall cooperate with and assist the Authority to perform its regulatory functions under the Petroleum Act, 2019, these Regulations and any other applicable Kenyan law. This shall entail facilitating inspections, investigations and gathering information.

(4) A contractor, permit holder or a midstream operator shall ensure timely preparation and submission of the safety case to the Authority.

(5) Where the contractor, permit holder or midstream operator proposed any activity at a location that qualifies as a workplace under the Occupational Safety and Health Act 15 of 2007, for the time being, unless that workplace is subject to a valid exemption, the contractor, permit holder or midstream operator may not undertake that activity until a certificate of registration for such workplace has been issued under that Act.

5. (1) A contractor, permit holder or a midstream operator shall ensure that all workers involved in upstream and midstream petroleum operations have the necessary experience, qualifications and/or training to execute the work in accordance with the Act, these Regulations, and any other applicable Kenyan law.

(2) A contractor, permit holder or a midstream operator shall ensure that records of worker training and competencies are maintained, kept up-to-date and readily accessible to the Authority on inspection.

(3) A contractor, permit holder or a midstream operator shall routinely take steps to identify and record any insufficiency in worker performance that may require additional training to redress.

(4) A contractor, permit holder or a midstream operator shall ensure that workers receive the necessary and specialised training—

- (a) to perform their tasks safely;
- (b) in occupational safety and health; and
- (c) in responding to incidents, hazards, and accidents.

(5) A contractor, permit holder or a midstream operator shall make all relevant safety and procedural documentation readily available and accessible to workers and to the Authority upon request.

(6) A contractor, permit holder or a midstream operator shall ensure that all workers are informed about updates introduced into the procedures and manuals that may impact—

- (i) operations and maintenance;
- (ii) training in emergency situations and simulations;
- (iii) escape, evacuation and rescue;
- (iv) machinery safety;
- (v) materials, products and equipment packaging, identification, storage and handling;
- (vi) results of any safety analysis;
- (vii) codes and signalling;
- (viii) communication and reporting practices;
- (ix) their preparedness and responses to emergencies; and
- (x) any other matter relevant to operations.

(7) A contractor, permit holder or a midstream operator shall provide training to workers upon their employment, any transfer or change of work tasks, the introduction of new work equipment or changes to the equipment and upon introduction of new technology that applies to the worker's tasks.

(8) The training shall be adapted to changes and/or new risk in the petroleum activity.

(9) Where a worker is assigned duties related to the execution of safety and health obligations, a contractor, permit holder or a midstream operator shall ensure that the worker is certified to perform the duties in accordance with the applicable safety and health laws in Kenya.

6. (1) Workers shall comply with the safety rules and procedures in force and cooperate on the implementation of measures put in place by a contractor, permit holder or a midstream operator to create a safe working environment as stipulated under the applicable Kenyan Health and Safety laws.

2. Division 2 – Safety Case

7. (1) No contractor, permit holder or midstream operator shall commence petroleum operations until a safety case has been approved by the Authority in relation to those operations.

(2) A contractor, permit holder or a midstream operator shall not engage in upstream and midstream petroleum operations unless a contractor, permit holder or a midstream operator has demonstrated to the Authority that it has—

(a) diligently evaluated the risks to public safety, the safety and health of all persons, property and the environment related to its activities in accordance with these Regulations; and

(b) planned and applied measures to reduce the risks identified to an acceptable level in light of the magnitude of those risks.

(3) Before constructing, installing, operating, modifying or decommissioning a facility that may present a significant risk to health or safety, a contractor, permit holder or a midstream operator shall ensure that a safety case approved by the Authority is in force for that facility or related activity.

(4) Where a safety case is in force for a facility, a contractor, permit holder or a midstream operator shall ensure that all operations and activities in relation to the facility comply with the safety case.

8. (1) A safety case shall include the information in the First Schedule and shall provide for the following matters in relation to the safety and health—

- (a) the relevant facility description and a description of the processes and activities that will take place at the facility;
- (b) a risk assessment and systematic identification of hazards; and
- (c) a safety management system for the facility comprising—
 - (i) a comprehensive and integrated system of risk control measures to eliminate or reduce the risks to an acceptable level; and
 - (ii) a process for monitoring, audit, review and continuous improvement of risk management practices.

(2) A safety case shall demonstrate that—

- (a) the accidents, hazards and possible accident scenarios in relation to the facility or related activity have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences;
- (b) adequate safety and reliability that have been taken into account in the design, construction, operation and maintenance of an installation, storage facility, equipment and infrastructure connected with the facility's operation which are linked to assessed risk of potential incidents, hazards or accidents inside the facility; and
- (c) an emergency preparedness and response plan has been prepared in accordance with these Regulations, the Act and applicable Kenyan laws.

(3) A contractor, permit holder or a midstream operator shall ensure that the safety case is prepared by experienced personnel with full access to all relevant information.

9. (1) A contractor, permit holder or a midstream operator shall ensure that the safety case for a facility shall establish and maintain a documented system of coordinating and controlling the safe performance of all work activities at the facility.

(2) The safety case shall include a "permit to work" system that shall apply to particular high-risk activities that may take place at the facilities including working—

- (a) in confined spaces and spaces where there is a risk of oxygen deficiency;
- (b) over water or (to erect, modify or dismantle scaffolds over water;
- (c) under water;
- (d) at height;
- (e) with welding equipment and other types of hot work;
- (f) with the use of heat sources;
- (g) susceptible to causing an unexpected release of energy;
- (h) in simultaneous operations;
- (i) on live electrical equipment;

(j) at risk of injurious exposure to dust;

(k) on a pressurized system;

(l) with pressure-testing of plant, equipment and pipelines; and

(a) in condition with exposure to radiation or instruments using radiation.

(3) The "permit to work" system, at a minimum, shall—

- (a) identify the persons having responsibility to authorise and supervise work;
- (b) ensure workers performing work have the requisite training and capability to perform the work; and
- (c) ensure that members of the workforce are competent in the application of the permit to work system.

(4) A "permit to work" shall—

- (a) outline—
 - (i) the nature of the work;
 - (ii) the place where the work may be performed;
 - (iii) the period during which the work may be performed;
 - (iv) any protective equipment to be used or worn; and
 - (v) any precautions that shall be taken to avoid endangering the health and safety of workers and other persons on or near the relevant facility or site,
- (b) be signed by the person-in-charge with respect to the relevant activity; and
- (c) be signed by the person with overall responsibility for the management of the relevant facility or site.

10. (1) A risk assessment required in developing a safety case shall—

- (a) identify the likely incidents, hazards or accidents that may occur in relation to the activity or facility;
- (b) set out a detailed and systematic assessment of the risk associated with each of those hazards, including the likelihood and consequences of each incident;
- (c) identify the measures that are necessary to reduce each of those risks to a level that is as low as is reasonably practicable; and
- (d) include the matters outlined in the First Schedule.

(2) The contractor, permit holder or a midstream operator shall perform the risk assessment using established methodologies including—

- (a) qualitative risk assessment, in which frequency and severity are determined purely qualitatively;
- (b) semi-quantitative risk assessment, in which frequency and severity are approximately quantified within ranges; or
- (c) quantitative risk assessment, in which full quantification occurs.

(3) The contractor shall provide justification for employing the selected methodology in each case. The choice of methodology shall take into account the following dimensions:

- (a) the level of estimated risk (and its proximity to the limits of tolerability)
- (b) the complexity of the problem and/or difficulty in answering the question of whether more needs to be done to reduce the risk.

(3) The risk assessment shall include analysis of the probable consequences of single failures or sequential failures in and connected to the activity or facility.

(4) The risk assessment shall outline the acceptance criteria in relation to the risks being assessed which shall—

- (a) consider both the likelihood and consequences of identified hazards;

- (b) reflect the characteristics of the activity or facility concerned;
- (c) reflect the safety objectives of the contractor, permit holder or a midstream operator, any standards approved by the Authority and best petroleum industry practices.

(5) The contractor, permit holder or a midstream operator shall—

- (a) include in the safety case a summary and explanation of the selection of acceptance criteria;
- (b) submit to the Authority, on request, supporting documentation for the evaluations on which the selection of acceptance criteria is based; and
- (c) review the risk acceptance criteria regularly as may be necessary with respect to any factor that may affect the appropriateness of the acceptance criteria selected.

(6) The results of the risk assessment shall be included as part of the basis for the making safety decisions in ensuring activities meet the required safety standard.

(7) A contractor, permit holder or a midstream operator shall communicate results from the risk assessment to the workers and ensure that the results are used actively in preventive safety measures and efforts.

(8) A contractor, permit holder or a midstream operator shall keep and maintain complete records of all risk assessments carried out.

(9) A contractor, permit holder or a midstream operator shall systematically review the basic assumptions made in the risk assessment to ensure that safety in upstream and midstream petroleum operations is maintained within the defined acceptance criteria for risk.

11. (1) The safety management system shall outline risk control measures selected to reduce the risk to an acceptable level and may consist of—

- (a) measures to reduce the probability of accidents or hazardous situations occurring; and
- (b) measures to mitigate the consequences of accidents or hazardous situations.

(2) The control measures selected shall be informed by the most critical event scenario (based on realistic severity and the realistic likelihood of occurrence).

(3) A contractor, permit holder or a midstream operator shall systematically follow up the implementation of the risk control measures and reassess the basic assumptions made in the risk assessment to ensure that safety is maintained to the level required.

12. (1) A contractor, permit holder or midstream operator shall, in preparing a safety case, include a safety zone around the area of the relevant development.

(2) Where an application for a safety case makes recommendations for the establishment of a safety zone, the Authority shall inform the Cabinet Secretary that a determination of a safety zone may be required in accordance with the Act and these Regulations.

13. (1) Where a safety case is required, a contractor, permit holder or a midstream operator shall submit the safety case to the Authority for approval, three (3) months prior to any proposed activity to be governed under the safety case.

(2) A contractor, permit holder or a midstream operator shall submit the application accompanied by the fee as prescribed by the Authority.

(3) Upon submission, the Authority shall acknowledge receipt of the safety case within seven (7) days.

(4) The Authority may, within thirty (30) days of receipt of the application, require a contractor, permit holder or a midstream operator to provide additional information related to the safety case or any other matter that the Authority may require in order to properly consider the safety case.

(5) A contractor, permit holder or a midstream operator shall respond to any query within twenty-one (21) days.

(6) The time period for processing the approval for safety case shall be paused until the additional information required is provided.

14. (1) Where the Authority is satisfied it has received adequate information to consider the safety case, the Authority shall consult with any person or other government agency as may be deemed fit to properly evaluate the efficacy of the proposed safety case.

(2) Where the Authority consults with any person or other government agency on any issue related to the safety case, any feedback must be received by the Authority at least forty-five (45) days before a decision on the safety case is required to be made.

(3) The Authority shall document its processes and deliberations in evaluating the safety case and maintain internal records relating to the decision process.

(4) Within one hundred and twenty days (120) of receiving adequate information on the safety case, the Authority shall—

- (a) reach a decision to either approve the safety case with or without conditions, or otherwise reject the safety case, providing its reasons;
- (b) communicate the decision of its evaluation to a contractor, permit holder or a midstream operator; or
- (c) if necessary, require any action to ensure the safety case complies with these Regulations or the Act.

(5) Upon rejection of the safety case, the contractor, permit holder or midstream operator shall resubmit the revised safety case to the Authority for review and consideration.

15. (1) A contractor, permit holder or a midstream operator shall notify the Authority in writing of its intent to revise or update the safety case as soon as practicable if—

- (a) a significant change to the facility or related activity is proposed;
- (b) a particular operation or activity is proposed for which the safety case in force does not adequately consider the risks and required control measures;
- (c) a significant new risk, or a significant increase in an existing risk to safety or health, arises or is likely to arise and is not provided for in the safety case in force; or
- (d) any proposed modifications to an activity or facility may result in a significant cumulative change in the overall level of risk.

(2) On receipt of a notification under this regulation, the Authority shall communicate in writing prescribing timelines for submission of the revised or updated safety case to the contractor or the midstream operator.

(3) In any case the safety case shall be reviewed and submitted to the Authority for approval when so required and in any case every three (3) years.

16. A contractor, permit holder or a midstream operator shall keep a copy of the approved current safety case at the facility addressed in the safety case.

3. Division 3 – Safety of Petroleum Facilities

4. Sub-division 1 – General Requirements

17. (1) A contractor, permit holder or a midstream operator shall ensure there is a person in charge with responsibility for safety and health matters at each manned facility during operations.

(2) Where the safety case for a facility so requires, a contractor, permit holder or a midstream operator shall ensure a person-in-charge is assigned to be responsible for the safety and supervision of an activity.

(3) A person in charge of an activity shall supervise the activity to ensure that—

- (a) the workers perform the activity in a safe manner in line with these regulations and best petroleum industry standards;

- (b) all tools and equipment are used in a safe manner;
- (c) all tools and equipment are maintained in a safe working condition;
- (d) the designated storage facility or area for tools and equipment is maintained in a safe manner; and
- (e) all tools and equipment are stored in a safe manner while not in use.

(4) A contractor, permit holder or a midstream operator is responsible to ensure that the person-in-charge is suitably qualified and instructed to discharge the supervisory tasks under this regulation.

18. (1) A contractor, permit holder or a midstream operator shall prepare a manual of instructions for safety of the facility's operations and bring it to the attention of every worker or any other person participating in upstream and midstream.

(2) A worker or any other person participating in upstream and midstream shall comply with the requirements of the manual of instructions relevant to his or her duties.

(3) A contractor, permit holder or midstream operator shall revise and update the manual of instructions for the safety of a facility's operations as need arises and ensure that such revisions are brought to the attention of workers and other persons participating in upstream and midstream in the facility.

19. (1) A contractor, permit holder or a midstream operator shall ensure that the design, engineering and construction of any facility is conducted in a manner to ensure the safety and wellbeing of persons present at or near the facility.

(2) A contractor, permit holder or a midstream operator shall ensure that the design, engineering and construction of any facility is undertaken in accordance with approved standards.

(3) A contractor, permit holder or a midstream operator shall ensure that the choice and location of a facility and its components is based on best petroleum industry practices and entails a risk analysis and area classification.

20. A contractor, permit holder or a midstream operator shall ensure that the design of the facilities takes into account, at a minimum, the following considerations—

- (a) the local environment of the facility site;
- (b) the requirements of Kenya's environmental laws and regulations including the requirements contained in these Regulations;
- (c) the ability of the facility to withstand abnormal loads;
- (d) the suitability of equipment and materials for their intended purpose;
- (e) systems for the relief of excessive pressure;
- (f) classification of areas at risk of explosion, fire or collapse;
- (g) the layout and distribution of equipment at the facility;
- (h) protecting workers from the risks arising from the use of rotating machinery and other hazardous machinery;
- (i) reducing the use of chemicals at the facility and minimizing the risks from any such use;
- (j) the characteristics of confined spaces at the facility with respect to maintaining a safe atmosphere and eliminating the risk of ignition;
- (k) the ventilation of spaces containing petroleum and, if necessary, equipping them with pressure relief valves and/or explosion protection panels;
- (l) the use of systems to detect abnormal conditions and reduce the risk of release of hazardous substances and to contain any release;
- (m) the suitability of the use of automatically operating safety equipment and installations to reduce the incidence and

consequences of fire, explosion, escape of gas and other hazards;

- (n) safe and easy access for inspection, testing and maintenance purposes; and
- (o) any foreseeable changes in future operational conditions.

21. A contractor, permit holder or a midstream operator shall ensure that the facilities are planned and designed to ensure that—

- (a) no single isolated defect or fault endangers persons, the environment or property;
- (b) as far as reasonably practicable, there is redundancy in the operating system and safety systems;
- (c) safety critical elements are identified to ensure safe control of the processes at the facility;
- (d) the potential for human error in operations is reduced as far as possible; and
- (e) the safety systems and mechanisms used in the facility are designed to control and record the relevant conditions for their integrity.

22. (1) A contractor, permit holder or a midstream operator shall ensure that facilities and equipment are sufficiently tested prior to operation in order to establish their, suitability, integrity and durability.

(2) A contractor, permit holder or a midstream operator shall develop a programme of regular testing of facilities and equipment to ensure that the critical components of each system continue to work safely. The regular testing programme shall include instructions on—

- (a) the required frequency of tests;
- (b) the required methodology to perform the manner of performance of the tests; and
- (c) the corrective measures that may be applied, and any other relevant recommendations.

(3) A contractor, permit holder or a midstream operator shall ensure that testing of facility and equipment shall be performed by a person approved by the Authority.

23. (1) A contractor, permit holder or midstream operator shall undertake regular inspection, maintenance and repair of all equipment and facilities.

(2) A contractor, permit holder or midstream operator shall ensure that all tools, equipment, machinery and plant used in the course of upstream and midstream are—

- (a) maintained in a good state of repair;
- (b) safely constructed;
- (c) installed safely, where appropriate; and
- (d) regularly inspected and repaired where necessary.

24. (1) Where a contractor, permit holder or a midstream operator proposes to undertake an activity that entails the use of new technology or new methods, a contractor, permit holder or a midstream operator shall establish a criteria for the development, testing, and use of the technologies, taking into account the requirements for health, safety and working environment in accordance with any approved standards and best petroleum industry practices.

(2) A contractor, permit holder or a midstream operator shall inform the Authority prior to the introduction of new technology or new method in upstream and midstream.

5. Sub-division 2 – Facility Design and Construction

25. (1) A contractor, permit holder or a midstream operator shall ensure that facilities, systems and equipment are designed in a robust manner in accordance with any approved standards and best petroleum industry practices to ensure that—

- (a) the facilities, systems and equipment can be operated, tested and maintained without endangering human life, health, the environment and material assets; and
- (b) the facilities, systems and equipment are suitable for use and able to withstand the anticipated loads they will encounter during operation.

(2) A contractor, permit holder or a midstream operator shall ensure that components of facilities and related systems and equipment shall be clearly marked and labelled to facilitate safe operation and prudent maintenance.

26. (1) A contractor, permit holder or a midstream operator shall ensure the integrity of support structures and materials in the facility.

(2) Design requirements relating to support structures shall include functional specifications to guarantee—

- (a) loads and environmental conditions that may be incurred by fabrication, installation, maintenance and operation;
- (b) performance in normal conditions, with particular regard to damage, movements, fixings, vibration and fatigue;
- (c) resistance to possible actions and strain that may give rise to faults, large rigid movements or stresses comparable to faults; and
- (d) stability of any floating structures in situations of drifting, floundering or sinking.

(3) A contractor, permit holder or a midstream operator shall determine the characteristics, functions and performance standards of all structural supports and their components and materials. Structural supports shall—

- (a) have optimum ductile properties and low sensitivity to local damage;
- (b) be equipped with instruments to measure environmental loads;
- (c) provide single stress trajectories with small concentrations of stress;
- (d) be resistant to corrosion and other damage; and
- (e) permit the simple check of conditions for maintenance and repair purposes.

(4) A contractor, permit holder or a midstream operator shall ensure that the components, couplings and connecting parts are subject to safety testing during the fabrication and production process.

27. When selecting materials for a facility during the design phase, a contractor, permit holder or a midstream operator shall—

- (a) ensure that materials meet all the approved standards and best petroleum industry practices regarding strength, ductility, toughness, corrosion, durability and consider the material's compatibility with process fluids and operational conditions;
- (b) ensure that materials adequately address the need to protect against corrosion, erosion and other forms of decay;
- (c) consider the fire resistance attributes of the materials; and
- (d) ensure that, where new materials are introduced, the materials are verified by means of necessary analyses, calculations and tests so that the materials meet appropriate stipulated safety criteria.

28. A upstream and midstream operator shall ensure that the detailed layout plans and specifications for pipelines and storage depots required shall be compatible with best petroleum industry practices and consider the following factors—

- (a) the location of any ancillary buildings and other installations to allow for safe evacuation of personnel in case of emergency;
- (b) the safe performance of internal inspection and maintenance;
- (c) the use of control or monitoring equipment including flow detectors and pressure monitors, to protect or to secure the safe operation of the pipeline or storage tank;

- (d) the use of emergency shut-off valves to minimise loss of containment of the pipeline or storage tank inventory, capable of manual or automatic operation;
- (e) the use of isolation mechanisms such as interlocks that may remotely trigger a shut-off valve based on events such as abnormal pressure conditions in the pipeline or storage tank;
- (f) the use of devices to prevent safe operating limits being exceeded, such as pressure relief valves or block valves to limit the inventory released, which shall be spaced in accordance with the safety evaluations and allowing for maintenance access; and
- (g) the location of emergency shut-down valves and related mechanisms such that they, so far as reasonably practicable, shall remain operational in the event of fire, explosion or impact.

6. Sub-division 3 – Safety Features of Facilities

29. (1) A contractor, permit holder or a midstream operator shall ensure that the location, design and construction of a facility's control room is suitable to withstand possible major accidents.

(2) The control room shall be secured with access control systems and cameras to prevent unauthorized access;

(3) The layout of the control room and arrangement of panels shall ensure effective ergonomic operation of a facility in both normal circumstances and emergency situations.

(4) The design of the control room shall consider the possibility of emergencies or disasters and provide emergency response procedures;

(5) A contractor, permit holder or a midstream operator shall ensure availability of qualified personnel to man the control room.

30. (1) A contractor, permit holder or a midstream operator shall ensure that facilities are installed with an emergency shutdown system which shall be designed to initiate upon detection of defined, potentially hazardous conditions.

(2) A contractor, permit holder or a midstream operator shall ensure that facilities are installed with an emergency shutdown system which shall—

- (a) be able to prevent or mitigate the development of an incident, hazard or accident and limit the consequences of the incident, hazard or accident;
- (b) be designed to withstand the loads to which they may be subjected;
- (c) be able to perform the intended functions independently of other systems and have a simple and clear command structure;
- (d) be designed to maintain safe conditions in case of a fault that may prevent the system from functioning;
- (e) be capable of being activated manually from the control room or from trigger stations that are located in strategic locations in the facility; and
- (f) be able to bring the facility to a safe condition in the event of a fault.

(3) A contractor, permit holder or a midstream operator shall ensure that—

- (a) emergency shutdown valves are installed with the capacity to stop the flow of petroleum and chemicals to and from a facility;
- (b) the emergency shutdown valves are able to isolate the fire areas of a facility;
- (c) the system can be tested safely and without interrupting operations;
- (d) all accessible emergency shutdown valves are equipped with a position indicator and the status can automatically be transferred to the control room; and
- (e) the re-setting of emergency shutdown valves is performed in a safe and controlled manner.

31. (1) A contractor, permit holder or a midstream operator shall ensure that a facility equipped with or attached to processing facilities has a gas release system to prevent escalation of hazards, incidents and accidents by quickly reducing the pressure in the equipment.

(2) A contractor, permit holder or a midstream operator shall ensure that the gas release system is designed so that—

- (a) the release of gas does not harm workers, equipment or the environment;
- (b) depressurization may be triggered manually from the control room;
- (c) any liquid separators installed in the system are secured against overfilling and the status of components in the system is monitored; and
- (d) maintenance and functional testing can be carried out conveniently without interrupting operations.

32. (1) A contractor, permit holder or a midstream operator shall ensure that facilities are installed with an automatic depressurisation and flare system, as applicable, that—

- (a) is designed to prevent escalation of incidents, hazards or accidents by reducing the pressure in the equipment;
- (b) is designed to ensure that any release of gas does not harm workers or damage equipment; and
- (c) is capable of being activated manually from the control room, where applicable.

(2) A contractor, permit holder or a midstream operator shall ensure that a liquid separator installed in a flare system shall be secured against overfilling.

33. A contractor, permit holder or a midstream operator shall ensure that a facility is—

- (a) equipped with open drainage systems that can collect and divert petroleum, chemicals and other liquids so that any risk of fire, of harm to workers or of pollution to the environment is minimised; and
- (b) designed to ensure that any discharge of petroleum, chemicals or other liquids results in the least possible pollution of the environment.

34. (1) A contractor, permit holder or a midstream operator shall ensure that the design of a facility is consistent with any approved standards and best petroleum industry practices for the prevention and control of fire and explosion hazards.

(2) A contractor, permit holder or a midstream operator shall ensure that the selection of fire safety measures in the facility design includes consideration of the following—

- (a) segregation of process, storage, utility and safe areas;
- (b) safety distances derived from specific safety analyses for the facility and any approved standards and best petroleum industry practices for fire safety;
- (c) early release detection including pressure monitoring of gas, liquid conveyance systems, smoke and heat detection for fires;
- (d) evaluation of the risk of vapour accumulation in storage tanks and implementation of prevention and control techniques;
- (e) layout of pipes with respect to potential sources of ignition to avoid spills over high temperature piping, equipment or rotating machines;
- (f) passive fire protection measures;
- (g) limiting the areas potentially likely to be affected by accidental releases by—
 - (i) defining fire zones equipped with a drainage system to collect and convey accidental releases of flammable liquids to a safe containment area;
 - (ii) including secondary containment of storage tanks, where applicable;

- (iii) installing fire and blast partition walls in areas where appropriate separation distances cannot be achieved;
- (iv) designing the oily sewage system to avoid propagation of fire; and
- (v) any other measures the contractor, permit holder or a midstream operator may deem relevant.

35. (1) A contractor, permit holder or a midstream operator shall ensure that a facility has an automatic fire and gas detection system that ensures quick and reliable detection of developing fires and gas leaks which functions independently of other systems.

(2) A contractor, permit holder or a midstream operator shall ensure that the fire or gas detection system is capable of triggering automatic actions to limit the consequences of the fire or gas leak.

36. (1) Fire protection and prevention practices within a facility or applied during upstream and midstream petroleum operations shall be governed by the Act, these Regulations, any approved standards, best petroleum industry practices and any other applicable Kenyan laws.

(2) A contractor, permit holder or a midstream operator shall put in place, at a minimum, measures to improve fire protection in a facility which shall include;

- (a) assessment of initial fire safety preparedness;
- (b) provision of equipment for fire emergency on site;
- (c) installation of an automatic fire outbreak alert systems;
- (d) installation of automatic and manual fire suppression systems;
- (e) inspection or testing of the equipment by an independent competent body approved by the Authority;
- (f) measurement of dangerous gas with detection equipment; and
- (g) training workers to use fire protection equipment.

37. (1) A contractor, permit holder or a midstream operator shall ensure that where passive fire protection measures are used at a facility, such measures shall be designed to provide the relevant structures and equipment with sufficient fire resistance with respect to load capacity, integrity and isolation properties during a design fire load.

(2) A contractor, permit holder or a midstream operator shall ensure that any living quarters in a facility are designed to ensure that the functions they are designed for can be maintained during a dimensioning fire.

(3) A contractor, permit holder or a midstream operator shall ensure that the choice of materials and interior design of any living quarters are considered with respect to the fire risk and are able to prevent fire from spreading.

38. (1) A contractor, permit holder or a midstream operator shall ensure that spaces with key functions and equipment or that pose a high fire risk, are separated from the surroundings by means of fire divisions.

(2) Fire divisions shall be designed to withstand the thermal loads that may occur in a dimensioning fire, to prevent fire from spreading to the adjacent areas or cause equipment in those areas to become inoperative for a minimum period of one hour.

(3) The strength of the fire divisions shall not be reduced by any intersection with ventilation ducts, piping, cables, beams, windows and doors or other penetrations.

(4) Doors in fire divisions shall be capable of closing automatically.

39. A contractor, permit holder or a midstream operator shall ensure a facility's ventilation system is designed to effectively control smoke from a dimensioning fire and to ensure that both evacuation and fire-fighting can take place in a cautious and effective manner.

40. (1) A contractor, permit holder or a midstream operator shall ensure that any living quarters and work areas in a facility—

- (a) are designed and protected to prevent penetration of smoke from a fire; and
- (b) are equipped with a reliable system capable of giving warning to every person on the facility of a detected fire event and the need to evacuate the facility.

(2) The fire alarm and evacuation system referred to in sub-regulation (1) shall be capable of—

- (a) manual activation from the control room and any other relevant positions; and
- (b) activating an alarm in the control room.

(3) Every operational facility shall have an emergency assembly point in an open space free from any potential risk. A contractor, permit holder or a midstream operator shall ensure that an additional emergency assembly point(s) exist to avoid overcrowding in case of an emergency and that clear guidance is provided to this effect.

41. (1) Each floor of a building in a facility shall have at least one escape exit which shall—

- (a) be clearly marked;
- (b) be clear for use at all times;
- (c) have open doorways or swinging doors to provide the maximum possibility of escape;
- (d) provide an unobstructed passage to the fire assembly point; and
- (e) be located to provide reasonably safe alternative means of escape.

(2) The doors of an escape exit shall—

- (a) be readily opened from the inside without a key and shall swing outward if located in an exterior wall;
- (b) not be locked while the room is occupied; and
- (c) be accessible by fixed ladder, stairway, ramp, walkway, slide, slide pole or any other means consistent with any approved standards and best petroleum industry practices.

(3) Any gated fence which is close to a light oil or gas processing unit shall have gates opening outward.

(4) The gates of an enclosure within a facility shall be unlocked whenever the area within the enclosure is occupied.

(5) A contractor, permit holder or a midstream operator shall use any other means to ensure the safety of the workers and the facility or upstream and midstream.

42. (1) A contractor, permit holder or a midstream operator shall, during the design phase incorporate a fixed fire-fighting system in the facility design.

(2) A contractor, permit holder or a midstream operator shall ensure that a facility is equipped with sufficient fire-fighting equipment to efficiently combat near-fires and prevent escalation in case of fire.

(3) A contractor, permit holder or a midstream operator shall provide firefighter equipment to enable safe and effective fire-fighting to be carried out efficiently and that the equipment is kept on the installation and stored in a cautious and suitable manner ready for immediate use.

43. (1) A contractor, permit holder or a midstream operator shall ensure that a fixed fire-fighting system—

- (a) is installed in explosion-hazard areas and in areas with a significant risk of fire;
- (b) covers or provides for equipment containing significant amounts of petroleum and is designed to ensure that firefighting can be carried out quickly and efficiently at all times; and

(c) is capable of automatic activation by a signal from the fire detection system and in the event of gas detection, the system is automatically activated where this can result in lower explosion pressure.

(2) In areas where gas is used as a fire extinguishing medium, fixed fire-fighting systems shall enable an automatic announcement to alert persons present that a release of gas has occurred.

(3) The manual activation of the fire-fighting systems shall be capable of activating the general alarm of the facility.

(4) Fire-fighting equipment shall be clearly marked in accordance with approved standards and best petroleum industry practices.

(5) The type, capacity and location of fire-fighting equipment shall be determined with reference to the dimensioning fire to ensure that firefighting can be carried out in a safe and effective manner.

(6) The fire-fighting equipment used in a facility shall meet the approved standards and best petroleum industry practices.

(7) A contractor, permit holder or a midstream operator shall ensure that fire-fighting equipment in a facility is able to be tested and used during normal operational conditions.

44. (1) A contractor, permit holder or a midstream operator shall ensure that any fire pump systems incorporated into the facility are designed with regard to capacity, efficiency, reliability, location and protection so as to enable effective fire-fighting of dimensioning fires in accordance with the approved standards and best petroleum industry practices.

(2) A contractor, permit holder or a midstream operator shall ensure that—

- (a) fire pumps are able to start automatically when there is a pressure drop in the fire main, and when a signal is given from the fire and gas detection system;
- (b) fire pumps are capable of starting manually from the control room and at the prime mover; and
- (c) the control room is capable of monitoring and detecting the operational status of the fire pump systems.

(3) A contractor, permit holder or a midstream operator shall ensure that every facility has sufficient water supply capacity at all times to combat and extinguish fires.

45. (1) A contractor, permit holder or a midstream operator shall ensure that workers are trained in fire prevention and response procedures so that workers are prepared to manage operational risks and handle incidents and emergencies in an effective manner.

(2) A contractor, permit holder or a midstream operator shall ensure that fire response drills are conducted on a frequent basis to enable workers to be prepared to manage operational risks and handle incidents and emergencies in an effective manner.

(3) A contractor, permit holder or a midstream operator shall ensure that—

- (a) fire response drills are conducted under the control of the person-in-charge of the facility;
- (b) fire response drills are conducted at random times;

46. A contractor, permit holder or a midstream operator shall ensure that—

- (a) all work areas and related equipment are designed and positioned in a manner that reduces the risk of harm, injury or illness to workers through manual handling, work position, repetitive movements or work intensity; and
- (b) regular ergonomic risk assessments are conducted wherever there is a change in the working conditions of processes.

47. A contractor, permit holder or a midstream operator shall ensure that the design of a facility sufficiently reduces the risk of injury to workers due to exposure to noise or vibrations and that workers onsite wear hearing protection devices while working in areas with noise and vibration.

48. A contractor, permit holder or a midstream operator shall ensure that the design of a facility—

- (a) ensures adequate ventilation—
 - (i) so that hazardous and combustible gases do not penetrate closed areas which are classified as non-hazardous or ordinary locations; and
 - (ii) so that smoke from a fire may be controlled;
- (b) enables control of the atmosphere of individual rooms with regard to air needs, circulation, humidity and temperature; and
- (c) ensures adequate ventilation for both indoor and outdoor areas to provide acceptable air quality free of hazardous pollution to in compliance with any applicable Kenyan air quality standards.

49. (1) A contractor, permit holder or a midstream operator shall ensure that a facility is designed to minimise exposure of workers to radiation and to ensure that primary technical solutions which minimise the use of radioactive substances are applied.

(2) A contractor, permit holder or a midstream operator shall ensure that appropriate warning signs are present where radioactive substances are used, transported, handled, stored and disposed.

(3) A contractor, permit holder or a midstream operator shall ensure that where radioactive substances are used, safe transportation, handling, storage and disposal practices are observed in accordance with the Material Safety Data Sheet from the manufacturer.

(4) A contractor, permit holder or midstream operator shall adhere to the Nuclear Regulatory Act, 2019 and all other applicable Kenyan laws in the management of radiations in upstream and midstream and facilities.

50. A contractor, permit holder or a midstream operator shall ensure that a facility is designed, operated and maintained to provide adequate lighting for operations in the facility, to comply with the approved standards and best petroleum industry practices.

7. Division 4 – Equipment Safety

51. (1) A contractor, permit holder or a midstream operator shall ensure that all tools, equipment and machinery used in upstream and midstream petroleum operations are—

- (a) designed, constructed, tested, installed, inspected and maintained safely in accordance with the approved standards and best petroleum industry practices;
- (b) situated and positioned in the facility safely and appropriately in relation to their intended use and other proximate activities;
- (c) of sufficient size and strength to withstand imposed stresses and to safely perform the functions for which they are to be used; and
- (d) operated only by a suitably qualified, trained or competent person.

(2) A contractor, permit holder or a midstream operator shall ensure that—

- (a) machinery, equipment and their components are in a safe condition during operation, repair, maintenance, testing and restart;
- (b) all exposed and moving parts of machinery are enclosed, screened or railed off to prevent any worker or any other person from coming into contact with them;
- (c) where power-driven machinery is used, each machine has a stopping device located within easy reach of the worker operating the machinery;
- (d) every machine which is not individually motor driven is equipped with a clutch or other adequate means of stopping the machine; and
- (e) starting devices are arranged to prevent an incident, hazard or accident.

(3) A contractor, permit holder or a midstream operator shall ensure that—

- (a) any scaffolding, stage, walkway, working platform, stairway and ladder, whether temporary or permanent, are constructed and maintained in safe condition; and
- (b) all hand tools are kept in a good state of repair.

52. (1) Where appropriate, equipment and aspects of facilities shall be fitted with recording and monitoring instruments that allow a contractor, permit holder or a midstream operator to track the performance of the equipment and the need for maintenance or replacement.

(2) A contractor, permit holder or a midstream operator shall ensure that the monitoring instruments are calibrated by a independent competent body approved by the Authority.

(3) A contractor, permit holder or a midstream operator shall provide a valid calibration certificate for monitoring instruments upon request by the Authority.

53. (1) A contractor, permit holder or a midstream operator shall ensure that electrical, instrumentation and telecommunications systems are designed and installed in such a way so as to minimise risks of fire or explosion, to prevent accidents involving personnel, support emergency functions and to maintain regular production.

(2) A contractor, permit holder or a midstream operator shall ensure that instruments for checking and recording safety data are connected to an emergency energy source.

(3) A contractor, permit holder or a midstream operator shall retain information on the design and installation characteristics of the safety system at the facility including at least the following—

- (a) a flow chart of any processing system which shows the maximum operating pressure, operating temperature, dimension, capacity and working design pressure of the separators, torch scrapers, treatment devices, storage tanks, compressors, pipeline pumps, measuring devices and other tanks and hydrocarbon handling installations;
- (b) information on the electrical system, including the classification of hazard areas, main equipment, emergency shutdown, fire and gas detection devices, and also alarm systems; and
- (c) schematics of any subsea control system, safety devices, umbilicals, and electric or hydraulic energy production units.

54. (1) A contractor, permit holder or a midstream operator shall ensure that each stationary tank or vessel containing flammable, corrosive or poisonous substances is identified by a unique assigned name or alphanumeric code.

(2) A contractor, permit holder or a midstream operator shall ensure that piping within the facility containing flammable, corrosive or poisonous liquids or gases are adequately identified and labelled indicating their contents and purpose.

(3) Equipment identifications in the facility shall be maintained so as to be legible in accordance with approved standards and best petroleum industry practices.

55. (1) A contractor, permit holder or a midstream operator shall ensure that a facility is equipped with sufficient fire-fighting equipment to efficiently combat fire hazards and prevent escalation in case of fire.

(2) A contractor shall ensure that—

- (a) firefighting equipment enables safe and effective fire-fighting to be carried out efficiently and that the equipment is kept on the installation and stored in a cautious and suitable manner ready for immediate use;
- (b) every worker at a facility area receives instruction in the use of the fire-fighting equipment;
- (c) fire-fighting equipment is capable of use in a simple and safe manner;

- (d) water outlets are located to enable water from two well separated outlets to reach any fire or near fire on the facility; and
- (e) all fire-fighting equipment is inspected and tested at appropriate intervals by a qualified person and that a signed logbook is kept recording the last date and results of inspection.

56. (1) A contractor, permit holder or a midstream operator shall ensure that all electrical installations are designed with safeguards and other necessary protection that prevent abnormal conditions or faults that might result in danger to workers and the facility in accordance with any approved standards and best petroleum industry practices.

(2) A contractor, permit holder or a midstream operator shall implement the necessary measures to prevent injury to persons and minimise hazards, incidents and accidents during work near live installations, in or near earthed and short-circuited installations, and during operation of low and high voltage installations.

(3) Electrical installations shall be equipped with a lightning protection system and be designed with adequate protection against—

- (a) electrical shock during normal use and in the event of faults;
- (b) thermal effects;
- (c) over current;
- (d) fault currents;
- (e) over voltage;
- (f) under voltage;
- (g) variations in voltage and frequency;
- (h) power supply failure;
- (i) ignition of explosive gas atmosphere, electromagnetic disturbances; and
- (j) health hazard as a result of electromagnetic fields.

(4) Electrical installations shall have an earthing system installed to prevent static electricity in connection with explosive atmospheres.

(5) A contractor, permit holder or a midstream operator shall designate a competent person or a worker responsible for the electrical installations.

57. A contractor, permit holder or a midstream operator shall ensure—

- (a) that all testing or work performed on electrical equipment is performed by a certified person or worker; and
- (b) where a worker is at risk of electrical shock during the performance of testing or work, that the worker—
 - (i) has been trained in the use of the insulated protection equipment and tools; and
 - (ii) uses appropriate insulated protection equipment and tools to prevent injury.

58. (1) A contractor, permit holder or a midstream operator shall ensure that lifting appliances and operations comply with requirements of the relevant Kenyan law, approved standards and best petroleum industry practices.

(2) A contractor, permit holder or a midstream operator shall ensure that the standards selected for the operation and maintenance of lifting appliances adequately consider operational conditions and the likely range of climatic conditions.

(3) A contractor, permit holder or a midstream operator shall designate a person responsible to ensure that any lifting operations are carried out using lifting appliances specially designed for that purpose and certified by an inspector.

(4) A contractor, permit holder or a midstream operator shall ensure that any equipment for lifting workers is designed to ensure safety for all the workers carrying out activities above normal work height.

(5) A contractor, permit holder or a midstream operator shall establish procedures to ensure that lifting appliances and equipment are inspected—

- (a) prior to entry into operation;
- (b) following any repair or modification for the purposes of recertification; and
- (c) at regular intervals during the period the lifting appliances and equipment are in use.

(6) During all lifting operations, a contractor, permit holder or a midstream operator shall implement communication procedures among all workers involved.

59. (1) A contractor, permit holder or a midstream operator shall ensure that—

- (a) all powered mobile equipment shall be maintained in good functional order, and shall be operated in a manner that prevents undue danger to human life or harm to the environment;
- (b) where mobile equipment may be operated during hours of darkness, adequate light shall be provided and used;
- (c) where mobile equipment may be used in locations or under conditions where there is a danger of falling objects, an overhead guard with shelter shall be provided to protect the occupants from over-head hazards and adverse weather conditions;
- (d) any cab or similar means of enclosure on mobile equipment has adequate means of ventilation;
- (e) a guard shall be installed to protect a driver of equipment where mobile equipment uses hosting or hauling ropes;
- (f) mobile equipment shall be only operated by a competent and qualified driver;
- (g) a worker designated by a contractor, permit holder or a midstream operator to drive the mobile equipment shall operate the equipment in a safe manner; and
- (h) a designated signal-man shall be used to ensure safe operation where a driver's vision may be obstructed.

(2) A contractor, permit holder or a midstream operator shall ensure that all powered mobile equipment are designed, constructed, tested, inspected and maintained in accordance with the approved standards.

60. (1) A contractor, permit holder or a midstream operator shall ensure that boilers and unfired pressure vessel used in connection with upstream and midstream are;

- (a) designed, constructed, installed and maintained in accordance with any applicable Kenyan laws, approved standards and best petroleum industry practices.
- (b) inspected and tested by an independent competent body approved by the Authority before their initial use and subsequently, on a regular basis, in accordance with any applicable Kenyan laws, approved standards and best petroleum industry practices.

61. Any rotating machinery and the components thereof shall be designed and installed in a manner that minimizes any risk to people, property and to the environment.

62. Machinery and plant that uses valves which pose significant risks to safety shall be tested in accordance with the approved standards and best petroleum industry practices.

8. Division 5 – Operational Safety

9. Sub-Division 1 – General Requirements

63. (1) Where a contractor, permit holder or a midstream operator may apply for any permit from the Authority under any regulations in respect of any operation or activity the Authority shall consider any implicated environmental, safety or health concerns.

(2) The Authority may require any additional document or information or make any inquiry as it sees fit in order to verify that that environmental, safety or health concerns are appropriately considered.

(3) The Authority may only issue an approval permit in respect of any upstream and midstream operation or activity under these or any regulations where it is satisfied that any potential environmental, safety or health risks have been appropriately considered and mitigated.

64. A contractor, permit holder or a midstream operator shall coordinate the operation of safety systems for all operations at a facility.

65. A contractor, permit holder or a midstream operator shall have procedures and measures intended to ensure the safety, reliability and integrity of—

- (a) fire-fighting services;
- (b) transport services;
- (c) supply services;
- (d) control and emergency centres;
- (e) rescue and evacuation services;
- (f) suppliers of alternative emergency services; and
- (g) safety and health at work service.

66. Prior to the entry into operation of an installation, a contractor, permit holder or a midstream operator shall establish a programme for the control and management of safety, the results of which shall be documented.

67. (1) For all manned offshore facilities, the contractor, permit holder or midstream operator shall ensure that working radio or telephone communication lines are in place between the facility and an onshore base.

(2) Unless a person-in-charge has ordered that operations may temporarily preclude it, radio or telephone communications shall be made from the onshore base to the facility at least once in each period of three hours.

(3) A contractor, permit holder or midstream operator shall ensure that suitable transportation is readily available to enable transport to the offshore facility, in the event that the onshore base is unable to make contact with a manned offshore facility, except for planned communication outages.

68. A contractor, permit holder or midstream operator shall ensure that any transportation by a vessel or aircraft between an onshore base and an offshore facility is controlled and monitored from the onshore base or the offshore facility or both.

69. (1) In executing decommissioning operations a contractor, permit holder or midstream operator shall—

- (a) restore and remediate the relevant area to as near original state as possible prior to the operations as far as is practicable or to such state as is otherwise provided in the approved final decommissioning plan;
- (b) ensure the safety of local communities in the areas previously subjected to the upstream and midstream;
- (c) ensure the removal, reuse, recycling and disposal of materials and equipment resulting from the dismantling of facilities; and
- (d) ensure correct handling, treatment, transport and final disposal of all the waste produced, in compliance with Kenyan law and Best Petroleum Industry Practices.

Sub-Division 2 – Safety Zones

70. (1) The Cabinet Secretary may on advice by the Authority, determine the extent of each safety zone surrounding every—

- (a) upstream petroleum facility; and
- (b) midstream pipeline and storage facility

unless the Cabinet Secretary decides, on advice by the Authority, that a safety zone is considered unnecessary in light of the risks to safety and health posed in the circumstances.

(2) A safety zone may comprise of any geographical area around, above or below the facilities.

(3) A contractor, permit holder or midstream operator may propose the vertical and horizontal extent of the safety zone with respect to the position of the relevant pipeline or facility in accordance with best petroleum industry practices.

(4) An offshore safety zone established under this regulation shall have an area extending five hundred (500) metres—

- (a) from any part of a fixed or mobile facility used in upstream and midstream operations and around said facility; and
- (b) from the central point of a pipeline or subsea equipment.

71. (1) No unauthorised person, vehicle or vessel shall enter, pass, stay or operate in the safety zone, without the permission of the contractor, permit holder or midstream operator in control of the safety zone, except—

- (a) a person or vehicle that enters, passes or stays in the safety zone of buried sections of an onshore pipeline and that does not cause ground disturbance; or
- (b) a vessel that passes or operates in the safety zone of a pipeline or subsea equipment without anchoring or trawling and that maintains a minimum vertical distance of five hundred (500) metres between its keel and said pipeline or subsea equipment.

(2) The safety zone shall not limit activities which are specifically permitted in accordance with the Act or which constitute official activities of the contractor, permit holder or midstream operator.

72. (1) Prior to the coming into force of a safety zone, the Cabinet Secretary shall cause to be published in the Kenya Gazette the following details—

- (a) the global positioning system coordinates of any safety zone and any relevant addresses;
- (b) any identifying features of installations in the safety zone or its surrounding environment; and
- (c) any restrictions regarding entry into or performance of any activity in the safety zone.

(2) Sub-regulation (1) shall not apply where a safety zone is established or extended in case of accident or emergency.

73. The Cabinet Secretary may, upon advice by the Authority, in cases of accidents and emergencies establish a new safety zone or extend an existing safety zone where this is considered necessary to prevent or limit—

- (a) risk of injury or loss of life;
- (b) significant damage to facilities or surrounding property;
- (c) pollution or other environmental damage; or
- (d) substantial interruption to production.

74. A contractor, permit holder or midstream operator shall—

- (a) monitor all activities inside the safety zones relating to the facilities;
- (b) monitor activities proximate to the facilities for potential risks to safety of the upstream and midstream; and
- (c) refuse entry to unauthorised persons, vehicles and vessels.

75. A contractor, permit holder or midstream operator of a facility within a safety zone located offshore shall—

- (a) alert a vessel about to enter a safety zone when it has no right to enter such area;

- (b) alert vessels outside a safety zone if the vessels may constitute a danger to safety of the upstream and midstream;
- (c) to the extent possible, refuse to allow an unauthorised vessel entry into the safety zone;
- (d) request the Kenya Maritime Authority to—
 - (i) issue notices to mariners and navigational warnings under section 219 of the Merchant Shipping Act, 2009 about the safety zone;
 - (ii) consent to temporary or permanent aids to navigation established under sub-section 221(2) of the Merchant Shipping Act, 2009 and necessary for the safety zone.

76. (1) A contractor, permit holder or midstream operator shall within forty-eight (48) hours inform the Authority in writing of—

- (a) any violation of a safety zone; and
- (b) any activity in or near a safety zone which may constitute a serious danger to safety of upstream and midstream operations, facilities, the public and personnel.

(2) The Authority shall notify the Cabinet Secretary upon receiving any notification under sub-regulation 1(a) or 1(b) and advise the Cabinet Secretary on whether to extend the safety zone.

10. Sub-Division 3 – Pipeline and Storage Facility Safety

77. (1) Prior to the commencement of the operation of a pipeline or a storage facility, a midstream operator shall install warning signs to inform the public on the location of the pipeline and attendant dangers.

(2) A operatorcontractor, permit holder or midstream operator shall install and maintain warning signs in a prominent, visible location, and in accordance with standards approved by the Authority and best petroleum industry practices.

(3) Where a pipeline crosses a road, railway or watercourse, a contractor, permit holder or midstream operator shall install a pipeline warning sign on both sides of the crossing point.

(4) A contractor, permit holder or midstream operator shall put in place measures for way leave security and maintenance using best petroleum industry practices.

78. Prior to the commencement of the operation of a pipeline or storage facility, a midstream operator shall ensure that procedures and measures are in place to deal with—

- (a) the accidental loss of petroleum from the pipeline or storage tank;
- (b) the discovery of a defect in or damage to the pipeline or storage tank or of any other emergency affecting the pipeline or storage tank; and
- (c) the failure of any ancillary system.

79. A midstream operator shall ensure that the safety case for operation of a pipeline or storage facility shall include the development, review and maintenance of site-specific operating standards outlining the procedures to be followed during operations.

11. PART IV – OCCUPATIONAL HEALTH AND SAFETY

12. Division 1 – General Requirements

80. (1) A contractor, permit holder or a midstream operator shall ensure that work at all levels of the facility complies with the Act, these Regulations, and the approved standards on occupational safety and health, best petroleum industry practices, and any other applicable Kenyan laws.

- (2) A contractor, permit holder or a midstream operator shall—
 - (a) establish goals related to the occupational safety and health;
 - (b) focus principally on preventing the occurrence of incidents, accidents or hazardous situations;
 - (c) ensure continuous monitoring and control of the working environment and the health of the workers when necessitated by risk factors in a facility or during upstream and midstream;

- (d) make a survey of hazards and carry out a risk assessment for each operation;
- (e) ensure systematic prevention, management and follow-up on workers who are absent from work due to sickness; and
- (f) ensure continuous systematic improvement of safety and health procedures and outcomes.

81. (1) A contractor, permit holder or a midstream operator shall ensure that—

- (a) no workers are under the influence of alcohol or other intoxicants while working in the course of upstream and midstream; and
- (b) no alcoholic beverages or any other intoxicants are allowed to be brought on to or consumed at a workplace or site of the upstream and midstream.

82. (1) A contractor, permit holder or a midstream operator shall ensure that workers shall not work for—

- (a) a continuous period; or
- (b) successive continuous periods

for a duration that could reasonably be expected to have an adverse effect on the worker's safety and health or that of any other person.

(2) A contractor, permit holder or a midstream operator shall ensure that working hours and shift schedules take into account the need to minimise periods of prolonged of exposure of workers to hazardous conditions including exposure to—

- (a) extreme temperatures;
- (b) noise or vibrations;
- (c) adverse weather and external atmosphere;
- (d) dangerous emissions; or
- (e) confined spaces.

83. (1) A contractor, permit holder or a midstream operator shall institute measures to prevent the risk of release and accumulation of gases into a work environment likely to create asphyxiating conditions due to displacement of oxygen.

(2) Prevention and control measures to reduce risks of asphyxiating gas release under sub-regulation (1) may include—

- (a) design and placement of nitrogen or any other asphyxiating gas venting systems according to approved standards and best petroleum industry practices;
- (b) installation of an automatic emergency shutdown system which can—
 - (i) detect and warn of the uncontrolled release of asphyxiating gases;
 - (ii) initiate forced ventilation; and
 - (iii) minimise the duration of releases; and
 - (iv) implementation of confined space entry procedures as may be considered appropriate under best petroleum industry practices.

84. (1) A contractor, permit holder or a midstream operator shall minimise the use of radioactive substances in operations, and where radioactive substances are used, ensure safe transportation, handling, storage and disposal of the radioactive substances in accordance with the Material Safety Data Sheet from the manufacturer.

(2) Prior to the commencement of the operation, a contractor, permit holder or a midstream operator shall install warning signs to inform the public on the location of the radioactive material which may pose dangers.

(3) A contractor, permit holder or a midstream operator shall handle, store, transport or dispose of radioactive substances in accordance with the approved standards, best petroleum industry practices, and any other applicable Kenyan laws.

(4) A contractor, permit holder or a midstream operator shall ensure that all workers and any other persons present at facilities are informed of and protected against the dangerous effects of radiation.

85. (1) A contractor, permit holder or a midstream operator shall ensure that a facility is operated in accordance with any approved standards and best petroleum industry practices with respect to the presence of noise and vibrations.

(2) A contractor, permit holder or a midstream operator shall ensure that a facility is operated in a manner that—

- (a) reduces the risk of injury to workers due to exposure to noise and vibrations;
- (b) ensure that the noise level and acoustics do not preclude communication of significance to safety; and
- (c) ensures that the noise level in any worker break rooms, accommodation or recreation areas is reduced as much as possible.

(3) A contractor, permit holder or a midstream operator shall continuously monitor and record noise and vibrations levels and shall make all records available to the Authority on request.

86. (1) A contractor, permit holder or a midstream operator shall ensure adequate lighting for the performance of all work at the facility.

(2) A contractor, permit holder or a midstream operator shall ensure lighting at the facility complies with applicable national and international standards, taking into account—

- (a) the type of activity;
- (b) the suitable distribution of lighting appliances; and
- (c) the harmonisation of light colour with the prevailing context in the facility.

13. Division 2 – Chemicals and Hazardous Substances

87. (1) A contractor, permit holder or a midstream operator shall use best endeavours to ensure the use, emission, release and discharge of any chemicals and other hazardous substances into the environment are minimized or eliminated.

(2) In selecting and applying equipment and systems for storage, use, recovery and destruction of chemicals and other hazardous substances, a contractor, permit holder or a midstream operator shall take the following into consideration—

- (a) the safety and health of workers;
- (b) corrosion or other forms of material decomposition;
- (c) fire and explosion hazards; and
- (d) the risk of pollution.

88. (1) A contractor, permit holder or a midstream operator shall apply for a permit to use chemicals and other hazardous substances from the Authority in the prescribed form set out in Third Schedule and upon payment of the prescribed fee.

(2) The Authority shall evaluate an application for a permit under this section and communicate its decision to the applicant within thirty (30) days after receipt of the application.

(3) The Authority may issue a permit under this section in the prescribed form set out in Third Schedule.

(4) Where the Authority declines to issue a permit to an applicant, the Authority shall give a written communication to the applicant within thirty (30) days providing its reasons for the refusal.

89. (1) A contractor, permit holder or a midstream operator shall comply with all provisions of relevant Kenyan law and best petroleum industry practice on the importation, transportation, storage, use and disposal of chemicals, chemical products, chemicals and other hazardous substances.

(2) The Authority may develop guidelines relating to the use of and presence of chemicals and other hazardous substances in upstream and midstream operations.

90. A contractor or midstream operator who intends to use explosives in upstream and midstream petroleum operations shall do so in accordance with the applicable Kenyan law, these Regulations, best petroleum industry practices and other applicable guidelines.

91. (1) A contractor, permit holder or a midstream operator intending to construct or operate a facility, process plant or technology that utilizes chemicals and other hazardous substances shall undertake an Environment Impact Assessment in accordance with the EMCA and its regulations..

(2) A contractor, permit holder or a midstream operator intending to store, transport, handle, import, export, use, manufacture, or distribute chemicals and other hazardous substances shall undertake a hazard and risk assessment in relation to that planned activity.

92. (1) A contractor, permit holder or a midstream operator shall ensure that all containers of chemicals, chemical products or hazardous substances used at the facility or in operations are labelled and packaged in a manner that—

- (a) is legible or easily intelligible to workers and of an appropriate size;
- (b) uses uniform symbols and durable colours; and
- (c) complies with all applicable Kenyan laws and regulations; and includes—
 - (i) the commercial name and identification of the chemical product, including batch of manufacture and supplier;
 - (ii) the classification of the product according to the relevant national and international standards;
 - (iii) the identification of specific risks associated with the use of the chemical product; and
 - (iv) any relevant safety precautions.

(2) A contractor or a midstream shall maintain material safety data sheets for all chemicals and hazardous substances within the facility, following the format provided in the Fourth Schedule.

93. (1) A contractor, permit holder or a midstream operator shall maintain an up-to-date inventory of chemicals and other hazardous substances and products stored on premises or used in operations including information on—

- (a) physical, chemical and hazardous properties;
- (b) preventive safety measures; and
- (c) first-aid treatment.

(2) A contractor, permit holder or a midstream operator shall regularly control and assess the levels of exposure of workers to chemicals and other hazardous substances and products.

(3) A contractor, permit holder or a midstream operator shall adopt all reasonably practicable measures to protect workers from exposure to chemicals and hazardous substances including—

- (a) displaying signs at appropriate distances warning of the presence of chemicals and other hazardous substances;
- (b) training workers in the safe use of chemicals and other hazardous substances to ensure that workers—
 - (i) recognize and understand the nature of the relevant risks involved in their activities; and
 - (ii) adopt appropriate safety measures.
- (c) providing suitable personal protective equipment;
- (d) ensuring first aid measures and emergency procedures are adopted in case of accident; and
- (e) providing toxic gas detection and protection systems with alarms.

94. A contractor, permit holder or a midstream operator shall notify the Authority of all chemicals or hazardous substances present or likely to be present at facilities or to be used in operations using the form provided in Fifth Schedule—

- (a) thirty (30) days before the commencement of installation or operation of a facility;
- (b) every six (6) months after the initial notification under subparagraph (a); and
- (c) in relation to facilities existing at the date of commencement of these Regulations, within sixty (60) days from that date.

14. Division 3 – Personal Protective Equipment

95. (1) A contractor, permit holder or a midstream operator shall ensure that all workers use personal protective equipment which is appropriate for the risks associated with operations and the environment including, but not limited to clothing, respiratory devices, and protective shields and barriers specifically designed to protect the face, head, body, sensory functions and extremities.

(2) A contractor, permit holder or a midstream operator shall provide personal protective equipment and ensure that it is maintained in a sanitary and reliable condition.

(3) A contractor, permit holder or a midstream operator shall ensure that any person within a facility who is likely to be exposed to a hazard, uses protection equipment in accordance with these Regulations and best petroleum industry practices.

(4) A contractor, permit holder or a midstream operator shall ensure protection equipment shall—

- (a) be designed to protect the person from the incident, hazard or accident;
- (b) not in itself create a hazard;
- (c) be maintained, inspected and tested by a competent person; and
- (d) be maintained in a clean and sanitary condition by a competent person.

(5) A contractor, permit holder or a midstream operator shall ensure that any person likely to be exposed to dangers in operations involving moving vehicles wears a high-visibility vest or other high-visibility clothing.

96. (1) A contractor, permit holder or a midstream operator shall develop a hazard assessment report which assesses the workplace to determine the nature and extent of likely hazards which necessitate the use of personal protective equipment.

(2) The hazard assessment report shall support the selection of personal protective equipment and shall, at a minimum, consider the use of the following—

- (a) head protection;
- (b) eye and face protection;
- (c) protective footwear and hand wear;
- (d) respiratory protection;
- (e) skin and special clothing;
- (f) fall-protection systems;
- (g) protection against drowning;
- (h) protection from extreme temperatures and
- (i) protection from excessive noise and vibrations.

(3) The hazard assessment report shall be updated when so required and in any case, at least once every year.

(4) A contractor, permit holder or a midstream operator shall—

- (a) communicate personal protective equipment requirements to the workers;
- (b) ensure that personal protective equipment provided to workers properly fit to perform their intended functions; and

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97. (1) A contractor, permit holder or a midstream operator shall provide training on personal protective equipment and require workers to demonstrate a proper understanding of at least the following—

- (a) the situations necessitating personal protective equipment;
- (b) the relevant type of personal protective equipment for each situation;
- (c) any limitations of the personal protective equipment;
- (d) the proper use and adjustment of personal protective equipment; and
- (e) the proper care, maintenance, useful life and disposal of the personal protective equipment.

(2) A contractor, permit holder or a midstream operator shall ensure that training is provided at regular intervals and that additional training is provided in situations where—

- (a) any changes in the work environment or in the nature of personal protective equipment used may necessitate further training to maintain an acceptable level of safety; or
- (b) a worker demonstrates any insufficiency in knowledge or use of assigned types of personal protective equipment.

16. Division 4 – Medical Examinations

98. (1) A contractor, permit holder or a midstream operator shall ensure—

- (a) the readiness and availability of medical personnel for advice and consultation on matters relating to the risk factors of a facility; and
- (b) that workers receive necessary treatment and care in the event of an incident or accident.

(2) In the absence of an infirmary, clinic, or hospital in near proximity to the facility which is used for the treatment of all injured workers, a contractor, permit holder or a midstream operator shall adequately train sufficient number of workers to render first aid.

(3) Subject to the consent of the worker, the medical personnel shall notify a contractor, permit holder or a midstream operator of any occupational disease or injury and a contractor, permit holder or a midstream operator shall immediately and in any case not later than twenty-four (24) hours arrange for the necessary medical care to the worker.

99. (1) A contractor, permit holder or a midstream operator shall provide adequate first aid and emergency medical facilities to deal with incidents, hazards or accidents likely to occur in a facility or during upstream and midstream.

(2) A contractor, permit holder or a midstream operator shall undertake first aid needs assessment and revise it regularly whenever there are changes in the processes.

(3) A contractor, permit holder or a midstream operator shall provide a first aid box, first aid station or first aid room as appropriate and affix a notice in every workroom including the name and contact of a person-in-charge of the first aid who shall be readily available during working hours.

(4) In addition to requirements under sub-regulations (1) and (3), a contractor, permit holder or a midstream operator shall maintain—

- (a) a portable oxygen inhalation rescue apparatus in the facility or during upstream and midstream; and
- (b) where the eyes or other parts of the body of a person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

100. (1) A contractor, permit holder or a midstream operator shall ensure that workers—

- (a) are offered regular medical examinations by a medical professional with training and experience in occupational health and at no cost to the worker to establish any effects or sickness arising from occupational hazards; and
- (b) undertake medical examination before they are assigned work that is likely to have health risks, so that preventive measures can be implemented.

(2) A worker who has undergone medical examination shall have access to the results of the examination and an explanation of the results.

(3) A contractor, permit holder or a midstream operator shall ensure the confidentiality of medical records, according to the general principles of medical ethics.

(4) A worker who has been subjected to hazardous exposure in his or her employment, shall be offered special health examinations at the cost of a contractor, permit holder or a midstream operator, so that any necessary corrective measures can be implemented.

101. A contractor, permit holder or a midstream operator shall ensure that –

- (a) offshore workers undergo periodic examinations to confirm that they are in good conditions of physical and mental health and free from alcohol or drug dependency;
- (b) offshore workers are declared to be clinically fit to work in an offshore environment after examinations carried out in accordance with the applicable Kenyan safety and health laws for work at sea; and
- (c) workers conducting diving operations have a valid medical certificate establishing that the diver is fit to dive in accordance with the fitness requirements in any approved standards.
- (d) ensure that offshore workers have undertaken safety and emergency training.

102. (1) A contractor, permit holder or a midstream operator shall post and keep posted in accessible, conspicuous locations in a workplace, the following—

- (a) information regarding first aid to be rendered for any injury, occupational disease or illness likely to be sustained or contracted in the workplace; and
- (b) information regarding the location of first aid attendants, first aid stations and first aid rooms.
- (c) A safety score board indicating all near misses, accidents and fatalities that have occurred in respective years in all of the premises held by a contractor, permit holder or a midstream operator.

(2) A contractor, permit holder or a midstream operator shall ensure that an up-to-date list of telephone numbers for use in emergencies is available and conspicuous at every telephone location.

103. (1) During upstream and midstream operations, a contractor, permit holder or a midstream operator shall provide means for prompt transportation of injured persons to an equipped physician or hospital, or a communication system for contacting a readily available equipped ambulance service.

(2) The emergency medical transportation, where provided by a contractor, permit holder or a midstream operator, shall be equipped with the first aid kit as provided for under these Regulations and shall include resuscitation apparatus and other special equipment for emergency treatment.

104. A contractor, permit holder or a midstream operator shall ensure workers undergo annual training in the use and maintenance of emergency rescue equipment, first aid and resuscitation apparatus.

PART V – ENVIRONMENTAL PROTECTION

105. Where a contractor, permit holder or midstream operator proposes any action governed by these Regulations which either—

- (a) may require an environmental impact assessment study under the applicable Kenyan laws; or
- (b) may be related to an activity which is subject to environmental impact assessment,

17. the contractor, permit holder or midstream operator shall obtain an environmental impact assessment licence from NEMA in relation to the proposed project and that any application for an approval relating

to the proposed project shall be accompanied with the relevant environmental impact assessment report.

106. The contractor, permit holder or midstream operator shall comply with any climate change obligations imposed by any applicable Kenyan laws and international climate obligations.

(2) In considering an application for an approval under these regulations, any government entity with responsibility under these Regulations may require applicants to provide information in their submissions to enable a consideration of the consistency of proposed action with any—

- (a) any applicable climate change policy, strategy or plan; and
- (b) any climate change duties imposed by any applicable Kenyan law.

107. At all phases of activities, including planning, designing, commissioning, installing, operating and decommissioning all facilities and undertaking any related activity, the contractor, permit holder or midstream operator shall—

- (a) give due consideration to any pollution risks implicated by activities generally; and
- (b) any elevated risks presented by any particular environmental, cultural or other context to activities including, but not limited to, factors such as the presence of special context related to—
 - (i) the environment;
 - (ii) biodiversity;
 - (iii) natural resources;
 - (iv) societal and cultural heritage; and
 - (v) any other relevant social or environmental factors.

108. During all upstream and midstream operations the contractor, permit holder or midstream operator shall—

- (a) comply with all applicable Kenyan environmental regulations concerning environmental protection including pollution prevention, air emissions, air quality monitoring and reporting; and
- (b) take into account the need to provide robust, accurate means of preventing emissions and monitoring and controlling air quality.

109. A contractor or midstream operator shall provide a fund for the purposes of environmental mitigation and/or restoration in accordance with EMCA 1999.

110. (1) A contractor, permit holder or midstream operator shall provide an Environmental Liability Policy in accordance with the Act

- (2) The Environmental Liability Policy shall;
- a. be in the form of an insurance cover;
- b. cover the potential costs as may be determined by the Authority using the Guidelines in Schedule 18;

(3) The authority may in consultation with NEMA, coordinate and evaluate the remediation and restoration works before attesting completion and discharging the contractor, permit holder or midstream operator;

(4) If the contractor, permit holder or midstream operator is not discharged under sub-regulation 1, and refuses to carry out additional works as prescribed by the Authority, the Authority will;

- a. notify the contractor, permit holder or midstream operator of its default
- b. carry out the said works at the contractor's or midstream operator's expense; and
- c. Recoup from the contractor, permit holder or midstream operator or its insurer under this regulation, any direct or indirect costs associated with the said works.

Division 1 – Waste Management General Requirements

111. A contractor, permit holder or a midstream operator shall ensure that waste deriving from upstream and midstream petroleum operations and any other associated operational wastes is managed in accordance with the Act, these Regulations, all applicable Kenyan environmental, safety, health and maritime laws and best petroleum industry practices.

112. (1) A contractor, permit holder or a midstream operator may only transfer waste to companies or individuals that hold a valid licence from NEMA for waste transportation, storage, treatment or final disposal.

(2) A contractor, permit holder or a midstream operator shall be liable for the management of production, transportation, storage, treatment and disposal of wastes for the activities or omissions of the companies or individuals referred to in sub-regulation (1).

113. (1) A contractor, permit holder or a midstream operator that generates wastes shall ensure that—

- (a) it adopts policies, processes and procedures aimed at minimising wastes deriving from upstream and midstream as far as practicable;
- (b) appropriate practices are adopted for waste storage, transportation, treatment, disposal and utilisation;
- (c) waste deriving from upstream and midstream is correctly characterized and classified;
- (d) the capabilities and limitations of any waste treatment and disposal methods are known;
- (e) accurate and complete waste related documentation and manifesting is developed and maintained;
- (f) its workers are properly trained in waste management;
- (g) waste carriers and receivers are appropriately informed about the waste's properties;
- (h) the required approvals and operational requirements are in place for any on-site handling, transportation, treatment, and disposal method; and
- (i) a waste management provider shall have the required approvals and operational requirements in place for off-site handling, transportation, treatment and disposal.

(2) (a) A contractor, permit holder or a midstream operator shall maintain all facilities, vessels, worksites and any other relevant location in such manner which ensures that waste does not pose safety hazard or nuisance or adversely affect air, soil, surface water or groundwater.

(b) A contractor, permit holder or a midstream operator shall be liable for the activities or omissions of parties to whom it may transfer waste in the course of the waste management activities.

114. (1) Prior to commencing of any upstream and midstream that may generate waste, a contractor, permit holder or a midstream operator in consultation with the Authority shall develop a waste management plan and submit it for approval to NEMA and any other relevant entity.

(2) The waste management plan shall—

- i. comprehensively identify all wastes that will be generated;
- ii. establish a clear strategy for waste management, including options for waste elimination, reduction and recovery at source, reuse, recycling, treatment and responsible disposal in accordance with best petroleum industry practices and best available technologies; and
- iii. contain a mechanism allowing waste consignments to be tracked from the originating location to the final waste treatment and disposal location.

115. (1) A contractor, permit holder or a midstream operator that generates waste shall characterise and segregate waste by separating hazardous waste from non-hazardous waste.

(2) Characterisation, classification and management of hazardous waste shall be conducted in accordance with the applicable Kenyan law, these Regulations, best petroleum industry practices and other applicable guidelines.

(3) A contractor, permit holder or a midstream operator shall use the relevant parameters of the waste characterisation and classification to assess and determine the appropriate handling, transportation, treatment, and disposal of that waste, in accordance with the waste management plan.

116. (1) A contractor, permit holder or a midstream operator that generates waste shall implement a waste tracking system which ensures that the quantities and characteristics of all generated wastes, both hazardous and non-hazardous, as well as their final treatment and disposal methods are known.

(2) NEMA shall require a contractor, permit holder or a midstream operator to prepare an annual waste disposal report. These reports shall contain information on the type, quantity and ultimate treatment and/or disposal of wastes, including those treated and/or disposed on-site.

(3) A contractor, permit holder or a midstream operator that is responsible for shipping hazardous waste to another location shall create a waste manifest prescribed in the Sixth Schedule.

(4) A waste manifest shall not be required—

- (a) when the quantity of waste does not exceed 5 kilograms or 5 litres;
- (b) when the waste is treated or disposed on-site; or
- (c) when the waste is uncontaminated produced water.

(5) A copy of a manifest and supporting documents shall be retained by a contractor, permit holder or a midstream operator that generates waste, transporter, and waste receiver for a minimum of two (2) years from the date of shipment.

117. (1) Except when otherwise prescribed in these Regulations, a manifest is required for each quantity of hazardous waste being transported.

(2) Where one vehicle, vessel or other means of transportation is used for single or multiple trips to move wastes, a waste manifest shall be required for each trip.

(3) Where more than one vehicle, vessel or other means of transportation is used or multiple trips are required to move a quantity of the specific waste, a waste manifest shall be required for each vehicle, vessel or other means of transportation and for each trip.

(4) Shipments of mixed wastes comprised of several waste types shall be manifested as the most dangerous waste contained if the individual quantities of each waste type are not known. A contractor, permit holder or a midstream operator that generates waste shall indicate the total quantity of the waste on the manifest. The waste generator shall indicate on the manifest or attachment the waste types included in the mixed waste shipment.

118. (1) If the receiver notes a significant discrepancy regarding either the quantity or characteristics of the waste shipped relative to what was received, the receiver shall notify the generator and the transporter within twenty-four (24) hours of receipt of the waste.

(2) In cases where a significant discrepancy is the result of an action by the transporter (i.e. accident, leak, etc.) the transporter shall notify the generator within twenty-four (24) hours of such occurrence.

(3) As soon as practicable a contractor, permit holder or a midstream operator shall notify the Authority of any significant discrepancy by the quickest and most effective means available.

(4) For discrepancies not considered to be significant, within sixty (60) days of the shipment date, a contractor, permit holder or a midstream operator shall complete the corresponding section of the manifest and submit it to the Authority.

119. (1) A waste storage area, either stand-alone or as part of a facility or other location of activities, shall be designed, constructed, and operated so that it complies with these Regulations, the approved standards and best petroleum industry practices.

(2) When selecting the location of the waste storage area, a contractor, permit holder or a midstream operator shall consider the following—

- (a) the risk of environmental damage including any impact to the quality of surface and groundwater, health of humans, animals, and plants during construction, operation, and decommissioning of the facility;
- (b) drainage ways and areas prone to seasonal flooding;
- (c) the location for the facility should be at least 100 metres from the normal high-water mark of a body of water, permanent stream, or water well used for domestic purposes; and
- (d) any environmentally sensitive areas or areas where the public may be directly impacted.

(3) Waste storage areas shall be handled in a manner to ensure that—

- (a) produced fugitive air emissions or uncontrolled gases do not exceed the limits established in the applicable Kenyan laws;
- (b) uncontrolled fumes or gases sufficient to pose a risk of fire or explosion are not produced;
- (c) there is no threat to public health, safety, or the environment through other means;
- (d) a perimeter fence or other barrier is installed to prevent public and wildlife access to the storage area;
- (e) storage areas have signs at the entrance of the facility identifying the facility name, operator name, warning signs, emergency phone number, and categories of the wastes stored in the storage area as characterised, and classified under these Regulations;
- (f) procedures and mechanisms to control odours are in place; and
- (g) the areas are suitable for the type of waste stored.

(4) An emergency response plan shall be maintained on-site at all times which describes appropriate measures to follow in the event of any emergency such as a fluid spill, tank fire or any other hazard.

(5) Any waste or empty barrels used to contain waste shall not be stored for longer than one (1) year.

(6) A contractor, a midstream operator or an operator of waste storage areas shall document and retain on-site the following records for a period of not less than two (2) years—

- (a) copies of all dockets for materials received and shipped;
- (b) a balance of the amount of waste stored at the facility at the beginning of each month;
- (c) for each receipt of waste material, the quantity, source, generator, type (characterisation), and date received; and
- (d) a closing inventory balance for each month identifying total quantities of waste materials received, volumes of waste materials sent for treatment and/or disposal, and the name and location of the treatment and/or disposal facility.

120. (1) A contractor or a midstream shall ensure that a waste treatment facility shall be designed, constructed, and operated in accordance with these Regulations, the approved standards and best petroleum industry practices.

(2) A contractor, a midstream operator or a third-party operating a waste treatment facility shall implement a comprehensive groundwater monitoring program for their site.

(3) NEMA may require a contractor, a midstream operator operating a waste treatment facility to submit monthly reports including the following—

- (a) an opening monthly inventory balance of wastes, residuals (liquids and solids), and/or products (recovered crude oil);
- (b) type, volume, origin and generator of each receipt of waste material;

(c) the volume and deliveries (name and location of facility) of residuals and/or recovered crude oil; and

(d) a closing monthly inventory balance of wastes, residuals (liquids and solids), and/or products (recovered crude oil).

18. Division 2 – Petroleum Industry Waste

121. (1) All produced water from a well shall be managed in accordance with these Regulations, approved standards and best petroleum industry practices.

(2) A contractor shall evaluate all feasible alternatives for the management and disposal of produced water and integrate them into facility and production design such as—

- (a) injecting produced water into the reservoir to enhance oil recovery;
- (b) injecting produced water into a dedicated disposal well drilled to a suitable receiving subsurface geological formation; or
- (c) other uses for which the produced water may be safe and appropriate such as—
 - (i) irrigation;
 - (ii) dust control;
 - (iii) use by other industry; or
 - (iv) any other feasible use recommended by the relevant agency.

(3) A contractor shall ensure that sufficient storage capacity is included in facility's design to ensure continual operation, in the event of system failure or interruption of the disposal solution.

(4) A contractor shall consider all disposal means to reduce the volume of produced water.

(5) A contractor shall treat any produced water prior to discharge to meet the limits established by NEMA.

(6) Where surface disposal methods are used, a contractor shall select such production chemicals that will minimize environmental hazards related to residual chemical additives in the produced water stream, by considering their application rate, toxicity, bioavailability, and bioaccumulation potential.

122. (1) All flowback fluids shall be managed in accordance with these Regulations, the approved standards and best petroleum industry practices.

(2) A contractor shall evaluate and integrate into design feasible alternatives for the management and disposal of flowback fluids different and separate from those of produced water including—

- (a) temporary storage in sealed tanks for reuse in further hydraulic fracturing operations; and
- (b) temporary storage prior to injection into a suitable disposal well.

(3) An assessment of alternatives shall be adequately documented by a contractor.

(4) Where no alternatives are technically, environmentally or economically feasible, flowback water shall be treated to meet the limits established by NEMA prior to its disposal.

123. (1) A contractor shall manage hydrostatic water testing in accordance with these Regulations, the approved standards and best petroleum industry practices.

(2) A contractor, permit holder or a midstream operator shall manage hydrostatic testing water in accordance with these Regulations, standards approved in the Authority and best petroleum industry practices as defined in said Regulations.

(3) Following hydrotesting, hydrostatic testing waters may be disposed of by—

- (a) injection into a disposal well if one is available for this purpose;

- (b) other possible uses such as irrigation, dust control and use by other industry; or
- (c) discharge to surface waters or land;

19. if the chemical nature of the test water is compatible with these options, and if no adverse environmental and/or human health impacts can be caused.

(4) If a disposal well is unavailable and discharge to surface waters or land is necessary, a contractor, permit holder or a midstream operator shall consider the following pollution prevention and control measures—

- (a) reduce the need for chemicals by minimizing the time that test water remains in the equipment or pipeline;
- (b) carefully select chemical additives in terms of dose concentration, toxicity, biodegradability, bioavailability, and bioaccumulation potential;
- (c) conduct toxicity testing as necessary using recognized test methodologies;
- (d) use the same water for multiple tests; and
- (e) monitor hydrostatic test water quality before use and discharge and treat to meet the limits established by the Authority and NEMA prior to its disposal.

(5) If significant quantities of chemically treated hydrostatic test waters are required to be discharged to a surface water body, a contractor, permit holder or a midstream operator shall conduct and document an assessment of alternatives.

124. (1) A contractor shall employ techniques and practices that minimize the amount of waste produced in the course of drilling.

(2) A contractor shall consider alternative options with respect to management of drilling waste that may include one, or a combination of the following—

- (a) measures directed at minimizing volumes of drilling waste requiring disposal;
- (b) minimisation of environmental hazards related to residual chemical additives on discharged cuttings by careful selection of the fluid system and water-based drilling fluids shall be selected whenever it is technically feasible;
- (c) careful selection of drilling fluid additives, taking into account their concentration, toxicity, bioavailability and bioaccumulation potential;
- (d) use of high-efficiency solids removal and treatment equipment to reduce and minimize the amount of residual fluid contained in drilled cuttings;
- (e) use of directional drilling techniques where technically feasible to avoid sensitive surface areas and to gain access to the reservoir from less sensitive surface areas;
- (f) injection of drilling waste into a dedicated disposal well;
- (g) injection into the annular space of a well;
- (h) storage in dedicated storage tanks or lined pits prior to treatment, recycling, and/or final treatment and disposal;
- (i) monitor and minimize the concentration of heavy metal impurities in barite stock used in the fluid formulation;
- (j) on-site or off-site biological or physical treatment to render drilling waste non-hazardous prior to final disposal using established methods approved by the Authority and NEMA, in which case, bioremediation and landfarming alternatives shall be assessed prior to adoption; and
- (k) recycling of spent fluids back to the vendors for treatment and re-use.

(3) A contractor shall treat and dispose of all drilling waste in accordance with these Regulations, the approved standards and best petroleum industry practices.

125. (1) A contractor, permit holder or midstream operator shall within twenty four (24) hours notify the Authority and any other relevant government agency if it encounters radioactive materials in the process of its operations in accordance with Kenyan laws.

(2) A contractor shall not abandon radioactive sources in a well without prior approval of the Authority in a case where radioactive sources cannot practically be removed.

(3) A risk assessment shall be carried out in relation to all wells which must be permanently abandoned as a consequence of radioactive sources which may have been left in the well.

(4) Where a radioactive source cannot practically be removed, the well shall be abandoned in a manner that ensures safety to human health and the environment in accordance with all relevant laws, the approved standards and best petroleum industry practices.

126. (1) A contractor shall treat and dispose of all produced sand in accordance with these Regulations, the approved standards and best petroleum industry practices.

(2) Produced sand shall be treated as oily waste and may be treated and disposed in accordance with these Regulations and other applicable Kenyan law.

(3) If water is used to remove oil from produced sand, it shall be recovered and routed to an appropriate treatment and disposal system.

(4) A contractor shall reduce the production of sand at source using effective downhole sand control measures.

127. (1) A contractor shall treat and dispose of all completion and well workover fluids in accordance with these Regulations, the approved standards and best petroleum industry practices.

(2) Feasible disposal options for completion and well workover fluids shall be considered, including the following—

- (a) collection of fluids, where handled in closed systems, and shipment back to the original vendors for recycling;
- (b) injection into a disposal well, where available;
- (c) inclusion as part of the produced water waste stream for treatment and disposal; and
- (d) on-site or off-site biological or physical treatment at an approved facility in accordance with the waste management plan.

128. (1) Where NORM is present or NORM precipitation and/or accumulation conditions are known or expected to exist, a contractor, permit holder or midstream operator shall develop a NORM management plan to ensure appropriate handling and management procedures.

(2) A contractor shall submit for approval to the Authority a NORM management plan, which shall be shared with the Authority, NEMA and Radiation Protection Board.

(3) A NORM management plan shall include the following—

- (a) identification, characterisation and assessment of existing situations involving the generation of NORM in the past, present or future;
- (b) evaluation of NORM management options for both existing and future NORM waste and selection of the optimum option; and
- (c) implementation of the optimum option for each NORM stream.

(4) A contractor shall treat and dispose of NORM, in accordance with these Regulations, the approved standards and best petroleum industry practices. A contractor shall retain updated records related to the radiation exposure levels of equipment and the disposal of oil and gas NORM waste for a period of not less than ten (10) years.

20. Division 3 – Disposal Wells

129. A contractor shall not dispose of petroleum waste, brine, wastewater and other substances produced in association with the exploration and production of petroleum into a formation not

productive of petroleum without prior obtainment of a permit from the Authority.

130. (1) A contractor shall apply for a disposal well permit to the Authority in writing at least two (2) months before commencement of injection operations.

(2) An application for disposal well permit shall include—

- (a) an application form provided in the Seventh Schedule; and
- (b) information regarding the locations of any historical seismic events within a circular area of 160 square kilometres, centred around the proposed disposal well location.

(3) A contractor upon submission of an application shall pay a permit fee prescribed by the Authority.

131. Where conditions exist that may increase the risk that fluids will not be confined to the injection interval, the Authority may require a contractor to submit additional information to demonstrate that fluids will be properly contained.

132. (1) On receipt of an application for a disposal well permit, the Authority shall notify the applicant in writing within seven (7) days if—

- (a) a contractor has failed to pay the prescribed fee; or
- (b) there is an error or deficiency in the application.

(2) If the applicant fails to rectify an error or deficiency within the required period, the Authority shall—

- (a) not process the application, and
- (b) give notice to the applicant of its inability to process the application.

(3) On receipt of a compliant application for a disposal well permit, the Authority shall—

- (a) acknowledge receipt of the application and confirm that the application is complete; and
- (b) arrange for and carry out a public consultation to—
 - (i) identify all relevant stakeholders whose participation is desirable or whose interests may be affected by upstream and midstream subject to the permit;
 - (ii) inform all identified stakeholders of the proposed procedure and schedule for the iteration of the permit application;
 - (iii) sufficiently communicate to identified stakeholders the scope of the permit application under consideration to enable effective participation; and
 - (iv) collect and facilitate feedback received from the stakeholders.

(4) In conducting a public consultation under this regulation, the Authority shall adopt a procedure and schedule appropriate to ensure the contents of the permitting application and any proposed operations are fully considered by relevant stakeholders.

133. (1) The Authority shall approve an application by issuing a disposal well permit if the Authority is satisfied that

- (a) the information provided in the permit application meets the requirements specified in the Eighth Schedule; and
- (b) a contractor has demonstrated that the formations are separated from freshwater formations by impervious beds which will give adequate protection to such freshwater formations.

(2) The Authority shall acknowledge receipt of the application within one (1) week of receipt; and inform a contractor in writing of the decision of the Authority within two (2) months after the receipt of the application.

(3) Where—

- (a) a contractor fails to pay the prescribed fee; or

(b) there is an error or deficiency in the application,

21. the Authority shall notify a contractor in writing within fourteen (14) days after the receipt of the application to rectify the situation.

(4) If the applicant fails to rectify the deficiencies within the period specified in the notification provided in the preceding sub-regulation the Authority shall—

- (a) not process the application; and
- (b) give notice to the applicant of its inability to process the application.

(5) The Authority shall reject an application if the proposed activities may result in the occurrence of any significant detrimental risk to the environment, private property, individuals or the public safety.

(6) A disposal well permit shall be subject to such conditions as the Authority may specify.

(7) A contractor is required to conduct operations related to disposal of petroleum waste, brine, wastewater and other substances produced related to operations in compliance with applicable Kenyan laws, standards, terms and conditions of the issued permit.

134. (1) A disposal well permit shall be valid for the period specified in the permit and may be renewed.

(2) An application for the renewal of disposal well permit shall be submitted to the Authority by a Contractor not later than thirty (30) days prior to its expiration.

135. A disposal well permit may be modified, suspended, or terminated by the Authority for just cause after notice and opportunity for hearing, if—

- (a) a material change of conditions occurs in the operation or completion of the disposal well, or there are material changes in the information originally furnished;
- (b) freshwater is likely to be polluted as a result of continued operation of the well;
- (c) there are substantial violations of the terms and provisions of the permit or of Authority rules;
- (d) the applicant has misrepresented any material facts during the permit issuance process;
- (e) injected fluids are escaping from the permitted disposal zone;
- (f) injection is likely to be or determined to be contributing to seismic activity; or
- (g) waste of oil, gas, or geothermal resources is occurring or is likely to occur as a result of the permitted operations.

22. Division 4 – Flaring, Venting and Fugitive Emissions

23. Sub-Division 1 – Flaring and Venting

136. (1) A contractor sub-contractor, permit-holder or licensee shall not vent or flare natural gas in the course of the conduct of upstream petroleum operations except with the prior authorization of the Authority in consultation with the National Government agency responsible for environment and safety and any other National Government entity in accordance with these Regulations.

(2) The prior consent under sub-regulation (1) shall not be required—

- (a) in the case of an emergency and where such venting or flaring is necessary to avert a disaster;
- (b) for safety reasons, such as flaring in safety burner pilots to maintain positive pressure;

137. (1) A contractor, permit holder or a midstream operator shall apply for a flaring and/or venting approval to the Authority in writing at least two (2) months before commencement of operations or of each calendar year.

(2) An application for a flaring and/or venting approval shall include—

- (a) an application form provided in the Ninth Schedule;
- (b) flaring and venting management plan which shall include matters outlined in Schedule 18;
- (c) information detailing the contractor's operations, and the expected flare and/or vent volumes associated with such operations;
- (d) the amount and quality of oil or natural gas involved and the duration of the requested venting/flaring;
- (e) an analysis of all feasible alternatives for associated gas's use;
- (f) information supporting that the flare and/or vent volume requested is at a level that is technically and economically justified; and
- (g) any other documents that may be requested by the Authority.

(3) The Authority shall issue an approval on a field basis, or where several fields tie-in into common facilities, the contractor may apply for a single, composite approval. Approval for midstream operators may include the entirety of their facilities.

(4) A contractor, permit holder or a midstream operator, upon submission of an application, shall pay a fee prescribed by the Authority.

138. (1) On receipt of an application for flaring or venting, the Authority shall notify the applicant in writing within seven (7) days if—

- (a) a contractor, permit holder or midstream operator fails to pay the prescribed fee; or
- (b) there is an error or deficiency in the application.

(2) If the applicant fails to rectify an error or deficiency within the required period, the Authority shall—

- (a) not process the application, and
- (b) give notice to the applicant of its inability to process the application.

(3) The Authority shall inform a contractor, permit holder or midstream operator of its decision in writing within one (1) month after submission of a complete application.

139. (1) The Authority, in consultation with NEMA, shall approve an application for flaring and/or venting if the Authority is satisfied that—

- (a) the information provided in the permit application meets the requirements specified in the Tenth Schedule;
- (b) flare and/or vent volume requested is at a level that is technically and economically justified;
- (c) flare and/or vent volume requested achieves the lowest level of flare/vent that is consistent with best petroleum industry practice;
- (d) all feasible alternative uses of the associated gas use have been evaluated; and
- (e) flaring/venting is necessary to safeguard the safety and health of persons in the contract area or to prevent damage to the property of any person.

(2) An approval for flaring and/or venting issued by the Authority may be subject to such conditions as the Authority may specify.

(3) A contractor, permit holder or a midstream operator shall conduct flaring and/or venting and related operations in compliance with all applicable Kenyan laws, standards, and any conditions of the issued approval.

140. (1) A flaring and/or venting approval shall be valid for one (1) year and may be renewed as necessary, upon application by a contractor, permit holder or a midstream operator.

(2) Renewals are subject to the procedures outlined in these Regulations applicable to initial applications.

141. (1) Where a contractor, permit holder or midstream operator wishes to make material changes to the conditions of an existing approval, a contractor, permit holder or midstream operator shall apply to the Authority for approval of the material changes in accordance with these regulations on flaring and/or venting approval.

(2) Material changes may include, but are not limited to—

- (a) change of operator of the well or facility; and
- (b) an increase in volume of gas to be released.

142. (1) The Authority may modify, suspend, or terminate a flare and/or vent approval if—

- (a) a material change of conditions occurs in the operations of the approval holder, or there are material changes in the information originally furnished;
- (b) there are substantial violations of the terms and conditions of the approval or of Authority rules; or
- (c) the applicant has misrepresented any material facts during the application process.

(2) Where the Authority proposes to modify, suspend, or cancel a flare and/or vent approval under this regulation, the Authority shall—

- (a) provide fourteen (14) days notice to the approval holder;
- (b) provide reasons for modification, suspension or cancellation; and
- (c) ensure that the approval holder has an opportunity to respond to the Authority's reasoning for taking the proposed action with respect to the approval.

143. (1) Releases of gas that are not readily measured by devices routinely used in petroleum operation and that do not require a prior consent may include, but are not limited to, the following—

- (a) tank vapours from crude oil storage tanks, gas well condensate storage tanks, or saltwater storage tanks, including makeup gas for gas blanket maintenance;
- (b) fugitive emissions of gas;
- (c) amine treater, glycol dehydrator flash tank and/or reboiler emissions;
- (d) blow down gas from flow lines, gathering lines, meter runs, pressurized vessels, compressors, or other gas handling equipment for construction, maintenance or repair;
- (e) gas purged from compressor cylinders or other gas handling equipment for start-up;
- (f) gas released at a well site during drilling operations and prior to the completion date of the well, including gas produced during air or gas drilling operations or gas which shall be separated from drilling fluids using a mud-gas separator, or mud-degasser; or
- (g) gas released at a well site during initial completion, recompletion in another field, or work over operations in the same field, including but not limited to perforating, stimulating, deepening, cleanout, well maintenance or repair operations.

(2) Notwithstanding the foregoing, the Authority may require the flaring of releases of gas not readily measured by devices routinely used in the operation of oil wells, gas wells, gas gathering systems, or gas plants if the Authority, in consultation with NEMA, determines that flaring is required for safety reasons.

144. (1) In the event of an emergency, failure, breakdown, or malfunction of any piece of equipment, a contractor, permit holder or a midstream operator shall send excess gas to an efficient flare system.

(2) Emergency venting may be permitted under specific conditions where a flare gas system is not available or when flaring of the gas

stream is not possible. A contractor, permit holder or midstream operator shall fully document justification for excluding a gas flaring system.

(3) As soon as reasonably possible, after the release of gas commences, a contractor, permit holder or a midstream operator shall notify the Authority in writing.

(4) The volume of gas that is released shall be measured or estimated in accordance with the methodology established by the Authority and shall be reported to the Authority.

(5) A contractor, permit holder or a midstream operator shall take all necessary measures to avoid emergency venting for a period exceeding twenty-four (24) hours.

(6) The Authority may issue an emergency approval and allow additional releases of gas for a period exceeding twenty-four (24) hours if the contractor, permit holder or midstream operator demonstrates the necessity for such release.

Sub-Division 2 – Fugitive Emissions

145. (1) A contractor, permit holder or a midstream operator shall develop and document a fugitive emissions management program (FEMP) as outlined in the Eleventh Schedule and submit the FEMP to the Authority and NEMA.

(2) The Authority may direct a contractor, permit holder or a midstream operator to carry out additional actions to manage fugitive emissions if the Authority determines that additional actions are necessary to mitigate potential risks to the environment or safety.

146. (1) A contractor, permit holder or a midstream operator shall conduct fugitive emissions surveys at the frequency specified in the FEMP using methods and equipment in compliance with the approved standards and best petroleum industry practices, except that such surveys shall not be required for facilities that are designed to vent all received and produced gas.

(2) A contractor, permit holder or a midstream operator shall survey, at least, the following—

- (a) equipment components with hydrocarbon throughput;
- (b) hydrocarbon gas–driven pneumatic devices;
- (c) tank-top equipment, including thief hatches and gauge-board assemblies;
- (d) surface casing vents and the area around the wellbore;
- (e) equipment used to destroy vent gas, including burners, flare ignitors, pilots, and combustors; and
- (f) equipment used to conserve vent gas, including vapor recovery units and vent gas capture systems.

(3) A contractor, permit holder or a midstream operator shall ensure that individuals conducting fugitive emission surveys are trained, qualified and certified to use fugitive emissions survey equipment.

(4) A contractor, permit holder or a midstream operator shall ensure that all equipment used to detect or quantify fugitive emissions is operated, serviced, and calibrated to the manufacturer's recommendations.

(5) The Authority may conduct its own fugitive emissions surveys independent of the FEMP, and on the basis of such surveys, direct contractors or midstream operators to undertake remedial work to address any identified deficiency.

147. (1) A contractor, permit holder or a midstream operator shall repair sources of fugitive emissions or take other action to eliminate fugitive emissions within twenty-four (24) hours of identification if fugitive emissions—

- (a) are causing off-premises odours;
- (b) are the result of a failed pilot or ignitor on a flare stack; or
- (c) are causing or have the potential to cause environmental, safety or health concerns.

(2) A contractor, permit holder or a midstream operator shall notify the Authority of all other sources of fugitive emissions not repaired within twenty-four (24) hours.

(3) The Authority shall direct a contractor, permit holder or a midstream operator to repair all other sources of fugitive emissions or take other actions to eliminate fugitive emissions within thirty (30) days unless postponement can be technically and economically justified.

24. PART VI –REPORTING AND RECORD-KEEPING

25. Division 1: Incident and accident reporting

148. (1) A contractor, permit holder or a midstream operator shall ensure that, in the event of an incident or an accident, response measures are implemented to—

- (a) prevent injury or loss of life;
- (b) minimize pollution;
- (c) ensure that workers can be evacuated to safety quickly and efficiently; and
- (d) ensure that normal conditions can be restored as soon as practicable through—
 - (i) any required repair to facilities or equipment;
 - (ii) any necessary clean-up of pollution;
 - (iii) any necessary restoration of the environment; and
 - (iv) any continued monitoring of conditions.

(2) A contractor, permit holder or a midstream operator shall systematically investigate any incident or accident to find out its causes and report to the Authority and relevant Government agencies in accordance with these Regulations and applicable Kenyan law.

149. (1) In the event of any incident or accident causing loss of life, personal injury, explosion, oil spill, fire or damage to the environment or property, a contractor, permit holder or a midstream operator shall report to the Authority and relevant Government agencies of the incident or accident as soon as practicable and in any case not later than 2 hours after—

- (a) the time of the occurrence of the incident or accident; or
- (b) the time a contractor, permit holder or a midstream operator becomes aware of the incident or accident.

(2) A notification under sub-regulation (1) may be made electronically using form in the Twelfth Schedule.

(3) A contractor, permit holder or a midstream operator shall submit a written report within forty-eight hours of any incident or accident under this regulation, using the reporting template provided in Thirteenth Schedule.

(4) The Authority may, by notice in writing, require a contractor, permit holder or a midstream operator to submit one or more written reports of the reported incident or accident, if the initial report required in this regulation is deemed insufficient.

26. Division 2: Record Keeping

150. (1) A contractor, permit holder or a midstream operator shall keep up-to-date records of—

- (a) safety performance and results;
- (b) compliance with health, hygiene and safety legislation;
- (c) medical examinations of workers;
- (d) the outcome of equipment testing and inspections and auditing of safety procedures;
- (e) staff training;
- (f) continuous improvement activities; and
- (g) any other record as the Authority may require.

(2) A contractor, permit holder or a midstream operator shall

provide workers and contractors with relevant information for their performance and health.

151. A contractor, permit holder or midstream operator must maintain and make readily available at the location of any facility or activity, a risk register summarising—

- (a) each risk identified in the safety case;
- (b) the risk assessment with respect to that risk;
- (c) the mitigation measures in place in relation to that risk with respect to the relevant facility or activity; and
- (d) schedule for monitoring and reviewing the risks to ensure that the mitigation measures are effective.

152. (1) A contractor, permit holder or a midstream operator shall at all times keep a record of every person present at a facility.

(2) The record referred to under sub-regulation (1) shall—

- (a) specify particulars of the persons on the facility; and
- (b) be made available at all time for examination by an authorised representative of the Authority.

153. A contractor, permit holder or a midstream operator shall maintain records of the details and results of all tests of facilities and equipment and shall ensure these are readily available for inspection

154. A contractor, permit holder or a midstream operator shall ensure that a record shall be kept of fire response drills in such detail as to allow for continuous improvement in fire response actions.

155. A contractor, permit holder or a midstream operator shall ensure that—

- (a) the results of the inspection and testing under this regulation; and
- (b) any actions taken as a consequence of the outcome of inspection and testing under this regulation, are sufficiently recorded and made available to the Authority on request.

27.

156. (1) A contractor, permit holder or a midstream operator shall keep a record of all personal protective equipment provided in the course of upstream and midstream.

(2) The record required by this regulation shall contain—

- (a) a description of the equipment and the date of its acquisition by a contractor, permit holder or a midstream operator;
- (b) the date and result of each inspection and test of the equipment;
- (c) the date and nature of any maintenance work performed on the equipment since its acquisition by a contractor, permit holder or a midstream operator;
- (d) the name of the competent person who performed the inspection, test, maintenance or repair of the equipment; and
- (e) any other relevant information.

(3) Contractors or a midstream operator shall maintain records on training provided to workers on the use and maintenance of personal protective equipment which shall include—

- (a) the date of training;
- (b) the recipients of the training;
- (c) the content of the training; and
- (d) any other relevant information.

(4) A contractor, permit holder or a midstream operator shall maintain the records required under this regulation for at least two (2) years after the equipment ceases to be in use.

157. (1) A contractor shall document, retain in the well file and upon request make available to the Authority and/or NEMA on the following information—

- (a) the location and identification of the well that generated the drilling waste;
- (b) the type of drilling mud system used;
- (c) the method used to store the drilling waste and a plot plan identifying the location of the storage system;
- (d) the volume of drilling waste generated, and the management method used; and
- (e) if different drilling waste types or phases were segregated, the information above shall be documented for the management of each segregated type or phase.

(2) A contractor shall retain the information provided in sub-regulation (1) until the well site and any associated remote drilling waste storage or biodegradation site have successfully been reclaimed.

(3) A contractor shall submit post-disposal information to the Authority and the Environmental Authority, identifying the drilling waste volumes generated, the management or disposal options used, and the disposal locations.

158. (1) For drilling waste that has been generated from directional drilling activities associated with pipeline construction, a midstream operator shall document and retain until the pipeline has been abandoned, or, where a remote site was used to manage the drilling waste, until the remote site has been successfully reclaimed, the following information—

- (a) the identification of the pipeline that generated the drilling waste;
- (b) the geographical co-ordinates of the pipeline “from” and “to” location;
- (c) the plot plan showing the entry and exit pits of the directional drill, and a description of the method used to prevent migration of drilling mud/waste during drilling in the event that the pit does not consist of suitable clayey soils;
- (d) if a remote site was used, its geographical co-ordinates and specific use (e.g., storage, including type of storage system, and disposal, including type of disposal method), and a plot plan showing the storage and disposal areas;
- (e) the type of mud system used, and a list of all the additives, products, or chemicals used, including the quantities used, and documentation to verify the mud system was nontoxic.
- (f) the quantities of drilling waste generated, and the management method used;
- (g) a copy of the post-disposal information submitted under sub-regulation (1).

2. Within twelve (12) months of each directional drilling activity associated with pipeline construction, a midstream operator shall submit to NEMA, post-disposal information identifying the drilling waste volumes generated, storage systems used, disposal methods used, and locations of disposals.

159. (1) A contractor, permit holder or a midstream operator shall continuously and accurately measure the quantity of natural gas vented or flared using use measurement methods approved by the Authority.

(2) A contractor, permit holder or a midstream operator shall maintain records of flaring and venting events which shall—

- (a) include the date, time, duration, gas source or type (e.g., sour inlet gas, acid gas), rates, and volumes for each incident;
- (b) include information on any complaints related to flaring, incineration, and venting and how these complaints were investigated and addressed; and
- (c) describe each non-routine flaring, incineration, and venting incident and any changes made to prevent future non-routine events from occurring.

(3) A contractor, permit holder or a midstream operator shall ensure that flaring and venting records shall—

- be retained from their creation throughout the life of the facility, for each facility where flaring and venting occurs; and
- be made available to the Authority upon request.

160. (1) Contractors and midstream operators shall submit an annual methane emissions report to the Authority and NEMA by the end of the first quarter of each year.

(2) Methane emissions shall be quantified using the methodology approved by the Authority.

(3) A contractor, permit holder or a midstream operator shall include in the annual methane emissions report; the annual volume of vent gas in cubic metres and the corresponding mass of methane in kilograms emitted by the facility.

161. (1) A contractor, permit holder or a midstream operator shall retain records for the period of four (4) years and provide them to the Authority upon request.

(2) The records referred to in sub-regulation (1) shall include the following—

- calculations, by site, used to determine the volume and mass of methane from each of the sources below—
 - vent gas,
 - instruments and pumps,
 - compressor seals,
 - glycol dehydrators, and
 - fugitive emissions;
- for fugitive emissions—
 - the FEMP that is in effect,
 - completed training programs and valid certifications for all individuals conducting fugitive emission surveys, and
 - survey results;
- annually updated inventory of pneumatic instruments and pumps that emit vent gas, including—
 - tracking identifier or serial number,
 - location and facility ID,
 - installation or modification date,
 - make and model, and
 - device type.

162. A contractor, permit holder or midstream operator shall submit to the Authority, annual records related to radiation exposure levels and disposal of NORM waste from oil and gas operations

163. (1) A contractor, permit holder or a midstream operator shall with forty- eight (48) hours report all incidents or accidents that occur on-site in the form and manner prescribed in the Thirteenth Schedule.

(2) By the end of the first quarter of each year a contractor, permit holder or a midstream operator shall submit a summary of details of the incidents or accidents recorded under this regulation for the previous year.

(3) A contractor, permit holder or a midstream operator shall maintain records under sub-regulation (1) for a minimum of ten (10) years and make them available to the Authority on request.

164. The obligations, benefits and rights in relation to workplace injuries, shall be subject to the provisions of the Work Injuries and Benefit Act, 2007.

165. (1) Upon receipt of an oral or written, accident report, the Authority may appoint a responsible officer or officers to hold an inquiry into the cause of the incident or accident.

- The officer conducting an inquiry may—
 - give notice to any person to appear before him or her at a hearing to give evidence and to produce such documents referred to in the notice;
 - call for the production of relevant books, documents and records for purposes of the inquiry;
 - conduct onsite inspections in accordance with the provisions of the Regulations;
 - question any relevant person or witness;
 - require any such person or witness to sign a declaration of the truth of the matter on which he or she is so questioned; and
 - exercise other powers as may be necessary for purposes of the inquiry.

(3) An officer conducting an inquiry under this regulation may, subject to confidentiality requirements, if deemed appropriate, open the inquiry to the public and conduct the inquiry in a manner and under conditions he or she considers fit for ascertaining the cause and circumstances of the incident or accident.

(4) Upon conclusion of the inquiry, the officer(s) shall develop a draft report summarizing—

- relevant facts on the incident or accident;
- the cause(s) or likely cause(s) of the incident or accident;
- the adequacy of prevention, mitigation and remedial measures applied with respect to the incident or accident; and
- any other matter as the officer(s) may deem fit.

(5) The officer(s) shall submit the draft report to a contractor, permit holder or a midstream operator who may submit any comments or observations within thirty (30) days.

(6) Within thirty (30) days from receiving comments and observations from a contractor, permit holder or a midstream operator, the officer(s) shall submit a final report to the Authority and send a copy to a contractor, permit holder or a midstream operator.

28. PART VII – EMERGENCY PREPAREDNESS

166. (1) A contractor, permit holder or a midstream operator shall formulate emergency procedures for the facilities they operate which shall allow an effective response to an emergency situation.

(2) Emergency procedures shall include the following matters—

- evacuation procedures;
- procedures for notifying emergency service organizations at the earliest opportunity;
- first aid, medical treatment and assistance; and
- procedures for effective communication between the person authorized by a contractor, permit holder or a midstream operator to coordinate the emergency response and all persons at the facility;
- a plan for drills for practising emergency procedures and, including the frequency of drills; and
- information, training and instruction to employees in relation to implementing the emergency procedures.

167. (1) A contractor, permit holder or a midstream operator shall develop and maintain emergency preparedness and response plan and procedures for each facility that provides an adequate response to accidents and hazard situations during upstream and midstream.

(2) A contractor, permit holder or a midstream operator shall develop the emergency preparedness and response plan based on the results from risk assessment.

(3) The emergency preparedness and response plans and procedures shall—

- adopt measures intended to prevent or minimise the harmful effects of incidents and accidents and recover the environment;

- (b) be coordinated with any national emergency response system; and
- (c) provide for testing of emergency procedures, including outlining the required frequency of testing.

(4) The Authority shall—

- (a) require that the emergency response activities be coordinated with intergovernmental activities in force in its geographical region;
- (b) assist cooperation with other contractors;
- (c) take measures to obtain any necessary additional resources;
- (d) specify the required functions of the emergency response equipment; and
- (e) where justified, require a contractor, permit holder or a midstream operator to place any additional safety apparatus at or near the installations.

(5) A contractor, permit holder or a midstream operator shall notify the Authority, at least fifteen (15) days in advance, of plans for holding emergency response drills if:

- (a) the drills involve stoppage of operations for more than 24 hours and/or
- (b) involves other relevant government agencies.

(6) A contractor, permit holder or a midstream operator shall—

- (a) keep a copy of the emergency preparedness and response plan at the facility; and
- (b) provide a copy of the emergency preparedness and response plan to the Authority and any other relevant stakeholders as the Authority may determine.

(7) A contractor, permit holder or a midstream operator shall immediately implement the emergency response plan and procedures where—

- (a) a major accident occurs at a facility or during upstream and midstream; or
- (b) an incident occurs that could reasonably be expected to lead to a major accident.

(8) A contractor, permit holder or a midstream operator shall notify the Authority and any other relevant stakeholders of the occurrence of an incident or accident.

168. (1) In preparing an emergency response plan, a contractor, permit holder or a midstream operator shall consult—

- (a) the Authority and relevant Government Agencies; and
- (b) the County Government where the facility is located, or activity is carried out.

(2) A contractor, permit holder or a midstream operator shall consider the recommendations made by the authorities listed above in the development of the emergency response plan.

169. (1) A contractor, permit holder or a midstream operator shall ensure that, where a risk of a significant oil spill exists, the emergency procedures shall include a plan with respect to oil spill preparedness and response.

(2) An oil spill preparedness and response shall be consistent with any applicable national policy on oil spill preparedness and response, all applicable Kenyan laws and, at a minimum, shall include consideration of the following matters—

- (a) organizational roles and responsibilities with regard to administering and implementing the plan;
- (b) communications strategy and responsibilities;
- (c) strategic response coordination with authorities, and other relevant entities;
- (d) suitable scenario planning and risk assessment;
- (e) appropriate analysis of the location, surroundings and ecological context;

- (f) measures for spill detection, identification of the source of spills and spill control;
- (g) options for containment, removal and remediation of spills;
- (h) reporting and notification obligations;
- (i) arrangements for training with respect to the plan;
- (j) requirements to update the plan; and
- (k) any other matter required by the Authority,

170. (1) Prior to commencement of any upstream or midstream operations, the Authority shall undertake to communicate to affected members of the public in a language that they can easily understand—

- (a) the nature of any proposed activities;
- (b) any legal rights of affected members of the public with respect to the proposed activities;
- (c) the means by which affected members of the public may liaise with the Authority before and during the proposed activities.

(2) Where any significant change to the information communicated to the affected members of the public under this regulation, the Authority shall ensure such changes are promptly communicated to the affected members of the public.

(3) Prior to installing any facility a contractor, permit holder or a midstream operator shall provide the following information to the local community where the facility will be located—

- (a) the name and location of the facility or petroleum activity;
- (b) the name, position and contact details of a person-in-charge with whom members of the local community may liaise;
- (c) a general description of the potential hazards posed by the operation of the facility;
- (d) the means by which the local community will be informed of an incident or accident occurring; and
- (e) the actions, as specified in the emergency plan, that members of the local community may take if an incident or accident occurs.

29. PART VIII – INSPECTIONS, CONTROL AND ENFORCEMENT

171. (1) The Authority or its designated agents shall be responsible for carrying out safety, health and environmental inspections or audits of all activities related to upstream and midstream petroleum operations.

(2) The Authority, or an inspector authorized by the Authority in writing, may at all reasonable times inspect any upstream and midstream petroleum operations, and any records of a contractor, permit holder or a midstream operator relating thereto, with the goal of monitoring compliance with the requirements established in these Regulations.

(3) A contractor, permit holder or a midstream operator shall assist the facilitation of inspections and provide, where available, facilities similar to those applicable to its own staff or contracted persons for transport to the upstream and midstream, subsistence and accommodation and pay all reasonable expenses directly connected with the inspection.

172. (1) The Cabinet Secretary shall, by notice in the Gazette, appoint duly qualified persons, to be inspectors of the Authority.

(2) The Authority or an inspector may at all reasonable times and upon at least a twenty-four (24) hours' notice to a contractor, permit holder or a midstream operator or a subcontractor, enter into any part of the licence area or any other location, premises, structure or business place occupied by a contractor, permit holder or a midstream operator or a subcontractor—

- (a) to examine or investigate anything which a contractor, permit holder or a midstream operator or a person contracted by the foregoing is authorised by the Act and these Regulations to perform, install, construct or take possession of;

- (b) to inspect and make abstracts or copies of any logs, records, maps, accounts or other documents which a contractor, permit holder or a midstream operator or a person contracted by the foregoing is required to make or keep in accordance with the Act and these Regulations;
- (c) to carry out any other authorised function under the Act and these Regulations.
- (d) require the production of, inspect, examine and copy licences, registers, records and other documents relating to these Regulations;
- (e) access documents for examination or copy or otherwise reproduce and shall issue a certificate of seizure to the person from whom they were taken and return them on completion;
- (f) take samples of any articles and substances to which these Regulations relate and submit such samples for test and analysis;
- (g) conduct tests or take measurements;
- (h) require that anything be operated, used or set in motion, under conditions specified by the inspector; and
- (i) use any machine, structure, material or equipment in the place the inspector is inspecting in order to carry out the inspection.

(3) Notwithstanding sub regulation (1) an inspector may at any time and without notice enter an area which is subject of a licence and inspect the operation and facility of a contractor, permit holder or a midstream operator or a person contracted by the foregoing without notice for the purpose of ascertaining that the provisions of these Regulations or any other applicable Kenyan law are being complied with.

(4) An inspector shall identify himself or herself upon arrival at the licence area, a facility or any other location, premises, structure or business place occupied by a contractor, permit holder or a midstream operator or a subcontractor.

(5) An inspector shall not, in exercising his or her powers under this regulation, unreasonably interfere with or delay the operations of a contractor, permit holder or a midstream operator or a subcontractor.

(6) An inspector may make any investigation necessary to determine whether or not the provisions of the Act and these Regulations are being complied with.

(7) Where an inspector finds any plant or facility in a dangerous condition or any practice or method of work in connection with any licensed petroleum activity carried out in a dangerous manner, or is not in accordance with the Act, these Regulations, the approved standards or is contrary to best petroleum industry practices, the inspector may give the person-in-charge notice in writing to repair, replace and/or remedy that operation, practice or method of work.

(8) If the contractor, a midstream operator or person to whom an enforcement order is directed fails to comply with the enforcement order, the Authority may apply to the Tribunal for an order requiring compliance with the enforcement order.

173. With the written approval of the Authority, an inspector may issue enforcement orders—

- (a) requiring facility operators to cease activities polluting or likely to pollute the environment in violation of the provisions of these Regulations;
- (b) requiring facility operators to implement any remedial measures to restore the environment within such reasonable time as determined by the Authority;
- (c) ordering the closure of facilities polluting or likely to pollute the environment in violation of the provisions of these Regulations;
- (d) requiring the installation of any equipment on any land, premise, or vehicle for purposes of monitoring compliance with the provisions of these Regulations, upon giving the owner or occupier of the land three (3) months' written notice; and

- (e) revoking permits issued by the Authority in accordance with these Regulations.

174. (1) With the written approval of the Authority, an officer authorized to conduct an inspection may—

- (a) amend the terms or conditions of an enforcement order; or
- (b) lift or cancel an enforcement order.

(2) Where an enforcement order is amended by addressing it to additional persons, a copy of the order shall be served on any person whose name was added to it, and the same person to whom the original order was issued.

175. (1) If the contractor, a midstream operator, or person to whom an enforcement order is directed fails to comply with the enforcement order, the Authority may take reasonable action it considers necessary to carry out the terms of the enforcement order.

(2) Costs incurred by the Authority under this regulation are recoverable by the Government in an action against the contractor, a midstream operator or person to whom the enforcement order was directed, or by order of the Cabinet Secretary directing any company or individual to which the enforcement order relates to pay to the Cabinet Secretary an amount not exceeding the amount owing in respect of the costs.

(3) Costs under this regulation may include—

- (a) any costs incurred in investigating and responding to any matter to which an enforcement order relates; or
- (b) costs related to environmental assessment, remediation and compensation to affected persons.

176. Where an enforcement order is issued to more than one person, all persons named in the order shall be jointly and severally responsible for carrying out the terms of the order and shall be jointly and individually severally liable for payment of the costs of doing so, including any costs incurred by the Authority under the preceding section.

177. (1) During an inspection, an inspector may seize physical, digital or documentary evidence without the requisite search authority or warrant, if the inspector has reasonable grounds to believe that—

- (a) there has been an offence committed under these Regulations and
- (b) that the item seized provides evidence as to the commission of an offence.

(2) Where an item is seized, the inspector shall notify the contractor, midstream operator or other relevant person as to the reason for the seizure and provide a certificate of seizure outlining the information in Fourteenth Schedule.

(3) The Authority shall be responsible for maintaining the condition of seized items.

(4) Within twenty-four (24) hours from the seizure of any item under this Regulation, the Authority will submit a report to the Tribunal, which will validate or reject the necessity to retain the seized item.

(5) If the Tribunal does not issue a decision within seventy two (72) hours from receiving the Authority's petition, the seized item shall be returned to the contractor, a midstream operator or other relevant person who is entitled to possession of it.

(6) Where a contractor, a midstream operator or person is convicted of an offence under these Regulations, and anything relating to the conviction that was seized under this Part is still detained, the item shall, on the expiration of the time for taking an appeal from the conviction or on the conclusion of the proceedings, as the case may be—

- (a) be forfeited to the Government, if the court so directs; or
- (b) be restored to the contractor, a midstream operator or person from whom it was seized or to any other company or individual who is entitled to possession of it, subject to any terms and conditions imposed by the court.

30. PART IX – OFFENCES AND PENALTIES

178. (1) Any person who—

- (a) contravenes any provision of these Regulations;
- (b) fails to comply with any direction given under these Regulations commits an offence and is liable on conviction to a fine or imprisonment as determined by the Act and the Fifteenth Schedule.

31. PART X – MISCELLANEOUS

179. (1) The Authority shall keep a register of all permits and approvals issued under these Regulations which shall individually record their—

- (a) terms and conditions;
- (b) amendments;
- (c) duplicates;
- (d) suspensions or revocations; and
- (e) accompanying fees paid to the Authority.

(2) Any person may, during the Authority's working hours, inspect the register subject to paying a fee.

(3) The fee under sub-regulation (2) does not apply to members of the Kenya Police Service, on-duty public officers, members of the National Assembly, the Authority's employees and persons authorised by the Authority.

180.

(1) A contractor, permit holder or other such person dissatisfied with a decision of the Authority in respect of any matter provided for under these regulations may make a complaint to the Authority in writing.

(2) The Authority shall acknowledge the receipt of the complaint in writing within five (5) days and attend to the complaint within thirty (30) days.

(3) Where a contractor is not satisfied with the Authority's response to the complaint, a contractor may appeal to the Tribunal within thirty (30) days of the receipt of the Authority's response to the complaint.

FIRST SCHEDULE

Regulations 16 – 19

32. Safety case application form

Safety case applications shall follow the guidance given by the Authority and shall be accompanied by this cover sheet.

Facility Details	
Facility Name(s):	
Facility type:	
Key functions:	
Location	

Submission		
Document title:		
Document No.:	Revision:	Issue Date
Development stage:	(e.g. design, construction, modification....)	
Reason for Submission	The reason why the safety case is being submitted including whether it is being submitted for the first time, or is a material change of a previous safety case)	
Supporting documents		
Document title:		
Document No.:	Revision:	Issue Date
Document title:		
Document No.:	Revision:	Issue Date
(repeat rows as necessary)		

Difference from previously submitted Safety Case (if applicable)
Outline the changes made to the safety case or notification from a previously submitted version if relevant

Applicant			
Name:		Signature:	
Position:		Date:	
Postal address:			
Email:			
Phone number(s):	(tel.)	(mob.)	
On behalf of:	(Name of operator)		
Petroleum Agreement:			

The safety case application shall be submitted with one signed original, one additional hard copy and two electronic copies. Electronic documents submitted shall be a single, text searchable, indexed Portable Document Format (PDF) file, which is clearly labelled and in A4 format.

SECOND SCHEDULE

Regulation 91

APPLICATION FOR PERMIT TO USE HAZARDOUS SUBSTANCES IN UPSTREAM AND MIDSTREAM.

Contact details	
Applicant name	
Address	
Tel No	
Cell phone No	
E-mail	
Fax	
Manufacturer name	
Manufacturer address	
Site information	
Physical Location (county, town, street,)	
LR No	
GPS Coordinates	
Environment Impact Assessment Licence	
Product information	
Registration number	
Common names	
Chemicals or materials name	
Trade name	
Concentration	
State of product (technical or formulated)	
Purpose for use in mining	
Quantity (Weight, Volume)	
Onsite / Mining site storage facility	

DECLARATION BY APPLICANT

I hereby certify that the particulars given above are correct / true to the best of my knowledge

Name	
Signature	
Date	

FOR OFFICIAL USE ONLY	
Approved/Not approved	
Comments	
Receipt No Amount (KShs)	
Officer's Name	
Signature Date	

THIRD SCHEDULE

Regulation 92

Permit No:	Application Ref No:
PERMIT TO USE HAZARDOUS SUBSTANCES IN UPSTREAM AND MIDSTREAM	

This Permit is issued to:					
Name:					
Address:					
Tel No:					
To use chemicals or hazardous substances in petroleum activities as follows:					
Chemicals/ Substances	Registration No	CAS No	HS No	Quantity	Purpose
Location of site (LR No/ County/ Town/ Other):					
GPS Coordinates:					
This Permit is valid from:			to:		
This permit is subject to the following conditions:					
Signed:			Date:		
Position of signatory:			(Official seal)		

FOURTH SCHEDULE

Regulation 94

MATERIAL SAFETY DATA SHEET	
Information on MSDS should be provided in the order provided below.	
1.	Identification
2.	Hazard identification
3.	Composition / information of ingredients
4.	First-aid measures
5.	Fire-fighting measures
6.	Accidental release measures
7.	Handling and storage
8.	Exposure controls / personal protection
9.	Physical and chemical properties
10.	Stability and reactivity
11.	Toxicological information
12.	Ecological information
13.	Disposal considerations
14.	Transport information
15.	Regulatory information
16.	Other information.

FIFTH SCHEDULE

Regulation 97

Hazardous Substances Report Form

Each notification to the Authority concerning all hazardous substances present or likely to be present at the facilities or to be used in operations shall employ the form outlined in this schedule.

NOTIFICATION OF HAZARDOUS SUBSTANCES PRESENT
OR LIKELY TO BE PRESENT AT FACILITIES OR TO BE USED
IN OPERATIONS

Date:
To: Energy and Petroleum Regulatory Authority
Contractor

(add rows as necessary)

Signed:

Name:

Position:

.....

DEFINITION OF CONTRACTOR

B-141-110

(to be filled in triplicate)

WASTE MANIFEST FORM			
GENERATOR		TRANSPORTER	
Company Name:	Operator ID:	Company Name:	
Address:	Address:		
Postal Code:	Postal Code:		
City:	Country:	City:	Country:
Source Site Location		Unit No.	Phone:
NEMA License Type Number:		Fax:	
Recipient:		Certification – I declare that I received wastes as offered by the Generator for delivery to the intended Receiver and that the information contained below is correct and complete. NAME (for the Transporter): Signature: Date:	
Receiving Site Location:		RECIPIENT	
		Company Name:	Operator ID:
City:	Address:		
County	Postal Code:		
NAME (for the Generator): Signature:		NAME (for the Recipient): Signature:	

Waste Description	Containers		Total Quantity	Unit No.	Waste Code
	No.	Type			
1.					
2.					
Comments:					
Discrepancies	NAME (Print):	Date:	Signature:		

Instructions: Manifests shall be composed of one original and three copies. The waste generator and the waste transporter shall fill in information in the original. After the generator hands over the waste to the transporter, the waste generator shall retain the first copy, and the waste transporter shall keep the original, and the remaining copies. The waste transporter shall, at all times avail the manifest form for inspection by NEMA upon request.

When the waste transporter delivers the waste to the receiver, the waste transporter shall retain the second copy of the manifest and surrender the remaining copies and the original to the receiver. After

verifying that there are no discrepancies between the cargo and the manifest, the receiver shall complete the original form, retain the third copy of the manifest, and give the original back to the generator. One copy shall be submitted to the Authority by the waste generator (contractor, permit holder or midstream operator) within 60 days of the commencement of the waste transfer.

SEVENTH SCHEDULE

Regulation 133

DISPOSAL WELL PERMIT APPLICATION	
Applicant name: (full corporate name)	
Address: (full corporate address)	
Petroleum Agreement name and number:	
Phone:	
Email address:	
Type of permit requested:	
Proposed start date:	
Proposed finish date:	
Methodology and equipment to be used:	
Location of the well (GPS Coordinates)	
Name and address of a contractor (where such person is not a contractor)	
Contact details (name and contact details primary contact regarding the well) (full name, address, telephone number and email address)	
Enclosed documents: (tick the boxes as appropriate)	
<input type="checkbox"/> copy of registration documents <input type="checkbox"/> complete well plan <input type="checkbox"/> global positioning system (GPS) location of each well <input type="checkbox"/> Environmental Impact Licence <input type="checkbox"/> copy of fee payment receipt <input type="checkbox"/> logs <input type="checkbox"/> seismic information <input type="checkbox"/> geologic cross-sections <input type="checkbox"/> pressure front boundary calculations <input type="checkbox"/> structure maps <input type="checkbox"/> other supporting documents (specify, where applicable)	
Declaration:	
1. I hereby confirm that our company, its contractors and possess the ability to construct a well site, access road to the well site, facilitate mobility of equipment, supplies, and materials to the well site during drilling, monitoring, appraisal and evaluation activities.	
2. I hereby confirm that the information provided in this application is to my knowledge true and accurate.	
3. I understand that it is an offence to give false information in an application for a disposal well permit.	
4. I acknowledge that our company and our contractors and shall conduct drilling operations as approved by the Authority.	
5. I acknowledge that our company and our contractors and shall not commence and conduct drilling operations and drill or convert a well prior to obtaining a disposal well permit from the Authority.	
Date: (dd-mm-yyyy)	
Authorised Applicant's representative (full name)	
Authorised Signature: (Applicant's representative)	

EIGHTH SCHEDULE

Regulation 136

Disposal Well Permit	
This Disposal Well permit is hereby issued under the Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2021 to the named applicant to conduct the drilling and well operations as follows:	
Applicant name:	
Address: (full corporate address)	
Type and purpose permit: (description of issued permit):	
Commencement date (dd-mm-yyyy of permit issuing date):	
Expiry date: (dd-mm-yyyy of first expiry date)	
Renewal: (dd-mm-yyyy of new expiry date in case of renewal)	
Location of the well (GPS Coordinates)	
Terms and conditions:	
1. The applicant or a person conducting drilling or conversion	

operations on behalf of the operator shall—
 (a) commence work within () months from issuance of this permit, unless when an unforeseen circumstance arises;
 (b) conduct drilling or conversion operations under a submitted well program except for during an emergency or reapproval by Authority;
 (c) comply with all applicable Kenyan laws and regulations; and
 (d) provide data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2021, the individual Petroleum Agreement, and any other applicable Kenyan law;
 (e) submit the amended well drilling or conversion program, where an applicant intends to deviate from the approved program;
 (f) other terms and conditions.

2. This permit is valid for () and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy)
 Signature: (Authority's representative)

NINTH SCHEDULE

Regulation 142

APPLICATION FOR VENTING AND/OR FLARING PERMIT

This application is hereby submitted under the Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2021, for the venting and/or flaring permit.	
Applicant name: (full corporate name)	
Petroleum Agreement/License name and number:	
Address: (full corporate address)	
Phone number:	
Email address:	
Type of permit requested:	
Proposed start date of the permit:	
Proposed end date of the permit:	
Estimated volumes requested to be vented or flared:	
Enclosed documents: (tick the boxes as appropriate)	
<input type="checkbox"/> copy of registration documents <input type="checkbox"/> sources of vented or flared gas <input type="checkbox"/> information supporting need for venting or flaring (safety of venting and impossibility of flaring) <input type="checkbox"/> methodology to measure or estimate vented or flared gas <input type="checkbox"/> all relevant environmental licenses and reports as may be required by law; <input type="checkbox"/> other supporting documents (specify)	
Declaration:	
1. I hereby confirm that the information provided in this application is to my knowledge true and accurate.	
2. I understand that it is an offence to give false information in an application for a venting and/or flaring approval.	
3. I acknowledge that our company shall conduct petroleum production operations as approved by the Authority and other state bodies of Kenya.	
4. I acknowledge that our company shall not commence and conduct any unauthorized venting and/or flaring operations prior to obtaining an approval from the Authority	
Date: (dd-mm-yyyy)	
Authorised Applicant's representative (full name)	
Authorised Signature: (Applicant's representative)	

TENTH SCHEDULE

Regulation 144

VENTING/FLARING PERMIT	
Approval no.: xxxx/yyyy	
This venting/flaring permit is hereby issued under the Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2024 exclusively to the named applicant to conduct activities specified in this approval as follows:	
Applicant name:	
Address: (full corporate address)	
Phone number:	
Email address:	
Petroleum Agreement/License name and number:	
Commencement date: (dd-mm-yyyy):	
Expiry date: (dd-mm-yyyy of first expiry date)	
Estimated volumes approved to be vented and/or flared:	
Terms and conditions:	

1. The applicant or an authorised person hereby shall—
a. commence authorized activities within () months from issuance of this approval, unless when an unforeseen circumstance arises;
b. execute authorized activities under the application and not deviate from its approval except for during an emergency;
c. comply with all applicable Kenyan laws and regulations; and
d. provide all required data, reports and information in compliance with the Petroleum Act, 2019, Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2021, individual Petroleum Agreement and any other applicable Kenyan law;
e. other conditions (specify here):
2. This approval is valid for () and may not be altered, revised, or modified, except with the consent of the Applicant and the Authority.

Date of issuance: (dd-mm-yyyy)

Signature: (Authority's representative)

ELEVENTH SCHEDULE

Regulation 148

Fugitive Emissions Management Program	
Structure and content of the fugitive emissions management program (FEMP)	
The FEMP shall be designed to reduce fugitive emissions, contain the elements listed below, and be updated to reflect any changes to operations:	
1. contact information of the individual accountable for the FEMP;	
2. resources allocated to developing and implementing the FEMP, including which group within the company is responsible for maintaining and updating the FEMP and who will be conducting the surveys;	
3. preventive maintenance practices to reduce or prevent fugitive emissions;	
4. the procedures and plans that will be used to meet the required frequency of fugitive emissions surveys and to complete repairs, indicating any deviations from the prescribed frequency and provide justification;	
5. techniques and equipment used for fugitive emissions surveys, including equipment make and model and any plans to use alternative technologies;	
6. calibration methods and equipment maintenance practices for equipment used for fugitive emissions surveys;	
7. training programs and certification completed by individuals conducting fugitive emissions surveys;	
8. description of how individuals will be trained and how often they will be retrained or recertified;	
9. internal procedures to track, manage, and verify the status of repairs;	
10. data management practices and systems to ensure that survey results trigger required repairs and that the repairs are captured for annual reporting; and	
11. provisions for continuous improvement of the FEMP, including how FEMP data will be used to evaluate program performance.	

TWELFTH SCHEDULE

INCIDENT AND ACCIDENT REPORTING TEMPLATE

Initial Report (to be submitted electronically)

A. Reporting Entity Details	
i) Name of Owner/Operator:	
Company Name:	
License Number:	
Environment Liability Policy:	
ii) Incident Reporter	
Name:	
Phone Number	
Mobile Number:	
Designation:	
iii) Contact Project proponent:	
Name:	
Phone Number:	
Mobile Number:	
Designation:	
B. Incident Details	
Incident Date (dd-mmm-yyyy)	

Incident time (hh:mm)	
Reporting Date (dd-mmm-yyyy)	
Reporting Time (hh:mm)	
Incident Reference Code	
Criteria Triggering the Reporting of the incident*	
A short and General Description of the incident	
Initial response measure undertaken	
Support Required from the Authority/ Government Agency	

* Criteria Triggering the Reporting of the incident

1. Loss of life or personal injury occasioned by entry into land for exploratory, survey, infrastructure development and maintenance activities;

2. Damage to property amounting to approximately Kes 1,000,000 and above, caused by any irregularity, trespass, or other wrongful proceedings occasioned by entry into land for exploratory, survey, infrastructure development and maintenance activities; or

3. Damage to property amounting to approximately Kes 1,000,000 and above, occasioned by the breaking of any petroleum infrastructure or by reason of any defect in such infrastructure

THIRTEENTH SCHEDULE

Regulation 152 & 165

Incident/accident Report: Reported in writing within 48 hours.

Petroleum (Upstream and Midstream Environment, Safety and Health) Regulations, 2024		
Notice of Accident or Incident		
Date:		
To:	The Director General Energy and Petroleum Regulatory Authority	
A. Reporting Entity Details		
i. Name of Owner/Operator:		
Company Name:		
License Number:		
Environment Liability Policy:		
i. Incident Reporter:		
Name:		
Phone Number		
Mobile Number:		
Designation:		
i. Contact Project proponent:		
Name:		
Phone Number:		
Mobile Number:		
Designation:		
Contractor Name:		
Name of person filing notice:		
Contact details of person filing notice:		
B. Incident/accident Details		
Date:	Time:	
Location:		
Nature of incident/accident		
Description of the incident/accident		
Measures taken to prevent the incident/accident		
Measures taken to mitigate the effects of the incident/accident		
Measures taken to secure the location from further incident/accident		
Injuries (if applicable)		
Injuries incurred?	(Y/N)	Total
Details of Injuries		
Name of injured person		
Nature of injuries		
First aid application:		
Person giving first aid:		
Location:		
Measures applied (including time):		
Any additional details:		

(Repeat rows as necessary)		
Casualties (if applicable)		
Casualties occurred?	(Y/N)	Total
Details of casualties		
Names of deceased person		
Nature of injuries sustained		
First aid application:		
Person giving first aid:		
Location:		
Measures applied (including time):		
Any additional details:		
(Repeat rows as necessary)		
Contact details		
Provide contact information and the current location (e.g. facility, treatment centre etc) for each injured person and current location for interview		
Witness details (if any)		
Provide:		
- name(s) of witnesses		
- contact details for witnesses		
- copies of any statement given by a witness in relation to the incident or accident		
(Repeat rows as necessary)		
Signed:		

Please attach any information that is relevant to the incident/accident or any other additional information the authority may require.

FOURTEENTH SCHEDULE

Regulation 179

Certificate of Seizure	
Inspector (1) Name:	Inspector (2) Name:
Contact details:	
Inspection Details	
Date:	Time:
Location:	
Reason for inspection:	
Subject of seizure	
Item description (e.g. quantity type)	
Justification for seizure	
(Repeat rows as necessary for additional items)	
Location where item(s) to be taken	
Address	
Contact details	
Signed (Inspector 1):	Signed (Inspector 2):

FIFTEENTH SCHEDULE

Regulations 6, 7, 8, 9 and 87

OFFENCES, FINES AND PENALTIES

Regulation	Offence	Penalty
6,7,8	Contractor, permit holder or midstream operator failure to comply with a duty imposed to him	A fine of not more than Kshs. 500,000.00 or a term not exceeding 6 months or both
9, 87,	An employee who contravenes the provisions of these regulations	A fine of not more than Kshs. 50,000.00 or 3-months imprisonment or both

SIXTEENTH SCHEDULE

Regulation 16, 91, 132 and 141

APPLICATION/PERMIT FEES

Regulation	Item	Fee in Ksh.
16	Safety Case Application	10,000,000
92	Permit to use hazardous substances	2,000,000
133	Disposal well permit	3,000,000
142	Flaring and Venting	20,000,000

SEVENTEENTH SCHEDULE

Guidance: Safety Case Contents

Overview

The safety case for a facility or related activity shall demonstrate that there are effective means of ensuring:

- (a) systematic implementation of risk identification and control;
- (b) continual and systematic identification of deficiencies in the control of risk (safety management system); and
- (c) continual and systematic improvement of the control of risk.

A safety case provided under these Regulations shall include the information outlined in this Schedule with respect to:

- (a) Methodology
- (b) Facility Description
- (c) Risk Assessment
- (d) Safety Management System including continuous improvement processes.

A. Methodology

The Safety Case shall outline the methodology used in preparing the risk assessment and other aspects of the safety case including any references to industry standards.

The methodology shall outline the approach taken to accurately identify all hazards and risks relating to the upstream and midstream petroleum operations, facilities and personnel, including the types of assessment employed as follows:-

- (a) qualitative risk assessment, in which frequency and severity are determined purely qualitatively;
- (b) semi-quantitative risk assessment, in which frequency and severity are approximately quantified within ranges; or
- (c) quantitative risk assessment, in which full quantification occurs.

The risk assessment methodology should provide a ranking of risks in order, for subsequent consideration of risk reduction i.e. mitigation. The rigour of assessment should be proportionate to the magnitude of risk and complexity of the problem identified as illustrated in figure 1. Therefore, in the case of an extremely high-risk situation, that is labelled 'intolerable', quantitative risk assessment may be employed.

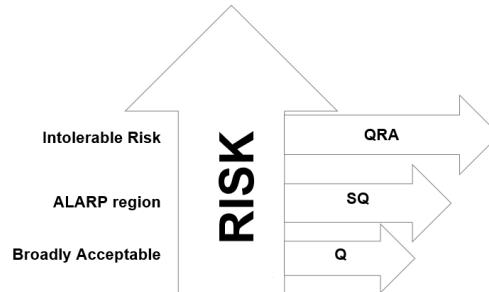


Figure 1: Proportionate Risk Assessment

KEY:

ALARP- As Low As Reasonably Probable

Q- Qualitative risk assessment

SQ- Semi-quantitative risk assessment

QRA- Quantitative risk assessment

B. Facility Description

Where a safety case is developed for a facility it shall contain a description of the facility including details of:

- 1) the principal functions and operations of the facility;
- 2) the layout of the facility;

3) the activities that will, or are likely to, take place at, or in connection with, the facility;

4) identification of installations at the facility or any related activities or operations that may present a risk of an incident, hazard or accident including:

(a) a description of the main operations, materials, and products of the parts of the facility which may be a source of significant risks to safety; and

(b) a description of hazardous substances present or likely to be present.

5) The location and the surrounding environment including any relevant matters relating to meteorological, geological, hydrographic conditions or the history of the site;

6) any neighbouring facilities or sites that may impact the level of risk at the facility or during activities; and

7) any other relevant matters.

C. Risk Assessment

A contractor, permit holder or a midstream operator shall, in relation to the facility and related activities, outline a detailed description of the assessment, or series of assessments, that:

(a) identifies all hazards having the potential to cause an incident or accident including a detailed description of incident scenarios and possible causes such as operational, external or natural causes;

(b) provides a detailed and systematic assessment of the risk associated with each of those hazards, including the likelihood and consequences of each potential incident or accident including a description of the conditions under which they might occur including a summary of the events which may play a role in triggering each of these scenarios;

(c) where relevant, incorporates a review of past accidents and incidents with the same substances and processes used, consideration of lessons learned from the past accidents and incidents and explicit reference to specific measures taken to prevent such accidents; and

(d) identifies the technical and other control measures that are necessary to reduce that risk to a level that is as low as reasonably practicable.

The risk assessment shall be set out in a logical, coherent and accessible format which identification of the risks arranged by each activity to be performed in a particular installation or facility.

The risk assessment shall clearly identify any high-risk installations or facilities.

Risk calculation and acceptance criteria

Risk acceptance criteria used in the risk assessment shall be clear, objective, transparent and support of reasoned decision making.

Contractors or midstream operators shall establish risk tolerability criteria against which all risks shall be assessed and reduced to a level that is tolerable and as low as reasonably practicable in the given context.

D. Safety management system

The safety case for the facility shall also contain a detailed description of the system risk control measures and practices including mitigation and recovery measures that are adequate and effective to reduce risk to safety and health of persons at or near the facility to a level that is as low as reasonably practicable.

The safety management system shall:

(a) be comprehensive and integrated;

(b) consider and provide for all activities that are likely to take place at, or in connection with, the facility; and

(c) define appropriate technical measures such as those relating to:

(i) design;

(ii) construction;

(iii)safety systems;

(iv)choice of chemical products;

(v) operation, maintenance, and systematic inspection of the installation;

(d) define relevant organisational measures such as those relating to:

(i) training and instruction of workers;

(ii) supply of safety equipment;

(iii)number of persons at the installation;

(iv)working hours;

(v) definition of responsibilities and control of workers and contractors;

(e) establish emergency plans and procedures for the site;

(f) provide for the continual and systematic identification of hazards to safety and health of persons at or near the facility;

(g) provide for the continual and systematic assessment of:

(i) the likelihood of the occurrence, during normal or emergency situations, of injury or occupational illness associated with those hazards; and

(ii) the likely nature of such injury or occupational illness;

(h) provide for inspection, testing and maintenance of the equipment and hardware that are the physical control measures for those risks;

(i) provide for adequate communications between the facility and any relevant auxiliary facility, installation or mode of transport

(j) specify the performance standards that apply

(k) provide procedures for reporting incidents or accidents, particularly those involving failure of protective measures, and the conduct of investigation and addressing lessons learned

(l) provide for any other matter that is necessary to ensure that the risk control measures meet the requirements and objects of these Regulations

Without limiting the control measures, a contractor, permit holder or a midstream operator shall ensure adequate consideration of:

(i) risks arising during evacuation, escape and rescue in case of emergency; and

(ii) risks arising from equipment and hardware.

Safety case for construction, installation, modification or decommissioning stage

If a contractor, permit holder or a midstream operator of a facility submits a safety case for a construction, installation, modification or decommissioning stage in the life of the facility, the safety case shall contain the matters outlined in this Schedule with sufficient reference to:

(a) the facility at that stage in the life of the facility; and

(b) the activities that will, or are likely to, take place at, or in connection with, the facility during that stage in the life of the facility; and

(c) to the extent that it is practicable—the facility and the activities that will, or are likely to, take place when the facility is in operation.

Updating aspects of the safety case

The contractor, permit holder or midstream operator shall define any conditions or criteria that may require updating a risk assessment in addition to those outlined in these regulations.

EIGHTEENTH SCHEDULE

Guidelines for the Evaluation of Environmental Liability Policy

The significance of any damage that has adverse effects on reaching or maintaining the favourable conservation status of habitats

or species has to be assessed by reference to the conservation status at the time of the damage, the services provided by the amenities they produce and their capacity for natural regeneration. Significant adverse changes to the baseline condition should be determined by means of measurable data such as:

- a. the number of individuals, their density or the area covered,
- b. the role of the particular individuals or of the damaged area in relation to the species or to the habitat conservation, the rarity of the species or habitat (assessed at local, regional and higher level including at Community level),
- c. the species' capacity for propagation (according to the dynamics specific to that species or to that population), its viability or the habitat's capacity for natural regeneration (according to the dynamics specific to its characteristic species or to their populations),
- d. the species' or habitat's capacity, after damage has occurred, to recover within a short time, without any intervention other than increased protection measures, to a condition which leads, solely by virtue of the dynamics of the species or habitat, to a condition deemed equivalent or superior to the baseline condition.

2. Damage with a proven effect on human health must be classified as significant damage. The following does not have to be classified as significant damage:

- a. negative variations that are smaller than natural fluctuations regarded as normal for the species or habitat in question,
- b. negative variations due to natural causes or resulting from intervention relating to the normal management of sites, as defined in habitat records or target documents or as carried on previously by owners or operators,
- c. damage to species or habitats for which it is established that they will recover, within a short time and without intervention, either to the baseline condition or to a condition which leads, solely by virtue of the dynamics of the species or habitat, to a condition deemed equivalent or superior to the baseline condition.

NINETEENTH SCHEDULE

Guidance on the contents of a Flaring and Venting Management Plan

1. The Flaring and Venting Management Plan shall provide a projection of flaring and venting quantities and associated emissions over the lifetime of the installation with an associated plan of actions/projects/investments which the licensees plan to undertake to manage and minimise flaring and venting quantities and associated emissions. At a minimum, the documentation should contain:

- (a) a brief overview of the field and associated main facilities;
- (b) a detailed description of the plant commissioning philosophy and procedure, including gas export line commissioning should this be applicable, setting out steps to minimise flaring and venting;
- (c) the commissioning schedule;
- (d) a summary of the main flaring and venting assumptions and the greenhouse gas emission profiles of different commissioning strategies considered;
- (e) flaring and/or venting forecasts – on a daily basis and total quantities
- (f) sketches and figures should be as follows:
 - 1) high level field layout
 - 2) process flow diagram
 - 3) gas compression, dehydration, gas export and fuel gas system

2. Throughout the oil and gas Lifecycle, the operator is required to provide weekly reports to the Authority detailing the following information relating to the previous week's activity:

(a) a short technical summary of the performance of the gas handling plant, highlighting any features which have affected or could affect the operation of the plant

(b) an update on commissioning activity progress and main works planned

(c) daily rates of oil production, gas production, gas export, gas used for fuel and of gas flare and/or vent

(d) cumulative plots of production and flaring and venting compared to consented quantities for that period and a plot of associated emissions

(e) gas compression plant uptime

3. Applications made for annual consents exercise should contain the following information:

(a) List of fields sending hydrocarbons to the terminal or similar site

(b) Actual flaring and venting quantities from the previous year to the current year (i.e. 12 months historic quantities)

(c) Expected flaring and venting quantity for the next year, broken down into the categories below

(d) Summary of measures being considered or implemented to reduce flaring or venting and associated emissions throughout lifecycle activities, supported by, amongst other things, improved energy efficiency, continued focus on maintenance, and a high level of production efficiency

4. Where flaring or venting is forecast to be in excess of consented levels, the Authority may request for and consider the following information:

(a) a robust remediation plan and investment plan, with approved budget and timing, to revert to original consent rates

(b) options for, or evidence of, curtailment of production to minimise flare and vent quantities and associated emissions – including scenarios that result in the temporary shut-in of production analysis on scenario emissions

(c) evidence that export outages have been planned for and all other options have been appropriately considered by the operator, such as but not limited to:

i) sheltering annual maintenance activities

ii) planning activities where periods of zero production are required (e.g. annual maintenance shut downs) to align with known downstream/export outages

iii) line pack

iv) evidence of Managing Director (or equivalent) awareness of the issue, and operator request for variation request

GAZETTE NOTICE NO. 9278

THE PETROLEUM ACT

(Cap. 308)

IN EXERCISE of the powers conferred by sections 108, 126 and 127 of the Petroleum Act (Cap. 308) the Cabinet Secretary for Energy and Petroleum makes the following Regulations—

PETROLEUM (UPSTREAM PETROLEUM ACCESS TO LAND) REGULATIONS, 2025

PART I - PRELIMINARIES

1. These Regulations may be cited as Petroleum (Upstream Petroleum Access to Land) Regulations, 2025.

2. In these Regulations, unless the context otherwise requires—

“Act” means the Petroleum Act (Cap. 308);

“Authority” means the Energy and Petroleum Regulatory Authority established under Section 9 of the Energy Act (Cap. 314).

“best petroleum industry practice” has the meaning assigned to it

under section 2 of the Act;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for petroleum;

“Commission” means the National Land Commission established by Article 67 of the Constitution;

“Committee” means an ad-hoc Access to Land Acquisition and Resettlement Committee established under sub-regulation 15(1);

“community” has the meaning assigned to it under section 2 of the Community Land Act, No. 27 of 2016;

“Community land” has the meaning assigned to it under Article 63 of the Constitution;

“compensation” means payment in cash or in kind to a person in recognition of loss, suffering or injury;

“Compulsory acquisition” has the same meaning as assigned to it under section 2 of the Land Act, No. 6 of 2012;

“day(s)” means calendar days;

“development” means the planning, placement, construction and installation of onshore facilities needed for production of petroleum;

“economic displacement” means loss of income streams or means of livelihood caused by land acquisition or obstructed access to land, resulting from the construction or operation of a project or its associated facilities;

“Energy and Petroleum Tribunal” means the Tribunal established under Section 25 of the Energy Act, No. 1 of 2019;

“Field Development Plan” means the development plan described under section 30(2) of the Act and shall include a joint development plan as described under section 36(4) of the Act

“framework” means a Access to Land, Acquisition and Resettlement Framework under regulation 11;

“Access to Land” means the temporary occupation or acquisition of rights other than full property rights such as rights of way or certain usufructuary rights;

“land acquisition” means land acquisition under section 7 of the Land Act, No. 6 of 2012

“land restoration” means the process of restoring an area of land to as near as it may be to the state in which it was at the time of access to land or land acquisition by the project proponent;

“livelihood” means the full range of means comprising of capabilities, assets (including both material and social resources) and activities required for individuals, families or communities to generate an income to secure the necessities of life;

“livelihood restoration” means programs or measures designed specifically to maintain or improve the assets, levels of economic productivity or standards of living to project-affected person whose livelihoods are adversely affected by the project;

“physical displacement” means the loss of primary shelter resulting from the acquisition of land for a project that requires the project-affected persons to move to another location;

“private land” has the meaning assigned to it under Article 64 of the Constitution;

“project affected persons” means individuals who are adversely affected either by physical, economic, cultural and/or spiritual displacement by the access to land or acquisition of land for a project;

“project proponent” means a contractor operating onshore, a holder of nonexclusive exploration permit operating onshore, a holder of an upstream petroleum operational permit operating onshore, or any other person conducting or intending to conduct onshore upstream petroleum operations;

“public land” has the meaning assigned to it under Article 62 (1) of the Constitution;

“upstream petroleum operations” means all or any of the onshore operations related to the exploration, development, production, separation and treatment, storage and transportation of crude oil or

natural gas, decommissioning, provided that such upstream petroleum operations are within a contract area as defined in a petroleum agreement.

3. (1) These Regulations shall apply to:

- a) access to land for onshore upstream petroleum operations;
- b) acquisition of an interest in land for onshore upstream petroleum operations; and
- c) resettlement and livelihood restoration related to onshore upstream petroleum operations.

(2) These Regulations shall not apply to:

- (a) access to land or acquisition of an interest in land for upstream petroleum operations being undertaken offshore; and
- (b) midstream and downstream petroleum operations.

4. The objectives of these Regulations are to provide for the following;

- a) an approach for access to land for onshore upstream petroleum operations;
- b) promotion of onshore upstream petroleum projects while promoting and protecting the rights and freedoms of project affected persons, project proponents and owners or occupiers of land;
- c) preparation, submission, review, approval and implementation of Access to Land, Acquisition and Resettlement Frameworks;
- d) establishment of a committee and its functions in Access to Land, acquisition and resettlement in onshore upstream petroleum operations;
- e) procedures for land restoration and reversion upon completion of onshore upstream petroleum operations; and
- f) any other related matters.

5. In these Regulations, Access to Land, acquisition and resettlement shall be guided by the principles of land policy under Article 60(1) of the Constitution, relevant guidelines developed by the Cabinet Secretary and best petroleum industry practices.

PART II – ACCESS TO LAND

6. (1) A project proponent who intends to enter upon any land to carry out a survey of the land to undertake exploration activities relating to petroleum operations shall seek the prior consent of the owner or occupier of the land in the prescribed land consent agreement form in the First Schedule.

(2) The project proponent shall submit the signed land consent agreement form to the Authority upon payment of the prescribed fee in the Second Schedule.

(3) Where land being accessed is community land, access and acquisition shall be in accordance with the Community Land Act, 2016.

(4) Where the owner or occupier of the land, for purposes of sub-regulation (1), cannot be traced, the project proponent shall give thirty (30) days' notice requiring the landowner or occupier to present themselves to the project proponent by;

- a) publishing a notice in the *Gazette* and in at least two newspapers of nationwide circulation;
- b) making an announcement of the notice in both official and local languages in radio station(s) widely broadcasting in the area within the subject land; and
- c) the publications and announcements referred to in (a) and (b) shall be published and announced, as the case may be, at least three (3) times as follows;

i. the first publication and announcement shall be on the first day of the notice period;

ii. the second publication and announcement shall be fifteen (15) days after the first publication and announcement; and

iii. the third publication and announcement shall be at least seven (7) days before the end of the notice period.

(5) The notice referred to in sub-regulation (4) above shall be in the form prescribed under Form A in the Third Schedule.

(6) Where the owner or occupier of the land cannot be found after the expiry of the notice under sub-regulation (4) or any such extended period, then, the project proponent shall seek consent from the Commission in Form B prescribed in the Third Schedule.

(7) Where the owner or occupier declines to grant consent to access land to the project proponent for purposes of sub-regulation (1) then, the project proponent shall seek consent from the Commission in Form B prescribed in the Third Schedule.

(8) The Commission may authorize in writing, any project proponent to enter upon any land upon application under sub-regulations (6) or (7).

(9) For purposes of sub-regulation (8) compensation for damage resulting from entry authorized by the Commission, shall be determined by the Commission in accordance with the relevant written laws.

(10) Any person who contravenes the provisions of sub-regulations (1) and (4) commits an offence and shall on conviction be liable to the penalties prescribed in the Seventh Schedule.

7. (1) No person shall plan, place, construct or install onshore petroleum facilities on any land without agreeing in writing with the landowner or occupier on the terms and conditions of access to enable such development or without any other lawful authorisation.

(2) (i) A project proponent who has agreed in writing with the landowner or occupier under sub-regulation (1), shall within 14 days of entering into such agreement, deposit a certified copy of the agreement thereof to the Authority.

(ii) Provided that if there is any amendment or termination to the said agreement, such amendment or termination shall be submitted or notified, as the case may be, in writing to the Authority within 7 days.

(3) Any person who contravenes the provisions of sub-regulation (1) commits an offence and shall on conviction be liable to the penalties prescribed in the Seventh Schedule.

8. (1) Whenever an owner or occupier of land or any person suffers denial, loss, damage or injury, caused by access to land authorized under sub-regulation 6(1), such owner or occupier of land or such person shall be entitled to prompt payment in full, of just compensation in accordance with this regulation and relevant written laws.

Provided that this regulation shall not apply to compensation under sub-regulation 6(9) and regulation 9.

(2) Whenever in the course of upstream petroleum operations, the project proponent;

- a. denies the owner or occupier of the land the rights to quiet enjoyment;
- b. causes loss of use of or damage to land, crops, trees, buildings, stock or works therein or thereon;
- c. causes loss of life or personal injury to the owner or occupier of any land or to his/her agents, workmen or servants; or
- d. causes damage by any irregularity, trespass, or other wrongful proceedings

the project proponent shall be liable to prompt payment in full, of just compensation to an owner or occupier of land or any person, as the case may be.

(3) While assessing compensation the following factors shall be considered:

- a. damage sustained or likely to be sustained to the owner's or occupier's property whether movable or immovable, in any other manner on his or her actual earnings;
- b. reasonable expenses incidental to the relocation of the project affected persons who will be compelled to change residence or place of business; and
- c. any other relevant factor.

(4) If the project proponent fails to pay or make compensation when demanded, or if an owner or occupier or any person is dissatisfied with the amount or nature of any compensation offered to him or her thereunder, the owner or occupier or any person may, refer the matter to a court of competent jurisdiction.

(5) If any difficulty or question arises as to the entitlement to compensation payable under the Act and regulations, the determination shall be made in accordance with the provisions of the relevant written laws by a court of competent jurisdiction.

9. (1) Where a project proponent fails to agree in writing with the landowner or occupier as provided for under regulation 7, the project proponent may request the Cabinet Secretary to make an application for compulsory acquisition as provided for in section 116 of the Act and the relevant written laws.

(2) If the Cabinet Secretary is satisfied that the project proponent;

- a) reasonably requires land for purposes of constructing, modifying, or operating any upstream petroleum infrastructure or for incidental purposes; and
- b) has failed to acquire the land by agreement after making reasonable attempts to do so,

33. the Cabinet Secretary may apply to the Commission to acquire it compulsorily.

PART III - ACCESS TO LAND, ACQUISITION AND RESETTLEMENT FRAMEWORK

10. A project proponent shall prepare in accordance with this Part, a Access to Land and Acquisition, and Resettlement Framework or any variation thereof to the Authority:

- a) upon approval or variation of the Environmental and Social Impact Assessment for the project, and prior to commencing any upstream petroleum operations which have a significant impact on project affected persons including the displacement of project affected persons; or
- b) during the submission of a field development plan or a joint field development plan by a contractor to the Authority.

11. (1) The project proponent shall engage a competent team of experts led by a lead expert to develop the terms of reference for the preparation of the framework and submit the terms of reference to the Authority prior to commencement of preparation of the framework.

Provided that any person involved in the development of the terms of reference shall not be involved in the preparation of the framework.

(2) The Authority shall review the terms of reference and composition of the team of experts under sub regulation (1) within twenty-one (21) days upon submission by the project proponent.

12. (1) Subject to sub-regulation (2), the framework shall be prepared in accordance with all relevant written laws and best petroleum industry practices.

(2) The framework shall include but shall not be limited to the following:

- a) policy, legal framework, and applicable standards;
- b) procedure of Access to Land and acquisition;
- c) scoping and risk assessment;
- d) planning for the framework process;
- e) baseline data collection;
- f) livelihood restoration;
- g) stakeholder engagement;
- h) grievance management and conflict resolution;
- i) implementation of the framework;
- j) monitoring and evaluation;
- k) land restoration and reversion;
- l) framework data management;
- m) roles and responsibilities of all the relevant agencies; and

n) composition of the team of experts who developed the framework and their qualifications.

13. (1) During the preparation of the framework the project proponent shall seek and record the views of persons who may be affected by the project by:

- a) holding at least two (2) public meetings or such number as determined in the approved terms of reference under sub-regulation 12(2), with the affected parties and communities including the women, youth, persons with disability and other vulnerable groups in a venue convenient and accessible, and in a language understandable by the various stakeholders, to explain the project and its effects and to receive their oral or written comments;
- b) ensuring that appropriate notices indicating the dates, times and venues of the meetings, are publicized to the affected communities and the other concerned parties at least seven (7) days prior to the meetings referred to in paragraph (a) above;
- c) placing posters in strategic public places and in the vicinity of the site of the proposed project, to inform the affected parties and communities of the meetings, so as to reach persons described in paragraph (a) above; and,
- d) annexing the reports, minutes, proceedings, notice, list of attendance, photographic and audio evidence of the public meetings.

(2) The project proponent shall perform public disclosure in accordance with these Regulations.

14. (1) A project proponent shall submit at least ten (10) printed copies and an electronic copy of the framework, or in the manner prescribed by the Authority and accompanied by a duly completed submission form set out in the Fourth Schedule upon payment of prescribed fees in the Second Schedule.

(2) Upon submission of the framework to the Authority under sub-regulation (1), the Authority shall within seven (7) days conduct a preliminary review of the documentation received from the project proponent to determine the material completeness of the framework.

(3) The Authority may request for further information from the project proponent prior to notifying the Cabinet Secretary of the submission of the framework.

15. (1) There shall be established an ad-hoc Access to Land, Acquisition and Resettlement Committee for each submitted framework which shall perform the functions in regulation 17.

(2) The Cabinet Secretary shall within twenty-one (21) days of being notified by the Authority of the submission of a complete framework by a project proponent appoint the Committee which shall be comprised of competent representatives from at least the following institutions:

- a) Ministry responsible for petroleum who shall chair the committee;
- b) Ministry responsible for land matters;
- c) Authority who shall be the Secretary;
- d) State department responsible for social protection;
- e) National Environment Management Authority;
- f) National Land Commission; and
- g) relevant/affected county government(s).

(3) The Committee may co-opt any other person as it may deem necessary.

16. The Committee shall carry out the following functions:

- a) review the framework and advise the Cabinet Secretary thereto;
- b) oversee the management of the framework;
- c) coordinate with other relevant entities that deal with Access to Land, acquisition, and resettlement; and
- d) such other functions as may be assigned in writing by the Cabinet Secretary.

17. The Committee shall, within one hundred and

twenty (120) days upon its appointment, review the framework in accordance with these Regulations, best petroleum industry practice and relevant written laws, and advise the Cabinet Secretary on the determination of the framework.

18. (1) The Committee shall, within ten (10) days of being appointed, prepare and issue a notice:

- a) inviting the public to make written comments on the framework within thirty (30) days; and
- b) inviting the public for a public hearing to be conducted no later than forty-five (45) days after the expiry of the notice period in paragraph (a).

(2) The Committee shall, at the expense of the project proponent:

- a) publish the notice on the proposed project in the *Gazette* and in at least two (2) newspapers of nationwide circulation;
- b) make an announcement of the notice in both official and local languages in radio station(s) widely broadcasting in the area or the proposed area of the project; and
- c) the publications and announcements referred to in (a) and (b) shall be published and announced, as the case may be, at least three (3) times where the first publication and announcement shall be on the first day of the notice period, the second publication and announcement shall be fifteen (15) days after the first publication and announcement, and the third publication and announcement shall be at least seven (7) days before the date of the public hearing.

(3) If no written or oral comments are received as stipulated under sub-regulations (1) and (2) above or at the public hearing or such extended period as the Committee may specify, the Committee shall proceed to advise the Cabinet Secretary on the determination of the Framework.

(4) The notice under sub-regulation (1) shall be in the form prescribed in the Fifth Schedule.

(5) The Committee may on its own motion or on application by any person extend the notice period stipulated in sub-regulation (1) so as to afford reasonable opportunity for public participation.

19. (1) The Committee shall in consultation with the relevant National Government Administration Officers, hold a public hearing as stipulated in this regulation.

(2) The public hearing shall be conducted at a venue convenient and accessible to people who are likely to be affected by the framework.

(3) All public hearings shall be conducted in an informal and non-adversarial forum to create a conducive environment for participation by all stakeholders including youth, women, persons with disabilities and other vulnerable groups to permit a fair and full examination of all information presented.

(4) The Committee in consultation with National Government Administration Officers shall determine the rules of procedure at the public hearing.

(5) The project proponent shall be given an opportunity to make a presentation and to respond to specific issues raised at the public hearing.

(6) Upon the conclusion of the public hearing, the Committee in consultation with National Government Administration Officers shall compile a report of the views presented at the public hearing.

20. (1) Notwithstanding sub-regulations 15(3) and 23(3), the Committee may, during the review of the framework or any variation thereof, require any person to provide more information or documents.

(2) The information or documents referred to under sub-regulation (1) shall be provided by such person within seven (7) days of the request.

(3) For purposes of this regulation, the period of time for review of the framework or of a variation under regulation 18 and sub-regulation 23(4) respectively, shall stop running from the time the request under sub-regulation (2) is made until the Committee has received the information or documents and is satisfied as to their completeness.

21. (1) Upon receipt of the recommendations from the Committee under regulation 18, the Cabinet Secretary shall within fourteen (14) days:

- (a) approve the framework;
- (b) approve the framework with conditions; or
- (c) reject the framework with reasons.

(2) The determination in sub-regulation (1) above shall be communicated to the project proponent in writing.

22. (1) A project proponent may apply to the Authority to vary an approved framework in the form prescribed in the Sixth Schedule and shall submit ten (10) printed copies and an electronic copy of the proposed variation, reasons thereof, impact and any other relevant information, upon payment of a prescribed fee in the Second Schedule.

(2) The Authority shall within seven (7) days of submission of the variation under sub regulation (1) conduct a preliminary review of the documentation received from the project proponent to determine the material completeness of the variation.

(3) The Authority may request for further information from the project proponent prior to forwarding the proposed variation to the Committee for review.

(4) The Committee shall within thirty (30) days of notification by the Authority under sub regulation (3) make a determination as to whether or not the proposed variation is substantive.

(5) Where the Committee determines that the proposed variation is substantive, the Committee shall make recommendations to the Cabinet Secretary as to the appropriate review procedure to be applied in reviewing of the proposed variation.

(6) Where the Committee determines that the proposed variation is minor, the Committee shall finalize the review and advise the Cabinet Secretary accordingly.

(7) Upon receipt of the recommendations from the Committee, the Cabinet Secretary shall within fourteen (14) days:

- a) make a determination on the applicable review procedure under sub-regulation (5);
- b) approve the variation with conditions; or
- c) reject the variation with reasons.

(8) The determination in sub-regulation (7) above shall be communicated to the project proponent in writing.

PART IV - LAND RESTORATION AND REVERSION

23. (1) The project proponent upon cessation or completion of upstream petroleum operations shall, unless otherwise approved by the Authority, undertake decommissioning and restoration for any Access to Landed and acquired temporarily, permanently, compulsorily or negotiated in accordance with relevant written laws.

(2) Where the project proponent fails to utilize compulsorily acquired land for the intended purpose, breaches any term or condition of the lease or upon completion of the upstream petroleum operations on compulsorily acquired land, the land shall revert back to the National Government.

(3) Where the National Government intends to dispose of compulsorily acquired land or the compulsorily acquired land is not utilized for the intended purpose, the original owner or occupier shall be given the first right of refusal to acquire the land.

PART V – MONITORING AND EVALUATION

24. (1) The project proponent shall in consultation with the Committee monitor and evaluate the implementation of the framework.

(2) The Committee shall oversee monitoring and evaluation of the framework.

(3) The project proponent shall submit a detailed report on monitoring and evaluation to the Authority at least thirty (30) days before the end of every calendar quarter, and any other period that may

be prescribed.

(4) The project proponent shall submit a report on monitoring and evaluation and recommendations, if any, to the Cabinet Secretary every six (6) months, and any other period that may be prescribed.

25. (1) The Cabinet Secretary shall engage an independent expert to undertake a completion audit of the Access to Land and acquisition process.

(2) The completion audit shall be undertaken to ensure that the Access to Land and acquisition process is in compliance with applicable standards, planning objectives, commitments of the framework and written laws.

(3) The audit shall be undertaken one (1) year after physical and economic displacement has taken place, at least five (5) years after the start of implementation of livelihood restoration measures and at any other time as may become necessary.

(4) Upon conclusion of the audit, the expert shall submit a report of his or her findings and recommendations to the Cabinet Secretary.

PART VI - MISCELLANEOUS

26. (1) Any data or information with respect to which these regulations apply, shall be managed in accordance with all written laws.

(2) Subject to sub-regulation (1) above, the project proponent shall have an obligation to provide access to data and information to the Cabinet Secretary.

(3) The Committee's report documenting the findings shall be prepared and publicly disclosed to the project affected persons and other relevant stakeholders.

27. (1) Where a person is dissatisfied with the resolution of a complaint under the grievance management and conflict resolution process under an approved framework, such person may, in writing, make a complaint to the Committee through the Authority with respect to Access to Land acquisition and resettlement process.

(2) Where a person is dissatisfied with the resolution of a complaint by the Committee, such person may, in writing, request the Cabinet Secretary for a review.

(3) Where a person is dissatisfied with the decision of the Cabinet Secretary, such person may within thirty (30) days appeal to the Tribunal.

(4) Where a complaint is made under sub-regulations (1) and (2), such complaints shall in each case be resolved within sixty (60) days.

28. A person aggrieved by a decision or order of the Tribunal, may within thirty (30) days of such a decision or order, appeal against such decision or order to the High Court or a court of equal status.

29. (1) A person who commits an offence deemed to be an economic crime under the Act, shall upon conviction be liable to penalties described under section 121 of the Act.

34. (2) A person who wilfully trespasses, obstructs, encroaches on, squats, or in any way interferes with land or access to land used or intended to be used for upstream petroleum operations shall upon conviction be liable to the penalties prescribed in the Seventh Schedule.

35. (3) A person who commits an offence under these Regulations for which no express penalty is provided shall on conviction be liable to the penalties prescribed under section 124 of the Act.

36. (4) A person who makes a false statement or a statement which he has reason to believe is untrue, to the Cabinet Secretary or to the Authority, shall upon conviction be liable to penalties prescribed under section 48 of the Act.

FIRST SCHEDULE

Petroleum (Upstream Petroleum Access to Land) Regulations, 2025

Regulation 6(1)

The Petroleum Act, No. 2 of 2019

1. A project proponent and owner/occupier of land shall enter into and submit to the Authority a duly completed and signed Access to Land Consent Agreement Form as provided below:

Sch. 1	Petroleum (Upstream Petroleum Access to Land) Regulations, 2025 Regulation 6(1) The Petroleum Act, No. 2 of 2019 ACCESS TO LAND CONSENT AGREEMENT FORM	possesses all lawful authority, and where necessary has sought and has been granted all such lawful authority, to grant and hereby so grants access to the project proponent to undertake the upstream petroleum operations described in clause 3 on terms and conditions agreed by the Parties. 5.3 The Owner/occupier confirms that it has at all times acted and continues to act of its free will in negotiating and signing this Form and all relevant agreements (if any) with the project proponent.
1. Parties, beneficiaries and PSC/permit	This Form shall be submitted in complete original copies together with supporting documents; one(1) to the Authority and one (1) to the Cabinet Secretary.	6. Term and renewal The term of the access to land shall be from [date] to [date]. The Parties have [agreed] [not agreed] to make provision for renewal/extension of the term for a further period of [defined] [undefined] term.
2. Particulars of land	Project proponent: Name: _____ Company registration number: _____ Nationality: _____ Address: Production Sharing Contract (PSC): {provide details of parties; execution date; Block; exploration period; start date of exploration period; end date of exploration period} Non-exclusive exploration permit: {provide details of name permit holder(s); permit number/reference; date of issue; Block, date of expiry; permit area} Land owner and/or occupier: Name: _____ National identity card number(s), company registration number, etc.: Address: Indicate whether: registered owner; registered lessee registered trustee (individual or body corporate); County Government (in case of unregistered community land), Registered Community Land Management Committee; Names of occupiers and/or beneficiaries:	7. Dispute resolution Both Parties agree that they shall exhaust the agreed alternative dispute resolution mechanisms in the event of a dispute/conflict. The Parties shall within seven (7) days notify the Authority and Cabinet Secretary of any dispute/conflict, the progress and resolution thereof. Any such notification to the Authority or Cabinet Secretary shall not entitle either Party to any action and/or remedy by the Authority or Cabinet Secretary with respect to the dispute/conflict.
3. Description of upstream petroleum operations	Land parcel/title registration number: Description of precise physical location (County, area, locality, etc.): _____ Georeferencing of precise physical location: _____ Acreage: _____ Type of land tenure: _____ End period of land tenure (if any): _____ Type of land use: _____ Description of developments (bare, buildings, crops, forest, etc.): _____	Dated _____ at _____ Project proponent: I/we hereby declare that the above information is true to the best of my/our knowledge, information and belief. I understand that provision of any false statement is an offence under sections 47 and 48 of the Act and may lead to cancellation, suspension or otherwise of the consent. Name of authorized representative: _____ Signature: _____ Official endorsement (if any): _____ Witnessed by _____ Owner/occupier: I/we hereby declare that the above information is true to the best of my/our knowledge, information and belief. I understand that provision of any false statement is an offence and may lead to cancellation, suspension or otherwise of the consent. Name of Owner or authorized representative: _____ Signature: _____ Official endorsement (if any): _____ Witnessed by _____
4. Project proponent's covenants	4.1 The project proponent confirms that it holds the PSC or non-exclusive exploration permit described in clause 1 and thereby has all lawful authority to conduct the upstream petroleum operations described in clause 3. 4.2 The project proponent shall conduct the upstream petroleum operations described in clause 3 on the Owner's land in accordance with relevant written laws and as agreed by the Parties herein. 4.3 The project proponent undertakes to compensate the Owner in accordance with these Regulations and all relevant written laws. 4.4 In consideration thereof, the project proponent shall pay rent as agreed by the Parties.	List of copies of supporting documents submitted by each party as applicable Including but not limited to: <ul style="list-style-type: none"> ○ Certified copies of Identification documents for the individuals and Directors ○ certified copies of duly signed supplemental/definitive Access to Land consent agreement between the Parties ○ certified copies of official land search ○ certified copies of company search or an equivalent for foreign companies ○ certified copies of title document ○ incorporation certificate ○ tax compliance certificate ○ KRA PIN ○ Any other relevant documents.
5. Owner's/occupier's covenants	5.1 The Owner confirms that it is the registered owner; registered lessee; lawful occupier; lawful beneficiary as described in clause 1. 5.2. The Owner/occupier confirms that it	FOR OFFICIAL USE ONLY

Date of complete submission		
List of submitted attachments		
Checked by/date		
Verified by/date		

2. Where a Project proponent and owner/occupier of land enter into a definitive Access to Land agreement subject to paragraph 3, the Access to Land Consent Agreement Form in paragraph 1 above shall prevail over such other agreement in the event of a conflict or inconsistency.

3. Any definitive Access to Land agreement entered into between a Project proponent and owner/occupier of land shall contain at a minimum the following provisions:

- i. Name of the parties
- ii. Owner of the property
- iii. Family members of the registered landowner
- iv. Access to Land fee
- v. The title/parcel number
- vi. Effective date
- vii. Project proponent's covenants
- viii. Landowner's covenants
- ix. Landowner's warranties and representations
- x. Alienation
- xi. Movable and Project proponent's improvements
- xii. Default and termination
- xiii. Renewal, if desired
- xiv. Ancillary rights
- xv. Notices
- xvi. Governing law
- xvii. Dispute resolution
- xviii. Legal intention to be bound;
- xix. Date of execution; and
- xx. Any other relevant clauses.

SECOND SCHEDULE

Petroleum (Upstream Petroleum Access to Land) Regulations, 2025

Regulations 6(2), 15(1) and 23(1)

APPLICABLE FEES

Regulation no.	Item	Fees (USD)
6 (2)	Submission of Access to Land Consent Agreement Form	Nil
15(1)	Framework Submission	50,000
23(1)	Framework Variation	10,000

Form A

THIRD SCHEDULE

REPUBLIC OF KENYA

THE PETROLEUM ACT, Act No. 2 of 2019

PETROLEUM (UPSTREAM PETROLEUM ACCESS TO LAND) REGULATIONS, 2025

Regulation 6(5)

NOTICE TO THE PUBLIC

Notice to the Public for Access to Land to carry out a survey/inspection of land to undertake exploration activities relating to petroleum operations

Pursuant to Regulation 6(5) of the Petroleum (Upstream Petroleum Access to Land) Regulations, 2025....., the (Project proponent) HEREBY GIVES NOTICE of its intention to enter upon the land described below for purposes of carrying out a survey to undertake exploration activities relating to petroleum operations.

Description of the Land:

LAND REGISTRATION NO:

AREA:

COUNTY:

GPS CO-ORDINATES:

Details of the Registered Owner

NAME OF REGISTERED OWNER.....

LAST KNOWN ADDRESS.....

Details of the Project proponent

NAME OF PROJECT PROPOSER:

.....

CONTACT DETAILS:

ADDRESS:

TAKE NOTICE that if no objection is received by the Project proponent in writing, within the next thirty (30) DAYS of publication of this notice, the Project proponent may proceed to enter the subject land in accordance with the Act for purposes of undertaking the Survey/inspection.

Dated.....

Director
PROJECT PROPOSER

Form B

THIRD SCHEDULE

REPUBLIC OF KENYA
THE PETROLEUM ACT, Act No. of 2019

PETROLEUM (UPSTREAM PETROLEUM ACCESS TO LAND) REGULATIONS, 2025

APPLICATION FOR CONSENT OF NATIONAL LAND COMMISSION TO ACCESS LAND TO CARRY OUT A SURVEY/INSPECTION TO UNDERTAKE EXPLORATION ACTIVITIES RELATING TO PETROLEUM OPERATIONS

(Pursuant to Regulation 6(6) and 6(7)

To be submitted in TRIPPLICATE in respect of each transaction and sent to or left at the appropriate office of the National Lands Commission

TO: THE NATIONAL LAND COMMISSION

P. O. Box

Nairobi

Application No.....

I/ We HEREBY apply to the NATIONAL LAND COMMISSION for its consent to enter upon land to carry out a survey/inspection of the land to undertake exploration activities relating to petroleum operations for the parcel of land described below, and give the following information:

1. (a) Present registered holder of interest (if Known) (full name in BLOCK LETTERS):

.....

(b) Nationality:

(c) Address:

2. (a) Project proponent /Applicant. (full name in BLOCK LETTERS)

(b) If a limited liability company, names of directors, authorised and issued share capital and principal shareholders;
 (c) Incorporation Certificate No.....
 (d) Address.....
 (e) PIN No.....

3. Nature of Consent sought (e.g. consent to enter upon land to carry out a survey of the land to undertake exploration activities relating to petroleum operations)

4. Term/Time Required (i.e approximate the length of time for which the survey is to take)

5. Description of Land-

L.R. or Parcel No.....

Area:

Locality:

County:

6. (a) Estimated value of the land:KSh

(Any other information affecting the amount of the consideration, particularly regarding the description and area of crops with estimated yields and value thereof)

(b) Full description and approximate value of improvements on land

.....

(c) Any other special considerations

7. A Notice to the Public on Access to Land, has been issued pursuant to Regulation 6(5) and the thirty (30) days period have lapsed and no objection has been received by the Project proponent :

a) Date of Notice :.....
 b) Mode of Publication:

c) Date of Publication:

d) Coverage of the Publication (County, national, international):

I/we hereby declare that the above information is true to the best of my/our knowledge, information and belief. I understand that provision of any false statement is an offence under sections 47 and 48 of the Act and may lead to cancellation, suspension or otherwise of the authorisation.

Signature of the Applicant.....

Name;.....

Designation:

Name of the Project proponent /Applicant:.....

Witnessed by:.....

Date.....

Attachments:

1. Certificate of Incorporation
2. Copy of Company Search Certificate (CR12)
3. Copy of KRA PIN Certificate
4. Copy of KRA Tax Compliance Certificate
5. Copy of Notice/ Newspaper Advertisement
6. Copy of Land Search
7. Certified copies of Identification Documents of the Directors of the Applicant

FOURTH SCHEDULE

PETROLEUM (UPSTREAM PETROLEUM ACCESS TO LAND) REGULATIONS, 2025

Regulation 15(1)

PETROLEUM (UPSTREAM PETROLEUM ACCESS TO LAND) REGULATIONS, 2025	
ACCESS TO LAND, ACQUISITION AND RESETTLEMENT FRAMEWORK (LAARF) SUBMISSION FORM	
Date:	
To:	The Director General Energy and Petroleum Regulatory Authority

PART A: DETAILS OF PROJECT PROPOSER

A1 Name of Project proponent.....
 A2 Address.....
 A3 Production Sharing Contract (PSC): parties; execution date; Block; exploration period; start date of exploration period; end date of exploration period.....
 A4 Non-exclusive exploration permit: name of permit holder(s); permit number/reference; date of issue; Block, date of expiry; permit area
 A5 Name and designation of the contact person.....
 A6 Telephone Number:.....
 A7 Email:.....

PART B: Project Description

Description of the proposed project.....

PART C: The LAARF

C1 Title of the proposed LAARF:.....
 C2 Location of the proposed LAARF (L.R. No., area, County and GPS Coordinates).....
 C3 Description of the LAARF activities

C4 Objectives and scope of the LAARF.....
 C5 EIA License No:.....

PART D: DECLARATION BY THE PROJECT PROPOSER

I/we hereby declare that the above information is true to the best of my/our knowledge, information and belief. I understand that provision of any false statement is an offence under sections 47 and 48 of the Act and may lead to prosecution and/ cancellation, suspension or otherwise of the Framework.

Name of authorized representative:_____

Signature:_____

Official endorsement (if any):

Witnessed by.....

PART E: FOR OFFICIAL USE

Received by..... Date.....

Checked by.....	Date.....
Verified by.....	Date.....
Vetting comments	
Officer.....	Sign..... Date.....
PART F: FOR OFFICIAL USE	
Date of submission to the LAAR Committee.....	
Date of submission of recommendations to the Cabinet Secretary.....	

Important note;

- 1.0 Submit Ten (10) hard copies of the framework
- 2.0 Submit an electronic copy of the framework sent to info@epra.go.ke
- 3.0 Pay the fees prescribed in Schedule 2.

FIFTH SCHEDULE

Regulation 19

Petroleum (Upstream Petroleum Access to Land) Regulations, 2025

Notice to the Public to Submit Comments and Invitation for Public Hearing on Access to Land, Acquisition and Resettlement Framework for *[Title of the proposed project]* (LAARF)

Pursuant to Regulation 19 of the Petroleum (Upstream Petroleum Access to Land) Regulations, 2025....., the Energy and Petroleum Regulatory Authority has received LAARF Report for the implementation of the proposed LAARF [title of the Framework].....

.....(brief description of the Framework).....at•.....•.....(locality) of County. The said LAARF

anticipates the following effects to the community, landowner(s) and/or environment.

.....(describe the anticipated resettlement; livelihood restoration, stakeholder engagement, grievance management, implementation programme, etc.).

The Framework of the proposed project may be inspected during working hours at:

- (a) Ministry responsible for Petroleum;
- (b) Ministry responsible for Mining;
- (c) The Energy and Petroleum Regulatory Authority (EPRA) Headquarters;
- (d) Relevant County Government offices
- (e) Relevant County Commissioner officer
- (f) EPRA Regional offices, where applicable;
- (g) Ministry responsible for Petroleum, Mining and EPRA websites (accessible 24 hours):

The Access to Land, Acquisition and Resettlement Committee invites members of the public to submit written comments within thirty (30) days of the date of publication of this notice to the Director-General, Energy and Petroleum Regulatory Authority (Authority Physical and Email Address).

The Access to Land, Acquisition and Resettlement Committee invites members of the public for a public hearing to be held at [details of the location]..... on [date]..... From [time].....

Dated this.....day of.....20.....

Signature.....

Project proponent.....

LAAR Committee Chairperson.....

SIXTH SCHEDULE

PETROLEUM (UPSTREAM PETROLEUM ACCESS TO LAND) REGULATIONS, 2025

(Regulation 23(1))

Application Ref. No.:

LAARF Approval Ref. No.:

APPLICATION FOR VARIATION OF ACCESS TO LAND, ACQUISITION AND RESETTLEMENT FRAMEWORK (LAARF)

PART A: PREVIOUS APPLICATIONS

A 1: Have there been there previous applications for variation of the LAARF. YES NO

A 2: If yes indicate the application number(attach copy)

PART B: DETAILS OF APPLICANT

B 1: Name (Company):

B2: Company Registration No

B3: Postal Address:

B4: Name of contact person:

B5: Nationality:

B5: Designation of contact person:

B6: ID/Passport No:

B6: Postal Address of contact person:

B7: Telephone No:

B8: E-mail:

PART C: DETAILS OF LAARF APPROVAL

C 1: Name of the Project proponent of the LAARF:

C2: Application No. of the LAARF:

C3: Date of approval of the LAARF:

PART D: PROPOSED VARIATIONS OF THE LAARF

D1: Approval Conditions in the LAARF:

.....
.....

D2: Proposed variation(s):

.....
.....
.....
.....

D3: Reason for variation(s):

.....
.....
.....
.....

D4: Describe the changes (the project, implementation of the Framework, resettlement, livelihood restoration, socio-economic and environmental/ecological etc.) arising from the proposed variations:

.....

D5: Describe how the landowner(s) and the community, implementation of Framework, natural ecosystems might be affected by the proposed variations:

D6: Describe how and to what extent the performance requirements set out in the Framework previously approved or previously submitted for this Framework may be affected

D7: Describe any additional measures proposed to eliminate, reduce or control any adverse changes arising from the proposed variation(s) process

D8: ESIA Licence No:..... Validity period.....

PART E: DECLARATION BY APPLICANT

I/we hereby declare that the above information is true to the best of my/our knowledge, information and belief. I understand that provision of any false statement is an offence under sections 47 and 48 of the Act and may lead to prosecution and/ cancellation, suspension or otherwise of the Framework.

NameDesignationSignature

Witnessed by:.....

Date

On behalf of.....

Company name and seal

PART E: FOR OFFICIAL USE

Received by.....Date.....

Checked by.....Date.....

Verified by.....Date.....

Vetting comments

Officer.....Sign.....Date.....

PART F: FOR OFFICIAL USE

Date of submission to the LAAR Committee.....

Date of submission of recommendations to the Cabinet

Secretary.....

Important note;

4.0 Submit Ten (10) hard copies of the framework
 5.0 Submit an electronic copy of the framework sent to info@epra.go.ke
 6.0 Pay the fees prescribed in Schedule 2.

SEVENTH SCHEDULE

Regulations 6(10), 7(3) and 30(2)

OFFENCES AND PENALTIES

Regulation	Offence	Penalty
6(10)	Contravening the provisions relating to seeking consent to access land for petroleum operations in the manner prescribed in sub-regulations 6(1) and (4).	A fine of not more than KSh. 5,000,000.00 or imprisonment for a term of not more than three (3) years.

		(3) years, or to both.
7(3)	Developing upstream petroleum operations, other than conducting a survey or exploratory activities, on any land, without consent from the owner, occupier or the National Lands Commission as the case may be.	A fine of not more than KSh. 5,000,000.00 or imprisonment for a term of not more than three (3) years, or to both.
30(2)	Wilfully trespassing, obstructing, encroaching on, squatting, or in any way interfering with land or access to land used or intended to be used for upstream petroleum operations.	A fine of not more than KSh. 1,000,000.00 or imprisonment for a term of not more than three (3) years, or to both.