

SALIENT POINTS FROM THE EXPOSURE DRAFT OF THE PETROLEUM HOST COMMUNITY (COMMISSION) REGULATIONS

Determination of Area of Operation

In the determination of host community, a host community shall be any of the following:

- A community situated within the area of operation. Provided that a geographical area of community is partly inside and partly outside the area of operation.
- A community situated appurtenant to the area of operation, which is within 5 kilometers from the boundary of the area of operation.
- A community that is situated littoral to the area of operation, where the area of operation is within shallow water or deep water. (A littoral community means a community that is located on the seashore or totally or partially within five (5) kilometers from the seashore bounded to the east and west of the area of operations.

Settlor submission of request to establish Host Community Development Trust to the Commission

- The settlor shall make its first annual contribution to the host community development trust fund within one month after the fund has been established by the Board of Trustees, and thereafter make contributions on a yearly basis on or prior to the anniversary of the first contribution. Provided that the contribution of the prior year shall not form part of the operating expenses for the determination of the 3% share of the operating costs for the succeeding year.
- Where the settlor is responsible for host communities in different areas of operation, the 3% share of the operating costs shall be determined based on the operating costs that are attributable to each area of operation.
- Where the settlor has established “any other community” as a host community pursuant to 235(3), the settlor shall reasonably allocate the share of the operating costs to the various possible host communities in line with section 245 of the Act.
- The settlor shall provide the Board of Trustees a forecast of the contributions for the subsequent five (5) years together with the payment of each annual contribution.

- The area of operations shall be the surface area of a petroleum prospecting licence, petroleum mining leases, oil prospecting licence or oil mining lease.
- Also, where operational or ancillary facilities of the Settlor are located outside the areas defined under this paragraph, the area of operations shall be adjusted to include the areas hosting such facilities

Determination of Host Community

Two months prior to the dates that the host community development trust has to be established, the Settlor shall submit to the Commission the following for each area of its operations for its review and approval or disapproval of the submission:

- the outline of the area of operations.
- the proposed host communities,
- the Board of Trustees,
- the draft of the constitution of the host community development trust,
- the distribution matrix pursuant to section 245 of the Act, and
- whether the settlor already has a program of host community support that is in execution and is supported by the host communities.

Annual contribution to the Host Community Development Trust fund

Operating Expenditures

For the purpose of determining operating expenditures pursuant to subsection 240(2) of the Act, the Settlor shall take into consideration all non-capital production costs, all cost of sales, administrative expenses and any other expenses incurred for the operations of the business on a day-to-day basis. Provided that such expenditures shall not include capital expenditures, impairment, depreciation, amortization.

- The Settlor shall, pursuant to Section 251 of the Act, carry out host communities needs assessment, within six months following the granting of the lease.
- In the case of existing oil prospecting licences and oil mining leases, the Settlor shall carry out the needs assessment within six month after the Settlor has made the first annual contribution related to its area of operation pursuant to sub paragraph 11 of these Regulations.
- Upon completion of the host community needs assessment, a report shall be submitted to the host community advisory committee, for its review, in order to prepare the host community development plan.

Host Community needs assessment

The Settlor shall not later 31st of May of each year, submit an annual report of the host communities development trust to the Commission. The report shall contain:

- The audited account of the host communities development trust,
- List of proposed projects for the host communities for the year,
- Status of executed or ongoing projects for the host communities
- Cost of the individual projects.

Implementation of Proposed Projects

- Whenever grievances arise between the host communities and the settlor, the settlor shall as a first instance attempt to resolve the grievances.
- Where the settlor is unable to resolve such grievances, the settlor shall refer the grievance to the Alternative Dispute Resolution Center (ADRC) in the Nigerian Oil & Gas Excellence Center (NOGEC), Lagos, Nigeria or any other Alternative Dispute Resolution for a mediator to settle the grievances.
- Where grievances occur among the host communities, it is the responsibility of the Board of Trustees to resolve such matters. Where the board of trustees is unable to resolve the grievance, the board of trustees shall refer the grievance to the Alternative Dispute Resolution Center (ADRC) in the Nigerian Oil & Gas Excellence Center (NOGEC), Lagos, Nigeria or any other Alternative Dispute Resolution for a mediator to settle the grievances.
- Where no settlement is reached after the mediation at the NOGEC (ADRC) or any other ARC, the grievance may be resolved by arbitration.
- Any final resolution by the NOGEC (ADRC) or any other ARC, shall not increase the budget provided under sub paragraph 19(5) unless the grievance relates to the fact that the maximum amount of the budget is not properly determined and in this case the increase shall be approved by the Commission.

Grievance Mechanism

Where an act of vandalism, sabotage or civil unrest occurs that causes damage to the petroleum facilities of the settlor within the area of operations, or disrupts production activities ("disruptive act"), the settlor shall notify the the Board of Trustees immediately of such matter, and the settlor shall prepare a report within one week for submission to the Commission

Vandalism

Where a lease, OPL or OML is surrendered pursuant to section 237 (2) of the Act or revoked, terminated or expired pursuant to section 237(3) of the Act, the settlor shall fulfil its surviving obligations and where these obligations have been complied with, the settlor shall have no further obligations either partly or wholly with respect to the area that was surrendered.

Cessation by the settlor