



REGULATORY IMPACT STATEMENT

THE DRAFT PETROLEUM (UPSTREAM PETROLEUM OPERATIONS) REGULATIONS, 2025

APRIL 2025

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1 INTRODUCTION

The Petroleum Act, Cap 308 ('the Act'), provides a framework for contracting, exploration, development and production of petroleum. To operationalize the Act, the Cabinet Secretary in charge of Petroleum proposes to make *The Draft Petroleum (Upstream Petroleum Operations) Regulations, 2025* for the technical requirements applicable to upstream petroleum operations. The Regulations are made pursuant to Sections 126 (1) and 127 of the Act which empowers the Cabinet Secretary to make regulations for the better carrying into effect of the provisions of the Act.

2 STATEMENT OF OBJECTIVES

2.1 General Objective

The purpose of the *Draft Petroleum (Upstream Petroleum Operations) Regulations, 2025* is to provide for the technical requirements applicable to upstream petroleum operations, including exploration, appraisal, development, production, abandonment, and decommissioning. These Regulations apply to the full lifecycle of upstream petroleum facilities located onshore and offshore of Kenya.

2.2 Specific Objectives

1. To incorporate the relevant Constitutional principles and values in the management of upstream petroleum operations;
2. 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;
3. To provide a framework for the regulation of upstream petroleum operations and the application, review, approval, and/or rejection, renewal, revocation or suspension of upstream petroleum permits;
4. To guide the conduct of upstream petroleum operations, including exploration, appraisal, development, production, decommissioning and abandonment in line

with Kenyan laws and best petroleum industry practices;

5. To provide for a framework for the preparation, submission, review, approval, rejection and revision of plans, reports and other requests in upstream petroleum operations;
6. To provide for a framework for the design, construction, installation, operation, maintenance, inspection and decommissioning of upstream petroleum facilities;
7. To provide for a framework for the measurement, quality management and control systems for petroleum; and
8. To provide for requirements applicable for data management and reporting.

3 STATEMENT ON THE EFFECTS OF THE PROPOSED REGULATIONS

The existing *Petroleum (Exploration and Production) Regulations, 1984 (revised 2012)*, which were enacted under the *Petroleum (Exploration and Production) Act, 1984 (repealed)*, are inconsistent with the current requirements of the *Petroleum Act (Cap. 308)*. Further, the existing Regulations focus on rights, management and administration and do not provide for operational requirements.

The *Draft Petroleum (Upstream Petroleum Operations) Regulations, 2025*, are expected to formalize and provide guidance on the requirements applicable to upstream petroleum operations, including exploration, appraisal, development, production, decommissioning and abandonment.

The proposed Regulations are meant to enhance prudent management of upstream petroleum resources by safeguarding and maximizing the benefits of petroleum resources while ensuring operational and cost efficiency, safety, transparency and accountability, standardization, optimal production, and measurement of petroleum.

4 ASSESSMENT OF OTHER PRACTICABLE MEANS OF ACHIEVING THE OBJECTIVES OF THE PROPOSED REGULATIONS

4.1 Option A: Maintaining Status Quo

As noted above, the existing *Petroleum (Exploration and Production) Regulations, 1984 (revised 2012)*, focus on rights, management and administration and do not provide for operational requirements. In any event, the Regulations of 1984 are obsolete, inconsistent with the *Petroleum Act* and fail to encompass technological advancements in the sector.

4.2 Option B: Self-Regulation

Self-regulation of any sector requires the presence of several established industry players and established industry norms in a given jurisdiction. However, even in developed petroleum economies, the regulation of upstream petroleum operations is codified in law due to the sensitive nature of the operations. Further, in Kenya, the upstream petroleum industry is still in its infancy, with only two (2) Contractors currently in operation. Therefore, self-regulation of the upstream petroleum sector is not sustainable.

4.3 Option C: Use of Frameworks Such as Guidelines

The Government also considered issuing the operational requirements as guidelines to the industry. Guided by *Section 2 of the Statutory Instruments Act (Cap. 2A)*, guidelines are also defined as statutory instruments subject to the requirements of the Act. In addition, the enforceability of guidelines could face legal challenges since guidelines cannot be used to create offences and penalties, which are necessary for the effective application of the operational requirements.

4.4 Option D: Use of Contractual Frameworks

Setting out the operational requirements in upstream petroleum arrangements/ contracts was found untenable because the terms and conditions of such contracts

vary depending on geographical location and ranking of blocks, negotiable terms and prevailing economic conditions at the time of negotiations, among other factors. In such a case, establishing identical operational requirements for all contractors under petroleum arrangements/ contracts is not possible.

4.5 Option E: Developing of the Proposed Regulations

Enacting the proposed Regulations will be in compliance with *Section 127 of the Petroleum Act*, which requires the Cabinet Secretary to publish regulations for upstream petroleum operations.

In addition, the Regulations will be legally enforceable and universally applicable to all persons engaged in upstream petroleum operations, adaptable to emerging technologies and innovations and aligned with Best Petroleum Industry Practices.

In light of the gaps identified in utilizing the other options, enacting the proposed Regulations is the preferred option.

5 ASSESSMENT OF THE COSTS AND BENEFITS OF THE PROPOSED REGULATIONS

The proposed Regulations are expected to have economic, social and environmental impacts as illustrated below: -

5.1 Economic Impacts

Table 1: Economic Impacts

Impact/ Benefit	Remarks
1. Attracting investment	<ul style="list-style-type: none"> Stable legal framework: a well-defined and stable regulatory framework can attract foreign and

Impact/ Benefit	Remarks
	domestic investment in the oil and gas sector.
2. Energy security	<ul style="list-style-type: none"> • Domestic production of oil and gas production can reduce dependence on imported energy sources, enhancing energy security.
3. Revenue from petroleum resources	<ul style="list-style-type: none"> • The discovery and production of petroleum resources will lead to increased revenue for the Government. • Optimized production and reservoir management. • Efficient metering and accurate measurement of petroleum.
4. Reduced operational costs	<ul style="list-style-type: none"> • Enhanced operational efficiency and safety will lead to reduced downtime and injuries.
5. Decommissioning fund	<ul style="list-style-type: none"> • Securing funds for decommissioning from the inception of the project.
6. Upstream petroleum data as an asset	<ul style="list-style-type: none"> • Data-driven decision-making and investments. • Efficient petroleum data management, including monetization of data.
7. Socio-economic growth	<ul style="list-style-type: none"> • Coordinated upstream petroleum operations to spur socio-economic growth, including increased business opportunities, employment and development of infrastructure such as roads, water and electricity.

5.2 Environmental Impacts

Table 2: Environmental Impacts

Impact/ Benefit	Remarks
1. Environmental sustainability	<ul style="list-style-type: none"> Promotion of sustainable decommissioning, abandonment and restoration processes and practices.
2. Eco-system management	<ul style="list-style-type: none"> Reduced carbon footprint due to reduced flaring and venting.
3. Land resource utilization	<ul style="list-style-type: none"> Efficient land use due to advanced drilling technologies such as pad drilling and mobile rigs.

5.3 Social Impacts

The proposed Regulations require local communities to be involved in the issuance of certain permits. As a result, the following social impacts are realized: -

1. Protection and promotion of community rights;
2. Project legitimacy and acceptance;
3. Social inclusivity;
4. Transparency and accountability; and
5. Improvement of livelihoods- increased employment, improved healthcare, upskilling and educational opportunities and infrastructure development such as roads, water, and electricity.

5.4 Administration and Compliance Costs

Once enacted, the proposed Regulations are expected to facilitate increased Government revenue from the fees and charges related to the application, approval, and renewal of permits, plans and other requests. In addition, revenue will be generated from fines and penalties. However, this will be an increased cost to the persons engaged in upstream petroleum operations.

It is also expected that the Authority and other Government agencies will incur a

marginal cost in regulatory compliance and enforcement of the proposed Regulations.

6 ANY OTHER MATTERS SPECIFIED BY THE GUIDELINES

According to Regulation 3 of the proposed Regulations, all matters prescribed for in the Regulations relate to upstream petroleum operations in Kenya.

7 DRAFT COPY OF THE PROPOSED STATUTORY RULE

The *Draft Petroleum (Upstream Petroleum Operations) Regulations, 2025* are annexed herein.