

**DECREE
ON ENVIRONMENTAL PROTECTION FOR THE PETROLEUM INDUSTRY**

COUNCIL OF MINISTERS

**Decree No. ____/2000
of _____, _____**

Whereas under the terms of the Constitutional Law, the General Environmental Law and the Petroleum Industry Law the protection of the Environment is a priority goal of the Angolan State, which must guarantee its preservation in order to promote a sustainable development;

Whereas the petroleum activity requires in this regard specific legislation due to its characteristics and importance to the national economy;

It being necessary to provide for protection of human health, water, land, sub land, air, flora and fauna and for respect of the cultural, archaeological, and aesthetic values of Angola in the course of petroleum activities, as well as:

- to ensure that the Environment is protected taking into account future generations;

to encourage the technological development of Angola's petroleum resources in an Environmentally sound manner;
- to ensure that the requirements established in the present Decree and in its regulations are based on accurate scientific and technical information and are in accordance with the rules and practices generally accepted by the international petroleum industry;

Whereas the petroleum companies must give highest priority to the prevention and control of pollution from those petroleum activities that present the greatest risk to health and the environment, as well as the protection of waters, land and air from pollution caused by spills and operational discharges of hydrocarbons and other products;

Whereas the petroleum companies must give highest priority to reduction, recycling, disposal and adequate deposit of wastes;

It being necessary to encourage the petroleum companies to continuously improve their environmental protection practices, including the investment in new and upgraded pollution control equipment without waiting for regulations to be issued;

Now therefore, in accordance with the joint provisions of subparagraph h) of Article 110 and Article 113 of the Constitutional Law, the Government decrees the following:

ARTICLE 1

Definitions

For the purposes of this Decree, and except if indicated otherwise in the text, the words and expressions used herein shall have the following meanings, being understood that the definitions in the singular are also applied in the plural, and vice-versa:

- a) **PETROLEUM ACTIVITIES** - means all the activities related to the prospecting, exploration, appraisal, development, production, transportation, refining, processing, storage, distribution and sale of Oil and its by-products, as well as the use and storage of chemical products for the performance of the Petroleum Activities.
- b) **ENVIRONMENT** - means the combination of physical, chemical and biological systems and their interrelations, and the economic, social and cultural factors which have a direct or indirect, mediate or immediate impact on living beings and the human beings' quality of life.
- c) **ASSOCIATES** - means the companies which participate in the petroleum operations in association with the National Concessionaire under the terms of the Petroleum Activities Law.
- d) **NATIONAL CONCESSIONAIRE** - means the holder of the mining rights for prospecting, exploration, appraisal, development and production of Oil.
- e) **SPILL** - means the uncontrolled evacuation or flow of Oil and pollutant products, which causes damage to the Environment in the course of the Petroleum Activities.
- f) **OPERATIONAL DISCHARGES** - means the controlled evacuation or flow of water produced, fluids from drainage, mud and residues resulting from normal operations of the Petroleum Activities.
- g) **WASTE** - means the superfluous solid products or fluids resulting from the Petroleum Activities.
- h) **ENVIRONMENTAL IMPACT** - means any change to the Environment, either to better or worse, specially with effects on air, land, water, biological diversity and people's health, resulting from the Petroleum Activities.
- i) **FACILITY** - means any site at which Petroleum Activities are carried out, either onshore or offshore, excluding marine tankers.
- j) **EXISTING FACILITY** - means any Facility which physically exists, or for the construction of which a contract has been signed as of the effective date of this Decree.
- k) **OPERATOR** - means the entity that carries out the Petroleum Activities.
- l) **OTHER OIL COMPANIES** - means any entity that carries out Petroleum Activities or services related to this Activity, but is not an Associate.
- m) **OIL** - means the crude oil, natural gas and all other hydrocarbon substances which may be discovered and extracted or obtained in some other way and

stored from a petroleum concession area such as refined and processed products of Oil.

- n) **POLLUTION** - means the disposal to the Environment of solid materials, fluids, gases, and emission of noise, resulting from the Petroleum Activities, in such a way and in such quantities which have a negative impact on the Environment.

CHAPTER I GENERAL PROVISIONS

ARTICLE 2

Object

This Decree provides for the protection of the Environment in the course of Petroleum Activities in order to guarantee its preservation, namely in what concerns to health, water, land and sub land, air, flora and fauna, ecosystems, landscape, atmosphere and the cultural, archaeological and aesthetic values.

ARTICLE 3

Scope

This Decree regulates the system of protection of the Environment, either onshore or offshore, to which the Petroleum Activities shall be subject.

ARTICLE 4

General Obligations

1. The Concessionaire and the Associates, through the Operator, and the Other Oil Companies shall take the necessary precautions to prevent the negative impact of Pollution and to limit to the extent possible the consequences if such impact has already occurred.
2. The Concessionaire and the Associates, through the Operator and the Other Oil Companies shall ensure that the personnel who carry out the petroleum operations complies with this Decree.

CHAPTER II ENVIRONMENTAL MANAGEMENT INSTRUMENTS

ARTICLE 5

Definition

Environmental Management Instruments are the group of actions and practical measures that the Concessionaire and the Associates, through the Operator, and the Other Oil Companies shall prepare and apply, in order to avoid undue harm to the Environment.

ARTICLE 6

Environmental Impact Assessment

1. The Concessionaire and the Associates, through the Operator, and the Other Oil Companies are required to prepare an Environmental Impact Assessment for the performance of the Petroleum Activities in new Facilities, and for the modifications to any Existing Facility, which the Minister of Petroleum anticipates will significantly affect the Environment.
2. The Environmental Impact Assessment shall identify the likely environmental damages caused by the proposed project or Facility, and determine appropriate steps to mitigate negative environmental impacts.
3. The Environmental Impact Assessment shall be based on Environmental Impact studies and shall contain as a minimum the following:
 - a) The conditions of the site and the existing Environment, as well as the modifications that the project or Facility will cause;
 - b) The anticipated Environmental Impact of the Facility, including the direct or indirect impact to natural resources consumption, disposal and deposit of wastes and Spills that the Concessionaire and the Associates, through the Operator, or the Other Oil Companies, consider as important;
 - c) The legal, financial, economic and practical actions that must be taken to reduce to the extent possible the Environmental Impact during the construction, operation and disposal of the Facility;
 - d) Any steps that may be carried out to determine and document the Environmental Impacts of the Facility and the effectiveness of mitigation efforts.
4. The Environmental Impact Assessment shall be submitted by the Concessionaire and the Associates through the Operator, and by the Other Oil Companies, in the beginning of the planning phase, to the Ministry of Petroleum, which shall ask the opinion of the Ministry of Fisheries and Environment before approving the referred Assessment.
5. If the opinion is favorable, the Ministry of Fisheries and Environment will issue an Environmental License.

ARTICLE 7

Spill Prevention

1. In order to help prevent the occurrence of a Spill, the Concessionaire and the Associates, through the Operator, and the Other Oil Companies shall develop and maintain updated a Spill Prevention Plan.

2. The Plan shall include a schedule for implementation of its elements, shall be submitted to the Ministry of Petroleum for approval and shall be implemented prior to the start of on-site activities that could cause a Spill.

3. With regard to Existing Facilities, the Plan shall be submitted to the Ministry of Petroleum for approval no later than 6 months from the effective date of this Decree and shall be implemented in accordance with the approved schedule.

4. The Plan shall list those Facilities covered and shall describe the project features and operating and maintenance procedures used to help prevent a Spill, such as:

- a) Spill containment systems;
- b) Fluid level controllers on tanks and pressure vessels;
- c) Sump and drainage systems for Spill collection;
- d) Fire and explosion prevention systems;
- e) Equipment and instrument inspection programs;
- f) Corrosion control programs;
- g) Spill prevention training program provided to its personnel.

ARTICLE 8

Spill Response

1. In order to help ensure prompt and effective response in the event of a Spill that threatens the Environment, the Concessionaire and the Associates, through the Operator, and the Other Oil Companies shall develop and maintain updated a Spill Response Plan.

2. The Plan shall include a schedule for implementation of its elements, shall be submitted to the Ministry of Petroleum for approval and shall be implemented prior to the start of on-site activities that could cause a Spill.

3. With regard to Existing Facilities, the Plan shall be submitted to the Ministry of Petroleum for approval no later than 6 months from the effective date of this Decree and shall be implemented in accordance with the approved schedule.

4. This Plan shall list those Facilities covered and shall describe:

- a) Planned response strategies for a minor and medium Spill scenario and for a major Spill scenario;
- b) Water, land and subsoil, air, flora and fauna, ecosystems, landscape, atmosphere, and cultural and archaeological assets that will most likely be adversely affected by Spills, and steps that are planned to avoid harming them, in accordance with the Environmental Impact Assessment referred in Article 6;

- c) Spill alert and notification procedures;
- d) The response organization and key job functions of the participants in Spill response;
- e) Available Spill response equipment, supplies, and services;
- f) Types and frequency of Spill response training and practice exercises;
- g) The procedures for removal of Waste resulting from the Spill cleanup.

ARTICLE 9

Waste Management, Disposal and Deposit

1. In order to help ensure that Waste generated by Petroleum Activities is handled, disposed of and deposited in a manner that avoids harm to the Environment, the Concessionaire and the Associates, through the Operator, and the Other Oil Companies shall develop and maintain updated a Waste Management, Disposal and Deposit Plan.
2. The Plan shall include a schedule for implementation of its elements, shall be submitted to the Ministry of Petroleum for approval and shall be implemented prior to the start on the site of the Facility of activities that could cause Waste.
3. With regard to Existing Facilities, the Plan shall be submitted to the Ministry of Petroleum for approval no later than 9 months from the effective date of this Decree and shall be implemented in accordance with the approved schedule.
4. The Plan shall establish:
 - a) The approximate quantities and quality of the principal types of Waste generated at each project or Facility, such as, Waste waters, Waste Oil and solvents, mud, Waste industrial chemicals and their containers, Facility process Waste, well drilling and workover Waste, medical and infectious Waste, sewage and trash;
 - b) Methods used to reduce Waste generation, such as source reduction, recycling, and re-use of materials;
 - c) Waste handling and treatment procedures used prior to disposal;
 - d) Disposal method for each type of Waste;
 - e) Identification of each site destined to the deposit of Wastes;
 - f) Considerations and procedures to be followed in the design, operation, and closure of Waste deposit Facilities.

ARTICLE 10

Management of Operational Discharges

1. In order to help ensure that the Operational Discharges resulting from the petroleum activities are treated in a way that avoids damage to the Environment, the Concessionaire and its Associates, through the Operator, and the Other Oil Companies shall develop and maintain updated an Operational Discharges Management Plan.
2. The Plan shall include a schedule for implementation of its elements, shall be submitted to the Ministry of Petroleum for approval and shall be implemented prior to the start on the site of the Facility, of activities that could cause Operational Discharges.
3. With regard to Existing Facilities, the Plan shall be submitted to the Ministry of Petroleum for approval no later than 9 months from the effective date of this Decree and shall be implemented in accordance with the approved schedule.
4. The Plan shall establish:
 - a) The approximate quantities and quality of the principal types of Operational Discharges generated by each project or Facility, such as, water produced, water from drainage, oil mud, water mud and chemical products;
 - b) Methods used to reduce the negative impact in the Environment of Operational Discharges, such as cleaning of mud and residues, separation of Oil from water and selection of chemical products;
 - c) Concentration of Operational Discharges, such as Oil in the water produced, water from drainage and residues;
 - d) Discharge locations;
 - e) Considerations and procedures to be followed in the design, operation and closure of Operational Discharge Facilities.

ARTICLE 11

Site Abandonment and Rehabilitation

1. To help ensure that abandoned Facilities will be left in a condition which avoids harm to the Environment, the Concessionaire, the Associates and the Other Oil Companies shall develop and implement a Site Abandonment and Rehabilitation Plan.
2. The Plan shall include a schedule for its implementation and shall be submitted to the Ministry of Petroleum for approval, at least one year prior to the abandonment of any Facility.
3. The Plan shall describe:
 - a. The Facilities to be abandoned or removed, and the methods for abandonment, removal and disposal or re-use of the Facilities;
 - b. Efforts to mitigate Environmental Impact and appropriately rehabilitate the site.

ARTICLE 12

Approval

The Plans and the Studies submitted to the Ministry of Petroleum for approval in accordance with this Decree shall be deemed approved if there is no negative reply within the 90 calendar days following the date of receipt of the referred Plans and Studies.

ARTICLE 13

Contractual Periods

When deciding on any request for renewal or extension of the contractual periods of the Petroleum Activities, the time reasonably spent by the Concessionaire, the Associates or Other Oil Companies in the development and implementation of the Environmental Management Plans provided in this Decree, as well as the time spent with the approval of such Plans, may be taken into consideration if the fulfillment of those obligations and/or such formality had evidently prevented or delayed the exercise of any right or the fulfillment of any obligation subject to a contractual period.

CHAPTER III

MAJOR SPILL EMERGENCY RESPONSE

ARTICLE 14

National Plan

1. In order to help ensure effective response to major Spills that may threaten the Environment, the Ministry of Petroleum will promote, in conjunction with the petroleum companies, within 6 months of the effective date of this Decree, the development of a National Major Spill Emergency Response Plan.
2. The Plan shall include, but shall not be limited to:
 - a) Organizational levels of responsibility for all appropriate Angolan government organizations and establishment of national major Spill emergency response teams;
 - b) Relationship between the Government and the petroleum companies;
 - c) Mobilization of resources for major Spill emergency response;
 - d) Arrangements to be made by the Ministry of Petroleum with the Angolan Customs and Border Authorities to expedite importation of equipment, personnel and supplies in case of an emergency;
 - e) Any agreements with neighboring countries regarding the movement of equipment, personnel and supplies into and out of the countries, as part of emergency major Spill response;
 - f) Identification of environmentally sensitive areas to be submitted to the Ministry of Fisheries and Environment for consideration;

- g) Types and frequencies of major Spill response training and practice exercises.

3. The Ministry of Petroleum in cooperation with the Ministry of Fisheries and Environment shall be the government organization responsible for the coordination of a major Spill response and shall monitor and advise, without prejudice of the responsibilities of the entity that caused the damage arising from the referred Spills.

4. The Ministry of Petroleum shall make the necessary arrangements with the proper authorities in order to obtain from them an easier and urgent entry into Angola of the necessary equipment, personnel and supplies in case of an emergency.

CHAPTER IV

SPILLS

ARTICLE 15

Obligation to Report

The Concessionaire and the Associates, through the Operator, and the Other Oil Companies shall report to the Ministry of Petroleum, in the most expeditious way, all Spills which may cause damage to the Environment.

ARTICLE 16

Spill Response and Cleanup

1. Without prejudice of the determination of the responsibilities for damages caused, which shall be made in accordance with the provisions of this Decree and applicable legislation, the Operator of the Facility which caused the Spill must take, immediately after the occurrence of the Spill, all appropriate and effective steps to control, clean and respond to the Spill including, in case it is not capable of effectively responding and cleaning the Spill, to request the assistance of the other petroleum companies operating in Angola.

2. Without prejudice of the preceding paragraph, if the Ministry of Petroleum determines that the Operator of the Facility is not capable of effectively controlling, responding and cleaning the Spill, the Ministry shall request the assistance of the other petroleum companies operating in Angola.

3. In case of a major Spill, all companies which have in Angola the equipment, personnel, supplies and other means to control, respond and cleanup the Spill are obligated to cooperate.

4. In the cases provided in the preceding paragraphs, the petroleum company which caused the Spill must pay the petroleum companies which collaborated to control, respond and cleanup the Spill, all costs and expenses incurred, within 30 (thirty) days from the effective date of accomplishment of collaboration works or in such longer period as may be agreed by the companies involved.

ARTICLE 17

Costs and Expenses

The recovery of the costs related with controlling, responding and cleaning up Spills shall be made according to the fiscal legislation applicable to the Petroleum Industry.

CHAPTER V

VIOLATIONS

ARTICLE 18

Violations

1. It is considered a violation the failure to comply with any of the duties and obligations imposed by this Decree, namely:

- a) The failure to develop any Environmental Protection Management Instruments;
- b) The failure to implement any Environmental Protection Instruments;
- c) The failure to comply with any Ministerial decisions, as well as any regulation on the subject of this Decree;
- d) The failure to report timely the occurrence of a Spill in accordance with Article 15

2. In case the Ministry of Petroleum considers that a violation has occurred, the Ministry shall notify in writing the violator, specifying the nature of the violation.

3. Upon receipt of the notice, the violator shall within 15 days respond in writing stating his position on the alleged violations.

4. Once expired the period referred in the preceding paragraph, the violator shall correct the violation within the following 30 days, or should such period be insufficient in such a longer period as may be agreed with the Ministry of Petroleum.

ARTICLE 19

Coercive Actions and Subordinate Sanctions

1. In case of violation, the Minister of Petroleum may impose one or more of the following coercive actions and subordinate sanctions:

- a) To undertake directly or through a third entity, the correction of the violation and to charge the costs to the violator;

- b) To temporarily suspend the operations in the deficient Facilities if, and only for the period when the failure to correct the violation in the opinion of the Ministry of Petroleum cause or threaten to cause serious or immediate damage to the Environment;
 - c) To fine the violator.
2. The violations provided in Article 18 are punished with fines in the minimum amount corresponding in national currency to USD 5.000 (five thousand US Dollars) and the maximum amount corresponding in national currency to USD 500.000 (five hundred thousand US Dollars).
 3. The determination of the amount of the fine shall be made in accordance with the nature and seriousness of the violation.
 4. The Ministry of Petroleum shall notify in writing the violator of its decision to impose any of the above referred actions and sanctions.
 5. The decision to temporarily suspend the operations of the deficient Facilities shall not be taken without prior consultation of the Concessionaire and the Operator and other Oil Companies.
 6. The fines for violation of this Decree must be paid within 60 (sixty) days following the relevant decision or appeal.
 7. In case of an extension of the period to pay the fine is granted, such extension shall not exceed 6 (six) months.

ARTICLE 20

Appeal

The violator may appeal the decision which imposed the fine, in accordance with the law applicable to the annulment of Administrative Acts.

CHAPTER VI

JURIDICAL GUARANTEE

ARTICLE 21

Civil Liability

1. In addition to the obligations provided in Article 16, the Concessionaire, the Associates and the Other Oil Companies shall repair the losses and/or indemnify the State for damages they cause when performing the activities provided in this Decree regardless of fault.
2. The amount of the damage referred in the previous paragraph shall be determined by the Courts.

CHAPTER VII

FINAL PROVISIONS

ARTICLE 22

Inspection and Audit

1. It is the responsibility of the Ministry of Petroleum to verify and inspect that the terms of this Decree and its Regulations are complied with, without prejudice to the authority given by law to other entities.
2. The Ministry of Petroleum may under the terms of the legislation in force visit the Facilities as well as inspect the documents and equipment relating to the inspection thereof.

ARTICLE 23

Regulations

1. The Ministry of Petroleum shall issue the regulations provided in this Decree, which must be published within one year of the date the Decree comes into force.
2. In setting deadlines for the Concessionaire, the Associates and the Other Oil Companies to comply with the regulations, the Ministry of Petroleum shall take into consideration the technological and operational factors as well as the time and cost required to:
 - a) Determine the type of technology and operating practices required to achieve the regulatory standard;
 - b) Design, bid, produce, transport and install new equipment and process modifications for Pollution control;
 - c) Startup, test and achieve full operational state of new equipment and process modifications for Pollution control.

ARTICLE 24

Doubts and Omissions

The doubts and omissions that may arise in the interpretation and implementation of this Decree shall be resolved by Order (*despacho*) of the Minister of Petroleum.

ARTICLE 25

Effective date

This Decree shall come into force on the date of its publication.

Reviewed and approved by the Council of Ministers, in Luanda, on 30 August 2000

BE IT PUBLISHED.

THE PRESIDENT OF THE REPUBLIC

JOSÉ EDUARDO DOS SANTOS