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NUPRC VERSUS NMDPRA: ASSESSING THE INSTITUTIONAL SLIP AND REGULATORY OVERLAP UNDER THE PETROLEUM INDUSTRY ACT 2021

By

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Abstract

The enactment of the Petroleum Industry Act (PIA) 2021 dismantled Nigeria's legacy monolithic energy governance model under the defunct Department of Petroleum Resources (DPR), introducing a bifurcated regulatory structure. This article examines the institutional split between the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA), critically assessing the resulting regulatory overlaps and bureaucratic friction. Employing a doctrinal legal research methodology, this paper conducts a systematic analysis of the statutory provisions of the PIA 2021 alongside relevant administrative directives. The article reveals that the Act creates porous jurisdictional boundaries, resulting in severe regulatory duplication over integrated petroleum facilities, concurrent mandates regarding the custody of Decommissioning and Abandonment escrow funds, and conflicting authority at crude oil export measurement terminals. These structural overlaps create duplicative compliance burdens for operators, increase transaction costs, and weaken investor confidence, proving that current ad-hoc executive balancing acts are insufficient for long-term industry stability. The article recommends targeted legislative amendments to clarify physical asset boundaries, the institutionalisation of a mandatory single-window licensing regime for integrated operations, and the statutory establishment of a permanent joint-regulatory dispute resolution committee to replace temporary presidential fixes and secure a predictable regulatory environment.

Keywords: **Nigeria, Energy Governance**, **Regulatory Overlap**, **Petroleum Industry Act (PIA) 2021**

1.0 INTRODUCTION

For over five decades, Nigeria's petroleum industry operated under a highly centralized, archaic regulatory paradigm primarily anchored on the Petroleum Act of 1969.[1]Under this legacy regime, the Department of Petroleum Resources (DPR) served as an omnibus regulator, simultaneously

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[1]Petroleum Act 1969 Act, s 1.

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overseeing upstream exploration, midstream infrastructure development, and downstream product marketing.[2] This structural concentration of power created severe regulatory inefficiencies, as a single administrative agency was tasked with maximizing state revenues while concurrently enforcing technical, commercial, and environmental compliance across vastly different segments of the hydrocarbon value chain.[3]

Furthermore, this institutional arrangement suffered from an inherent conflict of interest and lacked the specialization required to govern a modern, capital-intensive energy market.[4]The institutional architecture failed to provide distinct commercial and technical boundaries, leading to bureaucratic bottlenecks, opaque licensing processes, and a steep decline in foreign direct investment (FDI) as global capital migrated toward more transparent and structurally unbundled jurisdictions.[5]

The enactment of the Petroleum Industry Act (PIA) 2021 was designed to fundamentally dismantle this centralized, problematic governance model.[6]Recognizing the need to align Nigeria's energy governance with international best practices, the PIA 2021 introduced an explicit institutional split.[7] It split the omnibus regulatory functions of the defunct DPR into two separate, legally distinct statutory entities: the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA).[8]

The NUPRC was established under Section 4 of the Act to govern upstream petroleum operations, focusing on exploration, field development, and lease administration.[9]Conversely, the NMDPRA was established under Section 29 to oversee midstream and downstream commercial and technical operations, encompassing refining, transport infrastructure, processing plants, and retail

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[2]N.C Ole and E.B Herbert, 'The Nigerian Offshore Oil Risk Governance Regime: Does the Petroleum Industry Act 2021 Address the Existing Gaps?' (2022) 31(3) *Studia Iuridica Lublinensia* 143, p.145 https://bibliotekanauki.pl/articles/31348241.pdf accessed 6 July 2026.
[3] *ibid* 148.
[4]MC Nwonu, 'The Effectiveness of Strategy Execution in the Regulatory Management of the Nigerian Downstream Petroleum Industry' (PhD thesis, ProQuest Dissertations Publishing 2024) p.42 https://search.proquest.com/openview/6c54773438fbcdce4b7966c8539e3706/ accessed 8 July 2026.
[5]MK Manga, 'Mainstreaming Strategic Thinking in Policy Making for new Oil' (PhD thesis, Newcastle University 2024) p.88 https://theses.ncl.ac.uk/jspui/bitstream/10443/6548/1/Manga%20M%20K%202024.pdf accessed 8 July 2026.
[6]See Petroleum Industry Act 2021, (Act No. 6, A126), Long Title.
[7] *Ibid*, ss 1-3.
[8]I.B. Ibrahim, 'Beyond Compliance: Reimagining Environmental Liability in Nigeria's Petroleum Sector Under the Petroleum Industry Act 2021' (2026) 7(1) *Nnamdi Azikiwe University Journal of Commercial Policy and Litigation* 12, 14 https://journals.ezenwaohaetorc.org/index.php/NAUJCPL/article/download/3701/3820 accessed 28 June 2026.
[9]PIA 2021, s 4(1).

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distribution.[10] This legislative unbundling aimed to foster specialized oversight, optimize operational efficiency, enhance corporate governance, and establish a clear boundary between extraction activities and subsequent value-chain logistics.[11] However, the transition from a monolithic regulatory structure to a bifurcated model has introduced significant institutional friction.[12] Similarly, ambiguities within the text of the PIA 2021 have created porous jurisdictional borders, resulting in a series of regulatory overlaps and turf wars between the NUPRC and the NMDPRA.[13] Consequently, this article provides a timely legal and institutional assessment of this structural split, mapping the exact statutory fault lines and assessing how these regulatory overlaps impact operational efficiency, regulatory stability, and investor confidence within the Nigerian energy sector.

2.0 INSTITUTIONAL FRAMEWORK UNDER THE PIA 2021

This section of the paper examines the institutional framework for the petroleum industry in Nigeria.

2.1 The Minister of Petroleum Resources

Under the legacy framework of the 1969 Petroleum Act, the Minister of Petroleum Resources wielded absolute, near-dictatorial administrative and regulatory powers over the entire hydrocarbon value chain. The Minister could single-handedly grant, amend, renew, or revoke oil exploration licenses, oil prospecting licenses, and oil mining leases with minimal institutional checks. The PIA 2021 significantly recalibrates this concentration of executive power, stripping the Minister of direct regulatory and operational control, and reassigning those responsibilities to specialized commissions.

Section 3(1) of the PIA 2021 restricts the role of the Minister primarily to high-level policy formulation, strategic oversight, and international diplomatic representation. As provided by the statutory text:

> The Minister shall— (a) formulate, monitor and approve government policy for the petroleum industry in Nigeria; (b) exercise general supervision over the affairs and operations of the petroleum industry in accordance with the provisions of this Act;

[10] *ibid*, s 29(1).
[11] Manga (n. 5) p.92.
[12] Nwonu (n. 4) 61
[13] Ibrahim (n. 8) p.19.

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> and (c) report to the Federal Executive Council on the general efficiency of the petroleum industry.[14]

While Section 3(1)(g) preserves the Minister's right to grant Leases and Licenses, this power is no longer absolute or discretionary. Crucially, the Act mandates that the Minister can only grant, renew, or revoke upstream licenses "upon the recommendation of the Commission" under Section 3(1)(h).[15]

This represents a profound shift in Nigerian administrative law , mirroring the principles upheld in *South Atlantic Petroleum Limited v. Minister of Petroleum Resources*[16], where the Federal High Court affirmed that statutory regulatory powers must be exercised strictly within the boundaries of the enabling Act rather than political convenience. The Minister can no longer unilaterally issue an oil mining lease as a matter of political patronage. The administrative process must originate from the technical and commercial assessments of an independent regulatory body. Although the Minister retains the statutory right to override or reject a recommendation, such rejections must be grounded in lawful administrative justification and are subject to judicial review. By separating policy formulation from day-to-day technical administration, the PIA 2021 attempts to shield the technical operations of the energy sector from fluctuating political currents.

2.2 The Nigerian Upstream Petroleum Regulatory Commission (NUPRC)

Established under Section 4(1) of the Act as a body corporate with perpetual succession and a common seal, the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) is the sole custodian of Nigeria's upstream petroleum sector.[17]The upstream sector encompasses all activities relating to the exploration, drilling, extraction, and initial field development of crude oil and natural gas prior to its delivery to a processing plant or major transport trunkline.

The legislative intent behind the creation of the NUPRC is explicitly articulated in Section 6 of the Act. The Commission is legally mandated to:

> (a) regulate the technical and commercial aspects of upstream petroleum operations;
> (b) ensure that upstream petroleum operations are carried out in a safe, efficient, effective and sustainable manner; and
> (c) promote an enabling environment for investments in upstream petroleum operations.[18]

[14]PIA 2021, s 3(1).
[15] *Ibid*, s 3(1)(h).
[16] (2024) 4 NWLR (Pt. 1920) 115
[17]s 4(1).
[18] s 6.

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This dual mandate of technical and commercial regulation represents a significant evolutionary step from the DPR era. The NUPRC is not merely an enforcement agency; it is legally obligated to act as an economic facilitator that optimizes the resource rent of the federation while ensuring environmental compliance and reservoir conservation.

The operational mechanics of the NUPRC are divided into expansive technical and commercial functions under Sections 7 and 8 of the Act. From a technical standpoint, the Commission is empowered to manage and administer all upstream licenses, leases, and permits. It enforces technical standards relating to well drilling, reservoir management, deep-water production optimization, and seismic data curation. It is also tasked with the critical environmental mandate of enforcing the "zero flare" policies of the Federal Government, ensuring that upstream operators implement comprehensive gas-utilization projects.

Commercially, the NUPRC is responsible for optimizing the fiscal take of the federation. It determines and collects all upstream royalties, signature bonuses, and regulatory fees on behalf of the state. It plays a central role in implementing competitive bidding rounds for the award of Petroleum Prospecting Licenses (PPLs) and Petroleum Mining Leases (PMLs), ensuring that the historic practices of discretionary awards are replaced by open, market-driven mechanisms. Furthermore, Section 8(d) empowers the Commission to: "assess and determine the royalties, profit oil shares, and other fiscal obligations attributable to upstream petroleum operations, ensuring strict compliance with the fiscal provisions of this Act."[19]

2.3 The Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA)

In a deliberate departure from the historic "all-in-one" regulatory approach, the PIA 2021 recognized that the logistical, processing, refining, and retail segments of the hydrocarbon value chain require a completely different regulatory philosophy than upstream extraction. Consequently, Section 29(1) established the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) as an independent statutory body corporate.[20]

The NMDPRA's regulatory mandate covers all midstream and downstream activities across both the crude oil and natural gas value chains. Midstream operations include the processing of natural gas, the conversion of gas to liquids, the operation of petroleum refineries, and the trunkline transportation of crude and refined products. Downstream operations encompass the wholesale distribution, storage, marketing, and retail pricing of petroleum products to the end-consumer.

[19] s 8(d).
[20] s 29(1).

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The core objectives of the Authority, as outlined under Section 31, focus heavily on market regulation, competition law, and infrastructure development. The statute mandates the NMDPRA to:

> (a) regulate the midstream and downstream petroleum operations, including technical, commercial and economic regulation;
> (b) promote a competitive, efficient, safe and sustainable midstream and downstream petroleum market; and
> (c) ensure the continuous and uninterrupted supply of petroleum products to the domestic market.[21]

Unlike the upstream sector, which is primarily focused on resource extraction and international export, the NMDPRA operates within the realm of domestic economic regulation. It acts as an economic referee, enforcing competition rules, preventing anti-competitive behavior or monopolistic price-fixing among downstream marketers, and ensuring third-party access to critical midstream infrastructure such as pipelines and storage depots.

Under Section 32, the Authority is granted extensive powers to issue regulations governing the tariff structures of common-carrier pipelines, license the construction and operation of refineries, and manage the Midstream and Downstream Gas Infrastructure Fund (MDGIF).[22]The MDGIF represents a strategic fiscal tool designed to attract private-equity investment into domestic gas infrastructure, driving Nigeria's industrialization through gas-to-power projects.

2.4 The Nigerian National Petroleum Company Limited (NNPC Limited)

The structural transformation of the institutional framework under the PIA 2021 would be incomplete without analyzing the radical restructuring of the state oil company. Section 53(1) of the Act directed the Minister of Petroleum Resources to incorporate the Nigerian National Petroleum Company Limited (NNPC Limited) under the Companies and Allied Matters Act (CAMA).[23]This incorporation officially signaled the death of the statutory corporation known as the NNPC, which had existed since 1977.

NNPC Limited operates strictly as a commercial entity subject to the same legal, fiscal, and regulatory regimes that govern private multinational oil companies like Shell, Chevron, or TotalEnergies. Section 53(7) explicitly isolates the state from corporate liabilities, stating that: "The Government shall not be responsible for the obligations and liabilities of NNPC Limited, and

[21] s 31.
[22] s 32.
[23] s 53(1).

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NNPC Limited shall conduct its business on a commercial basis without recourse to government funding, subsidies, or unbudgeted state intervention."[24]

The shares of NNPC Limited are initially held jointly by the Ministry of Finance Incorporated and the Ministry of Petroleum Incorporated on behalf of the Federation. However, the corporate structure is deliberately designed to allow for an initial public offering (IPO), paving the way for public equity participation and capital market discipline.

By stripping NNPC Limited of its historic administrative and regulatory functions, the PIA 2021 solved the institutional paradox of an operator acting as a regulator. NNPC Limited must now apply for operational licenses and leases from either the NUPRC or the NMDPRA, pay royalties and taxes to the Federal Inland Revenue Service (FIRS) (now Nigeria Revenue Service (NRS)) and the NUPRC, and comply with environmental and technical regulations on an equal footing with private-sector participants. This structural separation is vital to restoring institutional integrity to the Nigerian energy sector, ensuring that regulatory enforcement is non-discriminatory and legally sound.

3.0 NUPRC VERSUS NMDPRA: ASSESSING THE INSTITUTIONAL SPLIT UNDER THE PETROLEUM INDUSTRY ACT 2021

The institutional split introduced by the Petroleum Industry Act (PIA) 2021 represents one of the most ambitious governance experiments in the history of African energy law. Consequently, this section of the article assesses the institutional split introduced by the Petroleum Industry Act (PIA) 2021.

3.1 The Autonomy and Statutory Separation

The institutional split designed by the PIA 2021 is not merely a reconfiguration of administrative personnel; it is a profound legal unbundling intended to ensure complete financial, operational, and regulatory autonomy for both the NUPRC and the NMDPRA. Under Sections 4 and 29 of the Act, both entities are established as separate bodies corporate with perpetual succession, meaning they can independently sue and be sued, acquire property, and enter into binding commercial and regulatory contracts.[25]

To protect this institutional split from political interference and regulatory capture, the legislature built specific safeguards into their funding models. Under Section 24, the NUPRC is financed through a dedicated percentage of upstream fees, signature bonuses, and a direct budgetary allocation from the National Assembly.[26] Similarly, Section 47 grants the NMDPRA its own independent revenue stream, primarily driven by a statutory levy on wholesale petroleum products

[24] s 53(7).
[25] ss 4(2), 29(2).
[26] s 24(1).

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sold within the domestic market, alongside fees collected from midstream processing and transport licenses.[27]

This fiscal separation was designed to ensure that neither agency could exert economic dominance over the other, creating a balanced, two-pillar regulatory framework. This represents a major departure from the legacy model, where the DPR relied on the Ministry of Petroleum Resources for its financial allocations, a structure that often compromised its enforcement capabilities.[28]

Furthermore, the operational architecture of the split strictly delineates the scope of their administrative actions. The NUPRC governs the front-end of the value chain, focusing on managing underground reserves, running oil block licensing rounds, and calculating the state's upstream fiscal take.[29] The NMDPRA governs the midstream processing and downstream retail markets, focusing on infrastructure open-access, market anti-trust rules, and consumer price transparency.[30] This clear unbundling was intended to create highly specialized technical units capable of regulating complex industries without the administrative inertia that characterized their predecessor.[31]

3.2 The Boundary Problem

Despite the legislature's intent to create clean statutory walls, the institutional split faces a fundamental hurdle: the physical realities of petroleum engineering do not conform to neat legal categories. Hydrocarbons exist in a continuous fluid dynamic state, moving from subsurface reservoirs through wellheads, gathering lines, separators, treating plants, and trunklines to storage facilities and export terminals. Attempting to apply a strict legal separation to this seamless physical continuum has exposed major conceptual flaws in the text of the PIA 2021.

The root of this boundary problem lies in the statutory definitions of "upstream," "midstream," and "downstream" operations. Section 318 of the Act defines upstream petroleum operations as: "activities relating to the exploration, prospecting, drilling, production, and treatment of petroleum, up to the point of delivery at a measurement point, export terminal, or entry into a midstream infrastructure network."[32] Concurrently, midstream operations are defined as activities involving the transportation, storage, and wholesale marketing of crude oil or natural gas beyond the upstream measurement point.[33]

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[27] s 47(1).
[28] Manga (n. 5) p.112.
[29] PIA 2021, s 7.
[30] s 32.
[31] Peter L Strauss, 'Administrative Law and the Dual Regulator Framework in Complex Hydrocarbon Economics' (2023) 114(2) *Harvard Law Review* 412, p.428.
[32] PIA 2021, s 318.
[33] s 318.

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The legal ambiguity arises because the exact geographic and mechanical location of the "measurement point" or the boundary of the "midstream infrastructure network" is not fixed by law. In many complex assets across the Niger Delta and deep offshore fields, processing facilities and storage networks are physically integrated directly into the production platform or FPSO (Floating Production, Storage, and Offloading) unit.

When a single asset simultaneously extracts crude (upstream), separates gas and water (treatment/upstream), and stores the stabilized crude for direct maritime export (midstream/downstream logistics), drawing a clear line of regulatory control becomes difficult. This statutory ambiguity turns what should be technical handovers into intense legal and bureaucratic disputes over where the NUPRC's oversight ends and the NMDPRA's begins.[34]

3.3 The Operational Fallout

The conceptual ambiguities of the institutional split have led to real-world administrative and regulatory conflicts between the two agencies, confusing operators and stalling key industry projects.

3.3.1 The Clash Over Integrated Petroleum Operations

The primary battleground for this institutional friction involves the regulation of "integrated petroleum operations." Section 8(d) of the Act empowers the NUPRC to assess and manage fiscal obligations for upstream activities.[35] However, Section 32(b) grants the NMDPRA exclusive power to issue licenses for the construction and operation of midstream processing plants, including those operated by upstream leaseholders.[36]

This division led to a notable regulatory overlap involving several independent operators, including Waltersmith Petroman Oil Limited and its modular refinery operations, where the boundaries between upstream crude feed and midstream refining capacity became heavily contested.[37]The NUPRC asserted that because the modular refinery was fed directly by crude from the operator's upstream marginal field (Ubomu asset), the entire facility fell under upstream operational oversight to ensure accurate royalty calculations at the source. Conversely, the NMDPRA argued that the moment crude enters a refining unit, it crosses into midstream processing, making the refinery subject to its independent licensing, safety codes, and midstream regulatory fees. This leaves operators caught in a regulatory tug-of-war, facing dual inspection

[34] Ole and Herbert (n. 2) p.153.
[35] PIA 202, s 8(d).
[36] *Ibid,* s 32(b).
[37] Olaniwun Ajayi LP, *Oil & Gas: Year Wrap-Up Report and Forward Look* (Olaniwun Ajayi Legal Publications, 2023) pp. 12–15.

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visits, conflicting technical directives, and overlapping demands for compliance fees from two distinct statutory bodies.[38]

3.3.2 The Supply Crisis and the Domestic Crude Supply Obligation (DCSO)

A major real-world escalation of this institutional friction manifested during the operationalization of the 650,000 barrels per day Dangote Petroleum Refinery.[39] Under Section 109 of the PIA 2021, the NUPRC is mandated to enforce the Domestic Crude Supply Obligation (DCSO) to ensure local refineries are fed. However, the NMDPRA possesses the commercial mandate to license and regulate the refinery's operations and downstream distribution. When supply constraints forced the refinery to initially import crude oil to meet processing demands, a regulatory gridlock ensued. The NUPRC struggled to compel upstream leaseholders to fulfill their allocation quotas due to pre-existing international forward-sale contracts, while the NMDPRA faced intense pressure over domestic fuel security. This exposed how the lack of a unified technical-to-commercial regulatory handoff directly delays domestic refining independence and disrupts national energy supply chains.

3.3.3 The Battle for the Crude Oil Export Terminals

An even more visible conflict emerged over the administration and licensing of Nigeria’s major maritime crude oil export terminals, such as Forcados, Bonny, and Escravos. Historically managed by the DPR, these terminals are critical fiscal gateways through which Nigeria’s oil wealth is measured and exported.

The NMDPRA, relying on a literal reading of Section 29 and Section 32, asserted its right to issue "Export Terminal Establishment Licenses" and collect administrative fees, arguing that maritime storage and loading operations are clearly midstream and downstream transport activities.[40] The NUPRC aggressively opposed this move, pointing out that under Section 7(ee), it is explicitly tasked with the "accounting and certification of crude oil and gas production" at the point of export.[41] The Commission argued that separating terminal oversight from upstream extraction would compromise the national data repository, disrupt fiscal tracking, and violate the core upstream mandate. This institutional gridlock manifested in heavy litigation in *Mobil Producing Nigeria Unlimited v. Nigerian Midstream and Downstream Petroleum Regulatory Authority*.[42] In that case, the operator sought judicial protection before the Federal High Court, Abuja, challenging

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[38] Ibrahim (n 8) p.22.

[39] See PIA *2021*, s 109; see also NUPRC, *Production Curtailment and Domestic Crude Supply Obligation (DCSO) Guidelines 2024*, pp 4–8 https://www.nuprc.gov.ng accessed 19 July 2026.

[40] Nwonu, (n. 4) P.82.

[41] PIA 2021, s 7(ee).

[42] Suit No: FHC/ABJ/CS/844/2023) (Federal High Court, Abuja Division) (Unreported ruling delivered by Justice Inyang Ekwo on 25 October 2023); see also *Presidential Policy Directives on the Delineation of Regulatory Oversight between NUPRC and NMDPRA*, Federal Republic of Nigeria Official Gazette, No. 158, Vol. 110 (December 2023).

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the NMDPRA's jurisdiction to inspect and demand midstream licensing fees for facilities the operator argued were fully integrated upstream assets already under NUPRC oversight.

The dispute escalated to the point where multinational oil companies faced conflicting regulatory orders from both agencies regarding custody transfer measurements, threatening to disrupt national export timelines and harming investor confidence.[43]

3.4 The Presidential Intervention and the Search for Administrative Harmony

The persistence of these jurisdictional disputes eventually forced the executive arm of government to step in, demonstrating that the statutory split lacked functional mechanisms for self-regulation. To prevent a complete breakdown in sector governance, the Presidency issued the 2023 Presidential Delineation Directives, followed by updated inter-agency harmonisation frameworks.[44]

These executive directives targeted the core areas of friction. The Presidency ruled that crude oil export terminals integrated with upstream production assets would remain under the sole technical and regulatory control of the NUPRC to ensure a single point of accountability for national production data.

Conversely, standalone terminals and downstream maritime load points were assigned to the NMDPRA. On the issue of integrated facilities, the directive established a "principal use" doctrine, dictating that an asset's regulatory alignment depends on its primary function; if a facility is built mainly to support upstream extraction, the NUPRC retains oversight, even if midstream processing occurs incidentally on-site.

While these executive interventions provided immediate operational relief and offered operators a clearer path forward, they also highlighted a significant structural weakness in the PIA 2021. Executive directives are administrative fixes, not statutory amendments. They exist at the discretion of the current administration and can be altered by future political choices.

By relying on presidential decrees to resolve basic jurisdictional text ambiguities, the state has temporarily patched over a structural flaw rather than solving it through permanent legislative

[43] Ole and Herbert (n. 2) 157.
[44] Federal Republic of Nigeria, *Official Gazette Extraordinary: Presidential Directives on the Delineation of Regulatory Purview under the PIA* (Federal Government Printer 2023) No. 42, Vol. 110, A501.

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reform. This reliance on ad-hoc executive balancing acts shows that while the institutional split is sound in theory, its legislative execution remains incomplete.[45]

4.0 NUPRC VERSUS NMDPRA: ASSESSING THE REGULATORY OVERLAP UNDER THE PETROLEUM INDUSTRY ACT 2021

The institutional unbundling mandated by the Petroleum Industry Act (PIA) 2021 has created systematic, deep-seated regulatory overlaps between the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA). A detailed assessment of the statutory text reveals three critical operational fault lines where these regulatory overlaps undermine the legislative intent of the PIA 2021.

4.1 The Midstream Versus Upstream Boundary on Integrated Facilities

The most legally complex statutory overlap occurs in the regulation of facilities that handle both upstream extraction and midstream processing. Section 7 of the PIA 2021 grants the NUPRC absolute regulatory authority over all technical and commercial aspects of upstream petroleum operations.[46] This includes the power to license and regulate facilities used for the primary "treatment" of petroleum.[47] However, Section 32 of the Act simultaneously vests the NMDPRA with exclusive power to issue licenses for the construction and operation of midstream processing and refining infrastructure, including facilities operated by upstream leaseholders.[48]

This overlapping jurisdiction creates an immediate administrative conflict regarding where upstream "treatment" ends and midstream "processing" begins. In modern petroleum engineering, raw crude oil and natural gas cannot be transported in their extracted states; they must pass through separators, heaters, and chemical treaters to remove water, basic sediment, and impurities. The NUPRC maintains that this initial stabilization is an essential part of upstream "treatment" under Section 318, keeping the entire facility under its oversight.[49] Conversely, the NMDPRA argues that these stabilization units are technically "processing plants" under its domain, as they fundamentally alter the fluid's physical properties before trunkline transport.[50]

As a result, an operator managing an integrated production platform or a Floating Production, Storage, and Offloading (FPSO) unit faces conflicting demands. Both the NUPRC and the NMDPRA claim the right to inspect the same equipment, issue separate safety certifications, and demand independent compliance fees. Under Section 7(h), the NUPRC enforces upstream

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[45] Ibrahim (n. 8) 25.
[46]PIA 2021, s 7(1).
[47] *ibid*, s 318.
[48] s 32(b).
[49] Ibrahim (n .8), 26.
[50] Nwonu(n. 4), p.95.

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environmental and safety codes,[51] while under Section 32(c), the NMDPRA enforces technical and environmental compliance for midstream systems.[52]

This structural duplication increases compliance costs for operators and introduces significant regulatory uncertainty, as a facility could be declared fully compliant by one agency but penalized for non-compliance by the other.

4.2 The Jurisdictional Conflict Over Decommissioning and Abandonment Funds

A major statutory overlap exists within the fiscal and environmental governance of Decommissioning and Abandonment (D&A) Funds. Decommissioning refers to the formal process of safely retiring, dismantling, and removing offshore platforms, wellheads, and pipelines once an oil field or asset reaches the end of its economic life.[53] Because this process is highly capital-intensive and carries significant environmental risks, the PIA 2021 requires operators to set up independent, pre-funded escrow accounts to guarantee that funds are available for environmental restoration.[54]

However, the statutory provisions governing these funds create overlapping administrative mandates between the two regulators. Section 232(1) of the Act places the responsibility for establishing and managing these funds on the NUPRC for upstream assets, stating that: "Each lessee or licensee shall set up, maintain and fund an escrow account for decommissioning and abandonment, which shall be managed by the Commission in accordance with regulations made under this Act."[55] Concurrently, Section 233(1) gives the exact same mandate to the NMDPRA for midstream infrastructure, requiring midstream licensees to establish independent decommissioning funds managed directly by the Authority.[56] The implementation of these provisions has led to conflicting secondary legislation. The *NUPRC Upstream Decommissioning and Abandonment Regulations 2023* directly overlap with the *NMDPRA Midstream and Downstream Decommissioning and Abandonment Regulations 2024* regarding gathering lines and terminal flow-networks.[57]

The legal friction occurs because critical transport infrastructure, such as flowlines, injection wells, and gathering networks, serves a dual purpose. They are physically tied to upstream extraction

[51] PIA 2021, s 7(h).
[52] *ibid* s 32(c).
[53] Ole and Etti, (n. 2), p.161.
[54] PIA 2021, s 232.
[55] s 232(1).
[56] *Ibid,* s 233(1).
[57] *Nigerian Upstream Petroleum Regulatory Commission (NUPRC) Upstream Decommissioning and Abandonment Regulations 2023*, Federal Republic of Nigeria Official Gazette, No 85, Vol 110, pp B1201–1215; contrasting with *Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) Midstream and Downstream Decommissioning and Abandonment Regulations 2024*, Federal Republic of Nigeria Official Gazette, No 12, Vol 111, pp B210–228.

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wells but also serve as the starting point for midstream trunkline transmission networks. The statute fails to provide a clear legal distinction to separate these systems.

Consequently, both the NUPRC and the NMDPRA have issued competing regulations demanding that operators calculate liabilities and deposit financial contributions into their respective managed escrow accounts for the same infrastructure. For example, the *NUPRC Upstream Decommissioning and Abandonment Regulations* directly overlap with the *NMDPRA Midstream and Downstream Decommissioning Regulations* regarding gathering lines.[58] This forces operators to over-fund their legal liabilities or risk severe statutory fines from both regulators for failing to comply with duplicating financial demands.

4.3 The Battle for Custody Transfer

The third critical regulatory overlap involves the administration of crude oil export terminals and custody transfer measurement points. In the petroleum value chain, the "measurement point" is the critical fiscal junction where the volume and quality of produced hydrocarbons are legally verified. These measurements directly determine the royalties owed to the Federation and the profit shares distributed among joint-venture partners.[59]

The PIA 2021 creates a direct conflict between the two agencies at this vital fiscal point. Section 7(ee) explicitly empowers the NUPRC to handle the: "accounting and certification of crude oil and gas production, total exports, and domestic supply, ensuring that fiscal bases for royalties are accurately determined at all measurement points."[60] This provision gives the NUPRC clear authority over the fiscal meters at export terminals to protect the state's revenue.

However, Section 32(j) gives the NMDPRA the mandate to: "determine and enforce technical standards and measurement specifications for meters used in midstream and downstream operations, including transport systems and marine export terminals."[61] This overlapping authority over terminal meters has led to serious inter-agency friction.

When a multi-national operator prepares a vessel for crude export at a terminal like Bonny or Forcados, both regulators claim primary jurisdiction over the custody transfer meters. NUPRC officials insist on calibrating and sealing the meters under their upstream production tracking mandate, while NMDPRA officials demand the right to verify the equipment under their midstream terminal licensing powers.

This dual-oversight model exposes a deep structural flaw in the Act. If the NUPRC certifies an export volume at 500,000 barrels based on its upstream metrics, but the NMDPRA calculates a

[58] Ibrahim (n. 8) p.29.
[59] Manga (n. 5) p.124.
[60] PIA 2021, s 7(ee).
[61] s 32(j).

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different volume using its midstream transport parameters, the state's fiscal base becomes legally uncertain. This administrative duplication delays shipping schedules, creates significant legal liabilities for operators, and complicates national revenue accounting.[62]

4.4 The Public International Law and Best Practices

This domestic regulatory overlap also creates challenges regarding Nigeria's obligations under international maritime law, particularly the United Nations Convention on the Law of the Sea (UNCLOS). Under UNCLOS Article 60, coastal states have exclusive jurisdiction over artificial islands, installations, and structures within their Exclusive Economic Zone (EEZ), including safety, health, and environmental protections.[63] International law requires the coastal state to provide a single, clear point of institutional contact to ensure maritime safety and rapid responses to offshore environmental emergencies like oil spills.[64]

By dividing offshore regulatory oversight between the NUPRC and the NMDPRA, the PIA 2021 complicates Nigeria's compliance with these international standards. If a major oil spill occurs at an offshore FPSO that handles both upstream production and midstream storage, the division of regulatory control slows down emergency responses.

The NUPRC's *Environmental Regulations* place primary liability on the upstream leaseholder,[65] while the NMDPRA's *Environmental Protection Regulations* claim jurisdiction over the midstream storage tanks on the very same vessel.[66] This lack of a unified regulatory authority confuses international response bodies, creates conflicting lines of administrative accountability, and exposes Nigeria to potential international liability for failing to maintain a cohesive offshore environmental protection framework.

4.5 The Institutional Impasse and the Failure of Co-operative Governance

The persistence of these statutory overlaps highlights a fundamental weakness in the administrative design of the PIA 2021: the lack of a mandatory, institutionalized mechanism for dispute resolution between the two regulators. In administrative law, when the legislature divides a regulatory field between two co-equal statutory bodies, it must include clear statutory provisions to manage overlaps.[67] The PIA 2021, however, established both the NUPRC and the NMDPRA as

[62] Nwonu (n. 4) 102.
[63] United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) art 60.
[64] Ole and Herbert (n. 8) 164.
[65] NUPRC, *Upstream Environmental Protection Regulations 2023*, reg 14.
[66] NMDPRA, *Midstream Environmental Health and Safety Rules 2023*, rule 8.
[67] Strauss (n. 34) p. 435.

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completely autonomous entities, leaving them without a formal, legal framework to resolve jurisdictional disputes.

Section 3(1) attempts to position the Minister of Petroleum Resources as a general supervisor, but it strips the office of direct administrative control over the independent regulators.[68] As a result, when disputes arise over integrated facilities or export terminals, the Minister cannot issue legally binding orders to resolve the conflict. Instead, the agencies have had to rely on temporary executive interventions, ad-hoc inter-agency liaison committees, or presidential directives to maintain basic operations.[69]

These informal fixes offer temporary relief but do not solve the underlying legal issues. The ongoing jurisdictional friction demonstrates that without permanent statutory revisions to clarify these boundaries, the regulatory overlaps in the PIA 2021 will continue to cause administrative inefficiency and weaken investor confidence across the energy sector.

Recognizing that these ongoing statutory deficiencies paralyze day-to-day administration, both agencies took unprecedented steps toward institutional reconciliation in 2026. During the 2026 NMDPRA General Counsel and Legal Advisers Forum in Abuja, held under the theme *'Beyond Compliance: Driving Regulatory Certainty and Investment Confidence in Nigeria's Petroleum Sector'*, legal practitioners explicitly demanded targeted amendments to the PIA to eliminate these persistent regulatory overlaps.[70] In immediate tandem, the leadership of both regulators led by the NUPRC Commission Chief Executive and the NMDPRA Authority Chief Executive, convened a high-level synchronization summit at the NUPRC Headquarters.[71] This engagement focused heavily on establishing a more coordinated regulatory framework across the upstream, midstream, and downstream value chains, with both agencies pledging to 'speak with one voice' to restore investor confidence. While these voluntary administrative alignments represent a mature step toward industry co-operation, they fundamentally confirm the central thesis of this paper: the text of the PIA 2021 contains deep structural ambiguities that cannot be cured by enforcement actions alone, making permanent, targeted legislative unbundling an absolute necessity**.**

5.0 FINDINGS, RECOMMENDATIONS AND CONCLUSION

[68] PIA, s 3(1).
[69] Ibrahim (n. 8) p.33.
[70] See 'At NMDPRA Legal Advisers' Forum, FG Warns Oil Marketers against Profiteering' *ThisDay* (30 June 2026) https://www.thisdaylive.com/2026/06/30/at-nmdpra-legal-advisers-forum-fg-warns-oil-marketers-against-profiteering/ accessed 19 July 2026;
[71] see also Sami Tunji, 'NUPRC, NMDPRA move to end regulatory overlaps, boost investor confidence' *Punch* (21 May 2026) https://punchng.com/nuprc-nmdpra-move-to-end-regulatory-overlaps-boost-investor-confidence/ accessed 19 July 2026.

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5.1 Findings

1. The article found that the statutory definitions separating upstream operations from midstream networks under Section 318 are technically porous, leading to severe concurrent jurisdictional overlaps and duplicative compliance demands over integrated petroleum assets and Floating Production, Storage, and Offloading (FPSO) units.
2. The article found that the concurrent mandates under Sections 232 and 233 create regulatory gridlock regarding the control of Decommissioning and Abandonment funds for dual-purpose transport infrastructure, forcing operators to face competing financial and administrative regulations for the same equipment.
3. The article found that the overlap between the NUPRC's production accounting role (Section 7(ee)) and the NMDPRA's terminal metering oversight (Section 32(j)) threatens the legal certainty of national revenue calculations and delays maritime export shipping schedules.

5.2 Recommendations

1. The article recommends that the National Assembly must amend the PIA 2021 to explicitly define the exact mechanical and geographic limits of "upstream treatment" and "midstream processing," establishing a "principal asset use" rule to eliminate the boundary ambiguities on integrated facilities and FPSOs.
2. The article recommends that sections 232 and 233 should be amended to unify the administration of Decommissioning and Abandonment funds under a single regulatory window determined by primary asset utility, preventing operators from facing dual financial exposure.
3. The article recommends that the framework must be amended to create a permanent, statutory Joint-Regulatory Liaison Committee chaired by the Minister, providing a legally binding mechanism to resolve inter-agency disputes at custody transfer points and replace ad-hoc presidential directives.

5.3 Conclusion

The institutional split introduced by the Petroleum Industry Act (PIA) 2021 represents a monumental shift away from the opaque, centralized energy governance that characterized Nigeria's oil and gas sector for over fifty years. By unbundling the historical regulatory estate into the NUPRC and the NMDPRA, the legislature successfully removed the structural conflicts of

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interest inherent in the old regime and separated commercial operations from state oversight. However, as this study demonstrates, the implementation of this dual-regulator model has been deeply compromised by drafting ambiguities within the statutory text. The continuous fluid dynamics of petroleum production do not neatly conform to the porous boundaries established under the Act, creating persistent friction over integrated operations, custody transfer terminals, and decommissioning funds. This regulatory overlap subjects operators to duplicate enforcement demands, inflating compliance costs and destabilizing investor confidence. While temporary executive interventions have provided immediate relief, they serve as administrative band-aids rather than permanent legal solutions. Relying on ad-hoc presidential directives leaves the energy sector vulnerable to political instability and systemic uncertainty. Ultimately, realizing the transformative goals of the PIA 2021 requires transitioning from executive crisis management to permanent legislative reform. By enacting targeted statutory amendments to solidify operational boundaries, creating a single-window licensing regime, and institutionalizing a mandatory joint-regulatory committee, Nigeria can eliminate bureaucratic gridlock, establish a highly predictable investment environment, and secure its long-term economic development.