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AN ANALYSIS OF THE UPSTREAM-MIDSTREAM INTERFACE:

Jurisdiction Over Pipeline Infrastructure

THE STATUTORY BASIS OF PIPELINE LICENSING AFTER THE PRESIDENTIAL EXECUTIVE ORDER TO SAFEGUARD OIL AND GAS REVENUES AND PROVIDE REGULATORY CLARITY, HOW JURISDICTION IS ALLOCATED BETWEEN THE NUPRCAND THE NMDPRA, AND WHAT THIS MEANS FOR OPERATORS, LENDERS AND PROJECT SPONSORS.

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1. INTRODUCTION

Executive Order No. 9 of 2026 was issued on 13th February 2026 to safeguard federation oil and gas revenues and provide regulatory clarity.

Its immediate relevance for pipeline licensing is not the revenue provisions, but the direction that the Nigerian Upstream Petroleum Regulatory Commission ("**NUPRC**") and the Nigerian Midstream and Downstream Petroleum Regulatory Authority ("**NMDPRA**") establish a Joint Project Team for the technical regulation of qualifying integrated petroleum operations. That direction is significant because it provides a practical framework for addressing one of the more important classification questions under the Petroleum Industry Act, 2021 ("**PIA**"): which regulator should lead on infrastructure, principally pipelines, that sits between production, transportation, processing and export?

The PIA separated upstream regulation from midstream and downstream regulation. The more difficult question is how that separation applies to assets that are technically continuous, commercially interdependent and sometimes embedded in the approved field development. A pipeline may form part of an upstream field development, form part of a fully integrated upstream and midstream operation under section 8(d) of the PIA, or operate as a standalone midstream transportation facility. Its transportation function does not, by itself, determine its regulatory classification.

This article examines that boundary through the pipeline licensing regime, with particular reference to the PIA, the Policy Directives on the Delineation of Regulatory Oversight between the NUPRC and the NMDPRA, Notice, dated 7th August 2023 (the "**2023 Presidential Directive**"), the NUPRC's Guidelines on Classification of Integrated Upstream and Midstream Petroleum Operations dated 6th December 2023, the NMDPRA's Midstream and Downstream Petroleum Operations Regulations, 2025, and Executive Order No. 9 of 2026. A useful analytical approach is sequential rather than purely functional: first identify the measurement point and the asset's role in the approved field development; then test whether there is a basis for upstream or integrated treatment; then obtain regulatory confirmation where the classification is material; and then consider the NMDPRA licensing structure where the asset is properly a standalone midstream pipeline.

For readers who are not directly involved in oil and gas project development, the practical point is that pipeline classification is not determined only by what the pipeline physically does. It may also depend on where petroleum is measured for statutory and fiscal purposes, how the asset is described in the field development documentation, whether the facility forms part of an integrated operation, and whether the relevant regulator has confirmed the classification. Those details can affect approvals, financing conditions, lifting arrangements and contractual risk allocation.

2. The PIA's Allocation of Regulatory Jurisdiction

The PIA confers broad regulatory responsibilities on the NUPRC in respect of facilities used in upstream petroleum operations. Section 7(e) empowers the NUPRC to set, define and enforce standards and regulations for the design, construction, fabrication, operation and maintenance of plants, installations and facilities used or to be used in upstream petroleum operations, including facilities relating to crude oil and natural gas evaluation and management, upstream natural gas gathering and natural gas treatment. Section 7(o) further empowers the NUPRC to issue permits and other authorisations necessary under an upstream licence or lease, including those relating to the design, construction and operation of facilities for upstream petroleum operations.

Section 318 defines upstream petroleum operations to include "all activities upstream of the measurement points" relating to the winning and production of petroleum, as well as the construction and operation of gathering lines and manifolds for crude oil, natural gas and water, and the metering of petroleum at the measurement points prior to transportation. Where field facilities, fixed or floating platforms or vessels provide for fully integrated upstream and midstream petroleum operations, section 8(d) allows the NUPRC to treat the entire operation as an upstream petroleum operation.[1]

The measurement point is accordingly a significant reference point in the PIA's delineation of upstream and midstream operations. Section 318 defines a measurement point by reference to the point determined in the field development plan where petroleum is measured, and its value determined, for royalty purposes. Where no such point has been determined, it is the point directly downstream of the flow station in the petroleum mining lease; and where measurement takes place outside the lease, the PIA provides for a deemed measurement point within the lease based on an NUPRC-approved calculation procedure.

This creates an important interpretive issue in the treatment of transportation infrastructure. Consider a field development in which crude oil is transported through a substantial evacuation pipeline from the field to a crude oil terminal, with production measurement occurring at the terminal. On a literal application of the PIA's definition of upstream petroleum operations, activities upstream of that measurement point could fall

1Petroleum Industry Act 2021, ss 7(e), 7(o), 8(d) and 318. Official text: https://pia.gov.ng/wp-content/uploads/2022/08/PIA-2021_compressed-1.pdf.

within the upstream regime. At the same time, section 318 defines “midstream petroleum liquids operations” to include the construction and operation of petroleum liquids transport pipelines downstream of the measurement points of petroleum mining leases. The regulatory character of the pipeline may therefore turn not on its function as a transportation facility as such, but on the applicable measurement point and its relationship with the overall field development.

The position is further complicated by the fact that the PIA separately confers functions on the NUPRC in relation to crude oil export terminals. Section 7(ee) empowers the NUPRC to monitor and regulate the operations of crude oil export terminals established prior to the effective date of the PIA and assigns it responsibility for issuing certificates of quality and quantity in respect of specified exports from integrated operations and such terminals.

By contrast, sections 32 and 33 confer on the NMDPRA responsibility for regulating technical and commercial midstream and downstream petroleum operations. Section 318 expressly includes petroleum liquids transport pipelines within “midstream petroleum liquids operations” where they are downstream of the measurement points of petroleum mining leases, while “midstream and downstream gas operations” similarly includes natural gas transport or transmission pipelines downstream of those measurement points.

The PIA therefore leaves a regulatory boundary that may require careful application to particular infrastructure. Where significant transportation infrastructure connects a field to a terminal, and the measurement point is located at or associated with the terminal, the relevant analysis is whether the infrastructure forms part of the upstream operation, constitutes a fully integrated upstream and midstream operation under section 8(d), or is a standalone midstream transportation facility. The 2023 Presidential Directive and the NUPRC's Guidelines on Classification of Integrated Upstream and Midstream Petroleum Operations are, for that reason, important to how this boundary is applied in practice.

3. The 2023 Presidential Directive

Against the backdrop of that uncertainty, the President issued a directive on 7th August 2023 on the delineation of regulatory oversight between the NUPRC and the NMDPRA. The 2023 Presidential Directive sought to establish a clearer operational boundary between the two regulators by placing upstream operations and facilities, including facilities operationally linked from extraction to and including crude oil export terminals and up to the gate of natural gas processing plants, under the NUPRC. Correspondingly, the NMDPRA's regulatory oversight was stated to commence from the exit of crude oil export terminals and the entry gate of natural gas processing plants.

The 2023 Presidential Directive also addressed integrated upstream and midstream petroleum operations. It designated the NUPRC as the sole regulator of the technical and commercial aspects of integrated petroleum facilities that form part of upstream petroleum operations and assigned the NUPRC responsibility for determining whether a facility qualifies as an integrated operation. It further contemplated the development of criteria by the NUPRC for such classification and required both regulators to ensure that their respective regulatory activities do not result in duplication of oversight.

The 2023 Presidential Directive provided an important administrative clarification, particularly for facilities located at the interface between upstream production and midstream transportation and processing. It should, however, be applied together with the PIA. The PIA's definitions continue to use the measurement point as a central reference for delineating upstream and midstream activities, while the 2023 Presidential Directive adopts a functional and infrastructure-based approach that extends NUPRC oversight to facilities linked from extraction through to crude oil export terminals and the gate of natural gas processing plants. The practical interface issue is most apparent where the measurement point under the PIA is located at a terminal or elsewhere along infrastructure that may also perform a transportation function.

The 2023 Presidential Directive should be read alongside the subsequent regulatory instruments issued by both regulators. The NUPRC's Guidelines on Classification of Integrated Upstream and Midstream Petroleum Operations provide criteria for determining whether facilities constitute an integrated operation, while the NMDPRA's subsequent regulations establish licensing and regulatory requirements for midstream infrastructure. The central question is how these instruments give practical effect to the 2023 Presidential Directive and the statutory allocation of functions under the PIA, while reducing duplication in regulatory oversight.

Executive Order No. 9 should be understood against that background. It builds on the earlier boundary-setting exercise and the subsequent regulatory instruments, but it does not replace the PIA, the 2023 Presidential Directive or the regulators’ own licensing requirements.

4. NUPRC's Integrated Operations Guidelines

Pursuant to the 2023 Presidential Directive, the NUPRC issued its Guidelines on Classification of Integrated Upstream and Midstream Petroleum Operations on 6th December 2023 (the “Guidelines”). The Guidelines establish criteria for determining whether upstream and midstream facilities qualify as an integrated operation, and were issued pursuant to the NUPRC's powers under, among others, sections 8(d), 79(2)–(3) and 318 of the PIA.

The Guidelines define an integrated facility as a combination of facilities interlinked by operations and/or shared utilities, components of which may include midstream facilities. The facilities may also be covered by a single approved Field Development Plan.

The Guidelines identify various technical, operational and commercial indicators of integration, including the inclusion of upstream and midstream facilities within a single approved Field Development Plan; interconnection through pipelines or gathering lines; shared storage and utilities; integrated production and processing arrangements; and common or coordinated measurement and fiscalisation arrangements. The Guidelines contemplate configurations in which a terminal serves as the production or fiscal measurement point, notwithstanding that production originates from upstream facilities elsewhere.

The Guidelines establish procedures for both proposed and existing facilities. Where a licensee or lessee proposes to develop facilities within or in connection with its field or lease as an integrated operation, it must obtain NUPRC approval for the integrated classification and comply with the NUPRC's applicable requirements for the design, construction and operation of oil and gas production facilities. Where the facilities have already been developed, the licensee or lessee may apply to the NUPRC for their designation as an integrated upstream and midstream operation and must demonstrate the basis for the proposed classification by reference to the applicable criteria.

The Guidelines also prescribe the regulatory consequences of an integrated classification. Where facilities are so designated, the NUPRC may administer the applicable operational requirements, including licensing, inspections and permits, either in respect of the individual components or the integrated facility, as applicable. The Guidelines further contemplate that a commercial discovery requiring midstream facilities integrated with upstream operations may be submitted to the NUPRC as a single integrated project.

The Guidelines do not, however, make the presence of an individual indicator determinative of integration. While linked pipelines or gathering lines and shared infrastructure may support a finding of integration, the mere existence of a pipeline connecting upstream production facilities to a midstream facility or terminal does not, by itself, establish integrated status; the operator must demonstrate that the relevant facilities satisfy the applicable criteria and obtain the requisite NUPRC designation.

The Guidelines are relevant to the pipeline licensing question because they recognise that the physical location or conventional function of a facility may not, by itself, determine whether it forms part of an integrated upstream operation. A transportation facility may fall within an integrated development where its operational and technical relationship with the upstream facilities satisfies the Guidelines, and the fact that a terminal serves as the production or fiscal measurement point does not, in itself, preclude such integration.

5. NMDPRA's Midstream and Downstream Petroleum Operations Regulations, 2025

The regulatory landscape was subsequently reinforced by the Midstream and Downstream Petroleum Operations Regulations, 2025 (S.I. No. 79 of 2025) (the "**NMDPRA Regulations**"), which commenced on 7th July 2025 and consolidate the NMDPRA framework for midstream and downstream petroleum operations. Among other matters, regulation 43 prohibits the establishment, construction or operation of petroleum-liquid and natural-gas transportation pipelines without an appropriate licence granted by the NMDPRA. That requirement is relevant to pipelines within the midstream and downstream regulatory sphere and should be read together with the PIA's upstream and integrated-operations provisions when classifying pipeline infrastructure.

This creates an important regulatory interface. The NMDPRA Regulations are not inconsistent with the existence of integrated upstream/midstream operations; rather, their application is best understood in light of the prior classification of a particular operation.

A pipeline characterised as a standalone midstream transportation operation would ordinarily be analysed under the NMDPRA regime. Where the pipeline forms part of an upstream operation or a facility formally classified as an integrated upstream/midstream operation, the operator may have a basis for relying instead on the NUPRC's integrated-operations treatment. In practice, the same physical infrastructure may require a closer classification analysis because its regulatory character can depend on measurement, integration and project-specific documentation.

The four scenarios below are intended as practical guideposts rather than legal conclusions. They help organise the initial analysis, but they do not replace project-specific regulatory confirmation before a project, financing or lifting arrangement is committed.

Scenario	Indicative regulatory treatment	Key diligence question

Gathering or evacuation infrastructure upstream of the measurement point and linked to the field development	NUPRC-led regulation is likely to be the relevant starting point, subject to the facts and any required confirmation.	Is the asset covered by the Field Development Plan and upstream facility approvals?
Pipeline forming part of a formally classified integrated upstream/midstream operation	NUPRC classification is likely to provide the principal basis for integrated treatment, subject to any coordinated regulatory interface.	Has NUPRC expressly approved or designated the integrated operation?
Standalone transportation pipeline downstream of the measurement point	NMDPRA regulation is likely to be the relevant framework, subject to the facts and any specific regulatory classification.	Does the pipeline transport petroleum after the statutory measurement point?
Evacuation pipeline to a terminal, where the terminal is the production or fiscal measurement point	The classification is fact-sensitive and is usually better resolved with the relevant regulator in advance, with particular attention to measurement, integration and licensing consequences.	Is the terminal-linked pipeline part of the upstream production architecture or a separate transportation business?

6. Executive Order No. 9 of 2026: Regulatory Coordination and the Limits of Executive Action

Executive Order No. 9 does two different things. It addresses specified petroleum revenues, and it creates a regulatory-coordination mechanism for integrated operations. For pipeline licensing, paragraph 4 is the operative provision. It designates the NUPRC as the interface with licensees and lessees for integrated operations in which upstream and midstream petroleum operations are fully combined. It requires the NUPRC and the NMDPRA, within two weeks of the Order coming into force, to constitute a Joint Project Team responsible for the technical regulation of integrated operations. The Joint Project Team is to develop guidelines for integrated facilities, identify the appropriate licences, permits and fees, facilitate information and data sharing, and propose a framework for allocating regulatory fees between the two regulators. Paragraph 4(4) further places oversight of the Joint Project Team with the Special Adviser to the President on Energy, including in relation to guidelines, fee allocation and inter-agency issues.

Paragraph 7 is not merely a restatement of the NUPRC's 2023 Guidelines. The Guidelines use a broader set of technical, operational and commercial indicators of integration, while the Order adds express requirements relating to operational linkage, location, common ownership and operatorship, together with a list of excluded midstream facilities. Those requirements must still be read through the PIA. The Joint Project Team may harmonise technical review, sequence approvals, identify applicable fees and reduce duplicative engagement, but is best understood as a coordination mechanism operating within the existing statutory licensing framework. For pipelines, the practical question is how the underlying asset should be characterised: NUPRC is likely to be the relevant interface where the asset is demonstrably upstream or part of a qualifying integrated operation, while a standalone transportation pipeline downstream of the statutory measurement point would ordinarily be considered within the NMDPRA regime, subject to the facts and any specific regulatory classification.

7. The ExxonMobil/Bonny River Terminal Matter as a Regulatory Case Study[2]

The practical relevance of this boundary issue was illustrated by the 2023 public regulatory exchange concerning ExxonMobil's lifting of butane at the Bonny River Offshore Terminal. Media reports indicated that the NMDPRA took the view that its authorisation was required for the lifting, while the NUPRC publicly stated that ExxonMobil had applied to it for approval of its operations as an integrated operation under sections 8(d) and 318 of the PIA and that the NUPRC had granted the relevant approval.

On the NUPRC's published account, ExxonMobil subsequently obtained clearance from the NUPRC for the lifting of 12,600 metric tonnes of butane aboard the Barumk Gas, and an NUPRC official at the Bonny River Terminal issued the relevant Certificate of Quantity and Quality after loading. The NMDPRA's reported position was that its own authorisation was also required. The episode illustrates the practical regulatory question addressed in this article: whether a terminal-linked operation involving a product stream and loading infrastructure falls within the upstream/integrated-operations framework administered by the NUPRC or within the NMDPRA's midstream/downstream licensing and terminal-control framework.

The Bonny River Terminal matter illustrates the practical significance of the issue. It may affect authorisation to lift product, custody and control of terminal equipment, certificates of quantity and quality, regulatory communications with security agencies, and the

[2] https://www.premiumtimesng.com/business/604577-exxonmobil-butane-lifting-at-bonny-terminal-approved-by-nuprc-official.html?tztc=1

possibility of parallel regulatory engagement where institutional views differ. It also suggests that an internal view of an asset's function is not, on its own, a reliable basis for regulatory positioning. Where an integrated-operations classification is central to the regulatory position, that classification should ordinarily be expressly obtained, documented and aligned with the relevant lifting, terminal-use, measurement and export documentation.

8. Commercial and Compliance Implications

Classification uncertainty has consequences beyond institutional allocation. It can affect project financing, transaction due diligence, project timelines, lifting arrangements, contractual risk allocation and compliance planning. Where a facility is potentially subject to requirements administered by both regulators, early classification analysis can help reduce avoidable delays, duplicative engagement and additional compliance costs.

In practice, regulatory classification is more appropriately addressed at the project-design stage rather than afterward. The relevant assessment typically considers the facilities involved, their functions and physical interfaces, ownership and operatorship, product streams, measurement points, and their relationship with the relevant field development.

Where integrated status is relied upon, the position is more likely to be defensible if it is supported by the requisite NUPRC classification or approval, together with technical documentation that includes process flow diagrams, piping and instrumentation diagrams, facility descriptions, relevant Field Development Plan materials, measurement arrangements and evidence of shared utilities or operational interdependence.

The regulatory position is, in practice, also reflected in a project's commercial arrangements. Joint operating agreements, transportation and processing agreements, terminal-use arrangements and sale contracts typically allocate responsibility for obtaining licences and approvals and address the consequences of any subsequent change in regulatory classification.

9. Conclusion

Petroleum infrastructure now requires classification to be addressed early, documented consistently and confirmed where material. The issue is not simply the existence of two regulators; it is the application of a statute built around upstream, midstream and downstream categories to assets that may be technically integrated, commercially interdependent and physically continuous.

In practice, the analysis can be organised sequentially. Identify the statutory measurement point and the asset's role within the approved field development. Consider whether there is a basis for upstream or integrated treatment under the PIA, taking account of the NUPRC's 2023 Guidelines and any applicable, authoritatively established requirements under Executive Order No. 9. Obtain written confirmation of the relevant classification or approval where that classification is material. Where neither upstream nor integrated treatment is available, the NMDPRA licensing structure for standalone midstream infrastructure is likely to be the relevant regime. The Joint Project Team should assist that sequence by coordinating regulatory engagement within the statutory mandates of the regulators.

For operators, lenders and project sponsors, the takeaway is practical. The classification position should be reflected consistently in the Field Development Plan, facility descriptions, process-flow and piping documentation, measurement arrangements, licences and permits, financing documents, transportation and processing contracts, terminal-use arrangements and sale documentation. For regulators and policymakers, the relevant implementation question is whether Executive Order No. 9 supports coordination within the PIA's statutory architecture. If implemented in that way, it may reduce duplicative engagement around boundary assets while preserving the statutory basis for regulatory decision-making. Public remarks by senior regulatory agencies also signal a welcome strengthening of collaboration between the NUPRC and other regulatory bodies across the petroleum value chain. They reflect a growing recognition of the interconnectedness of the upstream, midstream and downstream segments, and the value of regulatory coordination across them. Greater alignment between the relevant agencies should contribute to a more coherent regulatory environment and, in turn, support investment, operational efficiency and sustainable industry growth.[3]

[3] https://www.nuprc.gov.ng/media/news/3ad8e3b3eb38c4267935ff0f

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