National Oil Spill Detection and Response Agency (Establishment) Act (Amendment) Bill, 2025

Key Provisions, Innovations, and Business Implications

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Sponsor	Sen. Michael Opeyemi Bamidele
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ABSTRACT

The National Oil Spill Detection and Response Agency (Establishment) Act (Amendment) Bill, 2025 proposes significant changes to Nigeria's regulatory framework for oil spill management and environmental compliance. The Bill seeks to strengthen NOSDRA's enforcement powers while increasing the financial and criminal consequences of non-compliance by operators and facility owners. This article examines the key amendments proposed by the Bill, including increased penalties for delayed spill reporting and failure to commence clean up, the introduction of Remediation Action Plans, expanded oversight of decommissioning and abandonment activities, enhanced inspection powers, and NOSDRA's proposed prosecutorial authority.

The article also considers the practical implications for businesses across the petroleum value chain, particularly the increased compliance costs and regulatory exposure arising from higher penalties, custodial sanctions and expanded environmental obligations. It identifies areas requiring further legislative clarity, including the proposed criminal liability for spills, the absence of a defined timeframe for completing clean-up, uncertainty surrounding compensation, and potential overlap between NOSDRA and the NUPRC and NMDPRA.

The article concludes that while the Bill may strengthen environmental accountability, further clarification and inter-agency coordination are necessary to prevent regulatory uncertainty and overlapping obligations.

OVERVIEW AND CONTEXT FOR AMENDMENT

The National Oil Spill Detection and Response Agency (Establishment) Act (Amendment) Bill, 2025 (the "Proposed Amendment Bill" or the "Bill") proposes key amendments to the National Oil Spill Detection and Response Agency (Establishment) Act 2006 (the "Act" or "NOSDRA Act"). The Bill passed first reading on 1 August 2023 and Second Reading on 31 March 2026 at the Senate. The Bill primarily seeks to grant the National Oil Spill Detection and Response Agency ("NOSDRA" or the "Agency") enhanced powers to impose significantly higher financial penalties for violations and to confer prosecutorial authority in respect of offences under the Act.

The Bill does not introduce new reporting or clean up obligations. These already exist under the Act. Instead, it increases the penalties for non-compliance, introduces custodial sentences, and addresses gaps relating to decommissioning oversight and inspection powers. Although the Act already prescribes penalties for failure to clean up an impacted site, these amounts have been criticised as inadequate deterrents. The Act also lacks clear prosecutorial mechanisms, decommissioning oversight, and structured inspection powers. The Bill seeks to address these gaps. Stakeholders across

Nigeria's petroleum value chain should therefore review the proposed changes.

KEY PROVISIONS OF THE BILL

1. Revised Mandate: Tier-Based Response Model

The Act charges NOSDRA with coordinating and implementing the National Oil Spill Contingency Plan (NOSCP) for all oil spills.[1] However, clause 3 of the Bill reframes this mandate by restricting NOSDRA's monitoring and regulatory role to Tier 1 and Tier 2 spills, while reserving its function to coordinate and activate the NOSCP for Tier 3 (major) spills only.[2]

The tier classifications, defined in clause 11 of the Bill, are as follows:

Tier	Inland Waters	Land/Coastal/ Offshore
Tier 1 (Minor)	0 – 5 barrels	0 – 250 barrels
Tier 2 (Medium)	25 – 250 barrels	250 – 2,500 barrels
Tier 3 (Major)	Above 250 barrels	250 – 2,500 barrels

Implications: Operators may assume greater responsibility for managing Tier 1 and Tier 2 spills, requiring stronger internal response capacity. The change may also reduce immediate regulatory intervention in lower-level incidents. Businesses will therefore need clearer internal spill management procedures while remaining prepared for Agency involvement in major events.

2. Spill Reporting and Clean-Up Obligations

The Act already imposes a 24-hour reporting obligation on oil spillers and prescribes a daily penalty for failure to report, and a separate obligation to clean up impacted sites.

The Bill substantially intensifies these obligations in three respects:

(a) **Incident Reporting:** Clause 4 of the Bill retains the 24-hour reporting window but increases the daily fine for non-reporting from ₦500,000 to not less than ₦2,000,000. It also formalises electronic mail as an acceptable mode of delivery of the report and specifies that reports may be submitted to the nearest zonal/field office or to the National Incident Command and Response Centre.[3]

(b) **Clean-Up Commencement:** The penalty for failure or neglect to discharge the clean-up obligations under the Act carried only a fixed fine of ₦1,000,000.[4] Clause 4 of the Bill replaces this with a requirement to commence clean-up within two weeks of the Joint Investigation Visit (JIV). Failure by the facility owner or operator to comply now attracts a fine of not below ₦5,000,000, or imprisonment for a term not exceeding two years, or both.[5]

(c) **Remediation Action Plan (RAP):** Clause 4 also introduces a new obligation to submit a RAP within two weeks of the completion of post-clean-up assessment. The RAP is a

[1] NOSDRA Act, Section 5
[2] Clause 3, Proposed Amendment Bill
[3] Proposed Amendment Bill, Clause 4
[4] NOSDRA Act, Section 6(3)
[5] Proposed Amendment Bill, Clause 4

structured document that sets out and incorporates measures to be taken for remediation and restoration of the area after the cleanup of the spill. The remediation threshold for different land surfaces and uses will be determined under a regulation made by NOSDRA in line with Clause 9(f) of the Bill. Failure to submit a RAP is an offence and the facility owner or operator shall be liable, on conviction, to a fine of not less than ₦5,000,000 or imprisonment for a term not exceeding two years or both.[6]

Implications: The escalation of daily fines and introduction of custodial sanctions heightens financial and personal liability risks for non-compliance. Operators will need to strengthen incident reporting systems, accelerate clean-up mobilisation and formalise remediation planning processes. The RAP timeline also increases operational pressure and may require additional compliance resources. The Bill requires that clean-up be commenced within two weeks of the JIV but prescribes no timeline for the completion of clean-up operations. This is a significant legislative gap that could be exploited in practice: an operator could satisfy the commencement obligation by mobilising a token clean-up effort while allowing the actual remediation to drag on indefinitely. The Bill should expressly require that clean-up be completed within a defined period or in accordance with a mandated clean-up plan approved by NOSDRA. Without a completion obligation, the two-week commencement requirement is vulnerable to abuse and may not achieve the environmental restoration outcome the Bill intends. The custodial sanction raises a further concern. In most cases, the facility owner or operator will be a company, which, as a juristic person, cannot be subjected to a term of imprisonment. Although a company many incur criminal liability, imprisonment can only be imposed on natural persons. The Bill should therefore either remove the custodial sanction where the offender is a corporate entity or expressly identify the officers or responsible individuals who may be liable to imprisonment.

3. Decommissioning and Abandonment: New Oversight Regime

The Act does not address NOSDRA's role in the decommissioning or abandonment of oil facilities. Clause 5 of the Bill introduces a new and important regime in this regard, inserting new sections 7A and 7B:

- Facility owners must notify NOSDRA in writing at least two months before commencing decommissioning or abandonment of any facility or installation.[7]
- Failure to involve the Agency in decommissioning or abandonment activity attracts a penalty of at least ₦2,000,000.[8]
- The Agency is also empowered to conduct periodic inspections of facility records and asset integrity tests to verify that assets are safe to store or convey crude oil or petroleum products, and to provide a formal programme for periodic inspection and compliance monitoring across upstream, midstream and downstream sectors.[9]

[6] Proposed Amendment Bill, Clause 4(a)
[7] Proposed Amendment Bill, Clause 5
[8] Ibid
[9] Ibid

Implications: These provisions expand NOSDRA's oversight to cover decommissioning and abandonment (D&A) and asset integrity. Operators will need to provide advance notice and prepare for periodic inspections. This may increase compliance costs and affect project timelines. Businesses will therefore need clearer procedures for decommissioning and stronger asset integrity management.

It is important to note that Clause 5 of the Bill, which covers spills occurring in the course of D&A raises a fundamental inter-agency coordination problem that was not addressed. Under the Petroleum Industry Act 2021 (PIA) and the Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations 2026 (D&A Regulations), the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) is the primary regulator for upstream D&A, with the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) performing the equivalent function in the midstream and downstream sectors. Both regulators require operators to submit and obtain approval of D&A plans, maintain D&A funds in escrow, and comply with detailed D&A execution requirements.

The Bill now layers a separate NOSDRA notification and involvement requirement on top of this existing framework, without specifying: (i) whether NOSDRA's role is supplementary or co-equal with that of the NUPRC or NMDPRA; (ii) who has the final say where NOSDRA's requirements and those of the NUPRC or NMDPRA conflict; (iii) whether NOSDRA must be satisfied before an NUPRC or NMDPRA-approved D&A plan can be executed; and (iv) how timelines and approvals are to be harmonised across NOSDRA on one hand and NUPRC or NMDPRA on the other.

The absence of clear inter-agency protocols on D&A is a significant shortcoming and without such protocols, operators face a real risk of conflicting directives from multiple agencies, duplicate compliance costs, and project delays arising from multi-agency approval requirements for the same activity. The drafters of this Bill should consider an inclusion of express provisions requiring NOSDRA, the NUPRC, and the NMDPRA to develop and publish inter-agency protocols governing the coordination of D&A activities.

4. Expanded Funding Sources

The Act funds NOSDRA primarily through Federal Government take-off grants, annual subventions from the consolidated revenue fund, voluntary counterpart funding from State or Local Governments, and loans or grants from national, bilateral and multilateral agencies.[10] Clause 6 of the Bill expands these funding streams to include: (i) 2.5% of the Ecological Fund annually, earmarked for procurement of oil spill response equipment and management of oil spill disasters, including clean-up and remediation of sites impacted by third-party interference; and (ii) penalties, permits, and certification fees prescribed under NOSDRA's Regulations, Guidelines, and Standards.[11]

Implications: NOSDRA may be increasingly motivated to enforce compliance obligations as penalties incurred from breaches form a part of its revenue stream. For operators, this may translate to

[10] NOSDRA Act, Section 11

[11] Proposed Amendment Bill, Clause 6

increased scrutiny of operations and enhanced regulatory engagement to ensure maximum compliance.

5. Revised Intervention Powers and Compensation Obligation

The Act sets out NOSDRA's Federal Government intervention functions, which include assessing damage, co-operating with oil spillers, monitoring clean-up operations, and advising on appropriate remedial action.[12] Clause 7 of the Bill amends section 19 of the NOSDRA Act in the following ways:

(i) a new paragraph (ba) is inserted requiring the Agency to inspect oil facilities to ensure compliance with existing environmental legislation on oil pollution; and

(ii) paragraph (g) of section 19(1) is amended to require that, where damage arising from spillage is assessed, the Agency must ensure the payment of adequate compensation to impacted parties.[13]

Implications: These amendments expand NOSDRA's operational role in monitoring and enforcement. The inspection mandate will increase regulatory scrutiny of oil facilities and require stronger compliance with environmental standards. The compensation provision also heightens potential financial exposure where spill related damage occurs. Operators may therefore face increased oversight and a greater need for proactive environmental risk management. The compensation provision also has potentially significant implications. While it requires the Agency to ensure the payment of adequate compensation to impacted parties, the Bill does not define what constitutes "adequate compensation" or the criteria by which it is to be assessed. It is therefore unclear whether compensation will be determined by reference to proven losses, expert valuation, existing regulatory frameworks or another prescribed standard. This uncertainty may increase operators' financial exposure and give rise to disputes regarding the quantum of compensation payable. Operators should therefore strengthen their environmental risk management, maintain comprehensive records of spill incidents and remediation efforts, and ensure that any assessment of damage is supported by robust technical evidence.

6. Strengthened Inspection and Enforcement Powers

Clause 10 of the Proposed Amendment Bill inserts four (4) new sections; 26A, 26B, 26C and 26D, which collectively constitute a comprehensive enforcement framework for NOSDRA:

(a) **Inspection Powers (new Section 26A):** Agency officers may, upon presentation of official identification and with a court warrant, enter and search any premises, vessel, Floating Production, Storage, Offloading (FPSO), barge, or oil facility; which he reasonably believes stores goods or carries out activities which contravene environmental standards or oil pollution legislation.[14]

(b) **Penalties for Obstruction and Contraventions (new Section 26B):** Obstruction of NOSDRA officers carries a fine of not below ₦300,000 or imprisonment for a minimum of two years (or both), plus

[12] NOSDRA Act, Section 19

[13] Proposed Amendment Bill, Clause 7

[14] Amendment Bill, Clause 10

₦30,000 for each day the offence persists, for individuals; and not below ₦5,000,000 plus ₦500,000 per day for corporate bodies. Any person whose activities cause crude oil or petroleum product spillage is also liable to a fine of not below ₦2,000,000 or imprisonment of not less than two years, or both.[15]

(c) **Prosecutorial Powers (new Section 26C):** Subject to the constitutional authority of the Attorney-General of the Federation (AGF) under section 174 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), NOSDRA may, with the consent of the AGF, institute and conduct criminal proceedings in respect of offences or regulations under the Act. Legal officers employed by the Agency may represent it in such proceedings.[16]

(d) **Polluter liability (new Section 26D):** The Bill requires the polluter to provide reasonable compensation for loss or damage arising from the use of any equipment, facility or personnel required under the Bill.

Implications: These provisions establish a comprehensive enforcement framework and expand NOSDRA's investigative authority. Operators may face increased inspections, stricter penalties for obstruction, and heightened exposure where spill incidents occur. The prosecutorial powers also increase the likelihood of direct enforcement action by the Agency. Businesses will therefore need stronger compliance controls and clearer response protocols to manage regulatory risk.

A more significant concern, however, arises from the proposed criminalisation of any activity that causes a crude oil or petroleum product spill ("any person whose activities cause crude oil or petroleum product spillage"). As presently drafted, the provision does not appear to distinguish between spills arising from criminal conduct, such as illegal bunkering, crude oil theft, wilful falsification of safety records or other unlawful operations, and spills resulting from equipment failure, operational accidents, force majeure or deliberate acts of third parties. This creates the possibility of imposing criminal liability in circumstances where an operator may have exercised reasonable care but nevertheless suffered a spill due to factors beyond its control.

The absence of any express fault requirement may expose operators to criminal sanctions in situations that have traditionally attracted civil liability and regulatory remediation obligations rather than criminal punishment. Unless clarified, the provision may create uncertainty regarding the applicable standard of liability and could discourage investment by increasing the criminal exposure associated with upstream and midstream petroleum operations. Businesses should therefore strengthen their compliance and spill response systems while monitoring whether the Bill is amended to confine criminal liability to spills arising from intentional, grossly negligent, or otherwise unlawful conduct, with civil and regulatory consequences applying to accidental spills.

COMPARATIVE SUMMARY: NOSDRA ACT VS. PROPOSED AMENDMENT BILL

[15] ibid

[16] ibid

1. NOSDRA Mandate

NOSDRA Act (2006): Section 5 – Coordinates NOSCP for all oil spills.

Proposed Amendment Bill (2025): Clause 3 – Monitors/regulates Tiers 1 & 2; activates NOSCP for Tier 3 only.

Comment: The Bill narrows NOSDRA's active role to monitoring and regulating lower-tier spills while preserving its command function for major incidents.

2. Spill Reporting Deadline

NOSDRA Act (2006): Section 6(2) – 24 hours, ₦500,000/day penalty.

Proposed Amendment Bill (2025): Clause 4 – Penalty raised to ₦2,000,000/day; e-mail expressly permitted.

Comment: A fourfold increase in the daily penalty substantially raises the cost of delayed reporting. The express recognition of e-mail as a valid reporting channel removes a source of procedural ambiguity.

3. Clean-Up Obligation

NOSDRA Act (2006): Section 6(3) – Failure to clean up: ₦1,000,000 fixed fine.

Proposed Amendment Bill (2025): Clause 4 – Must commence within 2 weeks post-JIV — minimum ₦5,000,000 or 2 yrs imprisonment (or both).

Comment: Replaces a nominal flat fine with higher monetary penalties and possible imprisonment, while linking clean-up commencement to the JIV to create a clear compliance start date. However, it prescribes no timeline for the completion of clean-up operations.

4. RAP Submission

NOSDRA Act (2006): Not addressed in Principal Act.

Proposed Amendment Bill (2025): New: Clause 4(a) – 2 weeks post-assessment, ₦5,000,000 fine or 2 yrs imprisonment (or both).

Comment: A new post-assessment obligation that extends liability beyond physical clean up, with non-compliance attracting the same custodial consequences as failure to clean up.

5. Decommissioning

NOSDRA Act (2006): Not addressed in Principal Act.

Proposed Amendment Bill (2025): New: Clause 5 – 2-month advance notice; mandatory NOSDRA involvement; ₦2,000,000 penalty for failure to notify.

Comment: Formally brings NOSDRA into the decommissioning phase of the asset lifecycle, requiring operators to plan for advance notice, agency participation in decommissioning plans, and possible inspection costs. However, the Bill does not provide for an inter-agency coordination mechanism with the NUPRC and NMDPRA, which are the main regulators in upstream, midstream and downstream operations respectively. This creates a risk of conflicting regulatory directions.

6. Compensation

NOSDRA Act (2006): – No express compensation obligation.

Proposed Amendment Bill (2025): Clause 7 – Agency must ensure payment of adequate compensation to impacted parties.

Comment: Gives the Agency an enforcement role in securing compensation, increasing operators' financial exposure where spill damage is formally assessed. The Bill does not define what constitutes "adequate compensation" or the criteria by which it is to be assessed.

7. Inspection Powers

NOSDRA Act (2006): No dedicated inspection provisions.

Proposed Amendment Bill (2025): Clause 10 – Comprehensive search, sampling, document review and facility closure powers (with warrant).

Comment: Significantly expands NOSDRA's investigative reach with appropriate judicial oversight (warrant required).

8. Criminal Liability for Spillage

NOSDRA Act (2006): No criminal liability for oil spillage (accidental or intentional).

Proposed Amendment Bill (2025): Clause 10/Section 26B – Any person whose activities cause crude oil or petroleum product spillage is liable to a fine of not below ₦2,000,000 or imprisonment of not less than two years, or both.

Comment: Criminalising any activity that causes a spill, without requiring proof of intent or negligence, is a serious overreach. A large number of spills are accidental, caused by equipment failure, pipeline corrosion, third-party interference, or weather. The appropriate response to an accidental spill is civil and regulatory: clean-up obligations, financial penalties, and compensation. Criminal liability, including imprisonment, should be reserved for spills resulting from deliberate conduct; illegal bunkering, crude theft, sabotage, or falsification of safety records. The Bill does not make this distinction and should be revised accordingly.

9. Prosecution

NOSDRA Act (2006): No prosecutorial power in Principal Act.

Proposed Amendment Bill (2025): Clause 10 – NOSDRA may institute and conduct criminal proceedings with AGF consent.

Comment: This indicates a shift toward more direct enforcement and a higher prospect of regulatory action. While it may strengthen compliance by increasing the likelihood of enforcement action, the Bill does not prescribe a procedure or timeframe for obtaining the fiat of the AGF. The effectiveness of this provision will therefore depend on the efficiency of the administrative process between NOSDRA and the Office of the AGF. Delays in obtaining consent could affect the timely commencement of prosecutions. However, the oversight of the AGF may ensure that criminal proceedings are commenced only where sufficient legal and evidential basis exists.

CONCLUSION

The Bill, if enacted in its current form, will materially increase the compliance requirements, financial burden due to increased administrative fees, and criminal exposure of operators and facility owners in Nigeria's petroleum sector; it may also lead to delays where multi-agency approvals are required for the same issue if there is no inter-agency cooperation and harmonisation of timelines. The escalation in penalties, the introduction of custodial sentences, the new decommissioning oversight regime, and the conferral of prosecutorial authority on NOSDRA together give the Agency a significantly more assertive enforcement posture.

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