

Extraordinary



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**NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS
ENFORCEMENT AGENCY (ESTABLISHMENT) ACT, 2007**

**NATIONAL ENVIRONMENTAL (WETLANDS, RIVER BANKS AND LAKE
SHORES PROTECTION) REGULATIONS, 2009**



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NATIONAL ENVIRONMENTAL (WETLANDS, RIVER BANKS AND LAKE SHORES PROTECTION) REGULATIONS, 2009

(30 September 2009)

In exercise of the powers conferred on me by Section 34 of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 and all other powers enabling me in that behalf, I, John Odey, Minister of Environment, hereby make the following Regulations:

PART I – REGULATIONS OF WETLANDS AND WETLAND RESOURCES

1. This Part applies to all wetlands in Nigeria.
2. The objectives of Part I of these Regulations are to –
 - a) provide for the conservation and wise use of wetlands and their resources in Nigeria;
 - b) ensure water catchments conservation and flood control;
 - c) ensure the sustainable use of wetlands for ecological and tourism purposes for the common good of all citizens;
 - d) ensure that wetlands are protected as habitats for species of fauna and flora; and
 - e) minimize the control pollution.
3. The following principles shall be observed in regulating all wetlands –
 - a) wetland resources shall be utilized in a sustainable manner compatible with the continued presence of wetlands and their hydrological functions and services;
 - b) the Environmental Impact Assessment (EIA), shall be conducted in accordance with the relevant laws on all activities in wetlands likely to have adverse effects on the wetlands;
 - c) best practices shall be applied for the conservation of wetlands of international, national and local importance as ecological systems and habitats for fauna and flora species, cultural and aesthetic purposes, as well as their hydrological functions, etc.

- d) wise use of wetlands shall be incorporated into the national and local approaches for the regulation of their resources through awareness campaigns and dissemination of information.
4. (1) The Agency shall, in collaboration with relevant agencies, State and Local Governments, communities and other stakeholders, compile an inventory of all wetlands for determining the purposes of their conservation status based on the parameters as specified in the First Schedule to these Regulations.
- (2) The State Government, in collaboration with the Agency, shall periodically inspect the wetlands to determine the necessity for revision or correction of the inventory on wetlands.
- (3) The State Government may, in collaboration with the Agency, register changes in the boundaries of wetlands on maps in the inventory referred to in sub-regulation (1) of this regulation and make any other necessary changes in the inventory to reflect the actual situation on ground.
- (4) In conducting an inventory on wetlands, the State Government shall consult with the Local Government with a view to involving the public in determining whether a wetland should be included in the list of wetlands of local or national or international importance.
- (5) Without prejudice to the generality of sub-regulations (6) of this regulations, the State and Local Governments shall cause to be convened, meetings of local inhabitants and stakeholders within the vicinity of the wetland prior to making any decision affecting the wetland.
- (6) The Agency shall in collaboration with State and Local Governments, publish an inventory of wetlands every five years reflecting the current state of wetlands included in the inventory which shall form part of the data base of the Agency.
5. State Governments –
- a) shall furnish the Agency with the particulars of all wetlands within their respective States for registration;

- b) shall ensure that no individual or group of persons goes into the wetlands for the activities likely to degrade the said wetlands; and
 - c) may receive the request for permit and recommend to the Agency for approval.
6. In ensuring the sustainability of wetlands, Local Governments shall –
- a) assist the Agency in ensuring that any activity undertaken within the catchment areas of a wetland does not affect the water level of the wetland;
 - b) assist the Agency in regulating activities which may include supply of water for domestic purpose, fishing, hunting, home gardens, grazing and wood exploitation to ensure sustainable use of wetlands;
 - c) collaborate with the Agency to declare an areas a protected wetland in accordance with these Regulations; and
 - d) conduct public awareness campaigns among the people to ensure the wise use and conservation of wetlands.
7. (1) The declaration of a protected wetland may be initiated by the Agency on the recommendation of the Local Government.
- (2) Where the Agency initiates the process of declaring a wetland as a protected area under sub-regulation (1) of this regulation, the Agency shall –
- a) inform the Local and State Governments in writing;
 - b) cause an Environmental Impact Assessment (EIA) to be carried out by the EIA Department of the Federal Ministry of Environment;
 - c) ensure that the views of the people inhabiting the areas contiguous to the wetland are taken into account by convening a meeting of the local inhabitants; and
 - d) ensure the preparation and submission of a report containing findings in paragraphs (a), (b) and (c) of this sub-regulation to the Agency.
- (3) Where a Local Government initiates the process stated in sub-regulation representative organ of the inhabitants and require them to carry out the activities stated in paragraphs (b), (c) and (d) of sub-regulation (2) of this regulation and in such a

case the Local Government shall provide the appropriate financial support to the inhabitants of the area for carrying out these tasks.

(4) The Agency shall consider the reports submitted under sub-regulations (2) and (3) of this regulation and may make recommendations to the Minister.

8. (1) A person desiring to carry out any of the regulated activities listed in the Second Schedule or extract any wetland produce in a wetland shall make an application as set out in Form A of the Third Schedule to these Regulations.

(2) Subject to sustainable utilization, the following traditional uses of wetland resources shall not be subject to the application of these Regulations –

- a) medicinal plants, edible plants and other non-wood forest produce;
- b) any cultivation where the cultivated area is not more than 25% of the total area of the wetland;
- c) fishing, using traps and baskets;
- d) collection of invertebrates such as periwinkles, oysters, snails, crabs, etc; and
- e) collection of water for domestic use.

(3) The use of fishing methods including weirs, herbs or chemicals are prohibited.

9. (1) Subject to the provisions of these Regulations, a person shall not carry out an activity in a wetland without a permit issued by the Agency.

(2) Any person intending to carry out an activity listed in the Second Schedule to these Regulations shall apply to the Agency for a permit in Form A of the Third Schedule to these Regulations.

(3) The application made pursuant to sub-regulation (2) of this regulation shall be accompanied by the payment of fees as shall be prescribed by the Agency.

(4) The Agency may issue a permit in Form B as specific in the Third Schedule to these Regulations permitting the use of wetland resources.

10. Where the Agency rejects an application made under sub-regulation (2) of regulation 9, the Agency shall –

- a) state reasons in writing, to the applicant; and

- b) give the applicant the right to be heard either orally or in writing or both.
11. The Agency may, at any time, after consultation with State Government revoke a permit granted under these Regulations if its is satisfied that the conditions of the grant of the permit have not been complied with or that the continued use of the wetlands is likely to be injurious to be community, neighbouring States or the environment.
12. The Agency may, after consultation with the appropriate State Government, grant a temporary permit for the use of a wetland where –
- a) there is a need to irrigate an area; and
 - b) a special research project requires the use of the wetland for a certain period of time.
13. It is implied in any permit issued under these Regulations that the holder of any permit shall –
- a) not substantially affect hydrological and ecological characteristics of the wetland beyond the terms and conditions contained in the permit;
 - b) keep and maintain the boundaries of the wetland for purposes of controlling malaria and other diseases;
 - c) not assign the permit to any other person without the consent of the Agency; and
 - d) within a period of one year after the expiration or revocation of the permit, remove or restore the wetland to as near as possible to the state it was immediately before the commencement of the permitted activities.
14. (1) Every land owner, occupier or user of property contiguous to a wetland shall have a duty to prevent the degradation or destruction of the wetland and shall maintain the values of the wetland.
- (2) Any person who fails, neglects or refuses to protect a wetland under sub-regulation (1) of this regulations commits an offence.

PART II – REGULATIONS OF RIVER BANKS LAKE SHORES

15. (1) Part II of these Regulations shall apply to all river banks and lake shores in Nigeria, subject to the provisions of the Constitution of the Federal Republic of Nigeria and other applicable Acts.
- (2) The Government shall hold in trust for the people and protect river banks and lake shores for the common good of the citizens of Nigeria.
16. The objectives of Part II of these Regulations are to –
- a) facilitate the sustainable utilization and conservation of resources on river banks and lake shores for the benefits of the people and the community living in the area;
 - b) promote the integration of sustainable use of resources in rivers and lakes into the local and national management of natural resources for socio-economic development;
 - c) enhance research and research related activities; and
 - d) prevent silting of rivers and lakes and control pollution or degrading activities.
17. The following shall be observed in the regulation of river banks and lake shores –
- a) resources on the river banks and lake shores shall be utilized in a sustainable manner;
 - b) the Environmental Impact Assessment (E.I.A) as required under any applicable law is mandatory for all major activities on river banks and lake shores; and
 - c) special measures are essential for the protection of river banks and lake shores such as preventing soil erosion, silting and water pollution.
18. The Agency shall, in collaboration with relevant Agencies, State Governments, Local Governments and stakeholders identify river banks and lakes shores that are under threat from environmental degradation, for the purpose of monitoring and implementing best practices for their stabilization.
19. (1) The Agency shall, in consultation with State Governments, Local Governments, communities and other relevant stakeholders carry out an inventory, identify and monitor lake shores and river banks which are degraded and propose measures for their remediation.

(2) The inventory provided for in sub-regulation (1) of this regulation shall be made in consultation with the State Governments, Communities and other relevant stakeholders and shall include maps of the areas identified.

(3) The Agency shall, maintain a register of river banks and lake shores including those identified in the Fourth Schedule to these Regulations.

20. (1) A person who intends to carry out any of the following activities shall make an application to the Agency in Form A as set out in the Third Schedule to these Regulations –

- a) cultivate or introduce in any form, any plant, whether alien or indigenous on a river bank or lake shore;
- b) introduce any animal or micro-organism, whether alien or indigenous in any riverbank or lake shore; or
- c) deposit any substance on a river bank or lake shore.

(2) The Agency may, after considering the application submitted under sub-regulation (1) of this regulations and after consultation with the State Government, grant a permit in Form B as set out in the Third Schedule to these Regulations on such conditions as the Agency may deem fit.

21. Where the Agency rejects an application made under sub-regulation (1) of regulation 20, the Agency shall –

- a) state reasons in writing, to the applicant; and
- b) give the applicant the right to be heard either orally or in writing or both.

22. The Agency may, at any time, revoke any permit granted under these Regulations if the Agency is satisfied that the conditions for granting the permit have not been complied with or that the continued use of the river bank or lake shore is likely to be injurious to the community and the environment.

23. The Agency shall, in collaboration with relevant Agencies, State and Local Governments, monitor and enforce compliance with extant laws with respect to activities likely to degrade the environment, river banks or lake shores.

24. (1) Every land owner or user in whose land a river bank or lake shore is situated shall have a duty to prevent and repair degraded river banks and lake shores through the following or any other measures –
- a) soil engineering;
 - b) agroforestry;
 - c) mulching;
 - d) grassing;
 - e) control of livestock grazing; and
 - f) terracing
25. (1) The rivers specified in the Fourth Schedule to these Regulations shall have an appropriate protection zone from the highest water mark of the river as may be determined by the Agency.
- (2) Rivers not specified in the Fourth Schedule to these Regulations shall have a protected zone as shall be determined by the Agency
- (3) No activity shall be permitted within protected zones without the written consent of the Agency
- (4) Each Local Government shall determine watering points and routes for animals to have access to the water in each river.
26. (1) All shores of lakes specified in the Fifth Schedule to these Regulations shall have an appropriate protected zone of two hundred metres measured from the low water mark.
- (2) All shores of lakes not specified in the Fifth Schedule shall have a protected zone of one hundred metres from the low water mark.
- (3) Each Local Government shall determine watering points and routes for animals to have access to the water in each lake.
27. (1) Where a lake shore or river bank is developed for the purposes of promoting tourism or other aesthetic uses, the developer shall ensure that –
- a) Pre-treatment or full treatment of effluent or waste from the facility is carried out to prevent contamination of the water;

- b) Litter is cleared and disposed off in conformity with best environmental practices;
and
 - c) The river banks, lake shores or beaches are not degraded.
28. (1) A developer or proponent desiring to conduct a project which may have a significant negative impact on a wetland, river bank or lake shore, shall be required to carry out an Environmental Impact Assessment in line with extant Regulations or Act.
- (2) The developer mentioned in sub-regulation (1) of this regulation shall carry out periodic environmental audits and monitoring on such activities and shall submit reports as specific to the Agency.
29. The Agency may prescribe approved guidelines for the restoration and remediation of a wetland, river bank or lake shore that is threatened or degraded.
30. A person commits an offence if he –
- a) reclaims or drains a wetlands;
 - b) erects, constructs, places, alters, extends, removes or demolishes any structure that is fixed in, under or over a wetland;
 - c) disturbs a wetlands by drilling or tunneling in a manner that has or is likely to have an adverse effect on a wetland;
 - d) deposits in, on, or under any wetland a substance in a manner that has or is likely to have an adverse effect on a wetland;
 - e) destroys, damages or disturbs any wetland in a manner that has or is likely to have an adverse effect on any plant or animal or its habitat;
 - f) introduces any exotic plant or animal in a wetland;
 - g) removes soil from or burns any wetlands resource in a wetland;
 - h) carries out any unauthorized activity in a protected wetland;
 - i) carries out activities provided for in regulation 20 without a permit;
 - j) fails, neglects or refuses to protect a lake shore or river bank from environmental degradation in accordance with these Regulations.
 - k) Contravenes any of the provisions of these Regulations.

31. (1) Any person found guilty of an offence under these Regulations is liable on conviction to imprisonment of not less than three months or to a fine not exceeding N500,000:00 or both.
- (2) In addition to the penalty provided for in sub-regulation (1), a person found guilty shall be required to carry out remediation work.
32. (1) Any person aggrieved by a decision of the Agency under these Regulations may appeal to the Agency.
- (2) The decision of the Agency shall be so communicated to the aggrieved person.
- (3) An aggrieved person shall, if dissatisfied with the decision of the Agency, appeal to the Minister.
33. In these regulations ---
- "Act"* means the National Environmental Standards and Regulations Agency (Establishment) Act, 2007;
- "Agency"* means the national Environmental Standards and Regulations Agency established under section 1 of the Act and includes, for the purpose of these Regulations, a person authorized by the Agency to act on his or her behalf;
- "Beach"* means an accumulation of sand or gravel found at the land ward margin of a lake; the limits approximating to the position of the highest and lower tidal water levels;
- "Biological diversity"* means the variability among living organisms from all sources including, terrestrial ecosystems and aquatic ecosystems and the ecological complexes of which they are part; including diversity within species, between species, between and within genes and ecosystems;
- "Conservation"* means looking after and managing a resource so that the resource maintains its ability to fulfil its functions and provide goods and services for present and future generations;
- "Contamination"* means a process of making impure or unclean in relation to wetlands, rivers or lakes;
- "Degradation of wetland"* means loss of a wetland areas due to the conversion of a wetland to non-wetland habitats as a result of human activity;

"Drainage of wetlands" means the removal or exclusion of water from a wetland by pumping, excavation of channels, planting in a wetland fast entering a wetland, channeling, reclamation and drainage itself;

"Governing Council" means the Board of Directors of the national Environmental Standards and Regulations Enforcement Agency established under Part I, section 3 of the Act;

"Hunting" includes the doing of an act immediately directed at killing wounding, injuring or capturing of any animal and taking or willful molestation of any nest, lair or other place where a dependant young animal is born, hatched, or reared;

"Lake shore" means the land not more than 100 meters adjacent to or bordering a lake;

"Lake" means a body of fresh or salty water of natural body or pool of water;

"Land Owner" means an owner of a particular piece of land;

"Lead Agency" means any ministry, department, parastatal agency, local government system, or public officer in which or upon whom any law vests functions of control or management of any segment of the environment;

"Low water mark" means the historical point at which the lowest level of contact between the water and the shore or the bank as the case may be was recorded;

"Natural Resources" means land, air, water, vegetable, fish, wildlife, rivers and streams, wilderness, natural beauty, scenery and open space;

"Occupier" means, for the purposes of these regulations, a person in occupation of any land on which there is a wetland, riverbank or lake shore;

"Person" means a natural or legal person;

"Protected Species" means any plant or animal declared as a protected species under these regulations;

"Protected Zone" means particular area prevented from being harmed or damaged;

"Restoration" means regeneration or putting back a wetland, river bank or lake shore to the state it was in or near to what it was before it was modified;

"River bank" means the rising ground, not more than 100m long, bordering or adjacent to a river in the form of rock, mud, gravel or sand;

"River" means a body of natural surface stream of water of considerable volume permanently or seasonally flowing in a defined channel;

"Riverine" includes all wetlands along rivers and stream;

"Soil erosion" means, a general process whereby soil particles are worn away or removed by natural agencies, including weathering, solution, corrosion and transportation;

"Soil" means earth, sand, shells, minerals, vegetable and the flora and fauna in the soil and the derivatives thereof such as dust;

"Sustainable utilization" means the practice of human utilization which ensures the greatest benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations;

"Wetland resource use permit" means a permit granted to a person community or organisation to make extractive utilization of wetlands and other non-extractive uses such as tourism and cultural activities in accordance with the grant under these Regulations;

"Wetlands" means areas permanently or seasonally flooded by water where plants and animals have become adapted; and include swamps, areas of marsh, banks of rivers, vegetation, areas impeded drainage, or blackish salt;

"Wildlife" means wild animals, birds and other living things, sometimes including vegetation, living in a natural, undomesticated state;

"Wise Use" means sustainable utilization of wetlands in a way compatible with the maintenance of the natural properties of the ecosystem.

34. These Regulations may be cited as the National Environmental (Wetlands, River Banks and Lake Shores) Regulations, 2009.

SCHEDULES

FIRST SCHEDULE

Regulation 4

Parameter for Conservation Status of Wetlands.

(1) General

- a) Location of the wetland;
- b) Type of fauna and flora;
- c) The relief, geological and soil characteristics;
- d) The hydrological characteristics;
- e) The water quality;
- f) The discharge and composition of water;
- g) The existing uses;
- h) The density of population in the wetland catchment drawing attention especially to those most dependent on the wetland;

(2) The boundaries of such wetlands shall be shown on suitable boundary or natural resources maps.

SECOND SCHEDULE

Regulations 8 & 9

Form A

(To be completed in Triplicate)

FEDERAL REPUBLIC OF NIGERIA

NESREA (Establishment) Act, 2007

The National Environmental (Wetlands, River Banks and Lake Shores Protection)
Regulations, 2009.

REGULATED ACTIVITIES IN A WETLAND

1. Brick making.
2. Recreational activities such as sport, fishing, maintenance of green spaces.
3. Cultivation.
4. Drainage.
5. Commercial exploitation of wetland resources.
6. Sewerage filtration.
7. Fishing, using fish gear and weirs, fish farming and other aquaculture.
8. Construction of transport and communication facilities such as roads, railways, telephone lines.
9. Burning.
10. Any unsustainable activity which is of commercial or trade nature.

THIRD SCHEDULE

Regulations 8(1), (2) & 20(1)

Form A

(To be completed in Triplicate)

FEDERAL REPUBLIC OF NIGERIA

**APPLICATION FOR A PERMIT TO CARRY OUT A REGULATED ACTIVITY IN A
WETLAND, RIVER BANK AND LAKE SHORE**

I hereby apply for a permit to carry out activity in a wetland or River Bank or Lake Shore of which particulars are given below:

Full Name of Applicant.....

Designation/Title

Address of Applicant

Type of Activity to be Carried Out

.....

.....

Estimated Period of Activity

.....

Proposed hectarage or area on which the above activity is to be carried out

.....

Executive summary of Environmental Impact Assessment (please attach a copy where applicable).....

.....

(Attach a map and detailed information showing area directly or indirectly affected by proposed activity)

Any Other Information

.....

Signature of the Applicant

Date

FOR OFFICIAL USE ONLY

Application Received by Date

Fee (in words)

Approval or Disapproval of Director-General

Date

Seal and Signature of the Director-General or CEO

THIRD SCHEDULE

Regulations 9(4) & 20(2)

Form A

(To be completed in Triplicate)

FEDERAL REPUBLIC OF NIGERIA

Fee Paid

NESREA (Establishment) Act, 2007

The National Environmental (Wetlands, River Banks and Lake Shores Protection) Regulations, 2009.

**PERMIT TO CARRY OUT A REGULATED ACTIVITY IN A WETLAND
RIVER BANK AND LAKE SHORE**

Permit No:

Name

Address

.....

You are hereby granted a permit to carry out the activity(ies) in a Wetland or River Bank or Lake Shore of

Location of the Wetland or River Bank or Lake Shore.....

.....

This permit is valid from20.....to.....20.....

Date

Seal and Signature of the Director-General and CEO

National Environmental Standards and Regulations Enforcement Agency

FEDERAL REPUBLIC OF NIGERIA

NESREA (Establishment) Act, 2007

The National Environmental (Wetland, River Banks and Lake Shores Protection)
Regulations, 2009

Fees:

1. Application for Wetlands use permit N2,000:00.

2. Application for a permit to carry out any regulated activity on River Banks and Lake Shores N2,000:00
3. Grant of a permit for use of Wetland, River Bank or Lake Shore N5,000:00

FOURTH SCHEDULE

Regulations 19

(To be completed in Triplicate)

FEDERAL REPUBLIC OF NIGERIA

NESREA (Establishment) Act, 2007

The National Environmental (Wetlands, River Banks and Lake Shores Protection)
Regulations, 2009.

REGISTER OF RIVER BANKS AND LAKE SHORES

Registration No. NESREA or RB or LS

Name of River Bank or Lake Shore

Location (Village, LGA, State)

Extent of River Bank or Lake Shore (in Km)

Activities being carried out on the River bank or Lake Shore

.....

Remarks Date Signature

FOURTH SCHEDULE

Regulations 19 and 25

The National Environmental (Wetlands, River Banks and Lake Shores Protection) Regulations, 2009.

Rivers

1. River Niger
2. River Benue
3. River Sokoto
4. River Hadejia.
5. River Gongola
6. River Cross
7. River Komadugu
8. River Rima
9. River Gawon Gulbi
10. River Zamfara
11. River Kaduna
12. River Katagum
13. River Ngadda
14. River Yedseram
15. River Goma
16. River Chalawa
17. River Kano
18. River Anambra
19. River Katsina
20. River Imo
21. River Isiomo
22. River Osse

23. River Siluko
24. River Owena
25. River Oluwa
26. River Oni
27. River Osun
28. River Ona
29. River Ogun
30. River Gbako
31. River Kontagora
32. River Moshi
33. River Awun
34. River Oro
35. River Gurara
36. River Mada
37. River Koriga
38. River Tubo
39. River Ankwe
40. River Shemankar
41. River Wase
42. River Pai
43. River Taraba
44. River Donga
45. River Oji
46. River Kampe
47. River Usuman

Note: Several other rivers to be added

FIFTH SCHEDULE

Regulation 26

FEDERAL REPUBLIC OF NIGERIA

The National Environmental (*Wetlands, River Banks and Lake Shores Protection)
Regulations, 2009

Lakes

1. Lake Chad
2. Lake Kanji
3. Lake Gwadabawa
4. Lake Gumi

Note: Other Lakes to be added

DATED at Abuja this 30th day of September, 2009.

MR JOHN ODEY,
Honourable Minister
Federal Ministry of Environment