

Extraordinary



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NATIONAL ENVIRONMENTAL (MINING AND PROCESSING OF COAL, ORES AND INDUSTRIAL MINERALS) REGULATIONS 2009



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NATIONAL ENVIRONMENTAL (MINING AND PROCESSING OF COAL, ORES AND INDUSTRIAL MINERALS) REGULATIONS 2009

(30th 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 ON THE USE OF WATERSHED, MOUNTAINOUS, HILLY AND CATCHMENT AREAS

1. (1) Every land owner or occupier, while utilizing land in a watershed, mountainous, hilly or catchment area shall:
 - a) observe and respect the carrying capacity of the land;
 - b) carry out soil conservation measures;
 - c) carry out measures for the protection of water catchment areas;
 - d) use the best available environmentally friendly technologies to minimize significant risks and damage to ecological and landscape aspect; and
 - e) maintain adequate vegetation cover.

(2) The Agency shall, with respect to watersheds, mountainous, hilly and catchment areas in a particular environment, control activities which are inconsistent with good land management practices especially in areas prone to land slides, floods, drought, desertification, siltation, heavy sediment loads, falling rocks, fires and damage by wind.
2. (1) The Agency in conjunction with States and Local Governments shall identify watersheds, mountainous, hilly and catchment areas within each State jurisdiction and indicate those that are at risk of degradation.

(2) A watershed, mountainous, hilly or catchment area is at risk from environmental degradation if:

- i) The watersheds, mountainous, hilly or catchment area is prone to point and non-point pollution;
- ii) There are unsustainable intensive irrigation practices;
- iii) There is large scale deforestation and over cultivation at a rate faster than regeneration of the vegetation and nutrient replenishment;
- iv) There is overgrazing;
- v) It is prone to soil erosion and flooding;
- vi) Landslides have occurred in such an area;
- vii) Mud slides have occurred in such an area;
- viii) Over-exploitation of water resources has occurred in such an area; and
- ix) Any other land use activity in such an area is likely to lead to environmental degradation.

(3) The Agency shall in collaboration with States and Local Governments collect and collate data for the purpose of maintaining a National Database of watershed, mountainous, hilly and catchment areas.

3. (1) States and Local Governments may register watersheds, mountainous, hilly and catchment areas within such State and Local Government with the Agency.

(2) The Agency shall on receipt of the registration form as prescribed in the First Schedule consider and where satisfied, register the watersheds, mountainous, hilly or catchment area.

(3) The Agency shall maintain a register of watersheds, mountainous, hilly and catchment areas and also indicate those that are under threat from environmental degradation.

4. (1) A person who desires to –

- a) graze livestock;
- b) establish a camping or other recreational facility for tourist purposes;
- c) plant or cultivate crops;
- d) carry out mining activities; or
- e) carry out any development activity requiring an Environmental Impact Assessment (EIA);

in a watershed, a mountainous, hilly or catchment area shall submit an application endorsed by the Chairman of the Local Government Area to the Agency, subject to these Regulations in the form prescribed in the Second Schedule to these Regulations.

(2) The Agency may, after considering the application submitted under sub-regulation (1) of this regulation, grant a permit in the form as prescribed in the Third Schedule to these Regulations.

(3) A person granted a permit under sub-regulation (2) of this regulation, to carry out an activity in watersheds, mountainous, hilly and catchment areas shall take such precautions as may be directed by the Agency including the measures specified in the Third Schedule to these Regulations to prevent environmental degradation.

(4) A person who carries out any activity under sub-regulation (1) of this regulation contrary to the provisions of these Regulations commits an offence.

(5) Notwithstanding any other provisions of these Regulations any person who disposes of any waste in a watershed, mountainous, hilly or catchment area commits an offence.

5. (1) The Agency in collaboration with relevant Federal, State and Local Government bodies, Communities and other stakeholders shall ensure that no individual, group of persons or corporations enter into any watershed, mountainous, hilly or catchment area for the following activities:

- a) logging;
- b) dredging;
- c) bush burning;

- d) disposal of any waste; and
- e) any other land use such as, some agricultural practices, grazing and mining, that may cause land degradation in such an area.

(2) The Agency shall establish and maintain a data base of all major watersheds, mountainous, hilly, or catchment areas of each State.

(3) The State Government:

- a) shall furnish the Agency with the particulars of all major watersheds, mountainous, hilly or catchment areas within the state for registration;
- b) shall ensure that no individual or group of persons go into the major watersheds for the activities stated under sub-regulation (1)(a) to (e) of this regulation; and
- c) may receive application for permit and recommend same to the Agency for approval.

(4) The Local Government:

- a) shall in conjunction with the State Government and the agency designate areas to be reserved for grazing and any other activities necessary to conserve the resources of areas, threatened by degradation;
- b) within whose jurisdiction activities likely to degrade the environment of major watersheds, mountainous, hilly or catchment areas are taking place shall inform the State Government and the Agency in writing;
- c) shall identify the major watersheds in respect of which consent and permit may be issued to carry out the activities specified in sub-regulation (1) of this regulation;
- d) shall receive copies of all applications for written consent and permit and determine whether such applications satisfy the conditions for the issuance of such permits where recommendations could be made through the State Government to the Agency for approval;

- e) shall recommend to the State Government, any applicant that may have satisfied the conditions for the issuance of a written consent to carry out activities of which permits can be granted.
- (5) Every land owner, occupier or user whose land is submitted in a watershed, mountainous, hilly or catchment area shall take measures to:
- a) reduce water run off through the gassing of medium and steep slopes;
 - b) mulch and bund gardens on medium and steep slopes;
 - c) practice agroforestry;
 - d) prevent the burning of grass in areas of intensive agriculture or on steep slopes;
 - e) prevent pollution of the river, streams, lakes or other water bodies;
 - f) prevent the use of harmful pesticides within the designated watershed areas.
6. No person shall set fire to a forest (natural or man made) or a grassland or a watershed, mountainous, hilly and catchment area.
7. The Agency in collaboration with the relevant Agency, the State and Local Government Council shall carry out land use mapping in all watersheds, mountainous, hilly and catchment areas within their jurisdiction, showing the characteristics, status, use and any other information relevant to such area.
8. (1) Where a watershed, mountainous, hilly or catchment area is at risk of environmental degradation, the Agency in collaboration with State, Local Government Council and other stakeholders may issue an order in writing to a person or persons holding interest in land in the affected area to plant trees and other vegetation as well as take appropriate measures to protect the area.
- (2) Pursuant to any order issued under sub-regulation (1) of this regulation, the Agency shall in consultation with the person or persons, prescribe the management plan including the species of trees to be planted.

(3) Any tree planted pursuant to an order issued under this regulation shall be the property of the person or persons who planted it.

(4) Any person who contravenes any provisions of an order made under these Regulations commits an offence.

(5) Where a person on whom an order under these Regulations has been served, fails, neglects or refuses to take the action required by the order, the Agency in collaboration with the State and Local Government Council may enter the land, subject to the order and take all the necessary actions in respect of the activity to which that order relates and enforce that order as deemed fit.

9. (1) The Agency in collaboration with the State shall restrict grazing in such watersheds, mountainous, hilly and catchment areas that are identified as threatened by environmental degradation.

(2) The Agency in collaboration with the State and Local Government may issue an order prescribing the maximum number of animals that may graze or be permitted to graze on any particular area of land.

(3) Any order issued under sub-regulation (2) of this regulation shall be communicated to the target audience through the appropriate channel.

(4) A person shall not cause or permit any livestock belonging to him or under his control to graze on any watershed, mountainous, hilly or catchment area in respect of which there is in force an order made by the Agency prohibiting grazing.

(5) A person who causes or permits any livestock belonging to him or under his control to graze on any such watershed, mountainous, hilly or catchment area in contravention of sub-regulation (4) of this regulation commits an offence.

PART II – MISCELLANEOUS

10. (1) Any person who contravenes any of the provisions of these Regulations;

a) may have his permit revoked; or

b) shall be liable upon conviction to imprisonment of not more than one year or to a fine of not more than Two Hundred Thousand (N200,000:00) Naira or both.

(2) In the case of afforestation and deforestation the violator shall be liable on conviction to imprisonment for a term not exceeding six (6) months or to a fine of not less than Fifty Thousand Naira (N50,000:00) only or both.

(3) Where an offence is committed by a corporate body, it shall on conviction, be liable to a fine not exceeding one million (N1,000,000:00) Naira and additional fine of Fifty Thousand Naira (N50,000:00) for every day the offence subsists.

11. (1) A person dissatisfied with the decision of the Agency under these Regulations may submit a written appeal to the Honourable Minister.

PART III – GENERAL

12. Interpretation

In these Regulations unless the context otherwise requires:

“Act” means National Environmental Standards and Regulations Agency (Enforcement) Act, 2007;

“Agency” means National Environmental Standards and Regulations Enforcement Agency established under section 1 of the Act;

“Agro forestry” means an ecologically based natural resource management system in which trees and animals are integrated in farmland and rangeland;

“Appeal” means a formal request to a higher authority demanding a change in or confirmation of a decision;

“Arid” means a place lacking sufficient water or rainfall;

“Bye-Law” means a rule made by local authority;

“Carrying capacity” means a level of land use or human activity that can be permanently accommodated without an irreversible change in the quality of the land;

“Catchment area” means area from which rainfall flows into a river, stream, lake, reservoir or other water bodies including the tributaries and the entire basin draining into the water body;

“Conservation” means protection of valued resources; the preservation, management, and care of natural resources for present and future generations;

“Deforestation” means unsustainable or unregulated removal of forest cover from an area;

“Drought” means an extended period of months or years when a region notes a deficiency in its water supply or when the supply of water cannot sustain the ecosystem;

“Ecological Stability” means the appearance of stability of the population density in relationship between the many species of organisms that make up a biotic community;

“Ecosystem” means plants, animals and other organisms interacting with each other and with their environment in such a way as to perpetuate them more or less indefinitely;

“Environmental Degradation” means the deterioration of the environment through depletion of resources, such as air, water, land and vegetation;

“Environmental Impact Assessment” means processes by which the environmental consequences of a proposed project or programme are evaluated and alternatives are analyzed;

“Flood” means rising of a body of water and its overflowing onto normally dry land;

“Forest cover” means a plant community made up of trees and other woody vegetation, growing more or less closely together;

“Forest Officer” means a person employed for forest services;

“Harmful pesticide” means hazardous chemical substance applied to kill pests especially insects;

“Hilly areas” means an area with a natural elevation of land of the local area and a well defined outline higher than a rise and lower than a mountain usually not less than 300 metres but not up to 600 metres above the surrounding land;

“Land Owner” means a resident who owns land and has exclusive right on it;

“Landscape” means the visible features of an area of land, including physical elements , such as landforms and living elements of flora and fauna;

“Landslide” means the movement of soil and bedrock downhill in response to gravity;

“Land-Use Mapping” means a map showing the human use to which land is put a given time; categories could be pasture, natural forest, agricultural land, waste land and so on;

“Minister” means the Minister responsible for environmental matters;

“Mountain area” means an areas with steep elevation with a restricted summit area projecting 600 metres or more above the surrounding land;

“Occupier” means a person in occupation of any land on which there is an activity;

“Permit” means an act of giving a formal (usually written) authorization;

“Protection” means keeping the watersheds, mountainous, hilly and catchment areas safe from harm and destruction of the ecosystem;

“Siltation” means the process in which higher soil fractions are transported into a water way and carried downstream to be deposited in low flow or still area as silt;

“Sustainable use” means the present use which does not compromise the right to use same resource by future generations;

“Vegetation” means a general term for plant life of a region; the ground cover life forms structure, spatial extent or any other specific geographic characteristic;

“Watershed” means the total land area that drains directly or indirectly into a particular stream or river;

“Wildlife habitat” means natural areas where non domesticated animals find food, water and shelter;

“Wise use” means sustainable use of watersheds, mountainous, hilly and catchment areas in a way compatible with maintenance of the natural properties of the ecosystem in perpetuity;

“Zoning” means public regulation of land and building to control the character of a place;

13. These Regulations may be cited as the National Environmental (Watershed, Mountainous, Hilly and Catchment Areas) Regulations, 2009.

FIRST SCHEDULE

Regulation 3

FEDERAL REPUBLIC OF NIGERIA

NATIONAL ENVIRONMENTAL (PROTECTION OF WATERSHEDS, MOUNTAINOUS, HILLY AND CATCHMENT AREAS) REGULATION, 2009.

REQUEST FOR REGISTRATION OF WATERSHEDS, MOUNTAINOUS, HILLY AND CATCHMENT AREAS

I hereby request for the registration of:

a watershed area (specify)

a mountainous area (specify)

a hilly area (specify)

catchment area (specify)

(indicate which one is applicable) of which particulars are given below:

Name and address of applicant

Name of watershed, mountainous, hilly and catchment area.....

(village, LGA, State)

.....

Extent of Watershed, mountainous, hilly and catchment area in KM²)

Purpose

Activities being carried out in the area

.....

Nature of environmental degradation occurring or likely to occur

.....

.....

Resolution of NESREA or LGA (Please attach) any other information

.....

.....

Date

Signature

Designation or Title

Official Seal

FOR OFFICIAL USE ONLY

Application received by Date

Director-General and CEO

SECOND SCHEDULE

Regulation 4(1)

FEDERAL REPUBLIC OF NIGERIA

**NATIONAL ENVIRONMENTAL (PROTECTION OF WATERSHEDS, MOUNTAINOUS,
HILLY AND CATCHMENT AREAS) REGULATION, 2009**

APPLICATION FOR PERMIT TO CARRY OUT ACTIVITIES IN WATERSHEDS, MOUNTAINOUS,
HILLY AND CATCHMENT AREAS

I hereby apply for a permit to carry out activities in:

a watershed area (specify)

a mountainous areas (specify)

a hilly area (specify)

catchment area (specify)

Particulars are given below:

Name and address of applicant

Location of watershed, mountainous, hilly and catchment area (Village, LGA, State)

.....

Activities to be carried out

.....

.....

Estimated life span of activity

Proposed area (in hectares) for the activities

Environmental Impact Assessment (ETA), (please attach report(s) and permit(s) from the Federal
Ministry of Environment where applicable)

.....

Any other information

Date signature

FOR OFFICIAL USE ONLY

Application received by Date.....

Fee Paid N

Amount in words

LGA Chairman

NESREA Officer
Director – General and CEO

THIRD SCHEDULE
FEDERAL REPUBLIC OF NIGERIA
**THE NATIONAL ENVIRONMENTAL (PROTECTION OF WATERSHEDS, MOUNTAINOUS,
HILLY AND CATCHMENT AREAS) REGULATION, 2009**
PERMIT TO CARRY OUT ACTIVITIES IN WATERSHEDS, MOUNTAINOUS,
HILLY AND CATCHMENT AREAS

Permit No.

Name of Applicant

Address

You are hereby permitted to carry out the following activities

.....

Watershed, Mountainous, Hilly and Catchment Area

.....

(Location) State LGA

This permit is granted; valid from (date) to

The permit is subject to the conditions listed in Part 1 (4) of these Regulations.

.....

.....

Date

Signature

Director-General

Dated at Abuja this 30th day of September, 2009

Mr John Odey,
Honourable Minister,
Ministry of Environment