

Extraordinary

NATIONAL ENVIRONMENTAL STANDARDS FOR
TELECOMMUNICATIONS AND BROADCAST FACILITIES
REGULATIONS, 2011



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**NATIONAL ENVIRONMENTAL (STANDARDS FOR
TELECOMMUNICATIONS AND BROADCAST FACILITIES)
REGULATIONS, 2011**



ARRANGEMENT OF REGULATIONS

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**NATIONAL ENVIRONMENTAL (STANDARDS FOR
TELECOMMUNICATIONS AND BROADCAST FACILITIES)
REGULATIONS, 2011**

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, Mr JOHN ODEY, Honourable Minister, Federal Ministry of Environment, hereby make the following Regulations :

[28th Day of April, 2011]

1. These Regulations may be cited as the National Environmental (Standards for Telecommunications/Broadcast Facilities) Regulations, 2011.

2. The principal thrust of these regulations is to among others, ensure consistent application of Environmental Laws, Regulations and Standards in all sectors of the telecommunications and broadcast industry in Nigeria.

3.—(1) The main objective of these regulations is to protect the environment and human health, ensure safety and general welfare, eliminate or minimize public and private losses due to activities of the telecommunications and broadcast industry.

(2) The specific objectives are to—

(a) ensure that the installation and operation of telecommunications and broadcast base stations and masts do not constitute public nuisance and/or have negative impacts on public health and safety ;

(b) restrict and prohibit environment impacting activities which are dangerous to health, safety and property due to activities of the telecommunications and broadcast industry operators ;

(c) address concerns about public safety, safety of personnel and equipment in the sectoral operations; and set out the corporate and individual responsibilities of owners, operators, designers and fabricators of telecommunications and broadcast masts, towers and ancillary facilities ;

(d) ensure conformity with applicable international codes and environmental best practices in telecommunications and broadcast industry facilities and operations ;

(e) stipulate appropriate sanctions for offences on non-compliance with the mandatory provisions of these Regulations ;

(f) encourage the sharing or co-location of telecommunications/broadcasting masts ; and

(g) achieve any other purpose deemed necessary or appropriate to effectuate the objectives of these Regulations.

Commence-
ment.

Citation.

Thrust.

Objectives.

Scope. 4. These Regulations shall apply to all environment impacting activities in the context of the operations and services of the telecommunications and broadcast industry within Nigeria.

Environmental Requirements for Siting and Installation. 5.—(1) Notwithstanding the provisions in any other Regulations or Guidelines on Environmental Requirements for siting and installation of telecommunications/broadcast base stations, masts and towers :

Environmental Impact Assessment. (a) all new telecommunications/broadcasting base stations and masts/towers shall be erected and operated in compliance with the provisions of the Environmental Impact Assessment (EIA) Act, Cap. E12, Laws of the Federation of Nigeria, 2004, in addition to the submission of site-specific Environmental Impact Assessment (EIA) to the Agency ; and

Environmental Audit. (b) all existing telecommunications/broadcasting base stations and masts/towers that have been erected without an EIA shall be subjected to an Environmental Audit (EA) in accordance with the National Environmental Standards and Regulations Enforcement Agency (NESREA) Guidelines on EA.

(2) All operational telecommunications/broadcasting facilities shall be subjected to environmental audit once in every three (3) years.

(3) Without prejudice to the Guidelines on Technical Specifications for the Installation of Telecommunications Masts and Towers issued by the Nigerian Communications Commission (NCC) and any relevant Guidelines or Code issued by the National Broadcasting Commission (NBC), the siting and installation of base stations and masts/towers shall :

(a) not be detrimental to environmental protection, public health, safety or general welfare ;

(b) not have any negative effect on the host and immediate transit neighbourhood ;

(c) be in conformity with the plan of the particular area and the general plan of the host and immediate transit community ;

(d) have an Environmental Compliance Signage (ECS) issued by the Agency ;

(e) comply with all extant natural resources conservation laws, regulations and guidelines with regard to siting of facilities near any protected and ecologically sensitive areas such as National Parks, Forests and Games Reserves, Wildlife Sanctuaries and Corridors, Biosphere Reserves as well as sensitive Wetlands and Watersheds ;

(f) adopt stealth and/or camouflage design of masts and towers to reduce their visual impacts in designated areas and other places as may be determined by NESREA, from time to time ; and

(g) not violate compliance with any other applicable laws, regulations or guidelines issued by relevant authorities in Nigeria.

(4) (1) All new facilities shall :

(a) primarily be located in industrial, commercial and business areas ;

(b) have a minimum setback of ten (10) meters from the perimeter wall (fence) of residential/business premises, schools and hospitals to the base of the mast/tower ; and

(c) where there is no perimeter wall (fence), have a minimum of twelve (12) meters from the wall of residential/business premises, schools and hospitals to the base of the mast/tower.

(2). All new facilities shall not be intrusive by way of excessive height or cluttered structure, design and arrangement.

6.—(1) Any telecommunications/broadcasting base station and mast/tower that has not been in operation for a period of three years shall be considered abandoned.

(2) Abandoned telecommunications/broadcasting base stations and masts/towers shall not be allowed to pose threats to the environment, human health and safety.

(3) Without prejudice to the provisions of the Guidelines on Technical Specifications for the Installation of Telecommunications Masts and Towers issued by the Nigerian Communications Commission (NCC) and relevant guidelines by the National Broadcasting Commission (NBC), an abandoned mast or tower shall be removed in conformity with the Environmental Impact Assessment (EIA) Act, Cap E12, Laws of the Federation, 2004 and the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, (2007) (NESREA Act, 2007) and the extant Regulations made pursuant thereto.

(4) The site of any abandoned telecommunications and broadcasting base station and mast/tower shall be restored to its natural state within six (6) months of termination of operation or abandonment.

7. The Agency shall carry out routine inspection and monitoring of all telecommunications/broadcasting facilities to determine compliance with these Regulations.

Additional
Requirements
for new
Facilities.

Abandoned
Telecommuni-
cations/
Broadcasting
Base
Stations,
Masts and
Towers.

Environmental
Monitoring
and
Inspection.

8.—(1) Radiation levels from telecommunications /broadcasting base stations shall be monitored to ensure that the base stations do not transmit electromagnetic waves with potential adverse effects on people and the environment.

(2) Permissible radiation level for occupational staff on site and for the general public shall conform with all extant standards, regulations and the permissible limits approved for telecommunications/broadcasting facilities by the World Health Organisation (WHO) and the International Commission on Non-Ionising Radiation Protection (ICNIRP) and any amendments thereof.

9.—(1) Environment friendly power source, such as solar, hydro, wind, etc, shall be encouraged.

(2) Where fossil fuel power generating sets are used, there shall be a minimum setback of fifteen (15) meters from any existing surface water body or domestic water source.

(3) Standards and permissible levels for generator setback, noise level, vibration, smoke and all forms of pollution as outlined here-in shall not be exceeded :

(a) power generating sets located within a telecommunications/ broadcasting base station must be sited not less than six (6) meters away from the perimeter wall (fence) of residential premises but where there is no fence it shall be eight (8) meters from residential premises ;

(b) all power generating sets shall be sound proof and shall conform with the permissible noise levels as outlined in Schedule I to these Regulations ;

(c) all power generating sets shall be appropriately installed to minimise vibrations to the environment and adjacent facilities ;

(d) the exhaust of all power generating sets shall not be directed towards any adjacent landed property ;

(e) stack monitoring of power generator exhaust emissions shall be carried out during every service maintenance and the record shall be entered into the maintenance log book of the facility ;

(f) emission levels from generator exhausts shall conform with the Agency's guidelines on permissible limits for noise and air quality standards in Nigeria ;

(g) waste oil, sludge and oil filters from power generating sets shall be handled and disposed of in accordance with extant laws and regulations ;

(h) effluents and any other liquid wastes or discharges from the operation and service maintenance of power generating sets, such as oily waste water shall be handled and disposed of in conformity with extant guidelines and regulations issued by the Agency ; and

(i) waste batteries and related solid wastes from maintenance of power generating sets shall be disposed of in accordance with the relevant guidelines and regulations issued by the Agency.

10.—(1) Where there is non-compliance with the provisions of these Regulations, the Agency shall :

Enforcement.

(a) notify the facility of such non-compliance ;

(b) re-inspect the site for compliance, fourteen (14) days after the notification ;

(c) Issue a notice directing compliance, where non-compliance persists in spite of sub-regulations (1) (a) and (b) of this Regulation.

(2) Pursuant to the provisions of the NESREA Act, 2007, any person who obstructs an officer of the Agency in the performance of his duties commits an offence.

(3) An owner or operator of telecommunications/broadcasting facility (ies) who violates any of the provisions of these Regulations shall be deemed to have committed an offence.

(4) An officer of the Agency may, in the course of his duty under these Regulations, at any time :

(a) enter any premises or facility to take samples or specimen for analysis and measurements in length or level of standards to which these Regulations relate ; and

(b) take any further appropriate action which he reasonably believes is necessary for the purpose of effectuating the provisions of these Regulations.

11.—(1) Any person who violates the provisions of regulation 10 (2) of these Regulations shall on conviction be liable to a fine not exceeding One Million (₦1,000,000.00) Naira or imprisonment for one year or to both such fine and imprisonment and an additional fine of fifty thousand naira (₦50,000.00) for everyday the offence subsists.

Sanctions.

(2) Any person who violates the provisions of regulations 5, 6, 7, 8 and 9 of these Regulations commits an offence and shall on conviction be liable to a fine not exceeding five million (₦5,000,000.00) Naira or imprisonment

for a term of five (5) years or to both such fine and imprisonment and an additional fine of fifty thousand (₦50, 000.00) Naira for everyday the offence subsists.

(3) Any person found guilty under sub-regulation (2) of this regulation shall, in addition to the sanction under that said sub-regulation, clean up and remediate the polluted environment.

Disclaimer
of Liability.

12. These Regulations shall not create liability on the part of the Agency or any other authorized or approving Body or employee thereof for any damages that may result from reliance on these Regulations or any administrative decision lawfully made there under.

Interpreta-
tions.

13.—(1) For the purpose of these Regulations, certain terms, words and phrases shall, whenever used, have the meanings ascribed to them here under.

(2) Words used in the present tense shall include the future tense and the singular includes the plural, unless the context clearly indicates the contrary.

(3) The term "shall" where ever used implies mandatory and is not discretionary.

(4) The word "may" is permissive and the term "should" although permissive but indicates strong suggestion.

(5) The word or term not interpreted under these Regulations shall be construed according to the rules of grammar and common usage so as to give these Regulations, their most reasonable application.

(6) In these Regulations :

"Act" means National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007.

"Agency" means National Environmental Standards and Regulations Enforcement Agency (NESREA).

"Abandoned telecommunications and broadcasting base station, mast/tower" means telecommunication and broadcasting base station, mast/tower left and no longer wanted, used or needed and has not been in operation for a period of three (3) years.

"Designated Areas" means hospitals, schools, National Parks and other places as may be determined by NESREA, from time to time.

"Director General" means the Director General/Chief Executive Officer of the Agency.

"*Environment*" means the sum of all external conditions affecting the life, development and survival of an organism.

"*Environmental Audit*" means a structured performance and position review of operating project including its processes, material storage, operating procedures and environmental management to identify and remediate potential environmental impacts and liabilities.

"*Facility*" means a telecommunications/broadcasting base station and mast/tower.

"*Host community*" means the immediate neighbourhood housing the facility.

"*ICNIRP*" means International Commission on Non-Ionising Radiation Protection.

"*Minister*" means Minister in charge of environment.

"*Ministry*" means Federal Ministry of Environment.

"*Person*" includes an individual, facility, corporation, firm, operator, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, Local Government or Federal/State agencies or any combination thereof.

"*Premises*" means land and the building on it.

"*Public Nuisance*" means any act that infringes or is intended to infringe on the rights and /or welfare of the public.

"*Regulations*" mean National Environmental Regulations, 2011 and other Regulations made pursuant to the NESREA ACT, 2007.

"*Remediation*" means action taken to improve or minimise pollutants from an environment.

"*Restoration*" means an action taken to put an impacted or polluted area back to its initial condition or state.

"*Telecommunications/ Broadcasting Tower*" means a self - supporting or guyed structure more than 5 meters in height, built to support one or more telecommunications / broadcasting antennas.

"*Tower Height*" means the distance measured from ground level to the highest point of any and all components of the structure, including antennas, hazard lighting and other appurtenances.

"*WHO*" means World Health Organisation.

1/2/2011

SCHEDULE

Regulation 9(3)(b)

PERMISSIBLE NOISE LEVELS

The specified permissible noise levels for residential areas, hospitals and schools and commercial areas are as shown hereunder.

<i>Environment / Habitat</i>	<i>Permissible Noise Levels (Decibels)</i>	
	<i>Day time (6am -10pm)</i>	<i>Night time (10pm – 6am)</i>
Residential areas	50	35
Hospitals and Schools	45	35
Commercial areas	55	45

Note : Levels above background measurement.

MADE at Abuja this 28th Day of April, 2011.

MR JOHN ODEY
Honourable Minister,
Federal Ministry of Environment