

**APPRAISAL OF THE OPERATIONALISATION OF NATIONAL ENVIRONMENTAL REGULATIONS IN NIGERIA UNDER THE NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY**

**Abstract**

*Environmental protection and regulation will ever remain a recurrent need in human affairs given the importance of the environment to man's continuous existence and the impact of his activities on the natural environment as well. This reality has informed various coordinated attempts to balance the relationship between man and his natural environment, being his habitat. Following the enactment of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act 2007 (NESREA Act, now Cap N164, Laws of Federation of Nigeria 2010), a number of National Environmental Regulations have been made to give effect to the aim and objectives of the Act. However, with this plethora of regulations, the ugly trends of environmental abuses and the attendant challenges remain constant on the Nigerian landscape as if those regulations are not in existence. Adopting a doctrinal method, this paper interrogates the purposes of the extant national environmental regulations to determine the reasons behind their seemingly non-eficacious as opposed to the spirit of the NESREA Act from where they derive their lifeblood. The paper argues that the awareness creation about these regulations and their enforcements are generally poor and or weak on the part of NESREA that is statutorily saddled with the responsibilities. The paper concludes that NESREA, being the appropriate authority, should strengthen its enforcement mechanism and embark on serious environmental awareness creation especially among the rural dwellers who are more close to the natural environment.*

**Keywords:** *Environment, National Environmental Regulations, and Enforcement*

**1. Introduction**

Environment remains a key factor in human existence and man is unarguably blessed with the environment and the opportunity to exploit same to his advantage. It is within the environment that both natural and man-made things are found and sustained.<sup>1</sup> In other words, man will ever interact with the environment for his sustenance and sustainable development. However, one of the greatest threats to the environment itself in history is anthropogenic activities as reflected in environmental challenges and climate change problems that are rampant today around the world including Nigeria.<sup>2</sup> Therefore, for the environment which is the human habitat to remain suitable for man, it undoubtedly needs protection against the scourge of degradation often perpetrated by man. The resultant pains that millions of people all over the world have experienced and are still encountering as well as the dangers posed to the world's future and human society by anthropogenic impact on the environment have compelled coordinated attempts towards maintaining a balance between human affairs and the natural environment. This has

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<sup>1</sup> Obabori .A .O, et al; 'An Appraisal of the Concept of Sustainable Environment under Nigerian Law' (2009) 28(2) Law' J. Hum Ecol. Pp. 135-142 < <http://www.tandfonline.com/doi/abs/10.1080/09709274.2009.11906229> > accessed on 27 October, 2017.

<sup>2</sup> Most of the challenges of environmental degradation and climate change are traceable to anthropogenic activities especially greenhouse gases emission which has worsen climate change impact which is manifest in flooding, harsh weather, tsunamis, and global warming. See Lugard S. B; 'Environmental Rights and Development in the Niger Delta: Incongruent Life Partners or Reconcilable Adversaries?' (2013) 3(2) Petroleum Technology Development Journal (ISSN 1595-9104): An International Journal; 115, <[http://ptdjournal.com/2013/lugard\\_environmenta\\_rights.pdf](http://ptdjournal.com/2013/lugard_environmenta_rights.pdf)> (accessed on 6<sup>th</sup> January 2014)

in recent years under NESREA regime pursuant to its establishment Act (NESREA Act),<sup>3</sup> provoked a number of National Environmental Regulations<sup>4</sup> in Nigeria in addition to various extant environmental laws.<sup>5</sup> In line with the spirit of the enabling Act, under NESREA regime, the making of the national environmental regulations has been so frequent and consistent than ever before in the history of the Nigerian environmental protection. According to Ladan, Nigeria's formal environmental regime gradually but significantly developed from humble beginnings having been initiated since the colonial period before the present era.<sup>6</sup>

The essence of various national environmental regulations is to give effect to the functions and powers of NESREA being the agency saddled with the responsibilities of managing the Nigerian environment and mitigating climate change through enforcement of all relevant laws.<sup>7</sup> The big issue is, with the plethora of the national environmental regulations under NESREA regime, one would have expected a better result in environmental sector in Nigeria; but the saddening reality in Nigeria is that, the trends of environmental abuses are still intense as if those extant national environmental regulations are non-existent across the length and breadth of the country. Using a doctrinal methodology, this paper provides an appraisal of the extant and gazetted national environmental regulations under NESREA regime with the aim to decode the reason why their impacts are not widely felt in Nigeria till date. It is the argument in this paper that while these national environmental regulations (hereinafter referred to as regulations) are good, they are neither adequately publicised nor enforced on the Nigerian landscape. The paper concludes with some recommendations on the way forward.

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<sup>3</sup> National Environmental Standards and Regulations Enforcement Agency (establishment) Act, 2007, (Now Cap N164 Laws of Federation of Nigeria (LFN) 2010). This Act which established National Environmental Standards and Regulations Enforcement Agency (NESREA) was signed into law by President Umaru Musa Yar' Adua and published in the Federal Republic of Nigeria Official Gazette No. 92. Vol. 94 of 31st July, 2007.

<sup>4</sup> Section 34 of the NESREA Act empowered the Minister of Environment to make regulations for the general purposes of carrying out or giving full effect to the functions of the NESREA as an agency in charge of environmental affairs in Nigeria.

<sup>5</sup> Some of the national legislations include: The Constitution of the Federal Republic of Nigeria 1999, Environmental Impact Assessment Act, Cap E12, Laws of Federation of Nigeria (LFN) 2010, The Land Use Act Cap L5, LFN 2010, Harmful Waste (Special Criminal Provisions) Act Cap H1, LFN 2010, Hydrocarbon Oil Refineries Act, Cap H5, LFN 2010, Associated Gas re-injection Act, Cap A25, LFN 2010, The Endangered Species Act, Cap E9, LFN 2010, Sea Fisheries Act, Cap S4, LFN 2010, Exclusive Economic Zone Act, Cap E11, LFN 2010, Oil Pipelines Act, Cap 07, LFN 2010, Petroleum Act, Cap P10, LFN 2010, Petroleum Products and Distribution (Management Board) Act, Cap P12, LFN 2010, Territorial Waters Act, Cap T5, LFN 2010, Nuclear Safety and Radiation Protection Act, Cap N142, LFN 2010, Nigerian Mining Corporation Act, Cap N120, LFN 2010, Quarantine Act, Cap Q2, LFN 2010, River Basins Development Authority Act, Cap R9, LFN 2010, Pest Control of Production (special powers) Act, Cap P9, LFN 2010, Agricultural (Control of Importation) Act, Cap A13, LFN 2010, Animal Diseases (control) Act, Cap A17, LFN 2010, Bees (Impact Control and Management) Act, Cap B6, LFN 2010, Water Resources Act, Cap W2, LFN 2010 among others. Some of the international legal frameworks on environmental protection include: Vienna Convention, Montreal Protocol, Basel Convention, Biodiversity Convention, Stockholm Declaration, United Nation Law of the Sea, United Nation Convention on Climate Change among others.

<sup>6</sup> See Ladan M.T., *Materials and Cases on Environmental Law and Policy* (2004) ECONET Publishers, Zaria, Nigeria. Pp. 117-244. Culled from Ladan M.T. 'Review of NESREA Act 2007 and Regulations 2009-2011:- A New Dawn in Environmental Compliance and Enforcement in Nigeria' *LEAD Journal* Vol 8/1, (2012) 116 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2335606](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2335606) >accessed 28 October, 2017.

<sup>7</sup> On the functions and powers of NESREA, See sections 7 and 8 of the NESREA Act.

## 2. Historical Development of Environmental Institution Regimes in Nigeria

Generally, in most developing countries, especially in Africa, the major preoccupation of government for many years until recent decades was the struggle toward provision of basic social amenities.<sup>8</sup> In other words, environmental protection was not given due priority as it was seen to be synonymous with conservation of natural resources, while concerns for industrial pollution control and hazardous waste management were treated as both esoteric and an attempt to slow down the pace of industrialisation.<sup>9</sup> Thus, the efforts of the Nigerian governments in the past on environmental management, (pre-and-post independence) were mostly directed either towards the protection and or conservation of the natural resources that have economic importance.<sup>10</sup> This was evident from the arrays of environmental related legislations enacted during those eras.<sup>11</sup> Historically, before the dumping of toxic waste in Koko Village of Delta State in 1988, Nigeria, although had a few legal instruments that seek to protect the environment,<sup>12</sup> was obviously ill-equipped and lacked ability legislatively to manage environmental crisis, because there was no any formal institutional frameworks or mechanisms to protect the environment and or enforce the then extant skeletal laws on the environment and other relevant Regulations in the country.<sup>13</sup> The dumping of toxic waste at Koko provoked<sup>14</sup> the promulgation of the Harmful Waste Decree<sup>15</sup> by the Federal Government of Nigeria which also facilitated the emergence and or establishment of the Federal Environmental Protection Agency (FEPA)<sup>16</sup>. FEPA, by its mandate had the overall objective or responsibility to manage the Nigerian environment and protect same. The emergence of FEPA put Nigeria as usual, in Africa as the first country to establish a national environmental institution or mechanism to manage and protect the environment.<sup>17</sup>

The government in its wisdom merged FEPA and other relevant Departments in other Ministries in 1999 to form the Federal Ministry of Environment, but without an appropriate enabling law on enforcement issues; the development that created lacuna in the effective enforcement of environmental laws, standards and regulations in Nigeria. In order to bridge the gap and pursuant to Section 20 of the Constitution,<sup>18</sup> NESREA, as a parastatal of the Federal Ministry of Environment was established. The NESREA Act was assented to by the Late President Umaru Musa Yar'Adua on the 30th of July, 2007.<sup>19</sup> By the NESREA Act, the FEPA Act<sup>20</sup> was repealed.<sup>21</sup> The Agency under its Act has a robust

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<sup>8</sup> Adegrooye, A in his paper, 'The Challenges of Environmental Enforcement in Africa: The Nigerian Experience' Third International Conference on Environmental Enforcement 1994 vol. 1. Page 43 <<http://www.inece.org/3rdvol1/pdf/adegoro.pdf>> accessed 27 October 2017.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> These laws include: Oil Pipeline Act 1956, Forestry Act 1958, Destruction of Mosquitoes Act 1958, Public Health Act 1958, Minerals Act 1958, Mineral Oil (Safety) Regulations 1963, Oil in Navigable waters Act 1968 among others. See also Adegrooye A. op cit

<sup>12</sup> Such legal instruments include Criminal Code cap C38 LFN 2010, Land Use Act Cap 202, LFN 2010, Hydrocarbon Oil Refineries Act, Cap H5, LFN 2010, Associated Gas re-injection Act, Cap 20, LFN 2010 among others.

<sup>13</sup> See <<http://www.nesrea.gov.ng/about/index.php>> accessed 27 October, 2017.

<sup>14</sup> In 1988, huge consignments of deadly toxic waste were secretly dumped at the little town port of Koko in Nigeria. The toxic waste consignments were allegedly brought to Nigerian Koko port by an Italian ship.

<sup>15</sup> No.42 of 1988, promulgated by the Babangida Military Administration.

<sup>16</sup> Through Decree 58 of 1988 and Decree 59 (amended) of 1992

<sup>17</sup> See <<http://www.nesrea.gov.ng/about/index.php>> op cit.

<sup>18</sup> The Constitution of the Federal Republic of Nigeria, 1999. (hereinafter referred to as 1999 Constitution) Section 20 provides "The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria."

<sup>19</sup> NESREA Act was officially gazetted by the Federal Republic of Nigeria on the 31<sup>st</sup> July 2007. See Government Notice 61, Act No.25 Vol. 94, pages A635-655.

<sup>20</sup> It was then FEPA Act, Cap F 10 LFN 2004.

<sup>21</sup> See Section 36 of NESREA Act, 2007 which repealed FEPA Act, Cap F10, LFN, 2004.

responsibility of enforcing compliance with all environmental laws in Nigeria including those on climate change, be it national or international, subject to the provisions of the Act.<sup>22</sup> The country, having experienced some environmental failures under the FEPA regime has made some notable changes in her environmental protection strategies by shifting attention towards the enforcement of compliance with environmental standards and regulations through NESREA as opposed to just enumeration of standards and regulations, which was dominant under FEPA regime.

### **3. Understanding National Environmental Regulations**

It is apposite to underscore why the need for national regulations. Generally, national regulations support the national laws by providing details on a range of operational mode and requirements of such national laws including giving full effect to the aim and achievement of the objectives of such laws from time to time in order to benefit the subjects. Such details being achieved through regulations may include enforcement strategies, preventive mechanism, and standard prescription, application processes for service providers, setting out rating scale or fees and any additional issues that will give effect to the laws among others. Therefore, it can be deduced from the foregoing that National Environmental Regulations support the National Environmental Laws by providing details on a range of operationalisation and requirements of the national environmental laws including giving full effect to the aim and achievement of the objectives of such laws from time to time in order to benefit the subjects.

### **4. Overview of the National Environmental Regulations under NESREA Regime**

From all indications, especially the national and international responses to environmental challenges, Nigeria's environmental regime has indeed developed significantly a seemingly global best practice regime, especially with some provisions in the NESREA Act on standard regulations and enforcements. Nigeria now has a relatively or seemingly comprehensive environmental regime being chiefly administered by NESREA. For the purposes of effective enforcement of environmental standards, regulations, rules, laws, policies and guidelines by NESREA,<sup>23</sup> the Minister of Environment is under section 34 of NESREA Act empowered to make regulations for the general purposes of carrying out or giving full effect to the functions of the agency.<sup>24</sup> This explains the reason for the Regulations made by the Nigerian Minister of Environment between 2009 and 2015. The examination of the Regulations is limited to those already published and gazetted at the time of this write up. The Regulations are: -

#### **National Environmental (Wetlands, River Banks and Lake Shores) Regulations, S.I. No. 26 of 2009**

The objectives of these Regulations include the conservation and wise use of wetlands and their resources in Nigeria; ensure water catchments conservation and flood control and ensure the sustainable use of wetlands for ecological and tourism purpose for the common goal of all citizens and also to minimize and control pollution.<sup>25</sup> Regulation 20(1) makes provision for application for permit to use a

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<sup>22</sup> See generally section 7 of NESREA Act 2007

<sup>23</sup> For the analysis of the NESREA Act 2007, see Ladan M.T., (2009) Law, Cases and Policies on Energy, Mineral Resources, Climate Change, Environment, Water, Maritime and Human Rights in Nigeria, Ahmadu Bello University Press, Zaria, Nigeria, at pp. 357-378. Culled from Ladan M.T. 'Review of NESREA Act 2007 and Regulations 2009-2011: A New Dawn in Environmental Compliance and Enforcement in Nigeria' LEAD Journal Vol 8/1, (2012) 116 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2335606](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2335606) >accessed 28 October, 2017.

<sup>24</sup> Ibid.

<sup>25</sup> See Regulation 2 of S.I. No. 26, 2009 made pursuant to National Environmental Standards and Regulations Enforcement Act, 2007, now Cap N164 Laws of Federation of Nigeria (LFN) 2010.

river bank or lake shore in Nigeria. A person who intends to carry out any of the following activities as set out in the third schedule to the Regulations shall make an application to NESREA - (a) cultivate or introduce in any form, any plant, whether alien or indigenous on any river banks or lake shore; (b) introduce any animal or micro -organism, whether alien or indigenous in any river bank or lake shore; or (c) deposit any substance on a river bank or lake shore.<sup>26</sup> Under Regulations 30, a person commits an offence if he reclaims or drains a wet land, erects, construct, places, extends, removes or demolishes any structure that is fixed in, under or over a wetland.<sup>27</sup> Any person found guilty of an offence under these Regulations is liable on conviction to imprisonment of not less than 3 months or to a fine not exceeding N500,000 or both.<sup>28</sup> In addition to the penalty, a person found guilty shall be required to carry out remediation work.

#### **National Environmental (Watershed, Mountainous, Hilly and Catchment Areas) Regulations, S.I No. 27 of 2009**

The thrust of these Regulations is to ensure that every land owner or occupier, while utilizing land in a watershed, mountainous, hilly or catchment area observes and respects the carrying capacity of the land; carry out soil conservation measures; and carry out measures for protection of water catchment area.<sup>29</sup> There are also provisions for penalties under Regulation 10(1) where there is any violation of the provisions of the Regulations.<sup>30</sup> Any person who contravenes any of the provisions of the Regulations may have his permit revoked or shall be liable upon conviction to imprisonment of not more than one year or to a fine of not more than N200,000 or both. Where an offence is committed by a corporate body, it shall on conviction be liable to a fine not exceeding N1,000,000 and an additional fine of N50,000 for every day the offence subsists.

#### **National Environmental (Sanitation and Wastes Control) Regulations, S.I. No. 28 of 2009**

The purpose of these Regulations is the adoption of sustainable and environmental friendly practice in environmental sanitation and waste management to minimize pollution in Nigeria.<sup>31</sup> Under Regulations 23, all owners or occupiers of premises are required to provide waste receptacles for storage before collection by licensed waste manager.<sup>32</sup> The Regulations forbid without prior informed consent issued by the agency, the transit of any toxic waste destined for another country through the territory of Nigeria.<sup>33</sup> Regulations 71- 93 create offences, while Regulations 94-104 make provisions for the penalties for various offences under the Regulations.

#### **National Environmental (Permitting and Licensing System) Regulations, S.I. No. 29 of 2009**

The thrust of these Regulations is among others things, to enable consistent application of environmental laws, Regulations and standards in all sectors of the economy and geographical regions in Nigeria.<sup>34</sup> Regulation 2 provides for mode of application for permit. The agency is empowered to fix various permit fees.<sup>35</sup> After due consideration of the application, the agency may grant or refuse the

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<sup>26</sup> Regulation 20(1) of S.I. No. 26, 2009.

<sup>27</sup> Regulation 30 of S.I. No. 26, 2009.

<sup>28</sup> Regulation 31(1) of S.I. No. 26, 2009.

<sup>29</sup> See Regulation 1(1) of S.I. No 27 of 2009.

<sup>30</sup> Regulation 10(1) of S.I. No 27 of 2009.

<sup>31</sup> See Regulation 2 of S.I. No 28 of 2009.

<sup>32</sup> Ibid, Regulation 23.

<sup>33</sup> Ibid, Regulation 51.

<sup>34</sup> Regulation 1, S.I. No 29 of 2009.

<sup>35</sup> Ibid Regulation 4

issuance of a permit.<sup>36</sup> The agency also has the power to suspend or cancel any permit as provided under Regulations 19-29.<sup>37</sup>

### **National Environmental (Access to Genetic Resources and Benefit Sharing) Regulations, S.I. No. 30 of 2009**

Here, Regulation 1 provides the aim of these Regulations for environmental impact statement to the effect that a person shall not engage in any activity that may-(a) have an adverse impact on any ecosystem; (b) lead to the introduction of any exotic species and;(c) lead to unsustainable use of natural resources, without an environmental impact statement.<sup>38</sup> Application for permit to access genetic resources in Nigeria is made to the agency.<sup>39</sup> Under Regulation 15, the agency may suspend, cancel or revoke any access permit issued under these Regulations where the holder thereof is in contravention of any of the condition imposed on the access permit or those implied under these Regulations or of the agreement made pursuant to its grants.<sup>40</sup> Regulation 23 makes provisions for penalties. Any person convicted of an offence under these Regulations shall be liable to a fine of not less than N1,000,000 but not exceeding N10,000,000 or to imprisonment for a term not exceeding one year or both.<sup>41</sup> Where the offence is committed by a body corporate, it shall on conviction, be liable to a fine, not less than N10,000,000 and not exceeding N100,000,000 and an additional fine of N1,000,000 for every day the offence subsists.<sup>42</sup>

### **National Environmental (Mining and Processing of Coal, Ores and Industrial Minerals) Regulations, S.I. No 31 of 2009**

The purpose of these Regulations is to minimize pollution from the Mining, and processing of Coal, Ores and Industrial Minerals.<sup>43</sup> Regulation 4 of these Regulations makes provisions for a general permit.<sup>44</sup> Procedures for application for permit or license for mine emissions in excess of permissible levels including revocation of such permit when it has already been issued are contained in the National Environmental (Permitting and Licensing System) Regulation 2009. Regulation 29(1) provides for penalties for violation of any of the provisions of Regulations 28 which creates offences, and anyone who commit any offence shall on conviction, in the case of an individual be liable to a fine not exceeding N100,000 or imprisonment for a term not exceeding two years or both and an additional fine of N5,000 for every day the offence subsists. Where an offence under Regulation 28 is committed by a facility, it shall on conviction, be liable to a fine not exceeding N100,000,000 and an additional fine of N5,000 for every day the offence subsists.<sup>45</sup>

### **National Environmental (Ozone Layer Protection) Regulations, S.I. No. 32 of 2009**

The thrust of these Regulations is to prohibit ozone-depleting substances<sup>46</sup> By the Regulations, no person shall import manufacture in part or in whole, install, offer for sale, sell or buy new or refurbished facilities intended to be used for the production of any ozone-depleting substance (ODS) unless for the

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<sup>36</sup> Ibid.Regulation 7.

<sup>37</sup> Ibid, See Regulations 19- 29

<sup>38</sup> Regulation 1 of S.I. No. 30 of 2009.

<sup>39</sup> Ibid, Regulation 5

<sup>40</sup> Ibid, Regulation 15(1).

<sup>41</sup> Ibid, Regulation 23(1).

<sup>42</sup> Ibid, Regulation 23(2).

<sup>43</sup> Regulation 1 of S.I. No 31 of 2009.

<sup>44</sup> Regulation 4 of S.I. No 31 of 2009.

<sup>45</sup> Regulation 29 of S.I. No 31 of 2009.

<sup>46</sup> Regulation 1

recovery and recycling of substance already in use.<sup>47</sup> Under Regulation 16, it is an offence to handle ODS refrigerant with effect from the phase out date for the different substances as specified in the sixth schedule to the Regulations; no person shall handle or deal in ODS refrigerant unless such a person holds an ODS refrigerant handling permit, or has undertaken and be certified in an approved technical training relevant to handling of ODS refrigerant, or is certified in the approved relevant code of practice.<sup>48</sup>

Regulation 22(1) makes provision for the penalties for anyone who violates the provision of the Regulations, and such person commits an offence and is liable on conviction to a fine of not more than N200,000 and an additional fine of N10,000 for every day the offence subsists or imprisonment for a term not exceeding one year. Where the offence under these Regulations is committed by a body corporate, it shall be liable to a fine not exceeding N1,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>49</sup>

### **National Environmental (Food, Beverages and Tobacco Sector) Regulations, S.I. No. 33 of 2009**

The purpose of these Regulations is to prevent and minimize pollution from all operations and ancillary activities of food, beverages and tobacco companies to the Nigerian environment.<sup>50</sup> Under these Regulations, it is an offence for a company to release effluent and sludge into the environment in excess of permissible level, or fail to report the release of effluent and sludge into the environment in excess of permissible level as contained in the first and second schedules to the Regulations.<sup>51</sup> Any person who violates the provisions of the Regulations commits an offence and shall on conviction be liable to a fine not exceeding N200,000 or to imprisonment for a term not exceeding two years or both and an additional fine of N5,000 for every day the offence subsists.<sup>52</sup> Where the offence is committed by a company, it shall on conviction, be liable to a fine not exceeding N1,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>53</sup>

### **National Environmental (Textile, Wearing Apparel, Leather and Footwear Industry) Regulations, S.I. No. 34 of 2009**

The purpose of these Regulations is to prevent and minimize pollution from all operations and ancillary activities from the sector to the Nigerian Environment.<sup>54</sup> Under regulation 4, it is required that every facility should install anti-pollution equipment or process for the detoxification of effluent and emission emanating from it.<sup>55</sup> The Polluter-pay principle is also embedded in these regulations.<sup>56</sup> Regulations 36(5), provides that the permitted shall install at its own cost, monitoring equipment approved by the agency to facilitate the accurate observation sampling and measurement of the quality of waste discharges as required by the permit. Such equipment shall be in working order and kept safe and accessible at all times. Plans and specifications for such work shall be submitted to the agency, for review and comments.<sup>57</sup> Regulation 51 of these regulations make provision for the penalties for any violation of any of the provision of Regulations and such offender shall on conviction, be liable to a

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<sup>47</sup> Ibid.

<sup>48</sup> Regulation 16 of S.I. No 32 of 2009

<sup>49</sup> Ibid, Regulation 22

<sup>50</sup> Regulation 1 of S.I. No 33 of 2009.

<sup>51</sup> Ibid, Regulation 48

<sup>52</sup> Ibid, Regulation 49 (1)

<sup>53</sup> Ibid, See Regulations 49 (2).

<sup>54</sup> Regulation 1 of S.I. No 34 of 2009.

<sup>55</sup> Ibid, Regulation 4

<sup>56</sup> Ibid, Regulation 5.

<sup>57</sup> Ibid, Regulation 36.

fine not exceeding N200,000 or imprisonment for a term not exceeding two years or both, and an additional N5,000 for every day the offence subsists. Where the offence is committed by a facility, it shall on conviction be liable to fine not exceeding N1,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>58</sup>

#### **National Environmental (Noise Standards and Control) Regulations, S.I. No. 35 of 2009**

The objective of these Regulations is to ensure maintenance of a healthy environment for all people in Nigeria, the tranquillity of their surroundings and their psychological well-being by regulating noise levels and generally to elevate the standard of living of the people by-(a) prescribing the maximum permissible noise levels of a facility or activity; (b) providing for the control of noise and for mitigating measure for the reduction of noise,<sup>59</sup> among others.

Under these Regulations, the agency may seize, impound, confiscate or prohibit the use of any property, tool, machinery or other instrument which is likely to, or has caused the emission of excessive noise, if, in the agency's opinion the sanction would restore the permissible noise level in the area.<sup>60</sup> Generally, Regulations 17 make provisions for offences and penalties under these Regulations.<sup>61</sup>

#### **National Environmental (Chemical, Pharmaceutical, Soap and Detergent Manufacturing Industries) Regulations, S.I. No 36 of 2009**

The purpose of these Regulations is to prevent and minimise pollution from all operation and ancillary activities from the sector in the Nigerian environment.<sup>62</sup> Regulation 47 makes it an offence for a facility to make a statement which is known to be false or misleading particularly, where the statement is made (a) in purported compliance with the requirement to furnish a piece of information imposed by or under any provision of the Regulations (b) for the purpose of obtaining permit for the facility, for variation, transfer or surrender of a permit.<sup>63</sup> Under Regulations 51(1), any person who violates any of the provisions of the Regulations, especially, Regulations 46-50 commits an offence and shall on conviction, be liable to a fine not exceeding N200,000 to imprisonment for a term not exceeding two years or both and an additional fine of N5,000. Where the offence is committed by any facility, it shall on conviction, be liable to a fine not exceeding N1,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>64</sup>

#### **National Environmental (Standard for Telecommunications and Broadcasting Facilities) Regulations, S.I. No. 11 of 2011**

The main objective of these regulations<sup>65</sup> is to protect the environment and human health, ensure safety and general welfare, eliminate or minimise public and private losses due to activities of the telecommunications and broadcast industries.<sup>66</sup> Specifically, the regulations aim at ensuring that all installations and operations of the telecommunications and broadcast base stations and mast do not

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<sup>58</sup> Ibid, Regulation 51.

<sup>59</sup> Regulation 1 of S.I. No 35 of 2009.

<sup>60</sup> Ibid, Regulation 12(1).

<sup>61</sup> Ibid, See generally, Regulation 17.

<sup>62</sup> Regulation 1 of S.I. No 36 of 2009.

<sup>63</sup> Ibid, Regulation 47.

<sup>64</sup> Ibid, Regulation 51.

<sup>65</sup> National Environmental (Standard for Telecommunications and Broadcasting Facilities) Regulations, S.I. No. 11 of 2011, Vol. 98., Federal Republic of Nigeria Official Gazette 2011 (hereinafter S.I. No. 11 of 2011).

<sup>66</sup> Regulation 3 S.I. No. 11 of 2011.

constitute public nuisance and/or have negative impact on public health and safety<sup>67</sup> among other things.<sup>68</sup> Regulation 11 provides sanctions for violation of the regulations.<sup>69</sup>

#### **National Environmental (Soil Erosion and Flood Control) Regulations, S.I. No. 12 of 2011**

These regulations<sup>70</sup> have the objectives of protecting human lives and the environment<sup>71</sup>; minimise losses due to flood and erosion and their effects on vulnerable areas by regulating land-disturbing activities<sup>72</sup>; and among other things control accelerated soil erosion, flooding and sediment deposition in water bodies and water courses in order to prevent pollution of these water resources.<sup>73</sup> Regulation 19 provides for the penalties in the event of violation by an individual<sup>74</sup> and corporate body<sup>75</sup> respectively.

#### **National Environmental (Desertification Control and Drought Mitigation) Regulations, S.I. No. 13 of 2011**

These regulations<sup>76</sup> in the first part on desertification have the objectives of providing an effective and pragmatic regulatory framework for the sustainable use of all areas already affected by desertification and the protection of vulnerable lands<sup>77</sup>; sensitise the public on the causes and dangers associated with desertification and the attendant land degradation<sup>78</sup> among other things. Part II of the regulations contain regulations on desertification control.<sup>79</sup> The third part of the regulations dealing with drought mitigation has the objectives of ensuring that appropriate proactive measures are taken to alleviate the impact of droughts at occurrence;<sup>80</sup> ensure that proper criteria for declaring drought emergencies are established, so that such declarations are followed up with various mitigation and response activities<sup>81</sup> among others.<sup>82</sup> Offences and penalties are spelt out in Regulation 21.<sup>83</sup>

#### **National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries) Regulations, S.I. No. 14 of 2011**

These regulations<sup>84</sup> have the principal thrust of preventing and minimising pollution from all operations and ancillary activities of the sector in the Nigerian environment. The Regulations also provide for polluter-pay principle, where there is pollution in the course of operation of any facility.<sup>85</sup> Under Regulation 8, every facility, corporation or organisation shall prepare a voluntary action programme for

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<sup>67</sup> Regulation 3(1) S.I. No. 11 of 2011.

<sup>68</sup> See generally regulation 3 S.I. No. 11 of 2011

<sup>69</sup> Regulation 11(2) S.I. No. 11 of 2011.

<sup>70</sup> National Environmental (Soil Erosion and Flood Control) Regulations, S.I. No. 12 of 2011, Vol 98 Federal Republic of Nigeria Official Gazette 2011 (hereinafter S.I. No. 12 of 2011).

<sup>71</sup> Regulation 2(1)(a) S.I. No. 12 of 2011

<sup>72</sup> Regulation 2(1)(b) S.I. No. 12 of 2011

<sup>73</sup> Regulation 2(1)(c) S.I. No. 12 of 2011

<sup>74</sup> See Regulation 19(1) S.I. No. 12 of 2011

<sup>75</sup> See Regulation 19(2) S.I. No. 12 of 2011

<sup>76</sup> National Environmental (Desertification Control and Drought Mitigation) Regulations, S.I. No. 13 of 2011, Vol. 98 Federal Republic of Nigeria Official Gazette 2011 (hereinafter S.I. No. 13 of 2011).

<sup>77</sup> Regulation 2(a) S.I. No. 13 of 2011.

<sup>78</sup> Regulation 2(b) S.I. No. 13 of 2011.

<sup>79</sup> See Regulations 4-10 S.I. No. 13 of 2011.

<sup>80</sup> Regulation 12(a) S.I. No. 13 of 2011.

<sup>81</sup> Regulation 12(b) S.I. No. 13 of 2011.

<sup>82</sup> See generally Regulation 12 S.I. No. 13 of 2011.

<sup>83</sup> See generally Regulation 21 S.I. No. 13 of 2011

<sup>84</sup> National Environmental (Base Metals, Iron and Steel Manufacturing/Recycling Industries) Regulations, S.I. No. 14 of 2011, Vol. 98 Federal Republic of Nigeria Official Gazette 2011 (hereinafter S.I. No. 14 of 2011).

<sup>85</sup> Regulation 6, S.I. No. 14 of 2011.

global warming control measures.<sup>86</sup> Penalty for violating any of the provisions of the regulations is provided for under regulation 56.<sup>87</sup> Under these regulations, facility means iron and steel industry.<sup>88</sup>

### **National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, S.I. No. 15 of 2011**

These Regulations<sup>89</sup> have the objective of preventing and minimising the destruction of ecosystem through fire outbreak and burning of any material that may affect the health of the ecosystem through the emission of hazardous air pollutant.<sup>90</sup> The regulations disallow bush or forest burning or anything that may cause fire in the bush or forest with permit.<sup>91</sup> Under regulation 19, burning of bush or forest for hunting of animal is prohibited.<sup>92</sup> Notice of fire occurrence is mandatory to be given to NESREA by any land owner or occupier within 7 days of such occurrence in line with the details as required under the Regulations.<sup>93</sup> Regulation 21 provides for penalties for offences violating the provisions of the regulations.<sup>94</sup>

### **National Environmental (Protection of Endangered Species in International Trade) Regulations, S.I. No. 16 of 2011**

The Regulations apply to specimen of wildlife species listed in Appendix I, II or III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) domesticated by the Endangered Species (Control of International Trade and Traffic) Act<sup>95</sup>, and also include wildlife species included by the CITES after the coming into force of the regulations and also those listed in the schedules I and II to the Act.<sup>96</sup> Under these regulations, it is an offence to import or export, re-export or introduce from the sea, or attempt to import, export, re-export or introduce from the sea any specimen listed in Appendices I, II, and III to the CITES and the schedules to the Act and these Regulations without a valid permit or certificate.<sup>97</sup>

### **National Environmental (Domestic and Industrial Plastic, Rubber and Foam Sector) Regulations, S.I. No. 17 of 2011**

Under these regulations, the principal goal is to prevent and minimise pollution from all operations and ancillary activities of the domestic and Industrial Plastic, Rubber and Foam Sector to the Nigerian environment.<sup>98</sup> The regulations also require every facility or corporation to prepare a voluntary action programme for global warming control measures and such measures shall take into account energy-

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<sup>86</sup> Regulation 8 S.I. No. 14 of 2011.

<sup>87</sup> The penalty includes N200,000 fine or a term of imprisonment not exceeding 6 months or both in the case of individual, and N1million in case of corporate body.

<sup>88</sup> See Regulation 57 dealing with interpretation.

<sup>89</sup> National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, S.I. No. 15 of 2011, Vol. 98 Federal Republic of Nigeria Official Gazette 2011(hereinafter S.I. No. 15 of 2011).

<sup>90</sup> Regulation 1, S.I. No. 15 of 2011.

<sup>91</sup> Regulation 3(1) S.I. No. 15 of 2011.

<sup>92</sup> Regulation 19 S.I. No. 15 of 2011.

<sup>93</sup> Regulation 20 S.I. No. 15 of 2011.

<sup>94</sup> See regulation 21 which provides for N50,00 fine or 3 month imprisonment for offences committed in the case of an individual and N1,000,000 in the case of corporate body.

<sup>95</sup> Cap E 9, Laws of Federation of Nigeria 2010.

<sup>96</sup> See Regulation 1 of S.I. No. 16 of 2011.

<sup>97</sup> Regulation 7(1) of S.I. No. 16 of 2011. A fine of N5m is imposed for breach or 3 year imprisonment under Regulation 7(2).

<sup>98</sup> Regulation 2 of S.I. No. 17 of 2011

saving and best available technology in their production processes.<sup>99</sup> Regulation 55 provides for penalty of N200,000 fine or six month imprisonment for offences under the regulations committed by an individual and N1,000,000 fine for offences committed by a corporate body.<sup>100</sup>

**National Environmental (Coastal and Marine Area Protection) Regulations, S.I. No. 18 of 2011**

The objectives of the regulations are to among other things provide regulatory framework capable of preserving the natural ecological conditions of estuarine system, the barrier islands system and the beaches, so as to safeguard and perpetrate their natural productivity and their biological, economic and aesthetic values; and ensure the protection of the coastal and marine environment for sustainable development.<sup>101</sup> NESREA is required under the regulations in collaboration with relevant agencies, states and local governments, communities and other stakeholders to compile an inventory of all coastal and marine areas for the purpose of determining their conservation status and ecological quality.<sup>102</sup> Violations of the regulations attract penalties of N1,000,000 for individuals and N5,000,000 for corporate bodies under Regulation 20.<sup>103</sup>

**National Environmental (Construction Sector) Regulations, S.I. No. 19 of 2011**

The Nation Environmental (Construction Sector) Regulations<sup>104</sup> have the objective or purpose of preventing or minimising pollution from ‘Construction, Decommissioning and Demolition Activities’ to the Nigerian environment.<sup>105</sup> Various offences under the regulations are provided for under regulation 27.<sup>106</sup> Regulation 28 provides for penalty of N200,000 fine or imprisonment for 6 months for any individual offence and N5,000,000 fine for corporate offenders.<sup>107</sup>

**National Environment (Control of Vehicular Emissions from Petrol and Diesel Engines) Regulations, S.I. No. 20 of 2011**

The purpose of these regulations is to restore, preserve and improve the quality of air. The regulations provide for the protection of the air from pollutants, as well as take into account amongst others: citizens’ right of access to clean air; reduce and prevent air pollution through the improvement of the quality of automobiles that operate on the road way and improve the health of Nigerians, especially in the urban areas with high incidence of air pollution due to increased number of automobiles that ply the roads.<sup>108</sup> Under regulation 2, the regulations only apply to motor vehicles registered after 28<sup>th</sup> April 2011.<sup>109</sup> Any person who violates any of the provisions of the regulations shall upon conviction be liable to a fine of N50,000 or 1 year imprisonment, and N500,000 for a corporate body.<sup>110</sup>

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<sup>99</sup> Regulation 8 S.I. No. 17 of 2011.

<sup>100</sup> Regulation 55 S.I. No. 17 of 2011.

<sup>101</sup> Regulation 2 of S.I. No. 18 of 2011.

<sup>102</sup> Regulation 4 of S.I. No. 18 of 2011.

<sup>103</sup> See regulation 20 S.I. No. 18 of 2011.

<sup>104</sup> S.I. No. 19 of 2011.

<sup>105</sup> Regulation 2 of S.I. No. 19 of 2011.

<sup>106</sup> See Regulation 27 S.I. No. 19 of 2011.

<sup>107</sup> See regulation 28 S.I. No. 19 of 2011.

<sup>108</sup> Regulation 1 of S. I. No. 20 of 2011.

<sup>109</sup> Regulation 2. of S.I. No. 20 of 2011.

<sup>110</sup> Regulation 30 of S.I. No. 20 of 2011.

**National Environmental (Non-Metallic Minerals Manufacturing Industries Sector) Regulations, S.I. No. 21 of 2011**

The principal thrust of these regulations is to prevent and minimise pollution from all operations and ancillary activities of the Non-metallic Minerals Manufacturing Sector to the Nigerian environment.<sup>111</sup> Under the regulations, every facility shall carry out Environmental Impact Assessment for new projects or modification including expansion of existing ones before commencement of activity; submit environmental audit reports among other things.<sup>112</sup> Under regulation 62, penalties are provided, for any breach of the regulations in the sum of N200,000 fine or 6 months imprisonment for individual offender and N1,000,000 for corporate offenders.<sup>113</sup>

**National Environmental (Surface and Groundwater Quality Control) Regulations, S.I. No. 22 of 2011**

The purpose of this Regulation is to restore, enhance and preserve the physical, chemical and biological integrity of the nation's surface waters, and to maintain existing water uses. The standards contained in the Regulations provide for the protection of surface waters from pollutants, so that the waters shall be protected, used, developed, conserved, managed and controlled in ways which take into account citizens' right of access to clean water and sanitation; protection of the water environment for sustainability of the resources and protection of aquatic ecosystems among others.<sup>114</sup> The Regulations also aim at protecting groundwater sources by regulating the discharge and underground injection of hazardous wastes, fluids used for extraction of minerals, fossil fuels energy, and any other substance having the potential to contaminate groundwater.<sup>115</sup> Under the Regulations, a person shall not release any substance into or conduct any activity which will likely cause or contribute to pollution or adversely affect species of the waters of the nation without having obtained all required approvals and permits from the agency.<sup>116</sup> Offences and penalties are provided for under Regulation 34.<sup>117</sup>

**National Environmental (Electrical/Electronic Sector) Regulations, S.I. No. 23 of 2011**

The principal thrust of these Regulations is to prevent and minimise pollution from all operations and ancillary activities of the Electrical/Electronic sector of the Nigerian environment.<sup>118</sup> These regulations cover both new and used Electrical/Electronic equipment (EEE/UEEE). Application for permits is processed as provided under Regulation 46 upon receipts of necessary information and payment of application fees.<sup>119</sup> While offences are provided under Regulation 61, penalties are stipulated under Regulation 67(1) of the regulations<sup>120</sup> to the effect that any person who violates the provisions of these Regulations commits an offence and shall on conviction be liable to a fine not exceeding N500,000 or to imprisonment for a term not exceeding two years or both. Where the offence under the provisions of the Regulations is committed by a corporate body, it shall on conviction be liable to a fine not exceeding N100,000 and an additional fine of N50,000 for every day the offence subsists.<sup>121</sup>

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<sup>111</sup> Regulation 1 of S.I. No. 21 of 2011.

<sup>112</sup> Regulation 3 of S.I. No. 21 of 2011.

<sup>113</sup> See regulation 62 of S.I. No. 21 of 2011.

<sup>114</sup> Regulation 1 of S.I. No. 22 of 2011.

<sup>115</sup> Ibid, Regulation 19.

<sup>116</sup> Ibid, Regulation 14(1).

<sup>117</sup> Ibid, regulations 34.

<sup>118</sup> Regulation 2(1) of S.I. No 23 of 2011

<sup>119</sup> Ibid, Regulation 46

<sup>120</sup> Ibid, See Regulations 61 and 67.

<sup>121</sup> Ibid.

**National Environmental (Control of Alien and Invasive Species) Regulations, S.I. No. 32 of 2013**

The objective of these Regulations<sup>122</sup> is to prevent the decline, minimize the modification and destruction of the ecosystem, the economy and human health caused by alien and invasive species (which in these Regulations are referred to as species) by (a) regulating the raising, planting, storing, carrying, importing, or any other handling of the species; (b) taking measures such as mitigation, with the aim of stabilising and improving national life through contributions to conservation to biodiversity, human safety and sound development of agriculture, forestry and fishes.(c) developing a national database for the proactive management of fauna and flora of the species for the mitigation of existing invasions and the prevention of future occurrences. Under Regulation 13, permit may be granted, and notwithstanding, such permit under the Regulations may also be cancelled where the issuing authority obtains information indicating that the species or activity involving them may be detrimental to biodiversity and human health.<sup>123</sup> Regulation 17 makes provisions for offences, while Regulation 18 makes provision for penalties to the effect that any person convicted of an offence under the Regulations, involving alien species or listed invasive species is liable to a fine not less than N250,000 but not exceeding N500,000 or to imprisonment for a period not exceeding 5 years or both and an additional fine of N25,000 for every day the offence subsists. Where the offence is committed by a body corporate, it shall on conviction be liable to a fine not less than N20,000,000 but not exceeding N100,000,000 or its principal officer to an imprisonment for a term not exceeding five years or both and an additional fine of N500,000 for every day the offence subsists.<sup>124</sup>

**National Environmental (Quarrying and Blasting Operations) Regulations, S.I. No. 33 of 2013**

The objective of these Regulations is provided for under Regulation 2 which is to control the effect of quarrying and blasting operations on the environment and human health. Specifically, the Regulations aim to: (a) prevent environmental degradation (b) ensure the use of environmental-friendly technologies in quarrying operations. (c) Sustain the quarrying capacity of the Nigerian land in particular and the environmental in general. In the event of suspension notice served on any one with permit, Regulation 39(1) makes provision that upon service of such notice, the permit shall cease to have effect as stated in the notice.<sup>125</sup> Provision for the penalties is made under the Regulations to the effect that any person convicted of an offence under the Regulations shall be liable to a fine of not less than N1,000,000 or imprisonment for a term not less than two years or both and an additional N20,000 for every day the offence subsists.<sup>126</sup>

**National Environmental (Pulp and Paper, Wood and Wood Products Sector) Regulations, S.I. No. 34 of 2013**

These Regulations among other things seek to prevent and minimise pollution from all operations and ancillary activities from this sector in the Nigerian environment.<sup>127</sup> Under Regulation 31(1), a facility, body corporate or organizations with those listed in Schedule XV to the Regulations shall require an atmospheric emission permit from the agency before operation.<sup>128</sup> Regulation 61(1) makes provision for penalties for violation of any provision of the Regulations, especially Regulations 55-60, to the effect that such violation is an offence and any person shall on conviction, be liable to a fine not less

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<sup>122</sup> See Regulation 1 of S.I. No 32 of 2013.

<sup>123</sup> Ibid. See Regulation 13.

<sup>124</sup> Ibid, see Regulations 17 and 18.

<sup>125</sup> Regulation 39 of S.I. No 33 of 2013.

<sup>126</sup>Ibid. See Regulation 42

<sup>127</sup> Regulation 1 of S.I. No 34 of 2013.

<sup>128</sup> Ibid, Regulation 31.

than N200,000 or to imprisonment for a term not less than six month or both, and an additional fine of N5,000 for every day the offence subsists.<sup>129</sup>

### **National Environmental (Motor Vehicle and Miscellaneous Assembly Sector) Regulations, S.I. No. 35 of 2013**

The purpose of these Regulations is to prevent and minimise pollution and wastes from all activities of the Motor Vehicle (MV) and Miscellaneous Assembly sector to the Nigerian environment and these Regulations shall cover new, used and end-of-life Motor Vehicles (UV/ELV).<sup>130</sup> Under Regulation 59(1), a person who violates the provisions of the Regulations, especially Regulation 53(1),(2) and (3),(a)-(j) commits an offence and shall on conviction be liable to a fine not less than N500,000 or to imprisonment for a term not less than two years or both.

### **National Environmental (Control of Charcoal Production and Export) Regulations, S.I. No.62 of 2014**

From Regulation 1, the objectives of these Regulations are to protect the Nigerian ecosystem from further depletion arising from charcoal production and handling including its export, and in particular to-(a) regulate the export of charcoal or charcoal products; (b) regulate felling of trees for charcoal production(c) ensure improved domestic charcoal production systems and (d) regulate inter and intra state trades in charcoal or charcoal products.<sup>131</sup> Under Regulation 7, a person shall not transport charcoal or charcoal products for commercial purposes from one place to another in Nigeria unless-(a) he is in possession of a valid charcoal Handling or Transport Permit issued as set out in Form 2 of Schedule 1 to the Regulations and is operating in conformity with the terms and conditions of such permit,(b) the charcoal Handling Transport Permit as approved by the issuing authority specifies the vehicles per vessel conveying the charcoal or charcoal products; and (c) the holder of the permit has paid the prescribed fee for the permit.<sup>132</sup> A person who violates any of the provisions of these Regulations commits an offence and shall on conviction be liable to a fine of not less than N1,000,000 or a term of imprisonment of not less than five years, and an additional fine of N10,000 for every day the offence subsists.<sup>133</sup> Where the offence is committed by a body corporate, it shall be liable on conviction, to a fine of not less than N1,000,000 and additional fine of N50,000 for every day the offence subsists.<sup>134</sup>

### **National Environmental (Energy Sector) Regulations, SI No. 63 of 2014**

The purpose of these Regulations is to prevent or minimise pollution and encourage energy efficiency in all operations and ancillary activities of the energy sector in achieving sustainable economic development in Nigeria.<sup>135</sup> Under Regulation 35(1) the permitting procedures shall be as applied in the National Environmental (Electrical and Electronic Sector) Regulation, 2011 and the National Environmental (permit and licensing systems) Regulations, 2009. Under the Regulations 44(1), it is an offence for manufacturers, importers, assemblers and distributors or operators of power facilities not to provide collection centres for take-back of their wastes or end-of-life equipment in Nigeria.<sup>136</sup> Any person who violates the provisions of these Regulations commits an offence and shall on conviction, be

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<sup>129</sup> Ibid. See generally Regulations 55 to 61.

<sup>130</sup> Regulation 1 of S.I. No 35 of 2013.

<sup>131</sup> Regulation 1 of S.I. No. 62 of 2014

<sup>132</sup> Ibid, See Regulation 7

<sup>133</sup> Ibid, Regulation 19(1).

<sup>134</sup> Ibid, Regulation 19(2).

<sup>135</sup> Regulation 1(1) of S.I. No 63 of 2014.

<sup>136</sup> Ibid, Regulation 44.

liable to a fine not exceeding N200,000 or to imprisonment for a term not exceeding 1 year or to both and an additional fine of N5,000 for every day the offence subsists.<sup>137</sup> Where an offence under the Regulations is committed by a facility, it shall upon conviction, be liable to a fine not exceeding N1,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>138</sup>

#### **National Environmental (Air Quality Control) Regulation, S.I. No 64 of 2014**

The purpose of these Regulations is to provide for improved control of the nation's air quality to such an extent that would enhance the protection of flora and fauna, human, health and other resources affected by air quality deteriorations among other things.<sup>139</sup> Under Regulation 38, the agency shall have the power to enter and seal any facility or premises found contravening any of the provisions of these Regulations.<sup>140</sup> Any person who violates any of the provisions of these Regulations commits an offence and shall on conviction be liable to a fine of not less than N100,000 or to imprisonment for a term not less than six months or to both, and an additional fine of not less than N10,000 for every day the offence subsists for individual offenders; and where the offence is committed by a body corporate, it shall upon conviction be liable to a fine not less than N1,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>141</sup>

#### **National Environmental (Hazardous Chemicals and Pesticides) Regulations, S.I. No. 65 of 2014**

These Regulations have the objectives of protecting human health and the environment from the harmful effects of hazardous chemicals and pesticides, and other agro chemicals, promote safety in their use, control the import, export, sales and handling of hazardous chemicals, contribute to the sustainable development of agriculture and the conservation of the environment and enforce the provisions of the Harmful Waste (Special Criminal Provision etc.) Act among other things.<sup>142</sup> Under Regulation 8(1), a person importing or exporting hazardous chemicals and pesticides shall affix to every package or container label, with the following information (a) name, address, and telephone number of the manufacturer, importer, exporter or any other relevant person; (b) the trade name, chemical name, common name and chemical abstract system (CAS) number of the substance and the manufacturer and expiring date of the substance; (c) signal words such as "Danger" "Warning" and Pictograms, in accordance with UN GHS.<sup>143</sup> By the provision of Regulation 33 (1) any person who contravenes the provision of the Regulations commits an offence and shall be liable on conviction to a fine not exceeding N1,000,000 or imprisonment for term not exceeding five years.<sup>144</sup> Where an offence is committed by a body corporate, it shall on conviction, be liable to a fine not exceeding N1,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>145</sup>

#### **National Environmental (Dams and Reservoirs) Regulations, S.I. No 66 of 2014.**

From the provisions of Regulation 1(1), the objective of this Regulation is to control the effect of Dams and Reservoirs on the environmental and human health in Nigeria.<sup>146</sup> Under these Regulations,<sup>147</sup> dredging of the facility shall be carried out with permit issued by the appropriate authority in accordance

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<sup>137</sup> Ibid, Regulation 51(1)

<sup>138</sup> Ibid, Regulation 51(2)

<sup>139</sup> See Regulation 1 of S.I. No. 64 of 2014.

<sup>140</sup> Ibid, Regulation 38.

<sup>141</sup> Ibid, See Regulation 40.

<sup>142</sup> Regulation 1 of S.I. No. 65 of 2014.

<sup>143</sup> Ibid, Regulation 8. 'UN GHS' means United Nations Global Harmonised System.

<sup>144</sup> Ibid, Regulation 33(1)

<sup>145</sup> Ibid, Regulation 33(2).

<sup>146</sup> Regulation 1 of S.I. No. 66 of 2014.

<sup>147</sup> Ibid, Regulation 16.

with extant Regulation and also as specified in the National Environmental (Permit and Licensing System) Regulations 2009. Any person who violates any of the provisions of these Regulations commits an offence and shall on conviction be liable to a fine not less than N1,000,000 or to imprisonment for a term not less than 2 years or both and an additional fine of N10,000 for every day the offence subsists.<sup>148</sup> Where a corporate body violates any of the provisions of these Regulations or commits any offence under the Regulation, it shall on conviction, be liable to a fine not less than N5,000,000 and an additional fine of N50,000 for every day the offence subsists.<sup>149</sup> Also, in addition to the penalties under sub-regulations (1) and (2) the offender shall be responsible for the remediation of the damage to the environment and any affected properties therein.<sup>150</sup>

### **5. Challenges Relating to Operationalisation of National Environmental Regulations**

The National Regulations which cut across various human daily activities in relation to the environment are in force in Nigeria and are enforceable by NESREA with the aim of securing for the Nigerian people, a healthier, decent, habitable and sustainable environment in line with the vision and mission of the agency.<sup>151</sup> From the letters and objectives of the Regulations, one would admit them a good step in enhancing the sanctity of Nigeria's environment. However, the question remains how many of these Regulations are effectively enforced? How many of these Regulations are known to the Nigerian public who are stakeholders and beneficiaries of the environment? It is one thing to have a plethora of laws; it is another thing to have them implemented or enforced. NESREA has not demonstrated any serious enforcement of these Regulations in a manner that positively impact on the Nigerian masses for right environmental behaviours. It appears these Regulations are massively made to fulfil mere political goals as no corresponding enforcement machineries are put in place to benefit the Nigerian people.

The foregoing conclusion is well informed by the continuous worse environmental problems bedeviling the country Nigeria on daily basis without any definite sign of improvement. These environmental crises include but not limited to unregulated urbanisation with its accompanying problems; erosion created by various misuse of the environment especially land use; flooding because of blockage of water channels especially in the cities; massive deforestations owing to the need for the masses to meet their energy needs using woods to generate energy; solid waste mismanagement which is eye-sore everywhere in Nigeria as a result of domestic activities; bush-burning; water pollution, air pollution and land pollution; e-waste mismanagement; misuse of chemicals within the environment; abnormal noise creation as well as unplanned development among others. The irony is that almost all areas of human national life in Nigeria in relation to his interactions with the environment are covered by the broad national environmental regulations that have been made under this regime as reviewed above. It is no gainsaying that NESREA has been passive in the discharge of its all-important duties in terms of environmental awareness creation and enforcement of laws in the sector. Given the gravity of its responsibilities under NESREA Act, one would have expected a vibrant and active agency that will entrench right attitudes toward the environment among Nigerians within one decade through standard regulations and compliance enforcement with all laws and regulations relevant to its advent and

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<sup>148</sup> Ibid, Regulation 25(1).

<sup>149</sup> Ibid, Regulation 25(2).

<sup>150</sup> Ibid, Regulation 25(3).

<sup>151</sup> The vision of NESREA is 'to ensure a cleaner and healthier environment for Nigerians'; and the mission is 'to inspire personal and collective responsibility in building an environmentally conscious society for the achievement of sustainable development in Nigeria' See <<http://www.nesrea.org/about.php>> accessed 27 October, 2017.

purpose. Till date environmental problems remain a big issue in Nigeria. Again, one may ask, doesn't a society like Nigeria need to build a synergy of knowledge or information between regulators and the regulated? Many Nigerians, especially in the rural communities are unaware of NESREA which is the enforcement agency. This also to the fact that people live without any respect for environment rules and regulations because the enforcement agency is inactive to warrant responsible attitudes from the masses especially in the rural areas where they are closer to the natural environment.

## **6. Conclusion and Way Forward**

This paper has examined the national environmental regulations under NESREA regime. In doing so, the paper provided a clear insight into the historical origin of institutional mechanism related to environmental protection in Nigeria. The paper examined the essence of national regulations, and the extant national environmental regulations under NESREA regime were also discussed. It has been found that while these regulations appear robust, the publicity about them and the enforcement which is the life wire of any law are not give due attention by NESREA in view of the prevalent environmental challenges in Nigeria. In order to move forward and redirect this extant ugly trend that is affecting the Nigerian environment, it is recommended that NESREA should devout its efforts toward enforcement of these national environmental regulations. Without serious enforcement, the violation of environmental rules will continue unabated. Also, there should be massive publicity and environmental awareness creation in Nigeria. Proper understanding and adequate knowledge are pivotal to right action and attitude in any given society toward any concept. The promotion by NESREA among Nigerians, a better understanding and appreciation of environmental issues for the purposes of enhancing holistic and cooperative environmental management which is a *sine qua non* to sustainable human development should be given adequate attention. Where public awareness creation and enforcement are combined in environmental management by the appropriate agency, there will be rapid improvement in environmental sanctity in such landscape within the limited time possible.