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

**NATIONAL ENVIRONMENTAL (PERMITTING AND LICENSING SYSTEM)
REGULATIONS 2009**



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SCHEDULE

S. I. No. 29 of 2009

NATIONAL ENVIRONMENTAL (PERMITTING AND LICENSING SYSTEM) REGULATIONS 2009

In exercise of 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—

[30th September, 2009] Commence-
ment.

1. The purpose of these Regulations is among others, to enable consistent application of Environmental Laws, Regulations and Standards in all sectors of the economy and geographical regions. Purpose of Regulations.

PART I—APPLICATION PROCEDURE

2. An Application for a Permit shall be—

(a) submitted in two paper copies along with an electronic version of commonly used word processing software as may be prescribed by the Agency. Mode of Application.

(b) signed and dated by the Applicant ; and

(c) delivered by hand or sent by registered mail or courier to the Agency ;

3. An application for a Permit shall contain all the information specified in the appropriate Form relating to the specific Permit being applied for. Information Accompanying Application.

4. The Agency shall fix various fees which include—

(a) application fees ;

(b) processing fees ;

(c) permit fees ;

(d) amendment fees ;

(e) renewal fees ;

(f) re-hearing fees ;

(g) appeal fees.

Chargeable fees.

5. All applications shall be acknowledged by the Agency within seven working days of receipt. Acknowledgement of Application.

6. The Agency may upon assessment of an application require the applicant to furnish, within a specified period, any additional information. Assessment of Application.

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Approval or refusal of Permit.

7. After due consideration of the application, the Agency may grant or refuse the issuance of a Permit.

Duration of Application.

8. The period between the acknowledgment of receipt of the application as specified in regulation 5 of these Regulations and the date on which the Agency notifies the applicant of its decision to approve or refuse the issuance of permit as the case may be, shall not exceed thirty working days.

Notice of Approval of Permit.

9. Where an application is approved, the Agency shall inform the applicant of such approval and conditions of the permit.

Reasons for Refusal.

10. If the Agency refuses the grant of a permit, it shall notify the applicant in writing stating the reasons for the decision.

Appeal by Applicant.

11. The applicant shall have an opportunity to appeal to the Agency within twenty one working days from the date of receipt of such notification by the Agency.

Duration of Appeal.

12. The decision of the Agency on such appeal shall be communicated to the applicant within fourteen working days.

PART II— AMENDMENT AND RENEWAL OF PERMIT

Amendment of Permit.

13. The terms and conditions of a permit granted by the Agency may be amended—

- (a) on application by the holder for an amendment of the terms and conditions of the permit, stating the reasons for the required amendment ;
- (b) upon the Agency receiving a complaint from any person ; and
- (c) on the Agency's own initiative.

Attachment of Receipt of Payment to Application for Amendment.

14. Each application for an amendment made by a permit holder shall be accompanied by a receipt of payment of an amendment fee.

Submission of Application for Amendment.

15. An application for amendment of permit shall be submitted with all relevant documents stating reasons for the required amendment to the initial permit and payment shall be made for—

- (a) application for amendment of permit ;
- (b) processing fee for an amendment of permit ; and
- (c) payment for amendment of permit.

Renewal of Permit.

16. An application for renewal of a permit granted by the Agency shall be made at least ninety days before the expiration of the permit and shall be in a form as specified by the Agency.

17. Each application for renewal shall be accompanied by a receipt of payment of renewal fee.

Attachment
of renewal
Receipt to
Application
for Renewal.

18. The procedure prescribed in Part I of these Regulations for grant of permit shall apply to renewal of permit.

Procedure
for Renewal.

PART III—SUSPENSION AND CANCELLATION OF PERMIT

19. The Agency may on its own initiative or upon receiving a complaint or information from any person, initiate an inquiry into the conduct or activities of any permit holder.

Procedure
for
Suspension
of Permit.

20. The Agency, if satisfied in her own opinion that enough grounds exist which may warrant the suspension of a permit, may suspend a permit on the grounds that—

Grounds for
Suspension
of Permit.

(a) the permit holder is unable to fully discharge the functions or perform the duties imposed on it by the terms and conditions of its permit and other applicable legislations, Rules and Regulations ;

(b) the permit holder has defaulted in complying with any order or direction issued by the Agency ;

(c) the permit holder is carrying out its Permit business in a form and manner which constitutes an immediate threat to public health and safety or ecosystem integrity ;

(d) the permit holder refuses to submit itself to investigations or inquiry by the Agency or obstructs any officer assigned to do so, or fails to produce documents for inspection purposes as directed by the Agency ; or

(e) any other circumstance exists which renders it necessary in the public interest to suspend the permit.

21. Where the Agency decides to suspend a permit, it shall notify the permit holder in writing stating reasons for the suspension.

Notification
of Permit
Holder.

22. Where the permit holder chooses to make a representation or rectification of the grounds that gave rise to the suspension of the permit; it shall make its representation or rectification within twenty one working days from the date of its receipt of the Agency's letter informing it of the grounds upon which the Agency has suspended its permit.

Representa-
tion by
Permit
Holder.

23. The Agency shall take into cognizance the representation made by the permit holder in making a decision and such decision shall be communicated to the permit holder in writing.

Decision of
the Agency.

24. If the Agency suspends a permit, it shall notify the permit holder of the date on which the suspension shall take effect and the Agency may make orders regarding the suspension of such permit.

Orders
regarding
Suspension
of Permit.

B 1110

Review of Suspension Order.

25. The Agency may, within twenty one working days after the imposition of the suspension order, review such order and either cancel the permit in accordance with provisions of these Regulations or lift the suspension of the permit and restore the undertaking to the permit holder.

Procedure for Cancellation.

26. The Agency may on its own initiative or upon receiving a complaint or information from any quarters, initiate an inquiry into the conduct or activities of any Permit Holder.

Grounds for Cancellation of Permit.

27. The Agency shall cancel a permit if it is satisfied that the Permit—

(a) was issued through fraud or the misrepresentation or non-disclosure of a material fact ;

(b) holder has willfully or unreasonably contravened any provision of the Act that is applicable to the permit holder ;

(c) holder has failed to comply with any term or condition of the permit the breach of which is expressly declared to render it liable to cancellation ;

(d) holder has become insolvent or adjudged bankrupt ;

(e) holder is unable to fully and efficiently discharge the duties and obligations imposed by the permit ; and

(f) holder has altered or transferred the permit.

Notice of Proceedings to Permit holder.

28. The Agency, if satisfied that enough grounds exists for the cancellation of the permit, shall give notice of proceedings for the cancellation to the permit holder and to such other persons, group of persons or body as it may consider necessary.

Prescribed Manner of Proceedings.

29. The proceedings by the Agency on the cancellation of the permit, shall be in the manner prescribed by the Agency—

Provided that—

(a) the Agency shall notify the permit holder in writing of its intention to cancel the permit and the reasons for doing so ; and

(b) the permit holder shall be given the opportunity to demonstrate, within twenty one working days of the delivery of such notification, that the circumstances have changed such that the cancellation may no longer be necessary.

Other Terms and Conditions.

30. The Agency may instead of canceling the permit, make an order imposing further terms and conditions subject to which the permit holder is allowed to operate thereafter.

Notification of Cancellation of Permit.

31. Where the Agency decides to cancel the permit, the Agency shall notify the Permit holder specifying the effective date of the cancellation.

32. The Agency may upon the cancellation of a permit, make an order in regard to the undertaking of the permit holder, as are in the opinion of the Agency, necessary for public health and safety, as well as for ecosystem integrity.

Orders.

PART IV—RE-HEARING AND APPEALS

33. Any person who is dissatisfied by any decision of the Agency may apply to the Director-General for a review, rehearing or appeal on such decision.

Rehearing
and Appeals.

34. The Agency shall, in accordance with its Rules of Proceedings re-affirm, reconsider, vary or rescind its decision before issuing a final order.

Review or
Reconsidera-
tion of
decision.

35. Such review or reconsideration shall be completed within thirty working days from the date of application for such request.

Duration to
Reconsider.

36. An application for re-hearing or appeal regarding the suspension or cancellation of a permit may be withdrawn in writing by an applicant at any stage.

Withdrawal
of
Application.

37. An Application for re-hearing or appeal regarding the suspension or cancellation of a permit which has been withdrawn cannot be reactivated; such an application may, however be submitted as a new application for review, re-hearing or appeal regarding the suspension or cancellation of a permit, with all the necessary fees paid which includes—

Withdrawal
of
Applications
for Re-
hearing or
Appeal.

(a) application fees for re-hearing regarding the suspension or cancellation of a permit ;

(b) processing fees for application for re-hearing regarding the suspension or cancellation of a permit ;

(c) re-hearing fees regarding the suspension or cancellation of a permit ;

(d) application fees for appeal regarding the suspension or cancellation of a permit ;

(e) processing fees for the application for appeal regarding the suspension or cancellation of a permit ;

(f) appeal fees regarding the suspension or cancellation of a permit.

38. The applicant may, however re-apply as a new applicant.

Re-
application
Interpretation

39. In these Regulations—

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

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

"Applicant" includes an individual, a company, partnership or any association of individuals who submits application to the Agency ;

"Application" means a request for the issuance of a permit, or an amendment of a permit under these Regulations ;

"Director-General" means the Director-General of the National Environmental Standards and Regulations Enforcement Agency ;

"Facility" means industry, factory or any physical set up or equipment for manufacturing, production and processing, including treatment plants.

Citation.

40. These Regulations may be cited as the National Environmental (Permitting and Licensing System) Regulations, 2009.

APPLICATION FOR EFFLUENT DISCHARGE PERMIT

1.0. PARTICULARS OF APPLICANT

1.1. *Names, Physical and Postal Address of Applicant*

(a) Name.....

(b) Physical Address.....

(c) Postal Address.....

(d) Telephone (*land line*).....

(e) Fax.....

(f) Mobile Phone.....

(g) E-mail.....

(h) Website.....

1.2. *Name and Details of Contact Person*

(a) Name.....

(b) Physical Address.....

(c) Postal Address.....

(d) Telephone (*land line*).....

(e) Fax.....

(f) Mobile Phone.....

(g) E-mail.....

(h) Website.....

2.0. LEGAL STATUS OF ORGANISATION AND NATURE OF BUSINESS

2.1. *Indicate Legal Status of Organization (Tick relevant option)*

- Sole Proprietorship
- Partnership
- Public Limited Liability Company

B 1114

- 9 Private Limited Company
- Co-operative Society
- Others (*please specify*)

(Attach Certificate of Registration, Certificate of Incorporation, Memorandum and Articles of Association, Deed of Partnership, Deed of Trust, as applicable).

2.2. Nature of Business

State nature of business and type of products or services produced or rendered by organization.

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3.0. TYPE AND NATURE OF PERMIT REQUIRED

3.1. State the type of permit required.

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3.1. State whether application is fresh, for renewal or amendment.

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3.2. State whether organization has an existing permit issued by the Agency.

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3.3. If answer to 3.2 is yes, state the nature of the permit, the date of issue and license number.

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3.4. Does the organization own more than ten (10 per cent) shareholding in another entity that has applied for permit or has been granted license by the Agency?

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3.5. If the answer to 3.4 is yes, state the name of the entity, the nature of business, the nature of the application or permit, the date issued and permit number.

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3.6. Has the Applicant ever been denied a license or has its permit ever been suspended or revoked by the Agency?

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3.7. If answer to 3.6 is yes, give details of the denial, suspension or revocation.

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4.0. TECHNICAL CAPACITY AND MANAGERIAL EXPERIENCE

4.1. *Provide detailed statement of Applicant's technical competence and experience with regard to the permit applied for.*

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4.2. *Provide detailed statement of Applicant's managerial competence and experience with regard to the permit applied for.*

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4.3. *Describe any technical or financial support from internal and external sources with regard to the permit applied for (if any).*

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4.4. *State the name and brief resume of the Agency's accredited consultant(s) or contractor(s) involved in pollution control programmes in your organisation (attach details if possible).*

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4.5. *State the number, qualifications and experience of staff involved with pollution control programmes at the facility.*

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5.0. NATURE OF OPERATIONS IN THE FACILITY

5.1. *Describe plant facilities and production figures (please attach engineering drawings and layout of factory and process line).*

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5.2. *State results of quantitative and qualitative sampling of liquid and gaseous effluents from the facility for at least the past one year (if available):*

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5.3. *List all the toxic substances used or manufactured on the site.*

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5.4. *Describe pollution abatement or monitoring facilities on site (including details of year of installation, capacity, etc.)*

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5.5. *List all chemicals in use at the facility (no trade names).*

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5.6. *List all intermediates and final products at facility, including details of storage conditions(s).*

5.7. *State the distance and specific location of facility from residential areas, other sensitive ecosystems such as freshwater bodies and vegetation (attach map), and other existing industries (include name of such industries).*

5.8. *State effluents characteristics, discharge (outfall) locations, and possible compliance monitoring and inspection points (attach illustration).*

5.9. *Describe in detail the waste disposal methods available at the facility.*

5.10. *State any safety or contingency plan(s) operational at the facility (attach details).*

5.11. *Provide any other relevant information that could support and facilitate the processing of your application (attach details if necessary).*

(Attach an Environmental Impact Assessment Report if the application is for a new facility)

B 1118

6.0. DECLARATION BY THE APPLICANT

(Notary Public or Commission of Oaths' Seal and Attestation required)

I/we hereby declare that the details stated above are, to the best of my/our knowledge, true and correct.

Dated this.....day of.....200.....

THE COMMON SEAL OF THE WITHIN NAMED APPLICANT

Has hereunto been affixed in the presence of :

Sign.....

Sign.....

Name :

Director-General or CEO

Name :

Secretary

Sworn to thisDay of.....200.....at.....

BEFORE ME

*.....
Notary Public or Commissioner of Oaths*

For Official Use Only

1.0. Date of submission of application

2.0. Fees paid and receipt number.....

(i) Fresh Application Processing Fee.....

(ii) Fees for Amendment of Permit.....

(iii) Fees for Renewal of Permit.....

3.0. Results of verification for competence.....

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4.0. Recommendation by In-house Committee.....

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5.0. Decision or Approval by the Director-General :

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6.0. Issue Date of Permit.....

7.0. Expiry Date of Permit.....

8.0. Permit Number.....

9.0. Other Relevant Information.....

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

MR JOHN ODEY,
Honourable Minister
Ministry of Environment