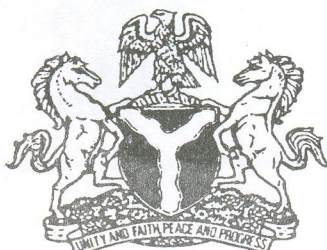


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NATIONAL ENVIRONMENTAL (CONTROL OF BUSH, FOREST FIRE AND OPEN BURNING) REGULATIONS, 2011



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S. I. No. 15 of 2011

NATIONAL ENVIRONMENTAL (CONTROL OF BUSH/FOREST FIRE AND OPEN BURNING) 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]

Commence-
ment.

PART I—PRELIMINARY

1. The principal thrust of these Regulations is to prevent and minimize 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 pollutants.

Thrust.

2. These Regulations shall apply to any person or body corporate who engages in Bush/Forest/Open burning for the purposes of—

Application.

(a) hunting,

(b) clearing farm lands,

(c) destroying :

(i) seized goods and exhibits by Regulatory Agencies,

(ii) electronic wastes ;

(iii) agricultural wastes ;

(iv) municipal wastes ;

(v) asbestos containing materials such as Asphalt or industrial waste ;

(vi) automotive parts (including frames) ;

(vii) dead animals ;

(viii) plastics ;

(ix) rubber Products ;

(x) tyres ; or

(xi) Waste oil, petroleum treated and related materials and any material creating dense smoke or noxious odours.

3.—(1) A person shall not burn any Bush/Forest or engage in any activity that may cause Bush/Forest fire except in accordance with the provisions of these Regulations.

Bush/Forest
Burning
without
Permit.

(2) A person shall not burn, cause, suffer, allow or permit any combustible material in an open fire without permit from the Agency.

PART II—CONTROL OF BUSH/FOREST FIRE AND OPEN BURNING

Power to
Issue
Permits.

4.—(1) The National Environmental Standards and Regulations Enforcement Agency (NESREA) shall have power to issue permit for Bush/Forest and all open burning activities.

(2) Where a person has applied to the Agency for a permit to burn bush, forest or wastes and the Agency, in consultation with other relevant authorities including the affected States and Local Governments, has refused to grant the permit, the person shall not apply to any other authority or person for a permit to burn the bush, forest or wastes.

Burning of
Bush/Forest.

5.—(1) An application for a permit to burn Bush/Forest shall be made in accordance with the Form set out in Schedule II to these Regulations and shall be lodged with the Agency at least 21 days from the date of application to the date of the burning, which may require the applicant to make the statutory declaration contained in the Form.

(2) A permit to burn Bush/Forest under the provisions of these Regulations shall be in the Form set out in Schedule I to these Regulations.

(3) The Agency shall issue a permit to burn Bush/Forest under the provisions of these Regulations and incorporate in that permit any requirements and directions that it may consider necessary to the burning and the holder of the permit shall observe and carry out those requirements and directions.

Issuance of
Permit.

6.—(1) Every application made pursuant to regulation 3 of these Regulations shall be delivered to the Agency at least 21 days prior to the day for which the permit is sought and shall be accompanied by such fees as may be prescribed by the Agency from time to time.

(2) The Agency shall, after the receipt of an application for grant of permit to burn Bush/Forest, enter upon and inspect the land in respect of which the permit is sought and upon being satisfied that the burning can be controlled and conducted with safety, may, subject to the succeeding provisions of these Regulations issue a permit in the form set out in Schedule I to these Regulations.

(3) The Agency shall specify in the permit the day, not being a work free day or public holiday and not necessarily the day for which the permit was sought, on which burning is authorized and shall specify the time thereof, as the Agency may deem fit.

Obligations
of Permit
holders.

7.—(1) A person who has obtained a permit to burn the Bush/Forest (in these Regulations called the “permit holder” shall comply with the conditions set out in the permit in relation to the burning of the Bush/ Forest.

(2) The permit holder shall give notice of his intention to burn the Bush/Forest or a material upon the land or part thereof, to—

(a) the Enforcement Officer of the Agency who is in charge of the area where the land situates ; and

(b) the owner or occupier of any adjoining lands.

(3) The period of notice required under sub-regulation 2 of this regulation shall not be—

(a) more than 21 days ; or

(b) less than 7 days ;

unless the notice is given verbally in which case the minimum period of notice may be determined by mutual agreement.

(4) Notice required to be given to any owner, occupier or other person(s) under sub-regulation 2 of this regulation may be given by any of the following methods—

(a) by verbal or written communication to put the owner, occupier or other persons on notice of the intention to burn and the date and time thereof ; or

(b) by delivering the notice at the premises where the person to whom notice is to be given lives or carries on business or by leaving it with a person who is apparently over the age of 18 years who resides or is employed on the premises ; or

(c) by posting a prepaid letter addressed to the last known place of abode or business of the owner or occupier not less than 8 days prior to the day the burning of the Bush/Forest is intended to take place, in the case of an owner or occupier of adjoining land who is not at the time residing on the adjoining land.

(5) A notice given under sub-regulation (2) of this regulation shall contain full particulars of the locality where the Bush/Forest proposed to be burnt situates.

(6) Before setting fire on the Bush/Forest, the permit holder shall arrange for and provide, appropriate measures (subject to technical advice from relevant authorities) including persons in appropriate personal protective gears who shall be constantly in attendance at the fire site from the time it is lit until no burning or smouldering fuel is within 30 metres of the perimeter of the firebreak surrounding the burnt area or, if there is no such firebreak, within 30 metres of the perimeter of the burnt area; in order to assist in keeping the fire under control and preventing it from spreading beyond the land on which the burning is to take place.

Burning of
Plant Waste.

8.—(1) Any person who is desirous of burning plant wastes shall lodge an application for a permit to burn the plant wastes in the form set out in the Schedule III to these Regulations with the Agency.

(2) A permit to burn refuse of plants under the provisions of this regulation shall be in the form set out in the Schedule IV to these Regulations.

(3) The Enforcement Officer issuing a permit to burn plant wastes under the provisions of these Regulations may incorporate in that permit any requirements and directions that he may consider necessary to the burning and the holder of the permit shall observe and carry out those requirements and directions.

Clearing of
Grounds.

9. Any area of ground on which the plant wastes is to be burnt shall be so cleared or prepared to ensure that the fire shall not in any circumstances be able to run along the ground.

Escape of
Fire.

10. In the event of any fire spreading beyond the boundaries of the area in respect of which a permit to burn Bush/Forest or the waste of plants has been granted, the holder of such permit shall, immediately notify the nearest Fire Service and the Agency and shall within 24 hours of the suppression of the fire, report the circumstances causing the spread to the authorized officer by whom the permit was granted.

Open
Burning.

11.—(1) All provisions relating to burning of plant wastes under these Regulations shall apply in the same manner and to the same extent to all open burning activities.

(2) An application for permit to carry out open burning in respect of any material or thing not specifically mentioned in these Regulations shall be in the forms set out in Schedules V and VI to these Regulations respectively.

Revocation/
Cancellation
of Permit.

12.—(1) The Agency may refuse to issue or grant a permit under regulations 3, 6 and 9 of these Regulations or may cancel any permit already issued or granted there under, when in any case after inspection it is satisfied that, notwithstanding that all the precautions required to be taken under these Regulations in connection with the proposed burning are taken, the proposed burning may nevertheless be or become a source of danger by spreading from the land on which it is intended to carry out the burning or may issue a permit subject to such conditions or requisitions as he considers necessary and specified in the permit.

(2) Where a permit subject to specified conditions or requirements is issued under these Regulations, a person shall not carry out the burning authorized by the permit unless he complies with the conditions and requirements so specified.

13. It shall be an offence to manage a rangeland or plantation without adequate provision of fire control measures and prevention including firefighting equipment.

Rangeland or
Plantation.

14.—(1) The spark arrester required to be fitted to the exhaust pipe of a tractor shall be an efficient spark arrester of suitable design for the type of tractor to which it is attached and shall be maintained in a clean, sound and efficient condition at all times when the tractor is in operation.

Use of
Tractor
Engine and
other farm
machineries.

(2) A person shall not operate a bulldozer or road-grader in a forest ecosystem unless—

(a) an appropriate fire extinguisher is carried on the bulldozer or grader ;

(b) the exhaust pipe is vertical and the exhaust system, including pipes is maintained in a sound and efficient condition ;

(c) the exhaust pipe is fitted with an efficient spark arrester which is of suitable design for the type of bulldozer or road-grader to which it is attached and is maintained in a clean, sound and efficient condition at all times when the bulldozer or road-grader is in operation.

(3) A person shall not operate any harvesting machine unless an appropriate fire extinguisher is carried on the machine.

15.—(1) Where the Agency establishes that the use or operation of any engine, vehicle, plant or machinery is likely to cause a Bush/Forest fire, or would be conducive to the spread of a Bush/Forest fire, the Agency may by notice or direction prohibit or regulate the carrying out of any activity or operation in a specified area except in accordance with the conditions specified in the notice or directives.

Restriction
of the use of
engines.

(2) A notice or directives under sub-regulation 1 of this regulation—

(a) may be given by hand delivery, posting, pasting and wireless broadcast ;

(b) shall have effect for such period as is specified in the notice or directives ;

(c) may be varied or cancelled by the Agency by a subsequent notice or directives.

(3) During any period for which a notice or directives under sub-regulation (1) of this regulation has effect, a person shall not, in any area specified in the notice or direction, operate or use any engine, vehicle, plant or machinery contrary to the notice or directives.

B 488

Use of Bee
Smoker
Device.

16. A person shall not operate a bee smoker device unless—

(1) at least one appropriate fire extinguisher is provided at the place where the device is operated ; and

(2) the ground within a distance of 3 metres from the place referred to in sub-regulation (1) to this regulation has been sufficiently—

(a) cleared of inflammable materials ; or

(b) damped down with water to prevent the spread of fire.

(3) A person who operates a bee smoker device in the open air shall—

(a) ensure that neither the lighting nor the operation of the device results in the ignition of inflammable materials outside the device ;

(b) place the device in a fire resistant container when it is alight but not being held by the person ; and

(c) extinguish the fire in the device on completion of operations.

(4) The Agency may issue—

(a) to a person operating a bee smoker device ; or

(b) to the owner or occupier of the land on which that operation is carried out ;

such directives as the officer considers necessary for the prevention of fire on that land and the person, owner or occupier, as the case may be shall comply with those directives.

Use of
Explosives.

17.—(1) A person shall not use explosives on land unless—

(1) all inflammable materials on the ground within a radius of 3 metres of a lighted fuse or explosive has been removed ;

(2) adequate arrangements are made for fire prevention, control and fighting including at least one appropriate fire extinguisher.

(3) the person has given not less than 24 hours prior notice :

(a) to the fire control officer for the Local Government Area in which the place where the explosives are being used situates ;

(b) to the Agency's Enforcement Officer in charge of the area ; and

(c) to the Forest Officer in charge of that forest land in the Local Government Area where the place the explosives are being used is within 3 kilometres of forest land.

(4) The Agency may issue to a person using explosives upon land referred to under sub-regulation 1 of this regulation or the owner or occupier of that land, such directives as the Agency considers necessary for the prevention of

fire on that land and the person, owner or occupier, as the case may be, shall comply with those directives.

18.—(1) A person shall not use fireworks on land and in the open air unless—

Use of Fire
Works.

(a) all inflammable materials on the ground within a reasonable distance of any lit fuse or lit firework has been removed ;

(b) at least one appropriate fire extinguisher is provided at the place where the fireworks are being used.

(2) The Agency may issue to a person using fireworks upon land referred to in sub-regulation (1) of this regulation or the owner or occupier of that land, such directions as the Agency considers necessary for the prevention of fire on that land and the person, owner or occupier, as the case may be, shall comply with those directives.

19. Burning of Bush or Forest for hunting of animals is prohibited.

Prohibition.

20.—(1) The owner or occupier of land shall within 7 days of the occurrence of a Bush or Forest fire on the land, send to the nearest office of the Agency, a written notice in duplicate notifying the Agency of the occurrence of the fire setting out the—

Notification
of Bush/
Forest fires
and losses
caused.

(a) date on which the fire occurred ;

(b) cause or origin of the fire ;

(c) approximate area burnt by the fire ;

(d) estimate of the total loss caused by the fire ;

(e) time when the fire was first noticed ;

(f) time when the fire was extinguished ;

(g) details of persons and equipment used to suppress the fire.

(2) An Enforcement Officer in charge of a State shall send to the Agency's Headquarters, in the month of June in each year, particulars of losses caused by Bush/Forest fires in his jurisdiction during the preceding 12 months.

(3) An Enforcement Officer shall comply with subs-regulation 2 of this regulation by forwarding to the Agency's Headquarters one copy of each notice received by him pursuant to sub-regulation (1) of this regulation.

PART III—OFFENCES AND PENALTIES

Offences and Penalties.

21.—(1) Any person who violates any of the provisions of these Regulations shall be guilty of an offence.

(2) It shall be an offence for a person to fail to comply with any condition on which a permit to burn is granted.

(3) Any person who violates any of the provisions of these Regulations shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ₦50,000 or imprisonment for a term not exceeding 3 months or both such fine and imprisonment.

(4) Where an offence under these Regulations is committed by a body corporate or a facility, it shall on conviction be liable to a fine not exceeding ₦1,000,000 and an additional ₦20,000 for every day the offence subsists.

(5) Without prejudice to the provisions of these Regulations, the Agency shall have the power to enter and seal premises/facilities contravening the provisions of these Regulations.

Exception.

22.—(1) This Regulation bans all open burning except for the following—

(a) barbecue grills and outdoor cooking devices ;

(b) small cooking and camp fires ;

(c) on-site burning of organic agricultural wastes for subsistence farming, but not pesticides, plastics or other non-organic material ;

(d) ceremonial or celebratory bonfires ;

(e) individual open fires to control plant and animal disease ; and

(f) open fires as necessary to control invasive plant and insect species.

PART IV—MISCELLANEOUS

Interpretations.

23. In this Regulations, unless the context otherwise requires—

“Agency” means the National Environmental Standards and Regulations Enforcement Agency (NESREA) ;

“Applicant” means the person who has applied or filed an application for the grant or issuance of permit to set fire for burning ;

“Bee smoker device” means a device used to generate smoke for the purpose of beekeeping ;

“Bush/Forest” includes trees, plants, stubble, scrub and undergrowth of all kinds whether alive or dead and whether standing or not, a part of a tree, plant or undergrowth whether severed there from or not; but does not include sawdust and other waste timber resulting from the sawmilling of timber in a sawmill whilst the sawdust and other waste timber remains upon the premises of the sawmill in which the sawmilling is carried on ;

“Bush/Forest fire” means all fires in the Bush/Forest whether man-made, accidental or natural ;

“Director General” means the Director General/CEO of NESREA ;

“Dry season” means the times of the year during which rain is not present ;

“Ecosystem” means a structural and functional unit of biosphere or segment of nature consisting of living beings and the physical environment, both interacting and exchanging materials between them ;

“Enforcement officer” means authorized officer of the Agency ;

“Firebreak” means a gap in vegetation or other combustible materials that acts as a barrier to slow or stop the progress of a Bush/Forest fire or wildfire.

“Fire extinguisher” means a portable item in a cylindrical container which could contain extinguishing medium such as water, carbon dioxide, dry chemical powder (DCP), foam compound etc, stored under a pressure for the purposes of putting off fire with capacity range of between 1kilogramme to 50kilogrammes ;

“Forest” means all areas supporting woody vegetation other than planted or cultivated crops regardless of the composition or age ;

“He” means an individual or corporate bodies ;

“Holder” means the holder of a permit to burn ;

“Lead agency” means a government institution, ministry, department, university, etc whose duty and responsibilities directly relate to conservation monitoring of Nigeria ecosystem integrity.

“Material” means substance and anything made of matter including a finished product such as confiscated fake drugs, contraband goods, seized hard drugs, etc in its own right or an unprocessed raw material ;

“Open burning” means all burning in the open air of any material or thing not specifically mentioned in these Regulations and shall include burning in farmland whether cultivated or uncultivated, grassland, park, field, village square and other public places ;

“Plant” includes trees, vine, shrubs or herbs and undergrowths ;

“Permit Holder” means the holder of a permit to burn ;

“Person” means a natural and juristic personality ;

“Plant waste” means materials discarded or rejected as useless or worthless ; trash or rubbish part of a plant.

“Reasonable distance” means sensible allowance given to prevent fire disaster and ensure safety ;

“Thing” means the real or concrete substance of an entity.

24. These Regulations may be cited as the National Environmental (Bush/Forest Fire and Open Burning) Regulations, 2011. Citation.

SCHEDULE I

Regulation 5(2), 6(2)

PERMIT TO BURN BUSH/FOREST

1. In compliance with the provisions of the National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations 2011, permission is hereby granted to Mr./Mrs....., of (a), to set fire to the Bush/Forest on locations for the purpose of (b)..... on the (c) day of (d)..... 20.....
Dated this (e)day of (f) 20.....

2. *Note* : This permit is issued pursuant to the power of the Agency under section 7(j) of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007 and may be suspended by the Agency or any of its authorised officer if, in his opinion, the fire, if lit, would become a source of danger.

3. The onus lies on the person not only to comply with the provisions of the National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, 2011 but also to ensure there is no danger of the fire spreading. The issuance of this permit in no way affects that responsibility.

4. Plan and any special conditions to be observed :

Signed

.....
Authorized person
Director General/CEO

SCHEDULE II *Regulation 5(1)*
APPLICATION FOR A PERMIT TO BURN BUSH/FOREST

1. I (a)..... of (b)the owner (or occupier) of (c), upon which Bush/Forest has grown, hereby apply pursuant to regulation 5(1) of the National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, 2011 for a permit to burn upon the said location a total area of (d) hectares, shown on the annexed sketch upon the following day, namely :

....., 20hectares
, 20hectares
, 20hectares

.....
Applicant

To.....

2. *Note.*— This application must be submitted to the nearest Agency's Office at least 20 days before the day upon which it is intended to commence burning.

(i) Name in full of applicant.

(ii) Address.

(iii) Name of location.

STATUTORY DECLARATION

1. I, (1), the applicant herein, do hereby declare as follows—

(2) That the land to be burned does not exceed in extent and is identical with the area described in the above application and shown on the annexed sketch.

(3) That such area has been surrounded by a firebreak to a width of not less than 3 metres.

(4) That the area to be burned is or is not carrying standing trees.

(5) That all grass and debris have been raked to a distance of not less than 2 metres from the base of any standing tree.

2. And I make this solemn declaration by virtue of regulation 5(1) of the National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations 2011.

DECLARED at (a) (b) in State of Nigeria
this (c) day of, 20.....

.....
Signature of Applicant

.....
BEFORE ME

3. *Note.*— The declaration may be made before a Justice of the Peace, a Commissioner for Oaths or a Notary Public.

SCHEDULE III

Regulation 8(1)

APPLICATION FOR A PERMIT TO BURN PLANT WASTE

1. I, (a).....of (b)
 the owner (or occupier) of (c) hereby apply
 pursuant to the regulations made under the provisions of regulation 8(1)
 of the National Environmental (Control of Bush/Forest Fire and Open
 Burning) Regulations 2011, for a permit to burn upon the said location
 (d) upon the following days, viz.—

....., 20heaps

Applicant

To

2. Note. —This application must be submitted to the State Enforcement
 Officer of the Agency and copies made available to the State/Local
 Government within whose district the proposed burning is to take place,
 at least 30 days before the day upon which it is intended to commence
 burning.

(i) Name of applicant in full.

(ii) Address.

(iii) Name of location.

(iv) Description of the plants the waste of which is to be burned.

STATUTORY DECLARATION

1. I, (1), the applicant herein, do hereby declare as follows: —
 - (1) That the land on which burning is to be carried out does not exceed in extent and is identical with that described in the above application.
 - (2) That the provisions of the regulations respecting firebreaks have been carried out.
 - (3) That the area to be burned is/is not carrying standing trees.
 - (4) That if such area is carrying standing timber, all grass and debris have been raked to a distance of not less than 2 metres from the base of each standing tree.
2. And I make this solemn declaration by virtue of regulation 8(1) of the National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, 2011.

DECLARED at (a) (b) in State of
Nigeria this (c) day of, 20.....

.....
Signature of Applicant

.....
Before me

3. *Note.*—The declaration may be made before a Justice of the Peace, a Commissioner for Oaths or a Notary Public.

SCHEDULE IV

Regulation 8(2)

PERMIT TO BURN PLANT WASTES

1. I, (a) of (b).....
 the Enforcement Officer having been
 satisfied that the National Environmental (Control of Bush/Forest Fire
 and Open Burning) Regulations, 2011 have been complied with, hereby
 grant authority to (c) of (d)
 the owner (or occupier) of (e) to burn upon the
 said location (f)..... upon the following days, viz.—

....., 20heaps
 20heaps
 20heaps

2. Subject however, to the provisions of the said Regulations and to the due
 observance and performance of the conditions endorsed on this permit.

(1) Conditions to be observed—

GIVEN under my hand at (a)(b) this.....day
 of (c)....., 20.....

.....
Enforcement Officer
for : Director-General/CEO

- (i) Name of the Enforcement Officer in full and designation.
 (ii) Address.
 (iii) Name of permit holder.
 (iv) Address.
 (v) Name of location.
 (vi) Description of the plants the refuse of which is to be burned.

SCHEDULE V

Regulation 10(2)

APPLICATION FOR A PERMIT TO CARRY OUT OPEN BURNING

1. I, (a) of (b)
the owner (or occupier) of (c) hereby
apply pursuant to the provisions of regulation 11(2) of the National
Environmental (Control of Bush/Forest Fire and Open Burning)
Regulations, 2011 for a permit to burn (d) upon
the said location (e) upon the following days,
viz.—

....., 20heaps

....., 20heaps

....., 20heaps

.....

Applicant

To.....

2. *Note.*—This application must be submitted to the Enforcement Officer of the Agency and copies made available to the State/Local Government within whose district the proposed burning is to take place, at least 30 days before the day upon which it is intended to commence burning.

(i) Name of applicant in full.

(ii) Address.

(iii) Name of location.

(iv) Description of kind of thing which is to be burned.

STATUTORY DECLARATION

1. I, (1)....., the applicant herein, do hereby declare as follows—
 - (2) That the land on which burning is to be carried out does not exceed in extent and is identical with that described in the above application.
 - (3) That the provisions of the regulations respecting firebreaks have been carried out.
 - (4) That the land upon which the open burning is to be done is or is not carrying standing trees.
 - (5) That if the land is carrying trees, all grass, debris and the thing or the object to be burned have been raked to a distance of not less than 2 metres from the base of each standing tree.
2. And I make this solemn declaration by virtue of regulation 11(2) of the National Environmental (Control of Bush/Forest Fire and Open Burning) Regulations, 2011.

DECLARED at (a)(b) in(c) State
of Nigeria this (d) day of, 20.....

.....
Signature of Applicant

.....
Before me

3. *Note.*—The declaration may be made before a Justice of the Peace, a Commissioner for Oaths or a Notary Public.

SCHEDULE VI

Regulation 11(2)

PERMIT TO CARRY OUT OPEN BURNING

1. I, (a) of (b).....
 the Enforcement Officer having been satisfied
 that the National Environmental (Control of Bush/Forest Fire and Open Burning)
 Regulations, 2011, have been complied with, hereby grant authority to (c)
 of (d) the owner (or occupier)
 of (e) to burn upon the said location (vis)
 upon the following days, viz.—

....., 20heaps
 20heaps
 20heaps

2. Subject however, to the provisions of the said regulations and to the due
 observance and performance of the conditions endorsed on this permit.

Plan and any special conditions to be observed— (a)

(b) Given under my hand at (c) this..... (d)
 day of, 20.....

.....
Enforcement Officer
for : Director-General/CEO

(i) Name of the Enforcement Officer, in full and designation,

(ii) Address.

(iii) Name of permit holder.

(iv) Address. (v) Name of location.

(vi) Description of kind of thing or object which is to be burned.

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

MR JOHN ODEY
Honourable Minister,
Federal Ministry of Environment