

(27 November 1998 - to date)

## ENVIRONMENT CONSERVATION ACT 73 OF 1989

*(Gazette No. 11927, Notice No. 1188. Commencement date: 9 June 1989)*

### REGULATIONS UNDER SECTION 26 OF THE ENVIRONMENT CONSERVATION ACT, 1989 (ACT No. 73 OF 1989) REGARDING IDENTIFIED ACTIVITIES CONCERNING THE PENNINGTON SENSITIVE COASTAL AREA AND THE UMTAMVUNA SENSITIVE COASTAL AREA

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The Minister of Environmental Affairs and Tourism has, under section 26 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) made the regulations in the Schedule hereto with regard to the areas described in Government Notice No. R. 1529 dated 27 November 1998.

#### SCHEDULE

1. Definitions
2. Application of regulations
3. Permit application
4. Preparation and submission of environmental impact reports
5. Content of environmental impact reports
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7. Record of decision
8. Manner of appeal

#### 1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates-

**"activity"** means any activity identified in Government Notice No. R. 1529 dated 27 November 1998, in respect of the Pennington Sensitive Coastal Area and the Umtamvuna Sensitive Coastal Area referred to in the said Government Notice;

**"competent authority"** means the competent authority of the KwaZulu-Natal Province as designated in Government Notice No. R. 1530 dated 27 November 1998;

**"Integrated Environmental Management"** means the procedure as defined in the Integrated Environmental Management Guideline Series, Documents 1-6, 1992 as published by the Department;

**"local authority"** means the local authority, concerned as designated in Government Notice No. R. 1530 dated 27 November 1998;

**"permit"** means a written authorization referred to in section 22 of the Act; and

**"the Act"** means the Environment Conservation Act, 1989 (Act No. 73 of 1989).

## **2. Application of regulations**

These regulations apply in respect of any activity which has been identified in Government Notice No. R. 1529 of 27 November 1998 under section 21 (1) of the Act.

## **3. Permit application**

- (1) Any application, other than an application referred to in subregulation (2) or (3), for authorization to undertake an activity, shall be submitted to the local authority concerned.
- (2) Any application made by a local authority or a department of the Provincial Administration for authorization to undertake any activity, shall be submitted to the competent authority.
- (3) Any application made by a department of the National Government for authorization to undertake any activity, shall be submitted to the Minister.
- (4) Any application in terms of this regulation shall be accompanied by an environmental impact report.

## **4. Preparation and submission of environmental impact reports**

An environmental impact report referred to in regulation 3 (4) shall be prepared, or be caused to be prepared, by the applicant or a consultant.

## **5. Content of environmental impact reports**

- (1) An environmental impact report shall, subject to subregulations (2) and (3), contain the following information:
  - (a) Details of the proposed activity, the purpose of the activity, the extent including quantities and surface areas involved, infrastructure requirements and implementation programme;

- (b) a plan and sections showing the location, detail and extent of the proposed activity including directions to the site;
  - (c) the applicant's name, address and telephone number;
  - (d) the name, address and telephone number of any consultant involved;
  - (e) whether the activity is part of an existing development or larger scheme; and
  - (f) the date of submission to the local authority, competent authority or Minister, as the case may be.
- (2) An environmental impact report shall, taking into account the principles of sound coastal management and land use, indicate the likelihood and severity of potential influences of the activities on the pertinent sensitive biophysical and cultural aspects of the environment.
- (3) An environmental impact report shall address the mitigation, control measures and rehabilitation to be taken during and after the activity to minimise the potential influences and impacts.

## **6. Consideration of application**

The local authority, competent authority or Minister, as the case may be, hereinafter in these regulations referred to as the authority concerned, may, after considering the environmental impact report submitted in terms of these regulations-

- (a) refuse or issue a permit with or without conditions; or
- (b) request the applicant to submit additional information or specialist reports; or
- (c) request the applicant to consult with specific organisations, authorities, person's or interested parties in general and submit results of the required consultations; or
- (d) notwithstanding the provisions of paragraph (b) and (c), request the applicant to submit an environmental impact report based on the principles of Integrated Environmental Management.

## **7. Record of decision**

The authority concerned shall, on the request of the applicant or any other interested person, issue to such person a record of decision which shall include the following:

- (a) The reference number;

- (b) a description and the details of the proposed activity, the extent including quantities and surface areas involved, infrastructure requirements and implementation programme in terms of which the permit is issued;
- (c) the specific location of the activity;
- (d) the applicant's name, address and telephone number;
- (e) the name, address and telephone number of any consultant involved;
- (f) the date of, and persons present, at a site visit, if any;
- (g) any media coverage or contact made with, and the views of interested persons or organisations;
- (h) the decision of the authority concerned;
- (i) the conditions of approval (including mitigation, control and rehabilitation measures to be taken during and after the proposed activity to minimise the potential influences and impacts), if any;
- (j) the key factors in determining the decision, including the views of other authorities approached, if any;
- (k) the date of expiry or duration of approval;
- (l) the manner of appeal (where available), as set out in regulation 8;
- (m) the signature of the duly authorised person; and
- (n) the date.

## **8. Manner of appeal**

- (1) An appeal to the competent authority or Minister in terms of section 35 (3) of the Act, shall be done in writing within 30 days from the date on which the decision with regard to the application for authorization was made known and shall be accompanied by an amount of R250.
- (2) An appeal must set out all the facts as well as the grounds of appeal, and must be accompanied by all, relevant documents or copies of them which are certified as true by a commissioner of oaths.