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Government Notices

MINISTRY OF ENVIRONMENT AND TOURISM

No. 28 2012

COMMENCEMENT OF THE ENVIRONMENTAL MANAGEMENT ACT, 2007

In terms of section 58 of the Environmental Management Act, 2007 (Act No. 7 of 2007), I determine that the Act comes into operation on the date of publication of this notice in the *Gazette*.

N. NANDI-NDAITWAH

MINISTER OF ENVIRONMENT AND TOURISM

Windhoek, 18 January 2012

MINISTRY OF ENVIRONMENT AND TOURISM

No. 29 2012

LIST OF ACTIVITIES THAT MAY NOT BE UNDERTAKEN WITHOUT ENVIRONMENTAL CLEARANCE CERTIFICATE: ENVIRONMENTAL MANAGEMENT ACT, 2007

Under section 27 of the Environmental Management Act, 2007 (Act No. 7 of 2007), and after following the consultative process referred to in section 44 of that Act, I list in the Annexure to the Schedule, activities that may not be undertaken without an environmental clearance certificate.

N. NANDI-NDAITWAH
MINISTER OF ENVIRONMENT AND TOURISM

Windhoek, 18 January 2012

SCHEDULE

Definitions

1. In this notice, a word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates -

“alien species” means -

- (a) a non-indigenous plant, animal or micro organism; or
- (b) an indigenous plant, animal or micro organism, translocated or intended to be translocated to a place outside its natural range of nature,

that does not normally interbreed with individuals of another kind, including any subspecies cultivar, variety, geographic race, strain, hybrid or geographically separate population;

“Aquaculture Act, 2002” means the Aquaculture Act, 2002 (Act No. 18 of 2002);

“Atmospheric Pollution Prevention Ordinance, 1976” means the Atmospheric Pollution Prevention Ordinance, 1976 (Ordinance No. 11 of 1976);

“aquaculture” means the farming and ranching of aquatic animals;

“canal” means an open structure that is lined or reinforced for the conveying of a liquid or that serves as an artificial watercourse;

“channel” means an excavated hollow bed for running water or an artificial underwater depression to make a water body navigable or to improve the flow of water in a natural stream, river or the sea;

“construction” means the building, erection or modification of a facility, structure or infrastructure that is necessary for the undertaking of an activity, including the modification, alteration, upgrading or decommissioning of such facility, structure or infrastructure;

“dangerous goods” means goods which by reason of their nature, quantity or mode of stowage, are likely to endanger the environment or the lives or the health of persons, and which are listed in -

- (a) Part 4 of the Road Traffic and Transport Regulations published in Government Notice No. 53 of 30 March 2001; or
- (b) any other law as dangerous goods;

“generation” in relation to electricity, means the production of electricity by way of natural or artificial processes;

“genetically modified organisms” means an organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology, and includes combinations of genetically modified organisms;

“Hazardous Substances Ordinance, 1974” means the Hazardous Substance Ordinance, 1974 (Ordinance No. 14 of 1974);

“high-water mark” means the highest line reached by the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

“mariculture” means the culture or husbandry of fish in sea water;

“Minerals (Prospecting and Mining) Act, 1992” means the Minerals (Prospecting and Mining) Act, 1992 (Act No. 33 of 1992);

“public road” means any road, street or thoroughfare or any other place which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes -

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, culvert, causeway, ferry, ford or drift traversed by any such road, street or thoroughfare;
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“sea” means the water and the bed of the sea and includes the land between the high-water and low-water marks;

“supply”, in relation to electricity, means the delivery of electricity to a customer as a commodity;

“the Act” means the Environmental Management Act, 2007 (Act No. 7 of 2007).

“transmission”, in relation to electricity, means the conveyance of electricity by means of a transmission system, which consists wholly or mainly of high voltage networks and electrical plant, from an energy source or system to a customer;

Identification of competent authority

2. If no person or authority is in terms of any law charged with the responsibility of granting authorisation in respect of an activity listed in this notice, the Minister is the competent authority in respect of the activity, unless otherwise determined in terms of section 30(3) of the Act.

ANNEXURE

LIST OF ACTIVITIES THAT MAY NOT BE UNDERTAKEN WITHOUT ENVIRONMENTAL CLEARANCE CERTIFICATE

ENERGY GENERATION, TRANSMISSION AND STORAGE ACTIVITIES

1. The construction of facilities for -
 - (a) the generation of electricity;
 - (b) the transmission and supply of electricity;
 - (c) refining of gas, oil and petroleum products; and
 - (d) nuclear reaction, including production, enrichments, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and waste.

WASTE MANAGEMENT, TREATMENT, HANDLING AND DISPOSAL ACTIVITIES

- 2.1 The construction of facilities for waste sites, treatment of waste and disposal of waste.

- 2.2 Any activity entailing a scheduled process referred to in the Atmospheric Pollution Prevention Ordinance, 1976.
- 2.3 The import, processing, use and recycling, temporary storage, transit or export of waste.

MINING AND QUARRYING ACTIVITIES

- 3.1 The construction of facilities for any process or activities which requires a licence, right or other form of authorisation, and the renewal of a licence, right or other form of authorisation, in terms of the Minerals (Prospecting and Mining Act), 1992.
- 3.2 Other forms of mining or extraction of any natural resources whether regulated by law or not.
- 3.3 Resource extraction, manipulation, conservation and related activities.
- 3.4 The extraction or processing of gas from natural and non-natural resources, including gas from landfill sites.
- 3.5 The extraction of peat.

FORESTRY ACTIVITIES

4. The clearance of forest areas, deforestation, afforestation, timber harvesting or any other related activity that requires authorisation in term of the Forest Act, 2001 (Act No. 12 of 2001) or any other law.

LAND USE AND DEVELOPMENT ACTIVITIES

- 5.1 The rezoning of land from -
- (a) residential use to industrial or commercial use;
 - (b) light industrial use to heavy industrial use;
 - (c) agricultural use to industrial use; and
 - (d) use for nature conservation or zoned open space to any other land use.
- 5.2 The establishment of land resettlement schemes.
- 5.3 Construction of veterinary protected area or game proof and international boundary fences.

TOURISM DEVELOPMENT ACTIVITIES

6. The construction of resorts, lodges, hotels or other tourism and hospitality facilities.

AGRICULTURE AND AQUACULTURE ACTIVITIES

- 7.1 Construction of facilities for aquaculture production, including mariculture and algae farms where the structures are not situated within an aquaculture development zone declared in terms of the Aquaculture Act, 2002.
- 7.2 The declaration of an area as an aquaculture development zone in terms of the Aquaculture Act, 2002.

- 7.3 The genetic modification of any organism with the purpose of fundamentally changing the inherent characteristics of that organism.
- 7.4 The import, processing and transit of genetically modified organisms.
- 7.5 Pest control.
- 7.6 The release of genetically modified organisms into the environment where an environmental assessment is required by law.
- 7.7 The release of any organism outside its natural area of distribution that is to be used for biological pest control.
- 7.8 The introduction of alien species into local ecosystems.

WATER RESOURCE DEVELOPMENTS

- 8.1 The abstraction of ground or surface water for industrial or commercial purposes.
- 8.2 The abstraction of groundwater at a volume exceeding the threshold authorised in terms of a law relating to water resources.
- 8.3 Any water abstraction from a river that forms an international boundary.
- 8.4 Construction of canals and channels including the diversion of the normal flow of water in a riverbed and water transfer schemes between water catchments and impoundments.
- 8.5 Construction of dams, reservoirs, levees and weirs.
- 8.6 Construction of industrial and domestic wastewater treatment plants and related pipeline systems.
- 8.7 Irrigation schemes for agriculture excluding domestic irrigation.
- 8.8 Construction and other activities in water courses within flood lines.
- 8.9 Construction and other activities within a catchment area.
- 8.10 Reclamation of land from below or above the high-water mark of the sea or associated inland waters.
- 8.11 Alteration of natural wetland systems.
- 8.12 The release of brine back into the ocean by desalination plants.

HAZARDOUS SUBSTANCE TREATMENT, HANDLING AND STORAGE

- 9.1 The manufacturing, storage, handling or processing of a hazardous substance defined in the Hazardous Substances Ordinance, 1974.
- 9.2 Any process or activity which requires a permit, licence or other form of authorisation, or the modification of or changes to existing facilities for any process or activity which requires an amendment of an existing permit, licence or authorisation or which requires a new permit, licence or authorisation in terms of a law governing the generation or release of emissions, pollution, effluent or waste.

- 9.3 The bulk transportation of dangerous goods using pipeline, funiculars or conveyors with a throughout capacity of 50 tons or 50 cubic meters or more per day.
- 9.4 The storage and handling of a dangerous goods, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic meters at any one location.
- 9.5 Construction of filling stations or any other facility for the underground and aboveground storage of dangerous goods, including petrol, diesel, liquid, petroleum, gas or paraffin.

INFRASTRUCTURE

- 10.1 The construction of-
- (a) oil, water, gas and petrochemical and other bulk supply pipelines;
 - (b) public roads;
 - (c) railways and harbours;
 - (d) airports and airfields;
 - (e) any structure below the high water mark of the sea;
 - (f) cableways;
 - (g) communication networks including towers, telecommunication and marine telecommunication lines and cables;
 - (h) motor vehicle and motorcycle racing and test tracks;
 - (i) the outdoor racing sites of motor powered vehicles including -
 - (i) motorcars;
 - (ii) trucks;
 - (iii) motorcycles;
 - (iv) quad bikes;
 - (v) boats; and
 - (vi) jet skis;
 - (j) masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, but excluding -
 - (i) flag poles; and
 - (ii) lightning conductor poles.
- 10.2 The route determination of roads and design of associated physical infrastructure where -
- (a) it is a public road;

- (b) the road reserve is wider than 30 meters; or
- (c) the road caters for more than one lane of traffic in both directions.

OTHER ACTIVITIES

- 11.1 Construction of military demonstration and testing sites,
 - 11.2 Construction of cemeteries, camping, leisure and recreation sites.
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