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Bismillah - e - Rahman - e - Rahim
Islamic Republic of Afghanistan

Environmental Impact Assessment Regulations

Official Gazette No. 939, dated 10 March 2008

UNOFFICIAL ENGLISH LANGUAGE TRANSLATION
(the official Dari and Pashto versions are contained in the abovementioned Gazette)

CHAPTER ONE GENERAL PROVISIONS

Regulation 1. Rationale

These Regulations are issued in accordance with Article 22 of the Environment Law in order to govern the process for environmental impact assessment.

Regulation 2. Application of the Regulations

1. In accordance with Article 13(1) of the Law, these Regulations apply to the following prohibited activities:

- (1) Category 1 activities, set out in Schedule I of these Regulations;
- (2) Category 2 activities, set out in Schedule I of these Regulations;
- (3) any activity that is likely to have a significant adverse effect on the environment of an area that has been determined by the National Environmental Protection Agency to be an environmentally sensitive area; and
- (4) any other activity that is likely to have a significant adverse effect on the environment and which is determined by the National Environmental Protection Agency to be a prohibited activity.

CHAPTER TWO PROCESSING OF APPLICATIONS

Regulation 3. Issuing Certificate of Compliance

1. The National Environmental Protection Agency is the sole authorized agency to issue a Certificate of Compliance to undertake the prohibited activities identified in Regulation 2, and no ministry, national institution or non government agency may issue an authorisation for the execution of an activity that has been identified as a prohibited activity in terms of these Regulations.

2. Should an applicant under these Regulations intend to undertake an activity that is both a prohibited activity in terms of sub-regulation 1 and is likely to cause significant pollution, the applicant shall obtain a separate authorisation in terms of the relevant legislation, in addition to a Certificate of Compliance in terms of these Regulations.

3. Should an applicant under these Regulations be required to obtain from the National Environmental Protection Agency an authorisation under any other legislation, the National Environmental Protection Agency shall endeavour to consider and make a decision on each application with regard to the other application.

Regulation 4. Applications

Should an applicant intend to undertake an activity identified in Regulation 2, the applicant shall submit to the National Environmental Protection Agency an application form in accordance with Schedule II of these Regulations.

Regulation 5. Screening

1. Before submitting an application, the applicant shall conduct a screening process and complete a screening report that is consistent with international best practice set out in Schedule III of these Regulations and submit it to the National Environmental Protection Agency to make a decision. Screening in these Regulations means the assessment to determine whether or not there is a likelihood of significant adverse effects that require further investigation, or whether a decision can be made based on the information provided through the screening process.

2. The National Environmental Protection Agency shall develop a list of international best practice and make this available to applicants.

Regulation 6. Consideration of applications after screening

1. Within fourteen (14) days of receiving an application and an accompanying screening report, the National Environmental Protection Agency shall distribute a notice of public disclosure to landowners, land occupiers and the elders of local communities likely to be affected by the activity identified in the application. The notice shall contain the following information:

(1) a broad and comprehensible description of the activity and its environmental and social impacts;

(2) informing affected persons that an application will be submitted to the National Environmental Protection Agency under these Regulations;

(3) informing affected persons to register within seven (7) days of the date of distribution of the notice of public disclosure by either:

- sending a written notice of registration to any office of the National Environmental Protection Agency; or
- registering in person at any National Environmental Protection Agency office.

2. The National Environmental Protection Agency shall keep a record of all information set out in sub-regulation 1, which record shall be available to members of the public, whenever required.

3. Within twenty-one (21) days of distributing the notice of public disclosure, the National Environmental Protection Agency shall:

- (1) decide whether the information contained in the screening report is sufficient to issue a Certificate of Compliance, with or without conditions, in terms of Regulation 9;
- (2) advise the applicant that further or additional information or investigation is required before a decision can be reached; or
- (3) instruct the applicant to comply with Regulation 7.

Regulation 7. Environmental impact assessment process

If instructed to do so by the National Environmental Protection Agency in terms of Regulation 6.3, the applicant shall, in accordance with international best practice, prepare an environmental impact statement, which statement shall contain all the information required for the National Environmental Protection Agency to make a decision in terms of Regulation 8, including:

- (1) a full description of the activity, and its need and desirability;
- (2) a description of the property and the environment in the vicinity of the property where the activity will be undertaken, including any significant geographical, physical, social and cultural features of the property;
- (3) an identification, description and assessment of:
 - . the likely environmental impacts and benefits of the activity on soil, water, air, forests, climate, human health, animals and plants, landscape, archaeological property, cultural heritage, cultural values, social and economic well-being and livelihoods, human settlements and their interactions;
 - . the likely environmental impacts and benefits of alternative means of carrying out the activity, including the preferred means and the alternative of not undertaking the activity at all;
 - . the likely environmental impacts of viable alternatives to the activity that would achieve the same aim as the activity was intended to achieve;
 - . all relevant measures that could be undertaken to avoid, remedy or mitigate any significant adverse effects that could be caused by the activity;
 - . all relevant measures that will be taken to monitor the likely environmental impacts and benefits of implementation of the activity on affected persons;
 - . an identification of government and non government institutions, authorities, stakeholders, organisations, communities and other bodies and persons from which either a separate authorisation is required or that are likely to be affected by implementation of the activity; and

- any other information prescribed by the National Environmental Protection Agency in accordance with these Regulations;
- (4) a description of the public participation process undertaken during the environmental impact assessment process, particularly in relation to registered affected persons; the major issues that were identified during the consultation process; and how these issues were incorporated into the assessment process.

Regulation 8. Consideration of applications after environmental impact assessment

1. Within forty-five (45) days of the environmental impact statement being lodged with the National Environmental Protection Agency, the National Environmental Protection Agency shall:

- (1) issue a Certificate of Compliance, with or without conditions, in accordance with Regulation 9; or
- (2) advise the applicant in writing to review the technical reports and information submitted, or the assessment processes adopted, if not in accordance with international best practice. The reviewed report shall indicate the manner in which the applicant has addressed the National Environmental Protection Agency's concerns.

2. Within thirty (30) days of submission of the review document referred to in sub-regulation 1(2), the National Environmental Protection Agency shall:

- (1) issue a Certificate of Compliance, with or without conditions, in accordance with Regulation 9; or
- (2) refuse to issue a Certificate of Compliance, and provide written reasons for the refusal to the applicant.

CHAPTER THREE MISCELLANEOUS PROVISIONS

Regulation 9. Certificate of Compliance

1. The National Environmental Protection Agency may issue a Certificate of Compliance in the format prescribed in Schedule IV if satisfied that:

- (1) the applicant has complied with the procedural provisions of these Regulations;
- (2) the substance of the technical reports and information submitted to the National Environmental Protection Agency in terms of these Regulations, and the process adopted, are in accordance with international best practice; and

- (3) the applicant has consulted fully with affected persons, and has adequately addressed the concerns of such persons.
2. The National Environmental Protection Agency may attach conditions to the certificate, if appropriate.
3. The certificate shall state that the applicant shall commence works on the activity that is the subject of the application within three (3) years from date of signature.
4. The National Environmental Protection Agency may withdraw a Certificate of Compliance if the applicant fails to comply with any of the terms and conditions to which the authorisation is subject.

Regulation 10. Appeal procedure

The appeal procedure set out in Article 17 of the Law shall apply to decisions made under these Regulations.

Regulation 11. Fees

When issued a Certificate of Compliance in terms of these Regulations, non-Afghan natural and legal persons and combined Afghan and non-Afghan enterprises shall pay to the Ministry of Finance the sum of 100,000 Afghanis.

Regulation 12. Commencement

These Regulations shall come into effect on the date of their publication in the Official Gazette.

SCHEDULE I:
SCREENING OF ACTIVITIES

Category I activities:

Activities likely to have significant adverse impacts: means activities likely to have significant adverse effects that are sensitive, diverse or unprecedented, and affect an area broader than the sites or facilities subject to the physical works of the activity. The activities are:

A. Energy

The construction, installation or upgrading of:

1. hydroelectric power generation facilities over 50 MW;
2. thermal power generation facilities over 200 MW;
3. transmission lines (11 KV or more) and grid stations;
4. nuclear power plants; or
5. petroleum refineries.

B. Manufacturing and processing

The construction or upgrading of:

1. cement plants;
2. facilities for the manufacture of chemicals;
3. fertilizer plants;
4. food processing facilities, including sugar mills, beverages, milk and dairy products, with a total cost of US \$1.5m or more;
5. industrial estates (including export processing zones);
6. facilities for the manufacture of man-made fibres and resin with a total cost of US \$1.5m or more;
7. pesticide manufacture or formulation facilities;
8. petrochemicals complex facilities;
9. facilities for the manufacture of synthetic resins, plastics and man-made fibres, paper and paperboard, paper pulping, plastic products, textiles (except apparel), printing and publishing, paints and dyes, and oils and fats projects, with a total cost of more than US \$150,000; or
10. facilities for tanning and leather finishing.

C. Mining and mineral processing

1. Mining and processing of coal, gold, copper, sulphur and precious stones.
2. Mining and processing of major non-ferrous metals, iron and steel rolling.
3. The construction or upgrading of smelting plants with a total cost of US \$800,000 or more.

D. Transport

The construction or upgrading of:

1. airports;
2. national or provincial highways or major roads with a total cost of US \$800,000 or more, with the exception of maintenance, rebuilding or reconstruction of existing roads; and
3. railway works.

E. Water management, dams, irrigation and flood protection

The construction or upgrading of:

1. dams and reservoirs with a storage volume of 50 million cubic meters or more, or a surface area of 8 square kilometres or more; or
2. irrigation and drainage projects serving 15,000 hectares or more.

F. Water supply and treatment

The construction, upgrading or development of water supply schemes and treatment plants with a total cost of US \$400,000 or more.

G. Waste Disposal

The construction or upgrading of:

1. waste disposal and facilities for storage of hazardous or toxic wastes (including landfill sites and facilities for the incineration of hospital toxic waste); or
2. waste disposal facilities for domestic or industrial wastes, with an annual capacity of more than 10,000 cubic meters.

H. Urban development and tourism

1. Land use studies and urban plans for large cities.
2. Large-scale tourism development projects with a total cost of more than US \$800,000.

I. Environmentally Sensitive Areas

All activities situated in environmentally sensitive areas as determined by regulation.

Category 2 activities:

Activities with potentially adverse impacts: means those activities that have potentially significant adverse effects on human environments or environmentally sensitive areas that are less adverse than those in Category 1 and are site specific and in most instances not irreversible. The activities are:

A. Agriculture, Livestock and Fisheries

The construction or upgrading of:

1. poultry, livestock, stud and fish farms with a total cost of more than \$150,000;
2. facilities involving repacking, formulation or warehousing of agricultural products.

B. Energy

The construction, upgrading, installation or development of:

1. hydroelectric power generation facilities less than 50 MW;
2. thermal power generation facilities less than 200 MW;
3. transmission lines less than 11 KV, and large distribution projects;
4. oil and gas transmission systems;
5. oil and gas extraction projects including exploration, production, gathering systems, separation and storage; or
6. waste-to-energy generation projects.

C. Manufacturing and processing

The construction or upgrading of:

1. ceramics and glass making facilities with total a cost more than US \$800,000;
2. food processing industry facilities including sugar mills, beverages, milk and dairy products, with a total cost of less than US \$1.5m;
3. man-made fibre and resin processing facilities with a total cost of less than US \$1.5m;
4. manufacturing facilities of apparel, including dyeing and printing, with a total cost of more than US \$500,000; or
5. facilities for the processing of wood products with a total cost of more than \$400,000.

D. Mining and mineral processing

1. The commercial extraction of sand, gravel, limestone, clay, sulphur and other minerals not identified as Category 1 with a total cost of less than US \$1.5m.
2. The construction or upgrading of facilities for crushing, grinding and separating minerals and ore; or
3. The construction or upgrading of smelting plants with a total cost of less than US \$800,000.

E. Transport

The construction or upgrading of national or provincial highways and roads (except maintenance, rebuilding or reconstruction of existing metalled roads) with a total cost of less than US \$800,000.

F. Water management, dams, irrigation and flood protection

The construction, upgrading or development of:

1. dams and reservoirs with a storage volume of less than 50 million cubic meters or surface area less than 8 square kilometres;
2. irrigation and drainage projects serving less than 15,000 hectares; or
3. small-scale irrigation systems with a total cost of less than US \$800,000.

G. Water supply and treatment

The construction or upgrading of water supply schemes and treatment plants with a total cost of less than US \$400,000.

H. Waste disposal

The construction or upgrading of waste disposal facilities for domestic or industrial wastes, with an annual capacity of less than 10,000 cubic meters.

I. Urban development and tourism

1. The development of housing schemes.
2. The construction or upgrading of public facilities with significant off-site impacts (e.g. hospital wastes).
3. The development of urban development projects.

**SCHEDULE II:
APPLICATION FORM**

1.	Name and address of applicant and contact person:		Phone: Email:
2.	Description of activity:		
3.	Category of the activity:	1 D 2D Other D	
4.	Location of activity:		
5.	Objectives of activity:		
6.	Is the screening report attached?	Yes D NoD	
7.	Does the screening report identify potential sources of impact?	Yes D NoD	
8.	Does the screening report propose mitigation measures?	Yes D NoD	
9.	Have alternative sites been considered and reported in the screening report?	Yes D NoD	
10.	Have affected persons been notified and consulted?	Yes D NoD	
11.	Will other Category 1 or Category 2 activities be undertaken as a consequence of the implementation of this activity? If so, provide details.	Yes D NoD	
12.	Details of other permits and licences that the applicant is obliged to obtain.		

I **do** hereby, solemnly declare that the information given in terms of this application is true and correct to the best of my knowledge and belief, and that it is in compliance with the provisions of the Environmental Assessment Regulations.

Signed:

Date:

Name of applicant:

SCHEDULE III: TECHNICAL GUIDELINE FOR SCREENING PROCESS

If the applicant provides insufficient information then the National Environmental Protection Agency cannot commence the environmental impact assessment process. Therefore adherence to this guideline is advisable. Proponents may, however, choose to submit more information dependent on the activity type.

The Applicant: Name, address, telephone, email and contact point for further queries for the individual or organisation proposing the activity.

The Activity: Brief description of the nature and purpose of the activity. Outline plans or drawings. Size of the activity in terms of, for example, site area, size of structures, throughput, input and output, cost and duration. Programme for implementation including construction, commissioning, operation, decommissioning, restoration, after-use. Scale of construction activities required.

The Location: A map and brief description of the site and its surrounding area showing physical, natural and man-made features such as topography, land cover and land use (including sensitive areas such as housing, schools and recreation areas); physical/spatial planning policies or zoning; areas or features designated for their nature conservation, landscape, historic, cultural or agricultural importance; water features including groundwater and flood protection zones; planned future developments.

Potential Sources of Impact: Completion of a Rapid Environmental Assessment should provide insight into the potential sources of impact. Any further information which provides detail on the following factors would be useful: emissions to air, land or water, or any residues that may arise from construction and operation activities and the proposed methods of discharge or disposal, any noise, vibration or heat generated from the activity, hazardous or raw materials to be used or stored at the site and procedures for safe management and requirements for raw materials and energy and their likely sources.

Mitigation: Brief description of any measures the applicant proposes to use to reduce, avoid or offset significant adverse effects would be useful.

Public participation: A brief description of the nature and extent of consultation with affected communities and persons.

Further information that may be useful includes:

- identification of other permits required for the activity;
- relationship of the activity to other existing or planned activities;
- other activities which may be required or may occur as a consequence of the activity (egg extraction of minerals, new water supply, generation or transmission of power, road construction, housing, economic development);
- planned future developments on or around the site;
- additional demand for services such as sewage treatment or waste collection and disposal generated by the activity;
- photographs of the site and its surroundings; and
- alternative sites, processes or environmental mitigation measures considered by the applicant.

**SCHEDULE IV:
RECORD OF DECISION**

1. Name and address of applicant:

2. Description of activity:

3. Location of activity:

4. Date of lodging of application:

5. After careful review of the application and pursuant to powers vested in terms of Regulation 9 of the Environmental Impact Assessment Regulations, the National Environmental Protection Agency hereby:

D approves the application, subject to the following conditions:

D requires the applicant to submit an environmental impact statement in terms of Regulation 7.

D rejects the application, for the following reasons:

Date:

Contact No:

Signature: