

REGULATIONS

MADE UNDER

ENVIRONMENTAL PROTECTION ACT 1996
(No. 11 of 1996)

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

PRELIMINARY

1. Citation.
2. Interpretation.

PART II

GENERAL

3. Environmental Impact Assessment.
4. Register.
5. Records and information.
6. Reports on changes.
7. Reports to the Agency.
8. Fees.
9. Changes in particulars.
10. Incomplete applications.
11. Changes in status of holder of environmental authorisation.
12. Conditions of environmental authorisation.
13. Grounds for refusal to grant environmental authorisation.
14. Cancellation, suspension and modification of environmental authorisation.
15. Monitoring of environmental authorisation by Agency.
16. Appeals.

PART III

POWER TO GRANT ENVIRONMENTAL AUTHORISATION

17. Requirement to apply for authorisation.
18. Power to grant an environmental authorisation.
19. Duration of environmental authorisation.
20. Application for variance.
21. Transfer of environmental authorisation.
22. Renewal of environmental authorisation.

SCHEDULE

**IN EXERCISE OF THE POWERS CONFERRED UPON ME BY
SECTION 68(1) OF THE ENVIRONMENTAL PROTECTION ACT 1996,
I HEREBY MAKE THE FOLLOWING REGULATIONS: -**

PART I

PRELIMINARY

- Citation. 1. These Regulations may be cited as the Environmental Protection (Authorisations) Regulations 2000.
- Interpretation. 2. In these Regulations-
- (a) “applicant” means a person who applies for an environmental authorisation for the purposes of these Regulations and includes a person appointed under a duly registered power of attorney;
 - (b) “application” means an application for an environmental authorisation made in accordance with regulation 17;
 - (c) “discharge” means the release of any liquid, solid or gaseous substance or a combination of them into the environment resulting directly or indirectly from human activities that may cause an adverse effect;
 - (d) “trade discharge” includes any discharge from premises used for carrying on any trade or industry; and for the purposes of this definition premises wholly or mainly used (whether for profit or not) for agricultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade or industry;
 - (e) “existing facility” means any industry pertaining to the manufacture, processing, handling, transport, storage or disposal of materials (including raw materials, materials in the process of manufacture, by-products and waste materials) that entered into operation before the commencement of these Regulations;
 - (f) “facility” includes -
 - (i) any office, room or building, and any place, spot or land, whether open or enclosed;
 - (ii) any aircraft, hovercraft, ship, boat, pleasure craft or other vessel whether afloat or not, and any vehicle;
 - (iii) any electrical installation, subterranean installation or installation on land including the foreshore and other land intermittently covered by water;

- (iv) any offshore installation and any other installation, whether floating or resting on the seabed or the subsoil thereof or resting on other land covered with water or the subsoil thereof;
- (v) any dam or other installation designed to hold liquid or store it on a long-term basis;

(g) “holder” means a person or corporate entity.

PART II

GENERAL

Environmental
Impact
Assessment.

3. The Agency may, upon the evaluation of an application for an environmental authorisation require the applicant to furnish any document, information or environmental impact assessment pursuant to section 11 of the Act.

Register.

4. (1) A Register made pursuant to section 36 of the Act, shall be maintained in any form and shall contain the following particulars –

- (a) every refusal to grant an environmental authorisation together with the reasons for the refusal;
- (b) every refusal to vary the conditions of an environmental authorisation;
- (c) information supplied under regulation 5; and
- (d) any other information the Agency considers expedient to be included in the Register.

(2) Every Register to which paragraph (1) refers shall be open to the public for inspection at the Agency’s principal office during normal working hours, free of charge, and the Agency shall supply a copy on payment of ten dollars for each page made from such Register.

Records and
information.

5. (1) Every holder of an environmental authorisation shall make all records required by these Regulations as soon as reasonably practicable and shall keep such records including records of any environmental monitoring for a period of not less than three years.

(2) A holder of an environmental authorisation shall keep records of all sampling and analytical procedures used in meeting the requirements of paragraph (1), including for each sample, the date and time of collection, the sampling procedures used and any incidents likely to affect the analytical results.

(3) A holder of an environmental authorisation shall keep records of all maintenance and calibration procedures and of all problems or malfunctions, including those related to sampling, analysis, acute lethality testing, chronic toxicity testing or flow measurement,

that result or are likely to result in a failure to comply with the requirements contained in the environmental authorisation of these Regulations, stating the date, duration and cause of each malfunction including a description of any remedial action.

(4) A holder of an environmental authorisation shall ensure that all records kept under this regulation are available to authorised officers of the Agency at the holder's facility on request during normal office hours of the facility.

(5) A holder of an environmental authorisation shall keep records required by these Regulations, in an electronic and hard copy format acceptable to the Agency.

Reports on changes.

6. A holder of an environmental authorisation shall notify the Agency in writing of –

- (a) any change of name or ownership of the holder's facility within thirty days after the change occurs; or
- (b) any process change or redirection of or change in the character of an effluent stream that affects the quality of the discharge at any sampling point established under these Regulations at the holder's facility, within thirty days of the change or redirection.

Reports to the Agency.

7. (1) The holder of an environmental authorisation shall in each year lodge with the Agency, before the thirty-first day of March, an annual return containing information required by the Agency under the environmental authorisation.

(2) Any person responsible for an activity, which is the subject of any environmental authorisation, shall maintain and submit to the Agency records of the type, composition and quantity of contaminant released and the Agency shall maintain a Register therefor.

(3) Any person who fails to comply with paragraph (1) or (2) shall be guilty of an offence and shall be liable to a fine of not less than thirty thousand dollars nor more than eighty thousand dollars.

Fees.
No. 19 of 1998.

8. (1) Fees shall be charged as specified in the Schedule hereto with the permission of the competent authority under the Bank of Guyana Act 1998.

Schedule.

(2) Any fee paid in respect of applications referred to in the Schedule shall not be refundable.

Changes in particulars.

9. (1) The Agency may, while considering an application for an environmental authorisation, request additional oral or additional written information from –

- (a) an applicant or an agent of the applicant or developer;
- (b) a person who is directly affected by the application;
- (c) a local authority or any other government agency; or
- (d) any other source which the Agency considers appropriate.

(2) Prior to the issue of an environmental authorisation, any change in the particulars furnished in the application or after the grant of the environmental authorisation, any change in the particulars on the basis of which an environmental authorisation has been granted shall be notified immediately in writing to the Agency by the applicant or his agent, or, as the case may be, by the developer or holder of such authorisation.

Incomplete application.

10. (1) Where the Agency considers that the applicant has omitted to provide any of the information required under regulation 17, the Agency shall notify the applicant in writing of the omission within fifteen days of receipt of the application and shall request the applicant to furnish the requisite information within fifteen days.

(2) The Agency may at the request of the applicant allow an extension of the time limit fixed under paragraph (1).

(3) Without prejudice to the generality of regulation 18, where the applicant does not supply the information under paragraph (1) or (2), the Agency may refuse to grant an environmental authorisation.

Changes in status of holder of environmental authorisation.

11. Where a holder of an environmental authorisation –

- (a) dies;
- (b) becomes bankrupt;
- (c) goes into liquidation or receivership; or
- (d) becomes a party to an amalgamation,

the holder of the environmental authorisation, the holder's legal heirs or legal representative, shall within twenty-one days of the occurrence, give the Agency notice in writing thereof.

Conditions of environmental authorisation.

12. (1) The Agency shall establish in each environmental authorisation such terms and conditions, as required on a case-by-case basis, which may include the following-

- (a) that the holder of the environmental authorisation shall take all reasonable steps to-
 - (i) avoid all adverse environmental impacts which could result from the activity;
 - (ii) minimize the adverse environmental impact where the avoidance is impractical;
 - (iii) mitigate the impact where the impact cannot be avoided;
 - (iv) avoid cross media transference; and

- (v) compensate for impacts;
- (b) that the records of monitoring information indicate -
- (i) the date, exact place and time of measurements;
 - (ii) the names of individuals who performed the measurements;
 - (iii) the date the measurements were compiled or analysed;
 - (iv) the names of individuals who compiled the information;
 - (v) the techniques or methods supporting the information such as observations, readings, calculations and bench data used and the results of such techniques or methods; and
 - (vi) the state of the operation of the facility including, but not limited to, planned and unplanned shutdowns, production levels and achievement of design capacity;
- (c) that the holder of the environmental authorisation shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed and used by the holder of the authorisation including best management practices, pollution and prevention measures, adequate laboratory controls and the appropriate quality assurance procedures and back-up or auxiliary facilities to achieve compliance with the environmental authorisation;
- (d) that the holder of the environmental authorisation shall establish an environmental monitoring programme at the holder's own expense or bear the cost of such programme within such period or at such time and in such manner as the Agency may specify to make provision for –
- (i) a process description which contains a clear presentation of existing or planned engineering processes, a site map indicating all planned sources of emissions or discharges as well as analysis of environmental receptors such as surface water, wells and boreholes, residential and commercial areas and protected areas;
 - (ii) inventory of planned releases that identifies the sources of release and release points, substances released and the timing of releases;
 - (iii) methods of sampling;
 - (iv) methods of analysis;
 - (v) reporting procedures;

(vi) recruitment and technical training of staff to conduct monitoring activities;

(a) establishment of “in-house” operational procedures for environmental monitoring of air, water, noise and wastes; and

(b) such other matters as the Agency may require;

(e) that the holder of the environmental authorisation shall each year furnish the Agency any information which the Agency may request to determine whether cause exists for modifying, varying, suspending, revoking or re-issuing the authorisation or to determine compliance with the environmental authorisation;

(f) that the holder of the environmental authorisation shall furnish to the Agency upon request, copies of records kept by the holder of the environmental authorisation;

(g) that the holder of the authorisation shall report all instances of anticipated non-compliance to the Agency and shall give advance notice to the Agency of any planned changes in the authorised facility or activity which may result in non-compliance with the environmental authorisation;

(h) that, where there has been non-compliance with the environmental authorisation, the holder of the authorisation shall -

(i) report to the Agency, within twenty-four hours of the time the holder of the environmental authorisation becomes aware of the non-compliance, the anticipated manner in which it may endanger human health or the environment;

(ii) within seventy-two hours submit to the Agency a written report containing a description of the non-compliance, its cause and the period of non-compliance including exact dates and time; and

(iii) submit a report to the Agency indicating the reasons therefor and the anticipated time it is expected to continue if the non-compliance has not been corrected.

(2) In deciding the terms and conditions of the environmental authorisation the Agency shall have regard to the information submitted under regulations 9, 10 and 17.

Grounds for refusal to grant environmental authorisation.

13. The Agency may refuse to grant an environmental authorisation under these Regulations where it has reason to believe -

(a) that the application contains or is based on false or misleading representation or information which is false in a material particular;

(b) in case of an individual that the individual -

- (i) is under the age of eighteen years; or
- (ii) is an undischarged bankrupt;

(c) in case of a body corporate, that –

- (i) a resolution has been passed against it for its voluntary winding up or an order has been made by a court of competent jurisdiction for its winding up;
- (ii) a receiver has been appointed to manage any of its assets; or
- (iii) any of its directors has been convicted of any offence specified under these regulations during the period of five years immediately preceding the application; or
- (iv) where in the opinion of the Agency, the issue of the environmental authorisation would not be in the best interest of Guyana, having regard to such factors as the Agency considers relevant to the protection to human health or the preservation of the character of the environment, including animals and plants.

Cancellation,
suspension and
modification of
environmental
authorisation.

14. (1) The Agency may at any time by notice in writing to the holder of the permit, cancel or suspend an environmental authorisation or impose such conditions as the Agency considers appropriate in addition to or in place of the existing conditions, with effect from such date as the Agency may specify provided that the cancellation, suspension or modification shall not give rise to an additional adverse effect.

(2) The Agency may cancel, suspend or modify an environmental authorisation during its currency for any of the following reasons -

- (a) the holder of an environmental authorisation made a misrepresentation or willful omission in obtaining the environmental authorisation or in any report submitted to the Agency or in any other way obtained the environmental authorisation improperly;
- (b) the holder of an environmental authorisation is contravening any material condition of the environmental authorisation;
- (c) violation of any condition of the environmental authorisation;
- (d) changes in circumstances relating to the authorisation that require either a temporary reduction in the discharge of contaminants;
- (e) the holder of an environmental authorisation –

- (i) dies;
 - (ii) becomes bankrupt;
 - (iii) goes into liquidation or receivership; or
 - (iv) becomes a party to an amalgamation;
- (f) there is a change in ownership;
- (g) the holder of an environmental authorisation proposes to change the process of operation of technology used in the facility and which is likely to cause a change in the nature and composition of the discharge;
- (h) the Agency establishes new or revised standards in respect of the operations of the facility; or
- (i) any other change, situation or activity relating to the use of an environmental authorisation that in the judgment of the Agency is not consistent with the Act or these Regulations.

(3) The Agency shall not cancel the environmental authorisation if the Agency considers it is contrary to the public interest to do so but the Agency may suspend the authorisation instead.

(4) The Agency shall, while suspending an environmental authorisation, notify the holder thereof in writing –

- (a) stating the breach which gave rise to the suspension;
- (b) requiring the holder of the permit to remedy the breach;
- (c) stating the time within which the breach is to be remedied; and
- (d) stating whether the environmental authorisation is to be returned within a specified time to the Agency.

(5) The holder of the environmental authorisation under paragraph (4), upon remedying the breach, shall so inform the Agency and the Agency shall, if it is satisfied that the breach is remedied, forthwith return the environmental authorisation to the holder thereof.

(6) A suspension under this regulation may be for a specified period or until the fulfillment of specific conditions or until further order of the Agency.

(7) Before the Agency acts under paragraph (2) the Agency shall –

(a) notify the holder of an environmental authorisation in writing of its proposed action specifying the reason for the proposed action; and

(b) allow the holder at least seven days within which to make written submissions to the Agency in relation to the Agency's proposed action.

(8) Where the Agency modifies an environmental authorisation, the Agency shall cancel the existing environmental authorisation and re-issue the holder of the environmental authorisation with a modified environmental authorisation.

Monitoring of environmental authorisation by Agency.

15. (1) Where an environmental authorisation is in force it shall be the duty of the Agency to take the steps needed –

(a) for the purpose of ensuring that the activities authorised by the environmental authorisation do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and

(b) for the purpose of ensuring that the conditions of the environmental authorisation are complied with.

(2) For the purpose of performing that duty, any officer of the Agency may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the land or in relation to plant or equipment on the land to which the environmental authorisation relates or, as the case may be, in relation to the mobile plant to which the authorisation relates.

(3) All expenses incurred by the Agency in effecting works under paragraph (2) shall be borne by the holder of the authorisation.

Appeals.

16. (1) Any person who is aggrieved by a decision of the Agency may at any time within twenty-eight days of the decision, by notice in writing appeal against such decision.

(2) Appeals shall be made to the Environmental Appeals Tribunal, in accordance with rules applicable to appeals under the Act.

PART III

POWER TO GRANT ENVIRONMENTAL AUTHORISATION

Requirements to apply for authorisation.

17. (1) An application for an environmental authorisation shall be made to the Agency pursuant to section 11, 19 or 21 of the Act.

(2) An application for an environmental authorisation -

Schedule.

- (a) shall be completed in triplicate and shall be submitted to the Agency together with the fee as specified in the Schedule;
- (b) shall be in respect of one project or facility;
- (c) shall contain the following information:
 - (i) the company or corporate name, the names of directors if any, the name and position of the applicant, the name of the owner or occupier and exact location of the facility;
 - (ii) proof that the applicant either owns the facility or has a lease or other agreement with the landowner or occupier to enable the applicant to conduct the activity on the facility or has the legal right or ability to conduct the activity without the consent of the landowner or occupier;
 - (iii) topographic map showing the location of any existing or proposed intake and discharge structures and the location of any discharge;
 - (iv) a detailed description of the process or activity generating the discharge;
 - (v) existing or proposed effluent discharge rates;
 - (vi) map and description of the existing or proposed outfall locations;
 - (vii) a description of any substances discharged, their environmental impact, the sources of the substances, the method by which the substances will be discharged and the steps to be taken to reduce the amount of the substances discharged or to mitigate their impacts;
 - (viii) a summary of required environmental monitoring information gathered during any previous approval period which has not already been submitted to the Agency;
 - (ix) an identification of the receiving water or waters;
 - (x) an indication whether or not the facility is proposed or is in existence and an indication whether the application is a new application or application for renewal or variance;
 - (xi) an indication whether or not the facility has ever has ever violated any environmental requirement under the Act;

- (xii) an indication whether or not a permit or licence from any other government entity is required under written law and whether such permits or licences have been obtained;
- (xiii) copies of existing environmental authorization, permits or certificates or licences relating to the activity, that have been granted to the applicant by the Agency or any government entity;
- (xiv) copies of any Environmental Impact Assessment study or reports relating to the activity;
- (xv) characteristics of discharge, including quantity, conditions and concentrations of constituents;
- (xvi) the proposed or actual dates of construction commencement, construction completion, commencement of operation and project completion;
- (xvii) an account of the measures undertaken to avoid, mitigate or remedy the water pollution caused by the operation of the facility;
- (xviii) proof that the applicant can financially mitigate or carry out remedial work; and
- (xix) any other information deemed necessary by the Agency.

No. 29 of
1991.

(3) Where the applicant is a company, the applicant shall supply the Agency with a certificate of incorporation issued by the Registrar of Companies under section 8 of the Companies Act 1991.

Power to grant
an
environmental
authorisation

18. (1) Subject to regulations 9 and 10, the Agency shall within six weeks of receipt of a completed application grant an environmental authorisation to the applicant or refuse a grant.

(2) Where the applicant submits further information under regulation 9 or 10 the Agency may grant an environmental authorisation within six weeks of receipt of the submitted or requested information, as the case may be.

(3) Where the Agency considers that it shall not be able to make a determination, after receiving the information under regulation 10 (1) or 11, it may grant to the applicant an interim environmental authorisation which shall be effective for a period not exceeding one year.

(4) The Agency may grant an environmental authorisation to a holder of an environmental authorisation whose authorisation granted under paragraph (3) has been cancelled or has expired.

Duration of environmental authorisation.

19. Subject to regulation 14, unless previously cancelled by the Agency, an environmental authorisation shall be effective until a fixed date specified in the authorisation, which date shall not be beyond five years from the date on which the environmental authorisation was granted.

Application for variance.

20. (1) A person to whom an environmental authorisation has been granted may make an application to the Agency to vary any provision thereof on submission of supporting particulars together with the fee prescribed under regulation 8.

(2) The particulars submitted under paragraph (1) shall be based on supported scientific evidence.

(3) For the purposes of paragraph (1), varying the provisions of an environmental authorisation includes –

- (a) any change in the construction, structure, or arrangement of the facility or any plant, building, equipment, machine, apparatus, mechanism or thing serving the facility or any technology used or installed at the facility from which effluent may be discharged;
- (b) any change in the construction, structure, arrangement, alignment, direction, or condition of any channeling device, system, or facility serving the premises;
- (c) any change in the position and design of any outlet at the point or points of discharge of effluent;
- (d) any change in the quality of the effluent, whether raw or treated at any time or point after it is produced at any facility so as to cause a dilution in the concentration of such effluent;
- (e) any change in the use of raw materials;
- (f) any material change in the quality, quantity, composition of the effluent;
- (g) any change in the process or rate of production or operational procedures;
- (h) any change in products being manufactured; and
- (i) any change in waste produced.

(4) The Agency may approve the application under paragraph (1) if –

- (c) there is no known practicable means of control to enable compliance with the existing conditions contained in the authorisation; or

- (b) the estimated cost to be incurred for compliance will be prohibitive having regard to the nature and size of the industry, trade or process being carried out in the permitted premises discharging the effluent; or
- (c) the design and construction of any plant or other control equipment require a longer period than the period for compliance with these regulations; or
- (d) the imposition of the conditions as prescribed in the environmental authorisation is not, having regard to all factors, reasonably practicable or are contrary to the intent and spirit of these Regulations.

(5) Where the Agency approves an application under paragraph (1), the Agency shall cancel the existing permit and re-issue to the applicant a new permit.

(6) Any person who varies the provisions of an environmental authorisation without an approval therefor shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Transfer of
environmental
authorisation.

21. (1) No environmental authorisation is assignable or transferable to any person without the prior consent of the Agency having been obtained.

(2) The Agency may, on the application of a holder of an environmental authorisation, transfer his environmental authorisation to another person.

(3) The Agency shall not approve an application under paragraph (2) unless the application is in respect of an activity to which the environmental authorisation applies.

(4) An application for a transfer shall contain –

(a) the name and address of the proposed transferee; and

(b) the signatures of the proposed transferee and the applicant.

(5) An application for a transfer shall be accompanied by the environmental authorisation which is to be transferred.

(6) Where the proposed transferee is a company, an application for a transfer shall be accompanied by a Registrar's certificate furnished by the Registrar of Companies under the Companies Act stating that the name of the company is on the Register of Companies.

(7) Where the Agency approves an application under paragraph (2), the Agency shall –

(a) endorse the transfer on the environmental authorisation submitted under paragraph (6);

No. 29 of
1991.

(b) substitute the name of the applicant on the environmental authorisation for that holder; and

(c) endorse the date the application is approved.

(8) The transferee shall be deemed to be the person to whom the environmental authorisation from the date specified in paragraph (7)(c).

(9) Where the proposed transferee occupies the facility before a final determination of the application is made by the Agency, the conditions and restrictions of the permit shall be binding on the proposed transferee and shall be observed by him, notwithstanding that he is not yet the holder of the environmental authorisation or that the environmental authorisation may have expired before such determination is made.

(10) The Agency may, on the application to transfer an environmental authorisation, modify, revoke or re-issue such authorisation or incorporate such other requirements as the Agency may consider necessary.

Renewal of
environmental
authorisation.
Schedule

22. (1) Where a holder of an environmental authorisation wishes to continue an activity in respect of which an authorisation was granted beyond the expiration of an environmental authorisation, the holder shall submit an application for a new environmental authorisation to the Agency together with the fee as specified in the Schedule.

(2) An application for a new environmental authorisation shall be made at least six months before the expiration of the environmental authorisation.

(3) Where a holder of an environmental authorisation, after the expiration of an environmental authorisation, has submitted an application for a new environmental authorisation in accordance with paragraph (1), the expired environmental authorisation shall continue in force until the effective date of the new environmental authorisation.

(4) In considering an application for the renewal of an environmental authorisation, the Agency may –

(a) carry out physical inspections of the facility; and

(b) specify other standards or conditions with which such facility shall comply.

(5) Where there has been no material change in the circumstances that existed at the time the environmental authorisation was granted, the Agency may grant the renewal.

SCHEDULE

regs. 8, 17 and 22.

FEES

Application	Small scale (US\$ or G\$ equivalent)	Medium scale (US\$ or G\$ equivalent)	Large scale (US\$ or G\$ equivalent)
Registration Fee	\$20	\$20	\$20
Fee for application for an environmental authorisation	\$50	\$50	\$50
Fee for environmental authorisation	\$100 per year	\$500 per year	\$ 1500 per year
Fee for application to transfer an environmental authorisation	\$50	\$50	\$50
Fee for application to vary an environmental authorisation	\$100	\$200	\$300
Fees for surrender of environmental authorisation	\$50	\$50	\$50
Fee for application to operate a sound-making device, equipment or loudspeaker in a public place	\$25	\$25	\$25
Application for written authorisation of changed conditions	\$ 100	\$ 200	\$ 300

Made this 28th day of November, 2000.

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 Bharrat Jagdeo
 President