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Coastal Waters Discharge Permit Regulations, 2019

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I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby publish the Coastal Waters Discharge Permit Regulations in terms of sections 83(1)(g), (h), (k) and (r) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008) as set out in the Schedule hereto.

(Signed)

NOMVULA PAULA MOKONYANE
Minister of Environmental Affairs

SCHEDULE**ARRANGEMENT OF REGULATIONS****Regulation**

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SCHEDULE**1 Definitions**

In these Regulations, unless the context indicates otherwise, a word or expression that is defined in the Act has the same meaning in these Regulations, and in addition-

'Act' means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

'coastal waters discharge permit' means a permit contemplated in section 69(1) of the Act;

'effluent discharge standards' means the constituent and volume specification limits which effluent must meet prior to its discharge into coastal waters and which are set as conditions in a coastal waters discharge permit;

'existing discharge' means any discharge of effluent into coastal waters which was already taking place at the time of the commencement of these Regulations;

'mixing zone' means an area of coastal waters which may be specified in a coastal waters discharge permit-

- (a) in which the discharged effluent undergoes its initial dilution within coastal waters; and
- (b) where the effluent's constituent concentrations may exceed the limits specified in the natural receiving environment standards for the area in question;

'natural receiving environment' means-

- (a) the area of coastal waters immediately beyond the mixing zone, starting at the end of the mixing zone; or
- (b) where a mixing zone has not been specified in a coastal waters discharge permit, the coastal waters into which effluent is discharged;

'natural receiving environment standards' means the effluent's constituent and volume specification limits set for the natural receiving environment, as contained in the 'South African Water Quality Guidelines for Coastal Marine Waters, Volume 1 'Natural Environment', 1996' or any guideline for coastal waters discharges published by the Minister, whichever is the more recent document, and includes any other standards which may be set as conditions in a coastal waters discharge permit;

'resource quality objectives' means the determination that the Minister responsible for water affairs may make in terms of Chapter 3 of the National Water Act; and

'system performance monitoring' means monitoring dedicated to determining the effectiveness and efficiency of an entire discharge system and the management of the system, including monitoring of the physical infrastructure of the discharge system.

2 Application for coastal waters discharge permit

(1) An application for a coastal waters discharge permit contemplated in section 69(3) of the Act must-

- (a) be made to the Minister on the application form obtained from the Department;
- (b) be completed in full and signed by the relevant person or persons as indicated in the application form;
- (c) be accompanied by proof of payment of the application fee, if prescribed;
- (d) be accompanied by all supporting documents required to assess the application including those required by the application form and these Regulations; and
- (e) be lodged-
 - (i) in duplicate;
 - (ii) electronically, if required; and

(iii) with the original, or certified copies of the documentation in support of the application, if required.

(2) If an applicant fails to-

- (a) fully complete all required parts of, or provide all information required by, the application form or these Regulations; or
- (b) comply with the requirements listed in subregulation (1),

the application will be rendered incomplete and it will not be considered.

(3) The Minister must, within 10 working days after receipt of an application for a coastal waters discharge permit, acknowledge receipt of the application in writing.

3 Minimum information for assessment of applications

(1) An applicant for a coastal waters discharge permit must, as part of the application, provide information relating to the factors contemplated in sections 69(7) and 69(8) of the Act.

(2) The application must-

- (a) contain a motivation explaining the reasons for the decision to discharge effluent into coastal waters as opposed to other alternative waste management measures;
- (b) include detailed maps of the location of the infrastructure generating the effluent as well as the location of the infrastructure responsible for discharging the effluent and its Global Positioning Satellite (GPS) coordinates;
- (c) provide a sufficiently detailed description of the receiving environment into which the effluent is, or will be discharged;
- (d) provide details of any areas within a 1 000-meter radius from the point of discharge which may be adversely affected as a result of the discharge, including marine protected areas, residential areas, recreational use areas, tourism areas, aquaculture use areas, seawater abstraction and industrial use areas;
- (e) provide details of any existing discharges within a 300-meter radius from the point of discharge being applied for;
- (f) where applicable, provide the environmental authorisation and its reference number issued in respect of the discharge and its associated infrastructure or where one has not been issued, provide details of the status of the relevant environmental impact assessment process;
- (g) identify the activity, process or operation from which the discharge emanates;
- (h) provide details of the measures that are, or where applicable, will be undertaken, for the avoidance and prevention, minimisation and recycling of the effluent;
- (i) demonstrate that discharging the effluent into coastal waters is the best practicable environmental, social and economic option;
- (j) provide all information about the characteristics of the effluent, its constituents and chemical composition, including-
 - (i) its buoyancy;
 - (ii) the average concentration for all of the effluent's constituents per month;
 - (iii) the maximum discharge concentration for all the effluent's constituents; and
 - (iv) the quality variables applicable to the discharge and its unit of measurement;
- (k) provide information about the maximum output volume, in cubic metres, anticipated for dry weather and wet weather, calculated for total volumes per day, per month and per year;
- (l) provide a proposed monitoring plan which illustrates how the applicant will, if the permit is granted, address the following-
 - (i) system performance monitoring; and
 - (ii) the frequency, parameters and manner of sampling the effluent;
- (m) where applicable, provide historic monitoring data for the discharge;
- (n) provide details of any applicable estuarine management plan, in the case of a discharge into an estuary; and
- (o) the extent of a mixing zone, if required by the applicant.

(3) In addition to the information referred to in subregulations (1) and (2), an applicant must provide details of, and where applicable, provide specialist technical and engineering information pertaining to the following-

- (a) the chemical, physical, geological, hydrological and biological processes and reactions that-
 - (i) govern the composition of the receiving environment; and
 - (ii) which [sic] influences the dispersion of the effluent;
- (b) a description of the process responsible for the generation of the effluent;
- (c) a report on the marine ecology of the proposed mixing zone and the natural receiving environment, including information on the marine habitats and its populations which may be affected by the discharge;
- (d) where applicable, the environmental factors that may assist in the die-off of any micro-organisms in the effluent;
- (e) the optimum dispersion of the effluent for the discharge;
- (f) the level of dilution of the effluent which can be achieved in the proposed mixing zone;
- (g) the sedimentation or the re-suspension of solid-phase particles in the effluent;
- (h) where applicable, details of the hydraulic design of the pipeline and the alternative proposals for the placement of the pipeline;
- (i) where applicable, the structural integrity of the pipeline and its diffusers, as well as its structural design including details regarding the future decommissioning of the pipeline; and
- (j) a detailed description of maintenance plans for the pipeline, associated infrastructure, recording and sampling devices.

(4) In addition to subregulation (1), an applicant must demonstrate that the granting of the permit for the proposed discharge will not, or where applicable, does not, contravene section 69(8) of the Act.

4 Assessment of applications

(1) The Minister may, after receiving an application submitted in terms of these Regulations-

- (a) request the applicant to provide specific information by a specified date;
- (b) request the applicant to carry out further investigations and to provide that information within a specified time; or
- (c) request the applicant to consult with specific organisations, authorities, persons or interested parties and submit the reports of the required consultations within a specified time.

(2) In assessing an application for a coastal waters discharge permit, the Minister may, in addition to those factors detailed in sections 69(6), (7) and (8) of the Act, also have regard to the following-

- (a) whether the applicant has been convicted of contravening the Act, the National Environmental Management Act or any other specific environmental management Act; or
- (b) whether the applicant has contravened conditions of prior or existing permits or authorisations granted to the applicant in terms of the Act, the National Environmental Management Act or any other specific environmental management Act, including these

- (3) A failure to comply with any request made in terms of subregulation (1) renders the application incomplete and it will not be considered.

5 Discharges into estuaries

(1) An application for a coastal waters discharge permit to discharge effluent into an estuary may only be granted in exceptional circumstances, and only where it is demonstrated that-

- (a) such inflows are required to improve or will maintain any applicable resource quality objectives;
- (b) such inflows will improve the general ecological state of the estuarine system;
- (c) such inflows will not deteriorate the ecological state of the estuarine system; or
- (d) the ecological functioning of the estuary has been irreversibly modified in an adverse manner, and the discharge will not lead to a further deterioration of the water quality in the estuary.

(2) Subsection (1) is not applicable to an application for a coastal waters discharge permit for an existing discharge into an estuary.

6 Site inspection

(1) The Minister may request a site inspection, together with the applicant, at the location of the discharge at any time prior to making a decision on an application for a coastal waters discharge permit.

(2) Where the applicant refuses, or fails to attend the site inspection in subregulation (1), the application will be regarded as incomplete and will not be considered further.

7 Decision on applications

(1) The Minister may, in relation to an application for a permit in terms of these Regulations-

- (a) issue a coastal waters discharge permit subject to conditions; or
- (b) refuse the application.

(2) A coastal waters discharge permit must be issued in writing and must include the following details-

- (a) the identity and contact details of the permit-holder;
- (b) the geographic location of the infrastructure used for the discharge;
- (c) the validity period of the permit; and
- (d) the conditions included in the permit.

(3) A decision to refuse a permit must include-

- (a) the reasons for the decision; and
- (b) the date of the decision.

(4) The Minister may refuse an application for a coastal waters discharge permit where the applicant has failed to demonstrate that the discharge will comply with the natural receiving environment standards.

(5) The Minister's decision on an application for a coastal waters discharge permit must be made within 180 calendar days from the date that all documentation and information required by, or requested in terms of, these Regulations was received by the Minister.

(6) A coastal waters discharge permit may be issued for any period up to a maximum of 10 years.

(7) A coastal waters discharge permit may be issued subject to conditions, which may include setting effluent discharge standards on a case-by-case basis as part of the conditions of the permit.

(8) The transfer of any permit issued in terms of these Regulations is not valid unless that transfer is authorised in writing by the Minister.

8 Permit renewal

(1) A permit-holder may apply to the Minister for a renewal of a coastal waters discharge permit for a maximum period of 10 years.

(2) The Minister may renew a coastal waters discharge permit as many times as may be required by the applicant.

(3) A permit-holder must apply for the renewal of a coastal waters discharge permit 180 days prior to the expiration of that permit.

(4) An application in terms of subregulation (1) must-

- (a) be made on the application form obtained from the Department;
- (b) be completed in full and signed by the relevant person or persons as indicated in the application form;
- (c) be accompanied by proof of payment of the application fee, if prescribed;
- (d) be accompanied by all supporting documents required to assess the renewal application including those required by the application form and these Regulations; and
- (e) be lodged-
 - (i) in duplicate;
 - (ii) electronically, if required; and
 - (iii) with the original, or certified copies of the documentation in support of the application, if required.

(5) Regulation 2(2) applies, with the necessary changes, to applications for the renewal of a coastal waters discharge permit.

(6) The Minister must, within 10 working days after receipt of the renewal application in terms of subregulation (1), acknowledge receipt of the application in writing.

(7) In an application in terms of subregulation (1), the Minister may consider-

- (a) whether the applicant has been convicted of contravening the Act, the National Environmental Management Act or any other specific environmental management Act;
- (b) whether the applicant has contravened conditions of prior or existing permits or authorisations granted to the applicant in terms of the Act, the National Environmental Management Act or any other specific environmental management Act, including these Regulations;
- (c) whether the effluent has varied significantly, in relation to the parameters set in the original permit's conditions, both in relation to quantity and quality; and
- (d) any other relevant consideration.

(8) The Minister may, in an application for a renewal, request the applicant to provide or perform the following within a specified time-

- (a) any further information to what is contained in the applicant's original application for a permit submitted in terms of regulation 2(1);
- (b) specific studies and to provide the results of those studies to the Department; or

(c) consult with specific organisations, authorities, persons or interested parties and submit the reports of those consultations to the Department.

(9) A failure to comply with the request in terms of subregulation (3) renders the application incomplete and it will not be considered.

(10) The Minister may amend effluent discharge standards in a decision for the renewal of a coastal waters discharge permit.

9 Contingency plans

(1) A permit-holder of a coastal waters discharge permit must, within 6 months of the first discharge for a new discharge or within six months of the date of issue of the permit for an existing discharge, submit a contingency plan to the Minister for approval which addresses potential response measures to the malfunctioning or breakdown of the discharge system and the prevention of pollution of the receiving environment by providing details of-

- (a) mechanisms for the detection of problems in the system;
- (b) stipulated procedures and determined responsibilities in the event of a malfunction of the system;
- (c) an action plan on the implementation of mitigating measures;
- (d) procedures and protocols for reporting malfunctioning events; and
- (e) any other information required by the Minister.

(2) The Minister may suspend a coastal waters discharge permit if a contingency plan in terms of subregulation (1) has not been approved, or submitted in time.

10 Fees

(1) An application for a coastal waters discharge permit and an application for a renewal in terms of these Regulations is subject to the payment of a non-refundable application fee, if prescribed by the Minister in the *Gazette*.

(2) A permit may not be renewed if the permit-holder has failed to pay any fees, if prescribed.

11 Transitional arrangements

(1) Any coastal waters discharge permit issued prior to the commencement of these Regulations must be regarded as having been issued in terms of these Regulations.

(2) An application for a coastal waters discharge permit which is pending when these Regulations take effect, must be dispensed with in terms of these Regulations.

12 Short title and commencement

These Regulations are called the Coastal Waters Discharge Permit Regulations, 2019, and commences on the date of publication in the *Gazette*.
