Chapter 20:27 Environment Management Act (Environmental Impact Assessment & Ecosystems Protection) Regulations, 2007

1 These regulations may be cited as the Environment Management (Environmental Impact Assessment and Ecosystems Protection) Regulations 2007.

2 In these regulations—

"**appropriate fee**" means an appropriate fee prescribed in the *First Schedule*;

"**clay deposits**" means soil material used for purposes specified in the *Third Schedule*;

"**designated authority**" includes local authorities, government agencies, or private agencies;

"**form**" means a form prescribed in the *Second Schedule*;

"**fire prevention measures**" includes fire guards, fire fighting teams, fire fighting equipment and fire awareness campaigns;

"**high flood-level**" means the maximum level to which the water level could rise, due to rainfall and run-off in the catchment areas, over and above the level of water normally conserved in any artificially constructed water storage work on a public stream;

"**licence**" means a licence issued in terms of section *twenty*;

"**local authority**" means a municipal council, town council, or local board, rural district;

"**monitoring schedules**" means recording and reporting on fires;

"**naturally defined banks**" means the banks containing the flow of a public stream when flowing at its fullest capacity and keeping the usual natural direction of its own course;

"**post-suppression measures**" means the activities undertaken when the fire has been extinguished;

"**pre-suppression measures**" means the preventive activities done before a fire outbreak;

"**prospectus**" means a short report detailing the activities which the developer shall carry out;

"**sensitive area**" means any ecologically sensitive area referred to in section *twenty*;

"**suppression measures**" means the activities undertaken towards extinguishing the fire;

"**sleigh**" means any vehicle used for transporting which —

(a) travels on runners instead of wheels; or

(b) travels on any other manner on the surface of the ground without the use of wheels or tracks driven by the wheels.

3 (1) No person shall excavate, remove, possess, *transport or licence the removal of—

(a) clay or sand deposit in excess of #1 ton or for commercial purposes without a licence issued by the Agency; and.

(b) sand deposits from an undesignated site of point.

[#=**1016 KGs** .Subsection (1) amended by SI 4/11 with effect from the 21st January,2011, to prohibit *transportation as well - Editor].]

(2) Any person who wishes to extract, excavate, possess or licence the removal of sand or clay shall apply to the Agency in **Form EMA A** and the application shall be accompanied by an appropriate application fee.

(3) An applicant shall, in consultation with the local authority and the local inspector, develop a detailed excavation and environmental rehabilitation plan for submission to the Agency for consideration before any extraction or excavation is done.

(3a) No person shall transport sand between the times of 1800 hrs and 0600 hrs.

[subsection (A) inserted by SI 130/11 with effect from the 11th November, 2011]

(4) Any person who contravenes subsections (1), (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

[Editor's Note: It appears SI 130/11 does not make a breach of Section **(3a)** an offence]

4 (1) An application for possession, excavation, extraction or removal of clay or sand deposits licence shall be forwarded to the Agency through the inspector of the district where excavation or extraction is going to take place upon payment of a fee as may be fixed by the Director-General from time to time.

(2) **Within 60 days** after receiving the application, the Director General—

(a) shall consider the application and cause an inspector to issue out a licence to the applicant if the application meets all necessary requirements; or

(b) may require the applicant to supply further information or do such other thing as he or she considers necessary or desirable for sustainable utilization of the resource before a licence can be issued; or

(c) may reject the application.

5 (1) The Agency may cancel or amend a licence issued in terms of section *four* if —

(a) the person to whom such licence was issued contravenes or fails to comply with the requirements of the environmental rehabilitation plan; or

(b) it considers it necessary that excavation of clay or sand be discontinued to prevent further degradation of the land.

(2) The Agency shall, before cancelling or amending a licence in terms of subsection (1) —

(a) notify the person to whom the licence was issued, in writing, of its intention to amend or cancel the licence with effect from a specified date, giving its reasons therefor; and

(b) invite such person to submit, in writing, **within 30 days** of the date of such notification, his or her representation if any, on why such amendment or cancellation should not be effected.

(3) Where notification of intention to amend or cancel a licence has been given in terms of subsection (1) —

(a) if no representation has been received from the person concerned within the period referred to in subsection (2)(b);

(b) if representations have been received from the person concerned within the period referred to in subsection

the Agency shall consider the representations, if any, and may amend or cancel the licence with effect from such date as it deems appropriate, not being a date earlier than the date notified to the person concerned in terms of subsection (2).

(4) The Agency shall notify the person concerned, in writing of its decision in terms of subsection (3).

6 (1) A licence issued in terms of section *four* shall be valid for a **period of 1 year** unless specified otherwise in the licence.

(2) Notwithstanding subsection (1), the holder of a licence issued in terms of section *four* wishing to renew or amend it shall submit an application in **Form EMA B1** together with the appropriate fee, to the Agency.

7 A licence issued in terms of section *four* shall not be transferable to any other person.

8 (1) Where a developer proposes to conduct an environmental impact assessment in terms of section 98 of the Act, the developer shall furnish the Director-General with a prospectus containing a brief description of the project for approval.

(2) The Director-General shall review the prospectus submitted in terms of subsection (1) **within 20 days.**

(3) Where the Director-General approves the prospectus submitted in terms of subsection (1), the developer shall engage registered consultants (organisations only are eligible for registration) , to prepare an environmental impact assessment report.

(4) Consultants engaged in terms of subsection (3) shall, be multi-disciplinary and chosen for their experience, knowledge and professional qualifications in the following fields or areas of competence; physical sciences, biological sciences, social or applied sciences and any other discipline considered to be necessary by the Agency.

(5) **Consultants** referred to in subsection (2) shall—

(a) apply to the Agency to be environment impact assessment consultants;

(b) pay an application fee as prescribed in the *First Schedule* of these regulations.

(6) An application in terms of subsection (5)(a) shall include the following information—

(a) curriculum vitae showing experience and knowledge of environmental issues;

(b) portfolio studies already undertaken as proof that the person is capable of carrying out such studies on environmental impact assessment on behalf of the developer;

(c) disclosure of interested parties where there maybe conflict of interest.

(7) Where the Director-General is satisfied that the applicant meets the requirements referred to in subsection (5) and (6), he or she shall issue a licence to the consultant. The Licence shall be valid for **1 calendar** (January to December) **year** unless specified otherwise on the licence.

(8) The Director-General may from time to time specify fees which are to be charged by consultants in carrying out environmental impact assessment studies.

9 (1) The Director-General shall keep a register of environment impact assessment consultants.

(2) The register of environmental impact assessment consultants shall be open for inspection by members of the public at all reasonable times and at such premises as the Agency may determine and upon payment of a fee prescribed in the *First Schedule*.

10 (1) The Director-General shall review the prospectus and environmental impact assessment reports submitted to the Agency upon payment of the prescribed fee by the developer. The fees are prescribed in the *First Schedule* of these regulations.

(2) The prospectus and the environmental impact assessment report shall include the following information in addition to the requirements of the Act —

(a) project name;

(b) name and address of the developer; or

(c) name and address of consultant; or

(d) company profile;

(e) environmental impact assessment or prospectus date.

(3) Upon receipt of an environmental impact assessment report, the Director-General shall review the report **within 60 working days.**

(4) Before any environmental impact assessment report is furnished to the Director-General, the developer shall carry out wide consultations with stakeholders.

(5) During a prospectus and environmental impact assessment report review period, the Director-General shall verify whether full stakeholder participation was undertaken when the environmental impact assessment report was prepared.

(6) Expenses associated with the stakeholder consultation process shall be borne by the developer.

(7) The Director-General may advertise in the print and electronic media when a prospectus or environmental impact assessment report is being reviewed.

(8) The Director-General shall inform the developer in writing of his or her decision **within 60 working days** :failure of which the environmental impact assessment report shall be deemed to have been approved.

(9) Where the Director-General approves the environmental impact assessment report, he or she shall issue a licence of acceptance to the developer.

11 (1) The Director-General may amend, suspend or cancel a licence issued in terms of section *ten* if the developer—

(a) wilfully or negligently failed to comply with the conditions of the licence; or

(b) submitted false information for the purpose of obtaining a licence.

(2) Prior to amendment, suspension or cancellation of a licence issued in terms of section *ten*, the Director-General shall notify the developer in writing, of his or her intention to amend, suspend or cancel giving his or her reasons thereof.

(3) The developer shall, **within 30 days**, in writing, from the date of notification make representations, if any, as to why the licence should not be amended, suspended or cancelled.

12 (1) The developer issued with a licence in terms of section *ten* wishing to renew or amend or extend it shall submit an application in **Form EMA C2** together with the appropriate fee, to the Agency within a **period of 6 months** before the expiry date of the licence.

(2) Where an Environment Impact Assessment certificate has been issued, it should be kept and shown to the Agency upon request during the project development and at any time after the project completion.

13 [Editor – To be published next update]

14 (1) The Agency shall carry out bi-annual environmental audits to ensure that all projects being implemented are in compliance with these regulations.

(2) The developer shall submit a **quarterly environmental monitoring report** on any issues raised in the Environmental Impact Assessment report or any other issues that arise as a result of the implementation of the project. Failure to submit quarterly report will make the developer liable to a fine not exceeding level fourteen or imprisonment for twelve months or both fine and imprisonment.

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15 Except where it is expressly provided for to the contrary, this part shall be construed as being in addition to and not in substitution for any regulations made under Part VIII and X of the Forest Act [*Chapter 19:05*] and section 23 of the Communal Lands Forest Produce Act [*Chapter 19:04*] or any other law which regulate the prevention of fires.

16 (1) Any land user, owner, or designated authority shall put in place appropriate fire prevention measures on their land.

(2) No person shall deliberately cause fire that he or she cannot extinguish which causes damage to the environment, property, or life.

(3) No person shall light a fire outside residential or commercial premises during the period from **31 July to 31 October** of each year.

(4) Any person who contravenes subsections (1), (2), or (3) shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

17 (1) The land user, landowner, farmer, lessee or designated authority shall be responsible for extinguishing all fires on their property regardless of origin of the fire.

(2). In case of a fire outbreak any person within the vicinity of the fire other than the user or the owner of that land shall carefully and properly extinguish the fire.

18 (1) After a fire outbreak an investigation and documentation of the cause of fire and the extent of the damage to the environment, property or loss of life shall be undertaken **within a period of 7 days** from the day of occurrence of that fire.

(2) An investigation in terms of subsection (1) shall be carried out by –

(a) the land user or landowner in the case of a farm or private property;

(b) the designated authority in the case of state land;

(c) the village head in the case of a village;

(d) the chief, ward councillor or the chairperson of the environment subcommittee in the case of a district;

(e) the rural district council chairperson or the chairperson of the environment committee in the case of a district;

(f) the mayor chairperson of commission in the case of an urban local authority area.

(3) Upon completion of the investigations, the persons specified in subsection (2) shall report to the nearest Environmental Management Agency office and Zimbabwe Republic Police **within a period of 7 days** stating the date of the fire, cause of fire, extent of damage measured in terms of hectares, property and injury or loss of life.

(4) Any person who on any land –

(a) leaves unattended a fire, which he or she, with or without authority, has lit or assisted in lighting or used or rekindled or to which he or she had added fuel before such fire is extinguished; or

(b) with or without authority lights or assist in lighting, or uses or rekindles or adds fuel to a fife which spreads or causes injury; or

(c) deliberately fails to extinguish a fire on his property;

shall be guilty of an offence and liable to a fine not exceeding level fourteen per hectare or part thereof or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

19 (1) No person shall possess, use, licence or cause to be used a sleigh on any land.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding four months.

20 (1) No person shall, without a licence issued by the Agency, the proof whereof shall lie upon him or her, to reclaim or drain, drill or make a tunnel, introduce any exotic animal or plant species, cultivate, or licence the cultivation of, or destroy any natural vegetation on, or dig up, break up, remove or alter in any way the soil or surface of —

(a) wetland; or

(b) land **within 30 metres** of the naturally defined banks of a public stream; or

(c) land **within 30 metres** of the high flood-level of any body of water conserved in artificially constructed water storage work on a public stream; or

(d) bed, banks or course of any river or stream.

(2) Subsection (1) shall not apply to the destruction of vegetation or the digging up, breaking up, removal or alteration of the surface in respect of projects specified in the *First Schedule* to the Act;

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level ten or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

21 (1) An application for a licence required in terms of section *twenty* shall be made to the Agency in **Form EMA D** and accompanied by an appropriate application fee.

(2) If the applicant is not the owner of the land, the application shall not be lodged unless, the owner has agreed to the action in respect of which approval is sought, the location concerned and his or her

agreement has been endorsed on the application form and signed by him or her or the application is accompanied by his or her written, signed agreement.

(3) An application in respect of land which is communal land or resettlement area shall not be lodged unless the appropriate local authority has agreed to the action in respect of which approval is sought, the location concerned and that agreement has been endorsed on the application form and signed by the local authority or the application form is accompanied by the written consent of such local authority.

22 (1) Upon receipt of an application made in terms of section *twenty-one* the Agency shall-—

(a) cause the land to be inspected; and

(b) proceed to consider the application and –

(i) reject it; or

(ii) approve it with or without any conditions; or

(iii) defer it pending a receipt of recommendation from the inspector; and

(iv) inform the applicant in writing of its decision.

(2) A licence issue in terms of this section shall —

(a) be **valid for 1 year** from issue date unless specified otherwise on the licence;

(b) not be transferable and rights therein shall rest solely In the applicant.

23 (1) Where an application has been deferred, the applicant, after satisfying the requirement which led to its deferment, shall notify the local authority in writing and request it to undertake further inspection thereof.

(2) Upon receipt of a notification made in terms of subsection (1), the inspector shall carry out such further inspection of the land as he or she considers necessary and shall, as soon as possible make a recommendation to the Director General that the application be either approved or rejected.

(3) The Director General shall, upon receipt and consideration of a recommendation made to him or her in terms of subsection (2) reconsider the application and:-

(a) reject it; or

(b) approve it with or without any conditions;

and inform the applicant in writing of his or her decision.

24 (1) The Agency may cancel a licence issued in terms of section *twenty-three* if –

(a) the person to whom such licence was given contravenes or fails to comply with any condition imposed upon him or her; or

(b) the Agency considers it necessary that cultivation of; or other activities on, the land in respect of which a licence was issued be discontinued to prevent further degradation to the natural resource of the land.

(2) The Agency shall, prior to cancellation, or amendment of a licence issued in terms of subsection (1) –

(a) notify the person to whom the licence was given, in writing, of its intention to amend conditions in, or cancel licence with effect from a specific date, giving its reasons thereafter ; or

(b) invite such person to submit, in writing, **within 30 days** of the date of such notification his representations, if any, why such amendment or cancellation should not be effected.

(3) Where notification of intention to amend or cancel has been given in terms of subsection (2) and if –

(a) no representation had been received from the person concerned within the period referred to in that subsection, the Agency shall cancel or amend the licences as the case may be; or

(b) representation has been received from the person concerned within the period referred to in that subsection, the Agency shall consider the representations and may amend or cancel the licence with effect from such date as it deems appropriate, not being a date earlier than the date notified to the person concerned in terms of subsection (2).

(4) The Agency shall notify the person concerned, in writing, of its decision.

25 (1) Any person who is aggrieved by any decision of the Officer or authorized person shall appeal to the Director General in terms of section 129 of the Act.

(2) Any person who is aggrieved by any decision of any authority shall appeal to the Minister in terms of section 130 of the Act, submitting with his or her appeal the fee prescribed in the *First Schedule*.

(3) Any person who is aggrieved by any order of the Minister shall appeal to the Administrative Court in terms of section 130 of the Act.

26 (1) The Agency through its authorised officers, may issue to any offender who contravenes any part of these regulations with a spot fine (ticket):

Provided that no such fine shall exceed level fourteen.

(2) In the event that the offender fails to pay the spot fine as prescribed on the spot fine ticket, the default penalty shall be **zw$65 000,00 x *i.*** After the lapse of the deadline for the payment of the default, the Agency will not accept payment, the offender will be taken to Court.

[**Editor's Note** : the "**i**" probably refers to the inflation correction **factor** by which all fees are to be adjusted , which will be the ratio of the current Government Consumer Price Index (CPI) to the CPI at the base year. The base year is June 2006 and *i* is 1 for the base year.]

[**This note is no longer part of these Regulations** ,but was contained in the Note to the Fee Schedule which was repealed and substituted by SI 3/2011 below.]

27 (1) The Natural Resources (Protection) Regulations, 1991, published in Statutory *Instrument* 291 of 1991 and the Natural Resources (Sleighs) Regulations, 1975, published in Statutory Instrument 604 of 1975 are repealed.

FIRST SCHEDULE *(Sections 2,10(1),20(2),and 25)*

[Repealed and substituted by SI 3/11 with effect from the 21st January, 2011.]

FEES FOR SAND ABSTRACTION & TRANSPORTATION

In this schedule "**poin**t" means an area measuring **20 metres x 20 metres** which the licence holder has been licensed to extract sand or clay deposits.

TABLE 1

FEES FOR SAND ABSTRACTION AND TRANSPORTATION PER QUARTER

Quarterly sand abstraction **per point**	**US$ 165**
Quarterly licence to ferry sand **per vehicle**	**US$ 105**

TABLE 2

FEES FOR ENVIRONMENTAL IMPACT ASSESSMENT

Annual environmental consultants registration (**locals**)	**US$ 300**
Annual Environmental Consultant registration (**foreigners**)	**US$2 000**

Inspection of consultant register	**US$40**
Prospectus review	**US$115**
Environmental Impact Assessment Report review or extension of licence	**US$210** or **1.5%** of the project whichever is the higher
Inspection of register of Environmental Impact Assessment Licences.	**US$50**
Inspection of Environmental Impact Assessment reports, per report	**US$250**
Replacement of licence	**US$20**
Fees for appealing to the Minister against the decision of the Agency	**US$240**

Notes -

1. All Annual registration fees are paid in advance and cover year of January to December.

2. The year will be reckoned from January to December and not 12 months from date of issue

3. A **5% administration fee** will be charged on all fees.

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SECOND SCHEDULE

FORMS

The following activities require a licence before any commercial activity is carried out –

(1) building construction;

(2) brick moulding;

(3) pottery;

(4) moulding of plumbing accessories;

APPLICATION TO EXCAVATE CLAY OR SAND DEPOSITS

1. EMA "A" FORM

Application to excavate clay or sand deposits from land **other than** land protected in terms of Wetlands and Public Streams (Protection) Regulations *i.e* **Part VI**.,

hereinafter referred to as "**the land**".

PART I

[*To be completed by the Applicant in duplicate*]

1. I ……..

(Insert full name in capital letters)

hereby apply to excavate clay/sand * deposits for commercial purposes on land detailed in section **3** below.

2. I am the owner/lessee/user of the said land.

3. –

(a) Site identification:

Size of land: ……

Name of village: ……

Name of ward:……..

District: ……

Province: ……

Name of property: ……..

(b) Land tenure system:-- communal/resttlement/sscfa/cfa/urban area *

Date: ……

Signature of applicant: ……

4. Endorsement -

I/We agree to the intended activity and location of the said land in respect of which the application is being made.*

Signed……..

Date:……..

(Owner/lessee/local authority) *

PART II

[To be compiled by the local inspector in consultation with the applicant.]

Environmental rehabilitation/management plan-