Regulation for the Environmental Clearance of Projects



National Environmental Commission Secretariat
Thimphu, Bhutan



དཔལ་ལྡན་འབྲུག་གཞུང་།

རྒྱལ་ཡོངས་མཐའ་འཁོར་གནས་སྐྱང་སྤྱན་ཚོགས་ཡིག་ཚང་།

ROYAL GOVERNMENT OF BHUTAN
NATIONAL ENVIRONMENT COMMISSION SECRETARIAT
P.O. BOX 466 THIMPHU, BHUTAN

FOREWARD

Pursuant to the powers granted by the Environmental Assessment Act, 2000, enacted by the National Assembly of Bhutan in its 78th Session, the National Environment Commission hereby adopts the Regulation for the Environmental Clearance of Projects and Regulation on Strategic Environmental Assessment, 2002.

The Regulations have been framed as per the provisions of the Act to make easy cross-reference with the Act. All references to the chapters and articles in these Regulations pertain to the Environmental Assessment Act, 2000 and should be read together with the Act. These Regulations have been drafted in sufficient details for easy understanding. The National Environment Commission hopes that with the publication of these Regulations, the general public will be able to understand the procedures for applying and obtaining of Environmental Clearance for Projects, thus resulting in better compliance and effective implementation.

These Regulations shall enter into force from 4th April 2002, i.e., 3 months after publication of public notification about these regulations in the national newspaper "Kuensel", published on the 5th of January 2002.

Tashi Delek,

(Lyonpo Kinzang Dorji)
Chairman
National Environment Commission

Table Of Contents **Page**

1. **Chapter I. Administration** **1-5**
   - Authority 1
   - Purpose 1
   - Commencement 2
   - Definitions 2-4
   - Environmental Assessment Advisory Board 4-5
   - Reporting 5

2. **Chapter II. The Environmental Assessment of Projects** **6-12**
   - Environmental Clearance by the Competent Authority 6
   - Environmental Clearance by the Secretariat 6-7
   - Establishment of an Environmental Unit 7
   - Required Procedures 7
   - Environmental Screening 7-9
   - Environmental Assessment Procedures 9-10
   - Public Consultation 10-11
   - Existing Projects 12

3. **Chapter III. Monitoring Offences, Compliance Orders, Remedies** **13-15**
   - Monitoring 13
   - Offenses/ Warning 13
   - Compliance Order 13-14
   - Appeals and Legal Challenges 14-15
   - Sanctions and Compensation 15

4. **Annexes** **16-26**
   - Annexe 1 Applicable Time Limits 16
   - Annexe 2 Projects for which the Competent Authorities may issue the Environmental Clearance 17-22
   - Annexe 3 Environmental Assessment Report Format 23-26

Chapter I.
Administration

Authority

1. This regulation is adopted under the Environmental Assessment Act, 2000.

Purpose

2. This regulation defines responsibilities and procedures for the implementation of the Environmental Assessment Act, 2000 concerning the issuance and enforcement of environmental clearances for individual projects and:

2.1 To provide meaningful opportunities for public review of potential environmental impacts of projects;

2.2 To ensure that all projects are implemented in line with the sustainable development policy of the Royal Government;

2.3 To ensure that all foreseeable impacts on the environment, including cumulative effects are fully considered prior to any irrevocable commitments of resources or funds;

2.4 To ensure that all feasible alternatives are fully considered;

2.5 To ensure that all feasible means to avoid or mitigate damage to the environment are implemented;

2.6 To encourage the use of renewable resources, clean technologies and methods;

2.7 To ensure that concerned people benefit from projects in terms of social facilities;

2.8 To help strengthen local institutions in environmental decision making; and

2.9 To help create a uniform, comprehensive data base on the environmental and cultural conditions and assets in Bhutan.

Commencement

3. In accordance with Article 62 of the EA Act, 2000 this regulation shall come into effect on 4th April 2002.

4. It shall apply to all projects in Bhutan.

Definitions

5. For the purpose of this regulation:

5.1 **Agency** means a Ministry, Department, or Municipality established under the Bhutan Municipal Act, 1999 or any autonomous public body of the Royal Government of Bhutan, including sector, region or local administrations.

5.2 **Clean Technologies** means technological improvements or management practices which will result in improved environmental performance as measured by, for example, lower or less toxic discharges, more efficient use of energy or improved worker health.

5.3 **Competent Authority** means the agency of the Royal Government of Bhutan, as defined in Article 6.4 of the EA Act, 2000, which has the power to issue development consent for a project.

5.4 **Concerned People** means all individuals, groups or communities whose interests may be affected by a project or proposal.

5.5 **Cumulative and large scale environmental effects** are those that are built up incrementally over periods of time, result from the addition and interaction of multiple activities and stresses, and are pervasive, cutting across policy sectors and ecological boundaries.

5.6 **Cultural Heritage** means tradition and culture that should be preserved for future generations.

5.7 **Development Consent** means the approval issued or renewed by a Competent Authority in the form of a license, lease, or permit for land use or construction.

5.8 **EA Act** shall mean the Environmental Assessment Act, 2000.

5.9 **Environment** means the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings.

5.10 **Environmental Assessment** means all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.

5.11 **Environmental Clearance** means the decision under Chapter III of the EA Act, 2000, issued in writing by the Secretariat or the Competent Authority, to let a project proceed, which includes terms to ensure that the project is managed in an environmentally sound and sustainable way.

5.12 **Non-listed Project** means those projects that are not listed in Annex 2 of this regulation.

5.13 **Policy** means a statement of long-term goals or strategies of the Royal Government of Bhutan.

5.14 **Plan** means a coordinated set of programs, based on the political decisions of the Royal Government of Bhutan, intended to achieve specific objectives within a specified time period.

5.15 **Program** means a set of coordinated activities of the Royal Government of Bhutan to achieve specific objectives of a plan.

5.16 **Project** means an activity, which may have significant effects on the environment.

5.17 **Regulation** means the rules adopted pursuant to the powers granted by the EA Act, 2000.

5.18 **Screening** means the determination by the Secretariat or the Competent Authority of how the environmental assessment process under Chapter III of the EA Act, 2000 shall be applied to a project.

5.19 **Sectoral Guidelines** means all guidance documents, including best practices, published by the Secretariat concerning the siting or operation of a set of activities.

5.20 **Significant Project** means a project that is grouped/defined as a category A or B type of project in sectoral guidelines issued by the NEC. Category C and D projects may also be considered significant projects if the cumulative effects of two or more projects are significant.

Environmental Assessment Advisory Board

6. The Head of the Secretariat may establish an Environmental Assessment Advisory Board under Article 38 of the EA Act, 2000.

7. The Head of the Secretariat shall nominate 6 to 10 qualified or knowledgeable persons to become members of the Environmental Assessment Advisory Board. The members may serve in their official or individual capacity.

8. The members of the Board may include:

- ☐ Representatives of Ministries;
- ☐ Representatives of local administrations and municipalities;
- ☐ Representatives of the Bhutan Chamber of Commerce and Industry (BCCI);
- ☐ Representatives of financial institutions;
- ☐ Representatives of commissions, corporations and non governmental organizations;
- ☐ Representatives of the National Assembly;

- ❒ Representatives of National Environment Commission Secretariat and
- ❒ Representatives of local communities affected by the project.

9. The members of the Environmental Assessment Advisory Board shall serve for a period of three years. The member's term may be renewed at the discretion of Chairman of the Board.

10. The Board shall adopt rules and procedures governing its activities.

11. The Head of the Secretariat may nominate not more than 3 individuals to provide expert opinion to the Environmental Assessment Advisory Board for a particular project.

12. The Secretariat shall adopt a schedule of honorariums and reimbursable expenses for the services provided by the members of the Environmental Assessment Advisory Board, which shall be reviewed and updated periodically.

13. The names of the members of the Board shall be published annually.

Reporting

14. After the coming into effect of the EA Act, 2000, the Secretariat and Competent Authorities shall report annually on the implementation and enforcement of the EA Act, 2000 to the National Environment Commission.

15. The report shall contain the following information:

    15.1 A list of application for environmental clearance received and it's status (whether approved, rejected, withdrawn, pending or under appeal giving reasons and justifications for the decisions);

    15.2 How the process of inspection, monitoring and enforcement is or will be carried out; and

    15.3 Public comments received by the Competent Authority for each project.

Chapter II.
The Environmental Assessment of Projects

Environmental Clearance by the Competent Authority

16. A Competent Authority may not issue any development consent for a project until either (a) the Competent Authority issues an environmental clearance for projects listed in Annex 2 to this regulation, or (b) the Secretariat issues an environmental clearance for the project.

17. When the location of a proposed project falls within one or more of the following sensitive areas, the Competent Authority shall require the applicant to acquire the official clearance of concerned agencies before submitting the application to the Secretariat.

    17.1 Within the boundary of a protected area;

    17.2 Within 50 meters distance of a public park, human dwelling, hospital, school or a sacred landscape or site; and

    17.3 Any other sensitive area designated by the Secretariat.

18. Section 17 shall also apply to projects listed in Annex 2.

Environmental Clearance by the Secretariat

19. The Secretariat may issue an environmental clearance to projects not included in Annex 2 and projects that do not require development consent, only after screening and assessing the environmental impacts of such projects under Chapter III of the EA Act, 2000.

20. The Secretariat or Competent Authority shall not issue an environmental clearance that is effective for longer than 5 years. The Secretariat or Competent Authority may renew the environmental clearance if the project is in compliance with the environmental clearance.

28.2 *Minimum Contents of Environmental information*: The environmental information shall contain a short and concise description of the following elements:

a) The potential adverse effects of the project on the environment including the direct, indirect and cumulative effects;

b) How the project complies with relevant sectoral guidelines or code of best practices, if any, issued by the Secretariat or Competent Authorities;

c) How the impacts of the project will be avoided, minimized or reduced; and

d) The environmental benefits of the project, including how the project will benefit concerned people and use clean and sustainable technologies.

28.3 *Modification of Proposal/Application:* If an applicant intends to make a material change to a project including an increase in production capacity or the manner of implementing the project after submission of an environmental application, the application shall be treated as a new application.

28.4 *Determination of Adequacy of the Environmental information:* When the Secretariat or Competent Authority receives an application/proposal for the issuance of environmental clearance, it shall communicate its decision to the applicant in writing within the time limit specified in Annex 1. When the Competent Authority determines that an application is duly completed, it shall accept the application and either proceed with review, if it is a listed project, or forward it to the Secretariat for environmental clearance if it is a non-listed project, or falls under Section 17 of this regulation.

28.5 *Public Notice of Proposal:* After receipt of notice that the application is adequate, the applicant must comply with the minimum requirements for public consultation set forth in Sections 31 of this regulation concerning the environmental application only in case of significant projects.

28.6 *Screening Decision:* The Secretariat or Competent Authority shall screen the application for environmental clearance as per sectoral guidelines and within time limit as per Annex 1. The Secretariat or Competent Authority may issue an environmental clearance for the project on the basis of the environmental application only if the project meets the requirements set forth in Section 25 of this regulation. The environment application may contain terms and conditions consistent with Section 30 of this regulation, otherwise the Secretariat or Competent Authority may ask the applicant to carry out environmental assessment or issue a blanket denial to the project.

28.7 If the Secretariat or Competent Authority requires an environmental assessment or denies the project, a notice of the decision shall be promptly sent to the applicant.

28.8 When a decision on the environmental clearance has been taken, the Secretariat or the Competent Authority shall make a public announcement of the decision and make the information available to the public under Article 28 of the EA Act, 2000.

Environmental Assessment Procedures

29. If the Secretariat or Competent Authority requires the applicant to conduct the environmental assessment, the following provisions shall apply:

29.1 *Terms of Reference:* If the applicant is required to prepare an environmental assessment report, the Applicant shall draw up terms of reference for the report.

29.2 *Preparation and Submission of the Environmental Assessment Report:* The applicant shall prepare an environmental assessment report consistent with the terms of reference approved by the Secretariat or Competent Authority. The environmental assessment report shall, wherever possible, follow the format described in Annex 3 and guidelines issued by Secretariat or Competent Authority.

29.3 *Public Notice of Availability of the Environmental Assessment Report:* The applicant will comply with the public notice requirements in Section 31 of this regulation;

29.4 Within the time limit specified in Annex 1 regarding receipt of complete environmental assessment report and completion of the public notice procedures, the Secretariat or Competent Authority may issue an environmental clearance based on the environmental assessment report.

30. **Environmental clearance terms and conditions:** All environmental clearances must contain terms and conditions adequate to fully protect the environment and satisfy the tests set forth in Section 25 of this regulation. The environmental clearance shall be subject to and contingent upon public noticee in accordance with Section 31 of this regulation and the absence of any appeal within 30 days. At a minimum, the environmental clearance shall specify;

30.1 Binding mitigation and compliance measures; and

30.2 Appropriate monitoring, recording and reporting requirements.

Public Consultation

31 When the applicant must inform and consult concerned people and organizations, the following procedure shall apply to significant projects only:

31.1 Minimum procedures:

a) Written notice to local people.

b) Newspaper notice.

c) Public hearings: Notice of public consultation shall be given at least a week before the meeting in the newspaper, to the head of the local people and the local authorities in writing.

d) The local authorities shall help concerned people express their views to the applicant. The local authorities may represent the community in negotiations with the applicant and shall do their best to ensure that the applicant has paid adequate attention to local concerns. This includes, among other things, making copies of all environmental assessment documents and decisions available to the affected community and open for public inspection.

e) The public and other agencies shall be given at least 3 weeks from the notice of availability of environmental assessment documents to submit comments.

31.2 The Secretariat or Competent Authority may also order the applicant to submit a proposed plan for public consultation that includes public notice and review procedures beyond the minimum requirements described above. The Secretariat or Competent Authority may order changes to the proposed plan in order to ensure:

a) That concerned people and organizations are well-informed, that they are given adequate opportunity to express their views on the project, and that their views are adequately taken into account in the project.

b) When the Secretariat or Competent Authority is satisfied that the public consultation plan ensures that the view of concerned people and organizations are adequately taken into account in the project, it shall approve the plan.

c) The applicant shall immediately inform the Secretariat and Competent Authority of any proposed changes to the implementation of the plan.

d) The Secretariat or the Competent Authority may approve changes to the public consultation plan as long as the condition in this section is satisfied.

31.3 The applicant shall carry out, at its sole expense, the public consultation requirements set forth above.

31.4 The Secretariat or Competent Authority shall review and evaluate implementation of the public consultation process whose comments may be taken into account while taking decision.

31.5 The Secretariat or Competent Authority shall evaluate and verify the findings of public consultation. The decision of the Secretariat or Competent Authority shall be final and binding.

Existing Projects

32. Existing projects: All the projects that are in existence prior to the EA Act, 2000 coming into force shall be granted a maximum of 5 years to bring the project within the purview of the EA Act, 2000.

32.1 All the existing projects shall apply for an environmental clearance to the Secretariat or Competent Authority within1 year from the date of this regulation coming into force.

32.2 Upon receipt of the application for environmental clearance from an existing project, where deemed necessary, a tripartite review comprising the Secretariat, Competent Authority and the applicant will be undertaken. This review will decide whether an environmental assessment is required and determine its scope and the necessary follow-up actions including the time frame.

Chapter III.
Monitoring, Offences, Compliance Orders, Remedies

Monitoring

33. The Secretariat shall conduct compliance monitoring of projects that do not require development consent and may also conduct spot checks for listed projects under Article 44 of the EA Act, 2000.

34. When development consent is issued following the issuance of the environmental clearance by the Secretariat and for listed projects, the Competent Authority shall be responsible for monitoring compliance.

35. An officer who enters property under Articles 44 and 46 of the EA Act, 2000 shall, upon request, provide proof of identity/identification and justification of their action to any person on the site.

Offenses / Warning

36. When the Secretariat or the Competent Authority has reasonable grounds to believe that an offence under Article 49 of the EA Act, 2000 has been committed or is about to be committed, it shall warn the person suspected of the offence in writing.

37. The warning letter shall describe the action or inaction that constitutes the offense, and order them to cease the offense and to take any necessary remedial measures under Article 39.3 and 42 of the EA Act, 2000 within a set time limit. It shall state a deadline for responding to the warning, give the contact details of the responsible official and state that the decision may be appealed under Article 33.4, 60 and 61.

Compliance Orders

38. Failure to comply with Section 37 the Secretariat or Competent Authority may give an opportunity to the person committing an offence to make a compliance agreement and/or impose sanctions under Articles 50-54 of the EA Act, 2000 and Section 43 - 49 of this Regulation.

39. The Secretariat or Competent Authority may give the person receiving the compliance order the opportunity to make a compliance agreement in writing with the head of the Secretariat or Competent Authorities. In this agreement, the holder must undertake to comply with the environmental clearance within the time and on the terms specified in the agreement.

40. The Secretariat or competent authority may issue a separate order concerning:

    40.1 Matters not covered by the agreement;

    40.2 The consequences of non-compliance with the agreement; and

    40.3 Matters covered by the agreement, if additional facts relevant to the agreement were not known to the Secretariat or competent authority at the time of the agreement.

41 A holder, who enters into a voluntary compliance agreement with the Secretariat or competent authority under Section 39 of this regulation and complies fully with the agreement, does not commit an offense under Article 49 of the EA Act, 2000.

Appeals and Legal Challenges

42 The following procedures apply to all appeals and legal challenges of screening decisions and environmental clearance decisions by either the Secretariat or Competent Authority.

    42.1 Any person alleging that the Secretariat or Competent Authority improperly issued a screening decision or environmental clearance shall provide notice of intent to commence legal action within 30 days of public notice of the decision in accordance with Section 31 of this regulation. The notice shall identify in particular why the decision by the Secretariat or Competent Authority is considered improper.

    42.2 The concerned parties to a dispute shall first attempt to settle any dispute amicably and in good faith through informal dialogue. If the parties are unable to informally settle the dispute, the National Environment Commission shall decide whether to hear the dispute and, if so, may conduct an adjudicatory hearing to decide the matter.

42.3 Judicial review: After the concerned parties have exhausted the procedures in section 37 of this regulation, an aggrieved party may appeal to a Court of Law within 30 days of the decision by the National Environment Commission.

Sanctions and Compensation

43. Whoever commits an offense under the EA Act, 2000 may be subject to sanctions, held liable for payment of compensation for environmental damage resulting from their action, as well as subject to prosecution for any related criminal offense.

44. Sanctions under the EA Act, 2000 include suspension or revocation of environmental clearance, in part or in whole, and payment of a fine.

45. Fine Schedule: A fine shall range from five thousand to fifty thousand Ngultrums, depending on the severity of the offence. When the offense is repeated in violation of an order issued under Article 42 of the EA Act, 2000, an additional fine of twenty thousand Ngultrums may be imposed for every day the offense continues after the expiration of the time limit. The amount of fine may be reviewed and revised from time to time.

46. An authorized officer(s) of the Secretariat or Competent Authority may be empowered to levy fine under Section 45 of this regulation.

47. The head of an agency that has been found to commit an offense under Articles 49 and 58 of the EA Act, 2000 shall be subject to administrative sanction as per the Royal Civil Service Commission Rules, 1990.

48. The head of an agency or the Managing Director or owner of a legal entity that has been found to have committed an offense under Articles 49 and 58 of the EA Act, 2000, may be held jointly or severally liable for any damage which occurs as a result of the offense.

49. A sanction for an offence under the EA Act, 2000 does not relieve a person from other liabilities under the law.

ANNEXES 1

Applicable Time Limits

Applicable time limits are subject to submission of correct and complete information based on applicable government regulations and guidelines.

Action Time	Limit
Response by Secretariat/ Competent Authority on the receipt of application. This is simply an acknowledgement of the receipt of the application.	Within 15 days
Review by the Secretariat/Competent Authorities to assess the adequacy of the application as per government rules and guidelines	1 to 3 months
Competent Authority forwards application to Secretariat for non-listed projects* and listed projects if it falls under Section 17 of this regulation.	Within 15 days
Screening of a project will be undertaken to determine the level of environmental assessment required.	1 to 3 months
If screening determines that an Environmental Assessment is required, the level and time frame for the assessment will be determined through negotiations between relevant parties and approved by the Secretariat/ the Competent Authority.	Time frame to be negotiated
Decision/Response on the environmental clearance based on the findings of the Environmental Assessment report.	1 to 3 months
Public notification on decision by the Secretariat/Competent Authority.	Within 15 days
Appeal on the decision.	Within 30 days from the date of publication of public notification
On approval of the clearance, a legal undertaking with the proponent of new projects to comply with the EA Act, 2000	10 days to 1month
Report on the implementation of the EA Act, 2000 to the Royal Government by the Secretariat/ Competent Authority.	Annually

* *Non-listed projects are projects that are not listed in Annex 2 of this regulation.*

ANNEX 2
List of Activities that the Competent Authorities shall Screen and Issue Environmental Clearance

Background:

1) Exercising the powers granted under Article 33.1 of the EA Act, 2000, the responsible Competent Authorities are authorized to screen, issue or deny environmental clearance for the activities and projects listed on the following pages.

2) The Competent Authorities may propose changes to the list of activities and projects in this Annex to the NEC Secretariat, which, in turn may propose changes to the Annex to the National Environment Commission.

3) The Competent Authorities shall not issue environmental clearance to itself even for the listed activities as per Article 37 of the EA Act, 2000. In such case, the NEC Secretariat shall be the Competent Authority.

4) The Competent Authority shall submit to the NEC Secretariat a list of activities and projects that it may have screened and issued environmental clearance for annually.

5) The Competent Authorities shall screen, issue or deny environmental clearance for the listed activities and projects by attaching environmental terms to the development consent (license, lease permit, etc), which may contain applicable codes of best practices.

6) All those activities and projects that do not fall within this list will be subject to screening and review by the NEC Secretariat for environmental clearance.

Purpose of Listed Activities and Projects:

The main purpose of establishing listed activities and projects is to ensure that the environmental review and approval process is properly streamlined to avoid un-necessary delays. A large number of activities for which development consent is issued, are routine in nature. Environmental impacts, if any, are well understood and can be

managed through application of ECOPS (environmental codes of practice), and other environmental conditions attached to the development consent. For these activities, a designated Competent Authority shall have the right to issue or deny environmental clearances.

Modification of the List:

The following list shall be reviewed at least annually. However modifications to the list can be made as needed subject to approval by the National Environment Commission.

Responsibilities of the Competent Authority:

The following list does not abrogate the responsibilities of the Competent Authority as per the EA Act, 2000. The Competent Authority shall ensure that environmental clearances are issued only if activities or projects meet the criteria as per the EA Act, 2000, whether they are listed or not. In addition, whether it is a listed or non-listed activity, local authorities and affected persons must be adequately informed and consulted before according approval(s). Further, in line with the decentralization policy of the Royal Government, Environmental Clearance can only be issued with the administrative approval of the concerned Dzongdag(s).

ANNEX 2

List of Activities that Competent Authorities shall Screen and Issue Environmental Clearances

Competent Authority: Ministry of Trade and Industry

Department of Industry:

1. Automobile services
2. Wooden/steel furniture units
3. Sawmills
4. Printing Press
5. Tyre rethreading activities
6. Stone crushing activities
7. Bakery/confectioneries
8. Oil mills
9. Manufacturing of handmade paper
10. Bricks/hollow blocks manufacturing
11. Fabrication activities
12. Tiles production
13. Poultry farms
14. Carpet production using dyes
15. Textile production using dyes
16. Photo studios
17. Dry cleaning

Department of Trade

1. Operation of Fuel Stations not involving land use changes

Department of Geology and Mines

1. Quarrying/mining activities less than 3 hectares

2. Mineral exploration for verifying mineral deposits
3. Emergency responses to natural disasters/hazards

Competent Authority: Ministry of Communications

National Authority for Construction Standards and Quality Control

1. Road Widening/curve improvement
2. Constructions of urban roads
3. Location of housing colony (Temporary/permanent)
4. Construction of urban drainage
5. Permanent works (retaining walls, breast walls, causeways)
6. Utilities and service lines
7. Road realignment (less than 1 km and not falling within protected areas)
8. River training works
9. Monsoon damage restoration works
10. Bridges

City Corporation

1. Construction of buildings
2. Any other activities within the Municipal boundary duly approved by the government

Competent Authority: Ministry of Agriculture

Department of Forestry Services

1. Surface collection of sand and boulder
2. Allocation of Forest Produces to rural communities outside FMUs
3. Community forestry harvesting
4. Private forestry harvesting
5. Afforestation
6. Reforestation

7. Management and collection of non-wood forest produce
8. All activities within the forest management unit
    a. Road construction
    b. Logging operations
    c. Reforestation
9. Sanitation operations outside and inside the forest management unit

Department of Agriculture

1. Irrigation channels
2. Activities related to agricultural research and development

List of activities not requiring Environmental Clearance

1. Consultancy firms
2. Cinemas not involving land use changes
3. Barber shops
4. Communication services (telephone, TV cable services, etc)
5. Umbrella repairs
6. Nursery seedlings
7. Carpet production without dyes
8. Restaurants
9. Hotels not involving land use changes (taking into account waste disposal)
10. Arts and handicrafts
11. Electronic/electrical repair services
12. Tailoring
13. Candle production
14. Potato chip production
15. Contracts
16. Incense production
17. Jari Production

18. Noodle production
19. Audio visuals
20. Cobbling
21. Training institutes not involving land use changes
22. Desktop publishing
23. Photo studio without developing and printing facilities
24. Indoor games
25. Cycle repairs
26. Beauty parlors
27. Quilt makers
28. Cleaning and forwarding agents
29. Health clubs
30. Tours and travel services
31. Discotheques
32. Textile production without dyes
33. Manufacture of organic fertilizers
34. Road resurfacing
35. Road maintenance
36. Bioengineering
37. Bridge maintenance not involving land use change
38. Road improvement (base course, black topping and permanent works)
39. Construction of buildings (individual residential houses in rural areas)
40. Goods and passenger transport
41. Cottage mills
42. Gold and Black smiths
43. Laundry services
44. Tyre and tube repair services
45. Day care center for children

ANNEX 3

Environmental Assessment Report Format

Unless the Secretariat or Competent Authority has indicated otherwise in agreed terms of reference, the minimum requirements for an environmental assessment report are listed below. In general, the level of detail and analysis required in an environmental assessment report should reflect the potential environmental, economical and social impacts of the proposal. The environmental assessment report must be prepared in reference to the National Environment Commission sectoral guidelines, which list common environmental concerns/issues associated with various development activities. The environmental assessment report shall ordinarily contain the following sections:

1) **Title Page.** The name and location of the project, the name of the proponent, the name, qualification and address of the preparer;

2) **Table of Contents.** The title and page number of all sections, maps, plans, tables, figures, and appendices of the environmental assessment report;

3) **Terms of Reference.** A copy of the Secretariat's or Competent Authority's approved terms of reference for the scope of the environmental assessment and any other determination or document issued by the Secretary for the project.

4) **Summary.** A brief description of the project in clear, non-technical language including:

   a) the name and location of the project;

   b) a brief project description listing in particular any changes made to the project since the review of the previous document;

   c) a list of any development permit or public financial assistance, with a summary of the current status of each application;

   d) a summary of alternatives to the project;

e) a summary of potential environmental impacts of the project; and

f) a list of mitigation measures for the project.

5) **Project Description.** A detailed description and analysis of the nature and location of the project including:

a) the type, size, and proposed use of the project;

b) the objectives and anticipated benefits of the project;

c) a description of the physical characteristics of the project and its surroundings, illustrated with a location map and site plan at an appropriate scale and level of detail; and

d) a timetable, approximate cost, and the methods and timing of construction of the project.

6) **Alternatives to the Project.** A description and analysis of alternatives to the project including:

a) all feasible alternatives, including but not limited to those indicated in the Scope;

b) the alternative of not undertaking the project (i.e., the no-build alternative) for the purpose of establishing a future baseline in relation to which the project and its alternatives can be described and analyzed and its potential environmental impacts and mitigation measures can be assessed;

c) an analysis of the feasible alternatives in light of the objectives of the proponent ;

d) an analysis of the principal differences among the feasible alternatives under consideration, particularly regarding potential environmental impacts;

e) a brief discussion of any alternatives no longer under consideration including the reasons for no longer considering these alternatives; and

f) a brief description of the cleaner technology and environmental management taken into consideration while selecting the equipment and technology.

7) **Existing Environment.** A description and analysis of the physical, biological, chemical, economic, and social conditions of the project site, its immediate surroundings, and the region (in sufficient detail to provide a baseline in relation to which the project and its alternatives can be described and analyzed and its potential environmental impacts and mitigation measures can be assessed) including:

a) topography, geology, and soils;

b) surface and groundwater hydrology and quality;

c) air quality and noise;

d) plant and animal species and habitat;

e) traffic, transit, and pedestrian;

f) scenic qualities, open space and recreational resources;

g) culturally significant sites;

h) the built environment and human use of the project site, such as the infrastructure (i.e., water supply, wastewater treatment and/or disposal, transportation, waste management, etc.), and relevant plans (i.e., local or regional plans or infrastructure investments, economic development, growth planning and open space plans, etc.);

i) rare or unique features (including environmental and social conditions) of the project site and its immediate surroundings .

8) **Assessment of Impacts.** A detailed description and assessment of the negative and positive potential environmental impacts of the project and its alternatives. The environmental assessment report shall assess (in quantitative terms, to the

maximum extent practicable) the direct and indirect potential environmental impacts from all aspects of the project that are within the Scope. The assessment shall include both short-term and long-term impacts for all phases of the project (e.g., acquisition, development, operation and decommissioning) and cumulative impacts of the project, any other projects, and other work or activity in the immediate surroundings and region.

9) **Mitigation Measures.** A description and assessment of physical, biological and chemical measures and management techniques designed to limit negative environmental impacts or to cause positive environmental impacts during development and operation of a project. The environmental assessment report shall specify in detail: the measures to be taken by the proponent to avoid, minimize, and mitigate potential environmental impacts; and the anticipated implementation schedule that shall ensure that mitigation measures shall be implemented prior to or when appropriate in relation to environmental impacts. The environmental assessment report shall also discuss alternatives to the proposed mitigation measures considered by the proponent, noting the relative benefits and costs of these alternative mitigation measures.

10) **Compliance** with relevant sectoral guidelines of best practices promulgated by the Secretariat or Competent Authorities, if any.

11) **Response to Comments.** A response to each comment received on environmental report, unless the Secretariat or Competent Authority has indicated otherwise, the environmental assessment report shall contain a copy of each comment either in this section or in a separate appendix, provided that this section clearly explains the location of each comment and the response to each comment.

12) **Appendices.** A presentation of detailed technical data (e.g., traffic analyses, hydrologic calculations, modeling data), to the extent necessary to keep the main text of the environmental assessment report clear and readable. The main text of the environmental impact assessment shall refer to and summarize any information contained in any appendix.

Regulation on Strategic Environmental Assessment



National Environmental Commission Secretariat
Thimphu, Bhutan

TABLE OF CONTENTS

	Page
Purpose, Definitions and Commencement	**1**
Purpose	1
Scope and Definitions	1-3
Commencement	**3**
Strategic Environmental Assessment	3-4
Duty of Agencies	3
Principles of Strategic Environmental Assessment	**4**
The Environmental Statement	4-5
Compliance	**6**
Monitoring and Assessment	**6**

Purpose, Definitions and Commencement

Purpose

1. The purpose of this regulation is:

   1.1. to ensure that environmental concerns are fully taken into account by all government agencies when formulating, renewing, modifying or implementing any policy, plan or program, including Five-Year developmental plans under Articles 7 and 32.2 of the Environmental Assessment Act, 2000;

   1.2. to ensure that the cumulative and large scale environmental effects are taken into consideration while formulating, renewing, modifying or implementing any policy, plan or program;

   1.3. to complement project specific environmental reviews as per the Regulation for the Environmental Clearance of Projects and to encourage early identification of environmental objectives and impacts of all governmental proposals at appropriate planning levels;

   1.4. to promote the design of environmentally sustainable proposals that encourage the use of renewable resources and clean technologies and practices; and

   1.5. to promote and encourage the development of comprehensive natural resource and land use plans at the local, Dzongkhag and national levels.

Scope and Definitions

2. This regulation shall serve as a broad guideline to be followed by all governmental agencies while formulating, renewing, modifying or implementing any policies,plans,programmes and Five-Year developmental plans, which may have significant impacts on the environment.

3. For the purpose of this regulation:

3.1. **Agency** means a ministry, department, municipality established under the Bhutan Municipal Act, 1999 or any autonomous public body of the Royal Government of Bhutan, including sector, regional or local administrations.

3.2. **Cumulative and large scale environmental effects** are those that are built up incrementally over periods of time, result from the addition and interaction of multiple activities and stresses, and are pervasive, cutting across policy sectors and ecological boundaries.

3.3. **Environment** means the complex web of interrelationships between the abiotic and biotic components, which sustains life on earth, including the social, health and cultural aspects of human beings.

3.4. **Environmental Assessment** means all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.

3.5. **Environmental Clearance** means the decision under Chapter III of the EA Act 2000, issued in writing by the Secretariat/Agency, to let a project proceed, which includes terms to ensure that the project is managed in an environmentally sound and sustainable way.

3.6. **Environmental Statement** means the written documentation after evaluating the environmental consequences, including cumulative impacts, of a proposed policy, plan or program including Five-Year developmental plans. It may be a separate report or part of a proposal.

3.7. **Monitoring** means a program of systematic, objective and quantitative measurements, observations and reporting of projects that may have environmental impacts.

3.8. **Project** means an activity, which may have significant impacts on the environment.

6. Any agency that formulates, renews, modifies or implements any policy, plan or program including Five-Year developmental plans which may have a significant impact on the environment shall include financial provisions to carry out environmental assessments and mitigation measures where deemed necessary; and

7. All agencies shall establish an environmental unit/focal person to ensure full compliance with this regulation.

Principles of Strategic Environmental Assessment

8. Strategic assessments of the environmental implications of policies, plans and programs including Five-Year developmental plans shall be based on the following principles:

8.1. Early identification and integration of environmental concerns and goals in governmental planning and decision-making;

8.2. Consideration of all feasible alternatives to the agency's proposal, including the alternative of taking no action;

8.3. Openness and transparency in Government decision-making;

8.4. Documentation and assessment of results of the Strategic Environmental Assessment;

8.5. Open access to information generated or compiled by the agency; and

8.6. Accountability to the public and the Royal Government of Bhutan.

The Environmental Statement

9. When a Strategic Environmental Assessment is required, the agency shall include an environmental statement in the draft of the proposal.

10. The environmental statement shall contain a clear and concise description of:

10.1. The proposal and its policy objectives;

10.2. The anticipated adverse environmental effects of the proposal, including direct, indirect and cumulative effects;

10.3. Feasible alternatives to the proposal, including the alternative of taking no action, and a comparison of the environmental effects of these alternatives;

10.4. Feasible methods to avoid, minimize or mitigate adverse environmental effects of the proposal;

10.5. The potential overall effect on the environment assuming the successful implementation of described impact avoidance and mitigation measures;

10.6. How the proposal complies with relevant guidelines, if any, published by the Secretariat or any other Agency;

10.7. The environmental benefits of the proposal and how the proposal advances the Government's objectives of: (a) sustainable development; (b) environmental protection; (c) preservation of cultural heritage; (d) use of clean technologies; and e) economic benefits; and

10.8. Commitments for avoidance and mitigation of environmental effects and mechanisms for future monitoring and assessment.

11. The Secretariat may issue further guidelines on strategic environmental assessment tools and procedures.

12. All policies, plans and programs including Five-Year developmental plans shall contain an environmental statement or incorporate it by reference. The information included in the Environmental Statement prepared pursuant to Sections 10 shall be in such detail as may reasonably be required for the purpose of assessing the significant direct and indirect effects of implementing the policy, plan or program including Five-Year developmental plans on humans, fauna, flora, soil, water, air, climate, landscape, material assets and cultural heritage.

Compliance

13. The Planning Commission, in consultation with the Secretariat, shall issue necessary guidelines to ensure the incorporation of Strategic Environmental Assessment in the formulation of policies, plans and programs including Five-Year developmental plans by all the agencies of the Royal Government of Bhutan.

Monitoring and Assessment

14. Where a policy, plan or program including Five-Year developmental plans may have significant negative effects on the environment, it shall include a system for monitoring and mitigating such effect.

15. All Agencies shall monitor and assess the environmental effects of the policy, plan or program including Five-Year developmental plans at regular intervals, and shall take the results of the assessment into account in future planning process.