

DEPARTMENT OF WATER AND SANITATION
NOTICE 1027 OF 2015

REGULATIONS ON AFFORESTATION GENUS EXCHANGES IN TERMS OF THE NATIONAL WATER ACT, 1998 (ACT NO.36 OF 1998)

I, Nomvula Mokonyane, Minister of Water and Sanitation, duly authorised thereto under section 26(1)(g) and section 69(1)(a) of the National Water Act, 1998 hereby publish in the Government Gazette, for public comment the draft regulations requiring the authorisation of afforestation genus exchanges in order to protect water resources, instream or riparian habitat.

Interested persons who wish to submit written representations or comments in connection with the draft regulations are invited to do so within 60 calendar days of the date of publication of this notice. All representations and comments must be submitted in writing to Mr. Xolani Hadebe, Directorate: Compliance Monitoring-Afforestation, Department of Water and Sanitation, Private Bag x 313, Pretoria, 0001; Fax No. (012) 336 6836; email sfra@dws.gov.za.



NOMVULA PAULA MOKONYANE
MINISTER OF WATER AND SANITATION

Date: 01.07.15

SCHEDULE

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context indicates otherwise:-

“afforestation or plantation” means the cultivation of a group of trees for exploitation of, amongst others, its wood, bark, leaves or essential oils, but excluding plantations which serve as windbreaks;

“afforestation permit” means any authorisation lawfully issued by the relevant authorities for purposes of afforestation between 1972 – 1998 in terms of section 7(1) of the Forest Act, 1984 (Act No. 122 of 1984) or any other appropriate legislation;

“applicant” means a person applying for genus exchange under these regulations;

“area exchanges” refers to an application process followed to change the authorised location of a compartment to a new location mostly due to the ecological sensitivity of the original location;

“genus exchange” means a change in the lawful genus;

“delineated watercourses” include determining the edge of watercourses according to the document “A practical field procedure for identification and delineation of wetlands and riparian areas”;

“genus (or genera)” means a specific taxonomic grouping of plant species, for example, *Acacia* spp, *Eucalyptus* spp. and *Pinus* spp. all belonging to distinct genera;

“jungle” means stands or patches of uncontrolled, unmanaged self-sown alien trees from the *Acacia*, *Eucalyptus* and *Pinus* genera;

“Stream Flow Reduction Activity water use licence” means a water use licence issued for afforestation in terms of section 21(d) of the National Water Act, 1998 (Act No. 36 of 1998);

“watercourse buffer zone” means an unplanted area between watercourses and plantation, with a minimum width of 20m or as specified in water use licence conditions, measured from the edge of the delineated watercourses; and

“windbreak” means a protective belt, comprised of a row of trees used to break the force of wind.

2. Scope of Regulations

These regulations apply to all afforestation water users but subject to the provisions of regulation 7.

3. Application for authorisation of genus exchange

Any existing afforestation water user who is planning to exchange the genus of their plantation or part thereof, must apply to the responsible authority for authorisation to implement the proposed exchange.

4. Principles of genus exchanges

- (1) The Department must determine the exchange ratio making use of the best available researched information on the water use of the different genera at quinary or quaternary catchment level.
- (2) A genus exchange may not result in an increase in the existing lawful water use of the property. These Regulations allow only for an exchange in the authorised genus of an equal area or a reduced area of the existing lawful afforestation area based on the water use of the different genera. This means that:-
 - (a) An exchange to a higher water using genus will therefore result in the amendment of the original authorisation resulting in a proportionally smaller area (hectares) to be planted.
 - (b) Exchanges to a lower water using genus may not increase the planted area (hectares) unless authorised in a water use licence.
- (3) Both total flow and low flow reductions must be considered in determining the amendment in the planted area.
- (4) These regulations permit the Department to amend the authorised genus and hectares of an existing lawful afforestation use without amending the existing lawful water allocation of the use.
- (5) A resulting unplanted area-
 - (a) must be rehabilitated to a standard-
 - (i) where all weeds, invader plants, regrowth and jungles are continuously controlled;
 - (ii) where soil erosion is prevented; and
 - (iii) where sedimentation of watercourses are prevented;
 - (b) would no longer be considered as land authorised for afforestation water use; and
 - (c) should ideally be located next to watercourses in order to consolidate open areas and to increase watercourse buffers.

5. Procedure for genus exchange

- (1) An application for genus exchange must be made in the prescribed form to the responsible authority at his or her address or fax number or electronic mail address.
- (2) The form for genus exchange prescribed for the purposes of subregulation (1) must at least require the applicant concerned to provide the following information to enable the responsible authority to make an informed decision:
 - (a) Information regarding the lawfulness of the afforestation.
 - (b) A current map with numbered compartments indicating the property portion boundaries (preferably a scale of 1:10 000) and compartment list (ha and genus) of the property/ plantation.
 - (c) Electronic shape file of currently planted area.

- (d) Proof of the public participation process followed, if required under subregulation (3).
 - (e) A management plan for the rehabilitation of cleared areas as described in regulation 4(5).
- (3) In all provinces, where Stream Flow Reduction Activity Licence Assessment Advisory Committees are not functional, the water user must obtain comment on the genus exchange from affected organs of state.
- (4) A responsible authority may, at any stage of the application process, require the applicant-
 - (a) to give suitable notice in newspapers and other media-
 - (i) describing the genus exchange applied for;
 - (ii) stating that written objections may be lodged against the application before a specified date, which must be not less than 60 days after the last publication of the notice;
 - (iii) giving an address where written objections must be lodged; and
 - (iv) containing such other particulars as the responsible authority may require;
 - (b) to take such other steps as it may direct to bring the application to the attention of relevant organ of state, interested persons and the general public; and
 - (c) to satisfy the responsible authority that the interests of any other person having an interest in the genus exchange will not be adversely affected.

6. Record-keeping and disclosure of information

- (1) The registered water user must ensure that the following information is available to the Responsible Authority at all reasonable times:
 - (a) Information regarding the lawfulness of the afforestation water use before a genus exchange.
 - (b) Written confirmation from the relevant authorities authorising a genus exchange.
- (2) The responsible authority may require a water user, at the water user's own cost, to provide it with proof of compliance with the provisions of subregulation (1)(a) and (1)(b).

7. Matters excluded from regulations

- (1) The following matters are excluded from these regulations:
 - (a) The allocation of additional water.
 - (b) The authorisation of wattle or other genus jungles.
 - (c) Genus exchanges from *Eucalyptus*, *Pinus* or any other genera to *Acacia* species.
 - (d) Area exchanges.

8. Revocation of authorisations

The responsible authority may, within a reasonable period, revoke any approval given in terms of these regulations if the approval is found to have been made on false or misleading information provided by the water user.

9. Offences and penalties

A water user, who negligently or intentionally contravenes, fails to comply or comply inadequately with these regulations or with any directive issued in terms of section 53 of the Act, shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.

10. Commencement

These regulations shall come into effect on the date of publication thereof in the Gazette.

Annexure A - Application form

[illegible][illegible]

(OFFICIAL USE) (GE table 5) Genus water use determination							
Quat	Current genus & proposed hectare exchange	Gush median total flow (mm)	Total volumetric water use of current genus (area proposed for exchange) (mm x ha x 10 = m ³)	Gush median low flow (mm)	Proposed genus (determination based on proposed hectare exchange)	Gush median total flow (mm)	Total volumetric water use of proposed genus (area proposed for exchange) (m ³)
Eg. X13F	Pine - 10ha	97.1	9710 m ³	2.7	270 m ³	140.5	14050 m ³

(OFFICIAL USE) (GE table 6) Genus exchange ratio			
Quaternary catchment Eg. X13F	Current genus Pine	Proposed genus Eucalyptus	Low flow reduction ratio
			1:0.375

Applicant:
(Signature)

Technician:
(Print name and signature)

DWS date stamp (application received)	Approved/ Not Approved
	Provincial Head: (Signature) Date: (Signature)

Assessment reviewed and approved by:
(Print name & signature)
Date: