

- (c) to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands.

### **Process**

44. (1) If a competent authority intends amending an environmental authorisation in terms of regulation 43, the competent authority must first—

- (a) notify the holder of the environmental authorisation, in writing, of the proposed amendment;
- (b) give the holder of the environmental authorisation an opportunity to submit representations on the proposed amendment, in writing; and
- (c) if necessary, conduct a public participation process as referred to in regulation 54 or any other public participation process that may be appropriate in the circumstances to bring the proposed amendment to the attention of potential interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity.

(2) The process referred to in subregulation (1) must afford an opportunity to—

- (a) potential interested and affected parties to submit to the competent authority written representations on the proposed amendment; and
- (b) the holder of the environmental authorisation to comment on any representations received in terms of paragraph (a) in writing.

(3) Subregulation (1)(c) need not be complied with if the proposal is to amend the environmental authorisation in a non-substantive way.

### **Decision**

**45.** (1) The competent authority must, within 30 days of completing the actions in regulation 44(1), reach a decision to amend or not amend the environmental authorisation.

(2) Within 30 days of completion of the process contemplated in regulation 44 and where the competent authority decides to amend the environmental authorisation, the competent authority must issue an amendment to the environmental authorisation either by way of a new environmental authorisation or an addendum to the relevant environmental authorisation.

(3) On having made a decision, the competent authority must in writing and within 2 days—

- (a) notify the holder of the environmental authorisation of the decision;
- (b) give reasons for the decision to the holder of the environmental authorisation; and
- (c) draw the attention of the holder of the environmental authorisation to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of these Regulations, if such appeal is available in the circumstances of the decision.

(4) The competent authority must, in writing, within 12 days of the date of the decision—

- (a) notify all registered interested and affected parties, if any, of—
  - (i) the decision;
  - (ii) the reasons for the decision;
- (b) draw the attention of all registered interested and affected parties, if any, to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of these Regulations, if such appeal is available in the circumstances of the decision, and
- (c) draw the attention of all registered interested and affected parties, if any, to the manner in which they could access the decision.

***Part 3: Amendment of environmental management programme*****Amendment of environmental management programme**

**46.** (1) The competent authority may, on own initiative or upon application, amend an environmental management programme if it is necessary or desirable—

- (a) to prevent deterioration or further deterioration of the environment;
- (b) to achieve prescribed environmental standards;
- (c) to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands;
- (d) to ensure compliance with the conditions of the environmental authorisation;
- (e) in order to assess the continued appropriateness and adequacy of the environmental management programme; or
- (f) when an environmental management programme is in conflict with the principles set out in the Act

(2) An application contemplated in subregulation (1) must be in writing and must be supported by the necessary motivation.

(3) A competent authority must acknowledge receipt of an application for amendment within 14 days.

- (4) (a) If a competent authority initiates the amendment of an environmental management programme, the competent authority must first—
  - (i) notify the holder of the environmental management programme, in writing, of the proposed amendment;
  - (ii) give the holder of the environmental management programme an opportunity to submit representations on the proposed amendment, in writing; and
  - (iii) where appropriate, conduct a public participation process as referred to in regulation 54 or any other public participation process that may be appropriate in the circumstances to bring the proposed amendment

to the attention of potential interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity.

- (b) The process referred to in subregulation (4)(a) must, where applicable, afford an opportunity to—
  - (i) potential interested and affected parties to submit to the competent authority written representations on the proposed amendment; and
  - (ii) the holder of the environmental management programme to comment on any representations received in terms of paragraph (a) in writing.
- (c) Subregulations (4)(a)(iii) and (b) need not be complied with if the proposal to amend the environmental management programme is for a non-substantive amendment.

(5) (a) If the holder of an environmental authorisation applies for the amendment of an environmental management programme, such holder must first, where appropriate, conduct a public participation process as referred to in regulation 54 or any other public participation process that may be appropriate in the circumstances to bring the proposed amendment to the attention of potential interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity.

- (b) Subregulation (a) need not be complied with if the application to amend the environmental management programme is for a non-substantive amendment.

(6) The competent authority must, within 30 days of receiving all information and, where applicable, completing all prescribed processes —

- (a) in the case of an application to amend an environmental management programme that was approved in terms of the Act through the issuing of an environmental authorisation, refuse the application or approve the application by issuing an addendum to the relevant environmental authorisation; or
- (b) in the case of an application to amend an environmental management programme that was approved in terms of the Minerals and Petroleum Resources Development Act, refuse or approve the application to amend the environmental management programme and communicate the decision in writing to the holder of the prospecting, mining, reconnaissance, exploration or production right or permit.

(7) Where an environmental management programme was amended, the competent authority must in writing and within 2 days—

- (a) notify the holder of the environmental management programme of the amendment;
- (b) give reasons for the amendment to the holder of the environmental management programme; and
- (c) draw the attention of the holder of the environmental management programme to the fact that an appeal may be lodged against the amendment in terms of Chapter 7 of these Regulations, if such appeal is available in the circumstances of the decision.

(8) Where the amendment was initiated by the competent authority and where a public participation process was undertaken as per subregulation (4)(a)(iii), the competent authority must, in writing, within 12 days of the date of the amendment—

- (a) notify all registered interested and affected parties of—
  - (i) the amendment;
  - (ii) the reasons for the amendment;
- (b) draw the attention of all registered interested and affected parties to the fact that an appeal may be lodged against the amendment in

terms of Chapter 7 of these Regulations, if such appeal is available in the circumstances of the decision, and

- (c) draw the attention of all registered interested and affected parties to the manner in which they could access the amendment.

(9) Where the amendment was applied for by the holder of the environmental management programme and where a public participation process was undertaken as per subregulation (5)(a), the applicant or EAP must, in writing, within 12 days of the date of the amendment—

- (a) notify all registered interested and affected parties of—
  - (i) the amendment;
  - (ii) the reasons for the amendment;
- (b) draw the attention of all registered interested and affected parties to the fact that an appeal may be lodged against the amendment in terms of Chapter 7 of these Regulations, if such appeal is available in the circumstances of the decision, and
- (c) draw the attention of all registered interested and affected parties to the manner in which they could access the amendment.

#### ***Part 4: Suspension of environmental authorisation***

##### **Suspension of environmental authorisation**

47. (1) The competent authority may by written notice, providing the reasons for the suspension, to the holder of an environmental authorisation suspend with immediate effect an environmental authorisation which may or may not be the subject of proceedings in terms of this Part if—

- (a) there are reasonable grounds for believing that the contravention or non-compliance with a condition of the authorisation is causing harm to the environment; or
- (b) suspension of the authorisation is necessary to prevent harm or further harm to the environment; or
- (c) a condition of the authorisation has been contravened or is not being complied with;
- (d) the authorisation was obtained through—

- (i) fraudulent means; or
- (ii) the misrepresentation or non-disclosure of material information; or
- (e) the activity has permanently or indefinitely been discontinued; or
- (f) unforeseen circumstances lead to potential significant detrimental effects on the environment or on human rights.

### **Suspension procedures**

**48.** (1) If the competent authority considers the suspension of an environmental authorisation, the competent authority must—

- (a) notify the holder of the authorisation, in writing, of the proposed suspension and the reasons why suspension of the authorisation is considered;
- (b) give the holder of the authorisation an opportunity—
  - (i) to comment on any environmental audit report submitted to or obtained by the competent authority in terms of regulation 69(2); and
  - (ii) to submit any representations on the proposed suspension which the holder of the authorisation wishes to make.

(2) Subregulation (1)(a) and (b) may be complied with either before or after a suspension.

(3) Subregulation 1(a) and (b) may be complied with after a suspension only where suspension of the authorisation is necessary to prevent harm or further harm to the environment or where the procedures contemplated in subregulation 1(a) or (b) will defeat the purpose of the suspension.

### **Decision**

**49.** (1) Upon having reached a decision on whether or not to suspend the environmental authorisation, the competent authority must notify the holder of the authorisation of the decision in writing.

(2) If the decision is to suspend the environmental authorisation, the competent authority must—

- (a) give to the holder of the authorisation the reasons for the decision; and
- (b) draw the attention of the holder of the environmental authorisation to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of these Regulations, if such appeal is available in the circumstances of the decision.

(3) The provisions of this Part do not affect the institution of criminal proceedings against the holder of an environmental authorisation in terms of section 24F(2) of the Act.

## CHAPTER 5

### EXEMPTION FROM PROVISIONS OF REGULATIONS

#### **Applications for exemption**

50. Any person to whom a provision of these Regulations applies may, subject to the provisions of section 24M of the Act, apply to the Minister or the MEC, or the Minister of Mineral Resources, where appropriate, for an exemption from any provision of the Act as it relates to environmental impact assessment or from any provision of these regulations.



**Submission of application**

51. (1) An application in terms of regulation 50 must be in writing, and must be accompanied by—

- (a) an explanation of the reasons for the application;
- (b) any applicable supporting documents; and
- (c) the prescribed application fee, if any.

(2) The Minister, MEC or Minister of Mineral Resources where appropriate must, within 14 days of receipt of an application, acknowledge receipt of the application in writing.

(3) The applicant or EAP must communicate his or her intention to apply for exemption in terms of regulation 50 by giving notice in the manner prescribed in subregulation 54(2)(a), (b), (c) or (d) or a combination thereof which is appropriate in the circumstances and as agreed to with the Minister, MEC or Minister of Mineral Resources, to the land owner or person in control of the land and all potential or registered interested and affected parties, as the case may be.

(4) The notice contemplated in subregulation (3), must, as a minimum, contain—

- (a) the provisions from which exemption is applied for;
- (b) the manner in which and the person to whom comments on the application for such exemption must be submitted; and
- (c) the date on which comments on the application for exemption must be submitted.

**Consideration of application**

52. (1) Upon receipt of an application in terms of regulation 50, the Minister or MEC or Minister of Mineral Resources, where appropriate, may request the applicant to furnish additional information or may advise the applicant of any matter that may prejudice the success of the application.

(2) The Minister, MEC or Minister of Mineral Resources must consider the application, additional information, if such information was submitted in terms of subregulation (1), and any comments and reach a decision within 30 days of receipt of all information, except where an application for exemption relates to an action to be taken after the granting or refusal of the environmental authorisation, in which case the decision on the exemption and environmental authorisation may be combined.

### **Decision on application**

**53.** (1) On having reached a decision on whether to grant or refuse the application, the Minister, MEC or Minister of Mineral Resources, where appropriate, must comply with regulation 10.

(2) If an application is approved, the Minister, MEC or Minister of Mineral Resources, where appropriate, must issue a written exemption notice to the applicant, stating—

- (a) the name, address and telephone number of the person to whom the exemption is granted;
- (b) the provision of these Regulations from which exemption is granted;
- (c) the conditions subject to which exemption is granted, including conditions relating to the transfer of the written exemption notice; and
- (d) the period for which exemption is granted, if the exemption is granted for a period.

## **CHAPTER 6**

### **PUBLIC PARTICIPATION PROCESS**

#### **Public participation process**

**54.** (1) This regulation only applies in instances where adherence to the provisions of this regulation is specifically required.

(2) The person conducting a public participation process must take into account any guidelines applicable to public participation as

contemplated' in section 24J of the Act and must give notice to all potential interested and affected parties of the application which is subjected to public participation by—

- (a) fixing a notice board at a place conspicuous to the public at the boundary or on the fence of—
  - (i) the site where the activity to which the application relates is or is to be undertaken; and
  - (ii) any alternative site mentioned in the application;
- (b) giving written notice to—
  - (i) the owner or person in control of that land if the applicant is not the owner or person in control of the land;
  - (ii) the occupiers of the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken;
  - (iii) owners and occupiers of land adjacent to the site where the activity is or is to be undertaken or to any alternative site where the activity is to be undertaken;
  - (iv) the municipal councillor of the ward in which the site or alternative site is situated and any organisation of ratepayers that represent the community in the area;
  - (v) the municipality which has jurisdiction in the area;
  - (vi) any organ of state having jurisdiction in respect of any aspect of the activity; and
  - (vii) any other party as required by the competent authority;
- (c) placing an advertisement in—
  - (i) one local newspaper; or
  - (ii) any official *Gazette* that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these Regulations;
- (d) placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or local municipality in which it is or will be undertaken: Provided that this paragraph need not be complied with if an advertisement has

been placed in an official *Gazette* referred to in subregulation (c)(ii); and

- (e) using reasonable alternative methods, as agreed to by the competent authority, in those instances where a person is desiring of but unable to participate in the process due to—
  - (i) illiteracy;
  - (ii) disability; or
  - (iii) any other disadvantage.

(3) A notice, notice board or advertisement referred to in subregulation (2) must—

- (a) give details of the application which is subjected to public participation; and
- (b) state—
  - (i) that the application has been submitted to the competent authority in terms of these Regulations, as the case may be;
  - (ii) whether basic assessment or scoping procedures are being applied to the application, in the case of an application for environmental authorisation;
  - (iii) the nature and location of the activity to which the application relates;
  - (iv) where further information on the application or activity can be obtained; and
  - (vi) the manner in which and the person to whom representations in respect of the application may be made.

(4) A notice board referred to in subregulation (2) must—

- (a) be of a size at least 60cm by 42cm; and
- (b) display the required information in lettering and in a format as may be determined by the competent authority.

(5) Where deviation from subregulation (2) may be appropriate, the person conducting the public participation process may deviate from

the requirements of that subregulation to the extent and in the manner as may be agreed to by the competent authority.

(6) Where a basic assessment report, scoping report or environmental impact assessment report as contemplated in regulations 22, 28 and 31 respectively is amended because it has been rejected or because of a request for additional information by the competent authority, and such amended report contains new information, the amended basic assessment report, scoping report or environmental impact assessment report must be subjected to the processes contemplated in regulations 21, 27 and 31, as the case may be, on the understanding that the application form need not be resubmitted.

(7) When complying with this regulation, the person conducting the public participation process must ensure that—

- (a) information containing all relevant facts in respect of the application is made available to potential interested and affected parties; and
- (b) participation by potential interested and affected parties is facilitated in such a manner that all potential interested and affected parties are provided with a reasonable opportunity to comment on the application.

(8) Unless justified by exceptional circumstances, as agreed to by the competent authority, the applicant and EAP managing the environmental assessment process must refrain from conducting any public participation process during the period of 15 December to 2 January.

#### **Register of interested and affected parties**

55. (1) An EAP managing an application must open and maintain a register which contains the names, contact details and addresses of—

- (a) all persons who, as a consequence of the public participation process conducted in respect of that application in terms of

- regulation 54, have submitted written comments or attended meetings with the applicant or EAP;
- (b) all persons who, after completion of the public participation process referred to in paragraph (a), have requested the applicant or the EAP managing the application, in writing, for their names to be placed on the register; and
  - (c) all organs of state which have jurisdiction in respect of the activity to which the application relates.

(2) An EAP managing an application must give access to the register to any person who submits a request for access to the register in writing.

**Registered interested and affected parties entitled to comment on submissions**

56. (1) A registered interested and affected party is entitled to comment, in writing, on all written submissions, including draft reports made to the competent authority by the applicant or the EAP managing an application, and to bring to the attention of the competent authority any issues which that party believes may be of significance to the consideration of the application, provided that—

- (a) comments are submitted within—
  - (i) the timeframes that have been approved or set by the competent authority; or
  - (ii) any extension of a timeframe agreed to by the applicant or EAP;
- (b) a copy of comments submitted directly to the competent authority is served on the EAP; and
- (c) the interested and affected party discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.

(2) Before the EAP managing an application for environmental authorisation submits a final report compiled in terms of these

Regulations to the competent authority, the EAP must give registered interested and affected parties access to, and an opportunity to comment on the report in writing.

- (3) The report referred to in subregulation (2) include—
- (a) basic assessment reports;
  - (b) basic assessment reports amended and resubmitted in terms of regulation **24 (4)**;
  - (c) scoping reports;
  - (d) scoping reports amended and resubmitted in terms of regulation **30(3)**;
  - (e) specialist reports and reports on specialised processes compiled in terms of regulation **32**;
  - (f) environmental impact assessment reports submitted in terms of regulation **31**;
  - (g) environmental impact assessment reports amended and resubmitted in terms of regulation **34(4)**; and
  - (h) draft environmental management programmes compiled in terms of regulation **33**.

(4) The draft versions of reports referred to in subregulation (3) must be submitted to the competent authority prior to awarding registered interested and affected parties an opportunity to comment.

(5) Registered interested and affected parties must submit comments on draft reports contemplated in subregulation (4) to the EAP, who should record it in accordance with regulations **21, 28** or **31**.

(6) Registered interested and affected parties must submit comments on final reports contemplated in subregulation (3) to the competent authority and provide a copy of such comments to the applicant or EAP.

(7) The competent authority must, in order to give effect to section 240 of the Act, on receipt of the draft reports contemplated in subregulation (5), request any State department that administers a law relating to a matter affecting the environment to comment within 40 days.

(8) The timeframe of 40 days as contemplated in subregulation (7) must be read as 60 days in the case of waste management activities as contemplated in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), on which the Department of Water Affairs must concur and issue a record of decision in terms of section 49(2) of the National Environmental Management: Waste Management Act, 2008 (Act No. 59 of 2008).

(9) (a) When a State department is requested by the competent authority to comment, such State department must, within 40 days or in the case of Department of Water Affairs, 60 days for waste management activities, of being requested to comment by the competent authority, provide comments to the competent authority.

(b) If a State department fails to submit comments within 40, or 60 days for waste management activities, from the date on which the Minister, MEC, Minister of Mineral Resources or identified competent authority requests such State department in writing to submit comment, it will be regarded that there are no comments.

**Comments of interested and affected parties to be recorded in reports submitted to competent authority**

57. (1) The EAP managing an application for environmental authorisation must ensure that the comments of interested and affected parties are recorded in reports and that such written comments, including records of meetings, are attached to the report, submitted to the competent authority in terms of these Regulations.



- (2) Where a person is desiring but unable to access written comments as contemplated in subregulation (1) due to—
- (i) a lack of skills to read or write;
  - (ii) disability; or
  - (iii) any other disadvantage,
- reasonable alternative methods of recording comments must be provided for.

## **CHAPTER 7 APPEALS**

### **Application of this Chapter**

- 58.** (1) This Chapter applies to decisions that—
- (a) are subject to an appeal to the Minister or MEC in terms of section 43 (1) or (2) of the Act; and
  - (b) were taken by an organ of state acting under delegation in terms of section 42 or 42A of the Act in the exercise of a power or duty vested by the Act or these Regulations in a competent authority.

(2) No appeal in terms of this Chapter is available if the Minister or MEC took decisions themselves in their capacity as the competent authority for the application for an environmental authorisation.

### **Jurisdiction of Minister and MEC to decide appeals**

- 59.** An appeal must be decided as provided for in section 43 of the Act.

### **Notice of intention to appeal**

- 60.** (1) A person affected by a decision referred to in these regulations who wishes to appeal against the decision, must submit a notice of intention to appeal with the Minister, MEC, or delegated organ of state, as the case may be, within 20 days after the date of the decision.

(2) If the appellant is an applicant, the appellant must provide each person and organ of state which was a registered interested and affected party in relation to the applicant's application, within 10 days of having submitted the notice contemplated in subregulation (1), with—

- (a) a copy of the notice referred to in subregulation (1); and
- (b) a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister or MEC and where and for what period the appeal submission will be available for inspection by such person or organ of state.

(3) If the appellant is a person other than an applicant, the appellant must provide the applicant, within 10 days of having lodged the notice contemplated in subregulation (1), with—

- (a) a copy of the notice referred to in subregulation (1); and
- (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.

(4) The Minister, MEC or designated organ of state, may, as the case may be, in writing, on good cause extend the period within which a notice of intention to appeal must be submitted.

#### **Submission of appeal**

**61.** (1) An appeal lodged must be submitted to the appeal authority as indicated in section 43 of the Act.

(2) An appeal must be—

- (a) submitted in writing; and
- (b) accompanied by—
  - (i) a statement setting out the grounds of appeal;
  - (ii) supporting documentation which is referred to in the appeal and which is not in the possession of the Minister, MEC, Minister of Mineral Resources or designated organ of state;
  - (iii) a statement by the appellant that regulation 60(2) or (3) has

- been complied with together with copies of the notices referred to in that regulation; and
- (iv) the prescribed appeal fee, if any.

(3) The appellant must take into account any guidelines applicable to appeals as contemplated in section 24J of the Act.

#### **Time within which appeal must be lodged**

**62.** (1) An appeal as contemplated in regulation 61(1), must be submitted within 30 days after the lapsing of the 20 days contemplated in regulation 60(1).

(2) The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may, in writing, on good cause extend the period within which an appeal must be submitted.

#### **Responding statement**

**63.** (1) A person or organ of state that receives a notice in terms of regulation 60(2), or an applicant who receives a notice in terms of regulation 60(3), may submit to the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, a responding statement within 30 days from the date the appeal submission was lodged with the Minister, MEC or Minister of Mineral Resources.

(2) (a) A person, organ of state or applicant who submits a responding statement in terms of subregulation (1), must within 10 days of having submitted the responding statement, serve a copy of the statement on the appellant.

(b) If the responding statement introduces any new information not dealt with in the appeal submission of the appellant, the appellant is entitled to submit an answering statement to such new information to the Minister, MEC, Minister of Mineral Resources or

designated organ of state, as the case may be, within 30 days of being served a copy in accordance with subregulation (2)(a).

(c) The appellant must, within 10 days of having submitted the answering statement, serve a copy of the answering statement on the respondent who submitted the new information.

(3) The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may, in writing, on good cause extend the period within which responding statements in terms of subregulation (1) or an appellant's answering statement in terms of subregulation (2)(b) must be submitted.

#### **Processing of appeal**

64. (1) Receipt by the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, of an appeal, responding statement or answering statement must be acknowledged within 10 days of receipt of the appeal, responding statement or answering statement.

(2) An appellant and each respondent is entitled to be notified of—

- (a) a direction in terms of section 43(7) of the Act, if the Minister, MEC or delegated organ of state, as the case may be, issues such a direction; and
- (b) the appointment of an appeal panel in terms of section 43(5) of the Act, if the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, appoints an appeal panel for purposes of the appeal.

(3) The Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, may request the appellant or a respondent to submit such additional information in connection with

the appeal as the Minister, MEC or Minister of Mineral Resources may require.

### **Appeal panel**

**65.** (1) If the Minister, MEC or the Minister of Mineral Resources appoints an appeal panel, the Minister, MEC or Minister of Mineral Resources must furnish the panel with a written instruction concerning—

- (a) the issues in respect of which the panel must make recommendations; and
- (b) the period within which recommendations must be submitted to the Minister, MEC or Minister of Mineral Resources.

(2) A member of an appeal panel must be independent.

(3) If an appeal panel introduces any new information not dealt with in the appeal submission of the appellant or in the statements of the respondents, the appellant, each respondent and the applicant, if that applicant is not the appellant nor a respondent, are entitled to submit to the panel, within a period determined by the panel, any additional statements rebutting or supporting such new information.

(4) An appeal panel must submit its recommendations to the Minister, MEC or Minister of Mineral Resources in writing.

### **Decision on appeal**

**66.** (1) The Minister, MEC, Minister of Mineral Resources or any other competent authority empowered under Chapter 5 of the Act to make a decision on an appeal, as the case may be, may combine his decision on appeals contemplated in regulation 60 where such appeals pertain to the same matter.

(2) The Minister, MEC, Minister of Mineral Resources or any other competent authority empowered under Chapter 5 of the Act to make a decision on an appeal, as the case may be, must reach a final

decision on an appeal or appeals submitted, within 90 days of receipt of all relevant information, including any statements, supporting documentation, reports or any other additional information requested, or recommendations of an appeal panel which may assist the Minister, MEC, Minister of Mineral Resources or designated organ of state, as the case may be, in the decision making process.

(3) When the Minister, MEC or Minister of Mineral Resources has reached a decision on an appeal, the appellant and each respondent must be notified of the decision within 10 days of the decision being reached and of the extent to which the decision appealed against is upheld or overturned in writing.

(4) The decision contemplated in subregulation (3) must contain reasons for such decision.

## **CHAPTER 8 GENERAL MATTERS**

### **Failure to comply with requirements for consideration of applications**

67. (1) An application in terms of these Regulations lapses if the applicant, after having submitted the application fails, for a period of six months, to comply with a requirement in terms of these Regulations.

(2) Subregulation (1) does not apply where reasons for failure have been communicated to the competent authority in writing and accepted by the competent authority.

### **Resubmission of similar applications**

68. No applicant may submit an application which is substantially similar to a previous application which has been refused, unless—

(a) the new application contains new or material information not previously submitted to the competent authority; or

(b) a period of three years has elapsed since the refusal.

### **Compliance monitoring**

69. (1) If a competent authority reasonably suspects that the person who holds an environmental authorisation or who has been granted an exemption in terms of Chapter 5 of these Regulations has contravened or failed to comply with a condition of the authorisation or exemption, the competent authority may request that person, in writing, to submit an explanation for the alleged contravention or non-compliance.

(2) If the competent authority reasonably suspects that the alleged contravention or failure has caused, or may cause, harm to the environment, the competent authority may request the person concerned, in writing, to submit an environmental audit report on the harm or suspected harm to the environment or on any specific matter determined by the competent authority.

(3) An explanation and environmental audit report requested in terms of subregulations (1) or (2) must be submitted in a form and within a period determined by the competent authority.

(4) The competent authority may require a person contemplated in subregulation (1) to appoint an independent person approved by the competent authority to perform the environmental audit.

(5) A person contemplated in subregulation (1) is liable for all costs in connection with the environmental audit, including the preparation and submission of the audit report.

(6) If a person contemplated in subregulation (2) is requested to submit an environmental audit report and fails to submit the report within the period determined in terms of subregulation (3), the competent authority may—

(a) appoint an independent person to perform the audit; and

(b) recover the cost of the audit from that person.

(7) Subregulations (1) to (6) must be read together with the provisions of chapter 7 of the Act.

(8) Every holder of an environmental authorisation must conduct such monitoring and such performance assessment of the approved environmental authorisation and environmental management programme as may be prescribed through conditions of the environmental authorisation.

### **Assistance to people with special needs**

70. The competent authority processing an application or the Minister or MEC or Minister of Mineral Resources processing an appeal in terms of these Regulations must give reasonable assistance to people with

- (a) illiteracy;
- (b) a disability; or
- (c) any other disadvantage

who can not, but desire to, comply with these regulations.

### **Offences**

71. (1) In addition to section 24F of the Act, a person is guilty of an offence if that person—

- (a) provides incorrect or misleading information in any document submitted in terms of these Regulations to a competent authority;
- (b) fails to comply with regulation 7(2);
- (c) fails to comply with a request in terms of regulation 69(2); or
- (d) commences or continues with an activity where the environmental authorisation was suspended in terms of regulation 49.

(2) A person convicted of an offence in terms of subregulation (1) is liable to a fine not exceeding R1 million or to imprisonment for a



period not exceeding one year, or to both such fine and such imprisonment.

## CHAPTER 9 TRANSITIONAL ARRANGEMENTS AND COMMENCEMENT

### Definition

72. In this Chapter –

*“ECA” means the Environment Conservation Act, 1989 (Act No. 73 of 1989);*

*“NEMA” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);*

*“previous ECA notices” as contemplated in these transitional arrangements, means the previous notices in terms of ECA (Government Notice R. 1182 as amended by Government Notice R. 1355 of 17 October 1997, Government Notice R. 448 of 27 March 1998 and Government Notice R. 670 of 10 May 2002);*

*“previous ECA regulations” as contemplated in these transitional arrangements, means the previous regulations published in terms of sections 26 and 28 of the ECA, by Government Notice R. 1183 of 5 September 1997;*

*“previous NEMA notices” as contemplated in these transitional arrangements means the previous notices published in terms of section 24(2) of NEMA (Government Notices R. 386 and R. 387 in the Government Gazette of 21 April 2006);*

*“previous NEMA regulations” as contemplated in these transitional arrangements means the previous Environmental Impact Assessment Regulations in terms NEMA (Government Notice No. R. 385 in the Government Gazette of 21 April 2006 refer).*

### **Continuation of things done and authorisations issued under previous ECA regulations**

73. (1) Anything done in terms of the previous ECA regulations and which can be done in terms of a provision of these Regulations must be regarded as having been done in terms of the provision of these Regulations.

(2) Any authorisation issued or exemption granted in terms of the previous ECA regulations, must be regarded to be an environmental authorisation issued in terms of these Regulations.

### **Pending applications and appeals (ECA)**

74. (1) An application submitted in terms of the previous ECA regulations and which is pending when these Regulations take effect, must despite the repeal of those regulations be dispensed with in terms of those previous regulations as if those previous regulations were not repealed.

(2) If a situation arises where activities listed under the previous ECA Notices that are not listed similarly under the current lists of activities and competent authorities identified in terms of sections 24(2) and 24D of the National Environmental Management Act, 1998 (Act No. 107 of 1998) or in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and where a decision on an application submitted under the previous ECA regulations is still pending, the competent authority will consider such application to be withdrawn.

(3) Where an application submitted in terms of the previous ECA regulations is pending in relation to an activity of which a component of the same activity was not listed under the previous ECA Notices, but is

now listed in terms of section 24(2) of the Act, the competent authority must dispense of such application in terms of those previous ECA regulations and may authorise the activity listed in terms of section 24(2) as if it was applied for, on condition that all impacts of the newly listed activity and requirements of these regulations have also been considered and adequately assessed by the applicant.

(4) An appeal lodged in terms of the previous ECA regulations, which is pending when these Regulations take effect must despite the repeal of those previous ECA regulations be dispensed with in terms thereof as if those previous ECA regulations were not repealed.

#### **Continuation of things done and authorisations issued under previous NEMA regulations**

75. (1) Anything done in terms of the previous NEMA regulations and which can be done in terms of a provision of these Regulations must be regarded as having been done in terms of the provision of these Regulations.

(2) Any authorisation issued in terms of the previous NEMA Regulations must be regarded to be an environmental authorisation issued in terms of these Regulations.

(3) Any environmental management programme or environmental management plan approved in terms of the Mineral and Petroleum Resources Development Act or regulations promulgated in terms thereof or any old order right approved in terms of the Minerals Act, 1991, prior to any provision relating to prospecting, mining, reconnaissance, exploration and production coming into effect in terms of the Act shall be deemed to be approved in terms of the Act.

#### **Pending applications and appeals (NEMA)**

76. (1) An application submitted in terms of the previous NEMA regulations and which is pending when these Regulations take effect,

must despite the repeal of those regulations be dispensed with in terms of those previous NEMA regulations as if those previous NEMA regulations were not repealed.

(2) If a situation arises where activities, listed under the previous NEMA Notices, are not listed similarly under the current lists of activities and competent authorities identified in terms of section 24(2) and 24D of the National Environmental Management Act, 1998 (Act No. 107 of 1998) or in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), and where a decision on an application submitted under the previous NEMA regulations is still pending, the competent authority will consider such application to be withdrawn.

(3) Where an application submitted in terms of the previous NEMA regulations, is pending in relation to an activity of which a component of the same activity was not listed under the previous NEMA Notices, but is now listed in terms of section 24(2) of the Act, the competent authority must dispense of such application in terms of the previous NEMA regulations and may authorise the activity listed in terms of section 24(2) as if it was applied for, on condition that all impacts of the newly listed activity and requirements of these regulations have also been considered and adequately assessed by the applicant.

(4) An appeal lodged in terms of the previous NEMA regulations, and which is pending when these Regulations take effect must despite the repeal of those previous NEMA regulations be dispensed with in terms thereof as if those previous NEMA regulations were not repealed.

**Continuation of regulations regulating authorisations for activities in certain coastal areas**

77. These Regulations do not affect the continued application of the regulations published in terms of sections 26 and 28 of the Environment

Conservation Act, 1989 (Act No. 73 of 1989), by Government Notice R. 1528 of 27 November 1998.

### **Repeal of Environmental Impact Regulations, 2006**

78. The Environmental Impact Assessment Regulations published in Notice No. R. 385, in the Gazette No. 28938 of 21 April 2006 is hereby repealed.

### **Short title and commencement**

79. These Regulations are called the Environmental Impact Assessment Regulations, 2010, and take effect on a date determined by the Minister by notice in the Gazette.

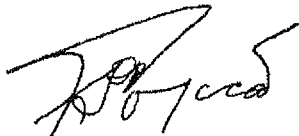
No. R. 544

18 June 2010

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF  
1998)**

**LISTING NOTICE 1: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES  
IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D**

I, Buyelwa Patience Sonjica, Minister of Water and Environmental Affairs, hereby, under sections 24(2) and 24D of the National Environmental Management Act, 1998 (Act No. 107 of 1998) publish Listing Notice 1 of the activities and competent authorities identified in the Schedule hereto.



**BUYELWA SONJICA**

**MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

## SCHEDULE

### PURPOSE

1. The purpose of this Notice is to identify activities that would require environmental authorisations prior to commencement of that activity and to identify competent authorities in terms of sections 24(2) and 24D of the National Environmental Management Act, 1998.

### DEFINITIONS

2. (1) In this Notice, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates—

**“agri-industrial”** means an undertaking involving the beneficiation of agricultural produce;

**“canal”** means an open structure, that is lined or reinforced, for the conveying of a liquid or that serves as an artificial watercourse;

**“channel”** means an excavated hollow bed for running water or an artificial underwater depression to make a water body navigable in a natural watercourse, river or the sea;

**“concentration of animals”** means the keeping of animals in a confined space or structure, including a feedlot, where they are fed in order to prepare them for slaughter or to produce products such as milk or eggs;

**“construction”** means the building, erection or establishment of a facility, structure or infrastructure that is necessary for the undertaking of a listed or specified activity but excludes any modification, alteration or expansion of

such a facility, structure or infrastructure and excluding the reconstruction of the same facility in the same location, with the same capacity and footprint;

**“dam”** when used in these Regulations means any barrier dam and any other form of impoundment used for the storage of water;

**“dangerous goods”** means goods as contemplated in South African National Standard No. 10234, supplement 2008 1.00: designated “List of classification and labelling of chemicals in accordance with the Globally Harmonized System (GHS)” published by Standards South Africa;

**“decommissioning”** means to take out of active service permanently or dismantle partly or wholly, or closure of a facility to the extent that it cannot be readily re-commissioned;

**“derelict land”** means abandoned land or property where the lawful/legal land use right has not been exercised during the preceding ten year period;

**“development footprint”**, in respect of land, means any evidence of physical alteration as a result of the undertaking of any activity;

**“development setback”** means a setback line as defined or adopted by the competent authority and where none has been defined or adopted it will be assumed that no setback line applies;

**“expansion”** means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased;

**“indigenous vegetation”** refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years;



**“industrial complex”** means an area used or zoned for bulk storage, manufacturing, processing or packaging purposes;

**“large stock unit”** means domesticated units including but not limited to cattle and horses, as well as game, including but not limited to antelope and buck with an average adult male live weight of 100 kilograms or more;

**“linear activities”** include railways, roads, funiculars, pipelines, conveyor belts, cableways, powerlines, fences, runways, aircraft landing strips, and telecommunication lines;

**“marina”** means a constructed waterway that is normally associated with residential or commercial use and that could include mooring facilities;

**“mixed use”**, with regard to an activity, means the presence of two or more types of land use in an area;

**“phased activities”** means an activity that is developed in phases over time on the same or adjacent properties to create a single or linked entity through interconnected internal vehicular or pedestrian circulation, sharing of infrastructure, or the continuum of design, style or concept by the same proponent or his or her successors;

**“small stock unit”** means domesticated units, including sheep, goats and pigs, as well as game, including but not limited to antelope and buck with an average adult male live weight of less than 100 kilograms;

**“the Act”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

**“undeveloped”** means that no facilities, structures or infrastructure have been effected upon the land or property during the preceding 10 years;

**“unit”** in relation to a quantity standard for determining throughput of facilities or infrastructure for the slaughter of animals, has the meaning assigned to it in Regulations promulgated in terms of the Meat Safety Act, 2000 (Act No. of 40 of 2000);

**“urban areas”** means areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas;

**“vacant”** means not occupied for the purpose of its lawful land use during the preceding ten year period.

**“virgin soil”** means land not cultivated for the preceding 10 years.

**“watercourse”** means –

- (a) a river or spring;
- (b) a natural depression in which water flows regularly or intermittently;
- (c) a wetland, lake or dam into which, or from which, water flows; and
- (d) any collection of water which the Minister may, by notice in the Gazette, declare to be a watercourse,

and a reference to a watercourse includes, where relevant, its bed and banks;  
and

**“wetland”** means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

2. (2) The following words relevant to coastal activities will have the meaning so assigned to it in the Integrated Coastal Management Act, 2008 (Act No.24 of 2008 “coastal protection zone”;
- a) “coastal public property”;
  - b) “high-water mark”;
  - c) “littoral active zone”;
  - d) “low-water mark”;
  - e) “sea”; and
  - f) “seashore.
2. (3) The following words will have the meaning assigned to them in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)—
- a) “mine”;
  - b) “mineral”;
  - c) “mining permit”;
  - d) “prospecting”;
  - e) “prospecting area”;
  - f) “prospecting right”.

### **IDENTIFIED ACTIVIES AND COMPETENT AUTHORITIES**

3. (1) The activities listed in Appendix 1 are identified in terms of section 24(2)(a) of the Act as activities that may not commence without an environmental authorisation from the competent authority.
3. (2) The investigation, assessment and communication of potential impact of activities must follow the procedure as prescribed in regulations 21 to 25 of the Environmental Impact Assessment Regulations published in terms of section 24(5) of the Act.

**REPEAL OF NOTICE 386 OF 21 APRIL 2006**

4. Notice No. 386 published in Gazette 28938 on 21 April 2006 is hereby repealed.

**Short title and commencement**

5. This Listing Notice is called the Environmental Impact Assessment Regulations Listing Notice 1 of 2010, and takes effect on a date determined by the Minister by notice in the Gazette.

APPENDIX 1

Activity number	Activity description	Identification of competent authority
1.	<p>The construction of facilities or infrastructure for the generation of electricity where:</p> <ul style="list-style-type: none"> <li>i. the electricity output is more than 10 megawatts but less than 20 megawatts; or</li> <li>ii. the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare.</li> </ul>	<p>The competent authority in respect of the activities listed in this part of the schedule is the environmental authority in the province in which the activity is to be undertaken unless it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.</p>
2.	<p>The construction of facilities or infrastructure for the storage of ore or coal that requires an atmospheric emissions license in terms of the National Environmental Management: Air Quality Act (Act No. 39 of 2004).</p>	
3.	<p>The construction of facilities or infrastructure for the slaughter of animals with a product throughput of:</p> <ul style="list-style-type: none"> <li>(i) poultry exceeding 50 poultry per day; or</li> <li>(ii) game and red meat exceeding 6 units per day.</li> </ul>	
4.	<p>The construction of facilities or infrastructure for the concentration of animals for the purpose of commercial production in densities that exceed—</p> <ul style="list-style-type: none"> <li>• 20 square metres per large stock unit and more than 500 units, per facility;</li> <li>• 8 square meters per small stock unit and;                             <ul style="list-style-type: none"> <li>a. more than 1 000 units per facility excluding pigs where (b) will apply;</li> <li>b. more than 250 pigs per facility excluding piglets that are not yet weaned;</li> </ul> </li> <li>• 30 square metres per crocodile at any level of production, excluding crocodiles</li> </ul>	

	<ul style="list-style-type: none"> <li>• 3 square metre per rabbit and more than 500 rabbits per facility; or</li> <li>• 250 square metres per ostrich or emu and more than 50 ostriches or emus per facility; or 2500 square metres per breeding pair.</li> </ul>
	<p>The construction of facilities or infrastructure for the concentration of:</p> <p>(i) more than 1 000 poultry per facility situated within an urban area, excluding chicks younger than 20 days</p> <p>(ii) more than 5 000 poultry per facility situated outside an urban area, excluding chicks younger than 20 days,</p>
5.	<p>The construction of facilities, infrastructure or structures for aquaculture of:</p> <p>(i) finfish, crustaceans, reptiles or amphibians where such facility, infrastructure or structures will have a production output exceeding 20 000 kg but less than 200 000 kg per annum (wet weight);</p> <p>(ii) molluscs where such facility, infrastructure or structures will have a production output exceeding 30 000 kg but not exceeding 150 000 kg per annum (wet weight);</p> <p>(iii) aquatic plants where such facility, infrastructure or structures will have a production output exceeding 60 000 kg but not exceeding 200 000 kg per annum (wet weight);</p> <p>excluding where the construction of facilities, infrastructure or structures is for purposes of offshore cage culture in which case activity 7 in this Notice will apply.</p>
6.	
7.	<p>The construction of facilities, infrastructure or structures for aquaculture of offshore cage culture of finfish, crustaceans, reptiles, amphibians, molluscs and aquatic plants</p>

	where the facility, infrastructure or structures will have a production output exceeding 50 000 kg but not exceeding 100 000 kg per annum (wet weight).
<b>8.</b>	The construction of a hatchery or agri-industrial infrastructure outside industrial complexes where the development footprint covers an area of 2 000 square metres or more.
<b>9.</b>	The construction of facilities or infrastructure exceeding 1000 metres in length for the bulk transportation of water, sewage or storm water - (i) with an internal diameter of 0,36 metres or more; or (ii) with a peak throughput of 120 litres per second or more, excluding where: a. such facilities or infrastructure are for bulk transportation of water, sewage or storm water or storm water drainage inside a road reserve; or b. where such construction will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse.
<b>10.</b>	The construction of facilities or infrastructure for the transmission and distribution of electricity - (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or (ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more.

<p><b>11.</b></p>	<p>The construction of:</p> <ul style="list-style-type: none"> <li>(i) canals;</li> <li>(ii) channels;</li> <li>(iii) bridges;</li> <li>(iv) dams;</li> <li>(v) weirs;</li> <li>(vi) bulk storm water outlet structures;</li> <li>(vii) marinas;</li> <li>(viii) jetties exceeding 50 square metres in size;</li> <li>(ix) slipways exceeding 50 square metres in size;</li> <li>(x) buildings exceeding 50 square metres in size; or</li> <li>(xi) infrastructure or structures covering 50 square metres or more</li> </ul> <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	
<p><b>12.</b></p>	<p>The construction of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50000 cubic metres or more, unless such storage falls within the ambit of activity 19 of Notice 545 of 2010;</p>	



13.	The construction of facilities or infrastructure for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 cubic metres;	
14.	<p>The construction of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding</p> <p>(i) the construction of structures within existing ports or harbours that will not increase the development footprint or throughput capacity of the port or harbour;</p> <p>(ii) the construction of a port or harbour, in which case activity 24 of Notice 545 of 2010 applies;</p> <p>(iii) the construction of temporary structures within the beach zone where such structures will be demolished or disassembled after a period not exceeding 6 weeks.</p>	
15.	The construction of facilities for the desalination of sea water with a design capacity to produce more than 100 cubic metres of treated water per day.	
16.	<p>Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater, in respect of –</p> <p>(i) fixed or floating jetties and slipways;</p> <p>(ii) tidal pools;</p>	

	<p>(ii) embankments;</p> <p>(iv) rock revetments or stabilising structures including stabilising walls;</p> <p>(v) buildings of 50 square metres or more; or</p> <p>(vi) infrastructure covering 50 square metres or more --</p> <p>but excluding</p> <p>(a) if such construction or earth moving activities will occur behind a development setback line; or</p> <p>(b) where such construction or earth moving activities will occur within existing ports or harbours and the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbour;</p> <p>(c) where such construction or earth moving activities is undertaken for purposes of maintenance of the facilities mentioned in (i)-(vi) above; or</p> <p>(d) where such construction or earth moving activities is related to the construction of a port or harbour, in which case activity 24 of Notice 545 of 2010 applies.</p>	
<p>17.</p>	<p>The planting of vegetation or placing of any material on dunes and exposed sand surfaces, within the littoral active zone for the purpose of preventing the free movement of sand, erosion or accretion, excluding where the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation or where such planting of vegetation or placing of material will occur behind a development setback line.</p>	
<p>18.</p>	<p>The infilling or depositing of any material of more than 5 cubic metres into, or the</p>	

	<p>dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from</p> <p>(i) a watercourse;                  (ii) the sea;                  (iii) the seashore;                  (iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater-</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving</p> <p>(i) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</p> <p>(ii) occurs behind the development setback line.</p>
<b>19.</b>	<p>Any activity which requires a prospecting right or renewal thereof in terms of section 16 and 18 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>
<b>20.</b>	<p>Any activity requiring a mining permit in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) or renewal thereof.</p>
<b>21.</b>	<p>The establishment of cemeteries of 2500 square metres or more in size.</p>
<b>22.</b>	<p>The construction of a road, outside urban areas,</p> <p>(i) with a reserve wider than 13,5 meters or,</p>

	<p>(ii) where no reserve exists where the road is wider than 8 metres, or</p> <p>(iii) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Notice 545 of 2010.</p>	
	<p>The transformation of undeveloped, vacant or derelict land to –</p> <p>(i) residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more, but less than 20 hectares, or</p> <p>(ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares; -</p> <p>except where such transformation takes place for linear activities.</p>	
<b>23.</b>		
	<p>The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, at the time of the coming into effect of this Schedule such land was zoned open space, conservation or had an equivalent zoning.</p>	
<b>24.</b>		
	<p>The release of genetically modified organisms into the environment, where assessment for such release is required by the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) or the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</p>	
<b>25.</b>		
	<p>Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</p>	
<b>26.</b>		

<p><b>27.</b></p>	<p>The decommissioning of existing facilities or infrastructure, for -</p> <ul style="list-style-type: none"> <li>(i) electricity generation with a threshold of more than 10MW;</li> <li>(ii) electricity transmission and distribution with a threshold of more than 132kV;</li> <li>(iii) nuclear reactors and storage of nuclear fuel;</li> <li>(iv) activities, where the facility or the land on which it is located is contaminated ;</li> <li>(v) storage, or storage and handling, of dangerous goods of more than 80 cubic metres;</li> </ul> <p>but excluding any facilities or infrastructure that commenced under an environmental authorisation issued in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, or Notice No. 543 of 2010.</p>
<p><b>28.</b></p>	<p>The expansion of existing facilities for any process or activity where such expansion will result in the need for a new, or amendment of, an existing permit or license in terms of national or provincial legislation governing the release of emissions or pollution, excluding where the facility, process or activity is included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case that Act will apply.</p>
<p><b>29.</b></p>	<p>The expansion of facilities for the generation of electricity where:</p> <ul style="list-style-type: none"> <li>(i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or</li> <li>(ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more;</li> </ul>

30.	<p>The expansion of facilities for the slaughter of animals where the daily product throughput will be increased by more than:</p> <ul style="list-style-type: none"> <li>(i) 50 poultry or</li> <li>(ii) 6 units of red meat and game.</li> </ul>	
31.	<p>The expansion of facilities for the concentration of animals for the purpose of commercial production in densities that will exceed—</p> <ul style="list-style-type: none"> <li>(i) 20 square metres per large stock unit, where the expansion will constitute more than 500 additional units;</li> <li>(ii) 8 square meters per small stock unit, where the expansion will constitute more than: <ul style="list-style-type: none"> <li>a. 1 000 additional units per facility or more excluding pigs where (b) will apply;</li> <li>b. 250 additional pigs, excluding piglets that are not yet weaned;</li> </ul> </li> <li>(iii) 30 square metres per crocodile at any level of production where the expansion will constitute an increase in the level of production, excluding crocodiles younger than 6 months;</li> <li>(iv) 3 square metre per rabbit where the expansion will constitute more than 500 additional rabbits; or</li> <li>(v) 250 square metres per ostrich or emu where the expansion will constitute more than 50 additional ostriches or emus; and</li> <li>(vi) 2500 square metres per breeding pair, where the facility will be increased by 2500 square metres or more.</li> </ul>	
32.	<p>The expansion of facilities for the concentration of poultry, excluding chicks younger than 20 days, where the capacity of the facility will be increased by:</p>	

	<p>(i) more than 1 000 poultry where the facility is situated within an urban area; or                  (ii) more than 5 000 poultry per facility situated outside an urban area.</p>	
<p><b>33.</b></p>	<p>The expansion of facilities, infrastructure or structures for aquaculture of-</p> <p>(i) finfish, crustaceans, reptiles or amphibians, where the production output of such facility, infrastructure or structures will be increased by 20 000 kg (wet weight) or more;</p> <p>(ii) molluscs where the production output of such facility, infrastructure or structures will be increased by 30 000 (wet weight) or more;</p> <p>(iii) aquatic plants where the production output of such facility, infrastructure or structures will be increased by 60 000 kg (wet weight) or more.</p>	
<p><b>34.</b></p>	<p>The expansion of facilities, infrastructure or structures for aquaculture of offshore cage culture of finfish, crustaceans, reptiles, amphibians, molluscs and aquatic plants where the production output of such facility, infrastructure or structures will be increased by 50 000 kg (wet weight) or more.</p>	
<p><b>35.</b></p>	<p>The expansion of facilities for agri-industrial purposes outside industrial complexes, where the development footprint of the facility will be increased by a 1 000 square metres or more, with the exception of hatcheries, where activity 36 in this Notice applies.</p>	
<p><b>36.</b></p>	<p>The expansion of hatcheries, outside industrial complexes, where the development footprint of the hatchery will be increased by 2 000 square metres or more.</p>	
<p><b>37.</b></p>	<p>The expansion of facilities or infrastructure for the bulk transportation of water, sewage or storm water where:</p>	

	<p>(a) the facility or infrastructure is expanded by more than 1000 metres in length; or</p> <p>(b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more--</p> <p>excluding where such expansion:</p> <p>(i) relates to transportation of water, sewage or storm water within a road reserve;</p> <p>or</p> <p>(ii) where such expansion will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse.</p>
<p><b>38.</b></p>	<p>The expansion of facilities for the transmission and distribution of electricity where the expanded capacity will exceed 275 kilovolts and the development footprint will increase.</p>
<p><b>39.</b></p>	<p>The expansion of</p> <ul style="list-style-type: none"> <li>(i) canals;</li> <li>(ii) channels;</li> <li>(iii) bridges;</li> <li>(iv) weirs;</li> <li>(v) bulk storm water outlet structures;</li> <li>(vi) marinas;</li> </ul> <p>within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, where such expansion will result in an increased development footprint but excluding where such expansion will occur behind the development setback line.</p>



<p><b>40.</b></p>	<p>The expansion of</p> <ul style="list-style-type: none"> <li>(i) jetties by more than 50 square metres;</li> <li>(ii) slipways by more than 50 square metres; or</li> <li>(iii) buildings by more than 50 square metres</li> </ul> <p>within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, but excluding where such expansion will occur behind the development setback line.</p>
<p><b>41.</b></p>	<p>The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50000 cubic metres or more.</p>
<p><b>42.</b></p>	<p>The expansion of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by 80 cubic metres or more.</p>
<p><b>43.</b></p>	<p>The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within existing ports or harbours where there would be no increase in the development footprint or throughput capacity of the port or harbour.</p>
<p><b>44.</b></p>	<p>The expansion of facilities for the desalination of sea water where the design capacity will be expanded to produce an additional 100 cubic metres or more of treated water per day.</p>
<p><b>45.</b></p>	<p>The expansion of facilities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary,</p>

whichever is the greater, for --

	<p>(i) fixed or floating jetties and slipways;</p> <p>(ii) tidal pools;</p> <p>(iii) embankments;</p> <p>(iv) rock revetments or stabilising structures including stabilising walls;</p> <p>(v) buildings by more than 50 square metres;</p> <p>(vi) infrastructure by more than 50 square metres;</p> <p>(vii) facilities associated with the arrival and departure of vessels and the handling of cargo;</p> <p>(viii) piers;</p> <p>(ix) inter- and sub-tidal structures for entrapment of sand;</p> <p>(x) breakwater structures;</p> <p>(xi) coastal marinas;</p> <p>(xii) coastal harbours or ports;</p> <p>(xiii) structures for draining parts of the sea or estuary;</p> <p>(xiv) tunnels; or</p> <p>(xv) underwater channels –</p> <p>where such expansion will result in an increase in the development footprint of such facilities</p> <p>but excluding where such expansion occurs:</p> <p>(a) behind a development setback line; or</p> <p>(b) within existing ports or harbours where there will be no increase in the</p>	
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