

[(d)] (b) unforeseen circumstance leading to potential substantial detrimental effect on environment or to human rights.

Withdrawal proceedings

48. [(1)] If the competent authority intends to consider the withdrawal of an environmental authorisation, the competent authority must –

- (a) notify the holder of the authorisation, in writing, of the proposed withdrawal and the reasons why withdrawal 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 79(2); and
 - (ii) to submit any representations on the proposed withdrawal which the holder of the authorisation wishes to make; and

[(c) conduct any appropriate public participation process to bring the proposed withdrawal 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, if the environment or rights or interests of other parties are likely to be adversely affected by the withdrawal.

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

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

Suspension of environmental authorisations

49. (1) The competent authority may by written notice to the holder of an environmental authorisation suspend with immediate effect an

environmental authorisation which is the subject of withdrawal 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 causes harm to the environment; and
- (b) suspension of the authorisation is necessary to prevent harm or further harm to the environment.

(2) Regulation 48(1)(b)[, (c) and (2)] may be complied with either before or after a suspension.

Decision

50. (1) On having reached a decision on whether or not to withdraw the environmental authorisation, the competent authority must notify the holder of the authorisation of the decision in writing.

(2) If the decision is to withdraw 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

EXEMPTIONS FROM PROVISIONS OF THESE REGULATIONS

Applications for exemptions

51. (1) 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 Minerals and Energy, where appropriate, for an exemption from [such] any provision of these regulations [in respect of a specific activity to the competent authority referred to in regulation 3 who is the competent authority for the activity in respect of which the exemption is sought].

[(2) A person may be exempted from a provision of these Regulations requiring or regulating a public participation process, only if the rights or interests of other parties are not likely to be adversely affected by exemption from conducting a public participation process.]

(2) An application contemplated in subregulation (1) may be combined with an application for an environmental authorisation.

(3) An exemption notice issued by the Minister or an MEC in terms of section 24M of the Act and these regulations may be combined with an environmental authorisation issued under these regulations.

Submission of applications

52. (1) An application in terms of regulation 51 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 Minerals and Energy where appropriate [competent authority] must, within 21 [14] days of receipt of an application, acknowledge receipt of the application in writing.

(3) The applicant or EAP must communicate its intention to apply for exemption in terms of regulation 51 by giving notice in the manner prescribed in subregulation 56(2)(a), (b), (c) or (d) or a combination thereof which is appropriate in the circumstances and as agreed to with the Minister or an MEC, to 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 timeframes applicable to the submission of comments on the application for such exemption.

Consideration of applications

53. (1) On receipt of an application in terms of regulation 51, the [competent authority –

- (a) must consider whether the granting or refusal of the application is likely to adversely affect the rights or interests of other parties; and**
- (b) may for that purpose request the applicant to furnish additional information.]**

Minister or MEC or Minister of Minerals and Energy 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) **[In addition to complying with subregulation (1), the competent authority may advise the applicant of any matter that may prejudice the success of the application.]**

On receipt of an application in terms of regulation 51, the Minister, MEC

or Minister of Minerals must consider the application, additional information and any comments and reach a decision within a reasonable timeframe.

[(3) The competent authority must promptly decide the application if the rights or interests of other parties are not likely to be adversely affected by the proposed exemption.

(4) If the rights or interests of other parties are likely to be adversely affected by the proposed exemption, the competent authority must, before deciding the application, request the applicant

-
- (a) to conduct at least a public participation process as set out in regulation 56, or any aspect of such process;**
 - (b) to open and maintain a register of all interested and affected parties in respect of the application in accordance with regulation 57; and**
 - (c) to submit any comments received from interested and affected parties following such public participation process, to the competent authority.]**

Decision on applications

54. (1) On having reached a decision on whether or not to grant the application, the **[competent authority]** Minister, MEC or Minister of Minerals and Energy, where appropriate, must, in writing and within 10 days -

- (a)** notify the applicant of the decision;
- (b)** give reasons for the decision to the applicant;
- (c)** draw the attention of the applicant 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
- (d)** request the applicant to notify potential or registered interested and affected parties, as the case may be of -

- (i) the outcome of the application; and
- (ii) the reasons for the decision; and
- (e) request the applicant to draw the attention of potential or registered interested and affected parties[, **as the case may be,**] 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. .

(2) If an application is approved, the **[competent authority]** Minister, MEC or Minister of Minerals and Energy, 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 activity in respect of which exemption is granted;
- (d) the conditions subject to which exemption is granted,, including conditions relating to the transfer of the written exemption notice; and
- (e) the period for which exemption is granted, if the exemption is granted for a period.

Review of exemptions

55. (1) A **[competent authority]** Minister, MEC or Minister of Minerals and Energy, where appropriate, may –

- (a) from time to time review any exemption notice issued by it in terms of regulation **54** ; and
- (b) on good grounds, by written notice to the person to whom exemption was granted, withdraw or amend the exemption notice.

(2) The **[competent authority]** Minister, MEC or Minister of Minerals and Energy, where appropriate, must, before withdrawing or amending an exemption notice give the person to whom exemption was granted an opportunity to comment on the reasons for the withdrawal or amendment in writing.

CHAPTER 6

PUBLIC PARTICIPATION PROCESSES

Public participation process

56. (1) This regulation only applies where specifically required by a provision of these Regulations.

(2) The person conducting a public participation process must take into account any guidelines applicable to public participation as contemplated in regulations 73 and 74 of these regulations 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 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;
 - [(ii) the owners and occupiers of land within 100 metres of the boundary of the site or alternative site who are or may be directly affected by the activity;]**
 - (ii)[i]** the municipal councillor of the ward in which the site or alternative site is situated and any organisation of ratepayers that represents the community in the area;
 - (iii)[v]** the municipality which has jurisdiction in the area; and
 - (iv) any organ of state having jurisdiction in respect of any aspect of the activity;
 - (v) 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; **[and]**
 - (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) reasonable alternative methods in those instances where a person is desiring but unable to participate in the process due to –
 - (i) a lack of skills to read or write;
 - (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 or is to be 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
 - (v) 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) **[If an application is for a linear or ocean-based activity and strict compliance with subregulation (2) is inappropriate]** Where circumstances prevent compliance with subregulation (2), 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) 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.

(7) Unless justified by exceptional circumstances, 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

57. (1) An applicant or EAP managing an application must open and maintain a register which contains the names 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 56, 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 applicant or 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

58. (1) A registered interested and affected party is entitled to comment, in writing, on all written submissions 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 applicant or 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.

(1A) (a) When a State department is requested to comment by the competent authority, as contemplated in regulations 14(5), 28(2) and 35(1), such State department must, within 40 days of receiving request for comment from the competent authority, provide

comments to the competent authority.

(b) The competent authority reserves the right to disregard comments not received within the stipulated period of 40 days.

(2) Before the EAP managing an application for environmental authorisation submits a 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) Reports referred to in subregulation (2) include –

- (a) basic assessment reports;
- (b) basic assessment reports amended and resubmitted in terms of regulation **25** (4);
- (c) scoping reports;
- (d) scoping reports amended and resubmitted in terms of regulation **31**(3);
- (e) specialist reports and reports on specialised processes compiled in terms of regulation **33**;
- (f) environmental impact assessment reports submitted in terms of regulation **32**; and
- (g) draft environmental management plans compiled in terms of regulation **34**.

(4) Any written comments received by the EAP from a registered interested and affected party must accompany the report when the report is submitted to the competent authority.

[(5) A registered interested and affected party may comment on any final report that is submitted by a specialist reviewer for the purposes of these Regulations where the report contains substantive information which has not previously been made available to a registered interested and affected party.]

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

59. 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[: **Provided that any comments by interested and affected parties on a report which is to be submitted to the competent authority may be attached to the report without recording those comments in the report itself.**]

**CHAPTER 7
APPEALS**

Application of this Chapter

60. (1) This Chapter applies to decisions that –
(a) are subject to an appeal to the Minister or MEC in terms of section 43 (1), (2) or (3) 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 lies against decisions taken by the Minister or MEC themselves in their capacity as the competent authority for the activity to which the decision relates.]**

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

61. An appeal against a decision must be decided by **[lodged with]** –
(a) the Minister, if the Minister is the competent authority for the activity in relation to which the decision was taken or if the appeal is

against an environmental authorisation or conditions of such an environmental authorisation issued by the Minister of Minerals and Energy;

- (b) the MEC, if the MEC is the competent authority for the activity in relation to which the decision was taken [or]
- (c) the delegated organ of state, where relevant or
- (d) the Minister of Minerals and Energy if the appeal is on a process related decision if the Minister of Minerals and Energy is the competent authority.

Notices of intention to appeal

62. (1) A person affected by a decision referred to in regulation **60(1)** who wishes to appeal against the decision, must **[lodge]** submit a notice of intention to appeal with the Minister, MEC, or delegated organ of state, as the case may be, within **[10]** 20 days after **[that person]** the applicant has been notified in terms of these Regulations of the decision.

(2) If the appellant is an applicant, the appellant must provide **[serve on]** 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 lodged the notice contemplated in subregulation (1), –

- (a) a copy of the notice referred to subregulation (1); and
- (b) a notice indicating 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 **[serve on]** provide the applicant, within 10 days of having lodged the notice contemplated in subregulation (1), –

- (a) a copy of the notice referred to 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 **[delegated]** 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 appeals

63. (1) An appeal **[lodged with]** must be submitted to—

- (a) the Minister **[must be submitted to]** for all decisions taken by the Department of Environmental Affairs and Tourism and for all decisions on environmental authorisations and environmental management programmes taken by the Minister of Minerals and Energy;
- (b) the MEC **[must be submitted to]** for all decisions taken by the provincial department responsible for environmental affairs in the relevant province; [or]
- (c) **[the delegated]** where relevant, any other organ of state, [where relevant, must be submitted to that delegated] empowered under Chapter 5 of the Act to make a decision on an appeal, for all decisions taken by that organ of state or
- (d) the Minister of Minerals and Energy for all process related decisions taken by that Minister.

(2) An appeal must be –

- (a) submitted in writing [on an official form published by or obtainable from the relevant department]; 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 Minerals and Energy or [delegated] designated organ of state;
 - (iii) a statement by the appellant that regulation 62(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) **[When submitting an appeal, t]**The appellant must take into account any guidelines applicable to appeals as contemplated in regulations 73 and 74 of these regulations.

Time within which appeals must be lodged

64. (1) An appeal as contemplated in regulation 63(1), must be submitted **[to the relevant department]** within 30 days **[of the lodging of]** after submitting the notice of intent **[intention]** to appeal referred to in regulation 62(1).

(2) The Minister, MEC, Minister of Minerals and Energy or **[delegated]** 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 statements

65. (1) A person or organ of state which receives a notice in terms of regulation 62(2), or an applicant who receives a notice in terms of regulation 62(3), may submit to the Minister, MEC, Minister of Minerals and Energy or **[delegated]** designated organ of state, as the case may be, a responding statement within 30 days from the date the appeal submission was made available for inspection in terms of that section.

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

(b) If a respondent 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 Minerals and Energy or **[delegated]** designated organ of

state, as the case may be, within 30 days of **[receipt of the responding statement]** 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 Minerals and Energy or **[delegated]** 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 appeals

66. (1) Receipt by the Minister, MEC, Minister of Minerals and Energy or **[delegated]** 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 Minerals and Energy or **[delegated]** designated organ of state, as the case may be, appoints an appeal panel for purposes of the appeal.

(3) The Minister, MEC, Minister of Minerals and Energy or **[delegated]** 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 or MEC may require.

Appeal panels

67. (1) If the Minister, MEC, Minister of Minerals and Energy or **[delegated]** designated organ of state, as the case may be, appoints an appeal panel, the Minister, MEC, Minister of Minerals and Energy or **[delegated]** designated organ of state 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, Minister of Minerals and Energy or **[delegated]** designated organ of state.

(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, both the appellant and each 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, Minister of Minerals and Energy or **[delegated]** designated organ of state, as the case may be, in writing.

Decision on appeals

68. (1) The Minister, MEC, Minister of Minerals and Energy 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 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 Minerals and

Energy or designated organ of state, as the case may be, in the decision making process.

(2) When the Minister, MEC, Minister of Minerals and Energy or **[delegated]** designated organ of state, as the case may be, has reached a final decision on an appeal, the appellant and each respondent must be notified of the decision and the extent to which the decision appealed against is upheld or overturned in writing.

[(2)] (3) Reasons for the decision must on written request be given to the appellant or a respondent in writing.

CHAPTER 8

GENERAL MATTERS AFFECTING APPLICATIONS AND APPEALS

Part 1: Environmental management frameworks

Purpose of this Part

69. (1) The purpose of this Part is to provide –
- (a) for the Minister or MEC with concurrence of the Minister to initiate the compilation of information and maps referred to in section 24(3) of the Act specifying the attributes of the environment in particular geographical areas; and
 - (b) for such information and maps to be used as environmental management frameworks in the consideration in terms of section 24 (4)(i) of the Act of applications for environmental authorisations in or affecting the geographical areas to which those frameworks apply.

(2) The provisions of this Part may not be read as purporting to affect the powers of the Minister or MEC in terms of section 24(3) of the Act to compile information and maps specifying the attributes of the environment in specific geographical areas.

Draft environmental management frameworks

70. (1) The Minister or MEC with the concurrence of the Minister may initiate an environmental management framework for an area.

(2) In order to initiate an environmental management framework for an area, the Minister or MEC must –

- (a) compile a draft environmental management framework;
- (b) subject the draft to a public participation process by –
 - (i) making the draft available for public inspection at a convenient place; and
 - (ii) inviting potential interested and affected parties by way of advertisements in newspapers circulating in the area and in any other appropriate way to inspect the draft and submit representations, objections and comments in connection with the draft to that person or organ of state; and
- (c) review the draft in the light of any representations, objections and comments received.

Contents

71. A draft environmental management framework must –

- (a) identify by way of a map or otherwise the geographical area to which it applies;
- (b) specify the attributes of the environment in the area, including the sensitivity, extent, interrelationship and significance of those attributes;
- (c) identify any parts in the area to which those attributes relate;
- (d) state the conservation status of the area and in those parts;
- (e) state the environmental management priorities of the area;
- (f) indicate the kind of activities that would have a significant impact on those attributes and those that would not;
- (g) indicate the kind of activities that would be undesirable in the area or in specific parts of the area; and
- (h) include any other matters that may be specified.

Adoption

72. (1) If the Minister or MEC adopts with or without amendments an environmental management framework initiated in terms of regulation 70, the environmental management framework must be taken into account in the consideration of applications for environmental authorisation in or affecting the geographical area to which the framework applies.

(2) When an environmental management framework has been adopted, notice must be given in the Government Gazette or the official Gazette of the relevant province of –

- (a) the adoption of the environmental management framework; and
- (b) the place where the environmental management framework is available for public scrutiny.

(3) Environmental management frameworks adopted as provided in subregulation (1) may from time to time, on the initiative of the Minister or an MEC, be revised.

(4) When an environmental management framework has been revised as provided in subregulation (3), notice must be given in the Government Gazette or the official Gazette of the relevant province of –

- (a) the review of the environmental management framework; and
- (b) the place where the revised environmental management framework is available for public scrutiny.

Part 2: National and provincial guidelines, norms or standards

National guidelines

73. (1) The Minister may by notice in the Government Gazette issue national guidelines, as contemplated in section 24J of the Act, on the implementation of these Regulations with regard to –

- (a) any particular environmentally sensitive area or kind of environmentally

sensitive areas, or environmentally sensitive areas in general;

- (b) any particular environmental impact or kind of environmental impact, or environmental impacts in general;
- (c) any particular activity or kind of activities, or activities in general;
[and]
- (d) the process and criteria for the development of new or adoption of existing norms or standards; and
- (e) any particular process contemplated in these Regulations.

(2) A **[delegated]** designated organ of state may, in consultation with the Minister, by notice in the Government Gazette issue guidelines, which must be consistent with any national guidelines issued in terms of regulation 73, on the implementation of these Regulations, including guidelines with regard to the matters set out in 73(1)(b), (c), (d) or any matter incidental thereto, in relation to activities in respect of which the organ of state is the competent authority.

Provincial guidelines

74. (1) An MEC may by notice in the official Gazette of the province issue provincial guidelines, as contemplated in section 24J of the Act, on the implementation of these Regulations, including guidelines with regard to the matters set out in regulation 73(a), (b), (c), **[or]** (d) and (e) in relation to applications in respect of which the MEC is the competent authority.

(2) Provincial guidelines issued in terms of subregulation (1) must be consistent with any national guidelines issued in terms of regulation 73.

Legal status of guidelines

75. Guidelines issued in terms of regulation 73 or 74 are not binding but must be taken into account when preparing, submitting, processing or considering any application in terms of these Regulations.

Draft guidelines to be published for public comment

76. Before issuing any guidelines in terms of regulation 73 or 74, the Minister or MEC must publish the draft guidelines in the relevant *Gazette* for public comment.

76A “Procedures for prescribing or adopting Norms or Standards

Norms or standards developed or adopted in terms of section 24(10) of the Act, are legally binding after approval by the Minister or MEC, as the case may be.”

Part 3: Other matters**Failure to comply with requirements for consideration of applications and appeals**

77. (1) An application or appeal in terms of these Regulations lapses if the applicant or appellant after having submitted the application or appeal fails for a period of six months to comply with a requirement in terms of these Regulations relating to the consideration of the application or appeal.

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

Resubmission of similar applications

78. No applicant may submit an application which is substantially similar to a previous application by the applicant 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

79. (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 subregulation (1) 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) Sub regulations (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 authorization and environmental management programme as may be prescribed through conditions of the environmental authorisation.

Assistance to people with special needs

80. The competent authority processing an application or the Minister, **[or] MEC or Minister of Minerals and Energy** processing an appeal in terms of these Regulations must give reasonable assistance to a person desiring to object against the application or to lodge an appeal against a decision in respect of the application if that person is unable to comply with a requirement of these Regulations due to –

- (a) a lack of skills to read or write;
- (b) disability; or
- (c) any other disadvantage.

Offences

81. (1) In addition to section 24F of the Act, a **[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 79(2);
- (d) contravenes or fails to comply with a condition subject to which an exemption in terms of Chapter 5 of these Regulations has been granted or
- (e) continues with an activity where the environmental authorisation was withdrawn in terms of regulation 50 or suspended in terms of regulation 49.

(2) A person is liable on conviction of an offence in terms of subregulation (1) to imprisonment for a period not exceeding two years or

to a fine not exceeding an amount prescribed in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).

CHAPTER 9

TRANSITIONAL ARRANGEMENTS AND COMMENCEMENT

Definition

82. In this Chapter –

“previous regulations” as contemplated in these transitional arrangements, means the regulations published in terms of sections 26 and 28 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) (**ECA**), by Government Notice R. 1183 of 5 September 1997, 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 or the Environmental Impact Assessment Regulations in terms of the National Environmental Management Act (Act No. 107 of 1998) (Government Notice No. R. 385, R. 386, and R. 387 in the Government Gazette of 21 April 2006 refer) (“NEMA”).

Continuation of things done authorisations issued under previous regulations

83. (1) Anything done in terms of the previous 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 or exemption notice issued in terms of the **ECA** **[previous]** regulations **[and which is in force when these Regulations take effect]**, must be regarded to be an environmental authorisation issued in terms of these Regulations or an exemption notice issued in terms of these Regulations.

(3) Any authorisation issued in terms of the NEMA Regulations must be regarded to be an environmental authorisation issued in terms of

these Regulations.

(4) Any environmental management programme or environmental management plan approved in terms of the Mineral and Petroleum Resources Development Act prior to any provision relating to prospecting, mining, exploration and production coming into effect in terms of the Act shall be deemed to be an environmental authorisation in terms of these Regulations.

Pending applications and appeals

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

(2) An appeal lodged in terms of the previous regulations which is pending when these Regulations take effect or an appeal lodged against a decision taken by virtue of the application of subregulation (1), must despite the repeal of the previous regulations be dispensed with in terms of the previous regulations as if the previous regulations were not repealed.

(3) Any authorisation issued following an application in terms of subregulation (1) **[or an appeal in terms of subregulation (2)]** must be regarded to be an environmental authorisation issued in terms of these Regulations.

(4) Any decision taken on an application in terms of the previous regulations that is still in force when these regulations come into effect and which was issued for an activity that was listed in the previous regulations and which is listed in terms of these regulations remains in force as if the previous regulations were not repealed.

(5) If a situation arises where activities listed under the previous regulations are not listed similarly under these regulations, and where a decision on an application submitted under the previous regulations is still pending, the competent authority will consider such application to be withdrawn.

(6) An activity that is not listed in terms of the previous regulations but which is listed in terms of these regulations, must obtain prior written environmental authorisation in terms of these regulations prior to commencement of such activity.

(7) Where an application submitted in terms of the previous regulations is pending and any component of the same activity which were not listed under the previous regulations 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 regulations and may authorise the activity listed in terms of 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 addressed by the applicant.

(8) Where an application submitted under the previous regulations has been finalised and any component of the same activity which were not listed under the previous regulations are now listed in terms of section 24C(2) of the Act, and where that new component of the activity will commence after these regulations come into effect, the competent authority must consider whether the new component was satisfactorily assessed as part of the application under the previous regulations and issue an amendment to the environmental authorisation to that effect.

(9) In considering an application for environmental authorisation or exemption, the competent authority must consider any relevant information generated during a process followed in terms of the previous regulations or any other legislation and which information has been

submitted as part of the application for environmental authorisation or exemption when making a decision.

Existing policies and guidelines

85. Guidelines adopted by the Minister, Minister of Minerals and Energy or MEC before these Regulations took effect for the purpose of facilitating the implementation of the previous regulations, must to the extent compatible with the Act and these Regulations be regarded to be national or provincial guidelines issued in terms of Part 2 of Chapter 8 of these Regulations.

Continuation of regulations regulating authorisations for activities in certain coastal areas

86. 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.

Short title and commencement

87. These Regulations may be cited as the Environmental Impact Assessment Amendment Regulations, 200[6]8, and take effect on a date determined by the Minister by notice in the Government Gazette.

No. R. 660**13 June 2008**

The Minister of Environmental Affairs and Tourism hereby publishes the second amendment draft to Listing Notice 1 of the List of Activities and Competent Authorities Identified in terms of Sections 24(2) and 24D of the National Environmental Management Act, 1998 published in Government Notice No. R. 386 of 21 April 2006, which provides for activities which may not commence without environmental authorisation from the competent authority and in respect of which the investigation, assessment and communication of potential impact of activities must follow the procedure as described in regulations 22 to 26 of the Environmental Impact Assessment Regulations, 2006, promulgated in terms of section 24(5) of the Act.

DRAFT AMENDMENT REGULATIONS

To amend Listing Notice 1 of the List of Activities and Competent Authorities Identified in terms of Sections 24(2) and 24D of the National Environmental Management Act, 1998 published in Government Notice No. R. 386 of 21 April 2006, so as to provide for certain textual alterations, the insertion of new definitions and substitution of others; and augmenting definitions to amendments to certain listed activities in order to clarify which activities should be included to undergo an assessment process or the exclusion of certain listed activities which should not undergo an assessment process and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

SCHEDULE

General Explanatory Note

“[]” Words in bold type in square brackets indicate omissions from existing enactments.

“__” Words underlined with a solid line indicate insertions in existing enactments.

SCHEDULE

Definitions

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 primary agricultural produce; **[production, processing, manufacture, packaging or storage of agricultural produce and includes battery farm operations that are under roof]**

[“asbestos” means any fibrous mineral silicates, including actinolite, amosite, anthophyllite, chrysotile, crococolite or tremolite;]

“associated structures or infrastructure” means any building or infrastructure that is necessary for the functioning of a facility or activity or that is used for an ancillary service or use from the facility;

“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 **[or to improve the flow of water]** 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 secondary 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; **[building, erection or expansion of a facility, structure or infrastructure that is necessary for the undertaking of an activity, but excludes any modification, alteration or upgrading of such facility, structure or infrastructure that does not result in a change to the nature of the activity being undertaken or an increase in the production, storage or transportation capacity of that facility, structure or infrastructure]**

“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 the Schedule hereto **[that are capable of posing a significant risk to the health and safety of people or the environment and which are listed in South African National Standard No.10228: 2003, Edition 3, excluding ammonium nitrate to be used solely for the purpose of fertilizer; [, designated “The identification and classification of dangerous goods for transport”, SANS 10228:2003, edition 3, published by Standards South Africa, ISBN 0-626-14417-5, as may be amended from time to time]**

“decommissioning” means to take out of active service permanently or dismantle partly or wholly, or closure of a facility to the extent that it can not 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 transformation as a result of the undertaking of any activity;”

“development setback” means a setback line in terms of zoning scheme regulations or a setback line determined in terms of development approval conditions or a setback line determined in terms of approval conditions included in previous authorisations, rezoning or subdivision approvals spatial development tools and which must, where appropriate, be scientifically motivated;

“effluent” means wastewater from any source;

“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 [production, treatment, storage or] capacity of the facility or the scale of the activity is increased;

“filling station” means a site where petrol, diesel, liquid petroleum gas or paraffin is offered for sale, and includes shops and car-washing facilities that are located on the same property or form part of the same development but excludes retail shops that sell gas or paraffin in small containers;

["floodplain" means the 1:10 year flood line, a discernable flat landscape feature next to a river or stream that was created by weathering and sedimentation over time]

"indigenous vegetation" means vegetation consisting mostly of indigenous plant species occurring naturally in an area; [where the topsoil has not been disturbed during the preceding ten years];

"industrial area" means an area used for bulk storage, manufacturing, processing or packaging purposes;

["infill development" means urban development, including residential, commercial, retail, institutional, educational and mixed use development, but excluding industrial development, in a built up area which is at least 50 percent abutted by urban development and which can be readily connected to municipal bulk infrastructure services;]

["mariculture" means the culture or husbandry of fish in sea water;]

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

"maintenance dredging" when used in this Regulation means a dredging activity which reoccurs on a regular basis for operational purposes in ports, marinas or harbours;

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

“petroleum” means any liquid, solid hydrocarbon or combustible gas as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“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.

“resort” means facilities for overnight tourism accommodation which sleeps more than 15 people;

“sewage” means effluent from a domestic source which is conveyed by sewer to a wastewater treatment plant;

“slaughter unit” in relation to a quantity standard for determining throughput, means the definition as defined in Regulation 1028 of the Animal Slaughter, Meat and Animal Product Hygiene Act, 1967;

[“South African Manual for Outdoor Advertising Control” means the Department of Environmental Affairs and Tourism and the Department of Transport publication titled “South African Manual for Outdoor Advertising Control”, published by the Department of Environmental Affairs and Tourism, April 1998, ISBN: 0-621-27343-0;]

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

“the Regulations” means the Environmental Impact Assessment Regulations, 2006;

“**transformation**” means the physical or legal alteration of the land use as a result of the undertaking of any activity;

“**undeveloped**” means that no facilities, structures or infrastructure have previously been effected upon the land or property, either above or below ground, to give effect to the lawful land use right of the land or property;

“**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 right namely residential, mixed, retail, commercial, industrial or institutional use during the preceding ten year period;

“**watercourse**” means -

(a) a river or spring;

(b) a natural channel 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. In this Notice, the following words relevant to aquaculture activities will have the meaning so assigned hereunder:

“aquaculture” means the farming [animals or plants in an aquatic environment] of aquatic organisms including fish, molluscs, crustaceans and plants in controlled or selective aquatic environments, with some form of intervention in the rearing process to enhance production, such as regular stocking, feeding and protection from natural predators;

“cage culture” means the practice of aquaculture within a defined pen or net cage or structure that is contained within a larger water body.

“exotic” means all species not naturally found in South Africa or which has been introduced into South Africa by human intervention;

“extralimital” means species that occur within South Africa but which have been introduced into areas where they do not occur naturally; i.e. outside of their natural distribution range;

“finfish” means an aquatic vertebrate of the super-class Pisces;

“naturalized distribution range” means the distribution range occupied by an exotic or extralimital species in which it has established a reproducing population.

3. In this Notice, the following words will have the meaning so assigned hereunder; until such time as the national legislation providing for waste management has come into effect, where after the definitions will be substituted by the applicable definitions of the national legislation governing waste management in the Republic of South Africa -

“hazardous waste” means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;

“temporary storage of hazardous waste” means the storage of hazardous waste for a period of 90 days or less;

“waste” means any substance, whether or not that substance can be reduced, reused, recycled and recovered, that –

- (i) is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (ii) the generator has no further use of for the purposes of production, reprocessing or consumption;
- (iii) that must be treated or disposed of; or
- (iv) is identified as a waste by the Minister:

Provided that a by-product shall not be considered to be waste and provided further that any portion of waste once reduced, reused, recycled or recovered ceases to be waste;

4. In this Notice, the following words will have the meaning so assigned in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended -

“mine”; “mineral”, “mining permit”; “prospecting”; “prospecting right”
“prospecting area”.

5. In this Notice, the following words will have the meaning so assigned hereunder; until such time as the national legislation governing coastal management in the Republic of South Africa has come into effect, where after the definitions will be substituted by the applicable definitions of the national legislation governing coastal management in the Republic of South Africa -

“coastal protection zone” consists of –

(a) an area declared in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) as a sensitive coastal area within which activities identified in terms of section 17(1) of that Act may not be undertaken without an authorisation;

(b) any part of the littoral active zone that is not coastal public property;

(c) any coastal protected area, or part of such area, which is not coastal public property;

(d) any area situated wholly or partially within one kilometre of the high water mark which –

(i) is zoned for agricultural or undetermined use; or

(ii) is not zoned nor part of a lawfully established township, urban area or other human settlement;

(e) any area not referred to in paragraph (d) that is situated wholly or partially within 100 metres inland of the high water mark;

“coastal public property” consists of –

- (a) State-owned land located adjacent to and inland of the sea-shore;
- (b) the sea-shore; and
- (c) the sea between the low water mark and the territorial waters as defined in the Maritime Zones Act, 1994 (Act 15 of 1994);

“estuary” means a body of surface water that –

- (a) is part of a water course that is permanently or periodically open to the sea;
and
- (b) in which a rise and fall of the water level as a result of the tides is measurable at spring tides when the water course is open to the sea; or
- (c) the salinity is measurably higher as a result of the influence of the sea;

“high-water mark” means the highest line reached by coastal waters but excluding any line reached as a result of –

- (a) exceptional or abnormal floods or storms that occur no more than once in ten years; or
- (b) an estuary being closed to the sea;

[the water of the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;]

“littoral active zone” means any land forming part of, or adjacent to, the seashore that is –

- (a) unstable and dynamic as a result of natural processes; and
- (b) characterised by dunes, beaches, sand bars and other landforms composed of unconsolidated sand, pebbles or other such material which is either unvegetated or only partially vegetated;

“low-water mark” means the lowest line to which coastal waters recede during spring tides;

“sea” means all marine waters, including –

(a) the high seas;

(b) all marine waters under the jurisdiction of any state; and

(c) the bed, subsoil and substrata beneath those waters,

but does not include estuaries;

[means the water and the bed of the sea and the subsoil thereof, below the high-water mark, including the water and the bed of any tidal river and tidal lagoon]

“seashore” means the area between the low-water mark and the high-water mark.

SCHEDULE

ACTIVITIES IDENTIFIED IN TERMS OF SECTION 24(2)(a) [AND (d)] OF THE ACT, WHICH MAY NOT COMMENCE WITHOUT ENVIRONMENTAL AUTHORISATION FROM THE COMPETENT AUTHORITY AND IN RESPECT OF WHICH THE INVESTIGATION, ASSESSMENT AND COMMUNICATION OF POTENTIAL IMPACT OF ACTIVITIES MUST FOLLOW THE PROCEDURE AS DESCRIBED IN REGULATIONS 22 TO 26 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2006, PROMULGATED IN TERMS OF SECTION 24(5) OF THE ACT -

Activity number	Activity description	Identification of competent authority
1	<p>The construction of [facilities or infrastructure, including associated structures or infrastructure, for]–</p> <p>(a) <u>facilities or infrastructure for the generation of electricity where:</u></p> <p style="padding-left: 40px;">(i) <u>the electricity output is more than 10 megawatts but less than 20 megawatts;</u></p> <p style="padding-left: 40px;">(ii) <u>the output is less than 10 megawatts but the total extent of the facility covers an area in excess of 1 ha;</u></p> <p>(b) <u>facilities or infrastructure for the above ground storage of 1 000 tons or more but less than 100 000 tons of ore;</u></p> <p>(c) <u>facilities or infrastructure for the storage of 250 tons or more but less than 100 000</u></p>	<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: (a) it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent</p>

	<p>tons of coal;</p> <p>(d) resorts, lodges, hotels or other tourism and hospitality facilities <u>of any size</u> in a protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) regardless of the location of such protected area, <u>but excluding conversion of existing structures to resorts, lodges, hotels or other tourism and hospitality facilities;</u></p> <p>(e) <u>resorts, excluding:</u></p> <p style="padding-left: 40px;">(i) <u>where such resorts are located in urban areas, or</u></p> <p style="padding-left: 40px;">(ii) <u>conversion of existing structures to resorts;</u></p> <p>[(f) any purpose where lawns, playing fields or sports tracks covering an area of more than three hectares, but less than 10 hectares, will be established;]</p> <p>(f) <u>facilities or infrastructure for sport spectator purposes</u> with the capacity to hold 8 000 spectators or more;</p> <p>(g) <u>facilities or infrastructure for the slaughter</u> [of animals with a product throughput of 10 000 kilograms or more per year] <u>of:</u></p>	<p>authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended; or</p> <p>(b) the activity is to be conducted in or on a mining area or is to transform the area where the activity is to be conducted into a mining area</p>
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	<p>(i) <u>poultry exceeding 50 poultry per day</u></p> <p>(ii) <u>game and red meat exceeding 6 slaughter units per day;</u></p> <p>(h) <u>facilities or infrastructure for the concentration of animals for the purpose of commercial production in densities that exceed -</u></p> <p>(i) 20 square metres per head of cattle and more than 500 head of cattle per facility;[per year;]</p> <p>(ii) eight square meters per sheep and more than 1 000 sheep per facility [per year;];</p> <p>(iii) eight square metres per pig and more than 250 pigs per facility [per year;]excluding piglets that are not yet weaned;</p> <p>(iv) 30 square metres per crocodile at any level of production, excluding crocodiles younger than 6 months;</p> <p>(v)(aa) <u>more than 1000 poultry per facility, excluding chicks younger than 20 days, where the facility is situated inside an urban area;</u></p> <p>(bb) <u>more than 5000 chickens or poultry, excluding chicks younger than 20 days, where the facility is situated outside an urban area;</u></p> <p>[three square metres per head of poultry and more than 250 poultry</p>	
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	<p>per facility at any time, excluding chicks younger than 20 days;]</p> <p>(v) three square metre per rabbit [at] and more than 250 rabbits per facility [at any time;]or</p> <p>(vi) <u>250</u> [100] square metres per ostrich <u>or emu</u> and more than 50 ostriches or emus per facility [per year]or 2500 square metres per breeding pair;</p> <p>(i) <u>facilities or infrastructure for aquaculture of -</u></p> <p>i) <u>any size in an estuary or protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) regardless of the location of such protected area;</u></p> <p>ii) <u>finfish, crustaceans, reptiles or amphibians, including exotic or extralimital species with a production output exceeding 20 000 kg but less than 200 000 kg per annum (live round weight) with the exception of rainbow trout (<i>Oncorhynchus mykiss</i>) farmed within its naturalized distribution range and with a production output lower than 20 000 kg per annum (live round weight) and with the exception of offshore cage culture where 1 (i)(v)</u></p>	
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	<p><u>below will apply:</u></p> <p>iii) <u>molluscs including exotic or extralimital species with a production output exceeding 30 000 kg but less than 200 000 kg per annum (live round weight) with the exception of off shore cage culture where 1 (i)(v) below will apply:</u></p> <p>iv) <u>aquatic plants including exotic or extralimital species with a production output exceeding 60 000 kg but less than 200 000 kg per annum (live round weight) with the exception of off shore cage culture where 1 (i)(v) below will apply:</u></p> <p>v) <u>offshore cage culture of finfish, crustaceans, reptiles, amphibians, molluscs and aquatic plants including exotic or extralimital species with a production output exceeding 50000 kg but less than 100 000 kg per annum (live round weight).</u></p> <p>[aquaculture production, including mariculture and algae farms, with a product throughput of 10 000 kilograms, or more per year;]</p> <p>(i) <u>facilities or infrastructure for agri-industrial purposes relating to beneficiation of produce, outside industrial areas [with</u></p>	
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	<p>an existing land use zoning for industrial purposes], that cover an area of 1 000 square metres or more;</p> <p>(k) <u>facilities or infrastructure for the bulk transportation of water, sewage [and water, including] and storm water, in pipelines exceeding 1000 metres in length, situated outside urban areas, with -</u></p> <ul style="list-style-type: none"> (i) an internal diameter of 0,36 metres or more; or (ii) a peak throughput of 120 litres per second or more; <p><u>excluding where such construction relates to storm water drainage inside a road reserve;</u></p> <p>(l) <u>facilities or infrastructure for the transmission and distribution of electricity [above ground]</u></p> <ul style="list-style-type: none"> (i) with a capacity of <u>more than 33 but less [more] than [33] 220 kilovolts</u> excluding in a urban, industrial area or (ii) <u>with a capacity of more than 220 kilovolts in urban or industrial areas; [and less than 120 kilovolts];</u> <p>(m) <u>facilities or infrastructure for any purpose in the one in ten year flood line of a [river or stream]watercourse or wetland, or within 32 metres, whichever is the greater, from the</u></p>	
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	<p>bank of a [river or stream]watercourse <u>or edge of a wetland [where the flood line is unknown]</u>, excluding purposes associated with existing residential use, but including -</p> <ul style="list-style-type: none">(i) canals;(ii) channels;(iii) bridges;(iv) dams; [and](v) weirs; <u>and</u><u>(vi) storm water outlet structures;</u> <p>(n) <u>facilities or infrastructure for the off-stream storage of water, including dams, with a capacity of 50 000 cubic metres or more, unless such storage falls within the ambit of the activity listed in item 6 of Government Notice 387 of 2006 as amended or item ?? of Government Notice ?? of 2008,</u> 5[6;</p> <p>(o) <u>facilities or infrastructure for the recycling, re-use, handling, temporary storage or treatment of general waste with a throughput capacity of 20 cubic metres or more daily average measured over a period of 30 days, but less than 50 tons daily average measured over a period of 30 days;</u></p> <p>(p) <u>facilities or infrastructure for the temporary storage of hazardous waste at quantities exceeding the minimum</u></p>	
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	<p>requirements as provided in the Department of Water Affairs and Forestry's Waste Management Series - Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste, 1998, Edition 2, as may be amended from time to time;</p> <p>(q) [the landing, parking and maintenance of aircraft including -] <u>helicopter landing pads or aircraft landing strips shorter than 1,4km, [helicopter landing pads, excluding helicopter landing facilities and stops used exclusively by emergency services;</u></p> <ul style="list-style-type: none"> (i) unpaved aircraft landing strips shorter than 1,4km; (ii) structures for equipment and aircraft storage; (iii) structures for maintenance and repair; (iv) structures for fuelling and fuel storage; and (v) structures for air cargo handling;]; <p>(r) <u>facilities or infrastructure for the recreational use and outdoor racing, excluding on temporary tracks, of motor powered vehicles [outdoor racing of motor powered vehicles]</u> including -</p>	
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	<p>(i) motorcars;</p> <p>(ii) trucks;</p> <p>(iii) motorcycles; <u>and</u></p> <p>(iv) quad bikes;</p> <p>(v) <u>[boats; and</u></p> <p>(vi) <u>jet skis;]</u></p> <p>;</p> <p>(s) <u>facilities or infrastructure for the treatment of effluent [wastewater] or sewage with an annual throughput capacity of more than [2] 5000 cubic metres but less than [15] 50000 cubic metres;</u></p> <p>(t) marinas, and structures for the launching of watercraft on inland fresh water systems;</p> <p>(u) above ground cableways and funiculars;</p> <p>(v) <u>billboards exceeding 18 square metres in size outside urban, mining or industrial areas; [advertisements as defined in classes 1(a), 1(b), 1(c), 3(a), 3(b), 3(l) of the South African Manual for Outdoor Advertising Control;]</u></p> <p>(w) <u>facilities or infrastructure for the aboveground storage of a dangerous good, including petrol, diesel, liquid</u></p>	
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	<p><u>petroleum gas or paraffin, where such storage occurs in containers with a combined capacity of more than 30 but less than a 1000 cubic metres;</u></p> <p>(x) <u>filling stations, including associated structures or infrastructure, or any other facility for the underground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, where such storage occurs in containers with a combined capacity of more than 30 but less than a 1000 cubic;</u></p> <p>(y) <u>permanent structures of any size in the coastal public property;</u></p> <p>(z) <u>reservoirs for bulk water supply with a capacity of more than 250 cubic metres;</u></p> <p>(aa) <u>facilities for desalination of sea water supply with an annual daily average production of more than 250 cubic metres;</u></p> <p>(bb) <u>facilities or infrastructure for the extraction and / or processing of gas from landfill sites.</u></p>	
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2	<p>Construction or earth moving activities in the sea, <u>an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea</u>, whichever is the greater, in respect of –</p> <ul style="list-style-type: none"> (a) facilities for the storage of material and the maintenance of vessels; (b) fixed or floating jetties and slipways; (c) tidal pools; (d) embankments; (e) <u>rock revetments or stabilising structures including stabilising walls</u>; (f) buildings; or (g) infrastructure, <p><u>but excluding</u></p> <ul style="list-style-type: none"> (i) <u>on erven within existing urban areas if such construction will occur behind a development setback line or</u> (ii) <u>where such construction will occur in existing ports.</u>
3	<p>The prevention of the free movement of sand, [including] erosion [and] or accretion, by means of planting vegetation <u>or</u> placing synthetic material on dunes and exposed sand surfaces within <u>the littoral active zone [a distance of 100 metres inland of the high-water mark of the sea]</u>.</p>