

DEPARTMENT OF ENVIRONMENTAL AFFAIRS**No. R. 1159****10 December 2010****NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AMENDMENTS TO ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2010 AND LISTING NOTICES**

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby under sections 24(2), 24(5), 24D and 24M, read with section 47A(1)(b) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), made the corrections to the Environmental Impact Assessment Regulations, 2010 and Listing Notices in the Schedule hereto.

**BOMO EDITH EDNA MOLEWA****MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

SCHEDULE**Definitions**

1. In this Schedule unless the context indicates otherwise—

"the Regulations" means the Environmental Impact Assessment Regulations, 2010 published by Government Notice No. R. 543 in *Gazette* No. 33306 on 18 June 2010 and amended by Government Notice No. R.660 in *Gazette* No. 33411 on 30 July 2010;

"Listing Notice 1" means Government Notice R. 544, published in terms of sections 24(2) and 24M of the National Environmental Management Act, 1998 (Act No. 107 of 1998) on 18 June 2010 in *Gazette* 33306, as amended by Government Notice R660, published on 30 July 2010 in *Gazette* 33411;

"Listing Notice 2" means Government Notice R. 545, published in terms of sections 24(2) and 24M of the National Environmental Management Act, 1998 (Act No. 107 of 1998) on 18 June 2010 in *Gazette* 33306, as amended by Government Notice R660, published on 30 July 2010 in *Gazette* 33411; and

"Listing Notice 3" means Government Notice R. 546, published in terms of sections 24(2) and 24M of the National Environmental Management Act, 1998 (Act No. 107 of 1998) on 18 June 2010 in *Gazette* 33306.

Amendment of Regulation 1 of the Regulations

2. The definition of "plan of study for environmental impact assessment" in Regulation 1 of the Regulations is amended by the substitution for the reference "regulation 28(1)(l)" of the reference "regulation 28(1)(n)".

Amendment of Regulation 15 of the Regulations

3. Regulation 15 of the Regulations is amended by the:

- (a) substitution for the words "proof of service of such notice" of the words "proof of having notified such owner or person";
(b) Insertion of the following as subregulation (5):

"Where deviation from subregulation (1) or (3) may be appropriate, the applicant may deviate from the requirements of that subregulation to the extent and in the manner as may be agreed to by the competent authority."

Amendment of Regulation 17 of the Regulations

4. Regulation 17 of the Regulations is amended by:

- (a) the insertion in paragraph (a) of the following words after the words "An EAP":
"or person compiling a specialist report or undertaking a specialised process,"
(b) the insertion in paragraph (f) of the following words after the words "of the EAP":
"or person compiling a specialist report or undertaking a specialised process,"

- (c) the insertion in subparagraph (ii) of paragraph (f) of the following words after the words "by the EAP" or person compiling a specialist report or undertaking a specialised process,"

Amendment of Regulation 23 of the Regulations

5. Regulation 23 of the Regulations is amended by the insertion of the number "(1)" after the number "23".

Amendment of Regulation 25 of the Regulations

6. Regulation 25(1)(b) of the Regulations is amended by the substitution for the word "receipt" of the word "acceptance".

Amendment of regulation 30 of the Regulations

7. Regulation 30 is amended by the insertion of the word "report" after the word "scoping" in subregulation (4).

Amendment of Regulation 31 of the Regulations

8. Regulation 31 of the Regulations is amended by the substitution in subregulation (1) for the words "regulation 28(1)(g)(i)-(iv)" of the words "regulation 28(h)(i)-(iv)".

Amendment of regulation 34 of the Regulations

9. Regulation 34(4) is amended by the insertion of—

- (a) the number "(ii)" in paragraph (a) after the word "subregulation (2)(b)"; and
- (b) the words "in terms of subregulation (2)(b)(ii)" in paragraph (b) after the words "amended report".

Amendment of Regulation 37 of the Regulations

10. Regulation 37(1)(e) of the Regulations is amended by the deletion of the word "indicate" after the word "applicable".

Amendment of regulation 39 of the Regulations

11. Subregulation 39(2) is amended by the substitution of the words "any detail" for the words "a condition" in paragraph (c).

Amendment of regulation 41 of the Regulations

12. Substitute heading for the following heading:

"Consideration of application and decision on amendments"

Amendment of Regulation 46 of the Regulations

13. (1) Regulation 46(4)(b)(ii) of the Regulations is amended by the substitution for the words "paragraph (a)" of the words "subparagraph (i)".
- (2) Regulation 46(5)(b) of the Regulations is amended by the substitution for the words "subregulation (a)" of the words "paragraph (a)".

Amendment of Regulation 47 of the Regulations

14. Regulation 47 of the Regulations is amended by:
- (a) the deletion of the number "(1)" after the number "47".
- (b) the deletion of the words "which may or may not be the subject of proceedings in terms of this Part" before the word "if".

Amendment of regulation 51 of the Regulations

15. Regulation 51 is amended by the insertion, in subregulation (3), of the words "or the application for exemption" after the words "intention to apply for exemption".

Amendment of Regulation 54 of the Regulations

16. (1) Regulation 54(2)(d) of the Regulations is amended by the substitution of the words "subregulation c(ii)" for the expression "paragraph c(ii)".
- (2) Regulation 54(3)(b)(i) of the Regulations is amended by the deletion of the words ", as the case may be" after the word "Regulations".

Amendment of Regulation 64 of the Regulations

17. Regulation 64(2)(a) of the Regulations is amended by the substitution of the word "direction" for the word "directive".

Amendment of Regulation 76 of the Regulations

18. Regulation 76 of the Regulations is amended by the addition of the following subregulation after subregulation (5):
- (1) If an applicant has lodged a notice of intent to apply for an environmental authorisation and has already commenced with the process contemplated in regulation 22(a) to (f) of the Environmental Impact Assessment Regulations, 2006, but has not submitted the application form or the basic assessment report before 02 August 2010, the application must be dispensed with in terms of those previous NEMA regulations as if those previous regulations were not repealed unless:
- (i) otherwise agreed to between the applicant and the competent authority; or
- (ii) an application has been submitted in terms of the EIA regulations, 2010, and the notice of intent submitted in terms of the 2006 EIA regulations has been withdrawn;
- and, where applicable, on condition that the application form and basic assessment report in terms of the 2006 EIA regulations are submitted before 1 April 2011."

Amendment of Listing Notice 1

19. (1) Listing notice 1 is amended by—

(a) the replacement of the definition of “dangerous goods” with the following:

“dangerous goods” means goods containing any of the substances 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 Systems (GHS)” published by Standards South Africa, and where the presence of such goods, regardless of quantity, in a blend or mixture, causes such blend or mixture to have one or more of the characteristics listed in the Hazard Statements in section 4.2.3, namely physical hazards, health hazards or environmental hazards ;”

(b) the insertion of the following definition after the definition of “development setback”:
“estuary” means a body of surface water-

(a) that is part of a water course that is permanently or periodically open to the sea;
(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) in respect of which the salinity is measurable higher as a result of the influence of the sea;”

(c) the substitution of the definition of “watercourse” for the following definition:

“ watercourse” means -

(a) a river or spring;
(b) a natural channel or 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 as defined in the National Water Act, 1998 (Act No. 36 of 1998) and a reference to a watercourse includes, where relevant, its bed and banks”;
(e) by the replacement, in activity 4, of the bullets with the numbers “(i), (ii), (iii), (iv) and (v)”;

(f) by the substitution of activity 18 for the following:

“The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:

(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-
but excluding where such infilling, depositing, dredging, excavation, removal or moving;

(a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or

- (b) occurs behind the development setback line.
- (d) the addition, in activity 24, of the words "or thereafter" after the words "of this Schedule";
- (e) by the insertion, in activity 28, of the words "or changes to" before the words "existing facilities" and "will result in" respectively;
- (f) the insertion, in activity 40, of the words "infrastructure by more than 50 square metres" as sub activity (iv);

Amendment of Listing Notice 2

20. (1) Listing notice 2 is amended by—

(a) the replacement of the definition of "dangerous goods" with the following:

"dangerous goods" means goods containing any of the substances 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 Systems (GHS)" published by Standards South Africa, and where the presence of such goods, regardless of quantity, in a blend or mixture, causes such blend or mixture to have one or more of the characteristics listed in the Hazard Statements in section 4.2.3, namely physical hazards, health hazards or environmental hazards ;"

(b) the insertion of the following definition after the definition of :

"estuary" means a body of surface water-

(a) that is part of a water course that is permanently or periodically open to the sea;

(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) in respect of which the salinity is measurable higher as a result of the influence of the sea;".

(c) the insertion, in activity 14, of the following words after the words "along the sea bed":

"excluding construction of facilities, infrastructure or structures for aquaculture purposes;"

(d) the substitution, in activity 26, for the words "Activity 28 in Notice No. R544 of 2010 applies" of the following words:

"such commencement requires basic assessment in terms of Notice No. R544 of 2010".

(e) The substitution of the Identification of competent authority" in Appendix 1 of Listing Notice 3, in the third column of the table, for the words:

"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 the power to act under delegated authority in terms of section 42(1) of the Act."

Amendment of Listing Notice 3

21. (1) Listing Notice 3 is amended by:

(a) the addition of the following definition after the definition of "construction":

"dangerous goods" means goods containing any of the substances 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 Systems (GHS)" published by Standards South Africa and where the presence of such goods, regardless of quantity, in a blend or mixture, causes such blend or mixture to have one or more of the characteristics listed in the Hazard Statements in section 4.2.3, namely physical hazards, health hazards or environmental hazards ;"

(b) the substitution of the definition of "watercourse" for the following definition:

"watercourse" means -

- (a) a river or spring;
- (b) a natural channel or 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 as defined in the National Water Act, 1998 (Act No. 36 of 1998)

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

(c) the insertion of the following definition after the definition of "watercourse":

"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.

(d) the insertion, in activity 5, part (c), of the following words before the words "Within 10 kilometres":

"Outside urban areas"

(e) the substitution, in activity 5, of the numbers (e), (f), (g) and (h) for the numbers (d), (e), (f) and (g).

- (f) the substitution, in activity 8, of the words "1.4 kilometres and shorter" for the words "shorter than 1.4 kilometres".
- (g) the addition in activity 9, part (a) by the insertion of the following:
 - "(dd) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined"
- (h) the addition in activity 16, part (d), by the deletion of (i) and the subsequent correction of numbers.
- (i) in activity 21, part (a), the insertion of the following:
 - "(dd) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined."
- (j) the addition in activity 24, part (d), by the deletion of (ii) and the subsequent correction of numbers.

Commencement

22. These corrections are deemed to have taken effect on 2 August 2010.