

(29 November 2013 – to date)

NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998

(Gazette No. 19519, Notice No. 1540. Commencement date: 29 January 1999 [Proc. No. 8, Gazette No.19703])

ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS LISTING NOTICE 2 OF 2010

*Published under Government Notice R545 in Government Gazette 33306, dated 18 June 2010.
Commencement date: 2 August 2010 – with the exception of Activities No. 20 to 23 in Appendix 1
[Government Notice R662, Gazette No. 33411]*

As amended by:

Amendments to the Environmental Impact Assessment Regulations and Listing Notices – Government Notice R660 in Government Gazette 33411. Commencement date: 2 August 2010

Amendments to the Environmental Impact Assessment Regulations, 2010 and Listing Notices – Government Notice R1159 in Government Gazette 33842. Commencement date: deemed to have taken effect on 2 August 2010

Amendment to Environmental Impact Assessment Regulations Listing Notice 2 of 2010 - Government Notice R923 in Government Gazette 37085 dated 29 November 2013. Commencement date: 29 November 2013.

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 2 of the activities and competent authorities identified in the Schedule hereto.

(Signed)

BUYELWA SONJICA

MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

1. PURPOSE

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

2. 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 -

"**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;

"**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;

"**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;

(Definition of "dangerous goods" replaced by section 20(a) of Government Notice R1159, Gazette No. 33842 dated 10 December 2010 – deemed to have taken effect on 2 August 2010)

"**derelict land**" means abandoned land or property where the lawful 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;

"**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;

(Definition of "estuary" inserted by section 20(b) of Government Notice R1159, Gazette No. 33842 dated 10 December 2010 – deemed to have taken effect on 2 August 2010)

"**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;

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

"**linear development 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;

"**route determination**" means the process of planning and designing a new route;

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

"**the regulations**" means the Environmental Impact Assessment Regulations made under section 24(5) of the Act;

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

"**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.

- (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):

- (a) "coastal protection zone";
- (b) "coastal public property";
- (c) "high-water mark";
- (d) "littoral active zone";
- (e) "low-water mark";
- (f) "sea"; and
- (g) "seashore.

(3) 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):

- (a) "exploration right";
- (b) "mine";
- (c) "mineral";
- (d) "mining permit";
- (e) "mining right";
- (f) "production right";
- (g) "reconnaissance permit";
- (h) "retention area"; and
- (i) "retention permit".

3. IDENTIFIED ACTIVITIES AND COMPETENT AUTHORITIES

- (1) The activities identified in Appendix 1 may not commence without environmental authorisation from the competent authority.
- (2) The investigation, assessment and communication of the potential impact of activities must follow the procedure as prescribed in regulations 26 to 35 of the Environmental Impact Assessment Regulations.

4. REPEAL OF NOTICE 387 DATED 21 APRIL 2006

Notice 387 published in Gazette 28938 is hereby repealed.

5. Short title and commencement

This Listing Notice is called the Environmental Impact Assessment Regulations Listing Notice 2 of 2010, and takes effect on a date determined by the Minister by notice in the Gazette.

APPENDIX 1

Activity	Activity description	Identification of competent
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Number		authority
1.	The construction of facilities or infrastructure for the generation of electricity where the electricity output is 20 megawatts or more.	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-
2.	The construction of facilities or infrastructure for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and nuclear and radioactive waste.	
3.	The construction of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of more than 500 cubic metres.	(a) 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; or
4.	The construction of facilities or infrastructure for the refining, extraction or processing of gas, oil or petroleum products with an installed capacity of 50 cubic metres or more per day , excluding facilities for the refining, extraction or processing of gas from landfill sites. <i>(Activity 4 amended by section 5(a) of Government Notice R660, Gazette No. 33411 dated 30 July 2010 – with effect from 2 August 2010)</i>	
5.	The construction of facilities or infrastructure for any process or activity which requires a permit or license in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent and which is not identified in Notice No. 544 of 2010 or 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.	(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 in which case the competent authority is the Minister of Minerals and Energy. The exception mentioned in (b) above does not apply to the following activities contained in this Notice:
6.	The construction of facilities or infrastructure for the bulk transportation of dangerous goods - (i) in gas form, outside an industrial complex, using pipelines, exceeding 1000 metres in length, with a throughput capacity of more than 700 tons per day; (ii) in liquid form, outside an industrial complex, using pipelines, exceeding 1000 metres in length, with a throughput capacity more than 50 cubic metres per day; or	1; 2; 5; 8; 9; 10; 12; 13; 14; 17; 24; and 25.

	(iii) in solid form, outside an industrial complex, using funiculars or conveyors with a throughput capacity of more than 50 tons day.	
7.	The construction of (i) airports, or (ii) runways or aircraft landing strips longer than 1,4 kilometres.	
8.	The construction of facilities or infrastructure for the transmission and distribution of electricity with a capacity of 275 kilovolts or more, outside an urban area or industrial complex.	
9.	The construction of facilities or infrastructure for marine telecommunication.	
10.	The construction of facilities or infrastructure for the transfer of 50 000 cubic metres or more water per day, from and to or between any combination of the following: (i) water catchments, (ii) water treatment works; or (iii) impoundments, excluding treatment works where water is to be treated for drinking purposes.	
11.	The construction of railway lines, stations or shunting yards, excluding - (i) railway lines, shunting yards and railway stations in industrial complexes or zones; (ii) underground railway lines in a mining area; and (iii) additional railway lines within the reserve of an existing railway line;	
12.	The construction of facilities, infrastructure or structures for aquaculture of- (i) finfish, crustaceans, reptiles or amphibians where the facility, infrastructure or structures will have a production output of 200 000 or more kg per annum (live round weight); (ii) molluscs where the facility, infrastructure or structures will have a production output of 150000	

	<p>or more kg per annum (live round weight);</p> <p>(iii) aquatic plants where the facility, infrastructure or structures will have a production output of 200 000 or more kg per annum (live round weight);</p> <p>excluding where the construction of facilities, infrastructure or structures is for purposes of offshore cage culture in which case activity 13 in this Notice will apply.</p>	
13.	The construction of facilities, infrastructure or structures for aquaculture of offshore cage culture of finfish, crustaceans, reptiles, amphibians, molluscs and aquatic plants where the facility, infrastructure or structures will have a production output of 100 000 or more kg per annum (live round weight).	
14.	<p>The construction of an island, anchored platform or any other permanent structure on or along the sea bed excluding construction of facilities, infrastructure or structures for aquaculture purposes.</p> <p><i>(Activity 14 amended by section 20(c) of Government Notice R1159, Gazette No. 33842 dated 10 December 2010 – deemed to have taken effect on 2 August 2010)</i></p>	
15.	<p>Physical alteration of undeveloped vacant or derelict land for residential retail, commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more;</p> <p>except where such physical alteration takes place for:</p> <p>(i) linear development activities; or</p> <p>(ii) agriculture or afforestation where activity 16 in this Schedule will apply.</p>	
16.	The physical alteration of virgin soil to agriculture, or afforestation for the purposes of commercial tree, timber or wood production of 100 hectares or more.	
17.	The extraction or removal of peat or peat soils, including the disturbance of vegetation or soils in anticipation of the extraction or removal of peat or peat soils.	
18.	The route determination of roads and design of associated physical infrastructure, including roads that	

	<p>have not yet been built for which routes have been determined before 03 July 2006 and which have not been authorised by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 or 2009, made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006,-</p> <p>(i) it is a national road as defined in section 40 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);</p> <p>(ii) it is a road administered by a provincial authority;</p> <p>(iii) the road reserve is wider than 30 metres; or</p> <p>(iv) the road will cater for more than one lane of traffic in both directions.</p>	
19.	<p>The construction of a dam, where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.</p>	
20.	<p>Any activity which requires a mining right or renewal thereof as contemplated in sections 22 and 24 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p> <p><i>(Commencement date of Activity 20: Still to be proclaimed)</i></p>	
21.	<p>Any activity which requires an exploration right or renewal thereof as contemplated in sections 79 and 81 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p> <p><i>(Commencement date of Activity 21: Still to be proclaimed)</i></p>	
22.	<p>Any activity which requires a production right or renewal thereof as contemplated in sections 83 and 85 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p> <p><i>(Commencement date of Activity 22: Still to be proclaimed)</i></p>	
23.	<p>Any activity which requires a reconnaissance permit as contemplated in section 74 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), excluding where such reconnaissance is conducted by means of a fly over.</p>	

<i>(Commencement date of Activity 23: Still to be proclaimed)</i>	
24.	<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 distance is the greater, in respect of:</p> <ul style="list-style-type: none"> (i) facilities associated with the arrival and departure of vessels and the handling of cargo; (ii) piers; (iii) inter- and sub-tidal structures for entrapment of sand; (iv) breakwater structures; (v) coastal marinas; (vi) coastal harbours or ports; (vii) structures for reclaiming parts of the sea; (viii) tunnels; or (ix) underwater channels; <p>but excluding -</p> <ul style="list-style-type: none"> (a) activities listed in activity 16 in Notice 544 of 2010, (b) construction or earth moving activities if such construction or earth moving activities will occur behind a development setback line; (c) where such construction or earth moving activities will occur in existing ports or harbours where there will be no increase of the development footprint or throughput capacity of the port or harbour; or (d) where such construction or earth moving activities takes place for maintenance purposes.
25.	<p>The expansion of facilities for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and nuclear and radioactive waste.</p>
26.	<p>Commencing of an activity, which requires an atmospheric emission license in terms of section 21 of</p>

	<p>the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), except where such commencement requires basic assessment in terms of Notice No. R544 of 2010.</p> <p><i>(Activity 26 inserted by section 5(b) of Government Notice R660, Gazette No. 33411 dated 30 July 2010 – with effect from 2 August 2010)</i></p> <p><i>(Activity 26 amended by section 20(d) of Government Notice R1159, Gazette No. 33842 dated 10 December 2010 – deemed to have taken effect on 2 August 2010)</i></p>	
27.	The construction of facilities for the treatment of effluent, wastewater or sewage with a daily throughput capacity of 15000 cubic metres or more.	

(Item 27 added by regulation 2 of Government Notice R923 in Government Gazette 37085 dated 29 November 2013)