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GOVERNMENT NOTICES

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. 392

4 May 2007

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
NATIONAL ENVIRONMENTAL MANAGEMENT SECOND AMENDMENT BILL**

The Minister of Environmental Affairs and Tourism, Marthinus van Schalkwyk, MP, hereby publishes the first draft National Environmental Management Second Amendment Bill, 2007, which provides for the further regulation of environmental impact assessments, environmental authorizations and incidental matters for comment. More details are set out in the explanatory memorandum and the attached Bill.

Written comments and inputs are invited from interested parties and the general public, which must be submitted to:

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**THE CLOSING DATE FOR COMMENTS IS 4 JUNE 2007. COMMENTS RECEIVED
AFTER THE CLOSING DATE MAY NOT BE CONSIDERED.**

EXPLANATORY MEMORANDUM

The National Environmental Management Act, 1998 (NEMA) provides for co-operative environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote co-operative governance and procedures for coordinating environmental functions exercised by organs of state.

Section 24 provides for both the Minister and MEC to identify activities or areas in which certain activities may not be undertaken in the absence of an environmental authorization.

Section 43 provides for appeal procedures in respect of any decision made by the relevant competent authority.

This amendment to the Act seeks to:

- Amend the National Environmental Management Act, 1998, so as to substitute certain definitions and to make certain textual alterations to others;
- To make certain textual alterations regarding environmental authorizations; and
- To substitute certain provisions relating to appeal procedures

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.

DRAFT BILL

To amend the National Environmental Management Act, 1998, so as to insert certain definitions and substitute others; to make further provision regarding environmental authorisations; to make certain textual alterations and to provide for incidental matters.

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

Amendment of section 1 of Act 107 of 1998, as amended by section 1 of Act 8 of 2004

1. Section 1 of the National Environmental Management Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by-

(a) the substitution for the definition of "**commence**" of the following definition:

"'commence' when used in Chapter 5, means the start of any physical activity on the site in furtherance of a listed activity and specified activity;"
and

(b) the substitution for the definition of '**environmental authorisation**' of the following definition:

“environmental authorisation”, when used in Chapter 5, means the authorisation by a competent authority of a listed and specified activity” in terms of this Act;”.

Substitution of section 24 of Act 107 of 1998

2. The following section is hereby substituted for section 24 of the principal Act:

“Environmental authorisations

24. (1) In order to give effect to the general objectives of integrated environmental management laid down in this Chapter, the potential impact on the environment of listed and specified activities must be considered, investigated, assessed and reported on to the competent authority charged by this Act with granting the relevant environmental authorisation.

(2) The Minister, and every MEC with the concurrence of the Minister, may identify-

- (a) activities which may not commence without environmental authorisation from the competent authority;
- (b) geographical areas based on environmental attributes in which specified activities may not commence without environmental authorisation from the competent authority;
- (c) geographical areas based on environmental attributes, including those attributes based on municipal or provincial Spatial Development Frameworks where such Spatial Development Frameworks have been officially accepted by the provincial authority, in which specified activities may be excluded from authorisation by the competent authority;
- (d) individual or generic existing activities which may have a detrimental effect on the environment and in respect of which an application for an environmental authorisation must be made to the competent authority:

Provided that where an activity falls under the jurisdiction of another Minister or MEC, a decision in respect of paragraphs (a) to (d) must be taken after consultation with such other Minister or MEC.

- (3) The Minister, and every MEC with the concurrence of the Minister, may compile information and maps that specify the attributes of the environment in particular geographical areas, including the sensitivity, extent, interrelationship and significance of such attributes which must be taken into account by every competent authority.
- (4) Procedures for the investigation, assessment and communication of the potential impact of activities **[must ensure]** may include, [as a minimum,] with respect to every application for an environmental authorisation-
- (a) investigation of the environment likely to be significantly affected by the proposed activity and alternatives thereto;
 - (b) investigation of the potential impact of the activity and its alternatives on the environment and assessment of the significance of that potential impact;
 - (c) investigation of mitigation measures to keep adverse impacts to a minimum, as well as the option of not implementing the activity;
 - (d) public information and participation which provide all interested and affected parties, including all organs of state in all spheres of government that may have jurisdiction over any aspect of the activity, with a reasonable opportunity to participate in such information and participation procedures;
 - (e) reporting on gaps in knowledge, the adequacy of predictive methods and underlying assumptions, and uncertainties encountered in compiling the required information;
 - (f) investigation and formulation of arrangements for the monitoring and management of impacts, and the assessment of the effectiveness of such arrangements after their implementation;
 - (g) coordination and cooperation between organs of state in the consideration of assessments where an activity falls under the jurisdiction of more than one organ of state;
 - (h) that the findings and recommendations flowing from such investigation, the general objectives of integrated environmental management laid down in this Act and the principles of environmental management set out in section 2 are taken into account in any decision made by an organ of state in relation to the proposed policy, programme, plan or project; and
 - (i) that environmental attributes identified in the compilation of information and maps as contemplated in subsection (3) are considered.

- (5) The Minister, and every MEC with the concurrence of the Minister, may make regulations consistent with subsection (4)-
- (a) laying down the procedure to be followed in applying for, the issuing of and monitoring compliance with environmental authorisations;
 - (b) laying down the procedure to be followed and the institutional arrangements in respect of-
 - (i) the efficient administration and processing of environmental authorisations;
 - (ii) fair decision-making and conflict management in the consideration and processing of applications for environmental authorisations;
 - [(iii) the preparation and evaluation of environmental impact assessments, strategic environmental assessments, environmental management plans and any other relevant environmental management instruments that may be developed in time;]**
 - (iii) applications to the competent authority by any person to be exempted from the provisions of any regulation in respect of a specific activity;
 - (iv) appeals against decisions of competent authorities;
 - (c) laying down procedures and institutional arrangements to be followed for the preparation and evaluation of prescribed environmental management instruments including-
 - (i) environmental management frameworks;
 - (ii) strategic environmental assessments;
 - (iii) environmental impact assessments,
 - (iv) environmental management plans;
 - (v) environmental risk assessments;
 - (vi) environmental feasibility assessments, and
 - (vii) any other relevant environmental management instruments that may be developed in time;
 - (d) prescribing fees to be paid for-
 - (i) the consideration and processing of applications for environmental authorisations;
 - (ii) the review of documents, processes and procedures by specialists on behalf of the competent authority;
 - (e) requiring the provision of financial or other security to cover the risks to the

- State and the environment of non-compliance with conditions attached to environmental authorisations;
- (f) specifying that environmental impact assessments, or other specified tasks performed in connection with an application for an environmental authorisation, may only be performed by an environmental assessment practitioner registered in accordance with the prescribed procedures;
 - (g) requiring that competent authorities maintain a registry of applications for, and records of decisions in respect of, environmental authorisations;
 - (h) specifying that a contravention of a specified regulation is an offence and prescribing penalties for the contravention of that regulation;
 - (i) prescribing minimum criteria for the report content for each type of report and for each process that is contemplated in terms of the regulations in order to ensure a consistent quality and to facilitate efficient evaluation of reports;
 - (j) prescribing review mechanisms and procedures including criteria for, and responsibilities of all parties in, the review process;
 - (k) prescribing any other matter necessary for dealing with making and evaluating applications for environmental authorisations.
- (6) An MEC may make regulations in terms of subsection (5) only in respect of listed and specified activities or areas in respect of which the MEC is the competent authority.
- (7) Compliance with the procedure laid down by the Minister or an MEC in terms of subsection (4) does not remove the need to obtain an authorisation, other than an environmental authorisation, for that activity from any organ of state charged by law with authorising, permitting or otherwise allowing the implementation of the activity.
- (8) Authorisations or permits obtained under any other law for an activity listed or specified in terms of this Act does not absolve the applicant from obtaining authorisation under this Act and any such other authorisations or permits may only be considered by the competent authority if they are in compliance with subsection (4) (d).
- (9) Only the Minister may make regulations in accordance with subsection (5) stipulating the procedure to be followed and the report to be prepared in investigating, assessing and communicating potential impacts for the purpose of complying with subsection (1) where the activity will affect-
- (a) more than one province or traverse international boundaries; or
 - (b) compliance with obligations resting on the Republic under customary

international law or a convention.

(10) The Minister may identify-

- (a) norms and standards for identified or specified activities;
- (b) the process to be followed in determining which norms and standards may be published as prescribed norms and standards as contemplated in subsection (a);
- (c) activities which maybe excluded from the application of regulations promulgated in terms of section 24(5) based on prescribed norms and standards;
- (d) specific monitoring and enforcement conditions relating to prescribed norms and standards.”

Substitution of section 24C of Act 107 of 1998

3. The following section is hereby substituted for section 24C of the principal Act:

“Procedure for identifying the competent authority

24C. (1) When listing or specifying activities in terms of section 24 (2) the Minister, or the MEC with the concurrence of the Minister, must identify the competent authority responsible for granting environmental authorisations in respect of those activities.

(2) The Minister must be identified as the competent authority in terms of subsection (1) if the activity-

- (a) has implications for national environmental policy or international environmental commitments or relations;
- (b) will take place within an area protected by means of an international environmental instrument, excluding [identified in terms of section 24 (2) (b) or (c) as a result of the obligations resting on the Republic in terms of any international environmental instrument, other than any] areas falling within the sea-shore, a conservancy, a protected natural environment, a proclaimed private nature reserve, a natural heritage site, or the buffer zone or transitional area of a biosphere reserve or a world

- heritage site;
- (c) will affect more than one province or traverse international boundaries;
 - (d) is undertaken, or is to be undertaken, by-
 - (i) a national department;
 - (ii) a provincial department responsible for environmental affairs; or
 - (iii) a statutory body, excluding any municipality, performing an exclusive competence of the national sphere of government; or
 - (e) will take place within a national proclaimed protected area or other conservation area under control of a national authority.
- (3) The Minister and an MEC may agree that applications for environmental authorisations with regard to any activity or class of activities-
- (a) contemplated in subsection (2) may be dealt with by the MEC;
 - (b) in respect of which the MEC is identified as the competent authority may be dealt with by the Minister.“

Substitution of section 24D of Act 107 of 1998

4. The following section is hereby substituted for section 24D of the principal Act:

“Publication of list

24D. The Minister or MEC, as the case may be, must publish in the relevant *Gazette* a notice, listing activities or specifying activities or areas identified in terms of section 24 (2) and listing the competent authorities identified in terms of section 24C and the date on which the list is to come into effect.”

Substitution of section 24F of Act 107 of 1998

5. The following section is hereby substituted for section 24F of the principal Act:

“Offences relating to commencement or continuation of listed activity

24F. (1) Notwithstanding the provisions of any other Act, no person may commence an activity listed or specified in terms of section 24 (2) (a) or (b) unless the competent authority has granted an environmental authorisation for the activity, and no person may continue an existing activity listed or specified

in terms of section 24 (2) (d) if an application for an environmental authorisation is refused.

- (2) It is an offence for any person to contravene subsection (1) or the conditions applicable to any environmental authorisation granted for a listed or specified activity.
- (3) It is a defence to a charge in terms of subsection (2) to show that the activity was commenced or continued in response to an emergency so as to protect human life, property or the environment.
- (4) A person convicted of an offence in terms of subsection (2) is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding ten years, or to both such fine and such imprisonment.”

Substitution of section 24G of Act 107 of 1998

6. The following section is hereby substituted for section 24G of the principal Act:

“Rectification of unlawful commencement or continuation of listed activity

24G. (1) On application by a person who has committed an offence in terms of section 24F (2) the Minister or MEC, as the case may be, may direct the applicant to-

- (a) compile a report containing one of the following-
 - (i) an assessment of the nature, extent, duration and significance of the impacts of the activity on the environment, including the cumulative effects;
 - (ii) a description of mitigation measures undertaken or to be undertaken in respect of the impacts of the activity on the environment;
 - (iii) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how issues raised have been addressed;
 - (iv) an environmental management plan;

- (b) provide such other information or undertake such further studies as the Minister or MEC may deem necessary.
- (2) Upon the payment by the person of an administration fine not exceeding R1 million as determined by the competent authority, the Minister or MEC concerned must consider **[the report]** any reports or information submitted in terms of [contemplated in] subsection (1) and thereafter may-
- (a) direct the person to cease the activity, either wholly or in part, and to rehabilitate the environment within such time and subject to such conditions as the Minister or MEC may deem necessary; or
- (b) issue an environmental authorisation to such person subject to such conditions as the Minister or MEC may deem necessary.
- (3) A person who fails to comply with a directive contemplated in subsection (2) (a) or who contravenes or fails to comply with a condition contemplated in subsection (2) (b) is guilty of an offence and liable on conviction to a penalty contemplated in section 24F (4)."

Amendment of section 24H of Act 107 of 1998, as amended by Act 8 of 2004

7. Section 24H of the principal Act is hereby amended by addition after subsection (5) of the following subsection:

"(6) The Minister may use his discretion in determining the number of registration authorities to be authorized as contemplated in subsection 1, including the decision to limit the number of registration authorities to a single registration authority."

Amendment of section 24 of Act 107 of 1998, as amended by Act 8 of 2004

8. The following section is hereby inserted after subsection 24I of the principal Act:

“Implementation Guidelines

24J. The Minister may, after consultation with every MEC, publish guidelines regarding the implementation, administration and institutional arrangements of regulations promulgated in terms of section 24 (5) of this Act.”

Amendment of section 24 of Act 107 of 1998, as amended by Act 8 of 2004

9. The following section is hereby inserted after subsection 24J of the principal Act:

“Consultation between competent authorities and consideration of legislative compliance requirements of other organs of state having jurisdiction

24K. (1) The Minister or MEC may consult with any organ of state responsible for administering the legislation of any aspect of an activity or process which also requires environmental authorization under this Act, in respect of the co-ordination of the requirements of the legislation and any regulations promulgated under the Act, to avoid duplication in the submission of such information or the carrying out of such processes.

(2) The Minister or MEC may, for purposes of the environmental authorization requirements provided in this Act, consider any aspect of the authorization process undertaken by any other organ of state having jurisdiction over any aspect of an activity or process which also requires environmental authorization under this Act.”

Amendment of section 24 of Act 107 of 1998, as amended by Act 8 of 2004

10. The following section is hereby inserted after subsection 24K of the principal Act:

“Exemption to persons, local authorities and government institutions from application of certain provisions”

24L. (1) Any person, local authority or government institution may in writing apply to the Minister and every MEC, as the case may be, with the furnishing of reasons, for exemption from the application of any provision of section 23 or 24 of this Act.

(2) The Minister and every MEC, as the case may be, may after considering an application lodged in terms of sub section 1—

(a) refuse to grant exemption;

(b) in writing grant exemption from compliance with any of or all the provisions of section 23 or 24 of this Act.

(3) If any condition referred to in subsection (3) (b) is not being complied with, the Minister may in writing withdraw the exemption concerned or at his discretion determine new conditions.

(4) The Minister and every MEC, as the case may be, may from time to time review any exemption granted or condition determined, and if he deems it necessary, withdraw such exemption or delete or amend such condition.”

Substitution of section 43 of Act 107 of 1998

11. The following section is hereby substituted for section 43 of the principal Act:

“Appeals

43. (1) Any affected person may appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under this Act or a specific environmental management Act.

(2) Any affected person may appeal to the relevant MEC against a decision taken by any person acting under a power delegated by the MEC under this Act or a specific environmental management Act.

[(3) Any affected party may appeal to the Minister or MEC, as the case may be, against-

(a) any decision to issue or to refuse to issue an environmental

(b) any provision or condition of an environmental authorisation or

(c) any directive issued in terms of Chapter 5.]

(3) An appeal under subsections (1) to (2) must be noted and must be dealt with in the manner prescribed and upon payment of a prescribed fee.

(4) The Minister or MEC, as the case may be, may consider and decide an appeal or appoint an appeal panel to consider and advise the Minister or MEC on the appeal.

(5) The Minister or MEC may, after considering such an appeal, confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision, including the decision that the prescribed fee paid by the appellant, or any part thereof, be refunded.

(6) An appeal under this section does not suspend an environmental authorisation or exemption, or any provisions or conditions attached thereto, or any directive, unless the Minister or MEC directs otherwise.

(7) Notwithstanding the provisions of subsections 1-6, any person whose interests are affected by a decision of an administrative body under this Act, may within 30 days after having become aware of such decision, request such body in writing to furnish reasons for the decision within 30 days after receiving the request.

(8) Within 180 days after having been furnished with reasons in terms of subsection (1), or after the expiration of the period within which reasons had to be so furnished by the administrative body, the person in question may apply to a division of the Supreme Court having jurisdiction, to review the decision."

Short title and commencement

11. This Act is called the National Environmental Management Second Amendment Act, 2007 and commences on a date determined by the President by proclamation in the Gazette.

No. 393**4 May 2007**

The Minister of Environmental Affairs and Tourism hereby publishes the first amendment draft to the National Environmental Management Environmental Impact Assessment Regulations, 2006, which provides for the further regulation of environmental impact assessments, environmental authorizations and incidental matters. More details are set out in the explanatory memorandum and the attached Schedule.

Written comments and inputs are invited from interested parties and the general public, which must be submitted to:

Ms A Britz or Mr W Fourie
E-mail: Abritz@deat.gov.za

Department of Environmental Affairs and Tourism
Private Bag X 477
Pretoria
0001

Facsimile: 012-3103688

THE CLOSING DATE FOR COMMENTS IS 4 JUNE 2007. COMMENTS RECEIVED AFTER THE CLOSING DATE WILL NOT BE CONSIDERED.

EXPLANATORY MEMORANDUM

The Minister of Environmental Affairs and Tourism has in terms of section 24(5) read with section 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("the Act"), made the Environmental Impact Assessment Regulations, 2006, published in Government Notice No. R. 385 of 21 April 2006.

The Minister has furthermore, published, in Government Notice No. R. 386 of 2006, a list of 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.

The Minister has furthermore, published, in Government Notice No. R. 387 of 21 April 2006, a list of 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 27 to 36 of the Environmental Impact Assessment Regulations, 2006, promulgated in terms of section 24(5) of the Act.

The Environmental Impact Assessment Regulations, 2006 are currently implemented by both the provincial and national spheres of government. Since the time when the regulations came into effect, vast amounts of enquiries in respect of these regulations, as well as a number of implementation workshops held with provinces, highlighted a number of amendments that are necessary to the Environmental Impact Assessment regulations. Such proposed amendments range from purely editorial corrections and augmenting certain definitions to specific 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.

The Minister of Environmental Affairs and Tourism, after consultation with the relevant competent Provincial Authorities, hereby publishes for public comment proposed amendments to the regulations published in Government Notice No. R. 385 of 21 April 2006 as set out in the Schedule.

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.

Definition

1. In these Regulations-

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

"**the Regulations**" means the Environmental Impact Assessment Regulations, 2006 published in Government Notice No. R. 385 of 21 April 2006.

Substitution of regulation 5 of the Regulations

2. The following regulation is hereby substituted for regulation 5 of the Regulations:

"Assistance by competent authorities to applicants

5. A competent authority may, on its own initiative, or on request by an applicant or an EAP managing an application, and subject to the payment of any reasonable charges –

- (a) give the applicant or EAP access to any guidelines and information on practices that have been developed or to any other information in the possession of the competent authority that is relevant to the application; or
- (b) advise the applicant or EAP, either in writing or by way of discussions, of the nature and extent of any of the processes that must be followed in order to comply with the Act and these Regulations.”

Substitution of regulation 9 of the Regulations

3. The following regulation is hereby substituted for regulation 9 of the Regulations:

“Timeframes for competent authorities

9. (1) A competent authority must strive to meet timeframes applicable to competent authorities in terms of these Regulations.
- (2) A competent authority may consider the reasonable extension of a timeframe applicable to the issuing or refusal of an environmental authorization or an appeal submitted in terms of these regulations where the applicable timeframe fall within an extended holiday period or festive season.
- (3) If the competent authority is an organ of state acting under delegated powers and duties in terms of section 42 or 42A of the Act and that organ of state is unable to meet any timeframe set by a provision of these Regulations, the delegated organ of state must notify the Minister or MEC.
- (4) The applicant or EAP managing the environmental assessment process must give consideration to applicable timeframes, which fall within an extended holiday or festive season period. “

Substitution of regulation 15 of the Regulations

4. The following regulation is hereby substituted for regulation 15 of the Regulations:

“Combination of applications

15. (1) If an applicant intends undertaking two or more activities as part of the same development, a single application on one application form must be submitted in respect of all those activities.
- (2) If an applicant intends undertaking more than one activity of the same type at different locations in the same province, different applications in respect of the different locations must be submitted, but the competent authority may, at the written request of the applicant, grant permission for the submission of a single application in respect of all those activities, whether or not the application is submitted on one or more application forms.
- (3) If the competent authority grants permission in terms of sub regulation (2), the application must be dealt with as a consolidated process in respect of all the activities covered by the application, but the potential environmental impacts of each activity must be considered in terms of the location where the activity is to be undertaken.
- (4) If an applicant intends undertaking a development which has a single component that is a listed or specified activity, the entire development must be assessed as part of the relevant environmental assessment process.”

Substitution of regulation 16 of Regulations

5. The following regulation is hereby substituted for regulation 16 of the principal Regulation:

“Activities on land owned by person other than applicant

- 16(1) If the applicant is not the owner of the land on which the activity is to be undertaken, the applicant must, before applying for an environmental authorisation in respect of that activity, **[obtain the written consent of the landowner to undertake the proposed activity on that land]** give written notice of the proposed activity to the owner of the land on which the activity is to be undertaken, and inform the owner of the land that he may participate in the public participation process as contemplated in regulation 56.
- (2) A written **[consent]** notice as contemplated in sub regulation (1) must be in a form agreed to or determined by the competent authority and such form must be submitted to the competent authority as proof that sub regulation (2) has been complied with.
- [(3) Sub regulation (1) does not apply in respect of a linear activity, provided the applicant has given notice of the proposed activity to the owners of the land on which the activity is to be undertaken as soon as the proposed route or alternative routes have been identified.]”**

Amendment of regulation 22 of the Regulations

6. Regulation 22 is hereby amended by –

- (a) the deletion of paragraph (b) of subregulation (1);
- (b) the addition of the following subregulation (2);

“(2) If basic assessment must be applied to an application, the applicant or EAP managing the application must before submitting the application to the competent authority give notice, in writing, of the proposed application to –

- (a) the competent authority; and

- (b) any organ of state which has jurisdiction in respect of any aspect of the activity.”

Amendment of regulation 23 of the Regulations

7. The addition of subregulation (3) after subregulation (2) of regulation 23 of the principal Regulation:

- “(3) In addition, a basic assessment report must take into account –
- (a) any relevant guidelines; and
 - (b) any **[practices]** departmental policies and decision making instruments that have been developed by the competent authority in respect of the kind of activity which is the subject of the application.”

Amendment of subregulation (1) regulation 29 of the Regulations

8. Subregulation (1) of regulation 29 of the Regulations is hereby amended by the addition of the following paragraph after paragraph (h):

- “(i) a description of the need and desirability of the proposed activity and identified potential alternatives to the proposed activity, including advantages and disadvantages that the proposed activity or alternatives may have on the environment and the community that may be affected by the activity;”

Substitution of subregulation (3) regulation 53 of the Regulations

9. The following subregulation is hereby substituted for subregulation (3) of regulation 53 of the Regulations:

“(3) The competent authority must, within thirty days of the acknowledgement of the receipt of an application, **[promptly]** decide the application if the rights or interests of other parties are not likely to be adversely affected by the proposed exemption.”

Substitution of paragraph (d) of subregulation (2) of regulation 54 of the Regulations

10. The following paragraph is hereby substituted for paragraph (d) of subregulation (2) of regulation 54 of the Regulations:

“2(d) the conditions subject to which exemption is granted, [,] including conditions relating to the transfer of the written exemption notice; and”

Amendment of subregulation (2) of regulation 56 of the Regulations

11. The following regulation is hereby substituted for subregulation (2) of regulation 56 of the Regulations:

“(2) The person conducting a public participation process must take into account any guidelines applicable to public participation 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] locality where the activity is or is to be undertaken or to any alternative locality where the activity is to be undertaken; and [site];**
 - (ii) any other party as instructed by the competent authority.
- [(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;]**”

Substitution of regulation 61 of the Regulations

12. The following regulation is hereby substituted for regulation 61 of the Regulations:

“Jurisdiction of Minister and MEC to decide appeals

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

Substitution of subregulation (1) of regulation 62 of the Regulations

13. The following subregulation is hereby substituted for subregulation (1) of regulation 62 of the Regulations:

- “(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 days after that person has been notified in terms of these Regulations of the decision.”

Substitution of subregulation (1) of regulation 63 of the Regulations

14. The following subregulation is hereby substituted for subregulation (1) of regulation 63 of the Regulations:

- “(1) An appeal **[lodged]** submitted to **[with]** –
- (a) the Minister for all decisions taken by the **[must be submitted to the]** Department of Environmental Affairs and Tourism;
 - (b) the MEC for all decisions taken by the **[must be submitted to the]** provincial department responsible for environmental affairs in the relevant province or
 - (c) the delegated organ of state, where relevant, for all decisions taken by **[the] [must be submitted to]** that delegated organ of state.”

Substitution of subregulation (1) of regulation 64 of the Regulations

15. The following subregulation is hereby substituted for subregulation (1) of the regulation 64 of the Regulations:

“(1) An appeal must be submitted to the relevant department within 30 days of submitting [lodging of] the notice of intention to appeal referred to in regulation 62(1).”

Substitution of paragraph (b) of subregulation (2) of regulation 65 of the Regulations

16. The following paragraph is hereby substituted for paragraph (b) of subregulation (2) of regulation 65 of the Regulations:

“(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 or delegated organ of state, as the case may be, within 30 days of being served a copy as per sub regulation (2). [receipt of the responding statement.]”

Substitution of subregulation (1) of regulation 68 of the Regulations

17. The following subregulation is hereby substituted for subregulation 1) of regulation 68 of the Regulations:

“(1) The Minister, MEC or delegated organ of state, as the case may be, must reached a final decision, in writing, on an appeal submitted, within 180 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 or delegated organ of state, as the case may be, in the decision making process.”

Amendment of regulation 79 of the Regulations

18. Regulation 79 of the Regulations is hereby amended by the addition of the following subregulation:

“(7)Sub regulations (1), (2), (3), (4), (5) and (6) must be read together with the provisions of chapter 7 of the principal Act. “

Short title and commencement

19. These Regulations shall be cited as Environmental Impact Assessment Amendment Regulation, 2007 and take effect on a date determined by the Minister by notice in the Government Gazette.

No. 394

4 May 2007

**AMENDMENT OF LIST OF ACTIVITIES AND COMPETENT AUTHORITIES
IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D OF THE NATIONAL
ENVIRONMENTAL MANAGEMENT ACT, 1998**

The Minister of Environmental Affairs and Tourism, Marthinus van Schalkwyk, MP, hereby publishes an amendment to 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. More details are set out in the explanatory memorandum and the attached Schedule.

Written comments and inputs are invited from interested parties and the general public, which must be submitted to:

Ms A Britz or Mr W Fourie
E-mail: Abritz@deat.gov.za

Department of Environmental Affairs and Tourism
Private Bag X 477
Pretoria
0001

Facsimile: 012-3103688

**THE CLOSING DATE FOR COMMENTS IS 4 JUNE 2007. COMMENTS
RECEIVED AFTER THE CLOSING DATE MAY NOT BE CONSIDERED.**

EXPLANATORY MEMORANDUM

The Minister of Environmental Affairs and Tourism has in terms of section 24(5) read with section 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“the Act”), made the Environmental Impact Assessment Regulations, 2006, published in Government Notice No. R. 385 of 2006.

The Minister has furthermore, published, in Government Notice No. R. 386 of 2006, a list of 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.

The Minister has furthermore, published, in Government Notice No. R. 387 of 2006, a list of 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 27 to 36 of the Environmental Impact Assessment Regulations, 2006, promulgated in terms of section 24(5) of the Act.

The Environmental Impact Assessment Regulations, 2006 are currently implemented by both the provincial and national spheres of government. Since the time when the regulations came into effect, vast amounts of enquiries in respect of these regulations, as well as a number of implementation workshops held with provinces, highlighted a number of amendments that are necessary to the NEMA EIA regulations. Such proposed amendments range from purely editorial corrections and augmenting certain definitions to specific 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.

The Minister of Environmental Affairs and Tourism, after consultation with the relevant competent Provincial Authorities, hereby publishes for public comment proposed amendments to 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.as set out in the Schedule. For convenience the previous list with the amendments included and indicated are published. Once promulgated the newly published notice will replace the previous notice.

[] 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]**

“**aquaculture**” means the farming of animals or plants in an aquatic environment;

“**asbestos**” means any fibrous mineral silicates, including actinolite, amosite, anthophyllite, chrysotile, crocokolite 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 stream, 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 an activity; **[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]**

“**cultivate**” in relation to land, means any act by means of which the topsoil is disturbed mechanically;

“**dangerous goods**” means goods 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 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 dismantling 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 right has not been exercised during the preceding ten year period;

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

“expansion” means the modification, extension or alteration 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 is increased;

“floodplain” means the area below the 1:10 year floodline or if the floodline is not determined, [1:10 year flood line,] 32m from the bank of the river; [a discernable flat landscape feature next to a river or stream that was created by weathering and sedimentation over time]

“high-water mark” means the highest line reached by the water of the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

“indigenous vegetation” means de facto indigenous and invasive vegetation, which has not been transformed or cultivated at no time during the preceding ten years;

“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;

“**mine**” when used as a noun or a verb as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“**mineral**” means a mineral as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

“**mining area**” means an area as defined in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“**mining permit**” means a permit as defined in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“**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 development**” 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.

“**prospecting**” means prospecting as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

“prospecting area” means an area as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“prospecting right” means a right as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“reconnaissance permit” means a permit as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“resort” means overnight tourism accommodation of more than 15 beds, excluding conversion of existing structures, on a site separate from an established homestead footprint, and where such accommodation is associated with tourism activities;

“retention area” means an area as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“retention permit” means a permit as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“sea” 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;

“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;]

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

“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 physically altering the structure, function or current use;

“undeveloped” means that no installations or construction has been effected upon and below ground, consistent with the lawful land use right, during the preceding ten year period;

“urban areas” means areas situated within the urban edge (as defined by the relevant competent provincial authority), or in instances where no urban edge/boundary has been officially demarcated, 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;

“virgin soil” means land which has at no time during the preceding ten years been cultivated; 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.

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) the generation of electricity where:</p> <p style="padding-left: 40px;">(i) <u>electricity output is more than 10 megawatts but less than 20 megawatts;</u></p> <p style="padding-left: 40px;">(ii) <u>where the output is less than 10 megawatts but the total extent of the facility covers an area in excess of 1ha;</u></p> <p>(b) the above ground storage of 1 000 tons or more but less than 100 000 tons of ore;</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 it is an application for an activity contemplated in section 24C(2) of</p>

	<p>(c) the storage of 250 tons or more but less than 100 000 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);</p> <p>(e) <u>resorts, excluding where such resorts are located in urban areas;</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 <u>outside urban areas;</u></p> <p>(g) <u>for sport spectator purposes</u> with the capacity to hold 8 000 spectators or more;</p> <p>(h) the slaughter of:</p> <p>(i) <u>poultry exceeding 50 poultry per day</u></p> <p>(ii) <u>game and red meat exceeding 2 slaughter units per day;</u></p> <p>(i) the concentration of animals for the purpose of commercial production in densities that exceed -</p> <p>(i) 20 square metres per head of</p>	<p>the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.</p>
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	<p>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) <u>15 birds per square meters and more than 500 chickens per facility at any time, excluding chicks younger than 20 days or 5 birds per square meters and more than 500 other poultry per facility at any time, excluding chicks younger than 20 days; [three square metres per head of poultry and more than 250 poultry per facility at any time, excluding chicks younger than 20 days;]</u></p> <p>(vi) three square metre per rabbit [at] and more than 250 rabbits per facility at any time; or</p> <p>(vii) 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>	
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	<p>(j) aquaculture production, including ariculture and algae farms, with a product throughput of 10 000 kilograms, <u>design capacity and wet weight</u>, or more per year;</p> <p>(k) agri-industrial purposes <u>relating to beneficiated produce</u>, outside areas with an existing land use zoning for industrial purposes, that cover an area of 1 000 square metres or more;</p> <p>(l) the bulk transportation of sewage and water, including storm water, in pipelines <u>exceeding 100 metres in length, situated outside urban areas</u>, with -</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>(m) the transmission and distribution of electricity above ground with a capacity of <u>less [more] than [33] 131 kilovolts [and less than 120 kilovolts]</u>;</p> <p>(n) any purpose in the one in ten year flood line of a river, [or] stream or wetland, or within 32 metres, <u>whichever is the greater</u>, from the bank of a river; [or] stream or wetland [where the flood line is unknown], excluding purposes associated with existing</p>	
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	<p>residential use, but including -</p> <ul style="list-style-type: none">(iii) canals;(iv) channels;(v) bridges;(vi) dams; [and](vii) weirs; <u>and</u>(viii) <u>stormwater outlet structures</u> <p>(o) the off-stream storage of water, including dams and reservoirs, 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 No. R. 387 of 2006;</p> <p>(p) 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;</p> <p>(q) the temporary storage of hazardous waste <u>for less than 90 days</u>;</p> <p>(r) [the landing, parking and maintenance of aircraft including -] <u>helicopter landing pads, excluding helicopter landing facilities and stops used exclusively by emergency services, or aircraft landing</u></p>	
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	<p><u>strips shorter than 1,4km;</u></p> <ul style="list-style-type: none">(i) [helicopter landing pads, excluding helicopter landing facilities and stops used exclusively by emergency services;(ii) unpaved aircraft landing strips shorter than 1,4km;(iii) structures for equipment and aircraft storage;(iv) structures for maintenance and repair;(v) structures for fuelling and fuel storage; and(vi) structures for air cargo handling;] <p>(s) the <u>recreational use and outdoor racing, excluding on temporary tracks, of motor powered vehicles [outdoor racing of motor powered vehicles]</u> including -</p> <ul style="list-style-type: none">(i) motorcars;(ii) trucks;(iii) motorcycles;(iv) quad bikes;(v) boats; and(vi) jet skis; <p>(t) the treatment of effluent, wastewater or sewage with an annual throughput capacity of more than [2] 5 000 cubic metres but less than [15] 50 000 cubic metres;</p>	
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	<p>(u) marinas and the launching of watercraft on inland fresh water systems;</p> <p>(v) above ground cableways and funiculars;</p> <p>(w) <u>advertising purposes exceeding 1,8 square meters in size, outside urban areas;</u> [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;]</p> <p>(x) <u>the storage and handling 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 20 but less than a 1000 cubic metres.</u></p>	
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2	<p>Construction or earth moving activities in the sea or within 100 metres inland of the high-water mark of the sea, 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) stabilising walls;(f) buildings; [or](g) infrastructure; <u>or</u>(h) <u>rock revetments and other stabilising structures, but excluding construction on erven within existing urban areas if such construction will occur behind an approved development setback line.</u>
3	<p>The prevention of the free movement of sand, [including] erosion [and] or accretion, by means of planting vegetation, placing synthetic material on dunes and exposed sand surfaces within a distance of 100 metres inland of the high-water mark of the sea, <u>excluding where the prevention of free movement of sand will occur on erven within existing urban areas if such prevention will occur behind an approved development setback line;</u></p>

4	<p>The dredging, <u>excluding maintenance dredging</u>, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic metres [from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland] <u>in the one in ten year flood line of a river, stream or wetland, or within 32 metres, whichever is the greater, from the bank of a river; stream or wetland.</u></p>	
5	<p>The removal or damaging of indigenous vegetation of more than 10 square metres within a distance of 100 metres inland of the high-water mark of the sea, <u>but excluding where such removal or damage will occur on vacant erven within existing urban areas behind an approved development setback line.</u></p>	
6	<p>The excavation, moving, removal, depositing or compacting of soil, sand, rock or rubble covering an area exceeding 10 square metres in the sea or within a distance of 100 metres inland of the high-water mark of the sea, <u>but excluding where such excavation, moving, removal, depositing or compacting will occur on erven within existing urban areas behind an approved development setback line.</u></p>	

[7]	[The above ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1 000 cubic metres at any one location or site.]	
7 [8]	Reconnaissance, prospecting, mining or retention operations as provided for in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), in respect of such permissions, rights, permits and renewals thereof.	The competent authority for this part of the schedule is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.
8 [9]	In relation to permissions, rights, permits and renewals granted in terms of 8 above, or any other similar right granted in terms of previous mineral or mining legislation, the undertaking of any prospecting or mining related activity or operation within a prospecting, retention or mining area, as defined in terms of section of 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).	
9 [10]	The establishment of cemeteries <u>and the expansion thereof with more than 500 square metres.</u>	The competent authority in respect of the activities listed in this part of the schedule is the environmental authority in the province in which
10 [11]	The decommissioning 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 more than 10 hectares.	

<u>11</u> [12]	The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).	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
<u>12</u> [13]	The abstraction of groundwater at a volume where any general authorisation issued in terms of the National Water Act, 1998 (Act No. 36 of 1998) will be exceeded.	competent authority is the
<u>13</u> [14]	<p>The construction of masts of any material or type <u>used</u> [and of any height, including those used] for telecommunication broadcasting <u>or</u> [and] radio transmission purposes where the mast or tower structure: [, but excluding -]</p> <p>(a) <u>is to be placed on a site not previously used for this purpose, or</u></p> <p>(b) <u>will exceed 15 metres in height.</u></p> <p>[masts of 15 metres and lower exclusively used</p> <p>(i) by radio amateurs; or</p> <p>(ii) for lighting purposes</p> <p>(c) flag poles; and</p> <p>(d) lightning conductor poles].</p>	Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.

14 [15]	<p>The construction of a road <u>with a reserve wider than 6 meters but less than 30 meters, and the construction of roads for which an environmental authorisation was obtained in terms of Listing Notice 387, activity number 5, excluding roads situated within urban areas.</u></p> <p>[that is wider than 4 metres or that has a reserve wider than 6 metres, that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.]</p>	
15 [16]	<p>The transformation of undeveloped, vacant or derelict land to –</p> <ul style="list-style-type: none">(a) establish infill development covering an area of 5 hectares or more, but less than 20 hectares; or(b) residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare; <u>or</u>(c) <u>cultivation of virgin soil where the total area to be transformed is bigger than 5 hectares.</u>	

16 [17]	<p>Phased activities, <u>which commenced after 3 July 2006 but excluding regulation 386 activities 1(a)-(c), 1(e)-(j), 1(n), 1(o), 1(s), 7 and 19 and the counterparts of each of these activities included in this notice</u>, where any one phase of the activity may be below a threshold [specified in this Schedule] but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.</p>	
[18]	<p>[Subdivision of portions of land 9 hectares or larger into portions of 5 hectares or less.]</p>	
17 [19]	<p>The development of a new facility or the transformation of an existing facility for the conducting of manufacturing processes, warehousing, bottling, packaging, or storage, which, including associated structures or infrastructure, occupies an area of 1 000 square metres or more outside an existing area zoned for industrial purposes.</p>	
18 [20]	<p>The transformation of an area zoned for use as public open space or for a conservation purpose to another use.</p>	
19 [21]	<p>The release of genetically modified organisms into the environment in instances where assessment is required by the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) or the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</p>	

<u>20</u> [22]	The release of any organism outside its natural area of distribution that is to be used for biological pest control.	
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21 [23]	<p>The decommissioning of existing facilities or infrastructure, other than facilities or infrastructure that commenced under an environmental authorisation issued in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, for -</p> <ul style="list-style-type: none">(a) electricity generation <u>with a threshold of 10MW</u>;(b) nuclear reactors and storage of nuclear fuel;(c) industrial activities where the facility or the land on which it is located is contaminated or has the potential to be contaminated by any material which may place a restriction on the potential to re-use the site for a different purpose;(d) the disposal of waste;(e) the treatment of effluent, wastewater and sewage with an annual throughput capacity of 15 000 cubic metres or more;(f) the recycling, handling, temporary storage or treatment of general waste with a daily throughput capacity of 20 cubic metres or more; or(g) the recycling, handling, temporary storage or treatment of hazardous waste.	
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<u>22 [24]</u>	<p>The recommissioning or use of any facility or infrastructure, excluding any facility or infrastructure that commenced under an environmental authorisation issued in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, after a period of two years from closure or temporary closure, for -</p> <ul style="list-style-type: none">(a) electricity generation;(b) nuclear reactors and nuclear fuel storage; or(c) facilities for any process or activity, which require permission, authorisation, or further authorisation, in terms of legislation governing the release of emissions, pollution, effluent or waste prior to the facility being recommissioned.	
<u>23 [25]</u>	<p><u>The expansion of or changes to existing facilities for any process or activity, which requires an amendment of an existing permit or license required in terms of national or provincial legislation governing the release of emissions, pollution, effluent.</u></p> <p>[The expansion of or changes to existing facilities for any process or activity, which requires an amendment of an existing permit or license or a new permit or license in terms of legislation governing the release of emissions, pollution, effluent.]</p>	

<u>24</u>	<p><u>The expansion of facilities for:</u></p> <p>(a) <u>the generation of electricity where:</u></p> <p>(i) <u>electricity output of the original facility was more the 10 megawatts;</u></p> <p>(ii) <u>where the output of the original facility was less than 10 megawatts or where the original facility covered an area in excess of 1ha;</u></p> <p>(b) <u>the above ground storage of ore where the capacity of the original facility exceeded a 1 000 tons;</u></p> <p>(c) <u>the above ground storage of coal where the capacity of the original facility exceeded 250 tons;</u></p>	
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(d) agri-industrial purposes, outside areas with an existing land use zoning for industrial purposes, that cover an area of 1 000 square metres or more, if the indented expansion will cover more than 500 square metres;

(e) any purpose in the one in ten year flood line of a river, stream or wetland, or within 32 metres, whichever is the greater, from the bank of a river; stream or wetland, excluding purposes associated with existing residential use, but including -

- (i) canals;
- (ii) channels;
- (iii) bridges;
- (iv) dams;
- (v) weirs; and
- (vi) stormwater structures;

(f) the treatment of effluent, wastewater or sewage with an annual throughput capacity of more than 2 000 cubic metres;

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(g) the storage and handling 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 20 cubic metres;

(h) masts of any material or type and of any height, including those used for telecommunication broadcasting and radio transmission, where the intended expansion of the mast will result in a change to the existing height or type of the mast;

(i) earth moving activities in the sea or within 100 metres inland of the high-water mark of the sea, in respect of –

(i) facilities for the storage of material and the maintenance of vessels;

(ii) fixed or floating jetties and slipways;

(iii) tidal pools;

(iv) embankments;

(v) stabilising walls;

(vi) buildings;

(vii) infrastructure; or

(viii) rock revetments and other stabilising structures, but

excluding construction on erven within existing urban areas if such construction will occur behind an approved development setback line.

<u>24</u>	<p>(j) <u>the refining of gas, oil and petroleum products;</u></p> <p>(k) <u>the recycling, re-use, handling, temporary storage or treatment of general waste with a throughput capacity of 50 tons or more daily average measured over a period of 30 days;</u></p> <p>(l) <u>the use, recycling, handling, treatment, storage beyond 90 days or final disposal of hazardous waste;</u></p> <p>(m) <u>the manufacturing, storage or testing of explosives, including ammunition, but excluding licensed retail outlets and the legal end use of such explosives;</u></p> <p>(n) <u>the extraction or processing of natural gas including gas from landfill sites, but excluding from marine environments;</u></p>	
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24

(o) the bulk transportation of dangerous goods, outside an industrial complex or zone, using pipelines, funiculars or conveyors with a throughput capacity of 50 tons or 50 cubic metres or more per day;

(p) landing, parking and maintenance of aircraft, excluding helicopter landing pads, but including -

(i) airports;

(ii) runways;

(iii) waterways;

(iv) structures for engine testing; or

(v) unpaved landing strips which were originally longer than 1,4 kilometres in length;

(q) the transmission and distribution of above ground electricity with a capacity of 132 kilovolts or more;

(r) marine telecommunications;

(s) the transfer of 20 000 cubic metres or more water between water catchments or impoundments per day;

<u>24</u>	<p>(t) <u>the final disposal of general waste covering an area of 100 square metres or more or 200 cubic metres or more of airspace;</u></p> <p>(u) <u>the incineration, burning, evaporation, thermal treatment, roasting or heat sterilisation of waste or effluent, including the cremation of human or animal tissue;</u></p> <p>(v) <u>the microbial deactivation, chemical sterilisation or non-thermal treatment of waste or effluent;</u></p> <p>(w) <u>any purpose where lawns, playing fields or sports tracks will be established, where the original facility covered an area of 10 hectares or more.</u></p>	
<u>25</u>	<p><u>The expansion of a road where the original reserve was wider than 6 meters but less than 30 meters; and the expansion of roads which obtained an environmental authorisation in terms of Listing Notice 387, activity number 5.</u></p>	

<u>26</u>	<u>The expansion 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, was originally 5 metres or higher or where the high-water mark of the dam originally covered an area of 10 hectares or more.</u>	
<u>27</u>	<u>The expansion of resorts, lodges, hotels or other tourism and hospitality facilities in a protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003), where the total existing development footprint will be expanded.</u>	

<u>28</u>	<p><u>The expansion of earth moving activities in the sea or within 100 metres inland of the high-water mark of the sea, excluding an activity listed in item 2 of Government Notice No. R. 386 of 2006 but including construction or earth moving activities in respect of –</u></p> <ul style="list-style-type: none"><u>(1) facilities associated with the arrival and departure of vessels and the handling of cargo;</u><u>(2) piers;</u><u>(3) inter- and sub-tidal structures for entrapment of sand;</u><u>(4) breakwater structures;</u><u>(5) coastal marinas;</u><u>(6) coastal harbours;</u><u>(7) structures for draining parts of the sea;</u><u>(8) tunnels; or</u><u>(9) underwater channels, but</u> <p><u>excluding construction on erven within existing urban areas if such construction will occur behind an approved development setback line.</u></p>	
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No. 395

4 May 2007

**AMENDMENT OF LIST OF ACTIVITIES AND COMPETENT AUTHORITIES
IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D OF THE NATIONAL
ENVIRONMENTAL MANAGEMENT ACT, 1998**

The Minister of Environmental Affairs and Tourism, Marthinus van Schalkwyk, MP, hereby publishes an amendment to 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. 387 of 21 April 2006. More details are set out in the explanatory memorandum and the attached Schedule.

Written comments and inputs are invited from interested parties and the general public, which must be submitted to:

Ms A Britz or Mr W Fourie
E-mail: Abritz@deat.gov.za

Department of Environmental Affairs and Tourism
Private Bag X 477
Pretoria
0001

Facsimile: 012-3103688

**THE CLOSING DATE FOR COMMENTS IS 4 JUNE 2007. COMMENTS
RECEIVED AFTER THE CLOSING DATE MAY NOT BE CONSIDERED.**

EXPLANATORY MEMORANDUM

The Minister of Environmental Affairs and Tourism has in terms of section 24(5) read with section 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("the Act"), made the Environmental Impact Assessment Regulations, 2006, published in Government Notice No. R. 385 of 2006.

The Minister has furthermore, published, in Government Notice No. R. 386 of 21 April 2006, a list of 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.

The Minister has furthermore, published, in Government Notice No. R. 387 of 2006, a list of 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 27 to 36 of the Environmental Impact Assessment Regulations, 2006, promulgated in terms of section 24(5) of the Act.

The Environmental Impact Assessments Regulations, 2006 are currently implemented by both the provincial and national spheres of government. Since the time when the regulations came into effect, vast amounts of enquiries in respect of these regulations, as well as a number of implementation workshops held with provinces, highlighted a number of amendments that are necessary to the NEMA EIA regulations. Such proposed amendments range from purely editorial corrections and augmenting certain definitions to specific 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.

The Minister of Environmental Affairs and Tourism, after consultation with the relevant competent Provincial Authorities, hereby publishes for public comment proposed amendments to the regulations published in Government Notice No. R. 387 of 21 April 2006 as set out in the Schedule. Once promulgated the newly published notice will replace the previous notice.

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.

Definitions

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 -

“**asbestos**” means any fibrous mineral silicates, including actinolite, amosite, anthophyllite, chrysotile, crocokolite 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;

“**construction**” means the building, erection or establishment of a facility, structure or infrastructure that is necessary for the undertaking of an activity;
[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]

“cultivate in relation to land, means any act by means of which the topsoil is disturbed mechanically”;

“dangerous goods” means goods 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 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;

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

“expansion” means the modification, extension or alteration 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 is increased;

“exploration area” means an area as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“exploration right” means the rights as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“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;

“high-water mark” means the highest line reached by the water of the sea during ordinary storms occurring during the most stormy period of the year, excluding exceptional or abnormal floods;

“mine” used as a noun or a verb as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“mineral” means a mineral as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

“mining area” means an area as defined in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“mining operation” means an operation as defined in terms of section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“mining right” means a right as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“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;

“production area” means an area as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“**production operation**” means an operation as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“**production right**” means a right as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended;

“**sea**” 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;

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

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

“**the regulations**” means **[he]** the Environmental Impact Assessment Regulations, 2006;

“**virgin soil**” means land which has at no time during the preceding ten years been cultivated.

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 27 TO 36 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 style="padding-left: 40px;">(a) the generation of electricity where –</p> <p style="padding-left: 80px;">(i) the electricity output is 20 megawatts or more; or</p> <p style="padding-left: 80px;">(ii) the elements of the facility cover a combined area in excess of 1 hectare;</p> <p style="padding-left: 40px;">(b) nuclear reaction including the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and waste;</p> <p style="padding-left: 40px;">(c) the [above ground] storage <u>and</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 it is an application for an activity contemplated in section 24C(2) of the Act, in which</p>

	<p><u>handling</u> of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of 1 000 cubic metres or more at any one location [or site] including the storage of one or more dangerous goods, in a tank farm;</p> <p>(d) the refining of gas, oil and petroleum products;</p> <p>(e) any process or activity which requires a permit or license in terms of <u>national or provincial</u> legislation governing the generation or release of emissions, pollution, effluent or waste and which is not identified in Government Notice No. R. 386 of 2006;]</p> <p>(f) the recycling, re-use, handling, temporary storage or treatment of general waste with a throughput capacity of 50 tons or more daily average measured over a period of 30 days;</p> <p>(g) the use, recycling, handling, treatment, storage <u>beyond 90 days</u> or final disposal of hazardous waste;</p> <p>(h) the manufacturing, storage or testing of explosives, including ammunition, but excluding licensed retail outlets and the legal end use of such explosives;</p> <p>(i) the extraction or processing of natural gas including gas from landfill sites;</p>	<p>case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.</p>
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	<p>(j) the bulk transportation of dangerous goods, <u>outside an industrial complex or zone</u>, using pipelines, funiculars or conveyors with a throughput capacity of 50 tons or 50 cubic metres or more per day;</p> <p>(k) the landing, parking and maintenance of aircraft, excluding <u>helicopter landing pads and [unpaved] landing strips shorter than 1,4 kilometres in length</u>, but including -</p> <ul style="list-style-type: none">(i) airports;(ii) runways;(iii) waterways; [or](iv) structures for engine testing; <u>or</u>(v) <u>landing strips longer than 1,4 kilometres in length</u> <p>(l) the transmission and distribution of above ground electricity with a capacity of [120] 132 kilovolts or more;</p> <p>(m) marine telecommunications;</p> <p>(n) the transfer of 20 000 cubic metres or more water between water catchments or impoundments per day;</p> <p>(o) the final disposal of general waste covering an area of 100 square metres or more or 200 cubic metres or more of airspace;</p> <p>(p) the treatment of effluent, wastewater or sewage with an annual throughput capacity of [15 000] 50 000 cubic metres</p>	
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	<p>or more;</p> <p>(q) the incineration, burning, evaporation, thermal treatment, roasting or heat sterilisation of waste or effluent, including the cremation of human or animal tissue;</p> <p>(r) the microbial deactivation, chemical sterilisation or non-thermal treatment of waste or effluent;</p> <p>(s) rail transportation, excluding railway lines and sidings in industrial areas and underground railway lines in mines, but including -</p> <p style="padding-left: 40px;">(i) railway lines;</p> <p style="padding-left: 40px;">(ii) stations; or</p> <p style="padding-left: 40px;">(iii) shunting yards;</p> <p>(t) any purpose where lawns, playing fields or sports tracks covering an area of 10 hectares or more, will be established.</p>	
2	Any development activity, including associated structures and infrastructure, where the total area of the developed area is, or is intended to be, 20 hectares or more, <u>excluding the cultivation of virgin soil of any size.</u>	
[3]	[The construction of filling stations, including associated structures and infrastructure,] [or any other facility for the underground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin.]	
<u>3</u> [4]	The extraction of peat.	

<u>4</u> [5]	<p>The route determination of roads, <u>where the road reserve is wider than 30 meters</u>, and design of associated physical infrastructure, <u>or the construction of such roads</u> that have not yet been built for which routes have been determined before the publication of [this] notice <u>386 of 2006</u> and which has not been authorised by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, where –</p> <ul style="list-style-type: none">(a) 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);(b) it is a road administered by a provincial authority;(c) [the road reserve is wider than 30 metres; or(d) the road will cater for more than one lane of traffic in both directions].	
<u>5</u> [6]	<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>	

6 [7]	Reconnaissance, exploration, production and mining as provided for in the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), as amended in respect of such permits and rights.	The competent authority for this part of the schedule is the Minister or an
7 [8]	In relation to permits and rights granted in terms of 7 above, or any other right granted in terms of previous mineral legislation, the undertaking of any reconnaissance exploration, production or mining related activity or operation within a exploration, production or mining area, as defined in terms of section of 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).	organ of state with delegated powers in terms of section 42(1) of the Act, as amended.

<p>8 [9]</p>	<p>Construction or earth moving activities in the sea or within 100 metres inland of the high-water mark of the sea, excluding an activity listed in item 2 of Government Notice No. R. 386 of 2006 but including construction or earth moving activities in respect of –</p> <ul style="list-style-type: none"> (a) facilities associated with the arrival and departure of vessels and the handling of cargo; (b) piers; (c) inter- and sub-tidal structures for entrapment of sand; (d) breakwater structures; (e) [rock revetments and other stabilising structures]; (f) coastal marinas; (g) coastal harbours; (h) structures for draining parts of the sea; (i) tunnels; or (j) underwater channels, <u>but excluding construction on erven within existing urban areas if such construction will occur behind an approved development setback line.</u> 	<p>The competent authority in respect of the activities listed in this part of the schedule is the environmental authority in the province in which the activity is to be undertaken unless it is an application for an activity contemplated in section 24C(2) of the Act, in which case the competent authority is the Minister or an organ of state with delegated powers in terms of section 42(1) of the Act, as amended.</p>
<p>9 [10]</p>	<p>Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</p>	

10	<p><u>The expansion of facilities for -</u></p> <p><u>(a) the generation of electricity where –</u></p> <p><u>(i) the electricity output is 20 megawatts or more; or</u></p> <p><u>(ii) the elements of the facility cover a combined area in excess of 1 hectare;</u></p> <p><u>(b) nuclear reaction including the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and waste; and</u></p> <p><u>(c) the extraction or processing of natural gas from a marine environment.</u></p>	
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IMPORTANT NOTICE

GPW wishes to apologise for any confusion created by our previous notice concerning the method of payment (*herewith the corrected version of the notice*):

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We look forward to your ongoing support

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