

No. R. 544

18 June 2010

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF
1998)****LISTING NOTICE 1: LIST OF ACTIVITIES AND COMPETENT AUTHORITIES
IDENTIFIED IN TERMS OF SECTIONS 24(2) AND 24D**

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

**BUYELWA SONJICA****MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

SCHEDULE**PURPOSE**

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

DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“**watercourse**” means –

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

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

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

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

IDENTIFIED ACTIVIES AND COMPETENT AUTHORITIES

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

REPEAL OF NOTICE 386 OF 21 APRIL 2006

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

Short title and commencement

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

APPENDIX 1

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

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

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

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

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

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

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

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

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

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

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

	<ul style="list-style-type: none"> (i) fixed or floating jetties and slipways; (ii) tidal pools; (iii) embankments; (iv) rock revetments or stabilising structures including stabilising walls; (v) buildings by more than 50 square metres; (vi) infrastructure by more than 50 square metres; (vii) facilities associated with the arrival and departure of vessels and the handling of cargo; (viii) piers; (ix) inter- and sub-tidal structures for entrapment of sand; (x) breakwater structures; (xi) coastal marinas; (xii) coastal harbours or ports; (xiii) structures for draining parts of the sea or estuary; (xiv) tunnels; or (xv) underwater channels – <p>where such expansion will result in an increase in the development footprint of such facilities</p> <p>but excluding where such expansion occurs:</p> <ul style="list-style-type: none"> (a) behind a development setback line; or (b) within existing ports or harbours where there will be no increase in the 	
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	development footprint or throughput capacity of the port or harbour.
46.	The expansion of cemeteries by an additional 2500 square metres or more.
	The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre -
47.	(i) where the existing reserve is wider than 13,5 meters; or (ii) where no reserve exists, where the existing road is wider than 8 metres - excluding widening or lengthening occurring inside urban areas.
48.	The expansion of facilities for the refining, extraction or processing of gas, oil or petroleum products where the installed capacity of the facility will be increased by 50 cubic metres or more, excluding facilities for the refining, extraction or processing of gas from landfill sites.
49.	The expansion of facilities or infrastructure for the bulk transportation of dangerous goods: (i) in gas form, outside an industrial complex, by an increased throughput capacity of 700 tons or more per day; (ii) in liquid form, outside an industrial complex or zone, by an increased throughput capacity of 50 cubic metres or more per day; or (iii) in solid form, outside an industrial complex or zone, by an increased throughput capacity of 50 tons or more per day.

50.	The expansion of airports where the development footprint will be increased.
51.	The expansion of facilities or infrastructure for marine telecommunication where there will be an increased development footprint.
52.	<p>The expansion of facilities or infrastructure for the transfer of water from and to or between any combination of the following:</p> <ul style="list-style-type: none"> (i) water catchments; (ii) water treatment works; or (iii) impoundments; <p>where the capacity will be increased by 50 000 cubic metres or more per day, but excluding water treatment works where water is treated for drinking purposes.</p> <p>The expansion of railway lines, stations or shunting yards where there will be an increased development footprint –</p>
53.	<p>excluding:</p> <ul style="list-style-type: none"> (i) railway lines, shunting yards and railway stations in industrial complexes or zones; (ii) underground railway lines in mines; and (iii) additional railway lines within the reserve of an existing railway line.
54.	The expansion of an island, anchored platform or any other permanent structure on or along the sea bed, where the expansion will constitute an increased development footprint.

<p>55.</p>	<p>The expansion of a dam where:</p> <ul style="list-style-type: none"> (i) 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 and where the height of the wall is increased by 2,5 metres or more; or (ii) where the high-water mark of the dam will be increased with 10 hectares or more.
<p>56.</p>	<p>Phased activities for all activities listed in this Schedule, which commenced on or after the effective date of this Schedule, where any one phase of the activity may be below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold; -</p> <p>excluding the following activities listed in this Schedule:</p> <ul style="list-style-type: none"> 2; 11(i)-(vii); 16(i)-(iv); 17; 19; 20; 22(i) & 22(iii); 25; 26; 27(iii) & (iv); 28;

