

- (c) a description of the property on which the activity is to be undertaken and the location of the activity on the property, or if it is –
  - (i) a linear activity, a description of the route of the activity; or
  - (ii) an ocean-based activity, the coordinates within which the activity is to be undertaken;
- (d) a description of the environment that may be affected by the proposed activity and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;
- (e) an identification of all legislation and guidelines that have been considered in the preparation of the basic assessment report;
- (f) details of the public participation process conducted in terms of regulation 22(a) in connection with the application, including –
  - (i) the steps that were taken to notify potentially interested and affected parties of the proposed application;
  - (ii) proof that notice boards, advertisements and notices notifying potentially interested and affected parties of the proposed application have been displayed, placed or given;
  - (iii) a list of all persons, organisations and organs of state that were registered in terms of regulation 57 as interested and affected parties in relation to the application; and
  - (iv) a summary of the issues raised by interested and affected parties, the date of receipt of and the response of the EAP to those issues;
- (g) a description of the need and desirability of the proposed activity and any identified alternatives to the proposed activity that are feasible and reasonable, including the advantages and disadvantages that the proposed activity or alternatives will have on the environment and on the community that may be affected by the activity;
- (h) a description and assessment of the significance of any environmental impacts, including cumulative impacts, that may occur as a result of the undertaking of the activity or identified alternatives or as a result of any construction, erection or decommissioning associated with the undertaking of the activity;

- (i) any environmental management and mitigation measures proposed by the EAP;
- (j) any inputs made by specialists to the extent that may be necessary; and
- (k) any specific information required by the competent authority.

(3) In addition, a basic assessment report must take into account –

- (a) any relevant guidelines; and
- (b) any practices that have been developed by the competent authority in respect of the kind of activity which is the subject of the application.

#### **Submission of application to competent authority**

24. After having complied with regulation 22, the EAP managing the application may –

- (a) complete the application form for environmental authorisation of the relevant activity; and
- (b) submit the completed application form to the competent authority, together with –
  - (i) the basic assessment report;
  - (ii) copies of any representations, objections and comments received in connection with the application or the basic assessment report;
  - (iii) copies of the minutes of any meetings held by the EAP with interested and affected parties and other role players which record the views of the participants;
  - (iv) any responses by the EAP to those representations, objections, comments and views;
  - (v) a declaration of interest by the EAP on a form provided by the competent authority; and
  - (vi) the prescribed application fee, if any, and any documents referred to in regulation 13(2)(b).

### **Consideration of applications**

25. (1) A competent authority must within 30 days of acknowledging receipt of an application in terms of regulation 14(2)(a), consider the application and the basic assessment report.

(2) If the competent authority is unable to decide the application on the basic assessment report alone, the competent authority must request the EAP managing the application –

- (a) to submit such additional information as the competent authority may require;
- (b) to submit a report on any specialist study or specialised process as the competent authority may require in relation to any aspect of the proposed activity;
- (c) to suggest, consider or comment on feasible and reasonable alternatives; or
- (d) to subject the application to scoping and environmental impact assessment.

(3) The competent authority may reject the basic assessment report if –

- (a) it does not comply with regulation 23 in a material respect; or
- (b) it is based on an insufficient public participation process.

(4) (a) A basic assessment report that has been rejected in terms of subregulation (3), may be amended and resubmitted by the EAP to the competent authority.

(b) Comments that are made by interested and affected parties in respect of an amended basic assessment report must be attached to the report, but the EAP need not make further changes to the report in response to such comments.

(5) On receipt of any information, reports, suggestions or comments requested in terms of subregulation (2)(a), (b) or (c) or any amended basic

assessment report submitted in terms of subregulation (4), as the case may be, the competent authority must reconsider the application.

(6) If the competent authority requests in terms of subregulation (2) (d) that the application be subjected to scoping, the application must be proceeded with in accordance with regulations 30, 31, 32, 33, 34, 35 and 36.

### **Decision on applications**

26. (1) A competent authority must within 30 days of acknowledging receipt of an application in terms of regulation 14 or, if regulation 25(2)(a), (b) or (c) has been applied or if the basic assessment report has been rejected in terms of regulation 25(3), within 30 days of receipt of the required information, reports, suggestions or comments or the amended basic assessment report, in writing –

- (a) grant authorisation in respect of all or part of the activity applied for; or
- (b) refuse authorisation in respect of all or part of the activity.

(2) To the extent that authorisation is granted for an alternative, such alternative must for the purposes of subregulation (1) be regarded as having been applied for.

(3) On having reached a decision, the competent authority must comply with regulation 10(1).

### ***Part 3: Applications subject to scoping and environmental impact assessment***

#### **Submission of application to competent authority**

27. If scoping must be applied to an application, the EAP managing the application must –

- (a) complete the application form for environmental authorisation of the relevant activity; and
- (b) submit the completed application form to the competent authority, together with –

- (i) a declaration of interest by the EAP on a form provided by the competent authority; and
- (ii) the prescribed application fee, if any, and any documents referred to in regulation 13(2)(b).

#### **Steps to be taken after submission of application**

28. After having submitted an application, the EAP managing the application must –

- (a) conduct at least the public participation process set out in regulation 56;
- (b) give notice, in writing, of the proposed application to any organ of state which has jurisdiction in respect of any aspect of the activity;
- (c) open and maintain a register of all interested and affected parties in respect of the application in accordance with regulation 57;
- (d) consider all objections and representations received from interested and affected parties following the public participation process;
- (e) subject the application to scoping by identifying –
  - (i) issues that will be relevant for consideration of the application;
  - (ii) the potential environmental impacts of the proposed activity; and
  - (iii) alternatives to the proposed activity that are feasible and reasonable;
- (f) prepare a scoping report in accordance with regulation 29; and
- (g) give all registered interested and affected parties an opportunity to comment on the scoping report in accordance with regulation 58.

#### **Content of scoping reports**

29. (1) A scoping report must contain all the information that is necessary for a proper understanding of the nature of issues identified during scoping, and must include –

- (a) details of –
  - (i) the EAP who prepared the report; and
  - (ii) the expertise of the EAP to carry out scoping procedures;
- (b) a description of the proposed activity and of any feasible and reasonable alternatives that have been identified;

- (c) a description of the property on which the activity is to be undertaken and the location of the activity on the property, or if it is –
  - (i) a linear activity, a description of the route of the activity; or
  - (ii) an ocean-based activity, the coordinates where the activity is to be undertaken;
- (d) a description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;
- (e) an identification of all legislation and guidelines that have been considered in the preparation of the scoping report;
- (f) a description of environmental issues and potential impacts, including cumulative impacts, that have been identified;
- (g) information on the methodology that will be adopted in assessing the potential impacts that have been identified, including any specialist studies or specialised processes that will be undertaken;
- (h) details of the public participation process conducted in terms of regulation 28(a), including –
  - (i) the steps that were taken to notify potentially interested and affected parties of the application;
  - (ii) proof that notice boards, advertisements and notices notifying potentially interested and affected parties of the application have been displayed, placed or given;
  - (iii) a list of all persons or organisations that were identified and registered in terms of regulation 57 as interested and affected parties in relation to the application; and
  - (iv) a summary of the issues raised by interested and affected parties, the date of receipt of and the response of the EAP to those issues;
- (i) a plan of study for environmental impact assessment which sets out the proposed approach to the environmental impact assessment of the application, which must include –
  - (i) a description of the tasks that will be undertaken as part of the environmental impact assessment process, including any

- specialist reports or specialised processes, and the manner in which such tasks will be undertaken;
- (ii) an indication of the stages at which the competent authority will be consulted;
  - (iii) a description of the proposed method of assessing the environmental issues and alternatives, including the option of not proceeding with the activity; and
  - (iv) particulars of the public participation process that will be conducted during the environmental impact assessment process; and
- (j) any specific information required by the competent authority.

(2) In addition, a scoping report must take into account any guidelines applicable to the kind of activity which is the subject of the application.

#### **Submission of scoping reports to competent authority**

30. The EAP managing an application must submit the scoping report compiled in terms of regulation 28(f) to the competent authority, together with

- (a) copies of any representations, objections and comments received in connection with the application or the scoping report from interested and affected parties;
- (b) copies of the minutes of any meetings held by the EAP with interested and affected parties and other role players which record the views of the participants; and
- (c) any responses by the EAP to those representations, objections, comments and views.

#### **Consideration of scoping reports**

31. (1) The competent authority must, within 30 days of receipt of a scoping report, consider the report, and in writing –

- (a) accept the report and the plan of study for environmental impact assessment contained in the report and advise the EAP to proceed

with the tasks contemplated in the plan of study for environmental impact assessment;

- (b) request the EAP to make such amendments to the report or the plan of study for environmental impact assessment as the competent authority may require;
- (c) reject the scoping report or the plan of study for environmental impact assessment if it –
  - (i) does not contain material information required in terms of these Regulations; or
  - (ii) has not taken into account guidelines applicable in respect of scoping reports and plans of study for environmental impact assessment.

(2) In addition to complying with subregulation (1), the competent authority may advise the EAP of any matter that may prejudice the success of the application.

(3) A scoping report or plan of study for environmental impact assessment that has been rejected by the competent authority in terms of subregulation (1)(d) may be amended and resubmitted by the EAP.

(4) On receipt of the amended scoping report or plan of study for environmental impact assessment, the competent authority must reconsider the scoping report or plan of study for environmental impact assessment in accordance with subregulation (1).

#### **Environmental impact assessment reports**

32. (1) If a competent authority accepts a scoping report and advises the EAP in terms of regulation 31(1)(a) to proceed with the tasks contemplated in the plan of study for environmental impact assessment, the EAP must proceed with those tasks, including the public participation process for environmental impact assessment referred to in regulation 29(1)(i)(iv) and prepare an environmental impact assessment report in respect of the proposed activity.

(2) An environmental impact assessment report must contain all information that is necessary for the competent authority to consider the application and to reach a decision contemplated in regulation 36, and must include –

- (a) details of –
  - (i) the EAP who compiled the report; and
  - (ii) the expertise of the EAP to carry out an environmental impact assessment;
- (b) a detailed description of the proposed activity;
- (c) a description of the property on which the activity is to be undertaken and the location of the activity on the property, or if it is –
  - (i) a linear activity, a description of the route of the activity; or
  - (ii) an ocean-based activity, the coordinates where the activity is to be undertaken;
- (d) a description of the environment that may be affected by the activity and the manner in which the physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;
- (e) details of the public participation process conducted in terms of subregulation (1), including –
  - (i) steps undertaken in accordance with the plan of study;
  - (ii) a list of persons, organisations and organs of state that were registered as interested and affected parties;
  - (iii) a summary of comments received from, and a summary of issues raised by registered interested and affected parties, the date of receipt of these comments and the response of the EAP to those comments; and
  - (iv) copies of any representations, objections and comments received from registered interested and affected parties;
- (f) 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;
- (g) an indication of the methodology used in determining the significance of potential environmental impacts;
- (h) a description and comparative assessment of all alternatives identified during the environmental impact assessment process;
- (i) a summary of the findings and recommendations of any specialist report or report on a specialised process;
- (j) a description of all environmental issues that were identified during the environmental impact assessment process, an assessment of the significance of each issue and an indication of the extent to which the issue could be addressed by the adoption of mitigation measures;
- (k) an assessment of each identified potentially significant impact, including –
  - (i) cumulative impacts;
  - (ii) the nature of the impact;
  - (iii) the extent and duration of the impact;
  - (iv) the probability of the impact occurring;
  - (v) the degree to which the impact can be reversed;
  - (vi) the degree to which the impact may cause irreplaceable loss of resources; and
  - (vii) the degree to which the impact can be mitigated;
- (l) a description of any assumptions, uncertainties and gaps in knowledge;
- (m) an opinion as to whether the activity should or should not be authorised, and if the opinion is that it should be authorised, any conditions that should be made in respect of that authorisation;
- (n) an environmental impact statement which contains –
  - (i) a summary of the key findings of the environmental impact assessment; and
  - (ii) a comparative assessment of the positive and negative implications of the proposed activity and identified alternatives;
- (o) a draft environmental management plan that complies with regulation 34;
- (p) copies of any specialist reports and reports on specialised processes complying with regulation 33; and

- (q) any specific information that may be required by the competent authority.

**Specialist reports and reports on specialised processes**

33. (1) An applicant or the EAP managing an application may appoint a person who is independent to carry out a specialist study or specialised process.

(2) A specialist report or a report on a specialised process prepared in terms of these Regulations must contain –

- (a) details of –
  - (i) the person who prepared the report; and
  - (ii) the expertise of that person to carry out the specialist study or specialised process;
- (b) a declaration that the person is independent in a form as may be specified by the competent authority;
- (c) an indication of the scope of, and the purpose for which, the report was prepared;
- (d) a description of the methodology adopted in preparing the report or carrying out the specialised process;
- (e) a description of any assumptions made and any uncertainties or gaps in knowledge;
- (f) a description of the findings and potential implications of such findings on the impact of the proposed activity, including identified alternatives, on the environment;
- (g) recommendations in respect of any mitigation measures that should be considered by the applicant and the competent authority;
- (h) a description of any consultation process that was undertaken during the course of carrying out the study;
- (i) a summary and copies of any comments that were received during any consultation process; and
- (j) any other information requested by the competent authority.

### **Content of draft environmental management plans**

34. A draft environmental management plan must include –
- (a) details of –
    - (i) the person who prepared the environmental management plan; and
    - (ii) the expertise of that person to prepare an environmental management plan;
  - (b) information on any proposed management or mitigation measures that will be taken to address the environmental impacts that have been identified in a report contemplated by these Regulations, including environmental impacts or objectives in respect of –
    - (i) planning and design;
    - (ii) pre-construction and construction activities;
    - (iii) operation or undertaking of the activity;
    - (iv) rehabilitation of the environment; and
    - (v) closure, where relevant.
  - (c) a detailed description of the aspects of the activity that are covered by the draft environmental management plan;
  - (d) an identification of the persons who will be responsible for the implementation of the measures contemplated in paragraph (b);
  - (e) where appropriate, time periods within which the measures contemplated in the draft environmental management plan must be implemented; and
  - (f) proposed mechanisms for monitoring compliance with the environmental management plan and reporting thereon.

### **Consideration of environmental impact assessment reports**

35. (1) The competent authority must, within 60 days of receipt of an environmental impact assessment report, in writing –
- (a) accept the report;
  - (b) notify the applicant that the report has been referred for specialist review in terms of section 24I of the Act ;

- (c) request the applicant to make such amendments to the report as the competent authority may require for acceptance of the environmental impact assessment report; or
- (d) reject the report if it does not comply with regulation 32(2) in a material respect.

(2) (a) An environmental impact assessment report that is rejected in terms of subregulation (1)(d) may be amended and resubmitted by the EAP.

(b) On receipt of the amended report, the competent authority must reconsider the report in accordance with subregulation (1).

#### **Decision on applications**

36. (1) A competent authority must within 45 days of acceptance of an environmental impact assessment report in terms of regulation 35 or, if the report was referred for specialist review in terms of section 24I of the Act, within 45 days of receipt of the findings of the specialist reviewer, in writing –

- (a) grant authorisation in respect of all or part of the activity applied for; or
- (b) refuse authorisation in respect of all or part of the activity.

(2) To the extent that authorisation is granted for an alternative, such alternative must for the purposes of subregulation (1) be regarded as having been applied for.

(3) On having reached a decision, the competent authority must comply with regulation 10(1).

#### ***Part 4: Environmental authorisations***

##### **Issue of environmental authorisations**

37. (1) If the competent authority decides to grant authorisation, the competent authority must issue an environmental authorisation complying with regulation 38 to and in the name of the applicant.

(2) If in the case of an application referred to in regulation 15, the competent authority decides to grant authorisation in respect of more than one activity, the competent authority may issue a single environmental authorisation covering all the activities for which authorisation was granted.

#### **Contents of environmental authorisations**

**38.** (1) An environmental authorisation must specify –

- (a) the name, address and telephone number of the person to whom the authorisation is issued;
- (b) a description of the activity that is authorised;
- (c) a description of the property on which the activity is to be undertaken and the location of the activity on the property, or if it is –
  - (i) a linear activity, a description of the route of the activity; or
  - (ii) an ocean-based activity, the coordinates within which the activity is to be undertaken; and
- (d) the conditions subject to which the activity may be undertaken, including conditions determining –
  - (i) the period for which the environmental authorisation is valid, if granted for a specific period;
  - (ii) requirements for the management, monitoring and reporting of the impacts of the activity on the environment throughout the life cycle of the activity; and
  - (iii) the transfer of rights and obligations when there is a change of ownership in the property on which the activity is to take place.

(2) An environmental authorisation may –

- (a) provide that the authorised activity may not commence before specified conditions are complied with;
- (b) require the holder of the authorisation to furnish the competent authority with reports prepared by the holder of the authorisation or a person who is independent, at specified times or intervals –
  - (i) indicating the extent to which the conditions of the authorisation are or are not being complied with;

- (ii) providing details of the nature of, and reasons for, any non-compliance with a condition of the authorisation; and
  - (iii) describing any action taken, or to be taken, to mitigate the effects of any non-compliance or to prevent any recurrence of the non-compliance;
- (c) require the holder of the authorisation to furnish the competent authority with environmental audit reports on the impacts of the authorised activity on the environment, at specified times or intervals or whenever requested by the competent authority; and
- (d) include any other condition that the competent authority considers necessary for the protection of the environment.

#### **CHAPTER 4**

### **AMENDMENT AND WITHDRAWAL OF ENVIRONMENTAL AUTHORISATIONS**

#### **General**

39. (1) The competent authority referred to in regulation 3 who issued an environmental authorisation has jurisdiction in all matters pertaining to the amendment or withdrawal of that authorisation.

(2) An environmental authorisation may be amended –

- (a) on application by the holder of the authorisation in accordance with Part 1 of this Chapter; or
- (b) on the initiative of the competent authority in accordance with Part 2 of this Chapter.

(3) An environmental authorisation may be amended by –

- (a) attaching an additional condition or requirement;
- (b) substituting a condition or requirement;
- (c) removing a condition or requirement;
- (d) changing a condition or requirement;
- (e) updating or changing any detail on the authorisation; or

(f) correcting a technical or editorial error.

(4) An environmental authorisation may be withdrawn by the competent authority in accordance with Part 3 of this Chapter.

***Part 1: Amendments on application by holders of environmental authorisations***

**Applications for amendment**

40. The holder of an environmental authorisation may at any time apply to the relevant competent authority for the amendment of the authorisation.

**Submission of applications for amendment**

41. (1) An application in terms of regulation 40 must be –
- (a) on an official application form published by or obtainable from the competent authority; and
  - (b) accompanied by the prescribed application fee, if any.

(2) The competent authority must, within 14 days of receipt of an application, acknowledge receipt of the application, in writing.

**Consideration of applications**

42. (1) On receipt of an application made in terms of regulation 40, the competent authority –

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

(2) The competent authority must promptly decide the application if –

- (a) the application is for a non-substantive amendment to the environmental authorisation; or
- (b) the environment or the rights or interests of other parties are not likely to be adversely affected.

(3) If the application is for a substantive amendment, or if the environment or the rights or interests of other parties are likely to be adversely affected, the competent authority must, before deciding the application, request the applicant to the extent appropriate –

- (a) if necessary, to conduct a public participation process as referred to in regulation 56 or any other public participation process that may be appropriate in the circumstances to bring the proposed amendment to the attention of potential interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity;
- (b) to open and maintain a register of all interested and affected parties in respect of the application in accordance with regulation 57;
- (c) to conduct such investigations and assessments as the competent authority may direct, to prepare reports on those investigations and assessments, and, if the competent authority so directs, to make use of an EAP for this purpose;
- (d) to give registered interested and affected parties an opportunity to submit comments on those reports; and
- (e) to submit to the competent authority those reports, together with any comments on those reports from registered interested and affected parties.

(4) If the environment is likely to be adversely affected in a way that would significantly impact on the environment, the competent authority must –

- (a) return the application to the applicant; and
- (b) request the applicant to submit an application in terms of Chapter 3 of these Regulations as if it is a new application for environmental authorisation.

#### **Decision on applications**

43. (1) On having reached a decision on whether or not to grant the application, the competent authority must comply with regulation 10(1).

(2) If an application is approved, the competent authority must issue an amended environmental authorisation to the applicant

***Part 2: Amendments on initiative of competent authority***

**Purposes for which competent authority may amend environmental authorisations**

44. The relevant competent authority may on own initiative amend an environmental authorisation if it is necessary or desirable –

- (a) to prevent deterioration or further deterioration of the environment;
- (b) to achieve prescribed environmental standards; or
- (c) to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands.

**Process**

45. (1) If a competent authority intends amending an environmental authorisation in terms of regulation 44, the competent authority must first –

- (a) notify the holder of the environmental authorisation, in writing, of the proposed amendment;
- (b) give the holder of the environmental authorisation an opportunity to submit representations on the proposed amendment, in writing; and
- (c) if necessary, conduct a public participation process as referred to in regulation 56 or any other public participation process that may be appropriate in the circumstances to bring the proposed amendment to the attention of potential interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity.

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

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

(3) Subregulations (1)(c) and (2) need not be complied with if the proposal is to amend the environmental authorisation in a non-substantive way.

#### **Decision**

46. (1) On having reached a decision on whether or not to amend the environmental authorisation, the competent authority must notify the holder of the authorisation of that decision.

(2) If the decision is to amend the environmental authorisation, the competent authority must –

- (a) give to the holder of the authorisation the reasons for the decision;
- (b) draw the attention of the holder to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of these Regulations, if such appeal is available in the circumstances of the decision; and
- (c) issue an amended environmental authorisation to the holder of the authorisation.

#### ***Part 3: Withdrawal of environmental authorisations***

##### **Circumstances in which withdrawals are permissible**

47. The relevant competent authority may in accordance with this Part withdraw an environmental authorisation if –

- (a) a condition of the authorisation has been contravened or is not being complied with;
- (b) the authorisation was obtained through –
  - (i) fraudulent means; or
  - (ii) the misrepresentation or non-disclosure of material information;or
- (c) the activity is permanently or indefinitely discontinued.

##### **Withdrawal proceedings**

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

- (a) notify the holder of the authorisation, in writing, of the proposed withdrawal and the reasons why withdrawal of the authorisation is considered;
- (b) give the holder of the authorisation an opportunity –
  - (i) to comment on any environmental audit report submitted to or obtained by the competent authority in terms of regulation 79(2); and
  - (ii) to submit any representations on the proposed withdrawal which the holder of the authorisation wishes to make; and
- (c) conduct any appropriate public participation process to bring the proposed withdrawal to the attention of potential interested and affected parties, including organs of state which have jurisdiction in respect of any aspect of the relevant activity, if the environment or rights or interests of other parties are likely to be adversely affected by the withdrawal.

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

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

#### **Suspension of environmental authorisations**

49. (1) The competent authority may by written notice to the holder of an environmental authorisation suspend with immediate effect an environmental authorisation which is the subject of withdrawal proceedings in terms of this Part if –

- (a) there are reasonable grounds for believing that the contravention or non-compliance with a condition of the authorisation causes harm to the environment; and
- (b) suspension of the authorisation is necessary to prevent harm or further harm to the environment.