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GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. 533

26 April 2004

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)**PROPOSED AMENDMENT TO REGULATIONS PUBLISHED IN TERMS OF SECTION 44
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998: CONTROL OF USE OF
VEHICLES IN THE COASTAL ZONE**

The Minister of Environmental Affairs and Tourism proposes to amend the regulations that control vehicle use in the coastal zone. In addition, the Minister has issued draft *Guidelines on the Implementation of Regulations Pertaining to the Control of Vehicles in the Coastal Zone: 2004*.

Members of the public are hereby invited to submit written comment on the proposed amendments and the Implementation Guideline. The draft documents are available at www.deat.gov.za. Hard copies can be obtained at no cost at the –

- Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management, 7th Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore Cape Town; and
- Offices of Marine Inspectors along the coast.

Members of the public must submit written comment by no later than 16h00 on 28 May 2004. Comments should be titled as follows:

**Comments: Draft Amendment to Regulations: Control of Use of Vehicles in the Coastal
Zone**

The Chief Director: Monitoring Control and Surveillance

Comments may be –

- Hand delivered to the offices of Marine and Coastal Management at the above address;
- Posted to Private Bag X2, Roggebaai, 8012;
- E-mailed to schneier@deat.gov.za; or
- Faxed to (021) 425-7324.

Should you have any telephonic enquiries, please do not hesitate to contact the Department at (021) 402-3911. Your enquiries may be directed at Mr Shaun Schneier.

Schedule

GENERAL EXPLANATORY NOTE:

[] Words in **ARIAL NARROW** and in **square brackets** indicate omissions from existing regulations.

 Words underlined indicate insertions in existing regulations.

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998 AMENDMENT TO REGULATIONS: GN REGULATION 1399 OF 21 DECEMBER 2001: CONTROL OF USE OF VEHICLES IN THE COASTAL ZONE

DRAFT AMENDMENT TO REGULATIONS

To amend the Regulations governing the control of vehicle use in the coastal zone, to further regulate permits and licence applications; and to provide for incidental matters.

Amendment of regulation 1 of GN Regulation 1399 of 21 December 2001

1. Regulation 1 of GN Regulation 1399 of 21 December 2001 (“the Regulations”), is hereby amended by:

(a) the substitution of the definition of “boat launching site” with the following definition:

“ ‘boat launching site’ means a site where members of the public or members of organised clubs use vehicles to launch boats or other vessels into the sea or into an estuary, and “licensed boat-launching site” means a site that has a valid licence in terms of regulation 6;”;

(b) the insertion of the following definition:

“ ‘Deputy Director-General’ means the Deputy Director-General of the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management;”;

(c) the substitution of the definition “estuary” with the following definition:

“ ‘estuary’ means a partially or fully enclosed body of water through which a river or fresh water source is open to the sea permanently or periodically, and in which the water level rises and falls as a result of the action of the tides whenever it is open to the sea, and / or within which sea water can be diluted to an extent which is measurable, with fresh water drained from land;”;

(d) the insertion of the following definition:

“ ‘MEC’ means the member of the executive committee responsible for environmental affairs in the provincial sphere of government;”;

(e) the substitution of the definition “public road” with the following definition:

“ ‘public road’ means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;”;

(f) the insertion of the following definition:

“ ‘private property’ does not include a property with unlawfully constructed buildings or improvements;”;

(g) the substitution of the definition “provincial authority” with the following definition:

“ ‘provincial authority’ means the head of the provincial department responsible for environmental affairs;”;

(h) the deletion of the definition “recreational use area”.

(i) the insertion of the following definition:

“ ‘tourism business’ means a commercial business using vehicles in the coastal zone, operated by a tour operator for the purpose of promoting and handling of tours and which employs tourist guides;

(j) the insertion of the following definition:

“ ‘tour operator’ means a natural or juristic person responsible for operating a tourism business;”;

(k) the insertion of the following definition:

“ ‘tourist guide’ means any person who for reward, whether monetary or otherwise, accompanies any person who travels within or visits any place within the Republic and who furnishes such person with information or comments with regard to any matter.”

Amendment of regulation 2 of the Regulations

2. Regulation 2 of the Regulations, is hereby substituted with the following:

Every person who causes, has caused or may cause pollution or degradation of the environment by the use of a vehicle in the coastal zone must take reasonable measures to prevent such pollution or degradation from continuing, recurring or occurring or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or

stopped, to minimise and rectify such pollution or degradation of the environment at that person's own cost.

Amendment of regulation 3 of the Regulations

3. Regulation 3 of the Regulations is hereby amended as follows:

- “(a) ...
(b) is authorised in terms of a permit granted under regulation 5; or
(c) is authorised in terms of an exemption granted by the Minister under regulation 19; or
(d) is lawful in terms of regulation 21

Amendment of regulation 4 and renumbering of regulation 4(a)(vii) of the Regulations

4. Regulation 4 of the Regulations, is hereby amended by the amendment of the following sub-regulations, the insertion of the following sub-regulation and sub-regulation 4(a)(vii) is renumbered as 4(a)(vi):

- “(a) the use by any person of any vehicle –

(ii) on private land by the owner or with the permission of the owner or lawful occupier of that land;
(b) the use of any vehicle within a boat-launching site in accordance with the licence issued in terms of regulation [7] 6 for that boat-launching site;
(e) the use of a vehicle in the coastal zone by members of the National Sea Rescue Institute in the public interest.”

Deletion of regulation 5 of the Regulations

5. Regulation 5 of the Regulations is deleted.

Amendment and renumbering of regulation 6 of the Regulations

6. Regulation 6 of the Regulations is renumbered as regulation 5 and substituted with the following:

“Permits to use vehicles in the coastal zone

5 (1) A permit to use a vehicle in the coastal zone may be issued by the Deputy Director-General for the purpose of –

- (a) the carrying on of a non-recreational activity in terms of a right, permit or exemption granted under the Marine Living Resources Act, 18 of 1998;
(b) scientific research;
(c) the carrying on of a tourism business;
(d) accessing private property provided there is no alternative access to the property;

- (e) producing an advertisement, feature film, still photograph or a television programme.
- (2) All applications for permits shall be directed to the Deputy Director-General on a stipulated form.
- (3) When issuing a permit, the Deputy Director-General may impose such conditions as he or she considers conducive to the achievement of the objectives of the Regulations.
- (4) (a) A permit may be issued in terms of sub-regulation 5(1)(a) if the applicant-
- (i) pays the application fee stipulated by Deputy Director General;
 - (ii) demonstrates that the use of a vehicle or vehicles is required in the coastal zone to effectively carry on the non-recreational activity authorised in terms of the Marine Living Resources Act, 18 of 1998;
 - (iii) demonstrates that the intended vehicle use will not cause significant harm to the coastal zone; and
 - (iv) demonstrates that members of the public will be able to continue to safely use and enjoy that part of the coastal zone.
- (b) Such a permit may be issued for any period, provided that the permit shall expire upon the expiration or reversion of the right, permit or exemption granted under the Marine Living Resources Act.
- (c) The Deputy Director General may authorise this permit to be transferred if sound reasons exist.
- (5) (a) A permit may be issued in terms of sub-regulation 5(1)(b) if the applicant -
- (i) demonstrates that the use vehicle is required to effectively carry out the scientific research;
 - (ii) provides a detailed research proposal approved by a recognised institute established for the purpose of scientific research;
 - (iii) demonstrates that the intended vehicle use will not cause significant harm to the coastal zone; and
 - (iv) demonstrates that members of the public will be able to continue to safely use and enjoy that part of the coastal zone.
- (b) Such a permit may be issued for a maximum period of twelve months, provided that it may be renewed on application to the Deputy-Director General. This permit is not transferable.
- (6) (a) A permit may be issued in terms of sub-regulation 5(1)(c) if the applicant
- (i) pays the application fee stipulated by Deputy Director General;
 - (ii) provides proof of registration of its tour guides and all marketing material in respect of the intended tour or tours in the coastal zone;

- (iii) has complied with the requirements of section 24(7) of the Act;
- (iv) demonstrates that the intended vehicle use will not cause significant harm to the coastal zone; and
- (v) demonstrates that members of the public will be able to continue to safely use and enjoy that part of the coastal zone.

(b) Such a permit shall be issued for a maximum period of 60 months and shall not be transferable, but may be renewed on application to the Deputy-Director General against the stipulated fee.

7 (a) A permit may be issued in terms of sub-regulation 5(1)(d) if the applicant

- (i) provides proof that the property was lawfully constructed in the coastal zone;
- (ii) demonstrates that no reasonable alternative access route to the property exists;
- (iii) demonstrates that the intended vehicle use will not cause significant harm to the coastal zone; and
- (iv) demonstrates that members of the public will be able to continue to safely use and enjoy that part of the coastal zone.

(b) Such a permit may be issued for a maximum period of 60 months, provided that it may be renewed on application to the Deputy-Director General.

(8) (a) A permit may be issued in terms of sub-regulation 5(1)(d) if the applicant

- (i) pays the application fee stipulated by Deputy Director General;
- (ii) provides a report from an environmental control officer on the possible effects of the proposed vehicle use on the coastal zone
- (iii) provides a detailed description of the proposed advertisement, production or filming activity and the purpose of the proposed vehicle use;
- (iv) demonstrates that the intended vehicle use will not cause significant harm to the coastal zone; and
- (v) demonstrates that members of the public will be able to continue to safely use and enjoy that part of the coastal zone.

(b) Such a permit shall be issued for the duration of the production up to a maximum of thirty days and cannot be transferred.

Amendment and re-numbering of regulation 7 of the Regulations

7. Regulation 7 of the Regulations is hereby renumbered as regulation 6 and substituted with the following:

“Licence for boat-launching sites

- 6 (1) No person shall be entitled to use a vehicle in the coastal zone for the purpose of launching or landing vessels from a boat launch site that is not licensed in terms of this regulation.
- (2) An application for a licence shall be made to:
- (a) the Deputy Director-General, if the boat launching site is situated in a coastal protected area that has been designated an area of national or international significance or if the boat launching site is under the jurisdiction of the South African National Parks authority; or
 - (b) the provincial authority, if the boat launching site is situated in any other area or jurisdiction.
- (3) When issuing a licence, the Deputy Director-General or a provincial authority may impose any condition considered to be conducive to the achievement of the objectives of the Regulations.
- (4) A licence shall only be issued by the Deputy Director-General or the provincial authority, as the case may be, if the applicant-
- (i) pays an application fee of R 5000.00 (five thousand rand) for each boat launching site sought to be licenced;
 - (ii) complies with the requirements of section 24(7) of the Act relating to the investigation, assessment and communication of the potential impact of the activities associated with boat-launching at the site; and
 - (iii) demonstrates that vehicle use in the boat launch site area will not cause significant harm to the coastal zone.
- (5) A licence shall be issued for a maximum period of 60 months and shall be capable of being renewed on application and against payment of a fee of R1000.00 (one thousand rand)

Amendment and re-numbering of regulation 8 of the Regulations

8. Regulation 8 of the Regulations is hereby re-numbered as regulation 7 and amended by the insertion of the following in sub-regulation 8(1):

“7. An applicant for a permit under regulation 5(6) or for a licence under regulation 6 must fulfil the requirements of section 24(7) of the Act in respect of the investigation, assessment and communication of the potential impact of the activity concerned.”

Deletion of regulation 9 of the Regulations

9. Regulation 9 of the Regulations is deleted.

Deletion of regulation 10 of the Regulations

10. Regulation 10 of the Regulations is deleted.

Amendment and re-numbering of regulation 11 of the Regulations

11. Regulation 11 of the Regulations is re-numbered as regulation 8 and amended by the insertion of the following:

“8. The relevant authority referred to in regulation 5 or 6(2) must –“

Amendment and re-numbering of regulation 12 of the Regulations

12. Regulation 12 of the Regulations is re-numbered as regulation 9 and amended by the insertion of the following:

“9. (1) The relevant authority referred to in regulation 5 or 6(2) may refuse to consider an incomplete application for a permit or licence.

(2) ...

(3) The relevant authority referred to in regulation 5 or 6(2) [, or in the case of a matter referred to in regulation 9, the Director-General,] must refuse the application if it reasonably believes -

(a);

(b) on the basis of information submitted with the application to satisfy the requirements of regulation [8] 7 ...; or

(c)

(4) If the said authorities **[or the Director-General]** decide

(5) **[A permit under regulation 6 must not be granted for a period of more than 12 months and a boat-launching site licence under regulation 7 must not be granted for a period of more than 36 months.]”**

Amendment and re-numbering of regulation 13 of the Regulations

13. Regulation 13 of the Regulations is hereby re-numbered as regulation 10 and amended by the insertion of the following:

“10. (1) The relevant authority referred to in regulation 5 or 6(2) [, or in the case of a matter referred to in regulation 9, the Director-General,] must issue a written record of the decision...”

(2) (i) the signature of the person who represents the relevant authority [or the Director-General];”

Amendment and re-numbering of regulation 14 of the Regulations

14. Regulation 14 of the Regulations is hereby re-numbered as regulation 11 and is substituted with the following:

“Appeals

11. (1) An appeal against a decision by the Deputy Director-General taken in terms of regulation 5 or regulation 6(2)(a), shall be made to the Minister.

(2) An appeal against the decision of the provincial authority taken in terms of regulation 6(2)(b) shall be to the MEC of that province.

(3) The decision of the appeal authority shall be final.

(4) An appeal must be lodged in writing and shall state the grounds on which it is based and may be accompanied by documents that are certified as true copies of the original.

(5) An appeal must be lodged within 30 days after the date of the record of decision issued in terms of regulation 10.”

Amendment and re-numbering of regulation 15 of the Regulations

15. Regulation 15 of the Regulations is re-numbered as regulation 12 and is amended as follows:

“12. [(1) Subject to sub-regulation (2), a permit or licence issued under these regulations may at any time be suspended, cancelled or amended.]

(1) A permit or licence may only be suspended, cancelled or amended if -

(a) the relevant authority [or Director-General] is satisfied [on the basis of information that was not considered when the permit or licence was issued,] that the permit holder or licence holder is in breach of a condition imposed by the relevant authority; [it is necessary or desirable to suspend, cancel or amend the permit or licence to prevent deterioration or further deterioration of the quality of the environment within the coastal zone;]

[(b) other similar permits or licences held by other persons in the same vicinity have also been reviewed and the suspension, cancellation or amendment does not unfairly discriminate against the holder in relation to other holders of similar permits or licences in the same vicinity;]

(b) after the holder of the permit or licence was given an opportunity to comply with the condition and failed to do so; and

(c) the holder of the permit or licence was given an opportunity to make written representations to the relevant authority.

[(2) A permit or licence may not be amended in such a way that the period for which it is valid exceeds the maximum period for which it may be issued.]

(2) If the Minister has reason to believe that a permit or licence issued by **[an] the relevant** authority under these regulations is inconsistent with the national environmental management principles in Chapter 1 of the Act or with any other provision of the Act or these regulations, the Minister may intervene and [direct the authority to review the decision and within a specified period either -

(a) to] suspend, cancel or amend the permit or licence.]; or

(b) to give reasons to the Minister why it does not intend doing so.]”

Amendment and re-numbering of regulation 16 of the Regulations

16. Regulation 16 of the Regulations is re-numbered as regulation 13 and is amended as follows:

“13(2) Any person issued with a summons in terms of sub-regulation **[16] 13(1)(c)** may in terms of section 57 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), pay an admission of guilt fine of R1000.”

Amendment and re-numbering of regulation 17 of the Regulations

17. Regulation 17 of the Regulations is re-numbered as regulation 14 and is amended as follows:

“14 (3) Any person who has been granted a permit to use a vehicle in the coastal zone under these regulations, or any person whose application for an exemption under regulation **[22] 19** has been granted, must immediately produce such permit or proof of such exemption if requested to do so by an authorised officer.”

Amendment and re-numbering of regulation 18 of the Regulations

18. Regulation 18 of the Regulations is re-numbered as regulation 15 and is amended as follows:

“15 (2) If any vehicle has been seized in terms of regulation **[16] 13** and a person who has been properly charged with an offence in relation thereto fails to appear to answer the charge within 90 days of the seizure, the Director-General may apply to the

court for it to be forfeited to the State and the court shall make any order it considers appropriate.”

Re-numbering of regulation 19 of the Regulations

19. Regulation 19 of the Regulations is re-numbered as regulation 16.

Amendment and re-numbering of regulation 20 of the Regulations

20. Regulation 20 of the Regulations is re-numbered as regulation 17 and is amended as follows:

“17 (a) a person was sitting behind the wheel or at the controls of a vehicle, whether or not the vehicle was stationary, [that person is presumed, unless the contrary is proved,] it shall be prima facie proof that the person was using that vehicle in that place.

(b) _____ a person used a vehicle in the coastal zone other than on a public road, [**that person is presumed, unless the contrary is proved, to have used**] it shall be prima facie proof that the vehicle was used in a manner that was not permissible under regulation 4; was not authorised in terms of a permit granted under regulation ~~[6]~~ 5 or an exemption under regulation ~~[22]~~ 19, and was not lawful in terms of regulation ~~[24]~~ 21.”

Re-numbering of regulation 21 of the Regulations

21. Regulation 21 of the Regulations is re-numbered as regulation 18.

Amendment and re-numbering of regulation 22 of the Regulations

22. Regulation 22 of the Regulations is re-numbered as regulation 19 and substituted with the following:

“19 Any person, including an organ of state, may apply in writing to the Minister for exemption from complying with any of the requirements specified in regulations 5, 6 or 7 for the granting of a permit, licence or the carrying on of an environmental assessment in terms of section 24(7) of the Act, respectively, and the Minister may issue an exemption if, in his or her opinion, sound reasons exist.”

Re-numbering of regulation 23 of the Regulations

23. Regulation 23 of the Regulations is re-numbered as regulation 20.

Amendment and re-numbering of regulation 24 of the Regulations

24. Regulation 24 of the Regulations is renumbered as regulation 21 and substituted with the following:

“Transitional provisions

21. Any part of the coastal zone designated a recreational use area under regulation 5 of the Regulations, any permit issued under regulation 6 of the Regulations, any licence issued under regulation 7 of the Regulations and any exemption granted under regulation 22 of the Regulations shall remain valid until revocation of the designation or expiry of the record of decision or the expiry of the licence, permit or exemption, as the case may be.”

Amendment and re-numbering of regulation 25 of the Regulations

25. Regulation 25 of the Regulations is hereby re-numbered as regulation 22 and substituted with the following:

“Commencement

22. These regulations shall commence immediately upon the date of publication.”



DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

**DRAFT GUIDELINES ON THE IMPLEMENTATION OF REGULATIONS PERTAINING TO
THE CONTROL OF VEHICLES IN THE COASTAL ZONE: 2004**

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1. Introduction

1.1 On 21 December 2001, the Minister of Environmental Affairs and Tourism ("the Minister") published regulations prohibiting the use of vehicles in South Africa's coastal zone in GN Regulation 1399 - *Control of Vehicles in the Coastal Zone* ("the Regulations"). In 2004, the Minister amended the Regulations.

1.2 The Regulations have the following objectives:

1.2.1 to prohibit the use of vehicles in the coastal zone;

1.2.2 to authorise the use of vehicles in the coastal zone in certain circumstances and when the prescribed requirements have been complied with;

1.2.3 to provide for specific measures to enforce the Regulations; and

1.2.4 to prescribe penalties for contraventions of the Regulations.

1.3 This guideline explains the how the Regulations will be implemented in respect of:

1.3.1 the permissible use of vehicles in the coastal zone;

1.3.2 vehicle use in the coastal zone under permit;

1.3.3 licences for boat launching site areas; and

1.3.4 exemptions.

2. Interpretation

2.1 The Regulations prohibit vehicle use in the coastal zone **unless** the use is a *permissible use* in terms of regulation 4, or authorised under regulation 5 (permit) or regulation 6 (licence). The vehicle use may also be lawful if a permit, licence or exemption was issued in terms of the Regulation prior to having been amended.

2.2 This guideline gives effect to the Regulations and the principles contained in the National Environmental Management Act, 107 of 1998 ("the NEMA").

2.3 In order to facilitate the implementation of the Regulations and to inform decision-making, the Department of Environmental Affairs and Tourism ("the Department") has undertaken a strategic environmental assessment of the coastal zone to determine,

- which environmentally sensitive areas must remain closed to vehicles;

- how the integrity of coastal habitats which support coastal fauna and flora is to be sustained; and
- where passive forms of recreation are usually enjoyed in the coastal zone.

3. Permissible Uses

3.1 Regulation 4 makes provision for the use of a vehicle in the coastal zone without a permit or any other formal type of authorisation in certain circumstances.

3.2 Five categories of users are listed in regulation 4. These are:

3.2.1 the use by **any person of any vehicle** on certain specified roads or in certain specified areas, or for a purpose specified in regulation 4(a)(iv) (the use of a vehicle within an area defined as a "mining area") and (vi) (the use of vehicles in an emergency situation to safeguard human life or health, property or the environment). The use of a vehicle in ***an emergency situation in order to safeguard human life or health, property or any aspect of the environment***, is not restricted to actual emergencies. Any person may use a vehicle in the coastal zone when harm to human life or health, property or any aspect of the environment is reasonably foreseeable.

3.2.2 the use of **any vehicle** within a **boat launching site**, provided that the site is licensed in terms of regulation 6 and the vessel is used for the purpose of launching a vessel. The site must be licenced and those using it for launching vessels need have a permit for using a vehicle in the coastal zone. Users should make sure that the site is properly licenced and must adhere to regulation 2, which requires the user to take all reasonable measures to ensure that harm or pollution is not caused to the coastal zone.

3.2.3 the use by **physically disabled persons** of electrically propelled vehicles specifically designed and manufactured for physically disabled persons. Electrically motorised vehicles are substantially less powerful than conventional internal combustion vehicles and therefore less likely to cause significant harm to the coastal zone. Physically disabled and other persons may also use non-motorised vehicles in the coastal zone.

3.2.4 the use by an **employee** of any **organ of state** of any vehicle for the purposes of **performing the public duties** of that organ of state. Such use remains subject to the duty of care set out in regulation 2. The Department uses the definition of "organ of state" which appears in section 239 of the Constitution of the Republic of South Africa, 108 of 1996. In terms of that definition, an organ of state means-

- (a) any department of state or administration in the national, provincial or local sphere of government; or
 - (b) any other functionary or institution-
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation,
- but does not include a court or a judicial officer;

3.2.5 the use of vehicles in the coastal zone or the launching of vessels from the coastal zone by the National Sea Rescue Institute for the purposes of carrying on training exercises and other uses in the public interest. Accordingly, the members of the NSRI may conduct training activities using vehicles in and launching vessel from the coastal zone without having to apply for a permit or exemption.

4. Permits (See Annexure 1)

4.1 The Department will only consider an application for a permit for use of a vehicle in the coastal zone for one of the following objectives:

- To carry on a non-recreational activity in terms of the Marine Living Resources Act;
- To conduct scientific research;
- To carry on a tourism business;
- To access private property; or
- To produce an advertisement, feature film, still photograph or television programme.

4.2 All applications for permits must be made to the Deputy Director-General of the Department: Marine and Coastal Management ("the DDG").

- 4.3 Specific criteria set out in the Regulations apply to each category of permit. Application fees must be paid in respect of some of the categories. A specific application form exists for each category of permit and **applications may only be made on these application forms**. Forms are available at the Department and the following persons may be contacted:

Location	Authority	Contact Details
Western Cape	The Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management	Mr Shaun Schneier. Email: schneier@mcm.wcape.gov.za Tel: (021) 402-3024
Western Cape	The Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management	Dr Neil Malan. Email: dmalan@mcm.wcape.gov.za Tel: (021) 402-3911

Vehicle use criteria: Commercial activity in terms of the Marine Living Resources Act

- 4.4 Persons who wish to apply for a permit to use a vehicle in the coastal zone to carry on a commercial activity in terms of the Marine Living Resources Act 18 of 1998 (‘the MRLA’) must pay an application fee, demonstrate that they satisfy certain requirements and provide certain information:

- **Application fee:** The fee has been stipulated at **R500 (five hundred rand)** by the DDG and is payable in favour of the **Marine Living Resources Fund**.
- **Substantive requirements:**
 - (a) The purpose of the proposed vehicle use must be to enable the applicant to effectively utilise a fishing right, permit or exemption issued in terms of the MRLA. In other words, the applicant must show that without access to a vehicle in the coastal zone, harvesting the resource will not be economically viable or physically possible;
 - (b) The proposed vehicle use should not cause significant harm to the environment. Applicants have to demonstrate that the area of intended use does not contain sensitive areas such as estuaries, river mouths, or breeding areas for fauna or sensitive vegetation; and
 - (c) The proposed vehicle use must not pose a threat to the safety of members of the public who wish to use the coastal zone for bathing or other recreational reasons.

- **Information required (this must be provided):**
 - (a) A copy of the applicant's right, permit or exemption granted in terms of the MRLA; and
 - (b) A detailed map of the area (1:50 000) with the area of intended use clearly indicated.
- **Duration of Permit:** A permit will generally be granted for the duration of the right, permit or exemption issued in terms of the MRLA. The permit may be transferred on application to the DDG.

Vehicle use criteria: Scientific research

4.5 Persons who wish to apply for a permit to use a vehicle in the coastal zone to carry on scientific research must demonstrate that they satisfy certain substantive requirements and provide certain information.

- **Substantive requirements (these requirements must be satisfied):**
 - (a) The proposed vehicle use must be necessary for the scientific research to be carried out effectively;
 - (b) The proposed vehicle use must not cause significant harm to the environment; and
 - (c) The proposed vehicle use may not pose a threat to the safety of members of the public who wish to use the coastal zone for bathing or other recreational reasons.
- **Information required (this must be provided):**
 - (a) A detailed research proposal authorised by the sponsor of the scientific research must be provided; and
 - (b) A detailed map of the area (1:50 000) with the area of intended use clearly indicated.
- **Application fee:** There is no application fee.
- **Renewal of permit:** A permit granted for scientific research may be renewed by the DDG. The permit holder must satisfy the DDG that the **substantive requirements** remain satisfied. This may be done by way of a short affidavit.

Vehicle use criteria: Private property

4.6 Persons who wish to apply for a permit to use a vehicle in the coastal zone for the purposes of accessing private property must demonstrate that they satisfy certain substantive requirements and provide certain information. Permits issued for a specified period and will be for the property concerned and not for the owner of the

property. Should the property be sold, the new owner need not apply for a permit unless it has expired.

- **Substantive requirements (these requirements must be satisfied):**
 - (a) Buildings or improvements on the property must have been lawfully constructed. Access will not be allowed to coastal private properties constructed in violation of any law;
 - (b) The person seeking access must have a legal right to access or use the private property;
 - (c) The person seeking vehicular access must demonstrate that no other reasonable alternative access route to the private property exists;
 - (d) The proposed vehicle use should not cause significant harm to the environment; and
 - (e) The proposed vehicle use must not pose a threat to the safety of members of the public who wish to use the coastal zone for bathing or other recreational reasons.
- **Information required (this must be provided):**
 - (a) Proof that the person applying has a clear legal right to access or use the private property concerned;
 - (b) A detailed map of the area (1:50 000) with the area of intended use clearly indicated.
- **Application fee:** There is no application fee.
- **Duration and renewal of permit:** A permit may be issued for a maximum of 60 months. A permit to access private property may be renewed by the DDG. The permit holder must satisfy the DDG that the **substantive requirements** remain satisfied. This may be done by way of a short affidavit.

Vehicle use criteria: Tourism business

4.7 Persons who wish to apply for a permit to use a vehicle in the coastal zone to carry on a tourism business must pay an application fee, satisfy certain substantive requirements and provide certain information:

- **Application fee:** The application fee stipulated by the DDG is **R10,000 (ten thousand rand)**. The application fee is payable in favour of the **Marine Living Resources Fund**.
- **Substantive requirements (these requirements must be satisfied):**
 - (a) The applicant must comply with the requirements of section 24(7) of the National Environmental Management Act of 1998 (**See Annexure 2**);

- (b) The proposed vehicle use should not cause significant harm to the environment; and
- (c) The proposed vehicle use must not pose a threat to the safety members of the public who wish to use the coastal zone for bathing or other recreational reasons.
- **Information required (this must be provided):**
 - (a) A detailed map of the area (1:50 000) with the area of intended use, including the proposed tour route(s) clearly indicated;
 - (b) Photographs of the proposed area of use and especially of sensitive areas;
 - (c) Copies of certificates or badges of registration of the tour guides; and
 - (d) All marketing material for the proposed tour.
- **Duration of Permit:** A permit may be issued for a maximum period of 60 months.
- **Renewal:** A permit to operate a tourism business may be renewed by the DDG. A renewal fee is applicable and has been stipulated by the DDG to be **R1,000 (one thousand rand)**. The permit holder must satisfy the DDG that the **substantive requirements** remain satisfied. This may be done by way of a short affidavit.

Vehicle use criteria: Production of an advertisement, feature film, still photograph or television programme

- 4.8 Persons who wish to apply for a permit to use a vehicle in the coastal zone for the purposes of producing an advertisement feature film, still photograph or television programme must pay an application fee, satisfy certain substantive requirements and provide certain information. Permits issued will only be valid for specific shoots and will not be transferable. Permits will not be granted for the production of any material that depicts use of a vehicle in the coastal zone, whether stationery or in motion.
- **Application fee:** The application fee stipulated by the DDG is **R5,000 (five thousand rand)**. The application fee is payable in favour of the **Marine Living Resources Fund**.
 - **Substantive requirements (these requirements must be satisfied):**
 - (a) The proposed vehicle use should not cause significant harm to the environment; and
 - (b) The proposed vehicle use must not pose a threat to the safety of the members of the public who wish to use the coastal zone for bathing or other recreational reasons.
 - **Information required (this must be provided):**

- (a) A detailed description of the proposed production;
- (b) A report from an independent environmental officer on the anticipated effects of the proposed vehicle use on the coastal zone; and
- (c) A detailed map of the area (1:50 000) with the intended area of use clearly indicated.

□ **Duration:** Permits will not be issued for periods in excess of 30 days. Permits may not be renewed and are not transferable.

5. Licences (See Annexure 3)

- 5.1 Persons intending to operate a boat launching site must make application for a licence in terms of regulation 5 if the operator intends to use vehicles or allow their use by third parties for the purposes of boat launching (or landing).
- 5.2 Operators are required to lodge separate applications for each boat launching site they wish to have licenced.
- 5.3 Applications must be made to the DDG where the launch site falls within the jurisdiction of a national park or an area determined to be of national or international significance such as a world heritage site. In all other circumstances, applications should be made to the provincial authority responsible for environmental affairs.
- 5.4 Licences will be issued for a maximum period of 5 years (60 months). An application fee of **R5000 (five thousand rand)** is applicable for each application made. Licences are renewable, subject to a renewal fee of **R1000 (one thousand rand)** being paid.
- 5.5 Applications for a boat launching site licence **may only be made on stipulated application forms**. These forms are available from the Department (where it has jurisdiction) or the respective provincial departments responsible for environmental affairs.

Location	Authority	Contact Details
Kwa-Zulu Natal	The Department of Agriculture and Environmental Affairs	Ms Tandi Moffet, Coastal Management Office, Department of Agriculture and Environmental Affairs, Private Bag X9059, Pietermaritzburg, 3200 Tel: (033) 355-9434
Eastern Cape	The Department of Economic Affairs, Environment and Tourism	Ms Maswana Nokulunga, Department of Economic Affairs, Environment and Tourism, Private Bag X0054, Bisho, 5605 Tel: (040) 609-3299
Western Cape	The Department of Environmental Affairs and Development Planning	Ms Janette de Jager, Department of Planning: Provincial Authority Western Cape, Private Bag X9083, Cape Town, 8000 Tel: (021) 483-2994
Northern Cape	The Department of Agriculture, Nature Conservation, Land Reform and Environmental Affairs	Mr Julius Mufyoraula, Department of Agriculture, Nature Conservation, Land Reform and Environmental Affairs, Private Bag X6102, Kimberley, 8300 Tel: (053) 832-2143
National Department	The Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management	Mr Shaun Schneier, Private Bag X2, Roggebaai, 8012. Email: schneier@mcm.wcape.gov.za Tel: (021) 402-3024

5.6 Persons wishing to launch boats from properly licenced boat launching site need not seek authorisation for their vehicle use *within* the area of the boat launching site. This type of vehicle use is a *permissible use*.

Criteria applicable to evaluating applications for boat launch site licences

Persons who wish to apply for a boat launch site licence must pay an application fee, satisfy certain substantive requirements and provide certain information.

- **Application fee:** An application fee of R5000 is applicable. The application fee is payable in favour of the *Marine Living Resources Fund*.
- **Substantive requirements (these must be satisfied):**
 - (a) The applicant must demonstrate that section 24(7) of NEMA has been fully complied with; and
 - (b) The applicant must demonstrate that the proposed boat launching site will not cause significant harm to the coastal zone.
- **Information required (this must be provided)**
 - (a) Applicants must submit an environmental management plan (EMP) to the relevant authority. The EMP must provide details in respect of:
 - measures adopted to minimise impacts associated with vehicle use in boat launching site;

- measures taken to control vehicle access to the boat launching site;
 - how vehicle use will be regulated in the boat launching site;
 - measures taken to ensure compliance by vehicle users with general fishing permit conditions and the provisions of the MRLA; and
 - initiatives to be undertaken to ensure compliance and proper and reliable monitoring of the impacts on the environment.
- **Renewal:** A licence granted may be renewed by either the DDG or the applicable provincial authority. A renewal fee of **R1,000** is applicable. The licence holder must satisfy the DDG or the applicable provincial authority that the **substantive requirements** remain satisfied. This may be done by way of a short affidavit.

6. Exemptions (See Annexure 4)

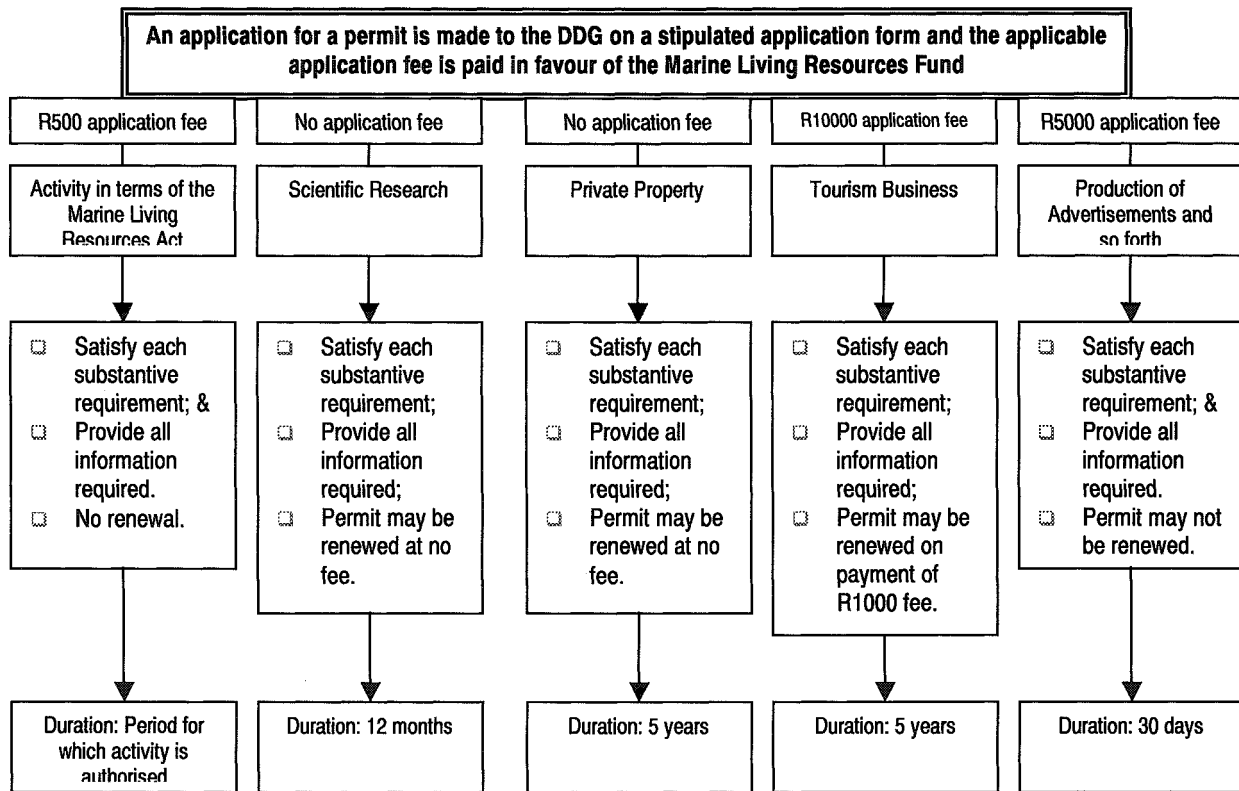
6.1 An application for an exemption in terms of regulation 19 is a request to the Minister of Environmental Affairs and Tourism to exempt the applicant from having to comply with the requirements of regulation 5, 6 or 7 of the Regulations.

6.2 A recommended *Exemption application form* is available from the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management. The following persons may be contacted:

Location	Authority	Contact Details
Western Cape	The Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management	Mr Shaun Schneier. Email: schneier@mcm.wcape.gov.za Tel: (021) 402-3024
Western Cape	The Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management	Dr Neil Malan. Email: dmalan@mcm.wcape.gov.za Tel: (021) 402-3911

6.4 There is no application fee applicable for an exemption application.

ANNEXURE 1
Permit Applications



ANNEXURE 2
Section 24(7) of NEMA

Compliance with section 24(7) requires, at a minimum:

- **Investigation of the environment likely to be significantly affected by the proposed activity and alternatives thereto.** The applicant must provide information regarding the geographical area affected by the application, the coastal features (e.g. dunes or inter-tidal zone) affected by the application and the fauna and flora affected by the application. The applicant must explain the purpose of the application and relate this specifically to the area affected, i.e. elaborate on why it is necessary for the application to be made in respect of the affected area or environment in preference to other areas or environments.
- **Investigation of the potential impact, including cumulative effects, of the activity and its alternatives on the environment, socio-economic conditions and cultural heritage, and assessment of the significance of that potential impact.** The applicant must, on the basis of information and data which are already available, clearly indicate the potential impact resulting from the application on coastal features, fauna and flora and socio-economic conditions and cultural heritage. Cumulative effects must also be investigated. This requires an investigation of secondary or indirect as well as primary or direct impacts. For example, vehicle use has direct physical impacts on the environment. Secondary impacts result if access results in an increase in fishing effort. Socio-economic conditions include social conditions (such as the recreational patterns and preferences associated with the coastal zone affected by the application) and economic conditions (vehicle access may influence the tourism potential of a particular community). Cultural heritage includes features such as archaeological sites or sites having cultural significance for a particular community. The applicant must indicate whether available information and data are adequate to determine the potential impact resulting from the application on any aspect of the coastal environment. The environmental and socio-economic impacts resulting from the application must be compared to the impacts which would result if the application were not to be made.
- **Investigation of mitigation measures to keep adverse impacts to a minimum, as well as the option of not implementing the activity.** After identifying the potential impacts associated with the application, the applicant must specify measures for mitigating each impact. If it is not possible to mitigate certain impacts, the applicant must clearly indicate this. The applicant must also indicate the anticipated effectiveness of specific mitigation measures. The applicant must relate the environmental impacts mitigated by the introduction of requisite measures to the state of the environment which would result if the application were not to be made.
- **Public information and participation, independent review and conflict resolution in all phases of the investigation and assessment of impacts.** The applicant must *design* an appropriate public information and participation process. The exact nature of each process should be informed by:
 - the size and type of area affected by the application (e.g. urban or rural area);
 - which communities are affected by the application; and
 - which stakeholders are affected by the application (e.g. tourism sector).

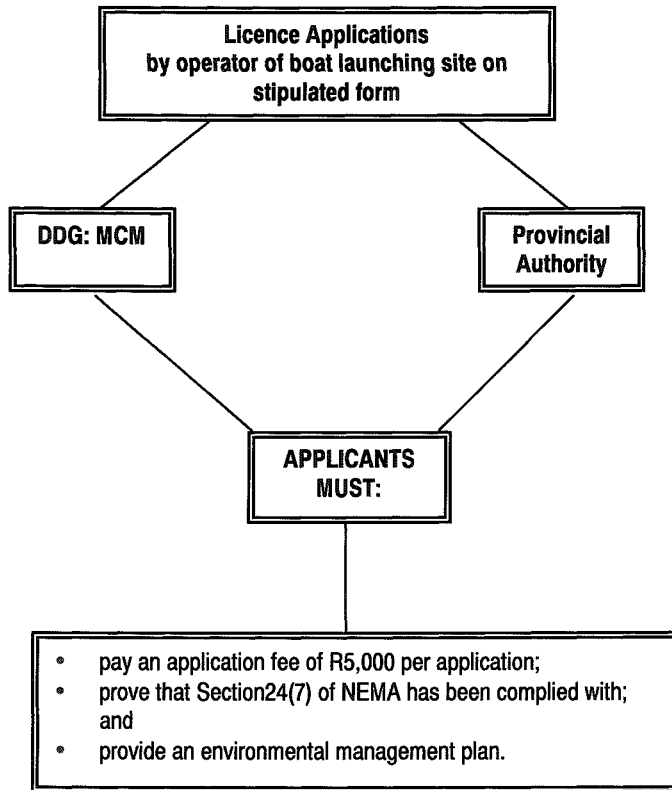
Independent review of the application will generally be the responsibility of the Department or the provincial environmental authority. However, should any aspect of the relevant environmental investigations be of a highly complex or technical nature, the applicant may be required to submit any aspect of its consultant's findings to an independent expert for review. The applicant is responsible for attempting to resolve conflicts between different sectors or interest groups affected by the application. Alternatively, should there be irreconcilable differences between such sectors or groups, the applicant must clearly summarise the positions of the various parties and make appropriate recommendations, taking these differences into account.

- **Reporting on gaps in knowledge, the adequacy of predictive methods and underlying assumptions, and uncertainties encountered in compiling the required information.** The applicant is responsible for clearly indicating the above in the application, regarded as self explanatory.
- **Investigation and formulation of arrangements for the monitoring and management of impacts, and the assessment of the effectiveness of such arrangements after their implementation.** Applications for recreational use areas and boat launching sites must be supported by an environmental management plan which includes details in respect of measures adopted to:
 - mitigate environmental impacts associated with vehicle use;
 - regulate or control vehicle access and use in the affected recreational use area or boat launching site, including associated permit systems;
 - ensure vehicle users comply with control measures and permit conditions;
 - ensure that the environmental impacts of vehicle use are monitored in order to ensure that such use is environmentally sustainable.

The relevant authority or authorities are responsible for ensuring that the requirements of section 24 (g), (h) and (i) are complied with. These requirements are regarded as self explanatory.

ANNEXURE 3

Boat Launch Site Licence Applications



ANNEXURE 4
Exemptions Applications