

No. R. 765

25 June 2004

INTENT TO IDENTIFY UNDER SECTION 24(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT No. 107 OF 1998) AS AMENDED:

- GEOGRAPHICAL AREAS BASED ON ENVIRONMENTAL ATTRIBUTES IN WHICH SPECIFIED ACTIVITIES MAY NOT COMMENCE WITHOUT ENVIRONMENTAL AUTHORISATION FROM THE COMPETENT AUTHORITY, AS WELL AS GEOGRAPHICAL AREAS IN WHICH SPECIFIED ACTIVITIES MAY BE EXCLUDED FROM AUTHORISATION BY THE COMPETENT AUTHORITY, AND
- ACTIVITIES THAT MAY NOT COMMENCE WITHOUT ENVIRONMENTAL AUTHORISATION FROM THE COMPETENT AUTHORITY.

The Minister of Environmental Affairs and Tourism intends identifying under section 24(2) of the National Environmental Management Act, 1998 (Act No. 107 Of 1998) as amended the geographical areas and activities in Schedules 1, 2, 3, 4 and 5 hereto which may not commence with environmental authorisation from the competent authority.

Interested parties are requested to submit comments in connection with the proposed regulations within 60 days from the date of publication of this notice. Comments must be submitted to the Director-General: Environmental Affairs and Tourism, Private Bag X447, Pretoria, 0001.

**C. Olver**

Director-General: Environmental Affairs and Tourism

## SCHEDULES

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## DEFINITIONS

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The following definitions apply to these schedules -

**“agri-industrial”** means industries for the manufacture or distribution of agricultural produce including closed under roof battery farming systems for animals;

**“animal”** means any living being endowed with sensation and voluntary motion, other than a human being;

**“asbestos”** means amosite, anthophyllite, chrysotile, crococolite, tremolite or any other type of asbestos;

**“associated structures or infrastructure”** means any building or infrastructure that is necessary for the functioning of the facility or that provide an ancillary service from the same facility;

**“bulk storage or transport”** means the storage or transport of goods in large quantities as specified in the schedules before it is processed, packaged or made available to the retail sector or the end user, or the storage transport or movement of large quantities of effluent or waste after it has been discarded by the end user;

**“clay”** means, attapulgite/sepiolite, ball clay, bentonite, refractory clay, semi-flint and plastic/fireclay, shale/brick clay, vermiculite-chlorite group, fuller’s earth, illite-montmorillonite group, kaolin, nontronite/saponite, or any other kinds of clay;

**“coal”** means coal, pseudo coal or torbanite/oil shale;

**“competent authority”** means 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 shall be the Minister;

**“concentration of animals”** means keeping animals in confined spaces or structures where they are fed in order to prepare them for slaughter or to produce secondary products like milk or eggs.

**“dangerous goods”** means goods that are capable of posing a significant risk to health and safety or to property –or the environment and that are listed in Annex B.2 or Annex C of South African National Standard: The identification and classification of dangerous goods for transport, SANS 10228 as amended from time to time;

**“diamond”** means alluvial diamond or kimberlite diamond;

**“dimension stone”** means general dimension stone, diorite/syenite, gabbro/norite, granite/syenite, marble, pyroxenite, quartzite/sandstone, shale/slate/jaspilite/schist, travertine, verdite/buddstone or any other kind of dimension stone;

**“expansion”** means extending the range of outputs from or the area covered by an activity;

**“ferrous and base metal”** means aluminium ore, antimony ore, beryllium ore, bismuth ore, chrome ore, cobalt, copper ore, germanium ore, iron ore, lead, lithium ore, manganese ore, mercury, molybdenum ore, nickel ore, niobium (columbium) ore, pyrite, rare earths, silicon ore, tantalum/niobium ore, tin ore, tungsten ore, uranium ore, vanadium ore, zinc ore or zirconium ore;

**“industrial mineral”** means aggregate, andalusite, barytes, calcite, corundum, dolomite, dolomitic limestone, feldspar, fluorspar, garnet (abrasive), gibbsite, graphite, gravel, gypsum, kieselguhr, kyanite, lignite, limestone, magnesite, mica, mineral pigment, nepheline, nitrate, perlite, phosphate ore, pyrophyllite, salt, manufactured sand from hardrock, manufactured sand from waste dump, serpentine, sillimanite, soda, stone aggregate from waste dump, gravel stone aggregate, strontium, sulphur, sulphur in pyrite, talc, vermiculite, wollastonite or zeolite;

**“gemstone”** excluding diamond, means agate, amazonite, amethyst, apatite, apophyllite, aquamarine, beryl, chalcedony, chrysoberyl, citrine, corundum, dumortierite, emerald, epidote, feldspar, garnet, heliodor, jade, jasper, kyanite, labradorite, malachite, morganite, opal, orthoclase, prehnite, quartz, ruby, sapphire, sodalite, spinel, tiger’s-eye, topaz, tourmaline or zircon;

**“heavy mineral”** means leucoxene, monazite, rutile or any other type of heavy minerals;

**“MEC”** means the Member of the Executive Council to whom the Premier has assigned the responsibility for environmental affairs; and

“**petroleum and gas**” means natural gas, gas and condensate, petroleum or oil;

“**precious metal**” means gold ore, silver ore or platinum group minerals and ore;

“**silica**” means building sand, concrete sand, crusher sand, filling sand, foundry sand, glass sand, metallurgical silica, silcrete or silica sand;

“**upgrade**” means extending the capacity or output of infrastructure or a facility.

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## **SCHEDULE 1: IDENTIFICATION OF GEOGRAPHIC AREAS IN WHICH SPECIFIED ACTIVITIES REQUIRE ENVIRONMENTAL AUTHORISATION**

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1. Geographic areas in which activities specified in Schedule 4 may not be undertaken prior to the issuing of an environmental authorisation by the Director-General or head of the provincial environmental department include -
  - (a) an area protected by any legislation or identified by any policy or plan for the conservation of biological diversity;
  - (b) an area protected by any legislation or identified by any policy or plan for the conservation of water resources;
  - (c) an area protected by any legislation or identified by any policy or plan for the conservation of landscape or geological features;
  - (d) an area or structure protected by any legislation or identified by any policy or plan for the conservation of archaeological, palaeontological, architectural or cultural sites;
  - (e) the core areas of biosphere reserves; and
  - (f) an area designated by the Republic of South Africa in terms of any international agreement, treaty or convention to which it is a party.

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## **SCHEDULE 2: ACTIVITIES THAT REQUIRE ENVIRONMENTAL IMPACT ASSESSMENT**

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The activities listed in this schedule may not be undertaken prior to the issuing of an environmental authorisation by the competent authority. These activities must be subjected to environmental impact assessments as defined in Regulations 8 and 9 of the Environmental Impact Assessment Regulations.

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1. The construction of new facilities or infrastructure or the upgrade, expansion, closure or decommissioning of existing facilities or infrastructure, including associated structures, for -
  - (a) the generation of electricity where -
    - (i) the electricity output is 10 megawatt or more, or
    - (ii) the facility covers an area in excess of 1 hectare;

- (b) nuclear reaction including the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radio active products, and waste;
- (c) the manufacturing, refining, processing, blending, or bulk storage of -
  - (i) petroleum and petrochemical products with an installed capacity in excess of 1 000 cubic metres, excluding filling stations,
  - (ii) chemical products with an installed capacity in excess of 500 cubic metres excluding (i),
  - (iii) toxic and infectious substances including pesticides and herbicides, with an installed capacity in excess of 1 000 litres or 100 kilograms installed capacity, and
  - (iv) agricultural fertilisers with an installed capacity in excess of 10 tons;
- (d) the extraction or processing of natural gas;
- (e) the production of metals from ore and concentrates;
- (f) the manufacture of pulp, paper or board including plants for the production of cellulose, mechanical wood pulp and chemical pulp;
- (g) the sawing of wood, including the installation of mobile sawmills, with a processing capacity in excess of 4 000 cubic metres of raw timber per year per site;
- (h) cement in which argillaceous or calcareous materials are used in the production of cement clinker, or in which cement clinker is ground or cement is packed, including processes in which metallurgical slags are treated for the purpose of making cement or cement additives;
- (i) the handling, grinding or utilization of asbestos;
- (j) the manufacture of glass from raw materials;
- (k) the manufacture of sulphuric acid and processes in which sulphur trioxide is evolved or used;
- (l) the bulk transportation of dangerous goods using pipelines, funiculars and conveyors with a throughput capacity in excess of 50 tons or 80 cubic metres per day;
- (m) aircraft including -
  - (i) airports,
  - (ii) runways,
  - (iii) waterways, and
  - (iv) structures for engine testing,but excluding -
  - (i) unpaved landing strips shorter than 1,4 kilometres in length, and
  - (ii) helicopter landing facilities and stops used exclusively by emergency services;

- (n) coastal marinas and harbours;
  - (o) above ground electricity transmission cables with a capacity of 130 kilovolts or more;
  - (p) marine telecommunication infrastructure;
  - (q) the transfer of water between water catchments or impoundments with a capacity of more than 20 000 cubic metres per day;
  - (r) the final disposal of waste covering an area in excess of 100 square metres or 200 cubic metres of airspace;
  - (s) the treatment of effluent, wastewater and sewage with an installed capacity of more than 15 000 cubic metres;
  - (t) the incineration, burning, evaporation, thermal treatment, roasting or heat sterilisation of waste or effluent;
  - (u) the microbial deactivation, chemical sterilisation or non thermal treatment of waste or effluent;
  - (v) rail transportation, excluding railway lines and sidings in industrial areas and underground railway lines in mines, but including -
    - (i) railway lines,
    - (ii) stations, and
    - (iii) shunting yards; and
  - (w) golfing activities including -
    - (i) golf courses covering more than 10 hectares, and
    - (ii) golf estates that comprise of golf courses of any size and residential housing.
2. Any new development activity that covers an area in excess of 20 hectares.
3. The planning and construction of roads and associated infrastructure where –
- (a) it is a national road as defined in section 40 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);
  - (b) it is a road administered by a provincial authority;
  - (c) the road reserve is wider than 30 metres; or
  - (d) the road is designed to carry a high volume of traffic of more than 700 vehicles per lane per day with an equivalent standard axle (80 kilo Newton) pavement class of 3 or more;
4. The construction of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high water mark of the dam covers an area of more than 10 hectares.

5. The mining, quarrying, prospecting, extraction or production, including associated structures and the extension of existing operations, of -
  - (a) ferrous and base metals,
  - (b) precious metals,
  - (c) coal,
  - (d) diamonds,
  - (e) heavy minerals, and
  - (f) asbestos.
6. In accordance with the provisions of section 24(2)(c) of the Act, an MEC may exclude activities 1 (v) and (w), 2 and 3 of Schedule 2 where -
  - (a) an area which is managed by any authority for which an environmental management framework has been approved by the competent authority; or
  - (b) an area is not sensitive to certain activities due to its nature or zoning as identified by the competent authority.

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### **SCHEDULE 3: ACTIVITIES THAT REQUIRE INITIAL ASSESSMENT**

The activities listed in this schedule may not be undertaken prior to the issuing of an environmental authorisation by the competent authority. These activities must at least be subjected to initial assessment as defined in Regulation 7 of the Environmental Impact Assessment Regulations in order to determine whether significant impacts are likely or not and may on request of the applicant or instruction from the competent authority be subjected directly to an environmental impact assessment as defined in Regulations 8 and 9 of the Environmental Impact Assessment Regulations.

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1. The construction of new facilities or infrastructure or the upgrade or expansion of existing facilities or infrastructure, including associated structures, for -
  - (a) the manufacturing, storage, testing or disposal of explosives including ammunition, but excluding licensed retail outlets and legal end use of such explosives;
  - (b) the storage of ore of any kind with a capacity in excess of 1 000 tons;
  - (c) the storage of coal with a capacity in excess of 250 tons;
  - (d) resorts, lodges, hotels and other tourism or hospitality facilities where -
    - (i) more than 20 guests can be accommodated overnight or there are more than ten guest units,
    - (ii) the facility will cover an area in excess of 1 hectare, or
    - (iii) there is no connection to a municipal sewerage system;
  - (e) golfing activities including -
    - (i) driving ranges, and

- (ii) short golf courses covering less than 10 hectares;
- (f) sport and recreation activities where -
  - (i) the facility will have a capacity to hold more than 8 000 spectators, or
  - (ii) the facility will cover an area in excess of 3 hectares;
- (g) the slaughter of animals and the processing of animal products with a product throughput in excess of 10 000 kilograms per year;
- (h) the concentration of animals in confined areas or structures for the purpose of commercial production in densities that exceed -
  - (i) 20 square metres per unit of cattle and more than 300 units per year,
  - (ii) 8 square meters per unit of sheep and more than 500 units per year;
  - (iii) 2.5 square metres per unit of pigs and more than 250 units per year excluding piglets that are not yet weaned,
  - (iv) 30 square metres per unit of crocodiles at any level of production, excluding crocodiles younger than 6 months,
  - (v) 3 square metres per unit of poultry in the open or in open sided structures and more than 250 units at any time, excluding chicks younger than 20 days and poultry housed under closed roofed structures, and
  - (vi) 100 square metres per unit of ostriches and more than 50 units per year;
- (i) commercial aquaculture production including mariculture and algae farms;
- (j) agri-industrial purposes covering an area in excess of 1 000 square metres outside areas zoned for industrial purposes;
- (k) the bulk transportation of sewage and water in pipelines or channels with -
  - (i) an internal diameter of 0.36 metres or more, or
  - (ii) a maximum peak throughput of 120 litres or more per second;
- (l) the storage handling or retail of petrol or diesel with a capacity in excess of 46 cubic metres but less than 1 000 cubic metres;
- (m) the treatment of timber with wood preserving substances with a processing capacity in excess of 2 500 cubic metres of timber per year;
- (n) the production of clay bricks and clay or ceramic tiles;
- (o) above ground electricity cables with a capacity of 33 kilovolts or more but less than 130 kilovolts;
- (p) advertisements, as defined in classes 1(a), 1(b) and 1(c) of the South African Manual for Outdoor Advertising Control;
- (q) any purpose in the one in ten year flood line of a river or stream, or within 30 metres from the bank of a river or stream where the flood line is unknown, including -

- (i) canals,
    - (ii) channels,
    - (iii) bridges,
    - (iv) dams, and
    - (v) weirs;
  - (r) the off-stream storage of water, including dams and reservoirs, with a capacity of 80 000 cubic metres or more;
  - (s) the generation of water pressure by means of an elevated water pressure tank or tanks with a capacity of 75 000 litres or more where the height of the structure as measured from its base is higher than 15 metres;
  - (t) the recycling, handling, temporary storage or treatment of waste with a daily throughput capacity in excess of 10 cubic metres;
  - (u) cremation of human or animal tissue;
  - (v) horse racing;
  - (w) polo and polo-cross;
  - (x) aircraft including -
    - (i) helicopter landing pads,
    - (ii) structures for equipment and aircraft storage,
    - (iii) structures for maintenance and repair,
    - (iv) structures for fuelling and fuel storage, and
    - (v) structures for air cargo handling; and
  - (y) the outdoor racing of motor powered vehicles including -
    - (i) motor cars,
    - (ii) trucks, and
    - (iii) motor cycles.
2. Construction or earth moving activities in the sea and up to 5 metres above the high water mark of the sea, including the construction of –
- (a) small harbour facilities for commercial and recreational vessels or craft;
  - (b) facilities associated with the arrival and departure of vessels, the handling of cargo;
  - (c) the storage of material and the maintenance of vessels;
  - (d) fixed or floating jetties and slipways;
  - (e) piers;
  - (f) breakwater structures;
  - (g) tidal pools; and



- (h) buildings.
- 3. The extraction of peat.
- 4. The mining, quarrying, prospecting, extraction or production, including associated structures and the extension of existing operations, of -
  - (a) industrial minerals;
  - (b) gemstones;
  - (c) clay;
  - (d) silica; and
  - (e) dimension stone.
- 5. The manufacture of charcoal and coke.
- 6. The establishment of cemeteries.
- 7. The decommissioning of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high water mark of the dam covers an area of more than 10 hectares.
- 8. The abstraction of sub-surface water at volumes in excess of 10 cubic metres per day.
- 9. The transformation or removal of indigenous vegetation in excess of 3 hectares.
- 10. The planting of commercial tree plantations or the expansion of existing plantations, but excluding community woodlots smaller than 3 hectares.
- 11. The construction of masts and towers, including those used for telecommunication, broadcasting or radio transmission, where the height of the structure as measured from its base is higher than 15 metres;
- 12. The development or redevelopment of areas for the following purposes –
  - (a) residential and mixed use of more than 2,5 hectares;
  - (b) commercial, retail, industrial and agro-industrial, institutional and educational use of more than 1 hectare; and
  - (c) any other such development of any size adjoining a development that has been authorised by the competent authority within the preceding 4 years by the same developer or land owner.
- 13. The transformation of public open space or a protected area to another use.
- 14. In accordance with the provisions of section 24(2)(c) of the Act, an MEC may exclude activities 1(k) to (y) and 6 to 12 of Schedule 3 where -

- (a) an area which is managed by any authority for which an environmental management framework has been approved by the competent authority; or
- (b) an area is not sensitive to certain activities due to its nature or zoning as identified by the competent authority.

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#### **SCHEDULE 4: ACTIVITIES THAT REQUIRE INITIAL ASSESSMENT IN IDENTIFIED AREAS**

The activities listed in this schedule may not be undertaken in areas identified by the Minister or an MEC as specified in NEMA, as amended, prior to the issuing of an environmental authorisation by the competent authority. These activities must at least be subjected to initial assessment as defined in Regulation 7 of the Environmental Impact Assessment Regulations in order to determine whether significant impacts are likely or not and may on request of the applicant or instruction from the competent authority be subjected directly to an environmental impact assessment as defined in Regulations 8 and 9 of the Environmental Impact Assessment Regulations.

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1. The construction of new facilities or infrastructure or the upgrade or expansion of existing facilities or infrastructure, including associated structures, for -
  - (a) the manufacture of cement bricks and products;
  - (b) vehicular transport, including tracks, where:
    - (i) natural vegetation in excess of 250 square metres must be removed, or
    - (ii) material to construct a road must be imported from a borrow pit;
  - (c) marinas and the launching of watercraft on inland waters;
  - (d) above ground cableways and funiculars;
  - (e) landing and take-off of aircraft;
  - (f) off-road driving;
  - (g) the generation of water pressure by means of elevated water pressure tanks with a capacity of 10 000 litres or more;
  - (h) the treatment or disposal of effluent, wastewater and sewage with an installed capacity of more than 100 cubic metres;
  - (i) advertisement as defined in classes' 1(d), 2(g), 3(a), 3(b), 3(k), 4(b) and 5(a) of the South African Manual for Outdoor Advertising Control;
  - (j) resorts, lodges, hotels and other tourism or hospitality facilities;
  - (k) camping and picnic where the site covers an area in excess of 500 square metres;
  - (l) sport activities with -

- (i) a capacity to hold more than 1 000 spectators, or
    - (ii) covering an area in excess of 1 hectare; or
  - (m) abstraction of water directly from natural sources, including streams and aquifers.
2. The construction of masts, towers and poles, including those used for telecommunication, broadcasting or radio transmission where the height of the structure as measured from its base is higher than 7 metres but less than 15 metres;
  3. The new or initial fitment of telecommunication or radio reflector dishes with a diameter in excess of 3 metres and antennas with dimensions of which any part falls outside a box of 3 metres long, 0,4 metres wide and 0.4 metres deep, whether fitted to a pole, mast, tower, building or any other existing structure.
  4. The establishment of new or the extension of existing cultivated agricultural fields in excess of 500 square metres.
  5. The transformation or removal of indigenous vegetation in excess of 500 square metres.
  6. The felling of trees in a natural forest for purposes of commercial use of timber or firewood, or for land clearance for agriculture or development.
  7. The development or redevelopment of areas for the purposes of residential, mixed, commercial, retail, industrial, agri-industrial, institutional and educational use.

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#### **SCHEDULE 5: ACTIVITIES THAT REQUIRE ASSESSMENT IN RESPECT OF THEIR POTENTIAL IMPACT ON AIR QUALITY**

The activities referred to in this schedule will be subjected to an environmental impact assessment or initial assessment as defined in Regulations 7, 8 and 9 of the Environmental Impact Assessment Regulations as specified in schedules or lists to be published in terms of applicable legislation.

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1. The construction of new facilities or infrastructure or the upgrade, expansion, closure or decommissioning of existing facilities or infrastructure, including associated structures, that are not listed in schedules 2 or 3, but which constitute one or more activities or processes identified under legislation that regulates air quality or pollution and in respect of which such legislation requires an initial assessment or and environmental impact assessment.
2. Until the activities or processes contemplated in 1 above are identified, facilities for the scheduled processes listed in the Second Schedule to the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965), which are not already incorporated in Schedules 2 or 3, are subject to initial assessment.