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Contents

No.		Gazette No.	Page No.
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Forestry, Fisheries and the Environment, Department of / Bosbou, Visserye en die Omgewingsake, Departement van			
5646	National Environmental Management Act (107/1998): Consultation on the Proposed Amendments to the Environmental Impact Assessment Regulations, 2014 and the Environmental Impact Assessment Regulations Listing Notices, 2014	51717	3

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. 5646 **6 December 2024**

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

CONSULTATION ON THE PROPOSED AMENDMENTS TO THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS LISTING NOTICES, 2014

I, Dion Travers George, Minister of Forestry, Fisheries and the Environment, hereby, under sections 24(2), 24(5) and 44, read with section 47 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), consult on the proposed amendments to the Environmental Impact Assessment Regulations, 2014, as amended, and the associated Environmental Impact Assessment Regulations Listing Notices 1, 2 and 3 of 2014, as set out in the Schedule.

The purpose of the proposed amendments is to give effect to sections 11, 62, 72, 76 and 86 of the National Environmental Management Laws Amendment Act, 2022 (Act No. 2 of 2022) which provides for the management and reclamation of residue deposits and residue stockpiles to be removed from the ambit of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (Waste Act) and included in the National Environmental Management Act. In order to achieve this objective, in addition to the proposed amendments in the Schedule, proposed amendments to the list of waste management activities that have, or are likely to have, a detrimental effect on the environment are also required and were already published for public comment in Government Notice No. 4361 in Government *Gazette* No. 50107 on 9 February 2024. The transfer of the management of residue deposits and residue stockpiles from the Waste Act to the National Environmental Management Act as provided for in the National Environmental Management Laws Amendment Act will be brought into effect by Proclamation in the Government *Gazette* on the date of the commencement of the amendments to the Environmental Impact Assessment Regulations Listing Notices 1, 2 and 3 and the list of waste management activities.

The proposed amendments to the list of waste management activities and the Environmental Impact Assessment Regulations Listing Notices will have the effect of re-characterising residue stockpiles and residue deposits as a resource rather than a waste and removing them from the requirements of the National Standards for the Disposal of Waste to Landfill.

Since the reclamation and expansion of residue deposits and residue stockpiles will fall within the scope of existing mining activities in the Listing Notices, it is not proposed as new activities. Activities are however proposed for the reclamation and expansion of historical mine dumps, which fall outside the scope of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).

In addition to the proposed change of the management regime for residue stockpiles and residue deposits, the proposed amendments also intend to clarify the competency with respect to mining activities and to better align activities for which permissions, consents, permits or rights are required in terms of

the Mineral and Petroleum Resources Development Act with the Environmental Impact Assessment Regulations Listing Notices 1, 2 and 3.

Members of the public are invited to submit written comments or inputs, within 60 days from the date of publication of this Notice in the *Gazette*, or the notification in a newspaper, whichever occurs last, to any of the following addresses:

By post to: The Director-General
Department of Forestry, Fisheries and the Environment
Attention: Dr D Fischer
Private Bag X447
PRETORIA
0001

By hand at: Environment House
473 Steve Biko Road
ARCADIA
0083

By e-mail: dfischer@dffe.gov.za

This Notice contains a revised version of the amendments contained in Government Notice No. 3773, published on 4 August 2023 in Government *Gazette* No. 49081, for public comment and reflects the incorporation of amendments made based on the first call for public comment.

A hard copy of any document associated with this Notice may be requested from Ms M Masondo at tel: 012 399 9277, email: mmasondo@dffe.gov.za or collected at Environment House, 473 Steve Biko Road, Arcadia, Pretoria. This Government Notice and Government Notice No. 4361 of 9 February 2024 can be downloaded from the Department's website at https://www.dffe.gov.za/legislation/gazetted_notices.

Any enquiries in connection with the Notice can be directed to Dr Dee Fischer by phone at 012 399 8843 or by e-mail at dfischer@dffe.gov.za.

Comments or inputs received after the closing date may be disregarded.

The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received and responses thereto are collated into a comments and responses report which will be made available to the public as part of the consultation process. If a commenting party has any objection to his or her name, or the name of the represented company/organisation, being made publicly available in the comments and responses report, such objection should be highlighted in bold as part of the comments submitted in response to this government notice.

DR DION TRAVERS GEORGE
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

Definitions

1. In this Schedule, unless the context indicates otherwise—

"the Regulations" means the Environmental Impact Assessment Regulations, 2014, published under Government Notice No. R. 982 in Government *Gazette* No. 38282 of 4 December 2014, as amended from time to time;

"Listing Notice 1" means the notice published under Government Notice No. R. 983 in Government *Gazette* No. 38282 on 4 December 2014, as amended from time to time;

"Listing Notice 2" means the notice published under Government Notice No. R. 984 in Government *Gazette* No. 38282 on 4 December 2014, as amended from time to time; and

"Listing Notice 3" means the notice published under Government Notice No. R. 985 in Government *Gazette* No. 38282 on 4 December 2014, as amended from time to time.

Amendment of index of the Regulations

2. The index of the Regulations is hereby amended—

(a) by the substitution for the heading of regulation 6 of the following heading:

"Where to submit an application and documents";

(b) by the substitution for the heading of Chapter 5 of the following heading:

"**AMENDMENT, SUSPENSION, WITHDRAWAL AND AUDITING OF COMPLIANCE WITH AN ENVIRONMENTAL AUTHORISATION, EMPr OR CLOSURE PLAN**";

(c) by the substitution for the heading of Part 3 of Chapter 5 of the following heading:

"***Auditing and amendment of environmental authorisation, EMPr and closure plan***";

(d) by the substitution for the heading of regulation 34 of the following heading:

"Auditing of compliance with environmental authorisation, EMPr and closure plan";

(e) by the substitution for the heading of regulation 35 of the following heading:

"Amendment of an EMPr or closure plan as a result of an audit";

(f) by the substitution for the heading of Part 4 of Chapter 5 of the following heading:

"***Other amendments of an EMPr or closure plan***";

(g) by the substitution for the heading of regulation 36 of the following heading:

"Other amendments of an EMPr or closure plan";

(h) by the substitution for the heading of regulation 37 of the following heading:

"Amendment of an EMPr or closure plan on application by holder of environmental authorisation";

(i) by the insertion, after the heading for regulation 47, of the following heading:

"47A. Responsibility of an applicant or holder to disclose information"; and

(j) by the substitution for the heading of Appendix 4 of the following heading:

"EMPr".

Amendment of regulation 1 of the Regulations

3. Regulation 1 of the Regulations is hereby amended—

(a) by the insertion after the definition of **"closure plan"** of the following definition:

""**coastal public property"** has the meaning assigned to it in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);";

(b) by the insertion after the definition of **"mineral"** of the following definition:

""**Mineral and Petroleum Resources Development Act"** means the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);";

(c) by the deletion of the definition of **"mining application"**;

(d) by the substitution for the definition of **"petroleum"** of the following definition:

""**petroleum"** has the meaning so assigned to it in terms of section 1 of the Mineral and Petroleum Resources Development Act;";

(e) by the insertion after the definition of **"scoping report"** of the following definition:

""**screening tool"** means the national web based environmental screening tool which is accessible at https://screening.environment.gov.za;"; and

(f) by the substitution for subregulation (2) of the following subregulation:

"(2) Any reference in these Regulations to an environmental assessment practitioner will, from 8 August 2022, be deemed to be a reference to a registered environmental assessment practitioner, as defined.".

Amendment of regulation 5 of the Regulations

4. Regulation 5 of the Regulations is hereby amended by the substitution for subregulation (4) of the following subregulation:

"(4) The national electronic system provided for the recording of applications for environmental authorisation must be used by all competent authorities to keep the records referred to in subregulation 3(a) and (b).".

Amendment of regulation 6 of the Regulations

5. Regulation 6 of the Regulations is hereby amended by—

(a) the substitution for the heading of regulation 6 of the following heading:

"Where to submit an application and documents"; and

(b) the insertion, after subregulation (5), of the following subregulation:

"(6) Any other document contemplated in these Regulations, which are required to be submitted to the competent authority, must be submitted to the relevant authority contemplated in subregulations (2) to (5) above.".

Amendment of regulation 9 of the Regulations

6. Regulation 9 of the Regulations is hereby substituted for the following regulation:

"(9) The format of any application form must be determined by the competent authority and must include the national sector classification of the activity applied for.".

Amendment of regulation 16 of the Regulations

7. Regulation 16 of the Regulation is hereby amended—

(a) by the substitution for subparagraph (v) of paragraph (b) of subregulation (1) of the following paragraph:

"(v) the report generated by the screening tool;";

(b) by the substitution for subparagraph (ix) of paragraph (b) of subregulation (1) of the following subparagraph:

"(ix) proof of acceptance of an application for any right, permission or permit in terms of the Mineral and Petroleum Resources Development Act, where the application is for a mining activity."; and

(c) by the substitution for paragraph (a) of subregulation (2) of the following paragraph:

"(a) where applicable, only be submitted after the acceptance of an application for any right, permission or permit in terms of the Mineral and Petroleum Resources Development Act;".

Amendment of regulation 19 of the Regulations

8. Regulation 19 of the Regulations is hereby amended by the substitution for paragraph (a) of subregulation 1 of the following paragraph:

"(a) a basic assessment report, inclusive of any specialist reports, an EMPr, the report generated by the screening tool, a closure plan in the case of a closure activity and where the application is for a mining activity, the plans, report and calculations contemplated in the Financial Provisioning Regulations, which have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority; or".

Amendment of regulation 21 of the Regulations

9. Regulation 21 of the Regulations is hereby amended by the substitution for subregulation 3 of the following subregulation:

"(3) A scoping report must contain the report generated by the screening tool as well as the information set out in Appendix 2 to these Regulations or comply with a protocol or minimum information requirements relevant to the application as identified and gazetted by the Minister in a government notice.".

Amendment of regulation 23 of the Regulations

10. Regulation 23 of the Regulations is hereby amended by the substitution for paragraph (a) of subregulation 1 of the following paragraph:

"(a) an environmental impact assessment report inclusive of any specialist reports, an EMPr, a closure plan in the case of a closure activity and where the application is for a mining activity, the plans, report and calculations contemplated in the Financial Provisioning Regulations, which must have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments of the competent authority; or".

Amendment of Regulation 26 of the Regulations

11. Regulation 26 is hereby amended—

(a) by the substitution for paragraph (g) of the following paragraph:

"(g) the frequency of updating the approved EMPr, and the closure plan in the case of a closure activity, and the manner in which the updated EMPr and closure plan will be approved, taking into account processes for such amendments prescribed in terms of these Regulations; and"; and

(b) by the deletion of paragraph (h).

Amendment of the heading of Chapter 5 of the Regulations

12. The heading of Chapter 5 of the Regulations is hereby amended by the substitution for the heading of the following heading:

"AMENDMENT, SUSPENSION, WITHDRAWAL AND AUDITING OF COMPLIANCE WITH AN ENVIRONMENTAL AUTHORISATION, EMPr OR CLOSURE PLAN".

Amendment of the heading of Part 3 of Chapter 5 of the Regulations

13. The heading of Part 3 of Chapter 5 of the Regulations is hereby amended by the substitution for the heading of the following heading:

"Auditing and amendment of environmental authorisation, an EMPr and closure plan".

Amendment of the heading of regulation 34 of the Regulations

14. The heading of regulation 34 of the Regulations is hereby amended by the substitution for the heading of the following heading:

"**Auditing of compliance with an environmental authorisation, EMPr and closure plan**".

Amendment of regulation 35 of the Regulations

15. Regulation 35 of the Regulations is hereby amended—

(a) by the substitution for the heading of the following heading:

"Amendment of an EMPr or closure plan as a result of an audit"; and

(b) by the substitution for subregulation 2 of the following subregulation:

"(2) Prior to approving an amended EMPr or closure plan contemplated in subregulation (1), the competent authority may request such amendments to the EMPr or closure plan as it deems appropriate to ensure that the EMPr or closure plan sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity or the closure.".

Amendment of the heading of Part 4 of Chapter 5 of the Regulations

16. The heading of Part 4 of Chapter 5 of the Regulations is hereby amended by the substitution for the heading of the following heading:

"*Other amendments of an EMPr or closure plan*".

Amendment of the heading of regulation 36 of the Regulations

17. The heading of regulation 36 of the Regulations is hereby amended by the substitution for the heading of the following heading:

"**Other amendments of an EMPr or closure plan**".

Amendment of regulation 37 of the Regulations

18. Regulation 37 of the Regulations is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Amendment of an EMPr or closure plan on application by holder of environmental authorisation**"; and

(b) by the substitution for subregulation 2 of the following subregulation:

"(2) The holder of an environmental authorisation must invite comments on the proposed amendments to the impact management outcomes of the EMPr or amendments to the closure objectives of the closure plan in the case of a closure activity from potential interested and affected parties, including the competent authority, by using any of the methods provided for in the Act for a period of at least 30 days.".

Amendment of regulation 39 of the Regulations

19. Regulation 39 of the Regulations is hereby amended—

(a) by the substitution for subregulation (2) of the following subregulation:

"(2) Subregulation (1) does not apply in respect of—
(a) linear activities;
(b) an application for—
(i) mining activities;
(ii) the expansion of a prospecting, exploration, mining or production operation; or
(iii) an activity using fracturing technology;
(c) strategic integrated projects as contemplated in the Infrastructure Development Act, 2014; and
(d) activities proposed on coastal public property."; and

(b) by the insertion, after subregulation (2), of the following subregulation (3):

"(3) Where the activity is proposed to be undertaken on coastal public property, the proponent must, before applying for an environmental authorisation in respect of the activity, notify the relevant organ of state responsible for managing any part of the coastal public property.".

Amendment of regulation 40 of the Regulations

20. Regulation 40 is hereby amended by the substitution for paragraph (a) of subregulation (1) of the following paragraph:

"(a) basic assessment report, EMPr and the closure plan in the case of a closure activity, submitted in terms of regulation 19; and".

Insertion of regulation 47A of the Regulations

21. The following regulation is hereby inserted in the Regulations after regulation 47:

"**Responsibility of a holder to disclose information**
47A. The holder of an environmental authorisation must make available the environmental authorisation, approved EMPr and closure plan in the case of a closure activity, audit reports

including the environmental audit report contemplated in regulation 34, and all compliance monitoring reports for inspection and copying—

(a) at the site of the authorised activity;
(b) to anyone on request; and
(c) where the holder of the environmental authorisation has a website, on such publicly accessible website.".

Amendment of regulation 48 of the Regulations

22. Regulation 48 is hereby amended—

(a) by the substitution for subregulation (1) of the following subregulation:

"**48.** (1) A person is guilty of an offence if that person—

(a) provides incorrect or misleading information in any form, including any document submitted in terms of these Regulations to a competent authority or omits information that may have an influence on the outcome of a decision of a competent authority;
(b) fails to comply with regulation 10(c);
(c) fails to comply with regulation 13(1)(f);
(d) fails to comply with regulation 34;
(e) fails to comply with regulation 37;
(f) commences with an activity where the environmental authorisation was suspended or withdrawn in terms of regulation 38; or
(g) fails to comply with regulation 47A."; and

(b) by the substitution for subregulation (3) of the following subregulation:

"(3) A person convicted of an offence in terms of subregulation (1)(f) and (g) is liable to the penalties as contemplated in section 49B(1) of the Act.".

Amendment of regulation 49 of the Regulations

23. Regulation 49 of the Regulations is hereby amended by the insertion after the definition of **"ECA regulations"** of the following definitions:

""**Environmental Management Plan"** means the plan to manage and rehabilitate the environmental impact resulting from a prospecting, exploration or mining operation approved in terms of sections 17 or 27 of the Mineral and Petroleum Resources Development Act;

"Environmental Management Programme" means the programme to manage and rehabilitate the environmental impact resulting from a mining or production operation authorised in terms of sections 23, 80 or 84 of the Mineral and Petroleum Resources Development Act;".

Amendment of regulation 54 of the Regulations

24. Regulation 54 of the Regulations is hereby amended by the deletion of subregulation 2.

Amendment of regulation 54A of the Regulations

25. Regulation 54A of the Regulations is hereby amended—

(a) by the substitution for paragraph (b) of subregulation 1 of the following paragraph:

"(b) a right, permit or exemption was required in terms of the Mineral and Petroleum Resources Development Act for—

(i) prospecting or exploration of a mineral or petroleum resource; or

(ii) extraction and primary processing of a mineral or petroleum resource;

and such right, permit or exemption has been obtained, and activities authorised in such environmental authorisation, right, permit or exemption commenced after 8 December 2014, such environmental authorisation, right, permit or exemption is regarded as fulfilling the requirements of the Act: Provided that where an application for an environmental authorisation was refused or not obtained in terms of the Act for activities directly related to prospecting, exploration or extraction of a mineral or petroleum resource, including primary processing, this subregulation does not apply."; and

(b) by the substitution for subregulation 2 of the following subregulation:

"(2) Where a right or permit issued in terms of the Mineral and Petroleum Resources Development Act and the associated Environmental Management Programme or Environmental Management Plan approved in terms of the Mineral and Petroleum Resources Development Act is still in effect after 8 December 2014, the requirements contained in Part 3 of Chapter 5 of these Regulations apply to such Environmental Management Programmes or Environmental Management Plans, and where–

(a) the audit or performance assessment cycle of the Environmental Management Programme or Environmental Management Plan exceeds five years, an audit report will be required to be submitted at least every five years commencing from the date of submission of the last audit, for the period during which the right or permit remains in effect; or

(b) no audit or performance assessment requirement was set in the Environmental Management Programme or Environmental Management Plan, an audit report will be required to be submitted to the competent authority no later than 7 December 2021 and at least every 5 years thereafter for the period during which the right or permit remains in effect.".

Amendment of the heading of Appendix 4 of the Regulations

26. The heading of Appendix 4 of the Regulations is hereby amended by the substitution for the heading of the following heading:

"**Content of an EMPr**".

Amendment of appendix 7 of the Regulations

27. Appendix 7 of the Regulations is hereby amended—

(a) by the substitution for paragraph 2 of the following paragraph:

"**2.** The objective of the environmental audit report is to—

(a) report on—

(i) the level of compliance with the conditions of the environmental authorisation, the EMPr and the closure plan in the case of a closure activity; and

(ii) the extent to which the avoidance, management and mitigation measures provided for in the EMPr and closure plan achieve the objectives and outcomes of the EMPr and closure plan;

(b) identify and assess any new impacts and risks as a result of undertaking the activity;

(c) evaluate the effectiveness of the EMPr and the closure plan in the case of a closure activity;

(d) identify shortcomings in the EMPr and the closure plan in the case of a closure activity; and

(e) identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr and the closure plan in the case of a closure activity."; and

(b) by the substitution for subparagraph (1)(e) of paragraph 3 of the following subparagraph:

"(e) an indication of the ability of the EMPr and the closure plan in the case of a closure activity to—

(i) sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity on an on-going basis;

(ii) sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the closure of the facility in the case of a closure activity; and

(iii) ensure compliance with the provisions of environmental authorisation, EMPr and the closure plan in the case of a closure activity;".

Amendment of Listing Notice 1

28. Listing Notice 1 is hereby amended—

(a) by the insertion, in subparagraph (1) of paragraph 2 after the definition of **"Financial Provisioning Regulations"** of the following definitions:

""**fracturing**" means an intervention performed on a well to increase production by improving the flow of hydrocarbons from the drainage area into the well bore and includes re-fracturing;

"historical mine dump" means any debris, discard, residues, tailings, slimes, slurry, waste rock, foundry sand, beneficiation plant waste, ash or any other product derived from or incidental to a prospecting or mining operation which does not require a right or permit in terms of the Mineral and Petroleum Resources Development Act;";

(b) by the deletion, in subparagraph (1) of paragraph 2, of the definition of **"hydraulic fracturing"**;

(c) by the deletion, in subparagraph (1) of paragraph 2, of the definition of **"mining application"**;

(d) by the insertion, in subparagraph (1) of paragraph 2, after the definition of **"previous NEMA notices"** of the following definition:

""**reclamation"** in the context of historical mine dumps, means the obtaining of materials of value from such historical mine dumps;";

(e) by the substitution for subparagraph (3) of paragraph 2 of the following subparagraph:

"(3) The following words will have the meaning assigned to them in terms of section 1 and Schedule II of the Mineral and Petroleum Resources Development Act:

(a) "exploration operation";
(b) "exploration right";
(c) "mine";
(d) "mineral";
(e) "mining operation";
(f) "mining permit";
(g) "mining right";
(h) "old order right";
(i) "petroleum";
(j) "production operation";
(k) "production right";
(l) "prospecting operation";
(m) "prospecting right"; and
(n) "reconnaissance permit"·";

(f) by the substitution, in Appendix 1 "**Identification of competent authority**", for paragraph (b) of the following paragraph:

"(b) the application is for–
(i) a mining activity;
(ii) the expansion of a prospecting, exploration, mining or production operation;
(iii) an activity using fracturing technology;
(iv) the reclamation of a historical mine dump; or
(v) the expansion of a historical mine dump;
In which case the competent authority is the Minister responsible for mineral resources.";

(g) by the substitution for activity 20 of the following activity:

"**20.** Any activity including the operation of that activity which requires a prospecting right in terms of section 16 of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity as contained in this Listing Notice or in Listing Notice 3 of 2014, required to exercise the prospecting right excluding where—
(i) the prospecting includes the removal and disposal of a mineral that requires a permission in terms of section 20(2) of the Mineral and Petroleum Resources Development Act, in which case activity 19 of Listing Notice 2 will apply.";

(h) by the substitution in paragraph (b) of activity 21A for the word "arial" of the word "aerial";

(i) by the substitution in paragraph (b) of activity 21B for the word "arial" of the word "aerial";

(j) by the substitution for activity 21C of the following activity:

"**21C.** Any activity including the operation of that activity which requires an exploration right in terms of section 79 of the Mineral and Petroleum Resources Development Act, for onshore exploration, as well as any other applicable activity as containing in this Listing Notice or in Listing Notice 3 of 2014, required to exercise the exploration right, excluding–

(a) any desktop study;
(b) any aerial survey; and
(c) an activity which requires the use of fracturing technology which is included as activity 20A in Listing Notice 2 of 2014, in which case that activity applies.";

(k) by the substitution for activity 21D of the following activity:

"**21D.** Any activity including the operation of that activity which requires an amendment or variation to a prospecting, mining, exploration or production right or permit, or to a prospecting, mining, exploration or production work programme, in terms of section 102 of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity as contained in this Listing Notice or in Listing Notice 3 of 2014, required for such amendment.";

(l) by the substitution for activity 21F of the following activity:

"**21F.** The reclamation of a historical mine dump as well as any other applicable activity as contained in this Listing Notice or in Listing Notice 3 of 2014, required for such reclamation.";

(m) by the insertion, after activity 21F, of the following activities:

"**21G**. An onshore seismic survey which does not require a permission, right or permit in terms of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity as contained in this Listing Notice or in Listing Notice 3 of 2014, required to undertake the activity, excluding—

(a) any desktop study; and
(b) any aerial survey.

"**21H.** An offshore seismic survey which requires an exploration right in terms of section 79 of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity as containing in this Listing Notice or in Listing Notice 3 of 2014, required to exercise the exploration right.";

(n) by the substitution for activity 31 of the following activity:

"**31.** The closure of existing facilities, structures or infrastructure for—

(i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
(ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
(iii) .....
(iv) any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or
(v) any activity regardless of when the activity was commenced with, where such activity:
  (a) is currently listed as an activity in (i) or (ii) above; and
  (b) is still in operation or development is still in progress;

excluding where—

(aa) ...
(bb) the closure is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) as decommissioning, in which case the National Environmental Management: Waste Act, 2008 applies; or
(cc) such closure is in relation to an activity for which a permission, right, permit or consent was issued in terms of the Mineral and Petroleum Resources Development Act, or the closure relates to an old order right.";

(o) by the substitution for activity 66A of the following activity:

"**66A.** The expansion of an activity which requires the use of fracturing technology, as well as any other applicable activity as contained in this Listing Notice or Listing Notice 3 of 2014, required for such expansion."; and

(p) by the insertion after activity 66A of the following activities:

"**66B.** The expansion of a prospecting, mining, exploration or production operation authorised in terms of the Mineral and Petroleum Resources Development Act, for which an amendment to the right or permit or work programme is not required, as well as any other applicable activity as contained in this Listing Notice or Listing Notice 3 of 2014 required for such expansion.

66C. The expansion of the reclamation of a historical mine dump as well as any other applicable activity as contained in this Listing Notice or Listing Notice 3 of 2014, required for such expansion.".

66D. The expansion of an onshore seismic survey which does not require a permission, right or permit in terms of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity as contained in this Listing Notice or in Listing Notice 3 of 2014, required for such expansion.".

Amendment of Listing Notice 2

29. Listing Notice 2 is hereby amended—

(a) by the insertion, in subparagraph (1) of paragraph 2, after the definition of **"Financial Provisioning Regulations"** of the following definitions:

""**fracturing**" means an intervention performed on a well to increase production by improving the flow of hydrocarbons from the drainage area into the well bore and includes re-fracturing;

"historical mine dump" means any debris, discard, residues, tailings, slimes, slurry, waste rock, foundry sand, beneficiation plant waste, ash or any other product derived from or incidental to a prospecting or mining operation which does not require a right or permit in terms of the Mineral and Petroleum Resources Development Act;";

(b) by the deletion, in subparagraph (1) of paragraph 2, of the definition of **"hydraulic fracturing"**;

(c) by the deletion, in subparagraph (1) of paragraph 2, of the definition of **"mining application"**;

(d) by the insertion, in subparagraph (1) of paragraph 2, after the definition of **"Mineral and Petroleum Resources Development Act"** of the following definition:

""**reclamation"** in the context of historical mine dumps, means the obtaining of materials of value from such historical mine dumps;";

(e) by the substitution for subparagraph (3) of paragraph 2 of the following subparagraph:

"(3) The following words will have the meaning so assigned to it in terms of section 1 and Schedule II of the Mineral and Petroleum Resources Development Act:
(a) "exploration right";
(b) "mine";
(c) "mineral";
(d) "mining area";
(e) "mining operation";
(f) "mining right";
(g) "old order right";
(h) "petroleum";
(i) "production right"; and
(j) "prospecting right".";

(f) by the substitution, in Appendix 1 "**Identification of competent authority**", for paragraph (b) of the following paragraph:

"(b) the application is for–
(j) a mining activity;
(ii) the expansion of a prospecting, exploration, mining or production operation;
(iii) an activity using fracturing technology;
(iv) the reclamation of a historical mine dump; or
(v) the expansion of a historical mine dump;
in which case the competent authority is the Minister responsible for mineral resources.";

(g) by the substitution for activity 9 of the following activity:

"**9.** The development of facilities or infrastructure for the transmission of electricity with a capacity of 275 kilovolts or more, outside an urban area or industrial complex excluding the development of bypass infrastructure for the transmission of electricity where such bypass infrastructure is—

(a) temporarily required to allow for maintenance of existing infrastructure;

(b) 2 kilometres or shorter in length;

(c) within an existing transmission line servitude; and

(d) will be removed within 18 months of the commencement of development.";

(h) by the substitution for activity 18 of the following activity:

"**18.** Any activity including the operation of that activity which requires an exploration right in terms of section 79 of the Mineral and Petroleum Resources Development Act, for offshore exploration, as

well as any other applicable activity as contained in this Listing Notice, in Listing Notice 1 of 2014 or Listing Notice 3 of 2014, required to exercise the exploration right, excluding—

(a) any desktop study;

(b) any aerial survey;

(c) any offshore seismic survey which is included in activity 21H of Listing Notice 1 of 2014, in which case that activity applies; and

(d) an activity which requires the use of fracturing technology which is included as activity 20B, in which case activity 20B of this Notice applies.";

(i) by the substitution for activity 19 of the following activity:

"**19.** Any activity including the operation of that activity which requires a prospecting right in terms of section 16 of the Mineral and Petroleum Resources Development Act, and the prospecting includes the removal and disposal of a mineral which requires a permission in terms of section 20(2) of the Mineral and Petroleum Resources Development Act, as well as any other applicable activity as contained in this Listing Notice, in Listing Notice 1 of 2014 or Listing Notice 3 of 2014, required to exercise the permission.";

(j) by the substitution for activity 20A of the following activity:

"**20A.** Onshore exploration operations which require the use of fracturing technology, as well as any other applicable activity as contained in this Listing Notice, in Listing Notice 1 of 2014 or Listing Notice 3 of 2014, required for such fracturing."; and

(k) by the insertion after activity 20A of the following activities:

"**20B.** Offshore exploration operations which require the use of fracturing technology, as well as any other applicable activity as contained in this Listing Notice, in Listing Notice 1 of 2014 or Listing Notice 3 of 2014, required for such fracturing.

20C. An activity or expansion of such activity identified in Listing Notice 1 which requires a consent, prospecting right, mining permit or exploration right, or for which exemption was granted, in terms of the Mineral and Petroleum Resources Development Act, which also triggers an activity in this Listing Notice, as well as any other applicable activity as contained in Listing Notice 1 of 2014 or Listing Notice 3 of 2014, required to exercise such a consent, right, permit or exemption.

20D. The reclamation of a historical mine dump or the expansion of such reclamation, identified in Listing Notice 1, which also triggers an activity in this Listing Notice as well as any other applicable activity as contained in Listing Notice 1 of 2014 or Listing Notice 3 of 2014, required for such expansion or reclamation.".

Amendment of Listing notice 3

30. Listing Notice 3 is hereby amended—

(a) by the deletion of the definition of **"mining application"**; and

(b) by the substitution, in Appendix 1 "**Identification of competent authority**", for paragraph (b) of the following paragraph:

"(b) the application is for–
(k) a mining activity;
(ii) the expansion of a prospecting, exploration, mining or production operation;
(iii) an activity using fracturing technology;
(iv) the reclamation of a historical mine dump; or
(v) the expansion of a historical mine dump;
in which case the competent authority is the Minister responsible for mineral resources.".

Transitional arrangements

31. An application submitted in terms of the Environmental Impact Assessment Regulations, 2014, published under Government Notice No. R. 982 in Government *Gazette* No. 38282 of 4 December 2014, or in terms of any amendments affected to these Regulations, which application is pending when these amendments take effect, must be finalised in terms of those Regulations that were in place at the time of the submission of the application.

Commencement

32. Unless otherwise indicated, the amendments contained in this Notice will apply to applications submitted on or after the date of publication of this Notice in the Government *Gazette*.

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