



Integrated Environmental Management Guideline Series

# NEMA

## Section 24G

2



Department of  
Environmental Affairs and Tourism

Further titles in this series of guideline documents are being prepared and will be made available periodically. Sequence of release and titles are subject to change.

Guideline Series 1:	Environmental management co-operation agreements
Guideline Series 2	NEMA Section 24 G Guidelines

Issued by  
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#### **Note**

All sources used have been acknowledged by means of complete references. The use of trade names or corporate names in this publication does not, in any way, imply directly or indirectly, endorsement of the relevant goods or services.

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## 1. LEGAL BACKGROUND

In terms of the Bill of Rights included in the Constitution of South Africa, the citizens of South Africa has the right to have the environment protected and to live in an environment that is not harmful to human health or well-being. One of the legal instruments developed to ensure that this right is given effect to, is the Environmental Impact Assessment (EIA) Regulations promulgated in terms of the Environment Conservation Act in 1997.

The EIA regulations have identified activities that may result in substantial impacts to the environment. The regulations require that an environmental impact assessment process be undertaken for these activities and submitted to the relevant authority for consideration. Commencement with any of the listed activities prior to obtaining authorisation from the relevant authority is prohibited by these regulations and constitutes an offence.

Unauthorised commencement or continuation of activities identified in terms of the Environment Impact Assessment Regulations can be rectified by means of an application to the Minister or relevant MEC, depending on who will be the competent authority for such authorisation in accordance with the current delegations, in terms of Section 24G of NEMA, read with section 7 (Transitional provision) of the National Environmental Management Amendment Act (Act No. 8 of 2004). This opportunity to rectify is limited to a 6 month period starting from the date that the latter Act came into force (7 January 2005) and will accordingly lapse on 6 July 2005.

NEMA requires that application for rectification be subject to an administration fine that may not exceed R1 000 000 (1 million Rand). A fine calculator was developed to determine the fine for each case.

In terms of NEMA, the Minister or relevant MEC must consider applications received and decide on what additional information or reports are required. He/she must also decide on a fine. After payment of the fine, the Minister or relevant MEC must consider the reports / information submitted and either grant an environmental authorisation or direct the applicant to cease the activity and rehabilitate the site. Non-compliance with conditions of an authorisation granted or with a directive issued will constitute an offence in terms of the Act.

As a general rule, the Minister and relevant MEC, delegate their powers and functions to officials in the responsible departments and components of government to execute the provisions of the legislation. Any reference to Minister or MEC in this document must therefore be understood as also applying to officials acting under delegation.

## 2. CONSEQUENCES OF NOT APPLYING

Should a person or company who has commenced or are continuing with an activity listed in the EIA Regulations not apply within the 6 month period he/she will be guilty of an offence in terms of section 24F of the Act and may be subject to a fine of R5 000 000 or 10 year imprisonment or both such fine and such imprisonment. Failure to comply with conditions of an environmental authorisation issued in terms of a section 24G application, or with a directive issued by the Minister or relevant MEC in terms of section 24G, also constitute an offence with the above penalties attached to it.

## 3. PROCESS TO BE FOLLOWED

The process to be followed will consist of the following steps -

### Step 1:

A person or company ascertains whether he/she/they are responsible for the commencement or continuation of an activity requiring authorisation in terms of the EIA Regulations without the necessary authorisation. The checklist in Annexure B will assist to establish whether this applies.

### Step 2:

An application for rectification is submitted by hand to the department. An application form is included in Annexure A.

### Step 3:

The application is reviewed. This may include a site inspection to verify information provided. Based on the review of the application, the applicant will be advised on further information required to consider the application.

### Step 4:

The Minister or relevant MEC advise the applicant on further procedural and information requirements by means of a notice. A pro forma notice is attached hereto as Annexure D. This may include the compilation of a report after conducting prescribed public consultation. The Minister or relevant MEC will also advise the applicant on the administration fine payable and details of the account where monies must be deposited. The amount of the fine will be within the parameters indicated above.

### Step 5:

The applicant follows the process prescribed by the Minister or relevant MEC and pay the fine.

### Step 6:

The applicant submits the required reports together with proof of payment of the fine to the department. Reports submitted without proof of payment or exemption from payment will not be processed.

### Step 7:

The department reviews the reports and advises the Minister or relevant MEC to inform his decision.

**Step 8:**

The Minister or relevant MEC communicates his decision to the applicant. This decision could be either:

- \* issue the applicant with an environmental authorisation; or
- \* issue the applicant with a directive instructing him to cease with the activity and rehabilitate the environment.

**Step 9:**

The applicant implements the Minister's or relevant MEC's decision.

**4. FREQUENTLY ASKED QUESTIONS**

Please find below a list of frequently asked questions with regard to compliance to the EIA regulations and the departmental responses thereto:

- a. How do I know if the activities I am undertaking fall within the EIA regulation requirements?

*The checklist included in Annexure B should provide assistance in this regard. If there is still uncertainty after the checklist was consulted, departments may be contacted telephonically for assistance. (Annexure C)*

- b. What do I do when I know of somebody else that is committing an offence in this regard?

*Details can be provided to the department concerned. The application in terms of section 24G is a voluntary one, but should the 6 months grace period lapse, those who have acted in contravention with the EIA regulations issued in terms of the ECA will be liable to a R 5 million fine or 10 years imprisonment or both such fine and such imprisonment. It is therefore in everyone's interest to apply by 6 July 2005 (close of work).*

- c. Do I need to apply if I have obtained authorisation from the municipality or another authority?

*Yes! Authorisation obtained from the municipality or another authority would not be in terms of the EIA regulations. The provincial or national department responsible for environmental management is the only authority mandated to grant authorisations in terms of the EIA regulations.*

- d. What will happen if I don't apply?

*The activity will be regarded as an offence and a maximum penalty of R5 million or 10 years imprisonment or both could become applicable.*

- e. How long will this process take?

*You will be advised within 90 calendar days from submission of the application what the further requirements and fine are. The duration of the remainder of the process will depend on the nature of the information and process requirements. The Minister's or relevant MEC's decision should however be finalised within 120 calendar days from submission of the prescribed report.*

- f. Where can I find out more about environmental legislation?

*The website of the national Department of Environmental Affairs and Tourism is a good source of information in this regard and also provides useful links to other government sites. The website address is: [www.deat.gov.za](http://www.deat.gov.za).*

- g. What will the department do to enforce compliance after the 6th month window?

*After 6 July 2005, the relevant department will proceed to take enforcement action against all known illegal developments.*

- h. Can I report non-compliance with other environmental and conservation legislation and regulations telephonically?

*You can report any non-compliance with environmental legislation on the Department's national 24 hour toll-free line on 0800 701 701.*

**5. GENERAL**

The above process will be implemented by the national Department of Environmental Affairs and Tourism as well as the provincial environmental departments. Contact details are attached as Annexure C.

The information contained in this booklet can also be obtained from the Department's website at [www.deat.gov.za](http://www.deat.gov.za).

## ANNEXURE A: APPLICATION FORM

### APPLICATION TO RECTIFY UNLAWFUL COMMENCEMENT OR CONTINUATION OF LISTED ACTIVITIES - (FORM A: ACTIVITIES IDENTIFIED IN TERMS OF THE ENVIRONMENT CONSERVATION ACT, ACT 73 OF 1989) March 2005

#### INTRODUCTION

The National Environmental Management Amendment Act, Act No 8 of 2004 (hereafter referred to as "The Act") came into force on 7 January 2005 by the publication of the proclamation to this effect in Government Gazette 27161. In terms of section 7 (**Transitional provision**) of this Act, unauthorised commencement or continuation of activities identified in terms of the Environment Conservation Act<sup>1</sup> can be rectified by means of an application to the national Minister of Environmental Affairs and Tourism or the relevant MEC in terms of section 24G of the Act. This "rectification" period is limited to 6 months from the date that the Act came into force and will accordingly lapse on 6 July 2005.

Application for rectification will be subject to an administration fine that may not exceed R1 000 000 (1 million Rand) A fine calculator was developed to determine the fine for each case.

Failure to apply within this period and continuation with unauthorised activities after 6 July 2005 will constitute committing an offence in terms of the Act that could result in a fine of R5 000 000 (5 million Rand) or 10 year imprisonment, or both such fine and such imprisonment.

In order to assist the Minister and MECs to advise applicants on reports and processes required for them to consider rectification of these unlawful activities, applicants must complete the attached form and submit it by hand to the indicated address by no later than 16h00 on 6 July 2005. The applicant will be advised of the administration fine, information and public participation requirements within 90 days of submission of this application form.

#### NOTES:

1. Lodging an application for rectification does not necessarily imply that the activity will be authorised. In terms of the Act the Minister or relevant MEC may either conditionally authorise the activity or issue a directive for the activity to cease and for the environment to be rehabilitated.
2. This form and the Guideline support the National Environmental Management Act, the Environment Conservation Act and the amendments thereto. In the event of any inconsistency between these documents and the National Environmental Management Act or the amendments to this Act, the latter will prevail.
3. It is not a requirement for this form to be completed by an environmental assessment practitioner.

#### THE APPLICATION FORM

Applicants are responsible for the accuracy of the information supplied and are therefore required to complete the checklist fully and honestly.

#### CONTACT DETAILS

Applications must be submitted to the national Department of Environmental Affairs and Tourism or relevant provincial environmental department.

Contact details appear in Annexure C.

<sup>1</sup>. In September 1997 regulations requiring authorisation from the relevant environmental authority for various listed activities were published by national government. The listed activities were published as Government Notice No. 1182 in Government Gazette No. 5999, September 1997 and amended/ clarified further in Regulations Gazette No. 7351 (Government Gazette No. 23401, 10 May 2002). The activities requiring Environmental Impact Assessment (EIAs) are described in the *NEMA Section 24G Guideline*

**APPLICATION FORM A: ( NEMA SECTION 24G -ECA CONTRAVENTIONS)**

**FOR OFFICIAL USE ONLY**

Date Received:	
Reference Number	

**COMPLETION OF ALL SECTIONS AND FIELDS IS COMPULSORY**

**SECTION A: PERSONAL INFORMATION AND CONTACT DETAILS**

<b>Applicant:</b>			
<b>Company/ Closed Corporation Registered Name (if applicable)</b>			
<b>Company / Closed Corporation Registration Number (if applicable)</b>			
<b>Contact Person:</b>			
<b>Position in Company:</b>			
<b>ID Number of Contact Person / Applicant:</b>			
<b>Postal Address:</b>			
<b>Physical Address:</b>		<b>Code:</b>	
		<b>Code:</b>	
		<b>Cell:</b>	
<b>Telephone No:</b>		<b>Fax:</b>	
<b>E-mail address:</b>			
<b>Registered Land Owner: Contact Person:</b>			
<b>Postal Address:</b>			
<b>Physical Address:</b>		<b>Code:</b>	
		<b>Code:</b>	
		<b>Cell:</b>	
<b>Telephone No:</b>		<b>Fax:</b>	
<b>E-mail address:</b>			



Date when activity was commenced with for the first time:

Please indicate the current status by ticking the appropriate boxes:

Construction completed:

Activity operational:

Property/ies transferred to new owners;

Construction ceased prior to finalisation:

Operation / activity ceased pending outcome of application

Activity has been decommissioned and property rehabilitated to original state:

**SECTION C: AUTHORISATIONS / PERMITS OBTAINED FROM OTHER ORGANS OF STATE:**

Please complete the table below with regard to authorisations / permits obtained from other organs of state (if applicable). Certified copies of permits / authorisations / certificates must be attached

Name of Authority:	Legislation / Regulations / By-law in terms of which authorisation was obtained	Date of authorisation / permit / certification	Applicable authorisation / permit / certificate number:

**SECTION D: MOTIVATION FOR SECTION 24G APPLICATION:**

Please explain why this activity was commenced or continued with in contravention with the Environment Conservation Act, Act 73 of 1989 (as amended)<sup>4</sup> .


<sup>4</sup>. Should the space provided not be sufficient, a clearly marked page could be attached to the form

Please motive why your application in terms of Section 24G of the National Environmental Management Act should be considered favorably4:


**SECTION E:**

Certified copies of the following documents must accompany your application:

1. Identification page from ID document of the applicant in cases where an individual is the applicant or of the contact person where a company / closed corporation apply.
2. Registration certificate of the Company / Closed Corporation.
3. Proof of ownership of the land or alternatively, proof of owner’s consent to undertake activity on the relevant land.

**SECTION F: DECLARATION**

Please complete the declaration below:

I \_\_\_\_\_ duly authorised to act on behalf of \_\_\_\_\_ hereby declare that the information provided herein is according to my knowledge complete and accurate.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

\_\_\_\_\_  
On behalf of the applicant

\_\_\_\_\_  
Witness 1

\_\_\_\_\_  
Witness 2

**Annexure B: Checklist to assist in establishing whether authorisation is required for an activity. (GN. No. R1182 of 5 September 1997, as amended)**

*S24G Guideline Checklist (ECA)*

CHECKLIST TO ENABLE A PROPONENT TO IDENTIFY POTENTIAL CONTRAVENTION OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS IN TERMS OF THE ENVIRONMENT CONSERVATION ACT, ACT 73 OF 1989 (AS AMENDED): ACTIVITIES THAT UNLAWFULLY COMMENCED OR CONTINUED.

**INTRODUCTION**

In September 1997 Regulations requiring that environmental studies be completed for various listed activities were published by national government. The listed activities were published as Regulations No. 1182 in Government Gazette No 5999, 5 September 1997. The activities requiring Environmental Impact Assessments (EIAs) are further described in the EIA Regulations Guideline (electronic copy available upon request).

The following checklist has been produced in order to enable a proponent to determine:-

- a) whether activities undertaken by him/ her are listed in terms of the above-mentioned Regulations; and
- b) whether an application to rectify the unlawful commencement or continuation of listed activities accordingly needs to be submitted to the Minister or relevant MEC.

This checklist supports the National Environmental Management Act and the Environment Conservation Act and the amendments thereto. In the event of any inconsistency between these documents and the National Environmental Management Act or the amendments to this Act, the latter will prevail.

**THE CHECKLIST**

Proponents are NOT required to submit this checklist to the Minister or relevant MEC.

If further information is required the proponent should direct queries in this regard to the relevant environmental department, as listed in Annexure C of the Guideline.

**1. IMPORTANT POINT TO NOTE**

The EIA Regulations are applicable for the construction or undertaking of new activities or for the upgrading of operations that have been commenced with after the dates provided below:

Please note that the listed activities described below when undertaken on MINES also require authorisation from this Department.

**2. GLOSSARY OF TERMS**

**Agricultural:** This means land that presently is zoned or used for agricultural purposes or land that was still zoned or used for agricultural purposes on the 1st of April 1998.

**Land use:** The activities that take place within a given area or space.

**List of activities:** Development actions that are likely to result in significant environmental impacts as identified by the Minister of Environmental Affairs and Tourism in terms of sections 21 of the Environment Conservation Act, 1989. Refer to 3 below.

**Upgrade:** Means the expansion beyond its existing size, volume or capacity of an existing facility, installation or other activity referred to in the Schedule contained in Government notice R.670 of 10 May 2002 (as published in Government Gazette No. 23401), but does not include regular or routine maintenance and the replacement of inefficient or old plant, equipment or machinery where such does not have an increased detrimental effect on the environment. Routine maintenance or the installation of new equipment with no environmental impact does not require authorisation.

**Hazardous substances:** Means any substance or a mixture of substances, product or material declared to be hazardous substance under section 2(1) of the Hazardous Substance Act, 1973.

**Change of land-use:** For the purpose of this document this means any legal or physical change of the use of land that took place after the 1st of April 1998. This includes rezoning and consent uses applied for or that should have been applied for at the relevant local authority / District and Metropolitan Municipality. **This further includes the consequent physical land use change on the property. Refer to 2 (c-e) below.**

**3. DESCRIPTION OF ACTIVITIES**

These regulations apply in respect of any activity which has been identified in Government Notice No. 18261 of 5 September 1997 under section 21(1) of the Act (as amended).

These regulations do not apply in respect of an activity referred to in Government Notice R.879 of 31 May 1996, unless it forms part of an activity that has been identified in Government Notice No. 18261 of 5 September 1997.

If any 1 or more of the answers to the questions below is/are yes or unsure, you may have commenced with an activity (ies) listed in terms of the above-mentioned Regulations. An application to rectify the unlawful commencement or continuation of listed activities accordingly needs to be submitted to the Minister or relevant MEC.

**Item 1 (a-o).**

1 (a). The proponent has commenced with the construction or upgrading of facilities for commercial electricity generation and supply on or after the 8th of September 1997; and / or  
The construction, erection or upgrading of facilities for commercial electricity generation with an output of at least 10 megawatts and / or infrastructure for bulk supply on or after the 10th of May 2002.

Yes	No	Unsure

1 (b) The proponent has commenced with the construction or upgrading of nuclear reactors and installations for the production, enrichment, reprocessing and disposal of nuclear fuels and wastes on or after the 8th of September 1997; and / or  
The construction or upgrading of nuclear reactors and facilities for the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels and wastes on or after the 10th of May 2002.  
This includes a facility, installation, plant or structure which has been designed for, or has been adapted for, or may involve the carrying out of, any process within nuclear fuel cycle involving radioactive material and which is capable of causing environmental damage.

Yes	No	Unsure

1 (c) The proponent has commenced with the construction or upgrading of transportation routes and structures, and manufacturing, storage, handling or processing facilities for any substance which is dangerous or hazardous and is controlled by national legislation on or after the 2nd of March 1998;  
*This includes transportation routes for any dangerous or hazardous substances transported by road, railway, pipeline or by air. Should the original transportation route or the means of transportation be changed, then the applicant is required to again apply for the necessary authorisation in this regard and submit the required environmental reports. Service stations, petroports, etc. are included, including any tank used for the storage of a hazardous substance.*

and / or  
The construction or upgrading of transportation routes and structures, and manufacturing, storage, handling or processing facilities with regard to any substance which is dangerous or hazardous and is controlled by national legislation on or after the 10th of May 2002, including:  
(i) infrastructure, excluding road and rail, for the transportation of any such substance; and  
(ii) manufacturing, storage, handling, treatment or processing facilities for any such substance;

Yes	No	Unsure

1 (d) The proponent has commenced with the construction or upgrading of roads, railways, airfields and associated structures outside the borders of town planning schemes on or after the 8th of September 1997 (Railways and Airfields further defined below);

**"Railway" means:**

- any railway which fell under the auspices of the former "South African Transport Services" as referred to in the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989) and which now falls under the auspices of "the Company" referred to in section 2 of the Act; or
- any private railway exceeding 1 km in length, and includes marshalling yards and other major fixed support infrastructure.

**"Airfields" mean:**

a defined area on any land, water or building intended to be used either wholly or in part for the arrival, departure or movement of aircraft, and includes its runway, any building, installation or equipment within any such area relate to aircraft storage and maintenance, repair, fuelling and fuel storage, engine testing or air cargo handling. This also includes a helipad within 300m of existing or planned urban/residential development.

and /or  
The construction or upgrading of roads, railways, airfields and associated structures; on or after the 10th of May 2002, where a road is defined as follows (definition of roads and airfields similar to the above):

- "road" means
- any road determined to be a national road in terms of section 40 of the South African National Roads Agency Limited and National Roads Act, 1998, (Act No.7 of 1998), including any part of such road;
  - any road for which a fee is charged for the use thereof;
  - any provincial road administered by a provincial authority;
  - any arterial road or major collector street administered by a metropolitan or local authority;
  - any road or track in an area protected by legislation for the conservation of biological diversity or archaeological, architectural or cultural sites or an area that has been zoned open space or an equivalent zoning; or
  - any road or track in an area regarded by the relevant authority as a sensitive area.

Yes	No	Unsure

1 (e) The proponent has commenced with the construction or upgrading of marinas, harbours and all structures below the high-water mark of the sea on or after the 8th of September 1997 and/or the construction or upgrading of marinas, harbours and associated structures on inland waters on or after the 10th of May 2002:

Yes	No	Unsure

1 (f) The proponent has commenced with the construction or upgrading of cableways and associated structures on or after the 8th of September 1997; and / or  
 The construction or upgrading of above ground cableways and associated structures on or after the 10th of May 2002. *This includes cableways, funiculars and associated structures used for mining and industrial purposes. In the context of recreational facilities, this means the construction of cableways for the purpose of transporting groups of people in a cable car to places that are difficult to reach or to enjoy the scenic landscape of such places.*

Yes	No	Unsure

1 (g) The proponent has commenced with the construction or upgrading of structures associated with communication networks, other than telecommunication lines and cables, as well as access roads leading to these structures on or after the 5th of January 1998; and / or  
 The construction or upgrading of structures associated with communication networks, including masts, towers and reflector dishes, marine telecommunication lines and cables and access roads leading to those structures, but not including above ground and underground telecommunication lines and cables and those reflector dishes used exclusively for domestic purposes, on or after 10 May 2002. *This includes television and radio masts for broadcasting purposes, radio air traffic control towers and navigation systems as well as microwave towers and similar infrastructures.*

Yes	No	Unsure

1 (h) The proponent has commenced with the construction or upgrading of racing tracks for motor-powered vehicles and horse racing, but not including indoor tracks on or after the 8th of September 1997. *Structures associated with racing tracks for motor-powered vehicles and horse racing are included. "Racing tracks for motor-powered vehicles" includes temporary tracks.*

Yes	No	Unsure

1 (i) The proponent has commenced with the construction or upgrading of canals and channels, including diversions of the normal flow of water in a river bed and water transfer schemes between water catchments and impoundments on or after the 2nd of March 1998; and / or  
 The construction or upgrading of canals and channels, including structures causing disturbances to the flow of water in a river bed, and water transfer schemes between water catchments and impoundments on or after the 10th of May 2002. *Water pipelines of major schemes which are controlled by legislation is also included under the activity.*

"Water transfer schemes" means any transfer where:

- the diverted flow does not return to the stream, within 20 km of the point of withdrawal, or
- the mean annual flow transferred is not less than 0,5 cubic metres per second.

"Canal" means an artificial watercourse for inland navigation or for irrigation.

"Channel" means a natural or artificial bed of running water; comparatively narrow piece of water joining two large pieces.

Yes	No	Unsure

1 (j) The proponent has commenced with the construction or upgrading of dams, levees and weirs affecting the flow of a river on or after the 2nd of March 1998. *"Dams, reservoirs, levees or weirs" means any structure wholly or partially constructed by man, affecting the flow of a river.*

Yes	No	Unsure

1 (k) The proponent has commenced with the construction or upgrading of reservoirs for public water supply on or after the 2nd of March 1998.

Yes	No	Unsure

1 (l) The proponent has commenced with the construction or upgrading of schemes for the abstraction or utilisation of ground or surface water for bulk supply purposes on or after the 2nd of March 1998. *"bulk supply" means water supplied in a significant volume to a local authority, which in turn reticulates it to individual consumers. It is also supplied in bulk to mines, industries and agricultural schemes in some cases.*

Yes	No	Unsure

1 (m) The proponent has commenced with the construction or upgrading of public and private resorts and associated infrastructure on or after the 8th of September 1997.

"Resort" means a place frequented by people for holiday, sport, recreation, health or similar purpose.

Yes	No	Unsure

1 (n) The proponent has commenced with the construction or upgrading of sewage treatment plants and associated infrastructure on or after the 2nd of March 1998.

This includes the following:

- Sewage treatment plants and associated infrastructure with an installed capacity of more than 15 000 cubic metres per day; or
- Sewage treatment plants and associated infrastructure with an installed capacity of more than 5000 cubic metres per day and a boundary of which is less than 200 metres from the nearest boundary of an existing or planned residential area, place of worship, educational institution, health care institution, marine park/reserve or sea-water intake point; or
- Where the receiving environment can be regarded by the relevant authority as environmentally sensitive.

Yes	No	Unsure

1 (o) The proponent has commenced with the construction or upgrading of buildings and structures for industrial and military manufacturing and storage of explosives or ammunition or for testing or disposal of such explosives or ammunition on or after the 5th of January 1998; and / or

The proponent has commenced with the construction or upgrading of buildings and structures for industrial, commercial and military manufacturing and storage of explosives or ammunition or for testing or disposal of such explosives or ammunition on or after the 10th of May 2002;

“Explosives” means

- gunpowder, nitro-glycerine, dynamite, gun cotton, blasting powders, fulminate of mercury or other metals, coloured fires and every other substance, whether similar to those herein mentioned or not, which is used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect, or
- any fuse, rocket, detonator, cartridge, and every adaption or preparation of an explosive; or
- any other substance which the President may from time to time by proclamation in the Government Gazette declare to be an “explosive” (adapted from the Explosives Act, 1956 (Act No. 26 of 1956).

Testing site includes missile and missile fuel testing sites.

Yes	No	Unsure

**Item 2 (c -d).**

Items 2 (a) and 2(b) were repealed by the former Minister of Environmental Affairs and Tourism during 1998, and therefore do not require environmental authorisation. No authorisation is required unless the activity undertaken is listed somewhere else in checklist. Refer to item 10 below.

2 (c) The change of land use from agricultural or undetermined use to any other land use on or after the 1st of April 1998; and / or

The change of land use from agricultural or zoned undetermined use or an equivalent zoning, to any other land use on or after the 10th of May 2002.

Yes	No	Unsure

2(d) The change of land use for grazing to any other form of agricultural use on or after the 1st of April 1998; also refer to sub-regulation 10 below.

Yes	No	Unsure

2(e) The change of land use for use for nature conservation or zoned open space to any other land use on or after the 1st of April 1998.

Yes	No	Unsure

**Items 3-8.**

3 The concentration of livestock in a confined structure for the purpose of mass commercial production on or after the 5th of January 1998; and / or

The concentration of livestock, aquatic organisms, poultry and game in a confined structure for the purpose of commercial production, including aquaculture and mariculture on or after the 10th of May 2002.

Yes	No	Unsure

4 The intensive husbandry of, or importation of, any plant or animal that has been declared a weed or an invasive alien species on or after the 5th of January 1998.

Including:

- Any plant which has been declared a weed or invader plant under section 2(3) of the Conservation of Agricultural Resource Act, 1983, (Act No 43 of 1983);
- Any plant or animal declared to be an invader plant or animal in terms of any provincial ordinance;

Yes	No	Unsure

5 The release of any organism outside its natural area of distribution that is to be used for biological pest control on or after the 5th of January 1998.

Yes	No	Unsure

6 The genetic modification of any organism with the purpose of fundamentally changing the inherent characteristics of that organism.

*"Genetically modified" means*

- any experimental or industrial technology used to alter the genome of a living cell so that it can produce more or different chemicals or perform new functions; or
- the manipulation of genes in ways that bypass normal sexual or asexual transmission.

*This excludes the cloning of any organism for improved commercial purposes.*

Yes	No	Unsure

7 The reclamation of land below the high-water mark of the sea and in inland water including wetlands on or after the 8th of September 1997; and / or

The reclamation of land, including wetlands, below the high-water mark of the sea, and in inland waters on or after the 10th of May 2002:

*The reclamation of land as intended in section 5(2) of the Sea-shore Act, 1935 (Act No. 21 of 1935), from the sea. "Sea" means the water and the bed of the sea below the low-water mark and within the territorial waters of South Africa, including the water and the bed of any tidal river and of any tidal lagoon.*

*"High-water mark" means the highest line reached by the water of the sea during ordinary storms occurring during the stormiest period of the year, excluding exceptional or abnormal floods.*

*Wetlands are those areas transitional between terrestrial and aquatic systems, where the water table is usually at or near the surface or the land is periodically covered with shallow water; or are deep water habitats which are permanently flooded.*

*Wetlands must have one or more of the following attributes:*

- at least periodically, the land supports predominantly hydrophytes;
- the substrate is predominantly undrained hydric soil;
- the substrate is not soil and is saturated with water or covered by shallow water at some time during the growing season of each year;
- the surface water is permanent and often deep, so that water is the principal medium within which the dominant organism live, whether or not they are attached to the substrate.

Yes	No	Unsure

8 The disposal of waste in terms of section 20 of the Environment Conservation Act, 1989 on or after the 2nd of March 1998; and / or

The disposal of waste as defined in section 20 of the Act, excluding domestic waste, but including the establishment, expansion, upgrading or closure of facilities for all waste, ashes and building rubble on or after the 10th of May 2002;

*The "disposal of waste" means*

*the discarding or disposal of any matter whether solid, liquid or gaseous. This includes the disposal of waste falling under the provisions of section 21(1) of the Water Act, 1956 governing the purification and disposal of water used for industrial purposes and effluent, or to a "water care work" as defined in section 1 of the Water Act, 1956, but shall not include the private disposal of domestic waste. This includes any facility for the treatment or processing of waste.*

*The following inter alia requires authorisation from this Department if they do not have existing authorisations:*

- All landfills (including building rubble sites) that are currently operating without a permit from the Department of Water Affairs and Forestry;
- All landfills (including building rubble sites) that are currently operating with a permit from the Department of Water Affairs and Forestry;
- All landfills that have been closed without being permitted as per the requirements of the Department of Water Affairs and Forestry;
- All landfills closed after 10 May 2002;
- The extension of a permitted landfill, after 10 May 2002, beyond the footprint that it had on 10 May 2002; and
- The extension of a permitted landfill, after 10 May 2002, beyond its permitted height.

Yes	No	Unsure

**Item 9.**

9 Scheduled processes listed in the Second Schedule to the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965).

Yes	No	Unsure

Scheduled processes under the Second Schedule to the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965): Second Schedule amended by Government Notice 819 of 27 May 1966, by Government Notice 1173 of 5 July 1968, by Government Notice R. 1864 of 30 October 1970, by Government Notice R.b of 7 January 1972, by Government Notice R.212 of 16 February 1973, by Government Notice R.303 of 2 March 1973, by Government Notice R.1020 of 21 June 1974, by Government Notice R.2239 of 15 October 1982, by Government Notice 1353 of 26 June 1987, by Government Notice R.1702 of 7 October 1994, by Government Notice R.420 of 15 March 1996 and by Government Notice R.401 of 14 March 1997.

1. Sulphuric acid processes: That is to say, processes for the manufacture of sulphuric acid or processes in which sulphur trioxide is evolved or used.
2. Phosphate fertilizer processes: That is to say, processes in which any mineral phosphate is subjected to treatment involving chemical change, and processes for the granulating of materials containing phosphate.
3. Gas liquor processes: That is to say processes in which hydrogen sulphide or any other noxious or offensive gas is evolved by the use of ammoniacal liquor, and processes in which such liquor is desulphurized in any process connected with the purification of gas.
4. Nitric acid processes: That is to say processes in connection with the manufacture of nitric acid is recovered from nitrogen oxides are evolved.
5. Ammonium sulphate and ammonium chloride processes: That is to say, processes for the manufacture of ammonium sulphate or ammonium chloride.
6. Chlorine processes: That is to say, processes in which chlorine is made or used in any manufacturing process.
7. Hydrochloric acid processes: That is to say, processes for the manufacture or the bulk handling of hydrochloric acid or processes in which hydrogen chloride gas is evolved.
8. Sulphide processes: That is to say, chemical processes in which hydrogen sulphide is evolved or used.
9. Alkali waste processes: That is to say, processes in which alkali waste or the drainage therefrom is subjected to any chemical process for the recovery of sulphur or for the utilization of any constituent of such waste or drainage.
10. Oxide pigment processes: That is to say, processes in which any volatile compound of arsenic is evolved.
11. Arsenic processes: That is to say, processes in which any volatile compound or arsenic is evolved.
12. Carbon disulphides processes: That is to say, processes for the manufacture, use or recovery of carbon disulphides.
13. Sulphocyanide processes: That is to say, any process for the manufacture of sulphocyanide or any of its compounds.
14. Hydrocarbon refining processes: That is to say:
  - (a) the processing (such as distilling, cracking and refining) of crude shale oil, crude petroleum, natural gas, hydrocarbons from coal and used lubricating oils; or
  - (b) the bulk storage of crude petroleum and liquid petroleum products, in storage facilities with individual tank capacities of at least 1000 metres each.
15. Bisulphite processes: That is to say, processes in which sulphurous acid is used in the manufacture of acid sulphides of the alkalis or alkaline earths, and processes for the manufacture of liquid sulphur are evolved in any chemical manufacturing process.
16. Tar processes: That is to say, processes in which tar, creosote or any other product of the distillation of tar is distilled or is heated in any manufacturing process.
17. Zinc processes: That is to say, processes in which, by the application of heat, zinc is processed or extracted.
18. Benzene processes: That is to say, processes (not being tar processes defined above) in which any wash oil used for the scrubbing of coal gas is distilled.
19. Pyridine processes: That is to say, processes in which pyridine is recovered or used.
20. Bromine processes: That is to say, processes in which bromine is made or is used in any manufacturing process.
21. Hydrofluoric acid processes: That is to say, processes in which hydrofluoric acid is evolved or used.
22. Cement processes: That is to say, processes in which argillaceous or calcareous materials are used in the production of cement clinker, and processes in which cement clinker is ground or cement is packed, and also processes in which metallurgical slags are treated for the purpose of making cement or cement additives.
23. Lead processes: That is to say:
  - (a) processes in which, by the application of heat, lead is melted or extracted from any material containing lead or its compounds; or
  - (b) processes in which compounds of lead are manufactured from metallic lead or its compounds by methods that give rise to noxious or offensive gases; or
  - (c) processes by which lead or any material containing lead or its compounds are used or handled in such a way as to give rise to noxious or offensive gases.
24. Fluorine processes: That is to say, processes in which fluorine or its compounds with other halogens are made or used or any chemical manufacturing process in which fluorine or its compounds with other halogens are evolved.
25. Acid sludge processes: That is to say, processes in which acid sludge produced in the refining of coaltar, petroleum or other hydrocarbon derivatives, is treated in such a manner as to cause the evolution of noxious offensive gases.
26. Alkali processes: That is to say:
  - (a) the manufacture of potassium or sodium sulphate; or
  - (b) the treatment of ores by common salt or other chlorides, whereby any sulphate is formed and in which hydrogen chloride gas is evolved.
27. Roasting processes: That is to say, processes in which sulphate and sulphide ores, including regular, are calcined or smelted.
28. Asbestos processes: That is to say, processes involving the handling, grinding or utilization of asbestos.
29. Power generation processes: That is to say, processes in which:
  - (a) fuel is burned for the generation of electricity for distribution to the public or for purposes of public transport;
  - (b) boilers capable of burning fuel at a rate of not less than 10 tons per hour are used to raise steam for the supply of energy for purposes other than those mentioned in (a) above;
  - (c) any fuel burning appliance is used that is not controlled in terms of Part III of this Act, excluding appliances in private dwellings.
30. Iron and steel processes: That is to say, processes:
  - (a) in which iron, iron ores, steel or ferro-alloys are produced or processed so as to give rise to noxious or offensive gases; or
  - (b) involving the cleaning of castings and handling of casting mould materials.

31. Copper processes: That is to say, processes in which:
  - (a) by the application of heat -
    - (i) copper is extracted from any ore or concentrate or from any material containing copper or its compounds; or
    - (ii) molten copper is refined; or
    - (iii) copper or copper alloy swarf is decreased; or
    - (iv) copper alloys are recovered from scrap, fabricated metal, swarf or residues by processes designed to reduce the zinc content; or
  - (b) copper or copper alloy is melted and cast in moulds the internal surfaces of which have been coated with grease-bound or oil-bound dressings: Provided that this paragraph shall not apply to processes in which the aggregate casting capacity does not exceed 10 tons per day.
32. Aluminium processes: That is to say, processes in which:
  - (a) aluminium is produced from its oxide by means of an electrolytic furnace; or
  - (b) aluminium swarf is decreased by the application of heat; or
  - (c) aluminium or aluminium alloys are recovered from aluminium or aluminium alloy scrap, fabricated metal, swarf, skimmings, drosses or other residues by melting; or
  - (d) aluminium is recovered from slag; or
  - (e) molten aluminium or aluminium alloys are treated by any process involving the evolution of chlorine or its compounds.
33. Producer gas processes: That is to say, processes in which producer gas is made or in which the by-products of producer gas are incinerated.
34. Gas and coke and charcoal processes: That is to say, processes (not being producer gas processes) in which:
  - (a) coal, oil, wood and other carbonaceous materials or products of petroleum refining or natural gas or methane from coal mines or gas derived from fermentation of carbonaceous materials are handled or prepared for carbonisation or gasification or reforming and in which these materials are subsequently carbonised or gasified or reformed; or
  - (b) water gas is produced or purified; or
  - (c) coke or semi-coke is produced and quenched, cut, crushed or graded; or
  - (d) gases derived from any process referred to in paragraph (a) are subjected to purification processes.
35. Ceramic processes: That is to say, processes in which:
  - (a) pottery products (including domestic earthenware and china, sanitary ware, electrical porcelain and glazed tiles) are made in kilns by coal or oil; or
  - (b) heavy clay or refractory goods are fired by solid, liquid or gaseous fuels; or
  - (c) salt glazing of any earthenware or lay materials is carried on.
36. Lime, dolomite and magnesite processes: That is to say, processes in which calcium carbonate, calcium-magnesium carbonate or calcium sulphate are so produced or processed that noxious or offensive gases are evolved.
37. Sulphate reduction processes: That is to say, processes in which metallic sulphides are reduced to the corresponding sulphides by heating with carbonaceous matter.
38. Caustic soda processes: That is to say, processes in which:
  - (a) either concentrated solutions of caustic soda or fused caustic soda are produced in heated vessels; or
  - (b) black liquor produced in the manufacture of paper is calcined in the recovery of caustic soda.
39. Waste incineration processes: That is to say, processes for the destruction by incineration of wastes that contains chemically bonded halogens, nitrogen, phosphorus, sulphur or metal, or any other waste that can give rise to noxious or offensive gases.
40. Beryllium processes: That is to say, processes in which:
  - (a) any ore or concentrate or any material containing beryllium or its compounds is treated for the production of beryllium or its alloys or its compounds; or
  - (b) any material containing beryllium or its alloys or its compounds is treated, processed or fabricated in any manner giving rise to noxious or offensive gases.
41. Selenium processes: That is to say, processes in which:
  - (a) any ore concentrate or any material containing selenium or its compounds is treated for the production of selenium or its alloys or its compounds; or
  - (b) any material containing selenium or its alloys or its compounds otherwise than as colouring matter is treated, processed or fabricated in any manner giving rise to noxious or offensive gases.
42. Phosphorus processes: That is to say, processes in which:
  - (a) phosphorus is made; or
  - (b) yellow phosphorous orphospheric acid is used in any chemical or metallurgical process.
43. Ammonia processes: That is to say, processes in which:
  - (a) made; or
  - (b) used in the ammonia-soda process; or
  - (c) used in the manufacture of carbonate, nitrate or phosphate of ammonia or urea.
44. Hydrogen cyanide processes: That is to say, processes in which:
  - (a) hydrogen cyanide is made, or any chemical manufacturing process in which hydrogen cyanide is evolved or used; or
  - (b) solid sodium or calcium cyanide is made.
45. Acetylene processes: That is to say, processes in which acetylene is made or any chemical manufacturing process in which acetylene is used.
46. Amine processes: That is to say, processes in which methylamine, ethylamine or other malodorous amines are evolved or made.
47. Calcium carbide processes: That is to say, processes in which calcium acrbide is made.
48. Aldehyde processes: That is to say, processes in which formaldehyde or acetaldehyde or acrolein or the methyl, ethyl or propyl derivatives of acrolein are made.
49. Anhydride processes: That is to say, processes in which acetic, maleic or phthalic anhydrides or the correspondence acids are made.
50. Chromium processes: That is to say, processes in which any chrome ore or concentrate is treated for the production therefrom of chromium compounds or processes in which chromiummetal is made by dry methods giving rise to noxious or offensive gases.
51. Magnesium processes: That is to say in which magnesium or magnesium alloys or any compound of magnesium is made by dry methods giving rise to noxious or offensive gases.

52. Cadmium processes: That is to say, processes in which metallic cadmium is recovered or cadmium alloys are made or any compound of cadmium is made by dry methods giving rise to noxious or offensive gases.
53. Manganese processes: That is to say, processes in which manganese or its alloys or any compound of manganese is made by dry methods giving rise to noxious or offensive gases.
54. Metal recovery processes: That is to say, processes in which metal is recovered from any form of scrap material containing combustible components.
55. Galvanising processes: That is to say, processes involving coating with zinc by dipping into molten metal, including pickling and fluxing giving rise to noxious or offensive gases.
56. Bagasse incineration processes: That is to say, processes involving the combustion of bagasse.
57. Metal spray processes: That is to say, processes in which any metal is deposited on to a surface in the form of a spray through the application of heat in such a way as to give rise to noxious or offensive gases.
58. Macadam preparation processes: That is to say, processes in which crushed stone is heated or dried, with or without the addition of tar or bituminous binders, for the purpose of preparing road surfacing or paving material.
59. The bulk storage and handling of ore or coal at dumps designed to hold 100 000 tons or more and not situated on the premises of a mine or works as defined in the Mines and Works Act, 1956.
60. Vanadium processes: That is to say, processes in which vanadium pentoxide or vanadium carbide is manufactured or handled in such a way as to give rise to noxious gases.
61. Antimony processes: That is to say, processes in which antimony or its alloys or any compound of antimony is made by dry methods giving rise to noxious or offensive gases.
62. Mercury processes: That is to say, processes in which mercury or any compound of mercury is treated or recovered by the application of heat.
63. Silicon processes: That is to say, processes in which metallic silicon is made by the application of heat.
64. Carbon black processes: That is to say, processes in which carbon black is produced or used.
65. Glass processes: That is to say, processes in which glass is manufactured.
66. Metallurgical slag processes: That is to say, processes in which the use of metallurgical slag gives rise to noxious or offensive gases.
67. Wood-burning and wood-drying processes: That is to say, processes in which wood is burned or subjected to heat in such a manner as to give rise to noxious or offensive gases that are not controlled in terms of Part III of the Act.
68. Paper and paper pulp processes: That is to say, processes in which pulp or paper is manufactured in any manner giving rise to noxious or offensive gases.
69. Animal matter reduction processes: That is to say, processes for the rendering, cooking, drying, dehydrating, digesting, evaporating or protein concentrating of any animal matter not intended for human consumption.
70. Acrylonitrile processes: That is to say, processes in which acrylonitrile is manufactured or any manufacturing process in which acrylonitrile is used.
71. Nickel processes: That is to say, processes in which nickel alloys or any nickel compound is manufactured.
72. Vinyl chloride monomer processes: That is to say, processes in which vinyl chloride monomer is manufactured or used.

**Item 10.**

**10** The cultivation or any other use of virgin ground on or after the 10th of May 2002.

Yes	No	Unsure

*"Virgin ground" means land (open veld: DISTURBED OR UNDISTURBED) which has at no time during the preceding 10 years been cultivated, irrespective of the zoning or property rights of the site.*

**Annexure C: Contact details**

Department	Contact person	Tel	Fax	e-mail	Postal address
Dept of Environmental Affairs and Tourism	Ms Amanda Britz	012-3103485	012-3103688	abritz@deat.gov.za	Private Bag X447 PRETORIA 0001
Eastern Cape Dept. of Economic Affairs, Environment & Tourism	Mr Sizwe Sokupa Mr Gladstone Ntsikwe	040-6093203 040-609 3053	040-609 5216 040-609 5212	Sizwe.sokupa@deaet.ecape.gov.za Gladstone.Ntsikwe@deaet.ecape.gov.za	Private Bag X0054 BISHO 5605
Free State Dept. of Tourism, Environmental and Economic Affairs	Ms Nomazizi Mdi	051-4004810/2	051-4004811	mdin@dteea.fs.gov.za	Private Bag X20801 BLOEMFONTEIN 9300
Gauteng Department of Agriculture, Conservation and Environment	Section 24G unit	011-3551644	011-3551053	S24G@gauteng.gov.za	P.O. Box 8769 JOHANNESBURG 2000
Kwazulu-Natal Dept of Agriculture & Environmental Affairs	Ms Sarah Allan	033-3928205	033-3434396	allans@quarry.kzntl.gov.za	Private Bag X9059 PIETERMARITZBURG 3200
Limpopo Dept. of Finance and Economic Development	Mr Sipiwe Magagula	015-2959300 (X 8066)	015-2955819	magagulasc@finptb.norprov.gov.za	P O Box 55464 POLOKWANE 0700
Mpumalanga Dept. of Agriculture, Conservation and Environmental Affairs	Mr Selby Hlatshwayo	013-7666040	013-7668445	SelbyH@nelagri1.agric.za	Private Bag X 11219 NELSPRUIT 1200
Northern Cape Department of Tourism, Environment & Conservation	Mr Abe Abrahams	053-8074800	053-8313530	aabrahams@grand.ncape.gov.za	Private Bag X5018 KIMBERLEY 8300
North West Dept. of Agriculture, Conservation & Environmental Affairs	Ms Carene Wessels	018-3895689	018-3895006	cwessels@nwpg.org.za	Private Bag X2039 MMABATHO 2735
Western Cape Dept of Environmental Affairs & Development Planning	Adv Clarissa Molteno	021-4832707	021-483 4372	cmolteno@pgwc.gov.za	Private Bag X 9086 CAPE TOWN 8000

#### ANNEXURE D: PRO FORMA NOTICE

Further to your application in terms of section 24G of the National Environmental Management Act, 1998 (Act No 107 of 1998, afterwards herein called NEMA), you are hereby directed in terms of subsection (1) of that provision-

(a) to compile and submit a report containing

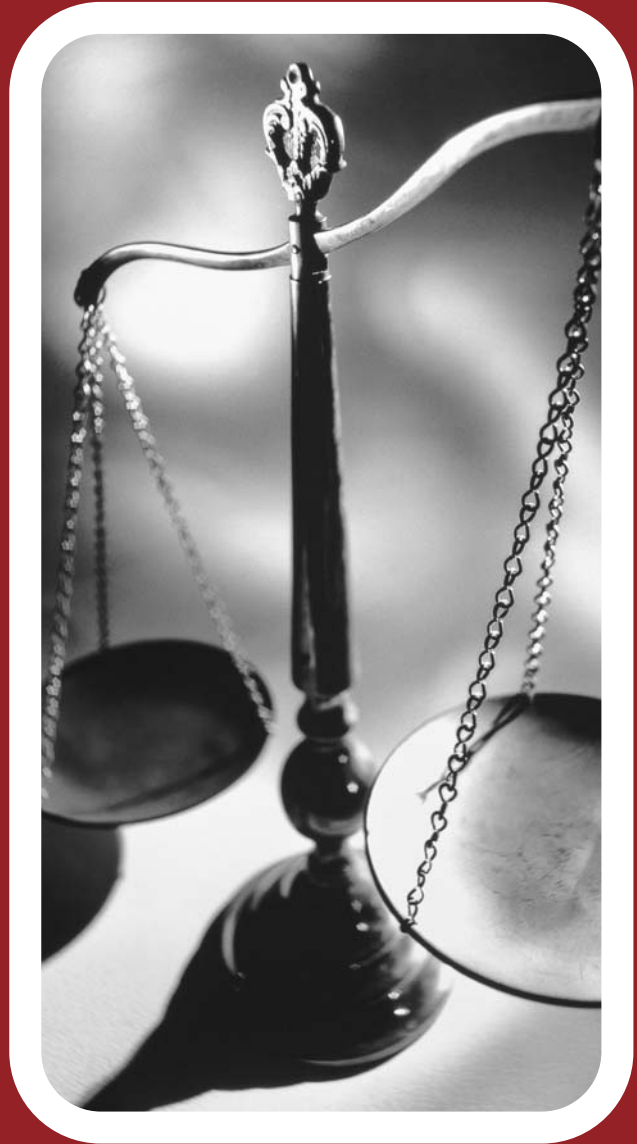
(b) [if applicable] to provide the following additional information/to undertake the following further studies:

In accordance with subsection (2), you are hereby afforded a period of 30 (thirty) days as from the date of this letter, to submit representations as to why an administrative fine of R \_\_\_\_\_ in respect of the offence committed by yourself/your organisation in terms of section 24F of the Act, should not be imposed on you/your organisation.

Your attention is invited to the provisions of section 5 of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000) in terms of which you/your organisation may within 90 days request written reasons for an action taken in terms of section 24G of NEMA.

[Only applicable to decisions made under delegation from Minister or MEC] Your attention is further invited to section 43 of NEMA, in terms of which you/your organisation has/have a right of appeal to the Minister/MEC against a decision taken in accordance with section 24G.

Upon the payment of the fine the report and additional information [if applicable] submitted will be considered, after which a further communication will be addressed to you/your organisation.



**Department of  
Environmental Affairs and Tourism**