

DEPARTMENT OF ENERGY

No. 962

29 October 2010

NATIONAL NUCLEAR REGULATOR ACT, 1999**INVITATION FOR THE PUBLIC TO COMMENT ON PROPOSED DRAFT
REGULATIONS ON DEVELOPMENT IN THE FORMAL EMERGENCY
PLANNING ZONE OF THE KOEBERG NUCLEAR POWER STATION TO
ENSURE EFFECTIVE IMPLEMENTATION OF THE KOEBERG NUCLEAR
EMERGENCY PLAN**

The Minister of Energy intends, under section 38(4) read with section 47 of the National Nuclear Regulator Act, 1999 (Act No.47 of 1999), to make the Regulations in the Schedule.

Interested persons are invited to submit their written comments on the proposed regulations to the Director-General of the Department of Energy, within 30 days of the date of publication of this notice by—

- (a) posting it to: Department of Energy, Private Bag X19, Arcadia, 0007;
- (b) delivering it by hand at: 75 Mentjies Street, Trevenna Office Campus, Sunnyside, Pretoria, 0007; or
- (c) e-mailing it to: Ditebogo.Kgomo@energy.gov.za.

Comments must be marked for the attention of Ms D. Kgomo.

Comments received after the closing date may not be considered.

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SCHEDULE

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Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and unless the context otherwise indicates-

“decommissioning” means administrative and technical actions taken to allow the removal of all the regulatory controls from a facility (except for a repository which is closed and not decommissioned);

“development” means any construction, utilization of land, zoning or rezoning of land or the subdivision thereof, other than the predominant or permitted use in terms of existing applicable zoning schemes,; and includes any new enhancement of a right of use by way of a departure, an application for a guest accommodation or second dwelling unit, conditional or consent use, rezoning of land, the subdivision thereof, additional rights of use or changes to the relevant restrictions imposed by any zoning scheme;

“emergency response” means the performance of actions to mitigate the impact of an emergency on persons, property or the environment;

“Eskom” means Eskom Holdings Limited as contemplated in section 3 of the Eskom Conversion Act, 2001 (Act No. 13 of 2001);

“evacuation time” in the precautionary action planning zone (PAZ), means four hours from the time that an evacuation order is given and, in the urgent protective action planning zone (UPZ), means 16 hours from the time that the evacuation order is given;

“exercises and audits” means assessments to determine the extent to which the Koeberg Nuclear Emergency Plan is satisfied and evaluations of the effectiveness of preparedness and emergency response measures;

“formal emergency planning zone (EPZ)” means the area within a 16 kilometre radius from the Reference Point;

“infrastructure” means all infrastructure and services necessary for the implementation of the Koeberg Nuclear Emergency Plan, including public communication, protection of the environment and property, transport, personnel, radiation monitoring, decontamination, care of the masses and medical care;

“Koeberg Nuclear Emergency Plan” means the nuclear emergency plan for the Koeberg Nuclear Power Station, approved by the Regulator in terms of section 38 of the Act;

“municipal authority” means any municipality bearing the responsibility for development and disaster management in an area within or intersecting with the formal emergency planning zone (EPZ) of the Koeberg Nuclear Power Station;

“place bound” means development directly supporting the functions associated with the siting, construction, operation and decommissioning of a nuclear installation, for which an authorization has been granted in terms of the Act;

“precautionary action planning zone (PAZ)” means the area within a five kilometre radius of the Reference Point;

“provincial authority” means any provincial authority bearing the responsibility for development and disaster management in an area within or intersecting with the formal emergency planning zone (EPZ) of the Koeberg Nuclear Power Station;

“Reference Point” means (X= -52727.4000, Y= -3727966.6500), (WGS84 transverse Mercator) which is the central point between the Koeberg Nuclear Power Station's reactor buildings;

“the Act” means the National Nuclear Regulator Act, (Act No. 47 of 1999);

“traffic evacuation model” means a road traffic assessment tool, approved by the municipal council, to demonstrate compliance with the evacuation time criteria provided in the Koeberg Nuclear Emergency Plan;

“transient population” means persons who are not permanent residents;
and

“urgent protective action planning zone (UPZ)” means the area within the formal emergency planning zone but excluding the precautionary action planning zone (PAZ).

Purpose and Scope of Regulations

2. The purpose of these Regulations is to provide requirements for the control and monitoring of development in the formal emergency planning zone (EPZ) of the Koeberg Nuclear Power Station to ensure the effective implementation of the Koeberg Nuclear Emergency Plan, in accordance with the Act.

Requirements

3. (1) The relevant municipal and provincial authorities must ensure an adequate infrastructure necessary for the effective implementation of the Koeberg Nuclear Emergency Plan.

(2) Within the precautionary action planning zone (PAZ), evacuation of the projected population in all sectors must be demonstrated by means of a traffic evacuation model approved by the municipal council which must comply with the evacuation time criteria.

(3) Within the urgent protective action planning zone (UPZ), evacuation of the projected population must be demonstrated by means of a traffic evacuation model approved by the municipal council which must comply with the evacuation time criteria.

(4) Subject to the provisions of subregulations (2), (5) and (6), neither the relevant provincial authority nor any relevant municipal authority shall approve any plan or application for any development in respect of properties situated within the precautionary action planning zone (PAZ), which may result in an increase in the population, including permanent residential or transient population.

(5) An application to subdivide a property intersected by the precautionary action planning zone (PAZ) may only be considered by the relevant provincial or municipal authority in terms of the applicable zoning scheme on condition that the portion of the property that remains within the precautionary action

planning zone (PAZ) shall retain its existing rights and will be subject to the provisions of subregulation (4).

(6) The provisions of subregulation (4) shall not apply to any development which is-

- (a) place bound; and
- (b) in accordance with the development rights attached to the property through zoning or rezoning, subdivision and consent granted by the relevant municipal authority.

(7) No approval shall be given by the relevant provincial or municipal authority for any plan and application for any development in respect of properties situated within or intersecting the formal emergency planning zone (EPZ), which may result in an increase in the population, including permanent residential or transient population, unless demonstrated by means of a traffic evacuation model approved by the municipal council which must comply with the evacuation time criteria.

(8) Eskom shall not dispose of any property owned by it within the precautionary action planning zone (PAZ) without the approval of the National Nuclear Regulator.

(9) Any organ of state which owns property within the precautionary action planning zone (PAZ), may not dispose of such property unless such organ of state has afforded Eskom the first option to purchase the said property.

(10) No spatial framework drafted in terms of the Municipal Systems Act, 1998 Act No. 117 of 1998), section 4(6) or 4(10) of the Land Use Planning Ordinance, (1985), or subsequent planning legislation for an area situated within or which intersects the urgent protective action planning zone (UPZ), may be approved or amended unless the provisions of subregulation (3) have been complied with.

(11) The title-deed of any property situated within or which intersects the precautionary action planning zone (PAZ) must incorporate all the restrictions associated with the relevant formal emergency planning zone (EPZ) as prescribed in these Regulations.

(12) The relevant provincial and municipal authorities must ensure the availability and reliability of an infrastructure for emergency response in accordance with the Koeberg Nuclear Emergency Plan by way of exercises and audits conducted every three years with the Regulator.

Short title and commencement

4. These Regulations are called the Regulations on Development in the Formal Emergency Planning Zone of the Koeberg Nuclear Power Station to Ensure Effective Implementation of the Koeberg Nuclear Emergency Plan, and come into operation on the date of publication in the *Gazette*.