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## GENERAL NOTICES ALGEMENE KENNISGEWINGS

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### NOTICE 16 OF 2015

#### DEPARTMENT OF ENVIRONMENTAL AFFAIRS

#### NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL MANAGEMENT ACT, 2008 (ACT NO. 24 OF 2008)

#### DRAFT RESEARCH REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to make the regulations under section 83(1)(d)(iv) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008), set out in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 30 (thirty) days after the publication of the notice in the *Gazette*, written comments or inputs to the following addresses:

**By post to:** The Deputy Director-General  
Department of Environmental Affairs  
Branch: Oceans and Coasts  
Attention: Ms. Liez Swart  
P.O. Box 52126  
V and A Waterfront  
**CAPE TOWN**  
8002

**By hand at:** East Pier Building 2, East Pier Road, V and A Waterfront,  
**CAPE TOWN**

**By email:** [icmresearchpermits@environment.gov.za](mailto:icmresearchpermits@environment.gov.za)

Any enquiries in connection with the notice can be directed to Ms Liez Swart.  
Comments received after the closing date may not be considered.



**BOMO EDITH EDNA MOLEWA**  
**MINISTER OF ENVIRONMENTAL AFFAIRS**

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## CHAPTER 1

### INTERPRETATION AND PURPOSE OF REGULATIONS

#### Interpretation

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning, unless the context requires otherwise—

**“applicant”** means a person who is eligible to apply for a research permit as contemplated in regulation 4;

**“attract”** means to feed, chum or bait, or to use any other means, method or device to lure a live marine species;

**“chum”** means the attracting of a marine species by scenting or using pieces of an animal weighing less than 10 grams, in the water to attract a live marine species;

**“exhibition facility”** means a facility, including but not limited to, a circus, zoological garden, aquarium and travelling exhibition, that keeps specimens of marine species for display or performance purposes, or for the purpose of facilitating interaction between humans and live specimens of such marine species;

**“fish”** means any marine aquatic plant or animal whether piscine or not, and any mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile and includes their eggs, larvae and all juvenile stages, but does not include sea birds, seals or any marine mammal;

**“higher education institution”** has the meaning assigned to it in the Higher Education Act, 1997 (Act No. 101 of 1997);

**“Management Authority”** has the same meaning assigned to it in the National Environmental Management: Protected Areas Act, 2003, (Act No. 57 of 2003);

**“marine protected area”** has the same meaning assigned to it in the National Environmental Management: Protected Areas Act, 2003, (Act No. 57 of 2003); and

**“the Act”** means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008).

### **Purpose of Regulations**

2. The purpose of these regulations is to regulate the procedure for the submission, processing and consideration of research applications contemplated in regulation 4 within or in respect of coastal public property.
3. Despite regulation 2, these regulations do not apply to applications for research relating to—
  - (a) a fish species for which a right or permit is granted by the Minister responsible for fisheries under the Marine Living Resources Act, 1998 (Act No. 18 of 1998), including a marine aquaculture species, but excluding—
    - (i) any research undertaken in a marine protected area; or
    - (ii) any experiment or research undertaken in relation to a new fishery for a species of fish for which a commercial, small scale or recreational fishing right or permit has not at the date of commencement of these regulations, been granted in terms of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);
  - (b) a bio-prospecting authorisation in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004); or
  - (c) the routine monitoring of water quality.

## CHAPTER 2

### ADMINISTRATION AND PROCESSING OF APPLICATIONS

#### **Application for research permit**

4. Subject to regulation 3, an applicant, who wishes to undertake research within coastal public property including—
- (a) conducting marine species, habitat or ecosystems research;
  - (b) any experiment or research undertaken in relation to a new fishery for a species of fish for which a commercial, small scale or recreational fishing right or permit has not at the date of commencement of these regulations, been granted in terms of the Marine Living Resources Act, 1998 (Act No. 18 of 1998);
  - (c) conducting research, required to complete any specialist study or report for the submission of an environmental authorisation application; or
  - (d) the holding of marine species in an exhibition facility,
- must apply to the Minister for a research permit as contemplated in regulation 6.

#### **Eligibility for research permits**

5. A research permit may only be applied for by—
- (a) an organ of state involved in research;
  - (b) a higher education institution;
  - (c) exhibition facility;
  - (d) an organisation formally affiliated in writing with an institution mentioned in paragraphs (a), (b) and (c); or
  - (e) a researcher with the necessary tertiary qualification or an organisation predominantly involved with research, formally collaborating via a written agreement with an institution mentioned in paragraphs (a), (b) or (c); or
  - (f) a registered Environmental Assessment Practitioner.

**Lodging of application**

- 6.(1) An application for a research permit must be lodged with the Minister and must —
- (a) have a subject line heading “Research Permit Application”;
  - (b) be completed by the supervisor if the permit will be utilised by a registered student at a higher education institution;
  - (c) include a copy of a valid permit, licence or other written permission from an organ of state to conduct scientific research where required by another law;
  - (d) in the case of research to be conducted within a marine protected area, substantiate why such research cannot be carried out successfully outside a marine protected area;
  - (e) clearly state the research objective, hypothesis and detailed methodology to be used and the desired outcomes of the research;
  - (f) in the case of research that requires interaction with marine species, indicate the nature of such interaction and the number of species to be used, attracted or impacted on and whether the research involves catching, capture or attraction of a marine species from the wild or captive-bred animals;
  - (g) be accompanied by all supporting documents and information required to assess the application, including those criteria and factors as set out in regulation 7; and
  - (h) be accompanied by proof of payment of the application fee, if prescribed by the Minister in terms of section 83(1)(g) of the Act.
- (2) The Minister may request the applicant to provide such further information by a specific date, as the Minister may require.
- (3) Submission of a permit, licence or other permission provided in terms of sub-regulation (1)(c), does not entitle the applicant to a research permit in terms of these regulations, but such document will be considered as one factor within the context of the whole application and its purpose.

- (4) An application that does not contain all the information required in terms of sub-regulation (1) and (2), is incomplete and will not be considered.

### **Criteria for considering applications**

- 7.(1) When considering an application for a research permit the Minister must take into account whether the proposed research will—
- (a) contribute new evidence or information to the existing body of knowledge in relation to coastal public property, its resources and ecosystems;
  - (b) facilitate quality research or education in relation to coastal public property, its resources, habitats and ecosystems that will benefit and be shared with all South Africans;
  - (c) not cause or is not likely to cause an adverse effect within coastal public property, its resources and ecosystems;
  - (d) contribute to the sustainability of coastal public property, its resources, habitats and ecosystems;
  - (e) ensure the ethical treatment of animals;
  - (f) ensure there is minimum impact on species, both with respect to the number of animals and the methods used;
  - (g) where possible, be undertaken using captive bred animals provided the same or similar research question could be answered;
  - (h) ensure that the research is conducted for *bona fide* research purposes; or
  - (i) be conducted by any person who was convicted of an offence for contravention of the National Environmental Management Act or a Specific Environmental Management Act.
- (2) The Minister may not grant a research permit if—
- (a) the research rationale or methods are not scientifically sound;
  - (b) similar research objectives have been or are being investigated by another project for which a research permit has been issued; or
  - (c) the applicant fails to demonstrate that the research will achieve one or more of the following outcomes:
    - (i) assist conservation or management of marine species;

- (ii) assist conservation or management of protected areas; or
  - (iii) increase the understanding of marine and coastal ecology and functioning in a specific or general manner.
- (3) The Minister or research permit committee as contemplated in regulation 9 may, after considering an application, request further information within a specified timeframe, failing which the application will be regarded as incomplete and will not be considered.

### **Research involving marine mammals**

8. (1) Marine mammals or any part thereof may not be used to attract for research purposes.
- (2) The Minister may as part of a research permit, authorise the use of oil from a dead specimen of a marine mammal for research purposes having regard to the following factors:
- (a) whether the proposed research can be achieved using bony fish as chum or bait; and
  - (b) whether the research goals and objectives can be achieved using other methods of attraction.
- (3) If permission is granted in terms of sub-regulation (2), the Minister may impose conditions on the amount and use of marine mammal oils.
- (4) If permission is granted for the use of marine mammal oils as contemplated in sub-regulation (2), such oil may only be obtained from the Department.

### **Research permit committee**

9. (1) The Minister may appoint a research permit committee consisting of appropriately qualified persons to consider and make recommendations in writing to the Minister on applications for research permits and renewals that are referred to such committee by the Minister.



- (2) The recommendations of the research permit committee must be submitted in writing to the Minister.
- (3) The research permit committee must administer and process a research application referred to it, in accordance with these Regulations.

## **Decision**

- 10. (1) The Minister's written decision on an application for a research permit must be communicated to the applicant within 90 days of receipt of all information including supporting documentation or any additional information requested in terms of these regulations.
- (2) A research permit if granted, must include—
  - (a) the geographic location and precise description of the area for which the permit is being issued;
  - (b) the name, address and telephone number of the applicant;
  - (c) the conditions included in the permit; and
  - (d) the date of expiry or the duration of the permit.
- (3) A decision to refuse a permit must include—
  - (a) the reasons for the decision; and
  - (b) the date of the decision.

## **CHAPTER 3 PERMITS**

### **Permit conditions, validity and renewal of permits**

- 11. (1) The Minister may issue a research permit subject to permit conditions.
- (2) A research permit may be issued for a maximum period of one year.

- (3) The Minister may, on application, subject to a renewal fee if prescribed, renew a permit twice for a further period of not more than 12 months each, provided that all permit conditions were complied with, after such renewal period a new application must be made in terms of regulation 6.
- (4) An application for renewal must have a subject line heading “Research Permit Renewal Application” and must indicate any changes to the information referred to in regulation 6 (1), that was submitted in the original application.
- (5) When considering an application for renewal of a research permit, the Minister must take into account—
  - (a) the permit holder’s compliance with the permit conditions;
  - (b) any changes contemplated in sub-regulation (4); and
  - (b) any other relevant consideration.
- (6) Any permit issued in terms of these regulations is not transferable.
- (7) In addition to any permit conditions imposed by the Minister under sub-regulation (1), a permit is subject to the following mandatory permit conditions:
  - (a) the permit holder must submit a report detailing—
    - (i) the progress made with the research;
    - (ii) a summary of any preliminary results; and
    - (iii) any challenges or achievements during the permit period.
  - (b) the permit holder must inform the Department of any change to any aspect of the research including but not limited to a change in the research methods or instruments used; and
  - (c) a breach of any permit conditions may render the permit holder ineligible for any renewal of the current permit or any other applications for future research permits.

**Amendment, suspension and cancellation of permits**

- 12.(1) The Minister may on good cause and on receipt of a written application by a permit holder, amend, vary or supplement the conditions or other substantive content, contained in a research permit.
- (2) The Minister may, in his or her own discretion, suspend, cancel, or amend a research permit, if—
- (a) an error needs to be rectified;
  - (b) where the conditions or circumstances have changed since the original permit was issued which, in the opinion of the Minister, necessitates an amendment to a research permit.
  - (c) the Minister is satisfied on the basis of information that was not considered when the permit was issued, that it is necessary or desirable to suspend, cancel or amend the permit to prevent deterioration or further deterioration of the environment;
  - (d) the permit holder is in breach of a permit condition;
  - (e) the permit holder provided inaccurate or false information in the application for the permit; or
  - (f) the permit holder has been convicted of an offence in terms of the Act, the National Environmental Management Act or a specific environmental management Act or any regulations issued thereunder.

## CHAPTER 4

### GENERAL

#### Offences and penalties

13. In addition to any offence contained in section 79 of the Act, any person who contravenes or fails to comply with regulations 4, 8(1), 8(4) or any permit conditions imposed in terms of regulation 11 is guilty of an offence and liable on conviction to—
- (a) imprisonment for a period not exceeding five years;
  - (b) an appropriate fine not exceeding R2 million; or
  - (c) both such fine and imprisonment.

#### Short title and commencement

14. These Regulations are called the Integrated Coastal Management Research Regulations, 2014, and take effect on the date of publication in the *Gazette*.