

DEPARTMENT OF WATER AFFAIRS AND FORESTRY

NO. R. 1188

1 December 2006

NATIONAL WATER ACT, 1998

**DRAFT REGULATIONS FOR THE USE OF WATER FOR RECREATIONAL PURPOSES
GENERALLY AND IN RESPECT OF A GOVERNMENT WATERWORKS AND
SURROUNDING STATE-OWNED LAND**

The Minister of Water Affairs and Forestry, under the powers vested in her by sections 26(1)(a) and (g), and section 116 read together with section 21(k) of the National Water Act, 1998 (Act No. 36 of 1998), intends to make the Regulations in the Schedule.

The Director-General, Water Affairs and Forestry, by the powers vested in him by sections 69(1)(a) and (b), hereby invite interested parties to submit written comments in connection with the proposed Regulations to the Director-General, Water Affairs and Forestry, Private Bag X313, Pretoria, 0001; Fax No. (012) 336 6608; e-mail deb@dwaf.gov.za, (for the attention of the Sub-directorate Environment and Recreation, Ms L. Fick.) by 28 February 2007.

Afrikaans and Sesotho versions of the Regulations are posted on the Department's website, vide <http://www.dwaf.gov.za/>.

DEPARTMENT OF WATER AFFAIRS AND FORESTRY

Date:

Definitions

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

“**commercial recreational water use**” means recreational water use for financial gain, including organised sporting activities and events;

“**high impact recreational water use**” means recreational water use which does or has the potential to impact detrimentally on a water resource or other water uses of that water resource;

“**no wake speed**” means a speed at which a vessel creates minimal or no wash;

“**no wake zone**” means a buffer area of 100 metres from the shore on the water surface of a water resource;

“**operational plan**” means a written plan, providing detailed information on the manner, purpose and extent of the operation of a high impact or commercial recreational water use, approved by the Minister;

“**recreational water use**” means the use of water for recreational purposes and includes all activities that require the use of water, including the surface of water, for-

- (a) the exclusive purpose of sport, tourism or leisure;
- (b) personal or commercial recreational water use; or
- (c) activities which contribute to the general health, well-being and skills development of individuals and society;

“**relevant authority**” means an authority or person that has jurisdiction or control over recreational or tourism use of the relevant water resource or the relevant portion of the water resource;

“**stakeholder equity**” has the meaning of broad-based black economic empowerment as defined in the Broad-based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“**vessel**” includes any craft capable of navigation on water; and

“**water resource management plan**” means a written plan, for the management of and control over the water surface and water body of a water resource including a water surface and water body of a government waterworks and the surrounding state-owned land, approved by the Minister;

CHAPTER 1 GENERAL CONDITIONS FOR RECREATIONAL WATER USE

Compliance with other regulations

2. Any person who undertakes a water use for recreational purposes must comply with Government Notice R.1352 in Gazette No. 20606 dated 12 November 1999 when that person is required to register the recreational water use concerned.

Access to water resource for recreational use of water

3. (1) A person who has lawful access to a water resource may use the water surface of that water resource for recreational water use-

- (a) subject to Regulations 4 and 9;
- (b) if the water use does not detrimentally impact any other water use;
- (c) if the water use is not harmful or potentially harmful to human health and safety or the water resource;
- (d) if the water use complies with an approved recreational water use operational plan in terms of Regulation 5 where such pertains; and
- (e) subject to the requirements of any approved water resource management plan, where applicable.

CHAPTER 2 PRECAUTIONARY PRACTICES, OPERATIONAL AND WATER RESOURCE MANAGEMENT PLANS

Precautionary practices

4. (1) A person who engages in water use for recreational purposes must ensure that-

- (a) he or she complies with all applicable laws governing the safety of small vessels;
- (b) all applicable safety rules and lawful notices, warnings, water traffic signs and signals are obeyed;
- (c) any reservation of areas for specified purposes are complied with;
- (d) a water resource and the associated ecosystem are not detrimentally affected;
- (e) scouring, erosion or sedimentation of the watercourse is prevented;

- (f) riparian indigenous vegetation is not removed or damaged;
- (g) the habitat of aquatic biota is not interfered with;
- (h) waste or water containing waste is lawfully disposed of; and
- (i) information is obtained from the Department or the relevant water management institution regarding-
 - (i) any dangerous conditions;
 - (ii) safety rules;
 - (iii) relevant water resource management plans; and
 - (iv) location of sensitive and protected areas if there is not an approved water resource management plan in place.

Application and approval of high impact and commercial recreational water use operational plan

5. (1) A person who engages in a high impact or commercial water use for recreational purposes must apply for the approval of an operational plan for a high impact or commercial recreational water use within 60 days of the date on which he or she is notified in writing by the responsible authority to do so.

(2) An applicant who prepares an operational plan pursuant to subregulation (1) must-

- (a) furnish information concerning the water use, associated facilities, water resource, and environment concerned;
- (b) assess and evaluate the impact of his or her high impact or commercial recreational water use on the-
 - (i) water resource;
 - (ii) environment; and
 - (iii) socio-economic conditions of any person who might be directly affected by the high impact or commercial recreational water use;
- (c) describe the manner and extent to which he or she has consulted with interested and affected parties, especially previously disadvantaged groups, on the contents of the operational plan;
- (d) list all present water uses and indicate how competing water uses will be accommodated at the water resource;
- (e) describe the manner and time period in which he or she intends to achieve stakeholder equity in the commercial recreational water use concerned;
 - (f) describe the manner in which he or she intends to-

- (i) inform his or her employees, and in the case of a tourism enterprise, the tourism enterprise's guests, of any environmental, health and safety risks which may result from their work and recreational water use, where applicable; and
 - (ii) deal with risks in order to avoid harm to human health and to the environment; and
- (g) describe the manner in which he or she intends to-
- (i) modify, remedy, control or limit any action, activity or process which may detrimentally impact on the water resource and the environment;
 - (ii) contain or remedy the cause of any negative impact on the water resource and the environment;
 - (iii) comply with any prescribed waste standard or environmental management standards or practices; and
 - (iv) protect and enhance the heritage and cultural value of the water resource.

(3) The responsible authority must, as soon as reasonably practicable, after the lodging of the operational plan by the applicant, consider that plan for approval, if-

- (a) it complies with the requirements of subregulation (2); and
- (b) the applicant has demonstrated the capacity, or has provided for the capacity, to mitigate and manage negative impacts on the water resource as identified under subregulation 2(g).

(4) The responsible authority may call for additional information from the person who engages in water use for recreational purposes contemplated in subregulation (2) and may direct that the operational plan in question be adjusted in the way that the responsible authority may require.

(5) Upon approval of the operational plan by the responsible authority, the person who engages in water use for recreational purposes must comply with the provisions of the approved operational plan.

Compilation and regulating of water resource management plan

6. (1) A water resource management plan must be compiled by the relevant authority and submitted to the responsible authority for approval for recreational water use of a water resource, including the water surface of a government waterworks, within 180 days of the date on which the relevant authority is notified by the responsible authority to do so.

(2) A water resource management plan, contemplated in subregulation (1) must be compiled in terms of the Department's Guidelines on Integrated Water Resource Planning for Using Water for Recreational Purposes, dated August 2005.

(3) The responsible authority must, before approving a water resource management plan under these Regulations -

- (a) publish a suitable notice in newspapers and other media and take any other steps to bring the plan to the attention of interested persons-

- (i) setting out the draft water resource management plan; and
 - (ii) inviting written comments to be submitted on the proposed plan within 60 days after publication of the notice; and
- (b) consider all comments received.
- (4) After complying with subregulation (3), the Minister may-
- (a) amend the draft water resource management plan; and
 - (b) subject to subregulation (3), publish the final water resource management plan in newspapers and other media within reasonable proximity of the water resource concerned.

Record keeping and disclosure of information

7. Any person using water for recreational purposes may be requested to keep records of aspects relating to the water use and make the information available to the responsible authority.

CHAPTER 3 ACCESS TO AND RECREATIONAL USE OF GOVERNMENT WATERWORKS

Access to and use of government waterworks for recreational purposes

8. (1) No person may without prior written approval of the Minister access any part of a government waterworks where an authorised access point does not exist.

(2) The Minister may allow or refuse any person access to any part of a government waterworks and may prohibit-

- (a) the holding of any public entertainment;
- (b) the collection of any money from the public; or
- (c) the conduct of any commercial activity without prior written approval;
- (d) any other activity which the Minister, for good reason, considers necessary and desirable to ensure compliance with the Act and these Regulations.

(3) Any person using any government waterworks and the surrounding state-owned land that has been made available by the Minister for recreational water use purposes must comply with all general and special conditions of use, established by the Minister in writing and published, of the particular government waterworks and surrounding state-owned land including -

- (a) the safety of the public at a government waterworks;

- (b) access to the government waterworks and surrounding state-owned land;
- (c) the use of the government waterworks and surrounding state-owned land and the conduct of persons in such areas;
- (d) water and land speed limits applicable to the government waterworks and surrounding state-owned land;
- (e) reservation of certain areas for use for specified purposes;
- (f) sanitation and public health;
- (g) times during which the government waterworks and surrounding state-owned land will be open to the public;
- (h) reasonable charges payable for access to or for the use of the amenities or other facilities provided in the government waterworks and the surrounding state-owned land; and
- (i) water-based recreational activities.

Precautionary practices for government waterworks

9. (1) Access to and recreational use of any part of a government waterworks, other than through authorised access points, is prohibited without prior written approval of the Minister.

(2) The conduct of any commercial recreational water use activity is not allowed within any part of the government waterworks except with prior written approval of the Minister.

(3) In the case of a government waterworks for which an approved water resource management plan does not exist-

- (a) no recreational facilities or structures may be established on surrounding state land without the prior written approval of the Minister or any other relevant authority;
- (b) no recreational water use involving the use of vessels for overnight accommodation purposes may take place without the prior written approval of the Minister;
- (c) no recreational activities may take place in the water or on the water surface of a government waterworks if the water level is at or below 20 percent capacity;
- (d) no recreational activities may take place within the security or safety zone demarcated for a dam wall and outlet works or spillway without the prior written approval of the Minister; and
- (e) only vessels travelling at no wake speed are allowed within a no wake zone.

CHAPTER 4
OFFENCES AND GENERAL PROVISIONS

Offences

10. Any person who contravenes or fails to comply with any provision of these Regulations is guilty of an offence and is liable on conviction to a fine or imprisonment for a period not exceeding five years.

Title

11. These Regulations may be called the Regulations for the Use of Water for Recreational Purposes.