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GOVERNMENT NOTICE

DEPARTMENT OF ENERGY

No. R. 142

24 February 2012

NATIONAL ENERGY ACT, 2008**REGULATIONS ON THE MANDATORY PROVISION OF ENERGY DATA**

I, Elizabeth Dipuo Peters, Minister of Energy hereby, under section 19(1) of the National Energy Act, 2008 (Act No. 34 of 2008), and after consultation with the Cabinet Ministers whose areas of responsibility will be affected by these Regulations, make the Regulations in the Schedule hereto.



ELIZABETH DIPUO PETERS, MP
Minister of Energy

Schedule**Arrangement of Regulations**

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Definitions

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

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

“**primary energy commodities**” means energy commodities that are either extracted or captured directly from natural resources;

“**SIC**” means the Standard Industrial Classification used by Statistics South Africa to classify economic activities of industries contemplated in the Standard Industrial Classification (SIC) of all Economic Activities, 5th edition; and

“**the Act**” means the National Energy Act, 2008 (Act No. 34 of 2008).

Application of Regulations

2. These Regulations apply to the categories of data providers contemplated in regulation 4.

Objectives of Regulations

3. The objectives of these Regulations are to—

- (a) enable the Department to collect, collate and publish quality energy data and information in an effective and efficient manner; and
- (b) provide for the type, manner and form of energy data and information that must be provided by any data provider contemplated in regulation 4.

Classification of data providers

4. (1) For purposes of these Regulations, data providers are classified according to the following categories:

- (a) Category A refers to an entity that holds an exploration right issued in terms of section 80 of the MPRDA, or holds a mining right issued in terms of section 23 of the MPRDA, or holds a mining permit issued in terms of section 27 of the MPRDA, to carry out activities related to—
 - (i) exploration of primary energy commodities; or
 - (ii) mining of primary energy commodities;
- (b) Category B refers to an entity that holds a production right issued in terms of section 84 of the MPRDA to carry out the—
 - (i) production of primary energy commodities; or
 - (ii) import and export of primary energy commodities;
- (c) Category C refers to an entity that carries out—
 - (i) electricity generation and holds a licence issued by the National Energy Regulator of South Africa in terms of section 13, read with section 4, of the Electricity Regulation Act, 2006 (Act No. 4 of 2006);
 - (ii) petroleum production and holds a licence issued in terms of section 2B of the Petroleum Products Act, 1977 (Act No. 20 of 1977); or
 - (iii) gas liquefaction or regasification and holds a licence issued in terms of section 19, read with section 4, of the Gas Act, 2001 (Act No. 48 of 2001);
- (d) Category D refers to an entity that is responsible for the transportation, transmission or distribution of any form of energy in accordance with a licence issued by the National Energy Regulator of South Africa in terms of—
 - (i) section 13, read with section 4, of the Electricity Regulation Act, 2006;
 - (ii) section 19, read with section 4, of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003); or
 - (iii) section 19, read with section 4, of the Gas Act, 2001;
- (e) Category E refers to an industry association representing a collective of entities operating within the same industry;
- (f) Category F refers to an end user of energy, which includes—
 - (i) an entity which carries out economic activities as classified according to the SIC; or

- (ii) a dwelling unit; and
- (g) Category G refers to an organ of state, a research institution or an academic institution.

(2) Notwithstanding the provisions of sub-regulation (1), the Department may identify additional data sources and request data from such sources.

Types of data to be provided

5. (1) A data provider contemplated in regulation 4 must, upon written request from the Department, in accordance with regulation 6, make available to the Department or a representative of the Department—

- (a) the data and information as classified in the table contained in the Annexure to these Regulations; and
- (b) any other data related to energy that the Department may request.

(2) Where relevant, the data provider contemplated in regulation 4(1) must also make available to the Department or a representative of the Department, data and information describing the quantity and nature of —

- (a) greenhouse gases and related gaseous particles emitted as a result of the data provider's economic activities and processes; and
- (b) toxic material and other substances released as a consequence of the economic activities and processes of the data provider and which may contaminate air, soil and water.

Submission of energy data

6. (1) The Department may, in writing, request a data provider contemplated in regulation 4 to submit data contemplated in regulation 5 to the Department or a representative of the Department.

- (2) A written request contemplated in sub-regulation (1) must at least specify the following:
- (a) The type of data to be provided;

- (b) the definitions and classification of variables for which data is being requested, as well as their units of measurement;
- (c) the period at which the data must be collected and the frequency in which it must be provided;
- (d) the reference period for which the data must be collected;
- (e) the format and manner in which the data must be submitted; and
- (f) the date and time by which the data must be submitted.

(3) The Department or a representative of the Department must take all reasonable measures to ensure the security of data and information submitted by data providers.

(4) Failure to submit data requested in terms of these Regulations is an offence in contravention of the Act.

Data Collection

7. (1) Data collection in terms of these Regulations may be carried out by the Department or a representative of the Department, appointed by the Department from time to time.

(2) In the case of the Department appointing a representative to collect data, the Department must notify data providers in writing.

(3) Notwithstanding regulation 6, the Department may periodically collect data and information from a data provider in addition to those contemplated in regulation 4 through—

- (a) standardised forms and questionnaires;
- (b) targeted surveys or studies; or
- (c) any other appropriate and generally accepted data collection methods.

(4) Where data required by the Department is already collected by an organ of state, a research institution or an academic institution, classified as a data provider in terms of regulation 4(1)(g), the Department may collect such data from that organ of state, research institution or academic institution, instead of requesting it from the data provider.

Integrity of data submitted

8. The data provider must ensure that the data submitted to the Department is true and correct.

Publishing data and information

9. In the instance where data collected by the Department is at a very low level of disaggregation, the Department may only place such data and information in the public domain if—

- (a) it is at a level of disaggregation which does not promote unfair competition;
- (b) it does not contravene section 36 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000); and
- (c) it does not contravene section 17 of the Statistics Act, 1999 (Act No. 6 of 1999).

Short title and commencement

10. These Regulations are called the Regulations on the Mandatory Provision of Energy Data, 2012, and come into operation on 1 March 2012.

ANNEXURE**Table**

Classes of data providers	Generic description of data to be provided
Category A	Data regarding seismic, drilling, logging, discoveries, concessions, leases, prospecting, exploration, permits, production activities, efficiency and reserves of energy minerals.
Category B	(i) Data regarding import, export, quality, sources, prices, volumes, capacity, cost, efficiency, technology and reserves of all primary energy commodities excluding renewable energy sources; and (ii) data regarding the capacity, costs, imports, efficiency and technologies of renewable energy sources.
Category C	(i) Data regarding the production capacity, utilisation, availability, total output, efficiency, technology, input costs of energy transformation inputs; and (ii) data regarding import, export, quality, sources, prices, volumes, capacity, cost, efficiency, and technology of secondary energy commodities.
Category D	Data regarding capacity and utilisation of logistics and infrastructure, transmission, distribution of energy carriers as well as associated costs, optimisation and tariffs.
Category E	Data related to energy consumption, utilisation, efficiency, co-generation and end use of energy within an industry represented by an association.
Category F	Data regarding volumes, prices, efficiency, type of energy and energy services used within the residential, industrial, mining, commercial, transport, agriculture and other sectors as defined by the SIC.
Category G	(i) State organ's data, research and plans which are related to energy; and (ii) Energy data collected from other sources.

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