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# SOUTH AFRICA

# CHAPTER 23: SOUTH AFRICA

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## **23 SOUTH AFRICA**

### **23.1 Constitutional requirements for environmental protection in South Africa**

The Government of South Africa is constituted as having national, provincial and local spheres that are distinct but inter-dependent and inter-related. The Constitution allocates legislative and administrative functions to all three spheres of government, giving a wide range of government agencies responsibility for environmental management.<sup>1</sup>

Environmental provisions are included in the Bill of Rights in Chapter 2 of the Constitution of South Africa, 1996. In terms of section 24 of the Constitution, everyone has the right:

- (a) *to an environment that is not harmful to their health or well-being*
- (b) *to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that:*
  - *prevent pollution and ecological degradation*
  - *promote conservation*
  - *secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development*

The Bill of Rights in Chapter 2 of the Constitution entrenches the right to information; the right to freedom of expression; the right to participate in political activity; the right to administrative justice; and fundamental science, cultural, legal, economic and environmental rights. In addition, the Constitution requires all legislatures to facilitate public involvement in the legislative and other policy processes. Citizens have the right to engage in public initiatives and processes on an ongoing basis.

### **23.2 Institutional and administrative structure for Environmental Impact Assessment in South Africa**

#### **23.2.1 Department of Environment, Forestry and Fisheries (DEFF) and the competent authorities**

The Department of Environment, Forestry and Fisheries (DEFF)<sup>2</sup> is responsible for the administration of environmental assessment in South Africa. The mandate for Environmental Impact Assessment (EIA) is, however, split between the national and provincial governments. Policy formulation and coordination takes place at national level, whilst approval of EIAs for

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<sup>1</sup> Republic of South Africa, 1996. *Constitution of South Africa*. Pretoria: Government Printer.

<sup>2</sup> Previously known as the Department of Environmental Affairs

most development proposals has been devolved to the nine provinces. Any EIA application directly related to mining or petroleum activities is dealt with by the Department of Mineral Resources (DMR).

### **23.2.2 Roles and responsibilities**

#### **National Department of Environment, Forestry and Fisheries (DEFF)**

As noted above, most EIAs for development projects must be submitted to the responsible provincial departments, as the competent authorities, with the exception of the following instances, when the Minister takes on the role of the competent authority:<sup>3</sup>

- When the project has implications for national environmental policy or international commitments or relations (e.g. if the project will have an impact in terms of the Southern African Development Community (SADC) Shared Water Resources Protocol or Ramsar obligations)
- If the project will take place within an area identified as a special geographic area as a result of the state's obligations in terms of any international environmental instrument, other than any area falling within the seashore, a conservancy, a protected natural environment, a proclaimed private nature reserve, a natural heritage site, or the buffer zone or transitional area of a biosphere reserve or a world heritage site
- If the project will affect more than one province or traverse international boundaries (e.g. if a dam for a hydroelectric scheme affected two or more provinces or countries);
- When the project is to be undertaken by a national department, a provincial department of environmental affairs, or a statutory body performing an exclusive competence of the national sphere of government, such as Eskom
- If the project is situated within a national proclaimed protected area or other conservation area under the control of a national authority.

The Minister of Mineral Resources must be identified as the competent authority if the activity is directly related to prospecting or exploration of a mineral or petroleum resource, or the extraction and primary processing of a mineral or petroleum resource.<sup>4</sup>

A cabinet decision may declare the Minister as the competent authority in instances where the Minister would not ordinarily have been, for example when decisions may relate to activities or matters declared a national priority.<sup>5</sup> The minister may devolve his or her decision competency to a provincial Member of the Executive Committee (MEC)<sup>6</sup> for any matter where he or she would ordinarily have been the competent authority.<sup>7</sup> Conversely the MEC may devolve his or her decision making competency to the minister.

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<sup>3</sup> Section 24(C)(2) of the National Environmental Management Act 107 of 1998.

<sup>4</sup> Section 24(C)(2A) of the National Environmental Management Act 107 of 1998.

<sup>5</sup> Section 24(C)(2B) of the National Environmental Management Act 107 of 1998

<sup>6</sup> That is, the Head of the Provincial department responsible for environmental matters

<sup>7</sup> Section 24(C)(3) of the National Environmental Management Act 107 of 1998

In addition, the national DEFF, being the lead agent for environmental management, is responsible for:

- Developing and enforcing compliance with environmental policy
- Developing and implementing an integrated and holistic environmental management system
- Coordinating and supervising environmental functions in all spheres of government
- Developing and enforcing an integrated and comprehensive regulatory system

### **Provincial departments**

In terms of section 24C of the National Environmental Management Act of 1998 (NEMA), the Minister of Environment, Forestry and Fisheries may designate the provinces as competent authorities, empowering them to authorise development activities in terms of the EIA Regulations. In most provinces, the administration function for EIA is located within portfolios dealing with natural resource management, rural development, tourism, conservation, economic development or agriculture. The provincial departments are as follows:

Eastern Cape:	Department of Economic Development and Environmental Affairs (DEDEA)
Free State:	Department of Economic Development, Tourism and Environmental Affairs (DEDTEA)
Gauteng:	Department of Agriculture and Rural Development (GDARD)
KwaZulu-Natal:	Department of Agriculture, Environmental Affairs and Rural Development (DAEARD))
Limpopo:	Department of Economic Development, Environment and Tourism (LEDET)
Mpumalanga:	Department of Economic Development, Environment and Tourism (DEDET)
Northern Cape:	Department of Environmental Affairs and Nature Conservation (DEANC)
North West:	Department of Economic Development, Environment, Conservation, and Tourism (DEDECT)
Western Cape:	Department of Environmental Affairs and Development Planning (DEA&DP)

In terms of the EIA Regulations (see s. 23.3.4), the authorities are required to perform a number of functions within certain timeframes. The main obligations of the competent authorities are as follows:

- Provide the applicant with any relevant guidelines and information
- Advise the applicant on the nature and processes that must be followed in order to comply with the Act and Regulations

- Consult with other competent authorities and other organs of state to avoid duplication of effort
- Receive and acknowledge receipt of applications within the stipulated timeframe (see s. 23.4.5)

### **Project proponents and developers**

Before applying for an EA for an activity, an applicant must appoint an environmental assessment practitioner (EAP) at his/her own cost to manage the application.<sup>8</sup> The applicant must make sure that the practitioner to be appointed is independent and has the necessary expertise to perform the work and comply with the necessary legal requirements. The applicant must also provide the practitioner with all relevant documentation relating to the proposed development.

### **Environmental assessment practitioners**

An environmental assessment practitioner (EAP), or any person compiling a specialist report or undertaking a specialised process (a specialist), appointed by the applicant, in terms of regulation 12(1) or 12(2), must:<sup>9</sup>

- Be independent
- Have expertise in conducting EIAs or undertaking specialist work as required, including knowledge of the Act, the Regulations and any guidelines that have relevance to the proposed activity
- Ensure compliance with the Regulations
- Perform the work relating to the application in an objective manner, even if this results in views and findings that are not favourable to the application
- Take into account, to the extent possible, the matters referred to in Regulation 18 when preparing the application and any report, plan or document relating to the application
- Disclose to the applicant, registered interested and affected parties (I&APs) and the competent authority all material information in the possession of the EAP and, where applicable, the specialists, that reasonably has or may have the potential of influencing:
  - any decision to be taken with respect to the application by the competent authority in terms of the Regulations; or
  - the objectivity of any report, plan or document to be prepared by the EAP or specialist, in terms of the Regulations for submission to the competent authority
- unless access to that information is protected by law, in which case it must be indicated that such protected information exists and is only provided to the competent authority

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<sup>8</sup> Regulation 12 of GNR 982

<sup>9</sup> Regulation 13(1) of GNR 982.

- In the event where the EAP or specialist does not comply with the requirement to be independent, the applicant must, prior to conducting public participation appoint another EAP or specialist to externally review all work undertaken by the EAP or specialist, at the applicant's cost
- Any EAP or specialist appointed to externally review the work of an EAP or specialist must comply with the requirements of independence

If the competent authority has, at any time, reason to believe that the EAP does not comply with the requirements as set out above, it must instigate an investigation. After considering all representations made, it may refuse to accept any further work from the EAP, request the applicant to conduct an external review at his/her own cost, and/or request the applicant to appoint another EAP to redo and complete the application. In this case, the applicant must also notify all registered I&APs of the change in practitioner.<sup>10</sup>

## **23.3 Policy and legal framework for EIA**

### **23.3.1 Environmental Management Policy**

In pursuit of the constitutional requirements, the then Department of Environment Affairs and Tourism published its Environmental Management Policy in July 1997 after an extensive, two-year consultative process. The Policy sets out a vision, principles, strategic goals and objectives, issues of governance, and an implementation programme. Besides defining environment as including biophysical, cultural, economic, political and social dimensions, the Policy states that people are part of the environment and at the centre of concerns for its sustainability.

### **23.3.2 Climate change policies and plans**

There is evidence that extreme weather events in South Africa are increasing, with heat wave conditions found to be more likely, the duration dry spells lengthening slightly and rainfall intensity increasing. Higher annual average near-surface temperatures are projected to occur over large parts of South Africa, including the western interior and northern parts of the country. Climate zones across the country are already shifting, ecosystems and landscapes are being degraded, veld fires are becoming more frequent, and overused natural terrestrial and marine systems are under stress.<sup>11</sup>

South Africa is therefore taking immediate action in planning for and responding to intensified climate change impacts. In particular, urgent action with respect to managing water resources in a changing climate, planning for the potential impact on agricultural production, and ensuring that local governments are able to anticipate and reduce the risk of extreme events (such as floods and droughts) on human settlements.

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<sup>10</sup> Regulation 14 of GNR 982.

<sup>11</sup> <https://www.gov.za/speeches/minister-environmental-affairs-publishes-draft-national-climate-change-adaptation-strategy>

South Africa has thus developed many policy documents, plans and systems to combat climate change and improve resilience, such as the National Climate Change Response Policy of 2011 and the National Development Plan 2030, also of 2011. The country has produced two National Climate Change Response reports, the second being published in 2017. The latter report includes chapters on (i) quantifying and profiling the impact of ongoing or recently completed mitigation actions; (ii) progress in the work on climate change flagship programmes; (iii) lessons learnt from the recent drought phenomenon; (iv) progress in the development of the national adaptation strategy and desired adaptation outcomes; and (v) progress in establishing a credible national tracking system for key climate change actions in the country. Progress is being monitored through the National Climate Change Response Monitoring and Evaluation System and the National Greenhouse Gas Inventory System. The former aims to track South Africa's transition to a climate-resilient, lower carbon economy.<sup>12</sup>

The latest step in the climate change response programme, came on 19 May 2019, when the Minister responsible for the environment published the Draft National Climate Change Adaptation Strategy (NCCAS) for public comment in Government Gazette 42446 (Notice No 644). This strategy has been developed in line with South Africa's commitment to the Paris Agreement on Climate Change to introduce measures to adapt to the effects of climate change while achieving the stabilisation of greenhouse gas emissions and limiting temperature increases to 1.5 degrees Celsius.

The NCCAS's vision draws on South Africa's National Climate Change Response Policy, the National Development Plan, adaptation commitments included in the Nationally Determined Contribution submitted to the United Nations Framework Convention on Climate Change (UNFCCC), as well as sector, provincial and local government adaptation plans.

The development of the strategy is central to the attainment of the National Climate Change Response Policy objective of effectively managing the inevitable climate change impacts through interventions that build and sustain South Africa's social, economic and environmental resilience and emergency response capacity.<sup>13</sup>

The NCCAS is an important step forward for South Africa, as it:

- Acts as a common reference point for climate change adaptation efforts in South Africa in the short to medium-term, providing guidance across all levels of government, sectors, and stakeholders affected by climate variability and change
- Provides a policy instrument around which national climate change adaptation objectives for the country can be articulated to provide overarching guidance to all sectors of the economy

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<sup>12</sup> [www.environment.gov.za](http://www.environment.gov.za)

<sup>13</sup> <https://www.gov.za/speeches/minister-environmental-affairs-publishes-draft-national-climate-change-adaptation-strategy>



- Facilitates the degree to which development initiatives at different levels of government and business integrate and reflect critical climate change adaptation priorities, and thus inform resource allocation by the various stakeholders towards climate change resilience
- Guides stronger coherence and coordination on climate change adaptation activities between different institutions and levels of government
- Supports South Africa in meeting its international obligations by defining the country's vulnerabilities, plans to reduce such vulnerabilities and leverage opportunities, outlining the required resources for such action, whilst demonstrating progress on climate change adaptation<sup>14</sup>

### **23.3.3 National Environmental Management Act, No. 107 of 1998**

The National Environmental Management Act, No. 107 of 1998 (NEMA) was promulgated to give effect to the Environmental Management Policy. The Act repealed most of the Environment Conservation Act, No. 73 of 1989. The NEMA has been subsequently amended on several occasions. The most significant being the amendments regarding the regulation of mining-related activities by the NEMA.

The aim of NEMA is to provide for cooperative environmental governance by establishing principles for decision-making on matters affecting the environment, institutions that will promote cooperative governance, and procedures for coordinating environmental functions exercised by organs of state.

NEMA is divided into ten chapters, as follows:

- |             |   |
|-------------|---|
| Chapter 1:  | National environmental management Principles    |
| Chapter 2:  | Institutions                                    |
| Chapter 3:  | Procedures for cooperative governance           |
| Chapter 4:  | Fair decision-making and conflict management    |
| Chapter 5:  | Integrated environmental management             |
| Chapter 6:  | International obligations and agreements        |
| Chapter 7:  | Compliance, enforcement and protection          |
| Chapter 8:  | Environmental management cooperation agreements |
| Chapter 9:  | Administration of Act                           |
| Chapter 10: | General and transitional provisions             |

The principles set out in section 2 of Chapter 1 underpin all other related Acts and policies and form the basis of sustainable development in the country. They apply to all organs of state that may have a significant effect on the environment through their actions. The principles are summarised as follows:

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<sup>14</sup> <https://www.gov.za/speeches/minister-environmental-affairs-publishes-draft-national-climate-change-adaptation-strategy>

- 2(2) Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.
- 2(3) Development must be socially, environmentally and economically sustainable.
- 2(4)(a) Sustainable development requires the consideration of the following:
- (i) Disturbance to biological diversity must be avoided or minimised and remedied
  - (ii) Pollution of the environment must be avoided or minimised and remedied
  - (iii) Disturbance of landscapes and sites that constitute the nation's cultural heritage must be avoided or minimised and remedied.
  - (iv) Waste must be avoided or, where it cannot be avoided, consideration must be given to minimisation, reuse or recycling
  - (v) The use and exploitation of non-renewable resources must be responsible and equitable
  - (vi) The development, use and exploitation of renewable resources must be within sustainable limits
  - (vii) A risk-averse and cautious approach must be applied
  - (viii) Negative impacts on the environment and on people's environmental rights should be anticipated and prevented or minimised and remedied
- 2(4) (b) Environmental management must be integrated and the best practicable environmental option should be pursued
- 2(4) (c) Environmental justice should be pursued so that adverse environmental effects are not distributed in such a way as to discriminate unfairly against any person, particularly the most vulnerable
- 2(4) (d) Equitable access to environmental resources, benefits and services to meet basic human needs and human wellbeing should be given due consideration
- 2(4) (e) Responsibility for the environmental health and safety consequences of all policies, programmes, projects, products, processes, services and activities exists throughout the life cycle
- 2(4) (f) Public participation is promoted, as well as building capacity among the most vulnerable and disadvantaged so that they can have meaningful participation.
- 2(4) (g) Decisions must consider the interests, needs and values of all interested and affected parties, including the recognition of traditional and ordinary knowledge
- 2(4) (h) Community wellbeing and empowerment must be promoted through a variety of programmes

- 2(4) (i) Social, economic and environmental impacts must be considered, assessed and evaluated, and decisions must be appropriate to the impact assessment findings
- 2(4) (j) Workers have a right to refuse to do work that may be harmful to human or environmental health
- 2(4) (k) Decisions must be made in a transparent and open manner, and access to information must be provided in accordance with the relevant laws, such as the Promotion of Access to Information Act, No. 2 of 2000
- 2(4) (l) There must be intergovernmental coordination and harmonisation of policies, legislation and actions relating to the environment
- 2(4) (m) Conflicts of interest between departments should be resolved through conflict resolution procedures
- 2(4) (n) Global or international responsibilities relating to the environment must be discharged in the national interest
- 2(4) (o) The environment is held in trust for the people; the beneficial use of resources must serve the public interest and the environment must be protected as the people's common heritage
- 2(4) (p) The costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be borne by those responsible for harming the environment
- 2(4) (q) The role of women and youth in environmental management must be recognised and promoted
- 2(4) (r) Sensitive, vulnerable, highly dynamic or stressed ecosystems require specific attention in management and planning procedures, especially where they are subject to significant human resources usage and development pressure

#### **23.3.4 Regulations**

In order to operationalise the EIA requirements as set out in section of 24 NEMA, the DEFF has published several regulations. The regulations have been revised and amended several times over the 20 years of the NEMA EIA regime, with the latest amendments of the 2014 regulations occurring in 2018. These Regulations are set out in Government Notice Regulations (GNR) 982 (process), GNR 983 and 985 (Basic Assessment listed activities) and GNR 984 (EIA listed activities). The listing notices are colloquially referred to as Listing Notices 1, 2 and 3.

The Regulations (GNR 982) set out the processes that have to be followed in order to obtain an EA, while Listing Notices 1 (contained in GNR 983) and 2 (GNR 984) provide lists of activities that require a Basic Assessment Report (BAR) and EIA respectively. Listing Notice 3

(contained in GNR 985) lists activities that would require authorisation for a Basic Assessment if carried out in specified geographical areas.

The steps required to produce a BAR or to conduct an EIA under these Regulations are described in section 23.4 of this Handbook. The Regulations prescribe the time that officials should take to arrive at decisions, as well as the contents of the two types of reports (see s. 23.4.2 and 23.4.3), public participation (s. 23.4.4) and the use of environmental assessment professionals (s. 23.3.9).

### 23.3.5 Permits and licences related to other environmental legislation in South Africa

An **Environmental Authorisation (EA)** is required before a developer can undertake any activity identified in Listing Notices 1, 2 and 3, as shown in Appendices 23-1, 23-2 and 23-3 of this Handbook respectively. In addition, several other permits, licences or authorisations may be required, depending on the type of activity contemplated. The main ones are listed in Table 23.1.

**Table 23.1: Environmental permits and licences**

Act, Regulation or Bylaw	Permit or licence	Requirements	Implementing agency
National Water Act, No. 36 of 1998, as amended	Water Use Licence	Permission is required for the abstraction, storage, use, diversion, flow reduction and disposal of water and effluent as listed in section 21 of the Act	Department of Water Affairs (DWA)
National Environmental Management: Air Quality Act, No. 39 of 2004	Atmospheric Emission Licence	No listed activity in terms of the Act and as listed in the relevant regulations can take place without a licence.	National, Province or District/Metro Municipalities
National Environmental Management: Waste Act (NEMWA), No. 59 of 2008	Waste Management Licence	A waste management licence is required to undertake the listed waste management activities as set out in the relevant regulations.	DEFF: Directorate: Integrated Pollution Prevention and Waste Management or relevant provincial competent authority
National Environmental Management: Biodiversity Act 10 of 2004	Biodiversity Permit	A biodiversity permit is required to damage, destroy or disturb threatened or protected plants/animals or protected trees or to undertake activities with protected species or listed alien and invasive species. Permission is required for use of biological control agents.	DEFF
National Forests Act, No. 84 of 1998	Forest Licence	A licence is required to cut, damage or destroy any listed	DEFF

Act, Regulation or Bylaw	Permit or licence	Requirements	Implementing agency
		indigenous trees. Permission is also required to erect infrastructure in state forests or to traverse state forests for linear activities	
Mineral and Petroleum Resources Development Act (MPRDA), No. 28 of 2004	Prospecting Right Mining Right Mining Permit Closure certificate	Authorisation is required to explore, prospect for and mine any mineral. Any mine closure also requires authorisation. Permission is also required to use lands contrary to the objectives of the MPRDA i.e. sterilisation of a mineral resource	Department of Mineral Resources (DMR)
Mineral and Petroleum Resources Development Act, No. 28 of 2004	Reconnaissance Permit Exploration Right Production Right Permissions	Authorisation is required to carry out reconnaissance and exploration activities for oil and gas and to produce such oil and gas	DMR
National Heritage Resources Act, No. 25 of 1999	Permit	Permits are required for any developments that may affect heritage resources, such as graves, wrecks and old building.	South African Heritage Resources Agency
Sub-division of Agricultural Lands Act 70 of 1970	Permission	Permission required to sub-divide agricultural land or to register a long-term lease	DEFF
Conservation of Agricultural Resources Act 43 of 1983	Permission	To drain wetlands outside of urban areas	DEFF

### 23.3.6 Penalties

Regulation 48(1) of the EIA Regulations states that a person is guilty of an offence if that person:

- Provides incorrect or misleading information in any document submitted in terms of the Regulations to a competent authority
- Fails to comply with Regulation 10(c) (disclosure of information to the competent authority)
- Fails to comply with the requirements of EAPs and specialists in Regulation 13(1)
- Fails to comply with a request to submit an environmental audit report in terms of Regulation 34
- Contravenes or fails to comply with Regulation 37 relating to amendments
- Continues with an activity where the EA was suspended in terms of Regulation 38

The penalties related to such offences are set out in Section 48B of NEMA and may comprise a fine not exceeding R10 million or imprisonment not exceeding 10 years or both.

### 23.3.7 Fees

In terms of Government Notice No. 784 of 2011, fees must be paid to the competent authority before an application for an Environmental Authorisation (or a Waste Management Licence) is considered.<sup>15</sup> The fee scale is set out in Table 23.2.

**Table 23.2: Fees for consideration of Basic Assessment, EIA reports and Waste Licence applications**

Nature of application	Fee
The activity triggers a Basic Assessment in terms of NEMA or NEMWA; The activity triggers a Scoping and Environmental Impact Report (S&EIR) application in terms of NEMA or NEMWA;	R 2,000 R 10,000
Application for an amendment of an environmental authorisation in terms of NEMA	R 2,000
Application for a transfer of a waste management licence in terms of NEMWA	R 2,000
Application for renewal of a waste management licence in terms of NEMWA	R 2,000

An applicant can lodge an application for an integrated EA in terms of section 24L of NEMA, where an EA is required in terms of NEMA, and a waste management licence is required in terms of the National Environmental Management: Waste Act (NEMWA), and the same competent authority is dealing with both these applications. In this case, an applicant will pay 100% of the fee for the more expensive application and 50% of the fee for the second application. Where there are two separate competent authorities, the full fees are payable, as no integrated EA process is possible.

The applicant can motivate in writing for an exemption from the prescribed fees.

The non-refundable fee is payable any time in the period between submitting the application form and presenting the Basic Assessment Report (BAR) or EIA Report for review – the competent authority will not consider the relevant report until the fee has been paid (or an exemption granted). It is required that proof of payment is attached to any application submitted to the competent authority. If, after the applicant has submitted a BAR, the competent authority deems it necessary for him/her to undertake an EIA, the balance of the fee must be paid before the EIA report will be considered.

Fees are not required for applications for a community-based project funded by a government grant; or where the applicant is an organ of state.

### 23.3.8 Guidelines

Sector EIA guidelines have been or are being developed for: roads, energy, agri-industry, aquaculture, housing and linear developments (other than roads).<sup>16</sup>

The Department has also published an Integrated Environmental Management Information Series, which comprises 16 separate guidelines on all aspects of environmental management.

<sup>15</sup> Made in terms of sections 24(5)(c), 24M and 44 of NEMA and sections 45(2)(a) and 69(1)(w) of the National Environmental Management: Waste Act, 2008.

<sup>16</sup> Check the DEA website to see if these guidelines are available:  
<https://www.environment.gov.za/legislation/guidelines>.

They include the following: integrated environmental management in general, appeals, screening, scoping, stakeholder engagement, specialist studies, impact significance, ecological risk assessment, cumulative effects assessment, cost-benefit analysis, life cycle assessment, Strategic Environmental Assessment (SEA), alternatives, EMPs, EIA review, auditing, environmental impact reporting and environmental economics.

Some of the provinces have developed specific guidelines. For example, the Western Cape has published a series of guidelines on specialist involvement in EIA processes.

In addition to the above, s. 24J of NEMA makes provision for the Minister or an MEC, with the concurrence of the Minister, to publish guidelines regarding:

- Listed activities or specified activities; or
- The implementation, administration and institutional arrangements of regulations made in terms of section 24(5).

While these guidelines are not legally binding, they must be taken into account when preparing, submitting, processing or considering any application for an EA.

### 23.3.9 Environmental standards

South Africa has developed its own effluent and emission standards. These are contained in a number of documents. Examples are listed in Table 23.3.

**Table 23.3: South African effluent and emission standards and guidelines**

<b>Air quality</b>
Framework for setting and implementing national Ambient Air Quality Standards, SANS <sup>17</sup> 69:2004
Ambient Air Quality – Limits for Common Pollutants, SANS 1929:2011
National Ambient Air Quality Standards, Government Notice No. 1210, December 2009
Emission standards as listed in Government Notice Regulation No. 893, November 2013
<b>Solid waste</b>
White Paper on Integrated Pollution and Waste Management for South Africa, March 2000
Norms and standards for the remediation of contaminated land, GNR. 467 of May 2013
Waste classification and management regulations, GNR. 634 of 23 August 2013
National norms and standards for the assessment of waste for landfill disposal, GNR. 635 of 23 August 2013
National norms and standards for disposal of waste to landfill, GNR. 636 of 23 August 2013
National standards for the extraction, flaring and recovery of landfill gas, GNR. 924 of November 2013
National standards for scrapping or recovery of motor vehicles, GNR. 925 of November 2013
National norms and standards for the storage of waste, GNR. 926 of November 2013
National norms and standards for sorting, shredding, grinding, crushing, screening or baling of general waste, GNR. 1093 of October 2017
<b>Water quality</b>
Drinking Water Specifications, SANS 241-1:2015: Drinking Water. Part 1: Microbiological, Physical, Aesthetic and Chemical Determinants
SANS 241-2:2015: Application of SANS 241-1:2015
South African Water Quality Guidelines series, Vol. 1–7, 1998
National Water Act Waste Discharge Standards, DWA 2010 Guidelines for Wastewater
Catchment Management Series
<b>Noise</b>
The Measurement and Rating of Environmental Noise with Respect to Annoyance and to Speech Communication, SANS 10103:2008

<sup>17</sup> SANS: South African National Standards

Methods for Environmental Noise Impact Assessments, SANS 10328:2008
Local government regulations

### 23.3.10 Certification of EIA consultants

In South African EIA, NEMA establishes a particular role for the ‘Environmental Assessment Practitioner’ (EAP), defined in Section 1 of the Act as: *“the individual responsible for the planning, management and coordination of EIAs, SEAs, Environmental Management Plans (EMPs) or any other appropriate environmental instruments introduced through regulations.”*

The Environmental Assessment Practitioners Association of South Africa (EAPASA) was established in 2012. All EAPs are legally required (in terms of GNR. 849 of 22 July 2016) to register with EAPASA in order to prepare and/or review EIAs and environmental management programmes (EMPrs) (by February 2020). EAPASA aims to promote the advancement of the practice and quality of environmental assessment in South Africa, and will address any issues related to the competence and professionalism of EAPs.

## 23.4 EIA procedural framework in South Africa

### 23.4.1 Screening

An impact assessment must be conducted for all activities that may have an impact on the environment. An activity is defined as any development action that is likely to result in a significant environmental impact, as identified in the schedules contained in the Listing Notices or in any other notice published by the Minister or MEC in terms of section 24D of NEMA.

The EIA Regulations distinguish between two types of assessment, either a Basic Assessment or a Scoping and EIA. The schedule of activities requiring a BAR is contained in Listing Notice 1 (see Appendix 23-1) and the schedule of activities that must go through the full EIA process is provided in Listing Notice 2 (see Appendix 23-2). Activities that are in specified geographic areas that require a BAR are contained in Listing Notice 3 (see Appendix 23-3). According to Regulation 15, the EAP must identify whether the BAR or Scoping Report plus EIA must be followed. Therefore, screening is done by the applicant together with the EAP considering the listing notices as published by government.

### 23.4.2 Basic Assessment process and report contents

Several important steps are required during the Basic Assessment process, as set out in Regulations 19–20 of the EIA Regulations (GNR 982).<sup>18</sup> These are shown schematically in Figure 23.1 and are summarised below. The contents are described in Appendices 1, 4, 5 and 6 of the EIA Regulations. Explicit mention is made to the following aspects to be covered: the

<sup>18</sup> As amended by Government Notice 326 in Government Gazette 40772 dated 7 April 2017 and Government Notice 706 in Government Gazette 41766 dated 13 July 2018.



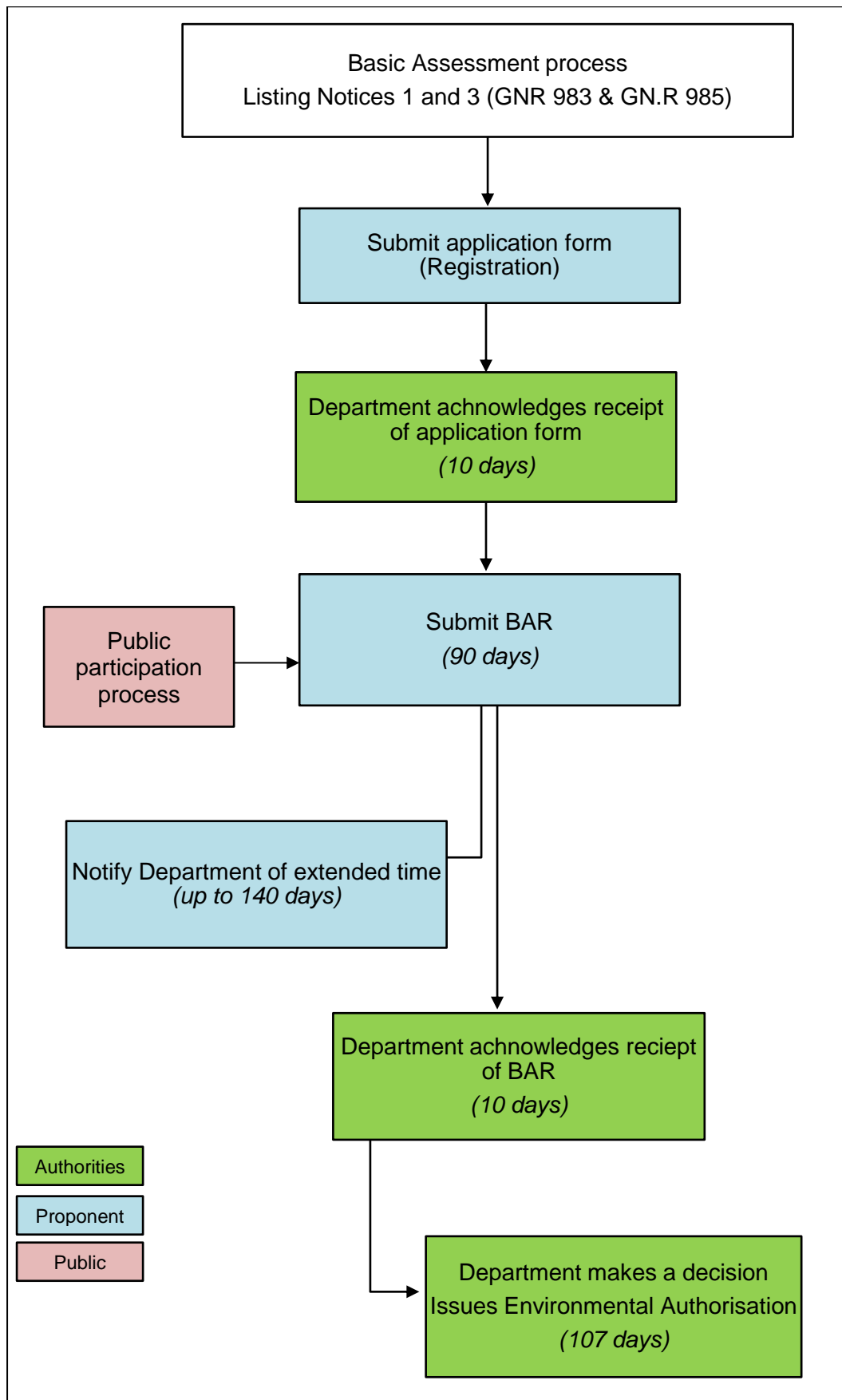
geographical, physical, biological, social, economic, heritage and cultural aspects of the environment. Aspects such as gender, climate change, resettlements, health and safety, pollution prevention etc. may also emerge as an outcome of the impact assessment which will then have to be addressed. However, the latter aspects are not explicitly mentioned.

The main requirements of the prescribed BAR process are summarised below for ease of interpretation, but readers are referred to the actual Regulations for the exact text.

**Submission of a BAR and EMPr, and where applicable, a closure plan, to the competent authority (Regulation 19)**

When a basic assessment must be applied, the applicant must, within 90 days of submitting the application to the competent authority, submit the BAR, including any specialist reports, an EMPr, and where applicable, a closure plan, which have been subjected to a public participation process of at least 30 days and which reflect the incorporation of comments received, including those from the competent authority.

If significant changes are made to the project after the public participation process has been concluded, which results in changes to the BAR, EMPr or closure plan, the applicant must notify the competent authority in writing of such changes and hold another round of public consultation of at least 30 days duration. All comments arising from the second round of consultation must be incorporated into the relevant documents, which in turn must be submitted to the competent authority within 140 days of the date that the original application was received.



**Figure 23.1: Basic Assessment process**

Where the application for an Environmental Authorisation (EA) is for prospecting, exploration, or extraction of a mineral or petroleum resource, including primary processing and associated activities, the BAR, EMPr and/or closure plan must address the requirements set out in the Regulations, pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations. The content of a closure plan may be combined with the content of an EMPr on condition that the requirements of both Appendices 5 and 4 respectively are met.

**Decision on basic assessment application (Regulation 20)**

The competent authority must within 107 days of receipt of the BAR and EMPr, or where relevant the closure plan, grant an EA in respect of all or part of the activity applied for (including any alternatives considered in the report) or refuse to grant the EA. Note that the entire BAR process takes **217 days<sup>19</sup> (approximately 7 months)** (without extensions).

The Minister responsible for mineral resources may only issue an EA if the provisions of section 24P(1) of the Act have been complied with. Section 24P(1) requires that an applicant for an environmental authorisation relating to prospecting, mining, exploration, production must make the prescribed financial provision for the rehabilitation, management and closure of the mine or exploration site before the Minister may issue an EA.

**23.4.3 Scoping and Environmental Impact Report (S&EIR)**

If the proposed activity is contained in the list in GNR 984<sup>20</sup> (see Appendix 23-2), the applicant must follow the full EIA process, which comprises a scoping phase, an EIA report, specialist studies, public participation and an EMPr. The contents of these reports are described in Appendices 2, 3, 4 and 6 of the Regulations. The steps required are shown schematically in Figure 23.2 and are summarised below (please refer to the actual regulations for the full text).

**Submission of a scoping report to the competent authority (Regulation 21)**

If the proposed activity requires a S&EIR, the applicant must, within 44 days of submitting the application to the competent authority, submit a scoping report which has been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments made by the competent authority. There are various conditions set out in Regulation 21 regarding the submission of a scoping report under special circumstances, such as time lapses, refusal of applications and so on.

<sup>19</sup> A 'day' is defined in South African legislation as all calendar days excluding public holidays.

<sup>20</sup> As amended by: Government Notice 325 in Government Gazette 40772 dated 7 April 2017

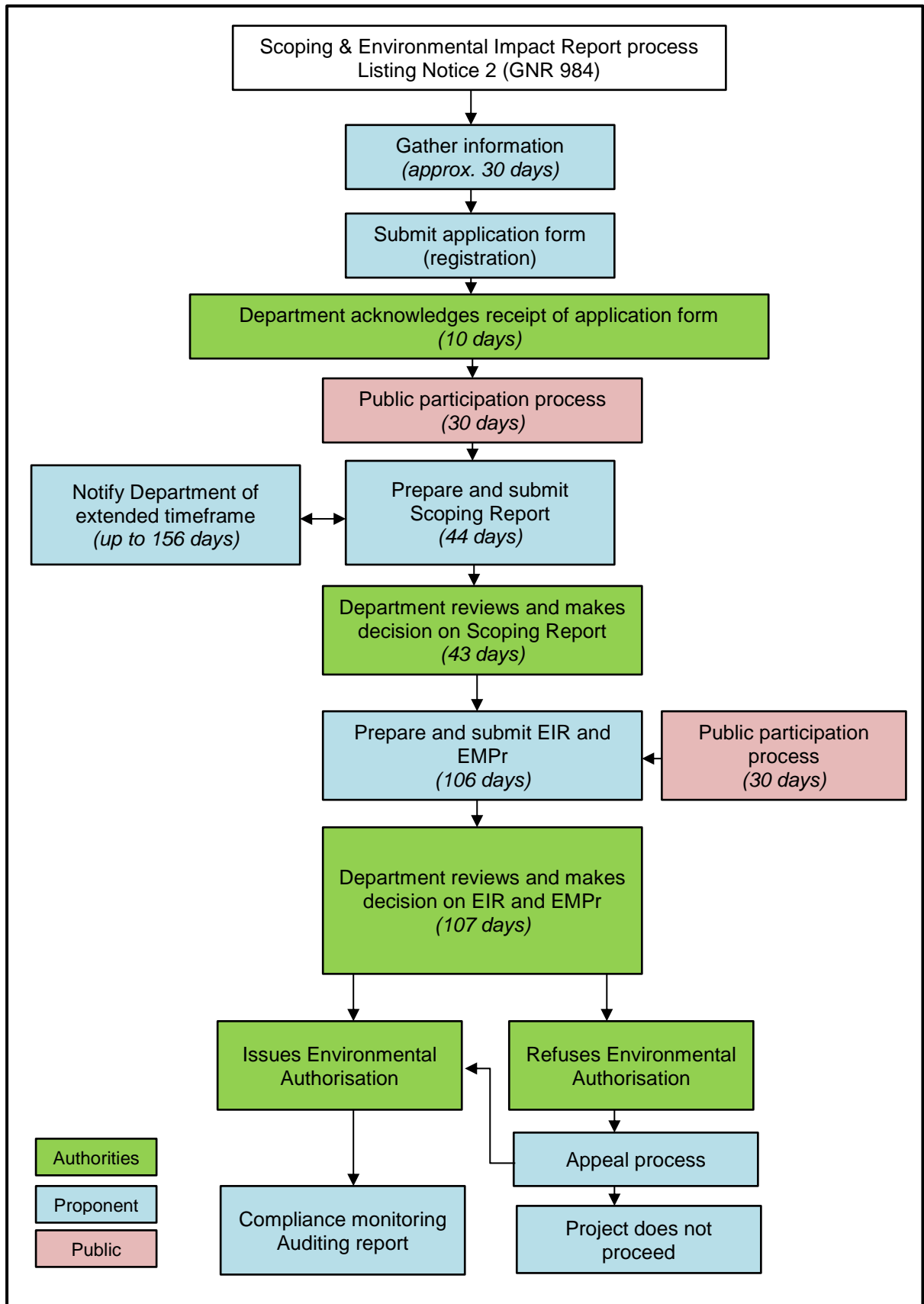


Figure 23.2: Scoping and EIA process

The scoping report must contain all information set out in Appendix 2 of the Regulations or as otherwise gazetted by the Minister in a government notice.

#### **Consideration of scoping report (Regulation 22)**

The competent authority must, within 43 days of receipt of a scoping report:

- Accept the scoping report, with or without conditions, and advise the applicant to continue with the tasks contemplated in the plan of study for EIA (i.e. the terms of reference); or
- Refuse environmental authorisation if (i) the proposed activity conflicts with a prohibition contained in legislation; or (ii) the scoping report does not substantially comply with Appendix 2 of the Regulations and the applicant is unwilling or unable to ensure compliance with these requirements within the prescribed timeframe.

#### **Submission and consideration of the EIA report and EMPr (Regulation 23)**

Once the scoping report has been accepted by the competent authority, the applicant has 106 days (from the date of receipt of the application) to submit an EIA report inclusive of any specialist reports, and an EMPr, which must have been subjected to a public participation process of at least 30 days and which reflects the incorporation of comments received, including any comments made by the competent authority (Figure 23.2).

However, if significant new information becomes available following the first round of consultation, the applicant must request a time extension up to 156 days (from the date the application was first received by the competent authority) for the submission of the EIA report and EMPr. The revised EIA report and EMPr will have to be subjected to another public participation process of at least 30 days (Figure 23.2).

The EIA report and EMPr must contain all information set out in Appendices 3 and 4 of the Regulations. Where the application is for an EA for prospecting, exploration, extraction of a mineral or petroleum resource, including primary processing and related activities, the EIA report and EMPr must contain attachments that address the requirements pertaining to the financial provision for the rehabilitation, closure and post closure of prospecting, exploration, mining or production operations, made in terms of the Act.

All specialist reports must contain the information set out in Appendix 6 of the Regulations or as otherwise gazetted by the Minister in a government notice.

#### **Decision on S&EIR application (Regulation 24)**

The competent authority must within 107 days of receipt of the EIA report and EMPr, notify the applicant in writing, whether an EA has been granted or refused. Note that the timeframe required to undertake the whole scoping and EIR process and obtain a decision is about **300 days (about 10 months)**, without any extensions.

The Minister responsible for Mineral Resources may only issue an authorisation if the provisions of section 24P(1) of the Act have been complied with (refer to the last paragraph of s. 23.4.2).

#### **23.4.4 Public participation process**

The public participation process must give all potential or registered I&APs, including the competent authority, a period of at least 30 days to submit comments on each of the required reports (BAR, Scoping Report, EIA Report, EMPr and Closure Plan (where relevant)).

The public participation process must provide the public with access to all information that reasonably has or may have the potential to influence any decision with regards to an application unless access to that information is protected by law.

The consultation process must include:

- The competent authority
- Every State department that administers a law relating to a matter affecting the environment relevant to an application for an environmental authorisation
- All organs of state which have jurisdiction in respect of the activity to which the application relates
- All potential or registered I&APs

Potential or registered I&APs, including the competent authority, *may* be provided with an opportunity to comment on reports and plans *prior* to submission of an application, but *must* be provided with an opportunity to comment on such reports once an application has been submitted to the competent authority.

#### **Public participation process (Regulation 41)**

The person conducting a public participation process must take into account any relevant guidelines applicable to public participation as contemplated in section 24J of the Act and must give notice to all potential I&APs of a proposed application which is subjected to public participation by:

- Fixing a notice board at a place conspicuous to, and accessible by the public at the boundary, on the fence or along the corridor of the site where the activity to which the application relates is being or is to be undertaken and any alternative site(s), if relevant.
- Giving written notice, in any of the manners provided for in section 47D of the Act, to:
  - the occupiers or owner or person in control of the site where the activity is being or is to be undertaken and to any alternative site(s)
  - owners, persons in control of, and occupiers of land adjacent to the site where the activity is or is to be undertaken and to any alternative site(s)
  - the municipal councillor of the ward in which the site and alternative site(s) are situated and any ratepayers' organisation which represents the community in the area
  - the municipality which has jurisdiction in the area
  - any organ of state having jurisdiction in respect of any aspect of the activity
  - any other party as required by the competent authority

- Placing an advertisement in one local newspaper or any official Gazette that is published specifically for the purpose of providing public notices of applications or other submissions
- Placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or district municipality in which it is or will be undertaken
- Using reasonable alternative methods of communication, as agreed to by the competent authority, in those instances where a person is desirous of, but unable to participate in the process due to illiteracy, disability, or any other disadvantage.
- The notice, notice board or advertisement referred to above must give details of the proposed application which is subjected to public participation; and state whether basic assessment or S&EIR procedures are being applied to the application; the nature and location of the activity to which the application relates; where further information on the application or proposed application can be obtained; and set out the manner in which, and the person to whom representations in respect of the application or proposed application may be made
- The notice board referred to above must be of a size of at least 60cm by 42cm; and display the required information in lettering and in a format as may be determined by the competent authority
- In cases where the BAR, scoping report, EIR or EMPr are changed significantly after the first round of public participation (as prescribed above), the applicant need only give written notice to the I&APs advising them where the revised documents may be obtained, the mode of submitting comments and the date by which comments are due
- When complying with this regulation, the person conducting the public participation process must ensure that:
  - information and all relevant facts in respect of the proposed application is made available to potential I&APs
  - participation by potential or registered I&APs is facilitated in such a manner that all I&APs are provided with a reasonable opportunity to comment on the application or proposed application

#### **Register of interested and affected parties (Regulation 42)**

A proponent or applicant must ensure the opening and maintenance of a register of I&APs and submit the register to the competent authority. The register must contain the names, contact details and addresses of:

- All persons who, as a consequence of the public participation process conducted in respect of that application, have submitted written comments or attended meetings with the proponent, applicant or EAP
- All persons who have requested the proponent or applicant, in writing, for their names to be placed on the register

- All organs of state which have jurisdiction in respect of the activity to which the application relates

**Registered interested and affected parties entitled to comment on reports and plans (Regulation 43)**

All registered I&APs are entitled to comment, in writing, on all reports or plans submitted during the public participation process and to bring to the attention of the proponent any issues which that party believes may be of significance to the consideration of the application, provided that the I&AP discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.

Any State department that administers a law relating to a matter affecting the environment is required, subject to Regulation 7(2), to comment within 30 days.

**Comments of interested and affected parties to be recorded in reports and plans (Regulation 44)**

The applicant must ensure that the comments of interested and affected parties are recorded in reports and plans and that such written comments, including responses to such comments and records of meetings, are attached to the reports and plans that are submitted to the competent authority.

Where a person desires but is unable to access written comments as contemplated above due to: a lack of skills to read or write; disability; or any other disadvantage, reasonable alternative methods of recording comments must be provided for.

### **23.4.5 Decision-making and the Environmental Authorisation**

When considering an application, the competent authority must ensure that the application complies with the formal requirements of the Regulations and the requirements set out in sections 24O and 24(4) of the NEMA.

The competent authority must review the application within the stipulated timeframe (see Table 23.4 and Figures 23.1 and 23.2) and decide in writing:

- Granting authorisation in respect of all or part of the activity applied for; or
- Refusing authorisation in respect of all or part of the activity.

After the competent authority has reached a decision on an application, it must, in writing and within five days:

- Notify the applicant of the decision;
- Give reasons for the decision to the applicant; and
- Draw the attention of the applicant to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations.

**Table 23.4: Decision-making timeframe for Basic Assessments and EIAs**



Action required by authorities	Timeframe for Basic Assessment Reports (days)	Timeframe for EIAs (days)
Acknowledge receipt of application	10	10
Review application and make a decision to grant authorisation	107	43 days for scoping report 107 days for EIA report authorisation

The regulations require the following information to be included in the Environmental Authorisation (EA):

- (a) The name, address and contact details of the person to whom the EA is issued;
- (b) A description of the activity that is authorised;
- (c) A description of the location of the activity, including
  - (i) the 21-digit Surveyor General code of each cadastral land parcel,
  - (ii) where available, the physical address or farm name,
  - (iii) where the required information in sub-regulation (i) and (ii) is not available, the coordinates of the boundary of the property or properties,
  - (iv) a plan which locates the proposed activity or activities authorised at an appropriate scale, or, if it is a linear activity, a description and coordinates of the approved corridor of the activity or activities; or on land where the property has not been defined, the coordinates of the area within which the activity is to be undertaken;
- (d) The conditions under which the activity may be undertaken;
- (e) The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the approved EMPr, and where applicable, the closure plan, in order to determine whether the EMPr and closure plan continuously meet mitigation requirements and addresses environmental impacts. Auditing of compliance may not exceed intervals of 5 years;
- (f) The frequency of submission of an environmental audit report to the competent authority, including the timeframe within which a final environmental audit report must be submitted to the competent authority;
- (g) The frequency of updating the approved EMPr, and where applicable the closure plan, and the manner in which the updated EMPr and closure plan will be approved, taking into account processes for such amendments prescribed in terms of the Regulations;
- (h) A requirement that the environmental authorisation, approved EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, where applicable, audit reports and all compliance monitoring reports be made available for inspection and copying at: the site of

the authorised activity; to anyone on request; and on the applicants' publicly accessible website (if available); and any relevant conditions which the competent authority deems appropriate.

The competent authority can amend and/or withdraw an EA under certain conditions.<sup>21</sup> The competent authority may also decide whether to accept an application by the proponent to amend the Environmental Authorisation.<sup>22</sup> Two amendment processes are set out in the regulations. Part 1 amendments deal with non-substantive amendments such as a change of name or address, whilst Part 2 amendments deal with substantive amendments which may change or alter the scope of the authorisation as well as alter the scope of the impacts initially assessed.

The competent authority may amend an EMPr if necessary or desirable to protect the environment, to achieve prescribed standards, or to ensure compliance with the authorisation.<sup>23</sup> Amendments may also be required and effected based on compliance audit findings.

The competent authority may suspend an EA if there are reasonable grounds for believing that the EA was obtained fraudulently, or through a misrepresentation of material facts.<sup>24</sup> A court may withdraw any authorisation upon convicting such a person of an offence if the rights contained within that authorisation were abused.<sup>25</sup>

#### **23.4.6 Appeals**

The purpose of the NEMA: National Appeal Regulations<sup>26</sup> is to regulate the procedures relating to the submission, processing and consideration of an appeal of a decision made by the competent authority regarding an environmental authorisation. Appeals are submitted to the appeals authority via the appointed appeals administrator within that authority.

##### **Appeal submission (Regulation 4)**

An appellant must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered I&AP and any organ of state with an interest in the matter, within 20 days from the date that the notification of the decision for an application for an EA or a waste management licence was sent to the registered I&APs by the applicant.

An appeal submission must be submitted in writing using the form obtainable from the appeal administrator and accompanied by a statement setting out the grounds of appeal, any supporting documentation which is referred to in the appeal submission, and a statement, including supporting documentation, by the appellant to confirm compliance with Regulation 4(1) of the National Appeal Regulations.

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<sup>21</sup> Regulations 38.

<sup>22</sup> Regulations 29–37.

<sup>23</sup> Regulation 29-37.

<sup>24</sup> Regulation 38.

<sup>25</sup> Section 34C(1)(a) of the National Environmental Management Act 107 of 1998.

<sup>26</sup> National Environmental Management Act (107 of 1998), National Appeal Regulations. GNR 993 in GG 38303 of 8 December 2014.

**Responding statement (Regulation 5)**

The applicant, the competent authority, I&APs and organ of state must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.

**Appeal panel (Regulation 6)**

If the appeal authority reasonably believes that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source an independent expert or constitute an independent appeal panel, or both, within 10 days from the date of receipt of an instruction from the appeal authority. The appeal panel may consist of as many independent experts as the Appeal Authority may deem necessary under the circumstances. The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of an instruction from the appeal administrator.

**Recommendations and decisions on appeals (Regulation 7)**

The appeal administrator must make a recommendation on the appeal to the appeal authority within 30 days of receipt of the responding statement referred to above in the event that an independent expert has not been sourced or an independent appeal panel has not been constituted.

In the case where an independent expert or appeal panel has been appointed, the appeal administrator must make a recommendation on the appeal to the appeal authority within 10 days of receipt of the advice received.

The appeal authority must reach a decision on an appeal, and notify the appellant, applicant, and any registered I&AP, within 20 days of the recommendation on the appeal by the appeal administrator. The decision by the appeal authority must contain written reasons for the findings.

**23.4.7 Commencement of activity without authorisation**

Over the years since NEMA and its regulations were introduced, the competent authorities have occasionally been faced with the problem of how to deal with persons who commenced or continued with activities that require an EA, but for which they had not received (or even applied for) authorisation. This brought about an amendment to the NEMA in 2004 when sections 24F and G were inserted to deal with non-authorised activities.

Section 24F provided that the commencement or continuation of an unauthorised activity is a criminal offence, with a maximum penalty of a R5 million fine or ten years' imprisonment or both. 'Commence' was not originally defined in the Act<sup>27</sup> but in *Joint Owners of Remainder Erf*

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<sup>27</sup> The term 'commence' is now defined in the Act as 'the start of any physical implementation in furtherance of a listed activity or specified activity, including site preparation and any other action on the site or the physical implementation of a plan, policy, programme or process, but does not include any action required for the purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity'.<sup>27</sup>

*5216 Hartenbos v Minister for Local Government, Environmental Affairs and Development Planning Western Cape Province*,<sup>28</sup> the court held that for an activity to be in furtherance of the activity requiring authorisation (i.e. the identified activity) there must be a reasonably direct connection between the activity carried out and the activity requiring authorisation.<sup>29</sup>

This was augmented by s. 24G, which provided for a rather odd procedure whereby the offender (in terms of s. 24F), makes an application to the Minister/MEC, who may direct the applicant to compile a report containing:

- An assessment of the nature, extent, duration and significance of the impacts of the activity on the environment, including the cumulative effects;
- A description of mitigation measures undertaken or to be undertaken in respect of the impacts of the activity on the environment;
- A description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how issues raised have been addressed;
- An EMP
- Provide such other information or undertake such further studies as the Minister or MEC may deem necessary.

The Minister/MEC then considered the report submitted, but only upon payment by the person concerned of an 'administration fine' not exceeding R1 million (this is in addition to the fine provided for in s. 24F, which is a penalty imposed by a Court). Upon consideration of the report, the Minister/MEC may direct the person to cease the activity, either wholly or in part, and to rehabilitate the environment within such time and subject to such conditions as the Minister or MEC may deem necessary; or issue an environmental authorisation to such person subject to such conditions as the Minister or MEC may deem necessary.<sup>30</sup>

However, in practice, s. 24G was an alternative to s. 24F, and was, in effect, being used to rectify non-compliance with the law. A subsequent amendment to NEMA in 2013 made it clear (amongst other changes) that s. 24G was not an alternative to s. 24F, but that it could be used in addition to a criminal prosecution under s. 24F.

#### **23.4.8 Compliance monitoring and auditing**

The promulgation of the EIA regulations in GNR 982 ushered in a new regime in terms of compliance monitoring and auditing. EIAs and EMPs are required to be audited at intervals determined in the conditions attached to the Environmental Authorisation, with such intervals not exceeding 5 years. Chapter 5 part 3 of GNR 982 deals specifically with auditing, requiring that EIAs and EMPs be audited by independent and suitably qualified auditors. Such audits are the responsibility of the EA holder. The results of the audits are to be submitted to the

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<sup>28</sup> 2010 JDR 1249 (WCC).

<sup>29</sup> 2010 JDR 1249 (WCC) (n 318 above) para 41.

<sup>30</sup> Section 24G(2).

relevant competent authorities in the form of an audit report, setting out in an objective, verifiable and systematic manner the findings or non-compliances noted during the audit. The auditors are required to ensure that all audit reports meet the requirements as stipulated in Appendix 7 of the EIA regulations as contained in GNR 982.

### **23.4.9 Strategic instruments**

An understanding of the strategic context is explicitly required in both BAR and EIR. In recent years much emphasis was placed on the development of strategic instruments to strengthen and inform project level impact assessment. In this regard three main instruments are worth noting, namely: Environmental Management Frameworks (EMF), SEA and Spatial Development Frameworks (SDF).

#### **Environmental management frameworks (EMF)**

According to the EMF guidelines published on 10 October 2012 in GN 806, the purpose of an EMF is to function as a support mechanism in the EIA process during the evaluation and review of development applications, and to inform decision-making regarding land-use planning applications.

EMFs provide a compilation of information and maps, illustrating attributes of the environment for a specific geographical area which could be useful in a diverse field of environmental applications, including EIA processes, but also for other planning processes, such as the development of Integrated Development Plans (IDPs), SDFs and other open space planning applications. EMFs that have been adopted by the Minister can be used to facilitate the compilation and consideration of applications for environmental authorisation in terms of the EMF regulations<sup>31</sup>. In this regard:

- EMFs provide applicants with an early indication of the areas in which it would be potentially appropriate to undertake an activity;
- Co-operative government is facilitated through the identification of different regulatory responsibilities and recommending mechanisms for addressing the needs of the relevant authorities; and
- The competent authority has information which will guide and inform decision-making.

#### **Strategic Environmental Assessments**

South Africa has a long history of SEA practice dating back to the mid-1990s, however, to date SEA practice has been voluntary with no formal legal framework. Recent high-profile SEAs have been conducted for the energy sector, in particular for renewable energy and gas development. Learning from these SEAs has informed the thinking around SEA legislation going forward.

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<sup>31</sup> GNR 547 in GG 33306 of 18 June 2010

### **Spatial Development Framework (SDF)**

Spatial development frameworks (SDFs) are compulsory development planning instruments that must be developed as part of the IDPs for local and district municipalities<sup>32</sup>. The Spatial Planning and Land Use Management Act (SPLUMA) of 2013<sup>33</sup> also calls for the development of Provincial SDFs as well as a National SDF. SDFs are aimed at guiding and informing decision making relating to land use and development and must assist in integrating, coordinating, aligning and expressing development policies and plans emanating from the various sectors of the spheres of government.

Section 12 of SPLUMA states that SDFs must take cognisance of any environmental management instruments adopted by the relevant environmental management authority, while Section 21 further calls for a strategic assessment of the environmental pressures and opportunities within the municipal area, including the spatial location of environmental sensitivities, high potential agricultural land and coastal access strips, where applicable. In order to inform land use management and investment decisions, SDFs have to include maps which indicate the preferential and focal areas for certain types of land use; areas for which certain types of land use are excluded; and locations of IDP projects, to provide evidence of the compliance of the IDP with the spatial objectives and strategies reflected in these maps.

#### **23.4.10 Trans-boundary impacts**

South Africa lies at the southern tip of the African continent and is surrounded by the ocean to the west, south and east. The country shares its northern border with Namibia, Botswana, Zimbabwe and Mozambique. The country surrounds the Kingdom of Lesotho and most of the Kingdom of Eswatini. South Africa shares several river catchments with its neighbours e.g. the Orange-Senqu, Limpopo and Komati Rivers and has entered into several regional agreements regarding shared water courses such as ORASECOM (with Namibia, Botswana and Lesotho), the Lesotho Highlands Water Project (with Lesotho) and the Southern African Development Community Protocol on Shared Watercourse Systems. South Africa is also part of the Benguela Current Commission (with Namibia and Angola), and on the east coast, South Africa participates in the Agulhas Somali Current Large Marine Ecosystem programme.

South Africa has also been at the forefront of the development of trans-frontier conservation areas and is a signatory to 5 such parks with her neighbours.

Any project which requires a BAR or S&EIR which could have trans-boundary impacts falls under the competency of the Minister (rather than the Provincial MECs) (see s. 23.2.2). However, there are no further references in the Regulations on the need to conduct an assessment of trans-boundary impacts.

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<sup>32</sup> In terms of the Local Government: Municipal Systems Act 32 of 2000

<sup>33</sup> Act 16 of 2013

## 23.5 Other relevant environmental legislation in South Africa

South Africa has a large volume of laws relating to all aspects of development and the environment – too many to list here. However, the main statutes are summarised in Table 23.5 below.

**Table 23.5: Other potentially applicable sectoral requirements**

Sector	Primary agency	Title and date of document	Purpose
Water	Department of Water Affairs (DWA)	National Water Act, No. 36 of 1998, as amended	Provides for the regulation of activities which may impact on the water resource as well as providing for measures for the conservation and protection of water resources in South Africa.
Pollution	DEFF: Directorate: Integrated Pollution Prevention and Waste Management or relevant provincial competent authority	National Environmental Management: Waste Act (NEMWA), No. 59 of 2008	This is the principle act dealing with the regulation of waste and waste management activities. Provision is made for regulation of waste related activities.
Air quality	National, Province or District/Metro Municipalities	National Environmental Management: Air Quality Act, No. 39 of 2004	Provides for the protection of ambient air quality in South Africa through inter alia the regulation of emission activities.
Biodiversity	DEFF	National Environmental Management: Biodiversity Act 10 of 2004	Provides for the protection of south Africa's biodiversity resources and regulates activities related to alien and invasive species or activities dealing with threatened or protected species or ecosystems.
Coasts	DEFF	National Environmental Management: Integrated Coastal Management Act 24 of 2008	Provides for protection of the coastal zone and regulates discharge of effluent and dumping at sea.
Forests	DEFF	National Forests Act, No. 84 of 1998	A licence is required to cut, damage or destroy any listed indigenous trees. Permission is also required to erect infrastructure in state forests or to traverse state forests for linear activities.
Mining	Department of Mineral Resources (DMR)	Mineral and Petroleum Resources Development Act (MPRDA), No. 28 of 2004	Regulates mining activities in the country. Also regulates activities related to oil and gas production.

Sector	Primary agency	Title and date of document	Purpose
Cultural heritage	South African Heritage Resources Agency	National Heritage Resources Act, No. 25 of 1999	Provides for the protection of heritage resources in South Africa
Agriculture	DEFF	Sub-division of Agricultural Lands Act 70 of 1970	Permission required to sub-divide agricultural land or to register a long-term lease.
		Conservation of Agricultural Resources Act 43 of 1983	Provides for the conservation of soil and other agricultural resources in South Africa.



## Appendix 23-1: List of projects requiring a Basic Assessment

The activities listed in Listing Notice 1 for which a **Basic Assessment** is required in terms of sections 24(2)(a) and (d) of the NEMA, as promulgated in **Government Notice R983**,<sup>34</sup> are listed below.

- 1 The development of facilities or infrastructure for the generation of electricity from a renewable resource where—
  - (i) the electricity output is more than 10 megawatts but less than 20 megawatts; or
  - (ii) the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare;

excluding where such development of facilities or infrastructure is for photovoltaic installations and occurs—

  - (a) within an urban area; or
  - (b) on existing infrastructure.
- 2 The development and related operation of facilities or infrastructure for the generation of electricity from a non-renewable resource where—
  - (i) the electricity output is more than 10 megawatts but less than 20 megawatts; or
  - (ii) the output is 10 megawatts or less but the total extent of the facility covers an area in excess of 1 hectare.
- 3 The development and related operation of facilities or infrastructure for the slaughter of animals with a—
  - (i) product throughput of poultry exceeding 50 poultry per day;
  - (ii) product throughput of reptiles, game and red meat exceeding 6 units per day; or
  - (iii) wet weight product throughput of fish, crustaceans or amphibians exceeding 20 000 kg per annum.
- 4 The development and related operation of facilities or infrastructure for the concentration of animals in densities that exceed—
  - (i) 20 square metres per large stock unit and more than 500 units per facility;
  - (ii) 8 square meters per small stock unit and;
    - a. more than 1,000 units per facility excluding pigs where (b) applies; or
    - b. more than 250 pigs per facility excluding piglets that are not yet weaned;
  - (iii) 30 square metres per crocodile and more than 20 crocodiles per facility;
  - (iv) 3 square metres per rabbit and more than 500 rabbits per facility; or
  - (v) 250 square metres per ostrich or emu and more than 50 ostriches or emus per facility.
- 5 The development and related operation of facilities or infrastructure for the concentration of—
  - (i) more than 1,000 poultry per facility situated within an urban area, excluding chicks younger than 20 days;
  - (ii) more than 5,000 poultry per facility situated outside an urban area, excluding chicks younger than 20 days;

<sup>34</sup> Government Gazette 38282 dated 4 December 2014. Commencement date: 8 December 2014.  
As amended by: Government Notice 327 in Government Gazette 40772 dated 7 April 2017. Commencement date: 7 April 2017 and Government Notice 706 in Government Gazette 41766 dated 13 July 2018. Commencement date: 13 July 2018.

- (iii) more than 5,000 chicks younger than 20 days per facility situated within an urban area; or
  - (iv) more than 25,000 chicks younger than 20 days per facility situated outside an urban area.
- 6 The development and related operation of facilities, infrastructure or structures for aquaculture of—
- (i) finfish, crustaceans, reptiles or amphibians, where such facility, infrastructure or structures will have a production output exceeding 20,000 kg per annum (wet weight);
  - (ii) molluscs and echinoderms, where such facility, infrastructure or structures will have a production output exceeding 30,000 kg per annum (wet weight); or
  - (iii) aquatic plants, where such facility, infrastructure or structures will have a production output exceeding 60,000 kg per annum (wet weight);
- excluding where the development of such facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 7 in this Notice applies.
- 7 The development and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants, where the facility, infrastructure or structures will have a production output exceeding 50,000 kg per annum (wet weight).
- 8 The development and related operation of hatcheries or agri-industrial facilities outside industrial complexes where the development footprint covers an area of 2,000 square metres or more.
- 9 The development of infrastructure exceeding 1,000 metres in length for the bulk transportation of water or storm water—
- (i) with an internal diameter of 0,36 metres or more; or
  - (ii) with a peak throughput of 120 litres per second or more;
  - (iii) excluding where—
    - (a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve or railway line reserve; or
    - (b) where such development will occur within an urban area.
- 10 The development and related operation of infrastructure exceeding 1,000 metres in length for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes –
- (i) with an internal diameter of 0,36 metres or more; or
  - (ii) with a peak throughput of 120 litres per second or more;
- excluding where—
- (a) such infrastructure is for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes inside a road reserve or railway line reserve; or
  - (b) where such development will occur within an urban area.
- 11 The development of facilities or infrastructure for the transmission and distribution of electricity—
- (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or
  - (ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more;
- excluding the development of bypass infrastructure for the transmission and distribution of electricity where such bypass infrastructure is—
- (a) temporarily required to allow for maintenance of existing infrastructure;

- (b) 2 kilometres or shorter in length;
  - (c) within an existing transmission line servitude; and
  - (d) will be removed within 18 months of the commencement of development.
- 12 The development of—
- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or
  - (ii) infrastructure or structures with a physical footprint of 100 square metres or more;
- where such development occurs—
- (a) within a watercourse;
  - (b) in front of a development setback; or
  - (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —
- excluding—
- (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
  - (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
  - (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;
  - (dd) where such development occurs within an urban area;
  - (ee) where such development occurs within existing roads, road reserves or railway line reserves; or
  - (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.
- 13 The development of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50,000 cubic metres or more, unless such storage falls within the ambit of activity 16 in Listing Notice 2 of 2014.
- 14 The development and related operation of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.
- 15 The development of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding—
- (i) the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
  - (ii) the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
  - (iii) the development of temporary structures within the beach zone where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or
  - (iv) activities listed in activity 14 in Listing Notice 2 of 2014, in which case that activity applies.
- 16 The development and related operation of facilities for the desalination of water with a design capacity to produce more than 100 cubic metres of treated water per day.

## 17 Development—

- (i) in the sea;
- (ii) in an estuary;
- (iii) within the littoral active zone;
- (iv) in front of a development setback; or
- (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater; in respect of—
  - (a) fixed or floating jetties and slipways;
  - (b) tidal pools;
  - (c) embankments;
  - (d) rock revetments or stabilising structures including stabilising walls; or
  - (e) infrastructure or structures with a development footprint of 50 square metres or more —

but excluding—

- (aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
- (bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
- (cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or
- (dd) where such development occurs within an urban area.

## 18 The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10 square metres, within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where —

- (i) the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a maintenance management plan; or
- (ii) such planting of vegetation or placing of material will occur behind a development setback.

## 19 The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

- (a) will occur behind a development setback;
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.

## 19A The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—

- (i) the seashore;
- (ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or
- (iii) the sea; —

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

- (f) will occur behind a development setback;
- (g) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or

where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.

- 20 Any activity including the operation of that activity which requires a prospecting right in terms of section 16 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including—

- (a) associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource; or
- (b) the primary processing of a mineral resource including winning, extraction, classifying, concentrating, crushing, screening or washing;

but excluding the secondary processing of a mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource in which case activity 6 in Listing Notice 2 applies.

- 21 Any activity including the operation of that activity which requires a mining permit in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including —

- (a) associated infrastructure, structures and earthworks, directly related to the extraction of a mineral resource; or
- (b) the primary processing of a mineral resource including winning, extraction, classifying, concentrating, crushing, screening or washing;

but excluding the secondary processing of a mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource in which case activity 6 in Listing Notice 2 applies.

- 22 The decommissioning of any activity requiring –

- (i) a closure certificate in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); or
- (ii) a prospecting right, mining right, mining permit, production right or exploration right, where the throughput of the activity has reduced by 90% or more over a period of 5 years excluding where the competent authority has in writing agreed that such reduction in throughput does not constitute closure;

but excluding the decommissioning of an activity relating to the secondary processing of a –

- (a) mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource; or
- (b) petroleum resource, including the refining of gas, beneficiation, oil or petroleum products; –

in which case activity 31 in this Notice applies.

- 23 The development of cemeteries of 2 500 square metres or more in size.
- 24 The development of a road—
- (i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or
  - (ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;
- but excluding a road—
- (a) which is identified and included in activity 27 in Listing Notice 2 of 2014;
  - (b) where the entire road falls within an urban area; or
  - (c) which is 1 kilometre or shorter.
- 25 The development and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughput capacity of more than 2 000 cubic metres but less than 15 000 cubic metres.
- 26 Residential, retail, recreational, tourism, commercial or institutional developments of 1 000 square metres or more, on land previously used for mining or heavy industrial purposes; —
- excluding —
- (i) where such land has been remediated in terms of part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or
  - (ii) where an environmental authorisation has been obtained for the decommissioning of such a mine or industry in terms of this Notice or any previous NEMA notice; or
  - (iii) where a closure certificate has been issued in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) for such land.
- 27 The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—
- (i) the undertaking of a linear activity; or
  - (ii) maintenance purposes undertaken in accordance with a maintenance management plan.
- 28 Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:
- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or
  - (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;
- excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.
- 29 The release of genetically modified organisms into the environment, where assessment for such release is required by the Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997) or the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
- 30 Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
- 31 The decommissioning of existing facilities, structures or infrastructure for—

- (i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
  - (ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;
  - (iii) .....(deleted)
  - (iv) any phased activity or activities for development and related operation activity or expansion or related operation activities listed in this Notice or Listing Notice 3 of 2014; or
  - (v) any activity regardless the time the activity was commenced with, where such activity:
    - (a) is similarly listed to an activity in (i) or (ii) above; and
    - (b) is still in operation or development is still in progress;
 excluding where—
    - (aa) activity 22 of this notice applies; or
    - (bb) the decommissioning is covered by part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.
- 32 The continuation of any development where the environmental authorisation has lapsed and where the continuation of the development, after the date the environmental authorisation has lapsed, will meet the threshold of any activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014.
- 33 The underground gasification of 300 kilograms or more coal per day, including any associated operation.
- 34 The expansion of existing facilities or infrastructure for any process or activity where such expansion will result in the need for a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the release of emissions, effluent or pollution, excluding—
- (i) where the facility, infrastructure, process or activity is included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;
  - (ii) the expansion of existing facilities or infrastructure for the treatment of effluent, wastewater, polluted water or sewage where the capacity will be increased by less than 15 000 cubic metres per day; or
  - (iii) the expansion is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will be increased by 50 cubic meters or less per day.
- 35 The expansion of residential, retail, recreational, tourism, commercial or institutional developments on land previously used for mining or heavy industrial purposes, where the increased development footprint will exceed 1 000 square meters;
- excluding—
- (i) where such land has been remediated in terms of part 8 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or
  - (ii) where an environmental authorisation has been obtained for the decommissioning of such a mine or industry in terms of this Notice or any previous NEMA notice; or
  - (iii) where a closure certificate has been issued in terms of section 43 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) for such land.

- 36 The expansion of facilities or structures for the generation of electricity from a renewable resource where—
- (i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or
  - (ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more;
- excluding where such expansion of facilities or structures is for photovoltaic installations and occurs—
- (a) within an urban area; or
  - (b) on existing infrastructure.
- 37 The expansion and related operation of facilities for the generation of electricity from a non-renewable resource where—
- (i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or
  - (ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more.
- 38 The expansion and related operation of facilities for the slaughter of animals where the daily product throughput will be increased by more than—
- (i) 50 poultry;
  - (ii) 6 units of reptiles, red meat and game; or
  - (iii) 20,000 kg wet weight per annum of fish, crustaceans or amphibians.
- 39 The expansion and related operation of facilities for the concentration of animals in densities that will exceed—
- (i) 20 square metres per large stock unit, where the expansion will constitute more than 500 additional units;
  - (ii) 8 square meters per small stock unit, where the expansion will constitute more than;
    - (a) 1,000 additional units per facility or more excluding pigs where (b) applies; or
    - (b) 250 additional pigs, excluding piglets that are not yet weaned;
  - (iii) 30 square metres per crocodile where the expansion will constitute an additional 20 crocodiles or more;
  - (iv) 3 square metres per rabbit where the expansion will constitute more than 500 additional rabbits; or
  - (v) 250 square metres per ostrich or emu where the expansion will constitute more than 50 additional ostriches or emus.
- 40 The expansion and related operation of facilities for the concentration of poultry, excluding chicks younger than 20 days, where the capacity of the facility will be increased by—
- (i) more than 1,000 poultry where the facility is situated within an urban area; or
  - (ii) more than 5,000 poultry per facility situated outside an urban area.
- 41 The expansion and related operation of facilities, infrastructure or structures for aquaculture of—
- (i) finfish, crustaceans, reptiles or amphibians, where the annual production output of such facility, infrastructure or structures will be increased by 20,000 kg (wet weight) or more;
  - (ii) molluscs and echinoderms where the annual production output of such facility, infrastructure or structures will be increased by 30,000 kg (wet weight) or more; or



- (ii) aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 60,000 kg (wet weight) or more;
- excluding where the expansion of facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 42 in this Notice will apply.
- 42 The expansion and related operation of facilities, infrastructure or structures for aquaculture of sea-based cage culture of finfish, crustaceans, reptiles, amphibians, molluscs, echinoderms and aquatic plants where the annual production output of such facility, infrastructure or structures will be increased by 50,000 kg (wet weight) or more.
- 43 The expansion and related operation of hatcheries or agri-industrial facilities outside industrial complexes, where the development footprint of the hatcheries or agri-industrial facilities will be increased by 2,000 square metres or more.
- 44 The expansion of cemeteries by 2,500 square metres or more.
- 45 The expansion of infrastructure for the bulk transportation of water or storm water where the existing infrastructure—
- (i) has an internal diameter of 0,36 metres or more; or
- (ii) has a peak throughput of 120 litres per second or more; and
- (a) where the facility or infrastructure is expanded by more than 1,000 metres in length; or
- (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;
- excluding where such expansion—
- (aa) relates to transportation of water or storm water within a road reserve or railway line reserve; or
- (bb) will occur within an urban area.
- 46 The expansion and related operation of infrastructure for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes where the existing infrastructure—
- (i) has an internal diameter of 0,36 metres or more; or
- (ii) has a peak throughput of 120 litres per second or more; and
- (a) where the facility or infrastructure is expanded by more than 1 000 metres in length; or
- (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more;
- excluding where such expansion—
- (aa) relates to the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes within a road reserve or railway line reserve; or
- (bb) will occur within an urban area.
- 47 The expansion of facilities or infrastructure for the transmission and distribution of electricity where the expanded capacity will exceed 275 kilovolts and the development footprint will increase.
- 48 The expansion of—
- (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or
- (ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;

where such expansion occurs—

- (a) within a watercourse;
- (b) in front of a development setback; or
- (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;

excluding—

- (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
- (bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
- (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 23 in Listing Notice 3 of 2014, in which case that activity applies;
- (dd) where such expansion occurs within an urban area; or
- (ee) where such expansion occurs within existing roads, road reserves or railway line reserves.

*(Paragraph (cc) of Activity 48 amended by regulation 6(b) of Government Notice 706 in Government Gazette 41766 dated 13 July 2018)*

49 .....(deleted)

50 The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50 000 cubic metres or more.

51 The expansion and related operation of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by more than 80 cubic metres.

52 The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within existing ports or harbours where there will be no increase in the development footprint of the port or harbour and excluding activities listed in activity 23 in Listing Notice 3 of 2014, in which case that activity applies.

53 The expansion and related operation of facilities for the desalination of water where the design capacity will be expanded to produce an additional 100 cubic metres or more of treated water per day.

54 The expansion of facilities—

- (i) in the sea;
- (ii) in an estuary;
- (iii) within the littoral active zone;
- (iv) in front of a development setback; or
- (iv) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;

in respect of—

- (a) fixed or floating jetties and slipways;
  - (b) tidal pools;
  - (c) embankments;
  - (d) rock revetments or stabilising structures including stabilising walls; or
  - (e) infrastructure or structures where the development footprint is expanded by 50 square metres or more,
- but excluding—

- (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (bb) where such expansion occurs within an urban area.
- 55 Expansion—
- (i) in the sea;
  - (ii) in an estuary;
  - (iii) within the littoral active zone;
  - (iv) in front of a development setback; or
  - (iv) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;
- in respect of —
- (a) facilities associated with the arrival and departure of vessels and the handling of cargo;
  - (b) piers;
  - (c) inter- and sub-tidal structures for entrapment of sand;
  - (d) breakwater structures;
  - (e) coastal marinas;
  - (f) coastal harbours or ports;
  - (g) tunnels; or
  - (h) underwater channels;
- but excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.
- 56 The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre—
- (i) where the existing reserve is wider than 13,5 meters; or
  - (ii) where no reserve exists, where the existing road is wider than 8 metres;
- excluding where widening or lengthening occur inside urban areas.
- 57 The expansion and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage where the capacity will be increased by 15 000 cubic metres or more per day and the development footprint will increase by 1 000 square meters or more.
- 58 The increase of the amount of coal gasified underground, where any such increase exceeds 300 kg per day, including any associated operation.
- 59 The expansion and related operation of facilities or infrastructure for the refining, extraction or processing of gas, oil or petroleum products where the installed capacity of the facility will be increased by 50 cubic metres or more per day, excluding facilities for the refining, extraction or processing of gas from landfill sites.
- 60 The expansion and related operation of facilities or infrastructure for the bulk transportation of dangerous goods—
- (i) in gas form, outside an industrial complex, by an increased throughput capacity of 700 tons or more per day;
  - (ii) in liquid form, outside an industrial complex or zone, by an increased throughput capacity of 50 cubic metres or more per day; or
  - (iii) in solid form, outside an industrial complex or zone, by an increased throughput capacity of 50 tons or more per day.
- 61 The expansion of airports where the development footprint will be increased.
- 62 .....(deleted)
- 63 The expansion of facilities or infrastructure for the transfer of water from and to or between any combination of the following—
- (i) water catchments;
  - (ii) water treatment works; or
  - (iii) impoundments;

where the capacity will be increased by 50 000 cubic metres or more per day, but excluding water treatment works where water is treated for drinking purposes.

- 64 The expansion of railway lines, stations or shunting yards where there will be an increased development footprint, excluding—

- (i) railway lines, shunting yards and railway stations in industrial complexes or zones;
- (ii) underground railway lines in mines; or
- (iii) additional railway lines within the railway line reserve.

- 65 The expansion and related operation of—

- (i) an anchored platform; or
- (ii) any other structure or infrastructure;

on or along the sea bed, where the expansion will constitute an increased development footprint, excluding expansion of facilities, infrastructure or structures for aquaculture purposes.

- 66 The expansion of a dam where—

- (i) the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more; or
- (ii) where the high-water mark of the dam will be increased with 10 hectares or more.

- 67 Phased activities for all activities—

- (i) listed in this Notice, which commenced on or after the effective date of this Notice or similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;

excluding the following activities listed in this Notice: 17(i)(a-d); 17(ii)(a-d); 17(iii)(a-d); 17(iv)(a-d); 17(v)(a-d); 20; 21; 22; 24(i); 29; 30; 31; 32; 34; 54(i)(a-d); 54(ii)(a-d); 54(iii)(a-d); 54(iv)(a-d); 54(v)(a-d); 55; 61; 64; and 65; or

- (ii) listed as activities 5, 7, 8(ii), 11, 13, 16, 27(i) or 27(ii) in Listing Notice 2 of 2014 or similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;

where any phase of the activity was below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.

## Appendix 23-2: List of projects requiring an EIA

The activities for which an **EIA** is required in terms of section 24(2)(a) and (d) of the NEMA, as promulgated in **Government Notice R984**,<sup>35</sup> are listed below.

- 1 The development of facilities or infrastructure for the generation of electricity from a renewable resource where the electricity output is 20 megawatts or more, excluding where such development of facilities or infrastructure is for photovoltaic installations and occurs—
  - (a) within an urban area; or
  - (b) on existing infrastructure.
- 2 The development and related operation of facilities or infrastructure for the generation of electricity from a non-renewable resource where the electricity output is 20 megawatts or more.
- 3 The development and related operation of facilities or infrastructure for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products, nuclear waste or radioactive waste.
- 4 The development and related operation of facilities or infrastructure, for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of more than 500 cubic metres.
- 5 The development and related operation of facilities or infrastructure for the processing of a petroleum resource, including the beneficiation or refining of gas, oil or petroleum products with an installed capacity of 50 cubic metres or more per day, excluding activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies.
- 6 The development of facilities or infrastructure for any process or activity which requires a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding—
  - (i) activities which are identified and included in Listing Notice 1 of 2014;
  - (ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;
  - (iii) the development of facilities or infrastructure for the treatment of effluent, polluted water, wastewater or sewage where such facilities have a daily throughput capacity of 2 000 cubic metres or less; or
  - (iv) where the development is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will not exceed 50 cubic metres per day.
- 7 The development and related operation of facilities or infrastructure for the bulk transportation of dangerous goods—
  - (i) in gas form, outside an industrial complex, using pipelines, exceeding 1,000 metres in length, with a throughput capacity of more than 700 tons per day;
  - (ii) in liquid form, outside an industrial complex, using pipelines, exceeding 1,000 metres in length, with a throughput capacity of more than 50 cubic metres per day; or
  - (iii) in solid form, outside an industrial complex, using funiculars or conveyors with a throughput capacity of more than 50 tons per day.
- 8 The development of—
  - (i) airports; or
  - (ii) runways or aircraft landing strips longer than 1,4 kilometres.

<sup>35</sup> Government Notice R984 in Government Gazette 38282 dated 4 December 2014. Commencement date: 8 December 2014. As amended by: Government Notice 325 in Government Gazette 40772 dated 7 April 2017. Commencement date: 7 April 2017.

- 9 The development of facilities or infrastructure for the transmission and distribution of electricity with a capacity of 275 kilovolts or more, outside an urban area or industrial complex excluding the development of bypass infrastructure for the transmission and distribution of electricity where such bypass infrastructure is —
- (a) temporarily required to allow for maintenance of existing infrastructure;
  - (b) 2 kilometres or shorter in length;
  - (c) within an existing transmission line servitude; and
  - (d) will be removed within 18 months of the commencement of development.
- 10 .....(deleted)
- 11 The development of facilities or infrastructure for the transfer of 50 000 cubic metres or more water per day, from and to or between any combination of the following —
- (i) water catchments;
  - (ii) water treatment works; or
  - (iii) impoundments;
- excluding treatment works where water is to be treated for drinking purposes.
- 12 The development of railway lines, stations or shunting yards excluding —
- (i) railway lines, shunting yards and railway stations in industrial complexes or zones;
  - (ii) underground railway lines in a mining area; or
  - (iii) additional railway lines within the railway line reserve.
- 13 The physical alteration of virgin soil to agriculture, or afforestation for the purposes of commercial tree, timber or wood production of 100 hectares or more.
- 14 The development and related operation of—
- (i) .....(deleted)
  - (ii) an anchored platform; or
  - (iii) any other structure or infrastructure —
- on, below or along the sea bed;
- excluding —
- (a) development of facilities, infrastructure or structures for aquaculture purposes; or
  - (b) the development of temporary structures or infrastructure where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared.
- 15 The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—
- (i) the undertaking of a linear activity; or
  - (ii) maintenance purposes undertaken in accordance with a maintenance management plan.
- 16 The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.
- 17 Any activity including the operation of that activity which requires a mining right as contemplated in section 22 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including—
- (a) associated infrastructure, structures and earthworks, directly related to the extraction of a mineral resource; or
  - (b) the primary processing of a mineral resource including winning, extraction, classifying, concentrating, crushing, screening or washing;
- but excluding the secondary processing of a mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource in which case activity 6 in this Notice applies.
- 18 Any activity including the operation of that activity which requires an exploration right as contemplated in section 79 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including —
- (a) associated infrastructure, structures and earthworks; or
  - (b) the primary processing of a petroleum resource including winning, extraction, classifying, concentrating or water removal;
- but excluding the secondary processing of a petroleum resource, including the beneficiation or refining of gas, oil or petroleum products in which case activity 5 in this Notice applies.

- 19 The removal and disposal of minerals contemplated in terms of section 20 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including—
- (a) associated infrastructure, structures and earthworks, directly related to prospecting of a mineral resource; or
  - (b) the primary processing of a mineral resource including winning, extraction, classifying, concentrating, crushing, screening or washing; but excluding the secondary processing of a mineral resource, including the smelting, beneficiation, reduction, refining, calcining or gasification of the mineral resource in which case activity 6 in this Notice applies.
- 20 Any activity including the operation of that activity which requires a production right as contemplated in section 83 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), including —
- (a) associated infrastructure, structures and earthworks; or
  - (b) the primary processing of a petroleum resource including winning, extraction, classifying, concentrating or water removal; but excluding the secondary processing of a petroleum resource, including the beneficiation or refining of gas, oil or petroleum products in which case activity 5 in this Notice applies.
- 21 .....(deleted)
- 22 .....(deleted)
- 23 The reclamation of an island or parts of the sea.
- 24 The extraction or removal of peat or peat soils, including the disturbance of vegetation or soils in anticipation of the extraction or removal of peat or peat soils, but excluding where such extraction or removal is for the rehabilitation of wetlands in accordance with a maintenance management plan.
- 25 The development and related operation of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughput capacity of 15,000 cubic metres or more.
- 26 Development—
- (i) in the sea;
  - (ii) in an estuary;
  - (iii) within the littoral active zone;
  - (iv) in front of a development setback; or
  - (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;
- in respect of —
- (a) facilities associated with the arrival and departure of vessels and the handling of cargo;
  - (b) piers;
  - (c) inter- and sub-tidal structures for entrapment of sand;
  - (d) breakwater structures;
  - (e) coastal marinas;
  - (f) coastal harbours or ports;
  - (g) tunnels; or
  - (h) underwater channels;
- but excluding the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour.
- 27 The development of a road—
- (i) .....(deleted)
  - (ii) .....(deleted)
  - (iii) with a reserve wider than 30 metres; or
  - (iv) catering for more than one lane of traffic in both directions;
- but excluding a road—
- (a) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010, in which case activity 24 in Listing Notice 1 of 2014 applies;
  - (b) which is 1 kilometre or shorter; or
- I where the entire road falls within an urban area.
- 28 .....(deleted)

- 29 The expansion and related operation of facilities for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products, nuclear waste or radioactive waste.



## Appendix 23-3: Listing Notice 3

The purpose of this Notice<sup>36</sup> (Listing Notice 3 of Government Notice R985) is to list activities and identify competent authorities under sections 24(2), 24(5) and 240 of the NEMA, 1998, where Environmental Authorisation is required before commencement of that activity in specific identified geographical areas only.

If the reader wishes to construct or install any of the following, they should consult Listing Notice 3 with reference to the specific province, and area within the province (with reference to the geographical areas based on environmental attributes), which may require them to obtain an Environmental Authorisation.

1. The development of billboards exceeding 18 square metres in size outside urban areas, mining areas or industrial complexes.
2. The development of reservoirs, excluding dams, with a capacity of more than 250 cubic metres.
3. The development of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast or tower—
  - (a) is to be placed on a site not previously used for this purpose; and
  - (b) will exceed 15 metres in height—but excluding attachments to existing buildings and masts on rooftops.
4. The development of a road wider than 4 metres with a reserve less than 13,5 metres.
5. The development of resorts, lodges, hotels, tourism or hospitality facilities that sleep less than 15 people.
6. The development of resorts, lodges, hotels, tourism or hospitality facilities that sleeps 15 people or more.
7. The development of aircraft landing strips and runways 1,4 kilometres and shorter.
8. The development and related operation of above ground cableways and funiculars.
9. The development and related operation of ziplines or foefieslides exceeding 100 metres in length.
10. The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.
11. The development of tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles excluding conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles.
12. The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.
13. The development and related operation of facilities of any size for any form of aquaculture.
14. The development of—
  - (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or
  - (ii) infrastructure or structures with a physical footprint of 10 square metres or more; where such development occurs—
    - (a) within a watercourse;
    - (b) in front of a development setback; or
    - (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; excluding the development of infrastructure

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<sup>36</sup> Government Notice R985 in Government Gazette 38282 dated 4 December 2014. Commencement date: 8 December 2014. As amended by: Government Notice 324 in Government Gazette 40772 dated 7 April 2017. Commencement date: 7 April 2017; and Government Notice 706 in Government Gazette 41766 dated 13 July 2018. Commencement date: 13 July 2018..

- or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.
15. The transformation of land bigger than 1,000 square metres in size, to residential, retail commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.
  16. The expansion of reservoirs, excluding dams, where the capacity will be increased by more than 250 cubic metres.
  17. The expansion of a resort, lodge, hotel, tourism or hospitality facilities where the development footprint will be expanded and the expanded facility can accommodate an additional 15 people or more.
  18. The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.
  19. The expansion of runways or aircraft landing strips where the expanded runways or aircraft landing strips will be longer than 1,4 kilometres in length.
  20. The expansion and related operation of above ground cableways and funiculars where the development footprint will be increased.
  21. The expansion of tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles excluding conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles, where the development footprint will be expanded.
  22. The expansion and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage facilities or infrastructure will be expanded by 30 cubic metres or more but no more than 80 cubic metres.
  23. The expansion of—
    - (i) dams or weirs where the dam or weir is expanded by 10 square metres or more; or
    - (ii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more;where such expansion occurs—
    - (a) within a watercourse;
    - (b) in front of a development setback adopted in the prescribed manner; or
    - (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.
  24. The expansion and related operation of facilities of any size for any form of aquaculture.
  25. The expansion and related operation of zip-lines or foefie-slides, where the zip-line or foefie-slide is expanded by 100 metres in length or more.
  26. Phased activities for all activities—
    - (i) listed in this Notice and as it applies to a specific geographical area, which commenced on or after the effective date of this Notice; or
    - (ii) similarly listed in any of the previous NEMA notices, and as it applies to a specific geographical area, which commenced on or after the effective date of such previous NEMA Notices—where any phase of the activity was below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold; —excluding the following activities listed in this Notice: 7; 8; 11; 13; 20; 21; and 24.

## Acronyms

<b>BAR</b>	Basic Assessment Report
<b>DAFF</b>	Department of Agriculture, Forestry and Fisheries (old)
<b>DEA</b>	Department of Environmental Affairs (old)
<b>DEFF</b>	Department of Environment, Forestry and Fisheries (new)
<b>DMR</b>	Department of Mineral Resources
<b>DWA</b>	Department of Water Affairs (new)
<b>DWAF</b>	Department of Water Affairs and Forestry (old)
<b>DWS</b>	Department of Water and Sanitation (old)
<b>EA</b>	Environmental Authorisation
<b>EAP</b>	Environmental Assessment Practitioner
<b>EAPASA</b>	Environmental Assessment Practitioners Association of South Africa
<b>EIA</b>	Environmental Impact Assessment
<b>EIR</b>	Environmental Impact Report
<b>EMF</b>	Environmental Management Framework
<b>EMP</b>	Environmental Management Plan
<b>EMPr</b>	Environmental Management Programme
<b>GNR</b>	Government Notice Regulations
<b>I&amp;AP</b>	Interested And Affected Party
<b>IDP</b>	Integrated Development Plan
<b>MEC</b>	Member of the Executive Committee (head of provincial government department)
<b>MPRDA</b>	Minerals and Petroleum Resources Development Act
<b>NCCAS</b>	National Climate Change Adaptation Strategy
<b>NEMA</b>	National Environmental Management Act, No. 107 of 1998, as amended
<b>NEMWA</b>	National Environmental Management Waste Act, No. 59 of 2008
<b>R</b>	Rand
<b>SADC</b>	Southern African Development Community
<b>SANS</b>	South African National Standards
<b>SDF</b>	Spatial Development Framework
<b>SEA</b>	Strategic Environmental Assessment
<b>SPLUMA</b>	Spatial Planning and Land Use Management Act
<b>S&amp;EIR</b>	Scoping and Environmental Impact Report

## Useful contacts

Department	Contact	Telephone	Fax	Email or web address
<b>National Department of Environment, Forestry and Fisheries</b>				
Minister	Ms Barbara Creecy	012 399 9141		<a href="http://www.environment.gov.za">www.environment.gov.za</a> <a href="mailto:MSipilica@environment.gov.za">MSipilica@environment.gov.za</a>
Director-General	Nosipho Ngcaba	086 111 2468 012 399 9008		<a href="mailto:dg@environment.gov.za">dg@environment.gov.za</a>
Climate Change, Air Quality and Sustainable Development	Dr. Tsakani Ngomane			<a href="mailto:tngomane@environment.gov.za">tngomane@environment.gov.za</a>
Chemicals and Waste Management	Mr Mark Gordon			<a href="mailto:mgordon@environment.gov.za">mgordon@environment.gov.za</a>
Legal, Authorisation, Compliance and Enforcement	Mr Ishaam Abader			<a href="mailto:iabader@environment.gov.za">iabader@environment.gov.za</a>
Biodiversity and Conservation	Mr Shonisani Munzhedzi			<a href="mailto:smunzhedzi@environment.gov.za">smunzhedzi@environment.gov.za</a>
Oceans and Coasts	Ms Judy Beaumont			<a href="mailto:jbeaumont@environment.gov.za">jbeaumont@environment.gov.za</a>
Environmental Programmes	Dr. Guy Robert Preston			<a href="mailto:gpreston@environment.gov.za">gpreston@environment.gov.za</a>
<b>Provincial departments</b>				
Eastern Cape Department of Economic Development and Environmental Affairs (DEDEA)	Head of Department: Mr Bongani Gxilishe	043 605 7004	043 605 7304	<a href="http://www.dedea.gov.za">www.dedea.gov.za</a> <a href="mailto:fezeka.boyi@dedea.gov.za">fezeka.boyi@dedea.gov.za</a>
Free State Department of Economic Development, Tourism and Environmental Affairs (DEDTEA)	Head of Department: Dr. M. Nokwequ	051 400 4913	051-400-9523	<a href="http://www.edtea.fs.gov.za">http://www.edtea.fs.gov.za</a>
Gauteng Department of Agriculture and Rural Development	Ms Matilda Gasela	011 240 2500/3457	011-333-1239	<a href="https://www.gauteng.gov.za">https://www.gauteng.gov.za</a> <a href="mailto:ntshepiseng.moloi@gauteng.gov.za">ntshepiseng.moloi@gauteng.gov.za</a>
KwaZulu-Natal Department Agriculture, Environmental Affairs and Rural Development (DAEARD)	Head of Department (acting) Mr Siza Sibande	033-264 2806	033-355-9293	<a href="http://www.kznedtea.gov.za">http://www.kznedtea.gov.za</a> <a href="mailto:siza.sibande@kznedtea.gov.za">siza.sibande@kznedtea.gov.za</a>
Limpopo Department of Economic Development, Environment and Tourism (LEDET)	Head of Department: Mr Solly Kgopong	015 293 8648	015 293 8319	<a href="http://www.ledet.gov.za">www.ledet.gov.za</a>
Mpumalanga Department of Economic Development, Environment and Tourism (DEDET)	Head of Department: Ms SP Xulu	013-766-6020	–	<a href="http://www.mpumalanga.gov.za">www.mpumalanga.gov.za</a> <a href="mailto:rmadalane@mpg.gov.za">rmadalane@mpg.gov.za</a>
Northern Cape Department of Environmental Affairs and Nature Conservation (DEANC)	Head of Department: Mr Mandla Ndzilili	053-807-7300	053-807-7328	<a href="http://www.denc.ncpg.gov.za">www.denc.ncpg.gov.za</a>
North West	Head of Department:	018-387- 9440	–	<a href="http://www.nwpg.gov.za/deduct/">www.nwpg.gov.za/deduct/</a>

Department of Economic Development, Environment, Conservation and Tourism	Mr. Lufuno Tshikovhi			
Western Cape Department of Environmental Affairs and Development Planning (DEA&DP)	Head of Department: Pieter van Zyl	021 483 4091	021 483 3016	<a href="http://www.westerncape.gov.za/eadp/">www.westerncape.gov.za/eadp/</a> <a href="mailto:Pieter.vanZyl@westerncape.gov.za">Pieter.vanZyl@westerncape.gov.za</a>