
GENERAL NOTICE

NOTICE 603 OF 2010

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) PUBLICATION OF IMPLEMENTATION GUIDELINES FOR COMMENT

The Minister of Water and Environmental Affairs hereby gives notice of her intention to publish under section 24J of the National Environmental Management Act, 1998 (Act No. 107 of 1998) the following draft Implementation Guidelines attached hereto for general public comment:

- (a) Companion Document on the Environmental Impact Assessments Regulations, 2010;
- (b) Public Participation Guideline;
- (c) Environmental Management Framework Guidelines.

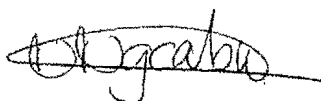
Members of the public are invited to submit written representations or comments to the Director –General: Environmental Affairs, within 30 days of the publication of the notice in the *Gazette*, to the following addresses:

By post to: The Director-General: Environmental Affairs
Attention: Mr S. Moganetsi
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Delivered to: The Department of Environmental Affairs
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By fax to: (012) 310-3688, and e-mail to SMoganetsi@environment.gov.za

Comments received after the closing date may not be considered.



NOSIPHO NGCABA
DIRECTOR-GENERAL: ENVIRONMENTAL AFFAIRS



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

INTEGRATED ENVIRONMENTAL MANAGEMENT GUIDELINE SERIES 5

**COMPANION TO THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT
(NEMA) ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS
OF 2010**

Further titles in this series of guideline documents are being prepared and will be made available periodically. Sequence of release and titles are subject to change

Guideline Series 1	Environmental Management Co-operation Agreements
Guideline Series 2	NEMA S24G(ECA applications)
Guideline Series 3	NEMA S24G
Guideline Series 4	Strategic Environmental Assessment
Guideline Series 5	Companion to the NEMA EIA Regulations of 2010
Guideline Series 6	Environmental Management Framework
Guideline Series 7	Public Participation
Guideline Series 8	Handbook for authorities on handling the appeals in terms of NEMA S43

ISSUED BY:

Department of Environmental Affairs
Private Bag X447
Pretoria
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South Africa

These documents are available on the DEA website <http://www.environment.gov.za>

PLEASE NOTE: These documents are guidelines and serve as reference and supportive text only and cannot take the place of legal advice in a specific situation governed by legislation. These documents will not take the place of any regulations published by DEA.

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ENQUIRIES AND COMMENTS

All enquiries and comments should be addressed to:
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REFERENCING

When referencing this document, it should be cited as follows:

DEA (2010), Companion to the EIA Regulations 2010, Integrated Environmental Management Guideline Series 5, Department of Environmental Affairs
(DEA), Pretoria, South Africa
ISBN:

PREFACE

This document is one of the series of guideline documents on environmental impact management legislation and regulations. The material in this document is intended to be used as an accompanying document to the NEMA EIA regulations 2010; it makes available the content of the new EIA regulations in laymen's terms.

ACKNOWLEDGEMENTS

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ABBREVIATIONS

BA	Basic assessment
BAR	Basic assessment report
CA	Competent authority
CBO	Community based organisation
DEA	Department of Environmental Affairs
DMR	Department of Mineral Resources
EA	Environmental authorisation
EAP	Environmental assessment practitioner
ECA	Environment Conservation Act (Act No. 73 of 1989)
EIA	Environmental impact assessment
EIR	Environmental impact report
EMF	Environmental management framework
EMPr	Environmental management programme
I&APs	Interested and/or affected parties
IEM	Integrated environmental management
MEC	Member of the Executive Council (Provincial government)
MPRDA	Minerals and Petroleum Resources Development Act (Act 28 of 2002)
NEMA	National Environmental Management Act (Act No. 107 of 1989) as amended
PAIA	Promotion of Access to Information Act (Act No. 2 of 2000)
PAJA	Promotion of Administrative Justice Act (Act No. 3 of 2000)
S & EIR	Scoping and environmental impact assessment report
SR	Scoping report
PoS-EIR	Plan of study for environmental impact report

1. INTRODUCTION AND LEGAL BACKGROUND

Section 24 of the Constitution of the Republic of South Africa of 1996 guarantees everyone a right to an environment that is not harmful to their health and well-being and to have the environment protected for the benefit of present and future generations. In order to give effect to this right, the National Environmental Management Act (NEMA), Act 62 of 2008 came into effect in May 2009. Section 24J provides for the Minister or MEC, with concurrence of the Minister, to publish guidelines.

This document is one of a series of guidelines developed by the Department of Environmental Affairs (DEA) to provide clarity on aspects of the environmental impact assessment (EIA) regulations of 2010, as related to the concepts of integrated environmental management (IEM). The key challenge of IEM is to support sustainable development through the use of appropriate tools for environmental impact assessment and management. To this end, IEM in South Africa is being actively promoted through the ongoing development and implementation of environmental policy and legislation, systems and tools as well as training, communication and awareness programmes.

This document serves as a guideline for the 2010 regulations and their implementation and it provides:

- clarification on the regulations and the related provisions of NEMA and its amendments;
- answers to frequently asked questions regarding the implementation of the EIA regulations; and
- guidance on the interpretation of listed activities.

2. PURPOSE OF THE GUIDELINE

The aim of this guideline is to provide a detailed consideration on the practical implementation of the regulations. Specifically, the guideline provides clarity on the processes to be followed when applying for an environmental authorisation in terms of the EIA regulations and gives a comprehensive interpretation of the listed activities. This guideline should be used as a reference document to the NEMA EIA regulations of 2010.

3. GENERAL MATTERS

3.1 Identification of the Competent Authority (CA)

The competent authority (CA) is defined in terms of section 1 of NEMA as the organ of state charged by this Act with evaluating the environmental impact of that activity and, where appropriate, with granting or refusing an environmental authorisation in respect of that activity. As such the CA is the body or entity that fulfils the administrative function of registering, considering and approving (where applicable) all documentation related to the assessment.

In most cases, the MEC responsible for environmental affairs in a province is the CA if the application is province specific. The Minister of Environmental Affairs is the CA for all applications that are being processed by the national department (DEA).

The Minister of Mineral Resources will be the competent authority for mining related applications.

The Minister/MEC can delegate certain responsibilities to officials within their respective departments.

The CA provides guidance on the relevant legislation and associated information sources such as guidelines and policies (both national and provincial) that are compulsory and that will enhance the processing of the environmental impact assessment applications. The CA may provide specific input on the scope of the environmental impact assessment process and will require information from the environmental assessment practitioner (EAP) that will allow the CA to reach an informed decision.

3.2 The Applicant

An applicant is a person (including juristic person) who has submitted an application for environmental authorisation, exemption or amendments to environmental authorisations.

The regulations require the applicant to appoint an environmental assessment practitioner (EAP) who will comply with the regulations on behalf of the applicant. The applicant must therefore provide the environmental impact assessment team and specifically the EAP, with a detailed but precise statement of the purpose and need for the proposed activity, as well as information that will allow the EAP to determine the appropriate level of the environmental impact assessment.

3.3 Environmental Assessment Practitioner

An EAP is an individual responsible for the planning, management and coordination of environmental impact assessments, strategic environmental assessments, environmental management programmes or any other appropriate environmental management instruments introduced through regulations. The EAP must be independent, objective and have expertise in conducting environmental impact assessments. Such expertise should include knowledge of all relevant legislation and of any guidelines that have relevance to the proposed activity.

An EAP or parent company may not be involved in post decision (including Appeal decision) activities, including but not limited to, landscaping, design, engineering work, and environmental monitoring and compliance as this could impact on an EAP's objectivity.

3.4 Interested and Affected Parties

An interested and affected party (I&AP) is defined as any person, group of persons or organisation interested in or affected by an activity, and any organ of state that may have jurisdiction over any aspect of

the activity. There is however a difference between I&AP and a registered I&AP. A registered I&AP is a person who has formally registered for the environmental impact assessment process.

An I&AP can be directly or indirectly impacted on by a proposed activity. For instance, an I&AP may be a resident in close proximity to the proposed activity, a member of the wider public, a worker or member of staff in a nearby business premises or residence, non-governmental organisations (NGOs), community-based organisations (CBOs), and/or organs of state. If not directly affected but rather an interested party, an I&AP can be almost any person, group of persons, or organisations.

3.5 Timeframes for the Competent Authority

Timeframes are outlined in Regulation 9 and clearly specified in the respective process (basic assessment and scoping and environmental impact report) of the EIA regulations of 2010. The CA has 14 days to acknowledge receipt of the application, and 30 days to consider the basic assessment report [regulation 24(1)(a)] or scoping report [regulation 30(1)] (i.e. accept the report if it's in order or reject it if not in order). It has 60 days to consider an environmental impact assessment report [regulation 34(2)], and 30 days to issue a decision on an application [regulation 25(1)] or 45 days to decide on a scoping application in terms of Regulation 35.

The timeframes for the accepting of the environmental reports i.e. basic assessment report (BAR), scoping report (SR) and environmental impact assessment report (EIR) or required information are automatically extended by 60 days if they are not met by the CA. Similarly, the timeframe for issuing decisions on applications (i.e. granting or refusal of applications for environmental authorisation) are automatically extended by 60 days if they are not met by the CA.

Upon the lapsing of such an extension of timeframes related to the consideration of the above mentioned reports or deciding on applications, the competent authority must use the available information to make a decision within 30 days in terms of the provisions of sections 6(2)(g) and (3) of PAJA.

When the competent authority requests comments from other departments of state on the draft reports, those departments must provide such comments within 40 days.

4. APPLICATION FOR ENVIRONMENTAL AUTHORISATION

The following is an explanation of the regulations in the format of frequently asked questions and must be read with the regulations.

Where to submit an application?	
Regulation 4 Regulation 12	<p>An application must be submitted to the relevant competent authority.</p> <p>In a case where:</p> <ul style="list-style-type: none"> • the Minister is the competent authority,- an application must be submitted to the DEA; • the MEC is the competent authority,- an application must be submitted to the relevant provincial department responsible for environmental affairs; or • the Minister of Mineral Resources is the competent authority,- an application must be submitted to the relevant regional office of the Department of Mineral Resources (DMR). <p>The listing notices containing the listed activities indicate the CA for each of the listed activities.</p>
What to consider when submitting an application?	
Regulation 12 (2) Regulation 15 (1)	<p>An application form for EA must always be submitted before conducting either BA or S&EIR.</p> <p>For basic assessment applications [regulation 23 (b)], an EAP / applicant must submit the prescribed fee, where applicable, as well as at least 5 copies of the following documents:</p> <ul style="list-style-type: none"> • basic assessment report; • any representations, objections and comments received in connection with the application or BA report; • the minutes of any meetings held by the EAP with I&APs and other role players which record the views of the participants; • any responses by the EAP to those representations, comments and views; • declaration of interest by the EAP on a form provided by the CA(if applicable); • if the applicant is not the owner of the land, a copy of a written notice of the proposed activity to the owner, the manager or person in control of the land; and • proof of receipt of such notice by the owner, manager or person in control of the land. <p>For scoping and environmental impact report (S&EIR) applications [regulation 26 (b)], an EAP / applicant must first submit the application form followed by the prescribed fee if any, together with the following documents:</p>

	<ul style="list-style-type: none"> • declaration of interest by the EAP on a form provided by the CA(if applicable); • if the applicant is not the owner of the land, a copy of a written notice of the proposed activity to the owner, the manager or person in control of the land; • proof of receipt of such notice by the owner, manager or person in control of the land; and • 5 copies of the scoping report. <p>In terms of the Mineral and Petroleum Resources Development Act (MPRDA), an application for any right or permit may be submitted simultaneously with an application for an environmental authorisation (EA) [regulation 12 (3a)].</p>
What happens after an application has been submitted?	
Regulation 13	<p>A competent authority must, within 14 days of receipt of the application, and in writing:</p> <ul style="list-style-type: none"> • acknowledge receipt of and accept the application if it is in order, or • acknowledge receipt and inform the applicant if it's not in order. <p>An application must:</p> <ul style="list-style-type: none"> • be properly completed and contain the required information; • be accompanied by any reports, other documents and fees required; and • take into account any applicable guidelines to the submission of the application. <p>Any application that has been rejected may be corrected and resubmitted to comply with the above requirements.</p> <p>No applicant may submit an application which is substantially similar to a previous application which has been refused, unless the new application contains new or material information not previously submitted to the CA, or a period of three years has lapsed (regulation 68).</p> <p>An application lapses if the applicant, after having submitted the application, fails for a period of six months to comply with a requirement in terms of these Regulations relating to the consideration of the application, unless the reasons for failure have been communicated to and accepted by the CA (regulation 67).</p>
Can applications be combined?	
Regulation 14	<p>In a case where more than one activity requires authorisation and such activities form part of the same development, a single application should be submitted. In a case where the same activity is to be undertaken in different locations, different applications must be submitted.</p>

	<p>However, the CA may grant permission for a single application to be submitted. Such a single application is limited to activities that fall within the jurisdiction of the relevant CA. For clarity on CA jurisdiction, refer to section 24C of NEMA</p> <p>An applicant can decide, in consultation with the CA, whether to submit such a single application or different applications. All implications for both scenarios should be carefully considered.</p>
What happens if the applicant is not the owner of the land?	
Regulation 15	<p>An applicant must give written notice of the proposed activity to the owner or the person in control of the land and inform such person that he/she may participate in the public participation process.</p> <p>Proof of such written notice to the owner or person in control of the land must be submitted with the BAR or scoping report.</p> <p>In case the owner is unable to understand the content of the notice due to disability, illiteracy or any other disadvantage, the applicant may use alternative means approved by the CA to notify the owner.</p>
Can an applicant manage his/her own application?	
Regulation 17	<p>An applicant may in his/her own right submit an application form (only the application form).</p> <p>An applicant must appoint an EAP at own cost to manage the application.</p> <p>An applicant may apply for exemption from the requirement to appoint an EAP [regulation 50].</p> <p>Such exemption must be obtained prior to conducting the applicable assessment process.</p>
What are the requirements for appointing an EAP?	
Regulation 17	<p>An EAP must:</p> <ul style="list-style-type: none"> • be independent; • have expertise in conducting EIAs, including knowledge of the Act and Regulations and any guidelines relevant to the proposed activity; • be objective; • be compliant with the Act and all relevant legislation; • consider all other relevant factors for application and any reports [regulation 8]; and • disclose all relevant available information to the applicant and CA.
Can an EAP be disqualified?	
Regulation 18	If the CA is not convinced that the EAP is independent, the CA must:

	<ul style="list-style-type: none"> • notify the EAP and applicant that the application has been suspended until the matter is resolved and the reasons therefore; and • afford the EAP and applicant an opportunity to make representations to the CA, in writing. <p>If after consideration of the matter, the CA is still not convinced that the EAP is independent, the CA must in writing inform the EAP and applicant, and may:</p> <ul style="list-style-type: none"> • refuse to accept any further reports or inputs from the EAP; • request the applicant to commission an external review at own cost; • request appointment of another EAP at own cost; or • request the applicant to undertake remedial actions. <p>It is the responsibility of the applicant to inform I&APs of any decision taken and give reasons for the decision (regulation 53).</p>
What are the criteria to determine the process required for an application?	
Regulation 20	<p>Basic assessment must be applied:</p> <ul style="list-style-type: none"> • to the activities that are listed under GNR.....; or • if the applicant has been granted permission by the CA to apply BA instead of scoping and EIR. <p>Scoping and EIR must be applied:</p> <ul style="list-style-type: none"> • to the activities that are listed under GNR.....; • if the applicant has been granted permission by the CA to apply scoping and EIR instead of BA; or • the application is for two or more activities as part of the same development and any requires scoping and EIR. <p>The CA may grant permission to the EAP/applicant to conduct a BA process for activities listed as S&EIR and vice versa.</p>

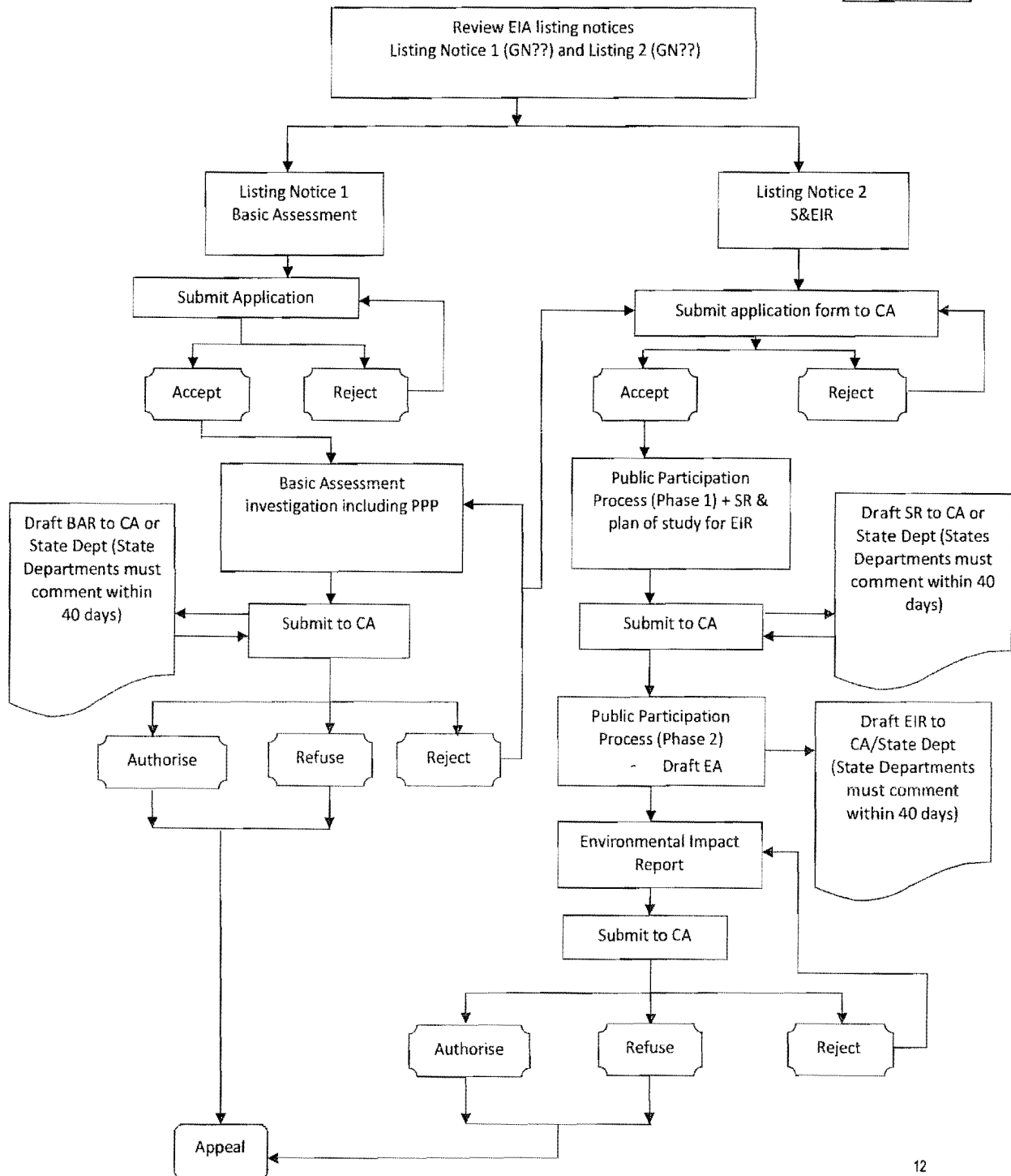
5. ENVIRONMENTAL AUTHORISATION PROCESSES

An EIA process can be defined as a process of examining the possible/potential environmental effects of a development. In the NEMA EIA regulations, the process has been split into two types of assessment, namely a basic assessment process and a scoping and EIA process as indicated in the listing notices.

The difference between the processes relates to the nature of the proposed development in terms of its potential impact on the environment, and this is reflected in the level of detail of the information that is collected.

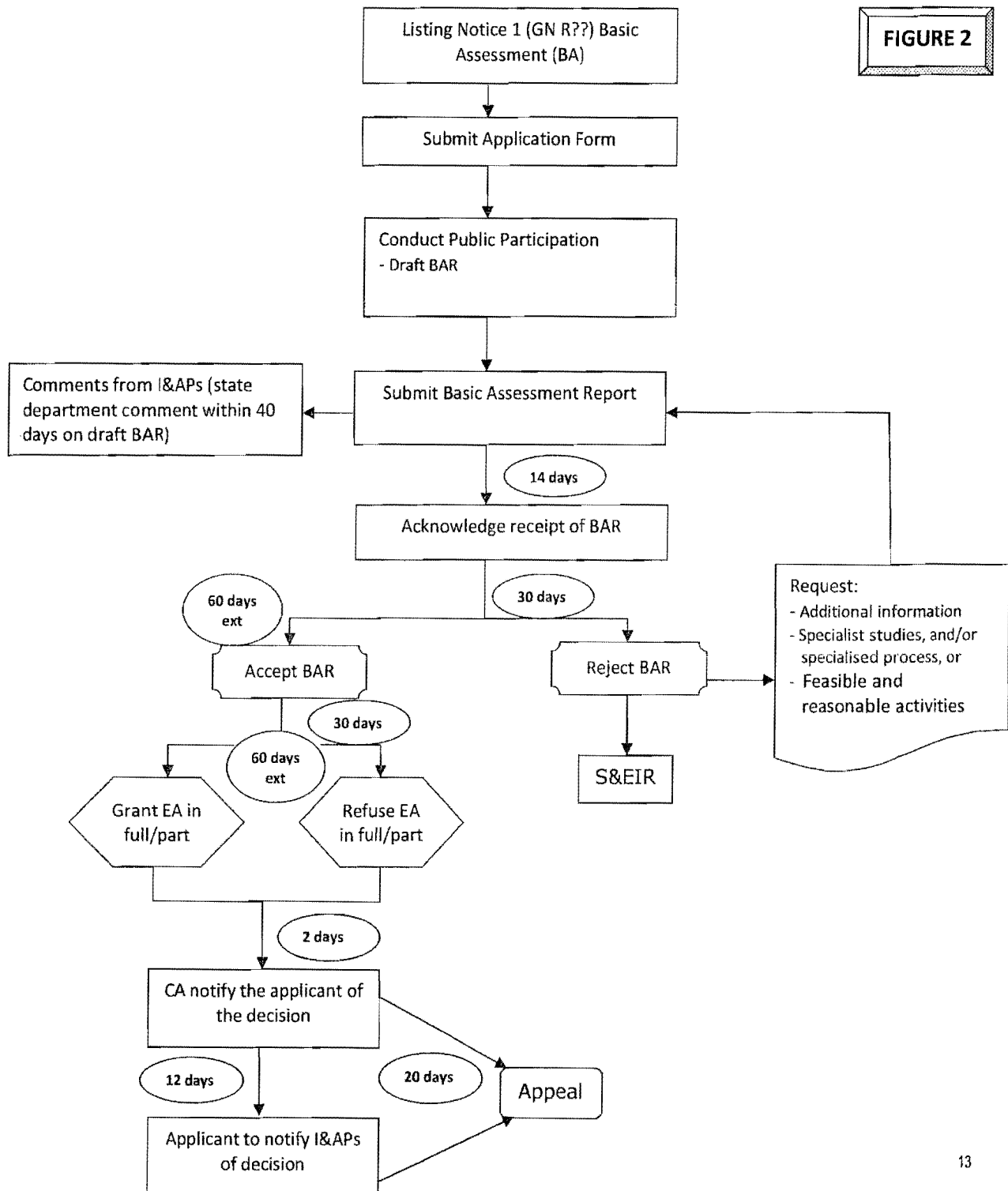
THE IMPACT ASSESSMENT PROCESS

FIGURE 1



6. BASIC ASSESSMENT

A basic assessment (BA) is the procedure designed for listing notices 1 and 3 where the impacts of activities are more generally known and can be easily managed. Even if the activity is listed in notice 2, a request can be made to the CA to rather conduct BA instead of S&EIA. BA is a shorter process with a minimum number of interactions with the CA. The BA process is completed prior to application being made to the CA.

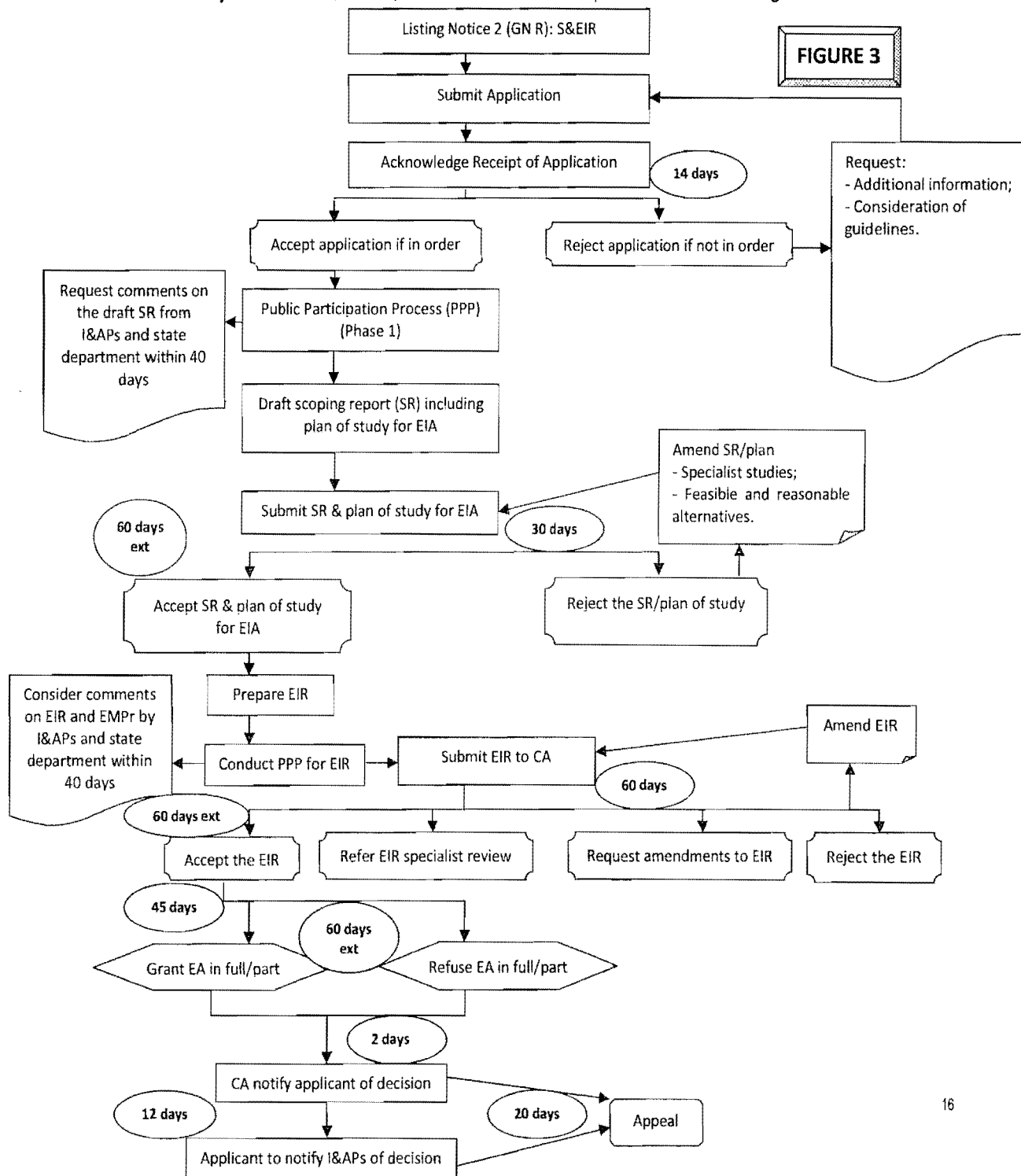


Description of the BA process	
Regulations 21-25	<p>The applicant/EAP must submit an application form together with the EAP's declaration of interest and the land owner notification documentation.</p> <p>The EAP must:-</p> <ul style="list-style-type: none"> - conduct public participation (regulation 54-57) - open and maintain register of I&APs; - consider objections and representations of I&APs; - conduct a BA investigation; - prepare the BA report; and - give all I&APs the chance to comment on the basic assessment report (BAR). <p>After having complied with regulation 21, the EAP must submit to the CA, where applicable, the prescribed fee and at least 5 copies of-</p> <ul style="list-style-type: none"> - the basic assessment report; - any representations, objections and comments received; - minutes of any meetings held with I&APs and other role players which record the views of the participants; - any responses by the EAP to those representations, objections, comments and views; - any responses by the EAP to those representations, objections, comments and views. <p>The CA must, within 14 days of receipt of the BAR, and in writing acknowledge receipt thereof.</p> <p>The CA must within 30 days of acknowledging receipt of the BAR and in writing:</p> <ul style="list-style-type: none"> - accepts the report if it's in order; or - reject it if: <ul style="list-style-type: none"> • it does not contain material information required; or • it has not considered applicable guidelines. <p>The EAP managing an application that has been rejected must be requested to:</p> <ul style="list-style-type: none"> - submit such additional information as required; - submit a report on any specialised process as required; - suggest, consider or comment on feasible and reasonable alternatives; or - subject the application to scoping an environmental impact report. <p>The competent authority may reject the basic assessment report if it does not</p>

	<p>comply with –</p> <ul style="list-style-type: none"> - the steps taken before submission of application; or - the prescribed content of the BA report. <p>A basic assessment report that has been rejected may be amended and resubmitted. If the amended BA report contains new information, that revised report should be subjected as per the regulation 21 process.</p> <p>Comments made by I&APs must be attached to the amended BA report, but the EAP need not make further changes to the report in response to such comments.</p> <p>On receipt of any information, reports, suggestions or comments requested the CA must reconsider the application.</p> <p>If the CA request that the application be subjected to S&EIR, the S&EIR process should apply.</p> <p>A competent authority must within 30 days of accepting a BAR, or within 30 days of the lapsing of the 60 days extension [regulation 9(2)] consider the application and basic assessment report and in writing:</p> <ul style="list-style-type: none"> - grant EA in respect of all or part of the activity applied for; or - refuse authorisation in respect of all or part of the activity. <p>If authorisation is granted for an alternative, it is regarded that such alternative has been applied for.</p> <p>The CA must in writing:</p> <ul style="list-style-type: none"> - notify the applicant of the decision within 2 days of having reached the decision; - give the reasons for the decision; and - inform the applicant that an appeal may be lodged within 20 days of the decision. <p>The applicant must in writing:</p> <ul style="list-style-type: none"> - notify the I&APs within 12 days of the date of the decision; - give the reasons for the decision; - inform them that an appeal may be lodged within 20 days of the decision; - draw attention of all registered I&APs as to how they can access the EA; and - publish a notice in the newspapers that were used for placing an advert informing I&AP of the decision, where it can be accessed and draw their attention that an appeal may be lodged within 20 days of the decision.
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7. SCOPING AND EIR

Scoping and EIR (S&EIR) entails a comprehensive environmental impact assessment that includes a scoping phase and an environmental impact assessment phase. In the scoping phase, issues are identified and it includes a plan of study for EIA. The environmental impact assessment phase assesses issues identified in the scoping phase and includes an environmental management programme (EMPr). The EMPr addresses the impacts of the proposed activity. This process is required for all activities in listing notice 2 (R....) and where the EAP or applicant believes a BA is not sufficient and is granted permission by the CA to carry out a full EIA; and/or, where the authorities request a full EIA following a BA.



Description of the scoping and EIR process

Regulations
26-27

An applicant /EAP must submit an application form together with the following:

- declaration of interest by the EAP on a form provided by the CA;
- if the applicant is not the owner of the land, a copy of a written notice of the proposed activity to the owner, the manager or person in control of the land;
- proof of receipt of such notice by the owner, manager or person in control of the land;
- 5 copies of scoping report; and
- the prescribed fee, where applicable.

The CA must, within 14 days of receipt of the application, and in writing-

- acknowledge receipt of the application if it is in order; or
- reject the application, if it is not in order.

The EAP managing an application that has been rejected may correct the application and resubmit it to the CA. The CA must then within 14 days of receipt of the application acknowledge the receipt.

After having submitted an application, the EAP managing the application must :

- conduct the public participation process;
- give written notice of the proposed application to an affected organ of state which has jurisdiction in respect of any aspect of the activity;
- open and maintain a register of all I&APs ;
- consider all objections and representations received from I&APs;
- subject the application to scoping by identifying:-
 - relevant issues for consideration of an application;
 - the potential environmental impacts of the proposed activity; and
 - alternatives to the proposed activity that are feasible and reasonable.
- prepare a scoping report;
- give all registered interested and affected parties an opportunity to comment on the scoping report; and
- submit 5 copies of the scoping report within stipulated timeframe to the CA, where applicable.

<p>Regulations 30-35</p>	<p>The CA must , in writing, within 30 days of receiving the scoping report, or on receipt of the required information, reports, or comments, or the amended scoping report, consider it and:</p> <ul style="list-style-type: none"> • accept the report and advise the EAP to proceed with tasks as stipulated in the plan of study for EIA; • request the EAP to make amendments to the report if required; or • reject the report if it:- <ul style="list-style-type: none"> - doesn't contain material information required; or - has not taken applicable guidelines into account. <p>The rejected scoping report or plan of study for environmental impact assessment may be amended and resubmitted by the EAP.</p> <p>The CA must re-consider the amended scoping report or plan of study for EIA.</p> <p>If the CA accepts a scoping report an EAP must be advised to proceed with the tasks contemplated in the plan of study for EIA, including the public participation process, and prepare an EIR.</p> <p>An environmental impact assessment report must contain all information that is necessary for the CA to consider the application and to reach a decision.</p> <p>An applicant or the EAP managing an application must appoint a person who is independent to carry out a specialist study or specialised process.</p> <p>The EAP must submit 5 copies of the environmental impact assessment report (EIR) within the timeframes stipulated by the CA.</p> <p>The EAP must compile and submit the environmental management programme (EMPr).</p> <p>The CA must, within 60 days of receipt of an EIR, in writing either–</p> <ul style="list-style-type: none"> - accept the EIR; - notify the applicant that the EIR has been referred for specialist review; - request the applicant to make such amendments to the EIR as the competent authority may require for acceptance thereof; or - reject the EIR if it does not comply with content requirements. <p>An EIR that is rejected may be amended and resubmitted by the EAP.</p> <p>On receipt of an amended EIR, the CA must reconsider the EIR.</p>
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Within 45 days of accepting the EIR, or within 45 days of receipt of the specialist review, or within 30 days of the lapsing of the 60 days extension, the CA must:

- grant authorisation in respect of all or part of the activity; or
- refuse authorisation in respect of all or part of the activity.

If the authorisation is granted for an alternative, it is regarded that such alternative was applied for.

The CA must in writing within 2 days of having reached the decision:

- notify the applicant of the decision,
- give the reasons for the decision; and
- inform the applicant that an appeal may be lodged within 20 days of the date of the decision.

The applicant must in writing within 12 days of the date of the decision:

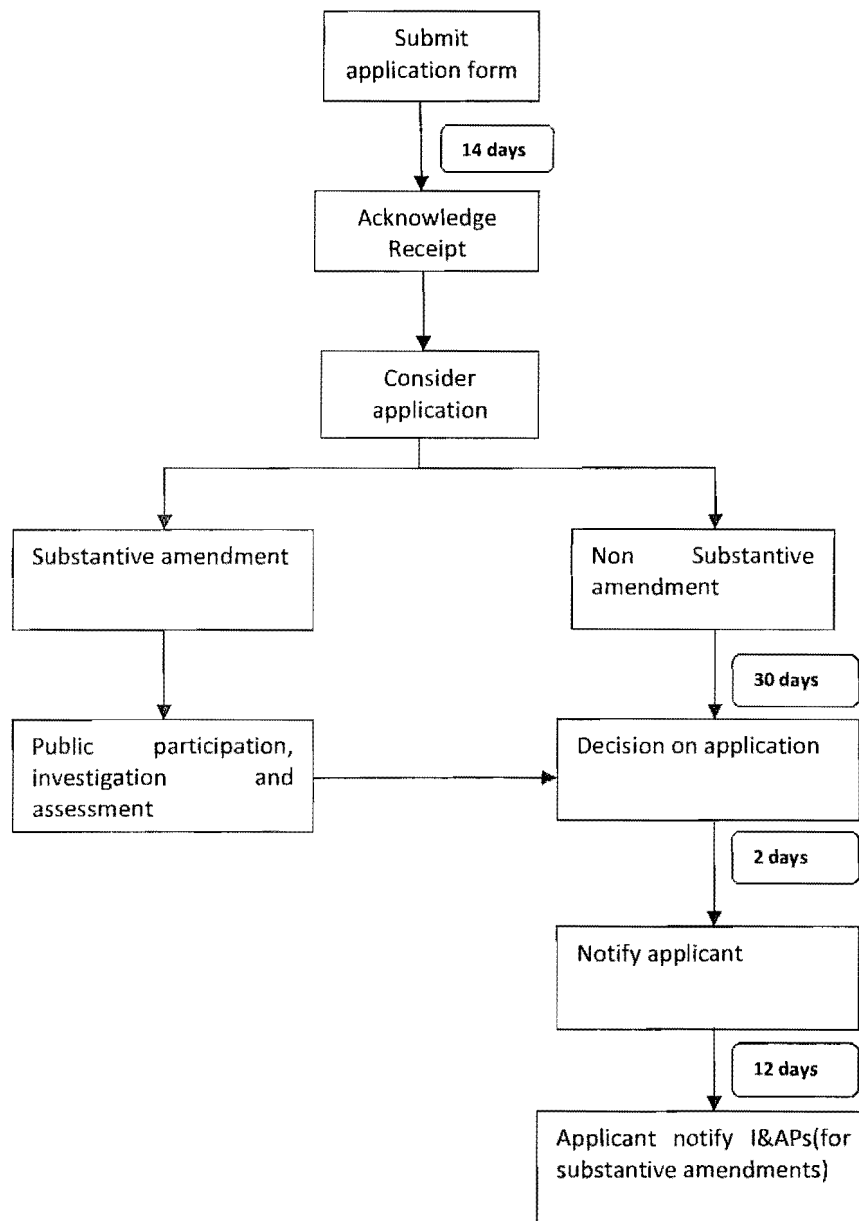
- notify the I&APs of the decision;
- give the reasons for the decision; and
- inform them that an appeal may be lodged within 20 days of the decision; and
- draw attention of all registered I&APs as to how they can access the EA.

If the CA decides to grant authorisation for a combination of applications, the CA may issue a single EA covering all activities for which authorisation was granted. The CA may issue an integrated EA.

8. AMENDMENT AND WITHDRAWAL OF AN EA

The CA who issued an EA has jurisdiction in all matters pertaining to the amendment of that authorisation. Amendments may be applied for by the holder of the authorisation or may be initiated by the CA. An authorization may be amended by attaching an additional condition or requirement, or by substituting, removing or changing an existing condition or requirement. Further, details may be updated or changed on the authorization and technical or editorial errors may also be corrected (regulation 38).

APPLICATION FOR AMENDMENT BY THE HOLDER OF AN EA

FIGURE 4

How to apply for amendment by the holder of an EA?

Regulation 39-42

The amendment process entails the following:

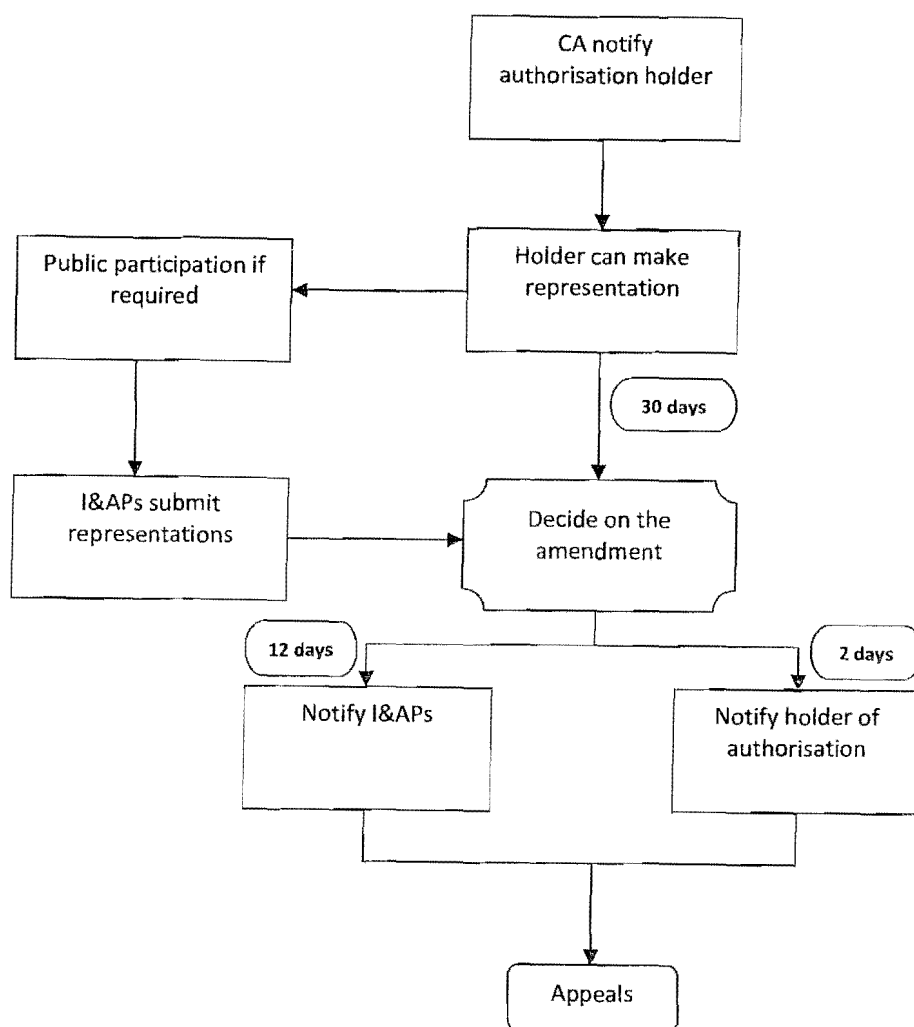
- The holder must submit the completed application form together with a motivation for amendment.
- The CA must within 14 days of receipt in writing acknowledge the receipt of the application.
- On receipt of application the CA:
 - must consider whether granting the application is likely to adversely affect the environment or the right or interests of other parties; and
 - may request additional information from the applicant.
- The CA must within 30 days of acknowledging receipt of application establish whether an application for amendment is substantive or non substantive to make the decision.
- In a case where the amendment is substantive, the CA may request public participation, conduct investigation and assessment and compile reports thereof.
- Following the above, if the environment is still likely to be adversely affected, the CA must return the application and request for new application for authorisation (chapter 3).
- CA must within 30 days make a decision on the application and notify the holder and give reasons for the decision (regulation10).
- If an application is approved, the CA must issue and amendment to an EA.

9. APPLICATION FOR AMENDMENT BY CA

How to initiate amendment of EA by the CA?	
Regulation 43-45	<p>The CA may amend the EA if it is necessary or desirable.</p> <ul style="list-style-type: none"> • The CA must: <ul style="list-style-type: none"> - notify the holder in writing of the proposed amendment; - give the holder an opportunity to submit in writing representations on the proposed amendment; - conduct public participation if necessary (regulation 54); - give the I&APs an opportunity to submit in writing representations on the proposed amendment; and - afford the holder opportunity to comment in writing on the representations submitted by I&APs. • The CA must within 30 days after receipt of the representations make a decision on the amendment; • The CA must also notify the holder within 2 days, and the I&APs within 12 days of the amendment decision and the reasons thereof. • The CA must inform both the holder and I&APs that they may lodge an appeal within 20 days of the decision.

FIGURE 5

APPLICATION FOR AMENDMENT BY CA



10. AMENDMENTS OF ENVIRONMENTAL MANAGEMENT PROGRAMMES

How to apply to amend the environmental management programmes (EMPr)?	
Regulation 46	<p>The process of applying for amendment of the EMPr by the holder of an EA is as follows:</p> <ul style="list-style-type: none"> • The holder must submit the completed application form together with a motivation for amendment. • CA must acknowledge the application in writing within 14 days of receipt. • CA must establish whether an application for amendment is substantive or non substantive to make the decision. • In a case where the amendment is substantive, the CA may request public participation. • CA must make a decision by means of an addendum to the relevant EA to approve the amended EMPr, and within 2 days notify the holder and give the reasons for the amendments. • CA must inform the holder that he may lodge an appeal within 20 days of the decision. • If the public participation was undertaken, the holder must notify I&APs within 12 days and inform them that an appeal may be lodged within 20 days of the decision. <p>In a case where the CA initiated the amendment of the EMPr, the CA must:-</p> <ul style="list-style-type: none"> • Notify the holder in writing of the proposed amendment. • Give the holder an opportunity to submit in writing representations on the proposed amendment. • Conduct public participation if necessary (regulation 54). • Give the I&APs an opportunity to submit in writing representations on the proposed amendment. • Afford the holder to comment in writing on the representations submitted by I&APs. • CA must make a decision by means of an addendum to the relevant EA to approve the amended EMPr, and within 2 days notify the holder and give the reasons for the amendments. • Notify the holder within 2 days, and the I&APs within 12 days of the amendment and the reasons. • Inform both the holder and I&APs that they may lodge an appeal within 20 days of the decision.

11. SUSPENSION OF AN ENVIRONMENTAL AUTHORISATION

Can an EA be suspended?	
Regulation 47	<p>An EA may be suspended if:-</p> <ul style="list-style-type: none"> • the CA has reasonable grounds for believing that there is contravention or non-compliance with a condition of the authorisation; or • suspension is necessary to prevent harm to the environment; or • the authorisation was obtained fraudulently, through misrepresentation or non-disclosure of information; or • the activity is permanently or indefinitely discontinued; or • unforeseen circumstances lead to potential significant detrimental effect.
What is the process for suspending an EA?	
Regulation 48 & 49	<p>The CA must:-</p> <ul style="list-style-type: none"> • notify the holder in writing of the proposed suspension and the reasons thereof; • give the holder an opportunity to comment on any environmental audit report submitted or obtained by CA [regulation 69 (2)]; • give the holder an opportunity to submit in writing representations on the proposed suspension; • notify in writing the holder of the decision; • if an EA is suspended, the CA must give the reasons for suspension and inform the holder that an appeal may be lodged within 20 days of the decision (chapter 7). <p>The above however does not affect the institution of criminal proceedings against the EA holder in terms of section 24F (2) of the Act.</p>

12. EXEMPTIONS

An application may be submitted to the CA where appropriate for exemption from any provisions of the regulations. An exemption may be combined with an EA issued under the regulations (regulation 50). It must be noted that exemption from full requirements of the regulations is not possible, as NEMA determines that every listed activities must be authorised.

How to apply for exemption?	
Regulation 50-53	<p>The applicant must submit an application in writing accompanied by:-</p> <ul style="list-style-type: none"> - reasons for application; - supporting document; and - prescribed application fee, if any. <p>The CA must acknowledge in writing the receipt of application within 14 days.</p> <p>The applicant/EAP must communicate his or her intent to apply for exemption by giving a notice in the prescribed manner for the public participation process.</p> <p>The CA may request additional information or provide advice on the application.</p> <p>As a minimum, the notice must contain:</p> <ul style="list-style-type: none"> • the provisions from which exemption is applied for; • the manner in which and the person to whom comments must be submitted; and • the date for submitting comments on the application. <p>The CA must consider the application and within 30 days make a decision on the application and notify the applicant within 2 days.</p> <p>The CA must inform the applicant that an appeal may be lodged within 20 days of the decision.</p> <p>The CA must request the applicant to inform registered I&APs of the outcome of the application and the reasons.</p> <p>The CA must request the applicant to inform the I&APs that they may lodge an appeal within 20 days of the decision.</p> <p>The CA must issue a written exemption notice to the applicant if the application was approved.</p>

13. PUBLIC PARTICIPATION

Is public participation compulsory for the EIA process?	
Regulation 54	<p>Public participation must be conducted only when required by provisions of the regulations and NEMA. It is a compulsory requirement that section 24(4)(a) must be complied with for all applications for environmental authorisation.</p> <p>The applicant must take into consideration any guidelines applicable to public participation and notify all I&APs of the application which is subjected to public participation.</p> <p>Unless justified by exceptional circumstances, no public participation process</p>

	(PPP) should be conducted from the 15 th of December to the 2 nd of January due to the holiday period.
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	Note: Refer to the national guideline on Public Participation.
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14. APPEALS

Can an appeal be lodged against a decision on the EA?	
Regulation 58	<p>An appeal may be lodged by any interested or affected person to the CA (Minister, relevant MEC) against a decision taken by any person acting under a power delegated by the CA under NEMA.</p> <p>The interested or affected parties may appeal:-</p> <ul style="list-style-type: none"> - to the CA against any decision to issue or refuse to issue an EA or to grant an exemption; - to any provision or condition of an EA or exemption; or - any directive issued in terms of Chapter 5 of NEMA (Section 43(1-3) of the Act. <p>No appeal is available if the Minister or MEC took a decision in their capacity as the CA for the application for an EA.</p> <p>The decision on the appeal lodged must be taken by the Minister for all decisions taken by Environmental Affairs and all decisions on EA and management programmes taken by the Minister of Mineral Resources. The provincial MEC, decide on appeals where the decision was taken by the provincial departments.</p>

How to appeal against a decision?	
Regulations 58 - 66	<p>The person who wishes to appeal against a decision must submit a notice of intention to appeal to the Minister, MEC or organ of state within 20 days after the date of the decision.</p> <p>In a case where the appellant is an applicant, the appellant must, within 10 days of having submitted a notice, provide each registered organ of state or registered I&AP with a copy of the notice and a notice indicating where and for what period the appeal submission will be available for inspection by such I&AP or organ of state.</p> <p>In a case where the appellant is not the applicant, the appellant must within 10 days of having lodged the notice, provide the applicant with a copy of the notice and a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.</p> <p>The Minister, MEC or designated organ of state may in writing extend the period within which a notice of intention must be submitted.</p> <p>An appeal must be submitted in writing to the appeal authority, within 30 days after the 20 days of notice and must be accompanied by:</p> <ul style="list-style-type: none"> - statement setting out the grounds of appeal; - supporting documentation; - a statement by the appellant that the notices referred to above have been served on relevant parties [regulation 60(2or3)]; and - prescribed appeal fee, if any. <p>Appellant to take into account any guidelines applicable to appeals.</p> <p>Responding statements must be submitted within 30 days from the date the appeal submission was made available for inspection.</p> <p>The person who submitted a responding statement must within 10 days of having submitted the statement, serve a copy of the statement on the appellant.</p> <p>If new information has been introduced by the respondent, the appellant is entitled to submit an answering statement to such new information to the CA within 30 days of being served with the above mentioned copy.</p> <p>The appellant must serve a copy of the answering statement on the respondent who submitted the new info within 10 days of having submitted the answering statement.</p> <p>The Minister or MEC must within 10 days acknowledge receipt of an appeal, responding statement or answering statement.</p>

	<p>The CA must notify the appellant and each respondent of any directives issued in terms of section 43(7) of the Act, (if applicable) and an appeal panel has been appointed in terms of section 43(5) of the Act.</p> <p>The CA may request the appellant or a respondent to submit additional information in connection with the appeal if it's required.</p> <p>The CA must furnish the appeal panel with written instructions concerning the issues in respect of which the panel must make recommendations and the period within which recommendations must be submitted to the CA (regulation 65).</p> <p>A member of an appeal must be independent.</p> <p>The recommendations by appeal panel must be submitted in writing to the CA.</p> <p>The CA must reach a final decision on appeals submitted within 90 days of receipt of all relevant information including any statements, supporting documents, reports or any other information requested, or recommendations of appeal panel which may assist the CA in decision making process.</p> <p>After the decision has been reached by a CA, the appellant and each respondent must be notified in writing within 10 days of the decision and the extent to which the decision appealed against is upheld or overturned, and reasons for such decision.</p>
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15. GENERAL MATTERS AFFECTING APPLICATIONS AND APPEALS

Can an application lapse?	
Regulation 67	An application lapses if the applicant, after having submitted the application, fails for a period of six months to comply with a requirement in terms of the EIA regulations, unless the reasons for failure have been communicated to and accepted by the CA.
Can an application which has been refused be re-submitted?	
Regulation 68	<p>An application which has been refused cannot be re-submitted, unless:</p> <ul style="list-style-type: none"> - it contains new information; or - a period of three years has lapsed since refusal.
How to monitor compliance to an EA?	
Regulation 69	If a competent authority reasonably suspects that the person who holds an environmental authorisation or who has been granted an exemption has contravened or failed to comply with a condition of the authorisation or exemption, the competent authority may request that person, in writing, to submit an explanation for the alleged contravention or non-compliance.

	<p>If the alleged contravention or failure has caused, or may cause, harm to the environment, the competent authority may request the person concerned, in writing, to submit an environmental audit report on the harm or suspected harm to the environment or on any specific matter determined.</p> <p>The CA may request an explanation and environmental audit report to be submitted in a form and within a period determined.</p> <p>The CA may require the holder of an EA to appoint an independent person approved by the competent authority, to perform an environmental audit, and the holder is liable for all costs in connection with the environmental audit.</p> <p>On failure to submit an environmental audit report within the period determined, the competent authority may:-</p> <ul style="list-style-type: none"> - appoint an independent person to perform the audit; and - recover the costs of the audit from the holder of the EA. <p>Every holder of an EA must monitor and assess performance against the EMPr and conditions of the EA.</p>
Is there any assistance for people with special needs?	
Regulation 70	<p>The CA processing an application or the Minister or MEC processing an appeal must give reasonable assistance to people with:</p> <ul style="list-style-type: none"> - lack of skills to read and write; - disability; or - any other disadvantage.
Under what circumstances does a person become guilty of an offence?	
Regulation 71	<p>A person becomes guilty of an offence if that person:</p> <ul style="list-style-type: none"> - proceed with a listed activity without an EA; - provides incorrect or misleading information; - fails to disclose the information to the CA, whether or not such information is favourable to the applicant [regulation 7(2)]; - fails to submit in writing an environmental audit report on the harm, or suspected harm to the environment or on any specific matter determined [regulation 69(2)]; or - commences or continues with an activity where the EA was suspended; - contravened a condition in an EA or EMPr. <p>Any person found guilty in terms of these regulations is liable to a fine up to R1 million, or imprisonment for a period up to one year or both.</p>

16. TRANSITIONAL ARRANGEMENTS

What happens to an EA issued under the repealed ECA Regulations?	
Regulation 73	<p>Anything done in terms of the previous ECA regulations must be regarded as having been done in terms of the provision of these Regulations.</p> <p>Any EA issued or exemption granted in terms of ECA regulations must be regarded to be issued in terms of the 2010 NEMA Regulations.</p>
What happens to pending applications and appeals under the ECA regulations that have been repealed?	
Regulation 74	<p>An application submitted in terms of the previous ECA regulations and which is pending when these regulations take effect must be processed in terms of those ECA regulations as if they were not repealed.</p> <p>If activities that were listed under the notices to the previous ECA Notices are not listed similarly under the current lists of activities, and the decision on an application submitted under those previous regulations are still pending, the CA will consider such application to be withdrawn.</p> <p>If any application that was submitted in terms of ECA regulations is pending and a component of the activity applied for was not listed under ECA Notices, but it's now listed in terms of the 2010 Regulations, the CA must process the application in terms of those ECA regulations and may authorise the newly listed activity as if it was applied for, on condition that all impacts of this activity and the requirements of the new regulations have been adequately considered and assessed by the applicant.</p> <p>An appeal lodged in terms of the previous ECA Regulations which is pending when these Regulations take effect must be dispensed with in terms of the previous regulations as if they were not repealed.</p>
What happens to applications submitted under the previous NEMA regulations?	
Regulation 75	<p>Anything done in terms of the 2006 NEMA regulations and which can still be done in terms of the provisions of the NEMA 2010 regulations must be regarded as been done in terms of the new regulations.</p> <p>Any EA issued in terms of repealed regulations must be considered as EA in terms of the latest regulations.</p> <p>Any EMPr or environmental management plan approved in terms of the MPRDA or its regulations, or any old order right approved in terms of the Minerals Act, prior to any provision relating to prospecting, mining, reconnaissance, exploration and production coming into effect in terms of the Act, shall be deemed approved in terms of the Act.</p>

What happens to pending applications and appeals under the NEMA 2006 regulations	
Regulation 76	<p>An application submitted in terms of the previous NEMA regulations and which is pending when these regulations take effect must be processed in terms of those NEMA regulations as if they were not repealed.</p> <p>If activities that were listed under the notices to the previous NEMA Notices are not listed similarly under the current lists of activities, and the decision on an application submitted under those previous regulations are still pending, the CA will consider such application to be withdrawn.</p> <p>If any application was submitted in terms of the previous NEMA regulations is pending and a component of the activity applied for was not listed under NEMA Notices, but it's now listed in terms of the 2010 Regulations, the CA must process the application in terms of those ECA regulations and may authorise the newly listed activity as if it was applied for, on condition that all impacts of this activity and the requirements of the new regulations have been adequately considered and assessed by the applicant.</p> <p>An appeal lodged in terms of the previous NEMA Regulations which is pending when these Regulations take effect must be dispensed with in terms of the previous regulations as if they were not repealed.</p>

With the NEMA 2010 regulations coming into effect, the competent authority should be able to differentiate between applications that are awaiting authority action and applications that are awaiting an EAP action. For applications waiting authority action, authorities should conduct an audit and inform EAPs/applicants of applications that are deemed withdrawn as the particular activities are no longer listed in the 2010 regulations. For those applications that are awaiting an EAP or applicant action, a two-pronged approach should be followed indicating the following:

- that plan to audit those applications must be done by authority but as it is not the priority; and
- that an applicant/EAP should consider guidance provided by the authority and, if they wish, must request confirmation of the interpretation in writing.

17. CONCLUSION

This guideline is designed to be a 'live' document; and will be subject to regular updates as information changes. The user is however reminded that this document, along with its attachments, is not intended to be a substitute for the EIA regulations. If any conflict should arise between the guideline document and the EIA regulations, the EIA regulations in terms of the NEMA will prevail.

ADENDUM: INTERPRETATION OF LISTING NOTICES 1, 2 AND 3**Principles**

- This is a guide to Listing Notices 1, 2 and 3 and serves as a reference and supportive text only. It is not legal advice and cannot take the place of the listing notices published under the EIA Regulations.
- Even in an event where none of the activities in the 3 listing notices are triggered, the proponent and environmental assessment practitioner (EAP) must take note that that facility or activity may also be 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) NEMWA, in which case an authorisation is also required in terms of the NEMWA.
- Often more than 1 listed activity can be triggered. It always remains the responsibility of the proponent and EAP to consult all three listing notices to ascertain which activities must be applied for.
- Applicants must apply and obtain environmental authorisation for all relevant listed activities, not only for the main activity.
- **Construction of facilities or infrastructure:**
 - i. The construction of a new facility meeting the relevant threshold will trigger the relevant activity.
 - ii. The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity.
 - iii. The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger the relevant listed activity.
 - iv. The construction of infrastructure where a facility already exists, even if this has directly to do with the facility does not trigger the relevant activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice, alternatively another construction activity.
- **Expansion** is defined as *"the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the facility is increased"*.

Any expansion (irrespective the size of the expansion) to an existing facility where the capacity of the facility is increased can trigger this activity, provided that the variables and thresholds of the listed activity are met. In an event where no modification, extension, alteration or upgrading of an existing facility takes place, even if the product throughput capacity is increased, this activity will not be triggered.
- Other activities may be triggered, even if the main activity is not triggered.
- In an event where the upper threshold of listing notice 1 is exceeded, listing notice 2 will be triggered.
- In an event where the upper threshold of listing notice 3 is exceeded, either listing notices 1 or 2 will be triggered.

- Authorisations or permits (e.g. for a water permit, mining or prospecting license or township establishment) obtained under any other law for an activity listed or specified in terms of that law, does not absolve the applicant from obtaining authorisation under NEMA.
- Although the activities related to prospecting and mining will only be enacted at a later stage, any other activity listed (in any of the 3 listing notices) as a result of the proposed prospecting or mining will still require an environmental authorization in terms of these Regulations. In an event where both the MPRDA and NEMA EIA Regulations are triggered by i.e. a mining activity, both processes need to be followed.
- For activities not triggering any of the listed activities in any of the 3 listing notices, the duty of care principle under Section 28 of NEMA must be duly considered and complied with.
- For terms not defined in the NEMA EIA Regulations, the dictionary meaning will apply.

Listing Notice 1

Activity 1:

The construction of facilities or infrastructure for the generation of electricity 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.

Interpretation:

- **Construction of facilities or infrastructure:**

- The construction of a new facility meeting the relevant thresholds will trigger the listed activity.
- The construction of a new facility and infrastructure directly to do with the facility meeting the relevant thresholds will trigger the relevant listed activity.
- The construction of infrastructure only, directly to do with the facility, prior to the development of the facility (*meeting the relevant thresholds*) will trigger this activity.
- The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice.
- This activity excludes the replacement of like with like on exactly the same footprint.
- The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice.
- Demolition and redevelopment outside the existing footprint would trigger the construction activity, provided that thresholds are met.
- The demolition of e.g. a coal fired power plant and the consequent construction of a gas fired power station or nuclear power plant will trigger this activity.
- The total extent of the facility in activity 1(ii) above refers to a combined physical footprint of more than 1ha. It does not refer to property size or the geographic boundary of the facility.
- In an event where there is an existing electricity generation facility, irrespective the size, where additional electricity generation is to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
- Activity 1(ii) cannot be triggered in an event where 1(i) is already triggered.
- Co-generation: Where a co-generation facility would be added to

	<p>an existing industry (<i>where no electricity was generated</i>), this activity can be triggered if thresholds are met. However, for activity 1(ii) to be triggered, the 1 hectare threshold only includes the footprint of the newly planned power generation facility.</p>
Activity 2:	Interpretation:
<p>The construction of facilities or infrastructure for the storage of ore or coal that requires an atmospheric emissions license in terms of the NEM: Air Quality Act (Act no. 39 of 2004).</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> ▪ The construction of a new facility meeting the relevant threshold will trigger the listed activity. ▪ The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. ▪ The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. ▪ The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • In cases where construction will take place, but no atmospheric emissions license in terms of the NEM: Air Quality Act, is required, this activity will not be triggered. • Even in an event where an atmospheric emissions license in terms of the NEM: Air Quality Act, is required, but no construction (as defined) will take place this activity will not be triggered. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice.

	<ul style="list-style-type: none"> • Demolition and redevelopment outside the existing footprint triggers construction, provided that thresholds are met. • In an event where there is an existing storage facility, irrespective the size, where additional storage capacity is to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
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Activity 3:	Interpretation:
<p>The construction of facilities or infrastructure for a slaughter of animals with a product throughput of:</p> <p>(i) poultry exceeding 50 poultry per day; or</p> <p>(ii) game and red meat exceeding 6 units per day.</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • In cases where construction will take place, but no atmospheric emissions license in terms of the NEM: Air Quality Act, is required, this activity will not be triggered. • Even in an event where an atmospheric emissions license in terms of the NEM: Air Quality Act, is required, but no construction (as defined) will take place this activity will not be triggered. • This excludes e.g. a facility for the concentration of animals, where no slaughter facility would be constructed. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction. • In a case where there is an existing slaughter facility, irrespective the size, where additional e.g. buildings are to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are

	<p>met.</p> <ul style="list-style-type: none"> • The conversion of an existing structure (e.g. a house to an abattoir) for slaughter purposes does not trigger this activity as no construction will take place. • Product throughput must be calculated by using the throughput capability & not planned numbers.
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Activity 4:	Interpretation:
<p>The construction of facilities or infrastructure for the concentration of animals for the purpose of commercial production in densities that exceed-</p> <ul style="list-style-type: none"> • 20 square metres per large stock unit and more than 500 units, per facility; • 8 square metres per small stock unit and; <ul style="list-style-type: none"> a. More than 1 000 units per facility excluding pigs where (b) will apply b. More than 250 pigs per facility excluding piglets that are not yet weaned; • 30 square metres per crocodile at any level of production, excluding crocodiles younger than 6 months; • 3 square metres per rabbit and more than 500 rabbits per facility; or • 250 square metres per ostrich or emu and more than 50 ostriches or emus per facility; or 2500 square metres per breeding pair. 	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • In order for this activity to be triggered the relevant density as well as the numeric variable must be met. e.g. <ul style="list-style-type: none"> • in an event where a facility is constructed for 500 large stock units, but the overall density will be 25 square metres per large stock unit, this activity will not be triggered as the density is lower than the density threshold provided. • In an event where a facility is constructed for 450 large stock units, and the density would be 11 square metres per large stock unit, this activity will also not be triggered as the numeric threshold of 500 units will not be met. • In an event where a facility is constructed for 510 large stock units, and the density would be 15 square metres per large stock unit, this activity will be triggered as both thresholds are met. • This principle is also applicable throughout this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event,

	<p>this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.</p> <ul style="list-style-type: none"> • In a case where there is an existing facility, irrespective the size, where additional e.g. buildings are to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met. • The emphasis is the construction of a facility or infrastructure for the commercial production. • The concentration of animals within an existing structure, will not trigger this activity. • In cases where animals are kept in pens for translocation or veterinarian treatment, this activity will not be triggered. The construction of such pens and / or facilities will also not trigger this activity.
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Activity 5:	Interpretation:
<p>The construction of facilities or infrastructure for the concentration of:</p> <p>(i) more than 1 000 poultry per facility situated within urban area, excluding chicks younger than 20 days</p> <p>(ii) more than 5 000 poultry per facility situated outside urban area, excluding chicks younger than 20 days,</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction. • In a case where there is an existing facility, irrespective the size,

	<p>where additional e.g. buildings are to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.</p> <ul style="list-style-type: none"> * In cases where poultry are kept in pens for translocation or veterinarian treatment, this activity will not be triggered. * In an event where such a facility is constructed and chicks of 20 days or older would be concentrated at the facility at any given time, this activity will be triggered provided that thresholds are met.
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Activity 6:	Interpretation:
<p>The construction of facilities, infrastructure or structures for aquaculture of:</p> <p>(i) finfish, crustaceans, reptiles or amphibians where such facility, infrastructure or structures will have a production output exceeding 20 000 kg but less than 200 000 kg per annum (wet weight);</p> <p>(ii) molluscs where such facility, infrastructure or structures will have a production output exceeding 30 000 kg but not exceeding 150 000 kg per annum (wet weight);</p> <p>(iii) aquatic plants where such facility, infrastructure or structures will have a production output exceeding 60 000 kg but not exceeding 200 000 kg per annum (wet weight);</p> <p>excluding where the construction of facilities, infrastructure or structures is for purposes of offshore cage culture in which case activity 7 in this Notice will apply.</p>	<ul style="list-style-type: none"> * Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. * This activity excludes the replacement of like with like on exactly the same footprint. * The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction. * In a case where there is an existing facility, irrespective the size, where additional e.g. buildings are to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.

Activity 7:	Interpretation:
<p>The construction of facility, infrastructure or structures for aquaculture of offshore cage culture of finfish, crustaceans, reptiles, amphibians, molluscs and aquatic plants where the facility, infrastructure or structures will have a production output exceeding 50 000 kg but not exceeding 100 000 kg per annum (wet weight).</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity specifically covers offshore cage culture. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction. • In a case where there is an existing facility, irrespective the size, where additional e.g. buildings are to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.

Activity 8:	Interpretation:
<p>The construction of a hatchery or agri-industrial infrastructure outside industrial complexes where the development footprint covers an area of 2 000 square metres or more.</p>	<ul style="list-style-type: none"> • This activity will not be triggered in cases where a hatchery, even if thresholds are met, is constructed within an industrial complex, irrespective the sensitivity of the site or size of the development. • The development footprint refers to a physical footprint of 2000m² or more. It does not refer to property size or the geographic boundary of the facility or site. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of an existing hatchery or agri-industrial infrastructure and the consequent redevelopment thereof falls outside the definition of construction, as long as this will be

	<p>redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" hatchery or agri-industrial infrastructure goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.</p> <ul style="list-style-type: none"> • In a case where there is an existing hatchery or agri-industrial infrastructure, irrespective the size, where additional e.g. structures are to be added (irrespective the size of the additions), the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
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Activity 9:	Interpretation:
<p>The construction of facilities or infrastructure exceeding 1000 metres in length for the bulk transportation of water, sewage or storm water-</p> <p>(i) with an internal diameter of 0,36 metres or more; or</p> <p>(ii) with a peak throughput of 120 litres per second or more,</p> <p>excluding where:</p> <p>a. such facilities or infrastructure are for bulk transportation of water, sewage or storm water drainage inside a road reserve; or</p> <p>b. where such construction will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse.</p>	<p>Construction of facilities or infrastructure:</p> <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity excludes facilities or infrastructure for storage of water, sewage or storm water. The trigger here is the construction of transportation related facilities or infrastructure. • This activity excludes the construction of water, sewage or storm water drainage facilities or infrastructure within a road reserve. Many other listed activities may however potentially be triggered. • For infrastructure of 1000 meters or less in length, this activity cannot be triggered. • This activity will not be triggered in cases where construction occurs within urban areas (as defined in the NEMA EIA Regulations) as long as the activity is not within 32 metres from a watercourse (measured from the edge of the watercourse), in which event this activity will be triggered. • The construction of e.g. a new pipeline meeting the relevant thresholds, adjacent to an existing pipeline, will trigger this construction activity and cannot be dealt with in terms of expansion. This, even in an event where the old pipeline will be

	<p>decommissioned.</p> <p>This excludes facilities, infrastructure or facilities & infrastructure (developed jointly) that do not meet the 1000m threshold, even in an event where (i) or (ii) applies.</p> <ul style="list-style-type: none"> • This activity excludes the replacement of like with like on exactly the same footprint. The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. e.g. the replacement of a pipeline with a pipeline with an increased capacity, will not trigger this activity. Neither will this trigger activity 41 of the same listing notice unless the pipe will be expanded by more than 1000m. Demolition and redevelopment outside the existing footprint triggers construction. • Peak throughput refers to the maximum capability of the facility or infrastructure, and not the planned throughput. • Realignment of pipeline meeting the thresholds [realignment of more than 1000m and meeting 11(i) or 11(ii)] will trigger this activity.
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Activity 10:	Interpretation:
<p>The construction of facilities or infrastructure for the transmission and distribution of electricity-</p> <p>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or</p> <p>(ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more.</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity can only be triggered in an event where: <ul style="list-style-type: none"> a. A new electricity transmission or distribution facility would be constructed; or b. An existing electricity transmission or distribution facility would be extended / lengthened. In this regard the lengthening of a transmission line is deemed construction & not expansion.

	<ul style="list-style-type: none"> • This totally excludes any facilities of 33 kilovolts or less outside urban areas or industrial complexes. • This activity will not be triggered for facilities of 275 kilovolts or less within urban areas or industrial complexes. • Realignment of a power line meeting the thresholds will trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint • The moving of poles within the existing footprint or "canopy" of the facility will not trigger this activity. • This activity will be triggered for the construction of substations and transformers. However, the upgrading or addition of e.g. transformers and substations will trigger the expansion activity in this listing notice, if thresholds are met. • This excludes the storing of a transformer for purposes related to later replacement.
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Activity 11:	Interpretation:
<p>The construction of:</p> <ul style="list-style-type: none"> (i) canals; (ii) channels; (iii) bridges; (iv) dams; (v) weirs; (vi) bulk storm water outlet structures; (vii) marinas; (viii) jetties exceeding 50 square metres in size; (ix) slipways exceeding 50 metres in size; (x) buildings exceeding 50 square metres in size; or (xi) infrastructure or structures covering 50 square metres or more <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from edge of watercourse, excluding where such construction will occur behind the development set back line.</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • Such construction activities behind the development setback line are excluded from this activity. Such construction activities further than 32m of the water course are excluded. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of such a structure and consequent redevelopment of the structure falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The

	<p>same applies in an event where a portion of the "re-developed" structure goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.</p> <ul style="list-style-type: none"> • This activity only applies to the construction of canals; channels; bridges; dams; weirs; bulk storm water outlet structures, marinas; jetties and slipways.
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Activity 12:	Interpretation:
<p>The construction 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 storage falls within the ambit of activity 19 of Notice ??? of 2010</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • The 50 000 cubic metres threshold includes the capability of the facility and not only the % thereof that is envisaged to be used. • This excludes facilities or infrastructure for the transportation of water, sewage or storm water. • It excludes in-stream storage facilities or infrastructure. • All such storage facilities falling within the ambit of activity 19 of Listing Notice 2 are excluded from this activity • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a storage facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction. • In an event where there is an existing off-stream storage facility, irrespective the size, where additional storage capacity is to be

	added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
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Activity 13:	Interpretation:
The construction 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 but not exceeding 500 cubic metres.	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • The trigger for this activity is construction and not the storage and / or handling of dangerous goods. • This excludes storage facilities of less than 80 cubic metres. • This includes storage facilities of more than 80 cubic metres. • This excludes storage facilities of exactly 80 cubic metres. • Relocation of tanks within the existing footprint of the facility (e.g. tank farm) does not trigger this activity. • In cases where a material or substance falls outside the scope the material as defined in SANS code No 10234, supplement 2008 1.00: designated "List of classification and labeling of chemicals in accordance with the Globally Harmonized System (GHS)" published by South African Bureau of Standards, this activity will not be triggered. • The storage of transformer oil in containers meeting the threshold will trigger this activity. However a transformer itself cannot be defined as a container or a storage facility. The storage of the transformer (with oil inside) does not trigger this activity. • Not all tanks are constructed for the primary purpose of storage. In this regard leaching tanks, galvanizing baths, acid baths or tanks where chemicals are mixed as part of a process are excluded from this activity. However, the storage only of such

	<p>dangerous goods for purposes of later use will trigger this activity (e.g. such hazardous substances not directly part of the process).</p> <ul style="list-style-type: none"> • This activity includes either above or underground storage or a combination thereof. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a storage facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction. • In an event where there is an existing storage facility, irrespective the size, where additional storage capacity is to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met. • Containers for bio-fuel plants would trigger this activity, depending on thresholds.
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Activity 14:	Interpretation:
<p>The construction of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding:</p> <ul style="list-style-type: none"> (i) the construction of structures within existing ports or harbours that will not increase the development footprint or throughput capacity of the port or harbor; (ii) the construction of a port or harbor, in which case activity 24 of Notice?? of 2010 applies; (iii) the construction of temporary structures within the beach zone where such structures will be demolished or disassembled after a period not exceeding 6 weeks. 	<ul style="list-style-type: none"> • The construction of structures of 50 square metres or smaller, will not trigger this activity. • The construction of structures, even if this goes substantially beyond the 50 square meter threshold, will not trigger this activity if the exclusions in 14(i), (ii) or (iii) are met. • In an event where "temporary" structures were constructed within the beach zone and the structures are not demolished or disassembled within a 6 weeks period, the activity (construction of the structures) would be deemed an unlawfully commenced activity in terms of this activity. • The construction of ports or harbors are excluded from this activity.

Activity 15:	Interpretation:
<p>The construction of facilities for the desalination of sea water with a design capacity to produce more than 100 cubic metres of treated water per day.</p>	<ul style="list-style-type: none"> • Construction of facilities: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of infrastructure, even directly associated with the desalination facility will not trigger this activity. • The 100 cubic metres threshold applies to the daily treated water capability and not the amounts of salt water used, the waste water or any of the aforementioned combined. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.

Activity 16:	Interpretation:
<p>Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater, in respect of-</p> <ul style="list-style-type: none"> (i) fixed or floating jetties and slipways; (ii) tidal pools; (iii) embankments; (iv) rock revetments or stabilising structures including stabilising walls; (v) buildings of 50 square metres or more; or (vi) infrastructure covering 50 square metres or more- <p>but excluding:</p> <ul style="list-style-type: none"> (a) if such construction or earth moving activities will occur behind a development setback line; or (b) where such construction or earth moving 	<ul style="list-style-type: none"> • Such construction or earth moving activities behind the development setback line are excluded from this activity. • Such construction or earth moving activities occurring within existing ports or harbours where the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbour are excluded. • Construction or earth moving activities for maintenance purposes are excluded, provided that there is no increase in existing development footprint. • Such construction activities further than 100m inland of the high water mark of the sea are excluded. • Dredging is included but maintenance dredging excluded. • For this activity to be triggered, construction or earth-moving as defined by the regulations must take place. • This activity excludes the replacement of like with like on exactly the same footprint. • This activity excludes the increase of the height of existing structures in the event where there will be no increased footprint. e.g. the adding of an additional storey to an existing building. • The demolition of such a structure and consequent

<p>activities will occur within existing ports or harbours and the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbour;</p> <p>(c) where such construction or earth moving activities is undertaken for purposes of maintenance of the facilities mentioned in (i)-(vi) above; or</p> <p>(d) where such construction or earth moving activities is related to the construction of a port or harbour, in which case activity 24 of Notice?? of 2010 applies.</p>	<p>redevelopment of the structure falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" structure goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.</p> <ul style="list-style-type: none"> • Construction of buildings less than 50 square metres will not trigger this activity. • Infrastructure of buildings less than 50 square metres will not trigger this activity. • In an event where buildings and infrastructure are jointly developed the 50 square metres threshold cannot be applied for this development as an entity.
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Activity 17:	Interpretation:
<p>The planting of vegetation or placing of any material on dunes and exposed sand surfaces, within the littoral active zone for the purpose of preventing the free movement of sand, erosion or accretion, excluding where the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation or where such planting of vegetation or placing of material will occur behind a development setback line</p>	<ul style="list-style-type: none"> • Such activities behind the development setback line or outside the littoral active zone are excluded. • Such activities for the restoration and maintenance of indigenous coastal vegetation are excluded. • The trigger for this activity is the planting of vegetation or placing of any material on dunes and exposed sand surfaces. This excludes construction and earth moving activities • This activity excludes the replacement of like with like on exactly the same footprint. • The removal of such vegetation or material and consequent replacement of such falls outside the ambit of this activity. • The placement of dead plant material on dunes meeting the thresholds and variables of this activity will trigger this activity.

Activity 18:	Interpretation:
<p>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 from:</p> <p>(i) a watercourse;</p> <p>(ii) the sea;</p> <p>(iii) the seashore;</p> <p>(iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-</p>	<ul style="list-style-type: none"> • The trigger here is infilling or depositing of any material and not construction. Construction however by implication would require infilling or depositing of any material. In such an event the construction activity can not be applied for and duly considered and authorised in terms of this activity. • Such activities behind the development setback line or outside the littoral active zone are excluded. • Such activities for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority are excluded.

<p>water mark of the sea or an estuary, whichever the distance is the greater-</p> <p>but, excluding where such infilling, depositing, dredging, excavation, removal or moving</p> <p>(i) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</p> <p>(ii) occurs behind the development setback line.</p>	
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Activity 19:	Interpretation:
Any activity which requires a prospecting right or renewal thereof in terms of section 16 and 18 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002)	<ul style="list-style-type: none"> • The enactment date of this activity will be communicated in due course. • Although this activity relates will only be enacted at a later stage, any other activity triggered (in any of the 3 listing notices) as a result of the proposed prospecting or mining, will still require an environmental authorization in terms of these Regulations. In an event where both the MPRDA and NEMA EIA Regulations are triggered by e.g. a mining activity, both processes need to be followed.

Activity 20:	Interpretation:
Any activity requiring a mining permit in terms of section 27 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) or renewal thereof.	<ul style="list-style-type: none"> • The enactment date of this activity will be communicated in due course. • Although this activity will only be enacted at a later stage, any other activity triggered (in any of the 3 listing notices) as a result of the proposed prospecting or mining, will still require an environmental authorization in terms of these Regulations. In an event where both the MPRDA and NEMA EIA Regulations are triggered by e.g. a mining activity, both processes need to be followed.

Activity 21:	Interpretation:
The establishment of cemeteries of 2500 square metres or more in size.	<ul style="list-style-type: none"> • The trigger is the establishment of a cemetery meeting the threshold. The increase of the footprint of a cemetery must be dealt with in terms of expansion activity. e.g. the increase of the footprint of an existing cemetery (smaller than 2500 square metres), is not defined as establishment but expansion.

	<ul style="list-style-type: none"> The relocation of graves to a new site (where no cemetery exist) will trigger this activity if the threshold is met.
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Activity 22:	Interpretation:
<p>The construction of a road, outside urban areas,</p> <ul style="list-style-type: none"> (i) with a reserve wider than 13,5 metres or, (ii) where no reserve exists where the road is wider than 8 metres, or (iii) 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 Notice ?? of 2010. 	<ul style="list-style-type: none"> Such roads to be constructed within an urban area (as per the NEMA EIA regulations Definition) are excluded from this activity. The construction of a road 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 ????? of 2010, will trigger this activity. The widening of an existing road is not deemed construction and must be dealt with as an expansion activity, provided that thresholds are met. The lengthening of an existing road is not deemed construction and must be dealt with as an expansion activity, provided that thresholds are met. The construction of a road, meeting the relevant threshold will trigger this activity. Toll gates and traffic control centers are excluded from this activity. This activity excludes the replacement of like with like on exactly the same footprint. The addition of storm water management systems and e.g. pavements are excluded from this activity. Surfacing of a road is neither deemed construction.

Activity 23:	Interpretation:
<p>The transformation of undeveloped, vacant or derelict land to –</p> <ul style="list-style-type: none"> (i) residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more, but less than 20 hectares, or (ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares; - <p>except where such transformation takes place for</p>	<ul style="list-style-type: none"> For the construction or expansion of linear activities (as defined in the Regulations), this activity cannot be triggered. The terms vacant, derelict and undeveloped are defined in the regulations. In cases where physical alteration of land will take place on land that is neither defined as vacant, derelict or undeveloped, this activity would not be triggered. This excludes areas below the high-water mark of the sea. The determining factor is the size of the land to be physically altered, not the size of the property. Physical alteration includes the entire new development footprint including, e.g. buildings, infrastructure, landscaping, area where earthworks have taken place, construction camp etc. The mowing of land or burning thereof would not trigger this activity.

linear activities.	<ul style="list-style-type: none"> • The physical alteration of land for agriculture and afforestation is included for this activity. • In the determination of the area to be physically altered, existing physically altered areas [e.g. buildings, infrastructure, landscaping (including kikuyu grass), area where earthworks have taken place, construction camp etc.] must be excluded from the equation. In other words an area already physically altered cannot trigger this activity. • Urban areas are defined as "areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas". • Physical alteration of land smaller than 5 hectares within an urban area (as defined in the NEMA EIA regulations) will not trigger this activity. • Physical alteration of land smaller than 1 hectare outside an urban area will not trigger this activity. • This activity includes the formalization (e.g. instalment of services) of informal settlements.
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Activity24:	Interpretation:
<p>The transformation of land bigger than 1 000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, at the time of the coming into effect of this Schedule such land was zoned open space, conservation or had an equivalent zoning.</p>	<ul style="list-style-type: none"> • This includes the transformation of land zoned open space, conservation or an equivalent zoning at the time of the coming into effect of this listing notice. • This excludes the transformation of land that was zoned to open space, conservation or an equivalent zoning after the date of coming into effect of this listing notice, unless it was rezoned from open space, conservation or an equivalent zoning. • The act of rezoning such land for the purposes of another use does not trigger this activity. However, the transformation of such land (whether the land has been rezoned or is still to be rezoned) is the trigger for this activity. • In cases where only a portion of the open space is to be transformed, but the open space would still retain its original function as open space, this activity will not be triggered. e.g. the building of public sports facilities, playing ground, swimming pools, ablution facilities. • The transformation and subsequent alienation of a portion of an open space will trigger this activity (this irrespective the order in which the transformation and alienation will take place)

Activity 25:	Interpretation:
<p>The release of genetically modified organisms into the environment, where assessment for such release is required by the Genetically Modified Organisms Act, (Act No. 15 of 1997) or the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</p>	<ul style="list-style-type: none"> • All such applications must be submitted to the national department of Environmental Affairs. • The release of genetically modified organisms into the environment for which an assessment for such release is not 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), will not trigger this activity.
Activity 26:	Interpretation:
<p>Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</p>	<ul style="list-style-type: none"> • Refer to any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
Activity 27:	Interpretation:
<p>The decommissioning of existing facilities or infrastructure, for-</p> <ul style="list-style-type: none"> (i) electricity generation with a threshold of more than 10MW; (ii) electricity transmission and distribution with a threshold of more than 132kV; (iii) nuclear reactors and storage of nuclear fuel; (iv) activities, where the facility or the land on which it is located is contaminated; (v) storage, or storage and handling, of dangerous goods of more than 80 cubic metres; <p>but excluding any facilities or infrastructure that commenced under an environmental authorisation issued in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, or Notice No. 2010.</p>	<ul style="list-style-type: none"> • "decommissioning" means to take out of active service permanently or dismantle partly or wholly, or closure of a facility to the extent that it cannot be readily re-commissioned. • This includes any portion of a facility and not only the decommissioning of a facility in its entirety.

Activity 28:	Interpretation:
<p>The expansion of existing facility for any process or activity where such expansion will result in the need for new, or amendment of, an existing permit or license in terms of national or provincial legislation governing the release of emissions or pollution, excluding where the facility, 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 that Act will apply.</p>	<ul style="list-style-type: none"> • This activity does not cover local bylaws etc. • It is not the act or process of amending existing permits or licenses that triggers this activity but expansion or changes to a facility (a new or amendment of an existing permit or license). • In cases where no expansion and or changes to the facility is required, but a new or amendment of an existing permit or license is required, this activity will not be triggered. • In cases where a new permit or license or an amendment to an existing permit or license requires changes to the facility, this activity will be triggered. • In cases where the expansion or changes to the facility will only require a new or amendment of an existing permit or license, where such is required in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), this activity will not be triggered. In such an event authorization needs to be obtained in terms of the relevant waste management activities published in terms of section 19 of the NEMWA. • In cases where the expansion or changes to the facility will require a new or amendment of an existing permit or license, in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), but also one or more other national or provincial acts, this activity will indeed be triggered (with the exclusion of the relevant waste management activities published in terms of section 19 of the NEMWA, which would require authorization in terms of NEMWA). • Any expansion (irrespective the size of the expansion) to an existing facility where the footprint or capacity of the facility is increased can trigger this activity, provided that the variables of the listed activity is met. • Any changes to an existing facility, even if the footprint thereof remains the same or is reduced, can trigger this activity if there is an increase in the capacity of the facility, provided that the variables of the listed activity is met. e.g. the slightest conversion of a boiler to accommodate additional fuel quantities or a different type of fuel, will trigger this activity if a new or amendment of an existing permit or license in terms of national or provincial legislation governing the release of emissions or pollution.

Activity 29:	Interpretation:
<p>The expansion of facilities for the generation of electricity where:</p>	<ul style="list-style-type: none"> • This activity can only be triggered in an event where an existing electricity generation facility would be expanded.

<p>(i) the electricity output will be increased by 10 megawatts or more, excluding where such expansion takes place on the original development footprint; or</p> <p>(ii) regardless the increased output of the facility, the development footprint will be expanded by 1 hectare or more;</p>	<ul style="list-style-type: none"> • The expansion of an existing facility meeting the relevant threshold will trigger this activity, unless the expansion takes place within the original footprint of the facility. i.e. the existing power generation plant's footprint, any buildings, parking area, infrastructure, landscaped area etc). • The expansion of infrastructure does not trigger this activity (e.g. the expansion of office space or parking area). • This activity excludes the replacement of like with like on exactly the same footprint. • In an event where there is an existing electricity generation facility, irrespective the size, where additional electricity generation is to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met. • The demolition of an existing facility and consequent re-development of the facility falls outside the definition of expansion, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. e.g. the demolition of an existing coal fired power plant and the redevelopment thereof on exactly the same footprint, even if the output of the facility will be increased beyond the 10 megawatt threshold will not trigger this activity. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion. • In cases where the footprint of the facility will be increased by 1 hectare or more, this activity will be triggered. • For a scenario where the expanded output would be 10 megawatts or more and the footprint of the expanded facility would be 1 hectare or more, both activity 33(i) and 33(ii) will be triggered. • Co-generation: Where a co-generation facility would be added to the existing industry (where no electricity was previously generated), this activity cannot be triggered even if one or more of the thresholds are met. However, the construction activity related to the generation of electricity will be triggered.
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Activity 30:	Interpretation:
<p>The expansion of facilities for the slaughter of animals where the daily product throughput will be increased by more than:</p> <p>(i) 50 poultry or</p> <p>(ii) 6 units of red meat and game.</p>	<ul style="list-style-type: none"> • This excludes the expansion of a facility, where the thresholds provided are not met, irrespective the size of its expanded physical footprint. • This activity can only be triggered in an event where an existing slaughter facility would be expanded by more than 50 poultry per day or 6 slaughter units of red meat and game. • This activity excludes the replacement of like with like on exactly

	<p>the same footprint.</p> <ul style="list-style-type: none"> • Product throughput must be calculated by using the throughput capability & not planned numbers. • The size of increased footprint has no relevance to the applicability of this activity. The trigger is expansion (as defined in this listing notice) as per provided thresholds. • Any expansion (irrespective the size of the expansion) to an existing facility where the capacity of the facility is increased can trigger this activity, provided that the variables of the listed activity is met. In an event where no modification, extension, alteration or upgrading of an existing facility takes place, even if the product throughput capacity is increased, this activity will not be triggered.
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Activity 31:	Interpretation:
<p>The expansion of facilities for the concentration of animals for the purpose of commercial production in density that will exceed-</p> <ul style="list-style-type: none"> (i) 20 square metres per large stock unit, where the expansion will constitute more than 500 additional units; (ii) 8 square metres per small stock unit, where the expansion will constitute more than: <ul style="list-style-type: none"> a. 1 000 additional units per facility or more excluding pigs where (b) will apply; b. 250 additional pigs, excluding piglets that are not yet weaned; (iii) 30 square metres per crocodile at any level of production where the expansion will constitute an increase in the level of production, excluding crocodiles younger than 6 months; (iv) 3 square metres per rabbit where the expansion will constitute more than 250 additional rabbits; or (v) 250 square metres per ostrich or emu where the expansion will constitute more than 50 additional ostriches or emus; and (vi) 2500 square metres per breeding pair, where the facility will be increased by 2500 square metres or more. 	<ul style="list-style-type: none"> • In order for this activity to be triggered the relevant increase as per the numeric variable must be met and the density of the expanded facility (the old facility and the new expanded portion) must meet the relevant density threshold. • In an event where such a facility is expanded by 501 additional large stock units, and the overall density of the entire facility (measured after expansion) will be 21 square metres per unit, this activity will not be triggered as the overall expanded density is lower than the density threshold provided. • In an event where such a facility is expanded by 500 additional large stock units, and the overall density of the entire facility (measured after expansion) will be 11 square metres per unit, this activity will not be triggered as the numeric threshold of more than 500 units will not be met. • In an event where such a facility is expanded by 501 additional large stock units, and the overall density of the entire facility (measured after expansion) will be 11 square metres per unit, this activity will be triggered as both thresholds are met. • This principle is also applicable throughout this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • In an event where no modification, extension, alteration or upgrading of an existing facility takes place, even if the numeric and density variables are met, this activity will not be triggered. • The emphasis is the expansion of a facility for the commercial production. In cases where the expansion is for a facility where animals are kept in pens for translocation or veterinarian treatment, this activity will not be triggered (even if thresholds are met).

Activity 32:	Interpretation:
<p>The expansion of facilities for the concentration of poultry, excluding chicks younger than 20 days, where the capacity of the facility will be increased by:</p> <ul style="list-style-type: none"> (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. 	<ul style="list-style-type: none"> • This excludes the expansion of a facility, where the thresholds provided are not met, irrespective the size of its expanded physical footprint. • For urban areas: This activity can only be triggered in an event where an existing concentration facility would be expanded by more than 1000 poultry, provided that the chickens or chicks is 20 days or older. • Outside urban areas: This activity can only be triggered in an event where an existing concentration facility would be expanded by more than 5000 poultry, provided that the chickens or chicks is 20 days or older. • This activity excludes the replacement of like with like on exactly the same footprint. • The size of increased footprint has no relevance to the applicability of this activity. The trigger is expansion (as defined in this listing notice) as per provided thresholds.

Activity 33:	Interpretation:
<p>The expansion of facilities, infrastructure or structures for aquaculture of:</p> <ul style="list-style-type: none"> (i) finfish, crustaceans, reptiles or amphibians, where the production output of such facility, infrastructure or structures will be increased by 20 000 kg (wet weight) or more; (ii) molluscs where the production output of such facility, infrastructure or structures will be increased by 30 000 (wet weight) or more; (iii) aquatic plants where the production output of such facility, infrastructure or structures will be increased by 60 000 kg (wet weight) or more. 	<ul style="list-style-type: none"> • This excludes the expansion of a facility, where the thresholds provided are not met, irrespective the size of its expanded physical footprint. • The size of increased footprint has no relevance to the applicability of this activity. The trigger is expansion (as defined in this listing notice) as per provided thresholds.

Activity 34:	Interpretation:
<p>The expansion of facilities, infrastructure or structures for aquaculture of offshore cage culture of finfish, crustaceans, reptiles, amphibians, molluscs and aquatic plants where the production output of such facility, infrastructure or structures will be increased by 50 000 kg (wet weight) or more.</p>	<ul style="list-style-type: none"> • This excludes the expansion of a facility, where the thresholds provided are not met, irrespective the size of its expanded physical footprint. • The size of increased footprint has no relevance to the applicability of this activity. The trigger is expansion (as defined in this listing notice) as per provided thresholds.

Activity 35:	Interpretation:
The expansion of facilities for agri-industrial purposes outside industrial complexes, where the development footprint of the facility will be increased by a 1 000 square metres or more, with the exception of hatcheries, where activity 36 in this Notice applies.	<ul style="list-style-type: none"> • This excludes the expansion of such a facility, where the increase in footprint would be less than 1000m². • This excludes the expansion of hatcheries. • This excludes expansion of such a facility, within industrial complexes (as defined within this listing notice). • This activity excludes the replacement of like with like on exactly the same footprint.

Activity 36:	Interpretation:
The expansion of hatcheries, outside industrial complexes, where the development footprint of the hatchery will be increased by 2 000 square metres or more.	<ul style="list-style-type: none"> • This excludes the expansion of a hatchery, where the increase in footprint would be less than 2000m². • This excludes expansion of such a facility, within industrial complexes (as defined within this listing notice). • This activity excludes the replacement of like with like on exactly the same footprint.

Activity 37:	Interpretation:
<p>The expansion of facilities or infrastructure for the bulk transportation of water, sewage or storm water where:</p> <ul style="list-style-type: none"> (a) the facility or infrastructure is expanded by more than 1000 metres in length; or (b) where the throughput capacity of the facility or infrastructure will be increased by 10% or more— <p>excluding where such expansion:</p> <ul style="list-style-type: none"> (i) relates to transportation of water, sewage or storm water within a road reserve; or (ii) where such expansion will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse. 	<ul style="list-style-type: none"> • This excludes the facilities or infrastructure for storage of water, sewage or storm water • This excludes the expansion of such a facility or infrastructure, where the extended portion is 1000m or less, unless the 10% threshold is met. • The widening of such facilities or infrastructure can trigger this activity provided that the 10% threshold is met. • Extension or widening to such facilities or infrastructure within urban areas, even if this goes far beyond the 1 000 meter threshold, will not trigger this activity. • Extensions to such facilities or infrastructure within a road reserve will trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion.

Activity 38:	Interpretation:
<p>The expansion of facilities for the transmission and distribution of electricity where the expansion capacity will exceed 275 kilovolts and the development footprint will increase.</p>	<ul style="list-style-type: none"> • The extension of a power line cannot trigger this activity. The extension of a power line is deemed a construction activity in terms of the relevant construction activities in Listing Notices 1 or 2, should thresholds be met. • The trigger here is the expansion (not extension of a power line) of an existing facility where: <ul style="list-style-type: none"> a. The facility prior to expansion had an output of 275 kilovolts or less and b. The facility will after expansion have an output of 275 kilovolts or more and c. The development footprint will increase (in width). All three variables in a, b and c must be met to trigger this activity. e.g. if (a) above is not met, this activity cannot be triggered. • In an event where there will be an increased output but no increase in footprint, this activity will not be triggered. • In an event where there will be an increased footprint (excluding extensions to the power line) but no increase output, this activity will not be triggered. • Realignment of a power line will trigger construction and not expansion. • This activity excludes the replacement of like with like on exactly the same footprint. • The moving of poles within the existing footprint of the facility will not trigger this activity. • This activity will be triggered for substation and transformers.

Activity 39:	Interpretation:
<p>The expansion of:</p> <ul style="list-style-type: none"> (i) canals; (ii) channels; (iii) bridges; (iv) dams; (v) weirs; (vi) bulk storm water outlet structures; (vii) marinas; (viii) jetties; and (ix) slipways; <p>within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, where such expansion will result in an</p>	<ul style="list-style-type: none"> • Such expansion activities behind the development setback line are excluded from this activity. • Such expansion activities further than 32m of the water course are excluded. Similarly, the expansion of such structures, irrespective the increase in capacity or physical footprint, within the watercourse or 32m threshold will trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion, even if the capacity would be increased. • This activity only applies to the expansion of canals; channels; bridges; dams; weirs; bulk storm water outlet structures; marinas; jetties and slipways.

increased development footprint but excluding where such expansion will occur behind the development setback line.	<ul style="list-style-type: none"> This activity excludes the increase of the height of existing structures in the event where there will be no increased footprint. e.g. the adding of an additional storey to an existing building.
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Activity 40:	Interpretation:
The expansion of <ul style="list-style-type: none"> (i) jetties by more than 50 square metres; (ii) slipways by more 50 square metres; or (iii) buildings by more than 50 square metres within a watercourse, but excluding where such expansion will occur behind the development setback line.	<ul style="list-style-type: none"> Such expansion activities behind the development setback line are excluded from this activity. This activity excludes the replacement of like with like on exactly the same footprint. Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion, even if the capacity would be increased. This activity excludes the increase of the height of existing structures in the event where there will be no increased footprint. e.g. the adding of an additional storey to an existing building. The expansion of a jetty or a slipway or a building with exactly 50 square metres will not trigger this activity.

Activity 41	Interpretation:
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 50000 cubic metres or more.	<ul style="list-style-type: none"> This excludes the expansion of such a facility or infrastructure, where the increased capacity will be less than 50000 cubic metres. This only applies to expansion of off – stream facilities or infrastructure. This activity excludes the replacement of like with like on exactly the same footprint. The size of increased footprint has no relevance to the applicability of this activity. The trigger is increase in the capacity of the facility or infrastructure. Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion. It excludes in-stream storage facilities.

Activity 42:	Interpretation:
The expansion of facilities for the storage, or storage and handling, of a dangerous good, where the capacity of such storage facility will be expanded by 80 cubic metres or more.	<ul style="list-style-type: none"> This excludes the expansion of such a facility, where the increased capacity would be less than 80 cubic metres. This activity excludes the replacement of like with like on exactly the same footprint. The size of increased footprint has no relevance to the

	<p>applicability of this activity. The trigger is increase in the capacity of the facility or infrastructure.</p> <ul style="list-style-type: none"> • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion. • The trigger for this activity is expansion of a facility and not merely the increase in storage. • Relocation of tanks within the existing footprint of the facility (e.g. tank farm) does not trigger this activity. • In cases where a material or substance falls outside the scope the material as defined in SANS code No 10234, supplement 2008 1.00: designated "List of classification and labeling of chemicals in accordance with the Globally Harmonized System (GHS)" published by South African Bureau of Standards, this activity will not be triggered. • Not all tanks or containers are expanded for the primary purpose of storage. In this regard such a facility expanded for e.g. leaching purposes, galvanizing, acid baths or mixing of chemicals as part of the process is excluded from this activity. • This activity includes either above or underground storage or a combination thereof. • This activity excludes the replacement of like with like on exactly the same footprint.
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Activity 43:	Interpretation:
The expansion of structures where the development footprint will be increased by more than 50 square metres in the coastal public property, excluding such expansions within existing ports or harbours where there would be no increase in development footprint or throughput capacity of the port or harbour.	<ul style="list-style-type: none"> • This does not apply to expansions outside the coastal public property. • This excludes the expansion of such a facility, where the increased capacity would be 50 square metres or less. • This excludes any such expansions within existing ports or harbours where there would be no increase in development footprint or throughput capacity of the port or harbour. • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion.

Activity 44:	Interpretation:
The expansion of facilities for the desalination of sea water where the design capacity will be expanded to produce an additional 100 cubic metres or more of treated water per day.	<ul style="list-style-type: none"> • This activity can only be triggered in an event where there will be an expansion of a facility for the desalination of sea water. This excludes expansion to facilities for the desalination of i.e. mine water and other salt water. • This excludes the expansion of such a facility, where the increased capacity would be less than 100 cubic metres.

	<ul style="list-style-type: none"> • This activity excludes the replacement of like with like on exactly the same footprint. • The size of increased footprint has no relevance to the applicability of this activity. The trigger is increase in the capacity of the facility. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion.
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Activity 45:	Interpretation:
<p>The expansion of facilities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater, for –</p> <ul style="list-style-type: none"> (i) fixed or floating jetties and slipways; (ii) tidal pools; (iii) embankments; (iv) rock revetments or stabilising structures including stabilising walls; (v) buildings by more than 50 square metres; (vi) infrastructure by more than 50 square metres; (vii) facilities associated with the arrival and departure of vessels and the handling of cargo; (viii) piers; (ix) inter- and sub-tidal structures for entrapment of sand; (x) breakwater structures; (xi) coastal marinas; (xii) coastal harbours or ports; (xiii) structures for draining parts of the sea or estuary; (xiv) tunnels; or (xv) underwater channels – <p>where such expansion will result in an increase in the development footprint of such facilities</p> <p>but excluding where such expansion occurs:</p> <ul style="list-style-type: none"> (a) behind a development setback line; or (b) within existing ports or harbours where there will be no increase in the development footprint or throughput capacity of the port or harbour. 	<ul style="list-style-type: none"> • Such expansion activities behind the development setback line are excluded from this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion, even if the capacity would be increased. • This excludes any such expansions within existing ports or harbours where there would be no increase in development footprint or throughput capacity of the port or harbour. • If there's no increase in development footprint, this activity will not be triggered.

Activity 46:	Interpretation:
The expansion of cemeteries by an additional 2500 square metres or more.	<ul style="list-style-type: none"> This activity can only be triggered in an event where there will be an expansion of an existing cemetery. This excludes the expansion of a cemetery, where the increased capacity would be less than 2500 square metres.

Activity 47:	Interpretation:
<p>The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre –</p> <p>(i) where the existing reserve is wider than 13,5 metres; or</p> <p>(ii) where no reserve exists, where the existing road is wider than 8 metres –</p> <p>excluding widening or lengthening occurring inside urban areas.</p>	<ul style="list-style-type: none"> This activity cannot be triggered for road widening or lengthening within urban areas. The lengthening of an existing road is not deemed construction and must be dealt with as an expansion activity, provided that the 1 kilometer threshold is met. This activity excludes the replacement of like with like on exactly the same footprint. This excludes the addition of storm water management systems and e.g. pavements.

Activity 48:	Interpretation:
The expansion of facilities 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, excluding facilities for the refining, extraction or processing of gas from landfill sites.	<ul style="list-style-type: none"> This excludes the expansion of such a facility where the capacity will be increased by less than 50 cubic metres. This excludes the expansion of facilities for the refining, extraction or processing of gas from landfill sites. This activity can only be triggered in an event where there will be an expansion of an existing facility for the refining, extraction or processing of gas, oil or petroleum products. Prospecting can trigger this activity provided that the threshold is met.

Activity 49:	Interpretation:
<p>The expansion of facilities or infrastructure for the bulk transportation of dangerous goods:</p> <p>(i) in gas form, outside an industrial complex, by an increased throughput capacity of 700 tons or more per day;</p> <p>(ii) in liquid form, outside an industrial complex, by an increased throughput capacity of 50 cubic metres or more per day; or</p> <p>(iii) in solid form, outside an industrial</p>	<ul style="list-style-type: none"> This excludes the expansion of facilities or infrastructure for the bulk transportation of dangerous goods in gas, liquid or solid form, inside an industrial complex. Expansion of facilities or infrastructure for bulk transportation of such goods (whether in gas, liquid or solid form) will trigger this activity if applicable thresholds are met. Product throughput must be calculated by using the throughput capability and not envisaged capacity.

complex, by an increased throughput capacity of 50 tons or more per day.

Activity 50:	Interpretation:
<p>The expansion of airports where the development footprint will be increased:</p>	<ul style="list-style-type: none"> Any expansion of an airport would trigger this activity provided that there is an increased development footprint provided that there's an increased footprint of the airport. This excludes the expansion of runways or aircraft landing strips, unless the expansion of the runway or aircraft landing strip will constitute an expansion of the airport. This typically includes the increase of footprint of the terminal buildings, warehouses, aerodromes, and runways, outside the existing developed footprint.
Activity 51:	Interpretation:
<p>The expansion of facilities or infrastructure for marine telecommunication where there will be an increased development footprint.</p>	<ul style="list-style-type: none"> Any expansion of such facilities or infrastructure would trigger this activity provided that there is an increased development footprint. This includes any increase in footprint of existing facilities or infrastructure within the sea and on land, as long as this is for the purposes of marine telecommunication. This excludes any facilities or infrastructure not specifically used for marine telecommunication. This activity excludes the replacement of like with like on exactly the same footprint. Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion.
Activity 52:	Interpretation:
<p>The expansion of facilities or infrastructure for the transfer of water from and to or between any combination of the following:</p> <ul style="list-style-type: none"> (i) water catchments; (ii) water treatment works; or (iii) impoundments; - <p>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</p>	<ul style="list-style-type: none"> Expansion of facilities by less 50 000 cubic metres is excluded. Facilities for water treatment works where water is treated for drinking purposes are excluded.

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Activity 53:	Interpretation:
<p>The expansion of railway lines, stations or shunting yards where there will be an increased development footprint, excluding:</p> <ul style="list-style-type: none"> (i) railway lines, shunting yards and railway stations in industrial complexes; (ii) underground railway lines in mines; and (iii) additional railway lines within the reserve of an existing railway line. 	<ul style="list-style-type: none"> • In an event where a railway line, station or shunting yard is expanded, but there are no increase in the development footprint, this activity will not be triggered. • Expansions of railway lines, shunting yards and railway stations in industrial complexes, do not trigger this activity. • Expansions of underground railway lines in mines, does not trigger this activity. • The addition of railway lines within the reserve of an existing railway line neither triggers the construction nor this expansion activity.

Activity 54:	Interpretation:
<p>The expansion of an island, anchored platform or any other permanent structure on or along the sea bed, where the expansion will constitute an increased development footprint.</p>	<ul style="list-style-type: none"> • In cases where the expansion will not constitute an increased development footprint, an activity will not be triggered.

Activity 55:	Interpretation:
<p>The expansion of a dam where:</p> <ul style="list-style-type: none"> (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. 	<ul style="list-style-type: none"> • This includes the expansion 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) was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more. • This excludes the expansion 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) was lower than 5 metres even in such an event where the height of the wall is increased by 2,5 metres or more. • This includes the expansion of a dam where the high-water mark of the dam will be increased with 10 hectares or more.

Activity 56:	Interpretation:
<p>Phased activities for all activities listed in this Schedule, which commenced on or after the effective date of this Schedule, where any one phase of the activity may be below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold;</p> <p>excluding the following activities listed in this Schedule:</p> <p>2; 11(i)-(vii); 16(i)-(iv); 17; 19; 20; 22(i) & 22(iii); 25; 26; 27(iii) & (iv); 28; 39; 45(i)-(iv) & (vii)-(xv); 50; 51; 53; and 54.</p>	<ul style="list-style-type: none"> • This activity excludes activities 2; 11(i)-(vii); 16(i)-(iv); 19; 20; 22(i) & (iii); 25; 26; 27(iii) and 27(iv); 28; 39; 45(i)-(iv) & (vii)-(xv); 50; 51; 53; and 54. . • Activity 61 is applicable to all other activities in this listing notice not specifically excluded above. • In order for this activity to be triggered more than one phase of this activity must have occurred after the enactment of the relevant listed activity. • This activity does not apply to any phased activities in terms of activities listed in listing notice 2.

Listing Notice 2

Activity 1:

The construction of facilities or infrastructure for the generation of electricity where the electricity output is 20 megawatts or more.

Interpretation:

- **Construction of facilities or infrastructure:**

- The construction of a new facility meeting the relevant thresholds will trigger the listed activity.
- The construction of a new facility and infrastructure directly to do with the facility meeting the relevant thresholds will trigger the relevant listed activity.
- The construction of infrastructure only, directly to do with the facility, prior to the development of the facility (*meeting the relevant thresholds*) will trigger this activity.
- The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice.
- This activity can only be triggered in an event where a new electricity generation facility will be constructed.
- This activity excludes the replacement of like with like on exactly the same footprint.
- The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice.
- Demolition and redevelopment outside the existing footprint would trigger the construction activity, provided that thresholds are met.
- The demolition of e.g. a coal fired power plant and the consequent construction of a gas fired power station or nuclear power plant will trigger this activity.
- In an event where there is an existing electricity generation facility, irrespective the size, where additional electricity generation is to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
- Activity 1(ii) of LN1 cannot be triggered in an event where this activity is already triggered.
- Co-generation: Where a co-generation facility will be added to an existing industry (*where no electricity was generated*), this activity can be triggered if thresholds are met.

Activity 2:	Interpretation:
<p>The construction of facilities or infrastructure for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and nuclear and radioactive waste.</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant thresholds will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant thresholds will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility (<i>meeting the relevant thresholds</i>) will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity can only be triggered in an event where such new facility would be constructed. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within Listing Notice 1. • Demolition and redevelopment outside the existing footprint would trigger the construction activity, provided that thresholds are met. • The demolition of e.g. one type facility and the consequent construction of a facility of another type will trigger this activity. • In an event where there is an existing nuclear reaction facility, irrespective the size, where additional capacity is to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
Activity 3:	Interpretation:

The construction 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.

• **Construction of facilities or infrastructure:**

- The construction of a new facility meeting the relevant threshold will trigger the listed activity.
- The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity.
- The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity.
- The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice.
- The trigger for this activity is construction and not the storage of dangerous goods.
- This excludes storage facilities of 500 cubic metres or less, in which case LN1 is likely to be triggered. .
- This includes storage facilities of more than 500 cubic metres.
- Relocation of tanks within the existing footprint of the facility (e.g. *tank farm*) does not trigger this activity
- In cases where a material or substance falls outside the scope the material as defined in SANS code No 10234, supplement 2008 1.00: designated "List of classification and labeling of chemicals in accordance with the Globally Harmonized System (GHS)" published by South African Bureau of Standards, this activity will not be triggered.
- The storage of transformer oil in containers meeting the threshold will trigger this activity. However a transformer itself cannot be defined as a container or a storage facility. The storage of the transformer (with oil inside) does not trigger this activity.
- Not all tanks are constructed for the primary purpose of storage. In this regard leaching tanks, galvanizing baths, acid baths or tanks where chemicals are mixed as part of a process are excluded from this activity. However, the storage only of such dangerous goods for purposes of later use will trigger this activity (e.g. *such hazardous substances not directly part of the process*).
- This activity includes either above or underground storage or a combination thereof.
- This activity excludes the replacement of like with like on exactly the same footprint.
- The demolition of a storage facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however

	<p>exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.</p> <ul style="list-style-type: none"> • In an event where there is an existing storage facility, irrespective the size, where additional storage capacity is to be added, the construction activity cannot be triggered. In such cases the expansion activity in LN1 will be triggered if the relevant thresholds are met. • Containers for bio-fuel plants would trigger this activity, depending on thresholds.
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Activity 4:	Interpretation:
<p>The construction of facilities or infrastructure for the refining, extraction or processing of gas, oil or petroleum products with an installed capacity of 50 cubic metres or more, excluding facilities for the refining, extraction or processing of gas from landfill sites;</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • Prospecting can trigger this activity. • This excludes the construction of such a facility where the capacity will be lower than 50 cubic metres. • This activity can only be triggered in an event where there will be construction of an existing facility for the refining, extraction or processing of gas, oil or petroleum products. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility (<i>for refining, extraction or processing of gas, oil or petroleum products</i>) and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within this listing notice. Demolition and redevelopment outside the existing footprint triggers construction. • In an event where there is an existing facility, irrespective the size, where additional capacity is to be added, the construction

	activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
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Activity 5:	Interpretation:
The construction of facilities or infrastructure for any process or activity which requires a permit or license in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent and which is not identified in Notice No. ??? of 2010 or 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 that Act will apply.	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity does not cover local bylaws etc. • It is not the act or process of applying for a permit or license that triggers this activity. It is the construction of a facility or infrastructure requiring a permit or license.

Activity 6:	Interpretation:
<p>The construction of facilities or infrastructure for the bulk transportation of dangerous goods -</p> <ol style="list-style-type: none"> i. in gas form, outside an industrial complex, using pipelines, exceeding 1000 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 1000 metres in length, with a throughput capacity 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 day. 	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • In an event where a facility already exists, but infrastructure, meeting the thresholds would be constructed, this activity will indeed be triggered. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This excludes the construction of such facilities or infrastructure inside an industrial complex. • The extension of such infrastructure must be dealt with as expansion and not construction. • Product throughput must be calculated by using the design capacity & not envisaged capacity. • For activities 6(i) to be triggered the distance threshold as well as

	<p>the throughput capacity threshold must be met.</p> <ul style="list-style-type: none"> • For activities 6(ii) to be triggered the distance threshold as well as the throughput capacity threshold must be met. • For activities 6(iii) to be triggered the throughput capacity must be more than 50 tons day.
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Activity 7:	Interpretation:
<p>The construction of</p> <p>(i) airports, or</p> <p>(ii) runways or aircraft landing strips longer than 1,4 kilometres.</p>	<ul style="list-style-type: none"> • This includes the construction of all airports, irrespective the size thereof. • This excludes runways or aircraft landing strips that are shorter than or exactly 1.4km in length. • The construction of an airport or runways or aircraft landing strips longer than 1,4 kilometres will trigger the listed activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The widening or extension of runways or aircraft landing strips irrespective the increase of physical footprint or consequent throughput capacity would not trigger this activity. • Demolition and redevelopment of an airport, runway or aircraft landing strip, outside the existing footprint would trigger construction and not expansion. • The surfacing, hardening or re-surfacing of an existing landing strip or runway does not trigger this activity.

Activity 8:	Interpretation:
<p>The construction 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.</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity can only be triggered in an event where (where thresholds are met): <ol style="list-style-type: none"> a. A new electricity transmission or distribution facility would be constructed or b. An existing electricity transmission or distribution facility would be extended / lengthened. In this regard the lengthening of a transmission line is deemed construction & not expansion. • This totally excludes any facilities or infrastructure of less than 275 kilovolts. • This activity will not be triggered for facilities of 275 kilovolts or more within urban areas or industrial complexes. • Realignment of a power line meeting the thresholds will trigger this activity, unless within urban areas or industrial complexes. . • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility or infrastructure and the consequent redevelopment of the facility or infrastructure falls outside the definition of construction, as long as this will be redeveloped within the same footprint • The moving of poles within the existing footprint or "canopy" of the facility will not trigger this activity. • This activity will be triggered for the construction of substations and transformers. However, the upgrading or addition of e.g. transformers and substations will trigger the expansion activity in this listing notice, if thresholds are met. • This excludes the storing of a transformer for purposes related to later replacement.

Activity 9:	Interpretation:
<p>The construction of facilities or infrastructure for marine telecommunication.</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This excludes any facilities or infrastructure not specifically used for marine telecommunication. • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion.

Activity 10:	Interpretation:
<p>The construction 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:</p> <ul style="list-style-type: none"> i. water catchments; ii. water treatment works; or iii. impoundments; - <p>excluding treatment works where water is to be treated for drinking purposes;</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This excludes the construction of facilities or infrastructure for storage of water. • This excludes the construction of facilities or infrastructure for the transfer of water to or from water treatment works where water is treated for drinking purposes. • This excludes the construction of facilities or infrastructure for the transfer of water to or from aquifers or mines. • This excludes the construction of such a facility or infrastructure,

	<p>where the increased capacity is less than 50 000 cubic metres.</p> <ul style="list-style-type: none"> • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion. • This includes such facilities or infrastructure within a road reserve.
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Activity 11:	Interpretation:
<p>The construction of railway lines, stations or shunting yards, excluding</p> <ul style="list-style-type: none"> (i) railway lines, shunting yards and railway stations in industrial complexes or zones; (ii) underground railway lines in a mining area; and (iii) additional railway lines within the reserve of an existing railway line. 	<ul style="list-style-type: none"> • This excludes railway lines, stations or shunting yards in industrial complexes. • This includes underground railway lines, unless within a mining areas. • The addition of railway lines within the reserve of an existing railway line, neither triggers the construction nor this expansion activity. • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of railway lines, stations or shunting yards outside the existing footprint would trigger construction and not expansion.

Activity 12:	Interpretation:
<p>The construction of facilities or infrastructure for aquaculture of -</p> <ul style="list-style-type: none"> i. finfish, crustaceans, reptiles or amphibians with a production output of 200 000 or more kg per annum (live round weight); molluscs with a production output of 150 000 or more kg per annum (live round weight); ii. aquatic plants with a production output of 200 000 or more kg per annum (live round weight) <p>excluding where the construction of facilities, infrastructure or structures is for purposes of offshore cage culture in case activity 13 in this Notice will apply</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will

	<p>trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.</p> <ul style="list-style-type: none"> • In a case where there is an existing facility, irrespective the size, where additional e.g. buildings are to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.
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Activity 13	Interpretation:
<p>The construction of facilities, infrastructure or structures for aquaculture of offshore cage culture of finfish, crustaceans, reptiles, amphibians, mollusks and aquatic plants with a production output of 100 000 or more kg per annum (live round weight).</p>	<ul style="list-style-type: none"> • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction. • In a case where there is an existing facility, irrespective the size, where additional e.g. buildings are to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met.

Activity 14:	Interpretation:
<p>The construction of an island, anchored platform or any other permanent structure on or along the sea bed.</p>	<ul style="list-style-type: none"> • This includes the construction of an island or anchored platform, whether permanent or temporary. • This includes the construction of any other permanent structure. • This does not include the construction of other temporary structures which is not defined as islands or anchored platforms.

Activity 15:	Interpretation:
<p>Physical alteration of undeveloped, vacant or derelict land for residential, retail, commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more; except where such physical alteration takes place for:</p> <ol style="list-style-type: none"> linear development activities; or agriculture or afforestation where activity 15 in this Schedule will apply. 	<ul style="list-style-type: none"> For the construction or expansion of linear activities (as defined in the Regulations), this activity cannot be triggered. The terms vacant, derelict and undeveloped are defined in the regulations. In cases where physical alteration of land will take place on land that is neither defined as vacant, derelict or undeveloped, this activity would not be triggered. This excludes areas below the high-water mark of the sea. The determining factor is the size of the land to be physically altered, not the size of the property. Physical alteration includes the entire new development footprint including, e.g. buildings, infrastructure, landscaping, area where earthworks have taken place, construction camp etc. The mowing of land or burning thereof would not trigger this activity. The physical alteration of land for agriculture and afforestation is excluded from this activity. In the determination of the area to be physically altered, existing physically altered areas [e.g. buildings, infrastructure, landscaping (including kikuyu grass), area where earthworks have taken place, construction camp etc.] must be excluded from the equation. In other words an area already physically altered cannot trigger this activity. Urban areas are defined as "areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas". This activity includes the formalization (e.g. installment of services) of informal settlements.

Activity 16:	Interpretation:
<p>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.</p>	<ul style="list-style-type: none"> This activity obviously only applies to land that has not already been cultivated. This activity excludes such activities where the production is less than 100 hectares. In an event where the 100 hectare threshold would not be met, activity 27 of LN1 is likely to be triggered (unless the thresholds in LN1 are also not met). The listed activity does not refer to property size, but rather to the area to be altered

	<ul style="list-style-type: none"> • This only includes agriculture or afforestation for the purposes of commercial tree, timber or wood production of 100 hectares or more. • The mowing of e.g. a field or the burning thereof is not covered under this activity.
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Activity 17:	Interpretation:
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.	<ul style="list-style-type: none"> • The following activities are covered by this listed activity: <ul style="list-style-type: none"> • Removal of peat, irrespective the quantity. • Removal of peat soils, irrespective the quantity. • Disturbance of vegetation in anticipation of the extraction or removal of peat or peat soils. • Disturbance of soils in anticipation of the extraction or removal of peat or peat soils.

Activity 18:	Interpretation:
<p>The route determination of roads and design of associated physical infrastructure, including roads that have not yet been built for which routes have been determined before 03 July 2006 and which have not been authorised by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 or 2009, made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006,—</p> <p>(i) it is a national road as defined in section 40 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);</p> <p>(ii) it is a road administered by a provincial authority;</p> <p>(iii) the road reserve is wider than 30 metres; or the road will cater for more than one lane of traffic in both directions.</p>	<ul style="list-style-type: none"> • The route determination activity in this listing notice only covers those roads that do not yet exist but are being planned for later construction. • This excludes roads already authorized by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006. • If the road falls outside the scope of 17(i), 17(ii), 17(iii) & 17(iv), this activity cannot be triggered.

Activity 19:	Interpretation:
The construction 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.	<ul style="list-style-type: none"> • This includes the construction 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. • This also includes the construction of a dam, where the high-water mark of the dam covers an area of 10 hectares or more.

	<ul style="list-style-type: none"> • This excludes any expansion of an existing dam.
Activity 20:	Interpretation:
<p>Any activity which requires a mining right or renewal thereof as contemplated in sections 22 and 24 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	<ul style="list-style-type: none"> • The enactment date of this activity will be communicated in due course. • Although this activity relates will only be enacted at a later stage, any other activities listed (in any of the 3 listing notices) as a result of the proposed prospecting or mining will still require an environmental authorization in terms of these Regulations. In an event where both the MPRDA and NEMA EIA Regulations are triggered by e.g. a mining activity, both processes need to be followed.
Activity 21:	Interpretation:
<p>Any activity which requires an exploration right or renewal thereof as contemplated in sections 79 and 81 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	<ul style="list-style-type: none"> • The enactment date of this activity will be communicated in due course. • Although this activity relates will only be enacted at a later stage, any other activity listed triggered (in any of the 3 listing notices) as a result of the proposed prospecting or mining will still require an environmental authorization in terms of these Regulations. In an event where both the MPRDA and NEMA EIA Regulations are triggered by e.g. a mining activity, both processes need to be followed.
Activity 22:	Interpretation:
<p>Any activity which requires a production right or renewal thereof as contemplated in sections 83 and 85 respectively of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).</p>	<ul style="list-style-type: none"> • The enactment date of this activity will be communicated in due course. • Although this activity relates will only be enacted at a later stage, any other activity listed triggered (in any of the 3 listing notices) as a result of the proposed prospecting or mining will still require an environmental authorization in terms of these Regulations. In an event where both the MPRDA and NEMA EIA Regulations are triggered by e.g. a mining activity, both processes need to be followed.

Activity 23:	Interpretation:
Any activity which requires a reconnaissance permit as contemplated in section 74 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002), excluding where such reconnaissance is conducted by means of a fly over.	<ul style="list-style-type: none"> • The enactment date of this activity will be communicated in due course. • Although this activity relates will only be enacted at a later stage, any other activity listed triggered (in any of the 3 listing notices) as a result of the proposed prospecting or mining will still require an environmental authorization in terms of these Regulations. In an event where both the MPRDA and NEMA EIA Regulations are triggered by e.g. a mining activity, both processes need to be followed.

Activity 24:	Interpretation:
<p>Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater, in respect of:</p> <ol style="list-style-type: none"> facilities associated with the arrival and departure of vessels and the handling of cargo; piers; inter- and sub-tidal structures for entrapment of sand; breakwater structures; coastal marinas; coastal harbours or ports; structures for reclaiming parts of the sea; tunnels; or underwater channels; <p>but excluding —</p> <ol style="list-style-type: none"> activities listed in activity 16 in Notice ?? of 2010; construction or earth moving activities if such construction or earth moving activities will occur behind a development setback line; where such construction or earth moving activities will occur in existing ports or harbours where there will be no increase of the development footprint or throughput capacity of the port or harbour; or where such construction or earth moving activities takes place for maintenance purposes. 	<ul style="list-style-type: none"> • Such construction activities further than 100m inland of the high water mark of the sea or an estuary are excluded. • Such construction or earth moving activities behind the development setback line are excluded from this activity. • Such construction or earth moving activities occurring within existing ports or harbours where the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbour are excluded. • Construction or earth moving activities for maintenance purposes are excluded, provided that there is no increase in existing development footprint. • Such construction or earth moving activities listed in item ??, are excluded from this activity. • Dredging is included but maintenance dredging excluded. • This activity excludes the replacement of like with like on exactly the same footprint. • This activity excludes the increase of the height of existing structures in the event where there will be no increased footprint. e.g. the adding of an additional storey to an existing building. • The demolition of such a structure and consequent redevelopment of the structure falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" structure goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and redevelopment outside the existing footprint triggers construction.

Activity 25:	Interpretation:
The expansion of facilities for nuclear reaction including energy generation, the production, enrichment, processing, reprocessing, storage or disposal of nuclear fuels, radioactive products and nuclear and radioactive waste.	<ul style="list-style-type: none">• This includes any expansion of such facilities.• Any expansion (irrespective the size of the expansion) to such an existing facility where the footprint or capacity of the facility is increased can trigger this activity, provided that the variables of the listed activity is met.

Listing Notice 3	
Activity 1:	Interpretation:
The construction of billboards exceeding 18 square metres in size outside urban or mining areas or outside industrial complexes.	<ul style="list-style-type: none"> • Construction: <ul style="list-style-type: none"> • The construction of a new billboard meeting the relevant threshold may trigger the listed activity. • The construction of infrastructure related to the billboard (e.g. a road or fence) will not trigger the relevant listed activity. • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls inside an identified geographical area, but is falls inside a mining area, urban area or industrial complex, this activity cannot be triggered. • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This activity can only be triggered in an event where the threshold is met, e.g: <ul style="list-style-type: none"> • A billboard of 18 square metres or smaller in size would not trigger this activity. • Any billboard larger than 18 square metres in size can trigger this activity • The relocation of a billboard to another location (even on the same site) meeting the thresholds may trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a billboard and the consequent redevelopment of the billboard falls outside the definition of construction, as long as this will be redeveloped within the same footprint. • Contrary to the listing of Billboards in the previous set of NEMA EIA regulations, the guidelines provided for billboards in terms of South African Manual for Outdoor Advertising Control (SAMOAC) has no relevance to the listing of this activity. • Traffic signs are not excluded from this activity. If the threshold is met this activity will be triggered, even if this is for traffic signs.

Activity 2:	Interpretation:
<p>The construction of reservoirs for bulk water supply with a capacity of more than 250 cubic metres.</p>	<ul style="list-style-type: none"> • Construction: <ul style="list-style-type: none"> • The construction of a reservoir or combination of reservoirs meeting the relevant threshold may trigger the listed activity. • The construction of infrastructure related to the reservoir (e.g. a road, water pipes, channels or fence) will not trigger the relevant listed activity. • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This activity can only be triggered in an event where the threshold is met, e.g.: <ul style="list-style-type: none"> • A reservoir of 250 cubic metres or smaller in size will not trigger this activity. • A reservoir of more than 250 cubic metres in size may trigger this activity. • A combination of 2 or more reservoirs, as part of the same development, with a capacity cumulative of more than 250 cubic metres in size will trigger this activity. • The expansion of a reservoir will not trigger this activity. • The relocation of a reservoir to another location (even on the same site) meeting the thresholds may trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a reservoir and the consequent redevelopment of the reservoir falls outside the definition of construction, as long as this will be redeveloped within the same footprint.
Activity 3:	Interpretation:
<p>The construction of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast:</p> <p>a. is to be placed on a site not previously used for</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another

<p>this purpose, and</p> <p>b. will exceed 15 metres in height,</p> <p>but excluding attachments to existing buildings and masts on rooftops.</p>	<p>province(s).</p> <ul style="list-style-type: none"> • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This excludes towers and masts not used for telecommunication broadcasting or radio transmission purposes. <i>e.g. wind masts, lighting poles, lightning poles.</i> • This includes all masts and towers to be placed on a site not previously used for this purpose, irrespective the height of the mast. • This includes all masts and towers of more than 15 metres in height, even if this is to be placed on a site previously used for this purpose. • Attachments to existing buildings would not trigger this activity <i>e.g. a pole and antennae, satellite dishes.</i> • This activity excludes the construction of a mast on a roof top. • The construction of infrastructure related to the mast or tower (e.g. a road, base station or fence) will not trigger the relevant listed activity. • The expansion of a mast or tower will not trigger this activity. • The relocation of a mast or tower to another location (even on the same site) meeting the thresholds may trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a mast or tower and the consequent redevelopment thereof falls outside the definition of construction, as long as this will be redeveloped within the same footprint.
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Activity 4:	Interpretation:
<p>The construction of a road wider than 4 metres with a reserve less than 13,5 metres..</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This excludes all roads with a width of 4 metres or less. • This excludes all roads with a reserve of 13,5 metres or more. • For this activity to be triggered, both thresholds must be met. <i>e.g.:</i>

	<ul style="list-style-type: none"> • A road wider than 4 metres with a reserve less than 13,5 metres, will trigger this activity. • A road wider than 4 metres with a reserve of 13,5 metres or more will not trigger this activity. • This activity can be triggered in the event where the main activity isn't triggered. e.g. the construction of a road within the middle of a proposed shopping centre development. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a road and the consequent redevelopment thereof falls outside the definition of construction, as long as this will be redeveloped within the same footprint • The widening of an existing road is not deemed construction and must be dealt with as an expansion activity, provided that thresholds are met. • The lengthening of an existing road is not deemed construction and must be dealt with as an expansion activity, provided that thresholds are met. • Toll gates and traffic control centre's are excluded from this activity. • The addition of storm water management systems and e.g. pavements are excluded from this activity. • A road includes the tarred area and the shoulders thereof. • Surfacing, tarring or hardening of a road is neither deemed construction nor expansion.
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Activity 5:	Interpretation:
The construction of resorts, lodges or other tourism accommodation facilities that sleep less than 15 people .	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • The expansion of a resort, lodge or other tourism accommodation facility will not trigger this activity. • In an event where threshold will be exceeded, either activity 6 or the relevant activity in listing notice 1 will be triggered. • The relocation of a resort, lodge or other tourism accommodation facility to another location (even on the same site) may trigger this activity, provided that the threshold is met.

	<ul style="list-style-type: none"> • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a resort, lodge or other tourism accommodation facility and the consequent redevelopment of thereof falls outside the definition of construction, as long as this will be redeveloped within the same footprint • Caravan parks and tent camps are included. • The construction of e.g. a <i>hiking trail, swimming pool, quad bike track, sports facility, entrance, additional accommodation units etc.</i> forming part of an existing resort, lodge or other tourism accommodation facility does not trigger this activity. However, if such infrastructures are developed in conjunction with the resort, lodge or other tourism accommodation facility this infrastructure must form part of the application. • This activity excludes the replacement of like with like on exactly the same footprint. • This includes the construction of such resorts, lodges or other tourism accommodation not related to overnight accommodation. • The conversion of an existing structure to e.g. a resort, lodge or other tourism accommodation facility does not trigger this activity.
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Activity 6:	Interpretation:
The construction of resorts, lodges or other tourism accommodation facilities that sleep 15 people or more.	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • The expansion of a resort, lodge or other tourism accommodation facility will not trigger this activity. • In an event where threshold will not be met activity 5 of this listing notice may be triggered. • The relocation of a resort, lodge or other tourism accommodation facility to another location (even on the same site) may trigger this activity, provided that the threshold is met. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a resort, lodge or other tourism accommodation

	<p>facility and the consequent redevelopment of thereof falls outside the definition of construction, as long as this will be redeveloped within the same footprint</p> <ul style="list-style-type: none"> • Caravan parks and tent camps are included. • The construction of e.g. a <i>hiking trail, swimming pool, quad bike track, sports facility, entrance, additional accommodation units etc.</i> forming part of an existing resort, lodge or other tourism accommodation facility does not trigger this activity. However, if such infrastructure is developed in conjunction with the resort, lodge or other tourism accommodation facility this infrastructure must form part of the application. • This activity excludes the replacement of like with like on exactly the same footprint. • This includes the construction of such resorts, lodges or other tourism accommodation not related to overnight accommodation. • The conversion of an existing structure to e.g. a resort, lodge or other tourism accommodation facility does not trigger this activity.
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Activity 7:	Interpretation:
The conversion of existing structures, to resorts, lodges or tourism accommodation facilities that sleep 15 people or more.	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This activity cannot be triggered in cases where no physical changes, renovations or alterations to the existing structure are required. • In cases where such a facility sleeps less than 15 people, irrespective the size or sensitivity of the receiving environment, this activity will not be triggered, unless the development footprint of the existing structure would increase. • This activity cannot be triggered in cases where no physical changes, renovations or alterations to the existing structure (for overnight purposes) are required. • The conversion of e.g. a <i>hiking trail, swimming pool, quad bike track, sports facility, entrance, garage, parking area, bird hide, cable car, access road etc.</i> would not trigger this activity.

	<ul style="list-style-type: none"> • The conversion of an existing resort, lodge or other tourism accommodation facility to another type (e.g. resort – lodge) does not trigger this activity. It only applies in an event where the existing structure was used for purposes other than a resort, lodge or tourism accommodation facility.
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Activity 8:	Interpretation:
The construction of aircraft landing strips and runways shorter than 1,4 kilometres.	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This excludes the construction of airports, irrespective the size thereof. Refer to Listing Notice 2. • This excludes runways or aircraft landing strips of 1.4km in length or longer. • This activity excludes the replacement of like with like on exactly the same footprint. • The widening or extension of runways or aircraft landing strips irrespective the increase of physical footprint or consequent throughput capacity would not trigger this activity. • Demolition and redevelopment of a runway or an aircraft landing strip, outside the existing footprint would trigger construction and not expansion. • The surfacing, hardening or re-surfacing of an existing landing strip or runway does not trigger this activity.

Activity 9:	Interpretation:
<p>The construction of above ground cableways and funiculars:</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • No thresholds are prescribed for this activity, meaning that above ground cableways and funiculars of any size will trigger this activity, provided that this falls within an identified geographical area. • The expansion of an above ground cableway or funicular will not trigger this activity. • The relocation of an above ground cableway or funicular to another location (even on the same site) may trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of an above ground cableway and funicular and the consequent redevelopment thereof falls outside the definition of construction, as long as this will be redeveloped within the same footprint • This excludes "foefieslides" and "zip lines".
Activity 10:	Interpretation:
<p>The construction 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 between 30 and not exceeding 80 cubic metres.</p>	<ul style="list-style-type: none"> • Construction of facilities or infrastructure: <ul style="list-style-type: none"> • The construction of a new facility meeting the relevant threshold will trigger the listed activity. • The construction of a new facility and infrastructure directly to do with the facility meeting the relevant threshold will trigger the relevant listed activity. • The construction of infrastructure only, directly to do with the facility, prior to the development of the facility will trigger this activity. • The construction of infrastructure where a facility already exists does not trigger this activity. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified

	<p>geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s).</p> <ul style="list-style-type: none"> • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • The trigger for this activity is construction and not the storage of dangerous goods. • This excludes storage facilities of more than 80 cubic metres, in which event listing notice 1 or 2 will be triggered. • This includes storage facilities of exactly 80 cubic metres. • This includes storage facilities of less than 80 cubic metres. • Relocation of tanks within the existing footprint of the facility (i.e. tank farm) does not trigger this activity • In cases where a material or substance falls outside the scope the material as defined in SANS code No 10234, supplement 2008 1.00: designated <i>"List of classification and labeling of chemicals in accordance with the Globally Harmonized System (GHS)"</i> published by South African Bureau of Standards, this activity will not be triggered. • The storage of transformer oil in containers meeting the threshold will trigger this activity. However a transformer itself cannot be defined as a container or a storage facility. The storage of the transformer (with oil inside) does not trigger this activity. • Not all tanks are constructed for the primary purpose of storage. In this regard leaching tanks, galvanizing baths, acid baths or tanks where chemicals are mixed as part of a process are excluded from this activity. However, the storage only of such dangerous goods for purposes of later use will trigger this activity (e.g. such hazardous substances not directly part of the process). • This activity includes either above or underground storage or a combination thereof. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of a storage facility and consequent redevelopment of the facility falls outside the definition of construction, as long as this will be redeveloped within the same footprint. In such an event, this activity will not be triggered. The same applies in an event where a portion of the "re-developed" facility goes beyond the original footprint. The possibility however exists that this will trigger the relevant expansion activity within the same listing notice. Demolition and
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	<p>redevelopment outside the existing footprint triggers construction.</p> <ul style="list-style-type: none"> • In an event where there is an existing storage facility, irrespective the size, where additional storage capacity is to be added, the construction activity cannot be triggered. In such cases the expansion activity will be triggered if the relevant thresholds are met. • Containers for bio-fuel plants would trigger this activity, depending on thresholds.
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Activity 11:	Interpretation:
<p>The construction 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.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • No thresholds are prescribed for this activity, meaning that the construction of tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles of any size will trigger this activity, provided that this falls within an identified geographical area. • It excludes the conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles. • The expansion of such tracks or routes will not trigger this activity. • The relocation of such tracks or routes to another location (even on the same site) may trigger this activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of such tracks or routes and the consequent redevelopment of thereof falls outside the definition of construction, as long as this will be redeveloped within the same footprint. • The construction of 4X4 tracks are covered under this activity. • The trigger is construction; it is not the physical activity of racing of riding for pleasure that is listed, but the construction of the facility for that purpose.

Activity 12:	Interpretation:
<p>The clearance of an area of 300 square metres or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This includes all such activities, even if this is behind the development setback line or outside the littoral active zone. • The trigger for this activity is the removal of vegetation (where 75% or more of the vegetative cover constitutes indigenous vegetation). It is imperative to refer to the definition of indigenous vegetation as defined in the regulations.

Activity 13:	Interpretation:
<p>The clearance of an area of 1 hectare or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, except where such removal of vegetation is required for:</p> <p>(1) the undertaking of a process or activity 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 activity is regarded to be excluded from this list.</p> <p>(2) the undertaking of a linear activity falling below the thresholds mentioned in Listing Notice 1 in terms of GN No?? of 2010.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This includes all such activities, even if this is behind the development setback line or outside the littoral active zone. • This excludes clearance of vegetation for the undertaking of a linear activity falling below the thresholds mentioned in Listing Notice 1 in terms of GN No?? of 2010. • The trigger for this activity is the removal of vegetation (where 75% or more of the vegetative cover constitutes indigenous vegetation). It is imperative to refer to the definition of indigenous vegetation as defined in the regulations.

Activity 14:	Interpretation:
<p>The clearance of an area of 5 hectares or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, except</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific

<p>where such removal of vegetation is required for:</p> <ol style="list-style-type: none"> 1. purposes of agriculture or afforestation inside areas identified in spatial instruments adopted by the competent authority for agriculture or afforestation purposes; 2. the undertaking of a process or activity 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 activity is regarded to be excluded from this list; 3. the undertaking of a linear activity falling below the thresholds in Notice ??? of 2010. 	<p>and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s).</p> <ul style="list-style-type: none"> • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This excludes activities stipulated in 14(1)–(3). • The trigger for this activity is the removal of vegetation (where 75% or more of the vegetative cover constitutes indigenous vegetation). It is imperative to refer to the definition of indigenous vegetation as defined in the regulations.
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Activity 15:	Interpretation:
<p>The construction of facility, infrastructure or structures of any size for any form of aquaculture.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • No thresholds are prescribed for this activity, meaning that any such construction will trigger this activity.

Activity 16:	Interpretation:
<p>The construction of:</p> <ol style="list-style-type: none"> (i) jetties exceeding 10 square metres in size; (ii) slipways exceeding 10 square metres in size; (iii) buildings with a footprint exceeding 10 square metres in size; or (iv) infrastructure covering 10 square metres or more <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This activity excludes the replacement of like with like on exactly the same footprint. • The demolition of jetties, slipways, buildings or infrastructure and the consequent redevelopment of thereof falls outside the definition of construction, as long as this will be redeveloped

	<p>within the same footprint</p> <ul style="list-style-type: none"> • Even if such activities is proposed within an identified geographical area, if this is outside a watercourse or further away than 32 metres of a watercourse, measured from the edge of a watercourse, this activity will not be triggered. • This excludes such construction that occurs behind the development setback line.
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Activity 17:	Interpretation:
The expansion of reservoirs for bulk water supply where the capacity will be increased by more than 250 cubic metres.	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This excludes the expansion of reservoirs where the increase of capacity (added capacity) is less than 250 cubic metres. • This excludes the expansion of reservoirs where the increase of capacity (added capacity) is exactly 250 cubic metres. • This includes the expansion of reservoirs where the increase of capacity (added capacity) is more than 250 cubic metres.

Activity 18:	Interpretation:
The expansion of a resort, lodge, hotel and tourism or hospitality facilities where the development footprint will be expanded.	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • The size of increased footprint has no relevance to the applicability of this activity. The trigger is expansion (as defined in this listing notice). • This includes the expansion of caravan parks. • This activity excludes the replacement of like with like on exactly the same footprint.

	<ul style="list-style-type: none"> • This activity can only be triggered in an event where such a facility would be expanded. The expansion of an existing structure (such as the upgrading of an existing house for the purposes of the guest houses) or facility not defined as a resort, lodge or other tourism accommodation facility, will not trigger this activity irrespective the increase of footprint. In such an event the activity related to the conversion of such a structure within the same listing notice will be triggered, provided the thresholds are met. • Demolition and redevelopment of a facility outside the existing footprint, would trigger construction and not expansion.
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Activity 19:	Interpretation:
The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • The lengthening of an existing road is not deemed construction and must be dealt with as an expansion activity, provided that the 1 kilometer threshold is met. • This activity excludes the replacement of like with like on exactly the same footprint. • This excludes the addition of storm water management systems and e.g. pavements. • Surfacing of a road is neither deemed construction nor expansion. • The widening of a road by 4 metres is excluded from this activity. • The widening of a road by less than 4 metres is excluded from this activity. • The widening of a road by more than 4 metres is included in this activity. • The lengthening of a road by exactly 1 kilometre is excluded from this activity. • The lengthening of a road by less than 1 kilometre is excluded from this activity. • The lengthening of a road by more than 1 kilometre is excluded from this activity.

Activity 20:	Interpretation:
<p>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.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This excludes the construction of airports, irrespective the size thereof. Refer to Listing Notice 2. • This excludes where the expanded runway or aircraft landing strip will be 1.4km in length or less. • This activity excludes the replacement of like with like on exactly the same footprint. • The widening or extension of runways or aircraft landing strips irrespective the increase of physical footprint or consequent throughput capacity would not trigger this activity. • Demolition and redevelopment of a runway or an aircraft landing strip, outside the existing footprint would trigger construction and not expansion. • The surfacing, hardening or re-surfacing of an existing landing strip or runway does not trigger this activity.

Activity 21:	Interpretation:
<p>The expansion of above ground cableways and funiculars where the development footprint will be increased.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • No thresholds are prescribed for this activity, meaning that the expansion above ground cableways and funiculars of any size will trigger this activity, provided that this falls within an identified geographical area. • The relocation of an above ground cableway or funicular to another location (even on the same site) will trigger the

	<p>construction activity in the same listing notice.</p> <ul style="list-style-type: none"> • This activity excludes the replacement of like with like on exactly the same footprint. • Demolition and redevelopment of a runway or an aircraft landing strip, outside the existing footprint would trigger construction and not expansion. • This excludes foefieslides and zip lines.
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Activity 22:	Interpretation:
<p>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.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • No thresholds are prescribed for this activity, meaning that the expansion of such tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles any size will trigger this activity, provided that this falls within an identified geographical area. • It excludes the conversion of existing tracks or routes for the testing, recreational use or outdoor racing of motor powered vehicles. • The relocation of such tracks or routes to another location (even on the same site) may trigger the construction activity. • This activity excludes the replacement of like with like on exactly the same footprint. • The expansion of 4X4 tracks are covered under this activity. • The trigger is expansion; it is not the physical activity of racing of riding for pleasure that is listed, but the expansion of the facility for that purpose.

Activity 23:	Interpretation:
<p>The expansion of facilities or infrastructure for the storage, or storage and handling of a dangerous</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified

<p>good, where such storage facilities will be expanded by 30 cubic metres or more but less than 80 cubic metres.</p>	<p>geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s).</p> <ul style="list-style-type: none"> • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This excludes the expansion of such a facility, where the increased capacity would be less than 30 cubic metres. • This includes the expansion of such a facility, where the increased capacity would be 30 cubic metres exactly. • This includes the expansion of such a facility, where the increased capacity would be more than 30 cubic metres (provided that the increased capacity is less than 80 cubic metres). • This activity excludes the replacement of like with like on exactly the same footprint. • The size of increased footprint has no relevance to the applicability of this activity. The trigger is increase in the capacity of the facility or infrastructure. • Demolition and redevelopment of a facility outside the existing footprint would trigger construction and not expansion. • Relocation of tanks within the existing footprint of the facility (i.e. tank farm) does not trigger this activity. • In cases where a material or substance falls outside the scope the material as defined in SANS code No 10234, supplement 2008 1.00: designated "List of classification and labeling of chemicals in accordance with the Globally Harmonized System (GHS)" published by South African Bureau of Standards, this activity will not be triggered. • Not all tanks or containers are expanded for the primary purpose of storage. In this regard such a facility expanded for e.g. <i>leaching purposes, galvanizing, acid baths or mixing of chemicals as part of the process is excluded from this activity.</i> • This activity includes either above or underground storage or a combination thereof.
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Activity 24:	Interpretation:
<p>The expansion of :</p> <ul style="list-style-type: none"> (a) jetties where the jetty will be expanded by 10 square metres in size or more; (b) slipways where the slipway will be expanded by 10 square metres or more; (c) buildings where the buildings will be expanded 	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s).

<p>by 10 square metres or more in size;</p> <p>(d) infrastructure where the infrastructure will be expanded by 10 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<ul style="list-style-type: none"> • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • This activity excludes the replacement of like with like on exactly the same footprint. • Even if such expansion activities is proposed within an identified geographical area, if this is outside a watercourse or further away than 32 metres of a watercourse, measured from the edge of a watercourse, this activity will not be triggered. • This excludes expansion behind the development setback line. • Expansions of activities identified in 24(a)–(d) of less than 10 square meters are excluded. • The increase of height of existing structures where there will not be an increased development footprint will not trigger this activity.
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Activity 25	Interpretation:
<p>The expansion of facilities, infrastructure or structures of any size of any form of aquaculture.</p>	<ul style="list-style-type: none"> • Environmental authorisation for this activity is required in an event where this activity is proposed within an identified geographical area only. Geographical areas are province specific and the exclusion of this activity in 1 or more province does not necessarily imply that authorisation is not required in another province(s). • In an event where such an activity falls outside an identified geographical area, this activity cannot be triggered, irrespective the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. • No thresholds are prescribed for this activity, meaning that any expansion will trigger this activity.

Activity 26	Interpretation:
<p>Phased activities for all activities listed in this Schedule and as it applies to a specific geographical area, which commenced on or after the effective date of this Schedule, where any phase of the activity may be below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.</p>	<ul style="list-style-type: none"> • This activity applies activities, which commenced on or after the effective date of this Schedule, where any phase of the activity may be below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

INTEGRATED ENVIRONMENTAL MANAGEMENT GUIDELINE SERIES 7

PUBLIC PARTICIPATION IN THE EIA PROCESS

Further titles in this series of guideline documents are being prepared and will be made available periodically. Sequence of release and titles are subject to change

Guideline Series 1	Environmental Management Co-operation Agreements
Guideline Series 2	NEMA S24G(ECA applications)
Guideline Series 3	NEMA S24G
Guideline Series 4	Strategic Environmental Assessment
Guideline Series 5	Companion to the NEMA EIA Regulations 2010
Guideline Series 6	Environmental Management Framework
Guideline Series 7	Public Participation in the EIA process
Guideline Series 8	Handbook for authorities on handling the appeals in terms of NEMA S43

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These documents are available on the DEA website <http://www.environment.gov.za>

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REFERENCING

When referencing this document, it should be cited as follows:

DEA (2010), Public Participation 2010, Integrated Environmental Management Guideline Series 7, Department of Environmental Affairs
Pretoria, South Africa

ISBN:

PREFACE

This document is one of the series of guideline documents on environmental impact management legislation and regulations. It provides guidance on the procedure and the provisions of the public participation process in terms of NEMA and its EIA Regulations as well as other relevant legislation.

ACKNOWLEDGEMENTS

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ABBREVIATIONS

BA	Basic assessment
BAR	Basic assessment report
CA	Competent authority
CBO	Community based organisation
DEA	Department of Environmental Affairs
DMR	Department of Mineral Resources
EA	Environmental authorisation
EAP	Environmental assessment practitioner
ECA	Environment Conservation Act (Act No. 73 of 1989)
EIA	Environmental impact assessment
EIR	Environmental impact report
EMF	Environmental management framework
EMP	Environmental management programme
I&APs	Interested and/or affected parties
IEM	Integrated environmental management
MEC	Member of the Executive Council (Provincial government)
MPRDA	Minerals and Petroleum Resources Development Act (Act 28 of 2002)
NEMA	National Environmental Management Act (Act No. 107 of 1998)
PAIA	Promotion of Access to Information Act (Act No. 2 of 2000)
PAJA	Promotion of Administrative Justice Act (Act No. 3 of 2000)
PPP	Public Participation Process
S & EIR	Scoping and environmental impact assessment report
SR	Scoping report
PoS-EIR	Plan of study for environmental impact report

1. INTRODUCTION AND LEGAL BACKGROUND

Section 24 of the Constitution of the Republic of South Africa of 1996 guarantees everyone a right to an environment that is not harmful to their health and well-being and to have the environment protected for the benefit of present and future generations. In order to give effect to this right, the National Environmental Management Amendment Act (NEMA), Act 62 of 2008 came into effect in May 2009. Section 24J of NEMA allows the Minister or MEC, with concurrence of the Minister, to publish guidelines. The public participation guideline is developed in line with Chapter 6 of the NEMA environmental impact assessment (EIA) regulations of 2010 which outline the public participation process for environmental authorisations.

This document is one of a series of guidelines developed by the Department of Environmental Affairs (DEA) to provide clarity on aspects of the EIA regulations, as related to the concepts of integrated environmental management (IEM). The key challenge of IEM is to support sustainable development through the use of appropriate tools for environmental assessment and management. To this end, IEM in South Africa is being actively promoted through the ongoing development and implementation of environmental policy and legislation, systems and tools as well as training, communication and awareness programmes.

The document serves as a guideline for the EIA regulations and their implementation in terms of providing guidance on the procedure and the provisions of the public participation process in terms of NEMA and its EIA regulations.

2. PURPOSE

The document provides guidance on the procedure and the provisions of the public participation process in terms of NEMA and its EIA regulations of 2010 as well as other relevant legislations such as the Promotion of Administrative Justice Act (PAJA), Act No. 3 of 2000 and the Promotion of Access to Information Act (PAIA), Act No. 2 of 2000.

The guideline is designed to:

- Provide clarity on the roles, rights and responsibilities of all parties involved in the public participation process;
- Ensure compliance with relevant legislation on public participation; and
- Ensure mutual understanding between all parties involved in the process.

3. GENERAL MATTERS

In terms of Section 24 (4) of NEMA, procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment must, *inter alia*, ensure, with respect to every application:

- coordination and cooperation between organs of state in the consideration of assessments where an activity falls under the jurisdiction of more than one organ of state;
- that the findings and recommendations flowing from an investigation, the general objectives of integrated environmental management laid down in NEMA and the principles of environmental management set out in Section 2 of NEMA are taken into account in any decision made by an organ of state in relation to any proposed policy, programme, process, plan or projects, consequences or impacts; and
- public information and participation procedures which provide all interested and affected parties, including all organs of state in all spheres of government that may have jurisdiction over any aspect of the activity, with a reasonable opportunity to participate in those information and participation procedures.

One of the general objectives of integrated environmental management laid down in Section 23(2) (d) of NEMA is to "ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment".

The National Environmental Management Principles as stipulated in NEMA say:-

- 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;
- the participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary to achieve equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured".

With public information and participation procedures being specified as a requirement in terms of NEMA of every application, exemption from having to undertake public participation cannot be applied for in terms of either NEMA or the EIA regulations. Exemption from having to comply with some of the specific requirements in terms of the EIA regulations related to the public participation steps to be taken can however be applied for.

4. WHEN TO CONDUCT THE PUBLIC PARTICIPATION PROCESS?

The NEMA EIA regulations require that public participation must be done after submission on an application for both BA and S&EIR.

5. NOTIFICATION OF I&APs

A applicant/environmental assessment practitioner (EAP) conducting a public participation process (PPP) must give notice to all potential I&APs of the application.

5.1 Method of notification

The applicant or EAP must give notice to I&APs by:

- (a) fixing a notice board at a place noticeable and eye-catching to the public at the boundary or on the fence of the site where the activity to is to be undertaken as well as any alternative sites being considered.

Note: The site notice must be displayed for the duration of the commenting period.

- (b) giving written notice to:
 - (i) owners and occupiers of the site or of any alternative site on which the activity is proposed to be undertaken;
 - (ii) the owners and occupiers of land adjacent to the site or any alternative site where the activity is proposed to be undertaken;
 - (iii) the owners and occupiers of land within 100 metres of the boundary of the site on which the activity is proposed to be undertaken as well as within 100 metres of alternative sites being considered;
 - (iv) the municipal councillor of the ward (3)(5), as well as alternative sites being considered, are situated and any organisation of ratepayers that represents the community in the area;
 - (v) the relevant officials (e.g. health officer, planner, environmental manager, engineer, etc.) of the municipality which has jurisdiction in the area;

Note: Take note that both the local municipality and the district municipality must be notified.

- (vi) any organ of state having jurisdiction in respect of any aspect of the activity (e.g. Department of Water Affairs for water use authorisations); and
 - (vii) any other party as required by the competent authority (CA).
- (c) placing an advertisement in:
 - (i) one local newspaper; (this should be an appropriate newspaper in terms of accessibility and language to the I&APs); or
 - (ii) any official *Gazette* that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these regulations (i.e. a *Gazette* that is specifically concerned with publications with respect to the NEMA EIA regulations); and

- (d) if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or local municipality and an advertisement is not being placed in any official *Gazette* (referred to in (c)(ii) above), placing an advertisement in at least one provincial newspaper or national newspaper.

Note: With no *Gazette* specifically concerned with publications in respect to the NEMA EIA regulations currently existing, all applications for activities where it is anticipated that the impacts will not extend beyond the boundaries of the local municipality, an advertisement must be placed in one local newspaper. For such applications, applicants may, however, decide to also place an advertisement in a provincial or national paper. In this regard it must further be noted that the requirements specified in the EIA Regulations constitute the minimum requirements, and depending on the facts and circumstances of each application, additional public participation measures might be required.

- (e) using reasonable alternative methods as agreed to by the CA to accommodate disadvantaged individuals due to illiteracy, disability or any other disadvantage.

5.2 Content of the notice, notice board or advertisement

When notifying the I&APs, the applicant/EAP conducting public participation must:

- (a) give details of the particular application; and
- (b) state-
 - (i) that the application has been submitted to the CA in terms of the NEMA EIA regulations;
 - (ii) whether basic assessment or scoping procedures are being applied, in the case of an application for an EA;
 - (iii) the nature and location of the activity to which the application relates;
 - (iv) where further information on the application or activity can be obtained; and
 - (iv) the method and the person to whom representations in respect of the application may be made.

If applicable, the following must also be indicated in the notice:

- an indication of whether or not an application has been submitted or is to be submitted to the competent authority for exemption(s) from provisions of the regulations; and
- an indication if permission has been granted by the competent authority to apply scoping and EIA instead of basic assessment to the application.

5.3 Proof of notification

The NEMA EIA regulations requires *"proof that notice boards, advertisements and notices notifying potentially interested and affected parties in relation to the application have been displayed, placed or given"*. In terms of the required "proof" the applicant/EAP must therefore submit the following to the competent authority:

- (a) a copy of the newspaper advertisement ("newspaper clipping") that was placed, indicating the name of the newspaper and date of publication (of such quality that the wording in the advertisement is legible);
- (b) a site map showing where the site notice was displayed, a dated photographs showing the notice displayed on site and a copy of the text displayed on the notice;
- (c) in terms of the written notices given, a copy of the written notice sent, as well as:
 - (i) if registered mail was sent, a list of the registered mail sent (showing the registered mail number, the name of the person the mail was sent to, the address of the person and the date the registered mail was sent); and
 - (ii) if a facsimile was sent, a copy of the facsimile report; and
 - (iii) if an electronic mail was sent, a copy of the electronic mail sent; and

5.4 Minimum size of notice boards and newspaper notices

The EIA regulations specify that the minimum size of the notice boards must be at least 60cm by 42cm and display the required information in lettering and in a format that may be determined by the competent authority.

Note: Where circumstances prevent compliance to notification of I&APs, the person conducting the PPP may deviate from the requirements in agreement with the CA.

5.5 Commenting periods and consultation with state departments and other I&APs

In accordance with the EIA regulations, I&APs must be provided with an opportunity to make representations on proposed applications and all written submissions made to the CA by the applicant or the EAP. In this regard it is important that notices to I&APs explicitly indicate the duration of the commenting period. In accordance with the requirements of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) ("PAJA"), I&APs must be provided with a reasonable opportunity to make representations.

A minimum of 40 days must be allowed for registered I&APs, including all the relevant state departments, to make representations on draft basic assessment reports, draft scoping reports and draft EIRs. These 40 days must be read as 60 days in a case of waste management activities.

Note: Applicants may make a draft basic assessment report or draft scoping report available on first notification of all potential I&APs. In such instance the notices to the I&APs must also clearly indicate that a draft basic assessment report or scoping report is available for written comment and indicate when, where and for how long the report will be available for comment.

It must be noted that days means calendar days. When a period of days must in terms of these regulations be reckoned from or after a particular day, that period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday. The period of 15 December to 2 January must be excluded in the reckoning of days. Where a timeframe is affected by the 15 December to 2 January period, the timeframe must be extended by the number of days falling within the 15 December to 2 January period. Where a timeframe is affected by one or more public holidays that will affect work days, the timeframe must be extended by the number of public holiday days falling within that timeframe.

5.6 Identifying and approaching specific stakeholders

Over and above the placement of general notices in the media calling for I&APs to participate, certain stakeholders should be specifically approached. The following means of identifying stakeholders should be used when appropriate:

- Social profiles or probes provide a comprehensive summary of the key characteristics of the people of a community or area and can serve as a starting point for identifying stakeholders.
- Brainstorming sessions with the proponent and/or authorities, based on previous experience, to identify key stakeholders who may be interested or affected by the proposal.

- Established lists and databases, held by consultancies, authorities or research institutions, may hold additional contact details of residents, non-government organisations, community based organisations or constituents.
- Network or chain referral systems according to which key stakeholders are asked to assist in identifying other stakeholders.

5.7 Broadening participation, capacity building & special needs

Appropriate participation measures should be put in place to deal with the range of cultural and language requirements of I&APs. The language used by the I&APs must be taken into account when serving a notice and when selecting a newspaper.

Where I&APs include rural or historically disadvantaged communities or people with special needs (e.g. a lack of skills to read or write, disability, or any other disadvantage), the following could, *inter alia*, be considered:

- the project and public participation process could be announced on an appropriate local radio station in a local language, at an appropriate time (e.g. peak hours);
- participatory rural appraisal ("PRA") and participatory learning and action ("PLA") approaches and techniques could be used to build the capacity of these stakeholders to engage and participate more effectively;
- existing community structures, committees and leaders must specifically be approached;
- public meetings could be held at times and venues suitable to the community;
- determine the need for separate meetings with vulnerable and marginalised groups;
- appropriate access to information must be provided; and
- reasonable assistance to people with special needs must be provided.

6 GUIDANCE ON THE LEVEL OF PUBLIC PARTICIPATION

The minimum requirements for public participation outlined in the regulations will not necessarily be sufficient for all applications. This is because the circumstances of each application are different, and it may be necessary in some situations to incorporate extra steps in the public participation process. This section provides guidance for deciding on the required level of public participation.

Three categories of variables need to be taken into account when deciding on the level of public participation and the process to be followed:

- the scale of anticipated impacts of the proposed project;
- the sensitivity of the affected environment and the degree of controversy of the project; and
- the characteristics of the potentially affected parties.

The following aspects need to be considered in this regard:

<i>Scale of anticipated impacts:</i>
Are the impacts of the project likely to extend beyond the boundaries of the local municipality?
Are the impacts of the project likely to extend beyond the boundaries of the province?
Is the project a greenfields development (a new development in a previously undisturbed area)?
Does the area already suffer from socio-economic problems (e.g. job losses) or environmental problems (e.g. pollution), and is the project likely to exacerbate these?
Is the project expected to have a wide variety of impacts (e.g. socio-economic and environmental)?
<i>Public and environmental sensitivity of the project:</i>
Are there widespread public concerns about the potential negative impacts of the project?
Is there a high degree of conflict among I&APs?
Will the project impact on private land other than that of the applicant?
Does the project have the potential to create unrealistic expectations (e.g. that a new factory would create a large number of jobs)?
<i>Potentially affected parties:</i>
Has very little previous public participation taken place in the area?
Did previous public participation processes in the area result in conflict?
Are there existing organisational structures (e.g. local forums) that can represent I&APs?
What is the literacy level of the community in terms of their ability to participate meaningfully within the public participation process?
Is the area characterised by high social diversity (i.t.o. socio-economic status, language or culture)?
Were people in the area victims of unfair expropriations or relocation in the past?
Is there a high level of unemployment in the area?
Do the I&APs have special needs (e.g. a lack of skills to read or write, disability, etcetera)?

Based on the above, the use of the following public participation mechanisms, over and above the requirements, should also be considered

- Public meetings and open days
- Conferences
- Press releases
- Questionnaires or opinion surveys
- Information desks and/or info lines (helplines)

- Meetings/workshops with constituencies (e.g. national standing committees, non-government organisations / community based organisations)

7 INTERESTED AND AFFECTED PARTIES

7.1 Distinction between I&APs and Registered I&APs

The regulations distinguish between I&APs and registered I&APs. I&APs includes: (a) any person, group of persons or organisation interested in or affected by an activity; and (b) any organ of state that may have jurisdiction over any aspect of the activity.

In terms of the regulations "**registered interested and affected parties**" means:

an interested and affected party whose name is recorded in the register opened for that application.

For that purpose, an EAP managing an application must open and maintain a register which contains the names, contact details and addresses of-

- (a) all persons who; have submitted written comments or attended meetings with the applicant or EAP;
- (b) all persons who; have requested the applicant or EAP managing the application, in writing, for their names to be placed on the register; and
- (c) all organs of state which have jurisdiction in respect of the activity to which the application relates.

An EAP must give access to the register to any person who requests such in writing.

7.2 Access and opportunity to comment on all written submissions

Before the EAP submits a **final** basic assessment report, or a scoping and environmental impact report to the competent authority, the EAP must give registered I&APs access to, and an opportunity to comment on the report in writing. A registered I&AP is entitled to comment on all written submissions made to the competent authority by the applicant or the EAP managing an application, and to bring to the attention of the competent authority any issues which the registered I&AP believe may be of significance in the consideration of the application, provided that:

- (a) comments are submitted within the specified timeframes or any extension of a timeframe agreed to by the applicant or EAP;
- (b) a copy of comments submitted directly to the competent authority is served on the applicant or EAP; and

- (c) 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.

7.3 List of reports to be commented on by Registered I&APs

Before awarding the I&APs an opportunity to comment, the EAP must submit the following **draft versions** of the report to the CA:-

- basic assessment reports;
- basic assessment reports amended and resubmitted
- scoping reports;
- scoping reports amended and resubmitted
- specialist reports and reports on specialised processes compiled
- environmental impact assessment reports submitted
- environmental impact assessment reports amended and resubmitted; and
- draft environmental management programmes compiled.

Written comments on draft report submitted by I&APs should be recorded by the EAP. The I&APs must submit written comments on final reports to the CA and provide a copy of such comments to the applicant or EAP.

The CA must request all state departments that administer a law relating to a listed activity to comment on the draft reports within 40 days. The 40 days should be considered as 60 days for waste management activities in terms of National Environmental Management: Waste Act (NEMWA), Act No. 59 of 2008. If the state department fails to comment within 40 days or 60 days as the case may be, it will be regarded as though there are no comments.

Only registered I&APs:

- will be notified of the availability of reports and other written submissions made (or to be made) to the CA by the applicant, and be entitled to comment on these reports and submissions;
- will be notified of the outcome of the application, the reasons for the decision, and that an appeal may be lodged against a decision; and
- will be notified of the applicant's intention to appeal the decision of the competent authority, together with an indication of where and for what period the appeal submission will be available for inspection.

7.4 Responding to comments received

All comments received from I&APs must be acknowledged by the EAP, with the EAP indicating how the comments received will be responded to (even if just referring to the fact that a response will be contained in the "comments & response report"). Comments and responses must be indicated in the comments & response report (submitted with the BAR or S&EIR).

Note: The EAP is responsible for ensuring that the issues raised by I&APs are addressed in an objective manner. Where issues are not addressed the reasons for this must be provided in the comments & response report.

7.5 Disclosure of I&APs' interests

I&APs must disclose any direct business, financial, personal or other interests which they may have in the approval or refusal of an application.

7.6 Notifying I&APs of the Department's Decision

The applicant must, in writing, within 12 days after having been notified of the decision of the CA, notify all registered I&APs of the outcome of the application and the reasons for the decision, and draw their attention to the fact that an appeal may be lodged against the decision. The applicant must also draw the attention of all registered interested and affected parties to the manner in which they can access the decision, and publish a notice-

- (i) informing interested and affected parties of the decision;
- (ii) informing interested and affected parties where the decision can be accessed; and
- (iii) drawing the attention of interested and affected parties to the fact that an appeal may be lodged against the decision, if such appeal is available under the circumstances of the decision, and which newspaper was used for the placing of advertisements as part of the public participation process.

8 APPLICATIONS FOR EXEMPTIONS / DEVIATIONS FROM PROVISIONS OF THE REGULATIONS

The EIA regulations make provision for deviations from the requirements of considering any guidelines applicable to the PPP and giving notice to I&APs of the application to the extent and manner as may be agreed to by the CA.

9 AMENDMENTS OF ENVIRONMENTAL AUTHORISATIONS

If a holder of an environmental authorisation applies for a substantive amendment of an authorisation or if the proposed amendment is likely to adversely affect the environment or the rights or interests of other parties, the

applicant must, to the extent indicated by the CA, conduct a public participation process, open and maintain a register of I&APs, and give registered I&APs an opportunity to submit comments on any reports prepared on the investigations and assessments undertaken for the proposed amendment. While a new public participation process will be required for the amendment, the I&APs that registered during the original process must also be informed of the proposed amendment and given an opportunity to comment.

If the CA on its own initiative intends to substantively amend an environmental authorisation, the competent authority will notify, in writing, the holder of the authorisation and give him/her an opportunity to comment on the proposed amendment. The CA may where necessary also, conduct a public participation process that may appropriate.

10 LAPSING OR DELAYS

In terms of the EIA regulations, an application lapses if the applicant after having submitted the application, fails for a period of six months to comply with a requirement in terms of the regulations relating to the consideration of the application. An EAP must inform the registered interested and affected parties if the application has lapsed or if the CA has accepted delays caused on an application.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

INTEGRATED ENVIRONMENTAL MANAGEMENT GUIDELINE SERIES 6

**ENVIRONMENTAL MANAGEMENT FRAMEWORK (EMF)
REGULATIONS OF 2010 IN TERMS OF THE NATIONAL
ENVIRONMENTAL MANAGEMENT ACT (NEMA)**


ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6

Further titles in this series of guideline documents are being prepared and will be made available periodically. Sequence of release and titles are subject to change

Guideline Series 1	Environmental Management Co-operation Agreements
Guideline Series 2	NEMA S24G(ECA applications)
Guideline Series 3	NEMA S24G
Guideline Series 4	Strategic Environmental Assessment
Guideline Series 5	Companion to the NEMA EIA Regulations of 2010
Guideline Series 6	Environmental Management Framework to the NEMA EMF Regulations of 2010
Guideline Series 7	Public Participation
Guideline Series 8	Handbook for authorities on handling the appeals in terms of NEMA S43

ISSUED BY:

Department of Environmental Affairs

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South Africa

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When referencing this document, it should be cited as follows:

DEA (2010), Environmental Management Framework to the EMF Regulations of 2010, Integrated Environmental Management Guideline Series 6, Department of Environmental Affairs (DEA), Pretoria, South Africa

ISBN:

PREFACE

This document is one of the series of guideline documents on environmental impact management legislation and regulations.

The material in this document is intended to be used as an accompanying document to the NEMA EMF regulations 2010; it makes available the content of the EMF regulations in laymen's terms.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****ACKNOWLEDGEMENTS**

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**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****SUMMARY**

The practice of EMFs in South Africa is largely in a relatively 'young' stage of development, especially in its use and recognition in the broader IEM tools application. There is similarly a considerable amount of confusion in the application of EMFs as well as the appropriate technical methodology to be used in compiling an EMF. The purpose of these guidelines are to provide clarity with regards to the purpose and application of EMFs in the South African context, as well as to provide the appropriate amount of knowledge and detail to support the EMF Regulations, 2010.

EMFs are inherently part of the authority suite of IEM tools necessary for decision support in making informed decisions regarding the management of impacts on the environment due to influence of development projects, policies and programmes.

This document provides guidance on the current thinking and practice of EMFs and draws upon the first draft EMF Guidelines compiled in 2005. The 2005 document provided the foundation for the development of this guideline document, which introduces the concept of, and principles for, the development of EMFs. While the principles and broad concept of EMFs are generally accepted and understood, there is less understanding regarding the basic steps, technical processes and tools required, as well as the technique to be adopted, and structure of the final out-put of the EMF process. This guideline document provides detailed guidance on the fundamentals of the EMFs as well as a descriptive step-by-step process to the technical development and public participation process required.

This guideline provides the philosophical, conceptual and historical perspective on EMFs, as well as sufficient detail for the technical development to enhance the practice of compiling EMFs in South Africa.



ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6

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**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****ABBREVIATIONS**

BID	Background information document
DEA	Department of Environmental Affairs
DEAT	Department of Environmental Affairs and Tourism
DWA	Department of Water Affairs
EAP	Environmental assessment practitioner
ECA	Environment Conservation Act, Act No. 73 of 1989
EIA	Environmental impact assessment
EMF	Environmental management framework
ENPAT	Environmental Potential Atlas
GIS	Geographic information system
I&APs	Interested and affected parties
IEM	Integrated Environmental Management
MEC	Member of the Executive Committee
NEMA	National Environmental Management Amendment Act (Act No. 62 of 2008)
PPP	Public Participation Process
SANBI	South African National Biodiversity Institute



DEFINITIONS / GLOSSARY OF TERMS

Categories

Categories relate to a larger grouping of similar, homogenous baseline information comprised of data features. Typical categories include hydrology, vegetation, geology, soils etc.

Constraint zones

Constraint zones refer to the spatial areas identified in the EMF which illustrate a specific environmental opportunity or constraint towards development pressure.

Development Guidelines

Development guidelines refer to the specific provisions applied in the management of each individual attribute or activity. Management guidelines are usually comprised of existing policy, guideline and statutory provisions.

(Environmental) attributes

Environmental attributes means the quality ascribed to an element in the environment that distinguishes it in character, form or nature from other elements in the environment, and are depicted in the EMF as data categories and features.

Environmental Management Framework (EMF)

It is the mechanism or study of the biophysical and socio-cultural systems of a geographically defined area to reveal where specific land uses may best be practiced and to offer performance standards for maintaining appropriate use of such land.

EMF Regulations

Regulations promulgated in terms of NEMA specifically for the compilation of EMFs. Further referred to in this document as the EMF regulations.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****Facet Map**

A facet map is also referred to as a 'spaghetti layer'. It is a GIS term to describe the sum and integration of all the baseline information into a single spatial layer.

Features

Features refer to the finer, individual environmental elements that comprise a data category, e.g. Hydrology – *rivers, streams, wetlands, dams, etc.*

Framework Legislation

High order / level statute which establishes the framework for the promulgation of regulations.

Geographical Areas

A logical spatially demarcated area defined by an EMF as being sensitive, requiring specific management intervention to ensure its future environmental integrity.

Management Zones

Management zones refer to a specific demarcated geographical area, represented spatially on a map illustrating a specific sensitive feature which needs to be managed in a pro-active and dedicated way.

MEC

Member of the Executive Committee to whom the Premier has assigned responsibility for environmental affairs.

Minister

The Minister of Water and Environmental Affairs.

Overlay Planning

A spatial planning approach whereby various multiple baseline data sets are overlaid, one on another, and unioned to provide a single facet map.

(Project) Initiator

The individual, department or organ of state who initiates an EMF in terms of the provisions of the Environmental Management Framework Regulations, 2010.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****Project Steering Committee**

The development of the EMF is overseen by a Project Steering Committee. The committee should be composed of as a minimum by the initiator, relevant local, provincial and national competent authorities, and additional members and expertise as deemed appropriate by the aforementioned.

'Spaghetti Layer'

A 'spaghetti layer' is also referred to as a 'facet map'. It is a GIS term to describe the sum and integration of all the baseline information into a single spatial layer.

'Trigger' / Driver

The trigger or driver is the potential impact or aspect which has lead to the requirement for the EMF to be compiled, e.g. mining pressure on endangered grassland vegetation types.

'Unioned'

A GIS term to describe the process of integrating multiple baseline spatial information layers into a single facet map.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****1. INTRODUCTION**

Within the context of the development of environmental legislation and associated provisions in South Africa, the environment, and specifically environmental sensitivity was never adequately and directly integrated into impact management. One of the first attempts was made in the development of the Integrated Environmental Management Guideline Series published by the Department of Environmental Affairs and Tourism in 1992, whereas Guideline 5 made specific reference to sensitive environments. Although it was a step in the right direction the document was merely a guideline and not underpinned by any statutory provisions.

Through the DEAT Law Reform Process of 1997-1998 a major restructuring of South African framework environmental legislative provisions in the country was undertaken. The result was the drafting of the National Environmental Management Act, Act No.107 of 1998, commonly known as NEMA, which was earmarked to replace the Environment Conservation Act, Act No. 73 of 1989 (ECA) over time.

For the first time in South African environmental legislative history, provision was made for environments and specifically sensitive environments in framework legislation (Acts) through the provision for the development of environmental management frameworks.

In April 2006 the Minister of Environmental Affairs and Tourism passed regulations¹ in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA). The regulations replace the environmental impact assessment regulations which were promulgated in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) in 1997 and introduce new provisions regarding environmental management frameworks.

The Department of Environmental Affairs (DEA) has produced a series of guidelines to assist potential applicants and interested and affected parties (I&APS) to understand what is required of them and what their role may be. The guidelines are intended to be guides only and should be read in conjunction with NEMA and the regulations. They are not intended to be a substitute for the provisions of NEMA or the regulations in any way. NEMA further provided an introduction to the compilation of environmental management frameworks (EMFs) as per Chapter 8 of the EIA Regulations. The importance of EMFs in

¹ Environmental Impact Assessment Regulations, 2006

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the future of impact management in South Africa has further necessitated the strengthening of the statutory provisions for EMFs.

The guidelines form part of the department's integrated environmental management guideline series and consists of four parts, namely –

- Guideline 3: General guide to the EIA regulations
- Guideline 4: Public participation
- Guideline 5: Assessment of alternatives and impacts
- Guideline 6: Environmental management frameworks

The importance of EMFs within the IEM suite of tools has been recognised and the potential for diversifying its application is being emphasised through the elevation of its statutory position within NEMA in the development of 'stand-alone' EMF regulations, which will be known as the *Environmental Framework Management Regulations, 2010*.

2. HISTORICAL DEVELOPMENT

2.1 International Development Trend

The international trend which led to the development of the EMFs was entrenched in the pioneering work conducted by the late Professor Ian McHarg, the father of ecological planning and author of *Design with Nature*. McHarg implemented and popularised the concept of 'overlay planning' where different spatial data sets represented on film paper were overlaid over each other and integrated to form a 'spaghetti layer'. Each of the facets on the final map had a unique set of properties, identity and characteristics.

The philosophy upon which the EMFs were developed in the late 1990's summarised the approach as follows:

"All systems aspire to survival and success. This state can be described as synthropic-fitness-health. Its antithesis is entropic-misfitness-morbidity. To achieve the first state requires systems to find the fittest environment, adapt it and themselves. Fitness of an environment for a system is defined as that requiring the minimum of work and adaptation. Fitness and fitting are indications of health and the process of fitness is health giving. The quest for fitness is entitled adaptation. Of all the

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instrumentalities available to man for successful adaptation, cultural adaptation in general and planning in particular, appear to be the most direct and efficacious for maintaining and enhancing human health and well-being (McHarg 1981, 112-113).

Arthur Johnson further elaborates on this philosophy as, "...the fittest environment for any organism, artefact, natural and social ecosystem, is that environment which provides the (energy) needed to sustain the health or well-being of the organism / artefact / ecosystem. This approach is not limited by scale."

The approach of the EMF is intrinsically established in sustainability. The best-known definition of sustainable development was promulgated by the World Commission on Environment and Development (WCED) or better known as the Brundtland Commission, as development that "meets the needs of the present without compromising the ability of future generations to meet their own needs". A more comprehensive definition was provided by the US National Commission on the Environment, as "a strategy for improving the quality of life while preserving the environmental potential for the future, of living off interest rather than consuming natural capital. Sustainable development mandates that the present generation must not narrow the choices of future generations but must strive to expand them by passing on an environment and an accumulation of resources that will allow its children to live at least as well as, and preferably better than, people today. Sustainable development is premised on living within the Earth's means."

Ecological planning and design is the capacity to understand the ecological context within which humans live, to recognise the limitations, and ensure that limitations are not exceeded.

"The environment is both a source and a sink, but its capabilities to provide both resources and to assimilate wastes are not limitless." The EMF approach makes reference to biophysical, sociological, planning and policy imperatives, and the integration of these. The following sections elaborate on the stages and technical content of the development of a typical environmental management framework.

2.2 South African Development Trend

The development of the EMF concept started through the development of the Environmental Potential Atlas (ENPAT) by the Department of Environmental Affairs and Tourism in the early-mid 1990's. ENPAT started off as a repository of spatial digital information initially at a national level, and scale of 1:

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1 000 000. During the pursuing development years, ENPAT was expanded to include dedicated provincial atlases at an operating scale of 1: 250 000. In the mid 1990's limited spatial analysis were conducted through the integration of the spatial data to provide dedicated results indicating development, conservation and agricultural potential and constraints. The ENPAT digital atlases were further expanded at an operating scale of 1: 50 000 to the larger metropolitan areas of South Africa which included the whole of Gauteng, and the metropolitan centres of Cape Town, Durban, Bloemfontein and Port Elizabeth. The concepts and philosophies which lead to the development of these digital atlases provided the framework for the ENPAT National Atlas Book which was published in 1997. The atlas book is a repository of spatially represented information extending from biological resources, to economic and demographic information. The atlas book similarly initiated the integration and combination of specific datasets, hitherto unavailable in a spatial format to predict certain scenarios regarding impacts on resources, population pressures and demands on certain resources, and environmental resource sensitivity index. The atlas makes further recommendations and predictions regarding resource sustainability aspects. This contemporary and innovative spatial thinking provided the platform for the development of the EMF concept. The first EMFs were developed upon the ENPAT atlas platform for the North West, Mpumalanga and KwaZulu-Natal Provinces at a scale of 1:250 000, as pilot projects. The success of these leads to the further development of EMFs for the remaining provinces. The Centurion City Wide EMF was the first EMF to be developed at a local authority level in 2000, at an operative scale of 1:20 000 to 1:50 000.

2.3 The EMF Philosophy

The environmental management framework proposes a need for a common approach and methodology to establish social equity and ecological parity in land use decision making. The EMF must be able to transcend disciplinary territoriality and be applicable and implementable at all levels of government, incorporating both social and environmental issues and concerns. It proposes an approach that can assist in establishing a platform and framework for informed decision making, and analyse the problems of a region as they relate to each other, to the landscape, as well as the local political economic structure. The EMFs are based upon the use of biophysical and socio-cultural information to suggest opportunities and constraints for decision making about the use of the landscape, whereby the region is understood as a biophysical and social process comprehensible

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through the operation of laws and time. This can be interpreted as having explicit opportunities and constraints for any particular human use. The EMFs will reveal the most fit locations and processes.

The EMFs primarily study the biophysical and socio-cultural systems of a geographically defined area to reveal where specific land uses may best be practiced.

The development and compilation of an EMF can be divided into two major sections, namely the technical development and public awareness and involvement process. Both are inextricably linked. Previous environmental planning processes disregarded the valuable input provided by the public and the various participation processes. Inherently the EMF addresses land use conflict aspects of a geographical area through the integration of biophysical, social, economic, statutory and policy requirements. Environmental management frameworks are conducted or developed in a response to specific environmental problems; or as a counter, measure or control to determine the potential impact of a policy, plan or programme.

In the case of the former the EMF is predominantly focused and developed as a response to a significant environmental problem or driver / trigger, such as; development pressure on sensitive ecological areas, land use conflict areas, resource conservation, amongst others. In the latter the EMF is developed on the basis of a neutral information input. The EMF functions as a platform or framework against which planning policy, programmes (Strategic Development Frameworks and other local authority planning frameworks) and land use decision making can be gauged with respect to environmental sensitivity, rights and responsibilities.

3. PURPOSE AND OBJECTIVES OF THE EMFs

3.1 Purpose of EMFs

The EMF regulations provide that the Minister or MEC, with concurrence of the Minister, may initiate an environmental management framework (EMF) for an area. EMFs that are adopted by the Minister or MEC must be taken into account in the consideration of applications for environmental authorisation in or affecting the areas to which the EMF applies.

The primary purpose of the EMFs are to function as a support mechanism in the environmental impact assessment process in the evaluation and review of development applications, as well as making strategic informed decisions regarding land use planning applications.

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Similarly, EMFs provide a vast array of information which becomes useful in a diverse field of environmental application. EMFs provide a compilation of information and maps illustrating attributes of the environment for a specific geographical area. Not only useful for the EIA process but also for other planning processes.

EMFs that have been adopted by the Minister can therefore be used to facilitate the compilation and consideration of applications for environmental authorisation in terms of the regulations. 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.

In practice it is foreseen that EMFs will mostly be joint initiatives between provincial departments and local authorities that act within the mandates of the MECs. It is also likely that the formulation of EMF's will in most cases be contracted out to teams of specialists.

In addition to the above, EMFs can have indirect uses.

- EMFs can be used as a basis for the Minister or MEC to identify areas where environmental authorisation will be required for certain additional listed activities;
- Where the undertaking of certain activities may be excluded from requiring environmental authorisation.; and
- For the co-ordinated management of strategic spatial environmental information about a specific geographic area.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****3.2 OBJECTIVES**

The objectives of an EMF should be to:

- Support informed and integrated decision-making by making significant and detailed information about an area available before activity proposals are generated;
- Contribute to environmentally sustainable development by anticipating potential impacts and by providing early warnings in respect of thresholds, limits and cumulative impacts;
- Support the undertaking of environmental impact assessments in the area by indicating the scope of potential impacts and information needs that may be necessary for environmental impact assessments; and
- Support the process of delineating geographical areas within which additional specified activities are to be identified in terms of NEMA;
- Support the process of delineating geographical areas within which activities listed in terms of NEMA may be excluded by identifying areas that are not sensitive to the potential impacts of such activities.

4. PRINCIPLES AND CONTEXTUALISATION OF EMFs**4.1 Guiding Principles for EMFs**

The following principles should be applied in the development of an EMF:

- The EMF should be customised to the context of the area;
- The EMF should be undertaken with reference to environmental goals and priorities;
- The EMF should encourage sustainable development;
- The scope of the EMF should be comprehensive enough to provide assistance to all levels and types of environmental and planning decision-making in the area ;
- The EMF should place specific focus on the issues and information that matter in decision-making in the area;

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- Bio-physical, social, and economic, and other aspects that are relevant in the area should be reflected in the EMF;
- The EMF should be clear and easy to understand;
- The process of developing the EMF should provide for an appropriate level of public participation; and
- The process of developing the EMF should be carried out fairly, impartially and professionally, having regard to legal and policy requirements as well as guidelines applicable to the area.

4.2 Determination of the Context of an EMF

With regard to the context within which an EMF is developed it must be noted that, although the content of an EMF is prescribed in the regulations, the nature of each EMF will be determined by the context of the area for which it is done and the contents of each EMF will vary accordingly. The context is often determined by a range of factors, including the following:

- The types and nature of environmental attributes;
- The types of development pressures experienced;
- The status of conservation of sensitive elements; and
- The need for cooperative government.

4.3 Legislative Contextualisation

As stipulated earlier the contextualisation of the EMFs is entrenched in framework legislation.

Section 24 (2) and (3) of NEMA, and Government Notice R.385 stipulates regulation 70 (1) that the Minister, and every MEC with the concurrence of the Minister may identify:

2 (b) geographical areas based on environmental attributes, and as specified in spatial development tools adopted in the prescribed manner by the environmental authority, in which specified activities may not commence without environmental authorisation from the competent authority; and

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2 (c) geographical areas based on environmental attributes, and specified in spatial development tools adopted in the prescribed manner by the environmental authority, in which specified activities may be excluded from authorisation by the competent authority.

3 The Minister, and every MEC with the concurrence of the Minister, may compile information and maps that specify the attributes of the environment in particular geographical areas, including sensitivity, extent, interrelationship and significance of such attributes which must be taken into account by every competent authority.

Section 24 (5) The Minister, and every MEC with the concurrence of the Minister, may make regulations consistent with subsection (4)-

(bA) laying down the procedure to be followed for the preparation, evaluation and adoption of prescribed environmental management instruments, including-

- (i) environmental management frameworks

Due to the their strategic nature, the statutory standing of the EMFs have been elevated and removed from under the current EIA regulations and now constitute a regulation on their own. This strengthens the position of the EMFs under NEMA, and similarly affords the opportunity to ensure that the development of the EMFs is not unnecessarily restricted by the EIA regulations and process.

5. PROCESS OF FORMULATING AN EMF

This section describes the typical technical development process of the EMF. It considers the various phases and provides detail regarding the end deliverables required for conducting EMFs successfully.

5.1 Pre-EMF Development Aspects

Before commencing with the EMF certain administrative and institutional aspects should be in place which includes:

- Issues of concurrence between the relevant tiers of government;

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- Who has initiated the EMF;
- Formal agreements between the relevant parties to the EMF, where and if required; and
- Define the scope of works (terms of reference) for the compilation of the EMF.

The above will ensure a defensible process, which has been agreed upon by all the relevant tiers of government, which is important when addressing issues of co-operative governance.

The Terms of Reference should as a minimum:

- Define the purpose of the EMF;
- Clearly demarcate the study area;
- Information and technical requirements;
- Public participation process and requirements;
- Methodology and approach;
- Project deliverables required; and
- The composition and structure of the EMF project steering committee.

The project initiator should:

- Indicate the key criteria and aspects which are required in the EMF;
- The operational scale of the EMF;
- Identify and be clear regarding the trigger for the EMF;
- Establish the policy objectives of the EMF to address the trigger;
- Establish the minimum requirements of the EMF which include aspects regarding consultation with the public and relevant authority.



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5.2 Technical EMF Development Process

The technical development phases of the EMF can be summarised into five basic phases, namely;

1. Status quo assessment;
2. Sensitivity analysis;
3. Environmental opportunities and constraints;
4. Identification of specific management zones; and
5. Management guidelines.

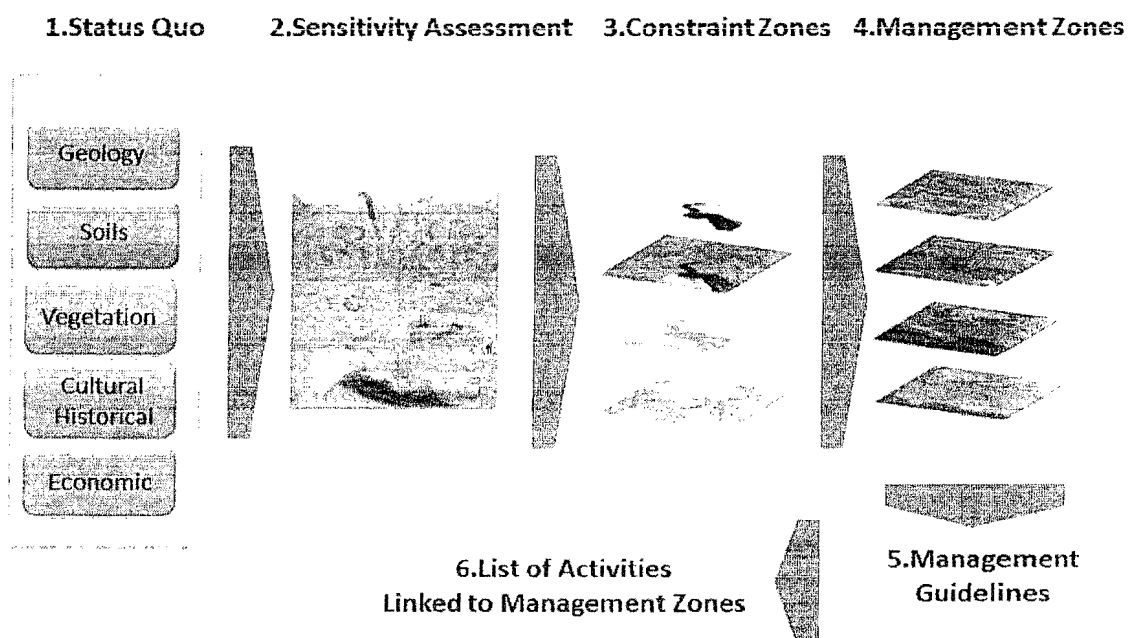


Figure 1: Overall EMF Technical Phases

5.3 Information Gathering

The platform of the EMF is developed upon baseline information. It is very important to ensure that sufficient emphasis is placed upon the development of the baseline assessment phase for any specific EMF. Similarly, the ultimate success of the EMF is determined by the quality and accuracy of primary

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information input. Status quo information and assessment forms the basis for all the ensuing development phases of the EMF.

5.3.1 Information Gathering, Quality and Detail

Information gathering is an activity that takes place throughout the formulation of an EMF. It is important for defining the:

- Status quo of the project area;
- Environmental opportunities and constraints,
- Development pressures and trends in the area; and
- The establishment of management priorities in the area.

When planning how to produce an EMF, it is important to be systematic and make sure that information is gathered and captured correctly. Accurate and relevant baseline information is imperative to the successful spatial analysis and determination of applicable environmental opportunities and constraints. Garbage in, garbage out, rings true to the overall effectiveness, acceptability and implementability of the EMF. The status quo assessment forms the repository of all biological, physical, social and economic data, and where applicable and possible should be represented spatially. The spatial mapping of baseline information constitutes the framework and platform upon which the EMF is further developed. The eventual quality and relevance of an EMF will to a large extent depend on:

- The information included;
- The credibility of information sources; and
- The quality and detail of the information.

All data sources should accordingly be subjected to stringent quality controls and, in most cases, verified at the source to ensure that errors are not built into the EMF due to erroneous or sub-standard quality information. New research and high resolution data capture may be required to ensure that the quality of information is both adequate and appropriate to the development of the EMF, in instances where this does not exist.

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The level of detail required for spatial data capture, especially in respect of key environmental attributes, will normally vary from 1:1000 to 1:5000. Coarser data is unlikely to meet the requirements of the competent authorities. Spatial data capture requires up-to-date aerial photography and in some instances satellite remote sensing images. There should be clear integration with other information sources where these meet the above criteria.

5.3.2 Information that should be included in the EMF

It is necessary to ensure that the content and context of the EMF is appropriate to its application. Information irrelevant to the EMF should not be included. A distinction must be made between information utilised in the status quo assessment for background and information purposes only, and which will have no operative function in the further development and analysis phases of the EMF; and information that will be utilised in the further spatial analysis phases of the EMF development. The typical baseline information that should be included must reflect the following;

- A clear delineation of the baseline/status quo category of information (environmental attributes);
- A clear description and depiction of the features making up the categories (environmental attributes);
- The specific activities and impact aspects that need to be assessed, or which will influence the environmental attributes significantly; and
- The project extent and study boundaries.

Information management will be important in the compilation of the EMF as the primary platform for all analysis is represented spatially. In order to manage this process effectively and to ensure a record is kept with regards to the credibility of information used an information metadata matrix should be developed.

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The information matrix should include the following:

- The nature and type of information required;
- The format of the information;
- The scale and quality of the information;
- The intended approach to getting and capturing the information; and
- The information source.

The project steering committee should jointly decide on the information matrix and the requirements for the baseline spatial data.

5.3.3 Information sources

As referred to above the emphasis on reliable, accurate and current spatial information will establish the integrity and applicability of the EMF. Baseline information sources should primarily be structured around the acquisition of existing information sources. Generation of new data sets should only be done in situations where:-

- Required and appropriate spatial information pertinent to the analysis does not exist;
- Where the scale is too broad and not detailed enough for the application; and
- Where serious discrepancies regarding the integrity of existing information exists.

Links with other baseline sources should firstly be established, before the generation of new data sets, where these do not exist. Similarly, where credible initiatives are underway, and which have been completed, this information should be utilised in the EMF where appropriate.

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The project steering committee should assist the service provider with access to information, especially information of which a statutory body is the custodian.

The utilisation of existing data sets must take the following into consideration:-

- The information must be from an acceptable source e.g. SANBI and other sources which have already been through a broad consultative process, and where the information has been reviewed, verified and ground truthed;
- The inclusion of existing data (i.e. C-plans etc) must be consolidated as a baseline for the EMFs;
- EMFs must look at national and provincial targets rather than just local targets in instances where biodiversity decisions are made;
- The EMF process needs to synergise with existing information;
- EMFs should address implementation issues of broader initiatives, such as bioregional plans; and
- Plans of National importance should, where appropriate and relevant, be integrated into the EMF to prevent and address discrepancies.

Information can be obtained from various sources including:

- Government institutions such as SANBI, Department of Land Affairs: Chief Directorate Surveys and Mapping, DWA AND DEA;
- Municipal cadastral and zoning documents;
- Aerial photography which should be used for surveys, ground truthing and intensification of information gathered from less accurate sources;
- Information in the databases of government departments;
- Strategic development frameworks and integrated development plans applicable to the area;
- Information gathered as part of other projects in the area;



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- Government policies;
- Site/area surveys;
- Specific local subject specialists; and
- Interviews with stakeholders, community leaders, and the general public during the public participation process.

5.4 Status Quo Assessment

The following diagram illustrates the various levels of information input and the interphase and relationship between the descriptive analytic data.

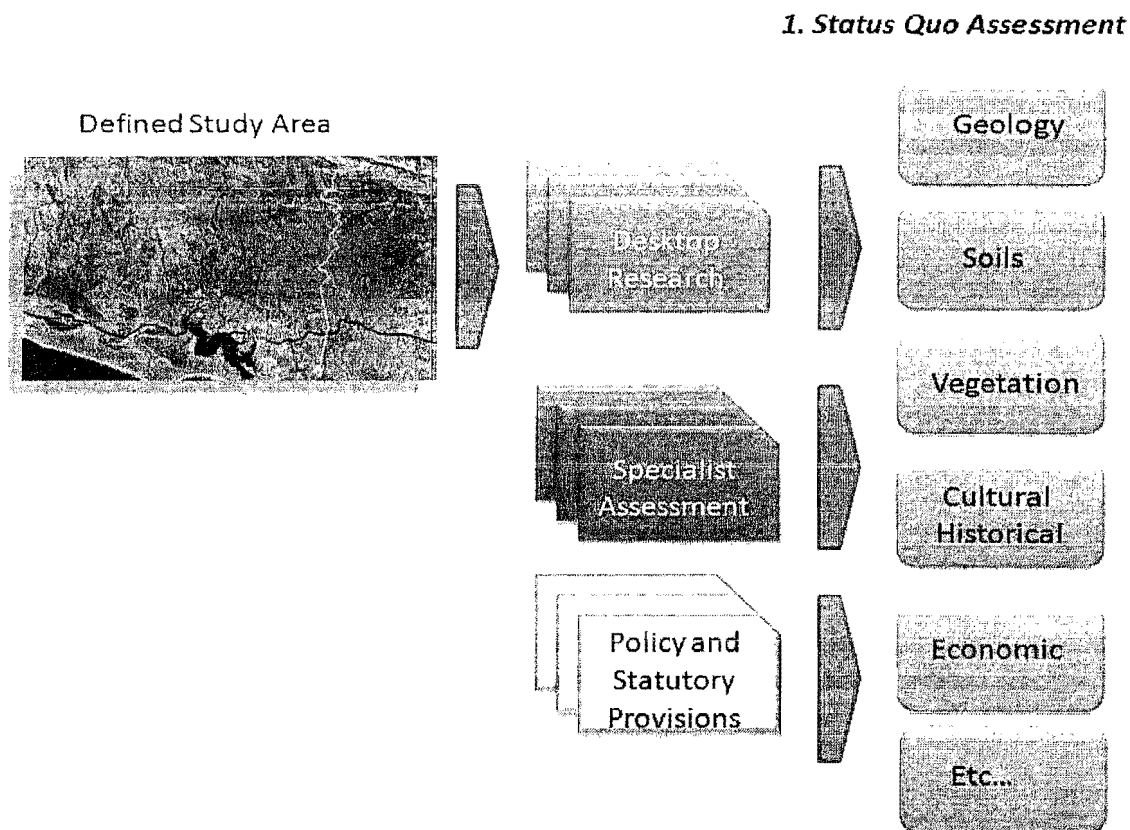


Figure 2: Status quo technical assessment



5.4.1 Determining the project boundary

On commencing the project, a clear delineation of the project boundary is required. When considering the boundary, it is important to have a clear understating of how the specific EMF will be applied and administered. A logical demarcation should be used such as:-

- An administrative boundary;
- Cadastral boundary;
- Water catchment boundary; or
- Logical ecological delineation (e.g. vegetation type, biome or eco-region).

5.4.2 Content of the Status Quo

In order to ensure that the end product is both practical and scientifically based, information should be translated into data categories (e.g. hydrology), which consists of data features (e.g. natural flood plain, flood dissipation areas, river course, sandbanks, wetlands etc.). Each of the features should then be described and its current status should be established.

An assessment of the status quo of the area should always form the point of departure for producing an EMF. The exact contents of the status quo section will depend on the specific requirements of the authorities and context of the area. The following is a broad list of typical categories and attributes that should be included in the EMF as required and aligned to the purposes of the EMF:

- Geology, including geological stability;
- Geohydrology, including water quality, water quantity and irrigation potential;
- Surface hydrology, including drainage systems, flow rates, water quality and ecological requirements;
- Topography, including landscapes and visual character;
- Soil, including erosion potential and agricultural potential;

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- Vegetation, including important habitats, threatened species and conservation potential;
- Fauna, including threatened species and conservation potential;
- Current use of land depicting the actual uses that occur on land in detail;
- Infrastructure and engineering services, including water provision, sanitation, transportation elements, electricity, solid waste disposal and telecommunication;
- Current and potential sources of air pollution;
- Current and potential sources of water pollution;
- Current and potential sources of noise or other types of irritation;
- Land which is subject to mining activities;
- Cultural and historic features, including archaeological sites, old buildings, important structures and sites associated with current use or past events and religious structures and sites;
- Population characteristics, including spatial distribution, structure, income levels, age, gender, literacy and growth trends;
- Economic characteristics, including employment sectors, economic drivers and growth sectors;
- Current laws, policies, plans and programmes that are applicable in the EMF area;
- Other environmental management plans or frameworks that may exist in respect of the area covered by the EMF being conducted; and
- Existing reports undertaken in terms of other legislation.

The status quo assessment should also address the interrelationships between the different attributes as well as the importance of the attributes in the context of the area. Issues and trends in respect of attributes should also be described, where appropriate.



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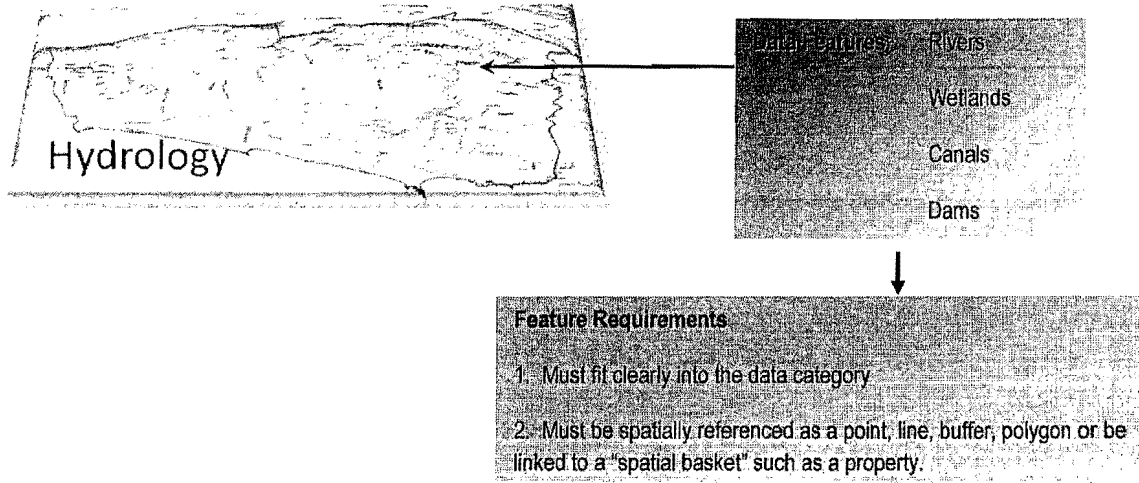
Data Category

Figure 3: Status Quo Data Structure

5.5 Desired State of the Environment

The analysis and evaluation of the baseline information, issues raised throughout the Public Participation Process, and authority requirements identifies and provides basis for the establishment of environmental priorities. These priorities are expressed through a 'Desired State of the Environment' statement which underpins the management guidelines and strategically the objectives of the EMF. Further, these objectives will establish principles on how the environmental resource should be managed to improve its environmental status. Priorities will be typically focused around critical environmental conflict points and could include:

- Conservation priorities;
- Protection of cultural and heritage landscapes;
- Natural resource protection;
- Land use planning conflict priorities;
- Waste management;
- Ambient air quality;
- Energy use;
- River health;
- Groundwater use and quality;

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- Access to the open space system; and
- Rehabilitation or reuse of derelict land.

5.6 Identifying development pressures and trends

In order to establish what can realistically be achieved in the area in bridging the gap between the status quo and the desired state, it is also necessary to understand the development pressures, trends and needs in the area. Development trends, pressures and needs should be identified. These trends and pressures may come from a range of issues such as:

- Population growth;
- Population distribution;
- Population structure (age and gender);
- Income distribution;
- Education and literacy;
- Employment sectors;
- Economic drivers;
- Natural resource exploitation;
- Growth sectors;
- Development policies and plans.

5.7 Environmental Sensitivity Analysis

The environmental sensitivity analysis is the product of the integration of the various baseline information layers as defined in the project status quo assessment, after assessing it in terms of current policies and discussions with key stakeholders. The purpose of the environmental sensitivity analysis is to provide an overarching view of the inherent environmental sensitivity of the study area. Functionally the sensitivity analysis does not contribute substantially to any further downstream development in the EMF, and it is primarily used as a 'control' to test the applicability and accuracy of the identified environmental constraints and opportunities.

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The sensitivity analysis is determined by allocating a weighting, or value to each of the environmental features in the status quo spatial layers. The subjectivity regarding the allocation of weighting is largely removed through the use of acceptable scientific knowledge. An environmental sensitivity evaluation, represented spatially in the EMF, comprises the integration of all the data categories and features. The specific feature weightings determine the level of environmental sensitivity, which ranges as low, medium, high and very high.

In this stage of the EMF baseline information is transformed into secondary information that attaches value to different features. The following figure illustrates the data integration process of baseline data to depict overall environmental sensitivity.

The sensitivity analysis can be additionally used as a platform for the identification of open space systems, and for spatial support in conservation planning initiatives.

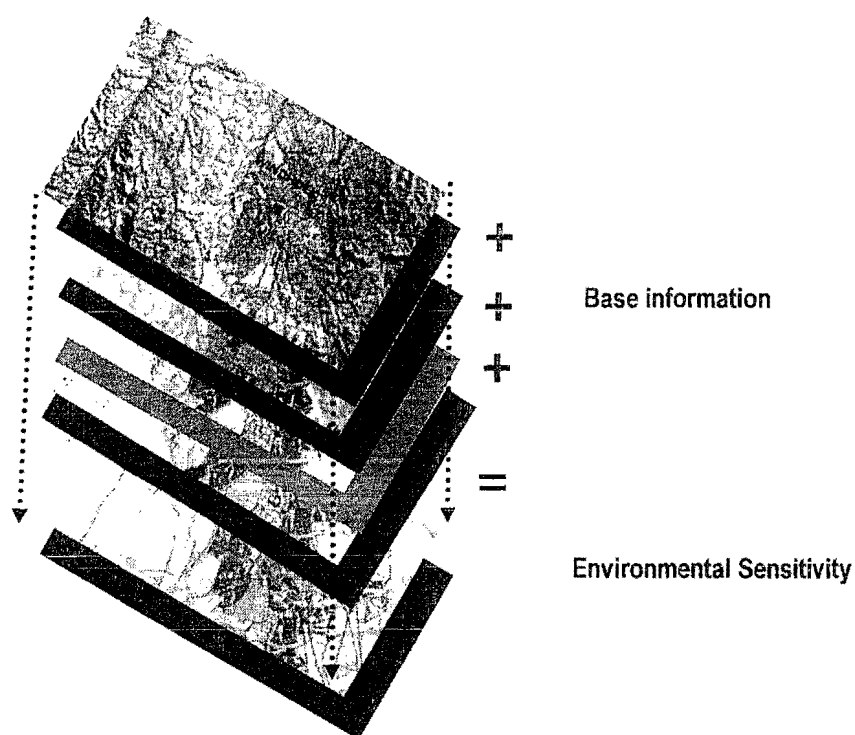


Figure 4: Environmental Sensitivity Evaluation



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Feature Status and Weighting

The status of each of the features is determined through legislative requirements, accepted norms and quality standards, as well as through technical and specialist input. The status of a feature will determine the type and extent of the management intervention required. Feature status can be improved through the establishment of stringent management requirements (parameters/responses). The weighting of each individual feature where possible should illustrate the features inherent sensitivity to development pressure or resilience to change. In order to retain a certain degree of objectivity the band or spectrum of weighting is kept narrow.

Table 1: Example of a typical Feature Value Criteria

Weighting	Description	Sensitivity
-1	The inherent feature status and sensitivity is already significantly degraded. Any significant environmental development change will not influence the current status.	Low / poor
0	The inherent feature status and sensitivity will not be influenced by any significant environmental – development change.	Undetermined
+1	Environmental – development change will influence the current status of the feature, either negatively or positively.	High
+2	Environmental – development change will significantly influence the feature, either negatively or positively.	Very high

5.8 Identifying Constraint Zones -Establishing opportunities and constraints

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These can also be considered environmental sensitivity zones, or land use opportunity and constraint zones. Environmental constraint zones are a spatial representation of the critical environmental aspects identified in the foregoing processes. Further, environmental constraint zones determine the fitness and environmental suitability of a specific area for certain types of development based upon the baseline inventories and the values and inherent characteristics of land uses of the area, as well as the sensitivity assessment.

Opportunities may include aspects such as:

- Areas that can accommodate specific development growth demands with minimal environmental impact;
- Sensitive environmental attributes that can be conserved within the current policy and budgetary capacities of the different spheres of government; and
- Limits on pollution and waste generation that can be achieved without significant cost;

Examples of constraints include:

- Population growth trends that exceed the ability of the area to accommodate the anticipated additional housing demand in areas that are not environmentally sensitive;
- The location of good building sand in an area with a habitat for rare and endangered species; and
- Low ambient air quality in an area where there is a high demand for industrial growth.



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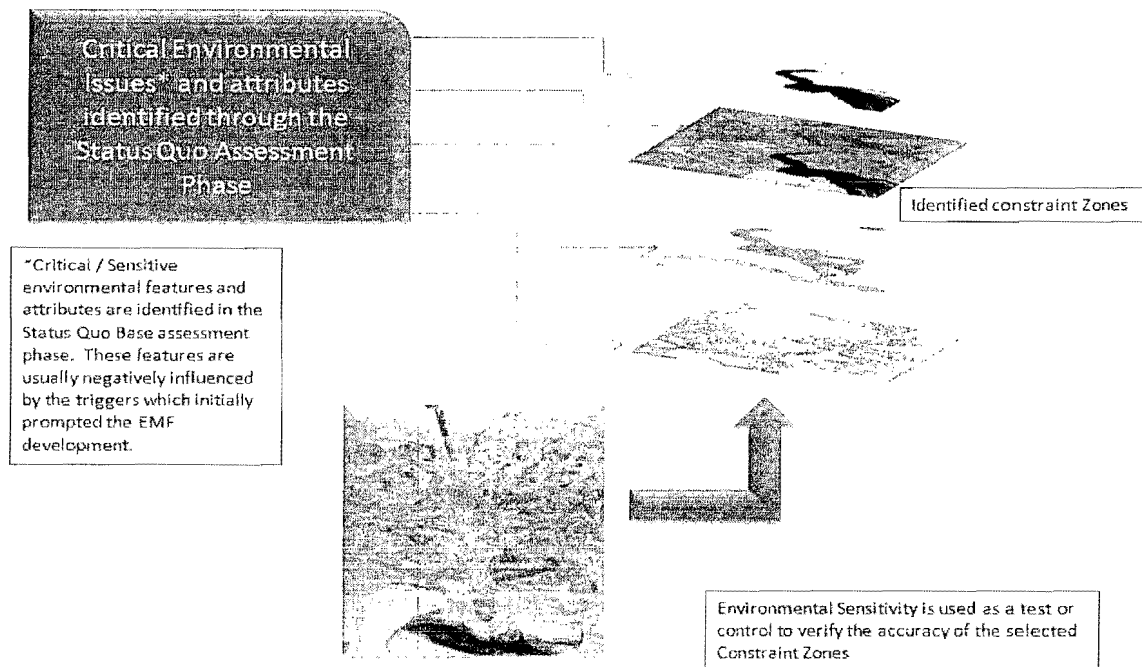


Figure 5: Determining Environmental Constraint Zones

5.9 Management Zones

The development of the management zones are informed by the integration of a selection of the critical environmental constraint attributes. The management zones illustrate the interrelationship between the various attributes, specifically focusing on the peculiarities which determine their sensitivity.

These areas are structured around a derived function of the environmental constraint zones consolidating and integrating specific categories which reflect a homogeneous composition, and which have been identified through the EMF development process as being significantly sensitive to development pressure to warrant specific management intervention.

Usually, the sensitive environmental components which have been identified upfront necessitating the development of the EMF will feature quite prominently in the development of the management zones.

The features comprising the management zones are then specifically linked to management parameters and guidelines in the management guidelines document.



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The purpose of management zones is to focus attention of the relevant authority on the critically important areas and to facilitate effective decision making in them. Management zones should inform decisions for proposed activities in less sensitive areas. Management zones will similarly 'red flag' critical environmental areas and ensure that any development applications lodged in these areas adhere to the management criteria (management guidelines).

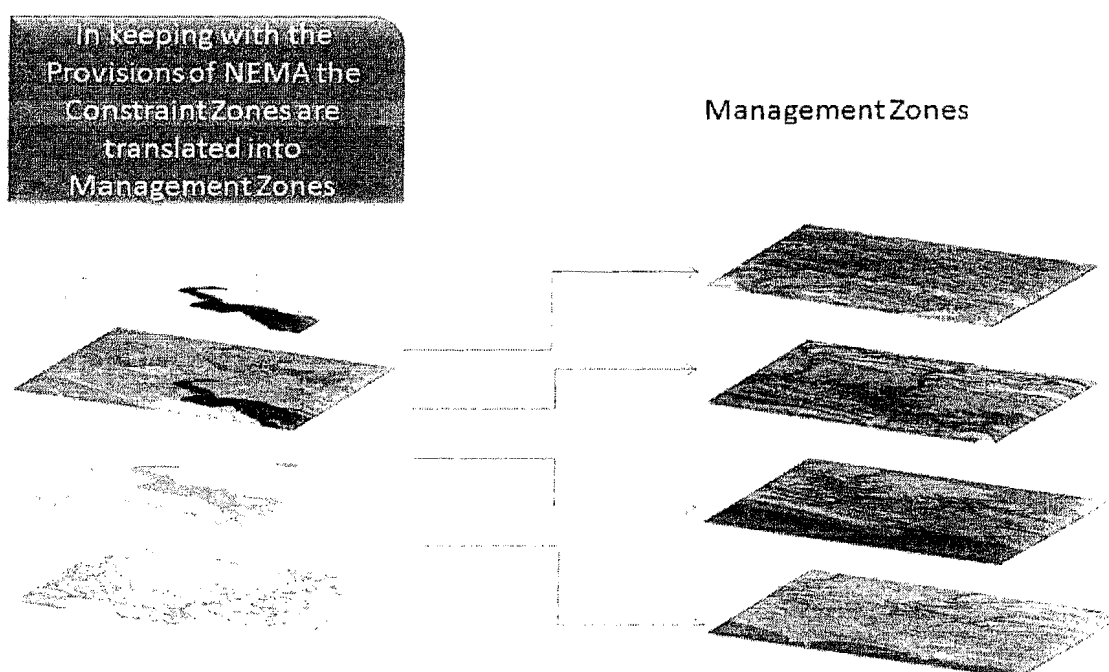


Figure 6: Determining Management Zones

5.10 Management Guidelines

The functionality of the EMF is largely dependent on the implementability of the recommendations made in the management guidelines. After the assessment of inputs from the public participation process and information gathered from the various assessments; management provisions and guidelines can be developed. These provisions and guidelines should be informed by the opportunities and constraints which have been identified and should aim to:

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- Integrate the outcomes of the desired state of the environment,
- Clearly define and address any management objectives which have been established and identified through the development of the desired state of environment,
- Maximise the opportunities to the benefit of both the environment and development in the area;
- Make clear recommendations regarding the way that development should occur in a specific geographical area;
- Provide guidance as to the environmental thresholds to development in a geographical area;
- Identify development that would not be appropriate in sensitive areas; and
- Manage the constraints of the area through interventions that seek to protect the environment against significant impacts while being sensitive to the social needs and aspirations in the area.

The purpose of the management guidelines are to link management requirements to each of the attributes comprising the geographical areas. The guidelines are not prescriptive in terms of land use and do not indicate which land uses must occur in which areas. Rather, the guidelines indicate specific minimum environmental requirements and performance criteria, through management parameters, which have to be met satisfactorily before approval of a development application should be considered.

Similarly the management guidelines indicates the level of assessment expected and required in the specified geographical area. The management guidelines should also be used as the environmental input for the LDO and IDP processes. The management guideline introduces a risk adverse approach to development planning decision-making. It fulfils the requirements of the environmental management mandates of the specific authorising authorities, while it does not impose land uses on the planning mandate of the local authorities. They in effect establish performance standards or criteria which must be met before a certain use will be permitted. These criteria usually involve a combination of economic, environmental and social factors.

5.10.1 Content of the Management Guidelines

The content of the management guidelines should be structured from existing policies, statutory provisions and guidelines. This will ensure that the management guidelines are defensible and based



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upon existing, recognised and accepted management information. Environmental priorities established in the desired state of the environment provide the framework for the management objectives of this document. Management guidelines should be structured and contain the following:

- Environmental management priorities in the area;
- Existing statutory and regulatory provisions (e.g. Acts and regulations);
- Management guidelines sourced from other approved plans and programmes (e.g. PSDFs and IDPs that have already been put through public review and a consultative process, and which have subsequently been adopted by the relevant provincial and local authorities);
- Accepted ordinances and local authority provisions; and
- Existing provincial policies and guidelines.

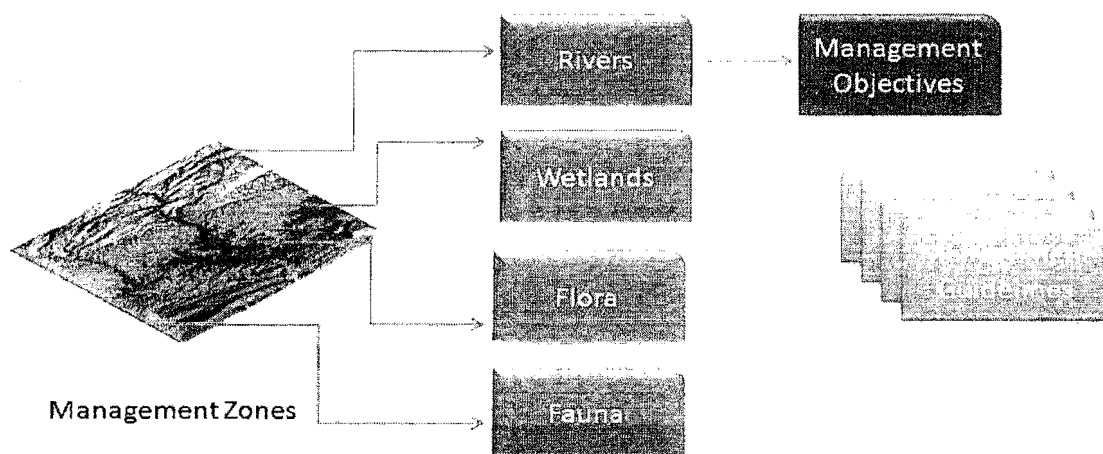


Figure 7: Determining Management Guidelines

5.11 List of Activities

NEMA makes provision for the listing or identification of activities in terms of the EIA regulations. If listed in terms of the EIA regulations an environmental authorisation will be required, while certain activities may be excluded from the requirement of an environmental authorisation. The decision whether an activity should be included or excluded from the list requiring environmental authorisation

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could be based upon an EMF. The inclusion and exclusion process will require its own legal process [for the inclusion or exclusion of activities could be based upon the results of an EMF.]

The sensitivity of the environment depicted through the management zones, together with the opportunities and constraints illustrated in the management guidelines will provide an indication of which listed activities could be excluded from a certain area (excluded from obtaining an environmental authorisation); and any additional activities which may have a substantially negative influence on the environment which should be included.

- The kinds of activities that are undesirable in the area or part of the area; and
- Make recommendations with regards to the type of assessment that would be required for additionally identified activities.

5.12 The Structure and Content of the EMF Report

In terms of the regulations, an EMF must contain the following:

- An identification of the area – whether by map or otherwise;
- A specification of the environmental attributes in the area, including sensitivity, extent, interrelationship and significance of the attributes;
- An identification of any parts in the area to which the attributes relate to;
- An indication of the conservation status of, and environmental management priorities, in the area;
- A description of the environmental priorities in the area;
- Information on activities that would have a significant impact on those attributes and those that would not;
- Information on activities that would be undesirable in the area or specific parts of the area; and
- Any matters specified by the Minister or MEC.

It is recommended that for completeness, the EMF report should also contain the following (depending on the nature and context of the EMF):

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- The terms of reference for the EMF;
- A description of how information was captured;
- A description of the public participation process including issues raised by I&APs;
- The desired state of the environment;
- Development pressures and trends;
- Opportunities and constraints; and
- Management proposals and guidelines;

5.13 The EMF in GIS Format

Most EMFs are generated for specific geographical areas and most of the information contained in EMFs can also be linked to the attributes in a spatial manner. GIS seems to be the most widely and easily used tool for spatial integration of data in the development of EMFs, enabling the GIS system to be queried to provide quick answers to relatively complex scenarios.

An integrated GIS can often be developed as the main structural element in the production of an EMF around which the various inputs and outputs are centred. The GIS could also ensure that the results of the EMF continue to be useful provided that it is updated periodically in order to deliver an ongoing up to date input into the environmental management of the area.

The GIS can also be made available on a user-friendly GIS-viewer. The GIS-viewer can play an important role in the use and application of the EMF as it integrates two important components of the EMF, namely an integrated spatial data set and a database containing the description of spatial entities. Most importantly, it can also integrate the management proposals and guidelines that are applicable to specific areas.

The GIS-viewer could also contain a report function, which takes an image of a selected area from the GIS map, together with all the attribute data relating to that specific point, and prints it to a structured report that can be taken away and used for inclusion in other documents.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****5.14 Keeping the EMF current**

It is imperative that the EMF remains current to ensure its applicability over time. Monitoring of the implementation of the EMF over a reasonable review period should take place to ensure that environmental improvement has indeed taken place. The EMFs should be reviewed together with the respective IDPs and SDFs for the area. Only relevant data needs to be updated during the review such as land use, population, and other dynamic data sets prone to short to medium term change. Static data layers remain, unless more appropriate and detailed information has been developed during the update period.

6. PUBLIC PARTICIPATION PROCESS**6.1 Process required by the regulations**

The regulations require that the following processes be conducted as a minimum as prescribed by sub-regulation 2 (c) of the EMF regulations:-

- Make the draft EMF available for public comment,
- Inviting potential I&APs by means of advertisements in newspapers, and any other appropriate way,
- Take appropriate steps to ensure that reasonable means have been implemented to engage with I&APs which are illiterate, disabled and have any other disabilities,
- Consider representations and comments,
- To review the draft to include relevant comments,
- Prepare a comments and responses report.

The EMF regulations currently do not provide more detail because of the differences in context and size that may occur from one area to another in developing an EMF. The requirements of the regulations should therefore be regarded as minimum requirements and, in most instances, it will be necessary or preferable to conduct a broader public participation process that takes place during the entire development of the EMF. The remainder of this section provides detail on the undertaking of a broader public participation process and should be applied as a guideline.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****6.2 Phases in public participation**

The emphasis of public participation in the development of an EMF is to disseminate information about the EMF and its development to the broader public and to elicit comments and suggestions, and to obtain input on existing practises and baseline situations and the determination of what the desired state of the environment should be in the area under consideration. The participation process will therefore usually have at least three goals, namely:

- To inform interested and affected parties (I&APs) of the EMF process and its objectives;
- To provide an opportunity for inputs from I&APs; and
- To give feedback to I&APs with the opportunity for them to respond.

To achieve the end results of the public participation process it is normally conducted in phases. The phases relate to input required in the process and timing with regards to the significant project development milestones. Each of the proposed phases is discussed below.

6.2.1 Phase 1: Preparation

Phase 1 of the public participation entails:

- An initial meeting with the regulatory authorities that have jurisdiction in the area,
- The preliminary compilation of a database of potential I&APs, and
- The preparation of documentation that are necessary for the public participation process, which include -
 - A background information document (BID);
 - Project advertisements to be published in local and regional newspapers (as required by the geographical extent of the EMF. EMFs of national importance should be advertised in a nationally distributed newspaper); and
 - Invitations to attend the initial open day and public meeting, as well as agendas for the meetings.

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The aim of a BID is to provide accessible background information on the proposed EMF approach and process. The BID is distributed to the I&APs listed on the database. (The most appropriate language or languages to be used in the BID should be determined by the languages spoken in the area).

To allow the involvement of I&APs which have not been identified through the meeting with the regulatory authorities in the early stages of the process, newspaper advertisements should be placed which inform the public of the development of the EMF, indicate how the public can become involved in the process and notify the public of the details of the open days and public meetings.

The invitations to attend the open day and public meeting, as well as the agendas should be communicated to the public and I&APs, and be prepared in advance to ensure input from all members of the project team regarding the information to be communicated to the public.

6.2.2 Phase 2: Stakeholder consultation

This phase of the participation process focuses on interaction with the I&APs. To ensure that I&APs are afforded sufficient opportunity for engagement in the EMF development process it is recommended that feedback through these suggested phases are conducted at the following project milestones:

- On culmination of the status quo assessment;
- Completion of the constraint zones and environmental sensitivity evaluation; and
- Upon finalisation of the management zones and management guidelines.

The extent of consultation will greatly depend on the extent and sensitivity of the specific EMF. Large scale regional EMFs of a strategic nature will require extensive consultation at various levels and community profiles. The approach to consultation should be flexible and the level of literacy should similarly influence the approach in engagement. The various approaches to consultation could include:

- Presentations;
- Open days with static displays;
- Focused group and subject specialist meetings; and

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- Interviews with local leaders and councils.

Public open days and public meetings should be advertised in the most widely read local and community newspapers, by means of flyers and I&APs on the database should receive personal invitations. The aim of public open days are to provide I&APs with more information about the proposed EMF and to invite I&APs to provide inputs regarding their views on current practises and their desired state of the environment and development for the EMF area.

Feedback on the progress of the project should also be provided during the public meeting. The minutes of the meeting should be distributed to I&APs that attended the meeting.

In addition to the open days, a structured interview process can also be used to identify issues, viewpoints, concerns and attitudes held by the various stakeholder groupings in the area. Similarly they should reflect the aspirations of the various stakeholder groupings in the area. These surveys must be of sufficient scope to be statistically acceptable and should include a realistic reflection of the stakeholder groupings within the project area.

I&APs should be engaged on an ongoing basis to ensure that they are informed of the project progress and that they are able to communicate issues and concerns to the project team. The issues, comments and concerns raised during phase 2 should be captured in a public participation report which should form part of the draft EMF. The public participation report should consist of:

- A description of the strategy and process followed;
- A list of issues, comments and concerns raised during the public participation process;
- A list of the registered I&APs;
- Conclusions and recommendations; and
- Minutes of meetings and written comments received during the public participation process (where applicable).

6.2.3 Phases 3: Public review and reporting phase

Phase 3 consists of the finalisation of the EMF development process, entailing the report and public participation finalisation. The EMF will be made available for review by the public and appropriate comments are to be integrated into the draft final report, which is then submitted to the competent

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authority for approval and adoption. There are no set commenting timeframes, in general a 30 day review period should be provided for as standard.

The current approach to completed EMFs which meet national and provincial concurrence in terms of NEMA is to pursue gazetting. This will entail a further opportunity to comment on the EMF during the gazetting period.

The EMF report should include a section on the public participation process.

6.3 Access to the final document

The draft final EMF report should be available for public perusal in an accessible location and format. Usually the size and format of the full EMF document content is too large and expensive to provide multiple copies; and singular copies will have to be placed strategically for inspection. Full electronic versions should be made available on the web interphase of the competent authority. Summary documents could be available for more accessibility.

7. INSTITUTIONAL ARRANGEMENTS

The critical success of any EMF lies in its application. The institutional structure to ensure that the EMF can, and will be applied in practice depends largely on the buy-in and support of all tiers of government, especially the competent authorities mandated with managing the environment respectively. NEMA provides the framework for co-operative governance between national and provincial authorities in the development and adoption of the EMF through concurrence.

7.1 Concurrence

Section 24 (2), (3) and (5) of NEMA, and Government Notice R.385 Section 70 (1) stipulate that the Minister, and every MEC with the concurrence of the Minister may identify geographical areas based upon environmental attributes in which specified activities may not commence without the approval and authorisation of the competent authority, and similarly activities which may be excluded from authorisation by the competent authority.

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Subsection 3 further stipulates that the Minister, and every MEC with the concurrence of the Minister, may compile information and maps that specify the attributes of the environment in particular geographical areas, including sensitivity, extent, interrelationship and significance of such attributes which must be taken into account by every competent authority.

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The further implication for the EMFs are that the Minister, and every MEC with the concurrence of the Minister, may make regulations which are consistent with subsection 4 of NEMA, in laying down the specific procedure to be followed in the compilation of the EMFs. The environmental management framework regulation of 2010 will fulfil this function.

In issues of national importance the Minister may solely initiate an EMF, however in issues of a provincial and local nature there should be concurrence between the MEC and the Minister. This concurrence further strengthens the EMF adoption process in terms of adopting the EMFs as provided for by the EMF regulations of 2010 ensuring support for the EMF at all tiers of government.

7.2 Co-operative Governance

It is imperative that the EMF be developed in a spirit of co-operative governance between all tiers of government, as well as different government departments. Similarly it is important to ensure that all the respective government role-players and decision makers who are directly affected by the implementation of the EMF are part of the development process and that it has been supported from the inception.

The following broad principles should be applied in ensuring co-operative governance:

- The various partners to the EMF must jointly be in agreement on the purpose of the EMF;
- The parties should not have conflicting mandates;

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- The roles and responsibilities of the various spheres of government in the development and application process must be clearly established;
- Establish clear distinction between the roles and responsibilities of various levels of government;
- There should therefore be clear agreements between the different spheres of government;
- The agreement should define the desired state of the co-operative governance, roles and responsibilities in the application of the EMF;
- The EMF can provide the framework to highlight areas of, and achieve co-operative agreements;
- Establish network agreements between officials before escalating the agreements to higher levels of co-operation; and
- The practical agreements for implementation of the EMF needs and requires continuation after the formalization of the EMF.

7.3 Role and Responsibility of Government

Government should be the custodian of the completed EMF once it has been adopted and gazetted as it then becomes a statutory application.

8. ADOPTION AND CONSIDERATION

Regulation 5 makes provision for the EMF to be adopted and promulgated. Once adopted and promulgated (published in the Government Gazette) it becomes a statutory mechanism for the evaluation of development proposals through the environmental impact assessment process, as well as activities which may have a negative impact on the listed geographical area.

The intention is to ensure that development decision making is not hampered, and that informed decisions are made upfront in the development process, i.e. discouraging activities in sensitive areas that will have a negative affect on the environment.



8.1 Implementation strategy

The inclusion of a proposed implementation strategy for the implementation of the EMF can add significant value to the EMF. A proposed strategy should address the following:

- Linkages between planning and policy instruments and options for incorporating information contained in the EMF;
- Approaches to co-operative government; and
- Allocation of responsibilities between authorities to ensure desired outcomes.

9. CONCLUSION

EMFs are strategic level decision support instruments that assist environmental impact assessment in the following ways:

- It provides detailed environmental information to all stakeholders;
- It indicates environmental management priorities and targets;
- It highlights opportunities and constraints;
- It helps to facilitate cooperative government;
- It establishes a proactive framework within which development can occur; and
- It provides a platform for informed decision making, integrating environment, and specifically environmental sensitivity into development planning and decision making.

**ENVIRONMENTAL MANAGEMENT FRAMEWORKS: Guideline 6****10. REFERENCES**

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APPENDICES

APPENDIX 1: FREQUENTLY ASKED QUESTIONS

- 1. What are the differences between SEA and EMF?**
- 2. Will the EMFs take spatial planning processes into consideration and how will the EMFs be aligned with spatial planning processes?**
- 3. At what scale must the EMFs be compiled?**
- 4. What level of spatial accuracy must be considered?**