

NEMA EIA Regulations

ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

19 AUGUST 2016

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ENVIRONMENTAL IMPACT MANAGEMENT SUB-
DIRECTORATE



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department of
economic, small business development,
tourism and environmental affairs
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Background

- In terms of the Bill of Rights, included in the Constitution of the Republic of South Africa of 1996, everyone has the right to have the environment protected and to live in an environment that is not harmful to human health or well-being. Legal instruments developed to ensure that this right is given effect to, include, *inter alia*, the *EIA regulations* promulgated in terms of the ECA and the NEMA.



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Background

- NEMA requires that an environmental authorisation be issued by a competent authority (CA) before the commencement of a listed activity in terms of the Environmental Impact Assessment Regulations Listing Notices for Basic Assessment or scoping & Environmental Impact Assessment.
- The purpose of these regulations is to avoid negative impacts on the environment or where they cannot be avoided, ensure mitigation and management of the impacts to acceptable levels, while optimising positive environmental impacts.



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Background cont.....

- Environmental Impact Assessment (EIA) is therefore a formal process by which a proposed activity with potentially significant environmental, social and economic costs is studied with a view to evaluating its impacts, examining alternative approaches and developing measures to prevent or mitigate the negative impacts.



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EIA Regulations promulgated in terms of the ECA, Act No 73 of 1989	GNR 1182 & 1183: Government Gazette No 18261, Pretoria, 5 September 1997	08 September 1997 – end of day 09 May 2002.
Amendment of the ECA EIA Regulations	GNR 670 and GNR 672 of 10 May 2002, Government Gazette No 23401	10 May 2002 – end of day 02 July 2006.
2006 EIA Regulations promulgated in terms of the NEMA, Act No 107 of 1998	GNR 385, 386 and 387 Government Gazette No 28753, Pretoria, 21 April 2006	03 July 2006 – end of day 01 August 2010
2010 EIA Regulations promulgated in terms of the NEMA, Act No 107 of 1998	GNR 543, 544, 545 and 546 Government Gazette No 33306, Pretoria, 18 June 2010	02 August 2010 – end of day 07 December 2014
2014 EIA Regulations promulgated in terms of the NEMA, Act No 107 of 1998	GNR 982, 983, 984 and 985 Government Gazette No 38282, Pretoria, 04 December 2014	08 December 2014 – current



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EIA REGULATIONS

The 2014 EIA Regulations, which have repealed & replaced the 2010 EIA Regulations, consist of:

- EIA Process (GNR 983)
- Listing Notice 1 (GNR 984) - Basic Assessment process
- Listing Notice 2 (GNR 985) - Scoping & Env Impact Assessment process
- Listing Notice 3 (GNR 986) - For specific identified geographical areas only



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LISTING NOTICES

The purpose of this Notices is to identify activities that would require environmental authorisations prior to commencement of that activity and to identify competent authorities in terms of sections 24(2) and 24D of the National Environmental Management Act, 1998.

☐ Listing Notice 1 :

- Covers all the activities that must undergo a Basic Assessment process for an Environmental Authorisation.



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LISTING NOTICES cont.....

- e.g The development of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres. (LN 1 activity 14)

☐ Listing Notice 2:

- Covers all the activities that must undergo a Scoping EIR Process for an Environmental Authorisation (EA)
- The development of facilities or infrastructure,where such storage occurs in containers with a combined capacity of more than 500 cubic metres. (LN2 activity 4)



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LISTING NOTICES cont.....

□ Listing Notice 3:

- Covers all the activities which are in a specific identified geographical areas that must undergo a BAR (Basic Assessment Report) or Scoping EIR Process for an Environmental Authorisation (EA)
- Commencement with any of the listed activities identified by the legislation prior to obtaining authorization from the competent authority is (was) prohibited by the ECA and the NEMA and constitutes(d) an offence.



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COMPETENT AUTHORITY

- If the MEC is the Competent Authority, the application must be submitted to the Provincial Department responsible for environmental affairs (DESTEA).
- If the Minister is the Competent authority, the application must be submitted to the National Department of Environmental Affairs (e.g electricity applications).
- If the Minister responsible for mineral resources is the competent authority in respect of an application, the application must be submitted to regional offices of the Department of Mineral Resources. (applications within a mining area)



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EIA PROCESS

Basic Assessment Process	Scoping and EIA Process
Submit Application form to CA	Submit Application form to CA
CA acknowledges application form within 10 days	CA acknowledges application form within 10 days
Submit Basic Assessment Report (BAR) to CA within 90 or 140 days of receipt of the application by the CA	Submit Scoping Report (SR) to CA within 44 days receipt of the application by the CA
	The CA, within 43 days of receipt of a scoping report accept or refuse the SR Within 106 or 156 days of the acceptance of the scoping report submit to the CA S&EIR



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EIA PROCESS

Basic Assessment Process	Scoping and EIA Process
CA within 10 days acknowledges receipt of the BAR	CA within 10 days acknowledges receipt of S&EIR
CA within 107 days of receipt of the BAR grant or refuse authorisation	CA within 107 days of receipt of the S&EIR grant or refuse authorisation
The CA must, within 05 days notify the applicant of the decision	The CA must, within 05 days notify the applicant of the decision



BAR Process

MPRDA Application
Accepted

Pre-application (Optional)

Application

Consultation BAR
& EMPr

Closure
Plan

Public Participation including CA (30 days)
Incorporate PP comments

Submit BAR, EMPr &
Closure Plan

or

Notification of addition
50 days PP

Public participation including
CA (30 days)
Incorporate PP comments

Submit BAR, EMPr &
Closure Plan

BAR and EMPr review

Decision

BAR and EMPr review

Decision

WML

AEL

WUL

MPRDA

Follows
NEMA EIA
Process

WML
DECISION

AEL Decision
(Mining)

60 days
AEL Decision
(other)

NOI
Site inspection &
permission to
proceed

WULA submitted

WULAC
recommendation

DMR and DWA meeting:
DMR & DWA recommendations

WUL Decision

Processing
Application
BEE Proposal
Mine Health and
Safety

Recommendation
for MWP
BEE
MH&S

MPRDA
Decision

EA Decision prerequisite for MPRDA
Decision

In event of substantive BA process all time-frames extended by 50 days

ENVIRONMENTAL
AUTHORISATION APPEAL
FINALISED

EA APPEAL DECISION PREREQUISITE
FOR MPRDA DECISION BECOMING
EFFECTIVE

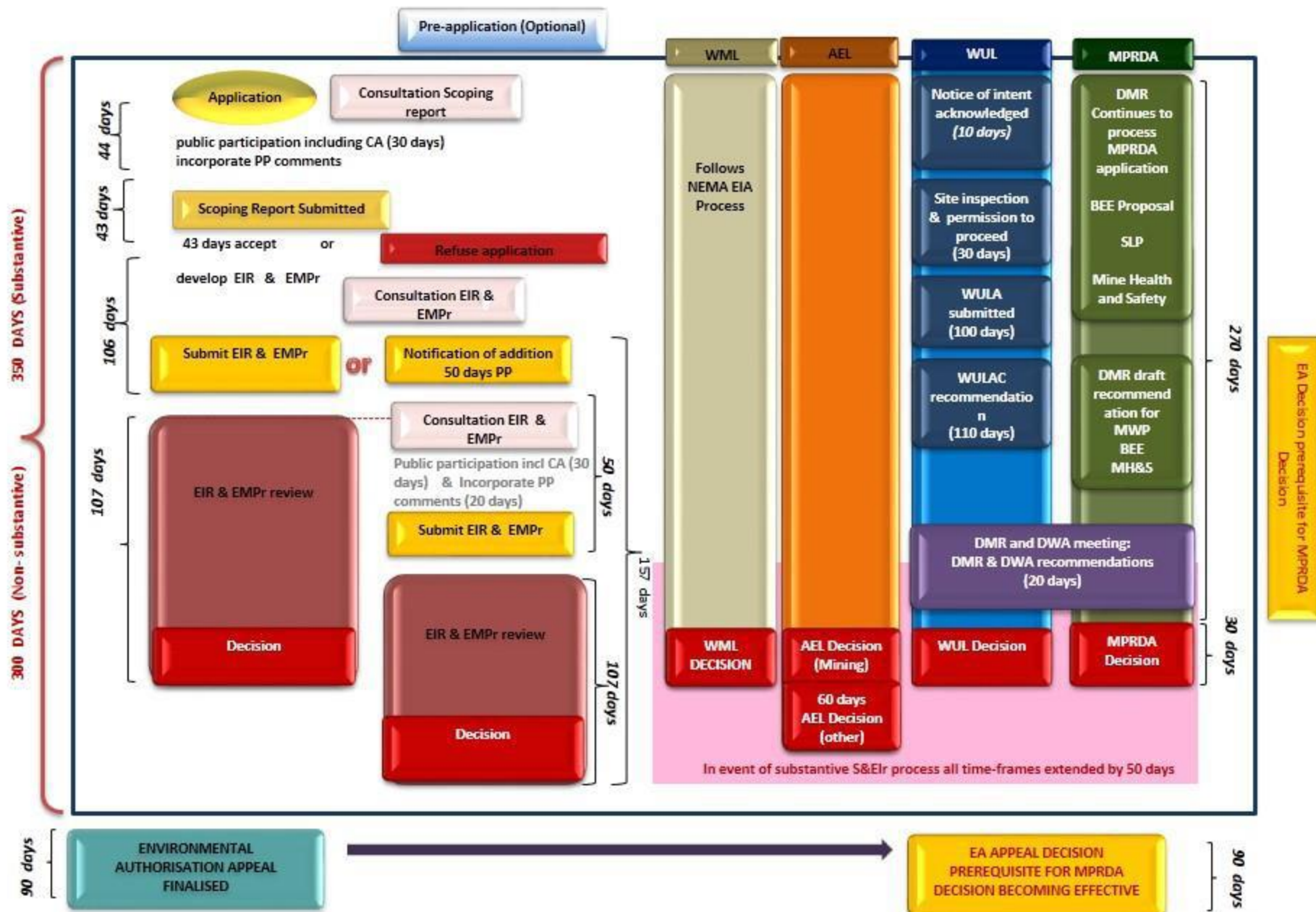
247 Days (Substantive)

197 DAYS (Non-substantive)

90 days

90 days

S&EIR Process



APPEAL

The applicant must within 08 days of the date of the decision:

- **notify I&AP's of the decision**
- **publish a notice**
- **draw the attention of all registered interested and affected parties to the fact that an appeal maybe lodged against the decision in terms of the National Appeals Regulations.**



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Thank You

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