NEMA EIA Regulations

ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

19 AUGUST 2016

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ENVIRONMENTAL IMPACT MANAGEMENT SUB-DIRECTORATE
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.
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.
• 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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<td>2006 EIA Regulations promulgated in terms of the NEMA, Act No 107 of 1998</td>
<td>GNR 385, 386 and 387 Government Gazette No 28753, Pretoria, 21 April 2006</td>
<td>03 July 2006 – end of day 01 August 2010</td>
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<td>2010 EIA Regulations promulgated in terms of the NEMA, Act No 107 of 1998</td>
<td>GNR 543, 544, 545 and 546 Government Gazette No 33306, Pretoria, 18 June 2010</td>
<td>02 August 2010 – end of day 07 December 2014</td>
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The 2014 EIA Regulations, which have repealed & replaced the 2010 EIA Regulations, consist of: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
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.
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)
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.
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)
## EIA PROCESS

<table>
<thead>
<tr>
<th>Basic Assessment Process</th>
<th>Scoping and EIA Process</th>
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<tr>
<td>Submit Application form to CA</td>
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<tr>
<td>CA acknowledges application form within 10 days</td>
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<tr>
<td>Submit Basic Assessment Report (BAR) to CA within 90 or 140 days of receipt of the application by the CA</td>
<td>Submit Scoping Report (SR) to CA within 44 days receipt of the application by the CA</td>
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<td>The CA, within 43 days of receipt of a scoping report accept or refuse the SR</td>
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<td>Within 106 or 156 days of the acceptance of the scoping report submit to the CA S&amp;EIR</td>
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<td>Basic Assessment Process</td>
<td>Scoping and EIA Process</td>
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<tr>
<td>CA within 10 days acknowledges receipt of the BAR</td>
<td>CA within 10 days acknowledges receipt of S&amp;EIR</td>
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<tr>
<td>CA within 107 days of receipt of the BAR grant or refuse authorisation</td>
<td>CA within 107 days of receipt of the S&amp;EIR grant or refuse authorisation</td>
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<tr>
<td>The CA must, within 05 days notify the applicant of the decision</td>
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BAR Process

Pre-application (Optional)

Application + Consultation BAR & EMPR + Closure Plan

Public Participation including CA (30 days) Incorporate PP comments

Submit BAR, EMPR & Closure Plan

Notification of addition 50 days PP

Public participation including CA (30 days) Incorporate PP comments

BAR and EMPR review

Decision

247 Days (Non-substantive)

197 DAYS (Non-substantive)

90 days

ENVIRONMENTAL AUTHORISATION APPEAL FINALISED

Following NEMA EIA Process

WML Decision

AEL Decision (Mining)

WUL Decision

MPRDA Decision

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

DMR and DWA meeting: DMR & DWA recommendations

Recommendation for MWPP BEE MH&S

Processing Application

BEE Proposal

Mine Health and Safety

Site inspection & permission to proceed

WULA submitted

WULAC recommendation

NOI

EA APPEAL DECISION PREREQUISITE FOR MPRDA DECISION BECOMING EFFECTIVE

EA Decision Prerequisite for MPRDA
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.
Thank You

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