GUIDELINE ON TRANSITIONAL ARRANGEMENTS

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EIA Guideline & Information Document Series: This guideline forms part of the DEA&DP’s Environmental Impact Assessment Guideline and Information Document Series. As soon as concurrence has been obtained from the National Department of Environmental Affairs, the final versions of the documents will be formally published in terms of Section 24J of NEMA. The latest versions of the documents available in this series consist of the following drafts –

- Guideline on Transitional Arrangements (October 2011)
- Guideline on Alternatives (October 2011)
- Guideline on Public Participation (October 2011)
- Guideline on Exemption Applications (October 2011)
- Guideline on Need and Desirability (October 2011)
- Guideline on Appeals (October 2011)
- Guideline on the Interpretation of the Listed Activities (to be released before the end of 2011)
- Guideline on Generic Terms of Reference for EAPs and Project Schedules (October 2011)
- Information Document on the Guidelines, Policies and Decision-Making Instruments Relevant to EIA Applications in the Western Cape (October 2011)
- Information Document on Biodiversity Offsets (October 2011)

The EIA Guideline & Information Document Series, the relevant legislation and DEA&DP’s applications forms are available on the DEA&DP website: http://www.capecateway.gov.za/eadp

Please note: This guideline must be read together with the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”), the EIA Regulations, the relevant Specific Environmental Management Act(s) (“SEMA”) (e.g. Environment Conservation Act, 1989 – Act No. 73 of 1989, National Environmental Management: Air Quality Act, 2004 – Act No. 39 of 2004, the National Environmental Management: Integrated Coastal Management Act, 2008 – Act No. 24 of 2008, and the National Environmental Management: Waste Act, 2008 – Act No. 59 of 2008, and the SEMA’s Regulations), and is not intended to be a substitute for the provisions of the NEMA, the EIA Regulations or the SEMAs, in any way. Adherence to the requirements in terms of the NEMA, the EIA Regulations, and the SEMAs does, however, not absolve the applicant from also adhering to the requirements of any other legislation applicable to the undertaking of the activity.

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CONTENTS

1. INTRODUCTION

2. DEFINITIONS

3. TRANSITIONAL ARRANGEMENTS

   3.1 Activities not previously listed, but now listed in terms of the 2010 NEMA notices.
   3.2 Authorisation in terms of ECA or the 2010 NEMA regulations, and Amendments.
   3.3 Lapsed authorisation granted in terms of ECA or the 2006 NEMA regulations.
   3.4 Continuation of things done under ECA.
   3.5 Pending applications and appeals in terms of ECA.
   3.6 Continuation of things done under the 2006 NEMA regulations.
   3.7 Pending applications and appeals in terms of the 2006 NEMA regulations.
   3.8 Appeals against decision in terms of ECA or the 2006 NEMA regulations submitted after 2 August 2010
   3.9 Continuation of regulations regulating authorisations for activities in certain coastal areas.
   3.10 Transitional Arrangements in terms of applications in terms of Section 24G of NEMA.
   3.11 Existing Policies and Guidelines.
   3.14 Transitional arrangements in terms of Prospecting and Mining.

ACRONYMS

APPA  Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965)
DEA&DP Western Cape Department of Environmental Affairs and Development Planning
EAP  Environmental Assessment Practitioner
ECA  Environment Conservation Act, 1989 (Act No. 73 of 1989)
EIA  Environmental Impact Assessment
I&AP  Interested and Affected Party
NEMAA National Environmental Management Amendment Act, 2008 (Act No. 62 of 2008)
SEMA  Specific Environmental Management Act
1. INTRODUCTION

On 18 June 2010 the Minister responsible for Environmental Affairs promulgated new Environmental Impact Assessment ("EIA") Regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"). From the date of effect of these EIA Regulations, 2 August 2010, these EIA Regulations replaced the previous EIA Regulations that were promulgated in terms of NEMA on 21 April 2006, and the EIA Regulations that were promulgated in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989) ("ECA") in 1997, and introduced new provisions for EIAs. On 30 July 2010 and on 10 December 2010 corrections on the 2010 EIA Regulations were published. These corrections all came into effect on 2 August 2010.

The National Environmental Management Amendment Act, 2008 (Act No. 62 of 2008) ("NEMAA"), was promulgated on 9 January 2009 and came into effect on 1 May 2009. The NEMAA made a number of significant amendments to the general provisions applicable to EIAs. The definition of "Environmental Authorisation" in terms of NEMA was amended and now reads "when used in Chapter 5 means the authorisation by a competent authority of a listed activity or specified activity in terms of this Act, and includes a similar authorisation contemplated in a specific environmental management Act". This means that, inter alia, the following are considered to be an "Environmental Authorisation": an Environmental Authorisation issued for an activity listed in Listing Notice 1, 2 or 3; an atmospheric emissions licence in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) ("NEM: AQA"); and a waste management licence in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM: WA"). As such, the general provisions of NEMA that applies to an application for environmental authorisation, applies to all of these applications.

It must further be noted that as part of an application for a waste management licence or an atmospheric emissions licence, the application must also be subjected to the EIA process as stipulated in the EIA Regulations promulgated in terms of NEMA. While a number of different authorisations might therefore be required (an Environmental Authorisation, a waste management licence and/or an atmospheric emissions licence), the assessment process to be followed must be in accordance with the requirements stipulated in the EIA Regulations, with the specific requirements of the relevant specific environmental management Act ("SEMA(s)") to also be adhered to over and above the requirements of the EIA Regulations.

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7 Government Notice No. 22 in Government Gazette No. 31789 on 9 January 2009 refer.
8 Government No. 27 in Government Gazette No. 32156 of 21 April 2009 refers.
10 Section 24(4)(b)(vii) of NEMA refers.
In light of the above, this guideline, which forms part of the Environmental Impact Assessment Guideline and Information Document Series (available on the Department’s website at http://www.capegateway.gov.za/eadp) provides information and guidance for applicants, authorities and interested and affected parties (“I&APs”) on the transitional arrangements in terms of NEMA, the EIA Regulations, the NEM: AQA, and NEM: WA.

This guideline must be read together with the NEMA, the EIA Regulations, the relevant SEMA(s) and its Regulations, and is not intended to be a substitute for the provisions of the NEMA, the SEMAs or the Regulations, in any way. Adherence to the requirements in terms of the NEMA and the EIA Regulations, the SEMAs and its Regulations does, however, not absolve the applicant from also adhering to the requirements of any other legislation applicable to the undertaking of the activity.

2. DEFINITIONS


“Commence” means the start of any physical activity, including site preparation or any other activity on the site in furtherance of a listed activity or listed waste management activity, but does not include any activity required for the purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or listed waste management activity.11

“Department” means the Western Cape Department of Environmental Affairs and Development Planning.


11 From the definitions of “commence” provided in NEMA and in the NEM: WA.


3. TRANSITIONAL ARRANGEMENTS

3.1. Activities not previously listed, but now listed in terms of the 2010 NEMA notices

A development that includes an activity that was not listed in terms of the ECA notice or the 2006 NEMA notices and that has not yet commenced prior to the coming into effect of the 2010 NEMA regulations on 2 August 2010, and is now listed in terms of the 2010 NEMA notices, must obtain written environmental authorisation in terms of the NEMA EIA regulations before commencement.

Note: It must be noted that the above is true even if –

- an application in terms of the Land Use Planning Ordinance (Ordinance No. 15 of 1985) ("LUPO") or any other law was lodged prior to the 2010 NEMA Regulations coming into effect on 2 August 2010; or
- an application in terms of LUPO or any other law was decided prior to the 2010 NEMA notice coming into effect on 2 August 2010.

3.2. Authorisation in terms of ECA or the 2006 NEMA regulations, and Amendments

An environmental authorisation issued in terms of ECA or the 2006 NEMA regulations which is in force when the 2010 NEMA regulations came into effect on 2 August 2010, is regarded to be an environmental authorisation issued in terms of the 2010 NEMA regulations, and remains in force as long as the activities authorised are still listed in terms of the 2010 NEMA notices or the NEM: WA notice. If an activity has therefore already been authorised in terms of ECA or the 2006 NEMA regulations, and the activity has been commenced with, a new environmental authorisation in terms of the 2010 NEMA regulations will not be required for the activities listed in terms of the 2010 NEMA notices or NEM: WA notice if those activities have been commenced with. If, however, the activity(ies) authorised under ECA or the 2006 NEMA regulations are no longer listed in terms of the 2010 NEMA notices or the NEM: WA notice, then the environmental authorisation issued in terms of ECA or the 2006 NEMA regulations are considered null and void.
Note: Non-compliance with an environmental authorisation that is still in force is an offence. As such, it is recommended that the status of an environmental authorisation be confirmed, in writing, with the Department before deciding to how to proceed.

It must be noted that the holder of an authorisation in terms of ECA or the 2006 NEMA regulations (or the 2010 NEMA regulations), may apply for an amendment of the authorisation in terms of the 2010 NEMA regulations, but the amendment must be applied for prior to the lapsing of the environmental authorisation.

3.3. Lapsed authorisation granted in terms of ECA or the 2006 NEMA regulations

Any activity authorised in terms of ECA or the 2006 NEMA regulations that has not been commenced with within the specified validity period i.e. that has lapsed, and that are listed in the 2010 NEMA notices must apply for and obtain written environmental authorisation in terms of the 2010 NEMA regulations prior to commencement.

3.4. Continuation of things done under ECA

Anything done in terms of the ECA regulations and which can be done in terms of a provision of the 2010 NEMA regulations must be regarded as having been done in terms of the provision of the 2010 NEMA Regulations\(^\text{12}\).

Any regulation or direction made in terms of a provision of ECA repealed by the NEM: WA that was in force immediately before the date of the coming into effect of the NEM: WA on 1 July 2009, remains in force and is considered to have been made under the NEM: WA until anything done under the NEM: WA overrides it\(^\text{13}\). Anything lawfully done under a provision repealed by the NEM: WA remains valid until anything done under the NEM: WA overrides it\(^\text{14}\).

3.5. Pending applications and appeals in terms of ECA

An application for environmental authorisation submitted in terms of the ECA notice and which was pending when the 2010 NEMA Regulations came into effect on 2 August 2010, must despite the repeal of the ECA regulations be dispensed with in terms of the ECA regulations as if the ECA regulations were not repealed\(^\text{15}\). If a situation, however, arises where activities listed under the ECA notice are not listed similarly under the 2010 NEMA notices or in terms of the NEM: WA notice and where a decision on an application submitted under the ECA regulations is still pending, the application will be considered withdrawn\(^\text{16}\).

\(^{12}\) Regulation 73(1) of GN No. R. 543 refers.
\(^{13}\) Section 80(2) of the NEM: WA refers.
\(^{14}\) Section 80(3) of the NEM: WA refers.
\(^{15}\) Regulation 74(1) of GN No. R. 543 refers.
\(^{16}\) Regulation 74(2) of GN No. R. 543 refers.
Where an application for environmental authorisation submitted in terms of the ECA regulations was pending when the 2010 NEMA regulations came into effect on 2 August 2010, and a component of the development which was not listed under the ECA notice, became listed in terms of the 2010 NEMA notices, the competent authority must dispense of such pending application in terms of the ECA regulations, as if the ECA regulations were not repealed, but may authorise the activity listed in terms of the 2010 NEMA notices as if it was applied for, on condition that all impacts of the newly listed activity have been assessed and the requirements of the 2010 NEMA regulations have been considered\(^\text{17}\).

An application for a permit in terms of section 20 of ECA that was pending when the NEM: WA came into effect on 1 July 2009, must be proceeded with in terms of the NEM: WA as if that application was an application for a waste management licence in terms of the NEM: WA\(^\text{18}\).

An appeal lodged against a decision issued in terms of the ECA regulations, which was pending when the 2010 NEMA regulations came into effect on 2 August 2010 must despite the repeal of the ECA regulations be dispensed with in terms of the ECA regulations as if the ECA regulations were not repealed\(^\text{19}\).

### 3.6. Continuation of things done under the 2006 NEMA regulations

Anything done in terms of the 2006 NEMA regulations and which can be done in terms of a provision of the 2010 NEMA regulations must be regarded as having been done in terms of the provision of the 2010 NEMA Regulations\(^\text{20}\).

### 3.7. Pending applications and appeals in terms of the 2006 NEMA regulations

An application submitted in terms of the 2006 NEMA regulations and which was pending when the 2010 NEMA regulations came into effect on 2 August 2010 must, despite the repeal of the 2006 NEMA regulations, be dispensed with in terms of the 2006 NEMA regulations as if the 2006 NEMA regulations were not repealed\(^\text{21}\).

**Note:** If an applicant has lodged a Notice of Intent to apply for an environmental authorisation and has already commenced with the process contemplated in regulation 22(a) to (f) of the 2006 NEMA regulations, but has not submitted the application form or the Basic Assessment

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\(^\text{17}\) Regulation 74(3) of GN No. R. 543 refers.
\(^\text{18}\) Section 81(6) of NEM: WA refers.
\(^\text{19}\) Regulation 74(4) of GN No. R. 543 refers.
\(^\text{20}\) Regulation 75(1) of GN No. R. 543 refers.
\(^\text{21}\) Regulation 76(1) of GN No. R. 543 refers.
Report before 02 August 2010, the application must be dispensed with in terms of the 2006 NEMA regulations as if those 2006 NEMA regulations were not repealed unless:

- otherwise agreed to between the applicant and the Department; or
- an application has been submitted in terms of the 2010 NEMA regulations and the Notice of Intent submitted in terms of the 2006 NEMA regulations has been withdrawn;

and, where applicable, on condition that the application form and Basic Assessment Report in terms of the 2006 NEMA regulations was submitted before 1 April 2011.\(^\text{22}\)

If a situation arises where activities listed under the 2006 NEMA notices, are not listed similarly under the 2010 NEMA notices and where a decision on an application submitted under the 2006 NEMA regulations is still pending, the application will be considered to be withdrawn\(^\text{23}\).

Where an application submitted in terms of the 2006 NEMA regulations, was pending when the 2010 NEMA regulations came into effect on 2 August and a component of the development was not listed under the 2006 NEMA notices, but became listed in terms of the 2010 NEMA notices, the Department must dispense of such pending application in terms of the 2006 NEMA regulations, but may authorise the activity listed in terms of the 2010 NEMA notices as if it was applied for, on condition that all impacts of the newly listed activity have been assessed and that the requirements of the 2010 NEMA regulations have been considered\(^\text{24}\).

An appeal lodged in terms of the 2006 NEMA regulations, and which was pending when the 2010 NEMA regulations came into effect on 2 August 2010, must despite the repeal of the 2006 NEMA regulations be dispensed with in terms of the 2006 NEMA regulations as if the 2006 NEMA regulations were not repealed\(^\text{25}\).

3.8. **Appeal against decisions in terms of ECA or the 2006 NEMA regulations submitted after 2 August 2010**

Appeal against decisions in terms of ECA or the 2006 NEMA regulations submitted after 2 August 2010 must be submitted and considered in terms of the 2010 NEMA regulations.

3.9. **Continuation of regulations regulating authorisations for activities in certain coastal areas**

It must be noted that the 2010 NEMA Regulations do not affect the continued application of the Regulations published in terms of Sections 26 and 28 of the ECA in Government Notice R. 1528 of 27 November 1998, which regulate authorisations for activities in certain coastal areas\(^\text{26}\).

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\(^{22}\) Regulation 76(5) of GN No. R. 543 refers.
\(^{23}\) Regulation 76(2) of GN No. R. 543 refers.
\(^{24}\) Regulation 76(3) of GN No. R. 543 refers.
\(^{25}\) Regulation 76(4) of GN No. R. 543 refers.
\(^{26}\) Regulation 77 of GN No. R. 543 refers.
Note: In the Western Cape the Outeniqua Sensitive Coastal Area Regulations ("OSCA") are the only set of regulations which "regulate authorisations for activities in certain coastal areas"27.

3.10. Transitional Arrangements in terms of applications in terms of Section 24G of NEMA.

A person who, prior to the coming into effect of the 2006 NEMA regulations on 3 July 2006, unlawfully commenced (i.e. without first having obtained environmental authorisation) with an activity listed in terms of the ECA notice, may apply for rectification in terms of Section 24G of NEMA, if on the day of the application such activity is still listed in terms of the 2010 NEMA notices (Listing Notices 1, 2 and 3) or the NEM: WA notice28.

A person who unlawfully commenced (i.e. without first having obtained environmental authorisation) with an activity listed in terms of the 2006 NEMA notices, may apply for rectification in terms of Section 24G of NEMA, even if the activity that was commenced with is no longer listed in the 2010 NEMA notices (Listing Notices 1, 2 and 3). If at the time of the commencement the activity was listed in terms of the 2006 NEMA notices, an offence was committed in terms of Section 24F(2) of NEMA. Even if the activity is no longer listed in terms of the 2010 NEMA notices, it remains an offence, and as such the person who committed the offence may apply for rectification in terms of Section 24G.

3.11. Existing Policies and Guidelines

Guidelines adopted by the Department before the coming into effect of the 2006 NEMA Regulations or the 2010 NEMA regulations must, to the extent compatible with the NEMA and the 2010 NEMA regulations, be regarded to be provincial guidelines issued in terms of NEMA.

It must further be noted that in terms of applications that were pending when the 2010 NEMA regulations came into effect on 2 August 2010, the guidelines issued in terms of the regulations in terms of which the application is to be decided (i.e. the guidelines applicable at the time of application) would apply to the application and not the guidelines issued in terms of the 2010 NEMA EIA Regulations. If, however, activities listed in terms of the 2010 NEMA notices are to be included in the environmental authorisation then the content of the guidelines applicable in terms of the 2010 NEMA regulations must be considered.

3.12. Transitional arrangements in terms of the NEM: Waste Act

A development that includes a waste management activity that was not listed in terms of the ECA notice or the previous NEMA notices and that has not yet commenced, but is now listed in terms of

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28 Section 12(3) of the NEMAA refers.
the NEM: WA notice, must obtain a written waste management licence in terms of the NEM: WA prior to commencement.

**Note:** It must be noted that the above is true even if –

- an application in terms of the Land Use Planning Ordinance (Ordinance No. 15 of 1985) (“LUPO”) or any other law was lodged prior to the NEM: WA notice coming into effect on 3 July 2009; or
- an application in terms of LUPO or any other law was decided prior to the NEM: WA notice coming into effect on 3 July 2009.

A permit issued in terms of section 20 of ECA which is in force when the NEM: WA came into effect on 1 July 2009 remains in force and is regarded to be a waste management licence, until such time as the licensing authority in terms of the NEM: WA requires of the person to apply for a waste management licence within a stipulated period\(^{29}\). The section 20 permit lapses if the holder of the permit did not apply for a waste management licence within the stipulated period, or if the licensing authority refuses the waste management licence\(^{30}\).

**Note:** It must be noted that the holder of a permit in terms of section 20 of ECA, may apply for a variation of the permit in terms of the NEM: WA or for a renewal of the permit, if the request for variation or renewal is submitted while the permit is still in force\(^{31}\).

A person operating a waste disposal facility that was established before the coming into effect of ECA and that was operational on the date of the coming into effect of the NEM: WA, 1 July 2009, may continue to operate the facility until such time as the Minister, by notice in the Gazette, calls upon that person to apply for a waste management licence\(^{32}\).

Any regulation or direction made in terms of a provision of the ECA repealed by the NEM: WA and in force immediately before 1 July 2009, remains in force and is considered to have been made under the NEM: WA until anything done under the NEM: WA overrides it, and anything lawfully done under a provision repealed by the NEM: WA remains valid until anything done under the NEM: WA overrides it\(^{33}\).

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\(^{29}\) Section 81(1) and (2) of NEM: WA refers.

\(^{30}\) Section 81(3) of NEM: WA refers.

\(^{31}\) Section 54(1) and 55(2) of NEM: WA refer.

\(^{32}\) Section 80(4) of NEM: WA refers.

\(^{33}\) Sections 80(2) and (3) of the NEM: WA refers.
Any criminal proceedings instituted under ECA in terms of littering, the removal of litter, and waste management, that have not been finalised by 1 July 2009, must be finalised as if the relevant sections of ECA had not been repealed\(^{34}\).

### 3.13. Transitional arrangements in terms of the NEM: Air Quality Act

Anything done or deemed to have been done under a repealed provision of the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965) (“APPA”) which can be done in terms of a provision of the NEM: AQA must be regarded as having been done under the relevant provision of the NEM: AQA\(^{35}\).

Anything done or deemed to have been done under a provision of APPA repealed by the NEM: AQA which can be done in terms of the constitutional or statutory powers of a municipality remains in force in the area of a municipality until repealed by the municipality of that area\(^{36}\).

Despite the repeal of APPA, a provisional registration certificate issued in terms of APPA which was a valid certificate immediately before 1 April 2010, continues to be valid for a period of two years from 1 April 2010\(^{37}\), unless a provisional atmospheric emission licence or an atmospheric emission licence is issued to the holder of the provisional registration certificate during the two year period, which would result in the provisional registration certificate expiring on the date of issue of the provisional licence or licence in terms of the NEM: AQA\(^{38}\).

During the period for which a provisional registration certificate continues to be valid, the provisions of the NEM: AQA, read with the necessary changes as the context may require, apply in respect of the holder of such a certificate as if that person is the holder of a provisional atmospheric emission licence issued in terms of the NEM: AQA for the activity for which the certificate was issued; and the provisions of the NEM: AQA, read with the necessary changes as the context may require apply in respect of the certificate as if the certificate is a provisional atmospheric emission licence in terms of the NEM: AQA\(^{39}\).

Despite the repeal of APPA, a registration certificate issued in terms of APPA which was a valid certificate immediately before 1 April 2010 continues to be valid for a period of four years from 1 April 2010, but the holder of the registration certificate must within the first three years of the four year period lodge a renewal application in terms of the NEM: AQA with the licensing authority of the area.

\(^{34}\) Section 80(5) of NEM: WA refers.
\(^{35}\) Section 60(2) of NEM: AQA refers.
\(^{36}\) Section 60(3) of NEM: AQA refers.
\(^{37}\) Section 61(1)(a) of NEM: AQA refers.
\(^{38}\) Section 61(1)(c) of NEM: AQA refers.
\(^{39}\) Section 61(1)(b) of NEM: AQA refers.
in which the activity for which the certificate was issued is carried out\textsuperscript{40}. If the holder of a registration certificate fails to lodge a renewal application within the first three years, the certificate expires at the end of the three years\textsuperscript{41}. If during the four-year period referred an atmospheric emission licence is issued to the holder of a registration certificate following an application for renewal in terms of the NEM: AQA, the certificate expires on the date of issue of the licence\textsuperscript{42}. If during the period before the holder of a registration certificate lodges an application for renewal in terms of the NEM: AQA an atmospheric emission licence issued to the holder of the certificate following a revision in terms of the certificate in terms of NEM: AQA, the certificate expires on the date of issue of the licence in terms of the NEM: AQA\textsuperscript{43}. 

During the period for which a registration certificate continues to be valid, the provisions of the NEM: AQA, read with the necessary changes as the context may require, apply in respect of the holder of such a certificate as if that person is the holder of an atmospheric emission licence issued in terms of the NEM: AQA for the activity for which the certificate was issued; and apply in respect of the certificate as if the certificate is an atmospheric emission licence issued in terms of the NEM: AQA\textsuperscript{44}. 

Despite the repeal of the APPA, any application for a registration certificate made in terms of APPA which was not decided by 1 April 2010, must be proceeded with in terms of the NEM: AQA as if such application was an application for an atmospheric emission licence in terms of the NEM: AQA\textsuperscript{45}. 

3.14. Transitional arrangements in terms of Prospecting and Mining

With the empowering provisions in NEMA in terms of the provisions relating to prospecting, mining exploration and production and related activities not yet having come into effect\textsuperscript{46}, the provisions of the NEMA EIA Regulations 2010\textsuperscript{47} and Listing Notices\textsuperscript{48} and the activities in the Listing Notices relating to prospecting, mining exploration and production and related activities will also only come into operation 18 months after the date of commencement of the Mineral and Petroleum Resources Development Amendment Act, 2008 (Act No. 49 of 2008)\textsuperscript{49}.

Until such time as these provisions come into effect, prospecting and mining activities \textit{per se} are for all intents and purposes not (yet) listed. However, any operation related to prospecting and mining that constitutes listed activities in terms of the EIA Listing Notices (Listing Notice 1, 2, and 3)\textsuperscript{50} and/or a

\textsuperscript{40} Section 61(2)(a) and (b) of NEM: AQA refers.\textsuperscript{41} Section 61(2)(d)(x) of NEM: AQA refers.\textsuperscript{42} Section 61(2)(d)(i) of NEM: AQA refers.\textsuperscript{43} Section 61(2)(d)(ii) of NEM: AQA refers.\textsuperscript{44} Section 61(2)(d)(iii) of NEM: AQA refers.\textsuperscript{45} Section 61(2)(b) of NEM: AQA refers.\textsuperscript{46} Section 61(3) of NEM: AQA refers.\textsuperscript{47} GN No. R. 543 & R. 547 refer.\textsuperscript{48} GN No. R. 544, R. 545 & R. 546 refer.\textsuperscript{49} The Mineral and Petroleum Resources Development and Amendment Act (Act No. 49 of 2008) was promulgated on 21 April 2009.\textsuperscript{50} GN No. R. 544, R. 545 & R. 546 refer.
waste management activity\textsuperscript{51} and/or an atmospheric emission licence activity\textsuperscript{52} will require environmental authorisation in terms of NEMA and the EIA Regulations and/or the Waste Act and/or the Air Quality Act. Therefore, if a mining company’s proposed activities trigger listed activities in terms of the NEMA EIA Regulations and/or the Waste Act and/or the Air Quality Act, the mining company must obtain the necessary approvals in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002) and the NEMA and/or the 2010 NEMA regulations and the Waste Act and/or the Air Quality Act.

\textsuperscript{51} GN No. 718 published in Government Gazette No. 32368 of 3 July 2009 refers.
\textsuperscript{52} GN No. 248 published in Government Gazette No. 33064 of 31 March 2010 refers.