

Holland & Associates



Environmental Consultants

Impact Assessments - Environmental Management Programs - Compliance Monitoring - Process Review

30 April 2021

Dear Interested and/or Affected Party

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 18 APRIL 2016 FOR THE 140MW NAMIES WIND ENERGY FACILITY AND ITS ASSOCIATED INFRASTRUCTURE NEAR AGGENEYS WITHIN THE KHAI MA LOCAL MUNICIPALITY IN THE NORTHERN CAPE PROVINCE (DEFF REF NO.: 14/12/16/3/3/2/550/AM1)

Notification of Amendment of the Environmental Authorisation

This letter serves to notify all registered Interested and Affected Parties (I&APs) of the Department of Environment, Forestry and Fisheries' (DEFF's) (previously known as the Department of Environmental Affairs (DEA)) decision in respect of the application for amendment of the Environmental Authorisation (EA) issued on 18 April 2016, as amended, for the construction of the 140MW Namies Wind Energy Facility and its associated infrastructure near Aggeneys in the Northern Cape Province. Furthermore, the provisions regarding the submission of appeals that are contained in the National Environmental Management Act (NEMA) (No. 107 of 1998) National Appeal Regulations (2014), are also outlined herein, should an I&AP wish to appeal DEFF's decision.

1. Decision

We wish to inform you that, based on a review of the reasons submitted by Namies Wind Farm (Pty) Ltd for requesting an amendment to the abovementioned Environmental Authorisation (EA) (i.e. amendment to the name and contact details of the holder of the EA, an extension of the validity period of the EA, and amendment to include the properties for the transmission line and Aggeneys Substation) that DEFF, in terms of Chapter 5 of the EIA Regulations, 2014, as amended, **has decided to amend the EA dated 18 April 2016**, as follows:

Amendment 1: Amendment to the name and contact details of the holder of the EA:

The name of the holder of the EA has been corrected to ensure that it corresponds entirely with the name of the Applicant that was put forward in the original Application for Environmental Authorisation for the project, i.e. as follows:

From:

"NAMIES WIND FARM"

To:

“NAMIES WIND FARM (PTY) LTD”

The address of the EA holder was also updated, as follows:

From:

“NAMIES WIND FARM

(hereafter referred to as the holder of the authorisation)

with the following contact details –

Mr Chris Bellingham
24th Floor Metropolitan Centre
7 Walter Sisulu Avenue
Foreshore
Cape Town
8001

Telephone Number: (021) 831 6130
Fax Number: (021) 831 6199
Cell Phone Number: (083) 443 5154
Email Address: bellingham@juwi.co.za”

To:

“NAMIES WIND FARM (PTY) LTD

(hereafter referred to as the holder of the authorisation)

with the following contact details –

Mr Chris Bellingham
20th Floor, The Halyard
4 Christiaan Barnard Street
Foreshore
Cape Town
8001

Telephone Number: (021) 831 6130
Fax Number: (021) 831 6199
Cell Phone Number: (083) 443 5154
Email Address: bellingham@juwi.co.za”

Amendment 2: Amendment to the EA validity period:

Condition of Authorisation 6 of the EA dated 18 April 2016 stated the following:

“This activity must commence within a period of five (05) years from the date of issue of this authorisation. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.”

DEFF has granted a five year extension to the validity period of the EA. In this regard, the EA has been amended by DEFF as follows:

“This activity must commence within a period of ten (10) years from the date of issue of the authorisation, therefore the authorisation lapses on 18 April 2026. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken”.

Amendment 3: Amendment to include the properties for the transmission line and Aggeneys Substation:

The property description of the EA was amended to include the properties affected by the transmission line that form part of the authorised project, as well as the Aggeneys Substation property (where the transmission line ends), to ensure that the properties affected by the wind farm are accurately reflected within the EA. The properties included in the amended EA are therefore as follows:

Farm (Namies WEF):	21 digit SG code:
Remainder of the Farm Namies Suid No. 212	C03600000000021200000
Portion 1 of the Farm Vogelstruis Hoek No. 88	C05300000000008800001
Farm (transmission line servitude):	
Remainder of the Farm Vogelstruis Hoek No. 88	C05300000000008800000
Remainder of the Farm Kykgat No. 87	C05300000000008700000
Portion 1 of the Farm Kykgat No. 87	C05300000000008700001
Portion 2 of the Farm Kykgat No. 87	C05300000000008700002
Remainder of the Farm Bloemhoek No. 61	C05300000000006100000
The Farm Wolfkop No. 627	C05300000000062700000
Remainder of the Farm Aggeneys No. 56	C05300000000005600000
Remainder of Portion 1 of the Farm Aggeneys No. 56	C05300000000005600001
Farm (Aggeneys substation):	
Portion 2 of the Farm Aggeneys No. 56	C05300000000005600002

DEFF’s amendment to the EA, dated 21 April 2021, including the reasons for the amendment, is included in Annexure A herewith for your information¹.

2. Right to Appeal

We would like to draw your attention to your right to appeal against the decision to the Minister, in terms of the National Appeal Regulations (2014) (Government Notice No. R993) which prescribes the appeal procedure to be followed. Refer to Annexure B herewith for a copy of the National Appeal Regulations, 2014.

Should any person wish to lodge an appeal, the appellant must submit an appeal to the Appeal Administrator, and a copy of the appeal to the Applicant (i.e. Namies Wind Farm (Pty) Ltd), any

¹ Note: The amendment decision from DEFF dated 21 April 2021 must be read in conjunction with the EA dated 18 April 2016 and amendments thereto (dated 6 August 2018). A copy of the EA dated 18 April 2016, and amendments to the EA are available from Nicole Holland of Holland & Associates Environmental Consultants on request.

registered Interested and Affected Party, and any Organ of State with interest in the matter within 20 days from the date² that the notification of the decision was sent to the registered I&APs by the Applicant, or the date³ that the notification of the decision was sent to the Applicant by DEFF, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of the Department of Environment, Forestry and Fisheries (DEFF) at the below mentioned addresses.

By email: appeals@environment.gov.za;

By hand: Environment House

473 Steve Biko,
Arcadia, Pretoria,
0083; or

By post: Private Bag X447,
Pretoria,
0001

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit DEFF's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@environment.gov.za.

Should you require any further information or have any queries, please contact the undersigned.

Yours sincerely



NICOLE HOLLAND (Pr. Sci. Nat, EAP)

For: Holland & Associates - Environmental Consultants

² This letter, which has been sent to I&APs on behalf of the Applicant, serves as notification of DEFF's decision, and will be emailed and/or posted to I&APs on 30 April 2021.

³ 21 April 2021.

**ANNEXURE A:
DEPARTMENT OF ENVIRONMENT, FORESTRY AND FISHERIES' AMENDMENT OF THE
ENVIRONMENTAL AUTHORISATION – 21 APRIL 2021**



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA 0001· Environment House 473 Steve Biko Road, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/2/550/AM1

Enquiries: Ms Azrah Essop

Telephone: (012) 399 8529 E-mail: AEssop@environment.gov.za

Mr Chris Bellingham
Namies Wind Farm (Pty) Ltd
20th Floor, The Halyard
4 Christiaan Barnard Street
Foreshore
CAPE TOWN
8001

Telephone Number: (021) 831 6130
Email Address: bellingham@juwi.co.za

PER EMAIL / MAIL

Dear Mr Bellingham

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 18 APRIL 2016 FOR THE 140MW NAMIES WIND ENERGY FACILITY AND ITS ASSOCIATED INFRASTRUCTURE NEAR AGGENEYS WITHIN THE KHAI MA LOCAL MUNICIPALITY IN THE NORTHERN CAPE PROVINCE

The Environmental Authorisation (EA) issued for the abovementioned application by this Department on 18 April 2016, your application for amendment of the EA received by the Department on 31 March 2021 and the acknowledgement letter dated 08 April 2021, refer.

Based on a review of the reason for requesting an amendment to the above EA, this Department, in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014 as amended, has decided to amend the EA dated 18 April 2016 as amended, as follows:

Amendment 1: Amendment to the name and contact details of the holder of the EA:

The name and associated contact details of the holder of the EA on the cover page, page 1 and page 2 of the EA is amended:

From:

“NAMIES WIND FARM”

(hereafter referred to as the holder of the authorisation)
with the following contact details –

Mr Chris Bellingham
24th Floor Metropolitan Centre
7 Walter Sisulu Avenue
Foreshore
Cape Town
8001

Telephone Number: (021) 831 6130
Fax Number: (021) 831 6199
Cell Phone Number: (083) 443 5154
Email Address: bellingham@juwi.co.za

To:

"NAMIES WIND FARM (PTY) LTD"

(hereafter referred to as the holder of the authorisation)

with the following contact details –

Mr Chris Bellingham
20th Floor, The Halyard
4 Christiaan Barnard Street
Foreshore
CAPE TOWN
8001

Telephone Number: (021) 831 6130
Fax Number: (021) 831 6199
Cell Phone Number: (083) 443 5154
Email Address: bellingham@juwi.co.za

Reason for Amendment:

The Applicant requires that the name of the holder of the EA be corrected in the EA (via the inclusion of "(Pty) Ltd" to the name of the EA holder), so that it corresponds entirely to the name and legal entity of the Applicant, as put forward in the original Application for Environmental Authorisation for the project. Furthermore, the Applicant wishes to update the holder of the EA's address to align with their current address.

Amendment 2: Amendment to the validity period:

Condition 6 of the EA dated 18 April 2016 which reads as follows:

"This activity must commence within a period of five (05) years from the date of issue of this authorisation. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken."

Is hereby amended to:

"This activity must commence within a period of ten (10) years from the date of issue of the authorisation, therefore the authorisation lapses on 18 April 2026. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken."

Reason for Amendment:

The Applicant intends to bid the Namies Wind Farm (Pty) Ltd in one of the upcoming Renewable Energy Independent Power Producer Procurement (REIPPP) Programme bidding rounds. As such, an extension of the validity is required to ensure that the project is compliant with the procurement rules. The timing of the next bidding rounds has not been confirmed by the Department of Mineral Resources and Energy.

Amendment 3: Amendment to include the properties for the transmission line and Aggeneys Substation:

3.1 The table on page 1 of the EA which reads as follows:

Authorisation register number:	<i>14/12/16/3/3/2/550</i>
Last amended:	<i>First issue</i>
Holder of authorisation:	<i>Namies Wind Farm</i>
Location of activity:	<i>Namies Suid (Remainder of Farm 212) Vogelstruis Hoek (Portion 1 of Farm 88) Aggeneys Khai Ma Local Municipality Namakwa District Municipality Northern Cape Province</i>

Is hereby amended to:

Authorisation register number:	<i>14/12/16/3/3/2/550</i>
Last amended:	<i>First issue</i>
Holder of authorisation:	<i>Namies Wind Farm (PTY) LTD"</i>
Location of activity:	<i>Namies WEF: Remainder of the Farm Namies Suid No. 212 Portion 1 of the Farm Vogelstruis Hoek No. 88 <u>Transmission line servitude:</u> Remainder of the Farm Vogelstruis Hoek No. 88 Remainder of the Farm Kykgat No. 87 Portion 1 of the Farm Kykgat No. 87 Portion 2 of the Farm Kykgat No. 87</i>

	<p><i>Remainder of the Farm Bloemhoek No. 61</i></p> <p><i>The Farm Wolfkop No. 627</i></p> <p><i>Remainder of the Farm Aggeneys No. 56</i></p> <p><i>Remainder of Portion 1 of the Farm Aggeneys No. 56</i></p> <p><u><i>Aggeneys substation:</i></u></p> <p><i>Portion 2 of the Farm Aggeneys No. 56</i></p> <p><i>Aggeneys</i></p> <p><i>Khai Ma Local Municipality</i></p> <p><i>Namakwa District Municipality</i></p> <p><i>Northern Cape Province</i></p>
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3.2 Page 9 of the EA which reads as follows:

“- for the 140 MW Namies Wind Energy Facility and its associated infrastructure on Namies Suid (Remainder of Farm 212) and Vogelstruis Hoek (Portion 1 of Farm 88), located approximately 27 km southeast of the town of Aggeneys in the Khai Ma Local Municipality of the Namakwa District Municipality, Northern Cape Province, hereafter referred to as “the property”.”

Is hereby amended to:

“- for the 140 MW Namies Wind Energy Facility and its associated infrastructure on Remainder of the Farm Namies Suid No. 212, Portion 1 of the Farm Vogelstruis Hoek No. 88, Remainder of the Farm Vogelstruis Hoek No. 88, Remainder of the Farm Kykgat No. 87, Portion 1 of the Farm Kykgat No. 87, Portion 2 of the Farm Kykgat No. 87, Remainder of the Farm Bloemhoek No. 61, The Farm Wolfkop No. 627, Remainder of the Farm Aggeneys No. 56, Remainder of Portion 1 of the Farm Aggeneys No. 56, and Portion 2 of the Farm Aggeneys No. 56, located approximately 27 km southeast of the town of Aggeneys in the Khai Ma Local Municipality of the Namakwa District Municipality, Northern Cape Province, hereafter referred to as “the property”.”

3.3 The technical details contained in the table on Page 9 of the EA which reads as follows:

Component	Description/ Dimensions
Location of the site	~ 27 km southeast of the town of Aggeneys
Extent of the proposed development footprint	~ 62,5ha
SG Codes	C03600000000021200000 C05300000000008800001
Substation complex	One (1) on-site substation to facilitate the connection between the facility and the electricity grid (78m x 135m).

Power line (number and voltage)	A 220kV overhead transmission powerline feeding into Eskom's electricity grid.
Access road and width	Total of ~ 47km internal access roads of 7m wide
Export capacity	140MW
Number of Turbines	44

Is hereby amended to:

Component	Description/ Dimensions
Location of the site	~ 27 km southeast of the town of Aggeneys
Extent of the proposed development footprint	~ 62,5ha
SG Codes	C03600000000021200000 C05300000000008800001 C05300000000008800000 C05300000000008700000 C05300000000008700001 C05300000000008700002 C05300000000006100000 C053000000000062700000 C05300000000005600000 C05300000000005600001 C05300000000005600002
Substation complex	One (1) on-site substation to facilitate the connection between the facility and the electricity grid (78m x 135m).
Power line (number and voltage)	A 220kV overhead transmission powerline feeding into Eskom's electricity grid.
Access road and width	Total of ~ 47km internal access roads of 7m wide
Export capacity	140MW
Number of Turbines	44

Reason for Amendment:

The EA for the Namies Wind Farm currently only indicates the properties of the wind farm and does not indicate the properties affected by the transmission line that forms part of the authorised project. Considering this, the Applicant wishes for the transmission line properties, and Aggeneys Substation property (where the transmission line ends), as per the properties outlined in Table 1-1 of the Final EIA Report (14/12/16/3/3/2/550 -Aurecon, 2015) to be included in the EA. The Applicant also wishes for the property descriptions to be amended so that

the affected properties are correctly described in the EA, as per the wording of the property descriptions in the Title Deeds. This will ensure that the properties affected by the wind farm and its associated infrastructure are accurately reflected within the EA.

The Department is aware that the environment changes constantly, as a result it might be significantly different from the one that existed at the time of the issuing of this EA, hence the validity of the EA cannot exceed a maximum period of 10 years. Failure to commence with construction activities within the maximum 10 year period, your EA will be deemed to have lapsed and a new application for Environmental Authorisation will have to be lodged.

This proposed amendment letter must be read in conjunction with the EA dated 18 April 2016.

In terms of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000), you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) which stipulates that the Department should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Department accountable should the Department abuses or compromises your personal information in any way.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) days of the date of the EA, of the Department's as well as the provisions regarding the submission of appeals that are contained in the Regulations.

Your attention is drawn to Chapter 2 of National Environmental Management Act, 1998 (Act No. 107 of 1998) National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribe the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@environment.gov.za ;

By hand: Environment House
473 Steve Biko Road,
Arcadia,
PRETORIA,
0083; or

By post: Private Bag X447,
PRETORIA,
0001;

Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@environment.gov.za.

Yours faithfully



Ms Millicent Solomons
Acting Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Date: 21/04/2021.

cc:	Nicole Holland	Holland & Associates Environmental Consultants	E-mail: nicole@hollandandassociates.net
	Obakeng Isaacs	Khai Ma Local Municipality	Email: munman@khaima.gov.za ; hendry@khaima.gov.za
	Ms Gail Letimela	Northern Cape: The Department of Agricultural, Environmental Affairs, Land Reform and Rural Development	Email: gletimela@ncpg.gov.za



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Private Bag X447 · PRETORIA · 0001 · Environment House · Cnr Soutpansberg & Steve Biko Roads · Pretoria Tel (+27 12) 369 9000

Enquiries: Devinagie Bendeman Tel: 012 399 9337

Email: vbendeman@environment.gov.za

Ms. Solomons
Director: Strategic Infrastructure Development

Dear Mrs. Solomons

APPOINTMENT AS ACTING CHIEF DIRECTOR: INTEGRATED ENVIRONMENTAL AUTHORISATIONS FOR THE PERIOD 19 APRIL 2021 UNTIL 21 APRIL 2021.

This serves to confirm your appointment as Acting Chief Director: integrated environmental authorisations, from 19 April 2021 until 21 April 2021, whilst Mr Sabelo Malaza is on Sick Leave.

You will act in this capacity with the full responsibilities and duties attached to the post, including the activities entrusted to the Acting Chief Director: integrated environmental authorisations by or in terms of the Acts administered by the Department.

Your appointment in the above acting position remains subject to the provisions of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as amended, the Government Employees Pension Fund Act, 1996 (Proclamation No. 21 of 1996), the regulations promulgated under these Acts and relevant circulars.

In the execution of your duties and the exercising of the powers delegated to you, you will furthermore be subjected to the provisions of the Public Finance Management Act, compliance with the promotion of Access to Information Act, Promotion of Administrative Justice Act, the Minimum Information Security Standards, Departmental Policies and other applicable legislations with the Republic of South Africa. You are therefore advised to make yourself familiar with the provisions of the legislations and policies and the amendments thereof. (Copies of departmental policies can be obtained from the Human Resource Office).

Yours Sincerely

Devinagie Bendeman
Acting Deputy Director-General: RCSM (Regulatory Compliance and Sector Monitoring)

Date: 19/04/2020



ACKNOWLEDGEMENT
I ~~ACCEPT / DO NOT ACCEPT~~
appointment as Acting Chief
Director: integrated environmental
authorizations

Signed:

Date: 19/04/2021

ANNEXURE B
NATIONAL APPEAL REGULATIONS, 2014 (GN R. 993)

GOVERNMENT NOTICES

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. R. 993

8 December 2014

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)

NATIONAL APPEAL REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby make the regulations pertaining to the processing, consideration of, and decision on appeals, under section 44(1)(a) read with section 43(4) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as set out in the Schedule hereto.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

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CHAPTER 1

INTERPRETATION AND PURPOSE OF REGULATIONS

Interpretation

1. (1) In these Regulations any word or expression to which a meaning has been assigned in the Act, and unless the context requires otherwise—

“appeal administrator” means a holder of an office in the Department or Provincial Department responsible for environmental affairs who administers the appeal on behalf of the appeal authority;

“appeal authority” is the Minister, the MEC or a person delegated the power to decide on appeals by the Minister or MEC, as the case may be;

“appellant” means any person who is entitled to submit an appeal in terms of the legislation referred to in regulation 3(1) of these Regulations;

“decision-maker” means an official who has been delegated the authority to make a decision in terms of the laws referred to in regulation 3(1) of these Regulations;

“applicant” means a person to whom a decision has been issued in terms of the Act or specific environmental management Act;

“independent”, in relation to a person appointed as a member of an appeal panel or a person providing an appeal authority with expert advice as contemplated in regulation 6 of these Regulations, means—

- (a) that such a person has no business, financial, personal or other interest in the appeal in respect of which that person is appointed in terms of these Regulations other than fair remuneration for work performed in connection with that appeal; and
- (b) that there are no circumstances that may compromise the objectivity of that person in performing such work;

“the Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

- (2) When a period of days must be reckoned in terms of these Regulations, the 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, and the period of 15 December to 5 January must be excluded from the reckoning of days.
- (3) Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe.

Purpose of Regulations

2. The purpose of these Regulations is to regulate the procedure contemplated in section 43(4) of the Act relating to the submission, processing and consideration of, a decision on an appeal.

Application of Regulations

3. (1) These Regulations are applicable to an appeal in terms of section 43 of the Act to the Minister or MEC against a decision taken in terms of the:
- (a) Environment Conservation Act, 1989 (Act No. 73 of 1989);
 - (b) National Environmental Management Act, 1998 (Act No. 107 of 1998);
 - (c) National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
 - (d) National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004); or
 - (e) National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

and subordinate legislation made in terms of any of these Acts.

- (2) No appeal is available if the Minister or MEC took the decision himself or herself in his or her capacity as the competent authority, issuing authority or licensing authority.
- (3) An appeal against a decision by an official or municipal manager acting under delegated authority from a metropolitan, district or local municipality must be submitted, processed and considered in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

CHAPTER 2

ADMINISTRATION AND PROCESSING OF APPEALS

Appeal submission

4. (1) An appellant must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from:

- (a) the date that the notification of the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties by the applicant; or
 - (b) the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority, in the case of decisions other than those referred to in paragraph (a).
- (2) An appeal submission must be—
- (a) submitted in writing in the form obtainable from the appeal administrator; and
 - (b) accompanied by—
 - (i) a statement setting out the grounds of appeal;
 - (ii) supporting documentation which is referred to in the appeal submission; and
 - (iii) a statement, including supporting documentation, by the appellant to confirm compliance with regulation 4(1) of these Regulations.

Responding statement

5. The applicant, the decision-maker, interested and affected parties and organ of state must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.

Appeal panel

6. (1) If the appeal authority reasonably believes that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source an independent expert or constitute an independent appeal panel, or both, within 10 days from the date of receipt of an instruction from the appeal authority.
- (2) The appeal panel contemplated in subregulation (1) may consist of such number of independent experts and with such expertise as the Appeal Authority may deem necessary under the circumstances;
- (3) The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of an instruction from the appeal administrator.

Recommendations and decisions on appeals

7. (1) The appeal administrator must make a recommendation on the appeal to the appeal authority within 30 days of receipt of the responding statement referred to in regulation 5 of these Regulations, in the event that an independent expert has not been sourced or an independent appeal panel has not been constituted.
- (2) The appeal administrator must make a recommendation on the appeal to the appeal authority within 10 days of receipt of the advice referred to in regulation 6(2) of these Regulations, in the event that an independent expert has been sourced or an independent appeal panel has been constituted.
- (3) The appeal authority must reach a decision on an appeal, and notify the appellant, applicant, and any registered interested and affected party, within 20 days of the recommendation on the appeal by the appeal administrator.
- (4) The decision contemplated in subregulation (3) must contain written reasons for the decision.

Communication

8. (1) A person may deliver documents in terms of these regulations by using one of the delivery methods referred to in section 47D of the Act.
- (2) In order to meet the time periods determined in these regulations, the person referred to in subregulation (1), must also email, fax or hand deliver the document to the recipient, if the document is delivered by ordinary mail or registered mail.

CHAPTER 3**GENERAL MATTERS****Repeal of regulations**

9. The regulations mentioned in the Table in Annexure 1 to these Regulations are hereby repealed or amended to the extent set out in the third column of the Table.

Transitional arrangements

10. (1) An appeal lodged prior to the commencement of these Regulations, and which is still pending when these Regulations takes effect, must be finalised in terms of the legislation that applied at the time when the appeal was lodged.
- (2) An appeal lodged after the commencement of the Environmental Impact Assessment Regulations, 2014 must be submitted, processed and considered in terms of these Regulations.

Short title and commencement

11. These Regulations are called the National Appeal Regulations, 2014, and take effect on the date of publication in the *Gazette*.

ANNEXURE 1

REGULATIONS REPEALED		
Date and year of publication	Short title	Extent of repeal
Government Notice No. R.543, <i>Gazette No. 33306</i> of 18 June 2010.	Environmental Impact Assessment Regulations, 2010.	Chapter 7.