

04 April 2022

Dear Stakeholder and Interested & Affected Party (I&AP),

**ESTABLISHMENT OF THE 90MW ENGIE DRENNAN PHOTOVOLTAIC (PV) POWER FACILITY ON PORTION 15 OF PORTION 1 OF THE FARM WAAI PLAATS NO.550 WITHIN THE INXUBA YETHEMBA LOCAL MUNICIPALITY IN THE EASTERN CAPE PROVINCE
(DFFE Reference No.: 14/12/16/3/3/2/359/AM2)**

NOTICE OF AMENDMENT TO ENVIRONMENTAL AUTHORISATION

ENGIE Southern Africa (Pty) Ltd received Environmental Authorisation (EA) for the development of the 90MW ENGIE Drennan PV Power Facility located within the Inxuba Yethemba Local Municipality and in the greater Chris Hani District Municipality, Eastern Cape Province on 30 April 2015.

An amendment to the EA was requested in 04 March 2022, including:

- » Change of applicant name; and
- » Extension of Validity of the EA

The applicant hereby notifies all registered interested and affected parties (IAPs), as instructed by the decision issued by the Department on 22 March 2022, and in terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended, that the Department has decided to amend the EA dated 30 April 2015. A copy of the amended EA, including the reasons for the decision, is attached for your information. This amended EA must be read in conjunction with the EA dated 30 April 2015.

NOTICE OF APPEAL PROCESS

Should you wish to appeal against the decision made by the Department, your appeal must be submitted to the appeal administrator, and a copy of the appeal sent to the applicant, any registered I&AP 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 registered I&APs by the applicant.

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

The Director: Appeals and Legal Review
Department of Forestry, Fisheries, and the Environment

One of the following should be used:

E-mail: appeals@dfffe.gov.za

By hand: Environmental House
473 Steve Biko Street
Arcadia
Pretoria
0083

By post: Private Bag X447
Pretoria
0001

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the DFFE website at: <https://www.dffe.gov.za/documents/forms> or request a copy of the documents at appealsdirector@dfffe.gov.za.

As an I&AP your attention is drawn to Chapter 2 of the National Environmental Management Act (No. 107 of 1998) (NEMA) National Appeal Regulations (published under Government Notice No. 993) which prescribes the appeal procedure to be followed. A copy of the National Appeal Regulations is included with this notification letter.

Please note that **appeals should be submitted to the DFFE and not to the consultant** (Savannah Environmental).

Kind regards



Lehlogonolo Mashego

Public Participation and Environmental Consultant

Document Attached: Amended Environmental Authorisation (14/12/16/3/3/2/359/AM2)
National Appeal Regulations, 2014
National Appeal Amendment Regulations, 2015



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, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/2/359/AM2

Enquiries: Herman Alberts

Telephone: 012 399 9371 E-mail: HAlberts@dfpe.gov.za

Mr Reginald Niemand
ENGIE Drennan Solar Project (Pty) Ltd.
Postnet Suite 307
Private Bag X18
RONDEBOSCH
7701

Telephone Number: (021) 685 9377
Email Address: reggie.niemand@engie.com

PER EMAIL

Dear Mr Niemand

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 30 APRIL 2015 (AS AMENDED) FOR THE AUTHORISED ESTABLISHMENT OF THE 90MW ENGIE DRENNAN PHOTOVOLTAIC (PV) POWER FACILITY ON PORTION 15 OF PORTION 1 OF THE FARM WAAI PLAATS NO. 550 WITHIN THE INXUBA YETHEMBA LOCAL MUNICIPALITY IN THE EASTERN CAPE PROVINCE

The Environmental Authorisation (EA) issued for the above application by this Department on 30 April 2015 (as amended), your application for amendment of the EA received by this Department on 04 March 2022, the acknowledgment letter dated 14 March 2022 and the additional information received on 15 March 2022, 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 (EIA) Regulations, 2014, as amended, has decided to amend the EA dated 30 April 2015 (as amended) as follows:

Amendment 1: Amendment to extend the validity period of the EA

The activity must commence within a period of ten (10) years from the date of issue of this authorisation (i.e. the authorisation lapses on 30 April 2025). 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 2: Amendment to the holder of the EA

The name of the holder of the EA on page 1 and 2 of the EA is hereby amended:

From:

"Solaire Direct Southern Africa"

MS

To:

"ENGIE Drennan Solar Project (Pty) Ltd"

Reason for amendments:

The project is intended to be bid into future rounds of the Department of Mineral Resources and Energy's (DMRE's) Renewable Energy Independent Power Producers Procurement (REIPPP) Programme, the timing of which is unconfirmed at this time. A valid environmental authorisation will be required for future project development and bid submission purposes. Therefore, the validity of the EA is required to be extended.

The project is planned to be bid into the REIPPPP. In terms of the requirements of the bid, the EA for the project is required to be held in the name of the Special Purpose Vehicle (SPV) constituted for the project. Therefore, the EA needs to be amended to reflect the SPV name.

This amendment letter must be read in conjunction with the EA dated 30 April 2015, as amended.

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 decision, of the Department's decision 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 (twenty) 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@dffe.gov.za
By hand: Environment House
473 Steve Biko Road
Arcadia
PRETORIA
0083 or

DFFE Reference: 14/12/16/3/3/2/359/AM2

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 30 APRIL 2015 (AS AMENDED) FOR THE AUTHORISED ESTABLISHMENT OF THE 90MW ENGIE DRENNAN PHOTOVOLTAIC (PV) POWER FACILITY ON PORTION 15 OF PORTION 1 OF THE FARM WAAI PLAATS NO. 550 WITHIN THE INXUBA YETHEMBA LOCAL MUNICIPALITY IN THE EASTERN CAPE PROVINCE

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](https://www.environment.gov.za/documents/forms#legal%20authorisations) or request a copy of the documents at appeals@dfpe.gov.za.

Yours faithfully



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment

Date: 22/03/2022

cc	Jo-Anne Thomas	Savannah Environmental (Pty) Ltd	Email: joanne@savannahsa.com
	Nomthandazo Krawe	Inxuba Yethemba Local Municipality	Email: nomthandazo@jym.co.za
	Ntomboxolo Boni	EC DEDEA&T	Email: ntomboxolo.boni@dedea.gov.za



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

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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.



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

GUIDELINE ON THE ADMINISTRATION OF APPEALS

Please note: This guideline must be read together with the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), and the National Appeal Regulations, 2014.

Enquiries and Comments: All enquiries and comments should be addressed to –

Mr Ziyaad Hassam
Director: Appeals and Legal Review
Department of Environmental Affairs
Private Bag X447
Pretoria
0001,
South Africa.
Tel: 012 399 9356
email: Appealsdirector@environment.gov.za

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APPEAL QUESTIONNAIRE

APPEAL AND RESPONSE FORM

1. DEFINITIONS

“Appeal Administrator” is 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 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 laws 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, 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;

“Person” has the meaning assigned to it in section 1 of NEMA;

“Days” means calendar days.

Note: 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 1 January must be excluded from the reckoning of days.

"Department", means the Department of Environmental Affairs.

"EIA" means Environmental Impact Assessment.

"EIA Regulations", means the Environmental Impact Assessment Regulations promulgated in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

"Environmental authorisation" means the authorisation by a competent authority of a listed or specified activity in terms of NEMA, and includes a similar authorisation contemplated in a specific environmental management Act.

"I&AP" means Interested and Affected Party.

"NEMA" means National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended.

"NEMBA" means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

"NEM: AQA" means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).

"NEM: WA" means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

"Public Participation Process", means a process by which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to, an application.

"SEMA" means Specific Environmental Management Act.

2. INTRODUCTION

- 2.1 The National Appeals Regulations, 2014 has repealed the various appeal regulations currently in effect in terms of NEMA and the SEMAs, and provides for a single appeal process under section 43 of the National Environmental Management Act, 1998 against a decision taken by any person acting under a power delegated by the Minister or MEC.
- 2.2 Section 43 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("*NEMA*") designates the Minister of Environmental Affairs as the appeal authority for a decision made by a delegated official of the Department of Environmental Affairs (the Department) under NEMA or a specific environmental management Act.
- 2.3 The Directorate: Appeals and Legal Review is responsible for administering appeals and making recommendations on appeals to the Minister of Environmental Affairs.
- 2.4 In this respect, the purpose of this guide is to provide information and guidance for applicants, authorities and interested and affected parties ("I&APs") on appeals submitted to the Minister in terms of NEMA and the SEMAs.

3. APPEAL SUBMISSIONS

- 3.1 Chapter 2 of the 2014 Appeal Regulations prescribe that an appellant must submit the appeal to the appeal administrator and to any known interested and affected party within 20 days from the date that the decision for an application for an environmental authorisation in terms of NEMA or a waste management licence in terms of the Waste Act was sent to the registered interested and affected parties, or in the case of decisions where this does not apply, the date that the decision was sent to the applicant.
- 3.2 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. An appeal may, however, be lodged with the Minister or MEC responsible for Environmental Affairs against a delegated decision taken by the Department on an application.
- 3.3 An appeal submission must be submitted in writing in the form obtainable from the Minister or MEC, and must be accompanied by –

- a statement setting out the grounds of appeal;
- additional supporting documentation that is referred to (which did not form part of the original application);
- a statement that the applicant complied with the prescription in regulation 4(1) with relation to the submission period of 20 days, as set out above.

3.4 Appeals may be lodged with the Minister or MEC responsible for Environmental Affairs against a delegated decision taken by the Department on an application, which may include:

3.5 Any new information must be submitted when submitting the appeal.

4. NOTIFICATION OF A DECISION MADE BY THE DEPARTMENT

4.1 On having reached a decision on an application, the Department must, in writing and within 2 days, notify the applicant of the outcome of the decision, give reasons for the decision, and draw the attention of the applicant to the fact that an appeal may be lodged against the decision.

4.2 The applicant must, in writing, within 12 days after the date the decision was made by the Department:

- notify the registered I&APs of the outcome of the decision,
- provide the Department's reasons for the decision,
- draw the attention of all registered I&APs to the manner in which they can access a copy of the decision (note: it is recommended that a copy of the Department's decision be attached to the notice), and
- draw their attention to the fact that an appeal may be lodged against the decision, and the manner in which to lodge an appeal against the decision.

5. LODGING OF AN APPEAL

5.1 An appellant must submit the appeal submission (the Appeal Questionnaire and Appeal and Response Form) to the appeal administrator, the applicant, and known interested and affected parties within twenty (20) days from:

- the date that the decision for an application for an environmental authorisation or a waste management licence was sent to the registered interested and affected parties, or
- the date that the decision was sent to the applicant, in the case of decisions other than those referred to above.

5.2 An appeal submission must be submitted in writing in the form of the appeal questionnaire annexed to this guideline as "Annexure A" and accompanied by:

- a completed Appeal and Response Form setting out the grounds of the appeal,
- supporting documentation that is referred to in the appeal which did not form part of the documentation considered when the original decision was made, and
- a statement by the appellant to confirm compliance with regulation 4(1).

6. SUSPENSION OF AUTHORISATION

In terms of section 47 (7) of NEMA, an appeal will automatically suspend an environmental authorisation, directive, exemption or other decision taken in terms of NEMA, pending the outcome of the appeal.

7. HINTS ON DRAFTING OF APPEALS

- 7.1 The appeal questionnaire must be submitted together with the grounds of appeal. The grounds of appeal must also be captured in the Appeal and Response Form, annexed hereto as Annexure "B";
- 7.2 The appellant must provide their full contact details, i.e. postal address, telephone and cell numbers, fax number and email address;
- 7.3 If the appellant is representing a company or other body of persons, proof of mandate to lodge the appeal on behalf of the company or other entity must be provided;
- 7.4 The identity of the project which is the subject of the appeal, and the departmental reference number, if known, must be provided;
- 7.5 The issues to be considered by the Minister must be clearly identified;

- 7.6 The grounds of appeal and the facts upon which they rest must be clearly set out. The grounds of appeal must be formulated as averments and not as questions about the project (refrain from material or remarks which do not contribute towards the merits of the appeal);
- 7.7 Make a particular issue the subject of a separate ground of appeal, avoiding overlaps as far as possible. Issues should be grouped logically and in a chronological order to provide the Minister with clear timelines of the events or facts in dispute;
- 7.8 A recommended way of arranging issues is to divide the grounds of appeal into procedural grounds, (for example inadequate public participation) and substantive grounds (why the decision is seen as wrong);
- 7.9 Before submitting the appeal, it is recommended that appellants familiarise themselves with the mandate of the department to avoid raising matters falling outside the competence of the Minister on appeal; and
- 7.10 Sign and date the appeal submission.

8. RESPONDING STATEMENT

- 8.1 The responding statement must also be captured in the Appeal and Response Form, which will be provided by the appeal administrator and will have captured the summarised grounds of appeal. The Responding Statement will need to address each ground of appeal as reflected in the Appeal and Response Form.
- 8.2 No new information submitted in the responding statement will be considered by the appeal authority.

9. APPEAL PANEL

- 9.1 If the appeal authority is of the view that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source the expert advice or constitute the appeal panel within 10 days from the date of receipt of such an instruction from the appeal authority. The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of the instruction from the appeal administrator.

9.2 A panel of experts must provide their recommendations on the appeal, to the appeal administrator within 10 days of their appointment.

10. DECISION ON APPEAL

Communication in terms of the Regulation 8 of the National Appeal Regulations provides that a document may be issued by the following methods –

- by delivering it by hand
- by faxing it to the person;
- by e-mailing it to a person;

11. TRANSITIONAL ARRANGEMENTS

11.1 Any application or appeal lodged prior to the commencement of the Regulations, and which is still pending when the Regulations takes effect, must be finalised in terms of the legislation that applied at the time when the application or appeal was lodged, and not according to the 2014 National Appeal Regulations.

11.2 Regulation 56(4) of the 2014 EIA Regulations echoes this provision by determining that an appeal lodged in terms of the 2010 EIA Regulations, and which is pending when the 2014 EIA Regulations take effect, must, despite the repeal of the 2010 EIA Regulations, be dispensed of as if those Regulations were not repealed.

12. REQUESTS FOR CONDONATION OR EXTENSION OF TIME PERIODS

12.1 In terms of section 47C of NEMA, the Minister or the MEC has the legal authority to grant an extension or condonation for the submission of an appeal or responding statement which is out of time.

12.2 Applications in terms of Section 47C of NEMA must be in writing, and must afford the other party/parties will be provided with an opportunity to comment on the request;

12.3 When deciding on requests for condonation or extension of time periods, the Minister will consider the following:

- whether good cause is shown to extend a time period,
- the extent of the period requested, or the degree of lateness,
- the factual basis of the motivation for the request and the explanation thereof,
- whether factors outside of the control of the requesting party have played a role,
- potential prejudice in granting or refusing the request to any of the parties.
- whether it is in the interest of justice to grant or refuse the request, and
- prospects of success on the merits.

12.4 The adjudication of a request for condonation or extension of time periods will, as far as practically possible, be communicated together with the appeal decision.

ANNEXURE A

APPEAL QUESTIONNAIRE

An electronic copy of this questionnaire may be obtained from:

Mr Z Hassam at telephone: 012 399 9356 or e-mail:

AppealsDirectorate@environment.gov.za

Once completed, this document must be forwarded to:

E-mail: AppealsDirectorate@environment.gov.za

Physical Address: Department of Environmental Affairs, 473 Steve Biko Road,
Environment House, Arcadia, Pretoria, 0002

Appellant's contact information:

Name: _____

Address: _____

Phone: _____

Cell: _____

Email: _____

Project information:

Project name: _____

Authorisation register number as on environmental authorisation:

Authorisation date as on environmental authorisation:

IMPORTANT! Please note:

- *The decision of the department is reflected in the letter of authorisation or rejection. The conditions of approval are contained in the environmental authorisation document, attached to the authorisation letter.*
- *The appeal must be accompanied by all relevant supporting documents or copies of these that are certified as true by a commissioner of oaths.*
- *The grounds of your appeal and the facts upon which they rest must be set out. You should formulate your objections or concerns as averments and not as questions about the project. Please therefore refrain from material or remarks that do not contribute to the merits of your appeal.*
- *To assist in this regard, the following questions are listed as a guideline only – more space may be used if necessary:*

1. Are you lodging this appeal as an individual or on behalf of a community/organisation?

Individual	Community/ organisation
------------	----------------------------

If on behalf of a community or organisation, please provide proof of mandate to do so.

2. Is your appeal based on factors associated with the process that was followed by the applicant in obtaining authorisation?

Yes	No
-----	----

Please provide reasons:

3. Is your appeal based on factors associated with environmental impacts not taken into account by the department in refusing or authorising the application?

Yes	No
-----	----

Please provide reasons:

4. Would you agree to the activity proceeding if your concerns can be addressed by rectifying the process or mitigating or eliminating the impacts of the activity?

Yes	No
-----	----

Please provide reasons:

5. Are you fundamentally opposed to any development activity on the site?

Yes	No
-----	----

Please provide reasons:

6. Do you have an objection in principle against the development?

Yes	No
-----	----

Please provide reasons:

7. Does your appeal contain any new information that was not submitted to the environmental consultant or department prior to the department's consideration of the application?

Yes	No
-----	----

If the answer above is yes, please explain why it should be considered by the Minister and why it was not made available to the environmental consultant or department during the application process.

8. **DECLARATION:**

I declare that the contents of this submission are to the best of my knowledge the truth and I regard this declaration as binding on my conscience.

APPELLANT

DATE:

ANNEXURE B



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X447, Pretoria, 0001, Environment House, 473 Steve Biko Road, Pretoria, 0002

Email: Appealsdirector@environment.gov.za

APPEAL RESPONSE REPORT

PROJECT NAME/TITLE:

PROJECT LOCATION:

PROJECT REFERENCE NUMBER:

DATE PROJECT/ACTIVITY AUTHORISED:

DETAILS OF THE APPELLANT	DETAILS OF THE APPLICANT
Name of appellant:	Name of applicant:
Appellant's representative (if applicable):	Applicant's representative (if applicable):
Postal address:	Postal Address:
Email Address:	Email Address:
Telephone number:	Telephone number:
Fax Number:	Fax number:

GROUNDS OF APPEAL	RESPONDING STATEMENT	COMMENT BY THE DEPARTMENT / DMR
1.		
2.		
3.		
4.		
5.		

GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

No. R. 205

12 March 2015

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)****NATIONAL APPEAL AMENDMENT REGULATIONS**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby amend the National Appeal Regulations, 2014 published under Government Notice No. 993 in Government Gazette No. 38303 of 8 December 2014, in terms of Section 44(1)(a), 43(4) and 47A(1)(b) 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**Definition**

1. In these Regulations—
“the principal Regulations” means the National Appeal Regulations, 2014, published under Government Notice No. R. 993 of 8 December 2014.

Amendment of Regulation 1 of the principal Regulations

2. Regulation 1 of the principal Regulations are amended by—
 - (a) the insertion after the definition of “decision-maker” of the following definitions:
“Environmental Impact Assessment Regulations, 2006” means the Environmental Impact Assessment Regulations, 2006 published under Government Notice No. R. 385 of 21 April 2006;
“Environmental Impact Assessment Regulations, 2010” means the Environmental Impact Assessment Regulations, 2010 published under Government Notice No. R. 543 of 2 August 2010;” and

- (b) placing the definition of “applicant” in the correct alphabetical order after “appellant”

Amendment of regulation 10 of the principal Regulations

3. Regulation 10 of the principal Regulations is hereby amended:

- (a) by the substitution for sub-regulation (2) of the following sub-regulation:

“(2) An appeal lodged after 8 December 2014 against a decision taken—

- (a) in relation to a waste management license or integrated in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), which followed the processes in the regulations referred to in paragraph (b) and (c);
- (b) in terms of the Environmental Impact Assessment Regulations, 2006; or
- (c) in terms of the Environmental Impact Assessment Regulations, 2010,

must despite the repeal of the regulations referred to in paragraphs (b) and (c) be dispensed with in terms of the Environmental Impact Assessment Regulations, 2010 as if those regulations have not been repealed: Provided in the instance where a decision was taken after 8 December 2014, but prior to the publication of the National Appeal Amendment Regulations, 2015, and the applicant was informed in such decision to follow a different appeal process than the process indicated in sub-regulation (2), the appeal process indicated in such decision must be followed, unless otherwise informed by the relevant appeal authority.”; and

- (b) by the addition of the following sub-regulations:

(3) For all decisions, other than decisions in sub-regulation (2)—

- (a) an appeal lodged after 8 December 2014 against a decision taken prior to 8 December 2014, must follow the appeal process applicable at the time of the decision; and
- (b) an appeal lodged after 8 December 2014 against a decision taken after 8 December 2014, in terms of the legislation indicated in regulation 3 of these Regulations, must be submitted, processed and considered in terms of these Regulations.”

Short title

4. These regulations are called the National Appeal Amendment Regulations, 2015