



National Environmental Compliance and Enforcement Report ■ 2014-15

Celebrating 10 years



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



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FOREWORD

This year, 2015, represents a milestone for environmental compliance and enforcement in South Africa. It marks ten years since an amendment to the National Environmental Management Act, Act 107 of 1998 (NEMA) created the Environmental Management Inspectorate (EMI). In the light of the long history of conservation and environmental management efforts in the country, it cannot be said that this legislative development put environmental compliance and enforcement “on the map”. However, it did pull together existing efforts in the green (biodiversity, protected areas), brown (environmental impact assessment, pollution and waste) and blue (marine and coastal) subsectors into a single, cohesive and effective compliance enforcement framework. It did this by providing a single chapter in the NEMA which created environmental management inspectors (EMIs) as compliance and enforcement officers with standard mandates, powers, functions and duties, responsible for ensuring that national environmental legislation is complied with and properly enforced where contraventions are detected. To assess whether or not this objective has been achieved, I believe that it would be instructive to review some of the major developments that have taken place in the Inspectorate during the past 10 years.

One of the foundational aspects of any new compliance and enforcement authority is the establishment of a unique and distinctive identity or brand. The Environmental Management Inspectorate's corporate logo was formally adopted in 2006, and includes blue, green and brown colours to reflect the different sectors in which the EMIs operate. It is in the form of a shield to indicate the constitutional imperative of EMIs to protect the environment. The logo is currently applied to uniform, equipment, documents and other items used by EMIs in their everyday activities. The use of this logo is regulated in terms of a national corporate identity manual and code of conduct. Over a period

of time and primarily through use of the term in the media, EMIs have become known as the “Green Scorpions”.

Another key development has been the expansion of Inspectorate capacity, both in terms of numbers, as well as the scope of the organs of State in which these officials are employed. In July 2007 there were a total of 863 EMIs designated from national and provincial environmental and parks authorities across the country; with the large majority, 636, within SANParks. Today, there are some 2278 designated EMIs. Certain of these EMIs are now located at the local authority level. As the Inspectorate has grown, so too have the training initiatives available for EMIs. Amongst others, there are now comprehensive and compulsory basic programmes as well as various specialised training programmes available to capacitate EMIs and to provide them with the necessary knowledge and skills required to properly perform their functions. Regulations require that all officials that are employed to carry EMI functions, regardless of their background, attend standard and unified training programmes administered by the national Department of Environmental Affairs. This training includes in-house courses presented by EMI institutions; as well as collaborative efforts with other governmental authorities, tertiary education institutions and other training organisations.

Due to the nature and scope of environmental legislation, non-compliances cannot effectively be tackled by a single sector working in isolation. Prior to 2005, the success of a case/action was often the result of an effective working relationship between environmental compliance and enforcement officials within different governmental institutions. The Inspectorate has built on these valuable relationships by expanding and formalising personal networks at an organisational level. In respect of key role-players in the criminal justice system, the Inspectorate has, for the past 10 years, been collaborating with

Justice College in the presentation of awareness raising workshops for magistrates and prosecutors. Interactions with the South African Police Service (SAPS) resulted in a standard operating procedure, concluded in 2009, that sets out the roles and responsibilities of EMIs and members of the SAPS in respect of the investigation of environmental crime; participation in development and capacity building initiatives as well as reporting requirements. Although the environmental compliance and enforcement sector does not have its own dedicated environmental prosecutors (except for certain organised environmental crimes, such as rhino poaching), there are specific environmental crime nodal points within the office of each provincial Director of Public Prosecutions which serve as central points of contact for EMIs. These nodal points are responsible for the referral of environmental cases to relevant EMIs within their jurisdiction; as well as handling the prosecution themselves of the more complex environmental crimes.

A key initiative in expanding the scope of service delivery by the Inspectorate to members of the public is the establishment of the National Environmental Crimes and Incidents Hotline, which was officially launched in February 2005. This hotline serves as a central point for the public to report environmental transgressions. These complaints are then referred to EMIs at a national, provincial or local level or, where appropriate, to other government sector departments for further inspection or investigation. In addition to increasing the ability of the Inspectorate to react to reports of non-compliance with environmental legislation, key sectors have been identified as sectors in which pro-active compliance inspections should be and have been executed. These include the ferroalloy, steel and iron industry; refineries; cement; paper and pulp; health care risk waste; hazardous waste; and power generation sectors. In addition, certain “blitzes” are executed in sectors in which non-compliances are rife, for

example, off-road vehicle driving, health-care risk waste and sand-mining.

Over the past ten years, the profile of environmental compliance and enforcement in South Africa has continuously been raised in the international arena, commencing with the participation of the United Kingdom Environmental Agency of England and Wales and the United States Environmental Protection Agency in the initial development and presentation of the first round of EMI Bridging Training in 2005/6, to ongoing participation at international fora, such as INTERPOL, INECE (International Network of Environmental Compliance and Enforcement), the Barcode of Wildlife Project and the like.

The eighth National Environmental Compliance and Enforcement Report, in many respects, echoes the great strides made by the Inspectorate towards achieving compliance with environmental legislation in previous years, and in this regard, I would like to commend our Green Scorpions for their dedication and for the valuable contribution they have made and continue to make in upholding and protecting our Constitutional environmental right. Simultaneously the report acknowledges that the journey is far from complete, and that the same, if not a greater, level of effort and commitment will be required to ensure that the next 10 years build effectively on the successes achieved to date.



ISHAAM ABADER

DEPUTY DIRECTOR-GENERAL: LEGAL AUTHORISATIONS,
COMPLIANCE AND ENFORCEMENT, DEPARTMENT OF
ENVIRONMENTAL AFFAIRS



ACRONYMS

Key: General

AIS	Alien and Invasive Species
CITES	Convention on the International Trade in Endangered Species of Wild Fauna and Flora
DG	Director-General
EMI	Environmental Management Inspector
GEF	Global Environmental Facility
NECER	National Environmental Compliance and Enforcement Report
TOPS	Threatened or Protected Species

Key: Institutions

DEA	National Department of Environmental Affairs
Eastern Cape DEDET	Eastern Cape Department of Economic Development, Environment and Tourism
Eastern Cape Parks	Eastern Cape Parks and Tourism Agency
Ezemvelo	Ezemvelo KwaZulu-Natal Wildlife
Free State DESTEA	Free State Department of Economic Small Business Development, Tourism and Environmental Affairs
Gauteng DARD	Gauteng Department of Agriculture and Rural Development
Isimangaliso	Isimangaliso Wetland Park Authority
KwaZulu-Natal DEDTEA	KwaZulu-Natal Department of Economic Development, Tourism and Environmental Affairs
Limpopo DEDET	Limpopo Department of Development, Environment and Tourism
Mpumalanga DARDLEA	Mpumalanga Department of Agriculture Rural Development, Land & Environmental Affairs
Mpumalanga Parks	Mpumalanga Tourism and Parks Agency
Northern Cape DEANC	Department of Environmental Affairs and Nature Conservation, Northern Cape
North West DREAD	North West Department of Rural, Environment and Agriculture Development
NPA	National Prosecuting Authority
North West Parks	North West Park and Tourism Board
SANParks	South African National Parks
SAPS	South African Police Service
Western Cape DEADP	Department of Environmental Affairs and Development Planning, Western Cape

Key: National Legislation

APPA	Atmospheric Pollution Prevention Act 45 of 1965
ECA	Environment Conservation Act 73 of 1989
MLRA	Marine Living Resources Act 18 of 1998
NEMA	National Environmental Management Act 107 of 1998
NEM:AQA	National Environmental Management: Air Quality Act 39 of 2004
NEM:BA	National Environmental Management: Biodiversity Act 10 of 2004
NEM:PAA	National Environmental Management: Protected Areas Act 57 of 2003
NEM:WA	National Environmental Management: Waste Act, No. 59, 2008
NWA	National Water Act 36 of 1998
SEMA	Specific Environmental Management Act as defined in NEMA

GLOSSARY OF TERMS:

“Admission of guilt fines (J534)” means fines paid for less serious environmental offences in terms of Section 56 of the Criminal Procedure Act, 1977. For the purposes of this report, admission of guilt fines are reported separately from convictions otherwise imposed by a court.

“Arrests by EMIs” indicates the number of individuals arrested/summoned to court by EMIs for the purposes of criminal prosecution.

“Civil court applications” means civil proceedings instituted in the High Court (e.g. interdict, declaratory order) by regulatory authorities, usually in circumstances where notices or directives are ignored, and / or actual or imminent significant harm is being caused to the environment.

“Convictions” reflects the number of convictions imposed by a court, whether pursuant to a trial or a guilty plea. This excludes convictions by way of the payment of admission of guilt fines.

“Criminal dockets” means the number of criminal dockets registered with the South African Police Service (with allocated CAS numbers).

“Enforcement action required” means that the environmental authority has decided that the nature of the non-compliance identified through an inspection warrants the initiation of an enforcement action (criminal, civil or administrative).

“Environmental crime” is the violation of a common law or legislative obligation related to the environment which carries a criminal sanction.

“Follow-up” means inspections that are conducted subsequent to an initial inspection. These types of inspections are typically more focused on the progress that has been made in respect of non-compliant areas identified in the initial inspection.

“Green, Blue and Brown” refers to the compliance and enforcement activities taking place in the biodiversity and protected areas (green), integrated coastal management (blue) and pollution, waste and EIA (brown) sub-sectors respectively.

“Initial inspection” means that it is the first time that the particular facility/person has been the subject of a compliance inspection by EMIs. These types of initial, baseline inspections may cover a broad range of environmental aspects (for example, air, water, waste) as is the case with the sector-based strategic compliance inspections described in 8 below.

“No. of non-compliances” means the total number of non-compliances related to environmental legislation, regulations, authorisations, licences and/or permits including conditions thereto identified by EMIs when conducting inspections.

“Non-compliance” refers to any breach of an environmental legislative obligation or permit/licence/authorisation condition, irrespective of whether or not such a breach constitutes a criminal offence.

“Notices/directives issued” means administrative enforcement tools, such as compliance notices and directives that are issued in response to suspected non-compliance with environmental legislation. These tools instruct the offender to take corrective action (e.g. ceasing an activity, undertaking rehabilitation, submitting information). Failure to comply with such compliance notice / directive is a criminal offence.

“Proactive inspections” means inspections that are initiated by an EMI without being triggered by a specific complaint, but rather as part of the institution's broader compliance strategy. These inspections assess compliance with legislative provisions as well as permit conditions.

“Reactive inspections” means inspections that are initiated in reaction to a specific report or complaint. In these circumstances, an EMI is required to conduct a site visit to verify the facts alleged in the complaint, and to assess the level of non-compliance.

“Reported incidents” means all incidents of suspected non-compliance with environmental obligations reported by institutions for the purposes of the NECER, irrespective of whether or not compliance and enforcement responses have been taken.

“Section 105A agreement” means a plea and sentence agreement entered into between an accused and the state in terms of which the accused admits guilt and the conditions of the sentence are set out and confirmed by the court.

“S24G administrative fines” fines paid by applicants who wish to obtain an ex-post facto environmental authorisation after having unlawfully commenced with a listed or specified activity in terms of S24F(1) of NEMA or after having unlawfully commenced, undertaken or conducted a waste management activity without a waste management licence in contravention of section 20(b) of NEM:WA.

“Unlawful commencement of listed activity” means activities which may have a detrimental effect on the environment and require an environmental authorisation prior to commencement. It is a criminal offence to commence or undertake these activities without first obtaining such an authorisation.

“Warning letters” are written documents that afford an opportunity to an offender to comply without initiation of formal administrative, civil or criminal enforcement proceedings.

Note: for the purposes of the statistics represented in this report, “-” means that no statistics are available for this information field, whereas “0” means zero.



1. Introduction

The 2014/15 financial year marks the 8th year in which DEA has collaborated with its provincial counterparts and statutory bodies to develop the National Environmental Compliance and Enforcement Report (NECER); a joint publication that aims to provide an overview of environmental compliance and enforcement activities undertaken by the various environmental authorities over the period of a financial year.

The NECER is aimed at a broad spectrum of stakeholders, including a range of private, public and community-based institutions. In this respect, the report seeks to fulfil some of the information requirements of regulators, the regulated, the general public and other interested organisations. The report is designed to meet this objective, by providing:

- the general public with an overview of the measures being taken by the environmental compliance and enforcement sector to give effect to section 24 of the Constitution;
- the community-based/non-governmental organisations with information related to specific compliance and enforcement activities being taken in respect of a certain sectors or facilities;
- the national, provincial and local environmental authorities with an overall perspective of their compliance and enforcement performance, both in relation to previous financial years, as well as in relation to their counterparts; and
- a deterrence for would-be offenders who realise there are dire consequences for those who choose to flout environmental laws.

The NE CER is divided into 14 chapters. It commences with a summary of the key findings of the report, followed by a section outlining the capacity and profile of the Environmental Management Inspectorate (“Green Scorpions”). An overall perspective of the national compliance and enforcement statistics is followed by a more detailed breakdown per institution/province. The subsequent legal chapters include recent court cases related to the environment; as well as the legislative developments that came into effect in the past financial year. We then turn to operational activities; as well as joint stakeholder operations. The nature and scope of environmental complaints and incidents received through the national hotline is followed by a chapter detailing the capacity-building efforts for EMIs, magistrates, prosecutors and other law enforcement authorities. We end the report with chapters on stakeholder engagement and look ahead to plans for the 2015-16 financial year. For the first time this year, the report attempts to move beyond pure output-based indicators (such as the number of inspections, investigations or administrative enforcement notices) by assessing the levels of compliance by the regulated community with these compliance and enforcement mechanisms.

The NECER is not without constraints. Constraints that should be noted include the fact that the NECER focuses solely on the activities of “environmental” authorities and does not reflect the compliance and enforcement work being undertaken by other “related” sectors; such as water affairs, agriculture, forestry and fisheries, mineral regulation, labour and health. In addition, the statistics reflected in this report emanate directly from the input received from the respective environmental authorities – no independent auditing or verification of this input is conducted by DEA or any other third party. In this respect, the report should be regarded as indicative (but not conclusive) of the general nature, scope and volume of activities undertaken by environmental compliance and enforcement authorities in this reporting period.

Despite these constraints, it is hoped that the NECER 2014/15 will continue to provide a valuable information resource to its readers as it strives to highlight the critical work currently being undertaken by the environmental compliance and enforcement sector.



Picture: The Green Scorpions in action in Welkom at a traditional healer's market



2. Key findings

2.1 The Environmental Management Inspectorate

- There has been a **19.8%** increase in the total number of EMIs on the national register from **1915** in 2013/14 to **2294** in 2014/15.
- Of the total **2294** EMIs on the national register, **1300** (56%) are Grade 5 EMIs (field rangers employed at national and provincial parks authorities).
- There has been a 2.6% (**32**) increase in the number of Grade 5 EMI field rangers from **1252** in 2012/13 to **1284** in 2014/15.
- SANParks (**681**), Ezemvelo (**543**), Limpopo DEDET (**255**) Eastern Cape Parks (**107**), North West Parks (**91**) have the most EMIs (majority are Grade 5 field rangers) followed by Western Cape DEADP (**72**), DEA (**63**) and Eastern Cape DEDET (**52**), while Mpumalanga DARDLEA (**14**), and Isimangaliso (**2**) have the least.
- EMIs at the local authority level have significantly increased from **42** in 2013/14 to **180** at the end of 2014/15 financial year.
- North West Parks, which was previously not featured in the EMI register, have recorded **89** EMIs.
- The above demonstrates a significant increase in capacity during the period of 2014/15 financial year.

2.2 Overall National Compliance and Enforcement Statistics

Enforcement:

- There has been an **8.5%** increase in the number of criminal dockets registered when compared with those registered during 2013/14 reporting period.
- The total number of admission of guilt fines (J534s) issued has continued to decrease from **5825** in 2012/13 to **1687** in 2013/14 to **1390** for 2014/15. This shows a decrease of **17.6%** between 2013/14 and 2014/15.
- The total value of admission of guilt fines paid in 2014/15 was **R 418 181**, which has decreased by **16.06%** from **R 498 230** in 2013/14.
- The number of criminal dockets handed to the NPA has decreased by **33%** from **379** in 2013/14 to **253** in 2014/15.
- The total number of arrests by EMIs has generally decreased from **1818** in 2012/13 to **1371** in 2013/14 and 1259 in 2014/15.
- The total number of acquittals has decreased from **8** in 2013/14 to **6** in 2014/15.

2.2 Overall National Compliance and Enforcement Statistics

- Convictions reported have decreased by **16.7%** from **78** reported in 2013/14 to **65** in 2014/15.
- There has been an increase in the number of plea and sentence agreements concluded from **11** in 2013/14 to **15** reported in 2014/15.
- The total number of warning letters issued has increased from **228** in 2013/14 to **364** in 2014/15 which equates to an increase of **59.64%**.
- The total number of administrative notices issued increased by **2.8%** from **709** in 2013/14 to **729** in 2014/15.
- The number of civil court applications has generally decreased from **4** in 2012/13 to **2** in 2013/14 to **1** in 2014/15.
- There was a decrease of **13.2%** in the total value of section 24G administrative fines paid from **R 16 127 751** in 2013/14 to **R14 005 423** in 2014/15.

Compliance Monitoring:

- There were a total of **2889** facilities inspected in 2014/15, which reflects a **1.3%** increase from the **2849** facilities inspected in 2013/14.
- Of the total number of facilities inspected, **58.97%** (**1706**) were against brown legislative requirements, while **40.79%** (**1180**) were in the green subsector and **0.24%** (**7**) were inspected against blue issues.
- There was a decrease of **36%** in the total number of proactive inspections conducted which brings the total from **1953** in 2013/14 to **1247** in 2014/15.
- The total number of reactive inspections conducted in 2014/15 amounted to **440**, which reflects a **50.9 %** decrease from the **896** conducted in 2013/14.
- The total number of non-compliances detected during inspections has increased from **1539** in 2013/14 to **2177** in 2014/15, representing a significant **41.45%** increase. Of the total number of non-compliances detected **583** (2009 Brown, 18 Blue and 150 Green) required follow-on enforcement action.
- A total of **1610** inspection reports were finalised 2014/15 compared to the **2271** inspection reports finalised in the 2013/14 financial year.
- Of the **3050** inspections conducted, the greater portion (**1019**) were the result of routine inspections against environmental authorisations and permits, **630** emanated from routine inspections and **597** were triggered by complaints.



2.3 Statistics per Institution/Province

- SANParks recorded the highest number of criminal dockets registered at **708**, followed closely by Limpopo DEDET with **512**. The third highest was Ezemvelo with **486** dockets registered while Western Cape DEADP recorded **6**, Mpumalanga DARDLEA recorded **1**, and KwaZulu-Natal DEDTEA reported no criminal cases.
- Limpopo DEDET recorded the highest number of arrests at **432**, followed by Ezemvelo with **373** arrests.
- SANParks issued the highest total value of admission of guilt fines (J534s), amounting to **R 326 130** from the **437** fines issued, followed by Limpopo DEDET with a value of **R 161 080** from **601** fines issued.
- With a total of **165**, Western Cape DEADP recorded the highest number of administrative enforcement notices comprising of **84** pre-compliance notices, **10** final compliance notices, **51** pre-directives and **20** directives. North West DREAD reported the lowest number of administrative enforcement notices with a total of **2** directives. SANParks, CapeNature, Ezemvelo, Eastern Cape Parks and Mpumalanga Parks reported no administrative enforcement.
- Limpopo DEDET issued **138** warning letters, the highest of the EMI Institutions. They are followed closely by KwaZulu-Natal DEDTEA who issued **136** warning letters.
- Western Cape DEADP recorded the highest value of fines paid pursuant to section 24G in the sum of R4 515 125.00, followed by DEA which recorded R4 194 000, while the Eastern Cape DEDEA recorded R1 896 758, Gauteng DARD R1 666 965 and Mpumalanga DARDLEA recorded a total amount of R1 050 000.
- KwaZulu-Natal DEDTEA recorded the highest number of facilities inspected at **917** of which **908** were in respect of brown issues, 5 on green and 4 blue issues. This was followed by Limpopo DEDET with **798** (670 brown, 126 green and 2 blue issues) and CapeNature with **439** in respect of green issues only.
- DEA recorded the highest number of non-compliances detected (**1247**) during the execution of compliance inspections, followed by KwaZulu-Natal DEDTEA which detected **572** non-compliances and Limpopo DEDET recorded **212**. Gauteng DARD reported **76** non-compliances, followed by Mpumalanga DARDLEA with **62**. Free State DEDTEA recorded only **3** non-compliances.

2.4 Industrial Compliance and Enforcement

Proactive strategic inspections (details of which are set out in section 8 of the report) have again led to some positive results in guiding offenders toward compliance; especially within the power generation sector. The conviction and sentence in respect of Samancor Chrome Limited matter, in which a criminal process ran parallel to the administrative enforcement process is noteworthy. In this regard it is important to note that, although the criminal case has been finalised, the Inspectorate continues to monitor compliance by the facility, particularly in respect of its undertakings.

On a less positive note, what is also evident from section 8, is that there have been some delays by the Inspectorate in taking compliance and enforcement action against certain of the facilities, which operate within the strategic sectors that have been prioritised (i.e. the ferro-alloy steel and iron, refineries, cement, paper and pulp, health care risk waste treatment/disposal, hazardous landfill sites and power generation sectors). It is instructive to note that these facilities have by no means been forgotten by the Inspectorate.

Inspections do not always result in prompt enforcement action due to the often complex nature of facilities and the need to interrogate information thoroughly prior to taking a final decision. This is compounded by the intricate socio-economic and environmental context in which they operate. Government has adopted a National Development Plan which encourages sustainable development. While it is recognised that these facilities contribute significantly to job creation and economic development, the nature and scope of their non-compliances tends to show that many of them often fail to reach the benchmark of sustainability required. This is evident from the contraventions by a number of the facilities which often relate to the statutory environmental obligations (such as failure to obtain permits or licences) aimed at environmental protection. These facilities need to move away from the often short-sighted approach where profits are elevated above all else and begin to explore ways to implement a sustainable triple bottom line approach; taking heed of environmental considerations and recognising the associated long term benefits.

The Inspectorate will prioritise these facilities for targeted enforcement action in the 2015/2016 financial year and the outcome will be reported in the 2015/2016 NECER.



2.5 National Complaints and Incidents

- In 2014/15, the total number of complaints and section 30 incidents reported through the various reporting channels was **798**, which indicates a slight increase of **0.25% (2)** from **796** in 2013/14.
- The reported number of incidents in terms of section 30 of NEMA has decreased slightly from **260** in 2013/14 to **236** in 2014/15, while the number of complaints reported increased by 4.85% from **536** in 2013/14 to **562** in 2014/15.
- The highest number of section 30 NEMA incidents reported came from the power generator sectors which amounted to **48% (113)** followed by rail transport attributing **17% (40)** of the total 236 reported incidents.
- There has been a fluctuation in the reporting of certain types of incidents, with a significant increase in reports of illegal dumping from **77** in 2013/14 to **108** in 2014/15, and a significant decrease in reports of illegal development from **147** in 2013/14 to **68** in 2014/15.
- There has been an increase in the number of complaints referred to one Department of Mineral Resources from **28** in 2013/14 to **35** in 2014/15, followed by DEA mandated matters which have increased by **14.5%** from **112** in 2013/14 to **131**, and those referred to Department of Water and Sanitation have slightly increased from **65** in 2013/14 to **72** in 2014/15. Complaints referred to the local authorities remained the same as 2013/14 at **130**.

2.6 Annual Compliance and Enforcement Highlights

CATEGORY	RESULT	INSTITUTION	LEGISLATION
Most inspections conducted	Green issues = 5 Brown issues= 908 Blue issues= 4 Total= 917 inspections	KwaZulu-Natal DEDEA	Multiple
Highest sentence of direct imprisonment <u>without</u> a fine option	S v Cheng Jie Liang. (Table View CAS 316/09/2012). The accused was sentenced to 10 years direct imprisonment of which 3 years were suspended on condition that he pays a fine of R5 million within 12 months.	CapeNature	Section 42(1) of Nature Conservation Ordinance 19 of 1974
Highest sentence for a pollution and waste case	The State v Samancor Chrome Ltd. The accused was found guilty on two counts and sentenced to a fine of R 200 000. In addition, the accused was ordered to pay: • R1 million to DEA's Inspectorate for the "proper execution of their duties, environmental rehabilitation and enforcement training..."; • R700 000 to DEA, who was ordered to "in conjunction with the Steelpoort Primary School, liaise with the Department of Education to develop environmental initiatives for the benefit of the school"; and • R100 000 in respect of prosecution costs.	DEA	Contravention of section section 29(4) of ECA
Highest number of section 24G fines issued	20 were issued. To date 15 have been paid in the sum of R 1 666 965	Gauteng DARD	NEMA section 24G
The highest number of administrative enforcement notices issued	165 issued	Western Cape DEADP	NEMA and NEM:WA
Highest number of admission of guilt fines issued	601 were issued in the sum of R161 080	Limpopo DEDET	Limpopo Environment Management Act

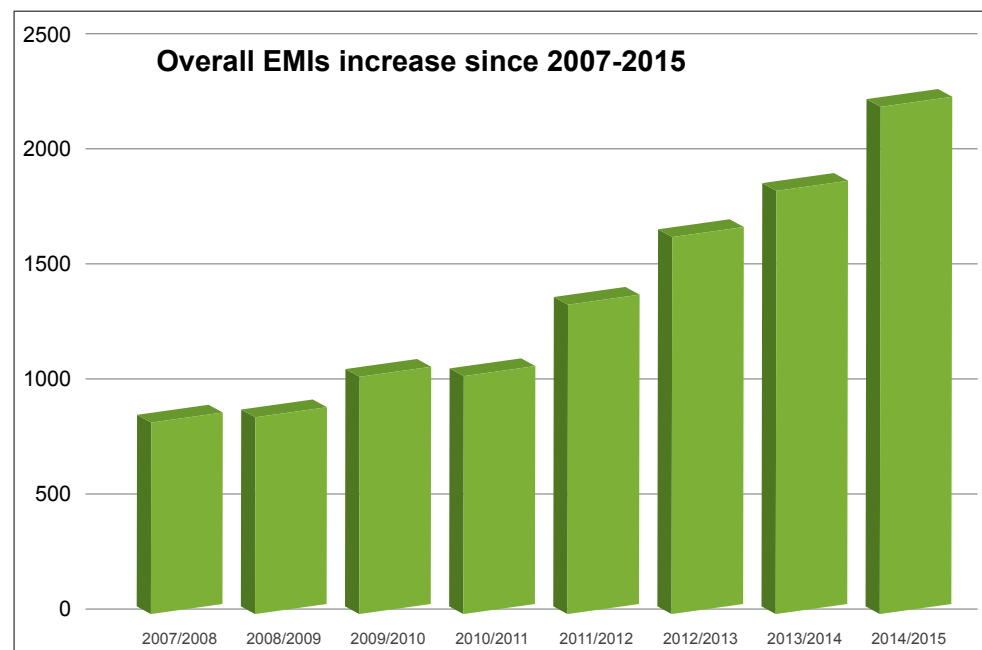


3. Environmental Management Inspectors

EMIs represent the environmental compliance and enforcement capacity in respect of NEMA and the SEMAs. There are, of course, officials appointed in terms of provincial legislation and local authority by-laws who also carry out environmental compliance and enforcement functions in terms of that legislation. In many instances, officials may carry both the EMI designation in terms of national environmental legislation; as well as a separate provincial or municipal designation in respect of ordinances or by-laws.

As at 31 March 2015, the national EMI Register (kept by DEA in terms of Regulation 6(2) of the Regulations relating to Qualification Criteria, Training and Identification of, and Forms to be used by Environmental Management Inspectors (GN R494 in GG 28869 of 02 June 2006)) reflected a total of **2279 EMIs**. The distribution (or annual increase) of EMIs is reflected in the table below.

3.1 The distribution of EMIs since 2007



Graph 1: Distribution of EMIs

3.2 Environmental Management Inspectors per Institution

Institution Name	2012-13	2013-14	2014-15
National Authorities			
DEA	63	65	63
iSimangaliso	5	5	2
SANParks	672	686	681
Provincial Environmental Authorities			
Eastern Cape DEDEA	39	48	52
Free State DESTEA	30	30	42
Gauteng DARD	70	64	49
KwaZulu-Natal DEDTEA	34	38	32
Limpopo DEDET	104	237	255
Mpumalanga DARDLEA	12	13	14
Northern Cape DEANC	19	19	25
North West DREAD	26	32	45
Western Cape DEADP	68	66	72
Provincial Parks Authorities			
CapeNature	22	21	19
Eastern Cape Parks	107	107	107
Ezemvelo	423	474	543
Mpumalanga Parks	11	10	19
North West Parks	–	–	89
Grand Total	1705	1917	2109



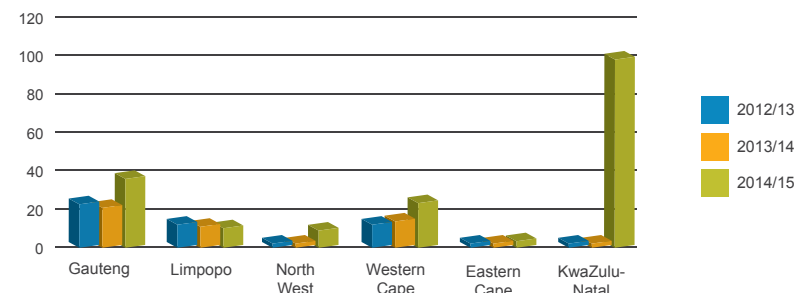
3.2.1 Local Authority Environmental Management Inspectors

The 2012/13 financial year marked the commencement of the roll out of local authority EMIs. The addition of this sphere of government to the capacity of the Inspectorate is aimed at capacitating local authorities, mandated to enforce certain environmental issues (in terms of Schedules 4 and 5 of the Constitution) with the legislative tools to do so. 2014/15 saw the local authority EMI capacity more than triple with a total number of 133 EMIs designated during this period. In this respect, KwaZulu-Natal, Gauteng and the Western Cape displayed a significant increase in local authority officials designated as EMIs.

Table 1: Number of local authority EMIs designated

Province	2012-13FY	2013-14FY	2014-15FY
Gauteng	23	21	37
Limpopo	12	11	10
North West	–	–	9
Western Cape	12	14	24
Eastern Cape	–	–	3
KwaZulu-Natal	–	–	102
Totals	47	46	185

Local Authority designated EMIs per province



Graph 2: Graphical representation for EMIs designated in different provinces over a three year period

3.2.2 Grades 1- 4 Environmental Management Inspectors

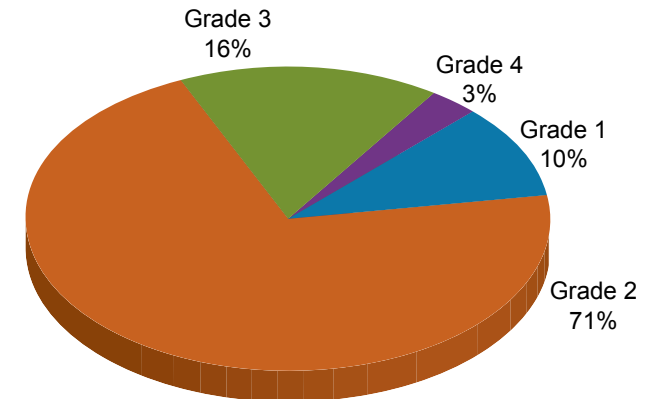
EMIs are categorised according to various grades which reflect the compliance and enforcement powers bestowed on them in terms of Chapter 7 of NEMA. The grading system is intended to align the function of the EMI with the appropriate legislative powers. Grades 1, 2, 3 and 4 EMIs are located within all EMI Institutions and undertake compliance monitoring, administrative and criminal enforcement activities in the brown, green and blue sub-sectors.



Picture: Newly designated Gauteng local authority EMIs proudly pause for a photo at a ceremony held at Turfontein, Johannesburg in November 2013

Institutions	Grades				Totals
	1	2	3	4	
Cape Nature	–	17	2	–	19
DEA	5	16	30	12	63
Eastern Cape DEDET	4	33	14	1	52
Eastern Cape Parks	–	15	1	–	16
Ezemvelo	21	31	–	–	52
Free State DESTEA	2	29	11	–	42
Gauteng DARD	3	22	14	–	39
iSimangaliso	1	1	–	–	2
KwaZulu-Natal DEDTEA	9	23	–	–	32
Limpopo DEDET	8	35	12	2	57
Mpumalanga DARDLEA	3	6	5	–	14
Mpumalanga Parks	2	17	–	–	19
Northern Cape DEANC	1	18	6	–	25
North West DREAD	4	41	–	–	45
North West Parks	–	8	–	–	8
SANParks	2	176	–	1	179
Western Cape DEADP	6	32	26	8	72
Totals	71	520	121	24	736

Overall Grades 1-4 EMI distributions



Pie Chart 1: Overall percentage distribution on EMIs Grades 1-4

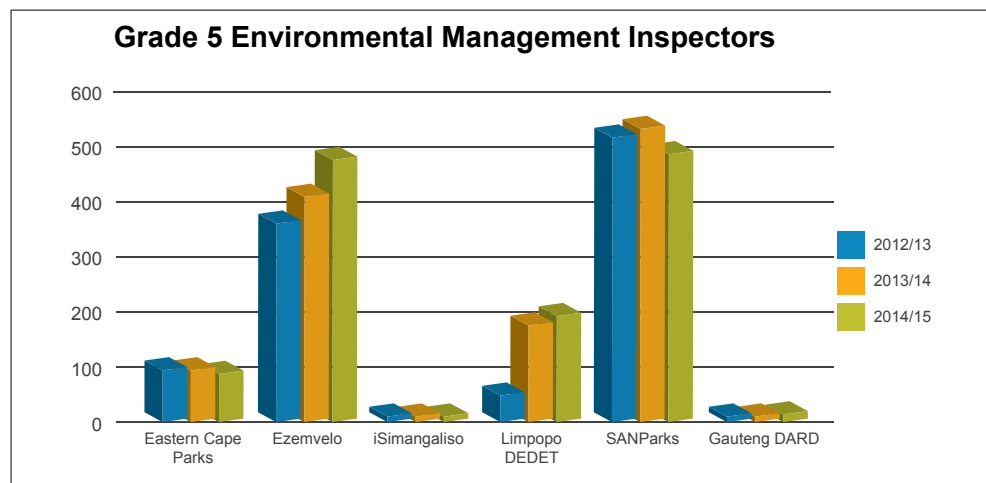
3.2.3 Grade 5 Environmental Management Inspectors

Grade 5 EMIs are appointed as “field rangers” to execute compliance and enforcement duties within various national and provincial protected areas. Accordingly, they are predominantly spread across those EMI institutions with a significant management responsibility in respect of protected areas. Grade 5 EMIs play a critical role in monitoring activities within these protected areas by conducting routine patrols and other compliance and enforcement activities.

There has been a general increase in the number of Grade 5 designated EMIs since 2012/13. In the past year an increase of **3.8%** or **48** Grade 5 EMIs was recorded. This increase can be attributed to the continued roll-out of the Grade 5 EMI training programme in Ezemvelo, Limpopo DEDET and SANParks.

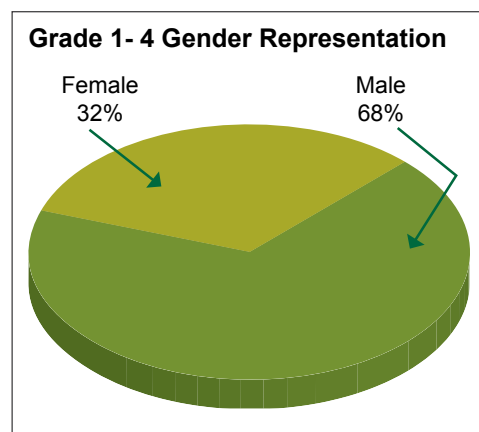
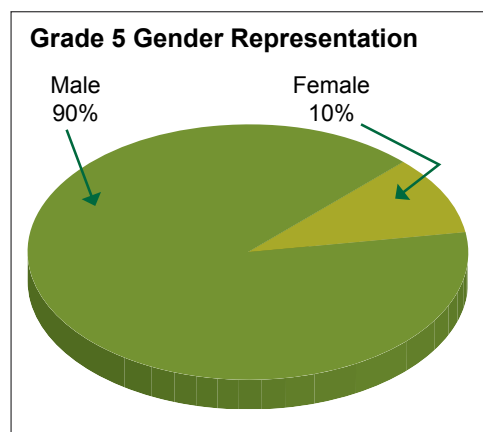
Institution	2012-2013	2013-2014	2014-2015
Eastern Cape Parks	97	97	91
Ezemvelo	371	423	491
Isimangaliso	2	2	2
Limpopo DEDET	51	181	198
SANParks	534	549	502
Gauteng DARD	0	0	16
TOTAL	1055	1252	1300



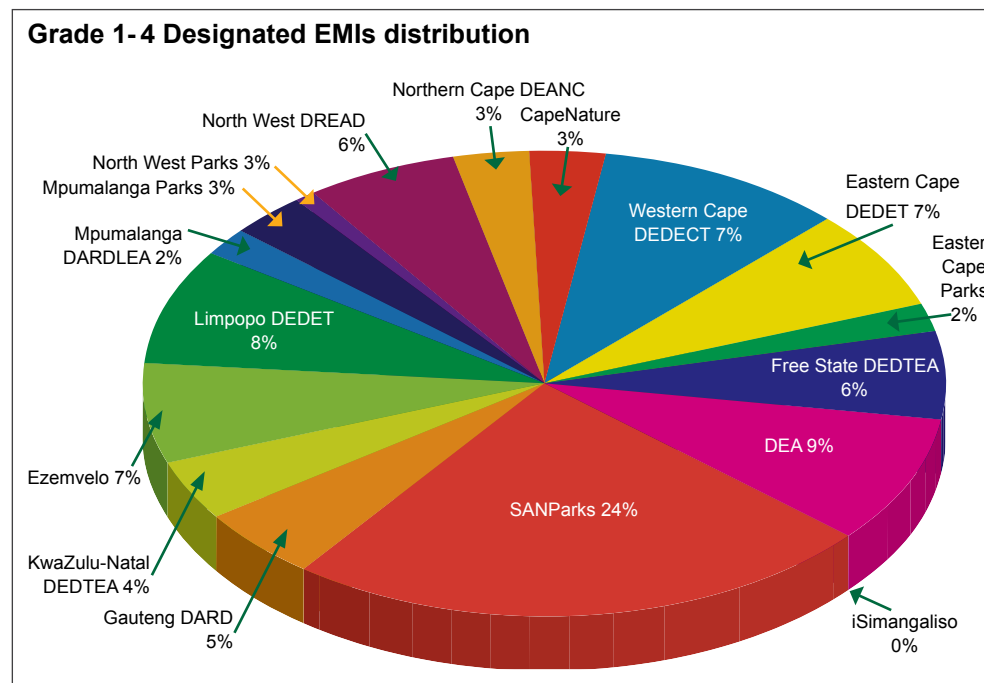


Graph 3: Number of Grade 5 EMIs (field rangers) per institution

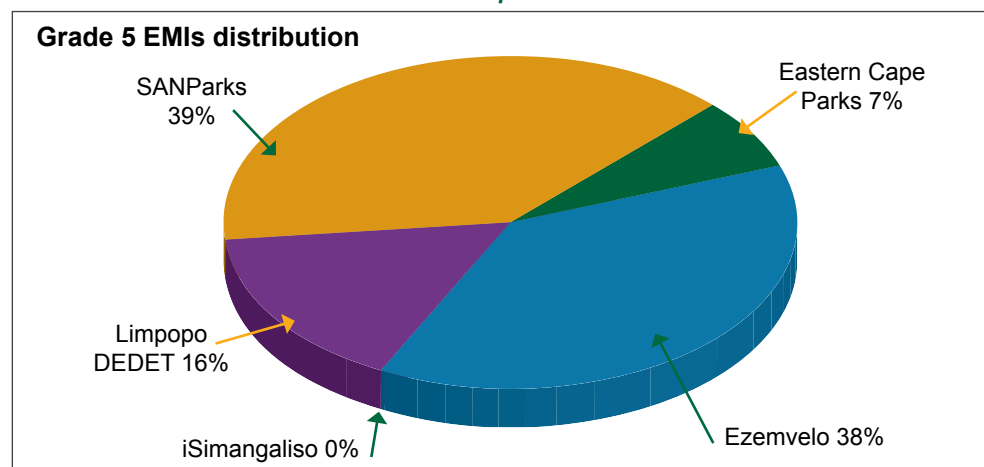
3.2.4 Environmental Management Inspectors: Gender and grades pie charts per institution



Pie chart 2: Grade 5 Gender representation | Pie chart 3: Grade 1- 4 Gender representations



Pie chart 4: Distribution of Grade 1-4 EMIs per EMI institutions

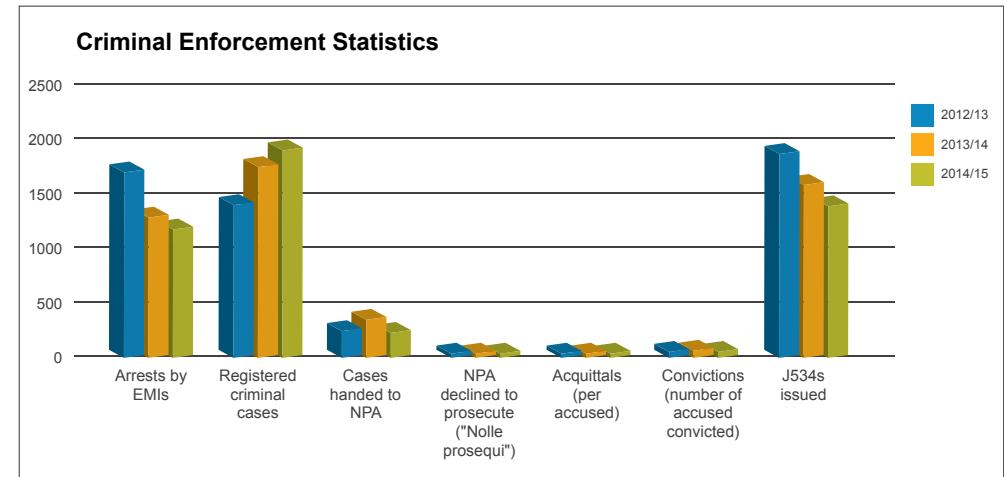


Pie chart 5: Distribution of Grade 5 EMIs across EMI institutions

4. Overall National Compliance and Enforcement Statistics

4.1 Enforcement

	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement			
Arrests by EMIs	1818	1371	1259
Criminal dockets registered	1488	1861	2019
Cases handed to NPA	268	379	253
NPA declined to prosecute (<i>nolle prosequi</i>)	37	15	24
Section 105A agreements (plea bargains)	14	11	15
Acquittals	8	5	6
Convictions (excl. J534s)	70	78	65
J534 (Admission of Guilt Fines): Total number issued	5825	1687	1390
J534: Total number paid	993	854	686
J534: Total value of fines paid	R 654 250	R 498 230	R 418 181
Administrative Enforcement and Civil Actions			
Warning letters issued	187	228	364
Pre-directives issued	84	95	111
Pre-compliances notices issued	333	400	436
Directives issued	36	60	57
Final compliance notices issued	124	154	125
Civil court applications launched	4	2	1
S24G administrative fines: Total value paid	R 5 385 215	R 12 517 026	R14 005 423
S24G: Total number of fines paid	49	73	100



Graph 4: Overall Criminal Enforcement Statistics from 2012-13FY to 2014-15FY. Note 5825 J534s were issued in 2012-13FY

4.1.1 Statistics Received from the National Prosecuting Authority

The NPA reported for the 2014/15 FY, that the number of environmental crimes finalized with a verdict increased from the previous year by **60.6%**, from **165** to **265** cases. The conviction rate also increased from **87.3%** to **94.7%**. Prioritised focus areas include illegal hunting, dealing and possession of rhino and rhino horns, ivory, abalone, cycads and waste and pollution.



4.1.2 Most prevalent crimes reported

The 2014/15 financial year continued to display a similar pattern in relation to the most prevalent types of environmental crimes being detected by the various EMI Institutions. For the brown sub-sector, the unlawful commencement of environmental impact assessment listed activities continues to be the most common non-compliance, while in the green sub-sector, illegal hunting continues to be the predominant environmental crime.

Province	Institution	Prevalent crimes	Number of incidents reported
National Institutions (excl. iSimangaliso)	DEA	Waste related cases (NEMWA)	92
	SANParks	Illegal hunting of rhino in a national park (NEM: Protected Area Act)	750
Eastern Cape	Eastern Cape DEDEA	Unlawful commencement of listed activities (NEMA)	98
	Eastern Cape Parks	Illegal hunting inside protected area (NEM:PAA, and MLRA)	12
Free State	Free State DESTEA	Illegal hunting of wild animals and import (Ordinance 8 of 1969)	40
Gauteng	Gauteng DARD	Unlawful commencement of listed activities (NEMA)	214
KwaZulu-Natal	Ezemvelo	Illegal Entry / Poaching Prohibited activity (Ordinance 15 of 1974)	866
	KwaZulu-Natal DEDTEA	Unlawful commencement of listed activities (NEMA)	219
Limpopo	Limpopo DEDET	Picking indigenous plants without a permit (LEMA)	666
Mpumalanga	Mpumalanga DARDLEA	Illegal commencement of listed activities (NEMA S24F)	25
	Mpumalanga Parks	Illegal rhino hunting (Mpumalanga Nature Conservation Act 10 of 1998 S5)	75
Northern Cape	Northern Cape DEANC	Failure to comply with conditions (NC Nature Conservation Act 9 of 2009)	26
North West	North West DREAD	Unlawful commencement of listed activities (NEMA)	7
	North West Parks	Illegal poaching of rhino (NEM:BA S57)	17
Western Cape	CapeNature	Not having permit available for inspection (MLRA S13(3))	19
	Western Cape DEADP	Unlawful commencement of listed activities (NEMA)	334



4.1.3 National Environmental Legislation contravened

The table below displays the national pieces of environmental legislation contravened and correlates to the most prevalent types of environmental crime. The National Environmental Management Act (unlawful commencement of listed activities) and the National Environmental Management: Protected Areas Act, and in particular illegal entry and undertaking restricted activities without a permit (mainly in respect of poaching), appear as the top two pieces of national environmental legislation contravened.

	Legislation	Ezemvelo	Gauteng DARD	Free State DESTE	North West DEDECT	Limpopo DEDET	Northern Cape DEANC	DEA	Western Cape DEADP	Eastern Cape Parks	Eastern Cape DEDET	Mpumalanga DARDLEA	KwaZulu-Natal DEDETEA	CapeNature	SANParks	Mpumalanga Parks	North West Parks	TOTAL
National Legislation	NEMA (including EIA Regulations)	–	214	10	7	27		35	334	1	98	25	219	–	61	–	–	1031
	NEM:BA including TOPS & CITES Regulations	103	36	7	–	–		–	–	2	21	–	–	–	–	–	17	186
	NEM:PAA	224	–	–	1	–	–	–	–	7	1	–	–	–	750	–	–	983
	APPA	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	0
	NEM: AQA	–	–	–	–	–	–	6	–	–	–	–	–	–	–	–	–	6
	NEM: WA	–	37	9	2	4	–	92	–	1	13	–	10	–	–	–	–	168
	ECA	–	62	–	–	–	–	9	–	–	–	–	2	–	–	–	–	73
	MLRA	373	–	4	–	–	–	4	–	5	–	–	–	33	291	–	–	710
	NWA	–	–	1	–	–	–	4	–	–	–	–	–	–	–	–	–	5
Sub-Total		700	349	31	10	31	0	150	334	16	133	25	231	33	1102	0	17	3162



4.2 Compliance Monitoring / Inspection Activities of EMI Institutions

Conducting compliance monitoring inspections to ascertain whether or not the regulated community is complying with the relevant legislative provisions, as well as with authorisations, licences and permits issued in terms of this legislation, plays a critical role in ensuring continued compliance. Without effective compliance monitoring, non-compliance may go undetected and thus the necessary enforcement action in the case of non-compliance would, in many cases, not be pursued.

The following table highlights blue, green and brown compliance inspections conducted during the 2014/15 financial year. It is important to note that any single facility may require a number of environmental authorisations, licences or permits. Put differently, one facility does not indicate one authorisation. Compliance with each and every authorisation, licence and permit held by a facility must be ascertained. It is critical that this initial or baseline inspection is then followed up with further inspections so that any improvement or deterioration in the level of environmental compliance by that facility may be assessed.

Source or Trigger for inspection											
Institution	Ad-hoc Inspection	Audit	Complaint	Incidents	Enquiry	Follow-up	Permit	Planned Inspection	Routine Inspection	Unspecified	Grand Total
CapeNature	–	–	–	–	–	–	439	–	–	–	439
DEA	–	–	131	–	–	–	26	45	–	–	202
Free State DESTEA	–	–	1	–	–	–	–	20	–	–	21
KwaZulu-Natal DEDTEA	2	10	144	–	32	–	143	43	543	–	917
Limpopo DEDET	2	–	81	1	–	1	77	252	65	319	798
Northern Cape DEANC	–	–	–	–	–	–	34	–	11	–	45
Western Cape DEADP	–	–	180	–	–	–	–	22	–	–	202
Mpumalanga DARDLEA	–	–	50	9	1	1	73	16	11	1	162
Gauteng DARD	–	–	10	27	–	–	227	–	–	–	264
Grand Total	4	10	597	37	33	2	1019	398	630	320	3050



4.2.1 Brown Issues

Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Matters requiring Enforcement action
DEA	72	47	71	1	1247	20
KwaZulu-Natal DEDTEA	908	830	744	164	572	314
Limpopo DEDET	126	97	111	15	67	29
Western Cape DEADP	202	118	21	181	–	–
Mpumalanga DARDLEA	158	118	103	56	62	37
Gauteng DARD	236	182	197	23	61	42
Grand Total	1702	1392	1247	440	2009	442

4.2.2 Green Issues

Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Matters requires Enforcement action
Cape Nature	439	–	–	439	0	–
Free State DESTEA	21	–	20	1	3	–
KwaZulu-Natal DEDTEA	5	2	–	5	2	2
Limpopo DEDET	670	210	288	382	145	94
Northern Cape DEANC	45	–	–	–	–	44
Grand Total	1180	212	308	827	150	140

4.2.3 Blue Issues

Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Matters requires Enforcement action
KwaZulu-Natal DEDTEA	4	3	–	4	3	1
Limpopo DEDET	2	2	2	–	0	0
Gauteng DARD	1	1	–	1	15	0
Grand Total	7	6	2	5	18	1



5. Statistics per national institution/province



5.1 National Institutions

5.1.1 Department of Environmental Affairs

NATIONAL DEPARTMENT OF ENVIRONMENTAL AFFAIRS	LEGAL AUTHORISATIONS, COMPLIANCE AND ENFORCEMENT		
	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement			
Arrests by EMIs	44	27	0
Criminal dockets registered	99	54	36
Cases handed to NPA	62	52	35
NPA declined to prosecute (<i>nolle prosequi</i>)	17	3	8
Section 105A agreements (plea bargains)	1	4	4
Acquittals	1	2	0
Convictions	14	12	7
J534s issued	0	0	2
J534s paid	0	0	R 10 000.00
Administrative Enforcement and Civil Actions			
Warning letters written	14	14	1
Pre-directives issued	16	11	11
Pre-compliance notices issued	40	40	74
Final directives issued	3	3	3
Final compliance notices issued	9	9	10
Civil court applications launched	0	1	0
S24G administrative fines paid (total value / number)	R 2 228 500	R 5 931 000	R 4,194,000
	5	6	4



5.1.2 SANParks and Isimangaliso Wetland Authority



	SOUTH AFRICAN NATIONAL PARKS			ISIMANGALISO WETLAND PARK AUTHORITY ¹		
	2012-13FY	2013-14FY	2014-15FY	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement						
Arrests by EMIs	92	129	258	12	12	–
Criminal dockets registered	446	532	708	15	15	–
Cases handed to NPA	25	69	84	18	18	–
NPA declined to prosecute (<i>nolle prosequi</i>)	0	0	1	0	0	–
Section 105A agreements (plea bargains)	1	0	0	0	0	–
Acquittals	0	0	1	0	0	–
Convictions	0	26	1	3	3	–
J534s issued	4374	549	340	0	0	–
J534s paid (number)	–	49	51	0	0	–
J534s paid (value)	–	R 67 250	R 18 650	0	0	–
Administrative Enforcement and Civil Actions						
Warning letters written	–	–	–	0	0	–
Pre-directives issued	–	–	–	0	0	–
Pre-compliance notices issued	–	–	–	0	0	–
Final directives issued	–	–	–	0	0	–
Final compliance notices issued	–	–	–	0	0	–
Civil court applications launched	–	–	–	2	0	–
S24G administrative fines paid (total value / number)	–	–	–	0	0	–

¹ No statistics were submitted for 2014-15FY, hence no information is available on the reported indicators.



5.2 Provincial Institutions and Parks

5.2.1 Western Cape



	DEPARTMENT OF ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING			CAPENATURE		
	2012-13FY	2013-14FY	2014-15FY	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement						
Arrests by EMIs	0	0	0	38	5	24
Criminal dockets registered	4	6	6	23	5	25
Cases handed to NPA	4	6	6	5	0	4
NPA declined to prosecute (<i>nolli prosequi</i>)	0	2	0	2	1	0
Section 105A agreements (plea bargains)	0	0	0	1	0	2
Acquittals	0	0	0	0	0	0
Convictions	0	0	0	6	4	4
J534s issued	0	0	0	88	54	63
J534s paid (number)	0	0	0	30	22	26
J534s paid (value)	0	0	0	R 22 870	R 14 950	R 11 300
Administrative Enforcement and Civil Actions						
Warning letters written	17	19	15	0	–	0
Pre directives issued	14	29	51	0	–	0
Pre-compliance issued	61	113	84	0	–	0
Final directives issued	4	10	20	0	–	0
Final compliance notices issued	9	21	10	0	–	0
Civil court applications launched	0	0	0	0	–	0
S24G administrative fines paid (total value / number)	R 67 500	R 3 495 975	R4 515 125	0	–	0
	42	3	62			



5.2.2 KwaZulu-Natal



	DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM & ENVIRONMENTAL AFFAIRS			EZEMVELO KZN WILDLIFE		
	2012-13FY	2013-14FY	2014-15FY	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement						
Arrests by EMIs	0	0	0	812	538	373
Criminal dockets registered	0	0	0	652	531	486
Cases handed to NPA	0	0	0	–	–	–
NPA declined to prosecute (<i>nolli prosequi</i>)	0	0	0	–	–	–
Section 105A agreements (plea bargains)	0	0	0	–	–	–
Acquittals	0	0	0	–	–	–
Convictions	0	0	0	–	–	–
J534s issued	0	0	0	445	395	306
J534s paid (number)	0	1	0	251	235	177
J534 paid (value)	0	R 0	R 0	R 254 350	R 245 500	R 211 850
Administrative Enforcement and Civil Actions						
Warning letters written	71	15	136	–	–	–
Pre-directives issued	10	1	10	–	–	–
Pre-compliance notices issued	64	104	77	–	–	–
Final directive issued	4	0	9	–	–	–
Final compliance notices issued	19	31	27	–	–	–
Civil court applications launched	0	0	0	–	–	–
S24G administrative fine paid (total value / number)	R 261 500	R 349 000	R 1 207 700	–	–	–
	3	8	9		–	–



5.2.3 Gauteng



GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement			
Arrests by EMIs	20	8	2
Criminal dockets registered	36	57	23
Cases handed to NPA	21	12	5
NPA declined to prosecute (<i>nolle prosequi</i>)	4	5	7
Section 105A agreements (plea bargains)	6	4	3
Acquittals	1	0	0
Convictions	8	6	4
J534s issued	33	40	30
J534s paid (number)	23	18	25
J534s paid (value)	R 14 200	R 11 350	R 11 050
Administrative Enforcement and Civil Actions			
Warning letters written	2	2	0
Pre-directives issued	17	7	31
Pre-compliance notices issued	90	74	81
Directives issued	6	16	15
Final compliance notices issued	30	35	30
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R 2 391 216	R 3 109 026	R 1 666 965
	28	34	20



5.2.4 Limpopo



LIMPOPO DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT & TOURISM	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement			
Arrests by EMIs	643	514	432
Criminal dockets registered	45	435	512
Cases handed to NPA	87	161	49
NPA declined to prosecute (<i>nolle prosequi</i>)	8	0	0
Section 105A agreements (plea bargains)	1	0	1
Acquittals	3	0	4
Convictions	15	20	28
J534s issued	791	564	601
J534s paid (number)	653	503	377
J534s paid (value)	R 326 580	R 128 230	R 129 780
Administrative Enforcement and Civil Actions			
Warning letters written	0	80	138
Pre-directives issued	0	7	0
Pre-compliance notices issued	8	2	26
Directives issued	1	0	1
Final compliance notices issued	4	0	17
Civil court applications launched	2	0	0
S24G administrative fines paid (total value / number)	R 27 700	R 0	R 0
	2	0	0



5.2.5 Eastern Cape



	DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL AFFAIRS			EASTERN CAPE PARKS & TOURISM AGENCY		
	2012-13FY	2013-14FY	2014-15FY	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement						
Arrests by EMIs	16	48	65	20	43	6
Criminal dockets registered	37	50	41	23	32	12
Cases handed to NPA	4	22	24	5	4	2
NPA declined to prosecute (<i>nolle prosequi</i>)	3	2	3	1	0	2
Section 105A agreements (plea bargains)	0	0	0	0	1	0
Acquittals	0	1	0	0	0	0
Convictions	0	0	5	3	0	2
J534s issued	67	35	13	0	1	7
J534s paid (number)	15	5	1	0	0	5
J534s paid (value)	R 12 300	R 7 350	R 2 500	R 0	R 0	R 1 500
Administrative Enforcement and Civil Actions						
Warning letters written	59	38	51	0	0	0
Pre-directives issued	0	1	0	0	0	0
Pre-compliances issued	8	16	0	0	0	0
Final directives issued	0	0	23	0	0	0
Final compliance notices issued	1	2	0	0	0	0
Civil court applications launched	0	0	1	0	0	0
S24G administrative fines paid (total value / number)	R 0	R 756 000	R 1 896 758	0	0	0
	–	7	8			



5.2.6 Free State



destea
department of
economic, small business development,
tourism and environmental affairs
FREE STATE PROVINCE

DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement			
Arrests by EMIs	51	19	50
Criminal dockets	31	21	37
Cases handed to NPA	27	19	36
NPA declined to prosecute (<i>nolle prosequi</i>)	1	1	2
Section 105A agreements (plea bargains)	1	2	4
Acquittals	1	0	1
Convictions	20	7	14
J534s issued	8	7	14
J534s paid (number)	4	7	11
J534s paid (value)	R 1 700	R 5 500	R 7 800
Administrative Enforcement and Civil Actions			
Warning letters written	12	7	0
Pre-directives issued	15	20	0
Pre-compliance notices issued	18	2	7
Directives issued	6	2	3
Final compliance notices issued	17	16	1
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R 25 000	R 114 750	R 0
	1	4	0



5.2.7 Mpumalanga



	MPUMALANGA DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT, LAND & ENVIRONMENTAL AFFAIRS			MPUMALANGA TOURISM AND PARKS AGENCY		
	2012-13FY	2013-14FY	2014-15FY	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement						
Arrests by EMIs	0	0	2	15	15	13
Criminal dockets registered	3	1	1	35	75	75
Cases handed to NPA	1	1	2	6	8	6
NPA declined to prosecute (<i>nolle prosequi</i>)	0	0	0	0	1	0
Section 105A agreements (plea bargains)	0	0	0	0	0	0
Acquittals	0	0	0	0	0	0
Convictions	0	0	0	0	0	0
J534s issued	0	0	0	3	0	0
J534s paid (number)	0	0	0	1	0	0
J534s paid (value)	0	0	0	R 1 500	R 0	R 0
Administrative Enforcement and Civil Actions						
Warning letters written	12	52	23	0	0	0
Pre-directives issued	12	10	6	0	0	0
Pre-compliances issued	12	29	20	0	0	0
Final directives issued	5	27	6	0	0	0
Final compliance notices issued	5	25	11	0	0	0
Civil court applications launched	0	0	0	0	0	0
S24G administrative fines paid (total value / number)	R 0	R 2 272 000	R 1 050 000	0	0	0
	1	17	2			



5.2.8 Northern Cape



Department of
Environment and Nature Conservation
Northern Cape

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND NATURE CONSERVATION	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement			
Arrests by EMIs	3	5	22
Criminal dockets	33	20	19
Cases handed to NPA	0	5	1
NPA declined to prosecute (<i>nolle prosequi</i>)	0	0	1
Section 105A agreements (plea bargains)	1	0	0
Acquittals	0	0	0
Convictions	0	0	0
J534s issued	0	25	2
J534s paid (number)	0	0	0
J534s paid (value)	R 0	R 0	R 0
Administrative Enforcement and Civil Actions			
Warning letters written	0	0	0
Pre-directives issued	0	6	0
Pre-compliance notices issued	4	10	0
Directives issued	4	0	0
Final compliance notices issued	18	11	0
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R 0	R 0	R 0
	6	0	0



5.2.9 North West

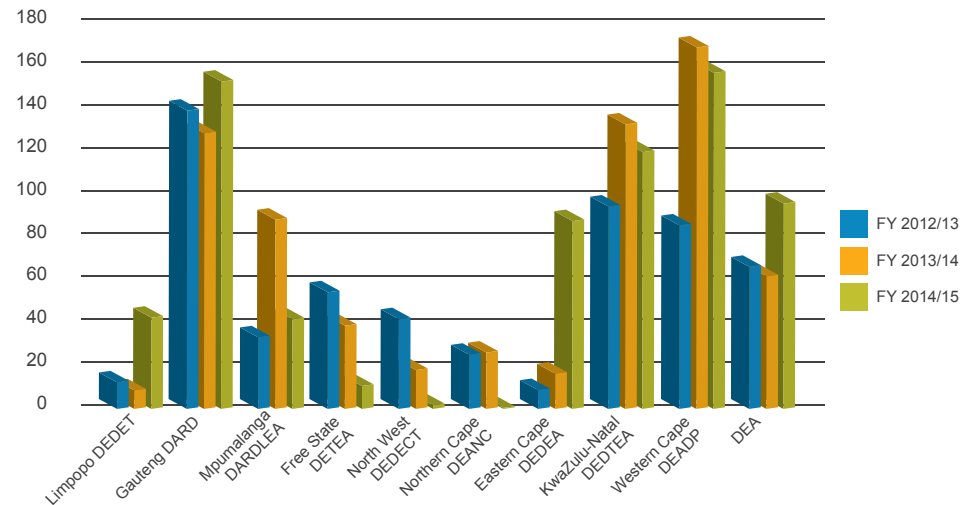


	NORTH WEST DEPARTMENT OF RURAL, ENVIRONMENT AND AGRICULTURE DEVELOPMENT			NORTH WEST PARKS AND TOURISM BOARD	
	2012-13FY	2013-14FY	2014-15FY	2013-14	2014-15FY
Criminal Enforcement					
Arrests by EMIs	54	2	0	2	12
Criminal dockets	33	0	21	28	17
Cases handed to NPA	17	0	0	2	3
NPA declined to prosecute (<i>nolle prosequi</i>)	1	0	0	0	0
Section 105A agreements (plea bargains)	1	0	0	0	1
Acquittals	2	0	0	2	0
Convictions	4	0	0	0	0
J534s issued	16	16	11	0	1
J534s paid (number)	16	14	11	0	0
J534s paid (value)	R 20 750	R 18 100	R 13 750	0	0
Administrative Enforcement and Civil Actions					
Warning letters written	0	1	0	–	–
Pre-directives issued	0	3	0	–	–
Pre-compliance notices issued	28	10	0	–	–
Directives issued	3	2	0	–	–
Final compliance notices issued	12	4	2	–	–
Civil court applications launched	0	0	0	–	–
S24G administrative fines paid (total value / number)	R 383 800	R 100 000	R 0	–	–
	–	1	0	–	–



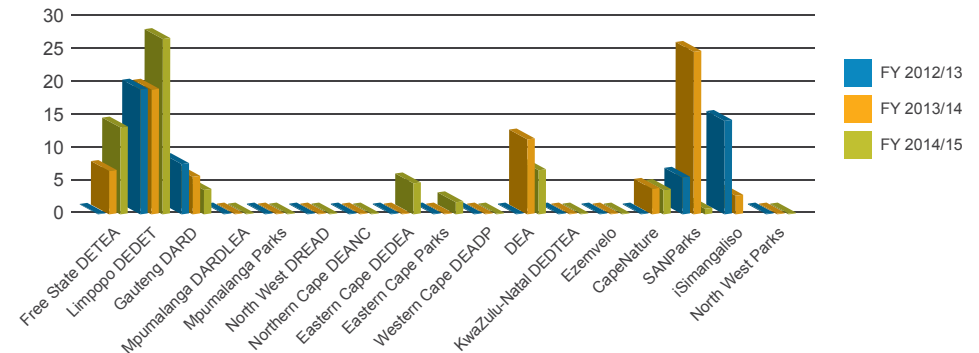
The following three graphs compare the use of administrative and criminal enforcement mechanisms by each of the EMI Institutions. The comparison for the 2014/15 financial year reveals that the use of administrative enforcement (i.e. directives and notices) remains the preferred tool of the authorities dealing with brown issues, with the Western Cape DEADP, Gauteng DARD and KwaZulu-Natal DEDTEA showing the highest numbers issued for this reporting period. Although the number of criminal convictions continues to be dominated by the green subsector, with Limpopo DEDET recording the most convictions, significant number convictions have been secured in respect of brown offences (see for example DEA, Free State DEDTEA and Gauteng DARD).

Administrative Enforcement



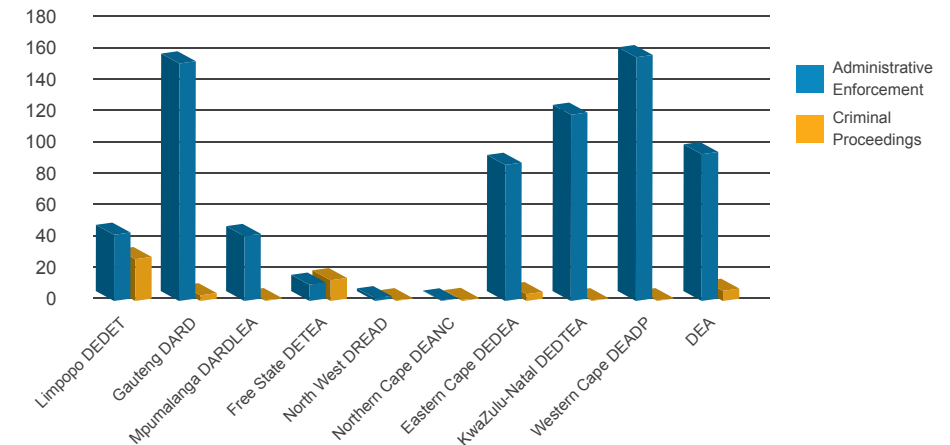
Graph 5: Comparative number of administrative enforcement notices issued per institution

Convictions per institute



Graph 6: Comparative number of convictions obtained per institution

Admin versus Criminal Enforcement Proceedings



Graph 7: Criminal versus administrative enforcement action



6. Environmental jurisprudence

In 2014/15 both the higher and lower courts considered and pronounced on several cases involving the interpretation and application of environmental law. The judgments summarised below are just a few examples of some of the civil and criminal matters heard during the reporting period. The civil matters include a case dealing with the protection of an employee who blew the whistle on his employer's inadequate measures to address water pollution; an application to the Constitutional Court to confirm a High Court's order of constitutional invalidity; and a request for access to information in terms of the Promotion of Access to Information Act. The criminal cases involved an accused being found guilty of the murder of his accomplice who was shot and killed by a park ranger during an illegal poaching operation and a case of fraud where a police official was caught in a police trap whilst he kept lookout as his co-accused attempted to sell imitation rhino horn to undercover police officials.

Parties	DIRK WILLEM POTGIETER v TUBATSE FERROCHROME
Category	Civil: Protection afforded to whistle blowers
Court	Labour Appeal Court
Back-ground	Facts The respondent operated a mine. The appellant, a qualified engineer, was employed by the respondent to ensure that health and safety standards were maintained. He was dismissed by the respondent for failing to obey an instruction, being absent from work, and insubordination. He appealed his dismissal and asked that his employment be reinstated. After his dismissal and before the appeal was heard, the appellant released a report to the media in which he alleged (based on a report in his possession) that the respondent did not have adequate measures in place to address water pollution caused by its mining operations. The Arbitration In the arbitration proceedings the appellant sought the reinstatement of his employment. The commissioner declined to grant him the relief sought. She found that the disclosure of the information contained in the report was not made in good faith and that it was therefore not protected by the Protected Disclosures Act. Her finding was based on the fact that the appellant had the report in his possession long before his dismissal but the disclosure was made only after the appellant's dismissal. Accordingly, the commissioner took the view that the employment relationship had irretrievably been damaged to the extent that reinstatement was not possible.

Back-ground

The Labour Court

The appellant applied to the Labour Court to have the commissioner's award reviewed and set aside. This application was dismissed. The court held that no evidence had been led to prove that the disclosure was made in good faith and that it was protected. The appellant then appealed to the Labour Appeal Court.

The Labour Appeal Court

Legal Framework Applicable to Whistle-blowers

The court began its judgment with an overview of the applicable legislative framework. It noted that South Africa is a party to the UN Convention against Corruption which enjoins member states to put appropriate measures in place "to provide protection against any unjustified treatment for any person who reports in **good faith and on reasonable grounds** to the competent authorities any facts concerning offences." [Emphasis supplied]

Pursuant to this Convention, the Protected Disclosure Act (PDA) was enacted. The PDA aims at encouraging whistle blowing in the interests of accountable and transparent governance.

NEMA itself protects whistle-blowers in appropriate circumstances. It provides that "*no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with subsection (5).*"

In addition to this, and entirely overlooked by the commissioner (and the Labour Court), NEMA places a duty of care on every person who has caused, is causing or may cause significant pollution or degradation of the environment, to take all reasonable measures to prevent or mitigate the effects of such pollution/degradation. It goes on to provide that should an employee do or omit to do something which it had been his or her task to do, or refrain from doing, on behalf of the employer and this results in an offence by the employer; that employee shall himself or herself be personally liable for said offence.

The disclosure

The report described the environmental pollution caused by the smelting operation in Steelpoort valley. It highlighted acts and omissions by the respondent, some of which constituted offences. Its purpose, as stated in the respondent's evidence, was to ensure that the public was informed about the extent of the pollution and the dangers involved.



Parties	NOKHANYO KHOHLISO v THE STATE & THE MEC FOR ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS, EASTERN CAPE
Category	Civil: Whether Decree 9 has the status of a provincial Act and thus requires the Constitutional Court to confirm a declaration made by a High Court that certain of its provisions are unconstitutional.
Court	Constitutional Court
Back-ground	Ms Khohliso, a traditional healer from Tsolo in the former Transkei was convicted by the Tsolo Magistrates' Court for the possession of a pair of vulture feet in contravention of section 13(c) read with section 84(13) of the Transkei's Decree 9 of 1992. Section 13(c) of the Decree provided that no person shall (without the requisite permission) sell, buy, donate or receive as a donation or be in possession of any carcass of a protected wild animal (i.e. a vulture). Section 84(13) created strict liability for non-compliance with the above. It stipulated that lack of knowledge of any fact, or to say that one did not act wilfully could not be used as a defence. It followed that once it has been shown that a person is in possession of such carcass, that person is automatically criminally liable, regardless of whether or not he or she knew or ought reasonably to have known that this possession was unlawful. As part of her traditional training, Ms Khohliso advised that she was never informed that possession of certain species, such as vulture's feet, was prohibited by law. Ms Khohliso, aggrieved by the conviction, successfully appealed to the Eastern Cape High Court. Her argument was twofold: Firstly she complained about the operation of the Decree in the former Transkei area within the Eastern Cape on the one hand; and the operation of Nature and Environmental Conservation Ordinance 19 of 1974 in the remainder of the Eastern Cape on the other, amounted to differentiation. This differentiation resulted in unfair discrimination between people in the former Transkei area and those in the remainder of the Eastern Cape. The Court agreed. It held that for differentiation to be constitutionally defensible it must be rationally connected to a legitimate government purpose; and no rational reason was advanced in respect of why it was necessary to treat the former Transkei as an area distinct from the remainder of the Eastern Cape and subject to its own laws. Secondly, counsel for Ms Khohliso argued, and the Court again agreed, that Section 13(c) read with section 84(13) of the Decree eroded Ms Khohliso's Constitutional right to a fair trial in that it negated the requirement of guilty knowledge. The essence of the argument being that to deprive a person of a defence, and accordingly of her freedom, in circumstances where that person did not know, and could not reasonably have been expected to know, that her actions were prohibited, offends against the right to a fair trial and more specifically the right to be presumed innocent.

Back-ground	As foreshadowed above, the High Court overturned the conviction and declared the abovementioned provisions of the Decree unconstitutional. Ms Kholiso then applied to the Constitutional Court to confirm the High Court's order of constitutional invalidity. The Constitutional Court is only required to do so where a High Court's declaration is in respect of an Act of Parliament, a provincial Act or conduct of the President. Accordingly, the Court had to determine whether Decree 9 fell within any of these categories.
Judgment	The application for confirmation was dismissed. This is because Decree 9 was found not to fall within the above mentioned categories and thus did not require confirmation by the Constitutional Court. Instead the High Court's declaration of constitutional invalidity was immediately effective.



Picture 1: Photograph of the Constitutional Court of South Africa

Parties	NDWAMBI MAVHUSO CALVIN v THE STATE
Category	Criminal: Proving the elements of fraud in respect of the unlawful possession and sale of an imitation rhino horn
Court	Supreme Court of Appeal
Back-ground	The SAPS set up a police trap after receiving information from an informant that the appellant's co-accused (an arts and crafts dealer) wished to sell a rhino horn. During the police trap, the appellant's co-accused negotiated the transaction, of what appeared to be a real rhino horn, with an undercover police official. This took place whilst the appellant (who happened to be a police officer) kept watch. The appellant's co-accused represented to the undercover police official that the rhino horn had originated from Mozambique and advised that the asking price was R350 000. The SAPS arrested both the appellant and his co-accused. In his testimony, the appellant denied that he knew that the transaction was in respect of sale of a rhino horn; or what purported to be a rhino horn. He stated that to his knowledge his co-accused was meeting a client in connection with her arts and craft business. Likewise, the appellant's co-accused shifted the blame onto the appellant stating that the appellant advised her that he intended to sell the horn to the same buyer for display in his bar. The trial court rejected both versions. The version of the appellant was found to be wholly improbable as to be plainly untruthful and palpably false. In rejecting this evidence the court had regard to evidence which showed that the some 70 cell phone calls were made between the parties from 22 to 29 October 2003 (i.e. the days leading up to the attempted sale). Pursuant to the arrests, the rhino horn was sent to a forensic laboratory for testing. The results showed that the article sold was, in fact, a mere imitation of rhino horn. Consequently, the appellant together with his co-accused, were convicted of the crime of fraud and were not convicted of contravening the relevant Nature Conservation Ordinance under which they were charged. The appellant unsuccessfully appealed his conviction and sentence to the Free State High Court. He was granted leave to appeal to the Supreme Court of Appeal (SCA). The basis of his appeal was that the State had failed to prove all the elements of fraud against him.

Majority Judgment

In a majority decision, the Appeal Court upheld the decision of the High Court. It confirmed that the appellant was correctly found guilty of the crime of fraud. To be convicted of fraud it must be proved, both that the accused had the intention to defraud, and that his actions caused, or had the potential to cause, prejudice to the unsuspecting victim.

Intent to Defraud

The element of intent to defraud has two principle aspects:

- the intention to deceive; and
- the intention to induce a person to alter or abstain from altering his or her legal position.

With reference to case law, the court pointed out that intention can either be direct (where the person knows that the representation is false) or by way of *dolus eventualis* (where the person acts recklessly or carelessly and represents that something is true without verifying that it is indeed so). Either way the person to whom the representation is made is unknowingly exposed to a risk.

The appellant found himself in a predicament. Had he told the court that he truly believed the horn to be real, he could've been convicted of various offences under the Ordinance, while saying that he did not hold such a belief would have exposed him to a conviction of fraud.

This being so, and because neither the appellant nor his co-accused led any credible evidence to rebut the *prima facie* evidence established by the state, it was held that the appellant (at least as an accomplice) deceived the undercover police official in order to induce him to conclude the sale to his detriment.

Prejudice

The appellant argued that because the police official had no intention to pay for the rhino horn, there could be no prejudice suffered. The Court disagreed. In coming to its decision, the Court noted that the law looks at the situation from the point of view of the deceiver. If that person intended to deceive then it is immaterial if the person to be deceived suffers actual prejudice. All that is required is the potential of that person to have suffered prejudice.

The SCA held that an intention to deceive in the present case was proved because the transaction was calculated to prejudice. The court said further that the prejudice need not be proprietary or financial or even directed at the person to whom it was addressed. The court said that even though the horn was found to be fake, transactions of this kind contribute to the illegal trade in rhino horn, which we as a country must be concerned about. The transaction thus had the potential to prejudice the country as a whole

The appeal was dismissed and the appellant's conviction on the fraud charges was upheld, as was the 6 year prison sentence.



Minority Judgement	In a dissenting judgment, the minority court held that, in its opinion, it was not proved beyond a reasonable doubt, that the appellant was an accomplice to the crime of fraud, because it was not shown that the appellant subjectively knew that he was an accomplice to a false representation being made, or that he knew the horn was fake. The minority argued that to come to these conclusions in the circumstances required speculation. Instead, the minority court held the view that the appellant should have been convicted of the crime of attempt to contravene the Nature Conservation Ordinance, 8 of 1969. (i.e. to without a permit possess, convey, sell... any product from any part of the body of a wild animal of a species listed in schedule 3 which includes rhino). This minority judgment is strengthened by the fact the horn was a good replica and only found to be an imitation after undergoing laboratory testing.
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Picture 2: The Supreme Court of Appeal: picture taken from <http://www.tosouthafrica.co.za/>



Parties	VAAL ENVIRONMENTAL JUSTICE ALLIANCE V COMPANY SECRETARY OF ARCELORMITTAL SOUTH AFRICA LIMITED AND ARCELORMITTAL SOUTH AFRICA LIMITED - Case No 69/2014
Category	Civil: Access to information in terms of the Promotion of Access to Information Act
Court	Supreme Court of Appeal
Back-ground	The PAIA request In December 2011 and pursuant to the relevant provisions of the Promotion of Access to Information Act (PAIA), Vaal Environmental Justice (VEJA), through their attorneys, the Centre for Environmental Rights, requested Arcelormittal South Africa (AMSA) to provide them with a copy of AMSA's Environmental Master Plan, which VEJA asserted provided detailed results of numerous specialist environmental tests for pollution levels, and which was developed to inform rehabilitation work and to alleviate pollution at AMSA sites over 20 years. In February 2012, a PAIA request was made for various records relating to the closure and rehabilitation of AMSA's Vaal Disposal Site in Vereeniging, at which it had illegally dumped hazardous waste. VEJA explained that they required a copy of the Master Plan and Vaal Disposal Site records to exercise and protect their constitutional environmental rights and to ensure that AMSA was properly carrying out its obligations in terms of the relevant environmental legislative framework. AMSA's response The request was refused on the basis that VEJA had not indicated how the records would enable it to exercise or protect the environmental right. In the High Court AMSA also claimed, amongst other things, that the Master Plan was never finalised nor adopted, that it contained scientific and technical flaws, that information contained therein was, at the time of the request, out-dated, inaccurate and accordingly ceased to form part of AMSA's environmental practices. It also took the view that VEJA, in seeking to ensure that AMSA complied with its environmental obligations, was usurping government's role by setting itself up as an alternative regulatory authority. VEJA's counter argument VEJA denied this, indicating that it was clear that the records were required to exercise and/or protect its rights. In relation to the grounds raised by AMSA in the litigation regarding the Master Plan, VEJA said that there was no evidence to show that AMSA had previously adopted the view that the Master Plan was inaccurate. In fact, and in subsequent years (2002, 2004 and even 2010) the Master Plan (although it had been amended) was referred to by AMSA in its annual report as the driver behind AMSA's environmental strategy, and there was nothing to indicate that AMSA ever advised its shareholders that the Master Plan was inaccurate. VEJA argued that even if that was the case, the information remained relevant as it, at the very least, formed a 'valuable baseline of data' against which to monitor AMSA's compliance with environmental legislation. Earlier this year, the High Court agreed with VEJA and granted access to the Master Plan. Reluctant to release it, AMSA appealed to the SCA.

Judgment	The judgment begins with an acknowledgement that <i>“the world is becoming increasingly ecologically sensitive”</i> and that <i>“citizens... are growing alert to the dangers of a culture of secrecy and unresponsiveness”</i>. Against this backdrop, the court was called upon to entangle two competing concerns: industrial activity resulting in development and economic success versus concerns about the preservation of the environment. Although AMSA is instrumental in the former, it <i>“is a major, if not the major, polluter in the areas in which it conducts operations”</i>. It makes much of the fact that AMSA publically (i.e. in its annual reports) committed to engage with stakeholders and specifically highlighted that it continues to engage with VEJA; yet in contrast to these commitments, refused VEJA access to the Master Plan. This, the court said, <i>“calls in to question AMSA’s commitment to collaborative corporate governance in relation to the environment, as well as its bona fides in resisting the request for information.”</i>
Judgment	In granting VEJA the relief sought, the court noted that it is necessary to adopt a common sense approach to how far the principle of public participation and collaboration extends in any given circumstance and to guard against forcing corporates to throw open their books on claims of alleged minor errors or irregularities. This was not the case here. VEJA was identified as <i>“genuine advocates for environmental justice”</i>, and the concerns it had raised (in relation to the Master Plan and the Disposal Site) were held to be matters of public interest. As the SCA commented, <i>“(a)fter all, environmental degradation affects us all. One might rightly speak of collaborative corporate governance in relation to the environment”</i>. The court confirmed that organisations like VEJA are entitled to information required to monitor industrial operations and their environmental impacts. On the facts, the court held that the Master Plan would be a valuable controlling tool which would enable the verification of AMSA’s stance; alternatively, it would highlight even greater environmental concerns. Regarding the Disposal Site, it was held that <i>“the public is entitled to be assuaged as to the safety of that site”</i>. AMSA has publically stated that it will not appeal the decision.



Picture 3: VEJA Representatives outside the SCA, Bloemfontein. Photo by Anneska van de Spoer



Parties	STEYL V NATIONAL DIRECTOR OF PUBLIC PROSECUTION
Category	Criminal: Whether a plea bargain was properly concluded and if so whether a withdrawal of charges in terms thereof prevented the reinstatement of similar charges
Court	High Court of South Africa, Gauteng Division - Pretoria
Back-ground	Mr Steyl, Mr Lemthongthai and five other accused persons were arraigned on 78 charges consisting of the contraventions of Customs and Excise Act; National Environmental Management: Biodiversity Act and the Prevention of Organised Crime Act. The illegal hunting of rhino on Steyl's farm by one of the co-accused, Mr Lemthongthai formed the basis of these charges. The case was set down for hearing. On 5 November 2012, during discussions before the start of the trial in the Kempton Park, Regional Court, the prosecutor indicated to the legal representatives of all six accused that he would accept a plea of guilty from Mr Lemthongthai in respect of 52 of the charges against Mr Lemthongthai and that, upon conviction and sentencing of Mr Lemthongthai, the charges against the other accused would be withdrawn. The prosecutor contacted his supervisor to confirm that the plea was in order; and she indicated that it was acceptable. The parties proceeded to court. Counsel for Mr Lemthongthai presented his guilty plea in terms section 112(2) to the court. The plea set out Mr Lemthongthai's explanation that confirmed that Mr Steyl did not know that the hunting on Mr Steyl's farm was merely a front for Mr Lemthongthai to export rhino horn for trade and not for trophy purposes. Mr Lemthongthai was convicted and sentenced accordingly. On 5 December 2012, Mr Steyl was arraigned in court in Vryburg. The charges faced by Mr Steyl were predicated on the same factual basis as the charges he faced in the Kempton Park Regional Court. It was Mr Steyl's understanding that in accordance with Mr Lemthongthai's plea agreement, he would not be prosecuted on charges that emanated from the same facts, and that the withdrawal of the charges was final.

Judgment	The existence of valid and binding plea bargain After considering relevant case law, the Court confirmed that section 105A of the Criminal Procedure Act does not exclude other mechanisms that may be available to parties who wish to enter into plea agreements. Accordingly, the Court held that Mr Lemthongthai's guilty plea and explanation in terms of section 112 of the Criminal Procedure Act, coupled with the verbal agreement reached by the parties, was sufficient to constitute a binding plea bargain. In amplification of the above, and on the facts, the court found that it was clear from the prosecutor's words to the court that he was going to withdraw the charges "against the rest of the accused on the premise of the guilty conviction of accused 1 on those counts" and that he had accordingly linked Mr Lemthongthai's guilty plea to the withdrawal of all charges against the other accused. In the circumstances, the court held that it was reasonable for Mr Steyl to have believed that the withdrawal of the charges against him was final and binding on the state, and that substantively the same charges could not be reinstated at a later state. The court stated that to hold otherwise would not be in the interests of justice and would infringe on the Constitutional right to a fair trial. In the light of the above, the Court concluded that a valid plea agreement existed in terms of which the charges against Mr Steyl had been withdrawn. These charges could thus not be reinstated.
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In the news: 2015

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(Final)
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Page: 1



UP IN FLAMES: Above and below environmental protestors, who Green Scorpions, burnt off, dropped hiking hats along the Wild Coast overtop at Gaidah.

Green Scorpions on fire in war on illegal coastal homes

By WAG DOWE
Last Edition

THREE days after James Mkhize, 122, had been arrested by the Green Scorpions, the Wild Coast community was a mess. The community, which had been a target of the Green Scorpions, was a mess. The community, which had been a target of the Green Scorpions, was a mess.

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Companies stung by Green Scorpions

Vivian Attwood reports on illegal stockpiling of hazardous waste

THE GREEN Scorpions have sprung into action against two companies accused of illegally stockpiling hazardous medical waste in KwaZulu-Natal in the past few weeks.

Acting on a tip-off from a public watchdog, the Sunday Tribune found that EcoCycle Waste Solutions, near Pietermaritzburg, was allegedly stockpiling about 25 tonnes of medical waste when a whistleblower contacted a local newspaper. A second company, Wild Waste Solutions (SA) Pty Ltd, had allegedly ignored instructions from the KwaZulu-Natal Health Department to dispose of around 10 tonnes of hazardous medical waste it was stockpiling in a warehouse in Wynberg.



The premises of EcoCycle Waste Solutions, near Pietermaritzburg, showing the large storage vats used to transport medical waste.

PHOTO: BONGANI MBATJA

being removed.

Department of Environmental Affairs, spokeswoman, Pooja Singh, said the department had been notified by a whistleblower about the problem at the Wynberg warehouse, where 10 tonnes of hazardous, high-level medical waste was stored. The waste allegedly included amputated limbs and organs, body fluids, single-use surgical equipment and other medical waste.

Singh said the department was investigating the problem and had issued a notice to the company to remove the waste. She said the company had been given 10 days to remove the waste. She said the company had been given 10 days to remove the waste.

Disputed attempts to find

do not treat anatomical waste. It is sent to a job for incineration. This continued normally.

EcoCycle took the decision to store the waste in the facility that would not properly and it turned to handle medical waste. It has controls in place to ensure waste is handled safely and in contact with the public and environmental risk.

The volumes we had in store were minimal as EcoCycle received large quantities of waste around 10 days from outside of the province before the breakdown.

By lunch time on September 5 we were fully functional. On September 9 we sent the DHA a report. It was understanding that we have it there to rectify the situation which we believe has been successful.

This incident elicited two visits from the DHA, once on September 7 and a follow-up visit on September 11. We are yet to receive the DHA's findings.

Althia Madise, chief director of the DHA, said the department had not been notified by the management of EcoCycle at the time of the breakdown.

However, following an investigation of the facility on September 7 and a criminal investigation as well as an administrative enforcement action in October, the department is satisfied with the outcome.

"In order of the management of the waste management, the department is investigating additional non-compliance with the duty of care provisions in the National Environmental Management Act, and the National Environmental Management Waste Act."

EcoCycle was contacted to store about 10 tonnes of waste at the treatment facility. The system can treat 10 tonnes a day. We

SOUGHT-AFTER: Cycad curator Philip Rousseau with some of the plants in Pretoria

Farmer accused in huge cycad bust

JAN BORNMAN

EASTERN Cape farmer Robert Biggs will step into the dock to face the music in one of South Africa's biggest cycad smuggling cases next week.

He stands accused of being the supplier to a cycad syndicate, uprooting the plants on his farm and having them smuggled to buyers in Gauteng.

Biggs, who farms near Jansenville, about 100km south of Grahamstown, was taken to the syndicate when police and environmental investigators, acting on a tip-off, caught four men transporting 44 cycads without permits earlier this year.

The total value of that haul was estimated to be R2 million. He was arrested following a raid on his farm where police found 58 other cycads already uprooted and ready to be transported.

Biggs's lawyer, Alwyn Griebenow, said his client would plead not guilty.

State advocate Dicks Coetzee said Biggs was charged with laws protecting cycads. He said there had been an increase in the illegal trade in cycads in the Eastern Cape, with 10 cases since 2010.

It has become a lucrative trade as some rare species can fetch as much as R5 000 per centimetre of a plant's circumference.

Eugene Swart, one of the investigators with the Green

Scorpions, said the illegal trade and smuggling of cycads was run like any other organised criminal network.

The smuggled routes come from all over South Africa, but the end destination seems to be Gauteng. It is here where most of the buyers are and some of them are very rich people," he said.

Philip Rousseau, the curator of the cycad section at the Monrovia van der Schijf Botanical Garden at the University of Pretoria, said the illegal trade was fuelled by those who regarded having an old or mature cycad in their garden as a status symbol.

The growth of these plants is so slow — perhaps one centimetre per year — that people can't have the patience. They want to buy a fully-grown, mature cycad, which takes decades to reach that size.

Rousseau said the garden, which has one of the biggest cycad collections in the southern hemisphere, was cultivating the plants and selling them below market value in a bid to end the illegal trade.

"We are one of the few biodiversity hotspots around the world and we have quite a few cycads endemic to South Africa. They're part of the country's heritage and we should protect that," he said.

According to the South African National Biodiversity Institute, 66% of the country's 79 cycad species are threatened with extinction.

EMIs across the country



First set of EMIs from national DEA designated in Parliament in Cape Town, 2006



Gauteng officials receive their EMI designation from their MEC in 2006



Eastern Cape EMIs officially launched in East London in 2007



Mpumalanga EMIs get together for a compliance inspection



EMIs across the country



Limpopo EMIs make themselves visible during a site inspection in 2011



Western Cape EMIs show off the distinctive corporate identity of the Inspectorate



KZN EMIs all dressed up and ready for the EMI Awards of Excellence Dinner in the Western Cape, 2013



Free State EMIs engage in deliberations at the National Environmental Crime Forum, Limpopo, 2013



Ezemvelo KZN Wildlife Grade 5 EMIs are put through their paces at a basic field ranger training course



EMIs in action



Free State EMIs undertake a compliance inspection of a traditional healers market in Welkom, Free State



Combatting illegal driving in the coastal area



National DEA EMIs tackle non-compliances in the healthcare risk waste sector



Enforcing compliance at a landfill site



7. Legislative Developments

The body of legislation that EMI's are expected to monitor compliance against and to enforce continued to expand during the reporting period. Although only one Act (NEM:ICMA) was amended in comparison to the five amended in the previous reporting period, law makers continued to provide the “nuts and bolts” through Regulations and Notices.

Note that the list provided below includes both draft and finalised pieces of legislation and is not intended as a comprehensive list of all law reform but rather a list of those amendments with a specific impact on compliance and enforcement.

7.1 National Environmental Management Act 107 of 1998

7.1.1 Regulations

- Regulations to Phase-Out the Use of PolyChlorinated Biphenyl (PCB) Materials and PCB Contaminated Materials, GNR 549 of 10 July 2014
- Environmental Impact Assessment Regulations, GNR 982 of 4 December 2014
- Regulations Relating to the Procedure to be Followed when Oral Requests are made in terms of section 30A, GNR 310 of 10 April 2015
- National Appeal Regulations, GNR 993 of 8 December 2014
- National Exemption Regulations GNR.994 of 8 December 2014

7.1.2 Notices

- Listing Notice 1: List of Activities and Competent Authorities Identified in terms of section 24(2) and 24D GNR 983 of 4 December 2014
- Listing Notice 2: List of Activities and Competent Authorities Identified in terms of section 24(2) and 24D GNR 984 of 4 December 2014
- Listing Notice 3: List of Activities and Competent Authorities Identified in terms of section 24(2) and 24D GNR 985 of 4 December 2014

7.1.3 Draft Regulations

- Draft Section 24H Registration Authority Regulations GN 1142 of 12 December 2014
- Draft Regulations for Admission of Guilt Fines: National Environmental Management Waste Act, 2008 GN 175 of 27 February 2015

7.2 National Environmental Management: Biodiversity Act 10 of 2004

7.2.1 Regulations

- Amendment to Threatened or Protected Species Regulation GNR 324 of 29 April 2014
- Delegation of powers and duties under section 87A(1)(a) of the Act GNR 640 of 22 August 2014
- Delegation of powers and duties under section 87A(1)(b) of the Act GNR 639 of 22 August 2014

7.2.2 Notices

- Trade in Listed Threatened or Protected Species GN 431 of 13 June 2014

7.2.3 Draft Regulations

- Draft Regulations for the Registration of Professional Hunters, Hunting Outfitters and Trainers GN 1147 of 18 December 2014
- Norms and Standards for the Translocation of Indigenous Species in South Africa GN 44 of 16 January 2015
- Threatened or Protected Species Regulations GNR 255 of 31 March 2015
- List of species that are threatened or protected, activities that are prohibited and exempt from restriction GNR 256 of 31 March 2015

7.3 National Environmental Management: Air Quality Act 39 of 2004

7.3.1 Regulations

- Regulations Regarding the Phasing-Out and Management of Ozone-Depleting Substances GN 351 of 8 May 2014
- Regulations Regarding Air Dispersion Modelling GNR 533 of 11 July 2014
- National Atmospheric Emission Reporting Regulations, GNR.283 of 2 April 2015



7.3.2 Draft Regulations

- Draft National Greenhouse Gas Inventory for the Republic of South Africa GN 391 of 6 June 2014
- Draft National Atmospheric Emission Reporting Regulations GN 572 of 18 July 2014
- Draft National Air Quality Appeal Regulations GN 915 of 24 October 2014

7.4 National Environmental Management: Waste Act 59 of 2008

7.4.1 Regulations

- Proclamation of Part 8 in Chapter 4 of NEM:WA GN 26 of 11 April 2014
- Amendments to the List of Waste Management Activities that have, or are likely to have a Detrimental Effect on the Environment GN 130 of 13 February 2015

7.4.2 Draft Regulations

- Draft Norms and standards for organic waste composting GN 68 of 7 February 2014
- Proposed Regulations regarding the Planning and Management of Residue Stockpiles and Residue Deposits from a Prospecting, Mining, Exploration or Production Operation: For Public Comments GN 1005 of 14 November 2014
- Proposed Regulations to Exclude a Waste Stream or a Portion of a Waste Stream from the Definition of Waste: For Public Comment GN 1006 of 14 November 2014

7.5 National Environmental Management: Integrated Coastal Management Act 24 of 2008

7.5.1 Amendment Act

- National Environmental Management Integrated Coastal Management Amendment Act 36 of 2014

7.5.2 Regulations

- Management of Public Launch Sites in the Coastal Zone GNR 497 of 27 June 2014

7.5.3 Draft Regulations

- Integrated Coastal Management Act Dumping at Sea Regulations GN 1110 of 12 December 2014

7.6 National Environmental Management: Protected Areas Act 57 of 2003

7.6.1 Regulations

- Amendment to the Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites GNR 622 of 15 August 2014

7.6.2 Draft Regulations

- Norms And Standards for the Management of Protected Areas in South Africa GN 528 Of 7 July 2014
- Draft notice declaring the Dwesa-Cwebe Marine Protected Area in terms of section 22A of the Act GN 948 of 4 November 2014
- Draft Regulations for the Dwesa-Cwebe Marine Protected Area GN 949 of 4 November 2014
- Intention to declare certain land situated in the Western Cape Province as part of the West Coast National Park GN 1097 of 5 December 2014
- Intention to declare certain land situated in the Western Cape Province and Northern Cape Province as part of the Tankwa Karoo National Park GN 1098 of 5 December 2014
- Intention to declare certain land situated in the Western Cape Province as part of the Table Mountain National Park GN 1099 of 5 December 2014
- Intention to declare certain land situated in the Northern Cape Province as part of the Richtersveld National Park GN 1100 of 5 December 2014
- Intention to declare certain land situated in the Northern Cape Province as part of the Namaqua National Park GN 1101 of 5 December 2014
- Intention to declare certain land situated in the Eastern Cape Province as part of Mountain Zebra National Park GN 1102 of 5 December 2014
- Intention to declare certain land situated in the Limpopo Province as part of Marakele National Park GN 1103 of 5 December 2014
- Proposed Regulations for the Mountain Zebra Camdeboo Protected Environment GN 1104 of 5 December 2014
- Intention to declare certain land situated in the Cradock, Graaff-Reinet, Middelburg, Aberdeen, Pearston, Somerset (Eastern Cape Province) and Murraysburg (Western Cape) Registration Division as a Mountain Zebra-Camdeboo Protected Environment GN 1105 of 5 December 2014
- Intention to declare certain land situated in the Western Cape Province as part of the existing West Coast National Park GN 135 of 20 February 2015



8. Industrial Compliance and Enforcement

8.1 Pro-active Compliance Inspections

Proactive compliance monitoring and enforcement work continues in relation to the following priority sectors as well as in relation to other strategic projects regulated through the issuing of authorisations in terms of environmental legislation:

Ferro-Alloy, Steel and Iron Sector
Refineries Sector
Cement Sector
Paper and Pulp Sector
Health Care Risk Waste Treatment / Disposal
Hazardous Landfill Sites
Power Generation

A summary of the monitoring and enforcement, as it crosses over from one reporting period to the next is set out in the table below. Although it is not possible to include all the facilities in a report of this nature, the table provides an indication of some of the work undertaken to bring these sectors into compliance with environmental legislation. The findings particularly in relation to facilities that have been recently inspected for the first time are not included below and will rather be discussed in future reports when further work has been undertaken in relation to these facilities.

NECER 2014-2015: DETAILED INFORMATION TABLE RELATING TO STRATEGIC INSPECTIONS

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE	
WML	Waste management licence
AEL	Air emission licence
EA	Environmental authorisation issued in terms of section 24 of NEMA read with the relevant Environmental Impact Assessment Regulations
D:SAE	DEA's Directorate: Environmental Impact and Pollution
RoD	Record of Decision in respect of a decision issued in terms of activities listed under ECA
Section 31H Notice	A notice used to obtain further documentation/information from a facility

Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Assmang Cato Ridge, KwaZulu-Natal	During July 2014, an inspection report was finalised and issued to the facility. The facility was then afforded an opportunity to respond to allegations, contained in the report. On 18 August 2014 the Department received the facility's response. After considering these representations, various internal discussions regarding the allegations contained in the report took place and it was decided that the facility will be subjected to a WML integration and review process. This three day review process, which sought to clarify certain grey areas, took place between 19 and 21 February 2015. In addition to the above, and pursuant to receiving a complaint regarding dumping of slag in a valley situated outside of the boundary of the facility, EMLs conducted further investigations and ascertained that the slag had been dumped by the facility. A Section 31H Notice, dated 7 April 2014, was issued to the facility requesting a copy of the Contamination Assessment Report, for the soil contamination study which was undertaken at the identified area. After receiving and reviewing the document, numerous internal meetings were held and it was decided that the facility should follow the process as identified in Chapter 8 of the NEM:WA which deals with contaminated land. The facility is, in conjunction with the Department, currently working towards a sustainable and legal solution to this matter. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Pages 11 – 12 of NECER 2007-2008;</i> <i>Pages 47 – 48 of NECER 2010-2011;</i> <i>Page 45 of NECER 2011-2012;</i> <i>Pages 44 – 45 of NECER 2012-2013; and</i> <i>Page 42 of NECER 2013-2014.</i>



Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
ArcelorMittal Vereeniging, Gauteng Province	Additional information requested subsequent to the 2012 inspection in a DEA letter dated 13 November 2012, was eventually submitted and was used to finalise the inspection report which was issued to the facility during April 2014. Representations were received and DEA is in the process of taking the appropriate enforcement action. A criminal investigation is running parallel to the abovementioned administrative process. The criminal investigation was initially only related to the unlawful operation of a waste disposal site in terms of section 20 of ECA. The Director of Public Prosecution of the North Gauteng declined to prosecute in respect of the ECA section 20 contravention but requested that a further on-site investigation focus on whether there is other non-compliance, particularly in respect of section 28(14) of NEMA (now section 49A(1)(e)). Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 12 of NECER 2007-2008;</i> <i>Pages 46 – 47 of NECER 2010-2011;</i> <i>Page 44 of NECER 2011-2012;</i> <i>Page 44 of NECER 2012-2013; and</i> <i>Pages 43 of NECER 2013-2014.</i>
Hernic Ferrochrome, North West	A follow up inspection was undertaken on 6 and 7 May 2013. This matter is currently being dealt with through enforcement action by the DEA's Chief Directorate: Enforcement. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> <i>Page 28 of NECER 2008-2009;</i> <i>Page 44 of NECER 2010-2011; and</i> <i>Page 44 of NECER 2013-2014.</i>

Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Arcelor-Mittal Newcastle Works, KwaZulu-Natal	A response to the Section 31H Notice was received on 11 April 2014. On 23 July 2014, a combined pre-compliance notice and pre-directive was issued to the facility. Representations were received on 22 September 2014. Further enforcement action is currently underway. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> <i>Page 25 of NECER 2008-2009;</i> <i>Pages 45 – 46 of NECER 2010-2011;</i> <i>Page 43 of NECER 2011-2012;</i> <i>Page 43 of NECER 2012-2013; and</i> <i>Page 44 of NECER 2013-2014.</i>
BHP Billiton Metalloys Meyerton, Gauteng	In addition to the administrative process, criminal investigations were initiated against the facility after the 2011 inspection. These investigations are running parallel to the administrative enforcement process. A search warrant was executed at the facility on 12 September 2012 during which various documentation was seized. A first appearance in court is scheduled for 21 July 2015 in the Vereeniging Regional Court. An enforcement strategy has been developed and further administrative enforcement action is underway. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> <i>Page 27 of NECER 2008-2009;</i> <i>Pages 43 - 44 of NECER 2010-2011;</i> <i>Page 42 of NECER 2011-2012;</i> <i>Page 42 of NECER 2012-2013; and</i> <i>Pages 44 - 45 of NECER 2013-2014.</i>



Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Old Vanchem Vanadium waste site in Witbank ("CWDF") CWDF to be rehabilitated by Highveld Steel, as agreed in the sale agreement between Highveld Steel and Vanchem Vanadium	The facility submitted its application for the required WML. DEA is currently in the process of reviewing the associated documents / information, following which a decision will be made on the application. A follow-up inspection is planned for June 2015, after which the DEA will decide whether any enforcement action is required. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> <i>Page 27 of NECER 2008-2009;</i> <i>Page 40 of NECER 2011-2012;</i> <i>Page 40 of NECER 2012-2013;</i> and <i>Page 45 of NECER 2013-2014.</i>
Vanchem Vanadium Products (Pty) Ltd	A follow up inspection was conducted on 9 and 10 June 2014. Several non-compliances were identified. The findings cannot be made available at present because they have not yet been communicated to the facility for representations. However, and based on the non-compliances contained in the above-mentioned inspection report, the Department intends to issue the facility with a Section 31H Notice to obtain further information. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> and <i>Page 27 of NECER 2008-2009.</i>

Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Evrast Highveld Steel, Mpumalanga	On 30 January 2014, the DEA again met with the facility to discuss the progress in the air quality with regards to the various projects being implemented regarding its visible stack emissions. The facility informed the DEA of its improvement projects that are ongoing. During this meeting there were also discussions about EVRAZ Highveld's financial loss during 2013, which followed an initial loss for the year 2012. The facility explained that it had to consider its priorities with regards to continuing as a viable enterprise, to managing down cost and improve efficiency, to seeking sustainable solutions to environmental challenges and engaging with the community to address community concerns and to maximise awareness and sensitivity to environmental compliance in its operations. The facility is currently under business rescue. Running parallel with administrative enforcement activities, criminal enforcement action was pursued and these investigations have been finalised. The investigating officer is in the processes of obtaining warning statements, prior to handing over the docket to the NPA for a decision. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> <i>Pages 26 - 27 of NECER 2008-2009;</i> <i>Page 42 of NECER 2010-2011;</i> <i>Page 39 of NECER 2011-2012;</i> <i>Pages 39 – 39 of NECER 2013-2014;</i> and <i>Page 45 of NECER 2013-2014.</i>



Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Xstrata Wonderkop, North West	In addition to the administrative enforcement activities that are taking place in relation to this facility, the criminal investigation has been finalised and case docket has been referred to the DPP North West for decision. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> <i>Page 26 of NECER 2008-2009;</i> <i>Page 28 of NECER 2009-2010;</i> <i>Page 43 of NECER 2010-2011;</i> <i>Page 41 of NECER 2011-2012;</i> <i>Page 41 of NECER 2012-2013;</i> and <i>Page 46 of NECER 2013-2014.</i>
Samancor Tubatse Ferro Chrome, Limpopo	Representations to the Section 31H Notice have been received and reviewed. The criminal case has been finalised and Samancor Chrome Ltd was convicted and sentenced to a fine of R200 000 and R1 700 000 as a supplementary sentence. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 42 of NECER 2010-2011;</i> <i>Page 40 of NECER 2011-2012;</i> <i>Page 40 of NECER 2012-2013;</i> and <i>Pages 46 – 47 of NECER 2013-2014.</i>

Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Exxaro Base Metals: Zincor, Gauteng	A second notice in terms of Section 31H Notice will be issued to the facility shortly to request further information regarding the decommissioning. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 46 of NECER 2011-2012;</i> <i>Pages 46 – 47 of NECER 2012-2013;</i> and <i>Page 47 of NECER 2013-2014.</i>
Transalloys (Pty) Ltd, Mpumalanga	The inspection report was finalised and issued to the facility in July 2014. The facility supplied DEA with representations on 2 September 2014. DEA is considering these representations and will then take a decision in respect of further enforcement action if required. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 47 of NECER 2013-2014.</i>



Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Samancor Ferrometals, Mpumalanga	An inspection was conducted at the facility on 26 and 27 June 2012. The findings included the following: • non-compliances with APPA permit and particulate matter excessively exceeded the stipulated limit; • free-board on dirty water containment systems is not maintained. This increases chances of overflow; • failure to separate clean and dirty water in some areas of the site; • unlined historical disposal site contaminating groundwater; • the required geohydrological survey to assess the extent of pollution plume on site was not conducted; • several unlined and unauthorised waste disposal areas; • excessive dust emissions. A criminal case was registered as per Middleburg CAS 328/06/2011. Investigations have been finalised and the docket will shortly be sent to the DPP for a decision. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Pg 48 NECER 2013-14.</i>

Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Cape Gate Vanderbijl and Cullinan, Gauteng	On 14 April 2014 the facility submitted representations on the findings of the inspection report. The facility requested a meeting with DEA to make oral representations. After a meeting with the DEA, a Section 31H Notice was issued to the facility on 5 December 2014. The facility was required to provide an update on the undertakings made in terms of the facility's Action Plan, which was submitted on 01 June 2014. A response to the Section 31H Notice was received on 12 December 2014. The facility completed the following: • Assessed the soil and groundwater impacts due to the storage of various materials; • removed existing soil and scrap metal files; • stored oil drums in locked, lined and bunded storage areas; • provided technical drawings for concrete liner at the Meltshop scrap bay; • updated the stormwater outlay; • skips covered with tarpaulin; • a general authorisation for water use activities is pending; • standard operating procedure for separation of hazardous material; • hazardous waste stored at MRSTD Cell; • designed drawings for bunkers (to temporarily store hazardous waste); and • waste classification conducted. Action items that are planned for 2015 are still in progress and the Department expects an update on said items as and when they fall due. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 48 of NECER 2013-2014.</i>



Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Mogale Alloys, Gauteng	A Section 31H Notice was issued to the facility on 9 June 2014. A response was received on 1 July 2014. DEA is satisfied that the non-compliances identified, have adequately been addressed Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 48 of NECER 2013-2014.</i>
Glencore Lion Smelter Operations, Limpopo	An inspection was conducted at the facility on 4 and 5 November 2014. The following was observed: • non-compliances with conditions of the AEL, Environmental Authorisations, WML and Water Use Licence. • potential groundwater contamination from the unlined waste storage areas; • failure to comply with its general duty of care in respect of waste management and with the requirements for the handling and storage of waste.

Name of Facility	Principle findings related to environmental non-compliance, findings of follow-up inspections and status of enforcement process
FERRO-ALLOY, IRON AND STEEL	
Polokwane Smelters, Limpopo	An inspection which focussed specifically on the facility's WML for its H:H slag stockpile disposal site was conducted on 18 January 2011. The findings were as follows: • Non-compliances with the conditions stipulated in facility's waste permit issued in terms of section 20 ECA (Permit No: 12/9/11/118) for the facility's H: H slag stockpile disposal site; • various non-compliances in relation to the facility's failure to comply with its general duty of care in respect of waste management and storage; • activities being undertaken on site which may cause serious and significant harm to the environment and the facility's failure to take reasonable measures to prevent such harm; • failure to report emergency incidents; • failure to comply with provisions of the NWA and the undertaking of water uses without a water use licence required in terms of section 21 of the NWA. Based on these findings, and on 5 November 2012, DEA issued the facility with a notice of intention to issue a compliance notice in terms of section 31L of NEMA notice, pre- directives in terms of section 31A ECA and section 28(4) of NEMA directives. Representations were received on 30 November 2012. Due to the nature and extent of the facility as well as the non-compliances identified during the 2011 inspection, DEA formed the view that a holistic compliance inspection, which would entail the inspection of the facility in its entirety, should be conducted at the facility. A further inspection took place on 5 August 2014. The 2014 inspection focussed on the facility in its entirety and also served as a follow-up inspection in order to determine whether the non-compliances observed during the 2011 inspection had adequately been addressed. The findings thereof cannot yet be made available as the inspection report has not been issued to the facility. The DEA is in the process of considering the appropriate enforcement action.



REFINERIES	
Sasol Secunda Refinery, Mpumalanga	A monitoring inspection with a focus on air quality was conducted at the facility on 24 and 25 February 2015. The inspection report has not yet been issued to the facility for representations. Accordingly the findings cannot be released at this time. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 13 of NECER 2007-2008;</i> <i>Page 27 of NECER 2008-2009;</i> <i>Page 25 of NECER 2009-2010;</i> <i>Page 40 of NECER 2010-2011;</i> <i>Page 36 of NECER 2011-2012;</i> <i>Page 37 of NECER 2012-2013;</i> and <i>Page 48 of NECER 2013-2014.</i>
POWER GENERATION	
Eskom Matimba Power Station, Limpopo	A response to the Department's third Section 31H Notice was received in June 2014 and the DEA is considering whether further enforcement action is warranted. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 24 of NECER 2009-2010;</i> <i>Page 49 of NECER 2011-2012;</i> <i>Page 48 of NECER 2012-2013;</i> and <i>Page 49 of NECER 2013-2014.</i>
Eskom Grootvlei, Mpumalanga	The inspection report was finalised and issued to facility on 4 June 2014. Representations from the facility were received during August 2014. DEA is in the process of reviewing the representations and deciding on appropriate enforcement action, if any. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 49 of NECER 2013-2014.</i>

H : H LANDFILLS/TREATMENT OR RECOVERY FACILITIES / HEALTH CARE RISK WASTE FACILITIES	
Goswell Landfill Site, KwaZulu-Natal	The information requested in the Section 31H Notice was provided to the DEA on 8 April 2014. Upon a review of this information, DEA found it to be inadequate. Accordingly, and on 27 February 2015, DEA issued the facility with a combined pre-compliance notice in terms of section 31L of NEMA and pre-directive in terms of section 28(4) thereof. Representations from the facility are expected Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 50 of NECER 2013-2014.</i>
EnviroServ Holfontein Landfill Site, Gauteng	A site inspection was conducted by EMIs from DEA and Gauteng DARD, as well as officials from DWA on the 11 July 2013. Several non-compliances were identified. On 14 May 2014 the DEA requested further information from the facility. A response has been received and is being reviewed. A criminal investigation was also initiated. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 24 of NECER 2009-2010.</i>
PULP & PAPER	
Sappi Saiccor (Pty) Ltd	An inspection was conducted on 2 and 3 September 2014. Several non-compliances were identified and an inspection report detailing the findings of the inspection has been finalised. In addition, an enforcement strategy has been drafted and the Department is in the process of making a decision on the way forward. A criminal investigation has been initiated.



CEMENT	
Calsiment, Mpumalanga	The criminal investigation into this matter has been finalised and the docket is with the DPP for a decision. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 50 of NECER 2013-2014.</i>
OTHER	
King Shaka International Airport	A meeting was held between DEA and ACSA on 18 November 2014, following which, a Section 31H Notice, dated 24 November 2014, was issued to ACSA on 24 November 2014. The notice requested an update on the status of compliance at the King Shaka International Airport. On 1 December 2014 ACSA provided DEA with its response to the notice. Upon reviewing the information contained therein, DEA decided to conduct a follow-up site inspection. This inspection was conducted on the 8 and 9 December 2014. The inspection report is in the process of being finalised and will be referred for enforcement action in due course. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: <i>Page 53 of NECER 2011-2012; and</i> <i>Page 51 of NECER 2012-2013.</i>

OTHER	
Chamdor Meat Packers (Pty) Ltd, Gauteng Province	On 9 June 2012, EMLs from DEA and Gauteng DARD as well as officials from the Mogale City Local Municipality conducted compliance inspection. The following observations were made: • failure to obtain a waste permit in terms of section 20(1) of the ECA prior to operating waste disposal/treatment/storage facilities; • failure to obtain a WML for waste management activities that require a WML in terms of Section 20(b) NEM:WA; • undertaking a scheduled process without the required registration certificate in terms of the APPA and thereafter the NEM:AQA; • contravention of the NEM:WA in respect of the storage and disposal of waste; and • activities taking place on the site that are causing and/or have the potential to cause serious and significant harm to the environment coupled with the facility's failure to implement reasonable measures to prevent such harm from being caused. The inspection report dated 3 October 2013 was issued to the facility and representations were received on 31 January 2014. After reviewing the representations and other relevant documentation, on 8 September 2014, Chamdor Meat Packers was issued a pre-compliance notice and pre-directive(s) in terms of section 28(4) of NEMA and a pre-directive in terms of section 31A of ECA. Representations were received on 28 October 2014. The representations were reviewed by DEA. Subsequently the company submitted an application in terms of section 24G NEMA for a WML. An application for an AEL was also submitted. A meeting was held with the facility and its environmental consultant on 4 March 2015. As the DEA was not satisfied that all the issues and concerns had been adequately addressed, a final compliance notice in terms of section 31L of the NEMA and a directive in terms of section 28(4) of NEMA was issued.

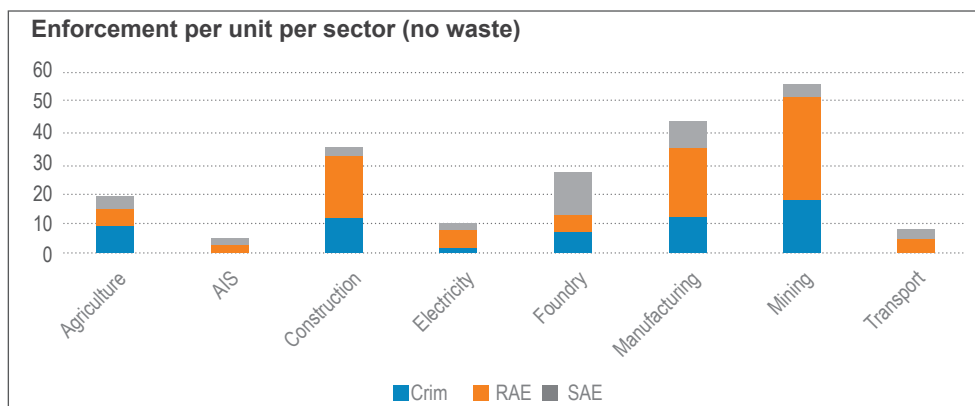
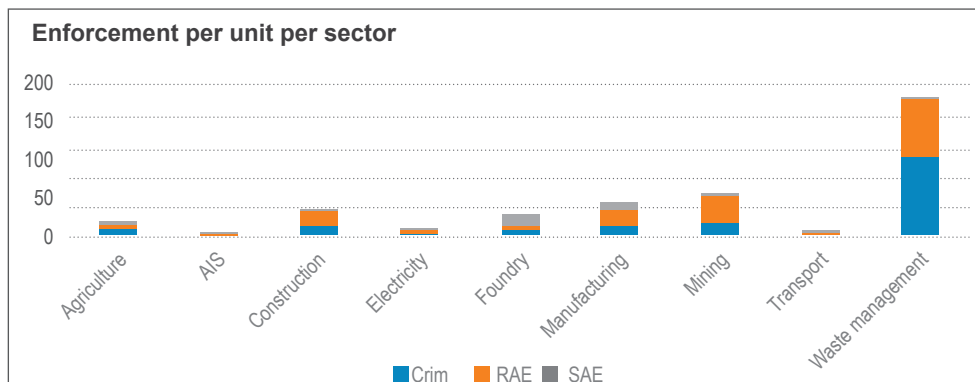


8.2 Environmental Impact and Pollution Enforcement (National DEA)

Three sub-directorates: Criminal Investigations and Prosecution, Reactive Administrative Enforcement and Strategic Administrative Enforcement constitute the Chief Directorate: Enforcement's Directorate: Environmental Impact & Pollution at DEA ("Directorate"). The task of Criminal Investigations and Prosecution (Crim) sub-directorate is to investigate environmental crimes and to refer appropriate case dockets for prosecution. The nature of the Reactive Administrative Enforcement (RAE) sub-directorate's work is to provide a rapid response to non-compliant situations by issuing administrative enforcement notices for non-compliances requiring urgent attention and remedial action. Lastly, the Strategic Administrative Enforcement (SAE) sub-directorate is responsible for issuing administrative enforcement notices to larger facilities, where enforcement action extends over longer timeframes. The information below relates to the work of this Directorate.

The regulated community was divided into sectors such as agriculture (including forestry, fish-meal plants), mining, waste management, manufacturing (including tanneries, paint producers, pole yards, paper & pulp, cement plants, brick-makers, and petrochemical refineries), Alien and Invasive Species (AIS) and electricity (comprising power generation and power lines, both transmission and distribution). The graphs below show the enforcement activities of this Directorate in relation to these sectors – demonstrating the extent of enforcement action taken by the different sub-directorates (namely; Crim, RAE or SAE)

Note that administrative enforcement has a number of tools in its arsenal. NEMA makes provision for compliance notices (Section 31L) and directives (Section 28(4)). The aim of administrative enforcement is not to punish the entity / person but rather to bring them into compliance and / or to ensure that the environmental harm ceases and/or is rehabilitated. DEA does not issue a final administrative notice in cases where compliance is achieved through the issuing of the pre-compliance notice and/or pre-directive.



A brief glance at some of the work performed by this Directorate over the last few years, reveals a number of interesting facts. Using the information gleaned from administrative instructions and criminal cases over this period, it is clear that the majority of enforcement action taken by DEA is in relation to the waste management sector. By removing "waste" from the equation, it becomes clear that the Criminal Investigations and Prosecutions (Crim) sub-directorate is completely inundated with waste-related matters, and that other sectors receive significantly less attention in comparison.





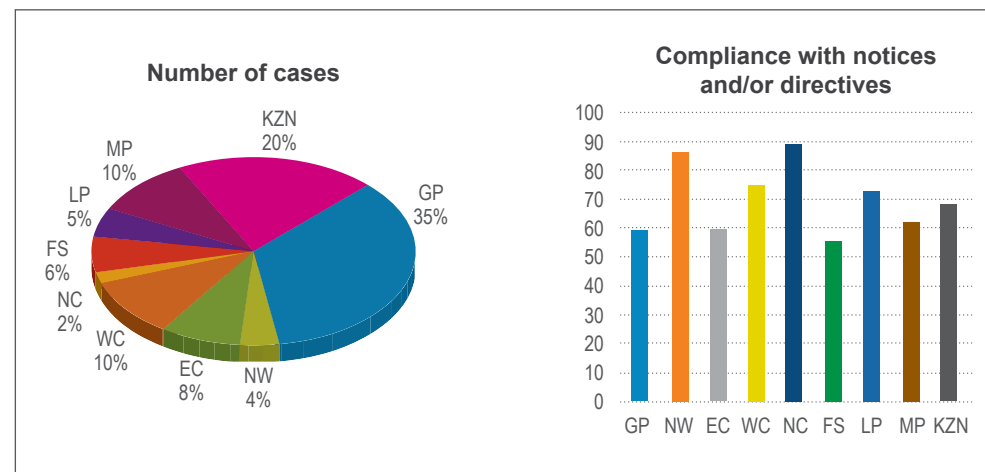
Picture: ArcelorMittal Vereeniging March 2007 (above) compared to January 2010 (below)



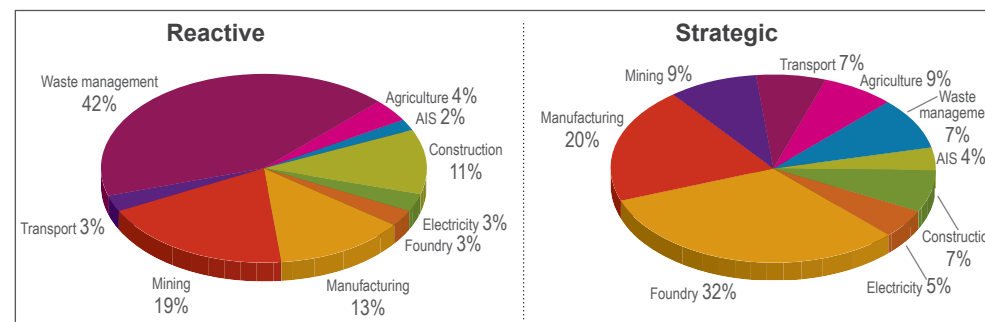
Most of the work of the Strategic Administrative Enforcement (SAE) sub-directorate, revolves around the foundry/manufacturing sectors. However, the number of criminal cases relating to foundries is low, and there have been no prosecutions relating to power generation, despite gross non-compliances in this sector. This sub-directorate has, however, achieved significant success with administrative enforcement notices, with the most notable still being the matter against Arcelor-Mittal Vereeniging, where a bag house plant was installed to the value of R220 million rand as a direct result of administrative enforcement action. At around the same time Assmang Cato Ridge spent approximately R100 million to commission its extraction system in response to enforcement action taken by the DEA.

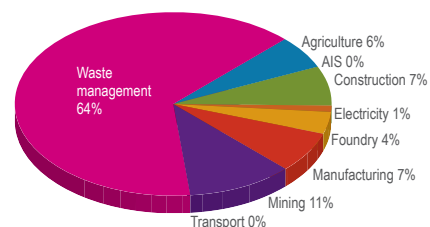
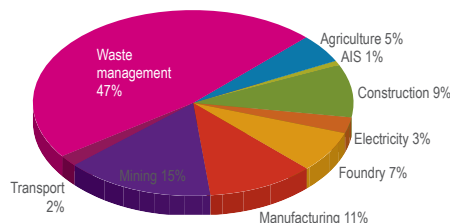
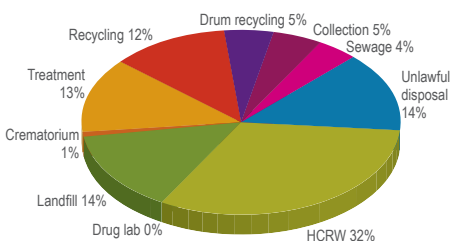
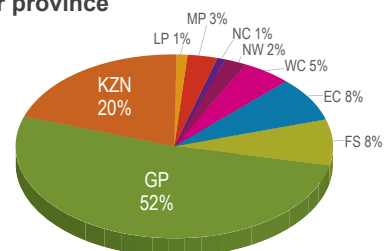
The Reactive Administrative Enforcement (RAE) sub-directorate's work in relation to the foundry and agricultural sectors has been limited, although there have been several matters in this sector where rapid compliance was immediately required. Geographically speaking, the largest number of non-compliances falls within the Gauteng province.

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The Gauteng province not only has the greatest number of non-compliances but also has a compliance status of a mere 60%. This is trumped only by the poor compliance of the regulated community in the Free State.



Prosecutions**Enforcement (Total)****Waste****Waste management cases per province**

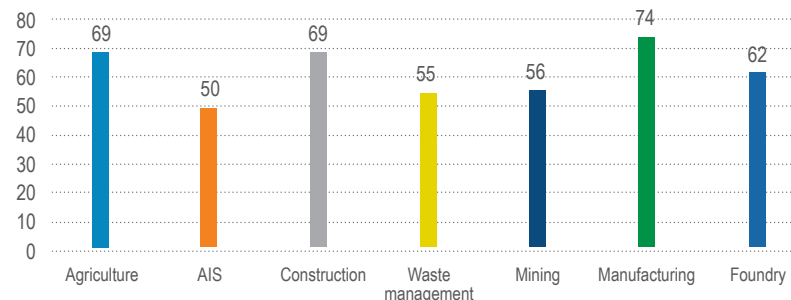
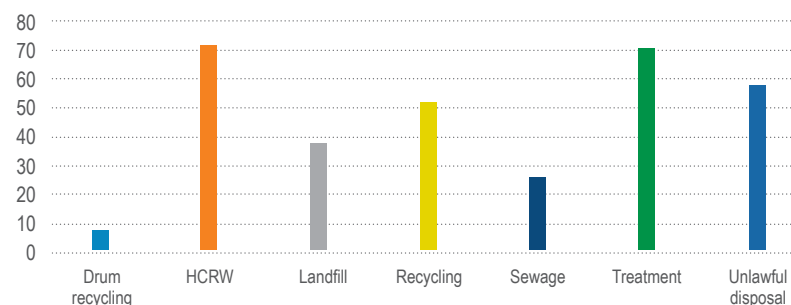
Health Care Risk Waste took the lion's share for the most problematic sector and approximately one-third of all the waste related matters were addressed through enforcement action. Landfills, small-scale unlawful disposal of non-Health Care Risk waste, recycling and waste treatment plants compete for second place.

Gauteng province bears the brunt of waste management issues, with more cases than the sum of the remaining eight provinces.

The most problematic sector, based only on the number of administrative enforcement notices issued, again appears to be waste management, receiving 37% of the notices and directives issued.

The sector demonstrating the best response to administrative notices appears to be manufacturing, followed closely by agriculture and construction. The AIS sector demonstrated the lowest compliance with administrative notices issued. Perhaps this lack of compliance is a result of the AIS related legislation only recently coming into effect and the related enforcement action only being rolled out recently.

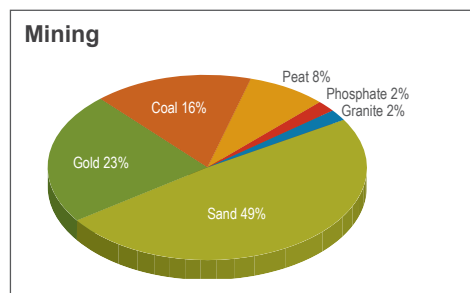
Within waste management, which scores a mere 55% compliance to administrative notices, the sub-sector least likely to comply was drum recyclers and sewage plants, followed by landfills. The latter is a cause of concern as most sewage plants and landfills are managed by organs of state; specifically municipalities. Compliance by the private sector is far better, with HCRW and treatment plants rating just short of 80% - indicating that this sector responds positively when receiving enforcement notices.

Sector compliance with notices an/or directives**Compliance with notices and/or directives**

Interestingly, the sector most likely to object to a final notice is waste management Health Care Risk Waste, thereafter mining, followed shortly by foundries.

In relation to mining, the greatest number of notices and/or directives were issued for sand mining activities, largely as a result of the environmental authorities specifically targeting this sub-sector, over 3 consecutive financial years (sand mining blitz). Amongst miners, the worst performance went to gold miners. It must be added that this involves less of the larger, formal mining houses but has rather [focused on] small-scale alluvial miners instead. It must also be noted that the investigation of unlawful mining, as far as environmental offences are concerned has been transferred to the Department of Mineral Resources who has taken over the responsibility of enforcing the NEMA, through the introduction of Environmental Mineral Resource Inspectors in December 2014.





One-fifth of notices and/or directives were issued to organs of state, yet there was a mere 52% compliance with the instructions contained therein.

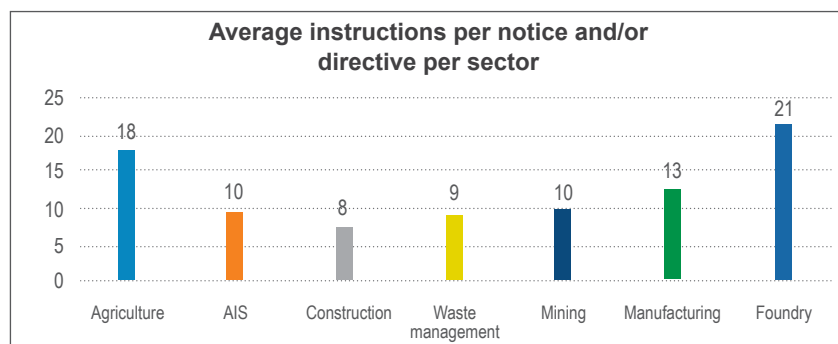
In the electricity sector, an equal amount of attention was given to both generation and distribution/transmission, although the impact of the former is more pervasive than the latter. Problems with power lines related mostly to the failure to comply with conditions of

authorisations. In contrast, generation plants had and continue to have significant impacts on air and water quality.

Foundries have an average compliance status of 62% with instructions in notices and/or directives. Based on the number of instructions contained in these administrative notices, which may be a better proxy for quantifying the degree of non-compliance, foundries have the most work to do to achieve compliance. In that sector, ferrochrome and iron & steel are neck-and-neck competitors for the highest number of notices and/or directives issued, while they simultaneously outshine the rest of the foundries, with an average compliance status with instructions of 87%.

In the manufacturing sector, chemical plants and tanneries have received the greatest amount of attention. Compliance in the tanneries sector has improved, due largely to the execution of a national wide operation in 2013 by the environmental and conservation authorities, Operation Skhumba.

After foundries, agriculture has a long way to go to achieve compliance. The high number of non-compliances may be ascribed to the large number of instructions directed at fish-meal processing plants during the West Coast fish-plant blitz, which has also improved compliance in that sector.



On a more detailed level, the secondary sector least likely to co-operate from Strategic Administrative Enforcement's perspective is AIS, the chemical plants and then harbours (meaning Transnet Port Terminals). If it is limited to compliance with final notices AIS remains the most non-compliant, followed by ferrochrome (although it is at 69%). Most likely to co-operate with SAE includes airports, fish-meal plants and landfills.

Reactive Administrative Enforcement (RAE) sees a completely different picture, with the worst co-operation with final instructions being coal mines (0%), gold miners (0%), landfills (7%) and recycling operations (17%). Most likely to co-operate with final instructions includes renewable energy generation and the iron and steel industry.

Parting words:

1. This is only a small synopsis of the work done by the Inspectorate, as it considers only the work by the national DEA's Directorate Environmental Impact & Pollution, and is focussed on the compliance status following the issuing of administrative notices and/or directives. Data may therefore be lacking in certain respects and the data does not incorporate the numerous notices issued by the provincial EMI institutions.
2. The problems presented by poor management of waste by municipalities warrants further attention and further work will need to be undertaken following the general landfill site blitz which took place in March 2015.
3. DEA has taken a strategic decision to treat hazardous waste (falling within its exclusive mandate) as a priority. More attention needs to be given to larger polluters, specifically power generation as this sector has a continuous non-compliant profile which was indicated in previous NECER's.

8.3 Provincial Inspection Activities (Mpumalanga DARDLEA)

8.3.1 ASTARL (Pty) Ltd Strategic Inspection 18-20 June 2014

The EMI's from Mpumalanga DARDLEA conducted a strategic inspection at Astarl (Pty) Ltd on the 18-20 June 2014. The objective of the inspection was to ensure compliance with the environmental legislation and the conditions of the authorisations issued. In 2006, the site began operations for rearing poultry and operating laying houses. The company distributes to contract growers and to their own hatchery farms. The company produced



2.02 million chicks per week and 2.5 million eggs per week. All eggs are taken to the hatchery and incubate for 21 days.

For boilers to generate heat at rearing houses the company uses 8 tons of coal per month, and for lighting at the laying houses the company uses electricity from Eskom (and in case of a shut down/load shedding the company operates with their own generator connected to the site which kicks in automatically).

8.3.2 Lydenberg Smelters Strategic Inspection 24 March 2015

The EMI's from Mpumalanga DARDLEA conducted a Strategic Inspection at Lydenberg Smelters on the 24 March 2015 together with the Department of Water and Sanitation.



Lydenberg Smelters is a Glencore Merafe Venture Operation that produces granulated and lumpy ferrochrome, commenced operation in 1977. The ferrochrome produced is mainly used in the steel production, which is produced by electric arc melting of chromite, iron, magnesium chromium oxide and chromium ore. The final product is exported to various countries, transported via rail and thereafter shipping. The main objective of the inspection was primarily to ensure compliance with the environmental legislation and to further verify compliance with the conditions of authorisations issued by the DEA as well as the Water Use Licence issued by the Department of Water and Sanitation to the institution.

9. Biodiversity Compliance and Enforcement

In the 2014/15 reporting period, biodiversity compliance and enforcement continued to focus on the high-risk species, such as rhinos and cycads, while still ensuring that other species also received the protection from the Inspectorate. The cases cited below are just a few examples of the successful convictions that have been obtained in respect of these species.

In addition to pursuing the criminal prosecution and conviction of offenders of biodiversity crimes, the Inspectorate has also been involved in a number of proactive international and domestic projects / initiatives that seek to improve the capacity of the EMIs to combat these types of offences.

9.1 Rhinoceros

In August 2014, the South African Cabinet approved an Integrated Strategic Management Approach that enhanced current interventions and introduced additional interventions in order to address the increase in poaching of rhinos in the country. This approach is based on the following focus areas:

- Managing Rhino Populations
- Compulsory / New Interventions (focused on anti-poaching and security)
- Long-Term Sustainability Measures - Communities
- Game-changing Intervention

Detailed progress is monitored and reported on in relation to these areas, and it should be noted that the Inspectorate's work specifically focuses on the areas of Compulsory / New Interventions as well as aspects of National and International Collaboration which cuts across all areas.

It should also be noted that around July 2014 a decision was taken to expand the mandate of the Stock Theft Unit within the Detective Services of the SAPS to also deal with rhino cases (level 1 and 2 poachers in particular). This decision has therefore increased SAPS capacity to investigate rhino-related crimes. In relation to rhino cases in particular, EMI's from across all the relevant institutions are actively involved in anti-poaching operations; crime scene management; ongoing support to the SAPS members as well as the NPA.



At a strategic level, the EMIs participate in the various security cluster enforcement structures, including the NATJOINTS Priority Committee on Wildlife Crime and the associated Provjoints (with support offered in relation to relevant projects and operations). A number of the joint operational centres (such as the Mission Area Joint Operations Centre (MAJOC) in the Kruger National Park) are key platforms for planning and execution of joint operational work which also involves EMI institutions (like SANParks) and the National Biodiversity Investigators Forum, which reports through the environmental structures, provides a platform for the sharing of information and joint work by EMIs in relation to rhino.

The signing of the Cooperation Agreement between the United Nations Environmental Program (UNEP) and the Department of Environmental Affairs on 8 May 2014 formalised the start of the GEF-UNEP Rhino Program, “*Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa (Target: Rhinoceros)*”. The outcomes of this program are aimed at improving the effectiveness of efforts to combat wildlife crime in South Africa’s Protected Area System, focused on rhinoceros, through improved forensic technologies and capacity, strengthened data gathering, sharing and analysis systems at the national level, and enhanced cooperation structures and mechanisms at the international level to support law enforcement efforts along the whole trafficking chain.

Since the initiation of the program and the appointment of the program manager, the following work was undertaken up until the end of this financial year:

- initial supply chain/procurement plan approved by UNEP and initial tranche of \$250,000 received by DEA;
- transfer of funding to the University of Pretoria Veterinary Genetics Laboratory (VGL) to increase capacity to process rhino DNA samples and to cover the costs of DNA kits;
- procurement of mobile forensic units and other equipment;
- commenced filming of the training DVD’s; and
- advanced crime scene management training course which took place in early November 2014.

9.1.1 Total Number of Rhinos poached in South Africa for 2011, 2012, 2013 and 2014

INSTITUTION/PROVINCE	2011	2012	2013	2014
SANParks (Kruger National Park)	252	425	606	827
SANParks (Marakele National Park)	6	3	3	0
SANParks (Mapungubwe National Park)	0	0	0	1
KZN	34	66	85	99
Limpopo	74	59	114	110

INSTITUTION/PROVINCE	2011	2012	2013	2014
Western Cape	6	2	0	1
Eastern Cape	11	7	5	15
Gauteng	9	1	8	5
NorthWest	21	77	87	65
Free State	4	0	4	4
Northern Cape	0	0	0	5
Mpumalanga	31	28	92	83
TOTAL	448	668	1004	1215

9.1.2 Total Number of Arrests made in South Africa for Rhino-Related Offences for 2011, 2012, 2013 and 2014

INSTITUTION	2011	2012	2013	2014
SANParks (Kruger National Park)	82	73	133	174
SANParks (Marakele National Park)	0	0	0	0
SANParks (Mapungubwe National Park)	0	0	0	1
KwaZulu-Natal	4	20	63	68
Limpopo	34	43	34	60
Western Cape	0	0	0	1
Eastern Cape	2	0	0	2
Gauteng	16	26	10	21
Northwest	21	32	26	14
Free State	0	6	7	0
Northern Cape	0	1	0	0
Mpumalanga	73	66	34	45
TOTAL	232	267	343	386

A significant number of rhino-related cases have been decided by our courts over the reporting period. A few of these cases are discussed below:



S v Mandla Chauke (Skukuza CAS 27/4/2011)	
Province	Mpumalanga
Court	Nelspruit Regional Court
Charge	Murder; illegal hunting of three rhinos, alternatively possession of two horns; possession of firearm; possession of ammunition and trespassing
Judgment/Sentence	Murder (common purpose and <i>dolus eventualis</i>) - 15 years imprisonment; Illegal hunting (3 counts for 3 different animals) – 10 years imprisonment per count; Theft of horns – 8 years imprisonment; Possession of firearms – 15 years imprisonment; Possession of ammunition – 7 years imprisonment and Trespassing – 2 years imprisonment Total – 77 years Sentence on theft to run concurrently with the sentence for 3x illegal hunting Sentence on possession of firearm and ammunition to run concurrently with sentence for murder Effective sentence – 47 years imprisonment

S v Thomas Mashele, Julio Khosa and Bright Chicupiro (Skukuza CAS 365/12/2011)	
Province	Mpumalanga
Court	Nelspruit Regional Court
Charge	1. Illegal possession of firearm, 2. Illegal possession of ammunition, 3. Trespassing, 4. Illegal hunting of black rhino
Judgment/Sentence	Count 1: 6 years imprisonment Count 2: 18 months imprisonment Count 3: 4 years imprisonment Count 4: 10 years imprisonment Effective sentence – all counts to run concurrently – 10 years imprisonment

S v Andre Manuel Chauque and Others (Rankin Pass CAS 17/8/14)	
Province	Limpopo
Court	Modimolle Magistrate's Court
Charge	Attempted theft; illegal hunting; possession of firearm
Judgment/Sentence	Accused 1 and 2 guilty of illegal hunting – 6 years imprisonment Accused 3 guilty of illegal hunting and illegal possession of firearm – 6 years imprisonment and 4 years imprisonment (sentences to run concurrently) Accused 4 – 8 guilty of conspiracy to hunt rhino – R10 000 or 5 years imprisonment each of which half is suspended for 5 years on condition
Note:	No rhino was shot

S v Xuhua Lin (Ravensmead CAS 617/03/15)	
Province	Western Cape
Court	Bellville Magistrate's Court
Charge	Section 47A(1)(b) of Nature Conservation Ordinance 19 of 1974
Judgment/Sentence	Sentenced to R100 000 or 2 years imprisonment of which R50 000 or 1 year imprisonment is suspended for 5 years on condition that he does not contravene any provisions relating to rhino in any national or provincial legislation during the time of suspension.
Note:	Possession of 8 pieces of rhino horn with mass of 10 grams (CapeNature)

9.1.3 CITES Ministerial Dialogue for Key States Concerned with the Illegal Trade in Rhinoceros Horn

This Dialogue which was convened at the request of South Africa (Minister of Environmental Affairs, Mrs Edna Molewa), took place in Geneva, Switzerland, in February 2015. The purpose of the meeting was to bring together key states involved in the battle against the illegal trade in rhino horn to discuss and identify priority areas for enhanced bilateral, trilateral and multilateral cooperation; to address both the supply and demand for rhino horn; and to secure further political commitment to implement appropriate activities with the necessary cooperation. In attendance were senior officials responsible for implementation, oversight and enforcement of the CITES Convention as well as members from the CITES Secretariat, the World Customs Organisation (WCO), INTERPOL and the UN Office on Drugs and Crime (UNODC) which together form the International Consortium on Combating Wildlife Crime (ICWC).



High-level delegates from the Czech Republic, Mozambique, South Africa and Vietnam (key States identified by decisions taken under CITES as being affected by poaching and illegal trade of rhinoceros horn as range, transit or destination countries) were in attendance. Officials from the People's Republic of China joined as observers, along with the President of the African Ministerial Conference on the Environment (AMCEN) the Honourable Binilith S. Mahenge and the United Republic of Tanzania's Minister of State for Environment. Also in attendance was Ambassador Pedro Commissário, Permanent Representative of the Republic of Mozambique, as well as representatives from ICCWC.

The parties assessed progress made, including the effectiveness of current initiatives in place to tackle the problem. From this assessment, specific priorities were identified for short and medium term action. The meeting adopted the 'Geneva Statement on Combating Rhinoceros-related Crimes' which reaffirms the commitment of the four key states to take action to prevent, combat and eradicate rhinoceros poaching and the illegal trade in rhinoceros horn by further enhancing their international cooperation and coordinated law enforcement responses. It also calls upon ICCWC and the international community to provide further support to the efforts of the key States affected by poaching and illegal trade of rhinoceros horn.

In addition, South African law-enforcement authorities were recognised by CITES for the work they are doing to combat rhinoceros related crime. It is the first time that South Africa was awarded Certificates of Commendation by CITES. Certificates of Commendation are issued at the discretion of the CITES Secretary General, Mr John E Scanlon, in recognition of "outstanding examples of enforcement-related work..." the outcomes of which "serve as an example to the wider law enforcement community" and "further the aims of the (CITES) Convention in preventing illegal trade in wildlife in an innovative manner." The South African team was acknowledged for their participation in 'Operation Whisper', an undercover operation targeting organised crime groups involved in rhinoceros poaching and the illegal international trade in rhinoceros horn. The multi-faceted operation resulted in a significant number of arrests of suspects involved in the illegal killing of rhinoceros in KwaZulu-Natal, as well as the trafficking of rhino horn between KwaZulu-Natal and Gauteng. The SAPS units involved included the Durban Organised Crime Unit, the National Intervention Unit, the Technical Support Unit and Forensic Science Laboratory, working in close cooperation with the Office of the Director of Public Prosecutions in Gauteng, with logistical support provided by Ezemvelo KZN Wildlife.

9.2 Elephant

S v Paul Fombutu (Sea Point CAS 72/02/2013)	
Province	Western Cape
Court	Khayelitsha Regional Court
Charge	Section 42(1) of Nature Conservation Ordinance 19 of 1974
Judgment/Sentence	Sentenced to R 100 000 fine or 5 years imprisonment of which R50 000 is suspended for 5 years. A further sentence of 8 years imprisonment suspended for 5 years.
Note:	Possession of 27 pieces of elephant tusk with a mass of 100.1kg (CapeNature).
	
S v Cheng Jie Liang (Table View CAS 316/09/2012)	
Province	Western Cape
Court	Khayelitsha Regional Court
Charge	Section 42(1) of Nature Conservation Ordinance 19 of 1974.
Judgment/Sentence	Sentenced to 10 years direct imprisonment of which 3 years is suspended on condition that he pays a fine of R 5 million within 12 months.
Note:	Possession of 3427 ivory items, 1002kg - worked ivory value R21 million (CapeNature).

S v Thabit Chilwan (Bishop Lavis CAS 264/07/2012)	
Province	Western Cape
Court	Khayelitsha Regional Court
Charge	Section 42(1) of Nature Conservation Ordinance 19 of 1974.
Judgment/Sentence	Sentenced to 10 years' imprisonment or R1 million fine. Paid fine of R1 million. 10 years imprisonment suspended for 5 years on condition that he does not contravene any provisions relating to elephants in any national or provincial legislation during the time of suspension.
Note:	Possession of 48 elephant tusks (763kg) - worked ivory value R14 million (CapeNature)

S v Faizal Fortune and Thabit Chilwan: Bishop Lavis (CAS 264/07/12)	
Province	Western Cape
Court	
Charge	Illegal possession of ivory.
Judgment/Sentence	Charges withdrawn against accused 1. Accused 2 pleaded guilty to the illegal possession of ivory and was sentenced to R1m and 10 years' imprisonment suspended for 5 years.
Note:	Customs officials discovered ivory (46 tusks) valued at R 800 000 wrapped in black plastic, cardboard and bubble wrap.

9.3 Cycads

S v Norman Maphari, Joseph Mudyandarira, Lucus Mbatha and Jeremiah Ngwenya	
Province	Eastern Cape
Court	
Charge	Three charges of theft, contravention of the Cape Ordinance on Nature and Environmental Conservation of 1974 and Trespassing.
Judgment/Sentence	All four accused were sentenced to 7 years' imprisonment of which 3 years were conditionally suspended for 5 years. The three trespassers were given an additional 6 months' imprisonment running concurrently with the first period. The vehicle worth some R 150 000 was forfeited to the state.
Note:	Possession of 25 cycads (<i>E.Horridus</i>) worth R 314 000.

S v Matambo and 3 Others	
Province	Eastern Cape
Court	Jansenville Regional Court
Charge	Contravention of the Cape Nature Environmental Ordinance 19 of 1974, theft and trespassing
Judgment/Sentence	Contravention of the Ordinance: Khumalo: 10 years direct imprisonment as he had two previous convictions. The present offence was committed within the periods of suspension of the two sentences previously imposed on him. A fine of R12 000 and imprisonment of 3 years' now await him in addition to the present sentence. The other three were each sentenced to 5 years' direct imprisonment. Theft: 5 years' imprisonment. Trespassing: cautioned. Matambo's vehicle was forfeited to the state.
Note:	Illegal removal / possession of cycads (Lehamanii species) – uprooted and transported the cycads from from a private farm.

9.3.1 Majestic Plants Uprooted for Greedy Gauteng Buyers



On 12 February 2015 a truck was stopped at Jansenville after telephonic interaction between the SAPS in Jansenville and the Special Investigation Unit of Eastern Cape's Green Scorpions



(DEDEAT). The truck was carrying two 6 meter containers and, after close inspection of the containers, it was found that both were fully loaded with cycads stolen from the wild. Jan Christoffel Van Staden from Midrand and three Zimbabwean citizens known as Honest Chipanga, Admire Marima and Sonondo Ndlovu were arrested at the time of stopping the truck. A false permit was produced for the transport of the cycads.

A total of 44 plants were inside the two containers at an estimated value of R2 million. These plants generally exceeded 3 meters in length and were of the species *E. longifolius* and *E. lehmanii*. Some of these plants were estimated to be over 800 years old. This was a very sad day for conservation in the Eastern Cape seeing these ancient, majestic plants uprooted from their natural habitat for greedy buyers in Gauteng. J van Staden pleaded guilty in court.

Further investigation ensued and a search warrant was obtained for a specific farm in the Jansenville area. On this farm a minimum of 58 other cycads (*E. Longifolius*) were found already uprooted and left in the veld. At these scenes, plants exceeding 5 meters were found. The farm owner was also arrested as it is believed that he played a major role in the uprooting of these cycads and received large amounts of money for the plants uprooted on his farm by the syndicate from Gauteng. The owner currently has another outstanding cycad matter pending against him, originating from 2012 where the same modus operandi was used.

Excellent assistance in this matter had been received from SANParks (Addo), SAPS, DPP Offices in Grahamstown, Asset Forfeiture Unit and the provincial environmental affairs department. The Addo Honorary Rangers also raised over R100 000 to treat and replant the cycads, but it is unlikely that more than 20% will survive. It must be emphasised that this case is the result of various other cycad smuggling incidents which Eastern Cape DEDEAT has uncovered resulting in more than 30 arrests since May 2012 and 10 suspects imprisoned thus far.

Cycad theft is prevalent in the Eastern Cape and all the species which naturally occur in the Province are under severe pressure. One specific species, *E horridus* has been totally decimated in a municipal nature reserve close to Uitenhage and the surrounding areas of Kirkwood, Jansenville and Steytleville are regularly targeted by these syndicates. This is also the case with the species *E friderici-guillimi* found in the Queenstown and Cathcart areas where numerous adult plants are stolen regularly.

This province is considering stopping all transactions relating to the selling and donating of adult cycads in order to prevent the imminent extinction of numerous species in the wild, but

it is accepted that this will need to be explored at various levels. In the meantime the Green Scorpions of the Eastern Cape will be vigilant and have a zero tolerance attitude towards transgressors dealing in cycads. It is expected that more high level arrests will follow soon.



9.4 Other Species

S v De Villiers (George CAS 338/10/2014)	
Province	Western Cape
Court	George Magistrates Court
Charge	Sections 27(1)(b), 29(b), 29(e), 40 and 42(1)(a) of Nature Conservation Ordinance 19 of 1974.
Judgment/Sentence	Sentenced to R 25,000 or 5 years' imprisonment. 5 years imprisonment and R21,000 suspended for 5 years. Accused paid a fine of R4000. Firearms forfeited to State. Declared unfit to possess firearm for 5 years. Declared unfit to apply for any document in terms of the Ordinance related to hunting for three years.
Note:	Hunting of bushbuck outside hunting season, without the landowner's permission, using prohibited methods and possession of bushbuck carcase without documents.

S v Alwyn Smith and another (Vierfontein CAS 1/10/2014)	
Province	Free State
Court	Vierfontein Magistrates Court
Charge	Sections 5(1)c, 5(2)a, 5(2)b, 6, and 13(1)e of Ordinance 8 of 1969
Judgment/Sentence	Both accused found guilty and sentenced to R 10 000 or 5 years' imprisonment suspended for 4 years on each count add up to R 50 000 or 15 years suspended for 4 years
Note:	Hunting out of season, without a licence, without the written permission of the landowner, at night; as well as the unauthorized transport of one scrub hare , one steenbok , one duiker and one blesbok

S v Johan Fourie van Rooy (Bothaville CAS 73/5/2014)	
Province	Free State
Court	Bothaville
Charge	Section 2(3) of Ordinance 8 of 1969
Judgment/Sentence	One accused pleaded guilty and sentenced to R 6000 or 3 years' imprisonment suspended for 5 years]
Note:	Hunting of protected game (one sable antelope without permit)

S v Horn (Swartberg CAS 14/07/13)	
Province	Free State
Court	Swartberg
Charge	Section 57(1) of NEMBA, conducting a restricted activity and section 213B(1) laying of poison
Judgment/Sentence	The accused pleaded guilty. Sentenced to 2 years' imprisonment suspended for 5 years and the maximum fine of R 7500
Note:	Sheep farm manager poisoned vultures

S v A Aucamp	
Province	Eastern Cape
Court	
Charge	Section 32(1) of the Eastern Cape Nature and Environmental Conservation Ordinance
Judgment/Sentence	The accused pleaded guilty. Sentenced to 2 years' imprisonment suspended for 5 years and the maximum fine of R 7500
Note:	Poisoned dogs that were hunting his sheep and 45 vultures died as a result

S v Fani (70/569/2014)	
Province	Eastern Cape
Court	
Charge	Section 27(1)(b), 29(1), 40 of the Eastern Cape Nature and Environmental Conservation Ordinance and section 1 of the Trespass Act 6 of 1959.
Judgment/Sentence	The accused pleaded guilty. Sentenced to R10 000 or 6 months' imprisonment wholly suspended for 5 years.
Note:	Hunting of protected wild animals without a permit (one kudu); hunting by prohibited means (used 13 dogs); hunting without landowner's permission and trespassing.



9.5 Environmental Management Inspectors from DEA deployed at OR Tambo International Airport to combat Wildlife Crime



Picture: Lion bones inspected at OR Tambo International Airport

The Department of Environmental Affairs has taken another important step in the fight against wildlife crime and deployment of Green Scorpions at OR Tambo International Airport (ORTIA) will take place from 1 April 2015 to ensure compliance and to undertake enforcement action related to NEM:BA and its Regulations, which also relate to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Threatened or Protected Species (TOPS) Regulations and Regulations related to the import of Alien and Invasive Species.

A team of compliance officials will ensure that CITES export and re-export permits are endorsed after physical inspection of consignments and that CITES import permits are cancelled after use. They will also ensure that TOPS and Bioprospecting, Access and Benefit Sharing permit conditions are complied with as well as enforce any trade bans for commercial purposes relating to CITES listed species. A team of enforcement officials will make sure that non-compliances with NEMBA Regulations are met with enforcement action, through criminal investigations followed by prosecution and / or the issuing of enforcement notices and fines.

A team of compliance officials from the Directorate: Biosecurity will also ensure that the Alien and Invasive Species Regulations are being complied with. Officials will ensure that prohibited invasive species do not find their way into the country without being detected and are destroyed, where necessary. People who do not comply with the Alien and Invasive Species Regulations will either be prosecuted or issued with compliance notices and / or directives.

It is envisaged that EMIs will also be deployed at some of the other designated Ports of Entry across the country in due course and dependent on resources available.

These EMIs will work closely with other law enforcement agencies and departments at ORTIA, including the SAPS, Customs, the Department of Agriculture, Fisheries and Forestry, the Department of Health and the Department of Home Affairs.

EMIs will also ensure that people using other airports comply with the requirements in the NEMBA Regulations and spot checks will be conducted at these airports. Apart from all these activities involving international passengers, EMIs will also focus efforts on other key areas at ORTIA, such as the international mail center and freight areas.



Over the years government has received numerous complaints from the surrounding communities about the possible adverse health effects, with particular focus on the carcinogenic properties associated with emissions from fish processing plants. The sea fishery industry is also well known for difficulties in controlling offensive odours.

In response to the afore-mentioned complaints, a Human Health Risk Assessment was conducted. This assessment was initiated by DEA and conducted jointly by INFOTOX (Pty) Ltd, Airshed Planning Professionals (Pty) Ltd and C&M Consulting Engineers in 2011. The assessment concentrated on those compounds that are known to be emitted by the fish industry (i.e. trimethylamine, formaldehyde and hydrogen sulphide) and are also known to be toxic at certain concentration levels.

In respect of trimethylamine and formaldehyde, the associated health risks were found to be insignificant, whereas symptoms such as eye irritation, mild respiratory effects, headaches and nausea can be attributed to the release of hydrogen sulphide.

Based on the assessment report, Green Scorpions from DEA's Oceans & Coasts Compliance and Enforcement and Environmental Impact & Pollution Compliance and Enforcement directorates, Western Cape DEADP and the West Coast District Municipality, decided that a blitz should be conducted, focused on this industry.

Inspection:

On 2 July 2014, four fishing companies were inspected for compliance with environmental legislation. These companies included Foodcorp (Pty) Ltd, Westpoint Processors Pty (Ltd), Oceana Brands Limited and Oranjevis, all located along the coast of St Helena Bay in the Western Cape Province.

The non-compliances identified included:

- discharging of effluent into the sea without the necessary permits;
- non-compliance with conditions contained in permits, licences and/or authorisations;
- improper storage of large quantities of fish oil, coal and coal ash;
- lack of abatement equipment;
- storage of hazardous substances on unlined and unbunded areas;
- insufficient monitoring of air quality.

Notices of intention to issue administrative enforcement notices (i.e. pre-compliance notices and/or pre-directives) were issued to all four facilities based on the findings of the inspections. Facilities were provided with an opportunity to respond to the allegations contained therein. Upon receiving and reviewing all representations provided by the facilities, DEA noted that the following actions had been implemented:

- applications for the relevant authorisations and/ or permits had been submitted to the licensing authorities;

- hazardous waste material was now being taken to Visserhok Landfill Site;
- abatement equipment had been installed and air quality monitoring was being undertaken;
- further investigations on improvement of the plant had been undertaken;
- upgrades on coal storage areas had been implemented;
- fish oil was now being contained and stored appropriately.

Current status:

The authorities are currently satisfied with the progress made at the facilities. However, these facilities will continue to be closely monitored to ensure ongoing compliance with the legal requirements.

10.2 General Landfill Site Blitz

During March 2015, a General Landfill Site blitz was undertaken as a joint operation involving national and provincial EMIs and was co-ordinated through MINTECH Working Group IV. In total the following 22 landfill sites were inspected with 114 officials participating in the blitz.

KWAZULU-NATAL:

New England Road; Oatlands Landfill Site; Phongolo Local Municipality Landfill; Richmond Local Municipality Waste Disposal Site; Nordan Waste Disposal Facility (Mtubatuba) and Umtshezi Landfill Site (Estcourt)

NORTHERN CAPE

Deben General Landfill Site

FREE STATE

Welkom Landfill Site and Ladybrand General Landfill Site

MPUMALANGA

Tekwane West Central Waste Disposal Site; Sabie General Landfill Site and Graskop General Landfill Site

LIMPOPO

Vondeling Waste Disposal Site and Thabazimbi General Landfill

WESTERN CAPE

Gwaing Landfill site; Kannaland (Calitzdorp, Zoar and Ladismith) and Robberg Central Landfill Site

NORTH WEST

Lichtenberg General Landfill Site and Klerksdorp Landfill Site



EASTERN CAPE**Roundhill Landfill Site**

There is a high level of non-compliance across this sector, and the authorities employed various compliance and enforcement mechanisms, ranging from compliance promotion, monitoring of authorisations to enforcement (both criminal and administrative). Detailed site inspection reports were compiled for each of the sites that were inspected. Provincial authorities are responsible to ensure that the necessary action is taken to bring these sites into compliance and a report will be compiled in this regard.

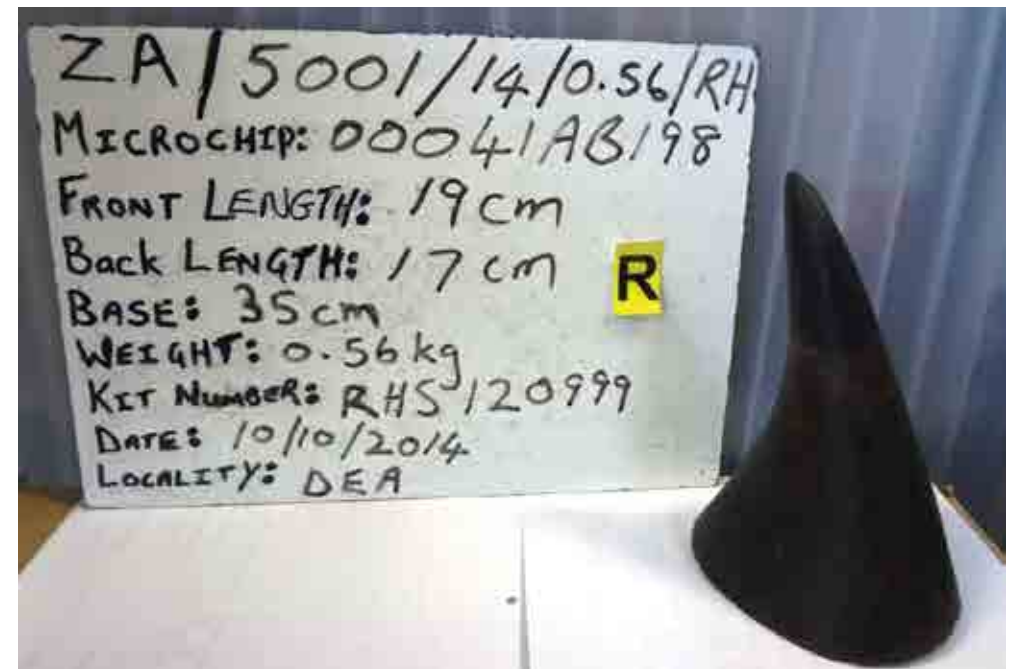
10.3 Sand Mining Blitz

The operation, which took place from the 18 to 22 August 2014, was the final operation focused on this sector which came at the end of a three year project where Working Group IV had prioritised this area of work. All provinces participated with the exception of North West. Operations within the Mpumalanga and Gauteng provinces were led by the Department of Mineral Resources. In total 26 unlawful sand mining operators were targeted across the country. Twenty criminal dockets were opened against unlawful operators. During the nation-wide operation sophisticated equipment was seized which was being used during the commission of the respective environmental offences. The estimated value of this confiscated equipment was between R30 - 50 million. A number of administrative enforcement notices were also issued in order to ensure the rehabilitation of the affected areas. With the commencement of the "One Environmental System" the Department of Mineral Resources assumed the lead responsibility in relation to these matters from December 2014.

10.4 Verification of Rhino Horn Stockpiles Continues**Sizing up the horns**

In response to a Parliamentary Portfolio Committee instruction and in accordance with the Norms and Standards for the Marking of Rhinoceros Horn, DEA in collaboration with Limpopo DEDET and North West DREAD, continued with the verification of private rhino horn stockpiles.

In terms of these Norms and Standards, each detached rhino horn must be measured, weighed, micro-chipped, marked with a ZA number and DNA sampled. This process is aimed at ensuring a uniform identification process to assist in keeping the national database properly updated.



Picture: Verifying a rhino horn

Over the reporting period, a total of 824 horns were verified at 53 facilities; a process that has proved to be both tedious and time-consuming. Notwithstanding the foregoing and sometimes extreme working conditions, the Green Scorpions are dedicated to ensuring that the task is performed in a meticulous manner.



Some of the challenges encountered included extreme environmental conditions, testing road surfaces and occasional hostile clients, with farm dogs the size of lions!

The project remains ongoing but good progress has been, and continues to be made.

10.5 Oceans and Coast Enforcement – Joint Efforts

10.5.1 Unlawful activities



Picture: Photograph showing illegal breaching of Verlorenvlei Estuary mouth

The illegal mechanical opening of the river mouth of the Verlorenvlei estuary in Elands Bay, West Coast was jointly investigated by the Green Scorpions from DEA's Oceans & Coasts Enforcement Directorate with the assistance of Fishery Control Officers from Department of Agriculture, Forestry and Fisheries. Two admission of guilt fines of R5000 each were issued by the prosecutor in Piekberg, for this illegal activity. A total amount of R10 000 was paid by the perpetrator.

10.5.2 Joint Operations: Off-Road Vehicle

During December 2014 various departments including: DEA, Department of Agriculture, Forestry and Fisheries, SAPS (Sea Borderline and Cluster), City of Cape Town - Marine Unit

Law Enforcement, City of Cape Town Nature Conservation, West Coast District Municipality, Matzikama Traffic Department and CapeNature participated in an Off Road Vehicle (ORV) blitz in the Cape. The main areas targeted by the joint operations were Mnandi and Monwabisi coastal area in the Peninsula, Western Cape and Olifants River Mouth, Strandfontein, Bamboos Baai and Gert du Toit se Baai. These operations took place from 5 to 8 December and 12 to 18 December 2014, respectively.



Picture: Photograph of the team involved in the Mnandi-Monwabisi Operation



Picture: Photograph officials who participated in the Olifants River Mouth and surrounding areas operation

Summary of operational outcomes

Vehicle check points

- 497 vehicles were stopped for awareness
- 1068 ORV brochures were distributed to holiday makers and local residents
- 270 fishing brochures were distributed

Enforcement interventions

- 9 fines were issued for fishing without a permit
- 3 fines issued for driving without driver's license
- 1 case docket opened for illegal gill nets
- 1 arrest made
- 3 gill nets were confiscated

Other activities

Four new sign boards for ORVs were installed in Monwabisi and Mnandi coastal areas; and three old sign boards damaged by fishermen were re-installed.

Driving in coastal areas within the Western Cape has been identified as an act of disregard for the law by users. Most of the tourists confessed that, although they are aware of such regulations, they will, at times, drive on the coastal area, especially if there are no visible sign boards.

One of the exercises the teams were engaged in was the re-installation of sign boards that have been pulled out by fishermen.



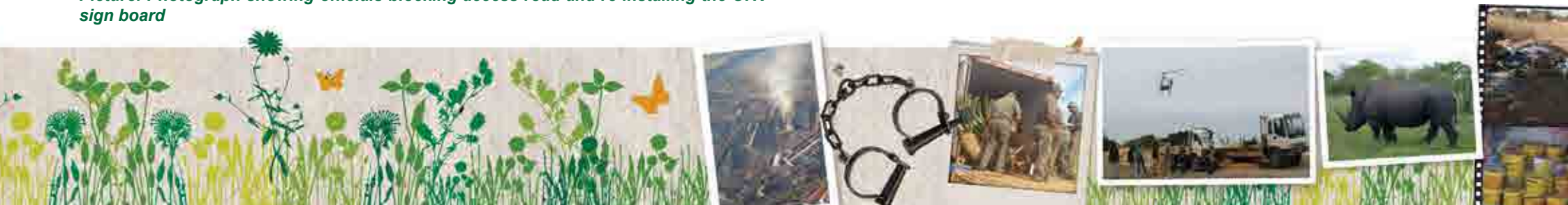
Picture: Photograph showing officials distributing ORV brochures to campers in the West Coast



Picture: Photographs of illegal use of ORVs. Transgressors were warned and the vehicles removed from a coastal area.



Picture: Photograph showing officials blocking access road and re-installing the ORV sign board



11. National Environmental Complaints and Emergency Incidents

11.1 Environmental Crimes and Incidents Hotline

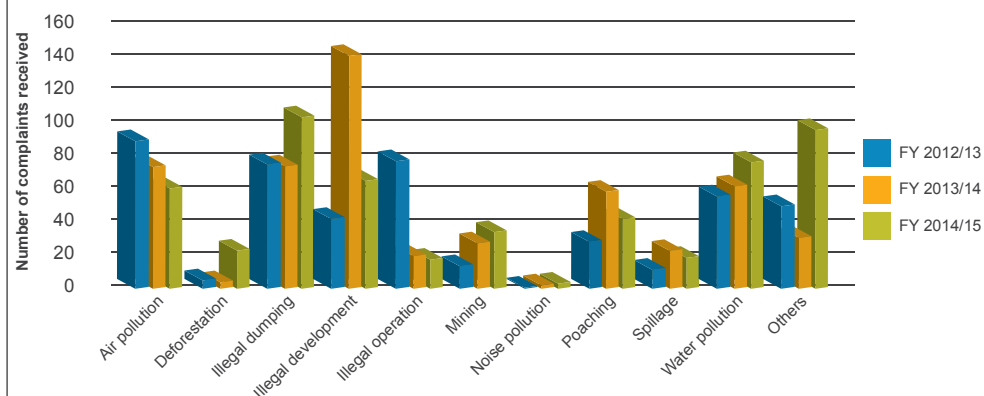
DEA continued to collect statistics on environmental complaints received from the Environmental Crimes and Incidents Hotline, from the Minister and Director-General's office, as well as direct and referred complaints/incidents from other organs of state and the public. The national hotline serves as the main entry point for complaints on environmental crimes and incidents but does not include complaints reported directly to provinces, local authorities or other EMI institutions. There has been an increase in the overall number of complaints reported to the national hotline from 536 in 2013/14 to 562 in the 2014/15 financial year. Reports of illegal dumping and deforestation have shown a significant increase with illegal development showing the highest decrease.

Nature of Complaint	Financial Year			Total
	2012-2013	2013-2014	2014-2015	
Air pollution	93	77	63	233
Deforestation	5	4	24	33
Illegal dumping	79	77	108	264
Illegal development	44	147	68	259
Illegal operation	80	20	18	118
Mining	14	28	35	77
Noise pollution	0	2	3	5
Poaching	30	61	44	135
Spillage	12	23	19	54
Water pollution	58	65	80	203
Others	52	32	100	184
Total	467	536	562	1565

Table 7: Number and classification of complaints



Trends of complaints reported from 2012/13-2014/15



Graph 8: Graphical representation on the nature of complaints received

Financial Year	INSTITUTION REFERRED TO					Total
	DEA	DWA	DMR	LOCAL GOVERNMENT	PROVINCES	
2012-2013	82	58	14	110	203	467
2013-2014	112	65	28	130	201	536
2014-2015	131	72	35	129	195	562
Total	325	195	77	369	599	1565

Table 8: Number of DEA referred complaints

11.2 Incidents as contemplated in Section 30 of NEMA

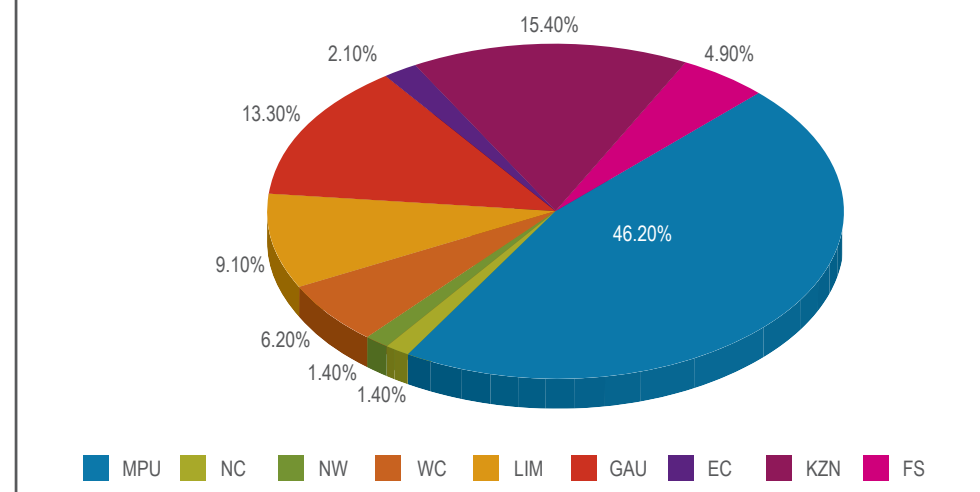
In December 2013, National Environmental Management Laws Second Amendment Act, Act No. 30 of 2013 amended section 30 of NEMA and introduced section 30A. Section 30 is titled “Control of Incidents” while section 30A deals with “Emergency Situations”.

Previously an ‘**emergency incident**’ was defined in section 30(1) as an “**unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment, whether immediate or delayed.**”

Currently an “**incident**” is defined as an “**unexpected, sudden and uncontrolled released of a hazardous substance, including from a major emission, fire or explosion, that causes, has caused or may cause significant harm to the environment, human life or property.**”

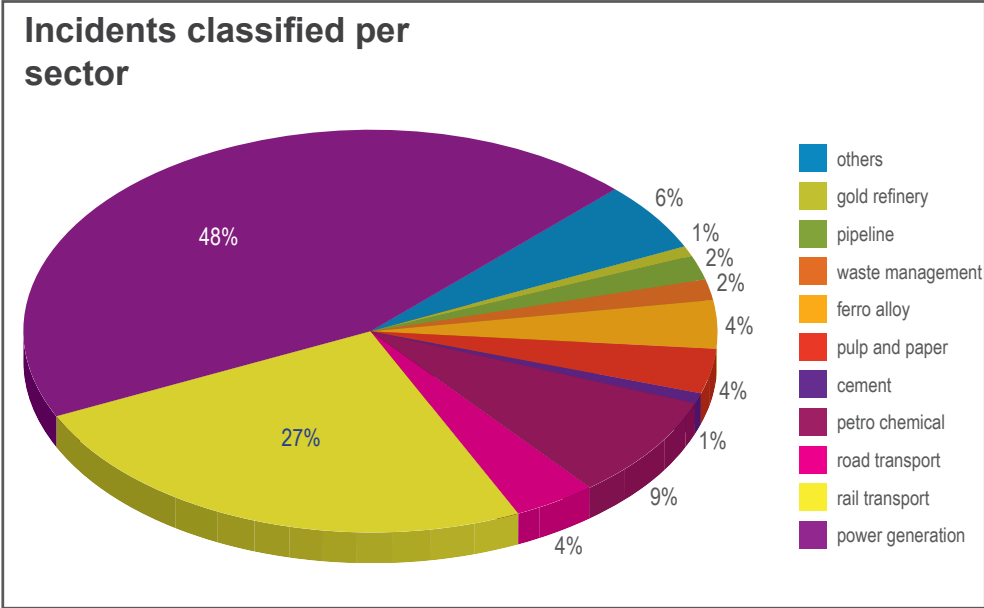
It should be noted that emphasis is now placed on hazardous substances posing a threat to human life or property. From the **236** incidents reported in this reporting period, 131 were DEA mandated, 64 were referred to other authorities and 41 were classified as non-section 30.

Incidents reported per province



Pie chart 4: Distribution of reported s30 incidents per province

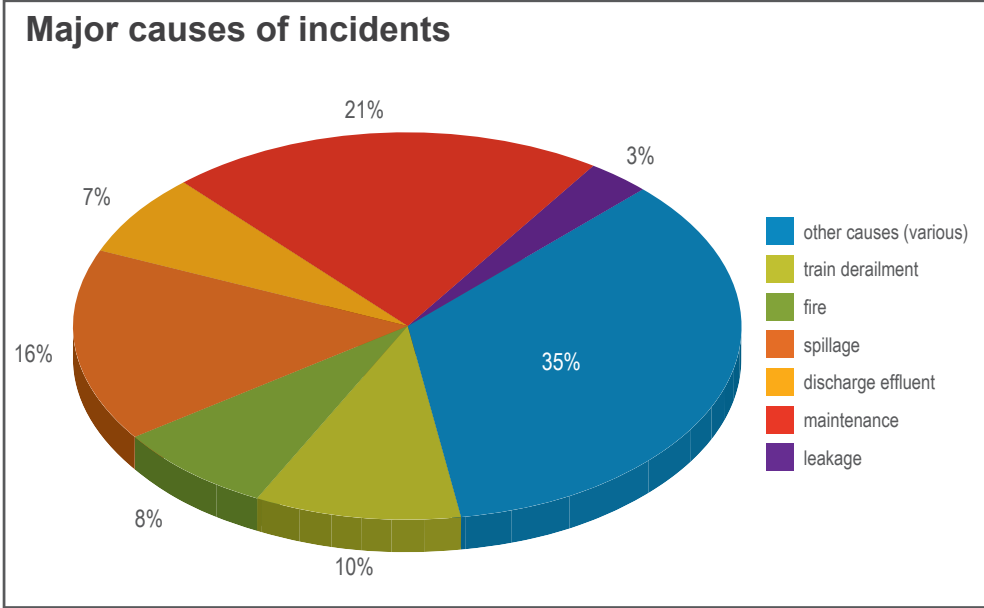




Pie Chart 5: No. of Section 30 incidents reported per industrial sector



Picture: Spillage of hazardous waste (sludge) on an unlined area at a refinery



Pie Chart 6: Major cause of section 30 incidents reported



Picture: An emergency incident area taped off

12. Environmental Compliance and Enforcement Capacity Building

The Environmental Management Inspectorate participates in an extensive capacity development programme that aims, not only to improve the knowledge and skills of officials within its own ranks, but also those of other key role-players in the environmental compliance and enforcement sector. Due to the multi-disciplinary nature of this function, the programme often sees collaboration amongst a number of different institutions, both in terms of delivery (for example, tertiary education institutions and the NPA) and attendance (for example, the SAPS, as well as members of the Border Control Operational Coordinating Committee).

12.1 EMI Basic/Bridging Training Programme

The 2014/2015 financial year saw a number of institutions present the basic and bridging training courses; including DEA, the University of Technology in collaboration with provincial environment, and, for the first time, Western Cape DEADP took the lead in presenting the 3 week basic training course to municipal officials (non-Environmental Health Practitioners) falling within their provincial jurisdiction.

12.1.1 Abridged EMI Training for Executive Management Officials

From the 6th to the 8th of August 2014, DEA presented an abridged EMI training course for the executive managers, including the Director-General, Heads of Departments, Chief Executive and Operating Officers, as well as Chief Directors.

The training was presented at the Premier OR Tambo Hotel in Kempton Park, Gauteng and was attended by 18 senior executive managers, representing 14 different EMI institutions – these included the DEA, Limpopo DEDET, North West DREAD, Eastern Cape DEDET, Western Cape DEADP, Gauteng DARD, Ezemvelo, Northern Cape DEANC, North West Parks, Mpumalanga DARDLEA, SANParks, CapeNature, Free State DEDTEA and Mpumalanga Parks.

Despite the limited time available, the topics covered by this 3 day session were vast, including an overview and interpretation of the national environmental compliance and enforcement statistics for 2013/14; the National Environmental Compliance and Enforcement Strategy and associated implementation; the Mandate, Function, Powers and Duties of an EMI; a brief overview of the environmental legislation including Specific Environmental Management Acts; compliance inspections; criminal investigations / enforcement; and an overview of current EMI capacity development initiatives.



Picture: Group photograph of the Executive Managers who attended the Abridged EMI Training Course, August 2014

The abridged EMI training course for the executive managers incorporated both high-level strategic issues, such as the critical importance of effective collaboration with key partners. External presenters included Magistrate Xhanti Zeka (Chairperson, Judicial Officers Association of SA: Gauteng), Senior State Advocate Dania Bruwer (National DPP), Mandisa Motha-Ngumla (Acting Head National Border Management Coordinating Committee), Brigadier Francois van Graan (SAPS: Legal Services) and Professor Michelle van der Bank, (University of Johannesburg).

In addition, aspects of administrative law enforcement were covered in light of the fact that many of the executives attendees from national and provincial environmental authorities, parks boards and statutory bodies would, after attendance of the course, be designated as Grade 1 EMIs, empowered to issue compliance notices in terms of section 31 L of NEMA.

The course was well received and resulted in a number of in-depth discussions covering each and every topic presented. The senior managers also requested that each presenter be thanked for their professionalism and conduct. One comment received best captures the course: *“The course was well structured with good presenters who are able to share their practical experiences and provide practical solutions to the current challenges”*. DEA would like to thank everyone involved for making this training intervention a success.



12.1.2 DEA Three Week EMI Basic Training

The DEA three week EMI Basic Training Course is the standard basic training option for officials from national, provincial and local spheres of government requiring designation as Grades 1, 2, 3 or 4 EMIs. The course was presented by DEA's Directorate EMI Capacity Development and Support in May and October during the 2014/2015 financial year. The EMI basic training course follows a set curriculum which involves a pre-contact session component that requires attendees to study the EMI basic training course material and complete a pre-course assignment, which accounts for 30% of the overall course mark and aims to ensure that attendees arrive at the contact session with some baseline knowledge.

This is followed by a three week contact session, which is designed to take attendees through a logical sequence of environmental compliance and enforcement topics, commencing with a legislative overview of NEMA and the SEMAs, followed by theoretical and practical sessions on inspection, administrative and criminal enforcement. The training session culminates in the compilation of a mock criminal docket and a simulated criminal trial based therein in which attendees are exposed to court role-players and procedures.

The first of the two courses was presented in Kirstenbosch Botanical Gardens, Cape Town in the Western Cape during the month of May 2014. In attendance were 63 prospective EMIs representing 11 different EMI institutions, these being: CapeNature, Western Cape DEADP, Eastern Cape Parks, Limpopo LEDET, North West DREAD, Eastern Cape DEAET, SANBI, North West Parks, Gert Sibande Municipality, Northern Cape DEANC and DEA..



Picture: Officials who attended the EMI Basic Training course presented in Cape Town, May 2014

The second Basic Training course for the financial year was presented at Salt Rock KwaZulu-Natal during the month of October 2014. This marked the seventh EMI basic training course presented by DEA with again 63 officials in attendance, representing an amazing 13 different

EMI institutions, these being, Northern Cape DEANC, SANParks, Free State DEDTEA, Gauteng DARD, KwaZulu-Natal DEDTEA and KZN municipal officials, Ezemvelo, Eastern Cape DEDET, DEA, North West DREAD and Limpopo DEDET.



Picture: Officials who attended the EMI Basic Training course presented in KwaZulu-Natal, October 2014

As always, the DEA EMI basic training course represents the combined efforts of a number of people, and Directorate EMI Capacity Development and Support wishes to thank all the dedicated and passionate internal and external presenters as well as the numerous role-players who assisted.

12.1.3 EMI Grade 4 Bridging Training for Officials within Working for Water (Alien and Invasive species)

An EMI Grade 4 bridging training course was also presented in the 2014/2015 financial year to 30 officials involved in DEA's Environmental Programmes Working for Water (WFW) initiative from 29 September to 3 October 2014. The purpose of this course was to allow for the designation of these officials as Grade 4 EMIs in order to undertake compliance monitoring inspections in terms of the AIS Regulations, with a specific focus on the eradication, control and management of alien and invasive plants. Due to the specific mandate in respect to which these officials would be designated; together with the fact that they would receive a Grade 4



Making history, the course was the first EMI related course to be presented at Environment House, the new six green star rated DEA head office. As with every EMI basic training course, there was a practical exercise which required attendees to perform an individual compliance inspection training exercise. The nearby Groenkloof Tshwane Municipal Nature Reserve presented itself as the perfect location for this practical exercise and DEA wishes to thank the City of Tshwane Municipality for the opportunity to make use of their reserve.

In addition to the DEA led EMI courses described in the preceding paragraphs, further EMI training took place at the initiative of several provincial environmental authorities; in this instance as a collaborative effort with a tertiary institution. The EMI EHP bridging training programme that commenced in 2012 gained momentum, with KwaZulu-Natal DEDTEA, in conjunction with the Mangosuthu University of Technology (MUT) presenting three training sessions during November 2013 and December 2014.

EHP's from Department of Health as well as Municipal EHP's were in attendance at these three courses, amounting to an overall total of 129 EHP's receiving the bridging training. The following quotation bears testament to the dedication both of the driving forces behind this partnership:



Picture: 57 EHP Officials who attended EMI-EHP Training in November 2014





Picture: 36 EHP Officials who attended EMI-EHP Training in September 2014

"MUT: The dedication and support from Dept. of Environmental Health: HOD Mr T Poswa, Senior Lecture Mr Moeti Kgware, Admin Staff, IT Department and cleaning staff for always ensuring the smooth running of registration and delivery of the course, we appreciate support given by DEA Capacity Development and Ms N. Coka for ensuring that we received training materials on time."

12.1.5 Western Cape DEADP Municipal (Non-EHP) Environmental Management Inspector Basic Training

Whilst most Capetonians and holiday makers were enjoying the beauty of the "Mother City" and soaking up the summer rays, some dedicated local government officials from the Western Cape, attended Western Cape DEADP's Local Government EMI basic training course during November/December 2014.

This was the first EMI Basic Training course presented by a provincial EMI Department to municipal environmental officials (non-Environmental Health Practitioners). The course was attended by a total of 26 local government officials and drew on a wide range of presenters from the Western Cape DEADP, DEA, the City of Cape Town Municipality (COCT), SANParks and CapeNature. The prospective municipal EMIs represented 13 different municipalities,

namely, the COCT (11), Stellenbosch (1), West Coast District (1), Overberg District (2), Saldanah Bay (1), Drakenstein (2), Laingsburg (1), Witzenberg (1), Swartland (2), Langeberg (1), Beaufort West (1), Oudtshoorn (1) and Knysna (1). The attendees included a mix of both senior and junior officials.



Picture: Officials who attended the WC Local Government EMI Basic Training course presented in Cape Town, Nov-Dec 2014

The course was presented at the Biodiversity Centre in the popular Green Point Urban Park which lies adjacent to the Cape Town Stadium. The course programme replicated the standard three week DEA EMI basic training course with the exception that it was to be presented to Western Cape municipal officials only and the content was thus adapted accordingly. This pilot provincially-led course was delivered in an effort to deal with the immediate backlog of municipal officials who required EMI designation; however, future municipal officials would be directed to standard national EMI Basic Training Programme.

During the course, officials were afforded the opportunity to interact with numerous experienced EMIs from the green, blue and brown sectors, with topics ranging from a legislative overview of the NEMA and SEMAs to hands on practical experience relating to compliance and enforcement inspection and investigation procedures. As with most EMI basic training courses, the talking point of the course was definitely the torturous practical sessions as attendees were required to endure the wrath of very rude, obnoxious and sarcastic role-playing "criminals" and "security guards".

Achmad Bassier from Western Cape DEADP had the following to say in relation to the training. *“To the dedicated and enthusiastic team of the Department’s [Western Cape DEADP] Directorate: Environmental Compliance and Enforcement, the presenters and officials of National DEA, CapeNature, SANParks and the City, a sincere thank you for your time and effort in making the course a success. A special thank you to the City for arranging the venue and for allowing us the opportunity to utilise their facilities for the practical sessions. To the Urban Park class, may this be the catalyst in bolstering the EMI network at local government level.”*

12.2 EMI Specialised Training

In addition to the EMI basic training, three specialised training courses were presented during the financial year. In contrast to the EMI basic and bridging training described above, the EMI specialised training programme is aimed at officials that have already been designated as EMIs. While the basic/bridging training course seeks to deliver a wide range of core skills at a basic level, the specialised training programme focusses on the delivery of more in depth or advanced knowledge or skills.

12.2.1 Compliance and Control for Law Enforcement Officers

DEA again hosted a “Compliance and Control course for Law Enforcement Officials” for EMIs at the South African National Biodiversity Institute’s National Botanical Gardens conference venue situated in Pretoria, Gauteng. The course was attended by EMIs from across South Africa representing 13 different EMI institutions, including Western Cape DEADP, Eastern Cape DEDET, Limpopo DEDET, North West Parks, North West DREAD, Northern Cape DEANC, KwaZulu-Natal DEDTEA, Ezemvelo, Eastern Cape Parks, DEA, Gauteng DARD and Mpumalanga DARDLEA. The 5 day course was presented by Don Gold from the Minimum Force Training Institute and ran from 23 to 27 June 2014, with a group of 30 EMIs in attendance. The training is structured so as to provide attendees with theoretical, as well as practical lessons on how to deal with conflict and the use, where necessary, of minimum force.

The theoretical aspect of the course focused on conflict management in the form of “Verbal Judo” which is aimed at increasing officer safety and enhancing professionalism, while at the same time decreasing the potential for citizen complaints, vicarious liability, stress and cynicism.



Picture: Officials who attended the EMI Basic Training course presented in KwaZulu-Natal, October 2014

The practical part of the course focused on the use of minimum force during arrests and searches, as well as ensuring the EMIs are trained in the proper use of issued equipment such as speed handcuffs, ASP tactical batons and oleoresin capsicum (pepper spray).

The training concluded with a test on the week’s lessons, as well as a practical session that involved being exposed to pepper spray. This served to ensure that officials understood the effects of the spray, as well as proper decontamination procedures in the event that they become exposed to the product during a confrontation.

The course facilitator commended the group by highlighting the involvement and dedication shown by the EMIs during the week, and said that he was honoured to have spent this time with them.

12.2.2 EMI Biodiversity Crime Scene Management Training Course

As part of the Global Environment Facility (GEF)-UNEP Project: *Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa (target: rhinoceros)*, the first of four EMI Biodiversity Crime Scene Management Training courses was presented from 3 to 7 November 2014 in Skukuza Kruger National Park.

In support of the GEF project principles, DEA aimed to use the course as a means of strengthening the relationship between the Inspectorate and the SAPS, in specific, members of the Local Criminal Record Centre (LCRC). This objective proved to be successful as officials shared their respective skills and knowledge with one other for the duration of the course.



The training strives to provide investigators with an intense hands-on experience that exposes attendees to theoretical and practical aspects on the proper investigation and management of rhino poaching crime scenes. Attendees were afforded the unique opportunity to practice their new found skills on recently processed carcasses of poached rhinos. Although this type of first-hand experience was ideal from a practical learning perspective, it required the availability of recently poached rhino and proved to be a double-edged sword for many attendees, who, although they found it an emotionally draining exercise, also found renewed motivation in their efforts to battle rhino poaching.



Picture: Officials during a practical session at the GEF funded EMI Biodiversity Crime Scene Management training course

The course was attended by 32 officials, 22 from the SAPS LCRC and 10 EMIs from more remote SANParks reserves. The attendees from SAPS LCRC came from Limpopo, North West, Mpumalanga, Free State and KwaZulu-Natal, and the EMIs from, Marakele, Mokala, Mapungupwe, Mountain Zebra, Karoo and Addo National Parks.

The course covered in principle three main topics:

- General crime scene processing theory in relation to the Criminal Procedure Act
- Proper collection and submission of Rhino DNA collected from a crime scene.
- Proper collection of flora and fauna exhibits in support of the DNA sequencing (Barcode of Wildlife) project.



Picture: Officials who attended the EMI Basic Training course presented in KwaZulu-Natal, October 2014

As with many of the EMI Specialised Training Courses, the success of these types of interventions are dependent on the dedication, knowledge and passion of subject matter experts that are able to share their valuable guidance, experience and information. The course lecturers included : Dr. Cindy Harper (Veterinary Genetics Laboratory – University of Pretoria), Senior State Advocate Dania Bruwer (National DPP Office), Colonel Gerhard Vermeulen (SAPS Forensic Science Laboratory), Professor Michelle van der Bank (University of Johannesburg ACDB Molecular Systematic Laboratory) (Supported by Dr. Olivier Maurin and Ronny Kabongo) as well as the expert EMI crime scene coordinators, Mario Scholtz (SANParks ECI), Frikkie Roussow (SANParks ECI), Werner Boing (Free State DEDTEA), Pieter van Niekerk (Northern Cape DEANC) and Juan de Beer (Mpumalanga Parks).

The attendees displayed a high level of professionalism and dedication; never did anyone complain about the daily 6am start, nor did they whimper about the daily 6pm finish. We're aware that the road ahead is a hard and treacherous one, but with the passion shown during the week, let this be known... We will win this War!

12.2.3 EMI (Port of Entry) OR Tambo Operations Training

In support of the deployment of DEA EMIs at OR Tambo International Airport, a training course was presented from 9 to 11 March 2015 in Kempton Park to expose the national EMIs to the different role-players and their respective legislative mandates, policies, procedures and operations at the airport (Port of Entry). It also aimed to develop an understanding of

how the duties of the EMIs would best be streamlined to support the principle of cooperative governance that is necessary to operate effectively in this multi-stakeholder environment, without compromising sectoral objectives and responsibilities.



Picture: Officials who attended the OR Tambo operations training, 2014

DEA wishes to extend a special thank you to the many external presenters who took time to meet with and raise the awareness of the EMIs during the training course. The fact that a total of 14 external presenters were packed into the three day programme, shows the level of networking that this required to operate effectively in this type of work environment. These include: Nkanyiso Khanyi (BCOCC Port Coordinator OR Tambo), Tau Thekiso (ACSA), Jabulani Mhlanga and Shonisani Nematswerani (DAFF, Limba Khayaletu – DAFF Veterinary Services Quarantine), Heinrich de Vos (Department of Home Affairs Immigration, Ockert Jacobs – Department of Health Port Health), Sibongile Dhlamini (Head of Customs (ORTIA / Lanseria / Airforce Base Waterkloof / Pretoria), Zimkhitha Nkata (Team Commander Mail Centre, Cecil Kordom (Team Commander Cargo), Wanda Kapp (Operations Manager Customs Operations) Ernest Lynes (Compliance Manager Customs Operations), Senior State Advocate Marile van Heerden (DPP South Gauteng), Talifhani Tshinavha – (SARS NBMCC).

12.2.4 Barcode of Wildlife Project Voucher Specimen Sample Taking Training

In further support of the Barcode of Wildlife DNA project, which was initiated during 2013, another collaborative training course on “Voucher Specimen Sample Taking” was compiled and presented to scientists and other technical specialists associated with the project during October of 2014.

The course again focused on the proper collection and management of samples in accordance with the proper chain of custody principles. The collection and analysis of samples will, in essence, form the database/identification information resource from which positive identification of a species will be provided to court. Members from different institutions received training, including, KZN Sharks Board, Veterinarians from the National Zoological Gardens, SANBI, South African Institute for Aquatic Biodiversity as well as members from the African Centre for DNA Barcoding.

Topics covered during this part of the course were:

- Understanding the terminology used in the Standard Operating Procedure;
- Legal principles relevant to Chain of Evidence;
- Sampling photography in support of the Chain of Evidence;
- Practical training in support of Chain of Evidence;
- An individual assessment on proper sampling against Chain of Evidence.



Picture: Some of the attendees during a practical session on proper sample taking



12.3 Prosecutors' workshops

The relationship between DEA (on behalf of the Inspectorate) and Justice College entered its 9th year of collaboration in the 2014/15 financial year. This resulted in a workshop titled "Prosecuting Environmental Crime" being presented to prosecutors. The initiative focused on providing prosecutors with an overview on all relevant environmental legislation, as well as establishing a platform for EMIs to highlight practical challenges experienced in the enforcement of environmental legislation.

12.3.1 Gauteng Prosecutors Course

The prosecutor training course titled "Prosecuting Environmental Crime" was presented during November 2014 in Pretoria, Gauteng. The workshop was attended by 12 prosecutors from Gauteng, Mpumalanga, Free State, Limpopo and North West.

The course was well received with an interactive group that resulted in extensive discussions amongst prosecutors and presenters alike. A range of presenters were involved in making a success of the course which included: Andrew Lowry, Mark Jardine, Dr Mpho Tshitangoni, Frances Craigie, Radia Razak, Grant Walters, Avhantodi Munya, Mzo Dlulane, Mpho Tjiane and Sibusisiwe Hlela (DEA), Sedi Mogorosi and Mncedisi Eric Mbhele (Gauteng DARD), Senior State Advocate Dania Bruwer (NDPP), Juan de Beer (Mpumalanga Parks), Professor van der Bank (UJ), Carl Nortier (SANParks) together with Col Johan Jooste (SAPS DPCI).



Picture: Officials who attended the Prosecutor Training in Pretoria

13. Stakeholder Engagement

13.1 INTERPOL

13.1.1 INTERPOL National Central Bureau Pretoria, Interdepartmental Environmental Crime Forum

On the 4th and 5th of June 2014 various government departments were brought together at the Skukuza Conference facility at the Kruger National Park for the first INTERPOL National Central Bureau (NCB) Pretoria, Interdepartmental Environmental Crime Forum.

The purpose of the meeting was to provide officials from government entities with a better understanding of the role and functions of DEA; as well as to establish better working relationships between the different entities; and properly understand the role that INTERPOL plays in the fight against environmental crime; with a focus on wildlife crime including rhino poaching. More specifically, the programme included:

- Presentations on setting the South African scene and highlighting opportunities and challenges with a focus on the international fight against environmental crime;
- a presentation on INTERPOL's role and support; including a consideration of the progress in respect of key resolutions adopted during the November 2013 INTERPOL events; and
- focused discussions on strengthening inter-agency cooperation and collaboration, specific roles and responsibilities, sharing and analysing intelligence, as well as capacity building opportunities.

The meeting was well attended by those involved in the investigation of transboundary criminal activity, including officials from DEA (also representing the EMI), SARS CUSTOMS, the SAPS (Hawks / DPCI), the Department of Agriculture Forestry and Fisheries (Fishery Control Officers), SANParks, members from the INTERPOL NCB office in Pretoria as well as representatives from INTERPOL Environmental Security Sub-Directorate in Lyon, France.





Picture: Officials who attended the 1ST INTERPOL NCB Pretoria Interdepartmental Environmental Crime Forum, June 2014

With the focus on INTERPOL and its role in the fight against environmental crime, international attendees included David Higgins (Head of INTERPOL's Environmental Security Sub-Directorate – Lyon, France), Deon Burger (INTERPOL's Environmental Crime Programme – Lyon, France) as well as Captain Jacques Meyer from the Pretoria INTERPOL NCB office.

On the final day of the meeting and empowered with the knowledge gained, attendees drafted a detailed action plan that focussed on six key actions detailing responsibilities, timeframes and progress monitoring.

INTERPOL representatives were afforded the opportunity to be exposed to the local environmental surroundings. This took the form of a beautiful park setting, a night drive; and a, not so pleasant, visit to a processed rhino crime scene.

Mr. David Higgins had the following to say: *"Environment, biodiversity and natural resource security is critical to our very survival and the only way for us to ensure we maintain it is if we work together. A national meeting of this kind is vital for our government agencies to seek out new opportunities in tackling environmental crimes, crimes that range from rhino poaching to unlawful landfill sites. South Africa is a true champion in the region and INTERPOL looks forward to working more closely with you in our shared effort to maintain the rule of law."*

13.1.2 INTERPOL Environmental Compliance and Enforcement Committee Advisory Board

The Chief Director: Enforcement at DEA, Ms Frances Craigie, was elected to the Advisory Board of the INTERPOL Environmental Compliance and Enforcement Committee (ECEC) for a two year term. The strategic role of the Advisory Board is to create a better global environment by sharing best practice with other environmental regulators on environmental compliance and enforcement and to reduce environmental crime through active sharing of intelligence and enhancing the capacity of others to help combat crime.

The priorities for the Board for 2014/15 were as follows:

- advise on global intelligence led enforcement;
- help to build a vibrant international network;
- oversee and harmonise the work of the crime working groups;
- advise INTERPOL on preparation for global event in 2015;
- focus on guiding the strategic planning/strategic direction of Interpol Environmental Securing Sub-Directorate in Lyon.

In addition, a number of officials from South Africa participate in the Wildlife, Pollution and Fisheries Crime Working Groups of INTERPOL. The INTERPOL Crime Working Groups bring together specialised criminal investigators from around the world to work on project-based activities on an international level. DEA coordinates the participation of EMI institutions in all relevant INTERPOL operations relating to wildlife crime and has successfully participated in various operations.





Picture: Members of the Advisory Board of INTERPOL's Environmental Compliance and Enforcement Committee (2013 to 2015) Top From Left: David Jordan (United Kingdom, Chair of board), Anna Tombs (assistant to Chair), Marie Claire Henry, Sheldon Jordan (Chair of Wildlife Crime Working Group), Bottom from Left: Gord Owen (Canada), Rui Moura (Portugal), Maria Kotsoyova (INTERPOL ENS), Frances Craigie (South Africa), Roel Willekens (Netherlands) and Lawrence Anukam (Nigeria)

13.2 United States supports South African Anti-Wildlife Trafficking Efforts

High technology anti-rhino poaching equipment donated by the U.S. Bureau of International Narcotics and Law Enforcement Affairs found a new home when it was recently handed over to the Free State DEDTEA at the Maria Moroka Nature Reserve. This donation followed a pledge made by President Barack Obama, when he visited South Africa last year, to assist in the fight against wildlife trafficking.

The equipment, valued at R286 000, will be shared amongst five state owned reserves within the Free State province. This equipment comprised a trailer, GPS, binoculars, digital cameras, headlamps, night vigil vernacular and Camelbak backpacks. The trailer will be used for the transportation of forensic equipment to crime scenes, ensuring that rangers and EMLs have the tools they need properly to collect evidence.



Picture: Officials representing the Free State provincial department that received equipment during the handing over ceremony

In his 2014/15 budget speech, the MEC for Free State DEDTEA, Mosebenzi Zwane said, "We will intensify our efforts to stop the illegal trade in fauna and flora as well as rhino poaching, compliance monitoring will continue in various industries. More enforcement actions will be undertaken this financial year".

The Free State DEDTEA has joined forces with the private sector and the SAPS to fight against rhino poaching. Seventeen roadblocks with police have been conducted and two cases of rhino poaching are in court. Eight hundred DNA samples have been collected, including those in private hands to assist with tracking during roadblocks.

Wildlife Protection Solution Field Specialist, Brendon Schmickl, said "Free State Province has mercifully not yet suffered the onslaught that has hit other parts of the country. This shows how Free State is committed to fight against rhino poaching. Through this donation, it will be easy for the rhino guards to do their jobs".

Jacob Moloi, field ranger from Willem Pretorius Nature Reserve, said, *“Working as a rhino guard is challenging and dangerous. With this equipment, it will be easy to do our jobs. We complement the department and US Embassy for the job well done in intensifying the fight against rhino poaching in the Free State Province”*.

In closing the handover ceremony, Mr Werner Boing thanked the US Embassy for their generous donation which will go a long way to assist in the fight against this evil. He indicated that the Free State will now be a much safer place for rhinos.

13.3 Border Enforcement Awareness Raising Campaign (Illicit Trade in Endangered Species)

Recognising the importance of working together with other government entities and in furtherance of the 2014/2015 MINTECH Working Group IV workplan, an awareness raising programme was rolled out at South Africa's ports of entry. The programme raises awareness on the illicit trade in endangered species amongst border enforcement officials from various government entities.

The initiative was sparked by increasing requests from these border enforcement officials who wished to be empowered with the knowledge of applicable biodiversity related environmental legislation to enable more effective detection of related non-compliance. The project is aimed at enabling these officials to assist in the fight against the illicit trade in endangered species by detecting contraventions of biodiversity legislation while performing their daily functions at the ports and along the border line.

The project implements a coordinated and systematic approach in terms of which DEA and the provincial departments collaborate to roll out an awareness-raising programme within the nine provinces. The project does not strive to train border enforcement officials in proper management and operations at ports of entry and on the borderline, instead, it seeks to complement their existing skills by making them aware of the illicit international trade in endangered species. The project's aim is ultimately to reach each and every border enforcement official, and, in so doing increase the detection of wildlife related criminal activities for further investigation.

The project has been implemented in a two-stage manner. It commenced with an overview of the full curriculum presented by officials from DEA, accompanied by members of the National Border Management Coordination Centre (NBMCC), to each respective provincial Border Control Operational Coordinating Committee (BCOCC). The second stage had not yet commenced in this reporting period but entails training to operational border management officials at the actual ports.

During this reporting period, eight of the nine provincial BCOCCs received the initial briefing, which paves the way for provincial EMI nodal points to proceed with stage 2 at each and every border in the next reporting period. These provincial BCOCC's are: Western Cape, Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West and Free State comprising a total of 114 senior officials (leaving only Gauteng which will be attended to the during 2015/16 financial year).



Picture: Members of the SANDF who attended one of the awareness raising sessions in the Free State

In the Free State, phase two of this project did begin and saw “the ball” not only rolling, but kicked far down the field, with presentations having been provided to four groups from the South African National Defence Force (SANDF) (Ladybrand and Bloemfontein) as well as one group from the Maseru Bridge SARS Customs Detector Dog Unit (DDU) reaching a total of 843 individuals thus far and still going strong. The SANDF is one of the many partners within the BCOCC, specifically responsible for patrolling the border line between ports. As the Inspectorate we will be waiting with bated breath for the return on investment on this awareness-raising campaign from environmental cases detected by these members.

This project will continue as part of the MINTECH WGIV work plan for 2015-16.



14. What is ahead for 2015-16?

14.1 SANParks Kruger National Park Grade 5 EMI (Field Ranger) Training

DEA was approached by the SANParks to assist them with the training of 480 field rangers stationed within the Kruger National Park which will take place in the 2015/16 financial year.

The overall objective is to train 480 SANParks Kruger National Park field rangers on their mandate, powers, functions and mandate as Grade 5 EMIs. In addition, this training intervention seeks to transfer adequate skills required for the rangers to properly carry out their compliance and enforcement functions in a manner that is legally defensible and procedurally effective.

The South African Wildlife College has been appointed to deliver the EMI Grade 5 Basic Training course according to a curriculum that has been agreed with DEA. The training programme is set to begin in June of 2015.

14.2 The Global Environmental Facility (GEF) Project

Focused work to address the wildlife crime priority, rhino poaching and illegal trafficking in rhino horn, will continue across all of the EMI institutions in 2015-16 with the following activities have been scheduled in furtherance of the GEF-UNEP Rhino Program titled, *“Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa (Target: Rhinoceros)”* for the 2015/16 reporting period:

- Procurement and handing over of four Biodiversity Mobile Crime Scene Management Units with associated specialised equipment in support of the fight against Rhino Poaching.
- Biodiversity crime conferences to be held for respective judicial officers and prosecutors. The first conference for judicial officers will take place during August 2015 followed by the prosecutor conference scheduled for November 2015.
- Support towards the Veterinary Genetics Laboratory (VGL) in relation to rhino DNA analysis as well as to the SAPS with the development of a Forensic Environmental Science Laboratory.

14.3 Environmental Impact and Pollution

The Inspectorate will undertake an intricate prioritisation exercise in terms of which facilities will be prioritised for targeted compliance and enforcement interventions. The aim of this exercise is to ensure that resources are deployed in areas most in need of attention.

Certain areas already identified for interruption or blitz activities are the Vaal and Highveld Airshed priority areas. The main aim of the joint blitz planned in this regard is to ascertain whether or not facilities are in compliance with the minimum emissions standards.

14.4 Biodiversity Compliance and Enforcement

The units within DEA responsible for biodiversity compliance and enforcement will be operating at full capacity after the filling of newly created posts during this reporting period. The plans for 2015/2016 include, among others, co-ordinated national and international compliance and enforcement operations with the focus on the ports of entry and exit and contraventions of the TOPS Regulations, the CITES Regulations, Bio-prospecting, Access and Benefit Sharing Regulations and the Alien and Invasive Species Regulations. In relation to listed invasive species, the DEA, together with SANParks and the City of Cape Town, will be targeting areas around the Table Mountain National Park following the raging wild fires that swept through this area during March 2015. The area has been identified as one of the priorities for proactive compliance promotion, compliance monitoring and enforcement action during the 2015/2016 financial year. It is well known that listed invasive plants fuel such wild fires, and thus urgent action is required to prevent future wild fires, or insofar as prevention is not possible, to mitigate the impact that these fires would have by clearing as much of this invasive vegetation from the area as possible.

14.5 Oceans and Coast – Operation Phakisa

Initiative 5 of Operation Phakisa focuses on an Enhanced and Coordinated Compliance and Enforcement Programme. The 2014-15 financial year will see the initiation of the Pilot Project in the coastal area from the border between South Africa and Namibia to Port Elizabeth. This will aim to co-ordinate the implementation of current protection programmes and bring together all the relevant government entities to ensure more effective collaboration. Lessons learnt from this pilot phase will inform further work required under this programme.



14.6 Implementation of the Compliance and Enforcement Strategy for the Environmental Management Inspectorate (NECES)

The two year project which took a critical look at the work of the Green Scorpions resulted in the approval of a Strategy in December 2014 to guide the work of the Inspectorate for the next five years. The objectives set out in this Strategy (NECES) are informed by the following guiding principles: –

- All objectives must aim to enhance the impact of the EMI network and to extend its reach;
- Objectives must contribute to a strategy of deterrence;
- Compliance by those that are likely to comply voluntarily should be encouraged and facilitated;
- Compliance by all regulated sectors needs to be monitored and non-compliances detected;
- Where non-compliance is detected, offenders should be brought back into compliance as quickly and efficiently as possible;
- Compliance and enforcement activities should contribute to sustainable development and must result in environmental damage being remedied;
- EMI activities need to be undertaken on the basis of a rational approach that is applied consistently across the EMI institutions.

The implementation of the Strategy will begin in the 2015/16 financial year, with a specific focus on the Year 1 targets. This short to medium term Strategy is about taking the work of the EMI network to the next level and sets out the means for enhancing the effectiveness and reach of the EMI network.



Department of Environmental Affairs

Environment House
473 Steve Biko
Arcadia
Pretoria, 0083
South Africa

DEA call centre:

+27 86 111 2468

Report Crimes against the Environment

24-Hour Hotline 0800 205 005
Or EMAIL: environment@tip-offs.com



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