



National Environmental Compliance and Enforcement Report ■ 2014-15

Celebrating 10 years



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



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Celebrating 10 years





DEPARTMENT OF HEALTH & SOCIAL DEVELOPMENT



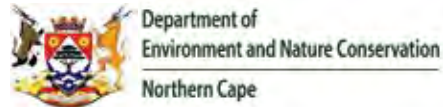
agriculture, rural development, land & environmental affairs



department of economic, small business development, tourism and environmental affairs



PROVINCE OF KHAZULU-NATAL



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.



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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 NECER 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 DEDETA | 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: <ul style="list-style-type: none"> • 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 Steelport 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 |

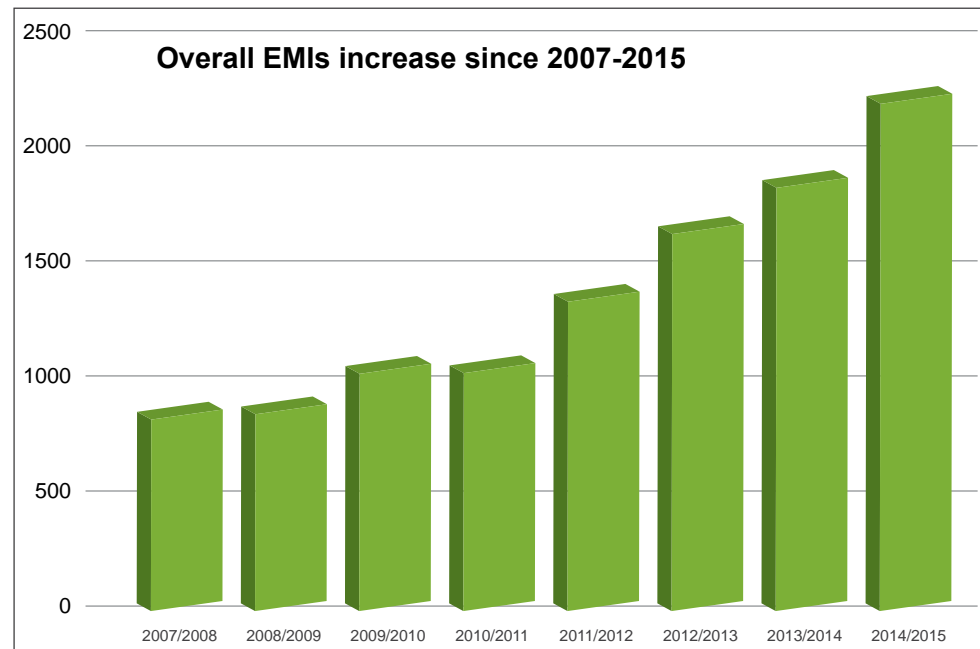


3. Environmental Management Inspectors

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 |

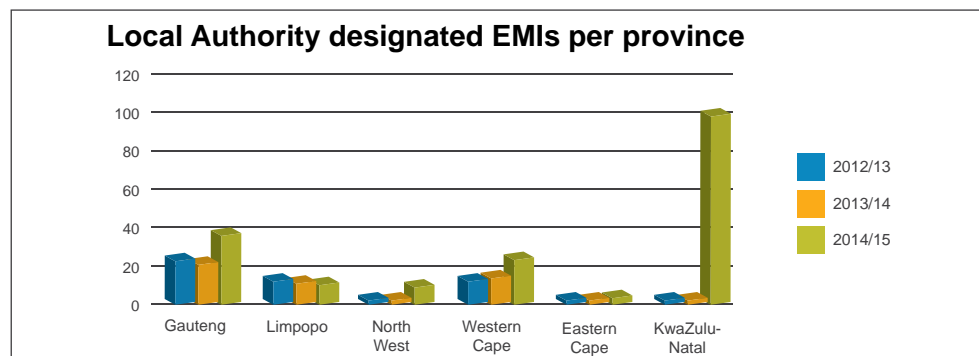


3.2.1 Local Authority Environmental Management Inspectors

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 |



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.

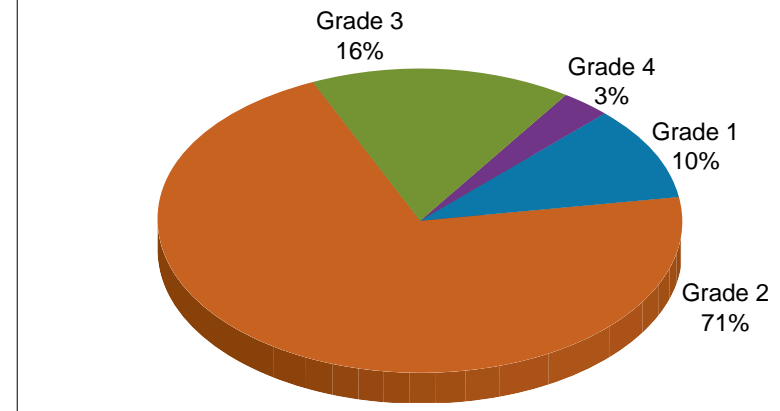


Picture: Newly designated Gauteng local authority EMIs proudly pause for a photo at a ceremony held at Turfontein, Johannesburg in November 2013



| 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

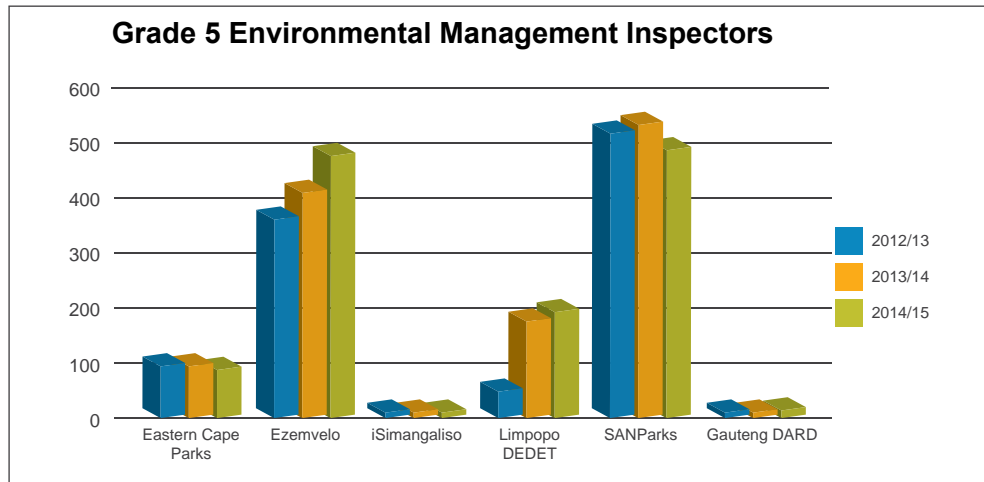
3.2.3 Grade 5 Environmental Management Inspectors

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.

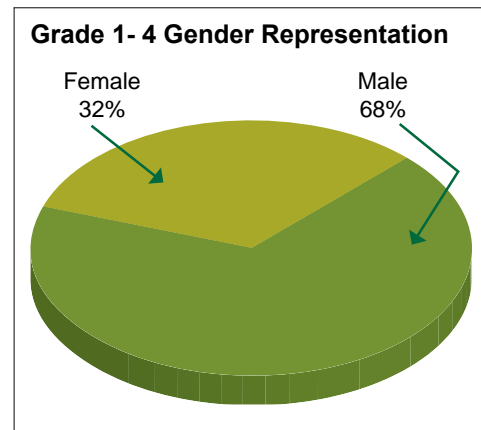
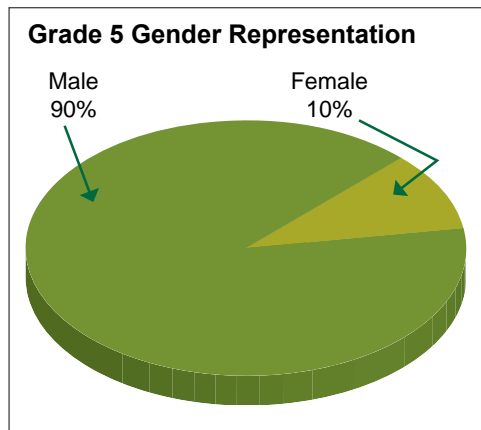
| Institution | 2012-2013 | 2013-2014 | 2014-2015 |
|--------------------|-------------|-------------|-------------|
| Eastern Cape Parks | 97 | 97 | 91 |
| Ezemvelo | 371 | 423 | 491 |
| Isimangaliso | 2 | 2 | 2 |
| Limpopo DEDET | 51 | 181 | 198 |
| SANParks | 534 | 549 | 502 |
| Gauteng DARD | 0 |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



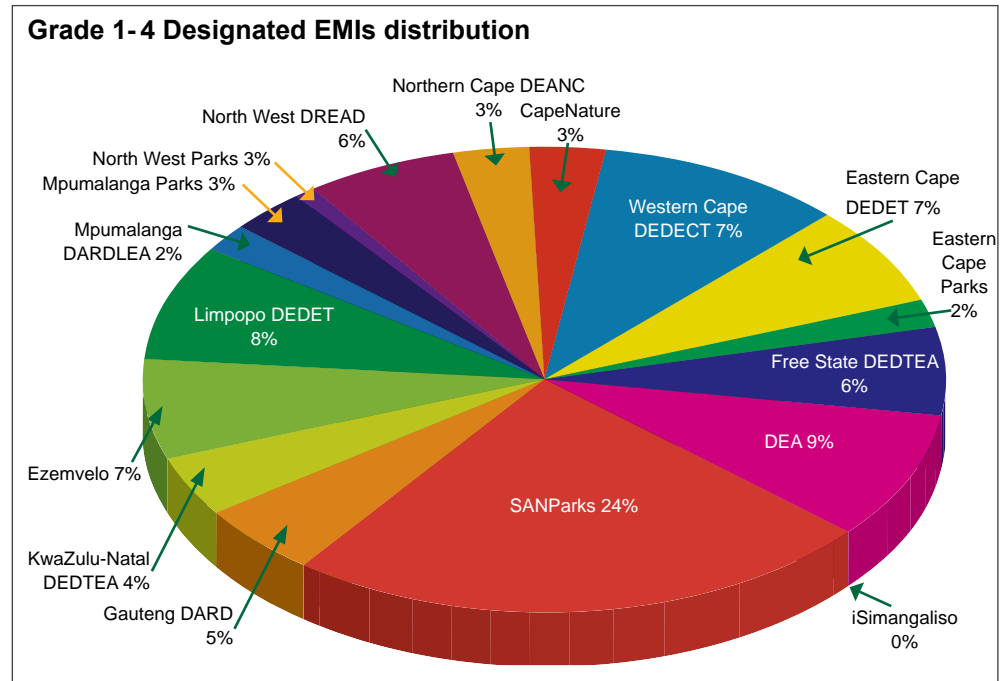


Graph 3: Number of Grade 5 EMIs (field rangers) per institution

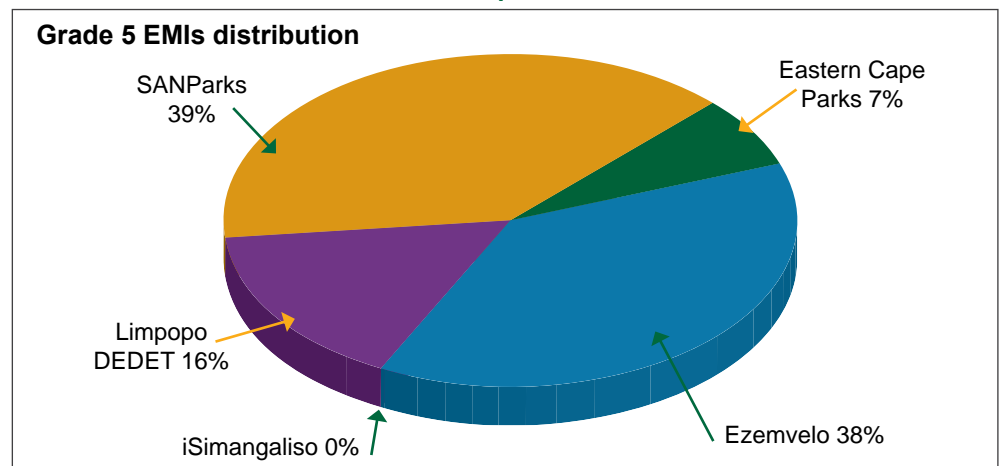
3.2.4 Environmental Management Inspectors: Gender and grades pie charts per institution



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

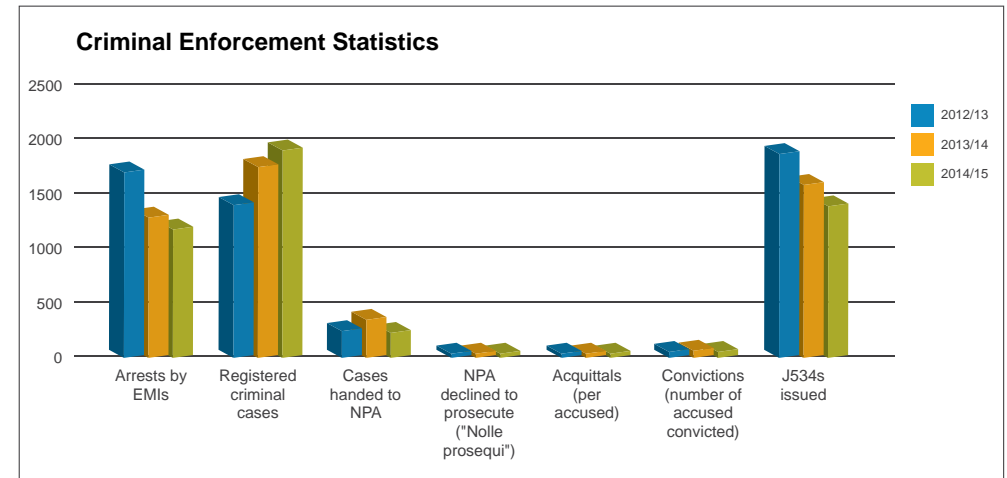


Pie chart 5: Distribution of Grade 5 EMIs across EMI institutions

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 | 378 | 257 |
| 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

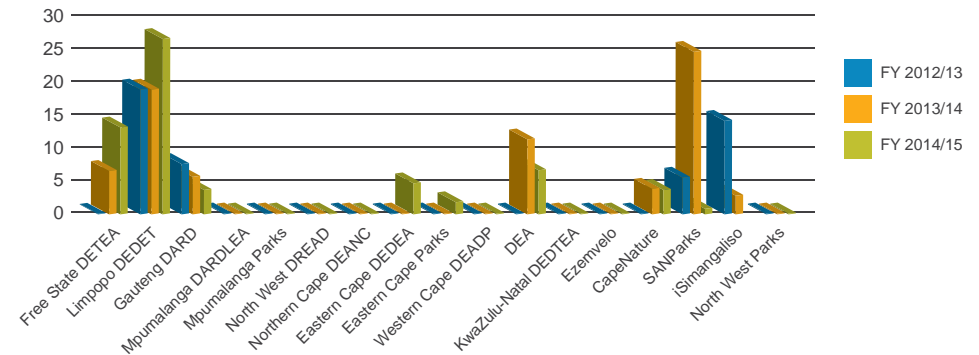


| | NORTH WEST DEPARTMENT OF RURAL, ENVIRONMENT AND AGRICULTURE DEVELOPMENT | | | NORTH WEST PARKS AND TOURISM BOARD | |
|---|---|-----------|-----------|------------------------------------|-----------|
| | 2012-13FY | 2013-14FY | 2014-15FY | 2013-14 | 2014-15FY |
| Criminal Enforcement | | | | | |
| 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 | - | - |



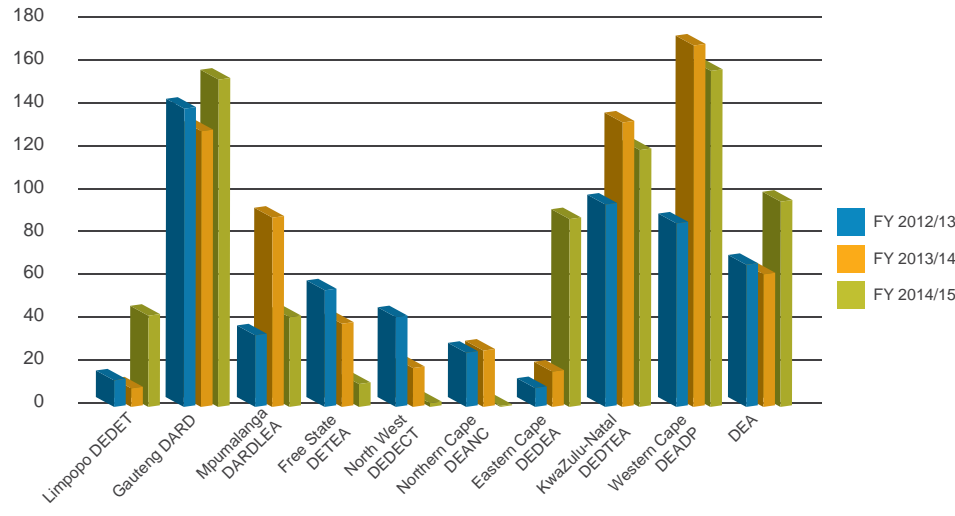
The following three graphs compare the use of administrative and criminal enforcement mechanisms by each of the EMI Institutions. The comparison for the 2014/15 financial year reveals that the use of administrative enforcement (i.e. directives and notices) remains the preferred tool of the authorities dealing with brown issues, with the Western Cape DEADP, Gauteng DARD and KwaZulu-Natal DEDETEA 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 DEDETEA and Gauteng DARD).

Convictions per institute



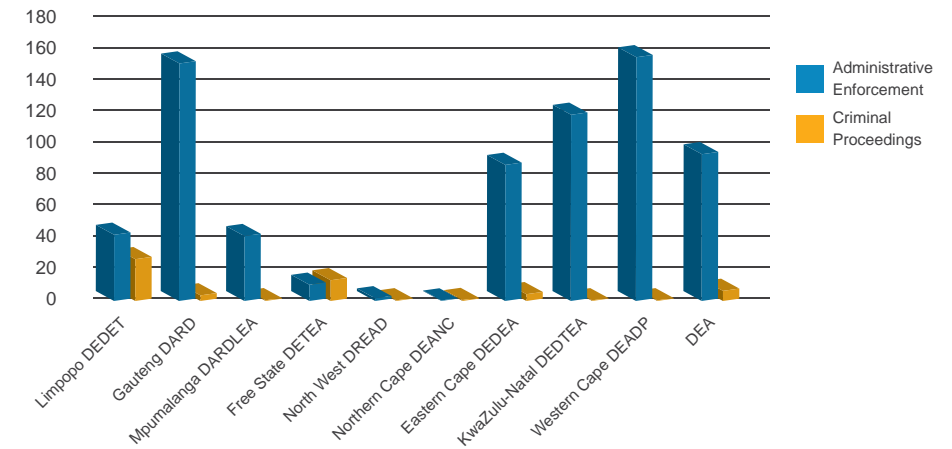
Graph 6: Comparative number of convictions obtained per institution

Administrative Enforcement



Graph 5: Comparative number of administrative enforcement notices issued 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 | <p>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.</p> <p>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.</p> <p>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.</p> |

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.

| | |
|-----------------|--|
| Judgment | <p>The court held that <i>“given the repercussions for non-compliance with NEMA... I am unable to see how it can reasonably be concluded that it is more probable that the disclosure was motivated by vindictiveness. The text of the award suggests that the commissioner did not take such consequences of non-compliance into account.”</i></p> <p>Although the information was sensitive, the court remained unpersuaded that the sensitivity of the information alone should deny the whistle-blower of protection granted to it by the abovementioned legislation. The court said that <i>“[W]hile due regard must be paid to the reputational damage that an organisation may suffer as a result of disclosure of adverse information which is prejudicial to its commercial interests, I am of the view that a finding that the mere disclosure of sensitive information renders the employment relationship intolerable would, in my view, seriously erode the very protection that the above-mentioned legal framework seeks to grant to whistle-blowers. It is accepted that public interest may, in certain circumstances, outweigh the interests of protecting the reputation of an organisation.”</i></p> <p>The court considered the fact that the disclosure was made after the respondent’s dismissal, It said that this could not in itself lead to a conclusion that the disclosure was made in bad faith because occupational detriment can take place after termination of employment and accordingly, victimisation could extend beyond the existing employment relationship.</p> <p>The court found that on a balance of probabilities the disclosure was made in good faith and it was protected. The appeal was upheld and the respondent was ordered to re-instate the appellant.</p> |
|-----------------|--|

| | |
|--------------------|--|
| Parties | THE STATE v WAWITO MAWALA |
| Category | Criminal: Poacher found guilty of murder of his accomplice who was shot and killed by a park ranger |
| Court | KwaZulu-Natal Regional Court |
| Back-ground | <p>The common cause facts were briefly as follows. The accused, the deceased and two other men were inside the Ndumo Game Reserve on 19 November 2011 at 17:00. The deceased carried a firearm. Game rangers patrolling in the Reserve caught sight of the men whilst they were in pursuit of a rhino. The rangers ordered the deceased to put down the firearm. Instead, the deceased turned and pointed it at the rangers. Realising that danger was imminent, the rangers fired shots, fatally injuring the deceased. The other three men disappeared into the Reserve. Early the following morning, the accused was found, still inside the reserve; and was arrested.</p> |

| | |
|--------------------|---|
| Back-ground | <p>Mr Mawala (the accused) was charged on four main counts: (1) murder; (2) unlawfully hunting specially protected game (i.e. a rhino) without a permit; (3) trespassing in an area where game is likely to be found while carrying a weapon; and (4) unlawfully and intentionally possessing a firearm. Charges two and three were in terms of the Natal Nature Conservation Ordinance; and alternatives to these charges were brought in terms of the National Environmental Management Biodiversity Act and the Trespass Act respectively.</p> |
| Judgment | <p>On the facts the Court was satisfied that the accused had correctly been identified. The primary issue was whether or not he could be held liable for the death of the deceased (his accomplice) based on a form of intention known as <i>dolus eventualis</i>.</p> <p>Murder is defined as the unlawful intentional killing of another human being. Thus, to be held liable one would have to show that the accused intended that the deceased be killed. Our law has extended intention to include a form known as <i>dolus eventualis</i>. This form of intention will be present where, subjectively, the accused foresaw the possibility of his or her actions resulting in the death of the deceased (even if only remote) and he or she reconciled himself or herself to this possibility and proceeded anyway.</p> <p>On the facts (including certain concessions made by the accused during cross examination) the Court found that when the accused conspired to embark upon a common design illegally to poach the rhino, the accused foresaw the possibility of injury or death of a person, and that he persisted regardless of the consequences. The accused was therefore convicted of the murder of his accomplice via <i>dolus eventualis</i>.</p> <p>In proving the first count, by implication the state had also proved counts two and three. The judgment thus did not go into much detail in respect of these counts. With regard to count four it must be borne in mind that the deceased was the person in possession of the firearm. Accordingly, and in order to hold the accused liable for unlawful possession, the doctrine of joint possession would have had to have been invoked and proved.</p> <p>To prove joint possession it must be shown that the group of persons (including the accused) had the intention to exercise possession over the firearm through the actual detentor (the deceased) and that the actual detentor (the deceased) had the intention to hold the firearm on behalf of the group (including the accused). It would not be enough to show that the accused knew that the deceased carried a firearm and acquiesced to him using it in fulfilling their common purpose to commit the offence.</p> <p>On the facts, joint possession was not the only reasonable inference that could be drawn. The accused was therefore acquitted on count four and convicted on counts one, two and three.</p> |



| | |
|--------------------|--|
| 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 | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |

| | |
|--------------------|---|
| 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 | <p>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.</p> <p>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.</p> <p>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).</p> <p>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.</p> <p>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.</p> |

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.



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| Minority Judgement | <p>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.</p> <p>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).</p> <p>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.</p> |
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Picture 2: The Supreme Court of Appeal: picture taken from <http://www.tosouthafrica.co.za/>



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| 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 | <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |



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| <p>Judgment</p> | <p>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>.</p> <p>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></p> |
| <p>Judgment</p> | <p>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>.</p> <p>AMSA has publically stated that it will not appeal the decision.</p> |



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



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| 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 re-statement of similar charges |
| Court | High Court of South Africa, Gauteng Division - Pretoria |
| Back-ground | <p>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</p> <p>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 changes 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.</p> <p>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.</p> <p>Mr Lemthongthai was convicted and sentenced accordingly.</p> <p>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.</p> |

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| Judgment | <p>The existence of valid and binding plea bargain</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> |
|-----------------|--|



In the news: 2007/8

By [Name] [Date]

'Green Scorpions' descend on Eastern Cape

'Compliance needs co-operative governance'

GREEN Scorpions' descend on Eastern Cape... The Green Scorpions are a team of Environmental Inspectors (EMIs)...

Working at the Cape, Department of Environmental Development and Environmental Affairs... The Green Scorpions are a team of Environmental Inspectors (EMIs)...

The Green Scorpions are a team of Environmental Inspectors (EMIs) who are responsible for monitoring and enforcing environmental laws... They are currently working in the Eastern Cape...

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SANParks hatches first graduates of Green Scorpions course

DOMINIQUE HERMAN

WITH their intensive training in marine and protected areas completed, 30 Environmental Marine Inspectors (EMIs) - also known as the Green Scorpions - will now be better equipped to handle environmental crime.

Their duties will include confronting poachers, setting up operations, observation posts and roadblocks and processing reports. Phil Sijthman, an environmental prosecutor and one of the authors of a new Department of Environmental Affairs and Tourism handbook written for the National Prosecuting Authority, described the first group of SANParks graduates as "one of the most passionate and dedicated groups of EMIs I have come across in recent years - and, we had a lot of fun".

for the National Prosecuting Authority, described the first group of SANParks graduates as "one of the most passionate and dedicated groups of EMIs I have come across in recent years - and, we had a lot of fun".

Compiled from experience gained in cases across the country since 2005, and particularly from the Heeremus Environmental Court, the aim of the handbook is to ensure the effective environmental prosecution of offenders. There are 88 EMIs all over the protected areas in nine provinces (80 of them in 33 national parks), but these 30 are the first to complete an intensive two-week theory and practical training course for the field, and will be deployed in the Table Mountain National Park.

The other EMIs are monitored on the job by senior rangers until they too undergo the training. Department of Environmental Affairs and Tourism Minister Mcebisi van Zulu said yesterday at the Pinkalip Gorge Wash Houses, where the ceremony took place, that since the designation of the first EMIs in 2005, nearly 800 arrests had been reported and there had been 184 positive convictions for environmental crimes.

"The inspectors believe that they are still under-reporting results, and that their 2007-08 report will be a better reflection of what they are achieving," he said. A graduate, Tracy Ab Shams, said sometimes fines to four patrolling rangers would encounter a larger group of armed poachers. "The field training helps psychologically inside these situations," she said. A US government report quoted in the prosecution guide said environmental crime syndicates eroded the world park area \$2-3 billion annually.

dominique.herman@net.com

Green Scorpions go for dune miners

Task team seeks copies of permits after checking controversial M Plain operation

BY [Name] [Date]... The Green Scorpions are a team of Environmental Inspectors (EMIs) who are responsible for monitoring and enforcing environmental laws... They are currently working in the Eastern Cape...

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Green Scorpions bust toxic steel plant

A GROUP of environmental inspectors on the ground... The Green Scorpions are a team of Environmental Inspectors (EMIs) who are responsible for monitoring and enforcing environmental laws... They are currently working in the Eastern Cape...

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Green Scorpions clean up firm's act

SARAH PATRICK

THREE truck loads of illegally stored medical waste have been removed from the Bobbe Medical Waste warehouse in Germiston. The two-week R1.5-million clean-up by the "Green Scorpions", inspectors from the department of environmental affairs and tourism, started after an exposé by the Sunday Times that found that the tons of rotting medical waste, collected from about 300 state hospitals in Gauteng and Limpopo, had been stored in the warehouse.

The waste started on Monday, and by Tuesday it had been taken to the Holliston high-banded landfill site in Brackenburg for safe disposal. Fourie said: "Environmental management inspectors from the Department are on the scene and will continue to monitor the progress of the clean-up and compliance with the directive issued to Bobbe Waste."

An environmental management inspector from the department, Melissa Fourie, said the removal of

Rotting medical waste stockpiled in warehouse... The Gauteng MEC for agriculture, conservation and environment, Khabel Mmusisi, said the department's inspectors would take action against those who violated environmental laws.

Green Scorpions win

DUMP: Landmark verdict and fine for illegal waste

By [Name] [Date]

THE Western Cape High Court has handed a landmark verdict in the case of the Green Scorpions, who have won a case against a firm that had illegally dumped waste. The court ordered the firm to pay a fine of R100,000 and to remove the waste.

The Green Scorpions are a team of Environmental Inspectors (EMIs) who are responsible for monitoring and enforcing environmental laws... They are currently working in the Eastern Cape...

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CITIZEN (Saturday) 18 Aug 2008 Page: 6

Green Scorpions sting eco-offenders

ALBERTA THORN

THE Gauteng Green Scorpions have begun their work in the Western Cape. The Green Scorpions are a team of Environmental Inspectors (EMIs) who are responsible for monitoring and enforcing environmental laws... They are currently working in the Eastern Cape...

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In the news: 2011/12



PROTECTION More rangers are being deployed.

Kruger to get 150 more rangers to be tackle rhino poaching

GRASSIE SEGGA

THE GOVERNMENT recently flexed the muscle of the Kruger National Park against poachers by increasing the number of rangers patrolling its vast expanse to 255 by the end of March next year.

The recruitment of an additional 150 rangers would mean the park's rangers would cover almost 51,520 or 5181 hectares, as opposed to the 97800 or 67,410 they had

before. This was revealed in a recent parliamentary reply to the DA, by the Minister of Water and Environmental Affairs, Edna Molewa, in which she said 200 rangers now patrol the Kruger, which is equivalent to the size of Israel.

But Clareth Morgan, the then Shadow Minister of Water and Environmental Affairs, said more rangers were needed.

"There simply are not enough rangers patrolling the

Kruger. When it is a landscape that the number of rangers will be increased, I will don't believe there will be enough people on the ground.

"The coverage area covered per ranger for the other parks run by SANParks is lower per ranger and those other parks do not have the same poaching risks that Kruger does.

"I accept that patrols by rangers are only one of a number of ways to fight poaching but poachers need to believe

that there is a very real chance of encountering a ranger if they enter the park," he said.

Molewa said there was "no set formula" to determine appropriate area coverage per ranger "given the ever-changing dynamics and complexity of the variables to be considered", including the nature of the terrain, equipment available for use and the intensity and complexity of the criminally evolving poaching activity.

"Given the current matter

used to poachers, high levels of capability and night capability have become essential. These factors will also assist in stability as poacher tactics evolve.

"Given the current escalation of rhino poaching activities, additional resources provided by the SANDF and the SAPS and other state agencies are being used to supplement and improve on the ranger force," Molewa said.

See Page 15



More rangers to curb rhino poaching

STEFAN JANSSEN

WISCONSIN - An additional 150 rangers will be deployed at the Kruger National Park (KNP) this year as an attempt to curb rhino poaching. The new rangers will be patrolling the vast and environmental forest, the Kruger National Park, the national park, which is the largest national park in Africa.

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New bid to subject state-owned enterprises to green laws

BY BENNY MATHIAS

THE GOVERNMENT has introduced a new bill to subject state-owned enterprises to green laws. The bill, which is part of the Environmental Protection Amendment Bill, will require state-owned enterprises to comply with the same environmental standards as private companies.

The bill is a response to the growing concern that state-owned enterprises are not being held to the same environmental standards as private companies. The bill will require state-owned enterprises to comply with the same environmental standards as private companies.

Environmental practitioner guilty of submitting incorrect information

BY BENNY MATHIAS

A prominent environmental practitioner has been found guilty of submitting incorrect information to the Department of Environmental Affairs. The practitioner, who is a member of the Environmental Practitioners' Association of South Africa (EPA), was found guilty of submitting false information regarding the environmental impact of a proposed development.

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Green Scorpions swoop on waste

MOYAGASHI MAASE

INTERWASTE, a waste management company listed on the JSE's alternative exchange, is facing a criminal investigation by the Green Scorpions for allegedly flouting laws regulating the industry.

"Search warrants have been issued at various sites, but as this is a criminal investigation it will not be possible to provide further information at this stage," said Frances Craigie, a director at the Department of Environmental Affairs.

"Search warrants have been issued at various sites"

Affairs environmental management, also known as the Green Scorpions.

Interwaste's services include waste collection and treatment, recycling, and landfill facility construction and management. It also manages government-owned landfill facilities across the country.

Craigie said the investigation was initiated after information was received from various sources and "preparatory investigations" were conducted on the site. The would not say what these investigations entailed, but indicated a significant number of illegal contraventions of the Waste Act were found.

The 20-year-old law would

Reptile traders arrested

Department cracks down on illegal captures and sales

BY BENNY MATHIAS

The Department of Environmental Affairs has arrested several reptile traders for illegal captures and sales. The traders were found with large quantities of illegally captured reptiles, including snakes and lizards, which they were planning to sell on the open market.

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In the news: 2015

Subscription: SUNDAY TRIBUNE (Final)
Date: 2015-09-20
Page: 1



UP IN FLAMES: Above and below, environmental inspectors, like Green Scorpions, look at a coastal home along the M50 Coast yesterday at Gqeberha.

Green Scorpions on fire in war on illegal coastal homes

By VICKY KERRY
Staff Reporter

TWO environmental inspectors, one from the Wild Coast Community and another from Green Scorpions, were seen inspecting a coastal home in Gqeberha.

The inspectors were seen at the home of a woman who lives in a coastal home in Gqeberha. The woman said she had been living in the home for about 10 years. She said she had built the home on her own land. The inspectors said they had been called to inspect the home because it was built on a coastal reserve.

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Some local residents, however, are sceptical to clear land for coastal reserves. They said they had been living in the homes for many years and they did not want to be moved. They said they had built the homes on their own land and they had paid for the land. They said they had been living in the homes for many years and they did not want to be moved.



Publication: SUNDAY TRIBUNE
(Final)
Date: 2015-09-20

Companies stung by Green Scorpions

Vivian Attwood reports on illegal stockpiling of hazardous waste

THE GREEN Scorpions, an environmental group, has accused several companies of illegally stockpiling hazardous waste in the Western Cape. The group has named the companies as Ecoviva Waste Solutions, Solid Waste Technology, and the Green Scorpions. The group has said that the companies have been stockpiling hazardous waste in illegal ways. The group has said that the companies have been stockpiling hazardous waste in illegal ways.



The premises of Ecoviva Waste Solutions, near Paarl, showing the large storage area used to transport medical waste.

Ecoviva Waste Solutions, near Paarl, showing the large storage area used to transport medical waste. The company has been accused of illegally stockpiling hazardous waste. The company has been accused of illegally stockpiling hazardous waste.

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

Farmer accused in huge cycad bust

JAN BORNHALL

EASTERN Cape farmer Robert Biggs will open up the doors to his farm in the town of South Africa's biggest cycad bust. The farmer has been accused of selling cycads to buyers in Gqeberha. The farmer has been accused of selling cycads to buyers in Gqeberha.

EASTERN Cape farmer Robert Biggs will open up the doors to his farm in the town of South Africa's biggest cycad bust. The farmer has been accused of selling cycads to buyers in Gqeberha. The farmer has been accused of selling cycads to buyers in Gqeberha.

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By VICKY KERRY
Staff Reporter

By VICKY KERRY
Staff Reporter

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



Combating 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 EMIs 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 | <p>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.</p> <p>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.</p> <p>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></p> |



| 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 | <p>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.</p> <p>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)).</p> <p>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;</i> and <i>Pages 43 of NECER 2013-2014.</i></p> |
| Hernic Ferrochrome, North West | <p>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.</p> <p>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;</i> and <i>Page 44 of NECER 2013-2014.</i></p> |

| 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 | <p>A response to the Section 31H Notice was received on 11 April 2014.</p> <p>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.</p> <p>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;</i> and <i>Page 44 of NECER 2013-2014.</i></p> |
| BHP Billiton Metalloys Meyerton, Gauteng | <p>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.</p> <p>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;</i> and <i>Pages 44 - 45 of NECER 2013-2014.</i></p> |



| 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 | <p>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.</p> <p>A follow-up inspection is planned for June 2015, after which the DEA will decide whether any enforcement action is required.</p> <p>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></p> |
| Vanchem Vanadium Products (Pty) Ltd | <p>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.</p> <p>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></p> |

| 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 | |
| Evraz Highveld Steel, Mpumalanga | <p>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.</p> <p>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.</p> <p>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.</p> <p>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></p> |



| 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 | <p>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.</p> <p>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></p> |
| Samancor Tubatse Ferro Chrome, Limpopo | <p>Representations to the Section 31H Notice have been received and reviewed.</p> <p>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.</p> <p>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></p> |

| 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 | <p>A second notice in terms of Section 31H Notice will be issued to the facility shortly to request further information regarding the decommissioning.</p> <p>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></p> |
| Transalloys (Pty) Ltd, Mpumalanga | <p>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.</p> <p>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></p> |



| 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 | <p>An inspection was conducted at the facility on 26 and 27 June 2012. The findings included the following:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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></p> |

| 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 | <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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></p> |



| 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 | <p>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</p> <p>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></p> |
| Glencore Lion Smelter Operations, Limpopo | <p>An inspection was conducted at the facility on 4 and 5 November 2014. The following was observed:</p> <ul style="list-style-type: none"> • 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 | <p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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.</p> |



| REFINERIES | |
|---|---|
| Sasol Secunda Refinery, Mpumalanga | <p>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.</p> <p>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></p> |
| POWER GENERATION | |
| Eskom Matimba Power Station, Limpopo | <p>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.</p> <p>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></p> |
| Eskom Grootvlei, Mpumalanga | <p>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.</p> <p>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></p> |

| H : H LANDFILS/TREATMENT OR RECOVERY FACILITIES / HEALTH CARE RISK WASTE FACILITIES | |
|---|---|
| Goswell Landfill Site, KwaZulu-Natal | <p>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</p> <p>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></p> |
| EnviroServ Holfontein Landfill Site, Gauteng | <p>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.</p> <p>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></p> |
| PULP & PAPER | |
| Sappi Saiccor (Pty) Ltd | <p>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.</p> |



| CEMENT | |
|---|---|
| Calsiment, Mpumalanga | <p>The criminal investigation into this matter has been finalised and the docket is with the DPP for a decision.</p> <p>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></p> |
| OTHER | |
| King Shaka International Airport | <p>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.</p> <p>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.</p> <p>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></p> |

| OTHER | |
|---|--|
| Chamdor Meat Packers (Pty) Ltd, Gauteng Province | <p>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:</p> <ul style="list-style-type: none"> • 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. <p>The inspection report dated 3 October 2013 was issued to the facility and representations were received on 31 January 2014.</p> <p>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.</p> <p>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.</p> |

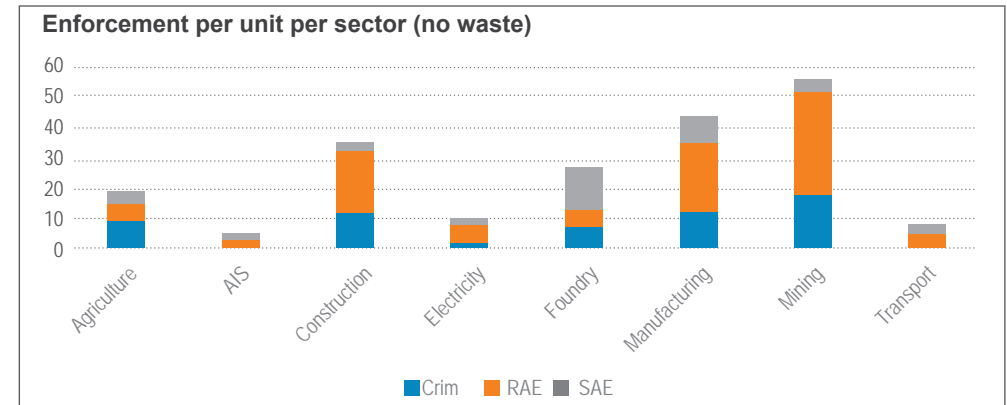
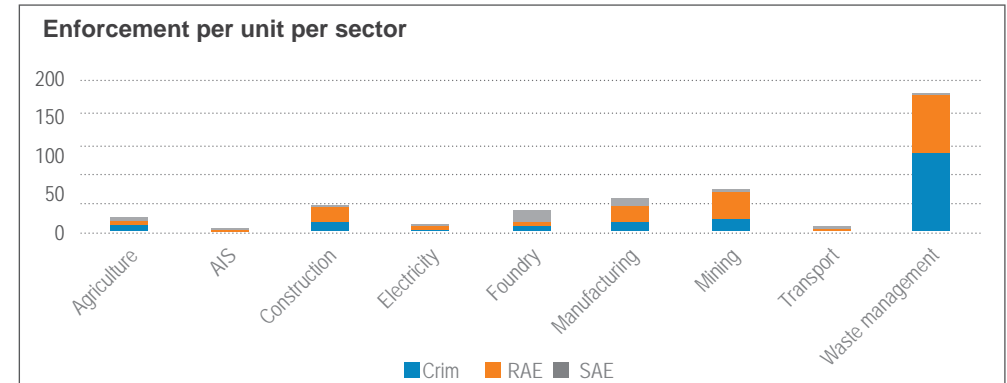


8.2 Environmental Impact and Pollution Enforcement (National DEA)

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.





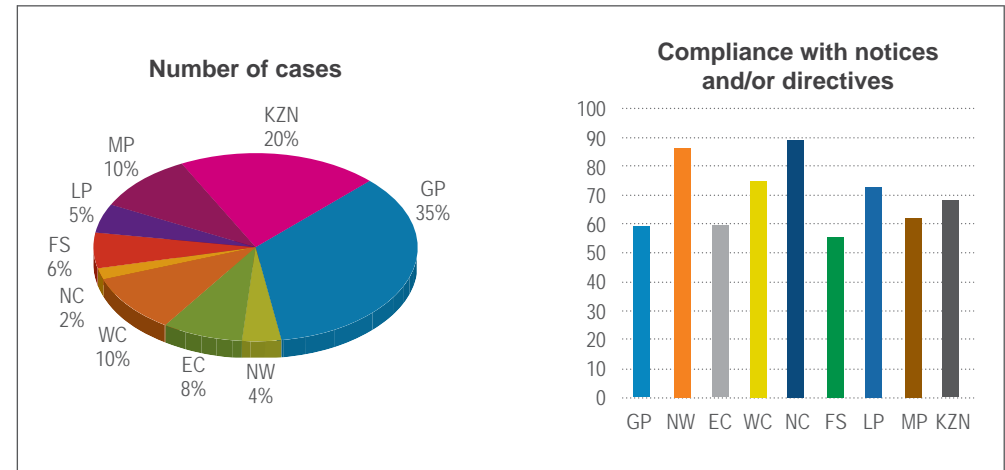
Picture: ArcelorMittal Vereeniging March 2007 (above) compared to January 2010 (below)



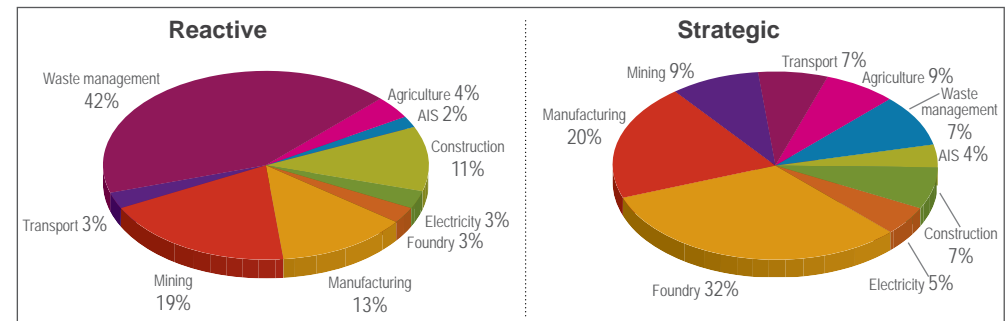
Most of the work of the Strategic Administrative Enforcement (SAE) sub-directorate, revolves around the foundry/manufacturing sectors. However, the number of criminal cases relating to foundries is low, and there have been no prosecutions relating to power generation, despite gross non-compliances in 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.

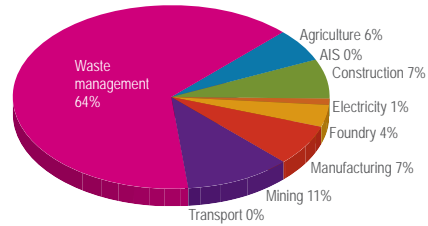
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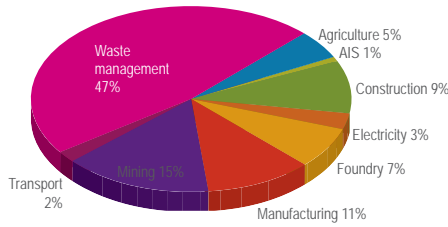
The Gauteng province not only has the greatest number of non-compliances but also has a compliance status of a mere 60%. This is trumped only by the poor compliance of the regulated community in the Free State.



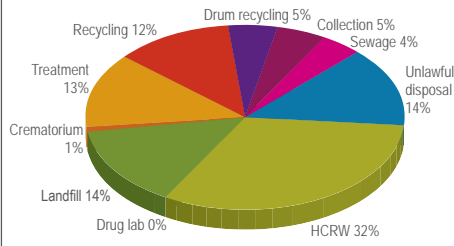
Prosecutions



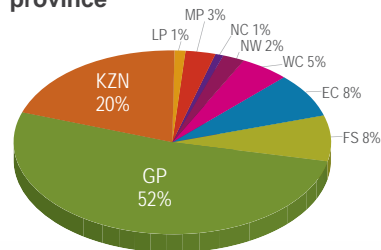
Enforcement (Total)



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.

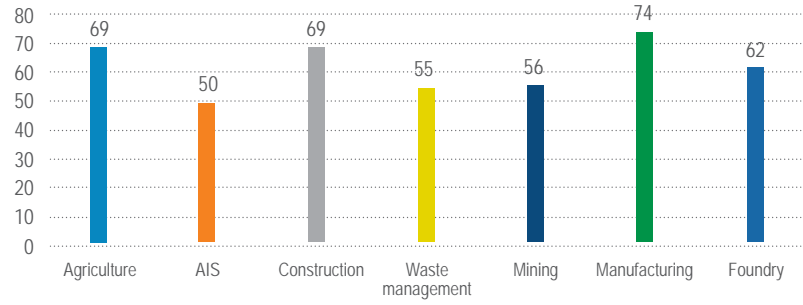
Gauteng province bears the brunt of waste management issues, with more cases than the sum of the remaining eight provinces.

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.

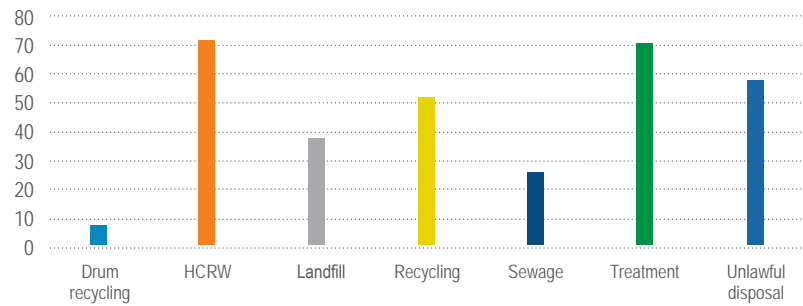
The sector demonstrating the best response to administrative notices appears to be manufacturing, followed closely by agriculture and construction. The AIS sector demonstrated the lowest compliance with administrative notices issued. Perhaps this lack of compliance is a result of the AIS related legislation 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



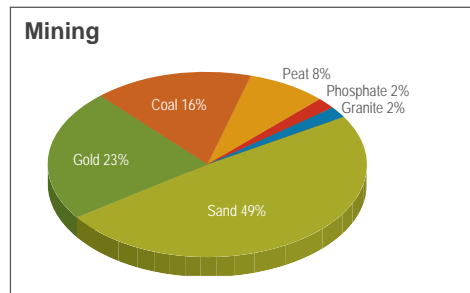
Compliance with notices and/or directives



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.

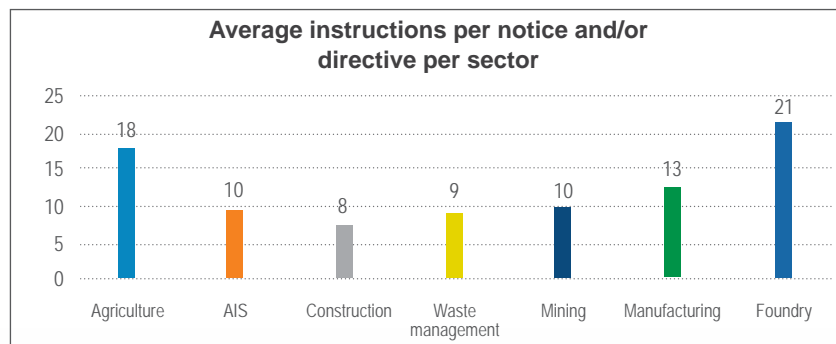
In the electricity sector, an equal amount of attention was given to both generation and distribution/transmission, although the impact of the former is more pervasive than the latter. Problems with power lines related mostly to the failure to comply with conditions of

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 incubated 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). <div data-bbox="1391 512 2123 995" data-label="Image"> </div> |
| 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 (<i>Lehamanii</i> 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 Steytlerville 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.



9.6 The Anti-Poaching Unit of Mpumalanga Tourism and Parks Agency receives a much needed boost

The Anti-Poaching Unit (APU) of Mpumalanga Parks operates throughout the Mpumalanga Province. This Unit serves and assists the private sector as well as provincial protected areas in the national fight against rhino poaching and cycad theft.

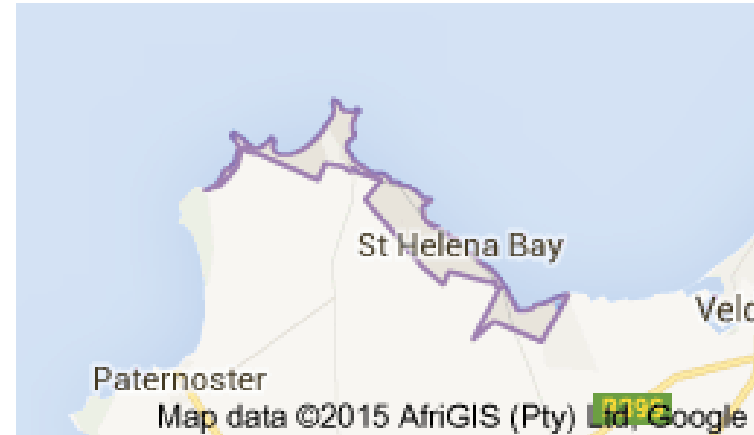
The APU is deployed primarily in known hot spots within the province which are sometimes in very remote areas. An urgent need arose for mobile capability to enable this unit to establish a base camp from which to operate, especially in times and places where it is imperative to remain undetected.

With the assistance of CSIR/stoprhinopoaching.com this mobile capability was developed. The APU now has the necessary equipment that can logistically support five people over a period of five days. All basic needs are catered for.



10. Joint Compliance and Enforcement Operations

10.1 Fisheries Blitz, St Helena Bay, Western Cape Province



Background:

This operation focused on fishmeal plants in the St Helena Bay area, some of which date as far back as the early 1940's. These industries engage, primarily in fishing for inshore pelagic species as well as in the production, marketing and distribution of fishmeal, fish oil and branded canned fish products. The majority of products produced by these plants are exported. Exported items include fishmeal, fish oil and canned products.



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.

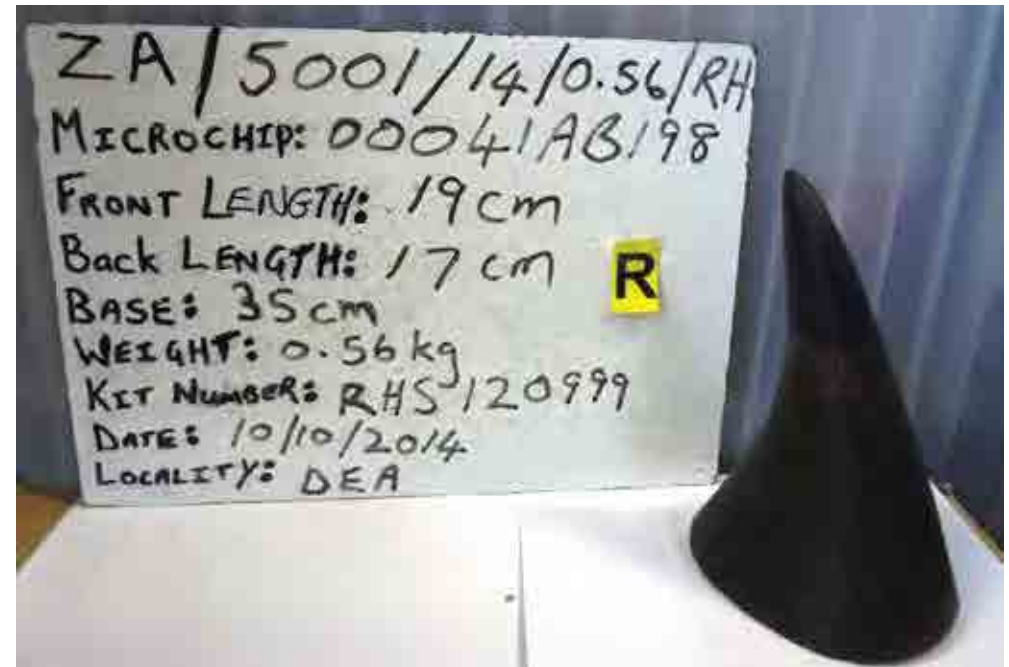
10.3 Sand Mining Blitz

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



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



11. National Environmental Complaints and Emergency Incidents

11.1 Environmental Crimes and Incidents Hotline

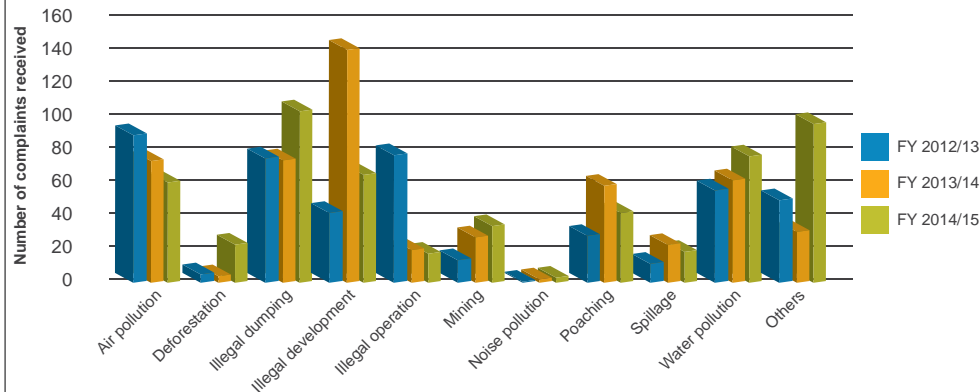
DEA continued to collect statistics on environmental complaints received from the Environmental Crimes and Incidents Hotline, from the Minister and Director-General's office, as well as direct and referred complaints/incidents from other organs of state and the public. The national hotline serves as 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

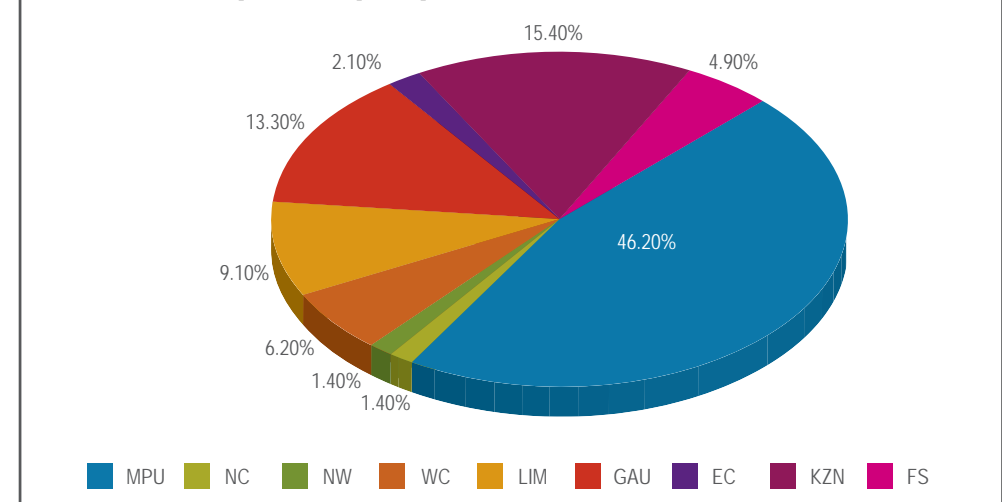
In December 2013, National Environmental Management Laws Second Amendment Act, Act No. 30 of 2013 amended section 30 of NEMA and introduced section 30A. Section 30 is titled “Control of Incidents” while section 30A deals with “Emergency Situations”.

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.

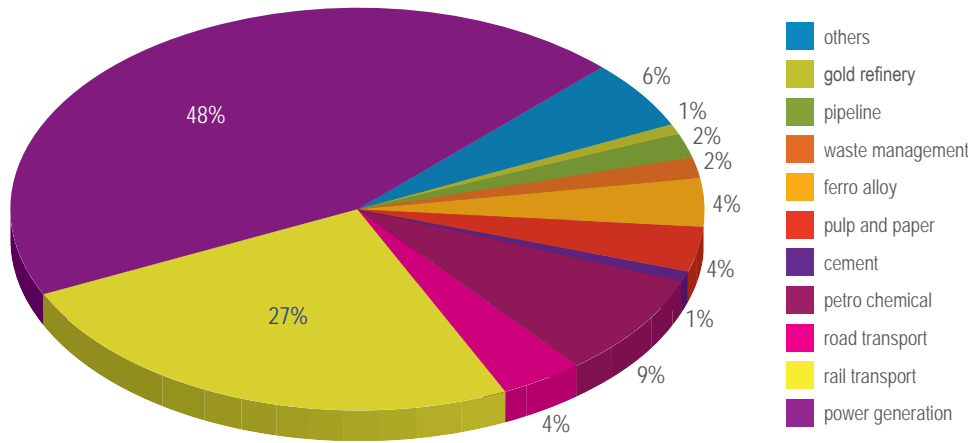
Incidents reported per province



Pie chart 4: Distribution of reported s30 incidents per province

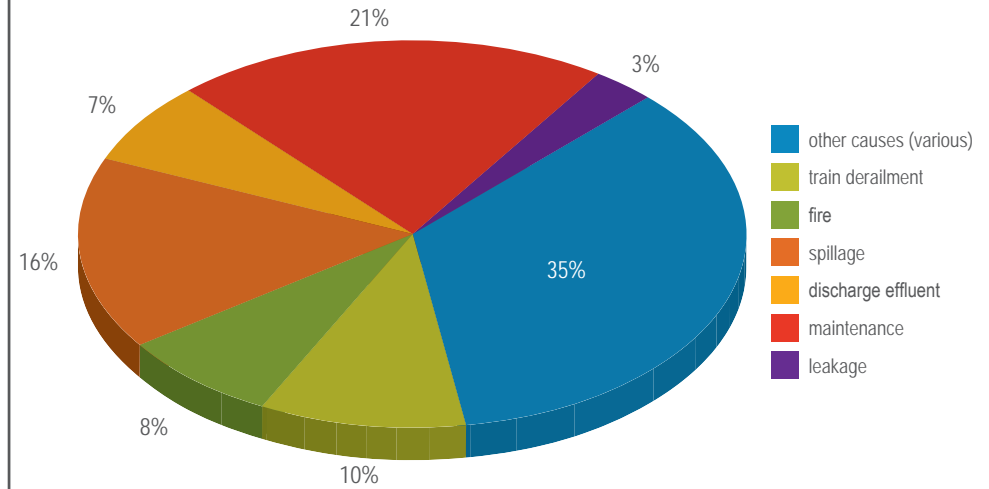


Incidents classified per sector



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

Major causes of incidents



Pie Chart 6: Major cause of section 30 incidents reported



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



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



EMI designation (associated with inspection-type powers), course attendees participated in a one week course specifically developed to meet these requirements.



Picture: Officials who attended the EMI Grade 4 bridging training course presented in October 2014

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.

12.1.4 EMI Environmental Health Practitioner Bridging Training: Mangosuthu University of Technology / KwaZulu-Natal DEDTEA

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:

Dr Khumbulani Mbatha from KwaZulu-Natal DEDTEA: "We offer our thanks to DETEA (KZN) Senior Management led by DR L.W Mngoma for allowing the staff to pull out from their daily operations and concentrate on this one week long training. A special thanks also goes to the Departmental EMI's who are always giving lectures during the trainings: Ntokozo Ngcamu, Mr Dumisani Gwede, Mr Bonga Mkhize, Mr Skhumbuzo Mpungose, Mr Senzo Hadebe, Mr Bongani Motau, Mr Nkosinathi Mqadi, Ms Phumelele Msimang, Ms Xoli Madiba."



Picture: 36 EHP Officials who attended EMI-EHP Training in November 2013



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 Kotsovou (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 Moloji, 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 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.



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