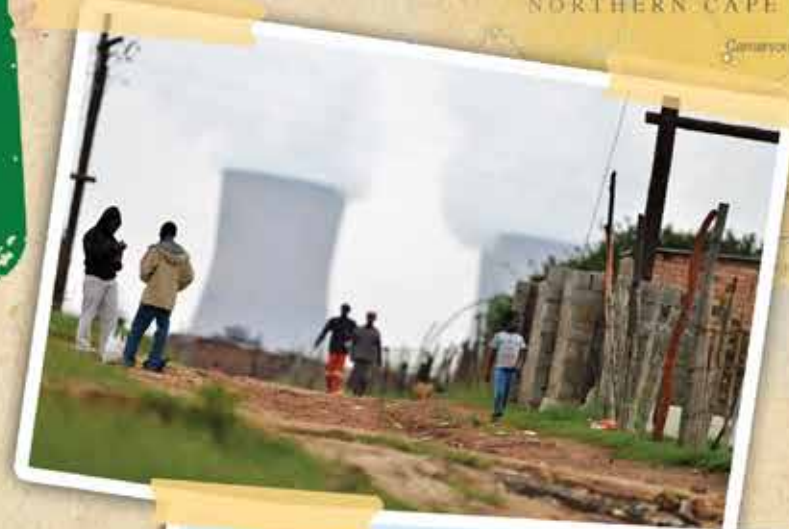
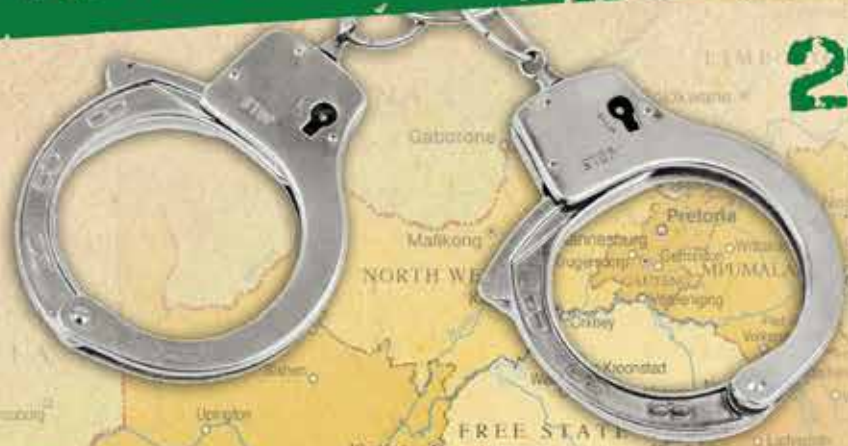


NATIONAL ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT REPORT

2016 - 17



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



National Environmental Compliance and Enforcement Report 2016-17

2017

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

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South Africa

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FOREWORD

In her speech delivered on International Rangers Day on the 31st July 2017, Minister Edna Molewa paid tribute to the crucial role played by field rangers in protecting the country's natural resources:

"Rangers in certain parts of South Africa face daily hardships in their efforts to protect many of our species, such as the elephant, rhino, cycad and abalone, from unscrupulous poachers...I would like to salute our ranger corps for the work they do. They are our men and women on the frontline, keeping our precious natural resources safe. They put their lives on the line every day to keep our many species safe and on behalf of all South Africans I want to thank each and every one of you."

The Ministers commendation to the field rangers is echoed in the theme for this year's 07th Environmental Compliance and Enforcement Lekgotla: People, Purpose, Passion – the Pathway to EMI Success; and is equally reflected in the content of this, the 2016/17 National Environmental Compliance and Enforcement Report that highlights the work of, not just field rangers, but all environmental compliance and enforcement officials operating across the green, blue and brown subsectors.

The cornerstone of the Inspectorate is the people, the Environmental Management Inspectors from national, provincial and local spheres of government who dedicate their time and efforts to ensure that the country's environmental laws are complied with. The National EMI Register currently indicates that there are 2880 designated EMIs across the country, with the large majority (1726) of these being Grade 5 EMI/field rangers operating within our protected areas. An exciting growth area is in the increasing compliance and enforcement capacity of local authorities, with just over 300 EMIs nationwide, which should see environmental non-compliances being tackled closer to the ground. Without these inspectors, and the important work that they do to monitor compliance and enforce when contraventions are detected, environmental laws would remain no more than aspirational ideals written in lifeless statute books.

However, the mere presence of 'warm bodies' is not sufficient in ensuring that the Inspectorate is able to execute its functions – they also need a clear and common purpose to provide a unified direction to their collective efforts. In addition to the legislative imperatives provided by the Constitution and the National Environmental Management Act, the Inspectorate adopted, in late 2014, the National Environmental Compliance and Enforcement Strategy (NECES) which provides the short to medium term roadmap to improved compliance and enforcement. At the time when the Strategy was developed the following was acknowledged:

"The EMIs have undertaken an enormous amount of work to address these challenges and the EMI network has achieved much in the last almost seven years... Understandably, many of the network's efforts have been directed at addressing im-

mediate priorities and needs and have not been undertaken within the context of a clear strategic framework. It is therefore recognised that moving forward, the EMI network's future activities need to be guided by a strategy if the effectiveness of compliance and enforcement work is to be further strengthened and able to contribute optimally to environmental sustainability."

Since adoption of the NECES, the recommendations of this strategy have filtered into the annual workplans of national coordinating forums, the performance plans of environmental authorities and the job descriptions of individual EMIs. Many of the achievements reflected in this NECER are as a result of the implementation of the strategy at all levels of the Inspectorate.

In addition to people and purpose, the final ingredient to add to the EMI success recipe is probably the most critical: **passion**. Without the internal drive, motivation, enthusiasm, ambition and/or initiative to relentlessly pursue their objectives, many EMIs would have chosen alternative career paths with more comfortable working conditions and lucrative financial compensation. As aptly observed by John Scanlon, CITES Secretary-General's on World Ranger Day 2017,

"Honest and hardworking park rangers devote their lives to protecting our natural resources and cultural heritage and, in some areas, these brave men and women regularly encounter well-resourced groups of poachers, equipped with high caliber weapons, who do not hesitate to use violence or threats of violence against them. Yet these devoted rangers determinedly perform their duties, often without the recompense allocated to their counterparts in other enforcement agencies. The dedication and commitment shown by these honest hard working park rangers on a daily basis is worthy of much greater public recognition..."

With these thoughts, I have the pleasure to present the tenth National Environmental Compliance and Enforcement Report for 2016/17.



ISHAAM ABADER

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

ACRONYMS

Key:

AIS	Alien and Invasive Species
DG	Director-General
EMI	Environmental Management Inspector
GEF	Global Environmental Facility
NECER	National Environmental Compliance and Enforcement Report
TOPS	Threatened or Protected Species
UNEP	United Nations Environment Programme
UNODC	United Nations Office on Drugs and Crime

General

Key:

DEA	National Department of Environmental Affairs
DMR	Department of Mineral Resources
DWS	Department of Water and Sanitation
Eastern Cape DEDEA	Eastern Cape Department of Economic Development, Environmental Affairs 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 DENC	Northern Cape Department of Environment and Nature Conservation
North West DREAD	North West Department of Rural, Environment and Agricultural Development
NPA	National Prosecuting Authority
SANBI	South African National Biodiversity Institute
SANParks	South African National Parks

Institutions

SAPS	South African Police Service
Western Cape DEADP	Western Cape Department of Environmental Affairs and Development Planning

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 number).

“Enforcement action required” means that the environmental authority has decided that the nature of the non-compliance 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 triggers 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 EMLs. 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 EMLs 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 EML 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 EML 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 conviction and 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 2016/17 financial year marks the 10th 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. What is different about this year's edition is that DEA has also collaborated with the Department of Water and Sanitation (DWS) to include some key statistics from DWS in respect of compliance and enforcement activities related to freshwater resources which form part of the broader environment.

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 deterrent effect to would-be offenders who need to understand the serious 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. 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 come into effect in the past financial year.

We then turn to operational activities related to industrial and biodiversity sectors; 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 EMLs, magistrates, prosecutors and other law enforcement authorities. We end the report off with chapters on stakeholder engagement and a look ahead to plans for the 2016/17 financial year.

It should be noted that the NECER is not without constraints. Constraints that should be noted include the fact that the NECER focuses on the activities of "environmental" authorities, as well as the DWS but does not reflect the compliance and enforcement work being undertaken by other "related" sectors; such as 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 and water affairs' compliance and enforcement authorities in this reporting period.

Despite these constraints, it is hoped that the NECER 2016/17 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.

KEY FINDINGS & ENVIRONMENTAL MANAGEMENT INSPECTORS



2. KEY FINDINGS

2.1 The Environmental Management Inspectorate

- In total, there are **2880** EMI designated across the country, comprising **2577** national and provincial EMIs and **303** municipal EMIs.
- There has been a slight increase of **6.8%** in the total number of EMIs on the national register in respect of national and provincial EMIs from **2411** in 2015/16 to **2577** in 2016/17.
- Of the total **2577** EMIs on the national register (national and provincial authorities), **1726 (67%)** are Grade 5 EMIs (field rangers employed at national and provincial parks authorities).
- There has been a general increase in the number of Grade 5 EMI field rangers from **1300** in 2014/15 to **1639** in 2015/16 and **1726** in 2016/17.
- SANParks (**859**), Ezemvelo (**661**), Limpopo DEDET (**259**) Eastern Cape Parks (**137**), DEA (**135**), North West Parks (**89**) have the most EMIs (majority being EMI Grade 5 field rangers except for DEA) followed by KZN DEDTEA (**68**), Western Cape DEADP (**66**), and Gauteng DARD (**50**), while Mpumalanga DARDLEA (**9**), Isimangaliso (**6**) and SANBI (**4**) have the least number of EMIs.
- EMIs at the local authority level have slightly increased over the past three financial years from **185** in 2014/15 to **236** in 2015/16 and **303** in 2016/17.
- **DWS**, which was previously not featured in the EMI register, have recorded **17** EMIs designated.

2.2 Overall National Compliance and Enforcement Statistics

Enforcement:

- There has been a general increase in the number of criminal dockets registered from **1261** in 2014/15 to **1497** in 2015/16 and **1526** in 2016/17.
- The total number of admission of guilt fines (J534s) issued has slightly increased from **998** for 2015/16 to **1010** in 2016/17. This shows an increase of **1.1%** between 2015/16 and 2016/17.
- The total value of admission of guilt fines paid has decreased from **R 788 611,00** in 2015/16 to **R 393 891,00**, showing a decrease of **50%** in 2016/17.
- The number of criminal dockets handed to the NPA has generally increased from **257** in 2014/15 to **293** in 2015/16 and **416** in 2016/17.
- The total number of arrests by EMIs has slightly increased from **939** in 2015/16 to **1092** in 2016/17.
- The total number of acquittals has increased from **5** in 2015/16 to **10** in 2016/17, which shows an increase of **100%**.
- Convictions reported have increased from **52** in 2015/16 to **76** in 2016/17, showing a **46.1%** increase.
- There has been a general decrease in the number of plea and sentence agreements concluded from **15** in 2014/15 to **13** in 2015/16 and **11** in 2016/17.
- The total number of warning letters issued has decreased from **364** in 2014/15 to **309** in 2015/16 which equates to a decrease of **15.1%**.
- The total number of administrative notices issued has generally increased from **729** in 2014/15 to **916** in 2015/16 and **1100** in 2016/17.
- The number of civil court applications has increased from **0** in 2015/16 to **7** in 2016/17.
- There has been a slight increase on the total value of section 24G administrative fines paid from **R 8 019 250** in 2015/16 to **R 9 766 445,22** in 2016/17.

2.2 Overall National Compliance and Enforcement Statistics

Compliance Monitoring:

- There were a total of **4379** facilities inspected in 2016/17, which reflects a **18.76%** increase from the **3687** facilities inspected in 2015/16.
- Of the total number of facilities inspected **46.76% (2058)** were against brown legislative requirements, while **45.20% (1980)** were in the green subsector and **7.82% (341)** were inspected against blue issues.
- There has been an increase in the total number of proactive inspections conducted from **2474** in 2015/16 to **2874** in 2016/17, which shows the **16.16%** increase.
- The total number of reactive inspections conducted in 2016/17 amounted to **1486**, which reflects a **21.4%** increase from the **1224** conducted in 2015/16.
- The total number of non-compliances detected during inspections has been recorded **1462** and DWS uses percentages to record the number of non-compliances which amounted to **38.87%** for both blue and brown issues.
- A total of **3725** inspection reports were finalised in 2016/17 compared to the **2341** inspection reports finalised in the 2015/16 financial year.
- Of the **4379** inspections conducted some facilities had follow-up inspections conducted, the greater portion (**1472**) were environmental authorisation and permit-based inspections, followed by inspections undertaken as a result of complaints which amounted to **1485** and also prioritised and planned inspections amounted to **1124**, routine inspections contributed **293** and the other **20** were undertaken as a result of various triggers.

Local Authorities:

- A couple of municipal offices did send through their statistics for few months, the Ethekwini Metropolitan reported on the last three months for 2016/17, and they reported 64 site inspections conducted and 8 pre-directives issued.
- City of Tshwane Metropolitan reported 7 administrative enforcement tools issued, (2 pre-directive, 1 directive and 4 compliance notice) as well as 1 warning letter.

2.3 Statistics per Institution/Province

SANParks recorded the highest number of criminal dockets registered at **644**, followed by Limpopo DEDET with **269**. The third highest was Ezemvelo with **173** dockets registered while DWS recorded **5**, Mpumalanga DARDLEA **4**, KwaZulu-Natal DEDTEA **2**, GDARD and Northern Cape DENC each recorded **1** criminal docket.

SANParks recorded the highest number of arrests at **311**, followed by Ezemvelo with **136** arrests.

SANParks issued the highest total value of admission of guilt fines (J534s), amounting to **R 190 940** from the **472** fines issued, followed by Limpopo DEDET with a value of **R 193 970** from **262** fines issued.

With a total of **255**, DEA recorded the highest number of administrative enforcement notices comprising of **78** pre-compliance notices, **44** final compliance notices, **132** pre-directives and **1** directives. Eastern Cape DEDEA reported **31** of administrative enforcement notices with **1** pre-directive, **26** pre-compliance notices, **1** directive and **3** final compliance notices while Isimangaliso recorded the lowest number of **2** pre-compliance notices. SANParks, SANBI, CapeNature, Free State DEDTEA, Northern Cape DENC, Ezemvelo, Eastern Cape Parks and Mpumalanga Parks reported no administrative enforcement.

Limpopo DEDET issued **157** warning letters, the highest of the EMI Institutions. They were followed by Eastern Cape DEDEA who issued **49** warning letters.

Western Cape DEADP recorded the highest value of total fines paid pursuant to section 24G NEMA in the sum of **R6 580 000.00** followed closely by Gauteng DARD which recorded **R4 568 24.66** while the DEA recorded **R2 355 000.00**, Mpumalanga DARDLEA recorded **R 1 519 300**, Limpopo DEDET recorded **R1 006 097.56** and KwaZulu-Natal DEDTEA recorded the lowest figure of **R 316 800**.

North West DREAD recorded the highest number of facilities inspected at **1775** of which **354** were in respect of brown issues, **3** were blue issues and **1418** in respect of the green sector. This was followed by KwaZulu Natal DEDTEA with **770** (769 brown, 1 green issues) and DWS with **406** (79 brown and 327 blue issues).

DWS recorded the highest number of non-compliances detected at **38.87%** during the execution of compliance inspections, followed by DEA which detected **668**, followed by KZN DEDTEA with **329** and Limpopo DEDET which detected **158** non-compliances. North West DREAD reported **82** non-compliances and followed by Gauteng DARD reported **74** non-compliances. Other EMI institutions recorded less than **50** which were not significant.

2.4 Industrial Compliance and Enforcement

The 2016/2017 financial year proved to be one of the most challenging years in relation to industrial compliance and enforcement initiatives. During 2016/2017, the DEA decided to continue with its operational activities and targeted sectors which had ample time to come into compliance with environmental legislative requirements, as some of these facilities were inspected for the third time. Suffice to say, that no real improvements were observed despite the baseline inspections having been done as early as 2007.

Given the experience gained by the Inspectorate over time within the industrial sector the impact of previous compliance and enforcement initiatives and in some instances the improvement at some of these facilities had to be measured, quantified and confirmed before the next phase enforcement of action can be taken. As such the Inspectorate again inspected the Ferro-Alloy Industries, Refineries, the Cement industry, Hazardous Landfill sites and Power Generation Plants during the 2016/2017 reporting period.

2.5 National Complaints and Incidents

- In 2016/17, the total number of complaints and section 30 incidents reported through the various reporting channels was **845**, which indicates a slight increase of **3.1% (26)** from **819** in 2015/16.
- The reported number of incidents in terms of section 30 of NEMA has decreased from **239** in 2015/16 to **170** in 2016/17, while the number of complaints reported increased by **25.5%** from **580** in 2015/16 to **728** in 2016/17.
- The highest number of section 30 NEMA incidents reported came from the power generation sector which amounted to **48% (82)** followed by trucks and rail transport attributing **35% (60)** of the total 170 reported incidents.
- There has been a fluctuation in the reporting of certain types of incidents, with a significant increase in reports on export and import of species from **17** in 2015/16 to **208** in 2016/17 and followed by the increase in illegal activities (*not EIA complaints*) from **60** in 2015/16 to **208** in 2016/17, while there's decrease in spillages reported from 130 in 2015/16 to 6 in 2016/17.
- There has been an increase in the number of complaints and incidents from all modes of reporting handled by DEA with **266** in 2015/16 to **375** in 2016/17, while complaints which were referred to DMR, DWS, provincial departments and local authorities have increased slightly.

2.6 Annual Compliance and Enforcement Highlights

CATEGORY	RESULT	INSTITUTION	LEGISLATION
Most inspections conducted	Green issues = 1418 Brown issues= 335 Blue issues= 3 Total= 1756 facilities	North West DREAD	Multiple
Highest sentence of direct imprisonment <u>without</u> the option of a fine	<i>S v Simon Ngomani (Skukuza CAS 9/12/2011)</i> Effective 28 years imprisonment including Trespassing: 3 years ; Illegal hunt: 10 years ; Theft rhino horns: 5 years ; Illegal possession of fire-arm and ammunition: 10 years .	SANParks	Hunting of 2 rhino, Immigration Act, Theft of 4 rhino horn, Trespassing, Possession of firearm and ammunition
Highest sentence for a pollution and waste case	The <i>State v Heidinge Waste Removal CC</i> . The accused was found guilty and sentenced to a fine of R 1 000 000 suspended for 5 years. A further R 100 000 to be paid to the DEA.	DEA	Section 26(1) of NEMWA

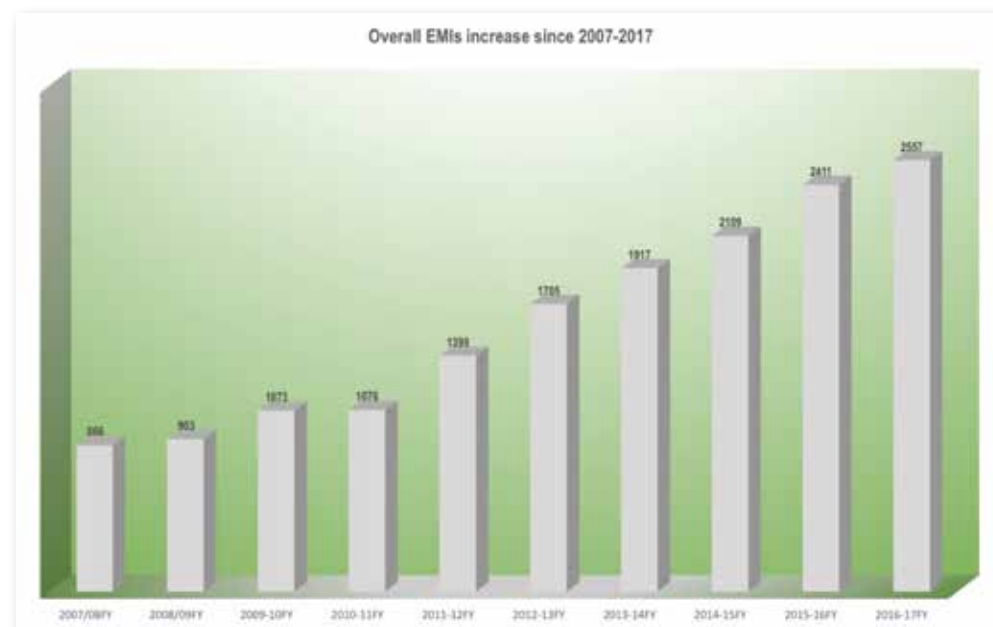
2.6 Annual Compliance and Enforcement Highlights

CATEGORY	RESULT	INSTITUTION	LEGISLATION
Highest number of section 24G fines issued	41 s24G fines which equated to a total sum of R6 580 000.00	Western Cape DEADP	NEMA section 24G
The highest number of administrative enforcement notices issued	255 administrative enforcement notices were issued, most related to restricted activities involving listed invasive species.	DEA	NEM:BA Section 71(1)
Highest number of admission of guilt fines issued	472 were issued to the sum total of R190 940	SANParks	NEM:PAA

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 2017, 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 **2880** EMIs, comprising **2577** from national and provincial authorities and **303** from municipalities. The distribution (or annual increase) of EMIs is reflected in the table below.



Graph representation of EMIs distribution since 2007

3.1 Environmental Management Inspectors per Institution

Institution Name	2014-15FY	2015-16FY	2016-17FY
National Authorities			
DEA	63	83	135
iSimangaliso	2	4	6
SANParks	681	802	859
DWS	-		17
SANBI	-	4	4
Provincial Environmental Authorities			
Eastern Cape DEDEA	52	50	44
Free State DESTEA	42	41	40
Gauteng DARD	49	49	50
KwaZulu-Natal DEDTEA	32	34	68
Limpopo DEDET	255	269	256
Mpumalanga DARDLEA	14	11	9
Northern Cape DENC	25	30	28
North West DREAD	45	46	46
Western Cape DEADP	72	77	66
Provincial Parks Authorities			
CapeNature	19	39	43
Eastern Cape Parks	107	158	137
Ezemvelo	543	605	661
Mpumalanga Parks	19	19	19
North West Parks Board	89	90	89
Grand Total	2109	2411	2577

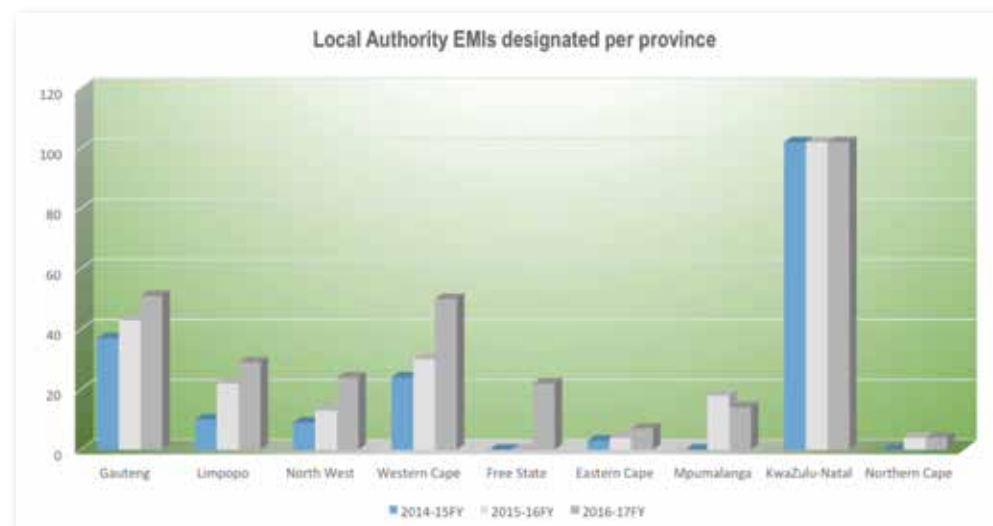
3.1.1 Local Authority Environmental Management Inspectors

The 2012/13 financial year marked the commencement of the roll out of local authority EMLs. 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. The 2016/17 financial year saw the local authority EML capacity increase from **236** in 2015/16 to **303** in 2016/17, with **15** EMLs

designated in Western Cape and 7 in the Limpopo. While KwaZulu-Natal have designated the most local authority EMI, there's a general slight increase on most of the provinces local authorities in 2016/17.

Table Number of local authority EMIs designated

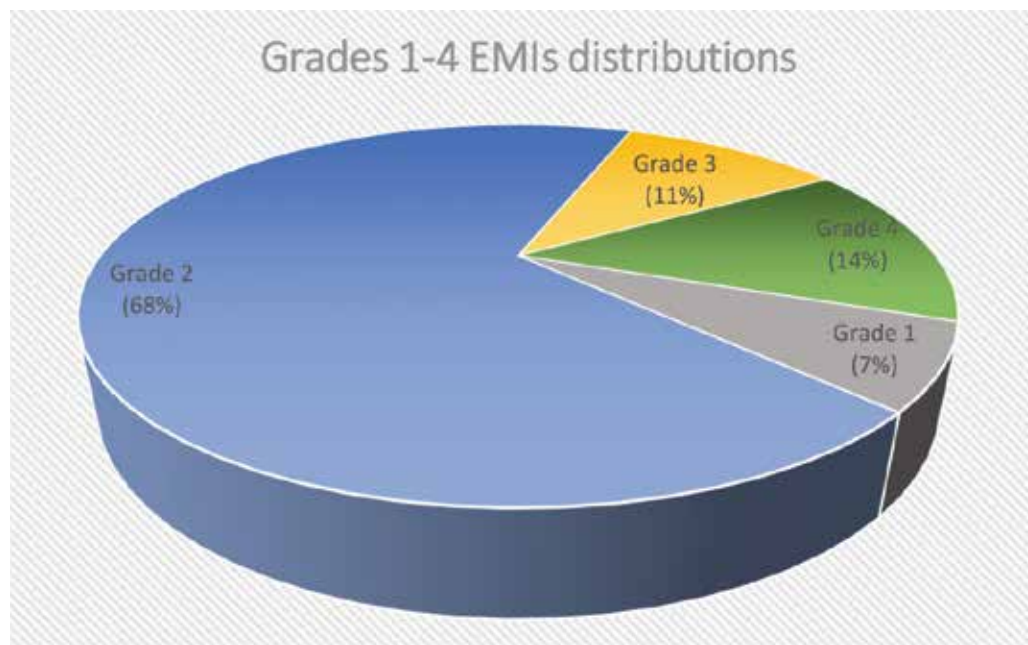
Province	2014-15FY	2015-16FY	2016-17FY
Gauteng	37	43	51
Limpopo	10	22	29
North West	9	13	24
Western Cape	24	30	50
Free State	-	-	22
Eastern Cape	3	4	7
Mpumalanga	-	18	14
KwaZulu-Natal	102	102	102
Northern Cape	-	4	4
Totals	185	236	303



Graph 1: Graphical representation for EMIs designated in different provinces over a three year period

3.1.2 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.



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

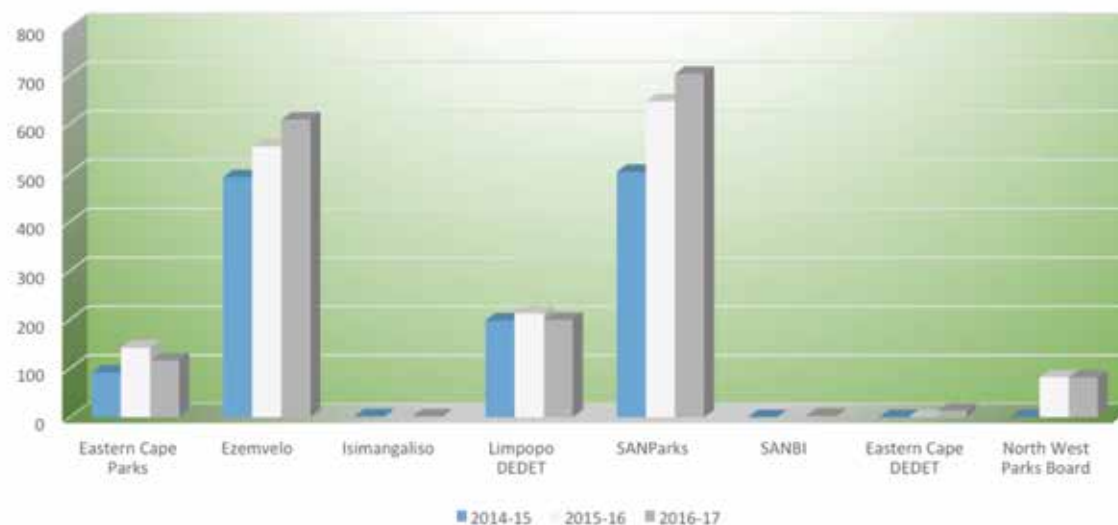
3.1.3 Grade 5 Environmental Management Inspectors

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 EMIs designated since 2012/13. In 2016/17, there was a slight **5.5% (90)** in Grade 5 EMIs was recorded. This increase can be attributed to the growth in numbers from Ezemvelo KZN Wildlife, Eastern Cape DEDET and SANParks.

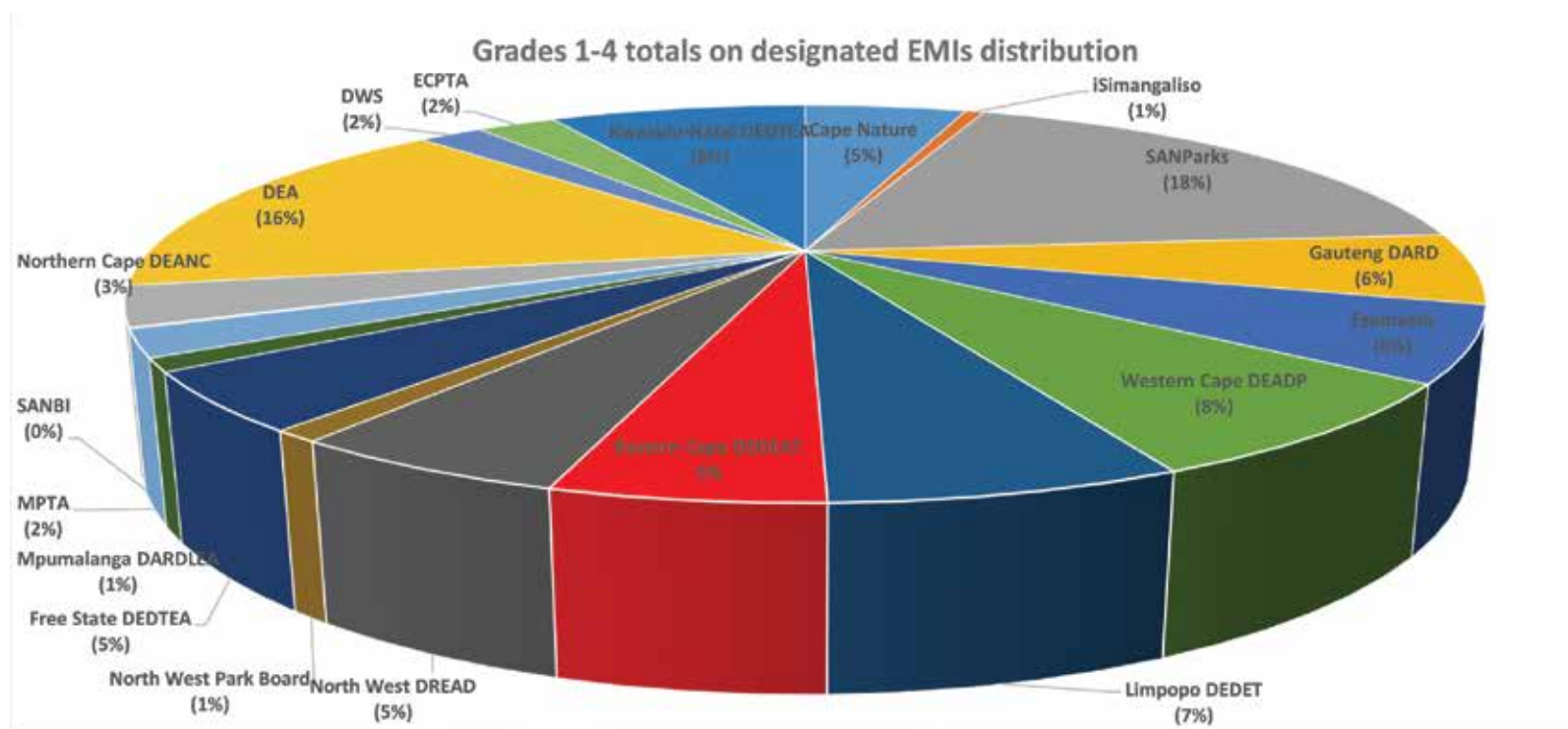
INSTITUTION	2014-15	2015-16	2016-17
Eastern Cape Parks	91	142	116
Ezemvelo	491	554	609
Isimangaliso	2	0	2
Limpopo DEDET	198	212	199
SANParks	502	646	703
SANBI	-	-	3
Eastern Cape DEDET	-	-	13
North West Parks Board	-	82	81
TOTAL	1300	1636	1726

Grade 5 EMIs designated

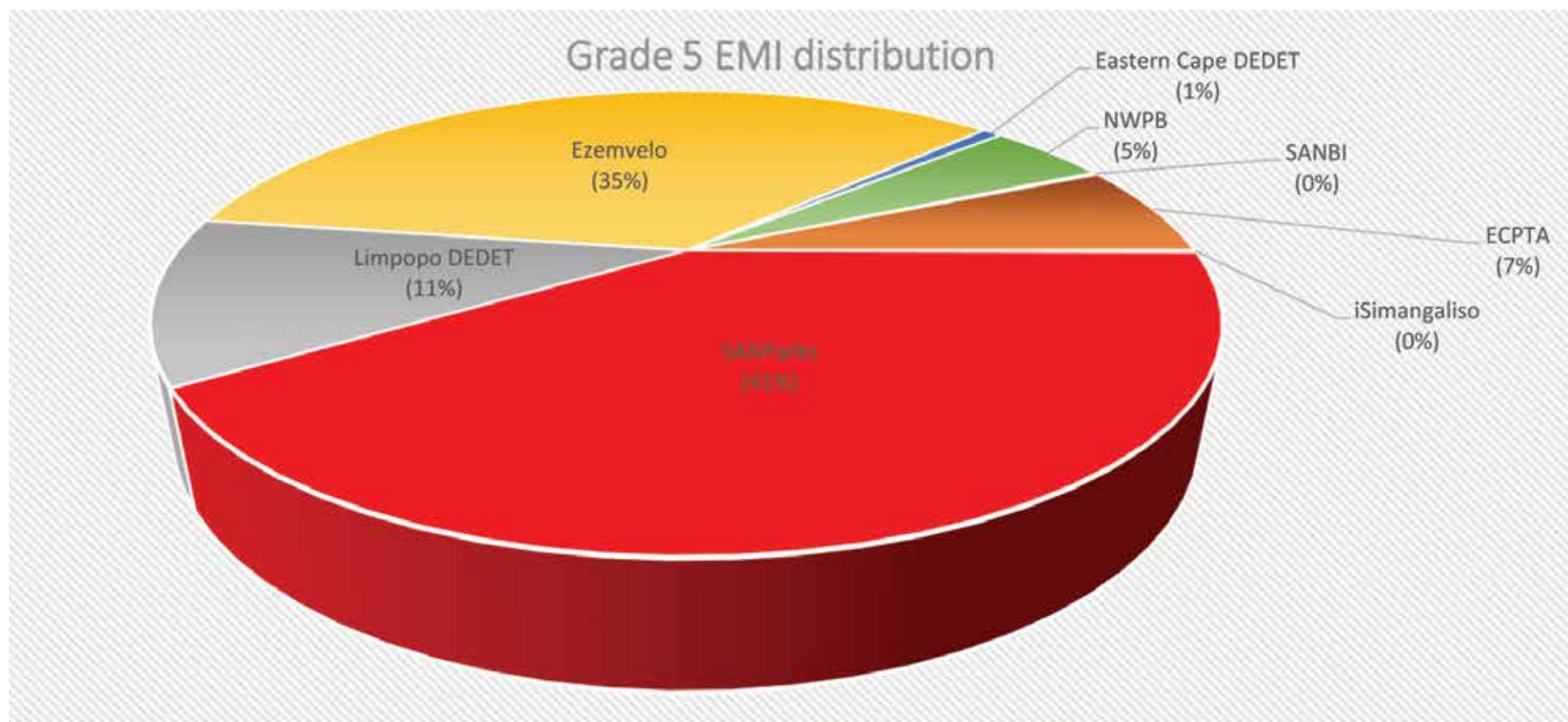


Graph 2: Number of Grade 5 EMIs (field rangers) per institution

3.1.4 Environmental Management Inspectors: grades pie chart per institution



Pie chart 2: Distribution of Grade 1-4 EMIs per EMI institutions



Pie chart 3: Distribution of Grade 5 EMIs across EMI institutions

OVERALL NATIONAL COMPLIANCE AND ENFORCEMENT STATISTICS

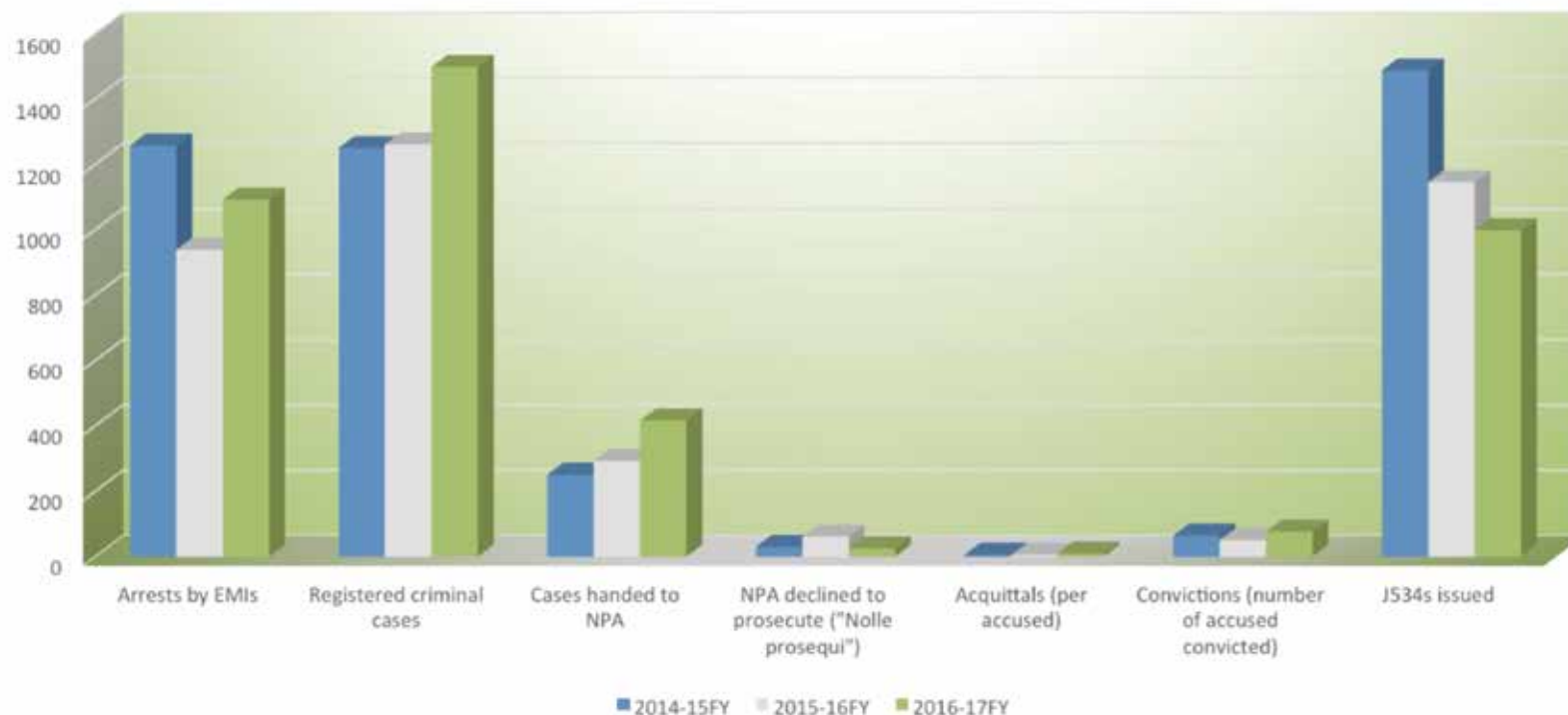


4. OVERALL NATIONAL COMPLIANCE AND ENFORCEMENT STATISTICS

4.1 Enforcement

	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement			
Arrests by EMLs	1259	939	1092
Criminal dockets registered	2019	1186	1497
Cases handed to NPA	257	293	416
NPA declined to prosecute (nolle prosequi)	24	61	74
Section 105A agreements (plea bargains)	15	13	11
Acquittals	6	5	10
Convictions (excl. J534s)	65	52	76
J534 (Admission of Guilt Fines): Total number issued	1390	998	1010
J534: Total number paid	686	695	628
J534: Total value of fines paid	R 418 181	R 564 850	R 393 891
Administrative Enforcement and Civil Actions			
Warning letters issued	364	309	296
Pre-directives issued	111	290	261
Pre-compliance notices issued	436	422	562
Directives issued	57	146	144
Final compliance notices issued	125	58	133
Civil court applications launched	1	0	7
S24G administrative fines: Total value paid	R14 005 423	R 8 019 250	R 9 766 445,22
S24G: Total number of fines paid	100	91	119

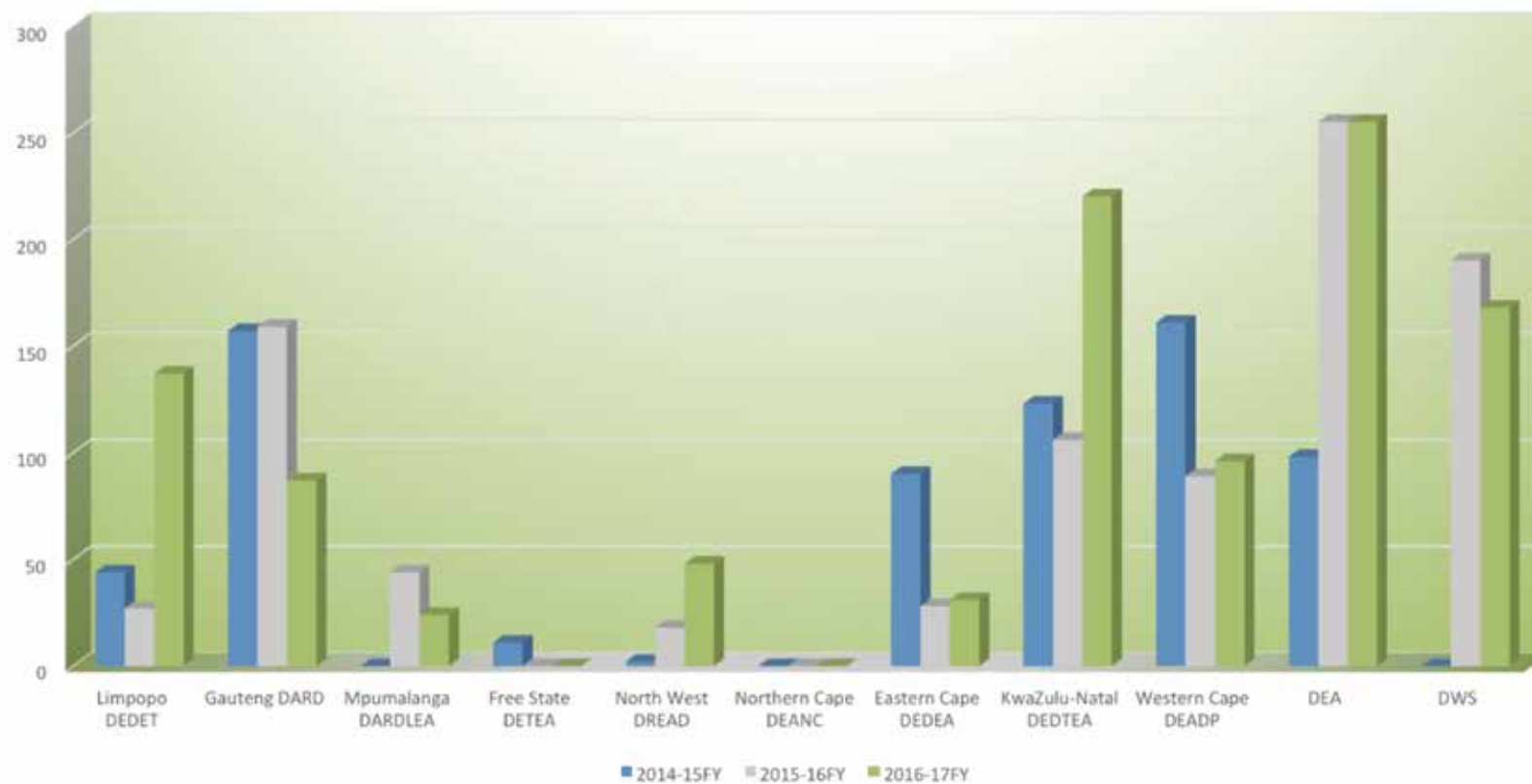
Criminal Enforcement Statistics



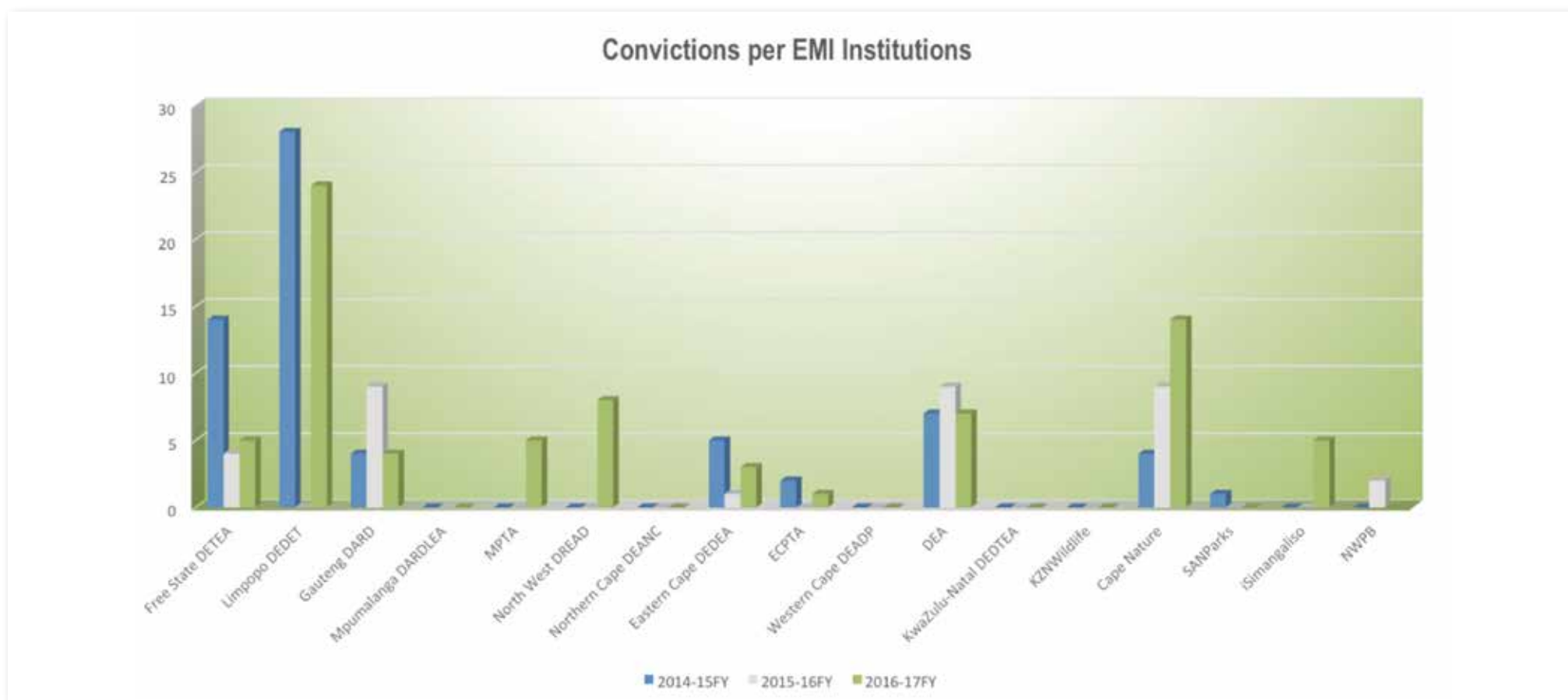
Graph 2: Overall Criminal Enforcement Statistics from 2014-15FY to 2016-17FY.

The following three graphs compare the use of administrative and criminal enforcement mechanisms by each of the EMI Institutions. The comparison for the 2016/17 financial year reveals that the use of administrative enforcement (i.e. directives and notices) remains the preferred tool for the authorities that deal with brown issues, with the DEA, KwaZulu-Natal DEDTEA, DWS and Limpopo DEDET showing the highest numbers issued for this reporting period. In respect of the number of criminal convictions, Limpopo DEDET contributed 32% of the total (24 of 76); and Cape Nature 18% (14 of 76).

Administrative Enforcement

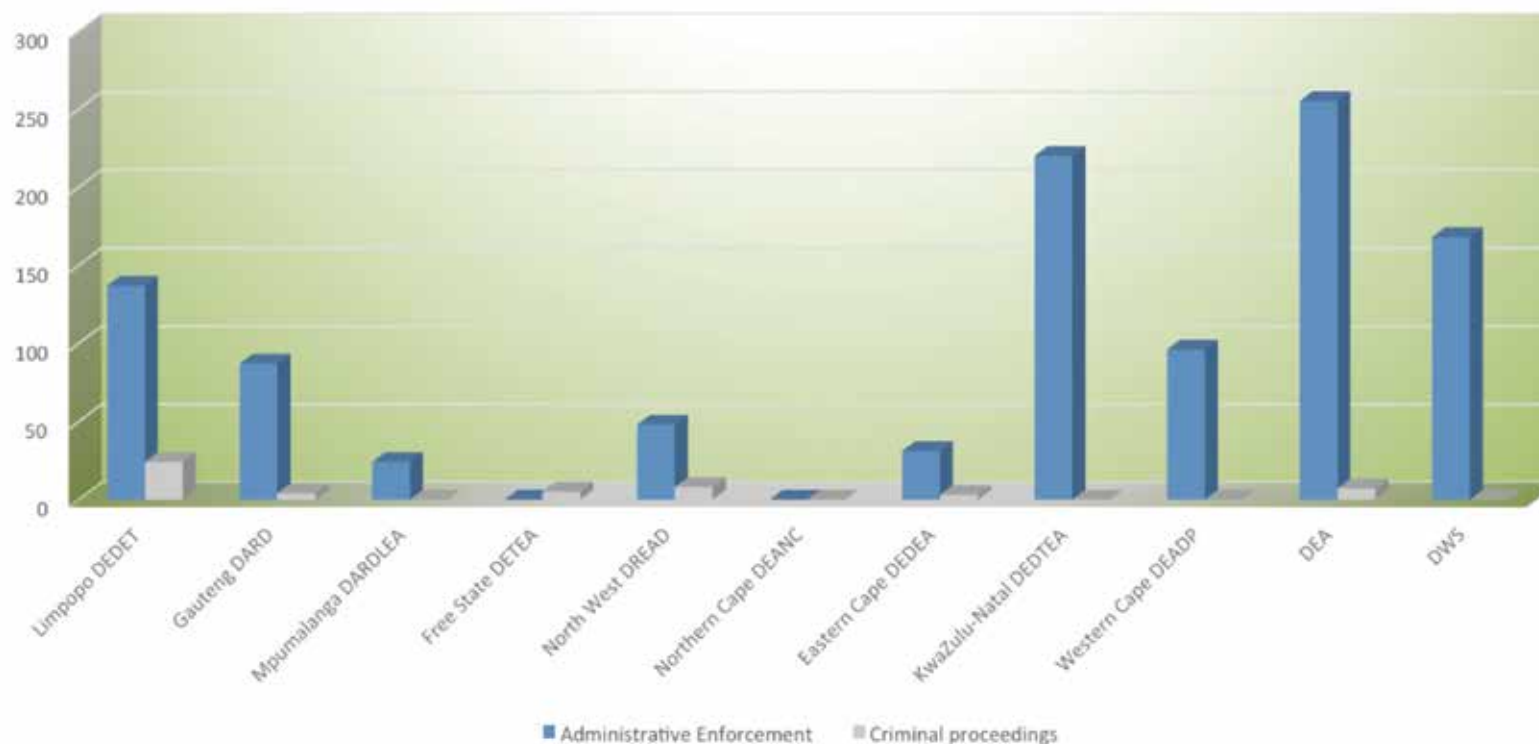


Graph 4: Comparative number of administrative enforcement notices issued per institution



Graph 5: Comparative number of convictions obtained per institution

Administrative versus Criminal Enforcement proceedings



Graph 6: Criminal versus administrative enforcement action

4.1.1 Most prevalent types of environmental crimes

The 2016/17 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 and illegal entry continues to be the predominant environmental crime.

Province	Institution	Prevalent crimes	Number of incidents reported
National Institutions (excl. iSimangaliso)	DEA	Illegal possession of alien and invasive species and nurseries (NEMBA)	83
	SANParks	Illegal hunting of rhino in a national park (NEM: PAA)	588
Eastern Cape	Eastern Cape DEDEA	Unlawful commencement of listed activities (Decree no. 9 of 1992, section 39)	64
	Eastern Cape Parks	Illegal entrance on a protected area and hunting inside protected area (NEM:PAA and NEM:BA)	16
Free State	Free State DESTEA	Illegal hunting of wild animals and rhino poaching (NEMBA S57(1) and Ordinance 8 of 1969)	14
Gauteng	Gauteng DARD	Unlawful commencement of listed activities (NEMA)	97
Kwa-Zulu Natal	Ezemvelo	Illegal entry / Illegal hunting Prohibited activity (Ordinance 15 of 1974)	670
	KwaZulu-Natal DEDTEA	Unlawful commencement of listed activities (NEMA)	150
Limpopo	Limpopo DEDET	Picking indigenous plants without a permit (LEMA)	372
Mpumalanga	Mpumalanga DARDLEA	Illegal commencement of listed activities (NEMA)	22
	Mpumalanga Parks	Illegal rhino hunting and general (Mpumalanga Nature Conservation Act 10 of 1998 section 5)	65
Northern Cape	Northern Cape DENC	Illegal hunting without a permit (NC Nature Conservation Act 9 of 2009)	21
North West	North West DREAD	Unlawful commencement of listed activities (NEMA)	26
	North West Parks	Illegal hunting of rhino (NEM:BA section 57)	56
Western Cape	CapeNature	Fishing without possession of necessary permit (MLRA section 13(3))	25
	Western Cape DEADP	Unlawful commencement of listed activities (NEMA)	220

4.1.2 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 illegal hunting and entry), appear as the top two pieces of national environmental legislation contravened.

	Legislation	Ezemvelo	Gauteng DARD	Free State DESTEa	North West DEDET	Limpopo DEDET	Northern Cape DENC	DEA	Western Cape DEADP	Eastern Cape Parks	Eastern Cape DEDET	Mpumalanga DARDLEA	KwaZulu-Natal DEDETA	Cape Nature	SANParks	Mpumalanga Parks	DWS	North West Parks	TOTAL
National Legislation	NEMA (including EIA Regulations)	5	167	-	30	91	21	105	220	4	45	22	197	-	-	-	-	-	886
	NEM:BA including TOPS & CITES Regulations	324	-	23	28	2	1	156	-	16	11	-	-	-	-	-	-	56	616
	NEM:PAA	72	-	-	-	-	-	-	-	1	-	-	-	3	769	-	-	-	845
	NEM:AQA	-	1	-	-	5	-	38	-	-	1	-	-	-	-	-	-	-	45
	NEM:WA	-	39	-	14	20	1	89	3	-	9	-	11	-	-	-	-	-	186
	ECA	-	94	-	-	-	-	22	-	-	-	-	-	-	-	-	-	-	116
	MLRA	98	-	-	-	-	-	-	-	18	1	-	-	36	198	-	-	-	351
	ICMA	-	-	-	-	-	-	26	-	-	11	-	3	-	-	-	-	-	29
	NWA	-	-	-	-	-	-	6	-	-	-	-	-	-	-	-	177	-	183
Sub-Total		499	301	23	72	118	1	442	223	39	67	22	211	39	967	0	177	56	3257

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 tables highlight blue, green and brown compliance inspections conducted during the 2016/17 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, including with each condition thereof, 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.

4.2.1 Compliance Inspections per Triggers

Institution	Complaint	Permit	Planned Inspection	Section 30 Incident	Routine Inspection	Priority List	Grand Total
Cape Nature	-	367	-	-	-	-	367
DEA	227	17	76	-	3	-	323
Gauteng DARD	3	258	-	-	-	-	261
Limpopo DEDET	92	43	146	-	22	-	303
Northern Cape DEANC	19	7	36	-	6	-	68
Western Cape DEADP	82	-	5	-	-	-	87
KwaZulu-Natal DEDTEA	11	759	-	-	-	-	770
Mpumalanga DARDLEA	5	1	8	5	-	-	19
Water and Sanitation	-	1	23	-	16	366	406
North West DREAD	1046	19	464	1	245	-	1756
Grand Total	1485	1472	758	6	293	366	4379

4.2.2 Compliance Inspections per Type/Non-Compliances detected/Enforcement required: Brown, Green and Blue

4.2.2.1 Brown Issues

Institution	Brown					
	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Number requiring Enforcement action
DEA	306	302	79	227	654	16
Gauteng DARD	261	232	244	17	74	26
KwaZulu- Natal DEDTEA	769	754	756	13	328	186
Limpopo DEDET	115	115	108	7	55	23
Mpumalanga DARDLEA	19	17	1	18	15	4
North West DREAD	354	257	275	60	65	55
Northern Cape	68	41	42	26	32	15
Water and Sanitation	79	75	76	3	49.73% ¹	29
Western Cape DEADP	87	15	5	82	104	87
Grand Total	2058	1808	1586	453	1327 & (49.73%)	441

¹ DWS non-compliance detected were reported on percentages.

4.2.2.2 Green Issues

Green						
Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Number requiring enforcement action
Cape Nature	367	-	-	367	-	-
KwaZulu- Natal EDTEA	1	1	-	1	1	1
Limpopo DEDET	188	183	91	97	103	8
North West DREAD	1418	1396	857	561	17	6
Water and Sanitation	6	5	6		-	-
Grand Total	1980	1585	954	1026	121	15

4.2.2.3 Blue Issues (Marine and Freshwater)

Blue						
Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Number requiring enforcement action
North West	3	2	3		0	-
DEA	17	17	17	-	14	-
Water and Sanitation	321	313	314	7	28% ¹	76
Grand Total	341	332	334	7	14 & 28%	76

4.3 Compliance Inspections undertaken by Local Authority EMI Institutions

4.3.1 Inspection Triggers

Institution	Complaint	Planned Inspection	Section 30 Incident	Routine Inspection	Grand Total
City of Tshwane Metropolitan Municipality	17	2	2	8	29
Capricorn District Municipality	-	-	-	7	7
Amajuba District Municipality	-	-	1	-	1
Ethekwini Metropolitan	44	20	-	-	64
Waterberg District Municipality	1	-	-	2	3
Grand Total	62	22	3	17	40

¹ DWS non-compliance detected were reported on percentages.

4.3.2 Green Issues

Green						
Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Number requiring Enforcement action
City of Tshwane	4	3	2	2	3	2
Grand Total	4	3	2	2	3	2

4.3.3 Brown Issues

Brown						
Institution	Facilities Inspected	Inspection Report finalised	Pro-active	Reactive	Number of non-compliances	Number requiring Enforcement action
City of Tshwane	25	14	8	17	40	12
Capricorn District Municipality	7	7	2	5	9	5
Amajuba District Municipality	1	1	0	1	0	0
Ethekwini Metropolitan	64	-	20	44	-	-
Waterberg District Municipality	3	0	0	3	0	0
Grand Total	100	22	30	70	49	17



STATISTICS PER NATIONAL INSTITUTION/
PROVINCE

5. STATISTICS PER NATIONAL INSTITUTION/PROVINCE

5.1 National Institutions

5.1.1 Department of Environmental Affairs and Department of Water and Sanitation



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

LEGAL AUTHORISATIONS, COMPLIANCE AND ENFORCEMENT				DEPARTMENT OF WATER AND SANITATION	
	2014-15FY	2015-16FY	2016-17FY	2015-16FY	2016-17FY
Criminal Enforcement					
Arrests by EMLs	0	5	8	0	0
Criminal dockets registered	36	41	52	5	5
Cases handed to NPA	35	45	31	3	6
NPA declined to prosecute (nolle prosequi)	8	18	10	0	1
Section 105A agreements (plea bargains)	4	6	1	1	0
Acquittals	0	0	0	0	0
Convictions	7	9	7	0	0
J534s issued	2	0	12	0	0
J534s paid	R 10 000,00	0	R 22 800,00	0	0
Administrative Enforcement and Civil Actions					
Warning letters written	1	60	43	0	17
Pre-directives issued	11	24	78	142	124
Pre-compliance notices issued	74	219	132	1	0
Final directives issued	3	4	1	47	44
Final compliance notices issued	10	8	44	0	0
Civil court applications launched	0	0	0	0	6
S24G administrative fines paid (total value / number)	R 4 194 000	R 1 695 000	R 2 355 000,00	0	0
	4	5	5	0	0

5.1.2 SANParks and Isimangaliso Wetland Authority



	SOUTH AFRICAN NATIONAL PARKS			ISIMANGALISO WETLAND PARK AUTHORITY ²		
	2014-15FY	2015-16FY	2016-17FY	2014-15FY	2015-16FY	2016-17FY
Arrests by EMLs	258	178	311	-	-	30
Criminal dockets registered	708	289	644	-	-	29
Cases handed to NPA	84	147	257	-	-	2
NPA declined to prosecute (nolle prosequi)	1	-	0	-	-	0
Section 105A agreements (plea bargains)	0	-	-	-	-	0
Acquittals	1	-	-	-	-	0
Convictions	1	-	-	-	-	5
J534s issued	340	314	262	-	-	10
J534s paid (number)	51	109	43	-	-	10
J534s paid (value)	R 18 650	R 27 200	R 37 400	-	-	R 9 500
Administrative Enforcement and Civil Actions						
Warning letters written	-	-	-	-	-	2
Pre-directives issued	-	-	-	-	-	0
Pre-compliance notices issued	-	-	-	-	-	2
Final directives issued	-	-	-	-	-	0
Final compliance notices issued	-	-	-	-	-	0
Civil court applications launched	-	-	-	-	-	1
S24G administrative fines paid (total value / number)	-	-	-	-	-	-

² No statistics were submitted for 2014-15FY and 2015-16FY, 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		
	2014-15FY	2015-16FY	2016-17FY	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement						
Arrests by EMLs	0	0	0	24	54	40
Criminal dockets registered	6	6	9	25	30	31
Cases handed to NPA	6	6	0	4	10	8
NPA declined to prosecute (nolli prosequi)	0	1	0	0	9	0
Section 105A agreements (plea bargains)	0	0	0	2	3	8
Acquittals	0	0	0	0	0	0
Convictions	0	0	0	4	15	14
J534s issued	0	0	0	63	95	74
J534s paid (number)	0	0	0	26	59	29
J534s paid (value)	0	0	0	R 11 300	R 58 600	R 35 550
Administrative Enforcement and Civil Actions						
Warning letters written	15	1	0	0	0	0
Pre directives issued	51	29	17	0	0	0
Pre-compliance issued	84	45	61	0	0	0
Final directives issued	20	9	7	0	0	0
Final compliance notices issued	10	6	11	0	0	0
Civil court applications launched	0	0	0	0	0	0
\$24G administrative fines paid (total value / number)	R4 515 125	R 3 520 000	R 6 580 000	0	0	0
	62	49	41			

5.2.2 KwaZulu-Natal



	DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM & ENVIRONMENTAL AFFAIRS			EZEMVELO KZN WILDLIFE		
	2014-15FY	2015-16FY	2016-17FY	2013-14FY	2014-15FY	2015-16FY
Criminal Enforcement						
Arrests by EMLs	0	0	0	373	246	136
Criminal dockets registered	0	1	2	486	363	173
Cases handed to NPA	0	0	1	-	-	-
NPA declined to prosecute (nolli prosequi)	0	0	1	-	-	-
Section 105A agreements (plea bargains)	0	0	0	-	-	-
Acquittals	0	0	0	-	-	-
Convictions	0	0	0	-	-	-
J534s issued	0	0	0	306	215	46
J534s paid (number)	1	0	0	177	134	33
J534 paid (value)	R 0	R 0	R 0	R 211 850	R 242 950	R 47 500
Administrative Enforcement and Civil Actions						
Warning letters written	136	1	31	-	-	-
Pre-directives issued	10	59	0	-	-	-
Pre-compliance notices issued	77	8	172	-	-	-
Final directive issued	9	35	1	-	-	-
Final compliance notices issued	27	4	47	-	-	-
Civil court applications launched	0	0	0	-	-	-
\$24G administrative fine paid (total value / number)	R 1 207 700	R 197 500	R 316 800	-	-	-
	9	2	27		-	-

5.2.3 Gauteng



GAUTENG DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement			
Arrests by EMLs	2	3	3
Criminal dockets registered	23	20	1
Cases handed to NPA	5	13	10
NPA declined to prosecute (nolle prosequi)	7	6	0
Section 105A agreements (plea bargains)	3	3	0
Acquittals	0	2	0
Convictions	4	9	4
J534s issued	30	39	12
J534s paid (number)	25	36	7
J534s paid (value)	R 11 050	R 26 700	R 4 600
Administrative Enforcement and Civil Actions			
Warning letters written	0	1	1
Pre-directives issued	31	23	0
Pre-compliance notices issued	81	73	4
Directives issued	15	35	82
Final compliance notices issued	30	28	1
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R 1 666 965	R 1 809 750	R 4 568 247
	20	23	56

5.2.4 Limpopo



	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement			
Arrests by EMLs	432	249	310
Criminal dockets registered	512	259	269
Cases handed to NPA	49	9	7
NPA declined to prosecute (nolle prosequi)	0	0	48
Section 105A agreements (plea bargains)	1	0	0
Acquittals	4	0	9
Convictions	28	0	24
J534s issued	601	373	472
J534s paid (number)	377	304	416
J534s paid (value)	R 129 780	R 156 550	R 172 290
Administrative Enforcement and Civil Actions			
Warning letters written	138	145	157
Pre-directives issued	0	2	34
Pre-compliance notices issued	26	24	83
Directives issued	1	0	5
Final compliance notices issued	17	1	15
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	-	-	R 1 006 097
	-	-	16

5.2.5 Eastern Cape



	DEPARTMENT OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL AFFAIRS			EASTERN CAPE PARKS & TOURISM AGENCY		
	2014-15FY	2015-16FY	2016-17FY	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement						
Arrests by EMLs	65	42	32	6	10	23
Criminal dockets registered	41	42	50	12	9	29
Cases handed to NPA	24	22	14	2	0	0
NPA declined to prosecute (nolle prosequi)	3	5	4	2	0	0
Section 105A agreements (plea bargains)	0	0	0	0	0	0
Acquittals	0	0	0	0	0	0
Convictions	5	1	3	2	0	1
J534s issued	13	48	51	7	1	7
J534s paid (number)	1	4	19	5	1	7
J534s paid (value)	R 2 500	R 5 250	R 21 101	R 1 500	R 300	R 1 950
Administrative Enforcement and Civil Actions						
Warning letters written	51	49	21	0	0	0
Pre-directives issued	0	2	1	0	0	0
Pre-compliances issued	0	23	26	0	0	2
Final directives issued	23	0	1	0	0	0
Final compliance notices issued	0	3	3	0	0	1
Civil court applications launched	1	0	0	0	0	0
\$24G administrative fines paid (total value / number)	R 1 896 758	R 70 000	-	0	0	0
	8	1	1			

5.2.6 Free State



DEPARTMENT OF ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement			
Arrests by EMLs	50	27	32
Criminal dockets	37	24	32
Cases handed to NPA	36	16	13
NPA declined to prosecute (nolle prosequi)	2	1	3
Section 105A agreements (plea bargains)	4	0	2
Acquittals	1	2	1
Convictions	14	4	5
J534s issued	14	4	23
J534s paid (number)	11	4	18
J534s paid (value)	R 7 800	R 5 200	R 8 050
Administrative Enforcement and Civil Actions			
Warning letters written	0	-	-
Pre-directives issued	0	-	-
Pre-compliance notices issued	7	-	-
Directives issued	3	-	-
Final compliance notices issued	1	-	-
Civil court applications launched	0	-	-
S24G administrative fines paid (total value / number)	R 0	-	-
	0	-	-

5.2.7 Mpumalanga



	MPUMALANGA DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT, LAND & ENVIRONMENTAL AFFAIRS			MPUMALANGA TOURISM AND PARKS AGENCY		
	2014-15FY	2015-16FY	2016-17FY	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement						
Arrests by EMLs	2	0	0	13	30	54
Criminal dockets registered	1	6	4	75	59	65
Cases handed to NPA	2	2	0	6	1	23
NPA declined to prosecute (nolle prosequi)	0	0	0	0	0	1
Section 105A agreements (plea bargains)	0	0	0	0	0	0
Acquittals	0	1	0	0	0	0
Convictions	0	0	0	0	0	5
J534s issued	0	0	0	0	0	2
J534s paid (number)	0	0	0	0	0	2
J534s paid (value)	0	0	0	R 0	R 0	R 2000
Administrative Enforcement and Civil Actions						
Warning letters written	23	26	20	0	0	0
Pre-directives issued	6	7	4	0	0	0
Pre-compliances issued	20	17	16	0	0	0
Final directives issued	6	14	0	0	0	0
Final compliance notices issued	11	6	4	0	0	0
Civil court applications launched	0	0	0	0	0	0
S24G administrative fines paid (total value / number)	R 1 050 000	R 255 000	R 1 519 300	0	0	0
	2	4	14			

5.2.8 Northern Cape



DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement			
Arrests by EMLs	22	1	0
Criminal dockets	19	1	1
Cases handed to NPA	1	1	0
NPA declined to prosecute (nolle prosequi)	1	0	0
Section 105A agreements (plea bargains)	0	0	0
Acquittals	0	0	0
Convictions	0	0	0
J534s issued	2	14	1
J534s paid (number)	0	2	1
J534s paid (value)	R 0	R 4 000	R 2 500
Administrative Enforcement and Civil Actions			
Warning letters written	-	22	1
Pre-directives issued	-	0	0
Pre-compliance notices issued	-	0	0
Directives issued	-	0	0
Final compliance notices issued	-	0	0
Civil court applications launched	-	0	0
S24G administrative fines paid (total amount and number)	-	-	-
	-	-	-

5.2.9 North West



read
Department:
Rural, Environment and Agricultural
Development
North West Provincial Government
REPUBLIC OF SOUTH AFRICA



	NORTH WEST DEPARTMENT OF RURAL, ENVIRONMENT AND AGRICULTURE DEVELOPMENT			NORTH WEST PARKS AND TOURISM BOARD		
	2014-15FY	2015-16FY	2016-17FY	2014-15FY	2015-16FY	2016-17FY
Criminal Enforcement						
Arrests by EMLs	0	90	109	12	4	4
Criminal dockets	21	75	83	17	31	56
Cases handed to NPA	0	16	43	3	2	1
NPA declined to prosecute (nolle prosequi)	0	4	5	0	0	0
Section 105A agreements (plea bargains)	0	0	0	1	0	0
Acquittals	0	0	0	0	0	0
Convictions	0	12	8	0	2	0
J534s issued	11	41	26	1	1	0
J534s paid (number)	11	41	26	0	1	0
J534s paid (value)	R 13 750	R 36 600	R 24 650	0	R 1 500	0
Administrative Enforcement and Civil Actions						
Warning letters written	0	4	3	-	-	-
Pre-directives issued	0	2	3	-	-	-
Pre-compliance notices issued	0	12	34	-	-	-
Directives issued	0	2	37	-	-	-
Final compliance notices issued	2	2	5	-	-	-
Civil court applications launched	0	0	0	-	-	-
S24G administrative fines paid (total value / number)	R 0	R 472 000	-	-	-	-
	0	7	-	-	-	-

5.2.10 Local authorities



	eThekweni Metropolitan	Tshwane Metropolitan	Greater Tzaneen Municipality
	2016-17FY	2016-17FY	2016-17FY
Criminal Enforcement			
Arrests by EMLs	0	-	-
Criminal dockets	4	-	-
Cases handed to NPA	-	-	-
NPA declined to prosecute (nolle prosequi)	-	-	-
Section 105A agreements (plea bargains)	0	-	-
Acquittals	0	-	-
Convictions	0	-	-
J534s issued		-	-
J534s paid (number)	0	-	-
J534s paid (value)	0	-	-
Administrative Enforcement and Civil Actions			
Warning letters written	-	1	4
Pre-directives issued	8	2	0
Pre-compliance notices issued	0	4	2
Directives issued	0	1	0
Final compliance notices issued	1	4	0
Civil court applications launched	0	0	0
S24G administrative fines paid (total value / number)	R0	R0	R0
	0	0	0

ENVIRONMENTAL JURISPRUDENCE



6. ENVIRONMENTAL JURISPRUDENCE

Parties	MINERAL SANDS RESOURCES (PTY) LTD V MAGISTRATE FOR THE DISTRICT OF VREDENDAL (Case No: 18701/16)
Court	In the High Court of South Africa, Western Cape, Cape Town
Headline	The review and setting aside of a search warrant. The mandate of EMI and EMRIs in undertaking compliance and enforcement with the National Environmental Management Act and the National Environmental Management: Integrated Coastal Management Act in mining areas.
Background	Mineral Sands Resources (Pty) Ltd (the Applicant) obtained an environmental authorisation (EA) and a mining right, from the Department of Mineral Resources (DMR), in relation to Tormin mine (the Mine). The Applicant wanted to expand its concentrator plant, construct a jetty and make additional access roads, and was advised that this expansion would require an amendment to the environmental authorisation (EA) and that the construction of the additional roads was a listed activity that required a separate EA. In an inspection by the DMR inspectors, it was revealed that the Applicant had unlawfully cleared indigenous vegetation without an EA. The Applicant submitted an application for the amendment to its EA and environmental and mining EMP at the DMR. The DMR advised that the construction of the jetty and the expansion of the concentrator plant was within the scope of the existing EA, that the DMR was the competent authority in regards to these activities; and that no EA and EMP amendments were required. There were complaints that the Applicant, had <i>inter alia</i> constructed a jetty-like structure in the sea. An Environmental Management Inspector (EMI) wrote to the Applicant regarding these complaints and notified them that an inspection would be conducted by the EMIs at the Mine. In response to this letter, the Applicant said that DMR inspectors had previously conducted an inspection to investigate similar complaints at the mine, that the DMR and not the Department of Environmental Affairs (DEA) was the competent authority within mining areas. The EMI explained that he was responsible for enforcing the National Environmental Management: Integrated Coastal Management Act (NEM: ICMA) and it's Regulations, and that the DMR inspectors were not authorised to enforce the NEM: ICMA. The EMIs, believing that there were reasonable grounds that there were documents at the Mine that might provide evidence of the commission of offences falling within their mandate, executed a search warrant at the Mine. In the search warrant application affidavit, the EMI stated that, because he was responsible for enforcing the NEM: ICMA, he was authorised to investigate any reported incidents that may cause adverse effects to the coastal environment despite the location; that the Applicant's refusal to allow him access raised suspicion that the Applicant might be engaging in illegal and unauthorised activities, and that it was imperative that a search warrant is issued to the DEA for purposes of seizing any material and equipment used in the commission of a suspected crime in terms of the NEM: ICMA. During the search, various document were seized, and photographs and measurements were taken. The Applicant subsequently submitted the matter to the High Court (the Court) in order to, <i>inter alia</i>, review and set aside the search warrant.

Parties	MINERAL SANDS RESOURCES (PTY) LTD V MAGISTRATE FOR THE DISTRICT OF VREDENDAL (Case No: 18701/16)
Court	In the High Court of South Africa, Western Cape, Cape Town
Headline	The review and setting aside of a search warrant. The mandate of EMLs and EMRIs in undertaking compliance and enforcement with the National Environmental Management Act and the National Environmental Management: Integrated Coastal Management Act in mining areas.
Judgment	In delivering his judgement, the judge dealt with several key aspects relating to the status of EMPRs and the amendment thereof, the validity of the search warrant and the mandate of Environmental Management Inspectors versus Environmental Mineral Resource Inspectors: The Status of Environmental Management Programmes (EMPRs) Pre 08 December 2014: an applicant wishing to commence with mining activities that would trigger listed activities would need to firstly obtain <u>both</u> a mining permit/right and an EMPR in terms of the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA) as well as an environmental authorisation (EA) in terms of NEMA. Post 08 December 2014: An MPRDA EMPR that was approved prior to 08 December 2014 must be regarded as an Environmental Management Plan (EMP) approved in terms of section 24N of NEMA. However, an amendment to an EMPR is not deemed to be an amendment to an EMP in terms of NEMA. Although a MPRDA EMPR is deemed to be a NEMA EMP, an amended EMPR does not constitute a NEMA EA; and the correct procedure to following the commencement of listed activities is section 24G of NEMA. The Search Warrant The Applicant argued that the warrant had to be necessary in the sense that it had to be reasonable for the investigator to seek a search warrant rather than employ other less invasive means. In this regard, the Applicant's argument was that the warrant was unnecessary because the Applicant was not refusing access to the EML, but merely challenging his mandate. The Applicant also argued that a warrant was not required because the evidence that was dealt with could not 'disappear'. The Court held that the investigators required access to the mine site to ascertain more precisely the dimensions and physical characteristics of the failed cliff, and the construction of the jetty and the roads; and there were also documents that might have been relevant to the suspected offences. The Applicant further argued that the warrant was not 'reasonably intelligible', and that it had to be assessed without reference to the affidavits placed before the magistrate. In regards to the failing cliff charge, it was argued that the charge mentioned the negligent or intentional causing of significant degradation or pollution to the environment, without any reference to the failing cliff. The Court noted that the Criminal Procedure Act 51 of 1977 (CPA) requires that a warrant must specify the offence under investigation. The Court also noted that merely identifying the relevant section, i.e. section 49(1)(e) of NEMA, would not tell the investigator and the target what could legitimately be searched were things connected with a suspected unlawful and culpable cause of the collapse of the cliff. The Court noted that there were legislative changes made in MPRDA and NEMA that had the effect that the competent authority for specific environmental listed activities in regards to mining was the DMR. These legislative changes brought into effect the One Environmental System. The Court held that in regards to the mandate to investigate the Mine, the magistrate that issued the search warrant was not alerted to the abovementioned legislative changes and the Applicant's contentions regarding the EMLs mandate. Thus, the magistrate had no opportunity to apply his mind when he issued the warrant in regards to the contraventions relating to the jetty and road charges. The Court noted that the duty of disclosure in regards to search warrant applications, is aimed at ensuring that the judicial officer can apply his mind to the issues materially bearing on his decision. In this regard, the Court also held that the magistrate could not have been expected to be familiar with the intricacies of environmental legislation and the One Environmental System. Thus, if the search warrant application affidavits of the EMLs had disclosed the mandate issue and the legislative changes, the magistrate might have refused to issue the warrant until this legal issue was determined. The mandate of the EMLs/EMRIs. The court made the following obiter statements relating to EMLs and EMRIs: <i>"It is common cause that the mining inspectors appointed by the Mining Minister in terms of s 31D(2A) of NEMA do not have powers to monitor compliance with, and enforce, the Coastal Act and that the Mining Minister has not purported to confer any such powers on them. It is also common cause that the national and provincial inspectors who feature in the present case have been designated by the Environment Minister and the MEC respectively to exercise monitoring and enforcement functions in relation to NEMA and all specific Acts, including the Coastal Act."</i> <i>"On the face of it, there is no limit on the mandates which can be conferred on national inspectors and water inspectors in terms of s 31D(1). The Environment Minister and the Water Minister may appoint national inspectors and water inspectors for the enforcement of NEMA and all specific environmental management Acts. It may be (I do not know) that in practice the Water Minister only appoints water inspectors to enforce the provisions of the Water Act but there is nothing in NEMA which prevents the Water Minister from appointing water inspectors to enforce NEMA or which prevents the Environment Minister from appointing national inspectors to enforce the Water Act."</i>

Parties	MINERAL SANDS RESOURCES (PTY) LTD V MAGISTRATE FOR THE DISTRICT OF VREDENDAL (Case No: 18701/16)
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Headline	The review and setting aside of a search warrant. The mandate of EMLs and EMRIs in undertaking compliance and enforcement with the National Environmental Management Act and the National Environmental Management: Integrated Coastal Management Act in mining areas.
Judgment	<i>"In regard to provincial inspectors, s 31D(2) provides that such inspectors may only be appointed for the enforcement of those provisions of NEMA or other specific Acts as are administered by the province or in respect of which the province exercises or performs assigned or delegated powers or duties. Subject to this limitation, their mandates can apply to all the provisions of NEMA and specific Acts."</i> "As with provincial inspectors, mining inspectors cannot be appointed with unlimited mandates. In terms of s 31D(2A) the Mining Minister can only appoint mining inspectors to monitor and enforce environmental legislation in respect of which powers are conferred on the Mining Minister. Powers are conferred on the Mining Minister as the competent authority to grant environmental authorisations in respect of listed activities directly relating to mining (s 24C(2A)). Mining inspectors can thus monitor and enforce compliance with the terms of environmental authorisations issued in respect of mining activities and can monitor and enforce compliance with those statutory provisions which are applicable where a person unlawfully engages in an activity for which an environmental authorisation from the Mining Minister should have been obtained (particularly ss 24F and 24G)." <i>"However, the view that national inspectors and water inspectors have concurrent jurisdiction with mining inspectors over mining matters makes a mockery of s 31D(4)-(9)."</i> The court was of the view that although the mandates of national EMLs, water inspectors and provincial DEA&DP inspectors may overlap, the efficient administration is generally better served by non-overlapping mandates. This the judge considered could be achieved by interpreting s 31D of the NEMA so as to give mining inspectors exclusive jurisdiction to monitor and enforce environmental legislation relating to mining except when sub-sections 31D(4)-(9) applied.

Parties	ISIMANGALISO WETLAND PARK AUTHORITY & OTHERS v FEASEY PROPERTY GROUP HOLDINGS (PTY) LTD & OTHERS (2016 JDR 1532 (KZP) – Case No. 17351/2014)
Court	KwaZulu-Natal Division, Pietermaritzburg
Headline	The courts recognition of buffer zones adjacent to the Isimangaliso Wetland Park as part of a protected area under the National Environmental Management: Protected Areas Act 57 of 2003
Background	The iSimangaliso Wetland Park Authority ("the applicant") made an application, <i>inter alia</i>, for an interdict stopping the respondents from developing, constructing on and marketing certain sites adjacent to the Ngoboseleni Lake, which is inside the buffer zone (an area surrounding the core protected area that is restricted in terms of its use for added protection) of the Isimangaliso Wetland Park, without the necessary numerous approvals. The applicant wrote to Feasey Property Group Holdings (Pty) Ltd and others ("the respondents") notifying them that their construction and development had commenced without the necessary approvals pertaining to development in the buffer zone; requesting that they, <i>inter alia</i> give an undertaking that no construction and development will proceed until they were properly authorised. Notwithstanding this, the respondents continued with the construction. At an initial hearing, the court directed the parties to negotiate in an effort to resolve the matter. There were no meaningful negotiations and the non-compliance continued. On this basis, the applicant made an application, <i>inter alia</i>, for a final interdict against the respondents in the KwaZulu-Natal Division, Pietermaritzburg ("the Court").

Parties	ISIMANGALISO WETLAND PARK AUTHORITY & OTHERS v FEASEY PROPERTY GROUP HOLDINGS (PTY) LTD & OTHERS (2016 JDR 1532 (KZP) – Case No. 17351/2014)
Court	KwaZulu-Natal Division, Pietermaritzburg
Headline	The courts recognition of buffer zones adjacent to the Isimangaliso Wetland Park as part of a protected area under the National Environmental Management: Protected Areas Act 57 of 2003
Judgment	The respondents' arguments were, <i>inter alia</i>, that the matter brought by the applicants was purely procedural as they do not have jurisdiction and therefore lack <i>locus standi</i> to institute the proceedings since there was no harm to the environment and that there was no perceived impact caused by the respondents' developments. The court considered the following pieces of legislation that it considered relevant in considering this argument: The National Environmental Management Act 107 of 1998 ("NEMA"): NEMA confers authority on the MEC: Economic Development, Tourism & Environmental Affairs, KwaZulu-Natal, as the second applicant to undertake enforce actions in response to the unlawful commencement of activities impacting the environment. NEMA also confers standing on the applicant to enforce environmental legislation, in its own interest, in the public interest and in the interest of protecting the environment. National Environmental Management: Protected Areas Act 57 of 2003 ("NEMPAA"): NEMPAA makes provision for the declaration of the world heritage sites and marine protected areas as protected areas. NEMPAA further provides for the establishment of norms and standards for achieving its objectives and indicators to measure compliance. NEMPAA also defines '<i>management</i>' '<i>management authority</i>' and '<i>MEC</i>' in a way that illustrates that the responsibility for managing, protecting and conserving the sites occupied by the respondents is the applicant (as the management authority). The Biodiversity Policy and Strategy for South Africa: Strategies on Buffer Zones for National Parks GN 106; GG 35020 ("the Strategy"): NEMPAA authorised the development and implementation of a Strategy for South Africa that applies to the applicant, its buffer zone and the Park. Thus, the applicant has territorial jurisdiction over the buffer zone adjacent to the Isimangaliso Wetland Park. The World Heritage Convention Act 49 of 1999 ("the Heritage Act"): The Court took note that the Heritage Act proclaimed the Isimangaliso Wetland Park as a world heritage site for the purpose of safeguarding the natural heritage for everyone as well as established it as an '<i>authority</i>' as defined in the Heritage Act. The applicant derives extensive powers from the Heritage Act, and must exercise these powers to implement measures for the environmental and cultural protection and securing sustainable development within the Isimangaliso Wetland Park. The Court held that, in light of the Constitutional, legislative (i.e. NEMA; NEMPAA; the Heritage Act) and the policy framework (i.e. the Strategy on buffer zones), the respondents' challenge to the applicants' jurisdiction was considered to be a disingenuous, deliberate misreading of the law. The Court also held that the Heritage Act and its Regulations relating to the Isimangaliso Wetland Park create wide and general powers that include the combating of harmful activities and that the applicant has territorial jurisdiction over the buffer zone adjacent to the Isimangaliso Wetland Park. On this basis, the Court confirmed the interdict that prohibited <i>inter alia</i> the development, construction and marketing of the sites. The court ordered the respondents to <i>inter alia</i> rehabilitate the sites and restore them to its pristine state.

Parties	ADRIAAN ALBERTUS STOLZ V THE MINISTER OF SOUTH AFRICAN POLICE N/O & OTHERS Case No M320/15 (11 February 2016)
Court	High Court of South Africa, North West Division (Mafikeng)
Headline	Spoliation for the return of a seized Cheetah cub
Background	A warrant officer (WO) of the Vryburg Police was informed by the Kimberley Organised Crime: Stock Theft Unit that they had confiscated two cheetah cubs from a suspect and that this suspect told them that he was in the process of acquiring another cheetah cub from Adriaan Stolz ("the Applicant"). This suspect further said that the cub was in the custody of the Applicant at his farm, Diepriver, Vostershoop, North West Province ("the Farm") and that the Cub had been tamed and was being reared at the Farm. Based on this information, the WO with the assistance of a constable set off to conduct a search and seizure at the Farm. Upon arrival at the Farm, the WO broke the padlock on the main gate in order to gain entry. Thereafter, they proceeded to the farmhouse where they met an employee of the Applicant, who advised them that the Applicant had gone out; and informed them further that she had no knowledge of the cub. The SAPS officers asked the Applicant's employee to accompany them as they conducted the search on the Farm. It was during this search that they found, amongst other things, rifles, animal medication and the Cub. They seized these items and the Applicant's employee signed for the list of all the items that were seized and was also given a copy of the list. The Applicant launched an application in the Mahikeng High Court ("the High Court") for the return of the all the items that were seized, which included the cub, rifles and accessories and the medicine. The application was based on the <i>mandament van spolie</i> (restoration of a wrongful deprivation of a person's right of possession of a movable or immovable property). The application was opposed by the Respondents on the basis that the search and seizure was lawful. At the outset, the High Court noted that the Cheetah (<i>Acinonyx jubatus</i>) is listed as Vulnerable Species on the list of threatened and protected species published in terms of section 56 of the National Environmental Management: Biodiversity Act 10 of 2004 ("NEMBA") and that, the effect of its listing is that a person may not carry out a restricted activity involving a Cheetah without a permit issued in terms of Chapter 7 of NEMBA. It is an offence to do so, punishable with a fine not exceeding R10 million and / or 10 years imprisonment. In coming to its decision whether or not the search and seizure was unlawful, the High Court had regards to section 20 of the Criminal Procedure Act 51 of 1977 ("the CPA"), which provides for the seizure of articles concerned in the commission of/may afford evidence of/intended to be used in the commission of an offence. The court held that the Respondents bear the onus of proving that the search and seizure was lawful. It was common cause that the search in this matter was conducted without a warrant. In this regard, the Respondents relied on section 22(b) of the CPA (circumstances in which article may be seized without search warrant) to justify the actions of the officers. Section 22(b) states as follows: "A police official may without a search warrant search any person or container or premises for the purpose of seizing any article referred to in section 20 – (b) if he on reasonable grounds believes – (i) that a search warrant will be issued to him under paragraph (a) of section 21(1) if he applies for such warrant; and (ii) that the delay in obtaining such warrant would defeat the object of the search." The High Court further noted the provisions of section 21(1)(a) of the CPA (article to be seized under search warrant), which states that: "Subject to the provisions of sections 22, 24 and 25, an article referred to in section 20 shall be seized only by virtue of a search warrant issued - (a) by a magistrate or justice, if it appears to such magistrate or justice from information on oath that there are reasonable grounds for believing that any such article is in the possession or under the control of or upon any person or upon or at any premises within his area of jurisdiction" Based on the above provisions of the CPA, the High Court had regard to the following questions: 1. Were there reasonable grounds for believing that the cub was on the Farm? The High Court took note of the fact that a suspect was arrested and had been found in possession of two cheetah cubs and that this suspect told the police that he was in the process of acquiring another cub from the Applicant. This third cub was in the custody of the Applicant at his Farm. Based on this, the High Court held the view that there were reasonable grounds for the WO to believe that the cub was on the Applicant's Farm. 2. Were there reasonable grounds for believing that a Magistrate or Justice of the Peace would have issued a search warrant? The High court held that in order to answer this question, consideration must be given to the provisions of section 20 of the CPA, that is whether or not there were reasonable grounds for believing that the cub, <i>inter alia</i>, may afford evidence of the commission or suspected commission of an offence.

Parties	ADRIAAN ALBERTUS STOLZ V THE MINISTER OF SOUTH AFRICAN POLICE N/O & OTHERS Case No M320/15 (11 February 2016)
Court	High Court of South Africa, North West Division (Mafikeng)
Headline	Spoliation for the return of a seized Cheetah cub
Judgment	The High Court noted that the offences or suspected offences were the possession or exercising physical control over the cub; and / or the selling or otherwise trading in, or giving, donating or in any way disposing of the cub, without having a permit issued in terms of NEMBA. This, according to the High Court, begs the question whether or not there were reasonable grounds for believing that the Applicant did not have a valid permit? The High Court held that the WO alleged in his answering affidavit that the Applicant did not have a permit to possess the Cub. However, the WO did not disclose the basis for this belief. The High Court held that in this context, where the suspect had been arrested, it would be reasonable for the WO to conclude that the buyer (i.e. the suspect) did not have a permit to buy and possess the cub. The High Court, said however, that it was not reasonable in the circumstances to infer that the seller lacked a permit to engage in a restricted activity, and that it was significant that the WO made the averment that the applicant did not have a permit without explaining how he arrived at his conclusion. The High Court referred to two cases in this regard: • The Supreme Court of Appeal in <i>Pakule and Tafeni v Minister of Safety and Security</i> (440/10 & 439/10) [2011] 107 (1 June 2011) held that the seizure of an article which was initially seized based on grounds that were not reasonable, became lawful even where it was only discovered after the seizure that there were indeed grounds for a reasonable belief that the article was concerned in the commission of an offence; and • The Constitutional Court in <i>Ngqokumba v Minister of Safety and Security and Others</i> (CCT 87/13) [2014] ZACC 14; 2014 (7) BCLR 788 (CC), on the other hand, overruled the Supreme Court of Appeal's authority and held that in <i>mandament van spolie</i> orders it is not proper to enquire whether or not the Applicant's possession of an article is unlawful or not as that would be enquiring into the merits of the lawfulness of the applicants possession. According to the Constitutional Court, those merits are irrelevant in proceedings for a <i>mandament van spolie</i> order: The despoiler (in this case the WO who seized the cub) must <u>restore possession</u> before making this enquiry. The High Court, in considering whether or not the WO had reasonable grounds for believing that a delay in obtaining a search warrant in order to seize the rifles would have defeated the object of the search, held that in the event a suspect receives notice of an impending search, it's likely that he or she will remove or destroy the evidence sought. The High Court was satisfied that the WO was, in the circumstances, entitled to adopt the view that he did and that the search and seizure <u>of the rifles</u> without a warrant was lawful. The High Court declared that the search warrant carried out by the WO on the Applicant's Farm in respect of the cub and the medicine found on the Farm was unlawful and ordered the return of the cub and the medicine amongst other items. The High Court also held that the order does not however, constitute authority to possess the cub and the medicine.

Parties	CHENG JIE LIANG V THE STATE (Case No. A344/2015)
Court	In the High Court of South Africa, Western Cape Division, Cape Town
Headline	What constitutes "acquisition" and "possession" and the Magistrates Court's Penalty Jurisdiction in respect of Environmental Offences
Background	On the 14 September 2012, Cheng Jie Liang ("the Appellant") was stopped by the police while driving a vehicle not registered his name. He was found in possession of keys to storage units 12 (not leased in his name) and 349 as well as cell phones. One of the cell phones contained photos of a whole elephant tusk. In both storage units, boxes of cut up ivory were found by the police. During a later search on the 3 October 2012, the police found another box containing ivory in unit 349. The Appellant was charged for contravening section 42(1)(b) of the Nature and Environmental Conservation Ordinance 19 of 1974 ("the Ordinance") for the ivory found on both the 14 September 2012 (Count 1) and on the 3 October 2012 (Count 2). The Appellant did not lead any evidence during trial in the Khayelitsha Regional Court ("the Trial Court"), which led to his conviction on both Count 1 and 2. The Appellant was sentenced to 10 years imprisonment, of which 3 years were conditionally suspended upon the payment of a R5 million fine.

Parties	CHENG JIE LIANG V THE STATE (Case No. A344/2015)
Court	In the High Court of South Africa, Western Cape Division, Cape Town
Headline	What constitutes "acquisition" and "possession" and the Magistrates Court's Penalty Jurisdiction in respect of Environmental Offences
Judgment	The Appellant approached the Cape Town High Court ("the Appeal Court") to decide, amongst other things, whether the - Trial Court was incorrect in convicting the Appellant on both Counts 1 and 2 and this amounted to a splitting of charges. The Appeal Court held the view that an offence should not be split up and charged against the Appellant in one and the same trial as several offences, which will result in a duplication of convictions. The test is whether, taking a fair approach to an accused, a single offence or more than one offence has been committed. The Appeal Court held that there was no evidence that the Appellant or any other syndicate member had placed the box of ivory in unit 349 after the initial search was conducted on the 14 September 2012. Thus, the Appeal Court found that Counts 1 and 2 should not have been split and that the Appellant should have been acquitted on Count 2. Trial Court erred in finding that the Appellant had acquired and possessed the ivory The State's argument and evidence showed that: 1) a cellphone which was seized from the Appellant had photographs depicting the whole elephant tusks. The only reasonable inference to be drawn was that the Appellant was involved in taking the photographs, before the elephant tusks were found in unit 12; 2) the operation was that of a syndicate where each member derived some benefit and thus the Appellant possessed the tusks for his own benefit, in accordance with section 42(1)(b) of the Ordinance; 3) the Appellant regularly visited unit 12 and had been at the storage unit hours before the search was undertaken by the police on the 14 September 2012; and 4) the Appellant's prints were found on both storage units as well the boxes containing the ivory. The Appellant also submitted that the possibility could not be excluded that he held the ivory on instructions and not for his own benefit. The Appeal Court held that there was no suggestion made that he was carrying out the lawful instructions of an employer in relation to the ivory and that if he received instructions as an 'employee' to hold the ivory then the instructions were in any case unlawful. Based on the abovementioned evidence, the Appeal Court held that the State had a <i>prima facie</i> case against the Appellant, which the Appellant had to answer. However, because there was no evidence led by the Appellant, the Appeal Court was satisfied that the Appellant acquired and possessed the ivory for the purposes of section 42 of the Ordinance. The Trial Court erred in imposing the fine of R5 million The Appellant argued that a fine not exceeding three times the commercial value of ivory amounted to an additional sentence. The Appellant further submitted that the Trial Court should have enquired into his ability to pay such a fine and that the imposition of the R5 million exceeded the Trial Court's monetary jurisdiction. The Appeal Court also considered that in terms of section 92(1)(b) of the Magistrates Court Act 1944 which regulates the penalty jurisdiction of the district and regional courts, the jurisdiction of the Trial Court as a regional court relating to the imposition of fines at the time the Appellant pleaded to the charges was R300, 000. The Appeal Court considered the penalty provisions of the Ordinance, which provides that a person convicted an offence involving an African elephant is liable to a fine of R100, 000 and/or to imprisonment for a period not exceeding 10 years and, in addition, to a fine not exceeding 3 times the commercial value of an African elephant or the carcass (i.e. the tusks). It also considered the commercial value of the ivory which was in excess of R21 million. The Appeal Court held that the Trial Court could have used section 1(2) of the Adjustment of Fines Act 101 of 1991 to increase the maximum fine of R100, 000 to R200, 000 and that in respect of the fine imposed with reference to the value of the ivory, the Trial Court was instead limited to its ordinary maximum penalty jurisdiction of R300, 000. The Appeal Court, ultimately held that the Trial Court exceeded its powers by imposing a fine of R5 million. It also held that the R5 million rand fine was not separated between the R100, 000 fine and the commercial value fine and that two separate fines should have been issued. Accordingly, the Appeal Court reduced the fine from R5 million to R300, 000. The Appeal Court, confirmed the imprisonment sentence.

Parties	MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS & OTHERS V REALLY USEFUL INVESTMENTS NO 219 (PTY) LTD & OTHERS (436/2015) [2016] ZASCA 156 (3 October 2016)
Court	The Supreme Court of Appeal (SCA)
Headline	The restriction of liability in terms of section 37 of the Environmental Conservation Act, 1989 and section 49 of the National Environmental Management Act, 1998
Background	Really Useful Investments No. 219 (Pty) Ltd ("the first respondent") owns immovable properties in Hout Bay located on the Disa River. The height of the lower-lying properties was raised above sea level by the first respondent by dumping waste matter and fill in adjacent to the Disa River. In response, the City of Cape Town ("the second respondent") issued a section 31A directive in terms of the Environmental Conservation Act, 1989 ("ECA") to the first respondent, instructing them to, <i>inter alia</i>, survey and demarcate the flood line for future management. The basis of the first respondent's claim was that the directive prevented it from undertaking any development on the properties below the surveyed flood line, which caused the value of their land to decrease. The Minister of Environmental Affairs ("the first appellant") and the MEC of the Local Government, Environmental Affairs and Development Planning, Western Cape ("the second appellant") submitted a notice of exception to the first respondent's claim for compensation in terms of section 34 of the ECA for the loss incurred pursuant to the second respondent's section 31A directive. The second respondents also relied on section 49 of the National Environmental Management Act, 1998 ("NEMA"); which states that <i>"Neither the State nor any other person is liable for any damage or loss caused by –</i> <i>(a) the exercise of any power or the performance of any duty under this Act or any specific environmental management Act; or</i> <i>(b) the failure to exercise any power, or perform any duty under this Act or any specific environmental management Act, unless the exercise of or failure to exercise the power, or performance of or failure to perform the duty was unlawful, negligent or in bad faith."</i> The second respondent's main argument was that the first respondent had not alleged that, in issuing the section 31A directive, it had acted unlawfully, negligently or in bad faith; and should consequently be exempted from liability for any loss sustained in terms of section 49 of NEMA. The court <i>a quo</i> took into account that section 31 (powers of institutions where environment is damaged, endangered or detrimentally affected); 34 (right to recover compensation) and 37 (restriction of liability) of the ECA. Section 37 of the ECA, which is similar to section 49 of NEMA, which states that: <i>"No person, including the State, shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a duty conferred or imposed in terms of this Act."</i> The court <i>a quo</i> held that a statutory right to recover compensation is clearly provided in section 34 of the ECA and is not limited or restricted by section 37 of the ECA or section 49 of NEMA, which provides a defence to a claim in delict. The court <i>a quo</i> ultimately held that the first respondent had a valid cause of action. The first and second appellant submitted the matter to the Supreme Court of Appeal ("SCA").
Judgment	The SCA took into account that the ECA, although repealed almost in its entirety by the NEMA, comprised of certain sections that remain relevant to this matter. The SCA noted that the sections of the ECA and the similar sections in NEMA are distinct provisions that regulate the activities of landowners or of holders of real rights in land, and are aimed at preventing such activities from causing environmental harm. The SCA further noted that in terms of section 34 of the ECA, the law provides for compensation upon limitation of land rights and that section 36 of NEMA similarly enables property to be acquired by the State in the public interest for environmental purpose. The SCA held that section 34 of ECA could not have been directed at providing compensation for actions taken under the sections 21 (listed activities), 22 (prohibited listed activities) and 31A directive of the ECA as they were aimed at regulating harmful activities. The directive was focused on preventing pollution below the flood line, future flooding, and water and soil contamination and that at common law, landowners or other holders of real rights in land were, in any event, not permitted to engage in activities on that land that were harmful to others. Therefore, the second respondents, in exercising its section 31A ECA powers, were complying with their constitutional and statutory obligations to prevent harm to the environment. The SCA held that section 49 of NEMA incorporates the common law requirement of lawfulness, good faith and absence of negligence. Although similar to section 37 of the ECA; section 49 places the onus on a claimant to show that the act was performed unlawfully, negligently or in bad faith. The SCA held that it was clear that the first respondent's case had no cause of action as it was based on regulatory action taken in terms of section 31A(1) of ECA. Thus, the appeals of were upheld with costs.



7. LEGISLATIVE DEVELOPMENTS

7.1 National Environmental Management Act 107 of 1998

7.1.1 Regulations

- Section 24H Registration Authority Regulations, Government Gazette No 40154, Notice No R. 849 of 22 July 2016
- Amendments to the Financial Provisioning Regulations, Government Gazette No. 40371, Notice No. R. 1314 of 26 October 2016

7.1.2 Notices

- Notice to be read with the Regulations for Petroleum Exploration and Production, Government Gazette No. 40041, General Notice No. 619 of 3 June 2016
- Identification of the Minister as the competent authority for the consideration and processing of environmental authorisations and amendments thereto for activities related to the Integrated Resource Plan, Government Gazette No 40110, General Notice No. 779 of 1 July 2016

7.1.3 Draft Regulations and Notices

- Adoption of standards for land based abalone aquaculture, Government Gazette No. 39971, General Notice No. 503 of 6 May 2016
- Activities identified in terms of section 24(2)(d) that may be excluded from the requirement to obtain an environmental authorisation but that must comply with the Standards for Land-based Aquaculture, Government Gazette No. 39971, General Notice No. 504 of 6 May 2016
- Activities identified in terms of section 24(2) that may be excluded from the requirement to obtain an environmental authorisation but that must comply with Dangerous Goods Standards, Government Gazette No. 40188, General Notice No. 891 of 5 August 2016
- Adoption of Dangerous Goods Standards, Government Gazette No. 40188, General Notice No. 892 of 5 August 2016
- Draft National Biodiversity Offset Policy, Government Gazette No. 40733, General Notice No. 276 of 31 March 2017

7.2 National Environmental Management: Biodiversity Act 10 of 2004

7.2.1 Notices

- Alien and Invasive Species List, Government Gazette No. 40166, General Notice No. 864 of 29 July 2016

7.2.2 Draft Regulations and Notices

- Draft Biodiversity Management Plan for Hartebeesspruit Ecosystem, Government Gazette No. 39922, General Notice No. 427 of 15 April 2016
- Biodiversity Management Plan for Pickergill's Reed Frog (*Hyperolius pickergilli*), Government Gazette No. 40058, General Notice No. 337 of 10 June 2016
- Norms and Standards for Damage Causing Animals in South Africa, Government Gazette No. 40236, General Notice No. 512 of 30 August 2016
- Draft distribution maps for certain indigenous species, Government Gazette No. 40398, General Notice No. 727 of 3 November 2016
- Correction Notice: Norms and Standards for Damage Causing Animals in South Africa, Government Gazette No. 40412, General Notice No. 749 of 10 November 2016
- Biodiversity Management Plan for the Cape Mountain Zebra (*Equus zebra zebra*), Government Gazette No. 40464, General Notice No. 1483 of 2 December 2016
- Draft regulations for the domestic trade in Rhinoceros Horn, or a part, product, derivative, of Rhinoceros Horn, Government Gazette No. 40601, General Notice No. 74 of 8 February 2017
- Draft Norms and Standards for the management and monitoring of the hunting of Leopards in South Africa for trophy hunting purposes, Government Gazette No. 40601, General Notice No. 75 of 8 February 2017
- Proposed Amendments of the invasive species list and proposed listing of species that are threatened or protected, restricted activities that are prohibited and exemption from restriction, Government Gazette No. 40601, General Notice No. 76 of 8 February 2017
- Prohibition of the powdering or shaving of Rhinoceros Horn, the domestic trading or otherwise trading in, giving, donating, buying, receiving, accepting as a gift or donation, or in any way disposing, or acquiring of pow-

dered or shaved Rhinoceros Horn and the export of powdered or shaved Rhinoceros Horn, Government Gazette No. 40601, General Notice No 77 of 8 February 2017

- Draft Biodiversity Management Plan for the Clanwilliam Sandfish, Labeo seeberi, Government Gazette No. 40621, General Notice No. 120 of 17 February 2017
- Biodiversity Management Plan for the Cape Mountain Zebra (*Equus zebra zebra*), Government Gazette No. 40660, General Notice No. 184 of 3 March 2017

7.3 National Environmental Management: Air Quality Act 39 of 2004

7.3.1 Regulations

- Regulations prescribing the Atmospheric Emission Licences Processing fee, Government Gazette No. 39205, Notice No R. 205 of 11 March 2016
- Regulations for the procedure and the criteria to be followed in the determination of an administrative fine in terms of section 22A of the Act, Government Gazette No. 39833, Notice No. R. 332 of 18 March 2016
- Air Quality Offset Guideline, Government Gazette No. 39833, Notice No. R. 333 of 18 March 2016
- National Greenhouse Gases Emission Reporting Regulations, Government Gazette No. 4072, Notice No. R. 275 of 3 April 2017

7.3.2 Draft Regulations and Notices

- Declaration of certain printing industry activities as controlled emitters and establishment emission standards, Government Gazette No. 40402, General Notice No. 1373 of 4 November 2016

7.4 National Environmental Management: Waste Act 59 of 2008

7.4.1 Regulations

- National Pricing Strategy for waste management, Government Gazette No. 40200, Notice No. R. 904 of 11 August 2016

7.4.2 Draft Regulations and Notices

- Publication of notice to the paper and packaging industry, electrical and electronic industry, and lighting industry to prepare and submit to

the Minister industry waste management plans for approval, Government Gazette No. 40270, General Notice No. 1011 of 12 September 2016

- Proposed amendments to the regulations regarding the planning and management of residue stockpiles and residue deposits, Government Gazette No. 40447, General Notice No. 1440 of 25 November 2016
- Proposed amendments to the waste information regulations, Government Gazette No. 40490, General Notice No. 1556 of 2 December 2016
- Notice of intention to require any persons or a category of persons who transport waste for gain to register with the department, Government Gazette No. 40490, General Notice No. 1555 of 12 December 2016
- Amendment to the list of activities that have, or are likely to have a detrimental effect on the environment, Government Gazette No. 40698, General Notice No. 242 of 17 March 2016
- Draft national norms and standards for the sorting, shredding, grinding, crushing, screening or bailing of waste, Government Gazette No. 40698, General Notice No. 243 of 17 March 2016
- Notice to require the tyre industry to prepare and submit an industry tyre waste management plan to the Minister for approval, Government Gazette No. 40751, General Notice No. 300 of 31 March 2017

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

7.5.1 Regulations

- Integrated coastal management appeal regulations, Government Gazette 40218, Notice No. R.815 dated 8 July 2016
- Draft Coastal Waters Discharge Permit Regulations, Government Gazette 40674, Notice No. R. 214 dated 10 March 2017

7.5.2 Draft Regulations and Notice

- Draft reclamation of land from coastal waters regulations, Government Gazette No. 40368, General Notice No. 167 of 24 February 2017
- Draft coastal waters discharge permit regulations, Government Gazette No. 40674, General Notice No. 214 of 10 March 2017

7.6 National Environmental Management: Protected Areas Act 57 of 2003

7.6.1 Regulations

- Regulations for the management of the Tsitsikamma National Park Marine Protected Area, Government Notice No. 40511, Notice No. R. 1579 of 19 December 2016
- Mountain Zebra-Camdeboo Protected Environment Regulations, Government Gazette No.39891, Proclamation No. 15 of 1 April 2016

7.6.2 Notices

- Notice declaring the Tsitsikamma National Park Marine Protected Area under section 22A of the National Environmental Management Act, Government Gazette No. 40510, General Notice No. 1578 of 19 December 2016
- Declaration of land as the Mountain Zebra-Camdeboo Protected Environment, Government Gazette No. 39891, Proclamation No. 14 of 1 April 2016
- Mapungubwe Cultural Landscape World Heritage Site Environmental Management Framework Government Gazette No. 40593, General Notice No.109 of 03 February 2017
- Declaration of land to be part of an existing West Coast National Park, Government Gazette No. 40621, Government Notice Number 119 of 17 February 2017
- Land declared as part of the Golden Gate Highlands National Park, Government Gazette No. 40621, Government Notice Number 123 of 17 February 2017

7.6.3 Draft Regulations and Notices

- Norms and standards for the inclusion of private nature reserve in the register of protected areas in South Africa, Government Gazette No. 40402, General Notice No. 731 of 4 November 2016
- Cultural Heritage survey guidelines and assessment tools for protected areas in South Africa, Government Gazette No. 4053, General Notice No. 83 of 3 February 2016
- Notice of intention to declare certain land situated in the Eastern Cape province as part of the Addo Elephant National Park, Government Gazette

No. 40621, General Notice No.118 of 17 February 2016

- Intention to declare certain land situated in the Western Cape province as part of the Table Mountain National Park, Government Gazette No. 40621, General Notice No. 121 of 17 February 2016
- Notice of intention to declare certain land situated in the Northern Cape as part of the Mokola National Park, Government Gazette No. 40621, General Notice No 122 of 17 February 2016
- Intention to declare certain land situated in the Northern Cape and the Western Cape provinces as part of the Tankwa Karoo National Park, Government Gazette No. 40621, General Notice No. 124 of 17 February 2016

7.7 The Draft Marine Spatial Planning Bill Government Gazette 39847, Government Notice No. 347 dated 24 March 2017

7.1.1 National Framework for Marine Spatial Planning in South Africa 2017, Government Gazette 40860, Government Notice No. 451 dated 26 May 2017.



INDUSTRIAL COMPLIANCE AND ENFORCEMENT



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



8. INDUSTRIAL COMPLIANCE AND ENFORCEMENT

8.1 Pro-active Compliance Inspections

Proactive compliance monitoring and enforcement work continues in relation to the following strategic 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

Power Generation

Cement Sector

Paper and Pulp Sector

A summary of the monitoring and enforcement on a number of the facilities within the strategic priority sectors is set out in the table below and indicated through cross references (as many of the activities cross over from one reporting period to the next). 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.

NECER 2015-2016: DETAILED INFORMATION TABLE RELATING TO STRATEGIC INSPECTIONS AND ENFORCEMENT ACTION TAKEN

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

AEL	Atmospheric 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

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

DEA	National Department of Environmental Affairs
RoD	Record of Decision in respect of a decision issued in terms of activities listed under ECA
WML	Waste Management Licence
WUL	Water Use License
Section 31H Notice	A notice used to obtain further documentation/information from a facility
PCN	A notice of intention to issue a compliance notice in terms of section 31L of NEMA (also known as a pre-compliance notice)
PM	Particulate Matter

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 Cator Ridge, KwaZulu-Natal	Following a review of all the information relevant to this matter, the DEA conducted a follow-up site inspection on 21 October 2016. The focus of said inspection was all of the areas of concern and / or non-compliance previously identified. The DEA subsequently received a number of the documents requested during the inspection. The DEA has reviewed all the information and is in a process of making a decision on the matter. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 11 – 12 of NECER 2007-2008; Pages 47 – 48 of NECER 2010-2011; Page 45 of NECER 2011-2012; Page 44 – 45 of NECER 2012-2013; and Page 42 of NECER 2013-2014.
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ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

**Arcelor-Mittal
Newcastle
Works, Kwa Zulu
Natal**

The DEA was not satisfied with the representations received in response to the combined PCN and pre-directive that was issued during July 2015 and afforded ArcelorMittal Newcastle an opportunity to make further written representations. After receiving these representations, the DEA then decided to amend the original PCN in order to address the non-compliances occurring on the premises of ArcelorMittal Newcastle.

The amended combined PCN and pre-directive was issued on 6 August 2015. The facility submitted representations on 21 September 2015 but failed to satisfy the DEA in relation to, *inter alia*, the need for operators utilising the Blast Oxygen Furnace Slag to be in possession of waste management licences. Accordingly a final combined compliance notice and directive was issued on 07 December 2015. ArcelorMittal Newcastle applied for a suspension of certain instructions contained in the compliance notice and submitted an objection. Both the suspension and the objection were dismissed by the Director General and Minister respectively.

The matter is currently being dealt with by the Department's Directorate: Litigation as ArcelorMittal has approached the court for a review of the decision.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

Page 13 of NECER 2007-2008;

Page 25 of NECER 2008-2009;

Pages 45 – 46 of NECER 2010-2011;

Page 43 of NECER 2011-2012;

Page 43 of NECER 2012-2013;

Page 44 of NECER 2013-2014;

Page 44 of NECER 2014-2015; and

Page 44 of NECER 2015-2016.

**BHP Billiton
Metalloys
Meyerton,
Gauteng (Now
known as South
32)**

A follow-up inspection was conducted at South 32 on 3 and 4 August 2015. Non-compliances with conditions of the AEL, WMLs and WUL were observed. These ranged from administrative non-compliances, emissions exceeding AEL limits, lack of abatement equipment availability during the required operating times, lack of monitoring of certain water quality variables, failure to hold monitoring committee meetings as required, etc. Contraventions of section 67 of NEM:WA, section 28 of NEMA and section 19 of NWA were evident, including: excessive dust on site, damaged liners at the sludge dams, unlined disposal sites and groundwater contamination.

South 32 has, however, drafted an Action Plan on how it will address historical unlined disposal sites.

DEA issued South 32 with a PCN on 04 March 2016. Representations from South 32 were received.

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

**BHP Billiton
Metalloys
Meyerton,
Gauteng (Now
known as South
32)**

A compliance notice was issued to the facility on 11 May 2016 and representations were received. The Department together with the Department of Water and Sanitation is reviewing the facility's Integrated Rehabilitation and Remediation Plan for approval.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

Page 13 of NECER 2007-2008;

Page 27 of NECER 2009-2010;

Pages 43 - 44 of NECER 2010-2011;

Page 42 of NECER 2011-2012;

Page 42 of NECER 2012-2013;

Pages 44 - 45 of NECER 2013-2014;

Page 44 of NECER 2014-2015; and

Page 44 of NECER 2015-2016.

**Vanchem
Vanadium
Products (Pty)
Ltd**

On 07 June 2016 the facility provided the Department with its representations to the contents of the PCN. The Department has reviewed the information provided and is in the process of considering the way forward on this matter. Notwithstanding the above the DEA is also taking into account the current Business Rescue Process, as well as its impact on the facility's compliance status.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

Page 13 of NECER 2007-2008;

Page 27 of NECER 2009-2010;

Page 45 of NECER 2014-2015; and

Page 53 of NECER 2015-2016.

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

Exxaro Base Metals: Zincor, Gauteng (Now known as EBM Projects)	On 1 April 2015 the DEA issued a second Section 31H Notice to the facility. After reviewing the relevant documentation provided by the facility, the DEA issued a combined PCN and Section 28 NEMA pre-directive to the facility on 07 December 2015. The facility was also issued with an urgent Remediation Order by the DEA's Directorate: Land Remediation. Measures are currently being undertaken in line with the Remediation Order that was issued. A further S31H NEMA Notice was issued on 28 February 2017, based on the status of the remediation on site. Representations were received on 09 March 2017. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 46 of NECER 2011-2012; Pages 46 – 47 of NECER 2012-2013; Page 47 of NECER 2013-2014; and Page 46 of NECER 2014-2015.
Transalloys (Pty) Ltd, Mpumalanga	On 11 May 2016 the facility provided the Department with its representations to the contents of the PCN. The facility has also provided the DEA with supplementary information on 05 May 2017. The DEA is currently reviewing the additional information, following which a decision will be made on the way forward on this matter. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 47 of NECER 2013-2014; Page 46 of NECER 2014-2015; and Page 56 of NECER 2015-2016.
Samancor Ferrometals, Mpumalanga	Subsequent to reviewing the recommendations, the Department issued Samancor Ferrometals with a S31H NEMA notice on 10 February 2017. A detailed and extensive response was received on 27 March 2017 and is in the process of being reviewed. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 25 of NECER 2009-2010; Page 41 of NECER 2010-2011; Page 38 of NECER 2011-2012; Page 38 of NECER 2012-2013 Page 48 of NECER 2013-2014; Page 47 of NECER 2014-2015; and Page 56 of NECER 2015-2016

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

Samancor Ferrochrome Middleburg	A follow-up compliance monitoring inspection was conducted at the facility on 24 to 25 October 2016. Subsequent to this inspection, a S31H NEMA notice was issued to the facility on 30 November 2016 requesting further information to prove compliance. The report was finalised and is being taken through internal departmental processes to decide on way forward. The case will appear on the 06 July 2017. The accused is objecting the 4 counts in terms of Section 18 of the CPA.
Lanxess Cisa (Pty) Ltd.	A compliance inspection conducted by the Department on 16 October 2016. A S31H NEMA Notice was issued to the facility on 13 March 2017 and representations were received on 16 March 2017. The Department is in the process of reviewing said representations.
BHP Billiton Hillside and Bayside, Richards Bay, KZN Province	An inspection was conducted at BHP Billiton Hillside and Bayside Smelters in August 2014. The following non-compliances were observed: • Soil and groundwater contamination; • Discharging of exceeded levels of stormwater into a wetland; • Historical sites that are not rehabilitated; • Non-compliances to conditions in the permits and licenses; and • Improper storage of waste. A pre-compliance notice was issued to the facility on 22 April 2016 and representations were received on 01 June 2016. Said representations are in the process of being reviewed.
SCAW Metals, Gauteng	On 25 February 2016, EMIs conducted a compliance inspection at the facility. During said inspection the following non-compliances were identified / observed: • failure to comply with various conditions stipulated in the facility's WMLs; • contravention of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM:WA") which imposes, amongst others, general duties in respect of the handling, storage and disposal of waste; • alleged unlawful and intentional or negligent commission or omission of any act which has the potential to cause significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment as provided for in section 49A(1)(e); and • alleged unlawful and intentional or negligently commission or omission of any act which potentially could detrimentally affect or is likely to detrimentally affect the environment as provided for in section 49A(1)(f). The DEA issued SCAW Metals with a pre-compliance notice in terms of S31L of the NEMA on 6 September 2016. Representations were submitted and were reviewed. The DEA is now in the process of deciding as to whether further enforcement action is required. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 26 of NECER 2008-2009;

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SCAW Metals, Gauteng	Page 43 of NECER 2010-2011.
ArcelorMittal Vanderbijlpark, Gauteng	An inspection was conducted on 6 to 7 June 2016 and an inspection report was issued to the facility in November 2016. The findings included amongst others the following: Non-compliance with conditions of the WMLs and the AEL including • PM exceedances • Gas analyser testing required in terms of the AEL not conducted at certain plants • HCl monitoring not conducted • Annual air quality monitoring reports not meeting the requirements of S21 NEM: AQA • Dust fallout exceedances • Disposal of waste at sites not authorised for disposal of such waste • Poor stormwater management around the disposal sites • Poor management of disposal sites including lack of covering of waste and burning of waste The report has been forwarded to the Branch: Chemicals and Waste Management for consideration.
DMS Powders	An inspection was conducted at this facility on 30 August 2016. Findings of the inspection included the following: • Excessive exceedances of the PM minimum emission standards • Insufficient/ lack of dust management measures on site leading to excessive dust from Raw Materials Storage Area and the Final Products Storage Area • Non-compliances with conditions of the WML and the AEL. An inspection report was finalised and forwarded to the Branch: Chemicals and Waste Management for consideration.

REFINERIES

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

Sasol Secunda Refinery, Mpumalanga	Subsequent to the inspection conducted in August 2015 a Section 31H Notice issued to the facility in June 2016 requesting emissions monitoring reports for 2015 and 2016. These reports were submitted in July 2016. Upon review of the said reports, the facility was found to be in compliance with the reporting requirements in terms of the AEL as well as the minimum emission standards. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 13 of NECER 2007-2008; Page 27 of NECER 2008-2009; Page 25 of NECER 2009-2010; Page 40 of NECER 2010-2011; Page 36 of NECER 2011-2012; Page 37 of NECER 2012-2013; Page 48 of NECER 2013-2014; and Page 49 of NECER 2014-2015; and Page 57 of NECER 2015-2016.
Sasol South Africa (Pty) Ltd: Sasolburg Operations	Following the issuance of new AEL's the DEA conducted a follow-up inspection at the facility between 18 and 20 April 2016. Amongst others, the following non-compliances / areas of concern were identified: • failure to comply with the various conditions stipulated in numerous Environmental Authorisations, which included the following: ▪ AEL; ▪ Water Use Licence ("WUL"); ▪ Registration Certificate. • undertaking certain activities without the required environmental authorisation/s; • failure to comply with the requirements of the NEM:WA which regulates the handling, storage and disposal of waste.

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

Sasol South Africa (Pty) Ltd: Sasolburg Operations	Following the aforementioned inspection and subsequent findings, the DEA prioritised the air quality issues and a PCN related to the air quality issues, dated 07 October 2016, was issued to the facility. The facility submitted representations on 07 November 2016. The DEA noted that the facility took a decision to shut down its Thermal Oxidization incinerators in order to implement certain measures to address the issues contained in the PCN. The facility has subsequently approached the Department with a request to commence with the use of the incinerators to determine if the measures implemented will adequately the areas of concern at the facility. This request is currently being considered.
Natref, Free State	On 14 December 2015 EMLs conducted a compliance inspection at the facility. Said inspection purely focused on the facility's compliance status with: a) The facility's AEL; b) The Minimum Emission Standards; c) The provisions of the NEM: AQA; and d) The provision in relation to duty of care as prescribed in section 28 of the NEMA. During the inspection EMLs identified numerous non-compliances which related to the following: • failure to comply with various conditions stipulated in the facility's Atmospheric Emission Licence ("AEL"); • alleged unlawful and intentional or negligent commission or omission of any act which has the potential to cause significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment as provided for in section 49A(1)(e); and • alleged unlawful and intentional or negligent commission or omission of any act which potentially could detrimentally affect or is likely to detrimentally affect the environment as provided for in section 49A(1)(f). • This constituted elevated levels of PM, SO_x and NO_x emissions, failure to submit bi-annual emissions monitoring reports, as well as ineffective abatement equipment.
Natref, Free State	The DEA issued Natref with a pre-compliance notice in terms of section 31L of the NEMA on 5 August 2016. The DEA, after perusing/reviewing the representations is in the process of making a decision as to whether any further enforcement action is required. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 11 of NECER 2007-2008.

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

PetroSA Refinery, Western Cape	The findings of the inspection conducted at PetroSA on 28 and 29 April 2015 included the following non-compliances / areas of concern: • failure to comply with various conditions stipulated in the facility's Waste Management Licences ("WMLs"); • failure to comply with various conditions stipulated in the facility's Environmental Authorisations ("EAs"); • failure to comply with various conditions stipulated in the facility's Exemption issued in terms of section 21(4) of the National Water Act, 1956 (Act No. 54 of 1956) ("NWA"); • contravention of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM:WA") which imposes, amongst others, general duties in respect of the handling, storage and disposal of waste. The facility was issued with a pre-compliance notice in terms of S31L NEMA dated 8 July 2016 and representations were received and reviewed. The DEA will in the next financial year follow-up on PetroSA's undertakings stipulated in its representations. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 13 of NECER 2007-2008; Page 28 of NECER 2009-2010; Page 39 of NECER 2010-2011; Page 35 of NECER 2011-2012; Page 36 of NECER 2012-2013; and Page 58 of NECER 2015-2016.
POWER GENERATION	
Khi Solar One, Northern Cape	On 28 January 2016, Environmental Management Inspectors ("EMLs") from DEA conducted a compliance inspection at Khi Solar One. During this inspection, EMLs made the following observations: • contravention of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM:WA") which regulates the storage, handling and disposal of waste; • the unlawful and intentional or negligent commission or omission of any act which causes significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment; and • the unlawful and intentional or negligently commission or omission of any act which detrimentally affects or is likely to detrimentally affect the environment. A S31L pre-compliance notice dated 27 June 2016, was issued to the facility. Representations were received on 06 July 2016.

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

Eskom Matimba Power Station

Numerous incidents were reported to officials from this Department's Directorate: Compliance Monitoring in terms of Section 30 of the National Environmental Management Act, 1998 (Act No.107 of 1998) ("NEMA") between the period November 2015 to May 2016. The case was referred for enforcement action due to the fact that said incidents did not qualify as Section 30 incidents

A S31H NEMA Notice dated 12 September 2016 was issued to the facility in relation to the SO₂ exceedences. The facility responded to said Notice on 23 September 2016. Based on the information received, the DEA proceeded to issue the facility with a pre-compliance notice dated 05 December 2016. Representations to said notice were received on 17 February 2017. The facility has committed to certain undertakings and this will be closely monitored.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

Page 24 of NECER 2009-2010;

Page 49 of NECER 2011-2012;

Page 48 of NECER 2012-2013; and

Page 49 of NECER 2013-2014.

Eskom Kendal Power Station

A compliance inspection was conducted at Kendal Power Station on 14 December 2015. The following non-compliances were observed:

- Abatement equipment availability not being met;
- Exceedences in particulate matter;
- Discrepancies in emission monitoring and reporting; and
- Air pollution control availability.

A pre-compliance notice was issued to the facility on 24 October 2016 and representations to said Notice was received on 15 December 2016. The facility has committed to certain undertakings and this will be closely monitored.

Eskom Lethabo Power Station

A joint compliance monitoring inspection was conducted at Lethabo Power Station on 19 to 20 July 2016 and non-compliances observed included the following:

- Exceedences of minimum emission standards for PM, SO₂ and NO_x
- Air quality monitoring reports are not submitted as per the AEL requirements
- Non-compliances to conditions of the WML and AEL
- Some dams used for storage of contaminated water are not lined posing a risk to soil and water resources
- Liners of some of the contaminated water dams damaged, and therefore not providing the intended protection
- Insufficient dust management measures leading to excessive dust.

The inspection report was finalised and forwarded to DEA: Enforcement for consideration.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

Eskom Lethabo Power Station

Page 24 of NECER 2009-2010;

Page 53 of NECER 2010-2011;

Page 49 of NECER 2011-2012;

Page 48 of NECER 2012-2013; and

Page 54 of NECER 2013-2014;

Eskom Majuba Power Station

An inspection was conducted at this facility on 5 to 6 September 2016. Findings of the inspection included amongst others the following:

- Non-compliances with conditions of the AEL and WUL
- Air quality monitoring reports provided did not meet the requirements of S21 NEM: AQA and therefore compliance to minimum emission standards could not be established
- Dust management measures not sufficient leading to excessive dust from site
- General waste disposal site which was operated and closed without the required authorisations
- Storage of hazardous waste an area not registered in terms of the Norms and Standards for Storage of Waste
- Surface water quality on water resources around the facility exceeding the WUL limits.

Consideration is being given to the necessary processes moving forward to address these non-compliances.

Eskom Medupi Power Station

An inspection was conducted at Medupi Power Station on 7 to 8 February 2017. Findings of non-compliance included amongst others the following:

- Non-compliances to conditions of the WML, EA, WUL and the AEL
- Intermittent exceedences of PM and SO₂
- Lack of submission of emission monitoring reports to the Licensing Authority in terms of Declaration GNR 831 (Small Boilers)
- Storage of general and hazardous waste as well as sorting and bailing of general waste at unauthorised area

An inspection report was issued on 24 May 2017, and representations from the facility are expected by end of June 2017.

H : H LANDFILLS

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

**EnviroServ
Hofontein
Landfill Site,
Gauteng**

On 08 April 2016, following a review of the information provided by the facility in response to the section 31H NEMA notice, the DEA conducted a verification inspection. During said inspection the DEA requested further information to confirm the facility's compliance status, which was subsequently provided. Said information has been reviewed and further action was not warranted. A follow-up inspection is however planned for this financial year to ensure close monitoring of landfill sites that accept hazardous waste.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

Page 24 of NECER 2009-2010;

Page 49 of NECER 2014-2015; and

Page 59 of NECER 2015-2016.

**EnviroServ
Shongweni
Landfill Site,
KwaZulu-Natal**

During the latter part of 2016, the DEA received numerous complaints regarding offensive odours, nuisance, malodour and possible health impacts associated with the operation of the Shongweni Landfill Site.

On 31 August 2016, in response to the complaints received the DEA conducted a site inspection at the facility. During the inspection the following were identified:

- failure to comply with the requirements of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) ("NEM:WA") which regulates the handling, storage and disposal of waste; and
- failure to comply with the requirements of the National Management: Air Quality Act, 2004 (Act No. 39 of 2004) ("NEM:AQA") which provides reasonable measures for the prevention of pollution and ecological degradation.
- unlawful and intentional or negligent commission or omission of any act which has the potential to cause pollution or degradation of the environment or is likely to cause pollution or degradation of the environment as provided for in section 49A(1)(e); and
- unlawful and intentional or negligently commission or omission of any act which potentially could detrimentally affect or is likely to detrimentally affect the environment as provided for in section 49A(1)(f).

Subsequent to the findings of the aforementioned inspection, the DEA issued the facility with a PCN dated 09 September 2016, which required the facility to make representations within a specific time. The facility provided the DEA with its response on 16 September 2016.

The DEA reviewed the representations, but did not believe that the areas of concern were adequately being addressed and as such a CN dated 21 October 2016 was issued to the facility. The CN contained numerous instructions which had to be implemented at the facility within various specified timeframes.

In compliance with certain instructions, the facility began reporting to the DEA on the progress made. The facility then submitted the following requests to the DEA, as provided for in law:

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

**EnviroServ
Shongweni
Landfill Site,
KwaZulu-Natal**

- A request for variation dated 24 October 2016 made in terms of section 31L(3) of the NEMA, which requested that the compliance periods specified in the CN be suspended until the facility meets with the DEA. The DEA then responded with its decision letter dated 27 October 2016, which denied the facility's request.
- Two separate suspension requests, dated 11 November 2016 and 15 December 2016, made in terms of section 31L(5) of the NEMA. These requests sought to have certain instructions of the CN suspended pending the outcome of an objection process.
- Three further variation requests dated 31 October 2016, 15 November 2016 and 19 December 2016, made in terms of section 31L(3) of the NEMA. Due to numerous additional discussions, inspections and developments in relation to the requests, the DEA has only made a decision on the former two requests, which have been communicated with the facility.

In addition to the above, and during October 2016 the facility submitted its formal Objection to the CN. Said document contained the facility's request as well as reasons as to why certain instructions of the CN should be amended and / or removed. The DEA's Directorate: Appeals is dealing with this matter.

Due to a further increase in complaints a notice of intention to suspend / revoke the Waste Management Licence (WML) was issued to the facility on the 02 February 2017. Following a review of these representations, as well as numerous meetings and review of multiple submissions and information from various parties, a decision was taken to issue the suspension notice, dated 04 April 2017, which contained additional instructions which had to be complied with. Upon receipt of the suspension notice, the facility submitted an appeal to said notice which resulted in the suspension of the operation of the suspension notice pending the finalisation of the appeal, by the Minister.

In response to the appeal and consequences thereof, the Upper Highway Air NPC approached the court with an urgent application to compel the facility to comply with the instructions contained in the suspension notice. During the latter part of April 2017, following the court appearance, the court ruled in favour of the NPC and the facility was therefore compelled to comply with the decision to suspend the WML.

The DEA also initiated a criminal investigation against the facility. The DPP decided to prosecute and this case is currently on the court roll.

The DEA is currently engaging with the facility as well as the relevant stake holders to find a sustainable solution to the issues of concern.

PULP & PAPER

**Sappi Saiccor
(Pty) Ltd**

This matter has been referred to the office of the Director of Public Prosecutions for a decision and was referred back to the DEA with instructions to obtain further information.

Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows:

Page 49 of NECER 2014-2015 NECER; and

Page 59 of NECER 2015-2016.

ADDITIONAL ACRONYMS SPECIFIC TO THIS TABLE

CEMENT

PPC Dwaalboom	A follow-up inspection was conducted on 01 September 2015. A PCN was issued to the facility on 18 May 2016 and representations were received on 30 June 2016. A meeting was held between the Department's Directorate: Enforcement, Directorate: Air Quality Management and PPC Dwaalboom on 23 August 2016. Additional documentation was requested during said meeting and a response was received on 02 September 2016. The Department has decided not to proceed with further enforcement action at this juncture. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 28 of NECER 2008-2009; and Page 27 of NECER 2009-2010.
NPC Cement, KZN	A verification inspection was conducted at the facility on 20 October 2016. During the verification inspection, the EMLs observed that the remaining magnetite that had been stored on site, had since been utilised and that the facility no longer uses magnetite in its processes. In addition, the facility is now in possession of the following: • An Integrated Water and Waste Management Plan ("IWWMP") dated December 2012 compiled by Golder Associates which addresses all issues and concerns in relation to waste and water; • A Waste Management License for the storage and recovery of waste tyres (Reference No.: DC/WML/0013/2012 dated 02 November 2012); and • An Atmospheric Emissions License for Category 5, sub-category 5.4 and sub-category 5.5 activities (Reference No.:UDC21/AEL/NPC/07/2013) dated 01 November 2013. Based on the findings of the inspection above, the Department has taken a decision not to proceed with any further enforcement action. A close-out letter was issued to the facility on 02 February 2017. Discussions on previous compliance and enforcement activities related to this facility may be found in the previous NECER publications as follows: Page 53 of NECER 2010-2011; Page 51 of NECER 2011-2012; and Page 49 of NECER 2012-2013.

8.2 The power of the administrative enforcement notice

8.2.1 Outcome of the site inspections conducted following the warning letters issued to members of the hot dip galvanising association members of South Africa

In terms of section 22(a) of the National Environmental Management: Air

Quality Act, 2004 (Act no. 39 of 2004) ("NEM: AQA"), no person may, without a Provisional Atmospheric Emission Licence ("Provisional AEL") or an Atmospheric Emission Licence ("AEL"), conduct an activity listed on the national list anywhere in the Republic. In terms GNR 893 dated 22 November 2013, an activity under category 4 for Metallurgical Industry, which is sub-category 22 for *Hot Dip Galvanizing* (The coating of steel articles with zinc using molten zinc, including the pickling and/or fluxing of articles before coating) requires that facilities, prior to conducting this listed activity, be in possession of a Provisional AEL or AEL.

The minimum emission standard provided for in GNR 893 issued under the NEMAQA requires that existing hot dip galvanising plants may not release more than 15 mg/Nm³ particulate matter or 30 mg/Nm³ hydrogen chloride. In terms of section 61(2)(a) of NEMAQA, the expiry of a grace period for transition from the regime under the Air Pollution Prevention Act, 1965 (Act No. 57 of 1965) ("APPA") to NEMAQA was 31 March 2014, the regulated community were given sufficient opportunity since 31 March 2010 to obtain the necessary licences.

Considering the lengthy period since the expiry of the grace period (over two years), DEA issued fifty-one (51) warning letters to the members of the Hot Dip Galvanising Association of South Africa. These warning letters served to provide the relevant facilities with an advance warning that the Environmental Management Inspectors ("EMLs") and other relevant spheres of government would step up enforcement initiatives within the respective air quality priority areas and to ensure that these facilities obtain and/or are in possession of the necessary licence/s and if they do have licences they should demonstrate compliance against these licences.

Out of the fifty-one (51) facilities that were issued with the warning letters, thirty-three (33) facilities responded. Certain facilities replied that they do have an Provisional AEL and AEL in place and invited the EMLs to conduct an inspections to determine compliance with the conditions of the these licences, while others responded that they were not aware of the NEM:AQA legislative requirement to obtain a Provisional AEL or AEL to conduct the hot dip galvanising activities. Only one facility indicated that it offers training to the facilities conducting hot dip galvanising activities and therefore does not require an AEL.

Eighteen (18) of the facilities issued with warning letters did not respond and this led the DEA Enforcement EMLs to conduct site visits in Gauteng, KwaZulu Natal and Western Cape Province to determine whether or not these facilities are in possession of the required licences. Two additional facilities were inspected as it was reported that they receive zinc dross and galvanising ash for thermal treatment for further use.

Seven (7) facilities were issued with Notices of Intention to issue a Compliance Notice and three (3) of the seven (7) submitted applications for AELs. Two (2) are not conducting listed activities in terms of NEMAQA and close-out letters are to be issued to close the matters while one (1) facility has been closed.

Seven (7) facilities were in possession of AEL and two (2) of the facilities in possession of AEL in their representation enquired about the possibility of submitting an application for the declassification of waste from Hot Dip galvanising facilities, in particular zinc dross and galvanising ash, as included in Schedule 3 to the NEM:WA and be exempted from obtaining a waste management license ("WML") for the treatment and recovery of Zinc dross galvanising ash; and to determine whether the thermal treatment of waste would still be triggered if furnaces are used for the treatment and recovery of waste from (nl: zinc dross and galvanising ash) and not incineration, as well as whether an AEL would still be required if waste from galvanising facilities (nl: zinc dross and galvanising ash) were to be declassified as waste. In order to respond to the said enquiries and internal consultation with DEA Waste Licencing and DEA Air quality line functions was held and the decision will be formally issued to the respective facilities.

One (1) facility was taken through a Criminal Investigation and Prosecution and a plea bargaining agreement was reached which resulted in a fine. The remaining facilities which have not submitted an action plan will subject to a follow-up and monitored to ensure that application to obtain the relevant licences is submitted to the respective competent authorities.

8.2.2 Timber treaters, all provinces

On 31 May 2015 and 20 October 2015 site investigations were conducted to the premises of Low's Creek Timber Treaters, Barberton, Mpumalanga Province. Subsequently, pre-compliance notices were issued dated 05 July 2013 and 24 December 2015 respectively.



Processing area: Contaminated soil due to it being unlined





Contaminated soil in the vicinity of the CCA Plant

The non-compliances and concerns found on the aforementioned site prompted the DEA to inform the timber treatment industry with regards to the environmental legislative requirements. The following concerns were observed on-site:

- Low's Creek Timber Treaters utilize creosote and Chrome-copper-arsenate (CCA) as a form of wood preservation;
- The creosote and CCA treated timber was frequently left on open soil surfaces to dry, where the substances dripped into the soil;
- Chemical analyses were conducted by the DEA confirming discharges of contaminated water as well as the pollution of large volumes of soil by creosote and CCA;
- Over and above the risk to surface and groundwater resources related to the contain creosote and CCA, the frequent movement of vehicles over these areas results in the entrainment of CCA-contaminated dust, which may be inhaled by workers and nearby residents; and

- Insufficient measures were in place to contain contamination to water, soil and air.

On 13 December 2016 seventy eight (78) warning letters were issued to the timber treatment industry to inform the industry what these environmental legislative requirements are.

The DEA has established that certain timber treatment operations are operating in the absence of the requisite permissions to do so and/or outside of the provisions of the law. These permissions may include, depending on the size and nature of the operation as well as the various processes involved, the following:

- Atmospheric Emission License ("ÄEL") required under the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) ("NEM: AQA"); and
- Environmental Authorisation ("ÄA") required under the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA")

Three (3) responses/acknowledgement of receipt were received one of which was the South African Wood Preservers Association (SAWPA). Upon receiving only three (3) responses/acknowledgements of receipt from the timber treatment industry, the Department will conduct a follow-up survey and do site inspections to check compliance with the legislative requirements as per the NEMA. This will be conducted in the current financial year to verify that the requirements are met.



9. BIODIVERSITY COMPLIANCE AND ENFORCEMENT

In the 2016/17 reporting period, biodiversity compliance and enforcement continued to focus on the high-risk species, such as rhinos, elephants, pangolins and cycads, while still ensuring that other species receive the protection from the Inspectorate.

Through Working Group IV EMI's from both provinces and the national department also focused proactive compliance and enforcement effort on the following projects

- Compliance promotion with the Traditional Healers Markets
- Compliance monitoring of Lion breeding facilities
- Compliance monitoring of Alien and Invasive Species (AIS): Focusing on Nurseries selling AIS species without permits
- Auditing and verification of Rhino horn stockpiles
- Operation Fezela (focused on compliance and enforcement activities related to cycads)

9.1 Criminal Enforcement related to Rhinos

In relation to rhino cases, EMI's from across all the relevant institutions are actively involved in anti-poaching operations; crime scene management; ongoing support to the SAPS members (who take the lead in investigating these cases) as well as the NPA. The MINTECH Working Group IV's National Biodiversity Investigators Forum (NBIF) with its sub-committee focusing on Rhinoceros is an important forum for sharing of information to enhance the collaboration and co-ordination between the EMI and SAPS in relation to biodiversity investigations.

EMI's continue to 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 Ezemvelo KZN Wildlife) through the execution of the NATJOINTS Operation Rhino.

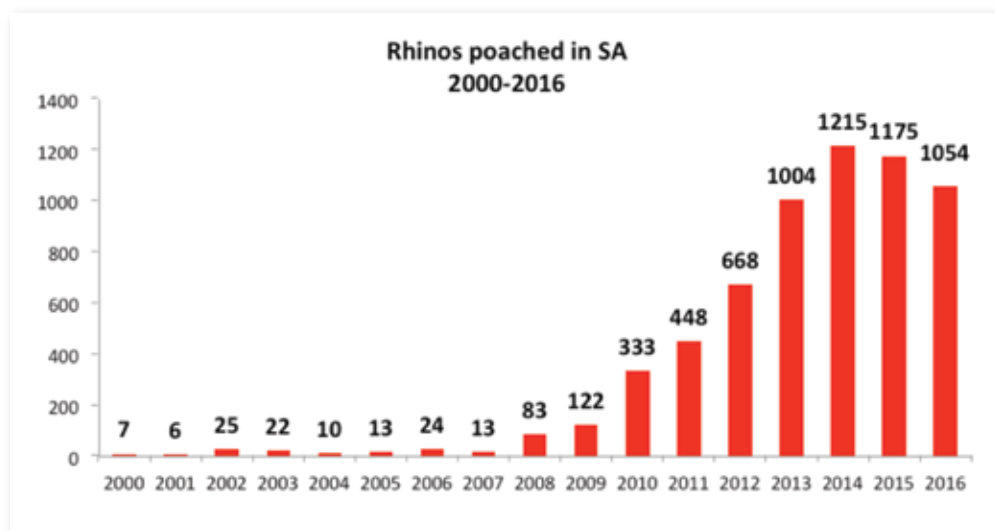
As a result of implementing all the aspects of the Integrated Strategic

Management Approach for Rhinoceros (including compulsory interventions focused on law enforcement and security), as well as beginning to implement the initiatives discussed during the Rhino Conservation Lab, the Minister announced in February 2017 that the 2016 statistics indicate that we registered a decline in the number of rhino poached, both for the country as a whole and for the Kruger National Park. A total of 1 054 rhino were poached in 2016, compared to 1 175 in the same period for 2015, representing a decline of 10.3%. This is shown in the table below. This is, in part, due to the concerted efforts of our law-enforcement and security agencies.

The statistics in relation to rhino poaching are set out below as well as cases which are just a few examples of the successful convictions that have been obtained in respect of rhino as well other priority species.

INSTITUTION/PROVINCE	2011	2012	2013	2014	2015	2016
SANParks (Kruger National Park)	252	425	606	827	826	662
SANParks (Marakele National Park)	6	3	3	0	-	
SANParks (Mapungubwe National Park)	0	0	0	1	-	
KZN	34	66	85	99	116	162
Limpopo	74	59	114	110	91	90
Western Cape	6	2	0	1	1	0
Eastern Cape	11	7	5	15	14	17
Gauteng	9	1	8	5	2	6
North West	21	77	87	65	46	56
Free State	4	0	4	4	10	17
Northern Cape DEANC	0	0	0	5	2	12
Mpumalanga	31	28	92	83	67	32
TOTAL	448	668	1004	1215	1175	1054

9.1.1: Total Number of Rhinos poached in South Africa for 2011, 2012, 2013, 2014, 2015 and 2016



9.2 Significant court sentences relating to rhinoceros

Western Cape

S v Jiawei Yang and Liao Bingchang (Hout Bay CAS 267/01/2017)

Province	Western Cape
Court	Wynberg Regional Court
Charge	Western Cape Nature Conservation Ordinance 19 of 1974, S. 47A(1)(b) They were apprehended in Hout Bay while in possession of rhinoceros horn and African elephant ivory items. Yang was prosecuted for the possession of two pieces of rhino horn (with a total mass of 75 grams).
Judgment/Sentence	Accused 1 – He was sentenced to five (05) years direct imprisonment suspended for five years and a fine of R35 000. He was also ordered to leave South Africa, after the payment of the fine. Accused 2 - Bingchang was prosecuted for the possession of 6 items of elephant ivory (4 chopsticks, 1 bangle and 1 bracelet totalling 135 grams). He was sentenced to five (05) years direct imprisonment suspended for five years and a fine of R35 000. He was also ordered to leave South Africa, after the payment of the fine.

S v Ismael Amardien (Grassy Park CAS 590/01/2016)

Province	Western Cape
Court	Wynberg Regional Court (SHB93/2016)

Charge	Section 44(1)(a) of the Nature Conservation Ordinance 19 of 1974. The illegal possession of 1 Rhino horn with a mass of 2.058kg
Judgment/Sentence	Sentenced to 2 years imprisonment or R100 000 plus a further R100 000 or 2 years imprisonment suspended for 5 years.

Mpumalanga

S v Simon Ngomani (Skukuza CAS 9/12/2011)

Province	Mpumalanga
Charge	Hunting of 2 rhino, Immigration Act, Theft of 4 rhino horn, Trespassing, Possession of firearm and ammunition
Sentence	Effective 28 years imprisonment, including Trespassing: 3 years; Illegal hunt:10 years; Theft rhino horns:5years; Illegal possession of fire-arm and ammunition:10years.

S v Sibusiso Mpangane, Thulani Mgunu, Patrich Jeffrey Mgwanya, Bonga Tebogo Riba (Skukuza 7/12/2010)

Province	Mpumalanga
Charge	Trespassing, Possession of firearm and ammunition
Sentence	Effective sentence of 15 years each: Trespassing: 5 years, Possession of firearm and ammunition: 10 years.

S v Morris Vhukela (Skukuza 1/12/2015)

Province	Mpumalanga
Charge	Trespassing, Possession of firearm and ammunition, possession of a firearm with the intent to commit crime
Sentence	13 years imprisonment of which 2 years is suspended for 5 years or R 50 000

S v Solly Tobela, Ezequias Arone Tovel (Malelane 33/11/2015)

Province	Mpumalanga
Charge	Possession of firearm and ammunition: possession of firearm with the intent to commit crime: trespassing:
Sentence	Both accused: possession: firearm:10 years, possession: ammunition: 6 months, possession: firearm with the intent to commit crime: 5 years, trespassing: 12 months

S v Sipho Ngobeni, Samuel Ngulelo (Skukuza 130/10/2015)

Province	Mpumalanga
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Charge	Possession: unlicensed firearm and possession: ammunition, trespassing, possession: firearm with the intent to commit crime
Sentence	Possession: unlicensed firearm and possession: ammunition, trespassing, possession: firearm with the intent to commit crime: 21 years 6 months imprisonment.

S v Ernesto Ngoveni, Andries Jeremia Mongwe (Skukuza 63/5/2016)

Province	Mpumalanga
Charge	Possession: unlicensed firearm and possession: ammunition, trespassing, Immigration Act.
Sentence	Effective sentence of 17years 6 months imprisonment as follows: .Possession of unlicensed firearm: 10 years imprisonment; unlawful possession of ammunition: 5 years imprisonment, trespassing in a national park: 18 months imprisonment; Immigration Act - 12 months imprisonment.the

Kwazulu-Natal**S vs Gwala and another**

Province	KwaZulu Natal
Charge	Section 57 of NEMBA
Sentence	Both accused convicted and sentenced to 8 years imprisonment, half suspended for 5 years.

S vs Sibosiso Jack Buthelezi, Vusumuzi Magwagwa, Jabulani Hlope

Province	KwaZulu Natal
Charge	Section 57 of NEMBA
Sentence	Accused 1= 4 years of which half is suspended and R10 000 fine. Accused 2: 4 years of which half suspended and R10 000 fine. Accused 3: R10 000 fine.

Gauteng**S v Thianchao Yang (Cleveland CAS 128/8/2015)**

Province	Gauteng
Charge	Section 57 of NEMBA (possession)

Sentence	R6000 or 3 years imprisonment suspended for 5 years
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S v Yun Lin and Yi Lin (Bedfordview CAS 262/8/2015)

Province	Gauteng
Charge	Section 57 of NEMBA (possession)
Sentence	R30 000. A further 12 months imprisonment was suspended for 5 years

S v Lin Yun Sheng (RC 176/2016)

Province	Gauteng
Charge	Section 57 of NEMBA (possession)
Sentence	R 800 000-00 or 6 years

S v Wang F Zag and L Mei

Province	Gauteng
Charge	Section 57 of NEMBA (possession)
Sentence	R100 000 or 2 years imprisonment. A further 2 years imprisonment was suspended for 5 years

Limpopo**S v Chimbudzi Tamhdzivai (Lephalale CAS 92/10/2014)**

Province	Limpopo
Charge	Illegal hunting of rhino's, Theft, Possession fire-arm, Possession of fire-arm to commit a crime.
Sentence	Illegal hunting of rhino's: 12 years imprisonment, Theft: 5 years imprisonment, Possession fire-arm: 5 years imprisonment, Possession of fire-arm to commit a crime: 3 years imprisonment

S v Andries Mothobi Molaoa (Jon Mlaau) & Fenias Nelson Chaia (Bulgerivier 1/8/2012)

Province	Limpopo
Charge	Attempted theft, murder, illegal hunting of rhino's, theft of firearm (stolen in housebreaking case of Rustenburg CAS 1627/12/2009) illegal possession of firearm & ammunition; sections of LEMA
Sentence	Count 1-4 taken together for sentence purposes & 10 years imprisonment is imposed. Count 5: 10 years imprisonment; Count 6: 5 years imprisonment; Count 7: 5 years imprisonment; Count 9: 5 years imprisonment.

S v Vusi Mashele (Phalaborwa CAS 53/6/2016)	
Province	Limpopo
Charge	Illegal hunting of rhino's (2 counts)
Sentence	Each count 10yrs, half of which is suspended for period of 5ys on condition that the accused is not convicted of hunting especially protected animals without a permit committed during the period of suspension. Both sentence to run concurrently

North West

S v Chauke (Lehurutse court)	
Province	North West
Charge	Illegal hunting, no rhino killed, convicted Sec 57(1) of NEMBA
Sentence	4 years imprisonment.
S v Sithole and 2 others (Lehurutse court)	
Province	North West
Charge	Convicted trespassing in terms of Protected areas act, acquitted attempted illegal hunting.
Sentence	Each sentenced to 2 years imprisonment.

9.3 Significant cases relating to elephant

S v TW Mukweho	
Description	The accused pleaded guilty in terms of 105A on one count of sale of an elephant tusk. This was a police undercover operation. The tusk weighed 2.8 kg and was valued at R2617,44
Charge	Sec 57(1) of NEMBA
Sentence	The accused was sentenced to R10 000 or 12 months imprisonment and a further 3 years imprisonment suspended for 5 years.
S v TI Mosekwane	
Description	Raw Ivory Tusk with weight of 1,6kg. The accused sold the ivory together with a leopard skin in an undercover trap operation in terms of Section 252A.

Charge	Sec 57(1) of NEMBA
Sentence	Accused was sentenced to 5 years imprisonment of which 3 years were suspended for 4 years.
S v Cape Town (CAS 706/01/2016)	
Province	Western Cape
Court	Cape Town Magistrate Court
Charge	Section 42(1) of the Nature Conservation Ordinance 19 of 1974. The illegal possession of 1 African elephant tusk with a mass of 2.389kg
Judgment/Sentence	Sentenced to a fine of R4000 or 1 years & a further sentence of 3 years imprisonment suspended for 5 years.

9.4 Significant court sentences relating to cycads

S v R Dicks & 3 others	
Province	Eastern Cape
Description	Theft and illegal harvesting of bakkie and trailer full laden with Longi Folius cycads
Charge	Theft; Contravening section 62(1) of Cape Nature and Environmental Ordinance, 19 of 1974 iro uprooting, transporting and possession of the cycads and Trespassing
Sentence	Accused 1: 9 years imprisonment; Accused 2: 8 years imprisonment, Accused 3: 7 years imprisonment, (had previous convictions), Accused 4: R 50 000/18 months imprisonment half suspended.
S v R Dicks and 1 other	
Province	Eastern Cape
Description	Whilst the accused was trail waiting on a previous case, he allowed another accused to pick cycads on his own farm.
Charge	Theft; Contravening section 62(1) of Cape Nature and Environmental Ordinance, 19 of 1974 iro uprooting, transporting and possession of the cycads
Sentence	10 year imprisonment suspended for 5 years, a further R 100 000 fine, his bakkie was forfeited as well as a R 80 000.00 truck, and a donation of a part of his farm to the Addo Elephant National Park which borders his farm.

9.5 Significant court sentences relating to other species

S v Johan Bernard Philip Mans (Malmesbury CAS 246/03/2016; Leeu Gamka CAS 98/04/2016; Leeu Gamka CAS 99/04/2016; Leeu Gamka CAS 161/04/2016; Beaufort West CAS 308/04/2016)	
Province	Western Cape
Court	Beaufort West Regional Court in case no. BSH 76/2016
Charge	Western Cape Nature Conservation Ordinance 19 of 1974, S. 26, S. 27(1)(a), S. 27(1)(b), S. 29(b), S. 29(c), S. 29(e), S. 33(1), S. 40, S. 42(1) The illegal hunting of one Cape Mountain Zebra, two bontebok, two kudu, one gemsbok, one springbok and one fallow deer.
Judgment/Sentence	Sentenced to R115 000 or 9 and a half years' imprisonment of which R55 000 or six years and three months imprisonment was suspended for five years; The accused also was ordered by the Court to forfeit his firearm to CapeNature

Case Name:	Maydon Wharf CAS 31-05-2016 S v Thaba Kwena (Pty) Ltd
Province:	Kwazulu- Natal
Court:	Durban Central Magistrate Court
Charge:	Contravention of CITES Regulations 16(1A) (b) Failure to have the CITES export permit endorsed in terms of the Regulation 10(8) before the export takes place
Judgment/Sentence:	R 100 000.00 fine and R50 000-00 suspended for 10 years.
Note:	On 04 March 2016, Thaba Kwena (Pty) Ltd exported a total of 13 tons of crocodile meat from South Africa to Hong Kong without the CITES export permit being endorsed. Prior the exportations took place, the company was advised by the Provincial Office (LEDET) to make arrangements for the inspections and the endorsement of the issued CITES export permit by EMLs from DEA. Thaba Kwena failed to make the arrangements as they were advised by the Provincial office instead exported the crocodile without the CITES permit endorsed. The exported crocodile meat was then re-exported back South Africa after it was confirmed that the CITES export was not endorsed. The estimation value of the crocodile meat was about R5 million.

Case Name:

Maydon Wharf CAS 31-05-2016
S v Thaba Kwena (Pty) Ltd

Pictures:



JOINT COMPLIANCE AND ENFORCEMENT OPERATIONS



10. JOINT COMPLIANCE AND ENFORCEMENT OPERATIONS

10.1 Initiative 5 Operation Phakisa (Enhanced and Co-ordinated Compliance and Enforcement Programme)

Initiative 5 under the Marine Protection Services and Ocean Governance Delivery Unit (MPGDU) was established for the purpose of combatting all illegal and unregulated activities (IUU) which have significant negative impact on marine and coastal resources, infrastructure, trade and food security that results in substantial economic and employment losses. The Enhanced and Coordinated Compliance and Enforcement Programme (Initiative 5) decided on the appointment of a Compliance and Enforcement Working Group Committee, chaired by DEA for the purpose of ensuring that proper planning, orderly execution and monitoring of operations and subsequent reporting to Marine Protection Services and Ocean Governance Delivery Unit Head is executed. This in return gave rise to the development of a work-plan for Initiative 5 with clear indicators, activities and achievable targets so as to ensure coordination and optimization of inter-departmental compliance and enforcement functions within oceans and coastal environment.

For the 2016/2017 reporting period; national and provincial departments, municipalities and agencies committed to ensuring success of this initiative, and participated in monthly meetings and joint operations that were held as follows:

A total of twenty two (22) joint operations were planned and executed in all four (4) coastal provinces, seventy four (74) cases were registered and three hundred and thirty one (331) persons arrested. Cases registered were related to illegal harvesting of marine resources, driving in a coastal area, illegal immigrants, illegal possession of drugs, unlicensed vehicles, illegal sand mining, illegal developments, illegal firearms and selling of alcohol without license. Sea-based operations were also executed to prevent illegal fishing within Marine Protected Areas and inspections of Foreign Fishing Vessels fishing within South African Exclusive Economic Zone (EEZ) and several other vessels to determine compliance as follows: A total of 38 Foreign and 3x Reefer vessels were inspected and 38x fines with a total of R47 580 were issued to vessels fishing in SA EEZ without relevant permits.

10.2 Biodiversity Operations



10.2.1 Operation Ndiza (Biodiversity Joint Operation)

The eastern and western regions of the Eastern Cape that border Lesotho are characterised by a high number of stock theft incidents, the smuggling of narcotics, and the illegal crossing of people and weapons. This set of circumstances lead to an environment in which ivory and rhino horn may be smuggled into Lesotho, intended to be exported through South Africa as an in-transit consignment, to countries in the east. This high-risk situation resulted in Operation Ndiza (the Zulu word "Ndiza" means to fly), which was executed between 28 November and 2 December 2016; and involved several stake-

holders, namely the SA Army, SA Air Force, SAPS, Traffic Police and DEA. The coordinator, SANDF made sure that everything was planned and executed with military precision.



The helicopters that were allocated to the operation were two BK117's. The BK117 is a twin-engine medium utility-transport helicopter and is popular for passenger transport, VIP-transport and seating from seven up to ten people. It is also used for aerial crane and sling work, law enforcement, and military transport, and is exceptional as an air ambulance and search and rescue platform. The purpose of the BK117 was to be able to quickly deploy and cover a huge area in as little time as possible. The team was divided into groups of seven that consisted of all the stakeholders, who were then deployed along the border line where they inspected / searched areas of known illegal activities. Aside from the border line, the operation also included a deployment to numerous vehicle check points (VCP's).

10.2.2 Operation Thunderbird (Biodiversity Joint Operation)

The United Nations Environment Programme (UNEP) and INTERPOL estimate the value of environmental crime to be worth between USD 58 billion and USD 203 billion annually. Further complicating the combatting of these crimes is their

increasingly organized and transcontinental nature. At the last Conference of the Parties (COP 17) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which was held in South Africa during September and October 2016, more than 350 additional species were added to the appendices. The growing trend of the smuggling of wildlife and its parts and derivatives provides additional security concerns for all countries affected by this.

As a result, a global initiative to tackle illegal trade in wildlife and timber called Operation Thunderbird was carried out. The goals and objectives of the operation were to combat the illegal transport and trade of wildlife by searching aircraft, vehicles, luggage and persons, to institute criminal charges against individuals found to be conducting these illegal activities; and to continue to build the mutual understanding and practical co-operation between all law enforcement agencies in relation to environmental crime.

Globally, the operation resulted in more than 1300 seizures, ranging from animals (live specimens, parts and derivatives), to timber (raw wood and manufactured goods) and plants (live specimens and medicines), including the following:

- More than 4770 birds,
- More than 1240 reptiles,
- More than 100 wild cats,
- More than 2.75 tonnes of pangolin scales,
- More than 8,2 tonnes of ivory,
- More than 310 skins from various animals
- More than 37130 derivatives
- More than 14.3 tonnes of marine wildlife
- Approximately 58.2 tonnes of wood and timber
- Close to 25 tonnes of various animal parts

As the activities of this operation were country led, an operational planning meeting, attended by representatives from the South Africa Police Service (SAPS), South African Revenue Service (SARS Customs), INTERPOL Central Bureau and the National Department of Environmental Affairs (DEA) took place, after which it was decided that the South Africa's effort during the Operation would focus on the 10 national airports, a few smaller airports,

Durban Harbour as well as 4 land ports. More than 230 officials from the following Departments and Agencies participated in South Africa: Green Scorpions from both National and Provincial Conservation Departments, South African Police Service (various units), INTERPOL, Metro Police, SARS Customs, Department of Agriculture Forestry and Fisheries, Department Of Home Affairs, State Security Agency, Department Of Health, Department of Rural Development and Land Reform. Within the South African context Operation Thunderbird was undertaken from 30 January – 19 February 2017; and saw the following activities take place in South Africa:

- Number of aircraft searched – 30,
- Number of vehicles searched – 1 657 (including busses and trucks),
- Number of people searched – 632,
- Luggage searched – 1 857,
- Numerous air cargo was searched on a daily basis,
- One African Rock Python was seized from a suspect,
- Shipping containers were opened and inspected for any wildlife – 480; and
- Wood on one (1) vessel was inspected.



Pictures: Customs endangered species detector dog reacting to crayfish/lobster being smuggled via passenger luggage at Cape Town International Airport.

Cleveland CAS 209/02/2017 and CAS 210/2/2017 were opened after 7 suspects were arrested and charged in terms of Section 57(1) of the National Environmental Management Biodiversity Act, Act 10 of 2004 after the following were found at a curio shop in Bruma: Carved Ivory 852 = 16.876kg, Rhino Horn pieces 76 = 2.174kg, Leopard / Lion teeth – 38, Leopard / Lion nails – 286, Dried Seahorse – 1 and Rhino horn Powder - 80 g.



10.2.3 Bio-Security Joint Operations (Alien)

Invasive species can have a number of negative impacts on the areas that they invade and some invasive species can physically alter the habitat in addition to destruction. Furthermore other invasive species may not destroy habitat but can have an impact by killing large numbers of endemic species. Many strategies have been developed to stop the damage caused by invasive species and to prevent future invasions. South African laws and regulations have also been passed to combat the future spread of invasive species.

The duty to enforce these laws and regulations resides with the Bio-Security EMLs in DEA. Compliance and enforcement activities are frequently undertaken through facility and farm inspections, national joint operations and awareness raising sessions for stakeholders.

A number of joint farm operations were conducted in the nine different provinces to create awareness and to bring people into compliance with the Alien and Invasive (AIS) Regulations through the use of administrative or criminal enforcement mechanisms. In provinces such as KZN, Mpumalanga, Eastern Cape and Western Cape administrative enforcement actions appeared to be effective with many farm owners applying for Alien and Invasive (AIS) permits after the first visit. Unfortunately not all members of the public complied and a total of 4 criminal cases were handed over to the NPA that were triggered by failure to comply with administrative enforcement processes. There are also

a number of provinces such as Gauteng that do not allow free roaming alien and invasive mammals on small holdings or farms. This complicates issues as the Gauteng requirement is not aligned with the national AIS Regulations.

Another important component is making the public aware of the dangers of transporting wildlife to new areas without the necessary permits and risk assessments. The Environmental officers make an extra effort to train government officials at South African ports of entry in order to increase levels of detection and conviction linked to the illegal trade and transport of wildlife products. The illicit trade training programme resulted in a number of successful convictions.

A great deal of an environmental officer's work is to create awareness. The bio-security officers attend a number of public pet shows and animal expo's to raise awareness that permits are required in order to be in possession of AIS. These events also create a platform for pet traders and pet owners to have their questions answered. Not only are these events important to educate the public but also to build a strong alliance between Environmental Officers and the public as many of the complaints of illicit trade emanate from the general public.

Biosecurity Enforcement participated in the African Ports Evolution Conference held at the Durban International Convention Centre on 18 – 19 October 2016 where they gave a presentation on the illicit wildlife trade and the legal requirements for export and import of wildlife and wildlife products.

An exhibition stand was erected show casing the work of the Department as well as what the Environmental Management Inspectors (EMIs) are doing to combat the illicit wildlife trade and promote compliance, especially amongst those industries doing business in the port environment.

10.3 Fisheries Blitz, St Helena Bay, Western Cape Province

Back in 2014, four fishing companies were inspected against compliance with environmental legislation. Said companies included Amawandle Palegic, 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 were as follows:

- Discharging of effluent into the sea without the necessary permits

- Non-compliance with conditions contained within their permits, license and/or authorization
- 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

Administrative tools, in the form of pre-compliances and/or pre-directives as well as Section 31 (H) NEMA Notices, 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 within said Notices and were provided a time period to come into compliance. The Department decided to undertake follow-up inspections at all four facilities in May 2016 to verify that the action items stated in the representations were in fact implemented.

Below are the highlights of action items undertaken:



New Wet Ash System installed at Oranjevis



H₂S Continuous Emission Monitor at the Chemical Scrubber at Lucky Star



Upgraded Fish Pits with fencing and extended roofing at Westpoint Processors



Upgrades on coal storage areas



Fish Oil now contained and stored properly



Applications for discharge permits have been submitted

Coastal Water Discharge Permit applications have been lodged with the Department's Directorate: Oceans & Coasts for consideration and will be for-

mally referred to the Oceans & Coasts Compliance unit. Furthermore, all air quality related issues will be referred to the West Coast District Municipality for continuous monitoring.

10.4 Health Care Risk Waste Blitz

Joint compliance monitoring inspections were conducted at twelve incineration/burn and non-burn Health Care Risk Waste (HCRW) Treatment facilities on 15 to 17 November 2016. Five of these facilities are incinerators while seven are non-burn facilities.

The following facilities were inspected Biomed, ClinX, Eastern Cape Incinerators, Compass Clayville, Cecor Allied and Solid Waste Technologies City Deep (Gauteng); Averda Klerksdorp (North-west); Cecor Allied and Compass Pinetown (KwaZulu Natal); Compass Bellville (Eastern Cape) as well as Optimum and Solid Waste Technologies Killarney Gardens (Western Cape). The BCL Incinerator located in the Western Cape was not inspected during this period.

Inspections were jointly conducted by Environmental Management Inspectors (EMIs) and officials from the Department of Environmental Affairs (DEA: Compliance; Enforcement; Hazardous Waste and Air Quality Management); Provincial Departments of Environment (Gauteng; North West; Western Cape; KwaZulu Natal and Eastern Cape) and municipalities (City of Ekurhuleni and City of Johannesburg).

The aim of these inspections was to determine the compliance status of the sector given the historical poor environmental compliance encountered by the Environmental Management Inspectorate in this sector. Some of the poor performance was related to accepting of waste quantities beyond treatment capacity of these facilities, which resulted in waste piling up causing health hazards and nuisance conditions. In addition, the aim of these inspections were to check compliance against the Minimum Emission Standards (MES) under Section 21 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) which came into effect in April 2015.

It was found during the inspections that overall waste management and handling on these sites have improved significantly. Compliance to the MES was however an issue of concern as none of the inspected incineration facilities was found to be achieving the emission standards.



Pictures: Illustration EMIs gathering to conduct site inspection and also during the inspection process

NATIONAL ENVIRONMENTAL COMPLAINTS AND EMERGENCY INCIDENTS



11. NATIONAL ENVIRONMENTAL COMPLAINTS AND EMERGENCY INCIDENTS

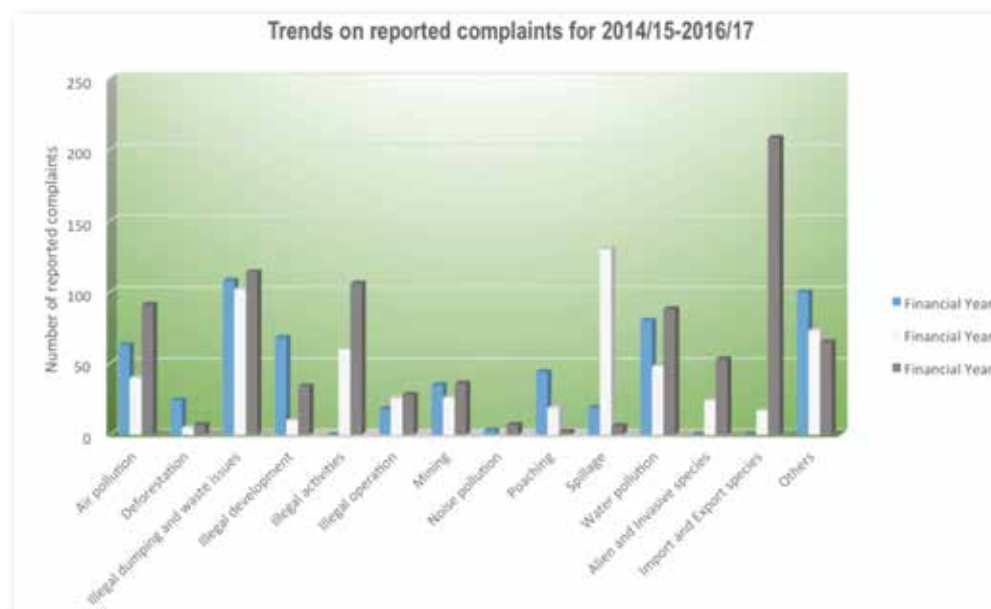
11.1 Environmental Crimes and Incidents Hotline

DEA continued to collect statistics on environmental complaints received through the Environmental Crimes and Incidents Hotline; from the Minister and Director-General's office; as well as direct and referred complaints from other organs of state and the public. The hotline serves as the main entry point for complaints on environmental crimes and incidents and does not include complaints reported directly to provinces, local authorities or other EMI Institutions. There has been an increase in the overall number of incidents and complaints reported from **562** in 2014/15 to **845** in the 2016/17 financial year. Reports of illegal activities, water and air pollution, alien and invasive species and import and export of species have shown a significant increase, while reports of spillages have shown a significant decrease.

Nature of Complaint	Financial Year			Total
	2014-2015	2015-2016	2016-2017	
Air pollution	63	40	91	194
Deforestation	24	5	7	36
Illegal dumping and waste issues	108	102	114	324
Illegal development	68	10	34	112
Illegal activities	-	60	106	166
Illegal operation	18	26	28	72
Mining	35	26	36	97
Noise pollution	3	0	7	10
Poaching	44	19	2	65
Spillage	19	130	6	155
Water pollution	80	48	88	216
Alien and Invasive species	-	24	53	77
Import and Export species	-	17	208	225

Nature of Complaint	Financial Year			Total
	2014-2015	2015-2016	2016-2017	
Others	100	73	65	238
Total	562	580	845	1987

Table 7: Number and classification of complaints



Graph 6: Graphical representation on the nature of complaints received

11.2 Referral of hotline complaints to responsible organs of state

Financial Year	INSTITUTION REFERRED TO					Total
	DEA	DWS	DMR	LOCAL GOVERNMENT	PROVINCES	
2014-2015	131	72	35	129	195	562
2015-2016	266	48	26	124	116	580
2016-2017	375	88	36	166	180	845
Total	772	208	97	383	491	1678

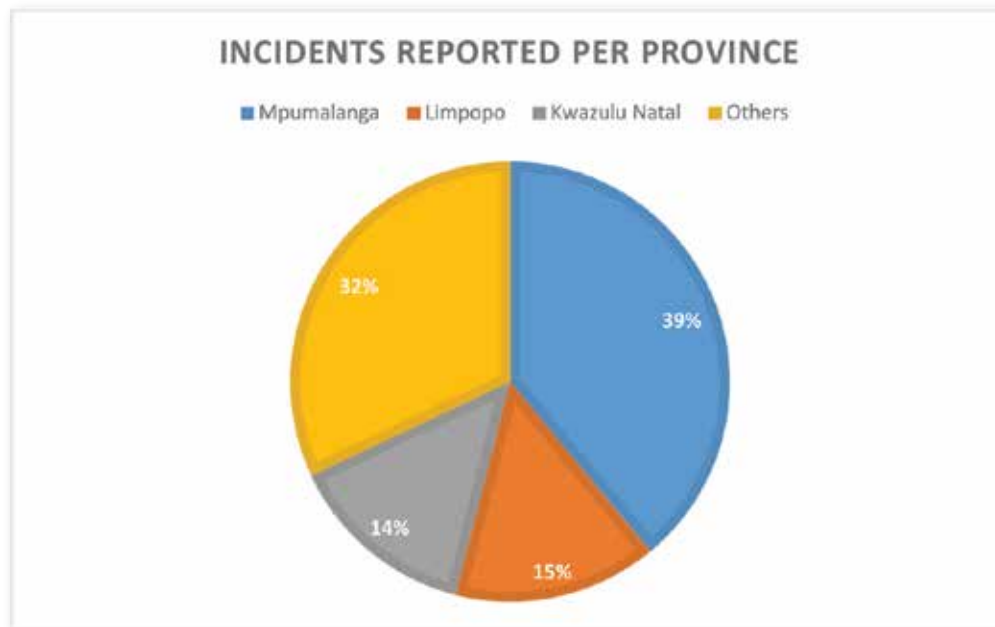
Table 8: Number of DEA referred complaints and incidents

11.3 Section 30 NEMA Incidents

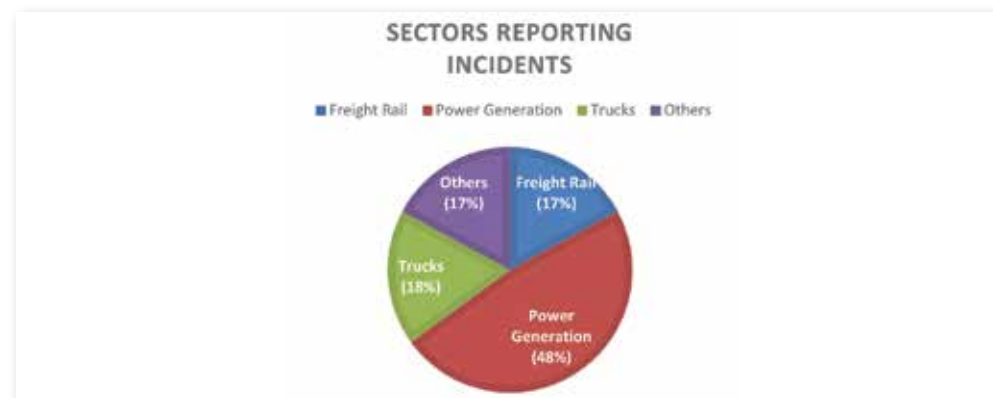
An "incident" is defined as an "unexpected, sudden and uncontrolled released of a hazardous substance, including from a major emission, fire or explosion, that causes, has caused or may cause significant harm to the environment, human life or property".

There's been a geographical shift in incidents reported in the 2016/17 financial year compared to the previous financial year with 39% of incidents being reported from Mpumalanga, 32% from Limpopo and 14% from KwaZulu-Natal.

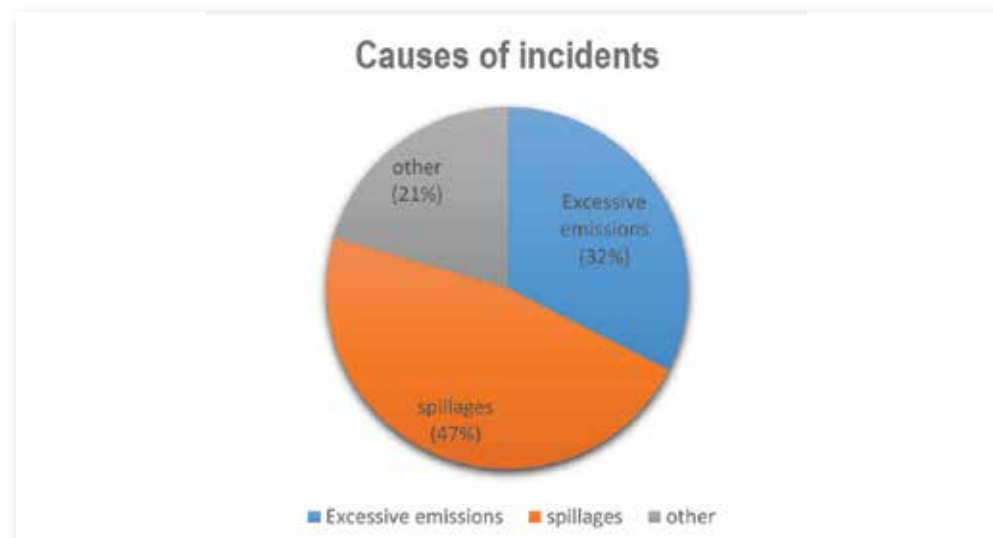
From the **170** incidents reported to DEA, **117** of those were DEA mandated, **22** were referred to other authorities and **31** were classified as non-section NEMA 30 incidents. GDARD has recorded **13** section 30 NEMA incidents which were attended to by this province, which shows a **43.47%** decrease from the **23** incidents attended in 2015/16. Their statistics are also reflected in the graphs below.



Pie chart 6: Distribution of reported s30 incidents per provinces



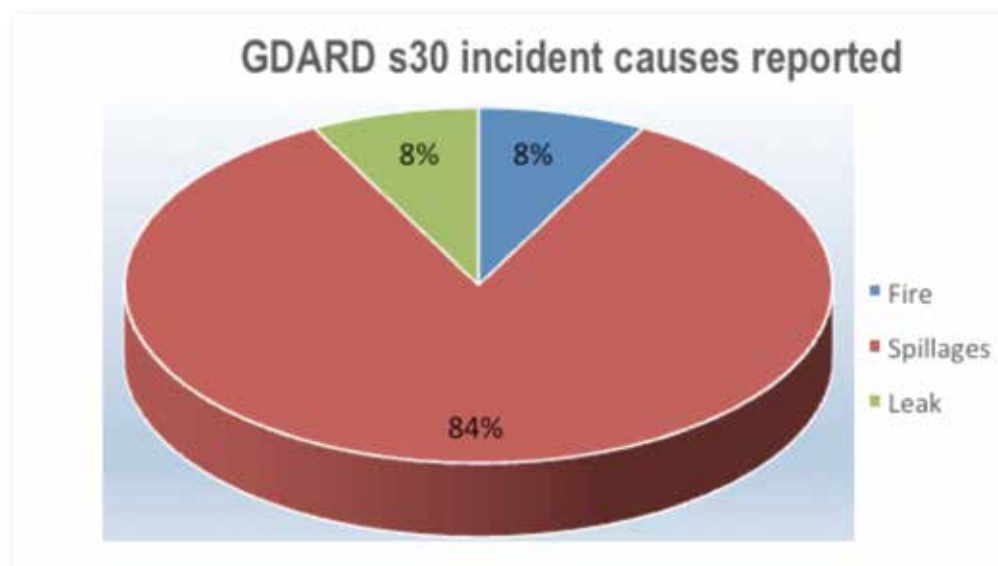
Pie Chart 7: No. of Section 30 incidents reported per industrial sector



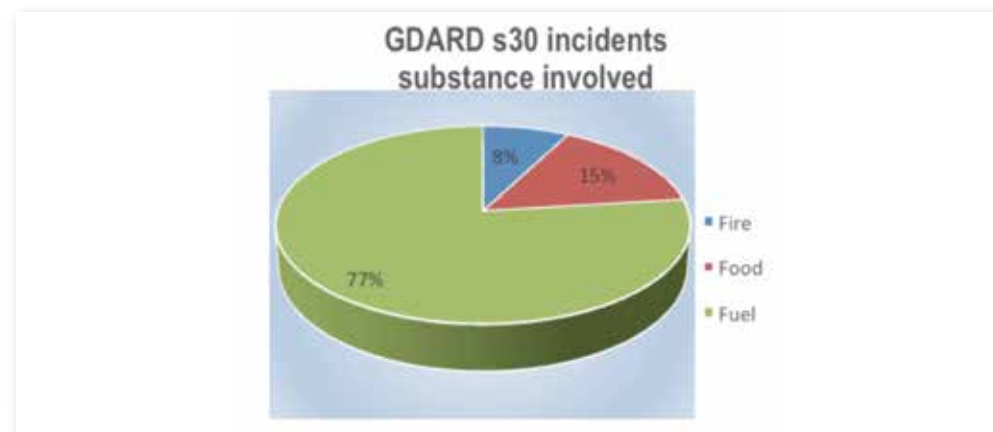
Pie Chart 8: Major cause of section 30 incidents reported



Pictures: spillage of hazardous chemicals and clean-up processes



Pie Chart 9: Causes of section 30 incidents attended by Gauteng DARD



Pie Chart 10: s30 substance involved by GDARD

ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT CAPACITY BUILDING



12. ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT CAPACITY BUILDING

During the 2016-17 reporting period the Environmental Management Inspectorate again hosted, collaborated and participated in a range of capacity development initiatives which aimed at improving awareness, knowledge and skills of Environmental Management Inspectors. It also continued with environmental capacity and awareness raising programmes to key role-players outside of the Inspectorate that form part of the multi-disciplinary sector. Apart from the set training programme there were also a number of training interventions that focussed on field ranger capacity development in the form of EMI Grade 5 basic and advanced training courses. There were again a number of training sessions facilitated by international enforcement agencies to which EMIs had the opportunity to attend.

12.1 EMI Basic/Bridging Training Programme

A number of EMI basic training programmes were presented during the 2016/2017 financial year, which included two DEA hosted EMI basic training courses for officials that require EMI designation in order to undertake their function, as well as basic training courses presented to field rangers that required EMI Grade 5 designation.

12.1.1 DEA EMI Basic Training

Two EMI basic training courses were presented, the first during the months of April/May and the second during the months of September/October. The basic training programme are aimed at officials who require EMI designation from across South Africa and is designed to transfer core compliance and enforcement skills necessary to execute their job functions. The course is administered and coordinated by the DEA's Directorate EMI Capacity Development and Support with the collaborative support of EMI topic experts from key governmental role-players. The course is designed to transfer both theoretical and practical knowledge in relation to the environmental legislative framework against which EMIs are ultimately responsible for undertaking compliance and enforcement. Once successfully completed, officials from the national, provincial and local spheres may receive their formal designation as Grades 1, 2, 3 or 4 EMIs. Each course runs over a period of seven weeks, which includes both distance learning as well as contact sessions, linked to continuous assessment.

Training content is designed to cover,

- 1) Legislation (NEMA, SEMA's, as well as relevant provisions of the CPA and PAJA)
- 2) Theoretical and practical training in so far the proper legal execution of an inspection.
- 3) Taking administrative enforcement against non-compliant individuals and or companies, and the proper procedures to be followed during this process; and
- 4) Criminal investigation and associated court procedures.



Picture: Officials who attended the EMI Basic Training course presented in Cape Town, May 2016

The first of the two basic training courses was presented during April/May 2016 within the Kirstenbosch Botanical Gardens, Cape Town in the Western-Cape. This was the largest group ever trained in a single session and consisted of 73 officials from across South Africa, representing 6 different provincial EMI institutions: Gauteng, Limpopo, Mpumalanga, KwaZulu-Natal, North-West and Western-Cape; as well as officials from 4 National Institutions: DEA, DWS, SANBI and SANParks, with an additional 10 officials representing 5 different municipal authorities. The main reason for the large intake was due to the urgent need to train officials responsible for undertaking compliance duties related to the AIS Regulations within the country.

The second basic training course for the year was presented during September/October 2016 in Salt Rock, KwaZulu-Natal. There were 67 officials in attendance, representing all 9 provinces, as well as officials from 4 different National Institutions: DEA, DWS, SANBI and SANParks, with an additional 16 officials representing 5 different municipal authorities.



Picture: Officials who attended the EMI Basic Training course presented in Salt Rock, October 2016

The DEA EMI basic training course programme guarantees the inclusion of already designated and experienced EMIs to present topic specific presentations. We therefore ensure that new officials are exposed to practical, up to date information. Other expert presenters are also included from a range of directorates that deal with legislative development, line function as well as prosecution of environmental crime. This was again the case for each of the respective courses with a total of 33 presenters engaging with the delegates during the course of the basic training. This is a massive feat and the DEA Directorate EMI Capacity Development and Support extends its gratitude to all the internal and external presenters that support the programme and deliver content of the highest level.

12.1.2 EMI Grade 5 (Field Ranger) Basic Training

Responding to a request made by the Mpumalanga Parks and Tourism Agency (MTPA), the DEA, in conjunction with the Southern African Wildlife College, rolled out EMI Grade 5 Basic training to their field rangers. The need to have more field rangers designated as EMIs was identified as a fundamental cause for field rangers not being able to effectively execute their duties.



Picture: Field rangers from MTPA in attendance during one of the EMI Grade 5 basic training sessions

The training commenced in November 2016 and a total of 9 different training courses were presented. Upon completion the project resulted in the training of 166 Field Rangers. These rangers were not only mentally equipped with knowledge and necessary skills, but also equipped with knowledge of the legislation that empowers them to execute their duties.

Taking cognisance of the critical role that field rangers play in combating wildlife crime, this project is aimed at reducing and managing the number of incidents within respective reserves. The skills transferred will also improve the ability of these first responders to ensure the integrity of the evidence collected,

reduce the amount of flaws in criminal cases and contribute to the increase in number of successful convictions.

DEA would like to thank SAWC for their excellent service delivery as well as to the MTPA for their co-ordination and logistical arrangements.

12.2 EMI Specialised Training

There were again a number of EMI specialised training courses presented during the financial year. The EMI Specialised Training Programme is aimed at further capacitating already designated EMI officials from across South Africa through specialised training initiatives that focus on the delivery and transfer of more in depth or advanced knowledge and / or skills.

12.2.1 EMI Legislative Update Training

The current status quo ensures that EMIs receive comprehensive information on the requirements of environmental law during their basic training. A smaller number also attend additional specialised courses that are hosted or conducted by DEA. However, the rapid pace of law reform means that the information that they receive during these courses is insufficient to ensure that their knowledge of legislation is current. Also, legislation is regularly tested in and interpreted by the courts and EMIs need to be aware of jurisprudential developments and trends. For these reasons the first specialised training course presented for this period was the EMI legislative update training course, which saw a total of 67 EMIs in attendance representing all of the different EMI institutions.



Picture: Officials who attended the EMI Legislative Update Training Course presented in Pretoria 2016

The course aimed to expose and inform EMIs of:

- The key amendments and additions to the NEMA and SEMA legislative framework in the green, brown and blue sub-sectors related to compliance and enforcement;
- The compliance and enforcement related amendments to NEMA and SEMA legislative framework;
- The timeline in which these amendments/additions have taken place; and the specific dates on which they took effect;
- The reasons/rationale behind the amendment of/ addition to the NEMA and SEMA legislative framework;
- The legal effects that these amendments/additions have on the execution of compliance and enforcement activities, such as the compilation of charge sheets;

Due to the extensive range of legislative developments since the inception of the EMI, a decision was taken to adopt a train-the-trainer approach. This course covered the entire range of blue, green and brown related legislation and therefore required a range of up to date topic experts in the form

of Mark Pearce, Magdel Boshoff, Nkhumeleni Mbedzi, Mpho Tjiane, Itani Tshivhandekano, Radia Razack, Nikki de Kock, Dave Hayter, Amanda van Reenen, Franz Scheepers, Nicole Limberis, Mmashadi Masenya, Oarabile Magapa, Mathanzima Nyambi, Zama Mtembu, Dr Mpho Tshitangoni, Lubabalo Maweni, Mangaka Mahlako, Olebogeng Matshediso and Avhantodi Munyai

12.2.2 EMI Waste and Pollution Investigators Course

The proper, detailed and procedurally sound investigation of environmental waste and pollution crime is essential, and requires a number of technical skills different from other types of criminal investigation. For this reason an advanced waste and pollution investigators course was presented to 42 Grade 2 designated EMIs from across South Africa.

The course objectives were to provide EMIs in the waste and pollution sector responsible for criminal investigations against NEMA and the SEMAs with appropriate knowledge and skills to enable them to:

- Correctly identify and interpret relevant legislative provisions;
- Ability to identify and prove elements of the criminal offence related to pollution and waste crimes;
- Effectively interpret and process the scene of the crime to further support criminal investigations;
- Become aware, understand and utilize the range of investigative tools that are available to the criminal investigator;
- Proper collation and presentation of facts gathered during the investigation – statements etc;
- Compilation and submission of a portfolio of evidence subsequent to the training course

Rather than taking a theoretical legal textbook approach, the course strived to further equip officials to conduct investigations into waste and pollution related cases, focusing primarily on the practical aspects of investigations aimed at:

- Enhancing thinking skills
- Improving observations and interpretation of the facts of a case,
- Rational reasoning and evaluation
- Identifying key points, shortcomings, challenges and gaps of an investigation



Picture: EMIs who attended the EMI Waste and Pollution investigators 2016

The course was designed to encourage active attendee participation and attendees were required to submit a detailed layout of an existing and / or completed cases, with photographs for better clarity and understanding. All these cases were collated into a “course file” and EMIs were required to present their cases to the class. These cases were grouped together as to best support the daily topic under discussion, these being:

- a) Legal Interpretation: focus on understanding the legislative provisions applicable and which needed to be investigated;
- b) Crime Scene: focus on isolating visual / scientific evidence on site that supports proving elements linked to legal provisions;
- c) Investigation Support Tools: available information resources that are of critical importance to the EMI during an investigation, and how to access these via legal channels; and

d) Collation of information: The proper manner in which evidence should be captured and interpreted for presentation in court.

Without exception, each afternoon's session saw an increase in an understanding of critical procedures and investigative approaches, and the class agreed that they found the course very informative and worthwhile. A massive thank you to the presenters Grant Walters, Marie-Louise Lume and Ryno Serfontein (DEA Waste and Pollution criminal investigations), as well as all the EMLs in attendance for their passion and hard work.

12.2.3 Compliance and Control Course for Law Enforcement Officials

In the course of executing their legislative duties, Environmental Management Inspectors (EMIs) are exposed to a number of risks as part of their everyday activities. These risks emanate, not only from their environment and surroundings, but also from hostile and uncooperative people that EMLs are required to engage with while executing their compliance and enforcement duties in terms of the NEMA and the SEMAs.

With due consideration of these facts DEA hosted two separate "Compliance and Control" courses for EMI law enforcement officials. The two courses were presented from the South African National Biodiversity Institute's, National Botanical Gardens conference venue situated in Pretoria, Gauteng. The first of the two courses was attended by 26 and the second by 34 EMLs. The course was attended by EMLs from across South Africa representing 13 different EMI institutions.

The 5 day course was presented by Don Gold from the Minimum Force Training Institute of Africa. 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.



Picture: Officials whom attended the second command and control course 2016

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.

The practical part of the course focused on the use of minimum force during arrests and searches, as well as ensuring the EMLs are trained in the proper use of issued equipment such as speed handcuffs, ASP tactical batons and *oleoresin capicum* (pepper spray). At the end of the training course delegates are required to write a test on the week's content, as well as practical sessions where they are evaluated on their skills as well as being exposed to pepper spray. This served to ensure that officials understand the effects of the spray, as well as proper decontamination procedures in the event that they become exposed to the product during a confrontation.



Picture: Officials decontaminating themselves after being exposed to pepper spray

The course facilitator commended both of the groups by highlighting the involvement and dedication shown by the EMIs during each of the courses, and said that he *“was honoured to have spent this time with them”*.

12.2.4 EMI Biodiversity Investigators Course

DEA developed and hosted an EMI Biodiversity investigators course to 44 Grade 2 EMIs in Salt Rock KwaZulu-Natal. The course approach, theme, structure and presentation was similar to the pollution and waste investigators course, however, it was adapted to address some of the critical and unique challenges that face a biodiversity investigator. The officials in attendance had a diverse range of experience and knowledge and the course allowed them to, not only learn from the expert presenters, but from amongst themselves.

This course forms part of a wider project managed by the DEA in partner-

ship with the United Nations Environmental Programme (UNEP), which is titled *“Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa: GEF Project ID No.4937”* (the GEF-UNEP Rhino Programme).



Picture: Officials whom attended the EMI Biodiversity Investigators course 2016

In this course EMIs had to find solutions amongst themselves, being guided by senior officials who are considered to be experts in their field. The object of the course was not only to teach in a traditional lecturer-student manner, but to allow EMIs to open their minds and through engagement and interaction with fellow EMIs from other provinces and institutions, collectively develop and discuss possible solutions.

In order to provide the EMIs with a detailed and practically-orientated course, the DEA required the services of relevant subject-matter experts to share their specialist insight and knowledge. This was expertly provided by Paul Gildenhuys: Cape Nature - Biodiversity Crime Unit, Juan De Beer: - MTPA Investigative Unit, Werner Boing: DETEA – Bloemfontein, Mario Scholtz: SANParks - Environmental Crime Investigations, Adv. Waldo Smit: NPA - Asset Forfeiture Unit, Andre Van Den Berg: Financial Intelligence Centre, Adv Kevin Pretorius: Silver Fox Forensics - Defence advocate

A comment extracted from one of the attendee course feedback report describes this initiative best: *"The presenters and the attendees were amazing and I've learnt a lot. Topics and case studies shared will contribute positively in my own cases in future, and hope this will come again next year to refresh minds and also for sharing gain experience"*.

12.2.5 EHP Training in KZN

KZN Economic Development Tourism and Environmental Affairs (EDTEA) in collaboration with MUT offered the training from the 27 June to 02 July 2016. 14 EHPs attended the training and were from KZN and Gauteng Provinces. 13 (thirteen) of them passed the training but only 1 (one) failed the training. As a Province we would like to thank the Mangosuthu University of Technology and its staff members (Mr TT Poswa, Mr M. Kgware, Nozipho, Security Personnel and all who participated in different levels) for all logistical arrangements, Mr Ntokozo Ngcamu from the National Department of Environmental Affairs (DEA), Mr Senzo Hadebe who is now a member of South African Police Service (SAPS) and the following officials from KZN EDTEA who presented the course: Mr Bonga Mkhize, Mr Nkosinathi Mqadi, Mr Xolani Kgatle, Mr Bheki Gumede and Mr Bongani Motau. Lastly, many thanks to the employers of these EHPs for allowing them time and opportunity to attend.



Picture: The officials who attended the training that took place from 27 June to 02 July 2016 at the Mangosuthu University of Technology (MUT)

12.2.6 Barcode of Wildlife Voucher Specimen Sample Taking Course

Additional training was also provided to provincial conservation and EMI officials responsible for vegetation and ecology management, in so far the proper collection of voucher specimen samples in support of the Barcode of Wildlife Project (BoWP).

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 sample management training in support of Chain of Evidence;
- An individual assessment on proper sampling and sample management in support of Chain of Evidence.



Picture: Officials whom attended the BoWP voucher specimen sampling course

12.2.7 EMI Grade 5 (Field Ranger) Specialised Training Project

One of the largest training initiatives was also launched during the 2016-2017 reporting period for Grade 5 EMIs across the country. The project originated while developing the project layout as part of the donor funding from the Global Environmental Facility (GEF) during 2014 for the programme titled "Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa: GEF Project ID No.4937" (the GEF-UNEP Rhino Programme).

The motivation for the training project output was based on recognizing the critical role that field rangers/Grade 5 EMIs play in ensuring effective compliance and enforcement within the country's protected areas. Originally the GEF funds set aside for this project, would have been sufficient to train around 400 selected field rangers. During the preparation period the DEA was approached by the Endangered Wildlife Trust (EWT) who indicated that they had received funds from the US Department of State's INL fund and that they wished to collaborate and join the GEF project as a co-financing partner. This resulted in the expanded scope of the project now able to reach 1400 Grade 5 EMIs/field rangers across South Africa over the next two years.

The Grade 5 EMI/Field Ranger specialised training programme topics were developed in consultation with MINTECH WGIV and this advanced programme was formally included in the 2016/17 work plan. Generally being the first officials to arrive at a crime scene, the course covers a suite of topics, such as: executing arrests, how to properly collect evidence, conducting body and vehicle searches as well as testifying in court.



Picture: Officials from Table Mountain National Park SANParks whom attended the EMI Grade 5 Advanced training session

The training programme was structured to deliver on-site training, thereby saving institutions' time and money on traveling. The EWT was assigned the responsibility of administering the training roll-out and appointment of a qualified service provider who presented the topics. During this period a number of institutions received training these being EMI grade 5 field rangers in KwaZulu-Natal, Eastern-Cape, Western-Cape, North-West, Limpopo and Free State provinces.



Picture: Officials from Great Fish River Nature Reserve ECPTA whom attended the EMI Grade 5 Advanced training session

As part of the course rangers are also required to undertake a pre-course and post-course assessments to ascertain whether they are learning and benefiting from this training course. To date, the roll out of this collaborative project has been very successful with 506 rangers already trained.

Some of the feedback received from rangers whom attended the course were:

- "Course was very excited and very active. I learnt a lot and am ready to perform my duty properly"
- "Thanks for the training. Keep on doing the good job that's assist as a ranger very well"
- "I am very thankful in attending the course, it has equipped me to perform my duties more effectively."

While it is hard to gauge the exact impact of this training intervention, from the preliminary reports submitted, on average, the attendees displayed a 30% improvement on the assessments after the course, which is very encouraging. With our field rangers more capacitated with advanced training, making them more efficient in their duties, we will definitely make a bigger, stronger impact in protecting and conserving our environment.

Lastly, DEA would like to thank all the participating institutions for their co-operation and efforts with respect to the logistical planning and co-ordination as well as EWT and Silver Fox Forensics for their professionalism, facilitation and dedication.

12.3 Prosecutors' workshops

The 2016-2017 reporting year was again marked with the continuation of the collaborative training programme between the DEA (on behalf of the EMI) and Justice College with the presentation of 3 workshops. The first two titled "Prosecuting Environmental Crime" and the second focussing specifically on Waste and Pollution legislation. All three workshops strived to provide prosecutors with an overview on relevant environmental legislation, as well as establishing a platform for EMIs to better engage with Prosecutors when having to take environmental criminal matters to court.

12.3.1 Gauteng Prosecuting Environmental Crime Course

The first course for 2016-17 presented was during Quarter 1 of 2016 in Pretoria Gauteng, which was attended by 19 prosecutors from within Gauteng, North-West, Limpopo and Mpumalanga.

Legislation and topics covered during the workshop included:

- Air Quality Management,
- National Environmental Management Waste Act,
- EIA Listed Activities, Waste Act offences,
- EIA contraventions and related enforcement,
- NEMBA and critical points (associated regulations),
- NEMBA / TOPS / AIS cases,
- CITES and related enforcement,
- Rhino and Cycad poaching, Wildlife DNA Sequencing,
- Prosecuting Cycad cases,
- Protected Areas Act;
- Ending with the National Water Act and related contraventions.

During this course guest speakers were also invited to address the delegates including Advocate Marile van Heerden who spoke about prosecuting Cycad Cases; Ronny Kabongo from UJ who discussed Wildlife Sequencing; as well as Anet Muir from the Department of Water and Sanitation who spoke about Water related crimes.

One of the key factors which contributes to the success of these workshops are the deliberations and technical discussions which take place, not only between the prosecutors themselves, but also with the topic experts. As with all such courses there is a collective team involved in preparing and delivering these workshops and special thanks goes out to officials within Justice College and the DEA.



Picture: Prosecutors whom attended the Prosecutor Training in Pretoria

12.3.2 Eastern Cape Prosecuting Environmental Crime Course

The second Justice College and DEA collaborative workshop "Prosecuting Environmental Crime Course" was presented in the Eastern-Cape with 21 Prosecutors in attendance predominantly from coastal provinces.

For this specific basic prosecutor training course, the programme was slightly amended to accommodate issues experienced specifically within the host province, as well as prominent crimes associated with the coastal regions. For this reason topics such as integrated coastal management, marine living resources act, abalone poaching, as well cycad poaching was given additional attention. Many of the prosecutors indicated that they had learnt a huge

amount during their training. They also indicated that environmental issues are new and complicated for them and said that they would appreciate a follow-up advanced course.



Picture: Prosecutors whom attended the Prosecutor Training in the Eastern Cape

We will never take for granted the praise and commendation received for these courses, as it is not due to the result of any one person, but rather the collective and passionate approach of the range of officials who assist in sharing their knowledge with the prosecutors. To all of you, a great big thank you.

12.3.3 Advanced Pollution and Waste Prosecutor Training Gauteng

EMI Capacity Development Sub-Directorate was invited by Justice College and the NDPP to assist with the presentation of an Advanced Waste and Pollution Prosecutor Training initiative. The workshop was spread amongst three different National Departments; namely Department of Environmental Affairs which was allocated a two and a half day session, as well as the Departments of Mineral Resources and of Water and Sanitation which were each allocated a one day slot.

The aim of this advanced course was to analyse and unpack the legislative provisions pertaining to waste and pollution. The course was presented in Pretoria, at the offices of Justice College with 22 prosecutors in attendance. The prosecutors who attended the training were those who would have previously been through the Basic Prosecutors Training Course; so they were well prepared to enter into the technicalities of pollution and waste cases.

The topics focused on the regulatory framework and critically, the implementation thereof; looking specifically at how this ties in with criminal investigations and associated prosecution. These included:

- EIA Listed Activities – related to waste;
- Waste Licencing - Overview & processing
- Waste Classification - Overview and approach
- Land Remediation
- NEM: AQA - Critical Points and Overview

As part of the training, the delegates were provided with a complete criminal docket, which they were required to study and then provide opinions and further direction on. This allowed for extensive deliberation and was welcomed by all involved. To close off on the EMI related session, we asked two experienced EMI's, Grant Walters and Ryno Serfontein, to share some case studies which clearly illustrated the seriousness of this type of crime and its impacts on the environment and people's health.



Picture: Prosecutors who attended the Advanced Pollution and Waste Prosecutor Training Gauteng

A special thank you goes out our star performers: Frances Craigie (CD Enforcement), Mishelle Govender (CD Waste), Dr Mpho Tshitangoni, Zama Mthembu, Vumile Senene, Grant Walters and Ryno Serfontein for their informative and engaging presentations.

12.4 Judicial Officers Workshop and Colloquium

12.4.1 Judicial Officers Workshop

The South African Judicial Education Institute (SAJEI) from the office of the Chief Justice, requested DEA Capacity Development and Support to collaborate in the compilation of a two day workshop for judicial officers based in and around the Limpopo province.

The workshop was aimed at raising awareness on environmental legislation relating to waste and pollution, as well as biodiversity.

The workshop was attended by 14 Magistrates, and was presented by EMI colleagues from the LEDET office as well as DEA and SANParks. Based on set guidelines provided by SAJEI presenters were selected to cover topics such as,

- Overview of South African environmental legislation and the Environmental

Management Inspectorate,

- Layout and application of EIA Regulations in South Africa.
- Limpopo Environmental Management Act and Cycad Poaching
- Status quo around Rhino poaching and other biodiversity related contraventions.



Picture: Group photo of the judicial workshop

Positive feedback was received from the officers who attended, who also provided topic proposals for possible future workshops. The LEDET team is commended for their commitment towards this workshop based on the positive feedback received.

12.4.2 Judicial Colloquium 2016

During December 2016 the South African Judicial Education Institute with the support of the DEA hosted another Judicial Colloquium related to the adjudication of crimes relating to biodiversity, funded through the GEF-UNEP programme titled “*Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa: GEF Project ID No.4937*” (the GEF-UNEP Rhino Programme).

In addition to the South African delegation, judicial officers from three neighboring African countries were also invited to attend this event, those being

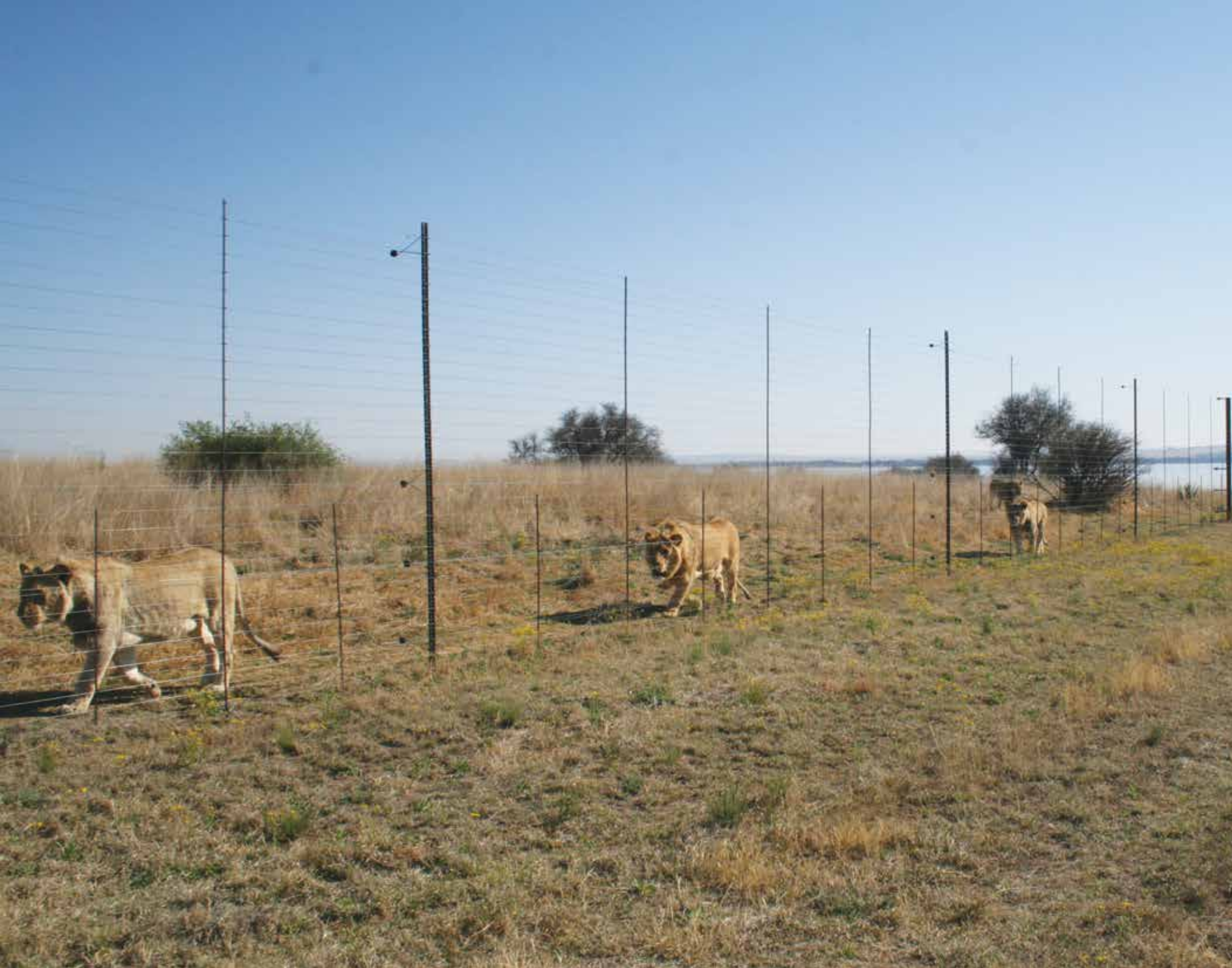
Mozambique, Namibia and Lesotho. The Colloquium was hosted at Skukuza, Kruger National Park and saw 90 judicial officers in attendance.

Presenter support were provided to SAJEI in the form of CEO SANParks Fundisile Mketeni, Dr Joseph Okori, Mr. Jorge Rios from UNODC Geneva, Mr Andrew Lowry, as well as Mr Mathew Pritchett from Freeland Bangkok).



Picture: Overview photograph of the Colloquium in session

The remainder of the Colloquium was a closed session filled with relevant topic experts dealing with case law and adjudication of biodiversity crime. The Colloquium was well received and a massive thank you goes out to SAJEI (Dr. Moshoeu and her team) as well as the logistic, and administrative support staff from SANParks and DEA.



**STAKEHOLDER ENGAGEMENT & WHAT IS
AHEAD FOR 2017-18?**

13. STAKEHOLDER ENGAGEMENT

13.1 Rhino Conservation Lab

The Departments' of Tourism and Environmental Affairs jointly decided to use 'implementation lab' methodology to unlock the value of South Africa's Biodiversity. The Rhino Conservation Lab was added to the Biodiversity Economy Lab, acknowledging the key role the rhino plays in the wildlife economy and SA's tourism industry. During August 2016 a consultation process was held with all relevant stakeholders which resulted in the development of the work streams based on the five pillars of rhino conservation (which resulted from the Committee of Inquiry into whether or not to make a proposal on rhino horn trade at CITES COP). These pillars are as follows: **security (anti-poaching and anti-trafficking)**; community empowerment; demand management; responsive legislation and biological management.



The aspiration that was agreed to by the Rhino Lab was to "secure meta population of rhino in South Africa through effective reduction in the number of rhino killed through poaching by 11.1%, resulting in increased the population at 2% p.a. through 2020". The Rhino Lab resulted in the development of a detailed implementation plan with initiatives and specific activities in relation to both anti-poaching as well as anti-trafficking (these activities were aligned

with the draft National Integrated Strategy to Combat Wildlife Trafficking (NISCWT). These plans will guide the work of EMLs particularly in relation to strengthening measures to combat rhino poaching and trafficking as move into the next financial year.

13.2 CITES COP 17



The 17th Meeting of the Conference of Parties to the Convention on International Trade in Endangered Species of Wildlife Fauna and Flora (CITES CoP17) took place from 24 September to 4 October 2016 in Sandton, Johannesburg and you would be forgiven if you went home from CITES CoP17 with the impression that the theme of this COP focused around how to strengthen enforcement in order to tackle illegal trade in wildlife. Although there were, of course, many discussions during the two and half weeks on numerous aspects unrelated to enforcement, a quick review of the working documents discussed at the meeting (which included proposed resolutions on tackling illegal trade in wildlife, cybercrime and corruption among others) as well as the topics of the 'too-many-to mention' side events, would already

give you a sense that the participants understood the critical role that enforcement plays in ensuring the effective implementation of CITES.

CoP17 was hosted at a time when wildlife crime was being prioritised at the highest levels of governments across the world, with numerous Resolutions and Decisions being made, as part of the collaborative international effort to tackle this sophisticated form of transnational crime said to be worth. As the complexities of wildlife crime must be understood alongside the legal trade that is permitted in line with CITES, it made sense that mechanisms and commitments to strengthen our capabilities to combat this crime type would be interwoven into the decisions and ongoing work coming out of CoP17. These included aspects related to:

- Illegal international trade in wildlife;
- Actions to combat wildlife trafficking;
- Combatting wildlife cybercrime;
- Wildlife crime enforcement support in West and Central Africa; and

The significant role that corruption plays in relation to wildlife crime was also emphasised and a new resolution was adopted on prohibiting, preventing and countering corruption facilitating activities conducted in violation of CITES. Much closer collaboration will be required between CITES and the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption

Three important meetings relating to wildlife crime also took place in the margins of CoP17. The annual INTERPOL Wildlife Crime Working Group meeting was preceded by a meeting of over 90 representatives from wildlife enforcement networks across the world who discussed the strengthening of frontline cooperation and coordination to combat transnational organized wildlife and forest crime. The meeting was convened by the CITES Secretariat and its partners in the International Consortium on Combating Wildlife Crime (ICWC). The Consortium is a collaboration of agencies comprising CITES, INTERPOL, the United Nations Office on Drugs and Crime (UNODC), the World Bank and World Customs Organization (WCO).

The third meeting was that of the first ever Global Partnerships Coordination Forum which was convened by ICWC to discuss how best to integrate law enforcement, development, environmental and social approaches to com-

bating illegal wildlife trade. Wildlife crime increasingly involves transnational criminal groups targeting high value species and wildlife and environment agencies cannot beat them alone. This Forum provided a unique opportunity for officials to directly engage with the organisations that have the mandate, resources and technical expertise to assist countries in combating wildlife crime.

13.3 Capacity Building: International Partnerships

Continuing with the approach of building and strengthening of international partnerships in support of capacity development for EMLs, the DEA again, on behalf of the Inspectorate engaged with foreign partners whom afforded training opportunities for EMLs.

During the reporting period there were a total of 4 such training interventions where EMLs were invited to attend. The US International Law Enforcement Academy (ILEA) again provided space allocation on three of their courses, which were funded in full. These being the:

- Airport Interdiction and fraudulent documents training course in Ghana
- Wildlife Investigators course presented in Botswana.
- Basic Investigation of Computers and Electronic Crimes Program (BICEP) in Botswana.

The fourth training opportunity was made available by the United States Fish and Wildlife Service (USFWS), which were presented in Washington DC.

13.3.1 Airport Interdiction and Fraudulent Documents Training Ghana

Yet another opportunity arose for six Environmental Management Inspectors (EMLs) from the Department of Environmental Affairs (DEA) to attend training abroad after an invitation was received from the International Law Enforcement Academy (ILEA). The topic of the training was airport interdiction and fraudulent documents. The course was presented by the ILEA in conjunction with West African Regional Training Centre (RTC) in Accra, Ghana, from 16 until 27 May 2016. Other countries that participated in this training included Botswana, Ghana, Nigeria, Rwanda, and Uganda, with a total of 30 delegates in attendance.

The first session consisted of International Air Cargo and Passenger Interdiction, presented by United States Customs and Border Protection (CBP) instructors. A

number of topics such as CBP overview, behavioral analyses, imposter detection and internal conspiracy to mention a few were presented and discussed.

A practical session at the Kotoka International Airport in Accra took delegates to various aspects of the airport operations which included Customs, Immigration, Airport Security and Police. There they were afforded the opportunity to conduct physical inspections in the cargo and cabin areas on a Boeing 787 that arrived from abroad. During this inspection CBP Instructors related real life situations and pointed out areas where contraband could be concealed.



Picture: Group photograph of all delegates from across Africa together with course presenters

The second part and last week of the training consisted of topics relating to Human Trafficking and Fraudulent Documents and was presented by Special Agents from the US Immigration and Customs Enforcement, Homeland Security Investigations Department. The section that dealt with Fraudulent Documents provided additional value showing all types of techniques and procedures that are used to alter original documents or to create counterfeit documents. Many techniques and real examples were presented and used during practical sessions and participants had the opportunity to examine documents with real tools and equipment such as a UV light and magnifying loupe.



Picture: Group photograph of South African delegates with course presenters

13.3.2 Wildlife Investigators course ILEA Gaborone, Botswana

The second training opportunity afforded by the ILEA was in the form of the wildlife investigators course presented in Gaborone, Botswana. For this course 5 EMI officials were in attendance these being from, Gauteng Department of Agriculture and Rural Development (GDARD), Free State Department of Economic, Small Business Development, Tourism and Environmental Affairs, Eastern Cape Parks and Tourism Agency and SANParks.

Also in attendance were delegates from four other countries; namely Uganda, Kenya, Namibia and Botswana with each country sending a minimum of five officials.

One of the comments received back from an EMI in attendance were that on the first day in class, that the facilitators requested delegates to introduce themselves and indicate the number of years in the field of wildlife investigations. After the introductions were concluded, an official from the ILEA informed the class that he added all the years of experience and there was over 150 years' experience in the room. This made it clear that the class was filled with experienced and seasoned wildlife investigators.

The course was structured in practical nature which afforded ample opportunities for delegates to share experiences and information with others on vari-

ous law enforcement and intelligence gathering techniques. Other topics discussed related to money laundering, use of technology to break down crime syndicates, systematic searching of vehicles, crime scene management, investigation report writing, undercover operations, conducting of search and arrest warrants as well as giving testimony in court etc.



Picture: Group photograph of all delegates from across Africa together with course presenters

Officials from the five different countries showed a high level of professionalism, discipline and dedication, and also shared their own good and bad previous experiences openly, which ensured that everyone gained from the wealth of past lessons.

As a last note the EMLs in attendance indicated that the course also afforded them the opportunity to network, form partnerships and make friends in other countries.

Special thanks goes out to the course instructors, Paul Chapelle, Erryl Wolgemuth, Steve Skrocki, Ken Adams and Carmen Perdas, for the wonderful job that they did during the course, as well as the entire staff of ILEA including the American Embassy, South Africa for their administrative and logistical support.

13.3.3 USFWS International Conservation Chiefs Academy

The United States of America Fish and Wildlife Service extended an invitation for an official to attend a training course at the International Conservation Chiefs Academy (ICCA), Washington, DC, North America between from 4 to 24 September 2016.

Twelve African nations were present, including countries such as South Africa, Botswana, Namibia, Zambia, Kenya, Gabon, Togo, Uganda, Tanzania, Malawi, Congo and Cameroon. The training curriculum was developed in such a way that both experienced and less experienced officers would find value. Attendees were together for the most part of the training save when they were divided into small working groups where theme topics and leadership challenges were discussed.

Two major aspects were covered and formed the basis of the training: adaptive leadership and investigation methods, tools and other relevant issues.



Picture: Photograph of EMI J de Beer with W Woody USFWS Assistant Director Law Enforcement

During the course of the training a visit to the US Fish and Wildlife Service's exhibit repository, in Denver, took place. This facility exists specifically to store confiscated items which were illegally imported into the United States. Only items that have training or exhibition value are stored while all other items are destroyed after legal proceedings. Many African and even South African species exported from South Africa could be found there.

Each participant received an attendance plaque from the US Fish and Wildlife, Assistant Director Law Enforcement, Mr W Woody.

As part of the course feedback which was requested, it was recommended that this course should be repeated. This feedback was received very favorably by the organizers and hopefully other EMLs will be provided with a similar opportunity in the future. The networking done and friendships formed at a course like this are immeasurable in value.

13.3.4 Basic Investigation of Computers and Electronic Crimes Program (BICEP)

The U.S. Department of State's International Law Enforcement Academy (ILEA) in Gaborone, Botswana extended an invitation for officials to attend the Basic Investigation of Computers and Electronic Crimes Program (BICEP) from 27 - 31 March, 2017. Participating countries to the course were RSA, Lesotho, Nigeria, Ghana and Botswana.

Officers nominated to attend this course were to be mid-level law enforcement officers, nonsupervisory investigators who would benefit directly from this specialized training and who would be able to implement the training received at ILEA in their home units and share their knowledge with others

BICEP is a one-week entry-level program designed to prepare law enforcement personnel to act as a first responder for a variety of electronic and cyber-crime investigations. Participants learned fundamentals of computer hardware, networks, hacking techniques, information security, Internet resources, and electronic evidence handling. Technology, tools, and equipment available in the law enforcement arena were also presented. Classroom lectures were augmented with hands-on activities in several areas.

Course Objectives - At the conclusion of this course, participants were able to:

- Identify major components of a personal computer

- Understand which computer components contain electronic evidence
- Understand the role of operating systems and file systems in electronic crime investigations and forensics
- Understand basic computer network standards, protocols, and activities within the framework of the OSI model
- Use various tools to research Internet Protocol addresses and domain names
- Describe major categories of hacking and malicious code use
- Explain the importance of information security in network defense and cyber-crime investigations
- Perform an email trace based on email headers
- Identify various Internet resources to assist in online investigations
- Understand the significance of proper electronic evidence handling



Picture: Group photograph of South African EMLs and presenters at the ILEA BICEP Course

For the duration of the course attendees were afforded the opportunity to

engage with topic experts as well as attendees from invited countries which created a diverse, lively environment which ended up in numerous debates and knowledge being shared inside and outside the class.

After completion of the course attendees were presented with certificates during a handover ceremony. Feedback from one of the South African EMIs best describes the experience. *"I can honestly say I walked away from this course with a much better understanding of the world of IT, and opened my eyes to the possibilities of obtaining critical information. I made international contacts and friends that made such a huge impact on me, broadened my views and made me realize that we are all fighting the same fight, whether it be wildlife, cyber, human trafficking, drugs or corruption. The basic principles and challenges stays the same; and we can learn from each other and must never think that our situation is unique. We must be willing to reach out and grab every opportunity that is given to us to learn."*

On behalf of the EMI please accept our gratitude for the opportunities provided to our Inspectors in participating and benefitting from the ILEA programme.

14. WHAT IS AHEAD FOR 2017-18?

At a strategic level the Inspectorate will continue to implement the 5 year National Environmental Compliance and Enforcement Strategy (NECES) with a specific focus during the 2017/18 financial year on the Year 3 deliverables. In particular, the development of the national integrated compliance and enforcement information management system will commence; the feasibility study for an EMI Training Academy will be initiated and work on the administrative penalties project will continue.

The next couple of years are also going to be a busy time for biodiversity compliance and enforcement officials in South Africa. Although much work has been done to date, we are moving in a new and exciting direction in order to collectively combat wildlife trafficking, not only as a threat to conservation but also a national security threat. The effective implementation of the National Integrated Strategy to Combat Wildlife Trafficking (NISCWT), once approved, will provide a firm basis for South Africa to make a substantial contribution in relation to a number of international commitments that have been made, including the following:

- the implementation of the CITES CoP17 Recommendations and Decisions;

- the implementation of the South African Development Community (SADC) Law Enforcement and Anti-Poaching (LEAP) Strategy which was adopted at the extra ordinary joint meeting of the SADC Ministers of Environment and Natural Resources and of the Organ on Defence Peace and Security Co-operation which took place in Swaziland from 1 to 3 February 2017;
- those commitments made during the Hanoi Conference on Illegal Wildlife Trade which took place during November 2016 following on from previous conferences in London (2014) and Kasane (2015) aimed at building on and strengthening wider global efforts to tackle the illegal wildlife trade.

Due to the fact that the Constitution places the duty on all 3 spheres of government, national, provincial and local, to undertake environmental compliance and enforcement, many of the operational projects that are executed comprise multi-authority teams, which also cut across different departments and agencies. Not only do these projects bring together EMIs as well as other compliance and enforcement officials from all spheres of government, but they also take place across the range of environmental subsectors. In the 2017/18, the following areas have been identified as priorities for the execution of compliance and enforcement operations:

Biodiversity/Protected Areas: We will continue to focus on rhino and wildlife crime as priority crimes but will also maintain our project focus through MINTECH WGIV on traditional healers markets; lion breeding facilities; nurseries (in relation to alien and invasive species); cycads and rhino horn stockpiles. Implementation of the Anti-Poaching initiatives of the Rhino Conservation Lab will also begin in earnest in 2017/18.

Oceans and Coast: Given the size of the sector, we will continue to focus on coastal water discharges (and in particular discharges from waste water treatment facilities). Following the first full year of deployment in 2016/17 of Initiative 5 of Operation Phakisa, the 2017/18 financial year will enable us to focus on more effective operational approaches to target specific priorities, improvements in the intelligence structures to support the operations and closer engagement with specific departments to ensure proper participation. This is in line with the NATJOINTS instruction issued for Operation Phakisa.

Environmental Impact Assessment and Pollution: Waste water treatment facilities will continue to be a focus of targeted compliance and enforcement operations together with Class B Landfill sites (a number of which have begun to

have a significant impact on the environment as a result of the gases emitted from these sites) as well as strategic identified industrial sectors.

Both our strategic and operational work is dependent on our ability to collaborate effectively with a wide range of key compliance and law enforcement partners in order to achieve the positive results recorded in this report, particularly given the nature, scope, prevalence and complexity of environmental crime. We will therefore continue to emphasise and strengthen our work with international agencies, such as INTERPOL, UNODC, CITES Secretariat and GEF/ UNEP, as well as domestic authorities, such as the SAPS, NPA, SARS, SSA and border management stakeholders. It is only together that we will be able to provide our citizens with an environment that is not harmful to our health and well-being, through a sustained and improved environmental compliance and enforcement effort.

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