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REPUBLIC OF SOUTH AFRICA

THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

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Environmental quality

- Environmental quality is improved and protected via **proactive** and **reactive** measures:
 - **Proactive**
 - Prevention of degradation and conservation
 - Tools – Strategic Planning, **Environmental Impact Assessment**
 - **Reactive**
 - Rehabilitation of degraded areas, Reduction of emissions and effluent, clean-up
 - Tools – NEMA sector Acts, Water legislation, Compliance and Enforcement



Environmental Impact Assessment

- **Systematic process to identify potential positive and negative impacts on the environment (biophysical, socio-economic, cultural) associated with proposed activity**
- **Examine alternatives / management measures to minimise negative and optimise positive consequences**
- **Prevent substantial detrimental impacts on the environment**



Legislative context

- **Constitution:**
 - **Section 24 with dual environmental right**
 - Safe and clean environment
 - Environment protected for current and future generations
- **Environment Conservation Act (ECA) of 1989 & EIA Regulations of 1997**
- **National Environmental Management Act (NEMA) of 1998 and various amendments to it**
- **NEMA EIA Regulations of 2006**
- **Various other Acts & Specific Environmental Management Acts contain links with or references to EIA, including:**
 - **Development Facilitation Act**
 - **Heritage Resources Management Act**
 - **Genetically Modified Organisms Act**



Legislative context (cont)

- **Amendments to the NEMA came into effect on 1 May 2009**
- **Amendments to the current NEMA EIA Regulations is in process**
- **Publication of the amendments - September 2009**
- **Implementation of the amendments – October 2009**



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Governance Context

- **Environmental management is a concurrent national – provincial competency**
- **This concurrence has a major influence on the implementation of EIA and is generally poorly understood**



Benefits of EIA

- Development of environmental information and spatial systems including:
 - Environmental Management Frameworks (EMF's)
 - Western Cape's Spatial Development Framework
- Sector specific policies & guidelines, including
 - *Strategic Initiative to Introduce Commercial Land Based Wind Energy Development to the Western Cape - Towards a Regional Methodology for Wind Energy Site Selection*
(Western Cape Provincial Government, May 2006)



- Regional methodology:
 - The vision of the strategic initiative was to develop and establish a policy on the implementation of a methodology to be used for the identification of areas suitable for the establishment and implementation of wind energy developments in the Western Cape
 - The methodology proposed within this guideline is intended to be a regional-level planning tool to guide planners and decision-makers with regards to appropriate areas for wind energy development



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- Objectives of methodology:
 - To facilitate practical implementation of wind energy generation technology
 - To introduce wind energy developments to the WC in a co-ordinated manner
 - To encourage responsible and rational wind energy developments
 - To discourage the investment of time and money in potentially unsuitable sites
 - To introduce wind energy industry to the public
 - To provide policy guidance



Benefits of EIA

- Policies & guidelines around “sensitive” receiving environments
- Improved co-operation and coordination between government departments
- Most importantly, as result of EIA processes many activities ultimately end up more environmentally responsible than originally planned



Benefits of EIA to authorities

- Informed decision making
- Improvement / Protection of environmental quality
- Management of the sustainable utilisation of resources
- Understanding demands on bulk services, waste management services, urban forms etc



Benefits of EIA to I&APs

- An opportunity to be heard
- Protection of environmental rights
- Utilisation of local and indigenous knowledge
- Increased knowledge and environmental awareness



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Benefits of EIA to developers

- Developers have to pro-actively consider:
 - Adequacy of environmental resources for their envisaged activity
 - Risks associated with the nature of the receiving environment, including flooding, geological stability, etc
 - Potential for energy and water savings and minimisation of waste as well as associated financial savings
 - Appropriateness of activity in local context



South Africa's EIA System



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The NEMA EIA Regulations

- Regulations in terms of Chapter 5 of the NEMA
- GN R385, R386 & R387
- EIA Regulations (R385)
- Two processes for undertaking an EIA:
 - Basic Assessment Process (R386)
 - Scoping / EIR Process (R387)



Competent authority

- DEAT is the competent authority for issuing authorisations with regards to wind energy facilities in SA
- January 2008 – National Electricity Response Plan (NERP)
- NERP requires the programme for constructing facilities relating to the generation, transmission and distribution of electricity to be accelerated in the short term (2008-2013)
- DEAT, Eskom and DPE: Guideline on Environmental Impact Assessments for Facilities to be Included in the Electricity Response Plan (Draft)
- Minister requested delegation from all 9 provinces to deal with electricity related EIA's
- This includes:
 - Independent Power Producers (IPPs)
 - Non Eskom electricity generation, including additional municipal generation; and
 - Co-generation by industrial entities
- Shortened timeframes will apply to these projects



Competent authority (cont)

- All applications for proposed wind energy facilities must be made to national DEAT
- The provincial environmental departments must comment on all applications lodged with DEAT



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Basic Assessment Process



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Basic Assessment

- Activities contained in R386 are subject to a basic assessment process
- Smaller scale activities
- Predicted impacts are generally known and can be easily managed



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Step	Action	Who	Time Frame
1	Compile Basic Assessment Report and application form and submit to relevant authority	Applicant / Consultant	Not prescribed
2	Review application for completeness and accept or reject (if rejected – applicant can resubmit)	Authority	14 days
3(a)	Consider application and report and direct applicant to Scoping or request additional information (or 3(b))	Authority	30 days from acceptance
3(aa)	If applicable, amend reports / provide additional information	Applicant / Consultant	Not prescribed
3(b)	Review application and report and issue decision. Notify applicant of conditions and appeal provisions	Authority	30 days from acceptance or receipt of additional information (3(a))
4	Notify interested and affected parties of decision and appeal provisions	Applicant / Consultant	5 days of decision
5	If applicable, consider and respond to appeals received	Minister / MEC	Up to 90 days



Basic Assessment (cont)

- Possible listed activities for wind energy facilities:
 - 7: *The above ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30m³ but less than 1000m³ at any one location or site.*
 - 12: *The transformation or removal of indigenous vegetation of 3ha or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No 10 of 2004).*
 - 14: *The construction of masts of any material or type and of any height, including those used for telecommunications broadcasting and radio transmission, but excluding
 - a) *masts of 15m and lower exclusively used by
 - (i) radio amateurs; or
 - (ii) for lighting purposes*
 - b) *flagpoles; and*
 - c) *lightning conductor poles.**



Basic Assessment (cont)

- 15: *The construction of a road that is wider than 4m or that has a reserve wider than 6m, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30m long.*
- 16(a): *The transformation of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1ha.*



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Scoping and EIR process



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Scoping and EIR process

- **Activities contained in R387 are subject to a thorough assessment process**
- **Activities that due to nature and/or extent is likely to have significant impacts**
- **Associated with high levels of pollution / waste / environmental degradation**
- **Impacts cannot easily be predicted**
- **Higher risk activities**



Step	Action	Who	Time Frame
1	Submit application form and relevant prescribed documents to the authority	Applicant / Consultant	Not prescribed
2	After submission of Application form, conduct basic public participation and compile Scoping Report & Plan of study for EIA	Consultant	Not prescribed
3	Submit Scoping Report and plan of study for EIA to relevant authority	Consultant	Not prescribed
4(a)	Consider Scoping Report and notify applicant of required amendments (or 4(b))	Authority	30 days from receipt
4(b)	Consider and accept Scoping Report and PoS for EIA (or revised scoping report/ POS if 4(a) is relevant)	Authority	30 days from receipt of accepted reports
5	Conduct EIA in line with approved POS and compile EIA Report and draft EMP. Submit reports to authority for consideration	Applicant / Consultant	Not prescribed



Step	Action	Who	Time Frame
6	Consideration of reports followed and either accept it (see 7(a)) or refer parts of it for specialist review (see 7(b) and (c)) – notify applicant of outcome	Authority	60 days from receipt
7(a)	Issue decision with conditions and notification of appeal provisions or 7(b)	Authority	45 days from acceptance notice
7(b)	Specialists conduct reviews of reports and submit review reports to authority	Specialist	Not specified
7(c)	If 7(b) applies, issue decision with conditions and notification of appeal provisions	Authority	Within 45 days of receipt of specialist reviews
8	Notify interested and affected parties of decision and appeal provisions	Applicant / Consultant	Within 5 days of decision
9	If applicable, consider and respond to appeals received	Minister / MEC	Up to 90 days



Scoping and EIR process (cont)

- Possible listed activities for wind energy facilities:
 - 1 (a): *the construction of facilities or infrastructure, including associated structures or infrastructure, for the generation of electricity where*
 - (i) *the electricity output is 20 megawatts or more; or*
 - (ii) *the elements of the facility cover a combined area in excess of 1 ha.*
 - 1 (l): *The construction of facilities or infrastructure, including associated structures or infrastructure for the transmission and distribution of above ground electricity with a capacity of 120kv or more.*
 - 2: *Any development, activity, including associated structures and infrastructure, where the total area of the developed area is, or is intended to be 20ha or more.*



THANK YOU



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