



News

Industry compelled to disclose environmental licences and reports

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Companies that have received environmental authorisations that were approved in terms of the 2014 Environmental Impact Assessment Regulations are legally required to disclose a range of licensing information on their websites, at their sites of operation, and to any person on request – free of charge.

This requirement, which was included in the EIA Regulations published in 2014 under the the [National Environmental Management Act 107 of 1998](#) (NEMA) following extensive public consultation, seeks to ensure that the private sector is held accountable for its significant environmental impacts, and confirms the right of affected communities and civil society to monitor industry's compliance with the law. It stems from a long-running campaign by civil society for better access to environmental records.

The 2014 EIA Regulations have now been in force for almost two years, and many new authorisations would have been issued in terms of these Regulations. In terms of Regulation 26(h), all environmental authorisations issued under these Regulations post December 2014 must include a requirement that copies of the following documents must be made available by the authorisation holder on the company's website, at the site of operation, and on request:

- the environmental authorisation itself;
- the environmental management programme;
- any independent assessments of financial provision for rehabilitation and environmental liability;
- closure plans (where applicable);
- audit reports; and



AMSA's Vanderbijlpark Plant. Photo: James Oatway for CER

- all compliance monitoring reports.

This requirement, or condition of operation, is legally binding. Failure to adhere is a criminal offence in terms of section 49A(1)(c) of NEMA and can attract a fine of up to R10 million or imprisonment for a period of up to 10 years.

Mining companies which did not hold NEMA environmental authorisations pre-December 2014 will also be subjected to these disclosure requirements when they amend their environmental management programmes previously issued under the [Mineral and Petroleum Resources Development Act 28, 2002](#) (MPRDA). This is because the 2014 EIA Regulations specifically provide (Regulation 54), that the amendment of environmental management programmes issued under the MPRDA must be dealt with in terms of the 2014 EIA Regulations under the provisions for amending environmental authorisations. The only logical outcome to such an amendment process would be for the competent authority to issue a new environmental authorisation, which would then be subject to the requirements of Regulation 26(h).

The CER will be closely watching the websites of selected companies in order to ascertain the extent to which the holders of environmental authorisations are complying with the regulation.

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SECTION 24 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

Everyone has the right to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

REPORT A VIOLATION

 National Environmental Crimes & Incidents Hotline (24 hours): **0800 205 005**

In addition, there are a number of [national and provincial hotlines](#) that may be useful.

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