

Proposed Environmental Regulations are laudable

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Further draft Regulations have been published under the National Environmental Management Act, 1998 (NEMA), aimed to streamline and expedite the applicable time frames for environmental licensing requirements.



The Proposed Environmental Impact Assessment Regulations and Environmental Impact Assessment Regulations Listing Notices 1 to 4 of 2014 were published under Government Notices in Government Gazette 37951 (Proposed Regulations) for public comment on 29 August 2014.

Investors have conveyed that South Africa has one of the most cumbersome and over regulated environmental law systems, with a clear need to streamline environmental applications. The Proposed Regulations' objective is therefore laudable.

They were published in furtherance of an Agreement, the 'One Environmental System for South Africa', in which the Ministers of Environmental Affairs, Mineral Resources and Water Affairs agreed to streamline the environmental legislation.

In line with the Department of Environmental Affairs' intention that the environmental authorisation process should be completed within one year, the Proposed Regulations include dramatically reduced time-frames for various application processes.

Fast-track development

Whilst these shortened time-frames could fast-track development, they have been criticised by various environmental non-governmental organisations. Their concern is that the Proposed Regulations threaten to erode South Africa's environmental management, as it may be difficult to fully assess potential environmental impacts in the required scientific investigations conducted as part of an application for environmental licences. This could have a knock-on effect on the quality of the mitigation measures proposed by specialists.

Despite the shortened time-frames, the Proposed Regulations do make allowance for extensions of time to be granted. If the scope of work must be expanded, based on an environmental impact assessment's outcome and which could not be anticipated prior to their compilation, or if an applicant can demonstrate exceptional circumstances, the competent authority may extend the prescribed time-frame to an agreed period.

Amendments to the National Water Act (NWA) and specific Environmental Management Acts have, however, not yet been promulgated to give effect to this intended streamlining. Any delays by the legislature in effecting these amendments could undermine the effectiveness of the Proposed Regulations.

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