



Western Cape
Government

WASTE MANAGEMENT LICENSING GUIDELINE

2017

TABLE OF CONTENTS

1. DO I NEED A WASTE MANAGEMENT LICENCE?	3
1.1 WHAT IS WASTE?	4
1.2 WASTE CLASSIFICATION – GENERAL OR HAZARDOUS?	4
1.3 LICENSING AUTHORITY.	4
2. WML APPLICATION PROCESS – WHAT ARE THE STEPS TO FOLLOW?	5
2.1 PRE-APPLICATION PROCESS	5
2.2 PUBLIC PARTICIPATION REQUIREMENTS.	5
2.3 BASIC ASSESSMENT PROCESS.	6
2.4 SCOPING AND ENVIRONMENTAL IMPACT REPORTING PROCESS	8
2.5 INTEGRATED APPLICATIONS	10
2.6 APPLICATION FOR TRANSFER, VARIATION OR RENEWAL OF A WML	10
2.7 EXEMPTIONS.	11
3. APPLICATION, FEES & CONTACT DETAILS	12
3.1 APPLICATION FEES	12
3.2 CONTACT DETAILS.	12
4. APPEALS PROCESS	13
5. SECTION 24 G – WHAT IF YOU ENGAGED IN A LISTED ACTIVITY PRIOR TO OBTAINING A WML?	14
APPENDIX A: CATEGORY A OF GN NO. 921	15
APPENDIX B: CATEGORY B OF GN NO. 921	17
APPENDIX C: CATEGORY C OF GN NO. 921	19

A Waste Management Licence (WML) is required by any person, company, municipality or state department that wishes to undertake one or more waste management activities. The waste management activities, commonly referred to as “listed waste management activities”, are listed in Government Notice (“GN”) No. 921 of 29 November 2013, which was promulgated in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (“NEM:WA”). These listed waste management activities have or are likely to have, a detrimental effect on the environment, and include **recycling or recovery, treatment and disposal** type activities.

GN No. 921 differentiates between different categories of listed activities, which have different approval/licensing requirements. These categories are called “**Category A**”, “**Category B**”, and “**Category C**”. “Category A” (Appendix 1) and “Category B” (Appendix 2) activities require an Environmental Impact Assessment (“EIA”) process (see section 2 below) to be undertaken prior to obtaining a WML, while “Category C” (Appendix 3) activities require adherence to norms and standards. Please also note that further amendments were made to GN No. 921, which relate to waste management activities that relate to mining (GN No. R. 332 of 2 May 2014 and GN No. R. 633 of 24 July 2015).

Section 1.1 and 1.2, below, provide the definition and classification of “waste” as contained in the NEM:WA, while guidance on selecting the relevant licencing authority for general or hazardous waste is provided below in section 1.3



1.1 WHAT IS WASTE?

THE NEM:WA DEFINES WASTE AS:

(a) any substance, material or object, that is unwanted, rejected, abandoned, discarded or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered and includes all wastes as defined in Schedule 3 to this Act; ...

1.2 WASTE CLASSIFICATION – GENERAL OR HAZARDOUS?

To simplify the classification of waste, Schedule 3 of the NEM:WA groups waste into two categories, namely hazardous waste and general waste. The classification of the waste assists in clarifying the management and licencing requirements for each waste type.

HAZARDOUS WASTE means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment and includes hazardous substances, materials or objects within business waste, residue deposits and residue stockpiles..

GENERAL WASTE means waste that does not pose an immediate hazard or threat to health or to the environment, and includes domestic waste, construction and demolition waste, business waste, inert waste and any waste classified as non-hazardous waste in terms of the regulations made under section 69 of the NEM:WA.

It is important to note that for the purposes of obtaining a WML, effluent, wastewater or sewage is excluded from the waste management listed activities. Please also further note that waste management activities related to mining have been excluded from Appendix 1 and Appendix 2.

1.3 LICENSING AUTHORITY

The Licensing Authority (“LA”) for a WML application is determined by the classification of the waste (i.e. general or hazardous). In this regard, the Provincial Department of Environmental Affairs and Development Planning is the Licensing Authority for general waste WML applications in the Western Cape, while the National Department of Environmental Affairs (DEA) is the LA for hazardous waste WML applications across the Republic of South Africa, or for applications that consist of a combination of hazardous and general waste management listed activities.

WML APPLICATION PROCESS

What are the steps to follow?

2

A WML is also regarded as an Environmental Authorisation. As such, the process to follow to obtain a WML is regulated by the environmental impact assessment (“EIA”) regulations of 2014, promulgated in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”). Category A waste management listed activities trigger a Basic Assessment (“BA”) process, whilst Category B waste management listed activities, trigger a Scoping and Environmental Impact Reporting (“S&EIR”) process.

2.1 PRE-APPLICATION PROCESS

- submit a notice of intent to apply for a WML to the LA;
- set up a consulting meeting with the LA;
- submit a pre-application Basic Assessment Report or pre-application Scoping Report for comment to the LA; or
- conduct pre application public participation process (“PPP”) for a period not shorter than 30 days.

The applicant is encouraged to use these opportunities to engage with the LA, who must guide and assist the applicant to ensure, for example, that the listed activities that are contained in the application are correct and that the correct type of application form (BA or S&EIR) is utilised.

2.2 PUBLIC PARTICIPATION REQUIREMENTS

The public participation process requirements are the same for BA and S&EIR process.

- Site notice boards must be erected at the proposed site and any alternatives sites identified and should give details of the application or proposed application which is subjected to public participation.
- As per the NEM:WA requirements, an advertisement must be placed in at least two local newspapers or an official Gazette and at least in one provincial or national newspaper if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or district municipality.

- Interested & Affected Parties (I&AP's) must be identified and registered. These I&AP's include, but are not limited to, the occupiers and owners of the property the activity is to be undertaken on (if not the applicant) and any alternative sites; the occupiers and owner of land adjacent to the property the activity is proposed to be undertaken on, as well as properties adjacent to any alternative sites identified; the municipal councillor of the ward in which the site or alternative site is located; and organisation of ratepayers that represent the community in the area; the municipality which has jurisdiction in the area; any organ of state having jurisdiction in respect of any aspect of the activity and any other party as required by the LA.
- Any reports must be made available for public comment for a minimum of 30 days. Once comments have been received by the applicant, the applicant is required to address these issues and incorporate it into the report. Each comment received must be reflected and responded to, and the comments and responses table be included in the final report to be submitted to the LA.

2.3 BASIC ASSESSMENT PROCESS

Upon submission of a WML application form for Category A listed activities, a Basic Assessment Process must be followed. Please see the following flow diagram for a simplified representation of the Basic Assessment Process, as described in regulation 19 of the EIA Regulations, 2014.

If the WML application is refused by the LA, the applicant may reapply, however the process will start from the beginning, i.e. submission of a WML application form.

Once the LA has reached a decision, the LA has to inform the applicant of the decision in writing within 5 days in terms of regulation 4(1) of the EIA Regulations, 2014. In turn, the applicant must notify all I&AP's of the outcome of the application, reasons for the decision as well as the date of the decision within 14 days. The applicant must also draw the attention of the I&AP's to the fact that the decision made, may be appealed.

BASIC ASSESSMENT PROCESS

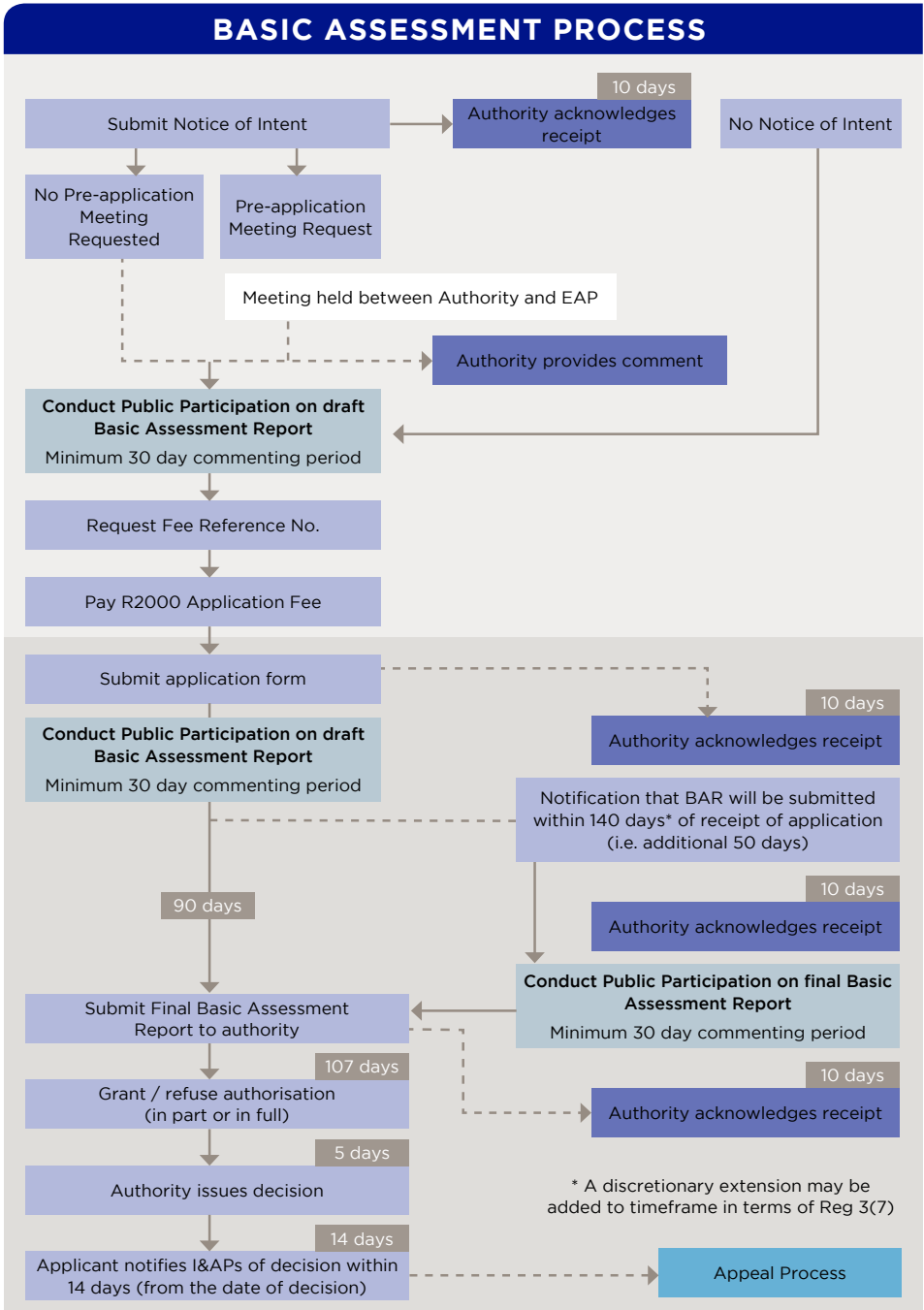


Figure 1: Basic Assessment Process Flow Diagram

2.4 SCOPING AND ENVIRONMENTAL IMPACT REPORTING PROCESS

Upon submission of a WML application for GN No. 921 Category B listed activities, a S&EIR Process must be followed. Please see the following flow diagram for a simplified representation of the S&EIR process and associated timeframes.

A voluntary pre-application phase, as discussed in section 2.1 of this guideline, may be engaged in.

A Waste Management Application Form initiates the WML process for S&EIR.

Once the LA authority has reached a decision, the LA has to inform the applicant of the decision in writing within 5 days, this is in accordance with the regulation 4 of the EIA Regulations, 2014. In turn, the applicant must notify all I&AP's of the outcome of the application, reasons for the decision as well as the date of the decision within 14 days. The applicant must also draw the attention of the I&AP's that the decision made may be appealed.

SCOPING / EIR PROCESS

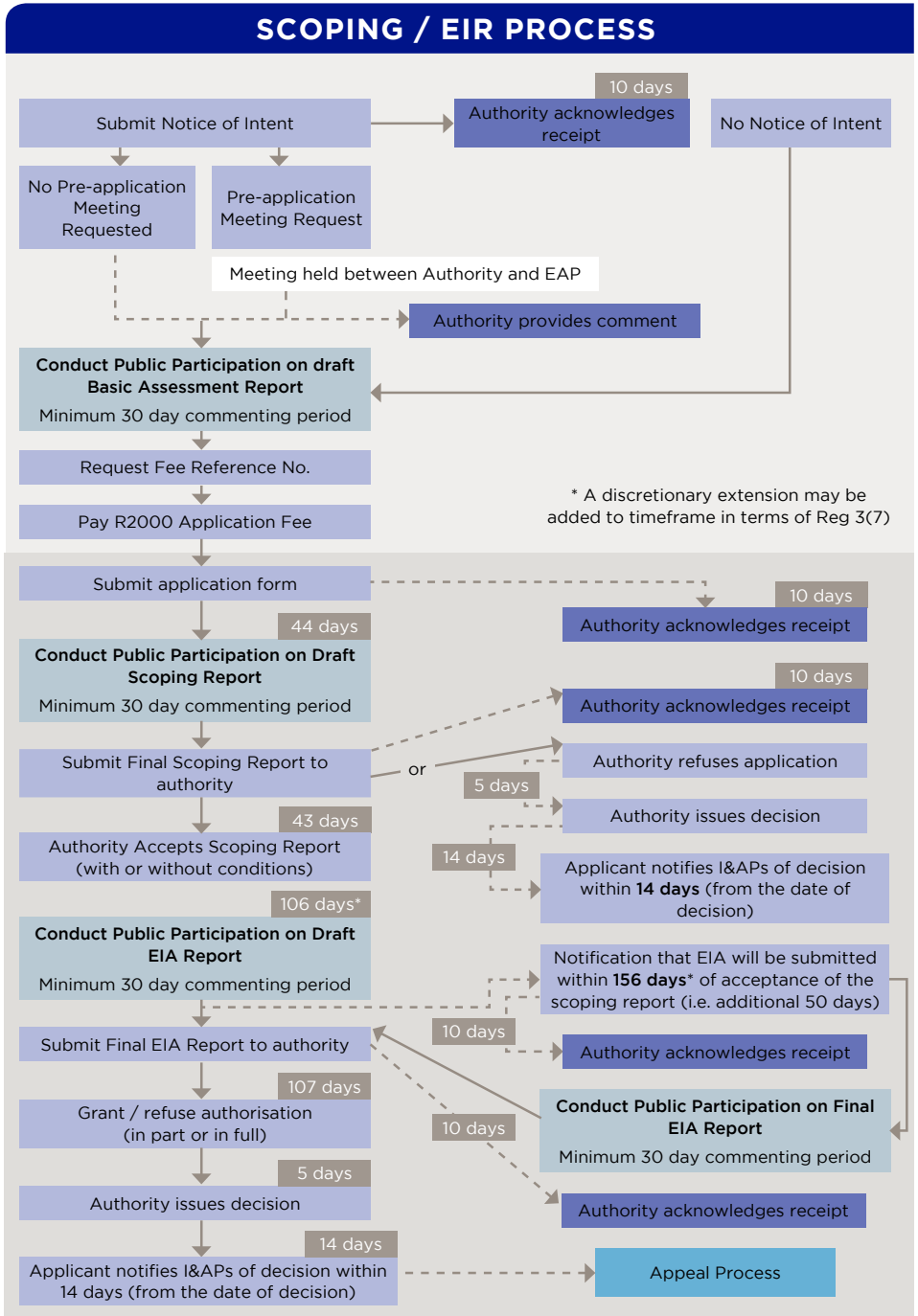


Figure 2: Scoping and EIR Process Flow Diagram

2.5 INTEGRATED APPLICATIONS

One development proposal can require multiple environmental authorisations (e.g. EIA and WML). In such cases, separate application forms, in the format required by the competent authorities for the listed activities, must be submitted to the relevant competent authorities. The process for such applications will run concurrently, and the result will be separate environmental authorisations, issued simultaneously.

2.6 APPLICATION FOR TRANSFER, VARIATION OR RENEWAL OF A WML

Chapter 5 of the NEM:WA provides for the transfer, variation, and renewal of a WML, the process requirements of which are contained in the EIA Regulations, 2014. A holder of the WML intending to apply for an application for the transfer, variation and/or renewal of a WML should therefore submit an application at least 3 months prior to the expiry of the validity period of the WML. Failure to submit the application at least 3 months prior to expiry may result in the LA not being able to process the application in time and thus resulting in the lapsing of the WML. Please note that a copy of the WML and/or approved Environmental Management Programme (EMPr), which is the subject of the application, must be submitted together with this form. Please also note that an application lapses if the applicant fails to meet any of the timeframes prescribed in terms of the EIA Regulations, 2014 and a new WML will have to be applied for. If authorisation is required from a number of different authorities, the authorities might also require that an integrated process be followed.

Applications for variation are **substantive** or **non-substantive**, the details of which are provide for in Chapter 5 of the EIA Regulations, 2014:

- A non-substantive (i.e. a Part 1) variation will not change the scope of a valid environmental authorisation nor increase the level or nature of the impact, which impact was initially assessed and considered when application was made for an environmental authorisation, or relates to the change of ownership or transfer of rights and obligations.
- A substantive (i.e. a Part 2) variation is a variation where there is a change in the scope of an existing authorisation, where such change will result in an increased level or nature of the impact which such level or nature of impact was not assessed or taken into account during the initial assessment process.

Please note that a variation application cannot be used to add new listed activities, or to expand existing activities.

An application to have a WML transferred, varied, and/or renewed, must be applied for by the applicant utilising the application form entitled Request for Specific Fee Reference Number and Application for Transfer, Variation or Renewal of a WML. This application form can be downloaded from the Department's website at the following URL: <https://www.westerncape.gov.za/eadp/our-services-to-you/waste-licence-applications>.

Alternatively, the application form can be obtained via email by contacting the DEA&DP.

2.7 EXEMPTIONS

Exemptions from certain provisions of the WML application process can be applied for and must follow the exemption application process described in GN No. R994, the National Exemption Regulations of 4 December 2014 (published in Government Notice No. R994, of 8 December 2014). A written exemption application including, but not limited to, details of the exemption, supporting documentation and proof of the paid application fee must be submitted to the LA. A person applying for an exemption must communicate his or her notice of intention to apply for an exemption by conducting a PPP in the manner prescribed in the EIA Regulations, 2014. The LA may upon receipt of the exemption application, request the applicant to furnish them with additional information within 15 (fifteen) calendar days. Thereafter the LA must reach a decision within 30 (thirty) calendar days from the date that all information was received. The LA may grant or refuse to grant an exemption.

3.1 APPLICATION FEES

A fee of R2000 is payable on submission of an application for a WML, where a Basic Assessment process will be followed.

- A fee of R10 000 is payable on submission of an application for a WML, where a S&EIR process will be followed.
- A fee of R2000 is payable on submission of an application for the variation, transfer and renewal of a WML where all three components are combined in a single application. However, the fee is only applicable for the transfer and/or renewal of a WML, and not for a variation of a WML if the latter is applied for on its own. Please also note that the terms 'variation' and 'amendment' have the same meaning.
- Please note that a specific fee reference number (supplied by the Department) MUST be used as a deposit reference when making a fee payment.
- Please note that the application fee is excluded if the activity is a community based project funded by Government, or if the applicant is an organ of state.
- Please note that the application fee is not refundable if the WML application is refused.

3.2 CONTACT DETAILS

For WML application enquiries related to general waste in the Western Cape, the following person can be contacted:

The Director: Waste Management

Department of Environmental Affairs and Development Planning

Web: <https://www.westerncape.gov.za/eadp/our-services-to-you/waste-licence-applications>

Tel: (021) 483 2705 / 2756

Fax: (021) 483 4425

For WML Application enquiries related to hazardous waste, the DEA can be contacted:

The Director: Authorisation and Waste Disposal Management

Department of Environmental Affairs

Web: <https://www.environment.gov.za>

Email: LMahlangu@environment.gov.za

Tel: (012) 399 9791

A decision made by the LA, can be appealed in terms of the National Appeal Regulations 2014 (as amended), as contained in GN No. 993 of 8 December 2014. In addition, such a decision may be overturned depending on the outcome of an appeals process.

An appellant must submit an appeal to the Minister within 20 calendar days of the date that the notification of the decision for an application for an environmental authorisation, or a WML was sent to the registered I&AP's by the applicant.

An appeal submission must be submitted in writing in the form obtainable from the appeal administrator, and accompanied by a statement setting out the grounds of appeal, supporting documentation which is referred to in the appeal submission, and a statement, including supporting documentation, by the appellant to confirm compliance with regulation 4(1) of the National Appeals Regulations, 2014.

All notice of intention to appeal and appeal forms must be submitted by means of one of the following methods:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Jaap de Villiers
Room 809
8th Floor Utilitas Building (1 Dorp Street, Cape Town, 8001)

A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Authority at:

Tel: (021) 483 3721,
E-mail: Jaap.DeVilliers@westerncape.gov.za
URL: <http://www.westerncape.gov.za/eadp>

SECTION 24 G

What if you engaged in a listed activity prior to obtaining a WML?

5

An applicant who unlawfully commenced with a waste management listed activity, may submit an application to rectify such unlawful commencement in terms of section 24G of the NEMA. The application must be supported by a report, which will then form the basis for a decision whether to grant or refuse the application. The applicant may be required to rehabilitate the area impacted by the unlawful activity, and will be issued with an administrative fine for the unlawful commencement of a listed activity.

A WML is not required if an activity commenced prior to the promulgation of regulations requiring a WML for such an activity. However, please note that even if an activity commenced prior to it requiring a WML, or if it commenced after the promulgation of the regulations, but was below the thresholds, and the activity was subsequently unlawfully expanded beyond the thresholds specified in the regulations, the person responsible for undertaking the activity will be advised that they may undertake a section 24G process.

Please note that if an activity requiring a WML commenced under the previous regulations (i.e. GN No. 718 of 3 July 2009), without a WML, and is not similarly listed under GN No. 921, the applicant need not apply for authorisation in terms of section 24G of the NEMA. However, if the activity is similarly listed under GN No. 921, the applicant may apply for such authorisation.

Please also note that operating without a licence (i.e. not applying for the section 24G rectification process) is classified as an offence under section 67 (1)(a) of the NEM:WA, and a person convicted of such an offence is liable to a fine not exceeding R10 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment, in addition to any other penalty or award that may be imposed or made in terms of the NEMA, as detailed in section 68 of the NEMWA. Further details regarding the section 24G process are provided here: <https://www.westerncape.gov.za/eadp/our-services-to-you/submitting-a-24g-application>.

APPENDIX A: Category A of GN No. 921

A

Category A (3) of GN No. 921 states that a person who wishes to commence, undertake or conduct a waste management activity listed under this category, must conduct a **Basic Assessment (BA)** process set out in the 2014 NEMA Environmental Impact Assessment (EIA) Regulations (GN No. R. 982 of 4 December 2014).

These activities include:

STORAGE OF WASTE

1. The storage of general waste in lagoons.

RECYCLING OR RECOVERY OF WASTE

2. The sorting, shredding, grinding, crushing, screening or bailing of general waste at a Facility that has an operational area in excess of 1000m².
3. The recycling of general waste at a facility that has an operational area in excess of 500m², excluding recycling that takes place as an integral part of an internal manufacturing process within the same premises.
4. The recycling of hazardous waste in excess of 500kg but less than 1 ton per day calculated as a monthly average, excluding recycling that takes place as an integral part of an internal manufacturing process within the same premises.
5. The recovery of waste including the refining, utilisation or co-processing of waste in excess of 10 tons but less than 100 tons of general waste per day or in excess of 500kg but less than 1 ton of hazardous waste per day, excluding recovery that takes place as an integral part of an internal manufacturing process within the same premises.

TREATMENT OF WASTE

6. The treatment of general waste using any form of treatment at a facility that has the capacity to process in excess of 10 tons but less than 100 tons.
7. The treatment of hazardous waste using any form of treatment at a facility that has the capacity to process in excess of 500kg but less than 1 ton per day excluding the treatment of effluent, wastewater or sewage.
8. [Activity (8) deleted by GN 332/2014]

DISPOSAL OF WASTE

9. The disposal of inert waste to land in excess of 25 tons but not exceeding 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation.
10. The disposal of general waste to land covering an area of more than 50m² but less than 200m² and with a total capacity not exceeding 25 000 tons.
11. The disposal of domestic waste generated on premises in areas not serviced by the municipal service where the waste disposed exceeds 500kg per month.

CONSTRUCTION, EXPANSION OR DECOMMISSIONING OF FACILITIES AND ASSOCIATED STRUCTURES AND INFRASTRUCTURE

12. The construction of a facility for a waste management activity listed in Category A of this Schedule (not in isolation to associated waste management activity).
13. The expansion of a waste management activity listed in Category A or B of this Schedule which does not trigger an additional waste management activity in terms of this Schedule.
14. The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule.

Category B (4) of GN No. 921 states that a person who wishes to commence, undertake or conduct a waste management activity listed under this Category, must conduct a **Scoping and Environmental Impact Reporting (S&EIR)** process set out in the 2014 NEMA EIA Regulations. These activities include:

These activities include:

STORAGE OF HAZARDOUS WASTE

1. The storage of hazardous waste in lagoons excluding storage of effluent, wastewater or sewage.

REUSE, RECYCLING OR RECOVERY OF WASTE

2. The reuse or recycling of hazardous waste in excess of 1 ton per day, excluding reuse or recycling that takes place as an integral part of the internal manufacturing process within the same premises.
3. The recovery of waste including the refining, utilisation, or co-processing of the waste at a facility that processes in excess of 100 tons of general waste per day or in excess of 1 tons of hazardous waste per day, excluding recovery that takes place as an integral part of an internal manufacturing process within the same premises.

TREATMENT OF WASTE

4. The treatment of hazardous waste in excess of 1 ton per day calculated as a monthly average; using any form of treatment excluding the treatment of effluent, wastewater or sewage.
5. The treatment of hazardous waste in lagoons, excluding the treatment of effluent, wastewater of sewage.
6. The treatment of general waste in excess of 100 tons per day calculated as a monthly average, using any form of treatment.

DISPOSAL OF WASTE ON LAND

- 7.** The disposal of any quantity of hazardous waste to land.
- 8.** The disposal of general waste to land covering an area in excess of 200m² and with a total capacity exceeding 25 000 tons.
- 9.** The disposal of inert waste to land in excess of 25 000 tons, excluding the disposal of such waste for the purposes of levelling and building which has been authorised by or under other legislation.

CONSTRUCTION OF FACILITIES AND ASSOCIATED STRUCTURES AND INFRASTRUCTURE.

- 10.** The construction of a facility for a waste management activity listed in Category B of this Schedule (not in isolation to associated waste management activity).

* Note that a waste management application can have a combination of Category A and Category B activities and in such a case, the S&EIR process will be followed.

APPENDIX C: Category C of GN No. 921

C

Category C (5) of GN No. 921 states that a person who wishes to commence, undertake or conduct a waste management activity listed under this Category, must comply with the relevant **requirements or standards** determined by the Minister listed below. These activities include:

(A) NORMS AND STANDARDS FOR STORAGE OF WASTE, 2013.

These norms and standards apply to any person who stores general (more than 100m³) or hazardous waste (more than 80m³) exceeding 90 days in a waste storage facility. These facilities are required to comply with the norms and standards without a need to conduct a basic assessment and obtain a WML. The norms and standards do not apply to the storage of general or hazardous waste in surface impoundments or lagoons; or

(B) STANDARDS FOR EXTRACTION, FLARING OR RECOVERY OF LANDFILL GAS, 2013.

These standards apply to a landfill gas extraction, flaring or recovery facility initiated, constructed or upgraded after the coming into operation of the standards. The standards are applicable throughout the Republic of South Africa; or

(C) STANDARDS FOR SCRAPPING OR RECOVERY OF MOTOR VEHICLES, 2013.

These standards apply to a vehicle scrapping or recovery facility with an operational area in excess of 500m², which was initiated, constructed or upgraded after the coming into effect of the standards. These standards are applicable throughout the Republic of South Africa.

STORAGE OF WASTE

- 1.** The storage of general waste at a facility that has the capacity to store in excess of 100m³ of general waste at any one time, excluding the storage of waste in lagoons or temporary storage of such waste.
- 2.** The storage of hazardous waste at a facility that has the capacity to store in excess of 80m³ of hazardous waste at any one time, excluding the storage of hazardous waste in lagoons or temporary storage of such waste.
- 3.** The storage of waste tyres in a storage area exceeding 500m².

RECYCLING OR RECOVERY OF WASTE

- 4.** The scrapping or recovery of motor vehicles at a facility that has an operational area in excess of 500m².
- 5.** The extraction, recovery or flaring of landfill gas.

CONTACT: Directorate: Waste Management

Western Cape Government Department of Environmental
Affairs and Development Planning

Property Building, 01 Dorp Street, Cape Town,
8001 Private Bag X9086, Cape Town, 8000

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