



**THE NATIONAL ENVIRONMENTAL COMPLIANCE AND
ENFORCEMENT REPORT: 2014/15**
**National Environmental Compliance
and Enforcement Lekgotla - 2014-15**

Power of the past, Force of the Future
A decade of the Inspectorate



environmental affairs
Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA



Background to the 2014/15 NECER

- The 2014-15 report is the **08th** National Compliance and Enforcement Report to be published – “celebrating 10 years”
- Project initiated in conjunction with commencement of operations of **the Environmental Management Inspectorate** in 2006/7;
- Report represents the work of 9 **provincial environmental** and 5 **provincial parks authorities, DEA, Sanparks, Isimangaliso Wetland Park Authority and SANBI = 18 EMI Institutions Reporting.**
- The report is the **main communication mechanism** that tells the public about the work of the Inspectorate in the preceding financial year.



Objectives of the NECER

Public

- How the sector is doing in **giving effect to S24 of the Constitution**.
- NGO – what compliance and enforcement activities are being taken in **specific sectors or facilities**.

Regulated

- What **types of non-compliances** are being identified in a specific sector/facility.
- What **enforcement action** being taken following non-compliances.
- The **types of sentences** being handed down by courts – deterrent.

Regulators

- Comparison of performance **between various provinces, authorities** etc.
- Comparison of performance **year on year**.
- **Identify trends** in environmental compliance and enforcement activities.



Content Overview

the compliance and enforcement capacity in the country;



the enforcement (criminal, administrative, civil) and compliance monitoring activities (proactive, reactive inspections);



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Content Overview

the most prevalent types of environmental crimes per institution



the legislation; court cases and sentences relating to environmental matters

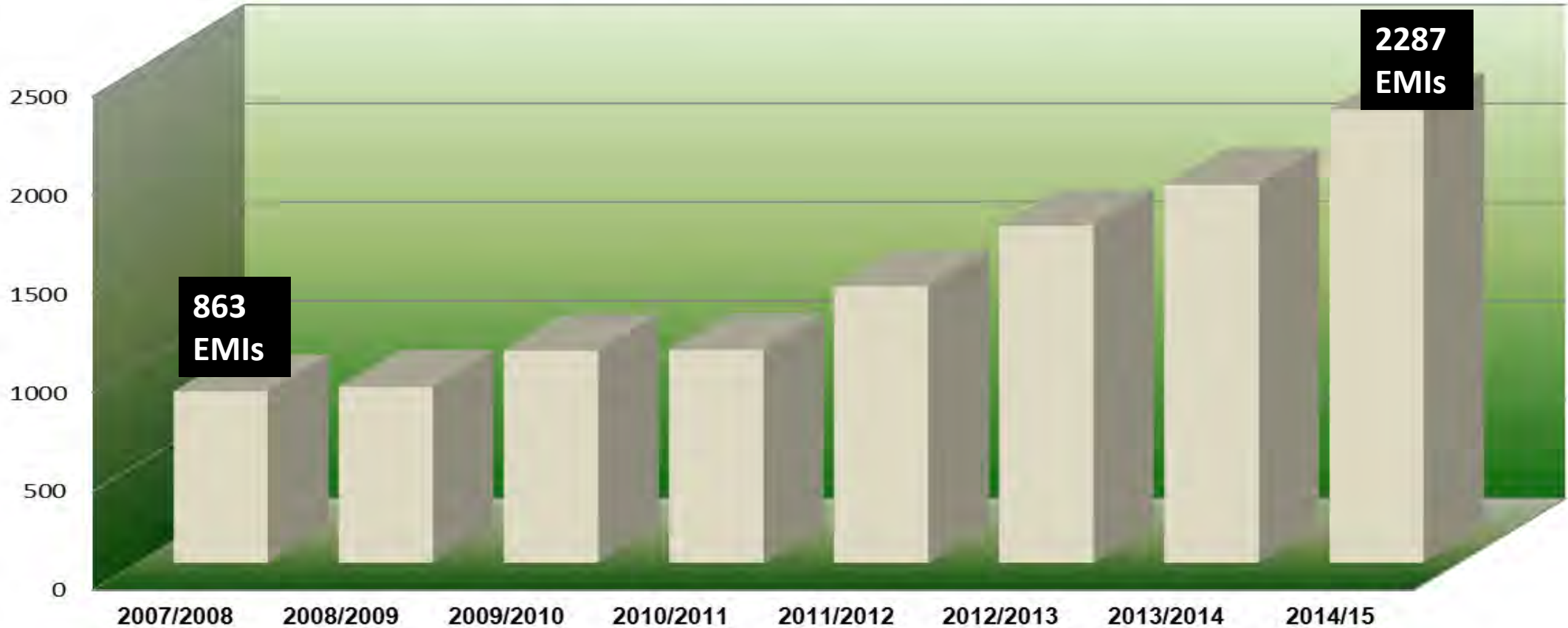


the capacity-building interventions and joint operations with key stakeholders



EMI CAPACITY: YEAR ON YEAR

Overall EMIs increase since 2007-2015



EMI Capacity per Institution

Institution Name	2012-13	2013-14	2014-15
National Authorities			
DEA	63	65	63
iSimangaliso	5	5	2
SANParks	672	686	681
Provincial Environmental Authorities			
Eastern Cape DEDEA	39	48	52
Free State DESTEA	30	30	42
Gauteng DARD	70	64	49
KwaZulu-Natal DEDTEA	34	38	32
Limpopo DEDET	104	237	255
Mpumalanga DARDLEA	12	13	14
Northern Cape DEANC	19	19	25
North West DREAD	26	32	45
Western Cape DEADP	68	66	72
Provincial Parks Authorities			
CapeNature	22	21	19
Eastern Cape Parks	107	107	107
Ezemvelo	423	474	543
Mpumalanga Parks	11	10	19
North West Parks	-	-	89
Grand Total	1705	1917	2109



EMIs at Local Authority Level

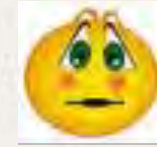
Province	2012-13FY	2013-14FY	2014-15FY
Gauteng	23	21	37
Limpopo	12	11	10
North West	–	–	9
Western Cape	12	14	24
Eastern Cape	–	–	3
KwaZulu-Natal	–	–	102
Totals	47	46	185



EMIs Capacity at a Glance



- There has been a **19.8%** increase in the total number of EMIs on the national register from **1915** in 2013/14 to **2294** in 2014/15.
- EMIs at the local authority level have significantly increased from **42** in 2013/14 to **180** at the end of 2014/15 financial year.
- Of the total **2294** EMIs on the national register, **1300** (56%) are Grade 5 EMIs (field rangers employed at national and provincial parks authorities).



- 4 EMI Institutions (Cape Nature, Mpumalanga, MPTA and Isimangaliso) together have only **54** EMIs, comprising less than **3%** of the total.
- 2 provinces recorded **0** municipal EMIs (Free State and Northern Cape) and **1** province (Eastern Cape) only has **3**;
- Of the **2294**, uncertain of how many are **full-time** compliance and enforcement officials v managers/line function?



Legislative Developments for EMIs



1. National Environmental Management Act 107 of 1998

Regulations:

- Regulations to Phase-Out the Use of PolyChlorinated Biphenyl (PCB) Materials and PCB Contaminated Materials, GNR 549 of 10 July 2014
- Environmental Impact Assessment Regulations, GNR 982 of 4 December 2014
- Regulations Relating to the Procedure to be Followed when Oral Requests are made in terms of section 30A, GNR 310 of 10 April 2015
- National Appeal Regulations, GNR 993 of 8 December 2014
- National Exemption Regulations GNR.994 of 8 December 2014

Notices:

- Listing Notice 1: List of Activities and Competent Authorities Identified in terms of section 24(2) and 24D GNR 983 of 4 December 2014
- Listing Notice 2: List of Activities and Competent Authorities Identified in terms of section 24(2) and 24D GNR 984 of 4 December 2014
- Listing Notice 3: List of Activities and Competent Authorities Identified in terms of section 24(2) and 24D GNR 985 of 4 December 2014



Legislative Developments



2. National Environmental Management: Biodiversity Act 10 of 2004

Regulations:

- Amendment to Threatened or Protected Species Regulation GNR 324 of 29 April 2014
- Delegation of powers and duties under section 87A(1)(a) of the Act GNR 640 of 22 August 2014
- Delegation of powers and duties under section 87A(1)(b) of the Act GNR 639 of 22 August 2014

Notices:

- Trade in Listed Threatened or Protected Species GN 431 of 13 June 2014

3. National Environmental Management Integrated Coastal Management Amendment Act 36 of 2014

Amendment Act

Regulations

- Management of Public Launch Sites in the Coastal Zone GNR 497 of 27 June 2014



Legislative Developments

4. National Environmental Management: Air Quality Act 39 of 2004

Regulations:

- Regulations Regarding the Phasing-Out and Management of Ozone-Depleting Substances GN 351 of 11 July 2014
- Regulations Regarding Air Dispersion Modelling GNR 533 of 11 July 2014
- National Atmospheric Emission Reporting Regulations, GNR.283 of 2 April 2015

5. National Environmental Management: Waste Act 59 of 2008

Regulations:

- Proclamation of Part 8 in Chapter 4 of NEM:WA GN 26 of 11 April 2014
- Amendments to the List of Waste Management Activities that have, or are likely to have a Detrimental Effect on the Environment GN 130 of 13 February 2015



Legislative Developments

6. National Environmental Management: Protected Areas Act 57 of 2003









Regulations

- Amendment to the Regulations for the Proper Management of World Heritage Sites GNR 622 of 15 August 2003

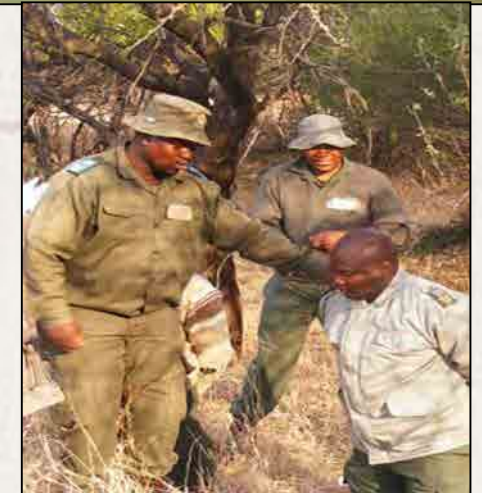
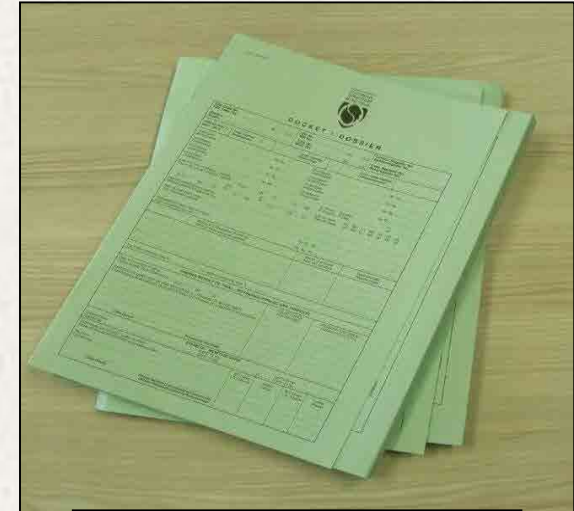
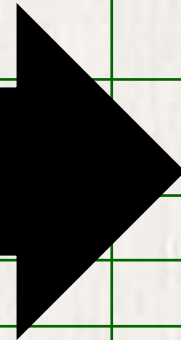
Note: this excludes **25** sets of documents related to the pipeline!!!



National Criminal Enforcement Statistics

	2012-13FY	2013-14FY	2014-15FY
Criminal Enforcement			
Arrests by EMIs	1818	1371	1259
Criminal docket	1488	1861 	2019
Cases handed to NPA declined to prosecute	268	378 	257
Section 105A and bargains	37	15 	24
Acquittals		11	15
Convictions (excluding J534 (Admission of guilt) number issued)	70	5 	6
J534: Total number issued	5825	78 	65
J534: Total value of fines paid	993	854 	686
S24G: Total number of fines paid	R 654 250	1687 	R 418 181
	49	73 	100

Even though criminal investigations take a long period to finalise, can one expect a correlation between dockets registered, cases handed to the NPA; and hopefully convictions? May next FY will see results of more arrests?



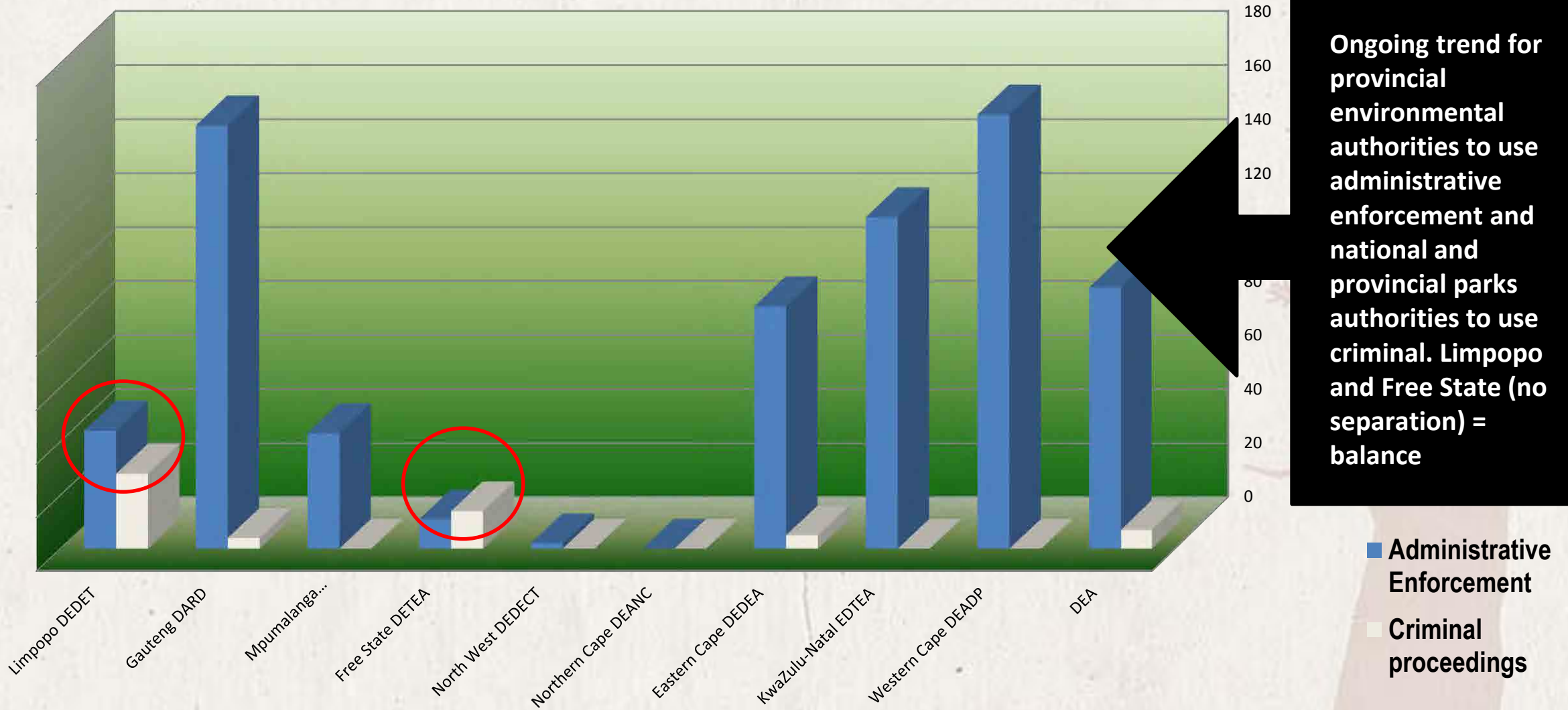
National Administrative Enforcement Statistics

Administrative Enforcement and Civil Actions				
Warning letters issued			228	↑ 364
Pre-directives issued			95	↑ 111
Pre-compliance notices			400	↑ 436
Directives issued			60	↓ 57
Final compliance notices			154	↓ 125
Civil court applications			2	↓ 1
S24G administrative fines	215		R 12 517 026	↑ R14 005 423
S24G: Total number of fines paid	49		73	↑ 100

General increase in warning letters and pre-notices, but a general decrease in the number of final notices – can this indicate that compliance being achieved through pre – notices?



Admin versus Criminal Enforcement Proceedings



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National Inspections: Pollution, Waste, EIA

Institution	Facilities Inspected
DEA	72
KwaZulu-Natal EDTEA	908
Limpopo DEDET	126
Western Cape DEADP	202
Mpumalanga DAEDLEA	158
Gauteng DARD	236
Grand Total	1702



National Inspections: Biodiversity

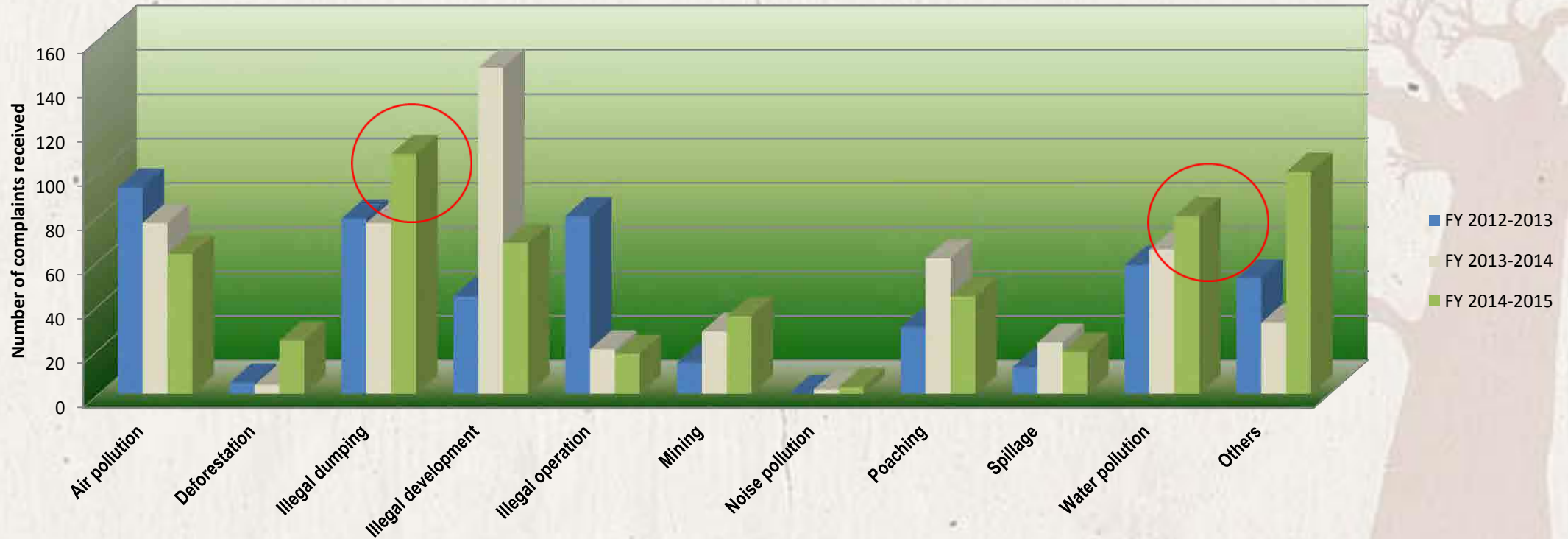


Institution	Facilities Inspected
Cape Nature	439
Free State DESTEA	21
KwaZulu-Natal DEDTEA	5
Limpopo DEDET	670
Northern Cape DEANC	45
Grand Total	1180



Types of complaints through national hotline

Trends of complaints reported from 2012/13-2014/15



Annual Highlights

CATEGORY	RESULT	INSTITUTION	LEGISLATION
Most inspections conducted	Green issues = 5 Brown issues= 908 Blue issues= 4 Total= 917 inspections	KwaZulu-Natal DEDTEA	Multiple
Highest sentence of direct imprisonment <u>without</u> a fine option	S v Cheng Jie Liang. (Table View Mas 316/09/2012). The accused was sentenced to 10 years direct imprisonment of which 3 years were suspended on condition that he pays a fine of R5 million within 12 months.	CapeNature	Section 42(1) of Nature Conservation Ordinance 19 of 1974
Highest sentence for a pollution and waste case	The State v Samancor Chrome Ltd. The accused was found guilty on two counts and sentenced to a fine of R 200 000. In addition, the accused was ordered to pay: <ul style="list-style-type: none"> • R1 million to DEA's Inspectorate for the "<i>proper execution of their duties, environmental rehabilitation and enforcement training...</i>"; • R700 000 to DEA, who was ordered to "<i>in conjunction with the Steelport Primary School, liaise with the Department of Education to develop environmental initiatives for the benefit of the school</i>"; and • R100 000 in respect of prosecution costs. 	DEA	Contravention of section section 29(4) of ECA



Annual Highlights

CATEGORY	RESULT	INSTITUTION	LEGISLATION
Highest number of section 24G fines issued	20 were issued. To date 15 have been paid in the sum of R 1 666 965	Gauteng DARD	NEMA section 24G
The highest number of administrative enforcement notices issued	165 issued	Western Cape DEADP	NEMA and NEM:WA
Highest number of admission of guilt fines issued	601 were issued in the sum of R161 080	Limpopo DEDET	Limpopo Environment Management Act



Industrial Compliance and Enforcement

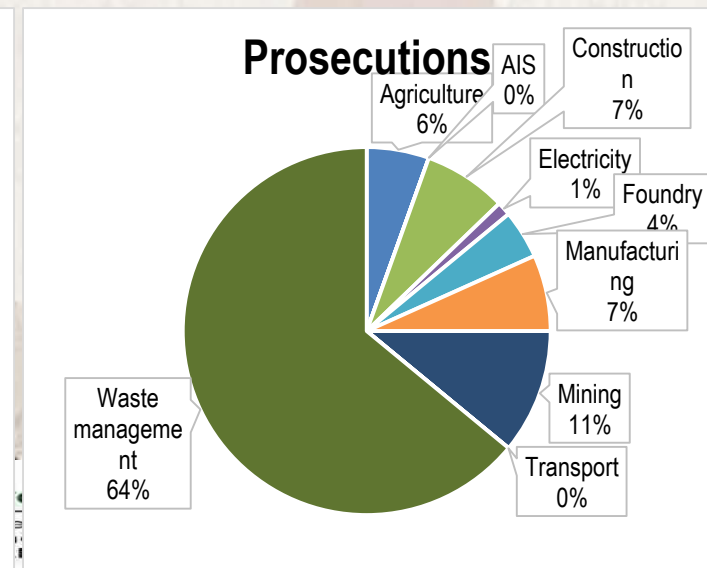
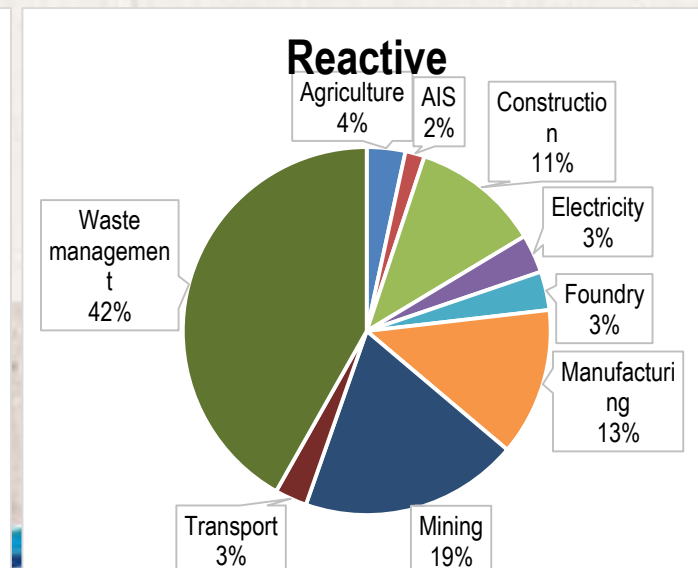
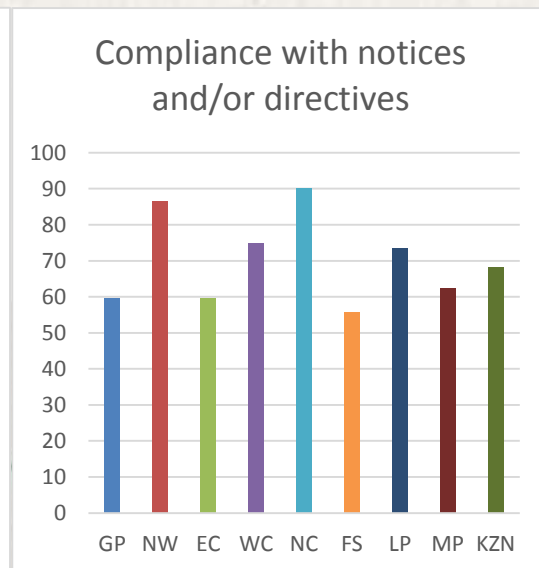
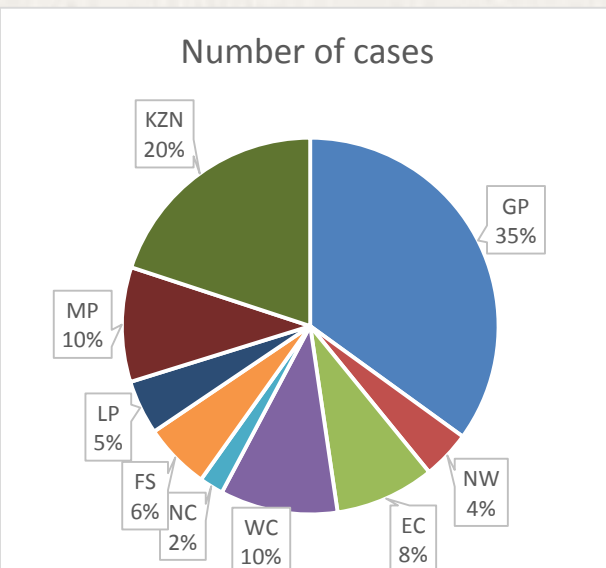
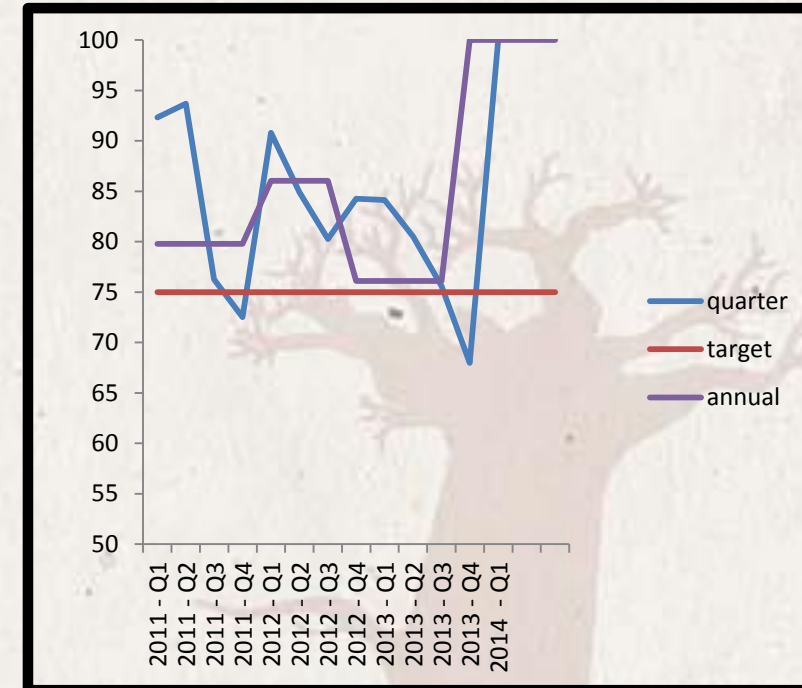
Continued focus on strategic sectors:

- Ferro-alloy, Steel and Iron
- Refineries
- Power generation
- Hazardous landfill sites
- Healthcare Risk Waste facilities
- Paper and pulp
- Cement



Nuances in measuring compliance behaviour to administrative enforcement notices

- **Paradigm shift in thinking – IMPACT DRIVEN ENFORCEMENT** a move away from reporting on the number of administrative notices issued to monitoring **environmental improvement** from administrative enforcement notices (also recognising that Enforcement = time and resource intensive)
- **Prioritising sectors** rather than *piece meal* enforcement responses
- **Ultimate objective** – alignment and synchronising of enforcement activities to the *State of the Environment*
- **Additional Benefit - Maximising the deterrent effect** through tactical enforcement responses based on **compliance trends per sector**



Biodiversity Compliance and Enforcement

- **Illegal killing of Rhinoceros and subsequent illegal trade in the horn**
 - Integrated Strategic Management Approach (Cabinet decision of Aug 2014)
 - Managing Rhino Populations
 - **Compulsory / New Interventions (focused on anti-poaching and security);**
 - Long-Term Sustainability Measures – Communities; and
 - **Game-changing Interventions**
- **EMI institutions – anti-poaching operations / crime scene management / support to SAPS (DPCI, Detectives, Joints Structures) and NPA**
- **GEF –UNEP Rhino Programme: “Strengthening Law Enforcement Capabilities to Combat Wildlife Crime for Conservation and Sustainable Use of Species in South Africa (Target: Rhinoceros)”**
 - Support in relation to rhino DNA programme and forensics to both the VGL and SAPS FSL
 - Forensic equipment / mobile units
 - Training interventions (crime scene and magistrates) and filming



Biodiversity Compliance and Enforcement

S v Mandla Chauke (Skukuza CAS 27/4/2011)

Province	Mpumalanga
Court	Nelspruit Regional Court
Charge	Murder; illegal hunting of three rhinos, alternatively possession of two horns; possession of firearm; possession of ammunition and trespassing.
Judgment/Sentence	<p>Murder (common purpose and dolus eventualis) - 15 years imprisonment; Illegal hunting (3 counts for 3 different animals) – 10 years imprisonment per count; Theft of horns – 8 years imprisonment; Possession of firearms – 15 years imprisonment; Possession of ammunition – 7 years imprisonment and Trespassing – 2 years imprisonment</p> <p>Total – 77 years</p> <p>Sentence on theft to run concurrently with the sentence for 3x illegal hunting</p> <p>Sentence on possession of firearm and ammunition to run concurrently with sentence for murder</p> <p>Effective sentence – 47 years imprisonment</p>



Biodiversity Compliance and Enforcement

S v Cheng Jie Liang (Table View CAS 316/09/2012)

Province	Western Cape
Court	Khayelitsha Regional Court
Charge	Section 42(1) of Nature Conservation Ordinance 19 of 1974.
Judgment/Sentence	Sentenced to 10 years direct imprisonment of which 3 years is suspended on condition that he pays a fine of R 5 million within 12 months.
Note:	Possession of 3427 ivory items, 1002kg - worked ivory value R21 million (CapeNature).



Biodiversity Compliance and Enforcement

S v Norman Maphari, Joseph Mudyandarira, Lucus Mbatha and Jeremiah Ngwenya

Province	Eastern Cape
Court	
Charge	Three charges of theft, contravention of the Cape Ordinance on Nature and Environmental Conservation of 1974 and Trespassing.
Judgment/Sentence	All four accused were sentenced to 7 years' imprisonment of which 3 years were conditionally suspended for 5 years. The three trespassers were given an additional 6 months' imprisonment running concurrently with the first period. The vehicle worth some R 150 000 was forfeited to the state.
Note:	Possession of 25 cycads (<i>E.Horridus</i>) worth R 314 000.



Joint Compliance and Enforcement operations

Fisheries - St Helena Bay

- Operation conducted with the Western Cape DEADP and the respective local authority – 2 July 2014
- 4 facilities inspected and issued with administrative enforcement notices (“pre notices”)
- Significant improvements made to the issues raised in the pre notices and no need to follow through with final notices



Sand mining Blitzes

- In preparation of the One Environmental System = Final operation (August 2014) – DMR participated in the operation
- 26 sites targeted across the country
- 20 criminal cases registered
- 30-50 million rands worth of equipment confiscated (pending criminal proceedings)



Western Cape confiscation



Joint Compliance and Enforcement operations

General Landfill Site Blitzes:

- **LARGEST BLITZ** ever undertaken in the waste and pollution sector
- 95 officials participated – 3 week period in March 2015 – coincided with Waste Summit
- 8 of the 9 provinces participated
- 24 sites targeted
- Low levels of compliance generally



Capacity Building

- **EMI Basic Training**
 - Basic training (DEA)
 - Executive EMI Training
 - Bridging Training (AIS)
 - Municipal EMI – EHP KZN and Western Cape EMI
- **EMI Specialised Training**
 - Minimum Force
 - Barcode of Wildlife
 - EMI / OR Tambo ports training
 - Biodiversity Crime Scene
- **Prosecutors Workshop**



Ahead for 2015/16

- Training of Grade 5 EMI in Kruger National Park (extension to other parks)
- GEF-UNEP Rhino Programme
- Implementation of the National Environmental Compliance and Enforcement Strategy
- Focused operational work across all media based on priorities:
 - Ports of entry / exit
 - Table Mountain National Park
 - Airshed priority areas
 - Operation Phakisa – Enhanced and co-ordinated compliance and enforcement programme



Scorpions flag on polluters

By P. G. S. / 05/10/07
Border of the Eastern Cape
 Some structures were not available for comment.

Govt Views, the SAEP's executive of standards, said that an ISO 14001 certification did not necessarily mean a company always had to be in compliance with environmental regulations.

"The idea behind the ISO 14001 standard is that you manage your own compliance to achieve being within the framework of the law," he said.

"There are those where a company may be outside legal compliance."

However, a national polluter would not be certified, he said.

According to SA, it is crucial despite ignoring reported instructions to stop dumping hazardous waste on an unpermitted site at the Verreuging plant. The Green Scorpions have launched a criminal investigation into the matter.

Other infractions by the steel maker include percolate emissions, serious pollution of surface and ground water, failure to lodge audit reports and a series of activities without the required environmental authorizations.

At ArcelorMittal's ferrochrome plant in Cato Ridge, which was given ISO 14001 certification by the SAEP, the Green Scorpions found significant uncontrolled emissions, unauthorised emissions, failure to comply with a hazardous waste site permit, and at least one unpermitted hazardous waste site.

The Green Scorpions yesterday issued Mafikeng Steel and Vodacom's Vodacom plant as the third serious transgressors after contamination at the end of August yielded evidence of excessive emissions of sulphur dioxide, ammonia and particulates, as well as significant contamination of ground water among other things.

Mafikeng said it was reviewing the report. It would not comment.

Business Week, Page 2

'Green Scorpions' descend on Eastern Cape

'Compliance needs co-operative governance'

By P. G. S. / 05/10/07
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Business Week, Page 2

Green Scorpions clean up firm's act

The Times 04/10/07
SARAH PATTON

THREE truck loads of illegally stored medical waste have been removed from the Public Medical Waste warehouse in Grahamstown.

The two-week R1.5-million clean-up by the "Green Scorpions", inspectors from the department of environmental and forestry, came after an exposé by the Sunday Times that found that the tons of rotting medical waste, collected from about 300 state hospitals in Grahamstown and Langa, had been stored in the warehouse.

An environmental management inspector from the department, Melissa Fourie, said the removal of the waste started on Monday, and by Tuesday it had been taken to the Mthatha high-hazard landfill site in Herkules for safe disposal.

Fourie said "Environmental management inspectors from the department are on the scene and will continue to monitor the progress of the clean-up and compliance with the Executive Order to Public Waste."

The clean-up was to have started at the weekend but was hampered by heavy rains.

The Grahamstown MEC for agriculture, conservation and the environment, Kheshi Moolenaar, said the department's inspectors would take action against those who violated environmental laws.

Rotting medical waste stockpiled in warehouse

Green Scorpions close ArcelorMittal dump

By P. G. S. / 05/10/07
Border of the Eastern Cape
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Business Week, Page 2

ArcelorMittal feels Green Scorpions' sting

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Border of the Eastern Cape
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Eco-scorpions sting factory

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Business Week, Page 2



Alfred Meebakane
 The Green Scorpions out of Mthatha's Department of agriculture and land administration have among a panel board factory in Ndelapit for TONGUE MEC breaching environmental legislation by undertaking unauthorised listed activity.

The department said Some November installed a new drier on its plant that would allow it to increase production without government approval.

The installation of the drier is a listed activity that requires authorisation in terms of the National Environmental Management Act (Nema).

Department spokesman Paboo Mokoena said his department would impose an undischarged fine on the company for its non-compliance with the act.

"Furthermore, Some November will have to submit the necessary application for approval."

"In addition to complying with Nema, Some will have to apply to the national Department of Environmental Affairs and Tourism to amend their air quality permit in line with the National Air Quality Management Act," said Mokoena.

This incident comes in the wake of department MEC Dina Pate's call for the intensive implementation of environmental legislation.

A number of developers and industries have felt the heat, with some being ordered to stop their development and others facing heavy fines.

