

COMMENTS AND RESPONSE REPORT

Name of Department:	Department of Environmental Affairs and Development Planning		
Matter: <i>(Title of Legislation)</i>	Sandveld EMF Standard		
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Stakeholder	Clause / Issue	Comment	Response	Amendment to Standard
Agri-Western Cape	Lack of Alignment with Section 24G Rectification Process:	<p>Similarly to the regulatory concern described above, the FLMP process does not make provision for the rectification of activities undertaken without prior consent from the competent authority. Again, the implementation of the FLMP project could be rendered obsolete should a farmer be required to undertake a separate Section 24G process thereby doubling the regulatory process, costs, and timeframes.</p> <p>The financial risks are therefore carried solely by the farmer with no written confirmation that should they invoke their Duty of Care and undertake a voluntary Section 24G Rectification</p>	<p>Where there has been commencement with unlawful activities in the past (pre-Standard), such unlawful activities will require rectification in terms of Section 24G of NEMA.</p> <p>It is possible to combine the farm-level planning with the 24G process. There will however be specialist studies as part of the Section 24G process, in order to determine the extent of the impact of the unlawful activities.</p>	No amendment required.

		<p>process in conjunction with a FLMP, the administrative fine will be reduced accordingly. Additionally, the Section 24G process allows for the combined application for unlawfully undertaken activities to be applied for as well as future proposed activities with no requirement of a FLMP. As such, obtaining buy-in from the farming community to undertake multiple voluntary process may prove challenging.</p> <p>The implementation of farm level management planning must therefore rectify this limitation in the regulatory process as failure to do so will render this project problematic not from a concept perspective but at the implementation phase</p>	<p>Where proponents commence with identified (excluded) activities after the Standard has come into effect, the Standard is applied, and registration is required. Where the proponent fails to register prior to commencement, a section 24G application is not possible.</p>	
	<p>Determination of water rights</p>	<p>One of the requirements for a FLMP is to determine whether or not the farm has sufficient water allocations to 1. Farm their current crops and 2. Farm future proposed crops. The only way to determine this is to cross reference the water registration with the current volumes used for irrigation and if there is any allocation remaining, the remainder is what is available for future crops and therefore determines how many more</p>	<p>The Standard states that, "<i>Land to be cultivated cannot be cultivated if insufficient water rights are available for the cultivation</i> " and "<i>Compliance with the Standard does not negate the need for the proponent to comply with all other applicable legislation</i>".</p>	<p>No amendment required.</p>

		<p>hectares can be cultivated. This is how supply and demand is determined. The water registration document is not a legal document and does not equate to a water right for a farm. The only way to obtain a legal document for a water right is to undertake a Water Use Application. It is unclear as to how the FLMP process will align the institution of water management with that of land use management in the event that a water use license is not held by a farmer.</p>	<p>It is acknowledged that the cultivation of additional areas may not necessarily require additional water rights (e.g. through implementing water saving measures). However, if additional water is required, the Standard specifies that such cultivation may not commence if the required water rights are not available.</p> <p>The water rights must thus be available before implementation.</p>	
	<p>Lack of Alternatives:</p>	<p>The EMF has outlined tables with the desired land uses for the study area which are also geographically depicted in the maps. The objectives for the Sandveld and the corresponding land use categories are defined however other than setting aside areas for long term conservation; no other alternative land uses have been identified. The cultivation of virgin soil within CBAs for example offers only 1 land use which is “biodiversity conservation”. Numerous</p>	<p>The EMF and Standard were developed to 1) reduce the regulatory burden linked to cultivation and 2) protect the natural resources base, including meeting the relevant conservation targets.</p> <p>The intention is thus to address cultivation related activities. The identified activities have been</p>	<p>No amendment required.</p>

		<p>farms especially those which are smaller in size, are located within CBA and ESA areas. In the cases where farmers will neither have the financial means nor the physical natural resources to offer biodiversity offsets and their proposed activities are located within CBAs, it is assumed that these applications will be refused and subjective to NEMA EIA Regulations as the farmer in these instances would only be able to offer land use management such as clearing alien vegetation as their contribution to biodiversity targets. The concern is the perceived prejudice against these farmers who do not have as much to offer of conservation value and will therefore not benefit from the FLMP process.</p>	<p>amended to include relevant activities.</p>	
	<p>Annexure 1 Listed Activities</p>	<p>The Standard outlined a number of NEMA Listed Activities which are excluded from the requirement to obtain an environmental authorization which are related specifically to the expansion of cultivated land or the clearance of indigenous vegetation within the study area. While it is understood that the basis for the inclusion of only vegetation clearance activities is to mitigate against unknown impacts such as the</p>	<p>It is possible to consider the inclusion of some additional activities that are necessary for the realisation of the cultivation of land. For example, an access road to the cultivation areas and or a water pump within in 32m of watercourse.</p>	<p>Amend Standard to specify: <i>The activities which are the subject of this exclusion relate to the clearance of indigenous vegetation for the cultivation of land, where such clearance of indigenous vegetation triggers</i> – <i>Activity 27 of Listing Notice 1</i></p>

		<p>impact on groundwater, soil erosion etc. this limiting factor will hinder the roll out of the project as what has not been taken into account is the ancillary activities which are required in order to operate as a farming enterprise such as, construction of roads for access to newly cultivated areas, the infill, traversing or construction within a watercourse in order to construct additional pump systems, bridges, river maintenance etc. The maintenance or rehabilitation of flood damage to dams within a watercourse has been excluded. Any activities relating to agro-processing have been excluded as well as new dam construction. These are well known complimentary agricultural activities and provision must be made to allow for the inclusion of all NEMA Listed Activities should they be related to agriculture.</p> <p>Failure to include Listed Activities relating to the farmers agricultural operations will have the opposite effect of reducing the regulatory burden of the EIA Process on farmers as a separate application to the competent authority</p>	<p>The impacts associated with other types of development (i.e. not necessary for the cultivation of land) have not been considered within the scope of this initiative and thus cannot be included here. Such development would still require environmental authorisation and will need to go through an EIA process.</p>	<p><i>Activity 15 of Listing Notice 2 Activity 12(i) of Listing Notice 3 and any associated activity identified in Listing Notice 1, 2 or 3 necessary for the realisation of such cultivation of land, excluding the development or expansion of dams, electricity generation or distribution and agri-industry facilities.</i></p>
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		for environmental authorization for the activities not able to be authorized as part of the FLMP process will still have to be submitted, essentially doubling the regulatory burden, financial costs and timeframes.		
Western Cape Department of Environmental Affairs and Development Planning Directorate: Development Management	Standard in relation to the LandCare Generic EMPr	What is the link between the proposed Farm Level Mapping / Planning and the LandCare EMPr that has already been approved as a NEMA instrument. There is probably a need for a bit of discussion, to understand where the one ends and the other starts, and how much overlap there is. It sounds like the Sandveld EMF Standard is only applicable to cultivation, where the LandCare one has a wider applicability. It is a bit confusing. It would be counterproductive to have a provincial and a national standard, basically aimed at achieving the same things in general, but with different processes. How the CA decide which one to use?	There may be some overlap between these instruments, since these are both targeting the agricultural sector and there is the consideration of a Farm Management Plan in both instruments. The scope of the LandCare EMPr is however limited to LandCare projects. The normal LandCare EMPr projects would be community based, area wide, rehabilitation orientated projects. These projects can therefore stretch further than a like for like maintenance and management project and can include works that would normally need an EIA, but is required to protect the agricultural resources (water, soil and veld). The	No amendment required.

			<p>nature of the works must rather support the idea of our duty of care. In other words these projects can include conservation works that is required in order to prevent the deterioration of natural agricultural resources. An example would be groynes that protect a riverbank, weirs that stop a headcut at the top of a donga, a waterway to control stormwater runoff in a cultivated field and discharge in a stream, a subsurface drainage that discharge in a stream.</p>	
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Even though there may be additional listed activities provided for in the EMPr, these are only in the ambit of LandCare projects. The LandCare projects are not limited to the geographical area of an EMF but is applicable anywhere in the country.

			The Sandveld EMF Standard aims to open up the option of an alternative tool to all farmers. It is limited to activities directly linked to the cultivation of land.	

Signature of manager responsible for comments

Date:

Comments noted and supported.