

LIST OF APPLICABLE LEGISLATION AND AUTHORISATIONS REQUIRED FOR THE ESTABLISHMENT OF THE OCGT POWER STATION AND ASSOCIATED INFRASTRUCTURE AT A SITE IN ATLANTIS INDUSTRIA, WESTERN CAPE PROVINCE

Applicable Environmental Law	Aspect Component	Compliance Requirement
National Legislation		
Constitution of South Africa (No 108 of 1996)	"Environmental rights" are created by Section 24(a) of the Constitution of the Republic of South Africa Act (No 108 of 1996). The rights include the right "to an environment that is not harmful to their health or well-being".	Ensure that best practice technology is used to minimise impacts on the environment. Respect and protect the public and employees' rights to an environment which is not detrimental to their health and well being.
Environment Conservation Act, No 73 of 1989 and Regulations 1182 and 1183 published there under.	Commencement of any activity that is considered to be detrimental to the environment must be preceded by written authorisation obtained from the relevant authority.	An Environmental Impact Assessment must be submitted to the competent authority (i.e. WC DEA&DP).
Environment Conservation Act (No 73 of 1989), Section 19	Section 19 prohibits discarding, dumping or leaving of any litter on any land or water surface, street, road or site in or on any place to which the public has access, except in a container or at a place which has been specifically indicated, provided or set apart for such purposes.	Adequate numbers of containers must be placed in strategic positions for the collection of litter.
Environment Conservation Act (No 73 of 1989), Section 20 (1)	Section 20 (1) provides that where an operation accumulates, treats, stores or disposes of waste on site for a continuous period, it must apply for a permit to be classified as a suitable waste disposal facility, from DWAF.	If applicable a permit application will be submitted to DWAF. On receipt of a permit, the conditions of the permit must be complied with at all times.

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National Environmental Management Act (No 107 of 1998)	<p>The Act:</p> <ul style="list-style-type: none"> • establishes principles to guide the decisions and actions of all organs of State. • establishes institutions to: <ul style="list-style-type: none"> * co-ordinate and harmonise the environmental functions of organs of State; and * promote the participation of stakeholders in environmental governance. • establishes procedures for co-operative governance. • establishes procedures for conflict management. • defines the environmental rights of employees (s.2) and the restraints on management when employees exercise these rights (s.29). • establishes a general “duty of care” towards the environment on developers and prescribes the “measures” demanded from them to demonstrate such duty of care (see s.28). • defines who has a legal standing to institute litigation against transgressors of environmental legal provisions (s.32). These provisions are in line with those contained in Section 38 of the Constitution. • provides also for a policy of co-regulation and Environmental Management Co-operation Agreements (s.35). This section will be read in conjunction with the document entitled: “Environmental Management Co-operation Agreements: A Guide for their Design and Use,” published by the Department of Environmental Affairs and Tourism, June 2000 	<p>In terms of NEMA, it has become the legal duty of a project proponent to consider a project holistically, and to consider the cumulative effect of a variety of impacts.</p>

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National Environmental Management Act (No 107 of 1998), Section 24 (1)	Requires the consideration, investigation and assessment of the potential impact on the environment, socio-economic conditions and cultural heritage as a result of activities that require authorisation by law (i.e. in terms of the ECA), and that may significantly affect the environment.	An Environmental Impact Assessment must be submitted to the competent authority (i.e. WC DEA&DP).
National Heritage Resources Act (No 25 of 1999)	Provides general principles for governing heritage resources management throughout South Africa including national and provincial heritage sites, archaeological and palaeontological sites, burial grounds and graves and public monuments and memorials. The demolition or dismantling of all man-made structures and buildings older than 60 years is subject to the approval of the relevant provincial heritage council under the <i>National Heritage Council Act , 11 of 1999</i> .	If applicable, a permit must be obtained from the relevant provincial heritage council.
Hazardous Substances Act, No 15 of 1973	<p>This act regulates the control of substances that may cause injury, or ill health, or death by reason of their toxic, corrosive, irritant, strongly sensitising or inflammable nature or the generation of pressure thereby in certain instances and for the control of certain electronic products. To provide for the rating of such substances or products in relation to the degree of danger; to provide for the prohibition and control of the importation, manufacture, sale, use, operation, modification, disposal or dumping of such substances and products.</p> <ul style="list-style-type: none"> • Group I and II: Any substance or mixture of a substance that might by reason of its toxic, corrosive etc, nature or because it generates pressure through decomposition, heat or other means, cause extreme risk of injury etc., can be declared to be: 	<p>It is important to identify and list all the Group I,II,III and IV hazardous substances that may be on the premises and in what operational context they are used, stored or handled. If applicable, a license application will be submitted to the Department of Health.</p>

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	<ul style="list-style-type: none"> • Group I or Group II hazardous substance; • Group IV: any electronic product; • Group V: any radioactive material <p>The use, conveyance or storage of any hazardous substance (such as distillate fuel) is prohibited without an appropriate license being in force.</p>	
Occupational Health and Safety Act, No 85 of 1993 – Major Hazard Installation Regulations – GN R692 of 30 July 2001	<p>In terms of the regulations, the Chief Inspector, Provincial Director of the Department of Labour and the relevant local government need to be notified of either a temporary or permanent erection, installation, conversion or modifying of a major hazard production installation or any quantity of a substance that can pose a significant risk of resulting in a major incident that could affect the health and safety of persons outside the premises.</p>	<p>Written application is to be lodged with the relevant authorities to erect any installation that will be classified as a major hazard installation or any conversion of an existing installation to a hazard installation. The proposed installation has to be advertised in at least one newspaper serving the surrounding communities and notices advertising the installation are to be posted within those communities.</p>
Occupational Health and Safety Act, No 85 of 1993 – Major Hazard Installation Regulations – GN R692 of 30 July 2001	<p>An employer must undertake a risk assessment of existing major hazard installations or substances which will be updated every three (3) years and submitted to the local emergency services, the employer must further in consultation with the local emergency services, establish an on-site emergency plan to be followed inside the premises of the installation classified as a major hazard installations. This plan must be updated at least every three (3) years.</p>	<p>Ensure that procedures and an on-site emergency plan are in place and updated at least once every three (3) years.</p>

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Occupational Health and Safety Act, No 85 of 1993 – GNR 1179 of 25 August 1995	An employer will, in order to avoid contamination with hazardous chemical substances, take all steps to ensure that hazardous chemical substances are stored or distributed and are properly identified and handled in accordance the SABS 0228 Code	Ensure that all hazardous substances are stored, handled and identified in terms of the relevant SABS codes of practice.
Occupational Health and Safety Act, No 85 of 1993 – GNR 1179 of 25 August 1995	All drivers transporting hazardous material must be in possession of a valid, appropriate driver's licence, a medical certificate and a HazChem training certificate. In addition they must comply with the Road Transport Quality System, have full knowledge of emergency response procedures, and be equipped with and trained in the use of protective clothing.	Ensure that the relevant drivers have the correct licences and that awareness training programs, highlighting all transportation of dangerous goods risks are developed and implemented on all relevant driver levels.
Occupational Health and Safety Act, No 85 of 1993 – GNR 1179 of 25 August 1995	Before any employee is exposed or may be exposed to any hazardous chemical substance, it must be ensured that he/she is adequately and comprehensively informed and trained.	Develop and implement awareness-training programs highlighting the risks involved in respect of exposure to hazardous substances.
Occupational Health and Safety Act, No 85 of 1993 – GNR 60 of 16 January 1998	If a substance is supplied to your operation which results in an installation being classified as a major hazard installation, then the supplier of such a substance must provide you with a material safety data sheet.	Ensure that procedures are in place to notify all suppliers of this regulation and that you have been supplied with a material safety data sheet at all relevant times.
Occupational Health and Safety Act, No 85 of 1993 – GNR 7458 of 17 January 2003	Ensure that an emergency plan is established and implemented; the emergency plan is tested in practice at least once every twelve (12) months.	Implement an emergency plan that includes detailed evacuation procedures and test the plan every twelve (12) months.

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National Road Traffic Act 93 of 1996 – GNR 225 of 17 May 2000	Regulation 274 (read with SABS Code 0232 which deals with transportation of dangerous goods and emergency information systems) states that the regulations are applicable where dangerous goods are transported in quantities, which exceed the exempt quantities (listed in Annex E of SABS Code 0232). Dangerous goods may only be transported in accordance with the provisions in the Regulations, unless the Minister of Transport has granted an exemption.	Ensure that procedures are in place to prevent that the quantities of dangerous goods transported exceed the prescribed quantity (listed in Annex E of SABS Code 0232). Apply for an exemption, if applicable.
Atmospheric Pollution Prevention Act, No 45 of 1965 (APPA) - Section 9	<p><i>Scheduled Processes</i></p> <p>A specifications standard applies to the production of noxious or offensive gases. This means that pollution control equipment used in operating the process must conform to certain design criteria. Currently sixty nine (69) scheduled processes are listed in the Second Schedule to the Act No person may carry on a Scheduled Process in or on any premises unless he is the holder of a current registration certificate. The granting of a permit is subject to compliance with certain minimum standard specifications.</p>	Obtain a registration certificate from the Chief Air Pollution Control Officer (CAPCO) at DEA&DP. In respect of each an every scheduled process, and ensure that the conditions in the certificate are complied with at all times.
Atmospheric Pollution Prevention Act, No 45 of 1965 (APPA) - Section 15	<p><i>Smoke emissions</i></p> <p>The operation will not install in or on any premises any fuel-burning appliance, unless such an appliance is provided with effective appliances to limit the emission of grit and dust to the satisfaction of the local authority. A local authority may require any person to furnish information as to the fuel or refuse used in fuel burning appliances.</p>	Ensure that best practice technology is used to prevent the escape into the atmosphere of noxious or offensive gases.
Atmospheric Pollution Prevention Act, No 45 of 1965 (APPA) – Section 16	No local authority will approve of any plan that provides for the installation of any fuel burning appliance, unless it is satisfied that a fuel burning appliance is suitably sited.	Ensure that best practice technology is used to prevent the escape into the atmosphere of noxious or offensive gases.

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Atmospheric Pollution Prevention Act, No 45 of 1965 (APPA) – Part IV	<p><i>Dust</i></p> <p>Part IV of the Act pertains to dust control and includes dust arising from industrial processes. In terms of section 27 the Minister may declare any area to be a dust control area for the purposes of the Act. If in terms of section 28 if the CAPCO is of the opinion that dust originating on any land in a dust controlled area is causing a nuisance to persons residing or present in the vicinity of that land, he may by notice in writing require such owner or occupier to take the prescribed steps or adopt the "best practicable means" for the abatement of such nuisance.</p>	Ensure that the operation adopt "best practicable means" in order to comply with the requirements of the relevant CAPCO.
Atmospheric Pollution Prevention Act, No 45 of 1965 (APPA) – Part V	<p><i>Vehicle emissions</i></p> <p>Part V of the Act deals with pollution emanating from vehicles and is applicable to areas specifically designated by ministerial order. The Minister may regulate the use on a public road of vehicles emitting specific noxious or offensive gases, or gases which are of a darker colour or greater density or specific content and he may prescribe the steps to be taken to prevent the emission of noxious or offensive gases and the methods to be applied to determine whether noxious or offensive gases are being emitted.</p>	Ensure that all vehicles travelling to and from the operation are compliant with the provisions contained in the regulations regulating vehicle emissions.
National Water Act (No 36 of 1998)	<p>Regulates the protection, use, development, conservation, management and control of water resources in South Africa. Provides for the Constitutional demands for pollution prevention, ecological and resource conservation, sustainable utilisation, the precautionary principle, social upliftment, participatory decision-making, transparency and just</p>	Appropriate water use permits must be applied for from the Department of Water Affairs and Forestry (DWAF), if required.

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	administrative action. In terms of this Act, water resource reserves for human use and maintaining sound ecosystems (the reserve) take precedence over agricultural and industrial demands. Water use permits are required to be obtained for water abstraction, water storage and water discharge in terms of Sections 27 – 29.	
Conservation of Agricultural Resources Act (No 43 of 1983)	Regulates agricultural natural resources and the conservation, management and use thereof. The most important features of this legislation are the measures provided for the prevention of soil erosion, the development of soil conservation schemes, the protection of wetlands and associated vegetation, the utilisation and protection of veld, the prevention of the spread of declared weeds and invader plants, and grazing management	Soil erosion prevention and soil conservation strategies must be developed and implemented. A weed control and management plan must be developed and implemented.
National Veld and Forest Fire Act (No 101 of 1998)	Purpose of this Act is to prevent and combat veld, forest and mountain fires throughout South Africa. The Act provides for a variety of institutions, methods and practices for achieving this purpose. Every landowner on whose land a fire may start or burn or from where a fire may spread must prepare and maintain a firebreak on his/her side of the border between his/her land and all the neighbours	Appropriate emergency response plans must be in place to respond to and combat fires associated with the proposed project. Appropriate fire breaks must be in place and be maintained.
Health Act (No 63 of 1977)	Temporary ablution facilities at construction camps are required to be approved in terms of this Act by the nearest local authority.	If applicable, approval must be obtained from the local authority for temporary ablution facilities during construction.
National Forest Act 84 of 1998	No one may cut, disturb, damage or destroy any indigenous tree in...a natural forest or a protected tree declared as such under section 12(1) or 14 (2) of the Act.	If applicable the necessary permit will be obtained from DWAF.

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Provincial Legislation		
Nature Conservation Ordinance (Act 19 of 1974)	Article 63 prohibits the picking (defined in terms of article 2 to include, cut, chop off, take, gather, pluck, uproot, break, damage or destroying of certain flora. Schedule 3 lists endangered flora and Schedule 4 lists protected flora. Articles 26 to 47 regulates the use of wild animals	Establish whether any of the species are listed in terms of Schedule 3 and 4, if so obtain a permit from Cape Nature. Consult Cape Nature before removal or donation of a wild animal is made or permitted.
Local Legislation		
City of Cape Town Air Pollution Control By-Law 12649- 4 February 2004- Provincial Gazette Extraordinary 5979 Section 7	No person will install, alter extend or replace any fuel-burning equipment on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans and specifications.	If applicable obtain written authorisation from the local council.
City of Cape Town Air Pollution Control By-Law 12649- 4 February 2004- Provincial Gazette Extraordinary 5979 Section 14	Section 14 prohibits the open burning of any material unless prior written authorization is obtained from the council.	
By-law relating to Community Fire Safety 11257 – 28 February 2002 – Provincial Gazette Extraordinary 5832 Section 37(1)	Prior to the construction of a new installation or the alteration of an existing installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building plan to the Municipality, in accordance with the National Building Regulations. And a copy of the approved plan must be available at the site where the installation is being constructed.	Submit building plans and obtain approval prior to construction from the Municipality.

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By-law relating to Community Fire Safety 11257 – 28 February 2002 – Provincial Gazette Extraordinary 5832 Section 37(2)	Prior to the commissioning of an aboveground or underground storage tank installation, liquid petroleum gas installation or associated pipework, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building regulations (T1), SABS 0131: Parts1 and 2, SABS 089:Part 3 and SABS 087: Parts 1,3 and 7 in the presence of the controlling authority.	Notify the authorities 48 hours prior to the pressure test.
By-law relating to Community Fire Safety 11257 – 28 February 2002 – Provincial Gazette Extraordinary 5832 Section 37(6)	The owner or person in charge of the premises, who requires to store a flammable gas in excess of 19 kilogram, or a flammable liquid of a danger group (i),(ii),(iii),or (iv) in excess of 200 litres must obtain a flammable substance certificate from the controlling authority.	If applicable submit an application to the controlling authority as prescribed in Schedule 2 of this By-law.
By-law relating to Community Fire Safety 11257 – 28 February 2002 – Provincial Gazette Extraordinary 5832 Section 41	The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building regulations (T1), read in conjunction with SABS 089: Part 1.	If applicable ensure that handling, storage and distribution is in accordance with National building regulations.
By-law relating to Community Fire Safety 11257 – 28 February 2002 – Provincial Gazette Extraordinary 5832 Section 53	The operator of a vehicle designed for the transportation of dangerous goods may not operate such a vehicle in the jurisdiction of the controlling authority, unless he has obtained a dangerous goods certificate issued by a fire brigade service in terms of the National Road Traffic Act	Obtain the dangerous goods certificates in respect of all vehicles transporting dangerous goods and keep the certificate available in the relevant vehicle.

LIST OF APPLICABLE NATIONAL LEGISLATION NOT YET TAKEN EFFECT AT DATE OF THIS DOCUMENT

Applicable Environmental Law	Aspect component	Compliance Requirement
National Environmental Management: Air Quality Act 39 of 2004 – Section 21 (Expected to take effect on 1 September 2005)	The Minister, or the MEC may by notice in the Gazette publish a list of activities which result in atmospheric emissions and which the Minister or MEC reasonable believes have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage.	Determine whether any of the activities undertaken by the applicant is a listed activity.
National Environmental Management: Air Quality Act 39 of 2004 – Section 22	No person may without a provisional atmospheric emission license or an atmospheric emission license conduct an activity listed on the national list anywhere in the Republic or listed on the list applicable in a province anywhere in that province.	Apply for an atmospheric emission license from the Metropolitan or District municipality (charged with implementing the atmospheric emission licensing system in terms of section 36)
National Environmental Management: Air Quality Act 39 of 2004 – Section 26	The Minister or MEC may by notice in the Gazette, declare a substance or mixture of substances which, when used as a fuel in a combustion process, result in atmospheric emissions which through ambient concentrations, bioaccumulation, deposition or in any other way, present a threat to health or the environment or which the Minister or MEC reasonable believes present such a threat, as a controlled fuel	Establish whether any of the substances or mixture of substances used as a fuel in a combustion process by the applicant is a controlled fuel.
National Environmental Management: Air Quality Act 39 of 2004 – Section 28	No person may manufacture, sell or use a controlled fuel unless that manufacture, sale or use complies with the standards established in terms of section 27.	Ensure that the standards as established in terms of section 27 are adhered to.
National Environmental Management: Air Quality Act 39 of 2004 – Section 61	Despite the repeal of the Atmospheric Pollution Prevention Act by section 60 of this Act, a provisional registration certificate issued in terms of that Act and which was a valid certificate immediately before the date on which section 60 took effect, continues to be valid for a period of two (2) years from that date in respect of a	If the applicant is the holder of a registration certificate apply for a renewal in terms of section 47 within the first three year period.

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	registration certificate it is valid for a period of four (4) years from that date. The holder of the registration certificate must within the first three (3) years of the four year period lodge a renewal application in terms of section 47 of this Act. If the holder fails to lodge a renewal application within the first three years the certificate expires at the end of the three years.	
National Environmental Management: Air Quality Act 39 of 2004 – Section 34	The Minister may prescribe essential national standards for the control of noise, either in general or specified machinery or activities or in specified places or areas; or for determining a definition of noise; and the maximum levels of noise	Ensure that the applicant is familiar with the contents of this section to ensure that it adheres to the standards prescribed by the Minister.
National Environmental Management: Air Quality Act 39 of 2004 – Section 35	The Minister or MEC may prescribe measures for the control of offensive odours emanating from specified activities. The occupier of any premises must take all reasonable steps to prevent the emission of any offensive odour caused by any activity on such premises.	Ensure that the applicant is familiar with the contents of this section to ensure that it adheres to the measures prescribed by the Minister for the control of offensive odours. Take all reasonable steps to prevent the emission of any offensive odour.
Petroleum Pipelines Act 60 of 2003 – Section 4 (Expected to take effect during October 2005)	The Petroleum Pipelined Regulatory Authority must as appropriate, in accordance with this Act issue licenses for the construction and conversion of petroleum pipelines, loading facilities and storage facilities and the operation of petroleum pipelines, loading facilities and storage facilities. <ul style="list-style-type: none"> • “petroleum” means crude oil and petroleum products; “petroleum products” means any liquid petroleum fuel and any lubricant, whether used or unused, and includes any other substance which will be used for a purpose for which petroleum fuel or any lubricant may be used; • “petroleum pipeline” means a pipeline used to transport petroleum excluding those located on the premises of a manufacturer of petroleum products or a storage facility; 	

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	<ul style="list-style-type: none"> “storage facility” means any bulk storage facility and its auxiliary equipment that is or is intended to be used for the storage of petroleum and excludes storage facilities – ((b) for own final use 	
Petroleum Pipeline Levies Act 28 of 2004 – Section 2	<p>The Minister may by notice in the Government Gazette impose levies payable to the Petroleum Pipelined Regulatory Authority. The levy is payable by the person holding title to the petroleum immediately after it has entered the inlet flange.</p> <p>“Petroleum” and “petroleum pipeline” means the same as in the Petroleum Pipelines Act 60 of 2003</p>	Establish whether a levy has been determined by the Minister and when it is payable. If applicable pay in time to avoid penalties and interest.
National Environmental Management : Biodiversity Act 10 of 2004 – Section 40	The Minister of MEC for environmental affairs in a province may by notice in the Gazette determine a geographic region as a bioregion for purposes of this Act if that region contains whole or several nested ecosystems and is characterized by its landforms, vegetation cover, human culture and history and publish a plan for the management of biodiversity and the components of biodiversity in such region.	Establish whether the development site falls within such a bioregion and ensure that you familiarize yourself with the measures for the effective management of biodiversity as contained in the bioregional plan.
National Environmental Management : Biodiversity Act 10 of 2004 – Section 43	The Minister may publish by notice in the Gazette a biodiversity management plan approved for (a) an ecosystem listed in terms of section 54 or an ecosystem that warrant special conservation attention (b) an indigenous species listed in terms of section 56 or a species which warrants special conservation attention.	Establish whether biodiversity management plans are in existence in respect of any ecosystem or species on the development site and if so familiarize yourself with the contents of the biodiversity management plan.
National Environmental Management : Biodiversity Act 10 of 2004 – Section 52	The Minister may by notice in the Gazette may publish a list of national ecosystems that are threatened and in need of protection; an MEC for environmental affairs in a province may publish a provincial list of ecosystems in the province that are threatened and in need of protection.	Establish whether any listed ecosystem occurs on the development site.

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National Environmental Management : Biodiversity Act 10 of 2004 – Section 53	The Minister may by notice in the Gazette identify any process or activity in a listed ecosystem as a threatening process. A threatening process must be regarded as a specified activity contemplated in section 24 (2)(b) of the National Environmental Management Act and a listed ecosystem must be regarded as an area identified for the purpose of that section.	Establish whether the proposed activity constitutes a threatening process, if so <input type="checkbox"/> authorization must be obtained from DEA&DP.
National Environmental Management : Biodiversity Act 10 of 2004 – Section 56	The Minister may by notice in the Gazette publish a list of critically endangered species, endangered species, vulnerable species and protected species	Establish whether any of the species found on the development site is a listed species.
National Environmental Management : Biodiversity Act 10 of 2004 – Section 57 (1)	A person may not carry out a restricted activity (as defined in section 1 of the Act) involving a specimen of a listed threatened or protected species without a permit issued in terms of Chapter 7.	Establish whether the proposed development of the site constitutes a restricted activity, if so obtain a permit from the issuing authority (In terms of section 97 the Minister may make regulations relating to the designation of organs of state which may be issuing authorities – no regulations published to date)
National Environmental Management : Biodiversity Act 10 of 2004 – Section 57 (2)	The Minister may, by notice in the Gazette prohibit the carrying out of any activity which is of a nature that may negatively impact on the survival of a listed threatened or protected species and which is specified in the notice or prohibit the carrying out of such activity without a permit issued in terms of chapter 7.	If applicable obtain a permit from the issuing authority.
National Environmental Management : Biodiversity Act 10 of 2004 – Section 65	A person may not carry out a restricted activity (as defined in section 1 of the Act) involving a specimen of an alien species (as defined in section 1 of the Act) without a permit issued in terms of chapter 7.	If applicable obtain a permit from the issuing authority.

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National Environmental Management : Biodiversity Act 10 of 2004 – Section 70,71	The Minister may by notice in the Gazette publish a list of invasive species; an MEC for environmental affairs in a province may publish a provincial list of invasive species. A person may not carryout a restricted activity (as defined in section 1 of the Act) involving a specimen of a listed invasive species without a permit issued in terms of Chapter 7.	If applicable obtain a permit from the issuing authority.