



environment
& tourism

Department:
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE BILL

PORTFOLIO COMMITTEE BRIEFING

22 OCTOBER 2008

Scope

- To provide an overview of the amendments made by the Select Committee on the Waste Bill; and
- To request the Portfolio Committee to consider the Bill for approval.



environment
& tourism

Department
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

General Approach of the Waste Bill

- Bill is framework legislation that provides the basis for the regulation of waste management
- Why Framework legislation:
 - detailed regulation of different types of wastes requires specific regulatory approaches to ensure that they are optimally managed from an environmental perspective
 - a “*one-size fits all*” approach frequently results in unintended consequences or undue regulatory burden without necessarily achieving the environmental objective



environment
& tourism

Department:
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

General Approach of the Waste Bill

- National and international trends in environmental legislation have been embraced in the Bill e.g inclusion of general duty of care
- Environment is a concurrent competence and the Bill must not limit provinces' powers to pass legislation
- The Bill must not create unnecessary duplication with existing legislation
- Bill provides for different types of regulatory approaches e.g.
 - Licensing may be good for certain activities but declaration of priority waste with accompanying regulatory measures might be better for certain waste streams.
- Avoid overburdening any sphere of government e.g. identification of investigation areas may be done by province or DEAT, not municipalities.



environment
& tourism

Department:
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Analysis of process

- **The NCOP process was conducted during May and June 2008**
- **All 9 Provinces submitted their negotiating mandates;**
- **Many comments received during the process were repeats of the departmental and Portfolio Committee process;**
- **Some comments had already been addressed;**
- **All provinces supported the Bill;**
- **Amendments proposed are summarised in the presentation.**



Amendments

Clause 1

In page 9, after line 7, The definition of waste is amended to specifically mention “waste generated by the mining, medical or other sector”

B39B

“waste” means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the *Gazette*,

B39D

“waste” means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the *Gazette*,

and includes waste generated by the mining, medical or other sector;



environment
& tourism

Department:
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Amendments

Clause 6

On page 11, in line 1, to omit “**Financial and Fiscal Commission Act, 1997**” and to substitute with “**Intergovernmental Fiscal Relations Act, 1997**”.

B39B

(3) The national waste management strategy—

(a) binds all organs of state in all spheres of government, and all persons if and to the extent applicable; and

(b) may, subject to section 3 of the **Financial and Fiscal Commission Act, 1997** (**Act No. 97 of 1997**), allocate and delineate responsibilities for the implementation of this Act amongst—

(i) the different spheres of government; and

(ii) different organs of state.

B39D

(3) The national waste management strategy—

(a) binds all organs of state in all spheres of government, and all persons if and to the extent applicable; and

(b) may, subject to section 3 of the **Intergovernmental Fiscal Relations Act, 1997** (**Act No. 97 of 1997**), allocate and delineate responsibilities for the implementation of this Act amongst—

(i) the different spheres of government; and

(ii) different organs of state.



environment
& tourism

Department:
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Amendments

Clause 29

On page 21, in line 28, after “municipality” to insert “**within a stipulated timeframe**”.

On page 21, in line 30, after “affairs” to insert “**within a stipulated timeframe**”.

B39B

29. (1) The Minister may, by notice in writing, require an industry waste management plan to be prepared by an organ of state, excluding a municipality.

(2) An MEC may, by notice in writing, require an industry waste management plan to be prepared by the provincial department responsible for environmental affairs.

B39D

29. (1) The Minister may, by notice in writing, require an industry waste management plan to be prepared by an organ of state, excluding a municipality, **within a stipulated timeframe.**

(2) An MEC may, by notice in writing, require an industry waste management plan to be prepared by the provincial department responsible for environmental affairs, **within a stipulated timeframe.**



environment
& tourism

Department
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Amendments

Clause 35

On page 23, from line 43, to omit subsection (2).

B39B

35. (1) This part applies to the contamination of land even if the contamination—

(a) occurred before the commencement of this Act;

(b) originated on land other than land referred to in section 38;

(c) arises or is likely to arise at a different time from the actual activity that caused the contamination; or

(d) arises through an act or activity of a person that results in a change to pre-existing contamination.

(2) This part does not apply to banks which held land before the commencement of this Act and which land is sold for the purposes of foreclosure, provided that the land is sold without delay.

B39D

35. (1) This part applies to the contamination of land even if the contamination—

(a) occurred before the commencement of this Act;

(b) originated on land other than land referred to in section 38;

(c) arises or is likely to arise at a different time from the actual activity that caused the contamination; or

(d) arises through an act or activity of a person that results in a change to pre-existing contamination.



environment
& tourism

Department
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Amendments

Clause 36

On page 24, in line 10, after “Minister” to insert “and MEC”.

B39B

(5) An owner of land that is significantly contaminated, or a person who undertakes an activity that caused the land to be significantly contaminated, must notify the Minister of that contamination as soon as that person becomes aware, of that contamination.

B39D

(5) An owner of land that is significantly contaminated, or a person who undertakes an activity that caused the land to be significantly contaminated, must notify the Minister **and MEC** of that contamination as soon as that person becomes aware, of that contamination.



Amendments

Clause 39

On page 25, in line 35, after “Minister” to insert “or MEC, as the case may be,”

B39B

(3) The Minister may instruct any official within his or her Department to ensure that the remediation order is complied with.

B39D

(3) The Minister **or MEC, as the case may be**, may instruct any official within his or her Department to ensure that the remediation order is complied with.



environment
& tourism

Department
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Amendments

Clause 47

On page 28, in line 12, to omit “**may**” and to substitute “**must**”.

B39B

B39D

(c) **may** invite written comments from any organ of state that has an interest in the matter; and

(c) **must** invite written comments from any organ of state that has an interest in the matter; and



environment
& tourism

Department
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Amendments

Clause 66

On page 35, after line 24, to insert the following subsection:

B39B	B39D
Renumbering of clauses	(3) An environmental management inspector or waste management officer must stipulate the documentation and information that should be included in a report submitted in terms of subsection (1) or (2).



environment
& tourism

Department
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

Recommendation

DEAT recommends that the Portfolio committee consider the Bill for approval.



environment
& tourism

Department:
Environment Affairs and Tourism
REPUBLIC OF SOUTH AFRICA