



# environmental affairs

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## PORTFOLIO COMMITTEE

### DEPARTMENT VIEW ON THE REFERENCE TO HUMAN HEALTH IN CLAUSE 15(a) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT LAWS AMENDMENT BILL [B13-2012] (NEMLA BILL)

#### 1. PURPOSE

The purpose of the submission is to respond to the question of the Portfolio Committee on Water and Environmental Affairs on whether "human health" in clause 15(a) of the NEMLA Bill does not create any overlap between the Department's mandate and that of the Department of Health.

#### 2. BACKGROUND AND DISCUSSION

- 2.1 On 28 August 2012, at the public hearings on the NEMLA Bill, the Portfolio Committee on Water and Environmental Affairs requested to be advised whether the reference to "human health" in clause 15(a) of the NEMLA Bill does not create any confusion between our mandate and that of the Department of Health?
- 2.2 Clause 15(a) of the NEMLA Bill inserts a new paragraph in section 44 of the National Environmental Management Act, 1998 (NEMA), which enables the Minister to develop regulations under NEMA. Clause 15(a) of the NEMLA Bill provides as follows:
- 2.2.1 "(aB) dealing with the prohibition, control, sale distribution, import or export of products that may have a substantial, detrimental effect on the environment or on human health; and"
- 2.2.2 The intention of the proposed amendment is to provide the Minister with a legal mandate to develop regulations to control products that may have a detrimental effect on the environment. An example is the asbestos regulations that were developed in terms of a similar empowering provision under the Environment Conservation Act, 1989. This section of the Environment Conservation Act, 1989 was repealed when the National Environment Management: Waste Act

came into operation. With the current amendment the Department wanted to include the proposed amendment under the section 44 of the NEMA.

2.3 The current wording of clause 15(a) of the NEMLA Bill appears to also empower the Minister with a legal mandate to develop regulations where products would impact on human health. The misleading words in clause 15(a) appears to be the words "or human health". This may lead to an overlap with the mandate of the Department of Health.

2.4 In order to avoid any duplication the Department proposes the deletion of the words "or human health" at the end of clause 15(a) of the NEMLA Bill. The main reason for the proposed deletion is that the definition of "environment" in NEMA already includes an element of human health. Therefore, the overall intention of clause 15(a) of the NEMLA Bill will not be lost with this proposed deletion. Accordingly, the proposed revised clause 15(a) will read as follows:

"(aB) dealing with the prohibition, control, sale distribution, import or export of products that may have a substantial detrimental effect on the environment; and"