



**environment
& tourism**

Department:
Environmental Affairs and Tourism
REPUBLIC OF SOUTH AFRICA

NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008 (Act No. 59 of 2008)

IMPLEMENTATION PLAN

March 2009

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1. Background

The Department of Environmental Affairs and Tourism (DEAT) as a lead agent for the pollution and waste management sector; has been progressively engaged in efforts to manage and minimise health and environmental impacts caused by waste. This is an obligation put on the State by section 24 of the Constitution, which states that everyone has a right to an environment which is not harmful to their health and well being. This implies that legislative measures which prevent pollution and ecological degradation should be in place to give effect to this right. The responsibility requires the Department to pass legislative framework to give guidance to the sector on how best the impacts of waste can be minimised and also encourage the incorporation of sustainable development principles in decision making. Following the promulgation of the National Environmental Management Act 107 of 1998, the Department saw a need to develop specific legislation which will concentrate on pollution and waste management, under the ambit of NEMA.

The development of the National Environmental Management: Waste Bill was preceded by a review of environmental legislation which started with the promulgation of the National Environmental Management Act 107 of 1998, as an overarching environmental legislation. This was followed by the White paper on Integrated Pollution and Waste Management for South Africa in 2000, and the National Waste Management Strategy and Action Plans in 1999. The objective of integrated pollution and waste management is to make a shift from fragmented and uncoordinated waste management approaches to promote a holistic approach to waste management. Such holistic and integrated management approach extends over the entire waste cycle from cradle to grave, and covers the prevention, generation, collection, transportation, treatment and final disposal of waste. Integrated waste management thus represents a paradigm shift in South Africa's approach to waste management in line with the global trends of sustainable development. The National Environmental Management Waste bill has also adopted the waste hierarchy prioritisation system of promoting prevention and minimisation measures at source, thereafter reuse and recycling and disposal as a last resort. The Waste Bill was therefore developed with a purpose to:

- To reform the law regulating waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development; to provide for institutional arrangements and planning matters; to provide for national norms and standards for regulating the management of waste by all spheres of government; to provide for specific waste management measures; to provide for the licensing and control of waste management activities; to provide for the remediation of contaminated land; to provide for the national waste information system; to provide for compliance and enforcement; and to provide for matters connected therewith.

The Waste Bill set out various activities and responsibilities which should be undertaken by different spheres of government including but not limited to the development of the national waste information system, the national waste management strategy, the appointment of waste management officers as well as development of

integrated waste management plans. The Waste Act implementation plan seeks to outline different activities as well as related time frames for smooth and coordinated implementation of the Act.

2. Purpose

The purpose of the implementation plan is to provide a short, medium and long term plan of the practical implementation of the National Environmental Management: Waste Act by the DEAT as well as the provincial and local government. This document should be used and read in conjunction with the Waste Bill.

3. Review of the Waste Act Implementation Plan

The Waste Act Implementation Plan will be reviewed after the finalisation of the National Waste Management Strategy which will be completed in 2011. The time frames for various deliverables will also be adjusted to align with the priorities identified in the NWMS.

4. Roles and Responsibilities for Waste Management

The government's roles and responsibilities are clearly spelt out in various government policies and legislation. However, these roles and responsibilities differ across spheres of government and include, as per section 24 of the constitution, legislative and other means to improve the level of waste management to ensure that the environment is not harmful to health and well-being. Hence, departments and spheres of governments with specific waste management mandate, including the DEAT, provincial environmental departments and all municipalities, would exercise their roles and responsibilities by implementing their respective waste management functions.

These differing roles and responsibilities are summarised as follows:-

The DEAT as the national lead agent for environmental management, including waste management, must therefore provide legislation, strategies and norms and standards for coordinated, integrated and cohesive waste management.

Provincial environmental departments are the provincial lead agents for environmental management, hence waste management, must therefore provide provincial regulations and norms and standards for coordinated, integrated and cohesive waste management.

As with the national department and provincial environmental departments, municipalities have exclusive functions and responsibilities with respect to providing waste management services, and they are also required to develop municipality standards and by-laws to ensure compliance to waste management legislation.

4.1. The National Department of Environmental Affairs and Tourism (DEAT)

4.1.1. Core prerequisites in the Act

- (a) **Section 6 (1)** Establish the National Waste Management Strategy (NWMS) within **2 years**.
- (b) **Section 7 (1)** Set national norms and standards for the:
 - Classification of waste
 - Planning and provision of waste management services
 - Storage, treatment and disposal of waste including the planning and operation of waste treatment and waste disposal facilities.
- (c) **Section 9 (4)** Support and strengthen the municipality's ability or right to perform waste management activities.
- (d) **Section 10 (1)** Designate an officer in the Department as the National Waste Management Officer.
- (e) **Section 11 (1)** Prepare Integrated Waste Management Plans(IWMP)
- (f) **Section 41 (1)** Keep a national contaminated land register of investigation areas.
- (g) **Section 43 (1)** Licensing Authority for waste management activities involving hazardous waste, obligations in terms of international agreements, activities undertaken by provincial and national departments or activities affecting more than one province
- (h) **Section 60 (1)** Establish a National Waste Information System

4.1.2. Important but non obligatory requirements in the Act

- (a) **Section 7 (2)** Set national norms and standards for the :
 - The minimisation, reuse, recycling and recovery of waste
 - Extended producer responsibility
 - The regionalisation of waste management services
 - The remediation of contaminated land and soil quality
- (b) **Section 7 (3)** Set national standards in respect of tariffs for waste services provided by Municipalities (with the concurrence of the Minister of Finance)
- (c) **Section 14 (1)** Declare a waste to be a priority waste
- (d) **Section 19 (11)** Publish a list of waste management activities
- (e) **Section 25 (1)** Require any person or category of persons who transport waste for gain to register with the Department
- (f) **Section 36 (1)** Identification and notification of investigation areas of contaminated land in the gazette
- (g) **Section 69 (1)** Make Regulations as required

4.1.3. Other useful tools

The DEAT will also undertake the following activities in order to enhance implementation of the provisions of the Act:

- (a) Develop a simplified version of the Bill for the general public
- (b) Develop templates and forms for decision making: e.g. Licensing
- (c) Develop procedures and guidelines for :
 - Integrated Permitting Approach
 - Integrated Waste Management Plans
 - Industry Waste Management Plans
- (d) Conduct training for the provinces to perform their functions e.g. licensing
- (e) Develop a compliance and enforcement strategy for the Bill, including specialised training for Environmental Management Inspectors (EMIs)
- (f) Develop standard licensing conditions for the listed waste management activities
- (g) Develop implementation guideline for the implementation, operation, reporting and management of the Waste Information System

4.2. The Provincial Departments of Environment

4.2.1. Core prerequisites in the Act

- (a) **Section 8 (1)** Ensure the implementation of the national waste management strategy and national norms and standards
- (b) **Section 9 (4)** Support and strengthen the municipality's ability or right to perform its functions in relation to waste management activities
- (c) **Section 10 (2)** Designate in writing an officer in the provincial administration as provincial waste management officer for coordinating matters pertaining to waste in that province.
- (d) **Section 11 (1)** Provincial departments responsible for waste management must prepare IWMPs

4.2.2. Important but non obligatory requirements in the Act

- (a) **Section 8 (2)** Set provincial norms and standards that are not in conflict with national norms and standards.
- (b) **Section 14 (2)** Declare a waste to be a priority waste
- (c) **Section 19 (5)** Publish a list of waste management activities
- (d) **Section 36 (1)** Identify investigation areas
- (e) **Section 62 (1)** Establish a provincial waste information system
- (f) **Section 70 (1)** Make Regulations for the Province (with concurrence of the Minister)

4.3. Municipalities

4.3.1. Core prerequisites in the Act

- (a) **Section 9 (1)** To deliver waste management services including waste removal, waste storage and waste disposal services in a manner that does not conflict With section 7 or 8 of this Act. (section 7-national norms and standards, section 8 Implementation of national waste management strategy)
- (b) **Section 10 (3)** Municipality must designate a waste management officer
- (c) **Section 11 (4)** Municipality must submit an IWMP to the MEC and include its IWMP in the Integrated Development Plan (IDP)
- (d) **Section 11 (6)** Municipal IWMP must be coordinated and aligned with plans, strategies and programmes of the Department and provincial departments
- (e) **Section 23 (2)** Every municipality must subject to this Act, and as reasonably as possible, provide containers or receptacles for the collection of recyclable waste that are accessible to the public.

4.3.2. Important but non obligatory requirements in the Act

- (a) **Section 9 (3)** Set local standards in respect of the separation, compacting and storage of solid waste collected as part of the municipal service and for management solid waste disposed at a waste disposal facility and control of litter
- (b) **Section 25 (1)** Develop register for transporters of waste

5. Actions and timelines

Table 1: DEAT Core prerequisite of the Act

Sections	Compulsory requirements	Documents that could inform process	Target Date
6. (1)	Establish the National Waste Management Strategy	<ul style="list-style-type: none"> National Waste Management Strategy 1999 Available (NWMS) 	2011
7. (1)	Set national norms and standards for the		
	(a) Classification of Waste	<ul style="list-style-type: none"> Hazardous – 9 classes (SANS) and General Waste SABS standards GHS DWAF Minimum Requirements 	2010
	(b) Storage, treatment and disposal of waste including planning and operation of waste treatment and disposal facilities. <i>a) Storage</i> <i>b) Treatment</i> <i>c) Disposal</i> <i>d) Planning & Operation</i>	<ul style="list-style-type: none"> DWAF Minimum requirements 	2011
	(c) Planning and provision of waste management ser-	<ul style="list-style-type: none"> Domestic waste collection standards to be developed 	2009

Sections	Compulsory requirements	Documents that could inform process	Target Date
	vices		
9 (4)	Support and strengthen the municipality's ability or right to perform waste management activities	<ul style="list-style-type: none"> • None 	2011
10. (1)	Designate an Officer in the Department as the National Waste Management Officer	<ul style="list-style-type: none"> • Guideline for appointment of Air Quality Officers 	Designation should be a month after promulgation
11 (1)	Prepare Integrated Waste Management Plans(IWMP)	<ul style="list-style-type: none"> • None 	2011
43 (1)	Licensing Authority for waste management activities involving hazardous waste, obligations in terms of international agreements, activities undertaken by provincial and national departments or activities affecting more than one province.	<ul style="list-style-type: none"> • None 	On going
60. (1)	Establish a National Waste Information System	<ul style="list-style-type: none"> • None 	2009

Table 2: DEAT- Important but non obligatory requirements of the Act

Sections	Important but non-compulsory requirements in the Act	Documents that could inform process	Target Date
7. (2)	Set national standards for the:		
	Minimisation, reuse, recycling and recovery of waste	<ul style="list-style-type: none"> Guidelines for recycling of solid waste available 	2011
	Extended producer responsibility	<ul style="list-style-type: none"> None 	2011
	The regionalisation of waste	<ul style="list-style-type: none"> None 	2011
	The remediation of contaminated land and soil quality	<ul style="list-style-type: none"> None 	2010
7. (3)	Set national standards in respect of tariffs for waste services provided by Municipalities	<ul style="list-style-type: none"> None 	2011
14. (1)	Declare a waste to be a priority waste	<ul style="list-style-type: none"> None 	2011
19. (11)	Publish a list of waste management activities	<ul style="list-style-type: none"> Draft Activity list 	As Bill is promulgated

Sections	Important but non-compulsory requirements in the Act	Documents that could inform process	Target Date
25. (1)	Require any person or category of persons who transport waste for gain to register with the department	<ul style="list-style-type: none"> None 	2011

Table 3: Development of Regulations

Ref.	Description	Target Date
69.(1)a	The identification and categorisation of waste	2011
b	The manner in which particular waste types must be dealt with and managed	Health Care Waste Regulation 2010
c	The manner in which priority waste must be dealt with and managed	2011
d	Requirements for monitoring of compliance with this Act or any licence issued in terms of this Act	2011
e	Waste Management Planning	2010
f	The exercise of the duty of care	
g	Measures that are required for the environmentally sound management of waste	2011
h	Requirements in respect of waste management activities	2011
i	Measures that must be taken in respect of the implementation of waste minimisation, including the setting of targets or percentages of products that must be recovered under a re-use, recycling, refundable deposit or take-back programme.	2011
j	The control of the import or export of waste	2011
k	The obligation of producers of a specified product or class of product to carry out a life cycle assessment in relation to the product.	2011

Ref.	Description	Target Date
l	The requirements that must be complied with in respect of the design, composition or production of a product or packaging, including in respect of: <ul style="list-style-type: none"> • The restriction of the composition, volume or weight of packaging • The reduction, re-use, recycling and recovery of packaging; and • The use of alternative materials that is less harmful to the environment. 	2011
m	The utilisation of waste by way of recovery, reuse and recycling	2011
n	The reduction of waste by <ul style="list-style-type: none"> • The adoption of certain manufacturing process • The use of alternate materials that are less harmful to the environment 	2011
o	The financial arrangements of waste minimisation programmes	2011
p	The institutional arrangements for the administration of waste minimisation programmes	2011
q	The control over waste management facilities	2011
r	Labelling requirements in respect of waste management	2011
s	The location, planning and design of waste management activities	2011
t	The registration of persons transporting waste	2011
u	The manner in which a site assessment in terms of section 37 must be conducted and the person who may conduct such site assessments	2010
v	The contents of a site assessment report contemplated in section 37, including persons who may undertake such site assessments	2010
w	The manner in which an application for a waste management licence must be made, including the persons who may manage such applications	2011
x	Requirements in respect of the funding or insuring of a waste management activity	2011
y	The nature, type ,time period and format of data and information to be submitted in terms of a waste information system established in terms of this Act	2009
z	The procedure for the institution of appeals against decisions of officials in the performance of their functions in terms of this Act	2011
aa	The dissemination of information to the public	2009
bb	Incentives and disincentives to encourage a change in behaviour towards the	2011

Ref.	Description	Target Date
	generation of waste and waste management by all sectors of society	
cc	Matters that must be regulated by a contract between a municipality and any waste management service provider	2011
dd	Any matter that may or must be prescribed in terms of this Act	2011
ee	Any other administrative or procedural matter that it is necessary for the proper administration and implementation of this Act.	2011

Table 4: Other useful tools

Item	Documents that could inform process	Target Date
Develop a simplified version of the Bill for the general public	<ul style="list-style-type: none"> • None 	2009
Templates and forms for decision making	<ul style="list-style-type: none"> • None 	2010
Guidelines for Integrated Waste Management Plans	<ul style="list-style-type: none"> • None 	2009
Guidelines for Industry Waste Management Plans	<ul style="list-style-type: none"> • None 	2009
Training for the provinces(who will have new licensing function) and local government	<ul style="list-style-type: none"> • None 	2012

Compliance and Enforcement strategy for the Bill including specialized training for EMIs	<ul style="list-style-type: none"> • None 	2010
Develop implementation protocols for the implementation, operation, reporting and management of the Waste Information System.	<ul style="list-style-type: none"> • Guideline developed during the development of WIS 	Updated annually

Table 5: Interdependence between the Waste Act and other legislation

Legislation	Co-ordination requirements	Action	Timeframe
NEMA (Act 62 of 2008)	Provides for integrated licence	Develop necessary procedures	March 2010
NEM: Air quality Act	Requirements relating to emissions from waste management activities	Develop procedures to ensure implementation of an integrated approach which will lead to a single assessment process in respect of air emissions	In time for review of National Air Quality Framework
Consumer Protection Act	Provides for labelling requirements for products to be recycled	Develop procedures to ensure that there is no duplication of requirements	March 2010
Road Traffic Act	Prescribes requirements for transport of dangerous goods	Develop and approach which does not lead to duplication of requirements	

6. Sections to be delayed

6.1. Preparation of industry waste management plans by certain persons

Section 28 (7) (a) A person, category of persons or industry contemplated in subsection (1) or (2) may elect to prepare an industry waste management plan for approval in terms of this Part without being required to do so by the Minister or MEC.

Reason for delay: Guidelines must be developed on how the Industry waste management plans must be developed. The guidelines will be developed in the 2008/09 financial year

6.2. Appointment of persons to manage waste management licence applications

Section 46 (1-2) Application for licence

(1) The licensing authority may by written notice to an applicant require that applicant, or by notice in the *Gazette* require applicants, at own cost, to appoint an independent and suitably qualified person to manage an application.

(2) If an applicant is required to appoint an independent person, the applicant must:
(a) take all reasonable steps to verify that the person to be appointed is independent and has expertise in the managing of waste management licence applications; and
(b) Provide the appointed person with access to all information at the disposal of the applicant reasonably required for the application, whether or not that information is favourable to the applicant.

Reason for delay: Regulations must be developed to clarify who is a “suitably qualified person” (Section 69 (1) (w) the manner in which an application for a waste management licence must be made, including the persons who may manage such applications.

6.3 Part 8 of Chapter 4: Contaminated land

All sections in part 8 will be delayed until there are standards for remediation of contaminated land.

7. Contact details

Ms Nolwazi Cobbinah
Department of Environmental Affairs and Tourism
Chief Director: Pollution and Waste Management
Private bad x447
Pretoria
0001
Tel: 012 310 3388
E-mail: ncobbinah@deat.gov.za

Mr Obed Baloyi
Department of Environmental Affairs and Tourism
Director : Waste Policy and Information Management
Chief Directorate Pollution and Waste Management
Private bag x447
Pretoria
0001
Tel: 012 310 3833
E-mail: obaloyi@deat.gov.za