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GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. 1025

30 October 2009

ENVIRONMENTAL MANAGEMENT PLAN

As Required In Terms of Section 11(2) of The National
Environmental Management Act

SECOND EDITION

December 2007

EXECUTIVE SUMMARY

This second edition of the Environmental Management Plan has been developed for the Department of Labour in response to the requirements of Schedule 2 of the National Environmental Management Act (107 of 1998). An Environmental Management Plan is required since the Department exercises functions that involve the management of the environment.

The main focus of the Department of Labour is on the environment of the workers. Since 2001, after the first edition of EMP, the Department has managed to achieve amongst others, the following:

- Promulgation of the Construction Regulations and Hazardous Biological Agents Regulations
- It has finalized the revision of the General Safety Regulations
- The successful review of labour laws which led to the introduction of amendments to the Labour Relations Act (RLA), and the Basic Conditions of Employment Act (BCEA). This made our laws more sensitive to job creation.
- Successful blitz inspections and advocacy campaigns were conducted, targeting high risk sectors like agriculture, construction, manufacturing, and wholesale and retail trade. About 3 800 workplaces were inspected and 100 shop stewards were trained together with 147 inspectors to collaborate in enforcing occupational health and safety legislation, resulting in a noticeable decrease in the number of accidents, injuries and fatalities reported in these targeted industries by 3,8% in 2005/06 and by 18% from April to September 2006.
- Sectoral determinations were introduced in order to improve the position of vulnerable workers. These have included determinations covering workers in the private security sector, domestic workers, farm workers, and workers in the wholesale and retail sector. A National Programme of Action is also being developed to address the critical challenge of child labour.

The Environmental Management Plan provides a brief description of the *mandate and functions of the Department of Labour*, with regard to the environment. It describes mechanisms and procedures for cooperative governance for environmental management. Brief descriptions are also provided of the environmental management policies, norms or standards that the Department of Labour has in place, as well as the proposed plans and procedures for environmental management.

An important function of the Environmental Management Plan is to outline the priority actions required by the Department of Labour in order to integrate environmental management within its functions. These actions will assist in developing an environmental ethic within the Department and are summarised as follows

- *Develop an efficient communication network for effective environmental management planning.* The development by the Department of Labour of norms and standards, regulations and policies with regard to the

environment will have implications for other sectors of government and will be impacted upon by policies from these sectors. Therefore, strategic planning and cooperation between the Department and other government departments is required.

- *Develop and implement environmental management policy and supporting legislation in accordance with existing Labour Acts and national environmental policy and legislation.* The Department will plan for, and provide, a suitable framework strategy that will enable their officials to execute their functions in accordance with the requirements of national environmental legislation.
- *Develop and implement instruments to give effect to these policies and strategies.* Guidelines should be developed for environmental management by the Department of Labour and in the workplace, ie the responsibilities of employers. Policies and other relevant instruments will be developed or existing ones amended, in order to ensure environmental management is achieved by the Department of Labour's functions as well as in the workplace.
- *Develop specific environmental indicators to measure the performance of the Department in terms of its environmental management.*
- *Involve stakeholders in the process of developing and revising policy to include environmental management.* Stakeholders include national, provincial and local government departments, organised business and organised labour. Involvement of these stakeholders should prevent any conflicting policies from being developed by the various government departments.
- *Improve the expertise and capacity of the Department's officials in order to strengthen the effectiveness of the implementation of environmental management in the workplaces.*
- *Create an awareness among all Department of Labour staff that environmental management is part of the functions of the Department.*
- *Report on progress with the implementation of this EMP.* In its annual report to DEAT, DOL will report on its progress with implementation of this EMP.
- *Revise and update the EMP as required by NEMA.* The EMP will be updated every four years and submitted to the CEC.

The Environmental Management Plan will be updated every four years and submitted to the Committee for Environmental Co-ordination. The updated versions will include progress made with the implementation of this management plan and details on compliance with the Department's policies by other organs of state and employees. Once the Environmental Management Plans of the other government departments have been submitted and approved by the Committee for Environmental Co-ordination, the Department of Labour will be able to comment, in their annual report to the Department of Environmental Affairs and Tourism, on whether they are compatible as well as the extent of compliance with their departmental Environmental Management Plan both by the Department of Labour themselves and other departments.

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ACRONYMS

ACOHS	–	Advisory Council for Occupational Health and Safety
CEC	–	Committee for Environmental Co-ordination
CESMHM	–	Committee for Environmentally Sound Management of Hazardous Materials
DEAT	–	Department of Environmental Affairs and Tourism
DME	–	Department of Mineral and Energy
DOA	–	Department of Agriculture
DOH	–	Department of Health
DOL	–	Department of Labour
DOT	–	Department of Transport
DSS	–	Department of Safety and Security
DTI	–	Department of Trade and Industry
EIP	–	Environmental Implementation Plan
EMP	–	Environmental Management Plan
GMO	–	Genetically Modified Organism
HBA	–	Hazardous Biological Agent
IDZ	–	Industrial Development Zone
ILO	–	International Labour Organisation
IMO	–	Internal Management and Operations
INDAC	–	Interdepartmental advisory committee for the protection of humans against poisonous substances
LED	–	Local Economic Development
NCOH–		National Centre for Occupational Health
NEMA–		National Environmental Management Act
NSA	–	National Skills Authority
NSSD	–	National Strategy for Sustainable Development
OHS	–	Occupational Health and Safety
OHSA–		Occupational Health and Safety Act
POP	–	Persistent Organic Pollutant
RRT	–	Retrenchment Response Team
SABS	–	South African Bureau of Standards
SDI	–	Spatial Development Initiative
SETA	–	Sector and Education Training Authority
SMME	–	Small, Medium and Micro Enterprise
UIF	–	Unemployment Insurance Fund
UN CSD	–	United Nations Commission for Sustainable Development
UNEP	–	United Nations Environment Programme

CHAPTER 1: INTRODUCTION

1.1. THE PURPOSE OF THE ENVIRONMENTAL MANAGEMENT PLAN (EMP)

Within the ambit of environmental management, the promulgation of the National Environmental Management Act (NEMA), Act 107 of 1998, (Chapter 3), has made provision for the basis of co-operative government relations. This has been achieved through the establishment of the Committee for Environmental Co-ordination (CEC), as well as the call for submissions of Environmental Implementation Plans (EIPs) and Environmental Management Plans (EMPs). EIPs and EMPs are primarily statutory instruments in the promotion of co-operative governance around environmental management, through the alignment of governmental policies, plans, programmes and decisions within the environmental ambit. Ultimately, EIPs and EMPs should contribute to securing the protection of the environment, within the context of sustainable development.

National government departments have been divided into two categories. The first, as listed in Schedule 1, are those departments exercising functions, which may affect the environment and are required to submit an EIP. The second category as listed in Schedule 2 is composed of departments exercising functions that involve the management of the environment and are required to submit an EMP.

All departments listed in Schedule 2 of the NEMA are required to submit an EMP within one year of the promulgation of NEMA and at least every four years thereafter. The Department of Labour (DOL) falls into the category of exercising functions that involve the management of the environment and hence a first edition EMP needs to be submitted to the CEC.

1.2. THE ENVIRONMENT AND ENVIRONMENTAL RIGHTS

At the broad Constitutional level, effect has been given to environmental rights through Section 24, which states that:

"Everyone has the right –

- (a) to an environment that is not harmful to their health and well-being; and*
- (b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that-*
 - (i) prevent pollution and ecological degradation;*
 - (ii) promote conservation; and*
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."*

Sections 7 and 8 of the Constitution binds the state to promote, fulfill and give effect to the bill of rights. It is the obligation of government to ensure that the

above mentioned environmental rights are sufficiently addressed through the appropriate instruments and mechanisms.

The definition of the environment as stated in the NEMA (Section 1 (xi)) is as follows:

"The surroundings within which humans exist and are made up of –

- (i) the land, water and atmosphere of the earth;*
- (ii) micro-organisms, plant and animal life;*
- (iii) any part or combination of (i) and (ii) and the interrelationships among and between them, and*
- (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being."*

Currently, environmental management functions are highly fragmented, both horizontally between departments and vertically between spheres of government. There is therefore a need to have an efficient mechanism that allows co-operation between the various sectors. The EMP has an important role to play in this regard.

1.3. CO-OPERATIVE GOVERNANCE AND THE CONSTITUTION

Co-operative governance is a new approach to governance that shifts from a narrow concern with government to a wide range of governance mechanisms, which are concerned with the growing role of associations, different agencies and partnerships, and that reflects the dynamic and interactive nature of co-ordination.

Starting at government level, there is distinct agreement that no country today can effectively meet its challenges unless the various parts of government:

- co-ordinate their activities to avoid wasteful competition and costly duplication;
- develop a multi-sectoral perspective on the interests of the country as a whole, and respect the discipline of national goals, policies and operating principles;
- settle disputes constructively without resorting to costly and time-consuming litigation;
- collectively harness all public resources within a framework of mutual support ; and
- rationally and clearly divide between them the roles and responsibilities of government, so as to minimise confusion and maximise effectiveness

The advocacy of the model of co-operative governance has found itself embedded within the New Constitution of South Africa. This has been reflected and promoted in the functioning of the various departments within national government.

The need and importance of co-operative governance has been recognized at national level through Chapter 3 of the Constitution (Act 108 of 1996), which provides the principles and foundations of such relations.

Some of the key principles of co-operative government and intergovernmental relations as stated in Chapter 3 are highlighted below.

"All spheres of government and all organs of state within each sphere must – co-operate with one another in mutual trust and good faith by –

- (i) fostering friendly relations;
- (ii) assisting and supporting one another;
- (iii) informing one another of, and consulting one another on, matters of common interest;
- (iv) co-ordinating their actions and legislation with one another;
- (v) adhering to agreed procedures; and
- (vi) avoiding legal proceedings against one another (Act 108 of 1996)."

1.4. LINKAGE TO THE ANNUAL NATIONAL REPORT ON SUSTAINABLE DEVELOPMENT TO THE UNITED NATIONS COMMISSION FOR SUSTAINABLE DEVELOPMENT

The NEMA defines sustainable development as:

"the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations."

There is a definitive need to ensure that linkages between the various spheres and government departments are maintained in the promotion of sustainable development. The Department of Labour, in addition to its environmental management functions, is also highly involved in the economic arena from the perspective of employment and labour issues. These provide important links towards the overall aim of sustainability.

One of the objectives of the United Nations Commission for Sustainable Development (UN CSD) is to develop tools to measure progress towards sustainable development for all countries. A sustainable development indicator programme has been established by the UN CSD to create a viable and flexible system for monitoring progress on sustainable development, strategies, policies and activities. Regular reporting is, however, required from countries to assist the UN CSD in their assessment and evaluation of the usefulness of the indicator programme in this regard.

The Department of Environmental Affairs and Tourism (DEAT), as the lead agent for the environment in South Africa, is responsible for providing the UN CSD with an annual report on sustainable development. Many countries in the world have already developed strategies for the implementation of Agenda 21, mainly through structures such as national councils for sustainable development. Information is however, lacking for the development of a South African National Strategy for Sustainable Development (NSSD). DEAT has therefore, requested Government departments represented on the CEC, to provide additional information on sustainable indicators within their EIPs and EMPs, that will assist in the annual reporting process (refer to **Figure 1**) to the UN CSD on progress made with the implementation of Agenda 21.

With the development of a South African Strategy for Sustainable Development, DEAT has indicated how they intend to link the information obtained in the EIPs and EMPs to the annual reporting to the UN CSD and the development of a NSSD for South Africa.

According to **Figure 1**:

1. Information obtained in the EIPs and EMPs will be used as baseline documents for the compilation of an annual report to the UN CSD.
2. Information obtained from the EIPs, EMPs and the annual reports will be consolidated to develop a NSSD Discussion Document.
3. The NSSD Discussion Document will go through a public consultation process where a framework document and Table of Contents will be finalized for the NSSD.
- 4 & 5. A first draft NSSD Document will be produced which will go through another consultation process with authorities and other stakeholders.
6. National environmental priorities and sustainable development indicators will then be refined.
- 7 & 8. A final version of the NSSD will be produced, which must be implemented. Through the submission of EIPs and EMPs, DOL will also be monitored for compliance to the NSSD and performance in this regard.

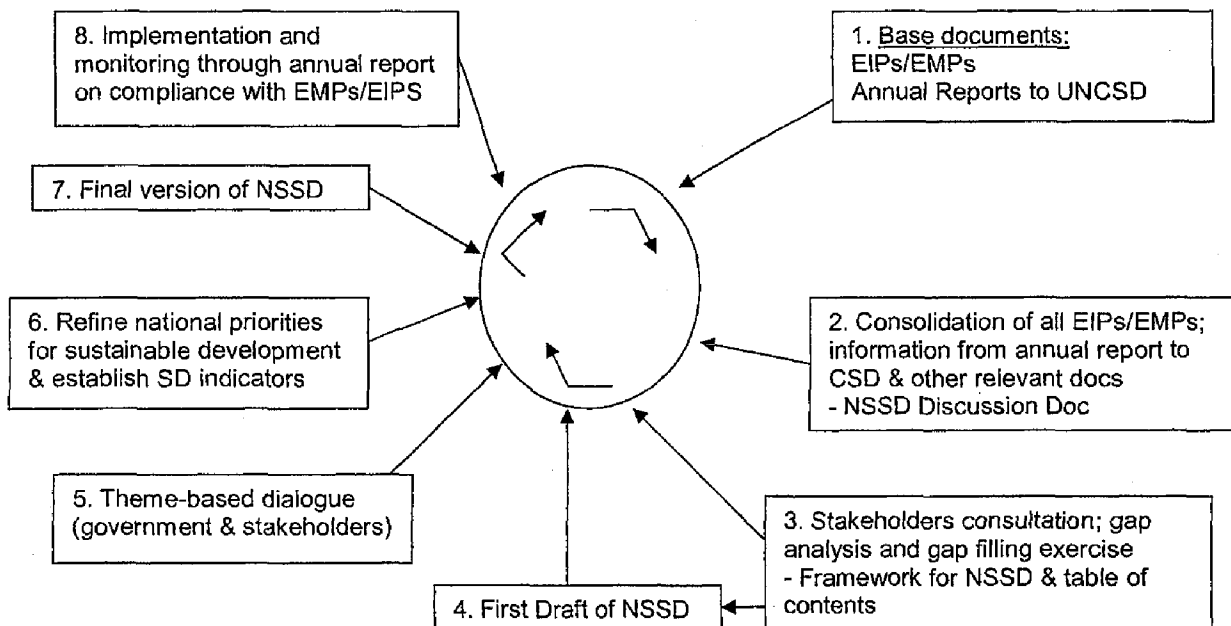


Figure 1: Proposed Annual Reporting Process to United Nations Commission for Sustainable Development

Based on the guidelines for the compilation of the EMP, discussions with DEAT and the above, the approach adopted for the structuring of this report follows.

1.5. REPORT STRUCTURE

This EMP has been developed in accordance with the Guidelines for Preparation of first edition EIPs and EMPs (DEAT 1999) and is structured as follows:

Chapter Two examines the mandate and functions of the DOL.

Chapter Three examines institutional arrangements.

Chapter Four describes briefly how environmental management issues are considered in the existing departmental policies.

Chapter Five provides the priority actions required to be undertaken by DOL as part of their EMP and to develop an environmental ethic within the national, provincial and local Labour departments.

CHAPTER 2: MANDATE AND FUNCTIONS OF THE DEPARTMENT OF LABOUR

2.1. VISION AND MISSION

2.1.1 Vision

The Department of Labour's vision is "to strive for a labour market, which is conducive to economic growth, investment and employment creation and is characterized by rising skills, equity, sound labour relations, respect for employment standards and workers' rights".

2.1.2 Mission

The Mission of the DOL will play a significant role in reducing unemployment, poverty and inequality through a set of policies and programmes developed in consultation with social partners, which are aimed at:

- improved economic efficiency and productivity;
- skills development and employment creation;
- sound labour relations;
- eliminating inequality and discrimination in the workplace;
- alleviating poverty in employment;
- enhancing occupational health and safety awareness and compliance in the workplace;
- nurturing the culture of acceptance that worker rights are human rights;

The DOL has been involved in a range of activities, which have had a direct impact in improving people's rights in the workplace. The DOL has achieved this by initiating and implementing legislation enabling the promotion of sound and stable relations at the workplace, protecting the rights of workers and

employers, and by providing a range of services including those in the remotest parts of the country.

The Ministerial Programme of Action for the next five years, covering period 2004 to 2009, is intended to serve as a yardstick for the Department in this period on the following areas:

- To consolidate the Department's attention towards key aims and objectives as elaborated in the Ministerial Programme of Action
- To enable the Department to assess achievements and challenges against a set of key targets
- To allow the South African public in general, and the labour market community in particular, to hold the Department accountable against a set of key commitments made.

2.2 DEPARTMENT OF LABOUR STRUCTURE

The DOL has been able to fulfil its mandate through the structural mechanisms that are in place to ensure its effective functioning. The following Programmes make up the department:

- Administration
- Service Delivery
- Employment and Skills Development Services/Human Resources Development
- Labour Policy and Labour Market Programmes
- Social Insurance

2.3. FUNCTIONS OF THE DEPARTMENT OF LABOUR

2.3.1. Programme: Administration

The purpose of this programme is to conduct the overall management of the Department and provide support and advisory services.

2.3.2. Programme: Service Delivery

The overall objective of this programme is to protect the health and safety of workers and implement and enforce Department of Labour policies.

2.3.3. Programme: Employment and Skills Development Services/ Human Resources Development

The purpose of this programme is to achieve the strategic objectives and equity targets of the National Skills Development Strategy and contribute to the achievement of the strategic objectives of the National Human Resources Development Strategy.

2.3.4. Programme: Labour Policy and Labour Market Programmes

The main objective of this programme is to establish an equitable and sound labour relations environment and promote South Africa's interests in

international labour policy and providing data and statistics on the labour market, including providing support to institutions that promote social dialogue.

2.3.5. Programme: Social Insurance

This programme provides for administrative and other support services to the Unemployment Insurance Fund (UIF) and the Compensation Fund (CF), and manages government's contribution to the activities of these funds.

2.4 ENVIRONMENTAL FUNCTIONS OF THE DOL

Coordination for the implementation of the EMP, is driven from the Branch: Corporate Services in consultation with experts from Occupational Health and Safety Chief Directorate. Each Branch will need to have at least one staff member who is responsible for ensuring that within the functioning of their Branch, all the environmental initiatives that are introduced by the DOL are complied with (see **section 5.1.9** where this is discussed in further detail).

Within the workplace environment, the inspection arm of the DOL is responsible for enforcing and ensuring that the contents of its legislation and regulations, as applicable to the environment, are adhered to by the employer. These provincial offices carry out all inspection services that are advocated by the legislation and policies of the OHS ambit, including workplace environmental inspections.

2.4.1 NEMA Principles

The principles of NEMA serve as the general framework within which environmental management and implementation plans must be formulated. The environmental functions of the DOL that are of key relevance to the EMP broadly fit into the ambit of the following NEMA principles as detailed below.

2.4.1.1. *Nema Principle (2) (4) (j)*

“The right of workers to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected”

The mandate given to the Chief Directorate of Occupational Health and Safety is to ensure that the employer makes work conditions safe and healthy for workers, which is the basis of the occupational health discipline. This mandate however, excludes the health and safety of mineworkers, workers on load line ships, fishing boats and floating cranes. The protection of the health and safety of the general public from hazards related to work activities is also part of the Department's OHS mandate. The implementation of the mandate is realised by the provisions contained in the Occupational Health and Safety Act (Act 85 of 1993), and accompanying regulations of which the DOL is custodian.

2.4.1.2. *NEMA Principle (2) (4) (e)*

“Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle”

Other important environmental management functions of the DOL lie within the regulations that the Department is custodian of. These give effect to some aspects of the Occupation Health and Safety Act.

Of particular relevance are the following:

- Lead regulations (1991);
- Asbestos regulations (1987);
- Hazardous installation regulations (1998); and
- Hazardous chemical substances regulations

As the custodian of the above regulations, the DOL has to develop health and safety standards to ensure that chemicals are not only used, processed or handled without risk to health and safety in the workplace, but also with regard to the transport and accidental spillage/release of these into the environment. This has a great environmental impact and the management of this function is put into effect by the safe handling of these chemicals and emergency response procedures that should be in place to ensure that these impacts are minimal. The employer is responsible for ensuring that the safety procedures are in place for the various substances at stages such as labeling, packaging, transportation, storage and disposal, thus ensuring that the safety of both workers that are in contact with these, as well as the people and surrounding environment are protected from any potential adverse impacts.

2.4.1.3. *NEMA Principle (2) (4) (a) (iv)*

Sustainable development requires the consideration of all relevant factors including the following:

“That waste is avoided, or where it cannot be altogether avoided, minimized and re-used or recycled where possible and otherwise disposed of in a responsible manner”

This principle is given effect through the disposal of substances, which fall within the ambit of the various regulations that the DOL administers. Provision is made within the regulations for the recycling of these substances, and where this is not possible, then for these to be placed into containers that prevent spillage and disposed of. In addition, the disposal of such substances must be carried out in accordance with the provisions as stated in the Environment Conservation Act (Act 73 of 1989), in such a manner that it does not pose a hazard inside or outside the site concerned.

It is through the inspection services of the DOL that monitoring of the above ensures that harmful wastes are disposed of in an appropriate manner.

2.4.1.4. *NEMA Principle (2) (4) (a) (viii)*

Sustainable development requires the consideration of all relevant factors including the following:

“That negative impacts on the environment and on people’s environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimized and remedied.”

This is once again given effect through the regulations discussed earlier (section 2.4.1.2). Preventative measures are advocated by the regulations, which allow for the negative aspects of these chemicals on worker’s health to be taken into account and appropriate control measures implemented which may include proper respiratory equipment to be used, and protective clothing to be worn, to reduce and prevent adverse effects. In addition, these regulations require that the release of some of these substances into the atmosphere must comply with the requirements of the Atmospheric Pollution Prevention Act (Act 45 of 1965).

2.4.1.5. *NEMA Principle (2) (4) (i)*

“There must be intergovernmental co-ordination and harmonization of policies, legislation and actions relating to the environment”

As discussed (Chapter 4), the DOL has given effect to this principle, by producing this EMP as required by NEMA, and also through participatory mechanisms that have ensured the involvement of national government departments and other stakeholders in the development of various pieces of legislation that are relevant to broad environmental management. The DOL is also represented on the CEC.

2.4.1.6. *NEMA Principle (2) (4) (p)*

“The costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimizing further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.”

If an employer is found to contravene any of the regulations administered by the DOL, the employer will be subjected to a fine that will hold him/her responsible for failing to undertake the correct preventative actions as stipulated in the various pieces of legislation or regulations.

Aspects that relate specifically to the NEMA principles discussed are all related to the overarching ambit of securing the health and safety of the environment

to which workers are exposed as well as the potential impact on the environment as a result of the activities in the workplace.

2.4.2 Indirect linkages between the functions of the Department of Labour and the environmental sector

Other general functions of the DOL are not described in any further detail in this report, as their relevance to the environmental management functions of the DOL are minimal. However, DOL functions that are seen as potentially having environmental and sustainability linkages are briefly discussed below.

2.4.2.1 Programme: Employment and Skills Development Services

It is recognized by the DOL that the skills profile of South African workers does not match the current or future labour market needs and it consequently contributes to poor performance of industries, low levels of investment and low levels of multi-factor productivity in the economy. This requires national intervention to strengthen the link between education and training on the one hand and economic growth and employment on the other.

The Skills Development Act, (Act 97 of 1998) and the Skills Development Levies Act, (Act 9 of 1999) aim to contribute towards the resolution of the above mentioned problems.

The SETAs that would be appropriately regarded as promoting the training and education within the environmental management sector are as follows:

- Forest Industries Education and Training Authority;
- Primary Agriculture Education and Training Authority;
- Secondary Agriculture Sector Education and Training Authority; and
- Tourism and Hospitality Education and Training Authority

For example, the tourism and hospitality education and training authority, has a conservation and guiding component. This component is involved in training within the following:

- wildlife parks, game reserves and zoological establishments;
- camp and conservation park management;
- trekking and safari operators;
- botanical gardens;
- conservation tourism;
- community tourism; and
- guides within all aspects of tourism, e.g. field, river, etc.

The DOL plays a fundamental role in the promotion of skills within each identified market sector, by providing the necessary funding for such ventures, which is supplemented by the financial inputs through each SETA.

2.4.2.2 Compensation Fund

The Compensation Fund serves to provide for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases; and to provide for matters connected therewith. In addition, the Fund also provides care and benefits for occupational illness or injury in employment and promotes a healthy and safe work environment.

It is through some of the above mentioned mechanisms that the cumulative negative effects on the environment related to the Labour sector, are reduced.

CHAPTER 3: INSTITUTIONAL ARRANGEMENTS

3.1. INTERNATIONAL LINKS

At the broad international level, there have been many forums that have provided for the participation of the DOL in ensuring that legislation and standards within the South African context are in keeping with those promoted internationally. Table 1 provides some of the DOL's activities within the international arena and thus in the promotion of co-operation, albeit at a broad international level.

Table 1: International Labour Organisation (ILO) Conventions ratified by South Africa

CONVENTION NUMBER	SUBJECT	RATIFICATION REGISTERED
C.2	Unemployment Convention, 1919	20/02/1914
C.4	Night Work (Women) Convention, 1919	01/11/1921
C.4 Automatic denunciation by ratification of Convention No. 89		
C.19	Equality of Treatment (Accident Compensation) Convention, 1925	30/03/1926
C.26	Minimum Wage Fixing Machinery Convention, 1928	28/12/1932
C.27	Marking of Weight (Packages transported by vessels) Convention, 1929	21/02/1933
C.27 Ratification by SA was conditional. Ratification does not take effect unless Great Britain, Germany, France and Italy ratifies. Great Britain has not ratified to date		
C.29*	Forced Labour Convention, 1930	05/03/1997
C.41	Night Work (Women) Convention (Revised), 1934	28/05/1935
C.41 Automatic denunciation by ratification of Convention No. 89		
C.42	Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934	26/02/1952
C.45	Underground Work (Women) Convention, 1935	25/06/1936
C.63	Convention concerning Statistics of Wages and Hours of Work, 1938	08/08/1939

CONVENTION NUMBER	SUBJECT	RATIFICATION REGISTERED
C.80	Final Articles Revision Convention, 1946	19/06/1947
C.87*	Freedom of Association and Protection of the Right to Organise Convention, 1948	19/06/1996
C.89	Night Work (Women) Convention (Revised), 1948	02/03/1950
C.98*	Right to Organise and Collective Bargaining Convention, 1949	19/02/1996
C.105*	Abolition of Forced Labour Convention, 1957	05/03/1997
C.111*	Discrimination (Employment and Occupation) Convention, 1958	05/03/1997
C.116	Final Articles Revision Convention, 1961	09/08/1963 No reporting obligation
C.100	Equal remuneration Convention, 1951	30/03/2000
C.138	Minimum Age Convention, 1973	30/03/2000
C.176	Safety and Health in Mines, 1995	09/06/2000
C.182	Elimination of the Worst Forms of Child Labour	07/06/2000

As indicated by the above table, the DOL has a long history of firm international relationships that have been founded on the grounds of the International Labour Organisation's principles of tripartism.

The DOL has been active in ILO activities in the region and at the International Labour Organisation in Geneva, in fulfillment of the ILO Constitution, reporting obligations and interaction on policy developments regarding ILO standards.

The DOL has fostered good working relationships with the British Health and Safety Executive, where the DOL and the British Health and Safety Executive have a mutual recognition of each others standards, such as diver training standards.

The DOL participates in the SADC-ELS regarding all Labour Market issues. Specifically, DOL participates in the Technical Subcommittee on Social Security and Occupational Health, as well as Employment and Productivity TSC. The aim of this sub-committee is to harmonise OHS activities within the regions and to share scarce OHS resources.

3.2. NATIONAL LEVEL CO-OPERATION

Other relationships that have been forged by the DOL are depicted in **Figure 2** and are discussed below and make apparent the DOL's commitment towards ensuring that international standards and guidelines are complied with, which is further illustrated by the fact that they are used in drawing up the South African legislation and standards. This is important not only within the international context but also at a national level.

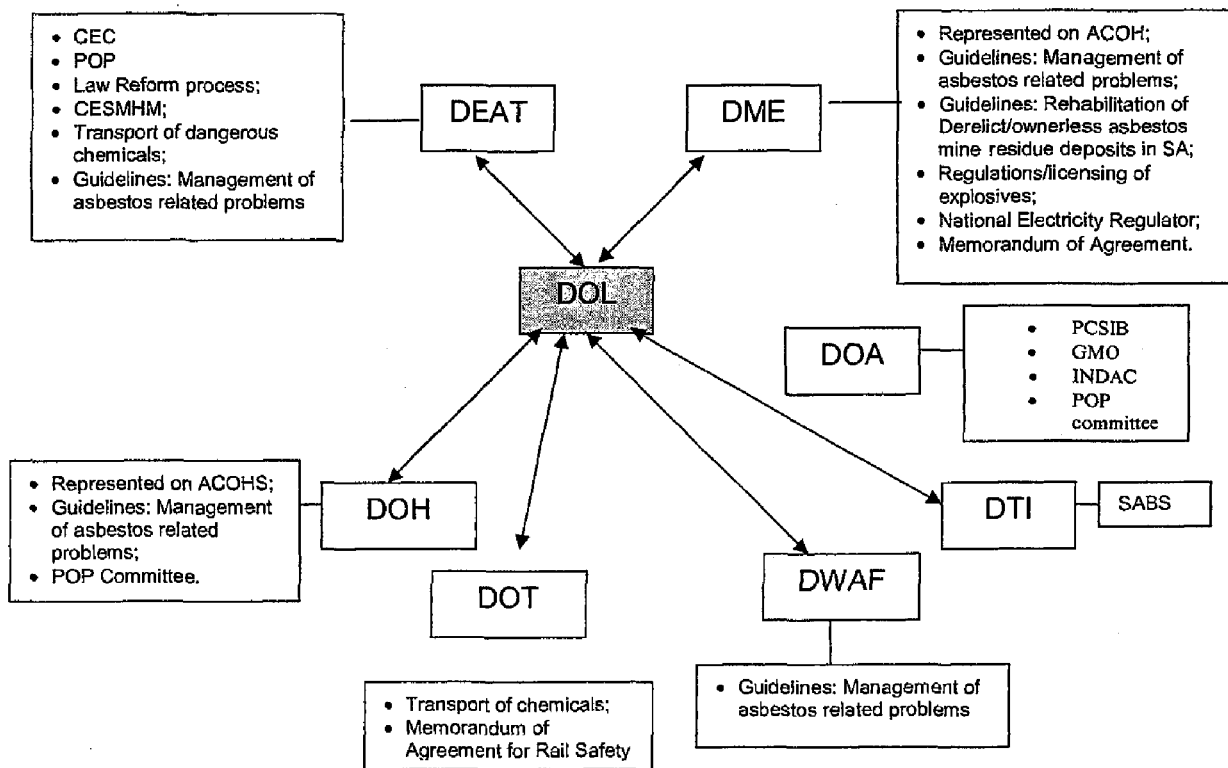


Figure 2: National level co-operation between the Department of Labour and other government departments

3.2.1. Department of Labour’s environmental initiatives and resultant co-operation with other government departments

3.2.1.1 Advisory Council for Occupational Health and Safety

The Advisory Council for Occupational Health and Safety (ACOHS) is a statutory, tripartite body established under the Occupational Health and Safety Act (Act 85 of 1993) and advises the Minister on matters related to occupational health and safety and OHS legislation. The Council has representation from the Department of Health, the Department of Mineral and Energy (DME), compensation commissioner, employer organizations and trade unions. In addition, three other persons are appointed based on their knowledge of occupational hygiene, occupational medicine and occupational safety. The tripartite body provides a forum for co-operation within the domain of occupational health and safety as it affects all sectors in the Labour market except mines and fishing vessels at sea.

3.2.1.2 *Draft guidelines on the management of asbestos related problems*

The DOL has been involved in producing the "guidelines on the management of asbestos related problems." The guidelines were developed to provide the national and provincial government departments, as well as the general public with practical advice on asbestos related issues. They were formulated by co-operation of the following departments:

- Department of Environmental Affairs and Tourism;
- Department of Health;
- Department of Labour;
- Department of Minerals and Energy; and
- Department of Water Affairs and Forestry.

The production of the guidelines has been an attempt by government departments who have jurisdiction over the asbestos pollution problem to provide a 'one-stop-service' to the affected communities.

The guidelines identify:

- the different government departments and their areas of jurisdiction regarding asbestos;
- areas for cooperation between the different government departments regarding asbestos;
- areas for cooperation between a local community and government departments who have jurisdiction over a particular asbestos problem; and
- all the applicable legislation.

3.2.1.3 *Health and safety standards and codes*

The DOL makes use of health and safety standards and codes that are incorporated into the regulations. The South Africa Bureau of Standards (SABS) is responsible for developing these standards and codes, such as for respirators, hearing protection, eye protection, electrical installation safety. The DOL has a representative on the technical committees that develop the standards within SABS.

3.2.2 *Co-operation with government departments on their environmental initiatives*

3.2.2.1 *Department of Agriculture*

The DOL has several key co-operative links with the Department of Agriculture.

3.2.2.1.1 *Pesticides Control Service Industries Board*

The DOL has representation on the board, which considers pesticides for registration and also controls training of pest control operators. This is part of an effective working relationship, as the DOL considers the pesticides from a workers health and safety perspective.

3.2.2.1.2 *Genetically modified organisms (GMOs)*

The DOL has actively participated in the discussions around the Genetically Modified Organisms Act, (Act 15 of 1997). The main objective of this act is to provide for measures to promote the responsible development, production, use and application of genetically modified organisms; to ensure that all activities involving the use of genetically modified organisms (including importation, production, release and distribution) are to be carried out in such a way as to limit possible harmful consequences to the environment; to give attention to the prevention of accidents and the effective management of waste; to establish common measures for the evaluation and reduction of the potential risks arising out of activities involving the use of genetically modified organisms; and to lay down the necessary requirements and criteria for risk assessments.

In addition, the DOL is represented on the executive council, which approves the use of GMOs.

3.2.2.1.3 *Interdepartmental advisory committee for the protection of humans against poisonous substances (INDAC)*

The DOL has representation on INDAC and is an active participant. The terms of reference of INDAC are to make recommendations to the Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947) and who has been appointed by the Minister of Agriculture as administrator of this Act. Such recommendations are made in respect of:

- applications submitted for the registration of agricultural and stock remedies in respect of the Act;
- amendments to the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947) as the need may arise; and
- other matters relating to the protection of man and his environment against pollution by poisonous substances.

3.2.2.2. *Department of Health*

All DOL legislation that has a health impact is submitted to the Department of Health (DOH) for input. The DOL has interacted with the DOH in the compilation of the "draft guidelines on the management of asbestos related problems."

3.2.2.3 *Department of Transport*

Co-operative mechanisms have been set up with the Department of Transport (DOT) in particular with reference to the transport of chemicals and the DOL has been involved in developing relevant regulations with the DOT. Regulations for railways and rail transport will be developed by the DOT, with assistance of the DOL. A Memorandum of Agreement is also currently being developed between DOT and DOL to ensure no duplication of functions occurs and to clarify the roles of two departments where discrepancies may occur as it pertains to the provisions of the Rail Safety Regulator.

3.2.2.4 *Department of Minerals and Energy*

The DOL has quarterly meetings with the Department of Minerals and Energy (DME) specifically with regard to the workings and operation around occupational health and safety issues, specifically those 'grey' areas of jurisdictional responsibility, which allow the employer to fall through the OHS legislative crack. The health and safety of mine workers is the responsibility of the DME, but the safety regarding that of other workers on the mine, e.g. contractors, falls within the jurisdiction of the DOL.

The DOL has also been involved in commenting on guidelines for the rehabilitation of mine dumps specific to asbestos. These guidelines are known as "Standard Protocol and Guidelines for the Rehabilitation of Derelict/ownerless asbestos mine residue deposits in SA".

The DOL is responsible for ensuring that health and safety standards, within the explosive manufacturing arena, is maintained through regular inspection of these premises. In addition, the DOL is responsible for the approval of licenses for explosive factories. The DME regulates explosives on the mines, and the DOL maintains regular contact with the DME with regard to safety issues.

3.2.2.5 *Department of Environmental Affairs and Tourism*

The DOL will work with DOT and DEAT in the development of policies and regulations regarding transport of dangerous chemicals. DOL will also be involved with the Committee for Environmentally Sound Management of Hazardous Materials (CESMHM), which is to be established by DEAT.

3.2.2.5.1 *Committee for Environmental Co-ordination (CEC)*

The promulgation of NEMA has given rise to the formation of the CEC. The objective of the CEC is the promotion of the integration and co-ordination of environmental functions by the relevant organs of state, and in particular to promote the achievement of the purpose and objectives of EIPs and EMPs. As a means of promoting co-operative governance between itself and other national government departments, DOL has a representative on the CEC.

3.2.2.5.2 *Persistent Organic Pollutants (POPs)*

The international community has recognised that contamination from synthetic chemicals, and particularly Persistent Organic Pollutants (POPs) is a serious problem. The United Nations Environment Programme's (UNEP) Governing Council provided a mandate for an intergovernmental negotiating committee to prepare a legally binding global treaty on POPs. The purpose of this is to take international action to minimise risks associated with POP chemicals already identified and proven to pose a threat to the environment and human health through their toxicity and persistence.

The implications for South Africa is that various dangerous and highly toxic chemicals will be reduced and phased out in cooperation with the international community. Special efforts have been made so far to coordinate and collaborate with SADC countries.

The DOL has been liaising closely with DEAT on the POP Committee. Other partners here include the Departments of Health, Agriculture, Foreign Affairs, and Trade & Industry.

Other links between these two departments occur through their involvement with the law reform process. In future, much more extensive co-operation between these two departments is necessary for effective environmental management to be achieved in South Africa.

3.3 CO-OPERATION ARRANGEMENTS WITHIN THE DEPARTMENT OF LABOUR

Figure 3 depicts how co-operation within the DOL occurs. Formal communication structures and arrangements will be implemented within the DOL in order to ensure that within the department there is:

- sufficient awareness of the EMP and environmental laws, norms and standards and regulations that are to be developed;
- how the revised/new laws, norms and standards and regulations are to be implemented; and
- how compliance with these new laws, norms and standards and regulations is to be measured.

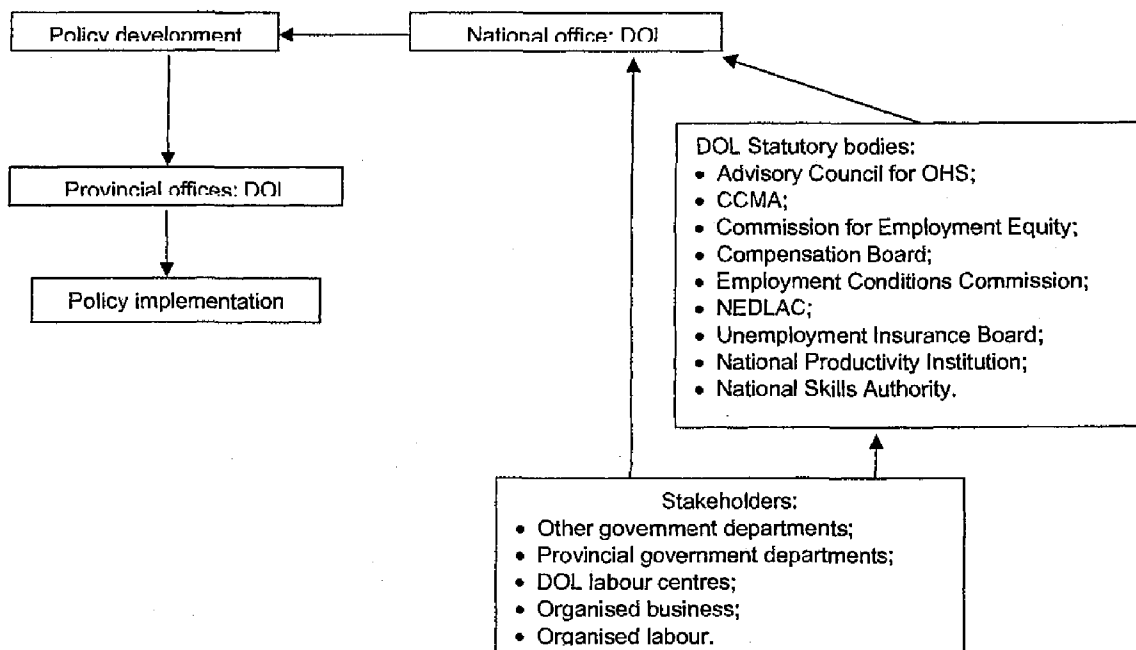


Figure 3: Co-operation within the department of labour and with stakeholders

CHAPTER 4: ENVIRONMENTAL MANAGEMENT POLICIES

This chapter describes how environmental management issues are considered in the existing DOL policies.

4.1. OCCUPATIONAL HEALTH AND SAFETY ACT (Act 85 of 1993)

The Occupational Health and Safety Act (Act 85 of 1993) (OHSA) is the main piece of legislation of the DOL that can be related to the environmental sector. This legislation is directly under the control of the Chief Directorate of Occupational Health and Safety.

The OHSA, however, does not apply to mines or mining area (as defined by the Minerals Act, Act 50 of 1991), nor to any load line ship, fishing boat, sailing boat or whaling boat (as defined by the Merchant Shipping Act, Act 57 of 1951).

The main purpose of this Act is to provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery. In addition, the protection of persons other than those at work, against hazards to health and safety arising out of or in connection with the activities of persons at work is also the responsibility of the DOL. Provision is made in the Act with regard to the establishment of a Tripartite Advisory Council for Occupational Health and Safety; whose main function is to advise the Minister with regard to matters of policy arising out of, or in connection with, the application of the provisions of this Act.

According to the OHSA, it is the right of workers to be informed. It is the responsibility of the employer to ensure that the worker is informed and that the worker clearly understands the health and safety hazards of any work being done.

The OHSA also makes provision for the duties of the manufacturer, designers, importers, sellers or suppliers regarding the use of articles and substances at work. With regard to the installation of structures, the manufacturer, designers, importers, sellers or suppliers must ensure that their articles are safe and without risk. The installation of such a structure must be undertaken in a manner that does not create an unsafe situation. With regard to the use of substances within the work environment, the manufacturer, designers, importers, sellers or suppliers must ensure that such substances are safe and without risk to health when it is properly used. Information must be provided on the health and safety risks associated with the substance, conditions that are necessary to ensure that the substance will be safe and without risk to health when properly used and procedures in case of an accident.

It is also the right of the worker to have access to –

- OHSA and regulations;
- health and safety rules and procedures of the workplace; and

- health and safety standards which the employer must keep at the workplace.

The following are some of the regulations administered by the Department under the OHSA, that are pertinent to ensuring that health and safety standards are implemented in workplaces. These regulations have been selected for discussion because of their environmental implications: -

- Environmental regulations for workplaces (DOL, 2003);
- Asbestos regulations (DOL, 1987);
- Lead regulations (DOL, 1991);
- Major hazard installation regulations (DOL, 1998);
- Hazardous chemical substances regulations (DOL 1995);
- Regulations for Hazardous Biological Agents (DOL, 2001);
- Construction regulations (DOL 2000); and
- Electrical Installation Regulations.

4.2 ENVIRONMENTAL REGULATIONS FOR WORKPLACES

The Environmental Regulations for Workplaces (1994) were drawn up from the Machinery and Occupational Safety Act (Act 6 of 1983) which has since has been replaced by the OHSA. They are regulations that should be complied with by the employer regarding the workplace of all those in his/her employ. The following aspects are dealt with in these regulations:

- temperature;
- lighting;
- visual contact with the outside surroundings;
- ventilation;
- housekeeping/workspace;
- noise; and
- potential for flooding.

4.3 ASBESTOS REGULATIONS

The Asbestos Regulations were promulgated in April 1987 under the Machinery and Occupational Safety Act (Act 6 of 1983), which since has been replaced by the OHSA. They are currently under revision. The aim of the current Asbestos Regulations is to protect workers, who fall under the jurisdiction of the OHSA, against health risks posed by exposure to asbestos.

The general scope of these regulations applies to all employers who use or process asbestos in raw mineral form, and to all employers who process materials containing asbestos. The regulations put forward the minimum permissible exposure level to asbestos and the provision by the employer of proper respiratory equipment for employees. In addition, there is provision that the employees should abide by instructions given by the employer regarding the prevention of the release of asbestos dust into the environment.

In the case of an accidental release of asbestos into the workplace, these regulations make provision for remedial measures to be followed. These include cleaning-up procedures in such a manner that asbestos dust neither escapes nor is discharged into the air to an extent that it contaminates the workplace or the environment.

The regulations also provide cautionary principles with regard to the packaging, transport and storage of asbestos so as to prevent or minimize accidental release. With regard to the disposal of asbestos, steps are in place to ensure that all waste is disposed of only on sites specifically designated for this purpose in terms of the Environmental Conservation Act, (Act 73 of 1989), and in such a manner that it does not cause a hazard inside or outside the industry and will not cause a hazard in the future. With regard to the transport of asbestos waste, provision is made with regard to written instructions and training on the action to be taken for cleaning up in the event of accidental spillage, which has to be given to the drivers of vehicles carrying such waste.

4.4. LEAD REGULATIONS

The Lead Regulations, originally promulgated in 1991, are currently under revision. These regulations apply to every employer at a workplace where lead is produced, processed, used, handled or stored in a form in which it can be inhaled, ingested or absorbed by an employee. The regulations provide a prescribed level of lead exposure above which no employee should be exposed to.

It provides that no employer should permit work in an environment that exceeds the prescribed exposure limits for lead. It is the duty of every employer to ensure that every employee exposed to lead is adequately and comprehensively informed and trained at the commencement of their employment and periodically thereafter at intervals as may be recommended by the safety committees.

In addition, the regulations make provision for the supply of protective equipment by the employer and the employees abiding by such instructions for the wearing of the protective equipment and the undertaking of medical examinations. Provision is also made that the employee should also abide by operation procedures for the prevention of lead being released into the environment. Instructions regarding the disposal of waste material containing lead and the cleaning of any site at which lead or material containing lead has been used, handled or processed should be followed. The adherence to instructions regarding environmental, housekeeping and personal hygiene practices should also be followed as provided by the regulations.

Monitoring procedures with regard to airborne lead must be carried out in accordance with these regulations, and should be done by an approved inspection authority. Every employer is responsible for controlling the exposure of persons to lead in the working environment by applying the following measures where appropriate:

- lead and materials containing lead used at the workplace which are liable to release airborne lead, shall be limited; and
- emissions to atmosphere shall comply with the provisions of the Atmospheric Pollution Prevention Act (Act 45 of 1965).

In addition, it is the responsibility of the employer to ensure that all workplaces are kept in a clean state and free of lead waste and, when lead is accidentally spilled or airborne lead is accidentally released into the workplace, corrective measures must be taken immediately before any work is continued. The cleaning of such accidental release must be carried out by vacuum cleaning or by some other means that ensures that lead dust neither escapes nor is released into the air in such a manner that it contaminates any workplace or the environment.

In respect of the packaging, transport and storage of lead, employers should ensure that all lead materials are properly contained and are controlled to prevent the spread of contamination by lead from the place where work is being carried out, and that the containers or the vehicles in which such materials are transported are clearly marked, identifying the contents as lead.

With regard to the disposal of lead the employer should:

- as far as possible, recycle all waste which contains lead, but not into non-lead production processes;
- ensure that all collected lead dust, swarf and other waste is placed into containers that will prevent the escape of lead dust during handling;
- ensure that all lead sludge, not for recycling, is placed in properly sealed containers to prevent spillage;
- ensure that all such waste is disposed of only on sites specifically designated for this purpose in terms of the Environmental Conservation Act, (Act 73 of 1989), in such a manner that it does not cause a hazard inside or outside the premises; and
- give written instructions and appropriate training to the drivers of vehicles carrying such waste, on the action to be taken in the event of accidental spillage of lead waste.

4.5 MAJOR HAZARD INSTALLATION REGULATIONS

"Major hazard installation" within these regulations refers to "an installation where any substance is produced, processed, used, handled or stored in such a form and quantity that it has the potential to cause a major incident", where major incident "means an occurrence of catastrophic proportions, resulting from the use of plant and machinery, or from activities at a workplace."

These regulations are applicable to employers, self-employed persons and users, who have on their premises, either permanently or temporarily an installation or a quantity of a substance which can pose a significant risk of resulting in a major incident, that could affect the health and safety of persons outside the premises. These regulations are in the process of being reviewed.

These regulations require employers to undertake a risk assessment of the major hazard installation. Some of the components which the risk assessment should include are:

- general process description of the major hazard installation;
- description of the major incidents associated with this type of installation and the consequences of such incidents, which shall include potential incidents;
- an estimation of the probability of a major incident;
- a copy of the on site emergency plan
- in the case of toxic release, an estimation of concentration effects of such release;
- the potential effect of a major incident on any other installation, members of the public, which includes all persons outside the premises of the major hazard installation and on residential areas;
- the suitability of existing emergency procedures, for the risks identified;
- any requirements as laid down in terms of the Environmental Conservation Act (Act 73 of 1989).

These regulations require that an on site emergency plan is compiled and is readily available for implementation at all times.

4.6 HAZARDOUS CHEMICAL SUBSTANCES REGULATIONS

These regulations apply to an employer or a self-employed person who carries out work at a workplace which may expose any person to a Hazardous Chemical Substance (HCS).

It is the duty of the employers after consultation with the health and safety committee established for that section of the workplace, to ensure that the employee is adequately and comprehensively informed and trained, as well as thereafter informed and trained at intervals as may be recommended by that health and safety committee, with regard to matters such as the:

- potential source of exposure;
- potential risks to health caused by exposure;
- measures to be taken by the employers to protect an employee against any risk from exposure;
- precautions to be taken by an employee to protect himself or herself against the health risks associated with the exposure, including the wearing and use of protective clothing and respiratory protective equipment;
- necessary, correct use and maintenance of safety equipment, provision of facilities and engineering control measures;
- necessity of personal air sampling and medical surveillance;
- importance of good housekeeping at the workplace and personal hygiene;
- safe working procedures regarding the use, handling, storage and labelling of the HCS at the workplace; and
- procedures to be followed in the event of spillages, leakages or any similar emergency situation which could take place by accident.

The regulations require employers to provide written instructions of the procedures to the drivers of vehicles carrying the hazardous chemical substances.

These regulations also provide for employees to follow instructions given to them with regard to the:

- prevention of an HCS from being released;
- wearing of personal protective equipment;
- wearing of monitoring equipment to measure personal exposure;
- reporting for health evaluations and biological tests as required by these regulations;
- cleaning up and disposal of materials containing HCS;
- housekeeping at the workplace, personal hygiene and environmental and health practices; and
- information and training.

Responsibility is placed, through these regulations, on the employer to control the exposure of an employee by introducing appropriate work procedures which an employee must follow where materials are used or processes are carried out which could give rise to exposure of an employee and that procedures shall include written instructions to ensure:

- that an HCS is safely handled, used and disposed of;
- that process machinery, installations, equipment, tools and local extraction and general ventilation systems are safely used and maintained;
- that machinery and work areas are kept clean; and
- that early corrective action can be readily identified

The employer must ensure that the emission of an HCS into the atmosphere complies with the provisions of the Atmospheric Pollution Prevention Act (Act 45 of 1965).

With regard to the avoidance of the spread of contamination of an HCS, the regulations place a responsibility on the employer to take steps, to ensure:

- that the HCS in storage or distributed are properly identified, classified and handled;
- that a container or a vehicle in which an HCS is transported, is clearly identified, classified and packed; and
- that any container into which an HCS is decanted, is clearly labeled with regard to the contents thereof.

To ensure the safe and proper disposal of HCS the following have been provided for within the regulations:

- ensuring recycling all HCS waste;
- ensuring that all collected HCS waste is placed into containers that will prevent the likelihood of exposure during handling;
- ensuring that all vehicles, re-usable containers and covers which have been in contact with HCS waste are cleaned and decontaminated after use in such a way that the vehicles, containers or covers do not cause a hazard inside or outside the premises concerned;

- ensuring that all HCS waste which can cause exposure is disposed of only on sites specifically designated for this purpose in terms of the Environmental Conservation Act (Act 73 of 1989), in such a manner that it does not cause a hazard inside or outside the site concerned; and
- ensuring that all employees occupied in the collection, transport and disposal of HCS waste, who may be exposed to that waste, are provided with suitable personal protective equipment.

4.7 REGULATIONS FOR HAZARDOUS BIOLOGICAL AGENTS

The DOL has developed a set of Regulations for Hazardous Biological Agents (HBA). These regulations are applicable to every employer and self-employed person at a workplace where -

- HBA is deliberately produced, processed, used, handled, stored or transported; or
- an incident occurs that does not involve a deliberate intention to work with a hazardous biological agent but may result in persons being exposed to a hazardous biological agent in the performance of work.
- These regulations include responsibilities of the employer to ensure a safe and healthy work environment. Every employer and every self-employed person shall ensure that he/she or any persons who in any manner assists him/her in the carrying out of his/her business, has the necessary information and has undergone sufficient training in order for them to identify the potential risks and the precautions that should be taken.

Every employer and self-employed person shall ensure control of exposure of employees to HBA by ensuring that:

- exposure of persons to an HBA in the working environment is either prevented or where this is not reasonably practicable, adequately controlled by limiting the amount of HBA used that may contaminate the working environment and by limiting the number of employees who will be exposed or may be exposed;
- standard precautions are implemented to reduce the risk of transmission of HBA from recognized and unrecognised sources of infection in a workplace.
- engineering control measures for the control of exposure are in place;
- provision of appropriate work procedures that employees must follow where materials are used, processes are carried out, or incidents may occur that could give rise to the exposure of an employee to an HBA, and such procedures shall include written instructions to ensure:
 - the safe handling, use and disposal of an HBA;
 - the proper use and maintenance of process machinery, installations, equipment, tools and local extraction and general ventilation systems;
 - the regular cleaning of machinery and work areas by vacuum cleaners fitted with a suitable filter that prevents contamination of the environment; and

- that a system whereby changes in work procedures and processes that indicate the need for early corrective action can be readily identified.
- emissions to the atmosphere comply with the provisions of the Atmospheric Pollution Prevention Act (Act 45 of 1965);
- the biohazard sign and other relevant warning signs are displayed; and
- procedures are specified for taking, handling and processing samples that may contain HBA.

4.8. CONSTRUCTION REGULATIONS

These regulations apply to employers or users including principal contractors, sub-contractors and mandatories, self employed persons and employees where any construction work is performed. These regulations however will not apply to any construction work carried on at any mine, a mining works or any works as defined in the Mine Health and Safety Act (Act 29 of 1996).

Environmental impacts that will occur during construction activities will be considered in these regulations. Although these regulations will focus primarily on the health and safety of the workers, there will be inclusion of activities such as the disposal of materials from the construction site. This will not only impact on health and safety of workers but will also impact on the immediate environment. These regulations are presently under review.

4.9 AGENDA 21

DOL is responsible for chapter 29 of Agenda 21: *Strengthening the role of workers and their trade unions*. In addition, DOL is required to provide input into chapter 6: *Protecting and promoting human health* and chapter 19: *Management of toxic chemicals as it relates to the labour market*. DOH and DEAT are responsible for these two chapters respectively. Chapter 19 is the one relating to this EMP. The programme areas and objectives in this chapter are identified as:

- Assessment of chemical risks;
- Classification and labelling of chemicals;
- Information exchange on toxic chemicals and chemical risks; and
- Establishment of risk reduction programmes.

As discussed in **section 4.6**, DOL, as part of its OHS mandate, administers the Hazardous Chemical Substances Regulations which regulate health and safety in the manufacture and use of chemicals in the work place. The SADC-ELS Technical subcommittee developed a code of safe handling of chemicals which was adopted by the SADC. Tripartite discussions are now required with regard to implementation of the code. DOL participated in the initial discussions on the Inter Organisational management of Chemicals with regard to the global harmonisation of classification and labelling of chemicals. A coordinating group has still to be established for the co-operation of regional and national authorities with international bodies to:

- evaluate and undertake studies of existing hazard classification and information systems to establish general principles for a globally harmonised system;
- develop and implement a workplan for the establishment of a globally harmonised hazard classification system;
- develop a globally harmonised hazard classification system;
- develop proposals for standardisation of hazard communication terminology and symbols in order to enhance risk management of chemicals and facilitate both international trade and translation of information into the end-users' language; and
- develop a harmonised labelling system.

4.10 COMPLIANCE AND MONITORING PROCEDURES

The DOL's commitment to addressing the challenge of ensuring that the workplace is safe is explicitly stated in the Ministerial Programme of Action for the period, 2004-2009. Among the key points that have been highlighted in the Programme of Action, is to adequately deal with the negative consequences of occupational accidents and ill health on individuals, enterprises and the state. The Department has accelerated measures aimed at reducing accidents and improving the health and safety of workers, through achieving greater co-ordination of the occupational health and safety instruments of government.

The prioritisation of the Department with respect to safety in the work environment is evident in the DOL's commitment to enhance efforts aimed at the reduction of workplace accidents and fatalities. A major preventative strategy has been launched, which includes public awareness programmes, training of stakeholders including health and safety representatives and co-operative enforcement programmes.

In addition, the Chief Directorate of Occupational Health and Safety has listed a set of priorities, which give effect to the aspect of worker safety. These are listed in **Table 2**.

Table 2: Priority actions for Department of Labour

Action	Responsibility	Timeframe
Develop effective OHS policies and legislation aligned with changes in the environment	Chief Inspector	ongoing
Review amendments to the OHSA with a view to national and regional harmonization	Chief Inspector	ongoing
Draft policies aimed at the protection of the health and safety of vulnerable workers – (especially within the agriculture, SMME's and informal sectors)	Chief Inspector	ongoing
Develop an OHS awareness campaign	Chief Inspector	ongoing

Action	Responsibility	Timeframe
Develop an EMP in accordance with the requirements of NEMA	Chief Inspector	2007 - 2008
Implement EMP	Branch: Corporate Services	ongoing
Monitor compliance of OHS Legislation	Branch: Service Delivery	ongoing

Inspection work is categorised as follows:

- safety inspections, which include inspections of safety management systems, facilities, the working environment, machinery, diving work and explosives factories;
- hazardous substance inspections for various substances, including asbestos and lead;
- monitoring inspections for physical stress factors such as noise, thermal conditioning and lighting;
- special safety inspections, which include inspection of vessels under pressure;
- incident investigations;
- inspections of registered entities and Approved Inspection Authority (AIA) inspections;
- follow-up inspections, which are conducted to ensure compliance with requirements contained in notices served during previous inspections;
- inspections to ensure basic compliance of other Labour legislation;
- other inspections, which arise from complaints from the public and trade unions, as well as requests for assistance by employers; and
- environmental inspections which fall within the ambit of the relevant regulations.

CHAPTER 5: PROPOSALS FOR ENVIRONMENTAL MANAGEMENT

The first steps required for the development of an EMP are to identify the mandate, policies and regulations in place within the DOL with regard to the broader environment (DEAT 1999). The main focus of the DOL up to now has been on the environment of the workers. While the health and safety of workers has an important place in broad environmental policy, the biophysical component of the environment must also be considered in other DOL policies.

5.1 PRIORITY ACTIONS TO BE UNDERTAKEN BY THE DEPARTMENT OF LABOUR

Actions necessary for the undertaking of environmental management by the DOL are listed in **Table 3** together with whose responsibility they are and a timeframe in which each should be completed. The actions are then discussed in more detail in **sections 5.1.1 – 5.1.9**. The actions are listed in order of priority and each consider the following key NEMA principles:

- Pollution and degradation of the environment are avoided, or where they cannot be altogether avoided, are minimized and remedied;

- Waste is avoided, or where it cannot be altogether avoided, minimized and re-used or recycled where possible and otherwise disposed of in a responsible manner;
- Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle;
- The right of workers to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected; and
- There must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the environment.

Table 3: Priority actions to be undertaken by the Department of Labour

Action	Outputs	Responsibility Within DOL	In collaboration with	Timeframe
Develop an efficient communication network for effective environmental management planning	i) Formal communication structure (regular committee meetings) with DOL and DEAT; DOA; DOH; DOT; DME (and other relevant departments).	Senior staff member responsible for implementing EMP	i) DEAT; DOA; DOH; DOT; DME; DWAF; other relevant departments	ongoing
	ii) Formal inter-DOL meetings with national and provincial staff members to facilitate planning and to report back on progress	Senior staff member responsible for implementing EMP		ongoing
Develop and implement environmental management policy and supporting legislation in accordance with existing Labour Acts and national environmental policy and legislation	i) Effective OHS policies and legislation that are aligned with NEMA	Chief Inspector	DEAT	2009-2010
	ii) Plan for effective implementation of the policies			2010-2011
	ii) Framework strategy to enable the DOL officials to execute their functions in accordance with the requirements of the newly developed environmental legislation.			2010-2012
Develop and implement instruments to give effect to the above policies and strategies	Revision of the following: i) Explosives Regulations; ii) Asbestos Regulations; iii) Lead Regulations; iv) Hazardous Chemical Substances Regulations; v) Regulations for Hazardous Biological	Relevant DOL Directors.	i) DME; DEAT ii) DME; DEAT; DOH iii) DME; DEAT; DOH iv) DME; DEAT; DOH	2010-ongoing

Action	Outputs	Responsibility Within DOL	In collaboration with	Timeframe
	Agents; vi) Construction Regulations Develop implementation strategy		v) DEAT; DOH; DOA vi) DEAT	
Develop specific environmental indicators for Labour	Organised set of indicators or an indicator framework	Senior staff member responsible for implementing EMP	DEAT	2009
Involve stakeholders in the process of developing and revising policy to include environmental management.	Quarterly stakeholder committee meetings, involving representatives from the relevant stakeholder groups	Chief Inspector	National, provincial and local government departments; SABS; Organised Business; Organised Labour.	2010-ongoing
Improve the expertise and capacity of DOL officials such that the effectiveness of environmental management within the workplace is strengthened	Sufficient capacity (of inspectors) to monitor compliance with the relevant regulations under OHS Act.	Deputy Director General: Service Delivery	DEAT	2009-ongoing
Achieve acceptance by DOL staff of environmental management as being part of the functions of the DOL.	Increased awareness within DOL at national, provincial and local level with regard to: <ul style="list-style-type: none"> • What the 'environment' constitutes; • Why the new/revised regulations are required; • Information on new policies, regulations and guidelines; and • How these will be implemented and compliance monitored. 	Deputy Director General: Corporate Services and DDG: Service Delivery	DEAT	2009-ongoing as appropriate
Input into implementation of Agenda 21 in accordance with NEMA	Implement chapter 29; provide input into chapters 6 and 19.	Chief Inspector	DEAT; DOH	2010-ongoing
Report on progress with EMP implementation	Annual progress report to be submitted to the CEC	Deputy Director General: Corporate Services	DEAT	Annually from 2009
Revise and update the EMP	Revised EMP	Chief Inspector	DEAT	2012

5.1.1 Develop an efficient communication network for effective environmental management planning

The development by DOL of norms and standards, regulations and policies with regard to the environment, will have implications for other sectors of government and will also be impacted upon by policies from these sectors. Therefore, strategic planning and cooperation between DOL and other government departments is required and will commence immediately. Formal communication structures need to be established between DOL and other key government departments, including DEAT, DOA; DME, DOH and DOT (**Table 3**). In particular, DOL will liaise with DEAT as required by NEMA, through regular meetings of the CEC and other sub-committees. DOL will ensure that there is representation from their department on all the relevant committees dealing with environmental management.

Development of new standards, regulations and policies will be done with input from all levels within the department. While DOL has provincial offices and labour centres, they are managed as part of the national department and report to the Deputy Director General: Internal Management and Operation. Co-operative governance within the DOL will therefore, be relatively easily implemented within the DOL. Regular formal meetings and forums will be set up to facilitate planning and implementation of environmental management issues. The DOL representative on the CEC will also report back to staff members in the provincial offices and local labour centres, on CEC meetings and developments by national government.

5.1.2 Develop and implement environmental management policy and supporting legislation in accordance with existing Labour Acts and national environmental policy and legislation

DOL will plan for, and provide, a suitable framework strategy that will enable the DOL officials to execute their functions in accordance with the requirements of the newly developed national Environmental Management legislation (NEMA), Integrated Pollution Control and Waste Management and Integrated Environmental Management (**Table 3**).

Planning for effective implementation of the policies and legislation is also required and will take place timeously and involve all levels within the department, and all relevant Chief Directorates.

Policies and other relevant instruments will be developed, or existing ones amended, in order to ensure environmental management is achieved by the DOL functions as well as in the workplace.

During 2000-2004 DOL aims to develop effective OHS policies and legislation that is aligned with the new environmental legislation. The OHSA will be revised to include broader environmental issues in this Act.

5.1.3 Develop and implement instruments to give effect to these policies and strategies.

The policies and strategies need to be given effect through the development and implementation of regulatory requirements. Guidelines will be developed for environmental management in the workplace by DOL, i.e. the responsibilities of employers.

Examples of how some of the existing (final or draft) regulations of the DOL may be amended, as well as what environmental issues need to be considered, are given below. The issues listed are however by no means exhaustive and key consultants, government departments, employees and other stakeholders will be involved in the development of these regulations and guidelines.

Explosives Regulations: consideration should be given to minimizing the impact on the broader biophysical environment. This would have implications for the time of day that explosions are permissible (to minimize noise impact on people outside the workplace), removal of rare or endangered species from the area prior to the explosion (this would imply ecological impact studies may be necessary depending on the area and reason for the explosions). The revision of these Regulations should be done in collaboration with relevant DEAT and DME officials.

Asbestos Regulations and Lead Regulations: these are examples of regulations where the biophysical environment is considered. These regulations state that the disposal of asbestos and lead, may only occur at sites specifically designated for this purpose in terms of the Environmental Conservation Act, (Act 73 of 1989), and in such a manner that it does not cause a hazard inside or outside the industry and will not cause a hazard in the future. The regulations, include remedial measures to be undertaken in the case of accidental release of asbestos dust. With regard to the transport of asbestos and lead waste, provision is made with regard to written instructions and training on the action to be taken for cleaning up in the event of accidental spillage that has to be given to the drivers of vehicles carrying such waste. As part of the environmental management, the DOL must therefore ensure that methods and means for monitoring of asbestos and lead storage, packaging, disposal and transport, as well as the release of asbestos dust and air borne lead, are in place. Permits for the transboundary import and export of these and other hazardous substances are issued by DEAT.

Both these regulations are under revision and should be finalised for inclusion in the next EMP. Revision of these regulations should be done in collaboration with DEAT, DOH and DWAF.

Hazardous Chemical Substances Regulations: consider the health and safety of workers. They need to include sections on preventing contamination of the broader environment; monitoring contamination;

cleaning up of accidental contaminations; and notification of authorities of contaminations.

As with asbestos, lead and HBA, regulations are required for transport of HCS and should be compiled together with DOT and DEAT, as stipulated in the EMP of DEAT.

Regulations for Hazardous Biological Agents: do not adequately consider the implications of the use of such agents to the broader environment. Mention of emissions to the atmosphere is made but only states that these must be in accordance with the Atmospheric Pollution Prevention Act (Act 45 of 1965). Specific considerations need to be made for the accidental emission of such agents not in accordance with the Act and appropriate steps to take after such an emission and methods to rectify such an emission. These regulations will be revised together with DEAT and DOH.

Construction Regulations: The construction sector has a significant impact on the environment and this is taken care of in the regulations. Environmental norms and standards are also be integrated into the regulations.

5.1.4 Develop specific environmental indicators for Labour

The DOL requires indicators that will be used to measure the performance of the department in terms of its environmental management. Possible indicators for the DOL could include:

- revision of some of the regulations to ensure they are in keeping with current environmental legislation (as discussed in **section 5.1.5**);
- develop competence and capacity amongst the inspectors in terms of environmental management (as discussed in **section 5.1.9**);
- increase in the number of environmental management compliance inspections that are carried out;
- increased awareness within DOL of environmental management (as discussed in **section 5.1.9**).

An organised set of indicators, or indicator framework, is required. Such a framework will arrange or organise the indicators in a coherent manner and guide the data and information collecting process.

5.1.5 Involve stakeholders in the process of developing and revising policy to include environmental management.

Stakeholders will have valuable input into the process of developing and revising policy to include environmental management. Stakeholders include:

- National and provincial government departments, particularly Department of Environmental Affairs and Tourism; Department of Agriculture;

Department of Health; Department of Minerals and Energy; Department of Transport;

- Local government departments;
- SABS;
- Organised Business; and
- Organised Labour.

Stakeholder involvement will be facilitated through the formation of a stakeholder committee. Depending on the specific area to be considered, the relevant representatives from the various stakeholder organisations/ departments will attend workshops and meetings convened by DOL to discuss specific laws, policies, norms and standards or regulations (refer to **Figure 5**). The workshops/ meetings will be held once a quarter. Each programme will include the issue of stakeholder interaction within their business plan.

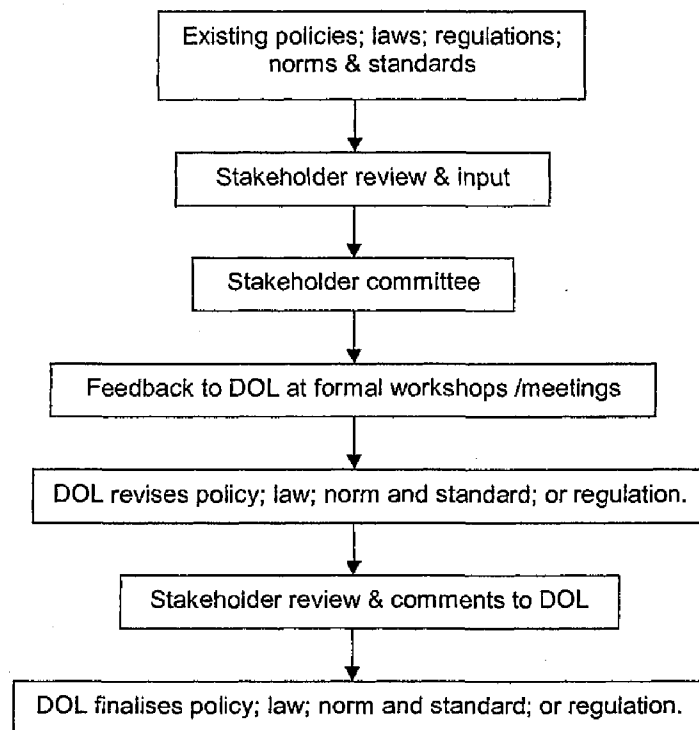


Figure 5: Process for stakeholder involvement in revision of DOL administered policies, regulations, norms and standards.

5.1.6 Improve the expertise and capacity of DOL officials in order to strengthen the effectiveness of the implementation of environmental management in the labour sector

Since the DOL has insufficient inspectors to effectively monitor compliance with the environmental management policies, the possibility of combining the function of inspections with other departments will be considered. This would require close cooperation between the departments involved and would reduce the fragmentation of environmental management that currently exists.

5.1.7 Create awareness among all Department of Labour staff that environmental management is part of the functions of the department.

Before the new tools that consider environmental issues can be effectively implemented, awareness has to be created within DOL, at national, provincial and local level, with regard to:

- what the 'environment' constitutes;
- why the new/amended regulations are required;
- information on new policies, regulations and guidelines; and
- how these will be implemented and compliance monitored.

The DOL has as a priority action, the development of OHS awareness campaign, which include awareness of environmental management.

5.1.8 Provide input into the implementation of Agenda 21 in accordance with NEMA

DOL is responsible for chapter 29 of Agenda 21 and will provide input into chapters 6 and 19 as described in **section 4.9** above.

5.1.9 Report on progress with the implementation of this EMP

In its annual report to DEAT, DOL will report on its progress with implementation of this EMP. Once the EMPs of the other government departments have been submitted and approved by the CEC, DOL will be able to comment, in the annual report, as to the extent of compatibility of the EMPs, as well as the extent of compliance with their departmental EMP both by the DOL themselves and other departments.

5.1.10 Revise and update the EMP

The EMP will be updated every four years and submitted to the CEC. The updated versions will include progress made with the implementation of this management plan and details on compliance with DOL's environmental policies, plans and regulations by other organs of state and workers.

5.2 CO-OPERATIVE GOVERNANCE

5.2.1 Internal Department of Labour co-operation

In order to effectively implement the environmental management initiatives in all the relevant functions of the department, buy-in from all DOL staff is required. All staff members must take responsibility for the implementation, not only one environmental manager or management directorate. Since the staff of the provincial offices, specifically the inspectors, report to the Deputy

Director General: Internal Management and Operation, the environmental initiatives and directives will be provided by the national office, to these offices.

5.2.2 Intergovernmental co-ordination

Intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the environment is urgently required in order to achieve sustainable development within South Africa. Therefore, it is necessary that all EMPS and EIPs developed by all government departments are compatible such that there are no conflicting strategies or plans and no duplication of efforts. Since the government departments are still in the process of submitting their EIPs and EMPs to the CEC, the DOL cannot yet assess whether their EMP complies with those of other departments. Once the EMPs have been submitted and approved by the CEC sub-committee, the DOL will be able to comment in their annual report to DEAT, on whether the EMPs are compatible as well as the extent of compliance to their EMP, by DOL themselves and other departments.

Some of the links with DEAT EMP are provided in **section 6.1**, for example those relating to HCS and transboundary transport of dangerous materials.

South Africa has ratified the Basel Convention (Convention on Control of Transboundary Movements of Hazardous Wastes and their Disposals), and although DEAT is responsible for ensuring that the country meets its obligations in terms of this convention, DOL should work with DEAT to ensure:

- environmentally sound management of hazardous waste;
- establishment of a notification system (authorisation of permits for import, export and transit);
- reporting on amount of waste generated annually, including cleaner production and waste minimisation tendencies; and
- development of technical guidelines for a variety of hazardous waste.

Other possible areas where links must be made rather than duplicated include:

- Integrated Waste Management System and Hazardous Waste Management; and
- Emergency Response plans for accidental pollution.

The DOL office that is responsible for the initial development and introduction of the EMP must convene a committee of representatives from the other key government departments that will be impacted on or that will influence the environmental laws, norms and standards that the DOL develops. This committee should meet quarterly to discuss developments within each department. This will ensure that there is no duplication of effort, nor development of contradictory laws, norms and standards, or regulations.

Memoranda of Agreements between the various departments and DOL may be necessary. These could serve to streamline the implementation of the departmental EMPs and to ensure no duplication of functions, such as inspections for compliance with environmental management requirements by the various departments, and to clarify the roles of the departments.

5.2.3 Monitoring of compliance by local government with environmental requirements

Monitoring of compliance by local government with the environmental requirements will be provided for by DOL in the revised policies, laws and regulations, will be done through the inspectorates operating from the provincial offices and labour centres.

5.2.4 Monitoring of EMP implementation

Monitoring of EMP implementation by the various government departments at all levels, is required and must be planned timeously by DEAT, with input from the other departments, and conducted from the outset of the process. In order to work with the other provincial and local departments for the implementation of the initiatives resulting from this EMP, more formal communication structure must be put in place. Currently only *ad hoc* meetings and liaison occurs. DOL and other government department provincial and local offices must be involved not only for the implementation but also the development and revision of policies and regulations, as discussed in **section 5.1.7**.

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