

NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT 39 OF 2004

(Gazette No. 27318, Notice No. 163. Commencement date: 11 September 2005 – save for sections 21, 22, 36 to 49, 51(1)(e), 51(1)(f), 51(3), 60 and 61 [Government Notice R898, Gazette No. 28016])
(Commencement date of Sections 21, 22, 36 to 49, 51(1)(e), 51(1)(f), 51(3), 60 and 61: 1 April 2010 [Proc. No. 220, Gazette No. 33041])

REGULATIONS FOR IMPLEMENTING AND ENFORCING THE VAAL TRIANGLE AIR-SHED PRIORITY AREA AIR QUALITY MANAGEMENT PLAN

Published under Government Notice R614 in Government Gazette 32254 dated 29 May 2009.
Commencement date: 29 May 2009.

I, Marthinus Christoffel Johannes van Schalkwyk, Minister of Environmental Affairs and Tourism, hereby in terms of section 20 of the Act, publish the regulations for implementing and enforcing the Vaal Triangle Airshed Priority Area Air Quality Management Plan, as set out in the Schedule hereto.

Signed

MARTHINUS VAN SCHALKWYK

MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM

SCHEDULE

TABLE OF CONTENTS

1. Definitions
2. Purpose
3. Submission of emission reduction strategies
4. Review of the emission reduction strategies
5. Review of the VTAQMP
6. Power to issue a directive
7. Offences
8. Penalties
9. State bound
10. Exemptions
11. Short title and commencement

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context otherwise indicates -

"ambient air quality objectives" means the ambient air quality standards for common pollutants as adopted to be the air quality objectives for the Vaal Triangle Air-shed Priority Area, as set out in Table 7 of the VTAQMP;

"emission reduction interventions" means the interventions, contained in the emission reduction strategies, to minimise or prevent emissions to which the identified stakeholders have undertaken to implement within the target date;

"emission reduction strategies" means the emission reduction strategies prepared and submitted by the identified stakeholders, at the end of June 2008, that aims to minimise or prevent emissions;

"identified stakeholders" means the major stakeholders that have been identified in Chapter 5 of the VTAQMP. This stakeholders includes the Department of Environmental Affairs and Tourism, the Department of Minerals and Energy, Department of Health, Department of Housing, Gauteng Department of Agriculture, Conservation and Environment, Free State Department of Tourism, Environmental and Economic Affairs, Sedibeng District Municipality, Fezile Dabi District Municipality, City of Johannesburg Metropolitan Municipality, ArcelorMittal South Africa (Vanderbijlpark and Vereeniging Works), Davsteel (Cape Gate), Samancor Meyerton (Metalloys), New Vaal Colliery, Sigma Colliery, Douglas Dolomite Quarry, Sasol Chemical Industries (SCI), Omnia Fertilisers, National Petroleum Refiners of South Africa (Natref), Eskom - Lethabo Power Station and the Vaal Environmental Justice Alliance (VEJA);

"national framework" means the National Framework for Air Quality Management in the Republic of South Africa, as amended;

"national air quality officer" means an officer in the Department appointed and designated by the Minister in terms of section 14(1) of the Act as the national air quality officer;

"person" includes a juristic person;

"priority area" means the declared Vaal Triangle Air-shed Priority Area as declared in *Government Gazette* No. 28732 under General Notice No. 365 dated 21 April 2006 and as amended by Notice No. 711 published in *Gazette* No. 30164 dated 17 August 2007;

"VTAQMP" means the Vaal Triangle Air-shed Priority Area Air Quality Management Plan;

2. Purpose of these Regulations

- (1) The purpose of these regulations is to regulate the submission and review of emission reduction strategies, implementation, review and enforcement of the VTAQMP, in order to ensure that the ambient air in the priority area is brought into compliance with the air quality objectives of the priority area by:

- (a) identifying and developing appropriate and feasible emission reduction interventions that aim to minimise or prevent emissions;
- (b) providing timeframes for the review and submission of such interventions to the Minister; and
- (c) providing timeframes for the implementation of such interventions.

3. Submission of emission reduction strategies

- (1) The identified stakeholders must review and submit, by no later than the end of June 2014, to the national air quality officer their revised emission reduction strategies. The emission reduction strategies must in a table format contain –
 - (a) Stakeholder name;
 - (b) Emission reduction intervention;
 - (c) Full description of the emission reduction intervention; and
 - (d) Compliance date (day/month/year).
- (2) For the purposes of sub-regulation (1) above, emission reduction strategies must be informed by the "SMART" principles as set out in paragraph 1.4 of the national framework.
- (3) The VTAQMP must incorporate the emission reduction strategies submitted in terms of these regulations.

4. Review of the emission reduction strategies

- (1) The review of the emission reduction strategies must be undertaken by the identified stakeholders and submitted to the national air quality officer by the end of June 2014.
- (2) Thereafter the identified stakeholders must review and submit, to the national air quality officer, their emission reduction strategies every five (5) years.

5. Review of the VTAQMP

- (1) The first review of the VTAQMP will be in September 2014.
- (2) Thereafter the VTAQMP must be reviewed every five (5) years.

- (3) Before publishing any amendment to the VTAQMP, the Minister must follow a public participation process in accordance with section 57 of the Act.

6. Power to issue a directive

If the national air quality officer is not satisfied that an identified stakeholder has complied with regulations 3(1) and 4, he may issue a notice directing such person to comply with the relevant provisions of the regulations.

7. Offences

- (1) A person is guilty of an offence if that person –
- (a) provides incorrect or misleading information in the emission reduction strategies submitted in terms of these regulations; and
 - (b) fails to comply with regulations 3(1) and 4;
 - (c) fails to comply with a directive issued by the national air quality officer in terms of regulation 6.

8. Penalties

- (1) A person convicted of an offence referred to in regulation 7 is liable to a fine not exceeding R2 million, or to imprisonment for a period not exceeding two (2) years or both a fine and such imprisonment.
- (2) A fine contemplated in sub-regulation (1) must be determined with due consideration of -
- (a) the severity of the offence in terms of its impact, or potential impact, on health, well-being, safety and the environment;
 - (b) the monetary or other benefits which accrued to the convicted person through the commission of the offence; and
 - (c) the extent of the convicted person's contribution to the overall pollution load of the area under normal working conditions.

9. State bound

These regulations are binding on all the identified national departments, provincial departments and municipalities except in so far as any criminal liability is concerned.

10. Exemptions

No exemptions from the provisions of regulations 3(1) and 4 must be granted to any of the identified stakeholders.

11. Short title and commencement

This regulation is called the Vaal Triangle Priority Area AQMP Implementation Regulations, 2009 and comes into operation on the date of publication in the *Government Gazette*.