



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

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Dear Madam

PRELIMINARY SUBMISSIONS REGARDING THE DRAFT REVIEW OF THE NATIONAL FRAMEWORK FOR AIR QUALITY MANAGEMENT 2017

1. We address you on behalf of our clients, Earthlife Africa Johannesburg¹ (ELA), groundWork (gW),² the Highveld Environmental Justice Alliance Network (HEJN),³ the South Durban Community Environmental Alliance (SDCEA)⁴, and the Vaal Environmental Justice Alliance (VEJA)⁵.

¹ ELA is a non-profit organization that seeks to encourage and support individuals, businesses and industries to reduce pollution, minimise waste and protect natural resources. See more information at: www.earthlife.org.za.

² gW is a non-profit environmental justice service and developmental organization working primarily in Southern Africa in the areas of Climate & Energy Justice, Coal, Environmental Health, Global Green and Healthy Hospitals, and Waste. See more information at www.groundwork.org.za.

³ HEJN is a community organisation aimed at raising awareness on key health and environmental issues within the Highveld region and improving the quality of life of vulnerable people living in the Highveld.

⁴ SDCEA is a non-profit organisation which aims to service the common interests of participating civil society organisations, provide a common structure through which different sectors of civil society can explore, strengthen and promote matters of common interest justice or relating to environmental justice and sustainable development and create a culture of environmental justice and sustainability.

⁵ VEJA is a non-profit organisation that advocates for environmental justice, through the promotion of environmental awareness; education; active engagement with role-players; assistance to vulnerable and previously disadvantaged communities; and through advocating for a healthy environment and sustainable development within the Vaal Triangle.

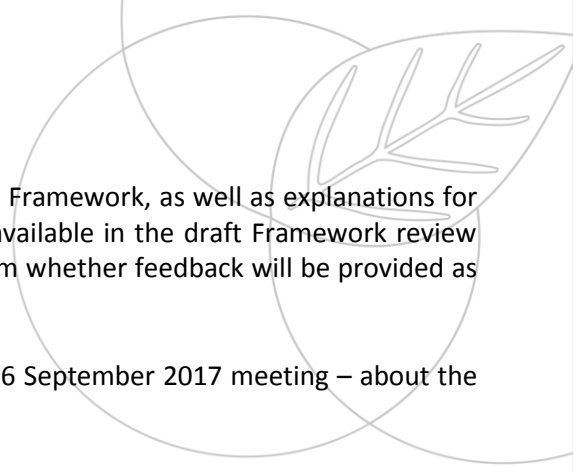
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2. We refer to the meeting held by the Department of Environmental Affairs (DEA) in respect of the amendment of the National Framework for Air Quality Management (“the draft Framework”) on 6 September 2017 in Cape Town, wherein the attendees were invited to submit their comments before 26 September 2017. This deadline was extended, upon our request, by Ms Masekoameng, to 2 October 2017. We also refer to our previous submissions in the last review of the Framework, dated 22 August 2012, and 16 April 2013 (copies of which are attached) - some of which are applicable to this amendment. Our submissions on the current draft Framework review are set out below. We reserve our right to supplement these submissions.

Introduction

3. As you are aware, section 24 of the Constitution of the Republic of South Africa (“the Constitution”) guarantees everyone the right to an environment that is not harmful to their health or well-being. The National Environmental Management: Air Quality Act, 2004 (AQA) came into force in September 2005, and is one of the “reasonable legislative measures” envisaged by the Constitution to give effect to the constitutional environmental right. AQA recognises; amongst other things, that: “the quality of ambient air in many areas of [South Africa] is not conducive to a healthy environment for the people living in those areas let alone promoting their social and economic advancement”; “the burden of health impacts associated with polluted ambient air falls most heavily on the poor”; and “air pollution carries a high social, economic and environmental cost that is seldom borne by the polluter”. AQA aims to provide reasonable measures to: protect and enhance air quality; prevent air pollution and environmental degradation; and secure “ecologically sustainable development while promoting justifiable economic and social development”.
4. AQA also makes provision for a national framework to be established to achieve the objects of AQA. However, 12 years since AQA was promulgated, and ten years since the 2007 Framework was established, many of AQA’s aims continue to be largely unrealised. Air pollution, with its devastating impacts on human health and well-being, remains significant, particularly in the priority areas. For instance, despite the fact that the Vaal Triangle Airshed and Highveld Priority Areas were declared 11 and ten years ago, respectively – with the specific aim of reducing pollution so that it no longer exceeds the national ambient air quality standards (NAAQS) - regular, significant exceedances of the NAAQS are common in these areas. And the third priority area, Waterberg-Bojanala, declared five years ago, is also out of compliance with the NAAQS. This is despite the fact that South African NAAQS are weaker than the World Health Organisation (WHO)’s guideline standards.
5. This non-compliance is reflected in the Department’s own reports presented at priority area meetings, as well as in its mid-term review of the Highveld Priority Area air quality management plan. In this regard, we also note that the draft Framework records that, in several municipalities, air quality has deteriorated from “potentially poor” to “poor”.⁶
6. Some of the same problems which existed when the first Framework was gazetted in 2007, still persist today, a decade later. These include lack of monitoring stations which operate reliably according to prescribed criteria; the dearth of easily-accessible and publically-available air quality and emission data; the lack of meaningful comprehensive enforcement action; and the lack of meaningful public participation in various air quality-related processes, among others. To exacerbate matters, the draft Framework does not review the progress (or the lack thereof) made in respect of targets in the current (2012) Framework, or reasons why it failed to meet the targets. The draft Framework merely extends the previous targets, and this makes it difficult to evaluate how and where improvements are required.
7. When the 2012 Framework was drafted, we requested that a copy of the marked-up Framework be provided, so that changes proposed to the Framework could be easily determined. However this was not provided. We

⁶ KZN: Umgungundlovu, Amajuba, iLembe, Ugu; NW: Bojanala, Dr Kenneth Kaunda; Limpopo: Capricorn, Sekhukhune, Mopani, Waterberg; FS: Mangaung; Gauteng: West Rand; Western Cape: Cape Winelands, Eden; and Mpumalanga: Ehlanzeni. There are numerous instances in which air quality remains poor and there only appears to be one municipality in which air quality has improved (from poor to potentially poor) – Uthungulu in KZN



once again request a copy of the marked-up version of the draft 2017 Framework, as well as explanations for the proposed changes. Please confirm that all further copies made available in the draft Framework review process will be marked-up, for ease of commenting. Kindly also confirm whether feedback will be provided as to how the comments made on the draft Framework were addressed.

8. Upfront, we wish to register our serious concerns – also raised at the 6 September 2017 meeting – about the failure to conduct public participation meetings in the priority areas.

Public Participation

9. Section 3.5 of and 5.9.1 of the 2012 Framework outlines the importance of public participation to ensure good air quality governance, and mandates that public participation take place in the establishment of National Framework (and amendments thereto), NAAQS, priority area air quality management plans (AQMPs), the listing of activities, the declaration of controlled emitters, and any regulations.
10. The AQA requires that norms and standards established in terms of the Framework are aimed at ensuring, *inter alia*, opportunities for public participation in the protection and enhancement of air quality.⁷ There is provision for public participation in relation to various sections of AQA (such as licensing;⁸ transfer of atmospheric emission licences (AEL);⁹ renewal;¹⁰ and variation of licences¹¹). In general, the Minister or MEC must give due consideration to all representations or objections received from or presented by the public before exercising various powers.¹²
11. The 2012 Framework make extensive references to the importance of public participation in air quality processes. Section 3.5 notes the direct impact on the public of air pollution, and their important watchdog role.
12. Sections 5.9.1.1 of the 2012 Framework provides that “(a)ctive participation and contributions from individual citizens and citizen groups is of utmost importance in developing, implementing and enforcing air quality management decisions within the context of the AQA. The potential benefits of public participation are numerous. If well-planned and managed, public participation can bring new and important knowledge to the table, mediate between conflicting perspectives early in the process and facilitate more efficient air quality governance. Equally important, public participation in air quality management plays a vital role in strengthening and deepening democracy in South Africa and in giving effect to the constitutional right to an environment which is conducive to health and well-being.”
13. According to sections 5.9.1.3 of the 2012 Framework: “(t)o keep stakeholders informed about on-going and planned air quality management projects and decision-processes (and related public participation opportunities), all three spheres of government must make relevant information available in a timely manner through, for example, dedicated air quality management websites and other suitable means, such as actively notifying known stakeholders.

Public participation opportunities for air quality decision-processes referred to in the AQA must be publicised on the national department websites and in other appropriate media and notifications sent electronically to stakeholders directly using up-to-date databases and electronic mailing lists. Special efforts will be made to ensure that vulnerable and affected communities are informed about relevant decision-processes. Information on the stage in the decision-process at which public participation is planned and the type of public participation activities envisaged will assist stakeholders in planning their participation and assigning necessary time and

⁷ s.7(2)(a).

⁸ s.38(3).

⁹ s.44(4).

¹⁰ s.47, read together with s38.

¹¹ s.46(3), (4) and (5).

¹² s.57.

resources. It will also allow stakeholders to suggest possible adjustments to the envisaged public participation process early in the decision-process.

....

Public participation must take place early in the process, when key options are still open. This will ensure that all perspectives are captured and can be properly assessed at the outset. It will also ensure that all stakeholder groups have equal opportunities to convey their views. For major decision-processes, consideration must be given to the organisation of stakeholder workshops and other participatory tools that facilitate in-depth interaction and deliberation at early stages, and which promote face-to-face dialogue.

....

Providing feedback and acknowledging written contributions from stakeholders is considered essential to participatory processes and will strengthen the relationship and build trust between government and the public. To address related stakeholder expectations in a practical manner, government must prepare concise response documents that explain the rationale for final decisions or outcomes. Government must also provide explanation on why important comments may not have been addressed. The response document must be made available to the public on request.

....

Vulnerable groups and communities have specific needs in order to effectively participate in air quality decision-making. Capacity constraints include lack of technical and human resources as well as lack of financial resources to attend meetings. Government must take cognisance of these constraints when organising meeting locations and times and when setting timelines for public comment.”

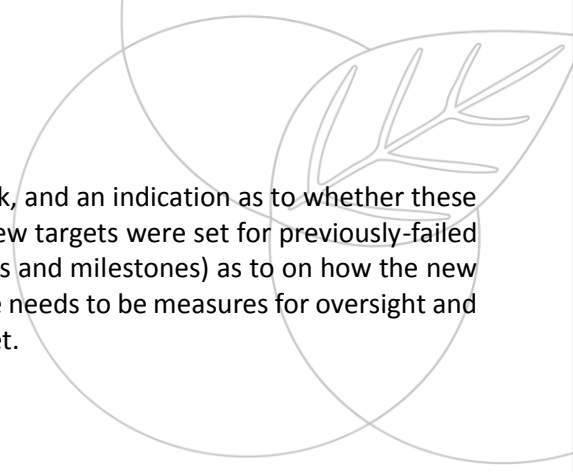
14. However, as pointed out by gW and HEJN at the meeting in Cape Town, there are no public participation meetings on the draft Framework happening in the priority areas where the air quality is at its poorest, with the most serious impacts on human health. In order for there to be meaningful engagement and a more reasonable attempt to garner the views of affected people, it is imperative that these workshops be held in the affected areas, in appropriate venues, and at reasonable times. Section 5.9.1.3 of the 2012 Framework makes clear that constraints of vulnerable groups - such as lack of technical, human and financial resources to attend meetings - have to be considered, and, in doing so, “government must take cognisance of these constraints when organizing meeting locations and times, and when setting timelines for public comment.” Community stakeholders often do not have the means to travel to major cities. It was simply by chance that gW and some community representatives were in Cape Town at the time of the meeting. In any event, those community representatives at the meeting do not – and cannot – represent all affected people.
15. It is requested that public participation take place in respect of the draft Framework in each of the priority areas, before any further drafts of the Framework are published. Kindly confirm the dates and proposed venues for such meetings.
16. In addition, section 47(5) of AQA provides that the procedures outlined in section 38 for licence applications, “read with the necessary changes as the context may require”, will apply to AEL renewals. Since section 38 requires public participation, this is also required in AELs renewals. However, we note that the section 5.6.1 authorisation process flows in the draft Framework related to “AEL renewal, renew and variation” (sic – this is presumably intended to refer to reviews), states that public participation is required for variation applications only. This should be amended to include renewal applications too as well. In addition, public participation is required in the transfer of an AEL, but the applicable flow diagram refers only to “notice” to members of the public. This should be amended to refer to “public participation”, rather than “notice”.
17. Next, we address the failure to assess progress since the publication of the current Framework.

Absence of comprehensive progress review against the objectives of the 2007 and 2012 Framework

18. During the 2012 review, we requested that an audit be conducted so that an assessment could be made as to whether DEA had met its objectives, and if objectives had not been met, for reasons be provided so that improvements could be made in the future. However, as indicated above, such assessment was not conducted,

and in the 2017 draft Framework review, there are, once again, no measurements of progress provided. In most cases, failures by the DEA in meeting its objectives are not explained, and deadlines are simply extended. Some examples of the numerous and ever-shifting delays include the following:

- 18.1. The 2012 Framework (section 5.2.1), required the establishment of the South African Air Quality Information System (SAAQIS) in phases to achieve the completion of a full system. Phase 1 required the establishment of a user-friendly general air quality information, web landing page, document management module and the ambient air quality monitoring, which comprised information input and extraction modules and application tools. Phase 1, according to section 5.2.1.1 and 5.2.1.2 of the 2012 Framework, was initiated in July 2007 and completed in September 2009, with further upgrades due to be completed in 2013/2014. The SAAQIS system is still far from being complete, user-friendly, or suitably publicly-accessible, and issues outlined in our 2012 submissions and in subsequent meetings and correspondence with the DEA still persist. In addition, the deadline for the SAAQIS upgrade has now, once again, been extended to 2017/2018. According to the 2012 Framework, Phase 2 of SAAQI envisaged the establishment of the National Atmospheric Emission Inventory System (NAEIS), which is an internet-based system to monitor details of emissions from all source type, GHG gas types, details of licensed emissions etc. According to the 2012 framework, this has been under development since 2011 and was due to be finalised in 2014, however, according to section 5.2.4.1 of the draft Framework dealing with the NAEIS, there appears to be no longer a deadline for this project. Phase 3 related to SAAQIS for providing air quality forecasting information to the public in order to provide health warning messages, is no longer part of the 2017 draft strategy. It appears that SAAQIS deadlines and phases have not been met, and no explanation have been given for this delay.
 - 18.2. In respect of SAAQIS emission inventory tools (table 9 of the 2012 Framework, Table 12 of the draft framework) which includes various tools such as emission data reporting, review, import, and assessment tools were due to be completed initially by 2014/2015, but now appear to be ongoing projects with no clear deadline in sight. Further, emission inventory guidelines, manuals and reporting regulations was due to be completed 2015/2016, and now also appear to be an ongoing project with no clear end in sight.
 - 18.3. Similarly, the National Ambient Air Quality Monitoring strategy was due to be in place 2013/2014, but has now been extended to 2018/2019. This delay of five years is not explained.
 - 18.4. A minimum of 30% live reporting of air quality monitoring stations was scheduled for 2015/2016. However, this has now been extended to 2018/2019 (we assume that the absence of an indicated minimum percentage means that all stations (i.e. 100%) will report live – please clarify this). No indication is provided of the current percentage of stations that do live reporting.
 - 18.5. Section 5.4.6.10 of the 2012 Framework required that human health impact assessments be conducted in the priority areas to assess *“the existing diseases and health profiles in relation to the prevailing ambient air quality conditions – short and long term, using questionnaires and approved medical tests”*. This was due to be completed for the Vaal Triangle Priority Area (VTAPA) by 2015, the HPA by 2017, and the Waterberg-Bojanala Priority Area (WBPA) by 2018. The 2017 draft Framework does not address whether these timeline have been – or on track to being - met, and if not, what the explanations are for this failure.
 - 18.6. The SAAQIS database for the reporting of listed activities was scheduled for completion 2014/2015. This function have now been delegated to the South African Atmospheric Emission Licensing and Inventory Portal (SAAELIP), to be completed by 2017/2018. This is an unexplained three year delay.
19. As indicated in our previous submissions, our clients are concerned and disappointed that DEA is neither complying with its obligations, nor providing explanations for the failure in meeting its objectives. As stated in paragraphs 6 and 18 above, and as set out in in the 2012 and 2013 comments (copies of which have been attached), there needs to be clearly defined targets set in the 2017 draft framework, which are time-delineated with clear milestones.



This should indicate previous targets set in the 2012 and 2007 framework, and an indication as to whether these targets were met. If not, there should be reasons provided for this. If new targets were set for previously-failed targets, these should specifically address measures (with new timeframes and milestones) as to on how the new targets will prevent the previous failures from reoccurring. Further, there needs to be measures for oversight and remedial action by the DEA as soon as the targets are found not to be met.

Climate Change and Greenhouse Gas (GHG) reporting system (section 2.4)

20. Paragraph 2.4.1.3 of the draft Framework addresses the South African response to meeting its objectives under the United Framework Convention on Climate Change (UNFCCC). To this end, South Africa, in 2011, published a National Climate Change Response White Paper (“the White Paper”) which outlines Government’s vision for climate change response. As a first step in meeting its objectives, AQA was used to regulate GHG emissions, and government has now published: a declaration of certain GHGs as priority air pollutants; National Pollution Prevention Plan Regulations; and National GHG Emission Reporting Regulations. However, there are some deficiencies in the reporting regulations; for instance:

- 20.1. It is not clear that GHG reporting should be conducted per individual facility of a data provider that meets the reporting threshold, or whether data providers required to report can simply report one total for all of their facilities combined. It is essential that reporting be done at a facility level, to identify, monitor, and regulate the sources of GHG emissions, and to be able to adequately verify reported emissions and avoid misrepresentations. We are aware that many big industries are averse to facility level reporting. We do not understand this reluctance, especially as facility-level reporting is already required in in AELs, and the GHG Reporting Regulations require data providers to register their individual facilities in respect of which they will have to report – providing numerous facility-level data and details - in any event. Further, per-facility reporting is a standard requirement in the UK and Europe - if multinational corporations are already complying in other countries, there is no reason why they should not do this in South Africa. The Framework should address this issue of reporting, without which, meaningful effect will not be given to AQA.
- 20.2. Whilst the establishment of the National GHG inventory is welcomed, the Reporting Regulations are deficient in that submission of information such as pollution prevention plans and GHG emission reporting relies on self-reporting/regulation/monitoring. All reporting should be fully transparent and reports must be made publicly available. Motivations should be provided if industries argue that any aspects cannot be disclosed. There should be an independent body to verify the information provided, including whether or not pollution prevention plans are being met.
- 20.3. In terms of the initial draft of the Pollution Prevention Plan regulations, it was clear that GHG mitigation measures were intended to reduce GHG emissions, and the projected reductions were to be determined. The final regulations replace this objective with reference to a deviation (not reduction) from the GHG emission baseline. This is a cause for concern as allegations of a high baseline could be used to attempt to excuse high GHG emissions. It should be made clear that the obligations are to reduce GHG emissions.

Annual Air Quality Management Governance Lekgotla (section 4.4.6)

21. In the 2012 Framework, it was indicated that the Air Quality Management Governance Lekgotla was to be an annual two day event. In the draft Framework, this has been changed to indicate that the Lekgotla will take place at “the frequency agreed to by authorities”. Keeping the event an annual two day event to monitor progress on meeting AQA’s objectives is vital, since it gives adequate time for provincial and municipal air quality officers to prepare their annual reports, which are due to be submitted one month, and 2 weeks, prior to the event, respectively.
22. The 2017 Framework includes an opportunity in the Lekgotla to share information with the regulated community and general members of the public. There should be adequate notification provided - at least three months’ notice - so that communities can adequately prepare for and participate in the event. In this regard,

we record that we asked to present at the multi-stakeholder workshop on 4 October 2017, and were told that the programme was already full.

Compliance and Monitoring (4.2.8 and 4.2.9 of the 2012 Framework)

23. In the 2012 Framework review, we requested that it be specified in the Framework how many Environmental Management Inspectors (EMIs) have been appointed to monitor compliance and enforcement of AQA, as well as of the Waste Act. We also requested that the Framework set out the plans and timelines for increasing the numbers of EMIs. As these concerns were not addressed in the 2012 Framework, we again request that they be addressed in the draft Framework review

Ambient Air Quality Monitoring and Monitoring Stations (section 5.2.1.2 - 5.2.1.4)

24. As outlined in paragraph 18 above, there are severe delays in putting in place measures to provide for monitoring of ambient air quality, and there is continually extension of deadlines in this regard. This is unacceptable to our clients.
25. In terms of table 9 (of the 2017 Framework), there should be “reporting of all government-owned air quality monitoring stations into SAAQIS”, and the timeframe for this is “as per outcome 10 of delivery agreement”. When considering specific Outcome 10 outcomes pertaining to air quality, it is clear that we are already far behind the implementation schedule in the deliverables. For instance, at the time of the publication of the deliverables, there were 90 air quality monitoring stations were established, *“measuring and reporting quality controlled and quality assured ambient air quality data; and data ...is being reported to the South African Air Quality Information System (SAAQIS) where it is compared to air quality standards and is reported publicly via, the internet.”* Of those, 80% of government-owned monitoring stations, were required to report to SAAQIS by March 2014. It was also envisaged that there would be 100% countrywide compliance with NAAQS by 2020. Further, Phase 2 of SAAQIS (establishment of NAEIS as discussed in paragraph 18 above) was to be completed by mid-2012. In other words, reporting of all government-owned air quality stations into SAAQIS should already have happened. Since the deliverable deadlines has long passed, the reasons for the delay should be explained, and a new urgent deadline should be proposed, rather than “as per outcome of delivery agreement”. Monitoring of air quality is essential to address air pollution. It is very concerning to note that this objective has not yet been met ten years after publication of the initial Framework. Table 9’s timeframe should be specified by date, and the reporting should ideally be of all monitoring stations, and not just government-owned stations.
26. As indicated above, national norms and standards for air quality monitoring are delayed and are now scheduled for 2017/2018. This is an unreasonable delay: without good quality, reliable and accessible data, pollution cannot be addressed and meaningful, effective compliance monitoring and enforcement action cannot be taken. This should be addressed as a matter of priority. It is submitted that the Framework should specify that these norms should contain timeframes for maintenance and calibration, and that reporting should be made publicly accessible. In addition, any claimed confidentiality in respect of data should be properly motivated.
27. In the 2012 Framework under paragraph 5.2.1.3, there are provisions relating to the siting of the monitoring equipment, such as consideration of location and criteria for determining the recommended minimum number of sampling sites. These paragraphs should be retained in the 2017 Framework. As indicated in our previous comments, siting stations must involve community participation, and there must be a minimum number of monitoring stations in certain residential or priority areas and densely-populated areas.
28. In the 2012 Framework at paragraph 5.2.1.4, there are provisos made in respect of NAQI reporting. Phase 1 (2008-2014) envisaged that the NAQI will be based on monitoring stations that have been operating since 2008, and that once more networks start reporting to SAAQIS, better trends will emerge. The annual average NAAQS of PM₁₀ were then 50ug/m³. Phase 2 (2015-2020) envisaged that NAAQS of 40ug/m³ of PM₁₀ would apply and

all government stations will be reporting to SAAQIS. To date, this has not happened. It also envisages that NAQI reporting Phase 3 will be addressed in a future Framework. In the circumstances, the 2017 Framework should specify whether previous phases of the NAQI objectives were met, and if not, provide reasons therefor. Further, it should set new standards (Phase 3) for the NAQI past 2020. In other words, the NAAQS should be made stricter from 2020.

29. In this regard, we refer also to 5.4.3.2 of the 2012 Framework, which makes specific provision for the need to review the NAAQS, including when the Framework is reviewed. The majority of our NAAQS were set eight years ago, with the PM_{2.5} NAAQS set five years ago. As indicated above, they are weaker than the WHO guidelines – which are also outdated. In the case of PM₁₀ and PM_{2.5}, and benzene, the NAAQS themselves make provision for these standards to become stricter over time. Although the PM, NO₂ and O₃ NAAQS should also be reviewed, our most immediate concern has to do the SO₂ NAAQS, which are extremely lax compared to the WHO guidelines (for all averaging periods other than then 10 minute average).¹³
30. In the 2012 Framework, (table 18), there are as many as 80 government-owned monitoring stations listed. In the draft framework, only 42 monitoring stations are required to report to the NAQI, almost half the number states in the current Framework. Our understanding from the 6 September 2017 meeting was that these are supposed to be the most-representative stations. Kindly clarify what criteria have been used to site these monitoring stations? How will the new NAQI be compared with previous ones that used different stations?
31. In the draft Framework, it is indicated that, of the 42 monitoring stations, some do not monitor any pollutants (e.g. Saltworks in Eastern Cape, King Shaka in eThekweni etc.). Many others do not have PM₁₀, PM_{2.5} and/or O₃ and/or NO_x and/or SO₂ monitoring. This is not acceptable to our clients and makes monitoring, compliance, enforcement, and improvement of air quality extremely difficult.
32. The air quality monitoring station network must urgently be improved upon and adequately managed and maintained, so as to produce verified, reliable air quality data that are readily and publicly available.

Public access to quality data and information (section 5.2)

33. As discussed above, the SAAQIS reporting deadlines have been significantly delayed. Providing publicly accessible, good quality and verifiable, user-friendly air quality information needs to be a priority, including access to information such as AELs, ambient air quality data, and point source emission data. No further extensions would be acceptable.
34. Information related to AQMPs (5.2.1.4 of 2017 Framework) pertains to availability of AQMPs on the SAAQIS website. Currently, the SAAQIS website indicates that two provinces (KZN and Mpumalanga) do not have AQMPs. Of those that are apparently available, only 15 municipalities' AQMPs are accessible. The SAAQIS website also indicates that 25 municipalities have no AQMPs and seven municipalities' AQMPs are being drafted. What are the deadlines and targets for the finalisation of these outstanding AQMPs and when will all AQMPs be made accessible to the public?
35. In relation to aspects pertaining to additional aspects of SAAQIS (section 5.2.1.10 of 2012 Framework and now 5.2.1.5 of 2017 Framework): SAAQIS is to incorporate a media library for air quality information, an interactive learners' centre with air quality information for the public and school children, a database of key stakeholders, etc. This has been on the agenda for some time. The draft Framework should provide deadlines for targets and indicate progress made in respect of the completion of this objective.

¹³ We also point out that other standards – such as the minimum emission standards – should be reviewed at least every five years (5.4.3.3 of the 2012 Framework).

36. In the draft Framework (5.2.1.6, previously 5.2.1.8 of the 2012 Framework), a South African Air Quality Research Reference database was required to be established. There appears to be a database on the SAAQIS website, but search criteria are limited to author, title, or year of publication. A full list should be made available, and the search criteria should be expanded (i.e. search by subject) to be made more easily accessible.
37. Information on SAAELIP (section 5.2.4 of the draft framework): System for National Atmospheric Emission Licensing (SNAEL) (section 5.2.4.1 of the draft framework) and National Atmospheric Emission Inventory System (NAEIS) (section 5.2.4.2 of the draft Framework), including implementation targets has been delayed. Currently, the emissions information is not accessible to the public, and the area specified on the website is only for reporting, with no actual data available on emissions to be accessed by the public. Further, SNAEL allows the public to view “non-confidential AEL information”. As stated above, AEL, air quality and emission information is public information and cannot be considered confidential. Any entity claiming that these are confidential should fully motivate its reasons. They should be by default, publicly accessible.
38. AELs for all facilities with significant polluting emissions (especially in priority areas) must require real-time emissions monitoring, and that real-time emissions data be publicly available online and on request.
39. The DEA and all licensing authorities must make all AELs and annual emission reports submitted to them publicly available, and all licence-holders must be required to make these documents available on their websites and on request.

Capacity Building

40. In 5.2.9 of the 2012 Framework, there were extensive measures proposed in respect of capacity-building, including additional financial resources, strengthening of tertiary institution offerings in the air quality field, internships and short courses, training and guidance of air quality officers, amongst others. Whilst this is understood to be an incremental goal, the draft Framework should outline milestones as to how much has been achieved, and the deadlines for the next target to be met. For instance, it should indicate the budget that was allocated to air quality management in each municipality, and how much this has increased over the years. Further, it should indicate how many air quality officers have been appointed, and how many more will be appointed, specifying deadlines for the objectives.
41. In this regard, municipalities must take urgent steps to ensure the appointment and training of suitable air quality officers, Environmental Management Inspectors, the development of AQMPs and the incorporation of those plans into Integrated Development Plans.

Conclusion

42. We thank the Department for the opportunity to comment on the draft Framework review and look forward to receiving feedback on the next steps in the process. We also look forward to receiving details on when and where the public participation meetings will take place in the priority areas.

Yours sincerely

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

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