



**MINISTER
ENVIRONMENTAL AFFAIRS
REPUBLIC OF SOUTH AFRICA**

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Ref: EDMS 179942

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Dear Mr Lloyd

REGULATIONS FOR IMPLEMENTING AND ENFORCING THE HIGHVELD PRIORITY AREA AIR QUALITY MANAGEMENT PLAN (2012)

I refer to your letter of 10 December 2018. I welcome and value engagements with your organisation on matters relating to the priority areas, specifically the Highveld Priority Area (HPA) in this case. The Department of Environmental Affairs (DEA) seeks to work with all stakeholders in order to find lasting solutions to our common challenge of air pollution in the priority areas. I have contemplated your request for DEA to develop regulation for the implementation of the HPA Air Quality Management Plan (AQMP). I have considered the fact that AQMP is *not* the only tool at the disposal of government to address air pollution in the priority area. In fact, there are a number of air quality management tools that complement the AQMP. Below is a summary of key tools:

1. **Atmospheric Emission Licensing (AEL) System:** this tool regulates all activities listed by the Minister in terms of Section 21 of the AQA and has provisions for penalties and fines in cases of non-compliance;
2. **Controlled Emitters Regulations:** these regulations empower licensing authorities to effectively manage a wide ranges of sources while reducing administrative burden associated with regulating mobile or temporal emission sources. To date, the department has promulgated the following controlled emitters regulations:
 - (a) Small boilers;
 - (b) Temporal asphalt plants; and
 - (c) Small –scale char and small-scale charcoal plant.
3. **National Dust Control Regulations:** these regulations empower air quality officers across the country to address fugitive dust emission from any source that impacts ambient air quality;

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4. **National Atmospheric Emission Reporting Regulations:** these regulations empower licensing authorities to regulate the reporting of data and information from an identified point, non-point and mobile source of atmospheric emissions towards the compilation of atmospheric emission inventories. These inventories are critical for efficient and effective air quality management; and
5. **Strategy to Address Air Pollution In Dense Low-income Settlements:** this strategy provides a coordinated approach in the implementation of efforts aimed at ensuring that ambient air quality in dense low-income settlements is in compliance with the national ambient air quality standards.

While the DEA, in collaboration with other spheres of government, takes the lead in the implementation of the AQM, the challenge of tackling air pollution is however not the responsibility of government alone. It is with this understanding that priority area AQMPs are developed and implemented. These AQMPs seek to coordinate the efforts of the various stakeholders, with the view to leverage available resources, knowledge and skills. The AQMP was never meant to be a regulation but instead a plan that seeks to promote collaboration between stakeholder and articulate shared vision and goals.

In light of the various air quality management tools available to government and the existing structures for the implementation of the HPA AQMP, the DEA has no compelling reasons to develop regulations for its implementation.

With regards to the state of air in the HPA, ambient air quality data collected by the DEAs' network in the Highveld Priority Area (HPA) indicates that there have been notable improvements in PM_{2.5} and PM₁₀ levels in monitoring sites such as Ermelo, Hendrina and Middelburg. While for the years 2015 and 2016, Secunda and Emalaheni sites showed a reversal of the improvements that had been realised since 2008. SO₂ concentrations have also shown improvements across all the five monitoring stations in the HPA. Despite this observed downward trend, the ambient air quality has not reached the desired levels. The reality is that the desired improvements will not happen over a short period of time but rather progressively over time. Experience from countries such as the United Kingdom and the United States of America (USA) indicates that the path to reaching desired air quality level takes time and effort, which can be in excess of 20 years as has been the case in the USA.

With regards to the *Broken Promises Report*, I have attached a detailed response (**Annexure 1**) as requested.

Lastly, I would like reiterate the department's commitment to work with all stakeholder to achieve the goal of ensuring that the air quality in the Republic is not harmful to the wealth and wellbeing of its citizens.

Yours sincerely



**MS N P MOKONYANE, MP
MINISTER OF ENVIRONMENTAL AFFAIRS**

DATE: 30.04.19

ANNEXURE 1

THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS' OFFICIAL RESPONSE TO THE BROKEN PROMISES: THE FAILURE OF THE HIGHVELD PRIORITY AREA, OCTOBER 2017 (A REPORT BY THE CENTER FOR ENVIRONMENTAL RIGHTS IN COLLABORATION WITH GROUNDWORK AND THE HIGHVELD ENVIRONMENTAL JUSTICE NETWORK)

The Department of Environmental Affairs (DEA) notes and appreciates the report published by the Center for Environmental Rights (CER) in collaboration with groundwork and the Highveld Environmental Justice Network (HEJN) entitled "**Broken Promises: The Failure of the Highveld Priority Area**". While the report highlights critical challenges faced thus far in the implementation of the Highveld Priority Area (HPA) Air Quality Management Plan (AQMP), it overlooks crucial facts and some of the progress made to date.

Some of the concerns raised in the Broken Promises Report are shared by the Department and have been highlighted by the Department in its draft Medium-Term Review (MTR) of the HPA AQMP. While Chapter 8 of the HPA AQMP requires a five-year review of the AQMP, the Department took lessons from the Vaal Triangle Airshed Priority Area (VTAPA) AQMP that suggested that an on-going evaluation is an essential element of the AQMP implementation. In line with these lessons, the Department undertook to MTR of the HPA AQMP. Such a medium term review would help with the early detection of shortfalls and reprioritization of resources accordingly. The purpose of the MTR was to:

- update the emission inventory;
- changes in ambient air quality since the declaration;
- review progress on interventions implementation; and
- provide recommendations to strengthen the interventions implementation.

The MTR was undertaken in order to assess progress and identify gaps in the implementation of the AQMP. This review forms part of the monitoring, evaluation and review component of the AQMP. Below are some of the improvements recommended by the MTR:

- Updated objectives and targets, which are more realistic and aligned with new developments in the Air Quality fraternity;
- Improved reporting of industrial and mining emissions to the National Atmospheric Emissions Inventory System (NAEIS);
- Improved quantification of emissions through the development and use of standardised emissions inventory approach;
- Source apportionment to inform the interventions;
- Robust engagements with the relevant National departments to influence their policy
- Increase in capacity to ensure implementation of the AQMP can be achieved; and
- Improved management of the implementation and review of the AQMP progress with better accountability and feedback.

Below is a summary of progress made since the declaration of the priority area.

1. Air Quality Governance

In line with the rights enshrined in Section 24 of the Constitution of our country, the department strives to ensure that the country's ambient air quality is not harmful to the health and well-being of its citizens. In order to realise this, the Department has had to address historic air quality management deficiencies. Air quality management in the country has been brought in line with

international standards. Key achievements in this regard are the establishment of National Ambient Air Quality Standards, the rolling out of extensive ambient air quality monitoring networks by all three spheres of government and development of air quality related policies and regulations that are in line with recent developments in air quality management globally.

The National Environmental Management: Air Quality Act, 2004 (Act No 39 of 2004) makes provision for a number of air quality management tools and instruments, including the establishment of Priority Areas (Sections 18 to 20) where ambient air quality standards are exceeded or may be exceeded with three strategic drivers:

- (a) It effectively allows for the concentration of limited air quality management capacity (human, technical and financial) for dealing with acknowledged problem areas to obtain measurable air short-, medium- and long-term quality improvements;
- (b) It prescribes a cooperative governance approach; and
- (c) It allows for the implementation of 'cutting edge' AQM methodologies that take into account all contributors to the air pollution problem.

Significant resources have been poured into the rolling out of extensive ambient air quality monitoring networks by all three spheres of government. The Department currently has five (5) SANAS accredited stations dotted across the priority areas and these are complemented and supplemented by stations owned by other spheres of government and industry. These stations report to South African Air Quality Information System (SAAQIS) website. The data produced by these stations is at the core of planning and decision making for all stakeholders in the priority areas.

Other ambient monitoring owners have had challenges in the past but have recently made significant progress in addressing these challenges. The Mpumalanga Provincial Government (MPG) and Ekurhuleni Metropolitan Municipality monitoring stations have come back into operation, with some of the stations from the MPG already reporting data to SAAQIS. This demonstrates a commitment to allocate the necessary financial resources to fulfill air quality management functions.

2. Intergovernmental Cooperation and Coordination

All three spheres of government involved in the Highveld Priority Area by actively participating in the Multi-Stakeholder Reference Group and the Implementation Task Teams and working towards the implementation of the priority area's Air Quality management Plan. In addition, government reports regularly to the stakeholders on its performance with respect to attainment of the goals and objectives of the AQMP. Government welcomes the scrutiny provided by these platforms and is committed to the work of the priority area. Intergovernmental cooperation and collaboration is essential to realising the goals and objectives of the priority area's Air Quality Management Plan. Efforts have been made in the past and will continue to be made to secure the participation of all relevant departments and stakeholders.

On their part, the municipalities have made progress in building air quality capacity, with all the district municipalities in the Highveld Priority Area appointing Air Quality Officers since the declaration of the priority areas. There is however a recognition that more that still needs to be done and government is committed to improving capacity across all spheres of government.

3. The HPA's State of Air

Ambient air quality data collected by the Department's network in the Highveld Priority Area (HPA) indicates that there have been notable improvements in PM_{2.5} and PM₁₀ levels in monitoring

sites such as Ermelo, Hendrina and Middelburg. While for the years 2015 and 2016, Secunda and Emalaheni sites showed a reversal of the improvements that had been realised since 2008. SO₂ concentrations have also shown improvements across all the five monitoring stations in the HPA. Despite this observed downward trend, the ambient air quality has not reached the desired levels. The reality is that the desired improvements will not happen over a short period of time. Experience from countries such as the United Kingdom and the United States of America indicates that the path to reaching desired air quality level takes time and effort, which can be in excess of 20 years as has been the case in the USA.

It is important to note that the air pollution problem in South Africa, like in many other countries, is a complex one that can't be solved by focusing on a few sources. It requires a holistic and integrated approach that targets all sources while facilitating the participating of all sectors of society in addressing air pollution from each source. It is for this that a Multi-Stakeholder Reference Group and Implementation Task Teams have been established and tasked with the responsibility of spearheading efforts aimed at improving air quality. Significant progress has been made in increasing awareness around the causes and impacts of air pollution as well as the contribution each stakeholder can make in improving the quality of air of the areas.

4. Air Quality Regulation and Compliance

The Department, affected provinces and municipalities have over last two years prioritised compliance monitoring and enforcement in the priority areas. Joint strategic compliance inspections are conducted regularly to ensure compliance with the requirements of the National Environmental Management: Air Quality Act (NEMAQA). This focus will continue into the foreseeable future with the added emphasis on building capacity in the municipalities. Most significant pollution sources are required to undertake continuous monitoring of their emissions as part of compliance with minimum emission standards. The next step is to have real-time reporting on this data. This is an aspiration of the Department and it is recognised that investment in tools and systems is needed to support this goal. Currently, the South African Atmospheric Emission Licensing and Inventory Portal (SAAELIP) has a list of all atmospheric emission licensing issued in the system and more will be available as and when they are processed and issued through the system. In addition, the Department will publish an annual emission inventory report going forward.

In recognition of the impact of emissions from sources other than industrial sources, facilities granted postponement were required to undertake air quality offset projects in affected communities with focus on particulate matter (PM) and sulphur dioxide (SO₂). The key objective of each offset project is to ensure that once implemented, there will be a net improvement in the ambient air quality in the area of implementation.

The HPA and in fact, the country as a whole, needs to transition from old and outdated technology to new and cleaner technology. New plants will be compliant with new plant standards as they are designed as such and are part of the country's future plans. Suspending the issuing of new AELs will delay the desired transition from old and outdated technology to new and cleaner technology. The proposed suspension by all accounts is unsustainable and will result in the country ultimately being uncompetitive.

Regarding the amendments of the National Dust Control Regulations, the process is at an advanced stage. This amendments would ensure adequate monitoring, measurement, and reduction of the significant dust emissions.