



**environment & tourism**

Department:  
Environmental Affairs and Tourism  
REPUBLIC OF SOUTH AFRICA

# **AQA IMPLEMENTATION: LISTED ACTIVITIES AND MINIMUM EMISSION STANDARDS**

**AS CONTEMPLATED IN SECTION 21 OF THE NATIONAL  
ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004 (ACT NO. 39  
OF 2004) (AQA)**

## **BACKGROUND INFORMATION DOCUMENT (BID) Rev 01**

**July 2007**



**Airshed Planning Professionals (Pty) Ltd**



## Purpose of the Background Information Document (BID)

The Background Information Document (BID) aims to provide you, as a stakeholder, with background information regarding the Department of Environmental Affairs & Tourism's (DEAT) National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) (AQA) Implementation: Listed Activities and Minimum Emission Standards Project. This document is intended to introduce the relevant sections of AQA, requirements for proposed standards, consultative process to be followed, i.e. how stakeholders can become involved in the project, receive information, or raise issues that might be of interest or concern, as well as provide project-related inputs and/or comments, etc., proposed list and timeframe for input into the project. The sharing of information forms the basis of the stakeholder involvement process and offers stakeholders the opportunity to become actively involved in the project from the outset. Stakeholder involvement plays an important role in the implementation of the AQA, as input from stakeholders will ensure that all potential issues are considered within the project.

## Introduction

DEAT is implementing Sections 21 and 22 of AQA. The objective of AQA is to reform the law regulating air quality in order to protect the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development while promoting justifiable economic and social development. It also provides for national norms and standards regulating air quality monitoring, management and control by all spheres of government.

Sections 21 and 22 of AQA are outlined as follows:

### Section 21: Listing of activities

- (1) The Minister must, or the MEC may, by notice in the *Gazette* -
  - (a) publish a list of activities which result in atmosphere emission and which the Minister or MEC reasonably believes have or many have significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, and
  - (b) when necessary, amend the list by-
    - (i) adding to the list activities in addition to those contemplated in paragraph (a);
    - (ii) removing activities from the list; or
    - (iii) making other changes to particulars in the list.
- (2) A list published by the Minister applies nationally and a list published by the MEC applies to the relevant province only.
- (3) A notice referred to in subsection (1) -
  - (a) must establish minimum emission standards in respect of a substance or mixture of substances resulting from a listed activity and identified in the notice, including-
    - (i) the permissible amount, volume, emission rate or concentration of that substance or mixture of substances that may be emitted, and

- (ii) the manner in which measurements of such emissions must be carried out;
  - (b) may certain transitional and other special arrangements in respect of activities which are carried out at the time of their listing; and
  - (c) must determine the date on the notice takes effect.
4. (a) Before publishing a notice in terms of subsection (1) or any amendment to the notice, the Minister or MEC must follow a consultative process in accordance with sections 56 and 57.
- (b) Paragraph (a) need not be complied with if the notice is amended in non-substantive way.

## **Section 22: Consequences of listing**

No person may without a provisional atmospheric emission licence or an atmospheric emission licence conduct and activity -

- (a) listed on the national list anywhere in the Republic; or
- (b) listed on the list applicable in the province anywhere in that province.

These sections of the AQA make the publication of a list of activities, together with emission limits for these activities and the method by which emissions shall be tested mandatory on at least the Minister.

### **Professional Service Providers**

DEAT has contracted Airshed Planning Professionals (Pty) Ltd in association with Bemani Sustainability Training (Pty) Ltd to assist with this project.

## **Requirements for the setting of standards**

- Minimum emission standards must be set, but AQA does not specify the exact nature of these standards (e.g. mass emission rate, concentration, volume).
- At least one substance per listed activity must be specified.
- The proposed standards must be reasonable measures for the protection and enhancement of air quality in the Republic, for the prevention of air pollution and ecological degradation and must secure ecologically sustainable development while promoting justifiable economic and social development.
- In terms of Section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), the standards must reflect “the best practicable environmental option”; in principle this includes the consideration of (in this case) South African conditions.
- The standard setting process must be institutionalised, in the sense that the structure and systems within the DEAT must allow the list and the standards to be updated as dictated by industrial development and improved understanding of the effects of air pollutants.

A review of overseas practices in the setting of emission standards and recommendations following from that review are available on the project web page as output B1 of this project.

## Proposed list

As part of the National Air Quality Management Programme Phase II, Transition Project, CSIR Environmentek drew up a set of criteria for inclusion of activities and a list of activities corresponding to these criteria. Reference was also made to the processes listed in Schedule 2 of the Atmospheric Pollution Prevention Act, 1965 (Act No. 45 of 1965).

The CSIR Environmentek proposal was updated as output B2 of this project which is available on the project web page. It was also included in the draft National Framework document which was published for comment on 6 July 2007.

## Example of Listing

An example of the format envisaged for a section 21 listing for each of the sectors is available on the project web page.

## Consultative process

Consultation will take place at several forums, e.g. the Affected Industries Reference Group (AIRG), which the Department envisages as providing coordinated, cohesive and consistent engagement with industrial sector organisations, rather than individual companies.

It is as part of this References Group that further contact is presently being made with representative sector organisations in order to obtain comments on /input to:

- (i) The applicability of European Union, United States Environmental Protection Agency and other overseas standards to similar local industry sectors.
- (ii) Suitable standard measurement methods.
- (iii) Transitional arrangements and /or a schedule of implementation for the proposed standards.

In addition to the above, Public Workshops, as well as public outreach events will be held with relevant stakeholders as part of the stakeholder engagement process / consultative process. The first of these workshops is planned for 10 October 2007 as part of the annual DEAT Lekgotla. Details of this workshop can be obtained from the persons whose contact details appear at the end of this document.

Dates for further workshops will be placed on the project web page as the events are planned.

### **Stakeholder Consultation:**

Various meetings with the priority sectors have already been held. A summary of the comments received as a result of these meetings is available on the project web page as output B3. Outputs B1 to B3 were also summarised as the input from the Listed Activities and Minimum Emissions Standards Project into the National Framework and are available on the project web page as output B4

## Project Programme

The project is expected to run for a period of no longer than 18 months. You can consult the project website in order to view the Gantt Chart outlining the details of the project.

A more detailed programme for the implementation of the S21 notice, which is one of the major outputs of this project, will appear on the web page shortly.

## Comments and Queries

**Comments, queries or responses to any project related matter should be directed to:**

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