

ENVIRONMENTAL ALERT

10 April 2013

THE INCREASING HAZE BETWEEN AIR QUALITY MANAGEMENT AND SOCIO - ECONOMIC DEVELOPMENT

Air pollution from Africa's rapidly urbanised areas remains a worrying threat due to climate change, environmental degradation and health risk.

Urban outdoor air pollution, from various sources, is estimated to cause 1.3 million deaths worldwide annually, with the poor being most vulnerable. South Africa is no exemption, being a significant contributor to air pollution in the region. It also consistently ranks worldwide in the top twenty countries having the highest greenhouse gas emissions, which cause climate change.

Environmental Affairs Deputy Minister Mabudafhasi stated at the Annual Air Quality Governance Lekgotla in 2011 that "South Africa is developing very fast; which is why we need to have measures in place to control all of this." She conveyed "various measures were being developed to assist government enforce the Air Quality Act to protect people's constitutional right to clean air." The thirty two reported legislative contraventions to air management legislation listed in the National Environmental Compliance and Enforcement Report 2011-2012, most of which were committed by big listed industrial companies, are also indicative of governments attempts to combat air pollution.

In an attempt to address air quality management, the Department of Environmental Affairs has developed a National Framework for Air Quality Management and introduced several pieces of legislation and other policies over the last decade.

However, in November 2012, the Department published controversial proposed amendments to the "List of activities which result in atmospheric emission which have or may have a significant detrimental effect on the environment; including health, social conditions, economic conditions, ecological conditions or cultural heritage"¹ (Proposed Listed Atmospheric Emission Activities Amendments).

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The Proposed Atmospheric Emissions Activities Amendments have attracted substantial criticism. This includes that, despite South Africa's ambient air quality falling short of World Health Organisation benchmarks, the proposed amendments relax certain air quality standards, which will create health risks. This appears to be in contrast to government's commitment to address air pollution.

Industries however argue emission standards are too stringent and South Africa should not be measured against industrialised countries' standards, where industries can afford to implement expensive air pollution abatement technology (often equating to millions of Rands). The problem is exacerbated by South African companies' industries remaining highly reliant on relatively old facilities, with short remaining lifespans. It is often infeasible to upgrade facilities to comply with the air emission regulatory framework, which has rapidly evolved over the last decade. Industry is one of South Africa's main sectors, contributing approximately a third of the country's total GDP in 2012 and a significant employment source for poor and unskilled labourers. Faced with too stringent air emissions limits, and costly abatement technology required in air emission licences, companies could be forced to close down or reduce employee numbers, diminishing socio-economic benefits arising from their operations.

However, in the absence of an adequate regulatory regime, some companies may not address the socio-economic impacts of their air quality impacts through innovative financial and operational planning.

¹ Published in Government Gazette No 33064 dated 31 March 2010

This debate highlights the complex balance that developing countries, including South Africa, must achieve by carefully weighing environmental impacts against sustainable economic development. Achieving this difficult balance is recognised by the international law principle 'common but differentiated responsibilities', which is included in air emission treaties, such as the Kyoto and Montreal Protocols. Under this principle, industrialised countries acknowledge they have caused environmental pollution during their development and developing countries should have less environmental responsibility than industrialised countries to achieve their socio-economic development goals.

It therefore remains clear that, while international standards provide convenient quantitative benchmarks for air emission

standards, careful balancing of socio- economic growth and environmental regulation remains a very difficult assessment when considering industries' unique capabilities in developing countries. Stakeholders' comments will need to be carefully assessed by legislature before amending the air quality standards in the Listed Atmospheric Emission Activities Amendments.

The commenting period for the Proposed Listed Atmospheric Emission Activities Amendments ends on 11 April 2013 and will be followed by public hearings starting on or around 16 April 2013. Should you require a copy of the Proposed Listed Atmospheric Emission Activities Amendments please contact us.

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