

No. 1242

21 November 2008

**PROPOSED REGULATIONS FOR IMPLEMENTING AND ENFORCING THE VAAL TRIANGLE  
AIR-SHED PRIORITY AREA AIR QUALITY MANAGEMENT PLAN IN TERMS OF SECTION 20  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004 (ACT NO. 39  
OF 2004)**

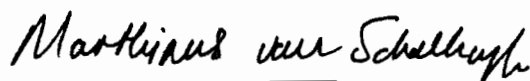
I, Marthinus Christoffel Johannes Van Schalkwyk, Minister of Environmental Affairs and Tourism, in terms of section 20 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), intend developing the proposed regulations for implementing and enforcing the Vaal Triangle Air-shed Priority Area Air Quality Management Plan. The proposed regulations, as contained in the schedule hereto, are hereby published for public comments.

Interested persons are requested to submit written representations on, or objections to, the proposed regulations to the Minister within thirty (30) days from the publication of this notice. All representations or comments must be submitted in writing to the Director-General: Environmental Affairs and Tourism:

By post to:       The Director-General: Environmental Affairs and Tourism  
                    Attention: Mr. Sibusiso Shabalala  
                    Private Bag X447  
                    Pretoria, 0001

By fax to: (012) 320-1167, and by e-mail to [sshabalala@deat.gov.za](mailto:sshabalala@deat.gov.za)

Any questions in connection with the proposed regulations may be directed to Mr. Sibusiso Shabalala at (012) 310-3449.



**MARTHINUS VAN SCHALKWYK, MP  
MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM**

## SCHEDULE

### Definitions

1. 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 proposed ambient air quality standards for common pollutants as adopted to be the air quality objectives for the Vaal Triangle Air-shed Priority Area;

**“emission reduction commitment”** means the measures to minimise or prevent emissions to which the identified industries have undertaken to implement within the allocated time frame;

**“emission reduction strategies”** means the emission reduction strategies prepared by the identified industries that aim to minimise or prevent emissions;

**“identified industries”** means those industries that have been identified in Chapter 5 of the VTAQMP as the main sources contributing to the ambient air quality, and as may be amended from time to time;

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

**“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, as amended;

**“VTAQMP”** means the Vaal Triangle Air-shed Priority Area Air Quality Management Plan;

**Purpose**

2. The purpose of these regulations is to regulate the submission of emission reduction strategies by identified industries relating to their intervention strategies, which will inform the review of the VTAQMP, in order to ensure that the air quality in the priority area is brought into sustainable compliance with the air quality objectives of the priority area by:
  - (a) identifying and developing appropriate and feasible emission reduction strategies that aim to minimise or prevent emissions;
  - (b) providing timeframes for the submission of such information to the Minister; and
  - (c) committing to the implementation of the timeframes of the emission reduction strategies set out in sub-regulations 3(1) and 3(2).

**Updating of the emission reduction strategies**

- 3(1) The emission reduction strategies shall be updated by the identified industries and submitted to the Minister by 30 June 2010.
- (2) Thereafter the identified industries shall review, update and submit, to the Minister, their emission reduction strategies every five years, unless the Minister directs otherwise.
- (3) An emission reduction strategy in sub-regulation (1) must fully describe the measures to be implemented to ensure compliance with the ambient air quality objectives in the priority area, and such measures must be informed by the "SMART" principles as set out in paragraph 1.4 of the National Framework.
- (4) The VTAQMP shall incorporate the emission reduction strategies submitted in terms of these regulations.

- (5) If the Minister is not satisfied that an identified industry has substantially complied with regulations 3(1) and 3(2) in these regulations, he may –
- (a) issue a notice directing such person to act in accordance with these regulations; or
  - (b) request the identified industry to supply additional information as it may deem necessary and reasonable within fourteen days of such a request;
  - (c) Take any other reasonable measures to ensure compliance with these regulations.

#### **Review of the VTAQMP**

- 4(1) The first review of the VTAQMP, by the Minister, will be in September 2010.
- (2) Thereafter the VTAQMP shall be reviewed at intervals of not more than five years, unless the Minister directs otherwise.

#### **Offences**

5. A person is guilty of an offence if that person contravenes or fails to comply with the provisions of regulations 3(1) and 3(2).

#### **Penalties**

- 6(1) A person convicted of an offence referred to in regulation 6 is liable to a fine, or to imprisonment for a period not exceeding five years or both a fine and such imprisonment.
- (2) A fine contemplated in sub-regulation (1) –
- (a) may not exceed an amount prescribed in terms of legislation regulating maximum fines for criminal offences; and
  - (b) must be determined with due consideration of -

- (i) the severity of the offence in terms of its impact, or potential impact, on health, well-being, safety and the environment;
- (ii) the monetary or other benefits which accrued to the convicted person through the commission of the offence; and
- (iii) the extent of the convicted person's contribution to the overall pollution load of the area under normal working conditions.

### **Exemptions**

7. No exemptions from the provisions of regulations 3(1) and 3(2) shall be granted to any of the identified industries.

### **Short Title and Commencement**

8. These regulations shall be called the Vaal Triangle Priority Area AQMP Enforcement Regulations, 2008 and shall take effect on date of publication in the *Gazette*.