



environmental affairs

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

Enquiries: Adv L Garlipp
Telephone: (012) 310 3313

CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON WATER AND ENVIRONMENTAL AFFAIRS

REPORT ON MEETING BETWEEN THE DEPARTMENT AND BUSA

1. PURPOSE

The purpose of this report is to report back to the Portfolio Committee on the meeting held between the Department and Ms Lorraine Lötter, CAIA, to discuss the CAIA's technical issues with regard to the SAWS Amendment Bill, 2011.

2. BACKGROUND

2.1 The meeting was held on 01 February 2012 and was attended by Adv Linda Garlipp, Dr Lorraine Lötter and Mr Sibusiso Shabalala.

2.2 The meeting discussed the following issues:

- (a) the definition of "advisory services" as it relates to Schedule 2;
- (b) the definition of "air quality information services" as it relates to the undertaking of training by SAWS in partnership with institutions of higher education;
- (c) the deletion of definitions not used in the Bill;
- (d) clause 3(d) – issuing of air pollution-related warnings by the Weather Service; and
- (e) schedules 1 and 2 as it relates to the definition of "advisory services" as well as the relationship between regulator and industry.

3. DISCUSSION

3.1. GENERAL

In general the biggest problem that Dr Lötter has, is that industry is required to provide information as part of conditions in the atmospheric emission licences and this information will

feed into the South African Air Quality Information system. Dr Lötter is of the view that this information is confidential and should not be made available to the public and that the South African Weather Service should not be allowed to make a profit by selling the information, because the information is given to them free of charge by the industry. This argument was also raised during the time that the National Environmental Management: Air Quality Bill was debated in Parliament.

The Department is of the view that information that relates to industrial processes may well be regarded as confidential, but not emissions that are emitted to the atmosphere. The public has a right to know what has been emitted into the air. The confidentiality of information is an aspect that could be discussed during the further phases of the SAAQIS and is not a debate that should influence the text of the Bill.

The South African Weather Service will make the raw data available free of charge and only re-packaged data or data to which value had been added, may be sold.

3.2 The definition of “advisory services” as it relates to Schedule 2

CAIA indicated that the amendment of “advisory services” definition must be limited to ambient air quality. The inclusion of air pollution and emissions within the ambit of this definition will result in providing the Weather Service with a legal mandate that is outside the purpose for which it was established under the South African Weather Service Act, 2001. CAIA proposed that all references to air pollution and emissions in the definition and in the text of the Bill must be deleted.

The Department submitted that the intention of the definition is to provide the South African Weather Service with a legal mandate to implement the ambient air quality information through the South African Air Quality Information System (SAAQIS) and the National Ambient Air Quality Monitoring Network (NAAQMN). This should also allow the South African Weather Service to convert the raw data from these systems into commercial products for the market.

The Department is of the view that any independent consultant can also provide the same service with the raw data made available to the public.

3.2. The definition of “air quality information services” as it relates to the undertaking of training by SAWS in partnership with institutions of higher education

CAIA argued that the South African Weather Service is currently not performing the above function and do not have the capacity to undertake such a function. This may result in the Weather Service neglecting its core mandate of weather services.

The Department consulted with the Weather Service on this issue. The Weather Service indicated that it currently provides training in partnership with several higher education institutions and high schools on weather related issues. The Weather Service is accredited by SETA to undertake such training and have memorandum of understanding with University of Witwatersrand University, University of Pretoria, University of Fort Hare, University of Zululand and several High Schools.

3.3. The deletion of definitions not used in the Bill

CAIA submitted that the definitions not used in the Bill should be deleted; namely “greenhouse gas”; “ozone-depleting substance” and “priority area”.

The Department agrees with the deletion of these definitions.

3.4. Clause 3(d) – issuing of air pollution-related warnings by the South African Weather Service

CAIA indicated that there is no need for the Weather Service to issue air pollution related warnings because the Department can use the National Environmental Management: Air Quality Act, 2004 to declare certain areas exceeding ambient air standards as priority areas and implement interventions. In addition, emission incidents must be reported in terms of

section 30 of the National Environmental Management Act, 1998. Therefore, the issuing of such warnings can confuse industry and individuals.

The Department argued that this is a discretionary power to be exercised when necessary. It is the responsibility of government to issue warnings to members of public about conditions that may be harmful to their health or well-being. The provision only relates to warning the public about an unfavourable ambient air condition and it has nothing to do with a mandatory legal requirement for an emergency incident. In this regard, the Department is of the view that the clause should be retained.

3.5. Schedules 1 and 2 as it relates to the definition of “advisory services” as well as the relationship between regulator and industry

~~Schedule 1: CAIA is concerned about the confidentiality of information to be submitted to the SAAQIS with regard to intellectual property rights of individual companies. The concern is around Schedule 1 information on air quality that might be accessed by any member of the public. Such information must only be made available as an aggregate but not as per individual company. This might be information specifically relating to emissions of an individual company. In this regard, the reference in Schedule 1, item 14, to paragraph 5.2.1.4 must be deleted, because the industries together with the Department are currently discussing the type of greenhouse gas information that should be submitted through the SAAQIS Phase II.~~

Schedule 2: CAIA also argued that the information that the industry will be submitting to the SAAQIS free of charge might be converted into commercial packages and sold to industries at a cost. CAIA submitted that such a conduct may be regarded as a conflict of interest.

Schedule 1: The Department do not agree with the revision of Schedules 1, **with the exception of removing the references to specific paragraphs in the National Framework.** The Department indicated that Schedule 1 deals with ambient air quality information that is available free of charge to everyone. Anyone can access such information through the SAAQIS free of charge.

Schedule 2: The Department indicated that the Schedule 2 contained information that is packaged for the market. This is specialised information and the South African Weather Service has employed its professional knowledge and skill to re-packaged data into specialised air quality information services. Schedule 2 also provides for the South African Weather

Service to be contracted by industries and the Department to undertake on contract specialised ambient air quality information services.

MINISTER

DATE: