

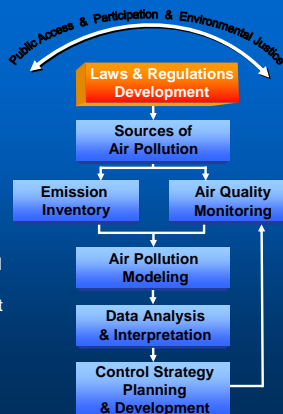
Chapter 2: Laws and Regulations Development

Chapter Overview

- Introduction to Laws and Regulations
- Statutory Law Development and Content
- South Africa's Regulatory Framework for Air Pollution Control
- Chapter by Chapter Review of AQA
- AQM Planning Tool Activity

Role of Laws and Regulations in an Air Quality Management Program.

As with other components of the AQM process, stakeholder participation is important in developing laws and regulations.



Laws and Regulations

- Laws:
 - Established by a governing authority
 - Enforced by the courts
 - Contain broad program goals and objectives
 - Define roles and responsibilities for achieving national air quality protection
- Regulations:
 - Developed by a regulatory agency
 - Provide more specific information for how the broad legislative objectives will be met

Environmental Laws

- U.S.: Clean Air Act (CAA)
 - First passed in 1970
 - 1990 Amendments
- European Union: 1996 Air Quality Framework Directive

Implementation of the U.S. CAA

- U.S. States do much of the work to carry out the CAA.
- States have to develop state implementation plans (SIPs) that explain how each state will do its job under the CAA.
- EPA must approve each SIP.

Hazardous Air Pollutants (HAPs)

- Health Based Standards (1970 CAA)
 - NESHAPs
- Technology Based Standards (1990 CAA)
 - MACT
 - Major Sources

South Africa Specific

- Atmospheric Pollution Prevention Act of 1965
- Health Act of 1977
- New Bill of Rights
- National Environmental Management Act of 1998
- Air Quality Act of 2005

APPA

- Non-Binding Guidelines for National Environmental Management
- No National or Regional Standards for Air Quality
- Legislation Left to Discretion of the Municipal Governments

APPA Implementation Issues

- Guidelines put into specific regulated permits controlled by regional Chief Air Pollution Control Officer (CAPCO).
- Controlling emissions from “scheduled processes” within “control areas” using “best practical means.”
- In 1997, there were over 2,000 specific permits, making national enforcement very difficult.

Bill of Rights

“...everyone has the right...to an environment that is not harmful to their health and well-being”

“...binds the state in its relations with individuals, but that individuals may assert their rights against the state (Administrative Justice) ...”

National Environmental Management Act

- Addresses air, water, biodiversity, energy and other environmental issues
- Establishes the public's right to access of information
- Emphasizes openness and transparency in decision making
- Protects whistle blowers

National Environmental Management Air Quality Act (AQA) Overview

- Effective September 11, 2005
- Will supersede the 1965 APPA
- Staged Implementation:
 - National framework for air quality management;
 - National, provincial and local air quality and emission standards;
 - Air quality and emission monitoring;
 - Appointment of air quality officers; and,
 - Identify national priority areas

AQA Overview: Regulatory Approach

- Establishes DEAT as the “lead agency”
- Air Quality Management Plans to be developed as part of the NEMA plans
- National, provincial and local authorities to set standards and develop plans.

AQA Overview: Standards

- Ambient air quality standards for “priority pollutants”
- Specific air quality standards can be set for specific geographical areas “...based on what that particular environment can tolerate without significant deterioration or negative impact on human health and well-being”
- Emissions standards for “controlled emitters”

AQA Overview: Licensing

- Development and implementation of a “licensing system” for “controlled processes” not subject to emission standards
- Mechanism for transition from current APPA regime to the new AQM program. Certificates issued validated only for two (2) years

AQA Overview: Compliance

- Regulatory authority may require independent environmental audit
- License holders may be required to appoint an “Emission Control Officer” with the required skills and the responsibility for ensuring compliance
- The Minister may use pollution charges as part of the regulatory system to encourage compliance
- Public awareness programs are envisioned to promote and secure compliance

The National Environmental Management Air Quality Act

Chapter by Chapter Review

AQA: Preamble

- "...everyone has the constitutional right to an environment that is not harmful to their health or well-being..."
- "...everyone has the constitutional right to have the environment protected...through reasonable legislative and measures that:
 - Prevent pollution and ecological degradation
 - Promote conservation
 - Secure ecologically sustainable development while promoting justifiable economic and social development"

Chapter 1: Interpretation and Fundamental Principles

- Objective of the Act:
 - Protect the environment by providing:
 - Protection and enhancement of the quality of air
 - Prevention of air pollution and ecological degradation
 - Secure ecologically sustainable development
 - Enhance the quality of ambient air

Chapter 2: National Framework

- Part 1: National Framework
- Part 2: Air Quality and Emission Standards
- Part 3: General

Chapter 3: Institutional and Planning Matters

- National Air Quality Advisory Committee
- Air Quality Management Plan (AQMP)
- Annual Report of Progress of Implementation of AQMP

Chapter 4: Air Quality Management Measures

- Part 1: Priority Areas
- Part 2: Listing of Activities
- Part 3: Controlled Emitters
- Part 4: Controlled Fuels
- Part 5: Other Measures
- Part 6: Noise, Dust, Odors

Chapter 5: Licensing of Listed Activities

- Established metropolitan and district municipality authority
- Addresses:
 - Considerations
 - Application and Content
 - Transfer
 - Periodic Review
 - Renewal
- Emission control officers

Chapter 6: International Air Quality Management

- Investigate situations where air pollution crosses South Africa's borders
- Issue finding to industrial facility which prescribes measures to prevent, control or correct releases

Chapter 7: Offenses and Penalties

- Lists of offenses
- Lists of penalties and considerations for enacting penalties

Chapter 8: General Matters

- Part 1: Regulations
- Part 2: Consultative Process and Public Participation
- Part 3: Delegations and Exemptions

Chapter Summary

- Difference between laws and regulations
- Lessons learned from U.S. laws and regulations
- South Africa Air Quality Act

AQM Planning Tool Activity
