

Where's the regulatory detail?

There is a marked absence of regulatory detail that organisations need to guide their preparations to comply with the proposed Climate Change Bill, says Ashleigh Maritz and Estie Retief.

While industry and environmental practitioners have welcomed the first draft of the Climate Change Bill, there is mounting impatience at the absence of the regulatory detail that organisations need to guide their preparations to comply.

The bill has been presented over recent weeks by the Department of Environmental Affairs (DEA) at stakeholder engagement sessions around the country, and has faced searching questions from large industry players, municipalities, and NGOs alike.

According to Ashleigh Maritz, senior environmental scientist at SRK Consulting, the DEA has pointed out that the detail will follow in the form of regulations, once the bill is passed into law — but many companies feel that time is running out, and that South Africa has fallen behind.

“In the absence of South African climate change legislation, many local industrial companies take the Paris Agreement and other international frameworks into consideration, as detailed legal requirements that will apply to them from a South African legislative perspective are still not specified,” says Maritz.

International standards can be used for developing greenhouse gas (GHG) inventories, carbon reduction strategies, vulnerability assessments, adaptation plans, and mitigation plans — all being important contributors towards future compliance.

She highlighted the technical and financial challenges that large carbon emitters face in repurposing their operations to meet new carbon emission requirements — a process

that could take several years of planning, design, and implementation. In some cases, the necessary technology to achieve compliance in certain industry segments may not yet be available.

“It is understandable that the compliance details will go into the regulations of this proposed legislation, as it takes several years for a law to be passed through parliament,” says SRK environmental scientist, Estie Retief. “However, companies are under growing pressure to comply and it is not clear whether the time frames to do so will be realistic — especially since the regulations will still take some time to be developed.”

Businesses are also looking for guidance on how their compliance with the carbon tax will be affected by this bill, as tax issues fall under separate customs and excise legislation.

There was some concern among the different spheres of government about their precise regulatory functions and authority in terms of enforcement, as the bill is unclear on the delegation of authority. “Some municipalities are setting emission reduction targets and they have compiled GHG inventories,” says Maritz.

“Municipalities need clarity on how they can enforce emission reduction targets if the regulatory responsibility resides at national level.

The bill follows on from a climate change framework document and a National Climate Change Response White Paper and aims to underpin a coordinated effort in all spheres of government to address the country's climate change response. The bill's objective is to promote a reduction in carbon emissions in selected industries,

while managing the impacts of climate change and facilitating the necessary adaptations by society and industry.

The bill calls for ‘needs and response assessments’ from municipalities, and this is certainly an area where progress can be made in the run-up to the enforcement of the climate change legislation. It is anticipated that municipalities will have resource and capacity challenges with the implementation of the imminent legislation and may need assistance from practitioners in this regard.

Retief emphasised the need for stakeholders to continue with their proactive efforts to reduce their carbon emissions, in anticipation of the more detailed requirements in future. ☀

About the authors

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SRK is an independent, global network of consulting practices in over 45 countries on six continents. Its experienced engineers and scientists work with clients in multidisciplinary teams to deliver integrated, sustainable solutions across a range of sectors, namely mining, water, environment, infrastructure, and energy.

