

Comments on the draft national greenhouse gas carbon budget and mitigation plan regulations and technical guidelines (Department of Forestry, Fisheries and the Environment)

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Dear Sirs

Just Share comments on the draft national greenhouse gas carbon budget and mitigation plan regulations and technical guidelines

Introduction

1. Just Share appreciates the opportunity to provide comment on the draft national greenhouse gas carbon budget and mitigation plan regulations (draft regulations) and technical guidelines, published for comment on 1 August 2025.
2. Just Share has repeatedly warned against succumbing to the vested interests, particularly of the fossil fuel industry and its representatives, to the detriment of South Africa's long-term environmental and economic sustainability.
3. Earlier this year, Just Share published a [report setting out in detail how anti-climate corporate lobbying has derailed an effective climate policy response in South Africa](#). This is already reflected in the multiple delays in the promulgation of the Climate Change Act, 2024 and the extension of the voluntary carbon budget system until the end of 2025. Now, the design of the carbon budgets and mitigation plans does not appear to target absolute emissions reduction – as required to limit the most severe impacts of the climate crisis.
4. The climate science is clear: the time to decarbonise is now. To stand a chance of meeting the goals of the Paris Agreement, global emissions must halve by 2030.¹
5. We endorse and align with Meridian Economics' submission on the regulations.² In addition to the comments contained therein, our submission emphasises the issues below.

¹ IPCC (2023), AR6 Synthesis Report: Climate Change, <https://www.ipcc.ch/report/sixth-assessment-report-cycle/>

² <https://meridianeconomics.co.za/publications/comment-on-draft-national-ghg-carbon-budget-and-mitigation-plan-regulations/>





General comments

6. Purpose and principles

- 6.1. In the Climate Change Act, the term “carbon budget” refers to the greenhouse (GHG) emissions allocated to a company “for direct emissions arising from the operations of that [company] over a defined time period”.
- 6.2. In terms of section 30(2)(a)(i) of the Act, the Minister is required to make regulations, *inter alia*, “in relation to the management of climate change response, including the determination, review, revision, compliance with and enforcement of an allocated carbon budget, amendment and cancellation of a carbon budget allocation, the content, implementation and operation of a greenhouse gas mitigation plan, and all matters related thereto”.
- 6.3. Carbon budgets and mitigation plans are among the most crucial tools in the reduction of GHG emissions, and their design and implementation are of substantial public interest and import.
- 6.4. The fundamental rationale for carbon budgets is the recognition that there is a finite amount of GHGs that humanity can emit before exceeding a given temperature threshold (e.g. 1.5°C above pre-industrial levels), which is translated into national limits to ensure emissions decline within planetary boundaries. These finite limits are then divided up between companies and sectors. It is a way of embedding principles of equity and just transition as it means those most responsible for emissions, historically and currently, should bear the highest responsibility for mitigating their emissions and investing in the low-carbon transition.
- 6.5. The carbon budget, then, is a key mechanism chosen to incentivise behavioural change and investment in cleaner, low-carbon technologies.
- 6.6. However, the draft regulations do not explicitly link to this fundamental principle, nor to South Africa’s overarching climate commitments and constitutional obligations, including the environmental right. Regulation 2 implies that the purpose of the draft regulations is essentially to provide a framework for the allocation and administration of carbon budgets. This framing is inadequate and should explicitly include at least the following:
 - 6.6.1 ensuring South Africa meets its international obligations under the Paris Agreement, including successive, increasingly-ambitious nationally determined contributions (NDCs), and the commitment to net zero by 2050;
 - 6.6.2 driving urgent absolute reductions in GHG emissions, consistent with the principle of maximum possible ambition; and



6.6.3 enshrining the “polluter pays” principle, requiring those most responsible for GHG emissions to bear the bulk of the costs of mitigation and adaptation.

6.7. In previous comments and other advocacy on the Climate Change Bill, Just Share has advocated for there to be meaningful compliance and enforcement of carbon budgets in order for these to be effective. Although we are pleased to note that the draft regulations propose more offences related to carbon budgets, GHG mitigation plans and progress reports than are contained in the Climate Change Act (which only criminalises the failure to prepare and submit a GHG mitigation plan to the Minister), the only consequence in the draft regulations for the violation of a carbon budget is a higher tax rate as prescribed in the Carbon Tax Act, 2019.

6.8. As we have also recently commented on the Taxation Laws Amendment Bill, the proposed rate of R640/tCO₂e for exceeding the carbon budget is significantly below the optimal tax rate, even for the standard carbon tax. It is vastly insufficient to act as a deterrent in the same way that a criminal penalty and/or meaningful administrative fine would. If the tax on excess emissions above carbon budgets is not set at a rate high enough to be an adequate disincentive to emissions, emitters will simply “budget” for the payment of the taxes. Emissions will continue to increase, or, at best, not reduce at anything close to the scale and rate required.

6.9. Without provisions which ensure absolute emissions reductions and meaningful consequences for a failure to comply with carbon budgets, the carbon budget framework risks becoming an exercise in compliance administration rather than a tool for ambitious mitigation.

Specific comments

7. Determination of carbon budgets

7.1. **Provision of data:** The regulations make data provided by data providers (DPs) the central basis for determining carbon budgets. This risks allowing self-reporting from emitters to shape South Africa’s national mitigation ambition. Self-reported data must be treated as supplementary and should not be determinative of the budgets.

7.2. Instead, budgets must be anchored in the NDC ranges and trajectory and Sectoral Emission Targets (SETs), with DP data used to check accuracy and distribute budgets fairly within sectors. Otherwise, there is little rational connection between the national carbon budget available to achieve the country’s global commitments and the DPs’ carbon budgets.

7.3. **New entrants’ reserve:** The creation of a reserve of emissions allowances for new entrants undermines ambition and privileges incumbent emitters. It protects historical emitters, who are already most responsible for South Africa’s emissions and therefore



should face the heaviest mitigation obligations, by insulating their carbon budgets from being impacted by new allocations. It also risks overshooting the NDC trajectory.

- 7.4. There is no need for this reserve or pool mechanism. New entrants must only be accommodated by reallocation within SETs, not additional allowances; meaning that new allocations will come from the budgets of incumbent emitters.
- 7.5. **Methods for determining budgets:** The guidelines place “mitigation potential” and benchmarks above fixed targets. This is inverted from what is appropriate, as it reflects what a company *says it can do*, not what science demands that it does.
- 7.6. The overriding principle must be absolute emission reductions in line with South Africa’s fair-share pathway. Intensity-based or relative metrics (e.g. tCO₂e/tonne product) cannot substitute for real, absolute reductions. Benchmarks can be useful for comparing performance but cannot replace absolute targets.
- 7.7. Carbon budgets should be determined first by fixed targets, based on the national trajectory, NDC, and SETs. Benchmarks can be applied but only as a transitional method. Mitigation potential can then be considered only in exceptional cases and on a temporary basis.

8. Timelines, Thresholds, and Scope

- 8.1. The draft regulations and guidelines lack clarity on several important elements including:
 - 8.1.1 the deadlines for DP submission, departmental review, and finalisation of budgets. These timelines are unclear which puts the system at significant risk of inconsistent enforcement. It also opens avenues for DPs to challenge and even litigate against the DFFE to delay the implementation of their budgets;
 - 8.1.2 which emitters are included or excluded (i.e. which emitters fall below the thresholds and are therefore not subject to carbon budgets) at each stage. Emission thresholds that are too high risk leaving significant sources of emissions not covered by carbon budgets; and
 - 8.1.3 vague rules for when and how new entrants enter the system and what the consequences are of this entrance.

9. Independent Verification

- 9.1. Verification by independent parties is critical, but this independence is compromised if those verifiers are contracted and paid by the companies whose data they assess. This creates conditions for conflicts of interest.
- 9.2. There are other ways that verification can be carried out independently. For example, DPs could contribute to a central fund that is administered by DFFE. The DFFE could



then appoint independent verifiers. Crucially, the verification process should be transparent, with all reports made automatically available to the public.

10. **Mitigation Plans**

- 10.1. Mitigation plans in the draft regulations rely on DPs self-declaring their baseline GHG emissions. This allows for the potential for DPs to manipulate their mitigation plans by inflating or adjusting their baselines to make future reductions appear more ambitious.
- 10.2. The regulations must explicitly prohibit any decrease in ambition over time, which they currently do not. This amendment would be consistent with the Paris Agreement principle of increasing ambition over time.
- 10.3. Mitigation plans must also be assessed explicitly not only against DPs' claims but also against the latest NDC trajectory and SETs.
- 10.4. The DFFE must be obliged to reject any mitigation plan that is inconsistent with South Africa's overall mitigation trajectory.

11. **Ministerial Powers**

- 11.1. The minister should have a clear discretionary power to adjust carbon budgets where necessary. This should even be a mandatory duty in cases where South Africa's international obligations increase (for example when increased NDC ambition is announced).
- 11.2. However, the minister must not be able to increase budgets – i.e. this discretion can only be employed to enhance ambition, not to dilute it.

12. **Transparency and Accountability**

- 12.1. Carbon budgets are matters of the highest public interest and import. Despite this, as things stand, interested and affected parties have no opportunity to provide input into carbon budgets. Regulations should make provisions for public consultation on the allocation of budgets.
- 12.2. Further, the regulations should require DFFE to publish at least:
 - 12.2.1 each DP's carbon budget and all mitigation plans;
 - 12.2.2 whether each plan was approved, rejected, or amended;
 - 12.2.3 annual progress reports on compliance with budgets and implementation of mitigation plans;
 - 12.2.4 whether each progress report was approved, rejected, or amended;



- 12.2.5 all final consolidated progress reports on compliance with the budget and implementation of the approved mitigation plan; and
- 12.2.6 payments of carbon tax arising from exceeding budgets.
- 12.3. Claims of commercial confidentiality must not be used to block transparency. Climate data is not a trade secret; it directly affects the public interest and everyone's constitutional right to an environment not harmful to health or wellbeing.

Conclusion

- 13. South Africa's carbon budget system must be more than an administrative mechanism; it must be a robust tool to drive the deep, urgent, and equitable emissions reductions required to limit the worst impacts of climate change, including environmental and economic impacts. The current draft regulations and guidelines risk embedding loopholes, privileging historical emitters, and undermining ambition.
- 14. However, if amended to take account of climate science, and increase transparency, accountability, and justice, the regulations can become a credible framework to support South Africa's climate commitments and ensure that those most responsible for the climate crisis bear the greatest share of the responsibility for addressing it.

Yours faithfully

JUST SHARE

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