

NOTICE 309 OF 2011**DEPARTMENT OF ENVIRONMENTAL AFFAIRS****NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004
(ACT NO. 39 OF 2004)****DRAFT NATIONAL DUST CONTROL REGULATIONS**

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby give notice of my intention to, under paragraph (c) of section 53, read with section 32 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), make the national dust control regulations in the schedule hereunder.

Members of the public are invited to submit to the Minister, within 60 days of publication of the draft regulations in the *Gazette*, written representations on, or objections to the draft regulations to the following addresses:

By post to: The Director-General: Environment Affairs
 Attention: Mr Olebogeng Matshediso
 Private Bag X447
 Pretoria, 0001

By fax to: (012) 320-1167, and e-mail to: OMatshediso@environment.gov.za

Or hand delivered at Corner Pretorius and Van der Walt Streets, Fedsure Forum Building, 2nd Floor, North Tower.

Any enquiries in connection with the draft regulations can be directed to Dr. Thuli Mdluli at (012) 310-3436 or Mr Olebogeng Matshediso at (012) 310-3102.

Comments received after the closing date may not be considered.



BOMO EDITH EDNA MOLEWA
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context indicates otherwise –

"the Act" means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);

"Air Quality Officer" means an officer designated in terms of section 14 of the Act;

"ASTM D1739" means the American Standard for Testing and Materials, which is the standard test method for the collection and measurement of dust fall;

"dust" means airborne, particulate matter with a diameter smaller than 100 micrometers other than the small particles of carbonaceous matter directly emitted by a combustion process;

"dust fall" means the deposition of dust;

"light commercial area" means any area classified for light commercial use as per the local town planning scheme.

"Minister" means the Minister of Water and Environmental Affairs;

"residential area" means any area classified for residential use as per the local town planning scheme;

2. Purpose of the regulations

The purpose of the regulations is to prescribe general measures for the control of dust in all areas including residential and light commercial areas.

3. Prohibition

No person may conduct any activity in such a way as to give rise to dust in such quantities and concentrations that –

- (1) The dust, or dust fall, has a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, or has contributed to the degradation of ambient air quality beyond the premises where it originates; or
- (2) The dust remains visible in the ambient air beyond the premises where it originates; or

(3) The dust fall at the boundary or beyond the boundary of the premises where it originates exceeds –

- (a) 600 mg/m²/day averaged over 30 days in residential and light commercial areas measured using reference method ASTM D1739; or
- (b) 1200 mg/m²/day averaged over 30 days in areas other than residential and light commercial areas measured using reference method ASTM D1739.

4. Dust fall monitoring

(1) An air quality officer may require any person to undertake a dust fall monitoring programme as contemplated in regulation 4(2) if –

- (a) the air quality officer reasonably suspects that the person has on one or more occasions contravened regulation 3.
- (b) the air quality officer reasonably suspects that the person is contravening regulation 3.
- (c) The activity being conducted by the person requires a fugitive emission management plan in terms of any Notice published in terms of Section 21 of the Act.

(2) A dust fall monitoring programme includes the implementation of all reasonable measures required to effectively measure, report and verify compliance or non-compliance with regulation 3 to the satisfaction of the air quality officer.

5. Ambient dust monitoring

An air quality officer may require any person to undertake continuous ambient air quality monitoring in accordance with any Notice published in terms of Section 9 of the Act if a dust fall monitoring programme contemplated in regulation 4(2) or any dust fall monitoring activities undertaken by an air quality officer or on behalf of an air quality officer indicates possible non-compliance with regulation 3.

6. Offences

A person is guilty of an offence if that person –

- (1) contravenes a provision of regulation 3.
- (2) fails to implement a dust fall monitoring programme as required by an air quality officer in terms of regulation 4.
- (3) Fails to undertake continuous ambient air quality monitoring as required by an air quality officer in terms of regulation 5.

7. Penalties

A person convicted of an offence referred to in regulation 6 is liable to –

- (1) imprisonment for a period not exceeding five years;

- (2) an appropriate fine; or
- (3) both a fine and imprisonment.

7. Short title and commencement

These regulations are called the National Dust Control Regulations, 2011 and shall come into operation on a date determined by the Minister by notice in the *Gazette*.
