
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS**NOTICE 943 OF 2015****NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004
(ACT NO. 39 OF 2004)****DRAFT REGULATIONS FOR THE PROCEDURE AND CRITERIA TO BE FOLLOWED IN THE
DETERMINATION OF AN ADMINISTRATIVE FINE IN TERMS OF SECTION 22A**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to make regulations, for the procedure and criteria to be followed in the determination of an administrative fine in terms of section 22A, under sections 53(1A) read with section 57(1)(a) of the National Environmental Management: Air Quality Act, 2004, set out in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 30 days after the publication of the notice in the *Gazette*, written comments or inputs to the following addresses:

By post: The Director-General: Department of Environmental Affairs
 Attention: Advocate Avhantodi Munyai
 Private Bag X 447
 Pretoria
 0001

By hand: Environment House, 473 Steve Biko Road, Pretoria, 0001.

By e-mail: amunyai@environment.gov.za

Any inquiries in connection with the notice can be directed to Ms Elizabeth Masekoameng at 012 399 9201 or Advocate Avhantodi Munyai at 012 399 9211.

Comments received after the closing date may not be considered.


BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE**1. Definitions**

In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, and unless the context otherwise indicates—

“applicant” means any person who operated a listed activity without a valid atmospheric emission licence and has submitted an application in terms of section 22A of the Act; and

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

2. Purpose of regulations

The purpose of these Regulations is to provide for the procedure and criteria to be followed in the determination of administrative fine when an application is submitted in terms of Section 22A of the Act.

3. Procedure and Criteria

(1) The procedure and criteria to determine administrative fine is based on the aggravating factors indicated on the table below.

(2) The administrative fine is determined as indicated below:

(a) Because the outcome of the Section 22A process is an atmospheric emission licence granted or not granted, the applicant shall pay an administrative fine determined in terms of these Regulations as well as the atmospheric emission licence processing fee stipulated in the regulations developed in terms of Section 37(2)(a) of the Act.

(b) The following minimum fine shall be payable and shall increase based on aggravating factors as set out in the table below.

Minimum Fine	Yes/No	Amount
For operating illegally		R200 000
Aggravating Factors/Criteria	Yes/No	Additional amount to the minimum fine (If yes)
Each subsequent year which the facility operated without a license		R200 000 (per year)
The facility for which the application is submitted is in the declared area priority area		R 1 000 000

(4) An applicant—

(a) previously convicted for an offence in respect of the commencement of a listed activity; or

- (b) who previously submitted an application to licensing authority under Section 22A of the Act;

shall be liable to pay the maximum fine amount as specified in Section 22A of the Act, unless compelling reasons are provided why this would not promote the objectives of the Act.

4. Short title and commencement

These regulations are called the Regulations for the Procedure and Criteria to be followed in the Determination of an Administrative Fine in terms of section 22A, 2015.