

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 517

25 MAY 2018

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

I Bomo Edna Edith Molewa, Minister of Environmental Affairs, hereby under section 53(o), read with section 32 and 57 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), give notice of my intention to repeal and replace the National Dust Control Regulations, 2013, published in Government Notice No. 827, Gazette No. 36974 on 1 November 2013, with the regulations in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 30 (thirty) days from the date of the publication of this notice in the *Gazette*, written representations or objections to the following addresses:

By post to: The Director-General: Department of Environmental Affairs
Attention: Mr O Matshediso
Private Bag X 477, Pretoria, 0001

By hand at: Environment House, 473 Steve Biko Road, Arcadia

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

Any inquiries in connection with the notice can be directed to Ms Elizabeth Masekoameng on (012) 399 9202 or Mr O Matshediso at (012) 399 9215

Comments received after the closing date may not be considered.



BOMO EDNA EDITH MOLEWA
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

Definitions

1. 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 -

"ASTM D1739" means the American Standard for Testing and Materials method D1739 (latest version), which is the standard test method for the collection and measurement of dustfall (Settleable Particulate Matter);

"air quality officer" means an officer appointed in terms of section 14 of the Act as an air quality officer;

"dustfall (or settleable particulate matter)" means any material composed of particles small enough to pass through a 1 mm screen and large enough to settle by virtue of their weight into the sampling container from the ambient air;

"dustfall monitoring programme" means monitoring of the dustfall on a continuous basis;

"dust management plan" means a plan detailing measures for the prevention or mitigation of dust emissions;

"listed activity" means an activity listed in terms of section 21 of the Act;

"mining operation" means any operation relating to the act of mining and matters directly incidental thereto;

"Non-residential area" means any area not classified for residential use as per local town planning scheme;

"premises" means any land and structures thereon including stockpiles of materials, roadways and other means of conveyance, from which dust may be generated through anthropogenic or natural activities or processes;

"residential area" means any area classified for residential use in terms of the local town planning scheme; and

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

Purpose of the Regulations

2. The purpose of these Regulations is to prescribe general measures for the control of dust.

Application of the Regulations

3. These Regulations apply uniformly in all provinces of the Republic of South Africa.

Dustfall standard

4. Acceptable dustfall rates for residential and non-residential areas are set out in the table -

Restriction Area	Dustfall rate (D) (mg/m²/day, 30-days average)	Permitted frequency of exceeding dust fall rate
Residential area	D < 600	Two within a year, not sequential months.
Non-residential area	D ≤ 1200	Two within a year, not sequential months.

5. Where exceedance in dustfall rate is as a result of naturally occurring, non-anthropogenic source and extreme weather or geological event, such exceedences will be exempted.
6. A standard test method to be used for measuring dustfall rate and the guideline for locating sampling points shall be ASTM D1739. The latest version of this method shall be used.

Dustfall monitoring programme

7. An air quality officer may require any person, through a written notice, to undertake a dustfall monitoring programme as contemplated in regulation 12, if an officer reasonably suspects that the person is contravening regulation 4.
8. A person mentioned in regulation 7 must, upon receipt of a notice from an air quality officer, implement a dustfall monitoring programme.
9. Notwithstanding regulation 4, any person conducting a mining operation; or any listed activity that requires a fugitive dust emission management plan, must implement a dustfall monitoring programme.
10. A person required to implement a dustfall monitoring programme must, within three months of the implementation of the dustfall monitoring programme, submit a first dustfall monitoring report as contemplated in regulation 13 to an air quality officer.
11. Where a person mentioned in regulation 7 or regulation 9 has undertaken a dustfall monitoring programme prior to the promulgation of these Regulations, a monitoring report of that programme may be accepted by an air quality officer if it meets the requirements of regulation 13.
12. A dustfall monitoring programme must include but not limited to—
 - (1) the establishment of a network of dust monitoring points using method ASTM D1739: 2010, sufficient in number to establish the contribution of the person to dustfall in residential and non-residential areas in the vicinity of the premises, to monitor identified or likely sensitive receptor locations; and
 - (2) a schedule for submitting to the air quality officer, monthly dustfall monitoring reports.

Contents of a dustfall monitoring report**13. A dustfall monitoring report must provide—**

- (1) information on the location of sampling sites, including latitudinal and longitudinal coordinates, and a position indicator on a topographic map;
- (2) information on classification of the area where samplers are located, in terms of residential and non-residential;
- (3) information on sensitive receptors;
- (4) proof that standard methods used for site selection, sampling and analysis; and where applicable any accreditation for use of such methods;
- (5) dustfall monitoring results, including a tabular summary of dustfall rates for the monitoring period compared to the limit values set out in Regulation 4, and a comparison with monthly historical results for at least the previous four years for each site, where available;
- (6) meteorological data including at least hourly values for wind speed and wind direction for the sampling area; and
- (7) any other relevant data that might influence the results.

Implementation of a dust management plan**14. Any person who has exceeded acceptable dustfall rates set out in regulation 4 must—**

- (1) implement a dust management plan; and
- (2) within three months after submission of a first dustfall monitoring report, submit a dust management plan contemplated under subregulation 14 (1) to an air quality officer.

15. Notwithstanding regulation 14, any person conducting a mining operation; any listed activity that requires a fugitive dust emission management plan; or any person conducting any activity in such a way as to give rise to dust that may exceed acceptable dustfall rates set out in regulation 4 must, prior to undertaking such activity, implement a dust management plan.
16. A dust management plan, contemplated in regulation 14 and 15, must -
- (1) identify all possible sources of dust within the affected site;
 - (2) detail the best practicable environmental measures to be undertaken to prevent or mitigate dust emissions;
 - (3) detail an implementation schedule;
 - (4) identify the line management responsible for implementation;
 - (5) incorporate the dust fall monitoring programme; and
 - (6) establish a register for recording all complaints received by the person regarding dustfall, and for recording follow up actions and responses to the complainants.
17. Any person who is required to implement a dust management plan must include a proof of implementation of a dust management plan in the monitoring reports.

Ambient air quality monitoring for PM₁₀

18. An air quality officer may require any person to undertake continuous ambient air quality monitoring for PM₁₀ in accordance with a notice published in terms of section 9 of the Act, if the dustfall monitoring report contemplated in regulation 10 indicates non-compliance with regulation 4.

Offences

19. A person is guilty of an offence if that person contravenes or fails to comply with a provision of regulation 8; 9; 10; 14; 15; 17; and 18.

Penalties

20. A person convicted of an offence referred to in regulation 19 is liable to in the case of a first conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years; and in the case of a second or subsequent conviction to a fine not exceeding R10 million or imprisonment for a period not exceeding 10 years and in respect of both instances to both such fine and such imprisonment.

Transitional arrangement, and the repeal of regulations

21. These Regulations take effect on 1 November 2019, unless otherwise indicated in the text.
22. The Regulations promulgated by Government Notice No.R827, published in Gazette No. 36974 of 1 November 2013 are hereby repealed with effect from 1 November 2019.

Short title and commencement

23. These Regulations are called the National Dust Control Regulations, 2018.