

(18 March 2016 – to date)

NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT 39 OF 2004

(Gazette No. 27318, Notice No. 163. Commencement date: 11 September 2005 – save for sections 21, 22, 36 to 49, 51(1)(e), 51(1)(f), 51(3), 60 and 61 [Government Notice R898, Gazette No. 28016]

REGULATIONS FOR THE PROCEDURE AND CRITERIA TO BE FOLLOWED IN THE DETERMINATION OF AN ADMINISTRATIVE FINE IN TERMS OF SECTION 22A OF THE ACT, 2016

*Government Notice 332 in Government Gazette 39833 dated 18 March 2016. Commencement date:
18 March 2016.*

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby 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) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), set out in the Schedule hereto.

(Signed)

BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

REGULATIONS FOR THE PROCEDURE AND CRITERIA TO BE FOLLOWED IN THE DETERMINATION OF AN ADMINISTRATIVE FINE IN TERMS OF SECTION 22A OF THE ACT

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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 license and has submitted or is submitting an application in terms of section 22A of the Act; and

Prepared by:

"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) A person operating a listed activity without a valid atmospheric emission licence may apply to the licensing authority for an atmospheric emission licence in terms of section 22A of the Act.
- (2) The licensing authority shall, upon receipt of an application in terms of section 22A of the Act, determine the applicable administrative fine using the criteria set out in Annexure 1 prior to making a decision to issue or refuse to issue an atmospheric emission licence.
- (3) In addition to an administrative fine determined in accordance with these Regulations, the applicant shall pay the applicable atmospheric emission licence processing fee stipulated in the regulations prescribing the atmospheric emission licence processing fee.
- (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

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 of the Act, 2016.

ANNEXURE 1

Minimum Fine	Yes/No	Amount
For operating illegally		R200 000
Aggravating Factors/Criteria	Yes/No	Additional amount to the minimum fine (if yes)
Each year in which the facility has operated without a license		R200 000 per year, i.e. each 12 month cycle
The facility for which the application is submitted is in a declared Priority Area in terms of section 18 of the Act		R 1 000 000