

(1 November 2013 – 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]

NATIONAL DUST CONTROL REGULATIONS

Published under Government Notice R827 in Government Gazette 36974 dated 1 November 2013.

Commencement date: 1 November 2013.

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby make the National Dust Control Regulations, in terms of section 53(o), read with section 32 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 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:

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

"**dust (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**" means the deposition of dust;

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

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

Prepared by:

In partnership with:

"**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).

2. Purpose of the regulations

The purpose of the regulations is to prescribe general measures for the control of dust in all areas.

3. Dustfall standard

- (1) A standard for the acceptable dustfall rate is set out in Table 1 for residential and non-residential areas.

Table 1: Acceptable dust fall rates

Restriction Areas	Dustfall rate (D) (mg/m ² /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	600 < D < 1200	Two within a year, not sequential months.

- (2) The method to be used for measuring dustfall rate and the guideline for locating sampling points shall be ASTM D1739: 1970, or equivalent method approved by any internationally recognized body.

4. Dustfall monitoring programme

- (1) The air quality officer may require any person, through a written notice, to undertake a dustfall monitoring programme as contemplated in subregulation (5) if:
- (a) the air quality officer reasonably suspects that the person is contravening regulation 3; or
 - (b) the activity being conducted by the person requires a fugitive dust emission management plan as per the notice published in terms of section 21 of the Act.
- (2) Any person who conducts any activity in such a way as to give rise to dust in quantities and concentrations that may exceed the dustfall standard set out in regulation 3 must, upon receipt of a notice from the air quality officer, implement dustfall monitoring programme.

- (3) A person required to implement the dustfall monitoring programme must, within a specified period, submit a dustfall monitoring report to the air quality officer.
- (4) If a person who is required to implement the dustfall monitoring programme has an existing one, the reports of that programme shall be accepted by the air quality officer if it meets the requirements of regulation 5.
- (5) A dustfall monitoring programme must include:
 - (a) the establishment of a network of dust monitoring points using method ASTM D1739: 1970 (or equivalent), 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 to establish the baseline dustfall for the district; and
 - (b) a schedule for submitting to the air quality officer, dustfall monitoring reports annually or at more frequent intervals if so requested by the air quality officer.

5. Dustfall monitoring report

A dustfall monitoring report must provide:

- (a) information on the location of sampling sites, including latitudinal and longitudinal coordinates, and a position indicator on a topographic map;
- (b) classification of the area where samplers are located, in terms of residential and non-residential, and identification of sensitive receptors;
- (c) reference to the standard methods used for site selection, sampling and analysis, and any methods/laboratory accreditation, if applicable;
- (d) the dustfall monitoring results including a comparison of current year and historical results (if any) for each site, and including a tabular summary of compliance with the dustfall standard set out in regulation 3;
- (e) meteorological data (wind speed and direction, rainfall) for the sampling area; and
- (f) any other relevant data that might influence the results.

6. Measures for the control of dust

- (1) Any person who has exceeded the dustfall standard set out in regulation 3 must, within three months after submission of the dustfall monitoring report, develop and submit a dust management plan to the air quality officer for approval.
- (2) A dust management plan, contemplated in subregulation (1), must:
 - (a) identify all possible sources of dust within the affected site;
 - (b) detail the best practicable measures to be undertaken to mitigate dust emissions;
 - (c) detail an implementation schedule;
 - (d) identify the line management responsible for implementation;
 - (e) incorporate the dust fallout monitoring plan; and
 - (f) establish a register for recording all complaints received by the person regarding dustfall, and for recording follow up actions and responses to the complainants.
- (3) A dust management plan contemplated in subregulation (1) must be implemented within a month of the date of approval.
- (4) An implementation progress report must be submitted to the air quality officer at agreed time intervals.

7. Ambient air quality monitoring for PM₁₀

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 5 indicates non-compliance with regulation 3.

8. Offences

A person is guilty of an offence if that person contravenes or fails to comply with a provision of regulation 4 (2) and (3), 6(1); (3) and (4) or 7.

9. Penalties

A person convicted of an offence referred to in regulation 8 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.

10. Short title and commencement

These regulations are called the National Dust Control Regulations, 2013.