

NKANGALA DISTRICT MUNICIPALITY
DRAFT AIR QUALITY MANAGEMENT BY-LAW, 2015

WHEREAS section 156(2) and (5) of the Constitution of the Republic of South Africa, 1996 provides that a Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 4 to the Constitution lists air pollution as a local government matter to the extent set out in section 155(6) (a) and (7);

AND WHEREAS the Nkangala District Municipality seeks to ensure the management of air quality and the control of air pollution within the area of its jurisdiction and to ensure that air pollution is avoided or, where it cannot be altogether avoided, is minimized and remedied.

AND NOW THEREFORE, BE IT ENACTED by Nkangala District Municipality as follows:—

The Council of Nkangala District Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 read with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 3 of 2000) enacts the following By-law –

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SCHEDULE 1

SCHEDULE 2

CHAPTER 1: INTERPRETATION AND DUTY OR CARE

1. Definitions

(1) In this By-law, unless the context indicates otherwise—

“air pollution” means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

“air quality officer” means a person appointed in terms of section 14 of the National Environmental Management: Air Quality Act, 2004;

“authorisation” means any consent, permission, permit or authorisation contemplated in this By-law;

“ambient sound level” means the reading on an integrating impulse sound level meter taken at a measuring point in the absence of any alleged disturbing noise at the end of a total period of at least 10 minutes after such meter was put into operation;

“authorised person” means any employee authorised by the Municipality to monitor and enforce one or more provisions of this By-law in terms of section 31;

“combustible liquid” means a liquid which has a close-cap flash point of 38 degrees Celsius or above;

“compressed ignition powered vehicle” means a vehicle powered by internal combustion, compression ignition, diesel or similar fuel engine;

“Constitution” means the Constitution of the Republic of South Africa Act, 1996;

“control measure” means a technique, practice or procedure used to prevent or minimise the generation and emission of gaseous substances or dust;

“dark smoke” means smoke -

- (a) that in relation to emissions from turbo-charged compressed ignition powered engines, has a density 66 Hartridge smoke units or more; or

(b) which has a light absorption co-efficient of more than 2.123 m^{-1} or more, or, in relation to emissions from turbo-charged compressed ignition powered engines ,means a light absorption co-efficient of more than 2.51 m^{-1} ;

“dBA” means the value of the sound pressure level in decibels, determined using a frequency weighting network A and derived from the following equation -

$$L_{PA} = 10 \log_{10} [P_A / P_0]^2, \text{ where}$$

P_A = the “A” – weighted sound pressure; and

P_0 = the reference sound pressure

$$(P_0 = 20 \mu\text{Pa})$$

“disturbing noise” means a noise level that causes the ambient sound level measured continuously at the same measuring point to rise by 5 dBA or more;

“dust” for the purposes of this By-law means any inhalable particle matter or 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;

“environment” means the surroundings within which humans exist and that are made up of-

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (i) and (ii) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“flammable gas” means a gas which at 20 degrees Celsius and a standard pressure of 101, 3 kilopascals-

- (a) is ignitable when in a mixture of 13% or less by volume with air; or

(b) has a flammable range with air of at least 12%, regardless of the lower flammable limit;

“flammable liquid” means a liquid or combustible liquid which has a closed-cap flash point of 93 degrees Celsius or below;

“flammable substance” means any flammable liquid, combustible liquid or flammable gas;

“free acceleration test” means the method employed to determine whether vehicles are being driven or used in contravention of section 25;

“measuring point” relating to –

(a) a piece of land from which an alleged disturbing noise emanates, means a point outside the property projection plane where noise shall be measured in accordance with the provisions of SANS 10103 and/ or SANS 10328;

(b) a building with more than one occupant, means a point in or outside the building where noise shall be measured in accordance with the provisions of SANS 10103 and/ or SANS 10328; and

(c) a stationary vehicle, means a point as described in SANS 10181 where a measuring microphone shall be placed;

“micro boiler” means any boiler with a design capacity of less than 10 MW net heat input per unit, based on the lower calorific value used;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Municipality” means the Nkangala District Municipality, established by Provincial Extraordinary Notice No. 631 of 1 October 2000, as amended, in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“National Environmental Management Act, 1998” means the National Environmental Management Act, 1998 (Act 107 of 1998);

“National Environmental Management: Air Quality Act, 2004” means the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004);

“National Framework” means the National Framework for Air Quality Management in the Republic of South Africa, as published in terms of section 7(1) of the National Environmental Management: Air Quality Act, 2004;

“noise controlled area” means an area designated by the Municipality in terms of section 21 where, in the case of -

(a) road traffic noise directly adjacent to a road -

(i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter was in operation, exceeds 60 dBA; or

(ii) the outdoor equivalent continuous “A” –weighed sound pressure level at a height of at least 1,2 meters, but not more than 1,4 metres, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SABS 0210, and projected for a period of 15 years following the date on which the local authority has made such designation, exceeds 65 dBA;

(b) air traffic noise directly adjacent to an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the local authority made such designation, exceeds 65 dBA;

(c) industrial noise directly adjacent to an industry –

(i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter was in operation, exceeds 61 dBA; or

(ii) the calculated outdoor equivalent continuous “A” weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a 24 hours, exceeds 61 dBA, or

(d) noise from any other source directly adjacently to that source –

- (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period extending from the time when such source of noise became active until the time when it was no longer active, while such meter was in operation, exceeds 65 dBA; or
- (ii) the outdoor equivalent continuous “A” weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground, as calculated in accordance with acceptable mathematical / acoustic methods for a period extending from the time when the source of noise became active until the time when it was no longer active, and projected for a period of 15 years following the date on which the local authority made such designation, exceeds 65 dBA: Provided that methods of calculation as described in SANS ARP 1020 may be used for the purpose;

“noise nuisance” means any sound which impairs the convenience or peace of a reasonable person;

“nuisance” means an unreasonable interference or likely interference caused by air pollution with -

- (a) the health or well-being of any person or living organism;
- (b) the use or enjoyment by an owner or occupier of his or her property or the environment; or
- (c) ordinary comfort, convenience and peace;

“open burning” means the combustion of material by burning without a closed system that has a chimney to vent the emitted products of combustion to the atmosphere;

“pave” means to apply and maintain concrete or any other similar material to a road surface or walkway;

“person” includes a juristic person;

“pest” means an injurious, noxious or troublesome living organism;

“pesticide” means a micro-organism or material that is used or intended to be used to prevent, destroy, repel or mitigate a pest and includes herbicides, insecticides, fungicides, avicides and rodenticides;

“premises” means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried out on or in that building or structure, and includes any land without any buildings or other structures and any locomotives or other vessel which operates or is present within the area of the Municipality;

“public road” means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“recreational vehicle” means -

- (a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;
- (b) a model aircraft, vessel or vehicle;
- (c) any aircraft or helicopter used for sport or recreational purposes;
- (d) a vessel used for sport on water; or
- (e) any other conveyance vessel or model which is used for sport or recreational purposes;

“rubber product” means anything composed of rubber, including anything containing or coated with rubber;

“SABS ARP 020” means South African Bureau of Standards publication No. 0201 titled: “Sound impact investigations for integrated environmental management”, or a standard which substitutes SABS ARP 020;

“SANS 10103” means the latest edition of Standards South Africa publication No. 10103 titled: “The measurement and rating of environmental noise with respect to land use, health, annoyance and to speech communication”;

“SANS 0181” means the latest edition of the Standards South Africa publication

No: 10181 titled: “The measurement of noise emitted by road vehicles when stationary”;

“**SANS 10210**” means the latest edition of the Standards South Africa publication No. 10210 titled: “Code of Practice for calculating and predicting road traffic noise”;

“**SANS 10281**” means the latest edition of the Standards South Africa publication No. 10281 titled: “Engine speed (S values), reference sound levels and permissible sound levels of stationary road vehicles”;

“**small boiler**” means any boiler with a design capacity equal to 10 MW but less than 50 MW net heat input per unit, based on the lower calorific value used;

“**smoke**” means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes soot, grit and gritty particulates emitted in smoke;

“**use**” in relation to all terrain vehicles includes driving, operating or being conveyed by that vehicle;

“**vehicle**” means any motor car, motor carriage, motor cycle, bus, motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power.

(2) In this By-law, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

(3) Neither -

(a) a reference to a duty to consult specific persons or authorities, nor

(b) the absence of any reference in this By-law to a duty to consult or give a hearing;

exempts the official or authority exercising a power or performing a function from the duty to act fairly.

- (4) Any administrative process conducted or decision taken in terms of this By-law must be conducted or taken in accordance with the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), unless otherwise provided for in this By-law.

2. Objectives

- (1) The objectives of this By-law are to –
- (a) give effect to the environmental right contained in section 24 of the Constitution;
 - (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework within which the Municipality can manage and regulate activities that can or do cause air emissions that have the potential to adversely impact the environment, public health and well-being; and
 - (c) ensure that air pollution is avoided, or where it cannot be altogether avoided, that it is mitigated or minimised.
- (2) Any person exercising a power or performing a duty under this By-law must exercise that power or perform that duty in a manner that gives effect to the objectives.

3. Application

- (1) This By-law applies within the jurisdiction of the Municipality and must be read with any applicable provisions of the –
- (a) National Environmental Management Act, 1998;
 - (b) National Environmental Management: Air Quality Act, 2004;
 - (c) National Framework adopted in terms of the National Environmental Management: Air Quality Act, 2004; and
 - (d) National Health Act, 2003 (Act 61 of 2003).
- (2) In the event of any conflict between this By-law and –

- (a) any other by-law which directly or indirectly regulates air quality within the jurisdiction of the Municipality, the provisions of this By-law shall prevail;
 - (b) any national or provincial legislation which regulates air pollution, the national or provincial legislation shall prevail.
- (3) Compliance with this By-law does not absolve a person from complying with any other statutory requirement to obtain authorisation in respect of air quality management.

4. Duty of care

- (1) Every person who causes or may cause air pollution must take all reasonable measures -
- (a) to prevent the air pollution from occurring; or
 - (b) where the causing of any air pollution is permitted, not prohibited, or cannot reasonable be avoided or stopped; to minimise that pollution.
- (2) Without limiting the generality of the duty in subsection (1), the persons on whom subsection (1) imposes an obligation to take reasonable measures, includes an owner of land or premises, a person in control of land or premises or a person who has a right to use or work at the land or premises on which or in which -
- (a) any activity or process is or was performed or undertaken; or
 - (b) any other situation exists,
- which causes, has caused or is likely to cause air pollution.
- (3) The measures required in terms of subsection (1) may include measures to -
- (a) investigate, assess and evaluate the impact of the air pollution on the environment;
 - (b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing air pollution;

- (c) cease, modify or control any act, activity or process causing the air pollution;
 - (d) contain or prevent the movement of pollutants;
 - (e) eliminate any source of the air pollution; or
 - (f) remedy the effects of the air pollution.
- (4) The Municipality may direct any person who is causing, has caused or may cause significant air pollution to -
- (a) cease any activity, operation or undertaking;
 - (b) investigate, evaluate and assess the impact of specific activities and report thereon;
 - (c) commence taking specific measures before a given date;
 - (d) diligently continue with those measures; and
 - (e) complete those measures before a specified date.
- (5) Prior to issuing a directive contemplated in subsection (4), the Municipality must give the affected person adequate opportunity to inform the Municipality of their relevant interests: Provided that if urgent action is necessary for the protection of the environment, health or people's well-being, the Municipality may issue such directive, and give the affected person an opportunity to make representations as soon thereafter as is reasonable.
- (6) Should a person fail to comply, or inadequately comply, with a directive issued under subsection (4), the Municipality may take reasonable measures to remedy the situation or apply to a competent court for appropriate relief.
- (7) The Municipality may recover the costs for reasonable remedial measures to be undertaken under subsection (6), before such measures are taken and all costs incurred as a result of it acting under subsection (6) from any or all of the following persons –
- (a) any person who is or was responsible for, or who directly or indirectly contributed to, the air pollution;

(b) the person in control of the land or any person who has or had a right to use or work on the land at the time when -

(i) the activity or the process is or was performed or undertaken; or

(ii) the situation came about; or

(c) any person who negligently failed to prevent -

(i) the activity or the process being performed or undertaken; or

(ii) the situation from coming about:

Provided that such person failed to take the measures required of him or her under subsection (1).

(8) Any person may, after giving the Municipality 30 days' notice, apply to a competent court for an order directing the Municipality to take any of the steps listed in subsection (4) if the Municipality fails to inform such person in writing that it has directed a person contemplated in subsections (1) and (2) to take one of those steps, and the provisions of section 32(2) and (3) of the National Environmental Management Act, 1998 shall apply to such proceedings.

CHAPTER 2: PLANNING AND LOCAL EMISSION STANDARDS

5. Air Quality Management Plan

(1) The Municipality shall prepare an air quality management plan and include that plan in its integrated development plan contemplated in Chapter 5 of the Municipal Systems Act.

(2) The air quality management plan is binding on the Municipality.

6. Identification of substances

(1) The Municipality has identified the substances in ambient air, as set out in Schedule 1 to this By-law, which may present a threat to the health and well-being of people in the municipal area.

- (2) The Municipality may, from time to time, identify additional substances that present a threat to the health and well-being of people in the municipal area, or which it reasonable believes may present such a threat.
- (3) The Municipality may apply the following criteria when identifying and prioritising the substances in terms of subsection (2) -
- (a) the possibility, severity and frequency of effects, with regard to human health and the environment as a whole, with irreversible effects being of special concern;
 - (b) widespread and high concentration of the substance in the atmosphere;
 - (c) potential environmental transformation and metabolic alterations of the substance, as these changes may lead to the production of chemicals with greater toxicity or introduce other uncertainties;
 - (d) persistence in the environment, particularly if the substance is not biodegradable and is able to accumulate in humans, the environment or food chain;
 - (e) the impact of the substance taking the following factors into consideration –
 - (i) the size of the exposed population, living resources or ecosystems; and
 - (ii) the existence of particularly sensitive receptors in the zone concerned; and
 - (f) the fact that a substance is regulated by an international convention.

7. Development of local emission standards

- (1) The Municipality may develop and adopt local emission standards in respect of a substance identified in Schedule 1 or in terms of section 6(2).
- (2) The Municipality may, when developing a local emissions standard -
- (a) identify the critical factors for public health impacts;

- (b) identify sensitive sub- populations;
 - (c) review available databases for public health status;
 - (d) review available databases for ambient air quality information; and
 - (e) review and assess international guidelines and standards.
- (3) The Municipality may take the following factors into consideration in setting a local emission standard -
- (a) health, safety and environmental protection objectives;
 - (b) analytical methodologies;
 - (c) technical feasibility;
 - (d) monitoring capacity; and
 - (e) socio-economic consequences.
- (4) A local emission standard may-
- (a) differentiate between different geographical areas;
 - (b) differentiate between different sources or types of emissions;
 - (c) provide for the phasing in of its provisions; and
 - (d) be amended.

8. Consequences of identification

Any person emitting substances or mixtures of substances identified in Schedule 1 or in terms of section 6(2) must comply with the relevant emission standards contemplated in section 7.

9. Consultation and publication

- (1) The Municipality must conduct a public participation process as contemplated in Chapter 4 of the Municipal Systems Act before identifying a substance in terms of section 6 or adopting a local emission standard in terms of section 7.
- (2) Any substance that is identified in terms of section 6 or any local emission

standard that is adopted by the Municipality in terms of section 7 must be published in the *Provincial Gazette*.

CHAPTER 3: SPECIFIC REGULATORY MEASURES

Part 1: Vehicles and Small boilers

10. Emissions from compressed ignition powered vehicles

- (1) No person may drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke on a public road.
- (2) In order to enable an authorised person to monitor and enforce the provisions of this section, the driver of a vehicle must comply with any clear directive, whether orally, visually by show of hand signs or otherwise, given by an authorised person -
 - (a) to stop the vehicle; and
 - (b) to facilitate the inspection or testing of the vehicle.
- (3) When a vehicle has stopped in compliance with a directive given under subsection (2), the authorised person may test the vehicle at the roadside, in which case testing must be carried out -
 - (a) at or as near as practicable to the place where the directive to stop the vehicle was given; and
 - (b) as soon as practicable, but no later than one hour after the vehicle was stopped in accordance with the directive.
- (4) The testing procedure to be followed in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of subsection (1) is the following -
 - (a) when instructed to do so by the authorised person, the driver of the vehicle must start the vehicle, place it in neutral gear and engage the clutch;

- (b) for a period required the authorised person, the driver of the vehicle must smoothly and completely depress the accelerator throttle pedal of the vehicle, until the engine reaches a revolution level of 3 000 revolutions per minute or, in the absence of a revolution counter, to the extent directed by the authorised person; and
- (c) while the throttle pedal is depressed, the authorised person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not dark smoke is emitted:

Provided that an authorised person may perform the actions required of the driver where the driver fails or refuses to comply with the authorised person's instructions.

- (5) If, after having conducted the test in accordance with subsection (4), the authorised person is satisfied that the vehicle -
 - (a) is not emitting dark smoke, then the authorised person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of subsection (1); or
 - (b) is emitting dark smoke, the authorised person must issue the driver of the vehicle with a compliance notice in terms of section 32 of this By-law, in addition to any other action that the authorised person may take.

11. Small boilers

No person may install, alter, extend or replace any small boiler on any premises without the prior written authorisation of the Municipality, which may only be granted –

- (a) if an application is made on or in a form as prescribed by the Municipality from time to time;
- (b) after consideration of all relevant information required by the Municipality; and

- (c) if any applicable emission standards and requirements passed in terms of the National Environmental Management: Air Quality Act, 2004 can be complied with.

12. Transitional arrangements in respect of existing small boilers

The owner of any small boiler that has been installed prior to the commencement of this By-law must –

- (a) comply with any applicable emission standards and requirements for existing small boilers passed in terms of the National Environmental Management: Air Quality Act, 2004; and
- (b) obtain authorisation for the use of that boiler from the Municipality within 180 days of the commencement of this By-law.

13. Micro boilers

- (1) No person may install, alter, extend or replace any micro boiler on any premises without first registering that boiler with the Municipality.
- (2) The owner of any small boiler that has been installed prior to the commencement of this By-law must apply to be registered within 180 days of the commencement of this By-law.

Part 2: Emissions Caused by Dust, Burning and Spraying

14. Dust emissions

- (1) Any person conducting an activity or providing a facility that customarily produces emissions of dust which may be harmful to public health, well-being or cause a nuisance shall implement one or more control measures to effectively prevent dust emissions into the atmosphere.
- (2) The control measures contemplated in subsection (1) include -
 - (a) paving;
 - (b) using dust palliatives or dust suppressants;

- (c) uniformly applying and maintaining any surface gravel;
 - (d) erecting physical barriers and signs to prohibit access to the disturbed areas;
 - (e) using ground covers;
 - (f) re-vegetating which is similar to adjacent undisturbed native conditions;
 - (g) in the case of an unpaved road, reducing speed limits or restricting access to certain types of vehicles; or
 - (h) any alternative control measure approved in writing by the Municipality.
- (3) Any person who transports substances that may cause dust during the transportation process must take all reasonable steps to prevent that dust, including the covering of the substance with a tarpaulin or similar material.
- (4) The provisions of this section are not applicable to -
- (a) emergency maintenance activities on publicly maintained roads, road shoulders and rights of way;
 - (b) non-commercial and non-institutional private driveways;
 - (c) horse trails, hiking paths, bicycle paths or other similar paths; and
 - (d) any other path that has been designated as an exclusive use area for purposes other than travel by a motor vehicle.

15. Sand Blasting Emissions

Any person conducting sand blasting activities which customarily produce emissions of dust that may be harmful to public health or well-being or cause a nuisance shall implement dust extraction control measures or such other dust control measures that reduce the impact of the emissions to within national standards published in terms of the National Environmental Management: Air Quality Act, 2004 and that are approved in writing by the Municipality, to prevent emissions into the atmosphere.

16. Emissions caused by open burning

- (1) No person may carry out or permit the carrying out of open burning of any material on any land or premises unless -
- (a) the prior written authorisation of the Municipality has been obtained, which authorisation may be granted by the Municipality with conditions, and
 - (b) the owners and occupiers of all adjacent properties have been notified in writing of -
 - (i) all known details of the proposed open burning; and
 - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Municipality within 7 days of being notified.
- (2) The Municipality may not authorise open burning -
- (a) unless it is satisfied that the requirements set out in subsection (1) above have been adequately addressed or fulfilled; or
 - (b) where a warning under section 10(1)(b) of the National Veld and Forest Act, 1998 (Act 101 of 1998); has been published for the region.
- (3) The Municipality may not authorise the open burning of –
- (c) any material between the hours of 18:00 and 06:00;
 - (d) the burning of any tyres, rubber products, cables or any other related products, on any land or premises.
- (4) Notwithstanding the provisions of subsection (1), the provisions of this section shall not apply to -
- (a) recreational outdoor activities on private premises; and
 - (b) controlled fires in dwellings for the purposes of heating any area within the dwelling, cooking, heating water and other domestic purposes.

17. Emissions caused by the burning of industrial waste, domestic waste and garden waste

No person may carry out or permit the burning of any industrial, domestic or garden waste on any land or premises, for the purpose of disposing of that waste, unless the industrial, domestic or garden waste is legally disposed of in terms of section 20 of the Environment Conservation Act, 1989 (Act 73 of 1989) or the National Environmental Management: Waste Act, 2008 (Act 59 of 2008).

18. Pesticide spraying emissions

(1) No person may carry out or permit the spraying of pesticides, except as permitted by section 3 of the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947).

(2) A person who intends carrying out the spraying of pesticides, either by tractor or aerial means, must obtain the prior written authorisation of the Municipality, which authorisation must specify -

(a) the name of the person to whom the authorisation is issued;

(b) the areas on which the pesticide may be applied;

(c) the period of time within which or when the pesticide may be applied;

(d) the period for which the authorisation is valid;

(e) obligations regarding the notification of owners and occupiers of all adjacent properties within 150 metres of the treatment area including the right of owners and occupiers of adjacent properties to lodge written objections to the proposed spraying of pesticides with the Municipality within 7 days of being notified; and

(f) any other conditions that the Municipality considers necessary to protect the environment.

(3) The provisions of this section are not applicable to -

(a) buildings or inside buildings, including the domestic use of pesticides;
or

- (b) any other defined area or defined activity to which the Municipality has declared this section not to apply.

19. Spray Painting Emissions

- (1) No person may spray, coat, plate, or epoxy-coat any vehicle, article, object or allow them to be sprayed, coated, plated, or epoxy-coated with any flammable substance unless -
 - (a) a spraying permit has been obtained from the Municipality; and
 - (b) it is carried out in a spray booth or room approved by the designated fire officer in the Municipality, in consultation with the air quality officer, on premises registered for that purpose.
- (4) A spray room or booth or area designated for the application of a flammable substance must be constructed and equipped according to the requirements in Schedule 2 to this By-law and must be operated in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as may be amended from time to time.

20. Emissions that cause a nuisance

Notwithstanding any other provisions of this By-law, no person may generate or cause emissions, including odour, or allow emissions to be generated or caused, that cause a nuisance.

Part 3: Noise Pollution

21. Designation of Noise Controlled Areas

- (1) The Municipality may designate an area to be a noise controlled area by notice in the *Provincial Gazette*.
- (2) A notice contemplated in subsection (1) may –
 - (a) designate maximum sound levels for noise in the area;
 - (b) identify activities that may not be undertaken; and

- (c) prescribe times during which certain activities may only be undertaken.
- (3) The designation of a noise controlled area may be amended or cancelled by notice in the *Provincial Gazette*.
- (4) No person may –
- (a) undertake an activity that generates noise, or causes noise to be generated in a noise controlled area unless it is in accordance with any requirements specified in terms of subsection (2);
 - (b) erect educational, residential, high density, hospital, church or office buildings in an existing township in a noise controlled area unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 40 dBA or such level as may be determined in accordance with subsection (1): Provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements; or
 - (c) situate educational, residential, hospital or church erven within a noise controlled area in a new township or an area that has been rezoned: Provided that such situation may be allowed by the Municipality in accordance with the acoustic screening measures mentioned by the Municipality.
- (5) The Municipality must conduct a public participation process as contemplated in Chapter 4 of the Municipal Systems Act before designating a noise controlled area.

22. Prohibition of Disturbing Noise

No person may cause a disturbing noise, or allow it to be caused by any person, animal, machine, device, vehicle or apparatus or any combination thereof.

23. Prohibition of Noise Nuisance

Where it may cause a noise nuisance, no person shall –

- (a) operate or play, or allow to be operated or played, a radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;
- (b) offer any article for sale by shouting, ringing a bell or making other sounds or by allowing shouting, the ringing of a bell or making of other sounds;
- (c) allow an animal owned or controlled by him or her to make a noise;
- (d) discharge fireworks in a residential area, without prior permission from the Municipality;
- (e) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft or object, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested on or near residential premises;
- (f) erect, demolish or alter a building or structure or allow it to be erected, demolished or altered if it affects a residential zone or premises unless permission is granted by the Municipality or a local municipality to conduct building operations within the hours specified in SANS 10400 for the control of noise;
- (g) use or discharge any explosive, firearm or similar device that emits impulsive sound or allow it to be or discharged, except with the prior consent in writing of the Municipality and subject to such conditions as the Municipality may deem necessary, unless the person may be otherwise authorised in law to use or discharge the explosive, firearm or similar device;
- (h) on a piece of land or in water or in airspace above a piece of land used for residential or recreational purposes –
 - (i) operate a recreational vehicle; or

- (ii) as the owner or person in control of the piece of land, water or airspace, allow any person to operate a recreational vehicle on such land or in such water or airspace;
- (i) except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device;
- (j) drive a vehicle on a public road; or
- (k) use any power tool or power equipment used for construction work, drilling work or demolition work, or allow it to be used, in or near a residential area, unless permission was granted by the Municipality to conduct normal construction or repair work to public or private property.

24. Music, Open-Air Music Festivals, Shows, Inclusive of Air Shows and Similar Gatherings

- (1) No person may stage any open-air entertainment festival, such as, but not limited to, a show, an air show, music concert, festival, sports event or similar gathering without obtaining prior written consent from the Municipality.
- (2) Any consent that is granted by the Municipality –
 - (a) must contain conditions regarding the notification of the public; and
 - (b) any other conditions that are appropriate in the circumstances to reduce the impact of the event on the community.
- (3) If any music causes or may cause a noise nuisance or a disturbing noise, the Municipality may instruct, in writing, that such music be discontinued until such conditions as the Municipality may deem necessary have been complied with.
- (4) Subject to the provisions of subsection (3) and the applicable provisions of any other law, the Municipality may attach any instrument or equipment used to generate music if no permission has been obtained in terms of subsection (1).

25. Motor vehicles

- (1) No person may drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured, when stationary, in accordance with the procedure prescribed in SANS 10181 exceeds -
- (a) in the case of a non-exempted vehicle listed in Annexure A to SANS 10281, the stationary sound level specified in SANS 10281 for that type of vehicle; or
 - (b) in the case of an exempted vehicle – a vehicle not listed in Annexure A to SANS 10281, by more than 5dBA the applicable reference sound level indicated in SANS 10281, for that type of vehicle.
- (2) The Municipality may in order to determine whether a vehicle being used on any road in the area of jurisdiction of the Municipality, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of this By-law, instruct the owner or person in control of the vehicle –
- (a) to stop the vehicle or cause it to be stopped; and
 - (b) to have any appropriate inspection or test conducted on the vehicle as the Municipality may deem necessary, on the roadside where it was stopped or on a date and at a time and place determined by the Municipality in writing.

CHAPTER 4: AUTHORISATION PROCEDURES

26. Authorisation procedures

- (1) An application for any authorisation contemplated in this By-law must be –
- (a) in or on a form prescribed by the Municipality from time to time;
 - (b) supported by such documentation as the Municipality may require; and
 - (c) accompanied by proof of payment of the administrative fee, if any.

- (2) If the environment or the rights or interests of other parties are likely to be adversely affected by a decision on the application, the applicant must conduct a public participation process that is approved by the Municipality.

27. Decisions on applications

- (1) The Municipality may, in writing, reject an application that is not in order because –
- (a) the application form has not been properly completed;
 - (b) the required supporting documentation has not been submitted or is substantively inadequate; or
 - (c) a public participation process that was required has not been conducted or conducted adequately.
- (2) An application that has been rejected may be corrected by the applicant and resubmitted.
- (3) On receipt of an application that is in order, the Municipality must decide to –
- (a) grant authorisation in respect of all or part of the application; or
 - (b) refuse authorisation in respect of all or part of the application.
- (4) After the Municipality has reached a decision to grant or refuse an application, it must within five days and in writing –
- (a) notify the applicant of its decision;
 - (b) give reasons for the decision;
 - (c) where applicable, inform the applicant of the right to appeal the decision;
 - (d) instruct the applicant to draw the decision, and the rights to appeal the decision, to the attention of interested and affected parties; where a public participation process has been conducted.and
 - (e) issue the authorisation subject to any conditions that the Municipality deems appropriate.

28. Conditions of authorisation

An authorisation contemplated in this By-law must indicate –

- (a) the name and address of the holder of the authorisation;
- (b) the premises where the activity may take place, if those premises differ from the holder of the authorisation's address;
- (c) the activity that is authorised;
- (d) requirements in respect of monitoring, sampling and reporting, if any;
- (e) the maximum allowed amount, volume, emission rate or concentration of pollutants that may be discharged in the atmosphere, if applicable;
- (f) the period for which the activity is authorised, if applicable;
- (g) any mandatory requirements indicated in the section of this By-law in terms of which the authorisation is granted; and
- (h) any other conditions that are necessary to achieve the objectives of this By-law.

29. Amendments of Authorisations

(1) An authorisation issued in terms of this By-law may be amended –

- (a) on application by the holder of the authorisation; or
- (b) on the initiative of the Municipality if it is necessary or desirable –
 - (i) to prevent impacts on human health or the deterioration or further deterioration of air quality in the municipality;
 - (ii) for the purposes of achieving prescribed air quality standards; or
 - (iii) to accommodate demands brought about by impacts on socio-economic circumstances and it is in the public interest to meet those demands.

(2) An authorisation may be amended by –

- (a) changing the name of the holder;

- (b) attaching an additional condition or requirement;
 - (c) substituting a condition or requirement;
 - (d) removing a condition or requirement;
 - (e) changing a condition or requirement;
 - (f) updating or changing any detail on the authorisation; or
 - (g) correcting a technical or editorial error.
- (3) If the application is made by the holder of the authorisation and is for a substantive amendment, or if the environment or the rights or interests of other parties are likely to be adversely affected, the Municipality must, before deciding the application, request the applicant to the extent appropriate –
- (a) to conduct a public participation process;
 - (b) to conduct such investigations and assessments as the Municipality may direct and to prepare reports on those investigations and assessments; and
 - (c) to submit to the Municipality those reports, together with any comments on those reports from interested and affected parties.
- (4) On having reached a decision on whether or not to grant the application, the Municipality must comply with the provisions of section 28(3) and (4), read with such necessary changes as the context may require.
- (5) If an application for amendment is approved, the Municipality must issue an amended authorisation to the applicant.
- (6) If the Municipality intends amending an authorisation in terms of subsection (1) it must first –
- (a) notify the holder of the authorisation, in writing, of the proposed amendment;
 - (b) give the holder of the authorisation an opportunity to submit representations on the proposed amendment; and

- (c) conduct an appropriate public participation process to bring the proposed amendment to the attention of interested and affected parties.
- (7) On having reached a decision on whether or not to amend the authorisation, the Municipality must notify the holder of the authorisation and any interested parties that commented during a public participation process of the decision.
- (8) If the decision is to amend the authorisation, the Municipality must –
 - (a) give reasons to the holder of the authorisation for the decision;
 - (b) draw that person’s attention to the fact that an appeal may be lodged against the decision in terms of; and
 - (c) issue an amended authorisation to the holder of the authorisation.

30. Rectification of the unlawful commencement of an activity

- (1) A person who conducts an activity without an authorisation required in terms of this By-law may apply to the Municipality for rectification.
- (2) On receipt of an application contemplated in subsection (1) the Municipality may direct the applicant to -
 - (a) immediately cease the activity pending a decision on the application submitted in terms of this section;
 - (b) investigate, evaluate and assess the impact of the activity on the environment, including the ambient air and human health;
 - (c) remedy any adverse effect of the activity on the environment, including the ambient air, and human health;
 - (d) cease, modify or control any act, activity, process or omission causing atmospheric emission;
 - (e) eliminate any source of atmospheric emission;
 - (f) compile a report containing—

- (i) an assessment of the nature, extent, duration and significance of the consequences for or impacts on the environment, including the ambient air, and human health of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity;
- (ii) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for or impacts on the environment, including the ambient air, and human health of the activity;
- (iii) a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how issues raised have been addressed;
- (iv) an environmental management programme; or

(g) provide such other information or undertake such further studies as the licensing authority may deem necessary.

(3) The Municipality must consider any reports or information submitted in terms of subsection (2) and thereafter may -

- (a) refuse to issue the relevant authorisation;
- (b) issue the relevant authorisation, subject to such conditions as the Municipality may deem necessary, which authorisation shall only take effect from the date on which it has been issued; or
- (c) direct the applicant to provide further information or take further steps prior to making a decision in terms of paragraphs (a) or (b).

(4) The Municipality may as part of the decision contemplated in subsection (3), direct a person to -

- (a) rehabilitate the environment within such time and subject to such conditions as the Municipality may deem necessary;

- (b) prevent or eliminate any source of atmospheric emission from the activity within such time and subject to such conditions as the Municipality may deem necessary; or
 - (c) take any other steps necessary under the circumstances.
- (5) If the Municipality has established a system for imposing and collecting administrative fines, a person contemplated in subsection (1) must pay an administrative fine, which may not exceed R5 million and which must be determined by the Municipality, before the Municipality may act in terms of subsection (3).
- (6) In considering a decision contemplated in subsection (3), the Municipality may take into account whether or not the applicant complied with any directive issued in terms of this By-law.
- (7) The submission of an application in terms of subsection (1) or the issuing of a authorisation in terms of subsection 3 or the payment of the administrative fine in terms of subsection (5) shall in no way derogate from -
 - (a) an authorised person or the South African Police Services' authority to investigate any transgression in terms of this By-law; or
 - (b) the National Prosecuting Authority's legal authority to institute any criminal prosecution.
- (8) If, at any stage after the submission of an application in terms of subsection (1), it comes to the attention of the Municipality, that the applicant is under criminal investigation for the contravention of or failure to comply with a provision of this By-law in respect of which the application is made, the Municipality may defer a decision on the application until such time that the investigation is concluded and -
 - (a) the National Prosecuting Authority has decided not to institute prosecution in respect of such contravention or failure;
 - (b) the applicant concerned is acquitted or found not guilty after prosecution in respect of such contravention or failure has been instituted; or

- (c) the applicant concerned has been convicted by a court of law of an offence in respect of such contravention or failure and the applicant has in respect of the conviction exhausted all the recognised legal proceedings pertaining to appeal or review.

CHAPTER 5: COMPLIANCE AND ENFORCEMENT

31. Appointment of authorised persons

- (1) The Municipality must appoint as many authorised persons as it considers necessary for undertaking compliance monitoring and enforcement with this By-law.
- (2) The appointment of an authorised officer may confer compliance monitoring and enforcement powers in respect of all or part of this By-law.
- (3) Any municipal official appointed as a peace officer or as an environmental management inspector in terms of the National Environmental Management Act, 1998 and who is mandated to undertake compliance monitoring and enforcement activities in respect of the National Environmental Management: Air Quality Management Act, 2004 shall be deemed to be an authorised person for the purposes of this By-law.
- (4) Authorised persons must take all lawful and necessary measures to secure compliance with and to enforce the provisions of this By-law.

32. Power to issue compliance orders

- (1) An authorised person may issue a compliance notice in the determined form and following a determined procedure if there are reasonable grounds for believing that a person -
- (a) has not complied with a provision of this By-law falling within the authorised person's mandate in terms of section 24(2);

(b) has not complied with a term or condition of an authorisation or exemption issued in terms of this By-law; or

(c) is causing a nuisance, or is allowing a nuisance to be caused.

(2) A compliance notice must set out -

(a) the name and address of the person to whom the notice is issued;

(b) details of the authority of the person issuing the notice to issue that notice;

(c) details of the conduct constituting non-compliance;

(d) any steps the person must take and the period within which those steps must be taken;

(e) anything which the person may not do, and the period during which the person may not do it, if applicable;

(f) the procedure for lodging an appeal; and

(g) information regarding the penalties that may be incurred if the notice is not complied with.

(3) In the event of an authorised person issuing a compliance notice in respect of a contravention of section 32 the notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

(4) A compliance notice contemplated in subsection (4) must contain, amongst others, the following information -

(a) the make, model and registration number of the vehicle;

(b) the name, address; identity number or other positive identification of the driver of the vehicle; and

(c) if the driver of the vehicle is not the owner of the vehicle, the name and address of the vehicle owner.

(5) Where a small boiler has been installed, altered, extended or replaced on

premises in contravention of section 11 the compliance notice may instruct the owner of the premises to remove the small boiler from the premises at the expense of the owner and within the period stated in the notice.

- (6) An authorised person may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.
- (7) An authorised person may withdraw a compliance notice if it is necessary to substitute the compliance notice with a new one.
- (8) Where required by the Promotion of Administrative Justice Act, 2000, the person to whom a compliance notice is to be issued must be afforded an opportunity to make representations to the authorised person before the notice is issued.

33. Offences

- (1) A person is guilty of an offence if that person –
 - (a) contravenes an obligation or prohibition stipulated in this By-law;
 - (b) fails to comply with a condition of any authorisation issued to that person in terms of this By-law;
 - (c) refuses or fails to comply with a directive or compliance notice issued in terms of this By-law;
 - (d) supplies false or misleading information to an authorised person in respect of any issue pertaining to this By-law;
 - (e) refuses to co-operate with the request of an air quality officer or authorised person made in terms of this By-law;
 - (f) tampers with, removes, puts out of action, damages or impairs the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice placed in a position by or on behalf of the Municipality;
 - (g) hinders or obstructs an authorised person in the execution of their duties; or

- (h) unlawfully and intentionally or negligently commits any act or omission which causes or is likely to cause significant air pollution.

34. Penalties

- (1) A person convicted of an offence in terms of section 33 is liable on conviction to a fine not exceeding five million rand or to imprisonment not exceeding five years and in the case of a second or subsequent conviction, to a fine not exceeding R10 million rand or imprisonment for a period not exceeding 10 years, or in both instances to both a fine and such imprisonment.
- (2) Any person convicted of an offence in terms of this By-law, and who after such conviction persists in the act or omission which constituted the offence, shall be guilty of a continuing offence and liable on conviction to a fine not exceeding R10 000,00 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day on which he persists with such act or omission.
- (3) Whenever any person is convicted of an offence in terms of this By-law and it appears that such person has by that offence caused loss or damage to any organ of state or other person, the court may in the same proceedings at the written request of the Municipality or other organ of state or other person concerned, and in the presence of the convicted person, inquire summarily and without pleadings into the amount of the loss or damage so caused.
- (4) Upon proof of such amount contemplated in subsection (3), the court may give judgement therefor in favour of the organ of state or other person concerned against the convicted person, and such judgement shall be of the same force and effect and be executable in the same manner as if it had been given in a civil action duly instituted before a competent court.
- (5) Whenever any person is convicted of an offence under any provision of this By-law the court convicting such person may summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence, and, in addition to any other punishment imposed in respect of that offence, the court may order-

- (a) the award of damages or compensation or a fine equal to the amount so assessed; or
 - (b) that such remedial measures as the court may determine must be undertaken by the convicted person.
- (6) Notwithstanding the provisions of subsection (1) an authorised person who is a peace officer as contemplated in the Criminal Procedures Act, 1977 who has reason to believe that a person has committed an offence specified in terms of section 33 may issue to the alleged offender a written notice referred to in section 56 or section 341, as the case may be, of the Criminal Procedure Act, 1977 (Act 51 of 1977).
- (7) The amount of the fine stipulated in the notice referred to in subsection (6) may not exceed the amount -
- (a) prescribed for the offence; and
 - (b) which a court would presumably have imposed in the circumstances.
- (8) The provisions of sections 56, 57; 57A and 341 of the Criminal Procedure Act, 1977, apply subject to such modifications as the context may require, to written notices and admission of guilt fines referred to in this section.

CHAPTER 6: GENERAL MATTERS

35. Appeals

- (1) Any person whose rights are affected by a decision taken in terms of this By-law may appeal against that decision in terms of section 62 of the Municipal Systems Act.
- (2) An appeal must –
- (a) be submitted to the Municipal Manager within 21 days of the appellant being notified of the decision;
 - (b) be in writing and accompanied by the reasons for the appeal; and

(c) comply with the requirements and procedures set out in any guideline published by the Municipality.

(3) Pending a decision on an appeal, the appellant must, unless permitted otherwise by the Municipality, comply with any obligations that have been imposed as part of the decision.

36. Exemptions

(1) Any person may apply for exemption from the provisions of this By-law to the Municipality, in a form prescribed by the Municipality from time to time.

(2) An application in terms of subsection (1) above must be accompanied with sound reasons for such exemption and any documentation that the Municipality requires in order for it to consider the application.

(3) The Municipality may grant an exemption or temporary exemption, in writing and subject to conditions, from one or more provisions of this By-law, provided that the Municipality is satisfied that granting the exemption will not significantly prejudice the objectives referred to in section of this By-law.

(4) The Municipality may not grant an exemption under subsection (1) until the Municipality has -

(a) taken measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are made aware of the application for exemption and how to obtain a copy of it;

(b) provided such persons with a reasonable opportunity to object to the application; and

(c) duly considered and taken into account any objections that are raised.

(5) The Municipality may—

(a) from time to time review any exemptions granted in terms of this section; and

(b) on good grounds withdraw any exemption.

37. Delivery of documents

(1) A notice or other document in terms of this By-law may be issued to a person-

(a) by delivering it by hand;

(b) by sending it by registered mail -

(i) to that person's business or residential address; or

(ii) in the case of a juristic person, to its registered address or principal place of business;

(c) by faxing a copy of the notice or other document to the person, if the person has a fax number;

(d) by e-mailing a copy of the notice or other document to the person, if the person has an e-mail address;

(e) by posting a copy of the notice or other document to the person by ordinary mail, if the person has a postal address; or

(f) where an address is unknown despite reasonable enquiry, by publishing it once in the *Provincial Gazette* and once in a local newspaper circulating in the area of that person's last known residential or business address.

(2) A notice or other document issued in terms of subsection (1)(b) to (f) must be regarded as having come to the notice of the person, unless the contrary is proved.

38. Delegation

(1) The Municipality, as represented by the Council, may delegate a power or duty vested in it in terms of this By-law to –

(a) the Municipal Manager;

(b) the air quality officer appointed in terms of the National Environmental Management: Air Quality Act, 2004; or

(c) the holder of an office in the Municipality.

(2) A delegation in terms of this By-law –

(a) must be in writing;

(b) may be subject to conditions;

(c) does not prevent the exercise of the power or the performance of the duty by the Council itself;

(d) may include the power to sub-delegate;

(e) may be withdrawn; and

(f) must not conflict with section 160 of the Constitution of the Municipal Systems Act.

(3) The power to delegate excludes the power to delegate the setting and adoption of tariffs, administrative fees and emission standards.

39. State and Municipality bound

This By-law is binding on the State.

40. Savings

Anything done or deemed to have been done under another By-law remains valid to the extent that it is consistent with this By-law or until anything done under this By-law overrides it.

41. Short title and commencement

This By-law may be cited as the Nkangala District Municipality Air Quality Management By-law, 2015 and take effect on the date of publication in the *Provincial Gazette*.

SCHEDULE 1: LIST OF IDENTIFIED SUBSTANCES

- 1) Ammonia (NH₃)
- 2) Benzene (C₆H₆)
- 3) Cadmium (Cd)
- 4) Carbon Monoxide (CO)
- 5) Chlorine (Cl₂)
- 6) Dioxins and Furans (PCDD/PCDF)
- 7) Dustfall
- 8) Fluorene, Phenanthrene, Fluoranthene
- 9) Formaldehyde
- 10) Hydrogen chloride (HCl)
- 11) Hydrogen fluoride (HF)
- 12) Hydrogen sulphide (H₂S)
- 13) Lead (Pb)
- 14) Mercury (Hg)
- 15) Nitrogen Dioxide (NO₂)
- 16) Oxides of nitrogen (NO_x)
- 17) Ozone (O₃)
- 18) Particulate Matter (PM_{10, 2.5, 1})
- 19) Poly Aromatic Hydrocarbons (PAH)
- 20) Sulphur Dioxide (SO₂)
- 21) Sulphur trioxide (from sulphonation processes) (SO₃)
- 22) Sum of arsenic, antimony, lead, cobalt, copper manganese, vanadium and nickel (As; Sb; Pb; Co; Cu; Mn; V & Ni)
- 23) Thallium (Tl)
- 24) Total fluorides measured as Hydrogen fluoride (F as HF)
- 25) Total reduced sulphur compounds measured as H₂S (H₂S)
- 26) Total volatile organic compounds (thermal treatment)

SCHEDULE 2: SPRAY BOOTH CONSTRUCTION REQUIREMENTS

WALLS	225mm Brickwork or an approved material
ROOF	Reinforced concrete or an approved material
FLOOR	Concrete or other impervious material
DOORS	<p>(A) – Constructed of 50mm hardwood completely covered, including the edges, with 24 s.w.g. metal secured to the door with bolts at 30mm centres along the edges. The doors to open outwards and to be hung on Tee hinges bolted to the door.</p> <p>(B) – Close fitting metal doors not less than 3mm in thickness, carried on an angle iron frame and having an all round overlap or not less than 50mm.</p>
NOTE:	Where the floor area exceeds 18 square metres 2 doors must be provided.
WINDOWS	Metal frames with no opening sections glazed with wire-woven glass not exceeding 460mm x 460mm. Putty approved by the SANS Code No. 680/59 only to be used and the occupier to furnish proof of this to the designated fire officer.
NOTE:	The Factory Inspector requires natural light to the extent of 20% of the floor area.
VENTILATION	30 Lineal metres/minute velocity across the room must be provided by means of mechanical ventilation, with the center line of the inlets 460mm above the floor level and to discharge through vertical metal ducting terminating 1 metre above the apex of the roof. No right angle bends to be used in the ducting system. Exhaust fans to be installed at 4 metre centres or horizontal metal ducting extending the entire length of the wall with suitable inlets, must be provided.
NOTE:	If the ducting is external to the Spray Booth and in communication with the Workshop etc., it must be protected by either 110mm brick cement lagging.
VENTILATION	The wall opposite the exhaust fans to be honeycombed with airbricks installed from 100mm above floor level to a

INLETS	height of not less than 2 metres.
MINIMUM NUMBER OF AIRBRICKS	SIZE OF THE ROOM
40	Up to but not exceeding 140 cubic metres
65	Up to but not exceeding 280 cubic metres
90	Up to but not exceeding 470 cubic metres
150	Up to but not exceeding 650 cubic metres
NOTE: Metal filters with metal swarf elements may only be used in an all metal installation, in lieu of Airbricks.	
ELECTRICAL WORK	All electrical work must be of flame-proof construction
DANGER NOTICE	“DANGER-NO SMOKING” notices in 150mm high white letters on a red background to be provided above the doors outside the Spray Booth.