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DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. R. 6186

16 May 2025

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

I, Dr Dion Travers George, Minister of Forestry, Fisheries and the Environment, hereby, in terms of sections 32 and 53(o), read with sections 55(3), 56 and 57 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), publish the draft National Dust Control Amendment Regulations for public comment, as set out in the Schedule hereto.

The purpose of the proposed amendments is to address the regulatory gaps identified in the implementation of the existing National Dust Control Regulations, 2013. The proposed amendments are aimed at improving dust control measures by-

- (i) identifying distinct activities to which the Regulations apply;
- (ii) updating the standard test method for the collection and measurement of dustfall to a locally accessible method as adopted by the South African Bureau of Standards;
- (iii) improving the administration requirements for the development, implementation, and procedural matters with respect to dust management plans; and
- (iv) repealing the existing National Dust Control Regulations published in Government Notice No. 827, Government Gazette No. 36974 of 1 November 2013.

Members of the public are invited to submit written comments within 30 (thirty) days from the date of publication of this notice in the *Government Gazette* or newspapers, whichever date is the last date, to the following addresses:

By post to: The Director-General: Department of Forestry, Fisheries and the Environment
Attention: Mr Mapitso Nkoko
Private Bag X477
PRETORIA
0001

By hand at: Ground Floor (Reception), Environment House, 473 Steve Biko Road, Arcadia, 0083
By email: MNkoko@dfre.gov.za

Any inquiries in connection with this Notice can be directed to Mr Rishaal Krishnanund at Tel: 012 399 9398/ Cell: 082 359 5792 or by email: RKrishnanund@dfre.gov.za or Mr Mapitso Nkoko at Tel: (012) 399 9214 / Cell: 071 640 4613, or by e-mail: MNkoko@dfre.gov.za

Comments received after the closing date may not be considered.

The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received and responses thereto are collated

into a comments and response report which will be made available to the public as part of the consultation process. If a commenting party has any objection to his or her name, or the name of the represented company/ organisation, being made publicly available in the comments and responses report, such objection should be highlighted in bold as part of the comments submitted in response to this Government Notice



DR DION TRAVERS GEORGE
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

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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—

“dust” means settleable particulate matter, including any material composed of particles small enough to pass through a 1 mm screen but large enough to settle by virtue of their weight into the sampling container from the ambient air;

“dustfall” means the deposition of dust;

“dust management plan” means a plan with control measures for preventing, minimizing, and managing dust, including fugitive dust;

“dustfall monitoring programme” means a programme for the monitoring of dustfall on a continuous basis;

“fugitive dust” means solid airborne particulate matter generated or emitted from any source other than a stack or chimney;

“historical mine dump” means debris, discard, residues, slimes, screening, slurry, tailings, waste rock, foundry sand, beneficiation plant waste, ash or any other product derived from or incidental to prospecting, exploration, mining or production operations, which do not require any authorisation in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

“licensing authority” has the meaning assigned to it in the Act;

“listed activity” has the meaning assigned to it in the Act;

“non-residential area” means any area, of which the land is used for agricultural, industrial, transport, commercial, business or mining purposes as prescribed under schedule 2 of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);

“nuisance” means an unreasonable interference or likely interference caused by dust to the use or enjoyment by an owner or occupier of his or her property or environment, or to the ordinary comfort, convenience and peace.

“person” has the meaning assigned to it in the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“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 on in that building or structure, and includes any land without any buildings or other structures from which dust may be generated;

“reclamation” means obtaining materials of value from a historical mine dump;

“residential area” means any area of which the land is used for the purposes listed in schedule 2 of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), excluding land used for agricultural, industrial, commercial, business, transport or mining purposes;

“SANAS” means the South African National Accreditation System established by section 3 of the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act No. 19 of 2006);

“SANS 1137” means the last approved version of the South African National Standard 1137, which is the standard test method for the collection and measurement of dustfall (settleable particulate matter);

“sensitive receptors” means locations that may be adversely affected by dust emissions, which include but is not limited to hospitals, schools, daycare centres, surface water and sensitive ecological areas; and

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

2 Purpose of the Regulations

The purpose of these Regulations is to prescribe—

- (1) measures for the control of dust in all areas nationally; and
- (2) steps that must be taken to prevent nuisance by dust.

3 Application of the Regulations

These Regulations shall apply nationally to—

- (a) any holder of a right or permit related to a prospecting, exploration, mining, or production operation, as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
- (b) any person conducting reclamation;
- (c) any person conducting a listed activity and is required in terms of the provisional or atmospheric emission licence to develop a dust management plan;
- (d) any person conducting a controlled emitter that has the potential to generate dust; and
- (e) any person conducting an activity that an air quality officer reasonably suspects is causing or has the potential to cause nuisance by dust.

4 Dustfall Standard Test Method

The standard test method for the collection and measurement of dustfall shall be SANS 1137. The last approved version of this method shall apply.

5 Prescribed Dustfall Rates

Prescribed dustfall rates and permissible frequency of exceedances are set out in the table below:

Restriction Areas	Dustfall rate (D) (mg/m ² /day, 30-day period)	Permitted frequency of exceeding dustfall rate
Residential area	$D \leq 600$	Twice within a year, not occurring on sequential months.
Non-residential area	$D \leq 1200$	Twice within a year, not occurring on sequential months.

6 Development of a Dust Management Plan

- (1) An identified person in regulation 3(a) or (b) must within 60 days of the coming into operation of these Regulations, develop and submit for approval, a dust management plan to any of the air quality officers in the municipality where dust is generated.
- (2) An identified person in regulation 3(c) must within 60 days of the coming into operation of these Regulations, develop and submit for approval, a dust management plan to the relevant licencing authority.
- (3) An identified person referred to in regulation 3(a), (b) or (c) who has not yet commenced activities when these Regulations come into operation must develop and submit for approval

- a dust management plan to the air quality officer or licencing authority contemplated in subregulation (1) or (2), prior to commencement of the activity.
- (4) The licensing authority must upon approval of a dust management plan, incorporate an approved dust management plan into the atmospheric emission license for listed activities that are likely to generate dust emissions.
 - (5) An identified person in regulation 3(d) and (e) must, upon receipt of a written notice from an air quality officer, develop and submit a dust management plan for approval within the timeframe determined by an air quality officer.
 - (6) The timeframe determined by the air quality officer in regulation 6(5) may not exceed 60 days.
 - (7) An air quality officer or licensing authority must, within 60 days of receipt of a dust management plan, approve the plan for implementation if it meets the requirements of regulation 7.
 - (8) The identified person in regulation 3 must implement an approved dust management plan from the date of commencement of the activities or, where activities have already commenced, from the date of approval of the plan.

7 Contents of a Dust Management Plan

- (1) A dust management plan contemplated in these Regulations must include—
 - (a) the person responsible for the implementation of the dust management plan;
 - (b) a description of the surrounding land use (within 5 km radius);
 - (c) a description of the premises and all possible sources of dust and activities with the potential to generate dust within the premises;
 - (d) detailed and time-bound control measures that must be taken to prevent, minimize and manage dust, including fugitive dust;
 - (e) measures to manage dust complaints and complaints register;
 - (f) measures that must be taken to prevent nuisance by dust;
 - (g) a dustfall monitoring programme if required by the air quality officer or licensing authority with the following:
 - i. Procedures for the collection and measurement of dustfall in terms of the standard test method; and
 - ii. Dust monitoring sampling sites sufficient in number to monitor identified or likely sensitive receptor locations in the vicinity of the premises; and
 - (h) any other relevant information as an air quality officer or licencing authority may deem necessary.

8 Reporting on the Implementation of a Dust Management Plan

- (1) The identified person in regulation 3(a), (b), (d) and (e) must submit a report on the implementation of an approved dust management plan to the air quality officer at monthly intervals or as may be required by the air quality officer.
- (2) The identified person in regulation 3(c) must submit a report on the implementation of an approved dust management plan to the licensing authority at monthly intervals or as may be required by the licensing authority.
- (3) The implementation report contemplated in regulation 8(1) and (2) must include—

- (a) measures undertaken to prevent, minimize and manage generation of dust;
- (b) actions taken and responses to address the complaints of nuisance by dust; and
- (c) a dustfall monitoring report, if required by the air quality officer or licensing authority, comprising of the following:
 - (i) Information on the location of sampling sites, including latitudinal and longitudinal coordinates, and a position indicator on a topographic map;
 - (ii) Information on classification of the area where samplers are located, in terms of residential and non-residential, and identification of sensitive receptors, if applicable;
 - (iii) Dustfall monitoring results, including a tabular summary of dustfall rates for the monitoring period compared to the limit values set out in regulation 5, and a comparison with monthly historical results for at least the previous year for each site, where historical data is available;
 - (iv) Meteorological information on wind speed, wind direction and rainfall for the sampling site;
 - (v) Proof of SANAS accreditation on the use of SANS 1137; and
 - (vi) Any other relevant information as might be required by the air quality officer or the licensing authority.

9 Monitoring and Reviewing of a Dust Management Plan

- (1) An air quality officer or licensing authority may require a person contemplated in regulation 3 to review an approved dust management plan if—
 - (a) the report contemplated in regulation 8(1) and (2) demonstrates non-compliance with the dustfall rates; or
 - (b) there is reasonable suspicion that dust control measures in the approved dust management plans are not adequately preventing, minimizing or managing dust including fugitive dust and are not preventing nuisance by dust.
- (2) The identified person in regulation 3(a), (b), (d) and (e) required to review an approved dust management plan contemplated in regulation 9(1), must submit the reviewed plan to the air quality officer within 60 days of the written notice.
- (3) The identified person in regulation 3(c) required to review an approved dust management plan contemplated in regulation 9(1), must submit the reviewed plan to the licensing authority within 60 days of the written notice.
- (4) An air quality officer or licensing authority must within 60 days of receipt of a reviewed dust management plan, approve the plan for the implementation, if it meets the requirements of regulation 7.
- (5) The identified person in regulation 3 must implement an approved reviewed dust management plan from the date of approval of the plan.

10 Transitional Provisions

- (1) An identified person in regulation 3(a), (b) and (d), in possession of an approved dust management plan prior to the promulgation of these Regulations must submit a reviewed plan in line with these Regulations to an air quality officer for approval, within 60 days of the coming into operation of these Regulations.
- (2) An identified person in regulation 3(c) in possession of an approved dust management plan prior to the promulgation of these Regulations must submit a reviewed plan in line with these

Regulations to the relevant licensing authority for approval, within 60 days of the coming into operation of these Regulations.

- (3) An identified person in regulations 10(1) and (2) must include in the reviewed plans, a transitioning period from using the ASTM D1739:1970 or equivalent method approved by any international recognized body to the method prescribed in regulation 4, which period must not exceed six (6) months from the date of coming into effect of these Regulations.
- (4) An air quality officer or licensing authority must within 60 days of receipt of a reviewed dust management plan, approve the plan for the implementation if it meets the requirements of regulation 7.
- (5) The identified person in regulation 3 must implement an approved reviewed dust management plan from the date of approval of the plan.
- (6) Pending the approval of the reviewed dust management plan contemplated in regulation 10(1) and (2), the existing approved dust management plan shall remain valid with full legal force and effect.

11 Offences

A person is guilty of an offence if that person contravenes or fails to comply with a provision of regulation 6(1); 6(2); 6(3), 6(5); 6(8); 8(1); 8(2); 9(2); 9(3); 9(5); 10(1); 10(2); or 10(5).

12 Penalties

A person convicted of an offence referred to in regulation 11 is liable to a fine not exceeding R5 million rand, 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 or in both instances to both such fine and imprisonment.

13 Repeal of the Regulations

The National Dust Control Regulations, 2013 promulgated by Government Notice No. R. 827, published in *Government Gazette* No. 36974 of 1 November 2013 are hereby repealed.

14 Short Title and Commencement

These Regulations are called the National Dust Control Regulations, 2025 and will come into operation on the date of publication in the *Government Gazette*.