

NOTICE 1007 OF 2012

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

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

DRAFT NATIONAL DUST CONTROL REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby give notice of my intention to, under paragraph (o) of section 53, read with section 32 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), make the national dust control regulations in the schedule hereunder.

Members of the public are invited to submit to the Minister, within 30 days of publication of the draft regulations in the *Gazette*, written representations on, or objections to the draft regulations to the following addresses:

By post to: The Director-General: Environment Affairs
 Attention: Mr Olebogeng Matshediso
 Private Bag X447
 Pretoria, 0001

By fax to: 086 546 5786, and e-mail to: OMatshediso@environment.gov.za

Or hand delivered at Corner Pretorius and Lillian Ngoyi Streets, Fedsure Forum Building, 2nd Floor, North Tower.

Any enquiries in connection with the draft regulations can be directed to Dr. Thulie Mdluli at (012) 310-3436 or Mr Olebogeng Matshediso at (012) 310-3102.

Comments received after the closing date may not be considered.


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 fall" means the deposition of dust;

"dust fallout monitoring programme" means monitoring of the dust fallout on a continuous basis.

"industrial area" means any area classified for industrial use as per the local town planning scheme;

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

"premises" means-

- (a) any adjoining land occupied or used in connection with any activities carried on in that building or structure;
- (b) any building or other structure;
- (c) any locomotive, ship, boat or other vessel which operates in the precincts of any harbor, within the area of the jurisdiction of the Republic of South Africa.
- (d) any vacant land; or

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

"settleable particulate matter (or dust)" 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 container from the ambient air.

2. Purpose of the regulations

The purpose of the regulations is to prescribe general measures for the control of dust (settleable particulate matter) in all areas.

3. Dust fallout standard

Table 1: Acceptable dust fall rates as measured (using ASTM D1739:1970 or equivalent) at and beyond the boundary of the premises where dust originates.

Restriction Areas	Dust fall rate (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.

4. Baseline establishment

- (1) Any person who conducts any activity in such a way as to give rise to dust in quantities and concentrations that may exceed the dust fall standard set out in regulation 3 of these Regulations must, within a year after publication of these Regulations, submit a dust monitoring report to the air quality officer.
- (2) A dust fallout monitoring report, contemplated in subregulation (1), must provide-
 - (a) Information on the location of samples, including coordinate reference on a topographic map and the proximity of the samples to residential and non-residential areas;
 - (b) classification of the area where samples were taken from;
 - (c) meteorological data of the sampling area;
 - (d) any other relevant data that might influence the results; and
 - (e) the dust fallout monitoring results.

5. Measures for the control of dust

- (1) Any person who has exceeded the dust fall standard set out in regulation 3 of these Regulations must, within three months after submission of the dust monitoring report, develop a dust management plan.
- (2) A dust management plan, contemplated in subregulation (1), must-
 - (a) identify all possible sources of dust within the affected areas; and
 - (b) detail best practicable measures to be undertaken to control dust.

6. Dust fallout monitoring

- (1) An air quality officer may require any person to undertake a dust fallout monitoring programme contemplated in subregulation (2) if-
 - (a) the air quality officer suspects that the person is contravening regulation 3 of these Regulations; or
 - (b) the activity being conducted by the person requires a fugitive emission management plan in terms of a notice published in terms of section 21 of the Act.
- (2) A dust fallout monitoring programme must include-
 - (a) the implementation of the best practicable measures to control dust
 - (b) compliance or non-compliance report with regulation 3 of these Regulations to the satisfaction of the air quality officer.

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 dust fallout monitoring programme contemplated in regulation 6(2) indicates non-compliance with regulation 3 of these Regulations.

8. Offences

A person is guilty of an offence if that person contravenes a provision of regulation 4, 5, 6 or 7 of these Regulations.

9. Penalties

A person convicted of an offence referred to in regulation 8 of these Regulations is liable to –

- (1) imprisonment for a period not exceeding five years;
- (2) an appropriate fine; or
- (3) both a fine and imprisonment.

10. Short title and commencement

These regulations are called the National Dust Control Regulations, 2012 and shall come into operation on a date determined by the Minister by notice in the *Gazette*.