

(22 May 2018 – 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 POLLUTION PREVENTION PLANS REGULATIONS, 2017

*Government Notice 712 in Government Gazette 40996 dated 21 July 2017. Commencement date:
21 July 2017.*

As amended by:

*Government Notice 513 in Government Gazette 41642 dated 22 May 2018. Commencement date:
22 May 2018.*

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby under section 53(a), (o) and (p) read with section 29(3) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), make the National Pollution Prevention Plans Regulations in the Schedule hereto.

(Signed)

BOMO EDNA EDITH MOLEWA

MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

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CHAPTER 1 DEFINITIONS AND PURPOSE OF THE REGULATIONS

1. Definitions

- (1) In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act and has that meaning, and –

"mitigation measure" means technology (that is, a piece of equipment or a technique for performing a particular activity), process, or practice which, if employed, would reduce greenhouse gas emissions below anticipated future levels, when compared to the status quo;

"National Greenhouse Gas Emission Reporting Regulations" means the regulations published under General Notice 275 in *Gazette* No. 40762 of 3 April 2017 as amended from time to time;

"person" includes a juristic person;

"pollution prevention plan" means a plan contemplated in section 29(1)(3) of the Act, prepared specifically for the mitigation of greenhouse gases;

"production process" means the process from which greenhouse gas emissions which have been declared as priority air pollutants by a Notice in terms of section 29(1)(a) of the Act, may arise;

"priority air pollutants" means the greenhouse gases declared as such by a notice in terms of section 29(1)(a) of the Act;

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

2. Purpose

The purpose of these Regulations is to prescribe the requirements that pollution prevention plans of greenhouse gases declared as priority air pollutants need to comply with in terms of section 29(3) of the Act.

CHAPTER 2 REQUIREMENTS FOR POLLUTION PREVENTION PLANS

3. Requirements for pollution prevention plans

- (1) A pollution prevention plan must include –
 - (a) details of the person submitting the plan, including company name and company registration number in terms of the Companies Act, name and contact details of person responsible for submitting the pollution prevention plan on behalf of the company;
 - (b) description of production processes as listed in Annexure A to these Regulations;
 - (c) greenhouse gases generated from the production processes listed in Annexure A to these Regulations and their activities reported in accordance with the National Greenhouse Gas Emission Reporting Regulations;
 - (d) total greenhouse gas emissions from the production process for the calendar preceding the submission of pollution prevention plan;
 - (e) details of the methodology that is to be used by the person to monitor annual greenhouse gas emissions and evaluate progress towards meeting greenhouse gas emission reductions must be in line with the National Greenhouse Gas Emission Reporting Regulations; and
 - (f) description of mitigation measures, based on the best information available at time, that will be implemented and result in deviation from the greenhouse gas emissions baseline over the pollution prevention plan's period, and the projected emissions reductions that will be achieved.
- (2) A first pollution prevention plan must cover a period from the date of promulgation of these Regulations up to 31 December 2020 and the subsequent pollution prevention plans must cover periods of five calendar years each.

CHAPTER 3

SUBMISSION AND APPROVAL OF POLLUTION PREVENTION PLANS AND ANNUAL PROGRESS REPORTS

4. Submission and approval of pollution prevention plans

- (1) A person must submit a first pollution prevention plan to the Minister before or on 21 June 2018 and the subsequent pollution prevention plans must be submitted within five months of existing plans being reconciled.

(Regulation 4(1) substituted by Government Notice 513 in Government Gazette 41642 dated 22 May 2018)

- (2) The Minister must, in writing, within 14 days after the date of submission of the pollution prevention plan acknowledge receipt of the pollution prevention plan.
- (3) The Minister must consider whether the content of the pollution prevention plan complies with regulation 3 of these Regulations and must, in writing, within 30 days after the date of receipt of the pollution prevention plan –
 - (a) approve the pollution prevention plan and direct the person to implement the approved pollution prevention plan; or
 - (b) reject the pollution prevention plan.
- (4) If a pollution prevention plan is rejected in terms of subregulation (3)(b), the Minister must, in writing, direct the person to amend the pollution prevention plan within 30 days after receipt of written instruction from the Minister.
- (5) A revised pollution prevention plan must be resubmitted to the Minister for approval and be dealt with in accordance with subregulation (3).
- (6) A pollution prevention plan is valid for a period of five years after the date of approval by the Minister, and must be reviewed every five years thereafter.

5. Submission and approval of annual progress reports

- (1) A person contemplated in regulation 4(1) must monitor and evaluate implementation of the approved pollution prevention plan and submit a progress report to the Minister by 31 March each year for the preceding calendar year.
- (2) A progress report must include –
 - (a) details on the mitigation measures that were implemented,

- (b) details of deviations from the approved pollution prevention plan, if any, and remedial action undertaken to address any deviations,
 - (c) management of any risks and limitations.
- (3) The Minister must acknowledge receipt, in writing, within 14 days after the date of submission of the annual progress report.
- (4) The Minister must, in writing, within 30 days after the date of receipt of the annual progress report, consider whether the content of the annual progress report complies with subregulation (2) and may –
- (a) approve the annual progress report; or
 - (b) reject the annual progress report and direct the person to amend the report accordingly.
- (5) If an annual progress report is rejected in terms of subregulation (4)(b), the Minister must, in writing, direct the person to amend the report within 30 days after receipt of written instruction from the Minister.
- (6) A revised annual progress report must be resubmitted to the Minister for approval in terms of subregulation (4).

CHAPTER 4

VERIFICATION OF INFORMATION AND GENERAL MATTERS

6. Verification of information

- (1) If the Minister reasonably believes that any information submitted in the pollution prevention plan or annual progress report is incomplete or false, the Minister must instruct, in writing, the person that submitted the information in terms of these Regulations to verify the information submitted.
- (2) A person instructed in terms of subregulation (1) must verify the information within 60 days after receipt of written instruction from the Minister.
- (3) A person is liable for all costs incurred in verifying the information in terms of subregulations (1) and (2).

7. Confidentiality of information

Information obtained in terms of these Regulations will be kept confidential, except –

- (a) if the information is disclosed in compliance with the provisions of any law;
- (b) if the person is ordered to disclose the information by a court of law;

- (c) if the information is disclosed to enable a person to perform a function in terms of these Regulations; or
- (d) for the purposes of the administration of justice.

8. Offences

A person is guilty of an offence if that person –

- (a) fails to submit a pollution prevention plan as required in terms of regulation 4(1);
- (b) fails to submit an annual progress report as required in terms of regulation 5(1),
- (c) supplies false or misleading information to the Minister in terms of these Regulations.

9. Penalties

A person convicted of an offence referred to in regulation 8 is liable in the case of a first conviction to a fine not exceeding five 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 and in respect of both instances to both such fine and such imprisonment.

10. Short title and commencement

These Regulations are called the National Pollution Prevention Plans Regulations, 2017, and come into effect on the date of publication in the *Gazette*.

Annexure A

List of production processes

- (a) Coal mining;
- (b) Production and/or refining of crude oil;
- (c) Production and/or processing of natural gas;
- (d) Production of liquid fuels from coal or gas;
- (e) Cement production
- (f) Glass production;
- (g) Ammonia production;
- (h) Nitric acid production;
- (i) Carbon black production;
- (j) Iron and steel production;

- (k) Ferro-alloys production;
- (l) Aluminium production, excluding foundries;
- (m) Polymers production;
- (n) Pulp and paper production;
- (o) Electricity production from fossil fuels; excluding the use of back-up generators.