

NOTICE 572 OF 2014

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

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

DRAFT NATIONAL ATMOSPHERIC EMISSION REPORTING REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to make regulations regarding national atmospheric emission reporting, under sections 12(b) and (c) and 53(aA), (o) and (p) read with section 57 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), set out in the Schedule hereto.

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

By post: The Director-General: Department of Environmental Affairs
Attention: Adv Avhantodi Munyai
Private Bag X447
Pretoria,
0001

By hand: 2nd Floor (Reception), North Tower, Fedsure Forum Building, 315 Pretorius Street, Pretoria.

By email: amunyai@environment.gov.za or by fax: 012 320 0488.

Any inquiries in connection with the draft regulations can be directed to Adv Avhantodi Munyai at 012 310 3153 or Ms Elizabeth Masekoameng at 012 310 3598.

Comments received after the closing date may not be considered.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

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CHAPTER 1

DEFINITIONS AND PURPOSE OF THE REGULATIONS

Definitions

1. In these Regulations any word or expression to which the meaning has been assigned in the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) has that meaning so assigned, unless the context indicates otherwise—

“data provider” means any person as classified in regulation 4 of these Regulations;

“emission inventory” means an accounting of the amount of pollutants discharged into the atmosphere and it contains the total emissions for one or more specific greenhouse gases and air pollutants originating from all sources in a certain geographical area and within a specified time span;

“facility” means premises where emission sources identified in Annexure 1 to these Regulations are operating;

“National Atmospheric Emission Inventory System” or “NAEIS” means the internet-based emissions reporting system which is a component of the South African Air Quality Information System;

“relevant authority” means an authority referred to in Annexure 1 to these Regulations;

“South African Air Quality Information System” or “SAAQIS” means the national air quality information system established in terms of the National Framework for Air Quality Management in the Republic of South Africa;

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

“these Regulations” include the Annexure to these Regulations.

Purpose of Regulations

2. The purpose of these Regulations is to regulate reporting of data and information from an identified point, non-point and mobile sources of atmospheric emissions to an internet-based National Atmospheric Emissions Inventory System towards the compilation of atmospheric emission inventories.

Application of Regulations

3. These Regulations apply to groups of emission sources and corresponding data providers as classified in regulation 4 of these Regulations.

CHAPTER 2

CLASSIFICATION OF EMISSION SOURCES, DATA PROVIDERS AND REGISTRATION

Classification of emission sources and data providers

4. (1) For purposes of these Regulations, emission sources and data providers are classified according to groups A to D listed in Annexure 1 to these Regulations.
- (2) Notwithstanding the provisions of sub-regulation (1), the relevant authority may identify additional emission sources and associated data providers and, in writing, request such data providers to register and to submit emission data within a reasonable period to be determined by the relevant authority.

Registration

5. (1) A person classified as a data provider in regulation 4(1), must register on the NAEIS within a period of 30 days from the date upon which these Regulations came into effect.
- (2) A person classified as a data provider in regulation 4(1) and who commences with an activity and or activities classified as emission source in regulation 4(1) after these Regulations come into effect, must register on the NAEIS within a period of 30 days after commencing with such an activity and or activities.
- (3) Any person identified as a data provider and requested to register in terms of regulation 4(2), must do so within a period of 30 days.

Changes to registration details

6. (1) A data provider must notify, in writing, the relevant authority of any change in respect of the data provider's registration details within a period of 30 days from the date the data provider became aware of such change occurring.
- (2) In the event a data provider transfers ownership of a facility or equipment, the data provider must notify the relevant authority in writing within 30 days of such transfer of ownership or the activity being discontinued.
- (3) A person to whom ownership of the facility or equipment is transferred, as referred to in sub-regulation (2) of these Regulations, must within 30 days of taking ownership, register on the NAEIS.
- (4) Registration is deemed withdrawn once the relevant authority has within 30 days acknowledged receipt of notification, in writing, given by a data provider in terms of sub-regulation (2).

CHAPTER 3**REPORTING AND RECORD KEEPING****Reporting requirements**

7. The NAEIS reporting requirements are specified in Annexure 1 to these Regulations for each group.

Reporting or submission of information

8. (1) A data provider must submit the required information for the preceding calendar year, as specified in Annexure 1 to these Regulations, to the NAEIS by 31 March of each calendar year.
- (2) Where 31 March falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the following day which is not Saturday, Sunday or public holiday.

Record keeping

9. A data provider must keep a record of the information submitted to the NAEIS for a period of at least five years and must, on request, be made available for inspection by the relevant authority.

CHAPTER 4

VERIFICATION OF INFORMATION AND GENERAL MATTERS

Verification of information

10. (1) If a relevant authority reasonably suspects that the information submitted to the NAEIS is incomplete and or incorrect, the relevant authority may request, in writing, a data provider to verify the information submitted.
- (2) A data provider requested to verify information in terms of sub-regulation (1) must do so within 60 days of receiving the written request from the relevant authority.
- (3) If such relevant authority as the case may be, reasonably suspects that the verified information submitted in terms of sub-regulation (1) is incomplete and or incorrect the relevant authority may instruct such data provider, in writing, to submit supporting documentation prepared by an independent person with the relevant expertise on the accuracy of the information submitted to the NAEIS.
- (4) The supporting documentation requested in terms of sub-regulation (3) must be submitted within 60 days of receipt of the instruction.
- (5) A data provider is liable for all costs incurred in connection with compliance with an instruction in terms of sub-regulations (1) and (3).

Confidentiality of information

11. It is an offence for any person to disclose confidential information if that information was acquired while exercising or performing any power or duty in terms of these Regulations, 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; or
 - (c) if the information is disclosed to enable a person to perform a function in terms of these Regulations.

Publishing data and information

12. (1) The relevant authority may place NAEIS data and information in the public domain if-
 - (a) it does not promote unfair competition;
 - (b) it does not contravene section 36 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000); and
 - (c) it does not contravene section 17 of the Statistics Act, 1999 (Act No. 6 of 1999).

Offences

13. (1) A person commits an offence if that person-
- (a) provides false or misleading information to the NAEIS;
 - (b) fails to comply with regulations 5, 6(1), 6(2), 6(3), 8(1), 9, 10(2), 10(4) or 11.

Penalties

14. A person guilty of an offence in terms of regulation 13 of these Regulations is liable in the case of a first conviction to a fine not exceeding R5 million or to imprisonment of 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.

Short title and commencement

15. These Regulations are called the National Atmospheric Emission Reporting Regulations, 2014.

ANNEXURE 1: EMISSION SOURCE GROUPS, ASSOCIATED DATA PROVIDERS, EMISSION REPORTING REQUIREMENTS AND RELEVANT AUTHORITIES:

Group	Emission source	Data provider	NAEIS Reporting Requirements	Relevant Authority
A	Listed activity in terms of Section 21(1) of the Act.	Any person that undertakes a listed activity in terms of Section 21(1) of the Act.	Emission reports must be made in the format required for NAEIS and should be in accordance with the atmospheric emission license or provisional atmospheric emission license.	Licensing authority.
B	Controlled emitter.	Any person that undertakes a listed activity in terms of Section 21(1) of the Act and uses an appliance or conducts an activity which has been declared a controlled emitter in terms of Section 23(1) of the Act. Any relevant air quality officer receiving emission reports as contemplated in under notice made in terms of Section 23 of the AQA.	Any information that is required to be reported in terms of the Notice published in the Gazette in terms of Section 23 of the Act.	The relevant air quality officer as contemplated under the notice made in terms of Section 23 of the Act.
C	Mines.	Any person, that holds a mining right or permit in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002).	Emission reports must be made in the format required for NAEIS.	Relevant air quality officer.
D	Facilities with	Any person that	Emission reports must	Relevant air

Group	Emission source	Data provider	NAEIS Reporting Requirements	Relevant Authority
	criteria pollutants who are not listed in group A and B.	operates facilities which generate criteria pollutants who do not report in terms of group A and B in accordance with the applicable Municipal By-law.	be made in the format required for NAEIS.	quality officer.