
GENERAL NOTICE

NOTICE 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 Edna Edith Molewa, Minister of Water and Environmental Affairs, hereby give notice of my intention to make the Regulations, under sections 12(b) and (c) and 53(o) and (p) read with section 57(1)(a) 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 60 days of publication of the notice in the Gazette, written representations 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 3200488

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 EDNA EDITH MOLEWA

MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

Definitions

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

"data provider" means any person as classified in regulation 4.

"Facility" means premises were emission sources identified in Annexure A are operating.

"Intergovernmental Panel on Climate Change" or **"IPPC"** means the international body for the assessment of climate change established by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) in 1988.

"National Atmospheric Emission Inventory System" or **"NAEIS"** means the internet-based emissions reporting system that is a component of the South African Air Quality Information System (SAAQIS).

"relevant authority" means an authority referred to under 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.

"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 the reporting of data and information from identified point, non-point and mobile sources of atmospheric emissions on the internet-based National Atmospheric Emissions Inventory System (NAEIS) towards the compilation of atmospheric emission inventories.

Application of Regulations

3 These Regulations apply to the categories of emission sources and corresponding data providers as classified in Regulation 4.

Classification of emission sources and data providers

4 (1) For purposes of these Regulations, emission sources and data providers are classified according to categories A to E listed in Annexure 1.

(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 data for their emissions within a period to be specified by the relevant authority.

Registration

- 5 (1) Any person classified as a data provider in subregulation 4(1), must register on the NAEIS within thirty (30) days of these Regulations coming into effect.
- (2) Any person classified as a data provider in subregulation 4(1) who commences an activity classified as an emission source in subregulation 4(1) after these Regulations come into effect, must register on the NAEIS within thirty 30 days of commencing such an activity.
- (3) Any person identified as a data provider and requested to register in terms of subregulation 4(2), must do so within 30 days

Changes to registration details

- 6 (1) A data provider must notify the relevant authority of any change ,in writing, in respect of that person's registration details within fourteen (14) days of such change occurring.
- (2) If a data provider transfers ownership of a facility or equipment, the data provider must notify the relevant authority in writing within fourteen (14) days of such transfer of ownership or the activity being discontinued.
- (3) The person to whom ownership of the facility or equipment is transferred as referred to in subregulation (2), must within thirty (30) days of taking ownership, register on the NAEIS.
- (4) Once the relevant authority has, in writing, acknowledged receipt of notification given by a data provider in terms of subregulation (2), registration is deemed withdrawn.

Reporting requirements

7 The NAEIS reporting requirements are specified in Annexure 1 for each category.

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 the NAEIS by the 31 March of each year.

(2) Where the 31 March falls on a Saturday, Sunday or public holiday, the submission deadline shall be the next working day.

Record keeping

9 (1) A data provider must keep a record of the information submitted to the NAEIS or the relevant authority.

(2) The records contemplated in subregulation (1) must be-

(a) retained for a period of at least 5 (five) years; and

(b) made available for inspection by the relevant authority on request.

Verification of information

10 (1) If a relevant authority reasonably believes that the information submitted to the NAEIS is incomplete or

incorrect the relevant authority, may instruct, in writing, a data provider to verify the information submitted.

- (2) A data provider requested to verify information in terms of subregulation 10(1) must do so within thirty (30) days of receiving the written instruction from the relevant authority.
- (3) If such relevant authority as the case may be, reasonably believes the verified information submitted in terms of subregulation 10(1) to be incomplete 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 that has been submitted to the NAEIS.
- (4) The supporting documentation requested in terms of subregulation (3) must be submitted within 30 days.
- (5) A data provider is liable for all costs in connection with compliance with an instruction in terms of sub-regulations (1) and (3).
- (6) If a data provider fails to comply with a request made in terms of subregulation (1) or fails to submit the supporting documentation contemplated in subregulation (3) within the period determined by the relevant authority, the authority may-
 - (a) appoint an independent person to provide such supporting information; and
 - (b) recover the cost from the data provider.

Confidentiality of information

11 (1) No person may disclose confidential information obtained in terms of these Regulations, unless -

- (a) the information is disclosed in compliance with the provisions of any law;
- (b) the person is ordered to disclose the information by a court of law;
- (c) 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 only 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 subregulations 5(1), 5(2), 5(3), 6(1), 6(2), 6(3), 8(1), 8(2), 9(1), 9(2), 10(2), and 10(4).

Penalties

14 A person convicted of an offence referred to in regulation 13 is liable in the case of a first conviction to a fine not exceeding R 5 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 CATEGORIES, ASSOCIATED DATA PROVIDERS,

EMISSION REPORTING REQUIREMENTS AND RELEVANT AUTHORITIES:

Category	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. The greenhouse gas emissions related activity data must be reported in line with Volume 2 (Energy Sector), Volume 3 (IPPU Sector), Volume 4 (AFOLU Sector) and Volume 5 (Waste Sector), in terms of the 2006 IPCC guidelines.	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 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.

Category	Emission source	Data provider	NAEIS Reporting Requirements	Relevant Authority
		Any relevant air quality officer receiving emission reports as contemplated in under notice made in terms of Section 23 of the AQA.		
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 greenhouse gas emission implication but which are not listed in Category A or B.	Any person that operates activities that have greenhouse gas implication not listed in Category A or B.	Emission reports must be made in the format required for NAEIS. The greenhouse gas emissions related activity data must be reported in line with Volume 2 (Energy Sector), Volume 3 (IPPU Sector), Volume 4 (AFOLU Sector) and Volume 5 (Waste	National air quality officer

Category	Emission source	Data provider	NAEIS Reporting Requirements	Relevant Authority
			Sector), in terms of the 2006 IPCC guidelines.	
E	Facilities with criteria pollutants who are not listed in Category A and B	Any person that operates facilities which generate criteria pollutants who do not report in terms of category A and B.	Emission reports must be made in the format required for NAEIS.	Relevant air quality officer