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DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 5

08 JANUARY 2016

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

NATIONAL POLLUTION PREVENTION PLANS REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to publish the pollution prevention plan, in terms of section 29(3) read with section 53 (a) and (o) 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 hereby invited to submit to the Minister, within 30 days after the publication of the notice in the *Gazette*, written representations or objections on the proposed national pollution prevention plans regulations to the following addresses:

By post to: The Director-General: Department of Environmental Affairs
Attention: Mr A.M. Makwarela
Private Bag X447
Pretoria
0001

By hand at: 473 Steve Biko Street, Ground Floor (Reception), Environment house building, Arcadia, Pretoria, 0001.

By e-mail: MAMakwarela@environment.gov.za.

Any inquiries in connection with the draft notice can be directed to: Mr A.M. Makwarela, at 012 399 9163.

Comments received after the closing date will not be considered.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

SCHEDULE

1. Definitions

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

“carbon dioxide equivalents (CO₂-eq)” means emissions of greenhouse gases that have been calculated to be equivalent to carbon dioxide in terms of 100 years global warming potential as prescribed in the South Africa's National Greenhouse Gas Emission Reporting Regulations;

“company” means any person to which a carbon budget is allocated and shall include:

- (a) its holding company or corporation or legal entity, registered in South Africa in accordance with the Laws of South Africa
- (b) all its subsidiaries and legally held operations, including joint ventures and partnerships where it has a controlling interest, or is nominated as the responsible entity for the purpose of reporting under this Regulation,
- (c) all Facilities generally over which it has control, which are not part of another company as provided for in this Regulation;

“direct emissions” means emissions from sources that are owned or controlled by the reporting person;

“mitigation intervention” is a 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 or existing counterfactual techniques normally employed;

“person” includes juristic person;

“priority pollutants” means the greenhouse gases declared as such by notice in terms of section 29 (1)(a) of the Act.

2. Purpose

The purpose of these regulations is to prescribe the requirements that pollution prevention plans need to comply with in terms of section 29(3) of the Act.

3. Persons responsible for submitting a pollution prevention plan

The following persons are required to submit a pollution prevention plan:

- (1) A person conducting a production process set out in Annexure A to this Notice which involves the direct emission of greenhouses gases in excess of 0.1 Megatonnes (Mt) annually measured as carbon dioxide equivalents (CO₂-eq).
- (2) A person undertaking production process listed in Annexure A to this Notice as a primary activity.

4. Requirements for pollution prevention plans

- (1) A pollution prevention plan must include—

- (a) details of the person submitting the plan; including company name and registration number, name and contact details of person responsible for submitting the pollution prevention plan on behalf of the company;
 - (b) description of production processes listed in Annexure A to this Notice;
 - (c) type of greenhouse gas emissions generated from each production process or processes listed in Annexure A to this Notice;
 - (d) total greenhouse gas emissions from each production process measured as CO₂-eq for the year, preceding the first calendar year of the 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, which has been developed in accordance with the National Greenhouse Gas Emission Reporting Regulations;
 - (f) description of mitigation interventions that will be implemented to reduce greenhouse gas emissions over the five year period, and the projected emissions reductions that will be achieved.
- (2) A pollution prevention plan must cover a period of five calendar years.

5. Submission and approval of pollution prevention plans

- (1) A person must submit a pollution prevention plan to the Minister within three months after the Notice declaring greenhouse gases as priority pollutants comes into effect.
- (2) The Minister must within 14 days after the date of submission of the pollution prevention plan acknowledge receipt of the pollution prevention plan in writing.
- (3) The Minister must, consider whether the content of the pollution prevention plan complies with regulation 4 of these Regulations and may within 30 days 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 and direct the person to amend the pollution prevention plan to meet the regulation 4 requirements.
- (4) If a pollution prevention plan is rejected in terms of subregulation (3)(b), the Minister must direct the person to amend the pollution prevention plan within 30 days.
- (5) A revised pollution prevention plan must be resubmitted to the Minister for approval in terms of 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.

6. Submission and approval of annual progress reports

- (1) A person, required to submit a pollution prevention plan in terms of regulation 5(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 interventions that were implemented to reduce greenhouse gas emissions; and
 - (b) details of deviations from the approved pollution prevention plan, if any, and remedial action undertaken to address any deviations.
- (3) The Minister must acknowledge receipt within 20 days after the date of submission of the annual progress report.
- (4) The Minister must, within 30 days, 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 direct the person to amend the report within 30 days.
- (6) A revised annual progress report must be resubmitted to the Minister for approval in terms of subregulation (4).

7. 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 incorrect, 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 30 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).

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 5 of these Regulations;
- (b) fails to submit an annual progress report as required in terms of regulation 6 of these Regulations; or
- (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, 2015, 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;
- (m) Polymers production;
- (n) Pulp and paper production;
- (o) Electricity Production (combustion of fossil fuels, excluding the use of back-up generators).