
GENERAL NOTICE

NOTICE 964 OF 2009

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
NATIONAL ENVIRONMENTAL MANAGEMENT, 1998
(ACT NO. 107 OF 1998)

DRAFT MODEL AIR QUALITY MANAGEMENT BY-LAW FOR ADOPTION AND ADAPTATION BY MUNICIPALITIES

I, Buyelwa Patience Sonjica, Minister of Water and Environmental Affairs, hereby give notice of my intention to make model air quality management by-law, for adoption and adaptation by municipalities, under section 46 of the Act read with section 11(1) of the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004). The proposed model air quality management by-law is 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 on or objections to the proposed model air quality management by-law to the following addresses:

By post to: The Director-General: Environmental Affairs and Tourism
Attention: Mr Sibusiso Shabalala
Private Bag X447
Pretoria, 0001

Or hand delivered at 315 Pretorius Street, Corner Pretorius and Van Der Walt Streets, Fedsure Forum Building, 2nd Floor, North Tower.

By fax to: (012) 320-1167, and by email to sshabalala@deat.gov.za

Any inquiries in connection with the draft model air quality management by-law can be directed to Mr Sibusiso Shabalala at tel. (012) 310 3449.

Comments received after the closing date may not be considered.


BUYELWA SONJICA
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

The Council of [Name of Municipality] acting in terms of section 156(2) of the Constitution of the Republic of South Africa Act, 1996, read with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and section 11(1) of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004) has made the air quality management by-law hereunder:

TABLE OF CONTENTS

CHAPTER 1

DEFINITIONS, OBJECTIVES AND OVERARCHING PRINCIPLES

1. Definitions
2. Objectives
3. Application
4. Overarching principles

CHAPTER 2

LOCAL EMISSION STANDARDS, MOTOR VEHICLE EMISSIONS, SMALL BOILERS AND CONTROLLED ACTIVITIES

Part 1: Local Emission Standards

5. Identification of substances and development of local emission standards
6. Consequences of Identification
7. Public participation process

Part 2: Motor Vehicle Emissions, Small Boilers and Controlled Activities

8. Emissions from compressed ignition powered vehicles
9. Small boilers
10. Dust emissions
11. Emissions caused by open burning
12. Emissions caused by burning of industrial waste, domestic waste and garden waste in waste bins or skips
13. Sugar cane burning emissions
14. Emissions caused by tyre burning and burning of rubber products and cables in open spaces
15. Pesticide spraying emissions

16. **Spray painting emissions**
17. **Sand blasting emissions**
18. **Noise pollution management**
19. **Emissions that cause a nuisance**

CHAPTER 3

GENERAL MATTERS

20. **Appeals**
21. **Offences and penalties**
22. **Enforcement**
23. **Exemptions**
24. **Severability**
25. **State bound**
26. **Repeal of By-Laws**
27. **Short title**
28. **Commencement**

SCHEDULES TO THE BY-LAW

Schedule 1: List of substances and its associated local emission standards (section 5(1))

Schedule 2: Criteria to identify and prioritise substances and to develop local emission standards (section 5(2))

Schedule 3: Application Form to operate small boiler (section 9(2))

Schedule 4: Application Form for open burning (section 11(1))

Schedule 5: Application Form to burn sugar cane (section 13(1)(a))

Schedule 6: Application Form to undertake pesticide spraying (section 15(2)(a))

Schedule 7: Spray Booth Construction (section 16(5))

Schedule 8: By-Laws repealed (section 26)

CHAPTER 1

DEFINITIONS, OBJECTIVES AND OVERARCHING PRINCIPLES

1. Definitions

“**air pollution**” means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols and odorous substances;

“**air quality management plan**” means a plan referred to in section 15 of the AQA;

“**ambient sound level**” means the reading of an integrating sound level meter measured at the measuring point at the end of total period of at least 10 minutes after such integrating sound level meter has been put into operation, during which period a noise alleged to be a disturbing noise is absent;

“**authorised person**” means any employee authorised by the municipality to implement any of the provision of this by-law and in possession of an appointment card issued by the municipality attesting thereto, including any member of the municipal police service or any peace officer;

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

“**change**” means any modification which is made to an existing structure, plant, road, land use, procedure, action, etc. which may have an effect on the noise generation originating from such an activity;

“**combustible liquid**” means a liquid which has a close-cap flash point of 38 degrees Celsius or above;

“**compressed ignition powered vehicle**” means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

“**Constitution**” means the Constitution of the Republic of South Africa Act, 1996;

“**control measure**” means a technique, practice or procedure used to prevent or minimise the generation, emission, suspension and/or airborne transport of fugitive dust;

“**Council**” means (municipalities to define when adopting by-law);

“disturbing noise” means a specific noise level that exceeds either the outdoor equivalent continuous day/night rating level, the outdoor equivalent continuous day rating level and/or the outdoor equivalent continuous night rating level for the particular neighbourhood indicated as the outdoor ambient noise in various districts in SANS 10103;

“erect” means alter, convert, extend or re-erect;

“exempted vehicle” means a vehicle listed in Annexure-A to SANS 10281;

“flammable gas” means a gas which at 20 degrees Celsius and a standard pressure of 101, 3 kilopascals-

- (a) is ignitable when in a mixture of 13% or less by volume with air; or
- (b) has a flammable range with air of at least 12%, regardless of the lower flammable limit;

“flammable liquid” means a liquid or combustible liquid which has a closed-cap flash point of 93 degrees Celsius or below;

“flammable substance” means any flammable liquid, combustible liquid or flammable gas;

“free acceleration test” means the method described in section 8(3) employed to determine whether vehicles are being driven or used in contravention of section 8(1);

“integrating sound level meter” means a device integrating a function of sound pressure over a period of time and indicating the result in dB(A) indicating is a function of both the sound level and the duration of exposure to the sound during the period of measurement;

“measuring point” relating to-

- (a) a piece of land from which an alleged disturbing noise emanates, or may emanate, means a point outside the property projection plane where an alleged disturbing noise shall be measured, or calculated in accordance with the provisions of SANS 10103;
- (b) a building with more than one occupant, means a point in or outside the building where an alleged disturbing noise shall be measured, or calculated in accordance with the provisions of SANS 10103; and
- (c) a stationary vehicle means a point as described in SANS 10181 where a measuring microphone shall be placed;