

Subject: Information Alert: NEM: Air Quality Act 39 of 2004 - Proposed Listed Activities & Minimum Emission Standards

INFORMATION ALERT:

NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT 39 OF 2004

PROPOSED LISTED ACTIVITIES AND ASSOCIATED MINIMUM EMISSION STANDARDS

The Minister of Water and Environmental Affairs has, through GN 1001 of 24 July 2009, published a **proposed list of activities and associated emission standards** in terms of section 21 of the NEM: Air Quality Act 39 of 2004.

Due to the significant implications for industry of the content of this Notice (for example, see the definitions of "Existing Plant" and "New Plant" and the timeframes proposed for industry compliance with the proposed minimum emission standards) industry-bodies and individual industries are encouraged to take advantage of the opportunity afforded to comment on the proposed listed activities and associated proposed minimum emission standards.

In terms of section 21 of the NEM: Air Quality Act 39 of 2004, the Minister may publish a list of activities which result in atmospheric emissions and which the Minister reasonably believes have, or may have, a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage. Any such notice must *inter alia* establish minimum emission standards in respect of a substance or mixture of substances resulting from a listed activity as identified in such notice and may contain transitional and other special arrangements in respect of activities which are carried out at the time of their listing. Section 22 of the NEM: Air Quality Act 39 of 2004 stipulates that no person may conduct a listed activity without a provisional atmospheric emission licence or an atmospheric emission licence under the Act (section 61 of the Act deals with the transitional provisions regarding existing registration certificates in terms of the Atmospheric Pollution Prevention Act 45 of 1965). Although these three sections of the NEM: Air Quality Act 39 of 2004 are not yet in effect, it is anticipated that they, along with other sections of the Act that are not yet in effect, will come into operation on **11 September 2009**. In terms of section 62 of the NEM: Air Quality Act 39 of 2004, pending the listing of activities by the Minister in terms of section 21, the scheduled processes in terms of the Second Schedule to the Atmospheric Pollution Prevention Act 45 of 1965 must be regarded as activities listed by the Minister in terms of that section.

The proposed list of activities and their associated minimum emission standards, as contained in GN 1001 of 24 July 2009, include the following key provisions:

- Ø Various **categories of listed activities** for purposes of which a provisional atmospheric emission licence or an atmospheric emission licence will be required.
- Ø The associated **minimum emission standards** associated with each of those listed activities.
- Ø The **compliance timeframes in the context of "New Plant" and "Existing Plant"** (as these terms are defined in the

proposed listing notice), as well as certain other specific transitional provisions in the context of a number of the proposed list of activities.

- Ø Circumstances in which the **compliance timeframes may be postponed on application**.
- Ø The requirements for **sampling and analysis of emissions**, including specific compliance monitoring and reporting requirements.

Members of the public are invited to submit written representations on, or objections to, the proposed listed activities and the associated minimum emission standards within 30 days of publication of the Notice in the *Gazette*. A copy of GN 1001 of 24 July 2009 may be obtained from www.saaqis.org.za.
