



Environmental Law

11 June 2026

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- When the dust settles: Key changes in dust regulations



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When the dust settles: Key changes in dust regulations

Across the mining, industrial and agricultural sectors, standard operations can generate significant dust emissions, which have the potential to adversely affect human health and the environment. The National Environmental Management Act 107 of 1998 defines "*pollution*" broadly to include any change in the environment caused by, among other things, dust emitted from any activity, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems. Stakeholders conducting dust-generative activities must therefore treat regulatory compliance and impact mitigations as both a statutory obligation and a matter of corporate responsibility.

On 31 March 2026, the Minister of Forestry, Fisheries and the Environment, Willem Aucamp, published the National Dust Control Regulations, 2026 (New Dust Regulations) in terms of section 53(o), read with section 32, of the National Environmental Management: Air Quality Act 39 of 2004.

The New Dust Regulations came into effect on the date of publication, repealing the 2013 National Dust Control Regulations (Previous Regulations) in their entirety. The New Dust Regulations introduce a proactive dust management framework, with considerable implications for the mining, industrial and agricultural sectors.

Key changes under the New Dust Regulations

The Previous Regulations applied to "*any person*" generating dust, with obligations typically triggered only after a written notice from an air quality officer or after exceeding dustfall standards. The New Dust Regulations significantly broaden the scope of application.

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They now apply nationally to the following categories of persons:

- any holder of a right or permit related to a prospecting, exploration, mining or production operation in terms of the Mineral and Petroleum Resources Development Act 28 of 2002;
- any person conducting reclamation activities in relation to historical mine dumps;
- any person conducting a listed activity who is required in terms of a provisional or atmospheric emission licence to develop a dust management plan;
- any person operating a controlled emitter that has the potential to generate dust; and
- any person conducting an activity that an air quality officer reasonably suspects is causing, or has the potential to cause, nuisance by dust.

Under the Previous Regulations, a dust management plan was only required after a person had already exceeded the prescribed dustfall standard. The New Dust Regulations, by contrast, require certain categories of persons to develop and submit a dust management plan (DMP) proactively, without waiting for any breach or notice. This is a material increase in compliance requirements for affected persons.

The dustfall monitoring standard has been updated to those stipulated under SANS 1137, or any equivalent method. Importantly, the New Dust Regulations now expressly require that laboratory analysis be conducted by a laboratory accredited by the South African National Accreditation System (SANAS), and that testing providers hold SANAS accreditation for the use of SANS 1137. This standardisation is intended to improve the reliability and consistency of dustfall monitoring data across the country.

Additionally, the New Dust Regulations introduce increased reporting and accountability requirements in the form of monthly DMP implementation reports. The implementation reports must detail the effective measures undertaken to prevent, minimise and manage dust; actions taken to address complaints of nuisance by dust; and, where required, a comprehensive dustfall monitoring report including monitoring results compared to the prescribed limit values, meteorological data, proof of SANAS accreditation and any other information required by the air quality officer or licensing authority.



Way forward

The New Dust Regulations represent a significant regulatory development that demands prompt attention from all stakeholders engaged in dust-generating operations. Affected persons should, as a matter of urgency, take the following steps:

- Determine whether you fall within one of the five categories of affected persons.
- If you already have an approved DMP, review it against the requirements of the New Dust Regulations and submit the reviewed DMP for approval.
- Establish or upgrade your internal reporting systems to meet the monthly implementation reporting requirements, including dustfall monitoring, complaints management and proof of SANAS accreditation.
- Engage qualified environmental consultants to assist with DMP preparation and ensure that your dustfall monitoring programme is monitoring and reporting requirements.

Where uncertainty arises regarding the applicability of the New Dust Regulations or the content of your DMP, seek specialist legal and technical advice to navigate the qualification criteria and compliance requirements.

James Ross, Alysa Bunting and Emily Raubenheimer



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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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