

## **ADDENDUM C**

### **Factors to be taken into account by licensing authorities**

No. 27318 GOVERNMENT GAZETTE 24 FEBRUARY 2005 Act No. 39, 2004  
NATIONAL ENVIRONMENT MANAGEMENT AIR QUALITY ACT. 2004

Section 39:

When considering an application for an atmospheric emission licence, the Licensing authority must take into account all relevant matters, including

- Any applicable minimum standards set for ambient air and point source emissions that have been determined in terms of this Act;
- The pollution being or likely to be caused by the carrying out of the listed activity applied for and the effect or likely effect of that pollution on the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality;
- The best practicable environmental options available that could be taken-
  - To prevent, control, abate or mitigate that pollution; and
  - To protect the environment, including health, social conditions, economic conditions, cultural heritage and ambient air quality, from harm as a result of that pollution;
- Section 24 of the National Environmental Management Act and section 22 of the Environment Conservation Act and any applicable notice issued or regulation made pursuant to those sections;
- Any relevant tradable emission scheme;
- Whether the applicant is a fit and proper person as contemplated in section 49;
- The applicant's submissions;
- Any submissions from organs of state, interested persons and the public; and
- Any guidelines issued by the Minister or MEC relating to the performance by licensing authorities of their functions.

## Decisions of licensing authority

### Section 40:

The licensing authority may-

- (a) Grant an application; or
- (b) Refuse an application.

- Any decision by a licensing authority to grant an application must be consistent with this Act and any other applicable national or provincial legislation;
- Any applicable national or provincial environmental management policies;
- Section 24 of the National Environmental Management Act and section 22 of the Environment Conservation Act and any applicable notice issued or regulation made pursuant to those sections;
- The national environmental management principles set out in section 2 of the National Environmental Management Act;
- Any transitional and other special arrangements contemplated in section 21(3)(b)
- Any minimum standards for atmospheric emissions of identified substances or mixtures of substances as contemplated in section 21(3);
- Any applicable pollution prevention plan contemplated in section 29;
- The objectives of any applicable air quality management plan; and
- Any ambient air quality or emission standards that have been determined in terms of this Act.

An authorisation notice is issued in terms of section 24 of the National Environmental Management Act or section 22 of the Environment Conservation Act in respect of an application, the licensing authority must decide the application within **60** days of the date on which the notice has been issued.

After a licensing authority has reached a decision in respect of a licence application, it must within **30** days-

- (a) Notify the applicant of the decision, and give written reasons if the application was unsuccessful;
- (b) In a manner determined by the licensing authority, notify any persons who have objected to the application; and
- (c) At the request of any person contemplated in paragraph (b), give written reasons for its decision or make public its reasons.