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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 1064

29 SEPTEMBER 2017

NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008
(ACT NO. 59 OF 2008)

WASTE TYRE REGULATIONS, 2017

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby make the Waste Tyre Regulations, under section 69(1)(b), (e) and (ee) of the National Environmental Management: Waste Act, 2008, in the Schedule hereto.



BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS

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PART 1

INTERPRETATION, PURPOSE AND APPLICATION OF REGULATIONS

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates—

“collection points” means areas of business from which waste tyres derived, or a commercial area where waste tyres may be collected including, but not limited to, mines, farms and tyre dealers;

“load index” means the international code imprinted on the side of a tyre that indicates the load, or weight, that the tyre can carry at its maximum design pressure;

“micro-collector” means an individual from the informal sector that collects waste tyres;

“part worn tyre” means a used tyre, which can be safely returned to its original intended use, and which, after being retreaded, is not of such nature and condition that it is not suitable to be fitted on a vehicle that operates on a public road in accordance to the National Road Traffic Act, 1996 (Act No. 93 of 1996) or the regulations made in terms of that Act;

“pre-processing” means pre-treatment of waste tyres to make the waste tyres suitable for transportation or for a specified treatment or processing option. Pre-processing includes sorting, baling, cutting (downsizing), shredding or debanding;

“retreadable casing” means the structural part of a used tyre that may or may not have residual tread depth for further road use and when subjected to inspection of the structural soundness of the casing, can be reprocessed by vulcanising new tread to the casing and can then be safely returned to its original intended use;

“register with the Bureau” means the submission of information by a person to the Bureau in order for the particulars of that person to be recorded in its database for the purpose of the administration of these Regulations;

“the Act” means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), as amended;

“tyre” means a continuous covering made of natural rubber or synthetic rubber or a combination of natural and synthetic rubber encircling a wheel, whether new, used or retreaded, excluding tyres from monocytes, bicycles and tricycles;

“tyre dealer” means any person or entity that distributes, or otherwise deals commercially, in tyres;

“tyre producer” means any person or institution engaged in the commercial manufacture or import of tyres and retreadable casings, and the import of vehicles fitted with tyres for distribution in South Africa;

“vehicle” means any motorized or towed mode of transport or implement fitted with tyres;

“waste tyre” means-

- (a) a new;
- (b) used;
- (c) retreaded; or
- (d) unroadworthy,

tyre not suitable to be retreaded, repaired, or sold as a part worn tyre and not fit for its original intended use;

“waste tyre management plan” means-

- (a) the Integrated Industry Waste Tyre Management Plan of the Recycling and Economic Development Initiative of South Africa, published in Government Notice No. 988, Gazette No. 35927 of 30 November 2012 and approved by the Minister; or
- (b) an industry waste management plan for the waste stream of waste tyres as contemplated in section 28 or 29 of the Act, which has been approved by the Minister and published in the *Gazette*;

“waste tyre storage site or depot” means a facility that is used for the temporary storage of waste tyres;

“waste tyre stockpile abatement plan” means a plan, prepared by a person or entity who had a waste tyre stockpile prior to 30 November 2012, indicating the manner and timeframe in which the stockpile will be removed;

“waste tyre stockpile” means a site on which predominantly waste tyres of any form are stored and have been stored continuously for a period greater than two years, and which covers an area greater than 500m², but excludes a waste disposal facility;

“waste tyre stockpile owner” means the owner, possessor or person in control of the waste tyre stockpile or the waste tyres therein;

“waste tyre processor” means a person or facility that is engaged in the commercial re-use, recycling or recovery of waste tyres; and

“waste tyre transporter” means any person who conveys or transfers waste tyres between any of the following facilities: a producer, a tyre dealer, a waste tyre storage site, a depot or collection points where waste tyres may be collected or waste tyre processors.

2. Purpose of Regulations

The purpose of these Regulations is to regulate the management of waste tyres.

3. Application of Regulations

These Regulations apply uniformly in all provinces of the Republic of South Africa.

PART 2**PROHIBITIONS AND REGISTRATION****4. Prohibitions**

No person may-

- (a) manage waste tyres in a manner which does not comply with these Regulations;
- (b) recover or dispose of a waste tyre in a manner that is likely to cause pollution of the environment or harm to health and well-being;
- (c) dispose of a waste tyre at a waste disposal facility;
- (d) recover any financial contribution in terms of a waste tyre management plan from a subscriber to the plan, unless authorised by law; or
- (e) export waste tyres in whatever form unless the exportation of such waste tyres is authorised by the Minister in writing.

5. Registration

(1) The following persons must register with the Bureau, in a format specified by the Bureau, within 90 days after the commencement of these Regulations:

- (a) A tyre producer not registered in terms of the repealed regulations as contemplated in regulation 13(a);
- (b) A tyre dealer;
- (c) A person in control of a collection point where waste tyres may be collected;
- (d) A waste tyre stockpile owner;
- (e) A waste tyre processor;
- (f) An owner or operator waste tyre pre-processing facility;
- (g) A depot owner or operator;
- (h) A micro-collector of waste tyres;
- (i) A waste transporter; and
- (j) An owner or operator of a waste tyre storage site.

PART 2**DUTIES OF TYRE DEALERS****6. Duties of tyre dealers**

(1) A tyre dealer must classify any used tyre in his or her possession or control as either a part worn tyre or a retreadable casing and any used tyre not falling into either of these categories must be classified as a waste tyre.

(2) A tyre dealer must mutilate or cause all waste tyres with a load index of 121 or less in his or her possession or control, or must cause such waste tyres to be mutilated, which includes, but is not limited to-

- (a) the cutting of the bead of a waste tyre in two places;
- (b) punching a hole with a minimum diameter of 50mm in the sidewall; or
- (c) making a cut of at least 100mm in the sidewall.

(3) A tyre dealer must manage all waste tyres in his or her possession or control, or cause such waste tyres to be managed in accordance with a waste tyre management plan, or by direction of the Bureau contemplated in regulation 12(1)(b).

PART 3**WASTE TYRE STOCKPILE ABATEMENT PLAN****7. Submission and contents of a waste tyre stockpile abatement plan**

(1) A waste tyre stockpile owner, who owned a waste tyre stockpile prior to 30 November 2012 and who had not already submitted a waste tyre stockpile abatement plan in terms of the repealed regulations contemplated in regulation 13(a), must within 120 days of the date of the commencement of these Regulations, submit such a plan to the Minister for approval.

(2) A waste tyre stockpile owner may not add to the stockpile after the commencement of these Regulations.

(3) A waste tyre stockpile abatement plan must at least:

- (a) provide the name and where applicable the registration number of the company, closed corporation or trust of the owner of the waste tyre stockpile;
- (b) provide the physical address of the location of the waste tyre stockpile;
- (c) provide the physical and postal address of the waste tyre stockpile owner;
- (d) provide an estimation of the number of waste tyres stored within the waste tyre stockpile, including the square area of the footprint of the stockpile;

- (e) provide the current fire prevention measures in place;
- (f) provide a plan of the stockpiles site, locating the waste tyre piles on site, indicating distances between the piles, height of the piles, distance to the fence line, access points, water points, the location of offices or buildings, powerline, vegetation and providing any other information that is relevant to the waste tyre stockpile;
- (g) provide a proposal and timeframe for eliminating the waste tyre stockpile;
- (h) identify the waste tyre management plan into which the tyres will be accepted or the waste tyre processor who will accept the waste tyres;
- (i) provide a budget and funding sources for eliminating the waste tyre stockpile;
- (j) be accompanied by copies of agreements with waste tyre management plans or waste tyre processors, which indicate their acceptance of the waste tyres and of the financial arrangements made; and
- (k) meet the storage requirements contemplated in regulation 10.

8. Notification of a waste tyre stockpile abatement plan

(1) Any person producing a waste tyre stockpile abatement plan in terms of regulation 8(1) must take appropriate steps to bring the contents of a proposed waste tyre stockpile abatement plan to the attention of relevant organs of state, interested and affected parties and must call for comments to the plan.

(2) Any comments submitted in respect of a waste tyre stockpile abatement plan must be considered by the person responsible for preparing the plan, and a copy of all comments and responses must be submitted to the Minister, together with the plan.

9. Consideration of a waste tyre stockpile abatement plan

(1) The Minister on receipt of a waste tyre stockpile abatement plan-

- (a) may require additional information to be furnished and a revised plan to be submitted within a timeframe indicated by the Minister; and
- (b) must, after incorporation of any comments, review the revised waste tyre stockpile abatement plan and approve it with or without conditions, or reject the waste tyre stockpile abatement plan with reasons and with a timeframe for resubmission.

(2) A waste tyre stockpile abatement plan that has been rejected in terms of sub-regulation (1)(b) must be amended and resubmitted to the Minister within the timeframe indicated by the Minister.

(3) The Minister may refuse to consider a waste tyre stockpile abatement plan-

- (a) if resubmitted more than once; or

- (b) after failure to resubmit the amended waste tyre stockpile abatement plan within the specified timeframe.
- (4) An approval in terms of sub-regulation (1)(b) must at least specify the period for which the approval is issued, which period may be extended by the Minister.
- (5) Any person producing a waste tyre stockpile abatement plan in terms of regulation 8(1) must submit an annual audit report to the Minister prepared by an external auditor commissioned at own expense to audit compliance with the plan.
- (6) Once the waste tyre stockpile abatement plan has been approved it is an offence not to comply with the plan.

PART 5

STORAGE OF WASTE TYRES

10. Storage of waste tyres

- (1) The waste tyre storage area for a tyre dealer shall not exceed 500m².
- (2) Any other waste tyre storage area must not exceed 30 000m².
- (3) A waste tyre storage plan must be developed by the waste tyre processor and the waste tyre storage site owner.
- (4) The waste tyre storage plan must be-
 - (a) submitted to the relevant Chief Fire Officer of the municipality for endorsement;
 - (b) available on site at all times;
 - (c) made available on request to an official of the national or provincial department responsible for environmental affairs, or of the municipality.
- (5) If the Chief Fire Officer referred to in sub-regulation (4) has not made a decision within 60 days of receipt of the request for endorsement, the waste tyre storage plan must be regarded as having been endorsed by him or her, subject to providing proof of submission to the Chief Fire Officer by the person responsible for the waste tyre storage plan.
- (6) The site on which waste tyres are stored must meet the following minimum requirements-
 - (a) clearly visible signs with operating hours, contact details and site regulations must be posted near the entrance to the facility;
 - (b) a security attendant trained in fire prevention must be on site at all times;
 - (c) the site manager must be on site at all times when the facility is open;

- (d) a person designated to manage the site must ensure the site is secured and no unauthorized person can access the site;
 - (e) no single pile of waste tyres may exceed a height of 3 metres, a length of 20 metres and a width of 10 metres;
 - (f) all interior firebreaks between piles of waste tyres must be at least five metres wide;
 - (g) the site must be flat and hard packed;
 - (h) the site must make provision for storm water management;
 - (i) the edges of the piles must be at least 8 metres from the perimeter fence, and any buildings, and the area between the piles and the fence and buildings must be clear of debris and vegetation;
 - (j) all firebreaks must be at least 8 metres wide; and
 - (k) waste tyre piles may not be located within 8 metres of a powerline.
- (7) Waste tyres must not be stored in a manner which impact or pose a significant environmental risk to any sensitive environment.

PART 6

GENERAL

11. Offences and penalties

- (1) A person is guilty of an offence if that person contravenes or fails to comply with-
- (a) a provision of regulations 4, 5, 6, 7(1)–(2), 9(5), 9(6), 10(1)–(4), (6), and (7); or
 - (b) a waste tyre management plan; or
 - (c) a waste tyre stockpile abatement plan; or
 - (d) a written instruction in terms of regulation 12(1)(b).
- (2) A person is liable on conviction of an offence in terms of sub-regulation (1) to-
- (a) imprisonment for a period not exceeding 15 years;
 - (b) an appropriate fine; or
 - (c) both such fine and imprisonment.

12. Transitional arrangements in the event that a waste tyre management plan expires, be withdrawn or be terminated

(1) In the event that a waste tyre management plan expires, be withdrawn or be terminated for any reason whatsoever and at the time there exists no other industry waste management plan in terms of section 28 or 29 of the Act for the same or substantially the same waste stream—

- (a) the Bureau shall be responsible to facilitate, supervise and control the management of waste tyres for the interim until a new industry waste tyre management plan is approved in terms of section 28 or 29 of the Act;
- (b) the Bureau may, in accordance with the provisions of these Regulations, issue instructions in writing for the management of waste tyres on such terms and conditions, which instruction must be complied with within the time frame stated in such instruction;
- (c) all participants that were registered with the waste tyre management plan upon the expiry, withdrawal or termination thereof, shall in the interim register with the Bureau.

(2) From the date of registration with the Bureau, all tyre producers must on a quarterly basis, at the same time that their declarations are submitted to the South African Revenue Service, submit to the Bureau the very same declaration in respect of the quantity of tyres produced or imported.

(3) The Bureau must establish a waste tyre forum with all affected industry to deal with governance and operational matters pertaining to the management of waste tyres during the interim until a new industry waste tyre management plan is approved in terms of section 28 or 29 of the Act.

13. Repeal of regulations

The following regulations are hereby repealed:

- (a) Waste Tyre Regulations, 2009, published under Government Notice No. R149 in *Government Gazette* No. 31901 of 13 February 2009;
- (b) The amendment to the Waste Tyre Regulations, 2009, published in Government Notice No. 1493, *Government Gazette* No. 40470 of 2 December 2016.

14. Short title and commencement

These Regulations shall be called the Waste Tyre Regulations, 2017 and take effect immediately upon publication in the *Government Gazette*.

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