

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 847

17 AUGUST 2017

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

PROPOSED WASTE TYRE REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby consult on the proposed Waste Tyre Regulations, made under section 69(1)(b), (e) and (ee), read with sections 71 and 73 of the National Environmental Management: Waste Act, 2008, in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 30 days of publication of this notice in the Gazette, written representations on or objections to these regulations, to the following addresses:

By post to: The Director General
 Department of Environmental Affairs
 Attention: Mr Anben Pillay
 Private Bag X447
 PRETORIA
 0001

By hand at: Environment House, 473 Steve Biko Road, Arcadia, Pretoria, 0001.

By email: apillay@environment.gov.za

Any enquiries in connection with the proposed Waste Tyre Regulations must be directed to Mr Anben Pillay at (012) 399 9827.

The proposed Waste Tyre Regulations can also be accessed at <http://sawic.environment.gov.za/> under "Documents for comment" or obtained at the Department's Head Office in Pretoria.

Comments received after the closing date may not be considered.



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 where waste tyres may be collected" means commercial areas or areas of business that produce waste tyres 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 that conforms to the Road Traffic Act, 1989 (Act No. 29 of 1989) and can be safely returned to its original intended use;

"pre-processing" means a person or facility that is engaged in the 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.

"the approved waste tyre management plan" means 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;

"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 monocycles, 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, non-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 approved waste tyre management plan; or
- (b) an industry waste management plan for the waste stream of waste tyres as contemplated in section 28 or 29 of this Act;

"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 has a waste tyre stockpile, indicating the manner and timeframe in which the stockpile will be removed;

"waste tyre stockpile" means a site on which predominantly waste tyres 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, but exclude micro-collectors.

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) recycle, recover or dispose of a waste tyre, or knowingly or negligently cause or permit a waste tyre to be recycled, recovered or disposed of, at any facility or on any site, unless the recycling, recovery or disposal of that waste tyre is authorised by law;
- (c) 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;
- (d) dispose of a waste tyre at a waste disposal facility;
- (e) recover any financial contribution in terms of a waste tyre management plan from a subscriber to the plan, unless authorised by law; or
- (f) 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, within 30 days after the commencement of these Regulations:

- (a) A tyre producer not registered in terms of the repealed regulations as contemplated in regulation 14(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) A waste tyre transporter;
- (g) Any waste tyre pre-processing facility;
- (h) A depot owner or operator; and
- (i) A micro-collector of waste tyres.

PART 3

REUSE, RECYCLING AND RECOVERY OF WASTE TYRES

6. Reuse, recycling and recovery of waste tyres

Any person operating a waste tyre management plan or the Bureau in terms of regulation 13(1) must first consider reusing or recycling waste tyres before considering the use of waste tyres for energy recovery.

PART 4

DUTIES OF TYRE DEALERS

7. 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 as a retreadable casing and any tyre not falling into either of these categories must be classified as a waste tyre.

(2) A tyre dealer must mutilate, or must cause to be mutilated, all waste tyres with a load index of 121 or less in his or her possession or under his or her control, 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 instruction of the Bureau as contemplated in regulation 13(1)(b).

PART 5

WASTE TYRE STOCKPILE ABATEMENT PLAN

8. Submission and content of a waste tyre stockpile abatement plan

(1) A waste tyre stockpile owner, who had not already submitted a waste tyre stockpile abatement plan in terms of the repealed regulations contemplated in regulation 14(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 and provide 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 11.

9. 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 content of that 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.

10. Consideration of a waste tyre stockpile abatement plan

(1) The Minister, upon 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 6

STORAGE OF WASTE TYRES

11. 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 30000m².
- (3) A waste tyre storage plan must be developed jointly by the waste tyre processor and the waste tyre storage site owner and must be submitted to the Minister for approval.
- (4) The waste tyre storage plan must be-
 - (a) submitted to the relevant Chief Fire Officer of the municipality in which the tyres are stored, for endorsement, prior to being submitted to the Minister for approval;
 - (b) available on site at all times after the approval thereof;
 - (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.
- (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 on wetlands, flood plains, ravines, canyons, on steeply graded surfaces or anywhere else where they may pose a significant environmental - or fire risk.

PART 7

GENERAL

12. 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, 8(1)–(2), 11(1)–(4), (6), and (7); or
- (b) a waste tyre management plan; or
- (c) a waste tyre stockpile abatement plan; or
- (d) an instruction issued in terms of regulation 13(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.

13. Transitional arrangements In the event that a waste tyre management plan expires, is withdrawn or is terminated

(1) In the event that the approved waste tyre management plan expires, is withdrawn or is terminated for any reason whatsoever and at the time there exists no other approved 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 issue instructions in writing for the management of waste tyres on such terms and conditions as it deems fit, which instructions must be complied with within the time frame stated in such instruction;
- (c) all participants that were registered with the approved waste tyre management plan upon the expiry, withdrawal or termination thereof, shall register with the Bureau.

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

14. 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.

15. Short title and commencement

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