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GENERAL NOTICE

NOTICE 425 OF 2008

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

ENVIRONMENT CONSERVATION ACT, 1989 (ACT NO. 73 OF 1989)
WASTE TYRE REGULATIONS

I, Marthinus van Schalkwyk, the Minister for Environmental Affairs and Tourism intend making the Regulations in the Schedule hereto, in terms of regulations 24(c), (f), (g), (j), ((k) and 24B, read with regulation 24C of the Environment Conservation Act, 1989 (Act No. 73 of 1989).

Interested and affected parties are invited to submit comments on the proposed regulations, within thirty days (30) of publication of this notice, to the Director-General, Department of Environmental Affairs and Tourism, Private Bag X447, Pretoria 0001, Fax number (012) 320 0024 or e-mail any comments to tmohapi@deat.gov.za.

MARTHINUS VAN SCHALKWYK
MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM

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PART 1

INTERPRETATION AND PURPOSE OF REGULATIONS

Definitions

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

"the **Act**" means the Environment Conservation Act, 1989 (Act No. 73 of 1989);

"**Minister**" means the Minister of Environmental Affairs and Tourism;

"**part worn tyre**" means a used tyre that conforms to the Road Traffic Act and can be safely returned to its original intended use;

"**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 be safely returned to its original intended use;

"**tyre**" means a continuous pneumatic covering encircling a wheel, made of natural rubber or synthetic rubber or a combination of natural and synthetic rubber, whether new, used or retreaded;

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

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"**tyre producer**" means any person or institution engaged in the commercial manufacture or import of tyres and tyre casings for retreading, for distribution in South Africa;

"**waste tyre**" means a new, used, retreaded, or un-roadworthy tyre, not suitable to be retreaded, repaired, or sold as a part worn tyre and not fit for its original intended use;

"**waste tyre storage site**" means a facility that is used for the storage of waste tyres.

Purpose of these Regulations

2. (1) The purpose of these Regulations is to regulate the management of waste tyres by providing for the regulatory mechanisms.

Application of Regulations

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

Prohibition of unauthorised disposal

4. No person may—

(a) dispose of a waste tyre, or knowingly or negligently cause or permit a waste tyre to be disposed of, in or on any land, waterbody or at any facility, unless the disposal of that waste tyre is authorised by law;

(b) dispose of a waste tyre in a manner that is likely to cause pollution of the environment or harm to health and well-being; or

(c) dispose of a whole tyre at a waste disposal facility.

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Part 2
REUSE, RECYCLING AND RECOVERY OF WASTE TYRES

Reuse, recycling and recovery of waste tyres

5. (1) A tyre producer, tyre dealer, or any other person, who is involved in the tyre industry must first investigate the options of reusing or recycling waste tyres before recovering the energy potential of waste tyres or disposing of a waste tyre at a waste disposal facility.

(2) Any person who undertakes an activity involving the reuse, recycling or recovery of a waste tyre must, before undertaking that activity, ensure that the reuse, recycling or recovery of the waste tyre to the extent that it is possible, is less harmful to the environment than the disposal of such a waste tyre.

Part 3
DUTIES OF TYRE PRODUCERS AND TYRE DEALERS

Duties of tyre producers

6. (1) An existing tyre producer or a new tyre producer must register with the Minister within 30 days of commencing business or from the date of the commencement of these regulations, as the case may be, as a tyre producer providing the following information:

(a) The name of the tyre producer;

(b) the registered address of the tyre producer; and

(c) the physical address where the business of the tyre producer is conducted.

(2) (a) After registration in terms of subregulation (1) the Minister will issue the applicant with a registration number; and

(b) The tyre producer must display the registration number on all trading documentation.

(3) A tyre producer must either–

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(a) prepare and submit to the Minister, an integrated industry waste tyre management plan, within 120 days of registering in terms of subsection (1) for approval; or

(b) register with an existing integrated industry waste tyre management plan approved by the Minister; and

(c) comply, within 120 days, with that existing integrated industry waste tyre management plan approved by the Minister.

(4) A tyre producer on whom an obligation is imposed in terms of sub regulation (1), (2) and (3) may not import, distribute or sell new or part worn tyres, unless measures have been taken to ensure that those tyres that have become waste tyres are dealt with in accordance with the provisions of the approved integrated industry waste tyre management plan.

Duties of tyre dealers

7. (1) A tyre dealer must classify any used tyre as either a part worn tyre or a retreadable casing and any tyre not falling into either of these catagories must be classified as a waste tyre.

(2) A tyre dealer must mutilate all waste tyres in his/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) making a slot in the bead with a minimum width of 25mm in one place; or

(c) punching a hole in the sidewall with a minimum diameter of 50mm or making a cut in the sidewall of at least 150mm.

(3) A tyre dealer must after mutilation in accordance with subregulation (2), manage these mutilated waste tyres in accordance with the approved integrated industry waste management tyre plan of the producer or cause such waste tyres to be managed according to the approved integrated industry waste tyre plan of the producer, after considering all options referred to in regulation 5(1).

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Part 4

INTEGRATED INDUSTRY WASTE TYRE MANAGEMENT PLANS

Contents of an integrated industry waste tyre management plan

8. (1) An integrated industry waste tyre management plan must at least —

(a) provide an assessment of the quantities and types of tyres that are generated or imported that will become waste tyres;

(b) indicate how the waste hierarchy will be given effect to in the integrated industry waste tyre management plan;

(c) provide options for the reuse or recycling of waste tyres or recovery of the energy from waste tyres;

(d) identify the method of ensuring that the waste tyres will be delivered to the identified treatment option as per the approved integrated industry waste tyre management plan;

(e) indicate how the implementation of the integrated industry waste tyre management plan will be financed;

(f) indicate how job creation and training initiatives will be realised;

(g) provide methods to ensure recording of safe disposal of waste tyres;

(h) provide methods of registering waste tyre transporters and the duties of waste tyre transporters;

(i) indicate the extent of auditing and reporting on the Integrated industry waste tyre management plan envisaged;

(j) provide measures to be implemented to give effect to best environmental practice in respect of waste tyre management;

(k) indicate the measures to be put in place to address the stockpiles of waste tyres; and

(l) indicate the percentage of the stockpile that the producer will take responsibility for.

Notification of industry waste tyres management plan

9. (1) Any person producing an integrated industry waste tyre management plan in terms of regulation 6(3) must take appropriate steps to bring the contents of a

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proposed integrated industry waste tyre management plan to the attention of relevant organs of state, interested persons and the public and must follow any directions given by the Minister, regarding the consultation process that must be followed.

(2) Any comments submitted in respect of an integrated industry waste tyre management plan must be considered by the person responsible for preparing the plan, and a copy of all comments must be submitted to the Minister, as the case may be, together with the plan.

Consideration of industry waste tyre management plan

10. (1) The Minister may on receipt of an integrated industry waste tyre management plan—

(a) require additional information to be furnished and a revised plan to be submitted within a timeframe indicated by the Minister;

(b) publish the integrated industry waste tyre plan in the government gazette for a period of 30 days for comment;

(c) send comments received to the tyre producer for consideration and incorporation where relevant; and

(d) after incorporation of any comments, approve with or without conditions, or reject the integrated industry waste tyre management plan with reasons and with a timeframe for resubmission.

(2) An integrated industry waste tyres management plan that has been rejected in terms of subregulation (1)(d) must be amended and resubmitted to the Minister within the timeframe indicated by the Minister.

(3) An approval in terms of subregulation (1)(d) must at least specify the period for which the approval is issued, which period may be extended by the Minister.

(4) The Minister must give notice in the relevant Gazette of an approved integrated industry waste tyre management plan.

Review of integrated industry waste tyre management plan

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11. (1) An integrated industry waste tyre management plan must be reviewed at the intervals specified in the approval by the Minister.

Storage of tyres

12. (1) Subject to any other requirements of the Act, waste tyres may only be stored under the following conditions:

(a) Waste tyre pile(s) may not exceed a height of 4 metres, a length of 76 metres and a width of 6 metres;

(b) The edges of the piles must be at least 15 metres from the perimeter fence, and the area between the piles and the fence must be clear of debris and vegetation;

(c) All interior firebreaks must be at least 18 metres wide;

(d) All exposures, including buildings, vehicles or flammable materials, must be at least 60 metres away from the waste tyre piles;

(e) Waste tyre piles or storage racks may not be located near or below power lines;

(f) No open air burning may be allowed within 300 metres of the waste tyre pile(s);

(g) No welding or other heat-generating devices may be allowed within 60 metres of the pile(s);

(h) Smoking may only be permitted in designated areas that are located well clear of the pile(s); and

(i) The waste tyre storage facility must have lightning rods that conform to local and provincial codes. The lightning rods must be located away from the waste tyre pile(s).

(2) The site on which waste tyres are stored must meet the following requirements:

(a) For the tyre dealer the total square area for storage of waste tyres shall not exceed 20 m^2 ;

(b) Any other waste tyres storage area shall not exceed 150m^2 ;

(c) The site must be flat with a concrete or hard packed clay surface that is designed to capture and contain water runoff;

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(d) The perimeter of the facility must have a chain-link fence or boundary wall that is at least 3 metres high and has intruder controls on the top;

(e) Clearly visible signs with operating hours, contact details and site regulations must be posted near the entrance to the facility;

(f) A qualified security attendant or site manager must be on site at all times when the facility is open;

(g) Each waste tyre storage site, or pile, must be provided with emergency vehicle access routes, such that no portion of the pile is more than 45 metres from an access road or firebreak;

(h) Access routes between the piles must have a clear width of at least 18 metres;

(i) Each access point must have a lockable gate that is kept locked when the facility is closed;

(j) All gate openings must be at least 6 metres wide and must remain unobstructed at all times;

(k) The gates must have rapid entry design compatible with fire department requirements. Electric gates must have default capabilities to the unlocked position;

(l) All roads and accesses must be designed to support the loads imposed by fire fighting equipment;

(m) Access roads must be surfaced with material designed to permit accessibility under all climatic conditions;

(n) All emergency vehicle accesses must have an unobstructed vertical clearance of 4.25 metres or as needed for access of large fire fighting equipment;

(o) A minimum turning radius of 14 metres must be provided for emergency vehicle access;

(p) All dead-end accesses in excess of 45 metres long must be provided with a turn-around area;

(q) Accesses must be well maintained and remain accessible for the fire department; and

(r) Stormwater diversion works must be constructed and maintained on a continuous basis to-

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(i) divert and drain from the site all runoff water arising on land adjacent to the site, which could be expected as a result of the estimated maximum precipitation during a period of twenty four (24) hours with an average frequency of once in fifty years in compliance with relevant legislation; and

(ii) under the rainfall event referred to in subparagraph (o)(i), maintain a freeboard of half a metre.

(3) Waste tyres may 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.

(4) Any person, who is storing tyres prior to the commencement of these regulations, must register with the Minister within 30 days, providing the following information:

(a) The name of the tyre storage facility and owner;

(b) the registered address of the owner of the tyre storage facility; and

(c) the physical address where the tyre storage activity is conducted.

Part 5
GENERAL

Offences and penalties

13. (1) A person is guilty of an offence if that person contravenes or fails to comply with –

(a) a provision of regulations 4, 5(1), 6, 7; 11 or 12; or

(b) an integrated industry waste tyre management plan.

(2) A person is liable on conviction of an offence in terms of subregulation (1) to a fine not exceeding R100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment, and to a fine not exceeding three times the commercial value of anything in respect of which the offence was committed.

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(3) A person convicted of an offence in terms of these Regulations and who after such conviction persists in the act or omission which constituted such offence, shall be guilty of a continuing contravention and be liable on conviction to a fine not exceeding R250 or to imprisonment for a period not exceeding 20 days or to both such fine and such imprisonment in respect of every day such offence continues.

Transitional arrangements

14. Any person who stored waste tyres on the date that these Regulations commenced must comply with the provisions of regulation 12 within one year after the date of commencement of these Regulations.

Short title and commencement

15. These Regulations shall be called Waste Tyre Regulations, 2007 and take effect on a date determined by the Minister by notice in the Government Gazette.

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