
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. R. 626

30 JUNE 2017

**NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT NO. 107 OF 1998)****PROPOSED REGULATIONS TO PHASE-OUT THE USE OF PERSISTENT ORGANIC POLLUTANTS**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby give notice of my intention to make regulations to phase-out the use of Persistent Organic Pollutants, under section 44(1)(aA), read with section 47 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as set out in the Schedule hereto.

Members of the public are invited to submit to the Minister, within 60 days of publication of this Notice in the Gazette, written representations or objections to the following addresses:

By post to: The Director General
 Department of Environmental Affairs
 Attention: Mrs. Salome Margaret Molefe
 Private Bag X447
 Pretoria
 0001

By hand at: Environment House (Reception), 473 Steve Biko Street, Pretoria, Arcadia, 0082.

By e-mail: SMolefe@environment.gov.za

Any inquiries relating to this Notice may be forwarded to Mrs Salome Margaret Molefe at (012) 399 9845.
Comments received after the closing date may not be considered.



**BOMO EDITH EDNA MOLEWA
MINISTER OF ENVIRONMENTAL AFFAIRS**

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DEFINITIONS

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

“**Act**” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“**Department**” has the meaning assigned to it in the Act;

“**Director-General**” has the meaning assigned to it in the Act;

“**listed chemical**” means any chemical listed in regulation 2(1)(a) of these Regulations;

“**phase-out period**” means the period between the first day and the last day of the phase-out plan.

PURPOSE AND APPLICATION OF REGULATIONS

2. (1) The purpose of the these Regulations is to—

(a) prescribe the requirements for the phase-out of the use of-

(i) Hexabromobiphenyl;

(ii) Pentachlorobenzene;

(iii) Peflourooctane Sulfonic Acids; its salts (PFOS) and Perfourooctane Sulfonyl Fluoride;

(iv) Hexabromophenyl Ether and Heptabromodiphenyl Ether;

(v) Tetrabromodiphenyl Ether and Pentabromodiphenyl Ether,

in order to ensure that impacts or potential impacts on human health, well-being, safety and environment are prevented, mitigated or minimised; and

(b) set-out timeframes in which all listed chemicals must have completely phase-out and disposed of all resulting wastes.

(2) These Regulations apply uniformly to all owners of the listed chemicals.

GENERAL PROHIBITIONS

3. Subject to the provisions of these Regulations and unless a person complies with regulation 5 and 6 of these Regulations, no person may use, produce, sell, import or export listed chemicals.

PHASE-OUT TIME FRAMES

4. No person may use, produce, distribute, sell, import or export—

(a) Hexabromobiphenyl and Hexabromobiphenyl formulations, or have Hexabromobiphenyl containing wastes in their possession after 31 December 2020;

- (b) Pentachlorobenzene and Pentachlorobenzene formulations, or have Pentachlorobenzene containing wastes in their possession after 31 December 2019;
- (c) Peflourooctane Sulfonic Acids, its salts (PFOS) and Perfourrooctane Sulfonyl Fluoride; PFOS formulations, or have PFOS containing wastes in their possession after 31 December 2021;
- (d) Hexabromodiphenyl Ether (Hexa-BDEs) And Heptabromodiphenyl Ether (Hepta-BDEs); Hexa-BDEs and Hepta-BDEs formulations; or have Hexa-BDEs and Hepta-BDEs in their possession after 31 December 2020;
- (e) Tetrabromodiphenyl Ether (Tetra-BDEs) and Pentabromodiphenyl Ether (Penta-BDEs); Tetra-BDEs and Penta-BDEs formulations; or have Hexa-BDEs and Hepta-BDEs containing wastes in their possession after 31 December 2020.

NOTIFICATION

- 5. (1) A user, producer, seller, distributor, importer or exporter of a listed chemical must notify the Director-General within 30 days of promulgation of these Regulations.
- (2) A person contemplated in subregulation (1) must notify the Department in a notification form obtainable from the Department
- (3) The Director-General must in writing acknowledge receipt and issue the notification number within 30 days of receipt of the completed notification form.
- (4) The Director-General may, upon receipt of the notification form, request incomplete information to be furnished in writing or amendments to be effected on the notification form and the amended notification form to be resubmitted within a specified time frame.
- (5) A person who has notified in accordance with subregulation (1) must notify the Director-General of any changes in any material detail which has been provided as part of the notification within 30 days of such change taking place.

PHASE-OUT PLANS

- 6. (1) A producer, importer or exporter who notified the Department in terms of regulation 5 of these Regulations is required to develop a phase-out plan for a listed chemical, which must include—
 - (a) contact details of the company submitting the phase-out plan;
 - (b) listed chemical used, produced, imported or exported;
 - (c) suitable alternatives to the listed chemical;
 - (d) the annual reduction target;
 - (e) date or year in which the use, production, importation and exportation of the listed chemical will be completely phased-out.
- (2) A person contemplated in subregulation (1) must submit a phase-out plan for approval to the Director-General within 12 months of promulgation of these Regulations.

- (3) The Director-General must acknowledge receipt of the phase-out plan within 14 days of receipt, and may, after consideration of the content, in writing-
 - (a) approve the phase-out plan for implementation and notify the applicant of the approval and outline any applicable conditions or requirements; or
 - (b) require incomplete information to be furnished or amendments to be effected and a revised phase-out plan to be resubmitted within a specified time frame.
- (4) A person whose phase-out plan has been approved by the Director-General must implement such a plan and may only deviate from such a plan upon written approval to do so by the Director-General.

REPORTING

7. (1) A person contemplated in regulation 5 and 6 must report the quantities of listed chemical or chemicals used, produced, imported or exported to the Director-General every calendar year.
- (2) The report contemplated in subregulation (1) must include a detailed progress report regarding the implementation of the approved phase-out plan contemplated in regulation 6 of these Regulations.
- (3) A person contemplated in subregulation (1) must submit, at the end of the phase-out period, a consolidated report indicating the quantities of a listed chemical or chemicals produced, imported or exported during the phase-out period to the Director-General.

OFFENCES AND PENALTIES

8. (1) A person is guilty of an offence if that person—
 - (a) contravenes regulation 3, 4, 5(1), (5), 6(1), 6(2), 6(4) and 7 of these Regulations; or
 - (b) furnishes false or misleading information in terms of these Regulations.
- (2) A person convicted of an offence in terms of subregulation (1) is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years or to both such fine or such imprisonment.

SHORT TITLE AND COMMENCEMENT

9. These Regulations are called the Regulation to Phase-out the use of Persistent Organic Pollutants, 2017, and take effect on the date of publication in the *Gazette*.