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GOVERNMENT NOTICE

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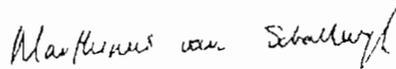
Government Notice

R. 149 Environment Conservation Act (73/1989): Waste Tyre Regulations, 2008..... 3 31901

GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM**No. R.149****13 February 2009****ENVIRONMENT CONSERVATION ACT, 1989
WASTE TYRE REGULATIONS, 2008**

I, Marthinus Christoffel Johannes Van Schalkwyk, Minister of Environmental Affairs and Tourism, hereby make the regulations pertaining to the management of waste tyres under section 24B of the Environment Conservation Act, 1989 (Act No. 73 of 1989) as set out in the schedule.



**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;

“legacy waste tyre stockpile” means a waste tyre stockpile that existed before the promulgation of these regulations;

“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;

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

“recovery” means the controlled extraction of a material or the retrieval of energy from waste tyres;

“recycle” means the separation and processing of materials from waste tyres for further use as new products or resources;

“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;

“re-use” means the utilisation of waste tyres, in whole or in part, without changing the composition of the waste tyre;

“temporary storage” means the storage of waste tyres for a period not exceeding 2 years from date of promulgation;

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

"**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 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 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 processor**" means any person or entity that is engaged in the commercial re-use, recycling or recovery of waste tyres;

"**waste tyre stockpile**" means a site on which predominantly waste tyres have been stored continuously for a period greater than 2 years and which covers an area greater than 500m², and excludes waste disposal facility;

"**waste tyre stockpile owner**" means the owner or lawful possessor of the waste tyres and will have the meaning ascribed to it in common law.

Purpose of these Regulations

2. 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.

General prohibitions

4. 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; or
 - (d) dispose of a waste tyre at a waste disposal facility two years from the date of commencement of these regulations unless such a waste tyre has been cut into quarters, and no quartered waste

tyres may be disposed 5 years from the date of promulgation of these regulations unless such waste tyres have been shredded, excluding in both instances bicycle tyres and tyres with an outside diameter above 1400mm and tyres used as engineering material.

Part 2

REUSE, RECYCLING AND RECOVERY OF WASTE TYRES

REUSE, RECYCLING AND RECOVERY OF WASTE TYRES

5. (1) A tyre producer, when developing his/her integrated industry waste tyre management plan as contemplated in regulation 6(3) must make provision for the reusing or recycling of that waste tyre before recovering the energy potential or disposing of that waste tyre.
- (2) A waste tyre processor 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 is more sustainable than the disposal of such a waste tyre.

Part 3

DUTIES OF TYRE PRODUCERS, TYRE DEALERS AND WASTE TYRE STOCKPILE OWNERS

Duties of tyre producers

6. (1) A tyre producer operating on the date of commencement of these regulations must register with the Minister within 30 days of the date of commencement of these Regulations and any tyre producer commencing business after these regulations must register with the Minister at least 30 days prior to commencing business providing the following information—
 - (a) the name and where applicable, the registered number of the natural or legal persona of the tyre producer;
 - (b) the registered address of the tyre producer;
 - (c) the physical address where the business of the tyre producer is conducted;
 - (d) contact details; and
 - (e) details of the person responsible for submitting the integrated industry waste tyre management plan as contemplated in subregulation (3).
- (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 operating on the date of commencement of these regulations must either—
 - (a) prepare and submit to the Minister, an integrated industry waste tyre management plan, within 60 days of registering in terms of subregulation (1) for approval; or
 - (b) register with an existing integrated industry waste tyre management plan approved by the Minister; and
 - (c) comply with the integrated industry waste tyre management plan immediately on receiving the Minister's approval, or comply within 60 days with an existing integrated industry waste tyre management plan approved by the Minister.

- (4) A tyre producer commencing business after the commencement of these regulations shall not begin operations without an integrated industry waste tyre management plan approved by the Minister or without providing written confirmation to the Minister of acceptance into an existing integrated industry waste tyre management plan approved by the Minister.
- (5) A tyre producer on whom an obligation is imposed in terms of subregulation (1), (2), (3) and (4) may not manufacture or import new, part worn, retreadable casings or vehicles fitted with tyres or distribute or sell new, part worn or retreaded tyres, unless measures have been taken to ensure that when those tyres become waste tyres they are dealt with in accordance with the provisions of the approved integrated industry waste tyre management plan to which the producer belongs.
- (6) A tyre producer must inform the Minister if they deregister from an integrated industry waste tyre management plan 120 days prior to deregistering.
- (7) A tyre producer may not manufacture, import new, part worn, retreadable casings or vehicles fitted with tyres or, distribute or sell new, part worn or retreaded tyres, unless they can demonstrate that that they either—
 - (a) have an integrated industry waste tyre management plan approved by the Minister or;
 - (b) belong to an existing integrated industry waste tyre management plan approved by the Minister.

Duties of tyre dealers

7. (1) A tyre dealer must classify any used tyre in his/her possession or control as either a part worn tyre or 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 cause all waste tyres with a load index of 121 or less 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) 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/her possession or control, or cause such waste tyres to be managed in accordance with the approved integrated industry waste tyre management plan of the producer.

Duties of waste tyre stockpile owners

8. (1) Any person or entity who has a waste tyre stockpile on their premises or is the owner of a waste tyre stockpile(s) on the date of commencement of these regulations must register with the Minister within 30 days from the promulgation of these regulations, providing the following information—
 - (a) the name of the waste tyre stockpile owner;
 - (b) the registered address of the premises on which the waste tyre stockpile is located;
 - (c) the registered address of the owner of the waste tyre stockpile;
 - (d) the legal persona's registration number; and
 - (e) current permits in place for the waste tyre stockpile.
- (2) (a) after registration in terms of subregulation (1) the Minister will issue the applicant with a registration number; and

- (b) the waste tyre stockpile owner must display the registration number on all trading documentation.
- (3) A waste tyre stockpile owner must within 120 days of the date of commencement of these regulations submit to the Minister a waste tyre stockpile abatement plan for approval.
- (4) A waste tyre stockpile owner on whom an obligation is imposed in terms of subregulation (1) and (2) that is not permitted or licensed in terms of the relevant legislation shall not add to the stockpile after 120 days of the commencement of these regulations.

Part 4

INTEGRATED INDUSTRY WASTE TYRE MANAGEMENT PLANS

Contents of an integrated industry waste tyre management plan

- 9. (1) An integrated industry waste tyre management plan must at least—
 - (a) identify the parties to the plan;
 - (b) provide annual projection of the quantities and types of tyres that are manufactured or imported that will become waste tyres and will be managed through the integrated industry waste tyre management plan;
 - (c) indicate how the waste hierarchy will be given effect in the integrated industry waste tyre management plan;
 - (d) identify the manner in which waste tyre processors who will receive waste tyres through this plan will be identified;
 - (e) identify the manner in which waste tyre transporters will be registered through the integrated industry waste tyre management plan and their duties;
 - (f) identify the potential number of waste tyre storage sites that will be used by the integrated waste tyre management plan and the manner in which these sites will be registered with the plan;
 - (g) identify the industry standards that will apply to waste tyre transporters, waste tyre storage sites and waste processors;
 - (h) indicate how information on waste tyres collected and treated will be recorded;
 - (j) identify the timeframes in which the different types of tyres will be managed noting that all tyres and sizes of tyres must be managed through an integrated industry waste tyre management plan within five years of date of approval of plan;
 - (j) provide estimations of the costs of implementing the waste tyre management plan for the first five years and the manner in which the activities of the waste tyre management plan will be financed;
 - (k) provide details of the manner in which the contribution of each member of the plan will be determined and how the contribution will be collected and distributed;
 - (l) indicate how the integrated industry waste tyre management plan will raise national awareness regarding the management of waste tyres;
 - (m) provide details on how the integrated industry waste tyre management plan will address issues of social responsibility in the industry;

- (n) provide details of the manner in which previously disadvantaged individuals will be integrated into the implementation of the integrated industrial waste tyre management plan;
- (o) indicate how job creation, training and development will be realised in the industry;
- (p) indicate the extent of auditing and reporting on the integrated industry waste tyre management plan envisaged;
- (q) provide measures to be implemented to give effect to best environmental practice in respect of waste tyre management;
- (r) indicate the measures to be put in place to address the stockpiles of waste tyres;
- (s) provide estimations of annual financial contribution which will be set aside to address the legacy waste tyre stockpile and the measures to be put in place to deal with the legacy waste tyre stockpiles; and
- (t) annually provide details of agreements reached in terms of any waste tyre stockpile abatement plans.

Notification of integrated industry waste tyres management plans

10. (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 proposed integrated industry waste tyre management plan to the attention of relevant organs of state, interested persons and the public and must call for comments to the plan.
- (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 and responses must be submitted to the Minister, together with the plan.

Consideration of integrated industry waste tyre management plans

11. (1) The Minister on receipt of an integrated industry waste tyre management plan—
- (a) may require additional information to be furnished and a revised plan to be submitted within a timeframe indicated by the Minister;
 - (b) must publish the integrated industry waste tyre management plan in the government gazette for a period of 30 days for comment;
 - (c) must send comments received to the person responsible for producing the plan for consideration and incorporation where relevant; and
 - (d) must, after incorporation of any comments, review the revised integrated industry waste tyre management plan, approve it 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 tyre management plan that has been rejected in terms of sub-regulation (1)(d) must be amended and resubmitted to the Minister within the timeframe indicated by the Minister.
- (3) An approval in terms of sub-regulation (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.
- (5) Any person producing an integrated industry waste tyre management plan in terms of regulation 6(3) must submit an annual audit report from an independent auditor commissioned at own expense to audit at least the following—

- a) the compliance to the approved integrated industry waste tyre management plan;
- b) the person's compliance with the relevant legislation;
- c) record keeping and reporting as required by the integrated industry waste tyre management plan;
- d) management of legacy stockpile; and
- e) financial reports.

Review of integrated industry waste tyre management plans

12. (1) An integrated industry waste tyre management plan must be revised and resubmitted for approval by the Minister at 5 year intervals or sooner if the Minister or the producer of the plan identifies that amendments are required.
- (2) The Minister must publish the revised integrated industry waste tyre management plan in the government gazette for a period of 30 days.
- (3) Once the integrated industry waste tyre management plan is approved it will be an offence not to comply with the revised plan.
- (4) The Minister may allow the integrated industry waste tyre management plan producers to be exempted from submitting a revised integrated industry waste tyre management plan if the Minister upon a request for exemption is satisfied that the plan continues to meet the objectives of the regulations and does not require amendments.

Part 5

WASTE TYRE STOCKPILE ABATEMENT PLAN

Contents of a waste tyre stockpile abatement plan

13. (1) 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(s);
 - (b) provide the physical address of the location of the waste tyre stockpile(s);
 - (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(s) including the square area of the footprint of the stockpile;
 - (e) the current fire prevention measures in place;
 - (f) provide a plan of the stockpiles site(s), 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 providing any other information that is relevant to the waste tyre stockpile(s);
 - (g) proposal and timeframe for eliminating the waste tyre stockpile(s);
 - (h) identify the approved integrated industry waste tyre management plan(s) into which the tyres will be accepted or the waste tyre processor who will accept the waste tyres;
 - (i) budget and funding sources for eliminating the waste tyre stockpile;
 - (j) copies of agreements with integrated industry waste tyre management plans indicating their acceptance of the waste tyres and agreement of the financial arrangements made; and
 - (k) measures that will be put in place to meet the storage requirements relevant to these regulations and the timeframes for implementation.

Notification of a waste tyre stockpile abatement plan

14. (1) Any person producing a waste tyre stockpile abatement plan in terms of regulation 8(3) 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.

Consideration of a waste tyre stockpile abatement plan

15. (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) An approval in terms of subregulation (1)(b) must at least specify the period for which the approval is issued, which period may be extended by the Minister.
- (4) Any person producing a waste tyre stockpile abatement plan in terms of regulation 8(3) must submit an annual audit report from an external auditor commissioned at own expense to audit compliance to the plan.
- (5) 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****Storage of waste tyres**

16. (1) The waste tyre storage area for a tyre dealer shall not exceed 500m².
- (2) Any waste tyre storage area must not exceed 30000m².
- (3) A waste tyre storage area plan must be developed by the tyre dealer, waste tyre processor and waste tyre storage site owner.
- (4) The waste tyre storage plan must be approved by the municipal fire department and must be available on site at all times.
- (5) The municipal fire department may exempt the waste tyre storage owner from the provisions in subregulation (6).
- (6) The site on which waste tyres are stored must meet as a minimum the following 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) no single pile of waste tyres may exceed a height of 3 metres, a length of 20 metres and a width of 10 metres;
 - (e) all interior firebreaks between piles of waste tyres must be at least five metres wide;
 - (f) the site must be flat and hard packed;
 - (g) the site must make provision for storm water management;
 - (h) 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;
 - (i) all firebreaks must be at least 8 metres wide; and
 - (j) 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 5

GENERAL

Offences and penalties

- 17 (1) A person is guilty of an offence if that person contravenes or fails to comply with—
- (a) a provision of regulations 4, 6, 7, 8, 11(2) and (5), 12(1) and (2), 15(2), (4) and (5), 16(1), (2), (3), (4), (6) and (7); or
 - (b) an integrated industry waste tyre management plan; or
 - (c) a waste tyre stockpile abatement 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.
- (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

18. Any person who stored waste tyres on the date that these Regulations commenced must comply with the provisions of regulation 16 within one year after the date of commencement of these Regulations.

Short title and commencement

19. These Regulations shall be called the Waste Tyre Regulations, 2009 and take effect on a date determined by the Minister by notice in the Gazette.