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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 903

11 AUGUST 2016

**NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008
(ACT NO. 59 OF 2008)****AMENDMENTS TO WASTE TYRE REGULATIONS, 2009**

I, Bomo Edith Edna Molewa, Minister of Environmental Affairs, hereby publish my intention to make amendments to the Waste Tyre Regulations, 2009 in terms of section 71(3)(a) read with sections 73 and 80(2) of the National Environmental Management: Waste Act, 2008 as set out 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 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 draft amendments to the Waste Tyre Regulations, 2009 must be directed to Mr Anben Pillay at (012) 399 9827.

The Amendments to the Waste Tyre Regulations, 2009 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

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from the existing regulations.

_____ Words underlined with solid line indicate insertions in existing regulations.

Definition

1. In these regulations "the Regulations" means the Waste Tyre Regulations, 2009, published under Government Notice No. R.149 of 13 February 2009.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended—
 - (a) by the substitution for the definition of "Act" of the following definition:

**"the Act" means the [Environment Conservation Act, 1989 (Act No. 73 of 1989)]
National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);**
 - (b) by the deletion of the definitions of "Minister", "recovery", "recycle", "re-use" and "temporary storage";
 - (c) by the insertion after the definition of "part worn tyre" of the following definitions:

"party to the plan" means a person who is required to produce a plan in terms of these regulations and is registered with the plan;

'plan' means an industry waste management plan;";
 - (d) by the substitution for the definition of "tyre" of the following definition:

"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, excluding tyres from monocycles, bicycles and tricycles;

Amendment of regulation 4 of the Regulations

3. Regulation 4 of the Regulations is hereby amended by the substitution for paragraph (d) of subregulation (1) of the following paragraph:

"(d) dispose of a waste tyre at a waste disposal facility [two years from the date of the 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].

Amendment of regulation 5 of the Regulations

4. Regulation 5 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(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]** is less harmful to the environment than the disposal of such a waste tyre."

Amendment of Regulation 6 of the Regulations

5. Regulation 6 of the Regulations is hereby amended by the substitution for subregulations (4) and (6) of the following subregulations:

"(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]** Minister of acceptance into an existing integrated industry waste tyre management plan approved by the Minister.

(6) A tyre producer must **[inform]** notify the Minister in writing if they deregister from an integrated industry waste tyre management plan [120] 30 days prior to deregistering and must submit proof of registration to an alternative approved plan in the same notification."

Amendment of Regulation 8 of the Regulations

6. Regulation 8 of the Regulations is hereby amended by the substitution for paragraph (b) of subregulation (2) of the following paragraph:

"(b) the waste tyre stockpile owner must display the registration number on all trading documentation relating to waste tyres."

Amendment of Regulation 9 of the Regulations

7. Regulation 9 of the Regulations is hereby amended—

- (a) by the substitution for paragraph (j) of subregulation (1) of the following paragraph:

"(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.]**;

- (b) by the insertion in subregulation (1) after paragraph (j) of the following paragraphs:

"(jA) be aligned to the pricing strategy for waste management charges;

(jB) provide targets for waste minimisation through the reduction, re-use, recycling and recovery for the next five years;

(jC) provide estimates of funding that will be generated through the reduction, re-use, recycling and recovery for the next five years;"

- (c) by the deletion of paragraph (k) of subregulation (1);

- (d) by the substitution for paragraphs (m), (n) and (o) of subregulation (1) of the following paragraphs:
- "(m) provide details on [how] measures the integrated industry waste tyre management plan will address issues of social and historically disadvantaged community responsibility in the industry;
 - (n) provide [details of the manner] specific measures in which [previously] historically disadvantaged individuals will [be integrated into] meaningful participate in the industry and the implementation of the integrated industrial waste tyre management plan;
 - (o) [indicate how] provide specific targets on job creation, training and development, including meaningful participation of the historical disadvantaged individuals, will be realised in the industry;".

Amendment of Regulation 10 of the Regulations

8. Regulation 10 of the Regulations is hereby amended by the insertion after subregulation (1) of the following subregulations:

"(1A) The steps contemplated in subregulation (1) must include—

- (a) the publication of a notice in at least two newspapers distributed nationally;
- (b) the distribution of the proposed integrated industry waste tyre management plan to all known stakeholders; and
- (c) any other reasonable means to enable the persons to submit written representations or objections to the proposed integrated industry waste tyre management plan.

(1B) the notice contemplated in subregulation (1A)(a) must include—

- (a) a provision for submission of representations or objections with a period not less than 30 days;
- (b) details of a person who developed the plan;
- (c) details where copies of the plan can be obtained; and
- (d) details where written representations or objections must be submitted."

Amendment of Regulation 11 of the Regulations

9. Regulation 11 of the Regulations is hereby amended—

- (a) by the substitution for subregulation (2) of the following subregulation:

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

(b) by the insertion after subregulation (2) of the following subregulation:

"(2A) The Minister may not consider an integrated industry waste tyre management plan—

(a) if resubmitted more than one; or

(b) after failure to resubmit the amended integrated industry waste tyre management plan within the specified timeframe."

Amendment of Regulation 12 of the Regulations

10. Regulation 12 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(2) The Minister must publish the revised integrated industry waste tyre management plan in the *Government Gazette* for a period of 30 days for comments."

Amendment of Regulation 13 of the Regulations

11. Regulation 13 of the Regulations is hereby amended by the substitution for paragraphs (j) and (k) of subregulation (1) of the following paragraphs:

"(j) have copies of agreements with integrated industry waste tyre management plans or the waste tyre processor indicating their acceptance of the waste tyres and agreement of the financial arrangements made; and

(k) **[measures that will put in place to] meet the storage requirements [relevant to these regulations and the time frames for implementation] contemplated in regulation 16 of these Regulations.**"

Amendment of Regulation 15 of the Regulations

12. Regulation 15 of the Regulations is hereby amended by the insertion after subregulation (2) of the following subregulations:

"(2A) The Minister may not consider a waste tyre stockpile abatement plan—

(a) if resubmitted more than one; or

(b) after failure to resubmit the amended waste tyre stockpile abatement plan within the specified timeframe.

(2B) The Minister may specify in writing the management measures to be followed at the owners cost when the waste tyre abatement plan is not considered."

Amendment of Regulation 16 of the Regulations

13. Regulation 16 of the Regulations is hereby amended—

- (a) by the substitution of subregulation (3) of the following subregulation:
- “(3) A waste tyre storage [area] plan must be developed by the [tyre dealer,] waste tyre processor and waste tyre storage site owner and submitted to the Minister for approval.”
- (b) by the substitution for subregulation (4) of the following subregulation:
- “(4) The waste tyre storage plan must be—
- (a) submitted to the municipality for endorsement prior to being submitted to the Minister for approval;
- (b) be available on site at all times.”;
- (c) by the deletion of subregulations (5);
- (d) by the insertion after paragraph (c) in subregulation (6) of the following paragraph:
- “(cA) a person designated to manage the site must ensure the site is secured and no unauthorized person can access the site.”.

Amendment of Regulation 17 of the Regulations

14. Regulation 17 of the Regulations is hereby amended—

- (a) by the substitution for paragraphs (a) and (b) of subregulation (1) of the following paragraphs:
- “(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 approved integrated industry waste tyre management plan; or”;
- (b) by the substitution for subregulation (2) of the following subregulation:
- “(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]**
- (a) imprisonment for a period not exceeding 15 years;
- (b) an appropriate fine; or
- (c) both such fine and imprisonment.”;
- (c) by the deletion of subregulation (3).

Transitional provision

15. From 1 October 2016, no person may in terms of an existing approved industry waste management plan, collect a financial contribution as envisaged by the repealed regulation 9(1)(k), unless the payment of the financial contribution was due to be paid before that date.

Short title and commencement

16. These Regulations are called Amendments to the Waste Tyre Regulations, 2016.

EXPLANATORY MEMORANDUM
NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008
(ACT NO. 59 OF 2008)
AMENDMENTS TO WASTE TYRE REGULATIONS, 2009

The Waste Tyre Regulations, 2009 were published on 13 February 2009 under section 24B of the Environment Conservation Act, 1989 (Act No. 73 of 1989). Upon the repeal of this provision in the Environment Conservation Act, 1989, the regulations were saved as contemplated in section 80(2) of the National Environmental Management: Waste Act, 2008 and therefore regarded as regulations under the latter.

The following amendments are proposed:

Words or expressions which are already defined in the Waste Act are deleted. A definition for "party to the plan" has been inserted and the definition for "tyre" has been substituted to include all tyres, except tyres from monocycles, bicycles and tricycles. The disposal of waste tyres on a waste disposal facility will now be prohibited. The criteria for recycling will include that the recycling must cause less harm to the environment than its disposal; thereby aligning with the Waste Act. Tyre producers will have to provide proof to the Minister that they are subscribed to an approved plan before commencing with business. When deregistering from an approved plan, tyre producers will have to provide proof of registration to another approved plan. In future the content of an integrated industry waste tyre management plan must be aligned to the pricing strategy, reflects targets for waste minimisation through the reduction, re-use, recycling and recovery for the next five years, reflect estimates of funding that will be generated through reduction, re-use, recycling and recovery. A consultation process has been prescribed to be followed when developing the plans. The resubmission of a rejected integrated industry waste tyre plan will be discretionary and can only be resubmitted once. The waste tyre abatement plan must at least contain a copy of an agreement with an integrated industry waste management plan or a waste tyre processor. The waste tyre abatement plan must also comply with certain storage criteria. Waste tyre dealers will no longer be required to develop waste tyre storage plans. The waste tyre storage plan must be submitted to the municipality for endorsement prior to be submitting it to the Minister for approval. The municipal fire department will no longer be required to exempt a waste tyre storage owner from complying with the minimum requirements for the site. The offences and penalties clause has been aligned to the Waste Act. The regulations also provide that after 1 October 2016, no person may in terms of an existing approved industry waste management plan, collect a financial contribution from members of the plan, unless the contribution was due to be paid before that date.

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