

NOTICE 614 OF 2012

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

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

WASTE CLASSIFICATION AND MANAGEMENT REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby make regulations pertaining to waste classification and management under section 69(1)(a), (b), (g), (h), (m), (q), (s), (dd), and (ee) read with section 73 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 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 comments or objections to the following addresses:

By post to: The Director-General: Department of Environmental Affairs
Attention: Ms Nomphele Daniel
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The full document can also be accessed at www.sawic.org.za

Any inquiries in connection with the draft notice can be directed to Ms Nomphele Daniel at (012) 310 3904.



BOMO EDITH EDNA MOLEWA

MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

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PART 1: INTERPRETATION AND PURPOSE OF REGULATIONS

1. Interpretation

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

“SANS 10234” means the latest edition of the South African National Standard Globally Harmonized System of Classification and Labelling of Chemicals (GHS);

“the Act” means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

“waste classification” means establishing, in terms of SANS 10234—

- (a) whether a waste is hazardous based on the nature of its physical, health and environmental hazardous properties (hazard classes); and
- (b) the degree or severity of hazard posed (hazard categories);

“waste generator” means any person whose actions, production processes or activities, including waste management activities, results in waste;

“waste manager” means any person that re-uses, recycles, recovers, treats or disposes of waste;

“waste manifest system” means a system of control documentation, which accompanies a load of hazardous waste transported from the point of generation to the site of management;

“waste transporter” means any person who conveys or transfers waste—

- (a) between the waste generator and a waste management facility; or
 - (b) between waste management facilities.
- (2) The term waste in these Regulations has the meaning as assigned by the Act, and is deemed to include both general waste and hazardous waste.

- (3) General waste and hazardous waste have the meanings as assigned by the Act, and are referred to as such in these Regulations, where specific provisions are only applicable to either general or hazardous waste.
- (4) For any action contemplated in terms of these Regulations for which a timeframe is prescribed, the specified numbers of days are calendar days.

2. Purpose of Regulations

- (1) The purposes of these Regulations are to—
 - (a) regulate the classification and management of waste in a manner which supports and implements the provisions of the Act;
 - (b) establish a mechanism and procedure for the listing of waste management activities that do not require a Waste Management Licence;
 - (c) prescribe requirements for the disposal of waste to landfill;
 - (d) prescribe requirements and timeframes for the management of certain wastes;
and
 - (e) prescribe general duties of waste generators, transporters and managers.

3. Application of Regulations

- (1) These Regulations apply uniformly in all Provinces of the Republic of South Africa.
- (2) Subject to subregulation (3), these Regulations apply to all waste generators, waste transporters and waste managers.
- (3) These Regulations do not apply to generators of domestic waste that is collected by a municipality.

PART 2: WASTE CLASSIFICATION

4. Waste Classification

- (1) Subject to subregulation (2), all waste generators must ensure that the wastes they generate are classified in accordance with SANS 10234 within one-hundred-and-eighty (180) days of generation.
- (2) Wastes listed in Annexure 1 to these Regulations do not require classification in terms of SANS 10234.
- (3) Wastes must be kept separate for the purposes of classification in terms of subregulation (1), and must not be mixed prior to classification.
- (4) Waste must be re-classified in terms of subregulation (1) every five (5) years, or if modification to the process or activity that generated the waste, changes in raw materials or other inputs, or any other variation of relevant factors, could result in changes to the waste which may affect the classification thereof.
- (5) Waste that has been subjected to any form of treatment must be re-classified in terms of subregulation (1), including any waste from the treatment process.
- (6) If the Minister reasonably believes that a waste has not been classified correctly in terms of subregulation (1), he or she may require the waste generator to have the classification peer reviewed to confirm the classification.

5. Safety Data Sheets

- (1) Subject to Regulation 4(1) and subregulation (2) and (3), generators of hazardous waste must ensure that a safety data sheet for the hazardous waste is prepared in accordance with SANS 10234.
- (2) Subregulation (1) does not apply to generators of waste listed in item (2)(b) of Annexure 1 to these Regulations provided that the safety data sheets for these wastes are prepared as follows—

- (a) safety data sheets for waste listed in item (2)(b)(i) of Annexure 1 to these Regulations must be prepared in accordance with SANS 10234 for the product the waste originates from;
 - (b) safety data sheets for waste listed in item (2)(b)(ii) of Annexure 1 to these Regulations must be prepared in accordance with SANS 10234 reflecting the details of the specific hazardous waste/s or hazardous chemical/s in the waste.
- (3) Generators of waste listed in item (2)(b)(iii) of Annexure 1 to these Regulations do not have to prepare a safety data sheet for the waste.
- (4) Every holder of hazardous waste, except waste listed in item (2)(b)(iii) of Annexure 1 to these Regulations, must be in possession of the safety data sheet/s for the waste referred to in subregulations (1) and (2).

PART 3: WASTE MANAGEMENT

6. General

- (1) A generator of waste must not be in possession of waste that has not been classified in terms of Regulation 4 for a period of more than one-hundred-and-eighty (180) days.
- (2) Waste transporters and waste managers must not accept waste that has not been classified in terms of Regulation 4.
- (3) Waste must not be diluted solely to reduce the concentration of its constituents for the purposes of classification in terms of Regulation 4(1), or assessment of the waste in accordance with the *Standard for Assessment of Waste for Landfill Disposal* set in terms of Section 7(1) of the Act.
- (4) Any container or storage impoundment holding waste must be labelled, or where labelling is not possible, records must be kept, reflecting the following—
 - (a) the date on which waste was first placed in the container;
 - (b) the date on which waste was placed in the container for the last time when the container was filled, closed, sealed or covered;

- (c) the dates when, and quantities of, waste added and waste removed from containers or storage impoundments, if relevant;
 - (d) the specific category or categories of waste in the container or storage impoundment as identified in terms of the National Waste Information Regulations; and
 - (e) the classification of the waste in terms of Regulation 4 once it has been completed.
- (5) Waste generators must ensure that their waste is re-used, recycled, recovered, treated and/or disposed of within eighteen (18) months of generation.
- (6) Waste managers shall not store waste for more than eighteen (18) months from generation.
- (7) The re-use, recycling, recovery, treatment or disposal of waste currently stored in an existing facility must be commenced with within five (5) years from the date of commencement of these Regulations.

7. Waste Treatment

- (1) Waste must not be mixed or otherwise treated where this would—
- (a) reduce the potential for re-use, recycling or recovery; or
 - (b) result in treatment that is not controlled and not permanent.
- (2) Notwithstanding Regulations 6(3) and 7(1), waste may be blended or pre-treated to—
- (a) improve the potential for re-use, recycling, recovery or treatment; or
 - (b) reduce the risk associated with the management of the waste.

8. Waste Disposal to Landfill

- (1) Unless otherwise directed by the Minister to ensure a better environmental outcome, or in response to an emergency so as to protect human health, property or the environment—

- (a) waste generators must ensure that their waste is assessed in accordance with the *Standard for Assessment of Waste for Landfill Disposal* set in terms of section 7(1) of the Act prior to the disposal of the waste to landfill;
 - (b) waste generators must ensure that the disposal of their waste to landfill is done in accordance with the *Standard for Disposal of Waste to Landfill* set in terms of section 7(1) of the Act; and
 - (c) waste managers disposing of waste to landfill must only do so in accordance with the *Standard for Disposal of Waste to Landfill* set in terms of section 7(1) of the Act.
- (2) Subregulation (1)(a) applies to waste generators, excluding—
- (a) generators of waste listed in items (2)(a) and 2(b) of Annexure 1 to these Regulations; and
 - (b) generators of business waste that is collected by a municipality.
- (3) Subregulation (1)(b) applies to waste generators, excluding—
- (a) generators of waste listed in item (2)(a) of Annexure 1 to these Regulations; and
 - (b) generators of business waste that is collected by a municipality.

PART 4: WASTE MANAGEMENT ACTIVITIES THAT DO NOT REQUIRE A WASTE MANAGEMENT LICENCE

- 9. Motivation for and consideration of listing Waste Management Activities that do not require a Waste Management Licence**
- (1) Any person may submit a motivation to the Minister to list a specific waste management activity as an activity that does not require a waste management licence in terms of section 19 of the Act.
 - (2) A motivation to the Minister in terms of subregulation (1) must demonstrate that the waste management activity, including associated storage and handling, can be implemented and conducted consistently and repeatedly in a controlled manner without unacceptable impact on, or risk to, the environment or health.

- (3) In accordance with subregulation (2), a motivation to the Minister in terms of subregulation (1) must contain the following information, as relevant to the proposed waste management activity:
- (a) basis for the motivation, including benefits of the proposed activity relating to achieving waste minimisation or diversion of waste from landfill;
 - (b) description of the waste or wastes the proposed activity relates to, including quantities, classification, physical characteristics, chemical composition, sources generating the waste, and current management thereof;
 - (c) description of the proposed waste management activity and processes, including the waste manager, storage and handling, infrastructure, pre-treatment activities, and other inputs or raw materials required;
 - (d) description of the quantity, classification and management of any waste generated by the proposed activity;
 - (e) information on the successful implementation of the proposed activity, or similar activities, locally and internationally, where available;
 - (f) details of local and international specifications or standards relating to the waste and the proposed waste management activity, where available;
 - (g) reference to legislation and policy applicable to the proposed activity, including relevant waste minimisation or waste management plans;
 - (h) description of how the physical, biological, social, economic and cultural aspects of the environment may be adversely affected by the proposed activity, and how these would be mitigated or managed;
 - (i) identification of aspects that may constrain the wide or general implementation of the proposed activity, and how these can be managed;
 - (j) an assessment of the potential environmental and health impacts and risks that could result from the proposed activity, which would test the general implementation of the proposed activity at several sites with different characteristics;

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- (k) proposed requirements or standards specific to the proposed waste management activity, including associated storage and handling, that would ensure that the activity can be implemented and conducted consistently and in a controlled manner, which must include the following as relevant to the proposed waste management activity:
- (i) roles and responsibilities of the waste generator and waste manager;
 - (ii) management, monitoring and reporting procedures;
 - (iii) quality assurance and control measures, including sampling and analyses, as well as chemical concentration limits for specific components in the waste, or other characteristics of the waste, which may render it unsuitable for the proposed waste management activity;
 - (iv) sources from which the waste may originate, and any other limitations to the use or prohibited uses of the waste;
 - (v) locality or geographical area where the proposed activity may or may not take place;
 - (vi) standard operating procedures;
 - (vii) environmental management plan; and
 - (viii) design specifications or standards.
- (l) discussion on the practicality of, and ability to effectively implement, the requirements or standards that the activity may be subjected to;
- (m) a description of any assumptions made and any uncertainties or gaps in knowledge; and
- (n) any other specific information that may be required by the Minister, including an independent review of information submitted in support of the motivation.
- (4) Based on the review and consideration of the information supplied in support of a motivation in terms of Regulation 9(1) the Minister may—

- (a) subject to section 19(10)(a) of the Act, list the specific waste management activity in terms of section 19(1) and (3)(a) of the Act as an activity that does not require a waste management licence;
 - (b) require additional information to be furnished within a specified timeframe; or
 - (c) reject the motivation with reasons.
- (5) A motivation in terms of Regulation 9(1) which is substantially similar to a previous motivation that had been rejected in terms of subregulation (2)(c), may only be resubmitted if—
- (a) the application contains new and material information not previously submitted to the Minister; or
 - (b) a period of three (3) years has elapsed since the application was lodged.

PART 5: RECORD KEEPING AND WASTE MANIFEST SYSTEM

10. Records of Waste Generation and Management

- (1) Waste generators must keep accurate and up to date records of the management of the waste they generate, which records must reflect—
- (a) the classification of the wastes;
 - (b) the quantity of each waste generated, expressed in tons per month;
 - (c) the quantities of each waste that has either been re-used, recycled, recovered, treated or disposed of; and
 - (d) by whom the waste was managed.
- (2) Subregulation (1) does not apply to generators of waste listed in item (2)(a) of Annexure 1 to these Regulations.
- (3) The records contemplated in subregulation (1) must be—
- (a) retained for a period of at least five (5) years; and

(b) made available to the Department upon request.

11. Waste Manifest System

- (1) Every holder of a waste that has been classified as hazardous in terms of Regulation 4(1) or a waste that is listed in item (2)(b) of Annexure 1 to these Regulations, must be in possession of a waste manifest document containing the relevant information specified in Annexure 2 to these Regulations.
- (2) Generators of waste classified as hazardous in terms of Regulation 4(1) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations, must complete a waste manifest document containing the information specified in item (2)(a) of Annexure 2 to these Regulations for each consignment of waste transported to a waste manager.
- (3) Subregulations (1) and (2) do not apply to waste generators who are also the waste manager and manage the waste at the same premises where it was generated.
- (4) Waste transporters must not accept waste classified as hazardous in terms of Regulation 4(1) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations for transport, unless the waste manifest document accompanies the waste.
- (5) All transporters of waste classified as hazardous in terms of Regulation 4(1) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations must—
 - (a) complete a waste manifest document containing the information specified in item (2)(b) of Annexure 2 to these Regulations for each consignment of waste transported;
 - (b) provide the information to the generator before the waste is transported from the premises of the generator; and
 - (c) provide the information to the waste manager at the time of delivery of the waste to the facility for a waste management activity.
- (6) Waste managers must not accept waste classified as hazardous in terms of Regulation 4(1) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations, unless the waste manifest document accompanies the waste.

- (7) All managers of waste classified as hazardous in terms of regulation 4(1) or waste that is listed in item (2)(b) of Annexure 1 to these Regulations, must complete the waste manifest document with the information specified in item (2)(c) of Annexure 2 to these Regulations, confirming that the waste load has been accepted and that the waste has been managed.
- (8) All waste generators, transporters and managers subject to the requirements of subregulations (1), (2), (4), (5), (6) and (7) must—
 - (a) retain copies, or be able to access copies/records, of the waste manifest documentation for a period of at least the preceding five (5) years;
 - (b) make the waste manifest documentation available to the Department upon request.

PART 6: GENERAL MATTERS

12. Implementation and Transitional Provisions

- (1) All wastes that were classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry), or waste for which an alternative classification was approved by the Department of Water Affairs or Department of Environmental Affairs, prior to these Regulations taking effect, must be—
 - (a) re-classified in terms of Regulation 4(1); and
 - (b) assessed in terms of Regulation 8(1)(a) if the waste is to be disposed to landfill, within three (3) years from the date of commencement of these Regulations.
- (2) Waste that has been produced prior to these Regulations taking effect, but that has not been classified at the date of commencement of these Regulations must be—
 - (a) classified in terms of Regulation 4(1); and
 - (b) assessed in terms of Regulation 8(1)(a) if the waste is to be disposed to landfill,

within eighteen (18) months from the date of commencement of these Regulations.

- (3) Regulations 6(1) and 6(2) do not apply for a period of three (3) years from the date of commencement of these Regulations, provided that the waste has been classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) or waste for which an alternative classification was approved by the Department of Water Affairs or Department of Environmental Affairs prior to these Regulations taking effect.
- (4) Regulation 6(1) does not apply for a period of eighteen (18) months from the date of commencement of these Regulations, provided that the waste has been produced but not classified prior to the date of commencement of these Regulations.
- (5) Subject to subregulations (6) and (7), Regulation 6(4) must be complied with within one (1) year from the date of commencement of these Regulations.
- (6) Regulation 6(4)(d) applies from the date that the National Waste Information Regulations come into effect.
- (7) Regulation 6(4)(e) does not apply for a period of—
 - (a) three (3) years from the date of commencement of these Regulations, provided that the waste has been classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) prior to these Regulations taking effect, and this classification is reflected in the labelling or records required in terms of Regulation 6(4); or
 - (b) three (3) years from the date of commencement of these Regulations, provided that an alternative classification of the waste was approved by the Department of Water Affairs or Department of Environmental Affairs prior to these Regulations taking effect, and this classification is reflected in the labelling or records required in terms of Regulation 6(4).

- (8) Regulation 6(7) does not apply to waste that has been or is being treated through macro-encapsulation approved by the Department of Water Affairs or the Department of Environmental Affairs.
- (9) Regulation 8(1)(a) does not apply for a period of—
- (a) three (3) years from the date of commencement of these Regulations, provided that the waste has been classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) prior to the date of commencement of these Regulations; or
 - (b) three (3) years from the date of commencement of these Regulations, provided that an alternative classification of the waste was approved by the Department of Water Affairs or the Department of Environmental Affairs prior to the date of commencement of these Regulations.
- (10) Regulations 10 and 11 take effect one (1) year after the date of commencement of these Regulations.
- (11) The requirements of Regulations 10 and 11 apply to waste that was classified in terms of the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (2nd Edition, 1998; Department of Water Affairs and Forestry) prior to the date of commencement of these Regulations.

13. Offences and Penalties

- (1) A person is guilty of an offence if that person—
- (a) fails to comply with Regulations 4(1), 4(3), 4(4), 4(5), 4(6), 5, 6, 7(1), 8(1), 10(1), 10(3), 11(1), 11(2), 11(4), 11(5), 11(6), 11(7), 11(8) or 12; or
 - (b) provides incorrect or misleading information in any record or document required or submitted in terms of these Regulations.
- (2) A person who commits an offence under subregulation (1) is liable on conviction to—
- (a) imprisonment for a period not exceeding 15 years;

- (b) an appropriate fine; or
- (c) both a fine and imprisonment.

14. Short Title and Commencement

These Regulations are called the Waste Classification and Management Regulations, and take effect on the date of promulgation thereof.

PART 7: ANNEXURES TO REGULATIONS

Annexure 1: Wastes that do not require Classification or Assessment

(1) The wastes specified in item 2 of this Annexure do not require classification in terms of Regulation 4(1), nor assessment in terms of Regulation 8(1)(a).

(2)(a) General waste—

- (i) Domestic waste.
- (ii) Business waste not containing hazardous waste or hazardous chemicals;
- (iii) Non-infectious animal carcasses.
- (iv) Garden waste;
- (v) Waste packaging;
- (vi) Waste tyres;
- (vii) Building and demolition waste not containing hazardous waste or hazardous chemicals;
- (viii) Excavated earth material not containing hazardous waste or hazardous chemicals.

(2)(b) Hazardous waste—

- (i) Waste Products:
 - Asbestos Waste.
 - Expired or unused hazardous products.
- (ii) Mixed Waste:
 - General waste, excluding domestic waste, which contains hazardous waste or hazardous chemicals; and
 - Mixed, hazardous chemical wastes from analytical laboratories.

- (iii) Other:
 - Health Care Risk Waste (HCRW)

Annexure 2: Waste Manifest System Information Requirements

(1) The information specified in item 2 of this Annexure must be reflected in the waste manifest document required in terms of Regulation 11.

(2)(a) Information to be supplied by the Waste Generator (Consignor)—

- (i) Unique consignment identification number;
- (ii) If applicable, the SAWIS Registration number in terms of the National Waste Information Regulations, once these Regulations come into effect;
- (iii) Generator's contact details (contact person, physical & postal address, phone, fax, email);
- (iv) Physical address of the site where the waste was generated (if different from (iii));
- (v) Emergency contact number;
- (vi) Origin / source of the waste (activity);
- (vii) Classification of the waste and Safety Data Sheet;
- (viii) Quantity of waste by volume (m³) or weight (tons);
- (ix) Date of collection / dispatch;
- (x) Intended receiver (waste manager); and
- (xi) Declaration (content of the consignment is fully and accurately described, classified, packed, marked and labelled, and in all respects in proper condition for transportation in accordance with the applicable laws and regulations).

(2)(b) Information to be supplied by the Waste Transporter—

- (i) Name of transporter;

- (ii) Address and telephone number of transporter; and
- (iii) Declaration acknowledging receipt of the waste.

(2)(c) Information to be supplied by the Waste Manager (Consignee)—

- (i) Name, address and contact details;
- (ii) Receiving waste management facility name, address and contact details (where different);
- (iii) Waste management facility licence number;
- (iv) Date of receipt;
- (v) Quantity of waste received by weight (tons), and volume (m³) if applicable.
- (vi) Type of waste management applied (re-use, recycling, recovery, treatment, disposal);
- (vii) Any discrepancies in information between the different holders of the waste (related to waste quantity, type, classification, physical and chemical properties);
- (viii) Waste management reporting description and code in terms of the National Waste Information Regulations, once these Regulations come into effect.
- (ix) Details on any waste diverted to another waste management facility, and details of the facility.
- (x) Certification and declaration of receipt and final management of the waste.