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GENERAL NOTICE

NOTICE 435 OF 2011

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008 (Act No. 59 of 2008)

DRAFT WASTE CLASSIFICATION AND MANAGEMENT REGULATIONS

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby give notice of my intention, 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), to make regulations regarding waste classification and management in the Schedule hereto.

Members of the public invited to submit to the Minister, within 30 days of publication of this notice in the *Gazette*, written comments or objections to the following address:

By post to: The Director-General: Environmental Affairs
 Attention: Ms Nomphele Daniel
 Private Bag X447
 Pretoria, 0001


By fax to: (012)320 0024, and by e-mail to : ndaniel@environment.gov.za

Hand delivered at: 315 Pretorius Street, Pretoria, Fedsure Forum Building North Tower, 2nd floor (Reception).

The full document can also be accessed at www.sawic.org.za.

Any inquiries in connection with the draft regulations can be directed to Ms Nomphele Daniel at (012) 310 2904.

Comments received after the closing date may not be considered.


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), and supplementary List of Classification and Labelling of Chemicals in accordance with the Globally Harmonized System (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, including the waste generator;

“**waste manifest system**” means a system of control documentation containing the information specified in Annexure 2 of these Regulations, maintained by the waste generator, waste transporter and waste manager, which accompanies a load of hazardous waste from the point of generation to final 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 assigned to it by the Act and is deemed to include both general waste and hazardous waste.
- (3) General waste and hazardous waste have the meanings assigned to it 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 assessment of the environmental risk associated with disposal of waste to landfill;
 - (d) prescribe requirements and timeframes for the management of waste; 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 ninety (90) days of generation.
- (2) Wastes listed in Annexure 1 of 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) 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) All generators of waste classified as hazardous in terms of Regulation 4(1) must ensure that a safety data sheet for the waste is prepared in accordance with SANS 10234.
- (2) Subject to subregulation (3), all generators of waste listed in item (2)(b) of Annexure 1 to these Regulations must ensure that a safety data sheet for the waste is prepared in accordance with SANS 10234.

- (3) Safety data sheets for contaminated general waste and laboratory waste listed in item (2)(b) of Annexure 1 to these Regulations must provide the details of the specific hazardous waste/s or hazardous chemical/s in the waste.
- (4) Every holder of hazardous waste must be in possession of the safety data sheet/s referred to in subregulation (1) and (2) for the waste.

PART 3: WASTE MANAGEMENT

6. General

- (1) A holder 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 ninety (90) days.
- (2) 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.
- (3) Any container or storage facility holding waste classified as hazardous in terms of Regulation 4(1) or waste listed in item (2)(b) of Annexure 1 to these Regulations, must be labelled to reflect the contents and date of containerisation.
- (4) Where waste classified as hazardous in terms of Regulation 4(1) or waste listed in item (2)(b) of Annexure 1 to these Regulations is stored in a manner that labelling is not possible in terms of subregulation (3), records must be kept reflecting the date and quantities of waste placed in the waste storage facility, and the cumulative quantity of waste stored in the facility.
- (5) Where waste classified as hazardous in terms of Regulation 4(1) or waste listed in item (2)(b) of Annexure 1 to these Regulations is temporarily stored and periodically removed

from a container or storage facility, records must be kept reflecting the dates and quantities of waste removed from the container or storage facility.

- (6) Waste generators must ensure that their waste is re-used, recycled, recovered, treated and/or disposed off within eighteen (18) months of generation.
- (7) Waste managers shall not store waste for more than eighteen (18) consecutive months from generation.
- (8) Unless demonstrated that no feasible alternative exists, the re-use, recycling, recovery, treatment and/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 may not be mixed or otherwise treated where this would—
 - (a) reduce the potential for re-use, recycling or recovery; or
 - (b) the result of treatment is not controlled and permanent.
- (2) Notwithstanding Regulation 6(1) and (2), 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 may 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) Subregulations (1)(a) and (1)(b) apply to all waste generators, including industries but 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 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 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 specific waste management activity—

-
- (a) basis for the motivation, including benefits of the activity relating to 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 or processes 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 activity;
 - (e) identification of any waste, or other material resulting from the activity;
 - (f) information on the successful implementation of the activity, or similar activities, locally and internationally;
 - (g) details of local and international specifications or standards relating to the waste and the waste management activity;
 - (h) identification of legislation and policy applicable to the activity, including relevant waste minimisation or waste management plans;
 - (i) 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;
 - (j) identification of aspects that may constrain the wide or general implementation of the activity, and how these can be managed;
 - (k) an assessment of the potential environmental and health impacts and risks that could result from the proposed activity, assuming a worst-case scenario to test the general implementation of the activity at several sites with different characteristics;
 - (l) proposed requirements or standards specific to the waste management activity that would ensure that the activity can be implemented and conducted consistently and in a controlled manner, which must include as a minimum:
 - (i) roles and responsibilities of different parties involved, i.e. waste generator, waste transporter and waste manager;
 - (ii) management, monitoring and reporting procedures;
 - (iii) quality assurance and control measures, including sampling, analyses and chemical concentration limits for the waste;
 - (iv) standard operating procedures and environmental management plan; and

- (v) design specifications or standards.
- (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.

10. Listing of Waste Management Activities that do not require a Waste Management Licence

- (1) When considering a motivation in terms of Regulation 9(1), the Minister must take into account all relevant matters, including—
 - (a) the information submitted in terms of Regulation 9(3);
 - (b) whether the waste management activity would support or promote waste minimisation;
 - (c) whether the waste management activity, including associated storage, handling and transport, can be implemented and conducted consistently and in a controlled manner without unacceptable impact on, or risk to, the environment or health;
 - (d) the practicality of, and ability to effectively implement, the requirements or standards that the activity would be subject to; and
 - (e) any other relevant information.
- (2) 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 19(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.
- (3) The requirements or standards specified in terms of Section 19(3)(a) of the Act may include—
 - (a) specific waste or wastes that the activity applies to, including classification, physical form, quantity to be dealt with over a specified time period, and chemical concentration limits or thresholds;

- (b) source from which the waste may originate;
 - (c) limitations to the use, or prohibited uses, of the waste;
 - (d) locality or geographic area where the activity may or may not take place;
 - (e) specifications or standards related to the particular waste management activity;
 - (f) sampling, analysis, monitoring, auditing, record-keeping and reporting requirements;
 - (g) roles and duties of waste generators, waste transporters and waste managers;
 - (h) operational procedures and management requirements;
 - (i) requirements related to any environmental issue resulting from the waste management activity; and
 - (j) management or mitigation measures of any potential impact on or risk to the environment or health.
- (4) In terms of Section 19(2) of the Act, the Minister may at any time review or repeal—
- (a) the listing of a specific waste management activity in terms of Section 19(1) and 19(3)(a) of the Act as an activity that does not require a waste management licence; or
 - (b) any of the requirements or standards specified in terms of Section 19(3)(a) of the Act.
- (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 new application contains new and material information not previously submitted to the Minister; or
 - (b) a period of three years has elapsed since the application was lodged.

PART 5: RECORD KEEPING AND WASTE MANIFEST SYSTEM

11. 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) where and by whom each waste was re-used, recycled, recovered, treated or disposed of.
- (2) The records contemplated in subregulation (1) must be—
- (a) retained for a period of at least 5 (five) years; and
 - (b) made available to the Department upon request.

12. 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) All 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 may 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 may 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 return a copy of the completed waste manifest document containing the information specified in item (2)(c) of Annexure 2 to these Regulations to the waste generator, confirming that the waste load has been accepted and that the waste has been managed in an environmentally sound manner.
- (8) All waste generators, transporters and managers subject to the requirements of subregulations (1), (2), (3), (4), (5), (6) and (7) must—
 - (a) retain copies of the waste manifest documentation for a period of at least 5 (five) years;
 - (b) make the waste manifest documentation available to the Department upon request.

PART 6: GENERAL MATTERS

13. 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, 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 two (2) years from the date of commencement of these Regulations.

- (2) Waste that has not been classified from 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 ninety (90) days from the date of commencement of these Regulations.

- (3) Regulation 6(1) is not applicable for a period of two (2) years from the date of commencement of these Regulations, provided that the waste has either 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 an alternative classification was approved by the Department of Water Affairs, prior to these Regulations coming into operation.

- (4) Regulations 6(3), 6(4) and 6(5) must be complied with within two (2) months from the date of commencement of these Regulations for waste that was classified as hazardous 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 coming into operation.

- (5) Regulation 8(1)(a) is not applicable for a period of two (2) years from the date of commencement of these Regulations, provided that the waste has either 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 an alternative classification was approved by the Department of Water Affairs, prior to these Regulations taking effect.

- (6) The requirements of Regulations 11 and 12 take effect six (6) months after the date of commencement of these Regulations.

- (7) The requirements of Regulations 11 and 12 apply to waste that was classified as hazardous 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 coming into operation.

- (8) Notwithstanding the provisions of these Regulations, the existing conditions and any other relevant provisions of valid—
- (a) permits issued in terms of Section 20 of the Environment Conservation Act, 1989; and
 - (b) waste management licences issued in terms of Section 49 of the Act prior to these Regulations taking effect;
- remain in effect until such time as the conditions are reviewed and varied in terms of Sections 53 and 54 of the Act.

14. 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), 5, 6, 7(1), 8(1), 11, 12(1), 12(2), 12(4), 12(5), 12(6), 12(7), 12(8) or 13; 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.

15. Short Title and Commencement

These Regulations are called the Waste Classification and Management Regulations, 2011, and take effect on a date determined by the Minister by notice in the Gazette.

PART 7: ANNEXURES TO REGULATIONS**Annexure 1: Wastes that do not require Classification**

(1) The wastes specified in item 2 of this Annexure do not require classification in terms of Regulation 4(1).

(2)(a) General waste—

- (i) Domestic waste;
- (ii) Uncontaminated building and demolition waste;
- (iii) Business waste, except for specific components that due to its nature or composition may be hazardous;
- (iv) Waste tyres;
- (v) Garden waste;
- (vi) Post consumer packaging, including paper plastic and glass waste;
- (vii) Non-infectious animal carcasses; and
- (viii) Uncontaminated, excavated earth material.

(2)(b) Hazardous waste—

- (i) Health Care Risk Waste (HCRW);
- (ii) Asbestos Waste;
- (iii) General waste, excluding domestic waste, which is contaminated with hazardous waste or hazardous chemicals; and
- (iv) Mixed, hazardous chemical wastes from analytical laboratories and laboratories from academic institutions in containers less than 100 litres.

Annexure 2: Waste Manifest System Information Requirements

(1) The information specified in item 2 of this Annexure must be reflected in the hazardous waste manifest document required in terms of Regulation 12.

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

- (i) Unique consignment identification number (bar code);
- (ii) SAWIS Registration number in terms of the National Waste Information Regulations, 2011 (if applicable);
- (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);
- (v) Emergency contact number;
- (vi) Origin / source of the waste (process / 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—

- (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, 2011.
 - (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.
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