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25 April 2008

Dear Ms Jezile

Comment on the Waste Tyre Regulations, 2007, as published on 1 April, 2008

General Comment

We should like to note that we consider these regulations to be much improved on the previous regulations published in 2007 and to thank the DEAT for having taken into consideration many of the issues raised in the past.

We believe that these regulations should be promulgated under NEMA rather than under the Environment Conservation Act.

The term “disposal” (ref 5(2)) needs to be defined. While we don’t believe that there is any supportable distinction, if a distinction is to be made between energy recovery and incineration, then this distinction needs to be made explicit.

The relationship between a tyre producer and a tyre dealer is unclear. In terms of 7(3) the dealer must manage the mutilated tyres in accordance with the waste management plan of the producer. What happens should a dealer be affiliated to more than one producer, and one or more of these producers have their own, individual plans? Will the dealer have to separate the waste tyres according to producer and deal with them differently? When tyres are traded in, what happens if they come from a different producer than the one that the dealer deals with? Under what legal authority does the dealer become obliged to follow the tyre producer’s plan? What are the tyre producer’s obligations towards the tyre dealer? What if a tyre dealer deals only in used tyres, and is



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not affiliated with a producer. How would such a dealer become subject to the regulations and the management plans?

The term “recovery” needs to be defined. It would appear from its context (ref 5(2)), that this refers to energy recovery. We are opposed to the use of tyres for energy recovery because we are concerned that the burning of tyres for any reason results in emissions that are harmful to peoples’ health and that add to the greenhouse affect, because the difference between energy used to create the tyre and the energy recovered from that tyre is greater than the energy required to recycle it and because the rubber resource is wasted.

Specifically:

Energy required to produce 1kg of rubber:	127 600kJ
Energy recovered when burning 1kg of rubber:	32 500kJ
<i>Energy lost:</i>	<i>95 100kJ</i>
<i>Percentage of resource lost:</i>	<i>100%</i>
Energy required to create 1kg rubber crumb:	2 320kJ
Energy “lost”:	2 320kJ
Percentage of resource lost:	<1%

We believe that energy recovery is only marginally preferable to incineration, and should be classed as a disposal method, rather than a close cousin to reuse and recycling.

The term “waste tyre transporter” (ref 8(1)(h)) needs to be defined. There appears to be some confusion between the draft MOA between the DEAT and SATRP, and the provisions of these regulations. The introduction of both the term and the concept here would suggest that it is anticipated that all, or at least, most tyre producers will be signing up to the SATRP waste tyre management plan, which will deal with waste tyre transporters. Should an individual tyre producer decide, however, to have their own plan, it is unclear as to what the import of 8(1)(h) might be – who or what is a waste tyre transporter? How and why and with whom do they need to be registered?

Section 10(1) needs to be rephrased in order that the Minister *must* publish the plan in the gazette for comment, rather than only may (see suggestion under specific comment).

12(4) needs expansion. Does a tyre dealer or tyre producer, as defined, who also has stockpiles also need to register separately in terms of 12(4)? To what end does a person who is not a tyre dealer or producer, but currently stores tyres, need to register, and what are the obligations of such a person in terms of waste tyre management plans? As things stand, it would appear that such a person is not subject to any of the provisions other than those of paragraph 12, and could therefore dispose of tyres by any method they chose.

13(3) The fine here seems a little measly considering that it applies to a person who not only breaks the law, but then persists in his or her illegal acts!

Specific Comment

Definitions

Rephrase “retreadable casing” to read:

“retreadable casing” means the structural part of a used tyre, which may or may not have residual tread depth for further road use, and which, when the structural soundness of the casing is inspected, can be reprocessed by vulcanising new tread to the casing and returned to its original intended use.

“waste tyre” means a new, used, retreaded or un-roadworthy tyre that is not suitable to be retreaded, repaired or sold as a part worn tyre, and is not fit for its original intended use.

Sections

5 (1) should read:

A tyre producer, tyre dealer, or any other person who is involved in the tyre industry, must first investigate the options of reusing or recycling waste tyres before recovering the energy potential of waste tyres or disposing of them at a waste disposal facility.

5 (2) should read:

Any person 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, to the extent that is possible, less harmful to the environment than the disposal of such a waste tyre.

7 (2) should read:

A tyre dealer must mutilate all waste tyres in his/her possession or control, or must cause such waste tyres to be mutilated in a manner which includes, but is not limited to:

Note that in the above phrasing, the tyre dealer is obliged to perform one of the three operations described in a, b and c, but may also mutilate the tyre in some other manner.

8 (1)(b) should read:

Indicate how the waste hierarchy will be given effect in the integrated industry waste tyre management plan;

9 (2) “as the case may be” makes no sense in this context. If it’s purpose is to include the possibility that there are no comments, then this can be implied by changing “a copy of all comments” to “a copy of any comments”.

10 (1) this should be rephrased to read:

On receipt of an integrated industry waste tyre management plan, the Minister

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- (a) may require additional information...
- (b) must publish the integrated waste tyre plan...
- (c) must send comments received...

(d) may, after incorporation of any comments, approve...

12(1)(a) the (s) makes no sense. Any one pile, may not exceed the specifications. (a) should therefore be rephrased thus:

(a) A waste tyre pile...

12(2)(g) The use of "such" here is incorrect. Also, the intention of the paragraph is that no portion of any pile within a storage site is further than 45 meters from an access road and the inclusion of "storage site" tends to obscure this fact and should therefore be deleted. Depending on the intention of the current such, it should be rephrased as either:

Each waste tyre pile must be provided with emergency vehicle access routes in such a way that no portion of the pile....

OR

Each waste tyre pile must be provided with emergency vehicle access routes in order that no portion of the pile...

We trust that you will give these comments due consideration.

Yours faithfully

Bobby Peek
Director