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GENERAL NOTICE

NOTICE 849 OF 2013

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

PROPOSED REGULATIONS TO PHASE-OUT THE USE OF POLYCHLORINATED BIPHENYLS (PCB) MATERIALS AND POLYCHLORINATED BIPHENYL (PCB) CONTAMINATED MATERIALS

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby give notice of my intention, under section 44(1)(aA) read with section 47 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), to make regulations to phase-out the use of PCB materials and PCB contaminated materials as set out in the Schedule hereto.

Members of the public are invited to submit to the Minister, within sixty (60) days of publication of this Notice in the Gazette, written representations or objections to the following addresses:

By post to: The Director General
 Department of Environmental Affairs
 Attention: Mr. Mashudu Nevuvha
 Private Bag X447
 Pretoria
 0001

By hand at: 2nd Floor (Reception), Fedsure Forum Building, 315 Pretorius Street, Pretoria, 0001
By e-mail: mnevuvha@environment.gov.za or by Fax to: (012) 322 2309 / 086 272 0048 or
 Tel (012) 310 3733.

The draft regulations can also be accessed at www.sawic.org.za under 'Documents for comment' or obtained at the Department's offices.

Comments received after the closing date may not be considered.



BOMO EDITH EDNA MOLEWA
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

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CHAPTER 1**DEFINITIONS, PURPOSE AND APPLICATION OF THE REGULATIONS****Definitions**

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has that meaning and unless the context indicates otherwise –

“Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998);

“articles” means dielectric fluid, dielectric fluid containers, debris, soil, water, electrical equipment or other materials that contain PCBs or came into contact with materials that contain PCBs;

“by-product” has meaning assigned to in the National Environmental Management Waste Act, 2008 (Act No. 59 of 2008);

“cross-contamination” means the transfer of PCBs from one equipment, material or article to another;

“decontamination” means the process of reducing or eliminating the presence of PCBs from PCB contaminated or PCB materials.

“equipment” includes capacitors, transformers, electrical motors, circuit breakers, voltage regulators, reclosers, switchgears, switches, electromagnets, rectifier, cables or other equipment that contain a dielectric fluid that contain PCBs;

“PCB (Polychlorinated biphenyl)” means one of 209 congeners containing one to ten atoms attached to the biphenyl group;

“PCB contaminated material” means oil or articles with PCB concentration greater than 51mg/kg but less than 500mg/kg

“PCB material” means oil or articles with PCB concentration greater than 500mg/kg

“PCB holder” means a person who imports, uses, stores, transports, processes, treats or disposes of PCB Materials or PCB Contaminated materials or PCB waste;

“PCB waste” means waste as defined in the National Environmental Management Waste Act, 2008 (Act No. 59 of 2008), which contains PCBs;

“registered auditor” means an auditor as defined in section 1 of the Auditing Profession Act, 2005 (Act No. 26 of 2005);

“SANS 290: 2007” means the Mineral insulating oils – Management of polychlorinated biphenyls (PCBs), published by the South African Bureau of Standards (SABS).

Purpose and application of regulations

2. (1) The purpose of these Regulations is to—
 - (a) prescribe requirements for the phase-out of PCB materials or PCB contaminated materials to ensure that impacts or potential impacts on health, well-being, safety and the environment are prevented or minimised;
 - (b) set timeframes in which PCB holders must have completely phased-out the use of PCB materials or PCB contaminated materials and disposed of all PCB waste.
- (2) These Regulations apply uniformly to all PCB holders in the Republic of South Africa.

Phase-out time frames

3. The phase-out time frame is hereby set as follows—
 - (1) The last year for any person to use any PCB materials or PCB contaminated materials is 2023.
 - (2) The last year for any person to have any PCB Materials or PCB contaminated materials or PCB waste in their possession is 2026.

CHAPTER 2

GENERAL PROHIBITIONS, REGISTRATION AND PHASE OUT PLANS AND INVENTORIES

General prohibitions

4. (1) Subject to the provisions of these Regulations; no person shall—
 - (a) use, process, or produce PCB materials or PCB contaminated materials;
 - (b) import PCB materials or PCB contaminated materials or PCB waste into the Republic of South Africa, or export PCB materials or PCB contaminated materials from South Africa; or
 - (c) sell PCB materials or PCB contaminated materials in South Africa.
- (2) The provisions of sub-regulation (1) does not apply to any person who imports PCB waste from a State which is a member of South African Development Community, for the purpose of treatment or safe disposal at a facility authorised in terms of Section 20 of Environmental Conservation Act, 1989 (Act No. 73 of 1989) or Section 49 of National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- (3) The provisions of sub-regulation (1) does not apply to a person importing PCBs or PCB oil for the purpose of research or analysis which is not intended to develop a new use of PCB

materials or PCB contaminated materials, the quantities must not be more than 500ml per person per sample per annum.

Registration

5. (1) Any person who uses, dispose, treat, process, or produce PCB materials or PCB contaminated materials; must register with the Director-General within 90 days of promulgation of these Regulations.
- (2) A person contemplated in sub regulation (1) must apply for registration in a form provided in Annexure 1.
- (3) The Director-General must acknowledge receipt and issue the registration number to the applicant.
- (4) The Director-General may; on receipt of the application to register, in writing—
 - (a) approve the registration and notify the applicant of the approval;
 - (b) require additional information to be furnished or amendments to be effected and a revised application form to be resubmitted within a specified time frame.
- (5) A person who is registered in accordance with sub regulation (1) must notify the Director-General of any changes in any material detail which has been provided as part of the application for registration within 30 days of such change taking place.

PCB phase-out Plans and inventories

6. (1) Any person who is registered in accordance with Regulation 5 of these regulations; must develop a phase-out Plan and submit it to the Director-General within a year of the coming into effect of these Regulations.
- (2) The phase-out Plan contemplated in sub regulation (1) must, as a minimum include:-
 - (a) name and contact details of the person submitting the Plan;
 - (b) registration number issued by the Director-General in terms of regulation 5 of these Regulations;
 - (c) a comprehensive inventory of Non PCB materials, PCB contaminated and PCB materials in use or stored; specifying the type of equipment, serial number, specific location, name of the manufacturer, date of manufacture, type of dielectric fluid contained, KVA rating, fluid weight in (kg), fluid volume in (L), PCB concentration in (mg/kg);
 - (d) the time period within which the person intends to have completely phased-out all PCB Materials or PCB Contaminated materials which must not exceed the time frames set in regulation 3 of these Regulations;
 - (e) the strategy outlining the annual reduction targets;
 - (f) existing or proposed safer alternatives to the use of PCB materials or PCB contaminated materials.

- (3) The Director-General must acknowledge receipt of the phase-out plan within 30 days of receipt, and may, after consideration of the Plan, in writing:--
- (a) approve the phase out Plan for implementation and notify the applicant of the approval and outline any applicable conditions or requirements; or
 - (b) require additional information to be furnished or amendments to be effected and a revised phase out Plan to be resubmitted within a specified time frame; or
- (4) A person whose phase-out plan has been approved by the Director- General must implement such a Plan and may only deviate from such a plan upon written approval to do so by the Director-General.

CHAPTER 3

TESTING, CLASSIFICATION, LABELLING, DECONTAMINATION AND CROSS CONTAMINATION

Testing, classification and labelling

7. (1) Any PCB holder must draw samples from all their articles and have them tested for PCB content by an Accredited Laboratory the results of which must be incorporated into the PCB inventory and submitted to the Director-General as part of the phase-out Plan submitted in terms of regulation 6 of these Regulations.
- (2) PCB articles shall be classified in accordance to their PCB concentration into one of the PCB Classification indicated in a table below.

PCB content levels (mg/kg)	PCB level	PCB levels, common names
<1	0	PCB free materials
1 - 10	1	Non PCB materials
11 - 20	2	
21 - 50	3	
51 - 500	4	PCB contaminated materials
>500	5	PCB materials

- (3) Any PCB equipment that have been decontaminated and retro-filled with PCB free oil, must be tested by an Accredited Laboratory before returning them back to service and laboratory results must be submitted to the Director-General as part of the annual audit report in terms of regulation 10 of these Regulations.
- (4) The PCB concentrations of equipment tested in terms of sub-regulation 3 must not exceed 50mg/kg.

- (5) The sampling, testing and labelling of the equipment must be done in accordance with SANS 290:2007.
- (6) The PCB equipment identified in the PCB inventory submitted in terms of sub-regulation 6(2) that are still in the registered owner's possession, must after the completion of the Phase-out Plan be tested for PCBs by an Accredited Laboratory and the results must be submitted to the Director-General as part of the annual audit report.

Decontamination and cross-contamination

8. (1) Decontamination of PCB equipment must be done in accordance with of SANS 290: 2007.
- (2) Any PCB holder must put strict measures in place to ensure that cross-contamination of equipment is prevented.

CHAPTER 4

TRANSPORTATION STORAGE AND DISPOSAL

Transportation, storage and disposal

9. (1) Packaging and transportation of PCB materials or PCB contaminated materials or PCB waste must be in accordance with SANS 290:2007.
- (2) The storage of PCB waste must be in accordance with SANS 290:2007 and any applicable legislation.
- (3) A person who wishes to dispose of PCB materials or PCB contaminated materials must dispose it at a permitted or licensed waste disposal facility authorised to accept such waste in terms of applicable legislation.

CHAPTER 5

REPORTING AND EMERGENCY PREPAREDNESS PLAN

Reporting

- 10.(1) A person who has registered in terms of Regulation 5 of these Regulations must submit to the Director – General an annual audit report prepared by the registered auditor at own cost, on or before the 31st of March each year.
- (2) The annual audit report contemplated in sub regulation (1) must include, as a minimum—
 - (a) an undertaking by the registered auditor of his or independence and profile;
 - (b) name and details of the PCB holder or person submitting the report and confirmation of correctness of information supplied in the audit report;
 - (c) the total number, serial number and type of PCB materials or PCB contaminated materials—

- (i) removed from service and destructed or disposed of or stockpiled;
 - (ii) removed from service, decontaminated and returned to service or sold, specifying quantities of PCB waste recovered during decontamination and disposed;
 - (iii) removed from the stockpile and dismantled or decontaminated and disposed of, specifying quantities of PCB waste recovered during decontamination and disposed;
 - (iv) which remain in use.
- (d) quantities of waste imported and disposed of; in case of PCB waste imported in terms of sub-regulation (2) and (3) of Regulation 4;
- (e) proof of compliance with the relevant legislation and standards;
- (f) copies of PCB waste safe disposal certificate issued by a licensed waste disposal or treatment facility.
- (g) laboratory results of equipments that have been decontaminated in terms of these Regulations and returned to service.

Emergency preparedness

11. (1) Any PCB holder must develop an emergency preparedness plan which includes the following:-

- (a) Hazard identification;
 - (b) Prevention measures;
 - (c) Emergency planning;
 - (d) Emergency response; and
 - (e) Remedial actions.
- (2) The plan contemplated in paragraph (d) and (e) of sub regulation (1) must comply with chapters 8 and 9 of SANS 290: 2007 respectively.

CHAPTER 6**GENERAL MATTERS****Offences and penalties**

- 12.(1) A person is guilty of an offence if that person contravenes Regulation 3, 4(1), 5(1), 5(5), 6(1), 6(4), 7, 8(1), 8(2), 9, 10 or 11 of these regulations.
- (2) A person convicted of an offence contemplated in sub regulation (1) is liable to a fine not exceeding R1 million or to imprisonment for a period not exceeding one year or to both such fine and imprisonment.

Short Title and Commencement

13. The Regulations are called Regulations to phase-out the use of PCB materials or PCB contaminated materials, 2013, and take effect on the date of publication thereof in the Gazette.

ANNEXURE 1

**environmental affairs**

Department:
Environmental Affairs
REPUBLIC OF SOUTH AFRICA

PCB REGISTRATION FORM

APPLICANT'S DETAILS	
NAME OF APPLICANT	
COMPANY REGISTRATION NO.	
SECTOR (e.g. mining)	
CONTACT PERSON	
TELEPHONE NUMBER	
CELL PHONE NUMBER	
FAX	
E-MAIL ADDRESS	
PHYSICAL ADDRESS	POSTAL ADDRESS
IN CASE OF PCB USERS	
DESCRIPTION OF AN ACTIVITY INVOLVING THE USE OF PCB	

IN CASE OF PCB PROCESSORS AND PRODUCERS	
DESCRIPTION OF THE PROCESS	
IN CASE OF PCB TREATMENT/ DISPOSAL FACILITY	
DESCRIPTION OF A TECHNOLOGY BEING USED	

Completed forms should be submitted to the following address:

By post to: The Director General
Department of Environmental Affairs
Attention: Director: Hazardous Chemicals Management
Private Bag X447
Pretoria
0001

By hand at: 2nd Floor (Reception), Fedsure Forum Building, 315 Pretorius Street, Pretoria, 0001

By e-mail: pcbs@environment.gov.za

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