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GENERAL NOTICE

NOTICE 379 OF 2014

DEPARTMENT OF COOPERATIVE GOVERNANCE

REGULATIONS: THE SAFE TRANSPORTATION OF DANGEROUS GOODS BY ROAD IN TERMS OF SECTION 15 (1) (e) AND (3) OF THE FIRE BRIGADE SERVICES ACT, 1987 (ACT NO. 99 OF 1987)

Under section 15 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), I, Lechesa Tsenoli, hereby intends to-

- (i) make the Regulations, in terms of Section 15 (1) (e) of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), as set out in the Schedule; and
- (ii) incorporate in terms of Section 15 (3) of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) SANS 1157 – 2012: *“Transport of dangerous goods — Inspection requirements of road vehicles for the issue of municipal dangerous goods transport permits”* into the Fire Brigade Services Regulations.

The Regulations are hereby published for public comment. Any person wishing to comment on the proposed Regulations is invited to submit written comments to:

The Director-General
Department of Cooperative Governance
Private Bag x804
PRETORIA
0001
Attention: **Mr MM Khangale**

Comments may also be faxed to: 012 334-0810, 086 535 1383 or e-mailed to mosesk@ndmc.gov.za,

Comments received after **31 July 2014** will not be considered.

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CHAPTER 1: INTERPRETATION

Definitions

1. In these Regulations, unless the context or the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) and the National Road Traffic Act, 1996 (Act 93 of 1996) indicates otherwise -

“Assessor” means a person appointed to oversee the quality of work and the conduct of inspectors;

“Authorised person” means a competent person authorised by a Chief Fire Officer of a local authority to evaluate and certify a vehicle for fitness to transport dangerous goods;

“Certificate of compliance” means an official document issued by an appointed inspector to prove that a vehicle was inspected by the inspector and complies with these regulations;

“Certified” means formally attested as a true copy of the original by a peace officer appointed in terms of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No 16 of 1963) ;

“Competent person” means a person suitably trained and capable of inspecting a vehicle for compliance against the SANS 1157 standard;

“Dangerous Goods incident” means a spill, release or fire involving the dangerous goods which occur either in transport, during loading, during off loading or during storage of the vehicle while loaded;

“Dangerous Goods incident duration” means the period calculated from the moment a spill, release or fire involving the dangerous goods occur to the end of rehabilitation and includes the processes of isolation, stabilization, and clearing of the dangerous goods from the site;

“Dangerous Goods Vehicle Permit” means an official document issued to an operator by the Chief Fire Officer of a local authority for a specific vehicle which is designed or fitted to carry dangerous goods in excess of the exempt quantities;

“Dangerous practice” means the actions prohibited by Regulations 21 and those instances set out by Regulations 22(2);

“Days” means calendar days;

“Fire Brigade Services Act” means the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) and its Regulations;

“Chief Fire Officer” means the official within a local authority appointed in terms of Section 5 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987);

“Inspector” means a person appointed to examine the suitability of a vehicle to transport dangerous goods in excess of the permissible amounts to determine the compliance of the vehicle to these regulations;

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act No 93 of 1996) and its Regulations; and

“Normally registered” means registered in terms of the National Road Traffic Act, 1996 (Act 93 of 1996)

“SANS 1157:2012” means the code of practice issued in terms of the Standards Act, 1982 (Act No 30 of 1982) titled: *“SANS 1157:2012 Transport of dangerous goods — Inspection requirements of road vehicles for the issue of municipal dangerous goods transport permits”*.

Scope of Application

2. These regulations is applicable to all vehicles used for the transportation of dangerous goods in excess of the exempt quantities listed in the National Road Traffic Act and its Regulations.

CHAPTER 2: DANGEROUS GOODS VEHICLE PERMIT

Requirement for Dangerous Goods Vehicle Permit

3. The operator of a vehicle shall not use, or allow the use of the vehicle for the transportation of dangerous goods in excess of the permissible amount without a valid Dangerous Goods Vehicle Permit issued by a Chief Fire Officer of a local authority.

Evaluation of vehicle fitness for the issue of a Dangerous Goods Vehicle Permit

4. (1) An operator, before applying for the issue of a Dangerous Goods Vehicle Permit, shall present the vehicle to an inspector for an evaluation of the vehicle's suitability to transport dangerous goods.
- (2) The inspector shall issue a certificate of compliance, set out in Annexure A, to certify that the vehicle is suitable to transport dangerous goods.

Application and renewal of a Dangerous Goods Vehicle Permit

5. (1) An operator shall submit Application Form A, listed in Annexure A, to the Chief Fire Officer of the local authority where the vehicle is normally registered, to apply for or renew a Dangerous Goods Vehicle Permit.
- (2) Application form A shall be accompanied by a —
- (a) certified copy of the vehicle's registration certificate;
 - (b) certified copy of the identity document of the owner of the vehicle;
 - (c) certified copy of the vehicle's certificate of compliance;
 - (d) certified copy of the emergency procedure plan;
 - (e) certified copy of an insurance policy;
 - (f) proof of payment of the fee as determined in terms of the regulations; and
 - (g) in the case of a renewal application, a certified copy of the existing Dangerous Goods Vehicle Permit.

Immediate issue of the Dangerous Goods Vehicle Permit

6. (1) The Chief Fire Officer shall immediately issue a Dangerous Goods Vehicle Permit for the vehicle—
- (a) if the applicant complies with the provisions of Regulations 5;
 - (b) the vehicle is found to be suitable to transport dangerous goods by the inspector in terms of Regulation 4; and
 - (c) provides proof of payment of the fee as determined in Regulations 29(2).

Temporary suspension of a Dangerous Goods Vehicle Permit

7. (1) The Chief Fire Officer may temporarily suspend a Dangerous Goods Vehicle Permit, by issuing Form B in Annexure A, if —
- (a) upon inspection of the vehicle it is found that the vehicle no longer complies to the SANS 1157:2012 standard; or
 - (b) the operator performs a dangerous practice.
- (2) The temporary suspension of a Dangerous Goods Vehicle Permit immediately invalidates the Certificate of Compliance issued to the vehicle if such temporary suspension was issued in terms of Regulations 7(1)(a).
- (3) (a) An operator shall within thirty (30) days after receiving a notice of temporary suspension of the Dangerous Goods Vehicle Permit obtain a new Certificate of Compliance and provide such certificate to the Chief Fire Officer.
- (b) If the operator does not obtain a new Certificate of Compliance and provide such certificate to the Chief Fire Officer within the period set out above, the Dangerous Goods Vehicle Permit shall lapse automatically.
- (4) The Chief Fire Officer shall—
- (a) after receiving the new certificate of compliance within the thirty (30) day period prescribed by regulations 7(3), immediately cancel the temporary suspension of a Dangerous Goods Vehicle Permit; and
 - (b) issue form C set out in Annexure A, whereby the suspension is lifted immediately.

Cancellation of a Dangerous Goods Vehicle Permit

8. (1) A Chief Fire Officer of a local authority may, after consultation with the relevant Member of the Executive Committee of a province, cancel all Dangerous Goods Vehicle Permits issued to an operator if the operator—
- (a) cause such a severe breach of a Dangerous Goods Vehicle Permit that, in the opinion of the Chief Fire Officer, the cancellation of all the Dangerous Goods Vehicle Permits issued to the operator may prevent a serious incident to occur, escalate, recur; or
 - (b) was found guilty of dishonesty or fraud by a court of law.
- (2) A Chief Fire Officer, before consulting with the relevant Member of the Executive Committee of a province with the view to cancel all Dangerous Goods Vehicle Permits issued to an operator, shall—
- (a) consult with the operator to enable such operator to make a representation as to why the Chief Fire Officer should not

- cancel all Dangerous Goods Vehicle Permits issued to an operator; and
 - (b) consider the representation of the operator before making a final decision.
- (3) The Chief Fire Officer shall issue form D, set out in Annexure A, where after the cancellation of the Dangerous Goods Vehicle Permit(s) immediately becomes valid.

Lapse of a Dangerous Goods Vehicle Permit

9. (1) An operator must annually apply to the Chief Fire Officer to renew a vehicle's Dangerous Goods Vehicle Permit as set out in Regulation 5.
- (2) If an operator does not annually apply to the Chief Fire Officer for renewal of the vehicle's Dangerous Goods Vehicle Permit, the permit will lapse.
- (3) A local authority is under no obligation to notify an operator to renew a Dangerous Goods Vehicle Permit before it lapses.

Transfer of Dangerous Goods Vehicle Permit

10. An operator shall not transfer a Dangerous Goods Vehicle Permit from one vehicle to another.

Validity of Dangerous Goods Vehicle Permit

11. (1) A Dangerous Goods Vehicle Permit issued by a Chief Fire Officer is valid for —
- (a) one year from date of issue; and
 - (b) the entire area of the Republic.
- (2) Any alteration to a vehicle which results that the vehicle no longer complies with these Regulations shall immediately invalidate the Dangerous Goods Vehicle Permit.

Display and availability of the Dangerous Goods Vehicle Permit

12. (1) The original Dangerous Goods Vehicle Permit shall be kept in the designated space of the vehicle together with other dangerous goods documents prescribed in terms of any other legislation.
- (2) Every operator to whom a Dangerous Goods Vehicle Permit has been issued shall keep a certified copy of the Dangerous Goods Vehicle Permit in the office of the base or depot where the vehicle is normally kept.

Right of appeal

13. (1) An operator who is aggrieved by a decision of a Chief Fire Officer to temporarily suspend the Dangerous Goods Vehicle Permit(s) of an operator may appeal to the Municipal Manager of that local authority against such temporary suspension in writing by using the format set out in form E in Annexure A provided that such an appeal must be lodged within 5 days after such temporary suspension being issued.

(2) The Municipal Manager shall evaluate the administrative action within 7 days after receipt of the appeal following which the Municipal Manager may decide to —

- (a) uphold the temporary suspension; or
- (b) set aside the temporary suspension; or
- (c) invite the operator to make further representations, either in writing or in person to enable the Municipal Manager to formulate a decision in terms of Regulations (a) or (b).

(3) The Municipal Manager shall communicate his or her decision regarding an appeal to both the operator and the Chief Fire Officer.

(4) The Chief Fire Officer shall capture the appeal and outcome of the appeal on the databases provided for that purpose.

(5) An operator who is aggrieved by the decision of the Municipal Manager in terms of an appeal may approach the courts for a judicial review of the decision.

(6) An operator who is aggrieved by a decision of an MEC to cancel all Dangerous Goods Vehicle Permits issued to an operator may appeal to the Minister against such cancellation in writing by using the format set out in form F in Annexure A provided that such an appeal must be lodged within 30 days after the cancellation notice being issued.

(7) The Minister shall evaluate the administrative action after receipt of an appeal following which the Minister may decide to —

- (a) uphold the cancellation; or
- (b) set aside the cancellation.

(8) The Minister in order to evaluate the administrative action of the MEC may—

- (a) invite the operator to make further representations, either in writing or in person, or
 - (b) consult with the Fire Brigade Board; or
 - (c) consult with a committee of the Fire Brigade Board; or
 - (d) obtain further legal advice,
- to enable the Minister to formulate a decision in terms of Regulations 14 (2).
- (9) The Minister shall communicate his or her decision regarding the appeal to both the MEC and the Chief Fire Officer.
- (10) The Chief Fire Officer shall capture the outcome of the appeal on the databases provided for that purpose.
- (11) An operator who is aggrieved by the decision of the Minister in terms of an appeal may approach the courts for a judicial review of the decision.

CHAPTER 3: INSPECTORS AND ASSESSORS

Appointment of inspectors

14. (1) A Chief Fire Officer may appoint any amount of suitably trained individuals as inspectors, either in the employ of the local authority or not, to inspect a vehicle for compliance with SANS 1157:2012 *“Transport of dangerous goods — Inspection requirements of road vehicles for the issue of municipal dangerous goods transport permits”*.

- (2) A Chief Fire Officer shall—
- (a) issue an inspector with an appointment card set out in Form G in Annexure A;
 - (b) revoke the appointment of an inspector immediately if the inspector is found guilty in a disciplinary hearing of —
 - (i) issuing a certificate of compliance for a vehicle—
 - (aa) without inspecting the vehicle, or
 - (ab) that do not comply to these regulations; or
 - (ii) dishonesty; corruption or fraud.

Powers of inspectors

15. (1) An inspector shall—
- (a) inspect a vehicle for compliance to the SANS 1157:2012 standard when presented with the vehicle by the operator;
 - (b) furnish the operator, after concluding the inspection, with—

- (i) a certificate of compliance, form H set out in Annexure A, if the vehicle is suitable to transport dangerous goods; or
 - (ii) an inspection report, form I set out in Annexure A, indicating the findings of the inspector and the reasons for finding the vehicle not suitable for the transportation of dangerous goods; and
 - (c) keep a copy of each certificate of compliance, or inspection report, that was issued by the inspector.
- (2) An inspector shall charge an inspection fee as determined in Regulation 29.
- (3) An inspector shall provide an operator the opportunity to rectify any non-compliance matters found during the initial inspection by re-inspecting the vehicle, free of charge provided that the operator present the vehicle for re-inspection within two days of the original inspection date.

Appointment of assessors

16. (1) A Chief Fire Officer may appoint any amount of suitably trained individuals in the employ of the local authority as assessors to assess inspectors, operators and vehicles for compliance with these regulations.
- (2) A Chief Fire Officer shall—
- (a) issue an assessor with an appointment card set out in Form J in Annexure A;
 - (b) immediately revoke the appointment of an assessor if the assessor is found guilty in a disciplinary hearing of dishonesty; fraud or corruption.

Powers of assessors

17. (1) An assessor shall—
- (a) assess inspectors, operators and vehicles for compliance with these regulations according to a schedule approved by the Chief Fire Officer or in terms of Regulation 18;
 - (b) furnish the inspector or operator, as the case may be, after concluding an assessment, with a report on form K set out in Annexure A indicating the findings of the assessment;
 - (c) keep a copy of each assessment report; and
 - (d) capture the report on the Dangerous Goods Vehicle Permit information system.
- (2) An operator, consignor or consignee shall provide the assessor access to any premises or vehicle in order to perform the assessment.

- (3) An assessor may—
 - (a) in the event of finding non-compliance to these regulations—
 - (i) suspend a Dangerous Goods Vehicle Permit; or
 - (ii) subject to Regulations 8, cancel a Dangerous Goods Vehicle Permit; or
 - (iii) issue a fine as determined in Regulation 26.
 - (b) not charge an assessment fee.

Assessment frequency

18. (1) The Chief Fire Officer shall arrange assessments of vehicles transporting dangerous goods to assess compliance in terms of these regulations and any other applicable legislation.

Training of Inspectors and Assessors

19. (1) A person holding a certificate in Dangerous Goods Vehicle Permit Inspection issued by an accredited training facility is deemed to be suitably trained.
- (2) A person holding a certificate in Dangerous Goods Vehicle Permit Assessment issued by an accredited training facility is deemed to be suitably trained.
- (3) An accredited training facility shall charge the training fee set out in Regulations 29(2)

Accreditation of training facilities

20. (1) Any training facility may apply to the Local Government Sector Education Training Authority, subject to the applicable rules, to be recognized as a training facility to present the Dangerous Goods Vehicle Permit Inspection Course or Dangerous Goods Vehicle Permit Assessors Course.
- (2) The Local Government Sector Education Training Authority upon receipt of an application to be recognized as a training facility shall request the Category of Authorized Persons of the province where the headquarters of the training facility is based to perform an assessment of the training facility to determine the suitability of the facility to train inspectors and assessors.

- (2) The Local Government Sector Education Training Authority, after consultation with the Fire Brigade Board, shall issue an accreditation certificate to a successful applicant.

CHAPTER 4: GENERAL

Immediate reporting of a Dangerous Goods Incident

21. (1) The driver of a vehicle or the operator, as the case may be, when aware of a dangerous goods incident, shall immediately—
- (a) report, by telephone, the dangerous goods incident to the emergency call centre of the local authority in which jurisdiction the incident occurred; and
 - (b) initiate the emergency procedure plan.
- (2) Within three days after the incident, the operator of the vehicle shall submit a written provisional report, compliant with all relevant legislation, to the Chief Fire Officer of the local authority in which jurisdiction the incident occurred.

Ongoing Reporting of a Dangerous Goods incident

22. In those instances where a dangerous goods incident is expected to continue beyond a three day period, the operator must then provide a written progress report every day to the Chief Fire Officer of the local authority in which jurisdiction the incident occurred.

Administration

23. (1) A Chief Fire Officer must keep accurate records by using an electronic database detailing—
- (a) Dangerous Goods Vehicle Permits issued;
 - (b) inspections performed;
 - (c) Dangerous Goods Vehicle Permits suspensions issued;
 - (d) Dangerous Goods Vehicle Permits cancellations issued;
 - (e) dangerous goods incidents that occurred and reports received related to the incidents;
 - (f) transport routes used by operators; and
 - (g) any other relevant documentation.
- (2) The Chief Fire Officer shall—
- (a) capture such information on the national databases made available by the Department of Cooperative Governance for this purpose;

- (b) on request avail the records required in terms of Regulation 20(1) to other spheres of government; and
- (c) on a quarterly basis, provide the report, set out in Annexure B, to the Department of Cooperative Governance.

Storage, opening, handling, loading and transport distances of Dangerous Goods in transit prohibited in certain circumstances

24. (1) An operator may not—
- (a) store dangerous goods at a site or depot by unloading the dangerous goods from a vehicle, unless the site or depot has been designed and approved by the Chief Fire Officer in terms of other applicable legislation;
 - (b) open dangerous goods loaded onto a vehicle;
 - (c) handle dangerous goods loaded onto a vehicle whilst such goods are in transit, unless—
 - (i) handling the dangerous goods is necessary to prevent a spillage, release, incident or the escalation of an incident; or
 - (ii) instructed to handle the dangerous goods by the Chief Fire Officer, traffic officer or assessor;
 - (d) transport dangerous goods—
 - (i) without having adequate insurance;
 - (ii) an executable emergency procedure plan;
 - (iii) within 200 metres of a—
 - (aa) hospital or national key point unless such a dangerous goods vehicle is making a delivery to or is loading dangerous goods at the facility or its neighbors located within the restricted area; or
 - (bb) sport stadium, school, church, crèche or similar area of mass gathering whilst the facility is in use;
 - (iv) without notifying the fire brigade services of the transport route to be used and the quantity to be transported.

(2) A Consignor may not load or permit to load, or unload or permit to unload a vehicle with dangerous goods in excess of the permissible amounts, without verifying that the operator is in possession of a valid Dangerous Goods Vehicle Permit.

Notice to discontinue dangerous practice

25. (1) The Chief Fire Officer may in the event of a dangerous practice —
- (a) order the immediate discontinuance of such dangerous practice; or
 - (b) order the removal of the Dangerous Goods to a place of safekeeping; or

- (c) suspend the operators' Dangerous Goods Vehicle Permit(s).
- (2) A dangerous practice shall occur when—
- (a) in the operation of any vehicle it appears to the Chief Fire Officer that any method of storage, transport or handling of Dangerous Goods is in conflict with these regulations; or
 - (b) the Chief Fire Officer considers the action of the operator a danger to the public, any person employed in or on the premises or the driver of the vehicle; or
 - (c) in the execution of the emergency plan during an incident it appears to the Chief Fire Officer that the action of the operator or any person employed by the operator to manage the incident is contrary to achieving the objectives of Regulations 24 or poses a danger to the public or the environment, or
 - (c) it is found that the emergency procedure plan is not immediately executable.

Dangerous Goods deemed to be in transit

26. Dangerous goods are deemed to be in transit when it is loaded onto a Vehicle.

Emergency Procedure Plan

27. (1) An operator shall develop and implement an emergency procedure plan which specifies procedures to manage possible dangerous goods incidents whilst dangerous goods are being transported.
- (2) The emergency procedure plan shall be designed to reduce the possible consequences of a dangerous goods incident by—
- (a) preventing fatalities and injuries;
 - (b) reducing damage to property;
 - (c) limiting the impact to the environment;
 - (d) limiting the impact to community activities; and
 - (e) accelerating the resumption of normal operations.
- (3) The emergency procedure plan must specify operational, financial and contractual arrangements to—
- (a) immediately isolate a dangerous goods incident;
 - (b) immediately stabilise a dangerous goods incident;
 - (c) remove any dangerous goods from a dangerous goods incident;
 - (d) rehabilitate the site of a dangerous goods incident;
 - (e) provide for adequate insurance to cover civil liability.

Offences and penalties.

28. (1) An operator who fails to comply with the requirements of SANS 1157 will be guilty of an offence and is liable to a fine not exceeding R 5 000.
- (2) An operator who fails to comply with Regulations 24 or 25(1) will be guilty of an offence and is liable to a fine not exceeding R 10 000.

Transitional provisions

29. (1) A Dangerous Goods Vehicle Permit issued prior to these regulations being made—
- (a) shall remain valid for a period of one year after the date of promulgation of these Regulations; and
 - (b) can only be renewed in accordance with these regulations.
- (2) The fees set out in these regulations by Annexure C will be payable to a local authority by the applicant, unless the local authority has prescribed fees in terms of their executive authority, which may be more or less favorable than the fees listed by Annexure C.

Short title and Commencement.

30. These Regulations are known as *The Safe Transportation Of Dangerous Goods By Road Regulations* and will come into operation on the date to be determined by the Minister by publication thereof in the Government Gazette.

Annexure A

Form A: Application and renewal of a Dangerous Goods Vehicle Permit

Form B: Temporary suspension of a Dangerous Goods Vehicle Permit

Form C: Lifting of Temporary suspension of a Dangerous Goods Vehicle Permit

Form D: Cancellation of a Dangerous Goods Vehicle Permit

Form E: Notice of appeal against the Temporary suspension of a Dangerous Goods Vehicle Permit

Form F: Notice of appeal against the cancellation of all Dangerous Goods Vehicle Permits

Form G: Appointment as a Dangerous Goods Vehicle Permit Inspector

Form H: Certificate of Fitness in terms of SANS 1157: 2012

Form I: Inspection Report

Form J: Appointment as a Dangerous Goods Vehicle Permit Assessor

Form I: Assessment Report

Annexure B

Quarterly report Regulations 23(2)(c)

Annexure C

Fee description	In reference to Regulations	Fee
First Application Fee	5.(2)	R 150
Renewal Application Fee	5.(2)	R 100
Permit issue fee	6.(1)(c)	R 50
Inspection Fee	15(2)	R 150
Dangerous Goods Vehicle Permit Inspection Course	19(3)	R 1000
Dangerous Goods Vehicle Permit Assessors Course	19(3)	R 2500

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