

Chapter 20:27 Environment Management Act (Hazardous Waste Management) Regulations, 2007

1 These regulations may be cited as the Environment Management (Hazardous Waste Management) Regulations 2007.

2 In these regulations—

“**appropriate fee**” means the appropriate fee prescribed in the *First Schedule*;

“**applicant**” means an applicant for the issue, renewal or amendment of a licence;

“**blue licence**”, “**green licence**”, “**yellow licence**” or “**red licence**” means a licence referred to in section *five*(1)(a), (b), (c) or (d);

“**disposal**”, in relation to the disposal of hazardous waste, means any disposal or discharge of hazardous waste referred to in section *five*(1);

“**form**” means a form prescribed in the *Second Schedule*;

“**licence**” means a licence issued in terms of section *five*;

“**Environmental Protection Department**” means the unit in the Environment Management Agency responsible for the prevention, control and monitoring of pollution;

“**sensitive area**” means any ecologically sensitive area referred to in section *six*;

“**environmentally sound management of hazardous wastes**” means taking all practicable steps necessary to manage hazardous wastes in order to protect human health and the environment against the adverse effects which may result from such wastes;

“**generator of hazardous wastes**” means the holder of a licence issued in terms of the Act whose activity produces hazardous wastes;

“**land-fill**” a site that is built or used for the long-term dumping of wastes;

“**public collection site**” means a site designated in terms of section *fifteen* for purposes of a land-fill collection, sorting or storing of wastes;

“**waste-collection enterprise**” means any undertaking involving the collection, sorting or storing for gain of wastes;

“**waste management**” means the prevention and reduction of hazardous wastes and the collection, storage, treatment, recycling, transport and other disposal of hazardous wastes;

“**waste management enterprise**” means any undertaking the sole or principal purposes of which is the treatment, recycling or processing for gain of hazardous waste, and includes—

- (a) the operation of a plant at which the thermal recycling of hazardous wastes takes place;
- (b) the management of any landfill site capable of storing a minimum of 10 000 cubic metres of hazardous waste;

“**waste oil**” means waste oil referred to in section *thirteen*;

4 (1) Upon receiving an application in terms of section *five*, the Agency may, after such inspection as it deems fit, issue any one of the following licences in **Form HW 2** by reference to the licence classification criteria contained in the *Third Schedule* and to the test parameters for the issue of the relevant licence prescribed in Part II of the *Fourth Schedule*—

- (a) A **blue** licence in respect of a disposal, which is considered to be environmentally safe;
- (b) A **green** licence in respect of a disposal that is considered to present a low environmental hazard;
- (c) A **yellow** licence in respect of a disposal which is considered to present a medium environmental hazard; and
- (d) A **red** licence in respect of a disposal that is considered to present a high environmental hazard.

(2) Where necessary for the purposes of determining whether to issue a blue, green, yellow or red licence, the Agency shall employ the appropriate standard test of the Standards Association of Zimbabwe (**SAZ**) prescribed opposite the parameter concerned, or other test so prescribed, in the last 3 columns of the table in Part II of the *Fourth Schedule*.

(3) Upon receiving an application in terms of subsection (4) the Agency may, after such inspection as it deems fit, issue a different class of licence to the one sought to be renewed or amended.

(4) The Agency —

(a) shall reject an application for the issue, renewal or amendment of a licence —

(i) relating to the disposal of waste consisting of waste which does not conform to the standards of quality prescribed in Part II of the *Fourth Schedule*;

(ii) in respect of the disposal of waste in a sensitive area, unless the disposal qualifies for the issue of a blue licence in accordance with the stricter test parameters required for the issue of such a licence in such an area as prescribed in the second column of the table in Part II of the *Fourth Schedule*;

(b) may reject an application for—

(i) the issue, renewal or amendment of a licence if it considers that the disposal presents unacceptable social, environmental or economic risks; or

(ii) the renewal or amendment of a licence where it finds that the licence holder has in the past persistently failed to comply with the terms of an existing licence.

5 (1) The river catchments specified in the *Fifth Schedule* shall be sensitive areas for the purposes of these regulations.

(2) In addition to the sensitive areas referred to in subsection (1) the Minister may, by notice in the *Gazette* or the amendment of the *Fifth Schedule*, declare any area comprising or in which is located any of the following to be sensitive area—

(a) a freshwater lake, reservoir or other body of water found to be *eutrophic or which in the near future may become *eutrophic if preventive action is not taken;

[Editor's note =*promoting nutrition]

(b) surface freshwater or groundwater intended for abstraction of drinking water which is found to contain more than 10 mg/l nitrates or which may in the near future contain more than 10 mg/l nitrates if preventive action is not taken;

(c) any body of water requiring special protection for environmental or fisheries purposes.

6 The requirements to be complied with in respect of any sample that may be taken or required to be taken of hazardous waste for the purposes of section 72 of the Act and these regulations shall be as prescribed in the *Sixth Schedule*.

7 (1) A licence shall not be transferable to another person, except with the leave in writing of the Agency.

(2) A licence shall be valid for a period of **12 months** from the date of its issue or renewal unless otherwise specified in the licence.

(3) The Agency may, at any time while a licence is in force, review it and amend or cancel it where there has been any material change in the circumstances in respect of which it was originally issued or any failure on the part of the licence holder to comply with any of its terms or conditions.

(4) A licence shall relate only to the particular facility or method used in discharging or disposing of the waste in respect of which it was issued and not to any other such facility or method or to any substantial alteration or modification of the facility or method originally licensed.

(5) Officers of the Agency shall monitor compliance with the terms of the licence, for which purpose—

(a) the licence holder shall allow any officer of the Agency duly authorised in terms of subsection (1) of section *thirty-five* access to the disposal site during normal working hours or

any other time as the circumstances may require, for the purposes of inspection and the collection of samples;

(b) the licence holder shall pay the appropriate monitoring fee to the Agency.

(6) There shall be charged to the licence holder and payable to the Agency the appropriate environmental fee for the discharge or disposal of hazardous waste to the environment—

(a) per litre of the total volume of liquid hazardous waste discharged or disposed of by the licence holder;

(b) per kg of total mass of solid hazardous waste discharged or disposed of by the licence holder;

within every period of 3 months ending on the 31st March, 30th June, 30th September and 31st December in each year, for which purpose the licence holder shall render to the Agency **a quarterly return** of the total volume or mass of hazardous waste and of the quality and nature of waste disposed of by the licence holder **no later than 14 days** before the quarter to which the return relates.

(7) In the case of a holder of a red licence, an **additional penalty fee of 50%** of the total appropriate fees payable by the holder in terms of subsections (5) and (6) shall be payable to the Agency for every quarter during which the licence is to be held.

(8) Every licence holder shall maintain records of all relevant information pertaining to management of the licensed waste or effluent, including flow or disposal records, waste analysis, receiving environment analysis, accidental discharges and pertinent correspondence with the Agency, and these records shall be retained and available for inspection at the request of any officer of the Agency **for a period of 3 years**.

8 (1) The Agency shall keep a register of licences in which the following shall be recorded in respect of every licence holder **within 10 days** of the issue of the licence or the occurrence of the matter required to be recorded—

(a) the name and address of the licence holder, the location of the site of the disposal in respect of which the licence is issued and the facility or method involved in the disposal;

(b) the date on which the licence was issued, renewed or amended;

(c) the class of licence that was issued, renewed or amended;

(d) the term of the licence's validity;

(e) the particulars of any cancellation or suspension of the licence, and of the restoration of any such cancelled licence or the termination of any such suspension;

(f) such particulars as the Agency may deem fit.

(2) The register of licences shall be open to inspection by members of the public at all reasonable times and at such premises of the Agency as the agency may determine on the payment of the prescribed fee.

(3) The Agency shall publish an **annual report** that lists the number of licence holders by classification; the number of licence applications received, approved and rejected; the income from the application of the regulations; and the expenditure of the Agency.

(4) The Agency shall, from time to time, maintain and publish an up to date guideline on how licences shall be issued, including the considerations it shall have regard for when issuing them, and generally on the manner in which it intends to apply these regulations.

(5) The Agency shall periodically publish a **report on the quality of the nation's water resources**.

(6) Specialised information required by any institution, organisation or member of the public for research or consultancy purposes may be made available by the Agency on payment of the appropriate fee, if any.

9 (1) A person shall not obtain a license for the purpose of clearing, containment or management that originates from an accidental spill, or the abandonment of dangerous goods if the person complies with section *thirty-five* and satisfies the Agency that —

- (a) the discharge or disposal is as a result of factors beyond his or her control.
- (b) the person will manage the hazardous waste in a manner that will not pose a threat to human health or the environment, and
- (c) the exemption is in the public interest.

(2) Notwithstanding subsection(1), the Agency may require the person or local authority responsible for the disposal concerned to apply for a licence where it finds that the site in question may be managed better if the accidental spillage is managed under a licence.

10 (1) In the event of any accidental discharge of hazardous waste whether from generation plant, point of use, storage facility, transportation vessel, treatment plant or recycling plant, the person concerned, whether licence holder or not, shall —

- (a) notify the Agency both orally and in writing of the accidental discharge;
- (b) notify all users of the receiving environment who are or may be affected by the accidental discharge;
- (c) notify the Agency with information on the circumstances of the accident including—
 - (i) the quality of the hazardous waste or hazardous substance;
 - (ii) the quantity of the disposal or discharge;
 - (iii) the time the accident occurred;
 - (iv) the location where the accident occurred;
 - (v) the impacts that the accident has already caused or will cause to the environment;
 - (vi) the plan of action that are to be taken to mitigate against the apparent environmental impacts;
 - (vii) safety Data Sheets and Emergency Procedures.

(d) conduct the reclamation as approved by the Agency;

(e) pay appropriate monitoring and environmental fees to the Agency;

(f) reimburse the Agency for the clean-up costs incurred on their behalf;

(g) compensate any losses incurred by any stakeholder as a result of the accidental discharge.

(2) In the event of **traffic accidental spillage** the vessel, consignment and everything else belonging to the polluters shall be in the custody of the Police until the owner of the vessel or consignment satisfies the Agency that all clean up operations and associated costs are or will be settled by the polluter .

(3) For the purpose of these regulations any hazardous substance that is spilt to the environment is considered to be hazardous waste including petrol and diesel spilt from a. storage or transportation vessel.

(4) Any **traffic operator** who fails to comply with the requirements of this section shall be guilty of an offence and liable—

- (a) In the case of first conviction to a fine not exceeding level fourteen or in default of payment to imprisonment for a period not exceeding one year; and
- (b) in the case of a second conviction to a withdrawal or alteration of hazardous substances or hazardous waste transportation licence.

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11 (1) No hazardous waste shall be disposed of at any other place except in a licensed hazardous waste disposal site or landfill.

(2) Any person who disposes hazardous waste shall ensure that the hazardous waste disposal site or landfill has the following facilities—

- (a) lining that is resistant to corrosion by hazardous substance in question as approved by the Agency;
- (b) mechanism for the collection, quantification, treatment and disposal of any leachate;
- (c) mechanism to protect the site from surface runoff;
- (d) devices to test and monitor the quality and quantity of any waste finally discharged to the environment;
- (e) devices to monitor impact of the site on the environment *e.g.* groundwater and surface water contamination, air pollution;
- (f) access points for sampling by the Agency's inspectorate;
- (g) separation and isolation of the hazardous waste from any other general waste.

12 (1) For the purpose of classification, where the landfill is lined and leachate is managed, the classification shall be of the leachate, but **where there is no lining**, the classification shall be an automatic **red class**.

(2) **Solid waste** shall be classified as—

- (a) a single solid waste dump with an associated unlined storage pond which discharges to the environment; or
- (b) a single solid waste dump with a number of associated storage and unlined ponds, which discharge to the environment; or
- (c) a single solid waste dump with no associated storage pond and with no detectable discharge to the environment; or
- (d) a solid waste dump that is being reworked.

(3) Any operator of a landfill site or **any person* who disposes hazardous waste in contravention of this section shall be guilty of an offence and liable—

- (i) in the case of first conviction to a fine not exceeding level fourteen or in default of payment to imprisonment for a period not exceeding one year; and
- (ii) in the case of a second conviction to a withdrawal or alteration of **the* hazardous substances or hazardous waste transportation licence and **an* order to stop operations generating the waste.

[Editor has inserted the **words in italics for sense' sake.*]

13 (1) For the purposes of these regulations, every generator of hazardous wastes shall, **not later than the 31st December** of each year prepare a waste management plan which shall consist of—

- (a) an **inventory** of the waste-management situation specifying the—
 - (i) quantity of waste produced; and
 - (ii) the components of such waste; and
- (b) **specific goals** for—
 - (i) the adoption of cleaner production methods;
 - (ii) the reduction of the quantities and pollutant discharges of hazardous wastes;
 - (iii) the recycling, wherever practicable, of wastes in an environmentally safe form and manner;
 - (iv) the safe transportation and disposal of the wastes that can be neither prevented nor recycled;
 - (v) generally, the adoption of environmentally sound management of wastes.

(2) For the purposes of these regulations, every local authority shall, **not later than 31st December** of each year, prepare a waste management plan which shall consist of the matters specified in subsection (1) in relation to waste generated by or in the possession of the local authority, and in preparing its plan the local authority may request in writing that generators of waste within its jurisdiction shall submit to it their own waste management plans.

(3) The Agency may require any particular generator of hazardous wastes, in writing to prepare a waste management plan at shorter intervals than that specified under subsection (1).

(4) The **Agency** may prepare a **national waste management plan** providing for the strategic location of the facilities required for the treatment of wastes and the distribution of those waste among such facilities, and in preparing the national waste management plan the Agency may request in writing that local authorities and other generators submit to it, or prepare and submit to it, their own waste management plans, **within 30 days** of receiving the request.

14 (1) On the recommendation of the Board, and in consultation with any other Minister concerned, the Minister shall from time to time set waste prevention targets with regard to the emission and disposal of waste by any generator of waste.

(2) Waste prevention targets may relate to—

- (a) the acceptable levels of the emission and disposal of waste by generators of waste;
- (b) the design of products form containing few pollutants when put to their intended use;
- (c) the development, manufacture, processing, treatment and design of products in such a form that the residual substances can be recycled;
- (d) the incorporation or use of a certain proportion of recycled materials in the manufacture of specified products;
- (e) the creation of modes of distribution, such as 2-way and return systems, that reduce residual waste to a minimum;
- (f) the consumption of products in such form that little waste is generated.

(3) Notice of a waste prevention target shall—

- (a) specify the target in writing with sufficient particularity;
- (b) be served on every generator of waste;
- (c) specify a reasonable period or timetable for reaching the target;
- (d) may specify the procedure for establishing whether the set target has been reached;
- (e) may impose an obligation on the generator of waste to inform the Minister at regular intervals on the extent or the estimated extent to which the target set for it has been reached.

(4) Every generator of waste notified of a waste prevention target in terms of subsection (3) shall incorporate such target in its waste management plan.

15 (1) Every local authority shall designate suitable sites as waste collection sites within its areas of jurisdiction for the management of wastes.

(2) In determining what sites to designate for the purposes of subsection (1), the local authority shall commission a report by any person qualified to make such reports assessing the anticipated impact on the environment of any facilities referred to in subsection (1).

(3) The report shall include—

- (a) an evaluation of the suitability of any such site for the purposes of subsection (1) and also taking into consideration the following peculiarities of the site—
 - (i) its geology and hydrology;
 - (ii) its hydrograph;
 - (iii) its climatic conditions;
 - (iv) its topography;

(v) its physical infrastructure;

(vi) other features that may impact on the welfare of any animal, plant or human life in the vicinity of the site.

(b) an evaluation of the suitability of any site in relation to the purpose and scope of any facility proposed to be located there;

(c) a description of the measures necessary to prevent, limit or otherwise compensate any major negative effects on the environment arising from the location of specified facilities in specified sites.

(4) The local authority shall give any water management planning authority an opportunity to comment on the report submitted to it in terms of subsection (2).

16 (1) Subject to subsection (2), every person, other than a local authority or agent of a local authority, operating or proposing to operate a waste collection enterprise shall, **no later than 30 days** from the *date of publication of these regulations,

[*19th January,2007 -Editor]

17 (1) For the purposes of this section, every local authority shall appoint in writing a waste management enterprise licensing agent, whose name shall be communicated to the Agency and liaise with the Agency in all waste management enterprises licensing.

18 (1) The operator of a licensed waste management enterprise shall appoint on full time basis a waste manager and may appoint a deputy manager whose duties shall include the monitoring of compliance of the waste management enterprise with these regulations.

(2) The appointment of a waste manager or a deputy manager shall not affect the responsibility of the holder of the waste management enterprise to comply with these regulations

19 (1) Where a licensed waste management enterprise wishes to apply for an amendment a licence in respect of—

(a) the name of any importer or supplier of wastes recorded on the licence; or

(b) the name of the waste management enterprise; or

(c) any change in the volume or substances comprising the waste treated or recycled at the enterprise that materially increases the hazard posed to employees and the environment in the vicinity of the enterprise;

the licensed waste management enterprise shall submit the relevant particulars of the proposed amendment, together with the licence, to the licensing agent or, in the case where the holder of the licence is a local authority, the Agency:

(2) Where an application in respect of any amendment referred to in subsection (1) has been approved by or on behalf of the Agency, the necessary amendment shall be made to the licence, or a new licence may be issued at the discretion of the licensing agent or Agency, as the case may be.

(3) An application for the renewal of a waste management enterprise licence shall be made in the form prescribed in the *Second Schedule* and shall be accompanied by a fee prescribed with *First Schedule*.

(4) Where a waste management enterprise licence is renewed, the original licence shall be endorsed to the appropriate effect, or a new licence may be issued at the discretion of the licensing agent or the Agency, as the case may be.

(5) Where a licensed waste management enterprise notifies the Agency that its licence has been lost, stolen, destroyed or defaced, or is for some other reason no longer *in* its possession, the Agency may, on payment of the fee prescribed in the *First Schedule*, issue a duplicate licence.

20 (1) Where a waste management enterprise licence is issued in terms of section *seventeen*, the licensing agent may, at the initiative of the local authority concerned, give notice of the cancellation or variation of the licence to the holder concerned, and the licensed agent shall inform the Agency accordingly for endorsement of the initiated cancellation or amendment.

(2) Where the local authority concerned makes any initiation in terms of subsection (1), the licensing agent shall transmit a copy of the notice to vary or cancel waste management enterprise licence, together with any comments of the holder of the licence and recommendations of the local authority, to the Agency, and the licence shall, unless the Agency earlier directs otherwise, be deemed to have been cancelled or varied in accordance with the recommendations of the local authority, **2 calendar months** from the date when the holder of the licence received notice thereof:

Provided that the Agency may, within that period notify the licensing agent, in writing that the Agency requires further time to consider the proposal to cancel or vary the licence and thereafter the matter shall not be determined until the Agency gives its own direction in the matter.

21 (1) Every local authority shall keep records and a register of every waste collection and management enterprise operating within its area of jurisdiction.

(2) Every licensed waste collection or waste management enterprise shall keep and maintain up to date records on the type, quantity, origin and whereabouts of wastes or waste oils collected or managed by it.

(3) Every record or register required to be kept in terms of this section shall be kept for a **minimum period of 7 years** and shall be produced for inspection at the request of the Agency, or any authorised person.

(4) Any person who fails to keep records or register in terms of this section shall be liable to a fine not exceeding level fourteen or imprisonment for a period of twelve months or to both such fine and such imprisonment.

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22 (1) Subject to subsections (2) and (3), the following shall be regarded as waste oil for the purpose of these regulations—

(a) any oil which is discarded, discharged or emitted in any form with or without means of control, treatment, reduction or compositional change;

(b) any oil which is no longer to be used for its original purpose and which is likely to be stored or accumulated with or without the eventual intention of treating or disposing, discharging or emitting it;

(c) any of the following oils that are used or polluted—

(i) liquid mineral oil products;

(ii) emulsions products;

(iii) synthetic engine, gear and hydraulic oils, if they consist of synthetic hydrocarbons or carboxylic acid esters and are free from halogens;

(iv) lubricants, the base of which are vegetable oils;

(d) the pumpable residues of water-oil mixtures.

(2) An oil product shall not be disposed of as waste oil unless it has a flash point below **55° C** and more than—

(a) **15%** of its volume consists of pollutants from foreign substances resulting from its use; or

(b) **30 parts per million** of its volume consists of poly-chlorinated biphenyls (**PCBs**) or poly-chlorinated triphenyls (**PCTs**); or

(c) **0.5 % of its volume** consists of **halogens** (fluorine, chlorine, bromine, iodine).

(3) An oil shall become waste oil as soon as the product from which it originates can no longer be put to its original use:

*Provided that where mechanical cleaning on the premises of the holder, of the waste oil suffices to put the oil to its intended use repeatedly.

(4) The Board may, from time to time by notice in the *Gazette* determine the quantity of hazardous substances and pollutants which shall not be exceeded in waste oils.

23 (1) Waste oils may be recycled only for the purpose of—

- (a) cleaning them;
- (b) the production of useable mineral oil products;
- (c) or the production of energy.

(2) If waste oil is recycled for the purpose of the production of useable mineral oil products, the resulting mineral oil product shall—

- (a) conform to the minimum quality criteria of a usable mineral oil product; and
- (b) not contain more than **5 parts per million** of poly-chlorinated biphenyls (**PCBs**) or poly-chlorinated triphenyls (**PCTs**), or contain halogens **exceeding 0.03 %** of its volume.

24 (1) Hazardous wastes, and waste oils shall be collected, stored, transported and treated separately from other wastes.

(2) Hazardous wastes and waste oils shall—

- (a) not be mixed or blended together;
- (b) as far as practicable be recycled to the extent that it is safe to do so, and if not recycled, shall be stored and treated in such form and manner that negative effects with respect to the health and safety of persons and impact upon the environment are prevented;
- (c) not be deposited or stored otherwise than on the premises of the generator of the hazardous wastes or waste oils or at a site other than a public collection site or a site approved by a local authority;
- (d) not be treated, recycled or processed otherwise than on the premises of the generator of the hazardous wastes or waste oils or at a licensed waste management enterprise;
- (e) as far as is practicable, be contained at source that is stored and managed on the premises of the generator of the hazardous wastes or waste oils concerned.

(3) Where it is difficult to comply with the requirements of subsection (1), generators of hazardous waste or waste oil shall dispose of these only to a waste collection enterprise or licensed waste management enterprise; unless the Board directs otherwise.

(4) The Board may, after consultation with the minister, give written directions to any local authority or to local authorities generally specifying any measures to promote the environmental sound management of hazardous wastes.

(5) The Board may, in giving to any local authority a direction referred to in subsection (4), specify that the direction shall apply to and be binding on generators of hazardous waste, waste collections enterprises and waste management enterprises located within the area of jurisdiction of the local authority concerned.

25 (1) A local authority shall **.at least twice a year** collect for disposal at a public collection site, or arrange for their collection and disposal by a waste collection enterprise, all articles that cannot be recycled, and may recover the costs of such collection from the generator of such articles concerned.

(2) As far as is practicable, articles shall be collected and stored separately from household waste or bulk refuse, whether or not such waste or refuse contains hazardous waste or waste oil.

26 (1) The consignor of any hazardous waste or waste oil or other person requiring such a substance to be conveyed by road shall deliver a consignment note to the operator or driver of the vehicle conveying the hazardous wastes or waste oils and shall—

- (a) affix on the packaging and container clearly visible labels showing—
 - (i) the appropriate substance identification number, and
 - (ii) the **emergency action code** for that substance; and

(iii) telephone number or other text approved by the Agency indicating where specialist advice on the hazardous substances can be obtained;

(b) in the case of the conveyance of a single load, the vehicle shall display hazard-warning panels;

(c) in the case of the conveyance of a multi-load, the vehicle shall display hazard-warning panels;

(2) The consignment note shall be shown to the authorities upon their request at any time.

(3) If the hazardous wastes or waste oils cannot be delivered to their intended destination, the operator of the vehicle shall either return the hazardous wastes or waste oils to the previous holder, or shall arrange for the relevant treatment of the hazardous wastes or waste oils at a waste management enterprise.

27 The provisions of section *sixteen* and section *seventeen* relating to the labeling of packages and containers of hazardous waste and waste oils and the duties of the consignor in respect of thereof shall apply to the consignment, delivery and transportation of hazardous wastes and waste oils conveyed by air, rail or inland waters.

28 (1) An operator of a storage or transportation facility shall ensure—

(a) that no hazardous waste will be released into the environment;

(b) that no heat, gas, corrosive or toxic substance is given off;

(c) that the effectiveness of the packaging of the hazardous waste is not reduced.

(2) Any person who transports hazardous waste, or is required to store hazardous waste in a container, shall use a container that is designed, constructed or lined with materials that are compatible with the hazardous waste.

(3) A person who uses a container to store or transport hazardous waste shall—

(a) keep the container closed at all material times during storage or transport; and

(b) not open, handle, store or transport the container in a manner which may cause it to leak or rupture.

(4) No person shall store or transport in the same container 2 or more hazardous wastes which are not compatible.

(5) No person shall place hazardous waste in an unwashed container that previously held a material which is incompatible with that hazardous waste.

(6) No person shall store or transport hazardous waste in—

(a) the same container 2 or more layers;

(b) a small inside container within a labpack unless the container is enclosed within an open head metal labpack which—

(i) has a tight fitting gasketed lid; and

(ii) is lined with a plastic bag **not less than 4 mm** thick;

(c) in a container which is leaking and or not securely sealed;

(d) in a container a clear plastic bag which is **not less than 4 mm** thick;

(e) which is identifiable either by—

(i) the original label on the container, or

(ii) a new label applied to the container or plastic bag stating the correct shipping name;

(f) unless packing material is used to fill all spaces between the inside containers so as to prevent accidental breakage and leakage; and

(g) unless a list of the contents and size of each container is—

- (i) retained for inspection by an officer while the hazardous waste is being stored;
- (ii) attached to the manifest while the hazardous waste is being transported;
- (iii) attached, by the consignee, to the copies of the manifest which are sent to the appropriate authorities under the **Federal dangerous goods Regulations**.

(7) No person shall use a container which contains residues of hazardous waste to hold, store or transport food, animal feed or a product which may directly become part of the human food chain.

(8) No person shall store or transport hazardous waste unless it is placed in a container or otherwise secured so that under normal conditions of storage or transport the hazardous waste does not leak or escape into the environment.

(9) Any person who—

- (a) causes a hazard to the health of any human being or any animal, flora or fauna by failing to exercise all care in the storage or transportation of hazardous waste; or
- (b) provides the Agency with information which is false or which the Agency believes to be deliberately false;

shall be guilty of an offence and liable to a fine not exceeding level fourteen, or to imprisonment for a period not exceeding one year or to both such and such imprisonment.

(10) A court convicting a person of an offence under this section may—

(a) order the person to do any one of the following—

- (i) to take such remedial action, specified by the court on the advice of the Agency, as it may be necessary to restore the environment or works affected by the offence;
- (ii) to reimburse the Agency for any remedial action taken by it;
- (iii) to pay compensation for any damage caused by the offence to any person;
- (b) order the withdrawal of the hazardous waste storage or transportation licence.

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29 In this Part—

"Basel Convention" means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted in 1989;

"competent authority" means, in the case of a state that is a contracting party to the Basel Convention, the governmental authority designated by the party for receiving and responding to notifications in terms of this Part and, in any other case, such authority in another state as appears to the Agency to be competent to receive and respond to notifications;

"Convention wastes" means the hazardous wastes set out in terms of Y I to Y 45 of Annex I to the Basel Convention and identified in Part 111 of the *Fourth Schedule*, which possess any of the characteristics specified in Annex III to that Convention and identified in Part III of the *Fourth Schedule*;

"exporter" means any person who arranges for hazardous wastes to be exported from Zimbabwe;

"notification" means a notification containing the particulars specified in the *Fourth Schedule*;

"transporter" means any person who carries out the transport of hazardous wastes, whether by road, air, rail or inland waters.

30 The import into Zimbabwe from any state of hazardous wastes or waste oils, **other than** the wastes mentioned in subsection (1) or Convention wastes, is prohibited unless the importer of such wastes is licensed as a waste management enterprise.

31 (1) The import into Zimbabwe of Convention wastes is prohibited unless—

- (a) such wastes are imported from a State—

- (i) that is a contracting party to the Basel Convention; or
 - (ii) under a bilateral or multilateral agreement to which Zimbabwe is a party;
- (b) notification is made to the Agency by the State from which such wastes originate or the generator or exporter of those wastes in that state, and the Agency has acknowledged and assented to such notification in writing; and
- (c) the importer of such wastes is licensed as a waste management enterprise.

(2) For the purposes of subsection(1)(b), the Agency,

a) shall endeavour to respond to a notification **within 60 days** of receiving it;

(b) may give, its general assent to the multiple import into Zimbabwe of Convention wastes on condition that the wastes which are the subject of the notification

- (i) are exported regularly by the same exporter to the same waste management enterprise via the same ports of entry in terms of an agreement or contract between the parties concerned; and
- (ii) on every occasion they are so imported they have the same physical or chemical properties:

Provided that such assent may not be given for a period of **more than a year** at a time.

(4) A copy of the relevant notification and proof of assent thereto issued in terms of subsection (1) (b) shall be carried by the transporter transporting Convention wastes.

32 (1) No generator of hazardous waste, waste collection enterprise, waste management enterprise, exporter and, consignor of hazardous wastes or waste oils may export from Zimbabwe hazardous wastes or waste oils without the prior approval in writing of the Agency given after notification of the proposed export.

(2) The Agency shall **not grant approval** for the export of hazardous wastes or waste oils from Zimbabwe **unless**—

- (a) adequate facilities for management of wastes are not available in Zimbabwe, or if the wastes are required abroad as raw materials for recycling and processing, or if treatment in Zimbabwe does not appear to the Board to be expedient; and
- (b) notification of the export of the wastes is made by the exporter to the competent authority of the importing state and the competent authority of any state through which the wastes may be carried in transit, and the export or transit is approved by the competent authorities concerned, or no objection to the import or transit of wastes mentioned in the export notification has been received **60 days** after the notification was made;
- (c) the export does not conflict with any obligations Zimbabwe may have under international law.

(3) For the purposes of subsection (2), the Agency—

(a) shall endeavour to respond to a notification in terms of subsection (1)(b) **within 60 days** of receiving it;

(b) may give its general approval to the **multiple export from Zimbabwe** of hazardous wastes and waste oils on condition that the wastes which are the subject of the notification—

- (i) are exported regularly by the same exporter to the same destination via the same ports of exit in terms of an agreement or contract between the parties concerned; and
- (ii) have the same physical or chemical properties on every occasion they are so exported:

Provided that such approval may not be given for a period of more than **a year** at a time.

33 (1) The transit through Zimbabwe of hazardous substances or any substance that contains substances listed in the *Fourth Schedule* is prohibited unless under a transit hazardous waste transportation licence issued by the Agency.

(2) The transit through Zimbabwe of hazardous wastes or waste oils, other than the wastes mentioned in subsection (1) or Convention wastes, is prohibited unless notification is made to the Agency by either or both of the following—

(a) the state from which such wastes originate or the generator or exporter of those wastes in that state, and the Agency has acknowledged and assented to such notification in writing;

(b) the state for which such wastes are destined, or the importer of those wastes in that State; and the Board has acknowledged and assented to such notification in writing.

(3) The **transit through Zimbabwe of Convention wastes is prohibited** unless—

(a) such wastes are exported by or imported to a State—

(i) that is a contracting party to the Basel Convention; or

(ii) under a bilateral or multilateral agreement to which both states are a party; or

(b) notification is made to the Agency by the state from which such wastes originate or the generator or exporter of those wastes in that State, and the Board has acknowledged and assented to such notification in writing.

(4) For the purposes of subsection (2) (b) and (3), the Agency—

(a) shall endeavour to respond to a notification **within 60 days** of receiving it;

(b) may give its **general assent to the multiple transit** through Zimbabwe of hazardous wastes and waste oils on condition that the wastes which are the subject of the notification—

(i) are carried in transit regularly by the same exporter to the same imported via the same ports of entry and exit in terms of an agreement or contract between the parties concerned; and

(ii) have the same physical or chemical properties on every occasion they are so carried in transit:

Provided that such assent may not be given for a period of more than **a year** at a time.

(5) A copy of the relevant notification and proof of assent thereto issued in terms of subsections (2), (3) and (4) shall be carried by the transporter transporting Convention wastes.

(6) **Before a transit licence** is issued by the Agency, the applicant shall satisfy the Agency that the applicant has a local agent that will be responsible for immediate environmental remediation in the event of an **accidental spillage** as required by section *thirty-five*.

34 (1) In the event of any accidental discharge of hazardous waste, whether from generation plant, point of use, storage facility, transportation vessel, the owner or designate shall **within 24 hours** notify the Agency both orally and in writing of the accidental discharge and supply the Agency with information on the circumstances of the accidental spillage which include the following—

(a) the quality of the hazardous waste accidentally discharged;

(b) the quantity of the discharge;

(c) the time the accident occurred;

(d) the location where the accident occurred;

(e) the impacts that the accident has already caused or will cause to the environment;

(f) the plan of action that is to be taken to mitigate against the apparent environmental impacts;

(g) the notification of all assets of the receiving environment who are or may be affected by the accidental discharge;

(2) Where an accidental spillage of hazardous substance has occurred and the Agency cannot be immediately contacted—

(a) the transporter or designate shall carry out any such emergency procedures as indicated on the safety data sheets and ensure that the Agency is informed as required **not later than 48 hours**;

(b) compensate any losses incurred by any stakeholder as a result of the accidental discharge;

(c) pay monitoring and environmental fees to the Agency;

(d) pay a penalty equivalent to the environmental clean-up costs to the Agency;

(e) pay an administration fee as prescribed in the *First Schedule*.

(3) In the event of **traffic accidental spillage** the vessel, consignment and everything else belonging to the transporter shall be in the custody of the Police until the transporter satisfies the Agency that all clean up operations and associated costs are or will be settled by the transporter (The Agency will issue clearance in writing to the transporter for the release of confiscated property).

(4) Any transporter who fails to comply with this section shall be guilty of an offence and liable to pay a fine not exceeding level fourteen or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

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35 (1) Any person who is aggrieved by any decision of the Officer or authorized person shall appeal to the Director General in terms of section 129 of the Act;

(2) Any person who is aggrieved by any decision of any authority shall appeal to the Minister in terms of section 130 of the Act, submitting with his or her appeal the fee prescribed in the *First Schedule*.

(3) Any person who is aggrieved by any order of the Minister shall appeal to the Administrative Court in terms of section 130 of the Act.

36 Any—

(a) local authority or generators of hazardous waste which **fails to submit a waste management plan** at the, request of the Agency in terms of section *thirteen*;

(b) operator of a waste collection enterprise who **fails to inform the appropriate local authority** of the operation within the period specified in section *sixteen*;

(c) operator of a waste collection enterprise who **fails to initiate the commissioning of a report** referred to in section *sixteen* (4) **within 30 days** of being requested to do so by the Board or an appropriate local authority;

(d) operator of a waste management enterprise who **fails to apply for a waste management enterprise licence** within the period specified in section *seventeen*(2), or who operates such an enterprise without such licence;

(e) local authority which **fails to inform the Agency of the operation of waste collection enterprise** by it or on its behalf within the period specified in section *eighteen*(1), or to apply for a licence for the operation by it or on its behalf of a waste management enterprise within the period specified in section *seventeen*(2), or which operates such an enterprise without such licence;

(f) knowingly **makes any false statement** in an application for a waste management enterprise licence;

(g) operator of a waste management enterprise who **fails to appoint a waste manager** in terms of section *eighteen*;

(h) local authority or operator of a waste collection enterprise or waste management enterprise who or which **fails to comply with section *twenty-one***;

(i) local authority, generator of hazardous waste or operator of a waste collection enterprise or waste management enterprise who or which **fails to comply with a direction** given to or in respect of it under sections *sixteen, seventeen, eighteen, nineteen or twenty*;

(j) consignor of hazardous wastes or waste oils or other person requiring such a substance to be conveyed by road, rail, air or inland waters **fails to comply with section twenty-six(1)**;

(k) importer or exporter of hazardous wastes or waste oils **fails to comply with sections thirty, thirty-one or thirty-two**;

(l) person responsible for the transit through Zimbabwe of hazardous wastes or waste oils in **contravention of section thirty-three**;

(m) knowingly makes any false statement in a notification for the purpose of **Part VI**;

shall be guilty of an offence liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

37 (1) An officer of the Agency may issue a spot fine ticket to any person who contravenes any provisions of these regulations:

Provided that the spot fine shall not exceed level fourteen.

(2) In the event that the offender fails pay the spot fine as prescribed on the spot fine ticket, the default penalty shall be **zw\$65,000.00 x i**. After the lapse of the deadline for the payment of the default penalty, the Agency will not accept payment; the offender will be taken to Court.

[**Editor's Note** : the "i" probably refers to the inflation correction **factor** by which all fees are to be adjusted , which will be the ratio of the current Government Consumer Price Index (CPI) to the CPI at the base year.]

[The base year is **June 2006** and *i* is **1** for the base year.]

[**This note is not part of these Regulations** , but was contained as **Note 3** to the Fee Schedule of the Environment Management (Environmental Impact Assessment and Ecosystems Protection) Regulations SI 7/2007]

[- which was repealed and substituted by SI 3/2011.]

[The question remains - is this factor still to be applied to the US\$]

[where inflation no longer ravages the zw\$? Editor.]

38 The Water (Waste and Effluent Disposal) Regulations,2000, published in Statutory Instrument 274 of 2000, are repealed.

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FIRST SCHEDULE (Sections 2, 19(2), 34(2) and 36(2))

[Substituted by SI 6/11 with effect from the 21st January, 2011]

TABLE 1

FEES FOR REGISTRAION

<i>Registration</i>			<i>Fee US\$</i>
Annual licence for transporters of Hazardous waste - per vessel	(i)	a red triangle	410
	(ii)	an amber triangle	270
	(iii)	A green triangle	240
Application for waste management Enterprise licence		Normal permitting process	

TABLE 2

**FEEs FOR THE ISSUE, RENEWAL OR AMENDMENT OF HAZARDOUS WASTE
GENERATION,
STORAGE, USE, TREATMENT, RECYCLING, TREATMENT OR DISPOSAL
LICENCE**

				US \$
(i)	Annual Registration fee (all licences)			47
(ii)	Annual Monitoring fee (all licences) —			
		(a)	Blue licence	150
		(b)	Green licence	295
		(c)	Yellow licence	585
		(d)	Red licence	1 165
(iii)	Quarterly Discharge Levy (applicable for disposal only) per litre/per kg of the total volume or mass or semi-liquid hazardous or solid waste disposed of by the holder of a licence during the quarter—			
		(a)	Blue licence	150
		(b)	Green licence	295+0.015x vol/mass of hazardous waste discharged
		(c)	Yellow licence	555+0.03 x vol/mass of hazardous waste discharged
		(d)	Red licence	1100+0.045x vol/mass of hazardous waste discharged
(iv)	Fee for the appeal to the Minister			10

Notes:

- (a) The Registration and Monitoring fee will be billed **annually** in advance.
- (b) The Discharge Levy will be billed **quarterly** in advance based on the verified submissions for the quarter or submissions from the licence holder and will be payable **within 30 days** from the date of invoicing.
- (c) a **5% Administration fee** shall be charged on all fees.