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DEPARTMENT OF ENVIRONMENT, FORESTRY AND FISHERIES

NO. 413

12 May 2021

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

REGULATIONS TO DOMESTICATE THE REQUIREMENTS OF THE ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries, and the Environment, hereby in terms of section 25(3) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), make Regulations to Domesticate the Requirements of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, for implementation, as set out in the Schedule hereto.



**BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

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—

"chemical" means any substance whether by itself or in a mixture or preparation, whether manufactured or obtained from nature, excluding any living organism, in the following categories:

- (a) pesticides (including severely hazardous pesticide formulations); and
- (b) Industrial chemicals.

"consent" means a permission issued by the Designated National Authority to import, or export a hazardous chemical listed in Annexure I to these Regulations;

"country of export" means a country from which the transboundary movement of a hazardous chemical is planned to be initiated or is initiated;

"country of import" means a country to which a hazardous chemical(s) is planned to be transported to as a final destination;

"Designated National Authority (DNA)" means an organisation granted responsibility by its national government to authorise and carry out the administrative functions required by these Regulations. The South African DNA is the Department responsible for the environment;

"export" in relation to the Republic, means to take out or transfer, or attempt to take out or transfer, from a place within the Republic to another country or to international waters, but excludes mere transit operations;

"exporter" means a person who sends or transports or intends to send or transport a chemical(s) from the Republic to another country;

"export notification" means a process whereby a country of export notifies the country of import or country of transit DNA of its intention to send a chemical listed in Annexure I to these Regulations to the country of import and provides information thereon;

"final regulatory action" means a legal action taken to ban or severely restrict a chemical listed in Annexure I to these Regulations and does not require subsequent regulatory action;

"import" in relation to the Republic, means to land on, bring into or introduce to the Republic, or to attempt to land on, bring into or introduce into the Republic, and includes to bring to the Republic for re-export to a place outside the Republic, but excludes mere transit operations;

"importer" means a person who receives or intends to receive a hazardous chemical(s) into the Republic other than receipt for transit;

"Prior Informed Consent (PIC) procedure" is a mechanism of formally requesting, obtaining and disseminating the decisions of the country of import, as to whether a chemical intended to be exported

to the country of import, meets the requirements for import, and for ensuring compliance with these decisions by the country of export;

"these Regulations" means the Regulations for domestication of the requirements of the Rotterdam Convention on the Prior Informed Consent (PIC) procedure for certain hazardous chemicals and pesticides in international trade, promulgated in terms of section 25(3) of the National Environmental Management Act, 1998 (Act No. 107 of 1998);

"Rotterdam Convention" means the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which entered into force on 10 September 1998 and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on party to the Rotterdam Convention;

"Safety Data Sheet (SDS)" means a document aligned to the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) that provides information on the hazard classification and properties of hazardous chemicals, and procedures for handling or working with them, with reference to the Occupational Health and Safety Act, (Act 85 of 1993);

"severely restricted chemical" means a chemical of which virtually all use has been prohibited by final regulatory action, in order to protect human health or environment, but for which certain specific uses remain allowed;

"the Act" means the National Environmental Management Act, 1998 (Act No. 107 of 1998); and

"transit" means the continuous passage, movement or transportation of a chemical from a country of origin, through one of the South African port of entries whether by sea or land, whether through a major or a minor port of entry, and through another such port of entry, without storage other than strict temporary storage of maximum of 60 days, in a secure area where no chemicals can be released, incidental to transportation to the country of destination.

PURPOSE AND APPLICATION OF THE REGULATIONS

2. (1) These Regulations applies to importers and exporters of the chemicals listed in Annexure I to these Regulations.
- (2) The purpose of these Regulations is to-
 - (a) outline the PIC procedure for the chemicals listed in Annexure I to these Regulations, for obtaining and exchanging information between countries regarding certain hazardous chemicals, including pesticides and industrial chemicals that have been banned or severely restricted for human health, animal health and/or environmental reasons;
 - (b) promote shared responsibility and cooperative efforts in the international movement of the chemicals, listed in Annexure I to these Regulations, in order to protect human health, animal health and/or the environment from potential harm; and
 - (c) contribute to the environmentally sound use of the chemicals listed in Annexure I to these Regulations, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to other countries.

CHAPTER 2 GENERAL PROHIBITIONS

3. No person may—

- (a) import or export any chemicals listed in Annexure I to these Regulations into or from South Africa, without obtaining consent in terms of these Regulations prior to importing or exporting the chemicals; and
- (b) transit any chemicals listed in Annexure I to these Regulations through South Africa, without complying with the notification requirements of regulation 6 to these Regulations.

CHAPTER 3

PROCESS FOR THE NOTIFICATION FOR THE IMPORT, EXPORT OR TRANSIT OF CHEMICALS LISTED IN ANNEXURE I TO THESE REGULATIONS

4. (1) Any person wishing to—

- (a) import or export chemicals listed in Annexure I to these Regulations, must obtain consent from the DNA by submitting an application for consent to the DNA; and
 - (b) transit chemicals listed in Annexure I to these Regulations must submit a notification to the South African DNA.
- (2) An application submitted to the South African DNA by the DNA of the country of export, as contemplated in subregulation (1)(a) for the import of chemicals listed in Annexure I to these Regulations, must include—
- (a) a completed official Rotterdam Convention export notification form, signed by the DNA of the country of export, which must be sent by the country of export to South African DNA containing, as a minimum, the information indicated in Annexure II to these Regulations; and
 - (b) a SDS for the chemicals listed in Annexure 1 to these Regulations that is to be imported.
- (3) Upon receiving the export notification, the South African DNA will request from the importing company the following—
- (c) an applicable registration certificate or authorisation issued in terms of South African legislation, if any is required by any competent authority; and
 - (d) records of previous uses or international uses aligned with the intended importer's activities, of the chemicals listed in Annexure 1 to these Regulations.
- (4) The South African DNA must send an acknowledgement, as per Annexure III to these Regulations, of receipt of the application contemplated in subregulation (1)(a), for the import of chemicals listed in Annexure I to these Regulations, to the DNA of the country of export, within 10 days of receipt of the application.
- (5) Subsequent to the issuing of an acknowledgement contemplated in subregulation 4(4), the South African DNA must process the completed application contemplated in subregulation 4(2) with the inclusion of the requirements in subregulation 4(3), within 10 working days.

5. (1) An application submitted to the DNA of the country of import by the South African DNA, as contemplated in subregulation 4(1)(a) for the export of chemicals listed in Annexure I to these Regulations, must include—
 - (a) a completed official Rotterdam Convention export notification form, obtainable from South African DNA containing, as a minimum, the information indicated in Annexure II to these Regulations; and
 - (b) a SDS for the chemicals, listed in Annexure I to these Regulations, which are to be exported.
 - (2) Subsequent to the receipt of the completed application as contemplated in subregulation (1), the South African DNA must within 10 working days—
 - (a) send an acknowledgement of receipt of the application to the applicant; and
 - (b) submit the export notification to the DNA of the country of import for consideration.
 - (3) If the South African DNA has not received a response from the DNA of the country of import following the submission of the application within 30 days, the DNA must send a reminder and if there is still no response within a further 30 days, the DNA may send further reminders as necessary.
 - (4) The South African DNA may, on a case by case basis, decide that the export may proceed if, after all reasonable efforts, no response to an application contemplated in subregulation 4(1)(a) has been received, within 60 days following submission of the export notification, provided that there is evidence that the chemical has previously been used in, or imported into, the country of import and that no regulatory action to prohibit its use has been taken.
6. A notification submitted by the DNA of the country of export to the South African DNA, as contemplated in subregulation 4(1)(b) for the transit of chemicals listed in Annexure I to these Regulations must include—
 - (a) a completed Rotterdam Convention export notification form obtainable from South African DNA; and
 - (b) a SDS for the chemicals listed in Annexure I to these Regulations.

CHAPTER 4

DECISION OF THE DESIGNATED NATIONAL AUTHORITY

7. (1) The South African DNA must issue a decision to grant consent, with conditions as appropriate, or deny consent, stating reasons, within 10 working days of the issuing of the acknowledgement contemplated in subregulation 4(4).

CHAPTER 5

REPORTING AND RECORD KEEPING

8. An importer or exporter of chemicals listed in Annexure I to these Regulations, must keep accurate and up to date records that reflect—
 - (a) the actual quantities of the chemicals imported or exported;

- (b) the origin or source of the chemicals;
 - (c) the actual use or application of the chemicals imported or exported;
 - (d) the destination of the chemicals; and
 - (e) the date of import or export.
9. (1) The importer or exporter of chemicals listed in Annexure I to these Regulations must submit, annually, at the end of January every year, the following information to the South African DNA—
- (a) actual quantities of the chemicals imported or exported; and
 - (b) customs import and export declaration document for every chemical consignment.
- (2) The records contemplated in regulations 4(2), 5(1), 6, 8 and subregulation 9(1), must be—
- (a) retained for a period of at least five years;
 - (b) made available to the DNA upon request; and
 - (c) made available by the importer and/or exporter of chemicals listed in Annexure I to these Regulations, and any person involved with the transit thereof.

CHAPTER 6

GENERAL MATTERS

10. Offences

A person commits an offence, if that person contravenes or fails to comply with Regulations 3 or 9(2) to these Regulations.

11. Penalties

A person convicted of an offence under these Regulations is liable to:

- (a) a minimum fine not exceeding 5 million Rands or to imprisonment for a period not exceeding 5 years in the case of a first offence;
- (b) in the case of a second or subsequent conviction, a fine not exceeding 10 million Rands or to imprisonment for a period not exceeding 10 years; and
- (c) in both instances, both such fine and such imprisonment.

12. Title and Commencement

These Regulations are the Regulations to Domesticate the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 2021 and will come into effect on the date of their publication in the *Government Gazette*.

ANNEXURE I

List of chemicals controlled under these Regulations

- A. LIST OF CHEMICALS SUBJECT TO THE PIC PROCEDURE UNDER THE ROTTERDAM CONVENTION**
1. 2,4,5-T and its salts and esters 93-76-5
 2. Alachlor 15972-60-8
 3. Aldicarb 116-06-3
 4. Aldrin 309-00-2
 5. Azinphos-methyl 86-50-0
 6. Benomyl (certain formulations):
17804-35-2
1563-66-2
137-26-8
 7. Binapacryl 485-31-4
 8. Captafol 2425-06-1
 9. Carbofuran (certain formulations) 1563-66-2
 10. Chlordane 57-74-9
 11. Chlordimeform 6164-98-3
 12. Chlorobenzilate 510-15-6
 13. (Dichlor-DiphenylTrichloroethane) DDT 50-293
 14. Dibromochloropropane 96-12-8
 15. Dieldrin 60-57-1
 16. Dinitro-ortho-cresol (DNOC) and its salts (such as ammonium salt, potassium salt and sodium salt):
534-52-1,
2980-64-5,
578796-2,
2312-76-7
 17. Dinoseb and its salts and esters 88-85-7
 18. 1,2-dibromoethane (EDB) 106-93-4
 19. Endosulfan 115-29-7
 20. Endrin 72-20-8
 21. Ethylene dichloride (1,2-dichloroethane) 107-06-2
 22. Ethylene oxide 75-21-8
 23. Fluoroacetamide 640-19-7
 24. Hexachlorocyclohexane (mixed isomers) 808-73-1
 25. Heptachlor 76-44-8
 26. Hexabromocyclododecane 3194-55-6
 27. Alpha-Hexabromocyclododecane 134237-50-6
 28. Beta-Hexabromocyclododecane 134237-51-7
 29. Gamma-Hexabromocyclododecane 134237-52-8
 30. Hexachlorobenzene 118-74-1
 31. Kepone 143-50-0
 32. Leptophos 21609-90-5
 33. Lindane (gamma-HCH) 58-89-9
 34. Mecarbam 2595-54-2
 35. Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds 10112-91-1, 2190853-2, 115-09-3, 7487-94-7, 7439-97-6 and others
 36. Methamidophos 10265-92-6
 37. Monocrotophos 6923-22-4
 38. Parathion 56-38-2
 39. Pentachlorophenol and its salts and esters 87-86-5
 40. Phorate 298-02-2
 41. Toxaphene (Camphechlor) 8001-35-2
 42. Trichlorfon 52-68-6
 43. Dustable powder formulations containing a combination of benomyl at or above 7%, carbofuran at or above 10% and thiram at or above 15%:
17804-35-2
1563-66-2
137-26-8
 44. Methyl-parathion (Emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient) 298-00-0
 45. Octabromodiphenyl ether (including Hexabromodiphenyl ether and Heptabromodiphenyl ether) 32536-52-0
 46. Pentabromodiphenyl ether (including tetrabromodiphenyl ether and pentabromodiphenyl ether) 32534-81-9
 47. Phosphamidon (Soluble liquid formulations of the substance that exceed 1000 g active ingredient/l) 13171-21-6 (mixture), 297-99-4 (trans-isomer), 23783-98-4 (cis-isomer).
 48. Mixture (E) & (Z) isomers 13171-21-6
a. (Z)-isomer 23783-98-4
b. (E)-isomer 297-99-4
 49. Perfluorooctane sulfonic acid, perfluorooctane sulfonates, perfluorooctane sulfonamides and perfluorooctane sulfonyls:
1691-99-2, 1763-23-1, 24448-09-7, 251099-16-8, 2795-39-3, 29081-56-9, 29457-72-5, 307-35-7, 31506-32-8, 4151-50-2, 56773-42-3, 70225-14-8
 50. Polybrominated biphenyls (PBB) 13654-09-6, 27858-07-7, 36355-01-8
 51. Polychlorinated biphenyls (PCB) 1336-36-3
 52. Polychlorinated terphenyls (PCT) 61788-33-8
 53. Short-chain chlorinated paraffins (SCCP) 85535-84-8

54. Tetraethyl lead 78-00-2
55. Tetramethyl lead 75-74-1
56. Toxaphene 8001-35-2
57. Tributyltin compounds 1461-22-9, 1983-10-4,
2155-70-6, 24124-25-2, 4342-36-3, 56-35-9,
85409-17-2
58. Tris (2,3-dibromopropyl) phosphate (TRIS)
126-72-7

B. LIST OF CHEMICALS CONTROLLED UNDER SA LEGISLATION

1. 2,4-D (dimethylamine salt) 2008-39-1
2. 2,4-D esters
3. 2,4-DB (sodium salt)
4. 2,4,5-T and its salts and esters 93-76-5 and others
5. Aldicarb 116-06-3
6. Aluminium phosphide 20859-73-8
7. Antimony potassium tartrate 304-59-6
8. Antimony sodium tartrate 31586-77-3
9. Arsenic compounds 7440-38-2
10. Asbestos –
 - (a) Actinolite, 77536-66-4
 - (b) Anthophyllite, 77536-67-5
 - (c) Amosite, 12172-73-5
 - (d) Crocidolite, and 12001-28-4
 - (e) Tremolite only 77536-68-6
11. Atrazine 1912-24-9
12. Azimphos-ethyl 2642-71-9
13. Azinphos-methyl 86-50-0
14. Barium and its salts 91002-07-2
15. BHC (mixture of various isomers) 608-73-1, 319-85-7
16. Binapacryl 485-31-4
17. Captafol 2425-06-1
18. Carbofuran 1563-66-2
19. Carbon disulphide 75-15-0
20. Carbosulfan 55285-14-8
21. Chlordimeform 6164-98-3
22. Chlorobenzilate 510-15-6
23. Chloroform 67-66-3
24. Chloropicrin 76-06-2
25. Chlorophacinone 3691-35-8
26. Chlorpyrifos 2921-88-2
27. Coumatetralyl 5836-29-3
28. Cyanides:
 - (f) Potassium 151-50-8
 - (g) Copper 544-92-3
 - (h) Sodium 143-33-9
 - (i) Silver 506-64-9
 - (j) Calcium 592-01-8
29. Cyclohexamide 66-81-9
30. Demeton-S-methyl 919-86-8
31. Dialfor 10311-84-9
32. Dicamba 1918-00-9
33. Dicrotophos 141-66-2
34. Dioxathion 78-34-2
35. Diphacinone 82-66-6
36. Disulfoton 298-04-4
37. Fluoroacetic acid (mono), its salts and derivatives 76-05-1
38. Hydrogen cyanide acid 74-90-8
39. Lindane (γ -HCH) 58-89-9
40. Lead acetate 15347-57-6
41. MCPA (potassium salt) 5221-16-9
42. MCPB (sodium salt) 6062-26-6
43. Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds 10112-91-1, 2190853-2, 115-09-3, 7487-94-7, 7439-97-6 and others
44. Methomyl 16752-77-5
45. Methyl bromide 74-83-9
46. Methyl formate 16752-77-5
47. Mevinphos 7786-34-7
48. Monocrotophos 6923-22-4
49. Nonylphenols C₆H₄ (OH) C₉H₁₉:
 - (k) 25154-52-3 (phenol, nonyl-),
 - (l) 84852-15-3 (phenol, 4-nonyl-, branched)
 - (m) 11066-49-2 (isononylphenol),
 - (n) 90481-04-2, (phenol, nonyl-, branched),
 - (o) 104-40-5 (p-nonylphenol) and others
50. Nonylphenol ethoxylates (C₂H₄O) nC₁₅H₂₄O:
 - (p) 9016-45-9,
 - (q) 26027-383,
 - (r) 68412-54-4,
 - (s) 37205-87-1,
 - (t) 12708787-0 and others
51. Omethoate 1113-02-6
52. Oxamyl 23135-22-0
53. Parathion 56-38-2
54. Plindone 83-26-1
55. Phenamiphos 22224-92-6
56. Phosphamidon (soluble liquid formulations of the substance that exceed 1 000 g active ingredient/l)
 - 13171-21-6 (mixture, (E) & (Z) isomers)
 - 23783-98-4 ((Z)-isomer)
 - 297-99-4 ((E)-isomer)
57. Phosphorus 7723-14-0
58. Potassium sodium tartrate 304-59-6
59. Propham 122-42-9
60. Sodium fluoride 7681-49-4
61. Strychnine 57-24-9
62. Tetrachlorodiphenylethane (TDE) 72-54-8
63. Thallium sulphate 7446-18-6
64. Triclopyr 55335-06-3
65. Vinclozolin 50471-44-8
66. Warfarin 81-81-2
67. Warfarin Sodium 129-06-6
68. Zinc phosphide 51810-70-

ANNEXURE II



ROTTERDAM CONVENTION

SECRETARIAT FOR THE ROTTERDAM CONVENTION
ON THE PRIOR INFORMED CONSENT PROCEDURE
FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES
IN INTERNATIONAL TRADE



Form for Export Notification

Note: This export notification is provided by the DNA of South Africa in accordance to Article 12 of the Rotterdam Convention. The country of import is kindly requested to **acknowledge** receipt of this export notification within 30 days of the date indicated in section 7, preferably by using the attached form.

Reference Number:

Country of export

Country of import

SECTION 1

IDENTITY OF THE CHEMICAL SUBJECT TO THE EXPORT NOTIFICATION

1.1 Common name

1.2 Chemical name according to an internationally recognized nomenclature (e.g. IUPAC)

1.3 Code numbers

1.3.1 CAS number

1.3.2 Harmonized system customs code

1.3.3 Other numbers
(if applicable, specify the numbering system)

SECTION 2 IDENTITY OF THE MIXTURE/PREPARATION TO BE EXPORTED

(Fill in Section 2 only in case of a mixture or preparation)

- 2.1 Trade name and name of the preparation**
- 2.2 For each substance in the preparation that is subject to the export notification, concentration (%) and information as specified under SECTION 1**

SECTION 3 INFORMATION CONCERNING THE EXPORT

- 3.1 Expected date of export (dd.mm.yy)**
- 3.2 Expected amount of the substance or mixture (kg/l per year)**
- 3.3 Foreseen category (industrial chemical or pesticide) and foreseen use in country of import**
- 3.4 Name, address, telephone, fax and email of the importer**
- 3.5 Name, address, telephone, fax and email of the exporter**

SECTION 4 INFORMATION ON HAZARDS AND /OR RISKS OF THE CHEMICAL/PREPARATION AND PRECAUTIONARY MEASURES
 (Please provide information in the table below or attach a copy of the SDS that covers the information required.)

- 4.1 Hazard classification (e.g. GHS, WHO, IARC, EU)**

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- 4.2 Information on hazards and/or risks
- 4.3 Information on precautionary measures to reduce exposure to and emission of the chemical
- 4.4 Further information that may be useful to the country of import or has been requested by it, if available
- 4.5 Reference (e.g. safety data sheet)

SECTION 5

INFORMATION ON PHYSICO-CHEMICAL, TOXICOLOGICAL AND ECOTOXICOLOGICAL PROPERTIES OF THE CHEMICAL/PREPARATION

(Please provide information in the table below or attach a copy of the SDS that covers the information required.)

- 5.1 Summary Information

- 5.2 Reference

SECTION 6

SUMMARY INFORMATION ON FINAL REGULATORY ACTION TAKEN BY THE COUNTRY OF EXPORT

6.1 Summary of and reasons for the final regulatory action and data of entry into force

6.2 The final regulatory action has been taken for the category

Pesticide

Industrial chemical

Please indicate:

- use or uses prohibited
- use or uses that remain allowed
- where available, estimated quantity of the chemical produced, imported, exported and used

6.3 Reference to the regulatory document

SECTION 7

DESIGNATED NATIONAL AUTHORITIES (DNAs)

7.1 Name, address, telephone, fax and email of the notifying DNA in the country of export

7.2 Name, address, telephone, fax and email of the DNA in the country of import

Date, signature of the notifying DNA in the country of export and official seal:

ANNEXURE III

Form for Acknowledging Receipt of Export Notification

This is to acknowledge the receipt of the export notification:

Name of the country of Import

Reference number of the export notification

Chemical name

Date, signature of the designated authority in the country of Import and official seal:

Please send the acknowledgment within 30 days of the date indicated in section 7 to the country of export at the following address:

Name and address

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