



Resource Management (National Environmental Standards for Storing Tyres Outdoors) Regulations 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 17th day of May 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 43 of the Resource Management Act 1991—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made in accordance with section 44 of that Act.

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Regulations

1 Title

These regulations are the Resource Management (National Environmental Standards for Storing Tyres Outdoors) Regulations 2021.

2 Commencement

These regulations come into force on 20 August 2021.

Preliminary provisions

3 Purpose relates to functions of regional councils

The purpose of these regulations is to deal with the effects of storing tyres outdoors that relate to the functions of regional councils under section 30 of the Act, particularly—

- (a) the control of the use of land for the purpose of—
 - (i) the maintenance and enhancement of the quality of water in water bodies and coastal water; and
 - (ii) the avoidance or mitigation of natural hazards; and
- (b) the control of discharges of contaminants into land, air, or water.

4 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Resource Management Act 1991

active retreading business means a business that is currently engaged in retreading tyres

aquifer means a permeable geological formation, group of formations, or part of a formation that is beneath the ground and capable of receiving, storing, transmitting, and yielding water

bore—

- (a) means any hole drilled or constructed in the ground that is used to—
 - (i) investigate or monitor conditions below the ground surface; or
 - (ii) abstract gaseous or liquid substances from the ground; or
 - (iii) discharge gaseous or liquid substances into the ground; and
- (b) excludes test pits, trenches, soak holes, and soakage pits

drinking water—

- (a) means water intended to be used for human consumption; and
- (b) includes water intended to be used for food preparation, utensil washing, and oral or other personal hygiene

national grid means the network used or owned by Transpower New Zealand Limited for the purpose of conveying electricity, including—

- (a) the electricity substations that are connected to the network; and
- (b) the other infrastructure for the network

newly retreaded, in relation to a tyre, means a retreaded tyre that—

- (a) was used prior to being retreaded; but
- (b) has not been used since it was retreaded

overhead transmission line—

- (a) means the overhead conductors and other wires that are used to convey electricity on the national grid; and
- (b) includes—
 - (i) the towers and poles that support the conductors and other wires; and
 - (ii) the cable transition stations for the conductors and other wires

property means—

- (a) an allotment; or
- (b) 2 or more allotments taken together, if the allotments are adjacent to each other and are owned or managed by the same person

registered drinking-water supply means a drinking-water supply that is recorded in the drinking-water register maintained by the chief executive of the Ministry of Health (the Director-General) under section 69J of the Health Act 1956

storing tyres outdoors has the meaning given by regulation 7(2)

supply drinking water means to supply drinking water—

- (a) to a registered drinking-water supply; or
- (b) directly to a dwellinghouse

surface water body—

- (a) means freshwater or geothermal water in the whole or any part of a river, lake, stream, pond, or wetland; and
- (b) excludes freshwater or geothermal water that is—
 - (i) within the coastal marine area; or
 - (ii) in the whole or any part of an aquifer

tyre—

- (a) includes—
 - (i) a tyre in a tyre bale; and
 - (ii) a tyre that is shredded or chipped; and
 - (iii) a tyre casing without tread; and
- (b) excludes—
 - (i) an inner tube for a tyre; and
 - (ii) any product derived from a tyre through a process that involves separating from each other the rubber and other materials that form the tyre

tyre bale means a bale that is formed by compressing tyres and binding them together.

5 Measuring volume of tyres

In these regulations,—

- (a) the volume of a tyre includes the air space (if any) that is within the tyre's outer limits; and
- (b) the volume of tyres in a tyre bale is the volume of the tyre bale as a whole; and
- (c) the total volume of tyres stored on a property is the total volume of those tyres, regardless of whether the tyres are located together or on separate parts of the property.

6 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

Application of regulations

7 Regulations apply to storing tyres outdoors

- (1) These regulations apply to storing tyres outdoors on a property.
- (2) **Storing tyres outdoors** occurs if—
 - (a) the tyres are, or have been, deposited on a property and are allowed to remain there for more than 72 hours; and
 - (b) the tyres are not indoors or buried in the ground; and
 - (c) the active use exception under regulation 8 does not apply to the tyres.
- (3) Tyres are **indoors** if they are inside an immovable or a moveable construction that is fully enclosed by a roof, walls, and a floor.
- (4) This regulation is subject to regulation 9.

8 Regulations do not apply if tyres subject to active use exception

- (1) For the purposes of regulation 7(2), tyres are not stored outdoors if the active use exception set out in this regulation applies.
- (2) The active use exception applies if the tyres—
 - (a) are fitted to a vehicle, machinery, equipment, or other thing that is designed to be fitted with a tyre; or
 - (b) are being used to weigh down the cover on a silage stack with a single layer of whole tyres; or
 - (c) are being used for sporting or recreation purposes, or for engineering, landscaping, drainage, or other construction purposes, and the conditions in subclause (3) are met.
- (3) The conditions referred to in subclause (2)(c) are met if—
 - (a) the tyres—
 - (i) are attached to, or form part of, a structure; or
 - (ii) are bound, or otherwise connected, to each other; and
 - (b) the activity of using tyres for the relevant purpose under subclause (2)(c)—
 - (i) was lawfully established on the property before these regulations came into force; and
 - (ii) has not been discontinued for a continuous period of more than 6 months since these regulations came into force.

9 Regulations do not apply within coastal marine area

- (1) These regulations do not apply within the coastal marine area.
- (2) However, subclause (1) does not prevent effects on the coastal environment (including the coastal marine area) from being considered under regulation 14.

Standards for storing tyres outdoors

10 Permitted activity: storing less than 20 m³ of tyres

Storing tyres outdoors on a property is a permitted activity if the total volume of tyres stored outdoors on the property is less than 20 m³.

11 Permitted activity: storing 20 m³ or more of tyres

- (1) This regulation applies if the total volume of tyres stored outdoors on a property is 20 m³ or more.
- (2) Storing tyres outdoors on the property is a permitted activity if—
 - (a) the general conditions in regulation 12 are met; and
 - (b) 1 or more of the following apply:
 - (i) the total volume of tyres stored outdoors on the property (other than tyres of the kind described in any of subparagraphs (ii) to (iv)) is less than 100 m³;
 - (ii) the tyres are new or newly retreaded and are stored for the purpose of a business whose activities include the supply or servicing of new or newly retreaded tyres;
 - (iii) the tyres are awaiting retreading and are stored on a property that is owned or leased by the active retreading business that will undertake the retreading;
 - (iv) the tyres are stored for use as weights to weigh down covers on 1 or more silage stacks and the further conditions in regulation 13 are met.

12 Permitted activity: general conditions

- (1) The general conditions that apply under regulation 11(2)(a) are as follows:
 - (a) the tyres must not be piled more than 3 m high; and
 - (b) the tyres must be at least 50 m from—
 - (i) any overhead transmission line; and
 - (ii) any other part of the national grid that is above ground; and
 - (c) the tyres must be at least 50 m from any bore or surface water body (other than a river or stream) that is used to supply drinking water; and
 - (d) in relation to any river or stream that is used to supply drinking water, the tyres must be at least 50 m from the point of the river or stream at which the drinking water is abstracted; and
 - (e) except to the extent that paragraphs (c) and (d) apply, the tyres must be at least 20 m from—
 - (i) any bore that connects to an aquifer; and
 - (ii) any surface water body; and

- (f) the tyres must be at least 1 m above the water table of any aquifer; and
 - (g) the tyres must be at least 50 m from the coastal marine area.
- (2) The distance between tyres and another thing is,—
 - (a) if the other thing is an overhead transmission line, the shortest distance between the centre line of the overhead transmission line and the edge of the closest tyre:
 - (b) if the other thing is an electricity substation that is part of the national grid, the shortest distance between the electricity substation's outermost security fence and the edge of the closest tyre:
 - (c) in any other case, the shortest distance between the edge or boundary of that thing and the edge of the closest tyre.

13 Permitted activity: further conditions: tyres for silage stack covers

- (1) The further conditions that apply under regulation 11(2)(b)(iv) (which is about tyres stored for use as weights for silage stack covers) are as follows:
 - (a) the tyres must be stored next to the pits or other areas where the silage stacks are regularly made; and
 - (b) the volume of tyres next to each pit or other area must be no more than needed to cover the silage stack in a single layer of whole tyres.
- (2) For the purposes of subclause (1)(b),—
 - (a) the volume of tyres needed to cover a silage stack in a single layer of whole tyres is the volume needed to cover the largest silage stack that may reasonably be made in the pit or other area; and
 - (b) if some tyres are currently being used to weigh down the cover on a silage stack in the pit or other area, the volume of those tyres must be added to the volume of tyres being stored next to the pit or other area.

14 Restricted discretionary activity if not permitted activity

- (1) Storing tyres outdoors on a property is a restricted discretionary activity if it is not a permitted activity under these regulations.
- (2) Discretion is restricted to the following matters:
 - (a) the adverse effects of the activity on land, freshwater, ecosystems, and the coastal environment:
 - (b) the risk of fire associated with the activity and the adverse effects of any fire on—
 - (i) air quality, freshwater, ecosystems, and the coastal environment; and
 - (ii) the health and safety of people and communities; and
 - (iii) the economic, social, and cultural well-being of people and communities:

- (c) the proposed measures to avoid, remedy, or mitigate the adverse effects referred to in paragraph (a):
- (d) the proposed measures to mitigate the risk of fire associated with the activity and the adverse effects referred to in paragraph (b):
- (e) the economic and environmental benefits (for example, those relating to the re-use, recycling, or recovery of tyre material) that may result from, or be facilitated by, the activity:
- (f) the requirement for, and conditions of, a bond:
- (g) the timing, and nature of, the review of conditions on the resource consent:
- (h) the duration of the resource consent.

Other matters

15 Rules and bylaws may be more stringent than regulations

The following may be more stringent than these regulations:

- (a) a regional rule:
- (b) a district rule:
- (c) a bylaw made by a regional council or a territorial authority.

16 Regional council may charge for monitoring permitted activities

A regional council may charge for monitoring activities that are permitted activities under these regulations.

Schedule 1

Transitional, savings, and related provisions

r 6

Part 1

Provisions relating to these regulations as made

There are no transitional, savings, or related provisions relating to these regulations as made.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under the Resource Management Act 1991 (the **Act**) and prescribe national environmental standards for storing tyres outdoors. The regulations come into force on 20 August 2021.

Preliminary provisions

Regulations 3 to 6 set out preliminary provisions, which include—

- the purpose of these regulations, which is to deal with the effects of outdoor tyre storage that relate to the functions of regional councils; and
- definitions for key terms used in these regulations (*see also* section 2 of the Act for further definitions that apply in these regulations); and
- rules for measuring the volume of tyres for the purposes of these regulations.

Application of regulations

Regulation 7 states that these regulations apply to storing tyres outdoors on a property. That occurs if—

- the tyres are, or have been, deposited on the property and are allowed to remain there for more than 72 hours; and
- the tyres are not indoors (meaning that they are not inside an immovable or a moveable construction that is fully enclosed by a roof, walls, and a floor) or buried in the ground; and
- the active use exception does not apply to the tyres.

Regulation 8 sets out the active use exception, which applies if tyres—

- are fitted to a vehicle, machinery, equipment, or other thing that is designed to be fitted with a tyre; or
- are being used to weigh down the cover on a silage stack with a single layer of whole tyres; or
- are being used for sporting, recreation, or construction purposes and certain conditions are met (including a condition that the use must be established before these regulations come into force).

Regulation 9 states that these regulations do not apply within the coastal marine area.

Standards for storing tyres outdoors

Regulations 10 to 13 set out the permitted activity standard for storing tyres outdoors. They provide that outdoor tyre storage is a permitted activity if—

- the total volume of tyres stored on a property is less than 20 m³; or
- certain general conditions are met and—
 - the total volume of tyres is less than 100 m³; or

- the tyres are new or newly retreaded and are stored for the purpose of a business whose activities include the supply or servicing of new or retreaded tyres; or
- the tyres are awaiting retreading and are stored on a property that is owned or leased by the active retreading business that will undertake the retreading; or
- the tyres are stored for use as weights to weigh down covers on 1 or more silage stacks and certain further conditions are met.

Regulation 14 states that storing tyres outdoors is a restricted discretionary activity if it is not a permitted activity. The regulation sets out the matters over which discretion is restricted when a consent authority is considering a resource consent application for the activity or imposing conditions on the consent.

Other matters

Regulation 15 allows regional rules, district rules, and bylaws made by local authorities to be more stringent than these regulations.

Regulation 16 empowers regional councils to charge for monitoring activities that are permitted activities under these regulations.

Regulatory impact assessment

The Ministry for the Environment produced a regulatory impact assessment on 26 June 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://environment.govt.nz/publications/regulatory-impact-statement-nes-for-outdoor-storage-of-tyres/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

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These regulations are administered by the Ministry for the Environment.