

Subject: Information Alert - National Environmental Management: Waste Act New Developments



INFORMATION ALERT:

NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT 59 OF 2008 AND NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998

The NEM: Waste Act 59 of 2008 generally came into operation on 1 July 2009, with the exception of section 28(7)(a), sections 35-41 and section 46. On 3 July 2009 two significant new developments took place:

New Listed Waste Management Activities under the NEM: Waste Act 59 of 2008 (GN 718 of 3 July 2009)

On 3 July 2009, the Acting Minister of Water and Environmental Affairs, under section 19(1) of the NEM: Waste Act 59 of 2008, published a list of Waste Management Activities in respect of which a waste management licence is required. The Schedule to the Notice stipulates that no person may commence, undertake or conduct a waste management activity listed in the Schedule unless a licence is issued in respect of that activity. The Schedule to the Notice also distinguishes between two categories of waste management activities which now require licensing, including various activities associated with the storage of waste, reuse, recycling and recovery of waste, treatment of waste (which includes the remediation of contaminated land) and disposal of waste.

While the Notice takes effect on the date of publication, it does provide that persons who lawfully conducted the waste management activities which are listed in the Schedule to the Notice on that date may continue with those activities until such time that the Minister, by notice in the Gazette, calls upon those persons to apply for waste management licences (the transitional provisions contained in sections 80, 81 and 82 of the NEM: Waste Act 59 of 2008 also still remain relevant). It should be noted however that certain of the listed waste management activities that require licensing arise in the context of the expansion or decommissioning of existing facilities.

The Schedule to the Notice also stipulates that a person who wishes to commence, undertake or conduct an activity listed in the two categories must, as part of the Waste Management Licence Application, conduct either a basic assessment process (for Category A Waste Management Activities) or an environmental impact assessment process (for Category B Waste Management Activities), as stipulated in the Environmental Impact Assessment Regulations made under the National Environmental Management Act 107 of 1998 (NEMA).

A copy of GN 718 of 3 July 2009 may be obtained from www.sawic.org.za under *Waste Policy and Regulation – Waste Legislation*.

Repeal and Amendment of "Waste" Related Listed Activities under NEMA (GN 719 of 3 July 2009)

On the same date as the above Notice, the listed activities in terms of GN R386 and GN R387 under the National Environmental Management Act 107 of 1998 (NEMA) that require environmental authorisation were amended by the Acting Minister of Water and Environmental Affairs to omit most of the waste related listed activities. This Notice also took effect on the date of publication.

A copy of GN 719 of 3 July 2009 may be obtained from www.sawic.org.za under *Waste Policy and*

Regulation – Waste Legislation.

Departmental Explanatory Notice

The Department also published in various media a notice pertaining to the administration of the licensing of waste activities in terms of the NEM: Waste Act 59 of 2008. This notice clarifies the approach of the Department in the context of the following:

- **The interface between the NEM: Waste Act 59 of 2008 and the NEMA EIA Regulations** – the notice indicates that the repeal of the waste-related NEMA listed activities is intended to "align" the NEM: Waste Act 59 of 2008 and the NEMA EIA Regulations "to avoid the necessity to submit two applications for the same activity".
- **The process to be followed for activities that were authorised in terms of the NEMA EIA Regulations and that require a licence in terms of the NEM: Waste Act 59 of 2008.**
- **The administrative arrangements for applications that were received prior to 1 July 2009.**
- **The approach regarding activities that entail a NEM: Waste Act 59 of 2008 listed activity as part of a bigger development.**
- **Application forms** – the Waste Licence Application forms (including further details of the process) are available at www.sawic.org.za under *Waste Treatment and Disposal*.
- **The prescribed application fee** – no application fee is currently prescribed.

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