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ENVIRONMENTAL ALERT

IN THIS ISSUE

WITHDRAWAL AND REPLACEMENT OF NOTICE CALLING FOR INDUSTRY WASTE MANAGEMENT PLANS FOR THE PAPER AND PACKAGING, ELECTRICAL AND ELECTRONIC, AND LIGHTING INDUSTRIES

On 12 September 2016, the Minister of Environmental Affairs (Minister) withdrew the Notice published on 12 August 2016 (August Notice) to the paper and packaging industry, electrical and electronic industry and lighting industry.

WITHDRAWAL AND REPLACEMENT OF NOTICE CALLING FOR INDUSTRY WASTE MANAGEMENT PLANS FOR THE PAPER AND PACKAGING, ELECTRICAL AND ELECTRONIC, AND LIGHTING INDUSTRIES

The Draft September Notice now proposes to provide Affected Industries with 12 months to register with the Minister, and a 12 month timeframe after registration to prepare and submit an IWMP for approval.

Affected Industries are encouraged to engage in the additional public comment process to ensure the ambit of the Draft September Notice is clarified. The period for public comment ends on 11 October 2016.



On 12 September 2016, the Minister of Environmental Affairs (Minister) withdrew the Notice published on 12 August 2016 (August Notice) to the paper and packaging industry, electrical and electronic industry and lighting industry (Affected Industries) in terms of s28 of the National Environmental Management: Waste Act, No 59 of 2008 (Waste Act) to prepare and submit industry waste management plans (IWMPs) to the Minister for approval (Withdrawal Notice). The Minister simultaneously published a further draft Notice for comment (Draft September Notice).

The Withdrawal Notice and the additional opportunity to consult under the Draft September Notice are welcomed, given the overwhelming criticism and alarm created by, among other things, the impractical deadlines contained within the August Notice for the preparation and submission of IWMPs.

The Draft September Notice now proposes to provide Affected Industries with 12 months to register with the Minister, and a 12 month timeframe after registration to prepare and submit an IWMP for approval. It has also reverted to the requirement under the initial draft Notice published in mid-2015 that all IWMPs be representative of at least 70% of the category of person or industry registered with the Department and deletes explicit references to importers of packaging being regulated under the Notice.

The Draft September Notice does, however, still create some confusion on which entities will be considered as part of the paper and packaging industry required to register, prepare and submit IWMPs. The Draft September Notice, like the August Notice, includes a wide definition of "packaging" which creates some confusion as to who is generally included in the paper and packaging industry. It also imposes the registration and IWMP submission obligations on the "category of person or industry" contemplated in s28(1) of the Waste Act. The ambit of the "category of person or industry" is unclear, as these terms are not defined in the Draft September Notice or the Waste Act.

Affected Industries are encouraged to engage in the additional public comment process to ensure the ambit of the Draft September Notice is clarified. The period for public comment ends on 11 October 2016.

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