

# MINING AND MINERALS ALERT

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### MINING INDUSTRY TO WELCOME PROPOSED AMENDMENTS TO RESIDUE STOCKPILES AND DEPOSITS REGULATIONS

The Minister of Environmental Affairs recently published Proposed Amendments to the Regulations Regarding the Planning and Management of Residue Stockpiles and Residue Deposits (Proposed Amendments) for comment. The Proposed Amendments' main objective is to allow for pollution control barrier systems, required for residue stockpiles and residue deposits (RSRDs), to be determined on a case by case basis, based on a risk analysis conducted by a competent person.

# MINING INDUSTRY TO WELCOME PROPOSED AMENDMENTS TO RESIDUE STOCKPILES AND DEPOSITS REGULATIONS

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*The Regulations presently require that RSDS's pollution control barrier systems must be designed in accordance with the National Norms and Standards that relate to the assessment and disposal of waste to landfill sites (Landfill Standards), regardless of a RSDS's pollution potential.*

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With RSRDs identified as waste under Schedule 3 of the National Environmental Management: Waste Act, No 59 of 2008 (NEMWA), s69(iA) of NEMWA entitles the Minister of Environmental Affairs to make regulations regarding the management and control of RSRDs from prospecting, mining exploration or production operations.

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The Regulations presently require that RSDS's pollution control barrier systems must be designed in accordance with the National Norms and Standards that relate to the assessment and disposal of waste to landfill sites (Landfill Standards), regardless of a RSDS's pollution potential. This was met with widespread criticism from the mining section, due to the significantly increased construction costs mining companies would incur and resulted in litigation being instituted regarding the reasonableness of this requirement.

This requirement is far more onerous than what was previously prescribed under the Minerals and Petroleum Resources Development Act, No 28 of 2002 (MPRDA), which governed RSRDs prior to the introduction of the Regulations.

It is also contrary to NEMWA's objectives, which seeks to ensure the provision of reasonable measures for *inter alia* the safe disposal of waste. Clearly there cannot be a "one-size-fits all approach" to the prevention of pollution and ecological degradation. Planning and management techniques must be context-driven and well-tailored, to manage the peculiar risks associated with each mining operation and the waste products incidental thereto.

The Landfill Standards are presently required to be applied when a mining company applies for a waste management license (WML). The Department of Water and Sanitation, however, also incorrectly relied on the Requirements when considering applications for water use licences (WULs) and would not issue a



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*Once promulgated, the Proposed Amendments will not only apply to new RSRD WML applications (WMLAs), but also to any RSRD WMLA which was previously submitted.*

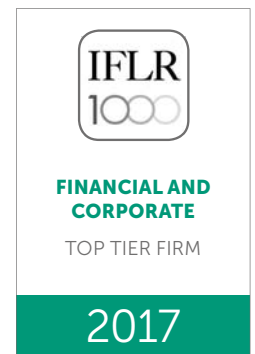
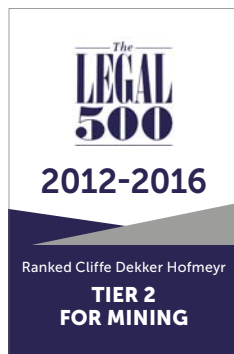


WUL unless it included a condition the pollution control barrier system would be designed in accordance with the Landfill Standards. If the Proposed Amendments are enacted, this will prevent the DWS from including such onerous conditions to WULs.

Once promulgated, the Proposed Amendments will not only apply to new RSRD WML applications (WMLAs), but also to any RSRD WMLA which was previously submitted.

The Proposed Amendments are therefore to be welcomed by the mining industry. The introduction of a case-by-case approach in the determination of pollution control barrier systems is not only more cost-effective, but also better suited to cater for effective pollution control and ensure environmental protection.

*Sandra Gore and Alecia Pienaar*



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## OUR TEAM

For more information about our Mining and Minerals sector and services, please contact:



**Allan Reid**  
Sector Head  
Director  
Corporate and Commercial  
T +27 (0)11 562 1222  
E [allan.reid@cdhlegal.com](mailto:allan.reid@cdhlegal.com)



**Julian Jones**  
Sector Head  
Business Rescue and Insolvency  
T +27 (0)11 562 1198  
E [julian.jones@cdhlegal.com](mailto:julian.jones@cdhlegal.com)



**Fiona Leppan**  
Director  
Employment  
T +27 (0)11 562 1153  
E [fiona.leppan@cdhlegal.com](mailto:fiona.leppan@cdhlegal.com)



**Giada Masina**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1221  
E [giada.masina@cdhlegal.com](mailto:giada.masina@cdhlegal.com)



**Mark Linington**  
Private Equity Sector Head  
Director  
Tax and Exchange Control  
T +27 (0)11 562 1667  
E [mark.linington@cdhlegal.com](mailto:mark.linington@cdhlegal.com)



**Banzi Malinga**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1100  
E [banzi.malinga@cdhlegal.com](mailto:banzi.malinga@cdhlegal.com)



**Emil Brincker**  
National Practice Head  
Director  
Tax and Exchange Control  
T +27 (0)11 562 1063  
E [emil.brincker@cdhlegal.com](mailto:emil.brincker@cdhlegal.com)



**Deepa Vallabh**  
Head: Cross-border M&A, Africa and Asia  
Director  
Corporate and Commercial  
T +27 (0)11 562 1188  
E [deepa.vallabh@cdhlegal.com](mailto:deepa.vallabh@cdhlegal.com)



**Rishaban Moodley**  
Director  
Dispute Resolution  
T +27 (0)11 562 1666  
E [rishaban.moodley@cdhlegal.com](mailto:rishaban.moodley@cdhlegal.com)



**Willem Jacobs**  
National Practice Head  
Director  
Corporate and Commercial  
T +27 (0)11 562 1555  
E [willem.jacobs@cdhlegal.com](mailto:willem.jacobs@cdhlegal.com)



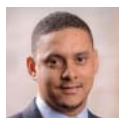
**Ian Burger**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1177  
E [ian.burger@cdhlegal.com](mailto:ian.burger@cdhlegal.com)



**Nonhla Mchunu**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1228  
E [nonhla.mchunu@cdhlegal.com](mailto:nonhla.mchunu@cdhlegal.com)



**Aadil Patel**  
National Practice Head  
Director  
Employment  
T +27 (0)11 562 1107  
E [aadil.patel@cdhlegal.com](mailto:aadil.patel@cdhlegal.com)



**Jackwell Feris**  
Director  
Dispute Resolution  
T +27 (0)11 562 1825  
E [jackwell.feris@cdhlegal.com](mailto:jackwell.feris@cdhlegal.com)



**Verushca Pillay**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1800  
E [verushca.pillay@cdhlegal.com](mailto:verushca.pillay@cdhlegal.com)



**Deon Wilken**  
National Practice Head  
Director  
Finance and Banking  
T +27 (0)11 562 1096E  
E [deon.wilken@cdhlegal.com](mailto:deon.wilken@cdhlegal.com)



**Lilia Franca**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1148  
E [lilia.franca@cdhlegal.com](mailto:lilia.franca@cdhlegal.com)



**Sibongile Solombela**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1534  
E [sibongile.solombela@cdhlegal.com](mailto:sibongile.solombela@cdhlegal.com)



**Terry Winstanley**  
National Practice Head  
Director  
Environmental  
T +27 (0)21 562 6332  
E [terry.winstanley@cdhlegal.com](mailto:terry.winstanley@cdhlegal.com)



**Sandra Gore**  
Director  
Corporate and Commercial  
T +27 (0)11 562 1433  
E [sandra.gore@cdhlegal.com](mailto:sandra.gore@cdhlegal.com)

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### JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.  
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E [jhb@cdhlegal.com](mailto:jhb@cdhlegal.com)

### CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.  
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E [ctn@cdhlegal.com](mailto:ctn@cdhlegal.com)

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