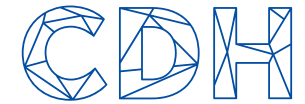


Environmental Law



ALERT | 14 August 2025

In this issue

SOUTH AFRICA

Draft Carbon Budget and Mitigation Plan Regulations published as South Africa takes important steps to advance national climate change policy



For more insight into our
expertise and services



Draft Carbon Budget and Mitigation Plan Regulations published as South Africa takes important steps to advance national climate change policy

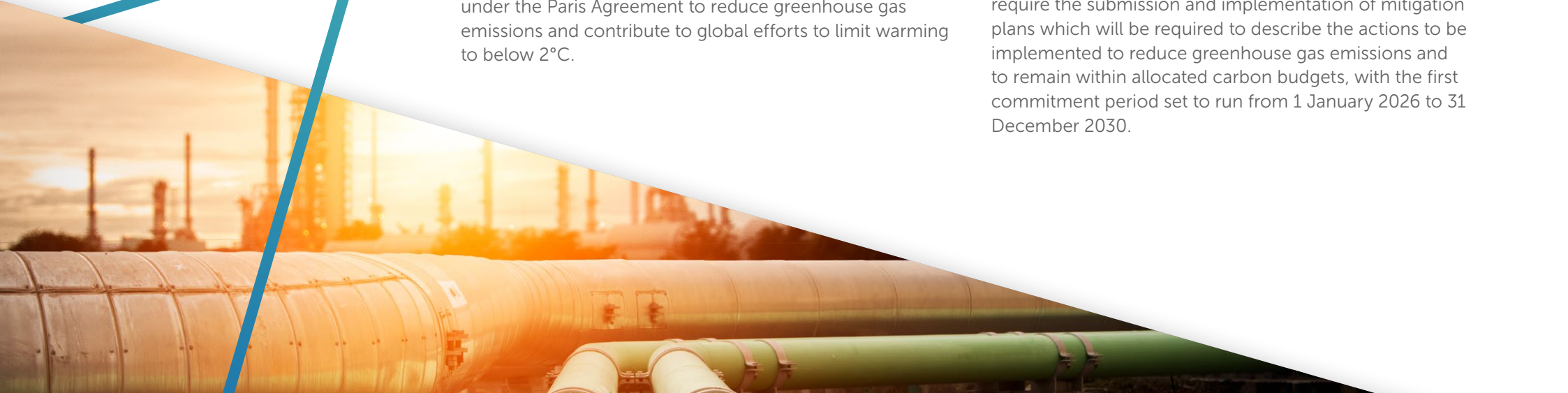
On 1 August 2025, the Minister of Forestry, Fisheries and the Environment, Dr Dion George, published the Draft National Greenhouse Gas Carbon Budget and Mitigation Plan Regulations (Draft Regulations) along with the Draft Technical Guidelines (Draft Guidelines) for public comment, marking a further step towards implementing South Africa's climate change response under the Climate Change Act 22 of 2024 (Climate Change Act).

The publishing of the Draft Regulations and Draft Guidelines is an important step in establishing and giving effect to South Africa's climate change policy commitments and to set into motion key provisions of the Climate Change Act, by declaring the list of greenhouse gases which cause or are likely to cause or exacerbate climate change (Listed GHGs), establishing a mandatory carbon budgeting system for high-emitting sectors, and setting out the requirements for mitigation plans. The introduction of carbon budgets aligns with South Africa's commitment under the Paris Agreement to reduce greenhouse gas emissions and contribute to global efforts to limit warming to below 2°C.

The Draft Regulations include the Listed GHGs as well as the list of activities that emit or have the potential to emit, one or more of the Listed GHGs. The Listed GHGs include:

- Carbon dioxide
- Methane
- Nitrous oxide
- Hydrofluorocarbons
- Perfluorocarbons
- Sulphur hexafluoride
- Nitrogen trifluoride
- Trifluoromethyl sulphur pentafluoride
- Halogenated ethers
- Other halocarbons not covered by the Montreal Protocol

The Draft Regulations establish a mandatory carbon budgeting system for high-emitting sectors and activities and apply to data providers whose emissions of Listed GHGs exceed 30,000 tonnes of CO₂-equivalent annually. It further outlines how carbon budgets will be allocated, monitored and enforced. The Draft Regulations also require the submission and implementation of mitigation plans which will be required to describe the actions to be implemented to reduce greenhouse gas emissions and to remain within allocated carbon budgets, with the first commitment period set to run from 1 January 2026 to 31 December 2030.



ENVIRONMENTAL LAW
ALERT

Draft Carbon Budget and Mitigation Plan Regulations published as South Africa takes important steps to advance national climate change policy

CONTINUED



The Draft Regulations provide for three methods of carbon budget allocation:

1. Product-based benchmarking (the preferred method).
2. Mitigation potential analysis (fall-back method).
3. Fixed-target approach (least preferred fall-back method).

Data providers will be required to submit annual progress reports on both their emissions and the implementation of mitigation measures. Non-compliance may result in penalties, including higher carbon tax rates and fines of up to R10 million or imprisonment for up to 10 years.

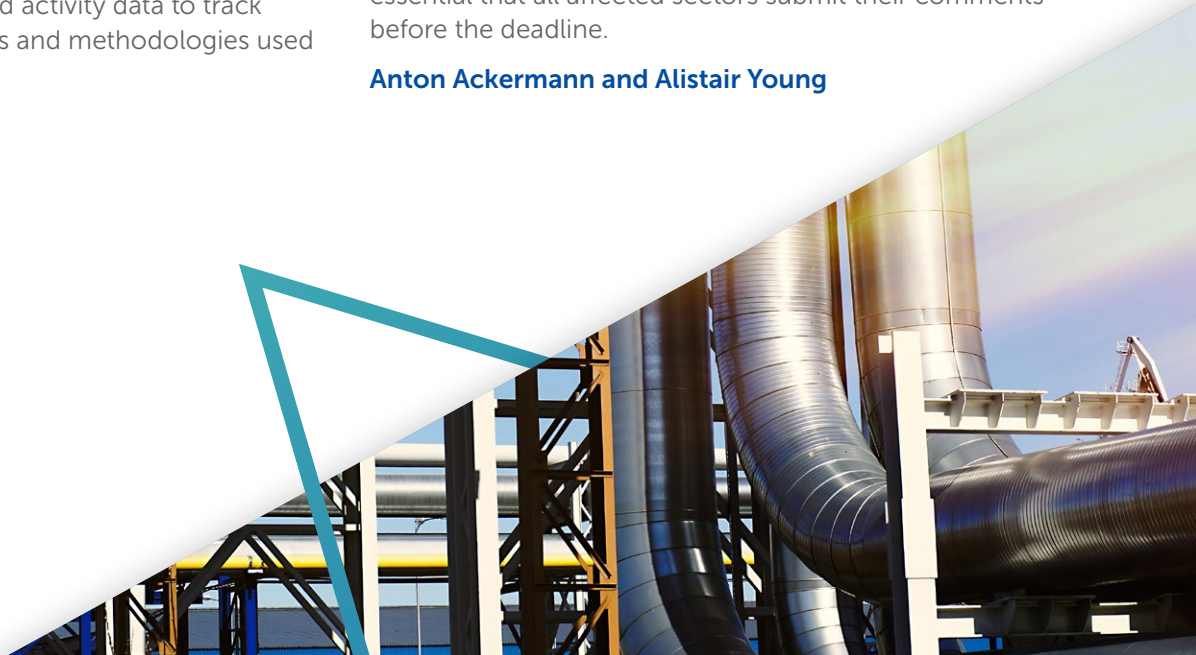
The mitigation plans will have to outline the specific measures that the data provider will implement to ensure their greenhouse gas emissions remain within the allocated budget during a rolling five-year commitment period. Each mitigation plan must include detailed information about the production processes, the types of greenhouse gases emitted, and the interventions planned to reduce emissions and further include indicators and activity data to track progress, along with assumptions and methodologies used to estimate emission reductions.

Mitigation plans will be subject to review and approval by the Department of Forestry, Fisheries and the Environment, as the competent authority, and will have to be revised if the carbon budget allocation changes or if performances deviate materially from expectations. Data providers will be required to report annually on the implementation of their mitigation plans and may request one revision per commitment period, provided that the revised measures are equally or more ambitious.

The Draft Guidelines lend support to data providers for the implementation of the Draft Regulations and provide detailed instructions on data collection, emissions calculation, reporting procedures, and verification requirements.

The Draft Regulations and Draft Guidelines are open for public comment for a period of 60 days from the date of publication. Given the potential financial implications and the operational resources required for compliance, it is essential that all affected sectors submit their comments before the deadline.

Anton Ackermann and Alistair Young



OUR TEAM

For more information about our Environmental Law practice and services in South Africa, Kenya and Namibia, please contact:



Allan Reid

Executive Consultant:
Corporate & Commercial
T +27 (0)11 562 1222
E allan.reid@cdhlegal.com



Alistair Young

Director:
Corporate & Commercial
T +27 (0)11 562 1258
E alistair.young@cdhlegal.com



Clarice Wambua

Consultant | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E clarice.wambua@cdhlegal.com



Alecia Pienaar

Counsel:
Environmental Law
M +27 (0)82 863 6279
E alecia.pienaar@cdhlegal.com



James Ross

Director:
Corporate & Commercial
T +27 (0)21 481 6424
E james.ross@cdhlegal.com



Anton Ackermann

Senior Associate:
Corporate & Commercial
T +27 (0)11 562 1895
E anton.ackermann@cdhlegal.com



Lauriene Maingi

Associate | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E lauriene.maingi@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

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

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

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.
T +254 731 086 649 | +254 204 409 918 | +254 710 560 114
E cdhkenya@cdhlegal.com

NAMIBIA

1st Floor Maerua Office Tower, Cnr Robert Mugabe Avenue and Jan Jonker Street, Windhoek 10005, Namibia
PO Box 97115, Maerua Mall, Windhoek, Namibia, 10020
T +264 833 730 100 E cdhnamibia@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdh Stellenbosch@cdhlegal.com

©2025 15001/AUG

