



ASSOCIATION OF CEMENTITIOUS MATERIAL PRODUCERS

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# **NATIONAL ENVIRONMENTAL MANGEMENT ACT AMENDMENT BILL: MINING**

**Parliament**

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## **NATIONAL ENVIRONMENTAL MANAGEMENT ACT AMENDMENT BILL: MINING**

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# 1. INTRODUCTION: Who is the ACMP?

The ACMP acts as an umbrella body for six South African clinker and cementitious material producer companies, specifically guiding and representing their interests in the fields of

- environmental stewardship,
- health and safety practices, and
- community and stakeholder interaction

All members produce cement in **compliance with SABS standards**

The ACMP's member companies include:



- ❖ AfriSam: [www.afrisam.com](http://www.afrisam.com)
- ❖ Lafarge South Africa: [www.lafarge.com](http://www.lafarge.com)
- ❖ NPC-CIMPOR: [www.cimpor.com](http://www.cimpor.com)
- ❖ Pretoria Portland Cement Company Ltd: [www.ppc.co.za](http://www.ppc.co.za)
- ❖ Cemlock(Gauteng) Pty Ltd
- ❖ I.D.M. Cement (Pty) Ltd): [www.vibro.co.za](http://www.vibro.co.za)





## ACMP- Communication partner of the WBCSD-CSI



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## 2. MANAGEMENT OF RESIDUES AND STOCKPILES IN TERMS OF WASTE ACT



ISSUE	RECOMMENDATION
<p><u>Definition:</u> The definition of "residue deposits and stockpiles" under NEMA has been deleted from NEMA and included under the NEMWA.</p> <p><u>Consequence:</u> All residues and stockpiles may be classified as waste <i>or</i> by product</p> <p><u>Concern:</u> The declaration of residue deposits and stockpiles as waste materials will</p> <ul style="list-style-type: none"> <li>• negate their value as mineral resources</li> <li>• may prevent the opportunistic beneficial use of these materials.</li> <li>• Use thereof will require waste permit without any environmental benefits</li> </ul>	<p>The definitions of waste; by products and all associated definitions should be reviewed to ensure that there is a common understanding of waste vs. by product when evaluating the status of residue deposits and stockpiles.</p> <p>Waste and by product definitions must be amended to ensure appropriate beneficiation strategies and optimal efficient utilization of resources.</p> <p>Clear protocols to be developed to improve understanding of the definitions of waste and by products, and</p> <p>The management of "residue deposits and stockpiles" may require a different approach to waste and due consideration be given thereto.</p> <p>NEMWA be amended to include <b><u>end of waste status protocol</u></b> so as to support various beneficiation and other strategies for those stockpiles and residues defined as waste.</p>

**EXAMPLE**  
**Overburden or screenings material is often sought after as low-grade aggregate for road construction and fill. These materials are only subject to excavation and at most mechanical processing and therefore pose minimal risk to the environment. This approach undermines the principles of NEMA in that the ability to optimally exploit non-renewable resources is compromised through the legislative sterilisation of minerals unless waste permit authorised**



### 3. REGULATORY FUNCTION AND MANAGEMENT OF RESIDUES AND STOCKPILE-MANDATES

ISSUE	RECOMMENDATION
<p>The insertion of "(iA) under section 69 of the Waste Act of "the management and control of residue stockpiles and deposits on a prospecting, mining, exploration and production area" (previously under Section 24(5)(b)(vi) of NEMA) will provide the Minister of Water and Environmental Affairs with a legal mandate to develop regulations on the management and control of residue stockpiles and deposits on a mining area.</p> <p><b><u>Concern:</u></b></p> <p>Many of the residues and stockpiles could be used as raw materials by various sectors and it is important that there be no unintended consequences in terms of supply chain downstream.</p>	<p>The relevant regulations should be identified urgently so as to facilitate a common understanding between the different Authorities and Industry as well</p> <p>The management of residue stockpiles and deposits does not undermine the principles of NEMA in that the ability to optimally exploit non-renewable resources is not compromised through the legislative sterilisation of minerals by deeming them as waste as a consequence of regulations</p> <p>Careful consideration must be given to cooperative governance, duplication of administrative functions and unnecessary regulatory processes that may have no implications to environmental quality. Approaches to integrated licensing processes is already posing a challenge when one considers the current requirements to obtaining EIA authorisations, waste management licenses and air quality emission licenses.</p>



## 4. COMPLIANCE AND ENFORCEMENT

ISSUE	RECOMMENDATION
<p>The current provisions of NEMA <b><i>does not</i></b> empower the Minister of Mineral Resources to enforce compliance with environmental matters in terms of NEMA in so far as it relates to prospecting, mining, exploration, production or related activities on a prospecting, mining, exploration or production area.</p> <p><u>Consequence</u> This amendment will empower the Minister of Mineral Resources to designate officials within the Department of Mineral Resources subject to certain conditions, as environmental mineral resources inspectors responsible for compliance monitoring and enforcement of environmental provisions under NEMA and NEMWA in so far as it relates to prospecting, mining, exploration, production or related activities on a prospecting, mining, exploration or production area.</p>	<p>Inspectors from the Department of the Environmental Affairs (DEA) and the Department of Mineral Resources (DMR) must harmonise their activities to avoid unnecessary duplications during site visits. This is not an optimal use of time for both business or the DEA or DMR</p> <p>The roles and responsibilities of all NEMA listed activities must be identified urgently so that it is clear what falls under the jurisdiction of DEA and what falls under the jurisdiction of the DMR</p> <p>There should also be clarity on whether the environmental DMR Inspectors would be required to be graded in the same way as the DEA Environmental Inspectors by way of training before designation of such environmental enforcement functions. The aforementioned is recommended</p>

## 5. CO-OPERATIVE GOVERNANCE

ISSUE	RECOMMENDATION
<p>The alignment with PAJA has been noted. However, other alignments may be required</p> <p>For example,</p> <ul style="list-style-type: none"> <li>• The Minister of Mineral Resources is the competent authority for the prospecting, mining, exploration, production activity on a mining area</li> <li>• Any activities that are triggered in terms of NEMA on a footprint for which a mining right or permit is issued but that are <b>unrelated</b> to mining will not be for the Minister of Mineral Resources mandate but for the competent Authority as per NEMA.</li> <li>• Minister of Water and Environmental Affairs is the appeal authority for decisions taken by the Minister of Mineral Resources in respect of an environmental authorisation or environmental management programme on a prospecting, mining, exploration or production area.</li> </ul>	<p>Careful consideration be given to cooperative governance. This would also apply to application processes, compliance and enforcement, appeal processes, and site visits.</p> <p>This is to facilitate a common understanding between the different Authorities and Industry as well.</p>

## 6. CONCLUSION

- The work towards aligning NEMA with mining activity is commendable
- The current effort to improve systems across all spheres of government is encouraging.
- However, in conclusion we would like to recommend
  - The Department establish sound co-operative governance and implementation systems to ensure
    - The different regulatory functions dealing with DMR and the different Environmental Authorities (DEA, DWA) are aligned
    - Inspectors from the Department of the Environmental Affairs and the Department of Mineral Resources to harmonise their activities to avoid unnecessary duplications during site visits to ensure efficiency
    - NEMWA be amended to include **end of waste status protocol** so as to support various beneficiation and other strategies for those stockpiles and residues defined as waste.



Thank you!