

Faglig notat

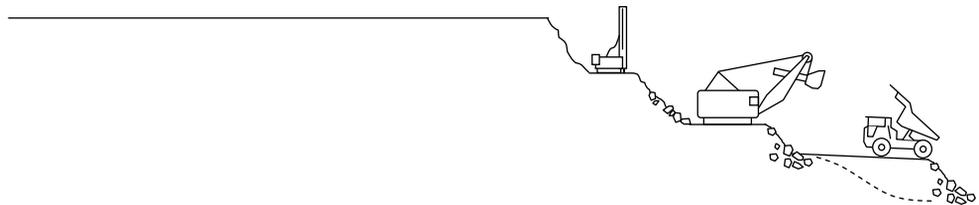
## Primary sources of environmental legislation relevant to the mineral production industry

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*Considerable misunderstanding often exists with respect to environmental legislation and the mineral production industry, especially with regard to the deposition of tailings. In order to have a constructive environmental debate based on facts, it is important to use the original sources of the legislation invoked in discussion. This note provides a brief list of links to some of the most relevant sites.*



### I. INTRODUCTION

The rise of the internet has led to an unprecedented access to information. However, uncritical use of internet based source materials with respect to legislation appears to be increasing. This is frequently the case with regard to environmental legislation pertaining to mineral production, typically in cases involving disputed methods of mineral waste disposal. It is not unusual that personal opinions regarding the interpretation of legislation are taken to be equivalent to authoritative original legal sources. That is to say, direct quotes from the original legal documents.

It is unfortunately the case that once such statements are issued, they are then frequently repeated amongst websites and may indeed be found in other media. It is the author's opinion that successful environmental protection must rely on accurate use of original source materials and it is in this spirit, that the following information regarding direct gratis source materials for authoritative, first hand legal documents is offered. This information focuses mainly on those nations whose legislation is often referred to in debates regarding submarine deposition of tailings, although some information from some additional major mining nations,

such as Australia, has been included, together with information relevant to the European Community.

## 2. SOURCE WEBSITES

### 2.1 Norway

No introduction is required for Norway's source of legal documents, lovdata:

<http://www.lovdata.no/>

### 2.2 European Union

The main site is Eur-lex which includes a searchable database:

<http://eur-lex.europa.eu/en/index.htm>

### 2.3 Canada

The main Department of Justice site for searching for copies of acts and other regulations:

<http://laws-lois.justice.gc.ca/Search/Advanced.aspx>

The Canadian Environmental Assessment Act

<http://laws-lois.justice.gc.ca/eng/acts/C-15.2/>

A supporting document of particular relevance is Environment Canada's 'A Guide to Understanding the Canadian Environmental Protection Act, 1999.'

<http://www.ec.gc.ca/lcpe-cepa/default.asp?lang=En&n=E00B5BD8-1&offset=8&toc=show#s81>

Environment Canada is the Canadian equivalent of Klif and chapter eight of this publication discusses the marine environment and disposal at sea. Section 8.2.2 'How is CEPA 1999 Used to Manage Disposal at Sea?' makes it clear that submarine deposition in Canada, as in Norway, is subject to a permitting system based on environmental impact assessment and the utilisation of the best available techniques (BAT).

The CanLII database from the Canadian Legal Information Institute, a site managed by the Federation of Law Societies of Canada contains case examples with direct links to the enabling statutes, and in particular for provincial and territory law.

<http://canlii.org/eliisa/search.do?language=en&searchTitle=Search+all+CanLII+Databases&sortOrder=relevance&searchPage=eliisa%2FmainPageSearch.vm&text=Mining+waste&id=&startDate=&endDate=&legislation=legislation&caselaw=courts&boardTribunal=tribunals>

#### **2.4 U.S.A.**

The Office of the Law Revision Counsel which publishes the United States legal code

<http://uscode.house.gov/lawrevisioncounsel.shtml>

The Law Library of Congress:

<http://www.loc.gov/law/help/guide.php>

The Clean Water Act, which forms the basis of the American system for regulating pollutant discharges. The Act includes the National Pollutant Discharge Elimination System (NPDES) of permitting, as described in section 402:

<http://epw.senate.gov/water.pdf>

The U.S. Environmental Protection Agency's (USEPA) NPDES site:

<http://cfpub.epa.gov/npdes/indpermitting/mining.cfm>

The USEPA site for mineral processing wastes:

<http://www.epa.gov/compliance/assistance/sectors/minerals/processing/index.html>

#### **2.5 Chile**

The Chilean Government's Copper Commission site provides English translations of mineral production and environmental legislation:

<http://www.cochilco.cl/english/normativa/index.asp>

#### **2.6 New Zealand**

The main Government site for legislation which is searchable and provides full texts:

<http://www.legislation.govt.nz/>

The Environmental Protection Act as at July 2011:

<http://www.legislation.govt.nz/act/public/2011/0014/latest/DLM3366813.html?search=ts+act+environmental+norese&p=1&sr=1>

## 2.7 Greenland

Environmental law texts

[http://dk.nanoq.gl/Emner/Landsstyre/Departementer/Dep,-d-for-indenrigsanliggender, Natur og Miljø/Miljøafdelingen/Miljølovgivning.aspx](http://dk.nanoq.gl/Emner/Landsstyre/Departementer/Dep,-d-for-indenrigsanliggender,Natur-og-Milj%C3%B8/Milj%C3%B8afdelingen/Milj%C3%B8lovgivning.aspx)

The OSPAR Commission's definition of BAT and BEP as referred to by Greenland's legislation:

[http://www.ospar.org/content/content.asp?menu=00320109000063\\_000000\\_000000](http://www.ospar.org/content/content.asp?menu=00320109000063_000000_000000)

Legislation relevant to Greenland's Bureau of Minerals & Petroleum

[http://dk.nanoq.gl/Emner/Landsstyre/Departementer/Råstofdirektoratet/Inatsiseqar-nermut%20tunnngasut/~media/F342A92255504920A7AF6AF0AB1494F3.ashx](http://dk.nanoq.gl/Emner/Landsstyre/Departementer/R%C3%A5stofdirektoratet/Inatsiseqar-nermut%20tunnngasut/~media/F342A92255504920A7AF6AF0AB1494F3.ashx)

## 2.8 Australia

ComLaw <http://www.comlaw.gov.au> is the only database of Australian Government legislation that is authoritative for the purposes of legal proceedings. Authoritative text is always in Adobe Acrobat (PDF) format and is stamped with the document's unique ComLaw/FRLI ID on each page. Relevant records are always identified with either of the two illustrated 'tick' logos shown in figure 1:



**Figure 1.** 'tick' logos used for the ComLaw database

Australian Environmental Protection and Biodiversity Conservation Act:

<http://www.comlaw.gov.au/Details/C2011C00751>

## 2.9 United Kingdom

The UK Government's searchable direct source law site:

<http://www.legislation.gov.uk/>

Environmental Protection Act 1990:

<http://www.legislation.gov.uk/ukpga/1990/43/contents>

The Environmental Permitting (England and Wales) (Amendment) Regulations 2011:

<http://www.legislation.gov.uk/uksi/2011/2043/contents/made>

The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2011:

<http://www.legislation.gov.uk/uksi/2011/735/contents/made>

### **3. FINAL REMARKS**

Finally, it is worth noting that new amended versions of legal texts are continually being produced. An example from this note being the Australian Environmental Protection and Biodiversity Conservation Act which was updated as recently as 15/09/11. A regular return visit to websites in order to check for amendments is strongly recommended.