These Guidelines aim to simplify the legal complexities related to sludge use and disposal.

The use and disposal of wastewater sludge are influenced by, amongst others, the following Acts and guidelines:

- The Water Act (Act 54 of 1956) (WA)
- The Environment Conservation Act (Act 73 of 1989) (ECA)
- The Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act (Act 36 of 1947)
- The Conservation of Agricultural Resources Act (Act 43 of 1983) (CARA)
- The National Health Act (Act 61 of 2003) (HA)
- The Water Services Act (Act 108 of 1997) (WSA)
- The National Environmental Management Act (Act 107 of 1998) (NEMA)

This refers to the Waste Management Series published by Department of Water Affairs and Forestry, which establishes a reference framework of standards for waste management in South Africa in terms of Section 20 of the ECA. This trilogy consists of:

- Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste
- Minimum Requirements for Waste Disposal by Landfill
- Minimum Requirements for Water Monitoring at Waste Management Facilities

- Water Use Authorisation and Registration Management System (WARMS). This is a registration system used by DWAF for water uses

It is important to note that not all the Acts, regulations and guidelines (as mentioned in the box above) are applicable to all the uses. For example, the Minimum Requirements need to be consulted for the disposal of sludge in a landfill, but do not have to be considered if sludge is to be used beneficially as a soil amendment.

For this reason, the regulatory requirements and relevant "legal" instruments will be detailed for each management option in the relevant Volume that deals with that particular option.

However, irrespective of the management option selected, the Department of Water Affairs and Forestry will remain the lead regulatory agent and will manage the sludge management options using the NWA. The insert below shows the relevant section at the NWA that the Department uses to regulate sludge management.

Definition of “waste” according to the National Water Act
“(xxiii) “waste” includes any solid material or material that is suspended, dissolved or transported in water (including sediment) and which is spilled or deposited on land or into a water resource in such volume, composition or manner as to cause, or to be reasonably likely to cause, the water resource to be polluted.”

Prevention and remedying effects of pollution (Part 4)
Part 4 deals with pollution prevention, and in particular the situation where pollution of a water resource occurs or might occur as a result of activities on land. The person who owns, controls, occupies or uses the land in question is responsible for taking measures to prevent pollution of water resources. If these measures are not taken, the catchment management agency concerned may itself do whatever is necessary to prevent the pollution or to remedy its effects, and to recover all reasonable costs from the persons responsible for the pollution.

Section 19 of the National Water Act

19. (1) An owner of land, a person in control of land or a person who occupies or uses the land on which -

(a) any activity or process is or was performed or undertaken; or
(b) any other situation exists,
which causes, has caused or is likely to cause pollution of a water resource, must take all reasonable measures to prevent any such pollution from occurring, continuing or recurring.

(2) The measures referred to in subsection (1) may include measures to -

(a) cease, modify or control any act or process causing the pollution;
(b) comply with any prescribed waste standard or management practice;
(c) contain or prevent the movement of pollutants;
(d) eliminate any source of the pollution;
(e) remedy the effects of the pollution; and
(f) Remedy the effects of any disturbance to the bed and banks of a watercourse.

(3) A catchment management agency may direct any person who fails to take the measures required under subsection (1) to -

(a) commence taking specific measures before a given date;
(b) diligently continue with those measures; and
(c) complete them before a given date.

(4) Should a person fail to comply, or comply inadequately with a directive given under subsection (3), the catchment management agency may take the measures it considers necessary to remedy the situation.

(5) Subject to subsection (6), a catchment management agency may recover all costs incurred as a result of it acting under subsection (4) jointly and severally from the following persons:

(a) any person who is or was responsible for, or who directly or indirectly contributed to, the pollution or the potential pollution;
(b) the owner of the land at the time when the pollution or the potential for pollution occurred, or that owner’s successor-in-title;
(c) the person in control of the land or any person who has a right to use the land at the time when -

(i) the activity or the process is or was performed or undertaken; or
(ii) the situation came about; or
(d) any person who negligently failed to prevent -

(i) the activity or the process being performed or undertaken; or
(ii) the situation from coming about.

(6) The catchment management agency may in respect of the recovery of costs under subsection (5), claim from any other persons who, in the opinion of the catchment management agency, benefited from the measures undertaken under subsection (4), to the extent of such benefit.

(7) The costs claimed under subsection (5) must be reasonable and may include, without being limited to, labour, administrative and overhead costs.

(8) If more than one person is liable in terms of subsection (5), the catchment management agency must, at the request of any of those persons, and after giving the others an opportunity to be heard, apportion the liability, but such apportionment does not relieve any of them of their joint and several liability for the full amount of the costs.