



UPDATE ON BENEFICIATION OF ASH THROUGH THE EXCLUSION REGULATIONS

SACAA CONFERENCE 29 MAY 2025



forestry, fisheries
& the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA



Ash classified as Waste!

“waste” means-

- (a) any substance, material or object, that is unwanted, rejected, abandoned, discarded or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered and includes all wastes as defined in Schedule 3 to this Act; or
- (b) any other substance, material or object that is not included in Schedule 3 that may be defined as a waste by the Minister by notice in the *Gazette*,

but any waste or portion of waste, referred to in paragraphs (a) and (b), ceases to be a waste-

- (i) once an application for its re-use, recycling or recovery has been approved or, after such approval, once it is, or has been re-used, recycled or recovered;
- (ii) where approval is not required, once a waste is, or has been re-used, recycled or recovered;
- (iii) where the Minister has, in terms of section 74, exempted any waste or a portion of waste generated by a particular process from the definition of waste; or
- (iv) where the Minister has, in the prescribed manner, excluded any waste stream or a portion of a waste stream from the definition of waste.



Ash classified as Hazardous



- Classification is based on SANS 10234, which takes into consideration the physical, health and environmental impacts of waste.
- Classifies as a type 3 hazardous waste.
- Hazardousness of the waste does not prevent beneficiation



Legal mechanisms to beneficiate ash

- Licensing
- Exemption (S74) (**temporary**)
- Exclusion Regulations (**published 18 July 2018**)



Licensing

- Appoint EAP to carry out EIA.
- Waste Management Licence - Handling, Operation parameters, Treatment capacity, Spill response, System failure, Reporting, Monitoring...
- Pro's – Structured timeframes for DFFE to process applications
- Con's – Expensive



S74 Exemption

- S74 allows for an application for exemption from a provision of NEMWA.
- Must be accompanied by reasons and supporting documentation.
- Minister may require that public participation takes place; request for more information;
- Exemption will have conditions and timeframes.
- Exemption **cannot** be extended once **timeframe lapses**.
New exemption application must be lodged with DFFE.



Exclusion Regulations...1

- Generator of waste must **apply** to have their waste excluded.
- **Criteria-based.**
- Exclusion of **entire waste stream** or **portion of waste stream.**
- Must **demonstrate** beneficial use **locally** or **internationally** (Export of waste for international beneficiation must follow the Basel consent process)
- **Risk assessment** must be done. Must have a **site specific risk management plan.**



Exclusion Regulations...2

Elements of the Risk Assessment

8. (1) A risk assessment undertaken in terms of regulation 7(b) must include the following elements:

- (a) provide information that is facility based;
- (b) description and source of the waste;
- (c) intended uses of the excluded waste;
- (d) description of the methodology used to assess the hazardous characteristics of the waste that is to be excluded;
- (e) identification of any potential risks relating to all the activities associated with the intended beneficial use of the excluded waste; and
- (f) identification of mitigation measures that can be used to manage the risks identified in paragraph (e) above.

(2) The results of the risk assessment must be used as the basis of a risk management plan.



Exclusion Regulations...2

Contents of the Risk Management Plan

9. The risk management plan contemplated in regulation 7(c) must include the following:

- (a) a Safety Data Sheet which complies with the requirements of SANS 10234, where the waste material is classified as hazardous;
- (b) permitted uses for which the waste material may be used; and
- (a) a mechanism to record the amount of waste distributed to specific users for a permitted use; including the number of enterprises established or supported and the extent to which previously disadvantaged individuals have been supported.



Exclusion Regulations...2

Reporting

10. The risk management plan contemplated in regulation 7(c), and any reports arising from the risk management plan must be-
- (a) made available to the Department on request; and
 - (b) must be submitted to the Department on an annual basis.

Exclusion Regulations...2

- Exclusion can be **withdrawn** if excluded waste poses an impact on environment, health and wellbeing or if reporting is not being done.
- **Consultative process** must be followed both in excluding waste or withdrawing exclusion. Consultative process carried out by DFFE.
- Once excluded, a list of the decisions will be published on SAWIC.



Exclusion Regulations...3

- Application forms and templates for Risk Assessment and Risk Management Plans on SAWIC.
- The approval has been delegated down to DDG level.
- Waste streams include: biomass, ash (coarse and fine: fresh and weathered), gypsum, slag, silica aggregates, leather shavings, spent foundry sand, etc.
- Beneficial uses include: road construction, block and brick-making, mine back-filling, animal bedding, etc



Exclusion Regulations...4

CHALLENGES

- Incomplete applications. Attention not paid to the requirements of the regulations.
- No proof that the beneficiation is being carried out anywhere in the world. [Reg 7(a)]
- Risk Management Plan and Risk Assessment does not comply with Regulatory requirements e.g. Reg 9(c) [mechanism to record who the waste is going to for what use and in what quantities]
- Constant back and forth between applicants and the Department has led to major delays in the processing of these exclusion applications.



Exclusion Regulations...Stats

2021-2024:
148M tons of
ash generated

2021-2024:
3.5M tons of
ash was
diverted
from
landfilling

SMME's
Supported

21

217 Jobs
sustained

DATE	APPLICATIONS RECEIVED	DECISIONS
2020	49	48 APPROVED 1 REFUSED
2021	36	33 APPROVED 8 REFUSED 1 REJECTED
2022	41	34 APPROVED 11 REFUSED 5 REJECTED
2023	43	42 APPROVED 12 REFUSED
2024	12	11 APPROVED 2 REFUSED
2025	41	38 APPROVED 3 REFUSED



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Waste Exclusion Regulations Review

- ISSUES:
- Public participation – departmental responsibility. Proposal is to move PPP to applicant.
- Timeframes for decision-making being proposed.
- Surrenders/transfers proposed for inclusion.
- Reporting requirements being enhanced.



Status Quo on Amendment to Regulations

- Exclusion Regulations published for public comment.
- DFFE is busy with the comments and response report in this regard.
- Once complete, regulations will be published for implementation.



New Developments...

- Circular Economy Action Plan intended to be developed. At initial stage with a Terms of Reference in place.



Mishelle Govender

Chief Director: Hazardous Waste Management and Licensing
Department of Forestry, Fisheries and the Environment.

Email: migovender@dfffe.gov.za

Tel: 012 399 8993

Cell: 0713843963

Thank You



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