

**PROCEDURE WITH REGARD TO THE ISSUING OF EXEMPTIONS
UNDER SECTION 20 OF THE ENVIRONMENT CONSERVATION
ACT, 1989 (ACT 73 OF 1989)**

PURPOSE OF THIS PROCEDURE

- To serve as a guideline document for applying for an exemption under section 20 of the Environment Conservation Act, 1989 (Act 73 of 1989).
- To outline the procedure to be followed and the type of information to be submitted for consideration for the issuing of an exemption.

BACKGROUND

The Department of Water Affairs and Forestry (DWAF) is mandated to issue permits for disposal sites¹ in terms of section 20 of the Environment Conservation Act, 1989 (Act 73 of 1989). According to section 20(1) "no person shall establish, provide or operate any disposal site without a permit issued by the Minister of Water Affairs and Forestry". Section 20(1) also states that the Minister may exempt any person or category of persons subject from such conditions, as he may deem fit. Based on this DWAF issues permits and exemptions once the principles of the Minimum Requirements 2nd edition have been complied with by the applicant, in accordance with section 20(3).

In some instances, it is considered appropriate to issue an exemption rather than a permit, specifically for activities related to the recycling and/or the treatment of waste, for example where an applicant wishes to recycle waste material into a commercial product such as the conversion of ash waste into bricks as well as the temporary storage of some types of waste material. The Department can, after careful evaluation, exempt an applicant from complying with some of the requirements for permitting. This implies that, provided all the necessary information required for granting of an exemption have been submitted, an exemption to undertake a particular activity will be granted in terms of section 20 of the Environment Conservation Act, 1989 (Act 73 of 1989).

All waste management facilities must register, on the Department of Water Affairs and Forestry's WARMS System, in terms of the National Water Act, 1998 (Act 36 of 1998) and as required in the National Waste Management Strategy (NWMS) Action Plan for Waste Disposal.

INFORMATION WHICH IS REQUIRED IN SUPPORT OF AN APPLICATION FOR AN EXEMPTION

1. The application should clearly state the reasons for the application.
2. A clear description of the activity is required, which should include:
 - 2.1 Sources, descriptions and quantities of raw or waste materials used. Classification of the material should be done according to the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (second edition, 1998).

¹ Disposal site means a site used for the accumulation of waste with the purpose of disposing or treatment of such waste (as defined in Section 1 of the Environment Conservation Act, 1989).

- 2.2 Description and quantities of waste stream **generated**, as well as its classification according to the Minimum Requirements for the Handling, Classification and Disposal of Hazardous Waste (second edition, 1998).
 - 2.3 **Water** management plan, including quantity and quality.
 - 2.4 A site layout indicating specific details regarding construction of the storage or disposal site (designs).
 - 2.5 Specific information on the timeframe applicable to the establishment of the facility (in the case of new facilities) includes the life of the facility until closure and decommissioning.
3. The locality of the activity, which should include:
 - 3.1 Locality map.
 - 3.2 Approved zoning.
 4. Details regarding the operation of the activity, especially management of impacts likely to result from the activity e.g. stormwater management, waste, effluents, leachate etc.
 5. The human health, environmental and the risk implications associated with the storage or disposal of this material e.g. risk of odours, noise, dust and both surface and underground water etc.
 6. Mitigation measures to be implemented to mitigate these risks.
 7. Proposed monitoring.
 8. In the event of this being a recycling activity:
 - 8.1 The material used as well as the product must be classified according to the Minimum Requirements, and include a comparison of the classification of the product to another similar commercial material already in the market.
 - 8.2 Should the product made from the waste be used in the building industry proof of confirmation that the proposed material complies with SABS specifications for building materials is required.
 9. A Record of Decision or proof of an exemption of the EIA Regulations promulgated in terms of section 26 of the Environment Conservation Act, 1989 (Act 73 of 1989), from the Provincial Department of Environmental Affairs in accordance with Section 21 and 22 of this Act is required, as well as authorisation required in terms of other legislation.
 10. Detailed information on the decommissioning of the activity.

Please note that the **underground** storage of **hazardous material** has the potential to impact on the ground water environment. The Department does not recommend such storage unless it can be proved through proper motivation, that the operation will not adversely impact on the environment, especially on the groundwater environment. This motivation should *inter alia* include detailed designs of containment aspects, monitoring for effectiveness of the proposed system and contingency plan in the case of failure of containment.

It should however be stressed that the decision to issue an exemption solely lies with the Department and should it be decided that a permit will be issued, the applicant will be required to furnish the Department with all the necessary information to satisfy the requirements for a permit. Furthermore the Department may, during the process of evaluation of the application, require any additional information from the applicant that may be necessary to reach a decision.

RESPONSIBILITIES

<i>TASK</i>	<i>RESPONSIBILITY</i>
1. Investigations on a proposed activity	Applicant
2. Classification	Applicant
3. Zoning	Applicant
4. Compliance with EIA Regulation	Applicant and the relevant provincial Department of Environmental Affairs
5. Register on WARMS	Applicant and the relevant Regional Office of Department of Water Affairs and Forestry
6. Submit application	Applicant
7. Evaluation of an application	Department of Water Affairs and Forestry
8. Issuing and amendment of an Exemption	Department of Water Affairs and Forestry Head Office

The Department does not approve the technology to be applied in a particular activity, but only issue exemptions for the use of such technologies. It is the responsibility of the applicant to ensure that the technology in question is approved by the relevant organ of State or Department or any other recognised body authorised to do so before the application for an exemption is submitted to the Department of Water Affairs and Forestry.

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