



Portfolio Committee Workshop Presentation

Chemicals Management Policy Instruments & National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)

18 August 2020



environment, forestry
& fisheries

Department:
Environment, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA



Contents

Purpose

Legislative Background

Current Status

Chemicals Management Policy Instruments

NEM: Waste Act, 2008 & Waste Amendment Act, 2014

Recommendation



Purpose

To brief the Portfolio Committee about the

- Chemicals Management Policy instruments and
- National Environmental Management: Waste Act, 2008 (Act. No 59 of 2008).



Chemicals Management Policy Instruments

Regulatory framework focuses on:

- Protection of human health and the environment
- Domestication of International Agreements
- Regulating prioritised substances – particular pesticides

Chemicals Mngt Policy Framework - International

Strategic Approach to International Chemicals Management (SAICM)

- Chemicals are produced and used in ways that minimize significant adverse impacts on the environment and human health by 2020

Montreal Protocol:
Substances that Deplete the Ozone Layer - a protocol to the **Vienna Convention** for the Protection of the Ozone Layer

Rotterdam Convention:
Prior informed consent

Stockholm Convention:
Persistent Organic Pollutants

Minamata Convention:
Mercury

Basel Convention:
Control Of Transboundary Movements Of Hazardous Wastes And Their Disposal

Production

Trade

Use

Waste & disposal



Chemicals Mngt Policy Framework – SA'n

The Constitution: Environmental right

National Environmental Management Act: Phasing out Substances

DEFF

Production

National Environmental Management: Waste Act, Air Quality Act

DEFF

Trade

Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act

Agric

Use

Hazardous Substances Act
National Health Act

DoH

Waste & disposal

Occupational Health and safety Act

Labour

International Trade Administration Act

dti



Chemicals Management Regulatory Instruments

- 16 pieces of legislation governing chemicals management from 7 Ministries

Legislation:

- Fertilizers, Farm Feeds, Agricultural Stock and Stock Remedies Act 36 of **1947 – Agric.**
- Medicines and Related Substances Control Act 101 of **1965 - Health**
- Foodstuffs, Cosmetics and Disinfectant Act 54 of **1972 - Health**
- Hazardous Substance Act 15 of **1973 - Health**
- Occupational Health and Safety Act 85 of **1993 - Labour**
- National Environmental Management Act 107 of **1998 - Environment**
- International Trade Administration Act 71 of **2003 - Economic Dev.**
- National Health Act 61 of **2003 – Health**



DEFF Chemicals Management Regulatory Instruments

- Regulations regarding the phasing-out and management of ozone depleting substances, 08 May 2014
- Regulation to phase-out the use of Polychlorinated Biphenyls (PCBs) materials and PCBs contaminated materials, 10 July 2014
- Regulation to phase-out the use of persistent organic pollutants (POPs), 10 September 2019
- Regulations for the Prohibition of the use, manufacturing, import & export of Asbestos & Asbestos containing materials, March 2008

Problem / Opportunity

A MOUNTAIN OF GARBAGE



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Legislative Background

**Constitution of the Republic of South Africa, 1996
(Act No 108 of 1996)**

**National Environmental Management Act, 1998
(Act No 107 of 1998)**

**White Paper on Integrated Pollution & Waste
Management (2000)**

**NEM: Waste Act, 2008 and
2014 Amendments**

**Waste Regulations, Norms and
Standards**



Constitution

- Section 24 (1) every one has the right:
 - To an **environment that is not harmful** to their health or well being...
 - To have the environment protected, for the benefit of present and future generations, through **reasonable legislative and other measures...**

Current Status

- Waste Act came into effect on 1 July 2009.
- The following section(s) were delayed;
 - Section 28 (7)(a) - voluntary Industry Waste Management Plans.
 - Section 35-41- Contaminated land (2 May 2014)
 - Section 46- appointment of persons to manage license applications
- Waste Act Amendments came into effect 2 June 2014.

Long Title

- To reform the law regulating waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development;
- To provide for institutional arrangements and planning matters;
- To provide for national norms and standards for regulating the management of waste by all spheres of government;
- To provide for specific waste management measures; to provide for the licensing and control of waste management activities
- To provide for the remediation of contaminated land; to provide for the national waste information system;
- To provide for compliance and enforcement; and to provide for matters connected therewith.

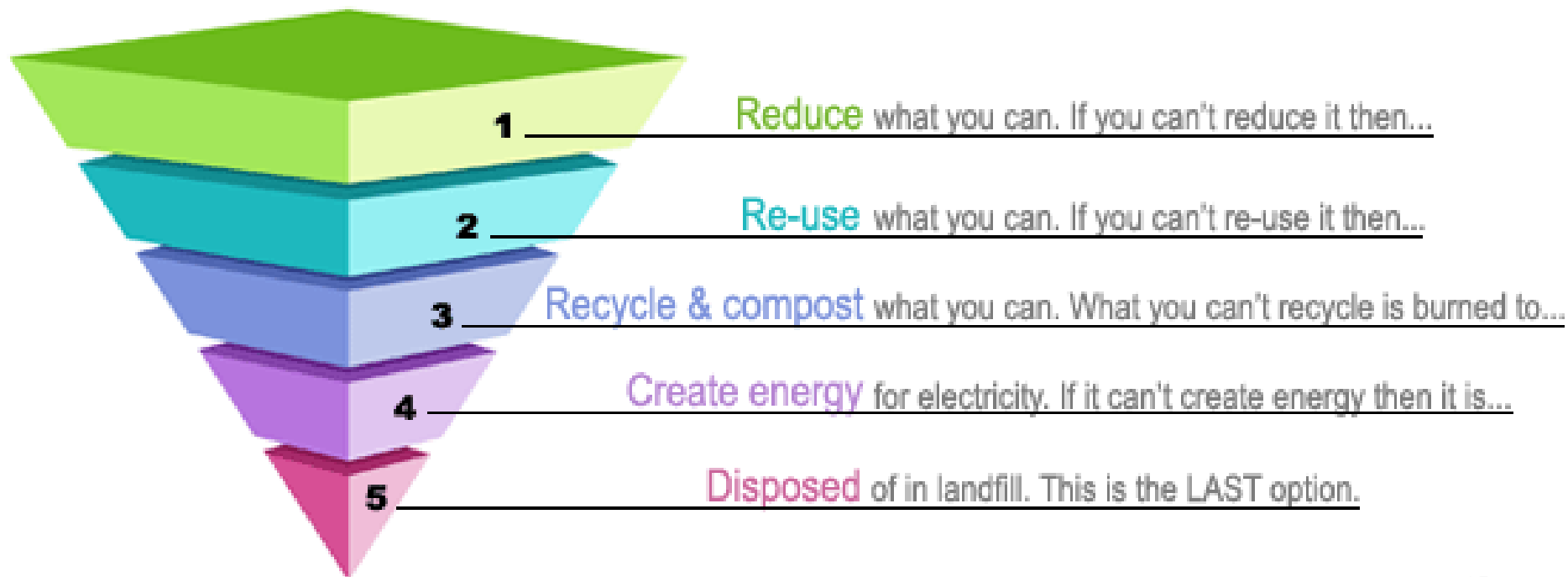
Contents of the Act

- C1: Interpretation and Principles
- C2: National Waste Management Strategy, Norms and Standards
- C3: Institutional and Planning Matters
- C4: Waste Management Measures
- C5: Licensing of Waste Management Activities
- C6: Waste Information
- C7: Compliance and Enforcement
- C8: General Matters
- C9: Miscellaneous
- Schedule 3



Chapter 1: Interpretation and Principles

- Objects of the Act
- Based on the Waste Hierarchy Approach, and to give effect to Constitution S24- Protect Health and the Environment



Chapter 1: Interpretation and Principles

“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



Chapter 1: Interpretation and Principles Cont...

- **General duty of State:** State responsible for implementing the Act
- **Application of the Act:** Does not apply to-
 - Radioactive Waste- Hazardous Substances Act & National Nuclear Regulator Act
 - Residue Stockpiles and Deposits- Mineral and Petroleum Resources Development Act / NEMLA 4
 - Disposal of Explosives- Explosives Act
- **Application of NEMA:** Waste Act a Specific Environmental Management Act-
 - must be read with NEMA
 - interpretation and application guided by the NEMA principles

Chapter 2: National Waste Management Strategy, Norms And Standards

- **Part 1: Establishment of National Waste Management Strategy (NWMS) for achieving the objects of the Act:**
 - The Minister of DEA **to establish the NWMS within two years** of the section coming into effect.
- **Part 2: Norms and standards:**
 - Minister to set national norms and standards
 - Relevant MEC to set Provincial norms- must not conflict with national norms and standards
 - Municipality may set local standards
 - must adhere to all national and provincial norms and standards when exercising its executive authority

Chapter 3: Institutional and Planning Matters

- **Designation of Waste management officers:** Officers to be designated in the National, Provincial and Local Administration
 - Purpose of WMO's: to co-ordinate matters pertaining to Waste Management
- **Integrated waste management plans (IWMPs): by Provincial Departments and Municipalities**
 - To be incorporated in Provincial Plan or IDP
 - Act outlines what should be the content of IWMPs and the reporting mechanisms.

Chapter 4: Waste Management Measures

- **Part 1: Declaration of Priority Wastes:** waste that poses threat to health, wellbeing or environment
 - ✓ Minister and MEC may declare priority waste and specify management measures to be taken.
- **Part 2: General Duty:** outlines the general duty for holders of waste
- **Part 3: Reduction, Reuse, Recycling and Recovery of Waste:**
 - ✓ To be less harmful to the environment than disposal and use less natural resources
 - ✓ Minister may require product Manufacture/ importer to provide for reduction, reuse, recycling and recovery of waste
- ✓ **Extended Producer Responsibility**
 - ✓ There are EPR measures proposed in S18 of the Act.

Chapter 4: Waste Management Measures Cont...

- **Part 4: Waste Management Activities:**

Minister to publish a list of Waste Management Activities that have or are likely to have a detrimental effect on the environment.

- ✓ Waste Management Activity List (GN 921) – Published in terms of section 19(2) of the Act **on 29 November 2013**- An Amendment to Government Notice 718 of 3 July 2009.
- ✓ A listed waste management activity must be undertaken or conducted in accordance with:
 - a waste management licence
 - requirements or standards determined by the Minister, if a licence is not required
- ✓ Category (A- Basic Assessment), (B- Scoping & Environmental Impact Assessment) and (C- Standards)

- **Consequences of listing waste management activities**

Chapter 4: Waste Management Measures Cont...

- **Part 5: Storage, Collection and Transportation of Waste:**
 - ✓ outlines the requirements for storage, collection and the duties for persons transporting of waste
- **Part 6: Treatment, Processing and Disposal of Waste:**
 - ✓ provides for the prohibition of unauthorized disposal (illegal dumping) and littering.



Chapter 4: Waste Management Measures Cont...

Part 7: Industry Waste Management Plans:

- ✓ **Minister:** Activity results in generation of waste that affects more than one Province
- ✓ **MEC:** Activity results in generation of waste that affects a province content, consideration and review
- ✓ **Preparation** of Industry Waste Management Plans by an organ of State

Part 8: Contaminated Land:

- ✓ Identification of investigation areas, consequences, assessment report, orders to remediate, transfer of remediation site and development of contaminated land register

Part 9: Other Measures- Recognition Programmes:

- ✓ Waste Management Officer may establish programmes for the recognition of significant achievements in waste management

Chapter 5: Licensing of Waste Management Activities

- **Licensing of Waste Management Activities (Chapter 4, Part 4)**
- The Act outlines who the licensing authority is:
 - ✓ National DEFF: Hazardous Waste
 - ✓ Provincial Departments: General Waste
- **Co-operative governance in waste management licence applications**
 - ✓ Issuing of an integrated licence jointly with the other organs of state
- **Application for waste management licences**
 - ✓ Lodging of an application with the licensing authority by a person who requires a licence.

Chapter 6: Waste Information

- Minister to establish the national waste information system
- MEC may establish a provincial waste information system- must include **information required by the national system**
- **Minister/ MEC** may require by notice in the Gazette information from any person for the purposes of the **national/ provincial** waste information system
- When Minister/ MEC require the information from a Municipality, the **Municipality may also require any person to provide the information** by notice in the Gazette
- **Access** to information- to be made available subject to Promotion of Access to Information Act (PAIA)



Chapter 7: Compliance and Enforcement

- **Compliance Powers of the Minister of Department of Water Affairs**
 - ✓ Minister of Water Affairs may also exercise his/her powers in terms of the National Water Act-
 - Contravention or failure to comply with the conditions of the license
 - Remediation order or matters that may impact on water resources
 - ✓ Must do so after consultation with the Minister/MEC for Environmental Affairs
- **Waste impact reports-** may be required by Waste Management Officers or Environmental Management Inspectors (EMI)
- **Offences**
 - ✓ A person commits an offence if that person— contravenes or fails to comply with a provision of section
- **Penalties**
 - ✓ A person contravening the provisions is liable to a fine not exceeding R10 000 000 or to imprisonment for a period not exceeding 10 years, or to both, such fine and such imprisonment.

Chapter 8: General Matters

- **Part 1: Regulations:**

- ✓ As the Waste Act is framework legislation, regulations may be passed to effectively implement the waste act.
- ✓ The Minister may make regulations regarding S69(1)(a) to (cc)

- **Part 2: Consultative process**

- ✓ S72 the Minister must consult all Cabinet members whose areas of responsibility will be affected by the exercise of the powers
- ✓ S73 is public participation in the

- **Part 3: Exemptions**

- ✓ Any person may apply in writing for exemption from the application of a provision of this Act to the Minister or, to the MEC where the MEC is the licencing authority
- ✓ An application in terms of the above must be accompanied by—
 - (a) an explanation of the reasons for the application; and
 - (b) any applicable supporting documents

Chapter 9: Miscellaneous

- **Delegations:**

- ✓ The Minister or MEC, respectively, may delegate or assign to an official in their respective departments any power or duty conferred on the Minister or MEC.

- **Repeal and amendment of laws and savings:**

- ✓ legislation repealed or amended (Schedule 2).

- **Transitional provisions:**

- ✓ outlines transitional provisions for permits issued under Section 20 of Environment Conservation Act (ECA) and outlines transitional provisions with regards to the listing of waste management activities.

Amendment of the Waste Act, 2014

Definitions amended:

- “waste”, “recovery” and “re-use”
- “building and demolition waste”, “business waste”, “domestic waste”, “general waste”, “hazardous waste”, “inert waste” removed from Section 1 and inserted in Schedule 3.
- “by product”, deleted



Amendment of the Waste Act, 2014

- **Animal carcasses** included within the scope of the Waste Act.
- **Duplication of Plans avoided:**
 - **The Department of Environment, Forestry and Fisheries is no longer required to compile an Integrated Waste Management Plan**, because the Department is required to **compile a National Waste Management Strategy** which sets out in detail how the objectives of the NEMWA must be achieved, as well as targets.
 - Provincial Departments not required to develop **IndWMP**, because the Act require them to develop **Integrated Waste Management Plans**.

Amendment of the Waste Act, 2014

- Provide for the establishment of an institutional mechanism for the implementation of the objectives of the Act including the facilitation and implementation of waste management plans through the establishment of a **Waste Management Bureau** without a Board - the Director-General as of the department as Accounting Authority
- The requirement for **Industry Waste Management Plans to be developed in accordance with the pricing strategy**

Amendment of the Waste Act, 2014

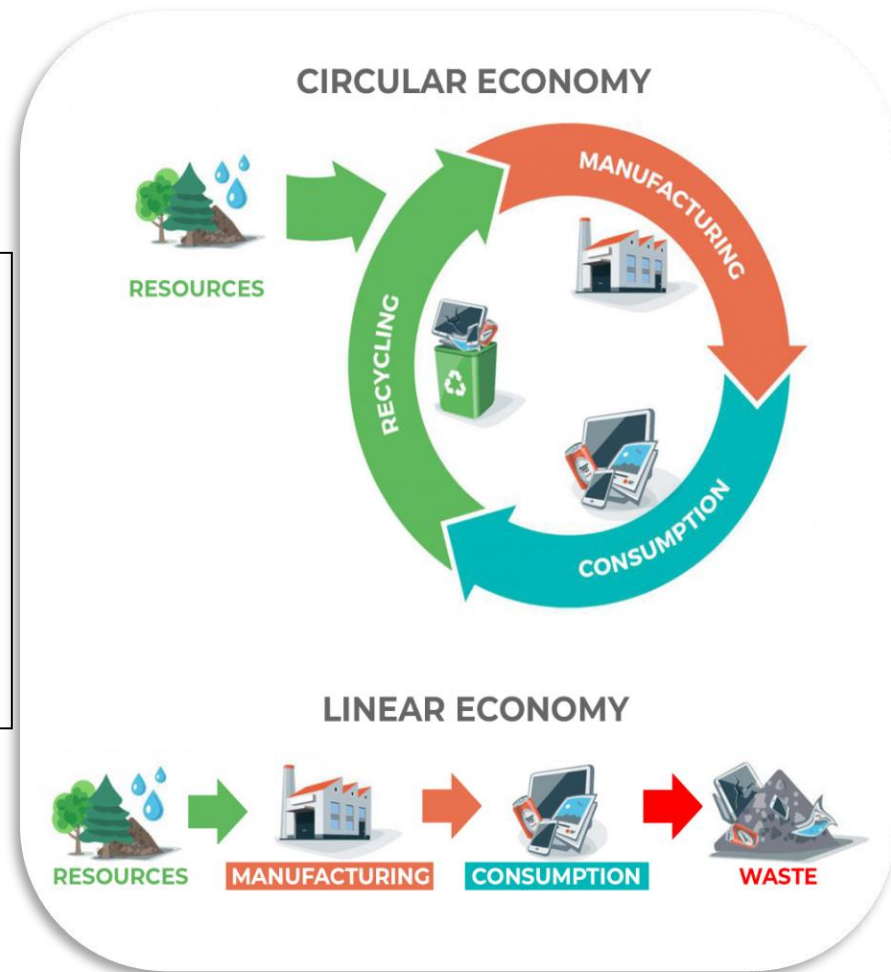
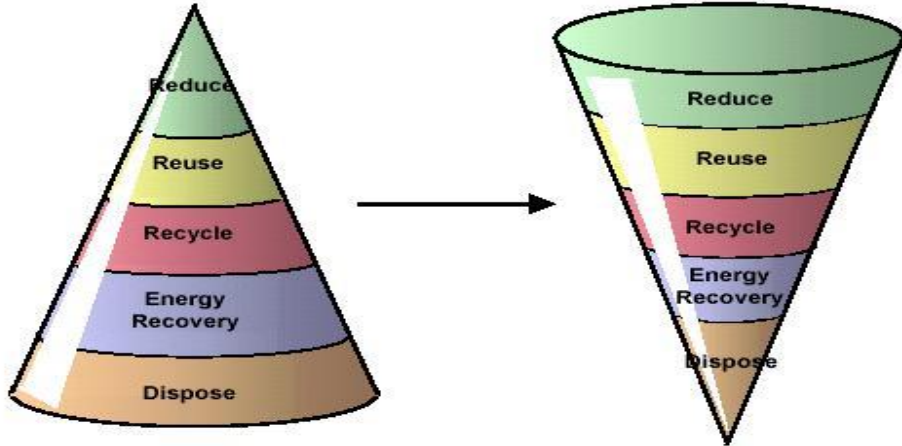
- **Chapter 13A-** empowering the Minister in concurrence of the Minister of Finance, to **publish a pricing strategy** to achieve the objectives of the NEMWA within three months of the commencement of the Waste Act Amendment.
- **Chapter 13B-** Stipulates that an Act of Parliament (**Money Bill**) is to give effect to necessary elements of the pricing strategy. The money Bill to be tabled **within 3 months** of the publication of the pricing strategy in the Gazette.
- Appeals not be lodged in terms of the Waste Act. The appeals will be considered and processed in accordance with the **national appeals regulations** developed in terms of **Section 43 of NEMA**.
- **Schedule 3**



Transitional Arrangements

- Provides for transitional elements for existing IndWMP approved prior to commencement of this Act.
- Provides for a transitional period of six months from the commencement of the Act for plans to be regularised.
- Provides for revision, amendment and alignment and for re-submission of industry waste management plans for approval.

Working Towards



Discussion

- The NEMWA was introduced in 2009 and is being implemented
- The National Waste Management Strategy 2011, which is being revised was in response to the Waste Act, 2008
- The Draft National Waste Management Strategy 2020 was developed in response to the Waste Act, 2008 and build on the 2011 Strategy
- A number of Regulations, Norms and Standards have since been developed in line with the Waste Act
- The above Strategies, Regulations, Norms and Standards are currently being implemented

Regulations Instruments Discussion

- Regulations for Fee Structure For Consideration And Processing Of Applications For Waste Management Licences, Transfer And Renewal Thereof, 2014
- List of Waste Management Activities that have, or are Likely to have, a Detrimental Effect on the Environment, 2012
- National Waste Information Regulations, 2012
- Waste Classification and Management Regulations, 2013
- Regulations Regarding the Planning and Management of Residue Stockpiles and Residue Deposits, 2015
- Plastic Carrier Bags and Plastic Flat Bags, 2003
- Waste Tyre Regulations, 2009
- Regulations for the Prohibition of the Use, Manufacturing, Import and Export of Asbestos and Asbestos Containing Materials, 2008
- Import and Export Regulations, 2019
- Waste Tyre Regulations, 2017
- Draft Section 18 EPR Regulations and Notices for packaging, electronic and electrical and lighting waste, 2020.
- National Pricing Strategy for Waste Management, 2016
- Regulations regarding the Exclusion of Waste, 2019

Norms and Standards Discussion

- National norms and standards for the assessment of waste for landfill disposal
- National domestic waste collection standards
- National norms and standards for disposal of waste to landfill
- National norms and standards for the remediation of contaminated land and soil quality in the republic of South Africa
- National norms and standards for the storage of waste
- National standards for the extraction, flaring or recovery of landfill gas
- National standards for the scrapping or recovery of motor vehicles
- Notice for registration of waste transporters
- Norms and standards for sorting, shredding, and grinding and bailing of waste
- Norms and standards organic composting



Recommendation

It is requested that the Portfolio Committee note the briefing on

- Chemicals Management Policy Instruments and
- NEM: Waste Act, (Act No 59 of 2008).



THANK YOU!

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Thank You



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