



New South Wales

Waste Minimisation and Management Amendment Regulation 1997

under the

Waste Minimisation and Management Act 1995

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Waste Minimisation and Management Act 1995*.

CRAIG KNOWLES, M.P.,
for Minister for the Environment

Explanatory note

The object of this Regulation is to make a number of miscellaneous amendments to the *Waste Minimisation and Management Regulation 1996*.

Most of the changes are intended to simplify and clarify the provisions of the Principal Regulation. For example, the definitions relating to the different types of waste are replaced with definitions that refer to a new Schedule in the Principal Regulation which describes different types of waste (see **Schedule 1 [49]**), or that refer to certain relevant guidelines.

This Regulation refers to various guidelines in force as at the commencement of this Regulation (ie 30 June 1997). This is due largely to the technical nature of the subject-matter that is involved. In particular, the Environment Protection Authority's *Environment Guidelines: Assessment, Classification and Management of Non-Liquid Wastes* will be relevant in the assessment, classification and identification of certain types of waste (see **Schedule 1 [1]** and **[2]**).

This Regulation:

- makes it clear that the term *on site* refers to something being done on the premises on which the waste concerned was generated (see **Schedule 1 [3]**),
- separates the current category of hazardous waste (which is relevant to the types of waste activities, waste facilities and transporters that need to be licenced) into 2 categories, namely hazardous waste and industrial waste,
- provides that the generating of certain liquid trade waste will not be a licensed waste activity unless the activity is carried out on premises that were the subject of an existing certificate of registration under the previous waste legislation (see **Schedule 1 [11]**),
- modifies the provisions which specify the types of waste facilities that need to be licensed, and which exempt certain waste facilities from that licensing requirement,
- provides that the transporting of liquid trade waste does not need to be licensed unless the person transporting the waste was the holder of a waste transporter's licence under the previous waste legislation (see **Schedule 1 [27]**),
- requires non-licensed waste transporters to keep certain records and to comply with similar requirements to those applying in respect of non-licensed waste generators (see **Schedule 1 [40]**),
- recasts the provision that prescribes the contributions that are payable by the occupiers of licensed waste facilities in order to clarify the operation of that provision, but in no way to change the amount of those contributions or to extend the operation of the provision (see **Schedule 1 [41]**),
- clarifies the Environment Protection Authority's power to exempt the occupiers of licensed waste facilities from certain requirements relating to surveys and the installation of weighbridges and provides that the EPA may defer any such requirement for specified periods (see **Schedule 1 [44]–[48]**),
- makes other miscellaneous and consequential amendments.

This Regulation is made under the *Waste Minimisation and Management Act 1995*, including section 87 (the general regulation making power).

Waste Minimisation and Management Amendment Regulation 1997

1 Name of Regulation

This Regulation is the *Waste Minimisation and Management Amendment Regulation 1997*.

2 Commencement

This Regulation commences on 30 June 1997.

3 Amendment of Waste Minimisation and Management Regulation 1996

The *Waste Minimisation and Management Regulation 1996* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

cytotoxic waste means any waste identified in the Waste Guidelines as cytotoxic waste.

industrial waste means:

- (a) any of the types of waste specified in Part 1 of Schedule 1, or
- (b) any waste that is otherwise assessed and classified as industrial waste in accordance with the procedures set out in the Waste Guidelines.

liquid waste means any waste identified in the Waste Guidelines as liquid waste.

National Manifest and Classification System means the classification system contained in the document called *National Guidelines for the Management of Wastes* issued by the Australian and New Zealand Environment and Conservation Council and current as at 30 June 1997.

organic waste means any waste identified in the Waste Guidelines as organic waste.

Waste Guidelines means the document called *Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes* issued by the EPA and current as at 30 June 1997.

virgin excavated natural material means the type of inert waste specified in Part 2 of Schedule 1 as virgin excavated natural material.

[2] Clause 3 (1)

Omit the definitions of ***approved***, ***biosolids***, ***clinical waste***, ***hazardous waste***, ***inert waste*** and ***solid waste*** from clause 3 (1). Insert instead:

approved means approved by the EPA from time to time.

biosolids means the organic product that results from sewage treatment processes (ie the material referred to alternatively as sewage sludge).

clinical waste means any waste that has been generated by medical, nursing, dental, veterinary, pharmaceutical or other related clinical activities, and that is specified as either general or special clinical waste in Schedule 1.

hazardous waste means:

- (a) any of the types of waste specified in Part 3 of Schedule 1, or
- (b) any waste that is otherwise assessed and classified as hazardous waste in accordance with the Waste Guidelines.

inert waste means:

- (a) any of the types of waste specified in Part 2 of Schedule 1, or
- (b) any waste that is otherwise assessed and classified as inert waste in accordance with the Waste Guidelines.

solid waste means:

- (a) any of the types of waste specified in Part 4 of Schedule 1, or
- (b) any waste that is otherwise assessed and classified as solid waste in accordance with the Waste Guidelines.

[3] Clause 3A

Insert after clause 3:

3A Meaning of “on site”

A reference in this Regulation to something being done in relation to waste ***on site*** is a reference to that thing being done only on the premises on which the waste was generated.

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Schedule 1 Amendments

[4] Clause 4 Waste activities that are required to be licensed

Insert “or industrial waste (or both)” after “hazardous waste” in clause 4 (1).

[5] Clause 4 (2) (a)

Omit the paragraph. Insert instead:

- (a) the generating or on site storage of contaminated soil or stabilised asbestos waste in bonded matrix,

[6] Clause 4 (2) (b), (c) and (g)

Insert “or industrial waste” after “hazardous waste” wherever occurring.

[7] Clause 4 (2) (d)

Omit “of hazardous waste per year, or the on site storage of less than 2 tonnes of hazardous waste at any one time.”.

Insert instead “per year, or the on site storage of less than 2 tonnes at any one time, of hazardous waste or industrial waste (or both)”.

[8] Clause 4 (2) (e)

Omit “of hazardous waste per year, or the on site storage of less than 500kg of hazardous waste at any one time”.

Insert instead “per year, or the on site storage of less than 500kg at any one time, of hazardous waste or industrial waste (or both)”.

[9] Clause 4 (2) (e) (ii)

Insert “, pathology laboratories” after “hospitals”.

[10] Clause 4 (2) (f)

Omit the paragraph. Insert instead:

- (f) the generating of not more than 10 tonnes per year, or the on site storage of less than 2 tonnes at any one time, of hazardous waste or industrial waste (or both) in the form of paint, lacquer, varnish, resin, ink, dye, pigments, adhesives, hydrocarbons, emulsions or organic or putrescible matter,

[11] Clause 4A

Insert after clause 4:

4A Certain liquid waste activities that are required to be licensed

For the purposes of the definition of *controlled waste activity* in section 5 of the Act, any industrial, commercial, trade or business process or operation:

- (a) that involves the generating or storage of liquid waste (other than grease trap waste or recyclable oil), and
- (b) that is carried out on premises that were the subject of a certificate of registration under section 22 (3) of the *Waste Recycling and Processing Service Act 1970* in force immediately before 30 June 1997,

is specified as an activity requiring a licence in accordance with section 45 of the Act.

[12] Clause 5 Waste facilities that are required to be licensed

Insert “or industrial waste (or both)” after “hazardous waste” where firstly occurring in clause 5 (1) (b).

[13] Clause 5 (1) (b) (ii)

Omit the subparagraph. Insert instead:

- (ii) that only receive an isolated or discrete quantity of hazardous or industrial waste (eg if it is contained in a partially empty container or drum), so long as the quantity does not exceed 200g per tonne, or 100g per cubic metre, of the waste that is received at the waste facility, or
- (iii) that dispose of asbestos waste or general clinical waste (and no other type of waste),

[14] Clause 5 (1) (d)

Omit the paragraph. Insert instead:

- (d) incinerators that treat or process:
 - (i) any amount of chemical waste, or
 - (ii) any amount of clinical waste that contains any cytotoxic waste, or
 - (iii) over 25 tonnes per year of any other type of clinical waste, or
 - (iv) over 25 tonnes per year of quarantine waste, or
 - (v) over 1 tonne per hour of any other type of waste,

[15] Clause 5 (1) (i) (ii) and (iii)

Omit clause 5 (1) (i) (ii). Insert instead:

- (ii) are situated on residential premises or on land used principally for farming operations, and only if the disposal of waste is carried out on site, or

- (iii) receive no more than 20,000 tonnes of inert waste over any period of time, and only if the disposal of the waste is incidental or ancillary to the land being used for a purpose other than as a landfill site (eg the construction of buildings or roads or other similar types of infrastructure development),

[16] Clause 5 (1) (j)

Omit “the commencement of this Regulation”.
Insert instead “30 June 1997”.

[17] Clause 5 (1) (j) (i) and (ii)

Omit the subparagraphs. Insert instead:

- (i) receive no more than 20,000 tonnes per year of coal washery rejects or slags (or both) and are located within 250 metres of any residentially zoned land, or within 250 metres of a school or hospital or a dwelling not associated with the landfill site, or
- (ii) are situated on residential premises or land used principally for farming operations, and at which the disposal of waste is carried out on site, or
- (iii) are located within 250 metres of any residentially zoned land (or within 250 metres of a school or hospital or a dwelling not associated with the landfill site), and which are landfill sites that were, as at 30 June 1997, in operation and which receive no more than 200 tonnes of waste per year.

[18] Clause 5 (1) (k) (iii)

Omit “of these types of”.

[19] Clause 5 (2) (a)

Omit the paragraph. Insert instead:

(a) virgin excavated natural material,

[20] Clause 5 (3) (a)

Omit “generated or”.

[21] Clause 5 (3) (a) (i)

Insert “, or inert waste,” after “rock”.

[22] Clause 5 (3) (b)

Omit the paragraph. Insert instead:

(b) premises used solely for the purposes of disposing of virgin excavated natural material and no other type of waste,

[23] Clause 5 (3) (e)

Omit “is generated”.

Insert instead “(and no other type of waste) is disposed of on site”.

[24] Clause 5 (3) (g)

Insert “(and no other type of waste)” after “biosolids”.

[25] Clause 5 (3) (h)

Omit “biosolids are”. Insert instead “organic waste (and no other type of waste) is”.

[26] Clause 6 Transporters of waste that are required to be licensed

Omit clause 6 (1) (a). Insert instead:

- (a) hazardous waste or industrial waste (or both) in loads exceeding 200 kg, except if it consists of stabilised asbestos waste in bonded matrix,

[27] Clause 6 (1) (c)

Insert after clause 6 (1) (b):

- (c) any liquid waste from any industrial, commercial, trade or business process or operation (but only if the person transporting the waste was the holder of a licence to transport such waste under section 22 of the *Waste Recycling and Processing Service Act 1970*, being a licence that was immediately in force before 30 June 1997).

[28] Clause 7 Controlled waste activities—licence fees

Insert “or industrial waste (or both)” after “hazardous waste” wherever occurring.

[29] Clause 8 Controlled waste facilities—licence fees

Omit clause 8 (1) (k). Insert instead:

- (k) clause 5 (1) (k)—16 fee units, or 8 fee units in the case of a waste facility referred to in clause 5 (1) (k) (iii) where the activity carried out is composting using worms, or

[30] Clause 9 Transporters of waste—licence fees

Insert “or industrial waste (or both)” after “hazardous waste” wherever occurring.

[31] Clause 15 Reporting requirements for non-licensed landfill sites

Omit “clean” from clause 15 (2) (b). Insert instead “virgin”.

[32] Clause 16 Non-licensed hazardous/industrial waste generating and storage activities

Insert “or industrial waste (or both)” after “hazardous waste” in clause 16 (1).

[33] Clause 16 (2)

Omit “hazardous”. Insert instead “such”.

[34] Clause 16 (3)

Omit “the hazardous waste” wherever occurring. Insert instead “the waste”.

[35] Clause 16 (3) (d)

Insert “or industrial waste (or both)” after “any hazardous waste”.

[36] Clause 16 (3) (d) (i)

Omit the subparagraph. Insert instead:

- (i) the amount of the waste and the type of waste (as identified in accordance with the descriptions set out in Appendix 4 of the Waste Guidelines) that is transported,

[37] Clause 16 (3) (i)

Omit “hazardous”. Insert instead “the”.

[38] Clause 16 (4)

Omit the subclause.

[39] Clause 17 Non-licensed transporters

Insert “or industrial waste” after “hazardous waste” in clause 17 (2) (e).

[40] Clause 17 (3)

Insert after clause 17 (2):

- (3) In addition to the requirements set out in subclause (2), a person to whom this clause applies must comply with the following requirements:
 - (a) the EPA (or such other person or body as may be approved for the purposes of this clause) must be provided with such information as the EPA (or other person or body) may require from time to time in relation to the transportation of waste by the person, and such information must be retained by the person for a period of at least 3 years from the time it is provided,
 - (b) the following records must be kept, for a period of at least 3 years from the date of transportation, in relation to any hazardous waste or industrial waste (or both) that is transported by the person:
 - (i) the amount of the waste and the type of waste (as identified in accordance with the descriptions set out in Appendix 4 of the Waste Guidelines) that is transported,
 - (ii) the date of transportation,
 - (iii) the name and location of the waste facility to which the waste is transported,

- (c) if the hazardous waste or industrial waste (or both) is to be transported interstate, the person must ensure that the requirements of the National Manifest and Classification System relating to the waste are followed,
- (d) the person must inform the EPA (or such other person or body as may be approved for the purposes of this clause) of any suspected breach of the Act or this Regulation in relation to the transportation of hazardous waste or industrial waste.

Maximum penalty: \$20,000 in the case of a corporation, \$10,000 in the case of an individual.

[41] Clause 18 Payment of contributions

Omit clause 18 (1). Insert instead:

- (1) For the purposes of section 72 (2) of the Act, the following contributions are prescribed as the contributions required to be paid by the occupiers of controlled waste facilities:
 - (a) \$10 for each tonne of waste that is received at a controlled waste facility located in the Sydney metropolitan area,
 - (b) \$4 for each tonne of waste:
 - (i) that is received at a controlled waste facility located in the extended regulated area, and
 - (ii) that has been generated in that area,
 - (c) \$10 for each tonne of waste:
 - (i) that is received at a controlled waste facility located in the extended regulated area, and
 - (ii) that has been generated in the Sydney metropolitan area,

- (d) \$10 for each tonne of waste:
 - (i) that is received at a controlled waste facility located outside the Sydney metropolitan area and the extended regulated area, and
 - (ii) that has been generated in the Sydney metropolitan area,
- (e) \$4 for each tonne of waste:
 - (i) that is received at a controlled waste facility located outside the Sydney metropolitan area and the extended regulated area, and
 - (ii) that has been generated in the extended regulated area.

[42] Clause 21 Certain types of waste exempted from calculation of contributions

Omit “clean” from clause 21 (1) (e). Insert instead “virgin”.

[43] Clause 22 Contribution rebates

Omit “waste received at the waste facility that consists of clean excavated natural material, and” from clause 22 (1) (b).

Insert instead “virgin excavated natural material (or any other excavated natural material that meets such criteria as may be approved) received at the waste facility”.

[44] Clause 24 Volumetric surveys

Omit “The occupier”.

Insert instead “Subject to subclause (2), the occupier”.

[45] Clause 24

Omit “, unless exempted by the EPA in writing specifically or generally”.

[46] Clause 24 (2)

Insert at the end of clause 24:

- (2) The EPA may, by notice in writing given to the occupier of a landfill site:
 - (a) exempt the occupier from any requirement under subclause (1) until such time as the EPA decides to revoke the exemption by further written notice given to the occupier, or
 - (b) defer the application of any such requirement in respect of the occupier until such time as is specified in the notice.

[47] Clause 25 Weighbridges

Omit “The occupier” wherever occurring.

Insert instead “Subject to subclause (3), the occupier”.

[48] Clause 25 (3)

Insert after clause 25 (2):

- (3) The EPA may, by notice in writing given to the occupier of a landfill site:
 - (a) exempt the occupier from any requirement under subclause (1) or (2) until such time as the EPA decides to revoke the exemption by further written notice given to the occupier, or
 - (b) defer the application of any such requirement in respect of the occupier until such time as is specified in the notice.

[49] Schedule 1 Hazardous waste

Omit the Schedule. Insert instead:

Schedule 1 Specified types of waste

(Clause 3)

Part 1 Types of industrial waste

- 1 Stabilised asbestos waste in bonded matrix.
- 2 Asbestos fibre and dust waste (eg waste resulting from the removal of thermal or acoustic insulating materials or from processes involving asbestos material, and dust from ventilation collection systems).
- 3 General clinical waste (ie clinical waste that does not contain any infectious waste, bulk blood, cytotoxic waste, laboratory chemicals, poisons, recognisable body parts or sharps).
- 4 Any waste (other than a substance listed in Schedule 1 of the *Radiation Control Regulation 1993*) that has a specific activity of more than 100 becquerels per gram as determined in accordance with the *Radiation Control Act 1990* and the *Radiation Control Regulation 1993*.

Part 2 Types of inert waste

- 1 Virgin excavated natural material (such as clay, gravel sand, soil and rock) that is not mixed with any other type of waste and which:
 - (a) has been excavated from areas of land that are not contaminated with human-made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphidic ores or soils, or
 - (b) consists of excavated natural materials which meet such criteria as may be approved.
- 2 Building and demolition waste (eg bricks, concrete, paper, plastics, glass, metal and timber), being material resulting from the demolition, erection, construction, refurbishment or

alteration of buildings or from the construction, repair or alteration of infrastructure-type development such as roads, bridges, dams, tunnels, railways and airports, and which:

- (a) is not contaminated or mixed with any other type of waste, and
- (b) does not contain any asbestos waste.

3 Asphalt waste (eg resulting from road construction and water proofing works).

4 Biosolids categorised as Unrestricted Use, or as Restricted Use 1, in accordance with such criteria as may be approved.

5 Used, rejected or unwanted tyres.

6 Office and packaging waste (such as paper, plastics, glass, metal and timber) that is not contaminated or mixed with any other type of waste.

Part 3 Types of hazardous waste

1 Any waste that meets the criteria for assessment as dangerous goods under the Australian Code for the Transport of Dangerous Goods by Road and Rail, and which is categorised as any of the following:

- explosives,
- gases (compressed, liquefied or dissolved under pressure),
- flammable solids (excluding organic waste, and all physical forms of carbon such as activated carbon and graphite),
- substances liable to spontaneous combustion (excluding organic waste, and all physical forms of carbon such as activated carbon and graphite),
- substances which in contact with water emit flammable gases,
- oxidising agents and organic peroxides,
- poisonous (toxic) substances,
- corrosive substances.

- 2 Poisons (being waste generated by activities carried out for business or other commercial purposes and that consists of pharmaceutical or other chemical substances specified in the Poisons Lists under the *Poisons and Therapeutic Goods Act 1966*).
- 3 Special clinical waste (ie clinical waste that contains any infectious waste, bulk blood, cytotoxic waste, laboratory chemicals, recognisable body parts or sharps).
- 4 Radioactive substances listed in Schedule 1 to the *Radiation Control Regulation 1993*.
- 5 Any declared chemical waste (except asbestos waste) that is the subject of a chemical control order under the *Environmentally Hazardous Chemicals Act 1985*, and which is not permitted to be disposed of to a landfill site by such an order.
- 6 Quarantine waste.

Part 4 Types of solid waste

- 1 Municipal waste, being household domestic waste that is set aside for kerb side collection, other types of domestic waste (eg domestic clean-up and residential garden waste), or local council generated waste (eg waste resulting from street sweeping, litter bins and parks).
- 2 Biosolids categorised as Restricted Use 2 or 3 in accordance with such criteria as may be approved, manure and night soil.
- 3 Waste contaminated with lead from domestic premises and educational/child care institutions.
- 4 Cleaned pesticide, biocide, herbicide or fungicide containers.
- 5 Drained and mechanically crushed oil filters, and rags and oil absorbent materials (not containing free liquids) from automotive workshops.
- 6 Nursing home waste (excluding infectious waste, bulk blood, cytotoxic waste, laboratory chemicals, poisons, recognisable body parts and sharps).

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- 7 Food waste generated by businesses involved in the preparation of foods, or from the manufacturing of foods and grocery products.
- 8 Vegetative waste generated from agriculture or horticulture.
- 9 Non-chemical waste generated from manufacturing and services (including metal, timber, paper, ceramics, plastics, thermosets and composites).