



New South Wales

Protection of the Environment Operations Amendment Regulation 1999

under the

Protection of the Environment Operations Act 1997

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,
Minister for Environment

Explanatory note

Schedule 1 to the *Protection of the Environment Operations Act 1997* lists activities that are required to be licensed under the Act (these scheduled activities are divided into premises-based activities and activities that are not premises-based). This Regulation amends that Schedule to clarify and extend the scheduled activities described as waste activities, waste facilities and transporting of waste, and to include mobile plant scheduled activities and mobile waste processing in the list of activities that are not premises-based. The interpretative provisions contained in that Schedule relating to waste are also recast.

This Regulation also amends the descriptions of the classification of activities in Schedule 1 to the *Protection of the Environment Operations (General) Regulation 1998* (which specifies the licensing fees for scheduled activities) as a consequence of the above changes. In particular, a new classification is inserted, namely Hazardous, Industrial, Group A or Group B Waste Disposal, to reflect the insertion of this type of premises-based activity in Schedule 1 to the Act.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 5 (3) and 323.

Protection of the Environment Operations Amendment Regulation 1999

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations Amendment Regulation 1999*.

2 Commencement

This Regulation commences on 1 July 1999.

3 Amendment of Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act 1997* is amended as set out in Schedule 1.

4 Amendment of Protection of the Environment Operations (General) Regulation 1998

The *Protection of the Environment Operations (General) Regulation 1998* is amended as set out in Schedule 2.

5 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment of Protection of the Environment Operations Act 1997

(Clause 3)

[1] Schedule 1 Schedule of EPA-licensed activities

Insert after the heading to Part 1:

The activities referred to in this Part are activities that are **premises-based** (ie the occupier of the premises at which the activity is carried on must be the holder of a licence authorising the activity to be carried on at those premises).

An activity referred to in this Part is not a premises-based activity if the activity is carried on by mobile plant.

[2] Schedule 1, Part 1

Omit the activities described as waste activities and waste facilities. Insert instead:

Waste activities

- (1) **Hazardous, industrial or Group A waste generation or storage**, being any activity that:
 - (a) is carried on for business or other commercial purposes, and
 - (b) involves the generating or storage of any one or more of the following types of waste:
 - (i) hazardous waste,
 - (ii) industrial waste,
 - (iii) Group A waste.
- (2) The following activities are not waste activities for the purposes of this item:
 - (a) the generating or on site storage of contaminated soil, recyclable oil or stabilised asbestos waste in bonded matrix.

- (b) the generating or on site storage of hazardous waste, industrial waste or Group A waste in or at a concrete batching plant,
- (c) 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, industrial waste or Group A waste by any of the following:
 - local authorities,
 - dry cleaners,
 - printers,
 - photographic and processing laboratories,
 - pharmacies,
 - hairdressers,
 - businesses carrying out any skin penetration procedure to which Part 3 of the *Public Health Regulation 1991* applies,
 - veterinary surgeons,
 - nursing homes,
 - funeral parlours,
 - painters,
 - builders,
 - machinery and vehicle repair and servicing workshops,
 - panel beaters,
 - jewellers,
 - educational institutions,
 - hotels, clubs, restaurants and related hospitality industries,
- (d) the generating of not more than 2 tonnes per year, or the on site storage of less than 500 kilograms at any one time, of hazardous waste, industrial waste or Group A waste by any of the following:
 - dental or doctors surgeries
 - hospitals, pathology laboratories or pre-term clinics

- farming operations,
- landscaping or fire hazard reduction works (such as those carried out by local and public authorities),

(e) 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, industrial waste or Group A waste in the form of oil, paint, lacquer, varnish, resin, ink, dye, pigments, adhesives, hydrocarbons or emulsions.

Waste facilities

(1) A waste facility that is of any one or more of the following classes:

(a) **hazardous, industrial, Group A or Group B waste processing facilities**, being waste facilities that treat, process or reprocess hazardous waste, industrial waste, Group A waste or Group B waste (or any combination of those types of waste), **except those**:

*(i) that only treat, process or reprocess sewage, or gases specified as Dangerous Goods Class 2 in the 6th edition of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, in force as at 1 January 1998, or*

(ii) that only treat, process or reprocess waste that is generated on site,

(b) **hazardous, industrial, Group A or Group B waste disposal facilities**, being waste facilities that dispose of hazardous waste, industrial waste, Group A waste or Group B waste (or any combination of those types of waste), **except those**:

(i) that only lawfully discharge waste into a sewer. or

- (ii) that are located outside the Sydney metropolitan area or the extended regulated area and:
 - (A) where the only hazardous, industrial, Group A or Group B waste that is disposed of is asbestos waste, or
 - (B) are operated by a local authority and where the only hazardous, industrial, Group A or Group B waste that is disposed of is asbestos waste, liquid grease trap waste or clinical waste,
- (c) **used tyre processing or disposal facilities**, being waste facilities that:
 - (i) treat, process or dispose of more than 5,000 tonnes per year of used, rejected or unwanted tyres (including shredded tyres and tyre pieces), or
 - (ii) store such tyres at any one time in quantities of more than 50 tonnes,
- (d) **waste storage, transfer, separating or processing facilities**, being waste facilities that store or transfer, or recover by way of separating or processing, more than 30,000 tonnes of waste per year,
- (e) **waste incineration facilities**, being waste facilities that treat or process:
 - (i) any quantity of chemical waste, or
 - (ii) any quantity of cytotoxic waste, or
 - (iii) more than 25 tonnes per year of clinical waste, or
 - (iv) more than 25 tonnes per year of quarantine waste, or
 - (v) more than 1 tonne per hour of any other type of waste,

(f) **landfill sites within the Sydney metropolitan or extended regulated areas**, being landfill sites that are located in the Sydney metropolitan area or the extended regulated area, **except those**:

- (i) that receive only coal washery rejects or slags at a rate of not more than 20,000 tonnes per year, or
- (ii) that 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) that receive no more than 20,000 tonnes of inert waste only 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),

(g) **landfill sites in environmentally sensitive areas**, being landfill sites that are located in an environmentally sensitive area described in Technical Appendix 8 of the Waste Guidelines, **except those**:

- (i) that are within an environmentally sensitive area by reason only of being located within 250 metres of a residential zone or of a dwelling, school or hospital not associated with the landfill site and:
 - (A) receive only coal washery rejects or slags at a rate of not more than 20,000 tonnes per year, or
 - (B) were in operation as at 30 June 1997 and receive no more than 200 tonnes of waste per year, or
- (ii) that 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.

- (h) **solid waste landfill sites**, being landfill sites that receive over 5,000 tonnes per year of solid waste or solid waste and inert waste,
- (i) **coal washery rejects or slags landfill sites**, being landfill sites that receive over 20,000 tonnes per year of coal washery rejects or slags (or both),
- (j) **large-scale landfill sites**, being landfill sites that receive over 20,000 tonnes per year of any waste.

(2) For the purposes of this item, the following are taken not to be waste:

- (a) virgin excavated natural material,
- (b) non-hazardous bulk agricultural or crop waste that is not putrescible,
- (c) effluent.

(3) The following premises are not waste facilities for the purposes of this item:

- (a) premises where coal washery rejects or slags (and no other type of waste) is disposed of on site,
- (b) premises where only coal washery rejects or slags are used solely for the purposes of road or railway construction.
- (c) premises where biosolids (and no other type of waste) are disposed of on site,
- (d) premises on which organic waste (and no other type of waste) is applied for agricultural or environmental rehabilitation purposes,
- (e) mines referred to in this Part where the only waste disposed of is tailings, waste rock or inert waste generated on the mine,
- (f) electricity generating works referred to in this Part where the only waste disposed of is ash generated from the works.

- (g) other premises referred to in this Part that are used solely for the purposes of disposing of any of the following types of waste:
 - (i) non-hazardous tailings or waste rock generated on or at any mine,
 - (ii) non-hazardous ash generated from any electricity generating works.

[3] Schedule 1, Part 2

Omit the Part. Insert instead:

Part 2 Activities not premises-based

The activities referred to in this Part are activities that are **not premises-based** (ie the person carrying on the activity must be the holder of a licence authorising the activity to be carried on, but not for the premises at which the activity is carried on).

Mobile plant scheduled activities—being the carrying on of any activity referred to in Part 1 of this Schedule (other than the activities described as waste activities or waste facilities) by mobile plant.

Mobile waste processing—being the treatment, processing or reprocessing of hazardous waste, industrial waste or Group A waste (or any combination of those types of waste) by mobile plant and that is carried on for business or commercial purposes.

Transporting of waste—being the activities of persons who transport any one or more of the following types of waste for fee or reward (including occupiers of waste facilities, and persons who carry on waste activities, that are licensed under this Act and who transport any such waste to or from those facilities):

- (a) **transport of hazardous waste, industrial waste, Group A waste, Group B waste or Group C waste** (or of any combination of those types of waste) in loads exceeding 200 kilograms, except if it consists only of stabilised asbestos waste in bonded matrix.

(b) **transport of used, rejected or unwanted tyres**
(including shredded tyres and tyre pieces) in loads over 2 tonnes.

For the purposes of this item, the following are excluded:

(a) persons who transport waste in their capacity as employees,
(b) any waste that is transported in connection with an emergency situation or an accident.

[4] Schedule 1, Part 3

Omit the Part. Insert instead:

Part 3 Interpretative provisions

Division 1 General interpretative provisions

For the purposes of this Schedule:

mobile plant means any equipment or machinery that:

(a) is capable of carrying on any one or more of the activities referred to in this Schedule, and
(b) is capable of moving under its own motive power or of being transported, and
(c) is operated at a particular site on a temporary basis only (ie for a total period of not more than 6 months in any 12-month period at that site).

Note. A non-premises-based activity that is carried on by mobile plant will revert to being a premises-based activity under Part 1 of this Schedule if the mobile plant is operated at the particular site for a total period of more than 6 months in any 12-month period.

Division 2 Special interpretative provisions relating to waste

For the purposes of this Schedule (particularly in relation to the activities described as waste activities, waste facilities, mobile waste processors and transporters of waste):

aqueous liquid waste means any liquid waste in which water constitutes more than 80% of the volume of liquid present.

asbestos waste means any waste that contains asbestos as defined in the Waste Guidelines.

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

Biosolids Guidelines means the document called *Environmental Guidelines: Use and Disposal of Biosolids Products* issued by the EPA and in force as at 31 December 1997.

clinical waste means any waste resulting from medical, nursing, dental, pharmaceutical, skin penetration or other related clinical activity, being waste that has the potential to cause injury, infection or offence, and includes waste containing any of the following:

- (a) human tissue (other than hair, teeth and nails),
- (b) bulk body fluids or blood,
- (c) visibly blood-stained body fluids, materials or equipment,
- (d) laboratory specimens or cultures,
- (e) animal tissue, carcasses, or other waste, from animals used for medical research,

but does not include any such waste that has been treated by a method approved in writing by the Director-General of the Department of Health.

controlled aqueous liquid waste means any liquid waste that is assessed and classified as controlled aqueous liquid waste in accordance with the Waste Guidelines, but does not include any of the types of waste specified in Part 3, 6 or 7 of the following Appendix.

cytotoxic waste means any substance contaminated with any residues or preparations that contain materials that are toxic to cells principally through their action on cell reproduction.

effluent means:

- (a) waste water from sewage collection or treatment plants, or
- (b) waste water from collection or treatment systems that are ancillary to processing industries involving livestock, agriculture, wood, paper or food, being waste water that is conveyed from the place of generation by means of a pipe, canal or other conventional method used in irrigation (but not by means of a tanker or truck), or
- (c) waste water from collection or treatment systems that are ancillary to intensive livestock, aquaculture or agricultural industries, being waste water that is released by means of a pipe, canal or other conventional method used in irrigation as part of day-to-day farming operations.

extended regulated area means the area comprising the local government areas of Cessnock, Gosford, Kiama, Lake Macquarie, Maitland, Newcastle, Port Stephens, Shellharbour, Shoalhaven, Wingecarribee, Wollongong and Wyong.

food waste means waste generated by any one or more of the following activities:

- (a) the preparation or manufacturing of food (including beverages),
- (b) the processing of meat, poultry or fish,
- (c) the manufacturing of edible grocery products,

but does not include grease trap waste.

Group A waste means any of the types of waste specified in Part 5 of the following Appendix.

Group B waste means any of the types of waste specified in Part 6 of the following Appendix.

Group C waste means any of the types of waste specified in Part 7 of the following Appendix.

hazardous waste means any liquid or non-liquid waste that is:

- (a) specified in Part 3 of the following Appendix, or
- (b) otherwise assessed and classified as hazardous waste in accordance with the procedures set out in the Waste Guidelines.

industrial waste means any non-liquid waste that is:

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

inert waste means any non-liquid waste that is:

- (a) specified in Part 2 of the following Appendix, or
- (b) otherwise assessed and classified as inert waste in accordance with the procedures set out in the Waste Guidelines.

landfill site means a waste facility used for the purpose of disposing of waste to land.

non-aqueous liquid waste means any liquid waste in which a liquid other than water constitutes more than 20% of the volume of liquid present.

non-liquid waste means any waste that:

- (a) has an angle of repose of more than 5 degrees, and
- (b) does not contain, or is not comprised of, any free liquids (as determined in accordance with the Waste Guidelines), and
- (c) does not contain, or is not comprised of, any liquids that are capable of being released when the waste is transported, and
- (d) does not become free-flowing at or below 60 degrees Celsius or when it is transported, and
- (e) is generally capable of being picked up by a spade or shovel.

on site—a reference 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.

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

putrescible waste means:

- (a) food waste, or
- (b) waste consisting of animal matter (including dead animals or animal parts), or
- (c) biosolids categorised as Stabilisation Grade C in accordance with the criteria set out in the Biosolids Guidelines.

recycling of waste means the processing of waste into a similar non-waste product.

reprocessing of waste means the processing of waste into a different non-waste product.

sharps waste means any waste resulting from medical, nursing, dental, veterinary, pharmaceutical, skin penetration or other related clinical activity, and that contains instruments or devices:

- (a) that have sharp points or edges capable of cutting, piercing or penetrating the skin (eg needles, syringes with needles or surgical instruments), and
- (b) that are designed for such a purpose, and
- (c) that have the potential to cause injury or infection,

but does not include any such waste that has been treated by a method approved in writing by the Director-General of the Department of Health.

solid waste means any non-liquid waste that is:

- (a) specified in Part 4 of the following Appendix, or
- (b) otherwise assessed and classified as solid waste in accordance with the procedures set out in the Waste Guidelines.

Sydney metropolitan area means the area constituting the Metropolitan Waste Disposal Region under the *Waste Recycling and Processing Service Act 1970* immediately before 1 November 1996.

treatment of waste means the processing of waste into a different type of waste.

virgin excavated natural material means the type of waste referred to in item 1 of Part 2 of the following Appendix.

Waste Guidelines means the document called *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes* issued by the EPA and in force as at 1 July 1999.

APPENDIX—Types of waste

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) Any non-liquid radioactive waste, being waste that:
 - (a) contains a substance that emits ionising radiation spontaneously, and
 - (b) has a specific activity ratio or a total activity ratio (as determined in accordance with the procedures set out in the Waste Guidelines) that is greater than one.

Part 2—Types of inert waste

- (1) Virgin excavated natural material (eg clay, gravel, sand, soil and rock) that is not mixed with any other waste and that:
 - (a) has been excavated from areas that are not contaminated as the result of industrial,

commercial, mining or agricultural activities, with manufactured chemicals and that does not contain sulphidic ores or soils, or

- (b) consists of excavated natural materials that meet such criteria as may be approved by the EPA.
- (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 mixed with any other type of waste, and
 - (b) does not contain any asbestos waste.
- (3) Asphalt waste (eg resulting from road construction and waterproofing works).
- (4) Biosolids categorised as Unrestricted Use, or as Restricted Use 1, in accordance with the criteria set out in the Biosolids Guidelines.
- (5) Used, rejected or unwanted tyres (including shredded tyres or tyre pieces).
- (6) Office and packaging waste (eg paper, plastics, glass, metal and timber) that is not 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 categorised as one of the following:
 - (a) explosives.
 - (b) gases (compressed, liquefied or dissolved under pressure).

- (c) flammable solids (excluding organic waste, and all physical forms of carbon such as activated carbon and graphite).
- (d) flammable liquids,
- (e) substances liable to spontaneous combustion (excluding organic waste, and all physical forms of carbon such as activated carbon and graphite),
- (f) substances which in contact with water emit flammable gases,
- (g) oxidising agents and organic peroxides,
- (h) toxic substances,
- (i) corrosive substances.

(2) Pharmaceuticals and 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 List under the *Poisons and Therapeutic Goods Act 1966*).

(3) Clinical waste.

(4) Cytotoxic waste.

(5) Sharps waste.

(6) Any radioactive waste, being waste that:

- (a) contains a substance that emits ionising radiation spontaneously, and
- (b) has a specific activity greater than 100 becquerels per gram, and
- (c) consists of, or contains more than, the prescribed activity of any radioactive element listed in Schedule 1 to the *Radiation Control Regulation 1993*.

(7) Any liquid radioactive waste, being waste that:

- (a) contains a substance that emits ionising radiation spontaneously, and
- (b) has a specific activity ratio or a total activity ratio (as determined in accordance with the procedures set out in the Waste Guidelines) that is greater than one.

(8) Any declared chemical waste that:

- (a) is the subject of a chemical control order under the *Environmentally Hazardous Chemicals Act 1985*, and
- (b) is not permitted to be disposed of to a landfill site because of such an order.

(9) Quarantine waste.

Part 4—Types of solid waste

- (1) Municipal waste, being waste consisting of:
 - (a) household domestic waste that is set aside for kerb side collection or delivered by the householder directly to a waste facility, or
 - (b) other types of domestic waste (eg domestic clean-up and residential garden waste), or
 - (c) local council generated waste (eg waste from street sweeping, litter bins and parks).
- (2) Biosolids categorised as Restricted Use 2 or 3 in accordance with the criteria set out in the Biosolids Guidelines, manure and night soil.
- (3) Waste contaminated with lead from residential premises or educational or 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) Disposable nappies, incontinence pads and sanitary napkins.
- (7) Food waste.
- (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).

Part 5—Group A waste

(1) Non-aqueous liquid waste.
(2) Controlled aqueous liquid waste.

Part 6—Group B waste

(1) Liquid food waste.
(2) Liquid grease trap waste resulting from the preparation or manufacturing of food.

Part 7—Group C waste

Liquid waste from human waste storage facilities or waste treatment devices (within the meaning of the Waste Guidelines), including pump-out waste and septage.

Schedule 2 Amendment of Protection of the Environment Operations (General) Regulation 1998

(Clause 4)

[1] Schedule 1 Licensing fees—activities and assessable pollutants

Insert the following matter in numerical order in the index of classification of activities:

75A Hazardous, Industrial, Group A or Group B Waste Disposal

[2] Schedule 1, index of classification of activities

Omit “or Inappropriate” from the matter relating to item 81.

[3] Schedule 1, index of classification of activities

Omit the matter relating to item 83.

[4] Schedule 1, item 75A

Insert after item 75:

75A Hazardous, Industrial, Group A or Group B Waste Disposal, being activities that dispose of hazardous waste, industrial waste, Group A waste or Group B waste (or any combination of those types of waste) at a waste facility, but not being Industrial Waste Landfilling.

Licence Administrative Fee

Number of Administrative Fee units

All 32

Assessable Pollutants and Fee Rate Threshold Factors

nil

The administrative fee units for this activity are not subject to phasing-in discounts. Each administrative fee unit is equivalent to an administrative fee unit amount of \$95.

[5] Schedule 1, item 77

Omit “or stabilised asbestos waste in bonded matrix (or both)”.

[6] Schedule 1, item 77

Insert “or Solid Waste Landfilling” after “Slag Landfilling”.

[7] Schedule 1, item 78

Omit “and no other type of waste”.

[8] Schedule 1, item 79

Omit “any type of asbestos waste”.

Insert instead “solid and inert waste”.

[9] Schedule 1, item 80

Omit “or Inappropriate Landfilling, Industrial Waste Landfilling or Hazardous Waste Landfilling”.

Insert instead “Area Landfilling or Industrial Waste Landfilling”.

[10] Schedule 1, item 81

Omit “**or Inappropriate**”. Insert instead “**Area**”.

[11] Schedule 1, item 81

Omit “or inappropriate”.

[12] Schedule 1, item 83

Omit the item.