



New South Wales

Protection of the Environment Operations (Waste) Amendment Regulation 2020

under the

Protection of the Environment Operations Act 1997

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

MATT KEAN, MP
Minister for Energy and Environment

Explanatory note

The object of this Regulation is to—

- (a) exempt waste containing whale carcasses received at certain waste facilities from the calculation of contributions payable by occupiers of those facilities, and
- (b) require occupiers of certain waste facilities to record the amount of waste containing whale carcasses delivered to the facility and contained in loads of waste transported from the facility, and
- (c) exempt occupiers of certain mine sites from the requirement to hold a licence authorising the disposal of mixed waste organic outputs at the site.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 88(5)(c), 286 and 323 (the general regulation-making power).

Protection of the Environment Operations (Waste) Amendment Regulation 2020

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Waste) Amendment Regulation 2020*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Protection of the Environment Operations (Waste) Regulation 2014

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

Insert after clause 21(1)(b)—

- (c) any waste that is wholly or predominantly comprised of whale carcasses.

[2] Clause 27 Waste and other material received at facility

Omit the note to clause 27(d).

[3] Clause 27(d1)

Insert after clause 27(d)—

- (d1) the amount of any waste delivered that is wholly or predominantly comprised of whale carcasses,

Note. The waste referred to in paragraphs (c)–(d1) is exempted by clause 21 from the calculation of waste contributions payable by the occupier of the waste facility.

[4] Clause 28 Waste and other materials transported from facility for use, recovery, recycling, processing or disposal

Omit the note to clause 28(d).

[5] Clause 28(d1)

Insert after clause 28(d)—

- (d1) the amount of any waste contained in the load that is wholly or predominantly comprised of whale carcasses,

Note. The waste referred to in paragraphs (c)–(d1) is exempted by clause 21 from the calculation of waste contributions payable by the occupier of the waste facility.

[6] Clause 114A

Insert after clause 114—

114A Exemption of certain occupiers from licensing requirement for disposal of mixed waste organic outputs

- (1) The occupier of a prescribed premises is exempt from the requirement to hold a licence authorising the scheduled activity of waste disposal by application to land under section 48 of the Act in relation to the burying of waste in the land on which the premises is situated if—
 - (a) the waste wholly or predominantly consists of mixed waste organic outputs, and
 - (b) the waste was received at the premises before 26 October 2018, and
 - (c) the total amount of waste buried does not exceed the maximum amount for the premises specified in relation to the premises in Column 3 of the Table to this clause, and
 - (d) the waste is managed and buried in accordance with this clause.
- (2) As soon as practicable after the commencement of this clause and until the waste is buried, the occupier must take all reasonable steps to manage the waste in a way that prevents adverse impacts to the environment including, for example, adverse impacts caused by—

- (a) the erosion of the waste by wind or water, or
 - (b) the waste catching fire, or
 - (c) the escape of leachate from the waste.
- (3) The waste must be buried as follows—
- (a) as soon as practicable and no later than 18 months after the commencement of this clause,
 - (b) within the approved final landform for the land,
 - (c) above the final water table for the land and covered by at least 5 metres of material to prevent the exposure of the waste,
 - (d) if it is not reasonably practicable to bury the waste in accordance with paragraph (c)—below the final water table for the land and in a way designed to prevent the exposure of the waste,
 - (e) in a way that prevents, as far as reasonably practicable—
 - (i) the spontaneous combustion of the waste including, for example, by not placing the waste near, or burying the waste with, materials or substances that are liable to spontaneous combustion, and
 - (ii) the exposure of the waste to acid forming materials or substances, or potentially acid forming materials or substances, and
 - (iii) the escape of leachate from the waste.
- (4) The occupier must, within 28 days after burying the waste, give the EPA and the NSW Resources Regulator the following details in the approved form—
- (a) the date on which the waste was buried,
 - (b) the location of where the waste was buried,
 - (c) the amount of waste that was buried,
 - (d) particulars of the way in which the waste was buried.

(5) In this clause—
approved final landform, for land, means the final landform to which the land is rehabilitated in accordance with an approved mining operations plan for the land.

approved mining operations plan, for land, means a mining operations plan—
 (a) required to be prepared under a mining lease over the land, and
 (b) approved in accordance with the lease.

mining lease has the same meaning as in the *Mining Act 1992*.

mixed waste organic outputs has the same meaning as in clause 21A.

prescribed premises means a premises specified in Column 1 of the Table to this clause and in relation to which the occupier holds the environment protection licence specified in Column 2 of the Table.

Table

| Prescribed premises | Licence number | Maximum amount (tonnes) |
|--|----------------|-------------------------|
| Four Mile Creek Road, Ashtonfield NSW 2323 | 396 | 191 |
| Jerrys Plains Road, Warkworth NSW 2330 | 529 | 2,108 |

| Prescribed premises | Licence number | Maximum amount (tonnes) |
|---|-----------------------|--------------------------------|
| Lemington Road, Singleton NSW 2330 | 640 | 6,247 |
| Coal Road, Muswellbrook NSW 2333 | 656 | 8,877 |
| Castlereagh Highway, Cullen Bullen NSW 2790 | 765 | 150 |
| Thomas Mitchell Drive, Muswellbrook NSW 2333 | 1323 | 2,718 |
| Putty Road, Mount Thorley NSW 2330 | 1376 | 2,175 |
| Mount Thorley Road, Mount Thorley NSW 2330 | 1976 | 2,490 |
| Old New England Highway, Ravensworth NSW 2330 | 2094 | 1,000 |
| Lemington Road, Ravensworth NSW 2330 | 2652 | 2,091 |
| Rix's Creek Lane, Singleton NSW 2330 | 3391 | 200 |
| Hebden Road, Ravensworth NSW 2330 | 4460 | 5,500 |
| Hebden Road, Ravensworth NSW 2330 | 12840 | 900 |
