

SOLID WASTE AND PUBLIC CLEANSING MANAGEMENT (PRESCRIBED SOLID WASTE MANAGEMENT FACILITIES AND APPROVAL FOR THE CONSTRUCTION, ALTERATION AND CLOSURE OF FACILITIES) REGULATIONS 2011

PU(A) 302/2011

26 August 2011

Jil 55; No 17; 26 August 2011; Tambahan No 118; Perundangan (A)

IN exercise of the powers conferred by section 108 of the **Solid Waste and Public Cleansing Management Act 2007**[Act 672], the Minister makes the following regulations:-

PART I

PRELIMINARY

1. Citation and commencement

(1) These regulations may be cited as the **Solid Waste and Public Cleansing Management (Prescribed Solid Waste Management Facilities and Approval for the Construction, Alteration and Closure of Facilities) Regulations 2011**.

(2) These Regulations come into operation on 1 September 2011.

2. Interpretation

In these Regulations, unless the context otherwise requires-

"waste hierarchy" means the ranking of waste management operations in accordance with their environmental benefits in the following order of priority:

- (a) firstly, the reduction of waste generation;
- (b) secondly, the reuse of waste materials;
- (c) thirdly, the recycling of waste materials for similar or new products;
- (d) fourthly, the utilization of energy from waste; and
- (e) finally, the disposal of waste such as landfilling;

"scheme area" means the geographical area for the relevant scheme;

"refuse derived fuel facility" means a facility where a fuel product is derived from controlled solid waste by a combined process which may include separation, drying, shredding or compaction, and which may involve the recovery of recyclable materials and the removal of non-processable materials such as dirt and gravel;

"biogas facility" means a facility where biogas is produced by the process of anaerobic digestion of organic biodegradable controlled solid waste for the purpose of utilizing the gas as a source of energy;

"material recovery facility" means a facility which is designed and operated to process controlled solid waste by the use of mechanical methods to separate useful materials from the waste stream for use as raw materials or products;

"treatment and disposal facilities" mean a refuse derived fuel facility, biogas facility, communal or commercial composting facility, material recovery facility, thermal treatment plant, inert landfill, sanitary landfill and disposal site.

"communal or commercial composting facility" means a facility where microbial decomposition of organic controlled solid waste is carried out under controlled aerobic conditions to convert organic materials into a humus-like product for use as soil conditioner or fertilizer and may include vermicomposting, turned windrows, aerated static piles or aerated in-vessel systems which serves two or more premises, and in the case of commercial composting facility, which produces compost for sale;

"prescribed solid waste management facility" means any solid waste management facility prescribed under regulation 3;

"thermal treatment plant" means a fixed or mobile plant where controlled solid waste is treated under controlled conditions by mass burn incineration, gasification, plasma technology, pyrolysis or other means of treatment under controlled temperature or atmospheric pressure;

"licensee for prescribed solid waste management facility" means any person holding the licence under the **Solid Waste and Public Cleansing Management (Licensing) (Management or Operation of Prescribed Solid Waste Management Facilities) Regulations 2011**[P.U. (A) 304/2011];

"scheme" means the system for solid waste management services which specifies the duties and obligations of licensees and solid waste generators, the geographical area of the scheme, the type of controlled solid waste generated within the scheme area, and the solid waste management services to be provided;

"transfer station" means a facility where controlled solid waste is unloaded from waste collection vehicles, and reloaded to large capacity long haul vehicles, barges or rail haulage for ground or waterway shipment to treatment and disposal facilities;

"sanitary landfill" means a disposal site where controlled solid waste is deposited into or on any land or water and where principles of engineered design is used to confine the controlled solid waste within the facility for ensuring its proper treatment and handling to avoid any nuisance or hazard to public health, safety and the environment;

"inert landfill" means a disposal site receiving controlled solid waste that does not physically or chemically react or biodegrade and will not decompose within the landfill;

"disposal site" means any site, other than sanitary landfills and inert landfills, where controlled solid waste is placed to remain.

PART II

PRESCRIBED SOLID WASTE MANAGEMENT FACILITIES

3. Prescribed solid waste management facilities

The prescribed solid waste management facilities are-

- (a) a refuse derived fuel facility;
- (b) a biogas facility;
- (c) a communal or commercial composting facility;
- (d) a material recovery facility;
- (e) a thermal treatment plant;
- (f) a transfer station;
- (g) a inert landfill;
- (h) a sanitary landfill; and
- (i) a disposal site.

PART III

APPLICATION FOR APPROVAL TO CONSTRUCT, ALTER OR CLOSE

4. Application for approval to construct or alter prescribed solid waste management facility

(1) An application for an approval of the plans and specifications to construct or alter a prescribed solid waste management facility shall be made to the Director General by submitting a written application to the Corporation in the form as provided by the Director General which shall contain the information as set out in the First Schedule.

(2) The Corporation may request any other document or information as may be required.

(3) Every application shall be accompanied by a processing fee of five hundred ringgit.

(4) An application under this regulation may be withdrawn by the applicant at any time before the Director General grants or refuses to grant the approval, and there shall be no refund of the processing fee paid upon such withdrawal.

5. Grant or refusal of approval

(1) The Director General may, after considering the application for approval under subregulation 4(1) and having due regard to the recommendation of the Corporation under section 9 of the Act, grant the approval or refuse to grant the approval.

(2) In granting the approval to the applicant, the Director General may impose the terms and conditions as stipulated in regulation 8 and such other terms and conditions as he thinks fit.

(3) The decision of the Director General to grant or refuse to grant an approval shall be communicated to the applicant by written notice as soon as practicable.

6. Application for approval to close prescribed solid waste management facility

(1) An application to close a prescribed solid waste management facility shall be made to the Director General by submitting-

(a) a written application to the Corporation in the form as provided by the Director General which shall contain the information as set out in the Second Schedule; and

(b) a proposed closure plan.

(2) The Corporation may request any other document or information as may be required.

(3) Every application shall be accompanied by a processing fee of five hundred ringgit.

(4) An application under this regulation may be withdrawn by the applicant at any time before the application is allowed or rejected, and there shall be no refund of the processing fee upon such withdrawal.

7. Allow or reject application

The Director General may, after considering the application under subregulation 6(1) and having due regard to the recommendation of the Corporation under subsection 12(4) of the Act-

(a) allow the application with or without conditions; or

(b) reject the application and direct the owner or occupier to submit a fresh application and closure plan.

8. Terms and conditions that may be imposed by Director General

(1) Where the Director General grants an approval under subregulation 5(1), the Director General may impose the terms and conditions necessary to take into consideration matters that may include the following:

(a) that the proposed prescribed solid waste management facility is consistent with national plans and strategies on solid waste management; and (b) that the design, technology and processes of the prescribed solid waste management facility-

(i) are cost-effective for the national solid waste management system on a short, medium and long term basis;

(ii) allow for the desired treatment of controlled solid waste according to the waste hierarchy;

(iii) could achieve the desired quality of products and residues generated; and

(iv) minimize adverse impact on public health and the environment.

(2) Where the Director General allows an application under paragraph 7(a), the Director General may impose the terms and conditions necessary to take into consideration matters that may include the matters under paragraph 8(1)(a) and subparagraphs 8(1)(b)(i), (iii) and (iv).

PART IV

SAFE CLOSURE

9. Deposit for safe closure

(1) Every licensee for prescribed solid waste management facility shall provide a deposit to ensure that funds are available for the prescribed solid waste management facility to be safely closed in accordance with the approved closure plan.

(2) For the purpose of the deposit, the licensee for prescribed solid waste management facility shall ascertain the amount of controlled solid waste delivered to the prescribed solid waste management facility for every three month period commencing from the first day the controlled solid waste was delivered to the prescribed solid waste management facility in accordance with the procedure as specified in the Third Schedule.

(3) Where the licensee for prescribed solid waste management facility has ascertained the amount of controlled solid waste delivered under subregulation (2), the Corporation shall confirm the ascertainment.

(4) Where the Corporation has confirmed the ascertainment of the amount of controlled solid waste delivered, the Corporation shall by written notice inform the licensee for prescribed solid waste management facility of the confirmation as soon as practicable.

(5) Upon receipt of the written notice under subregulation (4), the licensee for prescribed solid waste management facility shall pay the deposit under subregulation (1)-

(a) in the manner and amount as specified in the Fourth Schedule, and such payment shall be made to the Corporation within fourteen days from the date of receipt of the written notice under subregulation (4); and

(b) in accordance with the scheduled intervals as stipulated in subregulation (2).

10. Release of deposit for safe closure

(1) Where the licensee for prescribed solid waste management facility has carried out the safe closure of the prescribed solid waste management facility with the approval of the Director General and in accordance with the approved closure plan, the Corporation shall ensure that the safe closure has been carried in accordance with such approved closure plan.

(2) Where the Corporation is satisfied that the safe closure has been carried out in accordance with the approved closure plan, the Corporation shall release the deposit for the safe closure to the licensee for prescribed solid waste management facility.

(3) Where the safe closure of a prescribed solid waste management facility has been carried out in phases in accordance with the approved closure plan, the Corporation may release the deposit to the

licensee for prescribed solid waste management facility in proportion to the completed phase of closure of the prescribed solid waste management facility.

(4) Where the safe closure has not been carried out in accordance with the approved closure plan, the Corporation shall serve a written notice to the licensee for prescribed solid waste management facility requiring him to carry out the safe closure in accordance with the approved closure plan within the time specified in the written notice.

(5) Where the safe closure has not been carried out in accordance with the approved closure plan within the time specified in the written notice, the Corporation shall carry out or caused to be carried out the safe closure of the prescribed solid waste management facility and the actual cost of the safe closure shall be set off from the deposit paid by the licensee for prescribed solid waste management facility.

(6) Where the actual cost of the safe closure carried out or caused to be carried out by the Corporation under subregulation (5)-

(a) exceeds the deposit paid by the licensee for prescribed solid waste management facility, the licensee shall pay the difference of such cost to the Corporation; or

(b) is less than the deposit paid by the licensee for prescribed solid waste management facility, the Corporation shall release the balance of the deposit to the licensee.

(7) Where the licence to manage or operate a prescribed solid waste management facility is assigned, sub-licensed or transferred to any other person under section 22 of the Act-

(a) the deposit for the safe closure under subregulations (2) and (3) and the balance of the deposit for the safe closure under paragraph (6)(b) shall be released to the assignee, sub-licensee or transferee; and

(b) the difference between the actual cost of the safe closure and the deposit paid under paragraph (6)(a) shall be paid by the assignee, sub-licensee or transferee.

FIRST SCHEDULE

[Subregulation 4(1)]

INFORMATION FOR APPLICATION FOR APPROVAL TO CONSTRUCT OR ALTER A PRESCRIBED SOLID WASTE MANAGEMENT FACILITY

PART A: DETAILS OF APPLICANT

1. Particulars of applicant:

(a) name

(b) address

(c) NRIC number (if applicable)

(d) company/business registration number (if applicable)

- (e) registered address (if applicable)
- (f) telephone number
- (g) fax number
- (h) e-mail address
- (i) contact person
- (j) address of operating office (if different from registered address)

2. Financial capability of applicant:

- (a) authorized paid-up capital
- (b) name of bankers of the applicant

Note: Provide supporting documents for the above information and attach documentation to prove that the applicant's financial capacity is adequate to discharge the obligations arising from the licence

PART B: INFORMATION TO BE SUPPLIED

1. Information on the character of the prescribed solid waste management facility:

(a) indicate whether it is a new construction or an alteration of an existing prescribed solid waste management facility

(b) type of prescribed solid waste management facility

e.g.refuse derived fuel facility

biogas facility

communal or commercial composting facility

material recovery facility

thermal treatment plant

transfer station

inert landfill

sanitary landfill

disposal site

(c) address/location of the prescribed solid waste management facility

(d) telephone number of the prescribed solid waste management facility

(e) fax number of the prescribed solid waste management facility

(f) registered proprietor of land (if the registered proprietor of the land is other than the applicant, submit the written authorization of the registered proprietor and his contact information)

(g) owner of the prescribed solid waste management facility

(h) scheme area to be served

(i) area of the prescribed solid waste management facility (hectares)

2. Information on solid waste management technologies and processes used:

(a) detailed specification of solid waste management technologies and processes

(b) append technical process flow diagram

(c) details of other solid waste management facilities provided for contingency situations

3. Information on the construction or alteration of the prescribed solid waste management facility:

(a) necessary consents from relevant authorities

(b) starting date for the construction or alteration of the prescribed solid waste management facility

(c) starting date for the operation of the prescribed solid waste management facility

4. Information on the location of the prescribed solid waste management facility:

Plan of the prescribed solid waste management facility with a map showing the location and surroundings

5. Information on the layout of the prescribed solid waste management facility:

(a) drawings showing the placing and layout of the buildings and installations

(b) drawings and site plan for the entire prescribed solid waste management facility

6. Information on the closure plan of the prescribed solid waste management facility with estimated costs:

(a) details of the proposed closure plan of the prescribed solid waste management facility

(b) estimated cost of the closure for the prescribed solid waste management facility

7. Information on the controlled solid waste management at the prescribed solid waste management facility:

(a) expected amounts of controlled solid waste

(b) expected composition of controlled solid waste

(c) expected scheme area for controlled solid waste received

8. Information on the impact of construction of the prescribed solid waste management facility:

(a) environmental impact

(b) impact on the quality and level of solid waste management services

(c) impact on public health

9. Information on the nature of alteration of the prescribed solid waste management facility (applicable for alteration of prescribed solid waste management facility):

- (a) impact on performance of the prescribed solid waste management facility
- (b) environmental impact
- (c) impact on the quality and level of solid waste management services
- (d) impact on public health
- (e) impact on the overall planning of solid waste management services

PART C: DECLARATION

Declaration in accordance with the **Statutory Declarations Act 1960**[Act 13] that all information given in the application and in the attached appendices is true and accurate.

SECOND SCHEDULE

[Paragraph 6(1)(a)]

INFORMATION FOR APPLICATION FOR APPROVAL TO CLOSE A PRESCRIBED SOLID WASTE MANAGEMENT FACILITY

PART A: DETAILS OF APPLICANT

1. Particulars of applicant:

- (a) name
- (b) address
- (c) NRIC number (if applicable)
- (d) company/business registration number (if applicable)
- (e) registered address (if applicable)
- (f) telephone number
- (g) fax number
- (h) e-mail address
- (i) contact person
- (j) address of operating office (if different from registered address)

2. Financial capability of applicant:

(a) authorized paid-up capital

(b) name of bankers of the applicant

Note: Provide supporting documents for the above information and attach documentation to prove that the applicant's financial capacity is adequate to discharge the obligations arising from the licence

PART B: INFORMATION TO BE SUPPLIED

1. Information on the character of the prescribed solid waste management facility:

(a) types of prescribed solid waste management facility

e.g.refuse derived fuel facility

biogas facility

communal or commercial composting facility

material recovery facility

thermal treatment plant

transfer station

inert landfill

sanitary landfill

disposal site

(b) address/location of the prescribed solid waste management facility

(c) telephone number of the prescribed solid waste management facility

(d) fax number of the prescribed solid waste management facility

(e) registered proprietor of land (if the registered proprietor of the land is other than the applicant, submit the written authorization of the registered proprietor and his contact information)

(f) owner of the prescribed solid waste management facility

(g) scheme area to be served

(h) area of the prescribed solid waste management facility (hectares)

2. Information on method proposed for the closure of the prescribed solid waste management facility:

(a) details of proposed closure plan in accordance with subsection 12(1) of the Act

(b) detailed costing of the proposed closure

3. Information on the closure of the prescribed solid waste management facility:

(a) necessary consents from relevant authorities

(b) anticipated date for the closing of the prescribed solid waste management facility

4. Information on the location of the prescribed solid waste management facility:

Plan of the prescribed solid waste management facility with a map showing the location and surroundings

5. Information on the layout of the prescribed solid waste management facility:

- (a) drawings showing the placing and layout of the buildings and installations
- (b) drawings and site plan for the entire prescribed solid waste management facility

6. Information on the nature of closure of the prescribed solid waste management facility:

- (a) environmental impact
- (b) impact on the quality and level of solid waste management services
- (c) impact on public health
- (d) impact on the overall planning of solid waste management services

PART C: DECLARATION

Declaration in accordance with the **Statutory Declarations Act 1960** that all information given in the application and in the attached appendices is true and accurate.

THIRD SCHEDULE

[Subregulation 9(2)]

PROCEDURE TO ASCERTAIN AMOUNT OF CONTROLLED SOLID WASTE

1. Every licensee for prescribed solid waste management facility shall ascertain the amount of the controlled solid waste delivered to the prescribed solid waste management facility by weighing over a weighbridge.
2. Where a weighbridge is not available, the amount of the controlled solid waste shall be ascertained in the manner as may be determined by the Director General.
3. The Director General may issue directions on the specification, control and calibration of a weighbridge.
4. Where the Director General issues the directions, every licensee for prescribed solid waste management facility shall comply with such directions.

FOURTH SCHEDULE

[Paragraph 9(5)(a)]

DEPOSIT FOR SAFE CLOSURE

1. The licensee shall name the **Solid Waste and Public Cleansing Management Corporation** as the sole beneficiary of the deposit
2. The deposit shall be paid by the licensee for prescribed solid waste management facility by-
 - (a) Telegraphic Fund Transfer;
 - (b) banker's cheque;
 - (c) bank draft; or
 - (d) any other method as may be determined by the Director General
3. The deposit shall be computed as follows:

Type of prescribed solid waste management facility	Rate for controlled solid waste delivered to the prescribed solid waste management facility (per tonne)
Refuse derived fuel facility	RM0.25
Biogas facility	RM0.20
Communal or commercial composting facility	RM0.20
Material recovery facility	RM0.20
Thermal treatment plant	RM0.25
Transfer station	RM0.20
Inert landfill	RM1.00
Sanitary landfill	RM1.00
Disposal site	RM1.00