

Contents (2010 - 104)

Environmental Management and Pollution Control (Waste Management) Regulations 2010

Long Title

Part 1 - Preliminary

1. Short title
2. Commencement
3. Interpretation
4. Application

Part 2 - Management of Controlled Waste

5. Controlled wastes
6. General responsibilities
7. Production, storage and treatment of controlled waste
8. Disposal of controlled waste

Part 3 - Management of General Waste

9. Disposal of general waste

Part 4 - Miscellaneous

10. Approved management method
11. Prohibited activities at facilities
12. Environmental approvals
13. Transitional and savings provisions
14. Legislation rescinded

Schedule 1 - Legislation rescinded

Environmental Management and Pollution Control (Waste Management) Regulations 2010

Version current from 1 January 2017 to date (accessed 17 October 2018 at 15:45)



Environmental Management and Pollution Control (Waste Management) Regulations 2010

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Environmental Management and Pollution Control Act 1994 .

25 October 2010

PETER G. UNDERWOOD

Governor

By His Excellency's Command,

D. J. O'BYRNE

Minister for Environment, Parks and Heritage

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Environmental Management and Pollution Control (Waste Management) Regulations 2010 .

2. Commencement

These regulations take effect on the day on which their making is notified in the *Gazette*.

3. Interpretation

In these regulations –

Act means the Environmental Management and Pollution Control Act 1994 ;

[Regulation 3 Amended by No. 4 of 2012, Sched. 3, Applied:01 Jan 2013] **agvet chemical** means –

- (a) an agricultural chemical product within the meaning of the Agvet Code of Tasmania; or
- (b) a veterinary chemical product within the meaning of the Agvet Code of Tasmania;

approved means approved –

- (a) under a permit issued under the Land Use Planning and Approvals Act 1993 for a level 1 or level 2 activity; or
- (b) under an order made under section 26 of the State Policies and Projects Act 1993 ; or
- (c) under an environment protection notice issued, or caused to be issued, by –
 - (i) the Director under section 27 or section 44 of the Act; or
 - (ii) a council officer under section 44 of the Act; or
- (d) in accordance with –
 - (i) a controlled waste tracking certificate as defined in the Environmental Management and Pollution Control (Controlled Waste Tracking) Regulations 2010 ; or
 - (ii) an exemption granted under Part 5 of those regulations; or
- (e) as a consequence of registration as a controlled waste handler under Part 2 of the Environmental Management and Pollution Control (Controlled Waste Tracking) Regulations 2010 ; or
- (f) in accordance with any national agreement to which Tasmania is a signatory or any national environment protection measure;

approved management method means a management method approved under regulation 10 ;

contravene includes fail to comply with;

environmental approval means an environmental approval, issued under regulation 12(3)(a) , in relation to the handling, production, receipt, storage, reuse, recycling, reprocessing, incineration, treatment, disposal, or use for energy recovery, of wastes or classes of wastes specified in the approval;

environmentally significant characteristic means a characteristic specified in List 2 of the Interstate Waste Movement NEPM;

facility means –

- (a) a facility where waste is received for the purpose of transfer, storage, reuse, salvage, reprocessing, incineration, recycling, energy recovery, treatment or disposal; and
- (b) a waste depot within the meaning of Schedule 2 to the Act;

facility operator means a person who is in charge of a facility;

general waste means waste other than controlled waste;

Interstate Waste Movement NEPM means the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure made by the National Environment Protection Council on 26 June 1998, under the National Environment Protection Council Act 1994 of the Commonwealth, as amended from time to time;

national environment protection measure means a national environment protection measure made and in force under section 14 of the National Environment Protection Council Act 1994 of the Commonwealth;

National Management Plan means a plan –

- (a) in respect of a material or waste; and
- (b) prepared under the National Strategy for the Management of Scheduled Wastes (1993) and administered by the Environment Protection and Heritage Council, as amended from time to time;

[Regulation 3 Amended by No. 12 of 2016, Sched. 1, Applied:01 Jan 2017] **on-site waste water management system** means an on-site waste water management system as defined in the National Construction Code within the meaning of the Building Act 2016 ;

receiving waters means waters into which a waste is released or disposed;

[Regulation 3 Amended by No. 12 of 2016, Sched. 1, Applied:01 Jan 2017] **sewage** means sewage as defined in the Plumbing Regulations;

waste producer means a person who has produced, received or has responsibility for controlled waste and who requires the waste to be recovered, recycled, incinerated, transferred, stored, reused, reprocessed, used for energy recovery, treated or disposed of.

4. Application

(1) The Director may, by notice, direct that any or all of the provisions of these regulations do not apply according to the terms of the notice in respect of a specified controlled waste or specified controlled wastes –

- (a) on a single occasion; or
- (b) for a specified time period; or
- (c) for an indefinite time period.

(2) A notice may be subject to such conditions as the Director specifies in the notice.

(3) These regulations do not apply to anything referred to in clause 8(d), (e), (f), (g) or (h) of the Interstate Waste Movement NEPM.

(4) It is a defence to a charge of contravening these regulations for a person to prove that the act or omission was carried out or happened –

- (a) under an authorization issued under section 34 of the Act; or
- (b) under an instruction or direction issued by the Director.

(5) [Regulation 4 Subregulation (5) amended by No. 4 of 2012, Sched. 3, Applied:01 Jan 2013] These regulations do not derogate from the Dangerous Goods (Road and Rail Transport) Act 2010 , Explosives Act 2012 or Work Health and Safety Act 2012 or any regulations made under either or any of those Acts.

PART 2 - Management of Controlled Waste

5. Controlled wastes

For the definition of "controlled waste" in section 3 of the Act, a substance or item is prescribed as a controlled waste if the substance or item –

- (a) exhibits an environmentally significant characteristic and is derived or arises from –
 - (i) *[Regulation 5 Amended by No. 4 of 2012, Sched. 3, Applied:01 Jan 2013]* an agvet chemical; or
 - (ii) *[Regulation 5 Amended by No. 4 of 2012, Sched. 3, Applied:01 Jan 2013]* dangerous goods as defined in the Dangerous Goods (Road and Rail Transport) Act 2010 ; or
 - (iii) a poison as defined in the Poisons Act 1971 ; or
 - (iv) a scheduled waste within the meaning of a National Management Plan; or
- (b) is a waste within the meaning of the Quarantine Regulations 2000 of the Commonwealth, as amended; or
- (c) is sewage sludge, sewage residue, nightsoil or sludge from an on-site waste water management system; or
- (d) is a tyre.

6. General responsibilities

(1) A person must not remove from a site, arrange for the removal from a site, receive, store, reuse, recycle, reprocess, salvage, incinerate, treat, dispose of, or use for energy recovery, a controlled waste except –

- (a) as approved; or
- (b) in accordance with –
 - (i) an environmental approval; or
 - (ii) an approved management method.

Penalty: Fine not exceeding 50 penalty units.

(2) If a controlled waste is subject to the provisions of a National Management Plan or a national environment protection measure, the waste is to be managed in accordance with that Plan or measure.

Penalty: Fine not exceeding 20 penalty units.

(3) A person must not arrange for the removal from a site of a waste that the person may reasonably suspect to be a controlled waste unless that person –

- (a) treats that waste as a controlled waste; or
- (b) ensures that waste is analysed in accordance with subregulation (4) to determine whether it is a controlled waste.

Penalty: Fine not exceeding 20 penalty units.

(4) An analysis of a waste referred to in subregulation (3) is to be carried out at a laboratory that is –

- (a) registered with the National Association of Testing Authorities of Australia for the type of analysis required; or
- (b) approved, in writing, by the Director for the type of analysis required.

(5) This regulation does not apply to a controlled waste –

- (a) handled, produced, received, stored, reused, recycled, reprocessed, salvaged, incinerated, treated, disposed of, or used for energy recovery, on domestic premises for usual domestic purposes; or
- (b) removed or arranged to be removed from domestic premises when used for usual domestic purposes on those premises; or
- (c) stored for any period –
 - (i) at the place at which the waste is produced while it is awaiting transportation to another place in accordance with these regulations; or
 - (ii) at a waste transfer station.

7. Production, storage and treatment of controlled waste

(1) A person must not cause or permit a controlled waste to be produced, received, stored, reused, recycled, reprocessed, salvaged, incinerated, treated, disposed of, or used for energy recovery, in such a manner that it is reasonably likely that the controlled waste will –

- (a) leak, spill or escape into the environment; or
- (b) cause serious environmental harm, material environmental harm or environmental nuisance.

Penalty: Fine not exceeding 100 penalty units.

(2) If the Director considers that the aggregate quantity of a class or type of a controlled waste produced or stored on premises causes, or is likely to cause, environmental harm, the Director may give the waste producer or occupier of the premises written notice to do either or both of the following:

- (a) submit information in respect of –
 - (i) the class or type, quantity and concentration of the controlled waste produced or stored on the premises; and
 - (ii) the location on the premises of the controlled waste;
- (b) ensure that the controlled waste is removed to a facility approved for receiving it.

(3) A person must not contravene a notice under subregulation (2) .

Penalty: Fine not exceeding 50 penalty units.

8. Disposal of controlled waste

(1) A person must not deposit at any place a controlled waste in a manner that –

- (a) directly or indirectly causes, or is likely to cause, environmental harm; or
- (b) gives rise, or is likely to give rise, to any harmful concentration of any substance in any plant, animal, organism or soil above natural concentrations; or
- (c) adversely affects, or is likely to adversely affect, the use or value of receiving waters for recreational, commercial, domestic, agricultural or industrial purposes; or
- (d) contains sufficient heat, or is likely to generate sufficient heat by itself or in combination with other matter, to ignite or cause fire; or
- (e) gives rise, or is likely to give rise, to undesirable, abnormal or harmful growth of a plant, animal, virus or organism.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not dilute a controlled waste with any other waste or any other substance for the purpose of lowering the concentration of contaminants to a level where it is not a controlled waste requiring regulation, except –

(a) as approved; or

(b) in accordance with –

(i) an environmental approval; or

(ii) an approved management method.

Penalty: Fine not exceeding 50 penalty units.

PART 3 - Management of General Waste

9. Disposal of general waste

(1) Subject to subregulation (2) , a person must not use land, or cause land to be used, for the disposal of general waste otherwise than –

- (a) as approved; or
- (b) in accordance with –
 - (i) an environmental approval; or
 - (ii) an approved management method.

Penalty: Fine not exceeding 50 penalty units.

(2) Subregulation (1) does not apply to –

- (a) the deposit of soil, rock, concrete, bituminised pavement or similar non-putrescible and non-water-soluble material that –
 - (i) is not contaminated by wastes other than materials referred to in paragraph (a) ; and
 - (ii) does not contain contaminant levels exceeding limits set by the Director; or
- (b) the domestic composting of green and organic waste; or
- (c) the disposal of sewage to –
 - (i) [*Regulation 9 Subregulation (2) amended by No. 12 of 2016, Sched. 1, Applied:01 Jan 2017*] a sewerage installation as defined in the Plumbing Regulations; or
 - (ii) [*Regulation 9 Subregulation (2) amended by No. 12 of 2016, Sched. 1, Applied:01 Jan 2017*] an approved disposal system as defined in the Plumbing Regulations; or
 - (iii) an on-site waste water management system.

(3) For the purposes of subregulation (2)(b) , the following are green and organic waste:

- (a) wood sawdust, shavings and chips from untreated and uncontaminated timber;
- (b) untreated and uncontaminated timber;
- (c) paper;
- (d) agricultural materials of vegetative origin;
- (e) silvicultural materials of vegetative origin;
- (f) tree debris and stumps;
- (g) diseased trees;
- (h) grass;
- (i) weeds;
- (j) any other waste declared by the Director by notice to be green and organic waste.

(4) For the purpose of this regulation –

disposal does not include the burning or incineration of general wastes.

PART 4 - Miscellaneous

10. Approved management method

- (1) The Director, by notice, may approve a management method for the management of a waste.
- (2) The Director, by notice, may revoke or amend an approved management method.
- (3) An approved management method is to specify the requirements for the management of the waste, including any one or more of the following:
 - (a) handling;
 - (b) production;
 - (c) receipt;
 - (d) storage;
 - (e) reuse;
 - (f) recycling;
 - (g) reprocessing;
 - (h) salvage;
 - (i) incineration;
 - (j) treatment;
 - (k) disposal;
 - (l) use for energy recovery.

11. Prohibited activities at facilities

- (1) A facility operator must not receive any of the following waste at a facility:
 - (a) liquid or semi-liquid waste;
 - (b) hot ash;
 - (c) material that is burning or smouldering;
 - (d) material that is likely to combust spontaneously;
 - (e) an explosive;
 - (f) live ammunition.

Penalty: Fine not exceeding 50 penalty units.

- (2) Subregulation (1) does not apply –
 - (a) in respect of a facility approved for receiving the relevant waste; or
 - (b) if the wastes are received in accordance with –
 - (i) an environmental approval; or
 - (ii) an approved management method.
- (3) A person must not set fire to, or burn, waste at a facility otherwise than under –
 - (a) the written approval of the Director; or
 - (b) any approval that is required under the Fire Service Act 1979 .

Penalty: Fine not exceeding 50 penalty units.

- (4) A person must not, without the approval of the owner of the facility, the facility operator or the Director –
- (a) enter a facility for any purpose otherwise than to deposit waste; or
 - (b) remain on a facility after depositing waste; or
 - (c) interfere with, or remove waste from, a facility.

Penalty: Fine not exceeding 20 penalty units.

12. Environmental approvals

- (1) A person may apply, in a form approved by the Director, to the Director for an environmental approval.
- (2) An application for an environmental approval is to include the following details:
- (a) a description of the waste;
 - (b) the physical state of the waste;
 - (c) any hazardous characteristics of the waste;
 - (d) any known contaminants in the waste and their concentration;
 - (e) any contaminants that may reasonably be suspected to be in the waste;
 - (f) any containment or packaging of the waste;
 - (g) the amount of waste;
 - (h) the origin of the waste, including –
 - (i) the name and address of the waste producer; and
 - (ii) the place of production of the waste; and
 - (iii) the nature of the activity by which the waste is generated;
 - (i) the period to which the application relates;
 - (j) any proposed form of storage, disposal, reprocessing, reuse, recycling or energy recovery of the waste, including the rate of waste input;
 - (k) any waste minimisation or management plans prepared by, or for, the applicant;
 - (l) any risk management and environmental management measures to be undertaken;
 - (m) any alternative options for reuse, reprocessing or recycling of the waste;
 - (n) any monitoring measures, management process or sampling or analysis proposed to prevent, or minimise the risk of, environmental harm;
 - (o) any other details the Director considers necessary for determining the application.
- (3) On receipt of an application for an environmental approval, the Director may –
- (a) approve the application and issue an environmental approval; or
 - (b) refuse the application if –
 - (i) the applicant has been convicted of an offence against the Act or these regulations, or any other offence that relates to dealing with waste; or
 - (ii) the Director reasonably believes the application contains, or is accompanied by, information that is false or misleading to a significant extent; or
 - (iii) the Director considers that environmental harm may occur if the application is approved and an environmental approval is issued.
- (4) An environmental approval may –
- (a) specify –

- (i) the quantity and class or type of waste or individual consignment of waste that may be dealt with under the approval; and
 - (ii) any other relevant characteristics of the waste to which the approval relates; and
 - (b) give directions as to the manner in which the waste is to be managed to prevent or minimise the risk of environmental harm; and
 - (c) specify the period for which the approval is in effect; and
 - (d) include any other requirements the Director considers necessary or desirable to prevent or minimise the risk of environmental harm.
- (5) The Director may amend, suspend or cancel an environmental approval if the Director considers that it is –
- (a) necessary or desirable to prevent, or to minimise the risk of, environmental harm; or
 - (b) otherwise appropriate to do so.
- (6) If the Director refuses an application under subregulation (3)(b) or amends, suspends or cancels an environmental approval under subregulation (5), the Director is to notify in writing the applicant or the holder of the environmental approval of that refusal, amendment, suspension or cancellation.
- (7) An environmental approval issued under this regulation does not affect a requirement under the Act or any other Act.

13. Transitional and savings provisions

- (1) An environmental approval issued under regulation 12 of the Environmental Management and Pollution Control (Waste Management) Regulations 2000 is taken to be an environmental approval issued under these regulations.
- (2) An approved management method approved under regulation 12A of the Environmental Management and Pollution Control (Waste Management) Regulations 2000 is taken to be an approved management method approved under these regulations.

14. Legislation rescinded

The legislation specified in Schedule 1 is rescinded.

SCHEDULE 1 - Legislation rescinded

Regulation 14

Environmental Management and Pollution Control (Waste Management) Regulations 2000 (No. 218 of 2000)

Environmental Management and Pollution Control (Waste Management) Amendment Regulations 2001 (No. 111 of 2001)

Environmental Management and Pollution Control (Waste Management) Amendment Regulations 2005 (No. 45 of 2005)

Environmental Management and Pollution Control (Waste Management) Amendment Regulations 2010 (No. 16 of 2010)

Displayed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 3 November 2010

These regulations are administered in the Department of Primary Industries, Parks, Water and Environment.