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Protection of the Environment Operations Act 1997

Order granting an exemption under section 284

Background

- A. Section 88 of the *Protection of the Environment Operations Act 1997* (**the Act**) requires the occupier of a waste facility that is required to be licensed under the Act to pay to the Environment Protection Authority (**EPA**), in respect of all waste received at that facility, such contribution as is prescribed by the regulations.
- B. Referred to as the “waste levy”, the contribution payable under section 88 of the Act aims to reduce the amount of waste being disposed of at a landfill and promote resource recovery.
- C. Cleanaway ResourceCo RRF PTY LTD (ACN 605 649 652) (**Licensee**) is the holder of environment protection licence no. 20937 (the **Licence**) issued under the Act. The Licence authorises the carrying out of resource recovery and waste storage activities at 35-37 Frank Street, Wetherill Park, NSW, 2164 (the **Premises**).
- D. The Licensee receives and processes dry hard waste at the Premises to produce a product known as process engineered fuel. Process engineered fuel is used in cement kilns as an alternative fuel to coal. The waste levy does not ordinarily apply to process engineered fuel as it is used as fuel and not disposed of at a landfill.
- E. On 1 June 2020, the EPA granted an exemption under 284 of the Act to provide the Licensee temporary relief from the waste levy payable for process engineered fuel disposed of until 31 August 2020 at a specific scheduled waste disposal facility.
- F. The Licensee seeks renewal of temporary relief from the waste levy payable for process engineered fuel that is disposed of at a scheduled waste disposal facility operated by Suez Recycling and Recovery Pty Ltd (ACN: 002 902 650) at Kemps Creek due to impacts caused by the COVID-19 pandemic.
- G. The COVID-19 pandemic is a public health emergency that has the potential to significantly impact the market for certain resource recovery products such as process engineered fuel in the short term due to impacts related to the COVID-19 pandemic.
- H. On the information available to it, the EPA is satisfied:
 - i. there is a significant market disruption for the supply of process engineered fuel by the Licensee due to COVID-19 and that disruption has or will cause the process engineered fuel to be disposed of at a scheduled waste disposal facility, incurring a waste levy; and
 - ii. there are no other alternative measures identified by either the Licensee or the EPA that can be reasonably taken to avoid the disposal of those products; and
 - iii. that a temporary exemption is less likely to create perverse market, environmental or safety outcomes than would be the case if an exemption was not granted.
- I. Section 284 of the Act provides that the EPA may grant, and may renew, an exemption from specified provisions of the Act or the regulations in an emergency. An exemption may be granted subject to conditions.
- J. The EPA is satisfied that the current COVID-19 pandemic is an emergency, and therefore that it may grant a further exemption under section 284 of the Act

Note: Section 248(8) of the Act provides that a further exemption granted within 5 years after the expiry of an earlier exemption (being a further exemption that is the same in substance as the earlier exemption) is to be treated as a renewed exemption for the purposes of that subsection.

Exemption

1. By this Order, the EPA, in circumstances of an emergency, being the COVID-19 pandemic, exempts Suez Recycling and Recovery Pty Ltd (ACN: 002 902 650) from the requirement to pay a contribution to the EPA under section 88 of the POEO Act in respect of process engineered fuel received from the Licensee on or after the date of the exemption and applied to land at the Suez Recycling and Recovery Pty Ltd facility at 1725 Elizabeth Drive Kemps Creek NSW 2178 under its environment protection licence number 4068 (**Suez Facility**).

Conditions of this Exemption

2. This exemption is granted under section 284 of the POEO Act subject to compliance with the following conditions:
 - (a) The exemption only applies to process engineered fuel produced by the Licensee at the Premises that meets:
 - i. the attributes and values listed in Column 1 and Column 2 of Table 1 for biomass-based process engineered fuel or
 - ii. the attributes and values listed Column 1 and Column 3 of Table 1 for non-biomass-based process engineered fuel in Table 1.

Table 1: Specifications for process engineered fuel.

Column 1	Column 2	Column 3
Attributes and applicable unit of measurement	Biomass-based process engineered fuel	Non-biomass based process engineered fuel
By dry weight		
Net Calorific Value (MJ/kg)	> 15.0	> 18.0
Ash (%)	< 7.0	< 15.0
Moisture (as H ₂ O) (%)	< 15.0	< 15.0
Chlorine (as Cl) (%)	< 0.2	< 0.8
Sulphur (as S) (%)	< 0.2	< 1.0
Particle size	95% < 50 mm in any direction	95% < 50 mm in any direction
Bulk density (kg/m ³) baled	> 450 kg/m ³	> 450 kg/m ³
Bulk density (kg/m ³) loose	< 200 kg/m ³	< 200 kg/m ³
Biomass content (%) (biomass mostly in the form of wood or wood-based materials, paper and cardboard)	> 90%	< 50%
Non-biomass content (%) (mostly in the form of plastic and textiles with small, incidental amounts of dirt, sand, and small rock, glass or concrete particles)	<10%	>50%
Delivery format	Loose	Loose or baled

- (b) The exemption may only be claimed up to a maximum of 4,000 tonnes of process engineered fuel per month.

- (c) The exemption may only be claimed if each delivery of process engineered fuel to the Suez Facility is accompanied by a statement signed and dated by the Licensee that the material the subject of the delivery meets all the conditions of this Order.
- (d) Each statement under condition 2(c) must be:
 - i. retained for at least 12 months from the date of the statement, and
 - ii. made available for inspection and copying by an authorised officer on request.
- (e) This exemption ceases to have effect on 30 November 2020.

Duration of Exemption

- 3. This Order takes effect immediately upon the signing of this Order unless otherwise varied or revoked. The Order may be varied or revoked under section 284 of the POEO Act.

TRACY MACKEY
Chief Executive Officer
Environment Protection Authority
(by delegation)

Date: 2.9.20