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PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Order granting exemption under section 284

Background

- (a) On 20 March 2021, Natural Disaster Declaration AGRN 960 was announced by Resilience NSW in relation to storms and floods which began on 10 March 2021. This Declaration was extended on 21 March 2021 and 24 March 2021 to include additional Local Government Areas (**LGAs**). To date, a total of 47 LGAs have been declared natural disasters.
- (b) Under clause 21(1)(b) of the Protection of the Environment Operations (Waste) Regulation 2014 (**POEO (Waste) Regulation**) waste arising from a natural disaster that is approved by the Environment Protection Authority (**EPA**) in writing is exempt from the calculation of the waste levy under section 88 of the *Protection of the Environment Operations Act 1997* (**POEO Act**).
- (c) On 22 March 2021 the EPA approved in writing an exemption from the calculation of the waste levy waste arising from the recent storms and floods in those LGAs that have been declared natural disasters in accordance with the Natural Disaster Declaration AGRN 960 (**Natural Disaster Exemption**).
- (d) The Natural Disaster Exemption applies to waste arising from the recent storms and floods but does not apply to landfill daily cover material. Daily cover is described in Part 8.1 of the EPA publication *Environmental Guidelines: Solid waste landfills* (second edition, 2016) and the approved materials for that purpose are prescribed in the conditions of environment protection licences of scheduled waste disposal facilities.
- (e) To assist occupiers of scheduled waste disposal facilities in the disposal of waste under the Natural Disaster Exemption, the EPA has therefore considered whether to grant an exemption under section 284 of the POEO Act from the provision of section 88 of the POEO Act in respect of daily cover for that waste.
- (f) The purpose of this Order is to exempt the occupiers of scheduled waste disposal facilities from the requirement to pay the waste levy in respect of material that is used as daily cover for waste under the Natural Disaster Exemption.
- (g) The exemption under this Order only applies to daily cover that is applied to waste the subject of the Natural Disaster Exemption, it does not apply to daily cover generally.

Order

By this Order, the EPA, in circumstances of an emergency, being the March 2021 storms and floods in New South Wales, grants exemption under section 284 of the POEO Act, from compliance with section 88 of the POEO Act to occupiers of scheduled waste disposal facilities, in respect of the following:

- (a) material that is used for daily cover in accordance with the *Environmental Guidelines: Solid waste landfills* (second edition, 2016) and prescribed for use as daily cover in the environment protection licences of scheduled waste disposal facilities.

Conditions

This exemption, granted under section 284 of the POEO Act, is subject to the following conditions:

1. An occupier of a scheduled waste disposal facility is not eligible for the exemption unless

the Natural Disaster Exemption has been activated in respect of the facility by a local council which has been issued with an exemption certificate and natural disaster exemption number by the EPA.

2. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered fines unless the scheduled waste disposal facility:
 - (a) is authorised (in the environment protection licence for the facility) to receive the recovered fines and to apply the recovered fines to land as daily cover; and
 - (b) has obtained, from the scheduled waste facility that supplied the recovered fines, a statement in the approved form that certifies that the fines have been sampled and tested in accordance with the Recovered Fines Alternative Daily Cover Specifications published by the EPA in the Gazette and as amended or replaced from time to time (**Recovered Fines Specifications**) and that the fines comply with the Recovered Fines Specifications.
3. An occupier of a scheduled waste disposal facility is not eligible for the exemption unless the occupier complies with any requirements under Part 3, Division 1 of the POEO (Waste) Regulation with respect to the daily cover material that they are authorised to use.
4. This exemption ceases to have effect on 30 September 2021.

Duration of Exemption

This Order takes effect immediately upon the signing of this Order. The Order may be revoked, varied or renewed under section 284 of the POEO Act.



Tracy Mackey

Chief Executive Officer

Environment Protection Authority

(by delegation)

26 March 2021