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PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Order granting exemption under section 284

Background

- (a) On 1 March 2022, Natural Disaster Declaration AGRN 1012 was announced by Resilience NSW in relation to storms and floods which began in February 2022. This Declaration was extended on 5 March 2022 to include additional Local Government Areas (**LGAs**). To date, a total of 45 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 1 March 2022 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 1012 (**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 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 which is the subject of the Natural Disaster Exemption. The exemption does not apply to daily cover generally.

Order

By this Order, the EPA, in circumstances of an emergency, being the February/March 2022 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 that 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 31 August 2022.

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.



Jacqueline Moore
Acting Chief Executive Officer
Environment Protection Authority

10 March 2022

PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Order granting exemption under section 284

Background

- (a) On 1 March 2022, Natural Disaster Declaration AGRN 1012 was announced by Resilience NSW in relation to storms and floods which began in February 2022. This Declaration was extended on 5 March 2022 to include additional Local Government Areas (**LGAs**). To date, a total of 45 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 1 March 2022, the EPA approved in writing an exemption from the calculation of the waste levy for 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 1012 (**Natural Disaster Exemption**).
- (d) The Natural Disaster Exemption applies to waste arising from the recent storms and floods but does not apply to recovered aggregate and wood waste. Roads at scheduled waste disposal facilities within the LGAs that are subject to Natural Disaster Declaration AGRN 1012 have been saturated by the recent storms and floods and are boggy and dangerous. As a result, some facilities have had to limit the amount of waste under the Natural Disaster Exemption that they can dispose of, due to the restricted access caused by damaged roads. Operational and accessible disposal sites are critical to assist communities in their clean-up efforts to dispose of waste under the Natural Disaster Exemption.
- (e) To assist occupiers of scheduled waste disposal facilities in the disposal of waste under the Natural Disaster Exemption, the EPA has 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 recovered aggregate (as described, and meeting the requirements within, the Recovered Aggregate Order 2014 as published in the Gazette), and wood waste (as defined in clause 50(1) of Schedule 1 to the POEO Act, and being shredded and/or screened to an appropriate particle size) for use in the repair and maintenance of internal roads at scheduled waste disposal facilities that are both located within LGAs that are subject to Natural Disaster Declaration AGRN 1012 and are disposing of waste under the Natural Disaster Exemption.
- (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 recovered aggregate and wood waste under the Natural Disaster Exemption.
- (g) The exemption under this Order only applies to recovered aggregate and wood waste that is the subject of the Natural Disaster Exemption, it does not apply to aggregate and wood waste used at waste disposal facilities generally.

Order

By this Order, the EPA, in circumstances of an emergency, being the February/March 2022 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) recovered aggregate (as defined, and meeting the requirement within, the Recovered Aggregate Order 2014 as published in the Gazette)
- (b) wood waste (as defined in clause 50(1) of Schedule 1 to the POEO Act, and being shredded and/or screened to an appropriate particle size)

for use in the repair and maintenance of roads within the premises of scheduled waste disposal facilities, where those scheduled waste facilities are both located within LGAs that are subject to Natural Disaster Declaration AGRN 1012 and engaged in the disposal of waste under the Natural Disaster Exemption.

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 that 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 aggregate to be used at the scheduled waste disposal facility unless:
 - (a) the recovered aggregated meets the requirements of that material as specified in the Recovered Aggregate Order 2014 as published in the Gazette.
3. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of wood waste to be used at the scheduled waste disposal facility unless:
 - (a) the wood waste meets the definition under clause 50(1) of Schedule 1 to the POEO Act, and is shredded and/or screened to an appropriate particle size.
4. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered aggregate and wood waste unless the scheduled waste disposal facility:
 - (a) is located within one of the LGAs that are subject to Natural Disaster Declaration AGRN 1012; and
 - (b) is disposing of waste under the Natural Disaster Exemption.
5. An occupier of a scheduled waste disposal facility is not eligible for the exemption in respect of recovered aggregate and wood waste unless the scheduled waste disposal facility uses the recovered aggregate and wood waste for the purpose of repairing or maintaining internal roads within the premises of the scheduled waste disposal facility.
6. 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 *Protection of the Environment Operations (Waste) Regulation 2014* with respect to the recovered aggregate and wood waste.
7. This exemption ceases to have effect on 30 June 2022.

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.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line that tapers to the right.

Jacqueline Moore
Acting Chief Executive Officer
Environment Protection Authority

10 March 2022