

Environment Protection (Industrial Waste Resource) Regulations 2009

S.R. No. 77/2009

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STATUTORY RULES 2009

S.R. No. 77/2009

Environment Protection Act 1970

**Environment Protection (Industrial Waste
Resource) Regulations 2009**

The Governor in Council, on the recommendation of the Environment Protection Authority, makes the following Regulations:

Dated: 30 June 2009

Responsible Minister:

GAVIN JENNINGS

Minister for Environment and Climate Change

TOBY HALLIGAN
Clerk of the Executive Council

PART 1—PRELIMINARY

1 Objectives

The objectives of these Regulations are to—

- (a) assist industry to implement the principle of wastes hierarchy as set out in section 11 of the **Environment Protection Act 1970**;
- (b) prescribe requirements for assessing, categorising and classifying industrial waste and prescribed industrial waste for the purposes of the **Environment Protection Act 1970**;

- (c) encourage industry to utilise industrial waste as a resource through exempting material from categorisation as prescribed industrial waste where a secondary beneficial reuse is established;
- (d) prescribe requirements for the transport and management of prescribed industrial waste including requirements for the tracking of prescribed industrial waste.

Note

The purposes of the Act include the creation of a legislative framework for the protection of the environment in Victoria having regard to the principles of environment protection. One of the principles of environment protection is the principle of wastes hierarchy set out in section 11 of the Act, which provides that the most preferable management option is avoiding waste production, and the least preferable management option is disposal.

2 Authorising provisions

These Regulations are made under Part IXA and section 71 of the **Environment Protection Act 1970**.

3 Commencement

These Regulations come into operation on 1 July 2009.

4 Revocation

- (1) The Environment Protection (Prescribed Waste) Regulations 1998¹ are **revoked**.
- (2) The Environment Protection (Prescribed Waste) (Amendment) Regulations 2000² are **revoked**.
- (3) The Environment Protection (Prescribed Waste) (Amendment) Regulations 2007³ are **revoked**.

5 Definitions

(1) In these Regulations—

Asbestos—Transport and Disposal means the part titled "Asbestos—Transport and Disposal" of the Industrial Waste Guidelines;

category A waste means the type of prescribed industrial waste referred to in clause 1 of Schedule 2;

category B waste means the type of prescribed industrial waste referred to in clause 2 of Schedule 2;

category C waste means the type of prescribed industrial waste referred to in clause 3 of Schedule 2;

direct beneficial reuse means use as an input or raw material substitute in a commercial, industrial, trade or laboratory activity without prior treatment or reprocessing;

energy recovery means generating heat energy from prescribed industrial waste;

exempt material means any industrial waste or mixture containing industrial waste—

(a) for which a secondary beneficial reuse is established in accordance with Part 5; or

(b) which is classified as non-prescribed industrial waste by the Authority in accordance with Part 2;

Industrial Waste Guidelines means the "Industrial Waste Guidelines" published in Special Gazette No. S177 on 9 June 2009 and as in force from time to time;

permit means a permit to transport prescribed industrial waste;

practicably accessible means that having regard to the location of the premises and the scale of the business conducted by the prescribed industrial waste producer and the financial viability of that business, the technology and facilities are reasonably available and reasonably affordable;

prescribed fee means the relevant fee prescribed in the Environment Protection (Fees) Regulations 2001⁴;

prescribed industrial waste means any industrial waste or mixture containing industrial waste other than industrial waste or a mixture containing industrial waste that—

- (a) is a Schedule 1 industrial waste; or
- (b) has a direct beneficial reuse and has been consigned for use; or
- (c) is exempt material; or
- (d) is not category A waste, category B waste or category C waste;

prescribed industrial waste producer means an occupier of premises from which prescribed industrial waste is produced and—

- (a) disposed of on the premises; or
- (b) transported from the premises, other than through a sewer;

principle of wastes hierarchy means the principle of environment protection set out in section 11 of the Act;

reprocessing does not include reusing or recycling prescribed industrial waste or energy recovery from prescribed industrial waste;

Schedule 1 industrial waste means a waste or mixture of wastes listed in Schedule 1;

secondary beneficial reuse means use as an input or raw material substitute in a commercial, industrial, trade or laboratory activity following any form of treatment or reprocessing;

Soil Thresholds means the table titled "Soil Hazard Categorisation Thresholds" of the Industrial Waste Guidelines;

Solid Industrial Waste Thresholds means the table titled "Solid Industrial Waste Hazard Categorisation Thresholds" of the Industrial Waste Guidelines;

the Act means the **Environment Protection Act 1970**;

trade waste has the same meaning as in the Water Industry Regulations 2006;

treatment means any form of physical or chemical alteration other than reprocessing, including but not limited to composting, energy recovery and applying to land;

waste receiver means an occupier of premises licensed by the Authority, or premises exempt from licensing requirements, who disposes of, treats, stores or reprocesses prescribed industrial waste;

waste transporter means a person who transports prescribed industrial waste on a highway.

Note

For the purposes of these Regulations, ***industrial waste*** is defined in section 4(1) of the Act as meaning—

- (a) any waste arising from commercial, industrial or trade activities or from laboratories; or
- (b) any waste containing substances or materials which are potentially harmful to human beings or equipment.

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Part 1—Preliminary

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- (2) For the purposes of the **Environment Protection Act 1970**, these Regulations prescribe industrial waste to be—
- (a) category A waste;
 - (b) category B waste;
 - (c) category C waste;
 - (d) Schedule 1 industrial waste.
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**PART 2—ASSESSING, CATEGORISING AND CLASSIFYING
INDUSTRIAL WASTE AND PRESCRIBED INDUSTRIAL
WASTE**

**6 Producer to assess and categorise prescribed
industrial waste**

A prescribed industrial waste producer must—

- (a) assess and categorise prescribed industrial waste in accordance with this Part; and
- (b) manage prescribed industrial waste in accordance with any relevant classification under this Part.

7 Avoidance or reduction opportunity

(1) A prescribed industrial waste producer must assess processes undertaken or proposed to be undertaken at the producer's premises that produce or have the potential to produce prescribed industrial waste against the following tests of whether there is an opportunity for avoidance or reduction—

- (a) **Available:** Technology and facilities are practicably accessible for altering or augmenting the processes or proposed processes to avoid the production of, or if that is not possible, to reduce the production or potential production of such waste;
- (b) **Not available:** Technology and facilities are not practicably accessible for altering or augmenting the processes or proposed processes to avoid the production of, or if that is not possible, to reduce the production or potential production of such waste.

- (2) Where an avoidance or reduction opportunity is assessed as—
- (a) available under regulation 7(1)(a) it must be implemented;
 - (b) not available under regulation 7(1)(b), prescribed industrial waste produced must be assessed in accordance with regulation 8.

8 Reuse or recycling opportunity

- (1) A prescribed industrial waste producer must assess prescribed industrial waste against the following tests of potential for reuse or recycling where required to do so by regulation 7(2)(b)—
- (a) **Available:** The prescribed industrial waste has potential for reuse or recycling and technology and facilities necessary to realise this potential are practicably accessible;
 - (b) **Not available:** The prescribed industrial waste does not have potential for reuse or recycling or technology and facilities necessary to realise this potential are not practicably accessible.
- (2) Prescribed industrial waste assessed as satisfying—
- (a) regulation 8(1)(a) must be reused or recycled;
 - (b) regulation 8(1)(b) must be assessed in accordance with regulation 9.

9 Treatment or reprocessing opportunity

- (1) A prescribed industrial waste producer must assess prescribed industrial waste against the following tests of potential for treatment or reprocessing where required to do so by regulation 8(2)(b)—
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- (a) **Available:** The prescribed industrial waste can be treated or reprocessed to reduce the requirement for residual management, and technology and facilities necessary to realise this potential are practicably accessible;
 - (b) **Not available:** The prescribed industrial waste cannot be treated or reprocessed to reduce the requirement for residual management, or technology and facilities necessary to realise this potential are not practicably accessible.
- (2) Subject to subregulation (3), prescribed industrial waste assessed as satisfying—
- (a) regulation 9(1)(a) must be treated or reprocessed and then assessed in accordance with regulation 8;
 - (b) regulation 9(1)(b) must be categorised in accordance with regulation 10.
- (3) Despite anything to the contrary in these Regulations, prescribed industrial waste must not be diluted, mixed or otherwise treated where this would reduce—
- (a) the potential for reusing or recycling; or
 - (b) the hazard category of the waste for the purposes of disposal—
- unless the treatment is necessary to obtain a better environmental outcome.

10 Hazard categorisation

Where regulation 9(2)(b) requires a prescribed industrial waste producer to categorise prescribed industrial waste in accordance with this regulation, the prescribed industrial waste must be categorised in terms of hazard posed in accordance with Schedule 2.

11 Determining management option and classification by hazard

- (1) The Authority may—
 - (a) classify any industrial waste as prescribed industrial waste; or
 - (b) classify any industrial waste as non-prescribed industrial waste; or
 - (c) further classify any industrial waste or prescribed industrial waste in accordance with this Part.
 - (2) The Authority may specify conditions and limitations that apply to a classification under subregulation (1).
 - (3) A classification issued by the Authority under this Part may—
 - (a) determine a management option for industrial waste or prescribed industrial waste in accordance with this Part; or
 - (b) classify industrial waste or prescribed industrial waste according to hazard.
 - (4) A classification issued by the Authority under this Part may be of general or specific application.
 - (5) If a classification issued by the Authority under this Part—
 - (a) is of general application, it must be published in the Government Gazette; and
 - (b) is of specific application, the Authority may publish a summary of the classification on the Internet on a website maintained by the Authority.
 - (6) A waste producer must manage industrial waste or prescribed industrial waste in accordance with any relevant classification issued by the Authority.
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- (7) The Authority may issue a classification of its own motion or on application from a waste producer where the Authority is satisfied that the classification is consistent with—
- (a) the principles of environment protection set out in sections 1B to 1L of the Act; and
 - (b) any applicable national environment protection measure made by the National Environment Protection Council; and
 - (c) any applicable State environment protection policy or waste management policy.
- (8) A classification issued under clause 11 of the Industrial Waste Management Policy (Prescribed Industrial Waste) 2000 No. S183, published on 5 December 2000, as in force immediately before the commencement of these Regulations, continues to have effect as a classification for the purposes of this Part.
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PART 3—TRANSPORT AND MANAGEMENT OF WASTE

12 Display of permit identification label

A person holding a permit under section 53F of the Act must display the current permit identification label supplied by the Authority on every vehicle in respect of which the person holds a permit.

Penalty: 20 penalty units.

13 Transporting industrial waste

A waste transporter transporting industrial waste listed in clause 2 of Schedule 4 must meet any relevant vehicle requirements under Schedule 4.

14 Application for a permit to transport prescribed industrial waste for the purpose of Part IXA

- (1) The owner of a vehicle may apply for a permit to transport prescribed industrial waste under section 53F of the Act by submitting to the Authority—
 - (a) an application for a permit; and
 - (b) a declaration that the vehicle to which the permit will apply is fit for the purpose of transporting the prescribed industrial waste specified in the application; and
 - (c) the prescribed fee for the permit.
- (2) The Authority must issue, or refuse to issue, a permit within 21 days after receiving—
 - (a) an application for the permit that complies with subregulation (1); or
 - (b) any other information requested by the Authority in accordance with regulation 20—

whichever is the later.

15 Conditions of permit

In addition to any conditions specified in a permit by the Authority, a permit is subject to the following conditions—

- (a) no wastes other than those listed in the permit are to be transported under the permit;
 - (b) the permit holder must advise the Authority as soon as is practicable of any change in the information provided to the Authority in the application for the permit;
 - (c) the permit holder must ensure that when a vehicle to which the permit applies is used to transport prescribed industrial waste—
 - (i) the prescribed industrial waste does not escape, spill or leak from the vehicle at any time;
 - (ii) prescribed industrial wastes of different types are not transported together unless they are compatible with each other;
 - (iii) the containers used to contain the prescribed industrial waste are compatible with the prescribed industrial waste;
 - (iv) only drivers who have undertaken training approved by the Authority drive the vehicle;
 - (v) the vehicle meets any relevant requirements under Schedule 4;
 - (d) where a vehicle to which the permit applies is used to transport waste requiring placarding in accordance with Schedule 4, the permit holder must ensure that the vehicle complies with any determinations
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with regard to prohibited routes made under the **Dangerous Goods Act 1985**;

- (e) the permit holder must ensure that any spillage, leak, escape or other loss is reported to the Authority immediately;
- (f) the permit holder must ensure that where a declaration has been made by the permit holder to the Authority that the vehicle to which the permit applies is fit for the purpose of transporting the prescribed industrial waste as specified in the permit in accordance with regulation 14 or 19, the vehicle and associated insurance and approvals are maintained in accordance with that declaration whenever the vehicle is transporting prescribed industrial waste.

16 Duration of permit and expiry

- (1) If the Authority issues a permit it must record in the permit the expiry date of the permit.
- (2) A permit expires at the end of the day recorded as the permit expiry date unless it is earlier revoked, suspended or surrendered.

17 Notice of renewal of permit

- (1) The Authority must send a permit holder a notice to renew stating that the permit will expire if it is not renewed on or before a specified date.
 - (2) If the Authority fails to send a notice of renewal, the permit expires on the date specified in the permit.
 - (3) When the Authority sends a notice to renew under subregulation (1), the Authority must require a permit holder to provide a declaration that the vehicle to which the permit applies is fit for the purpose of transporting the prescribed industrial waste as specified in the permit.
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18 Renewal of permit

A permit holder may apply for renewal of the permit by submitting to the Authority—

- (a) an application for renewal of the permit; and
- (b) payment of the prescribed permit fee for renewal of the permit for the relevant period; and
- (c) a declaration by the applicant that the vehicle to which the permit will apply is fit for the purpose of transporting the prescribed industrial waste as specified in the application.

19 Application for transfer or amendment of permit

- (1) The owner of a vehicle may apply to the Authority for a permit in respect of the vehicle to be transferred or amended by submitting to the Authority—
 - (a) an application for transfer or amendment of the permit; and
 - (b) a declaration by the applicant that the vehicle to which the permit will apply is fit for the purpose of transporting the prescribed industrial waste as specified in the application; and
 - (c) the prescribed fee for transfer or amendment.
- (2) The Authority must transfer or amend, or refuse to transfer or amend, a permit within 21 days after receiving—
 - (a) an application for transfer or amendment of the permit that complies with subregulation (1); or

(b) any other information requested by the Authority in accordance with regulation 20—

whichever is the later.

20 Authority may ask for more information

- (1) The Authority may require by notice in writing a person who has made an application under regulation 14 or 19 to provide to the Authority within a reasonable time specified in the notice any additional information concerning the application that the Authority considers necessary to enable the Authority to properly assess the application.
- (2) The Authority may refuse the application if the person does not provide the Authority with the additional information requested within the time specified in the notice.

21 Authority-initiated amendment of permit

- (1) If the information taken into consideration by the Authority in granting or transferring a permit has changed, the Authority may vary the permit to take account of the changed circumstances by giving the permit holder written notice of the variation.
 - (2) The Authority may make an administrative amendment to the content or format of a permit that does not alter the obligations of the permit holder by giving the permit holder written notice of the amendment.
 - (3) If the Authority decides to vary or amend a permit under this regulation, the Authority must specify in the written notice to the permit holder the date and time from which the variation or amendment takes effect.
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22 Surrender of permit

- (1) A permit holder may surrender a permit by returning the permit to the Authority with a document signed by the permit holder stating that the permit holder surrenders the permit.
- (2) If a permit is surrendered more than 30 days before the date the next annual fee is due, the Authority must refund to the person who held the permit the unexpired portion of the current annual fee, calculated to the nearest day.

23 Suspension of permit

- (1) The Authority may suspend a permit during any time the Authority is unable, despite reasonable attempts to make contact, to contact the permit holder at the address given in the application as the principal place of business of the permit holder.
- (2) The Authority may suspend a permit for a specified period, not exceeding 60 days, if it has reasonable grounds for believing that the permit holder has not complied with any obligation imposed on the permit holder by these Regulations or has not complied with a condition specified in the permit.

24 Cancellation of permit

The Authority may cancel a permit if it is satisfied that—

- (a) any information supplied by the permit holder in applying for the permit was false or misleading; or
 - (b) any other information taken into consideration by the Authority in issuing the permit has changed and the continued use of the permit is likely to result in an
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- unacceptable risk of harm to the environment; or
- (c) the permit holder has not complied with any obligation imposed on the permit holder by these Regulations or has not complied with a condition specified in the permit; or
 - (d) the permit holder has been found guilty of one or more relevant offences (as defined in section 20C(1) of the Act) and as a result, the person is, in the opinion of the Authority, not a fit and proper person to hold a permit.

25 Procedure to be followed before cancellation

- (1) Before cancelling a permit, the Authority must—
 - (a) give the permit holder a written notice that—
 - (i) gives details of the action the Authority intends to take; and
 - (ii) gives the reasons why the Authority intends to take that action; and
 - (iii) invites the permit holder to comment on the Authority's proposed course of action within the time specified in the notice; and
 - (b) consider any comments that are made by the permit holder within the time specified in the notice.
 - (2) The Authority must not specify a period of less than 7 days under subregulation (1)(a)(iii).
 - (3) If the Authority decides to cancel a permit, the Authority must specify in a written notice to the permit holder the date and time from which the cancellation takes effect.
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26 Transporting prescribed industrial waste

- (1) A person must not transport prescribed industrial waste or cause or permit it to be transported from any premises to another premises unless—
 - (a) the receiving premises is licensed under the Act to receive that category of prescribed industrial waste; or
 - (b) the receiving premises is exempt under the Act or has been exempted by the Authority from requiring a licence to reprocess, treat, store, contain, dispose of or handle that prescribed industrial waste at the premises; or
 - (c) the transport has been approved by the Authority under subregulation (6).
 - (2) A person may apply to the Authority to transport prescribed industrial waste to a premises other than a premises described in subregulation (1)(a) or (1)(b).
 - (3) The Authority must not approve the transport of prescribed industrial waste for the purposes of subregulation (1)(c) unless—
 - (a) the Authority is satisfied that the proposed transport of the prescribed industrial waste to the premises is for the purposes of reuse or recycling in accordance with the principle of wastes hierarchy; or
 - (b) in the case of a proposal to transport non-liquid prescribed industrial waste for destruction or deposit, the Authority is satisfied that the waste will be destroyed or deposited at a premises at which there is a facility with better environmental performance standards than a facility at a premises described in subregulation (1)(a) or (1)(b).
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- (4) The Authority may impose one or more of the following conditions on an approval granted under subregulation (6)—
 - (a) the consignment or consignments of prescribed industrial waste in respect of which the approval is granted;
 - (b) the specified volume of prescribed industrial waste in respect of which the approval is granted;
 - (c) the class or classes of prescribed industrial waste in respect of which the approval is granted;
 - (d) the commencement and duration of the approval;
 - (e) any other condition that the Authority considers appropriate.
 - (5) Within 7 days of receiving an application under subregulation (2), the Authority must provide written confirmation of receipt of the application to the person who lodged the application.
 - (6) Within 28 days after the Authority confirms receipt of an application under subregulation (2), the Authority must determine whether to approve or refuse to approve the application.
 - (7) If the Authority does not, within 7 days after the end of the period specified in subregulation (6), advise in writing a person who submitted an application under subregulation (2), that the application has been approved, the application is deemed to have been refused.
 - (8) Where prescribed industrial waste is transported in accordance with this regulation, a prescribed industrial waste producer is exempt from the provisions of section 53D of the Act in relation to that transport.
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- (9) Despite anything to the contrary in these Regulations, this regulation applies—
- (a) to any transport of prescribed industrial waste whether or not a person requires a permit to transport the prescribed industrial waste; and
 - (b) whether or not a person holds a permit to transport the prescribed industrial waste.

27 Waste container

- (1) A prescribed industrial waste producer who supplies or provides a container for the purposes of the transport of prescribed industrial waste produced by that waste producer must supply or provide a container that will not allow the contents to escape, spill or leak.

Penalty: 20 penalty units.

- (2) This regulation does not apply to a vessel used to contain prescribed industrial waste that is a fixture of a transport vehicle.

28 Exemption from section 53A and Part 4

A waste transporter transporting prescribed industrial waste, for no fee or reward, where the net load is less than 50 kilograms or litres is exempted from the requirement to hold a permit under section 53A of the Act and the requirements in Part 4.

29 Authority may grant class exemptions of its own motion

- (1) The Authority may grant of its own motion an exemption from compliance with a regulation or regulations in this Part.
- (2) The Authority must not grant an exemption under this regulation if the Authority is satisfied that the exemption will reduce the level of protection of

the environment that would be achieved by complying with the regulation or regulations from which the exemption is granted.

- (3) An exemption under this regulation must be in writing and published in the Government Gazette and on the Internet on a website maintained by the Authority.
- (4) An exemption under this regulation may be subject to any of the conditions set out in regulation 31 and which are specified in the exemption.

30 Power of Authority to suspend, amend or revoke exemptions

- (1) The Authority may at any time amend, suspend or revoke an exemption granted under regulation 29, either at the request of the holder of the exemption or of its own motion.
 - (2) If the Authority decides to suspend an exemption granted under regulation 29, the Authority must publish a notice in the Government Gazette and on the Internet on a website maintained by the Authority that sets out—
 - (a) the date and time from which the suspension takes effect; and
 - (b) the date and time at which the suspension ceases to operate.
 - (3) If the Authority decides to amend or revoke an exemption granted under regulation 29, the Authority must publish a notice in the Government Gazette and on the Internet on a website maintained by the Authority that sets out the date and time from which the amendment or revocation takes effect.
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31 Conditions that may be imposed on an exemption

The Authority may impose any conditions relating to one or more of the following matters on an exemption granted under regulation 29—

- (a) the commencement and duration of the exemption;
- (b) the activities or other things in respect of which the exemption is granted;
- (c) the class of person to whom the exemption is granted;
- (d) the class of premises in respect of which the exemption is granted;
- (e) the class of prescribed industrial waste in respect of which the exemption is granted;
- (f) the regulations in this Part in respect of which the exemption is granted;
- (g) any other condition that the Authority considers appropriate.

32 Compliance required with conditions on an exemption

A person to whom an exemption under this Part applies must comply with a condition of the exemption.

PART 4—PRESCRIBED INDUSTRIAL WASTE

33 Transport certificates

- (1) A prescribed industrial waste producer must complete a transport certificate setting out the information specified in Part A of Schedule 3 for each consignment of prescribed industrial waste transported from the premises of that waste producer.

Penalty: 20 penalty units.

- (2) A waste transporter must—
- (a) complete a transport certificate setting out the information specified in Parts A and B of Schedule 3 for each consignment of prescribed industrial waste transported by that waste transporter; and
 - (b) provide the information to the prescribed waste producer before the waste is transported from the premises of the waste producer; and
 - (c) provide the information to the waste receiver at the time of delivery of the waste to the waste receiver.

Penalty: 20 penalty units.

- (3) A prescribed industrial waste producer who receives information under subregulation (2)(b) must, within 7 days after receipt of the information, provide the information to the Authority.
- (4) A waste receiver who receives a consignment of prescribed industrial waste must—
- (a) at the time of receipt of the waste, provide the waste transporter the information specified in Part C of Schedule 3; and
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- (b) within 7 days after receipt of the waste, provide the Authority the information specified in Parts A, B and C of Schedule 3.

Penalty: 20 penalty units.

34 Information must be correct

A person who must comply with regulation 33(1), 33(2) or 33(4) must supply correct information under those provisions.

Penalty: 20 penalty units.

35 Records to be retained

A prescribed industrial waste producer, waste transporter and waste receiver must retain information that they receive under regulation 33 or send to the Authority under that regulation for 24 months from the date on which the waste was transported.

Penalty: 20 penalty units.

36 Accredited agents

- (1) The Authority may, in writing, do all or any of the following—
- (a) authorise a waste transporter to be an accredited agent to carry out the requirements of regulations 33 to 35 on behalf of a prescribed industrial waste producer;
 - (b) place conditions and limitations on the functions of an accredited agent in relation to regulations 33 to 35;
 - (c) alter those conditions and limitations;
 - (d) suspend the authorisation of a person to be an accredited agent for a specified period not exceeding 60 days by giving the accredited agent written notice of suspension;

- (e) cancel the authorisation of a person to be an accredited agent by giving the accredited agent written notice of cancellation.
- (2) A prescribed industrial waste producer may enter into an agreement or arrangement with an accredited agent to act on behalf of the producer to comply with the requirements of regulations 33 to 35.
- (3) If an accredited agent has entered into an agreement or arrangement with a prescribed industrial waste producer to carry out the requirements of regulations 33 to 35 on behalf of the prescribed industrial waste producer, any reference to a prescribed industrial waste producer is to be read as a reference to the accredited agent.

37 Procedure to be followed before cancellation

- (1) Before cancelling the authorisation of a person to be an accredited agent, the Authority must—
 - (a) give the accredited agent a written notice that—
 - (i) gives details of the action the Authority intends to take; and
 - (ii) gives the reasons why the Authority intends to take that action; and
 - (iii) invites the accredited agent to comment on the Authority's proposed course of action within the time specified in the notice; and
 - (b) consider any comments that are made by the accredited agent within the time specified in the notice.
- (2) The Authority must not specify a period of less than 7 days under subregulation (1)(a)(iii).

**PART 5—EXEMPT MATERIAL WHERE ESTABLISHED
SECONDARY BENEFICIAL REUSE**

38 Exemption for secondary beneficial reuse

The Authority may authorise a secondary beneficial reuse—

- (a) of its own motion; or
- (b) when a prescribed industrial waste producer or waste receiver has provided a notification of the reuse to the Authority—

in accordance with this Part.

39 Establishing a secondary beneficial reuse

- (1) A secondary beneficial reuse is established—
 - (a) when a prescribed industrial waste producer or waste receiver has provided a notification of the reuse to the Authority in accordance with regulation 40; and
 - (b) the Authority has authorised the notification in accordance with regulation 41.
- (2) A secondary beneficial reuse may also be established when the Authority authorises a secondary beneficial reuse notification of its own motion in accordance with this Part.
- (3) The establishment of a secondary beneficial reuse may be limited to the types, classes or consignments of waste specified in the authorisation of the notification by the Authority.

40 Matters to be declared in notification

- (1) The secondary beneficial reuse notification must include—
 - (a) the characteristics of the material for which the notification is sought, including—
 - (i) physical form;
 - (ii) quantity to be dealt with over a specified time period;
 - (iii) existence and concentration of any permissible contaminants;
 - (b) a description of the person, premises or industries proposed to be permitted to receive the material;
 - (c) any recognised specifications or standards for the material resulting from the reuse or recycling of the waste;
 - (d) an assessment of the likelihood of an unacceptable risk of harm to human beings or the environment;
 - (e) an assessment of the potential for diversion of the material to a higher value use;
 - (f) an assessment of commonly available or best available technologies, methods or processes for reuse or recycling of the waste;
 - (g) consideration of any applicable waste minimisation plans or waste management plans;
 - (h) consideration of any applicable national environment protection measure made by the National Environment Protection Council;
 - (i) consideration of any applicable State environment protection policy or waste management policy;
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- (j) for reuse or recycling of matter that could otherwise be categorised as category A waste or category B waste under Part 2, a declaration from an independent environmental auditor appointed by the Authority that the information in the notification is, to the best of the environmental auditor's knowledge, correct;
 - (k) for reuse or recycling of matter that could otherwise be categorised as category C waste under Part 2, a declaration from an independent suitably qualified professional that the information is, to the best of the person's knowledge, correct.
- (2) The Authority may refuse to authorise the notification if the prescribed industrial waste producer or waste receiver does not provide the Authority with all relevant information specified in subregulation (1).

41 Authorising notification

- (1) Within 7 days of receiving a secondary beneficial reuse notification, the Authority must provide written confirmation of receipt of the notification to the prescribed industrial waste producer or waste receiver who lodged the notification.
- (2) Within 28 days after the Authority confirms receipt of a secondary beneficial reuse notification under subregulation (1), the Authority must determine whether to authorise or refuse to authorise the notification.
- (3) The Authority may authorise a secondary beneficial reuse notification of its own motion by advising the affected prescribed industrial waste producer or waste receiver in accordance with regulation 42(2).

42 Advising authorisation

- (1) If the Authority does not, within 7 days after the end of the period specified in regulation 41(2), advise in writing a prescribed industrial waste producer or waste receiver who submitted a secondary beneficial reuse notification that the notification has been refused, the notification is deemed to have been authorised for a period of 12 months.
- (2) The Authority may authorise a secondary beneficial reuse notification of its own motion by advising in writing an affected prescribed industrial waste producer or waste receiver within 7 days of deciding to authorise the notification.
- (3) The Authority may publish a summary of the authorised secondary beneficial reuse notification on the Internet on a website maintained by the Authority.

43 Conditions for secondary beneficial reuse

- (1) If the Authority authorises a secondary beneficial reuse notification under this Part, the Authority must specify the period for which the notification applies.
- (2) The Authority may impose conditions relating to one or more of the following matters on a notification authorised under regulation 41—
 - (a) characteristics of the material for which the notification has effect, including—
 - (i) physical form;
 - (ii) quantity to be dealt with over a specified time period;
 - (iii) existence and concentration of any permissible contaminants;

- (b) the prescribed industrial waste producer, premises or industries from which the material may originate;
 - (c) the person, premises or industries permitted to receive the material;
 - (d) any sampling, analysis, monitoring and reporting requirements to be undertaken by the prescribed industrial waste producer, waste receiver, reuser, or recycler of the material;
 - (e) any measures that are required of the prescribed industrial waste producer, transporter, waste receiver, reuser, or recycler of the material to ensure that the management of the material is not likely to result in an unacceptable risk of damage to the environment;
 - (f) any other condition that the Authority considers appropriate.
- (3) A prescribed industrial waste producer or waste receiver who submitted the notification must notify the Authority as soon as is practicable of any changes relating to the notification.
- (4) A prescribed industrial waste producer or waste receiver must not contravene any condition imposed in relation to a notification under this regulation.

Penalty: 20 penalty units.

44 Amendment of notification

- (1) The Authority may amend any notification authorised under this Part if the Authority is satisfied that amending the notification—

- (a) is necessary or desirable in the light of changes to the circumstances that existed at the time the Authority authorised the notification; and
 - (b) will not result in an unacceptable risk of harm to the environment.
- (2) If the Authority decides to amend a notification it must—
- (a) notify in writing the prescribed industrial waste producer or waste receiver whose notification will be amended within 7 days after deciding to amend; and
 - (b) specify in the written notice to the prescribed industrial waste producer or waste receiver the date and time from which the amendment takes effect.

45 Revocation of notification

- (1) The Authority may revoke any notification authorised under this Part if it is satisfied that—
- (a) any information supplied by the prescribed waste producer or waste receiver was false or misleading; or
 - (b) any other information taken into consideration by the Authority has changed and as a consequence the notification is likely to result in an unacceptable risk of harm to the environment; or
 - (c) any condition in relation to that notification under regulation 43 has been contravened; or
 - (d) the prescribed industrial waste producer or waste receiver has been found guilty of one or more relevant offences (as defined in section 20C(1) of the Act) and, as a result is, in the opinion of the Authority, not a fit and proper person to hold an authorisation; or
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- (e) the activities in respect of which the notification related have ceased.
- (2) If the Authority decides to revoke a notification, the Authority must—
 - (a) notify in writing the prescribed industrial waste producer or waste receiver whose notification will be revoked within 7 days after deciding to revoke; and
 - (b) specify in the written notice to the prescribed industrial waste producer or waste receiver the date and time from which the revocation takes effect.

46 Procedure to be followed before amendment or revocation under this Part

- (1) Before amending or revoking a notification authorised under this Part, the Authority—
 - (a) must give a written notice to the prescribed industrial waste producer or waste receiver whose notification the Authority intends to amend or revoke that—
 - (i) gives details of the action the Authority intends to take; and
 - (ii) gives the reasons why the Authority intends to take that action; and
 - (iii) invites the prescribed industrial waste producer or waste receiver whose notification the Authority intends to amend or revoke to comment on the Authority's proposed course of action within the time specified in the notice; and

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Part 5—Exempt Material where Established Secondary Beneficial Reuse

- (b) must consider any comments that are made by the prescribed industrial waste producer or waste receiver whose notification the Authority intends to amend or revoke within the time specified.
 - (2) The Authority must not specify a period of less than 7 days under subregulation (1)(a)(iii).
-

PART 6—ADMINISTRATION

47 Certificates, records, applications etc.

- (1) A certificate, application, notification, declaration or other document required to be provided to the Authority that is referred to in these Regulations must be—
 - (a) in writing; and
 - (b) in the form approved by the Authority.
 - (2) A certificate, application, notification, declaration or other document required to be provided to the Authority that is referred to in these Regulations may be provided by—
 - (a) delivering it to an office of the Authority; or
 - (b) post addressed to the Authority at an office of the Authority; or
 - (c) leaving it with a person who has authority to accept documents on the Authority's behalf;
or
 - (d) any other means approved by the Authority.
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PART 7—TRANSITIONAL

48 Savings for certain existing permit conditions and accreditations

Despite the revocation of the Environment Protection (Prescribed Waste) Regulations 1998⁵—

- (a) regulation 10A and Schedule 3 of those Regulations continue to have effect for the purposes of this regulation until 1 July 2010;
 - (b) a person who, immediately before the date of that revocation, was an accredited agent continues subject to these Regulations to be an accredited agent.
 - (c) an exemption granted under Part 5 of those Regulations continues to have effect as a secondary beneficial reuse authorisation for the purposes of Part 5 of these Regulations.
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SCHEDULES

SCHEDULE 1

INDUSTRIAL WASTES

Note

See regulation 5 for the definition of *prescribed industrial waste*.

Biosolids managed in accordance with specifications acceptable to the Authority

Bitumen or asphalt

Brick

Cardboard

Commercial food waste

Concrete

Formed metal components

Glass

Green waste

Industrial waste water managed in accordance with specifications acceptable to the Authority

Paper

Plastic

Textiles

Timber

SCHEDULE 2

HAZARD CATEGORIES

1 Category A waste

Category A waste is prescribed industrial waste—

- (a) that can be classified as dangerous goods under the **Dangerous Goods Act 1985** and falls within one or more of the following classes under that Act—
 - (i) Class 1 (Explosive);
 - (ii) Class 4.1 (Flammable solid);
 - (iii) Class 4.2 (Spontaneously combustible);
 - (iv) Class 4.3 (Dangerous when wet);
 - (v) Class 5.1 (Oxidising);
 - (vi) Class 5.2 (Organic Peroxide);
 - (vii) Class 6.1 (Toxic);
 - (viii) Class 6.2 (Infectious);
 - (iv) Class 8 (Corrosive); or
 - (b) that generates gases that can be classified as Class 2.3 (Toxic Gas) dangerous goods under the **Dangerous Goods Act 1985** when it comes into contact with air or water; or
 - (c) with any contaminant concentration greater than the category A contaminant concentrations specified in the Solid Industrial Waste Thresholds, except for prescribed industrial waste that is contaminated soil; or
 - (d) with any leachable concentration greater than the category A leachable concentrations specified in the Solid Industrial Waste
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- Thresholds, except for prescribed industrial waste that is contaminated soil; or
- (e) that is contaminated soil with—
 - (i) any contaminant concentration greater than the category A contaminant concentrations specified in the Soil Thresholds; or
 - (ii) any leachable concentration greater than the category A leachable concentrations specified in the Soil Thresholds; or
 - (f) that is liquid waste other than—
 - (i) trade waste; or
 - (ii) industrial waste water managed in accordance with specifications acceptable to the Authority; or
 - (g) that the Authority has classified as category A waste in accordance with Part 2.

2 Category B waste

- (1) Subject to subclause (2), category B waste is prescribed industrial waste—
 - (a) with—
 - (i) any contaminant concentration greater than the category B contaminant concentrations specified in the Solid Industrial Waste Thresholds, but not exceeding the category A contaminant concentrations, except for prescribed industrial waste that is contaminated soil; or
 - (ii) any leachable concentration greater than the category B leachable concentrations specified in the Solid Industrial Waste Thresholds, but not
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Sch. 2

exceeding the category A leachable concentrations, except for prescribed industrial waste that is contaminated soil; or

(b) that is contaminated soil with—

(i) any contaminant concentration greater than the category B contaminant concentrations specified in the Soil Thresholds, but not exceeding the category A contaminant concentrations; or

(ii) any leachable concentration greater than the category B leachable concentrations specified in the Soil Thresholds, but not exceeding the category A leachable concentrations; or

(c) that the Authority has classified as category B waste in accordance with Part 2.

(2) This clause does not apply to prescribed industrial waste that is category A waste under clause 1.

3 Category C waste

(1) Subject to subclause (2), category C waste is prescribed industrial waste—

(a) with—

(i) any contaminant concentration greater than the category C contaminant concentrations specified in the Solid Industrial Waste Thresholds, but not exceeding the category B contaminant concentrations, except for prescribed industrial waste that is contaminated soil; or

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- (ii) any leachable concentration greater than the category C leachable concentrations specified in the Solid Industrial Waste Thresholds, but not exceeding the category B leachable concentrations, except for prescribed industrial waste that is contaminated soil; or
 - (b) that is contaminated soil with—
 - (i) any contaminant concentration greater than the category C contaminant concentrations specified in the Soil Thresholds, but not exceeding the category B contaminant concentrations; or
 - (ii) any leachable concentration greater than the category C leachable concentrations specified in the Soil Thresholds, but not exceeding the category B leachable concentrations; or
 - (c) that is waste asbestos that is packaged in accordance with Asbestos—Transport and Disposal; or
 - (d) that the Authority has classified as category C waste in accordance with Part 2.
- (2) This clause does not apply to prescribed industrial waste that is category A waste under clause 1 or category B waste under clause 2.
-

SCHEDULE 3

TRANSPORT INFORMATION

Part A: To be supplied by the prescribed industrial waste producer

Consignment identification

Description of the waste(s)

The physical nature of the waste

Waste codes

Hazard category

Contaminant(s)

UN Number

UN Class/Code

Dangerous Goods Class

Packaging Group number

Amount of waste(s)

Waste origin

Type of package (e.g. bulk)

Name of waste producer

Address of waste producer

Emergency contact number

Date of dispatch

Intended receiver

State/Territory of the waste receiver

Type of treatment at the premises of the waste receiver

Part B: To be supplied by the waste transporter

Name of transporter
Address of transporter
Vehicle registration number
Transport permit number

Part C: To be supplied by the waste receiver

Name and address of waste receiver
Receiving facility name and address (where different
from the waste receiver)
Receiving facility licence number
Date of receipt at facility
Amount of waste(s)
Type of treatment
Discrepancies
Name and address of any other waste receiver to which
the waste receiver intends that the waste be transported

SCHEDULE 4

Regulation 15

**ADDITIONAL VEHICLE REQUIREMENTS FOR CERTAIN
INDUSTRIAL WASTES**

PART A

1 Dangerous goods

- (1) A vehicle transporting any prescribed industrial waste which can also be classified as dangerous goods under the **Dangerous Goods Act 1985** must have class labels and Emergency Information Panels fixed on it in accordance with the requirements of the **Dangerous Goods Act 1985**.
- (2) Despite anything in subclause (1), a vehicle transporting bulk solid prescribed industrial waste which can also be classified as dangerous goods under the **Dangerous Goods Act 1985** must have class labels fixed on it in accordance with the requirements of the **Dangerous Goods Act 1985** but is not required to display Emergency Information Panels.

PART B

2 Industrial waste

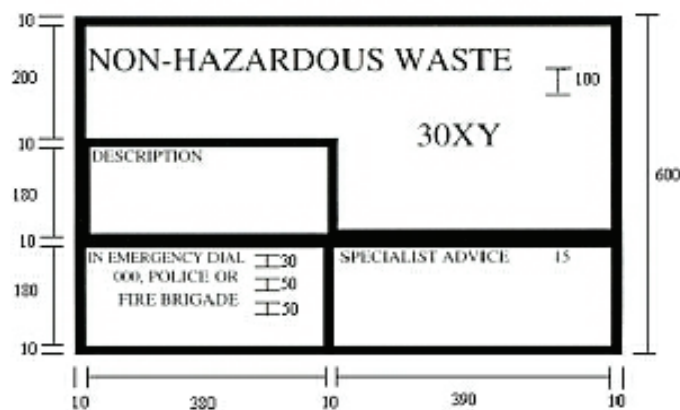
A vehicle transporting the following industrial wastes in a tipper, tanker or container with a capacity of more than 500 kilograms or litres must display the 30XY Emergency Information Panel depicted in Figure 1—

- (a) animal and vegetable oils and derivatives;

- (b) animal effluent and residues including abattoir effluent and poultry and fish processing wastes;
- (c) grease interceptor trap effluent;
- (d) inert sludges or slurries;
- (e) non-toxic salts;
- (f) vegetable, fruit, food processing effluent;
- (g) vehicle, machinery and industrial plant washwaters with or without detergents;
- (h) waste oil and mixtures or emulsions and hydrocarbon and water mixtures or emulsions;
- (i) waste oils unfit for their original intended use.

Figure 1.

30XY Emergency Information Panel



PART C

3 Clinical and related wastes

- (1) A vehicle transporting clinical and related wastes must have the class label depicted in Figure 2 in black on a yellow background fixed on the front and rear of the vehicle.

Figure 2.



- (2) When clinical and related wastes are being transported, the packages or combination of packages must be marked and packaged in a manner approved by the Authority.

PART D

4 Vehicles must be placarded

- (1) Any vehicle transporting more than 500 kilograms or litres of prescribed industrial waste must display class labels for Class 9 (Miscellaneous) dangerous goods as specified in the **Dangerous Goods Act 1985** at the front and rear of the vehicle.
- (2) Subclause (1) does not apply if otherwise specified in this Schedule or if the vehicle is subject to an exemption under these Regulations.

PART E

5 Provision for half-sized Emergency Information Panels

- (1) Where Emergency Information Panels must be fixed to a vehicle in accordance with Part B or C, and because of vehicle design or construction, mounting of full size panels is not possible, half-size panels are permitted to be fixed.
 - (2) For the purposes of this clause, half-size panels must replicate the information and proportions and measure not less than half the dimensions of the full-size Emergency Information Panel otherwise required.
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Endnotes

ENDNOTES

- ¹ Reg. 4(1): S.R. No. 95/1998. Reprint No. 1 as at 1 October 2000.
Reprinted to S.R. No. 92/2000, subsequently amended by
S.R. No. 76/2007 and extended in operation by S.R. No. 21/2008
- ² Reg. 4(2): S.R. No. 92/2000.
- ³ Reg. 4(3): S.R. No. 76/2007.
- ⁴ Reg. 5 def. of *prescribed fee*: S.R. No. 119/2001. Reprint No. 1 as at
14 April 2005. Reprinted to S.R. No. 88/2004 and subsequently amended
by S.R. No. 77/2007.
- ⁵ Reg. 48: See note 1.

**Table of Applied, Adopted or Incorporated Matter Required by the
Subordinate Legislation Regulations 2004**

Note that the following table of applied, adopted or incorporated matter is
included in accordance with the requirements of regulation 5 of the Subordinate
Legislation Regulations 2004.

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 5(1)	"Industrial Waste Guidelines" published in Special Gazette No. S177 on 9 June 2009 and as in force from time to time.	The Whole
Regulation 11(8)	"Industrial Waste Management Policy (Prescribed Industrial Waste) 2000" published in Special Gazette No. S183 on 5 December 2000 and as in force on the commencement of these Regulations.	The Whole

Environment Protection (Industrial Waste Resource) Regulations 2009
S.R. No. 77/2009

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Schedule 2	"Industrial Waste Guidelines" published in Special Gazette No. S177 on 9 June 2009 and as in force from time to time.	The Whole