



Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014

The reclaimed asphalt pavement order 2014

Introduction

This order, issued by the Environment Protection Authority (EPA) under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation), imposes the requirements that must be met by suppliers of reclaimed asphalt pavement to which 'the reclaimed asphalt pavement exemption 2014' applies. The requirements in this order apply in relation to the supply of reclaimed asphalt pavement for application to land for road maintenance activities, being use as a road base and sub base, applied as a surface layer on road shoulders and unsealed roads, and use as an engineering fill. The requirements in this order also apply to the supply of reclaimed asphalt pavement for use as an alternative raw material in the manufacture of asphalt.

1. Waste to which this order applies

- 1.1. This order applies to reclaimed asphalt pavement. In this order, reclaimed asphalt pavement means an asphalt matrix which was previously used as an engineering material and which must not contain a detectable quantity of coal tar or asbestos.

2. Persons to whom this order applies

- 2.1. The requirements in this order apply, as relevant, to any person who supplies reclaimed asphalt pavement that has been generated, processed or recovered by the person.
- 2.2. This order does not apply to the supply of reclaimed asphalt pavement to a consumer for land application or in connection with a process involving thermal treatment at a premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

3. Duration

- 3.1. This order commences on 24 November 2014 and is valid until revoked by the EPA by notice published in the Government Gazette.

4. Processor requirements

The EPA imposes the following requirements on any processor who supplies reclaimed asphalt pavement.

General requirements

- 4.1. The processor must implement procedures to minimise the potential to receive or process reclaimed asphalt pavement containing asbestos. These procedures must be formally documented and the records of compliance must be kept for a period of six years.
- 4.2. The processor must implement procedures to minimise the potential to receive or process reclaimed asphalt pavement in which the asphalt matrix contains detectable quantities of coal tar. These procedures must be formally documented and the records of compliance must be kept for a period of six years.

Notification

- 4.3. On or before each transaction, the processor must provide the following to each person to whom the processor supplies the reclaimed asphalt pavement:
 - a written statement of compliance certifying that all the requirements set out in this order have been met;
 - a copy of the reclaimed asphalt pavement exemption, or a link to the EPA website where the reclaimed asphalt pavement exemption can be found; and
 - a copy of the reclaimed asphalt pavement order, or a link to the EPA website where the reclaimed asphalt pavement order can be found.

Record keeping and reporting

- 4.4. The processor must keep a written record of the following for a period of six years:
 - the quantity of any reclaimed asphalt pavement supplied; and
 - the name and address of each person to whom the processor supplied the reclaimed asphalt pavement, or the registration details of the vehicle used to transport the reclaimed asphalt pavement.

5. Definitions

In this order:

application or apply to land means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

asphalt matrix means the solid material typically comprising of sand, aggregates and similar materials bound together with bituminous and/or other similar binders.

coal tar means the by-product of the thermal processing of coal and means material that has or reasonably is suspected to have present volatile organic contaminants, such as phenols, as well as other toxic materials such as polycyclic aromatic hydrocarbons (PAHs).

consumer means:

- a person who applies, or intends to apply, reclaimed asphalt pavement to land; and
- a person who uses, or intends to use, reclaimed asphalt pavement in connection with a process involving thermal treatment.

detectable quantity of coal tar means the coal tar deemed to be present in an asphalt matrix when it gives a positive red colour result when tested using RTA Test Method T542.

processor means a person who processes, mixes, blends, or otherwise incorporates reclaimed asphalt pavement into a material in its final form for supply to a consumer.

transaction means:

- in the case of a one-off supply, the supply of a batch, truckload or stockpile of reclaimed asphalt pavement waste that is not repeated.
- in the case where the supplier has an arrangement with the recipient for more than one supply of reclaimed asphalt pavement waste the first supply of reclaimed asphalt pavement waste as required under the arrangement.

**Manager Waste Strategy and Innovation
Environment Protection Authority
(by delegation)**

Notes

The EPA may amend or revoke this order at any time. It is the responsibility of each of the generator and processor to ensure it complies with all relevant requirements of the most current order. The current version of this order will be available on www.epa.nsw.gov.au

In gazetting or otherwise issuing this order, the EPA is not in any way endorsing the supply or use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this order are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this order nor the accompanying exemption guarantee that the environment, human health or agriculture will not be harmed.

Any person or entity which supplies reclaimed asphalt pavement should assess whether the material is fit for the purpose the material is proposed to be used for, and whether this use may cause harm. The supplier may need to seek expert engineering or technical advice.

Regardless of any exemption or order provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The supply of reclaimed asphalt pavement remains subject to other relevant environmental regulations in the POEO Act and Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of this order, is guilty of an offence and subject to prosecution.

This order does not alter the requirements of any other relevant legislation that must be met in supplying this material, including for example, the need to prepare a Safety Data Sheet.

Failure to comply with the conditions of this order constitutes an offence under clause 93 of the Waste Regulation.