



Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

The grate gravel exemption 2020

Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of grate gravel from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the grate gravel order 2020'.

1. Waste to which this exemption applies

- 1.1. This exemption applies to grate gravel that is, or is intended to be, applied to land for road making activities, or in landscaping.
- 1.2. Grate gravel means material comprising of natural rock and uncombusted material retrieved from the grate of power boilers operated by Cape Byron Management at the Broadwater and Condong Sugar Mills.

2. Persons to whom this exemption applies

- 2.1. This exemption applies to any person who applies, or intends to apply, grate gravel to land as set out in 1.1.

3. Duration

- 3.1. This exemption commences on 16 April 2020 and is valid until 16 April 2022, unless revoked by the EPA by notice in writing at an earlier date.

4. Premises to which this exemption applies

- 4.1. This exemption applies to the premises at which the consumer's actual or intended application of grate gravel is carried out.

5. Exemption

- 5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of grate gravel to land for road making activities, or in landscaping at the premises:
 - section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
 - Part 4 of the Waste Regulation;
 - section 88 of the POEO Act; and
 - clause 109 and 110 of the Waste Regulation.
- 5.2. The exemption does not apply in circumstances where grate gravel is received at the 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.

6. Conditions of exemption

The exemption is subject to the following conditions:

- 6.1. At the time the grate gravel is received at the premises, the material must meet all chemical and other material requirements for grate gravel which are required on or before the supply of grate gravel under 'the grate gravel order 2020'.
- 6.2. The grate gravel can only be applied to land for use in road making activities for headlands or haul roads, or in landscaping.
- 6.3. The consumer must keep a written record of the following for a period of six years:
 - the quantity of any grate gravel received; and
 - the name and address of the supplier of the grate gravel received.
- 6.4. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 6.5. The consumer must ensure that any application of grate gravel to land must occur within a reasonable period of time after its receipt.

7. Definitions

In this exemption:

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.

consumer means a person who applies, or intends to apply, grate gravel to land.

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

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15.4.20

Director Environmental Solutions (CLR)

Environment Protection Authority

(by delegation)

Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on www.epa.nsw.gov.au

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

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

The consumer should assess whether or not the grate gravel is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption 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 receipt of grate gravel remains subject to other relevant environmental regulations in the POEO Act and the 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 having an exemption, is guilty of an offence and subject to prosecution.

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

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.



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

The grate gravel order 2020

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 grate gravel to which 'the grate gravel exemption 2020' applies. The requirements in this order apply in relation to the supply of grate gravel for application to land as a road making material, or in landscaping.

1. Waste to which this order applies

- 1.1. This order applies to grate gravel. In this order, grate gravel means material comprising of natural rock and uncombusted material retrieved from the grate of power boilers operated by Cape Byron Management at the Broadwater and Condong Sugar Mills.

2. Persons to whom this order applies

- 2.1. The requirements in this order apply, as relevant, to Sunshine Sugar.
- 2.2. This order does not apply to the supply of grate gravel to a consumer for land application 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 16 April 2020 and is valid until 16 April 2022, unless revoked by the EPA in writing at an earlier date.

4. Processor requirements

The EPA imposes the following requirements on any processor who supplies grate gravel.

Sampling requirements

- 4.1. On or before supplying grate gravel, the processor must:
 - 4.1.1. Prepare a written sampling plan which includes a description of sample preparation and storage procedures for the grate gravel.
 - 4.1.2. Undertake sampling and testing of the grate gravel as required under clauses 4.2 and 4.3 below. The sampling must be carried out in accordance with the written sampling plan and Australian Standard

1141.3.1-2012 Methods for sampling and testing aggregates –
Sampling – Aggregates (or equivalent).

- 4.2. The processor must undertake the following sampling:
- 4.2.1. Routine sampling of the grate gravel by collecting 1 composite sample per month at each of the Sunshine Sugar sugar mills. Each composite sample must be taken from a batch, truckload or stockpile that has not been previously sampled for the purposes of routine sampling.

Chemical and other material requirements

- 4.3. The processor must not supply grate gravel to any person if, in relation to any of the chemical and other attributes of the grate gravel:
- 4.3.1. The concentration or other value of that attribute of any sample collected and tested, exceeds the absolute maximum concentration or other value listed in Column 4 of Table 1, or
- 4.3.2. The average concentration or other value of that attribute from the sampling of the grate gravel (based on the arithmetic mean) exceeds the maximum average concentration or other value listed in Column 2 of Table 1. Average values must be calculated using the moving average model and calculated from each 6 month period.
- 4.4. The absolute maximum concentration or other value of that attribute in any grate gravel supplied under this order must not exceed the absolute maximum concentration or other value listed in Column 4 of Table 1.

Table 1

Column 1	Column 2	Column 3
Chemicals and other attributes	Maximum average concentration (mg/kg 'dry weight' unless otherwise specified)	Absolute maximum concentration (mg/kg 'dry weight' unless otherwise specified)
1. Mercury	0.5	1
2. Cadmium	0.5	1.5
3. Lead	75	150
4. Arsenic	20	40
5. Chromium (total)	60	120
6. Copper	60	150
7. Nickel	40	80
8. Zinc	200	350
9. Electrical Conductivity	1.5 dS/m	3 dS/m
10. pH	NA	NA
11. Metal	1%	2%

Test methods

- 4.5. The processor must ensure that any testing of samples required by this order is undertaken by analytical laboratories accredited by the National Association of Testing Authorities (NATA), or equivalent.

- 4.6. The processor must ensure that the chemicals and other attributes (listed in Column 1 of Table 1) in the grate gravel it supplies are tested in accordance with the test methods specified below or other equivalent analytical methods. Where an equivalent analytical method is used the detection limit must be equal to or less than that nominated for the given method below.
- 4.6.1. Test method for measuring the mercury concentration:
- 4.6.1.1. Analysis using USEPA SW-846 Method 7471B Mercury in solid or semisolid waste (manual cold vapour technique), or an equivalent analytical method with a detection limit < 20% of the stated maximum average concentration in Table 1, Column 2 (i.e. < 0.1 mg/kg dry weight).
- 4.6.1.2. Report as mg/kg dry weight.
- 4.6.2. Test methods for measuring chemicals 2 - 8:
- 4.6.2.1. Sample preparation by digesting using USEPA SW-846 Method 3051A Microwave assisted acid digestion of sediments, sludges, soils, and oils.
- 4.6.2.2. Analysis using USEPA SW-846 Method 6010C Inductively coupled plasma - atomic emission spectrometry, or an equivalent analytical method with a detection limit < 10% of stated maximum concentration in Table 1, Column 2 (i.e. 1 mg/kg dry weight for lead).
- 4.6.2.3. Report as mg/kg dry weight.
- 4.6.3. Test methods for measuring the electrical conductivity and pH:
- 4.6.3.1. Sample preparation by mixing 1 part grate gravel with 5 parts distilled water.
- 4.6.3.2. Analysis using Method 103 (pH) and 104 (Electrical Conductivity) in Schedule B (3): Guideline on Laboratory Analysis of Potentially Contaminated Soils, National Environment Protection (Assessment of Site Contamination) Measure 1999 (or an equivalent analytical method).
- 4.6.3.3. Report deciSiemens per metre (dS/m).
- 4.6.4. Test method for measuring attribute 11:
- 4.6.4.1. NSW Roads & Traffic Authority Test Method T276 Foreign Materials Content of Recycled Crushed Aggregate (or an equivalent method), for the material listed in 11 of Column 1, Table 1.
- 4.6.4.2. Report as %.

Notification

- 4.7. On or before each transaction, the processor must provide the following to each person to whom the processor supplies the grate gravel:
- a written statement of compliance certifying that all the requirements set out in this order have been met;
 - a copy of 'the grate gravel exemption 2020', or a link to the EPA website where 'the grate gravel exemption 2020' can be found; and
 - a copy of 'the grate gravel order 2020', or a link to the EPA website where 'the grate gravel order 2020' can be found.

Record keeping and reporting

- 4.8. The processor must keep a written record of the following for a period of six years:
- the sampling plan required to be prepared under clause 4.1.1;
 - all routine sampling results in relation to the grate gravel supplied;
 - the quantity of the grate gravel supplied; and
 - the name and address of each person to whom the processor supplied the grate gravel.
- 4.9. The processor must provide, on request, the most recent routine results for grate gravel supplied to any consumer of the grate gravel.
- 4.10. The processor must notify the EPA within seven days of becoming aware that it has not complied with any requirement in clause 4.1 to 4.7.

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.

composite sample means a sample that combines five discrete sub-samples of equal size into a single sample for the purpose of analysis.

consumer means a person who applies, or intends to apply, grate gravel to land.

continuous process means a process that produces grate gravel on an ongoing basis.

processor means a person who processes, mixes, blends, or otherwise incorporates grate gravel into a material in its final form for supply to a consumer. The processor in this order is Sunshine Sugar Pty Ltd.

transaction means:

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

15.4.20

Director Environmental Solutions (CLR)
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.

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 grate gravel 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 grate gravel 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.