

# Environment and Planning Update

August 2015



## 12 NEW NSW PROTECTION OF THE ENVIRONMENT OPERATIONS WASTE REGULATIONS

# 11 . Waste levy reforms - EPA tightens the rules

All scheduled waste facilities in the regulated area are now **liable** to pay the levy, including storage, treatment and transfer facilities. The *Protection of the Environment Operations (Waste) Amendment (Contributions) Regulation 2014* commenced on the 1 August 2015 making amendments to the *Protection of the Environment Operations (Waste) Regulations 2014*.

Waste facilities that were previously exempt from paying the waste levy are encouraged to analyse their practices to ensure they remain compliant.

### WASTE LEVY LIABILITY SHIFTED FORWARD

The amendments shift forward the timing of the liability to pay the waste levy for waste, storage, treatment and transfer facilities (STT Facilities). As of 1 August 2015 STT Facilities became liable to pay the waste levy as soon as they receive waste.

STT Facilities that receive and then transport waste back off site will have their liability to pay the levy **extinguished** once waste has been transported off site. Payment is only triggered where:

1. Waste is stored on site for more than 12 months, without being processed in accordance with a resource recovery order;
2. Waste is stored above lawful limits; or
3. Waste is transported for unlawful disposal.

Trackable liquid waste is exempt.

The amendments bring the collection point for the waste levy up the supply chain. This is to help prevent rogue operators from negatively impacting legitimate operators by making it harder to avoid the levy through forging landfill dockets, deliberately misclassifying waste, transporting waste to unlawful disposal areas, and long-term 'storage' of waste with no legitimate end-use.

This in turn will reduce health and environmental risks for the wider community while also restoring integrity to the waste industry. With the liability brought forward in the lifecycle of the waste, the incentive to stockpile, misclassify and illegally dump is dramatically reduced.

The NSW Waste Regulation Cost-benefit Analysis prepared by the Centre for International Economics (October 2014) identified stockpiled and illegally dumped waste as having very high cost on the community and environment, with some local Councils spending in excess of \$1 million annually in clean-up costs.

## CERTAIN FACILITIES EXEMPT FROM CHANGES

Certain facilities are exempt from the new levy provisions, including:

- Facilities conducting metallurgical activities;
- Facilities licensed for clinical and related waste, liquid waste, hazardous or restricted solid waste;
- Facilities operating as solely ceramic works, composting, container reconditioning, contaminated soil treatment, or paper or pulp production facilities.

Provisions relating to the levy payable by disposal facilities have remained the same.

Further exemptions from paying contributions under the waste levy include non-scheduled waste facilities. The list is expanded by section 20 of the Regulations. Section 109 should be referred to for reporting requirements for occupiers who are not required to pay contributions due to an exemption.

Maximum penalties for not paying contributions under the POEO Act are as high as \$1,000,000 for corporations and \$250,000 for individuals with further penalties of \$120,000 for corporations and \$60,000 for individuals for continuing offences.

Waste facilities that were previously exempt from paying the waste levy are encouraged to analyse their practices to ensure they remain compliant.

Further reading about the 12 areas of staged change to the NSW protection of the Environment Operations Waste Regulations: [click here](#)

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