

# Environment Protection (Waste to Resources) Policy 2010: Guidelines on resource recovery processing requirements

Issued May 2012

*EPA 977/12: Determinations under clause 11(8) of the Environment Protection (Waste to Resources) Policy 2010 regarding resource recovery processes must be made in accordance with these guidelines.*

## Purpose

This document provides guidance to the waste and resource recovery industry when undertaking resource recovery. In particular, it outlines what steps facilities must take to determine what waste types can be disposed of to landfill without further treatment. This document comprises guidelines for the purposes of clause 11(8) of the Environment Protection (Waste to Resources) Policy 2010. It also provides advice on the conditions that the EPA intends to attach to resource recovery facilities in order to support the waste management objective of government.

## 1 Introduction

The Environment Protection (Waste to Resources) Policy (the EPP) was created under the *Environment Protection Act 1993* (the Act) and came into effect on 1 September 2010. It seeks to support *South Australia's Strategic Plan 2011* target of reducing waste to landfill by 35% by 2020 and the objectives of *South Australia's Waste Strategy 2011–2015*.

From 1 September 2012, a person must not dispose of waste<sup>1</sup> produced in metropolitan Adelaide to a landfill depot unless the waste results from, or has been subject to, resource recovery processes carried out–

- a at an appropriate licensed material recovery facility or composting depot; or
- b at some other facility that has been approved by the Authority; or
- c in accordance with the waste management hierarchy and to the extent reasonably achievable<sup>2</sup>.

Under the EPP, resource recovery processes means processes carried out for resource recovery, which may include a determination, following examination of the waste, that the waste does not require treatment, or further treatment, for resource recovery so long as any determination made is in accordance with–

- a any licence conditions that are expressed to apply for the purposes of clause 11 of the EPP; or
- b any resource recovery facility approval conditions; or

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<sup>1</sup> Wastes excluded from the need to be treated are set out in EPP Schedule 3.

<sup>2</sup> EPP clause 11(3).

- c any guidelines published by the Authority for the purposes of this clause<sup>3</sup>.

Appendix 1 provides the full text of clause 11 of the EPP.

This document sets out:

- guidelines that are to be followed for a determination to be made that a waste does not require treatment, or further treatment for resource recovery prior to disposal to landfill, and
- matters that may be made the subject of licence conditions or clause 11 approval conditions in order to support understanding and enhancement of resource recovery from metropolitan Adelaide.

## 2 Who determines whether waste needs any further treatment for resource recovery prior to disposal?

- For waste produced in metropolitan Adelaide that is received at:

- a licensed material recovery facility authorised to receive that type of waste,
- a licensed composting depot authorised to receive that type of waste, or
- another EPA approved facility (clause 11),

that facility operator will determine whether the waste can be disposed to landfill in accordance with guidelines. In these cases, a landfill operator can then simply receive waste for disposal.

- For waste produced in metropolitan Adelaide and regulated by clause 11 that is subject to a resource recovery process carried out in accordance with the waste management hierarchy and to the extent reasonably achievable [clause 11(3)(c) activity], the person undertaking the resource recovery process will determine whether the waste can be disposed to landfill without further resource recovery treatment in accordance with the guidelines. However, in these cases, to avoid any risk of breaching their obligations, the landfill operator must be in a position to demonstrate that the operator was satisfied that the waste was received from a clause 11(3)(c) activity<sup>4</sup>.

## 3 Resource recovery processing guidelines

These guidelines advise when any resource recovery facility [whether satisfying clause 11(3)(a), (b) or (c)] will be able to determine when waste regulated by clause 11 does not require any treatment, or further treatment, prior to disposal to landfill. These guidelines are consistent with and in addition to the EPA guidelines for the handling of banned wastes by these activities.

### 3.1 Initial considerations in assessing whether waste is being handled appropriately

The types of wastes received and how they are handled varies across the waste and resource recovery facilities servicing metropolitan Adelaide. A study commissioned for the EPA and Zero Waste SA (ZWSA) in 2011 considered facilities within different category types<sup>5</sup> and found that:

The analysis of facility processes, procedures and recovery rates as well as the constraints faced by facilities has demonstrated that there is a marked degree of individuality in how businesses operate, even within any single facility classification. This circumstance, together with the lack of information available on the movement of materials in these facilities, means that it may not be possible to nominate specific actions that need to be undertaken uniformly across a facility classification.

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<sup>3</sup> EPP clause 11(8).

<sup>4</sup> Refer EPP clause 11(4).

<sup>5</sup> Rawtec & Mike Haywood–Sustainable Resource Solutions, *Analysis of resource recovery activities servicing Metropolitan Adelaide* (December 2011), pg 2.

Instead, site management, data provision and resource recovery planning will be key elements for supporting sound determinations regarding when waste regulated by clause 11 can be disposed to landfill. No percentage level of recovery is required at this time.

In the EPA's *Response to submissions for the draft (Waste to Resources) Policy* (August 2009), the following commitments were made:

The three major resource recovery and waste transfer stations that service the northern metropolitan area, acting as consolidation points for residual waste prior to its transfer to landfill, will be classed as appropriate resource recovery processes. As waste streams are monitored over time, improved diversion may be required using licensing provisions.

The Town of Gawler's waste and recycling transfer station provides areas for recyclables to be separated by individuals attending at the station. It will be an appropriate resource recovery process, provided that the station is operated so as to monitor individuals' behaviour.

### 3.2 EPA requirements relating to all facilities when making clause 11(8) determinations

An operator of any clause 11(3) facility can determine to dispose of wastes to landfill without undertaking treatment, or further treatment, of the waste for the purposes of clause 11(8) of the EPP if:

- 1 the depot operator or operator of a clause 11(3) process—
  - a has staff on-site at all times during opening hours who are trained in accordance with a Standard Operating Procedure (per 3.2.1.b),
  - b has written procedures specifying the steps for the handling of any recoverable waste(s) found (ie a Standard Operating Procedure), including:
    - i identification of recoverable wastes
    - ii physical removal of the recoverable wastes from mixed waste streams, and
    - iii storage and management of recoverable wastes,
- 2 the depot operator or operator of a clause 11(3) process retrieves recoverable wastes in accordance with its Standard Operating Procedure (3.2.1.b), and
- 3 for depots receiving wastes from external sources only—
  - a by 1 March 2013 or within 6 months of commencing operations (whichever is the later) and at least once per annum thereafter, provides advice in writing to all organisations that deliver waste regulated by clause 11 to the depot pursuant to a contractual arrangement with the depot operator advising the manner in which wastes should be presented to best support resource recovery at the facility. Advice also needs to be provided at the time of entering any new contractual arrangement, and
  - b by 1 March 2013 or within 6 months of commencing operations (whichever is the later), maintains information within its website (if it has one) advising the manner in which wastes should be presented to best support resource recovery at the facility.

NOTE: Clause 11(3) facilities must also continue to abide by all other licence conditions (including those drawing from EPA guidelines, eg standard conditions relating to the treatment of waste under cover and stockpiling restrictions).

Any clause 11(3) facility not meeting these requirements but sending waste to landfill could have enforcement action taken against them for breach of clause 11(3), a mandatory provision, on the basis that waste has been sent to landfill without being subject to resource recovery processes, given the requirements arising under clause 11(8). Also, if the facility holds a clause 11(3)(b) approval, that approval could be revoked.

## 4 Resource recovery conditions for licences and clause 11 approvals

In addition to these guidelines, conditions are planned to be applied for relevant facilities to support enhanced resource recovery of wastes. Conditions are proposed for data provision and resource recovery planning to better identify resource recovery activity and promote the waste management objective over time.

### 4.1 Promoting the waste management objective

The objective of the EPP is 'to achieve sustainable waste management by applying the waste management hierarchy consistently with the principles of ecologically sustainable development set out in section 10 of the Act'<sup>6</sup>.

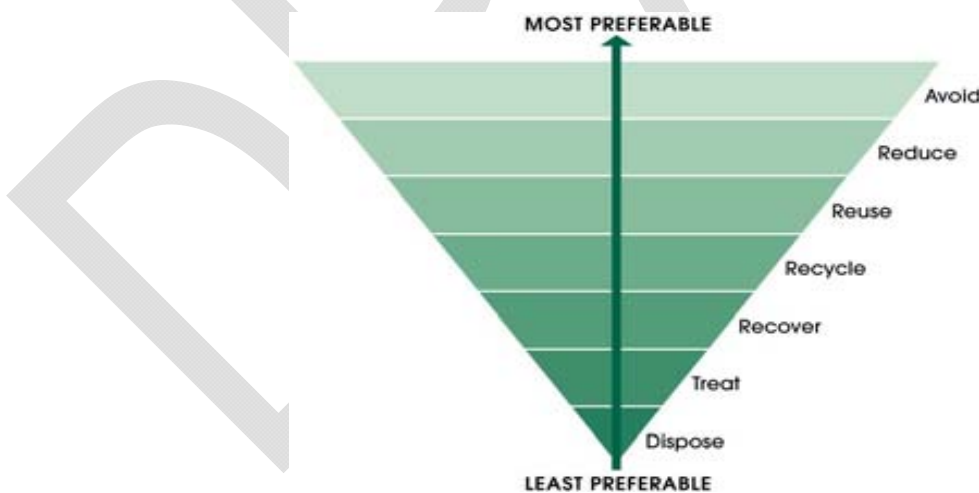
The waste management hierarchy in the EPP has the same meaning as in the *Zero Waste SA Act 2004*. The *Zero Waste Act* states:

the waste management hierarchy is a reference to an order of priority for the management of waste in which—

- a avoidance of the production of waste; and
- b minimisation of the production of waste; and
- c reuse of waste; and
- d recycling of waste; and
- e recovery of energy and other resources from waste; and
- f treatment of waste to reduce potentially degrading impacts; and
- g disposal of waste in an environmentally sound manner,

are pursued in order with, first, avoidance of the production of waste, and second, to the extent that avoidance is not reasonably practicable, minimisation of the production of waste, and third, to the extent that minimisation is not reasonably practicable, reuse of waste, and so on.

In visual summary:



The EPA must take this waste management objective into account when administering the EPP and determining licensing or development authorisation matters<sup>7</sup>.

<sup>6</sup> EPP clause 7.

<sup>7</sup> EPP clause 8–9.

## 4.2 Data reporting for all resource recovery facilities and other waste facilities

The EPA intends to attach standard licence conditions requiring quarterly reporting to the EPA of data on material flows at facilities for all licensed resource recovery facilities [whether falling within the scope of clause 11(3)(a), (b) or (c)] and related waste facilities. The conditions will require the reporting of the following data:

- The total tonnes of waste received at the facility categorised as:
  - total tonnes Municipal Waste (MSW) received (reporting on regular kerbside collections, hard waste and collections of illegally dumped materials)
  - total tonnes Commercial & Industrial (C&I) Waste received
  - total tonnes Construction & Demolition (C&D) Waste received
  - total tonnes Contaminated Soils (CS) received
  - total tonnes Residual from another resource recovery process or other (OW).
- The total tonnes outgoing from the facility broken into:
  - total tonnes for each recoverable material stream and other banned wastes sent off-site
  - total tonnes for each recoverable material sent for processing at other parts of the site
  - total tonnes to landfill (divided by MSW, C&I, C&D, CS and OW waste streams where possible)
  - total tonnes of residual waste to further resource recovery.
- The total tonnes of stock on site at the end of the period

Similarly, the EPA intends to attach standard conditions on clause 11(3)(b) approvals requiring the quarterly reporting to the EPA of data on material flows at unlicensed facilities. The scope of information to be reported will necessarily be influenced by the nature of the facility, and for waste generators will involve reporting on the amount of key waste types generated and their destinations.

Any facility failing to meet this requirement could be subject to enforcement action for breach of section 45 of the Act (if licenced) or for breach of clause 11(3), a mandatory provision, on the basis that waste has been sent to landfill without being subject to resource recovery processes, given the requirements arising under clause 11(8). Also, if the facility holds a clause 11(3)(b) approval, that approval could be revoked.

The EPA may occasionally seek to discover additional information to aid the administration of the EPP through verification of material flows. For this purpose, additional data presented in relation to any 12-month period would be:

- the destination(s) and tonnages of each of the resource recovered streams
- the destination(s) and tonnages of waste being sent directly to landfill
- the destination(s) and tonnages of any other wastes sent for further resource recovery or other processing.

### 4.3 Resource recovery planning for transfer stations (including skip bin facilities), material recovery facilities and other facilities that undertake the sorting of mixed wastes

A study commissioned for the EPA and ZWSA in 2011 conducted an analysis of resource recovery activities servicing metropolitan Adelaide<sup>8</sup> found that:

- transfer stations, skip bin facilities and some material recovery facilities had lower recovery rates (as percentage of total material received) than other key waste activity types (such as recyclers and manufacturing activity).
- recyclers, manufacturers of recovered products (excluding any mechanised material recovery facility component) and composters were estimated as having recovery rates of at least 90%.

Differences arose partly due to the different types of waste received and how waste is presented at these facilities.

The EPA intends that:

- All licensed material recovery facilities that undertake the sorting of mixed wastes regulated by clause 11 and transfer stations (including relevant skip bin facilities) will have standard conditions attached to their licences requiring the preparation of a facility specific resource recovery plan (RRP) by 31 December 2013 or within 18 months of commencing operations (whichever is the later).
- Any unlicensed facilities that undertake the sorting of mixed wastes regulated by clause 11 and require clause 11(3)(b) approvals will have standard conditions attached to their approvals that require the preparation of a facility specific RRP by 31 December 2013 or within 18 months of commencing operations (whichever is the later).
- RRP's will need to be reviewed and updated at least once every three years.

It is proposed that RRP's will need to:

- a reference waste management obligations and requirements (eg licence and relevant guidelines),
- b describe resource recovery processes and procedures undertaken (including referencing of relevant Standard Operating Procedures),
- c analyse opportunities for (and constraints to) the enhancement of resource recovery of materials in accordance with the waste management hierarchy, including thorough consideration of the scope and nature of waste collection services offered to customers (if relevant),
- d set resource recovery objectives for the facility,
- e establish a continuous improvement system for the formal identification and implementation of improvements,
- f identify and commit to initiatives for continuous improvement elements over a three-year period,
- g document processes for monitoring and reporting of resource recovery performance, including potential methods for estimating incoming flows of each recoverable material, and
- h establish roles and responsibilities for implementation of the RRP.

If a relevant material recovery facility is co-located with another waste to resources activity (eg waste processors manufacturing recovered products or landfill), a RRP will be required for the material recovery facility element of the site.

<sup>8</sup> Rawtec & Mike Haywood–Sustainable Resource Solutions, *Analysis of resource recovery activities servicing Metropolitan Adelaide* (December 2011), section 3.

Any facility failing to meet this requirement could be subject to enforcement action for breach of section 45 of the Act (if licenced) or clause 11(3), a mandatory provision, on the basis that waste has been sent to landfill without being subject to resource recovery processes, given the requirements arising under clause 11(8). Also, if the facility holds a clause 11(3)(b) approval, that approval could be revoked.

If data reporting (as discussed in section 4.2) indicates that significant opportunities for enhanced resource recovery exist at other types of facility, the EPA may consider attaching a RRP condition on a broader spectrum of waste or recycling depots in the future.

## Disclaimer

This publication comprises guidelines for the purposes of clause 11(8) of the Environment Protection (Waste to Resources) Policy 2010. It seeks to explain your possible obligations in a helpful and accessible way. In doing so, however, some detail may not be captured. It is important, therefore, that you consider your own circumstances and possible obligations and, where appropriate, that you seek your own legal advice.

## Further information

### **Legislation**

Legislation may be viewed on the Internet at: <[www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)>

Copies of legislation are available for purchase from:

Service SA Government Legislation Outlet  
Adelaide Service SA Centre  
108 North Terrace  
Adelaide SA 5000

Telephone: 13 23 24  
Facsimile: (08) 8204 1909  
Website: <[shop.service.sa.gov.au](http://shop.service.sa.gov.au)>

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## Appendix 1 Clause 11 of the policy

Extracted from the EPP dated 24 November 2011. Please check for currency at <[www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)>.

Definitions of terms used in this provision may be found in the EPP and Act. The Act sets out offence amounts.

### 11—Waste to be treated prior to disposal to landfill

(1) This clause applies to waste produced in an area specified in Schedule 2 other than waste excluded from the application of this clause by Schedule 3.

(2) This clause will not apply until the second anniversary of the day fixed by the Governor for this policy to come into operation.

(3) A person must not dispose of waste to which this clause applies at a landfill depot unless the waste results from, or has been subject to, resource recovery processes carried out—

- (a) at an appropriate licensed material recovery facility or composting depot; or
- (b) at some other facility that has been approved by the Authority for the purposes of this clause; or
- (c) in accordance with the waste management hierarchy and to the extent reasonably achievable.

Mandatory provision: Category B offence.

(4) The operator of a landfill depot must not receive waste to which this clause applies for disposal at the depot unless the waste results from, or has been subject to, resource recovery processes carried out—

- (a) at an appropriate licensed material recovery facility or composting depot; or
- (b) at some other facility that has been approved by the Authority for the purposes of this clause; or
- (c) in accordance with the waste management hierarchy and to the extent reasonably achievable.

Mandatory provision: Category B offence.

(5) For the purposes of this clause, waste received at a landfill depot will be taken to result from, or have been subject to, resource recovery processes if it has been received from—

- (a) an appropriate licensed material recovery facility or composting depot; or
- (b) some other facility that has been approved by the Authority for the purposes of this clause.

(6) The Authority may—

- (a) grant an approval to a facility for the purposes of subclauses (3), (4) and (5) subject to such conditions as the Authority thinks fit (and the Authority may vary those conditions from time to time);
- (b) revoke such an approval on such grounds as the Authority thinks fit.

(7) The conditions of an approval may be varied by the addition, substitution or deletion of 1 or more conditions.

(8) In this clause—

**resource recovery processes** means processes carried out for resource recovery, which may include a determination, following examination of waste, that the waste need not be subject to treatment, or further treatment, for resource recovery so long as any such determination is made in accordance with—

- (a) any licence conditions that are expressed to apply for the purposes of this clause; or
- (b) any conditions that apply under subclause (6); or
- (c) any guidelines published from time to time by the Authority for the purposes of this clause.