

## Amendments to Schedule 1 (activities of environmental significance) of the *Environment Protection Act 1993* and explanatory report

Issued December 2014

*EPA 1049/14: This information sheet explains the proposed changes to the current Schedule 1 of the Environment Protection Act 1993.*

### Introduction

The EPA has been developing amendments to Schedule 1 (activities of environmental significance) of the *Environment Protection Act 1993* (EP Act). The majority of proposed amendments seek to provide minor updates to the activity and to better reflect modern terminology and as a clarification for when an environmental authorisation may be required. The waste and resource recovery amendments centre on identifying the various elements of the waste and resources industry and clearly describing their role. The amendments have been assessed as having no regulatory or business impact upon current licensees.

Having finalised input from technical staff of the EPA it is important to seek the views of industry concerning the proposed amendments. In particular for the waste sector, the proposals 'look' quite different from the existing provisions. Explanation will be an important part of this process so that the intentions of the proposals are clearly articulated and understood.

### The process of amending Schedule 1

The proposed changes outlined in this explanatory report are carried out via regulation under section 140 of the EP Act. The EPA wishes to communicate and consult with stakeholders to identify any potential issues and convey the intentions of each amendment prior to bringing the amendments into Schedule 1.

An amendment of this type, following consultation and approval by the Governor, is required to be referred to the Legislative Review Committee of Parliament and both Houses of the Parliament for review and possible amendment or disallowance.

### Summary of the proposed amendments

- 1 **Interpretation** – A substantial 'Interpretation' clause has been provided that is integral to the understanding of the subsequent activities. This innovation should prove invaluable in making regulatory decisions and in the drafting of licence conditions. Provisions of interest in the interpretation include:

- a A description of prescribed factors which allows the Authority to make a decision **not** to license an activity. Despite a decision not to license, an obligation will remain on the activity to adhere to the limitations; otherwise licensing will be imposed.
  - b A definition of resource recovery that aligns with the *Waste to Resources Environment Protection Policy 2010*.
  - c Clarifications of what is meant by:
    - i disposal
    - ii on-site storage or disposal
    - iii treatment of waste, including recovery of material for recycling; re-use; energy; or preparation for further treatment
- 2 **Hydrocarbon Production and Storage** – This activity combines the former activities of Oil Refineries and Petroleum Production, Storage or Processing Works or Facilities. These activities are inter-related and with the demarcation between them uncertain, these have therefore been amalgamated. Furthermore, the term ‘petroleum’ was limiting and generally outdated, with ‘hydrocarbons’ being preferred to ensure that all such products are captured. This will not result in a net change in licensees or costs.
- 3 **Timber Preservation Works** – The chemical description was obsolete and limited the activity, which now uses other hazardous chemicals. The term ‘wood’ no longer reflects current industry terminology. This will not result in a net change in licensees or costs.
- 4 **Hot Mix Asphalt Preparation** – No mention in the clause that hot mix asphalt preparation involved application of heat caused confusion as to whether operators also needed to be licensed for clause 8(2) Fuel Burning. This has been clarified as not requiring clause 8(2).
- 5 **Drum Reconditioning** – This clause has been clarified by adding a definition.
- 6 **Scrap Metal Recovery** – This activity currently sits within ‘Manufacturing and Mineral Processing’ in Schedule 1. It has been removed and transferred to the ‘Resource Recovery, waste disposal and related activities’ clause as the activity is more appropriate in that area. The title of the activity has also been changed to ‘Scrap Metal Treatment Works’. This is a more logical place for the activity given that it is waste related and encompasses the full range of treatment options as provided in the interpretation. No businesses are likely to be affected by this proposal.
- 7 **Surface Coating** – provision now reads ‘the conducts of works for spray painting or powder coating’. This clarifies that an operator does not need to undertake both spray painting and powder coating in order to be licensed. No businesses are likely to be affected by this proposal.
- 8 **Timber Processing Works** – The term ‘wood’ no longer reflects current industry terminology. This will not result in a net change in licensees or costs.
- 9 **Resource Recovery, waste disposal and related activities** – This replaces the current clause 3 Waste Treatment and Disposal, and serves to bring the title up to date with current practices and industry terminology. A number of waste management activities are not well described in the current clause. Discussion with licensing and operations staff has led to a substantially reviewed clause that follows the waste management system from collection through to disposal or recovery. These include:
- a *Resource Recovery and related facilities* – within this sub-heading are eight activities, being:
    - i transfer stations
    - ii composting works
    - iii organic products works – this covers production of soil enhancers, stockfeed and other products that are not composting
    - iv scrap metal treatment works (replacing the old activity)
    - v tyre waste treatment works
    - vi waste lead battery treatment works

- vii waste oil treatment works
- viii wastewater treatment works, including sewage treatment and any other wastewater treatment.

This subsection also provides for a regulated drop-off station for e-waste as an exclusion. This will allow public authority sponsored collections of, for example, televisions without the need to apply for a licence. This will enable local councils to collect and properly dispose of e-waste without the need for a licence, therefore reducing regulatory burden.

**b *Waste Disposal and Storage*** – Within this sub-heading are four activities, being:

- i landfill depot
- ii liquid waste depot
- iii other land-based storage or disposal – This is provided to capture situations such as storage/disposal of tyres and high volume spreading of sludge and is essentially a catch-all. However, the opportunity is provided to assess situations as having the likelihood of little or no harm and not to license.
- iv An incineration depot – This activity will replace clause 3(1) Incineration Activity.

An opportunity remains not to license if the Authority believes that negligible risk applies. In redrafting this concept however, Parliamentary Counsel has advised that it has done so in a manner where the provision is ‘always speaking’, meaning that the proponent must maintain the site in such a manner that the Authority remains of the view that negligible risk continues. The Authority can now deem a site or activity as having negligible risk by assessing it against the ‘prescribed factors’. This is similar to the ‘Limited Purposes’ provision in the current Schedule 1.

**c *Activities involving Listed Waste*** – Within this sub-heading are three activities, being:

- i Activities producing Listed Wastes
- ii Reception or Storage of Listed Waste
- iii Treatment of Listed Waste.

This activity has been redrafted to consolidate all the Listed Waste activities and ensure that the Authority maintains oversight.

- 10 ***Piggeries*** – Clarifications have been made to what actually constitutes a piggery in terms of location, ie multiple structures within 1 kilometre and the concept of a *standard pig unit* has been introduced as per industry practice.
- 11 ***Meat Processing Works*** – To reflect current industry terminology, this clause has been amended to ‘Meat Processing Works’. This will also clarify that processing is licensable as well as the slaughtering. No businesses will be affected by this proposal.
- 12 ***Railway Operations*** – The Limited Purpose provision has been removed and replaced with the new wording around ‘prescribed factors’.
- 13 ***Cremation or incineration of human or animal remains*** – New activity that moves the cremation of bodies away from the waste provisions as it was seen to be more appropriately placed elsewhere.
- 14 ***Waste Transporters*** – This activity now provides for a licence not being necessary when it is demonstrated that certain ‘prescribed factors’ show that the transporter moving the waste is unlikely to cause environmental harm.

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## Further information

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