

# NORTHERN TERRITORY OF AUSTRALIA

## WASTE MANAGEMENT AND POLLUTION CONTROL (ADMINISTRATION) REGULATIONS

As in force at 27 October 2004

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 27 October 2004

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## WASTE MANAGEMENT AND POLLUTION CONTROL (ADMINISTRATION) REGULATIONS

### Regulations under the *Waste Management and Pollution Control Act*

#### 1 Citation

These Regulations may be cited as the *Waste Management and Pollution Control (Administration) Regulations*.

#### 2 Interpretation

- (1) In these Regulations, unless the contrary intention appears:

***infringement notice*** means an infringement notice issued in pursuance of these Regulations.

***offence*** means an offence against a provision specified in Schedule 1.

***offender*** means a person who an authorised officer reasonably believes has committed an offence.

- (2) For the purposes of these Regulations, in calculating an amount of a fee by reference to the amount of a substance that could be, was or is handled in premises under an environment protection approval or licence, all the activities in relation to the substance under the approval or licence after the substance were introduced into the premises are to be taken to together comprise a single handling of the substance.

#### 2A Listed wastes

For the purposes of the definition of ***listed waste*** in section 4(1) of the Act, the wastes specified in Schedule 2 are prescribed.

#### 2B Application fee for approvals

- (1) The fees specified in this regulation are prescribed for the purposes of section 31(2) of the Act.
- (2) The fee for an application for an environmental protection approval that is required under section 30(1) of the Act to conduct an activity

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specified in item 3 of Part 1 of Schedule 2 to the Act is \$0.005 per tonne of hydrocarbons that the Chief Executive Officer determines could in the 12 month period following the grant of the approval be handled in the premises to which the approval is to relate during the conduct of an activity specified in item 5 of Part 2 of Schedule 2 to the Act.

- (3) Subject to subregulation (4), the fee for an application for an environmental protection approval that is required under section 30(2) of the Act in relation to an activity specified in item 3 of Part 1, or item 5 of Part 2, of Schedule 2 to the Act is \$300.
- (4) If the Chief Executive Officer determines that more hydrocarbons could be handled in the premises to which an environmental protection approval that is required under section 30(2) of the Act relates in the 12 month period after the approval is granted than were handled in the 12 month period before the approval was granted, the fee for the application for the approval is \$0.005 for each additional tonne of hydrocarbons.
- (5) The fee for an application for an environmental protection approval that is required under section 30(1) or (2) of the Act to conduct an activity specified in Schedule 2 to the Act in relation to which a fee is not prescribed elsewhere in this regulation is \$300.
- (6) In determining the amount of hydrocarbons that could be handled in premises, the Chief Executive Officer is to have regard to the intended design and likely processing capacity of the premises.

## **2C Application fee for licences**

- (1) For the purposes of section 31(2) of the Act, the fee for an application for a licence to conduct an activity that is specified in item 5 of Part 2 of Schedule 2 to the Act is \$300.
- (2) For the purposes of section 31(2) of the Act, the fee for an application for a licence to conduct an activity that is specified in Schedule 2 to the Act in relation to which a fee is not prescribed in subregulation (1) is \$300.

## **2D Application fees for multiple activities or premises**

- (1) Subject to subregulation (3), if an application for an environmental protection approval or licence relates to more than one activity that is specified in Schedule 2 to the Act, the fee for the application is the sum of each of the fees specified in regulation 2B or 2C for an activity to which the application relates.
- (2) Subject to subregulation (3), if an application for an environmental protection approval or licence relates to an activity that is specified

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in Schedule 2 to the Act that is undertaken, or is to be undertaken, at more than one premises, the fee for the application is the fee specified in regulation 2B or 2C in relation to the activity, multiplied by the number of those premises.

(3) If the Chief Executive Officer determines that it is unreasonable for subregulation (1) or (2) to apply in relation to an application because:

(a) although the operation to be conducted under the approval or licence consists of more than one of the activities specified in Schedule 2 to the Act, the activities form part of a single operation; or

(b) the activities form part of a single operation but are to be conducted at more than one premises,

he or she may determine that only one fee for the application is payable for all the activities or all of the premises, or both.

(4) The application fee determined under subregulation (3) is to be the highest fee payable under regulation 2B or 2C, as the case may be, for an activity to which the application relates.

## **2E Fee for amendment or revocation of condition**

For the purposes of section 37(2) of the Act, the fee for an application for an amendment to, or a revocation of, a condition of an environment protection approval or a licence is \$100.

## **3 Period in which application to renew licence to be made**

For the purposes of section 40(2)(a) of the Act, the prescribed period is not earlier than 90 days and not later than 30 days before the licence expires.

## **3A Fee for renewal of licence**

For the purposes of section 40(2)(c) of the Act, the fee for the renewal of a licence is:

(a) if the licence to be renewed was, at the request of the applicant for the licence, granted for a period of less than 2 years – a fee equivalent to the annual fee that would have been payable under these Regulations if the licence had been granted for 2 years or more; or

(b) in any other case – \$300.

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**3B Annual fee**

- (1) The fees specified in this regulation are prescribed for the purposes of section 42(2) of the Act.
- (2) The annual fee for a licence to conduct an activity specified in item 1 of Part 2 of Schedule 2 to the Act is \$300 plus \$0.05 for each person by which the population that is to be serviced by the activity is determined by the Chief Executive Officer to exceed 1 000 persons.
- (3) The annual fee for a licence to conduct an activity specified in item 2 of Part 2 of Schedule 2 to the Act is:
  - (a) for the first 12 month period in which the licence is to be in force – \$300; and
  - (b) for each subsequent 12 month period that the licence is to be in force – \$300 plus \$0.05 per each tonne or kilolitre of listed waste that the Chief Executive Officer determines to have been handled under the licence in the previous 12 month period in which the licence was in force.
- (4) The annual fee for a licence to conduct an activity specified in item 3 of Part 2 of Schedule 2 to the Act is:
  - (a) for the first 12 month period in which the licence is to be in force – \$300; and
  - (b) for each 12 month period after the first 12 month period in which the licence is to be in force – \$300 plus \$0.05 per each tonne or kilolitre of listed waste that the Chief Executive Officer determines to have been handled under the licence in the previous 12 month period in which the licence was in force.
- (5) The annual fee for a licence to conduct an activity specified in item 5 of Part 2 of Schedule 2 to the Act is \$0.001 per each tonne of hydrocarbons that the Chief Executive Officer determines, having regard to the design of the premises in which the activity is to be conducted, is likely to be handled in the premises in a 12 month period.

**3C Annual fees for multiple activities or premises**

- (1) Subject to subregulation (3), if a licence relates or is to relate to more than one activity that is specified in Schedule 2 to the Act, the annual fee for the licence for the purposes of section 42(2) of the Act is the sum of each of the fees specified in regulation 3B for an activity to which the licence relates or is to relate.

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- (2) Subject to subregulation (3), if a licence relates or is to relate to an activity specified in Schedule 2 that is undertaken at more than one premises, the annual fee for the licence for the purposes of section 42(2) of the Act is the fee specified in regulation 3B in relation to the activity, multiplied by the number of those premises.
- (3) If the Chief Executive Officer determines that it is unreasonable for subregulation (1) or (2) to apply to a licence because:
- (a) although the operation to be conducted under the licence consists of more than one of the activities specified in Schedule 2 to the Act, the activities form part of a single operation; or
  - (b) the activities form part of a single operation but are conducted at more than one premises,
- he or she may determine that for the purposes of section 42(2) only one annual fee is payable in relation to the licence for all the activities or all of the premises, or both.
- (4) The fee determined under subregulation (3) for a licence is to be the highest fee payable under regulation 3B for an activity to which the licence relates or is to relate.

#### **4 Application fee for registration as qualified environmental auditor**

For the purposes of section 68(2) of the Act, the fee to apply to be registered as a person qualified to perform environmental audits for the purposes of an environmental audit program is \$1300.

#### **5 Exemption from application fee**

The Chief Executive Officer may exempt from the requirement to pay a fee under section 68(2) of the Act a person who:

- (a) is accredited by a body or organisation approved by the Chief Executive Officer under section 69 of the Act; or
- (b) is a person, or is a member of a class of persons, who or which the Chief Executive Officer has approved under section 69(2) of the Act.

#### **6 Issuing of infringement notices**

If an authorised officer has reason to believe that an offence has been committed, the officer may serve an infringement notice on the offender.

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## **7 Particulars to be shown on infringement notice**

An infringement notice is to have clearly shown on it:

- (a) the name of the offender, if known;
- (b) the date, time and place of the offence;
- (c) the nature of the offence and the penalty payable in accordance with section 8 of the *Environmental Offences and Penalties Act*;
- (d) the place or places at which the penalty may be paid;
- (e) the date of the infringement notice and a statement that the penalty may be paid within 28 days after that date;
- (f) a statement to the effect that, if the appropriate amount specified in the infringement notice as the penalty for the offence is tendered at a place referred to in the notice within the time specified in the notice, no further action will be taken; and
- (g) any other approved particulars.

## **8 Payment before expiry date of infringement notice**

- (1) If the total amount of the penalty specified in an infringement notice is paid in accordance with the notice, the offender is to be taken to have expiated the offence by paying the penalty and no further proceedings are to be taken in respect of the offence.
- (2) If the amount of a penalty specified in an infringement notice is paid by cheque, the amount is not to be taken to have been paid unless the cheque is cleared on presentation.

## **9 General**

Nothing in these Regulations:

- (a) prevents more than one infringement notice being served in relation to the same offence but it is sufficient for the application of regulation 8 to a person on whom more than one notice has been served for the person to pay the amount of the penalty in accordance with any one of the notices;
- (b) prejudices or affects (except as provided by regulation 8) proceedings being instituted or prosecuted, or limits the penalty that may be imposed by a court, in relation to an offence; or



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- (c) is to be construed as requiring an infringement notice to be served or as affecting the liability of a person to be prosecuted in a court in relation to an offence in respect of which an infringement notice has not been served.

## **10 Review of decisions**

For the purposes of section 108(1)(r) of the Act, a determination by the Chief Executive Officer under regulation 2B, 2C, 3B or 3C is prescribed.

## **11 Records**

- (1) A person who holds a licence in relation to an activity specified in item 2 or 3 of Part 2 to Schedule 2 to the Act must:

- (a) retain, for 2 years after the end of the 12 month period to which the record relates; and
- (b) make available for inspection by an authorised officer at his or her request,

accurate records of the amount, calculated in tonnes or kilolitres, of listed waste that is collected, transported, stored, recycled, treated or disposed of in each successive 12 month period as part of the activity to which the licence relates.

- (2) An offence against subregulation (1) is an environmental offence level 4.

## **12 Amendment to Schedule 2 to Act**

Schedule 2 to the Act is amended:

- (a) by omitting item 1 from Part 2 and substituting the following:

"Operating premises for the disposal of waste by burial that service, or are designed to service, the waste disposal requirements of more than 1 000 persons."; and

- (b) by omitting item 4 from Part 2.

## **Schedule 1 Offences**

regulation 2

1. *Waste Management and Pollution Control Act*

Sections 14(1), 30(1), (2) and (3), 39(2), 43(1), 51(1), 58(2), 61(5), 63(2), 67, 76(c), 80(2), 83(5) and (7) and 112(2), (3), (4) and (5).

2. *Environment Protection (National Pollutant Inventory) Objective*

Clauses 3, 6, 7 and 8.

## **Schedule 2**

regulation 2A

Acidic solutions or acids in solid form  
Animal effluent and residues (abattoir effluent, poultry and fish processing waste)  
Antimony, antimony compounds  
Arsenic, arsenic compounds  
Asbestos  
Barium compounds other than barium sulphate  
Basic solutions or bases in solid form  
Beryllium, beryllium compounds  
Boron compounds  
Cadmium, cadmium compounds  
Ceramic-based fibres with physico-chemical characteristics similar to those of asbestos  
Chlorates  
Chromium compounds that are hexavalent or trivalent  
Clinical and related wastes  
Cobalt compounds  
Containers that are contaminated with residues of a listed waste  
Copper compounds  
Cyanides (inorganic)  
Cyanides (organic)  
Encapsulated, chemically fixed, solidified or polymerised wastes  
Ethers  
Filter cake  
Fire debris and fire washwaters  
Fly ash  
Grease trap waste  
Halogenated organic solvents  
Highly odorous organic chemicals (including mercaptans and acrylates)  
Inorganic fluorine compounds excluding calcium fluoride  
Inorganic sulfides

Isocyanate compounds  
Lead, lead compounds  
Mercury, mercury compounds  
Metal carbonyls  
Nickel compounds  
Non-toxic salts  
Organic phosphorus compounds  
Organic solvents excluding halogenated solvents  
Organohalogen compounds that are not otherwise specified in this Schedule  
Perchlorates  
Phenols, phenol compounds including chlorophenols  
Phosphorus compounds other than mineral phosphates  
Polychlorinated dibenzo-furan (any congener)  
Polychlorinated dibenzo-p-dioxin (any congener)  
Residue from industrial waste treatment or disposal operations  
Selenium, selenium compounds  
Sewerage sludge and residues including nightsoil and septic tank sludge  
Soils contaminated with a listed waste  
Surface active agents (surfactants) that contain principally organic constituents and that may contain metals and inorganic materials  
Tannery wastes (including leather dust, ash, sludges and flours)  
Tellurium, tellurium compounds  
Thallium, thallium compounds  
Triethylamine catalysts for setting foundry sands  
Tyres  
Vanadium compounds  
Waste chemical substances arising from research and development or teaching activities, including those substances which are not identified and/or are new and the effects of which on human health and/or the environment are not known  
Wastes containing peroxides other than hydrogen peroxide  
Waste, containing cyanides, from heat treatment and tempering operations  
Waste from the manufacture, formulation and use of wood-preserving chemicals  
Waste from the production, formulation and use of biocides and phytopharmaceuticals

Waste from the production, formulation and use of inks, dyes, pigments, paints lacquers and varnish

Waste from the production, formulation and use of organic solvents

Waste from the production, formulation and use of photographic chemicals and processing materials

Waste from the production, formulation and use of resins, latex, plasticisers, glues and adhesives

Waste from the production and preparation of pharmaceutical products

Waste mineral oils unfit for their original intended use

Waste mixtures, or waste emulsions, of oil and water or hydrocarbon and water

Waste pharmaceuticals, waste drugs and waste medicines

Waste resulting from surface treatment of metals and plastics

Waste tarry residues arising from refining, distillation and any pyrolytic treatment

Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs), polychlorinated naphthalenes (PCNs), polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)

Waste of an explosive nature not subject to the *Dangerous Goods Act*

Wool scouring waste

Zinc compounds

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Waste Management and Pollution Control (Administration) Regulations (SL No. 65, 1998)***

Notified	13 January 1999
Commenced	13 January 1999

***Amendments of Waste Management and Pollution Control (Administration) Regulations (SL No. 53, 2001)***

Notified	19 December 2001
Commenced	19 December 2001

***Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)***

Notified	15 September 2004
Commenced	27 October 2004 ( <i>Gaz</i> G43, 27 October 2004, p 3)

**3 LIST OF AMENDMENTS**

r 2	amd No. 53, 2001, r 2
rr 2A – 2E	ins No. 53, 2001, r 3
rr 3A – 3C	ins No. 53, 2001, r 4
rr 10 – 12	ins No. 53, 2001, r 5
sch 1	amd No. 53, 2001, r 6; Act No. 54, 2004, s 8
sch 2	ins No. 53, 2001, r 7