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

## The coal ash order 2014

### 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 coal ash and blended coal ash to which 'the coal ash exemption 2014' applies. The requirements in this order apply in relation to the supply of coal ash and blended coal ash for application to land in line with the uses described in 'the coal ash exemption 2014'.

- 1. Waste to which this order applies
- 1.1. This order applies to coal ash and coal ash blended with other materials (blended coal ash). In this order, coal ash means coal combustion products (CCPs), fly ash or furnace bottom ash from burning Australian black coal. This does not include brine conditioned or treated ash.
- 2. Persons to whom this order applies
- 2.1. The requirements in this order apply, as relevant, to any person who supplies coal ash or blended coal ash that has been generated, processed or recovered by the person.
- 2.2. This order does not apply to the supply of coal ash or blended coal ash 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 24 November 2014 and is valid until revoked by the EPA by notice published in the Government Gazette.

### 4. Generator requirements

The EPA imposes the following requirements on any generator who supplies coal ash.

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- 4.7. The generator 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.
- 4.8. The generator must ensure that the chemicals and other attributes (listed in Column 1 of Table 1) in the coal ash 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.
  - 4.8.1. Test method for measuring the mercury concentration:
    - 4.8.1.1 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).
    - 4.8.1.2 Report as mg/kg dry weight.
  - 4.8.2. Test methods for measuring chemicals 2 11:
    - 4.8.2.1 Sample preparation by digesting using USEPA SW-846 Method 3051A Microwave assisted acid digestion of sediments, sludges, soils, and oils.
    - 4.8.2.2 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 average concentration in Table 1, Column 2 (i.e. 2.5 mg/kg dry weight for lead).</p>
    - 4.8.2.3 Report as mg/kg dry weight.
  - 4.8.3. Test methods for measuring the electrical conductivity and pH:
    - 4.8.3.1 Sample preparation by mixing 1 part coal ash with 5 parts distilled water.
    - 4.8.3.2 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).

4.8.3.3

5.2. Where the pH of the coal ash received is below 6 and it is intended to be supplied for use in non-cementitious mixes, the processor must undertake the following before supplying the coal ash to a consumer for use as in 5.1.3: 5.2.1.

#### Notes

The EPA may amend or revoke this order at any time. It is the responsibility of each of the generator and processor and to ensure it complies with all relevant requirements of the most current order. The current version of this order will be available on www.epa.nsw.gov.au

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 coal ash 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 coal ash 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.