



DOC21/552690

Dear Facility Operator

Consultation on the:

- 1. intention to revoke the 'recovered fines' orders and exemptions**
- 2. draft 'recovered soils' order and exemption**

Thank you for your continued engagement with the Environment Protection Authority (EPA) regarding the application of recovered fines to land. Following a comprehensive review of recovered fines resource recovery quality and compliance, the EPA intends to cease permitting recovered fines (skip bin fines) from being applied to land. The EPA also intends to issue a new recovered soil resource recovery order and exemption to allow for the land application of recovered soils which do not contain recovered fines. You are invited to provide feedback on these proposed decisions.

The review findings

As you are aware, in 2019 the EPA commenced a review of the recovered fines order and exemption. The purpose of the review was to ensure that the materials being produced were of a suitable quality. The review included inspections and sampling at 14 facilities, a review of 2 years' data from monitoring required by the order, and a survey of users of recovered fines. The review identified several issues and potential risks associated with the land application of recovered fines, including:

- the presence of asbestos in recovered fines
- the presence of microplastics, chemically treated timbers and synthetic mineral fibres (SMF) in recovered fines
- failure to meet a chemical or attribute limit at least once in the 2 years of data reviewed
- failure in an aspect of required testing, and in some, failure to meet the testing frequency
- failure to notify the EPA of non-compliances, and evidence of continued retesting of non-compliant samples, and
- that sampling for recovered fines on a "continuous" basis was inadequate as it did not provide a reliable representation of the waste being supplied to the community.

The review also identified that some facilities were producing recovered soil as a separate waste stream to recovered fines, and recovered soil was found to be a superior and cleaner waste stream. Furthermore, asbestos was not found in recovered soil.

Actions following the review

In 2020, the EPA met with individual facilities, and hosted three externally facilitated workshops with industry to present the findings of the review and codesign solutions. The workshops explored (1) improvements to input waste streams; (2) effective processing of waste streams; and (3) proposed changes to the orders and exemptions. I am pleased to advise that many of the ideas and concepts raised by industry during workshop 1 in particular, such as accrediting waste certifiers and licensing transporters of waste, are being explored as part of the EPA Waste Delivery Plan.

What this means for you

The EPA has considered all information and in response is proposing to implement the following regulatory changes:

1. Cease permitting recovered fines from being applied to land, through the revocation of both the "batch" and "continuous" general recovered fines orders and exemptions



2. Issuing site-specific orders and exemptions to facilities that can demonstrate they can make high quality recovered fines; and
3. Developing a new general order and exemption for recovered soil.

To support these changes the EPA will be:

- working with processors to improve handling, management and processing practices, including better detection for asbestos and removal of physical contaminants before and during processing
- considering applications for specific recovered fines orders and exemptions, for facilities that can produce high quality material. Attachment 1 contains a list of the minimum requirements for applying for a specific order and exemption. Please note, the EPA may not necessarily grant specific orders and exemptions if it cannot be demonstrated that high quality recovered fines can be continually produced, even if you meet the minimum requirements
- providing information sessions on the use of the new recovered soil order and exemption
- providing advice on how to use the recovered fines alternative daily cover specification that allows recovered fines to be used as daily cover at landfills with a 75% concessional waste levy discount, and
- continuing to develop improved and updated regulatory controls, including better detection and screening of contaminants at sites before wastes are transported and received at facilities for processing.

The EPA will continue to work with you and other stakeholders to develop a framework to foster a sustainable future for the industry, while ensuring the protection of the environment and human health in NSW.

The EPA is seeking your feedback on the proposed revocation of the recovered fines orders and exemptions.

The EPA is also seeking your feedback on the proposed new recovered soil order and exemption. Please refer to <https://yoursay.epa.nsw.gov.au/recovered-soil-order-exemption> to have your say about the new order and exemption.

Please provide your submissions by close of business **30 September 2021**.

I appreciate your ongoing commitment towards a sustainable construction and demolition recycling industry. If you would like to discuss this further please contact Alan Ly on 9995 5715, or email all correspondence to waste.exemptions@epa.nsw.gov.au.

Yours sincerely,

A handwritten signature in blue ink, which appears to read 'David Fowler', is positioned above the typed name.

2 September 2021

DAVID FOWLER
Executive Director Regulatory Practice and Environmental Solutions

Enclosure

1. Minimum requirements for specific order and exemption applications

Attachment 1 – Minimum requirements for specific order and exemption applications

Application process

- If you are proposing to apply for a specific order and exemption, we encourage you to speak with the EPA first before submitting an application.
- The below specification may need to be demonstrated in your application through sampling and testing. We strongly encourage applicants to engage an environmental practitioner with sampling and testing experience and expertise to undertake sampling and testing and assist in preparing your application.
- Please be aware, should your application be considered, the EPA may also undertake an inspection of your premises, and conduct sampling and testing of your material for validation purposes.

Specification

- Must be source separated materials such as bricks, concrete, and ceramics, or mixed materials such as bricks, concrete and ceramics as the input waste stream used to make recovered fines.
- Must not be mixed C&D waste as the input waste stream used to make recovered fines.
- Must not contain asbestos.
- Must be batch sampled and tested as per the proposed recovered soil order sampling and testing frequency.
- Must be tested for the chemicals and attributes in the proposed recovered soil order, and comply with their associated limits.
- Must have QA/QC procedures as per the proposed recovered soil order.
- Must have a good compliance record with respect to its environment protection licence ('EPL'), and address any outstanding issues with respect to its EPL.