



Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

The James Hardie cement fibre board waste exemption 2021

Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of James Hardie cement fibre board waste from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land as a road making material, or for use in connection with a process of thermal treatment as an alternative input into the manufacture of building products, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the James Hardie cement fibre board waste order 2021'.

1. Waste to which this exemption applies

1.1. This exemption applies to James Hardie cement fibre board waste and blended James Hardie cement fibre board waste that is or is intended to be:

- applied to land when incorporated within road making material, or
- used as an alternative input into thermal processes for non-energy recovery purposes in the manufacture of building products.

1.2. In this exemption, James Hardie cement fibre board waste means either dust or larger pieces of material comprising of sand, cement and cellulose derived from the manufacture of cement fibre board by James Hardie Australia Pty Ltd.

James Hardie cement fibreboard is blended with potable water and/or wash water. In this exemption, wash water means residual sealer wash generated during cement fibre board production that cannot be recirculated through the closed loop water treatment system at James Hardie Australia, 10 Colquhoun Street Rosehill, NSW 2142 (Environment Protection Licence No. 602).

James Hardie cement fibre board waste may be blended with virgin quarried materials, and/or with other resource recovery wastes permitted for land application as a road making material ('blended James Hardie cement fibre board waste').

2. Persons to whom this exemption applies

2.1. This exemption applies to:

- any person who applies or intends to apply blended James Hardie cement fibre board waste to land, and
- any person who uses, or intends to use, cement fibre board waste in connection with a process involving thermal treatment

as set out in 1.1.

3. Duration

3.1. This exemption commences on 17 March 2021 and is valid until 17 March 2022 unless revoked by the EPA at an earlier date.

4. Premises to which this exemption applies

4.1. This exemption applies to

- the premises at which the consumer's actual or intended land application of blended James Hardie cement fibre board waste is carried out, or
- Boral Cement Limited, Taylor Avenue, New Berrima, NSW, 2577 (Environment Protection Licence No. 1698), for the purpose of using James Hardie cement fibre board waste in a thermal treatment process for the manufacture of building products.

5. Exemption

5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of James Hardie cement fibre board waste to land when incorporated within road making material, or used as an alternative input into thermal processes for non-energy recovery purposes in the manufacture of building products at the premises:

- section 48 of the POEO Act in respect of the scheduled activities described in clauses 39, 40 and 42 of Schedule 1 of the POEO Act;
- Part 4 of the Waste Regulation;
- section 88 of the POEO Act; and
- clause 109, 110 and 114 of the Waste Regulation.

5.2. The exemption does not apply in circumstances where James Hardie cement fibre board waste is received at the 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.

6. Conditions of exemption

The exemption is subject to the following conditions:

6.1. At the time the James Hardie cement fibre board waste is received at the premises, the material must meet all chemical and other material requirements that are required on or before the supply of James Hardie cement fibre board waste under 'the James Hardie cement fibre board waste order 2021'.



- 6.2. Blended James Hardie cement fibre board waste can only be applied to land as a road making material.
- 6.3. James Hardie cement fibre board waste:
- can only be used as an alternative input into thermal processes for non-energy recovery purposes in the manufacture of building products, and
 - may be blended with raw, virgin materials during the thermal treatment process.
- 6.4. The consumer must keep a written record of the following for a period of six years:
- the quantity of any James Hardie cement fibre board waste received; and
 - the name and address of the supplier of the James Hardie cement fibre board waste received.
- 6.5. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 6.6. The consumer must ensure that any application of blended James Hardie cement fibre board waste to land must occur within a reasonable period of time after its receipt.

7. Definitions

In this exemption:

application or apply to land means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

consumer means:

- a person who applies, or intends to apply, James Hardie cement fibre board waste to land; and
- a person who uses, or intends to use, James Hardie cement fibre board waste in connection with a process involving thermal treatment.

potable water means water that meets the requirements of the Australian Drinking Water Guidelines (National Health and Medical Research Council), and that does not meet the definition of waste as it is defined by the POEO Act.

resource recovery waste means waste to which a resource recovery exemption applies.

Wash water means residual sealer wash generated during cement fibre board production that cannot be recirculated through the closed loop water treatment system at James Hardie Australia, 10 Colquhoun Street Rosehill, NSW 2142 (Environment Protection Licence No. 602).

17/3/21

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Environment Protection Authority

Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption.

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not the James Hardie cement fibre board waste is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption 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 receipt of James Hardie cement fibre board waste remains subject to other relevant environmental regulations in the POEO Act and the 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 having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.