



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

Benedict mixed materials order 2022

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 Benedict mixed materials to which the '*Benedict mixed materials exemption 2022*' applies. The requirements in this order apply in relation to the supply of Benedict mixed materials for application to land as a soil conditioner or as an engineering material.

1. Waste to which this order applies

1.1. This order applies to Benedict mixed materials. In this order Benedict mixed materials means both Benedict engineering mix and Benedict horticultural mix:

1.1.1. Benedict horticultural mix means a blend of any of the following:

- virgin excavated natural material ('VENM') as defined in the *Protection of the Environment Operations Act 1997* (POEO Act);
- pasteurised garden organics as defined in *The pasteurised garden organics order 2016* and *The pasteurised organics exemption 2016*;
- mulch as defined in *The mulch order 2016* and *The mulch exemption 2016*;
- compost as defined in *The compost order 2016* and *The compost exemption 2016*;
- manure as defined in *The manure order 2014* and *The manure exemption 2014*; and/or
- coal ash as defined in *The coal ash order 2014* and *The coal ash exemption 2014*.

1.1.2. Benedict engineering mix means a blend of any of the following:

- virgin excavated natural material ('VENM') as defined in POEO Act;
- coal ash as defined in *The coal ash order 2014* and *The coal ash exemption 2014*; and/or
- aggregate as defined in *The recovered aggregate order 2014* and *The recovered aggregate exemption 2014*.

2. Persons to whom this order applies

2.1. The requirements in this order apply to Benedict Industries Pty Ltd (ABN – 46 001 926 503) who supplies Benedict mixed materials that have been blended at either:

- 2.1.1. Menangle Sand and Soil, 31 Menangle Rd, Menangle NSW 2568 (EPL - 3991); or

- 2.1.2. Appin Sands Quarry, Appin Rd, Appin NSW 2560 (EPL – 21180); or
 - 2.1.3. Sandy Point Quarry, 14309 Heathcote Rd, Sandy Point NSW 2172 (EPL - 1924).
- 2.2. This order does not apply to the supply of Benedict mixed materials 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 9 August 2022, and is valid until 8 August 2024, unless revoked by the EPA in writing at an earlier date.

4. Revocation

- 4.1. The 'Menangle Sand and Soil (MSS) landscaping mix order 2021' which commenced on 15 November 2021 is revoked as of 9 August 2022.

5. Processor requirements

The EPA imposes the following requirements on any processor who supplies Benedict mixed materials.

- 5.1. The processor must receive a statement of compliance from the supplier of the compost, pasteurised garden organics, mulch, coal ash, recovered aggregate, or manure, that demonstrates compliance with their own respective resource recovery orders prior to receiving those materials on site.
- 5.2. The processor must ensure any compost, pasteurised garden organics, mulch, coal ash, recovered aggregate, or manure, generated on site at any of blending sites listed in 2.1 has been demonstrated as compliant with their own respective resource recovery orders prior to blending with any other material to produce Benedict mixed materials.
- 5.3. The processor must obtain a waste classification report from suppliers of virgin excavated natural material prior to receipt of that material that states that the material to be supplied meets the definition of virgin excavated natural material in the POEO Act;

Notification

- 5.4. On or before each transaction, the processor must provide the following to each person to whom the processor supplies the Benedict mixed materials:
 - a written statement of compliance certifying that all the requirements set out in this order have been met;
 - a copy of 'the Benedict mixed materials exemption 2022' or a link a website where 'the Benedict mixed materials exemption 2022' can be found; and
 - a copy of 'the Benedict mixed materials order 2022' or a link to a website where 'the Benedict mixed materials order 2022' can be found.

Record keeping and reporting

- 5.5. The processor must keep a written record of the following for a period of six years:
 - the quantity of each material type received and the suppliers name and address;
 - the VENM waste classification reports associated with any VENM used in the Benedict mixed materials;
 - the statements of compliance associated with any compost, pasteurised

- garden organics, mulch, manure and coal ash in the Benedict mixed materials;
- the quantity of the Benedict mixed materials supplied; and
- the name and address of each person to whom the processor supplied the Benedict mixed materials.

6. Definitions

In this order:

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 Benedict mixed materials to land.

engineering material means use in applications such as engineered fill or in earthworks as follows:

- (a) pipe bedding material,
- (b) selected backfill adjacent to structures,
- (c) road pavement, base and sub base structures,
- (c) rigid and composite pavement structures,
- (d) select layers which act as working platforms at the top of earthworks,
- (e) fill for reinforced soil structures (including geo-grid applications).

processor means a person who mixes, or blends, or otherwise incorporates Benedict mixed materials for supply to a consumer. The processor in this order is Benedict Industries Pty Ltd.

supplier means any person who supplies pasteurised garden organics, mulch, compost, manure, coal ash or aggregate to Benedict for the purpose of blending into Benedict mixed materials

transaction means:

- in the case of a one-off supply, the supply of a batch, truckload or stockpile of Benedict mixed materials that is not repeated,
- in the case where the supplier has an arrangement with the recipient for more than one supply of Benedict mixed materials the first supply of Benedict mixed materials as required under the arrangement.

soil conditioner means a material that measurably improves specific soil physical characteristics or physical processes for a given use or as a plant growth medium.



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Notes

The EPA may amend or revoke this order at any time. It is the responsibility of each of the generator and processor to ensure it complies with all relevant requirements of the most current order.

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 Benedict mixed materials 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 Benedict mixed materials 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.