



Waste levy and approved operational use guideline

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Disclaimer

This publication is a guide only and does not necessarily provide adequate information in relation to every situation. This publication seeks to explain your possible obligations in a helpful and accessible way. In doing so, however, some detail may not be captured. It is important, therefore, that you seek appropriate advice regarding your obligations, including legal advice.

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Abbreviations

EPA	South Australian Environment Protection Authority
EP Act	<i>Environment Protection Act 1993</i>
EP Regulations	<i>Environment Protection Regulations 2009</i>
MBR	mass balance reporting

1 Introduction

This guideline provides advice on how the waste levy is to be calculated and paid under the *Environment Protection Regulations 2009* (EP Regulations). It has been developed to assist licensees in understanding their obligations relating to the waste levy in a helpful and accessible way, including new requirements under the revised waste levy provisions of the EP Regulations effective from 1 December 2021.

Under section 113 of the *Environment Protection Act 1993* (EP Act) and part 6 of the EP Regulations, the waste levy is payable in respect of:

- Solid or liquid waste disposed of (including solid waste used as daily cover in landfill and disposal by incineration).
- Solid waste (including waste derived materials) used for an unapproved operational use.
- Solid waste (including waste derived materials) stockpiled in contravention of an EPA licence condition.

Applicable waste levy rates are published on the [EPA website](#). Full or partial waste levy waivers may apply under section 116 of the EP Act in approved cases of a kind.

Only licensed waste disposal depots¹ are liable to pay the waste levy (ie landfills, liquid waste depots and incineration depots). Other waste recovery and reprocessing facilities, which do not undertake disposal, are not required to pay the waste levy.

From 1 December 2021, the *Environment Protection (Waste Depot Levy) Variation Regulations 2021* will amend how the solid waste levy is collected from landfills. The waste levy regulations have not previously been substantially updated since their commencement in the early 1990s. These amendments aim to ensure that the solid waste levy is collected in a fair and consistent manner that continues to drive positive resource recovery and environmental outcomes. The changes include:

- **Daily cover** – a 10% daily cover deduction on waste levy payments applied to landfills required to use daily cover ([section 2.3](#)).
- **Waste fill** – removal of the \$0 levy on waste fill, meaning the full applicable solid waste levy rate applies to disposal of waste fill ([section 2.4](#)).
- **Operational use** – operational use of waste at landfills attracts the solid waste levy unless it is an approved operational use ([section 4](#)).
- **Stockpiles** – stockpiling at landfills which is in contravention of EPA licence conditions attracts the solid waste levy ([section 5](#)).
- **Penalties** – lower penalties prescribed for default on waste levy payments which are self-reported by the licensee to the EPA, or where the EPA is satisfied that all reasonable and practicable measures were taken to prevent the default from occurring ([section 7](#)).

If you have any queries or are unsure about how these requirements apply to you, please contact (08) 8204 2004 or [email](#) and provide your EPA licence number.

¹ As defined in clause 3(3) of Schedule 1 of the Act

2 Monthly waste levy returns

2.1 Manner and form of monthly returns

The waste levy is required to be paid on a monthly basis. In accordance with regulation 71(1), a person licensed to conduct a waste disposal depot under the EP Act must provide the EPA with a monthly waste levy return detailing solid and liquid waste disposed of at the depot during the month (other than councils electing to pay the levy under regulation 75 – see [section 2.6](#)). The monthly return is used to calculate the amount of waste levy required to be paid by the waste depot.

Monthly returns are due to the EPA by the 28th day of the following month with payment due by the 28th day of the month after. For example, returns for the month of July are due by 28th August, with payment due by 28th September. Penalties apply for late payment of the waste levy (see [section 7](#)).

In accordance with regulation 71(2), monthly returns must be completed in the manner and form approved by the EPA. Waste levy monthly returns must be submitted via the [online Environment Licensing Forms \(ELF\) licensee portal](#), in the manner and form provided for by that system.

Reported solid waste disposed must include any residual waste disposed of from on-site resource recovery processes, and any waste or waste-derived materials used as daily cover for landfill (see [section 2.3](#)).

The monthly waste levy return should not include waste which is stockpiled or used for an operational use at the waste depot during the month. However, some waste depots (eg those receiving over 20,000 tonnes of waste or other matter per annum) are also required to submit a monthly *mass balance report* under regulation 71(2), which includes requirements to report monthly on material used for an operational purpose, and to provide details of stockpiled materials annually. Please visit the [Mass balance reporting page](#) for more information.

The following information is provided to assist you in understanding applicable levy rates under the EP Regulations and what should be included in monthly waste levy returns.

2.2 Metro vs non-metro

In accordance with Schedule 4, Part 2, clause 3 of the EP Regulations, a 50% reduced levy rate applies to waste which is generated and disposed of outside metropolitan Adelaide (non-metro), or which is disposed of within the Adelaide metropolitan region (metro) by or on behalf of a non-metro council (Table 1).

Waste which is generated outside of metropolitan Adelaide but disposed of inside metropolitan Adelaide attracts the metropolitan levy rate (Table 1). Monthly waste levy returns must specify whether waste is metro or non-metro in order to determine the applicable levy rate.

Refer to the [map of the Adelaide metropolitan boundary](#).

Table 1 Applicable levy rate – metro vs non-metro

	Location where waste is generated	Location where waste is disposed of	Applicable levy rate
A	Outside metropolitan Adelaide	Outside metropolitan Adelaide	Non-metro levy rate
B	By a council wholly outside of metropolitan Adelaide	Within metropolitan Adelaide	Non-metro levy rate
C	Outside metropolitan Adelaide (other than B)	Within metropolitan Adelaide	Metro levy rate
D	Inside metropolitan Adelaide	Outside metropolitan Adelaide	Metro levy rate

In certain circumstances, waste generated in a non-metropolitan area, which has been diverted through a metropolitan resource recovery facility or transfer station and then disposed of at a non-metropolitan landfill may have the non-metropolitan levy rate applied. EPA written approval must be obtained before this can occur. Each instance is dealt with on a case-by-case basis. If this applies to your operation please [contact Waste Levy Audit](#) for details on the requirements.

2.3 Daily cover deduction

Waste used as cover for landfill on a daily or more frequent basis, including any waste derived alternative daily cover materials, must be included in monthly waste levy returns under 'solid waste'. This includes any waste or waste-derived materials received or generated at the depot and used for cover of the landfill face. However, this does not include on-site excavated soil, fibre/polymer-based spray cover products or tarpaulin-based cover systems. This also does not include material used for an approved operational use, such as capping or interim cover (see [section 4](#)).

Stockpiled daily cover material does not need to be reported on monthly waste levy returns until it is placed in the landfill cell for use provided the mass of the daily cover material is calculated as it is used (see section 5 for more information regarding regulation of stockpiled materials). Daily cover material can alternatively be reported at the time it is moved to the cell for use so that it is not necessary to separately report the amount of daily cover material used each day.

In accordance with Schedule 4, Part 2, clause 3(2) of the EP Regulations, waste disposal depots which are required under condition of their EPA licence to cover landfilled waste with material on a daily or more frequent basis will have a 10% deduction applied to the waste levy payable.

The deduction is automatically applied to eligible licensees once monthly returns are made via the ELF licensing portal. The amount of the deduction is calculated as follows:

$$\text{Deduction (10\%)} \times \text{Waste disposed (tonnes)} \times \text{Average levy rate paid (\$)}$$

Where:

- **waste disposed (tonnes)** is the total tonnes of all levyable waste disposed or used as daily cover (including tonnes of waste subject to a ministerial levy waiver, such as asbestos)
- **average levy rate paid (\$)** is the average full metro and non-metro levy rate paid on solid waste (excluding any levy subject to a ministerial levy waiver, such as asbestos).

In all circumstances, landfills must ensure they are complying with regulatory obligations under the EP Act and their EPA licence relating to the covering of waste.

For more information on the covering of waste see the EPA guideline, [Environmental management of landfill facilities](#).

2.4 Waste fill

Up until 1 December 2021, the disposal of waste fill (as defined in regulation 3 of the EP Regulations) has attracted a \$0 levy rate. This was to reflect a historical requirement that landfills use waste fill for daily cover. Currently, alternative daily cover materials are often used. As of 1 December 2021, a 10% deduction will apply to account for the use of any daily cover materials (see [section 2.3](#)), and waste fill will attract the full applicable levy rate and is no longer required to be reported separately from other solid waste and other matter in monthly levy returns.

As with other waste, all waste fill disposed of or used as daily cover during the month must be included in monthly waste levy returns (ie waste fill received during the month and stockpiled must not be included – see [section 5](#)).

All waste fill disposed of or used as daily cover during the month must be included in monthly waste levy returns regardless of whether it is stockpiled waste fill which was previously reported to the EPA as waste fill received for disposal prior to the regulations being amended on 1 December 2021.

2.5 On-site excavated soil

There is no levy payable on on-site excavated soils as this does not constitute 'waste received at the depot' in accordance with section 113 of the EP Act. On-site excavated soils which are disposed of or used for daily cover do not need to be included in monthly waste levy returns.

Landfill depots disposing of 10,000 tonnes of solid waste per annum or more must undertake a volumetric survey of the entire depot site. (Prior to 1 July 2021, a volumetric survey of the landfill cell only was required). This assists the EPA in monitoring and accounting for the use of on-site excavated soils at depots.

2.6 Population formula

Under regulation 75 of the EP Regulations, councils which operate a waste disposal depot may elect to pay the waste levy on the basis of the population formula (rather than on the basis of each tonne of waste received). This only applies if:

- The whole council area is located outside of metropolitan Adelaide, and
- All waste received for disposal at the depot is from premises situated outside of metropolitan Adelaide, and
- The depot receives less than 10,000 tonnes of solid waste for disposal per annum.

If a council elects to pay the levy on the basis of the population formula then no monthly waste levy return is required to be submitted to the EPA.

Councils who also dispose of wastes from outside of their own council area should provide a monthly waste levy return to accurately reflect the amount of waste disposed of.

3 Waste measurement and weighbridge requirements

Regulation 71A outlines how waste is to be measured for the purposes of monthly waste levy returns. This section provides an overview of how these requirements apply to waste disposal depots for the purposes of monthly waste levy returns to assist you in understanding your obligations under the EP Regulations.

Further detail and requirements are also outlined in the [Waste reporting, record keeping and measurement standard](#) (the Standard), including details on conversion factors and when these may be used.

3.1 Waste measurement when a weighbridge is required

Under regulation 72(1), waste depots are required to install an approved weighbridge if, in a financial year, it:

- received 20,000 tonnes or more of solid waste and other matter

OR

- disposed of 10,000 tonnes or more of solid waste (including waste used as cover for landfill).

Some limited exceptions to this requirement are prescribed in regulation 72(3).

'Approved weighbridge' is defined in regulation 3 and means a weighbridge that is operated in accordance with a licence issued under the Commonwealth *National Measurement Act 1960*, or a weighbridge that is approved by the EPA under regulation 69.

Under regulation 71A(3)(a), landfills with an approved weighbridge must use it to determine the mass of waste for the purposes of monthly waste levy returns, unless the [Waste reporting, record keeping and measurement standard](#) determines otherwise (see section 4.1 of this standard).

3.2 Waste measurement when a weighbridge is not required

Where a waste depot is not required to install an approved weighbridge, under regulation 71A(3)(b) waste depots may determine the mass of waste for the purposes of a monthly waste levy return either:

- with the use of an approved weighbridge

OR

- by using conversion factors for the relevant vehicle class in accordance the [Waste reporting, record keeping and measurement standard](#).

If there is no relevant conversion factor specified in the standard, the waste depot must use an approved weighbridge. Under regulation 73(1)(a), the EPA may grant an exemption from the requirement to use a weighbridge if the waste depot disposes of less than 10,00 tonnes and the EPA is satisfied that the waste depot uses adequate alternative methods of measuring the mass of solid waste or other matter (such as site-specific conversion factors).

3.3 Liquid waste

Regulation 71A(5) specifies methods that may be used to measure liquid waste disposed of at the depot. These include any of the following:

- Use of a dipstick pre-calibrated for the liquid waste container.
- A volume-measuring device installed at the depot and approved by the EPA.
- An approved weighbridge.
- A certified cartnote signed by the producer and the transporter (Waste transport certificate or Waste tracking form).
- If the liquid waste container is full, calculated from the dimensions of the container.

4 Approved operational use

From 1 December 2021, the operational use of solid waste or waste derived materials received at a landfill will attract the waste levy unless it is an 'approved operational use' in accordance with regulation 69A. An approved operational use means:

- An operational use of a kind specified under the *Approved Operational Use Standard* and carried out in accordance with the requirements specified in that standard (no standard has been published at this time)

OR

- An operational use undertaken into accordance with a site-specific *approved operational use declaration* made by the EPA under regulation 69A.

The levy is payable on waste used for an unapproved operational use, or used in breach of applicable conditions or requirements in the standard or relevant declaration (including exceeding the amount of material permitted to be used). The levy will be applied to waste used in breach of any applicable conditions or requirements, but not to any material used in accordance with the approval.

Under regulation 75AA, if waste or other matter is found to have been used for an unapproved operational use, the EPA may estimate the amount of levy owed and issue an invoice to recover the amount.

Whether the waste or other matter must be removed and/or disposed of will depend on whether the use breaches other regulatory requirements or conflicts with EPA policy outcomes if left in place.

4.1 When is a declaration required for an operational use

An approved operational use declaration is required when waste or other matter received at the depot is to be used for an operational use not already specified in the *Approved Operational Use Standard*. This includes anything which meets the definition of waste under the EP Act, or other matter associated with waste (such as waste-derived materials).

Examples of operational uses include:

- construction or maintenance of internal roads
- interim cover of landfill
- final capping of landfill cells
- landscaping and mulching.

An approved operational use declaration will not be granted for material used for daily cover within a landfill cell as an allowance is already made for this. As outlined in [section 2.3](#), a 10% deduction to levy payments is applied where a landfill is required to use daily cover to allow for its use. No further allowance will be made for use of daily cover materials.

Certain materials, when used for an operational purpose, do not constitute waste or other matter received at the depot and do not require approval under regulation 69A, such as:

- Soils excavated from within the depot site.
- Virgin materials purchased from a quarry and brought to the depot for that use (such as quarried sand or crushed rock).
- Construction materials manufactured, purchased and brought to the depot for that use (such as steel beams for building construction or geotextiles for landfill cell construction).

However, use of these material may still be regulated for other purposes under EPA licence, such as to ensure appropriate landfill cell construction or site profiling for environmental management purposes.

This information is provided for illustrative purposes only. Whether or not approval under regulation 69A is required may depend on the individual facts of a specific case. If you are uncertain whether approval is required you should seek clarification from the EPA.

4.2 Applying for an approved operational use declaration

In order for the EPA to make an approved operational use declaration, it must be satisfied that the operational use is:

- Necessary for an operational or environmental management purpose.
- The type of waste or other matter proposed to be used is suitable for that purpose.

In determining whether or not to issue an approved operational use declaration, the EPA must have regard to factors prescribed under regulation 69A(3) and seek to further the objects of the EP Act prescribed under section 10.

Approved operational use declarations will only be issued for operational uses which are already permitted under conditions of licence for the respective landfill facility. If an operational use is not permitted under licence, you must first establish approval for this to occur under your licence which may include a change of licence conditions, a process change application, amendment to the landfill environment management plan, etc.

Functionality is currently being developed for applications to be made via the [Environment Licensing Forms](#) portal, which will detail information to be provided. For current instructions on how an application can be made please see the [Waste levy page](#).

Under regulation 69B, a person who makes an application for an approved operational use declaration must provide any information required by the EPA in order to make a determination on the application. The EPA may also require this information to be verified by statutory declaration. Failure to comply in this regard will result in consideration of the application being terminated.

The EPA will seek to consider applications and make a determination in a timely manner. However, timeframes will depend on the complexity of the matter under consideration and the timely provision of necessary information to support the application.

4.3 Conditions of declarations

An approved operational use declaration issued by the EPA must be in writing and clearly specify that it is for the purposes of making a declaration for an approved operational use under regulation 69A.

In accordance with regulation 69A(4), a declaration must specify:

- the type and amount of the waste or other matter to which the declaration applies
- the purpose and location of the operational use.

The declaration may also be subject to such other conditions as the EPA thinks fit. For example, conditions may relate to:

- the operational use occurring in a specified manner or timeframe
- plans, specifications or reports being prepared by a person with specified qualifications
- works being carried out by a person with specified qualifications
- complete and accurate records being kept relating to the operational use and available for inspection.

Under regulation 69A(4)(d), the declaration and its conditions may be varied or revoked at any time if the EPA is satisfied that:

- a condition of the declaration has been contravened

OR

- there is potential for environmental harm to occur

OR

- the declaration was improperly obtained

OR

- other circumstances exist, which make it necessary or appropriate to do so.

5 Stockpiles

From 1 December 2021, the stockpiling of solid waste (including waste fill) in contravention of conditions of an EPA licence at a landfill may attract the waste levy. This includes waste or other matter which is stockpiled in breach of a maximum allowable stockpile limit ('unauthorised stockpiling'), or in breach of another relevant EPA licence condition, such as a requirement that particular material be stockpiled under cover.

If there are no applicable requirements or conditions relating to stockpiling then no levy is payable.

If waste is found to have been stockpiled in breach of applicable requirements (eg stockpile limits), the EPA may estimate the amount of levy owed and issue an invoice to recover the amount. The levy will be applied to waste stockpiled in breach of any applicable requirements only, but not to any material stockpiled in accordance with applicable requirements and conditions (as shown in Figure 1).

If the waste is required to be removed and disposed of to achieve compliance, the levy will not be required to be paid twice in respect of the same waste.

If there are circumstances which necessitate maximum allowable stockpile limits to be temporarily increased, the licensee should contact the EPA to discuss this matter.

Application of the waste levy to unauthorised stockpiling is applicable to waste disposal depots only (ie landfills). There is no ability to apply the waste levy to stockpiles at other waste depots which do not undertake disposal (eg material recovery facilities or transfer stations).



Figure 1 Levy payable on unauthorised stockpiling (material stockpiled in breach of a stockpile limit)

It is noted that under section 51 of the EP Act, the EPA may require a financial assurance as a condition of authorisation where there is a risk of unauthorised stockpiling or abandonment of waste or other matter. See EPA information sheet, [Financial assurances and stockpiling – who, when, what and how much](#) for further information.

6 Site surveys

A site survey is a series of site measurements used to verify the quantity of waste disposed of at the depot and material remaining on site (ie stockpiles). The first survey provides a base plan of the depot, with subsequent surveys showing the amount of waste deposited.

In accordance with regulation 74A, all landfills disposing of over 10,000 tonnes of solid waste in a financial year must undertake and submit a site survey at least three months but not more than six months before the annual anniversary date of their EPA licence.

Landfill surveys must include the entire waste depot site (not just the landfill cell). To support this change, waste depots disposing of over 10,000 tonnes of solid waste must provide an initial baseline survey by 30 September 2021.

The survey must be completed in accordance with requirements specified in the [Waste reporting, record keeping and measurement standard](#).

It is noted that under regulation 75AAB the EPA may, by notice in writing, require a waste depot to provide a volumetric survey at any time for the purposes of determining the amount of levy payable by the depot if records are considered to be inadequate under regulation 75AA.

7 Penalties for default on levy payments

Regulation 70 specifies the penalties which apply when a default on levy payments occurs. A default occurs when a licensee fails to pay by the due date, the whole or part of any levy that the licensee is liable to pay.

Applicable penalties are summarised in the table below, where the penalty applied is the higher of the base amount or the percentage applied to the amount due for each month (or part of a month) for which the default continues.

A	Where reasonable and practicable measures were taken to prevent the default	\$200 or 2%
B	Where the default is identified and voluntarily reported to the EPA	\$200 or 2%
C	Where both A and B apply	\$150 or 1.5%
D	In any other case	\$350 or 3.5%

The lower penalties specified in A, B and C may be applied in certain circumstances (outlined below) in order to encourage licensees to adopt good administrative processes, and encourage self-auditing and self-reporting of levy payments.

7.1 Reasonable and practicable measures

Under regulation 70(2)(a), the EPA may apply a reduced penalty to default of levy payments (being the higher of \$200 or 2% of the amount due for each month, or part of a month), where the licensee satisfies the EPA that all reasonable and practicable measures were taken to prevent the default from occurring.

In order to show that reasonable and practicable measures were taken, licensees must keep complete and accurate records, make diligent efforts to understand and comply with the law, seek expert advice on uncertain or complex matters and be honest in their dealings with the EPA.

In determining whether a licensee has taken all reasonable and practicable measures, the EPA will take into account all relevant factors and each case will be considered on its merits. The following, while not exhaustive, are examples of factors which may indicate that all reasonable and practicable measures have been taken:

- The licensee has a good history of reporting, compliance and cooperation with the EPA.
- The licensee maintains a complete and accurate records system.
- The licensee has documented administrative control processes aimed at averting the risk of a default from occurring (such as multiple officer sign-offs and self-auditing processes).
- Staff of the licensee responsible for weighing, recording and reporting waste tonnages are competent and qualified.
- The licensee has taken reasonable steps to be aware of their obligations, including familiarising themselves with the relevant legislation and seeking expert advice for uncertain or complex matters.
- The licensee acted promptly to seek advice or provide information once becoming aware that a default may have occurred.
- The default occurred due to circumstances outside of the licensee's control (such as unexpected postal delays or IT breakdowns to third party systems).

Financial incapacity is not considered to be a circumstance outside the licensees' control.

7.2 Voluntarily reported default

Under regulation 70(2)(b), the EPA may apply a reduced penalty to default of levy payments (being the higher of \$200 or 2% of the amount due for each month, or part of a month), where the default has been identified and voluntarily reported to the EPA.

In order for this provision to apply, the default must be reported by the licensee before the EPA has identified and notified the licensee of the default.

A voluntary report must be in writing and provide sufficient information to determine the nature and extent of the default. The report must state the identity of the licensee, the nature, period and amount of the default, and an explanation of how the default occurred.

This lower penalty is to encourage licensees to undertake self-auditing and to voluntarily report any discrepancies as soon as they are identified. Since penalties accumulate for each month the default continues, the sooner a default is reported and rectified, the lower the penalty which will be applied.

A penalty is still applied for voluntarily reported defaults to ensure licensees are encouraged to make levy payments accurately and on time.

8 Record-keeping requirements

Under regulations 75A and 75B, waste disposal depots are required to keep records relating to the measurements of waste, be it via use of a weighbridge or by another method (ie conversion factors). Table 2 provides a summary of the records required to be kept.

In accordance with regulation 75G, records must be kept for at least five years and be available for inspection and duplication when requested by an EPA authorised officer. Further requirements relating to record keeping are also specified in the [Waste reporting, record keeping and measurement standard](#) (as referenced in the EP Regulations).

Additional record-keeping requirements apply to waste depots required to complete a monthly mass balance report (see Part 6, Division 4 of the EP Regulations and the [Waste reporting, record keeping and measurement standard](#) for further information).

Under regulation 75AA, the EPA may make presumptions and estimates about the amount of levy payable by a licensee if records are found to be inadequate. Records are considered to be inadequate if, for example, there are no records, records are incomplete, inaccurate or inconsistent records, or if information contained in the records was obtained through inappropriate means.

Table 2 Summary of record keeping requirements relating to measuring of waste

Weighbridge is used	Conversion factors are used
Date and time	Date
Mass (tonnes)	Mass (tonnes)
Vehicle registration	Conversion factor used
Business name of transporter (if applicable)	Source of conversion factor (eg EPA standard)
Levy rate applied	
Weighbridge operator name	