



Excavated Natural Material (ENM)

Definition

Excavated Natural Material (ENM) is naturally occurring rock and soil (including materials such as sandstone, shale, clay and soil) that has:

- Been excavated from the ground
- Contains at least 98 per cent (by weight) natural material
- Does not meet the definition of Virgin Excavated Natural Material (VENM).

ENM does not include material that has been processed or contains acid sulphate soils or potential acid sulphate soils.

An example of the difference between VENM and ENM: A noise mound that was originally formed using VENM and is demolished many years later is now considered ENM. The reason is that in the intervening period there is a risk that the noise mound may have been contaminated with other materials such as oils, dumped asbestos etc. and needs to be tested before re-use.

Waste classification

General solid waste (non-putrescible).

Do I need an Environment Protection Licence to re-use ENM?

- Onsite re-use:** No
- Offsite re-use:** No. Provided the conditions of the resource recovery order and exemption for ENM are met (see below).

Is ENM covered by a resource recovery order and exemption?

Yes. ENM can be re-used offsite provided all conditions attached to the EPA's resource recovery order and exemption are complied with.

Generator responsibilities are specified in the *Excavated natural materials order 2014*. They include that prior to re-use of ENM off-site the generator certify that the ENM complies with the relevant conditions of the ENM order and provide the off-site consumer with:

- A written statement of compliance, certifying that the excavated natural material complies with the conditions of the *excavated natural material order 2014*
- Copies of all test results (see below)
- A copy of the *excavated natural material exemption 2014*, or a link to the EPA website where the ENM exemption can be found.

The generator must keep a written record of the quantity of ENM supplied, and the name and address of each person to whom the processor supplied the ENM. Records must be kept for six years.

Consumer responsibilities are specified in the *Excavated natural material exemption 2014*. They include ensuring that the ENM:

- Meets all chemical and other material requirements as per the excavated natural material order
- Is only applied to land as engineering fill or for use in earthworks
- Is applied to land within a reasonable period of time after its receipt

A consumer must keep records of the quantity of ENM received and the suppliers' name and address. These records must be kept for six years.

A copy of the ENM order and exemption can be found here:

<http://www.epa.nsw.gov.au/wasteregulation/orders-exemptions.htm>

Do I need to take samples and perform any tests for contaminants?

Yes. ENM must be sampled, tested and contain contaminant levels less than the criteria listed in the ENM order before the material is transported to receiving site. To assist, refer to Environment Fact Sheet EFS-706 on waste sampling and testing to ensure that samples are collected correctly.

Additional testing (beyond the ENM criteria) is only required if there is evidence that potentially contaminating activities previously took place on the excavation site (for example, former service station site, cattle tick dip site, banana plantation). If this is the case, specialist advice should be obtained from Environment Branch on additional test requirements.

Written records of all test reports must be kept for a period of six years.

Do I need to obtain a Section 143 Notice from the landholder for the offsite disposal of ENM (for example, as fill material)?

Yes. When disposing of ENM off-site to a private or publically owned site you must issue the landholder with a copy of the proforma letter and Section 143 Notice as per [Environmental Direction No: 20](#).

The landholder must complete, sign and return the 143 Notice to Roads and Maritime Services prior to the waste being transported to the landholder's site.

Important note: The landholder must attach written evidence that legal consent has been granted from the local council or planning consent authority showing that the material can legally be accepted onto the lanholder's site.

If I need to dispose of the material, what type of waste facility can I take the material to?

Any waste facility, such as a council tip, licensed to accept ENM.

Prior to transporting the material to a waste facility, you should ask for a copy of the facility's environment protection licence or check the EPA's public licence register to ensure that the facility's licence states that it can accept ENM.

The EPA's public register is located at: <http://www.epa.nsw.gov.au/prpoeoapp/>.

Are there any legal waste transporter or waste tracking requirements?

No, but as a minimum and for due diligence reasons, you should keep records of the:

- Amount and the type of waste generated, stored, treated or disposed of
- Amount and the type of waste transported

- Name of the transporter and transporter's vehicle registration number
- Date of transportation
- Name and location of the waste facility that is receiving the waste.

Re-use opportunities

ENM by its nature can be re-used easily. Weed free topsoil may be stockpiled and reused on batters or in landscaping and revegetation works.

ENM may be sent offsite to a place that can legally accept this material for reuse or reprocessing.

To facilitate future re-use, ENM should not be mixed with any other types of waste.

Further information

If you require further advice on Roads and Maritime waste issues, please contact your regional environment staff or the Senior Environmental Specialist (Sustainability) in the Environment Branch on 02 8843 3055.

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