

Regulations relating to environmentally hazardous substances, waste and waste water and waste management fees in Svalbard

Laid down by the Ministry of the Environment on 24 June 2002 pursuant to sections 66, 71 and 72 of the Act of 15 June 2001 No. 79 relating to the protection of the environment in Svalbard (Svalbard Environmental Protection Act).

Chapter I. Introductory provisions

§ 1. (purpose)

The purpose of these regulations is to protect the outdoor environment in Svalbard against particularly harmful substances, and to prevent and reduce pollution that may damage the natural environment or cultural heritage.

§ 2. (scope)

Subject to the limitations imposed by international law, these regulations apply to the entire land area of Svalbard and its waters out to the territorial limit.

§ 3. (definitions)

For the purpose of these regulations, the following definitions apply:

- a) *environmentally hazardous substances*: substances that are not readily biodegradable or are bioaccumulative (become concentrated in living organisms) and that may cause damage even in low concentrations,
- b) *waste*: discarded articles of personal property or substances. Surplus objects and substances from service industries, manufacturing industries and treatment plants, etc., are also considered to be waste, but not waste water or exhaust gases,
- c) *consumer waste*: ordinary waste, including large objects such as furniture, etc., from private households, small shops, etc., and offices. The same applies to waste of similar types and amounts from other activities,
- d) *production waste*: waste from commercial activities and services which is significantly different in type or amount from consumer waste,
- e) *special waste*: waste that cannot appropriately be treated together with consumer waste because it may cause serious pollution or involve a risk of injury to people and animals (*hazardous waste*) or because of its size,
- f) *lawful waste reception facilities*: facilities that have the required permits or approval,
- g) *instance responsible for land-use planning*: the landowner or the instance authorized by the Ministry in each land-use planning area,
- h) *sewerage systems*: structures for the transport and/or treatment of waste water,
- i) *waste management system*: the organized collection, transport, reception, storage, treatment and control of consumer waste.

Chapter II. Environmentally hazardous substances

§ 4. (prohibition against the release of environmentally hazardous substances)

Any release of environmentally hazardous substances is prohibited unless it is lawful pursuant to these regulations.

Traces of hazardous substances in ordinary discharges from household activities or other activities that result in discharges of comparable extent are not covered by the prohibition.

§ 5. *(relationship to existing commercial enterprises that release or may entail a risk of releases of environmentally hazardous substances)*

Commercial enterprises that were lawfully established before the entry into force of these regulations, and that release or may entail a risk of releases of environmentally hazardous substances, may continue without a permit pursuant to these regulations.

The Norwegian Pollution Control Authority may nevertheless decide that existing coal-mining enterprises and coal-fired power plants must apply for permits for operations such as are mentioned in the first paragraph. An application shall include information on the type of release, the quantities involved and the probable impact on the environment. It shall also include an account of measures to limit releases of hazardous substances and the costs of such measures. The Norwegian Pollution Control Authority may on the basis of such an application lay down conditions for further operations.

For other established and lawful enterprises such as are not mentioned in the second paragraph, and that may entail a risk of releases of environmentally hazardous substances, the Governor may lay down a time limit for the implementation of the prohibition against releases of environmentally hazardous substances set out in section 4. The Governor may if necessary lay down the requirements that are to be met.

§ 6. *(new enterprises that release or may entail a risk of releases of environmentally hazardous substances)*

If the prohibition of section 4 results in unforeseen consequences for a commercial enterprise that has been found to be environmentally acceptable in Svalbard, the ministry may also if necessary grant exemptions for the said enterprise.

Chapter III. The collection, etc. of waste

§ 7. *(prohibition against littering, etc.)*

No person may empty, burn, leave, store or transport waste in such a way that it is unsightly or may cause damage or nuisance to the environment.

No person may leave waste outside a land-use planning area. The Governor may in special cases grant exemptions from this prohibition.

The first paragraph does not preclude waste from being dealt with at lawful waste reception facilities.

§ 8. *(clean-up operations)*

Any person that has contravened the prohibition of the first or second paragraph of section 7 shall arrange for the necessary clean-up measures.

The Governor may order any person that has acted in contravention of section 7 to clear up the waste within a specified time limit. If necessary, the Governor may have the waste removed at the expense of the person concerned.

§ 9. *(collection, etc of waste)*

The instance responsible for land-use planning in each land-use planning area shall arrange for adequate services for the collection and reception of consumer waste. This requirement does not apply to consumer waste from ships. The instance responsible for land-use planning shall establish separate arrangements for discarded cars, snowmobiles and hazardous waste.

The instance responsible for land-use planning shall arrange for waste to be delivered to lawful waste reception facilities after collection and reception.

In the case of production waste and waste generated outside the land-use planning areas, the person responsible for the waste shall arrange for it to be transported and delivered to lawful waste reception facilities.

The Governor may make decisions:

- a) on measures to reduce the quantity of waste,
- b) on the delivery, collection, receipt, transport, separation and treatment of waste,
- c) requiring certain types of waste to be recovered or sent elsewhere for recovery,
- d) requiring waste to be sent for treatment elsewhere.

§ 10. (obligatory refuse collection)

Any person that generates waste in the land-use planning areas has a duty:

- a) to take part in refuse collection and waste sorting arrangements established pursuant to section 9, and to deliver all his consumer waste to such arrangements,
- b) to pay fees for the services provided, and
- c) to deliver any special waste to lawful waste reception facilities.

§ 11. (reception and treatment of waste)

Any person that wishes to establish new waste reception or temporary storage facilities or a waste treatment and disposal plant that may result in a risk of pollution or be unsightly shall hold a permit from the Governor.

The Governor may by individual decision decide that existing facilities to which the first paragraph applies must apply for permits to continue their operations. The provisions of section 5, second paragraph, apply accordingly.

The Governor may for both existing and new facilities lay down any conditions necessary to prevent damage or nuisance.

It is not permitted to carry out final treatment of hazardous waste.

§ 12. (management of hazardous waste)

When delivering hazardous waste, enterprises shall provide information on the quantity of the waste and its type. Households that deliver hazardous waste have a duty whenever possible to provide information on the origin of the waste, its content and properties, and to ensure that whenever possible, the packaging clearly indicates what the waste contains.

When such waste is delivered by a waste reception facility, the contents shall be declared on a separate form in accordance with the categories listed below in Appendix 1.

Enterprises that deliver or store such waste shall ensure that the waste is packaged to withstand the effects of chemical, physical and climatic factors. The packaging shall be labelled with the serial number of the declaration form.

Chapter IV. Waste water and waste management fees

§ 13. *(duty to pay fees)*

The owner or user of a property that is connected to a waste water treatment plant and/or served by a refuse collection system shall pay fees for the services that are provided in accordance with any regulations laid down pursuant to section 15.

§ 14. *(framework for fees)*

Waste water treatment and waste management fees set in accordance with these regulations shall fully cover the investment and operating costs incurred by those responsible for operation of the waste water treatment plant and/or refuse collection system. The fees must not exceed the costs incurred.

In the case of residential properties, the fees shall be calculated separately for each residential unit. The fees shall be split between the users so that they reflect as accurately as possible the costs of providing each user with waste water treatment and waste management services. Waste management fees should be graded so that they can help to encourage waste reduction and more recycling.

§ 15. *(regulations relating to the calculation, collection, etc. of fees)*

The Governor or the instance authorized by the Ministry may by regulations lay down:

- a) further provisions on the calculation and collection of fees,
- b) the size of the fees,
- c) the instances to which the fees are to be paid and how the fees paid are to be split between them.

Such regulations may apply to a land-use planning area or part of a land-use planning area.

The instance responsible for operating a waste water treatment plant and/or refuse collection system shall, at the request of the competent authority pursuant to the first paragraph, draw up estimates of the expected overall direct and indirect costs associated with the waste water treatment plant and/or refuse collection system for the next few years. The competent authority pursuant to the first paragraph shall normally use these estimates as a basis for deciding the size of the fees.

§ 16. *(fees that have fallen due)*

Fees that have fallen due are secured by a statutory charge on the property pursuant to section 6-1 of the Mortgages and Pledges Act. The fees may be collected by the tax collector in Troms county pursuant to the rules that apply to the collection of taxes in Svalbard.

§ 17. *(exemptions)*

If special reasons so indicate, the Governor or the instance authorized by the Ministry may grant exemptions from these regulations.

§ 18. *(control)*

The Governor will be responsible for ensuring compliance with these regulations.

§ 19. *(appeals)*

Decisions made pursuant to these regulations may be appealed in accordance with the provisions of the Public Administration Act.

§ 20. (coercive fine)

To ensure the implementation of the provisions of these regulations or decisions taken pursuant to these regulations, the Governor may impose a coercive fine pursuant to section 96 of the Svalbard Environmental Protection Act.

§ 21. (penal measures)

Any person that wilfully or negligently contravenes provisions laid down in or pursuant to these regulations is liable to fines or to a term of imprisonment not exceeding one year. If substantial environmental damage or a risk of such damage has been caused or if there are especially aggravating circumstances, a term of imprisonment not exceeding three years may be imposed.

An accomplice is liable to the same penalties.

§ 22. (entry into force)

These regulations, with the exception of Chapter III, enter into force on 1 July 2002. The Governor will decide when Chapter III is to enter into force. The date of entry into force may be decided for the whole chapter or parts of it, and it may enter into force on different dates for each land-use planning area.

Appendix 1: Categories of hazardous waste

Category 1	<i>Waste oil</i>
Category 2	<i>Other oily waste</i> (for example, oily waste from treatment plants for waste water containing oil or from tank cleaning, contaminated fuels and heating oils, and used oil filters)
Category 3	<i>Stable oil emulsions</i>
Category 4	<i>Waste organic solvents</i> (containing or not containing halogens)
Category 5	<i>Paint, glue, varnish and printing inks</i>
Category 6	<i>Distillation residues</i>
Category 7	<i>Tarry waste</i>
Category 8	<i>Waste containing mercury or cadmium</i> (in chemical compounds or as the metal)
Category 9	<i>Priority metals and metal compounds that are hazardous for people, animals or the environment</i> (for example aqueous solutions of lead, copper, zinc, chromium and nickel)
Category 10	<i>Waste containing cyanide</i>
Category 11	<i>Pesticides</i>
Category 12	<i>Isocyanates and other very reactive substances</i>
Category 13	<i>Corrosive substances and preparations</i> (for example strong acids and bases)
Category 14	<i>Other waste that is very toxic, toxic or dangerous for the environment</i>