



WASTE AND RECYCLING INDUSTRY OF WA (WRIWA) RESPONSE TO CONSULTATION PAPER

Proposed estimation/calculation methods for recycling and reprocessing facilities with an output of 1,000 tonnes or more of waste per annum under proposed amendments to the Waste Avoidance and Resource Recovery Regulations 2008

Executive Summary

The Waste and Recycling Industry Association of WA ([WRIWA](#)) strongly supports the introduction of mandatory reporting for recycling and reprocessing facilities and is pleased to see this initiative progressing.

WRIWA is the peak body representing the waste and recycling (W&R) industry in WA. Our members include all of the national W&R companies in Australia and the majority (eight) of the WA-based recycling and reprocessing companies. In preparation for this submission we have consulted extensively with affected members.

We support mandatory reporting because reliable data is essential to the management of waste and will be critical to supporting the vision, objectives, targets and strategies of the *Waste Avoidance and Resource Recovery Strategy 2030 (WARRS 2030)*. The availability of sound and reliable data underpins effective decision-making in the development, implementation and review of policy and legislation.

The consultation paper considers four questions:

1. Are the proposed material categories practical and appropriate for the Western Australian recycling and landfill industry?

WRIWA response: YES

2. Are the proposed calculation methods to estimate the weight of waste received, disposed, leaving and stockpiled at your site clear? If not, what further clarification is required?

WRIWA response: YES

3. Are there any barriers that would prevent your organisation from using these calculation methods? If so, what are they and how can they be overcome?

WRIWA response: YES (details provided below)

4. Are the proposed default material densities appropriate for the Western Australian recycling industry?

WRIWA response: YES

DETAILED RESPONSE

WRIWA strongly supports the introduction of all the eight reporting requirements for recycling and reprocessing facilities with an output of 1,000 tonnes or more of waste per annum. However, it has concerns about the proposed approach in relation to ***commercial recycling and reprocessing operations in the Construction and Demolition (C&D) sector.***

WRIWA's response focuses on question(3):

3. Are there any barriers that would prevent your organisation from using these calculation methods? If so, what are they and how can they be overcome?

The proposed calculation methods to estimate the weight of waste received, disposed, leaving and stockpiled are not adequate to ensure a level playing field in the C&D sector.

The proposal is constructed around the concept of a hierarchy of approved methods where a recycling or reprocessing facility is only required to use the 'highest' method for which (the) data is available. This is in effect an honour system with the provider of the data allowed to choose which estimation/calculation method it will use and will, based on our own investigations of recycling and reprocessing industries, lead to widespread adoption of the lowest accepted protocol. Consequently, it will not satisfy the objective of providing reliable data.

WRIWA members own and operate eight recycling and reprocessing facilities and are bound by a documented commitment to a high standard of conduct. WRIWA members face on a daily basis unfair competition from marginal contractors who are exploiting deficiencies in the current regulations to avoid costs. WRIWA's concern is that if the current proposal is adopted, it will have unintended consequences that will adversely affect honest operators.

The proposed mandatory reporting will importantly require recycling and reprocessing facilities to report information annually.

Of the information required to be reported, the most significant to the industry will be:
“Geographic source of material received (Perth metropolitan region, Peel region or other regions)”

The significance of this reporting requirement lies in its potential to trigger obligations under the Waste Avoidance and Resource Recovery Levy Act (2007) and Regulations (2008).

It is our view that the introduction of mandatory reporting in its proposed form will trigger unintended consequences, the most obvious and serious of which is that it will open the door to manipulation of data to avoid triggering levy obligations.

The rise of the landfill levy from \$8 per tonne in 2014 to \$70 per tonne in 2019 was intended to provide the economic incentive to the waste and recycling industry to divert waste from landfill and support recycling and reprocessing industries

WRIWA has provided evidence to the Department of Water and Environmental Regulation and to the Minister for the Environment that levy avoidance in the C&D sector here in WA is large-scale, systemic, organized and long standing.

As the landfill levy has risen in value, it has provided the economic motivation for avoidance, helping to create a levy avoidance industry. This has been facilitated by a gap in the regulations that does not require transfer stations/recycling facilities to record and report the geographic source of materials received.

Mandatory reporting as outlined in the consultation paper will, if properly applied, close off this loophole and WRIWA strongly supports this initiative which will assist honest operators. However without a rigorous compliance regime, including quality control of data, provision of independent auditing and adequate penalties for non-compliance the door will remain open to levy avoidance.

The issue is complex and in our view cannot be considered in isolation from the concurrent consultation: *Mandatory use of weighbridges to calculate leviable waste*.

WRIWA, whose members manage over two thirds of the waste in WA, has a unique knowledge base and is keen to assist DWER to avoid possible unintended consequences flowing from this proposal.

We suggest as follows:

1. The option of a hierarchy of reporting using the 'highest' available preferred method for collection of data be removed for commercial C&D facilities.
2. That the method of estimation/calculation be mandated as follows:
 - Weighbridges be mandatory with an accompanying compliance regime, quality assurance and independent auditing as the primary estimation/calculation methodology.
 - Independent bi annual Volumetric Surveys be mandatory to validate weighbridge data.
3. Penalties for providing falsified data need to be substantial.

Further detail follows below.

The option of a hierarchy of reporting using the 'highest' available preferred method for collection of data should be removed for commercial C&D landfills

The inherent danger of this approach is that a number of the recycling and reprocessing facilities are within transfer stations located close to the border of the Perth metropolitan region and transport their residuals to rural landfills. If these recycling and reprocessing facilities are now required to report the geographical source of waste they will be aware that this provision would potentially trigger levy obligations.

In order to avoid this trigger they are likely to choose the lowest *allowable* protocol possible.

Estimation by volume would then become the method of choice. This method can be manipulated in a number of ways, the simplest of which is by not recording incoming loads and by falsifying the number of outgoing loads to manipulate the total mass balance.

This method, ie *truck count x estimated volume of load* is extensively used in the earthmoving industry as a *preliminary* estimation method to pay progress payments. However it is carried out under close supervision with a clerk of works on site, working on behalf of the client, to validate the number of loads, conduct random examination of loads to establish that volumes are as claimed, and daily sign-off to verify the above.

In addition, current best-practice in the earth-moving industry is to carry out a volumetric survey at completion. This complements and verifies the truck-count method. Contracts usually have a formula for reimbursement or further payment based on any discrepancy between the truck count and the volumetric survey.

Unless there is a reliable method of validation, particularly in remote locations, the 'estimation by volume' method is essentially an honour system and in WRIWA's view could lead to deliberate distortions of data for the purpose of levy avoidance.

For these reasons WRIWA does not support a hierarchy of reporting, or estimation by volume as the sole means of calculating waste quantities.

WRIWA notes that DWER itself raises concerns about the reliability of *estimation by volume (truck method)* in the concurrent consultation paper: *Mandatory use of weighbridges by landfill premises to calculate leviable waste*:

".....material issues have been identified with estimation methods set out in the CEO approved manner. These relate to assumptions made under the 'vehicle type method' about exempt waste loads (e.g. all loads are assumed to be full loads) and the relative density of exempt waste, which cannot be accurately or consistently accounted for.

Analysis conducted by the Department suggests that the variation between waste levy calculation using the vehicle type method compared to the weighbridge method is substantial, and places landfills using more accurate measurement methods at a competitive disadvantage. The discrepancy between methods may also create a disincentive to the use or installation of weighbridges at liable landfills" (p 4 Mandatory use of weighbridges to calculate leviable waste)

It is WRIWA's view that for commercial recycling and reprocessing operations in the C&D sector, the Department should mandate the use of weighbridges under the estimation/calculation protocol and require bi annual volumetric surveys to be undertaken for independent validation.

The use of weighbridges as the primary methodology would have the advantage of providing uniformity with the expected recommendations of the concurrent consultation: *Mandatory use of weighbridges by landfill premises to calculate leviable waste*.

WRIWA clearly understands that the two consultations are for separate purposes relating to separate regulations, however we believe that consistency will assist in eliminating unintended consequences.

Weighbridges to be used successfully to provide valid data will require:

- *an accompanying documented compliance regime*

The Department needs to be certain that weighbridges are being operated lawfully and that operators fully understand that it will be an offence not to do so. This will necessitate a documented compliance regime to govern the operating conditions for weighbridges. WRIWA would be pleased to assist in the development of this. A compliance regime would among other things stipulate that the weighbridge must be used to record all loads entering and leaving the facility, will stipulate a calibration and maintenance regime for weighbridges,

and ban the use of on-site diversion roads (to avoid the weighbridge). This would be an extensive document.

- *A quality assurance process*

Operators of recycling and reprocessing facilities would be required to develop and document their own operating process that meets the compliance standard. This would be submitted to the Department and its approval would be a condition of licence.

- *Independent auditing*

Compliance would be subject to independent auditing. This would involve a first stage site based audit where the operator will be required to demonstrate that the processes used in the operating environment align with the compliance documentation. The operator would be subject to random compliance audits through the year.

Independent bi-annual Volumetric Surveys be mandatory to validate weighbridge data.

Independent bi-annual volumetric survey under the supervision of the Department would be required. This would require a base line survey at commencement. The development and management of volumetric surveys would be conducted **independently of the facility and to a specified standard.**

In general WRIWA considers that volumetric surveys need to be designed with ancillary compliance, quality assurance processes and independent auditing; and that the Spatial Sciences Institute should be extensively involved in a consultation to raise the standard.

Given the importance of gathering reliable (ie. independently verified) data on waste quantities, the State Government should:

- subsidise the installation, calibration and maintenance of weighbridges at commercial recycling and reprocessing facilities; and
- fully fund the conduct of bi annual volumetric surveys at commercial recycling and reprocessing facilities to verify data derived from weighbridges.

Penalties for providing falsified data need to be substantial

The incentive to supply false information to the Department is monetary and is substantial. For example:

In November 2018 the WRIWA President brought to the attention of the Minister for the Environment and the Chairman of the Waste Authority an illegal landfill/recycling site at King Road, Oldbury. The Department took action and the facility has now been closed. But this facility caused considerable harm while it operated. WRIWA understands that the King Road site operated for approximately 90 days and averaged over 120 loads of C&D waste per day. The operation paid no levy.

WRIWA estimates that around \$22 million worth of Levy was lost to the State Government (based on 120 loads x 90 days x 20 cubic metres x \$105 per cubic metre). Brajkovich Demolition & Salvage Pty Ltd a WRIWA member, which operates a compliant landfill and recycling facility nearby, and pays the required levy, reports having experienced a 50% drop in turnover during that period.

Unfortunately the penalties currently prescribed are insufficient to deter this activity and are regarded by illegal operators as being only a cost of doing business. The penalties need to be significantly upgraded to provide a real deterrent to dishonest practice.

Additional Issues

WRIWA considers that of the information required to be reported in this proposal, the most significant to the C&D waste industry will be:

“Geographic source of material received (Perth metropolitan region, Peel region or other regions)”

We are aware that the Department has flagged that there will be further consultation in this area (under *Waste data regulations* coordinated by Bernard Ryan). *However WRIWA would like to flag the following issues at this time:*

In our view it will not be sufficient to require only the *region* from which waste is received be documented, as this leaves too much room for abuse. To avoid levy, contractors may simply report that the waste came from the Peel or other regions.

WRIWA proposes instead that a Chain of Custody protocol be put in place. The street address for the source of the material and the name of the contractor operating at the source (ie earthmoving contractor/ private individual/ demolition contractor) should be recorded when C&D waste is deposited. Additionally the cartage contractor (who may be a separate entity to the one consigning the material) should be required to sign and validate the accuracy of this information.