



Regulations amendments overview—2014

Overview of the 2014 amendments to the Environmental Protection (Controlled Waste) Regulations 2004

The Department of Environment Regulation (the Department) administers the *Environmental Protection (Controlled Waste) Regulations 2004* (the Regulations). Amendments to Regulations were gazetted on 1 August 2014.

The amendments aim to improve the workability, transparency and clarity of the Regulations.

The amendments are primarily designed to ensure all activity relating to the consignment, transportation, temporary storage, and receipt of controlled waste are adequately defined and the requirements are clear, appropriate and enforceable.

The amendments do not significantly vary the obligations of waste holders, controlled waste carriers, drivers, vehicles or tanks and waste-receiving facilities, or the tracking of controlled waste from point of generation to point of unloading.

The amendments do not involve any significant changes to the way controlled waste is regulated in Western Australia.

The following information outlines the 2014 key changes to the Regulations. For a full copy of the amended regulations please go to the [State Law Publisher website](#).

Regulation 2—Definitions

Previous

Term **approved** is defined in the Regulations.

Amended

An amendment to the definition now requires approvals to be made in writing by the Chief Executive Officer (CEO).

Previous

Term **bulk controlled waste** is defined in the Regulations.

Amended

The definition now reads as:

“means a controlled waste that is transported in a tank”.

Previous

The term **controlled waste** is defined in the Regulations.

Amended

The term **controlled waste** is now defined in the Regulations as:

“means any matter that is –

- (a) within the definition of waste in the NEPM for the Movement of Controlled Waste between States and Territories; and*
- (b) listed in Schedule 1;”*

Where the definition of waste in the NEPM (National Environmental Protection Measures):

“means any:

- (a) *discarded, rejected unwanted, surplus or abandoned matter; or*
- (b) *otherwise discarded, rejected, unwanted, surplus or abandoned matter intended for:*
 - (i) *recycling, reprocessing, recovery, reuse, or purification by a separate operation from that which produced the matter; or*
 - (ii) *sale, whether of any value or not.”*

Previous

Term **controlled waste tracking form** (CWTF) is defined in the Regulations.

Amended

The definition now reads as:

“means an approved form – (a) that has been issued by the Department in paper or electronic form to track the transportation of a type of controlled waste; and (b) that has not ceased to be valid under regulation 36”.

Previous

Term **controlled waste tracking number** is defined in the Regulations.

Amended

The definition now reads as:

“means the unique number recorded on a CWTF under reg 38”.

Previous

Term **disposal site** is defined in the Regulations.

Amended

The term **disposal site** has been replaced with **waste facility**. The

wording in the definition of a **waste facility** differs from the previous **disposal site** definition. However, there are no changes to the approvals or authorisations required for a waste facility to be listed to receive a controlled waste.

Previous

Term **packaged controlled waste** is defined in the Regulations.

Amended

The definition now reads as:

“means a controlled waste that is transported otherwise than as a bulk controlled waste”.

Previous

Term **tank** is defined in the Regulations.

Amended

The definition now reads as:

“means an enclosed space that is on, attached to or part of a vehicle and used or designed to be used for the transportation of a liquid or gas in bulk”.

Previous

The term **transit facility** does not exist in the Regulations.

Amended

A new term **transit facility** has been introduced and is now defined in the Regulations. The definition reads as:

“means a waste facility that may be used for the temporary storage of a controlled waste”.

The obligations for transit facilities are similar to those of waste facilities.

Previous

Term **waste generator** is defined in the Regulations.

Amended

The term **waste generator** has been removed from the Regulations and replaced with the sole use of the term **waste holder**. The definition of a **waste holder** has been amended to include the previous waste generator description. The amendments do not affect the type of person or premise to which the Regulations apply.

Regulation 3(3)—Application of the Regulations

Previous

Exclusions to the Regulations are identified in the NEPM for the *Movement of Controlled Waste Between States and Territories*.

Amended

A new clause is inserted, 8(i) of the NEPM that excludes the transportation of controlled wastes subject to product recall approved by the Australian Pesticides and Veterinary Medicines Authority, Food Standards Australia New Zealand or the Therapeutic Goods Administration from the requirements of the Regulations. This amendment results from a change to the NEPM exclusions in 2010.

Regulation 7, 8 and 9—Licensing periods

Previous

A controlled waste carrier, driver and vehicle or tank licence is issued or renewed for a period of one year.

Amended

The amendments allow the CEO to issue or renew a controlled waste carrier, driver or vehicle or tank licence for a period of one, three or five years. The Schedule 3 – Fees has been amended to set fees for the three and five-year licence periods.

Regulation 10—Cancellation, suspension or refusal to renew licence

Previous

The Regulations list criteria that can be applied by the CEO that determine whether a licence may be cancelled, suspended or refused renewal.

Amended

The criteria have been amended to include the following:

- there are reasonable grounds to suspect that the holder of a licence is not of good character and repute and fit to be involved in the business in respect of which the licence is held; or
- a carrier has not paid the fee for a CWTF number within the time specified.

Regulation 18—Bulk controlled waste driver training requirements

Previous

How a driver may show adequate technical competence was not previously set out in the Regulations.

Amended

A new regulation has been inserted to transfer the requirement for a driver to have adequate technical competency into the Regulations.

The CEO may require bulk controlled waste drivers to complete a controlled waste driver training course, pass a written test (or similar) and provide any further information relevant to driving a vehicle to transport bulk controlled waste.

New Part 2—Transfer of carrier or bulk vehicle or tank licence

Previous

There is no provision to transfer a carrier or bulk controlled waste vehicle or tank licence.

Amended

A new division has been inserted into the Regulations to provide the CEO with an ability to transfer a carrier and/or a bulk controlled waste vehicle or tank licence to a new operator within 30 days after the new operator has been assigned the business.

The new operator must apply to the CEO within 30 days after the assignment for the transfer of a licence by completing Form CW21 – Application to transfer carrier licence and supplying the transfer fee.

Schedule 3 – Fees has been amended to set a fee for the transfer application.

As part of the new provisions, the new operator can retain the existing controlled waste carrier licence number and the licence will remain valid for the remainder of the existing licence period. The set licence conditions remain current or may be subject to change.

The transfer of a licence does not affect any requirement on the former operator of that licence to pay a fee that was payable immediately before the assignment of the licence to the new operator or to send a CWTF or other information to the CEO that had not been sent at that time.

New regulation 31A and regulation 34—Transportation of anything other than controlled waste in a bulk controlled waste vehicle or tank

Previous

A requirement exists for a driver to apply to the CEO to carry a liquid non-controlled waste in a bulk controlled waste licensed vehicle or tank.

Amended

A new regulation has been inserted that requires the carrier to obtain the written permission of the CEO to transport any material (liquids, sludge or solids) that is not classed as a controlled waste in a bulk controlled waste licensed vehicle or tank.

Regulation 34 has been amended to require the bulk controlled waste driver to obtain a copy of the carrier's written permission prior to transportation of any material not classed as a controlled waste.

New regulation 32A—Obligations of a carrier to keep records

Previous

A requirement to retain CWTF records is listed as a licence condition in a controlled waste carrier licence.

Amended

A new regulation has been inserted to transfer the obligation in the licence condition into the Regulations.

The regulation requires a carrier to keep a record of the CWTF information for a period of at least three years from the day the controlled waste is loaded onto a vehicle or into a tank.

Regulation 35—Receipting information

Previous

Before the controlled waste is transported, the driver must issue a receipt to the waste holder setting out specific information.

Amended

The information that the driver must list on the receipt is now listed in Schedule 2 Division 1 to the Regulations.

The receipt information remains unchanged and is listed as the CWTF number, the type of controlled waste, the amount and date the controlled waste is loaded onto or into a vehicle or tank.

Regulation 36—Validity of CWTF

Previous

Validity of a CWTF is set as seven days for bulk controlled waste and 21 days for packaged controlled waste or ends on the day any part of the controlled waste is unloaded at a waste facility.

The validity period begins when the first consignment of the type of controlled waste specified in the CWTF is loaded onto or into the vehicle or tank.

Amended

Several amendments have been made as follows:

- a definition has been inserted to clarify that a type of controlled waste includes a reference to a mixture of different types of controlled waste when permitted by the carrier's controlled waste licence;
- where suitable justification exists, the CEO has an ability to extend the

validity of a CWTF to cater for transit facility activities; and

- clarification is provided on CWTF use for individual vehicles, tanks and trailers. If a vehicle (e.g. a prime mover) has two or more trailers or tanks that contain a controlled waste, each trailer or tank is considered to be a single vehicle. Each individual vehicle, tank or trailer requires a separate CWTF.

Regulation 38—Information to be provided about controlled waste

Previous

Information is required to be provided by waste holders, carriers and drivers to complete the CWTF information as listed in Schedule 2 to the Regulations.

Each CWTF issued by the Department has a unique number recorded on the CWTF.

Amended

The specific obligations for waste holders, carriers and drivers to provide CWTF information have been transferred to other clauses within the Regulations that relate to the obligations for each individual party (refer to regulation 25(3), 28(1), 29(1) and 32(1)).

There is no change to the obligations themselves.

Regulation 38 now only refers to the CEO causing each CWTF to have a unique CWTF recorded on it.

Regulation 39 and 40—Obligations for drivers and carriers unloading controlled waste

Previous

A driver must not unload the controlled waste from his or her vehicle or tank at a place other than the disposal site specified in the CWTF for the transportation of that waste other than at the direction of the CEO or unloaded so that it can be transferred to another vehicle or tank in accordance with the licence of the carrier for the transportation of the type of controlled waste.

Amended

Minor rewording has been made to simplify the obligations for drivers and carriers when unloading controlled waste from a vehicle or tank.

A driver must only unload controlled waste at a waste facility (as defined in the Regulations) that can lawfully receive that type of controlled waste. The amendments do not affect the driver's requirements when unloading or the type of facilities controlled waste can be unloaded. A carrier has the same obligation.

In Regulation 40 new requirements have been inserted to cater for drivers unloading controlled waste at unoccupied waste facilities.

New 41A—Providing copies of CWTFs to the Department

Previous

A requirement to provide the CEO with a copy of the CWTF within 14 days after the controlled waste is unloaded from a vehicle or tank specified in the CWTF is listed as a licence condition in a controlled waste carrier licence.

Amended

An amendment has been made to transfer a condition previously listed in a bulk controlled waste carrier licence directly into the Regulations.

The Regulations require a carrier to provide the CEO with a copy of the CWTF information within 14 days after a controlled waste is unloaded from a vehicle or tank at a waste facility specified in a CWTF.

Regulation 41—Obligations of the occupier of a waste facility

Previous

An occupier of a disposal site must, immediately after the controlled waste is unloaded at the site, record specific information on the CWTF.

Amended

An amendment is made to cater for controlled waste unloaded at unoccupied waste facilities.

If the occupier of a waste facility is not present when the controlled waste is unloaded at the waste facility the occupier must record the relevant CWTF number and information within seven days of receiving such information from the carrier or driver.

The occupier must keep the records for a period of three years from the day the waste was unloaded at the facility and must provide that information to the CEO within 14 days after the controlled waste was unloaded at the facility.

Regulation 49 and new regulation 50A—Exemptions from the Regulations

Previous

Where circumstances are justifiable and accountable and an exemption will not adversely affect the operation of the Regulations, the CEO may by written notice exempt a person from compliance with Parts 2 and 3 of the Regulations.

Amended

Provisions for exemptions under the Regulations have been inserted to provide further criteria to the existing exemption process.

Amendments include the ability of the CEO to give an exemption subject to conditions and limited to circumstances specified in the notice. If a condition subject to which an exemption is given is breached, the exemption ceases to have effect.

New regulation 50A provides for a person to apply to the CEO in an approved form for an exemption under regulation 49.

Schedule 1—controlled waste list

Previous

Schedule 1 provides a list of wastes that are defined as controlled wastes.

Amended

Minor amendments to the controlled waste schedule have been made to mirror the 2010 amendments to the NEPM. The amendments aim to clarify the waste schedule. The amendments are:

- cyanides (organic) is replaced with cyanides (organic) and nitriles;

- encapsulated, chemically-fixed, solidified, or polymerized wastes is replaced with encapsulated, chemically-fixed, solidified, or polymerised controlled wastes;
- filter cake is replaced with filter cake containing controlled waste;
- fly ash is replaced with fly ash, excluding fly ash generated from Australian coal fired power stations;
- mineral oil emulsions is replaced with waste oil/water, hydrocarbon/water mixtures or emulsions; and
- oxidising agents, reactive chemicals and reducing agents have been added to the Schedule.

Schedule 2—Transport information

Previous

Schedule 2 provides a list of CWTF information to be provided by a waste holder, carrier, driver and waste facility.

Amended

The CWTF information that must be recorded by a carrier, driver and waste facility has been updated. The carrier and driver must now also record the following information:

- type and amount of controlled waste unloaded at a waste facility without an occupier being present and date of unloading, and
- type and amount of controlled waste loaded onto or into, or unloaded from a vehicle or tank at transit facility and date of loading or unloading.

The waste holder must now also provide the following information:

- physical state of controlled waste (solid, liquid, gas).

The waste facility must now also record the following information:

- name and address of waste facility;
- type of controlled waste; and
- type of disposal, treatment or handling of controlled waste at the waste facility.

New administrative changes

Minor administrative amendments have been made that include updating the references to the current dangerous goods safety legislation (definition of a waste facility and regulation 21(b)), and the removal of outdated provisions (regulations 55, 56 and 57).

More information

For advice on compliance with the Regulations or any other controlled waste matter, please contact the Department on +61 8 6467 5000, or email Controlled Waste on cwts@der.wa.gov.au.

This document is available in alternative formats and other languages on request.

Related documents

Additional [publications about controlled waste](#) and related [controlled waste fact sheets](#) are available online on DER's website, or by contacting the Department on +61 8 6467 5000.

Legislation

This document is provided for guidance only. It should not be relied upon to address every aspect of the relevant legislation.

Please refer to the Regulations and the *Environmental Protection Act 1986* available from the State Law Publisher. Free electronic copies are available from [State Law Publisher website](#).

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