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ENVIRONMENTAL PROTECTION ACT 1986

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**ENVIRONMENTAL  
PROTECTION (CONTROLLED  
WASTE) REGULATIONS 2004**



Western Australia

## **Environmental Protection (Controlled Waste) Regulations 2004**

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## **Environmental Protection (Controlled Waste) Regulations 2004**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations may be cited as the *Environmental Protection (Controlled Waste) Regulations 2004*.

#### **2. Terms used in these regulations**

In these regulations, unless the contrary intention appears —

**“apparatus for the treatment of sewage”** means any apparatus for the bacteriolytic or aerobic treatment of sewage or any other apparatus for the treatment of sewage approved by the Executive Director, Public Health under the *Health Act 1911*;

**“approved”** means approved by the CEO;

**“bulk controlled waste”** means a controlled waste that is transported in a tank on, attached to or part of a vehicle;

**“carrier”** means a person licensed as a carrier under these regulations;

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**“clinical waste”** means waste generated by medical, nursing, dental, veterinary, pharmaceutical or other related activity which is —

- (a) poisonous or infectious;
- (b) likely to cause injury to public health; or
- (c) contains human tissue or body parts;

**“controlled waste”** means a waste listed in Schedule 1;

**“controlled waste tracking form”** 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(1);

**“controlled waste tracking number”** means the unique number recorded on a controlled waste tracking form under regulation 38(5);

**“corresponding law”** means a law of another State or a Territory relating to the transportation or disposal of a controlled waste;

**“disposal site”** means —

- (a) a waste treatment facility or depot licensed under Part V of the Act to treat, reuse or dispose of a controlled waste;
- (b) a waste treatment facility operated by Waste Management (WA) established under section 110L of the Act;
- (c) a waste treatment facility or depot licensed, registered or otherwise approved to treat, reuse or dispose of a controlled waste under a corresponding law;
- (d) premises licensed under section 45(1)(c) of the *Explosives and Dangerous Goods Act 1961*;



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- (e) a sewer provided by a person under the authority of an operating licence (sewerage and services) granted under the *Water Services Licensing Act 1995*;
- (f) a site approved by the CEO; or
- (g) premises registered under regulation 5B of the *Environmental Protection Regulations 1987*;

**“interstate licence”** means a licence, authorisation, permit, notice, registration or approval in force in another State or a Territory under a corresponding law;

**“licence”** means a licence under these regulations;

**“packaged controlled waste”** means a controlled waste transported in a container;

**“sewage”** means waste containing faecal matter or urine;

**“solid”** means a substance that —

- (a) has an angle of repose of greater than 5 degrees;
- (b) does not contain, or is not comprised of, any free liquids;
- (c) does not contain, or is not comprised of, any liquids that are capable of being released when the waste is transported;
- (d) does not become free flowing at or below 60 degrees Celsius or when it is transported; and
- (e) is capable of being moved by a spade at normal temperatures;

**“tank”** means an enclosed space that is used or designed to be used for the transportation of a liquid or gas in bulk on a vehicle;

**“vehicle”** means a self-propelled vehicle operated on a road, or trailer or semi-trailer when attached to such a self-propelled vehicle;

**“waste generator”** means a person whose activities or apparatus result in the production of or produce waste;

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“**waste holder**” means a person in possession or control of a controlled waste on premises.

**3. Application of regulations**

- (1) The CEO may, by order published in the *Gazette*, direct that all or any of the provisions of these regulations do not apply according to the order in respect of a controlled waste.
- (2) An order made under subregulation (1) may be —
  - (a) subject to such conditions as the CEO specifies in the order; and
  - (b) revoked or varied by a subsequent order.
- (3) These regulations do not apply to a matter referred to in clause 8(d), (e), (f), (g) or (h) of the NEPM for the *Movement of Controlled Waste Between States and Territories*.
- (4) Subject to subregulations (5) and (6), these regulations apply to a controlled waste that is produced by or as the result of —
  - (a) an industrial or commercial activity;
  - (b) a medical, nursing, dental, veterinary, pharmaceutical or other related activity;
  - (c) activities carried out on or at a laboratory; or
  - (d) an apparatus for the treatment of sewage.
- (5) This subregulation, the provisions contained in Part 3 Division 6 and regulation 53 are the only provisions of these regulations that apply to the transportation of asbestos.
- (6) These regulations do not apply to any of the following —
  - (a) a controlled waste that is transported on a road under the *Radiation Safety (Transport of Radioactive Substances) Regulations 2002*;
  - (b) a controlled waste that is transported on a road to and accepted for burial in a Class I inert landfill site, a Class II putrescible landfill site or a Class III putrescible

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landfill site (as determined by reference to the waste types set out in the document entitled “*Landfill Waste Classification and Waste Definitions 1996*” published by the CEO and as amended from time to time) other than —

- (i) asbestos;
- (ii) clinical or related waste;
- (iii) tyres; or
- (iv) waste that has been immobilised or encapsulated.

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**Part 2 — Licensing****Division 1 — General matters****4. Application for licence**

- (1) An application for a licence is to be —
  - (a) made in the approved manner and approved form duly completed; and
  - (b) accompanied by the appropriate fee prescribed in Schedule 3.
- (2) The CEO may, before determining an application for a licence, require the applicant to provide the CEO with such further information as the CEO requires in any particular case.

**5. Licensing**

- (1) Subject to subregulation (2) and regulations 12 and 18, the CEO is to grant an application made under regulation 4 and issue a licence to the applicant.
- (2) The CEO may refuse an application made under regulation 4 if —
  - (a) the applicant, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, has been convicted of an offence against the Act, these regulations or any other offence that relates to the transportation, storage or disposal of a controlled waste;
  - (b) the CEO has reasonable grounds to suspect that the applicant, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, is not of good character and repute and fit to be involved in the business in respect of which the application is made;
  - (c) the applicant's licence is suspended;

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- (d) the applicant, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, has previously been licensed under these regulations and that licence has been cancelled or refused renewal;
  - (e) the applicant has been refused a licence or a renewal of a licence under a corresponding law or the applicant's licence under a corresponding law has been cancelled, revoked or withdrawn;
  - (f) the CEO has reasonable grounds to suspect that the application contains or is accompanied by information that is false or misleading to a significant extent; or
  - (g) the applicant is already the holder of a licence, or where the applicant is a body corporate, an individual concerned with the control and management of the body corporate, is already the holder of a licence or is concerned with the control and management of a body corporate that is already the holder of a licence.
- (3) If the CEO has not determined an application made under regulation 4 by the end of the period of 30 days —
- (a) beginning on the day on which the application was made to the CEO; or
  - (b) beginning on the day on which information required to be provided under regulation 4(2) is received by the CEO,

whichever is the later, he or she is taken to have made a decision to refuse the application on the last day of that period.

**6. Conditions**

- (1) The CEO may issue or renew a licence subject to such conditions as the CEO thinks fit to impose.
- (2) The CEO may at any time by written notice —
  - (a) impose conditions upon a licence that has been granted;

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- (b) add to, change or remove conditions already imposed; and
  - (c) in the case of a licence issued to a carrier or a driver, add or remove a type of controlled waste specified in the licence.
- (3) If the CEO decides to act under subregulation (2) —
  - (a) the CEO is to give written notice of the decision to the holder of the licence; and
  - (b) the decision does not take effect until 7 days after the notice is given, or such later time as is set out in the notice.
- (4) A person who holds a licence and who contravenes a condition to which that licence is subject commits an offence.
- (5) A person who holds a licence may apply to the CEO for a condition of a licence to be changed or removed by application —
  - (a) made in the approved form; and
  - (b) accompanied by the appropriate fee prescribed in Schedule 3.

**7. Refund of fee**

A full or partial refund of the fee accompanying an application for a licence may be made to the applicant at the discretion of the CEO if the application is not granted or the licence is granted for a period of less than one year but no refund is demandable.

**8. Validity of licence**

Subject to these regulations, a licence under these regulations is valid for one year beginning on the day it is issued.

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**9. Renewal of licence**

- (1) Upon application —
- (a) made before a licence expires;
  - (b) made in the approved manner and the approved form duly completed; and
  - (c) accompanied by the appropriate fee prescribed in Schedule 3,

the CEO may renew the licence.

- (2) An applicant for renewal of a licence may apply to renew the licence for a period of one year and subject to these regulations the renewal, if granted, is to have effect for that period.
- (3) A renewal of a licence takes effect on the day immediately succeeding the day on which the previous licence expired or will expire.

**10. Cancellation or suspension of, refusal to renew, licence**

- (1) Subject to this regulation, the CEO may cancel, suspend for a fixed period, or refuse to renew a licence if —
- (a) the holder has been convicted of an offence against the Act, these regulations, or any other offence that relates to the transportation, storage or disposal of a controlled waste;
  - (b) there has been a breach of a condition to which the licence is subject;
  - (c) the CEO has reasonable grounds to suspect that the licence was obtained by fraud or misrepresentation; or
  - (d) the holder's licence or registration under a corresponding law has been cancelled, revoked, withdrawn or suspended or a renewal of that licence or registration has been refused.

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- (2) If the holder of a licence is charged with an offence under the Act or a corresponding law relating to the transportation, storage or disposal of a controlled waste or an offence under these regulations, the CEO may suspend the licence until the charge in respect of the offence has been finally dealt with or determined according to law.
- (3) Unless otherwise provided in these regulations, if the CEO proposes to cancel, suspend or refuse to renew a licence, the CEO is to give to the holder of the licence written notice of the proposal and the reasons for the proposal.
- (4) A notice given under subregulation (3) is to state that within 14 days after the notice is given, the person to whom it is given may make written representations to the CEO concerning the matter, and the CEO is not to determine the matter without considering any representations received within that period of 14 days.
- (5) If the CEO cancels, suspends or refuses to renew a licence, the CEO is to give to the holder of the licence written notice of the cancellation, suspension or refusal to renew.

**Division 2 — Carriers****11. Certain carriers to be licensed**

- (1) A person who —
  - (a) transports or causes to be transported for gain or reward on a road a bulk controlled waste or a packaged controlled waste; and
  - (b) is not licensed as a carrier,commits an offence.
- (2) Subregulation (1) does not apply to a driver employed or engaged by a carrier.



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**Part 2**

Carriers

**Division 2****r. 12****12. Refusal of licence**

In addition to the grounds specified in regulations 5 and 10, the CEO may refuse an application for, or for renewal of, a licence as a carrier, or suspend or cancel the licence of a carrier, if the CEO is satisfied that the applicant or carrier is not competent to operate as a carrier of a type of controlled waste referred to in regulation 11(1)(a).

**13. Sub-contractors**

- (1) If a carrier sub-contracts the transportation on a road of a type of controlled waste referred to in regulation 11(1)(a), the carrier's sub-contractor must not transport or cause to be transported that type of controlled waste if the sub-contractor is not licensed as a carrier.
- (2) A sub-contractor who contravenes subregulation (1) commits an offence.

**14. Employment of unlicensed driver**

If a carrier —

- (a) employs or engages a person to drive a vehicle of the carrier to transport a bulk controlled waste on a road; and
  - (b) the driver is not licensed to transport that type of waste,
- the carrier commits an offence.

**15. Notification of employment of licensed drivers**

- (1) A carrier who does not within 14 days of the commencement of these regulations or of being licensed as a carrier give the CEO notice in writing of the names of any licensed drivers employed by the carrier commits an offence.
- (2) A carrier who does not notify the CEO in writing within 14 days of a licensed driver commencing or ceasing to be employed by the carrier commits an offence.

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**16. Interstate carriers**

In proceedings against a person for a breach of a regulation listed in the Table to this regulation it is a defence for a person who transports or causes to be transported from another State or a Territory to this State for gain or reward on a road a consignment of waste of a type referred to in regulation 11(1)(a) to prove that the person had an interstate licence to transport or cause to be transported that type of the waste.

**Table**

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**Division 3 — Drivers****17. Drivers to be licensed**

A person —

- (a) who is employed or engaged by a carrier to drive a vehicle of the carrier to transport a bulk controlled waste on a road; and
- (b) who is not licensed as a driver,

commits an offence.

**18. Refusal of licence**

In addition to the grounds specified in regulations 5 and 10, the CEO may refuse an application for, or for renewal of, a licence as a driver, or suspend or cancel the licence of a driver, if the CEO is satisfied that the applicant or driver does not have adequate technical competence to drive a vehicle transporting a bulk controlled waste.

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Drivers

**Division 3****r. 19****19. Driver identification card**

- (1) The CEO is to issue a driver identification card to each licensed driver.
- (2) A licensed driver who fails —
  - (a) to carry his or her driver identification card at all times while engaged in the transportation of a bulk controlled waste on a road; or
  - (b) when required to do so by an inspector, to produce for inspection his or her driver identification card,

commits an offence.

**20. Recognition of a licence issued in another State or a Territory**

- (1) A person who —
  - (a) has an interstate licence as a driver to transport a bulk controlled waste;
  - (b) applies to and satisfies the CEO that, having regard to regulation 5, the person is a suitable person to be licensed as a driver of a vehicle transporting a bulk controlled waste; and
  - (c) pays the appropriate fee prescribed in Schedule 3,is to be licensed as a driver.
- (2) If the person's interstate licence is not subject to any condition or restriction, the person's licence under these regulations is not to be subject to any condition or restriction.
- (3) If the person's interstate licence is subject to any condition or restriction, the person's licence under these regulations is to be subject to the conditions and restrictions to which the interstate licence is subject or such other or further conditions or restrictions as the CEO specifies.

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- (4) This regulation does not have effect in respect of a person while the State is a participating jurisdiction as defined in the *Mutual Recognition Act 1992* section 4(1) of the Commonwealth.

**Division 4 — Vehicle or tank****21. Vehicles and tanks of carriers to be licensed**

A carrier who transports or causes to be transported a bulk controlled waste on a road in a vehicle or tank other than —

- (a) a vehicle or tank that is licensed under this Part to transport a bulk controlled waste;
- (b) a vehicle licensed under the *Dangerous Goods (Transport) (Explosives by Road and Rail) Regulations 1999*; or
- (c) a vehicle or tank or class of vehicle or tank that the CEO has exempted from the requirement to be licensed,

commits an offence.

**22. Application for licence and inspection of vehicle or tank**

- (1) An application for a licence for a vehicle or tank may be made only by a carrier.
- (2) Before an application for a licence for a vehicle or tank is determined the applicant may be required by the CEO to submit the vehicle or tank for inspection at a time and place satisfactory to the CEO.
- (3) The CEO may by written notice require the owner of a licensed vehicle or tank to submit the vehicle or tank for inspection at a time and place specified in the notice.
- (4) The CEO may by written notice direct that a licensed vehicle or tank is to be modified as specified in the notice if the CEO is of the opinion that the vehicle or tank requires that modification in order to comply with a condition subject to which the vehicle or tank is licensed.

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Vehicle or tank **Division 4**  
**r. 23**

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- (5) An owner of a vehicle or tank who fails to comply with a notice issued under subregulation (3) or (4) commits an offence.

**23. Issue of licence**

- (1) A licence is not to be issued in respect of a vehicle or tank of a carrier unless the vehicle or tank has such equipment, systems or modifications as the CEO may require as a condition of licensing the vehicle or tank.
- (2) Nothing in subregulation (1) limits the power of the CEO at any time under regulation 6 to impose, add to, change or remove conditions upon a licence in respect of equipment, systems or modifications.
- (3) In addition to the grounds specified in regulation 10, the CEO may cancel, suspend for a fixed period, or refuse to renew a licence for a vehicle or tank if modifications relating to any of the matters referred to in subregulation (1) are made to the vehicle or tank without the approval of the CEO.

**24. Validity of licence**

- (1) The licence for a vehicle or tank of a carrier remains valid only while the licence of the carrier is valid.
- (2) If the licence of a carrier is suspended, the licence for each vehicle or tank of the carrier is suspended for the period of the suspension of the carrier's licence.

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**Part 3 — Transportation and disposal of a controlled waste****Division 1 — Waste holder's and waste generator's obligations****25. Obligations relating to transportation**

- (1) A waste holder or a waste generator who causes or allows a controlled waste of a type referred to in regulation 11(1)(a) in his or her possession or control to be transported on a road by a carrier that is not licensed to transport that type of controlled waste commits an offence.
- (2) A waste generator who gives a packaged controlled waste to a person or allows a person to collect that waste in a container that is not fit for the transportation of that waste commits an offence.
- (3) A waste generator who does not, before giving a controlled waste to a carrier or allowing a person to collect a controlled waste, describe to that carrier or person the type of controlled waste to be collected commits an offence.
- (4) A waste generator who describes the type of controlled waste to be collected by a carrier or person in a manner that is —
  - (a) false or misleading in a material particular; or
  - (b) likely to deceive in a material way,commits an offence.
- (5) A waste generator who engages a carrier to transport a controlled waste must keep a receipt issued by the carrier's driver under regulation 35 for not less than 3 years from the day on which the waste was loaded onto or into the carrier's vehicle or tank.
- (6) A waste generator who contravenes subregulation (5) commits an offence.

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Waste holder's and waste generator's obligations

**Division 1****r. 26****26. Notice of controlled waste**

- (1) The CEO may require a waste holder to give the CEO a notice containing any one or more of the following items of information —
  - (a) the type of controlled waste in the possession or control of the waste holder;
  - (b) the quantity of the controlled waste in the possession or control of the waste holder;
  - (c) the location of the premises and the place on those premises where the controlled waste is held.
- (2) A waste holder who is required to give the CEO a notice under subregulation (1) and who fails to give the notice within 14 days of receiving the request from the CEO commits an offence.

**27. Directions to transport a controlled waste to a disposal site**

- (1) In this regulation —

**“specified waste”** means a controlled waste in the possession or control of a waste holder and specified in the notice.
- (2) The CEO may give a waste holder a notice requiring the waste holder to cause a specified waste to be transported to a disposal site in the manner and within the time specified in the notice.
- (3) A waste holder who fails to cause a specified waste to be transported to a disposal site in the manner or within the time specified in the notice referred to in subregulation (2) commits an offence.

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**Division 2 — Carrier's obligations****28.       Controlled waste tracking number to transport a controlled waste**

- (1) A carrier who transports or causes to be transported a controlled waste on a road without a controlled waste tracking number for the transportation of that waste commits an offence.
- (2) In proceedings against a carrier for a breach of subregulation (1) it is a defence for the carrier to prove that the controlled waste was a packaged controlled waste and the total weight or volume of packaged controlled waste being transported on the vehicle or in a tank of the carrier at any one time was less than 200 kg or 200 L.

**29.       Obligations of carrier as to the transportation of a controlled waste**

- (1) A carrier who fails to ensure that a driver of a vehicle of the carrier which is being used to transport a controlled waste on a road has a controlled waste tracking number for the transportation of the waste commits an offence.
- (2) In proceedings against a carrier for a breach of subregulation (1) it is a defence for the carrier to prove that the controlled waste was a packaged controlled waste and the total weight or volume of packaged controlled waste being transported by the driver on a vehicle or in a tank of the carrier at any one time was less than 200 kg or 200 L.

**30.       Obligations of carrier as to vehicles and tanks used to transport a controlled waste**

- (1) A carrier who fails to ensure that a vehicle or tank of the carrier —
  - (a) is used on a road in such a way as to prevent a controlled waste spilling, discharging or falling from the vehicle or tank; and



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- (b) has on each side and on the rear of the vehicle or tank, a sign with the words "Controlled waste", the name of the carrier and the licence number of the carrier displayed on it,

commits an offence.

- (2) In proceedings against a carrier for a breach of subregulation (1), it is a defence to prove that —
  - (a) the carrier issued proper instructions and took reasonable precautions to ensure that the driver of the vehicle complied with subregulation (1);
  - (b) the offence was committed by the driver without the carrier's knowledge; and
  - (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.

**31. Obligations of carrier as to receipt**

- (1) A carrier who fails to ensure that a driver of a vehicle of the carrier gives a waste generator a receipt under regulation 35 commits an offence.
- (2) In proceedings against a carrier for a breach of subregulation (1), it is a defence to prove that —
  - (a) the carrier issued proper instructions and took reasonable precautions to ensure that the driver complied with subregulation (1);
  - (b) the offence was committed by the driver without the carrier's knowledge; and
  - (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.

***Environmental Protection (Controlled Waste) Regulations 2004*****Part 3** Transportation and disposal of a controlled waste**Division 3** Driver's obligations**r. 32**

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**Division 3 — Driver's obligations****32. Obligations of drivers as to transportation of a controlled waste**

- (1) A driver who transports on a road a controlled waste without a controlled waste tracking number for the transportation of that waste commits an offence.
- (2) In proceedings against a driver for a breach of subregulation (1) it is a defence for the driver to prove that the controlled waste was a packaged controlled waste and the total weight or volume of packaged controlled waste being transported by the driver at any one time was less than 200 kg or 200 L.

**33. Obligations of drivers as to vehicles or tanks used to transport a controlled waste**

A driver who fails to ensure that a vehicle or tank that he or she is using on a road to transport a controlled waste is used in such a way as to prevent waste spilling, discharging or falling from the vehicle or tank commits an offence.

**34. Obligations of drivers as to transportation of liquids other than controlled waste**

A licensed driver who, except with the written permission of the CEO, carries a liquid that is not a controlled waste in a tank that has been used to carry a controlled waste commits an offence.

**35. Obligations of driver to provide a receipt**

- (1) A driver who transports a controlled waste on a road for a waste generator and who does not before the waste is transported by the driver give the waste generator a receipt setting out —
  - (a) the controlled waste tracking number for the transportation of the waste;
  - (b) the type of controlled waste;

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Transportation and disposal of a controlled waste **Part 3**  
Controlled waste tracking form and controlled waste tracking **Division 4**  
number  
**r. 36**

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- (c) the quantity of controlled waste loaded onto or into the driver's vehicle or tank; and
- (d) the date the waste is loaded onto or into the driver's vehicle or tank,

commits an offence.

- (2) A driver who makes a statement in a receipt given under subregulation (1) that is —
  - (a) false or misleading in a material particular; or
  - (b) likely to deceive in a material way,commits an offence.

**Division 4 — Controlled waste tracking form and controlled waste tracking number**

**36. Validity of controlled waste tracking form**

- (1) A controlled waste tracking form for the transportation of a type of controlled waste on a road is valid —
  - (a) in the case of a bulk controlled waste, for a period of 7 days beginning on the consignment day;
  - (b) in the case of any other controlled waste, for a period of 21 days beginning on the consignment day; or
  - (c) in the case of any controlled waste, for a period ending on the day on which any part of the controlled waste loaded onto the vehicle or tank is unloaded at a disposal site or under regulation 39(1)(a),whichever is the shorter period.
- (2) In subregulation (1) —  
“**consignment day**” means the day on which the first consignment of the type of controlled waste specified in the controlled waste tracking form is loaded onto the vehicle or tank specified in the controlled waste tracking form.

**Environmental Protection (Controlled Waste) Regulations 2004****Part 3** Transportation and disposal of a controlled waste**Division 4** Controlled waste tracking form and controlled waste tracking number**r. 37**

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- (3) Subject to subregulation (1), a controlled waste tracking form for the transportation of a type of controlled waste on a road is valid for more than one consignment of the type of controlled waste specified in the controlled waste tracking form whether collected from the same or different waste generators or waste holders.

**37. Controlled waste tracking number fee**

- (1) A person must pay the Department the fee prescribed in Schedule 3 for a controlled waste tracking number issued by the CEO to that person.
- (2) If a fee payable under subregulation (1) is not paid within the time specified by the CEO —
- (a) the amount of the fee may be recovered by the CEO in a court of competent jurisdiction as a debt due to the State; and
  - (b) the CEO may refuse to issue a controlled waste tracking number to a person until all fees payable under that subregulation by that person have been paid to the CEO.

**38. Information to be provided about controlled waste**

- (1) A waste holder who does not provide a carrier transporting a controlled waste for the waste holder with the information relating to that waste set out in Schedule 2 Division 1 commits an offence.
- (2) A waste generator who does not provide a carrier transporting a controlled waste for the waste generator with the information relating to that waste set out in Schedule 2 Division 2 commits an offence.
- (3) A carrier who does not ensure that each consignment of a controlled waste transported on or in a vehicle or tank of the carrier is accompanied by a controlled waste tracking form

**Environmental Protection (Controlled Waste) Regulations 2004**

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containing the information set out in Schedule 2 Division 3 commits an offence.

- (4) A driver who transports on a road a consignment of a controlled waste without a controlled waste tracking form for the transportation of that waste containing the information set out in Schedule 2 Division 3 commits an offence.
- (5) The CEO is to cause each controlled waste tracking form issued by the Department to have a unique number recorded on the form.

**Division 5 — Disposal of waste****39. Obligations as to disposal of a controlled waste**

- (1) Unless a controlled waste is —
  - (a) unloaded with the approval or at the direction of the CEO; or
  - (b) 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 concerned,

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 controlled waste tracking form for the transportation of that waste.

- (2) Unless otherwise approved or directed by the CEO, a driver must not unload a controlled waste at a disposal site —
  - (a) if the controlled waste tracking form for the transportation of that controlled waste has ceased to be valid; and
  - (b) in the case of a vehicle or tank that is used to bring a controlled waste from another State or a Territory, later than 7 days after the day on which the vehicle or tank entered this State.

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- (3) Unless otherwise approved or directed by the CEO, a driver who has collected a controlled waste in this State and who is taking the waste to another State or a Territory must remove the waste from this State not later than 7 days after —
- (a) the day on which the waste was collected in this State; or
  - (b) if the controlled waste is loaded onto a vehicle or tank other than on a road, the day on which the vehicle or tank enters a road,
- whichever is the later.
- (4) A carrier must ensure that any controlled waste collected in a vehicle or tank of the carrier is unloaded in accordance with subregulations (1) and (2).
- (5) The CEO may approve or direct the disposal of a controlled waste —
- (a) at a site other than the disposal site specified in the controlled waste tracking form for the transportation of that waste; and
  - (b) at a time specified in the approval or direction.
- (6) A failure to comply with the requirements of subregulation (1), (2) or (4) is a prescribed alteration of the environment for the purposes of paragraph (c) of the definition of “pollution” in section 3A(1) of the Act.
- (7) A driver who contravenes subregulation (3) commits an offence.
- (8) It is a defence in proceedings against a carrier under Part V of the Act (by the application of subregulation (6)) to prove that —
- (a) the carrier issued proper instructions and took reasonable precautions to ensure that the driver complied with subregulations (1) and (2);
  - (b) the offence was committed by the driver without the carrier’s knowledge; and

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Disposal of waste

**Division 5****r. 40**

- (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.

**40. Procedure on unloading a controlled waste**

- (1) Before unloading a controlled waste at a disposal site, the driver of the vehicle on which the waste is carried to the site must —
- (a) present the driver's identification card to the attendant in charge of or the occupier of the disposal site; and
  - (b) give the controlled waste tracking number for the waste to be unloaded at the disposal site to the attendant in charge of or the occupier of the disposal site.
- (2) A driver who contravenes subregulation (1) commits an offence.

**41. Obligations of the occupier of a disposal site**

- (1) The occupier of a disposal site who receives a controlled waste from a driver must record the information relating to that waste set out in Schedule 2 Division 4 on the controlled waste tracking form for the transportation of that waste immediately after that waste is unloaded at the site.
- (2) A copy of a controlled waste tracking form completed under subregulation (1) must be kept by the occupier of the disposal site for at least 3 years from the day on which the waste was delivered to the site.
- (3) The occupier of a disposal site who receives a controlled waste must obtain the controlled waste tracking number for the waste from the driver who delivered the waste to the site.
- (4) The occupier of a disposal site who receives a controlled waste from a carrier must give or send to the carrier a receipt for the waste bearing the controlled waste tracking number for the transportation of the waste delivered to the site.

**Environmental Protection (Controlled Waste) Regulations 2004****Part 3** Transportation and disposal of a controlled waste**Division 6** Disposal of material containing asbestos**r. 42**

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- (5) An occupier of a disposal site who issues a receipt under subregulation (4) must sign the receipt or cause the receipt to be signed by his or her representative.
- (6) The occupier of a disposal site who receives a controlled waste must send the controlled waste tracking number for any form completed under subregulation (1) to the CEO within 7 days of the day on which the waste was delivered to the site.
- (7) An occupier of a disposal site who contravenes subregulation (1), (2), (3), (4), (5) or (6) commits an offence.

**Division 6 — Disposal of material containing asbestos****42. Interpretation**

In this Division, unless the contrary intention appears —

“**asbestos**” means the asbestiform variety of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals and includes actinolite, amosite, anthophyllite, chrysotile, crocidolite, tremolite, and any mixture containing 2 or more of those;

“**disposal site**” means a facility or depot referred to in paragraph (a) or (c) of the definition of “disposal site” in regulation 2;

“**material containing asbestos**” means material —

- (a) which contains 0.001% or more of asbestos fibres weight/weight;
- (b) in which fibrous material is able to be detected by stereoscopic light microscopy at a magnification of not less than 10 times and not greater than 40 times; and
- (c) in which the fibrous material is able to be identified as asbestos by polarised light microscopy at a magnification of not greater than 400 times or by a



**Environmental Protection (Controlled Waste) Regulations 2004**

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**Part 3**

Disposal of material containing asbestos

**Division 6****r. 43**

method approved by the Executive Director, Public Health under the *Health Act 1911*.

**43. Disposal of material containing asbestos**

A person who disposes of material containing asbestos otherwise than at a disposal site commits an offence unless —

- (a) the material is disposed of at a place approved by the CEO under regulation 46(a); and
- (b) the material is disposed of in accordance with any directions given by the CEO under regulation 46(b).

**44. Asbestos for disposal to be separated, wrapped and labelled**

A person who takes material containing asbestos to a disposal site or to a place approved by the CEO under regulation 46(a) which is not —

- (a) separated from other material for disposal where that is reasonably practicable;
- (b) wrapped or otherwise contained in a manner that prevents asbestos fibres entering the atmosphere during transportation on a road; and
- (c) labelled or marked with the words “CAUTION ASBESTOS” in letters not less than 50 mm high,

commits an offence.

**45. Duty to notify others of presence of asbestos**

A person who —

- (a) takes material containing asbestos to a disposal site or to a place approved by the CEO under regulation 46(a); and
- (b) does not inform the person who operates or controls the site or place that the material is or contains asbestos,

commits an offence.

***Environmental Protection (Controlled Waste) Regulations 2004*****Part 3**                   Transportation and disposal of a controlled waste**Division 6**             Disposal of material containing asbestos**r. 46**

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**46.       CEO may approve place and manner of disposal in special cases**

If satisfied that the circumstances of a particular case warrant the disposal of material containing asbestos at a place other than a disposal site, the CEO may, in writing —

- (a)   approve a place other than a disposal site for the disposal of the material containing asbestos; and
- (b)   give directions as to the manner in which the material containing asbestos is disposed of at a place approved under paragraph (a).

**47.       Method of disposal**

A person who operates a place approved under regulation 46(a) as a place for the disposal of material containing asbestos who does not dispose of material containing asbestos in accordance with any directions given under regulation 46(b) commits an offence.

**Environmental Protection (Controlled Waste) Regulations 2004**

Miscellaneous

**Part 4****r. 48****Part 4 — Miscellaneous****48. Responsibility of carrier**

- (1) If a driver commits an offence against these regulations, the carrier by whom the driver is employed or engaged is taken to have committed the same offence.
- (2) It is a defence in proceedings against a carrier for an offence against these regulations (by the application of subregulation (1)) for the carrier to prove that —
  - (a) the carrier issued proper instructions and took reasonable precautions to ensure compliance with these regulations;
  - (b) the offence was committed by the driver without the carrier's knowledge; and
  - (c) the carrier could not by the exercise of reasonable diligence have prevented the commission of the offence.
- (3) A carrier may be charged and convicted of an offence against these regulations under subregulation (1) whether or not the driver who committed the offence has been proceeded against and convicted of the offence.

**49. Exemptions**

- (1) The CEO may by written notice exempt a person from compliance with any of the regulations in Parts 2 and 3 if the CEO is satisfied that —
  - (a) the circumstances in which the exemption is requested are justifiable and accountable; and
  - (b) the exemption will not adversely affect the operation of these regulations.
- (2) The CEO may by further written notice revoke or vary an exemption given under subregulation (1).

**Environmental Protection (Controlled Waste) Regulations 2004****Part 4** Miscellaneous**r. 50**

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**50. Inspection of licences, etc.**

A person required to hold a licence or have a controlled waste tracking form or number under these regulations who, when required to do so by an inspector —

- (a) fails to produce for inspection the licence; or
- (b) fails to give the controlled waste tracking form or number to the inspector,

commits an offence.

**51. Meeting**

- (1) The CEO may by written notice require a person who is the holder of a licence under these regulations to attend at a meeting with the CEO at a time and place specified in the notice.
- (2) A person who fails to comply with a requirement under subregulation (1) commits an offence.

**52. Appeals**

- (1) A person who is aggrieved by a decision of the CEO under regulation 5(2), 6(1), 6(2), 10(1), 12 or 18 may within 21 days after the day on which the person is notified of the decision, or within 21 days after the day on which an application under regulation 4 is taken to have been refused (by the application of regulation 5(3)), lodge with the Minister an appeal in writing setting out the grounds of the appeal.
- (2) An appeal lodged under subregulation (1) is to be treated as if it were an appeal under section 102 of the Act, and for that purpose sections 102 and 106 to 110 of the Act apply as if the appeal were an appeal under section 102.

**53. Penalty**

A person who commits an offence against these regulations is liable to a penalty of \$5 000.

***Environmental Protection (Controlled Waste) Regulations 2004***

Miscellaneous

**Part 4****r. 54****54. Fees**

In Schedule 3 fee amounts are expressed in units or parts of a unit, one unit being equivalent to the amount specified in column 2 of the Table to regulation 4(5) of the *Environmental Protection Regulations 1987* during the period specified in column 1 of that Table.

**55. *Environmental Protection (Controlled Waste) Regulations 2001* repealed**

The *Environmental Protection (Controlled Waste) Regulations 2001* are repealed.

**56. Transitional and savings**

(1) In this regulation —

**“commencement day”** means the day on which the *Environmental Protection (Controlled Waste) Regulations 2004* come into operation;

**“the regulations”** means the *Environmental Protection (Controlled Waste) Regulations 2001*.

(2) A licence as a carrier issued under the regulations and in force immediately before the commencement day, on and after the commencement day, has effect as if the licence were a licence as a carrier issued under the *Environmental Protection (Controlled Waste) Regulations 2004* and is to be taken to expire on 30 June 2004.

(3) A licence as an operator issued under the regulations and in force immediately before the commencement day, on and after the commencement day, has effect as if the licence were a licence as a driver issued under the *Environmental Protection (Controlled Waste) Regulations 2004* and is to be taken to expire on 30 June 2004.

(4) A licence of a vehicle issued under the regulations and in force immediately before the commencement day, on and after the

**Environmental Protection (Controlled Waste) Regulations 2004****Part 4** Miscellaneous**r. 57**

commencement day, has effect as if the licence were a licence for the vehicle issued under the *Environmental Protection (Controlled Waste) Regulations 2004* and is to be taken to expire on 30 June 2004.

- (5) An operator identification card issued to an operator before the commencement day is to be taken, on and after the commencement day, to be a driver identification card issued under the *Environmental Protection (Controlled Waste) Regulations 2004*.

**57. Environmental Protection Regulations 1987 amended**

- (1) The amendments in this regulation are to the *Environmental Protection Regulations 1987*\*.

[\* Reprinted as at 29 November 2002.

For amendments to 20 February 2004 see *Western Australian Legislation Information Tables for 2002, Table 4, p. 94, and Gazette 23 July and 9 September 2003.*]

- (2) Schedule 6 is amended as follows:
- (a) by deleting the entry relating to the *Environmental Protection (Liquid Waste) Regulations 1996*;
- (b) by deleting the entry relating to the *Environmental Protection (Controlled Waste) Regulations 2001*;
- (c) by inserting the following at the end of the Schedule —

“

*Environmental Protection  
(Controlled Waste)  
Regulations 2004*

1.	regulation 6(4)	250	500
2.	regulation 11(1)	250	500
3.	regulation 13(2)	250	500
4.	regulation 14	250	500
5.	regulation 15(1)	250	500

**Environmental Protection (Controlled Waste) Regulations 2004**

Miscellaneous

**Part 4****r. 57**

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6.	regulation 15(2)	250	500
7.	regulation 17	250	500
8.	regulation 19(2)	250	500
9.	regulation 21	250	500
10.	regulation 22(5)	250	500
11.	regulation 25(1)	250	500
12.	regulation 25(2)	250	500
13.	regulation 25(3)	250	500
14.	regulation 25(4)	250	500
15.	regulation 25(6)	250	500
16.	regulation 26(2)	250	500
17.	regulation 27(3)	250	500
18.	regulation 28(1)	250	500
19.	regulation 29(1)	250	500
20.	regulation 30(1)	250	500
21.	regulation 31(1)	250	500
22.	regulation 32(1)	250	500
23.	regulation 33	250	500
24.	regulation 34	250	500
25.	regulation 35(1)	250	500
26.	regulation 35(2)	250	500
27.	regulation 38(1)	250	500
28.	regulation 38(2)	250	500
29.	regulation 38(3)	250	500
30.	regulation 38(4)	250	500
31.	regulation 39(7)	250	500
32.	regulation 40(2)	250	500
33.	regulation 41(7)	250	500
34.	regulation 43	250	500
35.	regulation 44	250	500
36.	regulation 45	250	500
38.	regulation 47	250	500

***Environmental Protection (Controlled Waste) Regulations 2004*****Part 4**            Miscellaneous**r. 57**

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39. regulation 50	250	500
40. regulation 51(2)	250	500

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***Environmental Protection (Controlled Waste) Regulations 2004***

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**Controlled waste      Schedule 1**

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**Schedule 1 — Controlled waste**

[r. 2]

**Controlled waste**

Acidic solutions or acids in solid form

Animal effluent or residues (including abattoir effluent, poultry, and fish processing waste)

Antimony; antimony compounds

Arsenic; arsenic compounds

Asbestos

Barium compounds other than barium sulphate

Basic solutions or bases in solid form

Beryllium; beryllium compounds

Boron compounds

Cadmium; cadmium compounds

Ceramic based fibres with physio-chemical characteristics similar to those of asbestos

Chlorates

Clinical waste

Cobalt or cobalt compounds

Containers or drums that are contaminated with residues of a controlled waste

Copper compounds

Chromium compounds (hexavalent or trivalent)

Cyanides (inorganic)

Cyanides (organic)

Encapsulated, chemically-fixed, solidified, or polymerized wastes

***Environmental Protection (Controlled Waste) Regulations 2004*****Schedule 1**      Controlled waste

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Ethers

Filter cake

Fire debris or fire washwaters

Fly ash

Halogenated organic solvents

Highly odorous organic chemicals (including mercaptans and acrylates)

Inorganic fluorine compounds excluding calcium fluoride

Inorganic sulphides

Isocyanate compounds

Lead; lead compounds

Mercury; mercury compounds

Metal carbonyls

Mineral oil emulsions

Nickel compounds

Non toxic salts

Organic phosphorus compounds

Organic solvents excluding halogenated solvents

Organochlorine pesticides (OCPs)

Organohalogen compounds other than substances referred to elsewhere in this Schedule

Perchlorates

Phenols; phenol compounds including chlorophenols

Phosphorus compounds other than mineral phosphates

Polychlorinated Biphenyls (PCBs)

Polychlorinated dibenzo-furan (any congener)

***Environmental Protection (Controlled Waste) Regulations 2004***

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**Controlled waste      Schedule 1**

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Polychlorinated dibenzo-p-dioxin (any congener)

Residues from industrial waste treatment or disposal operations

Selenium; selenium compounds

Sewage

Soils contaminated with a controlled waste

Surface active agents (surfactants), containing mainly organic constituents and which may contain metals and inorganic materials

Tannery wastes (including leather dust, ash, sludge, or flours)

Tellurium; tellurium compounds

Thallium; thallium compounds

Triethylamine catalysts for setting foundry sands

Tyres

Vanadium compounds

Vegetable and food processing waste

Waste chemical substances arising from research and development or teaching activities which substances are not identified or are new or the effects of which on human health or the environment are not known

Waste containing peroxides other than hydrogen peroxide

Waste from grease traps

Waste from heat treatment or tempering operations containing cyanides

Waste from the manufacture, formulation, or use of wood-preserving chemicals

Waste from the production, formulation, or use of biocides and phytopharmaceuticals

Waste from the production, formulation, or use of inks, dyes, pigments, paints, lacquers, or varnish

Waste from the production, formulation, or use of organic solvents

***Environmental Protection (Controlled Waste) Regulations 2004*****Schedule 1**      **Controlled waste**

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Waste from the production, formulation, or use of photographic chemicals or processing material

Waste from the production, formulation, or use of resins, latex, plasticisers, glues, or adhesives

Waste from the production or preparation of pharmaceutical products

Waste mineral oils unfit for their intended use

Waste pharmaceuticals drugs or medicines

Waste resulting from surface treatments of metals or plastics

Waste tarry residues arising from refining, distillation, or pyrolytic treatment

Waste, substances, or articles containing or contaminated by polychlorinated biphenyls (PCBs), polychlorinated naphthalenes (PCNs), polychlorinated terphenyls (PCTs), or polybrominated biphenyls (PBBs)

Wastes of an explosive nature not subject to any other written law

Wool scouring wastes

Zinc compounds

***Environmental Protection (Controlled Waste) Regulations 2004***Transport information **Schedule 2****Schedule 2 — Transport information**

[r. 38]

**Division 1 — Information to be provided by waste holder**

Type of controlled waste

Amount of controlled waste

Containment type (bulk, packaged)

**Division 2 — Information to be provided by waste generator**

Type of controlled waste

Amount of controlled waste

Containment type (bulk, packaged)

**Division 3 — Information to be recorded on controlled waste tracking form**

Waste generator's name or identification number

Waste generator's address

Type of controlled waste

Date loaded onto or into vehicle or tank

Amount of controlled waste

Driver's name

Driver's licence number (if licence required under these regulations)

Vehicle registration number

Tank licence number (if licence required under these regulations)

Carrier's name

***Environmental Protection (Controlled Waste) Regulations 2004*****Schedule 2** Transport information

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Carrier's licence number

Vehicle or tank capacity

**Division 4 — Information to be recorded by the occupier of disposal site**

Date of receipt at facility

Amount of waste

Discrepancies

**Environmental Protection (Controlled Waste) Regulations 2004****Fees Schedule 3****Schedule 3 — Fees**

[r. 54]

	<b>Fee units</b>
1. Licence as a carrier (r. 4(1), 11(1))	15
2. Licence as a driver (r. 4(1), 17, 20(1))	15
3. Licence for a vehicle or tank (r. 4(1), 21)	15
4. Renewal of licence as a carrier (r. 9(1))	11
5. Renewal of licence as a driver (r. 9(1))	4
6. Renewal of licence for a vehicle or tank (r. 9(1))	4
7. Application for a condition of a licence to be changed or removed (r. 6(5))	7
8. Controlled waste tracking number (r. 37(1))	1.5

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.



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