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Environmental Management and Pollution Control (Controlled Waste Tracking) Regulations 2010

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Environmental Management and Pollution Control (Controlled Waste Tracking) Regulations 2010

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Environmental Management and Pollution Control Act 1994 .

11 February 2010

PETER G. UNDERWOOD

Governor

By His Excellency's Command,

MICHELLE O'BYRNE

Minister for Environment, Parks and Heritage

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Environmental Management and Pollution Control (Controlled Waste Tracking) Regulations 2010 .

2. Commencement

- (1) Parts 1 , 2 , 4 , 5 and 6 take effect on the day on which the making of these regulations is notified in the *Gazette*.
- (2) Part 3 takes effect on 12 April 2010.

3. Interpretation

- (1) In these regulations –

Act means the Environmental Management and Pollution Control Act 1994 ;

approved means approved in writing by the Director;

controlled waste agent means a controlled waste transporter appointed under regulation 27 as an agent of a controlled waste producer;

controlled waste facility means –

- (a) a facility at which controlled waste is received for energy recovery, recycling, incineration, storage, reuse, reprocessing, treatment or disposal; or
- (b) a controlled waste transfer depot at which controlled waste is received for transfer;

controlled waste facility operator means a person who is in charge of a controlled waste facility;

controlled waste handler means –

- (a) a controlled waste producer; or
- (b) a controlled waste transporter; or
- (c) a controlled waste agent; or
- (d) a controlled waste facility operator;

controlled waste producer means a person who –

- (a) has produced or received, or has responsibility for, controlled waste; and
- (b) requires the waste to be recovered, recycled, incinerated, transferred, stored, reused, reprocessed, treated or disposed of –

but does not include a person to whom this definition would otherwise apply by virtue only of being a controlled waste transporter or controlled waste facility operator;

controlled waste tracking certificate means a controlled waste tracking certificate, issued to a registered controlled waste producer or a registered controlled waste agent under regulation 13(3) , that has not been revoked;

controlled waste transporter means a person who transports controlled waste in a vehicle;

NEPM means the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure, as amended from time to time, made by the National Environment Protection Council on 26 June 1998 under the *National Environment Protection Council Act 1994* of the Commonwealth;

participating State or Territory means a participating State, or a participating Territory, within the meaning of the NEPM, but does not include Tasmania;

register means the register of controlled waste handlers kept by the Director in accordance with regulation 5 ;

registered controlled waste agent means a person who is registered under regulation 6(3) in respect of the category of controlled waste agent;

registered controlled waste facility operator means a person who is registered under regulation 6(3) in respect of the category of controlled waste facility operator;

registered controlled waste handler means a controlled waste handler who is registered under regulation 6(3) ;

registered controlled waste producer means a person who is registered under regulation 6(3) in respect of the category of controlled waste producer;

registered controlled waste transporter means a person who is registered under regulation 6(3) in respect of the category of controlled waste transporter;

vehicle means a motor vehicle, or a trailer, as defined in the Vehicle and Traffic Act 1999 ;

waste category means a waste –

- (a) listed in the list of waste categories specified in the NEPM; or
- (b) prescribed in the Environmental Management and Pollution Control (Waste Management) Regulations 2000 as a controlled waste.

(2) The Director may approve, for the purposes of these regulations, a manner or form that is electronic.

(3) A reference in these regulations to a load of controlled waste is a reference to a load of controlled waste, all of which is within a single waste category.

4. Application

(1) These regulations apply in relation to the transport by vehicle of controlled waste.

(2) Despite subregulation (1) , these regulations, other than this regulation and regulations 29 and 31 , do not apply in relation to –

(a) the transport by vehicle of controlled waste in an emergency, so as to protect human life, the environment or property; or

(b) the transport by vehicle of controlled waste –

- (i) for use in research, if the transport of the controlled waste is approved for that purpose; or
- (ii) for use in analysis for the purpose of identifying the controlled waste; or

(c) the transport by vehicle of controlled waste from one part of a controlled waste handler's premises to another part of the premises; or

(d) the transport by vehicle of a container carrying the residue of a substance that is a controlled waste, if the container is being transported so that it may be refilled with the substance; or

(e) the transport by vehicle of controlled waste from domestic premises, if the controlled waste results from usual domestic activities; or

(f) the transport by vehicle of an unwanted agvet chemical, if the chemical –

- (i) was used in the carrying out of a primary industry activity on land; and
- (ii) is being transported by the owner or occupier of the land; and
- (iii) is being transported from the land to an approved collection place; or

(g) the transport by vehicle of controlled waste for a purpose relating to law enforcement.

(3) Subregulation (2)(f) does not apply to a primary industry activity –

- (a) that is a level 2 activity; or
- (b) that is a level 3 activity; or
- (c) in respect of which the Director has issued an environment protection notice in accordance with section 27(6) of the Act; or
- (d) that the Board, in accordance with section 24(4A) of the Act, has determined is not to be treated as a level 1 activity.

(4) Despite subregulation (1) , these regulations, other than this regulation and regulations 29 and 31 , do not apply in relation to the transport by vehicle of controlled waste if –

- (a) the transport is part of a journey which began in a participating State or Territory and will end in Tasmania; and
- (b) documents of the kind approved by the Director for the purposes of import of controlled waste into Tasmania are in force in relation to the load.

(5) Despite subregulation (1) , these regulations, other than this regulation and regulations 29 and 31 , do not apply in relation to the transport by vehicle of controlled waste if –

- (a) the transport is part of a journey which began in Tasmania and will end in a participating State or Territory; and
- (b) documents of the kind approved by the Director for the purposes of export of controlled waste from Tasmania are in force in relation to the load.

(6) In this regulation –*[Regulation 4 Subregulation (6) amended by No. 4 of 2012, Sched. 3, Applied:01 Jan 2013]*

[Regulation 4 Subregulation (6) amended by No. 4 of 2012, Sched. 3, Applied:01 Jan 2013] **agvet chemical** means –

- (a) an agricultural chemical within the meaning of the Agvet Code of Tasmania; or
- (b) a veterinary chemical product within the meaning of the Agvet Code of Tasmania;

primary industry activity means a primary industry activity within the meaning of the Primary Industry Activities Protection Act 1995 .

PART 2 - Registration of Controlled Waste Handlers

5. Register of controlled waste handlers

- (1) The Director must keep, in the manner and form the Director thinks fit, a register of registered controlled waste handlers.
- (2) The Director must specify in the register the following information in relation to a registered controlled waste handler:
 - (a) the name of the controlled waste handler;
 - (b) the unique registration number assigned to the controlled waste handler under regulation 6(5) ;
 - (c) the category or categories of controlled waste handler in respect of which the handler is, in accordance with regulation 6(6) , registered;
 - (d) the waste categories specified on the registration of the controlled waste handler under regulation 7 ;
 - (e) the conditions imposed under regulation 8 on the registration of the controlled waste handler;
 - (f) any information from the controlled waste handler's application under regulation 6(1) for registration, or any documents accompanying the application under regulation 6(2)(c) , that the Director considers necessary;
 - (g) any other information the Director considers necessary.
- (3) The Director may amend information, specified in the register, in relation to a registered controlled waste handler, if the Director is satisfied that –
 - (a) the information contains an error; or
 - (b) the information is inaccurate; or
 - (c) it is otherwise appropriate to do so.
- (4) The Director may remove the following information from the register:
 - (a) information specified in relation to a person whose registration has been revoked under regulation 9(1) ;
 - (b) information specified in relation to a person who has given notice under regulation 12(2) that the person has ceased to operate as a controlled waste handler.

6. Registration of controlled waste handlers

- (1) A person may apply for registration as a controlled waste handler.
- (2) An application for registration is to be –
 - (a) in an approved form; and
 - (b) lodged with the Director in an approved manner; and
 - (c) accompanied by any documents the Director considers appropriate and requires to accompany the application.
- (3) If the Director receives from a person an application for registration, the Director may –
 - (a) register the person as a controlled waste handler; or
 - (b) refuse to register the person as a controlled waste handler.
- (4) If the Director refuses under subregulation (3)(b) to register a person as a controlled waste handler, the Director, within 14 days, is to give written notice to the person of the refusal and the reasons for the refusal.
- (5) The Director must assign to a registered controlled waste handler a unique registration number.

(6) The Director must specify on the registration of a controlled waste handler the category or categories of controlled waste handler in respect of which the handler is registered.

(7) A controlled waste handler may be registered in respect of one or more of the following categories of controlled waste handler:

- (a) controlled waste producer;
- (b) controlled waste transporter;
- (c) controlled waste agent;
- (d) controlled waste facility operator.

7. Authorisation in respect of waste categories

(1) The Director must –

- (a) specify on the registration of a controlled waste producer the waste categories that the producer is authorised to consign for transport by vehicle; and
- (b) specify on the registration of a controlled waste transporter or a controlled waste agent the waste categories that the transporter or agent is authorised to take possession of for transport by vehicle, to transport by vehicle and to deliver possession of to a controlled waste facility operator; and
- (c) specify on the registration of a controlled waste facility operator the waste categories that the operator is authorised to take possession of from a controlled waste transporter or controlled waste agent.

(2) A registered controlled waste producer is authorised to consign for transport by vehicle a controlled waste that is within a waste category specified on the producer's registration under subregulation (1) .

(3) A registered controlled waste transporter or a registered controlled waste agent is authorised to take possession of for transport by vehicle, to transport by vehicle and to deliver possession of to a controlled waste facility operator, a controlled waste that is within a waste category specified on the transporter or agent's registration under subregulation (1) .

(4) A registered controlled waste facility operator is authorised to take possession of, from a controlled waste transporter or controlled waste agent, a controlled waste that is within a waste category specified on the operator's registration under subregulation (1) .

(5) The Director, by written notice to a registered controlled waste handler, may vary or revoke a waste category specified under subregulation (1) on the registration of the handler.

8. Conditions of registration of controlled waste handlers

(1) When the Director registers a person as a controlled waste handler, the Director may specify on the registration the conditions, if any, that the Director considers appropriate.

(2) The Director, by written notice to a registered controlled waste handler, may –

- (a) vary any of the conditions imposed on the registration of the controlled waste handler under subregulation (1) ; or
- (b) revoke any of the conditions imposed on the registration of the controlled waste handler under subregulation (1) ; or
- (c) impose on the registration of the controlled waste handler any new conditions the Director considers appropriate.

(3) A registered controlled waste handler, or an employee or agent of the controlled waste handler, must not contravene a condition of the controlled waste handler's registration.

Penalty: Fine not exceeding 100 penalty units.

9. Revocation of registration of controlled waste handler

- (1) The Director may, by written notice to a person, revoke the registration under regulation 6 of the person as a controlled waste handler.
- (2) The Director may only revoke the registration under regulation 6 of a person as a controlled waste handler if the Director is satisfied that –
 - (a) the person has not paid the issue fee in accordance with regulation 11(1) and is not exempt from the requirement to do so; or
 - (b) the person has committed, or the Director believes on reasonable grounds the person is likely to commit, an offence under the Act or these regulations; or
 - (c) the person has not complied with a condition of the person's registration; or
 - (d) the person has ceased to operate as a controlled waste handler and is unlikely to resume operating as such within 12 months after ceasing to operate.

10. Certificates of registration

- (1) When the Director registers a person under regulation 6 as a controlled waste handler, the Director must issue to the person, in the approved manner, a certificate of registration.
- (2) The Director may issue to a controlled waste handler a new certificate of registration if –
 - (a) a waste category specified on the registration of the controlled waste handler under regulation 7 is varied or revoked; or
 - (b) a condition of registration of the controlled waste handler is varied, revoked or imposed under regulation 8(2) ; or
 - (c) the Director –
 - (i) receives a notice from the controlled waste handler under regulation 12(1) ; and
 - (ii) considers it appropriate that a new certificate be issued.
- (3) The certification of registration issued under subregulation (1) or (2) in respect of a controlled waste handler is to –
 - (a) be in an approved form; and
 - (b) specify the unique registration number assigned to the controlled waste handler under regulation 6(5) ; and
 - (c) specify the category or categories of controlled waste handler in respect of which the handler is, in accordance with regulation 6(6) , registered; and
 - (d) specify the waste categories specified under regulation 7 on the registration of the controlled waste handler; and
 - (e) specify the conditions imposed under regulation 8 on the registration of the controlled waste handler.
- (4) A certificate of registration issued under subregulation (1) or (2) in respect of a registered controlled waste producer, or a registered controlled waste facility operator, who is exempt, under regulation 11(3) , from the payment of an issue fee under regulation 11(1) , is to specify that the producer or operator is so exempt.

11. Fees for issue of registration certificates

- (1) A controlled waste handler to whom a certificate of registration is issued under regulation 10(1) or (2) must, within 30 days, pay an issue fee of 200 fee units to the Director.
- (2) The requirement specified in subregulation (1) does not apply to a controlled waste handler who is exempted under subregulation (3) from the requirement.
- (3) The Director may exempt a controlled waste producer or controlled waste facility operator from the requirement to pay the issue fee under subregulation (1) if –
 - (a) the producer or operator is responsible for an activity –

- (i) that is a level 2 activity; or
- (ii) that is a level 3 activity; or
- (iii) in respect of which the Director has issued an environment protection notice in accordance with section 27(6) of the Act; or
- (iv) that the Board, in accordance with section 24(4A) of the Act, has determined is not to be treated as a level 1 activity; and

(b) the Director is satisfied that it is appropriate to do so.

12. Notices of change of registration details and cessation of operations

(1) A controlled waste handler must, within 7 days after a change occurs in respect of any details that were provided to the Director in –

(a) the handler's application under regulation 6(1) for registration; or

(b) a document accompanying the application under regulation 6(2)(c) –

give to the Director, in the approved manner, written notice of how the details have changed.

Penalty: Fine not exceeding 20 penalty units.

(2) A person who is registered as a controlled waste handler must, within 7 days after ceasing to operate as a controlled waste handler, give to the Director, in the approved manner, written notice that the handler has ceased to so operate.

Penalty: Fine not exceeding 20 penalty units.

PART 3 - Tracking Movement of Controlled Waste

Division 1 - Controlled waste tracking certificates

13. Issue of controlled waste tracking certificates

- (1) A registered controlled waste producer or registered controlled waste agent may apply to the Director for the issue of a controlled waste tracking certificate.
- (2) An application is to be in an approved form and made in an approved manner.
- (3) The Director may issue a controlled waste tracking certificate to a registered controlled waste producer, or a registered controlled waste agent, who applied for the certificate under subregulation (1) .
- (4) The Director may only issue a controlled waste tracking certificate under subregulation (3) if a fee of 3.3 fee units is paid to the Director for the certificate.
- (5) The controlled waste tracking certificate is to –
 - (a) be in an approved form; and
 - (b) be uniquely numbered; and
 - (c) specify the date on which it expires.
- (6) A controlled waste tracking certificate is to indicate that the following details are to be specified in the certificate by a person completing part of the certificate:
 - (a) if the part of the certificate is to be completed by a controlled waste producer –
 - (i) details of the load to which the certificate is to relate; and
 - (ii) details of the controlled waste producer;
 - (b) if the part of the certificate is to be completed by a controlled waste transporter who is to transport, or has transported, one load of controlled waste from one controlled waste producer, details of the controlled waste transporter;
 - (c) if the part of the certificate is to be completed by a controlled waste agent, who is to transport, or has transported, one load of controlled waste from one controlled waste producer –
 - (i) details of the load to which the certificate is to relate; and
 - (ii) details of the controlled waste agent; and
 - (iii) details of the controlled waste producer;
 - (d) if the part of the certificate is to be completed by a controlled waste agent who is to transport, or has transported, one or more loads of controlled waste from one or more controlled waste producers –
 - (i) details of each of the loads of controlled waste or such other details as are approved by the Director; and
 - (ii) details of each controlled waste producer from whom one or more of the loads is to be, or has been, received.
- (7) Subregulation (6) does not limit the details that a controlled waste tracking certificate may indicate are required to be provided by a person completing part of the certificate.
- (8) If the Director determines that a controlled waste tracking certificate may be issued to a person by enabling the person to access the certificate electronically in a database, the certificate is to be taken to be given to a person under these regulations by another person only if the person is notified electronically, by the other person or the Director –
 - (a) that part of the certificate on the database has been certified by the other person; or

(b) that the certificate is to be taken to have been given to the person by the other person.

14. Revocation of controlled waste tracking certificates

(1) The Director may, by notice in writing to the controlled waste producer or controlled waste agent to whom a controlled waste tracking certificate was issued under regulation 13 , revoke the certificate.

(2) A notice under subregulation (1) is to specify –

(a) the unique number of the controlled waste tracking certificate under regulation 13(5)(b) ; and

(b) that the controlled waste tracking certificate is revoked; and

(c) the reasons for the revocation; and

(d) the date, on or after the notice is given, on which the revocation is to take effect.

(3) A revocation of a controlled waste tracking certificate by a notice under subregulation (1) takes effect from the date that is specified in the notice in accordance with subregulation (2)(d) .

(4) A controlled waste producer or controlled waste agent must, as soon as practicable after receiving notice under subregulation (1) of the revocation of a controlled waste tracking certificate, notify of the revocation the controlled waste transporter, if any, to whom possession of a load of controlled waste to which the certificate relates is about to be, or has been, transferred.

Penalty: Fine not exceeding 20 penalty units.

(5) If–

(a) before a controlled waste transporter is notified under subregulation (4) that a controlled waste tracking certificate has been revoked under subregulation (1) , a load of controlled waste to which the certificate relates begins to be transported on a journey to a controlled waste facility; and

(b) the journey cannot reasonably be completed before the revocation takes effect under subregulation (3) –

then, despite subregulation (3) –

(c) the certificate remains in force until the load is unloaded in accordance with directions of the Director, or an authorized officer, given to the controlled waste transporter; or

(d) if no such directions are given to the controlled waste transporter before the load is unloaded at a controlled waste facility, the controlled waste certificate is taken to have not been revoked in relation to that load.

(6) The Director may, if he or she considers it appropriate to do so, issue under regulation 13(3) a new controlled waste tracking certificate to a controlled waste producer or controlled waste agent, to replace a controlled waste tracking certificate revoked under subregulation (1) .

(7) A new controlled waste tracking certificate may, in accordance with subregulation (6) , be issued under regulation 13(3) to a controlled waste producer or controlled waste agent –

(a) without an application being made by the producer or agent under regulation 13(1) ; and

(b) without the fee for the certificate being paid in accordance with regulation 13(4) .

Division 2 - Tracking movement of controlled waste

15. Tracking obligations of controlled waste producers

(1) A controlled waste producer must not transfer to a controlled waste transporter possession of a load of controlled waste for transport by vehicle, unless the controlled waste producer –

(a) is a registered controlled waste producer; and

(b) has been issued under regulation 13 with a controlled waste tracking certificate for the load of controlled waste; and

(c) has completed the part of the controlled waste tracking certificate that the certificate indicates is required to be completed by the controlled waste producer; and

(d) has, on the controlled waste tracking certificate, certified as correct the information the controlled waste producer provided in completing the part of the certificate under paragraph (c) ; and

(e) has given to the controlled waste transporter the controlled waste tracking certificate, as completed and certified under paragraphs (c) and (d) respectively.

Penalty: Fine not exceeding 100 penalty units.

(2) A controlled waste producer, within 14 days after certifying the information provided on a controlled waste tracking certificate under subregulation (1)(d) , must give to the Director, in an approved manner, a copy of the certificate as so certified.

Penalty: Fine not exceeding 40 penalty units.

(3) This regulation does not apply in relation to the transfer, by a controlled waste producer, of possession of a load of controlled waste to a controlled waste transporter who is a controlled waste agent appointed by the producer under regulation 27 or an employee or agent of such a person.

16. Tracking obligations of controlled waste transporters

(1) A controlled waste transporter must not take, for transport by vehicle, possession of a load of controlled waste from a controlled waste producer, unless the controlled waste transporter –

(a) is a registered controlled waste transporter or is or an employee or agent of a registered controlled waste transporter; and

(b) is in possession of the controlled waste tracking certificate, for the load of controlled waste, given to the controlled waste transporter by the controlled waste producer under regulation 15(1)(e) .

Penalty: Fine not exceeding 100 penalty units.

(2) A controlled waste transporter must, before transferring to a controlled waste facility operator possession of a load of controlled waste transported by vehicle by the transporter –

(a) complete the part of the controlled waste tracking certificate, for the load of controlled waste, that the certificate indicates is required to be completed by the controlled waste transporter; and

(b) on the controlled waste tracking certificate, certify as correct the information the controlled waste transporter provided in completing the part of the certificate under paragraph (a) ; and

(c) give to the controlled waste facility operator the controlled waste tracking certificate, as completed and certified under paragraphs (a) and (b) respectively.

Penalty: Fine not exceeding 100 penalty units.

(3) A controlled waste transporter who certifies the information provided in a controlled waste tracking certificate under subregulation (2)(b) , or, if the transporter is an employee or agent of a person, that person, must, within 14 days, give to the Director, in an approved manner, a copy of the certificate as so certified.

Penalty: Fine not exceeding 40 penalty units.

(4) This regulation does not apply in relation to the taking of possession of a load of controlled waste by a controlled waste transporter, or the transfer by a controlled waste transporter to a controlled waste facility operator of a load of controlled waste, if the controlled waste transporter is –

(a) a controlled waste agent appointed under regulation 27 by the controlled waste producer of the waste; or

(b) an employee or agent of a controlled waste agent appointed under regulation 27 by the controlled waste producer of the waste.

17. Tracking obligations of controlled waste agents

(1) A controlled waste agent, or an employee or agent of a controlled waste agent, must not take, for transport by vehicle, possession of a load of controlled waste from a controlled waste producer, unless –

(a) the controlled waste agent or person is a registered controlled waste agent or an employee or agent of a registered controlled waste agent; and

(b) the controlled waste agent or person has been appointed a controlled waste agent under regulation 27 by the controlled waste producer or is an employee or agent of a controlled waste agent appointed under regulation 27 by the controlled waste producer of the waste; and

(c) a controlled waste tracking certificate for the load has been issued under regulation 13 .

Penalty: Fine not exceeding 100 penalty units.

(2) A controlled waste agent, or a person who is an employee or agent of a controlled waste agent, must, before transporting a load of controlled waste by vehicle –

(a) complete the part of the controlled waste tracking certificate, for the load, that the certificate indicates is required to be completed by the controlled waste agent; and

(b) on the controlled waste tracking certificate, certify as correct the information the agent or person provided in completing the part of the certificate under paragraph (a) .

Penalty: Fine not exceeding 100 penalty units.

(3) A controlled waste agent who certifies the information provided in a controlled waste tracking certificate under subregulation (2)(b) , or, if the person who certifies the information is an employee or agent of a controlled waste agent, the controlled waste agent, must, within 14 days, give to the Director, in an approved manner, a copy of the certificate as so certified.

Penalty: Fine not exceeding 40 penalty units.

(4) A controlled waste agent, or a person who is an employee or agent of a controlled waste agent, must, before transferring to a controlled waste facility operator possession of a load of controlled waste transported by vehicle by the agent or person –

(a) complete the part, of the controlled waste tracking certificate for the load of controlled waste, that the certificate indicates is required to be completed by the controlled waste agent; and

(b) on the controlled waste tracking certificate, certify as correct the information provided by the controlled waste agent or person in completing the part of the certificate under paragraph (a) ; and

(c) give to the controlled waste facility operator the controlled waste tracking certificate, as completed and certified under paragraphs (a) and (b) respectively.

Penalty: Fine not exceeding 100 penalty units.

(5) A controlled waste agent who certifies the information provided in a controlled waste tracking certificate under subregulation (4)(b) , or, if the information is certified by an employee or agent of a controlled waste agent, the controlled waste agent, must, within 14 days, give to the Director, in an approved manner, a copy of the certificate as so certified.

Penalty: Fine not exceeding 40 penalty units.

18. Tracking obligations of controlled waste facility operators

(1) A controlled waste facility operator must not take, from a person, possession of a load of controlled waste transported, by vehicle, by the person, unless the controlled waste facility operator –

- (a) is a registered controlled waste facility operator; and
- (b) is in possession of the controlled waste tracking certificate, for the load, given to the controlled waste facility operator by the person.

Penalty: Fine not exceeding 100 penalty units.

(2) A controlled waste facility operator, within 14 days after taking possession from a person of a load of controlled waste transported by vehicle by the person, must –

- (a) complete the part of the controlled waste tracking certificate, for the load, that the certificate indicates is required to be completed by the controlled waste facility operator; and
- (b) on the controlled waste tracking certificate, certify as correct the information provided by the controlled waste facility operator in completing the part of the certificate under paragraph (a) .

Penalty: Fine not exceeding 100 penalty units.

(3) A controlled waste facility operator, within 14 days after certifying the information provided in a controlled waste tracking certificate under subregulation (2)(b) , must give to the Director, in an approved manner, a copy of the certificate as so certified.

Penalty: Fine not exceeding 40 penalty units.

(4) A controlled waste facility operator who refuses to accept possession, from a person, of a load of controlled waste transported by vehicle by the person, must, within 24 hours, notify the Director, in an approved manner, of the refusal.

Penalty: Fine not exceeding 40 penalty units.

19. Controlled waste tracking certificates to be carried in vehicles transporting controlled waste

A person must not transport in a vehicle a load of controlled waste unless there is in the vehicle –

- (a) the controlled waste tracking certificate for the load; or
- (b) if regulation 13(8) applies to the controlled waste tracking certificate for the load, a copy of the certificate.

Penalty: Fine not exceeding 40 penalty units.

PART 4 - Collection and Disclosure of Tracking Information

20. Director to keep tracking information

(1) The Director is to keep, for at least 7 years, information, given to the Director on a copy of a controlled waste tracking certificate, by a –

- (a) controlled waste producer under regulation 15(2) ; or
- (b) controlled waste transporter under regulation 16(3) ; or
- (c) controlled waste agent under regulation 17(5) ; or
- (d) controlled waste facility operator under regulation 18(3) .

(2) The Director is to keep, for at least 7 years, a notice given to the Director by a controlled waste facility operator under regulation 18(4) .

21. Controlled waste handlers to keep tracking information

(1) A registered controlled waste producer must keep a copy of a controlled waste tracking certificate for at least 3 years after the day on which information on the certificate was certified by the producer under regulation 15(1)(d) .

Penalty: Fine not exceeding 40 penalty units.

(2) A registered controlled waste transporter must keep a copy of a controlled waste tracking certificate for at least 3 years after the day on which information on the certificate was certified under regulation 16(2)(b) by the transporter.

Penalty: Fine not exceeding 40 penalty units.

(3) A registered controlled waste agent must keep a copy of a controlled waste tracking certificate for at least 3 years after the day on which information on the certificate was certified under regulation 17(2)(b) or regulation 17(4)(b) by the controlled waste agent or an employee or agent of the controlled waste agent.

Penalty: Fine not exceeding 40 penalty units.

(4) A registered controlled waste facility operator must keep a controlled waste tracking certificate for at least 3 years after the day on which information on the certificate was certified under regulation 18(2)(b) by the controlled waste facility operator.

Penalty: Fine not exceeding 40 penalty units.

22. Director may disclose tracking information

The Director may disclose to –

- (a) a council; or
- (b) a State Service Agency; or
- (c) a person, or body, authorised under an enactment of another State, a Territory, or the Commonwealth, to carry out law enforcement duties; or
- (d) a person or body of another State, a Territory, or the Commonwealth, that performs functions substantially similar to functions performed by the Director or a State Service Agency –

information given to the Director under these regulations, including any personal information about a person, if the Director is satisfied that it is reasonably required, by the person or body to whom it is disclosed, for the performance of a function, or the exercise of a power, of that person or body.

PART 5 - Exemptions from Operation of Regulations

23. Exemptions from regulations on Director's own initiative

- (1) The Director, by notice in the *Gazette*, may –
 - (a) exempt a person from the operation of these regulations, or a specified provision of these regulations, in relation to a controlled waste specified in the exemption, a class of controlled wastes specified in the exemption or all controlled wastes; or
 - (b) exempt a class of persons from the operation of these regulations, or a provision of these regulations specified in the exemption, in relation to a controlled waste specified in the exemption, a class of controlled wastes specified in the exemption or all controlled wastes; or
 - (c) exempt all persons from the operation of these regulations, or a specified provision of these regulations, in relation to a controlled waste, or a class of controlled wastes, specified in the exemption.
- (2) The Director may only grant an exemption under subregulation (1) if he or she is satisfied that the granting of the exemption would not be inconsistent with the objectives of the Act.
- (3) The Director may grant an exemption unconditionally or on the conditions that the Director considers appropriate.
- (4) The Director, by notice in the *Gazette*, may vary or revoke an exemption if he or she considers it appropriate to do so.
- (5) A person to whom an exemption under this regulation applies, or an employee or agent of such a person, must not contravene a condition of an exemption.

Penalty: Fine not exceeding 75 penalty units.

24. Exemptions from regulations on application of persons

- (1) A person may apply to the Director, in an approved manner, for an exemption from compliance with these regulations or a specified provision of these regulations.
- (2) An application for an exemption is to –
 - (a) be in an approved form; and
 - (b) be accompanied by an application fee of 80 fee units; and
 - (c) be accompanied by any documents the Director requires the applicant to provide; and
 - (d) contain any additional information the Director requires the applicant to provide.
- (3) The Director, after receiving an application for an exemption, may –
 - (a) grant, by notice in writing to the applicant, the exemption; or
 - (b) refuse, by notice in writing to the applicant setting out the reasons for the refusal, to grant the exemption.
- (4) An exemption under subregulation (3) may exempt a person from the operation of these regulations, or a specified provision of these regulations, in relation to –
 - (a) a controlled waste specified in the exemption; or
 - (b) a class of controlled wastes specified in the exemption; or
 - (c) all controlled wastes.
- (5) The Director may only grant to an applicant an exemption if the Director is satisfied that –
 - (a) compliance with the regulations or a specified provision of the regulations by the applicant is unnecessary, impracticable or unreasonable; and

- (b) the granting of the exemption would not be inconsistent with the objectives of the Act.
- (6) The Director may refuse to grant to an applicant an exemption if the Director is satisfied –
 - (a) that compliance with the regulations or a specified provision of the regulations by the applicant is necessary, practicable and reasonable and the granting of the exemption would be inconsistent with the objectives of the Act; or
 - (b) that the applicant has been convicted of an offence against the Act or these regulations, or any other offence in any other Act that relates to the handling of controlled waste; or
 - (c) on reasonable grounds, that the application contains, or is accompanied by, a document or information that is false or misleading; or
 - (d) that environmental harm may occur if the exemption is granted; or
 - (e) on reasonable grounds, that it is otherwise appropriate to do so.
- (7) An exemption granted under subregulation (3)(a) remains in force –
 - (a) for the period specified in the exemption, unless revoked sooner under regulation 25 ; or
 - (b) if no period is specified in the exemption, until it is revoked under regulation 25 , if at all.
- (8) The Director may grant an exemption unconditionally or on the conditions that the Director considers appropriate and specifies in the notice of exemption referred to in subregulation (3)(a) .
- (9) A person to whom an exemption under this regulation applies, or an employee or agent of such a person, must not contravene a condition of the exemption.

Penalty: Fine not exceeding 75 penalty units.

25. Variation or revocation of exemption

- (1) The Director may, by written notice to a person to whom an exemption is granted under regulation 24(3)(a) , vary or revoke the exemption.
- (2) The Director may only vary or revoke an exemption granted under regulation 24(3)(a) if –
 - (a) the Director considers that to do so is –
 - (i) necessary or desirable to prevent, or to minimise the risk of, environmental harm; or
 - (ii) otherwise appropriate; or
 - (b) the person granted the exemption has failed to comply with a condition to which the exemption is subject.
- (3) The notice of the variation or revocation of an exemption under subregulation (1) –
 - (a) is to include the reasons for the variation or revocation; and
 - (b) takes effect on the day on which the notice is given or on a later date specified in the notice.

26. Register of exemptions

- (1) The Director is to keep a register of exemptions granted under this Part.
- (2) The Director is to enter in the register any information, in relation to an exemption granted or varied under this Part, that the Director considers appropriate.
- (3) The Director is not required to include or keep in the register information about an exemption that is revoked or an application for an exemption that is refused.
- (4) The Director is to make the register available, in an approved manner, for inspection by –
 - (a) a registered controlled waste handler; and
 - (b) a person granted an exemption under this Part; and

(c) any other person the Director considers ought to be able to inspect the register.

PART 6 - Miscellaneous

27. Appointment of controlled waste agents

A controlled waste producer may appoint a controlled waste transporter as a controlled waste agent of the controlled waste producer.

28. Unauthorised handling of controlled waste

A person must not –

- (a) transport a controlled waste by vehicle; or
- (b) consign a controlled waste for transport by vehicle; or
- (c) at a controlled waste facility, take possession of a controlled waste that has been transported to the facility by vehicle –

unless the person is authorised to do so by virtue of regulation 7 or is an employee or agent of such a person.

Penalty: Fine not exceeding 75 penalty units.

29. False or misleading statements

A person must not, in giving under these regulations any information to the Director or another person –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Penalty: Fine not exceeding 100 penalty units.

30. Defacing or altering controlled waste tracking certificate

A person must not, intentionally or recklessly, deface or alter any number, letter or identification mark on –

- (a) a controlled waste tracking certificate; or
- (b) a controlled waste tracking certificate (or a copy of such a certificate), which certificate has been completed and certified under these regulations.

Penalty: Fine not exceeding 100 penalty units.

31. Safe transportation of controlled waste

A person must not cause or permit controlled waste to be spilt, emitted or deposited while the person is transporting the controlled waste.

Penalty: Fine not exceeding 100 penalty units.

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Notified in the *Gazette* on 17 February 2010

These regulations are administered in the Department of Primary Industries, Parks, Water and Environment.