



WASTE MANAGEMENT

Waste management is of increasing concern in this disposable society. A large number of household products, many of which are potentially hazardous, end up in landfills around the State. Commerce and industry create waste on an even larger scale. Correct disposal of this waste is important, not only to protect the environment but also for the health and safety of the community.

*This factsheet looks at different categories of waste under State and Commonwealth laws. The majority of legislation on waste management comes from State law, while Commonwealth legislation for the most part implements international environmental agreements. The main categories of waste management covered in this fact sheet are under the topics of municipal waste, commercial and industrial waste, transportation, waterways, and radioactive material. For other topics relevant to waste see **factsheet 30: Contaminated Sites**, **factsheet 27A: Pollution**, **factsheet 27B: Environmental Harm**, **factsheet 29: Industrial chemicals**.*

Municipal waste

What is municipal waste?

- Household domestic waste (kerb collection or direct by householder to dump)
- Other types of domestic waste (domestic cleanup, furniture, garden waste, etc)
- Local council generated waste (waste from street sweeping, litter bins, parks, etc)
- Commercial waste from supermarkets, restaurants etc.

Who is responsible for municipal waste?

The responsibility for municipal waste lies principally with local governments, under authority granted by the *Health Act 1911* (WA). The Department of Health also has all powers of local governments. The local government is to undertake or contract out work for:

- removal of house and trade refuse, and other rubbish from premises
- collection and disposal of sewage
- providing of receptacles for the temporary deposit of refuse collected

- providing suitable places, buildings, and appliances for the disposal of refuse, rubbish and sewage
- construction of plants for disposing of refuse, rubbish and sewage.

What if a local government fails its duty?

If the Executive Director of the Department of Health has the opinion that a local government is not complying, enforcing or carrying out the provisions of the Health Act, the Executive Director may order the local government to do what is necessary within a specified time, which may be enforced through the courts or contracted to be done at the expense of the local government. If within two months the local government hasn't enacted a local law that the Department of Health ordered to be enacted, the Department may enact the law itself.

Anyone aggrieved by an order or decision of a local government relating to areas such as garbage pick-up and stormwater drainage may also apply to the State Administrative Tribunal for review.

Landfills

There are no regulations on the management of landfills, except perhaps as in compliance with sanitary provisions in the Health Act. On the specific subject of waste disposal by local governments the Act only specifies that they may dispose of, destroy or sell collected waste as they see fit (in the latter case, after being rendered innocuous as prescribed by the Department of Health).

In the Environmental Protection Act landfills are specifically dealt with only in terms of levies charged for disposal. The current rates are:

- \$6 per tonne for biodegradable waste
- \$3 per cubic metre for inert waste.

Hazardous household waste

There are currently no management strategies in Western Australia for the management of hazardous household waste. The *Environmental Protection Act 1986* (WA) expressly rules out household waste from being included in the description of controlled waste, as expressed in *Environmental Protection (Controlled Waste) Regulations 2004* (WA).

IMPORTANT DISCLAIMER

This Factsheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of law. If you require legal advice relating to your specific circumstances you should contact the EDO or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any errors in this Factsheet.

Electronic waste

What is electronic waste?

Electronic waste or e-waste is the collective name for discarded electronic devices. It includes televisions, computers, air conditioners, mobile phones and so on. The proper disposal of e-waste is expensive and technically challenging. Computers contain several hundred highly toxic substances, both in the central processing unit and monitors. Things which become e-waste typically become obsolete very quickly and many people don't know what to do with them.

Who regulates e-waste?

There are currently no government regulations dealing specifically with the management of e-waste. However, there are many non-profit and other organisations which recycle or dispose of this waste. To find an organisation in your area which handles e-waste visit www.recyclingnearyou.com.au

Commercial/industrial waste

Breaches under the Environmental Protection Act

Wastes generated in commerce and industries are specifically regulated under the Environmental Protection Act and related regulations. Examples include controlling the waste disposal from abrasive blasting or concrete batching, and the discharge of liquid in the metal-coating process. The standard fine for breaches of almost all the regulations, from the control of solid wastes to water discharges is \$5,000; though this can be increased to \$25,000 for bodies corporate. The regulations mainly require the recycling, treatment or disposal of the waste into an appropriate facility.

National Environmental Protection Measure (NEPM): unused packaging materials

NEPMs are broad framework-setting statutory instruments outlining agreed national objectives for protecting or managing particular aspects of the environment. Businesses producing a significant amount of packaging waste are required to self-regulate, to a standard specified under the Unused Packaging Materials NEPM, to ensure that packaging materials are recycled or reused appropriately. Failure to comply results in a fine. The penalties are inconsistent and range from \$4,000 (Tasmania) to \$250,000 (ACT). Regulations to implement the NEPM in WA have recently been re-introduced, after the previous regulations expired in 2004. The *Environmental Protection (NEPM-UPM) Regulations 2007* (WA) include fines of \$5000 for non-compliance (\$25,000 for bodies corporate).



Transport of waste (excluding nuclear waste)

Western Australian Legislation

Controlled waste

What constitutes a "controlled waste" is set out in the schedule of the *Environmental Protection (Controlled Waste) Regulations 2004*. Transportation of any substance defined as a controlled waste is regulated. This includes obligations on the waste-holder or generator, and carriers, drivers and vehicles to dispose of such waste. All the waste must be unloaded at an appropriate site, with a valid controlled waste-tracking form. The fine for breaching an obligation under the regulations is \$5,000 (\$25,000 for bodies corporate).

Future changes

The *Dangerous Goods Safety Act 2002* (WA) was passed by Parliament in late 2004 but will not come into force until all supporting regulations are completed. The seven sets of regulations are due to be proclaimed in 2007. The main aim is to make it an offence to fail to take all reasonably practicable measures to minimise the risk to people, property and the environment in handling, transporting, storing, treating and disposing of "dangerous goods" (to be determined by the regulations).

Commonwealth Legislation

Exports and imports

The *Hazardous Waste (Regulations of Exports and Imports) Act 1989* (Cth) implements the *Basel Convention on the Control of Trans-boundary Movements of Hazardous Waste and their Disposal 1989*. It prohibits the exporting or importing of hazardous waste without a permit. The Minister for the Environment and Heritage can grant a permit only where it can be shown that the wastes will be managed in an environmentally sound manner. The definition of hazardous waste includes household waste, and is laid out in the Basel Convention.

The *Hazardous Waste (Regulation of Exports and Imports) (Imports from East Timor) Regulations 2001* (Cth) allow the Minister to grant special import permits authorising the import of hazardous waste from the Democratic Republic of East Timor.

The *Hazardous Waste (Regulation of Exports and Imports) (Waigana Convention) Regulations 1999* (Cth) give effect to the provisions of the *Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region* (known as the Waigani Convention). The Convention administered within the Pacific Forum region is similar to the Basel Convention except that it covers radioactive wastes and extends to the Economic Exclusion Zone (200 nautical miles) rather than the territorial sea (12 nautical miles).

Sewage and effluent

The *Health Act 1911* gives local government powers for the construction and maintenance of all sewers, drains, and appliances necessary for carrying away or disposing of or treating any noxious or waste matter within its district. Any sewage or drainage scheme may be objected to by petition to the Minister within a month of publication in the Gazette by persons “injuriously affected”.

The ability of the local government to dispose of sewage is limited by the proviso that it does not cause a nuisance. It is an offence to discharge any waste into sewers which “causes a nuisance or is injurious to health, or interferes with the disposal of sewage” and has a maximum penalty of \$1,000. It is also an offence to defile or pollute any water supply, with a maximum fine of \$10,000 or 12 months’ imprisonment.

Rivers and estuaries

The *Waterways Conservation Act 1976* (WA) provides a maximum penalty of \$5,000 for the discharging or depositing of waste which might enter waterways. However, a person may apply for a licence authorising him/her to legally discharge or deposit waste into waterways. If a person disagrees with the refusal of a licence he/she can apply to the State Administrative Tribunal for a review of the decision.

Sea dumping

The *Western Australian Marine (Sea Dumping) Act 1981* (WA) makes it an offence to dump waste or any other matter into coastal waters without a permit. The Minister may grant a permit to allow sea dumping as he/she sees fit, with a view to the protection of the marine environment. In a case where environmental harm has been caused, in addition to the maximum fine of \$10,000 (with imprisonment of up to two years for an individual) the person may be liable for expenses incurred in remedying that harm. The Act does not apply in relation to the disposal of wastes related to the exploration, exploitation and associated off-shore processing of seabed mineral resources.

The *Environment Protection (Sea Dumping) Act 1981* (Cth) gives effect to the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972* (the London Convention). It prohibits the dumping or incineration at sea of radioactive material, wastes and other material without a permit. There is an exemption for dumping conducted to save human life or a vessel in distress. Where dumping has occurred the Minister has power to mitigate the damage or take remedial action and recover the costs from the person convicted of dumping. The Act applies to all vessels in Australian waters and to Australian vessels in international waters. The Act does not apply to the disposal of wastes related to the exploration, exploitation and associated offshore processing of sea-bed mineral resources. See **factsheet 20: Marine Pollution**.

Nuclear waste

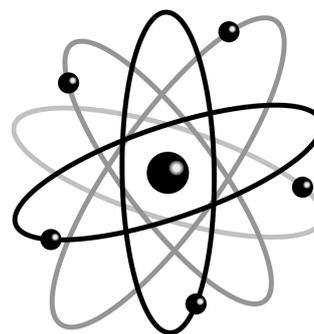
The *Nuclear Waste Storage and Transportation (Prohibition) Act 1999* (WA) prohibits the storage or transportation of nuclear waste in Western Australia. “nuclear waste” as defined under the Act is radioactive waste from a nuclear plant, or from the creation, testing and decommissioning of nuclear weapons. Constructing or operating a nuclear storage facility results in a maximum fine of \$500,000. Transporting nuclear waste incurs a fine of up to \$500,000.

The Commonwealth Government has attempted to override the State legislation with its own, to prevent the State from prohibiting nuclear waste disposal and transport. The *Commonwealth Radioactive Waste Management Act 2005* (Cth) purports to regulate the acquisition and nomination of sites for nuclear waste facilities, as well as the conduct of activities for nuclear waste facilities, including transport. Whether the Commonwealth legislation will legally override the State legislation is yet to be tested.

Other radioactive waste

The *Radiation Safety Act 1975* (WA) mainly deals with radioactive waste for predominantly medical or scientific use. Radioactive waste must be disposed of under a disposal permit prescribed by the Radiological Council, with the exception of “nuclear waste” as defined in the *Nuclear Waste Storage and Transportation (Prohibition) Act 1999*. An offence under the Radiation Safety Act results in a maximum fine of \$1,000 and \$50 for every day thereafter if the offence continues.

The *Nuclear Activities Regulation Act 1978* (WA) allows the making of regulations and codes protecting health, safety and the environment from harm of nuclear activities (including waste associated with uranium mining or nuclear facilities). All regulations and codes made under this Act must have Ministerial approval.



Other

Littering

The *Litter Act 1979* (WA) establishes offences for littering and breaking glass on public land or in public waters. Most offences under the Act result in a \$1,000 fine. It is also an offence to stick a poster in a public place without the consent of the owner of the property.

Police officers, persons authorised by the Minister, and local government officers have enforcement powers under the Act. Any person can apply to become a litter reporter, which allows them to report littering from vehicles to the Keep Australia Beautiful Council.

How can you become involved?

- Report illegal dumping or pollution to DEC
- Register online with the Keep Australia Beautiful Council www.kabc.wa.gov.au in order to be able to report littering associated with vehicles
- Encourage your council to offer recycling for a broad range of materials
- Seek out voluntary recycling programs to recycle your electronic waste
- Report sites that you suspect are contaminated to DEC. See also **factsheet 30: Contaminated Sites**.

Contacts and further information

- Department of Environment and Conservation Waste Management Branch. Tel: (08) 6364 6500
www.dec.wa.gov.au
- Waste Management Board WA. Tel: (08) 6364 6500
www.zerowastewa.com.au
- Environment Protection and Heritage Council (National). Tel: (08) 8419 1200
www.ephc.gov.au/index.html
- Municipal Waste Advisory Council (WALGA)
Tel: (08) 9213 2086 www.wastenet.net.au
- Recycling near you www.recyclingnearyou.com.au
- NGO waste initiatives www.oztoxics.org