

Environmental Protection (Unauthorised Discharges) Regulations 2004

What are the Regulations?

The *Environmental Protection (Unauthorised Discharges) Regulations 2004* (the Regulations) apply throughout Western Australia. In terms of the Regulations it is an offence to cause or allow certain materials to enter the environment in connection with a business.

The Regulations are intended to ensure that all people engaged in a commercial activity take responsibility for preventing the escape of contaminants from their business into the environment. For example entry to the environment could be via unsealed ground outside the building or via a stormwater drain in the car park.

In terms of the Regulations there are two categories of offence:-

Offence 1 - Discharging certain materials into the environment



Regulation 3 states:

“A person who, in the course of or in connection with a business or commercial activity, causes or allows a material, from Schedule 1 listed below, to be discharged into the environment, commits an offence.”

It is important for all business owners, operators and their staff to be aware of the legal implications should any Schedule 1 materials enter the environment in connection with their day to day work, whether by accident or as a result of a deliberate act.

Schedule 1 materials (see Appendix) are routinely handled, stored, or generated at a wide range of work places across Western Australia.

Fortunately, the likelihood of unauthorised discharges can often be greatly reduced through relatively minor changes to the workplace or to work procedures. This could be as simple as moving a drum of liquid inside the building or instructing your employees to cease washing paint brushes into/over stormwater drains.

Offence 2 – Discharging visible smoke



Businesses must not burn any material (unless they have an approved and licensed facility to do so) as it is an offence in terms of the *City of Belmont Health Local Law 2002*. Burning which discharges visible smoke could also result in a breach of Regulation 4 of the Regulations.

Regulation 4(1) states:

“A person who, in the course of or in connection with a business or commercial activity, burns or allows a material, from Schedule 2 listed below, to be burnt and causes or allows a visible smoke to be discharged into the environment, commits an offence.”

Regulation 4(2) states:

“A person who, in the course of or in connection with a business or commercial activity, burns or allows a material to be burnt, causing or allowing a dark smoke to be discharged into the environment for more than four minutes in any hour, commits an offence.”

What are the penalties?

Authorised Officers employed by State and Local Authorities may issue infringements or instigate legal action against any person or company who breaches the Regulations.

Infringement penalties of \$250 (first infringement notice) and \$500 (subsequent infringement notices) apply. If dealt with in a court of law, the maximum penalty for an individual is \$5,000. Section 40 of the *Sentencing Act 1995* allows the penalty to be increased to \$25,000 for a body corporate convicted of the same offence.

Further information

If you have any queries about the Regulations or would like advice on how to safeguard your business against causing discharges to the environment, please contact the City's Environmental Officer - Light Industry on 9477 7138.

Appendix: – Excerpt from the Environmental Protection (Unauthorised Discharges) Regulations 2004

Schedule 1:

- Acid with a pH less than 4
- Alkali with pH more than 10
- Animal waste
- Animal oil, fats or grease
- Compounds or solutions of cyanide, mercury, chromium, lead, arsenic, nickel, zinc or copper
- Degreaser
- Detergent
- Dust produced by a mechanical process including cutting, grinding, sawing, sanding, or polishing a material
- Dye
- Engine coolant or engine corrosion inhibitor
- Food waste
- Laundry waste
- Mineral oil
- Organic solvents
- Paint
- Petrol, diesel or other hydrocarbon
- Pesticide
- Sediment
- Sewerage
- Vegetable oil, fats or grease

Schedule 2:

- Carpet
- Electrical cables
- Fabrics or textiles
- Organic solvents
- Paint
- Plastic including polystyrene
- Printed circuit boards
- Printing waste
- Rubber
- Timber that has been treated
- Tyres
- Vehicles or vessels and their parts
- Waste oil, fats or grease

To obtain a copy of the *Environmental Protection (Unauthorised Discharges) Regulations 2004* in full, please visit the State Law Publisher website at <http://www.slp.wa.gov.au/legislation/statutes.nsf/default.html> and follow the links to "Subordinate Legislation – In Force".

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