

Environment Legislation Amendment and Repeal Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 198

made under the

Environmental Protection Act 1994
Waste Reduction and Recycling Act 2011

General Outline

Short title

The short title of the regulation is the *Environment Legislation Amendment and Repeal Regulation (No.1) 2014*.

Authorising law

The *Environment Legislation Amendment and Repeal Regulation (No.1) 2014* (the Amendment Regulation) is made under the head of power contained in section 270 of the *Waste Reduction and Recycling Act 2011* and section 580 of the *Environmental Protection Act 1994*.

Policy objectives and the reasons for them

The objective of the Amendment Regulation is to provide the basis of effective and efficient administration and enforcement of the objects and provisions of the *Environmental Protection Act 1994* and the *Waste Reduction and Recycling Act 2011*.

The primary policy objective is to protect the environment and human health and ensure an appropriate level of management for wastes in Queensland.

The Amendment Regulation also has the objective of allowing Queensland to meet national obligations in relation to waste tracking requirements.

How the policy objectives will be achieved

The *Environmental Protection (Waste Management) Regulation 2000* expires on 31 August 2014. A number of provisions from this Regulation need to be retained to maintain an appropriate level of management proportionate to the risk associated with the waste.

The policy objectives will be achieved by:

Environmental Protection Regulation 2008

The Amendment Regulation makes amendments to the *Environmental Protection Regulation 2008* to give effect to the transfer of retained provisions from the expiring regulation in relation to waste tracking.

The Amendment Regulation also provides for a continuation of provisions relating to local government management of waste within their local government area and provisions dealing with activities at waste facilities. These provisions will be retained for two years to provide local governments with time to put alternative measures in place to deal with local waste management issues.

The Amendment Regulation also amends the following schedules:

- schedule 1, part 12, 56—Regulated waste storage, to remove the storage time limit for chemically treated power poles; and
- schedule 7, part 2 to include waste architectural and decorative paints and their containers.

The amendment to these schedules applies an appropriate level of management to wastes where there is a low risk associated with the activity. The amendments remove some regulatory barriers to provide for the more effective management of certain wastes. For chemically treated power poles, this provides a consistent approach that is already provided in regulation—the transport of chemically treated power poles does not require an environmental authority for regulated waste transport and the residue from recycling treated timbers such as power poles is not a regulated waste.

Waste Reduction and Recycling Regulation 2011

The Amendment Regulation makes amendments to the *Waste Reduction and Recycling Regulation 2011* to give effect to the transfer of provisions from the expiring regulation in relation to the management of clinical and related wastes and polychlorinated biphenyl (PCB) wastes.

A new schedule is included to provide for landfill disposal bans for untreated clinical waste (except in a scheduled area), all related wastes and PCB wastes. These wastes were already banned from landfill disposal in the expiring Regulation. The inclusion of a new schedule places all wastes banned from landfill disposal in one location in Regulation.

Regulation is the only way that the policy objectives can be achieved in order to ensure an appropriate level of management for particular wastes is maintained.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the *Environmental Protection Act 1994* and the *Waste Reduction and Recycling Act 2011*; including to ensure protection of the environment and human health and to reduce the overall impact of waste generation and disposal.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation. It maintains consistency with national frameworks, national and international reporting obligations and similar legislation in other States in relation to waste tracking and the management of certain hazardous wastes such as clinical and related wastes and PCB wastes.

Alternative ways of achieving policy objectives

With the exception of the local government waste management provisions, there are no alternatives to achieving the policy objectives. In relation to waste management in a local government area, these provisions could have been allowed to expire immediately. However, this would potentially have left a gap in the ability for local governments to manage waste within their local government area.

While some local governments have arrangements such as a local law already in place to address the issues covered by the regulatory provisions, many do not. Providing an additional two years before these provisions expire allows local governments time to transition to alternative arrangements, if appropriate and necessary for their local government area.

Estimated administrative cost to the Government for implementation

There are no additional costs to government in relation to the amendments. The amendments do not create new roles or regulatory requirements. The waste tracking system is already in place so there are no additional costs associated with retaining the provisions. The amendments are to be implemented within current budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation has been examined for compliance with the fundamental legislative principles outlined in section 4 the *Legislative Standards Act 1992* and is considered to have sufficient regard to the rights and liberties of individuals and the institution of Parliament.

Strong penalties are required to ensure that hazardous wastes are managed in such a way that maintains protection of the environment and human health. This emphasises both the seriousness of offences involving these wastes and serves to act as a deterrent for operators from causing significant damage to the State's economic, social and environmental prosperity.

The expiring regulation contained provisions that attracted a maximum penalty of 165 penalty units for offences in relation to inappropriate handling of PCB wastes. Under regulatory conventions the maximum allowable penalty in regulation is 20 penalty units. Due to the potential seriousness of the impact on the environment and human health as a result of inappropriate management of these wastes, these provisions will become prescribed provisions for the purposes of the *Waste Reduction and Recycling Act 2011*. This provides a maximum penalty of 300 penalty units for offences where these wastes are not managed at an appropriately licensed facility.

This approach ensures high environmental standards are maintained and is not inconsistent with the intent of the provisions in providing the ability to apply a significant deterrent to inappropriate activities where significant environmental harm and cost to the community may occur.

The Amendment Regulation is consistent with the fundamental legislative principles.

Consultation

Significant consultation has been undertaken with impacted stakeholders. This includes the waste industry, the energy sector, Queensland Health and health care facilities and local government.

A discussion paper on the proposed options, which met the requirements for a RIS, was released for consultation in July 2014. The proposed changes had also been consulted previously in 2013. Four submissions were received during the consultation period in relation to the proposals contained in the 2014 discussion paper. A Decision Regulatory Impact Statement summarises the submissions received on the discussion paper.

The waste sector previously provided comment in relation to the proposed amendments.

The energy sector had previously given feedback on proposals in relation to the storage of used power poles and provided supporting submission in response to this discussion paper.

Results of consultation

The proposals to retain and transfer the provisions relating to waste tracking and management of clinical and related wastes and polychlorinated biphenyl wastes from the expiring Regulation to the *Environmental Protection Regulation 2008* and the *Waste Reduction and Recycling Regulation 2011* were generally supported. One submission commented that the trackable waste list should align with the regulated waste list and that this amendment should be made as part of this process. This is not being done as part of this process as a separate project is currently underway to review the way regulated wastes are classified.

There was mixed support for the proposals in relation to parts 2A and 3 of the expiring Regulation. One submission supported the expiry of these provisions as long as suitable transitional arrangements were put in place to enable the development of alternative approaches. To address this feedback, the provisions will continue until 1 September 2016 to allow sufficient time for local governments to put alternative arrangements, if needed, in place.

The majority of local government submissions opposed the expiry of these provisions stating that state government legislation was necessary in order to ensure a consistent approach to waste management across local government areas. While the waste sector supports the removal of many of the detailed and prescriptive requirements, there is also concern that removal entirely will create inconsistency across local governments. The stated concern regarding expiry is that allowing each local government to develop their own local law would lead to waste industry confusion and inconsistent application of waste management requirements across the State.

The current provisions already give local governments the ability to make a local law about waste management issues under this part—for example, in relation to where people place their bin for collection. This means that there is already potential for variation in requirements under this part as it currently exists.

The waste industry has previously indicated a preference that the *Environmental Protection (Waste Management) Regulation 2000* be allowed to expire and that any items for retention are transferred into other waste management regulation, stating that this will simplify the regulatory environment in which the industry operates.

Energy sector submissions support the proposal to remove the time limit for the storage of chemically treated power poles. Currently ERA 56—Regulated waste storage states that chemically treated power poles can only be stored for up to 90 days before an environmental authority for regulated waste storage is required. Removal of the 90 day storage requirement will mean that power poles are able to be stored for longer without requiring a regulated storage environmental authority.

Currently the requirement to store poles for less than 90 days makes the storage of poles uneconomic in some areas. There is a significant cost associated with transporting the poles in order to avoid triggering the regulated waste storage requirement or to send them to a facility that is already able to accept them under a regulated waste storage environmental authority. For example, the cost to transport poles from Quilpie to Toowoomba is between \$10 000 and \$20 000 per load for a 20 tonne truck. This cost could be avoided or reduced if the poles are allowed to be stored on-site for a longer period of time.

This will remove some of the impediments to reuse and recycling in regional and remote areas of the State as economically viable volumes of material will be able to be stored for longer. The Amendment Regulation aligns with previous amendments to determine that the residue from recycling treated timber from used power poles and bridges is not a regulated waste (schedule 7, part 2 of the *Environmental Protection Regulation 2008*). Also, the transport of power poles is specifically mentioned as not requiring a regulated waste transport licence under ERA 57.

The Office of Best Practice Regulation was consulted in relation to the need for a Regulatory Impact Statement (RIS). The discussion paper that was released in July 2014 was assessed as meeting the requirements of the RIS.

Notes on Provisions

Part 1 Preliminary

1 Short title

Clause 1 states that the short title of this legislation should be cited as the Environment Legislation Amendment and Repeal Regulation (No.1) 2014 (the Regulation).

Part 2 Amendment of Environmental Protection Regulation 2008

2 Regulation amended

Clause 2 states that this part amends the Environmental Protection Regulation 2008.

3 Insertion of new ch 5, pt 9 and ch 5A

Clause 3 inserts a new part (part 9) for chapter 5 (Matters relating to environmental management and environmental offences) and a new chapter 5A.

Part 9 Waste tracking

Division 1 Preliminary

81C Waste transportation to which this part applies

New section 81C provides the application of this part.

Subsection (1) states that this part applies to the transportation of regulated waste that is *trackable waste* under schedule 2E.

Waste tracking provides the administering authority with comprehensive information on the movement of certain waste around Queensland. The information helps to minimise the adverse effects on human health and the environment by ensuring wastes are properly identified and transported, and that they reach appropriate facilities for treatment, recycling, storage and/or disposal.

Subsection (2) describes the wastes to which this part does not apply. This includes:

- the non-commercial transportation of less than 250kg of trackable waste
- the transportation of trackable waste in a pipeline
- the transportation of trackable waste if it is transported under an exemption that the administering authority has granted under section 81Y (Exemptions)
- the transportation of trackable waste in a container if the amount of trackable waste is not more than 5% of the capacity of the container and the container is being transported to a place to be refilled with the same substance as the waste, without undergoing a process before it is refilled
- the transportation of power station fly ash to a place for use in the treatment of waste in a way that involves combining the waste with the ash
- the transportation of trackable waste to an accredited laboratory for analysis or
- the transportation of trackable waste in an emergency if the transportation is to protect the environment, human health or property

- the transportation of unwanted chemicals from a farm if the chemicals are being transported by the owner or occupier of the farm or by another person for free and the chemicals are being transported to a place that disposes of agricultural and veterinary chemicals in accordance with a product stewardship
- the transportation of trackable waste in accordance with a product recall by the Australian Pesticides and Veterinary Medicines Authority or the Therapeutic Goods Administration or Food Standards Australia and New Zealand
- the transportation of trackable waste to a place for use as stock food
- the transportation of trackable waste to a farm for use as a soil conditioner or fertiliser.

For the transportation of unwanted chemicals from a farm, this means the transport of the chemicals in their containers to a place for the collection in accordance with a product stewardship scheme such as the ChemClear program that is overseen by AgStewardship Australia. When the chemicals are removed from the collection place and transported to a treatment or disposal facility the tracking provisions would apply.

The intent of this subsection is to make it clear that these wastes do not need to be tracked. This removes the administrative and regulatory burden for the transport of certain wastes where the risk of the transportation is low.

Subsection (3) states that an accredited laboratory means a laboratory accredited by the National Association of Testing Authorities.

81D Waste handlers

Section 81D describes who the waste handlers are for transportation of waste to which this part applies. When transporting trackable waste, all waste handlers involved are responsible for recording the prescribed information about the waste.

Subsection (1) describes who are the *generator*, *transporter* and *receiver* in the transport of waste listed in schedule 2E of the regulation.

The waste generator is the person from whom the waste is transported, whether the person has generated the waste themselves or received it from another person. For example, the original person who produced the waste is the waste generator when the waste is transported from their place. However, a person who operates premises where waste is transported for aggregation becomes a waste generator when the waste is transported from that facility, even though the waste may originally have been produced from a number of different sources and transported to that place. For this subsection, the waste transporter is the person who transports the waste and the waste receiver is the person to whom the waste is transported.

Subsection (2) states that if a person has more than one waste handling role (for example, if a person generates a load of trackable waste and transports it to someone else for treatment) the person must comply with each of the responsibilities as applicable.

This subsection ensures there is no doubt about the obligations a person has in their capacity as a waste handler in relation to each role they may have.

Division 2 Prescribed matters for giving of information

81E Prescribed information

Section 81E states that, for this part the prescribed information that a waste handler described in section 81D must record or provide to the administering authority or another waste handler is the information that is stated in schedule 2F—Prescribed information for waste tracking.

The waste handler must provide the information that is relevant to the capacity in which they are acting. For example, if the waste handler is a generator of the waste than the waste handler must provide the information required in schedule 2F, 1—Generator. If the waste handler is both the generator and the transporter then the waste handler must provide the information required in schedule 2F, 1—Generator and schedule 2F, 2—Transporter.

81F Prescribed way of giving information

Section 81F describes how the information is to be given. It states that the information can be either given in the prescribed form or given in another way that is approved by the administering executive under section 81W (Approval of ways of giving information to administering authority).

This ensures that the information is provided in a consistent manner and allows the person providing the information to be certain about what information is required. It also allows for ease of monitoring and tracking of the waste as the same information is required to be provided by anyone with responsibilities under this part.

The prescribed form, or other way of providing the information, provides a written record that particular waste transactions have been completed, and allows the receiver and the administering authority to verify the amount and type of waste received.

81G Prescribed time for giving information

Section 81G describes the time frame within which information is to be given to the administering authority. If the information is given in the prescribed form, the prescribed time is 7 days. If the information is given in another approved way under section 81W, the prescribed time is the time specified on the approval.

This allows for the timely identification of, for example, any information that may be missing from the prescribed form.

Division 3 Obligations of waste handlers

Subdivision 1 Transportation within Queensland

81H Application of subdiv 1

Section 81H states that this subdivision applies to the transportation of trackable waste that has been generated in Queensland and is being transported to a facility in Queensland (intrastate). It does not apply to waste that is being transported into or out of Queensland (interstate).

81I Responsibilities of generator

Section 81I describes the responsibilities of the waste generator in relation to the intrastate transport of trackable waste.

Subsection (1) describes the actions of a generator when giving the waste to a transporter. The generator must record the prescribed information and give that information to the transporter in the prescribed form.

Subsection (2) describes how and when the generator must give the administering authority the information required under subsection (1)(a). The generator must give the prescribed information about the waste to the administering authority in the prescribed way and within the prescribed time after giving the waste to the transporter.

Subsection (3) states that the generator must keep a record of the information in subsection (1)(a) for at least five years.

81J Responsibilities of transporter

Section 81J states the responsibilities of the transporter in relation to the intrastate transport of trackable waste.

Subsection (1) states that while transporting the waste in Queensland, the transporter must carry information that has been received from the generator under section 81I.

Subsection (2) describes the actions of a transporter when giving the waste to a receiver. The transporter must record the prescribed information about the waste and give that information to the receiver.

Subsection (3) states that within seven days of becoming aware of a discrepancy in the information provided by the generator, the transporter must give written notice about the discrepancy to the administering authority.

This ensures that any differences can be followed up in a timely manner and appropriate action taken. For example, the discrepancy may be an error in recording the information and can be easily cross-checked and rectified.

Subsection (4) states that the transporter must keep a record of the information in subsection (2)(a) for at least five years.

81K Responsibilities of receiver

Section 81K states the responsibilities of the receiver in relation to the intrastate transport of trackable waste.

Subsection (1) states that the receiver must record the prescribed information about the waste when it is received from the transporter.

Subsection (2) describes how and when the receiver must give to the administering authority the information required under subsection (1).

Subsection (3) states that within seven days of becoming aware of a discrepancy in the information provided by the transporter, the receiver must give written notice about the discrepancy to the administering authority.

This ensures that any differences can be followed up in a timely manner and appropriate action taken. For example, the discrepancy may be an error in recording

the information and this can be easily cross-checked and rectified if the error is notified in a timely manner.

Subsection (4) states that the receiver must keep a record of the information in subsection (1) for at least five years.

81L Responsibilities of waste handler acting in more than 1 capacity

Section 81L describes the responsibilities of a waste handler where that waste handler is acting in more than one capacity for the intrastate transport of the waste.

Subsection (1) describes the responsibilities of a waste handler if that person is both the generator and the transporter. It states which sections and subsections of this part do not apply and the circumstances under which the remaining sections of this part apply.

Subsection (2) describes the responsibilities of a person if that person is both the transporter and the receiver. The application of various sections and subsections under this part are stated.

Subdivision 2 Transportation into Queensland

81M Application of subdiv 2

Section 81M describes the application of this subdivision. This subdivision applies to the interstate transportation of trackable wastes from a generator located outside Queensland and transported to a receiver in Queensland.

81N Responsibilities of transporter

Section 81N describes the responsibilities of a transporter carrying waste into Queensland that has been generated outside Queensland.

Subsection (1) states that waste must not be transported into Queensland unless the administering authority has assigned a consignment number to that load or to loads being transported over a 12 month period.

The consignment number is an approval from the administering authority in the destination state or territory for the movement of a trackable waste to a receiving facility in that jurisdiction. It is the method of ensuring that the administering authority in the receiving jurisdiction is aware of waste being transported into Queensland.

Subsection (2) states that the transporter must obtain information about the waste from the generator before the waste is transported into Queensland. The information to be obtained is contained in schedule 2F, section 1(2). However, the transporter is not required to get some information, such as the unique identifier for the load.

Subsection (3) states that while the transporter is transporting waste in Queensland, documentation containing the consignment number, if any, and the information from the generator must be carried.

This documentation provides the proof that the administering authority has approved the movement of trackable waste to a receiving facility in Queensland.

Subsection (4) states the responsibilities of the transporter when the waste is given to the receiver. The transporter must record the prescribed information about the waste and give the receiver this information.

Subsection (5) states that within seven days of becoming aware of a discrepancy in the information obtained under subsection (2) from the generator, the transporter must give written notice of the discrepancy to the administering authority.

Subsection (6) states that the transporter must keep a record of the information for at least 5 years.

81O Responsibilities of receiver

Section 81O describes the responsibilities of the receiver of waste generated outside Queensland.

Subsection (1) describes the action by the receiver when the transporter gives them the waste. The receiver must record the prescribed information about the waste.

Subsection (2) describes how the receiver is to deal with the prescribed information. The receiver must give the information to the administering authority within a certain time and in a certain way, after receiving it from the transporter.

Subsection (3) states that within seven days of becoming aware of a discrepancy in the information provided by the transporter, the receiver must give written notice about the discrepancy to the administering authority.

Subsection (4) states that the receiver must keep record of the prescribed information for at least 5 years.

81P Responsibilities of waste handler acting in more than 1 capacity

Section 81P describes the responsibilities of a waste handler if that person is both the transporter and the receiver. It states which sections and subsections of this part do not apply and the circumstances under which the remaining sections of this part apply.

Subdivision 3 Transportation out of Queensland

81Q Application of subdiv 3

Section 81Q describes the application of this subdivision. This subdivision applies to trackable waste that is generated in Queensland and transported to a receiver outside Queensland.

81R Responsibilities of generator

Section 81R describes the responsibilities of the waste generator in relation to the trackable waste being transported outside Queensland.

Subsection (1) describes the responsibilities of the generator when giving the waste to the transporter. The generator must record the prescribed information about the waste and give that information to the transporter.

Subsection (2) describes the responsibilities of the generator in forwarding prescribed information to the administering authority, after giving the information to a transporter, within a certain time and in a certain way.

Subsection (3) states that the generator must keep record of the prescribed information for at least 5 years.

81S Responsibilities of transporter

Section 81S describes the responsibility of a transporter carrying waste generated in Queensland to a receiver outside Queensland.

Subsection (1) describes the responsibilities of the transporter while transporting the waste in Queensland. The transporter must carry a document containing the information received from the generator, under section 81R.

When a trackable waste is moved out of Queensland to a disposal/treatment facility in another state or territory, the jurisdiction receiving the waste must authorise its acceptance before transportation and issue a consignment authority for that transport.

Subsection (2) states that within seven days of becoming aware of a discrepancy in the information provided by the generator, the transporter must give written notice about the discrepancy to the administering authority.

81T Responsibilities of waste handler acting in more than 1 capacity

Section 81T describes the responsibilities of a person if that person is both the generator and the transporter. It states which sections and subsections of this part do not apply and the circumstances under which the remaining sections of this part apply.

Division 4 Miscellaneous

81U Application of provisions to agents

Section 81U describes how this section applies to agents.

An agent is a waste transporter who is authorised to act on behalf of a waste generator for specific waste types. An agent will fill out the prescribed information for the generator and the transporter.

Subsection (1) applies to a waste handler who is required to do something under division 3 and the waste handler enters into a written agreement with another person for that person to do that thing for the waste handler and the agreement states that the agent is aware of subsection (3) of this section.

This allows 'third party' waste tracking systems to be developed by one of the waste handlers (i.e. generator, transporter or receiver). The 'third party' approach integrates the collection of waste tracking information. Waste handlers should develop agreements that suit their operational and business needs, as well as meeting the requirements of the waste tracking provisions. Given the amount of regulated waste moved in Queensland each year and the number of waste generators, agents agreements provide a means of reducing administrative burden for waste handlers and the department for some of the high volume wastes that may be generated from a number of different sources, such as grease trap waste and clinical waste.

Subsection (2) states the conditions under which the waste handler would have a defence against contravention of the waste tracking provision. It is a defence if the waste handler has an agreement with the agent and the contravention was directly caused by the failure of the agent to do something in compliance with the agreement.

This agreement should be retained by both the waste handler and the ‘agent’ and is not required to be lodged with the department.

For example, if the prescribed information that the generator is responsible for is not provided to the administering authority and they have an agreement with the agent and the agent is aware of subsection (3), the generator is not responsible under this section for the provision of the information. This responsibility falls to the agent as the obligation to provide the prescribed information is something under this division that is ordinarily the responsibility of the generator.

Subsection (3) describes when the waste tracking provision applies to the agent. The provision applies where the agent has agreed to do something that is required by the provision, as if reference to the waste handler was a reference to the agent.

81V Giving information to administering authority in prescribed form

Section 81V describes the provisions applying to the prescribed form.

Subsection (1) describes the action of the chief executive in preparing forms. These forms are the prescribed forms for use in giving information to the administering authority under division 3. Prescribed forms ensure that the information is provided in a consistent way. This makes monitoring more efficient as the administering authority is able to determine quickly whether all the relevant information has been provided.

Subsection (2) states that each form must be uniquely marked with a number (that may consist of numbers, letters or both), so that number is used as the unique identifier.

This allows each transaction to be readily identified and easily traced back to the person providing the information.

Subsection (3) states the chief executive must make the forms available, on payment of a reasonable fee, on the department’s website or through other means.

For example, the forms may be available on-line or could be mailed a person.

Subsection (4) states that if a person obtains a prescribed form from the chief executive and uses that form to give information to the administering authority under division 3 about the transportation of trackable waste, then the number that is marked on the form under subsection (2) is the unique identifier for that waste.

This means that the person using the form does not have to generate the unique identifier—this forms part of the prescribed form.

81W Approval of ways of giving information to administering authority

Section 81W describes the approval of ways of giving information to the administering authority. The administering authority can approve alternative ways of providing waste tracking information; for example, the approval of electronic systems.

Subsection (1) states that a person may apply for approval of another way of giving the required information to the administering authority.

This allows for a way of providing information that is suited to the way a waste handler operates. For example, it may be operationally convenient for the information

to be provided electronically rather than by using the paper-based waste tracking certificate system.

Subsection (2) describes what the applicant must do. Within the time required by the administering executive, the applicant must give the administering executive the information required to decide the application and pay the reasonable fee required by the executive.

The application should outline how the system meets the approval criteria, provide results of trials and examples of the information the system proposes to send to the administering authority, and provide an indication of which waste handlers might use the system and the types of wastes.

Subsection (3) states that the application lapses if the person does not comply with subsection (2).

Subsection (4) states that the alternative way of giving information may be approved if the administering executive is satisfied that the alternative method able to provide timely, consistent and reliable information to the administering authority. The administering executive must also be satisfied that the information will be given in a form that enables the authority to access, record and otherwise deal with the information. A system for assigning a unique and appropriate identifier for each transportation must be included as part of the alternative.

This ensures that the alternative method of supplying the information provides the necessary detail to enable the administering authority to appropriately track and monitor the waste transportation. For example, any alternative method of waste tracking must conform to the same principles as the prescribed form by ensuring that information provided through the alternative method is able to be attributed to a party responsible for the waste and the amount and type of waste is verified separately by the receiver.

An effective waste tracking system will be able to provide the administering authority with all prescribed information required by schedule 2F of the Regulation. The system must also be able to provide proof (equivalent to a signature on a form) that the information has been authorised by an appropriate person.

The unique identifier allows the administering authority to match and validate information relating to each waste load. For example, a transporter applies for approval of an alternative way of providing the information system under which the unique identifier assigned to a load consists of the first three letters of the transporter's name, the date and the number of the load being transported on that day.

Subsection (5) states that the approval may contain reasonable conditions for the way the information is provided.

Subsection (6) states that after the administering executive decides the application, the executive must give the applicant a written notice that states whether the application has been granted or refused. Where the application is granted the notice must provide information about any conditions of the approval and the prescribed time for giving the information.

The timeframe will be set in consultation with the proponent of the alternative method and will reflect the capability of the system to provide the required information in the shortest practical time. The prescribed time for waste handlers to provide information

using the prescribed form is seven days. It is expected that an approved alternative method would at least match the prescribed time under section 81G.

However, in certain circumstances (e.g. where there is minimal short-term risk to the environment), an approved timeframe of up to a month could be negotiated.

If the application is refused the notice must state the reasons for the refusal.

The notice must also contain information about the review and appeal details for the decision.

Subsection (7) states that the application is taken to be refused if the administering executive has not decided the application by the due day.

Subsection (8) states that the administering executive may approve a way of providing the information even if no one has applied for an approval. This allows the administering authority to develop its own system or to approve systems developed elsewhere which could benefit industry in meeting the waste tracking obligations in Queensland.

Subsection (9) states that the administering authority has 60 days to decide the application. The 60-day period does not include the time during which the administering authority seeks further information to decide the application. If an application has not been decided within 60 days it is taken to have been refused under subsection (7). However, a later day for deciding the application may also be agreed by the administering authority and the applicant.

81X Consignment numbers for waste transported into Queensland

Section 81X sets out how consignment numbers are to be applied for.

Subsection (1) states that a person may apply to the administering executive for a consignment number for a load of trackable waste that is to be transported into Queensland from another State, or for loads of trackable waste to be transported for 12 months into Queensland.

A consignment number is issued to a waste consignor (either a waste producer or their authorised agent) by the administering authority. It allows the transport of specified waste from a consignor to a receiving facility. It can cover single or multiple loads and may remain valid for up to one year. A separate transport certificate must accompany each load of waste transported.

The issue of a consignment number for 12 months could apply in circumstances where large volumes of waste from for example a food processing plant are being transported to a facility in Queensland. The person need only apply for one consignment number to cover the transportation of multiple loads of this waste for 12 months.

This reduces the administrative burden for both the transporter and the administering authority as it reduces the application process where multiple loads are involved.

Subsection (2) states that the application must be made in the approved form.

Subsection (3) states that the applicant must give to the administering executive information that the executive requests, including—

- information mentioned in schedule 2F, section 1, about the load; and

- information that the executive reasonably requires to make a decision about the application under subsection (4) of this section.

Subsection (4) states that the administering executive must approve the application if it is satisfied that the intended transporter holds, or is acting under, the required environmental authority for transporting the waste to the intended receiver and the stated intended receiver has an environmental authority to conduct the intended treatment.

The administering authority will recognise a waste transporter who holds a valid waste transportation authorisation issued by another Australian jurisdiction.

Subsection (5) states that after the administering executive decides the application the administering executive must give the applicant a written notice stating whether the application has been approved or refused. If the application is approved, the notice must state the consignment number that has been assigned to the load or loads of trackable waste. If the application is refused the notice must state the reasons for the refusal and the review and appeal details for the decision.

Subsection (6) states that if the application is not decided by the due day, it is taken as a refusal of the application by the executive.

The administering authority issues a notice of the decision and, in the case of approval, any conditions attached to that approval.

The consignment number is the demonstration of the transporter's authority to transport the waste into Queensland. Without a consignment number that waste is not to be transported into Queensland.

Subsection (7) provides definitions for “due day” and “intended treatment” as they apply to deciding an application under this section. The administering authority has 10 business days to decide the application after it has been made. The 10-day period does not include the time during which the administering authority seeks further information to decide the application. However, a later day for deciding the application may also be agreed by the administering authority and the applicant.

81Y Exemptions

Section 81Y provides a process for waste handlers to apply for an exemption from the provisions of this part where they can demonstrate that the waste does not possess environmentally significant characteristics.

Subsection (1) states that a person can apply for an exemption for the transportation of a particular trackable waste, if that waste is not already covered under section 81C(2).

This is because there is no need to apply for an exemption for these wastes as they are already exempt from the tracking requirements—that is, they are not trackable wastes.

Subsection (2) states that the person must give the administering authority any information that it reasonably requires to decide the application for an exemption.

Exemption from the waste tracking provisions may be based on consideration of information including:

- the type of contaminants
- the level and/or concentration of contaminants
- the level of environmental risk

- whether the waste is a dangerous good.

Subsection (3) states that the administering authority may grant the application if it is satisfied that the waste does not show any environmentally significant characteristics. The department will not exempt a waste from the waste tracking provisions if the waste shows an environmentally significant characteristic.

If an exemption is granted this does not alter the fact that trackable wastes remain regulated wastes. This means that all appropriate approvals and licences must still be in place to transport, receive, store, recycle, reprocess, treat or dispose of regulated wastes even if the transportation is exempt from tracking.

Subsection (4) states that reasonable conditions may be attached to the exemption.

For example, a reasonable condition may apply to the amount of waste that is covered by the exemption or the timeframe over which the exemption applies.

Subsection (5) states that after the administering executive decides the application for an exemption the executive must give the applicant a written notice of the decision. The notice must state whether or not the exemption is granted and provide details of the review and appeal process for the decision. If the exemption is granted the notice must contain information about any conditions for the exemption. If the application is refused the notice must state the reasons for the refusal.

Subsection (6) states that if the administering authority has not decided the application by the due day, then the application is taken to be refused.

Subsection (7) provides that the due day for making a decision about the exemption application. The administering authority has 30 days to decide the application after it has been made. The 30-day period does not include the time during which the administering authority seeks further information to decide the application. However, a later day for deciding the application may also be agreed by the administering authority and the applicant.

81Z Emergencies

Section 81Z provides a defence for persons breaching this part in certain emergency situations, including under emergency direction.

This is to ensure that waste is able to be appropriately managed in an emergency situation. For example, in some circumstances it may not always be possible to complete the prescribed information about the waste where there is an immediate need to remove the waste where a delay in its removal may result in further harm to the environment or human health.

81ZA Trackable waste to be given only to licensed transporter

Section 81ZA states that trackable waste is only to be given to a person who is licensed to transport that waste.

Subsection (1) provides an offence for a person to give trackable waste to someone else to transport in a vehicle if it is for fee or reward or in a load of more than 250 kg, unless that person is satisfied that the transporter holds an environmental authority to transport the waste.

This ensures appropriate transport of the waste is undertaken whenever trackable waste is moved.

Subsection (2) states that it is a defence against a charge under subsection (1) if the generator can prove that there were reasonable grounds for believing that the other person had an environmental authority to transport the waste.

81ZB Generator identification number

Section 81ZB states that the administering executive must provide a person with a generator identification number when an application has been lodged. The generator identification number forms part of the prescribed information required for a generator in schedule 2F, section 1.

This allows the administering authority to match the information provided by a particular generator.

Chapter 5A Waste management by local governments

Part 1 Preliminary

81ZC Application of ch 5A

Section 81ZC describes the application of this chapter. This chapter applies within a local government area unless the local government makes a local law about waste management for its local government area and declaring that the local law is a local law that replaces this chapter.

This allows a local law made by a local government prior to the expiry of this chapter to take the place of the provisions of this chapter. This provides more flexibility for the local government to deal with matters that are relevant to that local government area.

This chapter expires on 1 September 2016.

81ZD References to local government

Section 81ZD states that in the context of dealing with waste that is produced at relevant premises, a reference to local government is a reference to the local government for the local government area where the relevant premises are located.

This means that this part applies to individual local governments not to local government as a collective and allows an individual local government to apply the provisions as appropriate for their local government area.

81ZE Meaning of *serviced premises*

Section 81ZE provides the meaning for *serviced premises* under this chapter. Relevant premises in a local government area are serviced premises if the premises are in an area designated by the local government as being an area where the local government has arranged for the removal of general waste from relevant premises in the area or the local government has required to owner or occupier of the relevant premises to arrange for the removal of general waste from the premises. The ability to designate an area is provided under section 7 of the Waste Reduction and Recycling Regulation 2011.

A local government may designate the whole or part of the local government area as an area where the local government will arrange for, or require, the removal of waste. There is no obligation on a local government to designate an area for this purpose.

Part 2 Waste management in local government areas

Division 1 Storage of general waste

81ZF Owner or occupier of relevant premises to supply waste containers

Section 81ZF describes what an owner or occupier of relevant premises must do in relation to the supply of waste containers.

Subsection (1) states that subject to subsection (2) the owner or occupier of relevant premises in a local government area must either supply enough standard general waste containers (containers) at the premises to hold the waste that is generated at the premises or, if required by the local government, supply enough waste containers of another type at the premises to hold the waste generated at the premises.

For example a local government may require waste containers by way of a local law or as part of a development approval for the premises.

Subsection (2) states that the local government may supply the number of containers that it reasonably considers are necessary to relevant premises in that local government's area.

If the local government supplies the containers then subsection (1)(a) does not apply with respect to the owner or occupier supplying the containers.

This subsection does not require a local government to supply the containers.

Subsection (3) states that if a local government supplies the containers the reasonable cost of supplying the containers is a debt payable by the owner or occupier of the relevant premises to the local government.

Subsection (4) states that subsection (3) does not prevent the local government from providing the containers at no cost to the owner or occupier of the premises.

81ZG Requirements for storing general waste in waste containers

Section 81ZG provides the requirements for the storage of general waste in waste containers.

Subsection (1) states that the occupier of relevant premises must store general waste at the premises in a standard waste container or another container if required by the local government that another type of container is required. The occupier of the premises must also keep the containers clean and in good repair and ensure that the waste containers at the premises are securely covered except when waste is being placed in or removed from the container, or when the container is being cleaned.

This ensures that no nuisance is created as a result of the storage of the waste. For example, maintaining the container in good repair reduces the ability of vermin and flies to gain access to the waste in the container and reduces the potential nuisance that may result from waste escaping from a container with no lid.

Subsection (2) describes a person's obligations in regard to the use of the container. A person must not place certain wastes into the container; remove or disturb the cover of the container (except when placing waste into the container); use or damage the container or disturb or interfere with the contents of the container.

This ensures that waste appropriate to the type of container is placed into the container and reduces the risk of nuisance that may be associated with the storage of waste.

Subsection (3) states that the occupier of premises must not allow a person to place something in a container that contravenes subsection (2)(a) about certain wastes that must not be placed in the bin.

Subsection (4) states that it is a defence against a person for an offence under subsection (3) if the person can prove that the contravention was beyond their control.

For example, it may be a defence if a person placed the bin in the designated collection area the night before the collection day and between the bin being placed in that location and the bin being collected a person places waste into that container that is a contravention of subsection (2)(a).

81ZH General requirements for keeping waste containers at serviced premises

Section 81ZH describes the requirements in relation to where and how waste containers are to be kept at premises.

Subsection (1) states that, subject to subsection (2), the occupier of serviced premises must make sure that containers that have been supplied for the premises are kept at a place that may be required by the local government or, if the local government has no requirement then the containers are to be kept at ground level close to the rear alignment of a building at the premises.

For example, the local government may require that householders keep their waste containers within the property boundary without stating a specific location.

Subsection (2) states that subsection (1) does not prevent the occupier of premises from putting the container at a place outside the premises so that the waste can be collected, if the local government has arranged for the collection of the waste from that location. The container is not to remain at that place for longer than the time that may be allowed by the local government under a local law or, where there is local law, for the time that is otherwise considered to be reasonably appropriate before and after the collection.

For example, it may be reasonably appropriate for a person to put their bin on the kerbside for collection the night before the designated collection day and remove the bin from the kerbside the evening of the collection day.

Subsection (3) states that, where the local government has arranged for the collection of the waste, the occupier of premises must ensure that access to the container is not obstructed.

This is to ensure that the waste is able to be removed from the container on the designated day. This reduces the potential for nuisance to be created. If the waste is unable to be collected it may require storage for a longer period of time—that is, until the next collection day. This could lead to odour issues or to there being insufficient

capacity in that container to store the original waste and any new waste that is placed into the container.

Subsection (4) states that it is a defence against a person for an offence under subsection (3) if the person can prove that the contravention was beyond their control.

For example, it may be a defence if someone else has parked a car in front of the bin location before the bin can be serviced.

81ZI Other requirements for storing general waste at particular serviced premises

Section 81ZI describes other requirements for the storage of waste at premises.

Subsection (1) describes a prescribed person as being the owner or occupier of the premises; the registered suitable operator for an environmentally relevant activity carried out at the premises or the holder of an environmental authority for a mining or petroleum activity carried out at the premises.

This section does not apply to the owner or occupier of a single detached dwelling such as a house.

Subsection (2) describes the things a prescribed person must supply at the premises if required by the local government. The person must ensure that there is either an elevated stand at a level that is required by the local government or an impervious area that is drained as required by the local government. The person must also ensure that there is a suitable hose cock and hose near the bin area and that there is a suitable enclosure where the bins are kept.

This ensures that any spills from the containers can be contained to that site and are able to be cleaned up easily.

A suitable enclosure may include a lockable fenced area that restricts unauthorised access to the containers. An enclosure may be required in order to contain any waste that may accidentally spill from the bin as a result of normal use of the bin or to hide the waste containers to maintain the aesthetics in an area.

Division 2 Removal of general waste

81ZJ Local government may give notice about removal of general waste

Section 81ZJ provides the ability for a local government to give a person notice about waste removal.

Subsection (1) states that this section applies to a local government that has arranged for the removal of general waste from relevant premises.

Subsection (2) states that the local government may give the occupier of the premises a notice that states the days on which the waste will be collected; where the container is to be placed for collection (the designated location); and the time by which the waste container is to be placed in the designated location for collection.

The notice for this section may be given in a number of ways. For example, information about collections could be provided via the local government's website which states the collection schedule for the local government area and the time by

which the bin must be placed out for collection—that is, your bin must be out on the kerbside by 5.30am on your bin collection day.

81ZK Depositing or disposal of general waste from premises other than serviced premises

Section 81ZK describes the requirements for the storing of general waste at relevant premises that are not serviced premises. Serviced premises are those premises defined in section 81ZE; however relevant premises for a local government area may not be serviced premises but the local government still has an ability to require waste be stored in a particular way.

Subsection (1) states that this section applies if general waste is produced at premises that are not serviced premises.

Subsection (2) states that the local government may give the owner or occupier of the premises written approval for the depositing or disposal of the waste and may impose conditions of the approval. The conditions may be about where or how the waste is deposited or disposed of.

For example, a local government may approve a person to dispose of specific waste generated at the premises at a particular location on the property where the premises are located. This may include non-putrescible wastes such as cans, bottles and plastics where no nuisance would be created by this disposal.

Subsection (3) states that the person must not deposit or dispose of the waste unless the waste is deposited or disposed of at a waste facility in accordance with part 3 or in accordance with an approval given by the local government under subsection (2) and any conditions of that approval.

Division 3 Storage and treatment of industrial waste

81ZL Requirements for storing industrial waste

Section 81ZL describes the requirements for the storage of industrial waste. Industrial waste is interceptor waste or waste that is not commercial, domestic clean-up, or domestic waste; or green waste, recyclable interceptor waste, recyclable waste or waste that is discharged to sewer.

Subsection (1) states that, where required by the local government, the occupier of premises that produce industrial waste must supply the number of industrial waste containers that is required by the local government to ensure that safe and efficient storage of the waste and that the waste is stored without creating nuisance. The occupier of premises must also ensure that the waste containers are kept in a place notified by the local government and that the waste containers are kept clean and in good condition.

Subsection (2) states that if the occupier does not supply the required number of waste containers, the local government may supply the waste containers for the premises.

Subsection (3) states that if the local government supplies the waste containers to the premises the reasonable cost of supplying the containers is a debt payable by the occupier of the premises to the local government.

Subsection (4) states that for this section an industrial waste container that is required by the local government means a container that is of a type approved by the local

government for storing industrial waste at premises within the local government's area.

81ZM Requirement to treat industrial waste for disposal

Section 81ZM describes the requirement to treat industrial waste before it is disposed of at a waste facility. Where the occupier of premises is required by the local government the industrial waste must be treated to a standard that is approved by the local government so that the waste can be disposed of at a waste facility.

Division 4 Compliance notices

81ZN Authorised person may give notice to comply

Section 81ZN provides that an authorised person may issue a notice to comply with requirements under this part.

Subsection (1) states that if an authorised person reasonably believes that a person (the *affected person*) has contravened divisions 1, 2 or 3 then the authorised person may issue a written notice about the contravention to the affected person under subsection (2).

Subsection (2) states the things the notice must contain. The notice must state the act or omission for which the notice is given; the action the affected person must take to rectify the alleged contravention; and the day by which the action must be taken.

Subsection (3) states that the day stated in the notice must be at least 28 days after the notice is given.

This means that the day stated on the notice cannot be any earlier than 28 days from the day the notice is given and is to ensure there is sufficient time for the affected person to take the necessary action to rectify the contravention.

Subsection (4) states that if the affected person is given a notice under subsection (1), the person must comply unless they have a reasonable excuse.

Subsection (5) states that if an affected person is given a notice under subsection (1) the person can only be prosecuted for the contravention if the person does not comply with the notice.

Subsection (6) states that a notice is not required under subsection (1) in order for an authorised person to prosecute an affected person for the contravention.

An authorised person may prosecute a person without first giving the person a notice if the issue of a notice could delay remedial action being taken. For example, a person may not have supplied a sufficient number of industrial waste containers to adequately store the amount of industrial waste generated at the premises. The authorised person may decide to prosecute the person without issuing a notice in the circumstance where a nuisance is created and immediate remedial action is necessary.

Part 3 Receiving and disposing of waste

81ZO Unlawful disposal of waste at waste facility

Section 81ZO describes wastes which cannot be lawfully disposed of at a waste facility.

Subsection (1) lists the types of wastes that cannot be deposited at a waste facility. These wastes include liquid or semiliquid wastes; hot ash; material that is smouldering or aflame; material that can spontaneously combust; explosive material and ammunition.

In some circumstances it is not appropriate for certain types of wastes to be taken to or disposed of at particular waste facilities. This subsection ensures that wastes are able to be managed appropriately for the type of waste facility and the type of risk presented by the waste.

Subsection (2) states that subsection (1) does not apply if the disposal is undertaken with the consent of the person holding an environmental authority for the facility or the person in charge of the facility. For instance, liquid waste may be disposed of to a landfill facility that is licensed to receive that waste or with the consent of the holder of the environmental authority for that facility.

81ZP Restrictions on burning waste at waste facility

Section 81ZP provides circumstances under which waste at a waste facility can be burnt. Circumstances where a person may set fire to waste are if it is under an environmental authority relating to that waste facility or under the provisions of the *Fire and Emergency Services Act 1990*. At any other times, waste must not be burnt or set on fire at the facility.

81ZQ Restrictions on use of waste facility

Section 81ZQ outlines the restrictions on the use of a waste facility.

Subsection (1) states the circumstances relating to the use of the waste facility. For instance, a person cannot enter the facility other than to deposit waste; remain at the facility after depositing the waste or interfere with waste at the facility, without the consent of the owner or operator of the waste facility.

This subsection reduces the risk of a person carrying out an unlawful activity at the facility. However, it also allows the owner or operator of the facility some discretion in what a person may do at the facility.

Subsection (2) states that the provisions of subsection (1) do not apply if the person is the owner or operator of that facility or is an authorised person.

This allows the owner or operator of the facility to go about the normal operation of the facility where that operation may involve, for example, moving waste from one area of the facility to another so that can be treated or processed. It also allows an authorised person to carry out an investigation and, for example, remove waste from the facility in order to undertake tests on the waste in the course of that investigation.

81ZR Waste transporter to comply with directions and give information

Section 81ZR sets out the requirements for a waste transporter at a waste facility.

Subsection (1) states that this section applies to a person who transports waste to a waste facility. This section applies whether the person is transporting the waste commercially, delivering their own waste or transporting the waste on behalf of someone else.

Subsection (2) describes the requirements that a waste transporter must comply with.

A waste transporter must—

- comply with all signage that is reasonable and relevant and has been displayed by the owner or operator of the facility;
- deal with the waste in accordance with any reasonable instructions given by the person in charge of the facility; and
- when requested, give information to the person in charge of the facility relating to the type and amount of waste being delivered.

For example, if the operator of a landfill displays signs at the site containing information about the price of waste disposal and where the waste must be disposed at the site, a person transporting the waste to the site must pay the displayed price and take the waste to the stated location at the site.

Part 4 Devolution of powers

81ZS Devolution—Waste management in local government areas—Act s 514

Section 81ZS states that the administration and enforcement of part 2 is devolved to each local government for its local government area.

This allows each local government to make decisions and take any necessary and appropriate action in relation to waste management as suitable for their local government area.

81ZT Devolution—receiving and disposing of waste—Act s 514

Section 81ZT states that the administration and enforcement of part 3 is devolved to local government to the extent that this part relates to a waste facility that is owned, operated or otherwise controlled by that local government.

This means that a local government has authority in relation to facilities that are owned, operated or under their control but not over a privately owned or operated waste facility located in a local government area.

Part 5 Expiry

81ZU Expiry

Section 81ZU states that this chapter expires on 1 September 2016.

This means that the provisions relating to local government waste management for a local government area and waste receipt and disposal in relation to a local government waste facility will no longer be contained in state legislation beyond 1 September 2016.

The provisions of this chapter have been retained for two years in order to provide local governments with sufficient time to put alternative arrangements in place where needed.

4 Amendment of s 110 (Original decisions and dissatisfied persons)

Clause 4 amends section 110 of the Environmental Protection Regulation 2008. This amendment is necessary in order to include the decisions relating to an application for an exemption and an application for a consignment number under the waste tracking provisions.

Subsection (1) amends section 110(1) by inserting the following:

- (1) Chapter 11, part 3 of the Act applies to the following decisions as if the decision were a decision mentioned in schedule 2, part 2 of the Act—
 - a. decisions of the administering executive—
 - under 81W to refuse a way of giving information
 - under section 81W to approve a way of giving information, subject to conditions
 - under section 81X to refuse an application for a consignment number
 - b. a decision of the administering authority—
 - under section 81Y to refuse an application for an exemption for the transportation of trackable waste
 - under section 81Y to approve an application for an exemption subject to conditions

Previous (a) to (f) in relation to decisions of the chief executive have been renumbered as (c), paragraphs (i) to (vi). The wording remains the same.

Subsection (2) amends section 110 to insert new subsection 2A. Subsection 2A states that for a decision for (1)(a) or (b), the dissatisfied person is the applicant.

Subsection (3) amends section 110(3) to replace subsection (1) with subsection (1)(c) to reflect the changes to this section.

Subsection (4) amends section 110(2A) and (3) to renumber these sections as (3) and (4) to reflect the changes to this section.

5 Insertion of new ch 9, pt 9

Clause 5 inserts a new part (part 9) for chapter 9

Part 9 Transitional provision for Environment Legislation Amendment and Repeal Regulation (No. 1) 2014

176 Compliance notice given under repealed regulation

Section 176 describes the relationship between a compliance notice issued under the expired regulation (the Environmental Protection (Waste Management) Regulation 2000) and the new section.

Subsection (1) states that a written notice that has been issued by an authorised person to an affected person under section 10P(1) of the repealed regulation is taken to be a notice to comply that has been given by an authorised person under section 81ZN.

This ensures that any compliance notice that has been issued prior to commencement of section 81ZN still has effect and action may still be taken in relation to that compliance notice.

Subsection (2) defines the repealed regulation as meaning the Environmental Protection (Waste Management) Regulation 2000.

6 Amendment of sch 2 (Prescribed ERAs and aggregate environmental scores)

Clause 6 amends schedule 2, section 56(2)(d) to remove the time limit for the storage of chemically treated power poles awaiting removal from the facility for recycling, reprocessing or treatment before this activity becomes regulated waste storage. It also removes the reference to disposal.

This means that chemically treated power poles that are stored at a facility for the purposes of recycling, reprocessing or treatment may be stored for any length of time without requiring an environmental authority for regulated waste storage.

Managing used chemically treated power poles outside the regulated waste framework is consistent with, for example, ERA 57—Regulated waste transport, which specifically states that the regulated waste transport activity does not include transporting chemically treated power poles in a vehicle.

Residue produced by the process of recycling treated timber products, for example power poles and bridge timbers, containing amounts of treatment chemicals has also been determined not to be regulated waste under schedule 7, part 2, item 9.

7 Insertion of new sch 2E to 2H

Clause 7 inserts new schedules after schedule 2D.

Schedule 2E— Trackable waste provides the list of trackable wastes and the relevant waste codes for each waste in relation to section 81C—Waste transportation to which this part applies.

Schedule 2F— Prescribed information for waste tracking is the information that is required to be provided by the generator, transporter and receiver under section 81E.

Schedule 2G—National environment protection (movement of controlled waste between States and Territories) measure, schedule A, list 2 is a list of characteristics of controlled wastes from the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure.

Schedule 2H—Disposal and treatment codes for waste tracking is a list of disposal and treatment codes for waste tracking.

8 Amendment of sch 7 (Regulated waste and waste that is not regulated waste)

Clause 8 amends schedule 7, part 2 in relation to wastes that are determined not to be regulated wastes.

This clause inserts —

11 waste architectural and decorative paints that are collected, stored and transported in accordance with a product stewardship, unless the paint is mentioned as follows:

- a bagged render
- a texture coating
- contains isocyanates
- is paint stripper
- is an industrial paint
- is an anti-fouling paint

It also inserts—

12 containers of waste architectural and decorative paints mentioned in item 11 that are collected, stored and transported in accordance with a product stewardship. This does not include containers that are spray packs.

Product stewardship is defined in the dictionary for this schedule and section 81C.

9 Amendment of sch 12 (Dictionary)

Clause 9 amends schedule 12 in relation to definitions that are required for part 9 and chapter 5A.

Part 3 Amendment of Waste Reduction and Recycling Regulation 2011

10 Regulation amended

Clause 10 states that this part amends the Waste Reduction and Recycling Regulation 2011.

11 Insertion of new s 7A

Clause 11 inserts section 7A—Expiry after section 7. Section 7 is contained in part 2A and states that a local government may designate areas within the local government area for the collection of general waste or green waste and may also determine the frequency of collection for the waste.

Section 7A states that this part expires on 1 September 2016. This aligns with the expiry of chapter 5A, part 2 of the Environmental Protection Regulation 2008 in relation to local government management of waste in a local government area.

12 Amendment of s39 (Prescribed planning entity—Act, s 139)

Clause 12 removes the definition for hospital from section 39(2) as the definition is established in the *Hospitals and Health Boards Act 2011* and covers the inclusions under section 39(2).

13 Sections 41L(1), 41M(9), 41N(1) and (2) and 41R(3)—note

Clause 13 amends the note about prescribed provisions for certain sections.

For sections 41L(1), 41M(9), 41N(1) and (2) and 41R(3) the note is amended and explains that section 42A states that these subsections a prescribed provisions for the definition of prescribed provision in section 245, paragraph (b) of the Act.

14 Insertion of new parts 5B and 5C

Clause 14 inserts new parts 5B and 5C after 5A, division 6.

Part 5B Management of clinical and related wastes

This part provides detail for the management of clinical and related wastes, from the point of generation through to treatment and ultimate disposal.

41X Segregation of waste

Section 41X provides the requirement for segregation of clinical or related wastes.

Subsection (1) outlines the different segregation categories for clinical or related wastes.

The segregation categories are based on the type of treatment or disposal requirements that may be appropriate for each category. This is required to ensure that each waste category is able to be managed according to the risk associated with that waste.

Subsection (2) states it is a defence not to segregate waste if the treatment or disposal facility receiving the waste holds an environmental authority to accept the highest level of waste present under subsection (1). For instance, wastes requiring a higher level of treatment or disposal (such as cytotoxic waste) must not be mixed with wastes requiring a lower level of treatment or disposal (such as general waste) unless the higher level of treatment or disposal is used for **all** the wastes in that mix.

41Y Design requirements for waste containers

Section 41Y states containers, including bags, used for the collection, storage, transportation or disposal of clinical or related waste must meet the requirements of *schedule 7A*.

For instance clinical waste is to be placed into yellow containers, cytotoxic into purple and radioactive into red. Where a way of labelling or otherwise identifying the waste is not provided in *schedule 7A*, for example for human body parts or pharmaceutical waste, these wastes should be placed into an appropriate container that ensures these waste can be readily identified and treated or disposed of as appropriate for the type of waste.

41Z Giving waste to another person for transport, storage, treatment or disposal

Section 41Z describes what a person must do in relation to sending the waste for treatment or disposal.

Subsection (1) applies to a person who operates premises where clinical or related waste is generated.

Subsection (2) states that the person must not give this waste to another person unless that person holds, or is acting under, an environmental authority for the transport, storage, treatment or disposal of the waste. For example, cytotoxic waste must not be given to a facility unless that facility is licensed to accept cytotoxic waste—being licensed to accept clinical waste is not an authority to treat cytotoxic waste.

Subsection (3) states that it is a defence to a charge under subsection (1) for the person to prove that they had reasonable grounds for believing that the other person had the relevant environmental authority for the activity.

41ZA Disposal of sharps

Section 41ZA provides the requirements in relation to the disposal of sharps.

Subsection (1) states that subsection (2) applies to a person who generates:

- a. a hypodermic needle at residential premises and that needle has been in contact with human or animal blood and tissue or body fluids
- b. a hypodermic needle or sharp at a place other than a residential premises

Subsection (2) states that the hypodermic needles or sharps mentioned in subsection (1) must be placed into a rigid-walled, puncture-resistant container and that the person must seal or securely close the container.

The reference to a person in (b) may include a person generating sharps in, for example, an office building or premises where skin penetration activities such as body piercing or cosmetic tattooing take place.

A rigid-walled, puncture resistant container is, for example, one that has hard, unbending sides and is resistant to splitting, breaking and perforating.

Subsection (3) states that subsection (4) applies to a person who discards a needle or sharp at premises that generate clinical or related waste, such as a hospital or doctors surgery. These provisions do not apply to a person under subsection (1).

Subsection (4) states that sharps or needles discarded at premises that generate clinical or related waste must be placed into a container that complies with either the Australian Standard for Reusable Containers (AS/NZS 4261-1994) or the Australian Standard for Non-Reusable Containers (AS 4031-1992).

This requirement ensures that the discarded sharps are appropriately contained in order to reduce the risk of someone coming into contact with that needle or sharp. Containers complying with the Australian Standards are puncture-resistant, appropriately labelled and able to be secured and sealed.

Subsection (5) states that any person disposing of a needle or sharp under subsection (2) or (4) must ensure that needle or sharp is inaccessible.

This means that the contents of the container into which the needle or sharp is placed must not be able to be removed from that container or a person must not be able to put their hand into the container.

41ZB Storage area for clinical or related waste

Section 41ZB describes the requirements for a clinical or related waste storage area. It states that an area for storing the waste must be set aside and that the waste cannot be stored in any place other than that area. The storage area must only be accessible to authorised people.

For the purposes of this provision, waste disposal at ward level is not considered to be storage. This includes, for example, patient bedside waste bins, waste containers in public areas or plastic waste bags attached to treatment trolleys.

41ZC Storage of clinical or related waste

Section 41ZC describes the requirements for the storage of the waste.

Subsection (1) states that a person must store the waste so that there is no environmental nuisance created by the storage of the waste.

For clinical waste that contains waste that is highly degradable (such as blood and human tissue waste) this may mean that the waste remains at the premises for not longer than seven days or that the waste is stored in a cold room to reduce the potential for odour. However, for wastes where the potential for nuisance such as odour is low the length of storage at the premises may be longer.

Subsection (2) defines environmental nuisance for the purposes of section 15 of the *Environmental Protection Act 1994*.

41ZD Treatment and disposal of clinical or related waste

Section 41ZD states that clinical or related waste must be treated and disposed of in accordance with the treatment and disposal methods described in schedule 7B of this regulation. For example, cytotoxic waste must be treated by high temperature incineration prior to disposal to landfill—it cannot be disposed of directly to landfill.

This ensures that an appropriate level of treatment is applied to the waste to manage the proportionate risk associated with that waste.

Part 5C Management of polychlorinated biphenyls (PCBs)

This part defines PCBs, classifies PCB material according to the amount and concentration of PCBs in it and in general provides provisions for management and phasing out of PCBs. The provisions are in accordance with the requirements set by the ANZECC-developed national PCB Management Plan (1996 and 1999 versions).

Division 1 Preliminary

41ZE Definitions for pt 5C

Section 41ZE provides the definitions for this part in relation to the management of polychlorinated biphenyl wastes, including definitions for PCB, PCB material and PCB-free.

41ZF Types of PCB material

Section 41ZF describes the types of PCB material that are covered under this part.

Subsection (1) states that this part applies to PCB material according to the amount and concentration of PCBs in it.

Subsection (2) classifies PCB material as either scheduled or non-scheduled, according to the concentration and amount of PCBs present within the material.

Subsection (3) states that PCB material is scheduled if the concentration of PCBs in the material is at least 50mg/kg and the material contains at least 50g of PCBs.

Subsection (4) states that scheduled PCB material is concentrated if the concentration of PCBs is at least 100 000 mg/kg. Scheduled PCB material contains at least 50 g of PCB.

41ZG Deciding if material or equipment is PCB-free

Section 41ZG outlines the circumstances under which material or equipment can be considered to be PCB-free.

Subsection (1) states that equipment is PCB-free if there is no PCB material in the equipment and the surface concentration of PCB of the contaminated metal does not exceed 1 mg/m². Material is PCB-free if it is not a PCB material as defined under section 41ZF.

Subsection (2) states that the chief executive must prepare guidelines explaining the method of measuring surface concentration and ensure that copies of the guidelines

are available on the department's website or elsewhere, either free of charge or on payment of the prescribed fee.

Subsection (3) states that, for this section, PCB contaminated metal in equipment means metal that normally comes in contact with PCB material when the equipment is used.

Division 2 Treatment of PCB material

41ZH Treatment of PCB material only at licensed treatment facilities

Section 41ZH states that PCB material must only be treated at a licensed treatment facility.

Subsection (1) states that a person must not dilute, disaggregate or treat PCB material at any place other than at a licensed treatment facility. This section is a prescribed provision for the purposes of section 245 of the *Waste Reduction and Recycling Act 2011* and allows for the retention of a penalty proportionate to the potential hazard associated with the inappropriate handling of this waste.

Subsection (2) states that a person does not treat PCB material if PCB material is removed from equipment or if equipment containing PCBs is refilled for the purpose of continued operation of the equipment.

Division 3 Disposal of PCB material

41ZI Waste that is scheduled PCB material must be sent for treatment

Section 41ZI requires a person generating scheduled PCB material to send it for treatment.

Subsection (1) requires that a person who generates scheduled PCB waste must arrange for treatment of the waste at a licensed facility within 1 year after the waste is generated.

Subsection (2) provides a defence for a person having a reasonable excuse for not complying with subsection (1). For example, it is a reasonable excuse that there is no licensed treatment facility in Queensland or in Australia, to which the waste can be given within one year after it is generated.

Subsection (3) requires that a person who generates scheduled PCB waste and has a reasonable excuse for not complying subsection (1) must arrange for treatment of the waste at a licensed treatment facility as soon as practicable after its generation.

41ZJ Prohibition on disposal of waste that is scheduled PCB material and liquid PCB waste

Section 41ZJ prohibits disposal of scheduled PCB waste or liquid PCB waste to a landfill.

Division 4 Duties of occupier of premises with scheduled PCB material

41ZK Application

Section 41ZK explains that the provision for notification applies to a person who occupies premises where more than 10 kg of PCBs in scheduled PCB material are held.

41ZL Notice to chief executive

Section 41ZL provides for a person to give a notice to the chief executive.

Subsection (1) details information to be provided to the chief executive, including the person's name and address, the date of the notice and the prescribed information about the material under subsection (3).

Subsection (2) states that a person must give further notice to the administering authority if there is a change in the information given by the person under this section.

These requirements ensure that administering authority is aware of where PCB material is located and how much material is at the premises.

Subsection (3) provides a definition for "prescribed information" under this section. Prescribed information about the scheduled PCB material at premises means the amount of the material; the amount and concentration of PCBs in the material and where the material is located at the place.

41ZM Emergency plan

Section 41ZM provides for the preparation of an emergency plan.

Subsection (1) requires that a person must prepare an emergency plan within 90 days after this division starts to apply and must keep it up to date.

The emergency plan is a strategy to reduce the risk associated with the PCB material.

Subsection (2) provides a definition for "emergency plan" and "relevant incident" and details the contents of an emergency plan.

A relevant incident at a place means a fire at the premises or a spill or other incident involving scheduled PCB material at the premises.

Division 5 Equipment containing PCB material

41ZN Use of equipment containing concentrated PCB material

Section 41ZN provides requirements around the use of equipment that contains concentrated PCB material.

Subsection (1) states that a person must not use equipment that contains concentrated PCB material if the person knows, or should reasonably know, that the equipment contains concentrated PCB material.

Subsection (2) states that subsection (1) does not apply if there is a current exemption under section 41ZO for the equipment.

41ZO Exemption permitting use of equipment containing concentrated PCB material

Section 41ZO describes the process for seeking an exemption permitting the use of equipment containing concentrated PCB material.

Subsection (1) states that a person may apply to the chief executive to exempt equipment from the application of section 41ZN or to extend an exemption that has been given under paragraph (a) for one or more further periods.

Subsection (2) states that the chief executive may give an exemption or extend an exemption for equipment only if it is satisfied the equipment is not near a food processing facility, animal feedlot, school or hospital; or in a potable surface or underground water catchment area, aquatic spawning area or endangered wildlife habitat; or at another place requiring higher than usual protection against environmental harm from a spill or other accident involving concentrated PCB material.

This ensures that sensitive areas are protected from potential impact that may be associated with the use of the PCB-containing equipment.

Subsection (3) states that reasonable conditions may apply to an exemption given under this section.

Subsection (4) states that an applicant for an exemption must give the chief executive the information that is reasonably needed to decide the application.

This ensures that the chief executive is aware of the circumstances around the application for exemption, including whether the equipment is located near a sensitive receiving environment such as a school or hospital.

Subsection (5) states that if the chief executive does not grant the application the decision to refuse must be in the form of an information notice.

Subsection (6) states that if the chief executive has not decided the application by the due day, the application is taken to be refused.

Subsection (7) provides that the due day for making a decision about the exemption application. The administering authority has 60 days to decide the application after it has been made. The 60-day period does not include the time during which the administering authority seeks further information to decide the application. However, a later day for deciding the application may also be agreed by the administering authority and the applicant.

41ZP Use of equipment containing scheduled PCB material

Section 41ZP prohibits the use of equipment containing scheduled PCB material that is not concentrated; if the person knows or should reasonably know that the equipment contains scheduled PCB material. Use of equipment containing concentrated is prohibited under section 41ZN(1).

41ZQ Dealing with equipment that is no longer used

Section 41ZQ describes how equipment that is no longer used is to be dealt with.

Subsection (1) applies to the owner of equipment containing PCB material.

Subsection (2) states that no later than one year after the equipment has been permanently removed from operational use the owner must deal with the equipment in the following way:

- if the equipment contains concentrated PCB material, the owner of the equipment must give it to a licensed treatment facility for treatment so that the equipment becomes PCB-free
- if the equipment contains scheduled PCB material that is not concentrated PCB material the owner must treat the equipment so that it becomes PCB-free or give the equipment to a licensed treatment facility for treatment so that it becomes PCB-free
- if the equipment contains non-scheduled PCB material, the owner of the equipment must treat the equipment so that it becomes PCB-free or give the equipment to a licensed treatment facility for treatment so that it becomes PCB-free or give the equipment to a licensed disposal facility.

Subsection (3) states that it is a defence against a charge of an offence against subsection (2) if the owner shows that they have a reasonable excuse for not complying.

Subsection (4) states that if the owner of the equipment does not comply with subsection (2) because the owner has a reasonable excuse, the owner must deal with the equipment in the way required under subsection (2) for the type of PCB material as soon as practicable.

15 Insertion of new s 41ZR

Clause 15 inserts a new section into part 6, before section 42.

41ZR Disposal ban waste—Act, s 100

Section 41ZR states that, for chapter 4, part 4 of the *Waste Reduction and Recycling Act 2011*, schedule 7A, column 2 identifies the types of waste that are disposal ban waste for the part of the State mention in column 1. Column 3 of schedule 7C identifies the day the waste became disposal ban waste for that part of the State.

This ensures that people are aware of the requirements in relation to the ban on the disposal of that waste for different parts of the State to avoid confusion around its management.

16 Amendment of s 42A (Prescribed provisions for Act, s 245)

Clause 16 inserts for section 42A, section 41ZH(1) in relation to treatment of PCB material.

17 Insertion of new schs 7A to 7C

Clause 17 inserts after schedule 7—

Schedule 7A Design requirements for waste containers.

This schedule provides the colour and identification requirements for particular clinical or related waste containers under section 41Y.

Schedule 7B Treatment and disposal of clinical or related waste.

This schedule provides the treatment and disposal processes applicable to each waste type for section 41ZD. It makes provision for the disposal of untreated clinical waste only at a landfill located in a scheduled area.

Schedule 7C Disposal ban waste

This schedule describes the disposal ban wastes for the purposes of section 41ZR. The schedule states that liquid PCB waste; related waste and scheduled PCB waste are disposal ban wastes for the whole State. Untreated clinical waste is a disposal ban waste for the whole State, except in a scheduled area. A scheduled area is a local government area mentioned in Schedule 4 of the *Environmental Protection Regulation 2008*. The effective date for the disposal bans is 1 September 2014.

18 Amendment of sch 9 (Dictionary)

Clause 18 amends the Dictionary to include definitions for new parts 5B (Management of clinical and related waste) and 5C (Management of polychlorinated biphenyls (PBCs)).

Part 4 Repeal

19 Repeal of regulation

Clause 19 states that the *Environmental Protection (Waste Management) Regulation 2000*, SL No. 178 is repealed.