

Operational policy

Regulated waste transport

Regulated waste transport

Operational policies provide a framework for consistent application and interpretation of legislation by the Department of Environment and Science. Operational policies will not be applied inflexibly to all circumstances. Individual circumstances may require an alternative application of policy. This policy concerns schedule 2, item 57 under the Environmental Protection Regulation 2019.

1 Background

Environmentally relevant activity (ERA) 57 (regulated waste transport) is defined in schedule 2 of the Environmental Protection Regulation 2019¹ as follows:

- (1) Regulated waste transport (the **relevant activity**) consists of transporting regulated waste in a vehicle.
- (2) The relevant activity does not include—
 - (a) transporting not more than 175kg of asbestos in a vehicle; or
 - (b) self-haul transportation of not more than 250kg of regulated waste; or
 - (c) transporting waste by a State or local government entity if—
 - (i) the waste is generated by or for the entity as a result of the construction or maintenance of a State-controlled road, local government road or railway corridor; and
 - (ii) the transportation is between sites owned or operated by a State or local government entity.
- (3) If the relevant activity is transporting end-of-life tyres, the aggregate environmental score for the relevant activity is 2.
- (4) If the relevant activity is transporting regulated waste, other than end-of-life tyres, the aggregate environmental score for the relevant activity is the lesser of the following—
 - (a) the number of registered vehicles for the relevant activity;
 - (b) 36.
- (5) In this section—

registered vehicle, for the relevant activity, means a vehicle that is registered, with the department, as a vehicle used to carry out the activity.

self-haul transportation, of waste, means the transportation of waste by or for a person if—
 - (a) the person is the occupier of commercial premises where the waste is produced; and
 - (b) the waste is transported from the premises free of charge.

vehicle includes a part of an aircraft, boat, rolling stock, semi-trailer, tanker, trailer or truck, used to transport waste.

An environmental authority is required for ERA 57. Applications for an environmental authority can be made to the Queensland Department of Environment and Science (the department) online through Online Services. For

¹ This definition changed on 1 July 2019.

more information and to register to use Online Services go to <https://business.qld.gov.au/running-business/environment/online-services>

Alternatively, complete and submit a standard, variation or site-specific application² (available from Permit and Licence Management by emailing palm@des.qld.gov.au or phoning 1300 130 372 and selecting option four).

There is an ERA standard³ for this activity where regulated waste is transported by road vehicles.

Any new operation that meets the eligibility criteria and can meet all of the standard conditions must make a standard application for an environmental authority to carry out this activity. The conditions that apply to the environmental authority will be the standard conditions.

Where the operation cannot meet all the standard conditions of this ERA standard, a variation application for an environmental authority must be made. The environmental authority will include the standard conditions as modified by any approved variations.

Where the operation transports waste other than by road vehicles (e.g. by barge or by rail), a site specific application must be made.

2 Policy issue

The questions listed hereunder reflect issues that have been raised in relation to ERA 57. The answers provided to the questions in this document should enable consistency in the licensing and administration of the activity throughout the state.

3 Determination

Question 1

When referring to the activity of ERA 57, what is a vehicle?

Answer 1

The term vehicle⁴ includes, but is not limited to, trucks and trailers towed by trucks or prime movers, that are capable of carrying:

- regulated waste; or
- transportable regulated waste containers.

Question 2

Does a prime mover, when towing another vehicle carrying regulated waste, require an environmental authority for ERA 57?

Answer 2

No. Only the vehicle being towed, which is carrying the regulated waste, is required to operate under an environmental authority for ERA 57.

² Go to www.business.qld.gov.au and search for “applying for an environmental authority” for information about making an environmental authority application.

³ The *Environmentally relevant activity standard Regulated waste transport (ERA 57) (ESR/2018/4202)* took effect on 29 June 2018 and was updated on 1 July 2019. This ERA Standard is available at www.qld.gov.au using the publication number “ESR/2018/4202” as a search term.

⁴ Schedule 4 of the *Environmental Protection Act 1994* defines “vehicle” as including a train, boat and aircraft, whilst the definition of vehicle in schedule 2, s.57(5) of the Environmental Protection Regulation 2019 states that “**vehicle** includes a part of an aircraft, boat, rolling stock, semi-trailer, tanker, trailer or truck, used to transport waste”.

Furthermore, s. 431(1) and (2) of the *Environmental Protection Act 1994* requires the environmental authority operator (the owner/operator of the vehicle being towed) to ensure that everyone acting under the environmental authority (including the driver of the prime mover towing the vehicle) complies with the conditions of the environmental authority; and that if the person acting under the environmental authority contravenes a condition of the environmental authority, then the environmental authority holder also contravenes a condition of the environmental authority.

Question 3

Can an environmental authority for ERA 57 prescribe conditions on the design of transportable regulated waste containers carried on regulated waste vehicles?

Answer 3

Yes. Conditions relating to the design of transportable containers that are considered by the department to be necessary or desirable may be approved as standard conditions of the ERA standard or applied as conditions on an environmental authority where a site-specific application for an environmental authority is made.

Question 4

Can an environmental authority for ERA 57 place conditions on ancillary activities that typically occur at transport depots?

Answer 4

Yes, but only if it is necessary or desirable to conduct the ancillary activities as part of the ERA 57 operation. For example, an ERA standard could place conditions on actions such as the washing of vehicles and/or containers, or the consolidating of wastes to make up a load, or the unloading of wastes. However, the conditions would need to have a generic rather than site-specific application, i.e. they should not apply to activities at a particular depot, but to those that may occur at any site associated with the ERA 57 operation.

An example of an ancillary activity that should not be conditioned is the parking of vehicles at a depot. This action represents no greater environmental risk than parking at a truck stop or public car park.

Question 5

What period of in-transit storage is allowed before an environmental authority for ERA 62 (resource recovery and transfer facility operation) would be required by the department?

Answer 5

ERA 62 is not occurring if vehicles are storing regulated waste in transit. In transit, in relation to storing regulated waste, is defined in ERA 62 — resource recovery and transfer facility operation as “storage of the waste in a vehicle or container for not more than 5 days at a place if, during the storage, the waste is not removed from the vehicle or container.”

Question 6

Where vehicles are operated out of several depots, can all the vehicles be included under the one environmental authority?

Answer 6

The *Environmental Protection Act 1994* allows a number of activities to be included in the same environmental authority where a single integrated operation can be demonstrated. Under section 113, “activities are carried out as a single integrated operation if—

- (a) the activities are carried out under the day to day management of a single responsible individual, for example, a site or operations manager; and
- (b) the activities are operationally interrelated; and
- (c) the activities are, or will be, carried out at 1 or more places; and
- (d) the places where the activities are carried out are separated by distances short enough to make feasible the integrated day to day management of the activities.”

Vehicles which operate from depots where these criteria are met can come under the one environmental authority. Otherwise a number of individual environmental authorities will be required.

Question 7

When a sub-contractor is engaged to carry out ERA 57 by an environmental authority holder for ERA 57, can the sub-contractor’s vehicle be covered by the holder’s environmental authority or does the sub-contractor need a separate environmental authority?

Answer 7

If the sub-contractor is independent of the registered operator (i.e. there is no master/servant relationship) the sub-contractor should obtain their own environmental authority for ERA 57. However, the holder could allow a sub-contractor to operate under their environmental authority. In so doing the holder will also be responsible for any non-compliance with the environmental authority by the sub-contractor (including any of the sub-contractor’s employees).

Question 8

- (i) Should registered vehicles be listed in the body of an environmental authority?
- (ii) How should:
 - o an applicant advise the details of vehicles to be registered on the department’s licensing database?
 - o the holder of an environmental authority initiate vehicle addition to, or removal from, the department’s licensing database?

Answer 8

- (i) No. Environmental authority conditions are to state that the environmental authority applies only to the applicant’s or environmental authority holder’s vehicles for which details are provided to the department before commencing operations. Notification of vehicles can be made to the department online through Online Services. To register to use Online Services go to <https://business.qld.gov.au/running-business/environment/online-services>

Alternatively you can complete and submit the form *Details of regulated waste vehicles – ERA 57 (ESR/2015/1851)*⁵ to the department.

Environmental authority holders who are registered with Online Services will be able to access and update the list of all their vehicles for their environmental authority using Online Services at any time.

Where an ERA standard applies, the conditions cannot be tailored to suit individual operators, and will not include vehicle details.

⁵ This is the publication number. This document is available at www.qld.gov.au using the publication number as a search term.

- (ii) The applicant or environmental authority holder must notify the department of vehicles to be licensed in the first instance, and of vehicle addition or removal at any time thereafter.

Notification of vehicles can be made to the department online through Online Services. To register to use Online Services go to <https://business.qld.gov.au/running-business/environment/online-services>

Alternatively you can complete and submit the form *Details of regulated waste vehicles – ERA 57 (ESR/2015/1851)*⁵ to the department.

Environmental authority holders who are registered with Online Services will be able to access and update the list of all their vehicles for their environmental authority using Online Services at any time.

Question 9

Does an environmental authority holder need to apply for a new ERA if the number of vehicles in the fleet increases?

Answer 9

No, but a pro-rata annual fee increase may be payable (see question 10).

There are no thresholds for ERA 57. The annual fee is based on an aggregate environmental score of:

- two for transporting end-of-life tyres only in any number of vehicles; and
- one per vehicle (up to a maximum of 36) for transporting regulated waste other than end-of-life tyres.

The number of vehicles can be changed at any time by:

- Notifying the department online through Online Services. To register to use Online Services, go to <https://business.qld.gov.au/running-business/environment/online-services>; or
- Completing and submitting the form *Details of regulated waste vehicles – ERA 57 (ESR/2015/1851)*⁵ to the department.

Question 10

Is an environmental authority holder for ERA 57 required to pay a pro-rata annual fee increase when additional vehicles are introduced to the existing licensed vehicle fleet?

Answer 10

Yes, in certain circumstances. This pro-rata annual fee increase is called a supplementary annual fee. Refer to the information sheet *Calculating the supplementary annual fee for regulated waste transport (ESR/2019/4612)*⁵ and the fee calculator (ESR/2015/1731)⁵ for further information on the supplementary annual fee.

The supplementary annual fee is payable if:

- the vehicles are used for transporting regulated waste other than end-of-life tyres; and
- the vehicle numbers increase above the number of vehicles used to calculate the annual fee or supplementary annual fee⁶ in the current licensing year⁷.

Example 1

⁶ The annual fee does not increase with additional vehicles above 36 as the aggregate environmental score is one per vehicle up to a maximum of 36. Therefore, the supplementary annual fee is not payable if the annual fee or supplementary annual fee was paid based on 36 or more vehicles.

⁷ The current licensing year is the 12 month period from the latest anniversary day. For example, from the anniversary day of 1 May in one year to 30 April the following year.

The annual fee was paid based on eight vehicles transporting regulated waste other than end-of-life tyres. The number of vehicles increases to 15 in that licensing year. The supplementary annual fee is payable based on the increase of seven vehicles for the remainder of the licensing year.

Example 2

Following on from the situation in example 1, the number of vehicles drops from 15 to 10 and then increases to 14 in the same licensing year. No additional supplementary annual fee is payable as the annual fee has already been paid for 15 vehicles.

Question 11

Can environmental authority conditions provide for licensed vehicles to carry specific regulated wastes?

Answer 11

Generally the conditions of the ERA standard will apply to the environmental authority unless a variation or site-specific application was made. The ERA standard contains some conditions that apply to specific regulated wastes.

Question 12

Should insurance covering incident clean-up and environmental damage be considered financial assurance under Chapter 5, Part 12, Division 2 (ss. 307–316) of the EP Act?

Answer 12

No.

Question 13

Does an environmental authority for transporting regulated waste authorise the transport of end-of-life tyres as well as other regulated waste?

Answer 13

Yes, the ERA for transporting regulated waste allows for the transportation of any regulated waste, including end-of-life tyres. The distinction between transporting end-of-life tyres and other regulated waste relates to the applicable aggregate environmental score. The aggregate environmental score is used to calculate the annual fee. The aggregate environmental score is:

- two for transporting end-of-life tyres; and
- one per vehicle, up to a maximum of 36, for transporting other regulated waste.

Where both end-of-life tyres and other regulated waste are transported, the annual fee will be based on the number of vehicles used for transporting other regulated waste only (up to a maximum of 36) and excluding vehicles used to transport end-of-life tyres only.

Example 1

An operator has 10 vehicles for transporting regulated waste. Three vehicles are only used for transporting end-of-life tyres. The other seven vehicles are only used to transport other regulated waste. The AES is one for each of the seven vehicles transporting other regulated waste. The annual fee is based on an AES of seven.

Example 2

Another operator has 14 vehicles for transporting regulated waste. Three vehicles are only used for transporting end-of-life tyres. Four vehicles are used to transport end-of-life tyres and other regulated waste. The other

seven vehicles only transport other regulated waste. So, the AES is one per vehicle for the 11 vehicles that transport other regulated waste (i.e. excluding the vehicles that transport end-of-life tyres exclusively).

Disclaimer: While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

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Version history

Version	Date	Comments
1.00	06 JUN 2012	Versioning first included.
2.00	—	Not used (version 1.00 updated to version 3.00 instead of to version 2.00).
3.00	18 MAR 2016	Updated for <i>Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012</i> .
4.00	05 DEC 2016	Added version history. Fixed minor typos (additional spaces or missing space between words). Updated for applications being able to be made online using Connect and changes in ERA threshold requiring an amendment application.
5.00	06 MAR 2017	Updated for being able to update vehicle details online using Connect.
5.01	15 JUN 2018	Document rebranded to align with machinery of government changes.
6.00	29 JUN 2018	Updated for new ERA standard and certain application forms being available by emailing palm@ehp.qld.gov.au , or phoning 1300 130 372 and selecting option 4.
7.00	01 JUL 2019	Updated for the Environmental Protection (Waste ERA Framework) Amendment Regulation 2018.
7.01	08 OCT 2019	Updated for the commencement of Environmental Protection Regulation 2019.
8.00	08 JAN 2021	Removed reference to the information sheet <i>Waste ERA framework ERA 57 – Regulated waste transport</i> , replaced Connect with Online Services and updated questions 9 and 10 about increased vehicle numbers and fees.
9.00	12 AUG 2021	Added question 13.
9.01	04 APR 2022	Facsimile number removed