



Government of **Western Australia**
Department of **Water and Environmental Regulation**

Compliance program 2021-22

Department of Water and Environmental Regulation

November 2021

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November 2021

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1. Purpose

The Department of Water and Environmental Regulation (the department) is responsible for ensuring the state's water resources and environment are healthy and able to support a strong economy and thriving communities. The department has wide-ranging statutory and regulatory responsibilities directed at achieving improved outcomes for public health, the environment and water resources. As a responsive and credible regulator, monitoring compliance with the legislation we administer is one of our fundamental roles. This document details the department's Compliance program 2021–22.

2. Scope

This Compliance program outlines the department's compliance monitoring sub-programs and priorities for the period from 1 July 2021 to 30 June 2022.

It does not address our response to breaches identified through compliance monitoring activities. The department uses a range of different actions to support a return to compliance, deter and punish offenders, reduce the risk of existing and ongoing impacts and rehabilitate damage to the environment. This is guided by our [Compliance and enforcement policy](#) and is outside the scope of this program.

3. Context

One of the department's five key strategic directions, outlined in our regulatory approach, is being a responsive and credible regulator. This involves undertaking appropriate compliance and ensuring regulated stakeholders meet their commitments.

In accordance with our *Compliance and enforcement policy*, the department's six regulatory best-practice principles are embedded in all our compliance activities. You can find more information about [Our regulatory approach](#), *Compliance and enforcement policy* and [Regulatory best practice principles](#) on our website (www.dwer.wa.gov.au).

Compliance is a vital input into the regulatory cycle, providing valuable information to encourage continual improvement and enhance public health and environmental and water resource outcomes. Information from compliance monitoring may be used to improve statutory instruments, drive decisions on new or amended applications and guide development and modification of policies, guidelines and regulations.

4. Legislation

This program outlines compliance monitoring activities related to the following Acts and their subsidiary legislation.

- *Environmental Protection Act 1986* (EP Act)
- *Waste Avoidance and Resource Recovery Act 2007*

- *Rights in Water and Irrigation Act 1914 (RIWI Act)*
- *Country Areas Water Supply Act 1947*
- *Metropolitan Arterial Drainage Act 1982*
- *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*
- *Water Agencies (Powers) Act 1984*
- *Water Corporations Act 1995*
- *Water Efficiency Labelling and Standards Act 2006*
- *Water Services Act 2012*
- *Waterways Conservation Act 1976*

5. Establishing compliance priorities

Our compliance priorities are selected to achieve the best environmental and water resource outcomes while making the most beneficial use of available resources.

In line with our regulatory best-practice principles, our compliance priorities will be risk based. The department will consider the factors outlined in our *Compliance and enforcement policy* to inform and provide context for establishing risk-based compliance priorities. We will remain responsive to emerging issues and be intelligence led.

6. Compliance program 2021-22

The Compliance program 2021–22 is risk-based and agile, and contains proactive and reactive components. The proactive component will be undertaken using a multi-faceted approach of compliance assessment, risk reduction and targeted programs. The reactive component enables us to be intelligence led and respond effectively to emerging issues by dedicating appropriate resources.

However, while risk is used to forecast our Compliance program, it is not possible to predict all compliance requirements that may arise during the year. Therefore, the program is continually assessed and may be amended to account for shifting priorities.

The Compliance program 2021–22 will consist of the following sub-programs.

6.1 Ministerial statement compliance

Ministerial statements are issued under Part IV of the EP Act and outline how a proposal may be implemented and, if applicable, what conditions and procedures that implementation is subject to.

There are about 440 active Ministerial statements across 340 proposals. About 30 to 40 new statements are added to this list annually, with new Act amendments seeing a similar number of statements removed or deemed inactive.

In 2021–22 the department will audit compliance with the conditions of Ministerial statements using proactive and reactive methods, including audits of proposals, reviews of Compliance Assessment Reports submitted by proponents, onsite inspections and stakeholder engagement.

6.2 Industry compliance

Emissions and discharges to the environment are managed via the EP Act and its subsidiary legislation. Industrial premises with the potential to cause emissions and discharges to air, water or land may be prescribed premises and are described in Schedule 1 of the Environmental Protection Regulations 1987. Prescribed premises are managed through works approvals, environmental licences and registrations under Part V of the EP Act.

There are currently 1,078 active environmental licences, 365 works approvals and 1,229 registrations for the state.

The department undertakes proactive compliance of activities regulated under the EP Act to ensure they do not pose unacceptable risks to water, the environment and public health. Compliance inspections of prescribed premises also focus on determining whether emissions and discharges are managed appropriately by the current licence and assessing compliance with the instrument and relevant associated legislation.

In 2021–22 premises across the waste, resources and industry sectors will continue to be selected for inspection based on a risk assessment informed by the type of activity, compliance history and intelligence gathered, including from complaints and incidents. In addition, during the year there will be a particular focus on:

- compliance with decisions on licences (refusals and withdrawals)
- waste facility registrations
- satellite monitoring.

6.3 Waste levy compliance

A waste levy applies to waste generated in the Perth metropolitan area which is disposed to landfill. The waste levy helps divert the amount of waste to landfill, encouraging investment in alternative waste treatment options and other State Government initiatives to support increased recycling.

In 2021–22 the department will examine compliance at landfill premises subject to the waste levy as well as associated industries such as waste transfer facilities and waste processing facilities, to identify potential waste levy evasion practices. Compliance activities will include site inspections and audits of waste levy return forms and exemptions. Compliance will also be assessed against regulatory instruments where applicable.

6.4 Native vegetation clearing compliance

Clearing of native vegetation is an offence under the EP Act unless subject to a valid clearing permit, or the clearing is for an exempt purpose. Clearing permits are granted to proponents to allow for clearing of native vegetation in a certain area or for a specific purpose. There are currently 1,081 active clearing permits in Western Australia.

The department monitors and assesses compliance with granted clearing permits and their conditions, including the implementation of any offsets specified by the permit. We undertake site inspections, analyse imagery and review annual reports required by clearing permit conditions to detect unauthorised clearing.

In line with our focus on risk reduction and emerging risks and issues, in 2021–22 native vegetation clearing compliance will target:

- environmental offset compliance
- statewide satellite monitoring
- compliance with granted and refused clearing permits.

6.5 Controlled waste compliance

The department administers the Environmental Protection (Controlled Waste) Regulations 2004 that provide for the licensing of carriers, drivers and vehicles involved in the transportation of controlled waste on roads in Western Australia. Movement of controlled waste is tracked from point of generation to unloading at an authorised waste facility. The tracking data is reported to the department by industry via the online Controlled Waste Tracking System (CWTS) or by the submission of paper tracking forms.

There are currently 2,450 active controlled waste carrier, driver and vehicle licences, with an average of 220,000 controlled waste collections reported to the department annually.

In 2021–22, compliance data pertaining to the obligation to unload controlled waste at an authorised waste facility will be accessible via the CWTS.

6.6 Environmental statutory notice compliance

A statutory notice or direction is a written notice that requires certain actions to be taken, or to be ceased, within a specified time. It is an offence not to comply with a statutory notice and further enforcement action may be taken by the department if the offender does not comply.

Legislation authorising the giving of a statutory notice or direction identifies the criteria which must be satisfied before issuing that type of notice. Examples of types of statutory notices issued by the department include Vegetation conservation notices, Prevention notices, Closure notices, Environmental protection notices and various directions prescribed for use under the RIWI Act.

In 2021–22 we will monitor compliance with active environmental statutory notices issued by the department. The number of active notices will vary throughout the program period.

6.7 Light Industry program

The light Industry program is a partnership between the department and local government authorities to promote compliance and reduce environmental risk. It aims to educate light industry operators on ways to reduce the environmental impact of their business and to assess their compliance with relevant environmental legislation.

Although the department does not licence light industries, they cumulatively can cause significant pollution. We aim to develop the capability and capacity of light industries to improve their overall compliance and environmental outcomes.

In 2021–22 the department will continue to work with local government officers to conduct unannounced light industry inspections. Inspections will be focused on activities that are likely to discharge pollutants into the environment, including chemical storage, dry cleaning, vehicle servicing, surface coating and manufacturing.

6.8 Indian Ocean Territories

The department provides environmental and water resource services to the Indian Ocean Territories (IOT) on behalf of the Australian Government through a service delivery arrangement (SDA). We provide services to the IOTs in a manner, and to the standard, that would be exercised by the department in providing similar services within Western Australia.

Our role in the IOT is through the implementation of environmental and water law, and includes:

- the regulation of prescribed and non-prescribed premises, emissions and discharges of wastes
- incident protection and response
- protection, management and allocation of water
- community engagement and education.

In 2021–22 the department will continue to provide services in accordance with the SDA.

6.9 Water resource management compliance

Water is a precious resource in Western Australia, particularly within the context of a drying climate, increasing population, and continued growth in the state's economy. The department currently manages about 12,500 water licences across more than 1,000 proclaimed water resources, as well as administering authorisations in certain circumstances for the construction of water use infrastructure and the interference of watercourse beds and banks.

Our water compliance activities are concentrated within the high-risk water resource management areas and targeted to the highest-risk water licences within these

areas. Compliance monitoring efforts within individual water resources are proportionate to the current level of water use, the demand for new or increased water entitlements, and the likelihood of damage to the water resource and water-dependent environment resulting from non-compliance with water licences or breaches of water resource legislation.

In 2021–22 the department will undertake a range of compliance initiatives and activities aimed at promoting and encouraging protection of the water resources and the water-dependent environment. We will also continue to provide a range of support mechanisms to licensees that promote self-regulation in complying with the terms, conditions and restrictions of their individual water licences.

Compliance monitoring will consist of both on-ground and offsite monitoring activities, and will include water licence compliance inspections, water meter audits, desktop surveys, and the review of licensee submissions. Individual water licences will be subject to compliance monitoring activities throughout their term, most commonly 10 years, and at the time of licence renewal or amendment to inform the application assessment process.

The department will continue to conduct risk-based on-ground compliance monitoring programs across the intensive horticultural precincts of the Gnangara, Myalup and Carnarvon groundwater areas. It will undertake targeted water meter audits to support implementation of the *Measuring the Taking of Water* policy. The department will also continue the delivery of an educational campaign to encourage voluntary licensee compliance with the suite of new metering and measurement regulations that were gazetted as part of the Rights in Water and Irrigation Amendment Regulations 2018.

7. 2021-22 compliance priorities

7.1 Environmental compliance priorities

The compliance priority and, where applicable, the corresponding performance target for environmental compliance sub-programs are presented in Table 1.

Table 1: 2021–22 environmental compliance priorities and targets

Sub-program	2021–22 compliance priority
Ministerial statement compliance	Audit of Ministerial statements Target of 60 audits completed
	Review of Compliance Assessment Reports
Industry compliance	Planned inspections of premises The department has a target of 100 per cent of inspections completed as planned.

Sub-program	2021–22 compliance priority
	<p>Potential environmental risks identified during compliance monitoring are rectified</p> <p>The department has a target of 40 per cent of non-compliances rectified within two months</p>
Waste levy compliance	<p>Planned waste levy inspections of landfills and associated industries</p> <p>The department has a target of 100 per cent of inspections completed as planned</p>
	<p>Potential environmental risks identified during compliance monitoring are rectified</p> <p>The department has a target of 40 per cent of non-compliances rectified within two months</p>
Native vegetation regulation	Compliance assessment of granted and refused clearing permits
	Review of annual reports
	Offsets compliance
Controlled Waste	Investigate unauthorised unloading data on CWTS
Statutory notices	Monitor compliance of active environmental statutory notices issued by the department
Light Industry program	Inspections of light industries in conjunction with participating local governments
Indian Ocean Territories (IOT)	Environmental and water regulatory services provided in a manner, and to a standard consistent with those provided in Western Australia

7.2 Water resource compliance priorities

Water resource management compliance will be delivered via six regions. Each region has established priorities that reflect the specific water resource management context, objectives and challenges applicable to that region. These are detailed in Table 2.

Table 2: 2021–22 water resource compliance priorities by region

Region	2021–22 compliance priority
South Coast	Monitoring of public drinking water provider (the largest licensed water user in the region) compliance with water licence terms, conditions and restrictions, including associated operating strategies.
	Targeted inspections of unlicensed water use in the Esperance area to establish whether exemptions are applicable and inform the water resource management and regulatory approach.
	Management of community complaints involving proclaimed and unproclaimed water resources, including matters relating to surface water interference and stream disputes.
South West	Targeted monitoring (e.g. history of non-compliance, large water entitlements, taking water from high-risk water resources) of licensee compliance with water licence terms, conditions and restrictions, with a focus on water metering and annual water entitlement compliance in the Myalup Irrigated Agriculture Precinct, and the Yarragadee aquifer in the Busselton-Capel and Blackwood groundwater areas.
	Compliance management of authorised and unauthorised construction of surface water storages and take of water in the Warren-Donnelly area.
	Timely management of incidents of non-compliance detected across groundwater and surface water resources to support the escalation of enforcement action where appropriate.
Peel	Targeted monitoring (e.g. history of non-compliance, large water entitlements, taking water from high-risk water resources) of licensee compliance with water licence terms, conditions and restrictions, with a focus on water metering compliance.
	Desktop compliance review of licensee submissions, including annual reports and evidence of water meter installation.
	Targeted inspections of unlicensed water use in the region, focused on commercial water use activities, to establish whether exemptions are applicable and inform the water resource management and regulatory approach.
Swan Avon	Targeted monitoring (e.g. history of non-compliance, large water entitlements, taking water from high-risk water resources) of licensee

Region	2021–22 compliance priority
	<p>compliance with water licence terms, conditions and restrictions, with a focus on water metering compliance.</p> <p>Management of community complaints involving proclaimed and unproclaimed water resources, including matters relating to surface water interference and stream disputes, and allegations of sprinkler restriction breaches.</p> <p>Targeted desktop and on-ground monitoring activities to identify unused licensed water entitlements for potential recoup across the Gngangara groundwater area.</p>
Mid West	<p>Targeted monitoring (e.g. history of non-compliance, large water entitlements) of licensee compliance with water licence terms, conditions and restrictions in the Eneabba Plains and Twin Hills water resource management subareas</p> <p>Intensive on-ground monitoring of licensee compliance with water licence terms, conditions and restrictions in Carnarvon subarea A (subject to state-owned water metering)</p> <p>Respond to increasing salinity in coastal zones with targeted monitoring of licensed water use, to inform water resource management and regulatory approach.</p>
North West	<p>Targeted inspections of mining operations throughout the Pilbara to assess compliance with water licence terms, conditions and restrictions.</p> <p>Targeted inspections of licensed water use in areas at high risk of saline intrusion, including Coconut Wells and Derby, to assess compliance with water licence, terms, condition and restrictions.</p> <p>Targeted monitoring of licences (e.g. history of non-compliance, large water entitlements) authorising the taking of water from the Ord, in line with compliance monitoring targets stated in the Ord surface water allocation plan 2013.</p>

8. Reporting compliance activities

The department reports on its compliance activities quarterly in its [Regulatory performance reports](#).