



Guideline

The Western Australian Contaminated Sites Auditor Scheme

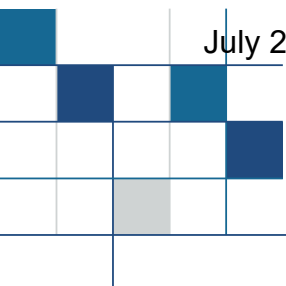
Activities regulated under the:

Contaminated Sites Act 2003

Contaminated Sites Regulations 2006

National Environmental Protection (Assessment of Site Contamination) Measure 1999

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Acknowledgements

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1. Purpose

The purpose of this document is to provide information on the contaminated sites auditor scheme in Western Australia (WA) administered by the Department of Water and Environmental Regulation (the department). The scheme operates within the legislative framework provided by the *Contaminated Sites Act 2003* (CS Act), the *Contaminated Sites Regulations 2006* (CS Regulations) and the National Environment Protection (Assessment of Site Contamination) Measure 1999 (the NEPM).

This guideline is consistent with Schedule B9 of the NEPM – *Guideline on Competencies & Acceptance of Environmental Auditors and Related Professionals*.

This document provides information on:

- the WA contaminated sites auditor scheme
- the auditor accreditation process
- the duties and responsibilities of auditors
- the circumstances when a mandatory audit report is required.

Detailed information on the auditor accreditation process is provided in the department's guideline *Accreditation of Contaminated Sites Auditors in Western Australia* (DWER 2024a).

Guidance on the contents of mandatory auditor's reports is provided in the department's guideline *Requirements for Mandatory Auditor's Reports* (DWER 2024b).

2. Introduction

2.1 Background

The CS Act and CS Regulations provide for the identification, recording, management and remediation of known and suspected contaminated sites in WA. The department is responsible for administering the CS Act, which includes:

- classifying sites based on the risk to human health and the environment
- maintaining the contaminated sites database, associated records and register
- issuing regulatory notices where appropriate action is not being undertaken voluntarily
- providing site 'sign-off or clearances' through certain site classifications and Certificates of Contamination Audit.

In recognition of the specialist nature of the assessment and remediation of contaminated sites, the CS Act provides for auditors to undertake an independent review of site assessments and/or remediation work carried out by other professionals. These reviews are mandatory in prescribed circumstances. The CS

Act and CS Regulations set out the requirements for the accreditation of auditors, the duties of auditors and the circumstances in which auditors must be engaged.

The department has discretionary powers to accredit an individual (not a consultancy or company) as an auditor and may limit or impose conditions on the auditor's accreditation. Once accredited, the department provides the auditor with 'an authority' (in the form of a Notice of Accreditation) as written evidence of their accreditation which specifies any limits or conditions imposed on the auditor's duties (if applicable).

The WA contaminated sites auditor scheme is similar to schemes operating in New South Wales, Victoria, South Australia and Queensland. Auditors accredited in other Australian jurisdictions may seek accreditation in WA or be eligible for automatic deemed registration under mutual recognition legislation.¹ Similarly, auditors who gain accreditation in WA may seek accreditation or be eligible for automatic deemed registration in other Australian jurisdictions. All auditors working in WA are required to comply with WA contaminated sites legislation and guidelines. This includes auditors accredited in other Australian jurisdictions who obtain accreditation in WA or are eligible for automatic deemed registration under mutual recognition legislation.

Contact details of auditors currently accredited to work in WA are available from the [department website](#).

2.2 Objectives of the Contaminated Sites Auditor Scheme

The contaminated sites auditor scheme achieves several objectives, including:

- ensuring contaminated site assessments and remediation works consistently meet appropriate standards consistent with the object of the CS Act to protect human health, the environment and environmental values
- providing greater certainty to interested persons concerning the contamination status of sites in WA
- reducing pressure on public resources (including the department and the Department of Health)
- improving access to expert technical advice for the community, financial institutions, planners and industry.

2.3 Legislation

The key sections of the CS Act and the CS Regulations relating to the contaminated sites auditor scheme are listed below:

¹ Part 3 and Part 3A of the *Mutual Recognition Act 1992* (Commonwealth).

CS Act	Content
s.11	Auditor's duty to report known or suspected contamination
s.44	Auditor's report in relation to a notice ²
s.69	Accreditation of auditors
s.70	Authority of accredited auditor
s.71	Offences relating to accreditation
s.73	Certification of mandatory auditor's reports
s.74	Offences relating to mandatory auditor's reports
s.75	Self-incriminatory information not exempt
s.76	Use of information
CS Regulations	Content
r.31	When mandatory auditor's reports are required
r.32	Mandatory auditor's report – section 73 (required content)
r.32A	Auditor must give supplementary information
r.35 – r.36	Application for accreditation as auditor
r.38	Auditors to be individuals
r.39 – r.42	Accreditation of auditors
r.44 – r.45	Renewal of accreditation
r.46	Auditor written authority to be returned if accreditation ceases
r.47 – r.54	Cancellation or suspension of accreditation
r.55 – r.56	Notification requirements
r.57 – r.62	Functions of auditors
Schedule 3	Code of conduct for auditors

Copies of all Western Australian legislation may be accessed from the [Department of Justice website](#).

² s.41 of the CS Act – 'notice' means a clean-up notice, a hazard abatement notice or an investigation notice.

3. The Contaminated Sites Auditor Scheme in Western Australia

3.1 Overview

The department is responsible for administering the accreditation process for auditors under Part 7 of the CS Act and Part 9 of the CS Regulations. To accredit auditors, the department carries out certain functions including:

- establishing selection criteria for accreditation
- calling for applications from persons seeking accreditation and administering the accreditation process
- establishing selection panels and/or seeking advice from relevant persons to assist the department in assessing the competence of persons seeking accreditation
- assessing whether or not a person seeking accreditation has the requisite knowledge, skills and resources and is a fit and proper person to be accredited.

To regulate the activities of auditors and to protect members of the public, the department also carries out the functions listed below:

Function/objective	Action
Record keeping/monitoring the operation of the scheme	maintaining records of individuals accredited as auditors maintaining records in relation to civil liability insurance that each auditor is required to hold maintaining a record of each auditor's nominated supporting experts maintaining records of audit commencement monitoring audit progress (e.g. auditor annual returns) and review of mandatory auditor's reports
Investigating auditor conduct	investigating complaints against auditors inviting an auditor to make a submission if suspension, cancellation or refusal to renew their accreditation is proposed suspending, cancelling or refusing to renew auditor accreditations undertaking criminal proceedings for contraventions by auditors of the CS Act or CS Regulations

Restricting the scope of audits undertaken	imposing conditions on an auditor's accreditation (either on initial accreditation or subsequently)
Informing the public	maintaining an up-to-date list of contact details for accredited auditors on the department's website
Auditor support	<p>developing guidelines for use by environmental consultants, auditors, planners and the community on the assessment and management of contaminated sites in WA</p> <p>holding annual meetings (or as required) with auditors to promote knowledge and understanding of new guidelines and to share knowledge relevant to auditing of contaminated sites</p>

3.2 Requirements for auditors

The minimum criteria, that should be considered by regulatory authorities such as the department when assessing applicants, are set out in Schedule B9 of the NEPM. In addition, the criteria which an applicant must satisfy in WA are set out in regulation 39 of the CS Regulations.

In particular, an auditor must:

- possess adequate theoretical and practical knowledge, and adequate skills to carry out the functions of an auditor
- have access to supporting experts (with complementary theoretical and practical knowledge and skills) whose assistance is necessary for the auditor to competently carry out their functions
- possess adequate knowledge and understanding of relevant laws and currently accepted industrial standards
- be covered by civil liability insurance cover which is appropriate for the scope of audit projects undertaken
- otherwise be a fit and proper person to carry out the functions of an auditor.

3.3 Selection panel

Under regulation 41 of the CS Regulations, the department may establish a selection panel of at least two panel members to assist in the assessment of applicants for accreditation as auditors. The selection panel generally includes senior department officers and persons external to the department, including a representative of another Australian jurisdiction. In addition to the selection panel, the department seeks advice from other relevant sources to assist in decision making on the application(s).³

³ r.41 of the CS Regulations.

Following the interviews with short-listed applicants, the selection panel will recommend which applicants, if any, are suitable for accreditation as auditors.

3.4 Accreditation procedure

The department will decide whether to accredit an individual as an auditor in WA after considering the application, any further information requested, the recommendations of the selection panel and any advice sought from other relevant sources.⁴ A person will only be accredited as an auditor if the department is satisfied that the person meets the requirements of regulation 39 of the CS Regulations.

Once the applicant has satisfied the accreditation requirements, the department will issue an authorisation in writing⁵ in the form of a Notice of Accreditation. The Notice of Accreditation will contain a statement that the person is an accredited auditor under the CS Act, the accreditation expiry date and, if applicable, any limitations or conditions imposed on the auditor's duties.

3.5 Period of accreditation

The initial period of accreditation for all auditors in WA is one year. Accreditation may be renewed for subsequent periods, each to a maximum of five years, at the discretion of the department, where the auditor is actively participating in several audits and no substantive issues have been identified in the conduct of the auditor's work.

3.6 Accreditation fees

Accreditation of a suitable applicant as an auditor takes place once the accreditation fee of 250 fee units⁶ per year specified in the CS Regulations has been paid for the term of accreditation.

This fee is non-refundable in the event of suspension or cancellation of accreditation. The same annual accreditation fee applies at renewal of accreditation.

3.7 Performance review

Once accredited, the department may carry out a performance review of an auditor at any time and without notice to ensure that the standard of auditing is acceptable, and that the auditor is adhering to the auditor code of conduct. The findings of a performance review may be used to determine whether the auditor's accreditation should be renewed, suspended or cancelled.

During a review, the department may:

- examine documents received from the auditor together with the relevant environmental consultant report(s)

⁴ r.36 and r.41 of the CS Regulations.

⁵ s.70 of the CS Act.

⁶ r.39(1)(f); Schedule 2 item 5, one fee unit is currently \$22.

- ask the auditor to provide justification and supporting evidence for decisions made and conclusions drawn in a mandatory auditor's report
- ask the auditor to meet with the department to discuss their auditing procedures and basis for decisions
- investigate or collect samples from a site in relation to an audit undertaken
- take any other action deemed necessary to determine the standard of performance, including visiting an auditor's office and reviewing the auditor's files and correspondence.

3.8 Suspension, cancellation or refusal to renew accreditation

The CS Regulations detail circumstances in which the department must refuse to renew or cancel accreditation, and lists other circumstances in which the department, exercising discretion, may suspend, cancel or refuse to renew accreditation. These provisions of the CS Regulations are applicable to all auditors working in WA, including auditors accredited in other Australian jurisdictions who obtain accreditation in WA or are eligible for automatic deemed registration under mutual recognition legislation.

The department must cancel or refuse to renew an auditor's accreditation if the auditor has been convicted of certain offences under the CS Act.⁷

The department may cancel, suspend or refuse to renew an auditor's accreditation if:⁸

- the department is no longer satisfied that the applicant meets the requirements for accreditation⁹
- has contravened:
 - the CS Act or CS Regulations
 - a condition or limitation on accreditation
 - the EP Act or regulations made under the EP Act
- has failed to:
 - take into account any relevant guideline
 - competently carry out their functions as an auditor
 - obtain assistance from a supporting expert where necessary
- is not, or an auditor's supporting expert is not, covered by civil liability insurance.¹⁰

⁷ r.45(2)(b) and r.47 of the CS Regulations.

⁸ r.45(2) and r.48(2) of the CS Regulations.

⁹ r.39 of the CS Regulations.

¹⁰ r.59A and r.59B of the CS Regulations.

In addition, the department may refuse to renew an auditor's accreditation if an auditor has not produced a Mandatory Auditors' Report (MAR) since accreditation was granted or last renewed. This includes audit reports, equivalent to a MAR in WA, undertaken in other Australian jurisdictions.¹¹

Prior to cancelling, suspending or refusing to renew an accreditation, the department must notify the auditor in writing of the proposed action and specify the grounds for the proposed cancellation, suspension or non-renewal.¹² The auditor has 14 days in which to respond in writing as to why accreditation should not be cancelled, suspended or renewed.

Where an auditor has been convicted of an offence under the CS Act, an auditor's accreditation may be suspended to give the department sufficient time to determine whether to cancel or refuse to renew the auditor's accreditation.¹³ An auditor's accreditation may also be suspended where the department considers that the reason for the proposed cancellation or refusal to renew accreditation is of such a serious nature that immediate suspension is necessary. The department has up to 14 days from the day written notice is given to the auditor to make the decision.

If an auditor's accreditation is suspended, an auditor cannot carry out any auditing functions pursuant to the CS Act or CS Regulations during the period of suspension.¹⁴

A person whose accreditation has been cancelled or not renewed as a result of being convicted of a criminal offence under certain provisions of the CS Act is ineligible to apply for accreditation for a period of three years from the date of cancellation or refusal to renew.¹⁵

A person whose accreditation ceases must return their authorisation card to the department.¹⁶

3.9 Complaints against auditors

The department will investigate any complaint made against an auditor that alleges they are in breach of the CS Act or CS Regulations (including the code of conduct for auditors).

A form for lodging a complaint is available on the [department website](#).

¹¹ r.45(2)(c)(ii) of the CS Regulations.

¹² r.49 of the CS Regulations.

¹³ r.50 of the CS Regulations.

¹⁴ r.51 of the CS Regulations.

¹⁵ r.52 of the CS Regulations.

¹⁶ r.46 of the CS Regulations.

Commercial matters

The department is not responsible for monitoring or regulating any aspect of the auditor's commercial business.

The department does not adjudicate, arbitrate or interfere in any commercial or contractual dispute or disagreement that may arise between the auditor, their client, or any other person, including disputes in relation to the payment of fees or charges for the delivery of services.

3.10 Auditor meetings

The department holds meetings with auditors on an annual basis (or as required) to discuss a range of topics relevant to auditors' duties, such as the introduction of new guidelines and policy development. The department also encourages auditors to put forward topics for discussion.

Auditors will be given at least three months written notice of the dates of these meetings, and the department expects all auditors to attend in person.

4. Roles and responsibilities

4.1 Role of the auditor

The auditor's role is to independently and objectively review and form an opinion on the accuracy and completeness of the assessment, monitoring and/or remediation work undertaken by the environmental consultant (and their contractors). This should take into account the requirements of the NEPM, the department's contaminated sites guidelines and other relevant guidelines and standards.

Regulation 3 of the CS Regulations provides the following definition of 'audit'

audit, in relation to a site, means to carry out a review of the investigation or remediation of a site to determine one or more of the following —

- a) the nature and extent of any contamination of the site;
- b) the nature and extent of the investigation or remediation of the site;
- c) whether any restrictions on the use of the site are required;
- d) the suitability of the land for a specific use, or a specific range of uses;
- e) whether any further investigation of the site is required, recommended or necessary;
- f) whether any further remediation of the site is required, recommended or necessary so that the site is suitable for all uses, or for a specific use, or a specific range of uses;
- g) the suitability or appropriateness of a management plan;

Auditors make recommendations in their audit reports regarding the completeness of assessment, remediation and/or validation works and on the appropriate site classification(s) after reviewing the relevant consultant reports. The department takes the recommendations in the audit report(s) into account when classifying the site.¹⁷

Auditors should:

- employ assessment methods and approaches consistent with current standards and guidelines for the assessment, remediation and management of site contamination
- exercise due care, diligence and professional judgement (to the standard reasonably expected of an auditor performing the functions of an auditor under the CS Act) at all times during the conduct of an audit to ensure protection of human health, the environment and environment values
- demonstrate leadership during the course of an audit and act at all times in a professional manner, upholding the independence and integrity of the audit system
- seek advice from supporting experts as necessary
- exercise professional and independent judgement and apply knowledge and skills appropriately to each audit undertaken
- provide appropriate guidance to the client
- update and maintain knowledge, skills and expertise consistent with good practice in assessment, remediation and management of site contamination.

Auditors have a duty of care to ensure protection of the health and safety of the community in general. This specifically includes a duty of care towards site occupants and the client who commissioned them to carry out the audit.

4.2 Role of the environmental consultant

The professional/consultant (referred to here as the environmental consultant) engaged by the client to undertake the site assessment and/or remediation is the person who is responsible for designing and implementing the assessment and/or remediation program.

The environmental consultant should consult with the auditor at the project planning stage so that the auditor's feedback can be taken into account when finalising and implementing the program. Failure to satisfactorily address auditor feedback in a timely manner may lead to project delays and increased costs.

If the site assessment indicates that the site is contaminated and requires remediation, then an appropriate remedial action plan (RAP) and if necessary, a site management plan (SMP) should be developed by the environmental consultant. The environmental consultant developing the site RAP/SMP and validation strategy should consult with the auditor regarding the auditor's requirements. In particular, the department recommends that the auditor's agreement to the proposed clean-up

¹⁷ s.13 and s.63 of the CS Act.

levels and validation requirements is confirmed before the remediation works commence to avoid unnecessary project delays and costs.

4.3 Interactions between the auditor and environmental consultant

In WA, the CS Act does not provide auditors with powers to undertake independent investigations or validation of remediation works. Consequently, auditors should not conduct any new investigation, data interpretation or risk assessment works as part of their review. They should also not be directly involved in the design or implementation of any investigation program conducted by the environmental consultant engaged for that purpose, *beyond the provision of appropriate technical advice* to improve the effectiveness and/or efficiency of the works to be undertaken.

If the works undertaken by the consultant are inaccurate, incomplete and/or do not meet the appropriate standards, the department recommends that the auditor communicates this finding to their client and the environmental consultant, to provide an opportunity for the omissions or data gaps to be addressed before the auditor completes their review. It may not be necessary, however, for the consultant to close out all data gaps if these are minor and do not materially affect the reliability of the data or the conclusions drawn from the data, or if an acceptable management strategy is proposed to mitigate the identified unacceptable risks.

If the environmental consultant (or client) is unable or unwilling to address significant data gaps, the auditor should comment in their audit report on the effect that the identified omissions and/or data gaps have on the findings, conclusions and/or recommendations arising from the works carried out.

5. Commissioning an audit - when must an auditor be engaged?

5.1 Legislative requirements

The CS Act and CS Regulations specify circumstances (mandatory requirements) when an auditor must be engaged to provide a MAR. There is no provision in the legislation for the department to waive the requirement for a MAR if one or more of these circumstances apply.

Auditors may also produce other reports on audits of sites under regulation 58.

5.2 Requirements for a MAR under the CS Act

In accordance with section 44 and regulations 29(2)(d) and 31(1), there are several specific circumstances when an auditor must be engaged to provide a MAR¹⁸ including when:

¹⁸ Definition of 'Mandatory Auditor's Report' s.3 of the CS Act.

- an **investigation, clean-up or hazard abatement notice** is given, the notice will require the person on whom the notice is binding, to engage an auditor to produce a MAR on the actions taken to comply with the requirements of the notice¹⁹
- a **Certificate of Contamination Audit (CCA)** is requested, the request must be accompanied by a MAR²⁰
- a report is submitted to the department containing information relevant to the investigation, assessment, monitoring or remediation of a **source site**²¹ (that is when contamination has moved beyond the boundaries of the site on which it originated, to affect another land parcel(s))
- a report is submitted to the department, containing information relevant to the investigation, assessment, monitoring or remediation of a site, for the purpose of complying or attempting to comply with another **written law or a condition or requirement imposed under another written law**²² (for example, a condition of subdivision approval issued by the Western Australian Planning Commission)
- **the department requests in writing** that a MAR be provided in respect of a site that presents particularly complex technical issues, or where inadequate reports or information have been provided, or to enable the site to be properly dealt with under the CS Act.²³

The wording of regulation 31(1) makes it clear that a MAR is to accompany the submission of every report submitted to the department relating to the investigation, assessment, monitoring or remediation of a site where there is a mandatory requirement. Depending on the site-specific circumstances, an individual MAR may cover more than one report relating to a project milestone as long as these reports are provided to the department in one submission accompanied by the MAR. There are circumstances when an addendum to a MAR may be provided to comply with regulation 31(1) (refer to Section 2.7 of DWER, 2024a).

5.3 Requirements for a MAR under the EP Act

The Environmental Protection Authority (EPA) may require a MAR to be submitted in certain circumstances under Part IV of the *Environmental Protection Act 1986* (the EP Act). For example, a MAR may be required under section 40(2)(aa) or 48C(1)(aa) of the EP Act when the EPA assesses a referred proposal or referred scheme, respectively, with contamination issues.

The engagement of an auditor may also be required as a result of a ministerial condition relating to contamination, for proposals or schemes formally assessed by the EPA, or due to conditions or requirements relating to contamination on works

¹⁹ s.44 of the CS Act.

²⁰ s.62(3)(e) of the CS Act read with r.29(2)(d) of the CS Regulations.

²¹ r.31(1)(b) of the CS Regulations and definition of “source site” in s.3 of the CS Act.

²² r.31(1)(c) of the CS Regulations.

²³ r.31(1)(d) of the CS Regulations.

approvals or licences granted, or environmental protection notices or closure notices served, under the EP Act.

Other statutory mechanisms which may require the engagement of an auditor include planning conditions and development approvals.

5.4 Timing

The department recommends that the auditor is engaged at the start of the site investigation process or as early as possible to maximise efficiency and to minimise potential delays in the process. Generally, the auditor should be engaged before or at the same time as the environmental consultant. This will provide an opportunity for early discussion between the auditor, the client and the environmental consultant to ensure the program of work is as efficient and effective as possible for the site-specific circumstances.

5.5 Submission of a MAR

The MAR is required to be submitted to the department in electronic format and accompanied by electronic copies of all relevant consultants' reports no later than seven days after the auditor gives the report to the client.²⁴

If after an audit has commenced, the auditor is unable to proceed with or finalise the MAR for whatever reason, the auditor should notify the department within seven days.

5.6 Responsibility for audit costs

The cost of engaging a contaminated sites auditor is the responsibility of the client who commissioned the audit, irrespective of whether the work was initiated voluntarily or as a statutory requirement of the CS Act or EP Act.

6. Auditor duties and responsibilities

6.1 Responsibilities of auditors

An accredited auditor has certain responsibilities that must be fulfilled to maintain their status as an auditor in WA and to uphold the integrity of the contaminated sites auditor scheme.

General responsibilities of auditors	
Auditor title	To use the title of "Auditor" or "Accredited Contaminated Sites Auditor" only when carrying out a function of an auditor. ²⁵

²⁴ r.57 of the CS Regulations

²⁵ r.59 of the CS Regulations

Report of known or suspected contamination	To report known or suspected contaminated sites to the department when engaged to provide a report for the purposes of the CS Act in respect of the site(s). ²⁶
MAR	<p>To prepare a MAR for each contaminated site audit undertaken for the purposes of the CS Act and CS Regulations.²⁷</p> <p>To assess all relevant information relating to the site prior to providing a MAR and recommendations on each land parcel indicating that a site has been appropriately investigated, meets, or has been remediated to, a defined standard and is suitable for a particular land use.²⁸</p> <p>To provide a statement (<i>Auditor's Statement Form I</i>) that all information relevant to each part of the contaminated site audit has been reviewed.²⁹</p> <p>Not to provide any false or misleading information, nor fail to include any relevant information in relation to a MAR.³⁰</p>
Supporting experts	<p>To consult supporting experts on technical issues that are outside the auditor's professional competencies and document in the MAR when and from whom the advice was obtained.³¹</p> <p>To consider the areas of their expertise at a high level versus basic proficiency when deciding to consult (or not) supporting experts.</p> <p>To obtain a statement from each supporting expert consulted, confirming their part in the preparation of the contaminated site audit (<i>Supporting Expert Statement Form J</i>).³²</p>
Validation	To conduct a site visit to personally verify the completion of site remediation and management works. Auditors may delegate a member of their audit team to carry out interim site visits to verify progress; however, the auditor should carry out the final site visit.

In addition, an auditor should report to the department any significant environmental or human health risk posed by a site they are auditing as soon as the auditor

²⁶ s.11 of the CS Act.

²⁷ r.58 of the CS Regulations.

²⁸ r.32(1) of the CS Regulations.

²⁹ s.73 of the CS Act.

³⁰ s.74 of the CS Act.

³¹ r.48(2)(da) of the CS Regulations.

³² r.32(2) of the CS Regulations.

becomes aware of the risk. This is particularly important where the auditor considers that a site is contaminated and there is an immediate and serious risk of harm to human health, the environment or any environmental value. The department will take the auditor's advice into account when considering if a hazard abatement notice should be served.

6.2 Engagement to produce a MAR and auditor's duty to report

An auditor who is engaged to produce a MAR (or any other report required for the purposes of the CS Act with respect to the site), has a duty to report the site to the department:³³

- within 21 days (or such later period approved by the department) after the day the auditor first knew that the site was contaminated (unless the auditor knows that the site had already been reported to the department in accordance with the provisions of the CS Act)
- as soon as is reasonably practicable after first suspecting that the site is contaminated.

The report of a known or suspected contaminated site is via the prescribed form (Form 1 available from the [department website](#)).

An auditor is to notify the department of their engagement (*Audit Notification Form G*), within seven days after the day the auditor is engaged to provide a MAR.³⁴ The notification should include the client's details, reason for the appointment, site location (Certificate of Title details) and the name of the environmental consultant undertaking the investigation (assessment) and/or remediation.

Where the auditor engages supporting experts in conducting the site audit, the auditor must make the final decision about the suitability of the site for current or proposed land uses.

6.3 Duty to submit copy of MAR to the department

An auditor is to provide the department with an electronic copy of the MAR no later than seven days after the auditor has provided the report to the person who engaged the auditor.³⁵ Electronic copies of the consultant's report(s) audited in the MAR must also be provided for department records.

The department may request the auditor provide supplementary information relating to a submitted MAR.³⁶ The auditor is to provide the requested information within 14 days or within such longer timeframe specified by the department. The auditor may request an extension for submission of the requested information where the timeframe specified is insufficient.

³³ r.11(3) and r.11(4) of the CS Regulations.

³⁴ r.55(3) of the CS Regulations.

³⁵ r.57 of the CS Regulations.

³⁶ r.32A of the CS Regulations.

6.4 Department request for interim advice

On occasion, the department may request an auditor to provide interim advice and/or supporting information to make a regulatory decision or provide advice as part of its regulatory role. This may arise in relation to sites subject to an environmental condition, such as a planning or development condition, a source site or other circumstance to which regulation 31 applies. Typically these requests have been made when an auditor has been appointed for a source site, and one or more owners of affected sites wish to develop, or otherwise change, the use of their properties and the Western Australian Planning Commission (WAPC) has requested advice from the department. These requests may also arise in relation to regulatory decisions made elsewhere in the department, such as works approval or licence applications.

The department does not typically have an approval role for environmental management plans required as part of, for example, development or construction activities. Therefore, the department may also request the auditor provides interim auditor advice on any environmental management plans for a site they are auditing. Such plans could include construction environmental management plans, dewatering management plans or management plans for other environmental aspects such as acid sulfate soils.

As the department is entitled to rely on an auditor's interim advice for the purposes of the CS Act,³⁷ the quality of the advice must be of the same standard as for a MAR.

6.5 Auditor insurance

Auditors are required to hold civil liability insurance which provides coverage for anything done or omitted in relation to carrying out an audit.³⁸ Auditor insurance is required to provide a minimum of \$5 million for any claim made against the auditor while accredited and for at least seven years after the cessation of accreditation as an auditor in WA. The auditor should ensure that the amount of insurance coverage on a site-specific basis is sufficient.

Auditors are required to ensure that supporting experts relied on for the purposes of an audit are covered by civil liability insurance.³⁹ The same minimum requirements as specified for auditors are required for supporting expert insurance.

6.6 Annual reports

Auditors are required to submit before the end of February each year an annual report on all WA contaminated sites audits undertaken or in progress for the preceding calendar year.⁴⁰

The information required includes the project address/location, the engaging party, date of engagement, status of audit (for example, stage of investigation and whether

³⁷ s.76 of the CS Act.

³⁸ r. 59A of the CS Regulations.

³⁹ r. 59B of the CS Regulations.

⁴⁰ r.59C of the CS Regulations.

in progress or on-hold), a summary of the status of the site assessment or remediation at the site, and other information relevant to establishing the potential risk to public health, the environment and environmental values.

Auditors are also required to provide confirmation of their civil liability insurance (certificate of currency) and supporting experts where relied on for the purposes of an audit.

A form for completing an annual report is available on the [department website](#).

6.7 Change in circumstances

An auditor must notify the department in writing, within seven days, if:⁴¹

- there is a change in circumstances that may affect the auditor's eligibility for accreditation
- any substantially similar accreditation held by the auditor under a written law of another State or Territory about the contamination of land is cancelled, suspended or not renewed
- an auditor becomes unemployed, self-employed or employed by an employer other than the employer that the auditor was employed by, when the auditor became accredited
- where an auditor has nominated access to a supporting expert (e.g. at the time of accreditation or renewal of accreditation), an auditor no longer has access to that supporting expert
- an auditor becomes aware of any information that is materially relevant to the person's accreditation as an auditor that the person has not disclosed to the department
- an auditor is no longer covered, or a supporting expert relied on by an auditor is no longer covered, by a civil liability insurance policy.

In addition, if after an audit has commenced the auditor is unable to proceed with, or finalise the MAR for whatever reason, the auditor should notify the department in writing within seven days.

An auditor must notify the department and each person who has engaged the auditor to perform the function, as soon as practicable after a conflict of interest, or potential conflict of interest comes to the auditor's knowledge.⁴²

6.8 Auditor code of conduct

The Code of Conduct for Auditors (Schedule 3 of the CS Regulations) sets out standards to which auditors must adhere when carrying out any function as an auditor:

⁴¹ r.55(1), r.55(2) and r.56 of the CS Regulations.

⁴² r.62 of the CS Regulations.

- avoiding situations which may give rise to actual or potential conflicts of interest
- avoiding situations giving rise to the receipt of gifts or other benefits affecting or potentially affecting the auditor's impartiality
- performing duties diligently, impartially and conscientiously, to the best of the auditor's ability.

In addition, the auditor should:

- exercise due care and professional judgement to the standard which may be reasonably expected of a qualified and experienced environmental professional appointed as an auditor under the CS Act
- demonstrate a sufficient level of independence from the person who engaged the auditor to satisfy a 'reasonable person' that the outcome of the audit will not be influenced by the relationship (the auditor must also consider the independence of their supporting experts)
- act in a professional manner while upholding the independence and integrity of the scheme
- avoid situations that may lead to a conflict of interest to which regulation 62 applies.

A list of offences and associated penalties relating to the functions of an auditor pursuant to the CS Act and CS Regulations is provided in Appendix A.

6.9 Conflict of interest

Regulation 62(1) requires that if an auditor has a potential or actual conflict of interest, whether or not the situation comes within the scope of the Code of Conduct or regulation 62(2),⁴³ the auditor is required, as soon as is practicable, to notify the department and each person engaging the auditor, of the conflict or potential conflict.

By way of example, a conflict of interest arises in the following circumstances:

- the auditor (or person employed or engaged by the auditor) is employed by, contracted to, or regularly works in association with the person or organisation currently undertaking the assessment or remediation of the site being audited
- the auditor (or person employed or engaged by the auditor) is, or is related to, a person by whom any part of the site is owned or occupied
- the auditor (or person employed or engaged by the auditor) has a direct or indirect pecuniary interest in any part of the land or any activity carried out on any part of the land
- the likelihood that a person employed or engaged by the auditor has a particular interest and could be influenced, or might appear to be influenced, in performing the work the person is employed or engaged to perform.

⁴³ Person employed or engaged by the auditor.

In circumstances when an auditor has undertaken or has been involved in the assessment, remediation or management of contamination of a particular site (that is, employed as the consultant with respect to the site), the auditor must decline all subsequent requests to audit that site.

Appendices

Appendix A Offences and penalties

There are several offences and monetary penalties relating to the duties of an auditor accredited in WA which are listed below – refer to the *Contaminated Sites Act 2003* and the *Contaminated Sites Regulations 2006* for details.

Section or Regulation	Issue offence relates to	Penalty
s.(11)(3)	Failure to report known or suspected contaminated sites	\$250,000, and a daily penalty of \$50,000
s.11(9)	Malicious reporting or without reasonable grounds	\$250,000
s.70(3)	Accreditation	\$125,000 and a daily penalty of \$25,000
s.71	Accreditation	\$125,000
s.74	Mandatory auditors' reports	\$250,000
r.32A	Auditor must give supplementary information	\$1,000
r.46	Return of identity card (authority)	\$1,000
r.55	Notification to CEO in certain circumstances	\$1,000
r.56	Notification if insurance not maintained	\$1,000
r.57	Provision of copy of mandatory audit report to CEO	\$1,000
r.59	Use of 'auditor' title	\$1,000
r.59A	Auditor insurance	\$1,000
r.59B	Supporting expert insurance	\$1,000
r.59C	Annual reports	\$1,000
r.62	Conflict of interest	\$1,000

Appendix B: Shortened forms

CS Act	<i>Contaminated Sites Act 2003</i>
CCA	Certificate of Contamination Audit
CS Regulations	Contaminated Sites Regulations 2006
DWER	Department of Water and Environmental Regulation In this document, 'the department' refers to the relevant Delegated Officer(s) under the <i>Contaminated Sites Act 2003</i> and Contaminated Sites Regulations 2006
EPA	Environmental Protection Authority
EP Act	<i>Environmental Protection Act 1986</i>
MAR	Mandatory Auditors' Report
NEPM	National Environment Protection (Assessment of Site Contamination) Measure
r	Regulation (of the CS Regulations)
RAP	Remedial Action Plan
s	Section (of the CS Act)
SMP	Site Management Plan
WA	Western Australia
WAPC	Western Australian Planning Commission

References

Department of Water and Environmental Regulation, 2021. [Assessment and management of contaminated sites](#), Department of Water and Environmental Regulation, Perth, Western Australia.

Department of Water and Environmental Regulation, 2024a, [Accreditation of Contaminated Sites Auditors in Western Australia](#), Department of Water and Environmental Regulation, Perth, Western Australia.

Department of Water and Environmental Regulation, 2024b, [Requirements for Mandatory Auditor's Reports](#), Department of Water and Environmental Regulation, Perth, Western Australia.

Websites

[Contaminated Sites Act 2003](#)

[Contaminated Sites Regulations 2006](#)

[National Environment Protection \(Assessment of Site Contamination\) Measure 1999](#)