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**ENVIRONMENTAL PROTECTION**

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EP301\*

Environmental Protection Act 1986

**Environmental Protection Amendment  
Regulations (No. 5) 2000**

Made by the Governor in Executive Council on the recommendation of the Environmental Protection Authority.

**1. Citation**

These regulations may be cited as the *Environmental Protection Amendment Regulations (No. 5) 2000*.

**2. The regulations amended**

The amendments in these regulations are to the *Environmental Protection Regulations 1987\**.

[\* Reprinted as at 2 April 1999.

*For amendments to 18 December 2000 see 1999 Index to Legislation of Western Australia, Table 4, p. 70, and Gazette 7 July, 4 and 15 August 2000.]*

**3. Part 8 heading replaced**

The heading to Part 8 is deleted and the following heading is inserted instead —

“ **Part 8 — Monitoring** ”.

**4. Regulation 17 replaced**

Regulation 17 is repealed and the following regulation is inserted instead —

“

**17. Interpretation**

In this Part, unless the contrary intention appears —

“**approved monitoring equipment**” means

monitoring equipment that has been approved by the Chief Executive Officer under regulation 20F;

“**specified monitoring programme**” means a

monitoring programme specified by the Chief Executive Officer in a works approval or a licence.

”.

**5. Regulation 18 replaced**

Regulation 18 is repealed and the following regulation is inserted instead —

“

**18. Prescribed conditions for a works approval or licence**

There is prescribed for the purposes of section 62(1)(h) of the Act as a condition of a works approval or licence the condition that if the Chief Executive Officer certifies that the results of a specified monitoring programme or measurements taken for the purposes of a specified monitoring programme may be relevant to determining whether or not there has been a breach of the Act or regulations made under the Act —

- (a) then monitoring equipment used for the purposes of a specified monitoring programme is to be approved monitoring equipment; and

- (b) then any measurement taken for the purpose of the specified monitoring programme is to be taken with approved monitoring equipment.

”.

**6. Regulation 20B amended**

- (1) Regulation 20B(1) is repealed and the following subregulation is inserted instead —

“

- (1) A person who is required by a works approval or a licence to carry out a specified monitoring programme with approved monitoring equipment must report to the Chief Executive Officer on the matters referred to in subregulation (2) —

- (a) at periods or on dates specified in the works approval or licence; or
- (b) at such other times as the Chief Executive Officer may require by a written notice which states the reasons for the requirement.

”.

- (2) Regulation 20B(3) is repealed and the following subregulation is inserted instead —

“

- (3) A person who does not comply with this regulation commits an offence.

Penalty: \$5 000.

”.

**7. Regulation 20F replaced**

Regulation 20F is repealed and the following regulation is inserted instead —

“

**20F. Approval of monitoring equipment**

- (1) A person may apply to the Chief Executive Officer for monitoring equipment to be approved.
- (2) Subject to subregulation (3), an application for approval of monitoring equipment is to be in a form approved by the Chief Executive Officer.
- (3) The Chief Executive Officer must allow an application to be made by telephone or other electronic means if the Chief Executive Officer is satisfied that, due to the malfunction of approved monitoring equipment or some other reasonable cause, it is necessary to deal with an application as a matter of urgency.
- (4) A person who makes an application under subregulation (3) must, as soon as practicable, also make the application for approval of the monitoring equipment in the form approved by the Chief Executive Officer under subregulation (2).

- (5) If an application made under subregulation (3) is approved, the approval lapses —
- (a) if an application is not made under subregulation (2) within 30 days of the day on which the approval was granted; or
  - (b) in any other case, 60 days after the day on which the approval was granted.
- (6) If a person applies to the Chief Executive Officer for monitoring equipment to be approved, the Chief Executive Officer may —
- (a) require the applicant to provide more information before deciding whether or not to grant the approval;
  - (b) allow the applicant to provide more information or amend its application before deciding whether or not to grant the approval;
  - (c) refuse to grant the approval; or
  - (d) grant the approval.
- (7) Within 60 days of —
- (a) the making of an application under subregulation (1); or
  - (b) the amendment of the application under subregulation (6)(b) or the provision of information under subregulation (6)(a) or (b),
- whichever is the latter, the Chief Executive Officer is to —
- (c) determine the application.
- (8) If the application is refused, the Chief Executive Officer is to provide the person who applied for the approval with a statement of the reasons for refusing the application.
- (9) If the application is granted, the Chief Executive Officer is to issue a certificate of approval to the applicant.
- (10) A certificate of the Chief Executive Officer stating that monitoring equipment is or is not approved monitoring equipment is conclusive proof of that fact.

”.

## 8. Regulation 20H amended

- (1) Regulation 20H(2) is amended as follows:
- (a) by deleting “The Chief Executive Officer may revoke an approval of approved monitoring equipment if —” and inserting instead —

“

An approval of approved monitoring equipment may be revoked if in the Chief Executive Officer’s opinion —

”;

(b) in paragraph (b) by deleting “in the opinion of the Chief Executive Officer,”.

(2) Regulation 20H(3) is amended by inserting after “stating the grounds on which” —

“ , and reasons for which, ”.

(3) Regulation 20H(4) is repealed and the following subregulation is inserted instead —

“

(4) If the Chief Executive Officer decides to revoke an approval, the Chief Executive Officer is to give the person who obtained the approval a notice in writing revoking the approval and stating the reasons for the revocation of the approval.

”.

**9. Regulation 20K amended**

Regulation 20K is amended by deleting “20F(5)” and inserting instead —

“ 20F(10) ”.

**10. Regulation 20KA inserted**

After regulation 20K the following regulation is inserted —

“

**20KA. Ministerial guidelines**

(1) The Minister may by notice published in the *Gazette* make, amend, or revoke guidelines relating to the manner in which the Chief Executive Officer is to perform the Chief Executive Officer’s functions under this Part.

(2) The Chief Executive Officer is to have regard to the guidelines in the exercise of his or her functions under this Part.

(3) A failure to comply with subregulation (2) does not invalidate an approval of monitoring equipment or the issue of a certificate under this Part.

”.

**11. Regulation 20L amended**

Regulation 20L(1) is amended by deleting “24 months after its commencement” and inserting instead —

“

5 years after its commencement or such other shorter period as the Minister specifies

”.

**12. Schedule 6 amended**

Schedule 6 is amended in the part dealing with the *Environmental Protection Regulations 1987* by deleting items 7, 8, and 9.

Recommended by the Environmental Protection Authority.

B. BOWEN, Chairman.

By Command of the Governor,

ROD SPENCER, Clerk of the Executive Council.