



Western Australia

Environmental Protection Act 1986

Environmental Protection (Noise) Regulations 1997

Environmental Protection (Noise) Regulations 1997

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Defined terms

Environmental Protection (Noise) Regulations 1997

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Environmental Protection (Noise) Regulations 1997*¹.

2. Interpretation

- (1) In these regulations, unless the contrary intention appears —
assigned level means a noise level determined under regulation 8;

blasting means the use of explosive materials to fracture —

- (a) rock, coal and other minerals for later recovery; or
- (b) structural components or other items to facilitate removal from a site or for reuse;

caravan park or camping ground means —

- (a) a caravan park or camping ground licensed or taken to be licensed under the *Caravan Parks and Camping Grounds Act 1995*; or
- (b) a caravan park or camping ground that is operated by a public sector body as defined in the *Public Sector Management Act 1994* section 3(1); or

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- (c) a camping area as defined in the *Conservation and Land Management Regulations 2002* regulation 2;

commercial premises means premises —

- (a) referred to in Part B of Schedule 1; and
- (b) that are not premises, or part of premises, referred to in Part A of Schedule 1;

industrial and utility premises means premises referred to in Part A of Schedule 1;

$L_{A\ Slow}$ means the reading in decibels (dB) obtained using the “A” frequency weighting characteristic and the “S” time weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, for class 1 and class 2 meters, with sound measuring equipment that complies with the requirements of Schedule 4;

local government means a local government within the meaning of the *Local Government Act 1995*;

measured, in relation to the measurement of a noise emission, means measured and adjusted in accordance with these regulations;

noise sensitive premises means premises that —

- (a) are referred to in Schedule 1 Part C; and
- (b) are not premises, or part of premises, referred to in Schedule 1 Part A or Part B;

noise sensitive purpose, in relation to a building, or part of a building, on noise sensitive premises, means —

- (a) a residential or accommodation purpose; or
- (b) a purpose set out in Schedule 1 Part C item 3;

public holiday, in relation to premises or a public place in any area means a public holiday under the *Public and Bank Holidays Act 1972* in that area or throughout the State;

representative assessment period means a period of time of not less than 15 minutes, and not exceeding 4 hours, determined by an inspector or authorised person to be appropriate for the

assessment of a noise emission, having regard to the type and nature of the noise emission;

rural premises means premises used primarily for pastoral or agricultural purposes on land classified or zoned agricultural or rural use, or for rural lifestyle living, under a planning scheme as defined in the *Planning and Development Act 2005* section 4(1).

(2) In these regulations —

(a) AS or AS/NZS followed by a designation is a reference to an Australian Standard having that designation that is published by Standards Australia as amended from time to time, and includes a reference to an Australian Standard made in substitution for the standard specified in the regulation;

[(b) deleted]

(c) a reference to IEC followed by a designation is a reference to an International Electrotechnical Commission publication having that designation as amended from time to time and includes a reference to an International Electrotechnical Commission Standards Publication made in substitution for the publication specified in the regulation.

[Regulation 2 amended in Gazette 5 Dec 2013 p. 5647-9.]

3. Regulations do not apply to certain noise emissions

(1) Nothing in these regulations applies to the following noise emissions —

(a) noise emissions from the propulsion and braking systems of motor vehicles operating on a road;

(b) noise emissions from a safety warning device, other than a reversing alarm, fitted to a motor vehicle operating on a road;

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- (c) noise emissions from trains or aircraft (other than model aircraft and trains operating on railways with a gauge of less than 70 centimetres);
- (d) noise emissions from a safety warning device fitted to a train or vessel;
- (e) noise emissions from an emergency vehicle as defined in the *Road Traffic Code 2000* regulation 3(1);
- (f) noise emissions from the propulsion system or the movement through the water of a vessel operating in water other than water on private premises;
- (g) noise emissions —
 - (i) from a device for warning pedestrians installed at a pedestrian crossing on a road; or
 - (ii) from a device for warning of the passage of a train installed at a level crossing; or
 - (iii) from a safety warning device fitted to a building as a requirement of the Building Code as defined in the *Building Regulations 2012* regulation 3; or
 - (iv) for the purpose of giving a warning required under the *Mines Safety and Inspection Regulations 1995* regulation 8.26,if every reasonable and practicable measure has been taken to reduce the effect of the noise emission consistent with providing an audible warning to people;
- (h) noise emissions from —
 - (i) a reversing alarm fitted to a motor vehicle, mobile plant, or mining or earthmoving equipment; or
 - (ii) a startup or movement alarm fitted to plant,if —
 - (iii) it is a requirement under another written law that such an alarm be fitted; and

- (iv) it is not practicable to fit an alarm that complies with the written law under which it is required to be fitted and emits noise that complies with these regulations;
 - (i) noise emissions from an engine, equipment, machinery or plant on a vessel while the vessel is in a port.
- (2) In subregulation (1)(i) —
 - port** means —
 - (a) a port as defined in the *Port Authorities Act 1999* section 3(1); or
 - (b) a port as defined in the *Shipping and Pilotage Act 1967* section 3.

[Regulation 3 inserted in Gazette 5 Dec 2013 p. 5649-51.]

Part 2 — Allowable noise emissions

Division 1 — General provisions

[Heading inserted in Gazette 5 Dec 2013 p. 5651.]

4. General effect of this Part

- (1) The requirements prescribed by regulations 7 and 11 for the emission of noise from premises are, subject to these regulations, prescribed standards for the purposes of sections 51, 59(1)(i), 60(3)(a), 62(3), 65 and 74A of the Act.
- (2) An emission of noise otherwise than in accordance with regulation 7 or 11 is, if either of those regulations apply to the emission, a prescribed alteration of the environment for the purposes of paragraph (c) of the definition of “pollution” in section 3A(1) of the Act.
- (3) Nothing in these regulations affects the application of section 49(4) or (5) of the Act.

*[Regulation 4 amended in Gazette 7 Nov 2000 p. 6143;
5 Dec 2013 p. 5652.]*

5. Unreasonable noise

- (1) Without limiting section 3(3)(a) of the Act and subject to subregulation (2), noise emitted in contravention of a standard prescribed under regulation 7 or 11 is to be taken to be unreasonable.
- (2) Noise is not to be taken to be unreasonable under subregulation (1) if the person causing the noise emission shows that —
 - (a) by virtue of regulation 12, 13, 14A, 14, 15, 16AA(9), 16BA(9) or 16(3), regulation 7 does not apply to the noise emitted; or

- (b) the noise is emitted in accordance with an approval granted under regulation 18B, 18 or 19B.

[Regulation 5 inserted in Gazette 5 Dec 2013 p. 5652.]

6. Regulation of noise from public places

- (1) The emission of noise from public places is regulated as follows under the power described in item 15 of Schedule 2 of the Act —
 - (a) public places are to be treated as premises to which sections 51, 75, 79, 80, 81, 81A, 82, 90, 92, 93, 95 and 99 of the Act apply;
 - (b) in respect of any particular emission of noise from a public place, the person who is causing or permitting that noise to be emitted is to be treated as the occupier of that public place for the purposes of sections 51, 75, 90, 92, 93 and 95 of the Act; and
 - (c) the requirements prescribed by regulations 7 and 11 for the emission of noise from public places are, subject to these regulations, prescribed standards for the purposes of section 51 as applied by this regulation.
- (2) A person must not fail to comply with section 51, 79, 80, 81 or 82 of the Act as applied by subregulation (1).

Penalty: \$5 000.

*[Regulation 6 amended in Gazette 11 Dec 1998 p. 6613;
7 Nov 2000 p. 6144; 5 Dec 2013 p. 5653.]*

7. Prescribed standard for noise emissions

- (1) Noise emitted from any premises or public place when received at other premises —
 - (a) must not cause, or significantly contribute to, a level of noise which exceeds the assigned level in respect of noise received at premises of that kind; and

- (b) must be free of —
 - (i) tonality;
 - (ii) impulsiveness; and
 - (iii) modulation,when assessed under regulation 9.
- (2) For the purposes of subregulation (1)(a), a noise emission is taken to ***significantly contribute to*** a level of noise if the noise emission as determined under subregulation (3) exceeds a value which is 5 dB below the assigned level at the point of reception.
- (3) A level of a noise emission may be determined by —
 - (a) measurement at its point of reception when, to the extent practicable, other noises that would contribute to the measured noise level are not present; or
 - (b) calculation of the level at its point of reception based on measurement of the noise emission at a reference point determined by the inspector or authorised person to be a point where the relationship between the noise emission as measured at the reference point and at the point of reception can be established.

8. Assigned levels

- (1) In this regulation —

building includes a camp, caravan, or park home, as those terms are defined in the *Caravan Parks and Camping Grounds Act 1995*, that is located —

 - (a) in a caravan park or camping ground; or
 - (b) on other land in accordance with an approval under the *Caravan Parks and Camping Grounds Regulations 1997* regulation 11(2) or 12(2),

but does not include a veranda, patio, pergola, balcony or other similar outdoor area;

highly sensitive area means that area (if any) of noise sensitive premises comprising —

- (a) a building, or a part of a building, on the premises that is used for a noise sensitive purpose; and
- (b) any other part of the premises within 15 metres of that building or that part of the building;

influencing factor, in relation to noise received at noise sensitive premises, means the influencing factor determined under Schedule 3;

Kwinana Industrial Area means the area referred to in the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1999* as Area A;

L_{A1} assigned level means an assigned level which, measured as an $L_{A\text{ Slow}}$ value, is not to be exceeded for more than 1% of the representative assessment period;

L_{A10} assigned level means an assigned level which, measured as an $L_{A\text{ Slow}}$ value, is not to be exceeded for more than 10% of the representative assessment period;

$L_{A\text{ max}}$ assigned level means an assigned level which, measured as an $L_{A\text{ Slow}}$ value, is not to be exceeded at any time.

- (2) For the purposes of paragraph (a) of the definition of **highly sensitive area** in subregulation (1), a building, or a part of a building, that is inhabited in contravention of the *Health Act 1911* section 136 or 144, or any other enactment relating to the use of buildings for human habitation, is taken not to be used for a noise sensitive purpose.
- (3) The assigned level for all premises is to be determined by reference to Table 1.

Environmental Protection (Noise) Regulations 1997**Part 2** Allowable noise emissions**Division 1** General provisions**r. 8**

Table 1

Type of premises receiving noise	Time of day	Assigned level (dB)		
		L _{A10}	L _{A1}	L _{Amax}
Noise sensitive premises: highly sensitive area	0700 to 1900 hours Monday to Saturday	45 + influencing factor	55 + influencing factor	65 + influencing factor
	0900 to 1900 hours Sunday and public holidays	40 + influencing factor	50 + influencing factor	65 + influencing factor
	1900 to 2200 hours all days	40 + influencing factor	50 + influencing factor	55 + influencing factor
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays	35 + influencing factor	45 + influencing factor	55 + influencing factor
Noise sensitive premises: any area other than highly sensitive area	All hours	60	75	80
Commercial premises	All hours	60	75	80
Industrial and utility premises other than those in the Kwinana Industrial Area	All hours	65	80	90

Type of premises receiving noise	Time of day	Assigned level (dB)		
		$L_{A\ 10}$	$L_{A\ 1}$	$L_{A\ max}$
Industrial and utility premises in the Kwinana Industrial Area	All hours	75	85	90

[Regulation 8 inserted in Gazette 5 Dec 2013 p. 5653-6.]

9. Intrusive or dominant noise characteristics

- (1) In this regulation and in regulation 7 —

impulsiveness means a variation in the emission of a noise where the difference between $L_{A\ peak}$ and $L_{A\ Slow\ max}$ is more than 15 dB when determined for a single representative event;

modulation means a variation in the emission of noise that —

- (a) is more than 3 dB $L_{A\ Fast}$ or is more than 3 dB $L_{A\ Fast}$ in any one-third octave band;
- (b) is present for at least 10% of the representative assessment period; and
- (c) is regular, cyclic and audible;

tonality means the presence in the noise emission of tonal characteristics where the difference between —

- (a) the A-weighted sound pressure level in any one-third octave band; and
- (b) the arithmetic average of the A-weighted sound pressure levels in the 2 adjacent one-third octave bands,

is greater than 3 dB when the sound pressure levels are determined as $L_{Aeq,T}$ levels where the time period T is greater than 10% of the representative assessment period, or greater than 8 dB at any time when the sound pressure levels are determined as $L_{A\ Slow}$ levels.

- (2) In subregulation (1) —

$L_{A\ Fast}$ means the reading in decibels (dB) obtained using the “A” frequency weighting characteristic and the “F” time

weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

L_{A peak} means the peak sound pressure level in decibels (dB) obtained using the “A” frequency weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

L_{A Slow max} means the maximum reading in decibels (dB) obtained using the “A” frequency weighting characteristic and the “S” time weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

L_{AeqT} means the equivalent continuous sound pressure level in decibels (dB) using the “A” frequency weighting characteristic, as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, determined over measurement time period T with sound measuring equipment that complies with the requirements of Schedule 4;

one-third octave band means a band of frequencies spanning one-third of an octave and having a centre frequency between 25 Hz and 20 000 Hz inclusive as incorporated in a filter that complies with the requirements of Schedule 4.

- (3) Noise is taken to be free of the characteristics of tonality, impulsiveness and modulation if —
- (a) the characteristics cannot be reasonably and practicably removed by techniques other than attenuating the overall level of the noise emission; and
 - (b) the noise emission complies with the standard prescribed under regulation 7(1)(a) after the adjustments in the table to this subregulation are made to the noise emission as measured at the point of reception.

Table 2

Adjustment where noise emission is not music. These adjustments are cumulative to a maximum of 15 dB.			Adjustment where noise emission is music	
Where tonality is present	Where modulation is present	Where impulsiveness is present	Where impulsiveness is not present	Where impulsiveness is present
+5 dB	+5 dB	+10 dB	+10 dB	+15 dB

[Regulation 9 amended in Gazette 5 Dec 2013 p. 5656-7.]

10. Non-conforming uses and changes of zoning

(1) In this regulation —

non-conforming use has the meaning given in the *Planning and Development Act 2005* section 172;

planning scheme means —

- (a) a planning scheme in force under the *Planning and Development Act 2005*; or
- (b) an approved redevelopment scheme in operation under the *Metropolitan Redevelopment Authority Act 2011*; or
- (c) the master plan in force under the *Hope Valley-Wattleup Redevelopment Act 2000*.

(2) Subject to subregulation (4), the noise that may lawfully be emitted from premises used for a non-conforming use when received at any part of noise sensitive premises that is within 450 metres of the first-mentioned premises is the same noise that could have been emitted and received in accordance with regulation 7 if the provisions of the planning scheme that caused the non-conforming use had not come into operation.

(3) Subject to subregulation (4), if a planning scheme is amended with respect to any land after the coming into operation of these regulations, the noise that may be lawfully emitted from other premises (***emitting premises***) when received at any part of noise sensitive premises on the first-mentioned land that is within 450 metres of the emitting premises is to be determined as if —

- (a) the premises receiving the noise are noise sensitive premises; but
 - (b) for the purposes of Schedule 3, the land on which the premises are situated has the same use as would have been lawful immediately before the coming into operation of the amendment to the planning scheme.
- (4) Subregulations (2) and (3) do not apply to premises from which noise is emitted unless —
 - (a) an acknowledgment from the CEO issued under subregulation (8) has effect in relation to those premises;
 - (b) the occupier of the premises displays a prominent sign visible from outside the premises from which the noise is emitted detailing the claim made under subregulation (5) and the acknowledgment of the CEO; and
 - (c) a copy of the claim, accompanying documents required under subregulation (6), and the CEO's acknowledgment of the claim have been lodged by the occupier of those premises with the local government for the area in which the premises are situated.
- (5) An occupier of premises from which noise is emitted may make a claim to the CEO for acknowledgment that —
 - (a) the premises are premises used for a non-conforming use; or
 - (b) the premises are premises —
 - (i) from which noise emitted is received at premises on land in respect of which the planning scheme has been amended; and
 - (ii) which have had the same use continuously since the coming into operation of the amendments to the planning scheme, as they had immediately before those amendments came into operation.
- (6) A claim under subregulation (5) is to be accompanied by —

- (a) a statutory declaration as to —
 - (i) the planning scheme, if any, which applied to the premises immediately before the coming into operation of the provisions of the planning scheme that caused the non-conforming use; or
 - (ii) the planning scheme which applied to the premises receiving the noise immediately before the scheme was amended,as the case requires;
 - (b) a statutory declaration as to —
 - (i) the planning scheme that caused the non-conforming use, or the amendments to the planning scheme referred to in paragraph (a)(ii), as the case requires; and
 - (ii) if the claim is for acknowledgment that the premises are premises of a kind referred to in subregulation (5)(b), the use of those premises immediately before they became premises of that kind, and since becoming such premises;and
 - (c) copies of the relevant planning schemes referred to in paragraphs (a) and (b).
- (7) The statutory declarations referred to in subregulation (6)(a) and (b) may be made by the occupier of the premises or by any other person who has the relevant knowledge.
- (8) The CEO is to give the occupier of premises written acknowledgment of any claim made in accordance with this regulation.
- (9) The CEO may revoke an acknowledgment at any time if the CEO becomes aware that the use of the premises in respect of which the acknowledgment was given has changed or that the acknowledgment was given on the basis of incomplete or incorrect information.

- (10) Any claim acknowledged by the CEO, accompanying documentation required under subregulation (6) and the CEO's acknowledgment are to be available for public inspection during normal office hours at the public reading room of the Department.
- (11) Any acknowledgment from the Authority under subregulation (8) issued before the coming into operation of the *Environmental Protection (Noise) Amendment Regulations 2013* regulation 12 has effect as if it were an acknowledgment from the CEO.

[Regulation 10 amended in Gazette 5 Dec 2013 p. 5657-9.]

Division 2 — Various premises and activities

[Heading inserted in Gazette 5 Dec 2013 p. 5659.]

11. Airblast levels due to blasting

- (1) In this regulation —
 - airblast level** means a noise level resulting from blasting;
 - L_{Linear peak}** means the maximum reading in decibels (dB) obtained using the “P” time-weighting characteristic as specified in AS 1259.1-1990 with all frequency-weighting networks inoperative and with sound level measuring equipment that complies with the requirements of Schedule 4.
- (2) The provisions of this regulation apply to airblast levels and where they apply they have effect in place of regulation 7.
- (3) No airblast level resulting from blasting on any premises or public place, when received at any other premises, may exceed —
 - (a) 125 dB L_{Linear peak} between 0700 hours and 1800 hours on Monday to Saturday inclusive; or
 - (b) 120 dB L_{Linear peak} between 0700 hours and 1800 hours on a Sunday or public holiday.

- (4) Notwithstanding subregulation (3), airblast levels for 9 in any 10 consecutive blasts (regardless of the interval between each blast), when received at any other premises, must not exceed —
 - (a) 120 dB $L_{\text{Linear peak}}$ between 0700 hours and 1800 hours on Monday to Saturday inclusive; or
 - (b) 115 dB $L_{\text{Linear peak}}$ between 0700 hours and 1800 hours on a Sunday or public holiday.
- (5) No airblast level resulting from blasting on any premises or public place, when received at any other premises, may exceed —
 - (a) 90 dB $L_{\text{Linear peak}}$ outside the periods between 0700 hours and 1800 hours on any day except where that blasting is carried out in accordance with regulation 8.28(4) of the *Mines Safety and Inspection Regulations 1995*; or
 - (b) the levels specified in subregulations (3) and (4) outside the periods between 0700 hours and 1800 hours, as appropriate for the time when it was intended that the blast be fired, if the exception in paragraph (a) applies.

12. Rural premises

- (1) In this regulation —
farming vehicle means a motor vehicle which is used for, or in association with, soil preparation and cultivation, land drainage and water management, crop seeding and planting, crop spraying and fertilisation, pest management, produce harvesting or stock management.
- (2) This regulation does not apply to noise emitted from a farming vehicle —
 - (a) on premises used for intensive animal husbandry, poultry farming or dog kennels; or
 - (b) used for pumping water for crop or pasture irrigation, stock watering or land drainage.

- (3) Regulation 7 does not apply to noise emitted from a farming vehicle on rural premises at any time between sunrise and sunset if the farming vehicle complies with subregulation (5).
- (4) Regulation 7 does not apply to noise emitted from a farming vehicle on rural premises at any time between sunset and sunrise if —
 - (a) the farming vehicle complies with subregulation (5); and
 - (b) the occupier of the premises shows that it was reasonably necessary for the vehicle to be operated at that time and not between sunrise and sunset.
- (5) A farming vehicle complies with this subregulation if the occupier of the premises shows that the vehicle, including its noise reduction system, has been maintained to a reasonable standard.

[Regulation 12 amended in Gazette 5 Dec 2013 p. 5663.]

13. Construction sites

- (1) In this regulation —

ancillary measure means a measure designated to be an ancillary measure under subregulation (7);

construction site means premises or a public place on which the sole or principal activity is the carrying out of construction work;

construction work means —

- (a) the construction, erection, installation, alteration, repair, maintenance, cleaning, painting, renewal, removal, excavation, dismantling or demolition of, or addition to, any building or structure, or any work in connection with any of these things, that is done at or adjacent to the place where the building or structure is located; or
- (b) work on which a hoisting appliance or any scaffold or shoring is used; or
- (c) work in driving or extracting piles, sheet piles or trench sheet; or

- (d) work in laying any pipe or work in lining pipe that is done at or adjacent to the place where the pipe is laid or to be laid; or
 - (e) work in sinking or lining or altering, repairing, maintaining, renewing, removing, or dismantling a well or borehole; or
 - (f) reclamation or site works including road works and earth works; or
 - (g) the removal or reinstatement of vegetation or topsoil for the purpose of or in relation to a mining operation; or
 - (h) tunnelling.
- (2) Regulation 7 does not apply to noise emitted from a construction site as a result of construction work carried out between 0700 hours and 1900 hours on any day which is not a Sunday or public holiday if the occupier of the premises or public place, shows that —
- (a) the construction work was carried out in accordance with control of environmental noise practices set out in section 4 of AS 2436-2010 Guide to noise and vibration control on construction, maintenance and demolition sites; and
 - (b) the equipment used on the premises was the quietest reasonably available; and
 - (c) if the occupier was required to prepare a noise management plan under subregulation (4) in respect of the construction site —
 - (i) the noise management plan was prepared and given in accordance with the requirement, and approved by the CEO; and
 - (ii) the construction work was carried out in accordance with the noise management plan, excluding any ancillary measure;
- and

- (d) if the occupier was required to prepare a noise management plan under subregulation (5A)(a) or (b) —
 - (i) the noise management plan was prepared and given in accordance with the requirement, and approved by the CEO; and
 - (ii) the construction work was carried out in accordance with the noise management plan, excluding any ancillary measure.
- (3) Regulation 7 does not apply to noise emitted from a construction site as a result of construction work carried out other than between the hours specified in subregulation (2) if the occupier of the construction site shows that —
 - (a) the construction work was carried out in accordance with control of environmental noise practices set out in section 4 of AS 2436-2010 Guide to noise and vibration control on construction, maintenance and demolition sites; and
 - (b) the equipment used on the premises was the quietest reasonably available; and
 - (c) the construction work was carried out in accordance with a noise management plan, excluding any ancillary measure, in respect of the construction site —
 - (i) prepared and given to the CEO not later than 7 days before the construction work commenced; and
 - (ii) approved by the CEO;
 - and
 - (d) at least 24 hours before the construction work commenced, the occupier of the construction site gave written notice of the proposed construction work to the occupiers of all premises at which noise emissions received were likely to fail to comply with the standard prescribed under regulation 7; and

- (e) it was reasonably necessary for the construction work to be carried out at that time.
- (4) The CEO may require an occupier of a construction site on which it is proposed to carry out construction work to prepare a noise management plan in respect of the premises.
- (5A) The CEO may require an occupier of a construction site on which construction work is being carried out to prepare a noise management plan in respect of —
 - (a) the premises or a part of the premises specified in the requirement; or
 - (b) a type of construction work being carried out on the construction site and specified in the requirement.
- (5) An occupier required to prepare a noise management plan under subregulation (4) or (5A) must provide the CEO, or another person specified in the notice, with a copy of the plan within the period specified in the notice of requirement.
- (6) A noise management plan prepared under subregulation (3)(c), (4) or (5A) is to include, but is not limited to —
 - (a) details of, and reasons for, construction work on the construction site; and
 - (b) details of, and the duration of, activities on the construction site likely to result in noise emissions that fail to comply with the standard prescribed under regulation 7; and
 - (c) predictions of noise emissions on the construction site; and
 - (d) details of measures to be implemented to control noise (including vibration) emissions; and
 - (e) procedures to be adopted for monitoring noise (including vibration) emissions; and
 - (f) complaint response procedures to be adopted.

- (7) The CEO may, by written notice given to an occupier who provides the CEO with a noise management plan under this regulation, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (8) An occupier of a construction site must ensure that any ancillary measure relating to the site is implemented.

Penalty for an offence under subregulation (8): a fine of \$5 000.

[Regulation 13 amended in Gazette 5 Dec 2013 p. 5663-7.]

14A. Waste collection and other works

- (1) In this regulation —

ancillary measure means a measure designated to be an ancillary measure under regulation 14B;

class 1 works means specified works carried out between —

- (a) 0700 hours and 1900 hours on any day that is not a Sunday or a public holiday; or
- (b) 0900 hours and 1900 hours on a Sunday or public holiday;

class 2 works means specified works carried out otherwise than between the hours specified in the definition of ***class 1 works*** paragraphs (a) and (b);

specified works means —

- (a) the collection of waste; or
- (b) the cleaning of a road or the drains for a road; or
- (c) the cleaning of public places, including footpaths, cycle paths, car parks and beaches; or
- (d) the maintenance of road verges and public open space (including the collection of rubbish and the planting, trimming, watering or removal of trees); or

- (e) the periodic collection of household items or other things placed on street verges by residents for the purpose of such a collection; or
- (f) activities associated with hazard or emergency management;

waste means waste from domestic or commercial sources and includes —

- (a) putrescible waste; and
- (b) non-putrescible waste; and
- (c) recyclable materials.

- (2) Regulation 7 does not apply to noise emitted in the course of carrying out class 1 works if —
 - (a) the works are carried out in the quietest reasonable and practicable manner; and
 - (b) the equipment used to carry out the works is the quietest reasonably available; and
 - (c) in a case where a person has been required to prepare a noise management plan under subregulation (4) in relation to the works —
 - (i) the noise management plan has been prepared and submitted in accordance with the requirement, and approved in writing by the CEO; and
 - (ii) the works are carried out in accordance with the noise management plan, excluding any ancillary measure.
- (3) Regulation 7 does not apply to noise emitted in the course of carrying out class 2 works if the works are carried out in accordance with a noise management plan, excluding any ancillary measure, for class 2 works approved in writing by the CEO.

- (4) The CEO may by written notice require a person who carries out class 1 works —
 - (a) to prepare a noise management plan; and
 - (b) within the time specified in the notice, to submit the plan to the CEO, or another person specified in the notice, for the approval of the CEO.
- (5) A noise management plan for class 1 works is to include —
 - (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and
 - (c) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (d) operator training programmes; and
 - (e) community information on the manner in which the specified works will be carried out; and
 - (f) a complaints response procedure.
- (6) A noise management plan for class 2 works is to include, but is not limited to —
 - (a) details of vehicle or equipment evaluation and purchase policies adopted to select, on a reasonable and practicable basis, the quietest vehicle or equipment available; and
 - (b) measures to be adopted to minimise noise emissions resulting from carrying out the works; and
 - (c) justification for carrying out the works during the times of day to which the class relates; and
 - (d) a description of the specified works to be carried out during the times of day to which the class relates; and
 - (e) operator training programmes; and

- (f) community information on the manner in which the specified works will be carried out; and
 - (g) a complaints response procedure.
- (7) An application by a person, other than a local government, for the approval of a noise management plan under subregulation (3) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.
- (8) Before approving a noise management plan under subregulation (3) or (4), the CEO must —
 - (a) if the plan was submitted by a local government, require the local government to give local public notice, as defined in the *Local Government Act 1995* section 1.7, of the plan; or
 - (b) if the plan was submitted by a person other than a local government, require the person to publish notice of the plan at least once in a newspaper circulating generally throughout the district where the plan will have effect.
- (9) A notice under subregulation (8) must specify the following —
 - (a) the purpose and effect of the noise management plan;
 - (b) the places at which the noise management plan may be inspected or obtained;
 - (c) the period (being not less than 30 days after the notice is published in a newspaper) within which submissions about the plan may be made to the CEO.
- (10) After considering any submissions made under subregulation (9)(c), the CEO may —
 - (a) approve the noise management plan as proposed; or
 - (b) approve a noise management plan that is not significantly different from what was proposed; or

- (c) refuse to approve the noise management plan as proposed and require a new plan to be prepared and submitted for approval.
- (11) A noise management plan for class 1 works or class 2 works expires —
 - (a) 3 years after the day on which it is approved by the CEO; or
 - (b) on such other day, not more than 3 years after the day on which it is approved by the CEO, as the CEO specifies in the approval of the plan.

[Regulation 14A inserted in Gazette 5 Dec 2013 p. 5667-72.]

14B. Ancillary measures: waste collection and other works

- (1) The CEO may, by written notice to a person who submits a noise management plan under regulation 14A, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (2) A person who carries out class 1 works or class 2 works, as those terms are defined in regulation 14A, must ensure that any ancillary measure relating to the works is implemented.

Penalty: a fine of \$5 000.

[Regulation 14B inserted in Gazette 5 Dec 2013 p. 5672.]

14. Equipment used on residential premises

- (1) In this regulation —
specified equipment means any item of equipment which requires the constant presence of an operator for normal use.
- (2) Regulation 7 does not apply to noise emitted from residential premises from the use of specified equipment on any day if —
 - (a) the specified equipment is used in a reasonable manner;
 - (b) the specified equipment has not been used —

- (i) in the case of equipment other than a musical instrument, for more than 2 hours since the beginning of the relevant day; or
 - (ii) in the case of a musical instrument, for more than one hour since the beginning of the relevant day;
- (c) the noise resulting from the use of that specified equipment on those premises, having regard to the duration of the noise emission, the frequency of similar noise emissions from those premises and the purpose for which the equipment is used, does not unreasonably interfere with the health, welfare, convenience, comfort or amenity of an occupier of premises receiving the noise; and
- (d) the specified equipment is used —
 - (i) between 0700 hours and 1900 hours on Monday to Saturday inclusive; or
 - (ii) between 0900 hours and 1900 hours on a Sunday or public holiday.

15. Bellringing and calls to worship

- (1) In this regulation —

amplified call to worship means a call or invitation to worship (including the ringing of a single bell or a set of bells) which is amplified or reproduced by the use of electronic amplification equipment;

bellringing means the ringing of a set of bells, where not amplified by electronic amplification equipment;

other call to worship means any call or invitation to worship (including the ringing of a single bell) other than bellringing or an amplified call to worship.

- (2) Regulation 7 does not apply to noise emitted from premises or a public place, other than premises used exclusively as residential premises, where the noise results from —
- (a) bellringing using equipment, which was used for bellringing on those premises at any time during the year before 29 December 1995;
 - (b) bellringing, other than that referred to in paragraph (a), if the conditions prescribed in subregulation (3) are complied with;
 - (c) an amplified call to worship, if the conditions prescribed in subregulation (3) are complied with; or
 - (d) any other call to worship, if the conditions prescribed in subregulation (3) are complied with.
- (3) The following conditions are prescribed for the purposes of subregulation (2)(b), (c) and (d) —
- (a) the call to worship is to be made only on the premises or public place where the worship is to take place;
 - (b) the premises or public place on which the worship is to take place is to be on land which is referred to in section 6.26(2)(d), (e) or (f) of the *Local Government Act 1995*;
 - (c) where the noise emission measured under subregulation (4) exceeds 55 dB L_A Slow as a result of bellringing or an amplified call to worship then —
 - (i) bellringing or the amplified call to worship is to be conducted only between 0800 hours and 1900 hours on Monday to Friday inclusive, or between 0900 hours and 1900 hours on Saturdays, Sundays and public holidays;
 - (ii) bellringing or the amplified call to worship is to last no more than 10 minutes on each occasion that it takes place;

- (iii) bellringing or the amplified call to worship is not to take place on more than 2 occasions on the one day;
 - (iv) bellringing or the amplified call to worship is not to take place on more than 12 occasions in any period of 2 months;
 - (v) bellringing or the amplified call to worship is not to take place on more than 8 occasions in any one month; and
 - (vi) if so requested by the CEO, a log is to be kept recording details of the date, time and duration of all bellringing or amplified calls to worship made.
- (4) For the purposes of this regulation, the noise emission is to be —
- (a) measured on any premises other than —
 - (i) the premises on which the bellringing or amplified call to worship was made;
 - (ii) premises which are owned or occupied by the same person or persons as the premises on which the bellringing or amplified call to worship was made; or
 - (iii) premises that are not noise-sensitive premises;
 - (b) measured as the average maximum of the $L_{A\text{ Slow}}$ readings; and
 - (c) representative of the highest such noise emission recorded on the premises when the bell tower (where applicable) is in its open condition.

[Regulation 15 amended in Gazette 7 Nov 2000 p. 6144; 5 Dec 2013 p. 5672.]

Division 3 — Motor sport venues

[Heading inserted in Gazette 5 Dec 2013 p. 5673.]

16A. Terms used

In this Division —

ancillary measure means a measure designated to be an ancillary measure under regulation 16AB(1);

approved noise management plan means a noise management plan approved under regulation 16AA, as amended from time to time, that has effect;

motor sport organisation means any of the following organisations —

- (a) Australian National Drag Racing Association;
- (b) Australian Power Boat Racing Association;
- (c) Confederation of Australian Motor Sport Limited;
- (d) Motorcycling Australia;
- (e) Motorcycling Western Australia;
- (f) National Association of Drag Racing Inc.;
- (g) National Association of Speedway Racing;
- (h) Western Australian Speedway Commission;
- (i) any other motor sport organisation approved by the CEO for the purposes of this regulation;

motor sport venue means premises approved or recognised by a motor sport organisation as premises at which racing activities may be conducted;

racing activity means racing of motor vehicles or motor vessels conducted as part of a competition day, practice or training session, exhibition run, trial, test, entertainment event, promotion or other similar activity.

[Regulation 16A inserted in Gazette 5 Dec 2013 p. 5673-4.]

16AA. Approval of noise management plan: motor sport venue

- (1) The occupier of a motor sport venue may apply to the CEO for approval of —
 - (a) a noise management plan for the venue; or
 - (b) an amendment of an approved noise management plan for the venue.
- (2) An application for approval under subregulation (1) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.
- (3) The CEO may, in writing —
 - (a) if the application is for the approval of a noise management plan — approve, or refuse to approve, the noise management plan for the motor sport venue; or
 - (b) if the application is for an amendment of an approved noise management plan — approve, or refuse to approve, the amendment.
- (4) Before making a decision under subregulation (3) the CEO —
 - (a) must give the following a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved —
 - (i) the occupier of any noise sensitive premises within 1 km of the motor sport venue;
 - (ii) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;and
 - (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved.

- (5) An approval of a noise management plan under subregulation (3) —
 - (a) may be granted subject to conditions imposed by the CEO; and
 - (b) subject to subregulation (6) and regulation 16AC, has effect for the period specified in the approval.
- (6) If the occupier of a motor sport venue for which an approved noise management plan (the **current plan**) has effect applies for approval of a new noise management plan for the venue not later than 3 months before the current plan would, apart from this regulation, cease to have effect (the **expiry day**), the current plan is taken to continue in effect from the expiry day until —
 - (a) if the CEO approves the new noise management plan — the day on which the new plan has effect; or
 - (b) if —
 - (i) the CEO refuses to approve the new noise management plan; and
 - (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 16AE, no appeal has been lodged,the day after that period ends; or
 - (c) if —
 - (i) the CEO refuses to approve the new noise management plan; and
 - (ii) an appeal is lodged under regulation 16AE against the decision to refuse to approve the new noise management plan,the day the appeal is concluded.
- (7) The CEO must not approve a noise management plan for a motor sport venue unless the plan —
 - (a) contains a map (current at the time of the application) showing the motor sport venue, including the area where

motor vehicles or motor vessels are raced or prepared for racing and car parks used by competitors in races at and visitors to the venue; and

- (b) contains a description of the types of racing activities that can reasonably be expected to be conducted at the venue and classes of vehicles or vessels that can reasonably be expected to race at the venue; and
 - (c) sets out limitations on the racing activities to be conducted and the times during which racing activities may be conducted; and
 - (d) contains details of reasonable and practicable measures to be implemented to control noise emissions from the venue during the conduct of a racing activity at the venue; and
 - (e) contains details of when and the manner in which notice of racing activities at the venue is to be published or distributed to members of the public; and
 - (f) specifies the persons who will be responsible for implementing the approved noise management plan and sets out each person's responsibilities; and
 - (g) contains a complaint response procedure.
- (8) For the purposes of subregulation (7)(f), the plan may —
- (a) specify a person by name; or
 - (b) specify a particular officer, or the holder of a particular office, by reference to the title of the office concerned.
- (9) Regulation 7 does not apply to noise emitted from a motor sport venue during the conduct of a racing activity at the venue if the racing activity is conducted in accordance with an approved noise management plan, excluding any ancillary measure, for the venue.

[Regulation 16AA inserted in Gazette 5 Dec 2013 p. 5674-7.]

16AB. Ancillary measures: motor sport venue

- (1) If the CEO approves or amends a noise management plan under regulation 16AA, the CEO may, by written notice given to the person whose plan was approved or amended, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (2) An occupier of a motor sport venue must ensure that any ancillary measure relating to the venue is implemented.

Penalty: a fine of \$5 000.

[Regulation 16AB inserted in Gazette 5 Dec 2013 p. 5677.]

16AC. Revocation of noise management plan for motor sport venue

- (1) An approved noise management plan for a motor sport venue ceases to have effect if approval of the plan is revoked under this regulation.
- (2) The CEO may revoke the approval of a noise management plan for a motor sport venue by written notice given to the occupier of the venue.
- (3) The grounds for revocation of a noise management plan for a motor sport venue are that the CEO is satisfied that —
 - (a) there has been a breach of a measure, other than an ancillary measure, in the plan; or
 - (b) there has been a breach of a condition imposed by the CEO under regulation 16AA(5)(a); or
 - (c) information contained in the plan, or contained in or supporting the application for approval of the plan, was false or misleading in a material respect; or
 - (d) the noise emissions from the venue have increased during the period the noise management plan has been in effect.

- (4) The CEO, before exercising the power of revocation under subregulation (2), must —
 - (a) give the occupier of the motor sport venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 16AA(4)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.
- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that subregulation not less than 90 days before the day on which the CEO exercises the power in question.

[Regulation 16AC inserted in Gazette 5 Dec 2013 p. 5678-9.]

16AD. Notice of appellable decision

- (1) In this regulation —
appellable decision has the meaning given in regulation 16AE(1).
- (2) The CEO —
 - (a) must give a written notice of an appellable decision in respect of a noise management plan for a motor sport venue to the occupier of the motor sport venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

[Regulation 16AD inserted in Gazette 5 Dec 2013 p. 5679.]

16AE. Appeals against decisions in respect of noise management plan for motor sport venue

- (1) A person aggrieved by any of the following decisions (an *appellable decision*) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —
 - (a) the approval of a noise management plan for a motor sport venue;
 - (b) the refusal to approve a noise management plan for a motor sport venue;
 - (c) the approval of an amendment to an approved noise management plan for a motor sport venue;
 - (d) the refusal to approve an amendment to an approved noise management plan for a motor sport venue;
 - (e) the imposition of a condition on the approval of a noise management plan for a motor sport venue;
 - (f) the specification under regulation 16AA(5) of a period as the period for which the approval of a noise management plan for a motor sport venue has effect;
 - (g) the revocation of the approval of a noise management plan.
- (2) The appeal must be lodged within 21 days of publication of notice of the decision under regulation 16AD(2)(c).
- (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b) or (f), the decision against which that appeal is lodged continues to have effect.
- (4) Pending the determination of an appeal lodged under subregulation (1)(c), (d), (e) or (g) the decision is to be taken not to have been made.
- (5) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1) as if that appeal were an appeal referred to in section 102(1) of the Act.

[Regulation 16AE inserted in Gazette 5 Dec 2013 p. 5679-80.]

Division 4 — Shooting venues

[Heading inserted in Gazette 5 Dec 2013 p. 5681.]

16B. Terms used

In this Division —

ancillary measure means a measure designated to be an ancillary measure under regulation 16BB(1);

approved noise management plan means a noise management plan approved under regulation 16BA, as amended from time to time, that has effect;

shooting activity means shooting conducted as part of a competition day, practice or training session, exhibition, trial, test, entertainment event, promotion or other similar activity;

shooting venue means premises that are a range approved under the *Firearms Act 1973*.

[Regulation 16B inserted in Gazette 5 Dec 2013 p. 5681.]

16BA. Approval of noise management plan: shooting venue

- (1) The occupier of a shooting venue may apply to the CEO for approval of —
 - (a) a noise management plan for the venue; or
 - (b) an amendment of an approved noise management plan for the venue.
- (2) An application for approval under subregulation (1) is to be accompanied by an application fee of \$500, but the CEO may, in his or her discretion, waive or reduce the fee.
- (3) The CEO may, in writing —
 - (a) if the application is for the approval of a noise management plan — approve, or refuse to approve, the noise management plan for the shooting venue; or

- (b) if the application is for an amendment of an approved noise management plan, approve, or refuse to approve, the amendment.
- (4) Before making a decision under subregulation (3) the CEO —
 - (a) must give the following a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved —
 - (i) the occupier of any noise sensitive premises within 1 km of the shooting venue;
 - (ii) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;
 - and
 - (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the plan or amendment should be approved.
- (5) An approval of a noise management plan under subregulation (3) —
 - (a) may be granted subject to conditions imposed by the CEO; and
 - (b) subject to subregulation (6) and regulation 16BC, has effect for the period specified in the approval.
- (6) If the occupier of a shooting venue for which an approved noise management plan (the **current plan**) has effect applies for approval of a new noise management plan for the venue not later than 3 months before the current plan would, apart from this regulation, cease to have effect (the **expiry day**), the current plan is taken to continue in effect from the expiry day until —
 - (a) if the CEO approves the new noise management plan — the day on which the new plan has effect; or

- (b) if —
 - (i) the CEO refuses to approve the new noise management plan; and
 - (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 16BE, no appeal has been lodged, the day after that period ends; or
 - (c) if —
 - (i) the CEO refuses to approve the new noise management plan; and
 - (ii) an appeal is lodged under regulation 16BE against the decision to refuse to approve the new noise management plan, the day the appeal is concluded.
- (7) The CEO must not approve a noise management plan for a shooting venue unless the plan —
 - (a) contains a map (current at the time of the application) showing the shooting venue, including all shooting ranges and buildings within the venue; and
 - (b) contains a description of the types of shooting disciplines that can reasonably be expected to be conducted on each range at the venue; and
 - (c) sets out limitations on shooting activities to be conducted at the venue and the times during which shooting activities may be conducted; and
 - (d) contains details of reasonable and practicable measures to be implemented to control noise emissions at the venue during a shooting activity at the venue; and
 - (e) contains details of when and the manner in which notice of shooting activities at the venue is to be published or distributed to members of the public; and

- (f) specifies the persons who will be responsible for implementing the approved noise management plan and sets out each person's responsibilities; and
 - (g) contains a complaint response procedure.
- (8) For the purposes of subregulation (7)(f), the plan may —
 - (a) specify a person by name; or
 - (b) specify a particular officer, or the holder of a particular office, by reference to the title of the office concerned.
- (9) Regulation 7 does not apply to noise emitted from a shooting venue during the conduct of a shooting activity at the venue if the shooting activity is conducted in accordance with an approved noise management plan, excluding any ancillary measure, for the venue.

[Regulation 16BA inserted in Gazette 5 Dec 2013 p. 5681-4.]

16BB. Ancillary measures: shooting venue

- (1) If the CEO approves or amends a noise management plan under regulation 16BA, the CEO may, by written notice given to the person whose plan was approved or amended, designate a measure in the plan to be an ancillary measure if the measure does not directly influence the level, duration or time of day of a noise emission.
- (2) An occupier of a shooting venue must ensure that any ancillary measure relating to the venue is implemented.

Penalty: a fine of \$5 000.

[Regulation 16BB inserted in Gazette 5 Dec 2013 p. 5684-5.]

16BC. Revocation of noise management plan for shooting venue

- (1) An approved noise management plan for a shooting venue ceases to have effect if approval of the plan is revoked under this regulation.

- (2) The CEO may revoke the approval of a noise management plan for a shooting venue by written notice given to the occupier of the venue.
- (3) The grounds for revocation of a noise management plan for a shooting venue are that the CEO is satisfied that —
 - (a) there has been a breach of a measure, other than an ancillary measure, in the plan; or
 - (b) there has been a breach of a condition imposed by the CEO under regulation 16BA(5)(a); or
 - (c) information contained in the plan, or contained in or supporting the application for approval of the plan, was false or misleading in a material respect; or
 - (d) the noise emissions from the venue have increased during the period the noise management plan has been in effect.
- (4) The CEO, before exercising the power of revocation under subregulation (2), must —
 - (a) give the occupier of the shooting venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 16BA(4)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.
- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that subregulation not less than 90 days before the day on which the CEO exercises the power in question.

[Regulation 16BC inserted in Gazette 5 Dec 2013 p. 5685-6.]

16BD. Notice of appellable decision

- (1) In this regulation —
appellable decision has the meaning given in regulation 16BE(1).
- (2) The CEO —
- (a) must give a written notice of an appellable decision in respect of a noise management plan for a shooting venue to the occupier of the shooting venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

[Regulation 16BD inserted in Gazette 5 Dec 2013 p. 5686.]

16BE. Appeals against decisions in respect of noise management plan for shooting venue

- (1) A person aggrieved by any of the following decisions (an *appellable decision*) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —
- (a) the approval of a noise management plan for a shooting venue;
 - (b) the refusal to approve a noise management plan for a shooting venue;
 - (c) the approval of an amendment to an approved noise management plan for a shooting venue;
 - (d) the refusal to approve an amendment to an approved noise management plan for a shooting venue;
 - (e) the imposition of a condition on the approval of a noise management plan for a shooting venue;
 - (f) the specification under regulation 16BA(5) of a period as the period for which the approval has effect;

- (g) the revocation of the approval of a noise management plan for a shooting venue,
- may lodge with the Minister an appeal in writing setting out the grounds of that appeal.
- (2) The appeal must be lodged within 21 days of publication of notice of the decision under regulation 16BD(2)(c).
- (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b) or (f), the decision against which that appeal is lodged continues to have effect.
- (4) Pending the determination of an appeal lodged under subregulation (1)(c), (d), (e) or (g), the decision is to be taken not to have been made.
- (5) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1) as if that appeal were an appeal referred to in section 102(1) of the Act.

[Regulation 16BE inserted in Gazette 5 Dec 2013 p. 5687-8.]

Division 5 — Community activities

[Heading inserted in Gazette 5 Dec 2013 p. 5688.]

16. Community noise

- (1) In this regulation —
community noise means a noise of a type listed in Schedule 2;
noise control notice means a notice under subregulation (4).
- (2) Nothing in this regulation —
- (a) affects the application of regulations 5 and 15 and sections 79 to 81A of the Act; or
- (b) applies to noise emitted in accordance with an approval granted under regulation 18B or 18.
- (3) Regulation 7 does not apply to community noise.

(4) If the CEO is satisfied that —

- (a) a type of community noise has increased, or has increased its effect on the environment, since the coming into operation of these regulations; or
- (b) a type of community noise has, or is likely to have, a detrimental effect on the environment that exceeds the benefit to the community of the activity that gives rise to that noise,

the CEO may cause to be served on the owner or the occupier, or on both the owner and the occupier, of the premises or public place a noise control notice in respect of the community noise.

(5) A noise control notice —

- (a) is to specify the reason for which it is served;
- (b) may include a requirement that any person bound by it is to take such measures as —
 - (i) the CEO considers necessary to control or abate the emission of noise to which the noise control notice relates; and
 - (ii) are specified in the noise control notice, within such period, or at such times, as are specified in the noise control notice; and
- (c) may include a direction that any person bound by it is to make one of the following applications, as specified in the direction —
 - (i) an application under regulation 17 for approval to allow the emission of noise to exceed or vary from the standard prescribed under regulation 7;
 - (ii) an application under regulation 18 for approval to conduct an event that is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7.

(6) The measures required under a noise control notice by the CEO may include a requirement that the person on whom a noise

control notice is served is to prepare a noise management plan specifying —

- (a) the levels of noise emissions specified in the notice from the premises; and
 - (b) strategies the person bound by the notice will adopt to manage the noise emissions.
- (7) A noise control notice, while it is in force, binds each owner or occupier on whom it is served.
- (8) If —
 - (a) a person bound by a noise control notice fails to comply with a requirement of the notice; or
 - (ba) a person bound by a noise control notice who has prepared a noise management plan under subregulation (6) —
 - (i) allows an emission of noise to exceed the level of noise emission specified in the plan; or
 - (ii) does not follow the strategies specified in the plan;or
 - (b) the Minister refuses to grant an application for approval made pursuant to a direction under subregulation (5)(c),then —
 - (c) the emission of noise to which the notice or refusal relates ceases to be community noise for the purposes of this regulation; and
 - (d) regulation 7 applies to that emission of noise.
- (9) The CEO may by written notice served on every person bound by a noise control notice revoke the notice or amend it —
 - (a) by extending the period within which a requirement contained in the notice is to be complied with if the CEO is satisfied that the circumstances of the case justify such an extension;

- (b) by revoking or amending any requirement included in the notice.
- (10) The CEO, before exercising in respect of a person, the power of amendment under subregulation (9)(b), is to afford the person a reasonable opportunity to show cause in writing why that power should not be exercised in respect of that person.
- (11) An opportunity is not a reasonable opportunity within the meaning of subregulation (10) unless the relevant person is informed of the right to show cause under that subregulation not less than 21 days before the day on which the CEO exercises the power in question.
- (12) A person who is aggrieved by —
 - (a) a requirement under subregulation (5)(b) included in a noise control notice served on that person; or
 - (b) an amendment included in a notice served on that person under subregulation (9),may within 14 days of that service lodge with the Minister an appeal in writing setting out the grounds of that appeal.
- (13) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (12) as if the appeal were an appeal referred to in section 103 of the Act.

[Regulation 16 amended in Gazette 5 Dec 2013 p. 5688-91.]

Division 6 — Where standard cannot reasonably be met

[Heading inserted in Gazette 5 Dec 2013 p. 5691.]

17. Approval to allow emission of noise to exceed or vary from standard: application and referral

- (1) If a person is of the opinion that —
 - (a) the person cannot reasonably or practicably comply with a standard prescribed under these regulations; or

- (b) that a proposal of that person will not be reasonably or practicably capable of complying with that standard,

that person may apply to the Minister for approval to allow the emission of noise in that case to exceed or vary from the standard.
- (2) The Minister must refer the application to the Authority for assessment if —
 - (a) the application relates to a proposal mentioned in subregulation (1)(b); and
 - (b) the Authority —
 - (i) has made a public record of —
 - (I) the proposal under section 39 of the Act setting out that the proposal is to be assessed under Part IV of the Act; or
 - (II) a request in relation to the proposal under section 46(1) of the Act;
 - and
 - (ii) has not prepared and given a report on the outcome of its assessment of the proposal under section 44 of the Act or a report on the inquiry under section 46(6) of the Act.
- (3) If subregulation (2) does not apply, the Minister must refer the application to the CEO for assessment.
- (4) If the Authority in the course of assessing a proposal under Part IV of the Act, or carrying out an inquiry under section 46(3) of the Act, forms the opinion that the proposal is not reasonably or practicably capable of complying with a standard prescribed under these regulations, the Authority may make a determination that the proponent is taken to have made an application under subregulation (1) that has been referred to the Authority under subregulation (2).

- (5) The report of the Authority under section 44 of the Act on a proposal mentioned in subregulation (1)(b) or (4), or under section 46 of the Act on an inquiry mentioned in subregulation (1)(b) or (4), is taken to also be the report of the Authority for the purposes of regulation 18B.

[Regulation 17 inserted in Gazette 5 Dec 2013 p. 5691-3.]

18A. Assessment by CEO

- (1) When an application is referred to the CEO under regulation 17(3), the CEO may —
- (a) advise the Minister that the CEO considers that the application should not be assessed because —
 - (i) the emission of noise in that case will not exceed or vary from a standard prescribed under these regulations; or
 - (ii) the emission of noise is reasonably and practicably capable of complying with a standard prescribed under these regulations; or
 - (iii) an approval to allow the emission of noise to exceed or vary from the standard is not an appropriate means of regulating the emission of noise;
 - or
 - (b) if the CEO does not consider that any of the circumstances mentioned in paragraph (a) apply and considers that the emission of noise exceeds or will exceed or vary from a standard prescribed under these regulations —
 - (i) inform the Minister and the applicant; and
 - (ii) assess the application and report to the Minister.
- (2) In the case of an application in respect of which the CEO provides advice under subregulation (1)(a), the Minister may —
- (a) direct the CEO to assess the application under subregulation (1)(b)(ii); or

- (b) inform the applicant that the application will not be assessed.
- (3) The CEO may, for the purposes of assessing an application under subregulation (1)(b)(ii), require the applicant to provide the CEO with such information as is specified in the requirement.
- (4) The CEO may end the assessment of an application if the applicant has failed to comply with a requirement under subregulation (3) within such period as the CEO considers to be reasonable in the circumstances.
- (5) Subject to any direction given under subregulation (9), the CEO is to determine the form, content, timing and procedure of any assessment undertaken under this regulation.
- (6) After a determination is made under subregulation (5), the CEO is to estimate the cost of conducting the assessment.
- (7) The fee payable for conducting an assessment is —
 - (a) an amount equal to the cost estimated under subregulation (6); or
 - (b) if that amount exceeds \$100 000, \$100 000.
- (8) The fee must be paid before the assessment of the application commences.
- (9) The Minister may, during or after the assessment by the CEO of an application referred to the CEO, and after consulting the CEO, direct the CEO to assess or re-assess, as the case requires, the application more fully or more publicly or both in accordance with that direction, and the CEO must comply with the direction.

[Regulation 18A inserted in Gazette 5 Dec 2013 p. 5693-5.]

18B. Decision by Minister

- (1) After receiving the report of the Authority or the CEO in relation to an application for approval under regulation 17, the Minister may grant, or may refuse to grant, the approval.
- (2) An approval under subregulation (1) may be made —
 - (a) to have effect for a specified time; and
 - (b) subject to any condition.
- (3) Despite any other of these regulations, an approval under subregulation (1) has effect according to its terms.

[Regulation 18B inserted in Gazette 5 Dec 2013 p. 5695.]

18C. Notification of approval, amendment or revocation

Notice of an approval under regulation 18B(1), and any amendment or revocation of an approval under regulation 18E(3), is to be published in the *Gazette*.

[Regulation 18C inserted in Gazette 5 Dec 2013 p. 5695.]

18D. Ancillary conditions

- (1) If an approval under regulation 18B(1) is made subject to a condition, the CEO may, by written notice given to the person to whom the approval was given, designate the condition as an ancillary condition (an ***ancillary condition***) if the condition does not directly influence the level, duration or time of day of a noise emission.
- (2) A person to whom an approval under regulation 18B(1) is given must ensure that an ancillary condition relating to the approval is implemented.

Penalty: a fine of \$5 000.

[Regulation 18D inserted in Gazette 5 Dec 2013 p. 5695.]

18E. Amendment or revocation of approval

- (1) The Minister may, if the Minister considers that any approval under regulation 18B(1) should be amended or revoked, request the CEO to inquire into and report on the proposed amendment or revocation and for that purpose regulation 18A(3) to (5) applies as if the proposed amendment or revocation were an application referred to the CEO under regulation 17(3).
- (2) If the holder of an approval under regulation 18B(1) applies to the Minister to amend the approval, regulation 18A applies as if the proposed amendment were an application referred to the CEO under regulation 17(3).
- (3) After receiving the report of the CEO on the proposed amendment or revocation the Minister may amend or refuse to amend, or may revoke, the approval.

[Regulation 18E inserted in Gazette 5 Dec 2013 p. 5696.]

18F. Effect of breach of condition or revocation of approval

- (1) If a condition, other than a condition designated as an ancillary condition under regulation 18D, subject to which an approval under regulation 18B(1) is given is breached —
 - (a) the approval is suspended and of no effect for so long as the breach continues; and
 - (b) the standards prescribed under these regulations apply to the emission of noise to which the approval applied.
- (2) If an approval is revoked under regulation 18E —
 - (a) the approval ceases to have effect; and
 - (b) the standards prescribed under these regulations apply to the emission of noise to which the approval applied.

[Regulation 18F inserted in Gazette 5 Dec 2013 p. 5696.]

18G. Noise monitoring fees

- (1) A person granted an approval under regulation 18B(1) must pay the CEO an annual noise monitoring fee of \$5 000 (reduced pro rata if the approval is for a part of the year) —
 - (a) within one month after the day on which notice of the approval is published under regulation 18C; and
 - (b) before each anniversary of the day on which notice of the approval is published under regulation 18C while the approval has effect.
- (2) If a fee is not paid under subregulation (1) within 2 weeks of —
 - (a) the end of the period referred to in subregulation (1)(a); or
 - (b) the anniversary date referred to in subregulation (1)(b),the approval is suspended and of no effect until the fee is paid, and the standards prescribed under these regulations apply to the emission of noise to which the approval applied.
- (3) The CEO may waive or reduce, in whole or in part, a fee payable under this regulation.

[Regulation 18G inserted in Gazette 5 Dec 2013 p. 5697.]

18H. Appeals against decisions under this Division

- (1) A person aggrieved by any of the following decisions of the Minister may lodge with the Minister an appeal in writing setting out the grounds of the appeal —
 - (a) in the case of an application referred to the CEO under regulation 17(3) — the grant of approval under regulation 18B(1);
 - (b) the imposition of a condition on an approval under regulation 18B(2) (including specifying the period for which an approval has effect);
 - (c) the amendment of an approval under regulation 18E(3);
 - (d) the revocation of an approval under regulation 18E(3).

- (2) An applicant for approval under regulation 17(1) who is aggrieved by either of the following decisions of the Minister may lodge with the Minister an appeal in writing setting out the grounds of the appeal —
 - (a) the refusal under regulation 18A(2) to assess the application;
 - (b) the refusal under regulation 18B(1) to grant the approval.
- (3) The holder of an approval under regulation 18B(1) who is aggrieved by the decision of the Minister under regulation 18E(3) to refuse to amend the approval may lodge with the Minister an appeal in writing setting out the grounds of the appeal.
- (4) The appeal must be lodged —
 - (a) in the case of an appeal referred to in subregulation (2) or (3) — within 21 days of the applicant being notified of the decision;
 - (b) otherwise — within 21 days of publication of notice of the decision under regulation 18C.
- (5) Pending the determination of an appeal lodged under subregulation (1)(a) or (b), (2) or (3), the decision against which that appeal is lodged continues to have effect.
- (6) Pending the determination of an appeal lodged under subregulation (1)(c) or (d), the decision is to be taken not to have been made.
- (7) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1), (2) or (3) as if that appeal were an appeal referred to in section 102(1) of the Act.

[Regulation 18H inserted in Gazette 5 Dec 2013 p. 5697-9.]

18I. Transitional provisions

- (1) In this regulation —

amending provision means the *Environmental Protection (Noise) Amendment Regulations 2013* regulation 23;

former regulation 17 means regulation 17 as in force immediately before the coming into operation of the amending provision.

- (2) An application made under former regulation 17 that has not been referred under that regulation is to be taken to be an application made under regulation 17(1) as inserted by the amending provision.
- (3) Subregulations (3) to (8) and (11) of former regulation 17 continue to apply in relation to an application made under former regulation 17 that has been referred to the Authority but in respect of which a decision has not been made by the Minister as if the amending provision had not come into operation.
- (4) Regulations 5(2)(b), 16(2)(b) and 18D to 18G apply in relation to any approval granted under former regulation 17 as if the approval were granted under regulation 18B.
- (5) Subregulations (13) and (14) of former regulation 17 continue to apply in relation to a decision made under former regulation 17.

[Regulation 18I inserted in Gazette 5 Dec 2013 p. 5699.]

Division 7 — Sporting, cultural and entertainment events

[Heading inserted in Gazette 5 Dec 2013 p. 5700.]

18J. Terms used

In this Division —

approved event means an event approved under regulation 18(3);

approved venue means a venue approved under regulation 19B(7);

venue means any premises or public place;

venue approval means an approval granted under regulation 19B(7), as amended from time to time, that has effect.

[Regulation 18J inserted in Gazette 5 Dec 2013 p. 5700.]

18. Approved sporting, cultural and entertainment events

- (1) In this regulation —

ancillary condition means a condition designated as an ancillary condition under regulation 19A(1);

noise means noise associated directly with an approved event and does not include noise normally emitted from a venue (such as noise from plant, pumps and machinery) when it is not being used for the purposes of an approved event.

- (2) Despite any other regulation in this Part —

- (a) an approval under subregulation (3) has effect according to its terms; and
- (b) except to the extent that the regulation is applied as a condition under subregulation (3), regulation 7 does not apply to noise resulting from an approved event.

- (3) Where the CEO is satisfied that a proposed sporting, cultural or entertainment event that is to be open to the public —

- (a) is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7; and
- (b) would lose its character or usefulness if it were required to comply with that standard,

the CEO may approve the event, subject to such conditions as the CEO thinks fit, for the purposes of this regulation.

- (4) If a condition, other than an ancillary condition, imposed on an approved event under subregulation (3) or (8) is breached —
 - (a) the event ceases to be an approved event; and
 - (b) regulation 7 has effect in relation to that event.
- (5) An approval under subregulation (3) may extend to a practice or rehearsal or sound system test relating to an event even though the practice, rehearsal or sound system test is not open to the public.
- (6) An application for approval under subregulation (3) is to be —
 - (a) made not later than 60 days before the event to which the application relates is proposed to commence; and
 - (b) accompanied by an application fee of \$1 000.
- (7A) Despite subregulation (6)(a), an application may be made between 59 and 21 days before the event to which the application relates is proposed to commence if, in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.
- (7B) Despite subregulation (6)(a), an application may be made less than 21 days before the event to which the application relates is proposed to commence if —
 - (a) the CEO is satisfied that there are exceptional circumstances for the application not being made earlier than within that period; and
 - (b) in addition to the application fee, the application is accompanied by a late fee equal to one quarter of the application fee.
- (7) Conditions imposed under subregulation (3) may —
 - (a) limit the duration of practice and rehearsal sessions, sound system tests and the event;
 - (b) specify starting and completion times for practice and rehearsal sessions, sound system tests and the event;

- (c) specify times when facilities such as stages, temporary seating and lighting towers can be erected and dismantled; and
 - (d) specify any other requirements, including maximum allowable noise levels, considered necessary to maintain the impact of noise emissions on other premises at an acceptable level.
- (8) It is a condition imposed on the conduct of an approved event that, if the CEO determines that noise received as a result of the event —
 - (a) at any noise sensitive premises is likely to exceed 65 dB $L_{A\text{ Slow}}$ between 0700 hours and 1900 hours on any day or 60 dB $L_{A\text{ Slow}}$ between 1900 hours on any day and 0700 hours on the following day; or
 - (b) at any other premises is likely to exceed 75 dB $L_{A\text{ Slow}}$ at any time,the person to whom the approval is granted is to pay to the CEO, within the time specified by the CEO, a noise monitoring fee specified by the CEO.
- (9) The CEO may amend any condition to which an approved event is subject, but must before doing so —
 - (a) give to the person responsible for the conduct of the event at least 14 days' notice of the proposed amendment to enable the person to make written representations on the proposal; and
 - (b) where the condition was determined under subregulation (13), obtain the approval of the Minister.
- (10) A person to whom notice of a proposal is given under subregulation (9)(a) may by written agreement accept the proposal and waive the period of notice.
- (11) The CEO is not to approve the holding of more than 2 approved events in or at a particular venue in any period of 12 consecutive months unless the CEO is satisfied that the majority of

occupiers on whom the noise emissions will impact have no objection to the holding of the additional events.

- (12) An approval must not be granted unless —
- (a) the chief executive officer of the local government (the **local government CEO**) of each district in which noise emissions received from the event are likely to fail to comply with the standard prescribed under regulation 7 has no objection to the proposed conditions applicable to the approval; or
 - (b) if there is such an objection, the objection has been resolved under subregulation (13).
- (13) An objection of a local government CEO may be resolved by —
- (a) the CEO and the local government CEO agreeing on the conditions applicable to the approval; or
 - (b) if an agreement cannot be reached, the Minister determining the conditions after receiving the advice of the CEO.
- (14) The CEO may, if satisfied that the noise from approved events held at any 2 or more venues affects generally the same noise sensitive premises, determine that those venues are to be treated as a single venue for the purposes of subregulation (3) in which case subregulation (11) applies to those venues as if they were one venue.
- (15) Despite subregulation (6)(b), the CEO may, in his or her discretion, waive or reduce the application fee payable under subregulation (6).

[Regulation 18 amended in Gazette 5 Dec 2013 p. 5700-4.]

19A. Ancillary conditions: approved events

- (1) If an approval under regulation 18(3) is made subject to a condition, the CEO may, by written notice given to the person who applied for approval of the event, designate the condition

as an ancillary condition if the condition does not directly influence the level, duration or time of day of a noise emission.

- (2) A person who holds an approved event at a venue must ensure that any ancillary condition relating to the event is implemented.
Penalty: a fine of \$5 000.

[Regulation 19A inserted in Gazette 5 Dec 2013 p. 5704.]

19B. Approved venues for sporting, cultural or entertainment events

- (1) In this regulation —
notifiable event means a sporting, cultural or entertainment event that —
- (a) is open to the public; and
 - (b) is likely to result in noise emissions, other than community noise, that do not comply with the standard prescribed under regulation 7; and
 - (c) is not an approved event or an event for which application for approval under regulation 18 has been made.
- (2) The occupier of a venue may apply to the CEO for —
- (a) approval of the venue as a venue at which a number of notifiable events may be held during a period specified in the approval; or
 - (b) an amendment of a venue approval (other than an amendment of the period of the approval).
- (3) After the application is made, the CEO is to estimate the cost of assessing and processing the application.
- (4) The fee payable for assessing and processing the application is —
- (a) an amount equal to the cost estimated under subregulation (3); or

- (b) if that amount exceeds \$15 000, \$15 000.
- (5) The fee for assessing and processing the application must be paid by the applicant before assessment of the application commences.
- (6) The CEO may require an applicant to carry out such surveys and provide such other information as the CEO may specify in writing to the applicant before the CEO makes a decision under subregulation (7).
- (7) The CEO may, in writing —
 - (a) if the application is for the approval of a venue — approve, or refuse to approve, the venue;
 - (b) if the application is for an amendment of a venue approval — make, or refuse to make, the amendment.
- (8) Before making a decision under subregulation (7) the CEO —
 - (a) must give the following a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made —
 - (i) the Executive Director, Public Health;
 - (ii) the Director of Liquor Licensing;
 - (iii) the occupier of any noise sensitive premises within 1 km of the venue;
 - (iv) the local government of each district in which noise emissions received from the venue are likely to fail to comply with the standard prescribed under regulation 7;
 - and
 - (b) may give any other person the CEO considers appropriate in the circumstances a reasonable opportunity to make a submission on whether or not the venue should be approved or the amendment should be made.

- (9) A venue approval —
- (a) is subject to such conditions as the CEO thinks fit or is required to impose under subregulation (12) and sets out in the approval; and
 - (b) subject to subregulation (11) and regulation 19E, has effect for the period specified in the approval.
- (10) Without limiting subregulation (7), an amendment may vary a condition of a venue approval or impose a new condition on a venue approval.
- (11) If the occupier of a venue for which a venue approval (the **current approval**) has effect applies for a new approval of the venue not later than 3 months before the current approval would, apart from this regulation, cease to have effect (the **expiry day**), the current approval is taken to continue in effect from the expiry day until —
- (a) if the CEO grants a new approval — the day on which the new approval has effect; or
 - (b) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) at the end of the period within which an appeal against the decision may be lodged under regulation 19G, no appeal has been lodged,the day after that period ends; or
 - (c) if —
 - (i) the CEO refuses to grant a new approval; and
 - (ii) an appeal is lodged under regulation 19G against the decision to refuse to grant a new approval,the day the appeal is concluded.

- (12) The CEO must not approve a venue under subregulation (7) unless the conditions imposed on the approval —
- (a) specify the maximum number and type of notifiable events that may be held at the venue during a period specified in the approval; and
 - (b) specify the earliest time at which a notifiable event held at the venue may begin and the latest time at which a notifiable event may end; and
 - (c) specify the maximum duration of a notifiable event held at the venue; and
 - (d) specify the maximum allowable noise level of a notifiable event held at the venue; and
 - (e) specify the manner in which occupiers affected by noise emissions from a notifiable event at the venue are to be advised that the event is to be held at the venue; and
 - (f) specify the manner in which complaints from members of the public about noise emissions from a notifiable event at the venue are to be managed; and
 - (g) provide for the manner in which community consultation is to be conducted by the applicant for approval of the venue.

[Regulation 19B inserted in Gazette 5 Dec 2013 p. 5704-8.]

19C. Ancillary conditions: venue approval

- (1) The CEO may in a venue approval designate a condition imposed on the venue approval under regulation 19B(12)(e), (f) or (g) as an ancillary condition.
- (2) In the case of a condition imposed on a venue approval under regulation 19B(12)(e) or (f) and designated as an ancillary condition under subregulation (1), each of the following must ensure the condition is implemented —
 - (a) the occupier of the venue;
 - (b) a person who holds an event at the venue.

Penalty: a fine of \$5 000.

- (3) In the case of a condition imposed on a venue approval under regulation 19B(12)(g) and designated as an ancillary condition under subregulation (1), the occupier of the venue must ensure the condition is implemented.

Penalty: a fine of \$5 000.

[Regulation 19C inserted in Gazette 5 Dec 2013 p. 5708-9.]

19D. Notifiable event at approved venue

- (1) A person who proposes to hold an event at an approved venue that is a notifiable event of a type specified in the conditions of approval of the venue under regulation 19B(12)(a) must give the CEO notice of the event in accordance with this regulation.

Penalty: a fine of \$5 000.

- (2) A notice under subregulation (1) must —
- (a) be in a form approved by the CEO; and
 - (b) be given not later than 60 days before the event is proposed to commence; and
 - (c) give details of the event including the date, starting time and ending time of the event.
- (3) Despite subregulation (2)(b), a notice may be given between 59 days and 21 days before the event to which the notice relates is proposed to commence if the notice is accompanied by a late fee of \$500.
- (4) Despite subregulation (2)(b), notice may be given less than 21 days before the event to which the notice relates is proposed to commence if —
- (a) the CEO is satisfied that there are exceptional circumstances for the notice not being given earlier than within that period; and
 - (b) the notice is accompanied by a late fee of \$500.

- (5) The CEO may, by written notice given to a person who gives notice under subregulation (1), impose in relation to the notifiable event an ancillary condition that does not directly influence the level, duration or time of day of a noise emission.
- (6) If a notifiable event in respect of which notice has been given under subregulation (1) is held at an approved venue —
 - (a) the event is subject to the conditions imposed under regulation 19B(9)(a) that apply to a notifiable event held at the venue; and
 - (b) the event is subject to the ancillary conditions imposed under subregulation (5); and
 - (c) regulation 7 does not apply to noise resulting from the event at the venue.
- (7) If, at an approved venue during a notifiable event in respect of which notice has been given under this regulation, a condition imposed on the approval of the venue under regulation 19B(9)(a) (other than a condition designated as an ancillary condition under regulation 19C(1)) is breached —
 - (a) subregulation (6)(c) ceases to apply in relation to noise resulting from the event at the venue; and
 - (b) regulation 7 has effect in relation to that event.
- (8) A person who gives the CEO a notice of a notifiable event under subregulation (1) must pay to the CEO, within the time specified by the CEO, any noise monitoring fee specified by the CEO for that event.
- (9) If a fee is not paid under subregulation (8) before the day on which the notifiable event is to be held at the venue, the venue is not an approved venue for the purpose of that event.
- (10) A person who gives the CEO notice of a notifiable event under subregulation (1) must ensure that an ancillary condition

imposed under subregulation (5) in relation to the event is implemented.

Penalty for an offence under subregulation (10): a fine of \$5 000.

[Regulation 19D inserted in Gazette 5 Dec 2013 p. 5709-11.]

19E. Amendment or revocation of venue approval

- (1) The CEO may, on his or her own initiative, amend a venue approval if the CEO is satisfied that there is reasonable cause for the amendment.
- (2) The CEO may, on his or her own initiative, revoke a venue approval if the CEO is satisfied that —
 - (a) there has been a breach of a condition imposed by the CEO under regulation 19B(9)(a); or
 - (b) information contained in or supporting the application for approval of the venue was false or misleading in a material respect.
- (3) A venue approval ceases to have effect if it is revoked under this regulation.
- (4) The CEO, before exercising the power of amendment under subregulation (1) or revocation under subregulation (2), must —
 - (a) give the occupier of the venue a reasonable opportunity to show cause in writing why that power should not be exercised; and
 - (b) give the persons referred to in regulation 19B(8)(a) a reasonable opportunity to make a submission on whether or not that power should be exercised.
- (5) An opportunity is not a reasonable opportunity for the purposes of subregulation (4) unless the relevant person is informed of the right to show cause or make a submission under that

subregulation not less than 90 days before the day on which the CEO exercises the power in question.

[Regulation 19E inserted in Gazette 5 Dec 2013 p. 5711-12.]

19F. Notice of appellable decision

- (1) In this regulation —
appellable decision has the meaning given in regulation 19G.
- (2) The CEO —
 - (a) must give a written notice of an appellable decision to the occupier of the relevant venue; and
 - (b) may give written notice of the appellable decision to such other persons as the CEO thinks fit; and
 - (c) must cause notice, and such particulars as the CEO thinks fit, of the appellable decision to be published in the *Gazette*.

[Regulation 19F inserted in Gazette 5 Dec 2013 p. 5712.]

19G. Appeals against decisions under this Division

- (1) A person aggrieved by any of the following decisions (an ***appellable decision***) of the CEO may lodge with the Minister an appeal in writing setting out the grounds of that appeal —
 - (a) the approval of a venue under regulation 19B(7)(a);
 - (b) the refusal to approve a venue under regulation 19B(7)(a);
 - (c) the imposition of a condition on an approval under regulation 19B(9)(a);
 - (d) the specification under regulation 19B(9)(b) of a period as the period for which the approval has effect;
 - (e) the amendment of an approval under regulation 19B(7)(b);
 - (f) the refusal to amend an approval under regulation 19B(7)(b);

- (g) the amendment of an approval under regulation 19E(1);
 - (h) the revocation of an approval under regulation 19E(2).
- (2) The appeal must be lodged within 21 days of publication of notice of the decision under regulation 19F(2)(c).
- (3) Pending the determination of an appeal lodged under subregulation (1)(a), (b), (c) or (d), the decision against which that appeal is lodged continues to have effect.
- (4) Pending the determination of an appeal lodged under subregulation (1)(e), (f), (g) or (h) the decision is to be taken not to have been made.
- (5) Sections 105 to 110 of the Act apply to an appeal lodged under subregulation (1) as if that appeal were an appeal referred to in section 102(1) of the Act.

[Regulation 19G inserted in Gazette 5 Dec 2013 p. 5712-13.]

Part 3 — Noise measurement

19. Place of measurement of noise

- (1) In this regulation —
boundary, in relation to premises, means the apparent or reputed boundary of the premises.
- (2) For the purposes of Part 2, unless otherwise provided in regulation 21, measurement of noise on premises must be made —
 - (a) if the premises comprise a building or buildings and surrounding land, within the boundary of the surrounding land, but is not to be made inside a building unless —
 - (i) the use of the building is directly associated with the type of premises receiving the noise; and
 - (ii) the building is of a type of construction that is typical of buildings so used;
 - (b) where the premises comprise a building or part of a building without surrounding land, inside the premises;
 - (c) where the premises receiving the noise comprise part of a building and the noise is being emitted from another part of that building, inside the part of the building which is receiving the noise;
 - (d) where the premises receiving the noise comprise a building which shares a common wall with another building and the noise is being emitted from the second-mentioned building, inside the building which is receiving the noise.
- (3) Where premises comprise a caravan park or camping ground, measurement of noise must not be made inside a caravan, camp or park home within the meaning of those terms under the *Caravan Parks and Camping Grounds Act 1995*.

- (4) Where a measurement is made inside a building —
 - (a) external windows and doors must be shut and the measurement must be adjusted by adding 15 dB; or
 - (b) external windows and doors must be open and the measurement must be adjusted by adding 10 dB.

20. Measurement of noise at premises

- (1) This regulation does not apply to the measurement of airblast levels.
- (2) Noise measurement must be made with the measuring microphone located at least 1.2 metres above the ground or floor plane.
- (3) Outdoor noise measurements should be made with the measuring microphone located at least 3 metres from any substantial sound reflecting surface (other than the ground plane).
- (4) If it is not practicable to comply with subregulation (3), the microphone must be located as far as practicable from substantial sound reflecting surfaces (other than the ground plane).
- (5) If noise measurements are made indoors, the measurement position must be at least one metre from any open external window or door.

21. Measurement of airblast levels

- (1) For the purposes of regulation 11, measurement of airblast levels must be made outside or, if it is not possible to make a measurement outside on a particular premises, outside at a location as close as practicable to the premises.
- (2) Airblast level measurements must be made with the measuring microphone located 1.2 metres to 1.6 metres above the ground plane.

r. 22

- (3) Airblast level measurements must be made with the measuring microphone located at least 5 metres from any substantial sound reflecting surface (other than the ground plane).

22. Instruments to comply with Schedule 4

- (1) Measurement and assessment of noise emissions for the purposes of these regulations must be made with instruments that are calibrated in accordance with and otherwise comply with Schedule 4.
- (2) An instrument for which a certificate has been issued under clause 2 of Schedule 4 within the 2 year period immediately preceding the date of its use is taken to have been calibrated in accordance with Schedule 4.
- (3) Where immediately before the commencement of these regulations an instrument complied with regulation 16(2) of the *Noise Abatement (Neighbourhood Annoyance) Regulations 1979*⁴, the instrument is to be taken to comply with Schedule 4 until the expiration of 2 years from the last date on which that instrument was calibrated.

23. Calibration results to be available

The owner or person in control of a calibration laboratory must —

- (a) retain complete details of all calibration measurements undertaken, and all calibration results obtained, under Schedule 4 for a period of not less than 3 years from the date of calibration; and
- (b) at the CEO's written request make those results available to the CEO.

Penalty: \$5 000.

[Regulation 23 amended in Gazette 11 Dec 1998 p. 6613; 5 Dec 2013 p. 5714.]

[Part 4 (r. 24, 25) omitted under the Reprints Act 1984 s. 7(4)(e) and (f).]

[Part 5 (r. 26) deleted in Gazette 5 Dec 2013 p. 5714.]

Schedule 1

[Regulation 2]

Classification of premises

Part A — Industrial and utility premises

1. Premises used for the purpose of providing water, sewerage, electricity, gas, drainage, communications, passenger transport or other similar services.
2. Premises used by aircraft or ships or as a freight yard.
3. Premises used for the carrying out of any process for and incidental to —
 - (a) production, processing or manufacture;
 - (b) dismantling or breaking up equipment;
 - (c) repairing, laundering and servicing of equipment and buildings, but not including on-site work on buildings;
 - (d) packaging;
 - (e) outdoor storage not in association with any other activity on the site, but not including a vehicle sales yard.
4. A mine within the meaning of the *Mines Safety and Inspection Act 1994*.
5. Without limiting item 4, any premises used for sand, gravel, clay, limestone, or rock excavation.
6. Waste disposal sites and premises used for carrying out any process for and incidental to the treatment of waste.
7. Grounds, administrative premises, and premises or parts of premises used for the personal comfort, convenience or enjoyment of leisure of employees, or persons otherwise engaged in the conduct of an industry or utility, where those premises are attached to or form part of premises referred to in this Part.
8. Caretaker's and like residences attached to or forming part of premises referred to in this Part.

Part B — Commercial premises

1. Offices — premises used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services and services of a similar nature.

-
2. General retail shops, small retail shops and special retail shops within the meaning of the *Retail Trading Hours Act 1987*, showrooms, warehouses and wholesale sales places and display areas.
 3. Premises in or from which meals or food are sold to the public.
 4. Filling stations within the meaning of the *Retail Trading Hours Act 1987* but not including premises where motor body works are carried out.
 5. Indoor premises used for public amusement — theatres, cinemas, dance halls, skating rinks, gymnasiums or otherwise for games or for the recreation or entertainment requirements of the public; public swimming pools.
 6. Premises used principally to provide entertainment or amusement by the use of mechanical amusement structures within the meaning of the *Occupational Safety and Health Regulations 1996*.
 7. Taverns, hotels, club premises and reception lodges which do not provide accommodation for the public.
 8. Health centres — premises used for medical, maternal or x-ray centres, district clinics, physiotherapy, pathology, radiology, paramedical and other ancillary services and which do not provide in-patient services.
 9. Hospitals having accommodation for 150 or more in-patients.
 10. Premises used principally for meetings of community, professional, business, social or cultural groups.
 11. Premises used for the carrying out of any process of and incidental to testing or analysis of articles, goods or materials.
 12. Veterinary clinics and premises, other than rural premises, used for the care, boarding or breeding of animals.
 13. Grounds, administrative premises, and premises or parts of premises used for the personal comfort, convenience or enjoyment of leisure of employees, or persons otherwise engaged in the conduct of commerce, where those premises are attached to or form part of premises referred to in this Part.
 15. Caretaker's and like residential premises attached to or forming part of premises referred to in this Part.

Part C — Noise-sensitive premises

1. Premises occupied solely or mainly for residential or accommodation purposes.
2. Rural premises.

3. Premises used for the purpose of —
 - (a) a caravan park or camping ground;
 - (b) a hospital having accommodation for less than 150 in-patients;
 - (c) a sanatorium, home or institution for care of persons, a rehabilitation centre, home or institution for persons requiring medical or rehabilitative treatment;
 - (d) education — school, college, university, technical institute, academy or other educational centre, lecture hall or other premises used for the purpose of instruction;
 - (e) public worship;
 - (f) a tavern, hotel, club premises, reception lodge or other premises which provides accommodation for the public;
 - (g) aged care;
 - (h) child care;
 - (i) a prison or detention centre.
4. Any other premises not referred to in Part A or Part B of this Schedule.

Schedule 2 — Community noise

[r. 16]

[Heading inserted in Gazette 5 Dec 2013 p. 5716.]

- | Item | Activity |
|-------------|--|
| 1. | Noise emitted by spectators at a sporting activity that is — <ul style="list-style-type: none">(a) arranged by a sporting organization;(b) conducted at a sporting venue; or(c) advertised prior to the conduct of the event. |
| 2. | Noise emitted by participants and spectators at a meeting or procession authorised under a permit granted under the <i>Public Order in Streets Act 1984</i> . |
| 3. | Noise emitted from an assembly convened solely for the purpose of divine worship where — <ul style="list-style-type: none">(a) the noise is not noise of a kind referred to in regulation 15(2); and(b) the premises or public place on which the worship takes place is land which is referred to in section 6.26(2)(d), (e) or (f) of the <i>Local Government Act 1995</i>. |
| 4. | Noise emitted as a consequence of a recreational or educational activity from premises occupied for educational purposes if the activity — <ul style="list-style-type: none">(a) is conducted under the control of the occupier of the premises; and(b) does not include the use of mechanical equipment other than musical instruments. |
| 5. | Noise emitted from agricultural shows, fairs, fetes, exhibitions and like events. |

[Schedule 2 amended in Gazette 5 Dec 2013 p. 5716.]

Schedule 3

[Regulation 8]

Determination of influencing factor on noise sensitive premises

1. Interpretation

(1) In this Schedule —

average daily traffic count means the average daily traffic count as estimated under subclause (2);

inner circle means a circle having a radius of 100 metres referred to in clause 2(1);

land use map means —

- (a) a map prepared and in use by a local government for the purposes of imposing differential general rates;
- (b) a map that is included in a town planning scheme in force under the *Town Planning and Development Act 1928*; and
- (c) a map that is included in a redevelopment scheme referred to in section 6(4) of the *Town Planning and Development Act 1928*;

major road means a road estimated to have an average daily traffic count of more than 15 000 vehicles;

mining operation has the same definition as in the *Mines Safety and Inspection Act 1994* but does not include mining operations of a kind referred to in paragraph (a), (h) or (k) of that definition;

outer circle means a circle having a radius of 450 metres referred to in clause 2(1);

secondary road means a road estimated to have an average daily traffic count of 6 000 to 15 000 vehicles;

transport factor means —

- (a) for a major road where any point inside the road reserve is present in the relevant inner circle, a transport factor of 6 dB;
- (b) for a major road where any point inside the road reserve is present in the relevant outer circle, a transport factor of 2 dB;

- (c) for each secondary road where any point inside the road reserve is present in the relevant inner circle, a transport factor of 2 dB.
- (2) The average daily traffic count of a road is to be estimated —
 - (a) by reference to the latest edition of the Main Roads Western Australia publication “Average Weekday Traffic Flows”; or
 - (b) if the average daily traffic count of a road cannot be estimated by reference to that publication, by conducting a traffic count to estimate the average daily traffic count of that road.
- (3) If the average daily traffic count of a road is not estimated under subclause (2), that road is to be taken not to be a major or secondary road.

2. Influencing factor

- (1) The influencing factor for noise received on noise sensitive premises is to be determined as follows —
 - (a) using an appropriate land use map, 2 concentric circles, having radii representing 100 metres and 450 metres, and centred on the measurement point on the noise sensitive premises are to be drawn;
 - (b) subject to subclause (2) the land within the circles that is —
 - (i) Type A — industrial and utility premises; or
 - (ii) Type B — commercial premises,is to be identified as such by reference to one or more appropriate land use maps; and
 - (c) the area of each type of premises is to be calculated as a percentage of the full area of each circle and used to determine the Influencing Factor to the nearest dB in accordance with the following formula —

$$\begin{aligned} \text{Influencing Factor in dB} = & \frac{1}{10} (\text{sum of Type A percentages} \\ & \text{for both circles}) + \\ & \frac{1}{20} (\text{sum of Type B percentages} \\ & \text{for both circles}) + \\ & \text{transport factor or 6, whichever is} \\ & \text{the lesser amount} \end{aligned}$$

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(Note that the fractions of the land use types in the inner circle are included in both circles).

- (2) If it is not possible to identify the land for the purposes of subclause (1)(b) by reference to a land use map, the land within the circles is to be identified by determining the actual land use at the time the noise was received.
- (3) If the land within either of the circles —
 - (a) is land on which a mining operation is carried on; and
 - (b) is categorised on the land use map as land used for purposes other than for industrial or utility purposes,the land within the circles that includes the mining operation is to be taken to be Type A land for the purposes of subclause (1).
- (4) If the land within either of the circles —
 - (a) is within the boundary of Area B of the Kwinana Policy Area within the meaning of the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1992*; and
 - (b) is categorised on the land use map as land used for purposes other than for industrial or utility purposes,that land is taken to be Type B land for the purposes of subclause (1).
- (5) Where a noise emission from any premises located within the boundaries of the area known as the Kemerton Industrial Park Policy Area, as specified in the Shire of Harvey District Planning Scheme No. 1, is assessed, an adjustment of 5 dB is to be added to the influencing factor determined under subclause (1) at the point of reception of the noise emission in respect of any period between —
 - (a) 0900 hours and 1900 hours on a Sunday or public holiday;
 - (b) 1900 hours and 2200 hours on any day;
 - (c) 2200 hours and 0700 hours on Monday to Saturday inclusive; and
 - (d) 2200 and 0900 hours on a Sunday or public holiday.
- (6) If the land within either of the circles is used for —
 - (a) a road reserve;
 - (b) a railway reserve;

- (c) a drainage easement;
- (d) a powerline easement or reserve;
- (e) a pipeline or aqueduct easement or reserve;
- (f) a water storage dam; or
- (g) an airport,

that land is not to be taken to be Type A or Type B land for the purposes of subclause (1).

Schedule 4

[Regulation 22]

Rules for sound level measuring equipment

1. References to AS Z41-1969

In this Schedule, references to AS Z41-1969 and clauses of that standard, are, when AS/NZS 4476:1997, Acoustics — Octave-band and fractional-octave-band filters comes into operation, to be read as references to the second-mentioned standard and the relevant clauses of that standard.

2. Sound level measuring instruments

- (1) Sound level measuring instruments must meet or exceed the requirements of the relevant sections of AS 1259.1-1990 Sound Level Meters Part 1: Non-integrating for type 0, type 1 or type 2 meters.
- (2) In addition to the requirements of subclause (1), sound level measuring instruments which include integrating functions must meet or exceed the requirements of the relevant sections of AS 1259.2-1990 Sound Level Meters Part 2: Integrating for type 0, type 1 or type 2 meters, as applicable to the integrating functions.
- (3) Sound level measuring instruments not covered by subclauses (1) and (2), including magnetic tape recorders, level recorders, spectrum analysers and computers, must meet or exceed the relevant performance requirements of a type 2 sound level meter.
- (4) Filter sets used with any sound level meter must meet or exceed the requirements specified in clauses 7 and 8.1(a) of AS Z41-1969 Octave, Half Octave and One Third Octave Band Pass Filters Intended for the Analysis of Sound and Vibrations.
- (5) Standard sound sources (acoustic calibrators and piston phones) used for field performance checks must meet or exceed the relevant requirements of IEC Standards Publication 942-1988 for class 2 sound sources.

3. Calibration of sound level measuring instruments

(1) In this clause —

approved calibration laboratory means a calibration laboratory —

- (a) registered with the National Association of Testing Authorities (“NATA”) for the calibration of sound level measuring instruments in accordance with the relevant provisions of AS 1259-1990, AS Z41-1969 and IEC Standards Publication 942-1988; or
- (b) approved by the Chief Executive Officer for calibration of sound level measuring instruments in accordance with the relevant provisions of AS 1259-1990, AS Z41-1969 and IEC Standards Publication 942-1988 or for calibration of instruments used for the measurement of airblast under clause 5.

(2) A sound level measuring instrument must not be used for the purposes of these regulations unless —

- (a) the instrument has been calibrated in an approved calibration laboratory within the 2 year period immediately preceding the date of its use; and
- (b) the owner or a person in control of the laboratory has issued a certificate —
 - (i) identifying the laboratory undertaking the calibration;
 - (ii) identifying the instrument by type, manufacturer and serial number;
 - (iii) recording the date of calibration;
 - (iv) certifying that the calibration procedures followed were in accordance with the terms of the NATA registration of the laboratory or the procedures specified in the approval of the laboratory by the Chief Executive Officer;
 - (v) certifying that the sound level measuring instrument complies with the relevant provisions of AS 1259-1990, AS Z41-1969 and IEC Standards Publication 942-1988; and

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- (vi) specifying the standard or standards, and the clause numbers of the standard or standards, against which the instrument has been calibrated.
- (3) The certificate referred to in subclause (2)(b) is not required to give detailed results of individual tests but must provide sufficient information to indicate that the instrument has met the relevant requirements of the standards against which it was calibrated.

4. Field performance checks

- (1) A sound level measuring instrument —
 - (a) must be subjected to field performance checks using a standard sound source that complies with clause 2(5) as nearly as practicable immediately prior to, and immediately after, a measurement or set of measurements is to be, or has been, made using the instrument;
 - (b) must indicate, after adjustment of its sensitivity if necessary and before it is used to make measurements, the stated level of the standard sound source within + or - 0.5 dB; and
 - (c) must indicate, without further adjustment of its sensitivity, the stated level of the standard sound source within + or - 0.5 dB after the instrument is used.
- (2) If the sound level measuring instrument does not comply with subclause (1) the results of the measurement made by the instrument must not be used.

5. Instrument used for measurement of airblast levels

- (1) For the purposes of regulation 11, airblast levels resulting from blasting must be measured using sound level measuring instruments having the capability to measure in linear peak hold ($L_{\text{Linear peak}}$) mode.
- (2) Sound level measuring instruments which are used for measuring airblast levels from blasting must, in addition to being calibrated in accordance with clause 3 and checked in accordance with clause 4 —
 - (a) be calibrated to establish that their sensitivity remains within + 0 dB and - 3 dB of the sensitivity at 100 Hz when tested at selected frequencies within the range 2 Hz to 10 Hz; and
 - (b) have an upper frequency response of at least 500 Hz.

- (3) Sound level measuring instruments which do not meet the requirements of subclause (2) must not be used for airblast measurements.

Notes

- ¹ This is a compilation of the *Environmental Protection (Noise) Regulations 1997* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Environmental Protection (Noise) Regulations 1997</i>	31 Oct 1997 p. 6035-74	31 Oct 1997
<i>Environmental Protection (Miscellaneous Amendments) Regulations 1998 Pt. 5</i>	11 Dec 1998 p. 6597-614	8 Jan 1999 (see r. 2)
<i>Environmental Protection (Noise) Amendment Regulations 2000</i>	7 Nov 2000 p. 6143-4	7 Nov 2000
Reprint 1: The <i>Environmental Protection (Noise) Regulations 1997</i> as at 7 Nov 2003 (includes amendments listed above)		
<i>Environmental Protection (Noise) Amendment Regulations 2013</i> (other than r. 14, 27, 30-33 and 36-39)	5 Dec 2013 p. 5641-724	r. 1 and 2: 5 Dec 2013 (see r. 2(a)); Regulations other than r. 1, 2, 14, 27, 30-33 and 36-39: 6 Dec 2013 (see r. 2(b))

- ^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Citation	Gazettal	Commencement
<i>Environmental Protection (Noise) Amendment Regulations 2013</i> r. 14, 27, 30-33 and 36-39 ⁵	5 Dec 2013 p. 5641-724	5 Mar 2014 (see r. 2(c))

- ² The Standards Association of Australia has changed its corporate status and its name. It is now Standards Australia International Limited (ACN 087 326 690). It also trades as Standards Australia.
- ³ Repealed by the *Road Traffic Code 2000*.
- ⁴ Repealed by r. 24.

⁵ On the date as at which this compilation was prepared, the *Environmental Protection (Noise) Amendment Regulations 2013* r. 14, 27, 30-33 and 36-39 had not come into operation. They read as follows:

14. Regulation 11 replaced

Delete regulation 11 and insert:

11. Airblast levels due to blasting

(1) In this regulation —

airblast level means a noise level resulting from blasting;

blaster, in relation to blasting on any premises or public place, means —

- (a) in the case of premises — the occupier of the premises; or
- (b) in the case of a public place — the person who under regulation 6(1)(b) is to be treated as the occupier of the public place;

building has the meaning given in regulation 8(1);

$L_{Z\text{ peak}}$ means the peak sound pressure level in decibels (dB) obtained using the “Z” frequency weighting characteristic as specified in AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, with sound measuring equipment that complies with the requirements of Schedule 4;

sensitive site, in relation to noise sensitive premises, means —

- (a) a building, or a part of a building, on the premises that is used for a noise sensitive purpose; or
- (b) any other location on the premises within 30 metres of that building or that part of the building.

(2) For the purposes of paragraph (a) of the definition of **sensitive site** in subregulation (1), a building, or a part of a building, that is inhabited in contravention of the *Health Act 1911* section 136 or 144, or any other enactment relating to the use of buildings for human habitation, is taken not to be used for a noise sensitive purpose.

(3) The provisions of this regulation have effect in relation to airblast levels in place of regulation 7.

(4) Subject to subregulation (5), no airblast level resulting from blasting on any premises or public place, when received at any

other premises between 0700 hours and 1800 hours on any day, may exceed —

- (a) for an airblast level received at noise sensitive premises —
 - (i) when received at a sensitive site — 120 dB $L_{Z\ peak}$; or
 - (ii) when received at a location other than a sensitive site — 125 dB $L_{Z\ peak}$;
 - or
 - (b) for an airblast level received at any other premises — 125 dB $L_{Z\ peak}$.
- (5) The levels specified in subregulation (4) do not apply in respect of an airblast level when received at premises, or a part of premises, on which the blaster believes on reasonable grounds no person is present at the time of the blast.
- (6) Despite subregulation (4), airblast levels for 9 in any 10 consecutive blasts (regardless of the interval between each blast), when received at any other single premises between 0700 hours and 1800 hours on any day, must not exceed —
- (a) for airblast levels received at noise sensitive premises —
 - (i) when received at a sensitive site — 115 dB $L_{Z\ peak}$; or
 - (ii) when received at a location other than a sensitive site — 120 dB $L_{Z\ peak}$;
 - or
 - (b) for airblast levels received at any other premises — 120 dB $L_{Z\ peak}$.
- (7) For the purposes of subregulation (6), an airblast level for a blast that would, but for this subregulation, exceed a level specified in subregulation (6)(a)(i) or (ii) or (b) is taken not to exceed that level when received at premises, or a part of premises, on which the blaster believes on reasonable grounds no person is present at the time of the blast.
- (8) Subject to subregulation (9), no airblast level resulting from blasting on any premises or public place, when received at other premises outside the periods between 0700 hours and 1800 hours on any day, may exceed 90 dB $L_{Z\ peak}$ except where that blasting is carried out in accordance with the *Mines Safety and Inspection Regulations 1995* regulation 8.28(4).
- (9) The level specified in subregulation (8) does not apply in respect of an airblast level when received at premises, or a part of

premises, on which the blaster believes on reasonable grounds no person is present at the time of the blast.

- (10) Where blasting is carried out in accordance with the *Mines Safety and Inspection Regulations 1995* regulation 8.28(4) outside the periods between 0700 hours and 1800 hours on any day —
- (a) the blasting is taken to be carried out between 0700 hours and 1800 hours; and
 - (b) subregulations (4), (5), (6) and (7) apply accordingly.
- (11) For the purposes of this regulation, an airblast level may be determined by —
- (a) measurement at its point of reception when, to the extent practicable, other noises that would contribute to the measured airblast level are not present; or
 - (b) calculation of the airblast level at its point of reception based on measurement of the airblast level at a reference point determined by the inspector or authorised person to be a point where the relationship between the airblast level as measured at the reference point and at the point of reception can be established.

27. Regulation 22 replaced

Delete regulation 22 and insert:

22. Sound measuring equipment must comply with Schedule 4

- (1) Measurement and assessment of noise emissions for the purposes of these regulations must be made with sound measuring equipment that is calibrated in accordance with and otherwise complies with Schedule 4.
- (2) Sound measuring equipment for which a certificate has been issued under Schedule 4 clause 2(2) within the 2 year period immediately preceding the date of its use is taken to have been calibrated in accordance with Schedule 4.

30. Schedule 1 heading replaced

In Schedule 1:

- (a) delete “**Schedule 1**”;
- (b) delete “[Regulation 2]”;
- (c) delete “**Classification of premises**” and insert:

Schedule 1 — Classification of premises

[r. 2]

31. Schedule 1 Part A amended

- (1) Delete Schedule 1 Part A item 1 and insert:
 - 1. Premises used for the purpose of providing sewerage, electricity, gas, drainage, passenger transport or other similar services.
 - 2A. Premises used for the purpose of providing water other than a water storage dam or catchment for a water storage dam.
- (2) In Schedule 1 Part A item 3:
 - (a) in paragraph (e) delete “vehicle sales yard.” and insert:

vehicle sales yard; or
 - (b) after paragraph (e) insert:

printing.
 - (c) after each of paragraphs (a) to (d) insert:

or

32. Schedule 1 Part B amended

After Schedule 1 Part B item 13 insert:

- 14. Premises used for the purpose of providing communications.

33. Schedule 1 Part C amended

- (1) Delete the heading to Schedule 1 Part C and insert:

Part C — Noise sensitive premises

- (2) In Schedule 1 Part C item 3:
 - (a) in paragraph (i) delete “centre.” and insert:

centre; or
 - (b) after paragraph (i) insert:
- (j) a water storage dam or a catchment for a water storage dam.
 - (c) after each of paragraphs (a) to (h) insert:

or

36. Schedule 3 heading replaced

In Schedule 3:

- (a) delete “**Schedule 3**”;
- (b) delete “[Regulation 8]”;
- (c) delete “**Determination of influencing factor on noise sensitive premises**” and insert:

Schedule 3 — Determination of influencing factor on noise sensitive premises

[r. 8]

37. Schedule 3 clause 1 amended

- (1) In Schedule 3 clause 1(1) delete the definition of *land use map*.
- (2) In Schedule 3 clause 1(1) insert in alphabetical order:

Kwinana Policy Area means the Policy Area as defined in the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1999* clause 3(1);

land use map means —

- (a) a map prepared and in use by a local government for the purposes of imposing differential general rates; and
- (b) a map that is included in a planning scheme as defined in the *Planning and Development Act 2005* section 4(1);
and

- (c) a map that is included in a redevelopment scheme referred to in the *Planning and Development Act 2005* section 71;
- (3) Delete Schedule 3 clause 1(2) and insert:
 - (2) The average daily traffic count of a road is to be estimated —
 - (a) by reference to the latest average weekday traffic flows published by Main Roads Western Australia; or
 - (b) if the average daily traffic count of a road cannot be estimated by reference to that data, by conducting a traffic count to estimate the average daily traffic count of that road.
- 38. Schedule 3 clause 2 amended**
 - (1) After Schedule 3 clause 2(1) insert:
 - (2A) If the land within either of the circles is categorised on the land use map as land in respect of which mixed uses are permitted, the use of that land that results in the highest influencing factor is to be used in the determination of the influencing factor.
 - (2) Delete Schedule 3 clause 2(4) and insert:
 - (4) Subclauses (5A) and (5B) apply when determining the influencing factor under subclause (1) for noise emissions from industrial and utility premises in Area A or B of the Kwinana Policy Area, when received at noise sensitive premises in Area A or B of the Kwinana Policy Area.
 - (5A) If land within either of the circles —
 - (a) is within Area A or B of the Kwinana Policy Area; and
 - (b) is categorised on the land use map as —
 - (i) land used for industrial or utility purposes that are service industry or light industry purposes; or
 - (ii) land used for purposes other than for industrial, utility or commercial purposes,

the land is taken to be Type B land for the purposes of subclause (1) unless the land is land to which subclause (6) applies.

- (5B) Subject to subclause (5C), if land within 450 metres of the measurement point on noise sensitive premises —
- (a) is within Area A or B of the Kwinana Policy Area; and
 - (b) is land in respect of which no land use map applies,

then, for the purposes of identifying the land under subclause (1)(b), the land is to be identified by determining the actual land use at the time the noise was received.

- (5C) If the land referred to in subclause (5B) —
- (a) is land used for industrial or utility purposes that are service industry or light industry purposes; or
 - (b) is land used for purposes other than for industrial, utility or commercial purposes,

the land is taken to be Type B land for the purposes of subclause (1) unless the land is land to which subclause (6) applies.

- (3) Delete Schedule 3 clause 2(6)(f).

- (4) After Schedule 3 clause 2(6) insert:

- (7) If the land within either of the circles —
- (a) is used for poultry farming; and
 - (b) is categorised on the land use map as land used for purposes other than industrial, utility or commercial purposes,

that land is taken to be Type B land for the purposes of subclause (1), but if the sum of Type B percentages for both circles exceeds 100% that sum is to be taken to be 100%.

- (8) If the land within the inner circle —
- (a) is used for a sporting facility; and
 - (b) has a building, on the whole or part of that land, that is directly associated with that use; and
 - (c) is categorised on the land use map as land used for purposes other than industrial, utility or commercial purposes,

an adjustment of 2 dB is to be added to the influencing factor determined under subclause (1) at the point of reception of the noise emission.

- (5) In Schedule 3 clause 2(6) after each of paragraphs (a) to (e) insert:

or

39. Schedule 4 replaced

Delete Schedule 4 and insert:

Schedule 4 — Rules for sound measuring equipment

[r. 22]

1. Sound measuring equipment

- (1) Sound level meters must meet or exceed the requirements of the relevant sections of AS IEC 61672.1-2004 Electroacoustics-Sound level meters Part 1: Specifications, for class 1 or class 2 meters, as the case requires.
- (2) Sound measuring equipment not covered by subclause (1), including analog and digital audio recording devices, level recorders, spectrum analysers and computers must —
 - (a) meet or exceed the relevant performance requirements of a class 2 sound level meter; or
 - (b) not degrade the performance of another item of equipment below that of a class 2 sound level meter.
- (3) Filter sets used with any sound level meter or spectrum analyser must meet or exceed the relevant requirements specified in AS/NZS 4476: 1997 Acoustics-Octave-band and fractional-octave-band filters.
- (4) Standard sound sources (acoustic calibrators and piston phones) used for field performance checks must meet or exceed the relevant requirements of AS IEC 60942-2004 Electroacoustics-Sound calibrators, for class 1 or class 2 sound sources, as the case requires.

2. Calibration of sound measuring equipment

(1) In this clause —

approved calibration laboratory means —

- (a) a calibration laboratory accredited by the National Association of Testing Authorities (the *NATA*) for the calibration of sound measuring equipment; or
- (b) a calibration laboratory approved by the CEO for calibration of sound measuring equipment; or
- (c) the National Measurement Institute referred to in the *National Measurement Act 1960* (Commonwealth) section 17;

approved person means —

- (a) in relation to a calibration laboratory accredited by NATA, a person who is authorised by NATA to sign calibration certificates on behalf of the laboratory; or
- (b) in relation to a calibration laboratory approved by the CEO, a person authorised in that approval to sign calibration certificates; or
- (c) in relation to the National Measurement Institute, a person authorised by the Institute to sign calibration certificates for sound measuring equipment.

(2) Sound measuring equipment must not be used for the purposes of these regulations unless —

- (a) the equipment has been calibrated in an approved calibration laboratory within the 2 year period immediately preceding the date of its use; and
- (b) an approved person has issued a certificate —
 - (i) identifying the laboratory undertaking the calibration; and
 - (ii) identifying the equipment by type, manufacturer and, if the equipment has a serial number, by the serial number; and
 - (iii) recording the date of calibration; and
 - (iv) certifying that the calibration procedures followed were in accordance with the terms of the NATA accreditation of the laboratory or the procedures specified in the approval of the laboratory by the CEO; and
 - (v) certifying that the sound measuring equipment complies with the relevant provisions of AS IEC 61672.1-2004 Electroacoustics-Sound level

meters Part 1: Specifications, AS/NZS 4476: 1997 Acoustics-Octave-band and fractional-octave-band filters, AS IEC 60942-2004 Electroacoustics-Sound calibrators and the requirements of clause 4(2); and

- (vi) specifying the standard or standards, and the clause numbers of the standard or standards, against which the equipment has been calibrated.

- (3) The certificate referred to in subclause (2)(b) is not required to give detailed results of individual tests but must provide sufficient information to indicate that the equipment has met the relevant requirements of the standards against which it was calibrated.

3. Field performance checks

- (1) Sound measuring equipment referred to in clause 1(1), (2) and (3) —
 - (a) must be subjected to field performance checks by measuring or recording the signal from a standard sound source that complies with clause 1(4) before and after a measurement, a set of measurements or a recording is to be, or has been, made using the equipment; and
 - (b) must indicate, after adjustment of its sensitivity if necessary and before it is used to make measurements or to analyse a recording, the stated level of the standard sound source within + or – 0.5 dB; and
 - (c) must indicate, without further adjustment of its sensitivity, the stated level of the standard sound source within + or – 0.5 dB after the equipment is used or the recording is analysed.
- (2) If the sound measuring equipment does not comply with subclause (1) the results of the measurement made by the equipment must not be used.

4. Equipment used for measurement of airblast levels

- (1) For the purposes of regulation 11, airblast levels resulting from blasting must be measured using sound measuring equipment having the capability to measure $L_{Z\ peak}$ in peak hold mode.
- (2) Sound measuring equipment which is used for measuring airblast levels from blasting must be calibrated in accordance with clause 2 and checked in accordance with clause 3 except that —
 - (a) it must be calibrated to establish that its sensitivity remains within + 1 dB and – 4 dB of the sensitivity at

100 Hz when tested over the frequency range 2 Hz to 500 Hz; and

- (b) it does not have to be certified as complying with the relevant parts of AS IEC 61672.1–2004 specifying frequency response requirements.
- (3) Sound measuring equipment which does not meet the requirements of subclause (2) must not be used for airblast measurements.

Defined terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
airblast level	11(1)
amending provision.....	18I(1)
amplified call to worship	15(1)
ancillary condition	18D(1), 18(1)
ancillary measure	13(1), 14A(1), 16A, 16B
appellable decision.....	16AD(1), 16AE(1), 16BD(1), 16BE(1), 19F(1), 19G(1)
approved calibration laboratory	Sch. 4 cl. 3(1)
approved event.....	18J
approved noise management plan	16A, 16B
approved venue	18J
assigned level.....	2(1)
average daily traffic count.....	Sch. 3 cl. 1(1)
bellringing.....	15(1)
blasting.....	2(1)
boundary	19(1)
building	8(1)
caravan park or camping ground.....	2(1)
class 1 works	14A(1)
class 2 works	14A(1)
commercial premises	2(1)
community noise.....	16(1)
construction site	13(1)
construction work.....	13(1)
current approval) has.....	19B(11)
current plan	16AA(6), 16BA(6)
emitting premises	10(3)
expiry day	16AA(6), 16BA(6), 19B(11)
farming vehicle	12(1)
former regulation 17	18I(1)
highly sensitive area.....	8(1)
impulsiveness.....	9(1)
industrial and utility premises	2(1)
influencing factor	8(1)
inner circle	Sch. 3 cl. 1(1)
Kwinana Industrial Area	8(1)
<i>L</i> Linear peak.....	11(1)
<i>L</i> _{A1} assigned level	8(1)
<i>L</i> _{A10} assigned level.....	8(1)

Defined terms

L_A Fast	9(2)
L_A max assigned level	8(1)
L_A peak	9(2)
L_A Slow	2(1)
L_A Slow max	9(2)
L_{AeqT}	9(2)
land use map	Sch. 3 cl. 1(1)
local government	2(1)
local government CEO	18(12)
major road	Sch. 3 cl. 1(1)
measured	2(1)
mining operation	Sch. 3 cl. 1(1)
modulation	9(1)
motor sport organisation	16A
motor sport venue	16A
noise	18(1)
noise control notice	16(1)
noise sensitive premises	2(1)
noise sensitive purpose, in relation to	2(1)
non-conforming use	10(1)
notifiable event	19B(1)
one-third octave band	9(2)
other call to worship	15(1)
outer circle	Sch. 3 cl. 1(1)
planning scheme	10(1)
port	3(2)
public holiday	2(1)
racing activity	16A
representative assessment period	2(1)
rural premises	2(1)
secondary road	Sch. 3 cl. 1(1)
shooting activity	16B
shooting venue	16B
significantly contribute to	7(2)
specified equipment	14(1)
specified works	14A(1)
tonality	9(1)
transport factor	Sch. 3 cl. 1(1)
venue approval	18J
waste	14A(1)