Western Australia

Environmental Protection Act 1986

Environmental Protection (Unauthorised Discharges) Regulations 2004

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Environmental Protection (Unauthorised Discharges) Regulations 2004

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Western Australia

Environmental Protection Act 1986

Environmental Protection (Unauthorised Discharges) Regulations 2004

##### 1. Citation

 These regulations may be cited as the *Environmental Protection (Unauthorised Discharges) Regulations 2004*.

##### 2. Interpretation

 In these regulations unless the contrary intention appears —

dark smoke means smoke that, if compared with a chart known as the Australian Miniature Smoke Chart (AS 3543 1989), would appear darker than shade 1 on that chart.

##### 3. Discharges of certain materials prohibited

 (1) A person who, in the course of or in connection with a business or a commercial activity, causes or allows a material listed in Schedule 1 to be discharged into the environment commits an offence.

 Penalty: $5 000.

 (2) Subregulation (1) does not apply if —

 (a) the material discharged into the environment is a detergent and the detergent —

 (i) was used as a wetting agent on a lawn or in a garden; and

 (ii) was applied or used at a frequency or rate that was not in excess of that recommended by the manufacturer of the wetting agent;

 or

 (b) the material discharged into the environment is a pesticide or horticultural product and the pesticide or horticultural product was applied or used at a frequency or rate that was not in excess of that recommended by its manufacturer.

##### 4. Discharges of visible smoke from burning certain materials and dark smoke prohibited

 (1) A person who, in the course of or in connection with a business or a commercial activity, burns or allows a material listed in Schedule 2 to be burnt so as to cause or allow visible smoke to be discharged into the environment commits an offence.

 Penalty: $5 000.

 (2) A person who, in the course of or in connection with a business or a commercial activity, burns or allows any material to be burnt so as to cause or allow dark smoke to be discharged into the environment for more than 4 minutes in any hour commits an offence.

 Penalty: $5 000.

 (3) Subregulation (2) does not apply to a solid or liquid burnt in a vehicle’s engine on a road, a locomotive’s engine while the locomotive is operating on a railway line or an aircraft’s engine while the aircraft is taking off, landing, taxiing or in flight.

##### 5. Defences

 In proceedings against a person for a breach of regulation 3(1) or 4(1) or (2), it is a defence to show that the discharge —

 (a) occurred in accordance with an authorisation given in the exercise of a power under another written law;

 (b) occurred as a result of an emergency or an accident or malfunction caused otherwise than by the negligence of that person; or

 (c) occurred for the purpose of preventing danger to human life or health or irreversible damage to a significant part of the environment.

##### 6. *Environmental Protection Regulations 1987* amended

 (1) The amendment in this regulation is to the *Environmental Protection Regulations 1987*.

 (2) Schedule 6 is amended by inserting after item 4 of the entry relating to the *Environmental Protection (NEPM ‑ UPM) Regulations 2003* the following —

“

|  |  |  |
| --- | --- | --- |
| *Environmental Protection (Unauthorised Discharges) Regulations 2004* |  |  |
| 1. regulation 3(1) | 250 | 500 |
| 2. regulation 4(1)  | 250 | 500 |
| 3. regulation 4(2) | 250 | 500 |

 ”.

##### 7. *Clean Air Regulations 1967* repealed

 The *Clean Air Regulations 1967* are repealed.

Schedule 1 — Materials that must not be discharged into the environment

[r. 3]

|  |
| --- |
| Acid with a pH less than 4 |
| Alkali with a pH more than 10 |
| Animal waste |
| Animal oil, fat or grease |
| Compounds or solutions of cyanide, chromium, cadmium, lead, arsenic, mercury, nickel, zinc or copper |
| Degreaser |
| Detergent |
| Dust produced by a mechanical process including cutting, grinding, sawing, sanding or polishing a material |
| Dye |
| Engine coolant or engine corrosion inhibitor |
| Food waste |
| Laundry waste |
| Mineral oil |
| Organic solvent |
| Paint |
| Petrol, diesel or other hydrocarbon |
| Pesticide |
| Sediment |
| Sewage |
| Vegetable oil, fat or grease |

Schedule 2 — Materials that must not be burnt so as to discharge visible smoke into the environment

[r. 4(1)]

|  |
| --- |
| Carpet |
| Electrical cables |
| Fabrics or textiles |
| Organic solvent |
| Paint |
| Plastic, including polystyrene and the like |
| Printed circuit boards |
| Printing waste |
| Rubber |
| Timber that has been treated with preservatives |
| Tyres |
| Vehicles or vessels and their parts |
| Waste oil, fats or grease |

Notes

1 This is a compilation of the *Environmental Protection (Unauthorised Discharges) Regulations 2004.* The following table contains information about those regulation.

Compilation table

| **Citation** | **Gazettal** | **Commencement** |
| --- | --- | --- |
| *Environmental Protection (Unauthorised Discharges) Regulations 2004* | 12 Mar 2004 p. 747-50 | 12 Mar 2004 |

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)**

dark smoke 2