

EV301\*

Environmental Protection Act 1986  
Environmental Protection (Landfill) Levy Act 1998

## **Environmental Protection Amendment Regulations 2006**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council on the recommendation of the Environmental Protection Authority.

### **1. Citation**

These regulations are the *Environmental Protection Amendment Regulations 2006*.

**2. Commencement**

These regulations come into operation on 1 October 2006.

**3. The regulations amended**

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

[\* *Reprint 5 as at 11 March 2005.*

*For amendments to 25 August 2006 see Western Australian Legislation Information Tables for 2005, Table 4, p. 113.]*

**4. Regulation 2AA replaced and consequential amendments**

- (1) Regulation 2AA is repealed and the following regulation is inserted instead —

“

**2AA. Interpretation**

In these regulations, unless the contrary intention appears —

“**Departmental library**” means the Department’s library located at The Atrium, 168 St George’s Terrace, Perth, Western Australia;

“**head office**” means the premises of the Authority at Level 8, The Atrium, 168 St George’s Terrace, Perth, Western Australia.

”.

- (2) Regulations 2A(a)(i), 2B(5) and 40 are amended by deleting “public reading room” and inserting instead —

“ Departmental library ”.

**5. Regulation 16A amended**

Regulation 16A is amended in the definition of “lot” by deleting “*Town Planning and Development Act 1928.*” and inserting instead —

“ *Planning and Development Act 2005.* ”.

**6. Regulation 21 amended**

Regulation 21(1) is amended as follows:

- (a) by deleting the definition of “landfill cover”;
- (b) in the definition of “metropolitan region” by deleting “*Metropolitan Region Town Planning Scheme Act 1959;*” and inserting instead —

“ *Planning and Development Act 2005;* ”.

**7. Regulation 23 amended**

- (1) Regulation 23(1)(a) is deleted and the following paragraph is inserted instead —

“

- (a) uncontaminated soil or other clean fill that —
- (i) is, or is to be, used after the completion of landfill operations to cover, to a depth of up to 500 mm, waste disposed of on the premises; and
  - (ii) was accepted by the licensee at no charge;

”.

- (2) After regulation 23(2) the following subregulation is inserted —

“

- (2a) A licensee of a category 63 licensed landfill may by application in the approved form claim an exemption from the requirements of regulation 26(4) and (5) in respect of a return period if no waste has been disposed of to landfill on the licensed landfill.

”.

**8. Regulation 24 amended**

Regulation 24(3) is amended by deleting “Officer.” and inserting instead —

“

Officer of which the licensee has been given written notice.

”.

**9. Regulation 25 amended**

- (1) Regulation 25(1) is amended by inserting after “received at a” —

“ category 64 or 65 ”.

- (2) Regulation 25(2) is repealed and the following subregulation is inserted instead —

“

- (2) If —
- (a) the licensee of a category 64 or 65 licensed landfill has been granted an exemption from the requirement to weigh waste received at the licensed landfill; or
  - (b) a category 64 or 65 licensed landfill does not have a weighbridge,

when waste is received at that licensed landfill the licensee is to estimate the weight of that waste in the

approved manner, and the estimated weight is to be the weight that is used for the purpose of determining the amount of the levy under regulation 27.

”.

**10. Regulations 26 and 27 replaced by regulations 26, 26A and 27**

Regulations 26 and 27 are repealed and the following regulations are inserted instead —

“

**26. Amount of waste — category 63 licensed landfills**

(1) The licensee of a category 63 licensed landfill must —

- (a) cause a survey of the premises to be conducted by a surveyor for the purpose of establishing a base from which the volume of waste subsequently disposed of to landfill on the premises can be measured (the “**baseline survey**”); and
- (b) lodge with the Chief Executive Officer a report of that survey prepared by the surveyor (the “**baseline report**”).

Penalty: \$5 000.

(2) In the case of an existing landfill —

- (a) the baseline survey must be conducted as soon as practicable after 1 October 2006; and
- (b) the baseline report must be lodged on or before 14 October 2006.

(3) In the case of a category 63 licensed landfill other than an existing landfill —

- (a) the baseline survey must be conducted —
  - (i) after the licence is issued; and
  - (ii) not more than 14 days before the licensee commences accepting waste for disposal to landfill on the premises;

and

- (b) the baseline report must be lodged within 14 days after the licensee commences accepting waste for disposal to landfill on the premises.

(4) Subject to any exemption granted on application under regulation 23(2a), after the end of a return period the licensee of a category 63 licensed landfill must cause a survey of the premises to be conducted by a surveyor for the purpose of calculating the volume of waste disposed of to landfill during that return period (a “**quarterly survey**”).

- (5) The licensee must lodge a report on a quarterly survey, prepared by the surveyor, with the return lodged under regulation 30 for that return period.  
Penalty: \$5 000.
- (6) The report referred to in subregulation (5) must include the surveyor's calculation of the number of cubic metres of waste disposed of to landfill on the premises during the return period based on a comparison of the quarterly survey for that return period and the previous quarterly survey or, if there is no previous quarterly survey, the baseline survey for the premises or the estimated base established under regulation 26A(1).
- (7) The volume of waste so calculated by the surveyor is to be the volume used for the purposes of determining the amount of the levy under regulation 27.
- (8) In this regulation —
- “existing landfill”** means a category 63 licensed landfill —
- (a) for which the licence was in force on 1 October 2006; and
  - (b) at which waste was being accepted for disposal to landfill prior to 1 October 2006;
- “surveyor”** means —
- (a) a licensed surveyor as defined in the *Licensed Surveyors Act 1909*; or
  - (b) a person who is, or is eligible to be, a member of —
    - (i) the Institution of Surveyors, Australia; or
    - (ii) the Spatial Sciences Institute.

**26A. CEO may make estimates if survey not conducted**

- (1) If the licensee of a category 63 licensed landfill fails to comply with regulation 26(1) the Chief Executive Officer may establish an estimated base from which the volume of waste subsequently disposed of to landfill on the premises can be measured.
- (2) If the licensee of a category 63 licensed landfill fails to comply with regulation 26(5) in respect of a return period the Chief Executive Officer may estimate the number of cubic metres of waste disposed of to landfill on the premises during the return period.
- (3) For the purposes of this regulation the Chief Executive Officer may cause a survey of the kind referred to in regulation 26(1)(a) or (4) to be conducted in respect of the licensed landfill.

- (4) The Chief Executive Officer must give written notice to the licensee of any estimated base established under subregulation (1) or any estimation made under subregulation (2).
- (5) The Chief Executive Officer may call on or use the financial assurance provided by the licensee under regulation 28 to cover any costs incurred under this regulation.

**27. Determination of amount of levy**

- (1) The amount by way of levy that is payable in respect of waste to which this Part applies that is received at a category 63 licensed landfill during a return period is the amount (in dollars) equal to L in the formula —

$$L = (V \times R) - S$$

where —

V is the number of cubic metres of waste to which this Part applies received at the licensed landfill during the return period determined in accordance with regulation 26 or estimated under regulation 26A(2); and

R is, if the first day of the return period is —

- (a) before 1 July 2008, \$3; or
- (b) on or after 1 July 2008 and before 1 July 2009, \$5; or
- (c) on or after 1 July 2009 and before 1 July 2010, \$7; or
- (d) on or after 1 July 2010, \$9;

and

S is the lesser of —

- (a) the cost incurred by the licensee in complying with regulation 26(4) and (5) in respect of the return period; and
- (b) \$2 000.

- (2) The amount by way of levy that is payable in respect of waste to which this Part applies that is received at a category 64 or 65 licensed landfill during a return period is the amount (in dollars) equal to L in the formula —

$$L = (W \times 92\%) \times R$$

where —

W is the number of tonnes of waste to which this Part applies received at the licensed landfill during the return period determined in accordance with regulation 25; and

R is, if the first day of the return period is —

- (a) before 1 July 2008, \$6; or
- (b) on or after 1 July 2008 and before 1 July 2009, \$7; or
- (c) on or after 1 July 2009 and before 1 July 2010, \$8; or
- (d) on or after 1 July 2010, \$9.

”.

**11. Regulation 28 amended**

Regulation 28(4) is amended by deleting “Officer.” and inserting instead —

“

Officer of which the licensee has been given written notice.

”.

**12. Regulation 29 amended**

Regulation 29(2) is amended as follows:

- (a) by deleting paragraph (c) and inserting instead —

“

- (c) in the case of a category 63 licensed landfill, the volume of the waste disposed of to landfill on the premises calculated in accordance with regulation 26; and
- (ca) in the case of a category 64 or 65 licensed landfill, the weight of the waste as weighed or estimated in accordance with regulation 25; and

”;

- (b) after each of paragraphs (a), (b) and (d) by inserting —

“ and ”.

**13. Regulation 30 amended**

Regulation 30(2) is amended by deleting “regulation 25 or 26,” and inserting instead —

“ regulation 26A, ”.

**14. Schedule 4 amended**

Schedule 4 Part 3 Table 1 item 3(a) is amended by deleting “(within the meaning of the *Metropolitan Region Town Planning Scheme Act 1959*)” and inserting instead —

“ (as defined in the *Planning and Development Act 2005*) ”.

**15. Schedule 6 amended**

Schedule 6 is amended under the heading "*Environmental Protection Regulations 1987*" by deleting item 9 and inserting instead —

“

9.	regulation 26(1)	250	500
9A.	regulation 26(5)	250	500

”.

Recommended by the Environmental Protection Authority,

WALTER COX, Chairman.

By Command of the Lieutenant-Governor and deputy of the Governor.

G. M. PIKE, Clerk of the Executive Council.