

Western Australia

**Agriculture and Related Resources Protection
(European House Borer) Regulations 2006**

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Agriculture and Related Resources Protection (European House Borer) Regulations 2006

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Agriculture and Related Resources Protection (European House Borer) Regulations 2006

Part 1 — Preliminary

1. Citation

These regulations are the *Agriculture and Related Resources Protection (European House Borer) Regulations 2006*.

2. Terms used in these regulations

(1) In these regulations —

control period means the period beginning on 1 September in any year and ending on 31 March in the next year;

EHB means the European house borer *Hylotrupes bajulus* Linnaeus;

pinewood means trees or wood from trees of the genera *Pinus*, *Abies*, *Picea* and *Pseudotsugata*;

pinewood article means an article (including an item of furniture, decoration, utensil or other personal effect) made of seasoned pinewood;

pinewood dealer means a person who carries on a business or hobby of, or a business or hobby that includes, buying, selling or transporting pinewood or pinewood articles;

PMZ or ***priority management zone*** means, subject to subregulation (2), the area comprising every property any part

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of which is within 100 m of a site where wood is infested with EHB;

RMZ or **restricted movement zone** means a part of the State in respect of which EHB has been assigned under the Act section 36 to categories A2 and A3;

seasoned pinewood means pinewood that has a moisture content of 20% or less when tested in accordance with Australian Standard AS 1080.1 — 1997 *Timber: Methods of test – Moisture content*;

unwanted pinewood means seasoned pinewood that is untreated and —

- (a) of no commercial value (including off-cuts, discarded wood or wooden articles, fallen or dead trees or parts of trees and other waste wood); or
 - (b) intended for use as firewood.
- (2) A PMZ (or priority management zone) does not include a property if —
- (a) less than 25% of the property is within 100m of the site where wood is infested with EHB; and
 - (b) there are no pine trees growing on the property that are within 100m of that site; and
 - (c) neither the owner nor any occupier of the property is a pinewood dealer; and
 - (d) the Chief Officer or a person authorised by the Chief Officer to do so has, by written notice to the owner or occupier of the property, excluded the property from the PMZ.

[Regulation 2 amended in Gazette 28 Dec 2007 p. 6480-1.]

Part 2 — Restrictions on movement of pinewood

3. Bringing unwanted pinewood into RMZ

- (1) An authorised person may, by written notice, prohibit a person from bringing unwanted pinewood into a RMZ if the authorised person is of the opinion that the presence of the pinewood in the RMZ will increase the risk of the spread of EHB.
- (2) A person given a notice under subregulation (1) must comply with it.
Penalty: a fine of \$1 000.

4. Removing seasoned pinewood from RMZ

- (1) If a piece of seasoned pinewood has been in a RMZ for 72 hours or more, a person must not remove it from the RMZ unless —
 - (a) the volume of the pinewood is less than 100 cm³;
 - (b) at all times while it was in the RMZ (other than while it was being transported), the pinewood was stored in accordance with subregulation (2);
 - (c) the pinewood has been treated in accordance with regulation 12(a);
 - (d) the pinewood has been treated in accordance with regulation 12(b) or (c) and is removed from the RMZ within 72 hours after being treated;
 - (e) in the case of pinewood that is being transported through the RMZ — the pinewood has not remained stationary (whether on a stationary vehicle or having been offloaded) for a period of, or periods totalling, more than 72 hours; or
 - (f) removal of the pinewood other than in accordance with paragraphs (a) to (e) has been authorised and the pinewood is removed in accordance with the authorisation.

Penalty: a fine of \$2 000.

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- (1a) A person purporting to remove seasoned pinewood from an RMZ in accordance with subregulation (1) must, if requested by an authorised person to do so, provide to the authorised person documentary or other evidence that the relevant paragraph of that subregulation has been complied with.
Penalty: a fine of \$2 000.
- (2) Pinewood is stored in accordance with this subregulation if —
- (a) the pinewood is stored in a suitable building; or
 - (b) where compliance with paragraph (a) is impractical, the pinewood is kept fully enclosed in plastic wrapping or any other authorised material.
- (3) An authorised person may, by giving written notice to the owner or occupier of a building or structure, declare a building or structure to be —
- (a) unsuitable for the storage of pinewood; or
 - (b) unsuitable for the storage of pinewood unless alterations or modifications specified in the notice are made to the building or structure within such reasonable time as is specified in the notice.
- (4) In subregulation (2)(a) —
suitable building means a building or other enclosed structure —
- (a) in respect of which no notice has been given under subregulation (3); or
 - (b) in respect of which a notice has been given under subregulation (3)(b) if the specified alterations or modifications were made within the specified time.

[Regulation 4 amended in Gazette 28 Dec 2007 p. 6481.]

5. Removing unseasoned plantation pinewood from RMZ

A person must not, during a control period, remove from a RMZ pinewood that —

- (a) was grown in the RMZ in a plantation established for a commercial purpose; and
- (b) is not seasoned pinewood,

unless the removal has been authorised and the pinewood is removed in accordance with the authorisation.

Penalty: a fine of \$2 000.

6. Removal of seasoned pinewood and pinewood articles from PMZ

- (1) A person given a notice under regulation 17 must not remove seasoned pinewood or a pinewood article from a PMZ unless —
 - (a) the pinewood or article has been treated in accordance with regulation 12(a); or
 - (b) the pinewood or article has been treated in accordance with regulation 12(b) or (c) and is removed from the RMZ within 72 hours after being treated; or
 - (c) removal of the pinewood or article without treatment has been authorised and the pinewood or article is removed in accordance with the authorisation.

Penalty: a fine of \$2 000.

- (2) A person purporting to remove seasoned pinewood or a pinewood article from a PMZ in accordance with subregulation (1) must, if requested by an authorised person to do so, provide to the authorised person documentary or other evidence that the relevant paragraph of that subregulation has been complied with.

Penalty: a fine of \$2 000.

[Regulation 6 inserted in Gazette 28 Dec 2007 p. 6481-2.]

7. Cause pinewood or pinewood article to be moved

The owner or person in possession of pinewood or a pinewood article must not cause it to be brought into or removed from a RMZ or PMZ in contravention of this Part.

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Penalty: a fine of \$2 000.

8. Authorisations

- (1) An authorisation for the purposes of regulation 4, 5 or 6 is to be given in writing by an authorised person.
- (2) An authorisation may be given generally or in relation to a particular case or number or class of cases or for a particular period or otherwise as the authorised person considers appropriate.
- (3) An authorisation may be given subject to such conditions, as to the treatment or transportation of the pinewood or pinewood article or otherwise as the authorised person considers appropriate.

Part 3 — Destruction and treatment of pinewood

9. Unwanted pinewood in RMZ

A person in possession of unwanted pinewood in a RMZ must, as soon as practicable after coming into possession of the pinewood —

- (a) destroy it in accordance with regulation 11;
- (b) dispose of it through the domestic waste disposal programme of a local government or regional local government; or
- (c) remove it from the RMZ in accordance with regulation 4 or 6 as the case requires.

Penalty: a fine of \$2 000.

10. Destruction and treatment of pinewood

- (1) If there is pinewood on a property in a RMZ an authorised person may give a direction under subregulation (2) if —
 - (a) the property is in a PMZ; or
 - (b) the authorised person is of the opinion that the pinewood is, might be, or is likely to become, infested with EHB.
- (2) An authorised person may direct the owner or occupier of the property to do any or all of the following —
 - (a) store the pinewood in a specified manner;
 - (b) treat the pinewood in accordance with regulation 12;
 - (c) destroy the pinewood in accordance with regulation 11,as the authorised person considers appropriate.
- (3) A direction under subregulation (2) is to be given in writing to the owner or occupier of the property.

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- (4) A person given a direction under subregulation (2) must comply with it within the time specified in it, or if no time is specified, within a reasonable time of the direction being given.

Penalty: a fine of \$2 000.

[Regulation 10 amended in Gazette 28 Dec 2007 p. 6482.]

11. Manner in which pinewood to be destroyed

Pinewood required to be destroyed in accordance with this regulation is to be —

- (a) chipped so that its volume is reduced to less than 100 cm³;
- (b) burned; or
- (c) buried more than one metre below the surface of the ground at —
 - (i) a local government or regional local government waste disposal site; or
 - (ii) any other site approved by the Chief Officer.

12. Manner in which pinewood to be treated

- (1) Pinewood required to be treated in accordance with this regulation is to be —

- (a) treated with a preservative in accordance with Australian Standard AS 1604.1 — 2005 *Specifications for preservative treatment — Sawn and round timber*; or
- (b) fumigated with methyl bromide in accordance with subregulation (2); or
- (ba) fumigated with another fumigant chemical in a manner approved by the Chief Officer; or
- (c) heated to a core temperature of more than 60°C for not less than 30 minutes.

- (2) Fumigation with methyl bromide is in accordance with this subregulation if —

- (a) it is carried out —
- (i) at a temperature of not less than 10°C; and
 - (ii) for not less than 24 hours;
- and
- (b) the concentration of methyl bromide during the fumigation period is not less than that specified in the Table to this subregulation.

Table

Temperature	Concentration (g/m ³)				
	At start	After 2 hours	After 4 hours	After 12 hours	After 24 hours
≥ 21°C	48	36	31	28	24
≥ 16°C but <21°C	56	42	36	32	28
≥ 10°C but <16°C	64	48	42	36	32

[Regulation 12 amended in Gazette 28 Dec 2007 p. 6482-3.]

13. Authorised person may carry out work and recover cost

- (1) If an authorised person is of the opinion that a person given a direction under regulation 10 has not complied with it, the authorised person may enter the property and carry out all or any of the requirements of the direction.
- (2) All expenses incurred by an authorised officer under subregulation (1), together with interest at the rate prescribed for the purposes of section 52(2) of the Act, are a debt due by the person to whom the direction was given to the Protection Board, and may be sued for and recovered in a court of competent jurisdiction.

Part 4 — Structural pinewood

14. Terms used in this Part

In this Part —

builder, in relation to a building under construction, means a person who is engaged to build, or carry out building work on, the building or where no person is so engaged, the owner of the building;

building includes a temporary structure;

building inspector means a person employed or engaged by —

- (a) the owner of a building or a person engaged by the owner;
 - (b) a builder or a person engaged by a builder;
 - (c) a Minister of the Crown;
 - (d) an agency or an organisation as those terms are defined in the *Public Sector Management Act 1994*;
 - (e) a body, corporate or unincorporate, that is established or continued for a public purpose by the State, regardless of the way it is established; or
 - (f) a local government or regional local government,
- to —
- (g) assess the structural integrity of the building;
 - (h) value the building; or
 - (i) inspect the building for the purposes of a written law relating to the construction, safety or use of buildings or to planning;

pest controller means —

- (a) a fumigator as defined in the *Health (Pesticides) Regulations 1956* regulation 32(1); or
- (b) a pesticide operator as defined in the *Health (Pesticides) Regulations 1956* regulation 63;

structural pinewood means pinewood —

- (a) forming part of a building; or
- (b) in the case of a building under construction, that is on the building site and is to be used to form part of the building.

15. EHB infestation to be reported

- (1) If —
 - (a) the owner of a building;
 - (b) a builder in the course of his or her work; or
 - (c) a pest controller or building inspector in the course of his or her work,

discovers signs of EHB infestation in structural pinewood, he or she must report the discovery to an authorised person as soon as practicable after making the discovery.

Penalty:

- (a) for a pest controller or building inspector — a fine of \$500;
 - (b) for a builder or owner — a fine of \$2 000.
- (2) A builder who is not the owner of the building must also report the discovery to the owner.
Penalty: a fine of \$500.
- (3) A pest controller or building inspector must also report the discovery to the owner of the building and, if the building is under construction, the builder.
Penalty: a fine of \$500.

16. Treatment of infested structural pinewood

A builder or owner who is informed by the Chief Officer that structural pinewood is infested with EHB must, as soon as practicable after being so informed —

- (a) remove the infested pinewood and destroy it in accordance with regulation 11; or

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- (b) if removal of the pinewood is not practicable, fumigate all structural pinewood forming, or to be used to form, part of the building in accordance with regulation 12(b).

Penalty: a fine of \$2 000.

Part 5 — General

17. Chief Officer to notify owners and occupiers of infestation

- (1) As soon as practicable after becoming aware of a site where pinewood is infested with EHB, the Chief Officer must give written notice of the infestation to the owner or occupier of every property within the PMZ.
- (2) The notice must —
 - (a) specify the boundaries of the PMZ; and
 - (b) inform the owner or occupier of the restrictions imposed by these regulations.

18. Information as to source and supply of pinewood and pinewood articles

- (1) An authorised person may make a request for information under subregulation (3) in relation to any pinewood or pinewood article —
 - (a) that is, or in the opinion of the authorised person might have been, in an RMZ; or
 - (b) that, in the opinion of the authorised person, is or might be infested with EHB.
- (2) A request for information under subregulation (3) may be made to —
 - (a) the person in possession of the pinewood or pinewood article; or
 - (b) a person who, in the opinion of the authorised person, has been or might have been, in possession of the pinewood or pinewood article.
- (3) An authorised person may request a person to provide to the authorised person information as to —
 - (a) the origin of the pinewood or pinewood article;

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- (b) whether the pinewood or pinewood article has been treated and if so, how and when; and
 - (c) in a request to a person who is no longer in possession of the pinewood or pinewood article, who took possession of it from the person.
- (4) A person given a request under subregulation (3) must comply with it.
Penalty: a fine of \$1 000.

19. Record keeping may be required

- (1) The Chief Officer may, by written notice, require a pinewood dealer to keep written records of pinewood or pinewood articles in the dealer's possession in a RMZ.
 - (2) The notice is to specify the information that is to be recorded and for how long the records must be kept.
 - (3) A person given a notice under subregulation (1) —
 - (a) must comply with it; and
 - (b) must produce the records for inspection when requested to do so by the Chief Officer.
- Penalty: a fine of \$1 000.

[(4) deleted]

[Regulation 19 amended in Gazette 28 Dec 2007 p. 6483.]

20. RMZ or PMZ notification signs

- (1) The Chief Officer may erect signs in or near a RMZ or PMZ advising the public of the restrictions that apply in the RMZ or PMZ in relation to pinewood.
 - (2) A person must not, without lawful authority, remove, obscure, damage or otherwise interfere with a sign erected under this regulation.
- Penalty: a fine of \$500.

21. Surveillance poles, traps and lures

- (1) The Chief Officer or an authorised person may, in any part of the State, erect or install poles, insect traps, lures or other devices for use in detecting the presence of EHB.
- (2) A person must not, without lawful authority, remove, damage, or otherwise interfere with a pole, insect trap, lure or other device erected or installed under this regulation.

Penalty: a fine of \$500.

[Regulation 21 amended in Gazette 28 Dec 2007 p. 6484.]

Notes

- ¹ This is a compilation of the *Agriculture and Related Resources Protection (European House Borer) Regulations 2006* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Agriculture and Related Resources Protection (European House Borer) Regulations 2006</i>	7 Feb 2006 p. 639-56	7 Feb 2006
<i>Agriculture and Related Resources Protection (European House Borer) Amendment Regulations 2007</i>	28 Dec 2007 p. 6477-84	r. 1 and 2: 28 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Dec 2007 (see r. 2(b))