

**Authorised Version**  
**Environment Protection Regulations 2021**  
**S.R. No. 47/2021**

**TABLE OF PROVISIONS**

<i>Regulation</i>	<i>Page</i>
<b>Chapter 1—Preliminary</b>	<b>1</b>
<b>Part 1.1—Preliminary</b>	<b>1</b>
1 Objectives	1
2 Authorising provision	2
3 Commencement	3
<b>Part 1.2—Interpretation and introductory matters</b>	<b>4</b>
4 Definitions	4
5 Determinations of the Authority	34
6 Act compliance notes	36
7 References to Chapters and Parts	36
<b>Chapter 2—Contaminated land</b>	<b>37</b>
<b>Part 2.1—Prescribed notifiable contamination</b>	<b>37</b>
8 Soil contamination	37
9 Asbestos in or on soil	38
10 Actual or likely contamination of groundwater or surface water	38
11 Vapour inhalation pathway (vapour intrusion)	40
12 On-site retention of contaminated soil	42
13 Prescribed exempt notifiable contamination	42
14 Prescribed information for notifications	43
<b>Part 2.2—Non-aqueous phase liquids</b>	<b>44</b>
15 Clean up of non-aqueous phase liquids	44
<b>Chapter 3—Permissions</b>	<b>45</b>
<b>Part 3.1—General</b>	<b>45</b>
16 Permission activities	45
17 Matters to be included in permission applications to the Authority	46
18 Prescribed conditions under section 64 of the Act	47
19 Prescribed circumstances for refusal of permission	48
20 Permission conditions	48

<i>Regulation</i>	<i>Page</i>
21 Authority or council may request additional information regarding certain applications	50
<b>Part 3.2—Licences</b>	<b>52</b>
22 Referral of development licence applications to prescribed agencies	52
23 Circumstances in which operating licence must be refused	54
24 Criteria for considering licence exemptions	55
<b>Part 3.3—Permits</b>	<b>57</b>
25 Prescribed permit activities to be administered by councils	57
26 Prescribed matters for applications to councils in relation to on-site wastewater management systems	57
27 Prescribed period for deciding permit applications	61
28 Prescribed matters Authority or council must take into account when determining whether to issue permit	61
29 Circumstances in which permit must be refused	65
30 Prescribed period during which permits remain in force	68
31 Prescribed matters Authority must consider when determining whether to issue permit exemption	69
32 Prescribed matters for on-site wastewater management system permit exemptions	70
33 Approval of use of on-site wastewater management system	72
34 Prohibition on use of on-site wastewater management system	73
35 Prescribed matters Authority must consider when determining whether to renew permit	73
<b>Part 3.4—Registrations</b>	<b>74</b>
36 Prescribed period during which registrations remain in force	74
<b>Part 3.5—Exemptions from certain permission activities</b>	<b>75</b>
<b>Division 1—Activity-specific exemptions</b>	<b>75</b>
37 Prescribed exemptions in relation to development activities	75
38 Prescribed exemptions in relation to operating activities	76
39 Prescribed exemptions in relation to item 73 (L01—General discharges or emissions to the atmosphere) of the Table in Schedule 1	78
40 Prescribed exemptions in relation to permit activities	80
<b>Division 2—Exemptions applying to more than one permission activity</b>	<b>81</b>
41 Prescribed exemption from permit if person holds a higher order permission	81
42 Prescribed exemption from registration if person holds a higher order permission	81

<i>Regulation</i>	<i>Page</i>
<b>Part 3.6—Environment protection levy and waste levy</b>	<b>82</b>
43 Environment protection levy	82
44 Waste levy activity	83
45 Waste levy payable for soil containing asbestos only	84
46 What is an allowable rebate?	84
47 When must the waste levy be paid?	85
48 Information for calculating waste levy	86
49 Information for calculating allowable rebate	86
50 Information to be provided to the Authority	87
51 When must information be provided to the Authority?	88
52 Municipal districts subject to higher waste levy for municipal and industrial waste	88
<b>Part 3.7—Additional or alternative penalty for prohibited persons</b>	<b>90</b>
53 Section 89 prescribed permission activity	90
<b>Chapter 4—Waste</b>	<b>91</b>
<b>Part 4.1—Litter and unsolicited documents</b>	<b>91</b>
<b>Division 1—Dangerous litter and unsolicited documents</b>	<b>91</b>
54 Dangerous litter	91
55 Depositing or affixing unsolicited documents	91
56 Persons who commission or engage other persons for the distribution of unsolicited documents	92
<b>Division 2—Other offences and matters</b>	<b>93</b>
57 Offence relating to public litter receptacle	93
58 Loading of vehicles	93
59 Persons who may take proceedings	94
<b>Part 4.2—Industrial waste and priority waste</b>	<b>95</b>
<b>Division 1—Industrial waste</b>	<b>95</b>
60 What is industrial waste?	95
61 Classifying industrial waste	95
62 Classifying soil sourced on-site from contaminated land	97
63 Authorised to receive industrial waste	97
64 Declaration of use	100
<b>Division 2—Priority waste</b>	<b>103</b>
65 What is priority waste?	103
66 Classification of priority waste as reportable priority waste in accordance with the Waste Classification Assessment Protocol	104
67 Classification of priority waste consigned for disposal	106
68 Classification of priority waste that is soil	107
69 Priority waste classification—information	108
70 Mixing, blending or diluting priority waste	109

<i>Regulation</i>	<i>Page</i>
<b>Division 3—Reportable priority waste</b>	<b>109</b>
71 What is reportable priority waste (transactions)?	109
72 What is reportable priority waste (transport)?	110
73 What transactions apply in connection with reportable priority waste	110
74 Manner and form for recording and providing transaction details—reportable priority waste	111
75 Transaction details to be recorded and provided in relation to the consignment of reportable priority waste for transport	112
76 Transaction details to be recorded and provided in relation to the transport of reportable priority waste	112
77 Transaction details to be recorded and provided in relation to the receipt of reportable priority waste	113
78 Manner and form for recording and providing transaction details—controlled waste	114
79 Transaction details to be recorded and provided in relation to the consignment of controlled waste	115
80 Transaction details to be recorded and provided in relation to the transport of controlled waste	116
81 Transaction details to be recorded and provided in relation to the receipt of controlled waste	117
82 Offences in relation to the transport of controlled waste	118
83 Application for approval of electronic system for recording or providing transaction details	118
84 Approval of application for electronic system	120
85 Exemptions for interstate movement of controlled waste	120
<b>Division 4—Waste designations</b>	<b>122</b>
86 Authority may issue designation	122
87 Applications for designations	125
<b>Division 5—Accredited consigners</b>	<b>126</b>
88 Accredited consigners	126
89 Appointment of accredited consigners	126
90 Variation of accredited consigner appointment	128
91 Accredited consigner may apply for reappointment	128
92 Accredited consigner may surrender appointment	129
<b>Part 4.3—Used packaging materials</b>	<b>130</b>
93 Application	130
94 Packaging for which brand owners are responsible	131
95 Requirements to recover, reuse and recycle materials and review packaging design	131
96 Recovery rate	133
97 Categories of material	133
98 Brand owners must keep records	134

<i>Regulation</i>	<i>Page</i>
99 Brand owners must report annually	135
100 Councils must provide information	136
<b>Part 4.4—Regional Waste and Resource Recovery Implementation Plans</b>	<b>139</b>
101 Landfill scheduling in Regional Waste and Resource Recovery Implementation Plans	139
<b>Chapter 5—Environmental management</b>	<b>140</b>
<b>Part 5.1—Prohibited chemical substances</b>	<b>140</b>
102 Prohibition on use of certain chemical substances	140
<b>Part 5.2—Air</b>	<b>141</b>
<b>Division 1—National pollutant inventory</b>	<b>141</b>
103 Definitions	141
104 Occupier must provide data	145
105 Estimation techniques	146
106 Occupier must keep data for period of 5 years	147
107 Commercially sensitive information	147
108 Authority may approve matters for this Division	148
<b>Division 2—Solid fuel heaters</b>	<b>149</b>
109 Manufacture of solid fuel heaters	149
110 Supply of solid fuel heaters	150
<b>Division 3—Protection of the ozone layer</b>	<b>151</b>
111 Requirements for handling methyl bromide	151
<b>Division 4—Class 3 substances</b>	<b>153</b>
112 Generators or emitters of Class 3 substances	153
<b>Part 5.3—Noise</b>	<b>154</b>
<b>Division 1—Noise Protocol</b>	<b>154</b>
113 Prediction, measurement, assessment and analysis of noise must be in accordance with Noise Protocol	154
<b>Division 2—Unreasonable and aggravated noise from residential premises</b>	<b>154</b>
114 Unreasonable noise from residential premises	154
115 Aggravated noise from residential premises	157
<b>Division 3—Unreasonable and aggravated noise from commercial, industrial and trade premises</b>	<b>157</b>
116 Definitions—operating time periods	157

<i>Regulation</i>	<i>Page</i>
117 Noise sources that must not be taken into account in this Division	158
118 Unreasonable noise from commercial, industrial and trade premises	159
119 Cumulative noise	160
120 Frequency spectrum	160
121 Aggravated noise from commercial, industrial and trade premises	161
<b>Division 4—Unreasonable and aggravated noise from entertainment venues and outdoor entertainment events</b>	<b>161</b>
<b>Subdivision 1—General</b>	<b>161</b>
122 Music noise from live music entertainment venues	161
<b>Subdivision 2—Indoor entertainment venues</b>	<b>162</b>
123 Definitions—operating time periods	162
124 Noise sources that must or must not be taken into account	163
125 Unreasonable noise from an indoor entertainment venue	163
126 Cumulative music noise from indoor entertainment venues	164
127 Aggravated noise from an indoor entertainment venue	164
<b>Subdivision 3—Outdoor entertainment venues and outdoor entertainment events</b>	<b>165</b>
128 When a permit is required for an outdoor entertainment venue	165
129 When a permit is required for an outdoor entertainment event	165
130 Unreasonable noise from outdoor entertainment venues or outdoor entertainment events	166
131 Aggravated noise from an outdoor entertainment venue or outdoor entertainment event	167
<b>Part 5.4—Water</b>	<b>168</b>
132 Discharge or deposit of waste from vessels	168
<b>Part 5.5—Plastic shopping bag ban</b>	<b>171</b>
133 Retailer must not sell or provide banned plastic bag	171
134 Provision of false or misleading information	171
<b>Part 5.6—Emissions from motor vehicles</b>	<b>172</b>
<b>Division 1—General</b>	<b>172</b>
135 Application	172
<b>Division 2—Air emissions</b>	<b>172</b>
136 Visible pollution from motor vehicles	172
137 Vehicle exhaust emissions—spark ignition engines manufactured 1 July 1976 to before 1 February 1986	172

<i>Regulation</i>	<i>Page</i>
138 Vehicle exhaust emissions—spark ignition engines manufactured on or after 1 February 1986	173
139 Vehicle exhaust emissions—diesel engine vehicles manufactured before 1 January 1996	175
140 Vehicle exhaust emissions—diesel engine vehicles manufactured on or after 1 January 1996	176
<b>Division 3—Noise emissions</b>	<b>178</b>
141 How to determine motor vehicle noise emissions	178
142 Noise emissions—motor vehicles approved in accordance with ADR 83/00	178
143 Noise emissions—passenger vehicles not approved in accordance with ADR 83/00	179
144 Noise emissions—goods vehicles and buses not approved in accordance with ADR 83/00	179
145 Noise emissions—motor cycles and motor trikes not approved in accordance with ADR 83/00	183
146 Non-compliant device	184
<b>Division 4—Vehicle noise labelling standards</b>	<b>184</b>
147 Labelling of motor cycles and motor trikes	184
<b>Division 5—General motor vehicle offences</b>	<b>186</b>
148 Selling or supplying a motor vehicle capable of exceeding a prescribed standard for the emission of noise	186
149 Noise defeat devices	187
<b>Division 6—Petrol vapour pressure</b>	<b>188</b>
150 Definition	188
151 Monthly average volumetric vapour pressure	188
152 Production of petrol with excess vapour pressure	189
153 Vapour pressure—record keeping	190
154 Annual compliance report	190
<b>Division 7—Approved motor vehicle testers and certificates of compliance</b>	<b>191</b>
155 Appointment of approved motor vehicle testers	191
156 Authority may require motor vehicle to be tested	191
157 Approved motor vehicle tester to test vehicle	192
158 Offences to use or supply or sell certain motor vehicles	193
<b>Part 5.7—On-site wastewater management systems</b>	<b>194</b>
159 On-site wastewater management system operation and maintenance	194
160 Duty to provide information to occupier	195
161 Duty to notify council	195
162 Duty to keep and provide maintenance records	196

<i>Regulation</i>	<i>Page</i>
163 Council may order maintenance	197
<b>Chapter 6—Environmental audits and financial assurances</b>	<b>199</b>
<b>Part 6.1—Environmental audit system</b>	<b>199</b>
164 Functions of environmental auditors	199
165 Authority approval of environmental auditor functions	200
166 Prescribed time to apply for reappointment as environmental auditor	200
<b>Part 6.2—Financial assurances</b>	<b>202</b>
167 Prescribed permissions	202
168 Risk assessment criteria	202
<b>Chapter 7—Enforcement</b>	<b>204</b>
169 Infringement offences and infringement penalties	204
170 Monetary benefit orders protocol	204
171 Council may take proceedings for specified offences relating to on-site wastewater management systems	204
<b>Chapter 8—Fees</b>	<b>207</b>
<b>Part 8.1—Development licences</b>	<b>207</b>
172 Prescribed application fee for development licence	207
173 Prescribed transfer fee for development licence	208
174 Prescribed amendment fee for development licence	208
175 Prescribed exemption fee for development licence	208
<b>Part 8.2—Operating licences</b>	<b>209</b>
176 Prescribed application fee for operating licence	209
177 Prescribed annual fee	209
178 Prescribed time and period for annual fee	210
179 Prescribed transfer fee for operating licence	211
180 Prescribed amendment fee for operating licence	211
181 Prescribed surrender fee for operating licence	212
182 Prescribed exemption fee for operating licence	212
<b>Part 8.3—Pilot project licences</b>	<b>213</b>
183 Prescribed application fee for pilot project licence	213
184 Prescribed transfer fee for pilot project licence	213
185 Prescribed amendment fee for pilot project licence	213
<b>Part 8.4—Permits</b>	<b>214</b>
<b>Division 1—Fees for reportable priority waste transport permits</b>	<b>214</b>
186 Prescribed application fee for permit to transport reportable priority waste	214



<i>Regulation</i>	<i>Page</i>
187 Prescribed transfer fee for permit to transport reportable priority waste	214
188 Prescribed amendment fee for permit to transport reportable priority waste	215
189 Prescribed surrender fee for permit to transport reportable priority waste	215
190 Prescribed exemption fee for reportable priority waste transport permit—interstate authorisation	215
191 Prescribed exemption fee for reportable priority waste transport permit	215
192 Prescribed renewal fee for permit to transport reportable priority waste	216
<b>Division 2—Fees for controlled waste transport permits</b>	<b>216</b>
193 Prescribed application fee for permit to transport controlled waste into Victoria	216
<b>Division 3—Fees for other permits issued by the Authority</b>	<b>216</b>
194 Prescribed fees for certain permits	216
195 Prescribed fees for permits relating to outdoor concerts or events	218
<b>Division 4—Prescribed fees in relation to on-site wastewater management systems</b>	<b>218</b>
196 Prescribed application fee for permit to construct, install or alter an on-site wastewater management system	218
197 Prescribed fee to transfer on-site wastewater management system permit	219
198 Prescribed fee to amend on-site wastewater management system permit	220
199 Prescribed exemption fee for on-site wastewater management system permit	220
200 Prescribed renewal fee for on-site wastewater management system permit	221
<b>Part 8.5—Registrations</b>	<b>222</b>
201 Prescribed application fee for registration to transport reportable priority waste	222
202 Prescribed exemption fee for reportable priority waste transport registration—interstate authorisation	222
203 Prescribed renewal fee for registration to transport reportable priority waste	222
<b>Part 8.6—Financial assurances</b>	<b>223</b>
204 Prescribed review fee for financial assurance	223
205 Prescribed fee for requesting release of financial assurance	223

<i>Regulation</i>	<i>Page</i>
<b>Part 8.7—Environmental auditors and audits</b>	<b>224</b>
206 Prescribed application fee for appointment as environmental auditor	224
207 Prescribed fee for reappointment as environmental auditor	224
208 Prescribed fees to be paid by environmental auditor	224
<b>Part 8.8—Other fees</b>	<b>225</b>
209 Prescribed application fee for authorisation of emergency storage, use etc. of waste	225
210 Prescribed fees for better environment plans	225
211 Prescribed amendment fee for better environment plan	226
212 Prescribed application fee for appointment as accredited consigner	227
213 Prescribed fee for revocation or variation of site management order	227
214 Prescribed fee for application for exemption from a provision of the regulations or a legislative instrument	227
<b>Part 8.9—Fees waiver or refund</b>	<b>228</b>
215 Authority or council may waive or refund fees	228
<b>Chapter 9—Administrative matters</b>	<b>229</b>
<b>Part 9.1—Public Register</b>	<b>229</b>
216 Additional information to be kept on the Public Register	229
217 Time and manner for accessing the Public Register	229
<b>Chapter 10—Saving and transitionals</b>	<b>230</b>
<b>Part 10.1—General transitional provisions</b>	<b>230</b>
218 Definitions	230
<b>Part 10.2—Permissions</b>	<b>231</b>
219 Prescribed equivalent permissions	231
220 Pending applications	233
221 Prescribed provisions	234
222 Temporary prescribed exemptions—operating activities	236
223 Temporary prescribed exemptions—permit activities	236
224 Temporary prescribed exemptions—registration activities	238

<i>Regulation</i>	<i>Page</i>
<b>Schedule 1—Prescribed permission activities and fees</b>	<b>240</b>
<b>Schedule 2—EPU values table</b>	<b>275</b>
<b>Schedule 3—Methane gas action levels</b>	<b>276</b>
<b>Schedule 4—Class 1, 2 and 3 substances</b>	<b>277</b>
<b>Schedule 5—Waste classification</b>	<b>283</b>
<b>Schedule 6—Categories of priority waste</b>	<b>300</b>
<b>Schedule 7—Reportable priority waste transaction details</b>	<b>304</b>
<b>Schedule 8—Restricted areas for landfill infrastructure</b>	<b>308</b>
<b>Schedule 9—Method for determining the concentration of carbon monoxide and hydrocarbons in the exhaust gases of a motor vehicle</b>	<b>309</b>
<b>Schedule 10—Infringement offences and infringement penalties</b>	<b>313</b>
<b>Schedule 11—Component fees</b>	<b>321</b>
<hr/> <hr/>	
<b>Endnotes</b>	<b>328</b>



## **Authorised Version**

STATUTORY RULES 2021

S.R. No. 47/2021

*Environment Protection Act 2017*

### **Environment Protection Regulations 2021**

The Governor in Council makes the following Regulations:

Dated: 25 May 2021

Responsible Minister:

LILY D'AMBROSIO

Minister for Energy, Environment and Climate Change

SAMUAL WALLACE

Acting Clerk of the Executive Council

## **Chapter 1—Preliminary**

### **Part 1.1—Preliminary**

#### **1 Objectives**

The objectives of these Regulations are to further the purposes of, and give effect to, the **Environment Protection Act 2017** by—

- (a) imposing obligations in relation to environmental protection, pollution incidents, contaminated land and waste, including in relation to on-site wastewater management systems; and
- (b) providing for activities and other matters for the purposes of permissions under the Act; and

- (c) specifying matters in relation to litter, water, the atmosphere, land, noise and vehicle emissions; and
- (d) encouraging retailers and consumers to reduce the overall use of plastic bags that often enter the environment as litter, by banning thin, single-use plastic shopping bags; and
- (e) setting out additional matters in relation to the environmental audit system; and
- (f) prescribing activities in respect of which—
  - (i) the environment protection levy is payable; and
  - (ii) the waste levy is payable; and
  - (iii) the Authority may require a financial assurance; and
- (g) prescribing the form and manner of certain applications; and
- (h) prescribing infringement offences and infringement penalties; and
- (i) providing for exemptions from certain provisions of the Act and these Regulations; and
- (j) prescribing the fees payable under the Act; and
- (k) providing for transitional arrangements; and
- (l) prescribing other matters necessary to give effect to the Act.

## **2 Authorising provision**

These Regulations are made under section 465 of the **Environment Protection Act 2017**.

Environment Protection Regulations 2021

S.R. No. 47/2021

Part 1.1—Preliminary

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### **3 Commencement**

These Regulations come into operation on 1 July 2021.

## Part 1.2—Interpretation and introductory matters

### 4 Definitions

In these Regulations—

**accredited consigner** means a person appointed as an accredited consigner under regulation 89;

**administrative amendment** means a change to a licence that—

- (a) does not alter any obligation of the licence holder; or
- (b) is a minor technical or clerical amendment;

#### Examples

Changes that correct one or more clerical mistakes, unintended omissions, miscalculated amounts or misdescriptions of any person, thing or activity.

**ADR 83/00** means the *Vehicle Standard (Australian Design Rule 83/00 – External Noise) 2005*, Compilation dated 6 November 2013, published by the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications, as in force from time to time;

**A-frequency weighting** has the same meaning as in the Noise Protocol;

**alter**, in relation to an on-site wastewater management system, means any change (other than general maintenance of the system) to—

- (a) the design or construction of the system; or



- (b) the operation of the system, or to the place or premises on or in which the system is located, which may increase the hydraulic flow or organic load of the system;

***alternative assessment criterion*** means the maximum effective noise level that applies at an alternative assessment location to ensure compliance with the noise limit, as determined in accordance with the Noise Protocol;

***alternative assessment location*** means a point used as a substitute measurement point for the assessment of noise, as determined in accordance with the Noise Protocol;

***ambulance service*** has the same meaning as in the **Ambulance Services Act 1986**;

***animal unit*** means one head of cattle or 5 of any other kind of mammal;

***annual fee***, in relation to an operating licence, means the fee calculated under regulation 177;

***ANZSIC code***, for an activity, means the classification code given to that activity under the Australian and New Zealand Standard Industrial Classification 2006 released by the Australian Bureau of Statistics, as in force from time to time;

***ANZSIC codes for NPI reporting*** means the list of ANZSIC codes for National Pollutant Inventory reporting by activity type published by the Commonwealth Department of Environment and Energy, as in force from time to time;

**APCO** means Australian Packaging Covenant Organisation Ltd;

**Note**

APCO is the representative body for industry participants in the packaging supply chain who are signatories to the Australian Packaging Covenant.

**appropriate standard**, in relation to an on-site wastewater treatment plant, means any one of the following—

- (a) in the case of an on-site wastewater treatment plant that is a septic tank, AS/NZS 1546.1;
- (b) in the case of an on-site wastewater treatment plant that is a waterless composting toilet, AS/NZS 1546.2;
- (c) in the case of an on-site wastewater treatment plant that is a secondary treatment system, AS 1546.3 (2017);
- (d) in the case of an on-site wastewater treatment plant that is a domestic greywater treatment system, AS 1546.4;
- (e) in the case of an on-site wastewater treatment plant of a type approved by the Authority for the purposes of Part IXB of the **Environment Protection Act 1970** and for which a certificate has been issued by a body accredited under the Joint Accreditation System of Australia and New Zealand prior to the commencement of these Regulations—
  - (i) if the certificate confirms the plant meets the requirements set out in AS/NZS 1546.3 (2008), until the expiry of the certificate or 30 June 2023, whichever is earlier; or

- (ii) in any other case, the standard referred to in the certificate until the expiry of the certificate;

***approved motor vehicle tester*** means a person appointed as an approved motor vehicle tester under regulation 155;

***aquifer*** has the same meaning as in the **Water Act 1989**;

**Note**

***Aquifer*** in the **Water Act 1989** means a geological structure or formation or an artificial land fill permeated or capable of being permeated permanently or intermittently with water.

***AS/NZS 1546.1*** means the Australian/New Zealand Standard 1546.1:2008, On-site domestic wastewater treatment units, Part 1: Septic tanks, published by Standards Australia and Standards New Zealand, as in force from time to time;

***AS/NZS 1546.2*** means the Australian/New Zealand Standard 1546.2:2008, On-site domestic wastewater treatment units, Part 2: Waterless composting toilets, published by Standards Australia and Standards New Zealand, as in force from time to time;

***AS/NZS 1546.3 (2008)*** means the Australian Standard/New Zealand Standard 1546.3:2008, On-site domestic wastewater treatment units, Part 3: Aerated wastewater treatment systems, published by Standards Australia and Standards New Zealand, as in force from time to time;

***AS 1546.3 (2017)*** means the Australian Standard 1546.3:2017, On-site domestic wastewater treatment units, Part 3: Secondary treatment systems, published by Standards Australia, as in force from time to time;

***AS 1546.4*** means the Australian Standard 1546.4:2016, On-site domestic wastewater treatment units, Part 4: Domestic greywater treatment systems, published by Standards Australia, as in force from time to time;

***AS/NZS 4012*** means the Australian/New Zealand Standard 4012:2014, Domestic solid fuel burning appliances—Method for determination of power output and efficiency, published by Standards Australia and Standards New Zealand, as in force from time to time;

***AS/NZS 4013*** means the Australian/New Zealand Standard 4013:2014, Domestic solid fuel burning appliances—Method for determination of flue gas emission, published by Standards Australia and Standards New Zealand, as in force from time to time;

***Australian Light Vehicle Standards (ALVS) Rules*** means the Australian Light Vehicle Standards Rules 2015, published by the National Transport Commission in 2015, as in force from time to time;

***Australian Packaging Covenant*** means the agreement by that name (including all schedules and annexes to that agreement) between the Commonwealth, State and Territory governments and APCO to reduce the environmental impacts of consumer packaging in Australia, dated 2017, as in force from time to time;

***average threshold*** means the 95% upper confidence limit on the arithmetic average concentration of a contaminant in or on soil that is equal to the HIL for that contaminant for the current use of the land, as specified in section 6 of Schedule B1 to the NEPM (ASC);

***background level***, for the purposes of Part 5.3, means the background level as determined in accordance with the Noise Protocol;

***banned plastic bag*** means a bag, other than an exempt plastic bag—

- (a) with handles; and
- (b) that comprises, either wholly or partly, plastic, whether or not that plastic is biodegradable, degradable or compostable; and
- (c) that has a thickness of 35 microns or less at any part of the bag;

***brand owner*** means—

- (a) in relation to a product that is sold or distributed in Australia—
  - (i) a person who is the owner of the product name under which the product is sold or distributed; or
  - (ii) if no person in Australia satisfies subparagraph (i) in relation to the product, each person who is a licensee of the product name under which the product is sold or distributed, but only in respect of those items of the product that are sold or distributed under that licence; or

- (iii) if no person in Australia satisfies subparagraph (i) or (ii) in relation to the product, each person who is a franchisee under a business arrangement that allows the person to sell or otherwise distribute the product in Australia, but only in respect of those items of the product that are sold or distributed by the person under that arrangement; or
  - (iv) if no person in Australia satisfies subparagraph (i), (ii) or (iii) in relation to the product, the first person to sell or distribute that product in Australia; and
- (b) in relation to a plastic bag that is provided to a consumer for the transportation of products purchased by the consumer in Australia—
- (i) the importer or manufacturer of the plastic bag; or
  - (ii) the retailer who provides the plastic bag to the consumer at or around the point of sale;

***bus*** has the same meaning as in the **Bus Safety Act 2009**;

***Category A waste*** means priority waste that is classified as Category A waste in accordance with regulation 67 or 68;

***Category B waste*** means priority waste that is classified as Category B waste in accordance with regulation 67 or 68;

***Category C waste*** means priority waste that is classified as Category C waste in accordance with regulation 67 or 68;

**Category D waste** means priority waste that is classified as Category D waste in accordance with regulation 67 or 68;

**certificate of compliance** means a certificate issued by an approved motor vehicle tester under regulation 157;

**chemical process** means any process where a chemical change occurs, but does not include physical processes such as mixing or blending;

**Chief Health Officer** has the same meaning as in the **Public Health and Wellbeing Act 2008**;

**Class 1 substance** means a substance listed in Schedule 4 as a Class 1 substance;

**Class 2 substance** means a substance listed in Schedule 4 as a Class 2 substance;

**Class 3 substance** means a substance listed in Schedule 4 as a Class 3 substance;

**commercial, industrial and trade premises** means any premises except the following—

- (a) residential premises (other than common plant under the control of an owners corporation);
- (b) a street or road, including every carriageway, footpath, reservation and traffic island on any street or road;
- (c) a railway track used by rolling stock in connection with the provision of a freight service or passenger service—
  - (i) while travelling on a railway track or tramway track; or
  - (ii) while entering or exiting a siding, yard, depot or workshop;

- (d) a railway track used by rolling stock in connection with the provision of a passenger service, while in a siding, yard, depot or workshop and is—
  - (i) powering up to commence to be used in connection with the provision of a passenger service; or
  - (ii) shutting down after being used in connection with the provision of a passenger service;
- (e) the premises situated at Lower Esplanade, St Kilda and known as "Luna Park" and being the whole of the land more particularly described in Certificate of Title Volume 1204 Folio 109;

**Note**

The maintenance, cleaning or loading of rolling stock stabled in a siding, yard, depot or workshop are included within the meaning of *commercial, industrial and trade premises*.

**Examples**

Common plant under the control of an owners corporation at residential premises includes common air conditioning units, car stackers and lift equipment in apartment buildings, all of which must be assessed as noise from commercial, industrial and trade premises in accordance with the Noise Protocol.

*compost* means an organic product that has undergone controlled aerobic and thermophilic biological transformation through the composting process to achieve pasteurisation and reduce phytotoxic compounds, and achieved a specified level of maturity required for compost;



**concert** means an operation at an outdoor entertainment venue or an outdoor entertainment event if the effective noise level exceeds 55dB(A) (or 45dB(A) if measured indoors) assessed as an  $L_{Aeq}$  of 15 cumulative minutes at any measurement point in a noise sensitive area at least once during a 24-hour period;

**consign**, in relation to waste, means arranging for the transport of the waste;

**consumer packaging** means all packaging products made of any material, or combination of materials, for the containment, protection, marketing or handling of consumer products, and includes distribution packaging;

**controlled waste** has the meaning set out in clause 3 of the NEPM (MCW);

**dB(A)** means a noise level determined in accordance with A-frequency weighting;

**declaration of use** means a declaration of use made under regulation 64;

**designated waste** means reportable priority waste, in liquid form with a waste code J100, J120, J130, K100 or L100 in Schedule 5;

**designation**, for the purposes of Part 4.2, means—

- (a) a designation setting out the waste classification for a waste; or
- (b) a designation relating to mixing, blending or diluting waste;

**diesel engine** means an internal combustion engine that operates on the compression-ignition principle;

***digestate*** means the material remaining after the anaerobic digestion of organic waste;

***distribution packaging*** means all packaging that contains multiples of products (the same or mixed) intended for direct consumer purchase, including—

- (a) secondary packaging used to secure or unitise multiples of consumer products such as cardboard boxes, shipper, shrink film overwrap; and
- (b) tertiary packaging used to secure or unitise multiples of secondary packaging such as pallet wrapping stretch film, shrink film, strapping;

***DT80 test cycle*** means the DT80 transient test procedure for the testing of diesel-fuelled vehicle exhaust emissions as set out in Division 1 of Part 9 of the ALVS Rules;

***effective noise level*** means—

- (a) in Division 3 of Part 5.3, the level of noise emitted from commercial, industrial and trade premises and, if appropriate, adjusted to take into account the character and duration of the noise and the measurement conditions, as determined in accordance with the Noise Protocol; and
- (b) in Division 4 of Part 5.3, the level of music noise from an indoor entertainment venue, outdoor entertainment venue or outdoor entertainment event, measured in a noise sensitive area or at an alternative assessment location, as determined in accordance with the Noise Protocol;

***electricity distribution company*** has the same meaning as distribution company has in the **Electricity Industry Act 2000**;

***equivalent passenger units*** or ***EPU***, in relation to a type of tyre in column 2 of the Table in Schedule 2, means the corresponding value in column 3 of that Table;

***ESMP data manual*** means the *ESMP data manual 1992—Engine speed at maximum power and noise test engine speeds for vehicles 1970 to 2005*, published by the Authority on its website, as in force from time to time;

***ethanol-blended petrol*** means petrol containing 4% or more of ethanol by volume but not more than 20% of ethanol by volume;

***e-waste*** means waste in the form of electrical or electronic equipment, devices or things (or materials or parts of such equipment, devices or things), the operation of which is dependent on, or designed for the generation, transfer or measurement of, an electric current or electromagnetic field;

***exempt plastic bag*** means a bag that comprises, either wholly or partly, plastic and that is an integral part of the packaging in which goods are sealed or provided for sale;

***fill material*** is industrial waste that is soil—

- (a) with contaminant concentrations not exceeding the upper limits for fill material contaminant concentrations specified in the Waste Disposal Categories — Characteristics and Thresholds; and
- (b) that does not contain asbestos;

*forward-control passenger vehicle* has the same meaning as in the relevant design rules;

*freight service* has the same meaning as in the **Rail Management Act 1996**;

*frequency* means the property of sound that measures the rate of repetition of the sound wave, in Hertz (Hz) or cycles per second;

*frequency spectrum* means the distribution of the energy or the magnitude of a sound across each frequency component;

*friable asbestos* means asbestos that, when dry—

- (a) may be crumbled, pulverised or reduced to powder by hand pressure; or
- (b) as a result of a work process becomes such that it may be crumbled, pulverised or reduced to powder by hand pressure;

*gas distribution company* has the same meaning as in the **Gas Industry Act 2001**;

*goods vehicle* means any motor vehicle, other than a passenger car or passenger car derivative, that—

- (a) is constructed principally for the carriage of goods; and
- (b) has at least 4 wheels;

*gross vehicle mass* or *GVM* has the same meaning as in the **Road Safety Act 1986**;

*hazardous substance* means a substance which meets the hazardous properties assessment criteria in items 1 or 2 of Table 2 in the Waste Classification Assessment Protocol;

*health service* has the same meaning as in the **Public Health and Wellbeing Act 2008**;

***heavy vehicle*** has the same meaning as in the Heavy Vehicle National Law (Victoria);

***highway*** means—

- (a) any street, road, lane, bridge, thoroughfare or other place open to or used by members of the public for passage by motor vehicles; and
- (b) any public car park;

***HIL*** means the health investigation levels listed in Tables 1A(1) and 1A(2) in Schedule B1 to the NEPM (ASC);

***HSL*** means the health screening levels listed in Tables 1A(3), 1A(4) and 1A(5) in Schedule B1 to the NEPM (ASC);

***IANZ*** means International Accreditation New Zealand;

***indoor entertainment venue*** means any premises (other than residential premises or an outdoor entertainment venue), where music is played and includes a live music entertainment venue, hotel, tavern, cabaret, night club, discotheque, reception centre, skating rink, restaurant, cafe, health and fitness centre, recording and rehearsal studio, theatre, amusement park, amusement parlour, retail store, shop, public hall and club;

***information technology and telecommunications equipment*** means products and equipment used for the collection, storage, processing, presentation, communication, transmission or receipt of sound, images, video or other information by electronic means or telecommunications;

***kerbside recycling collection*** means the collection of waste by a person under contract with a council or a Waste and Resource Recovery Group;

***L<sub>Aeq</sub>*** has the same meaning as in the Noise Protocol;

***land***, for the purposes of Part 3.5 and Schedule 1, does not include groundwater;

***land capability assessment*** means an assessment of the risks of harm to human health and the environment of the proposed or existing on-site wastewater management system at the site, taking into account the proposed or existing use of the system;

***leachate*** means the liquid formed from rainwater and waste breakdown products within a landfill or contaminated water that has percolated through or drained from a landfill;

***live music entertainment venue*** has the same meaning as in the VPPs;

**Note**

***Live music entertainment venue*** under the VPPs includes a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment and a rehearsal studio.

***localised elevated value threshold*** means the concentration of a contaminant in an individual soil sample that is equal to 250% of the HIL for that contaminant for the current use of the land, as specified in section 6 of Schedule B1 to the NEPM (ASC);

**major urban area** means the areas of land within—

- (a) the urban growth boundary identified in a planning scheme, if the population is greater than 7000; or
- (b) if paragraph (a) does not apply, the urban centre boundary (as defined by the Australian Bureau of Statistics) of an urban centre with a population greater than 7000 persons, including land within the whole of any Residential Zone, Industrial Zone, Commercial Zone or Urban Growth Zone that is crossed by the urban centre boundary;

**measurement point** means a point at which the microphone is located to measure the effective noise level or the background level, as determined in accordance with the Noise Protocol;

**motor cycle** means a motor vehicle with 2 wheels, and includes a 2-wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel;

**motor trike** means a motor vehicle with 3 wheels, but does not include a 2-wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel;

**music** means any combination of sounds produced by the playing of a musical instrument, by singing, recitation or dancing, or the reproduction of these;

**music noise** means music and associated contemporaneous sounds heard in a noise sensitive area;

*NATA* means the National Association of Testing Authorities, Australia;

*National Environment Protection (Assessment of Site Contamination) Measure* or *NEPM (ASC)* means the National Environment Protection (Assessment of Site Contamination) Measure 1999 made under section 14 of the **National Environment Protection Council (Victoria) Act 1995** and the equivalent legislation of the participating jurisdictions, as in force from time to time;

*National Environment Protection (Movement of Controlled Waste between States and Territories) Measure* or *NEPM (MCW)* means the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure 1998 made under section 14 of the **National Environment Protection Council (Victoria) Act 1995** and the equivalent legislation of the participating jurisdictions, as in force from time to time;

*National Environment Protection (National Pollutant Inventory) Measure* or *NEPM (NPI)* means the National Environment Protection (National Pollutant Inventory) Measure 1998 made under section 14 of the **National Environment Protection Council (Victoria) Act 1995** and the equivalent legislation of the participating jurisdictions, as in force from time to time;

*National Pollutant Inventory* or *NPI* means the inventory of emitted and transferred substances, established as a result of the NEPM (NPI);



***National Stationary Exhaust Noise Test*** means the National Stationary Exhaust Noise Test Procedures for In-Service Motor Vehicles published by the National Transport Commission in September 2006, as in force from time to time;

***natural acoustic environment*** means the properties or qualities of the environment relating to natural sound that is not significantly impacted by noise from human activity;

***new vehicle*** has the same meaning as in the Motor Vehicle Standards Act 1989 of the Commonwealth;

***noise limit*** means the maximum effective noise level allowed in a noise sensitive area, as determined in accordance with the Noise Protocol;

***Noise Protocol*** means the *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues*, published by the Authority on its website, as in force from time to time;

***noise sensitive area*** means—

- (a) that part of the land within the boundary of a parcel of land that is—
  - (i) within 10 metres of the outside of the external walls of any of the following buildings—
    - (A) a dwelling (including a residential care facility but not including a caretaker's house);
    - (B) a residential building;

- (C) a noise sensitive residential use; or
- (ii) within 10 metres of the outside of the external walls of any dormitory, ward, bedroom or living room of one or more of the following buildings—
  - (A) a caretaker's house;
  - (B) a hospital;
  - (C) a hotel;
  - (D) a residential hotel;
  - (E) a motel;
  - (F) a specialist disability accommodation;
  - (G) a corrective institution;
  - (H) a tourist establishment;
  - (I) a retirement village;
  - (J) a residential village; or
- (iii) within 10 metres of the outside of the external walls of a classroom or any room in which learning occurs in the following buildings (during their operating hours)—
  - (A) a child care centre;
  - (B) a kindergarten;
  - (C) a primary school;
  - (D) a secondary school; or
- (b) subject to paragraph (c), in the case of a rural area only, that part of the land within the boundary of—
  - (i) a tourist establishment; or

- (ii) a campground; or
- (iii) a caravan park; or
- (c) despite paragraph (b), in the case of a rural area only, where an outdoor entertainment event or outdoor entertainment venue is being operated, that part of the land within the boundary of the following are not noise sensitive areas for the purposes of that event or venue—
  - (i) a tourist establishment;
  - (ii) a campground;
  - (iii) a caravan park;

***noise sensitive residential use*** has the same meaning as in the VPPs;

**Note**

***Noise sensitive residential use*** under the VPPs means a community care accommodation, dependent person's unit, dwelling, residential aged care facility, residential village, retirement village or rooming house.

***non-aqueous phase liquid*** means an organic or inorganic liquid that—

- (a) is not miscible with water; and
- (b) can exist in soil or groundwater in various forms; and
- (c) is commonly present as a measurable thickness (phase-separated) or sheen; and
- (d) may be identifiable analytically (in soil or groundwater) when solubility has been reached or observed to be present within the unsaturated soil, rock profile or aquifer matrix;

**Example**

Oil in water.

***odorous compound*** means any chemical compound, including a volatile organic compound, that is offensive to the senses of human beings when dispersed in the atmosphere;

***off-road passenger vehicle*** has the same meaning as in the relevant design rules;

***on-site wastewater management system*** means an on-site wastewater treatment plant with a design or actual flow rate of sewage not exceeding 5000 litres on any day and includes all beds, sewers, drains, pipes, fittings, appliances and land used in connection with the treatment plant;

***on-site wastewater treatment plant*** means a treatment plant for the bacterial, biological, chemical or physical treatment of sewage generated on site;

**Examples**

Septic tank system, wet or dry composting toilet, aerobic treatment and sand filter.

***operation***, for the purposes of Part 5.3, means an activity that emits music noise from an outdoor entertainment venue or outdoor entertainment event over a 24-hour period;

***outdoor entertainment event*** means an event where music is played and is held on public land including a road reservation, public open space, park, foreshore reserve or land of a similar nature, including an event held on such land in a temporary building or structure, such as a marquee, tent or temporary soundstage, not being a

permanent fixture of the land and erected for the purposes of the event;

***outdoor entertainment venue*** means any premises (other than residential premises) where music is played in the open air and which cannot feasibly be totally enclosed and sound-proofed because of its size;

**Examples**

Sports and other large outdoor arenas and major sports and recreation facilities having substantial provision for spectators, including privately owned land used as an outdoor entertainment venue.

***packaged waste asbestos*** means waste that is classified as packaged waste asbestos in accordance with regulation 67;

***participating jurisdiction*** has the same meaning as in the **National Environment Protection Council (Victoria) Act 1995**;

***participation rate***, for a recycling collection service, means the number of households or other premises participating in the service, expressed as a proportion of the number of households or premises to whom the service is available;

***particles*** include the following—

- (a) particles as  $PM_{2.5}$ ;
- (b) particles as  $PM_{10}$ ;
- (c) total suspended particles;
- (d) total suspended particles (nuisance dust);

***particles as  $PM_{2.5}$***  means particulate matter with an equivalent aerodynamic diameter of 2.5 micrometres or less;

*particles as PM<sub>10</sub>* means particulate matter with an equivalent aerodynamic diameter of 10 micrometres or less;

*passenger car* has the same meaning as in the relevant design rules;

*passenger car derivative* means any motor vehicle—

- (a) of the type known as a utility or panel van and of the same make as a factory produced passenger car; and
- (b) in which the greater part of the body form and the greater part of the forward mechanical equipment are the same as those in the passenger car;

*passenger service* has the same meaning as in the **Rail Management Act 1996**;

*pasteurised material* means organic material with reduced pathogens and plant propagules following exposure to heat;

*petrol* includes any liquid fuel or mixture of fuels of a kind used in internal combustion spark ignition engines;

*planning scheme* means a planning scheme approved under the **Planning and Environment Act 1987** as in force from time to time under that Act;

*post-consumer waste stream* means the waste produced by the end consumer of a material stream, that is, if the waste-producing use does not involve the production of another product;

*ppm* means parts per million by volume;

***product name*** includes a trade mark, brand name or trade name, whether or not registered in Australia;

***project site***, for the purposes of item 25 (A17—Containment of Category D waste soil) in the Table in Schedule 1, means any land specified by the Authority in the permit provided that land is—

- (a) a single area of land which is identified in a document as part of an amendment to a planning scheme under the **Planning and Environment Act 1987** made on or after 1 July 2021; or
- (b) land that relates to public works within the meaning of the **Environment Effects Act 1978**;

***railway track*** has the same meaning as in the **Rail Management Act 1996**;

***recover***, in relation to materials, means to separate those materials from other waste in a manner that enables them to be reused for packaging or used for other products;

***recovery rate*** has the meaning given in regulation 96;

***recreation motor cycle*** means any 2-wheeled motor cycle that is registered as a recreation motor cycle under the Road Safety (Vehicles) Interim Regulations 2020;

***recyclable***, in relation to product packaging, means reasonably able to be recovered in Australia through an approved or accredited collection or drop-off system, and able to be reprocessed and used as a raw material for the manufacture of a new product;

***regulated petrol producer*** means a person who produces petrol by any of the following—

- (a) importing petrol for use in Victoria;
- (b) refining petrol for use in Victoria;
- (c) blending petrol for use in Victoria;

***relevant design rules*** means the Vehicle Standard (Australian Design Rule—Definitions and Vehicle Categories) 2005, published by the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications, as in force from time to time;

***relevant environment protection legislation*** means—

- (a) the Act or these Regulations; and
- (b) any corresponding Act of another State or a Territory or the Commonwealth or any regulations made under that Act;

***relevant period***, in relation to the waste levy and allowable rebate, means—

- (a) a period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year; or
- (b) any other period of time required by a liable person's operating licence;

***reportable priority waste (transactions)*** means priority waste set out in regulation 71;

***reportable priority waste (transport)*** means priority waste set out in regulation 72;

***retailer*** means a person who sells goods in trade or commerce;

***rolling stock*** has the same meaning as in the **Rail Management Act 1996**;



***rural area*** means land that is not within a major urban area;

***sewage*** means wastewater containing any of human excreta, urine and toilet flush water and includes greywater (which is also called sullage and may include water from the shower, bath, basins, washing machine, laundry trough and kitchen);

***signatory*** means a signatory to the Australian Packaging Covenant, and includes an organisation that accedes to that Covenant after it is made, whether before or after the commencement of Part 4.3;

***significant development licence application*** means an application for a development licence the Authority considers is reasonably likely to have significant implications for public health and meets the criteria specified by the Minister for the purposes of regulation 22(1)(c) in a determination published in the Government Gazette;

***soil containing asbestos only*** means priority waste that is classified as soil containing asbestos only in accordance with regulation 67 or 68;

***solid fuel heater*** means a domestic solid fuel burning appliance as set out in clause 1.2 of AS/NZS 4012 or clause 1.2 of AS/NZS 4013, regardless of whether the appliance—

- (a) was manufactured before or after the commencement of these Regulations;  
or
- (b) is new or used;

**source**, in relation to Part 3.5 and Schedule 1, means a point from which wastes are discharged or emitted to the atmosphere;

**spark ignition engine** means an internal combustion engine in which the mixture of air and fuel is ignited by means of electrical spark;

**specified combustible recyclable and waste material** means paper, cardboard, wood, plastic, rubber, tyres, tyre-derived waste, textiles, e-waste, metal and other materials with combustible contaminants, combustible by-products of metal processing activities and refuse-derived fuel;

**specified electronic waste** means waste rechargeable batteries, cathode ray tube monitors and televisions, flat panel monitors and televisions, information technology and telecommunications equipment, lighting and photovoltaic panels;

**stationary noise level**, in relation to a particular type of vehicle, means the noise level established for that vehicle in accordance with ADR 83/00 when the vehicle is stationary;

**telecommunications carrier** means the holder of a carrier licence granted under the Telecommunications Act 1997 of the Commonwealth;

**the Act** means the **Environment Protection Act 2017**;

**tourist establishment** means tourist facilities that are located within an area that is characterised by a natural acoustic environment that supports tourism

experiences, and includes accommodation (such as a bed and breakfast establishment);

***trade waste*** has the same meaning as in the **Water Act 1989**;

***turnover*** means gross annual income;

***unsolicited document*** means a document that is, or is intended to be, deposited in, on or at, or affixed to, a place or premises without—

- (a) being addressed by name to a person who owns, occupies or manages the place or premises; or
- (b) the express consent of the owner, occupier or manager of the place or premises;

but does not include the following—

- (c) any stamped mail delivered by, or on behalf of, Australia Post;
- (d) any material that has a political purpose if deposited in accordance with regulation 55(2)(a);
- (e) a newspaper or magazine or any material folded or inserted into a newspaper;
- (f) any public notice issued by a litter authority or a body supplying electricity, gas, water, transport, communications or other service;
- (g) any document issued under, or for the purposes of, any Act or Commonwealth Act or regulations made under any Act or Commonwealth Act;

- (h) any other document issued by, or on behalf of, a council, a public sector body or a Commonwealth entity within the meaning of the Public Governance, Performance and Accountability Act 2013 of the Commonwealth;

**Examples**

- 1 Junk mail.
- 2 An advertising leaflet placed under the windshield wiper of a car without the consent of the owner.
- 3 A poster or bill pasted onto a wall without the consent of the owner.

***urban growth boundary*** means a boundary that is specified or is to be specified as an urban growth boundary in a planning scheme;

***vapour pressure***, in relation to Division 6 of Part 5.6, means the petrol's volatility at 37·8°C measured using the test method specified in ASTM D4953-20 Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method) published by ASTM International, as in force from time to time, or other method approved by the Authority;

***vehicle testing notice*** means a written notice given by the Authority under regulation 156;

***Victoria Planning Provisions*** or ***VPPs*** has the same meaning as in the **Planning and Environment Act 1987**;

***volatile organic compound*** means any carbon-based chemical compound with a vapour pressure of at least 0·010 kPa at a temperature of 25°C or having a corresponding volatility under the particular conditions of use, but does not

include carbon monoxide (CO), carbon dioxide (CO<sub>2</sub>), carbonic acid, metallic carbides or carbonate salts;

***Waste Classification Assessment Protocol*** means the Waste Classification Assessment Protocol published by the Authority on its website, as in force from time to time;

***waste code*** means a code identifier for a waste specified in column 4 of Schedule 5 or, if there is no suitable waste code specified in column 4 of Schedule 5, allocated in a designation issued by the Authority;

***Waste Disposal Categories—Characteristics and Thresholds*** means the Waste Disposal Categories—Characteristics and Thresholds published by the Authority on its website, as in force from time to time;

***waste tyres*** means whole rubber tyres which are considered waste for the purposes of the Act;

***wastewater*** means waste principally consisting of water and includes any of the following—

- (a) sewage or other human-derived wastewater;
- (b) wash down water or cooling water;
- (c) irrigation runoff or contaminated stormwater;
- (d) contaminated groundwater;
- (e) water containing any commercial, industrial and trade waste;

***water corporation*** has the same meaning as in the **Water Act 1989**.

## **5 Determinations of the Authority**

- (1) The Authority may make a determination for the purposes of section 36(a) of the Act that sets out the background level (including the manner of deriving the background level) of waste or a chemical substance in relation to land.
- (2) A determination made by the Authority under subregulation (1) may—
  - (a) set out the background level (including the manner of deriving the background level) of any of the following—
    - (i) waste or a type of waste;
    - (ii) a chemical substance or a class of chemical substance; and
  - (b) be limited to a specific place or premises or class of place or premises; and
  - (c) be of specific or general application.
- (3) The Authority may make a determination that sets out the specifications acceptable to the Authority in relation to the following—
  - (a) receiving industrial waste under regulation 63(b);
  - (b) the use of waste tyres under regulation 63(j) for the purposes of item 14 (A09b—Waste tyre storage—small) in the Table in Schedule 1;
  - (c) a declaration of use made under regulation 64(2).

### **Note**

The Act authorises the Authority to make determinations of other matters, including that a person does not require a certain type of permission (see section 48 of the Act).

- (4) The Authority may include in a determination under this regulation any condition or limitation it considers appropriate in the circumstances.
- (5) If the Authority makes a determination under this regulation it must publish a notice in the Government Gazette that—
  - (a) states that the determination has been made; and
  - (b) identifies to whom and to what the determination applies; and
  - (c) identifies any provision of these Regulations to which the determination relates; and
  - (d) includes any other details that the Authority considers to be appropriate.
- (6) As soon as practicable after publishing a notice in the Government Gazette, the Authority must cause a similar notice to be published on its website.
- (7) A determination takes effect on the day on which the notice is published in the Government Gazette, or on any later day specified in the notice.
- (8) The Authority must make a copy of a determination available for inspection, on request, by any person affected by the determination.
- (9) Nothing in this regulation requires the Authority to include in the notice under subregulation (5) or (6) or the copy of the determination under subregulation (8)—
  - (a) any confidential or personal information about an individual; or
  - (b) any confidential information relating to manufacturing or commercial secrets or working processes.

## **6 Act compliance notes**

If a note at the foot of a provision of these Regulations states "Act compliance" followed by a reference to a section number, the regulation provision sets out the way in which a person's duty or obligation under that section of the Act is to be performed in relation to the matters and to the extent set out in the regulation provision.

### **Note**

A failure to comply with a duty or obligation under a section of the Act referred to in an "Act compliance" note is an offence to which a penalty or other sanction (including a notice under Chapter 10 of the Act) applies.

## **7 References to Chapters and Parts**

Unless the context otherwise requires, a reference in these Regulations to a Chapter or Part by a number must be construed as a reference to the Chapter or Part, designated by that number, of these Regulations.



## **Chapter 2—Contaminated land**

### **Part 2.1—Prescribed notifiable contamination**

#### **8 Soil contamination**

For the purposes of section 37(a) of the Act, the following is prescribed notifiable contamination—

- (a) the presence of a contaminant in or on soil on land under the management or control of a person if—
  - (i) a person is, or is likely to be, exposed to the contaminant; and
  - (ii) the concentration of the contaminant is, and is likely to remain, at a concentration that is—
    - (A) above the average threshold for that contaminant; or
    - (B) equal to or above the localised elevated value threshold for that contaminant;
- (b) the presence of a contaminant in or on soil on land adjacent to land under the management or control of a person if—
  - (i) the contaminant has entered from, or is likely to have entered from, the land under the management or control of the person; and
  - (ii) the concentration of the contaminant is, and is likely to remain, at a concentration that is—
    - (A) above the average threshold for that contaminant; or

- (B) equal to or above the localised elevated value threshold for that contaminant;
- (c) the presence of a contaminant in or on soil on land under the management or control of a person—
  - (i) that is likely to enter and remain on land adjacent to that land; and
  - (ii) in a concentration that is likely to be above the HIL for that contaminant for the current use of the adjacent land, as specified in section 6 of Schedule B1 to the NEPM (ASC).

#### **9 Asbestos in or on soil**

For the purposes of section 37(a) of the Act, the presence of friable asbestos in or on soil on land is prescribed notifiable contamination if a person is, or is likely to be, exposed to airborne asbestos fibre levels of above 0.01 fibres per millilitre by means of inhalation.

#### **10 Actual or likely contamination of groundwater or surface water**

- (1) For the purposes of section 37(a) of the Act, the entry or likely entry of a contaminant into groundwater is prescribed notifiable contamination if—
  - (a) the groundwater discharges, or is likely to discharge, to surface water, or is used, or may be used, for—
    - (i) human consumption or contact; or
    - (ii) stock watering; or
    - (iii) irrigation; and

- (b) the concentration of the contaminant in the groundwater—
  - (i) is, or is likely to be, above the default guideline value for that contaminant specified in the ANZG, or the guideline value for that contaminant specified in the ADWG; and
  - (ii) is likely to remain above that specified concentration.
- (2) For the purposes of section 37(a) of the Act, the entry or likely entry of a contaminant into surface water is prescribed notifiable contamination if the concentration of the contaminant in the surface water—
  - (a) is, or is likely to be, above the default guideline value for that contaminant specified in the ANZG, or the guideline value for that contaminant specified in the ADWG; and
  - (b) is likely to remain above that specified concentration.
- (3) For the purposes of section 37(a) of the Act, the presence of any non-aqueous phase liquid in groundwater, surface water or an aquifer on or in land is prescribed notifiable contamination.
- (4) In this regulation—

**ADWG** means the *Australian Drinking Water Guidelines Paper 6—National Water Quality Management Strategy*, published by the National Health and Medical Research Council, National Resource Management Ministerial Council, Commonwealth of Australia in 2011, as in force from time to time;

*ANZG* means the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality*, published by the Australian and New Zealand Governments and Australian State and Territory Governments in 2018, as in force from time to time.

**11 Vapour inhalation pathway (vapour intrusion)**

- (1) For the purposes of section 37(a) of the Act, in the circumstances specified in subregulation (2), the following are prescribed notifiable contamination—
- (a) the 95% upper confidence limit on the arithmetic average concentration of a contaminant in soil vapour samples from the land is above the interim soil vapour HIL for volatile organic chlorinated compounds for the current use of the land as specified in section 6 of Schedule B1 to the NEPM (ASC);
  - (b) the concentration of a contaminant in an individual soil vapour sample from the land is equal to or above 250% of the interim soil vapour HIL for volatile organic chlorinated compounds for the current use of the land or any land adjacent to the land as specified in section 6 of Schedule B1 to the NEPM (ASC);
  - (c) the 95% upper confidence limit on the arithmetic average concentration of a contaminant in soil vapour samples from the land is above the soil vapour HSL for vapour intrusion for the current use of the land or any land adjacent to the land as specified in section 6 of Schedule B1 to the NEPM (ASC);

- (d) the concentration of a contaminant in an individual soil vapour sample from the land is equal to or above 250% of the soil vapour HSL for vapour intrusion for the current use of the land or any land adjacent to the land as specified in section 6 of Schedule B1 to the NEPM (ASC);
- (e) the 95% upper confidence limit on the arithmetic average concentration of a contaminant in soil samples from the land is above the soil HSL for vapour intrusion for the current use of the land as specified in section 6 of Schedule B1 to the NEPM (ASC);
- (f) the concentration of a contaminant in an individual soil sample from the land is equal to or above 250% of the soil HSL for vapour intrusion for the current use of the land or any land adjacent to the land as specified in section 6 of Schedule B1 to the NEPM (ASC);
- (g) the 95% upper confidence limit on the arithmetic average concentration of a contaminant in groundwater samples from the land is above the groundwater HSL for vapour intrusion for the current use of the land or any land adjacent to the land as specified in section 6 of Schedule B1 to the NEPM (ASC);
- (h) the concentration of a contaminant in an individual groundwater sample from the land that is equal to or above 250% of the groundwater HSL for vapour intrusion for the current use of the land as specified in section 6 of Schedule B1 to the NEPM (ASC).

- (2) For the purposes of subregulation (1), the following circumstances are specified—
- (a) the concentration of a contaminant remains, or is likely to remain, above the concentration specified in that subregulation;
  - (b) a person is, or is likely to be, exposed to the contaminant or any by-product of the contaminant.

### **12 On-site retention of contaminated soil**

For the purposes of section 37(a) of the Act, the on-site retention of soil (other than fill material) from contaminated land sourced on-site that is not an activity for which a permission is required, is prescribed notifiable contamination.

### **13 Prescribed exempt notifiable contamination**

For the purposes of section 40(4)(b) of the Act, the following are prescribed exempt notifiable contamination—

- (a) a stockpile of industrial waste at a place or premises authorised to receive industrial waste, other than retention of soil described in regulation 12;
- (b) contamination of land in relation to which a notice was served by the Authority under section 31A, 31B, or 62A of the **Environment Protection Act 1970** for land or groundwater contamination, that was in force immediately before the repeal of that Act or had been revoked if there has been no material change in the condition of the land after the notice was served or revoked;

- (c) contamination of land in relation to which a certificate of environmental audit or a statement of environmental audit has been issued by an environmental auditor under the **Environment Protection Act 1970**, if—
  - (i) no potentially contaminating activities have been carried out on the land after the certificate or statement was issued; and
  - (ii) there has been no material change in the condition of the land after the certificate or statement was issued; and
  - (iii) there are no adverse effects on land adjacent to the land;
- (d) contamination of land arising from a particular waste or a chemical substance that is not specified in section 6 of Schedule B1 to the NEPM (ASC), other than contamination arising from—
  - (i) asbestos described in regulation 9; or
  - (ii) non-aqueous phase liquid described in regulation 10(3).

#### **14 Prescribed information for notifications**

For the purposes of section 41(2)(e) of the Act, prescribed information is information on the management response, or proposed management response, to the notifiable contamination by the person in management or control of the land.

## **Part 2.2—Non-aqueous phase liquids**

### **15 Clean up of non-aqueous phase liquids**

A person in management or control of land where a non-aqueous phase liquid is present in soil or groundwater must, so far as reasonably practicable—

- (a) clean up the non-aqueous phase liquid; and
- (b) if the source of the non-aqueous phase liquid is located on the land, remove or control the source of the liquid.

#### **Note**

Act compliance—section 39 (see regulation 6).



## **Chapter 3—Permissions**

### **Part 3.1—General**

#### **16 Permission activities**

- (1) For the purposes of section 44 of the Act, an activity set out in column 3 of the Table in Schedule 1 is a prescribed development activity if the corresponding entry in column 4 of that Table specifies that the activity is a prescribed development activity.
- (2) For the purposes of section 45 of the Act, an activity set out in column 3 of the Table in Schedule 1 is a prescribed operating activity if the corresponding entry in column 4 of that Table specifies that the activity is a prescribed operating activity.
- (3) For the purposes of section 46 of the Act, an activity set out in column 3 of the Table in Schedule 1 is a prescribed permit activity if the corresponding entry in column 4 of that Table specifies that the activity is a prescribed permit activity.
- (4) For the purposes of section 47 of the Act, an activity set out in column 3 of the Table in Schedule 1 is a prescribed registration activity if the corresponding entry in column 4 of that Table specifies that the activity is a prescribed registration activity.

#### **Note**

Subregulations (1), (2), (3) and (4) do not apply if, in relation to the activity, an exemption set out in Part 3.5 applies.

**17 Matters to be included in permission applications to the Authority**

- (1) For the purposes of section 50(1)(e) of the Act, the following information is prescribed in the case of an application made to the Authority for any permission—
- (a) any evidence of the applicant's identity that is required by the Authority;
  - (b) a declaration to the effect that the information contained in the application is, to the best of the applicant's knowledge, true;
  - (c) if the applicant seeks to have the permission issued or granted in the name of a business, the business name and any written evidence required by the Authority of the registration of the business name.
- (2) For the purposes of section 50(1)(e) of the Act, the following information is prescribed in the case of an application made to the Authority for a licence or a permit—
- (a) a declaration as to whether or not the applicant and, if the applicant is a body corporate, any officer of the applicant or of another body corporate that has or had one or more officers in common with the applicant or any family member of the applicant has ever—
    - (i) been found guilty of any offence, or entered into an undertaking, under any relevant environment protection legislation and, if so, details of the findings of guilt; or

- (ii) been declared bankrupt or agreed to a personal insolvency agreement under Part X of the Bankruptcy Act 1966 of the Commonwealth; or
- (iii) held property in a testamentary trust;
- (b) a declaration as to whether the applicant and, if the applicant is a body corporate, any officer of the applicant or of another body corporate that has or had one or more officers in common with the applicant or any family member of the applicant has ever previously had a permission suspended or cancelled under any relevant environment protection legislation and, if so, details of the suspension or cancellation.

**18 Prescribed conditions under section 64 of the Act**

- (1) For the purposes of section 64(a) of the Act, a condition that is described in the permission as applying for the purposes of section 64 of the Act is prescribed.
- (2) For the purposes of section 64(b) of the Act, the following classes of conditions are prescribed—
  - (a) conditions requiring the permission holder to provide data or to report on matters to the Authority, another agency or the public, including reporting on compliance with the permission or the conditions attaching to the permission;
  - (b) conditions requiring the permission holder to make and retain records for inspection.

## 19 Prescribed circumstances for refusal of permission

(1) For the purposes of sections 69(4)(c), 74(4)(d), 78(3)(c) and 81(4)(c) of the Act, it is a prescribed circumstance if an application specifies an activity involving a wastewater discharge or deposit to surface waters in a special water supply catchment area set out in Schedule 5 to the **Catchment and Land Protection Act 1994**.

(2) In this regulation—

*special water supply catchment area* has the same meaning as in the **Catchment and Land Protection Act 1994**.

## 20 Permission conditions

(1) For the purposes of section 54(2)(1) of the Act, an operating licence for an activity set out in item 7 (A05a—Landfills—excluding municipal landfills servicing <5000 people) in the Table in Schedule 1 or a permit for an activity set out in item 8 (A05b—Municipal landfills servicing <5000 people) in that Table is subject to the following conditions—

(a) the holder of the operating licence or permit must take all reasonable steps—

(i) to avoid exceeding the methane gas action level set out in column 3 of the Table in Schedule 3 when assessed at the location specified in column 2 of that Table that corresponds to that methane gas action level; and

(ii) to ensure that the depth of the leachate in any landfill cell does not exceed 300 mm above the surface of the liner unless the operating licence or permit otherwise allows a higher level of leachate for the landfill cell;

- (b) the use of any landfill gas flare or thermal oxidising unit operating at the landfill site must, for any landfill gas entering the flare or unit—
- (i) achieve a destruction efficiency of 98% for methane and volatile organic compounds; or
  - (ii) hold the landfill gas at a temperature of at least 1000°C for a minimum of 0.3 seconds each time a flare or unit is used.
- (2) For the purposes of section 54(2)(l) of the Act, an operating licence for an activity set out in item 7 (A05a—Landfills—excluding municipal landfills servicing <5000 people) in the Table in Schedule 1 is subject to the condition that the holder of the operating licence must ensure that a weighbridge is used to measure the quantity of waste received at the landfill site.
- (3) Subregulation (2) does not apply if the activity set out in item 7 (A05a—Landfills—excluding municipal landfills servicing <5000 people) in the Table in Schedule 1 takes place at a privately owned landfill that only receives wastes that consist of substances that were owned by the holder of the operating licence before they became wastes.
- (4) For the purposes of section 54(2)(l) of the Act, a permit for an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 or a registration for an activity set out in item 16 (A10b—Reportable priority waste (transport)—other) in that Table is subject to the following conditions—

- (a) the holder of the permission must ensure that any driver transporting waste under the permission has undertaken any training specified in the permission;
- (b) if any waste being transported under the permission falls within one or more of the classes of dangerous goods listed in Appendix A of the Waste Classification Assessment Protocol, the holder of the permission must ensure that—
  - (i) the vehicle in which the waste is being transported is appropriately placarded within the meaning of regulation 84 of the Dangerous Goods (Transport by Road or Rail) Regulations 2018; and
  - (ii) the load is stowed, loaded and restrained in a way that does not contravene regulation 105 of the Dangerous Goods (Transport by Road or Rail) Regulations 2018; and
  - (iii) the waste is accompanied by transport documentation in a way that does not contravene regulation 129 of the Dangerous Goods (Transport by Road or Rail) Regulations 2018.

**21 Authority or council may request additional information regarding certain applications**

- (1) This regulation applies to applications made—
  - (a) to the Authority under the following sections of the Act—
    - (i) section 56(1);
    - (ii) section 57(1);
    - (iii) section 59(1);
    - (iv) section 80(1) or (2);

- (v) section 82(1);
- (vi) section 84(1)(a); or
- (b) to a council under the following sections of the Act—
  - (i) section 56(1);
  - (ii) section 57(1);
  - (iii) section 59(1);
  - (iv) section 83(1);
  - (v) section 84(1)(b).
- (2) After receiving an application to which this regulation applies, the Authority or council may require an applicant to provide additional information relating to that application the Authority or council considers necessary.
- (3) An application to which this regulation applies is not complete until the information requested under subregulation (2) has been provided, to the satisfaction of the Authority or council.

## Part 3.2—Licences

### 22 Referral of development licence applications to prescribed agencies

- (1) For the purposes of section 69(2) of the Act, the following agencies are prescribed—
  - (a) in the case of an application to conduct extractive industry or mining activities, the Minister administering the **Mineral Resources (Sustainable Development) Act 1990**;
  - (b) in the case of an application relating to an activity that is to be engaged in within one or more municipal districts, any responsible authority within the meaning of the **Planning and Environment Act 1987**;
  - (c) in the case of a significant development licence application, the Secretary to the Department of Health;
  - (d) any agency to which the Authority considers it appropriate in the circumstances to refer the application for comment.
- (2) If the Minister administering the **Mineral Resources (Sustainable Development) Act 1990** is referred an application under section 69(2) of the Act, the Minister must advise the Authority, within 15 business days after the referral—
  - (a) whether the proposed activity that is the subject of the application is prohibited by the planning scheme for the area in which that activity is to be engaged in; and
  - (b) if so, whether an amendment to the planning scheme is to be prepared to allow the activity in the area.



- (3) If a responsible authority is referred an application under section 69(2) of the Act, the responsible authority—
- (a) must advise the Authority in writing, within 15 business days after the referral, whether any of the following apply to the activity that is the subject of the application—
    - (i) the activity is allowed by the planning scheme with or without conditions or prohibited by the planning scheme;
    - (ii) a permit under the **Planning and Environment Act 1987** for the activity is required, has been issued or is being considered; and
  - (b) may provide written comments to the Authority, within 32 business days after the referral, stating whether the responsible authority—
    - (i) supports, does not object to or objects to the application; and
    - (ii) recommends that the Authority issue the development licence subject to any specific conditions the responsible authority considers appropriate.
- (4) If the Secretary to the Department of Health is referred an application under section 69(2) of the Act, the Secretary, within 15 business days after the referral, may provide written comments to the Authority that include any objections or recommendations the Secretary has in relation to the application.

- (5) For the purposes of section 69(4)(c) of the Act, the following are prescribed circumstances—
- (a) the proposed activity that is the subject of the application is prohibited by a planning scheme, unless the Authority has been advised under subregulation (2)(b) that an amendment to the planning scheme is to be prepared;
  - (b) the Secretary to the Department of Health provides written comments under subregulation (4) objecting to the issue of the development licence on the ground that public health is likely to be endangered if the development licence is issued.

**23 Circumstances in which operating licence must be refused**

For the purposes of section 74(4)(d) of the Act, it is a prescribed circumstance if, in the case of an application for an operating licence that specifies an activity set out in item 7 (A05a—Landfills—excluding municipal landfills servicing <5000 people) in the Table in Schedule 1, the activity that is the subject of the application involves the receipt of any of the following types or classes of waste at the proposed landfill site—

- (a) liquid waste;
- (b) pneumatic automotive tyres unless the tyres have been shredded into pieces not exceeding 250 millimetres in size measured in any dimension;
- (c) wastes prohibited for disposal to landfill by a national environment protection measure;
- (d) e-waste, other than smoke detectors and e-waste that is dispersed in negligible quantities in wastes not otherwise prohibited from disposal at a landfill;

- (e) used oil filters;
- (f) rigid steel or plastic containers with an original volume equal to or greater than 200 litres contaminated with reportable priority waste (transport).

**Note**

Section 67 of the Act prevents the Authority from issuing or granting a permission in relation to a landfill site for receiving Category A waste.

**24 Criteria for considering licence exemptions**

For the purposes of section 80(5) of the Act, the following are prescribed matters—

- (a) the purposes of the Act;
- (b) the objective of the Authority;
- (c) the objects set out in section 111 of the Act;
- (d) the principles of environment protection;
- (e) whether granting the proposed exemption may adversely affect—
  - (i) human health or the environment; or
  - (ii) the interests of any person other than the applicant; or
  - (iii) any environmental values identified in any relevant environment reference standard;
- (f) the best available techniques or technologies for engaging in the prescribed activity;
- (g) whether the applicant has adequately engaged with any person whose interests may be affected by the proposed exemption, taking into account the Charter of Consultation developed under section 53 of the Act;

- (h) whether the applicant is a fit and proper person for the purposes of Chapter 4 of the Act;
- (i) whether, if the Authority has requested further information from the applicant, the applicant has provided sufficient information within a reasonable time;
- (j) whether it is in the public interest to grant the exemption.

## **Part 3.3—Permits**

### **25 Prescribed permit activities to be administered by councils**

An activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is a permit activity that is administered by the council in whose municipal district the on-site wastewater management system is located.

#### **Note**

All applications for permits to engage in an activity set out in item 28 in the Table in Schedule 1 must be sent to the council in whose municipal district the on-site wastewater management system is located, not the Authority. All other permit activity applications must be made to the Authority. See also section 439(1) of the Act regarding fees paid to the council in relation to this activity.

### **26 Prescribed matters for applications to councils in relation to on-site wastewater management systems**

- (1) For the purposes of section 50(1)(a)(ii) of the Act, an application to a council for a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is in the prescribed form and manner if it includes the following—
  - (a) the name, address (postal and email, if any) and telephone number of the applicant;
  - (b) the address at which the activity specified in the application is to be engaged in, if that address differs from the address required under paragraph (a);
  - (c) the name of the owner of the premises at which the activity specified in the application is to be engaged in;
  - (d) the name and contact details of the person undertaking any plumbing works involved in the activity;

- (e) the name and contact details of the person undertaking the construction, installation or alteration of the on-site wastewater management system.
- (2) For the purposes of section 50(1)(e) of the Act, in relation to an application to a council for a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1, the following are prescribed information—
- (a) detailed plans, specifications and particulars of the proposed construction, installation or alteration of the on-site wastewater management system including the floor plan of the premises at which the activity specified in the application is to be engaged in;
  - (b) details of the proposed use of the on-site wastewater management system;
  - (c) in relation to the construction or installation of an on-site wastewater management system—
    - (i) a copy of a certificate, issued by a body accredited under the Joint Accreditation System of Australia and New Zealand (or any other accreditation body approved by the Authority), confirming that the proposed on-site wastewater treatment plant meets the appropriate standard; or
    - (ii) a copy of an exemption granted by the Authority under section 459 of the Act stating that the applicant is exempted from this paragraph;

- (d) a description of the proposed method of treatment and management of the effluent resulting from the on-site wastewater management system and evidence confirming the system is appropriate for the proposed use;
  - (e) if required by the council, a land capability assessment prepared by a person that the council considers is suitably qualified and to a standard acceptable to the council.
- (3) For the purposes of section 56(3)(a)(ii) of the Act, an application to a council for the transfer of a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is in the prescribed form and manner if it includes the following—
- (a) the name, address (postal and email, if any) and telephone number of the applicant;
  - (b) the address at which the permit activity is to be engaged in, if that address differs from the address required under paragraph (a);
  - (c) the name of the owner of the premises at which the permit activity is to be engaged in;
  - (d) the name and contact details of the holder of the permit.
- (4) For the purposes of section 57(3)(a)(ii) of the Act, an application to a council for an amendment of a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is in the prescribed form and manner if it includes the following—
- (a) the name, address (postal and email, if any) and telephone number of the applicant;

- (b) the address at which the permit activity is to be engaged in, if that address differs from the address required under paragraph (a);
  - (c) the name of the owner of the premises at which the permit activity is to be engaged in;
  - (d) details of the proposed amendment to the permit.
- (5) For the purposes of section 84(3)(a)(ii) of the Act, an application to a council to renew a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is in the prescribed form and manner if it includes the following—
- (a) the name, address (postal and email, if any) and telephone number of the applicant;
  - (b) the address at which the permit activity is to be engaged in, if that address differs from the address required under paragraph (a);
  - (c) the name of the owner of the premises at which the permit activity is to be engaged in;
  - (d) the name and contact details of the person undertaking any plumbing works involved in the permit activity;
  - (e) the name and contact details of the person undertaking the construction, installation or alteration of the on-site wastewater management system.
- (6) For the purposes of section 84(3)(c) of the Act, in the case of an application to a council to renew a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1, details of any change to the information provided in the application for the permit under subregulation (2) are prescribed information.



## **27 Prescribed period for deciding permit applications**

- (1) For the purposes of section 81(2)(a)(i) of the Act, in relation to an application for a permit specifying an activity set out in item 18 (A12—Transporting waste out of Victoria), 20 (A13b—Waste and resource recovery—medium), 22 (A14—Reclaimed wastewater supply or use), 24 (A16—Supply or use of reportable priority waste), 25 (A17—Containment of Category D waste soil), 26 (A18—Discharge or deposit of waste to aquifer), 27 (A19—Temporary on-site waste treatment), 32 (B01a—Animal industries—waste solely to land) or 34 (B02a—Livestock saleyards or holding pens—waste solely to land) in the Table in Schedule 1, the prescribed period is within 42 business days after receiving the application.
- (2) For the purposes of section 81(2)(b) of the Act, in relation to an application for a permit specifying an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1, the prescribed period is within 42 business days after receiving the application.

## **28 Prescribed matters Authority or council must take into account when determining whether to issue permit**

For the purposes of section 81(3) of the Act, the prescribed matters are—

- (a) in the case of an application to the Authority—
  - (i) any measures the applicant has taken or proposes to take in order to comply with the general environmental duty when engaging in the activity specified in the application; and

- (ii) the impact of the activity on human health and the environment; and
  - (iii) the principles of environment protection; and
  - (iv) whether the activity is otherwise consistent with the Act and these Regulations; and
- (b) in the case of an application to the Authority for a permit that specifies an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1, the best available techniques or technologies for engaging in the activity; and
- (c) in the case of an application to the Authority for a permit that specifies an activity set out in item 17 (A11—Transporting waste into Victoria) in the Table in Schedule 1—
- (i) whether the facility to which the waste will be transported is appropriately licensed or otherwise approved by the Authority to receive the waste and has sufficient capacity to receive the waste; and
  - (ii) relevant environment protection policies, statutory policies and legislation of other participating jurisdictions relating to the generation, transport, treatment or disposal of waste; and
  - (iii) whether there is an appropriate facility for the reuse, recycling, treatment or disposal of the waste in the jurisdiction where the waste was generated; and

- (d) in the case of an application to the Authority for a permit that specifies an activity set out in item 18 (A12—Transporting waste out of Victoria) in the Table in Schedule 1—
  - (i) the type of waste being assessed and how best practice disposal or deposit of this type of waste may occur in Victoria; and
  - (ii) engineering specifications of the facility to which the waste is proposed to be deposited or disposed to in the receiving jurisdiction and how that compares with the matters set out in subparagraph (i); and
  - (iii) if the movement is intended to achieve a higher order waste management hierarchy outcome as set out in section 18 of the Act; and
- (e) in the case of an application to the Authority for a permit that specifies an activity set out in item 26 (A18—Discharge or deposit of waste to aquifer) in the Table in Schedule 1, whether granting the permit may adversely affect any environmental values identified in any relevant environment reference standard, taking into account any other activities being, or proposed to be, engaged in by the applicant or any other person; and
- (f) in the case of an application to the Authority for a permit that specifies an activity set out in item 76 (L05—Operation outside of hours or extended operations) in the Table in Schedule 1—
  - (i) the effective noise levels in any previous operations engaged in by the applicant (if applicable); and

- (ii) the history of complaints received by the Authority or a council in relation to previous operations engaged in by the applicant (if any); and
  - (iii) any action the applicant intends to take to control noise emissions and to minimise their impacts; and
  - (iv) whether it is in the public interest to grant the permit; and
- (g) in the case of an application to the Authority for a permit that specifies an activity set out in item 77 (L06—Conducting more than 6 outdoor concerts) in the Table in Schedule 1—
- (i) the number of concerts in that location in the previous year (if applicable); and
  - (ii) the effective noise levels of concerts in that location in the previous year (if applicable); and
  - (iii) the history of complaints received about concerts in that location in the previous year (if any); and
  - (iv) any action the applicant intends to take to control noise emissions and to minimise their impacts; and
  - (v) whether it is in the public interest to grant the permit; and
- (h) in the case of an application to a council, in whose municipal district the on-site wastewater management system is located, for a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1—

- (i) whether the site for the proposed construction, installation or alteration of the on-site wastewater management system is environmentally sensitive or is otherwise unsuitable; and
- (ii) whether the proposed construction, installation or alteration of the on-site wastewater management system is unsuitable for the site or proposed use; and
- (iii) whether the proposed use of the on-site wastewater management system is inconsistent with the design specifications of the system; and
- (iv) whether the area available for the treatment or disposal of the effluent resulting from the system is not suitable or sufficient; and
- (v) the findings of any land capability assessment required under regulation 26(2)(e).

**Examples**

Environmentally sensitive sites for the purposes of paragraph (h)(i) may include freshwater lakes, sites located in sandy areas with high water tables and sites in sensitive areas where the receiving waters may be at risk of algal blooms from high nutrient levels.

**29 Circumstances in which permit must be refused**

- (1) For the purposes of section 81(4)(c) of the Act, it is a prescribed circumstance if, in the case of an application for a permit that specifies an activity set out in item 26 (A18—Discharge or deposit of waste to aquifer) in the Table in Schedule 1, the discharge or deposit of waste to an aquifer is not for at least one of the following purposes—
  - (a) aquifer recharge;

- (b) irrigation drainage;
  - (c) stormwater disposal;
  - (d) backfilling of underground mine workings with tailings;
  - (e) mine rehabilitation;
  - (f) in-situ desalination;
  - (g) groundwater tracers;
  - (h) greenhouse gas sequestration operations;
  - (i) remediation of groundwater in an aquifer by injection of water or remediation chemicals.
- (2) For the purposes of section 81(4)(c) of the Act, it is a prescribed circumstance if, in the case of an application for a permit that specifies an activity set out in item 8 (A05b—Municipal landfills servicing <5000 people) in the Table in Schedule 1, the permit, if issued, would authorise the receipt of any of the following types or classes of waste at a landfill site—
- (a) liquid waste;
  - (b) pneumatic automotive tyres unless the tyres have been shredded into pieces not exceeding 250 millimetres in size measured in any dimension;
  - (c) wastes prohibited for disposal to landfill by a national environment protection measure;
  - (d) e-waste, other than smoke detectors and e-waste that is dispersed in negligible quantities in wastes not otherwise prohibited from disposal at a landfill;
  - (e) used oil filters;

- (f) rigid steel or plastic containers with an original volume equal to or greater than 200 litres contaminated with reportable priority waste (transport).

**Note**

Section 67 of the Act prevents the Authority from issuing or granting a permission in relation to a landfill site for receiving Category A waste.

- (3) For the purposes of section 81(4)(c) of the Act, it is a prescribed circumstance if—
  - (a) the application is for a permit that specifies the transporting of non-liquid reportable priority waste (transport) for destruction or disposal; and
  - (b) the Authority is not satisfied that the waste will be destroyed or disposed of at a facility with environmental performance standards that are equal to or better than those of a facility authorised by a permission to destroy or dispose of that type of waste.
- (4) Subject to subregulation (5), for the purposes of section 81(4)(c) of the Act, it is a prescribed circumstance if, in the case of an application made to the council in whose municipal district the on-site wastewater management system is located for a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1, the applicant has not provided the information required under regulation 26(2)(c).
- (5) Subregulation (4) does not apply in the case of an application made to the council for a permit that specifies the alteration of an on-site wastewater management system if that system was either—

- (a) constructed, installed, or partially constructed or installed, before the date this regulation commenced; or
- (b) constructed or installed in accordance with a permit issued under the **Environment Protection Act 1970** after the date this regulation commenced.

### **30 Prescribed period during which permits remain in force**

For the purposes of section 81(5)(b) of the Act, the prescribed period is—

- (a) in the case of an activity set out in item 17 (A11—Transporting waste into Victoria) or 18 (A12—Transporting waste out of Victoria) in the Table in Schedule 1, a time period specified in the permit if it is not longer than 1 year; and
- (b) in the case of an activity set out in item 27 (A19—Temporary on-site waste treatment) in the Table in Schedule 1, a time period specified in the permit if it is not longer than 3 years; and
- (c) in the case of an activity set out in item 8 (A05b—Municipal landfills servicing <5000 people), 15 (A10a—Reportable priority waste (transport)—high risk), 20 (A13b—Waste and resource recovery—medium), 22 (A14—Reclaimed wastewater supply or use), 23 (A15—Biosolids supply or use), 24 (A16—Supply or use of reportable priority waste), 25 (A17—Containment of Category D waste soil), 26 (A18—Discharge or deposit of waste to aquifer), 32 (B01a—Animal industries—waste solely to land), 34 (B02a—Livestock saleyards or holding pens—waste solely



- to land), 76 (L05—Operation outside of hours or extended operations) or 77 (L06—Conducting more than 6 outdoor concerts) in the Table in Schedule 1, for a time period specified in the permit if it is not longer than 5 years; and
- (d) in the case of an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1, the earlier of the date—
- (i) set out in a condition in the permit issued by the council, in whose municipal district the on-site wastewater management system is located, provided that date is at least 2 years (but no more than 5 years) from the date the permit was issued; or
  - (ii) on which the council issued the certificate under regulation 33.

**Note**

The maximum period a permit may remain in force is 5 years (see section 81(5)(a) of the Act).

**31 Prescribed matters Authority must consider when determining whether to issue permit exemption**

For the purposes of section 82(4) of the Act, the following are prescribed matters—

- (a) the purposes of the Act;
- (b) the objective of the Authority;
- (c) the principles of environment protection;
- (d) whether granting the proposed exemption may adversely affect human health or the environment;

- (e) whether the applicant is a fit and proper person for the purposes of Chapter 4 of the Act;
- (f) whether, if the Authority has requested further information from the applicant, the applicant has provided sufficient information within a reasonable time.

**32 Prescribed matters for on-site wastewater management system permit exemptions**

- (1) For the purposes of section 83(2)(a) of the Act, an application for an exemption from the application of section 46 of the Act in relation to an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is in the prescribed form and manner if it includes the following—
  - (a) name, address (postal and email, if any) and telephone number of the applicant;
  - (b) the address at which the activity specified in the application is to be engaged in, if that address differs from the address required under paragraph (a);
  - (c) the name and contact details of the owner of the premises at which the activity specified in the application is to be engaged in.
- (2) For the purposes of section 83(2)(d) of the Act, in relation to an application for an exemption from the application of section 46 of the Act in relation to an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1, the following are prescribed information—

- (a) detailed plans, specifications and particulars of the proposed construction, installation or alteration of the on-site wastewater management system including the floor plan of the premises at which the activity specified in the application is to be engaged in;
- (b) details of the proposed use of the on-site wastewater management system;
- (c) in relation to the construction or installation of an on-site wastewater management system, either—
  - (i) a copy of a certificate, issued by a body accredited under the Joint Accreditation System of Australia and New Zealand (or any other accreditation body approved by the Authority), confirming that the proposed on-site wastewater treatment plant meets the appropriate standard; or
  - (ii) a copy of an exemption granted by the Authority under section 459 of the Act stating that the applicant is exempted from this paragraph;
- (d) a description of the proposed method of treatment and management of the effluent resulting from the on-site wastewater management system and evidence confirming the system is appropriate for the proposed use;
- (e) if required by the council, a land capability assessment prepared by a suitably qualified person to a standard acceptable to the council.

- (3) For the purposes of section 83(4) of the Act, the following matters are prescribed—
- (a) whether the activity specified in the application may pose a serious risk of harm to human health or the environment;
  - (b) whether granting the exemption may adversely affect—
    - (i) the interests of any person other than the applicant; or
    - (ii) any environmental values identified in any relevant environment reference standard.

**33 Approval of use of on-site wastewater management system**

On completion of the construction, installation or alteration of an on-site wastewater management system in accordance with a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1, the council that issued the permit must inspect the system and must issue a certificate approving the use of the system if the council is satisfied that the system complies with the permit.

**Example**

The council may be satisfied that the system complies with the permit if the council sees that the system complies with any manufacturer's manual supplied to the council by the person in management or control of the system.

**34 Prohibition on use of on-site wastewater management system**

- (1) The holder of a permit for an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 must ensure that any on-site wastewater management system specified in the permit is not used until the council has approved it in accordance with regulation 33.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) Subregulation (1) does not apply to the holder of a permit that specifies the alteration of an on-site wastewater management system.

**35 Prescribed matters Authority must consider when determining whether to renew permit**

For the purposes of section 84(7) of the Act, the following are prescribed matters the Authority must take into account—

- (a) whether the circumstances in which the permit activity is engaged in have changed; and
- (b) whether the permit holder has complied with the permit; and
- (c) whether the risk of harm to human health and the environment posed by the permit activity has changed.

## **Part 3.4—Registrations**

### **36 Prescribed period during which registrations remain in force**

For the purposes of section 85(3)(a) of the Act, the period prescribed for an activity described as a registration activity in the Table in Schedule 1 is the time period specified in the registration if it is not longer than 5 years.

## **Part 3.5—Exemptions from certain permission activities**

### **Division 1—Activity-specific exemptions**

#### **37 Prescribed exemptions in relation to development activities**

For the purposes of section 44(2)(c) of the Act, the following are prescribed exemptions—

- (a) if a person engaging in an activity set out in item 8 (A05b—Municipal landfills servicing <5000 people) of the Table in Schedule 1 is—
  - (i) operating a municipal landfill facility occupied by a council; and
  - (ii) the facility was in use before 25 June 2017; and
  - (iii) the facility serves fewer than 500 people;
- (b) if a person engages in a modification activity set out in section 44(1)(c)(i) of the Act that involves discharges or emissions solely to the atmosphere from one or more of the following sources—
  - (i) a standby engine;
  - (ii) fire-fighting training activities;
  - (iii) a spray booth, extractor vent system or fume cupboard used in product development or in a laboratory;
  - (iv) a safety relief valve or rupture disc;
  - (v) a vent on a wastewater treatment system except at a sewage treatment plant;

- (vi) a general room or building ventilation point;
- (vii) a food cooker or kitchen range;
- (viii) an acid or alkali tank;
- (ix) hand-held or other portable cleaning, maintenance or construction equipment.

**38 Prescribed exemptions in relation to operating activities**

For the purposes of section 45(2)(c) of the Act, the following are prescribed exemptions—

- (a) in relation to an activity set out in item 5 (A03—Sewage treatment) of the Table in Schedule 1, if a person—
  - (i) engages in an activity that discharges or deposits waste solely to land at a design capacity of 100 000 litres per day or less; and
  - (ii) has a permit for the activity set out in item 22 (A14—Reclaimed wastewater supply or use) or item 23 (A15—Biosolids supply or use) of that Table;
- (b) in relation to an activity set out in item 36 (B03—Fish farms) of the Table in Schedule 1, if a person engages in an activity that discharges or deposits waste solely to land;
- (c) in relation to an activity set out in item 38 (D01—Abattoirs) of the Table in Schedule 1, if a person—
  - (i) engages in an activity that discharges or deposits less than 100 000 litres per day of treated wastewater solely to land; and



Part 3.5—Exemptions from certain permission activities

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- (ii) has a permit for the activity set out in item 22 (A14—Reclaimed wastewater supply or use) of that Table;
- (d) in relation to an activity set out in item 46 (D09—Beverage manufacturing) of the Table in Schedule 1, if a person engages in an activity that discharges or deposits waste solely to land;
- (e) in relation to an activity set out in item 47 (E01—Textile works) of the Table in Schedule 1 (other than engaging in textile finishing using chemical treatment), if a person engages in an activity that discharges or emits waste solely to the atmosphere;
- (f) in relation to an activity set out in item 50 (F03—Paper pulp mills) of the Table in Schedule 1, if a person engages in an activity that produces less than 30 000 tonnes per year of pulp, paper or cardboard;
- (g) in relation to an activity set out in item 66 (I04—Metal finishing) of the Table in Schedule 1, if a person engages in an activity that discharges or emits waste solely to the atmosphere;
- (h) in relation to an activity set out in item 67 (I05—Can and drum coating) of the Table in Schedule 1, if a person engages in an activity that discharges or emits solely to the atmosphere less than 100 kilograms per day of volatile organic compounds;
- (i) in relation to an activity set out in item 70 (K01—Power generation) of the Table in Schedule 1, if a person engages in an activity that uses solely natural gas turbines which have a total rated capacity of less than 20 megawatts (MW);

- (j) in relation to an activity set out in item 73 (L01—General discharges or emissions to the atmosphere) of the Table in Schedule 1, if a person engages in an activity that discharges or emits solely to the atmosphere from boilers fired solely by natural gas with a total rated capacity of less than 20 MW.

**39 Prescribed exemptions in relation to item 73 (L01—General discharges or emissions to the atmosphere) of the Table in Schedule 1**

For the purposes of sections 44(2)(c) and 45(2)(c) of the Act, the following are prescribed exemptions in relation to an activity set out in item 73 (L01—General discharges or emissions to the atmosphere) of the Table in Schedule 1—

- (a) if a person engages in an activity that involves discharges or emissions solely to the atmosphere from one or more sources (other than an incinerator or an afterburner) and the discharge or emission from each source is less than—
  - (i) 100 kilograms per day oxides of nitrogen; and
  - (ii) 10 kilograms per day oxides of sulphur; and
  - (iii) 100 kilograms per day carbon monoxide; and
  - (iv) 5 kilograms per day volatile organic compounds of which none are odorous compounds (except those substances referred to in subparagraphs (vii) and (viii)); and

- (v) in the case of—
  - (A) a source that was discharging or emitting at any time during the 12 months before 25 June 2017, 10 kilograms per day particles (except lead, respirable crystalline silica and asbestos); and
  - (B) any other source, 10 kilograms per day particles (except lead, respirable crystalline silica and asbestos), including no more than 4 kilograms per day particles as PM<sub>2.5</sub>; and
- (vi) 0.1 gram per minute of lead; and
- (vii) 0.1 gram per minute of any substance classified as a Class 2 substance (except particles as PM<sub>2.5</sub>); and
- (viii) 0.1 gram per minute of any substance classified as a Class 3 substance;
- (b) if a person engages in an activity that involves discharges or emissions solely to the atmosphere from one or more of the following sources—
  - (i) a standby engine;
  - (ii) fire-fighting training activities;
  - (iii) a spray booth, extractor vent system or fume cupboard used in product development or in a laboratory;
  - (iv) a safety relief valve or rupture disc;
  - (v) a vent on a wastewater treatment system except at a sewage treatment plant;
  - (vi) a general room or building ventilation point;

- (vii) a food cooker or kitchen range;
- (viii) an acid or alkali tank;
- (ix) hand-held or other portable cleaning, maintenance or construction equipment;
- (x) extractive industry or mining activities operating in accordance with the **Mineral Resources (Sustainable Development) Act 1990**.

**40 Prescribed exemptions in relation to permit activities**

- (1) For the purposes of section 46(2)(c) of the Act, the following are prescribed exemptions—
  - (a) if a person engaging in an activity set out in item 22 (A14—Reclaimed wastewater supply or use) of the Table in Schedule 1—
    - (i) uses the reclaimed wastewater in accordance with regulation 63(e); or
    - (ii) engages in an activity that discharges or deposits less than one megalitre per day of Class B or C reclaimed wastewater solely to land;
  - (b) if a person engaging in an activity set out in item 23 (A15—Biosolids supply or use) of the Table in Schedule 1 uses the biosolids in accordance with regulation 63(f);
  - (c) if a person engaging in an activity set out in item 24 (A16—Supply or use of reportable priority waste) of the Table in Schedule 1 uses the reportable priority waste (transport) (other than soil) in accordance with regulation 63(g).

(2) In this regulation—

***Class B or C reclaimed wastewater*** means reclaimed wastewater that meets the water quality objectives for Class B or C reclaimed water set out in column 2 of Table 1 of the Guidelines for Environmental Management—Use of Reclaimed Water, published by the Authority on its website, as in force from time to time.

## **Division 2—Exemptions applying to more than one permission activity**

### **41 Prescribed exemption from permit if person holds a higher order permission**

For the purposes of section 46(2)(c) of the Act, it is a prescribed exemption from the requirement for a person to obtain a permit to engage in an activity if the person holds an operating licence in respect of that activity.

#### **Note**

The effect of this regulation is that a duty holder is not required to apply for a permit if the person already holds an operating licence that authorises the activity.

### **42 Prescribed exemption from registration if person holds a higher order permission**

For the purposes of section 47(2)(c) of the Act, it is a prescribed exemption from the requirement for a person to obtain a registration to engage in an activity if the person holds an operating licence or a permit in respect of that activity.

#### **Note**

The effect of this regulation is that a duty holder is not required to apply for a registration if the person already holds an operating licence or a permit that authorises the activity.

## **Part 3.6—Environment protection levy and waste levy**

### **43 Environment protection levy**

- (1) For the purposes of section 91(1) of the Act, the fee prescribed in respect of any activity is the annual fee.

#### **Notes**

- 1 *Annual fee*, in relation to an operating licence, means the fee calculated under regulation 177—see regulation 4.
  - 2 Section 91 of the Act provides for the environment protection levy to be 3% of this annual fee.
- (2) For the purposes of section 91(1)(b) of the Act, the activities set out in the following items in the Table in Schedule 1 are prescribed as activities in respect of which the levy is required to be paid—
- (a) item 1 (A01—Reportable priority waste management);
  - (b) item 5 (A03—Sewage treatment);
  - (c) item 6 (A04—Industrial wastewater treatment);
  - (d) item 12 (A08—Waste to energy);
  - (e) item 38 (D01—Abattoirs);
  - (f) item 39 (D02—Rendering);
  - (g) item 40 (D03—Animal skin tanning works);
  - (h) item 42 (D05—Pet food processing);
  - (i) item 43 (D06—Food processing);
  - (j) item 44 (D07—Milk processing);
  - (k) item 45 (D08—Edible oil or fat processing);
  - (l) item 47 (E01—Textile works);
  - (m) item 49 (F02—Fibreboard works);

- (n) item 50 (F03—Paper pulp mills);
- (o) item 51 (G01—Chemical works);
- (p) item 52 (G02—Coal processing);
- (q) item 53 (G03—Oil or gas refining);
- (r) item 54 (G04—Bulk storage);
- (s) item 55 (G05—Container washing);
- (t) item 56 (H01—Cement works);
- (u) item 58 (H03—Ceramics);
- (v) item 59 (H04—Mineral wool works);
- (w) item 60 (H05a—Glass works—  
manufacturing);
- (x) item 64 (I02—Metal melting);
- (y) item 65 (I03—Metal galvanising);
- (z) item 67 (I05—Can and drum coating);
- (za) item 68 (I06—Vehicle assembly);
- (zb) item 69 (J01—Printing);
- (zc) item 70 (K01—Power generation);
- (zd) item 72 (K04—Water desalination);
- (ze) item 73 (L01—General discharges or  
emissions to the atmosphere);
- (zf) item 75 (L03—Road tunnel ventilation  
systems).

#### **44 Waste levy activity**

- (1) For the purposes of the definitions of *liable person* and *premises subject to the waste levy* in section 144 of the Act, a prescribed levy activity is an activity set out in item 1 (A01—Reportable priority waste management) or 7 (A05a—Landfills—excluding municipal

landfills servicing <5000 people) in the Table in Schedule 1.

**Note**

Section 146 of the Act authorises the Minister to waive the requirement to pay a waste levy for certain purposes.

- (2) Subregulation (1) does not apply—
- (a) in the case of an activity set out in item 1 (A01—Reportable priority waste management) or 7 (A05a—Landfills—excluding municipal landfills servicing <5000 people) in the Table in Schedule 1, if the activity takes place at a privately owned landfill that only receives wastes that consist of substances that were owned by the holder of the permission before they became wastes; or
  - (b) in the case of an activity set out in item 1 (A01—Reportable priority waste management) in the Table in Schedule 1, to the extent that the activity relates to wastes received other than for disposal.

**45 Waste levy payable for soil containing asbestos only**

For the purposes of section 145(4)(a)(i) of the Act, the prescribed amount of the waste levy payable for priority waste that is soil containing asbestos only is 2·06 fee units for each tonne of waste received.

**46 What is an allowable rebate?**

- (1) For the purposes of section 147(b) of the Act, a prescribed allowable rebate is a rebate referred to in subregulation (2) or (3).
- (2) A liable person may make a claim for a rebate for the relevant period in respect of the total amount of the waste levy if all of the following apply—



- (a) the waste for which the rebate is claimed is not priority waste that is soil;
  - (b) the liable person has, within the relevant period, transferred the waste to a place or premises authorised to receive industrial waste for the purposes of resource recovery;
  - (c) the waste was received at the premises subject to the waste levy no more than 3 months prior to the waste being transferred under paragraph (b).
- (3) A liable person may make a claim for a rebate for cover material calculated in accordance with the formula—

$$\text{Rebate} = 0.15 \times W \times LR$$

where—

**W** is the amount of waste (in tonnes) received at the premises subject to the waste levy for the relevant period;

**LR** is the amount specified in Table 1 of Schedule 2 to the Act for each tonne of municipal waste received at the premises subject to the waste levy for the relevant period.

**Note**

*Relevant period* is defined in regulation 4.

**47 When must the waste levy be paid?**

For the purposes of section 147(c) of the Act, the prescribed time is 64 business days after the end of the relevant period for which the amount of the waste levy payable was calculated.

#### **48 Information for calculating waste levy**

For the purposes of section 150(1)(a) of the Act, the prescribed information for the relevant period is—

- (a) the amount of the waste levy payable, calculated by the liable person; and
- (b) evidence of the total tonnage of all waste received by the liable person by category for each of the following categories of waste—
  - (i) Category B waste;
  - (ii) Category C waste;
  - (iii) Category D waste;
  - (iv) soil containing asbestos only;
  - (v) packaged waste asbestos;
  - (vi) fill material;
  - (vii) industrial waste (other than fill material);
  - (viii) municipal waste; and
- (c) evidence of the method used by the person to calculate the tonnage of different categories of waste received from mixed sources of waste.

##### **Example**

An example of mixed sources of waste is waste received from a waste and resource recovery facility (or transfer station).

#### **49 Information for calculating allowable rebate**

For the purposes of section 150(1)(b) of the Act, the prescribed information for the relevant period is—

- (a) evidence of the amount of the waste levy paid in respect of the waste for which a rebate is claimed; and
- (b) evidence of the amount and category of the waste, transferred to a place or premises authorised to receive industrial waste for the purposes of resource recovery, in respect of which a rebate is claimed; and
- (c) evidence of the location and receiver details of the place or premises authorised to receive industrial waste for the purposes of resource recovery, to which the waste was transferred; and
- (d) any other information which the liable person considers relevant to detailing how the allowable rebate was calculated.

#### **50 Information to be provided to the Authority**

For the purposes of section 150(1)(c) of the Act, the other prescribed information for the relevant period is—

- (a) in the case of reportable priority waste (transactions) transferred to a place or premises authorised to receive industrial waste for the purposes of resource recovery, the unique identifier allocated to each consignment of waste; or
- (b) in the case of priority waste (other than reportable priority waste (transactions)) transferred to a place or premises authorised to receive industrial waste for the purposes of resource recovery, a copy of the consignment note for each consignment of waste.

**51 When must information be provided to the Authority?**

For the purposes of section 150(2)(b) of the Act, the prescribed time is within 64 business days after the end of the relevant period for which the amount of the waste levy payable was calculated.

**52 Municipal districts subject to higher waste levy for municipal and industrial waste**

For the purposes of Table 1 in Schedule 2 to the Act, the prescribed municipal districts that are subject to the higher waste levy of 4.45 fee units are the following municipal districts—

- (a) Ballarat;
- (b) Banyule;
- (c) Bayside;
- (d) Boroondara;
- (e) Brimbank;
- (f) Cardinia;
- (g) Casey;
- (h) Darebin;
- (i) Frankston;
- (j) Glen Eira;
- (k) Golden Plains;
- (l) Greater Bendigo;
- (m) Greater Dandenong;
- (n) Greater Geelong;
- (o) Hobsons Bay;
- (p) Hume;
- (q) Kingston;
- (r) Knox;

- (s) Manningham;
- (t) Maroondah;
- (u) Melbourne;
- (v) Melton;
- (w) Monash;
- (x) Moonee Valley;
- (y) Moreland;
- (z) Mornington Peninsula;
- (za) Nillumbik;
- (zb) Port Phillip;
- (zc) Stonnington;
- (zd) Whitehorse;
- (ze) Whittlesea;
- (zf) Wyndham;
- (zg) Yarra;
- (zh) Yarra Ranges.

## **Part 3.7—Additional or alternative penalty for prohibited persons**

### **53 Section 89 prescribed permission activity**

For the purposes of section 89 of the Act, the following permission activities are prescribed—

- (a) the operating activity set out in item 1 (A01—Reportable priority waste management) in the Table in Schedule 1;
- (b) the operating activity set out in item 19 (A13a—Waste and resource recovery—large) in the Table in Schedule 1;
- (c) the permit activity set out in item 20 (A13b—Waste and resource recovery—medium) in the Table in Schedule 1.

#### **Note**

A person who engages in a prescribed permission activity may be liable to a penalty of 2 years imprisonment in addition to, or in place of, the penalty set out in section 45 of the Act.

## Chapter 4—Waste

### Part 4.1—Litter and unsolicited documents

#### Division 1—Dangerous litter and unsolicited documents

##### 54 Dangerous litter

For the purposes of paragraph (e) of the definition of *dangerous litter* in section 112 of the Act, priority waste is prescribed.

##### 55 Depositing or affixing unsolicited documents

- (1) A person must not deposit an unsolicited document in, on or at, or affix it to, a place or premises.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

##### Note

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) Subregulation (1) does not apply—
- (a) subject to subregulation (3), if the unsolicited document is deposited—
- (i) in a receptacle, slot or other location that is used for the deposit of mail or newspapers; or
  - (ii) under a door of a building; or
  - (iii) in a location inside a building that is suitable for the deposit of the document; or
- (b) to an unsolicited document that is—
- (i) given personally to a person at the place or premises; or

- (ii) of such a size, shape or volume that it is not possible or appropriate for it to be deposited in accordance with subregulation (2)(a).
- (3) A person must not deposit an unsolicited document in any receptacle, slot or location listed in subregulation (2)(a) or under the door of a building, if—
  - (a) there is a legible sign or marking on or near that receptacle, slot, location or door that states "No Advertising Material" or "No Junk Mail" or that contains any other words in English indicating that unsolicited documents are not to be deposited in that receptacle, slot or location, or under that door; and
  - (b) the legible sign is visible to the person depositing the unsolicited document.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

**56 Persons who commission or engage other persons for the distribution of unsolicited documents**

- (1) A person who commissions the printing of a document that is distributed, or is intended to be distributed, as an unsolicited document must, so far as reasonably practicable, ensure that it is distributed in a way that does not contravene this Part.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.



- (2) A person who engages another person (including as an employee or as an agent) to distribute an unsolicited document to a place or premises must, so far as reasonably practicable, ensure that it is distributed in a way that does not contravene this Part.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

## **Division 2—Other offences and matters**

### **57 Offence relating to public litter receptacle**

A person must not deface, set fire to, damage or destroy a receptacle for waste provided by a litter authority.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

#### **Example**

Setting fire to a public rubbish bin including by throwing a lit cigarette into it.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

### **58 Loading of vehicles**

- (1) A person who is in control of a moving vehicle must ensure that it is loaded in such a way that no part of the load can leave the vehicle and become waste without human assistance.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

(2) Subregulation (1) does not apply if the person was required to move the vehicle in accordance with a lawful instruction from an authorised officer or an officer of an emergency service.

(3) In this regulation—

*emergency service* has the same meaning as in the Dangerous Goods (Transport by Road or Rail) Regulations 2018.

### **59 Persons who may take proceedings**

For the purposes of section 347(5) of the Act, a litter authority or litter enforcement officer is a prescribed person who may take proceedings for an offence against a regulation under this Part.

#### **Note**

A *litter authority* includes a council or a Government department and a *litter enforcement officer* includes an authorised officer, a police officer or a protective services officer (see section 3(1) of the Act).

## **Part 4.2—Industrial waste and priority waste**

### **Division 1—Industrial waste**

#### **60 What is industrial waste?**

For the purposes of paragraph (b) of the definition of *industrial waste* in section 3(1) of the Act, the following waste is prescribed to be industrial waste—

- (a) waste from any source received at a place or premises which stores or handles waste generated at another site for the purpose of resource recovery or off-site transfer or disposal;
- (b) waste transported for fee or reward, other than the collection of kerbside waste by or on behalf of a council or a Waste and Resource Recovery Group.

#### **61 Classifying industrial waste**

- (1) A person must classify industrial waste in accordance with this regulation to determine—
  - (a) the applicable waste code or codes for that waste; and
  - (b) whether the waste is also priority waste.

##### **Note**

Act compliance—section 135(2) (see regulation 6).

- (2) Subject to subregulation (6), if the industrial waste is of a type described in column 3 of the Table in Schedule 5, and that waste is identified as "Pre-classified" in column 5 of that Table—
  - (a) the applicable waste code is the waste code for that waste specified in column 4 of that Table; and

- (b) if the waste is identified as priority waste in column 6 of that Table, the waste is also priority waste; and
  - (c) if more than one description of waste in column 3 of that Table is applicable to the waste, the waste is also priority waste if that waste is identified as priority waste in column 6 of the Table for any applicable description of the waste.
- (3) Subject to subregulations (5) and (6), if the waste is of a type described in column 3 of the Table in Schedule 5 and that waste is identified as a "Mirror code" in column 5 of that Table, the waste must be classified—
- (a) in accordance with the classification criteria for that type of waste contained in the Waste Classification Assessment Protocol; or
  - (b) if there are no classification criteria for that type of waste, in accordance with the hazardous properties assessment criteria contained in the Waste Classification Assessment Protocol.
- (4) Subject to subregulations (5) and (6), if the waste is not of a type described in column 3 of the Table in Schedule 5, the waste must be classified in accordance with the hazardous properties assessment criteria contained in the Waste Classification Assessment Protocol.
- (5) If the waste cannot be classified in accordance with the hazardous properties assessment criteria contained in the Waste Classification Assessment Protocol, the person who has the management or control of the waste must apply for a designation.

- (6) A classification of industrial waste under this regulation must be consistent with any applicable designation issued by the Authority in relation to that type of industrial waste.

**62 Classifying soil sourced on-site from contaminated land**

- (1) A person who has the management or control of soil sourced on-site from contaminated land that is industrial waste must, as soon as practicable after sourcing the soil, classify the soil by—
- (a) determining whether the soil is also priority waste; and
  - (b) subject to subregulation (2), determining that the soil is priority waste if the soil—
    - (i) has contaminant concentrations exceeding the upper limits for fill material contaminant concentrations specified in the Waste Disposal Categories—Characteristics and Thresholds; or
    - (ii) contains asbestos.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

- (2) A classification of soil under this regulation must be consistent with any applicable designation issued by the Authority in relation to that type of soil.

**63 Authorised to receive industrial waste**

For the purposes of paragraph (e) of the definition of *authorised to receive industrial waste* in section 3(1) of the Act, a person, place or premises is authorised to receive a type of industrial waste—

- (a) if there is a declaration of use in effect for that type of waste that applies to the place or premises; or
- (b) if the industrial waste is received in accordance with specifications acceptable to the Authority set out in a determination made under regulation 5; or
- (c) in relation to trade waste, for discharge or deposit into the sewerage system of a water corporation in accordance with a trade waste agreement under the **Water Act 1989**; or
- (d) in relation to manure, including any mixture of manure and biodegradable animal bedding from agricultural sources, for discharge or deposit to land of less than 20 m<sup>3</sup> per month; or
- (e) in relation to reclaimed wastewater, for use at a place or premises identified in a permit for an activity set out in item 22 (A14—Reclaimed wastewater supply or use) in the Table in Schedule 1 or that meets the description of a class of premises in that permit as a place or premises where the reclaimed wastewater can be used, if the wastewater—
  - (i) is intended to be used immediately; and
  - (ii) is used for the purposes and circumstances set out in the permit; or
- (f) in relation to biosolids, for use at a place or premises identified in a permit for an activity set out in item 23 (A15—Biosolids supply or use) in the Table in Schedule 1 or that meets the description of a class of premises in that permit as a place or premises where the biosolids can be used, if the waste—

- (i) is intended to be used immediately; and
  - (ii) is used for the purposes and circumstances set out in the permit; or
- (g) in relation to reportable priority waste (transport) (other than soil), for use at a place or premises identified in a permit for an activity set out in item 24 (A16—Supply or use of reportable priority waste) in the Table in Schedule 1 or that meets the description of a class of premises in that permit as a place or premises where the waste can be used, if the waste—
  - (i) is intended to be used immediately; and
  - (ii) is used for the purposes and circumstances set out in the permit; or
- (h) in relation to not more than 5 m<sup>3</sup> of industrial waste that is not priority waste, where receipt of that waste at the place or premises is not a permission activity and not for application of the waste to land; or
- (i) in relation to not more than 5 m<sup>3</sup> of the following types of priority waste, where receipt of that waste at the place or premises is not a permission activity—
  - (i) timber treated with hazardous substances, including sawdust in column 3 of item 59 of the Table in Schedule 5;
  - (ii) tyres, including tyre pieces greater than 250 mm in size measured in any dimension, in column 3 of item 104 of the Table in Schedule 5;
  - (iii) e-waste in column 3 of item 108 of the Table in Schedule 5, excluding batteries; or

- (j) in relation to waste tyres, for use in accordance with specifications acceptable to the Authority set out in a determination made under regulation 5 for the purposes of item 14 (A09b—Waste tyre storage—small) in the Table in Schedule 1; or
- (k) for receipt at a laboratory for the purposes of analysis; or
- (l) in relation to greenhouse gas substances, for injection as part of greenhouse gas sequestration operations carried out in accordance with the **Greenhouse Gas Geological Sequestration Act 2008**; or
- (m) if the waste transported to the place or premises may be lawfully exported from Australia directly from that place or premises.

#### **64 Declaration of use**

- (1) For the purposes of regulation 63(a), a person in management or control of industrial waste and a person in management or control of a place or premises at which that industrial waste is to be received may make a declaration of use in relation to that place or premises for, or in relation to, any of the following purposes—
  - (a) the immediate use of—
    - (i) the waste for resource recovery, other than for application of the waste to land; or
    - (ii) the waste (other than soil) for use as a substitute for an input or raw material in a commercial, industrial, trade or laboratory activity, other than for application of the waste to land;



- (b) the application of the following waste to land—
  - (i) commercial garden and landscaping organics that does not contain any physical or chemical contamination in column 3 of item 58 of the Table in Schedule 5;
  - (ii) untreated timber, including sawdust, in column 3 of item 60 of the Table in Schedule 5;
  - (iii) natural organic fibrous waste.
- (2) For the purposes of regulation 63(a), a person in management or control of a place or premises at which industrial waste is to be received may make a declaration of use in relation to that place or premises in accordance with the specifications acceptable to the Authority set out in a determination made under regulation 5.
- (3) A declaration of use must not be made—
  - (a) in relation to the receipt of reportable priority waste (transport) at the place or premises; or
  - (b) if receipt of the waste at the place or premises is a permission activity.
- (4) A declaration of use must—
  - (a) be in the form and manner approved by the Authority; and
  - (b) in relation to a declaration of use made under subregulation (1) include—
    - (i) a declaration by the person in management or control of the industrial waste of—
      - (A) the type of waste; and

- (B) any risks of harm to human health or the environment that exist in relation to using the waste and how to minimise those risks, so far as reasonably practicable; and
  - (ii) a declaration by the person in management or control of the place or premises at which the industrial waste is to be received that the place or premises at which the waste is to be received is suitable to use the waste;
  - (c) in relation to a declaration of use made under subregulation (2) include a declaration by the person in management or control of the place or premises at which the industrial waste is to be received that—
    - (i) the waste will only be used in accordance with the specifications acceptable to the Authority; and
    - (ii) the place or premises at which the waste is to be received is suitable to use the waste in accordance with the specifications acceptable to the Authority.
- (5) A declaration of use may have effect—
- (a) for a specific consignment of industrial waste; or
  - (b) for a period of time specified in the declaration of use up to a maximum of 12 months.
- (6) A person who makes a declaration of use must retain a copy of the declaration of use for 2 years from the date on which the declaration was made.
- Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (7) If a person who made a declaration under subregulation (4)(b) becomes aware of any change of circumstances that materially affects a declaration of use so as to render it inaccurate, the person must, as soon as practicable after the person becomes aware of the change of circumstances, notify the person who made the corresponding declaration under subregulation (4)(b)(i) or (4)(b)(ii).

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

- (8) A declaration of use has no effect in relation to a person who is aware of any change of circumstances that materially affects the declaration so as to render it inaccurate or has been notified under subregulation (7), from the time the person is aware or has been notified of the change in circumstances.
- (9) The Authority may cancel a declaration of use or impose conditions on a declaration of use by providing written notice to each person who made the declaration.
- (10) A declaration of use has no effect from the time the Authority provides written notice of the cancellation in accordance with subregulation (9).

**Division 2—Priority waste**

**65 What is priority waste?**

- (1) For the purposes of section 138 of the Act, the following types of waste are prescribed to be priority waste—

- (a) industrial waste that is classified as priority waste under regulation 61 or 62;
  - (b) industrial waste that, had it been classified under regulation 61 or 62, would be classified as priority waste.
- (2) Despite subregulation (1), waste is not prescribed to be priority waste if the waste is classified as not priority waste in an applicable designation issued by the Authority.

**66 Classification of priority waste as reportable priority waste in accordance with the Waste Classification Assessment Protocol**

- (1) This regulation is subject to regulations 67 and 68.
- (2) For the purposes of section 139(1) of the Act, a person who has the management or control of priority waste must, before relinquishing management or control of the priority waste to another person for the purposes of transporting the priority waste, classify the priority waste in accordance with this regulation.
- (3) The person must classify the priority waste as reportable priority waste (transactions) if—
  - (a) the priority waste is specified as—
    - (i) priority waste in column 6 of the Table in Schedule 5; and
    - (ii) "Pre-classified" in column 5 of that Table; and
    - (iii) reportable priority waste (transactions) in column 7 of that Table; or
  - (b) more than one description of priority waste in column 3 of that Table applies to the priority waste and the priority waste is specified as—

- (i) priority waste in column 6 of that Table; and
  - (ii) reportable priority waste (transactions) in column 7 of that Table in relation to any applicable description of the priority waste.
- (4) The person must classify the priority waste as reportable priority waste (transport) if—
  - (a) the priority waste is specified as—
    - (i) priority waste in column 6 of the Table in Schedule 5; and
    - (ii) "Pre-classified" in column 5 of that Table; and
    - (iii) reportable priority waste (transport) in column 8 of that Table; or
  - (b) more than one description of priority waste in column 3 of that Table applies to the priority waste and the priority waste is specified as—
    - (i) priority waste in column 6 of that Table; and
    - (ii) reportable priority waste (transport) in column 8 of that Table in relation to any applicable description of the priority waste.
- (5) If the priority waste is specified as priority waste in column 6 of the Table in Schedule 5 and as a "Mirror code" in column 5 of that Table, the person must classify the priority waste in accordance with—
  - (a) the classification criteria for that type of priority waste contained in the Waste Classification Assessment Protocol; or

- (b) if there are no classification criteria for that type of priority waste, the hazardous properties assessment criteria contained in the Waste Classification Assessment Protocol.
- (6) If the priority waste is not described in column 3 of the Table in Schedule 5, the person must classify the priority waste in accordance with the hazardous properties assessment criteria contained in the Waste Classification Assessment Protocol.
- (7) A classification of priority waste under this regulation must be consistent with any applicable designation issued by the Authority in relation to that type of priority waste.

**67 Classification of priority waste consigned for disposal**

- (1) For the purposes of section 139(1) of the Act, a person who has the management or control of priority waste consigned for disposal must, before relinquishing management or control of the priority waste to another person for the purposes of transporting the priority waste, classify the priority waste in accordance with this regulation.
- (2) The person must classify the priority waste consigned for disposal as a category of priority waste set out in Schedule 6.
- (3) Despite subregulation (2), the person must classify the priority waste consigned for disposal as Category A waste if the priority waste is one of the following items set out in the Table in Schedule 5—
  - (a) item 37;
  - (b) item 45;
  - (c) item 46;
  - (d) item 47;

- (e) item 49;
  - (f) item 51;
  - (g) item 54;
  - (h) item 64;
  - (i) item 81;
  - (j) item 102.
- (4) A classification of priority waste under this regulation must be consistent with any applicable designation issued by the Authority in relation to that type of priority waste.

**68 Classification of priority waste that is soil**

- (1) For the purposes of section 139(1) of the Act, a person who has the management or control of priority waste that is soil sourced on-site from contaminated land must, as soon as practicable after sourcing the soil, classify the soil as one of the following categories of priority waste set out in Schedule 6—
- (a) Category A waste;
  - (b) Category B waste;
  - (c) Category C waste;
  - (d) Category D waste;
  - (e) soil containing asbestos only.
- (2) For the purposes of section 139(1) of the Act, a person who has the management or control of priority waste that is soil not sourced on-site from contaminated land must, before relinquishing management or control of the soil to another person for the purposes of transporting the soil, classify the soil as one of the following categories of priority waste set out in Schedule 6—
- (a) Category A waste;

- (b) Category B waste;
  - (c) Category C waste;
  - (d) Category D waste;
  - (e) soil containing asbestos only.
- (3) A classification of priority waste under this regulation must be consistent with any applicable designation issued by the Authority in relation to that type of priority waste.

**69 Priority waste classification—information**

A person who has the management or control of priority waste must, in relation to the classification of the priority waste, record the following details and retain that record for 2 years from the date on which the waste was classified—

- (a) the outcome of the priority waste classification, including—
  - (i) the applicable waste code; and
  - (ii) whether the priority waste is also classified as reportable priority waste (transactions) or reportable priority waste (transport); and
  - (iii) if the priority waste is consigned for disposal, the category of that waste under regulation 67; and
  - (iv) if the priority waste is soil sourced on-site from contaminated land, the category of that waste under regulation 68;
- (b) the volume of priority waste classified;
- (c) where the priority waste was produced and the process that produced the priority waste;
- (d) information supporting the basis for the waste classification;



- (e) if the person has relied on information from another person for the waste classification, the name and contact details of that person and the scope of the information relied on.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

**70 Mixing, blending or diluting priority waste**

A person who has the management or control of priority waste must not mix, blend or dilute the priority waste with other wastes which results in a change to the waste classification of the priority waste, other than in accordance with a designation issued by the Authority.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

**Division 3—Reportable priority waste**

**71 What is reportable priority waste (transactions)?**

- (1) Subject to subregulation (2), for the purposes of the definition of *reportable priority waste* in section 3(1) of the Act, priority waste is prescribed as reportable priority waste for the purposes of section 142 of the Act if—
- (a) it is classified as reportable priority waste (transactions) under regulation 66(3) or, had it been classified under regulation 66(3), it would be classified as reportable priority waste (transactions); or

- (b) it is controlled waste transported into Victoria from another State or a Territory or out of Victoria.
- (2) Subregulation (1) does not apply to priority waste that is transported—
  - (a) for no fee or reward; and
  - (b) as a net load that is less than 50 litres.

**72 What is reportable priority waste (transport)?**

- (1) Subject to subregulation (2), for the purposes of the definition of *reportable priority waste* in section 3(1) of the Act, priority waste is prescribed as reportable priority waste for the purposes of section 143 of the Act if—
  - (a) it is classified as reportable priority waste (transport) under regulation 66(4) or, had it been classified under regulation 66(4), it would be classified as reportable priority waste (transport); or
  - (b) it is controlled waste transported into Victoria from another State or a Territory or out of Victoria.
- (2) Subregulation (1) does not apply to priority waste that is transported—
  - (a) for no fee or reward; and
  - (b) as a net load that is less than 50 litres.

**73 What transactions apply in connection with reportable priority waste**

For the purposes of section 142(1) of the Act, the following are prescribed transactions—

- (a) the consignment of reportable priority waste for transport to another place or premises, including the consignment of controlled

- waste for transport from another State or a Territory or out of Victoria;
- (b) the transport of reportable priority waste, including the transport of controlled waste into Victoria from another State or a Territory or out of Victoria;
  - (c) the receipt of reportable priority waste at a place or premises, including the receipt of controlled waste at a place or premises that is transported into Victoria from another State or a Territory.

**74 Manner and form for recording and providing transaction details—reportable priority waste**

- (1) Subject to regulation 78(2), for the purposes of section 142(1)(a) of the Act, the prescribed manner and form for recording prescribed transaction details is—
  - (a) a system approved by the Authority under regulation 83; or
  - (b) if no system is approved by the Authority under regulation 83, the electronic system provided by the Authority for that purpose.
- (2) Subject to regulations 75(4), 76(5), 77(4) and 78(3), for the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details to a prescribed person is—
  - (a) a system approved by the Authority under regulation 83; or
  - (b) if no system is approved by the Authority under regulation 83, the electronic system provided by the Authority.

**75 Transaction details to be recorded and provided in relation to the consignment of reportable priority waste for transport**

- (1) This regulation applies to a person in management or control of a place or premises that consigns reportable priority waste for transport to another place or premises.
- (2) Subject to regulation 79(2), for the purposes of section 142(1)(a) and (b) of the Act, the prescribed transaction details are the details specified in Part A of Schedule 7.
- (3) Subject to regulation 79(3), for the purposes of section 142(1)(b) of the Act, the prescribed person to whom the prescribed transaction details are to be provided is the person who transports the reportable priority waste.
- (4) Subject to regulation 79(4), for the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details is before the reportable priority waste is transported.

**76 Transaction details to be recorded and provided in relation to the transport of reportable priority waste**

- (1) This regulation applies to a person who transports reportable priority waste.
- (2) Subject to regulation 80(2), for the purposes of section 142(1)(a) of the Act, the prescribed transaction details are the details specified in Part B of Schedule 7.
- (3) Subject to regulation 80(3), for the purposes of section 142(1)(b) of the Act, the prescribed transaction details are—
  - (a) in the case of a prescribed person referred to in subregulation (4)(a)—the details specified in Part B of Schedule 7; or

- (b) in the case of a prescribed person referred to in subregulation (4)(b)—the details specified in Parts A and B of Schedule 7.
- (4) Subject to regulation 80(4), for the purposes of section 142(1)(b) of the Act, the prescribed persons to whom the prescribed transaction details are to be provided are—
  - (a) the person in management or control of a place or premises that consigns the reportable priority waste for transport to another place or premises; or
  - (b) the person in management or control of a place or premises that receives the reportable priority waste.
- (5) Subject to regulation 80(5), for the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details is—
  - (a) in the case of a prescribed person referred to in subregulation (4)(a)—before the reportable priority waste is transported; or
  - (b) in the case of a prescribed person referred to in subregulation (4)(b)—at the time of delivery of the reportable priority waste at the place or premises that receives the reportable priority waste.

**77 Transaction details to be recorded and provided in relation to the receipt of reportable priority waste**

- (1) This regulation applies to a person in management or control of a place or premises that receives reportable priority waste.
- (2) Subject to regulation 81(2) and (3), for the purposes of section 142(1)(a) and (b) of the Act, the prescribed transaction details are the details specified in Part C of Schedule 7.

- (3) Subject to regulation 81(4), for the purposes of section 142(1)(b) of the Act, the prescribed person to whom the prescribed transaction details are to be provided is the person who transported the waste.
- (4) Subject to regulation 81(5), for the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details is at the time of delivery of the reportable priority waste at the place or premises that receives the reportable priority waste.

**78 Manner and form for recording and providing transaction details—controlled waste**

- (1) This regulation applies to—
  - (a) the consignment of controlled waste for transport from another State or a Territory or out of Victoria; or
  - (b) the transport of controlled waste into Victoria from another State or a Territory or out of Victoria; or
  - (c) the receipt of controlled waste at a place or premises that is transported into Victoria from another State or a Territory.
- (2) For the purposes of section 142(1)(a) of the Act, the prescribed manner and form for recording prescribed transaction details is—
  - (a) a system approved by the Authority under regulation 83; or
  - (b) if no system is approved by the Authority under regulation 83—
    - (i) the electronic system provided by the Authority for that purpose; or

- (ii) in a manner approved by the State or the Territory from which the waste is generated or consigned for transport.
- (3) Subject to regulations 79(4), 80(5) and 81(5), for the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details is—
  - (a) a system approved by the Authority under regulation 83; or
  - (b) if no system is approved by the Authority under regulation 83—
    - (i) the electronic system provided by the Authority for that purpose; or
    - (ii) in a manner approved by the State or the Territory from which the waste is generated or consigned for transport.

**79 Transaction details to be recorded and provided in relation to the consignment of controlled waste**

- (1) This regulation applies to a person in management or control of a place or premises that consigns controlled waste for transport into Victoria from another State or a Territory or out of Victoria.
- (2) For the purposes of section 142(1)(a) and (b) of the Act, the prescribed transaction details are the details specified in Part 1 of Schedule B to the NEPM (MCW).
- (3) For the purposes of section 142(1)(b) of the Act, the prescribed person to whom the prescribed transaction details are to be provided is the person who transports the controlled waste.
- (4) For the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details is before the waste is transported.

**80 Transaction details to be recorded and provided in relation to the transport of controlled waste**

- (1) This regulation applies to a person who transports controlled waste into Victoria from another State or a Territory or out of Victoria.
- (2) For the purposes of section 142(1)(a) of the Act, the prescribed transaction details are the details specified in Part 2 of Schedule B to the NEPM (MCW).
- (3) For the purposes of section 142(1)(b) of the Act, the prescribed transaction details are—
  - (a) in the case of a prescribed person referred to in subregulation (4)(a)—the details specified in Part 2 of Schedule B to the NEPM (MCW); or
  - (b) in the case of a prescribed person referred to in subregulation (4)(b)—the details specified in Parts 1 and 2 of Schedule B to the NEPM (MCW).
- (4) For the purposes of section 142(1)(b) of the Act, the prescribed persons are—
  - (a) the person in management or control of the place or premises from which the controlled waste was consigned for transport; or
  - (b) the person in management or control of the place or premises that receives the controlled waste.
- (5) For the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details is—
  - (a) in the case of a prescribed person referred to in subregulation (4)(a)—before the waste is transported; or



- (b) in the case of a prescribed person referred to in subregulation (4)(b)—at the time of delivery of the waste at the place or premises that receives the controlled waste.

**81 Transaction details to be recorded and provided in relation to the receipt of controlled waste**

- (1) This regulation applies to a person in management or control of a place or premises that receives controlled waste transported into Victoria from another State or a Territory.
- (2) For the purposes of section 142(1)(a) of the Act, the prescribed transaction details are the details specified in Part 3 of Schedule B to the NEPM (MCW).
- (3) For the purposes of section 142(1)(b) of the Act, the prescribed transaction details are—
  - (a) in the case of a prescribed person referred to in subregulation (4)(a)—the details specified in Part 3 of Schedule B to the NEPM (MCW); or
  - (b) in the case of a prescribed person referred to in subregulation (4)(b)—the details specified in Parts 1, 2 and 3 of Schedule B to the NEPM (MCW).
- (4) For the purposes of section 142(1)(b) of the Act, the prescribed persons are—
  - (a) the person who transported the waste; or
  - (b) the Authority.
- (5) For the purposes of section 142(1)(b) of the Act, the prescribed manner and form for providing the prescribed transaction details is—

- (a) in the case of a prescribed person referred to in subregulation (4)(a)—at the time of delivery of the waste at the place or premises that receives the controlled waste; or
- (b) in the case of a prescribed person referred to in subregulation (4)(b)—within 72 hours of receiving the waste.

## **82 Offences in relation to the transport of controlled waste**

- (1) A person who receives information under regulation 79, 80 or 81 must retain the information for 12 months from the date on which the reportable priority waste is transported.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) A person who transports controlled waste into Victoria from another State or a Territory or out of Victoria must be able to produce the information in Parts 1 and 2 of Schedule B to the NEPM (MCW) when transporting the controlled waste.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

## **83 Application for approval of electronic system for recording or providing transaction details**

- (1) A person may apply to the Authority for approval of an electronic system for recording or providing transaction details for the purposes of section 142(1) of the Act.

- (2) An application must be made in the manner and form approved by the Authority.
- (3) The Authority must not approve an electronic system unless it is satisfied that the system—
  - (a) enables transaction details to be recorded and provided in accordance with regulations 74 to 81; and
  - (b) is a reliable, effective and timely means of recording and providing transaction details; and
  - (c) enables transaction details to be recorded and provided securely; and
  - (d) enables the Authority to efficiently access, record and otherwise deal with the transaction details; and
  - (e) will retain transaction details for at least 2 years from the date on which the reportable priority waste is transported; and
  - (f) includes a system for assigning a unique identifier (consisting of numbers, letters or both) to each consignment of reportable priority waste for which the system is used and the system can link that identifier to any unique identifier assigned under any other system used for that consignment.
- (4) The Authority must decide, no later than 42 business days after receiving an application that complies with subregulation (2)—
  - (a) to approve a system; or
  - (b) to refuse to approve a system.
- (5) The Authority may require the applicant to provide the Authority with information relating to the application that the Authority considers necessary.

- (6) The time in which the Authority must make a decision on the application referred to in subregulation (4) does not include—
- (a) if the Authority requires the applicant to provide information under subregulation (5), the period from the date the Authority makes the request until the date on which the Authority receives the information; or
  - (b) any other period that the Authority and the applicant agree is not to be included in that time.

**84 Approval of application for electronic system**

- (1) An approval under regulation 83(4)(a) may apply in specified circumstances or for specified reportable priority waste.
- (2) An approval applies for the period specified in the approval not exceeding 5 years.
- (3) The Authority may issue an approval subject to any conditions that the Authority considers appropriate.
- (4) An approval has no effect while any condition to which it is subject is not being complied with.

**85 Exemptions for interstate movement of controlled waste**

- (1) Sections 142 and 143 of the Act do not apply to the transport of controlled waste into Victoria from another State or a Territory or out of Victoria if—
  - (a) the controlled waste only enters Victoria for the purposes of efficient transportation before returning to the State or the Territory from which the waste was generated or consigned for transport; or

**Example**

The shortest route for the consignment to get to its destination involves entering Victoria before returning to the State or the Territory from which the waste was generated or consigned for transport.

- (b) the controlled waste is transported for the purposes of—
    - (i) analysis to determine the appropriate waste classification of the waste; or
    - (ii) research, subject to the written approval by an agency of the State or the Territory to which the waste is to be transported; or
  - (c) the controlled waste is transported by pipeline; or
  - (d) the controlled waste is included in a consignment that consists of containers in which small amounts of residue of a controlled waste remain and the containers are used for direct refilling with the same substance; or
  - (e) the controlled waste is transported as a result of a product recall approved by the Australian Pesticides and Veterinary Medicines Authority, Food Standards Australia New Zealand or the Therapeutic Goods Administration.
- (2) Section 143 of the Act does not apply to the transport of controlled waste into Victoria from another State or a Territory or out of Victoria if the controlled waste is transported in accordance with the Hazardous Waste (Regulation of Exports and Imports) Act 1989 of the Commonwealth.

## **Division 4—Waste designations**

### **86 Authority may issue designation**

- (1) The Authority may issue a designation—
  - (a) setting out the waste classification for a waste; or
  - (b) relating to mixing, blending or diluting waste for the purposes of regulation 70.
- (2) The Authority may issue a designation under subregulation (1)—
  - (a) on its own motion; or
  - (b) on application of a person who has the management or control of priority waste.
- (3) A designation issued on application of a person who has the management or control of priority waste applies for the period specified in the designation up to a maximum of 5 years.
- (4) The Authority may issue a designation subject to any conditions that the Authority considers appropriate.
- (5) A designation may apply in specified circumstances or to a specified person.
- (6) A designation under subregulation (1)(a) may allocate a new waste code if there is no applicable waste code in column 4 of the Table in Schedule 5.

#### **Note**

Designations may be made to classify new or unusual waste types that are not adequately classified under regulations 61, 62, 66, 67 or 68 or if a classification under those regulations would impose an undue burden on persons in management or control of the waste.

- (7) For the purposes of classifying industrial waste, the Authority may issue a designation classifying the waste by determining any of the following—

- (a) the applicable waste code for that waste;
  - (b) whether the waste is also priority waste;
  - (c) whether the waste is also reportable priority waste (transactions);
  - (d) whether the waste is also reportable priority waste (transport);
  - (e) that the waste is not priority waste.
- (8) For the purposes of classifying soil, the Authority may issue a designation classifying the waste as—
- (a) Category A waste;
  - (b) Category B waste;
  - (c) Category C waste;
  - (d) Category D waste;
  - (e) soil containing asbestos only;
  - (f) fill material.
- (9) For the purposes of consigning priority waste for disposal, the Authority may issue a designation classifying the waste as—
- (a) Category A waste;
  - (b) Category B waste;
  - (c) Category C waste;
  - (d) Category D waste;
  - (e) soil containing asbestos only;
  - (f) packaged waste asbestos.
- (10) Subject to subregulations (11), (12) and (13), the Authority must not issue a designation unless it is satisfied that—

- (a) management of the waste in accordance with the designation will not pose a serious risk of harm to human health or the environment; and
  - (b) if the designation was not issued by the Authority—
    - (i) there would be no appropriate waste classification; or
    - (ii) there would be an undue burden imposed on persons in management or control of the waste.
- (11) The Authority may issue a designation for the purposes of classifying industrial waste under subregulation (7) in relation to a product stewardship scheme or a government collection scheme or program.
- (12) Subject to subregulation (13), in the case of a designation relating to mixing, blending or diluting waste for the purposes of regulation 70, the Authority must not issue a designation unless it is satisfied that management of the waste in accordance with the designation will not adversely affect human health or the environment in a way that would not occur if the designation was not issued.
- (13) The Authority must not issue a designation under subregulation (12) relating to soil from contaminated land unless it is further satisfied that—
- (a) the mixing, blending or diluting is necessary to prepare the soil for treatment; and
  - (b) the treatment will destroy any contamination; and
  - (c) the treatment is otherwise authorised by the Act or these Regulations.



- (14) The Authority may amend or revoke a designation.
- (15) If the Authority amends or revokes a designation issued on application under subregulation (2)(b), the Authority must notify the person who applied for the designation in writing of the amendment or revocation.
- (16) If a person to whom a designation applies does not comply with any condition of the designation, the designation has no effect in relation to that person.

**Note**

Designations are not intended to be made for most types of waste. If a designation of general application has been made, waste of that type must be classified in accordance with the designation.

**87 Applications for designations**

- (1) An application by a person for a designation under regulation 86(2)(b) must be made in the form and manner approved by the Authority.
- (2) The Authority may require the applicant to provide further information relating to the application that the Authority considers necessary.
- (3) The Authority must notify the applicant in writing, not later than 42 business days after receiving an application that complies with subregulation (1) of its decision to—
  - (a) issue a designation; or
  - (b) refuse to issue a designation.
- (4) The time in which the Authority must deal with the application does not include—
  - (a) if the Authority requires information under subregulation (2), the period from the date the Authority makes the request until the date on which the Authority receives the information; or

- (b) any period that the Authority and the applicant agree is not to be included in that time.

### **Division 5—Accredited consigners**

#### **88 Accredited consigners**

- (1) For the purposes of section 245(2) of the Act, the role of accredited consigner is a prescribed role.
- (2) The purpose of an accredited consigner is to do any of the following on behalf of the person who has the management or control of priority waste—
  - (a) perform the duties under sections 135 and 139 of the Act;
  - (b) undertake a prescribed transaction under section 142(1) of the Act;
  - (c) cause or permit the transport of reportable priority waste.

#### **89 Appointment of accredited consigners**

- (1) A natural person may apply to the Authority to be appointed as an accredited consigner under section 245(2) of the Act.
- (2) An application under subregulation (1) must—
  - (a) be in the form and manner approved by the Authority; and
  - (b) be accompanied by the fee set out in regulation 212.
- (3) The Authority may require the applicant to provide further information relating to the application that the Authority considers necessary.
- (4) The Authority may appoint a person as an accredited consigner—
  - (a) in relation to one or more type or class of waste; and

- (b) subject to regulation 91, for a period of no more than 5 years.
- (5) The Authority must refuse to appoint the person as an accredited consigner if the Authority—
  - (a) determines that the person is not a fit and proper person to act as an accredited consigner; or
  - (b) the person has not demonstrated in a manner acceptable to the Authority their competency to act as an accredited consigner.
- (6) For the purposes of subregulation (5)(a), the Authority must have regard to the matters set out in section 66 of the Act.
- (7) If a person is a prohibited person, the Authority must not determine that the person is a fit and proper person unless the Authority is satisfied that it is not contrary to the public interest to do so.

**Note**

*Prohibited person* is defined in section 3(1) of the Act.

- (8) The Authority must, within 30 business days after receiving an application that complies with subregulation (2), notify the person in writing of its decision—
  - (a) to appoint the person as an accredited consigner; or
  - (b) to refuse to appoint the person and the reasons for that decision.
- (9) The time in which the Authority must deal with the application does not include—
  - (a) if the Authority requires information under subregulation (3), the period from the date the Authority makes the request until the date on which the Authority receives the information; or

- (b) any period that the Authority and the applicant agree is not to be included in that time.

**90 Variation of accredited consigner appointment**

- (1) An accredited consigner may apply to the Authority for a variation to the appointment.
- (2) An application under subregulation (1) must be in the form and manner approved by the Authority.
- (3) The Authority may require the applicant to provide further information relating to the application that the Authority considers necessary.
- (4) The Authority must, within 30 business days after receiving an application that complies with subregulation (2), notify the applicant in writing of its decision to—
  - (a) vary the appointment subject to any specified conditions that the Authority considers appropriate; or
  - (b) refuse to vary the appointment.
- (5) The time in which the Authority must deal with the application does not include—
  - (a) if the Authority requires information under subregulation (3), the period from the date the Authority makes the request until the date on which the Authority receives the information; or
  - (b) any period that the Authority and the applicant agree is not to be included in that time.

**91 Accredited consigner may apply for reappointment**

- (1) An accredited consigner may apply to the Authority for reappointment as an accredited consigner at least 30 business days before the expiry of the appointment.

- (2) Regulation 89 applies to an application for reappointment as an accredited consigner as if it were an application for appointment.

**92 Accredited consigner may surrender appointment**

An accredited consigner may, at any time during the appointment, surrender the appointment by notifying the Authority in writing.

## **Part 4.3—Used packaging materials**

### **93 Application**

- (1) Subject to subregulation (2), this Part applies to a brand owner so far as the brand owner is operating in Victoria.
- (2) This Part does not apply to the following brand owners—
  - (a) a brand owner who is a signatory to the Australian Packaging Covenant and who is complying with the obligations of the Covenant;
  - (b) a brand owner who is a signatory to, and is complying with, any other arrangement which the Authority is satisfied produces equivalent outcomes to those achieved by the Australian Packaging Covenant;
  - (c) a brand owner who has an annual turnover in Australia of not more than \$5 million.

#### **Note**

The Australian Packaging Covenant establishes monitoring, disciplinary and dispute resolution procedures to identify non-complying signatories and to refer non-complying signatories to jurisdictions. In particular, section 10 and Schedule 5 to the Australian Packaging Covenant set out the mechanisms for ensuring compliance with the Covenant.

- (3) For the purposes of subregulation (2), a brand owner is taken not to be complying with the Australian Packaging Covenant if—
  - (a) the brand owner is a signatory to the Covenant; and

- (b) the Authority has been notified by APCO that the brand owner no longer has the benefit of being a signatory to the Covenant; and
- (c) since receiving that notification, the Authority has not received advice from APCO to the effect that APCO is satisfied that the brand owner is a compliant signatory.

#### **94 Packaging for which brand owners are responsible**

For the purposes of this Part, a brand owner is responsible for one or more of the following—

- (a) in the case of a brand owner referred to in paragraph (a) of the definition of *brand owner* in regulation 4, all consumer packaging made of any material (or any combination of materials) for containing, protecting, marketing and handling the products;
- (b) in the case of a brand owner referred to in paragraph (b)(i) of the definition of *brand owner* in regulation 4, the plastic bags imported into, or manufactured in, Australia by the brand owner;
- (c) in the case of a brand owner referred to in paragraph (b)(ii) of the definition of *brand owner* in regulation 4, the plastic bags that the retailer provides to consumers at or around the point of sale for transporting products from the retailer.

#### **95 Requirements to recover, reuse and recycle materials and review packaging design**

- (1) A brand owner must ensure that the materials used in packaging for which the brand owner is responsible are recovered at a recovery rate for a financial year of at least 70% for each category of

material set out in regulation 97 that the brand owner has used.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

- (2) For the purposes of subregulation (1), the recovered materials may be either or both of the following—
- (a) the packaging for which the brand owner is responsible;
  - (b) an equivalent amount of materials that are of a size and type that are substantially the same as the packaging for which the brand owner is responsible.
- (3) For the purposes of subregulation (1), a brand owner must ensure that the recovered materials are—
- (a) reused or recycled by the brand owner, so far as reasonably practicable; or
  - (b) if it is not reasonably practicable for the materials to be reused or recycled by the brand owner, reused or recycled within Australia so far as reasonably practicable; or
  - (c) if it is not reasonably practicable for the materials to be reused or recycled within Australia, reused or recycled outside Australia.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.



- (4) A brand owner must ensure that consumers are given adequate information as to how the packaging may be recovered, including information regarding where to take the materials for recycling and how to reuse or recycle the materials.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

- (5) A brand owner must ensure that the need for and the design of the packaging is regularly reviewed.

#### **96 Recovery rate**

A brand owner's recovery rate in a financial year is calculated in accordance with the following formula—

Recovery rate = (weight of material recovered from the post-consumer waste stream in the financial year / weight of consumer packaging for which the brand owner is responsible that is used by the brand owner within Australia in the financial year) x 100.

#### **97 Categories of material**

- (1) For the purposes of this Part, the following categories of material are specified—
- (a) paper and cardboard;
  - (b) glass;
  - (c) steel;
  - (d) aluminium;
  - (e) plastics.
- (2) The category of material to which the consumer packaging belongs is determined by the material that forms its principal component, not including incidental components such as labels and closures.

## **98 Brand owners must keep records**

- (1) A brand owner must keep a record of the following in respect of each financial year—
  - (a) the total weight of consumer packaging used by the brand owner in that financial year in each category of material specified in regulation 97;
  - (b) the number of units of consumer packaging used by the brand owner in that financial year in each category of material specified in regulation 97;
  - (c) the total weight of material recovered from the post-consumer waste stream by the brand owner in that financial year, in each category of material specified in regulation 97, and the total weight of the following—
    - (i) the material that was reused and recycled in Australia, by category of material;
    - (ii) the material that was reused and recycled through export, by category of material;
    - (iii) the material that was disposed of to landfill, by category of material;
  - (d) the total amount of embedded energy (in kilojoules) recovered by the brand owner;
  - (e) the recovery rate for the brand owner's consumer packaging in that financial year, determined in accordance with regulation 96;
  - (f) the advice provided to consumers in that financial year as to the recovery of the packaging.

- (2) A brand owner must—
- (a) keep a record of the information set out in subregulation (1) for a period of 5 years; and
  - (b) make the record available for inspection on request by the Authority.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (3) In this regulation—

*embedded energy* means the sum of all the energy required to produce any item or material or the amount of energy use avoided by using recovered materials rather than new ones (as applicable).

**99 Brand owners must report annually**

- (1) A brand owner must provide a report to the Authority prior to 30 September each year setting out the brand owner's compliance with this Division.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) A report under subregulation (1) must be in the form and manner approved by the Authority.
- (3) If the Authority reasonably believes the report provided under subregulation (1) does not contain sufficient information to confirm the brand owner's compliance with this Part it may, by written notice, require the brand owner to amend

the report and resubmit it within the time specified in the notice.

**100 Councils must provide information**

- (1) A council (or, if the Authority so determines, a group of councils for which a Waste and Resource Recovery Group is established) in which a kerbside recycling collection service or other municipal materials recovery service is provided, must provide the following information to the Authority, in relation to a financial year—
  - (a) the percentage of households in the municipal district that is serviced by the kerbside recycling collection or other municipal materials recovery service;
  - (b) the participation rate in any such service;
  - (c) the number of premises covered by the service and whether the tenements are residential tenements or other kinds of tenement;
  - (d) the per premises fee charged for recycling collection services;
  - (e) the total weight of recyclable material collected at the kerbside or by other municipal materials recovery services by material type;
  - (f) if the material collected is sorted—
    - (i) the total weight of each material type sold or sent for secondary use, including energy recovery; and
    - (ii) the total weight of the residual fraction sent to landfill by material type, if practicable.

- (2) Each council or group of councils must ensure that any new or novated contract with a recycling collection service requires the contractors to provide any information to the council or group of councils that is needed to supply the information mentioned in subregulation (1).
- (3) If a council is subject to current contract conditions which prevent it from complying with this regulation, the Authority may take any steps that it considers necessary to ensure that the information required under this regulation is provided to the Authority.
- (4) The Authority must maintain the confidentiality of any commercially sensitive information provided under this regulation unless—
  - (a) the relevant parties consent to the release of the information; or
  - (b) the Authority is required by any law or court to release it; or
  - (c) the information is aggregated with other information so as to conceal its source; or
  - (d) in the opinion of the Authority, it is in the public interest to release it.
- (5) A council or group of councils must provide a report under subregulation (1) within 3 months after the end of the financial year to which the report relates.
- (6) The Authority must ensure reporting on participation in complementary collection systems for recyclables.

(7) In this regulation—

***materials recovery service*** means any service to collect, sort and preprocess materials recovered from the waste stream, including kerbside recycling collections, drop-off collection systems, public place collection and industrial and commercial recycling collection systems.

## **Part 4.4—Regional Waste and Resource Recovery Implementation Plans**

### **101 Landfill scheduling in Regional Waste and Resource Recovery Implementation Plans**

In making comments on a draft Regional Waste and Resource Recovery Implementation Plan under section 415(3) of the Act, the Authority must object to the inclusion of a proposed landfill site in the schedule of required landfill infrastructure in the Plan or draft amendments to the Plan if the landfill is proposed to be established in or extended into an area listed in the Table in Schedule 8.

## **Chapter 5—Environmental management**

### **Part 5.1—Prohibited chemical substances**

#### **102 Prohibition on use of certain chemical substances**

- (1) This regulation applies to the following chemical substances—
  - (a) Trichlorofluoromethane  $\text{CFCl}_3$  (CFC 11);
  - (b) Dichlorodifluoromethane  $\text{CF}_2\text{Cl}_2$  (CFC 12);
  - (c) Trichlorotrifluoroethane  $\text{C}_2\text{F}_3\text{Cl}_3$  (CFC 113);
  - (d) Dichlorotetrafluoroethane  $\text{C}_2\text{F}_4\text{Cl}_2$  (CFC 114);
  - (e) Monochloropentafluoroethane  $\text{C}_2\text{F}_5\text{Cl}$  (CFC 115);
  - (f) Bromochlorodifluoromethane  $\text{CBrClF}_2$  (Halon 1211);
  - (g) Bromotrifluoromethane  $\text{CBrF}_3$  (Halon 1301).
- (2) A person must not process, store or use a chemical substance referred to in subregulation (1), unless the person—
  - (a) notifies the Authority of the intention to do so at least 30 days before commencing to do so; and
  - (b) receives notice in writing from the Authority that the person may undertake the activity involving the chemical substance referred to in subregulation (1); and
  - (c) complies fully with any conditions or requirements set out in the notice.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.



## Part 5.2—Air

### Division 1—National pollutant inventory

#### 103 Definitions

In this Division—

***emission data***, for a substance, means an estimate of the amount of that substance discharged or emitted in a reporting period that identifies—

- (a) the segment of the environment to which the substance was discharged or emitted; and

**Example**

The atmosphere, land, water.

- (b) the estimation technique used;

***estimation technique*** means a method for estimating the amount of a substance discharged, emitted or transferred;

***facility*** means any building or land together with any machinery, plant, appliance, equipment, implement, tool or other item used in connection with any activity carried out at the facility and includes an offshore facility but does not include the following—

- (a) a mobile discharge or emission source operating outside the boundaries of a fixed facility;
- (b) a petroleum retailing facility engaged in the retail sale of fuel;
- (c) a dry-cleaning facility employing less than 20 people;

- (d) a scrap metal handling facility trading in metal that is not engaged in the reprocessing of batteries or the smelting of metal;
- (e) a facility or part of a facility engaging solely in agricultural production, including the growing of trees, aquaculture, horticulture or livestock raising unless it is engaged in—
  - (i) processing of agricultural produce; or
  - (ii) intensive livestock production;

**Note**

The facility may be located on a single site or on adjacent or contiguous sites owned or operated by the same person.

***industry reporting materials*** means resources published by the Commonwealth Department of Environment and Energy which provide advice to a reporting facility in meeting reporting requirements, including—

- (a) advice or guidance on the information that is required to be provided or kept by occupiers; and
- (b) an appropriate estimation technique or range of estimation techniques;

***mandatory reporting transfer destination*** means—

- (a) a destination for disposal or long-term containment; or
- (b) an off-site destination for destruction; or
- (c) an off-site sewerage system; or

- (d) an off-site treatment facility which leads solely to one or more of the outcomes set out in paragraphs (a) to (c);

***mandatory transfer data***, for a substance, means an estimate of the amount of the substance transferred to a mandatory reporting transfer destination in a reporting period that identifies—

- (a) the type of destination; and
- (b) whether the transfer is on-site or off-site; and
- (c) the estimation technique used;

***offshore facility*** means a vessel or structure located in an offshore area (as defined in the Offshore Petroleum and Greenhouse Gas Storage Act 2006 of the Commonwealth) that is used or constructed for the recovery of petroleum (including natural gas), or carries, contains or includes equipment for drilling, or for carrying out other operations in connection with a well, from the vessel or structure, and includes a combination of 2 or more related offshore facilities, but excludes a vessel engaged merely in site surveys or investigations to a depth in the seabed not exceeding 100 metres;

***reporting facility*** means a facility where the ANZSIC code for one or more activities undertaken at the facility is included in the list of ANZSIC codes for NPI reporting;

**reporting period**, for a facility, means—

- (a) a financial year; or
- (b) an annual period approved for the facility by the Authority under regulation 108(2);

**substance** means a substance set out in column 1 of Table 1 in Schedule A to the NEPM (NPI);

**substance identity information** for a particular substance means the name of the substance and, if available, the CAS number for the substance set out in column 2 of Table 1 in Schedule A to the NEPM (NPI);

**supporting data** for a reporting facility means—

- (a) the name of the occupier of the facility; and
- (b) information relating to any change of occupier or change of name of the occupier; and
- (c) the occupier's Australian Company Name (ACN), if any; and
- (d) the occupier's Australian Business Name (ABN), if any; and
- (e) the street address of the facility and postal address of the occupier; and
- (f) a contact phone number for public enquiries about NPI reporting; and
- (g) the main activity or activities of the facility;

**transfer** includes the transport or movement of substances on-site or off-site.

#### **104 Occupier must provide data**

- (1) The occupier of a reporting facility must provide the Authority with the following information if a reporting threshold for a substance specified in the NEPM (NPI) is exceeded in a reporting period—
  - (a) supporting data for the facility;
  - (b) for each substance for which the reporting threshold specified in the NEPM (NPI) is exceeded in the reporting period, substance identity information and emission data estimated in accordance with regulation 105;
  - (c) any information required to establish the integrity of the emission data required under paragraph (b);
  - (d) the type and mass of fuel or waste burned in the reporting period;
  - (e) for each substance for which a category 1, category 1b or category 3 reporting threshold specified in the NEPM (NPI) is exceeded in the reporting period, substance identity information and mandatory transfer data;
  - (f) any information required to establish the integrity of the mandatory transfer data required under paragraph (e);
  - (g) information documenting the estimation technique applied in estimating emission data required under paragraph (b) or mandatory transfer data required under paragraph (e).
- (2) The occupier of a reporting facility must provide a statement to the Authority which—
  - (a) states that the occupier has exercised due diligence in gathering and providing the information referred to in subregulation (1);  
and

- (b) is signed by the occupier or a person authorised by the occupier to sign the statement.
- (3) An occupier must provide the information required under subregulation (1) and the statement required under subregulation (2) to the Authority within 3 months after the end of the reporting period to which the information and statement relate.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Notes**

- 1 An infringement notice may be served for an offence against subregulation (3)—see regulation 169 and Schedule 10.
- 2 Section 463 of the Act makes it an offence to provide information or make a statement that is false or misleading in a material particular or to conceal any materially relevant information or document.

**105 Estimation techniques**

In estimating emission data and mandatory transfer data for the purposes of providing information under regulation 104, the occupier of a reporting facility must—

- (a) if an estimation technique is set out in the relevant industry reporting materials for that type of reporting facility apply either —
- (i) that estimation technique; or
  - (ii) another estimation technique approved for the facility by the Authority under regulation 108(3); or
- (b) if no estimation technique is set out in the relevant industry reporting materials which relates to a specific process carried out at the reporting facility or means of discharge,

emission or transfer of waste from the reporting facility, apply an estimation technique approved for the facility by the Authority under regulation 108(3).

#### **106 Occupier must keep data for period of 5 years**

- (1) The occupier of a reporting facility must keep the data used in deciding if the reporting threshold for a substance specified in the NEPM (NPI) is exceeded in the reporting period for the occupier's facility for 5 years after the reporting period ends.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) The occupier must keep the data used in calculating emission data or mandatory transfer data given to the Authority for 5 years after the data is required to be given.

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

#### **107 Commercially sensitive information**

- (1) The occupier of a reporting facility, by written notice to the Authority, may claim that information required to be provided by the occupier under regulation 104(1) should be treated as commercially sensitive information.
- (2) The notice must contain information necessary to enable the Authority to determine the claim.

- (3) The Authority, by written notice to the occupier, may ask the occupier to provide the Authority, within a reasonable period specified in the notice, further relevant information to enable the Authority to determine the claim.
- (4) The Authority may only permit the claim if the Authority considers that the interests of the occupier in maintaining confidentiality outweigh the public interest in disclosing the information.
- (5) The Authority may refuse the claim if the Authority has given the occupier a notice under subregulation (3) asking for further information and the occupier does not comply with the request in the period specified in the notice.
- (6) The Authority must give the occupier written notice of the Authority's determination of the claim.
- (7) If the Authority refuses the claim, the notice must specify the reasons for refusal.
- (8) If the Authority permits the claim, the Authority must not provide the information for which the claim was permitted to the Commonwealth Department of Environment and Energy unless it is provided in a way that preserves the confidentiality of the information (such as by aggregation with other information).

**108 Authority may approve matters for this Division**

- (1) The occupier of a reporting facility may apply in writing to the Authority for any of the following—
  - (a) an annual period other than a financial year to be approved for the reporting facility for the purposes of paragraph (b) of the definition of *reporting period*;



- (b) an estimation technique for the reporting facility for the purposes of regulation 105(a)(ii);
  - (c) an estimation technique for the reporting facility for the purposes of regulation 105(b).
- (2) The Authority may approve an annual period other than a financial year for the purposes of paragraph (b) of the definition of *reporting period* for a reporting facility if satisfied that the occupier of the reporting facility will be able to provide accurate and reliable information for the purposes of regulation 104 during the period of transition to the proposed annual period.
- (3) The Authority may approve an estimation technique for a reporting facility if satisfied that—
- (a) the occupier of the reporting facility has provided robust and traceable data that validates the proposed estimation technique; and
  - (b) the proposed estimation technique is more reliable and representative than any estimation technique set out in relevant industry reporting materials (if available).
- (4) The Authority must give written notice to the occupier of the reporting facility of an approval or refusal of approval under this regulation.

## **Division 2—Solid fuel heaters**

### **109 Manufacture of solid fuel heaters**

- (1) A person must not manufacture a solid fuel heater unless it complies with AS/NZS 4012 and AS/NZS 4013.

#### **Note**

Act compliance—section 25(1) and (5) (see regulation 6).

- (2) Without limiting subregulation (1), a person who manufactures a model of solid fuel heater must ensure that—
- (a) a laboratory accredited by NATA or IANZ has tested each model of solid fuel heater being manufactured, in accordance with the procedures specified in AS/NZS 4012 and AS/NZS 4013, and the laboratory has confirmed it is satisfied that each model of solid fuel heater complies with—
    - (i) clause 9.1 of AS/NZS 4012 in relation to its overall average efficiency; and
    - (ii) clause 7.1 of AS/NZS 4013 in relation to the particulate emission factor produced; and
  - (b) the solid fuel heater is marked or labelled in accordance with section 8 of AS/NZS 4012 and section 10 of AS/NZS 4013.

**Note**

A mark or label that combines the information required by AS/NZS 4012 and AS/NZS 4013 is suitable.

**110 Supply of solid fuel heaters**

- (1) A person must not supply a solid fuel heater unless it complies with AS/NZS 4012 and AS/NZS 4013.

**Note**

Act compliance—section 25(1) and (5) (see regulation 6).

- (2) A person is taken to comply with subregulation (1) if that person has obtained a written verification statement that meets the requirements of subregulation (3).

- (3) A verification statement must state that—
- (a) the model of solid fuel heater complies with AS/NZS 4012 and AS/NZS 4013; and
  - (b) the person making the statement—
    - (i) did not participate in the design or manufacture of the solid fuel heater; and
    - (ii) has an appropriate level of skill and knowledge to be able to verify the solid fuel heater complies with AS/NZS 4012 and AS/NZS 4013; and
    - (iii) is satisfied that the model of solid fuel heater has been manufactured, tested, marked and labelled in accordance with AS/NZS 4012 and AS/NZS 4013.

### **Division 3—Protection of the ozone layer**

#### **111 Requirements for handling methyl bromide**

- (1) This regulation applies to a person who handles methyl bromide—
- (a) for a QPS use; or
  - (b) for a non-QPS use if the person holds a permit granted under regulation 235 of the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995 of the Commonwealth.
- (2) A person to whom this regulation applies must—
- (a) so far as reasonably practicable replace the methyl bromide with an alternative substance or technology; and
  - (b) if it is not reasonably practicable to replace the methyl bromide, eliminate emissions of the ozone-depleting substance to the

atmosphere so far as reasonably practicable;  
and

- (c) if it is not reasonably practicable to eliminate emissions of the methyl bromide to the atmosphere, reduce those emissions so far as reasonably practicable.

**Note**

Act compliance—section 25(1) (see regulation 6).

- (3) A person who handles methyl bromide in relation to fumigation for pest and disease control is taken to comply with subregulation (2)(b) and (c) if the person, so far as reasonably practicable—
  - (a) recovers the methyl bromide; and
  - (b) either—
    - (i) reuses, recycles or destroys the methyl bromide; or
    - (ii) returns the methyl bromide to the supplier for reuse, recycling, reclamation, storage or destruction.
- (4) In this regulation—

**handles** includes using, having contact with, manufacturing, storing, recovering, reusing, recycling, reclaiming, processing, destroying and disposal;

**QPS use** has the same meaning as in the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995 of the Commonwealth;

**reclamation**, in relation to methyl bromide, means the reprocessing and upgrading of recovered methyl bromide through such mechanisms as filtering, drying, distillation and chemical treatment in order to restore the methyl bromide to new product specification;

***recycling***, in relation to methyl bromide, means use of methyl bromide following any form of prior treatment or reprocessing of that methyl bromide;

***reuse***, in relation to methyl bromide, means use of methyl bromide following its recovery from any product or equipment without prior treatment or reprocessing;

***supplier*** means any wholesaler, distributor or reclaimer of methyl bromide.

**Note**

Commonwealth legislation may also apply to the handling of methyl bromide.

**Division 4—Class 3 substances**

**112 Generators or emitters of Class 3 substances**

- (1) This regulation applies to a person who is the holder of an operating licence that specifies an activity which—
  - (a) involves Class 3 substances; or
  - (b) generates Class 3 substances; or
  - (c) results in the emission of Class 3 substances.
- (2) A person to whom this regulation applies must—
  - (a) so far as reasonably practicable eliminate the generation and emission of Class 3 substances; and
  - (b) if it is not reasonably practicable to eliminate the generation and emission of Class 3 substances, reduce the generation and emission of the Class 3 substances so far as reasonably practicable.

**Note**

Act compliance—section 25(1) (see regulation 6).

## **Part 5.3—Noise**

### **Division 1—Noise Protocol**

#### **113 Prediction, measurement, assessment and analysis of noise must be in accordance with Noise Protocol**

A person who conducts a prediction, measurement, assessment or analysis of noise within a noise sensitive area for the purposes of the Act or these Regulations, must conduct the prediction, measurement, assessment or analysis in accordance with the Noise Protocol.

#### **Note**

The Noise Protocol sets out how to conduct the following noise-related assessments—

- (a) noise limits;
- (b) background levels;
- (c) alternative assessment criterion at an alternative assessment location, including when the Live music entertainment venues provisions (which include reference to agent of change) set out in the VPPs apply;
- (d) effective noise levels.

### **Division 2—Unreasonable and aggravated noise from residential premises**

#### **114 Unreasonable noise from residential premises**

- (1) For the purposes of section 167(2) of the Act—
  - (a) an item within an item group in column 2 of the Table is a prescribed item; and
  - (b) subject to subregulation (2), the time specified in column 3 of the Table that corresponds to an item group is prescribed as a prohibited time for an item within that item group.

- (2) For the purposes of section 167(2) of the Act, a time specified in column 3 of the Table is not prescribed as a prohibited time in respect of an item within item group 4 at any time a heat health alert is in effect in the weather forecast district in which the item is located.

**Example**

A period during which a heat health alert is in effect in the Central Forecast Region is not taken to be a prohibited time for the purposes of section 167(2) of the Act in relation to the use of domestic air conditioners in that Region.

**Note**

For the purposes of section 167(1) of the Act, noise emitted from residential premises by an item prescribed by this regulation may be unreasonable having regard to paragraphs (a)(i)–(v) of the definition of *unreasonable noise* in section 3(1) of the Act even if the use is not during a prohibited time.

- (3) In this regulation—

*heat health alert* means an alert issued by the Chief Health Officer under the heat health alert system operated by the Department of Health or any subsequent equivalent system operated by that Department or the Bureau of Meteorology.

**Table**

<i>Column 1</i> <i>Item group</i>	<i>Column 2</i> <i>Prescribed items</i>	<i>Column 3</i> <i>Prohibited times</i>
1	A motor vehicle (other than a vehicle moving in or out of premises), vessel or personal watercraft, lawn mower or other grass cutting device or any item with an internal combustion engine that does not fall within item group 2.	Monday to Friday: before 7 a.m. and after 8 p.m. Weekends and public holidays: before 9 a.m. and after 8 p.m.

Environment Protection Regulations 2021

S.R. No. 47/2021

Part 5.3—Noise

<i>Column 1</i> <i>Item group</i>	<i>Column 2</i> <i>Prescribed items</i>	<i>Column 3</i> <i>Prohibited times</i>
2	An electric power tool, chain or circular saw, gas or air compressor, pneumatic power tool, hammer, impacting tool or grinding equipment.	Monday to Friday: before 7 a.m. and after 8 p.m. Weekends and public holidays: before 9 a.m. and after 8 p.m.
3	Heating equipment (including central heating, a hot water system or a heat pump, air conditioner or split system used for heating), a vacuum cleaner, swimming pool pump, spa pump, or a water pump (other than a pump being used to fill a header tank).	Monday to Friday: before 7 a.m. and after 10 p.m. Weekends and public holidays: before 9 a.m. and after 10 p.m.
4	An air conditioner, evaporative cooler or split system used for cooling.	Monday to Friday: before 7 a.m. and after 11 p.m. Weekends and public holidays: before 9 a.m. and after 11 p.m.
5	A musical instrument or any electrical amplified sound reproducing equipment including a stereo, radio, television or public address system.	Monday to Thursday: before 7 a.m. and after 10 p.m. Friday: before 7 a.m. and after 11 p.m. Saturday and public holidays: before 9 a.m. and after 11 p.m. Sunday: before 9 a.m. and after 10 p.m.



<i>Column 1</i> <i>Item group</i>	<i>Column 2</i> <i>Prescribed items</i>	<i>Column 3</i> <i>Prohibited times</i>
6	An item of electrical equipment that does not fall within item group 2, 3, 4 or 5, other than an item for personal care or grooming, or for food heating, food refrigeration or food preparation.	Monday to Friday: before 7 a.m. and after 8 p.m. Weekends and public holidays: before 9 a.m. and after 8 p.m.

### **115 Aggravated noise from residential premises**

For the purposes of section 168 of the Act, noise emitted from residential premises is prescribed to be aggravated noise if the noise—

- (a) arises out of using an item within an item group in the Table at the foot of regulation 114 at a time specified in column 3 of that Table that corresponds to that item group; and
- (b) results, or is likely to result, in harm to human health or the environment.

## **Division 3—Unreasonable and aggravated noise from commercial, industrial and trade premises**

### **116 Definitions—operating time periods**

In this Division, in relation to noise emitted from commercial, industrial and trade premises—

*day period* means Monday to Saturday (except public holidays), from 7 a.m. to 6 p.m.;

*evening period* means—

- (i) Monday to Saturday, from 6 p.m. to 10 p.m.; and
- (ii) Sunday and public holidays, from 7 a.m. to 10 p.m.;

*night period* means 10 p.m. to 7 a.m. the following day.

**117 Noise sources that must not be taken into account in this Division**

(1) In this Division, when the level of noise emitted from commercial, industrial and trade premises is assessed, the following sources of noise must not be taken into account—

- (a) music;
- (b) voices;
- (c) noise from—
  - (i) crowds;
  - (ii) firearms;
  - (iii) lawnmowing;
  - (iv) construction or demolition activities on building sites;
  - (v) sporting events;
  - (vi) intruder, emergency or safety alarms or sirens;
  - (vii) aircraft (except for ground maintenance activities);
  - (viii) mobile farm machinery (except for maintenance activities);
  - (ix) scare and anti-hail guns;
  - (x) livestock on farms or saleyards;
  - (xi) equipment used in relation to an emergency;
  - (xii) non-commercial vehicles (except for maintenance activities);

- (xiii) large fans used to circulate air over a wide area where crops such as citrus, stone fruit or vines are grown (frost fans);
- (xiv) wind turbines at wind energy facilities (used to generate electricity by wind force);
- (xv) blasting undertaken in association with earth resources activity.

(2) In this regulation—

*emergency* has the same meaning as in the **Emergency Management Act 2013**.

**Note**

For the purposes of section 166 of the Act, noise emitted by an item prescribed by this regulation may be unreasonable having regard to paragraphs (a)(i)–(v) of the definition of *unreasonable noise* in section 3(1) of the Act.

**118 Unreasonable noise from commercial, industrial and trade premises**

- (1) For the purposes of paragraph (b) of the definition of *unreasonable noise* in section 3(1) of the Act, noise emitted from commercial, industrial and trade premises is prescribed to be unreasonable noise if the effective noise level of the noise exceeds—
- (a) the noise limit that applies at the time the noise is emitted; or
  - (b) the alternative assessment criterion that applies at the time the noise is emitted if the assessment of an effective noise level is conducted at an alternative assessment location in accordance with the Noise Protocol.

- (2) For the purposes of subregulation (1)(a), the lowest decibel value that may be set as the noise limit (the *base noise limit*) is—
- (a) in the case of noise emitted in a major urban area—
    - (i) during the day period, 45dB(A); or
    - (ii) during the evening period, 40dB(A); or
    - (iii) during the night period, 35dB(A); and
  - (b) in the case of noise emitted in a rural area—
    - (i) during the day period, 45dB(A); or
    - (ii) during the evening period, 37dB(A); or
    - (iii) during the night period, 32dB(A).
- (3) The noise limit for commercial, industrial and trade premises for the night period must not exceed 55dB(A).

### **119 Cumulative noise**

- (1) If 2 or more commercial, industrial and trade premises (whether existing or proposed) emit, or are likely to emit, noise that contributes to the effective noise level, a person in management or control of one or more of those premises must take all reasonable steps to ensure that the contribution from each of the premises, when combined, does not exceed the noise limit for the noise sensitive area.
- (2) For the purposes of subregulation (1), what constitutes a reasonable step must be determined in accordance with the Noise Protocol.

### **120 Frequency spectrum**

For the purposes of paragraph (a)(v) of the definition of *unreasonable noise* in section 3(1) of the Act, frequency spectrum is a prescribed factor.

**121 Aggravated noise from commercial, industrial and trade premises**

For the purposes of section 168 of the Act, noise emitted from commercial, industrial and trade premises is prescribed to be aggravated noise if—

- (a) in the case of noise emitted during the day period, the effective noise level exceeds the lower of the following—
  - (i) 75dB(A);
  - (ii) the noise limit plus 15dB; and
- (b) in the case of noise emitted during the evening period, the effective noise level exceeds the lower of the following—
  - (i) 70dB(A);
  - (ii) the noise limit plus 15dB; and
- (c) in the case of noise emitted during the night period, the effective noise level exceeds the lower of the following—
  - (i) 65dB(A);
  - (ii) the noise limit plus 15dB.

**Division 4—Unreasonable and aggravated noise from entertainment venues and outdoor entertainment events**

**Subdivision 1—General**

**122 Music noise from live music entertainment venues**

Despite anything to the contrary in this Division, music noise emitted from a live music entertainment venue is not unreasonable noise or aggravated noise if—

- (a) the live music entertainment venue complies with the Live music entertainment venues provisions set out in the VPPs; and
- (b) the noise limit that applies to that venue.

**Note**

Among other things, the Live music and entertainment noise provisions set out in the VPPs ensure the primary responsibility for noise attenuation rests with the agent of change.

## **Subdivision 2—Indoor entertainment venues**

### **123 Definitions—operating time periods**

In this Subdivision, in relation to music noise emitted from indoor entertainment venues—

*day and evening period* means—

- (i) Monday to Saturday (other than a public holiday), from 7 a.m. to 11 p.m.;
- (ii) Sunday or a public holiday (other than if either is preceding a public holiday), from 9 a.m. to 10 p.m.;
- (iii) Sunday or a public holiday (if either is preceding a public holiday), from 9 a.m. to 11 p.m.;

*night period* means—

- (i) Monday to Friday (other than a public holiday or a day preceding a public holiday), from 11 p.m. to 7 a.m. the following day;
- (ii) Saturday or any day preceding a public holiday, from 11 p.m. to 9 a.m. the following day;
- (iii) Sunday or a public holiday (if neither is preceding a public holiday), from 10 p.m. to 7 a.m. the following day.

**124 Noise sources that must or must not be taken into account**

Without limiting this Division, when the level of noise emitted from an indoor entertainment venue is assessed—

- (a) the following sources of noise must be taken into account—
  - (i) noise from human voices and activities within the entertainment venue that are associated with the music sources;
  - (ii) in the case of a place of worship, the performance or playing of music that is not related to recognised religious observance; and
- (b) noise associated with the arrival and departure of people attending the indoor entertainment venue must not be taken into account.

**125 Unreasonable noise from an indoor entertainment venue**

- (1) For the purposes of paragraph (b) of the definition of *unreasonable noise* in section 3(1) of the Act, music noise emitted from an indoor entertainment venue is prescribed to be unreasonable noise if the effective noise level of the noise exceeds—
  - (a) the noise limit that applies at the time the noise is emitted; or
  - (b) the alternative assessment criterion that applies at the time the noise is emitted if the assessment of an effective noise level is conducted at an alternative assessment location as specified in the Noise Protocol.
- (2) For the purposes of subregulation (1)(a), the lowest decibel value that may be set as the noise limit (the *base noise limit*) is—

- (a) for the day and evening period, 32dB(A);  
and
- (b) for the night period, the base noise limit  
corresponding to the relevant frequency set  
out in the Table.

**Table—Indoor entertainment venue base noise limits per frequency for the night period**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>	<i>Column 7</i>	<i>Column 8</i>
Frequency (Hz)	63	125	250	500	1000	2000	4000
Base noise limit (dB)	40	30	20	20	15	10	10

**126 Cumulative music noise from indoor entertainment venues**

If 2 or more indoor entertainment venues contribute to the effective noise level in a noise sensitive area, the noise limit that applies in relation to each venue must be determined in accordance with the Noise Protocol.

**127 Aggravated noise from an indoor entertainment venue**

For the purposes of section 168 of the Act, music noise emitted from an indoor entertainment venue during an operating time period set out in column 1 of the Table is prescribed to be aggravated noise if the effective noise level exceeds the corresponding aggravated noise level set out in column 2 of the Table.

**Table**

<i>Column 1</i>	<i>Column 2</i>
<i>Operating time period</i>	<i>Aggravated noise level</i>
Day and evening period	The noise limit plus 15dB
Night period	The noise limit plus 20dB



### **Subdivision 3—Outdoor entertainment venues and outdoor entertainment events**

#### **128 When a permit is required for an outdoor entertainment venue**

- (1) For the purposes of section 46 of the Act, the following activities engaged in at an outdoor entertainment venue are prescribed permit activities—
  - (a) an operation outside standard operating hours;
  - (b) an operation with a period of more than 8 hours.
- (2) In this regulation—

*standard operating hours* means from 12 noon until 11 p.m. on any day.

#### **Note**

See item 76 (L05—Operation outside of hours or extended operations) in the Table in Schedule 1. Conducting more than 6 concerts in a financial year is also a prescribed permit activity—see item 77 (L06—Conducting more than 6 outdoor concerts).

#### **129 When a permit is required for an outdoor entertainment event**

- (1) For the purposes of section 46 of the Act, the following outdoor entertainment events are prescribed permit activities—
  - (a) an operation engaged in outside the standard operating hours;
  - (b) a concert held during the following hours—
    - (i) Monday to Saturday, from 7 a.m. to 12 noon;
    - (ii) Sunday or a public holiday, from 9 a.m. to 12 noon;

(c) a concert engaged in for a period of more than 8 hours.

(2) In this regulation—

*standard operating hours* means—

- (a) Monday to Saturday (other than a public holiday), from 7 a.m. to 11 p.m.; and
- (b) Sunday or a public holiday, from 9 a.m. to 11 p.m.

**Note**

See item 76 (L05—Operation outside of hours or extended operations) in the Table in Schedule 1. Conducting more than 6 concerts at the same location in a financial year is also a prescribed permit activity—see item 77 (L06—Conducting more than 6 outdoor concerts).

**130 Unreasonable noise from outdoor entertainment venues or outdoor entertainment events**

For the purposes of paragraph (b) of the definition of *unreasonable noise* in section 3(1) of the Act, music noise emitted from an outdoor entertainment venue or outdoor entertainment event is prescribed to be unreasonable noise if—

- (a) the effective noise level of the music noise exceeds—
  - (i) the noise limit that applies to that venue or event at the time the noise is emitted; or
  - (ii) the alternative assessment criterion that applies at the time the noise is emitted if the assessment of an effective noise level is conducted at an alternative assessment location as specified in the Noise Protocol; or

- (b) the music noise is audible within a noise sensitive area—
  - (i) in the case of an outdoor entertainment venue, outside the hours set out in any permit issued by the Authority or, if there is no permit, outside the standard operating hours set out in regulation 128(2); or
  - (ii) in the case of an outdoor entertainment event, outside the hours set out in any permit issued by the Authority or, if there is no permit, outside the standard operating hours set out in regulation 129(2); or
- (c) the music noise from a concert is emitted without a permit issued by the Authority that is required for the venue or event.

**131 Aggravated noise from an outdoor entertainment venue or outdoor entertainment event**

For the purposes of section 168 of the Act, music noise emitted from an outdoor entertainment venue or outdoor entertainment event is prescribed to be aggravated noise if the effective noise level exceeds 80dB(A) assessed as an  $L_{Aeq}$  of 15 cumulative minutes at any measurement point in a noise sensitive area at any time.

## **Part 5.4—Water**

### **132 Discharge or deposit of waste from vessels**

- (1) A person must not discharge or deposit waste produced or located on a vessel into the surface water or marine water environment unless any of the following apply—
- (a) the waste is part of a process of managing aquatic pests on the vessel and the person has—
    - (i) minimised, so far as reasonably practicable, the risks of harm to human health and the environment posed by the waste; and
    - (ii) complied with subregulation (2);
  - (b) the waste is in the form of greywater produced or located on a houseboat operating on the waters of Lake Eildon and the greywater is discharged or deposited in compliance with the requirements relating to the disposal of houseboat greywater specified in the Water (Lake Eildon Recreational Area) (Houseboats) Regulations 2013;
  - (c) the waste is wastewater that is wash down water used to wash down a vessel or cooling water used to cool the engine of a vessel and the person has minimised, so far as reasonably practicable, the risks of harm to human health and the environment posed by the waste;

(d) the waste results from an industrial process that is the subject of a permission under the Act or these Regulations and the permission holder is complying with the permission.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

(2) For the purposes of subregulation (1)(a) the person must ensure that any aquatic pests (other than native or indigenous species not causing harm to the environment into which the discharge or deposit occurs) and anti-fouling paint are contained and subsequently transferred to a place or premises that is authorised to receive industrial waste of that type.

(3) In this regulation—

***anti-fouling paint*** means the combination of all component coatings, surface treatments (including primer, sealer, binder, anti-corrosive and anti-fouling coatings) or other surface treatments, used on a vessel to control or prevent attachment of aquatic pests;

***aquatic pests*** includes fish, shellfish and other aquatic plants or animals that are found in freshwater, estuaries or marine environments (but may not be native to those environments) and have, or may have, one or more of the following effects, either directly or indirectly—

- (a) adverse or undesirable effects on other species important to Victoria's economy or conservation;
- (b) damage to aquatic environments reducing attractiveness and social enjoyment of aquatic areas;

- (c) fouling of aquaculture and industrial infrastructure;
- (d) harm to human health or the environment.

*greywater* has the same meaning as in the Water (Lake Eildon Recreational Area) (Houseboats) Regulations 2013;

*houseboat* has the same meaning as in the **Water Act 1989**.

**Note**

Commonwealth legislation may also apply to the disposal of waste from vessels.

## **Part 5.5—Plastic shopping bag ban**

### **133 Retailer must not sell or provide banned plastic bag**

A retailer must not sell or provide a banned plastic bag, whether free of charge or otherwise, to a person to carry or transport from the retail premises goods sold or provided by the retailer.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

### **134 Provision of false or misleading information**

A retailer or wholesaler, or a manufacturer of plastic bags, must not, whether by act or omission, provide to a person information that the retailer, wholesaler or manufacturer knows, or should reasonably know, is false or misleading about—

- (a) the composition of a banned plastic bag; or
- (b) whether or not a bag is a banned plastic bag;  
or
- (c) whether or not a bag is an exempt plastic bag.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

## **Part 5.6—Emissions from motor vehicles**

### **Division 1—General**

#### **135 Application**

This Part does not apply to a new vehicle or a heavy vehicle.

##### **Note**

New vehicle emissions are regulated under the Motor Vehicle Standards Act 1989 of the Commonwealth.

Heavy vehicle emissions are regulated under the Heavy Vehicle National Law (Victoria).

### **Division 2—Air emissions**

#### **136 Visible pollution from motor vehicles**

- (1) A person must not sell or supply, or use or permit to be used on a highway, a motor vehicle that emits pollution in the form of smoke that is visible for a continuous period of at least 10 seconds.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

##### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) Subregulation (1) does not apply to a motor vehicle that emits pollution in the form of smoke that is visible only because of heat or the condensation of water vapour.

#### **137 Vehicle exhaust emissions—spark ignition engines manufactured 1 July 1976 to before 1 February 1986**

- (1) This regulation applies to—
- (a) forward-control passenger vehicles; and
  - (b) off-road passenger vehicles; and



- (c) passenger cars; and
  - (d) passenger car derivatives.
- (2) A person must not sell or supply, or use or permit to be used on a highway, a vehicle powered by a spark ignition engine manufactured on or after 1 July 1976 and before 1 February 1986 that exceeds an emission level specified in subregulation (3).

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (3) For the purposes of subregulation (2), a specified emission level is—
- (a) in the case of the emission of carbon monoxide, a carbon monoxide level of  $\leq 4.5$  at idle (% by volume) concentration of carbon monoxide in exhaust gases of the vehicle; and
  - (b) in the case of the emission of hydrocarbons, a hydrocarbon concentration of  $\leq 1200$  at idle (ppm) concentration of hydrocarbons in exhaust gases of the vehicle.

- (4) In this regulation—

*at idle* means as determined by the idle test set out in Part A of Schedule 9.

**138 Vehicle exhaust emissions—spark ignition engines manufactured on or after 1 February 1986**

- (1) This regulation applies to the following types of vehicles—
- (a) forward-control passenger vehicles;
  - (b) off-road passenger vehicles;

- (c) passenger cars;
  - (d) passenger car derivatives.
- (2) A person must not sell or supply, or use or permit to be used on a highway, a vehicle powered by a spark ignition engine manufactured on or after 1 February 1986 that exceeds an emission level specified in subregulation (3).

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (3) For the purposes of subregulation (2), a specified emission level is—
- (a) in the case of the emission of carbon monoxide, a carbon monoxide concentration of  $\leq 4.5$  at idle and  $\leq 1.0$  at high idle (% by volume) concentration of carbon monoxide in exhaust gases of the vehicle; and
  - (b) in the case of the emission of hydrocarbons, a hydrocarbon concentration of  $\leq 600$  at idle and  $\leq 200$  at high idle (ppm) concentration of hydrocarbons in exhaust gases of the vehicle.

- (4) In this regulation—

**at idle** means as determined by the idle test set out in Part A of Schedule 9;

**at high idle** means as determined by the high idle test set out in Part B of Schedule 9.

**139 Vehicle exhaust emissions—diesel engine vehicles manufactured before 1 January 1996**

- (1) A person must not sell or supply, or use or permit to be used on a highway, a motor vehicle powered by a diesel engine manufactured before 1 January 1996 that exceeds an emission level specified in subregulation (2).

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) For the purposes of subregulation (1), if the motor vehicle has a GVM set out in column 1 of the following Table, the specified emission level is—
- (a) in the case of oxides of nitrogen (NO<sub>x</sub>) in exhaust gases, the exhaust gases emitted, or capable of being emitted, are measured at the rate set out in column 2 of the Table that corresponds to the motor vehicle's GVM; and
  - (b) in the case of particles in exhaust gases, the exhaust gases emitted, or capable of being emitted, are measured at the rate set out in column 3 of the Table that corresponds to the motor vehicle's GVM; and
  - (c) in the case of exhaust gas opacity averaged over a DT80 test cycle, the exhaust gases emitted, or capable of being emitted, are measured at the rate set out in column 4 of the Table that corresponds to the motor vehicle's GVM.

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>GVM (tonnes)</i>	<i>Rate of NO<sub>x</sub> emissions (grams per kilometre per tonne of vehicle test mass)</i>	<i>Rate of particle emission (grams per kilometre per tonne of vehicle test mass)</i>	<i>Exhaust gas opacity</i>
Not greater than 3·5	1·5	0·23	25%
More than 3·5 but less than or equal to 4·5	2·0	0·23	25%

(3) For the purposes of subregulation (2)—

- (a) the emission levels set out in columns 2 and 3 of the Table must be measured in accordance with rule 133 of the ALVS Rules; and
- (b) the exhaust gas opacity percentage set out in column 4 of the Table must be measured in accordance with rule 133 of the ALVS Rules.

**140 Vehicle exhaust emissions—diesel engine vehicles  
manufactured on or after 1 January 1996**

- (1) A person must not sell or supply, or use or permit to be used on a highway, a motor vehicle powered by a diesel engine manufactured on or after 1 January 1996 that exceeds an emission level specified in subregulation (2).

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) For the purposes of subregulation (1), if the motor vehicle has a GVM set out in column 1 of the following Table, the specified emission level is—
- (a) in the case of oxides of nitrogen (NO<sub>x</sub>) in exhaust gases, the exhaust gases emitted, or capable of being emitted as measured at the rate set out in column 2 of the Table that corresponds to the motor vehicle's GVM; and
  - (b) in the case of particles in exhaust gases, the exhaust gases emitted, or capable of being emitted as measured at the rate set out in column 3 of the Table that corresponds to the motor vehicle's GVM; and
  - (c) in the case of exhaust gas opacity averaged over a DT80 test cycle, the exhaust gases emitted, or capable of being emitted as measured at the rate set out in column 4 of the Table that corresponds to the motor vehicle's GVM.

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>GVM (tonnes)</i>	<i>Rate of NO<sub>x</sub> emissions (grams per kilometre per tonne of vehicle test mass)</i>	<i>Rate of particle emission (grams per kilometre per tonne of vehicle test mass)</i>	<i>Exhaust gas opacity</i>
Not greater than 3·5	1·5	0·23	25%
More than 3·5 but less than or equal to 4·5	2·0	0·15	25%

- (3) For the purposes of subregulation (2)—
- (a) the emission levels set out in columns 2 and 3 of the Table must be measured in accordance with rule 133 of the ALVS Rules; and
  - (b) the exhaust gas opacity percentage set out in column 4 of the Table must be measured in accordance with rule 133 of the ALVS Rules.

### **Division 3—Noise emissions**

#### **141 How to determine motor vehicle noise emissions**

- (1) For the purposes of this Division, the noise emitted by a motor vehicle must be determined using the method set out in the National Stationary Exhaust Noise Test.
- (2) The definition of "Engine Speed at Maximum Power" in the National Stationary Exhaust Noise Test is to be read as if it means, in the case of a motor vehicle, the engine speed at maximum power as set out in the ESMP data manual.

#### **142 Noise emissions—motor vehicles approved in accordance with ADR 83/00**

A person must not use, or permit to be used, on a highway a motor vehicle that has been approved in accordance with ADR 83/00 that emits, or is capable of emitting, noise exceeding the stationary noise level by at least 5dB(A).

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

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**143 Noise emissions—passenger vehicles not approved in accordance with ADR 83/00**

- (1) A person must not use, or permit to be used, on a highway a forward-control passenger vehicle, off-road passenger vehicle, passenger car or passenger car derivative if that vehicle—
- (a) is not approved in accordance with ADR 83/00; and
  - (b) emits, or is capable of emitting, noise exceeding the noise level specified in subregulation (2).

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) For the purposes of subregulation (1), the specified noise level for a vehicle that has a date of manufacture set out in column 1 of the following Table is the corresponding noise level specified in column 2 of that Table.

**Table**

<i>Column 1</i>	<i>Column 2</i>
<i>Date of manufacture</i>	<i>Noise level (dB(A))</i>
Before 1 November 1983	96
On or after 1 November 1983	90

**144 Noise emissions—goods vehicles and buses not approved in accordance with ADR 83/00**

- (1) A person must not use, or permit to be used, on a highway a goods vehicle propelled by a spark ignition engine or a bus propelled by a spark ignition engine if that vehicle or bus—

- (a) is not approved in accordance with ADR 83/00; and
- (b) emits, or is capable of emitting, noise exceeding the noise level specified in subregulation (2).

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) For the purposes of subregulation (1), the specified noise level for a vehicle that has a date of manufacture set out in column 1 of the following Table, a GVM set out in column 2 of that Table and an exhaust height set out in column 3 of that Table, is the corresponding noise level specified in column 4 of that Table.

**Table**

<i>Column 1</i> <i>Date of manufacture</i>	<i>Column 2</i> <i>GVM (tonnes)</i>	<i>Column 3</i> <i>Exhaust height (millimetres)</i>	<i>Column 4</i> <i>Noise level (dB(A))</i>
Before 1 July 1983	≤ 3.5	< 1500	92
Before 1 July 1983	> 3.5 and ≤ 4.5	< 1500	98
Before 1 July 1983	≤ 3.5	≥ 1500	88
Before 1 July 1983	> 3.5 and ≤ 4.5	≥ 1500	94
On or after 1 July 1983	≤ 3.5	< 1500	89
On or after 1 July 1983	> 3.5 and ≤ 4.5	< 1500	95
On or after 1 July 1983	≤ 3.5	≥ 1500	85



Environment Protection Regulations 2021  
S.R. No. 47/2021

Part 5.6—Emissions from motor vehicles

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Date of manufacture</i>	<i>GVM (tonnes)</i>	<i>Exhaust height (millimetres)</i>	<i>Noise level (dB(A))</i>
On or after 1 July 1983	> 3.5 and ≤ 4.5	≥ 1500	91

- (3) A person must not use, or permit to be used, on a highway a goods vehicle propelled by a diesel engine or a bus propelled by a diesel engine if that vehicle or bus—
- (a) is not approved in accordance with ADR 83/00; and
  - (b) emits, or is capable of emitting, noise exceeding the noise level specified in subregulation (4).

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (4) For the purposes of subregulation (3), the specified noise level for a vehicle that has a date of manufacture set out in column 1 of the following Table, a GVM set out in column 2 of that Table and an exhaust height set out in column 3 of that Table, is the corresponding noise level specified in column 4 of that Table.

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Date of manufacture</i>	<i>GVM (tonnes)</i>	<i>Exhaust height (millimetres)</i>	<i>Noise level (dB(A))</i>
Before 1 July 1980	≤ 3.5	< 1500	105
Before 1 July 1980	> 3.5 and ≤ 4.5	< 1500	107

Authorised by the Chief Parliamentary Counsel

Environment Protection Regulations 2021  
S.R. No. 47/2021

Part 5.6—Emissions from motor vehicles

<i>Column 1</i> <i>Date of manufacture</i>	<i>Column 2</i> <i>GVM (tonnes)</i>	<i>Column 3</i> <i>Exhaust height (millimetres)</i>	<i>Column 4</i> <i>Noise level (dB(A))</i>
Before 1 July 1980	$\leq 3.5$	$\geq 1500$	101
Before 1 July 1980	$> 3.5$ and $\leq 4.5$	$\geq 1500$	103
On or after 1 July 1980 and before 1 July 1983	$\leq 3.5$	$< 1500$	102
On or after 1 July 1980 and before 1 July 1983	$> 3.5$ and $\leq 4.5$	$< 1500$	104
On or after 1 July 1980 and before 1 July 1983	$\leq 3.5$	$\geq 1500$	98
On or after 1 July 1980 and before 1 July 1983	$> 3.5$ and $\leq 4.5$	$\geq 1500$	100
On or after 1 July 1983	$\leq 3.5$	$< 1500$	99
On or after 1 July 1983	$> 3.5$ and $\leq 4.5$	$< 1500$	101
On or after 1 July 1983	$\leq 3.5$	$\geq 1500$	95
On or after 1 July 1983	$> 3.5$ and $\leq 4.5$	$\geq 1500$	97

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**145 Noise emissions—motor cycles and motor trikes not approved in accordance with ADR 83/00**

- (1) A person must not use, or permit to be used, on a highway a motor cycle or motor trike—
- (a) that is not approved in accordance with ADR 83/00; and
  - (b) emits, or is capable of emitting, noise exceeding the noise level specified in subregulation (2).

Penalty: 20 penalty units for a natural person;  
100 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) For the purposes of subregulation (1), the specified noise level for a vehicle set out in column 1 of the following Table that has a date of manufacture set out in column 2 of that Table is the corresponding noise level specified in column 3 of that Table.

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Vehicle type</i>	<i>Date of manufacture</i>	<i>Noise level (dB(A))</i>
Motor cycle or motor trike, other than a recreational motor cycle	Before 1 March 1985	100
Motor cycle or motor trike, other than a recreational motor cycle	On or after 1 March 1985	94
Recreational motor cycle	On or after 1 January 1994	94

#### **146 Non-compliant device**

A person must not sell, supply or install a device used or designed to prevent, limit or regulate the emission of noise which, when fitted to a vehicle in accordance with the manufacturer's instructions, fails to reduce the noise-emitting capability of the vehicle to a level that complies with the noise level specified in relation to that vehicle in this Division.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

### **Division 4—Vehicle noise labelling standards**

#### **147 Labelling of motor cycles and motor trikes**

- (1) A person must not use a motor cycle or motor trike manufactured on or after 1 March 1988 that does not have the information specified in subregulation (2)—
  - (a) labelled, in a readily visible position, in one of the following ways so that the relevant information cannot be removed without being destroyed or defaced—
    - (i) embossed or etched;
    - (ii) carried on a label of plastic or metal which is welded, riveted or otherwise permanently affixed or attached to the motor cycle or motor trike; and

- (b) in the English language in block letters and numerals of a height not less than 3 millimetres and of a colour contrasting with their background.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) For the purposes of subregulation (1), the specified information is—
- (a) a heading stating "Stationary noise test information"; and
- (b) if the engine speed at maximum power value exceeds 5000 rpm, a statement containing the recorded stationary sound level value and the 50% engine speed at maximum power value in the following format—  
"Tested [*recorded stationary sound level value*] dB(A) at [*50% engine speed*] r/min  
Silencing System—[*manufacturer*]  
Identification—[*trade description*]" ; and
- (c) if the engine speed at maximum power value does not exceed 5000 rpm, a statement containing the recorded stationary sound level value and the 75% engine speed at maximum power value in the following format—  
"Tested [*recorded stationary sound level value*] dB(A) at [*75% engine speed*] r/min  
Silencing System—[*manufacturer*]  
Identification—[*trade description*]" .

- (3) A person must not remove or deface—
- (a) the information specified in subregulation (2) that is embossed or etched on a motor cycle or motor trike; or
  - (b) a label affixed or attached to the motor cycle or motor trike in accordance with subregulation (1)(a).

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (4) In this regulation—

*engine speed at maximum power* means the speed, expressed in revolutions per minute, at which maximum power is developed by an engine;

*rpm* means revolutions per minute.

## **Division 5—General motor vehicle offences**

### **148 Selling or supplying a motor vehicle capable of exceeding a prescribed standard for the emission of noise**

A person must not sell or supply a motor vehicle that emits, or is capable of emitting, noise that exceeds a relevant noise standard prescribed in relation to that motor vehicle in regulation 142, 143, 144 or 145.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

#### **149 Noise defeat devices**

- (1) A person must not use, or permit to be used, a motor vehicle equipped with any temporary noise defeat device, inlet port restrictor, exhaust port restrictor or temporary noise reduction device if the vehicle was not equipped with that device when it was a new vehicle.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) A person must not install onto a motor vehicle any temporary noise defeat device, inlet port restrictor, exhaust port restrictor or temporary noise reduction device if the vehicle was not equipped with that device when it was a new vehicle.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (3) A person must not sell a motor vehicle equipped with any temporary noise defeat device, inlet port restrictor, exhaust port restrictor or temporary noise reduction device unless the vehicle was equipped with that device when it was a new vehicle.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

## Division 6—Petrol vapour pressure

### 150 Definition

In this Division, *summer period* means the period commencing on 1 November and ending on 31 March of the following year.

### 151 Monthly average volumetric vapour pressure

For the purposes of this Division, the monthly average volumetric vapour pressure, expressed in kPa, of petrol that is not ethanol-blended petrol produced by a regulated petrol producer is determined in accordance with the following formula—

$$\sum_{i=1}^n \frac{B_i \times S_i}{G}$$

where—

**n** is the total number of batches of petrol that are not ethanol-blended petrol produced during the relevant month by the producer; and

**B<sub>i</sub>** is the volume, expressed in litres, of a batch of petrol that is not ethanol-blended petrol; and

**S<sub>i</sub>** is the vapour pressure, expressed in kPa, of a batch of petrol that is not ethanol-blended petrol; and

**G** is the total volume, expressed in litres, of petrol that is not ethanol-blended petrol produced in a month by the producer.



### **152 Production of petrol with excess vapour pressure**

- (1) A regulated petrol producer must not produce ethanol-blended petrol that has, during the summer period, a vapour pressure of more than 71 kPa.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) A regulated petrol producer must not produce petrol that is not ethanol-blended petrol that has, during the summer period, a monthly average volumetric vapour pressure of more than 62 kPa.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (3) A regulated petrol producer must not produce petrol that is not ethanol-blended petrol that has, during the summer period, a vapour pressure of more than 64 kPa.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

### **153 Vapour pressure—record keeping**

A regulated petrol producer must keep the information used to determine the monthly average volumetric vapour pressure of the petrol produced by it for no less than 24 months from the date that information was collected.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

### **154 Annual compliance report**

- (1) A regulated petrol producer must submit an annual compliance report to the Authority by 30 April of each year.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

#### **Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) A regulated petrol producer must include the following information in an annual compliance report submitted under subregulation (1)—
- (a) the monthly average volumetric vapour pressure of petrol, that is not ethanol-blended petrol, produced by the regulated petrol producer in each month during the summer period;
  - (b) the maximum vapour pressure of all the petrol produced by the producer in each month during the summer period;

(c) details of all the petrol produced by the producer during the summer period, including—

- (i) the type of petrol; and
- (ii) the monthly volume of each type of petrol.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

## **Division 7—Approved motor vehicle testers and certificates of compliance**

### **155 Appointment of approved motor vehicle testers**

For the purposes of section 245(2) of the Act, a prescribed role is approved motor vehicle tester.

### **156 Authority may require motor vehicle to be tested**

- (1) For the purposes of ensuring a motor vehicle complies with the requirements of this Part in relation to emissions from motor vehicles, the Authority, by written notice given to the registered owner or the person apparently in lawful possession of the motor vehicle may require that person—
  - (a) to deliver the motor vehicle to which the notice applies to an approved motor vehicle tester to determine whether the motor vehicle complies with the regulations specified in the notice; and
  - (b) to obtain a certificate of compliance from the approved motor vehicle tester; and

(c) to give the certificate of compliance to the Authority before the date specified in the notice.

(2) A person must not contravene a vehicle testing notice given by the Authority under subregulation (1).

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

(3) Despite subregulations (1) and (2), a person who receives a vehicle testing notice does not contravene that notice if the person advises the Authority in writing before the date specified in the notice for compliance with the notice that the vehicle will not be used on a highway after that date.

**Note**

Section 463 of the Act makes it an offence to provide information or make a statement to the Authority that is false or misleading in a material particular.

**157 Approved motor vehicle tester to test vehicle**

(1) An approved motor vehicle tester—

- (a) may make any inspection, measurement or test in relation to a motor vehicle in order to determine whether a motor vehicle delivered to the tester in accordance with a vehicle testing notice complies with the requirements of this Part in relation to emissions from motor vehicles; and
- (b) if satisfied that the motor vehicle complies with those requirements, must give a certificate of compliance to the registered

owner or the person apparently in lawful possession of the motor vehicle.

- (2) A certificate of compliance must be in the form and manner approved by the Authority.

**158 Offences to use or supply or sell certain motor vehicles**

- (1) Except for the purpose of obtaining a certificate of compliance, the registered owner or a person who knows that a motor vehicle is subject to a vehicle testing notice must not use the motor vehicle, or allow it to be used, on a highway after the date specified in the notice for giving a certificate of compliance, until a certificate of compliance in relation to that motor vehicle has been given to the Authority.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) A person must not, without written permission from the Authority, sell or supply a motor vehicle subject to a vehicle testing notice until a certificate of compliance in relation to that motor vehicle has been given to the Authority.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

## **Part 5.7—On-site wastewater management systems**

### **159 On-site wastewater management system operation and maintenance**

- (1) A person in management or control of land on which an on-site wastewater management system is located must take all reasonable steps to ensure the system is operated so as not to pose a risk of harm to human health or the environment.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

#### **Example**

Ensuring the system is not overloaded to an extent that causes a blockage, runoff, spillage or leak.

- (2) A person (other than a renter within the meaning of the **Residential Tenancies Act 1997**) in management or control of land on which an on-site wastewater management system is located must take all reasonable steps to ensure the system is maintained in good working order.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

#### **Examples**

Regular desludging to remove the contents of the system; ensuring the integrity of pipes, tanks and storage systems; repairing and, when required, replacing all the components and fittings of the system; maintaining the biological and chemical processes integral to the proper functioning of the system; maintaining the integrity of the land used in connection with the system to ensure access to the system is not impeded; complying with the system manufacturer's specifications and recommendations (if provided); complying with any relevant council requirements; monitoring the system for signs of failure.

- (3) A person in management or control of land on which a septic tank system is located must ensure the contents of the septic tank system do not overflow.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

**160 Duty to provide information to occupier**

An owner of land on which an on-site wastewater management system is located must provide to a person in management or control of the system, written information regarding the correct operation and maintenance of the system.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

**161 Duty to notify council**

- (1) This regulation applies on and after 1 July 2022.
- (2) A person in management or control of land on which an on-site wastewater management system is located must notify the council, in whose municipal district the system is located, as soon as practicable after the person becomes aware, or reasonably should have been aware, that the system poses a risk of harm to human health or the environment or is otherwise not in good working order.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

- (3) Without limiting subregulation (2), the system poses a risk if any of the following apply to the system—
- (a) the absorption field of the system becomes sodden with wastewater pooling on the surface of the surrounding land;
  - (b) there is wastewater runoff from the disposal area;
  - (c) there is an odour of effluent emanating from or near the system;
  - (d) the drain or toilet of the system is running slowly;
  - (e) the grease trap of the system is full or blocked;
  - (f) there are any other signs that indicate that the system poses a risk of harm to human health or the environment or is otherwise not in good working order.
- (4) A notification under this regulation must include the steps the person has taken, or proposes to take, to ensure the system no longer poses a risk of harm to human health and the environment and is returned to good working order.

#### **162 Duty to keep and provide maintenance records**

- (1) An owner of land on which an on-site wastewater management system is located must keep and hold a record of all maintenance activities carried out on the system, including any pump-out and service records, for a period of 5 years after each maintenance activity.

Penalty: 5 penalty units for a natural person;  
25 penalty units for a body corporate.



**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

- (2) An owner of land on which an on-site wastewater management system is located must make available for inspection on request by the council or the Authority any records kept under subregulation (1).

Penalty: 5 penalty units for a natural person;  
25 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

**163 Council may order maintenance**

- (1) This regulation applies if the council, in whose municipal district the on-site wastewater management system is located, or an authorised officer of the council—
- (a) has received a notification under regulation 161(2); or
  - (b) has a reasonable belief that an on-site wastewater management system poses, or may pose, a risk of harm to human health or the environment or is not, or may not be, in good working order.
- (2) If an authorised officer of the council has exercised a power under Part 9.3 of the Act to enter and inspect a place or premises on or in which an on-site wastewater management system is located and forms the reasonable belief that the system poses a risk of harm to human health or the environment or is not in good working order, the officer may give a written notice to the owner of the place or premises to undertake the maintenance activities specified in the notice.

- (3) A notice under subregulation (2) must specify the—
- (a) name and address of the person to whom the notice is issued and the location of the on-site wastewater management system; and
  - (b) grounds on which the notice is issued; and
  - (c) maintenance actions that the person must take to comply with the notice; and
  - (d) period within which the person must comply with the notice; and
  - (e) penalty for failing to comply with the notice set out in subregulation (4).

- (4) A person who is given a notice under subregulation (2) must comply with the notice.

Penalty: 10 penalty units for a natural person;  
50 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

## **Chapter 6—Environmental audits and financial assurances**

### **Part 6.1—Environmental audit system**

#### **164 Functions of environmental auditors**

For the purposes of section 190(1)(d) of the Act, the prescribed functions of an environmental auditor are the following—

- (a) to verify actions and measures undertaken to comply with any of the following (including conducting any relevant tests and analysis)—
  - (i) a notice issued under section 271, 272, 273 or 274 of the Act;
  - (ii) an order issued under section 275 of the Act;
  - (iii) a condition of a permission;
  - (iv) guidelines issued by the Authority under the Act;

#### **Example**

To verify whether or not a monitoring plan required under an environmental action notice has been implemented in accordance with the plan, the environmental auditor may undertake a site inspection, assess sampling and analysis procedures against relevant guidelines issued by the Authority, and audit a representative sample of monitoring data.

- (b) to undertake an independent assessment under section 222 of the Act of a matter contained in the prescribed risk assessment criteria where the method for calculating financial assurance amounts published under section 223 of the Act provides that the assessment may be conducted by an environmental auditor;

- (c) to perform any function conferred on an environmental auditor under a legislative instrument made under any Act;

**Example**

The Victoria Planning Provisions confer a function on an environmental auditor to verify whether or not an acoustic assessment undertaken for the purpose of the post-construction noise assessment on a wind farm has been conducted in accordance with the relevant standard.

- (d) any function approved by the Authority in accordance with regulation 165.

**165 Authority approval of environmental auditor functions**

- (1) The Authority may approve functions of an environmental auditor for the purposes of regulation 164(d).
- (2) The Authority must not approve a function if it considers that the function would be inconsistent with the purpose of Part 8.3 of the Act.
- (3) A notice of approval must—
  - (a) be published in the Government Gazette; and
  - (b) set out the approved functions for environmental auditors; and
  - (c) specify any circumstances which must apply for environmental auditors to undertake the approved function.

**166 Prescribed time to apply for reappointment as environmental auditor**

For the purposes of section 198(2)(c) of the Act, the prescribed time for an application for reappointment as an environmental auditor is at any time within the period that commences

Environment Protection Regulations 2021  
S.R. No. 47/2021

Part 6.1—Environmental audit system

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12 weeks prior to the expiry of the person's appointment as an environmental auditor and ends 8 weeks prior to the expiry of that appointment.

## **Part 6.2—Financial assurances**

### **167 Prescribed permissions**

For the purposes of section 219(1)(a) of the Act, the following activities set out in the Table in Schedule 1 are prescribed permissions—

- (a) item 1 (A01—Reportable priority waste management);
- (b) item 7 (A05a—Landfills—excluding municipal landfills servicing <5000 people);
- (c) item 19 (A13a—Waste and resource recovery—large);
- (d) item 20 (A13b—Waste and resource recovery—medium);
- (e) item 54 (G04—Bulk storage);
- (f) item 74 (L02—Contaminated sites—on-site soil retention).

### **168 Risk assessment criteria**

The prescribed financial assurance risk assessment criteria are the following—

- (a) the risk or potential risk of harm to human health and the environment associated with the activity, including consideration of the location of the activity;
- (b) compliance, whether current or historical, with the Act, the **Environment Protection Act 1970** (as in force immediately before its repeal), these Regulations and environment protection legislation of the Commonwealth, another State or a Territory by—
  - (i) the person undertaking the activity; and
  - (ii) in the case of a natural person, any body corporate of which the person was an officer; and

- (iii) in the case of a body corporate, any person who is an officer of the body corporate;
- (c) whether the person undertaking the activity is a prohibited person under section 88(1) of the Act;
- (d) the financial capacity of the person undertaking the activity;
- (e) the likelihood of the person undertaking the activity abandoning the site of the activity, taking into account the ongoing profitability of the activity and the value of the investment in the site;
- (f) the nature, duration, extent and costs of remediation or clean-up activities that may be required under the Act or these Regulations in connection with the activity.

**Note**

*Officer* is defined in section 3(1) of the Act.

## **Chapter 7—Enforcement**

### **169 Infringement offences and infringement penalties**

- (1) For the purposes of section 307(1) of the Act, an offence set out in column 2 of Schedule 10 is prescribed as an infringement offence.
- (2) For the purposes of section 307(3) of the Act, the prescribed infringement penalty for—
  - (a) an infringement offence referred to in subregulation (1) is the penalty set out in column 3 of Schedule 10 in respect of the infringement offence; and
  - (b) an offence against section 64 of the Act which is an infringement offence is 10 penalty units for a natural person or 50 penalty units for a body corporate.

### **170 Monetary benefit orders protocol**

For the purposes of section 329(3)(a) and (4)(b) of the Act, the prescribed protocol is the Protocol for calculating monetary benefits, published by the Authority on its website, as in force from time to time.

### **171 Council may take proceedings for specified offences relating to on-site wastewater management systems**

- (1) For the purposes of section 347(3) of the Act, a council in whose municipal district the on-site wastewater management system is located, or a person appointed by that council, may take proceedings for an offence against any of the following provisions of the Act or regulations—
  - (a) section 46 of the Act in relation to engaging in the permit activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 except as authorised by a permit for that activity;



- (b) section 63(2) of the Act in relation to breaching a condition of a permit for a permit activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1;
  - (c) section 64(a) of the Act in relation to breaching a prescribed condition of a permission which is a permit for a permit activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1;
  - (d) section 64(b) of the Act in relation to breaching a condition of a permission which is a permit for a permit activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 that is included in a prescribed class of conditions;
  - (e) section 64(c) of the Act in relation to breaching a condition of a permission which is a permit for a permit activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 issued or granted to a person in prescribed circumstances;
  - (f) regulation 34.
- (2) For the purposes of section 347(5) of the Act, a person appointed by a council in whose municipal district the on-site wastewater management system is located is a prescribed person who may take proceedings for an offence against any of the following regulations—
- (a) regulation 159;
  - (b) regulation 160;

- (c) regulation 161(2);
- (d) regulation 162;
- (e) regulation 163(4).

## Chapter 8—Fees

### Part 8.1—Development licences

#### 172 Prescribed application fee for development licence

- (1) For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application for a development licence is the greater of—
  - (a) 1% of the estimated cost of the relevant prescribed development activity set out in the Table in Schedule 1; or
  - (b) 81·83 fee units.
- (2) A fee calculated under subregulation (1) must not exceed 4500 fee units.
- (3) In this regulation—

*estimated cost* means the amount that the applicant reasonably estimates is required to carry out the prescribed development activity set out in the Table in Schedule 1 to which the application for a development licence relates, other than—

- (a) any amount required for the purchase of land associated with the prescribed development activity; or
- (b) any amount required to construct or modify any building relating to the prescribed development activity, the construction or modification of which will not or does not—
  - (i) control risks of harm to human health or the environment from pollution or waste; or
  - (ii) relate to the production capacity of the plant.

**173 Prescribed transfer fee for development licence**

For the purposes of section 56(3)(b) of the Act, the prescribed fee for an application to transfer a development licence is 52·22 fee units.

**174 Prescribed amendment fee for development licence**

- (1) For the purposes of section 57(3)(b) of the Act, the prescribed fee for an application to amend a development licence is—
  - (a) in the case of an application for an administrative amendment or to extend the period during which the development licence remains in force—56·42 fee units; and
  - (b) in any other case—
    - (i) 243·73 fee units; and
    - (ii) if the assessment by the Authority exceeds 38·1 hours, an additional fee of 6·4 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1)(b) must not exceed 706·96 fee units.

**175 Prescribed exemption fee for development licence**

- (1) For the purposes of section 80(3)(c) of the Act, the prescribed fee for an application for an exemption from section 44 of the Act in relation to a development licence is—
  - (a) 68·8 fee units; and
  - (b) if the assessment by the Authority exceeds 10·9 hours, an additional fee of 6·29 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1) must not exceed 780·32 fee units.

## **Part 8.2—Operating licences**

### **176 Prescribed application fee for operating licence**

- (1) For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application for an operating licence is—
  - (a) 84·78 fee units; and
  - (b) if the assessment by the Authority exceeds 13 hours, an additional fee of 6·53 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1) must not exceed 965·35 fee units.
- (3) Despite subregulation (1), no fee is payable in the case of an application for an operating licence if the person holds a development licence and the Authority has provided a written statement under section 73(1) of the Act that the Authority considers the holder to have completed the activity specified in the development licence to the Authority's satisfaction.

### **177 Prescribed annual fee**

- (1) For the purposes of section 55 of the Act, the prescribed fee for an operating licence for an activity set out in the Table in Schedule 1 is an annual fee which is the sum of—
  - (a) the base fee set out in column 5 of that Table for that activity or, if more than one activity is proposed to be undertaken, the highest of any applicable base fee relating to each activity proposed to be undertaken; and

- (b) all applicable component fees for the operating licence for each component of any activity specified in Schedule 11 which occurs under the licence calculated in accordance with that Schedule.
- (2) A fee calculated under subregulation (1)(b) must not exceed 42 000 fee units in relation to each of the following activities as set out in clauses 1, 2 and 3 of Schedule 11—
- (a) acceptance of waste;
  - (b) discharge or emission to the atmosphere;
  - (c) discharge or deposit to water or land.

**Example**

An absolute maximum component fee that may be charged under subregulation (1)(b) is  $42\,000 \times 3 = 126\,000$  fee units if 3 activities are carried out. This amount must be added to the base fee set out in subregulation (1)(a).

- (3) The annual fee must be paid to the Authority every year.
- (4) In the case of an operating licence that is amended under section 57 of the Act, the holder of the licence must pay an additional fee, calculated from the day the Authority amended the licence, which represents the difference between the fee which would have been payable for the amended licence in accordance with subregulation (1) and the prescribed annual fee already paid.

**178 Prescribed time and period for annual fee**

For the purposes of section 55 of the Act—

- (a) the prescribed time for payment of the annual fee is—
  - (i) the time set out in the operating licence for that payment; or

- (ii) in the case of an amended operating licence set out in regulation 177(4), within 14 days of the day on which the licence is amended; and
- (b) the prescribed period for payment of the annual fee is one year or part of a year, if applicable.

**179 Prescribed transfer fee for operating licence**

For the purposes of section 56(3)(b) of the Act, the prescribed fee for an application to transfer an operating licence is the lesser of—

- (a) 10% of the last annual fee invoiced; or
- (b) 52.22 fee units.

**180 Prescribed amendment fee for operating licence**

- (1) For the purposes of section 57(3)(b) of the Act, the prescribed fee for an application to amend an operating licence is—
  - (a) in the case of an application for an administrative amendment, the lesser of—
    - (i) 10% of the last annual fee invoiced; or
    - (ii) 58.79 fee units; and
  - (b) in any other case, the lesser of—
    - (i) 10% of the last annual fee invoiced; or
    - (ii) 131.34 fee units and, if the assessment by the Authority exceeds 20.1 hours, an additional fee of 6.54 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1)(b)(ii) must not exceed 1165.51 fee units.

**181 Prescribed surrender fee for operating licence**

For the purposes of section 59(3)(b) of the Act, the prescribed fee for an application for consent to surrender an operating licence is the lesser of—

- (a) 10% of the last annual fee invoiced; or
- (b) 152·01 fee units.

**182 Prescribed exemption fee for operating licence**

(1) For the purposes of section 80(3)(c) of the Act, the prescribed fee for an application for an exemption from section 45 of the Act in relation to an operating licence is—

- (a) 68·8 fee units; and
- (b) if the assessment by the Authority exceeds 10·9 hours, an additional fee of 6·29 fee units for each hour (or part of an hour) of assessment.

(2) The total fee calculated under subregulation (1) must not exceed 780·32 fee units.



## **Part 8.3—Pilot project licences**

### **183 Prescribed application fee for pilot project licence**

- (1) For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application for a pilot project licence is—
  - (a) 1047·39 fee units; and
  - (b) if the assessment by the Authority exceeds 145·9 hours, an additional fee of 7·18 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1) must not exceed 2361·11 fee units.

### **184 Prescribed transfer fee for pilot project licence**

For the purposes of section 56(3)(b) of the Act, the prescribed fee for an application to transfer a pilot project licence is 52·22 fee units.

### **185 Prescribed amendment fee for pilot project licence**

- (1) For the purposes of section 57(3)(b) of the Act, the prescribed fee for an application to amend a pilot project licence is—
  - (a) in the case of an application for an administrative amendment or to extend the period for which a pilot project licence remains in force, 56·42 fee units; and
  - (b) in any other case—
    - (i) 243·73 fee units; and
    - (ii) if the assessment by the Authority exceeds 38·1 hours, an additional fee of 6·4 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1)(b) must not exceed 706·96 fee units.

## **Part 8.4—Permits**

### **Division 1—Fees for reportable priority waste transport permits**

#### **186 Prescribed application fee for permit to transport reportable priority waste**

For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application to the Authority for a permit that specifies an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 is—

- (a) in the case of a permit for a period not exceeding 3 months, 6·21 fee units; and
- (b) in any other case, 24·83 fee units.

#### **Note**

Item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 sets out transporting reportable priority waste including waste codes B100, E100, G100 or R100. For the prescribed fees for applications that specify the transport of reportable priority waste other than waste codes B100, E100, G100 or R100, see regulation 201.

#### **187 Prescribed transfer fee for permit to transport reportable priority waste**

For the purposes of section 56(3)(b) of the Act, the prescribed fee for an application to the Authority to transfer a permit that specifies an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 is 8·57 fee units.

**188 Prescribed amendment fee for permit to transport reportable priority waste**

For the purposes of section 57(3)(b) of the Act, the prescribed fee for an application to the Authority to amend a permit that specifies an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 is 13·91 fee units.

**189 Prescribed surrender fee for permit to transport reportable priority waste**

For the purposes of section 59(3)(b) of the Act, the prescribed fee for an application to the Authority for consent to surrender a permit that specifies an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 is 7·13 fee units.

**190 Prescribed exemption fee for reportable priority waste transport permit—interstate authorisation**

For the purposes of section 68(2)(c) of the Act, the prescribed fee for an application for an exemption from the requirement to hold a permit in connection with an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 is 13·91 fee units.

**191 Prescribed exemption fee for reportable priority waste transport permit**

For the purposes of section 82(2)(c) of the Act, the prescribed fee for an application for an exemption from the application of section 46 of the Act in relation to an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 is 13·91 fee units.

**192 Prescribed renewal fee for permit to transport reportable priority waste**

For the purposes of section 84(3)(b) of the Act, the prescribed fee in relation to a permit that specifies an activity set out in item 15 (A10a—Reportable priority waste (transport)—high risk) in the Table in Schedule 1 is 3·09 fee units.

**Division 2—Fees for controlled waste transport permits**

**193 Prescribed application fee for permit to transport controlled waste into Victoria**

For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application to the Authority for a permit that specifies an activity set out in item 17 (A11—Transporting waste into Victoria) in the Table in Schedule 1 is 15·24 fee units.

**Division 3—Fees for other permits issued by the Authority**

**194 Prescribed fees for certain permits**

- (1) For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application to the Authority for a permit that specifies a relevant activity is 125·88 fee units.
- (2) For the purposes of section 56(3)(b) of the Act, the prescribed fee for an application to the Authority to transfer a permit that specifies a relevant activity is 52·22 fee units.
- (3) For the purposes of section 57(3)(b) of the Act, the prescribed fee for an application to the Authority to amend a permit that specifies a relevant activity is—
  - (a) 22·87 fee units; and

- (b) if the assessment by the Authority exceeds 3·9 hours, an additional fee of 5·89 fee units for each hour (or part of an hour) of assessment.
- (4) The total fee calculated under subregulation (3) must not exceed 292·52 fee units.
- (5) For the purposes of section 59(3)(b) of the Act, the prescribed fee for an application to the Authority for consent to surrender a permit that specifies a relevant activity is 47·08 fee units.
- (6) For the purposes of section 82(2)(c) of the Act, the prescribed fee for an application under section 82(1) of the Act to exempt a permit that specifies a relevant activity is—
  - (a) 45·68 fee units; and
  - (b) if the assessment by the Authority exceeds 6·4 hours, an additional fee of 7·16 fee units for each hour (or part of an hour) of assessment.
- (7) The total fee calculated under subregulation (6) must not exceed 73·03 fee units.
- (8) For the purposes of section 84(3)(b) of the Act, the prescribed fee for an application under section 84(1) of the Act to renew a permit that specifies a relevant activity is 28·56 fee units.
- (9) In this regulation—

***relevant activity*** means an activity set out in the following items in the Table in Schedule 1—

- (a) item 8 (A05b—Municipal landfills servicing <5000 people);
- (b) item 18 (A12—Transporting waste out of Victoria);
- (c) item 20 (A13b—Waste and resource recovery—medium);

- (d) item 22 (A14—Reclaimed wastewater supply or use);
- (e) item 23 (A15—Biosolids supply or use);
- (f) item 24 (A16—Supply or use of reportable priority waste);
- (g) item 25 (A17—Containment of Category D waste soil);
- (h) item 26 (A18—Discharge or deposit of waste to aquifer);
- (i) item 27 (A19—Temporary on-site waste treatment);
- (j) item 32 (B01a—Animal industries—waste solely to land);
- (k) item 34 (B02a—Livestock saleyards or holding pens—waste solely to land).

**195 Prescribed fees for permits relating to outdoor concerts or events**

For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application to the Authority for a permit that specifies an activity set out in item 76 (L05—Operation outside of hours or extended operations) or item 77 (L06—Conducting more than 6 outdoor concerts) in the Table in Schedule 1 is 48·47 fee units.

**Division 4—Prescribed fees in relation to on-site wastewater management systems**

**196 Prescribed application fee for permit to construct, install or alter an on-site wastewater management system**

- (1) For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application to a council for a permit that specifies an activity set out in

item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is—

- (a) in the case of an application that specifies a minor alteration of an on-site wastewater management system, 37·25 fee units; and
  - (b) in the case of an application that specifies the construction, installation or alteration (other than a minor alteration) of an on-site wastewater management system—
    - (i) 48·88 fee units; and
    - (ii) if the council's assessment exceeds 8·2 hours, an additional fee of 6·12 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1)(b) must not exceed 135·43 fee units.
- (3) In this regulation—

*minor alteration* means an alteration that consists only of the installation, replacement or relocation of the internal plumbing, fixtures or fittings of an on-site wastewater management system.

**Note**

Section 439(1)(a) of the Act applies to these fees.

**197 Prescribed fee to transfer on-site wastewater management system permit**

For the purposes of section 56(3)(b) of the Act, the prescribed fee for an application to a council to transfer a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is 9·93 fee units.

**Note**

Section 439(1)(a) of the Act applies to this fee.

**198 Prescribed fee to amend on-site wastewater management system permit**

For the purposes of section 57(3)(b) of the Act, the prescribed fee for an application to a council to amend a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is 10·38 fee units.

**Note**

Section 439(1)(a) of the Act applies to this fee.

**199 Prescribed exemption fee for on-site wastewater management system permit**

(1) For the purposes of section 83(2)(c) of the Act, the prescribed fee for an application to a council for an exemption from the application of section 46 of the Act in relation to an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is—

(a) 14·67 fee units; and

(b) if the council's assessment exceeds 2·6 hours, an additional fee of 5·94 fee units for each hour (or part of an hour) of assessment.

(2) The total fee calculated under subregulation (1) must not exceed 61·41 fee units.

**Note**

Section 439(1)(a) of the Act applies to these fees.



**200 Prescribed renewal fee for on-site wastewater management system permit**

For the purposes of section 84(3)(b) of the Act, the prescribed fee for an application to a council to renew a permit that specifies an activity set out in item 28 (A20—On-site wastewater management systems) in the Table in Schedule 1 is 8.31 fee units.

**Note**

Section 439(1)(a) of the Act applies to this fee.

## **Part 8.5—Registrations**

### **201 Prescribed application fee for registration to transport reportable priority waste**

For the purposes of section 50(1)(b) of the Act, the prescribed fee for an application for a registration that specifies the activity set out in item 16 (A10b—Reportable priority waste (transport)—other) in the Table in Schedule 1 is 14·38 fee units.

### **202 Prescribed exemption fee for reportable priority waste transport registration—interstate authorisation**

For the purposes of section 68(2)(c) of the Act, the prescribed fee for an application seeking an exemption in relation to an activity set out in item 16 (A10b—Reportable priority waste (transport)—other) in the Table in Schedule 1 is 13·91 fee units.

### **203 Prescribed renewal fee for registration to transport reportable priority waste**

For the purposes of section 86(3)(b) of the Act, the prescribed fee for an application to renew a registration that specifies the activity set out in item 16 (A10b—Reportable priority waste (transport)—other) in the Table in Schedule 1 is 2·6 fee units.

## **Part 8.6—Financial assurances**

### **204 Prescribed review fee for financial assurance**

- (1) The fee for the review by the Authority of the form of the financial assurance on the request of a person under section 225(2)(f) of the Act is—
  - (a) 224·28 fee units; and
  - (b) if the assessment by the Authority exceeds 22·3 hours, an additional fee of 10·08 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1) must not exceed 1770·05 fee units.

### **205 Prescribed fee for requesting release of financial assurance**

- (1) The fee for an application under section 232(1) of the Act for the release of all or part of a financial assurance is—
  - (a) 77·55 fee units; and
  - (b) if the assessment by the Authority exceeds 9·6 hours, an additional fee of 8·05 fee units for each hour (or part of an hour) of assessment.
- (2) The total fee calculated under subregulation (1) must not exceed 1053·21 fee units.