

Mining Regulations Amendment Regulations 2024

Contents

Part 1 — Preliminary		
1.	Citation	1
2.	Commencement	1
Part 2 — Mining Regulations 1981 amended		
3.	Regulations amended	2
Part I — Preliminary		
1.	Citation and commencement	2
2.	Terms used	2
Part 4A — Eligible mining activities		
58B.	Terms used	5
58C.	When low impact mining activity is an EMA	6
58D.	Prescribed requirements for EMAs: limits on size	6
58E.	Prescribed requirements for EMAs: prohibited activities	6
58F.	Prescribed requirements for EMAs: work management	7
58G.	Prescribed requirements for EMAs: rehabilitation	8
58H.	Prescribed requirements for EMAs: records	8
58I.	Giving notices	9
58J.	Prescribed conditions for mining tenements	9

**Part 3 — *Mining Rehabilitation Fund
Regulations 2013* amended**

4.	Regulations amended	11
3.	Terms used	11

Consultation Draft

Mining Regulations Amendment Regulations 2024

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Mining Regulations Amendment Regulations 2024*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on the day on which the *Mining Amendment Act 2022* section 34 comes into operation.

Part 2 — Mining Regulations 1981 amended

3. Regulations amended

This Part amends the *Mining Regulations 1981*.

[The following text is proposed Pt 4A of the Mining Regulations 1981. Existing Pt 1 is also given for convenience of reference to definitions. A formal amending instrument will be drafted at a later stage.]

Part I — Preliminary

1. Citation and commencement

- (1) These regulations may be cited as the *Mining Regulations 1981*.
- (2) These regulations shall come into operation on the day on which those provisions of the Act referred to in section 2(2) thereof come into operation.

2. Terms used

In these regulations unless the contrary intention appears —
block has the meaning ascribed to it in Part IV, Division 2 of the Act;

date of application when referring to an application for a mining tenement means the date on which the application is lodged together with the prescribed fees;

environmental officer means a person for the time being holding or acting in the office of Environmental Officer in the Resource and Environmental Compliance Division of the Department;

Executive Director, Resource and Environmental Compliance Division means the person for the time being holding or acting in the office of Executive Director, Resource and Environmental Compliance Division in the Department;

existing exploration licence means an exploration licence —

- (a) granted before the commencement of section 16 of the *Mining Amendment Act 1990*¹; or
- (b) for which an application was made before the commencement of section 16 of the *Mining Amendment Act 1990*¹ and which has subsequently been granted;

file means file at any mining registrar's office;

Form, followed by a designation, means the form with that designation in Schedule 1;

GM Mine Closure and Environmental Services means the person for the time being holding or acting in the office of General Manager Mine Closure and Environmental Services, Resource and Environmental Compliance Division in the Department;

GM Mining Environmental Compliance means the person for the time being holding or acting in the office of General Manager Mining Environmental Compliance, Resource and Environmental Compliance Division in the Department;

graticular exploration licence means an exploration licence the application for which was made on or after the commencement of section 16 of the *Mining Amendment Act 1990*¹ and which has subsequently been granted;

graticular section has the meaning ascribed to it in Part IV, Division 2 of the Act;

lodge means lodge at any mining registrar's office;

mineral exploration report has the same meaning as it has in section 115A(1);

prescribed fee means the relevant fee set out in Schedule 2;

quarterly period means each period of 3 calendar months from the date on which the term of a mining tenement commences;

royalty return means a royalty return referred to in regulation 85B;

section means section of the Act;

r. 2

term of a mining tenement means the period for which the tenement remains in force whether as originally granted or as renewed, extended or otherwise continued;

working day means a day on which any mining registrar's office is open for business.

[Regulation 2 amended: Gazette 12 Nov 1982 p. 4490; 2 Oct 1987 p. 3813; 20 May 1988 p. 1705; 31 May 1991 p. 2696; 24 Jun 1994 p. 2927-8; 13 Oct 1995 p. 4814; 3 Feb 2006 p. 575-6; 9 Mar 2007 p. 867; 15 Jan 2010 p. 97 and 136; 18 Mar 2011 p. 911-12; 22 Dec 2017 p. 5989-90 and 5992-3; 13 Dec 2019 p. 4232; SL 2022/118 r. 4; SL 2022/210 r. 4.]

Part 4A — Eligible mining activities

58B. Terms used

In this Part —

holder, in relation to an EMA, means —

- (a) if the EMA is carried out on a mining tenement that is the subject of a prospecting licence, exploration licence, retention licence or miscellaneous licence — the licensee; and
- (b) if the EMA is carried out on a mining tenement that is the subject of a mining lease or general purpose lease — the lessee;

low impact mining activity means any of the following —

- (a) drilling and activities associated with drilling including, without limitation —
 - (i) the construction of drill pads; and
 - (ii) the excavation of sumps to contain and manage groundwater and fluid runoff from the drilling;
- (b) excavating land to a maximum depth of 4 metres, including —
 - (i) conducting scrape and detect operations (as defined in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* Schedule 1 clause 1); and
 - (ii) costeaning; and
 - (iii) excavating trial pits;
- (c) constructing, maintaining and improving tracks providing access to a site where any activity mentioned in paragraph (a) or (b) is carried out;
- (d) rehabilitation of land affected by any activity mentioned in paragraph (a), (b) or (c).

r. 58C.

58C. When low impact mining activity is an EMA

A low impact mining activity is an EMA if —

- (a) it is carried out for the purpose of prospecting or exploring for minerals; and
- (b) it can be carried out in conformity with the prescribed requirements set out in regulations 58D to 58H.

58D. Prescribed requirements for EMAs: limits on size

- (1) The area of the surface of land disturbed by an EMA, when aggregated with the area of the surface of land disturbed by all other EMAs to which the same EMA notice relates, must not exceed 2 hectares.
- (2) If the EMA consists of or includes excavating land — the quantity of material excavated, extracted or removed, when aggregated with the quantity of material excavated, extracted or removed by all other excavation activity to which the same EMA notice relates, must not exceed 1 000 tonnes.

58E. Prescribed requirements for EMAs: prohibited activities

- (1) In this section —
clearing has the meaning given in the *Environmental Protection Act 1986* section 51A;
environmental value has the meaning given in the *Environmental Protection Act 1986* section 3(1);
native vegetation has the meaning given in the *Environmental Protection Act 1986* section 3(1).
- (2) In carrying out an EMA, the holder must not damage or destroy riparian vegetation.
- (3) In carrying out an EMA, the holder must not damage or destroy trees having a trunk diameter of 300 mm or more at a height of 1 500 mm above ground level.

- (4) In carrying out an EMA, the holder must apply the following principles, out in descending order of priority —
 - (a) avoid clearing native vegetation;
 - (b) minimise the amount of native vegetation that is cleared;
 - (c) reduce the impact of clearing on any environmental value.

58F. Prescribed requirements for EMAs: work management

- (1) In carrying out an EMA, the holder must contain and appropriately store intercepted groundwater and drill fluids.
- (2) The holder must ensure that surface holes drilled in connection with an EMA —
 - (a) are plugged immediately after being drilled; and
 - (b) within 12 months of being drilled, are securely plugged underground, backfilled and mounded so as to prevent subsidence.
- (3) The holder must manage open excavations associated with an EMA so as to ensure that fauna are not trapped.
- (4) The holder must backfill and appropriately profile an excavation associated with an EMA, so as to match the pre-existing land profile and drainage flows.
- (5) The holder must ensure that environmentally hazardous materials associated with an EMA are appropriately managed and stored so as to prevent contamination or pollution of the environment.
- (6) The holder must ensure that a sample bag associated with an EMA is removed from the mining tenement —
 - (a) before any decay or loss of structural integrity occurs; and
 - (b) in any event, not later than 12 months after its initial placement.

r. 58G

- (7) The holder must ensure that waste, rubbish, equipment and structures associated with an EMA are removed from the mining tenement or disposed of in an appropriate manner as soon as practicable and in any event within 12 months of their initial placement.

58G. Prescribed requirements for EMAs: rehabilitation

- (1) In carrying out an EMA, the holder must —
- (a) harvest, store and protect topsoil and cleared vegetation in a manner that maintains their viability for use in rehabilitation; and
 - (b) within 12 months of the completion of mining and excavation activities comprised in the EMA, spread the topsoil and cleared vegetation over all cleared areas associated with the EMA.
- (2) The holder must rehabilitate all ground disturbance (including soil compaction) resulting from an EMA that is the subject of an EMA notice within 12 months of the completion of mining and excavation activities comprised in the EMA.
- (3) The holder must ensure that a rehabilitated area associated with an EMA is safe, stable, non-polluting and capable of supporting —
- (a) a self-sustaining ecosystem; or
 - (b) the use to which the area was put before the EMA was carried out.

58H. Prescribed requirements for EMAs: records

The holder must —

- (a) make and maintain records of —
 - (i) the location and area of ground disturbed in connection with an EMA; and
 - (ii) the date on which the EMA affecting that ground was commenced; and

- (iii) the date on which the EMA affecting that ground was completed; and
- (iv) the date by which that ground was rehabilitated; and
- (b) provide the records to the Department upon request.

58I. Giving notices

- (1) In this regulation —
electronic lodgment means lodgment by means of an electronic lodgment system that is —
 - (a) provided by the Department for this purpose; and
 - (b) accessed through the Department’s website.
- (2) An EMA notice must be given to the Minister by electronic lodgment.
- (3) A notice of completion under section 103AF(2) must be given to the Minister —
 - (a) by electronic lodgment; and
 - (b) not later than 3 months after the completion of the EMA to which the notice relates.

58J. Prescribed conditions for mining tenements

- (1) For the purposes of this regulation —
 - (a) an EMA notice relates to a mining tenement if it relates to 1 or more EMAs (each a *relevant EMA*) to be carried out on land that is the subject of the tenement; and
 - (b) an EMA notice is *active* in relation to a mining tenement if —
 - (i) it relates to the tenement; and
 - (ii) it has been given to the Minister; and
 - (iii) a notice of completion has not been given to the Minister under section 103AF(2) in relation to each relevant EMA.

r. 58H

- (2) It is a condition of every mining tenement that the holder must not give an EMA notice relating to the tenement at a time when more than 1 EMA notice relating to the tenement is active.
- (3) It is a condition of every mining tenement that the holder must not give an EMA notice relating to the tenement in any financial year in which more than 4 EMA notices relating to the tenement have already been given.

Consultation Draft

Part 3 — Mining Rehabilitation Fund Regulations 2013 amended

4. Regulations amended

This Part amends the *Mining Rehabilitation Fund Regulations 2013*.

[The following text is the Mining Rehabilitation Fund Regulations 2013 reg. 3 showing proposed amendments in track changes. A formal amending instrument will be drafted at a later stage.]

3. Terms used

In these regulations —

area, of a mining authorisation, means the area of land to which the mining authorisation relates;

assessment day, in relation to a mining authorisation and a year, means the day in that year that is nominated by the holder of the mining authorisation under regulation 5(1) in assessment information given to the CEO for that year;

earthworks —

- (a) means any operations to move or shape land; and
- (b) includes the following —
 - (i) excavating or filling;
 - (ii) forming embankments or slopes;
 - (iii) operations to control wind or water erosion of land;
 - (iv) battering, contouring, reshaping, ripping, capping or rock armouring land;

EMA notice has the meaning given in the *Mining Act 1978* section 103AF(1);

exploration operations means —

- (a) operations under a mining authorisation that are —
 - (i) directly related to exploration or prospecting for minerals; and
 - (ii) the subject of a programme of work or an EMA notice;

land under rehabilitation, in relation to a mining authorisation, means land —

- (a) on which earthworks have been completed in accordance with the closure obligations that apply to the mining authorisation (whether under a condition of the mining authorisation, a programme of work, a mining proposal, an EMA notice or otherwise); and
- (b) that is not rehabilitated land;

member means a member of the Panel;

minerals-in-brine means potash, halite or magnesium salt that is dissolved in brine;

mining proposal, in relation to a mining authorisation that is a mining lease granted under the *Mining Act 1978*, means —

- (a) a mining proposal that accompanied the application for the mining lease under section 74(1)(ca) of that Act; or
- (b) a mining proposal for which there is approval as described in section 82A(2)(b) of that Act;

Panel means the Mining Rehabilitation Advisory Panel established by section 33(1) of the Act;

programme of work, in relation to a mining authorisation, means a programme of work that is approved, or with which the holder of the authorisation is required to comply, under the *Mining Act 1978* or a programme of work that is otherwise lodged with the department in connection with the mining authorisation;

rehabilitated land, in relation to a mining authorisation, means land on which rehabilitation has been completed in accordance

with the closure obligations that apply to the mining authorisation (whether under a condition of the mining authorisation, a programme of work, a mining proposal, an EMA notice or otherwise);

rehabilitation liability category means a category specified in column 2 of the Table to Schedule 1 clause 1;

rehabilitation work has the meaning given in section 10(1) of the Act;

year means a period of 12 months ending on 30 June.

=====

Clerk of the Executive Council