

Mining Regulations Amendment Regulations 2025

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Mining Regulations Amendment Regulations 2025

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Mining Regulations Amendment Regulations 2025*.

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 — Conditions and approvals

Division 1 — Preliminary

58AA. Terms used

In this Part —

environmental impact, in relation to relevant activities, means any change to the environment, whether adverse or beneficial, that wholly or partly results or may result from the relevant activities;

environmental risk, in relation to relevant activities, means the chance of something happening as a consequence of the relevant activities that will have an adverse environmental impact, measured in terms of the environmental consequences and the likelihood of those particular consequences occurring;

relevant activities means —

(a) in relation to a mining development and closure proposal — the activities in respect of which the proposal is required under section 103AL(2)(b) or (3) or 103AM(2)(b) or (3); and

(b) in relation to a mine closure plan —

(i) mining operations carried out or to be carried out on the site; and

(ii) the decommissioning of each mine on the site; and

(iii) the rehabilitation of the site;

site means the land that is to be the subject of the mining lease or miscellaneous licence to which a mining development and closure proposal or a mine closure plan relates.

Division 2 — 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;

relevant 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).

58C. When relevant mining activity is an EMA

A relevant 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 (including for the purpose of constructing a drill pad) — 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);

riparian vegetation has the meaning given in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* regulation 3.

- (2) In carrying out an EMA, the holder must not clear riparian vegetation.

(3) In carrying out an EMA, the holder must not clear trees having a trunk diameter of 300 mm or more at a height of 1 300 mm above ground level.

(4) In carrying out an EMA, the holder must apply the following principles, set 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 ensure —

(a) that soil erosion and other similar land degradation is limited or avoided; and

(b) that, to the extent practicable, the quality and flow of surface water is not affected; and

(c) that intercepted groundwater and drill fluids are contained and appropriately stored.

(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.

(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 cleared 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 land 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 land disturbed in connection with an EMA; and

(ii) the date on which the EMA affecting that land was commenced; and

(iii) the date on which the EMA affecting that land was completed; and

(iv) the date by which that land 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.

(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.

Division 3 — Programmes of work

58K. Information to be included in programmes of work

For the purposes of section 103AJ(3)(d) a programme of work must include the following information in relation to each activity proposed in the programme —

(a) the nature and scale of the activity;

(b) the location of any land on which the activity is proposed to be carried out (**relevant land**);

(c) the nature and scale of the environmental management and rehabilitation practices that will be implemented in relation to the activity

Division 4 — Mining development and closure proposals

58L. Information to be included in mining development and closure proposals

For the purposes of section 103AN(3)(e) a mining development and closure proposal must include the following information —

- (a) a list of requirements arising under any written law or any Commonwealth Act that affect or will affect —
 - (i) the management strategies to be applied to minimise adverse environmental impacts and mitigate environmental risks of the relevant activities; or
 - (ii) the closure outcomes; or
 - (iii) the use or uses to which each location at which relevant activities are to be carried out will be put after the completion of the relevant activities;
- (b) details of any consultation that the relevant lodging party has undertaken in relation to any of the following —
 - (i) the relevant activities;
 - (ii) the closure outcomes;
 - (iii) the use to which the location will be put after the completion of the relevant activities;
- (c) a description of the environment that will or may be affected by the relevant activities, including —
 - (i) appropriate measurements of the features of that environment (the *environmental data*); and
 - (ii) an analysis and interpretation of the environmental data;
- (d) a comprehensive risk assessment, including —
 - (i) details of all environmental impacts and environmental risks of the relevant activities;

- (ii) an evaluation of the environmental impacts and environmental risks using a risk assessment methodology acceptable to the Executive Director, Resource and Environmental Compliance Division; and
- (iii) details of the management strategies to be applied to minimise adverse environmental impacts and mitigate environmental risks; and
- (iv) details of the environmental outcomes, objectives and goals to be achieved while the relevant activities are carried out (the *environmental outcomes*);
- (e) details of the monitoring that will be undertaken while the relevant activities are carried out to establish whether the environmental outcomes are being achieved, including —
 - (i) details of the monitoring methods and activities that will be employed; and
 - (ii) information about the timing and frequency of monitoring activities;
- (f) details of the monitoring that will be undertaken after the relevant activities have ceased to establish whether the closure outcomes are being achieved;
- (g) details of the use or uses to which each location at which relevant activities are carried out will be put after the relevant activities have ceased and the location has been rehabilitated.

Division 5 — Mine closure plans

58M. Information to be included in mine closure plans

For the purposes of section 103AR(d) a mine closure plan must include the following information —

- (a) a description of the mining operations carried out or to be carried out on the site of the mining lease or miscellaneous licence; and
- (b) a map of the site, showing the location or locations at which the mining operations are or are to be carried out;
- (c) a list of requirements arising under any written law or any Commonwealth Act that affect or will affect —
 - (i) the relevant activities; or
 - (ii) the closure outcomes; or
 - (iii) the use or uses to which each location at which relevant activities are to be carried out will be put after the completion of the relevant activities;
- (d) details of any consultation that the relevant lodging party has undertaken in relation to any of the following —
 - (i) the relevant activities;
 - (ii) the closure outcomes;
 - (iii) the use to which the location will be put after the completion of the relevant activities;
- (e) a description of the measures proposed to facilitate consultation while the relevant activities are being carried out;
- (f) a description of the environment that will or may be affected by the relevant activities, including —
 - (i) appropriate measurements of the features of that environment (the *environmental data*); and
 - (ii) an analysis and interpretation of the environmental data.
- (g) a comprehensive risk assessment, including —
 - (i) details of risks of not achieving the closure outcomes that arise out of the carrying on of the relevant activities (*closure risks*);

- (ii) an evaluation of the closure risks using a risk assessment methodology acceptable to the Executive Director, Resource and Environmental Compliance Division; and
- (iii) details of the management strategies to be applied to minimise the closure risks; and
- (iv) a statement of measurable criteria that can be employed in determining whether the closure outcomes have been achieved;
- (h) details of the monitoring that will be undertaken while the relevant activities are carried out to establish whether the closure outcomes are being achieved, including —
 - (i) details of the monitoring methods and activities that will be employed; and
 - (ii) information about the timing and frequency of monitoring activities;
- (i) a closure work programme to be undertaken after other relevant activities have ceased, including —
 - (i) details of tasks comprised in the relevant activities; and
 - (ii) a timeframe for the completion of those tasks; and
 - (iii) plans for the final form of landforms affected by the relevant activities; and
 - (iv) details of additional or alternative tasks that will be undertaken in the event of premature or temporary closure of a mine on the site; and
 - (v) an estimate or projection of the cost of implementing the closure work programme and an explanation of the method used to make the estimate or projection;

(m) details of the use or uses to which each location at which relevant activities are to be carried out will be put after the completion of the relevant activities

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;

~~*exploration operations* means operations under a mining authorisation that are —~~

~~(a) directly related to exploration or prospecting for minerals; and~~

~~(b) the subject of a programme of work;~~

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