



Guide to the Environment Protection Regulations

May 2021

Guide to the Environment Protection Regulations

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Disclaimer

The information in this publication is for general guidance only. It does not constitute legal or other professional advice and should not be relied on as a statement of the law. As it is intended only as a general guide, it may contain generalisations. You should obtain professional advice for your specific circumstances. This Guide relates to the Regulations as initially made in May 2021. As such, depending on when you are reading this Guide, it may not be accurate if the Regulations have been subsequently amended.



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Background

The *Environment Protection Act 2017* as amended by the *Environment Protection Amendment Act 2018* (the new Act) will commence on 1 July 2021. The new Act will change Victoria's focus for environment protection and human health to a **prevention-based approach**, underpinned by the **general environmental duty (GED)**. The GED will require everyone, including businesses and individuals, conducting activities that pose a risk to human health or the environment from pollution or waste to understand those risks and take reasonably practicable steps to eliminate or minimise them.

When it commences, the new Act will give Environment Protection Authority Victoria (EPA) enhanced powers and tools to prevent and minimise the risks of harm to human health and the environment from pollution and waste. It will also provide EPA with the ability to pursue stronger sanctions and penalties to hold environmental polluters to account. More information about the new Act is available on [EPA's website](#).

The Environment Protection Regulations (Regulations) will also apply from 1 July 2021. These Regulations, which were developed jointly by EPA and the Department of Environment, Land, Water and Planning (DELWP), will further the purposes of, and give effect to, the new Act.

The Regulations made under the new Act will:

1. *Provide additional Regulations necessary to enable elements of the new environment protection legislation to function* – Some obligations under the new environment protection framework cannot function effectively or would not be enforceable without prescription under regulation.
2. *Prevent significant consequences from specific types of pollution or waste* – Some risks of harm to human health and the environment can lead to significant consequences and require further regulatory control.
3. *Prevent significant risk of mismanagement* – There are some activities conducted by businesses and individuals that may cause harm to human health and the environment where there is a known risk of mismanagement by duty holders.
4. *Provide certainty and consistency required by duty holders* – Greater certainty is required by duty holders for some matters to ensure consistent compliance with the duties and obligations under the new Act (including the GED, the duty to notify EPA of contaminated land and the duty to manage contaminated land).

In late 2019 the following documents were released for public comment:

- exposure drafts of the Regulations and a related regulatory impact statement (RIS)
- an Environment Reference Standard and impact assessment
- a separate set of Environment Protection Transitional Regulations (Transitional Regulations which set out matters relating to s.502 of the new Act).

Following careful consideration of submissions received during consultation, the Regulations were finalised. The Government's responses to the key issues raised in submissions are set out in the *Environment protection Regulations and standards: Response to public comment report* (published on EPA's website).

How to use this Guide

This Guide provides a practical and easy to use overview of the Regulations as initially made in May 2021, with a commencement date of 1 July 2021. As such, depending on when you are reading this Guide, it may not be accurate if the Regulations have been subsequently amended. The Guide is intended to be a useful tool to assist you to navigate your way through the Regulations. Table 1 will assist you to identify the areas in the Regulations that are relevant to you by cross referencing the corresponding explanatory sections in this Guide.

Table 1. Key topics in the Regulations and in this Guide

Topic	Location in the Regulations	More details in this Guide (page number)
Contaminated land		8
<ul style="list-style-type: none"> Information on duty to notify of contaminated land 	Chapter 2, Division 1	8
<ul style="list-style-type: none"> Exemptions for reporting notifiable contamination 	Chapter 2, Regulation 13	8
<ul style="list-style-type: none"> Obligations for the cleanup of non-aqueous phase liquids 	Chapter 2, Regulation 15	8
Permissions		9
<ul style="list-style-type: none"> Permission activities 	Chapter 3, Regulation 16; Schedule 1	10
<ul style="list-style-type: none"> Licences 	Chapter 3, Parts 3.1 and 3.2; Schedule 1	10, 11
<ul style="list-style-type: none"> Permits 	Chapter 3, Parts 3.1 and 3.3; Schedule 1	10, 11
<ul style="list-style-type: none"> Registrations 	Chapter 3, Parts 3.1 and 3.4; Schedule 1	10, 11
<ul style="list-style-type: none"> Permission exemptions 	Chapter 3, Part 3.5	10
<ul style="list-style-type: none"> Transitional arrangements 	Chapter 10, Part 10.1 and Part 10.2	23
<ul style="list-style-type: none"> Environment protection levy and waste levy 	Chapter 3, Part 3.6	12
<ul style="list-style-type: none"> Prohibited persons 	Chapter 3, Part 3.7	12
<ul style="list-style-type: none"> Accredited consigners 	Chapter 4, Part 4.2, Division 5	13
Waste		13
<ul style="list-style-type: none"> Litter and unsolicited documents 	Chapter 4, Part 4.1	13
<ul style="list-style-type: none"> Industrial waste 	Chapter 4, Part 4.2, Division 1	13
<ul style="list-style-type: none"> Priority waste 	Chapter 4, Part 4.2, Division 2	13
<ul style="list-style-type: none"> Waste classification 	Chapter 4, Part 4.2, Division 4	13
<ul style="list-style-type: none"> Declaration of use 	Chapter 4, Part 4.2, Division 1	13
<ul style="list-style-type: none"> Reportable priority waste 	Chapter 4, Part 4.2, Division 3	13
<ul style="list-style-type: none"> Disposal of waste 	Chapter 4, Part 4.2	13
<ul style="list-style-type: none"> Used packaging materials 	Chapter 4, Part 4.3	14
<ul style="list-style-type: none"> Landfills 	Chapter 3, Regulation 20 Chapter 4, Part 4.4; Schedules 3 and 8	10 14
<ul style="list-style-type: none"> Waste levy 	Chapter 3, Part 3.6	12

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Environmental management		15
• Prohibited chemical substances	Chapter 5, Part 5.1	15
• Air	Chapter 5, Part 5.2	15
○ Solid fuel heaters	Chapter 5, Part 5.2, Division 2	15
○ Management of methyl bromide	Chapter 5, Part 5.3, Division 3	15
○ Class 3 substances	Chapter 5, Part 5.3, Division 4	15
○ National Pollutant Inventory obligations	Chapter 5, Part 5.2, Division 1	15
• Noise	Chapter 5, Part 5.3	15
○ Noise Protocol	Chapter 5, Part 5.3, Division 1	15
○ Unreasonable and aggravated noise from residential premises	Chapter 5, Part 5.3, Division 2	16
○ Unreasonable and aggravated noise from commercial, industrial and trade premises	Chapter 5, Part 5.3, Division 3	16
○ Unreasonable and aggravated noise from entertainment venues and events	Chapter 5, Part 5.3, Division 4	16
• Water	Chapter 5, Part 5.4	16
• Plastic shopping bag ban	Chapter 5, Part 5.5	17
• Emissions from motor vehicles	Chapter 5, Part 5.6	17
• On-site wastewater management systems (including septic tanks)	Chapter 5, Part 5.7 and Schedule 1	18
Environmental audits and financial assurance		19
• Environmental audit system	Chapter 6, Part 6.1	19
• Financial assurance	Chapter 6, Part 6.2	19
Enforcement		19
• Infringement offences and penalties	Chapter 7, Regulation 164 Schedule 10	19
• Monetary benefit orders	Chapter 7, Regulation 165	19
Fees		20
• Fees for development licences	Chapter 8 Part 8.1	20
• Fees for operating licences	Chapter 8, Part 8.2	20
• Fees for pilot project licences	Chapter 8, Part 8.3	20
• Fees for EPA-issued permits	Chapter 8, Part 8.4	21
• Fees for council-issued permits	Chapter 8, Part 8.4, Division 4	21
• Fees for registration	Chapter 8, Part 8.5	22
• Fees for financial assurance	Chapter 8, Part 8.6	22
• Fees for environmental auditors and audits	Chapter 8, Part 8.7	22
• Fees for other authorisations, instruments and services	Chapter 8, Part 8.8	22

Topic	Location in the Regulations	More details in this Guide (page number)
• Waiver or refund of fees	Chapter 8, Part 8.9	23
Administrative matters		
• Public register	Chapter 9, Part 9.1	23

Summary of the contents under each chapter or part in the Regulations

Chapter 1 – Preliminary

This chapter provides information relating to the whole of the Regulations.

Part 1.1 – Introductory matters (Regulations 1 to 7)

This part of the Regulations contains information on:

- commencement date of the Regulations
- objectives of the Regulations
- definitions of key terms used in the Regulations
- circumstances where EPA may make determinations and publication requirements
- the term ‘Act compliance’ – which links the requirements in a regulation to an offence in the new Act.

Chapter 2 – Contaminated land

This chapter relates to the duty to notify EPA of contaminated land and the duty to manage contaminated land. These duties are set out in Part 3.5 of the new Act.

Note: in addition to Part 2.1 of the Regulations (outlined below), Regulation 5 enables determinations by EPA of ‘alternative background’ levels (including the manner of deriving the background level), of waste or substances in relation to land. These determinations will inform the scope of the duty to notify EPA of contaminated land and the duty to manage contaminated land.

Part 2.1 – Contaminated land (Regulations 8 to 15)

Part 2.1 of the Regulations includes:

- definitions specific to this part
- thresholds for reporting notifiable contamination
- exemptions from reporting notifiable contamination
- additional information to be supplied when notifying EPA
- requirements to clean up non-aqueous phase liquids in soil or groundwater
- references to elements of the *National Environment Protection (Assessment of Site Contamination) Measure*.

Chapter 3 – Permissions

This chapter addresses permissions (that is, licences, permits and registrations) issued by EPA or councils.

Note: Chapter 10 also addresses some savings and transitional matters relating to permissions.

Industrial activities can pose a significant risk to human health and the environment. In order to address these risks, the new Act establishes a permissioning framework to complement the GED.

The new framework allows EPA to establish greater certainty of control for activities which pose significant risks of harm to human health and the environment, and where the consequences of non-compliance are greatest.

There are three permission tiers established in the new Act: licences, permits and registrations.

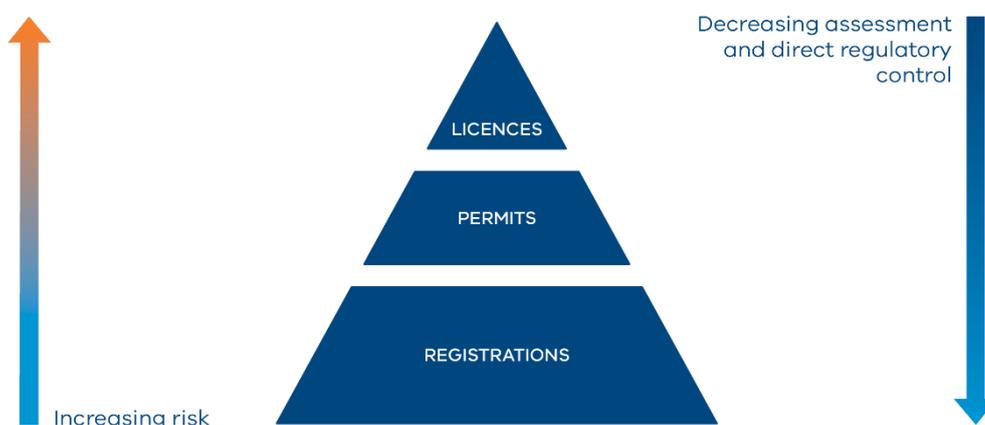


Figure 1. This diagram shows how the risks associated with a permissioned activity increases from the registration tier up to the licence tier. The level of assessment and regulatory oversight of a permissioned activity is proportionate to the risk posed.

Part 3.1 – General (Regulations 16 to 21)

Part 3.1 establishes that Schedule 1 to the Regulations specifies the activities that may only be undertaken with a licence, permit or registration under the new Act.

In addition, this part specifies:

- what information must be included in an application for a permission to EPA
- conditions that will apply to permissions for landfills and the transport of reportable priority waste
- the types of permission conditions that if breached would be an infringement offence
- the circumstances in which EPA must refuse an application for a licence or permit involving a wastewater discharge to surface water
- that applicants may be required to provide additional information for certain types of applications.

Part 3.2 – Licences (Regulations 22 to 24)

This part specifies:

- agencies to which EPA must refer a development licence application
- timeframes in which a response may be made by those agencies
- circumstances where an application must be refused as a result of the referral process
- circumstances in which EPA must refuse to issue an operating licence for activity A05a – landfills – excluding municipal landfills servicing less than 5000 people.
- criteria EPA must consider in determining whether to grant or refuse to grant an exemption from the requirement to hold a development licence or operating licence.

Part 3.3 – Permits (Regulations 25 to 35)

This part provides information on the requirements of a permit issued by EPA or by councils.

Note: councils administer permits for the construction, installation or alteration of on-site wastewater management systems (OWMS).

In relation to council-administered permits for OWMS, this part sets out:

- the form and manner of an application for a permit, a permit exemption, renewal transfer or amendment of permit
- the information to be included in an application for a permit, a permit exemption or renewal
- the matters that councils must consider in determining whether to grant or refuse a permit, permit exemption or permit renewal
- the circumstances where a council must refuse to issue a permit
- the time frame for deciding a permit application
- the duration of a permit when issued
- the offence for using an OWMS constructed or installed under a permit before a council has approved the system.

In relation to EPA administered permits, this part sets out:

- the matters that EPA must consider in determining whether or not to issue a permit or exemption from the requirement to hold a permit
- circumstances where EPA must refuse to issue certain permits
- the duration of a permit when issued
- the time frame for deciding certain permit applications

Part 3.4 – Registrations (Regulation 36)

This part establishes that registrations issued for prescribed registration activities remain in force for the duration specified in the registration, not exceeding a period of 5 years.

Part 3.5 – Exemptions from certain permission activities (Regulations 37 to 42)

This part should be read in conjunction with Schedule 1. It sets out:

- when specific development activities are exempt from requiring a development licence
- when specific operating activities are exempt from requiring an operating licence
- when specific permit activities are exempt from requiring a permit
- exemptions where an activity would otherwise require two tiers of permissions.

Part 3.6 – Environment protection levy and waste levy (Regulations 43 to 52)

This part specifies activities subject to the requirement to pay the environment protection levy.

In addition, it stipulates the activities that are subject to the requirement to pay the waste levy and how the waste levy amount is to be calculated and paid, including:

- waste levy payable for soil containing asbestos
- circumstances when an allowable rebate may be claimed and how this may be calculated
- when the waste levy is required to be paid
- information required for calculating the waste levy
- information required for calculating an allowable rebate (if applicable)
- when an allowable rebate must be claimed
- municipal districts that are subject to higher municipal and industrial waste levy rates.

Part 3.7 – Additional or alternative penalty for prohibited persons (Regulation 53)

This part sets out which permission activities may attract additional or alternative penalties if a prohibited person conducts that activity without obtaining the required permission.

Chapter 4 – Waste

Chapter 4 addresses:

- litter and unsolicited documents (Part 4.1)
- industrial waste and priority waste (Part 4.2)
- used packaging materials (Part 4.3)
- Regional Waste and Resource Recovery Implementation Plans (Part 4.4).

The Regulations build on the significant changes that the new Act makes to the waste management framework. In particular, the new Act:

- identifies the GED as the key instrument for managing risks arising from waste
- places responsibility on waste managers to demonstrate how they are managing risks and minimising harm from waste-related activities
- introduces, in Parts 6.4 and 6.5 of the new Act, waste duties for persons generating, transporting or receiving waste
- replaces the prescribed industrial waste (PIW) system under the *Environment Protection Act 1970* with a new system of priority wastes.

See *Summary of new waste framework* (publication 1756) for a further overview.

Part 4.1 – Litter and unsolicited documents (Regulations 54 to 59)

This part contains duties and obligations in relation to litter and unsolicited documents such as junk mail. It:

- extends the meaning of dangerous litter
- creates offences in relation to the distribution of unsolicited documents
- creates an offence to damage public bins
- creates an offence to drive a vehicle with an unsecured load
- enables a litter enforcement officer or litter authority to take proceedings for an offence under this part.

Part 4.2 – Industrial waste and priority waste (Regulations 60 to 92)

This part sets out requirements in relation to industrial waste and priority waste.

In relation to industrial waste, it:

- prescribes certain waste to be industrial waste
- classifies industrial waste by referring to the table in Schedule 5 to the Regulations and *Waste classification assessment protocol* (publication 1827) or, in the case of soil from contaminated land, by referring to *Waste disposal categorisation characteristics and thresholds* (publication 1828)
- prescribes persons, places or premises as authorised to receive certain types of industrial waste in certain circumstances
- defines and sets out the requirements for a 'declaration of use' and what it may be used for.

In relation to priority waste, it:

- prescribes certain industrial waste to also be priority waste
- prescribes the requirements for managing priority waste, including classification criteria, and classification for disposal

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- makes it an offence to mix, blend or dilute priority waste which results in a change in classification, unless in accordance with a designation issued by EPA
- prescribes certain wastes to be reportable priority waste and the requirements to manage them, including the transactions, transport and tracking required

This part also:

- sets up the requirements for transporting controlled waste into or out of Victoria, with further details in Schedule 7 to the Regulations
- enables EPA to allow the use of an alternative electronic waste tracking system and creates some exemptions from tracking for interstate movement
- enables EPA to make designations (of its own accord or on application) for the classification of a waste and or the mixing, blending and diluting of waste
- provides for the appointment of accredited consigners and defines their duties.

Part 4.3 – Used packaging materials (Regulations 93 to 100)

This part:

- defines which brand owners these Regulations apply to and the requirements to recover, reuse and recycle consumer packaging, keep records and provide annual reports to EPA on compliance
- requires councils to keep records on kerbside recycling collection services or other material recovery services and report to EPA for each financial year
- requires EPA to maintain the confidentiality of any commercially sensitive information provided under these Regulations.

Part 4.4 – Regional waste and resource recovery implementation plans (Regulation 101)

This part requires EPA, when it is commenting on a draft Regional Waste and Resource Recovery Implementation Plan, to object if a proposed landfill site will extend into, or be established in, an area listed in Schedule 8 to the Regulations.

Chapter 5 – Environmental management

Chapter 5 of the Regulations addresses a variety of matters:

- prohibited chemical substances (Part 5.1)
- air (Part 5.2)
- noise (Part 5.3)
- water (Part 5.4)
- plastic shopping bag ban (Part 5.5)
- emissions from motor vehicles (Part 5.6)
- on-site wastewater management systems (Part 5.7).

Part 5.1 – Prohibited chemical substances (Regulation 102)

This part relates to certain chemical substances. It prohibits processing, storing and using these chemical substances **unless**:

- the person has notified EPA they intend to do so
- EPA has notified the person they may do so
- the person complies with the conditions in EPA's notice.

Part 5.2 – Air (Regulations 103 to 112)

This part:

- provides relevant definitions relating to the National Pollutant Inventory
- provides obligations on reporting facilities in relation to the National Pollutant Inventory and sets out how commercial sensitive information is treated
- puts obligations on Victorian manufacturers and suppliers of solid fuel heaters to meet Australian and New Zealand emission and efficiency standards
- sets out requirements for the use and management of methyl bromide for non-quarantine and pre-shipment uses, such as for in situ fumigation for pest and disease control
- sets out the requirement for a person who holds an operating licence for an activity that includes, generates, or results in the generation of Class 3 substances, to eliminate or reduce the Class 3 substance so far as reasonably practicable (see Schedule 4 to the Regulations for a list of Class 3 substances).

Part 5.3 – Noise (Regulations 113 to 131)

Part 5.3 addresses noise emissions from residential premises, commercial, industrial and trade premises, and music noise from indoor entertainment venues and outdoor entertainment venues and events.

Division 1. Noise Protocol

This division (Regulation 113) sets the requirement that all assessment and analysis of noise emissions must be undertaken in accordance with the *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues* (Noise Protocol) (publication 1826).

The Noise Protocol sets out methods for the prediction, assessment, measurement and analysis of noise to determine compliance with noise limits and provides procedures for determining variations to the limits in relation to certain activities in certain land use contexts.

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Division 2. Unreasonable and aggravated noise from residential premises

This division (Regulations 114 to 115) sets out prescribed items (that are sources of noise from residential premises) and prohibited times of use, to assist in determining unreasonable noise, and defines what constitutes aggravated noise from residential premises.

Division 3. Unreasonable and aggravated noise from commercial, industrial and trade premises

This division (Regulations 116 to 121) sets specific obligations for managing noise emissions from commercial, industrial and trade premises. It outlines:

- the noise limit at which noise from a commercial, industrial or trade premises is determined to be unreasonable, based on assessments conducted in accordance with the Noise Protocol sources of noise from commercial, industrial and trade premises that are not taken into account under this division
- operating time periods (day, evening, and night) during which noise limits apply and base noise limits for these periods
- a framework for considering cumulative noise from multiple premises
- frequency spectrum as a consideration of unreasonable noise
- noise limits at which noise from a commercial, industrial or trade premises becomes aggravated noise.

Division 4. Unreasonable and aggravated noise from entertainment venues and outdoor entertainment events

This division (Regulations 122 to 131) sets obligations in relation to managing noise emissions from indoor and outdoor entertainment venues and outdoor entertainment events. The division outlines:

- the noise limit at which noise from indoor and outdoor entertainment venues and outdoor events is determined to be unreasonable, based on assessments conducted in accordance with the Noise Protocol when music noise from a live music entertainment venue is not unreasonable noise or aggravated noise
- specific noise sources from indoor and outdoor entertainment venues that are taken into account as part of the assessment of music noise and those that are not
- operating time periods (day, evening and night) during which noise limits apply
- base noise limit for the night period that applies to indoor entertainment venues
- the framework for considering cumulative music noise for indoor entertainment venues
- a definition of the standard operating hours where outdoor entertainment venues and outdoor events may operate (note: operating the venue or event outside the standard operating hours, extended operations, and operating more than six concerts in a financial year are activities that require EPA permits – see Schedule 1 to the Regulations, activities L05 and L06)
- limits at which noise from indoor and outdoor entertainment venues and outdoor entertainment events becomes aggravated noise.

For additional information on the new noise framework, see the *Summary of noise framework* (publication 1757).

Part 5.4 – Water (Regulation 132)

This part creates an offence for depositing or discharging waste from a vessel into surface water or marine water environments, with limited exemptions.

Part 5.5 – Plastic shopping bag ban (Regulations 133 to 134)

This part prohibits the sale and provision of banned shopping bags and creates offences in relation to the ban as follows:

- the supply by a retailer of banned plastic bags to carry goods from the retailer's premises
- provision of false or misleading information by retailers, wholesalers, or manufacturers of plastic bags about the composition of a plastic bag and whether it is banned or exempt.

Part 5.6 –Emissions from motor vehicles (Regulations 135 to 158)

The Regulations under this part do not apply to new vehicles (as is defined in the *Motor Vehicles Standard Act 1989*) or heavy vehicles (regulated under the *Heavy Vehicle National Law Application Act 2013*).

The Regulations:

- prescribe a standard for visible pollution (smoke) and create offences relating to selling or using motor vehicles emitting visible pollution
- set limits on air emissions (vehicle exhaust emissions) relating to carbon monoxide (CO) and hydrocarbon (HC) in petrol vehicles; oxides of nitrogen (NOx), particle matter (PM) and opacity in diesel vehicles
- set limits for motor vehicle noise emissions (including incorporating certain requirements for Australian Design Rules (ADR) 83/00 compliant vehicles)
- prescribe how noise emitted by a motor vehicle is determined
- prohibit the resale of motor vehicles exceeding prescribed standards for the emission of noise or containing temporary noise defeat devices
- prohibit the use or installation of temporary noise defeat devices
- prescribe fuel vapour pressure standards for regulated petrol producers, exemptions and requirements for record keeping and reporting
- prescribe the requirements for noise test labelling on motorcycles and motor trikes
- provide for the appointment and functions of approved motor vehicle testers, including the issuing of certificates of compliance for the purposes of ensuring compliance with the requirements of this part and related offences.

Part 5.7 – On-site wastewater management systems (Regulations 159 to 163)

This part sets out duties and obligations for persons in management or control of land where an on-site wastewater management system (OWMS) is located. (Regulation 4 defines OWMS and the appropriate standards that apply to them.)

These include requirements to:

- take all reasonable steps to operate the system so it does not pose a risk to human health or the environment
- take all reasonable steps to maintain the system in good working order (for residential properties, this applies to the owner but not to a renter)
- check for signs the system may be failing or is not in good working order and, from 1 July 2022, to notify council if it is
- respond to system failures
- provide information to occupiers regarding the correct operation and maintenance of the system

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- keep maintenance records and, on request, provide them to council.

The Regulations also enable councils to order maintenance of the system if it poses or may pose a risk to human health and environment and include offences that councils can enforce.

Chapter 6 – Environmental audits and financial assurances

This chapter relates to:

- the environmental audit system (Part 6.1)
- financial assurances (Part 6.2).

Part 6.1 – Environmental audit system (Regulations 164 to 166)

New functions that are performed by an environmental auditor in addition to functions set out under the new Act are described in this part. These include:

- verifying whether a requirement issued under a notice, site management order, permission, or guidelines has been met where required by that instrument
- assessing the calculation of financial assurance amounts where the method published by EPA in the Government Gazette requires an assessment by an environmental auditor
- any function conferred on an environmental auditor under a legislative instrument or approved by EPA by notice in the Government Gazette.

Part 6.2 – Financial assurances (Regulations 167 and 168)

This part sets out:

- permissioning activities that may involve a financial assurance requirement
- risk assessment criteria that EPA will need to use to determine if an individual permission, site management order or environment action notice warrants a financial assurance condition.

Chapter 7 – Enforcement

This chapter (Regulations 169 to 171) sets out:

- for the purposes of section 307 (infringement notices) in the new Act, and with reference to the table in Schedule 10 to the Regulations, the offences in the new Act and Regulations that are prescribed to be infringement offences and the penalties attaching to those infringement offences
- that EPA determines any estimates of monetary benefits in accordance with the *Protocol for calculating monetary benefits* (publication 1727)
- the offences for which councils can take enforcement action, being:
 - failure to obtain a permit to construct, install or alter an OWMS
 - breach of a condition of a permit for an OWMS
 - where an OWMS installed under a permit is used before a council has approved the system (also an infringement offence).

Chapter 8 – Fees

The Regulations in this chapter provide for the calculation and payment of fees under the new Act in relation to permissions, other instruments and the doing of an act or providing of a service under the new Act. The majority of prescribed fees are either a flat fee or a capped variable fee (CVF).

Part 8.1 – Development licences (Regulations 172 to 175)

This part provides the following fees in relation to a development licence:

- application for a licence (capped fee based on greater of 1 per cent of the estimated cost of the prescribed development activity or a flat fee)
- application to transfer licence (flat fee)
- application to amend licence – administrative amendment or to extend the period during which the licence remains in force (flat fee), in any other case (CVF)
- application to be exempted from the requirement to hold a licence (CVF).

Part 8.2 – Operating licences (Regulations 176 to 182)

This part provides the following fees in relation to an operating licence:

- application for a licence (CVF – no fee is payable if the person holds a development licence and EPA considers the holder to have completed the activity in the licence satisfactorily)
- annual fee (capped fee based on sum of the highest of any applicable base fee in Schedule 1 and all applicable component fees in Schedule 11)
- application to transfer licence (lesser of 10 per cent of the last annual fee invoiced and a flat fee)
- application to amend licence – administrative amendment (lesser of 10 per cent of the last annual fee invoiced and a flat fee), and in any other case (lesser of 10 per cent of the last annual fee invoiced and a CVF)
- application to surrender licence (lesser of 10 per cent of the late annual fee invoiced and a flat fee)
- application to be exempted from the requirement to hold a licence (CVF).

Part 8.3 – Pilot project licences (Regulations 183 to 185)

This part provides the following fees in relation to a pilot project licence:

- application for a licence (CVF)
- application to transfer licence (flat fee)
- application to amend licence – administrative amendment or to extend the period for which the licence remains in force (flat fee), in any other case (CVF).

Part 8.4 – Permits (Regulations 186 to 200)

Division 1. Reportable priority waste transport permits

This division provides the following fees in relation to permits issued by EPA that specify the activity 'A10a – reportable priority waste (transport) – high risk' (waste codes B100, E100, G100 or R100):

- application for a permit (flat fee)
- application for a permit for a period not exceeding three months (flat fee)
- application to transfer permit (flat fee)

- application to amend a permit (flat fee)
- application to surrender a permit (flat fee)
- application to be exempt from the requirement to hold a permit – interstate authorisation (flat fee)
- application to be exempt from the requirement to hold a permit (flat fee)
- application to renew a permit (flat fee).

Division 2. Controlled waste transport permits

This division provides an application fee in relation to permits issued by EPA that specify the activity 'A11 – transporting waste into Victoria' (flat fee).

Division 3. Fees for EPA issued permits

This division provides the following fees in relation to permits issued by EPA that specify the activities: 'A05b – municipal landfills servicing less than 5000 people', 'A12 – transporting waste out of Victoria', 'A13b – waste and resource recovery – medium', 'A14 – reclaimed wastewater supply or use', 'A15 – biosolids supply or use', 'A16 – supply or use of reportable priority waste', 'A17 – containment of Category D waste soil', 'A18 – discharge or deposit of waste to aquifer', 'A19 – temporary on-site waste treatment', 'B01a – animal industries – waste solely to land', 'B02a – livestock saleyards or holding pens – waste solely to land':

- application for a permit (flat fee)
- application to transfer a permit (flat fee)
- application to amend a permit (CVF)
- application to surrender a permit (flat fee)
- application to be exempt from the requirement to hold a permit (CVF)
- application to renew a permit (flat fee).

This division further provides application fees in relation to permits issued by EPA that specify the activities 'L05 – operation outside of hours or extended operations' (flat fee) and 'L06 – conducting more than six outdoor concerts' (flat fee).

Division 4. Fees for council-issued permits

This division provides the following fees in relation to permits issued by a council that specify the activity 'A20 – on-site wastewater management systems':

- application for a permit – minor alteration of an on-site wastewater management systems (flat fee), in any other case (CVF)
- application to transfer a permit (flat fee)
- application to amend a permit (flat fee)
- application to be exempt from the requirement to hold a permit (CVF)
- application to renew a permit (flat fee).

Part 8.5 – Registration (Regulations 201 to 203)

This part provides the following fees in relation to registrations issued by EPA that specify the activity 'A10b – reportable priority waste (transport) – other':

- application for a registration (flat fee)
- application to be exempt from the requirement to hold a registration – interstate authorisation (flat fee)
- application to renew a registration (flat fee).

Part 8.6 – Financial assurances (Regulations 204 to 205)

This part provides the following prescribed fees in relation to financial assurances:

- request for review of the form of the financial assurance (CVF)
- application for release of all or part of a financial assurance (CVF).

Part 8.7 – Environmental auditors and audits (Regulations 206 to 208)

This part provides the following fees in relation to the environmental audit system:

- application for appointment as an environmental auditor (flat fee)
- application for reappointment as an environmental auditor (flat fee)
- fees for administrative and technical support services following appointment or reappointment (flat fees)
- fees payable by an environmental auditor within 5 days of completing a preliminary risk screen assessment statement or report (flat fee)
- fees payable by an environmental auditor within 5 days of completing an environmental audit statement or report (flat fee).

Part 8.8 – Other fees (Regulations 209 to 214)

This part provides the following fees:

- for an application:
 - for authorisation of emergency storage, use etc. of waste (CVF – EPA may waive this fee in certain circumstances)
 - for appointment as an accredited consigner (flat fee)
 - to revoke or vary a site management order (CVF)
 - for exemption from a provision of the regulations or of a legislative instrument (CVF)
- in relation to better environment plans:
 - for services provided by EPA to advise or assist a person to prepare a proposed better environment plan for submission to EPA (capped fee for service plus GST)
 - submission of proposed better environment plan (CVF)
 - application to amend a better environment plan (CVF).

Part 8.9 – Fees waiver or refund (Regulation 215)

This part provides that:

- EPA may waive, or refund, any fees in whole or in part if it is satisfied that it is reasonable to do so, and
- council may waive, or refund, any fee payable to the council in whole or in part if it is satisfied that it is reasonable to do so.

Chapter 9 – Administrative matters

The Regulations in this chapter relate to the Public Register that the new Act requires EPA to establish and maintain.

Part 9.1 – Public Register (Regulations 216 and 217)

This part:

- sets out the information that EPA will be required to publish on the Public Register (which is in addition to the information section 456 of the new Act requires to be published on it)
- provides that the Public Register will be on EPA's website and will be freely accessible at all hours.

Chapter 10 – Savings and transitionals

Regulations in this chapter provide for certain ‘old permissions’ (EPA authorisations), determinations, exemptions and classifications made under the *Environment Protection Act 1970* to continue to have effect under the new environment protection framework.

Part 10.1 – General transitional provisions (Regulation 218)

This part provides definitions for the purposes of this chapter.

Part 10.2 – Permissions (Regulations 219 to 224)

This part provides:

- for equivalent permissions (where new permissions are prescribed as being equivalent to certain old permissions under the *Environment Protection Act 1970*)
- for old permissions (including certain permits, exemptions, authorisations or approvals made under the *Environment Protection Act 1970*) to ‘roll over’ and continue as a new permission under the new Act
- that an application for a permission under the *Environment Protection Act 1970* that is still in process when the new Act commences, will be finalised under the new Act—so that applicants in this circumstance do not need to reapply to EPA
- that persons conducting activities immediately before the new Act commences that newly require a licence, permit or registration are temporarily exempt from the offences set out in sections 45, 46 and 47 of the new Act, for the period of time they have to apply or register for, and obtain, the relevant permission
- that certain places or premises, newly subject to a permission, are temporarily deemed to be authorised to receive industrial waste, for the period of time the relevant person has to apply for and obtain the relevant permission.

In addition to the matters addressed in Chapter 10 of the Regulations, the Environment Protection Transitional Regulations:

- provide that persons appointed as approved testers under the *Environment Protection Act 1970* are taken to be approved motor vehicle testers under the new Act
- provide that motor vehicle certificates of compliance issued under the *Environment Protection Act 1970* are taken to continue to be valid under the new Act
- save certain clauses in the State Environment Protection Policy (Waters) for a period of two years from the commencement of the new Act. During this time DELWP and EPA will consult with stakeholders on whether these clauses should be remade in another subordinate instrument
- save certain waste classifications for up to two years
- provide that equivalent new permissions under the new Act are taken to be issued or granted by EPA or a council.