



Regulation of Mine Dewatering

Category 6: Mine Dewatering

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Department of Environment Regulation
168 St Georges Terrace, Perth, Western Australia

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Enquiries

Phone: +61 8 6467 5000
Fax: +61 8 6467 5562
Email: info@der.wa.gov.au
Web: www.der.wa.gov.au

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Questions regarding this document should be directed to:

Department of Environment Regulation
Locked Bag 33 Cloisters Square
PERTH WA 6850
Phone: +61 8 6467 5000
Email: info@der.wa.gov.au

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Objective

The objective of this Guidance Statement is to administratively remove duplication of the regulation of mine dewatering operations and the disposal of surplus mine dewater, between the Department of Environment Regulation (DER) and the Department of Water (DoW).

Background

Extraction and discharge of water for dewatering purposes is currently regulated by both DoW and DER. DoW regulates the extraction of water under the *Rights in Water and Irrigation Act 1914* (RIWI Act) and DER regulates the discharge of dewater under the *Environmental Protection Act 1986* (EP Act).

As such, miners are required to obtain approvals to drill bores and extract water from DoW as well as a works approval from DER for the infrastructure to enable transfer and disposal of water, and to avoid liability for an offence, to obtain a licence from DER for the actual disposal of surplus water to the environment.

Peak industry bodies and industry participants have requested that consideration be given to reducing regulatory duplication, by enabling the process of dewatering to be regulated by a single agency.

Where practical both DoW and DER agree that the extraction and discharge of dewater should be regulated by a single department. The DoW is well placed to regulate the extraction and discharge where the water is not used in an industrial process, at risk of contamination from other sources, or at risk of impacting downstream environment. DER will retain a regulator role where there is an increased risk of contamination prior to discharge or if there is the risk of impacts due to inundation.

Legislation

Mine dewatering is a prescribed activity defined within Schedule 1 of the *Environmental Protection Regulations 1987* (EP Regulations).

Category 6

Description of Category

Mine dewatering: premises on which water is extracted and discharged into the environment to allow mining of ore.

Production of Design Capacity

50 000 tonnes or more per year

Guidance Statement

Dewatering discharge is to be regulated by DoW under the RIWI Act, except where the dewater:

- has been used in mine or industrial processes;
- has been contaminated after extraction from an aquifer;
- has been mixed with other water that has been subject to mine or industrial processes, or could be contaminated (including through mixing with surface water runoff);
- has the potential to cause environmental harm or degradation to downstream environments for example through inundation of riparian vegetation (clearing); or where the proponent intends to reinject mine dewater back to the aquifer.

Where dewater has been potentially contaminated (as outlined in the dot points above) or may impact downstream environments DER would continue to licence and regulate the discharged water.

Where dewatering discharge is being regulated by DoW in accordance with this Guidance Statement, DER will exercise its discretion in the public interest in relation to enforcement action for dewatering. It should be noted that this does not absolve mine operators from other statutory responsibilities under other local, state and federal law.

Implementation

This guidance statement will guide the regulatory decision making by DER and provide advice to industry on the circumstances in which DER will regulate dewatering discharge.

Licence holders that meet the criteria under this guidance statement to have dewatering discharge regulated by DoW, will be directly invited to voluntarily choose to migrate to regulation under the RIWI Act, if required.

DER will refer new applications that meet the criteria under this guidance statement to DoW to be regulated under the RIWI Act.

Subject to the successful migration of licence holders from regulation by DER under the EP Act, DER will look to remove or modify the prescribed categories in Schedule 1 of the EP Regulations to remove dewatering that meet the criteria under this guidance statement from regulation under the EP Act.

For Existing Licences

1. Where the activity of the discharge of water that meets the criteria for the prescribed premise activity of Mine Dewatering (Category 6) and it is also regulated (duplicated) under licence RIWI Act the licence holder is to be advised that they may apply to the CEO for amendment to their EP Act licence to remove Category 6 and associated conditions from their licence.

2. The CEO will assess and determine the application for amendment to remove Category 6, having regard to whether the risks to public health and the environment are adequately addressed by the regulation of another competent regulator, the DoW.

For New Licences

1. Where the proposed activity of the discharge of water that meets the criteria for the prescribed premise activity of Mine Dewatering (Category 6) is also subject to an application for a licence under the RIWI Act the applicant is to be advised that they will not be assessed and should not apply to the CEO for a works approval or licence for that category of activity under the EP Act.
2. Where the applicant is also undertaking or proposing to undertake prescribed premises activities in addition to Category 6, the CEO will not grant a works approval or licence for those other activities unless the CEO is satisfied the risks to public health and the environment from Category 6 prescribed premises activities are or will be adequately addressed by the regulation of another competent regulator, the DoW.
3. Where DoW declines to assess or licence discharge under the RIWI Act, DER will assess the prescribed premise activity of Mine Dewatering (Category 6).

Commencement

This Guidance Statement is to take effect from XX Month 2016.

Review

This guidance statement is to be reviewed no later than as soon as practicable following the fifth year of its commencement.