



New South Wales

# Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2007

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

PHILIP KOPERBERG, M.P.,  
Minister for Climate Change, Environment and Water

## Explanatory note

The object of this Regulation is to amend the *Protection of the Environment Operations (General) Regulation 1998*:

- (a) to increase the amounts for an administrative fee unit and pollutant fee unit for the purposes of Part 2.1 of the Regulation, and
- (b) to require the discharge of nitrogen oxides or volatile compounds of hydrogen and carbon (VOCs) in the Sydney basin area during summer months to be treated as a separate and distinct discharge of an assessable pollutant for the purposes of calculating load-based fees.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including section 323 (the general regulation-making power) and Schedule 2.

**2007 No 295**

Clause 1 Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2007

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**Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2007**

under the

Protection of the Environment Operations Act 1997

**1 Name of Regulation**

This Regulation is the *Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2007*.

**2 Commencement**

This Regulation commences on 30 June 2007.

**3 Amendment of Protection of the Environment Operations (General) Regulation 1998**

The *Protection of the Environment Operations (General) Regulation 1998* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 3)

**[1] Clause 5 Definitions**

Insert in alphabetical order in clause 5 (1):

*summer period*, in relation to the calculation of a load-based fee for a licence, means all the days during the licence fee period for the licence that occur during the months of December, January or February.

*Sydney basin area* means the local government areas of Ashfield, Auburn, Bankstown City, Baulkham Hills, Blacktown City, Botany Bay City, Burwood, Camden, Campbelltown City, Canada Bay, Canterbury City, Fairfield City, Hawkesbury City, Holroyd City, Hornsby, Hunter's Hill, Hurstville City, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool City, Manly, Marrickville, Mosman, North Sydney, Parramatta City, Penrith City, Pittwater, Randwick City, Rockdale City, Ryde City, Strathfield, Sutherland Shire, City of Sydney, Warringah, Waverley, Willoughby City and Woollahra.

**[2] Clause 6 Fee units**

Omit "or subsequently" from the Table to clause 6 (2).

Insert instead "to 30 June 2006".

**[3] Clause 6 (2), Table**

Insert at the end of the Table:

1 July 2006 to 30 June 2007	\$95	\$36.75
1 July 2007 or subsequently	\$100	\$36.75

**[4] Clause 17 Factors relevant to determination of load-based fee**

Omit "clause 18" from clause 17 (c).

Insert instead "clauses 17A (where relevant) and 18".

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Schedule 1 Amendments

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### [5] Clause 17A

Insert after clause 17:

#### **17A Calculation of load-based fees in relation to nitrogen oxides and VOCs discharged from premises in Sydney basin area in summer**

For the purposes of applying the provisions of this Part and Schedule 1 to the calculation of load-based fees, a licensee who discharges nitrogen oxides or VOCs from premises in the Sydney basin area during the summer period for the licensee's licence must:

- (a) treat the discharge as a separate and distinct discharge of an assessable pollutant from the discharge of such a pollutant during the whole of the licence fee period, and
- (b) apply any weightings or fee rate threshold factors indicated by "nitrogen oxides (summer)" or "VOCs (summer)" instead of the weightings or threshold factors for calculations for the whole licence period that are indicated by "nitrogen oxides" or "VOCs" alone, and
- (c) in addition to paragraphs (a) and (b)—include the discharge in calculating the discharge of such a pollutant during the whole of the licence fee period.

**Note.** The above provisions effectively require a licensee to count any discharge of nitrogen oxides or VOCs from premises in the Sydney basin area during the summer period for the licence twice, once in its own right and then as part of the discharge for the whole licence fee period.

### [6] Clause 18 Determination of assessable loads of assessable pollutants

Insert after clause 18 (1):

#### **(1A) Calculation of actual load for nitrogen oxides and VOCs during summers periods in Sydney basin area**

In addition to the calculation required by subclause (1), a licensee must (if relevant to the licensee) also calculate the actual load for nitrogen oxides or VOCs discharged from premises in the Sydney basin area under the licensee's licence (whether or not discharged in accordance with the licence) during the summer period for the licence. For that purpose, the licensee must carry out all necessary monitoring and other steps to enable the calculation required by this subclause to be made.

**[7] Clause 20 Pollutant weightings**

Omit “Nitrogen oxides” from the first column of the matter relating to “Air pollutants” in the Table to clause 20 (1).

Insert instead “Nitrogen oxides and Nitrogen oxides (summer)”.

**[8] Clause 20 (1), Table**

Omit “VOCs” from the first column of the matter relating to “Air pollutants”.

Insert instead “VOCs and VOCs (summer)”.

**[9] Clause 21 Pollutant critical zone weightings**

Omit the matter relating to Nitrogen oxides and VOCs where firstly occurring from the matter relating to “Critical zones for air pollutants” in the Table to clause 21 (1).

Insert instead:

Nitrogen oxides and VOCs	Local government areas in the Sydney basin area, Blue Mountains City, Kiama, Shellharbour City and Wollongong City	7
Nitrogen oxides (summer) and VOCs (summer)	Local government areas in the Sydney basin area	28

**[10] Clause 22 Calculation of fee rate thresholds for assessable pollutants**

Omit the note to Step 1 in clause 22 (1). Insert instead:

**Note.** Fee rate threshold factors are expressed in units of kilograms of pollutants per the applicable unit of quantity of activity.

The discharge of nitrogen oxides or VOCs from premises in the Sydney basin area during the summer period for a licence is to be treated as a separate and distinct discharge of an assessable pollutant from the discharge during the whole licence fee period. See clause 17A.

**[11] Clause 23 Calculation of load-based fee**

Insert at the end of Step 3:

**Note.** The assessable load for the discharge of nitrogen oxides or VOCs from premises in the Sydney basin area during the summer period for a licence is to be calculated in addition to the assessable load for the discharge of such a pollutant during the whole licence fee period. See clauses 17A and 18 (1A).

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### [12] Clause 49B

Insert after clause 49A:

#### **49B Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2007—transitional provisions**

- (1) The amendments made to this Regulation by the *Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2007* relating to the calculation of load-based fees (including the amendment made by Schedule 1 [3] to that Regulation) extend to the licence fee periods ending on or after 30 June 2007.
- (2) For the avoidance of doubt, any condition in a licence in force immediately before 30 June 2007 that provides for load limits with respect to the discharge during the reporting period of nitrogen oxides or VOCs from premises in the Sydney basin area is varied so that those load limits are to be read as including the discharge of any such pollutant (referred to in this Regulation as nitrogen oxides (summer) or VOCs (summer)) from premises in the Sydney basin area during the summer period for the licence.

### [13] Schedule 1 Licensing fees—activities and assessable pollutants

Omit “Nitrogen oxides” wherever occurring.

Insert instead “Nitrogen oxides and Nitrogen oxides (summer)”.

### [14] Schedule 1

Omit “VOCs” wherever occurring.

Insert instead “VOCs and VOCs (summer)”.

BY AUTHORITY

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