



New South Wales

Protection of the Environment Operations Amendment (Miscellaneous) Regulation 2011

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*.

ROBYN PARKER, MP
Minister for the Environment

Explanatory note

The objects of this Regulation are as follows:

- (a) to amend Schedule 1 to the *Protection of the Environment Operations Act 1997* (**the Principal Act**):
 - (i) to remove any requirement for an environment protection licence (a **licence**) for the generation of electricity by means of emergency stand-by plant that operates for less than 200 hours per year, and
 - (ii) to remove an exemption for all resource recovery activities consisting of the separation and sorting of less than 60 tonnes of lead acid batteries per year from the requirement for a licence, and
 - (iii) to remove any requirement for a licence for the treatment of waste received on site, and
 - (iv) to clarify that a licence is not required for the processing of stormwater as a form of waste processing,
- (b) to amend the *Protection of the Environment Operations (Clean Air) Regulation 2010* to remove the requirement for petrol suppliers to test, keep records of and report to the EPA about the vapour pressure of high ethanol blended petrol that they supply in metropolitan areas of Sydney, Newcastle and Wollongong during summer,

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- (c) to amend the *Protection of the Environment Operations (General) Regulation 2009 (the General Regulation)*:
 - (i) to remove the requirement for a licence for the blending of petroleum fuel with ethanol or biodiesel at a petroleum fuel storage terminal if the occupier of those premises holds a licence authorising petroleum products storage, and
 - (ii) to declare that the appropriate regulatory authority for entertainment activities in Sydney Olympic Park is the EPA in the case of activities carried on by the State or a public authority or the Sydney Olympic Park Authority in any other case, and
 - (iii) to provide for the EPA to continue to be the appropriate regulatory authority for any matter arising under the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* up to and including 31 May 2017,
- (d) to amend the *Protection of the Environment Operations (Waste) Regulation 2005* to combine the pools of funding available for payments to eligible councils under the waste and sustainability improvement scheme, rather than retaining 2 separate pools (one for Sydney metropolitan and for councils within the extended regulated area and another for councils in the regional regulated area),
- (e) to make other amendments to Schedule 1 to the Principal Act and the General Regulation by way of law revision.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 5 (3), 6 (3), 286 and 323 (the general regulation-making power) and clauses 5A and 6A of Schedule 2.

Protection of the Environment Operations Amendment (Miscellaneous) Regulation 2011

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations Amendment (Miscellaneous) Regulation 2011*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

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Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

[1] Schedule 1 Scheduled activities

Omit “30,000 megalitres” from Column 2 of the Table to clause 2.

Insert instead “30 megalitres”.

[2] Schedule 1, clause 17 (1), definitions of “metropolitan electricity works (gas turbines)” and “metropolitan electricity works (internal combustion engines)”

Omit “not being emergency stand-by plant that operates for less than 200 hours per year” wherever occurring.

[3] Schedule 1, clause 17 (1A)

Insert after clause 17 (1):

- (1A) However, this clause does not apply to the generation of electricity by means of electricity plant that is emergency stand-by plant operating for less than 200 hours per year.

[4] Schedule 1, clause 31

Insert at the end of the clause:

Note. Clause 47A of the *Protection of the Environment Operations (General) Regulation 2009* contains an exemption from any requirement to be licensed to produce petroleum products by the blending of petroleum fuel with ethanol or biodiesel if:

- (a) that activity is carried on at a petroleum fuel storage terminal, and
- (b) the occupier of the terminal holds a licence that authorises petroleum products storage.

Petroleum products storage meeting the criteria set out in clause 9 of this Schedule is a scheduled activity under that clause.

[5] Schedule 1, clause 34 (2)

Omit clause 34 (2). Insert instead:

- (2) However, this clause does not apply to the recovery of stormwater or the processing of any of the following:
- (a) contaminated soil,
 - (b) contaminated groundwater,
 - (c) sewage within a sewage treatment system (whether or not that system is licensed).

[6] Schedule 1, clause 40 (1) and (2)

Omit clause 40 (1) and (2). Insert instead:

- (1) This clause applies to the following activities:
 - thermal treatment of general waste*, meaning the receiving of waste (other than hazardous waste, restricted solid waste, liquid waste or special waste) from off site and its processing by thermal treatment.
 - thermal treatment of hazardous and other waste*, meaning the receiving of hazardous waste, restricted solid waste, liquid waste or special waste from off site and its processing by thermal treatment.
- (2) However, this clause does not apply to the treatment of any of the following:
 - (a) contaminated soil,
 - (b) contaminated groundwater,
 - (c) sewage within a sewage treatment system (whether or not that system is licensed).

[7] Schedule 1, clause 41, definitions of “non-thermal treatment of hazardous and other waste” and “non-thermal treatment of liquid waste”

Omit “, whether from on site or off site,” wherever occurring.

Insert instead “from off site”.

[8] Schedule 1, clause 41 (2)

Omit clause 41 (2). Insert instead:

- (2) However this clause does not apply to the processing of any of the following:
 - (a) stormwater,
 - (b) contaminated soil,
 - (c) contaminated groundwater,
 - (d) sewage within a sewage treatment system (whether or not that system is licensed).

[9] Schedule 1, clause 41 (3) (b)

Omit “more than 50%”. Insert instead “50% or more”.

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Schedule 2

Amendment of Protection of the Environment Operations (Clean Air)
Regulation 2010

**Schedule 2 Amendment of Protection of the
Environment Operations (Clean Air)
Regulation 2010**

[1] Clause 26 Definitions

Insert in alphabetical order:

high ethanol blended petrol means petrol containing 60% or more of ethanol by volume.

[2] Clause 26

Omit the definition of *prescribed blended petrol*. Insert instead:

prescribed blended petrol means petrol containing:

- (a) 4 per cent or more of ethanol by volume but not more than 10 per cent of ethanol by volume, or
- (b) high ethanol blended petrol.

[3] Clause 28 Vapour pressure of petrol

Insert “(other than high ethanol blended petrol)” after “prescribed blended petrol” in clause 28 (1) (a).

[4] Clause 30 Reporting

Insert “(other than high ethanol blended petrol)” after “petrol” in clause 30 (1) (d).

[5] Clause 30 (1) (d1)

Insert after clause 30 (1) (d):

- (d1) the total volume of high ethanol blended petrol supplied in that month,

Schedule 3 Amendment of Protection of the Environment Operations (General) Regulation 2009

[1] Clause 47A

Insert after clause 47:

47A Exemption from requirement for licence

- (1) Section 48 of the Act does not apply to the activity of petroleum products and fuel production by blending petroleum fuel with ethanol or biodiesel if:
 - (a) that activity is carried on at a petroleum fuel storage terminal, and
 - (b) the occupier of those premises is, at the time that activity is carried on, the holder of an environment protection licence that authorises the activity of petroleum products storage.
- (2) In this clause:

petroleum products and fuel production has the same meaning as in clause 31 of Schedule 1 to the Act.

petroleum products storage has the same meaning as in clause 9 of Schedule 1 to the Act.

[2] Clause 90 Outdoor entertainment activities

Omit clause 90 (1) (f).

[3] Clause 90A

Insert after clause 90:

90A Entertainment activities at Sydney Olympic Park

- (1) The following public authorities are declared, under section 6 (3) of the Act, to be the appropriate regulatory authorities for entertainment activities carried on at Sydney Olympic Park:
 - (a) in the case of an entertainment activity carried on by the State or a public authority—the EPA,
 - (b) in any other case—the Sydney Olympic Park Authority.

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Schedule 3 Amendment of Protection of the Environment Operations (General)
Regulation 2009

(2) In this clause:

entertainment activities means any of the following activities, but only if sound amplification equipment is used as part of the activity:

- (a) concerts,
- (b) festivals,
- (c) cinematic and theatrical events,
- (d) sporting events,
- (e) a rehearsal, sound check or other preparation for an activity listed in paragraphs (a)–(d).

Sydney Olympic Park has the same meaning as in the *Sydney Olympic Park Authority Act 2001*.

[4] Clause 91 Underground petroleum storage systems

Omit clause 91 (2). Insert instead:

(2) This clause is repealed on 1 June 2017.

[5] Clause 95A Noise control—Sydney Olympic Park

Omit the clause.

[6] Schedule 1 Licensing fees

Omit “30,000 megalitres” in the matter relating to Agricultural processing.

Insert instead “30 megalitres”.

[7] Schedule 1, matter relating to Agricultural Processing

Omit “30,000” where secondly occurring. Insert instead “30”.

[8] Schedule 1, matter relating to Agricultural Processing

Omit “100,000 megalitres” wherever occurring.

Insert instead “100 megalitres”.

[9] Schedule 1, matter relating to Concrete Works

Omit “Annual capacity to receive organics”.

Insert instead “Annual production capacity”.

[10] Schedule 2 Load-based fee calculation

Omit “nitrogen dioxides (summer)” from Column 1 of Table 1 in Part 2.

Insert instead “nitrogen oxides (summer)”.

Schedule 4 Amendment of Protection of the Environment Operations (Waste) Regulation 2005

**[1] Clause 46E Calculation of amount of waste performance improvement
payment**

Omit paragraphs (c)–(g) of the definition of *R* in clause 46E (1A).

Insert instead:

- (c) for the year ending 30 June 2012—\$34.8 million, or
- (d) for the year ending 30 June 2013—\$38.7 million, or
- (e) for the year ending 30 June 2014—\$41.8 million, or
- (f) for the year ending 30 June 2015—\$44 million, or
- (g) for the year ending 30 June 2016—\$46.5 million.

[2] Clause 46E (1A)

Omit the definition of *T*. Insert instead:

T is the total population of the local government areas of all eligible councils.