



Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013

under the

Protection of the Environment Operations Act 1997

His Excellency the Lieutenant-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 object of this Regulation is to include the following activities as scheduled activities under the *Protection of the Environment Operations Act 1997* and to provide for licensing fees in relation to those activities:

- (a) coal seam gas exploration, assessment and production activities, and
- (b) electricity generation activities by means of wind turbines on wind farms.

This Regulation also makes minor changes to the licensing fees applicable for other natural gas or methane production activities.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 5 (3), 57 (1) and 323 (the general regulation-making power).

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Clause 1 Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013

**Protection of the Environment Operations Amendment
(Scheduled Activities) Regulation 2013**

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013*.

2 Commencement

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

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

[1] Schedule 1 Scheduled activities

Insert after clause 9:

9A Coal seam gas exploration, assessment and production

- (1) This clause applies to the following activities:

coal seam gas assessment/production, meaning:

- (a) prospecting for coal seam gas for which a petroleum exploration licence, assessment lease or production lease is required under the *Petroleum (Onshore) Act 1991*, if that prospecting involves the extraction of groundwater, or
- (b) the commercial production of coal seam gas for which an assessment lease or production lease is required under the *Petroleum (Onshore) Act 1991*.

coal seam gas exploration, meaning prospecting for coal seam gas for which a petroleum exploration licence is required under the *Petroleum (Onshore) Act 1991*, but not if the prospecting involves the extraction of groundwater.

- (2) However, this clause does not apply to the following activities if the activity is carried out on land that is not within an environmentally sensitive area of State significance (within the meaning of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*):

- (a) geological mapping and airborne surveying,
- (b) sampling and coring using hand-held equipment,
- (c) geophysical (including seismic) surveying and downhole logging,
- (d) accessing of areas by vehicle that does not involve the construction of an access way such as a track or road,
- (e) soil sampling by machinery,
- (f) the construction, maintenance or use of equipment for the monitoring of weather, noise, groundwater or subsidence,
- (g) the construction, maintenance or use of roads consistent with best practice industry standards as outlined in the document entitled *Managing urban stormwater: Soils and construction* (Volume 2C: Unsealed roads), published by

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

the Department of Environment and Climate Change,
dated January 2008,

(h) the recovery, obtaining or removal of coal seam gas in the
course of coal mining.

(3) Each activity to which this clause applies is declared to be a
scheduled activity.

[2] Schedule 1, clause 17 (1)

Insert in alphabetical order:

electricity works (wind farms), meaning the generation of
electricity by means of wind turbines.

[3] Schedule 1, clause 17

Insert the following in alphabetical order of activity in Columns 1 and 2 of the
Table to the clause, respectively:

electricity works (wind farms)

is the subject of an approval granted
under Part 3A of the *Environmental
Planning and Assessment Act 1979*
before the repeal of that Part (or under
that Part as continued on after that repeal
by or under Schedule 6A to that Act), or

is the subject of a development consent
(being a consent that relates to State
significant development) granted by the
Minister under Part 4 of the
*Environmental Planning and Assessment
Act 1979* (including by operation of
clause 89 of Schedule 6 to that Act), or

Note. This criteria covers development
consent granted before 1 August 2005 (before
the commencement of Part 3A of the
*Environmental Planning and Assessment Act
1979*) and development consent granted after
1 October 2011 (after the repeal of that Part).

was being carried out immediately before
1 December 2012 with a capacity to
generate more than 30 megawatts of
electrical power

[4] Schedule 1, clause 31 (1)

Insert “(other than coal seam gas)” after “or methane” in the definition of
natural gas/methane production.

[5] Schedule 1, clause 50 (1)

Insert in alphabetical order:

coal seam gas means petroleum that:

- (a) consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane, and
- (b) is in a gaseous state at standard temperature and pressure, and
- (c) is extracted from coal beds.

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Schedule 2 Amendment of Protection of the Environment Operations (General) Regulation 2009

Schedule 2 Amendment of Protection of the Environment Operations (General) Regulation 2009**[1] Schedule 1 Licensing fees**

Insert after the matter relating to “CHEMICAL STORAGE”:

COAL SEAM GAS EXPLORATION, ASSESSMENT AND PRODUCTION**Coal seam gas exploration (see clause 9A of Schedule 1 to the Act)****1 Units of measure: (not applicable)****2 Administrative fee**

Annual production capacity	Administrative fee units
Any capacity	40

Coal seam gas assessment/production (see clause 9A of Schedule 1 to the Act)**1 Units of measure: petajoules****2 Administrative fee**

Annual production capacity	Administrative fee units
Not more than 6 petajoules	65
More than 6, but not more than 15 petajoules	165
More than 15 petajoules	660

3 Load-based fee

Air pollutants	Threshold factor
Benzene	0.004
Benzo(a)pyrene (equivalent)	0.005
Fine particulates	0.2
Hydrogen sulfide	0.031
Nitrogen oxides and nitrogen oxides (summer)	0.5
Sulfur oxides	0.6
VOCs and VOCs (summer)	0.4
Water pollutants	Threshold factor
BOD	0.14

COAL SEAM GAS EXPLORATION, ASSESSMENT AND PRODUCTION

Oil and grease	0.12
Salt	3.6
Suspended solids	0.36
Total PAHs	0.07
Total phenolics	0.27

[2] Schedule 1

Omit “(see clause 17 (1) of Schedule 1 to the Act)” from the subheading under the heading “**ELECTRICITY GENERATION**”.

Insert instead “(see clause 17 (1) of Schedule 1 to the Act in respect of **general electricity works, metropolitan electricity works (gas turbines) and metropolitan electricity works (internal combustion engines)**)”.

[3] Schedule 1

Insert at the end of the matter under the heading “**ELECTRICITY GENERATION**”:

Electricity generation (see clause 17 (1) of Schedule 1 to the Act in respect of electricity works (wind farms))

1 Units of measure: gigawatt-hours

2 Administrative fee

Annual generating capacity	Administrative fee units
Not more than 450 gigawatt-hours	15
More than 450 but not more than 1,000 gigawatt-hours	45
More than 1,000 but not more than 4,000 gigawatt-hours	65
More than 4,000 gigawatt-hours	150

3 Load-based fee (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

[4] Schedule 1

Omit “Extractive, processing or storage capacity” and “Extractive capacity” under the heading “**EXTRACTIVE ACTIVITIES**”.

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Schedule 2 Amendment of Protection of the Environment Operations (General) Regulation 2009

Insert instead “Annual extractive, processing or storage capacity” and “Annual extractive capacity”, respectively.

[5] Schedule 1

Omit the matter relating to natural gas/methane production under the heading “**PETROLEUM AND FUEL PRODUCTION**”. Insert instead:

Natural gas/methane production (see clause 31 (1) of Schedule 1 to the Act)

1 Units of measure: petajoules

2 Administrative fee

Annual production capacity	Administrative fee units
Not more than 6 petajoules	65
More than 6, but not more than 15petajoules	165
More than 15 petajoules	660

3 Load-based fee (but only if the activity is a scheduled activity under clause 31 (2) of Schedule 1 to the Act)

Air pollutants	Threshold factor
Benzene	0.004
Benzo(a)pyrene (equivalent)	0.005
Fine particulates	0.2
Hydrogen sulfide	0.031
Nitrogen oxides and nitrogen oxides (summer)	0.5
Sulfur oxides	0.6
VOCs and VOCs (summer)	0.4
Water pollutants	Threshold factor
BOD	0.14
Oil and grease	0.12
Salt	3.6
Suspended solids	0.36
Total PAHs	0.07
Total phenolics	0.27

[6] Schedule 8 Savings and transitional provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions consequent on commencement of Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013

Definition

In this Part, *amending Regulation* means the *Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013*.

Commencement of licensing requirements for coal seam gas exploration, assessment or production

Despite clause 47 of the Regulation, if, because of the amendment of Schedule 1 to the Act by the amending Regulation, it has become necessary for a person to be authorised by a licence to continue to carry out any work or activity, a licence is not required until the later of the following:

- (a) the end of the period 3 months after the commencement of that amendment,
- (b) the relevant licence application (if any) made before the end of that period by the person has been finally determined.

Commencement of licensing requirements for electricity works (wind farms)

- (1) A licence authorising scheduled development work in respect of the scheduled activity of electricity works (wind farms) is not required by a person proposing to carry out such work until the later of the following:
 - (a) the end of the period of 9 months after the commencement of the amending Regulation,
 - (b) the relevant licence application (if any) made before the end of that period by the person has been finally determined.

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Schedule 2

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

- (2) A licence authorising the scheduled activity of electricity works (wind farms) is not required by a person proposing to carry out such activity until the later of the following:
 - (a) the end of the period of 9 months after the commencement of the amending Regulation,
 - (b) the relevant licence application (if any) made before the end of that period by the person has been finally determined.