



New South Wales

Electricity Supply (Corrosion Protection) Regulation 2014

under the

Electricity Supply Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Supply Act 1995*.

ANTHONY ROBERTS, MP
Minister for Resources and Energy

Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Electricity Supply (Corrosion Protection) Regulation 2008*, which is to be repealed by section 10 (2) of the *Subordinate Legislation Act 1989* on 1 September 2014.

This Regulation:

- (a) prohibits the operation of certain kinds of corrosion protection systems otherwise than in accordance with an approval granted under the Regulation, and
- (b) prescribes the procedure for the granting of such approvals, and for their cancellation, and provides for the determination of fees for approvals, and
- (c) provides for the keeping of a register containing information relating to approvals, and
- (d) requires operators of corrosion protection systems to ensure the proper operation, maintenance and testing of systems, to report on the operations of systems, including their testing, and to give notice of the occurrence of certain events in connection with the systems, and
- (e) requires persons who work on corrosion protection systems to be appropriately qualified, and
- (f) provides for the periodic review of the register of corrosion protection systems by the Secretary of the Department of Trade and Investment, Regional Infrastructure and Services, and
- (g) provides for offences under the Regulation to be dealt with by way of penalty notice.

This Regulation is made under the *Electricity Supply Act 1995*, including sections 187 (Penalty notices for certain offences) and 191 (1A) (a) (which provides for the making of regulations relating to the installation, use, maintenance and removal of corrosion protection systems).

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Electricity Supply (Corrosion Protection) Regulation 2014

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Electricity Supply (Corrosion Protection) Regulation 2014*.

2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Electricity Supply (Corrosion Protection) Regulation 2008* which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

(1) In this Regulation:

approval means an approval in force under Part 2.

foreign structure, in relation to a corrosion protection system, means any metallic structure (other than the primary structure for that system) that is situated in the vicinity of the system, whether in or on the ground or in or on water.

primary structure, in relation to a corrosion protection system, means the structure that the corrosion protection system is installed to protect.

Secretary means the Secretary of the Department of Trade and Investment, Regional Infrastructure and Services.

the Act means the *Electricity Supply Act 1995*.

(2) A person is taken to operate a corrosion protection system for the purposes of this Regulation if:

- (a) the person has control over a corrosion protection system that has been installed to protect a structure, and
- (b) current flows between the system and the structure.

(3) Notes in this Regulation do not form part of this Regulation.

4 Application of Regulation

(1) This Regulation does not apply to:

- (a) a galvanic anode system that has been installed to protect a compact structure, but only so long as the maximum current flowing through the system does not exceed 150 milliamperes, or
- (b) a galvanic anode system that has been installed to protect any other primary structure, but only so long as the maximum current flowing through the system

does not exceed 150 milliamperes for each 500 metres of the length of the structure along its greatest dimension, or

- (c) any corrosion protection system that has been installed to protect the internal surface of a water storage tank, reservoir or other similar structure for storing water where the structure isolates the system current from the external environment, or
 - (d) any corrosion protection system that has been installed to protect marine vessels that are not permanently moored.
- (2) This Regulation applies to all other corrosion protection systems.
- (3) In this clause:

compact structure means a structure (such as a storage tank) the greatest dimension of which, being a dimension of height, length or breadth, is no greater than 5 times the size of the smallest of those dimensions.

galvanic anode system means a corrosion protection system that operates by means of an electrochemical reaction in which a metallic anode corrodes.

Part 2 Approval of corrosion protection systems

5 Operation of corrosion protection systems requires approval

- (1) A person must not operate a corrosion protection system unless the system is the subject of an approval and is operated in accordance with the approval.

Maximum penalty:

- (a) in the case of a corporation—200 penalty units, or
 - (b) in any other case—50 penalty units.
- (2) This clause does not apply to a person operating a corrosion protection system:
- (a) for the purpose of testing it, but only for not more than a total of 24 hours after completion of:
 - (i) the installation or extension of the system, or
 - (ii) any maintenance or repairs carried out on the system, or
 - (b) with the written consent of the Secretary.

6 Applications for approval

- (1) An application for an approval must be made in the manner and form approved by the Secretary and must be accompanied by the application fee determined under clause 11.
- (2) An application for an approval must be accompanied by either:
- (a) a declaration from the applicant that there are no foreign structures in the vicinity of the system concerned, or
 - (b) a declaration from the applicant identifying, as far as is reasonably practicable, all foreign structures that appear to be in the vicinity of the system concerned and declaring that each owner of a foreign structure identified in the declaration was given an opportunity to object to the operation of the system and no such objection was made.
- (3) An application for an approval must also be accompanied by such other documentation as the approved form requires.

7 Determination of applications for approval

- (1) The Secretary is to determine an application for approval by:
- (a) granting the approval (whether or not subject to conditions), or
 - (b) refusing the application.
- (2) If the Secretary refuses the application, the Secretary must cause notice of the refusal, and of the reasons for the refusal, to be given to the applicant.

8 Approvals remain in force until cancelled

An approval remains in force until it is cancelled.

9 Periodic review of register of approved corrosion protection systems

- (1) The Secretary is to conduct periodic reviews of the register of approved corrosion protection systems established under clause 12.

- (2) The Secretary may serve a show cause notice on a person who holds an approval in relation to a corrosion protection system if the Secretary is of the opinion that there is reasonable cause to believe that:
 - (a) the corrosion protection system has permanently ceased to operate and the person has failed to notify the Secretary of that fact under clause 18, or
 - (b) the corrosion protection system is being operated otherwise than in accordance with its design specifications, or
 - (c) the corrosion protection system is not being maintained in accordance with its design specifications, or
 - (d) the corrosion protection system has not been tested in accordance with clause 15, or
 - (e) a report required by clause 16 has not been submitted in relation to the corrosion protection system, or
 - (f) a person who does not have the qualifications specified in clause 17 has worked on the corrosion protection system.
- (3) A show cause notice is a notice requiring a person to show cause why action should not be taken against the person under this Regulation on the grounds specified in the notice.
- (4) A show cause notice is to be in writing and is to specify a period of not less than 14 days after service of the notice as the period that the person to whom the notice is directed has to show cause as required by the notice.
- (5) The person on whom a show cause notice is served may, within the period allowed by the notice, make oral or written submissions to the Secretary in respect of the matters to which the notice relates, in particular, as to:
 - (a) why enforcement action should not be taken, and
 - (b) what action the person proposes to take to correct the relevant non-compliance.
- (6) In the case of a corporation, submissions under this clause may be made by a director or officer of the corporation.

10 Cancellation of approvals

The Secretary may cancel an approval for a corrosion protection system on the ground that the corrosion protection system has permanently ceased to operate.

11 Fees

- (1) The Secretary may determine the following fees that are payable to the Secretary:
 - (a) an application fee for an approval,
 - (b) an annual fee for an approval.
- (2) The Secretary may, in any case, waive or remit the whole or part of a fee.

12 Register of approvals

- (1) The Secretary is to keep a register containing the following particulars, for the purpose of facilitating access to information about corrosion protection systems and enabling owners of corrosion protection systems to be contacted:
 - (a) particulars of each application for an approval received by the Secretary, including:
 - (i) whether the application was granted or refused, and

- (ii) the owner of the corrosion protection system concerned, and
 - (iii) a description of the system and its location,
 - (b) particulars of each approval granted by the Secretary, including any subsequent cancellation of the approval,
 - (c) particulars of any conditions imposed on an approval, including any subsequent variation or revocation of those conditions.
- (2) The register may be inspected by members of the public, free of charge, at the head office of the Department during its ordinary hours of business.
- (3) The register may also be available for inspection online.

Part 3 Operational requirements

13 Operation of corrosion protection systems

A person who operates an approved corrosion protection system must ensure that it is operated in accordance with its design specifications.

Maximum penalty:

- (a) in the case of a corporation—200 penalty units, or
- (b) in any other case—50 penalty units.

14 Maintenance of corrosion protection systems

A person who operates an approved corrosion protection system must ensure that it is maintained in accordance with its design specifications.

Maximum penalty:

- (a) in the case of a corporation—200 penalty units, or
- (b) in any other case—50 penalty units.

15 Testing of corrosion protection systems

- (1) A person who operates an approved corrosion protection system must ensure that an interference test is conducted by a tester with appropriate qualifications and appointed by that person:

- (a) in accordance with the testing schedule set out in the application for the approval of the system or in any subsequent annual report provided by the person, and
- (b) at least once every 7 years.

Maximum penalty:

- (a) in the case of a corporation—200 penalty units, or
- (b) in any other case—50 penalty units.

- (2) In this clause:

interference test means an electrical test that indicates the risk of corrosion to a foreign structure by a corrosion protection system by measuring the impact on a foreign structure caused by the system.

16 Reporting on corrosion protection systems

A person who operates an approved corrosion protection system must submit reports on the operation of the system, including its testing, during each financial year in accordance with the Secretary's written requirements and no later than 30 days after the end of each financial year.

Maximum penalty:

- (a) in the case of a corporation—200 penalty units, or
- (b) in any other case—50 penalty units.

17 Qualifications of persons who work on corrosion protection systems

A person who operates an approved corrosion protection system must ensure that all persons who work on the system:

- (a) are certified as corrosion technicians by the Australasian Corrosion Association Inc, or

- (b) hold any qualification that is approved by the Minister for the time being by order published on the NSW legislation website.

Maximum penalty:

- (a) in the case of a corporation—200 penalty units, or
- (b) in any other case—50 penalty units.

18 Notice of certain occurrences

- (1) The owner of an approved corrosion protection system must cause written notice to be given to the Secretary within 28 days after:
 - (a) the system is sold or disposed of to any other person, or
 - (b) the system permanently ceases to operate.

Maximum penalty: 25 penalty units.

- (2) In the case of a system that is sold or disposed of to some other person, the notice must indicate the name and address of that other person and the date on which the system was sold or disposed of.

Part 4 Miscellaneous

19 Regulation binds Crown

- (1) This Regulation binds the Crown.
- (2) Nothing in this Regulation renders the Crown liable to be prosecuted for an offence against this Regulation.

20 Delegation

The Secretary may delegate to any person the exercise of all or any of the Secretary's functions under this Regulation other than:

- (a) the determination of fees, or
- (b) this power of delegation.

21 Penalty notice offences and penalties

- (1) For the purposes of section 187 of the Act:
 - (a) each offence created by a provision specified in Column 1 of Schedule 1 is an offence for which a penalty notice may be served, and
 - (b) the penalty prescribed for each such offence is:
 - (i) in the case of an offence committed by a natural person—the amount specified opposite the provision in Column 2 of the Schedule, or
 - (ii) in the case of an offence committed by a corporation—the amount specified opposite the provision in Column 3 of the Schedule.
- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

22 Savings

- (1) Any act, matter or thing that, immediately before the repeal of the *Electricity Supply (Corrosion Protection) Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.
- (2) A corrosion protection system that was subject to an approval under the *Electricity Supply (Corrosion Protection) Regulation 2008* immediately before the repeal of that Regulation is taken to have been approved under this Regulation.

Schedule 1 Penalty notice offences and penalties

(Clause 21)

Column 1	Column 2	Column 3
Provision	Level of penalty for natural persons	Level of penalty for corporations
Offences under this Regulation		
Clause 5 (1)	\$550	\$2,200
Clause 13	\$550	\$2,200
Clause 14	\$550	\$2,200
Clause 15 (1)	\$550	\$2,200
Clause 16	\$550	\$2,200
Clause 17	\$550	\$2,200
Clause 18 (1)	\$275	\$275