



New South Wales

# Protection of the Environment Operations Amendment (NSW Gas Plan) Regulation 2014

under the

Protection of the Environment Operations Act 1997

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

ROBERT STOKES, MP  
Minister for the Environment

## Explanatory note

The objects of this Regulation are as follows:

- (a) to remove coal seam gas exploration, assessment and production, crude oil/shale oil production and natural gas/methane production as scheduled activities under the *Protection of the Environment Operations Act 1997*,
- (b) to include petroleum exploration, assessment and production as a new scheduled activity under that Act,
- (c) to provide for licensing fees in relation to that new scheduled activity and the existing scheduled activity of petroleum products and fuel production.

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).

## **Protection of the Environment Operations Amendment (NSW Gas Plan) Regulation 2014**

under the

Protection of the Environment Operations Act 1997

### **1 Name of Regulation**

This Regulation is the *Protection of the Environment Operations Amendment (NSW Gas Plan) Regulation 2014*.

### **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

Omit clause 9A.

### [2] Schedule 1, clauses 31 and 31A

Omit clause 31. Insert instead:

#### 31 Petroleum exploration, assessment and production

- (1) This clause applies to *petroleum exploration, assessment and production*, meaning the following:
  - (a) exploratory activities to identify petroleum reserves,
  - (b) any testing or sampling carried out in relation to that exploration,
  - (c) the production of petroleum.
- (2) However, this clause does not apply to any of the following activities if the activity is carried out on land other than land in an environmentally sensitive area of State significance:
  - (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) constructing, maintaining or using equipment to monitor subsidence, noise, groundwater or the weather,
  - (g) constructing, maintaining or using 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 the Department of Environment and Climate Change, dated January 2008,
  - (h) recovering, obtaining or removing coal seam gas in the course of coal mining.
- (3) The activity to which this clause applies is declared to be a scheduled activity.
- (4) In this clause:

*environmentally sensitive area of State significance* has the same meaning as in *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

*petroleum* has the same meaning as in the *Petroleum (Onshore) Act 1991*.

#### 31A Petroleum products and fuel production

- (1) This clause applies to *petroleum products and fuel production*, meaning the production of petroleum products (including aviation fuel, petrol, kerosene, mineral turpentine, fuel oils, lubricants, wax, bitumen, liquefied gas and the

precursors to petrochemicals, such as acetylene, ethylene, toluene and xylene) by any means including by refining, fermentation, esterification or blending.

**Note.** Refining may occur in the processing of crude petroleum or shale oil, fermentation in the production of ethanol, esterification in the production of biodiesel and blending in the production of lubricants and fuels.

- (2) However, this clause does not apply to the activity of blending a fuel with ethanol or biodiesel if that activity is carried on at a petroleum fuel storage terminal, and 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 (within the meaning of clause 9 of this Schedule).
- (3) The activity to which this clause applies is declared to be a scheduled activity if there is capacity to produce more than 100 tonnes of petroleum products per year.

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

**[1] Clause 47A Exemption from requirement for licence**

Omit the clause.

**[2] Schedule 1 Licensing fees**

Omit the matter relating to “**COAL SEAM GAS EXPLORATION, ASSESSMENT AND PRODUCTION**” and the matter relating to “**PETROLEUM AND FUEL PRODUCTION**”.

**[3] Schedule 1**

Insert after the matter relating to “**PAPER OR PULP PRODUCTION**”:

### **PETROLEUM EXPLORATION, ASSESSMENT AND PRODUCTION**

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**1 Units of measure: petajoules**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 0.5 petajoules	40
More than 0.5 but 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** (but only if the annual production capacity is more than 0.5 petajoules)

<b>Air pollutants</b>	<b>Threshold factor</b>
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
<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	0.14
Oil and grease	0.12
Salt	3.6
Suspended solids	0.36
Total PAHs	0.07
Total phenolics	0.27

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## **PETROLEUM PRODUCTS AND FUEL PRODUCTION**

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### **1 Units of measure: tonnes**

### **2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 10,000 tonnes	25
More than 10,000 but not more than 200,000 tonnes	65
More than 200,000 but not more than 500,000 tonnes	165
More than 500,000 tonnes	660

### **3 Load-based fee (but only if the annual production capacity is more than 10,000 tonnes)**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.000011
Benzene	0.0004
Benzo(a)pyrene (equivalent)	0.000002
Fine particulates	0.039
Hydrogen sulfide	0.002
Lead	0.000059
Mercury	0.000011
Nitrogen oxides and nitrogen oxides (summer)	0.33
Sulfur oxides	0.44
VOCs and VOCs (summer)	0.4
<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	0.0034
Oil and grease	0.0015
Suspended solids	0.0052
Total PAHs	0.000005
Total phenolics	0.00011

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#### **[4] Schedule 8 Savings and transitional provisions**

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

### **Part Provision consequent on commencement of Protection of the Environment Operations Amendment (NSW Gas Plan) Regulation 2014**

#### **Commencement of licensing requirements for petroleum exploration, assessment and production**

Despite clause 47 of this Regulation, if, because of the amendment of Schedule 1 to the Act by the *Protection of the Environment Operations*

*Amendment (NSW Gas Plan) Regulation 2014*, 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.