



New South Wales

Electricity Supply (Corrosion Protection) Regulation 2020

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*.

MATTHEW KEAN, MP
Minister for Energy and Environment

Explanatory note

The object of this Regulation is to remake, with some changes, the provisions of the *Electricity Supply (Corrosion Protection) Regulation 2014*, which is to be repealed by section 10(2) of the *Subordinate Legislation Act 1989* on 1 September 2020.

This Regulation—

- (a) prohibits the operation of certain kinds of corrosion protection systems except in accordance with an approval granted under this Regulation, and
- (b) prescribes the procedure for the granting of 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 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 operators of corrosion protection systems to ensure that persons who work on corrosion protection systems are appropriately qualified, and
- (f) provides for the periodic review of the register of approved corrosion protection systems by the Secretary of the Department of Planning, Industry and Environment, and
- (g) provides for offences under this Regulation to be dealt with by way of penalty notice.

This Regulation is made under the *Electricity Supply Act 1995*, including section 191 (the general regulation-making power) and, in particular, section 191(1A)(a).

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Electricity Supply (Corrosion Protection) Regulation 2020

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Electricity Supply Act 1995

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Electricity Supply (Corrosion Protection) Regulation 2020*.

2 Commencement

This Regulation commences on 1 September 2020 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Electricity Supply (Corrosion Protection) Regulation 2014* which is repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation—

approval means an approval in force under Part 2.

foreign structure, in relation to a corrosion protection system, means a metallic structure other than the primary structure for that system, situated near 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.

the Act means the *Electricity Supply Act 1995*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(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 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 installed to protect a compact structure, if the maximum current flowing through the system does not exceed 250 milliamperes, or
- (b) a galvanic anode system that has been installed to protect another primary structure, if—

- (i) the maximum current flowing from a single anode bed does not exceed 250 milliamperes, and
 - (ii) the total current output from the system does not exceed 250 milliamperes for each 500 metres of the length of the structure along its greatest dimension, or
 - (c) a corrosion protection system installed to protect the internal surface of a water storage tank, reservoir or other similar structure for storing water if the structure isolates the system current from the external environment, or
 - (d) a corrosion protection system installed to protect marine vessels that are not permanently moored, or
 - (e) a corrosion protection system installed on a fixed offshore structure not connected with land above sea level, or
 - (f) a corrosion protection system installed in a fresh or sea water environment if the anode is permanently—
 - (i) fixed to the primary structure, and
 - (ii) submerged below the low water mark.
- (2) This Regulation applies to all other corrosion protection systems.
- (3) In this clause—
- compact structure** means a structure, including a storage tank, if the greatest 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) for a corporation—200 penalty units, or
 - (b) for an individual—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) 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 at the time and in the way 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 a declaration from the applicant—
- (a) specifying that there are no foreign structures near the system concerned, or
 - (b) specifying—
 - (i) as far as is reasonably practicable, all foreign structures that appear to be near the system concerned, and
 - (ii) that each owner of an identified foreign structure was given an opportunity to object to the operation of the system and did not object.
- (3) An application for an approval must also be accompanied by other documentation, if any, required by the approved form.

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 kept 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—

- (a) the corrosion protection system has permanently ceased to operate and the person has failed to notify the Secretary of that fact under clause 17, or
 - (b) the corrosion protection system is not being operated in accordance with clause 13, or
 - (c) the corrosion protection system has not been tested in accordance with clause 14, or
 - (d) a report required by clause 15 has not been submitted for the corrosion protection system, or
 - (e) a person has performed work on the corrosion protection system without holding a qualification referred to in clause 16 that is relevant to the work.
- (3) A show cause notice is a written notice served on a person requiring the 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 must specify a period of not less than 14 days after service of the notice as the period that the person has to make a submission.
- (5) The person may, within the period, make oral or written submissions to the Secretary, about the matters in the notice, including—
- (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 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 these 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 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 made 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 the cathodic protection standard relevant to the corrosion protection system within Australian Standard AS 2832, *Cathodic protection of metals*, the series of standards for the cathodic protection of metals.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—50 penalty units.

14 Testing of corrosion protection systems

- (1) A person who operates an approved corrosion protection system must ensure that an interference test is conducted—

- (a) by a tester with appropriate qualifications appointed by that person, and
- (b) 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
- (c) at least once every testing period.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—50 penalty units.

- (2) In this clause—

appropriate qualifications means qualifications required by Australian Standard AS 2832, *Cathodic protection of metals*.

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.

testing period means—

- (a) 7 years, or
- (b) if the Secretary approves a longer period in a particular case, the longer period.

15 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—

- (a) in accordance with the Secretary's written requirements, and
- (b) no later than 30 days after the end of each financial year.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—50 penalty units.

16 Qualifications of persons who work on corrosion protection systems

A person who operates an approved corrosion protection system must ensure that each person who performs work on the system—

- (a) holds an appropriate qualification—
 - (i) issued by the Australasian Corrosion Association Inc, and
 - (ii) relevant to the work, or

- (b) holds a qualification—
 - (i) approved by the Minister for the time being by order published on the NSW legislation website, and
 - (ii) relevant to the work.

Maximum penalty—

- (a) for a corporation—200 penalty units, or
- (b) for an individual—50 penalty units.

17 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 another person, or
 - (b) the system permanently ceases to operate.

Maximum penalty—25 penalty units.

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

Part 4 Miscellaneous

18 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.

19 Delegation

The Secretary may delegate to a 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.

20 Savings

- (1) Any act, matter or thing that, immediately before the repeal of the *Electricity Supply (Corrosion Protection) Regulation 2014*, 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 2014* immediately before the repeal of that Regulation is taken to have been approved under this Regulation.

Schedule 1 Penalty notice offences and penalties

For the purposes of section 187 of the Act—

- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable for the penalty notice is the amount specified opposite the provision.

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