

# Protection of the Environment Operations (General) Regulation 2009

[2009-211]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Sporting Venues Authorities Amendment \(Venues NSW\) Act 2020 No 29](#) (not commenced)
  - [Statute Law \(Miscellaneous Provisions\) Act 2020 No 30](#), Schs 1.36 and 4.78 (not commenced — Sch 1.36 to commence on 11.12.2020; Sch 4.78 to commence on 22.1.2021)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Protection of the Environment Operations (General) Regulation 2009



New South Wales

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# Protection of the Environment Operations (General) Regulation 2009



New South Wales

## Chapter 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (General) Regulation 2009*.

### 2 Commencement

- (1) Except as provided by subclause (2), this Regulation commences on 30 June 2009 and is required to be published on the NSW legislation website.
- (2) Schedule 9 commences on 1 June 2012.

#### Note—

This Regulation replaces the *Protection of the Environment Operations (General) Regulation 1998*, the *Protection of the Environment Operations (Penalty Notices) Regulation 2004* and the *Protection of the Environment Operations (Savings and Transitional) Regulation 1998*, which are repealed by clause 108.

### 3 Definitions

- (1) In this Regulation—

**Approved Methods Publication** means—

- (a) in relation to air pollutants—the document entitled *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales*, prepared by the EPA and published in the Gazette, as in force from time to time, or
- (b) in relation to water pollutants—the document entitled *Approved Methods for the Sampling and Analysis of Water Pollutants in New South Wales*, prepared by the EPA and published in the Gazette, as in force from time to time.

**Review Panel** means the Load-based Licensing Technical Review Panel constituted by Part 2 of Chapter 2.

**the Act** means the *Protection of the Environment Operations Act 1997*.

**VOC** or **volatile organic compound** means any chemical compound that—

- (a) is based on carbon chains or rings, and
- (b) contains hydrogen, and
- (c) has a vapour pressure greater than 2mm of mercury (0.27 kPa) at 25°C and 101.3 kPa,

and includes any such compound containing oxygen, nitrogen or other elements, but does not include methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonate salts.

**Note—**

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

- (2) Terms used in Schedule 1 to this Regulation that are defined in Schedule 1 to the Act have the same meanings as they have in Schedule 1 to the Act.
- (3) Notes included in this Regulation do not form part of this Regulation.

## Chapter 2 Environment protection licences

### Part 1 Licence fees

#### Division 1 Preliminary

##### 4 Definitions

In this Part and Schedule 1—

**actual load**, in relation to an assessable pollutant, means the actual load of the pollutant determined in accordance with clause 15(1) and (2).

**administrative fee**, in relation to a licence, means the administrative fee determined in accordance with Division 2, that is payable as part of the annual fee for the licence.

**administrative fee unit** means the administrative fee unit for a licence period determined in accordance with clause 9.

**agreed load**, in relation to an assessable pollutant means the load specified under a load reduction agreement as the maximum load that will be discharged during the final licence fee period for the licence that is covered by the agreement.

**air pollutant** means a pollutant specified as an air pollutant in a Table in Part 2 of Schedule 2.

**assessable pollutant** means an air pollutant or water pollutant specified in relation to an activity in Schedule 1.

**environmental management calculation protocol**—see clause 10A.

**licence fee period**—see clause 5.

**load**, in relation to an assessable pollutant, means the mass or quantity of the pollutant.

**load-based fee**, in relation to a licence, means the load-based fee, determined in accordance with Division 3, that is payable as part of the annual fee for the licence.

**load calculation protocol** means a protocol to be applied in the calculation of load-based fees, as in force under clause 21.

**load reduction agreement** means an agreement, entered into under Division 4, in which a licence holder agrees that the reported load of an assessable pollutant discharged in the course of carrying out an activity to which the licence applies will not exceed a specified load during the final licence fee period for the licence that is covered by the agreement.

**Step**, in relation to the calculation of a load-based fee, means a step set out in clause 16.

**summer period**, in relation to a licence fee period for a licence, means all the days during the licence fee period that occur during the months of December, January and February.

**Sydney basin area** means the local government areas of Ashfield, Auburn, Bankstown City, Blacktown City, Botany Bay City, Burwood, Camden, Campbelltown City, Canada Bay, Canterbury City, Fairfield City, Hawkesbury City, Holroyd City, Hornsby, Hunter's Hill, Hurstville City, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool City, Manly, Marrickville, Mosman, North Sydney, Parramatta City, Penrith City, Pittwater, Randwick City, Rockdale City, Ryde City, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Warringah, Waverley, Willoughby City and Woollahra.

**water pollutant** means a pollutant specified as a water pollutant in a Table in Part 2 of Schedule 2.

**weighted load**, of an assessable pollutant is the actual load of the pollutant, adjusted in accordance with an applicable load calculation protocol.

## 5 Licence fee period

- (1) Each period of 12 months (commencing from the issue of a licence) is a **licence fee period** for a licence.
- (2) However, a licence fee period comes to an end if the licence ceases to be in force (but not if the licence is suspended).

(3) A licence fee period is not affected by any transfer of the licence.

## **6 Changes in licence fee period**

- (1) The EPA may, by notice in writing given to the licence holder, change a licence fee period for a licence to provide common licence fee periods for different licences held by the same person or for other good cause. The notice has effect according to its tenor.
- (2) The EPA may change a licence fee period on the application of the licence holder or on its own initiative. The EPA may decline to deal with an application unless the licence holder pays the EPA such reasonable fee as the EPA determines for dealing with the application.
- (3) If a licence fee period is changed under this clause, the total of the licence fees for the licence in respect of all the periods affected by the change is, despite anything to the contrary in this Regulation, the same as it would have been if the change had not been made.
- (4) The EPA is, because of subclause (3), to make any refunds in respect of fees already paid or require payment of any additional amount of fees for relevant licence fee periods.
- (5) Any such additional amount is to be paid by the licence holder to the EPA not later than 60 days after notice is given of the change in licence fee periods under this clause.
- (6) The provisions of Division 5 relating to the payment of interest on unpaid fees applies to any such additional amount.

## **7 Annual licence fee**

- (1) For the purposes of section 57(1) of the Act, the annual licence fee payable by a licence holder is payable in respect of each licence fee period for the licence and comprises—
  - (a) the administrative fee for the licence, and
  - (b) the load-based fee (if any) for the licence.
- (2) Despite subclause (1)—
  - (a) an administrative fee is only payable as part of the annual licence fee in respect of the second and subsequent licence fee periods for a licence, and
  - (b) the annual fee for a supervisory licence referred to in section 87 of the Act comprises only the administrative fee for the licence.

**Note—**

The administrative fee comprised in an annual licence fee is payable within 120 days after the beginning of the licence fee period to which it relates. The load-based fee comprised in an annual licence fee is payable within 120 days after the end of the licence fee period to which it relates. (See Division 5.)

## **Division 2 Administrative fees**

### **8 Administrative fee must accompany application**

For the purposes of section 53(2)(c) of the Act, the fee that must accompany an application for the issue of a licence is the administrative fee for the licence.

### **9 Amount of administrative fee unit**

- (1) An administrative fee unit for a licence fee period that begins on a date in any of the following periods is the amount specified in respect of that period—
  - (a) before 1 July 2009—\$100,
  - (b) on or after 1 July 2009 and before 1 July 2010—\$105,
  - (c) on or after 1 July 2010 and before 1 July 2011—\$108,
  - (d) on or after 1 July 2011 and before 1 July 2012—\$110,
  - (e) on or after 1 July 2012 and before 1 July 2014—\$113,
  - (f) on or after 1 July 2014 and before 1 July 2015—\$119,
  - (g) on or after 1 July 2015 and before 1 July 2016—\$122,
  - (h) on or after 1 July 2016 and before 1 July 2017—\$125,
  - (i) on or after 1 July 2017 and before 1 July 2018—\$129,
  - (j) on or after 1 July 2018 and before 1 July 2019—\$133,
  - (k) on or after 1 July 2019 and before 1 July 2020—\$136,
  - (l) on or after 1 July 2020 and before 1 July 2021—\$139,
  - (m) on or after 1 July 2021 and before 1 July 2022—\$143,
  - (n) on or after 1 July 2022 and before 1 July 2023—\$146,
  - (o) on or after 1 July 2023—\$150.
- (2) For the purposes of calculating the administrative fee that must accompany an application for the issue of a licence, the period during which the licence fee period begins is taken to be the date on which the application is made.

## 10 Calculating amount of administrative fee

- (1) The steps to determine the administrative fee comprised in an annual licence fee are as follows—

### Step 1 (Calculation of administrative fee units)

Multiply the amount of one administrative fee unit for the relevant licence fee period by—

- (a) the number of administrative fee units specified in Schedule 1 for the activity authorised or controlled by the licence, or
- (b) if the licence authorises or controls more than one activity, the greatest number of administrative fee units specified in Schedule 1 for any one of those activities.

### Step 2 (Determination of environmental management category)

Determine the environmental management category for the licence holder in accordance with the environmental management calculation protocol.

### Step 3 (Calculation of administrative fee)

Multiply the amount calculated in accordance with step 1 by the environmental management factor specified in Column 2 of the Table to this clause for the applicable environmental management category specified in Column 1 of that Table.

- (2) Steps 2 and 3 do not apply for the purpose of—

- (a) calculating the administrative fee for a licence fee period that commences before 1 July 2016, or
- (b) calculating the administrative fee for a licence relating to an activity that is declared by clause 48 of Schedule 1 to the Act to be a scheduled activity, or
- (c) calculating the administrative fee that is to accompany an application for a licence relating to premises, if the applicant has not previously held a licence relating to those premises.

### Table

<b>Column 1</b>	<b>Column 2</b>
<b>Environmental management category</b>	<b>Environmental management factor</b>
A	0.95
B	1.0
C	1.3

D	1.6
E	2.0

#### **10A Environmental management calculation protocol**

- (1) For the purpose of this Division, the EPA is to issue (and may from time to time vary) a protocol to be applied in the determination of environmental management categories for licence holders (an **environmental management calculation protocol**) by notice published in the Gazette.
- (2) An environmental management calculation protocol is to provide for the determination of environmental management categories by reference to such matters relating to the licence holder's performance in managing environmental risks as may be specified in the protocol.
- (3) An environmental management calculation protocol takes effect from the date specified in the protocol and from that date any previous protocol ceases to have effect.
- (4) Any environmental management calculation protocol in force under this clause must be made available on the EPA's website.

#### **10B Determination of environmental management category—insufficient information provided**

- (1) If insufficient information is given to the EPA by a licence holder for the EPA to determine the correct environmental management category for the licence holder within 60 days after the beginning of the relevant licence fee period, the EPA may determine the environmental management category (and the resulting amount of the administrative fee) having regard to such information, if any, as is available to it.

**Note—**

A licence holder is required to report this information to the EPA in the annual return, required to be furnished as a condition of the licence, in relation to the licence holder's performance in managing environmental risks during a licence fee period.

- (2) The amount of the administrative fee so determined is taken to be the correct fee amount unless the contrary is established by the person who is liable to pay the fee in any proceedings for the recovery of the fee or other proceedings relating to the fee.

#### **10C Change in environmental management category—adjustment of administrative fee**

- (1) This clause applies if, at any time during a licence fee period, the EPA receives from the licence holder information that would have resulted in the determination of a different environmental management category for the licence holder had the information been received before the determination was made.

- (2) The EPA may redetermine the environmental management category for the licence holder on the basis of the information provided.
- (3) The administrative fee for the licence fee period is to be adjusted according to the redetermined environmental management category and the adjusted fee (and redetermined category) is to be notified to the licence holder in accordance with section 57(3) of the Act.
- (4) Any additional amount of any fee adjusted under this clause is to be paid by the licence holder to the EPA not later than 60 days after the environmental management category is redetermined.
- (5) The provisions of Division 5 relating to the payment of interest on unpaid administrative fees apply to any additional amount of any fee adjusted under this clause.

#### **11 Refunds if application refused or withdrawn**

- (1) The EPA may refund the payment of all or any part of an administrative fee that accompanies an application for the issue of a licence if the EPA refuses the application or the application is withdrawn.
- (2) The EPA may grant a refund on its own initiative or if a request is made by the applicant within 90 days after the applicant is notified of the refusal or the EPA is notified of the withdrawal, as the case may be.
- (3) The EPA is not to consider a request for a refund made after the time specified in subclause (2) unless the EPA is satisfied that there are exceptional circumstances that justify it doing so.
- (4) In considering whether to refund all or part of a fee, the EPA is to have regard to the administrative costs incurred by the EPA in connection with the application.

#### **12 Refunds and waivers—licence holders**

- (1) The EPA may do any one or more of the following if it considers that it is appropriate to do so—
  - (a) refund the payment of all or any part of an administrative fee comprised in an annual licence fee,
  - (b) refund the difference between the administrative fee paid and any lesser amount that would have been payable if the administrative fee had been calculated on the actual level of the activity during the licence fee period to which the fee relates,
  - (b1) refund the difference between the administrative fee paid and any lesser amount payable as a result of an adjustment under clause 10C,



- (c) on approval of an application under section 80 of the Act for surrender of a licence, waive the payment of all or any part of an administrative fee comprised in an annual licence fee for the licence concerned.
- (2) The EPA may grant a refund, or waive payment under subclause (1) on its own initiative or if requested by the licence holder within 90 days after the end of the licence fee period to which the fee relates.
- (3) The EPA is not to consider a request for a refund made after the time specified in subclause (2) unless the EPA is satisfied that there are exceptional circumstances that justify it doing so.
- (4) In considering whether to refund or waive all or part of an administrative fee, the EPA is to have regard to the administrative costs incurred by the EPA in connection with the licence.

### **Division 3 Load-based fees**

#### **13 Objects of load-based licensing scheme**

The objects of the load-based licensing scheme are as follows—

- (a) to provide incentives to reduce the load of pollutants emitted based on the polluter pays principle and to do so within an equitable framework,
- (b) to reduce pollution (in particular, assessable pollutants) in a cost effective and timely manner,
- (c) to give industry incentives for ongoing improvements in environmental performance and the adoption of cleaner technologies,
- (d) to provide incentives that are complementary to existing regulation and education programs for environment protection.

#### **14 Circumstances in which no load-based fee payable**

There is no load-based fee payable as part of the annual fee for a licence if Schedule 1 specifies, in relation to each activity controlled or authorised by the licence, that there is no load-based fee for the activity.

#### **15 Requirement to calculate and record actual load**

- (1) To calculate the actual load of an assessable pollutant, the licence holder must use one of the methods provided for the activity in a load calculation protocol.
- (2) If there is no such protocol, or if no method is provided for the activity, the licence holder must take the actual load for each assessable pollutant to be zero.
- (3) A licence holder must, for each assessable pollutant for each activity controlled or

authorised by the licence, calculate and record the actual load of the pollutant discharged as a result of the carrying out of the activity.

- (4) A licence holder must also calculate and record the actual load for nitrogen oxides and VOCs discharged in the Sydney basin area, during the summer period of each licence fee period, for each activity controlled or authorised by the licence, but only if the particular pollutant is an assessable pollutant in relation to the activity.
- (5) Subclauses (3) and (4) apply whether or not the pollutants referred to in those subclauses were discharged in accordance with the licence and whether or not the licence holder intends to use a weighted load or an agreed load for the purposes of calculating the load-based fee in respect of the licence.
- (6) The licence holder must carry out all necessary monitoring and other steps to enable the calculations of actual loads required by this clause to be made for each licence fee period and for each summer period (as the case may be).

## **16 Calculation of load-based fee**

- (1) The steps to determine any load-based fee comprised in an annual licence fee for a licence are as follows—

### **Step 1**

Refer to Schedule 1 to determine the classification or classifications of the activity authorised or controlled by the licence during the relevant licence fee period and the assessable pollutants specified in relation to each such classification.

### **Step 2**

Determine the assessable load of each assessable pollutant discharged during the relevant licence fee period.

### **Step 3**

Calculate the fee rate thresholds for each assessable pollutant discharged during the licence fee period.

### **Step 4**

Calculate the fee for each assessable pollutant discharged during the licence fee period.

### **Step 5**

Total the fees for each assessable pollutant.

### **Step 6**

If nitrogen oxides or VOCs—

- (i) are discharged in the Sydney basin area during the summer period of the

licence fee period, and

- (ii) are assessable pollutants for the classification or classifications of the activity concerned,

re-apply Steps 2-4 with respect to those pollutants and add the resulting amount to the amount calculated under Step 5.

**Note—**

Any discharge of nitrogen oxides or VOCs in the Sydney basin area during the summer period of the licence fee period is to be counted twice. First, as part of the discharge for the whole licence fee period and then in its own right.

**Step 7**

Subtract the amount of the administrative fee for the licence fee period (other than the amount of any increase in the administrative fee as a penalty for the late payment of the fee).

- (2) A load-based fee is taken to be zero, if the fee, when calculated in accordance with this Regulation, is less than zero.

**17 Determining the assessable load—Step 2 of load-based fee calculation**

- (1) For the purposes of calculating the load-based fee, the **assessable load** of each assessable pollutant is whichever of the following is the least—
  - (a) the actual load of the pollutant,
  - (b) the weighted load of the pollutant,
  - (c) if an agreed load under a load reduction agreement applies in respect of the pollutant, the agreed load of the pollutant.
- (2) If more than one classification in Schedule 1 applies to the activity, the assessable load of each assessable pollutant is the sum of the assessable loads of that assessable pollutant for each applicable classification.

**18 Fee rate thresholds—Step 3 of load-based fee calculation**

- (1) To calculate the fee rate threshold for each assessable pollutant discharged during a licence fee period for a licence, multiply the applicable threshold factor for the pollutant from Schedule 1 by the quantity of activity during the licence fee period (using the units of measure specified in relation to the activity in Schedule 1).

**Note—**

For example, if ceramic production produced 20,000 tonnes of bricks, to calculate the fee rate threshold for fluoride, it would be necessary to multiply 0.12 (the threshold factor shown for that activity in Schedule 1) by 20,000 (as the units of measure for ceramic production shown in Schedule 1 is tonnes) giving a result of 2,400 kilograms.

- (2) If the activity has more than one classification in Schedule 1, the fee rate threshold for each assessable pollutant is the sum of the fee rate thresholds for each of those classifications.

**19 Calculating the fee for each assessable pollutant—Step 4 of load-based fee calculation**

- (1) To calculate the fee for each assessable pollutant discharged during the licence fee period—

(a) use the formula set out in subclause (2) (**Formula 1**) if the assessable load is greater than the fee rate threshold, or

(b) in any other case use the formula set out in subclause (3) (**Formula 2**).

(2) **Formula 1**

$$\text{Fee} = \frac{(2AL - FRT) \times PFU \times PW \times CZ}{10,000}$$

(3) **Formula 2**

$$\text{Fee} = \frac{AL \times PFU \times PW \times CZ}{10,000}$$

- (4) In formulae 1 and 2—

**AL** is the assessable load of the assessable pollutant discharged, expressed in kilograms.

**CZ** is the pollutant critical zone weighting for the assessable pollutant determined in accordance with subclauses (5) and (6).

**FRT** is the fee rate threshold for the assessable pollutant, expressed in kilograms.

**PFU** is the pollutant fee unit amount for the licence fee period as specified in subclause (7).

**PW** is the pollutant weighting for the assessable pollutant determined in accordance with subclause (8).

- (5) The pollutant critical zone weightings are as follows—

(a) for a pollutant shown in Column 1 of a Table in Part 1 of Schedule 2 that is discharged into a zone shown in Column 2 of the Table opposite the pollutant—the weighting specified in Column 3 of the Table opposite the pollutant,

(b) in all other circumstances—1.

- (6) If a licence authorises or controls the discharge of a pollutant into more than one

critical zone, the critical zone weighting factor for the pollutant is the factor applicable to the zone into which the majority of the pollutant is discharged.

- (7) A pollutant fee unit for a licence fee period that begins on a date in any of the following periods is the amount specified in respect of that period—
- (a) before 1 July 2009—\$38.61,
  - (b) on or after 1 July 2009 and before 1 July 2010—\$39.58,
  - (c) on or after 1 July 2010 and before 1 July 2011—\$40.57,
  - (d) on or after 1 July 2011 and before 1 July 2012—\$41.58,
  - (e) on or after 1 July 2012 and before 1 July 2014—\$42.62,
  - (f) on or after 1 July 2014 and before 1 July 2015—\$44.78,
  - (g) on or after 1 July 2015 and before 1 July 2016—\$45.90,
  - (h) on or after 1 July 2016 and before 1 July 2017—\$47.05,
  - (i) on or after 1 July 2017 and before 1 July 2018—\$48.23,
  - (j) on or after 1 July 2018 and before 1 July 2019—\$49.44,
  - (k) on or after 1 July 2019 and before 1 July 2020—\$50.48,
  - (l) on or after 1 July 2020 and before 1 July 2021—\$51.54,
  - (m) on or after 1 July 2021 and before 1 July 2022—\$52.62,
  - (n) on or after 1 July 2022 and before 1 July 2023—\$53.73,
  - (o) on or after 1 July 2023—\$54.85.
- (8) The pollutant weightings for—
- (a) an air pollutant shown in a Column 1 of Table 1 in Part 2 of Schedule 2 is the weighting specified opposite the pollutant in Column 3 of the Table, or
  - (b) a water pollutant shown in a Column 1 of Table 2 in Part 2 of Schedule 2 is the weighting specified opposite the pollutant in—
    - (i) Column 3 if the pollutant is discharged into enclosed waters, or
    - (ii) Column 4 if the pollutant is discharged into estuarine waters, or
    - (iii) Column 5 if the pollutant is discharged into open coastal waters.
- (9) In this clause and Schedule 2—

**enclosed waters** means all waters other than open coastal waters or estuarine waters.

**estuarine waters** means waters (other than open coastal waters)—

- (a) that are ordinarily subject to tidal influence, and
- (b) that have a mean tidal range greater than 0.8 metres (being the average difference between the mean high water mark and the mean low water mark over the course of a year).

**open coastal waters** has the meaning given by Schedule 3.

## **20 Nitrogen oxides or VOCs discharged in Sydney basin area in summer—Step 6 of load-based fee calculation**

For the purpose of any calculation required to be carried out under Step 6 of the load-based fee calculation—

- (a) a reference to the quantity of activity during the licence fee period is to be read as a reference to the quantity of activity during the summer period of the licence fee period, and
- (b) a reference to an assessable pollutant discharged during a licence fee period is to be read as a reference to nitrogen oxides or VOCs discharged during the summer period of the licence fee period, and
- (c) the pollutant critical zone weightings for nitrogen oxides or VOCs discharged during that period is 28.

## **21 Load calculation protocol**

- (1) For the purpose of this Division, the EPA may from time to time issue or vary a protocol to be applied in the calculation of load-based fees (**load calculation protocol**) by notice published in the Gazette.
- (2) Without limiting the matters that may be dealt with in a load calculation protocol, a load calculation protocol may do any of the following—
  - (a) set out the means for calculating actual loads and weighted loads, including by the use of monitoring programs, emission factors and other methods,
  - (b) provide for load weighting measures, such as—
    - (i) ceasing or reducing discharges during particularly unfavourable conditions, and
    - (ii) reusing waste water (whether by the licence holder or another person),
  - (c) provide for a reduction in the actual load of a licence holder, for the purpose of the calculation of load-based fees—

- (i) where any assessable pollutants are transferred, without being discharged, from the licence holder's premises to another person's premises with the consent of the other person, or
  - (ii) where a licence holder receives onto the licence holder's premises naturally occurring loads of assessable pollutants,
- (d) provide for any reduction in the actual load of a licence holder, for the purpose of the calculation of a load-based fee, arising from the transfer of assessable pollutants to another person's premises to be subject to arrangements for the payment by that other person to the EPA of the amount of any reduction in the load-based fee payable by the licence holder as a result of the transfer,
- (e) provide for a reduction in the actual load of a licence holder, for the purpose of the calculation of a load-based fee, by permitting a notional reduction of the amount of an assessable pollutant discharged in a licence fee period by reference to a reduction in the discharge of that pollutant (elsewhere than at the premises where the activity is carried on) as a result of action taken by the licence holder in connection with that activity.

**Note—**

An example of such a reduction may relate to the emission of VOCs by a petroleum refinery. In addition to action to reduce those emissions from the refinery, action can be taken to produce fuel that will emit less VOCs when in use off the premises of the refinery and this could be taken into account for the purposes of the reduction.

- (3) A load calculation protocol takes effect in relation to an activity from the date specified in the protocol and from that date any previous protocol in relation to the activity ceases to have effect.
- (4) A copy of any load calculation protocol in force under this clause must be available for inspection and purchase by members of the public at the principal office of the EPA. The purchase price may be any reasonable amount that the EPA determines.

**22 Determination of load-based fee—insufficient information provided**

- (1) If insufficient information is given to the EPA by a licence holder for the EPA to be able to confirm the correct amount of a load-based fee within 60 days after the end of the relevant licence fee period, the EPA may determine the amount of the load-based fee having regard to such information, if any, as is available to it.

**Note—**

A licence holder is required to report this information to the EPA in the annual return, required to be furnished as a condition of the licence, in relation to the discharge of assessable pollutants during a licence fee period.

- (2) The amount so determined is taken to be the correct fee amount unless the contrary is established by the person who is liable to pay the fee in any proceedings for the

recovery of the fee or other proceedings relating to the fee.

### **23 Aggregation of licences—“bubble licence arrangements”**

- (1) This clause applies to a scheme involving economic measures of the kind referred to in this clause that is developed and implemented by the EPA under Part 9.3 of the Act.
- (2) The EPA may, under a scheme to which this clause applies, approve of load-based fees payable for 2 or more licences (whether or not held by the same person) being calculated by aggregating the assessable pollutants discharged in the licence fee periods concerned.
- (3) The EPA may terminate any such scheme at any time, whether because of a failure by the licence holders to pay the load-based fees or otherwise. If it does so, the load-based fees for the relevant licence fee periods are to be re-calculated and become payable for those periods as if the scheme had not been established.
- (4) This clause has effect subject to the terms of the scheme.
- (5) This clause does not limit any other scheme that may be developed and implemented under Part 9.3 of the Act.

### **24 Refunds—errors in calculations**

- (1) If a person, in payment of a load-based fee, pays an amount that is greater than the load-based fee because of an error in calculation of an assessable load, the person is entitled to a refund of the amount overpaid.
- (2) The EPA may grant a refund on the application of the person who paid the fee or on its own initiative.

## **Division 4 Load reduction agreements and fee reductions**

### **25 Definitions**

In this Division—

**annual return**, in relation to a licence fee period, means the annual return that is required to be furnished to the EPA, under the licence concerned, in relation to that period.

**reported load** means—

- (a) the actual load of an assessable pollutant discharged during a licence fee period that is reported to the EPA by the licence holder in the annual return relating to that period,  
or
- (b) if a weighted load of the assessable pollutant is reported to the EPA by the licence holder in the annual return—the weighted load.



## **26 Effect and term of load reduction agreement**

- (1) The effect of a load reduction agreement is that the agreed load under the agreement may be treated (subject to this Division) as the assessable load of the pollutant to which the agreement applies for the purposes of calculating load-based fees for each of the licence fee periods covered by the agreement.
- (2) The maximum term of a load reduction agreement is 4 years.

## **27 Applications for load reduction agreements**

- (1) A licence holder or applicant for a licence may apply for a load reduction agreement with the EPA in a form approved by the EPA.
- (2) The EPA may enter into or decline to enter into a load reduction agreement.
- (3) Without limiting the circumstances in which the EPA may decline to enter into a load reduction agreement, it may do so if—
  - (a) the agreement is unlikely to produce a load-based fee reduction of at least \$2,000 over the term of the agreement, or
  - (b) the licence holder or applicant proposes to reduce the discharge under the licence by the end of the agreement only because the licence holder or applicant proposes to close or reduce the scale of operations being conducted at that time.

## **28 Content of load reduction agreements**

- (1) A load reduction agreement must—
  - (a) specify the agreed load of an assessable pollutant for the purposes of calculating the load-based fee for each licence fee period covered by the agreement, and
  - (b) specify the program proposed to be undertaken in order to attain the agreed load, and
  - (c) set out the circumstances in which amounts are to be paid to the EPA on termination or expiry of the agreement, and
  - (d) include conditions requiring—
    - (i) the licence holder to provide the EPA, with each annual return required under the licence, a report on progress towards attainment of the agreed load during the period to which the annual return relates, and
    - (ii) the licence holder to notify the EPA if the licence holder becomes aware that it is likely that the licence holder will not be able to attain the agreed load.
- (2) A load reduction agreement may also include a condition requiring the licence holder to supply a financial assurance to the EPA to secure obligations in the event of

termination or expiration of the agreement.

(3) Any such condition must provide for the following matters—

- (a) the circumstances in which the EPA may make a claim on or realise the financial assurance or part of it,
- (b) that the calling on and use of a financial assurance does not affect any liability of the licence holder,
- (c) the effect of failure to provide a financial assurance.

(4) A financial assurance may be in one or more of the following forms—

- (a) a bank guarantee,
- (b) a bond,
- (c) any other form of security that the EPA considers appropriate and specifies in the load reduction agreement.

### **29 Amendment of load reduction agreement**

The provisions of a load reduction agreement may be amended only with the consent of both the EPA and the person who has entered into the agreement (or, in the case of a licence that is transferred, the transferee).

### **30 Agreement of no effect without condition in licence**

A load reduction agreement has no effect unless the licence holder's licence is subject to a condition that, on termination or expiration of the agreement, the reported load of an assessable pollutant, to which the agreement applies, that may be emitted during licence fee periods subsequent to the final licence fee period covered by the agreement is not to exceed—

- (a) the agreed load under the agreement if the reported load for the pollutant for the licence fee period immediately preceding the termination or expiration did not exceed the agreed load, or
- (b) an amount determined by the EPA, after consultation with the licence holder, that is higher than the agreed load if the reported load for that period exceeded the agreed load.

### **31 Termination of agreement**

- (1) Before the end of the term of a load reduction agreement, the licence holder may terminate the agreement in accordance with the agreement.
- (2) If a licence is surrendered by the licence holder or suspended or revoked, the licence holder is taken to have terminated any load reduction agreement relating to licence

fees for the licence.

- (3) If, prior to the expiration of a load-based agreement, the licence holder has closed its operations or has otherwise ceased to operate, the licence holder is taken to have terminated the agreement.
- (4) The EPA may terminate a load reduction agreement if—
  - (a) the EPA is of the opinion that the licence holder is unlikely to attain the agreed load before the end of the agreement, or that the licence holder is unlikely to meet the costs of repayment on termination or expiration of the agreement, or both, or
  - (b) the licence holder fails to comply with a condition of the agreement.

### **32 Amounts payable on termination or expiration**

- (1) A licence holder who is party to a load reduction agreement that expires or is terminated—
  - (a) is not liable to pay an amount on expiry or termination in respect of an assessable pollutant if the reported load for the immediately preceding licence fee period did not exceed the agreed load for the pollutant under the agreement, or
  - (b) must pay to the EPA the amounts calculated in accordance with this clause if the reported load for the immediately preceding licence fee period exceeded the agreed load for the pollutant under the agreement.
- (2) The amounts payable on termination or expiration are as follows—
  - (a) for any licence fee period during the agreement in which the reported load exceeded the agreed load, the difference between the fee that would have been payable for that period if the load had been equal to the agreed load under the agreement and the fee that would have been payable for that period but for the agreement,
  - (b) for any licence fee period during the agreement in which the reported load for the pollutant did not exceed the agreed load, no amount is payable,
  - (c) the amount of simple interest on an amount payable under this subclause calculated at the rate of 20 per cent per annum from the date that is 60 days after the end of each licence fee period concerned.
- (3) Subclause (1) does not apply with respect to a load reduction agreement entered into before the commencement of this Regulation.

**Note—**

In relation to load reduction agreements entered into before the commencement of this Regulation, see clause 7 of Schedule 8.

### **33 When amounts must be paid**

- (1) An amount payable on termination or expiration of a load reduction agreement must be paid not later than 60 days after a notice requiring payment of the amount is given to the licence holder by the EPA.
- (2) If an amount is not paid (or not fully paid) by the due date for its payment, the amount is to be increased by the amount of simple interest calculated at the rate of 5 per cent per fortnight on the amount unpaid for each whole fortnight that elapses after the due date and before the date of payment.

### **34 Payment by instalments**

- (1) A person by whom an amount is payable on termination or expiration of a load reduction agreement may apply to the EPA for approval to pay the amount by instalments.
- (2) If the EPA grants approval, the amount is to be paid in such amounts and on such dates as the EPA specifies in the approval.
- (3) If an instalment is not paid (or not fully paid) by the due date for its payment, an amount of simple interest (calculated at the rate of 5 per cent per fortnight on the amount of the instalment unpaid for each whole fortnight that elapses after the due date and before the date of payment) is to be paid in addition to the instalment.

### **35 Effect of transfer of licences on load reduction agreements**

- (1) If a person who has entered into a load reduction agreement transfers the relevant licence, the transferee is, for the purposes of the agreement and this Regulation, taken to be a person who has entered into the agreement with the EPA.
- (2) A transferee may elect, on the transfer of the licence, to terminate the load reduction agreement and this Division applies to that termination.

## **Division 5 Time for payment and penalties for late payment**

### **36 Administrative fee**

- (1) The administrative fee for any licence fee period of a licence must be paid not later than 120 days after the beginning of that licence fee period.
- (2) If an administrative fee is not paid (or not fully paid) by the due date for its payment, the administrative fee is to be increased by the amount of simple interest calculated at the rate of 5 per cent per fortnight on the amount of the fee unpaid for each whole fortnight that elapses after the due date and before the date of payment.
- (3) The amount of any such increase is prescribed as a penalty for the purposes of section 57(4) of the Act.

- (4) This clause does not apply to an administrative fee that is required to accompany an application for the issue of a licence.

### **37 Load-based fee**

- (1) The load-based fee for any licence fee period must be paid within 120 days after the end of that period.
- (2) If a load-based fee is not paid (or not fully paid) by the due date for its payment, the load-based fee payable is increased by the amount of simple interest calculated at the rate of 5 per cent per fortnight on the amount of the fee unpaid for each whole fortnight that elapses after the due date and before the date of payment.
- (3) Any such increased amount is prescribed as a penalty for the purposes of section 57(4) of the Act.

### **38 Refunds and waivers—penalties for late payment**

- (1) The EPA may refund, or waive the payment of, all or any part of the amount of any increase of a fee payable under this Division if—
  - (a) in the case of an increase in the amount of a load-based fee, the EPA is satisfied that the licence holder was unable to calculate and pay the fee by the due date because of circumstances beyond the control of the licence holder, or
  - (b) in any case, the EPA considers that it is appropriate to do so.
- (2) Subclause (1)(a) does not excuse the licence holder from calculating and paying the load-based fee in respect of some of the pollutants concerned in so far as that calculation is not beyond the control of the licence holder.
- (3) In considering whether to refund the payment of, or waive, all or any part of the amount of any increase of a fee, the EPA is to have regard to the administrative costs incurred by the EPA in connection with the licence.

## **Division 6 Change in activity classification or scale**

### **39 Application of Division**

This Division applies if an activity changes to an activity of a different classification or scale under Schedule 1 during the licence fee period.

**Note—**

This clause does not confer authority on a licence holder to alter the classification or scale of an activity.

### **40 Adjustment of administrative fee**

- (1) The administrative fee for the licence is to be adjusted proportionately according to the parts of the licence fee period occurring before and after the change in the

classification or scale of the activity.

- (2) No adjustment is to be made unless the resultant administrative fee is greater than or less than the unadjusted fee by at least the amount of 2 administrative fee units.
- (3) Any additional amount of any fee already paid or due for payment is to be paid by the licence holder to the EPA not later than 60 days after the change in classification or scale occurs.
- (4) Any reduction in the amount that is in excess of the amount of at least 2 administrative fee units is to be offset against any amount owed by the licence holder to the EPA or otherwise refunded to the licence holder by the EPA.
- (5) The provisions of Division 5 relating to the payment of interest on unpaid administrative fees apply to any additional amount of the fee under this clause.

#### **41 Adjustment of load-based fee**

The load-based fee for the licence comprises the sum of the load-based fee calculated for the part of the licence fee period occurring before the change in the classification or scale of the activity and the load-based fee calculated for the part of the licence fee period occurring after the change.

## **Part 2 Load-based Licensing Technical Review Panel**

#### **42 Constitution**

There is constituted by this Regulation a body corporate to be called the Load-based Licensing Technical Review Panel.

#### **43 Members**

- (1) The Review Panel is to have 7 members appointed by the Minister.
- (2) Of the members—
  - (a) 2 are to be members of staff of the EPA or the Office of Environment and Heritage nominated by the Chairperson, and
  - (b) 5 are to be persons having appropriate scientific or technical qualifications or experience—
    - (i) 2 of whom are to be representatives of industry, and
    - (ii) one of whom is to be a representative of environment groups, and
    - (iii) one of whom is to be a representative of local government, and
    - (iv) one of whom is to be nominated by, and be a representative of, the Chairperson (being a person who is not a member of staff of the EPA or the

Office of Environment and Heritage or a representative of industry, environment groups or local government).

#### **44 Functions**

- (1) The Review Panel is to advise the EPA about the current or desirable contents of such load calculation protocols as the EPA may refer to the Review Panel.
- (2) The Review Panel may also advise the EPA on such other matters in connection with licences as the EPA may refer to the Review Panel.
- (3) For the purpose of providing any such advice, the Review Panel may seek, receive and consider submissions from interested persons and may gather relevant information from any source.
- (4) In this clause—

***load calculation protocol*** has the same meaning as in Part 1.

#### **45 Membership and procedure**

Schedule 4 contains provisions relating to the membership and procedure of the Review Panel.

### **Part 3 Miscellaneous licensing provisions**

#### **46 Scheduled development work**

Pursuant to section 47(3) of the Act, the following is specified as scheduled development work for the purposes of the Act—

Work at any premises at which scheduled activities of a class listed in Schedule 1 to the Act are carried on that is designed to enable scheduled activities of a different class listed in that Schedule not authorised by a licence to be carried on at the premises.

#### **47 Commencement of licensing for existing activities**

For the purposes of section 52(1)(a) of the Act, the prescribed period is 9 months.

#### **47A (Repealed)**

#### **48 Exclusion of Part 5 of EPA Act**

Part 5 of the *Environmental Planning and Assessment Act 1979* does not apply to the issue of an environment protection licence referred to in section 52(1) of the *Protection of the Environment Operations Act 1997* so long as the licence authorises only the same or substantially the same work or activity, and level of work or activity, as was being carried out immediately before the application for the issue of the licence was made.

#### **49 Statement of reasons for grant or refusal of licence**

- (1) A statement provided by a regulatory authority, under section 61 or 80 of the Act, of the reasons for the grant or refusal of a licence application must set out the following matters (in addition to any other matters the authority considers appropriate)—
  - (a) the significant environmental or other issues that the authority took into account in making its decision on the licence application,
  - (b) any significant environmental outcomes, standards or requirements (if relevant) that the authority considered applicable to the activity the subject of the application and that the authority took into account in making its decision on the application.
- (2) A statement of reasons may set out any of the above matters by reference to information set out in a document that is available to the person requesting the statement of reasons or that is otherwise publicly available.

#### **50 Fee for transfer of licence**

For the purposes of section 54(2)(c) of the Act, the fee that must accompany an application for the transfer of a licence is 2 administrative fee units.

#### **51 Refusal of certain licence applications**

- (1) An application for the issue, transfer or variation of a licence, or for approval of the surrender of a licence, may be refused by the appropriate regulatory authority—
  - (a) if any fee or other amount due and payable under the Act or this Regulation in relation to the application or licence is unpaid, or
  - (b) if the applicant has previously defaulted in the payment of any such fee or other amount in respect of that or any other licence and the default continues.
- (2) This clause does not limit any other grounds on which an application may be refused.

#### **51A Fit and proper persons**

For the purposes of section 83(2)(o) of the Act, the appropriate regulatory authority may take into account whether the person has, within the previous 3 years, failed to pay any fee or other amount payable under the environment protection legislation or has paid any such fee or amount late.

#### **52 Other relevant legislation**

Pursuant to section 83(5) of the Act, the following repealed Acts, provisions of Acts and Regulations are declared to be **other relevant legislation** for the purposes of section 83—



- (a) *Clean Air Act 1961*,
- (b) *Clean Waters Act 1970*,
- (c) *Environmental Offences and Penalties Act 1989*,
- (d) *Noise Control Act 1975*,
- (e) *Pesticides Act 1978*,
- (f) *Pollution Control Act 1970*,
- (g) *Waste Minimisation and Management Act 1995*,
- (h) the provisions of the *Ozone Protection Act 1989* omitted by Schedule 4.14 to the Act,
- (i) regulations made under the above Acts or provisions.

### **53 Application of payments**

If a person who makes a payment under this Chapter to the EPA does not identify the nature or purpose of the payment, the EPA may apply the payment towards any liability of the person under this Chapter in such manner as it thinks fit.

### **54 Preservation of records**

- (1) A licence holder must retain all records used by the licence holder to calculate the amount of a licence fee under Part 1 for a period of not less than 4 years from the date on which the fee was paid or payable, whichever is the later.

Maximum penalty—

- (a) in the case of a corporation—200 penalty units, or
  - (b) in the case of an individual—200 penalty units.
- (2) A licence holder is liable to a penalty under subclause (1) in addition to the licence fee.

## **Chapter 3 Water pollution**

### **Part 1 Exemptions**

#### **55 Pollutants discharged from Victorian premises into Murray**

- (1) Section 120 of the Act does not apply to a person who, from premises in Victoria, pollutes or causes or permits the pollution of the waters of the Murray River.
- (2) Subclause (1) applies only in relation to conduct that is authorised by a licence in force under the *Environment Protection Act 1970* of Victoria.

- (3) The EPA may, by order in writing served on any such person, declare that the exemption under this clause no longer applies to the person in respect of pollution from those premises.
- (4) While such an order is in force, the exemption under this clause no longer applies to the person in respect of pollution from those premises.

#### **56 Pollutants discharged into sewer**

- (1) Section 120 of the Act does not apply to the discharge of pollutants into a sewer.
- (2) The exemption under this clause does not apply—
  - (a) in the case of a sewer that is within the area of operations of a sewage authority, unless the discharge of the pollutants into the sewer has the approval of that authority, or
  - (b) in any other case, unless the discharge of the pollutants into the sewer has the lawful approval of the person having the ownership or control of the sewer.
- (3) In this clause, **sewage authority** means—
  - (a) the Sydney Water Corporation or the Hunter Water Corporation, or
  - (b) a water supply authority constituted under the [Water Management Act 2000](#), being an authority exercising sewerage functions under that Act, or
  - (c) a council or county council exercising sewerage functions under Division 2 of Part 3 of Chapter 6 of the [Local Government Act 1993](#).

#### **57 Sewage discharged from vessels**

- (1) Section 120 of the Act does not apply to the discharge of treated sewage from a certified on-board sewage treatment system installed on a vessel if—
  - (a) the system is installed and maintained in accordance with Part 7 of the [Marine Pollution Regulation 2006](#), and
  - (b) the discharge occurs in navigable waters other than waters referred to in clause 27(1) of that Regulation, and
  - (c) at the time of the discharge, the vessel is being operated in accordance with any plan of management approved for the vessel under clause 30 of that Regulation.
- (2) In this clause, **certified on-board sewage treatment system**, **navigable waters** and **treated sewage** have the same meanings as in Part 7 of the [Marine Pollution Regulation 2006](#).

### **58 Operation of engines propelling vessels**

- (1) Section 120 of the Act does not apply to the operation of an engine propelling a vessel.
- (2) The exemption under this clause does not apply—
  - (a) if the engine is operated to dredge sediments, or
  - (b) if the engine has been modified to discharge bilge water as it operates, or
  - (c) if the engine has not been properly maintained so as to minimise pollution.

### **59 Cold water releases**

Section 120 of the Act does not apply to the release of water that is more than 2 degrees Celsius colder than the water into which it is discharged if the water is released—

- (a) from a water supply work pursuant to an approval under the [Water Management Act 2000](#) that contains one or more conditions relating to the work of a type specified in section 100(3) of that Act, or
- (b) from Jindabyne Dam or Tantangara Dam and the release is in accordance with all conditions of the Snowy water licence (within the meaning of the [Snowy Hydro Corporatisation Act 1997](#)) that relate to cold water releases.

## **Part 2 Other**

### **60 Methodology for testing for matter in waters**

- (1) This clause applies if a person is required by or under the environment protection legislation, or a licence or notice under that legislation, to test for the presence or concentration of matter in any waters.
- (2) The test methodology is to be—
  - (a) the methodology specified in the requirement for testing, or
  - (b) if no such methodology is specified, the methodology prescribed in the Approved Methods Publication in relation to that matter.
- (3) The procedural details of the test methodology may be varied by the person conducting the test so long as the person can establish that the variation is not such as can affect the results of the test.
- (4) This clause does not apply to a person who is acting in the administration or execution of the environment protection legislation.

## 61 Emergency prohibition or regulation—safety of drinking water

- (1) The purpose of this clause is to enable the EPA to prohibit or regulate aquatic activities that threaten the safety of drinking water that is part of a public water supply if urgent action is required and other regulatory authorities are not authorised, or have not acted, to protect the safety of that drinking water.
- (2) For that purpose, the EPA may, by order published in the Gazette, prohibit or regulate specified aquatic activities in a specified area of water.
- (3) An order under this clause has effect for the period (not exceeding 3 months) specified in the order, unless the order is sooner revoked by a further order of the EPA published in the Gazette.
- (4) The EPA is to take such measures as it considers appropriate to bring a notice under this clause to the attention of the public, including by means of notices erected near the area of water concerned.
- (5) A person who contravenes an order under this section is guilty of an offence.  
Maximum penalty—5 penalty units.
- (6) In this section, **aquatic activities** include swimming, bathing, boating, water skiing or fishing.

## Chapter 4 National Pollutant Inventory

### Part 1 Preliminary

#### 62 Object of Chapter

The object of this Chapter is to give effect to, and enforce compliance with, the *National Environment Protection (National Pollutant Inventory) Measure (NPIM)* made under Division 2 of Part 3 of the *National Environment Protection Council Act 1994* of the Commonwealth, as in force on 13 November 2008.

#### 63 Definitions

- (1) In this Chapter—

**NPIM**—see clause 62.

**occupier** means an occupier, within the meaning of the NPIM, to whom this Chapter applies.

**reporting threshold** for a substance means the reporting threshold for the substance specified in the NPIM.

- (2) Terms used in this Chapter that are defined in the NPIM have the same meanings as

they have in the NPIM (except as otherwise provided in this Chapter).

#### **64 Occupiers to whom Chapter applies**

This Chapter applies to an occupier of a reporting facility if the ANZSIC code for one or more activities undertaken at the facility—

- (a) has been agreed between the participating jurisdictions referred to in the NPIM, and
- (b) has been included by the Commonwealth on a published list.

## **Part 2 Reporting and record keeping requirements**

#### **65 Collection of data from reporting facilities**

(1) Subject to Part 4, the occupier of each reporting facility is to provide the EPA with the following information if a reporting threshold for a substance is exceeded in a reporting period—

- (a) supporting data for the facility,
- (b) substance identity information and emission data, estimated in accordance with Part 3, for each substance for which the reporting threshold is exceeded in the period,
- (c) the type and mass of fuel or waste burned in the reporting period,
- (d) any other information that may be required to assess the integrity of the emission data,
- (e) substance identity information and mandatory transfer data for each substance for which a category 1, category 1b or category 3 reporting threshold is exceeded in the period,
- (f) any information that may be required to assess the integrity of the mandatory transfer data,
- (g) a statement, signed by the occupier or a person authorised by the occupier for that purpose, that the occupier has exercised due diligence in gathering and providing the information referred to in paragraphs (a)-(f).

(2) An occupier must provide the information referred to in subclause (1) to the EPA within 3 months after the end of the reporting period to which the information relates.

Maximum penalty (subclause (2))—

- (a) in the case of a corporation—40 penalty units, or
- (b) in the case of an individual—20 penalty units.

## **66 Occupier must keep data for period of 4 years**

- (1) The occupier of a reporting facility must keep the data used in deciding if the reporting threshold for a substance is exceeded in the reporting period for the occupier's facility for 4 years after the reporting period ends.
- (2) The occupier must keep the data used in calculating emission or transfer data given to the EPA for 4 years after the emission or transfer data is required to be given.

Maximum penalty—

- (a) in the case of a corporation—40 penalty units, or
- (b) in the case of an individual—20 penalty units.

## **Part 3 Estimation techniques**

### **67 Emission and transfer estimation techniques**

In estimating emission data and mandatory transfer data for the purposes of reporting information required under Part 2, each occupier of a reporting facility must use one of the following estimation techniques—

- (a) the estimation technique set out in any industry reporting materials applying to the facility,
- (b) any of the methods provided in the load calculation protocol (within the meaning of Part 1 of Chapter 2) for the relevant activity,
- (c) another estimation technique approved by the EPA for the facility under this Part.

### **68 Application for approval of estimation technique**

- (1) The occupier of a reporting facility may apply to the EPA for approval of an estimation technique for emission or mandatory transfer data.
- (2) The application must be in writing, setting out the technique for which approval is sought and giving the information necessary to enable the EPA to determine the application.
- (3) The EPA may, by written notice given to the occupier, ask the occupier to give to the EPA, in the reasonable period specified in the notice, further relevant information to enable the EPA to determine the application.
- (4) Without limiting the circumstances in which the EPA may refuse to approve the technique, the EPA may do so if the EPA has given the occupier a notice under subclause (3) and the occupier does not comply with the request in the period specified in the notice.

## **69 Determination of application**

- (1) The EPA may determine an application by approving the estimation technique (subject to such modifications as the EPA considers appropriate) or refuse to approve the technique.
- (2) In deciding whether to approve the technique the EPA must have regard to the accuracy of the technique compared with the accuracy of estimation techniques in the relevant industry reporting materials for the reporting facility concerned.
- (3) On making a determination under this clause, the EPA must give the occupier written notice of the determination.
- (4) If the EPA approves the technique subject to any modification, or refuses to approve the technique, the notice must specify the reasons for any such modification or refusal.
- (5) The EPA is taken to have refused to approve the technique if the EPA has not given the occupier written notice of the decision—
  - (a) except as provided by paragraph (b), within 60 days after the application has been made, or
  - (b) in a case where the occupier has given the EPA further information in response to a written notice from the EPA—within 60 days after the EPA has received the further information.

## **Part 4 Exemptions from reporting requirements**

### **70 National security**

- (1) This clause applies if the occupier of a reporting facility gives the EPA written evidence that—
  - (a) the occupier has made a claim to the Commonwealth under the NPIM that information required to be given by the occupier to the EPA under Part 2 should be treated as confidential on the grounds of national security, and
  - (b) the claim—
    - (i) has been granted, or
    - (ii) has not been assessed within the period by which the occupier is required to provide the information to the EPA under that Part.
- (2) Subject to subclause (3), the occupier is exempted from giving the information to the EPA.
- (3) If the exemption is given by reason of a claim referred to in subclause (1)(b)(ii) and

the Commonwealth refuses the claim after the period within which the occupier is required to provide the information to the EPA, the occupier must provide the information to the EPA within 60 days after receiving notice of the Commonwealth's decision to refuse the claim.

## **71 Commercial confidentiality**

- (1) The occupier of a reporting facility may, by written notice given to the EPA, claim information required to be provided by the occupier under Part 2 should be treated as confidential on the grounds of commercial confidentiality.
- (2) The notice must contain the information necessary to enable the EPA to determine the claim.
- (3) The EPA may, by written notice given to the occupier, ask the occupier to give to the EPA, within a reasonable period specified in the notice, further relevant information to enable the EPA to determine the claim.
- (4) The EPA may grant the claim only if the EPA reasonably believes that a document contains information for which there is an overriding public interest against disclosure under the *Government Information (Public Access) Act 2009* because of the public interest considerations in clause 4 of the Table to section 14 of that Act.
- (5) If the EPA grants the claim, the occupier is exempted from giving the information to the EPA.
- (6) The EPA may refuse the claim if the EPA has given the occupier a notice under subclause (3) asking for further information and the occupier does not comply with the request in the period specified in the notice. This subclause does not limit the grounds on which the EPA may refuse the claim.
- (7) The EPA must give the occupier written notice of the EPA's determination of the claim.
- (8) If the EPA refuses the claim, the notice must specify the reasons for the refusal.
- (9) The EPA is taken to have refused the claim if the EPA has not given the occupier written notice of the decision—
  - (a) except as provided by paragraph (b), within 60 days after the notice under subclause (1) has been received by the EPA, or
  - (b) in a case where the occupier has given the EPA further information in response to a request under subclause (3)—within 60 days after the EPA has received the further information.



## Chapter 5 Vehicle testing and inspection

### 72 Definitions

In this Chapter—

**approved inspection station** means premises that are approved under this Chapter to be used for the purpose of carrying out tests or inspections.

**approved mechanic** means an individual who is approved under this Chapter to carry out tests or inspections.

**motor vehicle** has the same meaning as in the [Road Transport Act 2013](#).

**proprietor**, in relation to premises, means a person who—

- (a) carries on or proposes to carry on a business at the premises, or
- (b) is the occupier of the premises.

**tests or inspections** means tests or inspections of motor vehicles required to be carried out in accordance with a notice given for the purposes of section 207(2)(c) of the Act.

**vehicle inspection report** means a vehicle inspection report referred to in clause 76.

### 73 Approved mechanics

- (1) An individual may apply to the EPA for an approval to carry out tests or inspections.
- (2) The application must—
  - (a) be made in the manner and form approved by the EPA, and
  - (b) be supported by any information required by the EPA.
- (3) In order to determine the suitability of an applicant, the EPA may require the applicant to furnish to the EPA, within a specified time, any further particulars that the EPA considers necessary.
- (4) The EPA is to determine an application under this clause by granting or refusing to grant the application.
- (5) The EPA may refuse to grant the application if, in its opinion, the individual is not a fit and proper person to carry out tests or inspections. This subclause does not limit the grounds on which the EPA may refuse to grant the application.
- (6) The EPA must give notice in writing of the determination of the application to the applicant, including, if the application is granted, notice of the date from which the approval takes effect and any conditions to which the approval is subject.

- (7) An approval under this clause—
- (a) applies to tests or inspections generally or to tests or inspections of the class or classes of motor vehicles specified in the approval, and
  - (b) remains in force until it is surrendered, suspended or revoked, and
  - (c) is to be given in the manner and in the form approved by the EPA, and
  - (d) may be given unconditionally or subject to such conditions as the EPA considers appropriate.
- (8) A person must not hold himself or herself out as a person authorised to carry out tests or inspections, or issue a vehicle inspection report in relation to any such test or inspection, unless the person is an approved mechanic.

Maximum penalty—

- (a) in the case of a corporation—200 penalty units, or
- (b) in the case of an individual—100 penalty units.

#### **74 Approved inspection stations**

- (1) A proprietor of premises may apply to the EPA for an approval of the premises to be used for the purpose of carrying out tests or inspections.
- (2) An application under this clause must—
- (a) be made in the manner and form approved by the EPA, and
  - (b) be supported by any information required by the EPA.
- (3) In order to determine the suitability of an applicant and premises for an approval under this clause, the EPA may require the applicant to furnish to the EPA, within a specified time, any further particulars that the EPA considers necessary.
- (4) The EPA is to determine an application under this clause by granting or refusing to grant the application.
- (5) The EPA may refuse to grant the application—
- (a) if, in its opinion, the premises the subject of the application or the equipment on the premises are not suitable for the purpose of carrying out tests or inspections, or
  - (b) if, in its opinion, the applicant is not a fit and proper person to carry out the responsibilities associated with using the premises for that purpose, or
  - (c) for any other reason the EPA considers appropriate.

- (6) The EPA must give notice in writing of the determination of the application for an approval under this clause to the applicant, including, if the application is granted, notice of the date from which the approval takes effect and any conditions to which the approval is subject.
- (7) An approval under this clause—
  - (a) applies to tests or inspections generally or to tests or inspections of the class or classes of motor vehicles specified in the approval, and
  - (b) remains in force until it is surrendered, suspended or revoked, and
  - (c) is to be given in the manner and in the form approved by the EPA, and
  - (d) may be given unconditionally or subject to such conditions as the EPA considers appropriate.
- (8) A proprietor of premises must not allow the premises to be used for the purpose of carrying out a test or inspection unless—
  - (a) the premises are an approved inspection station, and
  - (b) the test or inspection of the vehicle is a test or inspection of a vehicle to which the approval applies, and
  - (c) the test or inspection is carried out by an approved mechanic.

Maximum penalty (subclause (8))—

- (a) in the case of a corporation—200 penalty units, or
- (b) in the case of an individual—100 penalty units.

#### **75 Maximum fee for test or inspection**

The maximum fee that may be charged for the carrying out of a test or inspection is—

- (a) in the case of a motorcycle—\$40.15, or
- (b) in any other case—\$60.50.

#### **76 Vehicle inspection reports**

- (1) An approved mechanic who carries out a test or inspection must, in accordance with conditions of the mechanic's approval, complete a vehicle inspection report in the form approved by the EPA.
- (2) Copies of a completed vehicle inspection report must be given to—
  - (a) the owner of the relevant motor vehicle or a person acting on behalf of the owner, and

(b) the EPA,

in accordance with the conditions of any approval under this Chapter.

- (3) A person must not issue a vehicle inspection report in relation to a test or inspection if the person knows, or ought reasonably to suspect, that the report is false or misleading in a material particular.

Maximum penalty—

(a) in the case of a corporation—200 penalty units, or

(b) in the case of an individual—100 penalty units.

- (4) The holder of an approval for an approved inspection station who allows a vehicle inspection report to be issued in relation to a test or inspection that is carried out at the station is guilty of an offence if the person knows, or ought reasonably to suspect, that the report is false or misleading in a material particular.

Maximum penalty—

(a) in the case of a corporation—200 penalty units, or

(b) in the case of an individual—100 penalty units.

## **77 Variation of approvals**

- (1) The EPA may, by notice in writing, vary an approval given under this Chapter (including the conditions of an approval).
- (2) A variation includes the attaching of a condition to an approval (whether or not any conditions have already been attached), the substitution of a condition, the omission of a condition or the amendment of a condition.
- (3) An approval may be varied on application in writing to the EPA by the holder of the approval or on the initiative of the EPA.
- (4) An approval may be varied at any time during its currency.
- (5) A variation operates from the date of the EPA's decision to grant or issue the variation or another date specified by the EPA in the notice.

## **78 Surrender of approvals**

- (1) The holder of an approval under this Chapter may surrender the approval by giving notice in writing to the EPA.
- (2) The surrender of an approval under this clause does not take effect until 28 days, or some other period approved by the EPA, after the notice has been given to the EPA.

## **79 Suspension or revocation of approvals**

- (1) The EPA may, by notice in writing, suspend or revoke an approval under this Chapter if—
  - (a) the holder of the approval has contravened a provision of this Chapter, or
  - (b) the holder or the premises concerned no longer satisfies the relevant requirements for approval under this Chapter, or
  - (c) the holder has failed to comply with a condition to which the approval is subject, or
  - (d) the holder provided false or misleading information in the application for approval, or
  - (e) the EPA is, for any reason, of the opinion that the holder is not a fit and proper person to continue to hold the approval.
- (2) A suspension of an approval under this clause may be for a specified period or until further notice in writing by the EPA to the holder of the approval.
- (3) A suspension or revocation of an approval under this clause operates from the day the notice of the suspension or revocation is given to the holder of the approval or from such later day as the notice specifies.
- (4) The EPA must not suspend or revoke an approval under this clause unless before doing so—
  - (a) it has given notice to the holder of the approval that it intends to do so, and
  - (b) it has specified in that notice the reasons for its intention to do so, and
  - (c) it has given the holder a reasonable opportunity to make submissions in relation to the proposed suspension or revocation, and
  - (d) it has taken into consideration any such submissions by the holder.
- (5) An approval may be revoked under this clause during the currency of a suspension.

## **Chapter 5A Environmental monitoring**

### **Part 1 Upper Hunter Air Quality Monitoring Network**

#### **79A Preliminary**

- (1) In this Part—

**annual levy** means the component of the environmental monitoring levy payable each year by each Upper Hunter licence holder as calculated under clause 79D, 79E or

79F.

**construction levy** means the component of the environmental monitoring levy payable by certain Upper Hunter licence holders from time to time under clause 79H.

**levy period** means the period of 12 months commencing on 1 July in each year.

**Upper Hunter coal mining licence holder** means a person holding a licence that authorises the carrying out of mining for coal at premises located in the area subject to air quality monitoring under the Upper Hunter monitoring program.

**Upper Hunter electricity generation licence holder** means a person holding a licence that authorises the carrying out of the generation of electricity from any energy source (other than wind or solar power) at premises located in the area subject to air quality monitoring under the Upper Hunter monitoring program.

**Upper Hunter licence holder** means an Upper Hunter coal mining licence holder or an Upper Hunter electricity generation licence holder.

**Upper Hunter monitoring program** means the environmental monitoring program operated by or on behalf of the EPA in the Muswellbrook, Singleton and Upper Hunter Shire local government areas that monitors air quality in those areas and known as the Upper Hunter Air Quality Monitoring Network, and includes any changes made by the EPA to that program from time to time.

(2) This Part extends to the levy period commencing on 1 July 2012.

### **79B Objectives of Upper Hunter monitoring program**

The objectives of the Upper Hunter monitoring program are as follows—

- (a) to provide government, industry and the community with reliable and up-to-date information on air quality in the Muswellbrook, Singleton and Upper Hunter Shire local government areas,
- (b) to enable the air quality in those areas to be assessed against relevant air pollution standards,
- (c) to facilitate the identification of sources of air pollution in those areas,
- (d) to facilitate the development and implementation of strategies to improve air quality in those areas.

### **79C Upper Hunter licence holders required to pay environmental monitoring levy**

- (1) Upper Hunter licence holders are required to pay an environmental monitoring levy in respect of the Upper Hunter monitoring program under this Part.
- (2) The environmental monitoring levy payable by an Upper Hunter licence holder for a

levy period consists of the following components—

- (a) the annual levy,
  - (b) the construction levy (if any).
- (3) The EPA is to provide written notice to each Upper Hunter licence holder of the amount of the annual levy or the construction levy (or both) that the licence holder is required to pay for a levy period.
  - (4) The levy must be paid within 30 days after the notice is given by the EPA or by such later date as is specified by the EPA in the notice.
  - (5) If a levy is not paid by the due date, the levy is to be increased by the amount of simple interest calculated at the rate of 25% per year on the amount of the levy unpaid for each day that elapses after the due date and before the date of payment.

#### **79D Calculation of annual levy for Upper Hunter electricity generation licence holders**

- (1) The amount of the annual levy payable by an Upper Hunter electricity generation licence holder for a levy period is calculated as follows—

$$EGL = (0.9 \times F \times G/H) + (0.1 \times F \times I/J)$$

where—

**EGL** is the amount of the annual levy payable by an Upper Hunter electricity generation licence holder for a levy period.

**F** is the estimated cost of the Upper Hunter monitoring program for the levy period as determined under clause 79G.

**G** is the amount of particulate matter emitted from the premises to which the licence concerned applies during the previous levy period.

**H** is the sum of the amounts of particulate matter emitted from all Upper Hunter licensed premises during the previous levy period.

**I** is the amount of oxides of nitrogen and sulphur dioxide emitted from the premises to which the licence concerned applies during the previous levy period.

**J** is the sum of the amounts of oxides of nitrogen and sulphur dioxide emitted from all Upper Hunter licensed premises during the previous levy period.

- (2) A reference in any of the components of the formula in subclause (1) to an amount is a reference to the amount provided to the EPA by an Upper Hunter licence holder under clause 79I.
- (3) If any information required to calculate the amount of the annual levy is not available

to the EPA, the EPA may calculate the amount of the levy based on reasonable estimates.

- (4) In this clause, **Upper Hunter licensed premises** means premises located in the area of the Upper Hunter monitoring program to which a licence authorising the carrying out of mining for coal or the generation of electricity from any energy source (other than wind or solar power) applies.

#### **79E Calculation of annual levy for Upper Hunter coal mining licence holders**

- (1) The amount of the annual levy payable by an Upper Hunter coal mining licence holder for a levy period is calculated as follows—

$$CML = (0.9 \times F \times K / H \times L / M) + (0.1 \times F \times N / J)$$

where—

**CML** is the amount of the annual levy payable by an Upper Hunter coal mining licence holder for a levy period.

**F** is the estimated cost of the Upper Hunter monitoring program for the levy period as determined under clause 79G.

**K** is the sum of the amounts of particulate matter emitted from all Upper Hunter coal mining licensed premises during the previous levy period.

**H** is the sum of the amounts of particulate matter emitted from all Upper Hunter licensed premises during the previous levy period.

**L** is the amount of material moved at the premises to which the licence concerned applies during the previous levy period.

**M** is the sum of the amounts of material moved at all Upper Hunter coal mining licensed premises during the previous levy period.

**N** is the amount of oxides of nitrogen and sulphur dioxide emitted from the premises to which the licence concerned applies during the previous levy period.

**J** is the sum of the amounts of oxides of nitrogen and sulphur dioxide emitted from all Upper Hunter licensed premises during the previous levy period.

- (2) A reference in any of the components of the formula in subclause (1) to an amount is a reference to the amount provided to the EPA by an Upper Hunter licence holder under clause 79I.
- (3) If any information required to calculate the amount of the annual levy is not available to the EPA, the EPA may calculate the amount of the levy based on reasonable estimates.



(4) In this clause—

**Upper Hunter coal mining licensed premises** means premises located in the area of the Upper Hunter monitoring program to which a licence authorising the carrying out of mining for coal applies.

**Upper Hunter licensed premises** means premises located in the area of the Upper Hunter monitoring program to which a licence authorising the carrying out of mining for coal or the generation of electricity from any energy source (other than wind or solar power) applies.

#### **79F Calculation of annual levy for first and second levy periods for new Upper Hunter licence holders**

- (1) The amount of the annual levy payable by a new Upper Hunter licence holder for the first levy period and the subsequent levy period is to be calculated in accordance with the formula set out in clause 79D (in the case of an Upper Hunter electricity generation licence holder) or 79E (in the case of an Upper Hunter coal mining licence holder) with such adjustments to the formula as the EPA considers necessary.

**Note—**

For example, adjustments will be required because the formula uses the emissions produced by an Upper Hunter licence holder during the previous levy period to calculate the amount payable for a levy period. The amount payable by a new Upper Hunter licence holder for the first levy period will be calculated based on the emissions produced by the new licence holder during that first levy period.

- (2) A person who becomes an Upper Hunter licence holder on or after 1 May in a levy period is not required to pay an annual levy for that levy period. Such a person is taken to be a new Upper Hunter licence holder from 1 July in the next levy period.
- (3) In this clause, **new Upper Hunter licence holder** means a person who becomes an Upper Hunter licence holder on or after 1 July in a levy period (the **first levy period**).

#### **79G Calculation of cost of Upper Hunter monitoring program**

- (1) During each levy period, the EPA is to calculate an estimate of the cost to the EPA of the Upper Hunter monitoring program for that levy period.
- (2) After the end of a levy period, the EPA is to calculate the actual cost to the EPA of the Upper Hunter monitoring program for that levy period.
- (3) The actual cost to the EPA of the Upper Hunter monitoring program for a levy period in which a person becomes an Upper Hunter licence holder is to be reduced by the amount of any annual levy payable to the EPA for that levy period by that licence holder under clause 79F.
- (4) If the actual cost to the EPA of the program for the levy period exceeds the estimated program cost for that levy period, the amount of the difference is to be added to the estimated program cost for the next levy period and the program cost for that period

is to be increased accordingly.

- (5) If the actual cost of the program for the levy period is less than the estimated program cost for that levy period, the amount of the difference is to be deducted from the estimated program cost for the next levy period and the program cost for that period is to be decreased accordingly.
- (6) The EPA may determine arrangements for payment of any additional annual levy, or a refund of an annual levy, that is required because of an adjustment to the program cost under this clause.
- (7) Without limiting section 295Z(4) of the Act, the cost of the Upper Hunter monitoring program includes—
  - (a) the costs associated with the use of equipment, facilities and infrastructure to monitor air quality under the program, and
  - (b) the costs associated with the administration of the program, including the costs associated with reporting on the program and any advisory committees established to advise the EPA in relation to the program.
- (8) However, the cost of the Upper Hunter monitoring program does not include the costs of construction of a new facility to monitor air quality if an Upper Hunter licence holder is required to pay a construction levy in respect of those costs under clause 79H.

#### **79H Certain Upper Hunter licence holders to pay construction levy**

- (1) An Upper Hunter licence holder is required to pay to the EPA a contribution towards the costs of construction of a new facility to monitor air quality under the Upper Hunter monitoring program (a **construction levy**).
- (2) However, an Upper Hunter licence holder is only required to pay a construction levy if, in the opinion of the EPA, the new facility is necessary because of the activities or works carried out by the licence holder under the licence concerned.
- (3) The amount of the construction levy payable by an Upper Hunter licence holder is the cost to the EPA of the construction of the new facility, including any costs associated with the construction.
- (4) If the new facility is necessary because of activities or works carried out by more than one Upper Hunter licence holder, the EPA is to determine the amount of the construction levy payable by each licence holder on a proportionate basis.

#### **79I Upper Hunter licence holders to provide information to EPA**

- (1) It is a condition of an Upper Hunter licence holder's licence that the licence holder provide the following information to the EPA by 30 September (or by such later date as is notified to the licence holder by the EPA) in each levy period—

- (a) the amount of particulate matter emitted from the premises to which the licence applies during the previous levy period,
  - (b) the amount of oxides of nitrogen and sulphur dioxide emitted from the premises to which the licence applies during the previous levy period,
  - (c) in the case of an Upper Hunter coal mining licence holder—the amount of material moved at the premises to which the licence applies during the previous levy period.
- (2) The amounts of emissions and material moved during a levy period are to be calculated in accordance with the directions of the EPA.
- (3) An Upper Hunter licence holder is not required to provide information for a levy period if that information has previously been provided to the EPA in accordance with other reporting requirements that apply to the licence holder under the Act.

**79J Upper Hunter licence holders to provide assistance to EPA**

It is a condition of an Upper Hunter licence holder's licence that the licence holder—

- (a) permit entry by any person authorised in writing by the EPA to land owned or occupied by the licence holder, and
  - (b) provide such reasonable assistance and facilities as may be required by the person,
- for the purposes of, or in connection with, the operation of the Upper Hunter monitoring program.

**79K EPA to publish results of air quality monitoring in Upper Hunter**

The EPA is to make the results of the air quality monitoring carried out under the Upper Hunter monitoring program available on its website.

**79L EPA to report on Upper Hunter monitoring program**

- (1) The EPA is to prepare a report each year that contains an analysis of the results of the air quality monitoring carried out under the Upper Hunter monitoring program for the year concerned.
- (2) The EPA is also to prepare a report by 1 February 2017, and by 1 February in every fifth year thereafter, that contains the following matters in relation to the Upper Hunter monitoring program—
  - (a) a review of the effectiveness of the Upper Hunter monitoring program in fulfilling its objectives,
  - (b) the results of an independent audit (to be arranged by the EPA) of the efficiency and cost effectiveness of the Upper Hunter monitoring program,

- (c) any recommendations for improvements to the Upper Hunter monitoring program,
- (d) any other matters that the EPA considers appropriate or that an advisory committee established to advise the EPA in relation to the program considers appropriate.

(3) The reports prepared under this clause are to be made available on the EPA's website.

## Part 2 Newcastle Local Air Quality Monitoring Network

### 79M Definitions

(1) In this Part—

**annual levy** means the levy payable each levy period by each licence holder under this Part.

**general program costs** means all costs incurred by the EPA in respect of the monitoring program (other than the costs of monitoring oxides of nitrogen, sulphur dioxide or particulate matter), including the following—

- (a) costs set out in section 295Z(4) of the Act,
- (b) costs associated with purchasing, constructing, maintaining and updating equipment, facilities and infrastructure,
- (c) costs associated with the use of equipment, facilities and infrastructure,
- (d) costs associated with the administration of the program, including the costs associated with reporting on the program and any advisory committees established to advise the EPA in relation to the program.

**levy period** means the period of 12 months commencing on 1 July in each year.

**licence holder** means a person who holds a licence that authorises a scheduled activity to be carried out at premises in Newcastle.

**licence holder's emissions** means the total emissions from all premises within Newcastle to which the holder's licence relates as determined by the EPA.

**monitoring program** means the environmental monitoring program operated by or on behalf of the EPA that monitors air quality in Newcastle and is known as the Newcastle Local Air Quality Monitoring Network, and includes any changes made by the EPA to that program from time to time.

**Newcastle** means the Newcastle local government area and includes the Subject Land (including the Deferred Matter) as shown on [State Environmental Planning Policy \(Three Ports\) 2013 Land Application Map Sheet LAP\\_003](#).

**particulate matter** means particulate matter measuring less than 10 micrometres.

**total LGA emissions** means the total emissions under licences from premises within Newcastle as determined by the EPA.

(2) Emissions under this Part are to be calculated in kilograms.

### 79N Determining emissions

- (1) In determining emissions for the purpose of this Part the EPA is to use the data from the following sources and, in the case of any conflict, is to use data from a source appearing higher in the list rather than data from a source appearing lower in the list—
  - (a) estimates provided by a licence holder to the EPA before the end of the levy period to which the data relates, but only if the EPA is satisfied that the estimates relate to emissions from all points and diffuse sources and have been determined in accordance with methods approved by the EPA,
  - (b) data from the *Air Emissions Inventory for the Greater Metropolitan Region in NSW* (the **AEI**) published by the EPA,
  - (c) data from the *National Pollutant Inventory* (the **NPI**) published by the Department of the Environment of the Commonwealth,
  - (d) data collected by the EPA through other emission inventory or reporting programs.
- (2) In using data from the AEI or NPI the EPA—
  - (a) is to use the most recent data for the levy period to which the data relates, and
  - (b) in the case of an industry for which there is no relevant data, is to use data from an industry that the EPA reasonably believes is conducting comparable scheduled activities at a comparable scale.
- (3) The EPA is to make any data used to determine emissions available to a licence holder if requested in writing to do so.

### 79O Objectives

The objective of the monitoring program is to provide government, industry and the community with—

- (a) reliable and up-to-date information on air quality in Newcastle, and
- (b) information that is of assistance in assessing changes in air quality and identifying the major sources of monitored pollutants.

### **79P Licence holders required to pay levy**

- (1) A licence holder must pay an annual levy in respect of the monitoring program under this Part.
- (2) The EPA, during a levy period, is to provide written notice to each licence holder of the amount of the annual levy that the licence holder is required to pay for the levy period.

**Note—**

The amount will be based on an estimate made by the EPA under clause 79S.

- (3) The amount must be paid within 30 days after the notice is given by the EPA or by such later date as is specified by the EPA in the notice.
- (4) If an amount is not paid by the due date, the amount is to be increased by the amount of simple interest calculated at the rate of 25% per year on the amount unpaid for each day that elapses after the due date and before the date of payment.
- (5) The EPA may, if it considers it appropriate to do so, reduce its costs in respect of a levy period to take account of any arrears paid in respect of an earlier levy period.

### **79Q Calculation of annual levy**

- (1) The annual levy payable by a licence holder for a levy period is calculated by adding together the amount of such of the following as are payable by the licence holder during the levy period—
  - (a) the oxides of nitrogen monitoring component,
  - (b) the sulphur dioxide monitoring component,
  - (c) the particulate matter monitoring component,
  - (d) the general program costs component.
- (2) **Oxides of nitrogen monitoring component** A licence holder is required to pay that proportion of the EPA's costs in monitoring oxides of nitrogen during the levy period that is equal to the proportion of the licence holder's emissions of oxides of nitrogen during the levy period to the total LGA emissions of oxides of nitrogen during that period.
- (3) **Sulphur dioxide monitoring component** A licence holder is required to pay that proportion of the EPA's costs in monitoring sulphur dioxide during the levy period that is equal to the proportion of the licence holder's emissions of sulphur dioxide during the levy period to the total LGA emissions of sulphur dioxide during that period.
- (4) **Particulate matter monitoring component** A licence holder is required to pay that proportion of the EPA's costs in monitoring particulate matter during the levy period

that is equal to the proportion of the licence holder's emissions of particulate matter during the levy period to the total LGA emissions of particulate matter during that period.

- (5) **General program costs component** A licence holder is required to pay that proportion of the EPA's general program costs during the levy period that is equal to the proportion of the licence holder's total emissions of oxides of nitrogen, sulphur dioxide and particulate matter during the levy period to the total LGA emissions of oxides of nitrogen, sulphur dioxide and particulate matter during that period.
- (6) A licence holder is not required to pay an annual levy for a levy period if the amount when calculated under this clause is less than \$100, and in such a case the emissions of that licence holder during the levy period are not to be taken into account in calculating total LGA emissions in respect of that levy period.

**Note—**

In such a case the amount payable by other licence holders will be effectively increased as their proportion of the total emissions will be larger.

**79R Emissions from vessels to be included in licence holder's emissions**

- (1) The total emissions from vessels in Newcastle of oxides of nitrogen, sulphur dioxide and particulate matter for a levy period are to be apportioned as follows between shipping premises—
- (a) those premises are to be divided into 3 levels as follows—
- (i) level 1—shipping premises at which the annual capacity to load and unload is not more than 100,000 tonnes,
  - (ii) level 2—shipping premises at which the annual capacity to load and unload is more than 100,000 tonnes but not more than 500,000 tonnes,
  - (iii) level 3—shipping premises at which the annual capacity to load and unload is more than 500,000 tonnes,
- (b) the emissions of oxides of nitrogen, sulphur dioxide and particulate matter are then to be apportioned so that—
- (i) equal amounts of each type of emissions are apportioned to premises at the same level, and
  - (ii) level 2 shipping premises are apportioned 3.3 times as many emissions of each type as level 1 shipping premises, and
  - (iii) level 3 shipping premises are apportioned 9 times as many emissions of each type as level 1 shipping premises.
- (2) Emissions in Newcastle from a vessel are taken not to be emissions from premises

except as provided by this clause.

(3) Emissions that are apportioned to premises under this clause are to be taken into account as part of the relevant licence holder's emissions and the total LGA emissions.

(4) In this clause—

**shipping premises** mean premises in Newcastle at which the scheduled activity of shipping in bulk is authorised to be carried out.

**79S Calculation of cost of monitoring program**

(1) During each levy period, the EPA is to calculate an estimate of the cost to the EPA of each of the following for the levy period—

- (a) the costs of monitoring oxides of nitrogen,
- (b) the costs of monitoring sulphur dioxide,
- (c) the costs of monitoring particulate matter,
- (d) the general program costs.

(2) After the end of a levy period, the EPA is to calculate the actual cost to the EPA of each of those matters for the levy period.

(3) The EPA may, in respect of any difference between the estimated cost of a matter and the actual cost of that matter—

- (a) carry forward the difference to a subsequent levy period, or
- (b) determine arrangements for licence holders to make a payment or receive a refund in respect of that difference.

**79T EPA may direct licence holder to provide information**

(1) The EPA may, for the purposes of this Part, direct a licence holder to provide to the EPA such information as may be specified in the direction.

(2) A direction under this clause—

- (a) must be given by notice in writing, and
- (b) may specify the methodology or assumptions to be used by the licence holder in generating the required information, and
- (c) may specify the manner and form in which the information is to be provided.

(3) It is a condition of a licence holder's licence that the licence holder comply with a direction under this clause within the time (if any) specified in the direction.



### **79U Licence holders to provide assistance to EPA**

It is a condition of a licence holder's licence that the licence holder—

- (a) permit entry by any person authorised in writing by the EPA to land owned or occupied by the licence holder, and
- (b) provide such reasonable assistance and facilities as may be required by the person, for the purposes of, or in connection with, the operation of the monitoring program.

### **79V EPA to publish results of monitoring**

The EPA is to make the results of the air quality monitoring carried out under the monitoring program available on its website.

### **79W EPA to report on monitoring program**

- (1) The EPA is to prepare a report containing the following matters in relation to the monitoring program—
  - (a) a review of the effectiveness of the monitoring program in fulfilling its objectives,
  - (b) the results of an independent audit (to be arranged by the EPA) of the efficiency and cost effectiveness of the monitoring program,
  - (c) any recommendations for improvements to the monitoring program,
  - (d) any other matters that the EPA considers appropriate or that an advisory committee established to advise the EPA in relation to the monitoring program considers appropriate.
- (2) The report is to be prepared by 1 September 2018 and then by 1 September every fourth year after that.
- (3) Each report is to be made available on the EPA's website.

## **Chapter 6 Penalty notices**

### **80 Penalty notice offences**

- (1) Each offence created by a provision specified in Column 1 of Schedule 6 is prescribed as a penalty notice offence for the purposes of Division 3 of Part 8.2 of the Act.
- (2) If the reference to a provision in Column 1 of Schedule 6 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.

## 81 Enforcement officers

- (1) Persons of a class specified in Column 2 of Schedule 6 are, subject to this clause and section 226 of the Act, prescribed as enforcement officers in relation to the penalty notice offences concerned.
- (2) A member of staff of an organisation referred to in subclause (6), is an enforcement officer only if the organisation has duly authorised that person to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.
- (3) A member of staff of a local council is an enforcement officer in respect of another local council only if that other local council has also duly authorised that person to exercise the functions of an enforcement officer under Division 3 of Part 8.2 of the Act.
- (4) A person is not an enforcement officer in relation to a penalty notice offence alleged to have been committed by—
  - (a) the organisation that has authorised the person as an enforcement officer, or
  - (b) a member of staff of that organisation.
- (5) A number included in Column 2 of Schedule 6 is a reference to persons of a class identified by that number.
- (6) The classes of persons in Column 2 of Schedule 6 are as follows—
  - (a) class 1—member of staff of—
    - (i) a local authority, or
    - (ii) the EPA or the Office of Environment and Heritage in relation to a penalty notice offence alleged to have been committed in Kosciuszko National Park,
  - (b) class 2—a member of staff of the EPA,
  - (c) class 3—a member of staff of the EPA,
  - (d) class 4—a member of staff of a Port Corporation within the meaning of the [Ports and Maritime Administration Act 1995](#),
  - (e) class 5—a police officer,
  - (f) class 6—a member of staff of the Sydney Water Corporation, the Hunter Water Corporation or a water supply authority within the meaning of the [Water Management Act 2000](#) (other than a water supply authority that is also a local council),
  - (g) class 7—an authorised officer within the meaning of the [Forestry Act 2012](#),
  - (h) class 8—a member of staff of Place Management NSW,

- (i) class 9—a member of staff of—
  - (i) the Department of Premier and Cabinet in relation to a penalty notice offence alleged to have been committed on land vested in the Centennial Park and Moore Park Trust or in the Parramatta Park Trust, or
  - (ii) Venues NSW in relation to a penalty notice offence alleged to have been committed on land comprised in Parramatta Stadium (being Lots 951–965 in Deposited Plan 42643) that is vested in Venues NSW,
- (j) class 10—a member of staff of an Australian university within the meaning of the *Higher Education Act 2001*,
- (k) class 11—a member of staff of the Royal Botanic Gardens and Domain Trust or the Sydney Olympic Park Authority,
- (l) class 12—an authorised officer within the meaning of the *Marine Estate Management Act 2014*,
- (m) class 13—a member of staff of the Regulatory Authority within the meaning of the *Water NSW Act 2014*,
- (n) class 14—a member of staff of Roads and Maritime Services,
- (o) class 15—a member of staff of Transport for NSW,
- (p) class 16—a member of staff of the Western Sydney Parklands Trust,
- (q) class 17—a member of staff of the Office of Environment and Heritage.

**Note—**

Section 59 of the *Government Sector Employment Act 2013* provides that a reference to a member of staff of a statutory body is to be read as including a reference to a Public Service employee who is employed to enable the statutory body to exercise its functions and to any other person whose services the statutory body makes use of (whether by way of secondment or otherwise).

See also section 68HA(5) of the *Transport Administration Act 1988* in relation to references to the staff of Roads and Maritime Services and the staff of Transport for NSW.

- (7) A reference in this clause to a member of staff of an organisation includes a reference to a person who—
  - (a) is a member of staff of a body corporate (whether or not the body corporate is a public authority), and
  - (b) acts under the direction and control of the organisation in the provision of services that are the subject of an arrangement between the body corporate and the organisation.
- (8) (Repealed)

## 82 Amounts of penalty payable

The prescribed penalty payable under a penalty notice in respect of a penalty notice offence is—

- (a) the amount specified in Column 3 of Schedule 6, or
- (b) if the person alleged to have committed the offence is a corporation, and if a greater amount is specified in Column 4 of Schedule 6, the amount specified in Column 4.

## 83 Service of penalty notices on owners of vehicles or vessels

- (1) This clause applies to offences against the Act or the regulations under the Act that apply specifically to the owner of a vehicle or vessel.
- (2) A penalty notice may, if it relates to an offence to which this clause applies, be served by leaving it on, or attaching it to, the vehicle or vessel.
- (3) A penalty notice may, if it relates to an offence to which this clause applies, be addressed to the owner of a vehicle or vessel without naming the owner or stating his or her address.

## 83A Service of penalty notices on masters of vessels

- (1) This clause applies to offences against the Act or the regulations under the Act that apply specifically to the master of a vessel.
- (2) A penalty notice may, if it relates to an offence to which this clause applies, be served by leaving it on, or attaching it to, the vessel or leaving it with the person having command or charge of the vessel for the time being.
- (3) A penalty notice may, if it relates to an offence to which this clause applies, be addressed to the master of a vessel without naming the master or stating his or her address.
- (4) In this clause, **master** of a vessel means a person, other than a pilot, having command or charge of the vessel.

# Chapter 7 Miscellaneous

## Part 1 Appropriate regulatory authority

### 84 Definitions

In this Part—

**marine park** means a marine park within the meaning of the [Marine Estate Management Act 2014](#), but does not include any part of a marine park—

- (a) that is on the landward side of the mean high water mark of the waters within the

marine park, and

(b) that is within an area within the meaning of the *Local Government Act 1993*.

**non-pilotage vessel** means any vessel other than—

(a) a vessel for which pilotage is compulsory under Division 3 of Part 6 of the *Marine Safety Act 1998* in any port, and

(b) a vessel for which pilotage would be compulsory under Division 3 of Part 6 of the *Marine Safety Act 1998* in any port if the master did not hold a marine pilotage exemption certificate under the *Marine Safety Act 1998*.

## 85 Marine Parks Authority

(1) The Marine Parks Authority is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for non-scheduled activities in marine parks, except in relation to the following—

(a) the exercise of functions under Chapter 3 of the Act,

(b) premises defined in an environment protection licence as the premises to which the licence applies and all activities carried on at those premises,

(c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise,

(c1) activities carried on by an authorised network operator (within the meaning of the *Electricity Network Assets (Authorised Transactions) Act 2015*) whether at premises occupied by the authorised network operator or otherwise,

(d) a matter for which a public authority (other than the Marine Parks Authority or a local authority) is declared under section 6(3) of the Act to be the appropriate regulatory authority.

(2) In this clause—

**Marine Parks Authority** means the Marine Parks Authority constituted under Part 5 of the *Marine Parks Act 1997*.

## 86 Roads and Maritime Services

(1) Roads and Maritime Services is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for non-scheduled activities involving a non-pilotage vessel in navigable waters, except in relation to the following—

(a) the exercise of functions under Chapter 3 of the Act,

(b) premises defined in an environment protection licence as the premises to which the licence applies and all activities carried on at those premises,

- (c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise,
- (d) a matter for which a public authority (other than a local authority or Roads and Maritime Services) is declared under section 6(3) of the Act to be the appropriate regulatory authority,
- (e) non-scheduled activities in a marine park.

(2) In this clause—

**Roads and Maritime Services** means Roads and Maritime Services constituted under the *Transport Administration Act 1988*.

### **87 Chief Executive of Office of Environment and Heritage**

The Chief Executive of the Office of Environment and Heritage is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for non-scheduled activities in Kosciuszko National Park, except in relation to the following—

- (a) the exercise of functions under Chapter 3 of the Act,
- (b) premises defined in an environment protection licence as the premises to which the licence applies and all activities carried on at those premises,
- (c) activities carried on by the State or a public authority, whether at premises occupied by the State or a public authority or otherwise,
- (c1) activities carried on by an authorised network operator (within the meaning of the *Electricity Network Assets (Authorised Transactions) Act 2015*) whether at premises occupied by the authorised network operator or otherwise,
- (d) a matter for which a public authority (other than a local authority or the Chief Executive of the Office of Environment and Heritage) is declared under section 6(3) of the Act to be the appropriate regulatory authority,
- (e) non-scheduled activities involving a non-pilotage vessel in navigable waters.

### **88 Burning of bio-material in electricity generating works**

The EPA is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for any matter arising under Part 3.

### **89 Inner West Light Rail**

- (1) The EPA is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for non-scheduled activities on the route of a light rail system declared under section 104N(2) of the *Transport Administration Act 1988*.

- (2) This clause does not apply to buildings or other structures that were taken to be included in the route of a light rail system by clause 13(1)(b) of the *Transport Administration (General) Regulation 2000*.

#### **90 Outdoor entertainment activities**

- (1) The EPA is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for outdoor entertainment activities involving 200 persons or more that are carried on at any of the following premises—
- (a) the Trust lands within the meaning of the *Royal Botanic Gardens and Domain Trust Act 1980*,
  - (b) the Trust lands within the meaning of the *Centennial Park and Moore Park Trust Act 1983*,
  - (c) the Darling Harbour area within the meaning of Part 3 of the *Sydney Harbour Foreshore Authority Regulation 2006*,
  - (d) the trust land within the meaning of *Parramatta Stadium Trust Act 1988*,
  - (e) the trust lands within the meaning of *Sydney Cricket and Sports Ground Act 1978*,
  - (f) (Repealed)
  - (g) the Opera House within the meaning of the *Sydney Opera House Trust Act 1961*.
- (2) In this clause, **outdoor entertainment activities** means any of the following activities, but only if the activity is carried on outdoors (including if it is carried on under or within a tent, marquee or similar structure) and 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).

#### **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.

(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](#).

#### **91 Underground petroleum storage systems—EPA ceasing to be appropriate regulatory authority in relation to certain premises**

(1) The EPA is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for any matter arising under any relevant existing notice, direction or requirement relating to any matter arising under the [Protection of the Environment Operations \(Underground Petroleum Storage Systems\) Regulation 2019](#) until that notice or direction has been complied with or the requirement satisfied.

(2) In this clause—

**relevant existing notice, direction or requirement** means a notice, direction or requirement that—

(a) was made, issued or given under the Act by the EPA in its capacity as appropriate regulatory authority because of this clause as in force before it was substituted on the commencement of the [Protection of the Environment Operations \(Underground Petroleum Storage Systems\) Regulation 2019](#) (or by an authorised officer of the EPA), and

(b) was made, issued or given under the Act before that commencement, and

(c) is in force on that commencement.

#### **92 EPA—non-scheduled activities**

(1) This clause applies to the following non-scheduled activities—



- (a) the mixing of crushed or ground rock with bituminous materials, but only if that activity—
    - (i) has a capacity to produce more than 150 tonnes of bituminous mixture per day or 30,000 tonnes of bituminous mixture per year, and
    - (ii) is carried out otherwise than on, or adjacent to, a construction site by means of temporary works used to provide bituminous mixture for that site (that is, works used for periods totalling no more than 12 months),
  - (b) the production of pre-mixed concrete (for example, concrete batching plants) having a capacity to produce more than 30,000 tonnes per year of concrete,
  - (c) activities (other than mobile waste processing) that include any one or more of the scheduled activities described in Part 1 of Schedule 1 to the Act and that is carried on by means of mobile plant,
  - (d) the transport of hazardous and other waste of more than 200 kilograms per load (other than the transport of waste to which clause 48 of Schedule 1 to the Act applies or excluded waste),
  - (e) the transport of waste tyres of more than 2 tonnes per load (other than the transport of waste to which clause 48 of Schedule 1 to the Act applies or excluded waste).
- (2) The EPA is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for non-scheduled activities to which this clause applies.

- (3) In this clause—

**excluded waste** means any of the following—

- (a) waste that is transported in the course of dealing with an accident or emergency,
- (b) lead acid batteries or waste oil collected for recovery,
- (c) stormwater.

**friable asbestos waste** means asbestos waste—

- (a) that is in the form of a powder, or
- (b) that can be crumbled or reduced to powder by hand pressure when dry.

**transport of hazardous and other waste** means the transport of hazardous waste, restricted solid waste, liquid waste, clinical and related waste or friable asbestos waste (or any combination of them).

- (4) Terms used in this clause that are defined in Schedule 1 to the Act have the same

meanings as they have in that Schedule.

### **93 Waste activities licensed before substitution of Schedule 1**

The EPA is declared, under section 6(3) of the Act, to be the appropriate regulatory authority for any non-scheduled activity that, immediately before 28 April 2008 (the commencement of the *Protection of the Environment Operations Amendment (Scheduled Activities and Waste) Regulation 2008*), was licensed as a waste activity (within the meaning of Schedule 1 to the Act, as then in force) but only for so long as that waste activity continues.

## **Part 2 Exemptions from provisions of Act or regulations**

### **Note—**

See Chapter 3 (Water pollution) for exemptions from section 120 of the Act (Prohibition of pollution of waters).

### **94 Prohibition on placing advertising material on vehicles**

- (1) Section 146B of the Act does not apply to the depositing of the following material in or on a motor vehicle—
  - (a) community safety and crime prevention brochures deposited by or on behalf of the NSW Police Force,
  - (b) brochures, relating to the issue of mobility parking scheme authorities, deposited by or on behalf of Roads and Maritime Services.
- (2) In this clause, **mobility parking scheme authority** has the same meaning as in the *Road Transport (General) Regulation 2013*.

### **95 Noise control—Luna Park site**

- (1) Activities carried out at the Luna Park site are exempt from the following provisions of the Act—
  - (a) Part 4.3 (but only in so far as the provisions relate to the emission of noise),
  - (b) section 139,
  - (c) Part 8.6.
- (2) Subclause (1) applies only if the activities carried out at the Luna Park site are subject to one or more of the following development consents granted by the Minister under section 80 of the *Environmental Planning and Assessment Act 1979* and are carried out in compliance with such of the conditions of those consents as are relevant to those activities—
  - (a) the consent to development application 154-06-01 granted on 31 January 2002,

- (b) the consent to development application 151-5-2002 granted on 21 January 2003,
- (c) the consent to development application 201-6-2002 granted on 21 January 2003.

(3) In this clause—

**development application** has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

**Luna Park site** has the same meaning as in the *Luna Park Site Act 1990*.

**Minister**, in relation to a consent to a development application, means the Minister who was the consent authority for the development concerned under clause 10 of the *State Environmental Planning Policy No 56—Sydney Harbour Foreshores and Tributaries*, as in force immediately before its repeal by the *State Environmental Planning Policy (Major Projects) Amendment (Luna Park Site) Policy 2005*.

#### **95A Road tunnel emissions (licence limited to air pollution from stack)**

- (1) Pollution (other than air pollution from a road tunnel ventilation stack) is exempt from the matters that the appropriate regulatory authority is to take into consideration when exercising its licensing functions with respect to a licence for the scheduled activity of road tunnel emissions (a **road tunnel emissions licence**).
- (2) The defences in sections 122 and 142C of the Act for pollution regulated by a licence do not apply if the licence is a road tunnel emissions licence.
- (3) Section 56(2) of the Act does not apply to a road tunnel emissions licence and in such a case, the premises to which a road tunnel emissions licence applies may be specified as all or part of one or more ventilation stacks (including any associated works) that relate to a single road tunnel (even if those stacks are in separate locations).

#### **95B (Repealed)**

### **Part 3 Burning of bio-material in electricity generating works**

#### **96 Definitions**

In this Part—

**Australian native tree** means any tree of a species indigenous to Australia.

**electricity generating work** means a work (including associated facilities) that supplies, or is capable of supplying, more than 200 kilowatts of electricity.

**forestry operations** means—

- (a) logging operations, namely, the cutting and removal of timber from land for the

purpose of timber production, or

(b) the harvesting of forest products.

**heads and off-cuts** means those parts of a tree that are removed in the course of obtaining a pulp wood log or saw log from the tree, but does not include the following—

(a) any part of a saw log, pulp wood log or tree stump,

(b) any part of a dead tree.

**native forest bio-material** means the bio-material comprised in Australian native trees, other than—

(a) bio-material obtained from—

(i) an authorised plantation within the meaning of the *Plantations and Reafforestation Act 1999*, or

(ii) an existing plantation within the meaning of section 9 of that Act, or

(iii) land on which exempt farm forestry (within the meaning of that Act) is being carried out, or

(iv) land on which ancillary plantation operations (within the meaning of section 9 of that Act) are being carried out, or

(a1) bio-material obtained from—

(i) trees cleared in accordance with a land management (native vegetation) code under Division 5 of Part 5A of the *Local Land Services Act 2013*, or

(ii) (Repealed)

(iii) pulp wood logs and heads and off-cuts resulting from clearing carried out in accordance with a private native forestry plan or forestry operations carried out in accordance with an integrated forestry operations approval under Part 5B of the *Forestry Act 2012*, or

(iv) trees cleared as a result of thinning carried out in accordance with a private native forestry plan or in accordance with an integrated forestry operations approval under Part 5B of the *Forestry Act 2012*, or

(b) sawdust or other sawmill waste, or

(c) waste arising from wood processing or the manufacture of wooden products, other than waste arising from activities (such as woodchipping or the manufacture of railway sleepers) carried out at the location from which the Australian native trees are harvested.

**private native forestry plan** has the same meaning as in Part 5B of the *Local Land Services Act 2013*.

**pulp wood logs** means any logs used to make a reconstituted wood product such as paper, but does not include the following—

- (a) saw logs,
- (b) any part of a dead tree,
- (c) logs obtained from any of the following species of tree—
  - (i) Rough-barked Apple (*Angophora floribunda*),
  - (ii) Smooth-barked Apple (*Angophora costata*),
  - (iii) Scribbly Gum (*Eucalyptus rossii*),
  - (iv) Turpentine (*Syncarpia glomulifera*).

**saw logs** means logs that can be used to create timber products that maintain a woody structure.

**thinning** means the selective removal of individual trees, or parts of trees, for the purposes of reducing competition between trees, allowing growth of remaining trees, tree regeneration and groundcover growth and improving or maintaining the structure and composition of native vegetation.

#### **97 Must not use native forest bio-material to generate electricity**

The occupier of any premises who causes or allows native forest bio-material to be burned in any electricity generating work in or on those premises is guilty of an offence.

Maximum penalty—

- (a) in the case of a corporation—400 penalty units, or
- (b) in the case of an individual—200 penalty units.

#### **97A Exception to prohibition on burning native forest bio-material to generate electricity**

- (1) An occupier of premises who causes or allows native forest bio-material to be burned in any electricity generating work in or on those premises is not guilty of an offence under clause 97 if—
  - (a) a licence authorises the carrying out of scheduled activities in or on those premises, and
  - (b) the premises are nominated by the EPA, by notice published in the Gazette, for the purposes of this clause, and

- (c) the native forest bio-material was obtained from—
    - (i) trees cleared from land in accordance with—
      - (A) development consent or any other approval under the *Environmental Planning and Assessment Act 1979*, or
      - (B) any authority or other approval issued by another State or Territory that corresponds or is similar to any development consent or other approval under that Act, or
    - (ii) the clearing of trees that is declared to be exempt development within the meaning of the *Environmental Planning and Assessment Act 1979*, or
    - (iii) trees or other vegetation removed or lopped by a roads authority in accordance with section 88 of the *Roads Act 1993*, or
    - (iv) land lawfully cleared as part of recovery or clean-up works in an area declared to be a natural disaster area for the purposes of any disaster recovery funding arrangements administered jointly by the Commonwealth and the States and Territories, and
  - (d) the native forest bio-material does not comprise timber suitable for milling or other higher value use.
- (2) The EPA may, by notice published in the Gazette, vary or revoke a nomination referred to in subclause (1)(b).
- (3) In this clause—
- higher value use** includes the use of timber as mulch or wood chips for the purposes of—
- (a) erosion and sediment control, or
  - (b) landscaping the land from which the timber was obtained.

## 98 Record keeping

- (1) The occupier of any premises who causes or allows bio-material of any kind to be burned in any electricity generating work in or on those premises during a relevant period must—
- (a) keep records in relation to fuel held during the relevant period at those premises, and
  - (b) retain those records for at least 4 years after the end of the relevant period.

Maximum penalty—

- (a) in the case of a corporation—200 penalty units, or
  - (b) in the case of an individual—100 penalty units.
- (2) Records required to be kept under this clause must be kept in accordance with the guidelines (if any) established by the EPA and published in the Gazette.
- (3) In this clause—
- relevant period**, in relation to an electricity generating work, means—
- (a) in the case of a work the subject of an environment protection licence, the licence fee period in relation to that licence (within the meaning of Part 1 of Chapter 2), or
  - (b) in the case of any other work, the year ending 30 June in each calendar year.

## Part 3A Pollution incident response management plans

### 98A Definition

In this Part—

**plan** means a pollution incident response management plan required to be prepared under Part 5.7A of the Act.

### 98B Form of plan

- (1) A plan is to be in written form.
- (2) A plan may form part of another document that is required to be prepared under or in accordance with any other law so long as the information required to be included in the plan is readily identifiable as such in that other document.

### 98C Additional matters to be included in plan

**Note—**

See also section 153C(a)–(c) of the Act.

- (1) **General** The matters required under section 153C(d) of the Act to be included in a plan are as follows—
  - (a) a description of the hazards to human health or the environment associated with the activity to which the licence relates (the **relevant activity**),
  - (b) the likelihood of any such hazards occurring, including details of any conditions or events that could, or would, increase that likelihood,
  - (c) details of the pre-emptive action to be taken to minimise or prevent any risk of harm to human health or the environment arising out of the relevant activity,

- (d) an inventory of potential pollutants on the premises or used in carrying out the relevant activity,
  - (e) the maximum quantity of any pollutant that is likely to be stored or held at particular locations (including underground tanks) at or on the premises to which the licence relates,
  - (f) a description of the safety equipment or other devices that are used to minimise the risks to human health or the environment and to contain or control a pollution incident,
  - (g) the names, positions and 24-hour contact details of those key individuals who—
    - (i) are responsible for activating the plan, and
    - (ii) are authorised to notify relevant authorities under section 148 of the Act, and
    - (iii) are responsible for managing the response to a pollution incident,
  - (h) the contact details of each relevant authority referred to in section 148 of the Act,
  - (i) details of the mechanisms for providing early warnings and regular updates to the owners and occupiers of premises in the vicinity of the premises to which the licence relates or where the scheduled activity is carried on,
  - (j) the arrangements for minimising the risk of harm to any persons who are on the premises or who are present where the scheduled activity is being carried on,
  - (k) a detailed map (or set of maps) showing the location of the premises to which the licence relates, the surrounding area that is likely to be affected by a pollution incident, the location of potential pollutants on the premises and the location of any stormwater drains on the premises,
  - (l) a detailed description of how any identified risk of harm to human health will be reduced, including (as a minimum) by means of early warnings, updates and the action to be taken during or immediately after a pollution incident to reduce that risk,
  - (m) the nature and objectives of any staff training program in relation to the plan,
  - (n) the dates on which the plan has been tested and the name of the person who carried out the test,
  - (o) the dates on which the plan is updated,
  - (p) the manner in which the plan is to be tested and maintained.
- (2) **Trackable waste transporters** Subclause (1) does not apply in relation to a licence to the extent that the licence authorises the transport of trackable waste as referred to in



clause 48 of Schedule 1 to the Act. In the case of such a licence, the matters required under section 153C(d) of the Act to be included in a plan relating to the transport of trackable waste are as follows—

- (a) the names, positions and 24-hour contact details of those key individuals who—
  - (i) are responsible for activating the plan, and
  - (ii) are authorised to notify relevant authorities under section 148 of the Act, and
  - (iii) are responsible for managing the response to a pollution incident,
- (b) the contact details of each relevant authority referred to in section 148 of the Act,
- (c) a community engagement protocol that includes procedures for notifying people living or working in the vicinity of a pollution incident and keeping them informed of relevant matters,
- (d) details of the pre-emptive action to be taken to minimise or prevent any risk of harm to human health or the environment arising out of that activity (including, as a minimum, action that complies with any requirements set out in clauses 70, 72 and 73 of the *Protection of the Environment Operations (Waste) Regulation 2014*),
- (e) the nature and objectives of any staff training program in relation to the plan,
- (f) the dates on which the plan has been tested and the name of the person who carried out the test,
- (g) the manner in which the plan is to be tested and maintained.

#### **98D Availability of plan**

- (1) A plan is to be made readily available—
  - (a) to an authorised officer on request, and
  - (b) at the premises to which the relevant licence relates, or where the relevant activity takes place, to any person who is responsible for implementing the plan.
- (2) A plan is also to be made publicly available in the following manner within 14 days after it is prepared—
  - (a) in a prominent position on a publicly accessible website of the person who is required to prepare the plan,
  - (b) if the person does not have such a website—by providing a copy of the plan, without charge, to any person who makes a written request for a copy.
- (3) Subclause (2) applies only in relation to that part of a plan that includes the information required under—

- (a) section 153C(a) of the Act, and
  - (b) clause 98C(1)(h) and (i) or (2)(b) and (c) (as the case requires).
- (4) Any personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* is not required to be included in a plan that is made available to any person other than a person referred to in subclause (1).

#### **98E Testing of plan**

- (1) The testing of a plan is to be carried out in such a manner as to ensure that the information included in the plan is accurate and up to date and the plan is capable of being implemented in a workable and effective manner.
- (2) Any such test is to be carried out—
  - (a) routinely at least once every 12 months, and
  - (b) within 1 month of any pollution incident occurring in the course of an activity to which the licence relates so as to assess, in the light of that incident, whether the information included in the plan is accurate and up to date and the plan is still capable of being implemented in a workable and effective manner.

#### **98F Transitional period for existing licence holders**

A person who held an environment protection licence immediately before the commencement of Part 5.7A of the Act does not commit an offence under that Part during the period between the commencement of that Part and the commencement of clause 36 of Schedule 5 to the Act.

**Note—**

Part 5.7A of the Act commenced on 29 February 2012. Clause 36 of Schedule 5 to the Act commences on 31 March 2012.

### **Part 4 Other**

#### **99 Fee for clean-up, prevention and noise control notices**

The following amounts are prescribed as the fees payable under section 94(2), 100(2) or 267A(2) of the Act in respect of a notice issued during the following periods—

- (a) before 1 July 2009—\$320,
- (b) on or after 1 July 2009 and before 1 July 2010—\$433,
- (c) on or after 1 July 2010 and before 1 July 2011—\$444,
- (d) on or after 1 July 2011 and before 1 July 2012—\$455,
- (e) on or after 1 July 2012 and before 1 July 2014—\$466,

- (f) on or after 1 July 2014 and before 1 July 2015—\$492,
- (g) on or after 1 July 2015 and before 1 July 2016—\$506,
- (h) on or after 1 July 2016 and before 1 July 2017—\$520,
- (i) on or after 1 July 2017 and before 1 July 2018—\$535,
- (j) on or after 1 July 2018 and before 1 July 2019—\$550,
- (k) on or after 1 July 2019 and before 1 July 2020—\$563,
- (l) on or after 1 July 2020 and before 1 July 2021—\$577,
- (m) on or after 1 July 2021 and before 1 July 2022—\$591,
- (n) on or after 1 July 2022 and before 1 July 2023—\$605,
- (o) on or after 1 July 2023—\$619.

#### **100 Defences relating to pesticides, fertilisers and other substances**

For the purposes of section 142D of the Act—

***biosolids, manure*** and ***virgin excavated natural material*** have the same meanings as they have in Division 2 of Part 3 of Schedule 1 to the Act.

***non-hazardous agricultural or crop waste*** means agricultural or crop waste that is not hazardous waste or restricted solid waste within the meaning of Schedule 1 to the Act.

#### **101 Notification of pollution incidents**

- (1) For the purposes of section 149 of the Act, a pollution incident that is required to be notified under section 148 of the Act—
  - (a) is to be notified verbally to each relevant authority, and
  - (b) is to be followed by notification in writing within 7 days of the date on which the incident occurred.
- (2) For the purposes of section 149 of the Act, notification of the EPA may be achieved by telephoning the EPA environment line.

#### **Note—**

Section 150(2) of the Act provides that the information contained in a notification is to be the information known when the notification occurs. Therefore, if information becomes known between the immediate notification given verbally and the time when written notification is required to be given, that new information will be required to be notified immediately after it becomes known and to be included in the written notification.

### **101A Protocol for determining amount representing monetary benefits**

For the purposes of section 249(2A) of the Act, the document entitled *Protocol for calculating monetary benefits*, prepared by the EPA and published in the Gazette, as in force from time to time, is prescribed.

### **102 Warrants relating to noise abatement directions**

- (1) For the purposes of section 280(5) of the Act, the prescribed form of the record to be made under that subsection is Form 1 in Schedule 7.
- (2) For the purposes of section 280(10) of the Act, the prescribed form of the record to be made under that subsection is Form 2 in Schedule 7.
- (3) For the purposes of section 280(11)(a) of the Act, the prescribed form of the statement to be furnished under that subsection is Form 3 in Schedule 7.

### **103 Appeals regarding noise**

For the purposes of section 290 of the Act, the period within which a person may appeal to the Land and Environment Court against a noise control notice relating to the keeping of an animal at premises is 7 days (instead of 21 days) after service of the notice.

### **104 Evaluation of green offset schemes or works**

- (1) Each green offset scheme, and each green offset work that is not part of a green offset scheme, must be evaluated in accordance with this clause.
- (2) An evaluation is to be carried out and reported on—
  - (a) in the case of a green offset scheme—at the intervals (not being greater than 5 years) determined by the EPA for the duration of the scheme and at the end of the scheme, and
  - (b) in the case of a green offset work that is not part of a green offset scheme—at the intervals determined by the EPA in respect of the work.
- (3) An evaluation is to be carried out and reported on by the EPA or by a manager of a green offset scheme or green offset work if directed to do so in accordance with subclause (4).
- (4) The EPA may, by notice in writing given to the manager of a green offset scheme or green offset work, direct that the manager do any of the following—
  - (a) provide the EPA with information relating to the effectiveness of the scheme or work,
  - (b) carry out and report on an evaluation required under this clause and provide a copy of the evaluation report to the EPA,

(c) amend any such evaluation report.

(5) An evaluation report—

(a) must list the participants in the green offset scheme or green offset work, and

(b) must relate to the period since the commencement of the scheme or work or, if the scheme or work has been evaluated under this clause, since the last evaluation of the scheme or work, and

(c) must set out the environmental effects and benefits arising from the scheme or work, and

(d) in the case of a scheme, must contain any of the following matters that are relevant to the scheme—

(i) whether any applicable cap or target has been met,

(ii) particulars of the costs of and payments for the purposes of the scheme under Part 9.3B of the Act,

(iii) particulars of the implementation of any works for the purposes of the scheme, and

(e) in the case of a work that is not part of a scheme, must contain any of the following matters that are relevant to the work—

(i) particulars of the implementation of the work by or on behalf of the participants,

(ii) particulars of the costs of and payments for the purposes of the work under Part 9.3B of the Act, and

(f) must contain any other matters directed to be included by the EPA, and

(g) must be made publicly available in the manner determined by the EPA.

(6) Nothing in this clause requires or permits the EPA or the manager of a green offset scheme or green offset work to make publicly available any information of a kind referred to in section 319(1) of the Act.

#### **105 Additional restriction on requiring financial assurances**

The following matter is prescribed for the purposes of section 299(d) of the Act—

the adequacy of financial assurances (if any) already provided, or required to be provided, by the same person to a public authority to secure or guarantee funding for or towards the carrying out of the same or substantially the same works or programs for which a financial assurance is contemplated under the Act.

**Note—**

Section 299 of the Act prevents a regulatory authority from imposing a condition on a licence requiring a financial assurance to be provided unless it is satisfied that the condition is justified having regard to a number of specified matters, including any matters prescribed by the regulations.

**106 Additional matters to be included in public register**

Details of the following additional matters must be recorded in the public register kept by a regulatory authority under section 308 of the Act—

- (a) the application fee for an environment protection licence issued by the authority,
- (b) the annual licence fee paid or payable in respect of an environment protection licence issued by the authority,
- (c) any approval granted under clause 13 or 42 of the *Protection of the Environment Operations (Clean Air) Regulation 2010* by the authority,
- (d) any information relating to the actual load, agreed load or weighted load of an assessable pollutant (within the meaning of Part 1 of Chapter 2) reported, as a condition of an environment protection licence, by the licence holder in an annual return to the authority,
- (e) details or summaries of undertakings given to the authority under section 253A of the Act,
- (f) details or summaries of any load reduction agreement (within the meaning of Part 1 of Chapter 2) that the authority has entered into with a licence holder.

**107 Keeping of register—certain non-scheduled activities**

- (1) A person who has management or control of non-scheduled activities set out in clause 92(1)(a), (b) and (c) must keep a register of complaints made in relation to pollution arising from the activity.
- (2) The person must ensure that the following information is recorded in the register in relation to any such complaint as soon as practicable after the complaint is made—
  - (a) the date and time of the complaint,
  - (b) details of the method by which the complaint was made,
  - (c) any identifying particulars of the complainant or, if no such particulars were provided, a note to that effect,
  - (d) a summary of the complaint,
  - (e) any action taken to deal with the complaint, including any follow-up contact with the complainant,

(f) if no action was taken to deal with the complaint, the reasons why no action was taken.

(3) The person must retain the record of the information in the register in relation to a complaint for at least 4 years after the complaint was made.

#### **108 (Repealed)**

#### **109 Definition of “land pollution”**

(1) For the purposes of paragraph (b) of the definition of **land pollution** or **pollution of land** in the Dictionary to the Act, the following matter is prescribed—

- (a) hazardous waste,
- (b) restricted solid waste,
- (c) more than 10 tonnes of asbestos waste,
- (d) more than 5 tonnes of waste tyres or more than 500 waste tyres.

#### **Note—**

Placing smaller amounts of asbestos waste or waste tyres on land may fall within paragraph (a) of the definition of **land pollution** in the Dictionary to the Act and may also give rise to water pollution.

(1A) Matter referred to in subclause (1) is excluded from the definition of **land pollution** or **pollution of land** in the Dictionary to the Act if the matter is placed in or on, or otherwise introduced into or onto, land on which the matter was generated—

- (a) in accordance with an approved voluntary management proposal, management order or ongoing maintenance order under the [Contaminated Land Management Act 1997](#) or a public positive covenant or restriction imposed under section 29 of that Act, or
- (b) as part of category 1 remediation work carried out under [State Environmental Planning Policy No 55—Remediation of Land](#).

(2) In this clause—

**asbestos waste, hazardous waste, restricted solid waste** and **waste tyres** have the same meanings as they have in Schedule 1 to the Act.

### **Schedule 1 Licensing fees**

(Clauses 3, 4, 10, 14, 16, 17, 18 and 39)

#### **AGRICULTURAL PROCESSING**

**Dairy processing (see clause 2(1) of Schedule 1 to the Act)**

**1 Units of measure: megalitres**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 30 megalitres	5
More than 30 but not more than 100 megalitres	15
More than 100 megalitres	50

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

**General agricultural processing (see clause 2(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Not more than 30,000 tonnes	5
More than 30,000 but not more than 100,000 tonnes	15
More than 100,000 but not more than 250,000 tonnes	50
More than 250,000 tonnes	135

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

**Grape processing (see clause 2(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Not more than 30,000 tonnes	5
More than 30,000 but not more than 100,000 tonnes	15
More than 100,000 but not more than 250,000 tonnes	50
More than 250,000 tonnes	135



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

### **AQUACULTURE AND MARICULTURE**

#### **Aquaculture and mariculture (see clause 3(1) of Schedule 1 to the Act)**

- 1 Units of measure: megalitres**

- 2 Administrative fee**

<b>Annual volume of discharge</b>	<b>Administrative fee units</b>
Not more than 2,000 megalitres	5
More than 2,000 but not more than 20,000 megalitres	15
More than 20,000 megalitres	50

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

### **BREWING AND DISTILLING**

#### **Brewing and distilling (see clause 5(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 10,000 tonnes	5
More than 10,000 but not more than 20,000 tonnes	50
More than 20,000 tonnes	135

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

### **CEMENT OR LIME WORKS**

#### **Cement or lime handling (see clause 6(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual handling capacity</b>	<b>Administrative fee units</b>
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Not more than 30,000 tonnes	5
More than 30,000 but not more than 100,000 tonnes	8
More than 100,000 but not more than 500,000 tonnes	25
More than 500,000 but not more than 2,000,000 tonnes	65
More than 2,000,000 tonnes	165

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

**Cement or lime production (see clause 6(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 30,000 tonnes	5
More than 30,000 but not more than 100,000 tonnes	65
More than 100,000 but not more than 250,000 tonnes	165
More than 250,000 but not more than 500,000 tonnes	300
More than 500,000 tonnes	420

- 3 Load-based fee** (but only if the annual production capacity exceeds 30,000 tonnes)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Coarse particulates	0.1
Fine particulates	0.28
Lead	0.00061
Mercury	0.00054
Nitrogen oxides and nitrogen oxides (summer)	3.2
Sulfur oxides	0.16

<b>Water pollutants</b>	<b>Threshold factor</b>
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Nil	Not applicable
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**CERAMIC WORKS**

**Ceramic waste generation (see clause 7(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee** (but only if the activity is a scheduled activity under clause 7(2) of Schedule 1 to the Act)

<b>Annual volume of waste generated or stored</b>	<b>Administrative fee units</b>
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More than 5 but not more than 100 tonnes	8
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More than 100 tonnes	16
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**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Ceramics production (see clause 7(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 15,000 tonnes	8
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More than 15,000 but not more than 50,000 tonnes	25
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More than 50,000 but not more than 200,000 tonnes	65
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More than 200,000 tonnes	165
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**3 Load-based fee** (but only if the annual production capacity exceeds 15,000 tonnes)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Coarse particulates	0.085
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Fine particulates	0.11
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Fluoride	0.12
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Nitrogen oxides and nitrogen oxides (summer)	0.22
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Sulfur oxides	0.53
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<b>Water pollutants</b>	<b>Threshold factor</b>
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Nil	Not applicable
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**Glass production (see clause 7(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual melting capacity</b>	<b>Administrative fee units</b>
Not more than 15,000 tonnes	8
More than 15,000 but not more than 30,000 tonnes	25
More than 30,000 but not more than 100,000 tonnes	65
More than 100,000 tonnes	165

**3 Load-based fee** (but only if the annual melting capacity exceeds 15,000 tonnes)**Production of container glass**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00028
Coarse particulates	0.05
Fine particulates	0.05
Lead	0.0018
Nitrogen oxides and nitrogen oxides (summer)	4.02
Sulfur oxides	3.12

<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**Production of float glass**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.11
Fine particulates	0.11
Nitrogen oxides and nitrogen oxides (summer)	2.00
Sulfur oxides	3.64

<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**Production of other glass**

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	2.75

Fine particulates	2.75
Nitrogen oxides and nitrogen oxides (summer)	4.29
Sulfur oxides	4.16
<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

## CHEMICAL PRODUCTION

### Agricultural fertiliser (inorganic) production (see clause 8(1) of Schedule 1 to the Act)

**1 Units of measure: tonnes**

**2 Administrative fee**

Annual production capacity	Administrative fee units
Not more than 50,000 tonnes	25
More than 50,000 but not more than 100,000 tonnes	65
More than 100,000 tonnes	165

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

### Agricultural fertiliser (phosphate) production (see clause 8(1) of Schedule 1 to the Act)

**1 Units of measure: tonnes**

**2 Administrative fee**

Annual production capacity	Administrative fee units
Not more than 50,000 tonnes	25
More than 50,000 but not more than 100,000 tonnes	65
More than 100,000 tonnes	165

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)

Air pollutants	Threshold factor
Coarse particulates	0.022
Fine particulates	0.13
Fluoride	1.1

**Water pollutants**

**Threshold factor**

Total phosphorus 0.002

**Ammonium nitrate production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

**Annual production capacity**

**Administrative fee units**

Not more than 50,000 tonnes 25

More than 50,000 but not more than 100,000 tonnes 65

More than 100,000 tonnes 165

**3 Load-based fee (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)**

**Air pollutants**

**Threshold factor**

Coarse particulates 0.77

Fine particulates 0.33

Nitrogen oxides and nitrogen oxides (summer) 1.5

**Water pollutants**

**Threshold factor**

Total nitrogen 0.11

**Battery production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

**Annual production capacity**

**Administrative fee units**

Not more than 500 tonnes 15

More than 500 but not more than 1,500 tonnes 50

More than 1,500 tonnes 135

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

**Carbon black production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 5,000 tonnes	25
More than 5,000 but not more than 20,000 tonnes	65
More than 20,000 tonnes	165

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
Benzo(a)pyrene	0.005
Fine particulates	0.3
Nitrogen oxides and nitrogen oxides (summer)	11.0
Sulfur oxides	8.0
VOCs and VOCs (summer)	0.4
<b>Water pollutants</b>	<b>Threshold factor</b>

Nil	Not applicable
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**Chemical production waste generation (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee** (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)

<b>Annual volume of waste generated or stored</b>	<b>Administrative fee units</b>
More than 5 but not more than 100 tonnes	8
More than 100 tonnes	16

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

**Dangerous goods production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 10,000 tonnes	15
More than 10,000 but not more than 25,000 tonnes	50
More than 25,000 tonnes	135

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

**Explosives production (see clause 8(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 2,000 tonnes	15
More than 2,000 but not more than 10,000 tonnes	50
More than 10,000 tonnes	135

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

**Paints/polishes/adhesives production (see clause 8(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 5,000 tonnes	25
More than 5,000 but not more than 15,000 tonnes	65
More than 15,000 tonnes	165

- 3 Load-based fee** (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Benzene	0.015
Fine particulates	0.035
Nitrogen oxides and nitrogen oxides (summer)	0.068
VOCs and VOCs (summer)	2.1



**Water pollutants****Threshold factor**

Nil

Not applicable

**Pesticides and related products production (see clause 8(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee****Annual production capacity****Administrative fee units**

Not more than 2,000 tonnes

15

More than 2,000 but not more than 10,000 tonnes

50

More than 10,000 but not more than 30,000 tonnes

135

More than 30,000 tonnes

335

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)**Pesticides and related products (toxic substances) production (see clause 8(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee****Annual production capacity****Administrative fee units**

Not more than 2,000 tonnes

15

More than 2,000 but not more than 10,000 tonnes

50

More than 10,000 but not more than 30,000 tonnes

135

More than 30,000 tonnes

335

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)**Petrochemical production (see clause 8(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee****Annual production capacity****Administrative fee units**

Not more than 10,000 tonnes

25

More than 10,000 but not more than 30,000 tonnes	65
More than 30,000 but not more than 100,000 tonnes	165
More than 100,000 but not more than 200,000 tonnes	300
More than 200,000 tonnes	420

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
Benzene	0.25
Fine particulates	0.02
Nitrogen oxides and nitrogen oxides (summer)	0.96
VOCs and VOCs (summer)	0.5
<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**Pharmaceutical and veterinary products production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 2,000 tonnes	15
More than 2,000 but not more than 5,000 tonnes	50
More than 5,000 tonnes	135

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

**Plastic resins production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 2,000 tonnes	25
More than 2,000 but not more than 10,000 tonnes	65

- More than 10,000 tonnes 165
- 3 Load-based fee** (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)

**Air pollutants** **Threshold factor**

Benzene 0.00073

Fine particulates 0.041

Nitrogen oxides and nitrogen oxides (summer) 0.092

VOCs and VOCs (summer) 8.5

**Water pollutants** **Threshold factor**

Nil Not applicable

**Plastics reprocessing (see clause 8(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

**Annual reprocessing capacity** **Administrative fee units**

Not more than 5,000 tonnes 25

More than 5,000 but not more than 10,000 tonnes 65

More than 10,000 tonnes 165

- 3 Load-based fee** (but only if the activity is a scheduled activity under clause 8(2) of Schedule 1 to the Act)

**Air pollutants** **Threshold factor**

Benzene 0.00073

Fine particulates 0.041

Nitrogen oxides and nitrogen oxides (summer) 0.092

VOCs and VOCs (summer) 8.5

**Water pollutants** **Threshold factor**

Nil Not applicable

**Rubber products/tyres production (see clause 8(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 5,000 tonnes	50
More than 5,000 tonnes	135

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

**Soap and detergents production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 2,500 tonnes	15
More than 2,500 but not more than 5,000 tonnes	50
More than 5,000 tonnes	135

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

**Soap and detergents (toxic substances) production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 2,500 tonnes	15
More than 2,500 but not more than 5,000 tonnes	50
More than 5,000 tonnes	135

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

**Synthetic rubber production (see clause 8(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

**Annual production capacity**

**Administrative fee units**

Not more than 2,000 tonnes	15
More than 2,000 but not more than 5,000 tonnes	50
More than 5,000 tonnes	135

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

**Toxic substance production (see clause 8(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

**Annual production capacity**

**Administrative fee units**

Not more than 10,000 tonnes	15
More than 10,000 but not more than 25,000 tonnes	50
More than 25,000 tonnes	135

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

**CHEMICAL STORAGE**

**Chemical storage waste generation (see clause 9(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee** (but only if the activity is a scheduled activity under clause 9(2) of Schedule 1 to the Act)

**Annual volume of waste generated or stored**

**Administrative fee units**

More than 5 but not more than 100 tonnes	8
More than 100 tonnes	16

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

**General chemicals storage (see clause 9(1) of Schedule 1 to the Act)**

- 1 Units of measure: kilolitres**

- 2 Administrative fee**

<b>Storage capacity</b>	<b>Administrative fee units</b>
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Not more than 5,000 kilolitres	8
More than 5,000 but not more than 100,000 kilolitres	25
More than 100,000 kilolitres	65

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

**Petroleum products storage (see clause 9(1) of Schedule 1 to the Act)**

- 1 Units of measure: kilolitres**

- 2 Administrative fee**

<b>Storage capacity</b>	<b>Administrative fee units</b>
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Not more than 5,000 kilolitres	8
More than 5,000 but not more than 100,000 kilolitres	25
More than 100,000 kilolitres	65

- 3 Load-based fee** (but only if the activity is a scheduled activity under clause 9(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Benzene	0.0005
VOCs and VOCs (summer)	0.05

<b>Water pollutants</b>	<b>Threshold factor</b>
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Nil	Not applicable
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**COAL WORKS**

**Coal works (see clause 10(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual handling capacity</b>	<b>Administrative fee units</b>
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Not more than 2,000,000 tonnes	50
More than 2,000,000 but not more than 5,000,000 tonnes	135

More than 5,000,000 tonnes	335
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

## COKE PRODUCTION

### Coke production (see clause 11(1) of Schedule 1 to the Act)

- 1 Units of measure: tonnes**

- 2 Administrative fee**

Annual handling capacity	Administrative fee units
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Not more than 100,000 tonnes	65
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More than 100,000 tonnes	165
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- 3 Load-based fee** (but only if the activity is a scheduled activity under clause 11(2) of Schedule 1 to the Act)

Air pollutants	Threshold factor
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Arsenic	0.00085
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Benzene	0.028
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Benzo(a)pyrene (equivalent)	0.00003
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Coarse particulates	0.22
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Fine particulates	0.3
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Hydrogen sulfide	0.002
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Lead	0.0021
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Mercury	0.0022
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Nitrogen oxides and nitrogen oxides (summer)	0.03
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Sulfur oxides	0.4
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VOCs and VOCs (summer)	0.015
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Water pollutants	Threshold factor
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Oil and grease	0.011
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Suspended solids	0.13
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Total PAHs	0.000032
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Total phenolics	0.000032
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## COMPOSTING

### Composting (see clause 12(1) of Schedule 1 to the Act)

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual capacity to receive organics</b>	<b>Administrative fee units</b>
Not more than 5,000 tonnes	5
More than 5,000 but not more than 50,000 tonnes	15
More than 50,000 tonnes	50

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

## CONCRETE WORKS

### Concrete works (see clause 13(1) of Schedule 1 to the Act)

**1 Units of measure: cubic metres**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 13,000 cubic metres	5
More than 13,000 but not more than 25,000 cubic metres	15
More than 25,000 but not more than 50,000 cubic metres	50
More than 50,000 cubic metres	135

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

## CONTAINER RECONDITIONING

### Container reconditioning (see clause 14(1) of Schedule 1 to the Act)

**1 Units of measure** (not applicable)

**2 Administrative fee**



**Annual capacity to recondition, recover, treat or store**      **Administrative fee units**

Any capacity      50

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

**CONTAMINATED SOIL TREATMENT**

**Contaminated soil treatment (see clause 15(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Annual handling capacity**      **Administrative fee units**

Any capacity      50

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

**CONTAMINATED GROUNDWATER TREATMENT**

**Contaminated groundwater treatment (see clause 15A(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Annual handling capacity**      **Administrative fee units**

Any capacity      50

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

**CRUSHING, GRINDING OR SEPARATING**

**Crushing, grinding or separating (see clause 16(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
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Not more than 30,000 tonnes	5
More than 30,000 but not more than 100,000 tonnes	15
More than 100,000 but not more than 500,000 tonnes	50
More than 500,000 but not more than 2,000,000 tonnes	135
More than 2,000,000 tonnes	335

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

### **ELECTRICITY GENERATION**

**Electricity generation (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))**

- 1 Units of measure: gigawatt-hours**

- 2 Administrative fee**

<b>Annual generating capacity</b>	<b>Administrative fee units</b>
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Not more than 450 gigawatt-hours	25
More than 450 but not more than 1,000 gigawatt-hours	65
More than 1,000 but not more than 4,000 gigawatt-hours	165
More than 4,000 gigawatt-hours	420

- 3 Load-based fee** (but only if the annual generating capacity exceeds 250 gigawatt-hours)

#### **Generation of electrical power from coal**

<b>Air pollutants</b>	<b>Threshold factor</b>
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Arsenic	0.0037
Benzo(a)pyrene (equivalent)	0.00066
Coarse particulates	80.0
Fine particulates	54.0
Fluoride	14.0
Lead	0.019

Mercury	0.0042
Nitrogen oxides and nitrogen oxides (summer)	2,700
Sulfur oxides	5,300
<b>Water pollutants</b>	<b>Threshold factor</b>
Salt	3.6
Selenium	0.025
Suspended solids	0.18

**Generation of electrical power from diesel**

<b>Air pollutants</b>	<b>Threshold factor</b>
Benzo(a)pyrene (equivalent)	0.0036
Fine particulates	54.0
Nitrogen oxides and nitrogen oxides (summer)	2,700
Sulfur oxides	2,650
VOCs and VOCs (summer)	76.0

**Water pollutants** **Threshold factor**

Nil Not applicable

**Generation of electrical power from gas**

<b>Air pollutants</b>	<b>Threshold factor</b>
Nitrogen oxides and nitrogen oxides (summer)	1,655

**Water pollutants** **Threshold factor**

Salt	0.0029
Suspended solids	0.066

**Generation of electrical power otherwise than from coal, diesel or gas** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**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**

<b>Annual generating capacity</b>	<b>Administrative fee units</b>
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Not more than 450 gigawatt-hours	15
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More than 450 but not more than 1,000 gigawatt-hours	45
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More than 1,000 but not more than 4,000 gigawatt-hours	65
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More than 4,000 gigawatt-hours	150
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**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**ENERGY RECOVERY**

**Energy recovery from general waste (see clause 18(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
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Any capacity	65
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**3 Load-based fee** (but only if the activity is a scheduled activity under clause 18 of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Arsenic	0.00005
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Benzene	0.0000011
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Benzo(a)pyrene	0.00002
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Fine particulates	0.7
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Lead	0.035
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Mercury	0.003
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Nitrogen oxides and nitrogen oxides (summer)	2.5
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Sulfur oxides	0.07
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<b>Water pollutants</b>	<b>Threshold factor</b>
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Nil	Not applicable
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**Energy recovery from hazardous and other waste (see clause 18(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee****Annual capacity****Administrative fee units**

Any capacity 65

**3 Load-based fee (but only if the activity is a scheduled activity under clause 18 of Schedule 1 to the Act)****Air pollutants****Threshold factor**

Arsenic 0.00005

Benzene 0.0000011

Benzo(a)pyrene 0.00002

Fine particulates 0.7

Lead 0.035

Mercury 0.003

Nitrogen oxides and nitrogen oxides (summer) 2.5

Sulfur oxides 0.07

**Water pollutants****Threshold factor**

Nil Not applicable

**EXTRACTIVE ACTIVITIES****Extractive activities (see clause 19(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee****Annual extraction or processing amount****Administrative fee units**

More than 30,000 but not more than 50,000 tonnes 15

More than 50,000 but not more than 100,000 tonnes 50

More than 100,000 but not more than 500,000 tonnes 135

More than 500,000 but not more than 2,000,000 tonnes 335

More than 2,000,000 tonnes 600

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

### HELICOPTER-RELATED ACTIVITIES

#### Helicopter-related activity (see clause 20(1) of Schedule 1 to the Act)

- 1 Units of measure: flights**

- 2 Administrative fee**

<b>Annual flight movement capacity</b>	<b>Administrative fee units</b>
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Not more than 1,500 flights	5
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More than 1,500 but not more than 5,000 flights	15
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More than 5,000 flights	50
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

### IRRIGATED AGRICULTURE

#### Irrigated agriculture (see clause 21(1) of Schedule 1 to the Act)

- 1 Units of measure: hectares**

- 2 Administrative fee**

<b>Total area of existing area of operations of irrigation corporation</b>	<b>Administrative fee units</b>
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Not more than 10,000 hectares	15
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More than 10,000 but not more than 100,000 hectares	50
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More than 100,000 hectares	135
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

### LIVESTOCK INTENSIVE ACTIVITIES

#### Animal accommodation (see clause 22(1) of Schedule 1 to the Act)

- 1 Units of measure: tonnes**

**2 Administrative fee**

<b>Live weight capacity to accommodate</b>	<b>Administrative fee units</b>
Not more than 25,000 tonnes	5
More than 25,000 but not more than 60,000 tonnes	15
More than 60,000 tonnes	50

**Note—**

Live weight capacity is to be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 2 cattle, 2 horses, 5 breeding sows, 5 deer, 11 bacon pigs, 13 kangaroos, 17 emus, 17 porker or finisher pigs or 22 sheep.

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

**Bird accommodation (see clause 22(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Live weight capacity to accommodate</b>	<b>Administrative fee units</b>
Not more than 375 tonnes	5
More than 375 but not more than 1,000 tonnes	15
More than 1,000 tonnes	50

**Note—**

Live weight capacity is to be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 17 emus, 110 turkeys, 165 geese, 310 ducks, 555 layer chickens or 1,100 broiler chickens.

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

**Cattle, sheep or horse accommodation (see clause 22(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Live weight capacity to accommodate</b>	<b>Administrative fee units</b>
Not more than 500 tonnes	5
More than 500 but not more than 2,500 tonnes	15
More than 2,500 tonnes	50

**Note—**

Live weight capacity is to be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 2 cattle, 2 horses or 22 sheep.

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

**Dairy animal accommodation (see clause 22(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Live weight capacity to accommodate</b>	<b>Administrative fee units</b>
Not more than 500 tonnes	5
More than 500 but not more than 1,000 tonnes	15
More than 1,000 tonnes	50

**Note—**

Live weight capacity is to be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 1.6 milking cows or 13 other dairy animals.

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

**Pig accommodation (see clause 22(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Live weight capacity to accommodate</b>	<b>Administrative fee units</b>
Not more than 250 tonnes	5
More than 250 but not more than 500 tonnes	15
More than 500 tonnes	50

**Note—**

Live weight capacity is to be calculated either by using the actual live weight or estimating live weight on the basis that 1 tonne live weight equals 5 breeding sows, 11 bacon pigs, 17 porker or finisher pigs, 31 grower pigs or 62 weaner pigs.

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

**LIVESTOCK PROCESSING ACTIVITIES**



**General animal products production (see clause 23(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 100,000 tonnes	5
More than 100,000 tonnes	15

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

**Greasy wool or fleece processing (see clause 23(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Any capacity	5

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

**Rendering or fat extraction (see clause 23(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 4,000 tonnes	5
More than 4,000 tonnes	15

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

**Slaughtering or processing animals (see clause 23(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

**Annual processing capacity**

**Administrative fee units**

Not more than 30,000 tonnes

5

More than 30,000 tonnes

15

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

**Tanneries or fellmongeries (see clause 23(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

**Annual processing capacity**

**Administrative fee units**

Not more than 10,000 tonnes

5

More than 10,000 tonnes

15

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

**LOGGING OPERATIONS**

**Logging operations (see clause 24(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Annual capacity**

**Administrative fee units**

Any capacity

920

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

**MARINAS AND BOAT REPAIRS**

**Boat construction/maintenance (dry/floating docks) (see clause 25(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Annual handling capacity**

**Administrative fee units**

Any capacity

135

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

**Boat construction/maintenance (general) (see clause 25(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Annual handling capacity**

**Administrative fee units**

Any capacity

50

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

**Boat mooring and storage (see clause 25(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Annual handling capacity**

**Administrative fee units**

Any capacity

15

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

**METALLURGICAL ACTIVITIES**

**Aluminium production (alumina) (see clause 26(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

**Annual production capacity**

**Administrative fee units**

Any capacity

420

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 26(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.75
Fine particulates	0.96
Fluoride	0.75
Lead	0.00011
Nitrogen oxides and nitrogen oxides (summer)	0.2
Sulfur oxides	20
<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**Aluminium production (scrap metal) (see clause 26(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 10,000 tonnes	65
More than 10,000 tonnes	165

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 26(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.048
Fine particulates	0.066
Fluoride	0.056
Nitrogen oxides and nitrogen oxides (summer)	0.74
Sulfur oxides	0.46
VOCs and VOCs (summer)	0.68
<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**Iron or steel production (iron ore) (see clause 26(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee****Annual processing capacity****Administrative fee units**

Any capacity 2,650

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 26(2) of Schedule 1 to the Act)**Air pollutants****Threshold factor**

Arsenic 0.000014

Benzene 0.0011

Benzo(a)pyrene (equivalent) 0.003

Coarse particulates 0.47

Fine particulates 0.38

Hydrogen sulfide 0.018

Lead 0.0014

Mercury 0.000041

Nitrogen oxides and nitrogen oxides (summer) 3.81

Sulfur oxides 6.6

VOCs and VOCs (summer) 7

**Water pollutants****Threshold factor**

Arsenic 0.0091

Cadmium 0.0018

Chromium 0.0054

Copper 0.0036

Lead 0.0018

Mercury 0.000091

Oil and grease 0.015

Selenium 0.00091

Suspended solids 0.24

Zinc	0.0091
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**Iron or steel production (scrap metal) (see clause 26(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 10,000 tonnes	65
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More than 10,000 tonnes	165
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**3 Load-based fee** (but only if the activity is a scheduled activity under clause 26(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Arsenic	0.000057
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Coarse particulates	0.085
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Fine particulates	0.33
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Lead	0.00024
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Mercury	0.00013
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Nitrogen oxides and nitrogen oxides (summer)	0.12
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Sulfur oxides	0.5
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VOCs and VOCs (summer)	0.09
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<b>Water pollutants</b>	<b>Threshold factor</b>
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Nil	Not applicable
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**Metal coating (see clause 26(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee**

<b>Annual capacity to coat metal</b>	<b>Administrative fee units</b>
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Not more than 100,000 tonnes	15
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More than 100,000 but not more than 1,000,000 tonnes	50
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More than 1,000,000 tonnes	135
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Metal processing (see clause 26(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Not more than 100,000 tonnes	15
More than 100,000 but not more than 500,000 tonnes	50
More than 500,000 tonnes	135

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

**Metal waste generation (see clause 26(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee** (but only if the activity is a scheduled activity under clause 26(2) of Schedule 1 to the Act)

<b>Annual volume of waste generated or stored</b>	<b>Administrative fee units</b>
More than 5 but not more than 100 tonnes	8
More than 100 tonnes	16

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

**Non-ferrous metal production (ore concentrates) (see clause 26(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Any capacity	660

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 26(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Arsenic	0.03
Coarse particulates	0.33
Fine particulates	0.49
Lead	0.06
Mercury	0.03
Sulfur oxides	230

<b>Water pollutants</b>	<b>Threshold factor</b>
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Arsenic	0.0003
Cadmium	0.0003
Chromium	0.0003
Copper	0.0026
Lead	0.03
Mercury	0.0003
Selenium	0.0003
Suspended solids	0.78
Zinc	0.02

**Non-ferrous metal production (scrap metal) (see clause 26(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 10,000 tonnes	65
More than 10,000 tonnes	165

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 26(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
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Coarse particulates	0.011
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Fine particulates	0.033
Lead	0.002
Nitrogen oxides and nitrogen oxides (summer)	0.37
Sulfur oxides	0.99
VOCs and VOCs (summer)	0.11
<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**Scrap metal processing (see clause 26(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 100,000 tonnes	15
More than 100,000 but not more than 500,000 tonnes	50
More than 500,000 tonnes	135

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

**MINERAL PROCESSING**

**Mineral processing (see clause 27(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Not more than 30,000 tonnes	5
More than 30,000 but not more than 100,000 tonnes	15
More than 100,000 but not more than 500,000 tonnes	50
More than 500,000 but not more than 2,000,000 tonnes	135
More than 2,000,000 tonnes	335

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

**Mineral waste generation (see clause 27(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee** (but only if the activity is a scheduled activity under clause 27(2) of Schedule 1 to the Act)

<b>Annual volume of waste generated or stored</b>	<b>Administrative fee units</b>
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More than 5 but not more than 100 tonnes	8
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More than 100 tonnes	16
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**MINING FOR COAL**

**Mining for coal (see clause 28(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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Not more than 500,000 tonnes	50
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More than 500,000 but not more than 2,000,000 tonnes	135
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More than 2,000,000 but not more than 3,500,000 tonnes	335
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More than 3,500,000 but not more than 5,000,000 tonnes	600
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More than 5,000,000 tonnes	850
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**MINING FOR MINERALS**

**Mining for minerals (see clause 29(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 30,000 tonnes	5
More than 30,000 but not more than 50,000 tonnes	15
More than 50,000 but not more than 100,000 tonnes	50
More than 100,000 but not more than 500,000 tonnes	135
More than 500,000 but not more than 2,000,000 tonnes	335
More than 2,000,000 but not more than 5,000,000 tonnes	600
More than 5,000,000 tonnes	850

**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)**PAPER OR PULP PRODUCTION****Paper or pulp production (see clause 30(1) of Schedule 1 to the Act)****1 Units of measure: tonnes****2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
Not more than 150,000 tonnes	65
More than 150,000 tonnes	165

**3 Load-based fee** (but only if the activity is a scheduled activity under clause 30(2) of Schedule 1 to the Act)

<b>Air pollutants</b>	<b>Threshold factor</b>
Coarse particulates	0.026
Fine particulates	0.075
Nitrogen oxides and nitrogen oxides (summer)	1.53
<b>Water pollutants</b>	<b>Threshold factor</b>
BOD	0.41
Salt	3.0

Suspended solids	0.57
Total nitrogen	0.078
Total phosphorus	0.001
Zinc	0.0013

**Paper or pulp waste generation (see clause 30(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual volume of waste generated or stored</b>	<b>Administrative fee units</b>
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More than 5 but not more than 100 tonnes	8
More than 100 tonnes	16

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

**PETROLEUM EXPLORATION, ASSESSMENT AND PRODUCTION**

**Petroleum exploration, assessment and production (see clause 31 of Schedule 1 to the Act)**

**1 Units of measure: petajoules**

**2 Administrative fee**

<b>Annual production capacity</b>	<b>Administrative fee units</b>
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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>
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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

#### **PETROLEUM PRODUCTS AND FUEL PRODUCTION**

##### **Petroleum products and fuel production (see clause 31A of Schedule 1 to the Act)**

**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

### **PRINTING, PACKAGING AND VISUAL COMMUNICATIONS**

#### **Printing, packaging and visual communications waste generation (see clause 32(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual volume of waste generated or stored</b>	<b>Administrative fee units</b>
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More than 5 but not more than 100 tonnes	8
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More than 100 tonnes	16
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**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

### **RAILWAY ACTIVITIES—RAILWAY INFRASTRUCTURE CONSTRUCTION**

#### **Railway activities—railway infrastructure construction—where the remaining extraction or processing is less than 50,000 tonnes (see clause 33(1) of Schedule 1 to the Act)**

**1 Units of measure: kilometres**

**2 Administrative fee**

<b>Total length of railway track to be constructed</b>	<b>Administrative fee units</b>
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Not more than 10 kilometres	50
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More than 10 kilometres but not more than 30 kilometres	135
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More than 30 kilometres	335
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Railway activities—railway infrastructure construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is not more than 10 kilometres (see clause 33(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Remaining extraction or processing</b>	<b>Administrative fee units</b>
50,000 tonnes or more, but not more than 100,000 tonnes	50
More than 100,000 but not more than 500,000 tonnes	135
More than 500,000 but not more than 2,000,000 tonnes	335
More than 2,000,000 tonnes	600

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

**Railway activities—railway infrastructure construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is more than 10 kilometres but not more than 30 kilometres (see clause 33(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Remaining extraction or processing</b>	<b>Administrative fee units</b>
50,000 tonnes or more, but not more than 500,000 tonnes	135
More than 500,000 but not more than 2,000,000 tonnes	335
More than 2,000,000 tonnes	600

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

**Railway activities—railway infrastructure construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the railway track to be constructed is more than 30 kilometres (see clause 33(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Remaining extraction or processing</b>	<b>Administrative fee units</b>
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50,000 tonnes or more, but not more than 2,000,000 tonnes	335
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More than 2,000,000 tonnes	600
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**RAILWAY ACTIVITIES—RAILWAY INFRASTRUCTURE OPERATIONS**

**Railway activities—railway infrastructure operations (see clause 33A(1) of Schedule 1 to the Act)**

- 1 Units of measure:** (not applicable)

- 2 Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
------------------------	---------------------------------

Any capacity	50
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**RAILWAY ACTIVITIES—ROLLING STOCK OPERATIONS**

**Railway activities—rolling stock operations (see clause 33B(1) of Schedule 1 to the Act)**

- 1 Units of measure:** (not applicable)

- 2 Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
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Any capacity	50
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**RESOURCE RECOVERY**

**Recovery of general waste (see clause 34(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

**2 Administrative fee**

Type of material recovered	Administrative fee units
General waste	16

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

**Recovery of hazardous and other waste (see clause 34(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

**2 Administrative fee**

Type of material recovered	Administrative fee units
Hazardous and other waste	32

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

**Recovery of waste oil (see clause 34(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

**2 Administrative fee**

Annual recovery capacity	Administrative fee units
Not more than 1,000 tonnes	25
More than 1,000 tonnes	65

- 3 Load-based fee** (but only if the annual capacity exceeds 20,000 tonnes)

Air pollutants	Threshold factor
Lead	0.2
VOCs and VOCs (summer)	0.05

**Water pollutants**

**Threshold factor**

Oil and grease

4.8

**Recovery of waste tyres (see clause 34(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

**Type of material recovered**

**Administrative fee units**

Waste tyres

12

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

**ROAD CONSTRUCTION**

**Road construction—where the remaining extraction or processing is less than 50,000 tonnes (see clause 35(1) of Schedule 1 to the Act)**

**1 Units of measure: kilometres**

**2 Administrative fee**

**Total length of road to be constructed**

**Administrative fee units**

Not more than 10 kilometres

50

More than 10 kilometres but not more than 30 kilometres

135

More than 30 kilometres

335

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

**Road construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is not more than 10 kilometres (see clause 35(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

**Remaining extraction or processing**

**Administrative fee units**

50,000 tonnes or more, but not more than 100,000 tonnes

50

More than 100,000 but not more than 500,000 tonnes 135

More than 500,000 but not more than 2,000,000 tonnes 335

More than 2,000,000 tonnes 600

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

**Road construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is more than 10 kilometres but not more than 30 kilometres (see clause 35(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Remaining extraction or processing</b>	<b>Administrative fee units</b>
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50,000 tonnes or more, but not more than 500,000 tonnes	135
---	-----

More than 500,000 but not more than 2,000,000 tonnes	335
--	-----

More than 2,000,000 tonnes	600
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Road construction—where the remaining extraction or processing is 50,000 tonnes or more and the total length of the road to be constructed is more than 30 kilometres (see clause 35(1) of Schedule 1 to the Act)**

- 1 Units of measure: tonnes**

- 2 Administrative fee**

<b>Remaining extraction or processing</b>	<b>Administrative fee units</b>
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50,000 tonnes or more, but not more than 2,000,000 tonnes	335
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More than 2,000,000 tonnes	600
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- 3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

## **ROAD TUNNEL EMISSIONS**

**Road tunnel emissions (see clause 35A of Schedule 1 to the Act)**

**1 Units of measure:** (not applicable)

**2 Administrative fee**

**Number of ventilation stacks servicing tunnel      Administrative fee units**

Not more than 4      1,128

More than 4 but not more than 8      1,692

More than 8 but not more than 10      2,256

**Additional fee if a licence has been in force in respect of a ventilation stack for less than 2 years but only in respect of a tunnel referred to in clause 35A(1) (e)-(h) of Schedule 1 to the Act      Administrative fee units**

For each such ventilation stack      188

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

**SEWAGE TREATMENT**

**Sewage treatment (see clause 36(1) of Schedule 1 to the Act)**

**1 Units of measure:** megalitres

**2 Administrative fee**

**Annual maximum volume of discharge      Administrative fee units**

Not more than 20 megalitres      5

More than 20 but not more than 100 megalitres      8

More than 100 but not more than 1,000 megalitres      25

More than 1,000 but not more than 5,000 megalitres      65

More than 5,000 but not more than 10,000 megalitres      165

More than 10,000 but not more than 20,000 megalitres      300

More than 20,000 but not more than 30,000 megalitres      420

More than 30,000 megalitres      2,650

**3 Load-based fee** (but only if the maximum annual volume of sewage that the relevant licence authorises to be discharged exceeds 219 megalitres)

**Processing by small plants (up to 10,000 megalitres annual capacity)**

**Air pollutants** **Threshold factor**

Nil Not applicable

**Water pollutants** **Threshold factor**

BOD 10

Oil and grease 2

Suspended solids 15

Total nitrogen 10

Total phosphorus 0.3

**Processing by large plants (more than 10,000 megalitres annual capacity)**

**Air pollutants** **Threshold factor**

Nil Not applicable

**Water pollutants** **Threshold factor**

BOD 10

Cadmium 0.00005

Chromium 0.0025

Copper 0.01

Lead 0.0005

Mercury 0.00005

Oil and grease 2

Pesticides and PCBs 0.00012

Selenium 0.0025

Suspended solids 15

Total nitrogen 10

Total phosphorus 0.3

Zinc 0.012

**SHIPPING IN BULK**

**Shipping in bulk (see clause 37(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual capacity to load and unload</b>	<b>Administrative fee units</b>
Not more than 100,000 tonnes	15
More than 100,000 but not more than 500,000 tonnes	50
More than 500,000 tonnes	135

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

**STERILISATION ACTIVITIES**

**Sterilisation activities (see clause 38(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
Any capacity	32

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

**WASTE DISPOSAL (APPLICATION TO LAND)**

**Waste disposal by application to land (see clause 39(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
Any capacity	32

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

**WASTE DISPOSAL (THERMAL TREATMENT)**

**Thermal treatment of general waste (see clause 40(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
Any capacity	65

**3 Load-based fee (but only if the activity is a scheduled activity under clause 40 of Schedule 1 to the Act)**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00005
Benzene	0.0000011
Benzo(a)pyrene	0.00002
Fine particulates	0.7
Lead	0.035
Mercury	0.003
Nitrogen oxides and nitrogen oxides (summer)	2.5
Sulfur oxides	0.07
<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**Thermal treatment of hazardous and other waste (see clause 40(1) of Schedule 1 to the Act)**

**1 Units of measure: tonnes**

**2 Administrative fee**

<b>Annual capacity</b>	<b>Administrative fee units</b>
Any capacity	65

**3 Load-based fee (but only if the activity is a scheduled activity under clause 40 of Schedule 1 to the Act)**

<b>Air pollutants</b>	<b>Threshold factor</b>
Arsenic	0.00005
Benzene	0.0000011

Benzo(a)pyrene	0.00002
Fine particulates	0.7
Lead	0.035
Mercury	0.003
Nitrogen oxides and nitrogen oxides (summer)	2.5
Sulfur oxides	0.07
<b>Water pollutants</b>	<b>Threshold factor</b>
Nil	Not applicable

**WASTE PROCESSING (NON-THERMAL TREATMENT)**

**Non-thermal treatment of general waste (see clause 41(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
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Any capacity	16
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**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Non-thermal treatment of hazardous and other waste (see clause 41(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
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Any capacity	32
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**3 Load-based fee** (there are no assessable pollutants and therefore no load-based fee in relation to this activity)

**Non-thermal treatment of liquid waste (see clause 41(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**



**Annual processing capacity**

**Administrative fee units**

Any capacity

32

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

**Non-thermal treatment of waste oil (see clause 41(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Annual processing capacity**

**Administrative fee units**

Not more than 1,000 tonnes

25

More than 1,000 tonnes

65

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

**Non-thermal treatment of waste tyres (see clause 41(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

**Administrative fee**

**Annual processing capacity**

**Administrative fee units**

Any capacity

12

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

**WASTE STORAGE**

**Waste storage (see clause 42(1) of Schedule 1 to the Act)**

- 1 Units of measure** (not applicable)

- 2 Administrative fee**

**Type of waste stored**

**Administrative fee units**

Hazardous waste, restricted solid waste, liquid waste, clinical and related waste and asbestos waste

32

Waste tyres

12

Other types of waste

16

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

### **WOOD OR TIMBER MILLING OR PROCESSING**

#### **Wood or timber milling or processing (see clause 43(1) of Schedule 1 to the Act)**

- 1 Units of measure: cubic metres**

- 2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Not more than 50,000 cubic metres	5
More than 50,000 but not more than 100,000 cubic metres	15
More than 100,000 but not more than 200,000 cubic metres	50
More than 200,000 cubic metres	135

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

### **WOOD PRESERVATION**

#### **Wood preservation (see clause 44(1) of Schedule 1 to the Act)**

- 1 Units of measure: cubic metres**

- 2 Administrative fee**

<b>Annual processing capacity</b>	<b>Administrative fee units</b>
Not more than 10,000 cubic metres	15
More than 10,000 but not more than 30,000 cubic metres	50
More than 30,000 cubic metres	135

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

### **MOBILE WASTE PROCESSING**

**Mobile waste processing (see clause 47(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

**Type of activity**

**Administrative fee units**

Any activity

32

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

**TRANSPORT OF TRACKABLE WASTE**

**Transport of category 1 trackable waste (see clause 48(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

**Annual capacity to transport**

**Administrative fee units**

Any capacity

4

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

**Transport of category 2 trackable waste (see clause 48(1) of Schedule 1 to the Act)**

**1 Units of measure** (not applicable)

**2 Administrative fee**

**Annual capacity to transport**

**Administrative fee units**

Any capacity

4

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

**MISCELLANEOUS WATER ACTIVITIES**

**Miscellaneous licensed discharge to waters (wet weather only)**, meaning any activity (other than a scheduled activity) in relation to which a licence to discharge pollutants to waters during or immediately following periods of wet weather (but not at any other time) has been granted under the Act

**1 Units of measure: megalitres**

**2 Administrative fee**

<b>Maximum annual volume of discharge authorised by licence</b> (calculated by multiplying maximum allowable daily discharge by 50)	<b>Administrative fee units</b>
Not more than 3 megalitres	5
More than 3 but not more than 15 megalitres	15
More than 15 but not more than 150 megalitres	50
More than 150 megalitres	135

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

**Miscellaneous licensed discharge to waters (at any time)**, meaning any activity (other than a scheduled activity) in relation to which a licence to discharge pollutants to waters has been granted under the Act

**1 Units of measure: megalitres**

**2 Administrative fee**

<b>Maximum annual volume of discharge authorised by licence</b>	<b>Administrative fee units</b>
Not more than 20 megalitres	5
More than 20 but not more than 100 megalitres	15
More than 100 but not more than 1,000 megalitres	50
More than 1,000 megalitres	135

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

**OTHER ACTIVITIES NOT OTHERWISE LISTED**

**Other activities**, meaning any activity (other than a scheduled activity or miscellaneous water activity)

**1 Units of measure** (not applicable)

**2 Administrative fee**

<b>Type of activity</b>	<b>Administrative fee units</b>
Any activity	5

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

## Schedule 2 Load-based fee calculation

(Clauses 4 and 19)

### Part 1 Pollutant critical zone weightings

The catchments referred to in Column 2 of Table 2 are the catchments as shown on the maps marked “*Catchments of NSW displayed for the purpose of Load-Based Licensing*” deposited in the office of the EPA.

**Table 1 Critical zones for air pollutants**

Column 1 Pollutant	Column 2 Local government areas in zone	Column 3 Weighting
Nitrogen oxides and VOCs	Local government areas in the Sydney basin area, Blue Mountains City, Kiama, Shellharbour City and Wollongong City	7
Nitrogen oxides and VOCs	Cessnock City, Gosford City, Lake Macquarie City, Maitland City, Muswellbrook, Newcastle City, Port Stephens, Singleton, Wollondilly, Wyong	2

**Table 2 Critical zones for water pollutants**

Column 1 Pollutant	Column 2 Catchments in zone	Column 3 Weighting
Salt	Benanee, Bulloo River, Castlereagh, Condamine/Culgoa, Cooper Creek, Darling, Lachlan, Lake Bancannia, Lake Frome, Macquarie River, Moonie, Murray Riverina, Murray (Lower), Murray (Upper), Murrumbidgee, Paroo, Warrego	3
Total phosphorus and total nitrogen	Benanee, Border Rivers, Bulloo River, Castlereagh, Condamine/Culgoa, Cooper Creek, Darling, Gwydir, Hawkesbury-Nepean, Lachlan, Lake Bancannia, Lake Frome, Macquarie River, Moonie, Murray Riverina, Murray (Lower), Murray (Upper), Murrumbidgee, Namoi, Paroo, Warrego	3

### Part 2 Pollutant weightings

**Table 1 Air pollutants**

Column 1 Pollutant	Column 2 Definition	Column 3 Weighting
Arsenic	Total arsenic calculated using the method prescribed in the Approved Methods Publication	52,000
Benzene	Benzene	740

Benzo[a]pyrene (equivalent)	Benzo[a]pyrene plus 0.1 times the mass of benzo[a]anthracene, benzo[b]fluoranthene, benzo[k]fluoranthene and ideno[1,2,3-c,d]pyrene plus 0.4 times the mass of dibenz[a,h]anthracene	29,000
Coarse particulates	All solid particulates entrained in air but not including fine particulates as defined in this Table	18
Fine particulates	The fraction of all solid particulates entrained in air with an aerodynamic diameter smaller than 10 micrometres	125
Fluoride	Fluorine, hydrogen fluoride and all other inorganic fluoride compounds expressed as hydrogen fluoride equivalent	84
Hydrogen sulfide	Hydrogen sulfide	320
Lead	Total lead calculated using the method prescribed in the Approved Methods Publication	11,000
Mercury	Total mercury calculated using the method prescribed in the Approved Methods Publication	110,000
Nitrogen oxides and nitrogen oxides (summer)	The sum of nitrogen oxide and nitrogen dioxide expressed as nitrogen dioxide equivalent	9
Sulfur oxides	Sulfur dioxide and (where specified in the load calculation protocol for the activity or in the licence for the premises) sulfur trioxide and sulfuric acid mist	2.2
VOCs and VOCs (summer)	<p><b>Note—</b></p> See clause 3(1) for the definition of VOC	6.6

**Table 2 Water pollutants**

Column 1	Column 2	Column 3	Column 4	Column 5
Pollutant	Definition	Open coastal waters	Estuarine waters	Enclosed waters
Arsenic	Total arsenic calculated using the method prescribed in the Approved Methods Publication	2,500	2,500	2,500
BOD <sub>5</sub>	Biochemical oxygen demand calculated using the method prescribed in the Approved Methods Publication	0	0.5	1
Cadmium	Total cadmium calculated using the method prescribed in the Approved Methods Publication	67,000	67,000	67,000

Chromium	All trivalent chromium plus ten times hexavalent chromium, whether present in elemental form or contained in compounds or complexes	840	4,200	4,200
Copper	Total copper calculated using the method prescribed in the Approved Methods Publication	1,700	1,700	1,700
Lead	Total lead calculated using the method prescribed in the Approved Methods Publication	6,400	6,400	6,400
Mercury	Total mercury calculated using the method prescribed in the Approved Methods Publication	180,000	180,000	180,000
Oil and grease	Oil and grease calculated using the method prescribed in the Approved Methods Publication	13	30	74
Pesticides and PCBs	The sum of aldrin, chlordane, DDE, DDT, dieldrin, endosulphan (a,b), heptachlor, lindane, PCBs, chlorpyrifos, diazinon, malathion and parathion	930,000	930,000	930,000
Salt				
<b>Note—</b>				
The pollutant weighting for salt is zero if the salt is discharged into naturally salty surface waters with an electrical conductivity of more than 10,000 micro siemens per centimetre	Total dissolved solids calculated using the conductivity method prescribed in the Approved Methods Publication, or using a method provided in a load calculation protocol for the activity	0	0	8.4
Selenium	Total selenium calculated using the method prescribed in the Approved Methods Publication	710	10,000	10,000
Total nitrogen	Total nitrogen calculated using the method prescribed in the Approved Methods Publication	6	12	23
Total PAHs	The total of polyaromatic hydrocarbons	3,800	3,800	3,800
Total phenolics	Total phenolic compounds calculated using the method prescribed in the Approved Methods Publication	4,900	4,900	4,900

Total phosphorus	Total phosphorus calculated using the method prescribed in the Approved Methods Publication	0	120	680
Total suspended solids	Non-filterable solids calculated using the method prescribed in the Approved Methods Publication	9.5	9.5	78
Zinc	Total zinc calculated using the method prescribed in the Approved Methods Publication	7	7	7

### Schedule 3 Open coastal waters

(Clause 19(9))

For the purposes of clause 19, **open coastal waters** are ocean waters east of the natural coast line of New South Wales, defined as follows—

- (a) the natural coast line is defined by a line drawn along the high water mark of the sea,
- (b) where an estuary meets the coast, the natural coast line is defined as follows (unless paragraph (c) applies)—
  - (i) if an estuary has 2 break walls at the confluence with the South Pacific Ocean, by a line drawn across the easternmost extremity of both break walls,
  - (ii) if an estuary has only one break wall, by a line drawn from the easternmost extremity of the break wall to the northern or southern extremity of the high water mark on the opposite bank,
  - (iii) if an estuary enters the South Pacific Ocean and there are no defined points available, by a line drawn across the entrance between the easternmost extremity of the drying points on each bank,
- (c) in relation to the following waters, the natural coast line is defined as follows—
  - (i) Port Stephens—by a line drawn between the southern extremity of Yacaaba Point to the northern extremity of Tomaree Point,
  - (ii) Broken Bay—by a line drawn from the southern extremity of Box Head to the northern extremity of Barrenjoey Head,
  - (iii) Port Jackson—by a line drawn from the southern extremity of North Head to the northern extremity of South Head,
  - (iv) Botany Bay—by a line drawn from Endeavour Light to the northern extremity of Sutherland Point,
  - (v) Port Hacking—by a line drawn from the southernmost extremity of Hungry Point to the northernmost extremity of Cabbage Tree or Pulpit Point,
  - (vi) Jervis Bay—by a line drawn from the southeastern point of Point Perpendicular to the southeastern point of Bowen Island thence to the northeastern point of Governor Head,



(vii) Wogonga River—by a line drawn northwest across the entrance from the northernmost extremity of Wogonga Head,

(viii) Batemans Bay—by a line drawn from the southwestern extremity of Square Point to the northernmost extremity of Observation Point.

## **Schedule 4 Membership and procedure of Review Panel**

(Clause 45)

### **1 Chairperson**

- (1) One of the members of the Review Panel is to be appointed by the Minister as Chairperson of the Review Panel. The appointment may be made at the time the person is appointed as a member or after that appointment.
- (2) A person vacates the office of Chairperson if the person—
  - (a) ceases to be a member, or
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) is removed from that office under this clause.
- (3) The Minister may at any time remove a person from the office of Chairperson.

### **2 Deputies of members**

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member of the Review Panel and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy—
  - (a) may, if available, act in the place of the member, and
  - (b) while so acting, has all the functions of the member and is to be taken to be a member.
- (3) The deputy of a member who is the Chairperson does not (because of this clause) have the member's functions as Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

### **3 Terms of office**

Subject to this Schedule, a member of the Review Panel holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

#### **4 Allowances**

A member of the Review Panel is entitled to be paid such allowances as the Minister from time to time determines in respect of the member.

#### **5 Vacancy in office of member**

(1) The office of a member of the Review Panel becomes vacant if the member—

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) is removed from office under this clause, or
- (e) is absent from 4 consecutive meetings of the Review Panel of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Review Panel or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Review Panel for having been absent from those meetings, or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (g) becomes a mentally incapacitated person, or
- (h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove a member from office at any time.

#### **6 Filling of vacancy in office of member**

If the office of a member of the Review Panel becomes vacant, a person may, subject to this Regulation, be appointed to fill the vacancy.

#### **7 Disclosure of pecuniary interests**

(1) If—

- (a) a member of the Review Panel has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Review Panel, and
- (b) the interest appears to raise a conflict with the proper performance of the

member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Review Panel.

- (2) A disclosure by a member at a meeting of the Review Panel that the member—
- (a) is a member, or is in the employment, of a specified company or other body, or
  - (b) is a partner, or is in the employment, of a specified person, or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Review Panel in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of the fee (if any) determined by the Review Panel.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Review Panel otherwise determines—
- (a) be present during any deliberation of the Review Panel with respect to the matter, or
  - (b) take part in any decision of the Review Panel with respect to the matter.
- (5) For the purpose of the making of a determination by the Review Panel under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—
- (a) be present during any deliberation of the Review Panel for the purpose of making the determination, or
  - (b) take part in the making by the Review Panel of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Review Panel.

## **8 General procedure**

The procedure for the calling of meetings of the Review Panel and for the conduct of business at those meetings is, subject to this Regulation and to any direction of the Minister, to be as determined by the Review Panel.

## 9 Quorum

The quorum for a meeting of the Review Panel is a majority of the members for the time being of the Review Panel.

## 10 Presiding member

- (1) The Chairperson of the Review Panel or, in the absence of the Chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the Review Panel.
- (2) The person presiding at any meeting of the Review Panel has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## 11 Voting

A decision supported by a majority of the votes cast at a meeting of the Review Panel at which a quorum is present is the decision of the Review Panel.

## 12 Minutes of meetings

The Review Panel is required to keep minutes of proceedings at its meetings.

## Schedule 5 Prescribed matter for the definition of water pollution

For the purposes of paragraph (c) of the definition of **water pollution** in the Dictionary to the Act, the following are prescribed as matter—

### Note—

The definition of **water pollution** for the purposes of the Act includes the placing in or on, or otherwise introducing into or onto, the waters (whether through an act or omission) any matter, whether solid, liquid or gaseous, that is of a prescribed nature, description or class or that does not comply with any standard prescribed in respect of that matter.

- (a) animal matter of any description, including (but not limited to) carcasses of animals, parts or remains of animals, offal, flesh and bones,
- (b) plant matter of any description, including (but not limited to) vegetable or fruit wastes, leaves, grass, trees, wood, sawdust, shavings, chips, bark or other forest products or refuse,
- (c) ashes, soil, earth, mud, stones, sand, clay or similar inorganic matter,
- (d) washings or spoil from any mineral processing or extractive operation, from any dredging operation or from any other industrial, agricultural or commercial activity,
- (e) ballast,
- (f) excreta, manure or urine, or any waste from an on-site human waste storage facility or treatment device or any matter that contains faecal coliform or faecal streptococci,
- (g) matter of an infectious nature,
- (h) scrap metal, glass, junk, paper, plastic, rubbish, vehicles or vehicle tyres, any industrial waste and

any refuse of any other description,

- (i) oil, grease or flammable liquid of any description,
- (j) thermal waste (being any liquid which, after being used in or in connection with any activity, is more than 2 degrees Celsius hotter or colder than the water into which it is discharged),
- (k) matter that causes biochemical or chemical oxygen demand,
- (l) liquid that contains suspended or dissolved solids,
- (m) gas other than oxygen,
- (n) methylene blue active substance,
- (o) matter that has a pH value of less than 6.5 or more than 8.5,
- (p) any pesticide (within the meaning of the [Pesticides Act 1999](#)),
- (q) radioactive substances or poisonous substances of any description,
- (r) substances classified as dangerous goods under the *Transport of Dangerous Goods Code* (within the meaning of Schedule 1 to the Act),
- (s) substances listed in Schedule 10 to the [Sydney Water Act 1994](#),
- (t) substances listed in the *Hazardous Substances Information System* published and maintained by the Office of the Australian Safety and Compensation Council,
- (u) chemical toxicants for which guidelines are prescribed by the publication entitled *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* published in October 2000 by the Australian and New Zealand Environment and Conservation Council and the Agriculture and Resource Management Council of Australia and New Zealand,
- (v) arsenic, barium, boron, cadmium, chloride, chromium (hexavalent), copper, cyanide, fluoride, iron (dissolved), lead, manganese (dissolved), mercury, selenium, silver, uranyl ion or zinc,
- (w) matter that contains any nitrogen, sulphur, phenolic or phosphorus compound,
- (x) matter that contains matter referred to above.

## Schedule 6 Penalty notice offences

(Clauses 80–82)

### [Environmentally Hazardous Chemicals Act 1985](#)

Column 1	Column 2	Column 3	Column 4
Provision of Act	Officer	Penalty	Penalty
Section 26	2	\$1,500	\$5,000
Section 32(2)	2	\$1,500	\$5,000

**Ozone Protection Act 1989**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 14(3)	2	\$300	—

**Protection of the Environment Operations Act 1997**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 47	3	\$4,000	\$8,000
Section 48	3	\$7,500	\$15,000
Section 49	3	\$7,500	\$15,000
Section 64 failing to submit an annual return by the time required by the condition of a licence	3	\$1,500	\$3,000
Section 64 in any other case	3	\$7,500	\$15,000
Section 66(2)	3	\$4,000	\$8,000
Section 66(4)	3	\$4,000	\$8,000
Section 66(6)	3	\$500	\$1,000
Section 66(7)	3	\$500	\$1,000
Section 86	3	\$4,000	\$8,000
Section 88	3	\$4,000	\$8,000
Section 91	1, 2, 12, 13, 14	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 94	1, 2, 12, 13, 14	\$500	\$1,000
Section 97	1, 2, 12, 13, 14	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)

Section 100	1, 2, 12, 13, 14	\$500	\$1,000
Section 120	1, 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 124	1, 2, 14, 15	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 125	1, 2, 14, 15	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 126	1, 2, 14, 15	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 128	1, 2, 14, 15	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 129	3	\$4,000	\$8,000
Section 135	1, 2	\$200	\$400

Section 135C(1)	1 (limited to member of staff of local authority)	\$200	\$400
Section 136 sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by less than 5dB(A)	3	\$200	\$400
Section 136 sell article of prescribed class (other than a motor vehicle horn or motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs by 5dB(A) or more	3	\$400	\$800
Section 136 sell article of prescribed class (being a motor vehicle horn or a motor vehicle intruder alarm) if, when in use or operation, the article emits noise that, when measured at any point specified in or determined in accordance with the regulations, is in excess of the level prescribed in respect of the class to which it belongs	3	\$300	\$600
Section 137	1, 2	\$200	\$400
Section 139	1, 2, 14	\$750	\$1,500
Section 140	1, 2, 14	\$750	\$1,500
Section 142A	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 143 transport waste, being waste comprising asbestos waste or hazardous waste (within the meaning of Schedule 1 to the Act), or any other waste greater than 1 cubic metre in volume or 2 tonnes in weight, to a place that cannot lawfully be used as a waste facility for that waste	1, 2, 5, 13, 16	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)



Section 143 transport other waste to a place that cannot lawfully be used as a waste facility for that waste	1, 2, 5, 13, 16	\$2,000 (if the penalty notice is served by a class 1 enforcement officer) or \$4,000 (in any other case)	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$8,000 (in any other case)
Section 144	1, 2, 5, 13	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 144AAA	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 144AAB	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Section 144AA(1)	2	\$4,000	\$8,000
Section 144AC(2)	2	\$1,000	\$2,000
Section 145 deposit litter that is a small item, including a confectionery wrapper, cigarette packet, ATM statement or bus or train ticket (excluding a cigarette and excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$80	—
Section 145 deposit other litter (excluding a cigarette and excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$250	\$500

Section 145 deposit litter that is an unlit or extinguished cigarette (excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$80	—
Section 145 deposit litter that is a lit cigarette (excluding litter deposited from a vehicle)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$250	—
Section 145 deposit litter from a vehicle	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$250	\$500
Section 145A deposit litter (for example, a lit cigarette) in dangerous circumstances, including the deposit of a syringe	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$450	\$900
Section 146A	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146B	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146C	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146E(1)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146E(2)	1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$200	\$400
Section 146E(3)	1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17	\$375	\$750



<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 10(1)	1, 2, 17	\$500	\$1,000
Clause 11(1)	1, 2, 17	\$500	\$1,000
Clause 12(1)	1, 2, 17	\$500	\$1,000
Clause 12(2)	1, 2, 17	\$500	\$1,000
Clause 12(3)	1, 2, 17	\$500	\$1,000
Clause 16(1) in relation to the emission of excessive air impurities by a heavy vehicle (within the meaning of the <i>Road Transport Act 2013</i> ) being used in the M5 East Tunnel	3	\$2,000	—
Clause 16(1) in any other case	3	\$300	\$600
Clause 21(1) in relation to a failure to have a vertical exhaust pipe fitted so that the exhaust vent is directed away from the nearside of the vehicle	3	\$200	—
Clause 21(1) in any other case	3	\$300	—
Clause 22(1)	3	\$300	—
Clause 23(1) failure to ensure that any catalytic converter that has been fitted to the motor vehicle has not been removed, disconnected or impaired	3	\$500	\$1,000
Clause 23(1) in any other case	3	\$300	—
Clause 25(2)	3	\$300	—
Clause 25(3)	3	\$300	—
Clause 28(1)	3	\$750	\$1,500
Clause 28(2)	3	\$750	\$1,500
Clause 29(1)	3	\$300	\$600
Clause 30(1)	3	\$300	\$600
Clause 49	3	\$600	—
Clause 58(1)	3	\$600	—
Clause 58(2)	3	\$600	—
Clause 60(1)	2	\$600	\$1,200
Clause 60(2)	2	\$600	\$1,200
Clause 66(2)	3	\$600	—

Clause 67(2)	3	\$600	—
Clause 67(3)	3	\$600	—
Clause 67(4)	3	\$600	—
Clause 69(2)	1, 2	\$600	\$1,200
Clause 69(3)	1, 2	\$600	\$1,200
Clause 70	1, 2	\$600	\$1,200
Clause 71(1)	1, 2	\$600	\$1,200
Clause 71(2)	1, 2	\$600	\$1,200
Clause 73(1)	1, 2	\$600	\$1,200
Clause 73(2)	1, 2	\$600	\$1,200
Clause 75(1)	1, 2	\$600	\$1,200
Clause 75(2)	1, 2	\$600	\$1,200
Clause 76(1)	1, 2	\$600	\$1,200
Clause 76(2)	1, 2	\$600	\$1,200
Clause 77(1)	1, 2	\$600	\$1,200
Clause 78B	2	\$15,000	—
Clause 78C	2	\$15,000	—
Clause 78D(2)	2	\$8,000	—
Clause 78F(2)	2	\$8,000	—
Clause 78G(4) in the case where the person ought reasonably to have known the statement made was false or misleading	2	\$8,000	—
Clause 78H(3) in the case where the person ought reasonably to have known the statement made was false or misleading	2	\$8,000	—
Clause 78H(4) and (5)	2	\$8,000	—
Clause 78I(2)–(5)	2	\$8,000	—
Clause 78I(6) in the case where the person ought reasonably to have known the statement made was false or misleading	2	\$8,000	—
Clause 78J(2)–(6) and (8)	2	\$4,000	—
Clause 78J(7) in the case where the person ought reasonably to have known the statement made was false or misleading and (9)	2	\$8,000	—

Clause 78K	2	\$8,000	—
Clause 78L	2	\$2,000	—
Clause 78M(4) in the case where the person ought reasonably to have known the statement made was false or misleading	2	\$8,000	—

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

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 54(1)	3	\$500	—
Clause 65(2)	3	\$500	\$1,000
Clause 66(1)	3	\$500	\$1,000
Clause 66(2)	3	\$500	\$1,000
Clause 73(8)	3	\$500	\$1,000
Clause 74(8)	3	\$500	\$1,000
Clause 76(3)	3	\$500	\$1,000
Clause 76(4)	3	\$500	\$1,000
Clause 97	3	\$750	\$1,500
Clause 98(1)(a)	3	\$750	\$1,500
Clause 98(1)(b)	3	\$750	\$1,500

***Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002***

<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 61	3	\$750	\$1,500

***Protection of the Environment Operations (Noise Control) Regulation 2017***

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 5(1) cause or permit use of vehicle capable of emitting noise exceeding maximum level by 5 dB(A) or less	3	\$150	\$300
Clause 5(1) cause or permit use of vehicle capable of emitting noise exceeding maximum level by more than 5 but no more than 15 dB(A)	3	\$250	\$500

Clause 5(1) cause or permit use of vehicle capable of emitting noise exceeding maximum level by more than 15 dB(A)	3	\$600	\$1,200
Clause 6	1, 2, 5	\$200	\$400
Clause 8(1)	1, 5	\$300	\$600
Clause 9	1, 5	\$300	\$600
Clause 10	3	\$300	\$600
Clause 11	2, 5	\$200	\$400
Clause 12	3	\$200	\$400
Clause 13	3	\$300	\$600
Clause 14	2, 5	\$200	\$400
Clause 15	3	\$200	\$400
Clause 16	3	\$300	\$600
Clause 17	2, 5	\$200	\$400
Clause 18	3	\$200	\$400
Clause 20	3	\$300	\$600
Clause 21	3	\$300	\$600
Clause 22	3	\$300	\$600
Clause 23	3	\$300	\$600
Clause 24	1, 2, 5	\$300	\$600
Clause 25(1) cause or permit use of audible vehicle intruder alarm (for up to and including 4 hours)	1, 2, 5, 8	\$300	\$600
Clause 25(1) cause or permit use of audible vehicle intruder alarm (for more than 4 hours and up to and including 8 hours)	1, 2, 5, 8	\$600	\$1,200
Clause 25(1) cause or permit use of audible vehicle intruder alarm (for more than 8 hours)	1, 2, 5, 8	\$900	\$1,800
Clause 26(1)	3	\$300	\$600
Clause 27	3	\$300	\$600
Clause 28	3	\$300	\$600
Clause 31	1, 2, 5	\$300	\$600
Clause 33(1)	2, 5	\$200	—

Clause 34	1, 4, 5, 14	\$300	\$600
Clause 35	1, 4, 5, 14	\$400	\$800
Clause 37(1)	4, 5, 14	\$300	\$600
Clause 38	4, 5, 14	\$300	\$600
Clause 39	1, 4, 5, 14	\$300	\$600
Clause 42(2) cause or permit use of audible building intruder alarm (for up to and including 4 hours)	1, 2, 5	\$300	\$600
Clause 42(2) cause or permit use of audible building intruder alarm (for more than 4 hours and up to and including 8 hours)	1, 2, 5	\$600	\$1,200
Clause 42(2) cause or permit use of audible building intruder alarm (for more than 8 hours)	1, 2, 5	\$900	\$1,800
Clause 45	1, 5	\$300	\$600
Clause 51(1)	1, 5	\$300	\$600
Clause 52(1)	1, 5	\$300	\$600
Clause 53(1)	1, 5	\$300	\$600
Clause 57	1, 5	\$300	\$600
Clause 58(1)	1, 5	\$300	\$600
Clause 62(1)	2, 5	\$300	\$600
Clause 63(1)	4, 5, 14	\$400	\$800
Clause 64(5)	4, 5, 14	\$400	\$800
Clause 64(6)	4, 5, 14	\$400	\$800

***Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019***

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 6	1, 2	\$500	\$1,000
Clause 7	1, 2	\$500	\$1,000
Clause 8	1, 2	\$500	\$1,000
Clause 9	1, 2	\$500	\$1,000
Clause 10	1, 2	\$500	\$1,000



Clause 11	1, 2	\$500	\$1,000
Clause 12(1)	1, 2	\$500	\$1,000
Clause 13(1)	1, 2	\$500	\$1,000
Clause 13(2)	1, 2	\$500	\$1,000
Clause 14	1, 2	\$500	\$1,000
Clause 15(1)	1, 2	\$500	\$1,000
Clause 16	1, 2	\$500	\$1,000
Clause 17	1, 2	\$500	\$1,000
Clause 18(1)	1, 2	\$500	\$1,000
Clause 19	1, 2	\$250	\$500
Clause 20	1, 2	\$500	\$1,000
Clause 21	1, 2	\$500	\$1,000
Clause 22	1, 2	\$250	\$500
Clause 23(2)	1, 2	\$250	\$500
Clause 24(1)	1, 2	\$250	\$500
Clause 25(1)	1, 2	\$250	\$500
Clause 26(1)	1, 2	\$250	\$500
Clause 27(1)	1, 2	\$250	\$500
Clause 28	1, 2	\$250	\$500

***Protection of the Environment Operations (Waste) Regulation 2014***

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 13(6)	3	\$750	\$1,500
Clause 16(5)	3	\$750	\$1,500
Clause 22(2)	3	\$750	\$1,500
Clause 23(1)	3	\$750	\$1,500
Clause 23(2)	3	\$750	\$1,500
Clause 23(3)(a)	3	\$750	\$1,500
Clause 23(3)(b)	3	\$750	\$1,500
Clause 24(1)	3	\$750	\$1,500

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Clause 24(2)(a)	3	\$750	\$1,500
Clause 24(2)(b)	3	\$750	\$1,500
Clause 24A	3	\$750	\$1,500
Clause 27	3	\$750	\$1,500
Clause 28	3	\$750	\$1,500
Clause 29	3	\$750	\$1,500
Clause 30	3	\$750	\$1,500
Clause 31(1)	3	\$750	\$1,500
Clause 31(2)	3	\$750	\$1,500
Clause 32	3	\$750	\$1,500
Clause 33(a)	3	\$750	\$1,500
Clause 33(b)	3	\$750	\$1,500
Clause 33(c)	3	\$750	\$1,500
Clause 34	3	\$750	\$1,500
Clause 36(1)	3	\$750	\$1,500
Clause 36(3)	3	\$750	\$1,500
Clause 37	3	\$750	\$1,500
Clause 39(2)(a)	3	\$750	\$1,500
Clause 39(2)(b)	3	\$750	\$1,500
Clause 39(2)(c)	3	\$750	\$1,500
Clause 43(1)	3	\$750	\$1,500
Clause 43(2)	3	\$750	\$1,500
Clause 44	3	\$750	\$1,500
Clause 45(1)	3	\$750	\$1,500
Clause 45(2)	3	\$750	\$1,500
Clause 45(3)	3	\$750	\$1,500
Clause 45(4)	3	\$750	\$1,500
Clause 45(6)	3	\$750	\$1,500
Clause 46(1)	3	\$750	\$1,500
Clause 46(2)	3	\$750	\$1,500

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Clause 46(3)	3	\$750	\$1,500
Clause 46(5)	3	\$750	\$1,500
Clause 46(6)	3	\$750	\$1,500
Clause 47(2)	3	\$750	\$1,500
Clause 48(4)	3	\$750	\$1,500
Clause 48(5)	3	\$750	\$1,500
Clause 49(5)	3	\$750	\$1,500
Clause 50(4)	3	\$750	\$1,500
Clause 53	3	\$750	\$1,500
Clause 54	3	\$750	\$1,500
Clause 55	3	\$750	\$1,500
Clause 56	3	\$750	\$1,500
Clause 57(a)	3	\$750	\$1,500
Clause 57(b)	3	\$750	\$1,500
Clause 58	3	\$750	\$1,500
Clause 62	3	\$750	\$1,500
Clause 67	3	\$750	\$1,500
Clause 68(1)	3	\$750	\$1,500
Clause 68(2)	3	\$750	\$1,500
Clause 68(3)	3	\$750	\$1,500
Clause 70(1)	1, 2	\$750	\$1,500
Clause 70(2)	1, 2	\$750	\$1,500
Clause 70(3)	1, 2	\$750	\$1,500
Clause 71	3	\$7,500	\$15,000
Clause 72(1)	1, 2	\$750	\$1,500
Clause 72(2)	1, 2	\$750	\$1,500
Clause 73	1, 2	\$750	\$1,500
Clause 76(3)	3	\$750	\$1,500
Clause 76(4)	3	\$750	\$1,500
Clause 76(5)	3	\$750	\$1,500

Clause 76(6)	3	\$750	\$1,500
Clause 76(7)	3	\$750	\$1,500
Clause 78(1)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 78(2)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 78(3)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 78(4)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 79(3)	3	\$750	\$1,500
Clause 79(4)	3	\$750	\$1,500
Clause 79(5)	3	\$750	\$1,500
Clause 79(6)	3	\$750	\$1,500

Clause 80(2)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 80(3)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 80(4)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 87(1)(a)	2	\$750	\$1,500
Clause 88(1)	2	\$750	\$1,500
Clause 88(6)	2	\$750	\$1,500
Clause 89(1)	2	\$750	\$1,500
Clause 89(2)(a)	2	\$750	\$1,500
Clause 89(2)(b)	2	\$750	\$1,500
Clause 93(7)	3	\$750	\$1,500
Clause 94(1)(a)	3	\$750	\$1,500
Clause 94(1)(b)	3	\$750	\$1,500
Clause 95(1)	3	\$750	\$1,500
Clause 104(2)	3	\$750	\$1,500
Clause 105(1)(a)	3	\$750	\$1,500
Clause 105(1)(b)	3	\$750	\$1,500
Clause 106(1)	3	\$750	\$1,500
Clause 107(1)	3	\$750	\$1,500

Clause 108(5)	3	\$750	\$1,500
Clause 109(3)	3	\$750	\$1,500
Clause 109(4)	3	\$750	\$1,500
Clause 110(1)	3	\$750	\$1,500
Clause 110A(1)	1, 2	\$4,000 (if the penalty notice is served by a class 1 enforcement officer) or \$7,500 (in any other case)	\$8,000 (if the penalty notice is served by a class 1 enforcement officer) or \$15,000 (in any other case)
Clause 112	1, 2	\$750	\$1,500
Clause 113(5)	1, 2	\$1,500	\$3,000
Clause 113(6)	1, 2	\$1,500	\$3,000
Clause 114	1, 2	\$1,500	\$3,000
Clause 4(1) of Schedule 1A	3	\$750	\$1,500
Clause 4(2) of Schedule 1A	3	\$750	\$1,500
Clause 4(3) of Schedule 1A	3	\$750	\$1,500

**Waste Avoidance and Resource Recovery Act 2001**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Act</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Section 38(1)	2	\$1,500	\$3,000
Section 39	2	\$1,500	\$3,000
Section 40(8)	2	\$750	\$1,500
Section 42(1)	2	\$500	\$1,000
Section 43(3)	2	\$250	\$500
Section 43(5)	2	\$250	\$500
Section 44(1) claim refund for containers not subject to Scheme (if number of containers is not more than 300)	2	\$250	\$500
Section 44(1) claim refund for containers not subject to Scheme (if number of containers is more than 300 but not more than 1,000)	2	\$500	\$1,000

Section 44(1) claim refund for containers not subject to Scheme (if number of containers is more than 1,000 but not more than 5,000)	2	\$1,000	\$2,000
Section 44(1) claim refund for containers not subject to Scheme (if number of containers is more than 5,000)	2	\$2,000	\$4,000
Section 44(2)	2	\$1,500	\$3,000

**Waste Avoidance and Resource Recovery (Container Deposit Scheme) Regulation 2017**

Column 1	Column 2	Column 3	Column 4
Provision of Regulation	Officer	Penalty	Penalty
Clause 20(1)	2	\$1,000	\$2,000
Clause 20(2)	2	\$1,000	\$2,000

**Schedule 7 Forms relating to noise abatement directions**

(Clause 102)

**Form 1 Protection of the Environment Operations Act 1997**

(Section 280)

**MAGISTRATE’S RECORD OF COMPLAINT REQUESTING THE ISSUE OF A WARRANT TO ENTER PREMISES**

**Details of the complaint**

On *[insert date]* at *[insert time]*, I, the undersigned Magistrate, received a complaint alleging that the complainant had been denied entry to premises at *[insert address of premises]*.

The complaint was made in person\*/by telephone\*.

The complaint was made by *[insert name of police officer]*, a police officer stationed at *[insert name of police station]*

The complainant caused the complaint to be transmitted to me by *[insert name of police officer]*, a police officer stationed at *[insert name of police station]*\*.

Further details of the complaint are set out on the other side of this page.

**Grounds of the complaint**

The complainant stated their belief that—

- offensive noise was being emitted from the premises\*
- offensive noise had, within the 7 days preceding the complaint, been emitted from the premises\*.

The police officer requested the grant of a warrant because the officer believed it was necessary to enter the premises immediately in order—

- to give a noise abatement direction in relation to offensive noise emitted from the premises\*
- to investigate whether a noise abatement direction has been contravened\*.

**Outcome of consideration of the complaint**

After considering the complaint I was satisfied that there were reasonable grounds for that belief.

The grounds on which I relied to justify my finding that there were reasonable grounds for that belief are as follows—

### **Details of grant of warrant**

I have granted my warrant authorising and requiring the complainant to enter the premises and—

- to give a noise abatement direction\*
  
- to investigate whether a noise abatement direction has been contravened\*.

The warrant was granted on [*insert date*] at [*insert time*].

Signed—

[*Magistrate*]

\* Delete if inapplicable.

[*Overleaf*]

### **Details of Complaint**

- 1 Names of persons involved (if known)—
- 2 Location of premises—
- 3 Name of civilian informant (if known)—
- 4 The complainant police officer believed that—
  - (a) offensive noise was being emitted from the premises\*
  - (b) offensive noise had, within the past 7 days, been emitted from the premises\*.

\* Delete if inapplicable.
- 5 Other information obtained by complainant police officer—
  - (a) Personal observations by police (eg noise from the house is being emitted, type of noise, etc)—
  - (b) Civilian informant's information (indications that noise has recently been emitted)—
  - (c) Any other information cited as grounds for the belief of the complainant by reason of which the warrant was requested and granted—
- 6 The officer had been denied entry to the premises, details of which (including anything said or done) are—

## **Form 2 Protection of the Environment Operations Act 1997**

(Section 280)

### **NOTICE OF GRANT OF WARRANT TO ENTER PREMISES**

A warrant has been granted to enter premises at [*insert address of premises*].

The warrant was granted on the basis of a complaint made by a police officer stationed at [*insert name of police station*] police station.

The warrant was granted on [*insert date*] at [*insert time*].

The warrant was granted by [*insert name of Magistrate*] a Magistrate of the Local Court.

The warrant was granted subject to the following additional terms: \*



Signature of complainant police officer

\* Delete if inapplicable.

### **Form 3 Protection of the Environment Operations Act 1997**

(Section 280)

#### **IMPORTANT INFORMATION FOR OCCUPIERS CONCERNING THE WARRANT**

A warrant has been granted by a Magistrate.

The warrant gives the authority and power to police to enter premises and—

- (a) to give a noise abatement direction (which is a direction under the *Protection of the Environment Operations Act 1997* to cause the emission of offensive noise to stop or to stop making or contributing to offensive noise), or
- (b) to investigate whether a noise abatement direction has been breached.

#### **Reasons for the issue of the warrant**

A member of the police force has made a complaint to a Magistrate that the police officer was denied entry to the premises and that the member of the police force believed—

- (a) that offensive noise was being emitted from the premises (or that offensive noise had been emitted within the previous 7 days), and
- (b) that it was necessary for a police officer to enter the premises immediately in order to give a noise abatement direction in relation to offensive noise emitted from the premises or to investigate whether a noise abatement direction has been contravened.

The Magistrate was satisfied that there were reasonable grounds for that belief.

#### **Details of the warrant**

The police officer who was the complainant should have prepared a form containing details of—

- (a) the address of the premises the subject of the warrant, and
- (b) the name of the Magistrate who granted the warrant, and
- (c) the name of the police officer, and
- (d) the time at which the warrant was granted.

You should have been given that form by the police officer who entered the premises.

#### **Execution of warrant**

The warrant must be executed as soon as practicable after the time it is granted.

The warrant must be executed within 24 hours after the time it was granted.

The warrant may be executed at any time during the day or night.

#### **Use of force**

The police may use such force as is necessary for the purpose of entering any premises.

This may include breaking open any door.

Any force used must be reasonably necessary.

#### **Limitations on the powers conferred**

Only functions and powers authorised under the warrant or by the *Protection of the Environment Operations Act 1997* authorising the issue of the warrant may be performed.

The police officer is not authorised to stay on your premises any longer than is necessary.

## **Schedule 8 Savings and transitional provisions**

### **Part 1 Provisions consequent on enactment of Act**

#### **1 Definition**

In this Part—

**repealed Act** means the *Clean Air Act 1961*, the *Clean Waters Act 1970*, the *Environmental Offences and Penalties Act 1989*, the *Noise Control Act 1975*, the *Pollution Control Act 1970*, the provisions of the *Ozone Protection Act 1989* omitted by Schedule 4.14 to the Act or the provisions of the *Waste Minimisation and Management Act 1995* omitted by Schedule 4.19 to the Act.

#### **2 Criminal and other proceedings**

- (1) Parts 8.2 and 8.4 and sections 261 and 262 of the Act extend (subject to this clause) to proceedings in connection with a repealed Act in respect of offences committed against a repealed Act or regulation under a repealed Act before its repeal or in respect of any related matter that continues to have force or effect. This subclause applies whether the proceedings were pending on the commencement of the Act or whether the proceedings are instituted after that commencement.
- (2) Parts 8.2 and 8.4 and sections 261 and 262 of the Act apply with such modifications as are necessary for the purposes of applying those provisions to any such proceedings. In particular, the following references in those provisions are to be read as follows—
  - (a) a reference to an offence arising under Part 5.2 of the Act is to be read as including a reference to a Tier 1 offence under the *Environmental Offences and Penalties Act 1989*,
  - (b) a reference to a prescribed offence for the purposes of section 216 of the Act is to be read as including a reference to a prescribed offence within the meaning of section 12 of the *Environmental Offences and Penalties Act 1989*,
  - (c) a reference in section 218 of the Act to an authority or officer entitled to institute proceedings is to be read as including a reference to an authority or officer entitled under section 13 of the *Environmental Offences and Penalties Act 1989* to institute the proceedings.
- (3) The provisions of a repealed Act relating to the orders that a court may make when it finds an offence proved continue to have effect in respect of any such proceedings.

### **3 Other existing exemptions, notices, directions, orders or requirements**

- (1) A notice, direction, order, requirement or exemption that—
  - (a) is given, issued or made under a repealed Act, and
  - (b) is in force on that repeal,continues to have effect for the purposes of the repealed Act.
- (2) Any such notice, direction, order, requirement or exemption does not have effect for the purposes of a corresponding provision of or made under the Act, unless this Regulation or any other regulation under the Act so provides.
- (3) Accordingly, any such notice, direction, order, requirement or exemption may be enforced in accordance with the provisions of the relevant repealed Act.

### **4 Clean-up by public authorities in respect of previous incidents**

Directions may be given, and action taken, under section 92 of the Act in respect of pollution incidents occurring before as well as after the commencement of the Act.

## **Part 2 Provisions consequent on commencement of [Protection of the Environment Operations \(General\) Regulation 2009](#)**

### **5 General savings of acts, matters and things done under repealed regulations**

Any act, matter or thing that, immediately before the repeal of a regulation by this Regulation, had effect under that repealed regulation, continues to have effect under this Regulation.

### **6 Amounts payable on termination or expiration of existing load reduction agreements**

Clause 28B of the [Protection of the Environment Operations \(General\) Regulation 1998](#), as in force immediately before its repeal, continues to apply to load reduction agreements entered into before that repeal as if that clause had not been repealed.

### **7 Members of Review Panel**

A person who, immediately before the repeal of the [Protection of the Environment Operations \(General\) Regulation 1998](#), is a member of the Load-Based Licensing Technical Review Panel under Part 2.2 of that Regulation is taken to a member of the Review Panel under this Regulation until such time as the member completes his or her term of office, as specified in the member's instrument of appointment, or the office of the member otherwise becomes vacant in accordance with clause 5 of Schedule 4.

### **8 Pollutant weightings**

If a load-based fee is payable after the commencement of this Regulation in respect of a

period that started before that commencement, a pollutant weighting specified in Part 2 of Schedule 2 extends to the whole of that period.

### **9 Load-based licensing fee—carbon black production**

Despite any other provision of this Regulation, no load-based fee is payable in respect of carbon black production (within the meaning of clause 8 of Schedule 1 to the Act) during any licence fee period that commences before 30 June 2011.

## **Part 3 Provisions consequent on commencement of Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013**

### **10 Definition**

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

### **11 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.

### **12 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.

(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.

## **Part 4 Provision consequent on commencement of [Protection of the Environment Operations Amendment \(NSW Gas Plan\) Regulation 2014](#)**

### **13 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.

## **Part 5 Provisions consequent on commencement of [Protection of the Environment Operations \(General\) Amendment \(Newcastle Air Monitoring\) Regulation 2015](#)**

### **14 First levy period extends back to 1 July 2014**

- (1) Emissions occurring on or after 1 July 2014 but before the commencement of Part 2 of Chapter 5A are to be taken into account under that Part in the same way as if those emissions had occurred after that commencement but before 1 July 2015.
- (2) Monitoring or general program costs of the EPA occurring on or after 1 July 2014 but before the commencement of Part 2 of Chapter 5A are to be taken into account under that Part in the same way as if those costs had occurred after that commencement but before 1 July 2015.

### **15 Costs of establishing monitoring program to be added to first levy**

Any costs related to the establishment of the monitoring program under Part 2 of Chapter 5A are to be added to the general program costs for the first levy period even if those costs were incurred before that period commenced.

## **Part 6 Provisions consequent on commencement of [Protection of the Environment Operations Legislation Amendment \(Scheduled](#)**

## Activities) Regulation 2019

### 16 Definitions

In this Part—

**amending regulation** means the *Protection of the Environment Operations Legislation Amendment (Scheduled Activities) Regulation 2019*.

**commencement day** means the day on which the amending regulation commenced.

**licence application** means an application for a licence or an application to vary a licence.

**railway infrastructure construction licence** means a licence for the scheduled activity of railway activities—railway infrastructure construction.

**railway infrastructure operations licence** means a licence for the scheduled activity of railway activities—railway infrastructure operations.

**rolling stock operations licence** means a licence for the scheduled activity of railway activities—rolling stock operations.

### 17 Licensing requirements—person not holding existing licence (railways)

For the purposes of section 52(1)(a) of the Act (and despite clause 47 of this Regulation), the prescribed period is—

- (a) 3 months after the commencement day in the case a person who, because of the amending regulation, is required to be authorised by a railway infrastructure construction licence to continue to carry out any work or activity, or
- (b) 6 months after the commencement day in the case a person who, because of the amending regulation, is required to be authorised by a railway infrastructure operations licence or a rolling stock operations licence to continue to carry out any work or activity.

### 18 Licensing requirements—person holding existing licence (railways)

- (1) A person who held a licence for the scheduled activity of railway systems activities that was in force immediately before the commencement day is taken, on the commencement day, to hold a railway infrastructure construction licence, a railway infrastructure operations licence and a rolling stock operations licence.
- (2) A person who is taken to hold a licence under this clause is taken to hold that licence—
  - (a) in the case of a railway infrastructure operations licence—until 6 months after the commencement day or if the person makes a relevant licence application before

the end of that period that is not determined before the end of that period, when that application is finally determined, or

- (b) in the case of a rolling stock operations licence taken to be held by an occupier of land referred to in clause 19—until that clause ceases to apply to the occupier.
- (3) Nothing in subclause (2) prevents the earlier suspension, revocation or surrender of a licence referred to in that subclause in accordance with the Act.
- (4) A person who is taken to hold a railway infrastructure construction licence is taken to hold that licence until it is suspended, revoked or surrendered in accordance with the Act.
- (5) Nothing in this clause authorises a person to carry out an activity that the person was not permitted to carry out under the licence for the scheduled activity of railway systems activities held by the person.

#### **19 Operator of rolling stock taken to include land occupier**

- (1) In addition to any person who is required to hold a licence under clause 33B of Schedule 1 to the Act in respect of the operation of rolling stock on a track, the occupier of the land on which the track is situated is also required to hold a licence for the operation of that rolling stock.
- (2) This clause ceases to apply to an occupier of land 13 months after the commencement day or on the day on which each person who operates rolling stock on a track on the land holds a licence under clause 33B (whichever occurs first).

#### **20 Licensing requirements for road construction**

For the purposes of section 52(1)(a) of the Act (and despite clause 47 of this Regulation), the prescribed period is 3 months after the commencement day in the case a person who, because of the substitution of clause 35 of Schedule 1 to the Act by the amending regulation, is required to be authorised by a licence to continue to carry out any work or activity.

#### **21 Licensing requirements for road tunnel emissions**

- (1) For the purposes of section 52(1)(a) of the Act (and despite clause 47 of this Regulation), the prescribed period is 6 months after the commencement day in the case of a person who, because of the amending regulation, is required to be authorised by a licence for the scheduled activity of road tunnel emissions to continue to carry out any work or activity.
- (2) Section 52 of the Act and subclause (1) apply to a road tunnel (referred to in clause 35A of Schedule 1 to the Act) that commences to operate as a road tunnel within 6 months after the commencement day in the same way as those provisions apply to a

road tunnel that commenced to operate as a road tunnel before the commencement day.

## **Schedule 9 (Repealed)**