



New South Wales

Protection of the Environment Operations (General) Amendment (Pollution Incident Response Management Plans) Regulation 2012

under the

Protection of the Environment Operations Act 1997

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

ROBYN PARKER, MP
Minister for the Environment

Explanatory note

The object of this Regulation is to specify additional matters relating to pollution incident response management plans that are required to be prepared by the holders of environment protection licences in relation to the activities carried out under such licences. In particular, the Regulation specifies the additional information that is required to be included in a plan, the manner in which it is to be made available and the occasions on which it is to be tested.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including Part 5.7A (as inserted by the *Protection of the Environment Legislation Amendment Act 2011*).

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Clause 1

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1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (General) Amendment (Pollution Incident Response Management Plans) Regulation 2012*.

2 Commencement

This Regulation commences on 29 February 2012 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 2009

Chapter 7, Part 3A

Insert after Part 3 of Chapter 7:

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

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- 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 the requirements set out in clause 49 of the *Protection of the Environment Operations (Waste) Regulation 2005*),
- (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.

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- (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.