

South Australia

Environment Protection Variation Regulations 2013

under the *Environment Protection Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Environment Protection Variation Regulations 2013*.

2—Commencement

These regulations will come into operation on 30 November 2013.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Environment Protection Regulations 2009*

4—Variation of regulation 3—Interpretation

- (1) Regulation 3(1), definition of *designated water pollutant*—delete the definition and substitute:

designated water pollutant means—

- (a) heat, suspended solids, nitrogen, phosphorus, organic matter, zinc, lead or copper discharged in the course of any prescribed activity of environmental significance; or
 - (b) salt discharged in the course of a desalination plant;
- (2) Regulation 3(1)—after the definition of *South East Water Protection Area* insert:
- underground waters* means waters occurring naturally under the ground or introduced to an aquifer or other area under the ground;
- (3) Regulation 3(3)—delete subregulation (3) and substitute:
- (3) A reference in these regulations to an amount of *organic matter* is—
 - (a) in the case of organic matter discharged to waters in the course of a desalination plant—a reference to the amount of total organic carbon so discharged (expressed in kilograms); and
 - (b) in any other case—a reference to the biochemical oxygen demand of the organic matter (expressed in kilograms),determined in accordance with an approved estimation or monitoring technique for the activity that produces the organic matter.
 - (4) A reference in these regulations to the discharge of a pollutant in the course of a desalination plant is a reference to the discharge of the pollutant in the course of a prescribed activity of environmental significance specified in Schedule 1 Part A clause 8(6a) of the Act (desalination plant).

5—Variation of regulation 28—Licences—Annual authorisation fee

- (1) Regulation 28(1)(c)(i)—after "exceeded" insert:
- for a designated air pollutant or a designated water pollutant
- (2) Regulation 28(1)(c)(i)—after "component" insert:
- for the pollutant
- (3) Regulation 28(2)—delete subregulation (2) and substitute:
- (2) The *pollutant threshold* is exceeded in a reporting period—
 - (a) for a designated air pollutant if—

- (i) in the case of sulphur dioxide or nitrogen oxides—more than 10 000 kilograms of the pollutant are emitted to air during the period from an assessable site specified in the licence; or
 - (ii) in the case of particulates or volatile organic compounds—more than 1 000 kilograms of the pollutant are emitted to air during the period from an assessable site specified in the licence; or
 - (iii) in the case of lead—more than 100 kilograms of lead are emitted to air during the period from an assessable site specified in the licence; or
- (b) for a designated water pollutant if—
- (i) in the case of heat—more than 10 megawatts of heat are discharged to waters during the period from an assessable site specified in the licence (in the course of any prescribed activity of environmental significance); or
 - (ii) in the case of suspended solids, nitrogen, phosphorus, organic matter or zinc—more than 1 000 kilograms of the pollutant are discharged to waters during the period from an assessable site specified in the licence (in the course of any prescribed activity of environmental significance); or
 - (iii) in the case of copper or lead—more than 100 kilograms of the pollutant are discharged to waters during the period from an assessable site specified in the licence (in the course of any prescribed activity of environmental significance); or
 - (iv) in the case of salt discharged in the course of a desalination plant—
 - (i) more than 75 000 tonnes of the salt are discharged to the marine environment during the period from an assessable site specified in the licence; or
 - (ii) any amount of the salt is discharged during the period from an assessable site specified in the licence to other waters of the State that have a background concentration of salt of 13 000 milligrams of total dissolved solids per L or less (when measured during the period by a method approved by the Authority),

in each case, assessed in accordance with an approved estimation or monitoring technique for the activity that produces the pollutant.

6—Variation of regulation 31—Determining pollutant load-based component

- (1) Regulation 31(2)(b)—delete paragraph (b) and substitute:
- (b) the fee units for each designated water pollutant—
 - (i) in the case of a designated water pollutant discharged to waters (including underground waters) from the site (whether directly or indirectly through pipes or channels) in the course of a desalination plant during the designated reporting period—determined in accordance with subregulation (3a); or
 - (ii) in the case of a designated water pollutant discharged to waters (other than underground waters) from the site (whether directly or indirectly through pipes or channels) in the course of any other prescribed activity of environmental significance during the designated reporting period—determined in accordance with subregulation (4).
- (2) Regulation 31—after subregulation (3) insert:
- (3a) The number of fee units for a designated water pollutant discharged to waters in the course of a desalination plant is to be determined in accordance with the following formula:
- $$DWP = T \times N \times Z$$
- where—
- DWP* is the number of fee units for the designated water pollutant
- T* is—
- (a) in the case of a designated water pollutant other than heat—
 - (i) the weight (in tonnes rounded to the nearest 0.1 tonne) of the pollutant discharged to waters during the reporting period; or
 - (ii) if the licensee satisfies the Authority that the pollutant has been discharged back into the same waters from which it was taken—the weight (in tonnes rounded to the nearest 0.1 tonne) of the pollutant so discharged during the reporting period (calculated by subtracting the background concentration of the pollutant in the receiving waters from the concentration of the pollutant in the wastewater conveying the pollutant, in each case measured in grams per L, and multiplying that result by the total number of megalitres of the wastewater discharged to the waters during the reporting period); or

- (b) in the case of heat—the number of megawatts (rounded to the nearest megawatt) of the heat discharged to waters during the reporting period,

assessed—

- (c) in accordance with an approved estimation or monitoring technique for the activity resulting in the discharge; or
- (d) if the pollutant threshold is taken to be exceeded under regulation 28(4)(c)—on the basis of the Authority's own estimates and reasonable assumptions as to the nature and level of the licensee's activities

N is the number of fee units for the pollutant specified in Table 1a

Z is the zone weighting determined in accordance with Table 1a by reference to the pollutant and the location of the waters into which the pollutant is discharged (and if the pollutant is discharged into 2 areas listed in the table, the higher zone weighting applies).

Table 1a—Fee units and zone weightings for designated water pollutants—desalination plants

Pollutant	Fee units	Location of waters	Zone weighting
salt	0.00177	Marine environment	1
		All other waters of the State	50
heat	1	All waters of the State	1
suspended solids	10	Metropolitan coastal waters	2
		All other waters of the State	1
nitrogen	10	Port River region or Metropolitan coastal waters	3
		All other waters of the State	1
phosphorus	10	Port River region	2
		All other waters of the State	1
organic matter	10	Lake Bonney (South East)	2
		All other waters of the State	1
zinc	10	Upper Spencer Gulf	2
		All other waters of the State	1
copper, lead	100	Upper Spencer Gulf	2
		All other waters of the State	1

- (3) Regulation 31(4)—after "fee units for a designated water pollutant" insert:
(other than when discharged to waters in the course of a desalination plant)
- (4) Regulation 31, heading to Table 2—after "**designated water pollutants**" insert:
—activities other than desalination plants

- (5) Regulation 31—after subregulation (6) insert:
- (7) For the purposes of subregulation (3a), a designated water pollutant will be taken to have been discharged back into the same waters from which it was taken if the pollutant was—
- (a) taken from the marine environment and discharged back into the marine environment; or
 - (b) taken from an aquifer and discharged back into the same aquifer; or
 - (c) taken from a watercourse and discharged back into the same watercourse; or
 - (d) taken from some other body of waters and discharged back into the same body of waters.

7—Variation of Schedule 2—Environmental authorisations—application and authorisation fees

- (1) Schedule 2, clause 8(2)—after paragraph (g) insert:
- (h) for an activity specified in clause 8(6a) of Schedule 1 Part A of the Act (desalination plants)—
 - (i) if wastewater is discharged from a desalination plant to a wastewater lagoon—
 - (A) in the case of a class 1 prescribed environmental measure for the lagoon—a system for the disposal of the wastewater into the lagoon involving the sustainable reuse of the wastewater; and
 - (B) in the case of a class 2 prescribed environmental measure for the lagoon—a lining system for the lagoon (for example, HDPE lining or a lining with an equivalent level of impermeability) for preventing the contamination of land and waters from wastewater discharged from the desalination plant into the lagoon; and
 - (C) in the case of a class 3 prescribed environmental measure for the lagoon—a system enabling the detection of leakage, from the lagoon into surrounding land or waters, of wastewater discharged from the desalination plant into the lagoon; and
 - (ii) if wastewater is discharged from a desalination plant to land other than a wastewater lagoon, in the case of a class 4 prescribed environmental measure for the discharge—a system for the disposal of the wastewater involving the sustainable reuse of the wastewater.

- (2) Schedule 2, clause 9, table, entry relating to clause 8 (Other)—after the item relating to clause 8(6) insert:

cl 8(6a)	Desalination plants comprising—	
	(a) a desalination plant that discharges wastewater to the marine environment—	
	(i) for discharges of more than 2 megalitres but not more than 1 000 megalitres of wastewater during the licence period	5
	(ii) for discharges of more than 1 000 megalitres but not more than 10 000 megalitres of wastewater during the licence period	12
	(iii) for discharges of more than 10 000 megalitres during the licence period	30
	(b) a desalination plant that discharges wastewater to a wastewater lagoon—	
	(i) for discharges of more than 2 megalitres but not more than 50 megalitres of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of effective class 1, class 2 and class 3 prescribed environmental measures for the lagoon	1
	(B) if the licensee satisfies the Authority of the existence of effective class 2 and class 3 prescribed environmental measures for the lagoon	2
	(C) if the licensee satisfies the Authority of the existence of an effective class 1 prescribed environmental measure for the lagoon	3
	(D) in any other case	4
	(ii) for discharges of more than 50 megalitres but not more than 500 megalitres of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of effective class 1, class 2 and class 3 prescribed environmental measures for the lagoon	3
	(B) if the licensee satisfies the Authority of the existence of effective class 2 and class 3 prescribed environmental measures for the lagoon	4

	(C) if the licensee satisfies the Authority of the existence of an effective class 1 prescribed environmental measure for the lagoon	5
	(D) in any other case	6
(iii)	for discharges of more than 500 megalitres of wastewater during the licence period—	
	(A) if the licensee satisfies the Authority of the existence of effective class 1, class 2 and class 3 prescribed environmental measures for the lagoon	9
	(B) if the licensee satisfies the Authority of the existence of effective class 2 and class 3 prescribed environmental measures for the lagoon	10
	(C) if the licensee satisfies the Authority of the existence of an effective class 1 prescribed environmental measure for the lagoon	11
	(D) in any other case	12
(c)	a desalination plant that discharges wastewater to inland waters or land (other than to a wastewater lagoon)—	
	(i) for discharges of more than 2 megalitres but not more than 50 megalitres of wastewater during the licence period—	
	(A) if, in the case of the discharge of the wastewater to land, the licensee satisfies the Authority of the existence of an effective class 4 prescribed environmental measure for the discharge	3
	(B) in any other case	4
	(ii) for discharges of more than 50 megalitres but not more than 500 megalitres of wastewater during the licence period—	
	(A) if, in the case of the discharge of the wastewater to land, the licensee satisfies the Authority of the existence of an effective class 4 prescribed environmental measure for the discharge	5
	(B) in any other case	6
	(iii) for discharges of more than 500 megalitres of wastewater during the licence period—	

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|-----|--|----|
| (A) | if, in the case of the discharge of the wastewater to land, the licensee satisfies the Authority of the existence of an effective class 4 prescribed environmental measure for the discharge | 11 |
| (B) | in any other case | 12 |

Schedule 1—Transitional provision

1—Transitional provision

If a person, immediately before the commencement of this clause, held a licence authorising an activity of a kind referred to in Schedule 1 Part A clause 8(7) of the Act (discharges to marine or inland waters) and the activity or activities undertaken under the licence are an activity or activities described in Schedule 1 Part A clause 8(6a) of the Act (as amended by the *Environment Protection (Variation of Act, Schedule 1) Regulations 2013*) as a desalination plant—

- (a) the person will, on that commencement, be taken to hold a licence to undertake the activity or activities so described for the remainder of the term, and subject to the same conditions (if any), applying immediately before that commencement; and
- (b) any reference in the licence to "discharges to marine or inland waters" as described in Schedule 1 Part A clause 8(7) of the Act immediately before the commencement of this clause, will, on that commencement, be taken to be a reference to a "desalination plant"; and
- (c) any reference in the licence to the undertaking of the activity or activities under Schedule 1 Part A clause 8(7) of the Act will, on that commencement, be taken to be a reference to the undertaking of the activity or activities under Schedule 1 Part A clause 8(6a) of the Act.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 5 September 2013

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