

FAQs

General

What is the Clean Air Regulation?

The *Protection of the Environment Operations Act 1997* sets the statutory framework for managing air quality in NSW. Under the Act, the Clean Air Regulation is the main set of detailed laws controlling air pollution in NSW. It controls the emission of pollutants from industry, motor vehicles and motor vehicle fuels, wood heaters, and backyard burning. Industry emissions are also regulated through environment protection licences under the Protection of the Environment Operations (General) Regulation.

Why is the EPA changing the Regulation?

The *Subordinate Legislation Act 1989* provides for regulations to have a limited life so that their continued relevance and effectiveness can be assessed. After reviewing the latest environment and health research, current technologies, environmental practice, regulations and emission standards in other Australian jurisdictions and evolving community and stakeholder concerns, the EPA is updating the Regulation to make it more current and relevant. The changes help implement the objectives of the *Protection of the Environment Operations Act 1997*, in particular by promoting pollution prevention and cleaner production, reduction of harmful discharges to the environment and progressive environmental improvement.

What is changing in the Regulation?

Substantive changes to the existing Regulation are proposed for Part 4 – Motor vehicles and motor vehicle fuels, Part 5 – Air impurities emitted from activities and plant, and Part 6 – Control of volatile organic liquids. Minor or no changes are proposed for Part 2 – Domestic solid fuel heaters and Part 3 – Control of open burning. Editorial changes were also made to the Clean Air Regulation such as restructuring some parts and plain language and reordering of section numbers.

What is a Regulatory Impact Statement?

When a Regulation is remade, the NSW Government prepares a Regulatory Impact Statement to outline how the possible impacts of proposed changes to the Regulation have been assessed. In this case the Regulation deals with air pollution. The EPA must consider different options for addressing identified air pollution problems and the economic and social costs and benefits of those options. The Regulatory Impact Statement outlines these options and indicates the most effective option for addressing the problem. This document is provided to the public who have an opportunity to comment on it.

What are the total net benefits of the proposed changes?

The net benefits (benefits less costs) of the proposed changes to Parts 4, 5 and 6 of the existing Regulation are conservatively estimated to be about \$687 million. These are mostly health benefits from avoided emissions of key air pollutants (particles, oxides of nitrogen (NO_x) and volatile organic

compounds (VOCs). Other pollutant reductions will occur, with associated health benefits (for example, air toxics like benzene and polycyclic aromatic hydrocarbons (PAHs)) but are not quantified in the Regulatory Impact Statement due to a lack of rigorous health cost data and to avoid double counting of benefits where a key air pollutant contributes to the formation of other pollutants such as secondary particles.

Keeping the existing requirements of other parts of the Regulation means continued emission reductions from measures already in place. Other unquantified benefits of managing air pollution via the Clean Air Regulation include improved visibility, less offensive odours, healthier vegetation and an improved condition of the built and natural environment in general.

Will my comments on the proposed changes be taken into account?

The EPA will consider all comments received before finalising the Regulation. All stakeholders who made a submission or provide input will be notified once the updated Regulation is finalised.

When will the updated Regulation come into effect?

The Regulation must be remade by 1 September 2022. It will come into effect on the date that the Regulation is published on the official NSW legislation website (www.legislation.nsw.gov.au) or the commencement date specified in the Regulation. This commencement date will be advised later.

Where can I get more information?

An overview of the proposed Regulation is provided in the Regulatory Impact Statement. Detailed information on how the EPA manages air pollution – not only through Regulation but also through other instruments and other measures – is available on the EPA website. You can also email your request for further information to air.policy@environment.nsw.gov.au or by calling the Environment Info Line on 131 555.

Part 4 of the existing Regulation: Motor vehicles and motor vehicle fuels (Parts 4 and 8 of the proposed Regulation)

Why is the summer petrol volatility period shifting?

Petrol is a source of VOCs which are one of the pollutants that form ozone. Controlling petrol volatility helps reduce VOCs in petrol vapours escaping into the air when petrol is stored and transferred between storage tanks, fuel tankers, petrol stations and motor vehicles and from a vehicle's exhaust. The EPA's analysis of historic air quality data shows that average ozone is increasing and exceedances of ozone standards are occurring before the start and after the end of the current summer petrol volatility season of 15 November to 15 March. Extending the summer petrol volatility period to 1 November to 31 March will better align it with the period in which hotter temperatures occur and increase the amount of evaporative VOC emissions.

What impact will this proposal have on ozone in Sydney?

The proposal is in response to longer and hotter summers in Sydney and aims to reduce emissions of VOCs that contribute to ozone formation in that period.

How does the proposal affect petroleum producers and suppliers?

The majority of petrol used in NSW is imported from overseas and already complies with current national standards and the NSW summer petrol volatility specifications. Some petrol is supplied from Victoria. The new NSW summer petrol volatility period will align with that already in place in Victoria. To reduce

volatility, domestic producers will have to remove butane from the petrol. This butane can be sold or used for other purposes.

Also, in June 2021 the Australian Government legislated a fuel security package that supports Australian refineries by providing them with a fuel security services payment during loss-making periods.

What impact will the proposal have on petrol prices?

Petrol prices depend on prevailing oil prices, the exchange rate of the Australian dollar, levels of competition in different areas and pricing decisions of wholesalers and retailers and fluctuate widely from week to week. Adoption of any proposed change to the Clean Air Regulation is likely to have a negligible impact on petrol prices.

Why are heavy vehicles greater than 4.5 tonnes now being excluded from the smoky vehicles and anti-pollution device provisions?

This change to Divisions 2 and 4 of Part 4 of the existing Clean Air Regulation is being made to avoid duplication with the Heavy Vehicle (Vehicle Standards) National Regulation 2013 that is administered in NSW by Transport for NSW. The national regulation has the same requirements for heavy vehicles over 4.5 tonnes relating to emissions of smoke and the removal, disconnection or impairment of anti-pollution devices.

Victoria made a similar amendment to its Environment Protection (Vehicle Emissions) Regulations in 2013 to reflect regulation of heavy vehicles over 4.5 tonnes is through national regulation administered by VicRoads rather than EPA Victoria.

Will this heavy vehicle exclusion impact motor vehicle emissions regulation in NSW?

No. This change is to reduce administrative duplication only.

Part 5 of the existing Regulation: Air impurities emitted from activities and plant (Part 5 of the proposed Regulation)

Why is the EPA making industries upgrade their plant and equipment now?

The Regulation required the oldest plant (Groups 1 and 2 which commenced operating before 1979) to meet stricter emission limits from 2007. Moving the next tranche of activities and plant (Groups 3 and 4 which commenced operating between 1979 and 1997) to the strictest standards provided in the Regulation (applying to Groups 5 and 6 which commenced operating after 1997 and 2005 respectively) ensures a level playing field for all industry participants.

Many of the Group 3 and 4 activities and plant have already upgraded their pollution control equipment under their licence conditions and pollution reduction programs. Nearly 70% already meet the stricter emission standards for particles. Around 5% to 15% meet the tighter standards for NO_x emissions.

Emission controls on those Group 3 and 4 sources that have not upgraded would now be 25 to 45 years old and approaching end of serviceable life. These sources account for a disproportionate amount of emissions compared to newer sources.

The upgrades required by industry, using reasonably available control technologies and current good environmental practice, will occur in two stages with significant lead times of up to nearly 10 years.

What new emission controls will they have to put in place?

The Regulation does not prescribe which control technologies industry must use to meet the Group 5 and 6 standards. It is up to industry to meet the standards in a cost-efficient manner.

How much will it cost industry to upgrade their activities and plant to meet the new emission limits?

The costs to industry of meeting the Group 5 and 6 emission standards are conservatively estimated for those premises needing to upgrade their plant and control equipment on an aggregated basis at \$221.8 million. This includes \$9.0 million to meet PM_{2.5} standards and \$212.8 million to meet NO_x standards. Costs will vary for individual premises and will depend on which control technology they choose. In some cases, costs may in part be offset where old equipment at premises is already scheduled for replacement due to the impending end of its serviceable life.

What happens if it isn't economically feasible for industry to meet the new standards?

The Regulation allows for a transparent process to set alternative emission limits by way of conditions in environment protection licences. Sections 47 and 48 of the proposed Regulation set out this process. It is up to industry to demonstrate their emissions have acceptable impacts on the community and the environment and to meet their licence limits in a cost-efficient manner.

Are power stations that are planned to close in the next five to 15 years expected to comply with the new requirements?

The EPA recognises power stations are an important emission source and continues to work with power stations to reduce their emissions in the most cost-efficient manner. The EPA has recently reviewed licence limits and monitoring requirements for all coal-fired power stations. The new limits for a number of pollutants, including particles and toxic substances, are the same or tighter than Group 6 standards.

How will the proposed changes affect electricity prices?

A number of factors affect electricity prices in NSW. These include initiatives being progressed by the NSW Government under its Net Zero Plan and Electricity Strategy such as the development of renewable energy sources, the continuing share of energy demand to be met by current generators. The National Electricity Market also plays a big role in price setting.

Electricity generation (or wholesale) costs make up around 36% of the total electricity price to consumers. Network (transmission and distribution) charges account for around 47%, environmental levies around 6% while retailer and other residual costs make up the balance. Wholesale electricity prices have been declining in recent years, due in part to lower operational demand, lower coal and gas prices and lower priced generation such as renewables. The global economic outlook also has an effect.

These other factors and actions being considered by the NSW Government to maintain electricity prices mean that the impact, if any, on electricity prices of the proposed changes in the draft Regulation cannot be readily determined.

Is the EPA considering a new Group 7 with even tighter emission limits for new activities and plant to reflect the most recent technological advances?

The EPA is not proposing a new Group 7 for activity or plant as part of this regulation review. The emission standards in the Regulation reflect the reasonably available control technology for many pollutants and best available control technology for the most toxic air pollutants. The EPA will continue reviewing the best international practices for emerging industries. For example, the Energy from Waste Policy Statement reflects the best available control technology for this type of industrial facility.

The *Protection of the Environment Operations Act 1997* has a process for setting licence limits for specific premises or activities. The EPA frequently sets licence limits which are more stringent than the regulation, where this is warranted, based on project specific circumstances. The EPA's Approved Methods for the Modelling and Assessment of Air pollutants in NSW provides a framework used by the EPA to set licence limits.

Part 6 of the existing Regulation: Control of volatile organic liquids (Parts 6, 7 and 8 of the proposed Regulation)

Why is the area in which controls for storage tanks, loading plant and tank vehicles being expanded?

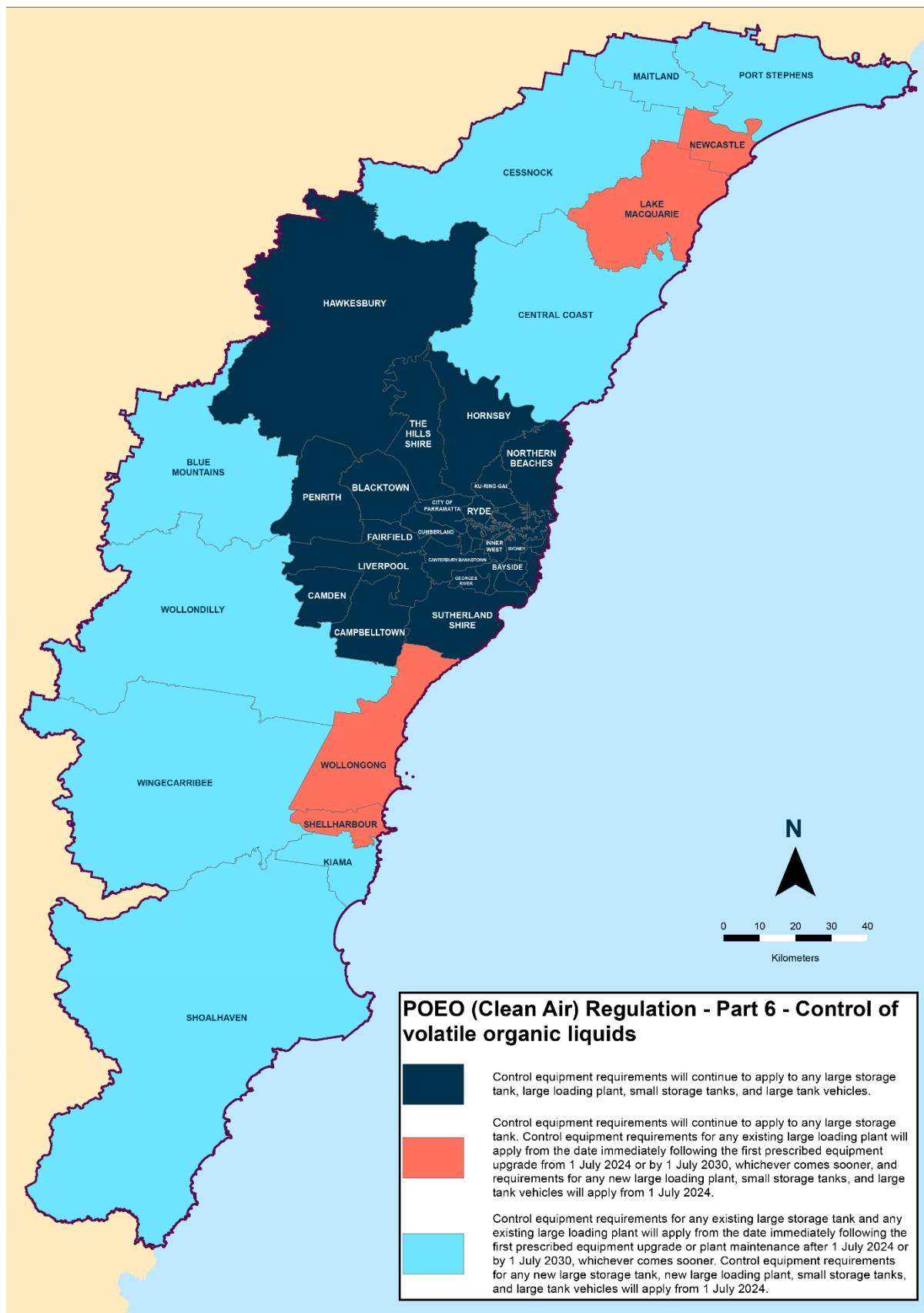
The control area is being expanded from the Sydney metropolitan area to include Newcastle and Wollongong so that it covers areas with large populations in which high levels of ozone in summer months have been recorded. Populations and associated commercial and industrial activity, including major fuel distribution facilities are growing in these areas. Controlling volatile organic liquid-related air emissions will help reduce volatile organic compounds (VOCs) which contribute to ozone formation. The control area will also be consistent with the stage one vapour recovery zone in which controls are required to capture VOCs from service stations.

What parts of NSW will now be covered?

The control area will be the same as the stage one vapour recovery zone which includes:

- the Central Coast metropolitan area
- the Illawarra region, including Wollongong and the local government areas of Kiama and Shoalhaven
- the Lower Hunter region, including Newcastle and the local government areas of Cessnock, Maitland and Port Stephens
- the Sydney metropolitan area and the local government areas of the Blue Mountains, Wingecarribee and Wollondilly.

A map showing the proposed coverage of the stage one vapour recovery zone can be found below.



When does the expanded coverage area come into effect?

Expansion of the coverage area is effective from 1 July 2024. Compliance dates for control equipment requirements however, are staggered.

What are the compliance dates for the specific control requirements?

Compliance dates differ for existing and new storage tanks and loading plant. A tank or loading plant is existing where it is commissioned before 1 July 2024.

Existing tanks and plant are given a transition period:

- vapour recovery requirements for large storage tanks and loading plant will apply from 1 July 2027.
- secondary seals for large external floating roof storage tanks must be installed by 1 July 2030, or immediately after the date of the next scheduled tank maintenance from 1 July 2024, whichever is sooner, or in accordance with the conditions of the licence in relation to the existing large storage tank.

New tanks and plant, that is, those commissioned on or after 1 July 2024, will require secondary seals, mechanical shoe primary seals (or equivalent) and submerged loading. All new tanks should have internal floating roofs or domed external floating roofs.

How much will these proposals cost industry?

The majority of storage tanks, loading plant and tank vehicles are expected to already comply or be ready to comply with the Part 6 control requirements and will not incur any costs. The costs for existing facilities that need to upgrade their control equipment are estimated in aggregate at \$190,000 based on reasonably available technologies. It will be up to industry to comply in a cost-efficient manner. The Regulation prescribes that compliance may coincide with the next major scheduled maintenance to minimise cost impacts to industry.

It is anticipated that industry costs for updating control technology would be mostly offset by savings from the recovered fuel products. The EPA has negotiated the implementation of such control technology with a number of operators as a condition of their environment protection licences. The average pay-back period for recently installed vapour recovery systems has been 2 to 3 years.

Schedule 1: Local government areas in which burning is prohibited

Can a council change its listing in Schedule 1?

A council can change its listing in Parts 1, 2 or 3 of Schedule 1 by:

- a formal proceeding and approval by a majority of council members, or
- a decision made by delegation, for example, to the General Manager.

Councils must also advise the EPA in writing of the change to their Schedule 1 listings.

What happens if a council changes its listing from one Part of Schedule 1 to another Part?

A council can choose which Part or Parts of Schedule 1 will apply to their local government areas. The three Parts provide different levels of control of burning:

- Part 1 – no burning, including of any domestic waste or vegetation, is allowed in a local government area unless approved by the council.
- Part 2 – no burning is allowed in a local government area, except of vegetation where approved by the council, for example, on rural lots that don't have green waste collection.

- Part 3 – other than vegetation, no burning is allowed in a local government area unless approved by the council, for example, where there is no domestic waste collection service.

If a council does not list under any part of Schedule 1 burning of anything not specifically prohibited by the Clean Air Regulation, (that is, tyres, paint and solvent containers and treated timber) could occur in its local government area. This includes household waste and vegetation. However, there is a general requirement under section 9 of the proposed Regulation that anyone burning anything in the open or an incinerator must take all possible measures to minimise air pollution.

NSW Environment Protection Authority

Email: info@epa.nsw.gov.au

Website: www.epa.nsw.gov.au

EPA 2022P3571

May 2022

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