

HRSTS Regulation Review
Environment Protection Authority
PO Box A290
Sydney South NSW 1232
19 February 2016

**SUBMISSION ON THE PROPOSED MINOR CHANGES TO THE HUNTER RIVER
SALINITY TRADING SCHEME REGULATION**

I refer to your letter of 18 January 2016 where you advise of the proposed minor changes to the Hunter River Salinity Trading Scheme Regulation. You invited comment on the draft regulation with submissions to be made by 19 February 2016.

It is appreciated that the proposed changes to the regulation have been a significant topic for discussion and review with the Hunter River Salinity Trading Scheme Operations Committee over 2014 and 2015, as led by Amanda Allan from your team. AGL Macquarie is represented on this committee and has been kept well informed through the process.

Our comments are generally in support of the changes you propose to the regulation, with a few clarifications for consideration in order that the changes don't introduce other issues. Our only concern is with regard to the proposed change to the Credit Register details – Clause 64 as detailed below.

Comments are made with reference to your Explanatory Tables as follows:

Flood Flow Thresholds – Clause 11	AGL Macquarie supports this change as it greatly reduces the possibility of river salinity target exceedance during Flood Flow events, and should then allow AGL Macquarie to operate the Lake Liddell Discharge Valve full open during any Flood Flow events without possibility of such exceedance.
Credit Auction – Various Clauses	<p>This proposed change to assign credits to specific discharge points for each participant is sensible for administration of the scheme particularly regarding complications that can arise in relation to how discharges are scheduled and organised.</p> <p>It is suggested that in relation to this change the credit auctions be operated on a per company basis within the HRSTS, not per discharge point, in order not to unnecessarily complicate the process.</p> <p>It is expected that participants will be able to transfer credits between discharge points under the rules of the scheme in order to take the best opportunity from each discharge when they occur.</p>
Total allowable discharge (TAD) – Clause 25	Clarification of this clause is sensible.

First issue credits and
first auction of credits
and pilot scheme –
Various clauses

The removal of these redundant references to the initial allocation of credits is appropriate given that more than 10 years has passed, so all credits currently in use have been purchased through the auction process. The initial issue of credits is no longer relevant.

Credit Transfers –
sector credit discount
factors – Clause 60

This change is an appropriate improvement.

Credit Register details
– Clause 64

With regard to your proposal to allow the Registrar more scope to determine how credit transfers are recorded in the Credit Register, AGL Macquarie Requests that the price of credit trades not be made visible to other parties from within the Credit Register. This pricing information is the result of cooperation / negotiation between two companies and may include matters outside the immediate value of the credits transferred. It also may depend on the circumstances and relative need between the companies at the time. To make the prices of these trades visible may create false expectations of future prices within the credit trading market.

Three examples:

1. Company B may have helped Company A with another unrelated project or agreement. As a result a discharge opportunity arises that Company A cannot use and they then allow Company B to use the credits at low cost. It is not appropriate for any other company to form an expectation that they may be able to obtain credits at this low cost.
2. If Company A cannot use a discharge opportunity because of infrastructure works currently in progress or some other reason beyond their control they may offer the credits at low cost to Company B.
3. If Company B has a particular need to discharge larger volumes at an upcoming event and they approach Company A to buy credits as a temporary transfer during a discharge opportunity that Company A could have used, then the price negotiated could be high. It may not be in the commercial interest of either company for this price to be visible to others.

It is suggested that if pricing information is to be recorded in the system that the entry of this information be optional, and that the information entered by each participant not be visible to other participants. If pricing information is to be recorded then the purpose of recording that information should be reviewed by the HRSTS Operations Committee.

Excess auction
proceeds – Clause 84

This change is an appropriate improvement.

Review of Regulation –
timetable – Clause 93

This change is appropriate.

Sector Reference Points
- Dictionary

It is sensible for the EPA to be able to publish an alternative gauging station reference on the EPA's website in this manner if required.

It is requested that regulation also require that the EPA expressly advise any Credit Holders that may be effected by any such change.

Please refer any comments or queries to Kieran Scott, Team Leader / Water and Chemistry by phone [REDACTED] or email [REDACTED].

Yours sincerely,

[REDACTED]

Morgana Gidley-Baird

Environment Manager / AGL Macquarie



DOC15/356546

Kieran Scott
HRSTS Operations Committee
AGL Macquarie - Liddell Power Station
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Have your say on proposed minor changes to the Hunter River Salinity Trading Scheme Regulation

Minor changes are proposed to the Hunter River Salinity Trading Scheme Regulation following the EPA's ten-year statutory review. The draft **Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016** is now on public exhibition here: www.epa.nsw.gov.au/licensing/hrsts/regreview.htm.

You are invited to provide a submission on the proposed changes outlined in the draft Amendment Regulation by **19 February 2016**.

The NSW Environment Protection Authority (EPA) has completed the ten-year statutory review of the Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002 (the Regulation). A report on this review with a series of recommendations has been published on the EPA's website (link above) along with stakeholder submissions to the review where the authors have given permission for them to be published.

The report on the Regulation review makes a number of detailed recommendations and suggestions, including:

- a) to improve the Regulation (including to raise the current flood flow thresholds and a range of other more minor amendments),
- b) potential improvements to the general operation of the scheme, and
- c) potential further investigations to support the scheme in the medium to long term.

To implement the proposed regulatory changes outlined in the report, a draft Amendment Regulation has been prepared for public comment. The draft Amendment Regulation, along with explanatory tables that will assist you to understand the proposed changes, are available on the EPA's website (link above).

The EPA will continue to work with the scheme Operations Committee to improve the operational aspects of the scheme, by further considering and prioritising the suggested improvements and the range of further investigations outlined in the report.

Have your say

Submissions on the draft Amendment Regulation will be accepted up until 5pm on **19 February 2016**. Instructions on making your submission and further information about the review are available on the EPA's website (link above). If you have further questions, please call Amanda Allan on (02) 9995 5434 or email HRSTS.Review@epa.nsw.gov.au.

Yours sincerely



18 January 2016

DAVID FOWLER
Director Reform and Compliance
Environment Protection Authority



Hunter River Salinity Trading Scheme

Explanatory tables

Table 1 and Table 2 below provide an explanation of the proposed amendments contained in the draft Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016 (the draft Amendment Regulation)

Note: The first two columns of Table 1 and Table 2 ('issue' and 'recommended amendment') are taken from the report on the review of the Regulation. The third column ('how incorporated') explains how the recommendation has been incorporated into the draft Amendment Regulation. Both the report and the Draft Amendment Regulation are available on the EPA's website: Review of the Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002

Table 1: Substantial amendments

Issue (As identified in the Report)	Recommended amendment (As outlined in the Report)	How incorporated (into the Draft Amendment Regulation)
Commencement – Clause 2 Amendments to the Regulation should commence after the next credit auction (April–May 2016). This will allow participants an opportunity to acquire additional credits (if required), as a result to changes in the flood flow thresholds (below).	It is recommended that the amendments to the Regulation commence on 1 July 2016.	Clause 2 (page 2)
Flood flow thresholds – Clause 11 The flood flow thresholds are too low to allow for simultaneous full capacity discharges by participants without adversely impacting on flood flow salinity targets.	It is recommended that the flood flow thresholds be increased from 4000 to 5000 ML/day in the upper sector; from 6000 to 15 000 ML/day in the middle sector; and from 10 000 to 25 000 ML/day in the lower sector.	Schedule 1 [8] (page 4)

Table 2: Minor amendments

Issue (As identified in the Report)	Recommended amendment (As outlined in the Report)	How incorporated (into the Draft Amendment Regulation)
Credit location – Various clauses Credits are currently linked to licensed premises. Where participants have more than one authorised discharge point (and in particular where those points span across more than one sector), complications can arise in relation to how discharges are scheduled and organised.	It is recommended that the Regulation be amended to require credits to be assigned to specific authorised discharge points.	Schedule 1 [13], [19], [22], [23], [27], [32], [36], [37], [41], [42], [43], [50], [52], [72] (pages 4-15) The new clauses require a credit to be assigned to an authorised discharge point prior to use and set out rules about how a credit may be so assigned.
Total allowable discharge (TAD) – Clause 25 The way that the TAD is expressed and illustrated in the Regulation is unclear.	It is recommended that the description of how the TAD is calculated be clarified and the examples deleted.	Schedule 1 [25] (page 8)
First issue credits and first auction of credits and pilot scheme – Various causes The Regulation contains various redundant references to 'first issue credits', 'the first auction of credits' and the 'pilot scheme'.	It is recommended that these redundant references be removed.	Schedule 1 [2], [4], [38], [39], [40], [45], [74], [75] (pages 3-15)
Credit transfers – sector credits discount factors – Clause 60 The Regulation does not allow credits to be transferred out of a restricted sector (i.e. where a sector credit discount factor of less than one applies) and into a non-restricted sector. However, issues only arise where credits are transferred from a non-restricted sector into a restricted sector; only these transfers should be prohibited.	It is recommended that credit transfers from a restricted sector to a non-restricted sector, be permitted.	Schedule 1 [41], [49] (pages 10, 12) Note: the rules in clause 60 around transferring credits when a sector is restricted have been removed. However, these rules have been added to the rules around the assignment of credits to authorised discharge points, as part of new clause 49C (see new sub-clauses 49C(3)(c) and (6)).

Issue (As identified in the Report)	Recommended amendment (As outlined in the Report)	How incorporated (into the Draft Amendment Regulation)
Credit Register details – Clause 64 The details which can be recorded about credit transfers on the Credit Register are limited (e.g. the price of the traded credit cannot be recorded).	It is recommended that the Regulation allow the Registrar (i.e. the EPA or a person or body appointed by the EPA) more scope to determine how credit transfers are recorded in the Credit Register.	Schedule 1 [54], [55] (page 14) Note: There is a cross reference to the requirements of new clause 63A in the new credit assignment provisions (see new sub-clause 49A(5) of new Part 4A).
Operations Committee – Clause 70 Some agency names in clause 70 are out of date.	It is recommended that the agency names be updated.	Schedule 1 [58], [59] (pages 13-14)
Excess auction proceeds – Clause 84 The Regulation allows auction proceeds to be used to support the operation of the scheme in the year following the auction. However, the Regulation does not anticipate a situation where auction proceeds may exceed the estimated costs of the scheme for that year, thereby creating an excess.	It is recommended that the Regulation clarify that any excess funds can be carried over and used to cover the costs of the scheme in any future year.	Schedule 1 [65] (page 14)
Review of Regulation – timetable – Clause 93 The Regulation needs to include a timeframe for the next statutory review.	It is recommended that the Regulation prescribe that the next review is to commence in 10 years (consistent with last period for review).	Schedule 1 [73] (page 15)
Sector reference points - Dictionary The gauging station for the lower sector reference point has changed. As these gauging stations may be damaged or offline for various reasons, the Regulation needs to allow flexibility for another station to be identified.	It is recommended that the gauging station number for the lower sector reference point be updated in the Regulation. It is recommended that the Regulation allow the EPA to publish an alternative gauging station reference on the EPA's website, if required.	Schedule 1 [76] (pages 15-16), definitions of 'lower sector reference point', 'middle sector reference point' and 'upper sector reference point'

Issue (As identified in the Report)	Recommended amendment (As outlined in the Report)	How incorporated (into the Draft Amendment Regulation)
<p>Other miscellaneous amendments – Various clauses</p> <p>Various mechanical, administrative and tidy-up amendments to the Regulation are required in order to improve clarity and consistency.</p>	<p>It is recommended that all necessary miscellaneous amendments be made to the Regulation.</p>	<ul style="list-style-type: none"> • Streamlining of clauses relating to trading rules orders – repetition removed <ul style="list-style-type: none"> ◦ Schedule 1 [27], [28], [31] (pages 8-9) • Consistent use of the term 'discharge licence' <ul style="list-style-type: none"> ◦ Schedule 1 [1], [3], [5], [33], [34], [57], [62], [63], [64], [68], [69], [70], [77] (pages 3-16) • Clarification of clauses and headings; improving consistency between clauses <ul style="list-style-type: none"> ◦ Schedule 1 [6], [7], [9], [10], [11], [12], [20], [24], [26], [27], [29], [30], [35], [51], [53], [56], [60], [61], [66], [67] (pages 3-14) • Update terminology <ul style="list-style-type: none"> ◦ Schedule 1 [14], [15], [44], [53] (pages 4-13) • New, amended or deleted notes: <ul style="list-style-type: none"> ◦ Schedule 1 [1], [2], [3], [4], [13] [16], [19], [21], [22], [23], [27], [39], [41], [46], [54], [62], [63], [64], [71] (pages 3-15) • Clauses deleted/moved and clarified: <ul style="list-style-type: none"> ◦ Schedule 1 [13] and [17] (definition of relevant sector deleted from clause 18 – replaced by new clause 14A(2)) (pages 4-6); ◦ Schedule 1 [13] and [18] (clause 21 deleted – replaced by new clause 14B) (pages 4-6); ◦ Schedule 1 [19] (clause 22 deleted and replaced) (page 6); ◦ Schedule 1 [27] (clause 26 deleted and replaced) (page 8); ◦ Schedule 1 [37] and [48] (clause 37 deleted and replaced; clause 59 deleted; new clause 37A inserted on terms taken from former clause 59) (pages 9-12); ◦ Schedule 1 [41] and [47] (clause 58 deleted and replaced by new clause 49C) (pages 10-12); ◦ Schedule 1 [48] (clause 59 deleted and replaced by new clauses 59 and 59A) (page 12); and ◦ Schedule 1 [41] and [49] (clause 60 deleted and replaced by new clause 49C(1)(c)) (pages 10-12). • Dictionary – remove / amend / insert definitions to reflect changes throughout the Regulation <ul style="list-style-type: none"> ◦ Schedule 1 [76] (pages 15-16)

EPA 2015/0875



DOC15/356546

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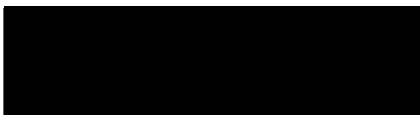
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