

Guidelines for the Burning of Bio-material

Record-keeping Requirements for Electricity Generating Facilities

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Contents

- 1. Introduction** **1**
- 2. Record-keeping requirements** **1**
 - Who is affected by these requirements? 1
 - Interpretation of these Guidelines 2
- 3. Record-keeping** **2**
 - What records must be kept? 2
 - When do I have to start keeping records? 2
 - How long must these records be retained? 2
 - Who may inspect these records? 2
 - How must these records be kept? 2
- Glossary** **4**

1. Introduction

The NSW Government's policy on the use of native forest bio-material for electricity generation is implemented through the Protection of the Environment Operations (General) Regulation 2009 (the Regulation), specifically in clauses 96–98. These clauses expressly prohibit the use of native forest bio-materials in electricity generation, but also provide exemptions for certain types of native vegetation or woody waste from the definition of native forest bio-materials. The material exempted from the definition is able to be burned for the purpose of electricity generation, subject to certain record-keeping conditions set out in clause 98.

Part 3 of Chapter 7 of the Regulation has three components:

1. clause 96 provides a definition of electricity generating work and 'native forest bio-material' and lists a number of exemptions to the definition of native forest bio-material
2. clause 97 makes it an offence for an occupier of any premises to cause or allow the burning of native forest bio-material in any electricity generating work and sets out the penalty for that offence and
3. clause 98 sets out record-keeping requirements and makes non-compliance with those requirements an offence. Under this clause records 'must be kept in accordance with the guidelines (if any) established by the EPA and published in the Gazette'.

These Guidelines have been updated following the commencement of the Protection of the Environment Operations (General) Amendment (Native Forest Bio-material) Regulation 2013 on 22 November 2013. It amends clause 96 to exclude additional types of native forest bio-material from the definition of 'native forest bio-material' in order to permit the burning of such material in any electricity generating works with the capacity to generate more than 200 kilowatts.

The additional exclusions apply to:

1. invasive native species cleared in accordance with property vegetation plans (PVP) that have been approved under the *Native Vegetation Act 2003* or an invasive native species order under the Native Vegetation Regulation 2013
2. pulp wood logs and heads and off-cuts from clearing carried out in accordance with a private native forestry PVP or forestry operations carried out in accordance with an integrated forestry operations approval (IFOA) under part 5B of the *Forestry Act 2012*
3. trees cleared as a result of thinning carried out in accordance with a Private Native Forestry PVP or an IFOA.

These Guidelines set out record keeping requirements that must be met to comply with clause 98 of the Regulation.

2. Record-keeping requirements

The Protection of the Environment Operations (General) Regulation 2009 (the Regulation) requires the occupier of any premises on which bio-material is burnt in any electricity-generating work to keep certain records. The EPA's requirements for record keeping are set out in these Guidelines.

Who is affected by these requirements?

The occupier of the premises is subject to the record-keeping requirements under the Regulation if:

- there is any electricity generating works (as defined in the Regulation, see Glossary) on the premises and
- bio-material of any kind is burnt in the electricity generating work.

Interpretation of these Guidelines

There is a range of non-native sources of forest bio-material, including plantation bio-material, sawdust and sawmill waste, and waste arising from wood processing. There are also non-forest sources of bio-material such as bagasse, exotic woody weeds, invasive native species and non-woody energy crops.

In these Guidelines, a reference to 'bio-material' can include non-native sources of forest bio-material, native forest bio-material and the non-forest sources of bio-material listed in the paragraph above, depending on the context.

3. Record keeping

Under clause 98 (1) of the Regulation, the 'occupier of any premises who causes or allows bio-material of any kind to be burned in any electricity generating works in or on those premises during a relevant period must keep records' and those records must be kept for four years. Clause 98(3) of the Regulation also sets out the definition of 'relevant period' to mean:

- in the case of work subject to an environment protection licence, the licence fee period in relation to that licence or
- in the case of any other work, the year ending 30 June in each calendar year.

What records must be kept?

Records in relation to fuel held at the premises during a relevant period.

When do I have to start keeping records?

Records must be kept from the time bio-material is held at the premises.

How long must these records be retained?

In accordance with clause 98(1)(b) of the Regulation, the records must be retained for at least 4 years after the end of the relevant period.

Who may inspect these records?

An authorised EPA officer may request an electricity generator to provide these records for inspection.

How must these records be kept?

Records must be kept in a manner that allows:

- all fuel held on the premises at the beginning of the relevant period that is to be used for the generation of electricity to be easily ascertained
- the date on which all fuel that is to be used for the generation of electricity enters or leaves the premises, together with its source, record type and amount (tonnes dry weight) to be easily ascertained
- at the end of the reporting period, the closing balance of all materials on the premises that are to be used for the generation of electricity.

If the fuel is bio-material, the records must be kept in a way that makes it clear which of the following categories the fuel belongs to:

- bagasse
- exotic woody weeds
- invasive native species
- non-woody energy crops
- other bio-material
- plantation bio-material
- pulp wood logs
- heads and off-cuts
- sawdust and sawmill waste
- saw logs
- trees from thinning
- waste arising from wood processing
- woody planted energy crops.

These records must be kept in English and in a manner that allows the summary information for a reporting period to be verified by an authorised EPA officer or any independent auditor.

The records must be kept in sufficient detail to show particulars of:

- the name of the supplier from whom the bio-material was purchased/obtained
- the date of supply of the bio-material
- the type of bio-material
- the location where the bio-material was harvested or sourced from
- the amount of bio-material in tonnes dry weight.
- the amount of electricity (in kilowatt hours) produced from the bio-material supplied during the reporting period
- the total amount of electricity (in kilowatt hours) produced by the electricity generating works during the reporting period.

Glossary

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

Bagasse means the residue after juice is extracted from sugar cane in the sugar cane milling process or from grapes after the juice has been extracted.

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

Exotic woody weed means a plant having stout stems consisting of lignin or woody material that occurs opportunistically on land that has been disturbed by human activity or on cultivated land, where it competes for nutrients, water, sunlight or other resources with cultivated plants. Under different circumstances the plant may itself be cultivated (e.g. it may grow from seed or propagate vegetatively from the residue of a previous crop).

Heads and cut-offs 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:

- (a) any part of a law log, pulp wood log or tree stump or
- (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 PVP that was approved under Part 4 of the *Native Vegetation Act 2003* after an assessment under Chapter 7 of the Assessment Methodology (within the meaning of Part 4 of the *Native Vegetation Regulation 2013*) or
 - (ii) trees cleared in accordance with a declaration by an order under clause 38 of the *Native Vegetation Regulation 2013* (and, if the order is subject to any conditions, in accordance with those conditions) or
 - (iii) pulp wood logs and heads and off-cuts resulting from clearing carried out in accordance with a private native forestry PVP 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 PVP 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.

Non-woody energy crops means an energy crop that does not have a woody trunk or stems, including an agricultural or horticultural crop and its biomass by-products, grown as an energy source for the primary purpose of energy production.

Other bio-material means any bio-material (other than the bio-materials listed in this section) that has been used for the purpose of electricity generation.

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 constata*)
 - (iii) scribbly gum (*Eucalyptus rossii*)
 - (iv) turpentine (*Syncarpia glomulifera*).

Sawdust and sawmill waste means the dust or residues produced in the process of sawing wood into planks, boards or other timber products.

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.

Waste arising from wood processing means bio-material obtained from 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. This includes:

- primary wood waste from urban sources, that is, wood waste from landfill, and transfer stations (for example, from urban and roadside tree lopping and removals from urban areas).
- secondary wood waste, that is, products in the later stages of the wood product cycle. This could include second-hand or recycled timber or timber products or waste products (for example, from the construction of buildings), including timber off-cuts and timber from demolished buildings.

Woody planted energy crops means an energy crop being either a tree or a shrub, including an agricultural or horticultural crop and its biomass by-products, grown as an energy source for the primary purpose of energy production.

Note: references to legislation are references to legislation as in force from time to time.