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:

Minister for the Environment

Explanatory note

The object of this Regulation is to amend the Protection of the Environment Operations (General) Regulation 2009 to:

(a) adjust the method of calculating the administrative fee for a licence holder to reflect the licence holder’s performance in managing environmental risks, and

(b) enable the Environment Protection Authority to issue a protocol for assessing a licence holder’s performance in managing environmental risks, and

(c) increase the amounts for an administrative fee unit and pollutant fee unit for the purposes of Part 1 of Chapter 2 of the Regulation, and

(d) increase the fees payable for clean-up notices, prevention notices and noise control notices.

This Regulation is made under the Protection of the Environment Operations Act 1997, including sections 53 (2) (c), 57 (1), 94 (2), 100 (2), 267A (2) and 323 (the general regulation-making power) and Schedule 2.
Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2013

under the

1 Name of Regulation
This Regulation is the Protection of the Environment Operations (General) Amendment (Licensing Fees) Regulation 2013.

2 Commencement
(1) Except as provided by subclause (2), this Regulation commences on 1 July 2014 and is required to be published on the NSW legislation website.
Schedule 1  Amendment of Protection of the Environment Operations (General) Regulation 2009

[1] Clause 4 Definitions
Insert in alphabetical order in clause 4:

*environmental management calculation protocol*—see clause 10A.

[2] Clause 9 Amount of administrative fee unit
Omit clause 9 (1) (a)–(e). Insert instead:

(a) on or after 1 July 2014 and before 1 July 2015—$119,
(b) on or after 1 July 2015 and before 1 July 2016—$122,
(c) on or after 1 July 2016 and before 1 July 2017—$125,
(d) on or after 1 July 2017 and before 1 July 2018—$129,
(e) on or after 1 July 2018—$133.

[3] Clause 10
Omit the clause. Insert instead:

**10 Calculating amount of administrative fee**

(1) The steps to determine the administrative fee comprised in an annual licence fee are as follows:

**Step 1 (Calculation of administrative fee units)**
Multiply the amount of one administrative fee unit for the relevant licence period by:

(a) the number of administrative fee units specified in Schedule 1 for the activity authorised or controlled by the licence, or
(b) if the licence authorises or controls more than one activity, the greatest number of administrative fee units specified in Schedule 1 for any one of those activities.

**Step 2 (Determination of environmental management category)**
Determine the environmental management category for the licence holder in accordance with the environmental management calculation protocol.
Step 3 (Calculation of administrative fee)

Multiply the amount calculated in accordance with step 1 by the environmental management factor specified in Column 2 of the Table to this clause for the applicable environmental management category specified in Column 1 of that Table.

(2) Steps 2 and 3 do not apply for the purpose of:

(a) calculating the administrative fee for a licence relating to an activity that is declared by clause 48 of Schedule 1 to the Act to be a scheduled activity, or

(b) calculating the administrative fee for a licence relating to an activity that is declared by clause 24 of Schedule 1 to the Act to be a scheduled activity, if the licence fee period for which the fee is calculated commences before 1 August 2015, or

(c) calculating the administrative fee that is to accompany an application for a licence relating to premises, if the applicant has not previously held a licence relating to those premises.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental management category</td>
<td>Environmental management factor</td>
</tr>
<tr>
<td>A</td>
<td>0.95</td>
</tr>
<tr>
<td>B</td>
<td>1.0</td>
</tr>
<tr>
<td>C</td>
<td>1.4</td>
</tr>
<tr>
<td>D</td>
<td>1.9</td>
</tr>
<tr>
<td>E</td>
<td>3.0</td>
</tr>
</tbody>
</table>


Insert after clause 10:

10A Environmental management calculation protocol

(1) For the purpose of this Division, the EPA is to issue (and may from time to time vary) a protocol to be applied in the determination of environmental management categories for licence holders (environmental management calculation protocol) by notice published in the Gazette.
(2) An environmental management calculation protocol is to provide for the determination of environmental management categories by reference to such matters relating to the licence holder’s performance in managing environmental risks as may be specified in the protocol.

(3) An environmental management calculation protocol takes effect in relation to an environmental management category from the date specified in the protocol and from that date any previous protocol in relation to the environmental management category ceases to have effect.

(4) Any environmental management calculation protocol in force under this clause must be made available on the EPA’s website.

10B Change in environmental management category—adjustment of administrative fee

(1) This clause applies if, at any time during a licence fee period, the EPA receives from the licence holder information that would have resulted in the determination of a different environmental management category for the licence holder, and an increase in the administrative fee for the licence, had the information been received before the determination was made.

Note. A licence holder is required, as a condition of a licence, to report to the EPA in an annual return information relating to the licence holder’s compliance with, or contravention of, conditions of the licence during the licence fee period.

(2) The EPA may change the environmental management category for the licence holder on the basis of the information provided.

(3) The administrative fee for the licence fee period is to be adjusted accordingly.

(4) Any additional amount of any fee adjusted under this clause is to be paid by the licence holder to the EPA not later than 60 days after the change in environmental management category occurs.

(5) The provisions of Division 5 relating to the payment of interest on unpaid administrative fees apply to any additional amount of any fee adjusted under this clause.

[5] Clause 19 Calculating the fee for each assessable pollutant—Step 4 of load-based fee calculation

Omit clause 19 (7) (a)–(e). Insert instead:

(a) on or after 1 July 2014 and before 1 July 2015—$44.78,
(b) on or after 1 July 2015 and before 1 July 2016—$45.90,
Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 2009

(c) on or after 1 July 2016 and before 1 July 2017—$47.05,
(d) on or after 1 July 2017 and before 1 July 2018—$48.23,
(e) on or after 1 July 2018—$49.44.

[6] Clause 99 Fee for clean-up, prevention and noise control notices

Omit clause 99 (a)–(e). Insert instead:

(a) on or after 1 July 2014 and before 1 July 2015—$492,
(b) on or after 1 July 2015 and before 1 July 2016—$506,
(c) on or after 1 July 2016 and before 1 July 2017—$520,
(d) on or after 1 July 2017 and before 1 July 2018—$535,
(e) on or after 1 July 2018—$550.