



Regulatory Impact Statement

Proposed Contaminated Land Management Regulation 2013



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Have your say

The Environment Protection Authority welcomes written comment on this regulatory impact statement and the draft Regulation.

Mail submissions to:

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The closing date for submissions is 5pm on **17 July 2013**.

This regulatory impact statement will be available online during the consultation period at www.environment.nsw.gov.au/clm/130403risclm.htm

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Proposed Contaminated Land Management Regulation 2013

1. Introduction

1.1 Purpose and content of the Regulatory Impact Statement

In accordance with the *Subordinate Legislation Act 1989*, the Environment Protection Authority (EPA) has prepared this regulatory impact statement (RIS) to assess the economic, social and environmental costs and benefits of the proposed Regulation and its alternatives.

The [Contaminated Land Management Regulation 2008](#) (the ‘current Regulation’) is due for automatic repeal on 1 September 2013. It is proposed to make a new Regulation under the [Contaminated Land Management Act 1997](#) (CLM Act) immediately following the repeal of the current Regulation.

This RIS analyses the proposed replacement of the current Regulation with the Contaminated Land Management Regulation 2013. This RIS consists of the following sections:

- Section 2 which provides the environmental context for contaminated land management in NSW, including relevant legislative and policy arrangements and the objectives of the CLM Act
- Section 3 which outlines the alternative options considered in light of the imminent repeal of the current Regulation
- Section 4 which details the proposed Regulation
- Section 5 which considers the costs and benefits of the options considered
- Section 6 which presents the conclusions of the assessment.

1.2 Consultation

The draft Regulation and this RIS are available for public comment for four weeks. The EPA welcomes written submissions from the public and will carefully consider all matters raised before the Regulation is finalised.

A notice calling for submissions from the public has been published in the *NSW Government Gazette*, *The Sydney Morning Herald* and *The Daily Telegraph*. Submissions will be accepted until the close of business four weeks after advertisement.

2. Management of contaminated land in NSW

A range of industrial and other land-use activities can sometimes result in the contamination of land. In some cases – particularly where the use of hazardous substances has been involved – a legacy of contamination may threaten human health and the environment or affect the current or future uses of the land.

The [Contaminated Land Management Act 1997](#) (CLM Act) establishes a framework to regulate and management land that becomes significantly contaminated. The CLM Act gives the EPA powers to require the investigation and management of sites where contamination is significant enough to warrant regulation. Less serious contamination is managed through the land-use planning process under the [Environmental Planning and Assessment Act 1979](#) and [State Environmental Planning Policy No. 55](#).

The effective management of contaminated land is consistent with ‘Goal 22: Protect our natural environment’ in the State Government’s [NSW 2021: A plan to make NSW number one](#) as well as the Key Performance Indicator in [EPA Strategic Plan 2012–2015](#): ‘Increase the number of contaminated sites being actively regulated or remediated’.

2.1 Contaminated land in NSW

2.1.1 Scale of the problem

Over past decades, poor industrial and waste management practices have resulted in land across NSW becoming contaminated with toxic chemicals and other hazardous materials. This contamination can have significant environmental, social and economic consequences, including the degradation of groundwater, surface waters and sediments; the uptake of contaminants by plants and animals; and the potential exposure of humans to contamination.

While there is an estimated 30,000 contaminated sites in NSW, only a small proportion require urgent intervention. Based on criteria in the CLM Act, around 1000 of these sites are likely to be significantly contaminated with about half requiring intervention by the EPA. The remainder will be able to be managed under the planning system when they are rezoned or redeveloped.

The estimated cost of assessing and remediating contaminated sites in NSW is \$100–\$200 million each year.

Additional sites continue to be identified in NSW, as contamination is often not apparent until a site is prepared for sale or redevelopment or the land use changes. At 30 June 2012, 1452 potentially contaminated sites had been notified to the EPA. Of these, 641 have been assessed, 217 sites regulated and 107 remediated under the CLM Act. The remaining sites require assessment and await receipt by the EPA of further information to progress this or the sites being identified as lower risk with no immediate threat to human health or the environment.

A [list of all notified sites](#) is available on the EPA website, in addition to a public record of all regulatory instruments exercised under the CLM Act.

2.1.2 Benefits of effective management

The effective management of contaminated land delivers multiple benefits, broadly categorised as follows:

Health benefits: A range of management actions on contamination can improve outcomes for human health, including reducing the magnitude of exposure to contaminants, the number of exposure pathways and the length of exposure, and providing information to help individuals reduce their exposure.

Ecological benefits: Reducing contamination helps restore and maintain the ecosystem functions that both humans and biodiversity rely on. These include clean air and water, and the ability of the environment to assimilate waste.

Amenity benefits: Contaminated sites often detract from the general amenity of a locality. Examples include the impact of contamination on surrounding vegetation or an unsightly discharge from an affected site. Remediation can improve amenity by treating or removing contamination to reduce the health risk and stigma, and enabling redevelopment of these sites.

Land supply benefits: Contaminated sites that are remediated are more likely to have redevelopment approved and accepted by future buyers and the public, bringing the land back to productive use. In coastal and metropolitan areas, high land values encourage the remediation and redevelopment of contaminated land. **Table 1** illustrates how remediation can increase the value of land for redevelopment.

Table 1: Costs of remediation compared with development value for selected contaminated sites*

Contaminated site	Estimated cost of remediation	Estimated value of development
Barangaroo	\$50–\$100 million (remediation of small portion of site)	\$6 billion (development of whole of site)
Rhodes Peninsula	\$200 million	\$1.5–\$2.5 billion
Pasminco and Incitec (Newcastle)	\$100–\$150 million	\$150–\$300 million
Mortlake Gasworks (Breakfast Point)	\$60–\$90 million	\$300–\$500 million

* Note that cost figures are based on advice from proponents and are indicative only.

In rural and regional areas, remediation is important where communities rely on groundwater for potable water supply. However, in these areas lower land values reduce the economic return from redevelopment of remediated land. Some land with low reuse values can fail to provide a sufficient incentive for remediation of a site, resulting in some contaminated sites being abandoned for prolonged, if not indefinite, periods of time.

2.1.3 Ecologically sustainable development and polluter pays

An objective of the CLM Act is for contaminated land to be managed with regard to the principles of ecologically sustainable development (ESD). Section 9(1) of the CLM Act requires the EPA consider the principles of ESD when exercising its functions under the Act and seek the implementation of those principles in the management of contaminated land by others.

ESD internalises external environmental costs so that the ‘real’ (full) value of the environment and its components are reflected in the costs estimated to use it. This improves the potential for the environment to be used and managed sustainably and not exploited wastefully. An adjunct is the ‘polluter pays principle’, where those who generate pollution bear the cost of cleaning it up.

2.1.4 Cost recovery

There is a clear mandate from the Commonwealth Government for regulators to achieve greater cost recovery of their services.¹ In 2001, the Productivity Commission identified the principles of cost recovery for regulatory agencies shown in the box.

Cost recovery principles

For regulatory agencies, in principle, the prices of regulated products should incorporate all of the costs of bringing them to market, including the administrative costs of regulation.

Cost recovery should not be implemented where:

- it is not cost-effective
- it would be inconsistent with policy objectives
- it would unduly stifle competition and industry innovation (for example, through 'free rider' effects).

Operational principles for cost recovery include:

- using fees for service where possible
- applying cost recovery to activities, not agencies
- not using targets
- not using cost recovery to finance other unrelated government objectives
- not using cost recovery to finance policy development, ministerial or parliamentary services, or meeting certain international obligations.

Design principles for cost recovery include:

- generally, avoiding cross-subsidies
- ensuring transparency and accountability
- undertaking industry consultation.

The EPA has examined the cost recovery mechanisms used for contaminated land in other Australian jurisdictions and internationally.

Queensland and Western Australia currently recover costs for defined purposes by charging for access to contaminated land information held by government during property transactions.

The Queensland Department of Environment and Heritage Protection charges a fee of \$41.55 for searching its Contaminated Land Register and Environmental Management Register via a web-accessible database. This information is a requirement for every property transaction in the state. The estimated 75,000 transactions per annum produce a revenue stream of over \$3 million.

In WA, the Department of Environment and Conservation (DEC) provides fee-based access to its Contaminated Sites Register. Accessing this register and receiving a Basic Summary of Records costs \$30 per site. DEC also has an option for providing access to a Detailed Summary of Records for any parcel of contaminated land at a cost of \$300. As part of the Contaminated Sites Register process, the department takes responsibility for placing notices on land titles when required. It is understood this process places considerable administrative burden on DEC.

¹ Productivity Commission 2001, [Cost Recovery by Government Agencies: Inquiry Report No. 15](#), Canberra
Commonwealth of Australia 2005, [Australian Government Cost Recovery Guidelines](#), Canberra

The Queensland and WA mechanisms are similar to those used internationally. Further controls aimed at cost recovery have, for example, been used in certain regions such as in Belgium. For every property transaction on land identified as potentially contaminated, a preliminary soil survey is legally required to be undertaken. The country's Flemish region has the additional requirement that sites are certified as uncontaminated prior to completion of all land transactions to ensure that contaminated land is identified and cleaned up. While this is a financial burden on property owners before a sale, the higher land values generally ameliorate this cost.

Introducing a similar information access fee in NSW would be inappropriate at this stage. Extracts from the NSW Contaminated Land Public Record is not compulsory for property transactions, as in Queensland and WA, and making it compulsory here is likely to entail changes to other legislation. Introducing a fee-based system would reduce accessibility to this information for some sectors of the community and probably reduce use of the public record. Mandating contaminated site investigation would also not be appropriate given that only a relatively small number of sites in NSW require contaminated site investigation and remediation.

2.2 NSW CLM framework

The purpose of the NSW Government's Contaminated Land Management (CLM) framework has been to provide a clear, efficient, comprehensive and integrated package of laws, guidelines and administrative arrangements to manage contamination at sites across the state. Key elements of the NSW regulatory framework are:

Contaminated Land Management Act 1997: The CLM Act provides a process for investigating and, where appropriate, managing contaminated land. The Act gives the EPA the power to declare land contaminated, order a responsible person to investigate or correct contamination, and approve a voluntary management proposal. It also establishes a hierarchy of responsibility for investigating and managing contaminated land and empowers the EPA to accredit individuals as site auditors. Implementation of the CLM Act is supported by the CLM Regulation 2008.

State Environmental Planning Policy No. 55 – Remediation of Land was created under the *Environmental Planning and Assessment Act 1979* (EP&A Act) and complements the CLM Act. SEPP 55 provides for consistent statewide planning controls for the remediation of land. It facilitates and controls remediation and the provision of relevant information to planning authorities, the EPA and the public.

Managing Land Contamination – Planning Guidelines provide step-by-step assistance to planning authorities on how to act responsibly to ensure that land is cleaned up to allow safe use of the site. The guidelines list those industries whose activities may result in contamination of land.

The CLM framework provides a system to ensure appropriate consideration of contaminated land via:

- the land-use planning processes that address future uses of a site
- regulation by the EPA of the investigation and remediation necessary to deal with significant contamination, given the current or approved use of the site.

The land-use planning approach embraces a preventative philosophy for contaminated land management. This allows for the identification and investigation of any contamination at an early stage in the planning and assessment process. Any necessary remediation may then be integrated into the redevelopment or rezoning of the land. In particular, the processes include measures to ensure that:

- planning authorities (generally local councils) consider contamination issues when making rezoning and development decisions
- local councils provide information about land contamination on the planning certificates they issue under section 149 of the EP&A Act
- land remediation is facilitated and controlled through SEPP 55.

When the system breaks down, such as with abandoned or orphan sites where the site owner or person responsible cannot be identified, the community should be able to rely on the EPA to step in and remediate sites to ensure the public continues to be protected from significant contamination.

The Environmental Trust also provides a number of mechanisms to fill such gaps in the system, including its Contaminated Land Management Program (CLM Program) established in 2001 to provide financial assistance for remediation of significant contamination. Funds are available for legacy sites where existing harm would continue or get worse and clean-up would be significantly delayed or possibly not occur at all without external assistance. The CLM Program addresses the problems resulting from poor waste disposal practices in the past financed from the NSW Waste Levy. The program has three schemes: the Council Gasworks Program, Innocent Owners Scheme and Derelict UPSS Pilot Program.

2.3 Objectives of the CLM Act

The general objective of the CLM Act is to establish a process for investigating and remediating sites where contamination is significant enough to warrant regulation.

Particular objectives of the Act are to:

- set out accountabilities for managing contamination significant enough to warrant regulation
- outline the EPA's role in assessing contamination and supervising the investigation, remediation and management of contaminated sites
- provide for the accreditation of site auditors to ensure appropriate standards of auditing in the management of contaminated land
- ensure that contaminated land is managed with regard to the principles of ESD.

2.4 The CLM Regulation

The CLM Regulation is subordinate legislation to the CLM Act. The function of the Regulation is to establish penalties to ensure compliance with the CLM Act, to outline minimum reporting requirements for site auditors in annual returns, and to transfer the cost of regulating the remediation of contaminated sites from taxpayers to polluters.

It prescribes:

- the amount which the EPA may recover for the costs it incurs in relation to management orders and voluntary management proposals²
- the fees payable for accreditation as a site auditor
- the time within which an application for renewal of accreditation must be made
- the content of the annual returns prepared by site auditors
- penalty notice amounts for offences under the Act

² The majority of contaminated sites regulated by the EPA are managed under voluntary management proposals.

- the minor amendment of guidelines
- the provision of reasons for the EPA's decisions.

The significant provisions in the Regulation relating to administration costs, the site auditor scheme and penalties are discussed below.

2.4.1 Administration costs

The EPA currently undertakes a variety of work, including research, analysis and consultation to prepare and monitor management orders and assess voluntary management proposals.

Management orders are issued under section 14 of the CLM Act. These orders allow the EPA to require the investigation, management and remediation of significantly contaminated land. Orders may also require a plan of management to be prepared and implemented for affected land. As far as practicable; the effect of the orders applies to those responsible for the contamination in the first instance, then the landowner and/or notional owner.

The EPA is also able to approve voluntary management proposals put forward for significantly contaminated land under section 17 of the CLM Act. Any person can propose this management mechanism, not just those responsible for the contamination. EPA approval may come with or without conditions and proposals that are agreed to become legally binding instruments.

Under section 34 of the CLM Act the EPA may recover all or any of the costs associated with administering management orders and voluntary management proposals. The current Regulation sets a fee of \$60 per hour for the work undertaken by the EPA. Costs have increased since the fee rate was set in 2008.

Specific tasks undertaken by the EPA in administering management orders and assessing voluntary management proposals include:

- liaising and negotiating with landowners and those responsible for remedial solutions
- reviewing existing information and contaminated land consultant reports
- carrying out site inspections
- drafting notices
- legal and managerial review of notices
- community consultation.

The tasks the EPA will need to do depend on the nature of the site, the use to which it is put, the nature of the risk identified by the EPA and the management options available for addressing the risk posed by the contamination.

The recovery of costs by the EPA under section 34 is discretionary. In certain circumstances, it may be deemed inappropriate to recover costs where the person responsible demonstrates financial hardship.

To date, the EPA has only applied administration costs to highly complex and extensively contaminated sites that require considerable time for the EPA to regulate.

2.4.2 Site auditor scheme

The CLM Regulation specifies some of the procedural requirements of the NSW site auditor scheme. The scheme provides a pool of accredited site auditors who can be engaged to review the assessment, remediation and validation work done by contaminated land consultants and certify land use suitability.

The objectives of the scheme are to:

- ensure that public health and the environment are protected through proper management of contaminated sites, particularly during changes in land use
- improve access to competent technical advice on contaminated sites for planning authorities and the community by establishing a pool of accredited auditors
- provide greater certainty for planning authorities and the community through the independent review by those auditors of contaminated site assessment and remediation reports and reports that validate the successful completion of the assessment or remediation.

Currently 37 site auditors are accredited under the CLM Act in NSW. Individuals must satisfy a number of requirements under the CLM Act before they can be accredited as site auditors or have their accreditation renewed. The EPA invites applications for accreditation at least once every two years. Applications need to be submitted on the specified form together with the application fee.

Applications are assessed against the criteria set by the EPA in the [Guidelines for the NSW Site Auditor Scheme](#) (2nd edition) and on the advice of the accreditation panel who considers the suitability of applicants for accreditation. The panel is appointed by the EPA and has at least four members: an EPA officer who chairs the panel, a representative of community environmental groups appointed on the nomination of the Nature Conservation Council of NSW, a representative of industry, and a representative of academia with tertiary qualifications in a discipline relevant to contaminated sites.

Successful applicants are entitled to practise as an accredited auditor for the term specified in their notice of accreditation. The CLM Act allows the EPA to grant accreditation to auditors for a period up to three years. Newly appointed auditors are generally accredited for an initial period of one year.

Site auditor accreditation is subject to payment of a non-refundable initial application fee of \$1000 and ongoing fees to maintain accreditation prescribed in the CLM Regulation as follows:

- up to and including one year – \$7000
- more than one and up to and including two years – \$14,000
- more than two and up to and including three years - \$21,000.

The intention of the scheme is to be self-funded. When the CLM Regulation was remade in 2008, auditor accreditation fees were increased substantially and the application fee also rose. These increases reflected the cost of administering the scheme and bringing it into line with the self-funding objective.

2.4.3 Penalty notices

The CLM Regulation specifies penalty notice amounts for offences under specific provisions of the CLM Act. These provisions relate to:

- penalties for failing to comply with a preliminary investigation order, management order and ongoing maintenance order
- making a representation or carrying out a site audit when not accredited
- failing to report contamination
- general offences related to authorised officers.

To date, the EPA has not issued any penalty notices under the CLM Act. Since the Act's introduction, it has instead adopted an educative and collaborative approach to ensure that the regulated community is aware of its responsibilities under the legislation and facilitate the

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timely clean-up of historic contamination, wherever possible. The EPA intends to move towards using a mix of regulatory tools in the future, including penalties, to ensure that obligations under the Act are being met.

The EPA is not seeking to increase penalty notice amounts in this review of the Regulation as the amounts are already on par with penalties for equivalent offences in other NSW environmental legislation.

3. Alternative options considered

A recent review of the CLM Act and the current CLM Regulation identified the following issues:

- a need to review EPA fees to more accurately reflect the agency's administration costs for contaminated land on an ongoing basis
- a need to index site auditor fees.

These issues were investigated and the proposed Regulation includes options to address them to improve the operation of the CLM Act in NSW.

3.1 Option 1: No Regulation

This option would see the automatic repeal of the current Regulation on 1 September 2013, with no new Regulation introduced. This means the CLM Act would operate without, among other things:

- any penalties for offences
- provision for administration costs and fees for accreditation of auditors
- specified content for annual returns by auditors
- time frames for applying for renewal of auditor accreditation.

Many of these provisions are the foundation of the current system for managing contaminated land in NSW.

3.2 Option 2: Renew the current Regulation

The option of renewing the current Regulation without making any changes would support the CLM Act so that the health, ecological, amenity and land supply benefits of the CLM framework would continue to be realised. However, it would not allow for an updated review of the administration costs for EPA regulation of significantly contaminated sites or an indexing of site auditor fees.

3.3 Option 3: The proposed Regulation

This option consists of a new Regulation that continues to support the CLM Act, but would both update and index fees and costs to more fully reflect the costs incurred by the EPA in administering the Act.

4. The proposed Regulation

The proposed Regulation would incorporate the following changes designed to improve cost recovery under the CLM Act.

4.1 Update administration costs

EPA work on contaminated land presently involves administering management orders and voluntary management proposals. The current Regulation sets a fee of \$60 per hour for the work done by the EPA. Costs have increased since the fee rate was set in 2008 and, to reflect this, the proposed Regulation updates the administration fee to \$80 an hour.

It is also proposed to index administration fees to the NSW Public Sector Wage Price Index so that the NSW Government can continue to recover its costs over time.

Calculation of the proposed fees is outlined in **Section 5.3.1**.

4.2 Update auditor accreditation fees

Fees for the accreditation of site auditors under the CLM Act were increased when the CLM Regulation was remade in 2008 to better reflect the cost of administering the scheme. The application fee was also increased.

It is proposed to index auditor fees to the NSW Public Sector Wage Price Index so that the NSW Government can continue to recover its costs to administer the scheme.

5. Costs and benefits

This section discusses the costs and benefits of both the current and proposed Regulation relative to the base case of no Regulation.

5.1 Costs of no Regulation (Option 1)

Option 1 would see the automatic repeal of the current Regulation on 1 September 2013, with no new Regulation introduced. Among other things, this would result in the CLM Act operating with no provision for fees to cover administration costs or the accreditation of site auditors.

5.1.1 Removal of administration costs

Removal of the administration costs would result in no cost recovery of the EPA expenses incurred in relation to management orders and voluntary management proposals. This would effectively mean the government would fully subsidise the costs of managing contaminated sites. This approach is inconsistent with the polluter-pays principle and cost recovery principles.

Management orders and voluntary management proposals address the investigation, remediation and future management of contaminated land determined by the EPA to be significant enough to warrant regulation. In preparing and monitoring these orders and assessing proposals, the EPA manages the risks posed by the contaminated land.

5.1.2 Removal of auditor accreditation fees

The charging of auditor accreditation fees reflects a financial transfer from auditors to the EPA. If no fees were charged as in Option 1, the EPA would still manage the scheme and incur administration costs while auditors would continue to meet accreditation requirements and incur compliance costs. However, removal of fees would result in the EPA incurring the full cost of administering the site auditor scheme (that is, full taxpayer subsidisation).

5.2 Costs of the current Regulation (Option 2)

Relative to Option 1 with no Regulation, the current Regulation results in costs to:

- site auditors to meet accreditation and annual return reporting requirements
- the EPA to record and invoice the administration costs associated with management orders and voluntary management proposals and to invoice the site auditor fees.

Site auditors currently incur costs to satisfy the annual return requirements associated with accreditation as an auditor. These costs range are estimated to range from \$600 to \$6000 a year, depending on the number of audits undertaken. While auditors incur the opportunity costs of the time they spend meeting these reporting requirements, this is seen as minimal when compared with the financial benefits of the work they gain through accreditation.

The costs to the EPA to record and invoice administration costs and invoice site auditor fees are not considered significant and have not been estimated. The EPA labour cost for all contaminated land management functions – preparing and monitoring management orders and voluntary management proposals, administering the site auditor accreditation scheme, working with the public and local councils, public reporting and corporate and policy functions – was approximately \$2.2 million in 2011–12. Only a small portion of this cost relates to the Regulation. Most functions are prescribed by the CLM Act and the cost of these functions would continue even if there was no Regulation.

If administration costs were applied to all the management orders and voluntary management proposals the EPA administers, approximately \$186,000 would be received per year. This figure is based on an annual average estimate of the number of orders and proposals administered for low, medium, high and very highly complex sites from 1998 to 2012. To date, the EPA has only applied administration costs to sites of very high complexity that require considerable time for the EPA to regulate.

There are, however, financial costs to site owners of \$60 for each hour the EPA spends in preparing and monitoring a management order or voluntary management proposal, and financial costs to site auditors of \$1000 for the initial auditor accreditation and \$7000 per year in accreditation renewal fees.

5.2.1 Retain the existing administration costs

Retention of the existing fee in the current Regulation would involve keeping the present system and administration fees. The EPA records the time spent on each management order and voluntary management proposal and is able to recover expenses by regularly billing the person responsible for contamination at the rate set in 2008 of \$60 per hour. Since then, the cost of labour has increased and this rate no longer reflects the costs incurred by the EPA in undertaking these tasks.

A recent change to the reporting requirements under the CLM Act has seen the number of contaminated sites notified increase from an average of 30 each year to more than 800 in 2009 and over 80 a year since. The EPA has addressed this jump in notified sites by focusing on the first stage of assessment to ensure that there is no immediate risk to human health and the environment and identify the more seriously contaminated sites for priority action. The increased notification has resulted in a greater number of regulated and remediated sites managed by the EPA.

5.2.2 Retain the existing auditor fees

Retaining the existing auditor fees in the current Regulation would involve keeping the present accreditation fees. The current system involves an application fee and a renewal fee. The initial fee for accreditation is designed to cover the cost of assessing applications and interviewing candidates by an expert accreditation panel. The accreditation renewal fee aims to recoup the cost of monitoring and administering the site auditor scheme. If the auditor fees are not reviewed again for several years, the proportion of EPA costs recovered may decrease over time.

The site auditor fees currently help pay for the site auditor scheme. For example, in 2011–12, \$174,000 was received by the EPA in auditor fees, while the annual cost to the EPA to administer the scheme was \$231,000. NSW taxpayers covered the remaining cost to administer the scheme (via the EPA).

5.3 Costs of the proposed Regulation (Option 3)

People responsible for land contamination do not currently contribute to the EPA's cost to prepare and monitor a management order or assess a voluntary management proposal.

5.3.1 Increase administration costs

This involves retaining the current system and updating the administration fees. A review of the EPA resources dedicated to administering management orders identified the mean EPA time involved was 429 hours at a mean cost of \$34,866. The average hourly cost was around \$80, including EPA direct labour and overheads.

Tables 2, 3, 4 and 5 identify the EPA resources required to administer management orders for low to very highly complex sites. Very highly complex sites are those with such extensive contamination that they can take many years to remediate and involve a great deal of EPA time and effort to administer.

A review of the EPA resources dedicated to administering voluntary management proposals identified the mean EPA time involved was 201 hours at a mean cost of \$15,626. The average hourly cost was around \$80, including EPA direct labour and overheads. **Tables 6, 7 and 8** identify the EPA resources required to administer voluntary management proposals for low to highly complex sites.

Since the commencement of the CLM Act in 1997, the EPA has administered a total of 32 management orders or about 15% of the legislative instruments it oversees. Of these, approximately 5% are very highly complex sites, 15% are of high complexity, 60% of medium complexity and 20% of low complexity.

The majority of contaminated sites regulated by the EPA (214) have been voluntary management proposals. Of these, approximately 15% are highly complex sites, 60% are of medium complexity and 25% of low complexity.

The higher fees under the proposed Regulation would not change the current costs to prepare and monitor orders or assess proposals. However, the financial cost to site owners would increase from \$60 an hour to \$80. If the new administration costs were applied to all management orders and voluntary management proposals administered by the EPA, an estimated \$248,000 would be received per year. This figure is based on an annual average estimate of the number of orders and proposals administered for low, medium, high and very highly complex sites from 1998 to 2012.

This proposed change would mean that those responsible for contaminated sites would in future pay nearly all of the administrative costs to prepare and monitor a management order or assess a voluntary management proposal. However, since the EPA has discretion about the administration costs it collects, in certain circumstances where financial hardship is demonstrated, it may not recover costs.

Table 2: EPA costs associated with management orders for low complexity sites

EPA activity	Officer	Section head	Manager	Director	Legal	Total hours	Total cost
	\$50/hour	\$65/hour	\$85/hour	\$105/hour	\$70/hour		
Site inspection/meeting	4	4	0	0	0	8	\$460
Review existing information	6	1	0	0	0	7	\$365
Meetings with owners, consultants or auditors	2	1	0	0	0	3	\$165
Draft notice	5	1	1	0	2	9	\$540
Review and authorisation	0	6	2	2	0	10	\$770
Progress meetings	5	3	1	1	0	10	\$635
Review reports	15	5	1	0	0	21	\$1,160
Legal review	1	1	1	0	1	4	\$270
Community consultation	3	3	1	0	0	7	\$430
Total labour	41	25	7	3	3	79	\$4,795
Overhead costs* (26%)	n/a	n/a	n/a	n/a	n/a	n/a	\$1,247
Total cost							\$6,042

* Overhead costs include superannuation, payroll tax, workers' compensation, and corporate and office overheads, and are estimated to add 26% to labour wage costs.

Table 3: EPA costs associated with management orders for medium complexity sites

EPA activity	Officer	Section head	Manager	Director	Legal	Total hours	Total cost
	\$50/hour	\$65/hour	\$85/hour	\$105/hour	\$70/hour		
Site inspection/meeting	20	20	4	0	0	44	\$2,640
Review existing information	40	3	2	0	0	45	\$2,365
Meetings with owners, consultants or auditors	15	10	5	0	0	30	\$1,825
Draft notice	25	5	5	0	6	41	\$2,420
Review and authorisation	0	10	5	5	0	20	\$1,600
Progress meetings	10	5	2	2	0	19	\$1,205
Review reports	25	7	4	0	0	36	\$2,045
Legal review	5	2	2	0	3	12	\$760
Community consultation	6	4	2	0	0	12	\$730
Total labour	146	66	31	7	9	259	\$15,590
Overhead costs* (26%)	n/a	n/a	n/a	n/a	n/a	n/a	\$4,053
Total cost							\$19,643

* Overhead costs include superannuation, payroll tax, workers' compensation, and corporate and office overheads, and are estimated to add 26% to labour wage costs.

Table 4: EPA costs associated with management orders for high complexity sites

EPA activity	Officer	Section head	Manager	Director	Legal	Total hours	Total cost
	\$50/hour	\$65/hour	\$85/hour	\$105/hour	\$70/hour		
Site inspection/meeting	15	15	4	0	0	34	\$2,065
Review existing information	35	15	2	0	0	52	\$2,895
Meetings with owners, consultants or auditors	20	5	2	2	0	29	\$1,705
Draft notice	40	10	6	0	12	68	\$4,000
Review and authorisation	0	15	10	8	0	33	\$2,665
Progress meetings	15	15	6	4	0	40	\$2,655
Review reports	40	15	6	0	0	61	\$3,485
Legal review	10	5	4	0	4	23	\$1,445
Community consultation	8	2	6	1	0	17	\$1,145
Total labour	183	97	46	15	16	357	\$22,060
Overhead costs* (26%)	n/a	n/a	n/a	n/a	n/a	n/a	\$5,736
Total cost							\$27,796

* Overhead costs include superannuation, payroll tax, workers' compensation, and corporate and office overheads, and are estimated to add 26% to labour wage costs.

Table 5: EPA costs associated with management orders for very highly complex sites

EPA activity	Officer	Section head	Manager	Director	Legal	Total hours	Total cost
	\$50/hour	\$65/hour	\$85/hour	\$105/hour	\$70/hour		
Site inspection/meeting	30	30	30	4	0	94	\$6,420
Review existing information	80	30	30	0	0	140	\$8,500
Meetings with owners, consultants or auditors	40	40	40	10	0	130	\$9,050
Draft notice	80	20	20	0	24	144	\$8,680
Review and authorisation	0	30	30	12	0	72	\$5,760
Progress meetings	40	40	40	12	0	132	\$9,260
Review reports	80	60	60	0	0	200	\$13,000
Legal review	20	10	10	0	8	48	\$3,060
Community consultation	20	15	15	12	0	62	\$4,510
Total labour	390	275	275	50	32	1,022	\$68,240
Overhead costs* (26%)	n/a	n/a	n/a	n/a	n/a	n/a	\$17,742
Total cost							\$85,982

* Overhead costs include superannuation, payroll tax, workers' compensation, and corporate and office overheads, and are estimated to add 26% to labour wage costs.

Table 6: EPA costs associated with voluntary management proposals for low complexity sites

EPA activity	Officer	Section head	Manager	Director	Legal	Total hours	Total cost
	\$50/hour	\$65/hour	\$85/hour	\$105/hour	\$70/hour		
Site inspection/meeting	4	4	0	0	0	8	\$460
Review existing information	6	2	0	0	0	8	\$430
Meetings with owners, consultants or auditors	2	2	0	0	0	4	\$230
Review and authorisation	0	6	3	2	0	11	\$855
Progress meetings	5	5	1		0	11	\$660
Review reports	20	4	1	0	0	25	\$1,345
Legal review	1	1	1	0	1	4	\$270
Community consultation	3	2	1	0	0	6	\$365
Total labour	41	26	7	2	1	77	\$4,615
Overhead costs* (26%)	n/a	n/a	n/a	n/a	n/a	n/a	\$1,200
Total cost							\$5,815

* Overhead costs include superannuation, payroll tax, workers' compensation, and corporate and office overheads, and are estimated to add 26% to labour wage costs.

Table 7: EPA costs associated with voluntary management proposals for medium complexity sites

EPA activity	Officer	Section head	Manager	Director	Legal	Total hours	Total cost
	\$50/hour	\$65/hour	\$85/hour	\$105/hour	\$70/hour		
Site inspection/meeting	8	8	4	0	0	20	\$1,260
Review existing information	21	8	4	0	0	33	\$1,910
Meetings with owners, consultants or auditors	6	6	0	0	0	12	\$690
Review and authorisation	0	16	6	5	0	27	\$2,075
Progress meetings	14	14	2	2	0	32	\$1,990
Review reports	40	10	4	0	0	54	\$2,990
Legal review	3	2	2	0	3	10	\$660
Community consultation	10	6	6	0	0	22	\$1,400
Total labour	102	70	28	7	3	210	\$12,975
Overhead costs* (26%)	n/a	n/a	n/a	n/a	n/a	n/a	\$3,374
Total cost							\$16,349

* Overhead costs include superannuation, payroll tax, workers' compensation, and corporate and office overheads, and are estimated to add 26% to labour wage costs.

Table 8: EPA costs associated with voluntary management proposals for high complexity sites

EPA activity	Officer	Section head	Manager	Director	Legal	Total hours	Total cost
	\$50/hour	\$65/hour	\$85/hour	\$105/hour	\$70/hour		
Site inspection/meeting	14	14	4	0	0	32	\$1,950
Review existing information	30	4	2	0	0	36	\$1,930
Meetings with owners, consultants or auditors	12	4	2	0	0	18	\$1,030
Review and authorisation	0	25	10	8	0	43	\$3,315
Progress meetings	18	18	6	4	0	46	\$3,000
Review reports	60	15	6	0	0	81	\$4,485
Legal review	6	4	4	4	4	22	\$1,600
Community consultation	20	8	8	1	0	37	\$2,305
Total labour	160	92	42	17	4	315	\$19,615
Overhead costs* (26%)	n/a	n/a	n/a	n/a	n/a	n/a	\$5,100
Total cost							\$24,715

* Overhead costs include superannuation, payroll tax, workers' compensation, and corporate and office overheads, and are estimated to add 26% to labour wage costs.

5.3.2 Index administration costs

Administration costs are fixed in the current Regulation while EPA costs are likely to increase over time as a result of increases in public sector wages. If the Regulation is not reviewed again for several years, the proportion of costs being recovered may decrease. Therefore, it is proposed to index fees to reflect annual increases in wages and bring the administration costs into line with government wage costs.

It is expected that the NSW Public Sector Wage Index will increase approximately 2.5% per annum over the immediate future. With indexing proposed to commence on 1 July 2014, a 2.5% increase is estimated to result in extra revenue from responsible persons of around \$6200 in the first year, assuming all administration costs are recovered.

5.3.3 Index auditor accreditation fees

In administering the site auditor scheme, the EPA is responsible for:

- establishing selection criteria and processes for accrediting competent individuals as site auditors and renewing their accreditation
- developing regulations relating to site auditors
- developing guidelines for site auditors, contaminated site consultants, local government and the community on the investigation and remediation of contaminated sites
- conducting reviews of the performance of site auditors to ensure that the required standards are maintained and taking any necessary disciplinary action
- working with the Department of Planning and Infrastructure to develop land-use planning guidelines relating to contaminated sites.

The scheme is generally cost-neutral with site auditor fees covering the costs of administering the accreditation scheme. The scheme underwent significant review in 2008 and fees were increased substantially. There is now a need to index these fees to reflect ongoing increases in EPA costs which are primarily wages-based.

The new fees under the proposed Regulation would not result in a change in the current cost of administering the accreditation scheme. With indexing proposed to commence on 1 July 2014, a 2.5% increase is estimated to result in extra revenue from auditors of around \$4500 in the first year, with costs to auditors rising to around \$178,500.

5.4 Benefits of no Regulation (Option 1)

Option 1: No Regulation would result in those responsible for contamination and site auditors making no financial contribution to the EPA's regulation of contaminated sites and administration of the site auditor scheme. While this may reduce financial cost to individuals responsible for contamination and site auditors, this is not seen as beneficial to the management of contaminated land in NSW overall or consistent with either the polluter-pays and cost recovery principles.

5.5 Benefits of the current Regulation (Option 2)

The current Regulation helps realise more benefits than if there were no Regulation. As it currently stands, the Regulation principally supports the CLM Act by allowing the EPA to recover administration costs, site auditor scheme fees and issue penalty notices.

5.6 Benefits of the proposed Regulation (Option 3)

The proposed Regulation would assist in better attributing the costs of managing contaminated sites to those who generate the need for Government regulation. The impact of each of the changes included in the proposed Regulation is outlined below.

5.6.1 Update administration costs

Reducing the gap between the administration fee rate and the actual hourly cost to prepare and monitor a management order or assess a voluntary management proposal provides the benefits of cost recovery. These include more efficient delivery and use of Government services and greater equity by ensuring that those who use the services or create the need for regulation bear the costs, supporting both the cost recovery and polluter-pays principles.

5.6.2 Index administration costs

Indexing the administration fee to the NSW Public Sector Wage Index between remakes of the Regulation means that charges for EPA services better reflect changes in Government costs. As highlighted above, it also ensures continuation of the quality-control process performed by the EPA in managing contaminated sites.

5.6.3 Index auditor accreditation fees

Indexing the application and renewal fee for the site auditor scheme to the NSW Public Sector Wage Index between remakes of the Regulation ensures that the costs to administer the scheme will continue to be met by the fees charged.

5.7 Summary of the costs and benefits

The repeal of the current Regulation without introducing a new Regulation (Option 1) would result in the CLM Act operating without the EPA being able to recover administration costs, charge site auditor scheme fees and issue penalty notices.

Both Options 2 and 3 would result in minimal additional costs for site auditors to meet their annual reporting requirements as well as the EPA to record and invoice the administration costs associated with management orders, voluntary management proposals and site auditor fees. However, Option 3 would result in greater financial costs to those responsible for contamination and site auditors than Option 2. **Table 9** summarises the costs of the three options to industry and those responsible for contamination.

Table 9: Cost of Regulation options to industry and responsible persons*

	Cost of regulation to industry and responsible persons	Total cost
Option 1: No Regulation	\$0	\$0
Option 2: Current Regulation	Administrative cost \$186,000** Site auditor fees \$174,000	\$360,000
Option 3: Proposed Regulation	Administrative cost \$248,000 Site auditor fees \$178,500	\$426,500

* Based on 2011–12 cost estimates

** Estimated administrative costs not currently applied

Table 10 summarises the benefits of the three options for the general community (via the EPA).

Table 10: Benefit of Regulation options for the community*

	Cost of EPA management of contaminated land	Total benefit
Option 1: No Regulation	\$2,200,000	\$0
Option 2: Current Regulation	\$1,840,000	\$360,000
Option 3: Proposed Regulation	\$1,773,500	\$426,500

* Based on 2011–12 cost estimates

The benefits from Option 3 are expected to be greater than Option 2 because it would result in greater cost recovery, thereby improving efficiency and equity. Efficiency could be improved as a result of industry and those responsible for contamination recognising the administrative costs involved in regulation. Cost recovery would also be more efficient and equitable than raising the general level of taxation.

5.8 Distributional impacts

NSW benefits from the reduction of potential harm to human health and the environment under the CLM framework.

Currently NSW taxpayers, via the EPA, contribute a large proportion of the cost of maintaining the CLM framework, including ongoing monitoring of conditions under management orders or voluntary management proposals. The proposed Regulation would reduce the proportion that the community contribute while increasing the proportion paid by those responsible to rectify land contamination and the fees paid by site auditors to maintain accreditation.

Although the proposed Regulation would increase the financial burden on responsible persons, it is more appropriate for polluters and parties who directly benefit to pay for the cost of managing contaminated land than the community, who are entitled to a clean environment.

6. Assessment and conclusions

The CLM Act aims to reduce the significant risk of harm to humans and the environment from contaminated sites and ensure that contaminated land is managed with regard to the principles of ecologically sustainable development.

The current Regulation (Option 2) gives the EPA the ability to recover administration costs, site auditor scheme fees and issue penalty notices under the CLM Act. These provisions are critical for the effective management of contaminated land in NSW. The cost of the current Regulation is minimal with the majority of costs being borne by site auditors for fees and annual return reporting requirements under the site auditor scheme. To date, the EPA has not issued any penalty notices under the CLM Act and has rarely sought to recover the administrative costs associated with management orders.

The proposed Regulation (Option 3) would result in similar costs to the current Regulation. However, by changing the degree of cost recovery, site auditors would continue to contribute to the cost of administering the site auditor scheme while those responsible for contamination would contribute towards the cost of preparing and monitoring management orders and assessing voluntary management proposals, thus decreasing the subsidy by the Government.

Option 1 (no Regulation) would result in the CLM Act operating without provisions for penalty notice amounts for offences, administration costs and site auditor accreditation fees. While the EPA would continue to regulate sites with significant contamination and administer the site auditor scheme, these provisions are critical for the EPA to effectively apply the principles of polluter pays and appropriate cost recovery.

For these reasons the proposed Regulation (Option 3) is the preferred option for replacing CLM Regulation 2008 when it is repealed on 1 September 2013.

**Proposed
Contaminated Land Management Regulation 2013**



Contaminated Land Management Regulation 2013

under the

Contaminated Land Management Act 1997

[The following enacting formula will be used if this Regulation is made:]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Contaminated Land Management Act 1997*.

Minister for the Environment

Explanatory note

The object of this Regulation is to remake, with amendments providing for the indexation of certain costs and fees, the provisions of the *Contaminated Land Management Regulation 2008* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation does the following:

- (a) specifies the hourly rate that the Environment Protection Authority (**EPA**) can charge so as to recover the administrative costs that it incurs in connection with preparing and serving orders relating to the management of contaminated land, or assessing and settling the terms of voluntary management proposals, or the costs the EPA incurs in connection with monitoring action under, or seeking compliance with, such orders and proposals,
- (b) imposes a requirement for the EPA to inform a person on whom certain orders are served of that hourly rate,
- (c) specifies the fees required to accompany applications for accreditation as a site auditor and the fees for the grant of such accreditation,
- (d) specifies the time within which an accredited site auditor must make an application for renewal of accreditation,
- (e) lists the matters that must be included in the annual return that a site auditor is required to prepare,

Public consultation draft

Contaminated Land Management Regulation 2013

Explanatory note

- (f) specifies the offences that may be dealt with by penalty notices (on-the-spot-fines) and the penalty applicable when they are dealt with in that manner,
- (g) specifies the types of amendments to EPA guidelines that are sufficiently minor to not require a consultative process to be undertaken,
- (h) specifies the time within which a statement of reasons for certain decisions of the EPA is required to be provided to a person who requests such a statement.

This Regulation is made under the *Contaminated Land Management Act 1997*, including sections 34 (a), (b) and (c), 50 (2) (c), 51 (5), 52 (1) (c) and (9), 53D (3), 92A, 105 (7), 106 (1) and 112 (the general regulation-making power).

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Contaminated Land Management Regulation 2013

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Clause 1 Contaminated Land Management Regulation 2013

Part 1 Preliminary

Contaminated Land Management Regulation 2013

under the

Contaminated Land Management Act 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Contaminated Land Management Regulation 2013*.

2 Commencement

This Regulation commences on 1 September 2013 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Contaminated Land Management Regulation 2008* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Contaminated Land Management Act 1997*.

(2) Notes included in this Regulation do not form part of this Regulation.

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Contaminated Land Management Regulation 2013

Clause 4

Recovery of certain administrative costs by EPA

Part 2

Part 2 Recovery of certain administrative costs by EPA

4 Recovery of EPA's administrative costs associated with orders and proposals

- (1) The object of this clause is to prescribe the amount that the EPA can require a person to pay so as to recover the costs incurred by the EPA in connection with any of the following:
 - (a) preparing and serving an order under Part 3 of the Act to which the person is subject or assessing and settling the terms of any voluntary management proposal to which the person is a party,
 - (b) monitoring action under such an order or under an approved voluntary management proposal to which the person is an approved party,
 - (c) seeking the compliance of the person with any such order or approved voluntary management proposal.
- (2) For the purposes of section 34 (a), (b) and (c) of the Act, the amount of \$80 per hour (or part of an hour) is prescribed.

Note. This amount is adjusted on 1 September each year under clause 10.

5 Notice of rate of EPA's administrative costs associated with orders and proposals

On service of an order under Part 3 of the Act, the EPA is to give the person on whom the order is served written notification of the amount prescribed by clause 4.

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Clause 6 Contaminated Land Management Regulation 2013

Part 3 Accreditation of persons as site auditors

Part 3 Accreditation of persons as site auditors

6 Application fee for accreditation as site auditor

For the purposes of section 50 (2) (c) of the Act, the prescribed application fee is \$1,000.

Note. This amount is adjusted on 1 September each year under clause 10.

7 Accreditation fee for accreditation as site auditor

For the purposes of sections 51 (5) and 52 (9) of the Act, the prescribed accreditation fee is as follows:

- (a) if the accreditation period is 1 year or less—the fee is \$7,000,
- (b) if the accreditation period is 2 years or less but longer than 1 year—the fee is twice the fee under paragraph (a),
- (c) if the accreditation period is longer than 2 years—the fee is three times the fee under paragraph (a).

Note. These amounts are adjusted on 1 September each year under clause 10.

8 Time for making renewal applications

For the purposes of section 52 (1) (c) of the Act, an application for renewal must be made not more than 60 days and not less than 30 days before expiry of the current accreditation period.

9 Particulars to be included in annual returns of accredited site auditors

For the purposes of section 53D (3) of the Act, the prescribed particulars to be included in an annual return are the following particulars of each site audit as at the date of completion of the audit (or, if the audit is not complete, as at the date of the annual return):

- (a) the location of the site (including Lot and DP numbers, street address, suburb and local government area),
- (b) the size of the site, its land zoning under the *Environmental Planning and Assessment Act 1979* and (if a change in zoning is proposed) its proposed zoning,
- (c) the date on which the auditor received the request,
- (d) the date of commencement of the audit,
- (e) the date or expected date of completion of the audit,
- (f) the use or uses of the site that have given rise to the contamination for which remedial action was carried out,
- (g) the current use to which the site is being put and any proposed use,

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Contaminated Land Management Regulation 2013

Clause 9

Accreditation of persons as site auditors

Part 3

- (h) the auditor's opinion as to the suitability of the site for the current and proposed uses,
- (i) the name of the person who carried out the remedial work that was reviewed or is being reviewed by the auditor and the titles of the reports (if any) by that person that were or are being reviewed.

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Clause 10 Contaminated Land Management Regulation 2013

Part 4 Miscellaneous

Part 4 Miscellaneous

10 Adjustment of amounts

- (1) In this clause:
 - adjustable amount* means any of the following:
 - (a) the amount prescribed by clause 4,
 - (b) the amount of the fee prescribed by clause 6,
 - (c) the amount of the fee prescribed by clause 7 (a).
 - Public Sector Wage Price Index* means the Wage Price Index (Public Sector) for New South Wales published by the Australian Statistician.
 - Public Sector Wage Price Index number*, in relation to a quarter, means the number for that quarter appearing in the Public Sector Wage Price Index.
 - year* means a year commencing on 1 September.
- (2) Each adjustable amount is, on 1 September in each year (starting on 1 September 2014), to be adjusted for increases in public sector wages as provided by this clause.
- (3) The adjustable amount that is to apply for a year is to be determined by multiplying the adjustable amount that applied for the previous year by the annual increase in the Public Sector Wage Price Index during that previous year.
- (4) The annual increase in the Public Sector Wage Price Index during a year is to be calculated as B/A where:
 - A* is the Public Sector Wage Price Index number for the last quarter for which such a number was published before the start of the year.
 - B* is the Public Sector Wage Price Index number for the last quarter for which such a number was published before the end of the year.
- (5) If B/A is less than 1 (as a result of a decrease in public sector wages), B/A is deemed to be 1.
- (6) If the determination of an adjustable amount for a year under this clause results in an amount that is not a whole number multiple of \$1, the amount calculated is to be rounded up to the nearest whole number multiple of \$1 and that amount as so rounded is the adjustable amount for that year.
- (7) Before the start of each year commencing 1 September 2014, the EPA is to publish notice of the adjustable amount for the year (as adjusted under this clause) on the following websites:
 - (a) the NSW legislation website,
 - (b) the website of the EPA.

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Contaminated Land Management Regulation 2013

Clause 11

Miscellaneous

Part 4

- (8) Any failure to publish a notice under subclause (7) does not affect any person's liability to pay an adjustable cost recovery rate amount as adjusted under this clause.

11 Penalty notices

For the purposes of section 92A of the Act:

- (a) each offence arising under a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in relation to the offence in Column 2 of Schedule 1 (in respect of an individual) or in Column 3 of Schedule 1 (in respect of a corporation).

12 Amendments to guidelines that do not require consultative process

For the purposes of paragraph (c) of the definition of *minor amendment* in section 105 (7) of the Act, each of the following is declared to be a minor amendment:

- (a) an amendment that is consequential on a legislative change,
- (b) an amendment of a machinery nature.

13 Time limit for giving reasons for certain decisions

A statement of reasons requested as referred to in section 106 (1) of the Act must be provided to the person making the request within 30 days after the EPA receives the request.

14 Saving

Any act, matter or thing that, immediately before the repeal of the *Contaminated Land Management Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.

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Contaminated Land Management Regulation 2013

Schedule 1 Penalty notice offences

Schedule 1 Penalty notice offences

(Clause 11)

Column 1	Column 2	Column 3
Offence under the Act	Penalty—Individual	Penalty—Corporation
Section 10 (5)	\$1,500	\$5,000
Section 14 (6)	\$1,500	\$5,000
Section 28 (4)	\$1,500	\$5,000
Section 48 (1)	\$750	—
Section 48 (2)	—	\$1,500
Section 60 (1)	\$750	\$1,500
Section 60 (2)	\$750	\$1,500
Section 89 (1)	\$500	\$1,000