



Australian Government  
Bureau of Meteorology



# **Procedures for managing online lists of named persons and sites in the Water Regulations 2008**

**Bureau of Meteorology  
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## Bureau of Meteorology Water Regulations 2008

### Procedures for managing online lists of named persons and sites

#### Introduction

This document sets out the operating procedures that the Bureau of Meteorology (the Bureau) will follow when updating the Persons and Classes of Persons and Commercially Sensitive Sites lists previously held in Schedule 2 *Persons* and Schedule 4 *Commercially Sensitive Sites* as part of the Water Regulations 2008. These lists are now available as online documents from our website [www.bom.gov.au/water/regulations/schedules](http://www.bom.gov.au/water/regulations/schedules)

The following sections provide an outline of why these lists have been removed from Schedule 2 and Schedule 4 and are now available from our website; the communication and consultation activities the Bureau has undertaken and will carry out in future when these lists change; the measures we will take to ensure the integrity of the schedules; and the creation of an online register that records all the changes we make to the online lists of persons and sites.

#### Background

Part 7 of the *Water Act 2007* sets out expanded functions of the Bureau of Meteorology that are in addition to its role under the *Meteorology Act 1955*. In order to fulfil these functions, the Bureau needs to obtain water information from a wide range of Persons. Section 256 of the *Water Act* provides for the making of regulations, and Section 126 requires Persons and Classes of Persons that are specified in the regulations to give certain water information to the Bureau.

Prior to July 2009, Schedule 2 *Persons* of the Water Regulations 2008 named 246 organisations that are required to provide various forms of water information to the Bureau. As organisations split, merged or were renamed, Schedule 2 *Persons* quickly became out of date. This created administrative and regulatory complications for both the Bureau and the organisations involved. Likewise, Schedule 4 *Commercially Sensitive Sites*, which lists sites from which information can, for reasons of commercial sensitivity, be provided later than the time specified in the regulations, could not be updated in a timely way.

Updating the Schedules to reflect changes required an extensive amendment process which involved the Governor-General. Such an approach was onerous and ineffective because of the time it took to reflect updates in the regulations.

Section 256 of the *Water Act* provides for more efficient revision of the regulations made under Part 7 (Attachment A shows Section 256). It allows for certain extrinsic material to be incorporated into the regulations by reference. This means that the material will be 'read into' the regulations without it being specifically 'written into' them, and it has effect accordingly. Section 256 allows such material to be modified over time.



On 9 July 2009, using the legislative authority in Section 256, the Governor-General amended the Water Regulations 2008 to replace Schedule 2 and Schedule 4 with references to documents produced by the Bureau of Meteorology containing information taken from the Schedules.<sup>1</sup> These documents are: *Persons and Classes of Persons* which contains the names of organisations from Schedule 2; and *Commercially Sensitive Sites* which contains the details from Schedule 4.

Subsection 256(5) of the Water Act specifies that these documents, and any amendments to them, must be publicly available on the Bureau's website. The Bureau has developed a dedicated webpage with links to the two documents. The website address is [www.bom.gov.au/water/regulations/schedules](http://www.bom.gov.au/water/regulations/schedules). (A higher level link at [www.bom.gov.au/water](http://www.bom.gov.au/water) is included in the regulations to enable people to easily locate the information.)

The webpage that links to the two documents includes background information and a register of the amendments made to the documents. This webpage can also be accessed through links on other water information web pages.

Removing the Schedules from the regulations and maintaining them on the Bureau's website does not materially affect the operation of the Water Regulations 2008. However, to ensure that such action does not reduce the transparency of the water information collection framework, the Bureau has documented in this paper the procedures that it will follow for updating the persons and site lists. These procedures are available online at [www.bom.gov.au/water/regulations/schedules](http://www.bom.gov.au/water/regulations/schedules).

### **Communication and consultation activities**

This section describes the Bureau's communication and consultation activities to inform stakeholders about the amendment to the regulations. It also sets out the procedures the Bureau will follow prior to adding new organisations to the regulations in the future.

#### ***Informing stakeholders prior to placing the Schedules online***

Before the Governor-General amended the regulations to locate the Schedules online, the Bureau wrote to all persons listed in Schedule 2 *Persons* to let them know about the amendment, including why the changes were being made, the effect of the changes, where to find the online named person and site lists and the procedures the Bureau would follow for future changes to the online schedules.

Similarly, we wrote to other stakeholders not named in the regulations and all persons who subscribe to the Bureau's email update service.

#### ***Procedures for updating the documents***

This section sets out the operating procedures that the Bureau will follow before updating the online list of named persons or of commercially sensitive sites.

We intend to make updates to both the persons and sites lists whenever there is a need, but no less frequently than every six months. The intention is to keep both lists up to date.

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<sup>1</sup> The legislative instrument that amended the Water Regulations 2008 was the Water Amendment Regulations 2009 (No. 1)



We outline separate procedures for (a) updating an existing name, (b) adding a new person, (c) adding new sites, or (d) removing sites from the regulations.

**Procedure for updating the Persons and Classes of Persons document**

**(A) Procedure for updating the name of an existing person in the regulations**

The Bureau will follow this procedure when updating an existing name in the regulations.

Step	Step action	Intent
1	Seek written confirmation from the appropriate delegate of the named person that a name change has occurred	Ensure that the name change is confirmed and that we have the correct organisation name details
2	Seek approval from the Director of Meteorology (or delegate) to change the name in the online document titled <i>Persons and Classes of Persons</i>	Internal process control #1
3	Update the document titled <i>Persons and Classes of Persons</i> and have the change reviewed by the Director of Meteorology (or delegate) prior to public release online	Internal process control #2
4	Notify the person in writing that their name has been updated in the document titled <i>Persons and Classes of Persons</i>	The person is aware that the online document has been updated to include their new name
5	List the change in the register that is publicly available on our website	Ensure transparency with regard to all changes to the online document titled <i>Persons and Classes of Persons</i>

**(B) Procedure for adding a new person to the regulations**

When the Bureau adds names of persons to the regulations, it does so in order to fulfil its functions under the Water Act. These functions include the following:

- collecting, holding, managing, interpreting and disseminating Australia's water information
- reporting regularly on the status of Australia's water resources
- predicting future water availability
- publishing the National Water Account.

In its decisions about which persons (organisations) should provide water information, the Bureau will be guided by the water industry, lead water agencies and the persons



already in the regulations, as well as by its own analysis of the data required to produce the National Water Account and water resource assessments.

Regulation 7.12 of the Water Regulations 2008 provides for a three month grace period for persons who are newly specified in the regulations before they are first required to provide water information to the Bureau.

The Bureau will complete the following procedure when adding a new person to the regulations.

Step	Step action	Intent
1	Seek approval from the Director of Meteorology (or delegate) to add a name or names to the online document titled <i>Persons and Classes of Persons</i>	Internal process control #1
2	Notify the person in writing that the Bureau is considering adding them to the regulations in no less than 6 months time  Provide a 30-day period for the person to draw to the Bureau's attention any reasons why they should not be added to the regulations*	Ensure that the person is aware that they will be added to the regulations on a set date and required to commence giving data to the Bureau 3 months after that date  Enable the person to notify the Bureau that there is a reason why they should not be required to give data to the Bureau
3	Conduct preliminary discussions with relevant peak industry bodies and/or persons regarding the Bureau's water information needs and the possibility that they may be named in the regulations. Make a reasoned judgment regarding the impacts and benefits of adding each person	Ensure that the stakeholders understand why the Bureau is considering adding persons to the regulations.  Ensure that the person to be named is in possession, custody or control of specified water information in electronic form
4	Notify the person in writing that the Bureau will add them to the regulations in no less than 3 months time	Ensure that the person is aware that they will be added to the regulations on a set date and required to commence giving data to the Bureau 3 months after that date
5	Provide information briefings to named persons and offer technical support and other assistance as appropriate	Ensure that the Bureau does all it can to assist the person to comply with their obligation to supply data.



6	Update the document titled <i>Persons and Classes of Persons</i> and have the change reviewed by the Director of Meteorology (or delegate) prior to public release online	Internal process control #2
7	List the change in the register that is publicly available on our website	Ensure transparency with regard to all changes to the online document titled <i>Persons and Classes of Persons</i>

- \* Legitimate reasons may include: (1) the data being requested is not in the person's possession, custody or control or not in electronic form, (2) the person believes that the Bureau already possesses the data that is being requested, (3) privacy concerns, (4) commercial confidentiality concerns, (5) the request places an unreasonable financial burden on the person.

## Operating procedures for updating the Commercially Sensitive Sites document

### (C) Procedure for adding new sites to the list

The Bureau will follow this procedure when adding a new site to the regulations.

Step	Step action	Intent
1	Seek a written request from the appropriate delegate of the named person* to add sites to the list	Ensure that the site names are confirmed and that we have the correct details
2	Review the request in the light of the Bureau's need to fulfil its functions under the Water Act	Assess the impact on the Bureau's water information provision role of a delayed receipt of water information from the nominated sites
3	Update the document titled <i>Commercially Sensitive Sites</i> and have the change(s) reviewed by the Director of Meteorology (or delegate) prior to public release online	Internal process control #1
4	List the change in the register that is publicly available on our website	Ensure transparency with regard to all changes to the online document titled <i>Commercially Sensitive Sites</i>

- \* Commercially sensitive sites are in each case associated with Category C persons (Hydroelectricity Generators).



**(D) Procedure for removing sites from the list**

The Bureau will follow this procedure when removing an existing site from the regulations.

Step	Step action	Intent
1	Periodically review the list of commercially sensitive sites	Ensure that the list of sites does not become redundant and that the delay in provision of water information from those sites continues to be commercially necessary
2	Write to the Category C person (hydroelectricity generator) informing them that the Bureau intends to remove certain sites from the list.  Provide a 30-day period after the notification for the person to draw to the Bureau's attention any reasons why the site(s) should not be removed from the regulations*	Ensure that the person is aware that the site(s) will be removed from the regulations on a set date  Enable the person to notify the Bureau that there is a reason why the site(s) should not be removed from the list
3	Update the document titled <i>Commercially Sensitive Sites</i> and have the change(s) reviewed by the Director of Meteorology (or delegate) prior to public release online	Internal process control #1
4	List the change in the register that is publicly available on our website	Ensure transparency with regard to all changes to the online document titled <i>Commercially Sensitive Sites</i>

\* Legitimate reasons include the site(s) concerned continue to provide water information that is commercially sensitive

In addition to the communication activities above, the Bureau will notify people who have subscribed to our water information email update service about changes to the lists. Subscriptions are made from <http://www.bom.gov.au/water/subscribe.shtml>

**Register listing all changes made to the persons and site list documents**

Specifically to comply with paragraph 256 (5) (b) of the Water Act, the Bureau will maintain a register on the website which lists all the changes and the timing of those changes to the *Persons and Classes of Persons* and *Commercially Sensitive Sites* documents. The website will always contain the latest versions of both documents.



## Attachment A

### *Water Act 2007—Section 256*

#### **256 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may make provision in relation to matters of a transitional nature (including the prescription of any saving or application provision) relating to:
  - (a) the amendments or repeals made by this Act; or
  - (b) the enactment of this Act.
- (3) Regulations made for the purposes of Part 7 may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification (including any omission, addition or substitution), any matter contained in a written instrument or other document:
  - (a) as in force or existing at a particular time; or
  - (b) as in force or existing from time to time;even if the written instrument or other document does not yet exist when the regulations are made.
- (4) Subsection (3) has effect despite subsection 14(2) of the *Legislative Instruments Act 2003*.
- (5) If regulations made for the purposes of Part 7 make provision in relation to a matter by applying, adopting or incorporating a matter contained in a written instrument or other document, the Director of Meteorology must ensure that:
  - (a) the text of the matter applied, adopted or incorporated is made publicly available on the Bureau's website, unless that text is set out in the regulations; and
  - (b) if the text of the matter is applied, adopted or incorporated as in force or existing from time to time—any subsequent amendments of that text are made publicly available on that website.