



**Consultation on the draft
POEO (General) Amendment
(Native Forest Bio-material)
Regulation 2013
Summary of submissions**

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1. Introduction

Clauses 96–98 of the Protection of the Environment Operations (General) Regulation 2009 (POEO General Regulation) prohibit the use of 'native forest biomaterial' for electricity generation. The primary purpose of these clauses is to ensure that native forests in NSW are not cleared for electricity generation. Clause 96 does, however, contain some exemptions regarding the definition of native forest biomaterial.

The Protection of the Environment Operations (General) Amendment (Native Forest Biomaterials) Regulation 2013 (draft amendment Regulation) amends clause 96 to exempt two additional types of native forest biomaterial from the definition. This amendment will allow these materials to be burnt in any electricity-generating works that generate more than 200 kilowatts. The two exclusions are:

- invasive native species legally cleared in accordance with a property vegetation plan (PVP) that has been 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 5 of the Native Vegetation Regulation 2013)
- certain material resulting from forestry operations carried out on land to which an Integrated Forestry Operations Approval applies under Part 5B of the *Forestry Act 2012* as well as debris from clearing carried out in accordance with a private native forestry PVP.

These materials are already being generated through legal activities for other approved purposes.

2. Public consultation

In line with the Guide to Better Regulation (NSW Department of Premier and Cabinet 2009 – visit

www.dpc.nsw.gov.au/_data/assets/pdf_file/0009/16848/01_Better_Regulation_eGuide_October_2009.pdf),

the draft amendment Regulation was publicly exhibited between 22 July and 20 August 2013. A total of 2,174 submissions were received, with most (98%) opposed to the changes. The EPA also received a large number of submissions (88%) from two online petitions.

As shown in figure 1 on the next page, a cross-section of stakeholders made non-petition submissions, including:

- individuals (215)
- conservation groups (15)
- industry stakeholders (15)
- government agencies (7)
- industry groups (6)
- land management groups (2)
- environment groups (1)
- lobby groups (1)
- Member of Parliament (1).

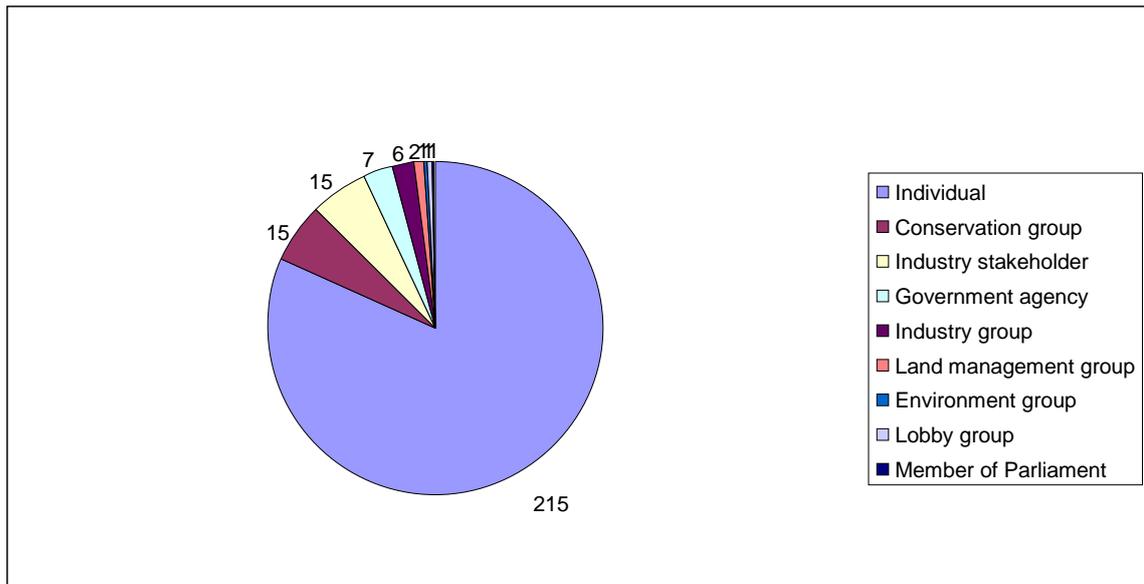


Figure 1: Number of submissions by stakeholder group

3. Issues raised

Non-petition submissions

The EPA received 263 non-petition submissions. Of these, 221 (84%) opposed the changes, 39 (15%) supported the changes and 3 (1%) raised issues not relevant to the draft amendment Regulation.

Of the 39 submissions that supported the amendment, 23 focused on the invasive native species (INS) component, 8 focused on the native forest component and 8 commented on both the INS and native forest biomaterial components.

Native forest biomaterial

The EPA identified a number of broad themes in the submissions related to native forest biomaterial. Stakeholders opposing the amendment stated that the proposed changes would:

- impact negatively on native forest habitats and biodiversity (113)
- lead to intensified and unsustainable forestry practices (94)
- result in increased greenhouse gas emissions through burning native forest biomaterial in electricity generation (90).

A total of 94 submissions questioned whether native forest biomaterial constitutes a renewable and efficient energy source. A further 82 submissions stated that the Government should invest in genuine renewable energy such as solar, wind and tidal energy.

A total of 103 submissions specifically identified the inclusion of pulpwood and wood chips as problematic. Most of these submissions argued that pulpwood had only been included to ensure the continuation of what they see as an unsustainable wood chipping industry.

Those supporting the inclusion of native forestry products stated that the inclusion would provide an opportunity to convert waste into a valuable product, boost rural and regional economic growth and lead to better forest management.

Invasive native species

There were 23 submissions that referred to the clearing of invasive native species (INS). Of these, 22 submissions supported the exclusion of INS from the definition of native forest biomaterial.

Stakeholder submissions supporting the draft amendment Regulation stated it would:

- facilitate land rehabilitation (10)
- lead to a range of economic benefits for regional NSW (9)
- result in an expansion of renewable energy industry (9)
- make the POEO Act more consistent with other Australian and international policy frameworks (1).

These stakeholders also raised suggestions and concerns regarding the INS amendments, including:

- adding scrubs and shrubs to the definition of INS (5)
- referring to the Environmental Outcomes Assessment Methodology (1)
- referring to the self-assessable codes
- monitoring and enforcing the INS component of the draft amendment Regulation.

Only one submission from the Nature Conservation Council (NCC) fully opposed the inclusion of INS on the basis that the broad definition may lead to an intensification of clearing of INS because a new market for biomass would be created in the draft amendment Regulation.

Petition submissions

The NCC and Australian Forests and Climate Alliance (AFCA) petitions opposed the draft amendment Regulation. These petition submissions raised issues that were in line with the broad themes identified in the non-petition submissions.

NCC petition submission

The NCC petition submission stated that the draft amendment Regulation:

- is being proposed to prop up the ailing woodchip industry
- would have an adverse impact on native plants and animals
- would have a negative impact on climate change mitigation
- would lead to an increase in logging and land clearing.

The NCC petition stated that the existing regulations already allow the use of sawmill residues and timber from plantations.

AFCA petition submission

Similarly, the AFCA petition stated that the amendment would:

- have a negative impact on climate change mitigation
- have an adverse impact on native plants and animal
- increase the number of species being used in the production of native forest biomaterial

In addition, the AFCA petition stated that the draft amendment Regulation would also undermine investment in genuine renewable energies such as solar and wind energy.