



Independent Pricing and Regulatory Tribunal
New South Wales

Incident Notification by Network Operators and Retail Suppliers

Water Industry Competition Act 2006



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Amendment record

Issue number	Date issued	Change log
1	28/8/2009	First release
2	2/11/2012	Revision
3	8/3/2016	Updated contact details
4	1/6/2016	Updated reporting requirements as per NSW Health current processes. Consequently updated Figure 2.1 and Incident written notification forms A and B. Document issued as final, effective from 1 July 2016.
5	14/2/2018	Updated contact details for the Minister for Energy and Utilities. Provided Forms A and B separately to this procedure. Other minor edits.

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1 Introduction

A well-defined and managed incident notification protocol performs a vital role in the protection of public health and safety, the environment and in maintaining public confidence.

Licensees under the *Water Industry Competition Act 2006* (the Act) must notify a number of agencies when an incident occurs that threatens or could threaten water quality, public health or safety.¹

The purpose of this document is to set out:

- ▼ the legal obligation outlined in the *Water Industry Competition (General) Regulation 2008* (the Regulation) to immediately notify relevant authorities of an incident, and
- ▼ the incident notification process, including the relevant agencies that must be notified; and the way in which notification should be made (ie, verbal, written, nature of information and timing).

This document does not cover any reporting obligations under other legislation.

1.1 Licensee's incident notification requirements

All licensed network operators and retail suppliers must immediately notify:

- ▼ the Minister for Health
- ▼ the Minister for Energy and Utilities, and
- ▼ IPART²

of any incident in the conduct of its licensed activities that threatens, or could threaten water quality, public health or safety.

¹ *Water Industry Competition (General) Regulation 2008*, Schedule 1, cl.1(2).

² *Water Industry Competition (General) Regulation 2008*, Schedule 1, cl.1(2)(a)-(c) and Schedule 2, cl.1(2)(a)-(c).

In addition, all licensed **network operators** must also notify:

- ▼ any licensed retail supplier that supplies water or provides sewerage services by means of the licensee's infrastructure³, and
- ▼ any other licensed network operator or public water utility⁴ whose infrastructure is connected to the licensee's infrastructure.⁵

All licensed **retail suppliers** must also notify:

- ▼ any licensed network operator by means of whose infrastructure the retailer supplies water or provides sewerage services.⁶

The licensee provides the Minister for Health, as the Minister responsible for public health, with information to determine if there is any risk to public health. NSW Health as an operational agency will respond to incidents that are a threat to public health.

The licensee provides the Minister for Energy and Utilities, as the Minister responsible for granting licences, with information to determine if a licensee, as guided by IPART and NSW Health, is required to take specific action to address the incident, or if the incident will lead to a breach of the licence conditions.

The licensee notifies IPART, as the compliance regulator, to determine if there is a breach of the licence conditions, possibly requiring a review or change to management plans, an audit or additional licence conditions. In addition, IPART will use the information to prioritise areas that the licensee's next operational audit should address.

Notification of those licensed network operators, retail suppliers and public water utilities associated with the licensee will allow them to address their own notification requirements and manage risks to their systems.

The incident reporting detailed in this document does not remove obligations to report incidents to any other regulatory agencies (ie, protection of the environment and workplace health and safety reporting requirements) or under the requirements of management plans.

³ *Water Industry Competition (General) Regulation 2008*, Schedule 1, cl.1(2)(d).

⁴ Under the Act, a "public water utility" is defined as the Water NSW, Sydney Water Corporation, Hunter Water Corporation, a water supply authority within the meaning of the *Water Management Act 2000* or a council or county council exercising water or sewerage functions.

⁵ *Water Industry Competition (General) Regulation 2008*, Schedule 1, cl.1(2)(e).

⁶ *Ibid*, Schedule 2, cl.1(2)(d).

1.2 Other notification requirements

Under the Regulation, there are other notification requirements that are separate to those identified in this incident notification document.

These include:

- ▼ All licensed network operators who are operating water infrastructure must develop an incident and emergency response protocol as part of the scheme's Water Quality Plan.⁷ The licensee must develop this protocol in consultation with stakeholders, including the local Public Health Unit (PHU).
- ▼ Licensed network operators who are operating sewerage infrastructure without an Environment Protection Licence⁸ must produce a Sewage Management Plan.⁹ These plans must address public health risks and include the development of an incident and emergency response protocol in consultation with stakeholders, including the local PHU.
- ▼ All licensed network operators must comply with the requirements of the *Protection of the Environment Operations Act 1997* and any regulations under that Act in relation to protection of the environment.¹⁰ This outlines the duty to notify pollution events including the kind of incidents, the manner and form of notification, and whom the licensee should notify.¹¹

⁷ The Water Quality Plan must be consistent with the risk management framework that is outlined in the *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1 and 2)*, or the *Australian Drinking Water Guidelines*, whichever is relevant.

⁸ Licence granted under the *Protection of the Environment Operations Act 1997*.

⁹ *Water Industry Competition (General) Regulation 2008*, Schedule 1, cl.14.

¹⁰ *Ibid*, Schedule 1, cl.4.

¹¹ *Protection of the Environment Operations Act 1997*, Part 5.7.

2 Incident notification process

2.1 What are notifiable events?

Licensee must immediately notify any incident arising in the conduct of its activities *that threatens, or could threaten, water quality, public health or safety.*

The Regulation does not further define events or incidents that require immediate notification. The licensee must have assessed the likelihood of an incident impacting water quality, public health or safety in its risk assessment for the specific scheme. Hence, the licensee will be able to determine if particular circumstances threatens or could threaten water quality, public health or safety.

In the case of a network operator, the licensee is required to develop an incident and emergency response protocol component of the Water Quality Plan or the Sewage Management Plan in consultation with the local PHU and other stakeholders. This will assist the licensee in determining which incidents it should report.

The licensee must ultimately determine whether an incident threatens, or could threaten, water quality, public health or safety.

2.2 Who, when and how to notify of an incident

The Regulation requires licensees to notify immediately the Minister for Health, Minister for Energy and Utilities and IPART of an incident. In practice, these responsible entities have delegated the receipt of incident notifications to:

- ▼ the local PHU and the Water Unit in NSW Health on behalf of the Minister for Health
- ▼ the Division of Energy, Water and Portfolio Strategy in the Department of Planning and Environment (DPE) on behalf of the Minister for Energy and Utilities, and
- ▼ the Water Licensing and Compliance Team for IPART.

Figure 2.1 outlines the process for notification in the event of an incident under the Regulation. Notification of NSW Health, DPE and IPART does not cover all statutory notification requirements for licensees. Licensees may also have to notify other affected parties of the incident. Depending on the nature of the incident, there may also be a need to contact other regulatory authorities such as the Environment Protection Authority or Local Council. The licensee should establish appropriate contact details for these other parties during the development of the management plans.

Immediate verbal notification

Licensees must **immediately** notify the following stakeholders verbally as soon as the licensee becomes aware of an incident or aware that an incident could occur imminently:

- ▼ Local PHU in NSW Health - (in accordance with the Licensee's incident and emergency response protocol)
- ▼ Division of Energy, Water and Portfolio Strategy in DPE - Manager, Policy and Regulatory Reform (02) 8275 1914, and
- ▼ IPART - Director, Water Licensing and Compliance (02) 9113 7722.

The licensee should notify the local PHU in NSW Health for their area of operation as detailed in their incident and emergency response protocol. The licensee does not need to verbally notify the Water Unit in NSW Health.

The licensee should leave a brief voicemail message concerning the incident and provide contact details if the licensee made verbal notification out of normal business hours (ie, outside 9am to 5pm). The relevant local PHU, DPE and IPART officers will return the call during business hours.

Written notification

Licensees must follow up with written notification within **24 hours** of verbal notification of the incident, using the template in **Form A** (available for download separately from the IPART website <https://www.ipart.nsw.gov.au/Home/Industries/Water/Alternate-water-utilities-WICA/Licence-Compliance-Reporting>).

Licensees must provide a full outline of the incident and follow up actions within 5 working days of the incident ending, using the template in **Form B** (available for download separately from the IPART website <https://www.ipart.nsw.gov.au/Home/Industries/Water/Alternate-water-utilities-WICA/Licence-Compliance-Reporting>).

However, whilst the incident is continuing, a licensee may also need to provide further information or updates to authorities as requested.

The licensee is to email all written notifications through with the word **"Incident"** in the **subject line**.

The licensee should send written notification for all incidents to the local PHU, with a copy to the Water Unit, along with any other requirements under their incident and emergency response protocol.

Figure 2.1 Incident notification requirements

