



Hazardous Material Incidents Charging Policy

Field Operations Business Unit
Field Operations Division

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Contents

1	Purpose	3
2	Scope and application	3
3	Legal and policy framework	3
	3.1 Legal framework	3
	3.2 Policy framework	4
	3.3 Policy principles	5
4	FRNSW Charging	6
	4.1 Orphan waste	7
	4.2 NSW Police Operations	7
	4.3 Electricity wires down	7
	4.4 Charging government agencies.....	7
5	Who can be charged	7
6	When a charge can be waived or reduced	8
7	Debt recovery process	8
8	Roles and responsibilities.....	8
	8.1 8.1 Incident Controllers/Reporting Officers	8
	8.2 Field Operations Business Unit, Field Operations Division	9
	8.3 Commissioner and delegated staff.....	9
9	Further information.....	9
10	Document information.....	9
	10.1 Related documents.....	9
	10.2 Document control.....	10
	10.3 Revision history	10

1 Purpose

This policy gives the key principles for Fire and Rescue NSW (FRNSW) charges for services at hazardous material (hazmat) incidents under [Section 40\(4A\)](#) of the *Fire and Rescue NSW Act 1989*.

2 Scope and application

This policy applies to all hazmat incidents in NSW attended by FRNSW.

The following definitions are set out in [Section 3](#) of the *Fire and Rescue NSW Act 1989*:

Hazardous material means anything that, when produced, stored, moved, used or otherwise dealt with without adequate safeguards to prevent it from escaping, may cause injury or death or damage to property.

Hazardous material incident means an actual or impending land-based spillage or other escape of hazardous material that causes or threatens to cause injury or death or damage to property.

3 Legal and policy framework

3.1 Legal framework

3.1.1 FRNSW enabling legislation

Under the *Fire and Rescue NSW Act 1989*, FRNSW is responsible for protecting the people, property and environment of NSW from the impact of hazmat incidents. The *Fire and Rescue NSW Act 1989* directs FRNSW to take all practicable measures:

- for protecting and saving life and property endangered by hazmat incidents
- for confining or ending such an incident, and
- for rendering the site of an incident safe.

This policy reflects the NSW Parliament's intention that the costs of dealing with hazmat incidents are shared with those who have responsibility for the hazardous material [reference: Second Reading, 10 November 1993 of the *Fire Brigades (Hazardous Materials) Amendment Bill*]. This intention is consistent with the concept of 'polluter pays' set out in [Section 6](#) of the *Protection of the Environment Administration Act 1991*.

Under [Section 40\(4A\)](#) of the *Fire and Rescue NSW Act 1989*, the Commissioner is entitled to recover charges for services in relation to hazmat incidents that occur in NSW. The standard charges are prescribed in [Section 45](#) and [Schedule 1](#) of the *Fire Brigades Regulation 2014*. The charges in Schedule 1 Part 1 detail the costs of FRNSW personnel attending a hazmat incident. Part 2 relates to Special Items, such as goods and services hired or purchased, and Part 3 relates to the cost of consumables detailed in ESCAT, with an additional charge of 10% for handling.

Under [Section 40\(4B\)](#) of the *Fire and Rescue NSW Act 1989*, charges may be recovered from:

- the owner of, or the person having charge of, the hazardous material involved, or

- the owner or occupier of the premises on which, or the owner or person in charge of the vehicle or vessel on or in which, or arising out of the use of which, the incident occurred.

FRNSW is the combat agency for rendering safe with respect to life, property and the environment a hazmat incident occurring in NSW on land and inland waterways.

3.1.2 Other agencies

The Environment Protection Authority is responsible for and provides advice on site clean-up, rehabilitation and waste disposal for hazmat incidents and emergencies.

A hazmat incident on State waters is the responsibility of Roads and Maritime Services NSW (RMS) or the relevant port authority. FRNSW may be called on to assist.

The Commissioner may, at the request of a port authority, permit any members of FRNSW to attend the site of a hazmat incident (whether land-based or otherwise) on that part of State waters in relation to which the port authority exercises functions. In such a case, the provisions of the *Fire and Rescue NSW Act 1989* apply to the hazmat incident and to anything done at the site of the incident as if the incident were not on State waters. Charges can therefore be recovered in such instances.

State waters (as defined in the *Marine Pollution Act 2012*) means:

- a) Coastal waters of the State (within the meaning of Part 10 of the [Interpretation Act 1987](#)), and
- b) Other waters within the limits of the State prescribed by the regulations for the purposes of this definition.

The coastal waters of the State is the area extending from the low water mark, or other baseline, on the coast of the State to an imaginary line three nautical miles seaward of that mark or other baseline.

State waters include: Botany Bay, Clarence River (Yamba), Coffs Harbour, Eden, Hastings River (Port Macquarie) Jervis Bay, Newcastle Harbour, Port Kembla, Port Stephens and Sydney Harbour.

The Australian Maritime Safety Authority is responsible for the waters more than three nautical miles offshore.

3.2 Policy framework

In developing this policy, FRNSW has taken into account:

- NSW Treasury Policy and Guidelines Paper TPP 07-3, [Service costing in general government sector agencies](#)
- Treasury Directions 93/4 and 85/5 – *Recovery of Debts due to the State*
- NSW Treasury Circular TC12-16, [Goods and Services Tax \(GST\) regulations exempting certain government taxes, fees and charges \(Division 81 of the GST Act\)](#).

FRNSW has also entered into the following agreements with other agencies that relate to hazmat incidents:

- [MOU in relation to Hazardous Materials incidents on inland and State waters between Fire and Rescue NSW, Maritime Authority of NSW, Newcastle Port Corporation, Port Kembla Port Corporation, Sydney Ports Corporation.](#)

- [MOU between the Environmental Protection Authority and Fire and Rescue NSW](#)
- [regarding Hazardous Material Incidents Response Procedures](#)
- [MOU for the Provision of Fire Services between the Commonwealth as represented by the Department of Finance and Deregulation and the State of New South Wales as represented by the Ministry for Police and Emergency Services \(NSW\).](#)
- MOUs with various NSW State Government agencies for the management of road and traffic incidents
- MOUs with various electricity network providers for the management of Wires Down hazmat incidents
- [MOU with the Roads and Traffic Authority](#) (now known as Roads and Maritime Services)
- [Statement of Joint Intent between FRNSW and the Sydney Catchment Authority](#)
- [Australian Code for the Transport of Dangerous Goods by Road and Rail](#)
- [Marine Safety Act 1998](#)
- *Marine Pollution Regulation 2014*
- *Marine Pollution Act 2012, and*
- *MOU with Electricity Companies (DNSPs).*

3.3 Policy principles

The objectives and principles of this policy are as follows:

1. FRNSW charges for all incidents which meet the legislative criteria set out in Section 3 above, subject to these principles.
2. Charges are based on the principle of cost recovery and cleaning to avoid environmental spill or impact. A charge is not levied where the administrative cost of raising and collecting the charge is greater than the charge amount.
3. Resources that are involved in confining and ending a hazmat incident and for rendering the site of such an incident safe may be charged for.
4. A charge will be levied to recover the costs of all FRNSW resources involved in hazmat operations e.g. decanting, neutralising, booming, clean-up, atmospheric and environmental monitoring, decontaminating the site and people (including firefighters), firefighters working in hazmat PPE, such as spillage clothing and fully-encapsulated gas suits, and relevant consumables.
5. Where FRNSW's incident response involves hazmat and fire or rescue operations, no charge will be levied for those FRNSW resources directly involved in firefighting or rescue operations e.g. laying and operating charged lines of hose, getting firefighting pumps to work, shipping hydrants, and firefighters working in firefighting PPE, etc, as FRNSW is already funded through the Emergency Services Levy (ESL).
6. Where electricity wires have been dislodged or brought down (deemed a hazmat incident), a charge will be levied to recover costs for all FRNSW resources involved for standby purposes. Charges will not be incurred for

wires down incidents while the primary response is a fire or rescue situation. Subsequent hazmat activities may incur a charge.

7. FRNSW charges for electricity Wires Down hazmat incidents that extend beyond two hours, including the costs incurred in the first two hours. Incidents under two hours are not chargeable.
8. FRNSW charges for all other hazmat incidents that extend beyond one hour, including the costs incurred in the first hour. Incidents under one hour are not chargeable.
9. The time charged for an incident is calculated as the difference between the time the FRNSW appliance is assigned to the incident and the time that FRNSW's duties are completed. This information is calculated from the FRNSW's dispatch system logs and its on-line incident reporting system, eAIRS.
10. The time charged for an incident where electricity wires have been dislodged or brought down (deemed a hazmat incident), is calculated as the difference between the time the relevant Utility/Distribution Network Service Providers (DNSP) was notified and the time that FRNSW's duties are completed. This information is calculated from the FRNSW's dispatch system logs and its on-line incident reporting system, eAIRS.
11. Waiver or reduction of charges is by exception and requires approval by the Commissioner or a delegated officer in accordance with FRNSW's internal Delegations Manual. Requests for waivers must be received within 60 days from date of invoice. Waivers are forwarded to Field Operations Business Unit, which will then liaise with the relevant Area Command.
12. A process is available for parties wishing to apply for a waiver or reduction of charges (see Section 6).

4 FRNSW Charging

If an incident involves firefighting operations, FRNSW may charge for the hazmat component only, being either before the commencement of or after the completion of firefighting operations. Firefighting operations cannot be charged because they are already funded through the ESL.

Where FRNSW has been asked to attend the site of a hazmat incident (whether land-based or otherwise) on State waters, charges may be recovered via the relevant port authority in accordance with the relevant Memorandum of Understanding (MOU).

At some incidents it may be necessary to use external resources e.g. earth moving plant and equipment or waste recovery operators. This may result in charges for services rendered.

FRNSW may engage external resources and the services of contractors at any stage while a site is within FRNSW control and until an incident site is rendered safe.

Costs for external service providers, authorised by FRNSW (in accordance with the Delegations Manual) will be paid for by FRNSW, and if incident costs are to be recovered, will subsequently be included in the calculation of charges.

Once an incident site is rendered safe, the site will become the responsibility of the owner or occupier. Approving or engaging external resources and the services of

contractors at this time is the responsibility of the owner or occupier. The owner or occupier is responsible for returning the site to the site's pre-event condition.

It is not FRNSW's intention to charge individuals for domestic incidents, provided it is not a commercial venture operating from domestic premises.

4.1 Orphan waste

Orphan waste means materials that have been unlawfully placed or disposed of on premises that have the potential to pose a risk to the environment or public health. One of the programs that the Environmental Trust funds is the "Emergency Pollution and Orphan Waste Clean-up Program" (the 'Program'), as provided for in S.16 of the *Environmental Trust Act 1998*. The Trust is administered by the Office of Environment & Heritage. It therefore may not be possible to recovery costs for every instance of emergency pollution or orphan waste.

The Program is intended for use where the responsible party cannot be identified or there is uncertainty about the likely payment of clean-up costs by the responsible party, so that environmental harm and public health impacts resulting from delays in clean-up can be avoided or minimised.

4.2 NSW Police Operations

Where FRNSW has attended an incident to assist NSW Police in its operations, no charges are to apply.

4.3 Electricity wires down

Electricity wires down incidents are defined as "hazardous material incidents" under the *Fire and Rescue NSW Act 1989*. FRNSW is entitled to recover a statutory charge for such attendances.

FRNSW will recover these statutory charges at the prescribed rate from Utilities/DNSPs for the attendance of fire crews where electricity wires down incidents extend beyond two hours duration. Charges will not be incurred for electricity wires down incidents where the primary response purpose is a fire or a rescue situation.

4.4 Charging government agencies

FRNSW may charge other government agencies in accordance with *Fire and Rescue NSW Act 1989* and *Fire Brigades Regulation* or alternatively with an MOU, where one exists.

5 Who can be charged

Charges may be recovered from:

- the owner of or person having charge of the hazardous material, and/or
- the owner or occupier of the premises where the hazmat incident occurred, and/or
- the owner or person in charge of the vehicle, aircraft or vessel on or in which the hazmat incident occurred.

The Reporting Officer should ensure that all the people or organisations responsible for and involved in the hazmat incident are clearly identified in eAIRS, as charges may be divided among a number of people or organisations.

Charges will be divided depending on the facts and circumstances, cause and contribution.

It is not FRNSW's intention to charge individuals for domestic incidents, provided it is not a commercial venture operating from domestic premises.

6 When a charge can be waived or reduced

Consideration can be given to a charge being waived or reduced for:

- Hardship, including financial or non-financial (personal) hardship. This may include unemployment or illness. Financial hardship should be determined in relation to gross income, commercial income/profit and assets (income producing assets).
- Orphan waste, where the waste has been placed or disposed of on the premises unlawfully and the owner/occupier of the premises has no association with the waste, and
- Goodwill (on a case by case basis at the discretion of FRNSW, as per the FRNSW Delegations Manual).
- Energy provider 'Major Event Day' declarations for Wires Down incident charges.

7 Debt recovery process

Field Operations Business Unit will manage the pursuit of bad debts, in consultation with Finance. All debts up to 60 days will be pursued by Field Operations Business Unit in consultation with the relevant Area Commander and Business Manager Field Operations.

All debts exceeding 60 days may be forwarded to an external third party for debt collection purposes and resolution.

8 Roles and responsibilities

8.1 8.1 Incident Controllers/Reporting Officers

The Incident Controllers/Reporting Officers are responsible for:

- managing the hazmat incident in accordance with relevant legislative and policy requirements, including the *Fire and Rescue NSW Act 1989*, the [Work Health and Safety Act 2011](#) and SafeWork NSW policies and guidelines, the [State Disaster Plan](#) and its sub-plans and supporting plans, and FRNSW's *Standard Operational Guidelines*, and
- recording information about the incident including appliances, equipment and consumables used in accordance with [FRNSW Incident Reporting Policy](#), which states "Under the *State Records Act 1998*, FRNSW is required to make and keep records that fully and accurately document its operations". eAIRS is FRNSW's official recordkeeping system for its actions at emergency incidents."

8.2 Field Operations Business Unit, Field Operations Division

The Field Operations Business Unit is responsible for:

- managing the hazardous material charging process
- receiving and processing queries and requests for waivers or reduction in charges
- distributing quarterly reports to the Area Commanders and Business Managers
- monitors the hazmat incident charging system to ensure this policy is being implemented, and
- provides support to Area and Zone Commands on the application of this policy and advice to members of the public.

8.3 Commissioner and delegated staff

The Commissioner and any delegated staff are responsible for deciding whether to approve requests for waivers or reduction of charges.

9 Further information

For further information on this policy contact Field Operations Business Manager on 02 9742 7360 or email hazmatcharging@fire.nsw.gov.au

10 Document information

10.1 Related documents

Guideline on Charging for Hazardous Material Incidents – Frequently Asked Questions

Hazardous Material Incidents Charging Procedure

[FRNSW Incident Reporting Policy](#)

Fire and Rescue NSW Act 1989

Fire Brigades Regulation 2014

10.2 Document control

Policy Manager	Deputy Commissioner Field Operations
Contact Officer	Field Operations Business Manager
Contact No	9742 7360
Document type	Policy
Applies to	<input checked="" type="checkbox"/> Permanent Firefighters <input checked="" type="checkbox"/> Retained Firefighters <input type="checkbox"/> Community Fire Unit Members <input checked="" type="checkbox"/> Administrative and Trades Staff <input checked="" type="checkbox"/> Contractors and Consultants
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10.3 Revision history

Version	Date	Status	HPE RM Ref	Details
Version 07	6/03/2020	Final	D19/1053	Added waiver timeframe. Debt recovery process updated to reflect passing bad debt to third party. Major Event Day declarations added to 'When a charged can be waived or reduced'.