

Environment Protection Authority Compliance Policy

Healthy Environment
Healthy Community
Healthy Business



Cover photos left to right: Jeff Parnell/OEH , Marina Hatzakis/EPA, OEH, Zack Thomas

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1. Introduction

1.1 About the EPA

In February 2012 the New South Wales Government re-established the Environment Protection Authority (EPA) as an independent, accountable and modern regulator to protect the environment and the people of NSW.

The EPA leads business and the community to improve their environmental performance and manage waste to maintain a healthy environment. It uses a combination of tools to achieve environmental outcomes, including education, economic mechanisms, and strategic and environmental risk-based compliance and enforcement programs.

As the state's principal environmental regulator, the EPA is responsible for regulating a diverse range of activities and monitoring compliance with legislation and statutory instruments covering air emissions, noise, waste, water quality, forestry, contaminated sites, dangerous goods, hazardous materials and pesticides.

The EPA aims to be a modern and effective regulator that exercises its statutory authority fairly and credibly. It takes strong and appropriate regulatory action based on the following principles:

- Responsive and effective
- Targeted
- Proportional
- Firm but fair
- Informed
- Consistent
- Transparent
- Ethical and accountable
- Collaborative

Full details on the principles that guide EPA operations are provided in Appendix I.

The EPA's vision is 'Healthy Environment, Healthy Community, Healthy Business'. The EPA Strategic Plan backs this up in its six Key Result Areas for 2012–15:

- Improve planning decisions
- Reduce environmental impacts and improve environmental outcomes
- Responsive incident management
- Reduce waste and increase recycling
- Improve communication, stakeholder engagement and knowledge management
- Be an exemplar organisation.

The EPA collaborates with other government agencies and stakeholder groups to maximise its compliance activities. Some of these agencies and groups maintain information resources and databases that the EPA can use to monitor compliance and investigate potential breaches.

Local councils and other government agencies also have direct or indirect responsibilities for environment protection. The EPA works closely with local councils to assist them in their regulation of activities where they are the 'appropriate regulatory authority' under the [Protection of the Environment Operations Act 1997](#) (POEO Act).

Another key EPA focus is to keep the community informed about the environmental performance of industry and the regulatory actions the EPA takes to reduce risks to human health and the environment.

1.2 Purpose of the Compliance Policy

This Compliance Policy summarises the EPA's general approach to compliance and enforcement. The policy explains how the EPA undertakes activities that achieve compliance and drive improved environmental performance. It guides EPA decision-making to ensure that its compliance activities and actions are consistent, fair and credible.

The Compliance Policy is relevant to all of the following legislation administered by the EPA, together with associated Regulations:

[*Contaminated Land Management Act 1997*](#)

[*Dangerous Goods \(Road and Rail Transport\) Act 2008*](#)

[*Environmentally Hazardous Chemicals Act 1985*](#)

[*Environmental Trust Act 1998*](#)

[*National Parks and Wildlife Act 1974*](#)

[*Native Vegetation Act 2003*](#)

[*Pesticides Act 1999*](#)

[*Protection of the Environment Administration Act 1991*](#)

[*Protection of the Environment Operations Act 1997*](#)

[*Radiation Control Act 1990*](#)

[*Threatened Species Conservation Act 1995*](#)

[*Waste Avoidance and Resource Recovery Act 2001*](#)

EPA officers are also authorised to exercise powers under the following legislation for regulating forestry activities:

[*National Parks and Wildlife Act 1974*](#)

[*Native Vegetation Act 2003*](#)

[*Threatened Species Conservation Act 1995*](#)

For further information about the above legislation, please see

www.epa.nsw.gov.au/legislation/legislation.htm

The *EPA Prosecution Guidelines* provides more details about prosecutions, including how the EPA decides to prosecute offences under the legislation it administers. These guidelines are available at www.epa.nsw.gov.au/legislation/prosguid.htm

1.3 Authorised officers

NSW environment protection legislation provides for the authorisation of individuals to exercise a variety of powers, including in the area of compliance. Depending on the legislation, EPA 'authorised officers' have been granted powers of entry and to identify and question persons, require information to be provided and issue notices.

For information related to the powers available to EPA authorised officers, visit

www.epa.nsw.gov.au/licensing/powersao.htm

2. The EPA's approach to regulation

2.1 Overview

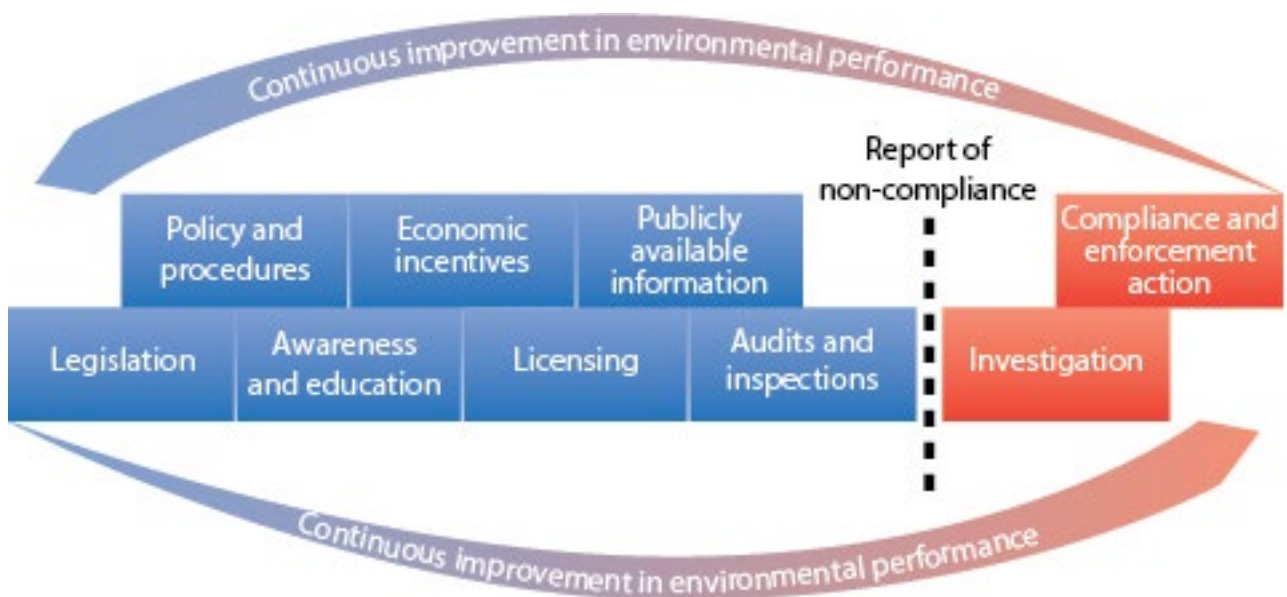
The NSW Government and community have an expectation that the EPA will actively promote compliance with relevant legislation and deliver improved environmental outcomes. This will be achieved by assisting those it regulates to understand and meet their legislative obligations and driving compliance through transparent, consistent and accountable regulatory actions that target those who consciously choose not to comply with the law.

The EPA will be transparent and open in its decision-making and keep the public informed about its regulatory activities and the performance of industry through public registers and other means of communication.

The EPA will continually evaluate how effective its compliance approaches are and, where they are not working, change them or develop new ones.

The EPA's regulatory framework consists of an integrated series of components, including legislation, policy, education, incentives, licensing, administration, audit, investigation, and compliance and enforcement action.

Figure 1: Components of the EPA's regulatory framework



2.2 Risk-based regulation

The EPA applies a responsive and risk-based approach to its regulatory functions.

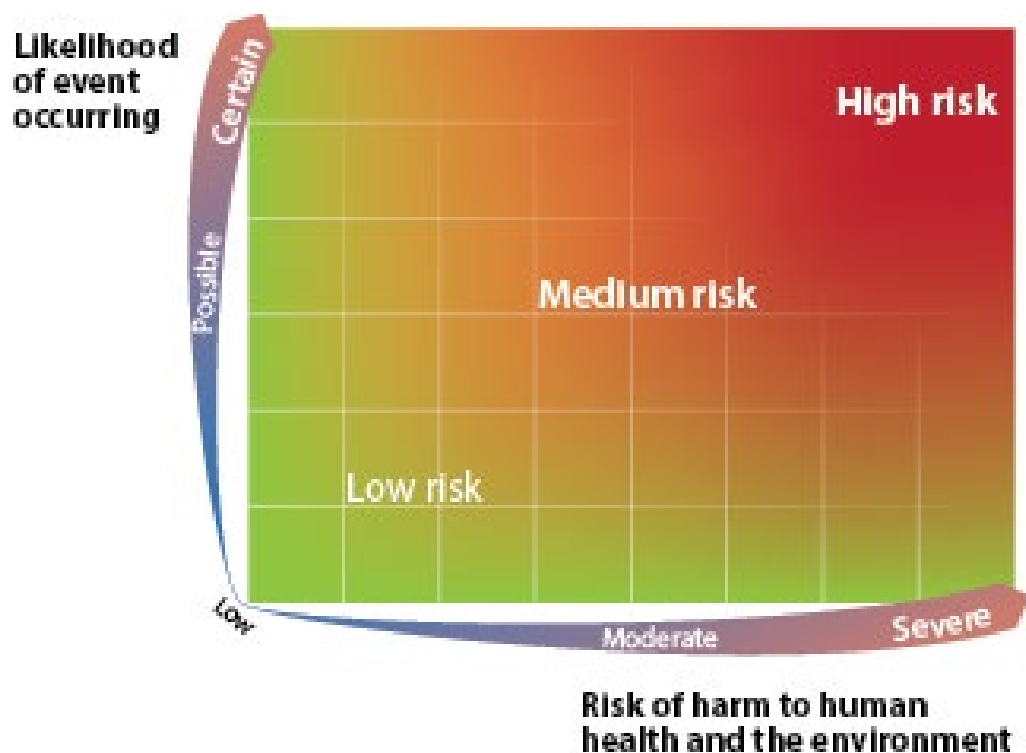
In an environmental context, risk is measured in terms of the likelihood of an event occurring and the risk of harm to human health and the environment.

Applying a risk-based approach helps the EPA make informed regulatory decisions that ensure its compliance and enforcement activities focus on the biggest risks to the environment and health and target those businesses and people least likely to comply. This approach is consistent with the Australian/New Zealand Joint Standard on Risk Management (AS/NZ ISO 31000:2009) and internal risk management policies and procedures.

The EPA considers the following factors when it assesses environmental risk:

- the environmental media involved (air, odour, water and noise emissions, chemicals and waste)
- the processes and operations that may have an impact on the environment and the controls in place to mitigate them
- the sensitivity of the local environment, such as the proximity to residential premises or waterways, or the impacts on air quality
- the compliance history of the business or person being regulated.

Figure 2: The EPA's environmental risk matrix



2.3 Matching regulatory responses on attitudes on compliance

Compliance and enforcement actions are most effective when they raise environmental awareness and encourage behavioural change. These changes in attitudes and behaviour both improve compliance rates and secure long-term environmental improvements.

A key consideration in changing behaviour is to identify what motivates business and individuals to comply with the law, as well as the factors that lead to non-compliant behaviour. This puts the focus on the causes of non-compliance, rather than just the symptoms. It also helps in deciding the right tool to use to reduce incidences of re-offending and repair environmental damage.

Figure 3 provides examples of the types of regulatory tools the EPA may use to influence positive changes to attitudes and behaviours. The EPA escalates its regulatory response according to the risk to the environment and human health, the seriousness of the non-compliance, the apparent attitude to compliance, and the compliance history and frequency of issues arising.

Figure 3: Matching EPA regulatory tools with attitudes and behaviour



Adapted from Ian Ayres & John Braithwaite (1992), *Responsive Regulation: Transcending the deregulation debate*, Oxford University Press, New York

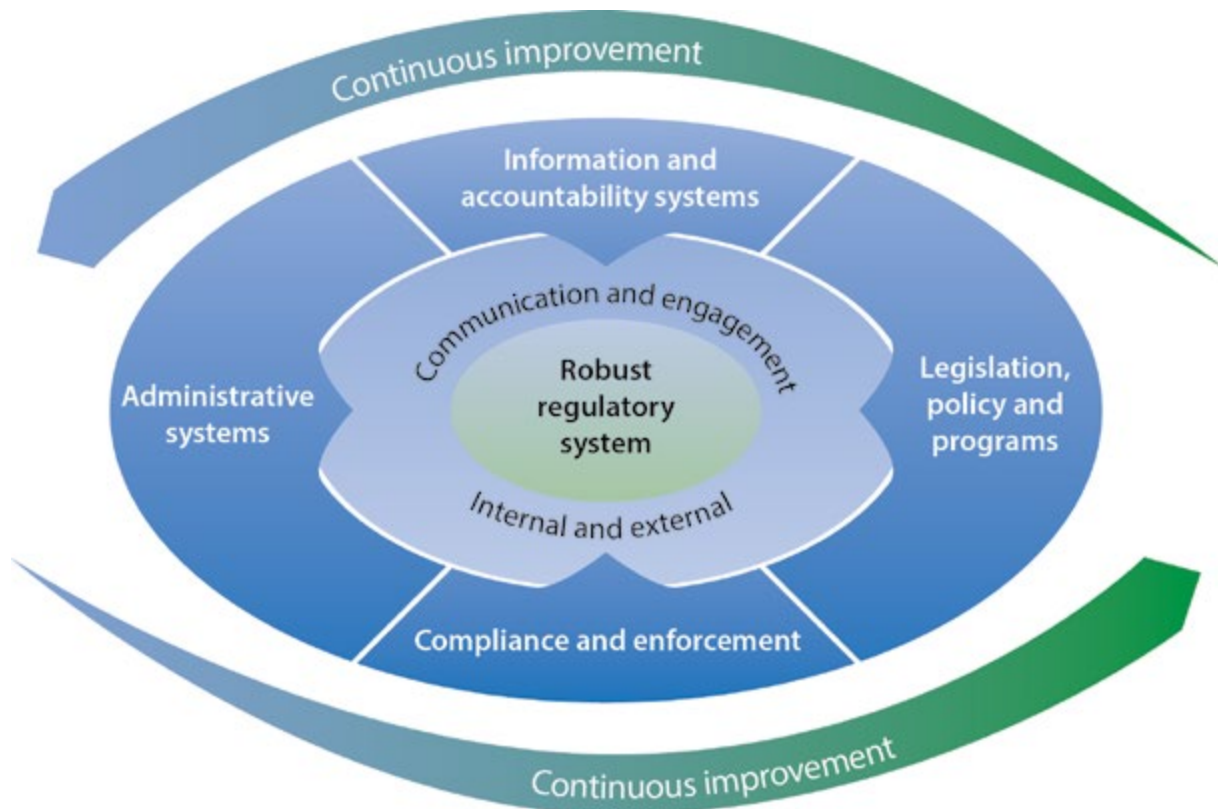
2.4 The EPA's regulatory system

The EPA has a robust and credible regulatory system that incorporates the four key elements below:

- **Legislation, policy and programs** – clear and appropriate legislation, policy and programs that underpin and guide EPA regulatory decisions, approaches and strategic directions
- **Administrative systems** to support the EPA's statutory functions and financial management, and provide for governance of the programs
- **Information and accountability systems** – information that provides the knowledge and data that allows problem identification and decision-making, and systems to record the decisions taken to measure, report and review performance, and to help determine environmental and compliance priorities
- **Compliance and enforcement**, which provides understanding and assistance to the regulated community through education and support campaigns; compliance assurance activities, such as inspections and audits; and enforcement action to address non-compliances.

Figure 4 shows how these four elements inform and reinforce each other through the EPA's regulatory system.

Figure 4: The EPA regulatory system



Effective two-way communication is critical and an integral part of all elements of the regulatory system, ensuring that the EPA:

- has strong and productive relationships with the community, business, across government and within the EPA
- effectively communicates its regulatory approaches and actions, including why decisions have been made and the outcomes it expects.



3. The EPA's approach to compliance

3.1 Establishing compliance priorities

Priorities for the EPA's compliance efforts are based on achieving the greatest outcomes for the environment while making the best use of the resources available.

Identifying the most important environmental problems allows the EPA to decide what compliance priorities it will focus on. Knowledge about these problems and their associated environmental risks is established by collecting and analysing data from a range of information sources including:

- feedback from the community
- results of industry site monitoring
- information from EPA reporting systems, such as its [Air Monitoring Network](#), and local and regional monitoring networks
- trends in non-compliances
- analysis of reports to the EPA [Environment Line](#)
- information from other sources, such as the [National Pollutant Inventory](#), the EPA [Air Emissions Inventory](#), and [NSW State of the Environment](#) reports.

3.2 Providing information and compliance assistance

The EPA provides information to the regulated community to promote understanding and encourage voluntary compliance. Being clear about the environmental outcomes expected helps remove barriers to compliance and overcomes factors that encourage non-compliance. It also raises awareness about the benefit of complying with legislation as well as the potential consequences of failing to do so.

Education programs, formal and informal advice, campaigns and audits are some of the proactive approaches the EPA uses to achieve compliance and environment protection. They are typically tailored around areas where a lack of understanding about compliance may exist. The EPA also adapts its education and communication approaches as required to meet the needs of sometimes diverse industry sectors, such as using bilingual extension services to reach users of pesticides from various cultural backgrounds.

The EPA provides targeted assistance to the regulated community and, in some cases, the general public to encourage compliance with regulatory requirements. Assistance can be general in nature or specific to a particular environmental issue. Where an inspection or audit detects non-compliance and action is required to remedy it, the EPA works with the regulated party to determine appropriate actions to meet the required outcomes.

Compliance assistance resources are available through the EPA's website (www.epa.nsw.gov.au), from our Head or Regional offices, and from Environment Line at 131 555 or info@environment.nsw.gov.au

The EPA works in conjunction with other government agencies, peak bodies, the community and local councils to facilitate access to information regarding protection of the environment.

3.3 Using economic incentives

The EPA uses a range of economic incentives designed to improve environmental outcomes. These include:

- [Waste and Environment Levy](#) – The EPA administers this levy which provides a financial incentive that encourages waste avoidance and resource recovery.
- [Hunter River Salinity Trading Scheme](#) – This is a tradeable emissions scheme that manages discharges of saline water in the Hunter River catchment. The scheme uses a credit trading system to regulate the timing and quantity of the discharges.
- [Load-based licensing](#) – This is a ‘polluter pays’ scheme that establishes a pollutant load fee to reduce air and water emissions to the environment by certain environment protection licensees.

3.4 Compliance monitoring

A core function for the EPA is to monitor and determine levels of compliance with the requirements of legislation, licences and other statutory instruments. Where possible, the aim is to ensure that incidents of non-compliance and their impacts do not occur.

Various mechanisms are used to monitor compliance and detect breaches as summarised below.

Community reports

Members of the community are encouraged to report pollution incidents or other environmental issues to the EPA’s Environment Line on 131 555. Public reports play a vital role in assisting the EPA to identify potential environmental impacts and non-compliances. The EPA follows up all reports received by Environment Line.

Information from other regulatory authorities

Breaches of regulatory requirements may also be detected by officers from other regulatory authorities during their own compliance activities or as part of joint activities with the EPA.

Industry accountability and monitoring provisions

The EPA requires regulated industry to report on its compliance. In particular all environment protection licensees must provide an annual compliance statement detailing their compliance with licence conditions over the previous reporting period. Annual returns are legally binding statements that are certified at the highest levels, either by the licensee’s Chief Executive Officer or an agreed senior officer.

The EPA analyses the non-compliances reported by licensees to determine what action it should take. For non-compliances with the potential to result in environmental harm, the EPA may decide to issue a penalty notice or consider taking prosecution action. In order to drive environmental improvements, licensees may also be required to undertake a pollution reduction program. Where the non-compliance is minor, the EPA may choose to issue a formal warning. Section 4 of this Compliance Policy provides further information on how the EPA responds to environmental issues and the non-compliances it detects.

The [Protection of the Environment Operations Act 1997](#) (POEO Act) requires the occupier of a premises, the employer or any person carrying on an activity which causes a pollution incident to notify the EPA and other relevant authorities immediately material harm to the environment is caused or threatened. This duty to notify pollution incidents aims to ensure that they are effectively managed and responded to and local communities are promptly informed about any environmental or health impacts associated with the incident.

Inspections and campaigns

The EPA uses routine site inspections as a method of collecting information and monitoring compliance. During inspections, authorised officers may collect samples, view records, and take photographs. In line with their legislative powers, authorised officers are able to enter premises unannounced.

The EPA also uses campaigns to crack down on particular environmental issues that arise, especially when they are common or widespread. In addition to assessing compliance, campaigns can be used to raise awareness about EPA requirements, often in partnership with other regulators such as local councils. An example would be detecting and reducing illegal waste dumping and littering.

Audits

The EPA uses various audit tools to assess compliance and environmental performance. These include:

- [mandatory environmental audits](#) conducted by a third party
- accredited third party auditors for contaminated land
- compliance audits by EPA officers
- statewide [strategic environmental compliance and performance reviews](#) to assess compliance and benchmark performance.

Compliance audits to assess whether regulatory requirements are being met are generally unannounced. As part of the audit process, the EPA also reviews its regulation of individual premises and industry sectors to identify areas where improved regulation will help achieve the desired environmental outcomes.

The aim of a strategic environmental compliance and performance review program is to encourage individual operators and industry sectors to improve their environmental performance by combining an assessment of compliance with a review of best environmental management practices. [Individual audit reports and summary reports](#) are publicly available on the EPA website.

Audit findings are also used to inform the regular licence reviews required by the POEO Act. These licence reviews ensure that licence conditions are appropriate, reasonable, understandable and enforceable. Reviews also ensure that requirements continue to reflect relevant issues and site-specific circumstances.

Third party audits are conducted under the [Contaminated Land Management Act 1997](#). The [Site Auditor Scheme](#) is administered by the EPA and provides a pool of accredited contaminated site auditors who can be engaged to review the investigation, remediation and validation work conducted by contaminated land consultants.

Investigations

Investigation by the EPA is a key means of assessing reported or detected incidents of alleged environmental harm or other breaches of legislation to determine the priority for further compliance and enforcement action. During an investigation authorised officers gather evidence of the incident in order to establish whether an offence has occurred, the severity of the offence, and the identity of those who may be responsible. This evidence may take the form of videos, photographs, samples and physical evidence, witness statements and records of interview, consistent with legislative powers and EPA policies such as the Code of Ethical Conduct.

3.5 Better environmental outcomes

The EPA's compliance activities are aimed at improving environmental outcomes. Licensing and other systems record the environmental performance of those it regulates and this information is regularly monitored, analysed and reported on. Where necessary, industry and others will be required to improve the way they manage their environmental impacts by, for example, implementing additional controls or undertaking environmental improvement programs.

Section 4 provides more information about the types of approaches and tools the EPA uses to improve environmental outcomes and respond to non-compliances.



4. The EPA's response to environmental issues and non-compliances

There is no 'one-size-fits-all' response to non-compliance: the choice of approaches and regulatory tools depends on the issue and context.

When compliance monitoring identifies non-compliance, its significance is evaluated to determine the most appropriate response to take. 'Significance' involves establishing the level of risk to the environment as a result of the non-compliance as well as other factors, such as the offender's attitude to compliance, including whether the breach was intentional, opportunistic or unintentional (as discussed in Section 2).

Any action taken by the EPA will aim to ensure that the environmental impacts detected are minimised, contained or made good, and the sanction applied reflects the seriousness of the incident and acts as a deterrent to re-offending.

4.1 Choosing the appropriate compliance action

When identifying the appropriate compliance action to take in a particular circumstance, the EPA considers many of the following factors:

- the enforcement measures necessary to ensure compliance and bring about the best environmental outcome
- the seriousness of the incident, based on its actual or potential impacts on the environment and the community
- the potential or actual risk of environmental harm caused by the incident
- voluntary action by the offender to mitigate any harm to the environment from the incident and any mechanisms put in place to prevent a recurrence
- failure by the offender to notify or delay notification of the incident as required
- failure by the offender to comply with EPA requests, lawful directions or statutory notices
- cooperation with the EPA by the offender and their willingness to commit to appropriate remedial actions
- whether effective implementation of measures or procedures to address impacts are already in place
- the offender's history of compliance with EPA legislation and the frequency of offences committed by them
- whether the offender has made false or misleading statements about the incident
- the culpability of the offender, including any mitigating or aggravating circumstances
- public interest and community expectation about the action taken to provide specific or general deterrence
- any precedent which may be set by not taking action
- statutory time limits for taking action
- the legislative procedures and policy requirements, including potential rights of appeal.

Factors for deciding whether to pursue a prosecution are contained in Section 2.2.8 of the [EPA Prosecution Guidelines](#).

4.2 Compliance and enforcement approaches

The EPA uses a variety of approaches and tools to address the environmental issues and non-compliances it detects.

Advisory letters

Advisory letters are usually issued where it is considered possible that a breach has occurred but not enough evidence is available to prove the offence. Advisory letters often remind licensees of their compliance responsibilities and the need to meet and avoid any future breaches.

Formal warnings

Formal warnings are used for incidents where the aim is to avoid escalating environmental harm or the opportunity exists to achieve prompt voluntary compliance with legislative requirements. In these cases, the seriousness of the non-compliance is usually at the lower end of the scale so that further enforcement action is not considered necessary. Formal warnings are effective as a means of reminding and educating licensees about statutory requirements and can lead to an escalation of enforcement action if the issue is not addressed.

Show cause letters

A show cause letter invites the recipient to provide an explanation for an alleged breach of environment protection legislation. The letter is an opportunity for an individual or business to provide reasons why the EPA should not proceed with further enforcement action, such as issuing a penalty notice or commencing a prosecution. The letter may request details of the incident, the recipient's response to the incident and any mitigating circumstances.

Official cautions

The EPA may issue an official caution if the offence is one for which a penalty notice may be issued. A caution is used rather than a penalty notice if the issuing officer has reasonable grounds to believe that an offence has been committed and believes a caution is appropriate in the circumstances. This might be in situations where the offence is minor in nature or was not knowingly or deliberately committed. In deciding whether to issue a caution, the officer must exercise their discretion, based on the facts of the individual case and with regard to relevant EPA guidelines.

Issuing an official caution does not prevent the EPA from taking alternative enforcement action later for the alleged offence, if it becomes apparent that this response is more appropriate.

Pollution reduction programs

The EPA has the power to require environment protection licensees to develop and implement pollution reduction programs (PRPs) designed to improve their environmental performance and reduce pollution. PRPs are legally binding and generally require licensees to undertake studies before implementing steps to address environmental problems, including significant upgrading controls and equipment.

Variations, suspensions and cancellations of regulatory instruments

The EPA may choose to vary a regulatory instrument, such as an environment protection licence, if the regulated party is not complying with the conditions of the instrument. A variation may also be necessary to ensure that the instrument is more appropriate to the activities undertaken, such as including additional requirements to achieve the desired outcome where current requirements are not working or new issues have emerged.

For very serious issues, the EPA has the power to suspend or revoke a regulatory instrument in order to prevent further activity.

Notices, directions and orders

A range of directions, notices and orders is available under various pieces of legislation. The role of these tools is to address environmental harm which has occurred or is about to occur. Being statutory instruments, they have added impact because not meeting their requirements is an offence. They are flexible instruments with some able to be deployed relatively quickly and contain a range of conditions tailored to address the environmental issue. Some examples are detailed below.

Clean-up notices

Under the POEO Act, the EPA is able to issue a clean-up notice when it reasonably suspects that a pollution incident has occurred or is occurring or when the release of a pollutant is likely or imminent. The notices may direct that action is taken to prevent, minimise, remove, disperse, destroy or mitigate pollution resulting from or likely to occur from an incident. The notice details the specific clean-up action required and a time frame for completion.

Prevention notices

A prevention notice can be issued under the POEO Act when the EPA reasonably suspects that an activity has been or is being carried out in an 'environmentally unsatisfactory manner'. Notices specify preventive actions that must be taken to improve environmental performance, such as installing or repairing controls to prevent water pollution. A prevention notice may order that plant or equipment is not operated until the EPA is satisfied appropriate controls are in place. Improvement and prohibition notices can be issued in similar circumstances under the [*Dangerous Goods \(Road and Rail Transport\) Act 2008*](#).

Compliance cost notices

The EPA issues compliance cost notices to individuals or businesses who have earlier received clean-up or prevention notices. Compliance cost notices enable recovery by the EPA of all reasonable costs it has incurred in monitoring compliance with the requirements specified in the clean-up or prevention notices.

Notices to recover the costs of human health and environmental risk analysis

The POEO Act enables the EPA or Ministry of Health to require the occupier of a premises or anyone suspected of causing a pollution incident to pay the reasonable costs and expenses of undertaking an analysis of the human health or environmental risks arising from an incident.

The EPA may perform these analyses or engage external parties to undertake this work on its behalf.

Mandatory environmental audits

Under the POEO Act, the EPA can require a licence holder to employ a qualified environmental auditor to undertake an environmental audit of their operation where there is a history of poor environmental performance. These audits aim to improve the environmental performance of a licensed operation where other approaches have failed or there has been a history of non-compliance.

Penalty notices

Penalty notices are able to be issued under a wide range of legislation administered by the EPA. Penalty notices:

- are issued for minor breaches when the facts appear obvious and a penalty notice is likely to be a viable deterrent
- allow the person served with the notice to pay a fine rather than have the alleged offence dealt with in court
- are designed primarily to deal with one-off breaches that can be remedied easily.

Simultaneous or successive penalty notices are not generally issued for multiple or ongoing breaches of the legislation. In these cases, there is obviously a continuing environmental or compliance problem, even though each breach may be comparatively minor. These problems are usually dealt with by issuing an appropriate notice or through court proceedings.

Enforceable undertakings

An enforceable undertaking is an alternative to administrative action where there has been a serious breach of legislation.

Under the POEO Act, the EPA is able to accept a written undertaking by a company or individual to take action to deal with an actual or potential breach. This gives the EPA a legislative basis for negotiating environmental improvements, which are enforceable through the NSW Land and Environment Court. When choosing between civil or criminal action, the EPA will select the approach which is most likely to produce the best results in terms of ongoing compliance, redress for environmental harm and obtaining a good and lasting benefit for the environment.

Prosecutions

The basic pre-requisite for any prosecution is that the evidence available establishes a *prima facie* (that is, legally sufficient) case. For serious breaches or repeat offenders, prosecution may be the appropriate option. However the EPA will examine the compliance tools available and only proceed with prosecution if this is the most appropriate course of action, consistent with the [EPA Prosecution Guidelines](#).

Sentencing options

The POEO Act contains a number of sentencing options, including custodial sentences for the most serious (Tier 1) offences and fines. Courts can also require offenders to publish details of the offence and the orders made by the court, such as in a newspaper or the company's annual report.

Other Court orders include requiring the offender to carry out an environmental audit and pay the monetary benefit gained from the offence.

The EPA can also seek an environmental service order instead of a fine or in addition to one. Environmental service orders deliver tangible environmental benefits to a community affected by an offence, such as requiring an offender to fund or contribute to the costs of an environmental improvement program in their local area.

Right of appeal

For the majority of enforcement actions, the right to challenge or appeal is an avenue for an alleged offender to pursue in accordance with the legislative provisions.



5. The EPA's regulatory performance

The EPA is committed to being a regulator who is accountable, open and transparent about its regulatory activities. The EPA regularly measures and reviews its performance and makes improvements where necessary.

5.1 Regulatory Assurance Statement

The EPA Board is required to provide an annual statement to the Minister for the Environment that assesses the EPA's and industry's performance in reducing risks to human health and degradation of the environment. These Regulatory Assurance Statements are required to be tabled in Parliament.

A wide range of information and data is used to conduct assessments, including the outcomes of EPA compliance and enforcement activities. The assessments highlight areas where improvements can be made to regulatory programs and approaches.

The EPA is also required to benchmark its performance against environmental regulators in other jurisdictions.

5.2 NSW State of the Environment

The EPA prepares the [NSW State of the Environment](#) (SoE) report every three years in accordance with section 10 of the [Protection of the Environment Administration Act 1991](#). The SoE is a general environmental report card for NSW outlining the status of the main environmental issues facing the state. These reports aim to provide credible, scientifically based, statewide environmental information based on the information collected by the EPA and other contributing experts in their respective fields. Changes in the status of environmental issues, including improvements, are captured through various indicators.

5.3 Community access to information

In addition to the above, information about industry's regulatory performance and EPA compliance and enforcement action is available on a number of public registers. For example, the [POEO Public Register](#) includes details of all environment protection licences. Annual performance information from annual returns, including whether the licensee breached a condition of their licence, is reported on the Public Register. Other information available includes details of statutory notices, penalty notices and prosecutions issued.

To improve community access to information about the performance of its industrial neighbours, the EPA requires all environment protection licensees whose licence includes pollution monitoring conditions to make their pollution monitoring data publicly available. Licensees are also required to develop and implement [pollution incident response management plans](#) that include protocols for notifying the community in the event of a pollution incident.

5.4 EPA compliance with legislation

The EPA has implemented a risk management framework in accordance with NSW Treasury guidelines and consistent with Australian/New Zealand Risk Management Standards. This framework includes a process to ensure that the EPA complies with all relevant legislation by assessment of the compliance undertaken and the development of actions to address any risks of non-compliance. The framework involves regular monitoring of actions identified and annual reporting to the EPA Executive and EPA Board.

Appendix I: The EPA's guiding principles

The EPA is guided by the following operating principles when undertaking its regulatory functions.

Responsive and effective	<p>We will consider all alleged non-compliances to determine the necessary action to minimise impacts on the environment and the community and maximise deterrence.</p> <p>We will respond in an effective and timely manner in accordance with statutory time frames and established service principles and standards.</p> <p>We will follow through on all actions to completion.</p>
Targeted	<p>We will focus on the most important issues and problems to achieve the best environmental outcomes.</p> <p>We will target our regulatory intervention at poor performers and illegal activities that pose the highest risk to the environment.</p> <p>We will apply the right tool for the right problem at the right time.</p>
Proportional	<p>Our actions will be proportionate to the risks posed to people and the environment and the seriousness of the non-compliance.</p>
Firm but fair	<p>We will take strong regulatory action where needed.</p> <p>We will use our discretion justifiably and ensure our decisions are appropriate to the circumstances.</p>
Informed	<p>We will use an evidence-based approach to our decision-making.</p> <p>Our decisions will be informed by a range of sources, including sound science, information received from other regulators, members of the community, industry and interest groups.</p>
Consistent	<p>Our actions will be consistent with the legislation and within our powers.</p> <p>Compliance and enforcement outcomes will be consistent and predictable for similar circumstances.</p> <p>We will ensure that our staff have the necessary skills and are appropriately trained, and there are effective systems and policies in place to support them.</p>
Transparent	<p>We will provide clear information and explanation to the regulated community about the standards and requirements for compliance.</p> <p>We will ensure that the community has access to information about industry's environmental performance as well as actions taken by the EPA to address environmental issues and non-compliances.</p>
Ethical and accountable	<p>We will conduct ourselves in accordance with the Code of Ethical Conduct, these principles and any other relevant policies and guidance.</p> <p>We will document and take responsibility for our regulatory decisions and actions.</p> <p>We will measure and report on our regulatory performance.</p>
Collaborative	<p>We will work with and, where possible, share information with other regulators and stakeholders to ensure the best compliance outcomes.</p> <p>We will engage with the community, those we regulate and government to explain and promote environmental requirements and to seek feedback on regulatory reform proposals.</p>

Appendix II: Legislation administered by the EPA

Contaminated Land Management Act 1997

www.epa.nsw.gov.au/legislation/Actssummaries.htm#contaminated

Dangerous Goods (Road and Rail Transport) Act 2008

www.epa.nsw.gov.au/legislation/Actssummaries.htm#dang

Environmentally Hazardous Chemicals Act 1985

www.epa.nsw.gov.au/legislation/Actssummaries.htm#ehc

Environmental Trust Act 1998

www.environment.nsw.gov.au/legislation/DECCActssummaries.htm#eta

National Parks and Wildlife Act 1974

www.environment.nsw.gov.au/legislation/DECCActssummaries.htm#natpark

Native Vegetation Act 2003

www.environment.nsw.gov.au/legislation/DECCActssummaries.htm#veg

Pesticides Act 1999

www.epa.nsw.gov.au/legislation/Actssummaries.htm#pa

Protection of the Environment Administration Act 1991

www.epa.nsw.gov.au/legislation/Actssummaries.htm#poea

Protection of the Environment Operations Act 1997

www.epa.nsw.gov.au/legislation/Actssummaries.htm#poeo

Radiation Control Act 1990

www.epa.nsw.gov.au/legislation/Actssummaries.htm#radiation

Threatened Species Conservation Act 1995

www.environment.nsw.gov.au/legislation/DECCActssummaries.htm#TSC

Waste Avoidance and Resource Recovery Act 2001

www.epa.nsw.gov.au/legislation/Actssummaries.htm#waarra

Appendix III: Relevant EPA policy and guidance documents and websites

Air Emissions Inventory

www.epa.nsw.gov.au/air/airinventory.htm

Australian/New Zealand Joint Standard on Risk Management

www.safetyrisk.com.au/new-risk-management-standard-asnzs-iso-31000/

Code of Ethical Conduct

[Updated link to come]

EPA Prosecution Guidelines

www.epa.nsw.gov.au/legislation/prosguid.htm

Hunter River Salinity Trading Scheme

www.epa.nsw.gov.au/licensing/hrsts/index.htm

Load-based Licensing Scheme

www.epa.nsw.gov.au/licensing/lbl/lblicences.htm

Mandatory environmental audits

www.epa.nsw.gov.au/legislation/aboutpoeo.htm#P112_8607

National Pollutant Inventory

www.npi.gov.au/

NSW State of the Environment

www.epa.nsw.gov.au/soe/index.htm

POEO Public Register

www.epa.nsw.gov.au/prpoeo/index.htm

Pollution incident response management plans

www.epa.nsw.gov.au/legislation/20120227egpreppirmp.htm

Powers of Authorised Officers

www.epa.nsw.gov.au/licensing/powersao.htm

Regulatory Assurance Statement – available in EPA Annual Report 2011–12 within the Department of Premier and Cabinet Annual Report at

www.dpc.nsw.gov.au/about/publications/publications_categories_list#annualreport and at www.epa.nsw.gov.au for EPA Annual Reports after that date

Site Auditor Scheme

www.epa.nsw.gov.au/clm/auditorscheme.htm

Strategic environmental compliance and performance reviews

www.epa.nsw.gov.au/licensing/complianceaudit.htm

Waste and Environment Levy

www.epa.nsw.gov.au/wr/index.htm

