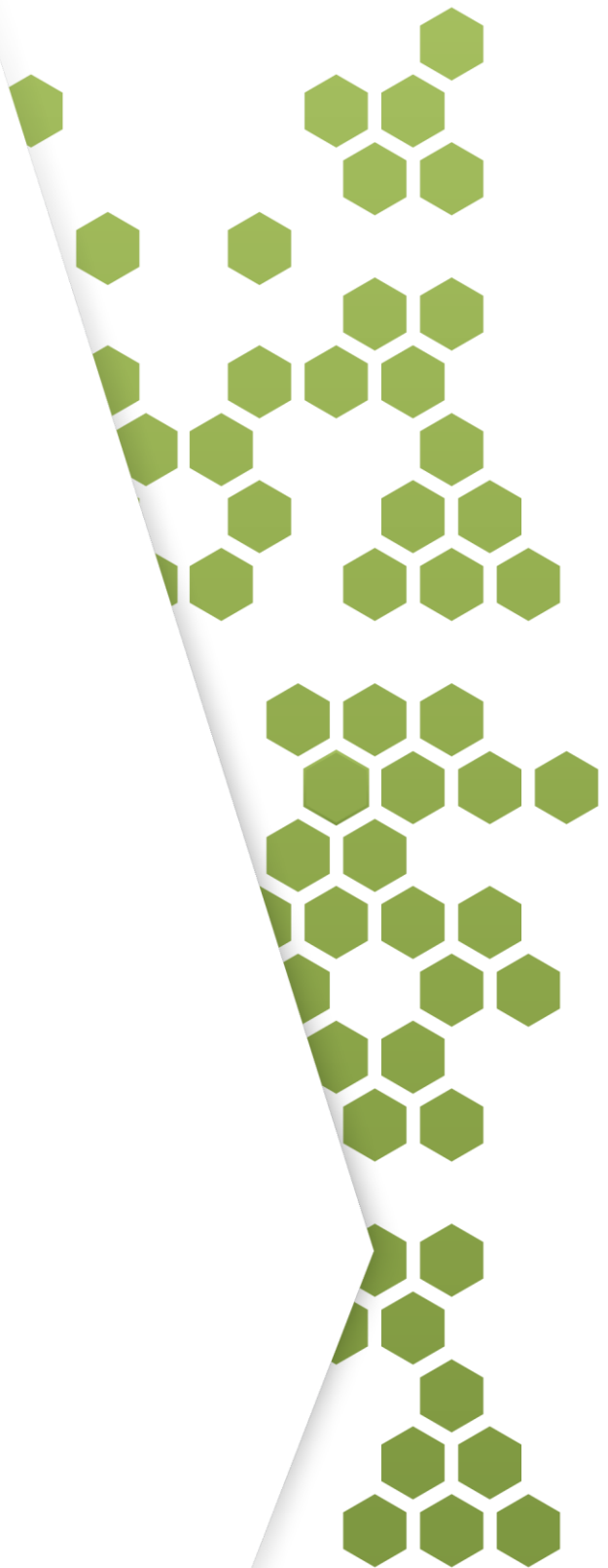


**Pollution reduction
programs**
Operating procedure



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1 Definition

Section 68 of the [Protection of the Environment Operations Act 1997](#) (POEO Act) defines pollution reduction programs (PRPs) as follows:

- (2) The conditions of a licence may require the holder of the licence:
 - (a) to develop and submit to the appropriate regulatory authority a pollution reduction program and to comply with the program as approved by the appropriate regulatory authority, or
 - (b) to comply with a pollution reduction program determined by the appropriate regulatory authority.
- (3) A pollution reduction program may include but is not limited to requirements to carry out works or to install plant for the purpose of preventing, controlling, abating or mitigating pollution.
- (4) The appropriate regulatory authority may approve a pollution reduction program with or without alterations.

Note that section 68 also refers to conditions requiring the licence holder to undertake and submit pollution studies, these pollution studies are addressed in a separate operating procedure titled *Pollution studies*.

2 Purpose of regulatory action

PRPs are generally imposed by the EPA in response to continuing environmental issues or ongoing compliance problems. PRPs are intended to achieve improved environmental outcomes in a negotiated timeframe and are imposed on a licensee under a licence condition.

PRPs mandate the reduction of pollution or risk of pollution from regulated activities at licensed premises through a program of actions, including carrying out works or installing plant and equipment. PRPs developed by the EPA may apply to a single site-specific issue or may address a broader regional issue across a number of licensed sites.

Common objectives of PRPs include:

- reduce the risk of harm to the environment caused by pollution
- set specific targets to reduce the risks posed to the environment
- legally enforce the commitment to agreed improvements
- improve community access to information on the nature and timing of the improvements being made.

3 Scope of this operating procedure

This operating procedure applies to EPA officers undertaking licensing functions under the POEO Act in response to environmental issues or non-compliance with licence conditions at licensed premises to ensure decisions are made consistently with the EPA's [Compliance Policy](#).

This operating procedure is not legally binding on the EPA or any other organisation. It reflects the operational policies of the EPA which will be subject to review. Any changes will be published on the EPA website.

4 Procedure to be followed

EPA officers should follow this procedure when considering whether a PRP is an appropriate regulatory action in response to an environmental issue at the licensed

premises. The application of this procedure does not limit the EPA's regulatory response to non-compliance.

4.1 Consider relevant provisions in the POEO Act and regulations, and EPA guidelines

EPA officers should consider the following legislative provisions when assessing the environmental impact of the activity or work authorised or controlled by a licence.

- Chapter 3 of the POEO Act, in particular section 45 – matters to be taken into account when exercising licensing functions
- relevant sections of the POEO regulations
- EPA policy and guidelines as relevant to the environmental issue (see the EPA website <http://www.epa.nsw.gov.au>).

4.2 Assess the risk of harm to the environment

EPA officers should consider the potential or actual environmental harm caused by the environmental issue or non-compliance. A risk assessment of the environmental issue or non-compliance should consider:

- pollutant toxicity
- pollutant concentration
- pollutant load
- receiving environment (local and regional impacts)
- method of discharge to the environment
- possible exposure pathways
- duration of exposure of the environmental pollutant
- risk of harm to human health.

4.3 Licensee's compliance history

In exercising licensing functions under the POEO Act the EPA must consider a number of matters as set out in section 45 of the POEO Act. These include considering whether a licensee is a 'fit and proper person', as referred to in section 83 of the POEO Act. The factors the EPA may consider include:

- the licensee's record of compliance with environmental legislation
- the licensee's record of compliance with their licence conditions
- the licensee's cooperation with the EPA and willingness to commit to appropriate remedial actions
- any voluntary actions undertaken to address the environmental issue.

4.4 Assess environmental measures

EPA officers should consider a range of factors regarding the best practicable measures available to reduce the environmental impact posed by the activity, including:

- technological options, best available techniques or technology, immediate and long-term industry best practice
- new or existing pollution control equipment required
- changes to operational practices to introduce best management practices
- other capital works

- costs and feasibility
- timeframe required
- pollution studies undertaken relating to the environmental impacts of activities undertaken by the licensee.

4.5 Alternative or complimentary regulatory actions

EPA officers should consider whether the following regulatory actions should be used instead of or in conjunction with a PRP. The EPA Compliance Policy and the following operating procedures will assist in making this decision:

- penalty notice
- prosecution
- pollution studies
- prevention notice
- mandatory environmental audit
- clean-up notice
- licence conditions – limit, operating, monitoring and reporting.

4.6 Develop a pollution reduction program

The EPA will initiate a PRP aimed at addressing an environmental issue or non-compliance. The EPA may develop a PRP in consultation with the licensee, or determine a PRP to attach to the licence to achieve specified outcomes.

The EPA may impose a PRP to include:

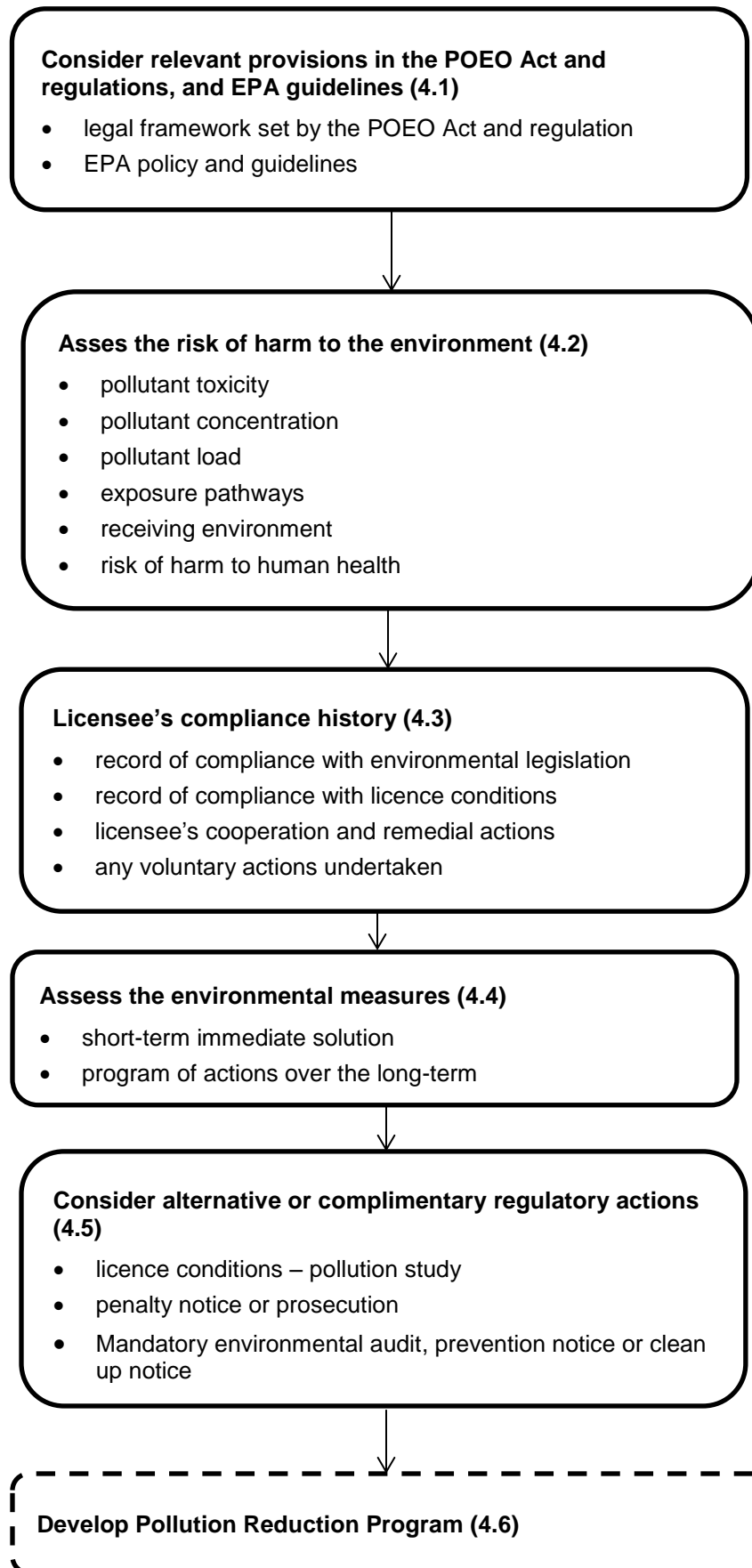
1. A program of actions to reduce the risks posed to the environment from activities undertaken at the premises as outlined in the PRP.
2. A timeframe for staged implementation and proposed monitoring to ensure environmental improvement targets are met and maintained.

4.7 Follow up

A PRP is a condition of a licence. Failure to comply with a PRP is failure to comply with a licence condition which is an offence. In such an instance, the EPA may consider further regulatory or enforcement action which would affect the environmental management category determination for a licence.

PRPs must be routinely reviewed by the EPA to ensure key milestones are met. Licensees can renegotiate timeframes with the EPA in certain circumstances. The EPA will undertake the negotiation of PRPs in accordance with the EPA's statutory powers and the principles of procedural fairness.

Figure 1 Flow chart for regulatory response – PRP



4.8 Situations where the regulatory action has been used effectively

PRPs have been used effectively to investigate and implement solutions to continuing environmental issues and non-compliance with the POEO Act – regarding the environmental issues of air, odour, water, land and noise.

Case study

Consider relevant provisions in the POEO Act and regulations, and EPA guidelines (4.1)

An EPA compliance audit highlighted a potential compliance problem involving water management at a licensed premises and potential risks posed to ‘waters’ – a possible non-compliance under section 120 of the POEO Act.

Assess the risk of harm to the environment (4.2)

After considering the Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000 and the NSW Water Quality Objectives, the EPA determined that any water discharged from the premises during a significant rainfall event could be contaminated and cause environmental harm to waterways.

Licensee’s compliance history (4.3)

The licensee had a good environmental performance record. No regulatory actions had been undertaken by the EPA in the past three years. The licensee had controls in place for discharging treated wastewater and had met the concentration limits for this discharged water as required by their environment protection licence.

The licensee had inadequate controls in place for diffuse water discharges from the premises which posed a risk of contaminated water being discharged to a waterway and causing environmental harm.

Assess the environmental measures (4.4)

Controls for reducing the risks posed to waters from activities undertaken at the licensed premises included diverting all uncontaminated surface stormwater away from areas where activities were undertaken.

Major upgrades to the premises would take longer than 12 months to implement. Without these upgrades, the compliance problem would be ongoing.

Alternative and complimentary regulatory actions (4.5)

No other regulatory actions were considered necessary.

A penalty notice was considered for the non-compliance although it related to management practices rather than an event with an environmental impact. As a result, a penalty notice was not considered appropriate. The site was old and had been upgraded to meet successive legislative requirements, with most premises of a similar age having similar problems.

Therefore, the EPA considered that the most appropriate option was to investigate the best practicable measures to reduce risks posed to waters from the premises.

Develop pollution reduction program (4.6)

A PRP was developed and negotiated with the licensee. Its objective was to reduce risks posed to waters from activities undertaken at the premises and measure improvements.

The PRP required the licensee to submit a water management plan that included a program of actions that reduced the risk of pollution of waters at the premises. The plan

included timeframes for implementation of the program of actions and a monitoring plan to demonstrate to the EPA that environmental improvements were being met and maintained.

The PRP set the following milestones.

1. A date for the licensee to submit a water management plan to the manager South East region.
2. A date for the licensee to commence the program of actions outlined in the PRP.
3. A date for the licensee to have completed the program of actions described in the PRP.

Pollution reduction program follow up (4.7)

The PRP was routinely reviewed by the EPA to ensure key milestones were met.