

A decorative graphic on the right side of the page consisting of a diagonal white line that separates the white background from a pattern of green hexagons. The hexagons are arranged in a grid-like pattern that tapers towards the top right.

**Environmental improvement
programs**
Operating procedure

www.epa.nsw.gov.au

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1 Definition

Environmental improvement programs (EIPs), as defined in the [Environmental Management Calculation Protocol](#) (the Protocol):

are pollution reduction programs (under section 68 of the POEO Act) that have been initiated by the licensee by way of an application made to the EPA to vary their licence under section 58(3) of the POEO Act. The environmental improvement programs must be programs outside of those required to achieve compliance with legislative requirements under the POEO Act or Regulations or any existing conditions on the licence at the time that the environmental improvement program is added to the licence.

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.

2 Purpose of regulatory action

EIPs involve licensees proactively undertaking actions that lead to environmental improvements and a reduction in pollution, consistent with the objects of the POEO Act. Licensees undertake a program of actions to improve environmental outcomes in a negotiated timeframe, in consultation with the EPA. EIPs are attached as conditions of a licence and as such are enforceable.

Common objectives of EIPs include:

- reduce pollution
- implement sustainability initiatives and cleaner production techniques (reduce pollution at source)
- provide public access to information on the nature and timing of the improvements being made
- assist the licensee to demonstrate their intention and willingness to improve environmental performance.

EIPs are intended to encourage voluntary environmental improvements by providing a potential financial incentive. Where an EIP is entered into and placed on a licence, it can improve a licensee's environmental management score which may lead to reduced licence administration fees.

For further information on operator systems that attract an environmental management score reduction, see the [Environmental Management Calculation Protocol](#).

3 Scope of this operating procedure

This operating procedure applies to EPA officers assessing when EIPs are appropriate, in response to a licensee's request.

This 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.

This procedure is limited to EIPs as set out in the Protocol.

4 Procedure to be followed

EPA officers should follow these procedures when considering if adding conditions relating to EIPs are appropriate for a licensed premises.

Where a licensee wishes to implement an EIP, they must apply to the EPA for a licence variation under section 58 of the POEO Act.

The environmental outcomes achieved by EIPs must exceed those required by the POEO Act and regulations, and existing conditions on the licence.

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 authorised or controlled by the licence:

- Chapter 3 of the POEO Act, and 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 pollution reduction

As an EIP must reduce pollution and be programs outside of those required to comply with legislative requirements and any existing licence conditions, the program of actions in the EIP application must be assessed to consider ways in which the actions will affect:

- pollutant toxicity
- pollutant concentration
- pollutant load
- the 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 the matters set out in section 45 of the POEO Act, including considering whether a licensee is a 'fit and proper person' as referred to in section 83 of the POEO Act. The factors that the EPA may consider include:

- the licensee's record of compliance with environment protection 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 the licensee's application for EIPs and the program of actions against the best practicable measures available to reduce the environmental impact posed by the activity, including:

- immediate and long-term technological options, best-available techniques or technology and industry best practice
- new or existing pollution control equipment required
- changes to operational practices using best management practices
- other capital works
- costs/feasibility
- the timeframe required
- any pollution studies undertaken relating to the environmental impacts of activities undertaken by the licensee.

4.5 Attach EIP

The licensee must apply for an EIP using the [licence variation application – premises form](#).

The EIP application must provide the following information:

- a description of the program, including costs
- the program's proposed completion date
- key reporting milestones
- details of expected environmental improvements.

The EPA will attach the EIP as a licence condition under section 68 of the POEO Act, under the heading 'Pollution studies and reduction programs – environmental improvement program'.

The EIP should include the following requirements:

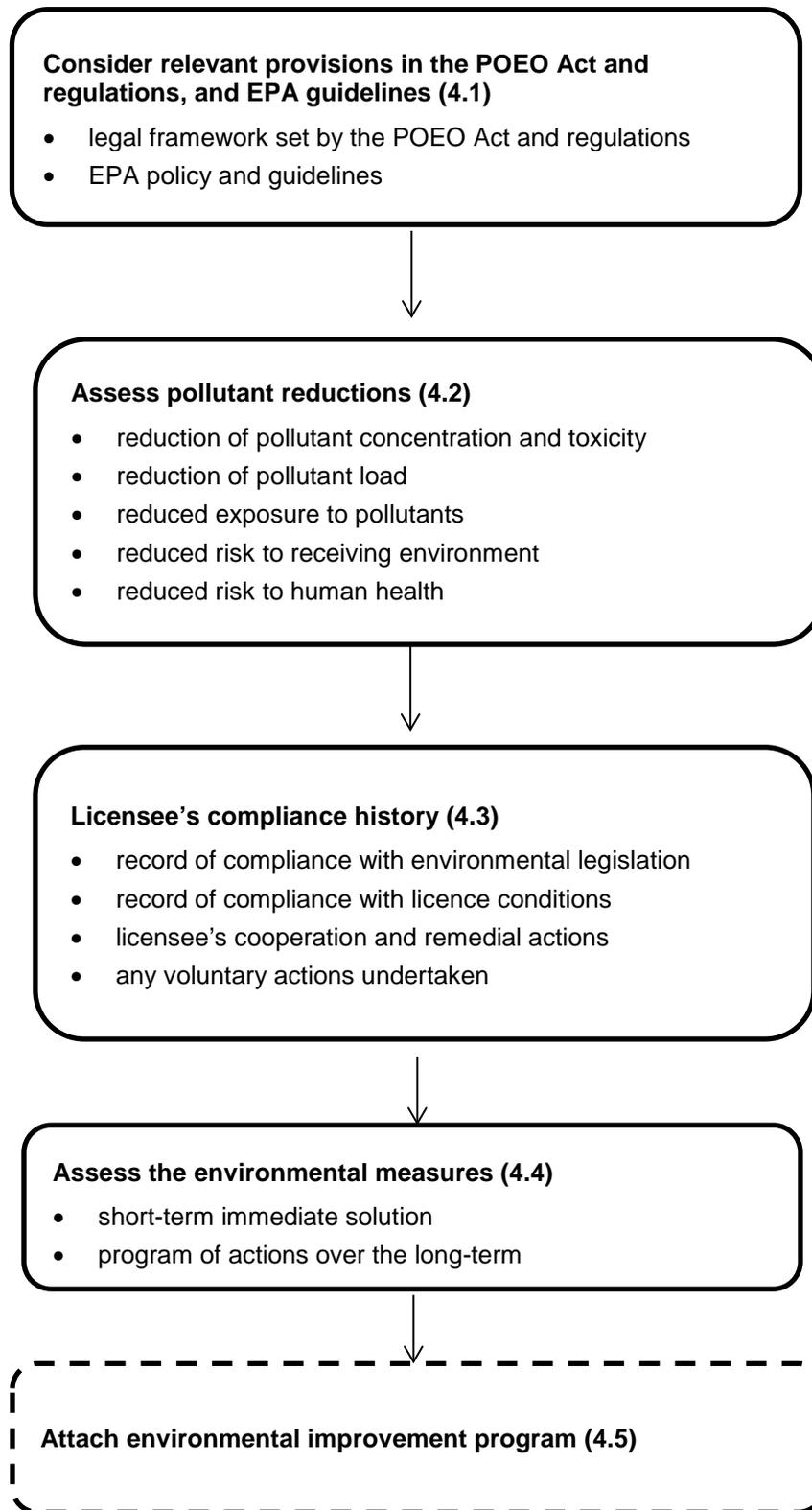
1. By <exact date> the licensee must commence the program of actions outlined in the EIP.
2. By <exact date> the licensee must have completed the program of actions described in the EIP.

4.6 Follow up

The EPA may remove the EIP from the licence if key milestones or any other conditions of the EIP are not met. If the EIP is removed from the licence, the EPA will add an amount equivalent to the total score reduction received for the EIP onto the environmental score for the following licence fee period.

EIPs 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 negotiate EIPs in accordance with the EPA's statutory powers and the principles of procedural fairness.

Figure 1 Flow chart for regulatory response – EIP



4.7 Situations where EIPs may be applied

EIPs have not previously been applied to licences by way of a licence condition under section 68 of the POEO Act.

Case study

A licensee applies for an EIP formally after contacting the EPA office and consulting on the applicability of a program of actions to reduce water pollution.

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

The licensee is currently complying with the licence conditions for water discharges at the premises. The EPA has set licence limits for concentration and volume water discharges from the premises, consistent with Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000 and the NSW Water Quality Objectives.

Pollution reduction (4.2)

The program of actions contained in the EIP application aims to reduce the amount of water discharged from the premises by recycling waste water and stormwater. This water would be reused in operating the activity undertaken at the premises, reducing the load of water pollutants entering the waterway.

Licensee's compliance history (4.3)

The EPA has considered the matters set out in section 45 of the POEO Act when assessing the EIP application. The licensee has a good environmental performance record and has controls in place for discharging treated waste water.

Assess the environmental measures (4.4)

Existing controls for reducing the risks posed to waters from activities undertaken at the licensed premises include diverting all uncontaminated surface stormwater away from areas where activities are undertaken. In addition, the licensee currently treats waste water prior to discharge.

Major upgrades are proposed to the premises to be undertaken over a two-year period, including changes to operational procedures and increasing the storage capacity of waste water. The proposed operational changes will allow treated waste water to be used in the operation, reducing the amount of controlled water discharges, and implement best industry practice for improving water quality as a result of a proposed waste water holding dam.

Attach EIP (4.5)

The EIP is attached to the licence as a licence condition under the heading 'Pollution studies and reduction programs – environmental improvement program', and includes:

1. A date by which the licensee must commence the program of actions outlined in the environmental improvement program.
2. A date by which the licensee must have completed the program of actions described in the environmental improvement program.

Follow up (4.6)

EIPs must be routinely reviewed by the EPA to ensure key milestones are met.