Compliance Audit

Handbook

NSW EPA

www.epa.nsw.gov.au

Cover: Orica Limited, Newcastle; Photo: John Spencer/EPA

Published by:

NSW Environment Protection Authority
59 Goulburn Street, Sydney NSW 2000
PO Box A290, Sydney South NSW 1232
Phone: +61 2 9995 5000 (switchboard)
Phone: 131 555 (NSW only – environment information and publications requests)
Fax: +61 2 9995 5999
TTY users: phone 133 677, then ask for 131 555
Speak and listen users: phone 1300 555 727, then ask for 131 555
Email: info@epa.nsw.gov.au
Website: www.epa.nsw.gov.au

Report pollution and environmental incidents
Environment Line: 131 555 (NSW only) or info@epa.nsw.gov.au
See also www.epa.nsw.gov.au

For technical information presented in this handbook contact the EPA's Environmental Audit Unit on (02) 9995 5000.

ISBN 978 1 925688 77 1
EPA 2017P0457
December 2017

Printed on environmentally sustainable paper

www.epa.nsw.gov.au

A core function of the NSW Environmental Protection Authority (EPA) is to monitor and determine levels of compliance with the requirements of legislation, licences and other statutory instruments.

Undertaking regular compliance audits is one of the mechanisms that the EPA uses to monitor compliance and detect any breaches.

Preface

Purpose of this handbook

This handbook has been prepared by the NSW Environment Protection Authority (EPA) as a guide for EPA officers undertaking compliance audits. The handbook may also be used as a guide by other organisations undertaking compliance audits including public authorities, industry and industry groups, professional associations, consultants and contractors; and as an educational resource by students.

A core function of the EPA is to monitor and determine levels of compliance with the requirements of legislation, licences and other statutory instruments. Undertaking regular compliance audits is one of the mechanisms that the EPA uses to monitor compliance and detect any breaches.

The handbook provides general procedures and protocols for conducting compliance audits. These are designed to ensure a consistent approach to audits, and to provide guidance on the conduct of the audits.

Although the handbook is designed for use as a standalone document, it is recommended that it be used with the international standard adopted in Australia for environmental auditing: AS/NZS ISO 19011:2014 *Guidelines for auditing management systems*.

Contents

1. Introduction

1.1 What is a compliance audit?

An audit is defined in the International Standard AS/NZS ISO 19001 (2014) *Environmental management systems- Requirements with guidance for use* as a:

> 'systematic, independent and documented process for obtaining *audit evidence* and evaluating it objectively to determine the extent to which the *audit criteria* are fulfilled'.

The criteria used for compliance audits conducted by the Environment Protection Authority (EPA) generally include the legal and regulatory requirements the EPA administers.

1.2 What types of facilities or organisations does the EPA audit?

The EPA audits organisations or individuals whose activities are regulated by legislation the EPA administers. The EPA may audit, for example, industries operating under environment protection licences or individuals or organisations that are regulated by the EPA as the appropriate regulatory authority.

1.3 Compliance audit as a regulatory tool in the EPA

The EPA has responsibilities and powers under a range of NSW legislation covering air and water quality, waste, contaminated land, noise control, pesticides, hazardous chemicals, transport of dangerous goods, forestry and radiation. A core function of the EPA is to monitor and determine levels of compliance with the requirements of legislation, licences and other statutory instruments. The EPA uses a range of regulatory tools to monitor compliance and undertaking regular compliance audits is one of those tools used. For more information on the range of regulatory tools used by the EPA refer to the EPA's Compliance Policy.

2. Objectives of the compliance audit

Compliance audits conducted by the EPA are used to achieve the following objectives:

- maintain the integrity of the regulatory system administered by the EPA, i.e. legislation, licences, notices
- ensure consistent, credible and robust regulation
- improve compliance with legislative requirements
- ensure the EPA's regulatory activities are open and transparent
- ensure that statutory instruments are robust and are appropriately used to achieve desired environmental outcomes.

An EPA auditor will:

- **assess compliance with environmental legal requirements.** An EPA auditor may assess compliance with legislation and/or the statutory instruments administered by the EPA. This may include assessing compliance with conditions attached to statutory instruments and the broader statutory requirements of various Acts and Regulations.
- **review statutory instruments issued to the auditee.** Activities that may have an environmental impact are examined to determine whether they are adequately covered by the instruments. The EPA will endeavour to ensure that regulatory instruments are fit for purpose by assessing their consistency, legal enforceability, and the degree of environmental protection afforded by the instrument.
- **report findings and follow-up action.** An EPA auditor will report on the findings of the audit against the audit criteria. A follow-up action program may be established to address any identified non-compliances.

The EPA communicates and promotes the audit findings by publishing individual compliance audit reports on the POEO public register . At the conclusion of industry wide audit programs, a report summarising the findings of individual audits undertaken as part of the program, is compiled and placed on the EPA website. Communication of the audit findings in this way helps increase the awareness of the community and industry (including both audited and non-audited entities) of current environmental issues and their confidence in the EPA's regulatory role.

3. Knowledge and skills of auditors

Auditors should have the necessary knowledge and skills to apply audit principles[1], procedures and methods when undertaking compliance audits. EPA staff conducting compliance audits are required to act ethically at all times and discharge their responsibilities impartially and not allow bias, prejudice or undue influence to limit or over-ride objectivity. Auditors should also demonstrate the necessary auditor attributes[2]. All EPA auditors have undertaken appropriate training in environmental auditing and have the knowledge and skills to conduct audits in accordance with this handbook and any other internal work procedures. As a policy, the Authority ensures that all EPA audits are led by an auditor who has obtained certification from a recognised certification body.

To help ensure that EPA staff have the necessary knowledge and skills to undertake audits, the EPA delivers a certified environmental auditor training for its staff. This training is also accessible to other environmental regulators across Australia. The course offers hands-on experience in environmental auditing and provides officers with the necessary knowledge, skills and confidence to successfully plan, conduct and manage environmental compliance audits. Officers who undertake the training and are deemed to be competent may gain environmental auditor certification with any certification body approved to provide certification by JAS-ANZ (Joint Accreditation System of Australia and New Zealand).

[1]AS/NZS ISO 19011:2014, *Guidelines for auditing management systems* outlines 6 key audit principles: Integrity, Fair presentation, Due professional care, Confidentiality, Independence and Evidence-based approach.

[2] AS/NZS ISO 19011:2014, *Guidelines for auditing management systems* states that auditors should exhibit professional behaviour during the performance of audit activities, including being: ethical, open-minded, diplomatic, observant, perceptive, versatile, tenacious, decisive, self-reliant, acting with fortitude, open to improvement, culturally sensitive, and collaborative.

4. EPA audit procedures

The audit process involves tasks that can be grouped into:

- pre-site visit activities
- on-site activities
- post-site visit activities.

It is important to understand that an audit's activities are not restricted to the site visit/inspection. Careful and thorough planning before conducting on-site activities and the post audit evaluation are just as critical to the audit's success as the proper conduct of an audit site inspection.

4.1 Pre-site visit activities

In achieving a successful audit, the value of good planning and preparation cannot be overemphasised. Proper planning should ensure that appropriate resources and equipment are available and adequate time is allocated to carry out the audit in the most efficient and effective way.

Audit planning

Before an audit is undertaken the lead auditor must develop an audit plan. The audit plan outlines the audit's objectives, scope, criteria and timetable, and the products that the audit will generate. See Appendix 1 for an example of an audit plan.

An audit plan should include the following key elements:

- the audit objectives
- the audit criteria and any reference documents
- the audit scope
- the audit methods
- a quality plan identifying reviews to be undertaken
- an assessment of logistics and communication arrangements
- an audit timetable
- roles and responsibilities of audit team members
- the allocation of appropriate resources to critical areas of the audit.

Audit objectives

The objectives of each compliance audit or audit program must be established at the outset to direct planning and establish the methods to be used. The objectives define what the audit/s will achieve and can be based on various considerations such as management priorities, or statutory and regulatory requirements.

Audit criteria

The audit criteria are a 'set of policies, procedures or requirements used as a reference against which audit evidence is compared' (AS/NZS ISO 19011: 2014)

Some examples of audit criteria include regulatory requirements, conditions of environment protection licences, internationally and nationally recognised standards and industry approved guidelines.

Scope of the audit

The scope defines the extent and boundaries of the audit such as:

- the physical locations (geographical boundaries);
- organisational units, activities and processes to be audited; and
- the time period covered by the audit (adapted from AS/NZS ISO 19011:2014).

Quality plan

The quality plan identifies the quality assurance procedures that will be undertaken during the audit, for example, 'Ensure audit plan is reviewed by manager'. See Chapter 3 for more information about quality assurance and Appendix 4 for an example Quality Plan.

Logistics of conducting the audit

The feasibility of each audit must be assessed to determine whether there are any potential barriers to it being successfully carried out. The lead auditor should be aware of any occupational health and safety requirements for entry to the site including quarantine requirements, whether appropriate staff will be available or whether bad weather will significantly hamper the inspection. It may be difficult to be fully aware of all these factors, especially if the audit will be carried out 'unannounced'.

The EPA Regional Officer responsible for the site or area will generally be aware of any logistical requirements for entry to a site or if there are any other routine operational procedures that may affect the inspection, e.g., hours of operation are limited to certain days.

Audit timetable

The audit timetable should include the date and places where on-site activities will be conducted, and the expected time and duration of each activity including the opening meeting, safety induction when necessary, site inspection and closing meeting.

Selecting the audit team members (roles and responsibilities)

The person managing the audit program is responsible for nominating the lead auditor for each audit. The lead auditor is responsible for selecting the audit team and should determine the overall competence (knowledge and skills) of the audit team needed to achieve the overall audit objective. The lead auditor should also ensure that the team members selected are independent from the activities to be audited to avoid any conflict of interest.

The lead auditor should in consultation with the audit team develop the audit objective, scope and criteria, lead the audit site inspection, be the main point of contact between the auditee and the EPA, and ensure the overall competence of the audit team.

Technical experts may be called in to provide specialist knowledge or expertise in what is being audited. They may accompany the team on the audit inspection if required, or be referred to when necessary.

The team leader is also responsible for determining the language of the audit, the auditee's social and cultural characteristics.

Team members may assist with audit evaluations, comment on draft reports and provide input to the development of the follow-up action program.

Allocating appropriate resources

The lead auditor needs to ensure that all audit team members required for the audit inspection are available on the day, and ensure that sufficient resources are made available for the audit to be undertaken.

Collecting background information

The purpose of collecting and reviewing background information is to assemble relevant information that can be used to meet the objectives of the compliance audit. The collection and review will enable auditors to become familiar with the auditee's operations, and the statutory requirements and other regulations or guidelines that may apply.

The types of information that should be reviewed include:

- site details, such as maps and process descriptions
- main environmental issues
- technical information about the processes and operations
- industry best practice and relevant standards
- operating manuals, plans and procedures
- company environmental policies and guidelines
- statutory and other requirements
- previous audits and compliance history
- evidence of past environmental performance, such as inspections and complaints
- safety requirements
- community concerns related to the premises, regional area or industry type
- the auditee's working language, and social and cultural characteristics.

This information may be sourced from internal EPA electronic databases such as PALMS, CIRaM, Content Manager 9, EPA website, online environmental impact statements, other databases or registers, or on digital mapping systems such as Google Earth and Near Map. It may also be necessary to refer to specialists to obtain specific or technical information about the process or activity being audited.

Audit checklists

Audit checklists assists auditors in conducting a thorough, systematic and consistent audit. Checklists are used to guide on-site observations and to help the auditor gather appropriate and adequate evidence to make an audit assessment against the audit criteria.

It is important to remember that checklists are used to jog the auditor's memory and do not rigidly dictate exactly what is to be audited.

To prepare checklists, the auditor could use a table similar to the example below:

Table 1: Sample checklist format

Criteria/requirement	Questions to ask.	Audit notes
1.1 Licensees who generate waste must determine if the wastes are classified as 'hazardous wastes'.	How is waste generated on site identified and classified? Determine if the licensee followed the relevant criteria for identifying the specific listing or characteristics of hazardous wastes. Does the licensee keep a list of the types and quantities of hazardous wastes generated on site? Verify that the list is complete and updated regularly.	
1.2 The licensee must notify the EPA of any incident causing or threatening material harm to the environment as soon as practicable after the incident has occurred.	Have any such incidents occurred within the temporal scope of the audit? If so, has the licensee reported the incident to the EPA? When was the incident reported to the EPA? Are there any procedures that provide instruction on how and when the incidents should be reported?	

The first column will list all the requirements the auditee legally needs to meet. The second column will provide the auditor with questions to ask the auditee or instructions to help them determine whether each requirement has been met. The final column is for recording notes taken during the audit.

When developing a checklist, the lead auditor should consider the experience and knowledge of the auditor who will be using it, and also the environmental risks of the audited premises. This will enable the lead auditor to select the appropriate level of detail for the checklist. An experienced auditor may be able to use a checklist consisting of a list of all the topics to be covered during the audit, without detailed instructions about how to undertake the auditing of each one. However, less experienced auditors should use a detailed checklist listing all the information required to ensure that adequate and verifiable audit evidence is obtained. This allows inexperienced auditors to undertake audits with relatively little supervision from the lead auditor.

Detailed checklists may also be required when auditing a premise with high environmental risks, to ensure that all important aspects are covered.

Providing prior notice of an audit

Generally, all EPA compliance audits are undertaken unannounced. However, when this is not possible due to logistical reasons or specific circumstances, the EPA may undertake announced audits. If prior notification of the audit is given, the purpose of the audit should be specified along with the areas to be covered and any information requirements. This approach improves the chances that appropriate site representatives will be present and that necessary information will be available. Thus, announced audits have their advantages.

Unannounced audits, on the other hand, are more likely to reveal the plant's true operating conditions, as they offer a snapshot of operations on the day of the audit. They are particularly useful when there is reason to believe the site is not complying with legislative requirements and there is potential for environmental harm to occur.

For each individual audit or audit program, the auditor needs to determine if notification could affect the audit results, and if notice is given, how much is sufficient.

4.2 On-site visit activities

Opening meeting

The objectives of the opening meeting are to meet with the site manager or their representative and:

- explain and confirm the audit plan, outlining the audit objectives, scope and audit procedures
- provide a short summary of how the audit activities will be undertaken
- allow the site manager or their representative to ask questions.

The opening meeting is an important part of the audit process and can set the tone for how the audit will proceed. It is important to be professional throughout the meeting.

The following information should be conveyed:

- introduce the audit team and provide identification/credentials (i.e., authorised officer identification)
- explain the purpose of the audit
- explain the audit objectives, scope and criteria (this will help keep the inspection on track)
- explain the methods and procedures used to conduct the audit
- confirm communication channels between the audit team and auditee
- explain the steps that will be taken when preparing the audit report, e.g., 'all audit evidence collected will be assessed, a draft report will be prepared and reviewed internally, and the report will be sent to the auditee for comment before being finalised'
- agree to an audit timetable to enable the site manager or their representative to arrange for appropriate personnel to be available during the inspection
- ensure that the resources and facilities needed by the audit team are available
- explain the circumstances when an audit inspection may be terminated
- determine safety, emergency and security procedures
- confirm matters relating to confidentiality and information security.

Collecting audit evidence

Audit evidence is the 'records, statements of fact or other information which are relevant to the **audit criteria** and verifiable' (AS/NZS ISO 19011: 2014).

After the opening meeting, the auditor can begin collecting and recording audit information. Some information can be obtained while in the office (i.e., viewing or photocopying records) and the rest can be obtained during the site inspection.

The following tasks should be completed during the site inspection:

- gather information—take notes, ask open questions (you may wish to review your notes with the interviewee at the conclusion)
- complete audit checklists
- document any observed environmental issues which were not anticipated during the preparation of the audit checklists
- take a photographic record—always inform the site manager or their representative of your intention of taking photographs during the audit

- examine relevant documents, e.g., monitoring records, written procedures, site plans, process diagrams
- obtain copies of any documents which may be used as evidence to assess compliance.

Conducting interviews

One important way of collecting information is to interview site personnel. This allows the results of any observations and document reviews to be verified and enables the interviewee to explain or clarify those results. Conversely, information collected during interviews needs to be verified with supporting information from independent sources, such as observations and records.

Checklists developed during the audit planning phase should be used to prepare for the interview, but only as a starting point. An experienced auditor is often skilled enough to follow the flow of the interview and need not feel restricted by pre-prepared checklists.

When interviewing site personnel, auditors should try to build a rapport with the auditee by clearly explaining the reason for the audit inspection and the interview. To keep each interview focused, the auditor should carefully consider their questioning techniques and the content of any questions to be asked before the audit inspection and adapt these to the person being interviewed, as appropriate. Ensure any site representatives to be interviewed are authorised to speak on behalf of the auditee and are relevant for obtaining the information required.

Environmental sampling (e.g. water quality samples)

Generally, it is not the auditor's role to carry out environmental sampling. The auditee's management should monitor the operation over a period and in accordance with any requirements in statutory instruments such as licences, notices, or approvals, or other documentation relating to the site. If these monitoring results are not available, the auditor should record the facts and not carry out sampling on the day of the audit inspection to correct the deficiency.

However, if the facility being audited has limits on discharges and a discharge is occurring at the time of the audit inspection, the auditor may take a sample to determine compliance with the limit requirement. In this case, the auditor must collect a sample that represents the condition being assessed and must collect it in a manner consistent with the collection, handling and preservation principles in AS/NZS 5667.1:1998: Water quality – sampling – guidance on the design of sampling programs, sampling techniques and the preservation and handling of samples (or any updated version) (see References).

Sampling must be undertaken with regard to personal safety. Auditors should not take any undue risks whilst attempting to take samples. The auditee has the right to receive duplicate samples collected and the auditor should be prepared to provide such duplicates if requested. Copies of analytical results may also be provided if requested.

Sampling of records

Due to the finite time and resources available during an audit inspection, audit evidence is collected based on samples of the total information that could theoretically be obtained, if the auditor had unlimited time and resources. The use of samples is an accepted principle of auditing on condition that these samples are chosen judicially.

When auditing, it is often not possible, due to limited resources, to check every document or record applicable during the scope of the audit. Records may be too numerous to justify the examination of every record in the population. The auditor should consider how much documentation should be viewed.

The auditor may choose to sample a statistically representative number of documented results, such as monitoring data or incident reports. An appropriate sampling method will manage any uncertainty to an acceptable level. It is good practice to prepare a sampling plan during the audit planning process.

Potential enforcement action

If a non-compliance is observed on-site that is a serious breach of the law and is likely to cause or is causing environmental harm, the auditor should terminate the audit, inform the site manager or their representative of the situation and indicate to them that you will now be collecting sufficient evidence in an admissible form for an investigation and potential enforcement action. Ideally, this would be done by the EPA Regional Officer who is responsible for the site or activity and is generally trained in investigation skills.

Closing meeting and communication

Once the auditors have completed the site inspection, undertaken all necessary interviews and collected all necessary evidence, a closing meeting is held with the auditee's management and other site representatives involved in the audit.

In the closing meeting, the audit team should:

- give a general indication of the preliminary audit findings—it is important that the auditor indicates that any findings are preliminary and that the final conclusions could be subject to change once all evidence is considered
- provide a briefing on any items needing immediate attention
- raise and discuss any issues of confidentiality relating to the information collected
- request any further information identified or clarification needed to finalise audit findings
- provide a timeframe for completion of the audit report
- inform the site manager or their representative that they will be able to comment on the draft audit findings and the follow-up action program
- thank the site manager or their representative for their participation and cooperation.

4.3 Post-site visit activities

Collection and evaluation of audit evidence

Audit findings are generated by evaluating the audit evidence collected before and during the site inspection against the audit criteria. Only information that has been verified should be used as audit evidence.

The evidence collected may include observations made on-site, records and documentation on files, and documents produced by the site manager or their representative before, during or after the site inspection. The evidence is generally assessed once the auditor is back in the office:

- the auditor must review the information gathered to determine whether sufficient and verifiable evidence has been collected to produce audit findings
- the auditor should fill in any information gaps by following up with the auditee's representative. This may include accessing records to verify statements made by site personnel or checking sampling procedures with external consultants who carry out the monitoring

- once the information gaps have been filled, the auditor must evaluate the evidence against the audit criteria and compile a list of audit findings
- if working as an audit team, the audit findings should be discussed among the team, and an integrated list of all auditors' findings should be compiled.

The assessments in Table 2 should be used to report whether each requirement has been met:

Table 2: Criteria for a compliance, non-compliance, not determined and not applicable assessments

Assessment	Criteria
Compliance	There is sufficient and appropriate evidence to demonstrate the particular requirement has been complied with and is within the scope of the audit.
Non-compliance	Clear evidence has been collected to demonstrate the particular requirement has not been complied with and is within the scope of the audit.
Not determined	The necessary evidence has not been collected to enable an assessment of compliance to be made within the scope of the audit. There may be various reasons why the audit team could not collect the required information, including: • the audit team was not on-site for the period covered by the scope of the audit, or there was insufficient information on the file relating to the period covered by the audit to enable an assessment of compliance to be made • the wording of the criteria meant that no evidence could be gathered or it was not feasible to gather the evidence • the environmental gains to be achieved through compliance— and the level of environmental harm potentially caused through non-compliance—did not justify the use of resources necessary to make an accurate assessment (e.g., an auditor should not have to go to any length to assess compliance with a condition of a statutory instrument simply because the condition exists).
Not applicable (not activated)	An invoking element in the criteria was not activated within the scope of the audit. The element of the criteria may require that a particular activity be carried out or that an event occur before the requirement needs to be complied with, e.g., 'The licensee must notify the EPA of incidents causing or threatening environmental harm'. If there were no incidents that caused or threatened environmental harm within the scope of the audit, the requirements of this condition do not apply to the auditee.

The auditor should ensure that the evidence collected is evaluated objectively against only the audit criteria as written, without considering what the intent of the audit criteria is or may have been.

Balance of probability

When assessing compliance, an auditor gathers evidential proof that must satisfy the concept of 'balance of probability'. The evidence gathered should be sufficient to prove something as more probable than not (i.e. *yes* or *no*). This is a lesser level of evidential proof than that required when gathering evidence for enforcement action where the level of evidential proof needs to be 'beyond a reasonable doubt'. Where the evidence collected is not sufficient to weigh the balance one way or another, then the assessment will be reported as '*not determined'*.

Once compliance with each requirement has been assessed, the auditor should document their findings (a table is provided as an example in Appendix 2). This can then be used as a basis for compiling the compliance audit report.

Further observations

The audit report may also document *'further observations'* where issues of environmental concern were observed which did not strictly relate to the scope of the audit or assessment of compliance.

Further observations are considered to be indicators of potential non-compliance or areas where environmental performance may be improved.

Assessment of the environmental significance of a non-compliance

A non-compliance may be assessed to determine the significance of its actual or potential impact on the environment. The auditee can use this assessment to rank or categorise non-compliances so follow-up actions can be prioritised if numerous non-compliances are identified.

The significance of a non-compliance can be assessed by considering factors such as:

- the sensitivity of the environment
- the toxicity of the pollutant involved
- the load of the pollutant
- proximity to the receiving environment
- likelihood of the event occurring.

Appendix 3 gives an example of a risk assessment process used by the EPA to categorise non-compliances. The process involves allocating a colour code to each non-compliance according to its environmental significance.

Preparing audit findings and conclusions

The audit findings are an assessment of audit evidence against the audit criteria. The audit conclusion is the outcome of the audit after considering the audit objectives and all findings. The conclusion generally also summarises the extent of compliance of the auditee with the audit criteria.

Compliance audit report

The compliance audit report communicates audit findings and recommendations to relevant stakeholders. It documents the overall assessment of compliance, and details the audit findings identified during the audit including any non-compliances and the related follow-up actions needed to improve compliance.

The report must include details of the following:

- the audit objectives
- the audit scope
- identification of the auditee
- identification of the EPA as the auditor
- the dates and places where the audit activities were undertaken
- the audit criteria
- the audit findings

- the audit conclusions
- recommendations for corrective or preventative action.

The report may also include:

- categorisation of the non-compliances with reference to their environmental risk.

Follow-up action program

The purpose of the follow-up action program is to specify to the auditee a course of action to address any non-compliances identified in the audit findings, and to achieve compliance. The action program can be developed with input from auditee representatives to ensure that the actions required are appropriate and achievable.

Developing the follow-up action program involves the following steps:

1. Listing all non-compliances with the audit criteria.
2. Establishing a framework within which the auditee can implement the compliance action program. This should not contain prescriptive recommendations on how to address the non-compliances, but should be based on a risk assessment that enables the auditee, in conjunction with the EPA, to prioritise remedial action and determine the timeframe within which the non-compliances should be addressed (see example in Appendix 3).
3. Closely monitoring the progress of the auditee in implementing the follow-up actions.

Regulatory review

A regulatory review is used to assess the quality of any statutory instruments issued to the auditee and recommend improvements if required.

The regulatory review is done in three stages, as a review of:

1. the legislative requirements, to ensure they are met
2. the overall adequacy of the statutory instrument
3. each condition of the statutory instrument.

Table 3: Stages of a Regulatory Review

Stage 1 - Legislative requirements
• Review legislative requirements and assess whether all necessary approvals, licences, permits, and notices have been issued to the auditee, and document findings.
Stage 2 - Statutory instruments
• Assess the adequacy of each instrument and identify any new conditions that will improve its performance. • Assess how well the instruments cover all activities/processes/discharges on-site. • Justify findings and document.
Stage 3 - Conditions
Assess the appropriateness of each condition by answering the following five questions for each condition: 1. Is the condition **applicable** to this site? 2. Is the condition **legally enforceable**? 3. Can the auditee **comply** with the condition? 4. Is it possible for EPA Officers **to accurately assess compliance** with the condition? 5. Will compliance with the condition **reduce the risk** to the environment?

- Record the assessment.
- Identify additions, modifications and deletions to be made.
- For every condition requiring change or deletion, record the justification.

5. Quality assurance and record keeping

The value, rigour and credibility of a compliance audit depends on its proper management. All EPA compliance audits must be undertaken in accordance with the quality procedures detailed below.

5.1 Quality assurance

The purpose of quality assurance procedures is to ensure that all audit tasks are carried out consistently.

At the beginning of each audit, the lead auditor should prepare a quality plan identifying the quality assurance procedures to be undertaken. The plan should contain:

1. a record of the actions required for ensuring quality work
2. verification by the relevant officers responsible that required actions have been undertaken
3. the people who will review the work
4. the expected time for the review.

The plan ensures consistency through a structured process of peer review. An example of a quality plan is given in Appendix 4.

5.2 Record keeping

Records collected during the compliance audit must be kept for future reference. Good record keeping procedures will help ensure that all the necessary supporting documentation and records of observations are kept in a proper and systematic manner.

All audit information should be stored within a newly created digital file. There should be a number of sub files to ensure the information is stored in an orderly manner.

The table below gives an example of what sort of information should be kept and how it may be organised.

Table 4: Records to be kept for filing

Digital File contents	Details
Audit correspondence	Store all correspondence relevant to the audit
Auditee details	Include the name of the auditee and the history of who occupied the site and activities carried out
Quality assurance and planning	Include the audit plan and quality plan (see Appendices 1 and 4)
Statutory and policy documents/guidelines	Include all relevant legislation, instruments, policy documents and guidelines used as audit criteria or to assess compliance
Audit reference material and observations	Include all documents generated during the inspection and in conducting background information (i.e., checklists, photos, drawings, videos). Include all other information sourced for the purposes of the audit

Digital File contents	Details
	(e.g. Records and documents provided by the auditee, location of articles or information sheets)
Assessment of compliance	Include a copy of the compliance audit report (draft and final versions) including any detailed assessments documented in other areas (see Appendices 2 and 3)

6. Glossary

Audit element: A component of the activity/process/discharge that is being investigated for assessing compliance of a condition attached to a regulatory instrument.

Audit evidence: Consists of records, statements of fact or other information that are relevant to the audit criteria and are verifiable.

Audit criteria: Set of policies, procedures or requirements used as a reference against which audit evidence is compared.

Auditee: A person or organisation being audited. The EPA audits organisations or individuals whose activities are regulated by legislation the EPA has a duty to administer.

Checklists: Lists of all the activities, processes and discharges to be addressed during the audit including a list of elements to be audited and the type of observations to be made to assess compliance.

Compliance audit: An assessment of an auditee's activities to determine whether the audit criteria are being met. For a compliance audit, the audit criteria are legal requirements.

EPA policy documents: The general term used to refer to any of the following documents: corporate policy documents, environmental guidelines, codes of practice, guidelines, policy statements/strategies, regional environmental improvement plans and policy documents adopted by the EPA. These documents help the auditor assess compliance.

Monitor: To systematically and repeatedly measure a parameter to track changes or establish the baseline or current conditions.

Pollutant: A contaminant that adversely alters the physical, chemical, or biological properties of the environment. The term includes pathogens, toxic metals, carcinogens, oxygen-demanding materials, nutrients and all other harmful substances.

Quality assurance: A system of procedures to ensure that all audits are carried out correctly.

Regulatory review: A process where an assessment of the quality of the statutory instruments issued to an auditee is undertaken and recommendations made on how to improve the statutory instruments.

Statutory instruments: Instruments issued to an auditee pursuant to the legislation administered by the EPA. These include approvals, licences, notices, permits and certificates of registration.

7. Appendices

Appendix 1 - Audit plan

Premises: Good Coal Pty Ltd, 79 Broke Road, Singleton **Audit Client: NSW Environment Protection Authority (EPA)** **Audit File Ref No: EPA Electronic FILE DOC/17/32143**	
Auditee Details	Organisation name: Good Coal Pty Ltd Address 79 Broke Road**, Singleton** NSW 2330
	Contact Person David E Mathews - Phone 02 - 9541 5358 Contact Position Site Manager - Fax 02 – 9541 5624
AUDIT OBJECTIVES: The objective of this audit is to assess the enterprise's compliance with legislative requirements including the POEO licence requirements.	
AUDIT CRITERIA: Conditions of the EPA POEO licence No. 2354 issued to Good Coal Pty Ltd relating to the management of dust, chemicals and surface water.	
AUDIT SCOPE: Geographical scope: • Mining lease boundaries (see map No.1) Temporal scope: • Operating and General conditions – assessment of compliance for the 24 hours prior to the end of the audit inspection. • Limits and monitoring conditions – assessment of compliance over the 12-month period prior to the end of the audit inspection. Activities examined during the audit inspection include: • Maintenance of plant and equipment; • Site stormwater management; • Surface water monitoring; • Dust monitoring; • Controls on dust; • Handling and disposal of wastes; • Storage of chemicals and fuel oil; and • Management of tailings dams and stockpiles.	
AUDIT METHODS INCLUDING DOCUMENTS/ORGANISATIONS/PERSONNEL TO BE AUDITED **Methods:** Site inspection, interviews, sampling documentation, photos and where necessary environmental sample/s **Interviews:** Site Environmental Coordinator, Site Maintenance Supervisor, Chemicals Store Supervisor **Documents:** Chemicals Inventory, Site Stormwater Management Plan, Dust Management Plan	

AUDIT TEAM (Roles and Responsibilities)

Lead Auditors: Ashley Simpson (lead audit, communicate with licensee, conduct opening and closing meeting, prepare audit report, coordinate follow-up)

Support Auditors: Will Smith and Sue Dawson (Assist with filling checklists, take photos, interview staff, undertake document review)

Technical Expert: Al Goodwin (Provide expertise on dust monitoring techniques)

AUDIT TIMETABLE

Date	**Time**		**Event**
15/09/17	9.00am	9.30am	Audit Opening Meeting
	9:30am	9:45am	Safety induction
	9.45am	12.30pm	Site Inspection
	1.30pm	3.30pm	Interviews – Personnel
	3.30pm	4.00pm	Audit Closing Meeting (present preliminary audit findings; confirm any confidential and information security issues)
Allocating Resources		Arranging access to specific locations of the auditee	
		Arranging logistics during the audit (e.g. access to a room for audit debrief)	
Audit Report		**Completion Date:** 3/3/18	
		Distribution To: Good Coal Pty Ltd	

Appendix 2 - File record of site assessment

Auditee / Premises:

Date of inspection:

Audit criteria/ Requirement[1]	Compliance Assessment (i.e. compliance, non- compliance, not determined or not applicable)	References used to make the assessment[3]	Comments[2]	Audit Notes/Comments

1. Audit criteria - Set of policies, procedures or requirements used as a reference against which audit evidence is compared
2. Identify activity/process/discharge and particular observations to allow an assessment of compliance to be made
3. Identify checklists, file numbers, photos, videos, notebook page numbers and any other references used to allow an assessment to be made

Appendix 3 - Example of a risk assessment process

This appendix describes one example of a risk assessment process used in the EPA. Each non-compliance is assessed to determine the significance of its actual or potential impact on the environment. The significance can be assessed by determining the following two criteria for each non-compliance, using detailed guidance material:

a. the level of environmental impact caused by the non-compliance
b. the likelihood of environmental harm occurring as a result of the non-compliance.

After these assessments are made, the information is transferred into the risk analysis matrix below, so a colour code can be allocated.

		Likelihood of Environmental Harm Occurring		
Level of Environmental Impact		Certain	Likely	Less Likely
	High	Code Red	Code Red	Code Orange
	Moderate	Code Red	Code Orange	Code Yellow
	Low	Code Orange	Code Yellow	Code Yellow

A **code red** risk assessment denotes that the non-compliance is of considerable environmental significance and needs to be dealt with as a matter of priority.

A **code orange** risk assessment denotes that the non-compliance is of environmental significance however; remedying the non-compliance can be given a lower priority than a red risk assessment.

A **code** yellow risk assessment indicates that the non-compliance could receive a lower priority than a red or orange risk code, but the non-compliance is still important and must be addressed.

Administrative, reporting and monitoring non-compliances are allocated a **code blue** risk assessment. These do not usually have direct environmental significance, however are still important to the integrity of the regulatory system.

The colour code is used as the basis for deciding the priority of remedial action required by the auditee and the timeframe within which the non-compliance must be addressed. While the risk assessment of non-compliances is used to prioritise actions to be taken, the EPA considers all non-compliances to be important, and auditees must ensure that all non-compliances are addressed as soon as possible.

Appendix 4 - Example of a quality plan

Where appropriate, tasks should be dated and signed off by the person responsible, once they are complete.

Task	Date	Initial
Audit plan prepared and reviewed by manager		
Site visit completed (confirmed by lead auditor)		
Draft audit report reviewed by other audit team members/specialists		
Draft audit report reviewed by manager		
Draft audit report submitted to auditee for comment		
Response from auditee to draft audit report		
Final audit report reviewed by manager		
Final audit report sent to auditee		
Required actions confirmed as ‘followed up’		

8. References

AS/NZS ISO 19011:2014, Australian /New Zealand Standard: Guidelines for auditing management systems. Standards Australia.

AS/NZS 5667.1:1998, (R2016) Water quality – Sampling guidance on the design of sampling programs, sampling techniques and the preservation and handling of samples. Standards Australia.

EPA 2013, EPA Prosecution Guidelines, NSW Environment Protection Authority, Sydney: available at http://www.environment.nsw.gov.au/resources/legislation/20130141EPAProsGuide.pdf

EPA 2013, EPA Compliance Policy, NSW Environment Protection Authority, Sydney; available at http://www.epa.nsw.gov.au/legislation/130251epacompl.htm