



Pollution incident response management plans: Proposed amendments under the POEO (General) Regulation 2009

The *Protection of the Environment Legislation Amendment Act 2011*, which was assented to on 16 November 2011, includes a number of new requirements to improve the way pollution incidents are reported and managed. These provisions include a requirement for holders of environment protection licences under the *Protection of the Environment Operations Act 1997* (POEO Act) to prepare, keep, test and implement a pollution incident response management plan.

The Environment Protection Authority (EPA) is preparing an Amendment Regulation which will prescribe further details for these plans. The proposed contents of the Regulation are outlined in general below and the EPA is seeking public comment on them.

The EPA will also develop guidance to assist licensees prepare the plans.

Proposed amendments

Form of the plan

The plan must be in a written form.

Content of the plan

Section 153C of the Amendment Act requires the plans to have the following contents:

- *the procedures to be followed by the licence holder or occupier of the premises in notifying a pollution incident to certain persons*
- *a detailed description of the action to be taken, immediately after a pollution incident, by the licence holder or occupier of the premises, to reduce or control any pollution*
- *the procedures to be followed for co-ordinating, with the authorities or persons that have been notified, any action taken in combating the pollution caused by the incident and the persons through whom all communications are to be made*
- *any other matter required by the regulations [as listed below and which is proposed to be included in the Amendment Regulation].*

Additional details proposed in the Amendment Regulation to be included in plans (except those prepared by waste transporters)

It is proposed to require the plan to also include the following types of details:

- (a) an outline of the hazards to human health and the environment identified at the premises

- (b) the likelihood of such hazards occurring, including conditions or events which could or do add to the identified likelihood
- (c) action that will be taken to control, minimise or avoid the hazards posed to human health and the environment
- (d) an inventory of potential pollutants at the premises
- (e) the quantity of each potential pollutant at the premises
- (f) the location of each potential pollutant at the premises
- (g) the safety equipment and the infrastructure to be used to minimise the risk to human health and the environment and to contain or control the impacts of a pollution incident
- (h) the names, positions and 24 hour contact details of key person(s) who are:
 - i. responsible for and authorised to activate the plan
 - ii. authorised to liaise with the 'relevant authority' [*see meaning under s.148 of the POEO Act*]
 - iii. responsible for managing the response to a pollution incident
- (i) the names and contact details of the owners and occupiers of premises (including private residences) in the vicinity of the premises to which the licence relates (or where the activity is carried out)
- (j) mechanisms for providing early warnings and regular updates to owners and occupiers of premises (including private residences) in the vicinity of the premises to which the licence relates (or where the activity is carried out)
- (k) procedures for notification of pollution incidents to each 'relevant authority' as required by s.148 of the POEO Act and the procedures for coordinating the response to any pollution incident with each relevant authority
- (l) the actions to be taken by the licence holder (or person carrying on the activity) following a pollution incident
- (m) the arrangements for minimising the risk of harm to people at the premises
- (n) a detailed map of:
 - i. the premises, and
 - ii. the surrounding area that is likely to be impacted by any pollution incident
- (o) a detailed description of how any identified risk of harm to human health and the environment will be limited, including as a minimum:
 - i. early warnings
 - ii. updates
 - iii. actions to be taken, during or immediately after a pollution incident, by the holder of the licence or the occupier of the relevant premises, to limit the risk of harm to human health and the environment
- (p) the training that will be provided to staff to ensure that they can effectively implement the plan, the name of each staff member that has completed the training and the date when the training was completed
- (q) how the plan will be tested and maintained in accordance with the requirements under the Act
- (r) a record of the dates when the plan was last tested and reviewed.

Details proposed in the Amendment Regulation to be included in plans prepared by waste transporters

Transporters of trackable waste are already required to comply with certain procedures to minimise the risk of pollution incidents and ensure that appropriate measures are taken for the more hazardous and dangerous wastes. Also, due to the mobile nature of this activity, it would not be appropriate to require waste transporters to include certain information in their plans.

Plans for the transport of trackable waste must include the following matters:

- (a) the names, positions and 24 hour contact details of key person(s) who are:
 - i. responsible for and authorised to activate the plan
 - ii. authorised to liaise with the 'relevant authority' [*see meaning under s.148 of the POEO Act*]
 - iii. responsible for managing the response to a pollution incident
- (b) mechanisms for providing early warnings and regular updates to owners and occupiers of premises in the vicinity of the premises to which the licence relates or where the activity is carried out [*for example by requesting Fire and Rescue NSW or other emergency services to provide these notifications to the owners and occupiers*]
- (c) procedures for notification of pollution incidents to each 'relevant authority' and for coordinating the response to any pollution incident with each 'relevant' authority
- (d) procedures to be followed by the licence holder to prevent any pollution incident occurring, including as a minimum all of those actions set out in cl.49 of the Protection of the Environment Operations (Waste) Regulation 2005
- (e) the actions to be taken by the licence holder, including as a minimum:
 - A. following the procedures in HB 76-2004: *Dangerous Goods – Initial emergency response guide*, published by Standards Australia for the relevant waste, or
 - B. all actions outlined in that guide which relate to the type of waste being transported, and
 - ii. using a spill kit that is appropriate for the type of waste being transported.

Overlap with other emergency plans

Some licence holders are also required by other legislation to prepare emergency plans or procedures.¹ To avoid duplication and for efficiency reasons, the Amendment Regulation is proposed to contain a provision to allow the plan to reference other plans where those plans, or parts of them, meet the requirements of the Act and Regulation. The licence holder must still keep, make available, test and implement the relevant parts of these other plans as required by the Act and Regulations, as if they were part of the pollution incident response management plan.

How the plan is to be made available

A copy of the plan will be required to be made available:

- (a) within 14 days of finalising the plan:
 - i. if the person has a public website – in a prominent position and on a publicly available page of the person's public website together with the person's name
 - ii. if the person does not have a public website – by providing a copy of the plan to any person who requests a copy at no charge and in accordance with any requirements issued in writing by the EPA
- (b) to an authorised officer if requested.

Note this will not extend to any personal information within the meaning of s.4(1) of the *Privacy and Personal Information Protection Act 1998*.

How the plan is to be tested

Licensees will be required to:

- (a) test the plan by assessing and reviewing it and making any necessary changes following those assessments and reviews
- (b) test the plan:
 - i. at least once every 12 months, and
 - ii. if a pollution incident occurs at or from the premises – within 1 month of the date on which the pollution incident commenced.

How the plan is to be reviewed

- (a) The plan must be reviewed at least once every 12 months and within 1 month of any pollution incident.
- (b) In the plan the following details must be recorded:
 - i. review date and who carried out the review
 - ii. the date which the plan is updated and the person responsible.

¹ Examples of plans under other legislation are:

- emergency plans that comply with cl.43 of the Work Health and Safety Regulation 2011
- emergency plans that comply with cl.152 of the Dangerous Goods (Road and Rail Transport) Regulation 2009
- mine safety management plans that comply with s.27 of the *Mine Health and Safety Act 2004*
- emergency plans that comply with s.42 of the *Mine Health and Safety Act 2004*
- emergency management systems that comply with s.45 of the *Coal Mine Health and Safety Act 2002*
- health and safety management systems that comply with s.20 of the *Coal Mine Health and Safety Act 2002*
- major hazard management plans under s.35 the *Coal Mine Health and Safety Act 2002*
- emergency plans that comply with cl.66 of the Explosives Regulation 2005
- any plan that complies with a requirement under the *Environmental Planning and Assessment Act 1979*

Commenting on the proposed Amendment Regulation

The EPA welcomes comments on the proposed content of the Amendment Regulation.

Written submissions can be sent to:

Continuous Improvement Unit
Environment Protection Authority
PO Box A290
Sydney South NSW 1232

or emailed to pirmp@environment.nsw.gov.au

by **Wednesday 8 February 2012**.

Public information sessions

The EPA is holding public information sessions on the new requirements in the *Protection of the Environment Legislation Amendment Act 2011*, as well as the proposed provisions above for pollution incident response management plans, as follows:

Sydney

Date: 30 January 2012

Venue: Masonic Centre, 66 Goulburn Street, Sydney

Time: 9:30 am – 3:00 pm

Newcastle

Date: 31 January 2012

Venue: Newcastle City Hall, 290 King Street, Newcastle

Time: 9:30 am – 3:00 pm

If you would like to attend one of the sessions, please email Renee Fairhurst at Renee.Fairhurst@environment.nsw.gov.au by Tuesday 24 January 2012.