

South Australia

Environment Protection (National Pollutant Inventory) Policy 2008

under the *Environment Protection Act 1993*

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Legislative history

1—Short title

This policy may be cited as the *Environment Protection (National Pollutant Inventory) Policy 2008*.

2—Interpretation

- (1) In this policy, unless the contrary intention appears—

Act means the *Environment Protection Act 1993*;

CAS number for a listed substance means the Chemical Abstracts Service number given for the substance in this policy;

category 1 substance—see Schedule 1 clause 1;

category 1a substance—see Schedule 1 clause 2;

category 1b substance—see Schedule 1 clause 3;

category 2a substance—see Schedule 1 clause 4;

category 2b substance—see Schedule 1 clause 5;

category 3 substance—see Schedule 1 clause 6;

EET manual for an activity means a manual setting out techniques for making estimations required by this policy in relation to the activity published by the Commonwealth for the purposes of the National Pollutant Inventory—see www.npi.gov.au;

emission of a listed substance includes the deposit, discharge and escape of the substance but does not include the transfer of the substance to a mandatory reporting transfer destination;

listed substance means a category 1, 1a, 1b, 2a, 2b or 3 substance;

mandatory reporting transfer destination means—

- (a) a place or facility for the destruction or long term or permanent containment or disposal of a listed substance (including by means of landfill, tailings storage, underground injection or purpose built storage, sewerage system or incinerator); or
- (b) a place or facility at which a listed substance is treated before being transferred to a place or facility referred to in paragraph (a),

but does not include a place or facility at which a listed substance is recycled, reprocessed, wholly or partially purified, immobilised, remediated, used for energy recovery or made ready for reuse;

National Pollutant Inventory means the inventory of substances emitted or transferred by industry established as a result of the *National Environment Protection (National Pollutant Inventory) Measure*;

occupier of a reporting facility means the person responsible for the day to day management of a prescribed activity carried on at the facility;

overburden means the layer of unwanted rock and soil overlying a mineral deposit that is displaced during mining operations;

premises includes an offshore vessel or structure for the recovery of petroleum or drilling or carrying out activities in connection with a well, but does not include an offshore vessel or structure engaged solely in investigations of the seabed to a depth of 100 metres or less;

prescribed activity means an activity for which a current EET manual exists;

prescribed estimation technique for a prescribed activity means—

- (a) an estimation technique set out in an EET manual for the activity; or
- (b) a technique approved by the Authority for the activity;

prescribed matter means—

- (a) overburden; or
- (b) waste rock; or

- (c) soil or sediment that is not contaminated by a pollutant listed in Schedule 4 of the *Environment Protection (Water Quality) Policy 2003*; or
- (d) rock removed in building or road construction; or
- (e) soil used for the capping of landfill;

reporting facility means a discrete premises at which a prescribed activity is carried on;

reporting year, in relation to a reporting facility, means—

- (a) the yearly period approved in relation to the facility by the Authority and notified in writing to the occupier of the facility; or
- (b) if no such period has been approved by the Authority in relation to the facility—a financial year;

waste rock means the unwanted rock below the overburden that is displaced during mining operations.

- (2) In this policy, the expression **mandatory provision** followed by a statement as to the category of offence is to be taken to signify that contravention of the provision at the foot of which the expression appears is, for the purposes of Part 5 of the Act, an offence of the category so stated.

Note—

Unless the contrary intention appears, terms used in this policy that are defined in the Act have the respective meanings assigned to those terms by the Act.

3—Purpose

The purpose of this policy is to provide for the collection of information for inclusion in the National Pollutant Inventory.

4—Obligation to report

- (1) Subject to this policy, the occupier of a reporting facility must provide a report to the Authority in accordance with this clause if the reporting threshold for a listed substance is exceeded in relation to the facility during a reporting year.

Mandatory provision: Category B offence.

- (2) The report must—
 - (a) be provided within 3 months after the end of the reporting year; and
 - (b) be signed by or on behalf of the occupier; and
 - (c) include the details required by clause 9.
- (3) This clause does not apply to a reporting facility at which a dry cleaning business is carried on if fewer than 20 persons are employed in that business at that facility.

5—Obligation to keep records

The occupier of a reporting facility must—

- (a) keep a record of—
 - (i) the information required to be provided under clause 4; and

- (ii) the documents or records containing data used in generating such information,
for a period of 5 years commencing on the last day of the reporting year to which the record relates; and
- (b) at the request of an authorised officer, make a record required to be kept under this clause available for inspection by the authorised officer.

Mandatory provision: Category B offence.

6—Category 1, 1a and 1b reporting thresholds

- (1) The reporting threshold for a category 1 substance is exceeded at a reporting facility during a reporting year if, during that year, the total amount of the substance used or produced in the course of prescribed activities carried on at the facility is 10 tonnes or more.
- (2) The reporting threshold for a category 1a substance is exceeded at a reporting facility during a reporting year if, during that year, the total amount of the substance used or produced in the course of prescribed activities carried on at the facility is 25 tonnes or more.
- (3) The reporting threshold for a category 1b substance is exceeded at a reporting facility during a reporting year if, during that year, the total amount of the substance used or produced in the course of prescribed activities carried on at the facility is 5 kilograms or more.
- (4) For the purposes of this clause, the following provisions apply:
 - (a) a listed substance is to be taken to be used or produced in the course of a prescribed activity carried on at a reporting facility if the substance or prescribed material containing the substance is—
 - (i) manufactured or processed in the course of the activity; or
 - (ii) coincidentally produced in the course of the activity, for example, as a by-product or as waste; or
 - (iii) brought into the facility and consumed, or otherwise used or handled, in the course of the activity;
 - (b) however, a listed substance is not to be taken to be used or produced in the course of a prescribed activity carried on at a reporting facility if—
 - (i) when the substance or prescribed material containing the substance is brought into the facility, it is contained or incorporated in an article of a kind that precludes emission of the substance to air, land or water; and
 - (ii) the substance or prescribed material containing the substance remains, at all times while at the facility, contained or incorporated in the article; and
 - (iii) the article is, at all times while at the facility, handled in a way that precludes emission of the substance to air, land or water;
 - (c) a mixture or other material containing a listed substance is to be taken to be *prescribed material* containing the substance if—

- (i) the MSDS (within the meaning of the *Occupational Health, Safety and Welfare Regulations 1995*) for the mixture or material, or some other document prepared by the manufacturer of the mixture or material and supplied with the mixture or material, identifies the substance as an ingredient or component of the mixture or material and contains information enabling the amount of the substance contained within a specified amount of the mixture or material to be determined; or
 - (ii) the person carrying on the prescribed activity could reasonably be expected (in the absence of such an MSDS or other document) to know that the mixture or material contains the substance and to determine the amount of the substance contained within a specified amount of the mixture or material;
- (d) the amount of an acid used or produced is to be taken to be the amount of the acid compound used or produced;
 - (e) the amount of ammonia (total) used or produced is to be taken to be the aggregate amount of ammonia (NH_3 (CAS number 7664-41-7)) and ammonium ion (NH_4^+) in solution used or produced;
 - (f) the amount of chlorine and compounds used or produced is to be taken to include the amount of all chlorine compounds used or produced that may result in emissions of chlorine gas (Cl_2), free residual chlorine, hypochlorite ion (OCl^-), hypochlorous acid (HOCl) or chloramines;
 - (g) if a substance is listed as a specified substance and compounds, the amount of the substance used or produced is to be taken to be the aggregate amount of the specified substance and all such compounds used or produced;
 - (h) if a substance is listed as specified compounds, the amount of the substance used or produced is to be taken to be the aggregate amount of the specified substances contained in such compounds used or produced;
 - (i) if a substance is listed in the plural, the amount of the substance used or produced is to be taken to be the aggregate amount of all such substances used or produced.

7—Category 2a and 2b reporting thresholds

- (1) The reporting threshold for each category 2a substance is exceeded at a reporting facility during a reporting year if, during that year, the prescribed activities carried on at the facility involve the burning of—
 - (a) 400 tonnes or more of fuel or waste; or
 - (b) 1 tonne or more of fuel or waste in any 1 hour period.
- (2) The reporting threshold for each category 2b substance is exceeded at a reporting facility during a reporting year if—
 - (a) during that year, the prescribed activities carried on at the facility involve—
 - (i) the burning of 2 000 tonnes or more of fuel or waste; or

- (ii) the consumption of 60 000 megawatt hours or more of electrical energy other than for lighting or motive power; or
- (b) at any time during that year, the maximum potential electrical energy consumption of the prescribed activities carried on at the facility (other than for lighting or motive power) is 20 megawatts or more calculated on the basis of the aggregate maximum power rating of all electrical plant and equipment used in carrying on the prescribed activities.

8—Category 3 reporting threshold

- (1) The reporting threshold for each category 3 substance is exceeded at a reporting facility during a reporting year if, during that year, the prescribed activities carried on at the facility result in 15 tonnes or more of total nitrogen or 3 tonnes or more of total phosphorus being emitted to waters or transferred to a mandatory reporting transfer destination (when the emissions and transfers are considered separately or in combination).
- (2) For the purposes of subclause (1)—
 - (a) any amount of total nitrogen that is not a nitrogen compound that gives rise to nitrate or nitrite ions is to be disregarded; and
 - (b) any amount of total phosphorus that is not a phosphorus compound that gives rise to phosphate ions is to be disregarded; and
 - (c) any amount of total nitrogen that is not a soluble compound of nitrogen contained in materials that readily permit dissolution of nitrogen is to be disregarded for the purpose of determining the amount transferred to a mandatory reporting transfer destination; and
 - (d) any amount of total phosphorus that is not a soluble compound of phosphorus contained in materials that readily permit dissolution of phosphorus is to be disregarded for the purpose of determining the amount transferred to a mandatory reporting transfer destination.

9—Details to be included in report

- (1) For the purposes of clause 4, the report must include the following details:
 - (a) the full name of the occupier of the facility;
 - (b) a telephone number at which the occupier may be contacted during office hours;
 - (c) the name, ACN (if any), ABN and postal address of each entity carrying on a prescribed activity at the facility;
 - (d) a description of the nature of each prescribed activity carried on at the facility;
 - (e) the address or location of the premises at which the reporting threshold has been exceeded.
- (2) For the purposes of clause 4, the report must include the following details for each listed substance for which the reporting threshold has been exceeded during a reporting year:
 - (a) the name and CAS number (if any) of the substance;

- (b) for each listed substance emitted to air, land or waters (whether in the course of prescribed activities carried on at the facility or during transfer of the substance from the facility to a mandatory reporting transfer destination)—
 - (i) the aggregate amount of the substance emitted to air calculated in accordance with a prescribed estimation technique; and
 - (ii) the aggregate amount of the substance emitted to land calculated in accordance with a prescribed estimation technique; and
 - (iii) the aggregate amount of the substance emitted to waters calculated in accordance with a prescribed estimation technique; and
 - (iv) in each case, a statement of the estimation technique used;
- (c) for each category 1, 1b or 3 substance transferred to a mandatory reporting transfer destination—
 - (i) the aggregate amount of the substance so transferred (disregarding any amounts of the substance contained in prescribed matter) calculated in accordance with a prescribed estimation technique; and
 - (ii) a statement of the estimation technique used; and
 - (iii) a description of the type of mandatory reporting transfer destination to which the substance was transferred; and
 - (iv) a statement of whether the mandatory reporting transfer destination is or is not at the reporting facility.
- (3) For the purposes of clause 4, the report must include a description of the type, and, for each type, the total mass, of fuel and waste burned in the course of prescribed activities carried on at the facility during the reporting year (but this information is not to be made available on the National Pollutant Inventory).
- (4) For the purposes of this clause—
 - (a) the amount of an acid emitted or transferred is to be taken to be the amount of the acid compound that is emitted or transferred; and
 - (b) any amount of total nitrogen that is not a nitrogen compound that gives rise to nitrate or nitrite ions is to be disregarded; and
 - (c) any amount of total phosphorus that is not a phosphorus compound that gives rise to phosphate ions is to be disregarded; and
 - (d) any amount of total nitrogen that is not a soluble compound of nitrogen contained in materials that readily permit dissolution of nitrogen is to be disregarded for the purpose of determining the amount transferred to a mandatory reporting transfer destination; and
 - (e) any amount of total phosphorus that is not a soluble compound of phosphorus contained in materials that readily permit dissolution of phosphorus is to be disregarded for the purpose of determining the amount transferred to a mandatory reporting transfer destination; and
 - (f) the amount of ammonia (total) emitted or transferred is to be taken to be the aggregate amount of both ammonia (NH_3 (CAS number 7664-41-7)) and the ammonium ion (NH_4^+) emitted or transferred in solution; and

- (g) the amount of chlorine and compounds emitted or transferred is to be taken to be the aggregate amount of chlorine gas (Cl₂), free residual chlorine, hypochlorite ion (OCl⁻), hypochlorous acid (HOCl) and chloramines emitted or transferred, expressed as the equivalent weight of chlorine (Cl); and
- (h) if a substance is listed as a specified substance and compounds, the amount of the substance emitted or transferred is to be taken to be the aggregate of the amount of the specified substance and the amount of the specified substance contained in each such compound emitted or transferred; and
- (i) if a substance is listed as specified compounds, the amount of the substance emitted or transferred is to be taken to be the aggregate amount of the specified substances contained in such compounds emitted or transferred; and
- (j) if a substance is listed in the plural, the amount of the substance emitted or transferred is to be taken to be the aggregate amount of all such substances emitted or transferred; and
- (k) the amount of polychlorinated dioxins and furans emitted is to be taken to be the sum of the toxic equivalent amounts of the individual congeners emitted, determined in each case by multiplying the mass of the congener by the toxicity equivalency factor specified in the relevant EET manual; and
- (l) the amount of polycyclic aromatic hydrocarbons (Benzo[a]pyrene equivalent) (PAHs B[a]P_{eq}) emitted is to be taken to be the sum of the toxic equivalent amounts of the individual congeners emitted, determined in each case by multiplying the mass of the congener by the toxicity equivalency factor specified in the relevant EET manual; and
- (m) the amount of oxides of nitrogen emitted is to be taken to be the mass of nitrogen oxide and nitrogen dioxide emitted, expressed as the equivalent mass of nitrogen dioxide in accordance with the relevant EET manual; and
- (n) the amount of particulate matter less than or equal to 2.5µm (PM_{2.5}) emitted is to be taken to be the aggregate amount of all such matter emitted from the burning of fuel or waste.

10—Exemptions

- (1) The Authority may, on the application of an occupier of a reporting facility, exempt the occupier from the requirement to include specified details in a report under this policy if satisfied that the disclosure of the details on the National Pollutant Inventory could reasonably be expected to—
 - (a) prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* of the Commonwealth); or
 - (b) prejudice the commercial position of the person; or
 - (c) confer a commercial advantage on a third party.
- (2) Before granting an exemption under subclause (1)(a), the Authority must consult the Minister of the Commonwealth responsible for the administration of the *National Security Information (Criminal and Civil Proceedings) Act 2004* of the Commonwealth.

- (3) An exemption under this clause—
 - (a) must be in writing; and
 - (b) is subject to any conditions specified by the Authority.
- (4) The Authority may, by subsequent notice in writing to the holder of an exemption under this clause, vary or revoke the exemption.

11—Disclosure of information by Authority

The Authority may disclose details contained in a report provided to it under this policy (except details provided under clause 9(3)) to the person or body administering the National Pollutant Inventory.

Schedule 1—Listed substances

1—Category 1 substances

The following are category 1 substances:

<u>Category 1 substance</u>	<u>CAS number</u>
Acetaldehyde	75-07-0
Acetic acid (ethanoic acid)	64-19-7
Acetone	67-64-1
Acetonitrile	75-05-8
Acrolein	107-028
Acrylamide	79-06-1
Acrylic acid	79-10-7
Acrylonitrile (2-propenenitrile)	107-13-1
Ammonia (total)	
Aniline (benzenamine)	62-53-3
Antimony and compounds	7440-36-0
Arsenic and compounds	7440-38-2
Benzene	71-43-2
Benzene hexachloro-(HCB)	608-73-1
Beryllium and compounds	7440-41-7
Biphenyl (1,1-biphenyl)	92-52-4
Boron and compounds	7440-42-8
1, 3-Butadiene (vinyl ethylene)	106-99-0
Cadmium and compounds	7440-43-9
Carbon disulphide	75-15-0
Carbon monoxide	630-08-0
Chlorine and compounds	
Chlorine dioxide	10049-04-4

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Schedule 1—Listed substances

Category 1 substance	CAS number
Chloroethane (ethyl chloride)	75-00-3
Chloroform (trichloromethane)	67-66-3
Chlorophenols (di, tri, tetra)	
Chromium(III) compounds	7440-47-3
Chromium(VI) compounds	7440-47-3
Cobalt and compounds	7440-48-4
Copper and compounds	7440-50-8
Cumene (1-methylethylbenzene)	98-82-8
Cyanide (inorganic) compounds	
Cyclohexane	110-82-7
1,2-Dibromoethane	106-93-4
Dibutyl phthalate	84-74-2
1,2-Dichloroethane	107-06-2
Dichloromethane	75-09-2
Ethanol	64-17-5
2-Ethoxyethanol	110-80-5
2-Ethoxyethanol acetate	111-15-9
Ethyl acetate	141-78-6
Ethyl butyl ketone	106-35-4
Ethylbenzene	100-41-4
Ethylene glycol (1,2-ethanediol)	107-21-1
Ethylene oxide	75-21-8
Di-(2-ethylhexyl)phthalate (DEHP)	117-81-7
Fluoride compounds	
Formaldehyde (methyl aldehyde)	50-00-0
Glutaraldehyde	111-30-8
n-Hexane	110-54-3
Hydrochloric acid	7647-01-0
Hydrogen sulphide	7783-06-4
Lead and compounds	7439-92-1
Magnesium oxide fume	1309-48-4
Manganese and compounds	7439-96-5
Methanol	67-56-1
2-Methoxyethanol	109-86-4
2-Methoxyethanol acetate	110-49-6
Methyl ethyl ketone	78-93-3
Methyl isobutyl ketone	108-10-1

Category 1 substance	CAS number
Methyl methacrylate	80-62-6
4,4'-Methylene bis(2-chloroaniline) (MOCA)	101-14-4
Methylenebis(phenylisocyanate)	101-68-8
Nickel and compounds	7440-02-0
Nickel carbonyl	13463-39-3
Nickel subsulphide	12035-72-2
Nitric acid	7697-37-2
Organo-tin compounds	
Phenol	108-95-2
Phosphoric acid	7664-38-2
Polychlorinated Biphenyls	
Selenium and compounds	7782-49-2
Styrene (ethenylbenzene)	100-42-5
Sulphur dioxide	7446-09-5
Sulphuric acid	7664-93-9
1,1,2,2-Tetrachloroethane	79-34-5
Tetrachloroethylene	127-18-4
Toluene (methylbenzene)	108-88-3
Toluene-2,4-diisocyanate	584-84-9
1,1,2-Trichloroethane	79-00-5
Trichloroethylene	79-01-6
Vinyl chloride monomer	75-01-4
Xylenes (individual or mixed isomers)	1330-20-7
Zinc and compounds	7440-66-6

2—Category 1a substances

Category 1a substances are total volatile organic compounds.

3—Category 1b substances

Category 1b substances are mercury and compounds (CAS number 7439-97-6).

4—Category 2a substances

The following are category 2a substances:

Substance	CAS number
Carbon monoxide	630-08-0
Fluoride compounds	
Hydrochloric acid	7647-01-0
Oxides of nitrogen	

Substance	CAS number
Particulate matter less than or equal to 2.5µm (PM2.5)	
Particulate matter less than or equal to 10.0µm (PM10)	
Polycyclic aromatic hydrocarbons (B[a]P _{eq})	
Sulphur dioxide	7446-09-5
Total volatile organic compounds	

5—Category 2b substances

The following are category 2b substances:

Substance	CAS number
Arsenic and compounds	7440-38-2
Beryllium and compounds	7440-41-7
Cadmium and compounds	7440-43-9
Carbon monoxide	630-08-0
Chromium(III) compounds	7440-47-3
Chromium(VI) compounds	7440-47-3
Copper and compounds	7440-50-8
Fluoride compounds	
Hydrochloric acid	7647-01-0
Lead and compounds	7439-92-1
Magnesium oxide fume	1309-48-4
Mercury and compounds	7439-97-6
Nickel and compounds	7440-02-0
Oxides of nitrogen	
Particulate matter less than or equal to 2.5µm (PM2.5)	
Particulate matter less than or equal to 10.0µm (PM10)	
Polychlorinated dioxins and furans	
Polycyclic aromatic hydrocarbons (B[a]P _{eq})	
Sulphur dioxide	7446-09-5
Total volatile organic compounds	

6—Category 3 substances

The following are category 3 substances:

Substance
Total nitrogen
Total phosphorus

Schedule 2—Revocation of *National Environment Protection (National Pollutant Inventory) Measure*

The environment protection policy constituted of the *National Environment Protection (National Pollutant Inventory) Measure* is revoked.

Note—

The *National Environment Protection (National Pollutant Inventory) Measure* came into operation as an environment protection policy under section 28A(1) of the Act and continued in operation under Schedule 1 clause 4 of the *Environment Protection (Miscellaneous) Amendment Act 2005* despite the repeal of section 28A by that Act.

The Measure has been amended and this policy implements the amendments as contemplated by section 29(1a) of the Act. For the purposes of section 29(1b) the Minister is satisfied that the provisions of this policy that are not included in or required by the Measure relate to the enforcement of the policy (including the imposition of penalties for contravention of the policy) or are otherwise necessary for the application of the policy in this jurisdiction.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal policy

Notice	Provision under which notice is made	Publication of policy in Gazette	Commencement
Gazette 21.2.2008 p568	s 29	<i>Gazette 21.2.2008 p569</i>	31.3.2008