

South Australia

Environment Protection (Site Contamination) Regulations 2008

under the *Environment Protection Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Environment Protection (Site Contamination) Regulations 2008*.

2—Commencement

- (1) Subject to subregulation (2), these regulations will come into operation on the day on which section 4(6) of the *Environment Protection (Site Contamination) Amendment Act 2007* comes into operation.
- (2) Part 2 and Schedule 1 will come into operation on the day on which Division 2 of Part 10A of the *Environment Protection Act 1993*, to be inserted by the *Environment Protection (Site Contamination) Amendment Act 2007*, comes into operation.

3—Interpretation

In these regulations, unless the contrary intention appears—

accreditation means accreditation under these regulations;

accreditation committee means a committee established by the Board under section 17 of the Act to advise the Authority in relation to accreditation;

Act means the *Environment Protection Act 1993*;

agriculture includes horticulture;

asbestos includes unbound or friable asbestos and bound or non-friable asbestos;

liquid organic chemical substances means oil, petroleum or biofuels, other than when stored in the fuel tank of a motor vehicle for the purposes of powering the vehicle;

listed substance means a substance listed in Schedule 1 Part 3;

motor vehicle means a vehicle that is built to be propelled by a motor that forms part of the vehicle;

pesticides includes herbicides and fungicides;

recycling includes reprocessing, recovery and purification;

responsible auditor, in relation to a site contamination audit, means the site contamination auditor who personally carried out or directly supervised the work involved in the audit;

septic tank effluent means effluent that is ordinarily collected by means of a septic tank, waterless composting toilet, aerated wastewater treatment system or similar on-site waste collection system;

vessel means—

- (a) a ship or boat; or
- (b) an air-cushion vehicle, or other similar craft, used wholly or primarily in transporting passengers or goods by water; or
- (c) a structure that is designed to float in water and is used for commercial, industrial or research purposes;

wastewater includes—

- (a) sewage, and septic tank effluent, whether treated or untreated; and
- (b) water containing commercial or industrial waste.

Part 2—General provisions

4—Interpretation—occupier

- (1) For the purposes of the definition of **occupier** in section 103A of the Act, a person is to be taken to be an occupier of land if the person owns or is in operational control of a tank or pipeline, or any works or structure, that—
 - (a) is installed on or traverses the land, whether below or above the ground; and
 - (b) is used to store or convey chemical substances or for some process employing chemical substances.
- (2) For the purposes of subregulation (1), a person has operational control over a tank, pipeline, works or a structure if the person has the authority to introduce and implement environmental or health and safety policies or any other operating policies for the tank, pipeline, works or structure.

5—Potentially contaminating activities

- (1) For the purposes of sections 103C and 103H of the Act, the following activities are prescribed as potentially contaminating activities:
 - (a) an activity of a kind set out in Schedule 1 Part 1, undertaken in the course of a business;

- (b) any other activity (other than an activity of a kind excluded under Schedule 1 Part 1 from the ambit of potentially contaminating activities) undertaken in the course of a business involving—
 - (i) the manufacture, production (including as a by-product or waste) or recycling of a listed substance or a product containing a listed substance; or
 - (ii) the storage at a discrete premises of the business of—
 - (A) 500 litres or more of a liquid listed substance; or
 - (B) 500 kilograms or more of a listed substance other than a liquid;
 - (c) a domestic activity of a kind set out in Schedule 1 Part 2.
- (2) However—
- (a) the Authority may determine that an activity of a kind referred to in subregulation (1)(a) is not a prescribed potentially contaminating activity if the Authority is satisfied that the activity has been carried on in such a manner or on such a scale as to present a negligible risk of site contamination; and
 - (b) the Authority may determine that an activity of a kind referred to in subregulation (1)(b) is not a prescribed potentially contaminating activity if the Authority is satisfied that the relevant listed substance has, at all times while at the premises of the business, been contained or incorporated in a product (other than a product that itself is or comprises a listed substance) or container—
 - (i) in insignificant concentrations; or
 - (ii) in such a way as to present a negligible risk of escape of the substance to the environment.
- (3) For the purposes of this regulation, a reference to a discrete premises of a business is, in the case of activities authorised by a licence—
- (a) a reference to each location specified in the licence at which activities authorised by the licence may be undertaken; or
 - (b) if various places are specified in the licence as a single location at which activities authorised by the licence may be undertaken—a reference to the various places taken together.
- (4) To avoid doubt, an activity of a kind referred to in subregulation (1)(a) or (b) is not precluded from being undertaken in the course of a business merely because it is undertaken for the purposes of research.

6—Causing site contamination

Changes in the use of land within the meaning of the *Development Act 1993* are a prescribed kind of change of use for the purposes of section 103D(2) of the Act.

7—Liability for property damage etc caused by person entering land

- (1) A person is exempt from the application of section 103M(2) of the Act if the person enters or does anything on land on behalf of the occupier of the land in order to carry out—
 - (a) the requirements of a site contamination assessment order or site remediation order that has been issued to the occupier; or
 - (b) a voluntary site contamination assessment proposal or voluntary site remediation proposal that has been approved by the Authority on the application of the occupier.
- (2) A person is exempt from the application of section 103M(3) of the Act if the person enters or does anything on land on behalf of the owner of the land in order to carry out—
 - (a) the requirements of a site contamination assessment order or site remediation order that has been issued to the owner; or
 - (b) a voluntary site contamination assessment proposal or voluntary site remediation proposal that has been approved by the Authority on the application of the owner.

8—Recovery of costs and expenses incurred by the Authority

- (1) For the purposes of section 103R(2) of the Act—
 - (a) the prescribed amount recoverable in respect of the registration of a site contamination assessment order or site remediation order in relation to land from the person to whom the order was issued is—
 - (i) for the first entry made by the Registrar-General in registering the order—18 fee units; and
 - (ii) for each subsequent entry made by the Registrar-General in registering the order—5 fee units; and
 - (b) the prescribed amount recoverable in respect of the cancellation of registration of a site contamination assessment order or site remediation order in relation to land from the person to whom the order was issued is—
 - (i) for the first endorsement made by the Registrar-General in cancelling the registration of the order—13 fee units; and
 - (ii) for each subsequent endorsement made by the Registrar-General in cancelling the registration of the order—1 fee unit.
- (2) For the purposes of section 103R(4)(a) of the Act, the prescribed rate of interest per annum on an amount recoverable by the Authority but not paid within the period fixed by the Authority is 24% calculated in respect of each month (or part of a month) for which the amount remains unpaid.

Part 3—Site contamination auditors

Division 1—Accreditation

9—Eligibility for accreditation

- (1) A person is eligible for accreditation as a site contamination auditor if the person—
 - (a) has the qualifications, experience, knowledge, understanding and ability set out in subregulation (2); and
 - (b) is a fit and proper person to be accredited.
- (2) An applicant for accreditation must—
 - (a) have a tertiary qualification approved by the Authority in a relevant discipline; and
 - (b) have a total of at least 8 years of experience in the assessment and remediation of site contamination; and
 - (c) have knowledge and understanding at a level satisfactory to the Authority of—
 - (i) the provisions of the Act and these regulations relating to site contamination assessment, remediation, audits and auditors; and
 - (ii) codes of practice, guidelines and standards prepared or approved by the Authority that apply to site contamination assessment, remediation, audits and auditors; and
 - (iii) the field of site contamination assessment and remediation; and
 - (d) have a demonstrated ability to put the knowledge and understanding referred to in paragraph (c) into practice, to a degree satisfactory to the Authority.
- (3) For the purposes of determining whether a person is eligible for accreditation under subregulation (1), the Authority may, without limitation, take into account—
 - (a) any recommendations made in relation to the person by an accreditation committee; or
 - (b) any offence committed by the person against the Act, these regulations or legislation similar to these regulations in force in another State or a Territory of the Commonwealth; or
 - (c) any offence punishable by imprisonment committed by the person; or
 - (d) the cancellation or suspension of accreditation or similar authority held by the person, or the disqualification of the person from practising as a site contamination auditor, under these regulations or under legislation similar to these regulations in force in another State or a Territory of the Commonwealth; or
 - (e) whether, during the period of 10 years preceding the application for accreditation, the person has been an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors.

10—Application for accreditation

- (1) An application for accreditation must—
 - (a) be made to the Authority in the manner and form approved by the Authority; and
 - (b) be signed by the applicant and completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the fee set out in Schedule 2 as the fee for an application for accreditation.
- (2) An applicant for accreditation must—
 - (a) consent to the conduct by the Authority of inquiries relating to any accreditation or similar authority held at any time by the person under these regulations or under legislation similar to these regulations in force in another State or Territory of the Commonwealth; and
 - (b) provide the Authority with any information required by the Authority (verified, if the Authority so requires, by statutory declaration) for the purposes of determining the application including (without limitation) criminal record checks relating to the applicant; and
 - (c) supply the Authority with 1 or more digital photographs of the applicant as specified by the Authority.
- (3) The Authority may, on receipt of an application for accreditation under this regulation, refer the application to an accreditation committee and request the committee's written recommendations in relation to the application within a period specified in the notice (being not less than 14 days after referral of the application to the committee).

11—Grant of accreditation

- (1) The Authority may refuse an application for accreditation if—
 - (a) the person has not made due application for accreditation under this Division; or
 - (b) the applicant has not complied with a requirement of these regulations or a requirement of the Authority made in connection with the application; or
 - (c) the Authority is not satisfied that the applicant is eligible for accreditation.
- (2) The Authority is not required, if it has assessed a person's qualifications, experience, knowledge, understanding or ability to be appropriate for accreditation, to assess the person's qualifications, experience, knowledge, understanding or ability again on a subsequent application by the person for accreditation (or renewal of accreditation).
- (3) The Authority may decline to grant accreditation unless or until the fee for the grant of accreditation is paid.

12—Conditions of accreditation

- (1) The Authority may impose—
 - (a) a condition requiring the person to undertake ongoing professional development; and
 - (b) any other conditions the Authority thinks fit.

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Part 3—Site contamination auditors

Division 1—Accreditation

- (2) Without limiting the effect of subregulation (1), the Authority must make it a condition of every accreditation that—
- (a) the holder of the accreditation will, when acting as a site contamination auditor, act diligently, impartially and conscientiously; and
 - (b) the holder of the accreditation will maintain arrangements enabling him or her to have access, from time to time as necessary in the course of carrying out site contamination audits, to a team of persons, constituted in a manner approved by the Authority, to provide technical expertise in fields outside his or her personal expertise; and
 - (c) the holder of the accreditation will not, when acting as a site contamination auditor, fail to comply with any guidelines issued from time to time by the Authority (insofar as they may be relevant in the circumstances of any particular case); and
 - (d) the holder of the accreditation will hold or be covered by a professional indemnity insurance policy approved by the Authority; and
 - (e) the holder of the accreditation will have an identity card issued by the Authority available for inspection at all times when present as a site contamination auditor at a site the subject of site contamination assessment or remediation; and
 - (f) if the holder of the accreditation is charged with or convicted of—
 - (i) an offence against the Act, these regulations or legislation similar to these regulations in force in another State or a Territory of the Commonwealth; or
 - (ii) an offence punishable by imprisonment,he or she will, within 14 days, give written notice of the charge or conviction to the Authority containing details of the offence; and
 - (g) if the holder of the accreditation—
 - (i) is dismissed from employment in response to allegations of misconduct; or
 - (ii) resigns from employment following allegations of misconduct;he or she will, within 14 days, give written notice of that fact to the Authority.
- (3) The Authority may, by written notice, vary or revoke a condition, or impose a condition, of a person's accreditation as a site contamination auditor.
- (4) A condition may only be imposed or varied—
- (a) on application by the site contamination auditor or with the auditor's agreement; or
 - (b) after giving the site contamination auditor reasonable notice of the proposed condition or variation and allowing the auditor at least 14 days within which to make submissions to the Authority in relation to the proposed condition or variation.

13—Offence to contravene certain conditions of accreditation

If a site contamination auditor contravenes a condition of the person's accreditation that requires the Authority to be notified of a matter or imposes a restriction on the work undertaken by the person, the person is guilty of an offence.

Maximum penalty: \$4 000.

Expiation fee: \$315.

14—Annual fee

- (1) A site contamination auditor must, on or before the date falling 1 month after each anniversary of the grant of accreditation (other than in a year in which the accreditation is due to expire), pay to the Authority the fee set out as the annual accreditation fee in Schedule 2.
- (2) If an accredited site contamination auditor fails to pay a fee in accordance with this regulation, the Authority may, by written notice, require the auditor to make good the default and, in addition, to pay to the Authority as a penalty for default \$20.00 plus 1% of the annual accreditation fee for the first month (or part of a month) for which the default continues and 2% of the annual accreditation fee for each further month (or part of a month) for which the default continues.

15—Term and renewal of accreditation

- (1) Subject to these regulations, accreditation remains in force for a term not exceeding 5 years determined by the Authority and specified in the accreditation on its grant or renewal.
- (2) An application for renewal of accreditation must—
 - (a) be made not less than 90 days before the expiry of the accreditation; and
 - (b) be made to the Authority in the manner and form approved by the Authority; and
 - (c) be signed by the applicant and completed in accordance with the instructions contained in the form; and
 - (d) be accompanied by the fee set out as the fee for renewal of accreditation in Schedule 2.
- (3) The Authority may, at the Authority's discretion, determine a late application for renewal provided that the applicant pays, in addition to the fee for renewal of accreditation, a late fee comprised of \$20.00 plus 1% of the fee for renewal of accreditation for the first month (or part of a month) for which the application is late and 2% of the fee for renewal of accreditation for each further month (or part of a month) for which the application is late.
- (4) The Authority may, on receipt of an application for renewal under this regulation—
 - (a) refer the application to an accreditation committee and request the committee's written recommendations in relation to the application within a period specified in the notice (being not less than 14 days after referral of the application to the committee); and

- (b) require the applicant to provide any information required by the Authority (verified, if the Authority so requires, by statutory declaration) for the purposes of determining the application including (without limitation) criminal record checks relating to the applicant; and
- (c) refuse to renew the applicant's accreditation on any ground on which an application for accreditation may be refused under regulation 11 or on which accreditation may be cancelled under regulation 16.

16—Disciplinary action against site contamination auditors and voluntary suspension

- (1) The Authority may, if satisfied that there is cause for disciplinary action against a site contamination auditor, do 1 or more of the following:
 - (a) suspend any accreditation held by the person;
 - (b) cancel any accreditation held by the person;
 - (c) disqualify the person from obtaining accreditation.
- (2) There is cause for disciplinary action against a site contamination auditor if the Authority is satisfied that—
 - (a) the person—
 - (i) obtained accreditation improperly; or
 - (ii) has contravened the Act or these regulations; or
 - (iii) has contravened a condition of accreditation; or
 - (iv) has ceased to undertake the activities authorised by accreditation; or
 - (v) has not paid fees or charges payable under these regulations to the Authority within the required time; or
 - (b) events have occurred such that the person would not, if he or she were to apply for accreditation, be eligible for accreditation.
- (3) A suspension under this regulation—
 - (a) may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Authority; and
 - (b) may be expressed to have effect at a specified future time, or to have effect at a specified future time unless a specified condition is fulfilled.
- (4) A disqualification under this regulation may disqualify a person from obtaining accreditation—
 - (a) permanently; or
 - (b) for a specified period or until the fulfilment of specified conditions; or
 - (c) until further order of the Authority.
- (5) The Authority must, before acting under this regulation—
 - (a) give written notice to the site contamination auditor of the proposed action specifying the reasons for the proposed action; and

- (b) allow the site contamination auditor at least 14 days within which to make submissions to the Authority in relation to the proposed action.
- (6) The Authority may, on application by a site contamination auditor, suspend the auditor's accreditation for a specified period of not less than 3 months and not more than 2 years or the term of the accreditation, whichever is the shorter period, if the Authority is satisfied that the auditor does not intend to undertake site contamination audits during that period.
- (7) A person whose accreditation is suspended is taken not to hold accreditation for the period of the suspension.
- (8) However—
 - (a) the person is taken to continue to hold accreditation for the purposes of the requirements of section 103Y of the Act (relating to furnishing the Authority with an annual return and notifying the Authority of a change in the person's particulars); and
 - (b) the date of expiry of the person's accreditation remains unchanged despite the suspension.
- (9) In this regulation—

site contamination auditor means—

 - (a) a person who is the holder of accreditation; or
 - (b) a person who was formerly the holder of accreditation; or
 - (c) a person who, although not the holder of accreditation, engaged in an activity for which accreditation was required (under section 103Y of the *Environment Protection Act 1993*).

17—Surrender of accreditation

A person may, with the approval of the Authority, surrender the person's accreditation.

18—Return of certificate of accreditation and identity card

- (1) If accreditation of a person as a site contamination auditor is surrendered, suspended or cancelled, the person must, within 14 days, return the certificate of accreditation and any identity card to the Authority.

Maximum penalty: \$2 500.
Expiation fee: \$160.
- (2) If, on an application under regulation 10, a certificate of accreditation or identity card has been issued to a person but the fee payable in respect of the person's application or accreditation has not been paid (whether because of the dishonouring of a cheque or otherwise), the person must, at the direction of the Authority, return the certificate or card to the Authority.

Maximum penalty: \$2 500.
Expiation fee: \$160.

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Part 3—Site contamination auditors

Division 1—Accreditation

- (3) The Authority may issue to the holder of accreditation, on payment by the person of the fee set out in Schedule 2 as the fee for replacement of the certificate of accreditation or identity card, a certificate of accreditation or identity card in replacement of a current certificate of accreditation or identity card if satisfied that—
 - (a) the current certificate or card has been lost, destroyed or damaged; or
 - (b) any particulars appearing on the current certificate or card are incorrect.
- (4) If the Authority issues a replacement certificate of accreditation or identity card to a person, the person must, at the direction of the Authority, return any original (or previous duplicate) certificate of accreditation or identity card in the person's possession to the Authority.
Maximum penalty: \$2 500.
Expiation fee: \$160.

19—Appeals

- (1) A person may appeal to the Administrative and Disciplinary Division of the District Court against a decision of the Authority—
 - (a) refusing to grant an application by the person for accreditation or renewal of accreditation; or
 - (b) determining the term of the person's accreditation; or
 - (c) imposing or varying a condition of the person's accreditation or determining a matter in relation to such a condition; or
 - (d) suspending or cancelling the person's accreditation or imposing a disqualification on the person.
- (2) Subject to this regulation, an appeal must be made within 1 month after the making of the decision.
- (3) The Authority must, if so required by the person to whom an appealable decision relates, state in writing the reasons for the Authority's decision.
- (4) If the reasons of the Authority are not given in writing at the time of making the decision and the person to whom the decision relates (within 1 month of the making of the decision) requires the Authority to state the reasons in writing, the time for instituting an appeal runs from the time at which the person receives the written statement of those reasons.

20—Register of site contamination auditors

- (1) The Authority must keep a register of persons accredited under this Division.
- (2) The register must include, in relation to each accredited person—
 - (a) the person's full name, personal address and business address (if any); and
 - (b) the qualifications for accreditation held by the person; and
 - (c) details of any specialist qualifications held by the person and determined by the Authority to be appropriate for inclusion on the register; and
 - (d) details of any condition of the person's accreditation requiring supervision of the person or restricting the scope or type of work the person may undertake as site contamination auditor; and

- (e) the expiry date of the person's accreditation; and
 - (f) the person's accreditation number; and
 - (g) details concerning any disciplinary action taken against the person by the Authority under regulation 16,
- and may include other information as the Authority thinks fit.
- (3) The Authority may remove or correct an entry in the register as required without giving notice to any person.
 - (4) The Authority must—
 - (a) make a record of the full name of each site contamination auditor and the information entered in the register under subregulation (2)(b), (c), (d), (e) and (f) in relation to the auditor available for inspection on application to the Authority; and
 - (b) make a record of the full name of each site contamination auditor and the information entered in the register under subregulation (2)(e) and (f) in relation to the auditor available for inspection on a website established by the Authority.
 - (5) An apparently genuine document purporting to be signed by the Authority stating that, at a specified date, or during a specified period—
 - (a) a specified person was accredited under this Division unconditionally or subject to specified conditions; or
 - (b) a specified person was not accredited under this Division,will, in any legal proceedings, constitute proof of the matters stated in the document in the absence of proof to the contrary.

21—No application fee for person entitled to accreditation under *Mutual Recognition (South Australia) Act 1993*

The application fee referred to in regulation 10(1)(c) is not payable in respect of a person entitled under the *Mutual Recognition Act 1992* of the Commonwealth, as adopted by the *Mutual Recognition (South Australia) Act 1993*, to be registered (as defined in that Commonwealth Act) in this State as a site contamination auditor.

Division 2—Requirements applying to auditors

22—Annual returns by auditors

For the purposes of section 103Y(2) of the Act, an annual return relating to site contamination audits for which a site contamination auditor is or was the responsible auditor must be in the form set out in Schedule 3.

23—Notifications by auditors after commencement or termination of audit

For the purposes of section 103Z(3) of the Act—

- (a) a notification by a site contamination auditor after the commencement of a site contamination audit for which the auditor is or was the responsible auditor must be in the form set out in Schedule 4 Part 1; and

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Division 2—Requirements applying to auditors

- (b) a notification by a site contamination auditor of the termination before completion of a site contamination audit for which the auditor is or was the responsible auditor must be in the form set out in Schedule 4 Part 2.

24—Site contamination audit report summary and statement

- (1) A site contamination audit report required under section 103Z(4)(a) and (b)(i) of the Act must include a summary of the findings of the site contamination audit to which it relates that—
 - (a) is in the form set out in Schedule 5 for site contamination audit statements; and
 - (b) is certified by the responsible auditor in accordance with the directions contained in the form set out in Schedule 5.
- (2) A site contamination audit statement required under section 103Z(4)(b)(ii) of the Act in relation to a site contamination audit must—
 - (a) be a copy of the summary in the site contamination audit report relating to the audit and itself be certified by the responsible auditor in accordance with the directions contained in the form set out in Schedule 5; or
 - (b) be a photocopy, facsimile copy or electronic copy of the summary as certified by the responsible auditor in accordance with the directions contained in the form set out in Schedule 5.

25—Site contamination audit statements to be provided to prescribed bodies

For the purposes of section 103Z(4)(b)(ii) of the Act, if—

- (a) an application for approval of a proposed development under the *Development Act 1993* relates to land the subject of a site contamination audit; and
- (b) a body other than the council for the area in which the land is situated is a relevant authority for the purposes of assessment of the proposed development under the *Development Act 1993*,

that body is a prescribed body to which a site contamination audit statement must be provided in relation to that audit.

Schedule 1—Potentially contaminating activities

Part 1—Activities undertaken in course of business

Activity	Definition
Abrasive blasting	Operation of works for abrasive blast cleaning or disposal of abrasive blasting material (including mobile abrasive blasting works and abrasive blast cleaning carried out in fully enclosed booths but excluding abrasive blast cleaning undertaken for residential purposes)

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Potentially contaminating activities—Schedule 1

Activity	Definition
Acid sulphate soil generation	Oxidation of iron sulphide in potential acid sulphate soil material (sulphidic material) resulting in formation of actual acid sulphate soil material or sulphuric material
Agricultural activities	Any of the following activities undertaken in the course of agriculture: <ul style="list-style-type: none"> (a) burial of animals or parts of animals; (b) burial of other waste; (c) irrigation using wastewater; (d) intensive application or administration of a listed substance to animals, plants, land or water (excluding routine spraying, in accordance with manufacturers' instructions, of pesticides used in broad-acre farming)
Airports, aerodromes or aerospace industry	Operation of premises for commercial or charter aircraft take-off and landing or manufacture, repair or maintenance of commercial or charter aircraft or aircraft equipment
Animal burial	Burial of animals or parts of animals other than in the course of agriculture
Animal dips or spray race facilities	Operation of animal dips or spray race facilities
Animal feedlots	Operation of confined yards or areas for holding of animals and feeding of animals principally by mechanical means or by hand
Animal saleyards	Operation of yards at which cattle, sheep or other animals are gathered and confined for the purpose of their sale, auction or exchange (including associated transport loading facilities and associated wastewater disposal)
Asbestos disposal	Disposal of asbestos or asbestos products
Asphalt or bitumen works	Operation of works for manufacture of asphalt or bitumen
Battery manufacture, recycling or disposal	Assembly, disassembly, manufacture or recycling of batteries (excluding storage of batteries for sale)
Breweries	Production of beer by infusion, boiling or fermentation
Brickworks	Production of bricks (including glazing of bricks)
Bulk shipping facilities	Operation of facilities for bulk handling of agricultural crop products, rock, ores, minerals or liquid organic chemical substances to or from wharf or wharfside facility (including sea-port grain terminals)
Cement works	Operation of works for production of cement clinker or grinding of cement clinker using argillaceous and calcareous materials

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Schedule 1—Potentially contaminating activities

Activity	Definition
Ceramic works	Operation of works for manufacture of tiles, pipes, pottery goods, refractories or other ceramic products
Charcoal manufacture	Manufacture of charcoal
Coal handling or storage	Handling of coal, coke or carbonaceous material by any means or storage of coal, coke or carbonaceous reject material
Coke works	Production, quenching, cutting, crushing or grading of coke
Compost or mulch production or storage	Production or storage of compost, mulch or garden soils
Concrete batching works	Operation of works for production of concrete or concrete products manufactured by inclusion of cement, sand, rock, aggregate or similar materials
Curing or drying works	Operation of works for smoking, drying or curing meat, fish or other edible products by application of heat or smoke
Defence works	Operation of military defence establishments (including training areas)
Desalination plants	Operation of desalination plants
Dredge spoil disposal or storage	Disposal of dredge spoil onto land or storage of dredge spoil
Drum reconditioning or recycling works	Operation of works for reconditioning or recycling of metal or plastic drums
Dry cleaning	Operation of premises for dry cleaning
Electrical or electronics component manufacture	Manufacture of electrical or electronics components
Electrical substations	Operation of electrical substations
Electrical transformer or capacitor works	Operation of works for manufacture, repair, storage or disposal of electrical transformers, capacitors or associated equipment or fluids
Electricity generation or power plants	Operation of electricity generation or power plants
Explosives or pyrotechnics facilities	Operation of facilities for manufacture of explosives or pyrotechnics
Fertiliser manufacture	Manufacture of agricultural fertiliser
Fibreglass manufacture	Manufacture of fibreglass products
Fill or soil importation	Importation, to premises of a business, of soil or other fill originating from a site at which another potentially contaminating activity has taken place
Fire extinguisher or retardant manufacture	Manufacture of fire extinguishers or fire retardants
Fire stations	Underground storage of fuel at fire stations
Fire training areas	Operation of premises for fire training involving the use of liquid fuel, fire accelerants, aqueous film forming foam or similar substances
Foundry	Manufacture of metal products by injecting or pouring molten metal into moulds

Environment Protection (Site Contamination) Regulations 2008
Potentially contaminating activities—Schedule 1

Activity	Definition
Fuel burning facilities	Burning of solid or liquid fuel (including for generation of power or steam at rate of heat release exceeding 1MW)
Furniture restoration	Restoration of furniture
Gasworks	Operation of gasworks or gas holders
Glass works	Operation of works for manufacture of glass products
Glazing	Glazing of ceramics or pottery
Hat manufacture or felt processing	Manufacture of hats or processing of felt
Incineration	Incineration within the meaning of Schedule 1, Part A, clause 3(1) of the Act
Iron or steel works	Operation of works for manufacture of iron or steel
Laboratories	Operation of laboratories
Landfill sites	Operation of sites for disposal of waste onto or into land
Lime burner	Manufacture (by means of kiln) of cement or lime from limestone (including associated storage of waste)
Metal coating, finishing or spray painting	Finishing, treating or coating of metal (including anodising, galvanising, pickling, electroplating, heat treatment, powder coating, enamelling and spray painting)
Metal forging	Forging of metal products
Metal processing, smelting, refining or metallurgical works	Operation of works for melting (by means of furnace) of ferrous or non-ferrous metal or smelting or reduction of ores to produce metal
Mineral processing, metallurgical laboratories or mining or extractive industries	Chemical or physical extraction or processing of metalliferous ores, storage of mining or exploration waste (for example, in tailings dams, overburden or waste rock dumps) mining or processing of minerals or operation of laboratories or pilot facilities for processing or testing of minerals
Mirror manufacture	Manufacture of mirrors
Motor vehicle manufacture	Manufacture of motor vehicles
Motor vehicle racing or testing venues	Operation of facilities designed and used for motor vehicle competitions or motor vehicle speed or performance trials
Motor vehicle repair or maintenance	Operation of premises for repair or maintenance of motor vehicles or parts of motor vehicles (including engine reconditioning works)
Motor vehicle wrecking yards	Operation of yards for wrecking or dismantling of motor vehicles or parts of motor vehicles
Mushroom farming	Farming of mushrooms
Oil recycling works	Operation of works for recycling of oil

Environment Protection (Site Contamination) Regulations 2008

Schedule 1—Potentially contaminating activities

Activity	Definition
Oil refineries	Operation of works for refining of crude petroleum oil or shale
Paint manufacture	Manufacture (including blending, mixing and formulation) of paint
Pest control works	Operation of premises for storage of pesticides or filling or washing of tanks used in pest control operations
Plastics manufacture works	Operation of works for manufacture (including blending, mixing and formulation) of plastics or plastic components (excluding processing and moulding of plastics manufactured elsewhere)
Printing works	Operation of printing works
Pulp or paper works	Operation of works for manufacture of timber pulp or paper
Railway operations	Railway operations within the meaning of Schedule 1 Part A clause 7(2) of Act
Rubber manufacture or processing	Manufacture or processing of rubber or rubber products
Scrap metal recovery	Recovery (including cleaning) of scrap metal
Service stations	Operation of retail fuel outlets
Ship breaking	Wrecking or dismantling of ships
Spray painting	Spray painting other than spray painting of metal
Tannery, fellmongery or hide curing	Operation of works for preservation or treatment of animal skins or hides
Textile operations	Manufacture or dyeing of fabrics or materials
Transport depots or loading sites	Operation of transport depots or loading sites
Tyre manufacture or retreading	Manufacture or retreading of tyres
Vermiculture	Cultivation of earthworms for production of earthworms or earthworm castings
Vessel construction, repair or maintenance	Operation of works or facilities (whether on water or land) for construction, repair or maintenance of vessels
Waste depots	Reception, storage or treatment (including recycling) of waste or disposal of waste to land or water
Wastewater treatment, storage or disposal	Treatment, storage (including in tanks, lagoons and ponds) or disposal (to land or water) of wastewater
Water discharge to underground aquifer	Direct discharge of water from surface of land to underground aquifer
Wetlands or detention basins	Operation of bodies of water less than 6 metres deep for collection and management of stormwater or other wastewater for urban amenity, flood mitigation or ecological or other environmental purposes
Wineries or distilleries	Operation of works for processing grapes or other produce to make wine or spirits

Activity	Definition
Wood preservation works	Operation of works involving treatment or preservation of timber using chemicals
Woolscouring or wool carbonising works	Operation of works involving cleaning or carbonising of wool other than in course of handicraft business where wool is further processed for retail sale
Works depots	Operation of works depots by councils or utilities

Part 2—Domestic activities

Activity	Definition
Fill or soil importation	Importation, to domestic premises, of soil or other fill originating from a site at which another potentially contaminating activity has taken place
Liquid organic chemical substances—storage	Storage of more than 500 litres of liquid organic chemical substances in underground or aboveground tanks or vessels at a discrete premises (excluding storage of oil for domestic heating at the premises)

Part 3—Listed substances

Acidic solutions

Acids

Adhesives (excluding solid inert polymeric materials)

Alkali metals

Alkaline earth metals

Alkaline solutions

Alkalis

Antimony

Antimony compounds

Antimony solutions

Arsenic

Arsenic compounds

Arsenic solutions

Asbestos

Barium compounds

Barium solutions

Beryllium

Beryllium compounds

Boron

Environment Protection (Site Contamination) Regulations 2008

Schedule 1—Potentially contaminating activities

Boron compounds

Cadmium

Cadmium compounds

Cadmium solutions

Calcium carbide

Carbon disulphide

Carcinogens

Chlorates

Chromium compounds

Chromium solutions

Copper compounds

Copper solutions

Cyanide complexes

Cyanides

Cyanide solutions

Cytotoxic wastes

Dangerous substances within the meaning of the *Dangerous Substances Act 1979*

Distillation residues

Equipment containing mercury

Fluoride compounds

Halogens

Heterocyclic organic compounds containing oxygen, nitrogen or sulphur

Isocyanate compounds (excluding solid inert polymeric materials)

Laboratory chemicals

Lead compounds

Lead solutions

Lime sludges or slurries

Liquid organic chemical substances

Manganese compounds

Medical waste within the meaning of Schedule 1 Part B of the Act

Mercaptans

Mercury compounds

Mutagens

Nickel compounds

Nickel solutions

Nitrates
Organic halogen compounds (excluding solid inert polymeric materials)
Organic phosphates
Organic solvents
Organometallic residues
Oxidising agents
Paint sludges or residues
Perchlorates
Peroxides
Pesticides
Pharmaceutical wastes or residues
Phenolic compounds (excluding solid inert polymeric materials)
Phosphorus
Phosphorus compounds
Poisons within the meaning of the *Drugs Act 1908*
Polychlorinated biphenyls
Radionuclides
Reactive chemicals
Reducing agents
Selenium
Selenium compounds
Selenium solutions
Silver compounds
Silver solutions
Solvent recovery residues
Sulphides
Sulphide solutions
Surfactants
Teratogens
Thallium
Thallium compounds
Thallium solutions
Vanadium compounds
Zinc compounds
Zinc solutions

Schedule 2—Fees

1	Fee for application for accreditation	\$380
2	Fee for grant or renewal of accreditation	\$3 910
3	Annual accreditation fee	\$2 260
4	Fee for replacement of certificate of accreditation or identity card	\$50

Schedule 3—Annual returns by auditors

Annual returns by auditors

(under section 103Y of the *Environment Protection Act 1993*)

Name of auditor*:

Auditor's accreditation number:

Term of auditor's accreditation: _____ to _____

Name of auditor's company or business:

Auditor's business address:

Auditor's business telephone number(s):

Auditor's facsimile number:

Auditor's email address:

Provide details** of each audit undertaken during the period to which the return relates*** for which the auditor was the responsible auditor* including the following details for each audit:

- the EPA reference and site location;
- if the person for whom the audit has been commissioned is different to the person last notified to the EPA, the name of the new person and his or her commissioning authority (eg. EPA, owner, occupier, developer or other);
- whether the audit was, during that period, commenced, ongoing, completed or terminated before completion;
- if the audit was commenced, completed or terminated during that period, the date of commencement, completion or termination

Has the auditor, during the period to which the return relates***, under these regulations or under legislation similar to these regulations in force in another State or Territory of the Commonwealth—

- been the subject of disciplinary action (or any preliminary investigations preceding such possible action)? Yes/No
- had his or her accreditation or similar authority suspended or cancelled? Yes/No
- been disqualified from acting as a site contamination auditor? Yes/No
- had conditions imposed on his or her accreditation or similar authority limiting the range of activities that he or she may undertake? Yes/No

- had an application for such accreditation or similar authority refused? Yes/No

If yes to any of the above questions, provide details**:

What is the amount and the expiry date of the policy of professional indemnity insurance held by the auditor or by which the auditor is covered?

Indicate auditor's current employment status:

Employee Yes/No
Self employed Yes/No
Partner Yes/No
Unemployed Yes/No
Other [*provide details*]:

Indicate auditor's current accreditation status under these regulations:

Accredited Yes/No
Under suspension other than voluntary suspension Yes/No
Under voluntary suspension Yes/No
Previously accredited Yes/No
Other [*provide details*]:

Declaration

To the best of my knowledge, all information provided in this form is current and correct at the time of signing and dating.

Signed: *[auditor must personally sign the form]*

Dated:

** This form must be completed by the responsible auditor, being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audits.*

*** If insufficient space, details may be annexed to this form.*

**** The period to which the return relates is set out in section 103Y of the Environment Protection Act 1993.*

This annual return must be lodged with the EPA in accordance with section 103Y of the Environment Protection Act 1993.

Schedule 4—Notifications by auditors after commencement or termination of audit

Part 1—Notification by auditor after commencement of audit

Notification by auditor after commencement of audit

(under section 103Z of the *Environment Protection Act 1993*)

Name of auditor*:

Environment Protection (Site Contamination) Regulations 2008

Schedule 4—Notifications by auditors after commencement or termination of audit

Auditor's accreditation number:

Term of auditor's accreditation: _____ to _____

Name of auditor's company or business:

Auditor's project reference:

Name of audit site *[if applicable]*:

Address of audit site:

Name of council for area in which audit site is situated *[if within council area]*:

Provide the following particulars** relating to the relevant land and the audit site:

- certificates of title of all the relevant land and an indication of whether the audit site comprises all or part only of the land shown on or described in the certificates of title;
- details sufficient to identify the location of the land, including section or allotment numbers, area and hundred and AMG co-ordinates (GDA 94, UTM 53 and 54);
- audit plans indicating the location and extent of the audit site (which must comply with the guidelines issued by the EPA from time to time)

Name of owner of audit site:

Name of occupier of audit site:

Name, business address and position of person who commissioned audit:

Indicate authority of person who commissioned audit:

EPA Yes/No

Owner Yes/No

Occupier Yes/No

Developer Yes/No

Other *[please specify]*:

Indicate reasons for audit *[indicate all reasons]*:

Required under the *Development Act 1993* Yes/No

Required under the *Environment Protection Act 1993* Yes/No

Other *[please specify]*:

If audit is required under the *Environment Protection Act 1993*, provide EPA reference number:

Indicate audit purposes *[indicate all purposes]*:

Determining the nature and extent of any site contamination present or remaining on or below the surface of the site Yes/No

Determining the suitability of the site for a sensitive use or another use or range of uses Yes/No

Determining what remediation is or remains necessary for a specified use or range of uses Yes/No

[Nb: An audit under the Development Act 1993 may be required for all of the above purposes.]

Date of commencement of audit:

Estimated date of completion of audit:

If this audit is one of a series of audits to be undertaken in relation to the audit site, indicate the total number of audits proposed to be undertaken (if known) and the completion or estimated completion dates for those audits (if known)**:

Indicate:

- proposed site use:
- current site use, or, if currently unoccupied, most recent site use:

If audit is required for development consent under the *Development Act 1993*, indicate:

- relevant planning authority:
- development application number *[if known]*:
- site zoning:

Declaration

I am not aware of any conflict of interest within the meaning of section 103X of the *Environment Protection Act 1993* that would preclude me from undertaking this audit.

To the best of my knowledge, all information provided in this form is current and correct at the time of signing and dating.

Signed: *[auditor must personally sign the form]*

Dated:

** This form must be completed by the “responsible auditor”, being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audit.*

*** If insufficient space, details may be annexed to this form.*

This notification must be lodged with the EPA.

Details of this notification will be recorded in the public register kept by the EPA under section 109 of the Environment Protection Act 1993.

Part 2—Notification by auditor after termination (before completion) of audit

Notification by auditor after termination (before completion) of audit

(under section 103Z of the *Environment Protection Act 1993*)

Name of auditor*:

Auditor’s accreditation number:

Name of auditor’s company or business:

EPA reference:

Name of audit site *[if applicable]*:

Address of audit site:

Environment Protection (Site Contamination) Regulations 2008

Schedule 4—Notifications by auditors after commencement or termination of audit

Name, business address and position of person who terminated audit:

Indicate authority of person who terminated audit:

EPA	Yes/No
Owner	Yes/No
Occupier	Yes/No
Developer	Yes/No
Auditor	Yes/No
Other [please specify]:	

Date audit terminated:

Reasons for termination**:

Declaration

To the best of my knowledge, all information provided in this form is current and correct at the time of signing and dating.

Signed: *[auditor must personally sign the form]*

Dated:

** This form must be completed by the "responsible auditor", being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audit.*

*** If insufficient space, details may be annexed to this form.*

This notification must be lodged with the EPA.

Details of this notification will be recorded in the public register kept by the EPA under section 109 of the Environment Protection Act 1993.

Schedule 5—Site contamination audit statement

Site contamination audit statement

(under section 103Z of the *Environment Protection Act 1993*)

This statement contains the summary of the findings of the site contamination audit set out in the site contamination audit report titled: *[insert title of site contamination audit report]* (referred to in this form as "**the report**") dated: *[insert report date]*

Name of auditor*:

Auditor's accreditation number:

Name of auditor's company or business:

Auditor's project reference:

EPA reference:

Name of audit site *[if applicable]*:

Address of audit site:

Name of council for area in which audit site is situated *[if within council area]*:

Provide the following particulars** relating to the relevant land and the audit:

- certificates of title of all the relevant land and an indication of whether the audit site comprises all or part only of the land shown on or described in the certificates of title;
- details sufficient to identify the location of the land, including section or allotment numbers, area and hundred and AMG co-ordinates (GDA 94, UTM 53 and 54);
- if the audit site comprises part only of the land described in the certificates of title, or if there is no certificate of title for the land comprising the audit site—survey plans prepared by a licensed surveyor;
- audit plans indicating the location and extent of the audit site (which must comply with the guidelines issued by the EPA from time to time)

Name of owner of audit site:

Name of occupier of audit site:

Name, business address and position of person who commissioned audit:

Indicate authority of person who commissioned audit:

- | | |
|---------------------------------|--------|
| EPA | Yes/No |
| Owner | Yes/No |
| Occupier | Yes/No |
| Developer | Yes/No |
| Other <i>[please specify]</i> : | |

Reasons for audit *[indicate all reasons]*:

- | | |
|---|--------|
| Required under the <i>Development Act 1993</i> | Yes/No |
| Required under the <i>Environment Protection Act 1993</i> | Yes/No |
| Other <i>[please specify]</i> : | |

If audit was required under the *Environment Protection Act 1993*, provide EPA reference number:

Audit purposes *[indicate all purposes]*:

- | | |
|--|--------|
| Determining the nature and extent of any site contamination present or remaining on or below the surface of the site | Yes/No |
| Determining the suitability of the site for a sensitive use or another use or range of uses | Yes/No |
| Determining what remediation is or remains necessary for a specified use or range of uses | Yes/No |

[Nb: An audit under the Development Act 1993 may be required for all of the above purposes.]

If audit was required for development consent under the *Development Act 1993*, provide:

- name of relevant planning authority:
- development application number *[if known]*:
- site zoning:
- proposed site use:

Environment Protection (Site Contamination) Regulations 2008

Schedule 5—Site contamination audit statement

Date of commencement of audit:

Date of notification of commencement of audit to EPA:

Date of completion of audit:

Summary of findings

Provide the summary of the findings of the site contamination audit as set out in the report.

If there is insufficient space on this form, provide the summary as an annexure to this form.

[Nb: A site contamination audit report must comply with the guidelines from time to time issued by the EPA.]

Certification of copy of summary of findings

I certify that the summary of findings contained within or annexed to this statement represents a true and accurate summary of the findings of the site contamination audit set out in the report.

Signed: *[auditor must personally sign the statement]*

Dated:

** This form must be completed by the “responsible auditor”, being, under the Environment Protection Act 1993 and these regulations, the auditor who personally carried out or directly supervised the work involved in the audit.*

*** If insufficient space, details may be annexed to this form.*

This site contamination audit statement must be lodged, on completion of the audit, with the council for the area in which the audit site is situated and any prescribed body (see regulation 25 of these regulations).

The report (including the summary of findings) will be recorded in the public register kept by the EPA under section 109 of the Environment Protection Act 1993.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 20 November 2008

No 285 of 2008

EPCS08/0001