

NORTHERN TERRITORY OF AUSTRALIA

**ENVIRONMENT PROTECTION (NATIONAL POLLUTANT INVENTORY)
OBJECTIVE 2004**

As in force at 7 January 2004

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As in force at 7 January 2004

ENVIRONMENT PROTECTION (NATIONAL POLLUTANT INVENTORY) OBJECTIVE 2004

Objective under the *Waste Management and Pollution Control Act 1998*

1 Citation

This objective may be cited as the *Environment Protection (National Pollutant Inventory) Objective 2004*.

2 Interpretation

(1) In this objective, unless the contrary intention appears:

emission:

- (a) means emission of a substance to the environment whether in pure form or contained in other matter and whether in solid, liquid or gaseous form; and
- (b) includes emission of a substance to the environment from:
 - (i) premises for disposing of waste by burial (but does not include the deposit, licensed under section 34 of the Act or authorised under the *Mining Management Act 2001*, of a substance at the premises);
 - (ii) a sewage treatment plant (but does not include the discharge of a substance to a sewer); and
 - (iii) a tailings dam (but does not include the discharge, authorised under the *Mining Management Act 2001*, of a substance to a tailings dam),

but does not include the removal of a substance from premises for the purpose of destruction, treatment, recycling, reprocessing, recovery or purification.

emission data, for a substance:

- (a) means an estimate of the amount of the substance emitted during a reporting period; and

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- (b) includes identification of:
- (i) the medium (for example, air, land or water) to which the substance was discharged; and
 - (ii) the estimation technique used in producing the estimate.

estimation technique means a method for estimating the amount of a substance emitted to the environment.

industry handbook means a document published by the Commonwealth that provides advice or guidance in relation to a particular type of premises including:

- (a) the type of information that is required to be furnished or retained by the occupier of that type of premises; and
- (b) an appropriate estimation technique, or set of estimation techniques, for that type of premises.

National Pollutant Inventory means the inventory of emitted substances to be established as a result of the NPI NEPM.

NPI database means the National Pollutant Inventory data compiled by the Commonwealth and made available to the public in accordance with clauses 29 and 31 of the NPI NEPM.

NPI NEPM means the National Environment Protection (National Pollutant Inventory) Measure (as amended) made under the *National Environment Protection Council Act 1994* of the Commonwealth and the *National Environment Protection Council (Northern Territory) Act 1994*.

report means a written report that conforms with the requirements specified in clause 5.

reporting list has the same meaning as in the NPI NEPM.

reporting threshold, for a substance, means a threshold for the substance determined in accordance with the NPI NEPM.

reporting year means a 12 month period commencing on 1 July.

substance means a substance specified in column 1 of the reporting list.

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- (2) For the purposes of this objective:
- (a) the reporting threshold for a substance is exceeded in the circumstances set out in clauses 10 to 13 (inclusive) of the NPI NEPM; and
 - (b) references to **facility** in clauses 10 to 13 (inclusive) of the NPI NEPM are taken to be references to **premises**.

3 Obligation to provide report

- (1) The occupier of premises at which a reporting threshold for a substance is exceeded during a reporting period must provide to the Chief Executive Officer a report in an approved form within 3 months after the end of the reporting period.
- (2) Subject to this clause, an offence against subclause (1) is an environmental offence level 4 and a regulatory offence.
- (3) Although a reporting threshold is exceeded, a person who fails to provide a report as required does not commit an offence against subclause (1) if a claim has been made in accordance with the NPI NEPM by the occupier that relevant emission data should be treated as confidential on the grounds of national security and the claim:
 - (a) has been granted by the Commonwealth; or
 - (b) has not yet been assessed.
- (4) In this clause:

premises does not include:

 - (a) premises used to retail petroleum fuel products;
 - (b) a dry-cleaning establishment at which less than 20 persons are employed;
 - (c) a scrap metal handling establishment trading in metal, unless it is used for the reprocessing of batteries or the smelting of metal; and
 - (d) premises, or a part of premises, which premises or part is used solely for agricultural production including but not limited to the growing of trees, aquaculture, horticulture or livestock production, unless the premises or part is used for:
 - (i) processing of agricultural produce; or

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- (ii) intensive livestock production (for example, a piggery or a cattle feedlot).

4 Reporting period

- (1) The first reporting period for premises for which, by the date on which this objective commences, a relevant industry handbook has been published is from that date until the end of the reporting year in which the commencement occurs.
- (2) The first reporting period for premises for which, by the date on which this objective commences, a relevant industry handbook has not been published is:
 - (a) if a relevant industry handbook is published less than 3 months before the end of a reporting year – from the beginning of the next reporting year until the end of that reporting year; and
 - (b) if a relevant industry handbook is published 3 months or more before the end of a reporting year – from the first day of the third month after the handbook is published until the end of the reporting year.
- (3) Despite subclauses (1) and (2), an occupier of premises may provide a report that includes a reference to a period before the beginning of the first reporting period for the premises.
- (4) Subject to subclauses (1) and (2), a reporting period for premises coincides with a reporting year unless the Chief Executive Officer specifies an alternate 12 month period in relation to the premises.

5 Calculating emission data

- (1) A report for the purposes of clause 3 is to include emission data in relation to each substance for which a reporting threshold was exceeded during the reporting period.
- (2) Calculations of emission data are to be made:
 - (a) in accordance with the estimation techniques set out in the relevant industry handbook;
 - (b) in accordance with any other estimation technique approved by the Chief Executive Officer that provides more accurate emission data than the estimation techniques in the relevant industry handbook; or

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- (c) if no estimation technique is set out in the relevant industry handbook for a specific process carried out at the premises or for a waste that is emitted from the premises – in accordance with an estimation technique that is approved in relation to the process or waste by the Chief Executive Officer.

6 Validation of emission data in report

- (1) An authorised officer may, before 3 years after a report is submitted to the Chief Executive Officer under clause 3 by a person, direct the person to produce to the officer records of:
 - (a) the methodology used to calculate emission data in relation to each substance for which a reporting threshold was exceeded during the reporting period;
 - (b) the calculations made in applying an estimation technique;
 - (c) all data used in making the calculations; and
 - (d) any other information that is necessary to enable an assessment of the integrity of the emission data.
- (2) A person must comply with a direction given to him or her under subclause (1).
- (3) An offence against subclause (2) is an environmental offence level 4 and a regulatory offence.

7 Chief Executive Officer may direct occupier to provide information to confirm that reporting threshold not exceeded

- (1) If the Chief Executive Officer has reasonable grounds to believe that a reporting threshold may have been exceeded at premises, he or she may direct the occupier of the premises to provide any information the Chief Executive Officer considers necessary to confirm whether a reporting threshold for a substance has been exceeded or not.
- (2) A person must comply with a direction given to him or her under subclause (1).
- (3) An offence against subclause (2) is an environmental offence level 4 and a regulatory offence.

8 Chief Executive Officer may direct occupier who is not required to report to provide information

- (1) Although a reporting threshold has not been exceeded for a substance at a premises, the Chief Executive Officer may, for the purpose of developing estimated aggregated emissions data for a region to be submitted to the Commonwealth in accordance with the NPI NEPM, direct the occupier of the premises to provide information in relation to a substance specified in the reporting list.
- (2) A person must comply with a direction given under subclause (1).
- (3) An offence against subclause (2) is an environmental offence level 4 and a regulatory offence.

9 Person may volunteer information

- (1) Although a reporting threshold has not been exceeded for a substance at premises:
 - (a) a person may provide information in relation to the premises for the purposes of the NPI database; and
 - (b) the Chief Executive Officer may submit the information to the Commonwealth as if the information were required to be supplied under this objective or under the NPI NEPM.
- (2) Subclause (1) applies also if information is supplied under the mistaken belief that it was required to be supplied under this objective.

10 Provision of false or misleading information

- (1) A person must not provide to an authorised officer or to the Chief Executive Officer under this objective information that the person knows to be false or misleading.
- (2) An offence against subclause (1) is an environmental offence level 4.

11 Information not to be used as evidence in prosecution under another law

Information that is provided in a report under clause 3, or in accordance with clause 8, can only be used by the Territory:

- (a) for the purposes of the objective and the NPI NEPM; and
- (b) as evidence in prosecuting a person for an offence against this objective.

12 Commercial confidentiality

- (1) A person who is required under clause 3 to provide a report may apply to the Chief Executive Officer for the information in the report to be withheld from the NPI database on the grounds of commercial confidentiality.
- (2) An application under subclause (1) must be made to the Chief Executive Officer before 30 September in the year the report is, or is to be, submitted under clause 3.
- (3) A person who is directed to provide information under clause 7 or 8 may apply to the Chief Executive Officer for aggregated emission data that has been calculated from the information provided by that person to be withheld from the NPI database on the grounds of commercial confidentiality.
- (4) An application under subclause (3) may only be made to the Chief Executive Officer within 2 weeks after the direction to provide information was given under clause 7 or 8.
- (5) The Chief Executive Officer, in determining whether to grant the application, must weigh the interests of the person making the application against the public interest in disclosure of the information.
- (6) The Chief Executive Officer may approve a methodology for assessment of applications under this clause.
- (7) The Chief Executive Officer must not provide to the Commonwealth information that is the subject of an application under this clause until the application has been determined.
- (8) If an application under this clause is granted, the Chief Executive Officer may provide the relevant data to the Commonwealth in a form that retains commercial confidentiality.

13 Minister may name person who fails to provide information or report

- (1) Subject to subclauses (4) and (5), if the Minister is satisfied that a person:
 - (a) has failed to provide a report when required to do so under clause 3;
 - (b) has failed to provide information when directed to do so under clause 7 or 8; or

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- (c) has provided information under this objective (whether in a report or otherwise) that is false or misleading,

the Minister may name the person in the report submitted under the *National Environment Protection Council (Northern Territory) Act 1994* by the Minister to the National Environment Protection Council as a person whom the Minister is satisfied has breached the reporting requirements for the National Pollutant Inventory.

- (2) In deciding whether it is appropriate to name a person in accordance with subclause (1), the Minister must have regard to:
- (a) any mitigating or aggravating circumstances;
 - (b) whether the person has previously been in breach of the reporting requirements for the National Pollutant Inventory and any action taken in relation to the breach;
 - (c) whether the person has been given the opportunity for an impartial hearing in the matter and the outcome of the hearing; and
 - (d) whether naming the person would be unreasonably harsh or oppressive.
- (3) For the purposes of subclause (2)(c), a person to whom an infringement notice has been issued in relation to an alleged offence against the Act or an instrument under the Act is taken to have been given the opportunity for an impartial hearing, whether or not the person elects to have the matter to which the notice relates heard by a court.
- (4) The Minister must give a person written notice of his or her intention to name the person under this clause.
- (5) A person to whom a notice is given under subclause (4) may, by a date specified in the notice, make written representations to the Minister as to why the Minister should not name the person.
- (6) The Minister must consider any representations made before naming the person under subclause (1).

ENDNOTES

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KEY

Key to abbreviations

amd = amended

app = appendix

bl = by-law

ch = Chapter

cl = clause

div = Division

exp = expires/expired

f = forms

Gaz = Gazette

hdg = heading

ins = inserted

lt = long title

nc = not commenced

od = order

om = omitted

pt = Part

r = regulation/rule

rem = remainder

renum = renumbered

rep = repealed

s = section

sch = Schedule

sdiv = Subdivision

SL = Subordinate Legislation

sub = substituted

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LIST OF LEGISLATION

Environment Protection (National Pollutant Inventory) Objective

Notified 7 January 2004

Commenced 7 January 2004

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GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: cl 1, 2 and 13.