



GUIDELINES

ANNUAL PERFORMANCE STATEMENT GUIDELINES

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Authorised and published by EPA Victoria, 200 Victoria Street, Carlton.

These guidelines should be used in preparing your annual performance statement. Comments may be submitted in writing to EPA via email to <mailto:licensing.reform@epa.vic.gov.au> or to the Project Coordinator — Licensing Reform, GPO Box 4395 Melbourne 3001, by 24 August 2011.

PURPOSE

Licence-holders are required by Section 31D of the *Environment Protection Act 1970* (the Act) to submit a statement of annual environmental performance to EPA Victoria. This statement must be signed by the highest officer in the company, such as the chief executive officer (CEO) or managing director.

These guidelines apply to single-site, accredited and corporate licences. They describe the requirements for annual performance statement (APS) reporting, identify the required form of an APS and provide information to assist licence-holders to prepare their APS.

INTRODUCTION

The APS was introduced for three main reasons:

- To reduce 'red-tape' for licence-holders when reporting on their licence conditions. This is achieved by consolidating licence reporting into one annual statement and by simplifying and standardising requirements.
- To increase public transparency and accountability. Licence-holders' annual environmental performance information will be publicly available (less any commercial-in-confidence information).
- To support EPA's responsibility to set simple, clear licence obligations, and a licence-holder's responsibility to demonstrate compliance against those obligations.

LEGISLATIVE REQUIREMENT FOR AN APS

The Act sets out specific requirements for all licence-holders to submit a statement of performance to EPA. This APS reporting requirement is included in every reformed EPA licence.

The APS must:

- include an analysis of performance against each condition of the licence for the previous financial year

- be accompanied by any other information required under the licence
- be signed by the licence-holder (the highest officer in the company; see the 'Statement of compliance' section for details).

A licence-holder who fails to comply with the APS preparation and submission requirements is guilty of an offence that carries a penalty of 600 penalty units. A penalty unit is used to define the amount payable for fines for offences under the *Monetary Units Act 2004*.

When preparing an APS, the licence-holder must not:

- give false or misleading information to EPA
- or
- include any information in the APS that is false or misleading
- or
- conceal any relevant information or documentation from EPA.

A licence-holder who fails to comply with the APS requirements regarding provision of information is guilty of an indictable offence that carries a penalty of 2400 penalty units or imprisonment for two years, or both.

The Act enables EPA to require other reports or information on performance or compliance from the licence-holder.

Any information provided to EPA in an APS is not admissible evidence in any proceedings for an offence against the Act, apart from matters relating to provision of false or misleading information.

APS SUBMISSION PROCESS

EPA has developed an online annual reporting system for licence-holders to submit their APSs through EPA's licensing portal. Single-site licence-holders must prepare and submit their APSs using this online annual reporting system.

The online system is currently not available for corporate licence-holders. EPA will provide a template to every corporate licence-holder that must be completed and sent to EPA.

* This replaces publication 1320.2, released August 2010.

The online annual reporting system and the templates sent to corporate licence-holders require information to be submitted on the annual environmental performance of a licensed site/s. Information submitted that is **not** 'commercial in confidence' is extracted from the record and entered into the annual performance statement that is publicly available.

An example of the format of the publicly released APS is attached to these guidelines.

All licence-holders must submit their APS to EPA by 30 September each year.

An APS submitted to EPA is a public document. Throughout the APS submission process it is clearly indicated what information will be made publicly available and what will not be made public (commercial-in-confidence information).

APS STRUCTURE

The APS is made up of a statement of compliance with three attachments:

- Attachment A, which requires provision of details of any non-compliance with licence conditions.
- Attachment B, for additional information.
- Attachment C, which enables inclusion of a statement of progress against sustainability commitments. This attachment is only relevant where a 'sustainability commitment' is included in the licence (see below).

Statement of compliance

The first section of the statement identifies the licence-holder, ACN and registered address of the company and the EPA licence number. It is followed by a paragraph that describes the operations and the licensed premises. Information in this section will be automatically populated from data held by EPA.

Following this information, the licence-holder provides a statement of compliance assessment, in which each licence requirement is listed and the signing officer declares whether or not the condition has been complied with. For corporate licences, this means a single declaration for each condition across all the sites that it applies to. Details of any non-compliance, including identifying the site/s that did not comply with the condition, must be provided in Attachment A to the statement (see below).

The statement of compliance is a legal document that must be signed by the most senior Australian-based officer of the Australian-registered company to which the licence has been issued.

Section 31D(3)(c) of the Act states that an APS must be signed by the licence-holder or an Authority-approved delegate. The licence-holder is typically a company not an individual. Therefore the Authority can approve an appropriate signatory for a company.

This is generally a CEO or managing director. Licence-holders must apply to EPA for approval to delegate the signatory role.

When completing the statement of compliance, the licence-holder must answer 'yes' or 'no' to the question 'Condition complied with?'. In exceptional circumstances EPA may allow a licence-holder to answer with 'N/A' (not applicable). If EPA permits 'N/A', the licence-holder must explain why the condition is not applicable at this time and describe the steps being taken to achieve compliance.

Records supporting compliance

To declare compliance with each licence condition, the licence-holder must possess objective, verifiable documented information confirming that a required action has been completed or a specified outcome has been achieved. These records should be clear, direct and detailed enough to enable EPA to reach the same conclusion as the licence-holder.

Records supporting compliance need not be submitted to EPA. However, they must be kept by the licence-holder for **seven years**. *Records relating to the past two submitted APSs must be available onsite*. Licence-holders can keep relevant documents onsite either in hardcopy form or electronically. Documents supporting statements more than two years old that have been archived must be made available to EPA on request.

Further information on compliance considerations for each licence condition can be found in the *Licence management guidelines* (EPA publication 1322).

Licence compliance audits

EPA will conduct licence compliance audits of selected licensed premises and their APS submissions. These may be targeted or random audits, and could be done remotely at EPA or at the licensed premises. During the audit, EPA may require the licence-holder to produce information to substantiate declarations made in the APS. Licence-holders will normally be given prior notification by EPA of pending audits, but must have supporting information readily available. EPA will also continue to carry out site inspections and other compliance assessments throughout the year.

Attachment A – Details of non-compliance

Attachment A must be completed if one or more licence requirements have not been complied with. A separate page is used for each licence condition that has not been met. When detailing any licence non-compliance for a corporate licence, the licence-holder must specify which site is non-compliant.

Attachment A does not require completion if full compliance with licence conditions is declared. Evidence to support this declaration does, however, need to be obtained and retained.

Details of the non-compliance and of the steps taken to mitigate impacts and prevent recurrence of the non-compliance must be provided. Where one incident, such as a plant upset, has led to a series of non-compliances with a single condition, only one non-compliance record needs to be completed. If a single incident led to a breach of several conditions, then a separate non-compliance record must be completed for each condition that was not complied with. Non-compliance information provided for each licence condition should be clear and concise.

Attachment B – Additional information

The purpose of Attachment B is to allow the licence-holder to provide additional information to EPA in support of their compliance statement.

The type of additional information that licence-holders will be required to submit depends on their scheduled category and/or their licence conditions. The required information is detailed below. Items that will remain commercial-in-confidence are designated 'not publicly available'.

All licence-holders

- Details of any enforcement action taken against the licence-holder by another organisation (not publicly available).

Licence-holders that discharge to waterways

- Summary statistics for discharge limits.
- Number of samples taken and periods of sampling.
- Quarterly discharge rates.

Licence-holders that discharge to air

- Number of samples taken and periods of sampling.
- Monitoring method(s) for each licensed indicator.
- Quarterly production rate. This is the amount of product produced each quarter; for example, megawatts generated, kilolitres or tonnes of product, number of units produced (not publicly available).

Licence-holders that discharge wastewater to land

- Daily discharge of wastewater to land.
- Number of irrigation days.
- Net irrigation area.
- Information regarding any supply agreements (not publicly available).

Schedule category A01 (Prescribed industrial waste management) only

- Total prescribed industrial waste (PIW) received (not publicly available).
- Total PIW recycled (not publicly available).
- Total amount of each waste (by waste code) received (not publicly available).

Schedule category A05 (Landfills) only

- Details of the monitoring program and the auditor's verification (the auditor must be an auditor appointed pursuant to the Act).
- Site audits and any requirements and recommendations made by the auditor (the auditor must be an auditor appointed pursuant to the Act).
- Pre-settlement contour plan.
- For each cell, the total and current capacity (not publicly available).
- Total volume of waste received (not publicly available).

Schedule category A01 and A05

- As above for schedule category A05.
- Total volume of hazardous category C and category B waste received (not publicly available).
- Where a site also treats PIW, i.e. has a PIW table with waste codes and treatment codes in their licence, then as above for schedule category A01.

Schedule category A07 (composters) and A07 and A01 (composters that also compost PIW)

- Total amount of each non-PIW waste type composted (not publicly available).
- Quarterly amounts of PIW and non-PIW composted (not publicly available).

Other information

- Any other information that may be specifically required in the licence.

All information provided to EPA as part of the APS will be publicly available (except the items indicated above). EPA has determined that the marked additional information provided should be treated as commercial-in-confidence; therefore, this will not be included in the APS. Section 60 of the Act protects any commercial-in-confidence information by making disclosure of such information by an EPA officer an offence, unless the owner of the information gives consent or at the direction of a court.

It is clearly stated throughout the APS submission system/form what information will and what will not be included in the publicly available APS. Aggregated data across all licences may be released as part of EPA's summary report.

If a licence-holder believes any other information in their APS should be treated as commercial-in-confidence they should contact EPA. The licence-holder must clearly demonstrate why the information should not be made publicly available.

Attachment C – Sustainability commitments

Attachment C is completed if a 'sustainability commitment' has been included in the licence.

A sustainability commitment is a voluntary agreement in which licence-holders, in partnership with EPA,

commit to undertake environmental actions that go beyond the scope of their licences. These actions generally focus on the risks and opportunities that ensure long-term business sustainability and improved environmental performance. The actions and commitments are not enforceable conditions of the licence.

Where commitments have been made, the licence-holder must describe progress made against the commitments. Licence-holders interested in discussing a sustainability commitment should contact EPA.

The licence-holder may also make comment on constraints that may have prevented them from meeting the objectives and commitments. Information provided in Attachment C should fill not more than two pages.

ACCURACY OF INFORMATION

It is an offence under section 31D of the Act for a licence-holder to give false or misleading information in an APS. The person who signs the APS testifies to its reliability and therefore must be satisfied that the information provided is accurate, complete and verifiable.

A licence-holder may choose to obtain independent specialist assistance with the compliance assessment. Regardless of the assistance provided, the accuracy and veracity of the APS remains the responsibility of the person who signs the statement.

REPORTING DATES

The APS will apply to the standard financial year reporting period (1 July to 30 June). The due date for APSs is 30 September each year, as specified in the licence.

Regardless of this requirement, any licence non-compliance must be immediately reported to EPA. This is a requirement of all EPA licence-holders. This reporting is independent of any APS requirement.

SUBMISSION OF AN APS

Single-site licence-holders must submit completed APSs to EPA online through the electronic client portal. If this is not possible, the completed APS must be faxed to the fax number provided. Where agreed with EPA, it can be mailed.

Corporate licence-holders must submit their completed APSs to EPA via email. Where agreed with EPA, they can be mailed. Corporate licensees are only required to submit one APS that applies to all premises listed in the licence.

An APS must be physically signed off by the highest officer in the company, such as the CEO or managing director. The signed document must then be submitted to EPA.

PROCESSING OF AN APS

On receipt of an APS, EPA will conduct a review and check that the APS has fulfilled the requirements of the licence conditions. EPA will notify the licence-holder if any further action is required.

PUBLIC AVAILABILITY OF AN APS

An APS is a publicly available document. This allows the community and other stakeholders to understand the environmental performance of licence-holders. EPA makes the completed and signed APS documents available online.

EPA aggregates the data and publishes a summary report on annual performance statements each year. The report includes a summary of compliance across all licence-holders.

For example, for the 2009-10 APS submissions the following aggregate report was produced:

Results of annual performance statements 2009-10
(EPA publication 1363)

FOR MORE INFORMATION

A short video giving an overview of APSs can be found at www.epa.vic.gov.au or www.youtube.com/user/EPAVictoria.

Licence-holders

Please refer any questions regarding APSs to EPA.

General public

Please call the EPA information centre on 03 9695 2722.

Annual Performance Statement

ABCD EFGHI JKLMNO Pty Ltd

Holder of

Licence: ES12345
Issued: 12 March 1985
Last amended: 2 July 2010
ACN: ABC Pty Ltd
ABN: 02446870256789
Registered address: 12 Collins Street
MELBOURNE VIC 3000
Premises address: 123 – 130 Simon Street
MELBOURNE VIC 3020

LICENSED ACTIVITIES

(Brief paragraph describing company operations at its licensed premises)

STATEMENT OF COMPLIANCE

Analysis of performance against Environmental Performance Conditions (add rows as required).

Condition Area	Condition Reference	Condition Description	Condition complied with?
Amenity	G1	Waste from the premises must not be discharged to the environment except in accordance with this licence.	Yes
General	G2		No

I, [NAME], declare that the information in this Annual Performance Statement is true and correct. I have made all the necessary enquiries, and no matters of significance have been withheld from EPA.¹

Name: [NAME]

Position: Managing Director

Signature:

Date: [DATE]

1. Under Section 31D(5) of the Environment Protection Act 1970, it is an offence to provide false or misleading information in an annual performance statement or conceal any relevant information or document from the Authority. Contravention of subsection (5) is an indictable offence that carries a penalty of 2400 penalty units or imprisonment for two years, or both.



Annual Performance Statement

ATTACHMENT A

Details of Non-Compliance with Licence Condition

[Insert condition ref: Insert condition wording]

a) Date(s) when the non-compliance occurred (if applicable)

b) Summary of particulars of non-compliance

c) What is your assessment of environmental impact as a result of non-compliance

d) Cause of non-compliance

e) Action taken or that will be taken to mitigate any adverse effects of the non-compliance

f) Action taken or that will be taken to prevent recurrence of the non-compliance



ATTACHMENT B

Additional Information

Additional information is provided as discussed in this publication.

A separate page will be generated for each licence area relevant to the licence-holder (e.g. air, water and/or landfill).

ATTACHMENT C

Sustainability Commitment

(Only if there is a sustainability agreement in the licence)

[COMPANY NAME] has made the following progress for the sustainability commitments in its EPA licence [LICENCE NUMBER].

(This section should be a maximum of 2 pages. References may be made to other documentation or to the company website, if appropriate)

Commitment 1

(Insert detail about achievements and progress)

Commitment 2

(Insert detail about achievements and progress)

Commitment 3

(Insert detail about achievements and progress)