



# National Environment Protection (National Pollutant Inventory) Measure 1998

as varied

made under subsection 14(1) of the

*National Environment Protection Council Act 1994 (Cwlth), National Environment Protection Council (New South Wales) Act 1995 (NSW), National Environment Protection Council (Victoria) Act 1995 (Vic), National Environment Protection Council (Queensland) Act 1994 (Qld), National Environment Protection Council (Western Australia) Act 1996 (WA), National Environment Protection Council (South Australia) Act 1995 (SA), National Environment Protection Council (Tasmania) Act 1995 (Tas), National Environment Protection Council Act 1994 (ACT), and the National Environment Protection Council (Northern Territory) Act 1994 (NT)*

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## Introductory Note

Section 14 of the *National Environment Protection Council Act 1994* and the equivalent provision of the corresponding Act of each participating State and Territory provides for the making of Measures by the National Environment Protection Council and the matters to which they may relate. This Measure relates to the matters set out in paragraphs 14(1)(a), (b), (e), (f) and (g).

The Measure is to be implemented by the laws and other arrangements participating jurisdictions consider necessary: see section 7 of the Commonwealth Act and the equivalent provision of the corresponding Act of each participating State and Territory.

## Part 1 Preliminary

### 1 Name of Measure

This Measure is the *National Environment Protection (National Pollutant Inventory) Measure 1998*.

### 2 Commencement

All provisions of this Measure commence on the day after registration on the Federal Register of Legislative Instruments.

### 3 Definitions

- (1) This clause defines particular words and expressions used in this Measure.
- (2) The words and expressions indicated by an asterisk (\*) are defined in the Commonwealth Act and are included only to assist readers of the Measure. Minor changes from the definitions in the Commonwealth Act are indicated by square brackets ([ ]).
- (3) In this Measure, unless the contrary intention appears:

***aggregated emissions data*** means estimates of the amount of a substance emitted to the environment annually from:

- (a) facilities which are not reporting facilities; and
- (b) anthropogenic sources other than facilities, which emit a significant amount of that substance to the environment;

***aggregated transfer data*** means estimates of the amount of a substance transferred annually from:

- (a) facilities which are not reporting facilities; and
- (b) anthropogenic sources other than facilities, which transfer a significant amount of that substance to the environment;

**Clause 3**

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***agreed between participating jurisdictions*** means agreed by at least six participating jurisdictions;

**\**Agreement*** means the agreement made on 1 May 1992 between the Commonwealth, the States, the Australian Capital Territory, the Northern Territory and the Australian Local Government Association, a copy of which is set out in the Schedule [to the Commonwealth Act];

***ANZSIC*** means Australian and New Zealand Standard Industrial Classification;

***article*** means a manufactured item formed to a specific shape or design during manufacture;

***business entity*** has the meaning given by the term ***entity*** in the *A New Tax System (Goods and Services Tax) Act 1999*;

Note Subsection 184-1 (1) of the *A New Tax System (Goods and services Tax) Act 1999* defines ***entity*** as follows:

***Entity*** means any of the following:

- (a) an individual;
- (b) a body corporate;
- (c) a corporation sole;
- (d) a body politic;
- (e) a partnership;
- (f) any other unincorporated association or body of persons;
- (g) a trust;
- (h) a superannuation fund

***carbon dioxide equivalent*** means a unit of measurement used to compare emissions of different greenhouse gases based on their global warming potential as defined by the Intergovernmental Panel on Climate Change (IPCC);

***carbon dioxide equivalent (indirect)*** means the amount of greenhouse gases (expressed in carbon dioxide equivalents) emitted from the off-site generation of electrical, steam, heating or cooling energy where that energy is used on-site;

***CAS number*** means Chemical Abstract Service number;

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**Clause 3**

**category 1 substance** means a substance for which a threshold category of 1 is specified in Column 3 of Table 1 of Schedule A;

**category 1a substance** means a substance for which a threshold category of 1a is specified in Column 3 of Table 1 of Schedule A;

**category 1b substance** means a substance for which a threshold category of 1b is specified in Column 3 of Table 1 of Schedule A;

**category 2a substance** means a substance for which a threshold category of 2a is specified in Column 3 of Table 1 or Table 2 of Schedule A;

**category 2b substance** means a substance for which a threshold category of 2b is specified in Column 3 of Table 1 of Schedule A;

**category 3 substance** means a substance for which a threshold category of 3 is specified in Column 3 of Table 1 of Schedule A;

**category 4 substance** means a substance for which a threshold category of 4 is specified in Column 3 of Table 1 of Schedule A;

**Commonwealth** means the Commonwealth of Australia;

**Commonwealth Act** means the *National Environment Protection Council Act 1994* of the Commonwealth;

**controlling business entity** means a business entity that is not subject to the operational control of another business entity;

**Council** means the National Environment Protection Council established by section 8 of the Commonwealth Act and the equivalent provision of the corresponding Act of each participating State and Territory;

**emission** means release or discharge of a substance to the environment whether in pure form or contained in other matter and whether in solid, liquid or gaseous form;

**emission data** for a substance, means an estimate of the amount of the substance emitted in a reporting period that identifies:

- (a) the medium to which the substance was discharged (for example, air, land, or water); and
- (b) the estimation technique used;

**Clause 3**

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***estimation technique*** means a method for estimating the amount of a substance emitted or transferred;

***facility*** means any building or land together with any machinery, plant, appliance, equipment, implement, tool or other item used in connection with any activity carried out at the facility, and includes an offshore facility. The facility may be located on a single site or on adjacent or contiguous sites owned or operated by the same person;

***financial reporting year*** means a year commencing 1 July;

***greenhouse gases*** means carbon dioxide (CO<sub>2</sub>), carbon dioxide equivalent (indirect), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs); perfluorocarbons (PFCs) and sulfur hexafluoride (SF<sub>6</sub>);

***industry reporting materials*** means resources agreed between participating jurisdictions which provide advice to a facility in meeting requirements resulting from this Measure, including;

- (a) advice or guidance on the information which is required to be furnished or retained by occupiers; and
- (b) an appropriate estimation technique, or range of estimation techniques;

***mandatory reporting transfer destination*** means:

- (a) destination for containment including landfill, tailings storage facility, underground injection or other long term purpose-built waste storage structure;
- (b) an off-site destination for destruction;
- (c) an off-site sewerage system;
- (d) an off-site treatment facility which leads solely to one or more of the above;

***mandatory transfer data*** for a substance means an estimate of the amount of the substance transferred, to a mandatory reporting transfer destination, in a reporting period that identifies:

- (a) the type of destination;
- (b) whether the transfer is on-site or off-site; and
- (c) the estimation technique used;

***Measure*** means national environment protection measure;

***\*national environment protection goal*** means a goal:

- (a) that relates to desired environmental outcomes; and



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**Clause 3**

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(b) that guides the formulation of strategies for the management of human activities that may affect the environment;

**\*national environment protection guideline** means a guideline that gives guidance on possible means for achieving desired environmental outcomes;

**\*national environment protection measure** means a measure made under subsection 14(1) [of the Commonwealth Act and the equivalent provision of the corresponding Act of each participating State and Territory];

**\*national environment protection protocol** means a protocol that relates to the process to be followed in measuring environmental characteristics to determine:

- (a) whether a particular standard or goal is being met or achieved; or
- (b) the extent of the difference between the measured characteristic of the environment and a particular standard or a particular goal;

**National Pollutant Inventory** means the inventory of emitted or transferred substances to be established as a result of this Measure;

**nominated agency** means the agency of a participating State or Territory which that State or Territory has nominated as having responsibility for collection of data from reporting facilities;

**occupier** in relation to any facility means a person who is in occupation or control of the facility whether or not that person is the owner of the facility. A business entity is the occupier of a facility where that business entity has operational control of the facility;

**off-shore facility** means a vessel or structure located in an adjacent area (as defined in the *Petroleum (Submerged Lands) Act 1967*) that is used or constructed for the recovery of petroleum (including natural gas), or carries, contains or includes equipment for drilling, or for carrying out other operations in connection with a well, from the vessel or structure; and includes a combination of two or more related off-shore facilities, but excludes a vessel engaged merely in site surveys or investigations to a depth in the seabed not exceeding 100 metres;

**overburden** means the overlying rock and soil, which is not part of the ore or part of the sub-grade rock, that is displaced during underground or surface mining operations;

**\*participating jurisdiction** means the Commonwealth, a participating State or a participating Territory;

**Clause 3**

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***\*participating State*** means a State:

- (a) that is a party to the Agreement; and
- (b) in which an Act that corresponds to [the Commonwealth] Act is in force in accordance with the Agreement;

***\*participating Territory*** means a Territory:

- (a) that is a party to the Agreement; and
- (b) in which an Act that corresponds to [the Commonwealth] Act is in force in accordance with the Agreement;

***reporting facility*** means a facility that is required to report information under clause 9;

***reporting list*** means Table 1 of Schedule A;

***substance*** means a substance specified in column 1 of the reporting list;

***substance identity information*** for a particular substance means:

- (a) the name of the substance; and
- (b) the CAS number of the substance, if applicable;

***supporting information*** means information contained in the National Pollutant Inventory database that contributes to public understanding of emission and transfer data, and includes the following:

- (a) the CAS number of the substance and common synonyms and product names for the substance;
- (b) the chemical characteristics and intrinsic properties of the substance;
- (c) the possible health and environment effects of the substance, including toxicity profiles, environmental impacts, likely fate and transport of the substance in the environment, and other relevant effects;
- (d) information on common uses of the substance including products or processes reliant on the substance; and
- (e) information on common anthropogenic and other sources of the substance;

***supporting data*** in relation to a reporting facility means:

- (a) the name of the occupier of the facility or any other relevant identification (including the business entity name and any name changes in the preceding financial year);
- (b) the occupier's Australian Company Number (ACN) (if applicable);
- (c) the occupier's Australian Business Number (ABN), if any;
- (d) the occupier's postal address;

- (e) the street address of the facility;
- (f) the contact phone number for public inquiries; and
- (g) the main activity or activities of the facility;

***Territory*** means the Australian Capital Territory or the Northern Territory;

***Transfer:***

- (a) means the transport or movement, on-site or off-site, of substances to a mandatory reporting transfer destination or a voluntary reporting transfer destination; but;
- (b) does not include the transport or movement of substances contained in overburden, waste rock, uncontaminated soil, uncontaminated sediment, rock removed in construction or road building, or soil used for the capping of landfills;

***voluntary reporting transfer destination*** means a destination for reuse, recycling, reprocessing, purification, partial purification, immobilisation, remediation or energy recovery;

***voluntary transfer data*** for a substance means an estimate of the amount of the substance transferred, to a voluntary reporting transfer destination, in a reporting period that identifies:

- (a) the type of destination;
- (b) whether the transfer is on-site or off-site; and
- (c) the estimation technique used;

***waste rock*** means the sub-grade rock displaced during underground or surface mining operations.

### **3A Meaning of ‘operational control’**

A business entity that controls a facility has ***operational control*** of the facility if the entity, or one of its subsidiaries, has full authority to introduce and implement its operating policies at the facility

### **4 Meaning of ‘reporting period’**

In this Measure ***reporting period*** for a facility is:

- (a) a financial reporting year; or
- (b) if the relevant jurisdiction approves a different annual reporting period – that annual reporting period.

## Part 2                      National Environment Protection Goals

### 5                      **Desired environmental outcomes**

The desired environmental outcomes of the Measure are:

- (a) the maintenance and improvement of:
  - (i) ambient air quality; and
  - (ii) ambient marine, estuarine and fresh water quality;
- (b) the minimisation of environmental impacts associated with hazardous wastes; and
- (c) an improvement in the sustainable use of resources.

### 6                      **National environment protection goals**

The national environment protection goals established by this Measure are to:

- (a) collect a broad base of information on emissions and transfers of substances on the reporting list, and
- (b) disseminate the information collected to all sectors of the community in a useful, accessible and understandable form.

### 7                      **Establishment of national pollutant inventory**

A database to be known as the National Pollutant Inventory will be established that contains the following information:

- (a) about emissions and transfers of specified substances, on a geographical basis, including those of a hazardous nature or involving significant impact;
- (b) that enhances and facilitates policy formulation and decision making for environmental planning and management;
- (c) about waste minimisation and cleaner production programmes in industry, government and the community and promotes and facilitates their implementation;
- (d) that is available and accessible to the public.

### 8                      **Nature of national pollutant inventory**

The National Pollutant Inventory will be a joint programme under which:

- (a) occupiers of reporting facilities will estimate emission and transfer data and provide these and supporting data to participating States and Territories;
- (b) participating States or Territories will collect emission and transfer data and supporting data from occupiers of reporting facilities and, subject to clause 20, develop or cause to be developed, aggregated emission

and transfer data, and will provide these data to the Commonwealth;  
and

- (c) the Commonwealth will:
  - (i) compile substance information;
  - (ii) collate the data provided by States and Territories and substance information as defined in this Measure and as also agreed between participating jurisdictions; and
  - (iii) disseminate this information annually.

## **Part 3                      National environment protection protocols**

### **9                      Collection of data from reporting facilities**

- (1) The occupier of each reporting facility is to be required to provide the following information if a reporting threshold for a substance is exceeded in a reporting period:
  - (a) supporting data for the facility;
  - (b) substance identity information and emission data for each substance for which the reporting threshold is exceeded in the period;
  - (c) the type and mass of fuel or waste burned in the reporting period;
  - (d) the amount of electrical, steam, heating or cooling energy, sourced off-site, that the facility consumed in the reporting period;
  - (e) any other information that may be required to assess the integrity of the emission data;
  - (f) substance identity information and mandatory transfer data for each substance for which a Category 1, Category 1b or Category 3 reporting threshold is exceeded in the period;
  - (g) any information that may be required to assess the integrity of the mandatory transfer data;
  - (h) a statement, signed by the occupier or a person authorised by the occupier for that purpose, that the occupier has exercised due diligence in gathering and providing the information mentioned in paragraphs (a) to (f).
- (2) For the purpose of reporting emissions of greenhouse gases generated outside the boundary of the business entity's facilities, but attributable to the activities of the business entity, such as a transport fleet.
  - (a) this information shall be provided as attributed to a reporting facility;  
and
  - (b) a reporting facility may be a premises central to the business entity, such as a corporate headquarters or head office.

**Clause 9**

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- (3) For the purpose of reporting emissions of carbon dioxide equivalent (indirect), this information shall be provided as attributed to the reporting facility.
- (4) If the business entity exceeds the Category 4 threshold but a facility under its operational control generates less than 5000 tonnes of greenhouse gases expressed in carbon dioxide equivalents or produces or consumes less than 20 terajoules of energy, in the reporting period:
  - (a) information from such facilities may be aggregated and attributed to a single reporting facility; and
  - (b) that single reporting facility may be a premises central to the business entity, such as a corporate headquarters or head office.
- (5) The occupier of each reporting facility may voluntarily report substance identity information and voluntary transfer data.
- (6) Information reported under subclauses (2), (3), (4) and (5) must be accompanied by a statement, signed by the occupier or a person authorised by the occupier for that purpose, that the occupier has exercised due diligence in gathering and providing the information.
- (7) The information is to be provided:
  - (a) to the nominated agency of the participating State or Territory within which the facility is located; and
  - (b) within three months after the end of the reporting period to which it relates.
- (8) The requirements under subclauses (1), (2), (3), (4), (6) and (7) are to be imposed, to the extent possible, by the participating State or Territory within which the facility is located or, to the extent this is not possible, by the Commonwealth.
- (9) A participating jurisdiction is not to release any information provided to it under paragraphs (1)(c), (d), (e) and (g) unless:
  - (a) the occupier consents to its release;
  - (b) the participating jurisdiction is legally compelled to release it; or
  - (c) it is specifically required by another State, Territory or Commonwealth data gathering program.
- (10) If paragraph (9)(c) applies, this information can only be supplied to the State, Territory or Commonwealth program that requires it:
- (11) In this clause *facility* does not include:
  - (a) a mobile emission source (for example, an aircraft in flight or a ship at sea) operating outside the boundaries of a fixed facility;
  - (b) a petroleum retailing facility engaging in the retail sale of fuel; or
  - (c) a dry-cleaning facility employing less than 20 persons;
  - (d) a scrap metal handling facility trading in metal, that is not engaged in the reprocessing of batteries or the smelting of metal; or
  - (e) a facility, or part of a facility, engaging solely in agricultural production, including the growing of trees, aquaculture, horticulture or livestock raising unless it is engaged in:

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**Clause 11**

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- (i) processing of agricultural produce; or
- (ii) intensive livestock production (for example, a piggery, cattle feedlot, or poultry farm).

**10 Reporting threshold – category 1 and category 1a substances**

- (1) The reporting threshold for a Category 1 substance is exceeded in a reporting period if the activities of the facility involve the use of 10 tonnes or more of the substance in that period.
- (2) The reporting threshold for a Category 1a substance is exceeded in a reporting period if the activities involve the use of 25 tonnes or more of the substance in that period.
- (2A) The reporting threshold for a Category 1b substance is exceeded in a reporting period if the activities involve the use of 5 kilograms or more of the substance in that period.
- (3) In this clause, *use* of a substance means the handling, manufacture, import, processing, coincidental production or other use of the substance.
- (4) However, a substance is taken not to be used if:
  - (a) it is incorporated in an article in a way that does not lead to emission of the substance to the environment; or
  - (b) it is an article for sale or use that is handled in a way that does not lead to emission of the substance to the environment.
- (5) In working out the amount of a substance used for the purposes of subclauses (1) and (2), the occupier is not to be required to include any amount of the substance that is in a proprietary mixture or any other material unless:
  - (a) for a proprietary mixture - the substance is specified in a Material Safety Data Sheet describing the properties and use of the substance, or the manufacturer's advice; and
  - (b) for any other material - the occupier could reasonably be expected to know that the substance is in the material.

**11 Reporting threshold – category 2a and category 2b substances**

- (1) The reporting threshold for a Category 2a substance is taken to be exceeded in a reporting period if the activities of the facility involve the burning of:
  - (a) 400 tonnes or more of fuel or waste in the period; or
  - (b) 1 tonne or more of fuel or waste in any hour in the period.
- (2) The reporting threshold for a Category 2b substance is taken to be exceeded in a reporting period if:
  - (a) the activities of the facility involve:
    - (i) the burning of 2,000 tonnes or more of fuel or waste in the period; or
    - (ii) the consumption of 60,000 megawatt hours or more of electrical energy in the period for other than lighting or motive purposes; or

**Clause 12**

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- (b) the maximum potential power consumption of the facility at any time in the period is rated at 20 megawatts or more for other than lighting or motive purposes.

**12 Reporting threshold – category 3 substances**

- (1) The reporting threshold for category 3 substances is exceeded in a reporting period if the activities of the facility involve a total of 15 tonnes or more of Total Nitrogen or a total of 3 tonnes or more of Total Phosphorus in the reporting period being:
  - (a) emitted to water (excluding groundwater);
  - (b) transferred to a mandatory reporting transfer destination; or
  - (c) both emitted to water and transferred to a mandatory reporting transfer destination.
- (2) Both Total Nitrogen and Total Phosphorus must be reported if the category 3 threshold is exceeded, even if the threshold is exceeded only on the basis of one of these substances.

**13 Reporting threshold – category 4 substances**

- (1) The reporting threshold for category 4 substances is exceeded in a reporting period if the activities of the controlling business entity involve:
  - (a) the emission of 25 000 tonnes or more of greenhouse gases expressed in carbon dioxide equivalents; or
  - (b) the production or consumption of 100 terajoules or more of energy in the reporting period.
- (2) In this clause, *activities* includes:
  - (a) activities conducted at any facility operated by the business entity; and
  - (b) activities conducted outside the boundary of the business entity's facilities, but attributable to the activities of the business entity, such as:
    - (i) a transport fleet; and
    - (ii) the generation of electrical, steam, heating or cooling energy, sourced off-site, that the facility consumed in the reporting period.

**14 Commencement of reporting**

Participating jurisdictions shall not require an occupier of a reporting facility within its legislative control to furnish any information otherwise required under clause 9, unless or until the ANZSIC code for one or more activities undertaken at the facility:

- (a) has been agreed between participating jurisdictions as an industry type required to report under this Measure;
- (b) has been included by the Commonwealth on a published list as an industry type required to report under this Measure; and
- (c) has industry reporting materials published by the Commonwealth.



**Clause 16**

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- (2) Participating jurisdictions shall not require an occupier of a reporting facility within its legislative control to furnish mandatory transfer data, otherwise required under clause 9, unless or until industry reporting materials for transfers have been published by the Commonwealth.
- (3) Participating jurisdictions shall not require an occupier of a reporting facility within its legislative control to furnish greenhouse gas emissions data, or information about the amount of energy, sourced off-site, that the facility consumed in the reporting period:
  - (a) unless or until industry reporting material for greenhouse gas emissions reporting have been published by the Commonwealth; and
  - (b) prior to the reporting period commencing 1 July 2008.

**15 Emission and transfer estimation techniques**

Each participating jurisdiction shall ensure that, in estimating emission data and mandatory transfer data for the purposes of furnishing information under clause 9, each occupier of a reporting facility within its jurisdiction:

- (a) if an estimation technique is set out in the relevant industry reporting materials for that type of reporting facility, applies either:
  - (i) that estimation technique; or
  - (ii) any other estimation technique which the relevant jurisdiction has agreed is likely to provide more representative emission or transfer data than the technique set out in the relevant industry reporting materials;
- (b) if no estimation technique is set out in the relevant industry reporting materials which relates to a specific process carried out at the reporting facility or means of emission or transfer of waste from the reporting facility, applies any estimation techniques which the relevant jurisdiction has agreed are likely to provide emission or transfer data for that process or means of emission or transfer;
- (c) documents any technique applied under subparagraph (a) (ii) or paragraph (b)
- (d) retains any data which may be required by participating jurisdictions to verify the emission or transfer data for the time period required by that jurisdiction from the date on which a report was provided to the participating jurisdiction; and
- (e) provides these data to the participating jurisdiction as required.

**16 Accuracy of information**

Before providing data to the Commonwealth under clauses 19 and 21, each participating State and Territory shall, for each reporting facility located within that State or Territory undertake any reasonable action within its powers which it considers necessary for that particular reporting facility to confirm the accuracy of the information furnished by the occupier.

**Clause 17**

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**17 Assessment of integrity of data**

Each participating State or Territory shall conduct assessments of integrity of reported emission and transfer data, from reporting facilities located within its jurisdiction, in accordance with preferred outcomes and procedures as agreed between participating jurisdictions.

**18 Data — Commonwealth requirement**

The Commonwealth shall require the emission and mandatory transfer data provided by its facilities to be subject to assessments under clause 17, except in cases of exemption under clause 23.

**19 Information from reporting facilities supplied to the Commonwealth**

On or before 31 December each year, each participating State or Territory shall provide to the Commonwealth the following information in an agreed format for each reporting facility located within that State or Territory:

- (a) supporting data provided under clause 9;
- (b) emission data, mandatory transfer data and voluntary transfer data provided under clause 9;
- (c) the relevant ANZSIC code for the facility based on the main activity of the facility (where available);
- (d) the latitude and longitude of the facility to the nearest second or the equivalent map grid reference.

**20 Estimation and transfer data from sources other than reporting facilities**

- (1) Jurisdictions shall cooperate to develop, or cause to be developed, aggregated emission and transfer data for particular substances specified in the reporting list, in specific regions within their jurisdictions at particular times, as agreed between participating jurisdictions.
- (2) The data developed under subclause 20(1) shall be submitted in an agreed format to the Commonwealth on or before the date agreed between participating jurisdictions.

**21 Additional information supplied to the Commonwealth**

- (1) A jurisdiction may accept any emission or transfer data estimated in accordance with clause 15, or other data relating to the emission or transfer of substances from an occupier of a facility, whether or not that facility is a reporting facility, and submit that data to the Commonwealth for inclusion in the National Pollutant Inventory.
- (2) A jurisdiction may submit other data to the Commonwealth for inclusion in the National Pollutant Inventory (e.g. ambient concentrations of specified substances on the reporting list for a particular region within that jurisdiction).

- (3) Data under subclause 21(1) or (2) is to be submitted to the Commonwealth in a format agreed between the Commonwealth and the relevant jurisdiction.

## **Part 4                      National Environment Protection Guidelines**

### **22                      Amending the reporting list**

Processes for consideration of any amendments to the reporting list will (in addition to meeting the requirements of section 20 of the Commonwealth Act and equivalent provisions of the corresponding Acts of participating jurisdictions) comprise the following:

- (a) processes to amend the reporting list be transparent;
- (b) a process to allow for any persons, without incurring a fee, to make submissions recommending variations to the reporting list;
- (c) a technical advisory panel comprising technical experts representing a range of scientific expertise to provide recommendations to the Council on the addition or deletion of nominated substances to or from the reporting list;
- (d) available information from other relevant Australian and overseas risk assessment processes.

### **23                      Confidentiality – national security**

Claims by an occupier of a reporting facility that information should be treated as confidential on the grounds of national security will be dealt with as follows:

- (a) if the occupier makes such a claim and the claim:
  - (i) has not yet been assessed; or
  - (ii) has been granted;the occupier will not be required to furnish the information mentioned in clause 9;
- (b) the claim is to be assessed by the Commonwealth; and
- (c) the Commonwealth may grant, or refuse, a claim.

### **24                      Commercial confidentiality**

- (1) A claim by an occupier of a reporting facility that particular information should be treated as confidential on the grounds of commercial confidentiality will, unless the existing law of the relevant participating jurisdiction provides otherwise, be dealt with in accordance with subclauses 24(3) and 24(4).
- (2) However, if the existing law of the relevant participating jurisdiction does provide otherwise, the information must be dealt with under that law.

**Clause 25**

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- (3) If subclause 24(2) does not apply and the claim has not been assessed, the information provided by the occupier under clause 9 will not be made publicly available on the National Pollutant Inventory.
- (4) If subclause 24(2) does not apply and the claim has been granted, the information for which the claim was granted should not be included on the National Pollutant Inventory unless it is included in a way (such as by aggregation with other information) that preserves the confidentiality of the information.
- (5) A claim to which subclause 24(2) does not apply should be:
  - (a) assessed by the State or Territory within which the reporting facility is located using the procedures agreed between participating jurisdictions and taking account of the principles described in subclause 24(6); and
  - (b) after the assessment—granted or refused by the State or Territory concerned.
- (6) The principles are:
  - (a) the occupier is to justify the claim for confidentiality to the State or Territory concerned; and
  - (b) the State or Territory is to weigh the interest of the occupier against the public interest in disclosure of the information.

**25 Enforcement provisions**

- (1) Enforcement action may be taken by the relevant participating jurisdiction if an occupier of the reporting facility:
  - (a) does not furnish information required under this Measure to the nominated agency of the relevant participating jurisdiction; or
  - (b) provides false or misleading information to the nominated agency.
- (2) The enforcement action will, unless the law of the relevant participating jurisdiction provides otherwise, be taken in accordance with the following principles:
  - (a) the occupier of the reporting facility will be given the opportunity for an impartial hearing;
  - (b) if, following that hearing, the nominated agency thinks that the circumstances so warrant—
    - (i) the occupier may be named in the annual report of the Council as breaching its reporting requirements; and/or
    - (ii) appropriate penalties may be prescribed.

**26 Legal status of data supplied to the National Pollutant Inventory**

Information provided by an occupier solely for the purposes of the National Pollutant Inventory under this Measure will not be used by a participating jurisdiction as evidence in any court proceedings for non-compliance by the occupier with another obligation imposed by the jurisdiction.

**27 Security of data**

Participating jurisdictions should ensure that information provided by an occupier or aggregated emission or transfer data collected is not released to the public prematurely, unless the jurisdiction is legally compelled to release it, and that information provided is not able to be altered, unless as provided for by this Measure.

**28 Storage information**

Secure storage of information shall be provided by participating jurisdictions where:

- (a) confidentiality claims have been granted or have been sought and are being assessed; or
- (b) information is supplied in confidence for the purposes of developing aggregated emissions data or aggregated transfer data; or
- (c) information is supplied for the purposes of verifying emissions data, mandatory transfers data, or voluntary transfers data, in accordance with clauses 9, 15, 17, and 18.

**29 Access and provision of National Pollutant Inventory data to the public**

- (1) Information gathered under this Measure for a reporting period will be released to the general public by the Commonwealth on or before 31 March in the following year.
- (2) For the purpose of reporting of greenhouse gas emissions, information released to the general public will be attributed to the controlling business entity.
- (3) Access to information collected for the purposes of this Measure should be provided primarily by the Commonwealth through:
  - (a) internet access to the National Pollutant Inventory database; and
  - (b) publishing of reports summarising National Pollutant Inventory information

**30 Summary of information to be included in annual report**

A summary of information collected for the purposes of this Measure will also be included by the Council in its annual report to Parliaments of all participating jurisdictions.

**31 Way that Commonwealth will disseminate information**

- (1) The Commonwealth will ensure that information disseminated for the purposes of this Measure will:
  - (a) be in plain language, simply laid out, and include substance information to assist in interpretation as agreed between participating jurisdictions;

**Clause 32**

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- (b) subject to subclause 31(2), be free to the public (access via Internet, libraries, community organisations);
  - (c) be nationally available;
  - (d) include where practicable a geographic information system to allow information on the National Pollutant Inventory database to be viewed by locality, substance, reporting facility, activity or any combination of these factors;
  - (e) identify:
    - (i) additional information provided under clause 21;
    - (ii) the dates describing the reporting period for particular emission and transfer data, if this is not a reporting year;
  - (f) include where practicable, links and references to direct users to further information or databases; and
  - (g) clearly differentiate transfer data from emission data.
- (2) The Commonwealth may seek to recover dissemination costs of information derived from the National Pollutant Inventory data but notes that this does not allow the Commonwealth to recover costs for the provision of the emission data, mandatory and voluntary transfer data, supporting data, substance information, aggregated emission data or aggregated transfer data specified in this Measure.

**32 Rights of third parties**

The right of third parties to appeal decisions and enforce obligations with regard to the National Pollutant Inventory will be subject to mechanisms applying from time to time in participating jurisdictions.

**33 Review of this Measure**

- (1) This Measure will be subject to a comprehensive review, as determined by the Council and at least every five years consider:
- (a) the likely effectiveness of the Measure in achieving the national environment protection goals set out within it;
  - (b) the resources available for implementing the Measure; and
  - (c) the need, if any, for amendment of the Measure, including:
    - (i) whether substances should be added to or deleted from the reporting list;
    - (ii) whether any changes should be made to the thresholds or definitions which determine whether a facility is a reporting facility; and
    - (iii) whether any changes should be made to improve the effectiveness of the Measure in achieving the national environment protection goals set out within it.
- (2) Notwithstanding subclause 33(1), the Council may decide to amend the Measure, in accordance with section 20 of the Commonwealth Act, for example to amend Schedule A, prior to the review.

**34 Withdrawal of greenhouse gas reporting provisions**

Should a more comprehensive national scheme of greenhouse gas emissions and energy reporting come into force, Council will revoke the greenhouse gas and energy reporting obligations established in this Measure.

## Schedule A

### **Alphabetically-ordered reporting list of substances for the National Pollutant Inventory (determined by consideration of health and environmental risks in Australia)**

1. In this Schedule:
  - (a) the threshold for category 1 acids refers to the amount of the acid compound used (for example, in the case of 'Hydrochloric acid', the threshold refers to the amount of hydrogen chloride used). This amount can be calculated as a factor of volume and concentration;
  - (b) the thresholds for 'Total Nitrogen' and 'Total Phosphorus' refer only to the amounts of those Nitrogen and Phosphorus compounds that give rise to nitrate/nitrite and phosphate ions respectively and, for transfers, the thresholds of 'Total Nitrogen' and 'Total Phosphorus' refer only to the amounts of soluble compounds of Nitrogen and Phosphorus that are in materials that readily permit the dissolution of these substances;
  - (c) the threshold for 'Ammonia (total)' refers to the total amount of both ammonia ( $\text{NH}_3$  CAS number 7664-41-7) and the ammonium ion ( $\text{NH}_4^+$ ) in solution;
  - (d) the threshold for 'Chlorine & compounds' includes the amount of chlorine compounds used which may produce emissions of chlorine gas ( $\text{Cl}_2$ ), free residual chlorine, hypochlorite ion ( $\text{OCl}^-$ ), hypochlorous acid ( $\text{HOCl}$ ) or chloramines;
  - (e) the threshold for category 1 or category 1b substances that are listed as '(a metal) & compounds' refers to the total amount of the metal and its compounds used (for example, 'Lead & compounds' refers to Lead and all compounds which incorporate Lead);
  
2. For the purposes of estimating emission and mandatory transfer data to be reported under clause 9 of the Measure:
  - (a) the amount of a category 1 acid emitted refers to the amount of the actual acid compound emitted or transferred (for example, in the case of 'Hydrochloric acid', the amount emitted or transferred refers to the amount of hydrogen chloride emitted). It does not include any amounts of the acid that have been neutralised before release as the acid no longer exists;
  - (b) the amounts of 'Total Nitrogen' and 'Total Phosphorus' emitted or transferred refer to the amounts of those nitrogen and phosphorus compounds emitted or transferred that give rise to nitrate/nitrite and phosphate ions respectively and, for transfers, the amounts of 'Total Nitrogen' and 'Total Phosphorus' transferred refer only to the amounts of soluble compounds of nitrogen and phosphorus that are in materials that readily permit the dissolution of these substances;
  - (c) the amount of 'Ammonia (total)' emitted or transferred refers to the total amount of both ammonia ( $\text{NH}_3$  CAS number 7664-41-7) and the ammonium ion ( $\text{NH}_4^+$ ) emitted or transferred in solution;



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- (d) the amount of 'Chlorine & compounds' emitted or transferred refers to the total amount of chlorine gas (Cl<sub>2</sub>), free residual chlorine, hypochlorite ion (OCl<sup>-</sup>), hypochlorous acid (HOCl) and chloramines emitted or transferred, expressed as the equivalent weight of chlorine (Cl);
  - (e) the amount emitted or transferred in relation to a substance listed as '(a metal) & compounds' refers only to the amount of the metal emitted or transferred (for example, the amount of 'Lead & compounds' emitted refers only to the amount of Lead emitted);
  - (f) the amount of 'Polychlorinated Dioxins and Furans (TEQ)' emitted or transferred refers to the sum of the toxic equivalent amounts of the individual congeners emitted. Toxic equivalent amounts are obtained by multiplying the mass of the congener by the Toxicity Equivalency Factor published in industry reporting materials;
  - (g) the amount of 'Polycyclic Aromatic Hydrocarbons (Benzo[a]pyrene equivalent) (PAHs B[a]P<sub>eq</sub>)' emitted refers to the sum of the toxic equivalent amounts of the individual congeners emitted or transferred. Toxic equivalent amounts are obtained by multiplying the mass of the congener by the Toxicity Equivalency Factor published in industry reporting materials;
  - (h) the amount of 'Oxides of Nitrogen' emitted refers to the mass of Nitrogen oxide and Nitrogen dioxide expressed as the equivalent mass of Nitrogen dioxide according to the protocol published in industry reporting materials;
  - (i) the amount of 'Particulate Matter ≤2.5 μm (PM<sub>2.5</sub>)' emitted refers only to the amount emitted from the burning of fuel or waste.

**Table 1**

<b>COLUMN 1 Substance</b>	<b>COLUMN 2 CAS No.</b>	<b>COLUMN 3 Threshold Category See explanatory note below*</b>
Acetaldehyde	75-07-0	1
Acetic acid (ethanoic acid)	64-19-7	1
Acetone	67-64-1	1
Acetonitrile	75-05-8	1
Acrolein	107-02-8	1
Acrylamide	79-06-1	1
Acrylic acid	79-10-7	1
Acrylonitrile (2-propenenitrile)	107-13-1	1
Ammonia (total)	N/A	1
Aniline (benzenamine)	62-53-3	1
Antimony & compounds	7440-36-0	1
Arsenic & compounds	7440-38-2	1 and 2b
Benzene	71-43-2	1
Benzene hexachloro- (HCB)	608-73-1	1
Beryllium & compounds	7440-41-7	1 and 2b
Biphenyl (1,1-biphenyl)	92-52-4	1
Boron & compounds	7440-42-8	1
1,3-Butadiene (vinyl ethylene)	106-99-0	1
Cadmium & compounds	7440-43-9	1 and 2b
Carbon disulfide	75-15-0	1
Carbon dioxide	124-38-9	2b and 4
Carbon dioxide equivalent (indirect)	N/A	4
Carbon monoxide	630-08-0	1, 2a and 2b
Chlorine & compounds	N/A	1
Chlorine dioxide	10049-04-4	1
Chloroethane (ethyl chloride)	75-00-3	1
Chloroform (trichloromethane)	67-66-3	1
Chlorophenols (di, tri, tetra)	N/A	1
Chromium(III) compounds	7440-47-3	1 and 2b
Chromium(VI) compounds	7440-47-3	1 and 2b
Cobalt & compounds	7440-48-4	1
Copper & compounds	7440-50-8	1 and 2b

<b>COLUMN 1 Substance</b>	<b>COLUMN 2 CAS No.</b>	<b>COLUMN 3 Threshold Category</b> See explanatory note below*
Cumene (1-methylethylbenzene)	98-82-8	1
Cyanide (inorganic) compounds	N/A	1
Cyclohexane	110-82-7	1
1,2-Dibromoethane	106-93-4	1
Dibutyl phthalate	84-74-2	1
1,2-Dichloroethane	107-06-2	1
Dichloromethane	75-09-2	1
Ethanol	64-17-5	1
2-Ethoxyethanol	110-80-5	1
2-Ethoxyethanol acetate	111-15-9	1
Ethyl acetate	141-78-6	1
Ethyl butyl ketone	106-35-4	1
Ethylbenzene	100-41-4	1
Ethylene glycol (1,2-ethanediol)	107-21-1	1
Ethylene oxide	75-21-8	1
Di-(2-ethylhexyl)phthalate (DEHP)	117-81-7	1
Fluoride compounds	N/A	1, 2a and 2b
Formaldehyde (methyl aldehyde)	50-00-0	1
Glutaraldehyde	111-30-8	1
Hydrofluorocarbons (HFCs)	N/A	4
n-Hexane	110-54-3	1
Hydrochloric acid	7647-01-0	1, 2a and 2b
Hydrogen sulfide	7783-06-4	1
Lead & compounds	7439-92-1	1 and 2b
Magnesium oxide fume	1309-48-4	1 and 2b
Manganese & compounds	7439-96-5	1
Mercury & compounds	7439-97-6	1b and 2b
Methane	74-82-8	4
Methanol	67-56-1	1
2-Methoxyethanol	109-86-4	1
2-Methoxyethanol acetate	110-49-6	1
Methyl ethyl ketone	78-93-3	1
Methyl isobutyl ketone	108-10-1	1
Methyl methacrylate	80-62-6	1

<b>COLUMN 1 Substance</b>	<b>COLUMN 2 CAS No.</b>	<b>COLUMN 3 Threshold Category</b> See explanatory note below*
4,4'-Methylene bis(2-chloroaniline) (MOCA)	101-14-4	1
Methylenebis(phenylisocyanate)	101-68-8	1
Nickel & compounds	7440-02-0	1 and 2b
Nickel carbonyl	13463-39-3	1
Nickel subsulfide	12035-72-2	1
Nitrous oxide	10024-97-2	2b and 4
Nitric acid	7697-37-2	1
Organo-tin compounds	N/A	1
Oxides of Nitrogen	N/A	2a and 2b
Particulate Matter $\leq 2.5 \mu\text{m}$ (PM <sub>2.5</sub> )	N/A	2a and 2b
Particulate Matter $\leq 10.0 \mu\text{m}$ (PM <sub>10</sub> )	N/A	2a and 2b
Perfluorocarbons (PFCs)	N/A	4
Phenol	108-95-2	1
Phosphoric acid	7664-38-2	1
Polychlorinated Biphenyls	N/A	1
Polychlorinated dioxins and furans (TEQ)	N/A	2b
Polycyclic aromatic hydrocarbons (B[a]P <sub>eq</sub> )	N/A	2a and 2b
Selenium & compounds	7782-49-2	1
Styrene (ethenylbenzene)	100-42-5	1
Sulfur dioxide	7446-09-5	1, 2a and 2b
Sulfur hexafluoride	2551-62-4	4
Sulfuric acid	7664-93-9	1
1,1,2,2-Tetrachloroethane	79-34-5	1
Tetrachloroethylene	127-18-4	1
Toluene (methylbenzene)	108-88-3	1
Toluene-2,4-diisocyanate	584-84-9	1
Total Nitrogen	N/A	3
Total Phosphorus	N/A	3
Total Volatile Organic Compounds	N/A	1a, 2a and 2b
1,1,2-Trichloroethane	79-00-5	1
Trichloroethylene	79-01-6	1
Vinyl Chloride Monomer	75-01-4	1
Xylenes (individual or mixed isomers)	1330-20-7	1

COLUMN 1 Substance	COLUMN 2 CAS No.	COLUMN 3 Threshold Category See explanatory note below*
Zinc and compounds	7440-66-6	1

**\* Explanatory Note on Threshold Category**

The following is an abbreviation of the definitions in clauses 10, 11, 12 and 13 and are for guidance only. For the full definition of the thresholds refer to the appropriate clause.

Category 1 involves the use of 10 tonnes or more of the substance in the period.

Category 1a involves the use of 25 tonnes or more of the substance in the period.

Category 1b involves the use of 5 kilograms or more of the substance in the period.

'use' of a substance means the handling, manufacture, import, processing, coincidental production or other use of the substance.

Category 2a involves the burning of:

- (a) 400 tonnes or more of fuel or waste in the period; or
- (b) 1 tonne or more of fuel or waste in any hour in the period.

Category 2b substance involves:

- (a) the burning of 2,000 tonnes or more of fuel or waste in the period; or
- (b) the consumption of 60,000 Megawatt hours or more of electrical energy in the period for other than lighting or motive purposes; or
- (c) the maximum potential power consumption of the facility being rated at 20 megawatts or more for other than lighting or motive purposes.

Category 3 involves the emission to water or transfer to a mandatory reporting transfer destination of 15 tonnes of Total Nitrogen or 3 tonnes of Total Phosphorus.

Category 4 involves a controlling business entity:

- (a) emitting 25,000 tonnes or more of greenhouse gases expressed in carbon dioxide equivalents; or
- (b) producing or consuming 100 terajoules or more of energy in the reporting period.

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## Notes to the National Environment Protection (National Pollutant Inventory) Measure 1998

### Note 1

The National Environment Protection (National Pollutant Inventory) Measure 1998 (in force under section 14 of the *National Environment Protection Council Act 1994*) as shown in this compilation is amended as indicated in the Tables below.

### Table of Instruments

Title	Date of notification in Gazette/Registration on FRLI	Date of commencement	Application, saving or transitional provisions
<i>National Environment Protection (National Pollutant Inventory) Measure</i>	4 March 1998, S89	C. 1 & 2 commenced on 4 March 1998, remaining provisions on 1 July 1998	
<i>National Environment Protection (National Pollutant Inventory) Measure as varied 2000</i>	30 August 2000, GN34.	30 August 2000	—
<i>Variation to the National Environment Protection (National Pollutant Inventory) Measure 2007 (No. 1)</i>	14 August 2007	15 August 2007	—

## Table of Amendments

ad. = added or inserted    am. = amended    om. = omitted    os. = omitted and substituted

Provision affected	How affected
<b>PART 1</b>	
Clause 2.....	os. Variation 2007 (No.1)
Subclause 3(3).....	am. Variation 2003, am. Variation 2007 (No.1),
Clause 3A.....	ad. Variation 2007 (No.1)
Subclause 4(1).....	os. Variation 2007 (No.1)
Subclauses 4(2), (3).....	om. Variation 2007 (No.1)
<b>PART 2</b>	
Clause 5, heading.....	os. Variation 2007 (No.1)
Paragraph 5(c).....	os. Variation 2007 (No.1)
Clause 6.....	os. Variation 2007 (No.1)
Clause 7.....	os. Variation 2007 (No.1)
Clause 8, heading.....	am. Variation 2007 (No.1)
Paragraphs 8(a), (b), (c)(i).....	am. Variation 2007 (No.1)
<b>PART 3</b>	
Clause 9.....	os. Variation 2007 (No.1)
Clause 10 - Heading.....	os. Variation 2007 (No.1)
Subclause 10(2).....	am. Variation 2007 (No.1)
Subclause 10(2A).....	ad. Variation 2007 (No.1)
Paragraph 10(4)(a).....	am. Variation 2007 (No.1)
Clause 10(5).....	am. Variation 2007 (No.1)
Clause 11.....	os. Variation 2007 (No.1)
Clauses 12, 13, 14.....	os. Variation 2007 (No.1)
Clause 15.....	os. Variation 2007 (No.1)
Clause 16, heading.....	am. Variation 2007 (No.1)
Clause 17, heading.....	am. Variation 2007 (No.1)
Clause 17.....	am. Variation 2007 (No.1)
Clause 18.....	os. Variation 2007 (No.1)
Clause 19.....	am. Variation 2007 (No.1)
Paragraph 19(b).....	os. Variation 2007 (No.1)
Paragraph 19 (d), (f).....	om. Variation 2007 (No.1)
Paragraph 19 (e).....	am. Variation 2007 (No.1)
Clause 20 - Heading.....	os. Variation 2007 (No.1)
Subclause 21(1).....	am. Variation 2007 (No.1)
Subclause 21(3).....	am. Variation 2007 (No.1)
<b>PART 4</b>	
Clause 22.....	os. Variation 2007 (No.1)

ad. = added or inserted    am. = amended    om. = omitted    os. = omitted and substituted

<b>Provision affected</b>	<b>How affected</b>
Subclause 23 .....	am. Variation 2007 (No.1)
Subclauses 24(1), (3), (4) .....	am. Variation 2007 (No.1)
Clause 25(1) .....	am. Variation 2007 (No.1)
Subclauses 25(2), (3), (4), (5), (6) .....	os. Variation 2007 (No.1)
Clause 26 .....	am. Variation 2007 (No.1)
Clause 27 .....	am. Variation 2007 (No.1)
Clause 28, heading .....	am. Variation 2007 (No.1)
Paragraphs 28 (b), (c).....	am. Variation 2007 (No.1)
Clause 29 .....	os. Variation 2007 (No.1)
Clause 30, heading .....	am. Variation 2007 (No.1)
Clause 30 .....	am. Variation 2007 (No.1)
Clause 31, heading .....	am. Variation 2007 (No.1)
Subclause 31(1) .....	am. Variation 2007 (No.1)
Paragraphs 31 (1)(a), (1)(d) .....	am. Variation 2007 (No.1)
Paragraph 31 (1)(e) .....	os. Variation 2007 (No.1)
Paragraphs 31 (f) .....	am. Variation 2007 (No.1)
Subclause 31(2) .....	os. Variation 2007 (No.1)
Clause 32 .....	am. Variation 2007 (No.1)
Clause 33 (1) .....	am. Variation 2007 (No.1)
Sub-subparagraph 33(1)(c)(i) .....	am. Variation 2007 (No.1)
Clause 33 (2) .....	am. Variation 2007 (No.1)
Clause 34 .....	ad. Variation 2007 (No.1)
<b>Schedule A</b>	
Schedule A .....	am. Variation 2007 (No.1)
Table 1.....	os. Variation 2007 (No.1)
Table 2.....	om. Variation 2007 (No.1)