

Environment Protection (Water Quality) Policy 2015 – introduction to key changes and clause-by-clause explanation

Issued November 2015

EPA 995/15: This information sheet introduces the Environment Protection (Water Quality) Policy 2015, which replaces the 2003 policy. Changes explained in this document were subjected to the statutory process required by section 28 of the Environment Protection Act 1993.

The information provided should be treated as a guide only, and is not a substitute for independent legal and financial advice in relation to all of the information contained herein.

Introduction

Water quality in South Australia is protected by the *Environment Protection Act 1993* (EP Act) and the environment protection policies made under it. The *Environment Protection (Water Quality) Policy 2015* (WQ EPP 2015) provides the most specific and detailed protection of the state's surface, marine and underground water sources.

The WQ EPP 2015 replaced the previous WQ EPP 2003, following an extensive revision.

The WQ EPP 2015 provides the structure for the regulation and management of waters. It is a flexible document that allows values to be changed without undue delay, and creates specific controls to deal with particular situations. It is also used regularly by local councils as part of their general stormwater management programs.

The policy regulates both specified activities and diffuse sources of pollution by calling up a range of codes of practice which have legal effect through the policy. The codes are formally recognised as another tier in the statutory enforcement and compliance scheme.

The revision process considered the policy's effectiveness and reviewed some of its central clauses. The key question in considering amendments was: 'Will they lead to a better environmental outcome overall?' In particular, the changes create requirements that deal with water quality in a more flexible way, in some cases replacing mandatory requirements with defined and measurable targets enforceable by environmental protection orders, while at the same time being adaptable enough to allow for an active program of continuous improvement. Other changes correct anomalies, reflect current practices and make the policy easier to navigate.

The process of amending the WQ EPP

The changes outlined in this explanatory report were subject to the statutory process required by section 28 of the EP Act. This section outlines consultation requirements for amending an environment protection policy and the decision-making powers of the Minister.

An amendment of this type, following consultation and approval by the Minister, was required by section 30 of the EP Act to be referred to the Environment, Resources and Development Committee of Parliament and both Houses of the Parliament for review and possible amendment or disallowance.

Overview of the Policy amendments

Application of the WQ EPP

The WQ EPP 2003 (via clause 4) applied to surface (marine, creeks and rivers) and underground waters. It also included water within a public stormwater disposal system or irrigation drainage channel. But it did *not* include water within the pipes and tanks of a water reticulation system; water within a sewage system or wastewater management system; water within a closed tank constructed of or lined with material impervious to water; and swimming pool water. The following amendments were brought into WQ EPP 2015.

Salt interception schemes (SIS)

Salt interception scheme (SIS) water within a pipe was excluded from the operation of the WQ EPP, but continues to apply with respect to final discharge into an evaporation basin, where the basin forms a permanent or mainly permanent body of water.

The reasoning for this amendment was to accommodate the use of this saline water by aquaculture businesses, which may then seek to dispose of the water back into the SIS pipe with some amount of nutrients incorporated. Access to the water from these schemes (and any subsequent discharge back to the scheme) is managed by SA Water. This provides for significant control as to the amount of water taken from the scheme and the quality requirements of discharges back into the system, and the overall impact that this may have on the receiving waters (generally evaporation basins).

Catchment management infrastructure

The definition of 'public stormwater system' was broadened to ensure that catchment management infrastructure such as detention basins and artificial wetlands are included in the definition, as well as further clarifying that any public infrastructure for the purpose of collecting, treating or conveying stormwater is part of the public stormwater system.

This amendment ensures that discharges from public catchment management infrastructure are excluded from the policy and further clarifies that discharging waste or a pollutant to a street or gutter (being part of the drainage network) is considered a discharge to waters under the policy.

Protective water quality guidelines and a general duty

The WQ EPP 2003 established an offence (clause 13) where a person discharges or deposits a pollutant into any waters, and causes an exceedence of water quality criteria (Schedule 2).

This obligation was changed from a mandatory requirement to a general duty which requires a person who discharges or deposits a pollutant into any waters to take 'all reasonable and practicable measures' to ensure that 'any of the water quality guidelines applicable to those waters are met'. The obligation can be enforced where necessary by the issuing of an environment protection order (EPO) to give effect to the provisions of the WQ EPP 2015 and to prevent, limit or otherwise control any discharge or deposit which pollutes or might pollute the environment. This new provision is in clause 9 of the WQ EPP 2015.

Compliance with this part of the policy for EPA licensed activities can also be achieved through licence management, including the use of licence conditions. Should a particular activity be better managed through specific mandated water quality criteria, it is still possible to do so for a licensed activity as a condition where those criteria are as stringent, or more stringent than the policy.

In accordance with this change the applicable criteria will be tightened to reflect national guidelines that protect environmental values and will form the basis for an effective continuous improvement approach to reduce discharges into waters to the greatest extent achievable.

The water quality criteria in the WQ EPP 2003 were more generous than desirable in some instances and did not adequately protect the state's waters. Current thresholds are up to an order of magnitude higher than those necessary to provide adequate protection and in many cases exceed the national guidelines (ANZECC 2000¹).

The need for tightening of water quality criteria is evident in Adelaide's coastal waters. The Adelaide Coastal Waters Study (ACWS) identified nitrogen pollution as the primary cause for the loss of thousands of hectares of seagrasses along the coastline. The ACWS indicated that nitrogen pollution loads discharged into these waters needed to be reduced by about 75% in order to protect the seagrass beds². The average nitrogen concentrations in these waters comfortably meet the WQ EPP 2003 criteria, but did not adequately protect environmental values.

The new approach allows the EPA to treat every matter on the basis of its potential environmental impacts and the extent to which the discharges can be reduced to eliminate any impact. The 'reasonable and practicable test' will be determined by what can be expected of the industry generally while the National Water Quality Guideline requirements will be much more stringent.

Repeal of mixing and attenuation zone requirements (clauses 14 and 15)

The WQ EPP 2003 set out mandatory conditions (clauses 14 and 15) that must apply to any exemptions given to clause 13. That is, a person exempted from clause 13 must comply with clause 14 (a mixing zone in the case of surface waters) or clause 15 (an attenuation zone in the case of underground waters). Both clauses impose a number of requirements on a person exempted from clause 13, including the size of the zones. In practice, these inflexible 'one size fits all' specifications have caused difficulties as they are too restrictive and often cannot be complied with.

Since clause 13 became a general duty provision, there is no longer a need for those clauses; exemptions apply only to mandatory requirements.

Wastewater storage lagoons

Clause 18 of the WQ EPP 2003 related specifically to wastewater storage lagoons and provided a series of directions from their planning through to their operation.

The clause provided formal and specific directives to the EPA on assessing planning and licence applications although it was inconsistent with the approach adopted for assessing other activities, where each is assessed based on risk rather than necessarily a set of prescriptive criteria. Furthermore, subclause 18(1) only applies to lagoons that are developments within the meaning of the *Development Act 1993* or which require an authorisation under the EP Act.

Some large agricultural lagoons do not need a licence or development application, but may present a far higher risk than smaller lagoons included in a development or associated with a licensed activity. In this sense clause 18 had a patchy operation that did not necessarily deal with the issues of greatest environmental significance.

Clause 18 in WQ EPP 2003 had the following issues:

- It was too limited in its cover, applying only to wastewater lagoons. It needed to be extended to cover a wider series of water bodies, namely sedimentation basins, managed wetlands and tailings dams. Furthermore, it did not cover the construction of all lagoons.

¹ [Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000](#)

² The [Adelaide Coastal Waters Study](#), Final Report, vol 1 (2007).

- The mandatory provisions imposed an arbitrary set of requirements that went so far as to create internal inconsistencies within the WQ EPP itself and which can be better dealt with by a code of practice and enforced through an EPO as necessary.
- The construction and operation of these lagoons was a 'particular activity' which needed to be more logically dealt with elsewhere.

The WQ EPP 2015 clause 20 covers wastewater lagoons in a manner that reflects the 2008 discussion paper concerns.

Anti-foulants

The WQ EPP 2003 clause 22 related to the use of anti-foulants on the hulls of vessels or other surfaces was amended to prohibit the use of tributyltin (TBT). That amendment brought state legislation in line with current national legislation restricting the use of TBT-based anti-foulants.

The use of TBT has been banned internationally and also nationally, in particular by the *International Convention on the Control of Harmful Anti-fouling Systems on Ships* in 2001, to which Australia became a signatory in January 2008.

The Federal Government has implemented its obligations under this convention through the *Protection of the Sea (Harmful Anti-fouling Systems) Act 2006*. This Act, which came into force in September 2008, applies to harmful anti-fouling compounds notably organotin compounds that act as a biocide in an anti-fouling system. This includes TBT.

This change does not lead to any additional burdens or costs to South Australia's marine industry since it brings the state into line with national requirements and reflects provisions that already apply to SA's vessels through national legislation. The marine community in this state has for some years been aware of the phasing out of anti-foulants containing TBT which have been increasingly in short supply, since its sale and use has also been banned under federal agricultural and veterinary chemicals legislation. This change to the policy improves enforcement by allowing the EPA, administering agencies and delegates under the EP Act to take action in addition to the Australian Maritime Safety Authority.

Also, clause 22(4) was amended to make it clear that the person involved in cleaning the hull of a vessel has a duty to make sure that material removed during this process does not get into waters, or is not left in any place where it might later get into waters. This is an application of the existing statutory duties expressed in section 25 of the EP Act. It reflects good management practice and will not place any additional costs on persons who undertake hull cleaning. There are provisions proposed to exclude certain authorised aquaculture applications under the *Aquaculture Act 2001*.

Scheduled pollutants

In WQ EPP 2003, pollutants listed under Parts 1 and 2 of Schedule 4 are now referred to as Class 1 and 2 pollutants under the WQ EPP 2015. The lists of pollutants are used for the purpose of the mandatory discharge provisions of the policy.

In WQ EPP 2003 they related to clauses 17 and 19, while in WQ EPP 2015, they relate to clauses 10 and 11.

Pollutants that are listed in Schedule 4 were seen in 2003 as a default position and it was expected that there would be continual monitoring of the policy with a view to updating and modifying the listings.

The changes fell into the following groups:

- more specific referencing of wastes by listing types of waste
- additional pollutants which should be added to the list
- clarifications to the existing list.

Other amendments

Given the length of time that the WQ EPP 2003 had been in operation and in order to best accommodate some of the main amendments described, the review included a revision of the structure of the policy and also addressed other minor issues, including definitions. These are highlighted where practicable below against each of the new clauses.

Environment Protection (Water Quality) Policy 2015

Clause-by-clause explanation

Part 1–Preliminary

Clause 1: Short title

Clause 1 names the WQ EPP.

Clause 2: Commencement

Clause 2 provides the usual mechanism for the commencement of the WQ EPP by a date to be fixed by the Governor by notice in the Gazette.

Clause 3: Interpretation

Clause 3 provides definitions for terms used throughout the WQ EPP. Future changes to the definitions will be able to be made using the simpler procedure available under section 32(1)(c) of the EP Act.

The following changes have been made to the interpretation clause:

abattoir, slaughter house or poultry processing works – added to provide clarity as to the application of clause 15(2)(a) of the WQ EPP 2015.

aquaculture licence – added to accommodate exclusions from mandatory provisions of the policy which prohibit discharges of faeces and therapeutic chemicals, and the use of anti-foulants in waters which are a necessary undertaking in some areas of the aquaculture industry and are adequately controlled via licensing under the Aquaculture Act 2001.

cavity in land – added as a consolidated descriptor of terms used in clause 19 of WQ EPP 2003 and clause 11 in WQ EPP 2015.

Class 1 pollutant – added as replacement terminology for pollutants listed in Part 1 of Schedule 4 in WQ EPP 2003 and for use in clause 10 and Schedule 2 of WQ EPP 2015.

Class 2 pollutant – added as replacement terminology for pollutants listed in Part 2 of Schedule 4 in WQ EPP 2003 and for use in clause 11 and Schedule 3 of WQ EPP.

composting works – minor amendment to remove specific reference to mushroom compost as a separate descriptor as mushroom compost is a form of compost that will be captured by the broader definition.

contaminated stormwater – minor amendment to reflect the use of the terms ‘Class 1’ and ‘Class 2’ pollutants in WQ EPP 2015.

discharge waste or a pollutant – added to clarify that the use of the term ‘discharge’ has a broader meaning in the policy.

environmental value of waters – referred in WQ EPP 2003 as ‘protected environmental values’. This amendment addresses the change from a schedule of water quality criteria to the use of the national water quality guidelines.

hazardous waste – added to accommodate addition of hazardous waste to the list of pollutants now referred to as Class 1 pollutants.

inland waters – contracted for ease of interpretation.

listed waste – added to inform the definition of hazardous waste.

livestock saleyard – referred to in current policy simply as 'saleyard'. Minor amendment to clarify that it relates to livestock saleyards.

mandatory provision – added to clarify the meaning of 'mandatory provision' in the policy.

MAR scheme – replaces the definition of 'aquifer water storage and recovery scheme' in WQ EPP 2003 and broadens its application to all waters given this technology is now used for treated wastewater and river water in addition to stormwater, which was its only application at the commencement of WQ EPP 2003.

medical sharp – added to inform the definition of 'medical waste'.

medical waste – added to clarify the coverage of 'medical waste' which has been added as a Class 1 pollutant.

premises – slight amendment to clarify that this relates to fish processing works.

prescribed waters – added for the purpose of making the provisions relating to waste from vessels more concise.

public stormwater system – added to clarify the application of the policy in relation to public stormwater systems. The WQ EPP 2003 referred to public stormwater disposal system but did not have a definition. Issues raised with this policy definition that have been addressed in WQ EPP 2015 are that stormwater reuse is common and disposal reflects past attitudes towards stormwater as a form of waste rather than a resource and that a strong definition is needed to ensure streets and gutters particularly are considered part of a public stormwater system for the purposes of the policy.

salt interception scheme – included to clarify the exemption added in relation to salt interception schemes in the WQ EPP 2015 (clause 8).

sinkhole – added to define term that is used in WQ EPP 2003 and retained in 2015.

surface waters – amended to simplify definition.

underground waters – amended for clarity and now relates to references to waters (rather than water) in the WQ EPP 2015.

wastewater lagoon – amended to remove reference to storage and better articulated to ensure coverage of the various types of lagoon that are applicable in the WQ EPP 2015.

Water Quality Guidelines – added to accommodate the use of the Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000.

Clause 4: Waste management hierarchy

The waste management hierarchy is within the objects of the current policy. The WQ EPP 2015 has not retained the objects as they generally do not add to the compliance requirements of the policy. The waste management hierarchy is considered valuable in the move to general environmental duty for certain provisions of the policy. In order to strengthen this association the waste management hierarchy is included as a relevant requirement for those demonstrating their general environmental duty through clause 9. The link to Zero Waste SA Act 2004 is also highlighted as a note under this clause.

Clause 5: Environmental harm

This clause provides further articulation of what constitutes environmental harm for the purposes of the EP Act in relation to water quality. The clause operates under section 5(1)(b) of the EP Act, in that an EPP can be used to declare certain things to be environmental harm. Clause 5 has no offence provision; it informs the main environmental harm related offences provided under the EP Act (environmental nuisance, material environmental harm, serious environmental harm) and any further reference to environmental harm within the policy. The criteria for each of these offences is then applied to determine if an offence has been committed.

Clause 6: Environmental value of waters

This clause essentially has the same function as the definition of 'protected environmental value' in the WQ EPP 2003, but has been re-aligned with the Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000.

Clause 7: Activation of trigger values

This clause sets the relevant values listed in the Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000 that trigger the general environmental duty provisions in clause 8 of the new policy. These values replace the ecosystem and primary industry related water quality criteria listed in Schedule 2 of the current policy that operate on a mandatory basis.

The proposed trigger values are considered necessary to protect the environment and are more stringent than those that appear in Schedule 2 of the WQ EPP 2003. The intention of setting more stringent criteria under a non-mandatory arrangement is to drive continuous improvement towards these values. The current criteria do not necessarily protect the environment and their mandatory nature requires exemptions for those who cannot meet them, which does not result in improved environmental outcomes. The new regime of continuous improvement will allow the EPA to require improvements based on what is reasonable and practicable. Compliance with clause 8 can be achieved through the issuing of an environment protection order under the EP Act.

Clause 8: Application of policy

This clause replaces clause 4 of the WQ EPP 2013. The only amendment is the additional exclusion of water within pipes and closed tanks of a salt interception scheme. This has been added to accommodate appropriate use of this water by the aquaculture industry noting that access to the water and quality of the water being returned will be managed by SA Water who operates the schemes in South Australia.

Part 2—Water quality measures**Division 1—General environmental duty****Clause 9: General environmental duty (section 25 of the Act)**

Clause 9 establishes the newly specified general environmental duty provisions in the WQ EPP 2015 and also clarifies the role of codes of practice and guidelines referenced in the policy.

The clause establishes requirements for compliance with section 25 of the EP Act but does not seek to restrict the operation of that section should there be extraneous circumstance to these provisions be considered relevant in meeting the general environmental duty provisions of the EP Act.

Subclause (a) provides for the waste management hierarchy that is detailed in clause 4 to be a necessary consideration in demonstrating the general environmental duty.

Subclauses (b)–(d) establish the necessary consideration of the relevant national guidelines in demonstrating the general environmental duty and subclause (b) specifically provides for the functionality of clause 7 which establishes the trigger values that operate via this subclause. This essentially replaces clause 13 of the 2003 policy.

Subclauses (e) and (f) provide clarity on the operation of codes of practice and guidelines in Schedule 1 of the policy. There is no change from the operation of codes and guidelines under the WQ EPP 2003 but this guidance is not articulated.

Division 2—Offences**Clause 10: Class 1 pollutants**

This clause replaces clauses 17 in the WQ EPP 2003. It remains as a mandatory provision and a Category B offence.

There have been three exclusions added to address potential conflicts in the WQ EPP 2003:

- The first of these relates to aquaculture and addresses a potential conflict where 'chemicals designed for human or animal therapeutic use' are listed as a Class 1 pollutant (a Schedule 4 pollutant in the WQ EPP 2003 and a Schedule 2 pollutant in the WQ EPP 2015) which prohibits their discharge to waters or onto land in a place from which it is reasonably to enter any waters but can be given Ministerial approval for use under the Aquaculture Act 2001.

The exclusion is very specific that these chemicals are only excluded where they are used by a holder of a licence under the Aquaculture Act and in accordance with the *Aquaculture Regulations 2005*.

Regulation 10 controls the use of these chemicals in aquaculture operations. The EPA will seek greater involvement in approvals issued under the regulations and the appropriate use of approved veterinary chemicals to ensure environment protection is adequately considered.

- The second exclusion is for the discharge of wastewater or liquid waste by the holder of an environmental authorisation in accordance with conditions of their authorisation.

Without any clarification all discharges from licensed activities will be picked up. However, picking up discharges that may be in excess of authorised limits or not part of a licence may also be a valuable and efficient compliance tool for the EPA. The exclusion is proposed as only applicable to discharges in accordance with an authorisation rather than carte blanche exclusion for licensed activities.

- The third exclusion is where a Class 1 pollutant may be lawfully discharged under a subsequent provision of the policy. Examples being sewage discharged from vessels that is lawful when compliant with clause 10 or material is discharged in stormwater from extractive industries where as much material has been removed as is reasonable and practicable (clause 11).

Clause 11: Class 2 pollutants

This clause replaces clause 19 in the WQ EPP 2003. It remains a mandatory provision and a Category B offence.

The clause in the WQ EPP 2015 is slightly different in that it introduces the term 'cavity in land' to replace the individual references to subsurface structures in the current policy. There is no functional change as these subsurface structures are included in the definition of 'cavity in land' in clause 3 of the WQ EPP 2015.

The clause also includes three exclusions to address potential conflicts in the current policy:

- The first is for the discharge of wastewater or liquid waste by the holder of an environmental authorisation in accordance with conditions of their authorisation.
- The second exclusion is for the discharge into waters of faeces from aquatic organisms by the holder of an aquaculture licence (granted by PIRSA) acting in accordance with the licence. Many aquaculture operations by their nature discharge faeces directly to waters (eg fin fish cages, oyster farms) which is an offence under the WQ EPP 2003. All aquaculture licence applications are referred to the EPA for assessment and it has directive powers to set licence conditions to protect the environment. The amendment only applies when acting in accordance with the licence any activity outside of licence conditions (eg additional biomass) that generates faeces will still be an offence under the WQ EPP 2015.
- The third exclusion is with respect to environmental watering, which is the use of water to replenish or sustain the ecological values of ecosystems within the waters.
- The fourth exclusion is where a Class 2 pollutant may be lawfully discharged under a subsequent provision of the policy, as discussed against clause 10. An example of its application is where material is discharged in stormwater from extractive industries where as much material has been removed as is reasonable and practicable as provided (clause 19).

Clause 12: Discharge limits for declared activities

This clause replaces clause 16 and Schedule 3 of the WQ EPP 2003. It provides for the same functionality but does not have a schedule for any such determinations to sit. Rather it allows a declaration or amendment to be made under section 32(1)(c) of the EP Act. It is envisaged that any such declaration will take the form of a new clause within the policy and possibly a new schedule.

The clause remains as a mandatory provision and it is now a Category A offence (previously it was a Category B offence in WQ EPP 2003). The reason for this is that discharge limits will generally be applied to large polluters and the maximum \$4,000 court imposed penalty for a Category B offence is not considered a strong enough financial deterrent.

Clause 13: Anti-foulants

This clause establishes the prohibition of tributyltin (TBT) as a Category A offence. This replaces WQ EPP 2003 provisions that allow the application of TBT.

The use of TBT has been banned nationally and internationally, in particular by the International Convention on the Control of Harmful Anti-fouling Systems on Ships in 2001, to which Australia became a signatory in January 2008.

The Federal Government has implemented its obligations under this Convention through the Protection of the Sea (Harmful Anti-fouling Systems) Act 2006. This Act, which came into force in September 2008, applies to harmful anti-fouling compounds notably organotin compounds that act as a biocide in an anti-fouling system. This includes TBT.

The Commonwealth legislation applies only where state legislation does not exist. Given TBT is provided for in the current policy it is necessary to amend the policy to ban its use to ensure that South Australia's legislation is compliant with Australia's international treaty obligations.

The non-TBT clauses remain the same in the WQ EPP 2015 except for an exclusion which relates to the use of anti-foulant by the holder of an aquaculture licence in accordance with the Aquaculture Regulations. The use of anti-foulants in aquaculture operations is managed via the regulations. The EPA will seek greater involvement in approvals issued under those regulations and the appropriate use of approved veterinary chemicals to ensure environment protection is adequately considered.

Clause 14: Waste from extractive industries

This clause replaces clause 26 from the WQ EPP 2003. It functions in the same way although the definition of 'extractive industry' within the clause has been moved to clause 3 and amended to clarify that the clause does not apply to dredging or sand replenishment activities. These are by their nature unlikely to comply with the clause and can be appropriately managed via other provisions in the EP Act.

Clause 15: Waste from miscellaneous works

This clause consolidates the main regulatory components of clauses 21, 23–25, 27–31, 35 and 38 of the WQ EPP 2003. Each of these clauses share the same compliance requirement in the WQ EPP 2003 so the consolidation of these clauses will still operate in exactly the same manner.

The interpretation from these clauses has been moved to clause 3 in the WQ EPP 2015 and any references to guidelines have moved to Schedule 4 and operates via clause 9.

Clause 16: Waste from septic systems

This clause replaces clause 32 of the WQ EPP 2003. It functions in the same manner, although some changes to the clause were necessary to accommodate the change from mandatory water quality criteria to the general environmental duty under clause 9 and the effect this has on the exclusion provisions as expressed in the WQ EPP 2003.

The WQ EPP 2003 contains an exclusion for discharges that have been treated to ensure that the water quality objectives for those waters that the discharge will, or is likely to, enter are not prejudiced at the point of discharge. With the removal of mandatory water quality objectives the exclusion is no longer appropriate for this mandatory provision of the policy. It was necessary to extract the most relevant water quality criteria from the WQ EPP 2003 and include these within the clause as the mandatory criteria to be met.

The criteria for use are total nitrogen (as nitrogen), total phosphorous (as phosphorous) and biochemical oxygen demand. This will result in retaining the status quo with regard to regulation of septic tank discharges, and limits the number of criteria to be measured against reducing the regulatory burden of compliance.

Clause 17: Waste from sewerage infrastructure

This clause replaces clause 34 of the WQ EPP 2003 and functions in the same way. As with septic systems, some changes were necessary to accommodate the change from mandatory water quality criteria to the general environmental duty under clause 9 and the effect this has on the exclusion provisions as expressed in the WQ EPP 2003.

The WQ EPP 2003 contains an exclusion for discharges that have been treated to ensure that the water quality objectives for those waters that the discharge will, or is likely to, enter are not prejudiced at the point of discharge. Mandatory water quality objectives are proposed to be removed from the policy and therefore the exclusion is no longer appropriate for this mandatory provision in the policy.

The intended coverage of this clause is to establish a penalty for unauthorised discharges from sewerage or sewage treatment systems. The WQ EPP 2003 exclusion related to discharges that have been treated and therefore differentiates between those discharges covered by the clause (unauthorised) and those that are excluded.

The WQ EPP 2015 exclusion ensures all discharges explicitly authorised by an environmental authorisation under the EP Act or through an approval issued under the *Public and Environmental Health (Waste Control) Regulations 2010* are excluded from the policy. This is somewhat easier to comply with and enforce as the exclusion relates to an approval issued to undertake the activity rather than having to consider the level of treatment that a discharge has been subject to. All unauthorised discharges will be covered by the policy.

Clause 18: Waste from vessels

This clause replaces clause 36 of the 2003 policy and functions in the same way. The interpretation from the previous clause 36 has been moved to clause 3 in the WQ EPP 2015 and the reference to guidelines has moved to Schedule 1 in the WQ EPP 2015 and operates via clause 9.

Clause 19: Waste from waste depots

This clause replaces clause 37 of the WQ EPP 2003 and functions in the same manner.

Clause 20: Wastewater lagoons

This clause replaces clause 18 from the WQ EPP 2003. The replacement clause is significantly different from the previous policy and has incorporated the following:

- The title has been amended to reflect the breadth of purpose for wastewater lagoons rather than simply for storage. To support this, the definition (clause 3) has been extended to cover a wider range of water bodies including sedimentation basins, managed wetlands and tailings dams.
- The bulk of the mandatory provisions of the WQ EPP 2003 imposed an arbitrary set of requirements that go so far as to create internal inconsistencies within the policy itself and which will be better dealt with by a code of practice that can be enforced through an EPO as necessary. The construction of all wastewater lagoons is covered by the Wastewater Lagoon Construction guideline (listed in Schedule 4) and can be enforced through an EPO as necessary.

- The one remaining mandatory provision relates to prevention of overflows and is an adaptation of clause 18(5) from the WQ EPP 2003. The previous 600-mm freeboard provision that may or may not be an adequate figure depending on location or engineering has been replaced with a focus on preventing outcomes caused by escaping wastewater.

The clause has been amended to make it clear that it does not apply to public infrastructure that is used for managing stormwater quality or quantity. The reason for this exclusion is that these structures are generally engineered to overflow, and built for a public benefit rather than managing industrial wastewater or addressing source pollution.

Division 3—Matters relating to Part 6 of the Act

Clause 21: Matters relating to Part 6 of the Act

This clause replaces clause 43 from the WQ EPP 2003 and functions in the same way. It outlines specific requirements for determining matters under Part 6 of the Act (Environmental Authorisations and Development Authorisations).

Part 3—Amendment of policy

Clause 22: Amendment of policy by Gazette notice under section 32 of the Act

This clause replaces clause 6 from the WQ EPP 2003. The clause sets out the provisions that may be amended without following normal procedure as provided for by section 32(1)(c) of the EP Act.

Schedule 1—Environmental values of waters (clause 6)

This schedule replaces schedule 1 in the WQ EPP 2003.

Schedule 2—Class 1 pollutants

This schedule replaces Part 1 of Schedule 4 from the WQ EPP 2003 and operates via clause 10 in the WQ EPP 2015.

The following changes have been made to the schedule in order to update the list which has remained unchanged since the WQ EPP 2003 commenced:

- air conditioning or cooling system wastewater moved to Schedule 3
- building construction or demolition waste replaced with construction and demolition waste (whether or not inert)
- wastes listed in Part B of Schedule 1 of the Act removed and is now covered by general duty provisions of clauses 4, 5 and 9.
- biosolids and wastewater treatment sludge added
- Chemicals listed in Schedule A of the National strategy for the management of scheduled wastes 1992, prepared by ANZECC <www.nepc.gov.au/system/files/resources/378b7018-8f2a-8174-3928-2056b44bf9b0/files/strategy-1992.pdf> added
- domestic waste (being waste produced in the course of a domestic activity) added
- effluent added with caveat applied in clause 9 that it does not apply to discharges authorised by an environmental authorisation under the EP Act
- hard waste (eg vehicles, tyres, batteries, metal parts, piping, electronic equipment and municipal solid waste) added
- hazardous waste <<https://www.comlaw.gov.au/Details/F2012C00858/Download>> added
- medical waste added
- quarantine waste (waste that is subject to quarantine under the Commonwealth *Quarantine Act 1908*) added
- radioactive waste (the management or disposal of which is regulated under the *Radiation Protection and Control Act 1982* or a law of the Commonwealth) added

- rubbish and litter (eg bottles, cans, cartons, cigarette butts, food scraps, packaging and paper, glass or plastic items or materials) added.

Schedule 3–Class 2 pollutants

This schedule updates Part 1 of Schedule 4 from the WQ EPP 2003 and operates via clause 11 in the WQ EPP 2015.

The following change has been made to the schedule in order to update the list which has remained unchanged since the WQ EPP 2003 commenced:

- air-conditioning or cooling system wastewater added

Schedule 4–Codes and guidelines

Schedule 4 consolidates all of the various references to codes of practice and guidelines in the WQ EPP 2003 and operates via clause 8 in the WQ EPP 2015.

Guidelines or codes of practice for cattle feedlots, piggeries, construction of wastewater lagoons and water recycling have been updated as part of the revision.

A guideline for fire protection pipework systems has also been included. In the WQ EPP 2003, fire sprinkler test water is a listed pollutant for the purpose of the policy and must not be discharged to waters or land where it is likely to enter waters. In the nine years that the current policy has operated this has been problematic in that the water must be directed to sewer or irrigated on land where it will not enter waters. The quality of water from fire protection pipework systems varies and on occasions the current policy has required good quality water to be discharged to sewer rather than given an alternative use. The EPA has a guideline on its appropriate use so the WQ EPP 2015 allows for reuse where compliant with the guidelines.

Further information

Legislation

[Online legislation](#) is freely available. Copies of legislation are available for purchase from:

Service SA Government Legislation Outlet
Adelaide Service SA Centre
108 North Terrace
Adelaide SA 5000

Telephone: 13 23 24
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General information

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