

## Implementing conditions of a site contamination report

Updated October 2010<sup>1</sup>

*EPA 867/10: This information sheet provides general information to those who need to implement conditions of a site contamination audit report. It is the last in a series of four information sheets for people who need to use the audit system, engage auditors, and read and implement audit reports. It is designed to be read in conjunction with the other EPA site contamination information sheets, Overview of the site contamination audit system, Using a site contamination auditor and Information about site contamination audit reports and audit statements.*

### Introduction

The *Environment Protection Act 1993* (the Act) and associated Regulations establish the regulatory framework for a statutory site contamination audit system (audit system) in South Australia. The audit system is a key strategy assisting in the management of site contamination<sup>2</sup> in South Australia.

The Environment Protection Authority (EPA) administers the audit system, accredits site contamination auditors and ensures site contamination audits are carried out according to the legislation and relevant guidelines issued by the EPA.

General information about the audit system is available in the EPA information sheet *Site Contamination: Overview of the site contamination audit system* (2010). For detailed guidance on the audit system, refer to the EPA publication *Guidelines for the site contamination audit system* (2008).

A site contamination audit<sup>3</sup> (audit) is the independent review of the assessment and/or remediation of site contamination and is carried out by a site contamination auditor<sup>4</sup> (auditor). An auditor is a person with a high level of expertise and experience accredited by the EPA under the Act. The result of an audit is the completion of a site contamination audit report (audit report) and site contamination audit statement (audit statement)<sup>5</sup> by the responsible auditor.

The audit report is a detailed report that sets out the findings, determinations and outcomes of the audit, and is prepared and provided by an auditor according to legislative requirements and relevant guidelines issued by the EPA. An audit report includes the audit statement, which is a prescribed summary of the audit findings. For further information, refer to the EPA Information Sheet *Information about site contamination audit reports and site contamination audit statements* (2010)

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<sup>1</sup> Issued September 2009

<sup>2</sup> Site contamination is defined in section 5B of the Act. For further information, refer to the EPA information sheet *Site contamination: What is site contamination?* (2009).

<sup>3</sup> Defined in section 3(1) of the Act.

<sup>4</sup> Defined in section 3(1) of the Act.

<sup>5</sup> 'Site contamination audit report' and 'site contamination audit statement' are terms defined in section 3(1) of the Act.

## What are audit conditions?

In some cases, in order to support an audit outcome, the auditor may need to specify conditions in the audit report, which require implementation to adequately protect human health and the environment.

Audit conditions may, for example:

- make recommendations for the use of the land (including soil, waters, paved surfaces, plantings and structures) in order to manage<sup>6</sup> chemical substances remaining on or below the audit site, to ensure its suitability for either its current or proposed use
- include requirements for the implementation of one or more of the following, included as part of the audit report:
  - environmental monitoring
  - maintenance and inspection programs
  - site environmental management plans.

Where audit conditions require actions to be implemented, the parties who are expected or required to implement them must be clearly identified.

Audit conditions must be identified in an audit report as belonging to one of the following categories<sup>7</sup>:

- planning and development
- environmental monitoring
- site management
- water restrictions.

This is to assist readers of audit reports and audit statements in identifying which conditions are of specific relevance/interest to them.

## Why should I implement an audit condition?

Failure to implement, or continue to implement, an audit condition may result in land no longer being suitable for its current or intended use. This triggers the definition of 'site contamination' for the purposes of the Act. As a result, the EPA may take appropriate action to ensure the protection of human health and the environment. This action may include issuing a site contamination assessment order or site remediation order<sup>8</sup> to the appropriate person<sup>9</sup>. There are significant penalties under the Act for not complying with these orders.

Relevant audit conditions may also be adopted by a planning authority as part of a planning or development approval issued under the *Development Act 1993*. Failure to comply with conditions of development approval may result in actions under that legislation.

## Becoming aware of audit reports and audit conditions

Where compliance with an audit condition can only be ensured with the involvement of a third party, for example a nominated local council, government body or body corporate (where they exist at the time), auditors must undertake consultation with those parties and obtain and provide written approval from that party in the audit report and audit statement.

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<sup>6</sup> The management of chemical substances is included in the definition of remediation in section 3(1) of the Act.

<sup>7</sup> The classification of audit conditions is specified in the EPA publication Guidelines for the site contamination audit system.

<sup>8</sup> Issued under sections 103H and 103J of the Act.

<sup>9</sup> Refer to the EPA information sheet *Site contamination: Responsibility for assessment and remediation of site contamination* (2009).

It is possible to find out whether that an audit report has been completed for a site of interest through:

- enquiries to the EPA Public Register
- the notation of an audit report in respect to land under section 103P of the Act
- Section 7 enquiries to the EPA
- the Form 1 statement of the *Land and Business (Sale and Conveyancing) Regulations 2010*.

When it is identified that an audit report has been completed for a site of interest, the EPA recommends the audit statement be viewed initially to identify the audit determinations and outcomes, and whether there are any audit conditions; and if so, the nature and requirements of the conditions.

For further information on obtaining information about audits, refer to the EPA Information Sheet *Site contamination: Overview of the site contamination audit system (2010)*.

## Disclaimer

This publication is a guide only and does not necessarily provide adequate information in relation to every situation. This publication seeks to explain your possible obligations in a helpful and accessible way. In doing so, however, some detail may not be captured. It is important, therefore, that you seek information from the EPA itself regarding your possible obligations and, where appropriate, that you seek your own legal advice.

## Further information

### **Legislation**

Legislation may be viewed at <[www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)>

Copies of legislation are available for purchase from:

Service SA Government Legislation Outlet	Telephone:	13 23 24
Adelaide Service SA Centre	Fax:	(08) 8204 1909
108 North Terrace	Website:	< <a href="http://service.sa.gov.au">service.sa.gov.au</a> >
Adelaide SA 5000		

### **For general information please contact:**

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The EPA welcomes written comments on and suggestions for improvements to any of its site contamination publications. These should be addressed to the Manager, Site Contamination Branch at the above address.