

Working Together Agreement for Site Contamination

**Between the Environment Protection Authority
and SA Health**



**Government
of South Australia**

SA Health



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Preamble

The Environment Protection Authority (EPA) regulates the management of site contamination in South Australia.

Situations are sometimes encountered where a significant risk to public health is identified during the course of a site contamination audit, assessment and/or remediation. These circumstances generally involve situations where significant offsite contamination has been identified with the potential to affect the health of the community. SA Health supports and assists the EPA through the provision of specialist advice when it is required on toxicology and epidemiology, health risk assessment and communicating risk to the public.

This Working Together Agreement provides clarity about how the EPA and SA Health will work together in circumstances where site contamination and other forms of pollution pose a risk to public health, clearly describes the agencies' respective roles and responsibilities in relation to timely assessment, communication, engagement and management of health risks.

Objectives

What we want to achieve by working together on site contamination is:

- The protection of public health in relation to site contamination.
- The prioritisation of assessment of site contamination that pose the greatest potential public health risk.

In achieving these outcomes this Agreement:

- Provides clarity about when EPA and SA Health will engage in relation to site contamination matters which pose a significant risk to public health and how EPA and SA Health will respond to requests for information and advice.

Roles and responsibilities

The EPA regulates site contamination through the provisions of the *Environment Protection Act 1993* (EP Act) and the *Environment Protection Regulations 2009* (EP Regulations). In undertaking its responsibilities, the EPA is also guided by the *National Environment Protection (Assessment of Site Contamination) Measure* (ASC NEPM), which describes methods for consistent assessment of site contamination.

SA Health provides expert scientific advice to the EPA, government, and its agencies on the assessment of environmental contaminants which may be harmful to human health, and assists in the provision of advice to affected communities and the population at large.

Important considerations in identifying circumstances with the potential to pose a greater risk to public health include but are not limited to:

- the nature and extent of the off-site contamination
- the likelihood of an uncontrolled or uncontrollable exposure pathway to the public
- the number of people being or likely to be impacted by the off-site contamination
- persistence of the off-site contamination
- the duration of exposure
- likely community perception.

Together we will:

- Where available and relevant, use the ASC NEPM and enHealth¹ guidance documents to inform site contamination assessment and management.
- Plan an agreed approach to prioritising contaminated sites on the basis of their potential risk to public health to inform effective and proportionate responses.
- Share information including data, research, site assessments, proposed regulatory changes and other relevant information on site contamination matters as appropriate and be mindful of confidentiality.

The EPA will:

- Engage with SA Health to identify and prioritise assessment of contaminated sites of public health concern (ie those most likely to pose the greatest risk to public health).
- Consult with and identify the role of SA Health in in the planned assessment of site contamination of public health concern.
- Consult SA Health and discuss risk management options and timelines where site contamination has been prioritised and considered to pose a potential risk to public health.
- Request from SA Health the development of general public health advice on overarching policy or operational matters as they relate to site contamination.
- When seeking advice in relation to a specific site or matter, provide SA Health with all relevant information that it holds in relation to the site or matter.
- Lead communication with the public and media on site contamination.
- The EPA will seek advice:
 - when considering the prohibition or restriction in the taking of water affected by site contamination, and whether action is necessary to prevent actual or potential harm to human health or safety
 - in relation to the toxicology/investigation levels for chemical substances that are not available in the ASC NEPM and enHealth guidance
 - in the development of response frameworks/intervention criterion for specific sites or more generally
 - in relation to toxicology or human health risk assessment for specific sites – including where appropriate sites that are used for non-sensitive landuse
 - in relation to human health risk assessment reports presented to the EPA.

SA Health will assist EPA:

- To identify and prioritise site contamination with the potential to pose greatest risk to public health.
- With the planned assessment of site contamination with the potential to pose greatest risk to public health.
- In developing guidance to facilitate consistent assessment and management of site contamination where such Australian agreed guidance does not exist.
- By providing specific advice which may include, but is not restricted to, risk assessment, human toxicology, assessment methodologies, risk management and risk communication.
- In selecting management options in cases where public health risk has been identified.

¹ enHealth 2012, *Environmental Health Risk Assessment: Guidelines for assessing human health risks from environmental hazards*, The Department of Health, Canberra.

- In communicating with the public and media on site contamination, including attending community information sessions.
- By participating in the EPA's Board Site Contamination Auditor Accreditation Committee.
- By providing advice to the EPA in relation to any significant change in standard or criteria relative to human health risk assessment for chemical substances in accordance with Schedule 1.
- To develop a scope of assessment work to undertake an environmental assessment of an area of land that is identified as an 'EPA Assessment Area'.

Agreed process

Staff will work cooperatively and collegiately on day-to-day administration under this Working Together Agreement. When a formal Departmental position is sought on a matter, a written request from the EPA Director Science Assessment and Planning will be forwarded to the SA Health Director Public Health Services. A timely response will be returned. It is anticipated that the matter will have been discussed by the relevant executives beforehand.

In general, responses will be provided within the timeframes set out in Schedule 1.

Where agency experts cannot reach agreement, refer matters to relevant EPA and SA Health Executive Directors (or equivalent) for resolution.

Confidentiality

Whilst it is recognised that information obtained by an Agency may be confidential, it may be shared with other agencies in certain circumstances. Each of the Parties operate under specific legislation that describes how confidential information must be managed and when it can be shared. In addition each Party is bound by the state's Privacy Principles.

In essence, the Privacy Principles and relevant legislation require that information relating to trade processes or financial information must not be divulged unless the Party is authorised to do so; where the information is shared in connection with the administration or enforcement of the relevant legislation; or for the purpose of any legal proceedings as a result such administration or enforcement.

The relevant sections that apply to each Party are:

- EPA and SA Health – *Information Privacy Principles SA*
- EPA – *Environment Protection Act 1993* section 121 (Confidentiality)
- SA Health – *South Australia Public Health Act 2011* and *SA Health Care Act 2008*.

Review

A bi-annual EPA and SA Health senior executive meeting will be held to consider overarching policy matters, joint investigations, escalation of priority sites, technical dispute resolution and to provide an annual review of outcomes obtained under the Working Together Agreement.

At least the following two persons from each Party will attend:

- EPA: Director Science Assessment and Planning and Manager Site Contamination
- SA Health: Director Public Health Services and Manager Public Health Toxicology Unit.

Term of Agreement

This Working Together Agreement will commence upon the execution of the Agreement by the Parties and shall continue in force until such time that either Party may decide to terminate this Agreement by giving 3 months written notice of termination to the other Party.

Schedules

Schedule 1 – Agreed timeframes for the provision of advice.

Signed



Date 14.10.15

Mr David Swan
Chief Executive
Department for Health and Ageing

Signed



Date 14/10/15

Mr Tony Circelli
Chief Executive
Environment Protection Authority

Schedule 1 Agreed timeframes for the provision of advice

A response for written advice will be provided as soon as possible, but generally in circumstances described in the table below.

Request type	Response time
Prohibition or restriction of the taking of water	15 business days from written request
Criteria for non-published chemical substances	Three months from written request
Feedback on Human Health Risk Assessment reports	15 business days from written request
Provision of a Health Fact Sheet	15 business days from written request
Advice on a person's suitability as an expert	15 business days from written request
Advice on an EPA scope of assessment work	15 business days from written request

Whilst the timeframe for the provision of advice has been agreed, it is recognised that in some instances advice may be required urgently, such as where there is uncertainty as to the nature or extent of site contamination. In these circumstances, the timeframe for the provision of advice will be agreed after consultation by the Executives of both Parties.

Similarly the timeframe may be extended by written agreement of Executives of both Parties.