



Post Assessment Guidelines

Post Assessment Guideline for Preparing a Compliance Assessment Plan

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Office of the Environmental Protection Authority

Western Australia

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1 Introduction

If a Statement has been served under Section 45(5) of the *Environmental Protection Act 1986*, the proponent must ensure the proposal is implemented in accordance with the implementation conditions of that Statement.

Statements may include an implementation condition requiring the proponent to develop a Compliance Assessment Plan (CAP). All CAPs require approval of the CEO¹.

CAPs will be used by the Office of the Environmental Protection Authority (OEPA) and proponents to ensure documentation which supports/verifies the compliance status of the implementation conditions and/or procedures of the Statement is recorded and retained to facilitate assessment and determination of compliance status and inform these processes.

This guideline outlines the CEO's minimum requirements for a CAP and assists proponents in developing a CAP in accordance with those requirements.

2 Elements of a Compliance Assessment Plan

The following elements must be addressed in all CAPs:

- approach and timing of compliance assessments;
- retention of compliance assessments;
- the reporting of any non-compliance or potential non-compliance including any corrective actions;
- method of making the approved CAP and any Compliance Assessment Reports (CAR) or Statements of Compliance (SoC) publicly available; and
- an audit table.

Where the implementation condition requires that the CAP includes a table of contents, the CAP must also address that element.

2.1 Approach and timing of compliance assessments

To address the approach and timing of compliance assessments the proponent must detail how compliance will be assessed (for example, what information will be collected, what methods will be used to determine criteria have been met) and when compliance assessments will be undertaken (for example, how often or in a particular season).

2.1.1 Approach

In relation to compliance assessments the CAP must detail how the compliance status of each implementation condition and/or procedure of the Statement will be monitored and determined including:

- what, when and how information be collected and recorded;
- how and when this information will be analysed to determine compliance status; and
- validation that the information and any analysis is sufficient to support/verify any determination of compliance status.

¹ For the purposes of this guideline, the CEO is the Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the *Environmental Protection Act 1986*, or his delegate.

The General Manager of the Office of the Environmental Protection Authority was the Chief Executive Officer of the Department of the Public Service of the State responsible for the administration of section 48 of the *Environmental Protection Act 1986* at the time this guideline was written.

Implementation conditions may require the implementation of Environmental Management Plans/Programs (EMaPs) or Environmental Monitoring Plans/Programs/Research (EMoPs). Where an implementation condition and/or procedure of the Statement requires implementation of an EMaP or EMoP, the assessment of compliance status must include details of:

- whether each of the requirements specified in the EMaP or EMoP have been, are being, have not or are not being fulfilled;
- review the performance of any EMaP required to be implemented in achieving environmental outcomes required; and
- review the effectiveness of any EMoP required to be implemented in verifying whether objectives are met or in adequately monitoring the relevant factors.

2.1.2 Timing

The CAP must detail the frequency and timing of when information will be assessed to determine the compliance status of each implementation condition and/or procedure of the Statement. The frequency of assessing the compliance status will be dependent on the nature of the condition.

For example where an implementation condition requires:

- compliance with a daily limit, whether the limit has been met may be assessed every day to ensure responsiveness to any exceedance;
- an annual weed survey to ensure there is no increase in weed coverage, compliance should be assessed annually and within a reasonable time of the completion of the survey.

2.2 Retention of compliance assessments

The proponent must specify where, how and the length of time it will retain compliance assessments.

All compliance assessments must be retained for the life of the proposal and a minimum of seven years following the end of the life of the proposal. The life of the proposal is considered to continue until all implementation conditions of the proposal have been met and all decommissioning and/or closure has been completed. In detailing the length of time compliance assessments will be retained, the proponent shall outline the circumstances considered to constitute termination of the life of the proposal.

Retention of compliance assessments includes retention of:

- sufficient information/documentation to support/verify the compliance status of the implementation conditions and/or procedures of the Statement as determined by compliance assessments; and
- records of any analysis undertaken to determine the compliance status of the implementation conditions and/or procedures as reported in the relevant CAR or SoC.

2.3 Reporting non-compliances and corrective measures

Where the proponent is required to provide a CAR or SoC it must, for each non-compliance or potential non-compliance identified in that reporting period, include in the CAR or SoC, the information required in Section 3 of *Post Assessment Form 2 for Statement of Compliance*.

The proponent must address the following in the CAP:

- recording of the date(s) any non-compliance or potential non-compliance occurred, where applicable;
- when and how any non-compliance or potential non-compliance will be reported to the CEO;
- recording of reports of any non-compliance or potential non-compliance to the CEO;

- recording of the details of any non-compliance or potential non-compliance;
- assessment and recording of the extent of and impacts associated with any non-compliance or potential non-compliance, where applicable;
- recording of the precise location of any non-compliance or potential non-compliance, where applicable;
- determination and recording of the cause(s) of any non-compliance or potential non-compliance;
- recording of remedial and/or corrective action(s), if any, taken or proposed to be taken in response to any non-compliance or potential non-compliance; and
- recording of what measures, if any, were in place to prevent the non-compliance or potential non-compliance before it occurred and what, if any, amendments have been made to those measures to prevent re-occurrence.

Statements may also include an implementation condition that requires reporting of non-compliances and/or potential non-compliances as they are identified. For example, *“The proponent shall advise the CEO of any non-compliance or potential non-compliance within seven days of that non-compliance being known.”*

The CAP must address how such reports will be made, ensuring any relevant implementation condition requirements are met, including:

- the form in which the report will be provided (for example, immediate phone call and a follow up letter within seven days of the phone call for serious non-compliances, email for administrative non-compliances);
- the position of the person the report will be provided to; and
- details of the information that will be provided in the report.

2.4 Public availability of reports

Proponents must provide details in the CAP of how the CAP, CARs and SoCs will be made available to the public. Public availability of the CAP and any CARs and SoCs must, at a minimum, be consistent with the OEPA's *Post Assessment Guideline for Making Information Publicly Available*, as amended from time to time.

2.5 Audit table

CARs and SoCs are required to include an audit table for the relevant Statement that has been prepared and maintained in accordance with the OEPA's *Post Assessment Guideline for Preparing an Audit Table*, as amended from time to time. When included in a CAR or SoC the 'Status Column' of the audit table must be populated with compliance status terms to report compliance with the relevant implementation condition and/or procedure for the reporting period.

An audit table prepared in accordance with the OEPA's *Post Assessment Guideline for Preparing an Audit Table*, as amended from time to time, should be submitted as part of the CAP.

2.6 Table of contents

Some implementation conditions detailing requirements for CAPs require provision of an outline of the table of contents to be included in CARs. In these instances, the table of contents should describe the sections to be included in the CAR. The proponent should refer to the implementation condition regarding CARs to determine what is required to be included in the report. Proponents should note that they may include table of contents subject headings in addition to those outlined in the implementation condition regarding compliance assessment.

3 Revision of Compliance Assessment Plans

CAPs must be revised to reflect any changes made to the relevant proposal, statement or EMoPs or EMaPs required by the implementation conditions of the statement.

CAPs do not need to be revised and updated where the change does not impact on any actions or requirements of the CAP.

Example 1

A change to proposal is undertaken to increase the area of clearing authorised from 100 hectares to 150 hectares.

Schedule 1

Table 2: Location and authorised extent of physical and operational elements

Column 1	Column 2	Column 3
Element	Location	Authorised Extent
1. Mine	Figure 1	Clearing no more than 150 hectares within the development envelope detailed in Figure 1.

The approved CAP requires that the total amount of clearing undertaken within the development envelope is calculated annually and compared with the authorised extent of clearing. In this instance, the CAP would not need to be revised as the action required to assess compliance with the authorised extent of clearing is the same regardless of the area authorised to be cleared. If the CAP had specifically referred to 100 hectares of authorised clearing, it would need to be revised to update the area to 150 hectares.

Example 2

An implementation condition is amended to alter monitoring required from annually to biannually:

X-X The proponent shall undertake weed survey monitoring of the Blackline Development Envelope as per Condition X-3, annually from the commencement of ground disturbance activities within the Blackline Development Envelope.

amended to

X-X The proponent shall undertake weed survey monitoring of the Blackline Development Envelope as per Condition X-3, biennially from the commencement of ground disturbance activities within the Blackline Development Envelope.

The approved CAP requires that weed survey monitoring is undertaken in September or October of every year. In this instance, the CAP would need to be revised as the action to achieve compliance with the implementation condition as changed. The CAP would need to be updated to require that weed survey monitoring is undertaken in September or October of every second year.

Example 3

A change to proposal is undertaken to alter the method of transport for mine product from a conveyor to a slurry pipeline. Construction of the slurry pipeline requires trenching and the Statement is amended to include implementation conditions to manage fauna in relation to trenching. The implementation conditions include but are not limited to the following:

X-X The proponent shall ensure that trenches are inspected and cleared of any fauna found by fauna rescue teams at least twice daily. The first clearing shall be completed no later than three hours after sunrise and the second shall be commenced no earlier than three hours

before sunset. Trenches shall be cleared of fauna no more than half an hour prior to backfilling.

The approved CAP would need to be updated to include the information required under Section 2.1 Approach and Timing of Compliance Assessments in relation to the new implementation conditions.

4 Submission of Compliance Assessment Plans

One hard copy and one electronic copy (preferably PDF on CD or thumb drive) of the CAP are required to be submitted to the General Manager, OEPA, marked to the attention of Manager, Compliance Branch.

Please note that all CAPs must be developed in accordance with the *Post Assessment Guideline for Preparing a Compliance Assessment Plan*, as amended from time to time, and to the requirements of the CEO. The proponent will receive written notification of approval from the CEO where the CEO determines the CAP submitted has been developed in accordance with the *Post Assessment Guideline for Preparing a Compliance Assessment Plan*, as amended from time to time, and to the requirements of the CEO.

5 Post Assessment Guidelines and Forms

Post assessment documents can be found at www.epa.wa.gov.au in the following locations:

- Post Assessment Guidelines: Home>Policies and Guidelines>Post Assessment Guidelines;
- Post Assessment Forms: Home>Post Assessment Forms.