

EPA Update

A New Act

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4 December 2018

Why transform?

- EPA was established in 1971 and has a proud history of protecting Victoria's environment
- Since then, population growth has almost doubled to more than 6 million people and is projected to grow to 10 million by 2050.
- Victorians told us they want a world class regulator that prevents harm, and gives them the information they need to protect their environment and health.
- The Victorian Government is investing \$182.4m over five years to transform the EPA into a world class regulator.



Transformation is already underway



Legislative Overhaul: preparing for the new Act



Environment
Protection
Authority Victoria



Environment Protection Amendment Act 2018

Prevention

Flexible and risk-based

Information and justice

Modernising EPA

Environment Protection Amendment Act 2018



Consequence based:

The regulatory focus of the EP Act 1970 was **managing pollution**



Prevention based:

Our new focus is **systems to reduce risk** to human health & environment

General Environmental Duty (GED)

“A person who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste must minimise those risks, so far as reasonably practicable.”



General Environmental Duty (GED)

- Modelled on the OHS Act (established in Victoria since 1985);
- **Minimise** means eliminate the risks (as far as reasonably practicable) and if not reduce the risks (section 6(1));
- To determine what is reasonably practicable consider:
 - The likelihood of those risks eventuating;
 - The degree of harm that would result if those risks eventuated;
 - What the person knew or should have known about the risks and controls;
 - The availability and suitability of ways to eliminate or reduce those risks;
 - Costs of eliminating or reducing those risks
- If the person is conducting a business/undertaking breach can lead to criminal liability (natural person can get a notice to comply)
- Serious criminal offence – maximum of approximately \$1,600,000 for a company.

General Environmental Duty (GED)

- A person conducting a business or undertaking needs to (so far as reasonably practicable):
 - Use and maintain plant, equipment, processes in a manner that minimises risks to human health and the environment (from pollution or waste)
 - Use and maintain systems for the identification, assessment and control of risks to human health and the environment
 - Use and maintain adequate systems to ensure that if risk to human health and the environment eventuates, harmful effects are minimised
 - Ensure all substances are handled, stored, used or transported in a manner that minimises the risks to human health and the environment
- GED requires a person who designs, manufactures, installs or supplies substance, plant or equipment to so far as reasonably practicable:
 - Minimise those risks from the design etc. of the substance, plant or equipment if it is used for intended purpose
 - Provide information regarding purpose of substance, plant or equipment and necessary conditions to make sure another person can comply with their obligations.

Contaminated environments

Contaminated land posing risk of harm to environment or human health

Duty to manage contaminated land

Duty to notify of contaminated land

Outcomes

Sites are safe for current or intended land use
Significant offsite impacts are managed

Contaminated environments- Duties

- Section 39 – Duty to manage contaminated land requires person to minimise risks to human health and the environment from contaminated land as far as reasonably practicable
- This applies irrespective of “fault” and when the contamination took place
- To comply with the duty a person (so far as is reasonably practicable):
 - Identify any contamination the person knows or should know about;
 - Investigate and assess contamination;
 - Take measures to minimise risks including clean up activities;
 - Adequately inform any person that reasonably be affected by contamination;
 - Provide a person who may lease or purchase the land with adequate information about contamination.
- No criminal/civil penalty liability (enforce by notice)
- Section 40 – Duty to notify of contaminated land
 - “Notifiable” contamination – Act definition + Regulations
 - Criminal/civil penalty provisions.

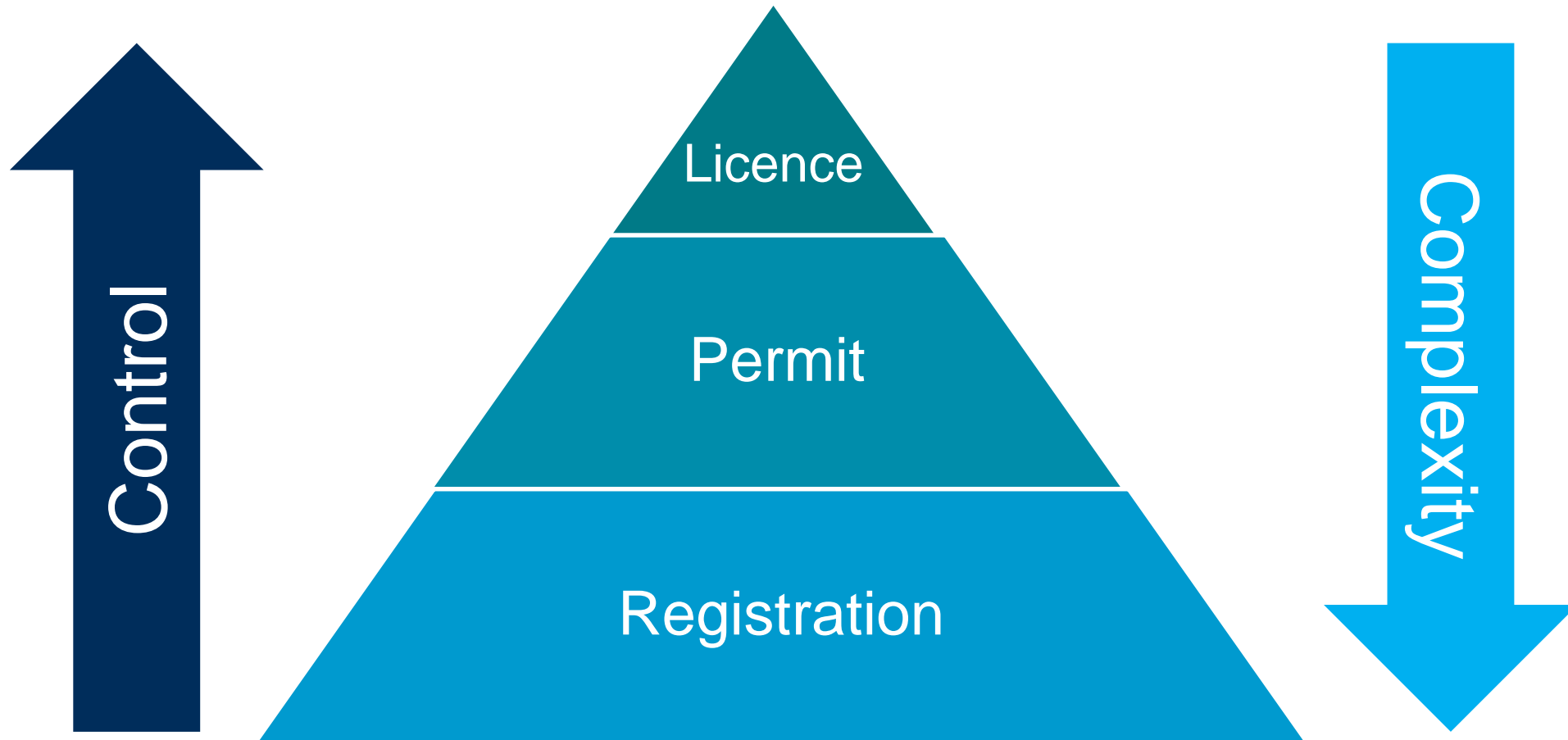
Environmental reference standards

Replacement of State Environment Protection Policies

ERS set out the attributes of our environment Victorians value and the ambient standards required to protect them

The GED and complimentary regulations would pick up design standards and other controls to support meeting these standards

Permissions Framework



Environmental audit

*Scale assessment
to key risks*



*Rapid, low cost
assessment of risks*

Environmental Audit System – Part 8.3

- Modernise and stream line the functions, application and appointment process for environmental auditors;
- Clarify the process for reappointment, suspension, revocation and placing of conditions on appointments (including consideration of conflicts of interest);
- Clarify (and simplify) contents of PRS assessment reports and environmental audit statements;
- Notification to EPA of imminent state of danger;
- Transitional considerations towards 1 July 2020:
 - Person appointed under “Old Act” will be taken to be appointed under “New Act”;
 - Environmental audit in progress can be conducted under Old Act or New Act;
 - Certificates and statements under the Old Act transition for 12 months;

Discussion and Next Steps

- If you have queries, contact us at engagement@epa.vic.gov.au
- Feel free to attend our first drop-in information sessions relating to the new Act on Monday 10 December

Victoria's New Environment Protection Laws and you

At: William Angliss (CBD).

Address: Corner of King and La Trobe St.

Date: Monday 10 December.

Time: 10am – 1pm.



Thank you.



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EIANZ

EPA Industry Guidance

4 December 2018



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General Environmental Duty (GED)

Complying with the general duty, industry needs to:

- understand the risks that pollution or waste from their activities might present to human health or the environment
- identify and understand the ways those risks can be controlled
- put in place any **reasonably practicable** methods to eliminate an identified risk



State of Knowledge (SoK)

Defined as:

- What is **known about the risks** of harm to human health and the environment; and/or
- What is **known about the means of eliminating or otherwise reducing** those risks.

EPA can contribute to SoK by producing guidance:

- We do not 'enforce' guidelines
- The publishing of guidance is strategic
- Guidance clarifies EPA's expectations

Guidance categories

Industry sector



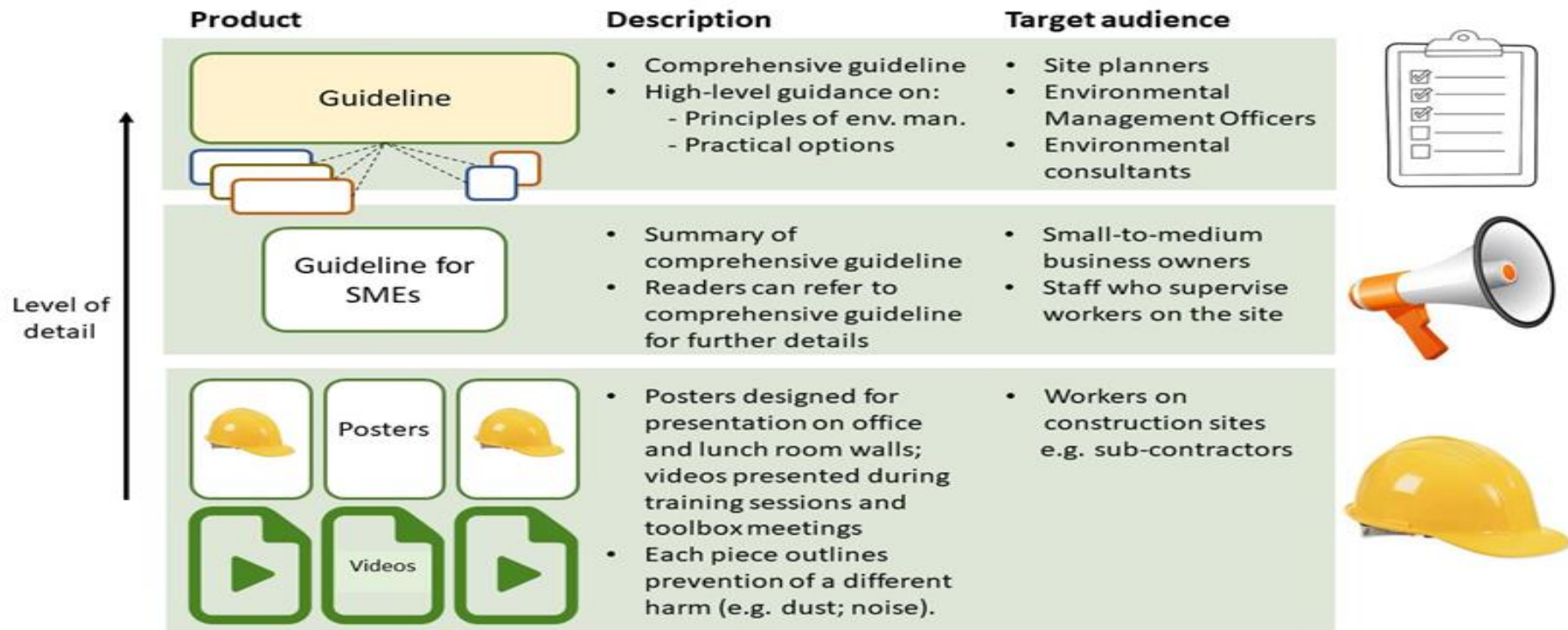
Site practice/activity

Impact



Approach to Industry Guidance

- Accessible to specific audiences, and in a form that has practicable application.
- Take many forms, including a publication, fact sheets, posters, instructional videos, etc



EPA Industry Guidance

What we have completed so far:

Industry sector

[Construction – know where your waste goes webpage](#)

[Agricultural web guide](#)

[Hiring skip bins](#) (includes video that was supported with digital advertising amplification)

[Combustible recyclable and waste materials](#)

[Underground petroleum storage systems fact sheet](#) and [poster](#)

Impact

[Odour](#)

Foundational

[How to manage your environmental impact – landing page](#)

[Assessing and controlling risk: A guide for business](#)

[Environmental Risk Management](#)

[Engaging Consultants](#)

Site Practices

[Liquid storage and handling](#)

[Erosion and sediment control](#) includes [Further technical information](#)

[Landowners factsheet: Storage and abandonment of waste](#)

[Plastic Resin Pellets \(Nurdles\)](#)

EPA Industry Guidance

What we are working on:

Industry sector

- Combustible and Recyclable Waste Materials
- Agriculture
- Construction
- Shooting ranges
- Concrete batching
- Parts recycling

Impact

- Odour (factsheets)
- Noise
- Dust
- Contaminated environments
- Contaminants of emerging concern (PFAS)
- Preventing impacts from contaminated soil

Site Practices

- Guide to low risk business
- Use of recyclable materials
- Solid storage and handling
- Sediment & Erosion Prevention (fact sheets)

