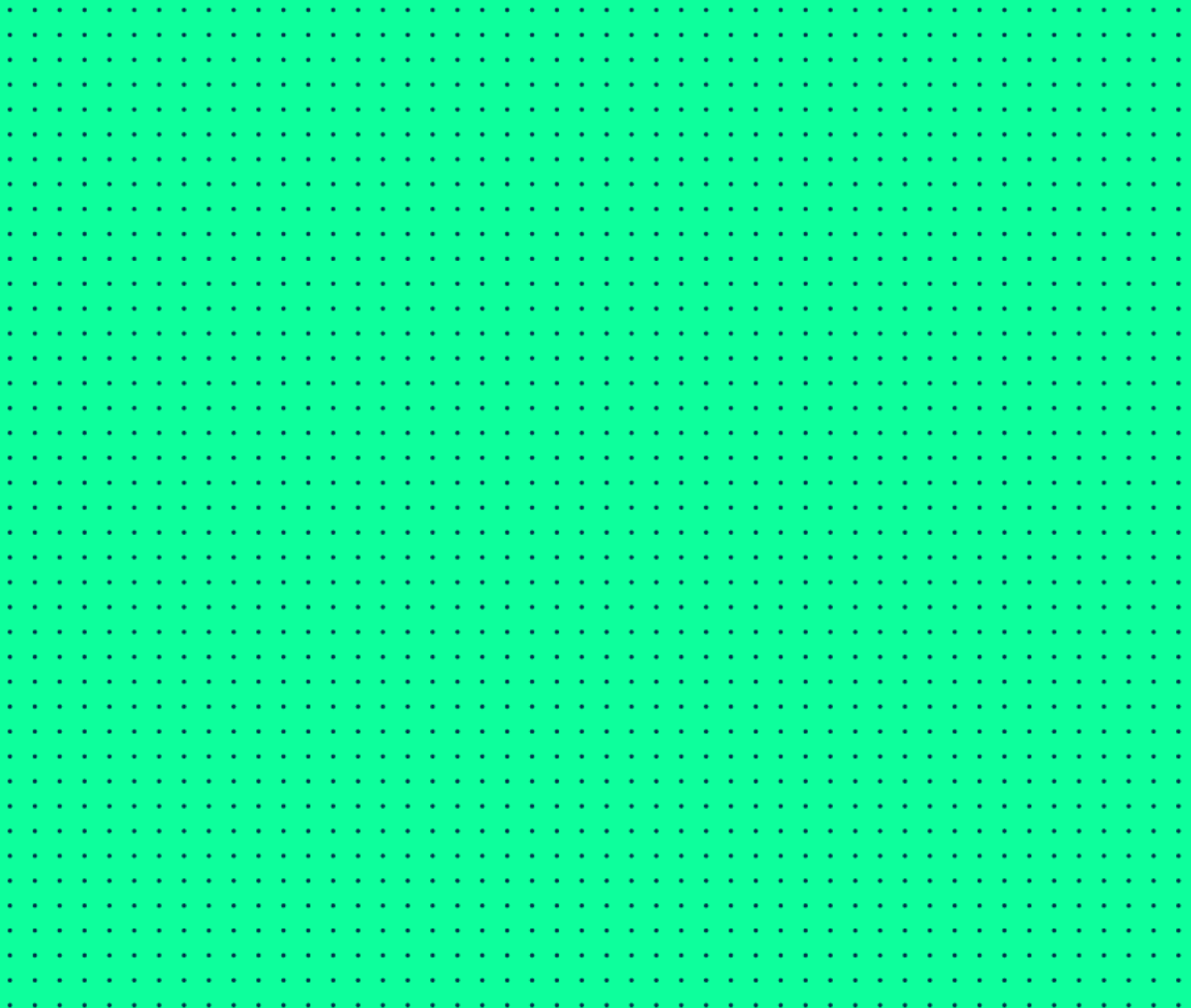


Environment Protection Authority

Licensee appeal and internal review guidelines

Risk-based licensing



© 2022 State of NSW and the NSW Environment Protection Authority

With the exception of photographs, the State of NSW and the NSW Environment Protection Authority (EPA) are pleased to allow this material to be reproduced in whole or in part for educational and non-commercial use, provided the meaning is unchanged and its source, publisher and authorship are acknowledged. Specific permission is required for the reproduction of photographs.

The EPA has compiled this guideline in good faith, exercising all due care and attention. No representation is made about the accuracy, completeness or suitability of the information in this publication for any particular purpose. The EPA shall not be liable for any damage which may occur to any person or organisation taking action or not on the basis of this publication. Readers should seek appropriate advice when applying the information to their specific needs. This document may be subject to revision without notice and readers should ensure they are using the latest version.

All content in this publication is owned by the EPA and is protected by Crown Copyright, unless credited otherwise. It is licensed under the Creative Commons Attribution 4.0 [International](#) (CC BY 4.0), subject to the exemptions contained in the licence. The legal code for the licence is available at [Creative Commons](#).

The EPA asserts the right to be attributed as author of the original material in the following manner: © State of New South Wales and the NSW Environment Protection Authority 2022.

Published by:

NSW Environment Protection Authority

4 Parramatta Square

12 Darcy Street, Parramatta NSW 2150

Locked Bag 5022, Parramatta NSW 2124

Phone: +61 2 9995 5000 (switchboard)

Phone: 131 555 (NSW only – environment information and publications requests)

Fax: +61 2 9995 5999

TTY users: phone 133 677, then ask
for 131 555

Speak and listen users:

phone 1300 555 727, then ask for 131 555

Email: info@epa.nsw.gov.au

Website: www.epa.nsw.gov.au

Report pollution and environmental incidents

Environment Line: 131 555 (NSW only) or info@epa.nsw.gov.au

See also www.epa.nsw.gov.au

ISBN 978 1 922778 09 3

EPA 2022P3588

March 2022

Licensee appeal and internal review guidelines

Introduction

The NSW Environment Protection Authority's (EPA's) risk-based licensing system aims to ensure that all licensees receive an appropriate level of regulation based on the level of risk they pose. The EPA assesses the site-specific risks posed by the licensed premises considering:

- the day-to-day operations at the site, assessing the types of environmental media relevant to the premises (air (including odour), water and noise emissions)
- the pollutant incident risk at the premises
- the environmental management performance of the licensee.

The assessment process determines an overall environmental risk level for each licensed premises: levels 1, 2 or 3, with level 3 being the highest risk.

Licensees are advised of their risk level annually. The risk levels allocated to each licence are published in the EPA's [Public Register](#).

Appeal mechanism available to licensees

The risk levels determined by the EPA are subject to appeal mechanisms. These are:

- requesting an internal review of the risk level.
- making an external appeal against the EPA's decision by applying to the Land and Environment Court.

Internal review of risk levels

A licensee can appeal against the risk level determined for their licence and request an internal review of the risk level within 21 days of being notified of the risk level by the EPA.

An application for an internal review of risk levels must include the grounds upon which the application has been made. The application must specify the reasons for seeking an internal review and provide adequate information to support the review. Go to the website for an [internal review application form](#).

Purpose and scope of the internal review

- The purpose of the internal review is to determine, on the available information, whether the correct risk level has been allocated to the licence. The internal review is limited to the risks posed to the environment from day-to-day operations and the pollutant incident risk at the premises.
- The internal review will be undertaken by an EPA officer from a region other than the responsible region involved in the initial risk assessment.
- The scope of the internal review is limited to the matters raised in the application.
- The internal review will include an additional independent review completed by one of the EPA's Executive Directors.

Process of the internal review

- The EPA receives an application for internal review within 21 days of the licensee being notified of the licence risk level.
- Within 28 days of receiving the request the EPA will make a decision on the outcome of the internal review.
- The EPA may request further information from the licensee to help us complete the review. If additional information is requested, the time frame for determining the outcome of the review is extended by 14 days. If the requested additional information is not received within 14 days of the request, the review will be conducted based on the information the EPA has at the time.
- The EPA may undertake a site inspection as part of the internal review. If a site inspection is required the time frame for determining the outcome of the review is extended by 14 days.
- The application will be independently reviewed by one of the EPA's Executive Directors.
- The EPA may uphold the original risk level or assign a revised risk level.
- The licensee will be notified of the outcome of the review and the risk level published on the EPA's public register.

Appeal to the Land and Environment Court

If the licensee is not satisfied with the outcome of the internal EPA review, the licensee may seek external review in the Land and Environment Court. The deadline for lodging the appeal is 21 days after notice of the EPA decision is given.