Addendum to the Impact Statement

This document summarises the important changes to the Impact Statement as a result of amending the draft NEPM. The key outcomes stem from reviewing the draft NEPM after public consultation.

Note: As a result of moving (and renaming) the original clause 15 ('Amendment of Schedules') as a new clause 10 in Part 1 ('Preliminary') of the Measure, all numbering of clauses from 10 onwards in the original draft have been increased by one, eg former clause 12 is now clause 13 etc.

National Environment Protection Goal - section 4.2.2

The goal to assist in achieving desired environmental outcomes has been modified for clarity in clause 12. It now simply refers to minimising the potential for adverse impacts associated with the movement of controlled wastes on the environment and human health. No impact is anticipated with this change.

Cost Benefit Analysis – section 3.1.4

Two small typographical omissions in the sub-section of the Impact Statement text dealing with 'Benefits' may lead to a substantial under-valuation of the potential benefits of the Measure to both jurisdictions and the Australian community as a whole. One tangible benefit of the tracking system to be implemented under the Measure is the impact this may have on reducing unlawful dumping or otherwise environmentally inappropriate disposal of controlled waste. Hence the last sentence of this sub-section on page 15 of the Impact Statement should read as follows:

> "Jurisdictions and their industries spend an average of $100,000 *each* year *per jurisdiction* in cleaning up contamination as a result of illegal waste dumping. In Queensland $1.5 million *per year* has been spent over the past five years in cleaning up dump sites." (text in italics was omitted in original)

These figures are indicative only and may be conservative. It is difficult to obtain data on the total costs of cleanup and remediation associated with unlawful and inappropriate disposal of controlled wastes. Within jurisdictions the cost of such action is typically distributed across a range of parties, including local government, emergency services, road authorities, water authorities, environmental agencies, waste facility and landfill operators, private land owners and others.

Exclusions and geographical exemptions – section 4.1.4

Exclusions – research and analysis

An addition has been made to allow for the exclusion from the Measure of controlled wastes used in research, provided this is approved by an agency in the jurisdiction of destination. This clarifies the original intent of excluding small amounts of controlled wastes used in analysis. As now worded, the Measure recognises that there may be a need to move wastes both;

1. for analysis as part of the process of correctly characterising the controlled waste to ensure it is directed to an appropriate treatment or disposal facility (clause 8 (e) (i)); and,
2. for use in scientific research work related to controlled waste (clause 8 (e) (ii)).

The amount of waste moved for research purposes may need to allow for more than the small amounts required for analysis purposes in 1 above. The requirement that approval must be obtained from a relevant agency will help ensure that such controlled waste is used for legitimate scientific purposes and is properly handled and disposed after use. In these circumstances the wastes in question are unlikely to pose a significant threat to the environment.

Exclusions – approved collection of unwanted farm chemicals

To avoid the unintended imposition of administrative requirements under the Measure on farmers and property owners who may be required to occasionally transport relatively small quantities of unwanted farm chemicals across State or Territory borders for the purposes of disposal managed by approved collection schemes, a new exclusion to the Measure has been included at clause 8 (h). This exclusion has been worded so as to apply only to unwanted farm chemicals (eg pesticides) which are to be transported directly by the 'owner' to a designated collection point under an approved scheme such as the National Collection Scheme for Unwanted Farm and Household Pesticides currently under consideration by ARMCANZ and ANZECC.

This will ensure that the Measure facilitates efforts to reduce the amount of hazardous farm and household wastes inappropriately stored in the community, while ensuring that any commercial transport of substantial quantities of these wastes is still subject to the licensing and tracking requirements of the Measure.

Exemptions for controlled waste destined for direct reuse

The definition of controlled waste has been changed so that wastes destined for direct reuse are considered to be controlled wastes, whereas under the original definition matter destined for direct reuse was not classified as waste. However, clause 9 of the Measure now includes a second type of exemption for these wastes from the prior notification and tracking requirements under clause 13 (f) to (j). This allows the adoption of a more precautionary approach by clearly bringing such wastes under the

Measure, while retaining the ability to minimise unnecessary administrative barriers to producers seeking to divert substances from the waste stream for direct reuse.

Reuse exemptions apply to controlled waste that is directly reused, that is without prior treatment or processing, provided that it is to be consumed as an input in the manufacture of a product. The same general conditions (clause 9) apply to reuse exemptions as apply to geographic exemptions, with exception that the transporter will still be required to carry the Schedule B information. This recognises that controlled waste demonstrates a risk to the environment or human health. The distances travelled are often likely to be greater than those involved in geographic exemptions for border communities, and that this could lead to an increase level of risk in the event of an accident if this information was not readily available on the vehicle.

Consignment Authorisations – section 4.3.3 (also section 4.3.4)

Clause 13(f), (g) and (h) has been changed to refer to the granting of consignment authorisations rather than consignment "numbers". This makes it clear that certain requirements must be met before the destination jurisdiction (or its delegated facility) will approve a controlled waste movement.

Clause 13(h) has been changed to clarify the matters that may be taken into account before a consignment authorisation is issued. Specific reference to particular disposal modes (such as landfill) have been replaced by the recognition that there will be a range of environmental protection policies and legislation in each jurisdiction which will be relevant to achieving the desired environmental outcomes of the Measure. Due to the difficulty of consistently applying the guideline for destination facilities to be of "equal standard (to) that (which) would apply to a similar facility in the State or Territory of origin", this has been removed. Also removed is the consideration of whether a facility for a particular type of controlled waste exists in the jurisdiction of origin. However, it will remain necessary for a destination facility to be appropriately licensed to receive a particular type of controlled waste, and consultation between jurisdictions (clause 13 (g)) on the appropriateness of issuing a consignment authorisation will ensure environmentally sound disposal.

Obligations – section 4.3.5 (also sections 4.3.6 and 4.3.8)

The definition of producer has been refined so as to include another person who acts on behalf of the producer (but only when authorised by an agency in the jurisdiction where the controlled waste is produced). It is anticipated the transporter will fulfil this role in those instances, and will thus take on the responsibilities of both the transporter and producer as set out in the Measure. This recognises current industry practice, while ensuring that legal responsibilities and obligations are made clear.

Clause 13(j)(iv) now makes it clearer that it is a consignment authorisation which is to be issued or not issued within 5 working days and that this is only following receipt of a completed application.

A new clause 13(j)(v) requires that an agency or facility must provide an applicant with the reason for any refusal to issue a consignment authorisation. These changes to clause

13 increase certainty and transparency for industry, while ensuring agencies and facilities (where relevant) are accountable for their decisions.

Schedule B has been grouped into three parts indicating the responsibilities of each party involved in the movement of controlled waste (ie Part 1 -producer, Part 2 – transporter, and Part 3 - facility).

These changes, although minimal, clarify the responsibility of the producer, or person authorised to act on the producers' behalf, to submit a completed application, and the obligations of jurisdictions to ensure that this occurs. This is now more explicitly reflected in the wording of clause 13(j), as is the responsibility of the transporter to ensure the information required by Parts 1 and 2 of Schedule B is carried whenever controlled waste is being transported under the Measure.

Maintenance of Records - section 4.3.6 and Furnishing of Information – section 4.3.7

Requirements regarding maintenance of records has been moved to 13(k). It was considered that previous requirements as set out in the then clause 13(j) were too restrictive, only listing core information to be kept. For more adequate waste tracking, most if not all of the information in Schedule B will frequently be required. The Measure now requires all appropriate Schedule B information to be retained for not less than twelve months although individual jurisdictions may require the information to be kept for longer periods as set out in their own legislation.

Requirements on jurisdictions to furnish information to Council are now detailed in clause 13(l). Changes have been made to specify the information to be collated for reporting purposes – including summary data on the quantities and types of controlled wastes moved into each jurisdiction, and the level of reporting discrepancies as a percentage of total movements. This avoids the unnecessary and onerous reporting to Council of detailed information on every movement, including names and addresses of producer and transporter.

Amendments to the Schedules – section 4.3.10 and Evaluation of the Measure - section 6.6

The original clause 15 has been moved out of Part 3 'National Environment Protection Guidelines' and placed in Part 1 'Preliminary' as a new clause 10 and re-named "Review of the Measure". The change requires that a review of the Measure be carried out within 5 years of its commencement, and will consider the need for amendments to the Measure and its Schedules. The clause now specifies in more detail matters to be considered in evaluating the effectiveness of the Measure in meeting its goals. These changes are consistent with the intent of the NEPC Act to ensure transparency and effectiveness.

Definition of controlled waste – section 5.1 (reference to List 1)

The definition of controlled waste has been amended to remove the suggestion that the jurisdiction of destination will routinely assess whether a waste possesses one or more characteristics on List 2. Unless otherwise demonstrated, wastes in List 1 are now considered to possess one or more List 2 characteristics and as such are a controlled waste. This change to the definition is consistent with the precautionary principle (section 3 of the Intergovernmental Agreement on the Environment). The main impact of the new wording is that a producer who believes that a waste does not exhibit one or of the characteristics on List 2 will be able to provide evidence of this to an agency, and if this is accepted, the waste would not be classified as a controlled waste under the Measure.

Some entries on List 1 have been modified for clarification purposes and some entries which were in effect duplicated elsewhere have been removed. This was done for various reasons, including that the waste description was too broad, technical advice provided to the Project Team was unable to associate a hazard characteristic with some wastes, and some descriptions were ambiguous. The reference to radioactive wastes was removed as all such waste is regulated by other legislation. Two additional entries were added - grease trap waste and isocyanate compounds. Isocyanates demonstrate the UN characteristics H3 and H4.3 for flammability alone or in the presence of water. Grease trap wastes have the potential to impact adversely on water quality if improperly disposed of. It is not anticipated that these additional entries will lead to an increased impact to industry as these are currently covered by the ANZECC guidelines and other environmental controls within jurisdictions.

Prior Notification – section 6.4 (also section 4.3.3)

The Measure requires the producer to obtain a Consignment Authorisation from the agency or a delegated facility in the jurisdiction of destination before dispatch of the waste. By using the term “authorisation” rather than consignment “number”, it is made clear that obtaining authorisation is a statutory requirement or obligation imposed under licence, and not simply an invoicing procedure.

Once a completed application for consignment authorisation has been lodged, there are general matters to be considered in assessing the application. The need for jurisdictions to determine whether the standard of the facility in the jurisdiction of origin is of “at least equal standard”, whether there is a facility for that type of controlled waste in the jurisdiction of origin, and the requirement to consider whether controlled waste is directed to landfill have been removed. Destination jurisdictions or delegated facilities will now take into consideration the relevant environmental protection policies and legislation of participating jurisdictions to assist in meeting the desired environmental outcomes of the Measure.

Waste Tracking – section 6.5 (also section 5.2)

Clause 13(i) now succinctly sets out who is responsible for providing the information required by Schedule B. Amendments to Schedule B have also been made to clarify requirements and a new field on "type of transport" has been added. No adverse impact is anticipated to result from these changes. For ease of reference the responsibilities of all relevant parties, ie producer, transporter and facility operator are now highlighted under the appropriate heading. This makes it clear what information must be provided by producers, transporters and facility operators.

Information additional to that required in the original Schedule B may occasionally be required from producers if the waste is also classified as dangerous goods, and these requirements are indicated in the relevant items on Part 1 of Schedule B (ie use of proper shipping name/technical name, subsidiary risk, and number of packages). These small qualifications make Schedule B fully compatible with the information requirements of the Australian Dangerous Goods Code. Furthermore, clarification has been provided in Schedule B relating to information supplied by the facility operator, whereby any discrepancies noted in Parts 1 and 2 should be reported as required to the agency in which the facility is located.

The overall impact of the changes to Schedule B, for those jurisdictions which have adopted the ANZECC guidelines, and waste producers and transporters currently operating under these, will not be significant. Only minor changes will need to be made to the data fields which are used by existing National Manifest waste tracking system, as in the main these and the Schedule B data fields are identical.