

***ENVIRONMENTAL MANAGEMENT AND POLLUTION  
CONTROL (GENERAL) REGULATIONS 2017***

**ANNUAL FEE REMISSION  
GUIDELINES**

**SECOND EDITION  
MARCH 2010  
(updated 1 July 2019)**



ENVIRONMENT PROTECTION AUTHORITY

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**Note:** the Annual Fee Remission Guidelines were updated on 1 July 2019 to reflect the following change:

*Environmental Management and Pollution Control (General Fees) Regulations 2007* have been replaced by the

*Environmental Management and Pollution Control (General) Regulations 2017*

## ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL (GENERAL) REGULATIONS 2017: ANNUAL FEE REMISSION GUIDELINES

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## ACRONYMS AND ABBREVIATIONS

Board	Board of the Environment Protection Authority (see sections 13-17 of EMPCA)
CEO	Chief Executive Officer
Director	Director, Environment Protection Authority (see section 18 of EMPCA)
EMP	Environmental Management Plan
EMPCA	<i>Environmental Management and Pollution Control Act 1994</i>
EMS	Environmental management system
EPA	Environment Protection Authority (see section 12 of EMPCA)
General Regulations	<i>Environmental Management and Pollution Control (General) Regulations 2017</i>
JAS-ANZ	Joint Accreditation System of Australia and New Zealand
PER	Public environmental report
SMA	Small-medium activity

# 1. INTRODUCTION

## 1.1 The General Regulations

An annual permit fee is charged by the State Government to recover the cost of ongoing environmental regulation of activities regulated under the *Environmental Management and Pollution Control Act 1994* (EMPCA).

The *Environmental Management and Pollution Control (General) Regulations 2017* (known as the General Regulations) specify the various fees charged under EMPCA, including annual fees for environmental regulation. The Regulations provide powers for the Board of the EPA (the Board) to remit part of the annual fee for an activity, having regard to relevant factors.

The Board has published these Guidelines, under Part 7 of the General Regulations, to describe the annual fee remission scheme, its criteria for the remission of fees, the process for applications and approvals and requirements for continuing eligibility once a fee remission is granted. The Guidelines provide guidance to fee remission applicants and to officers of the EPA Division who assess applications and make recommendations for the EPA's consideration.

The General Regulations were amended in November 2017. This second edition of the Guidelines reflects previous changes to the Regulations (Dec 2009) and clarifies various minor aspects of the fee remission scheme.

The provisions of these Guidelines must be substantially complied with by all applicants for variable fee exemptions under regulation 9 and determinations of low risk under regulation 10 of the General Regulations, and by all persons who have been granted such remissions<sup>1</sup>. Nonetheless, in individual cases the Board or its delegate may impose conditions on fee remissions (in accordance with regulation 9(3) or regulation 10(2A)) that differ from the requirements of these Guidelines, in which case those conditions will prevail.

These Guidelines will be subject to review from time to time and may be revised. Where a fee remission has been granted, the responsible person must comply with the requirements of any revised Guidelines in order to retain the fee remission. Holders of remissions will be advised when the Guidelines are revised.

These Guidelines apply only to remissions that may be granted under regulations 9 and 10 of the General Regulations. They do not apply to special remissions that may be granted by the Board under regulation 17. Where an activity has already been granted a fee remission in accordance with these Guidelines (i.e. under regulation 9 or 10), a special remission under regulation 17 would be additional to it<sup>2</sup>.

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<sup>1</sup> For the purposes of these Guidelines, the generic term "fee remission" is used to describe both variable fee exemptions under regulation 9 and low risk status determinations under regulation 10.

<sup>2</sup> In the event that ongoing annual fee remissions are granted under both regulation 9 or 10 and regulation 17, the requirements of these Guidelines must be complied with in order to retain both remissions (unless the Board determines otherwise in a particular case).

## 1.2 Annual fee remission scheme

The annual fee remission scheme aims to encourage persons responsible for activities regulated by the EPA to better manage their environmental risks and thus improve their environmental performance. It enables better targeting of the EPA's regulatory effort and reflects the 'polluter pays' principle.

The General Regulations specify annual fees with two components – a fixed fee and a variable fee. The responsible person may be exempted from part or all the variable fee if specified environmental management tools are adopted. There are different requirements for small-medium activities (SMAs) and large activities. Whether an activity is a SMA or a large activity depends on its production capacity. Appendix 1 defines large activities for the various industries in Schedule 2 of EMPCA. Any activity that is not a large activity is a SMA (although if the responsible person successfully applies for low risk status it is classified as a low risk activity instead – see below).

The fee remissions are shown diagrammatically in Appendix 2. A person responsible for a SMA may receive a 50% exemption from the variable fee if an Environmental Policy is adopted in accordance with the requirements specified in these Guidelines. A further 50% exemption is available if a public environmental report (PER) is regularly produced in accordance with the specified requirements. If both tools are adopted, a 100% exemption is available. The activity must also have a sound environmental compliance record – the EPA must not have issued warnings or taken enforcement action in recent years, and permit conditions must have been substantially complied with.

Large activities need to have an environmental management system (EMS) and also produce regular PERs to be eligible for exemption from the variable fee. A 50% variable fee exemption is available for an EMS that is not certified to ISO14001 and a 100% exemption for an EMS that is certified (ISO14001 and certification are explained in section 3). The activity must also have a sound environmental compliance record.

A SMA may also receive a 100% exemption from its variable fee if it meets the requirements for a large activity, i.e. an EMS either certified or not certified to ISO14001 plus PERs.

Certain activities may be eligible for low risk status. If the criteria specified in these Guidelines are met, no variable fee is payable and a single, uniform fixed fee is payable. The activity must also have a sound environmental compliance record.

Annual fees for the various industries and production capacities (fixed fee and variable fee) and the low risk activity fixed fee are specified in the General Regulations. They are specified as fee units, which are multiplied by a factor called the fee unit value to calculate the fee in dollars. The fee unit value is determined annually under the *Fee Units Act 1997* and the current value is obtainable from the Department of Treasury and Finance<sup>3</sup>.

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<sup>3</sup> See the Department of Treasury and Finance website <http://www.treasury.tas.gov.au> or contact the Department (telephone (03) 6233 3100).

### 1.3 Advantages of adopting the management tools

Apart from the financial benefit of a fee remission, there are various advantages for SMAs and large activities in adopting the specified environmental management tools. Many businesses are recognising that to be sustainable, they need to take responsibility not only for their economic performance but also their environmental and social performance. Numerous businesses in Tasmania and elsewhere have already adopted environmental policies and EMSs and publicly report on their environmental performance.

Experience has shown that businesses using an EMS can gain various benefits including:

- improved operational efficiencies
- cost savings
- improved customer satisfaction
- competitive advantage
- new markets and customers
- improved business image
- meeting supply chain requirements
- ensuring regulatory compliance
- staff and owner satisfaction from taking a responsible approach to environmental protection<sup>4</sup>.

These benefits may also be gained, but to a lesser degree, from the adoption of an Environmental Policy or PERs.

### 1.4 Developing the environmental management tools

An organisation, particularly a large one, may have the capacity and expertise to develop an Environmental Policy, PER or EMS in-house. It is also possible that an industry association may develop environmental management tools tailor-made for its members. Where these options are unavailable, it is desirable to engage a suitably qualified consultant to undertake or assist with the development of environmental management tools. A person applying for low risk status may also need to engage a consultant to assist with the application.

The Board is not in a position to recommend any particular consultant. Consultants can be found through the Yellow Pages telephone directory under 'Environmental &/or Pollution Consultants'.

### 1.5 Persons responsible<sup>5</sup>

The General Regulations and EMPCA refer, in respect of operational activities, to the 'person responsible' for the environmentally relevant activity. Where an activity is subject to a permit granted under the *Land Use Planning and Approvals Act 1993* (LUPAA), the person responsible may or may not be the holder of the permit. For

<sup>4</sup> This description is drawn in part from *Small Business Environmental Management Solutions* (Business SA, Adelaide, 2002); and *Environmental Management Tools for SMEs: A Handbook* (European Environment Agency, Copenhagen, 1998).

<sup>5</sup> The term 'responsible person' is also used in these Guidelines and has the same meaning as 'person responsible'.

example a land owner may be the holder of a permit but another person may actually operate the relevant activity under a lease or other arrangement. The operator of the activity is the responsible person who is liable under the General Regulations to pay the relevant annual fee, who may apply for a fee remission and who is responsible for ensuring compliance with these Guidelines where an application is made. A similar situation applies to activities subject to an Order under the *State Policies and Projects Act 1993* (SPPA).

Where an activity is subject to an environment protection notice (EPN) issued under section 27(6) of EMPCA, the person to whom the EPN was issued will be the responsible person.

The person responsible may be a natural person or body corporate, and will usually be the latter. In the case of a body corporate, documentation required for the purposes of these Guidelines may be signed by any responsible officer unless otherwise specified in the Guidelines (for example under section 2.2 the CEO or equivalent is required to sign an Environmental Policy).

## **1.6 Activities other than level 2 activities<sup>6</sup>**

Most of the activities regulated by the EPA are level 2 activities, which are those listed in Schedule 2 of EMPCA. Applicants must obtain a permit to construct and operate these activities from the relevant planning authority (usually the local council) under the *Land Use Planning and Approvals Act 1993* (LUPAA), but they are referred to the Board for environmental assessment and issue of permit environmental conditions under section 25 of EMPCA. Annual fees for level 2 activities are specified in Schedule 1 of the General Regulations, and such activities are eligible for fee remissions in a straightforward manner in accordance with sections 2-4 of these Guidelines.

The EPA also regulates a small number of activities that have been assessed under other provisions of EMPCA and other legislation. Fees for these activities and availability of remissions under the annual fee remission scheme are described below.

### **Level 3 activities**

Level 3 activities are assessed and approved under the SPPA. Level 3 activities are of two types – those that would be level 2 activities if they had not been assessed under the SPPA, and other types of activity. For the first type, the General Regulations prescribe the same fees as for level 2 activities. For the second type, the Regulations prescribe a uniform fixed plus variable fee.

### **Level 1 activities ‘called in’**

The Director, EPA may call in a level 1 activity for assessment by the Board in accordance with section 24 of EMPCA. A level 1 activity is one which requires a LUPAA permit but which would not normally be referred to the Board for assessment. After assessment, the Board may determine that the activity will be regulated by the EPA. For these activities the General Regulations prescribe a uniform fixed plus variable fee that is the same as the one for level 3 activities that are not also level 2.

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<sup>6</sup> See section 3 of EMPCA for legal definitions of level 1, level 2 and level 3 activities.

## **Section 27 activities**

The EPA also regulates a small number of activities that have been assessed and issued with an environment protection notice under section 27 of EMPCA. These are of two types – those that are level 2 activities but which do not require a LUPAA permit, and those which are not level 1, level 2 or level 3 activities. For the first type, the General Regulations prescribe the same fees as for level 2 activities. For the second type, the Regulations prescribe a uniform fixed plus variable fee that is the same as the one for called-in level 1 activities.

## **Available remissions**

Persons responsible for activities to which the uniform fixed plus variable fee applies may apply for remission of the variable fee. The default position is to regard these activities as 'large activities' even though they are not listed in Appendix 1. Thus they are only eligible for a fee remission if an EMS is adopted and the other requirements of section 3 of these Guidelines are met. The person responsible may, however, apply to the Board to have the relevant activity classified as a SMA, which would enable applications for a variable fee exemption to be made in accordance with section 2 of these Guidelines. Persons should discuss requirements for such an application with the Division before submitting it in writing. Low risk status is not available for these activities.

Level 3 activities that would be level 2 activities if they had not been assessed under the SPPA are in all cases regarded as 'large activities'. Thus they are only eligible for a fee remission if an EMS is adopted and the other requirements of section 3 of these Guidelines are met. Low risk status is not available for these activities.

In respect of level 2 activities that have been assessed under section 27 of EMPCA, the responsible person may apply for any type of fee remission specified in these Guidelines, including low risk status.

## **2. VARIABLE FEE EXEMPTION – SMALL-MEDIUM ACTIVITIES**

### **2.1 Introduction**

The General Regulations require the Board, when considering an application for a variable fee exemption, to have regard to measures taken by the responsible person to reduce environmental harm or the likelihood of environmental harm. The Board must also take the applicant's compliance record into account. The Board may take any other relevant matters into account. The Board has determined that the requirements specified in this section will apply to SMAs.

A person responsible for a SMA may receive a 50% exemption from the variable fee if an Environmental Policy is adopted in accordance with the requirements specified below. A further 50% exemption is available if a PER is regularly produced in accordance with requirements specified below. If both tools are adopted, a 100% exemption is available. The applicant must also have a sound environmental compliance record as specified below.

A person responsible for a SMA may also receive a 100% exemption from the variable fee if the requirements for a large activity are met, i.e. an EMS either certified or not certified to ISO14001 plus PERs (see section 3). The activity must also have a sound environmental compliance record.

### **2.2 Environmental Policy**

An Environmental Policy is a document prepared by an organisation which sets out its overall aims and intentions with respect to the environment. Producing a policy is an important first step towards achieving effective environmental management. Having developed a Policy, an organisation can then take measures necessary to achieve the stated aims and intentions.

An Environmental Policy provides important information to external stakeholders (customers, suppliers, etc) on aims and intentions with respect to the environment, and it can enhance the organisation's reputation provided that the Policy is implemented effectively<sup>7</sup>.

An Environmental Policy is normally related to all of an organisation's operations rather than a specific activity, so one Policy may be adopted by a person responsible for several similar activities.

An Environmental Policy is a publicly available document. It must be made available on the organisation's website (if it has one) and printed copies must be made available to members of the public. The policy must be compatible with the organisation's other policies, be provided to all staff and contractors, be displayed in all workplaces, and be included in training programs and systems.

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<sup>7</sup> This description is drawn from *Environmental Management Tools for SMEs: A Handbook* (European Environment Agency, Copenhagen, 1998).

## Required elements of an Environmental Policy

An Environmental Policy must include the following elements.

- A general commitment to conducting operations in an environmentally responsible manner at all times.
- Commitments to:
  - 0 pollution prevention;
  - 0 continuous improvement of environmental performance (where practical opportunities exist or emerge);
  - 0 conduct operations in compliance with environmental legislation, regulations and permit conditions<sup>8</sup>;
  - 0 communicate the Policy to employees and the community; and
  - 0 educate employees and contractors in their environmental responsibilities and ensure this is integrated into their work practices.
- A brief statement of environmental issues specific to the organisation's operations<sup>9</sup>, and a commitment to giving them appropriate attention.

The Environmental Policy must be signed by the Chief Executive Officer (CEO) of the responsible person's company, or by the person performing the equivalent role in an organisation that is not a registered company<sup>10</sup>.

The date of issue must be stated on the Policy.

## Verification of eligibility

The following documents must be submitted by the person responsible when applying for a fee exemption for an Environmental Policy (the application process is described in section 5).

- A copy of the Policy.
- A statutory declaration<sup>11</sup> by the CEO that:
  - 0 the Environmental Policy is compatible with the organisation's other policies (e.g. OH&S, quality assurance);
  - 0 copies have been provided to all staff and contractors;
  - 0 the Policy is displayed in all workplaces;

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<sup>8</sup> Throughout these Guidelines, the term 'permit conditions' includes the conditions of a LUPAA permit and any variation to conditions of a permit by an environment protection notice issued under section 44(1)(d) of EMPCA. It also includes the conditions of an EPN issued to regulate an activity in accordance with s.27(6) of EMPCA, and the conditions of a SPPA Order relating to a level 3 activity.

<sup>9</sup> If the organisation has diverse activities in more than one industry sector, it is only necessary to state the environmental issues relevant to the activity that is the subject of the fee remission application.

<sup>10</sup> For the purposes of these Guidelines, the CEO is the CEO of the registered Australian company that operates the activity. The CEO is the person who undertakes the CEO role in the company as defined in the Commonwealth's *Corporations Act 2001*. Where the organisation is not a registered company, the person who undertakes the equivalent role must sign the required documents, for example the General Manager in a council. It is important that documents required for fee remission applications, such as an Environmental Policy or PER, have support at the highest levels of the relevant company or organisation.

<sup>11</sup> Any statutory declaration for the purposes of the fee remission scheme must be in the form prescribed under Tasmania's *Oaths Act 2001*.

- 0 training on the Policy is included in training programs and systems;
- 0 printed copies are available to the public on request;
- 0 the Policy is available on the organisation's website (if the organisation has a website)<sup>12</sup>; and
- 0 the Policy will be referred to in the organisation's promotional literature (if such literature is produced)<sup>13</sup>.

Every three years, the permit holder will be obliged to provide the EPA with a copy of the Policy and make a fresh statutory declaration as above. The documents must be received by the EPA at least 90 days prior to the third permit anniversary date<sup>14</sup> after the fee remission took effect, or at least 90 days prior to the third permit anniversary date after the previous verification, as the case may be. If documents are not received on time or are unsatisfactory, it is likely that the fee remission will be revoked.

## 2.3 Public environmental report

A PER is a document which an organisation produces to inform stakeholders about its environmental activities. Environmental reporting demonstrates that the organisation is taking a proactive approach to protection of the environment.

The very act of producing a PER means that an organisation will have to take a close look at its environmental activities. This can lead to discovery of efficiency gains, costs savings, waste reduction and risk reduction. The fact that environmental data is required for the PER will stimulate the organisation to develop efficient systems for data collection and processing<sup>15</sup>.

### General requirements

PERs must be produced every three years, with the reporting period being the foregoing three years of commercial operations<sup>16,17</sup>. The first PER must be produced before a fee exemption will be granted.

Each PER will normally cover only one activity (i.e. one permit), but it may cover more than one activity where the activities are co-located on the same site or contiguous sites.

<sup>12</sup> Where the fee remission applicant is a subsidiary or division of another company and does not have its own website, but the parent company has a website (in Australia or elsewhere) that covers the subsidiary or division, the environmental policy must be made available on the parent company's website.

<sup>13</sup> In the case of an initial fee remission application, existing stocks of literature that do not mention the Environmental Policy may be used and the Policy referred to in future reprints or new literature.

<sup>14</sup> The term 'permit anniversary date' throughout these Guidelines refers to the anniversary of the day for an activity on which the LUPAA permit was granted, the Order was made under the SPPA or the section 27(6) EPN was issued, as the case may be. The permit anniversary date is the day each year on which the annual fee payment is due, as notified on the annual fee invoice (regulation 7 of the General Regulations specifies the due date for payment of annual fees).

<sup>15</sup> This description is drawn from *Environmental Management Tools for SMEs: A Handbook* (European Environment Agency, Copenhagen, 1998).

<sup>16</sup> An exception is for new activities, where the reporting period for the first PER is the period from commencement of commercial operations but not less than 12 months. Refer section 5.4.

<sup>17</sup> The reporting period of three years (or less in the case of new activities) applies even if the applicant has not been the responsible person for the whole of that period. A PER must report on the entire applicable period, regardless of any change of responsible person during that period.

A PER is a publicly available document. It must be made available on the organisation's website (if it has one). Printed copies must be made available to members of the public. Contact details for obtaining copies of the PER will be provided in the fee remission register on the EPA website (see section 5.8).

As a public document, it is expected that a PER will be illustrated with photographs, diagrams and charts where appropriate to assist readers to understand technical content.

The scope and level of detail of the PER for a particular activity must be commensurate with its scale, nature, surrounding environment and potential environmental impacts. A more detailed PER will be appropriate, for example, for a large activity with potentially large environmental impact, or an activity located in a major urban area or with numerous sensitive premises in the vicinity. In general, a PER should be of the same standard as documents provided for regulatory purposes such as an Environmental Management Plan (EMP).

### **Relationship to existing reports and EMPs**

For some activities regulated by the EPA, the permit conditions already require the production of an annual environmental report. Where a responsible person successfully applies for a fee exemption in accordance with these Guidelines, the PER may simultaneously satisfy a requirement under permit conditions to provide an annual environmental report for the year in which the PER three-year reporting period ends<sup>18</sup>. Where a PER is substituted for an annual report, its contents must comply with both the requirements of these Guidelines and the requirements of the relevant permit condition.

Existing permit conditions may also require an EMP or EMP Review. A PER does not substitute for an EMP or EMP Review. Whilst EMPs may report on what has happened in the past, they are primarily a strategic plan for environmental management that looks forward in time. Some material may be common to both (particularly reporting material) and organisations may draw from an EMP in producing a PER or vice versa.

### **Required elements of a PER**

A PER must include the following elements.

- A signed and dated statement by the CEO of the responsible person's organisation or company, acknowledging the contents of the PER.
- A profile of the responsible person's organisation or company.
- The organisation's Environmental Policy (if applicable<sup>19</sup>).

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<sup>18</sup> Note that the converse does not apply, i.e. an annual report produced for the purposes of permit conditions may not be substituted for a PER.

Note also that, where there is an existing permit requirement for an annual report, it may be desirable to coordinate the timing of submission of the PER and the annual report. This will be approached on a case-by-case basis and should be discussed with the relevant regulatory officer within the EPA Division. In any case, the PER must be submitted by the deadline prescribed in the General Regulations and section 5 of these Guidelines.

<sup>19</sup> Where a responsible person produces a PER, it would normally be expected that an Environmental Policy exists. A Policy would be the basis for environmental management activities that the organisation is reporting on. For the purposes of the fee remission scheme it is not essential, however. A 50% remission of the variable fee is available for a PER alone.

- A statement of the reporting period covered by the PER. The reporting period is to be three years (except for newly commenced activities, in which case the period is to be at least 12 months)<sup>20</sup>, and the start and end dates must be stated. Information in the PER must be up to date at some point of time during the six months<sup>21</sup> preceding the date of application for the fee remission (or the date of submitting a further PER for verification of ongoing eligibility).
- An activity profile. This will include brief descriptions of:
  - 0 plant and operations;
  - 0 production capacity and actual production level;
  - 0 raw material consumption level where the activity permit specifies a limit of that type;
  - 0 product markets and sources of raw materials;
  - 0 pollution discharges and wastes;
  - 0 pollution control measures;
  - 0 the local environment (the natural environment, land use, and other significant sources of pollution in the vicinity);
  - 0 the regional environment (for example the airshed and water catchment must be described); and
  - 0 any significant changes to the above during the reporting period.

The profile must address the following environmental aspects of the activity, with brief discussion of potential and actual impacts of emissions on the environment where appropriate<sup>22</sup>:

- 0 air emissions (including odour) – discharge points, component pollutants and their impacts must be identified;
  - 0 water emissions (wastewater and stormwater) – discharge points, component pollutants and their impacts must be identified;
  - 0 noise emissions – sources and their impacts must be identified;
  - 0 land/soil contamination;
  - 0 wastes – general waste and controlled waste (must be quantified);
  - 0 energy use (must be quantified) and sources;
  - 0 water use (must be quantified) and sources;
  - 0 measures taken to manage and minimise greenhouse emissions;
  - 0 flora, fauna and biodiversity (on site and in the surrounding environment); and
  - 0 cultural and aboriginal heritage.
- Permit conditions (copy to be reproduced in the PER).
  - A list of all relevant environmental legislation, including primary legislation, regulations, statutory policies and the like that impose environmental obligations on the activity.
  - Subject to the provisions of privacy legislation, a list of all complaints received from the public<sup>23</sup> during the reporting period concerning actual or potential

<sup>20</sup> The reporting period includes any period in which another responsible person operated the activity.

<sup>21</sup> This period may be extended to up to 12 months at the discretion of the Board, if necessary to coordinate with a permit annual reporting requirement.

<sup>22</sup> Only those impacts directly caused by the activity need be described. Off-site impacts associated with raw material supply or product use do not necessarily need to be described.

<sup>23</sup> All complaints that the responsible person is aware of, including complaints received directly by the responsible person and complaints received by the EPA and other regulatory agencies that the responsible person has been

environmental harm caused by the activity and a description of actions taken as a result of those complaints.

- A list of all non-trivial environmental incidents and all incidents of non-compliance with the permit conditions and relevant environmental legislation that occurred during the reporting period, and any action taken to prevent such incidents in future.
- A list of all infringement notices and environment protection notices issued under EMPCA in relation to the activity during the reporting period.
- A description of any of the following actions under EMPCA in relation to the activity during the reporting period:
  - 0 environmental improvement programmes approved or implemented;
  - 0 mandatory environmental audits; and
  - 0 environmental agreements entered into with the Board.
- A brief description of any proceedings (prosecutions) under Tasmanian or Commonwealth environmental legislation, or the environmental provisions of other legislation, in relation to the activity during the reporting period, regardless of whether or not the proceedings have concluded or whether or not a conviction was recorded.
- A brief description of any other enforcement action taken under any other Tasmanian or Commonwealth environmental legislation, the environmental provisions of other legislation, or the environmental provisions of council by-laws, in relation to the activity during the reporting period<sup>24</sup>.
- A summary of data resulting from any environmental monitoring during the reporting period. This must include both monitoring required under permit conditions and any other environmental monitoring relating to the activity. This information must be presented in graphical form where possible and must include comparison with results presented in previous PERs (if any). Discussion of any significant trends observable over time must be provided.
- Identification of any monitoring results that breach permit conditions or relevant limits in legislation and results that vary significantly from predictions contained in any relevant EMP, an explanation of why each identified breach of specified limits or variations from predictions occurred, and details of the actions taken in response to each identified breach or variation.
- A report on staff and contractor environmental training.
- A report on any community engagement undertaken in relation to environmental matters.
- A report on environmental management activities that were above and beyond the requirements of permit conditions and environmental legislation. Possible activities may include:

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made aware of. 'Public' complaints includes complaints by companies and organisations as well as by individual members of the public.

<sup>24</sup> For example: infringement notices or abatement notices issued under the *Litter Act 2007*; protection orders issued under the *Threatened Species Act 1995*.

- 0 upgrades and improvements to production processes that have environmental benefits;
  - 0 upgrades of pollution control systems;
  - 0 recycling and re-use programs;
  - 0 waste minimisation programs;
  - 0 site rehabilitation programs (e.g. revegetation of old sites);
  - 0 adoption and use of sustainable energy sources (solar, wind, etc);
  - 0 energy conservation measures;
  - 0 water conservation measures;
  - 0 material conservation measures;
  - 0 environmental purchasing or 'buy green' initiatives;
  - 0 involvement with, or contributions to, community environmental action groups (e.g. Landcare, Rivercare); and
  - 0 contributions to campaigns that raise environmental awareness (e.g. 'Do the Right Thing').
- A description of any commitments to improve environmental performance in future years (above and beyond the requirements of permit conditions and legislation), including timeframes for implementation.

Where one of the above matters is considered to be not relevant to the activity, or where there has been no relevant action or change during the reporting period, that must be stated. For example if there is no controlled waste generated on the site that must be stated, or if there has been no community engagement undertaken during the reporting period that must be stated.

### **Verification of eligibility**

The following documents and information must be submitted by the person responsible when applying for a fee exemption for PERs (the application process is described in section 5).

- One printed copy of the PER. Reproduction must be of high quality (in particular all text must be easily readable). If the application is successful, a further five copies must be provided as soon as possible<sup>25</sup>. Binding of the additional copies must be comb bound, wire bound, Velobind, saddle stapled or perfect bound.
- The PER in electronic form, on CD-ROM, USB flash memory device or other memory device acceptable to the Board. The file must be in Adobe PDF format or another format acceptable to the Board. This electronic document will be publicly available and copies of it may be provided by the EPA to third parties. It must be possible to produce high quality printed images from this electronic document, and it must be possible to electronically search the document. Scanned images of a printed document are not acceptable.
- Details of where the public may obtain printed copies of the PER<sup>26</sup>.
- If the organisation wishes to have the PER accessible through a hyperlink on the EPA's fee remission register (see below), the person responsible must provide written permission to the EPA establish the hyperlink.

<sup>25</sup> Four of these copies will be placed in the Department's library and other public libraries, and will be publicly accessible.

<sup>26</sup> A charge may be made for each copy of a PER, equal to printing costs only.

- A statutory declaration by the CEO that:
  - 0 the PER relating to the activity that is the subject of the application is a true and accurate representation of the organisation's environmental activities and performance during the reporting period;
  - 0 the PER contents comply with the requirements of these Guidelines;
  - 0 the PER will be made available on the organisation's website (if the organisation has a website)<sup>27</sup>, immediately after the responsible person receives advice that the remission has been granted; and
  - 0 printed copies of the PER will be made available to members of the public on request, immediately after the responsible person receives advice that the remission has been granted.

Where applications and PERs are submitted for several activities simultaneously by the same responsible person, a single statutory declaration may be submitted provided that the declaration states that it applies to all of the activities and lists those activities.

The same requirements apply every three years, i.e. every three years when a new PER is produced the above documentation must be submitted. The documents must be received by the EPA at least 90 days prior to the permit anniversary date following production of the PER. If documents are not received on time, it is likely that the fee remission will be revoked.

### **Register of fee remissions**

The EPA maintains a public register on its website that provides details of all fee remissions that have been granted under the annual fee remission scheme (for further information see section 5.8).

A responsible person applying for a remission which requires production of a PER must provide details of how a printed copy of the PER may be obtained, by providing contact details for entry on the register. Telephone number, postal address and an email address (if available) must be provided.

The responsible person may also consent to a hyperlink being provided through the register to the organisation's website if the organisation has a website.

## **2.4 Compliance record**

The General Regulations require the Board to take into account the applicant's history of compliance with permit conditions and relevant legislation. For a fee exemption to be granted, and to continue in subsequent years, the following conditions must be met.

- The applicant has, during the past 12 months, in the opinion of the Board, substantially complied with all permit conditions for the activity.

<sup>27</sup> Where the fee remission applicant is a subsidiary or division of another company and does not have its own website, but the parent company has a website (in Australia or elsewhere) that covers the subsidiary or division, the PER must be made available on the parent company's website.

- The applicant has not, during the past 12 months, been issued with a written warning by the Board or Director<sup>28</sup> in relation to the activity.
- The applicant has not, during the past two years, been:
  - 0 issued with an environmental infringement notice<sup>29</sup> (excepting notices that have been withdrawn or overturned); or
  - 0 issued with an environment protection notice under section 44(1)(a) or (b) of EMPCA<sup>30,31</sup> (excepting notices that have been revoked or overturned, and excepting notices that have been issued for the purposes of s.27(6) of EMPCA).
- The applicant has not, during the past three years, been convicted of an offence under Tasmanian environmental legislation or the environmental provisions of other Tasmanian legislation<sup>32,33</sup>.
- The applicant has not, during the past three years, been a respondent to civil enforcement proceedings under section 48 of EMPCA as a consequence of which the applicant was ordered by the Tribunal to do one of the things listed in section 48(5)<sup>34</sup>.

Each of the above time periods are to the date that an application is received by the Board. If any of the conditions are breached after receipt of an application but before processing of it is completed, a fee remission will not be granted.

The EPA will check the activity's compliance record when processing the application for a fee remission and when verifying continuing eligibility.

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<sup>28</sup> A warning issued in accordance with the *Enforcement Policy for the Environmental Management and Pollution Control Act 1994* (Department of Primary Industries, Water and Environment, 2004).

<sup>29</sup> Notices issued to the applicant in relation to all activities for which the applicant was responsible during the previous two years will be taken into account.

<sup>30</sup> Notices issued to the applicant in relation to all activities for which the applicant was responsible during the previous two years will be taken into account.

<sup>31</sup> EMPCA s.44(1)(a) EPNs are issued where environmental harm is being caused or is likely to be caused. S.44(1)(b) EPNs are issued where remediation of past environmental harm is required.

<sup>32</sup> The primary focus will be on prosecutions for breaches of EMPCA and the *Pollution of Waters by Oil and Noxious Substances Act 1987*, and prosecutions under LUPAA for breaches of permit conditions. Nonetheless a remission could be refused because of a recent prosecution under other relevant legislation such as the *Threatened Species Act 1995*.

<sup>33</sup> Offences by the applicant in relation to all activities for which the applicant was responsible during the previous three years will be taken into account.

<sup>34</sup> Orders to the applicant in relation to all activities for which the applicant was responsible during the previous three years will be taken into account.

### **3. VARIABLE FEE EXEMPTION – LARGE ACTIVITIES**

#### **3.1 Introduction**

The General Regulations require the Board, when considering an application for a variable fee exemption, to have regard to measures taken by the responsible person to reduce environmental harm or the likelihood of environmental harm. The Board must also take the applicant's compliance record into account. The Board may take any other relevant matters into account. The Board has determined that the requirements specified in this section will apply to large activities.

For the responsible person to be eligible for an exemption from the variable fee for a large activity, an EMS must be adopted in accordance with the requirements specified below and regular PERs must also be produced. A 50% variable fee exemption is available for an EMS that is not certified to ISO14001 and a 100% exemption for an EMS that is certified. The applicant must also have a sound environmental compliance record.

An EMS consists of a number of interrelated elements that function together to achieve effective environmental management. A model for EMSs has been developed by the International Standards Organisation (ISO). The ISO14001 standard specifies the elements that an EMS should contain – an environmental policy, planning, implementation and operation, checking and management review<sup>35</sup>. ISO14001 has been adopted in Australia by Standards Australia<sup>36</sup>.

An EMS may cover one or more activities managed by the same organisation.

#### **Certification**

An EMS may be formally certified by an accredited certifying body. In Australia, certifying bodies are accredited by the Joint Accreditation System of Australia and New Zealand (JAS-ANZ)<sup>37</sup>. EMS certification to ISO14001 by a JAS-ANZ certifying body provides a very high level of assurance that the EMS meets the requirements of ISO14001, but it involves considerable expense.

Some activities categorised as 'large' under these Guidelines may not be large by national or international standards and may not warrant ISO14001 certification, but they warrant something more than what is required for SMAs. For this reason, a lesser fee exemption is available for large activities that have an EMS which has the elements of ISO14001 but which has not been certified<sup>38</sup>. Some industry associations have (or may in future develop) an EMS tailored to the requirements of their own members that is not necessarily ISO14001 certified, and this fee remission scheme seeks to provide recognition for adoption of such EMSs.

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<sup>35</sup> This description is drawn from *Environmental Management Tools for SMEs: A Handbook* (European Environment Agency, Copenhagen, 1998).

<sup>36</sup> AS/NZS ISO 14001:2004 *Environmental Management Systems – Requirements with guidance for use* (Standards Australia and Standards New Zealand, Sydney and Wellington, 2004).

<sup>37</sup> See <http://www.jas-anz.com.au/showpage.php#>.

<sup>38</sup> There are overseas precedents for the recognition of EMSs that are not certified to ISO14001. The practice is well accepted in Canada and the USA See for example Canada's EnviroReady scheme – <http://www.14000registry.com/default.asp>.

## **Relationship to EMPs**

An EMS does not substitute for the EMP or EMP Review, which is required under the permit conditions for some activities. An EMP is primarily a strategic plan for environmental management, whereas an EMS is a tool for the current management of the activity and is continually updated by the organisation. Nonetheless, some material may be common to both and an organisation may draw from an EMS in producing an EMP or vice versa.

### **3.2 EMS not ISO14001 certified**

An EMS not certified to ISO14001 must contain all the elements of an EMS specified in ISO14001.

Whilst JAS-ANZ certification is not required, an external auditor must be satisfied of the existence and implementation of an EMS that meets the requirements of ISO14001.

#### **Verification of eligibility**

##### *Initial application:*

The following documents must be submitted by the person responsible when applying for a fee exemption (the application process is described in section 5).

- A copy of an audit report from a suitably qualified external auditor. The auditor must be satisfied that an EMS meeting the requirements of ISO14001 has been established and implemented in relation to the activity, however this does not constitute a certification audit of the EMS. The auditor must not have had a substantial role in the original development of the EMS.
- A statutory declaration by the CEO that the organisation has, in relation to the activity that is the subject of the application, established and implemented an EMS that meets the requirements of ISO14001.

A copy of the documented EMS is not normally required, but the Board reserves the right to require one to be provided or to require specified portions of the documented EMS to be provided, at any time.

##### *Annual verification:*

The following documents must be submitted annually by the responsible person.

- A copy of an audit report from a suitably qualified external auditor. The audit is to be conducted annually in accordance with clause 4.5.5 of ISO14001-2004, but by an external auditor. The auditor must not have had a substantial role in the original development of the EMS.
- Where changes to activity operations or the EMS are recommended by the auditor as a result of the annual audit, a statutory declaration by the CEO that the organisation has taken or will take all reasonable steps to implement those changes.

The documents must be received by the EPA at least 90 days prior to the next permit anniversary date. If documents are not received on time, it is likely that the fee remission will be revoked.

### **3.3 EMS ISO14001 certified**

The EMS must be certified to ISO14001 by a certifying body accredited by the JAS-ANZ.

#### **Verification of eligibility**

##### *Initial application:*

The following documents must be submitted by the responsible person when applying for a fee exemption (the application process is described in section 5).

- A copy of the ISO14001 certificate for the EMS from a JAS-ANZ accredited EMS certification body. The certificate must clearly indicate that the EMS covers the activity that is the subject of the application.

A copy of the documented EMS is not normally required, but the Board reserves the right to require one to be provided or to require specified portions of the documented EMS to be provided, at any time.

##### *Annual verification:*

The following documents must be submitted annually by the responsible person.

- A copy of an audit report from a suitably qualified external auditor. The audit is to be conducted annually in accordance with clause A.5.5 of ISO14001-2004, but by an external auditor. The auditor must not have had a substantial role in the original development of the EMS.
- Where changes to activity operations or the EMS are recommended by the auditor as a result of the annual audit, a statutory declaration by the CEO that the organisation has taken or will take all reasonable steps to implement those changes.

The documents must be received by the EPA at least 90 days prior to the next permit anniversary date. If documents are not received on time, it is likely that the fee remission will be revoked.

##### *Recertification:*

The Board reserves the right to require a responsible person to arrange for recertification of the EMS by a JAS-ANZ accredited certification body if an annual audit report, the organisation's environmental performance or other relevant factors indicate that recertification is desirable. A copy of the ISO14001 certificate must be provided following recertification. This requirement will only apply if the responsible person wishes to retain the fee remission for an EMS certified to ISO14001.

### **3.4 Public environmental report**

A PER is required for both levels of large activity fee exemption. PERs must be produced in accordance with the requirements in section 2.3, but the PER must also include the following elements:

- a description of the EMS;
- a summary of the contents of annual audit reports during the reporting period; and
- a report on any changes made or intended to be made to the activity or to the EMS in response to annual audits.

Verification requirements for continuing eligibility are as the same as those in section 2.3.

### **3.5 Compliance record**

An applicant for either level of large activity fee exemption must have a sound environmental compliance record. The same requirements apply as for SMAs – refer section 2.4.

## **4. LOW RISK STATUS**

### **4.1 Introduction**

The General Regulations allow the Board, when considering an application for a determination that an activity is a low risk activity, to take into account various relevant factors. The Board has determined that the requirements specified in this section will apply. If the specified requirements are met, no variable fee is payable and a single fixed fee is payable.

Low risk status is available for any level 2 activity that meets the requirements below. It is not available for non level 2 activities or level 3 activities that are also level 2.

### **4.2 Requirements for low risk status**

To be eligible for low risk status, an activity must meet the following criteria.

- There are no monitoring requirements or pollutant numerical emission limits in the activity's permit conditions.
- In the opinion of the Board the activity does not need to be subject to routine inspections.
- There are no sensitive uses<sup>39</sup> located near the activity. For small scale activities the standard recommended attenuation distances published by the EPA Division's predecessor<sup>40</sup> may be used by the Board as a guide.
- The activity complies with the applicable industry Code of Practice or Guidelines, where such a document has been published by the EPA, the EPA Division or the Division's predecessors. A list of such documents is provided in Appendix 3.

#### **Verification of eligibility**

When applying for a low risk determination, and annually thereafter where low risk status is granted, the responsible person must submit a statutory declaration by the CEO that the activity complies with the relevant industry Code of Practice or Guidelines<sup>41</sup>.

For annual verification, the statutory declaration must be received by the EPA at least 90 days prior to the next permit anniversary date. If the declaration is not received on time, it is likely that the fee remission will be revoked.

The EPA will check eligibility against the other criteria in this section.

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<sup>39</sup> 'Sensitive use' means a residential use or a use involving the presence of people for extended periods such as in childcare centres, schools, hospitals and caravan parks, except in the course of their employment.

<sup>40</sup> *Environmental Assessment Manual Version 1*, Department of Environment and Land Management, Hobart, 1996 (see section 5.3 of the Manual).

<sup>41</sup> Only the relevant requirements of an industry code of practice or guidelines need be complied with. Some of the requirements of codes or guidelines may be out of date. For some activities, permit conditions or legislative provisions may differ from the requirements of an industry code of practice or guidelines, because of either general advancement in the environmental management of an industry or case-specific requirements.

### **4.3 Compliance record**

The applicant must have a sound environmental compliance record. The same requirements apply as for SMAs – refer section 2.4.

## **5. APPLICATIONS, APPROVAL AND VERIFICATION**

The essential features of the process for applications, approval and verification of ongoing eligibility are shown diagrammatically at Appendix 4. A fee remission (a variable fee exemption or low risk activity fee, as the case may be) takes effect when the annual fee is next due for payment.

### **5.1 Annual fee invoicing**

Invoices and associated documentation are generated by NELMS, the EPA's database of regulated activities. NELMS holds records of fees and other information in relation to regulated activities.

If a fee remission has already been granted in respect of an activity the invoice will be for the applicable fee with remission. If a successful application was submitted the previous year and the fee remission is taking effect for the first time, no further action is necessary after paying the fee.

If no fee remission has been granted, the invoice will be for the full applicable fee.

### **5.2 Applications**

Application forms are available on the EPA's website, [www.epa.tas.gov.au](http://www.epa.tas.gov.au), and printed copies can be forwarded on request. A separate application form must be completed and submitted for each activity for which a fee remission is sought<sup>42</sup>.

A checklist is provided on the application form, listing the various documents that must be submitted with an application for the various types of fee remission (see sections 2 to 4 for details of required documentation). The application form and documents must be received by the EPA at least 90 days prior to the next permit anniversary date.

The EPA will check that all necessary documents have been provided, that the documents are satisfactory, and that the applicant's compliance record has been satisfactory during the relevant period (refer section 2.4). If all requirements are met the Board will grant a fee remission. The responsible person will be advised of the Board's decision to grant or refuse a remission, within 14 days of the decision being made. The fee remission will take effect when the annual fee is next due for payment.

Where a partial remission has already been granted in respect of an activity, the responsible person may apply for a full remission. For example where a large activity with an EMS not certified to ISO14001 has been granted a 50% variable fee exemption, the responsible person may apply for a 100% exemption after achieving certification.

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<sup>42</sup> Where there is more than one EPA-regulated activity on the same site (i.e. where two or more annual fees are payable in respect of the same site), a separate application form must be completed and submitted for each activity for which a fee remission is sought.

The EPA may request further information to clarify applications, but applications that are obviously deficient may be refused without further enquiry.

Where an application is refused, the applicant will be advised when a further application may be submitted. If, for example, an application has been refused because of ongoing non-compliance with a permit condition, the applicant will usually be advised that a further application will not be considered until 12 months after the activity has become compliant with the permit condition in question. Where an application is refused because of unsatisfactory application documents, and it is less than 90 days before the next permit anniversary date, a further application will not be considered until after the permit anniversary date.

### **5.3 Verification of ongoing compliance with these Guidelines**

If a fee remission is already current, the responsible person must submit specified documents either every year or every three years, depending upon the remission type. Documents must be received by the EPA at least 90 days before the next permit anniversary date so that the EPA may verify ongoing compliance with these Guidelines. Whilst the onus is on the responsible person to provide all documents by the date required, the EPA will usually send a reminder and verification form. See sections 2 to 4 of these Guidelines for details of documentation required for verification for particular remission types.

If any of the following apply, it is likely that the fee remission will be revoked by the Board:

- the required documentation has not been provided;
- the documentation has not been provided by the due date;
- the documentation is not compliant with the requirements of these Guidelines; or
- the responsible person's compliance record has been unsatisfactory (the requirements of section 2.4 apply).

See section 6 for further information on fee revocation.

### **5.4 New responsible persons and new activities**

Regulations 9(1) and 10(1) of the General Regulations specify that a person may not apply for a fee remission until at least 12 months after becoming liable to pay the annual fee for an activity, i.e. until at least 12 months after becoming the responsible person. In the case of existing activities, this provides a period in which the person's environmental management of the activity can be evaluated. In the case of new activities it also provides a period in which the activity's environmental performance can be evaluated for the first time.

It should be noted, however, that a fee remission applicant's environmental compliance record will be assessed, not only in relation to the activity that is the subject of the fee remission but in general (see section 2.4). For example if the applicant has been issued with a section 44(1)(a) environment protection notice in relation to another activity during the previous two years, a remission will not be granted. The person will be eligible to apply for a remission after the two year revocation period has expired.

Where the responsible person for an existing activity changes, i.e. where the activity operator changes, an existing fee remission for that activity will lapse. The full fee will

be charged when the annual fee is next due for payment. If the new responsible person successfully applies for a fee remission it will take effect in the following year.

It should also be noted that a PER for an existing activity must cover the previous three year period even if the applicant has not been the responsible person for the whole of that period. For a new activity, the reporting period must cover the period from commencement of commercial operations up to the time of report preparation, such period being not less than 12 months. Subsequent PERs for the activity will cover three year reporting periods.

## **5.5 Expansion and changes in existing activities**

Where any activity with an existing fee remission is expanded or altered such that a planning application is necessary and a new LUPAA permit is granted, the fee remission will normally continue (provided that the responsible person remains the same). The Board reserves the right to review a fee remission in these circumstances, however, and in exceptional circumstances it may be revoked.

Similarly, where an activity with an existing fee remission that operates under an EMPCA s.27 EPN is expanded or altered such that a new or amended EPN is issued (to the same person), the fee remission will normally continue but the Board reserves the right to review the remission and may revoke it.

In the event that a fee remission is revoked the responsible person may apply for a new remission after a period specified by the Board. All documentation specified in the relevant section of these Guidelines must be submitted with the application. Where documents were provided under a previous application they must be suitably revised and updated. For example where a PER has previously been produced it must be revised to reflect the changes to the activity and updated.

Where an existing fee remission continues, the expansion or alteration must be appropriately reflected in the annual or triennial verification documentation.

## **5.6 Audits and enforcement**

The fee remission scheme introduces a degree of self-regulation for persons conducting regulated activities. Responsible persons that participate can expect to experience fewer inspections and audits of their activities by the EPA, on the basis that environmental management tools or low risk status provide additional confidence that environmental performance and compliance with permit conditions and legislation are likely to be satisfactory.

The scheme does not, however, diminish the powers of the Board or Director under EMPCA and other relevant legislation. The EPA reserves the right to conduct audits of an activity's compliance with permit conditions and legislation at any time, including unannounced (spot) audits. Investigations are still likely where bona fide complaints are received by the EPA about an activity.

The EPA will not always thoroughly check documents submitted with applications for fee remissions or for annual or triennial verification. The onus is on the responsible person to ensure that the relevant requirements of these Guidelines are complied with. The EPA may, however, conduct audits of documentation at any time. This may be followed up by site inspections or audits of the activity to check that documents are accurate. In particular, responsible persons should note that a person who makes

a false statutory declaration is guilty of a crime under section 113 of Tasmania's *Criminal Code*.

Under any self regulatory scheme, an organisation that is granted self-regulatory status assumes a greater degree of responsibility for its own actions. Given this, it is important that fee remissions are revoked under this scheme whenever the responsible person's environmental compliance record is unsatisfactory (in terms of section 2.4 and related sections) or when the responsible person has not complied with other requirements of these Guidelines.

It is also more likely that enforcement action will be taken for a breach of a permit condition or legislation in the case of a responsible person with a current fee remission. The principles of the Enforcement Policy for EMPCA<sup>43</sup> are relevant in this regard. One of the principles to be taken into account when considering whether enforcement action is required is the culpability of the responsible person, including any aggravating circumstances. It is likely that a responsible person with a fee remission would be considered more culpable than one without a fee remission, and thus enforcement action would be more likely<sup>44</sup>.

## 5.7 Appeals

If responsible persons are uncertain about the requirements of the annual fee remission scheme they should contact the EPA to obtain clarification prior to making applications or submitting documentation. This will reduce the likelihood of rejection of an application or revocation of an existing remission.

The Board has delegated its powers under regulations 9 and 10 of the General Regulations to the Director, who makes all decisions under the fee remission scheme as long as the delegation remains in force. A responsible person who is dissatisfied with a decision made by the Director (about a condition of a fee remission, a refusal to grant a remission or revocation of a remission) may request a review of the decision by the Board. The matter should first be discussed with the Director or relevant officers in the EPA Division.

Under the General Regulations there is no provision for a formal appeal against a condition of a fee remission, a refusal to grant a remission or revocation of a remission.

## 5.8 Register of fee remissions

The EPA maintains a public register on its website that provides details of all fee remissions that have been granted under the annual fee remission scheme (including those that have been later revoked). The following details are provided on the register:

- activity name;
- activity location;
- activity type;
- type of remission;

<sup>43</sup> *Enforcement Policy for the Environmental Management and Pollution Control Act 1994* (Department of Primary Industries, Water and Environment, 2004).

<sup>44</sup> The Enforcement Policy will be amended in due course to reflect this.

- level of remission;
- applicable remission requirements;
- date granted;
- date revoked (if applicable);
- responsible person;
- responsible person's address;
- verification requirements;
- remission conditions; and
- contact details for PER (if applicable).

## 6. REVOCATION OF FEE REMISSIONS

### 6.1 Revocation action

The General Regulations provide that a current annual fee remission may be revoked for a specified period. The Board has determined that it may revoke a fee remission (including a remission that has not yet taken effect) under any of the following circumstances, for the period shown. After the specified revocation period, the responsible person may apply for a new remission.

<b>Circumstance</b>	<b>Period of revocation</b>
The activity is not, in the opinion of the Board, substantially complying with the conditions of the activity permit.	The responsible person is precluded from receiving any remission until one year after the activity is (in the opinion of the Board) substantially compliant.
The responsible person has been issued with a written warning by the Board or Director.	The responsible person is precluded from receiving any remission for at least one year. If the warning relates to a breach of a permit condition or legislation, the revocation will continue until one year after the activity is (in the opinion of the Board) substantially compliant.
The responsible person has been required by the Board to prepare an environmental improvement programme in accordance with s.39 of EMPCA.	The responsible person is precluded from receiving any remission until one year after the programme has been satisfactorily completed.
The responsible person has been issued with an environment infringement notice (excepting notices that have been withdrawn or overturned).	The responsible person is precluded from receiving any remission for a period of two years <sup>45</sup> .
The responsible person has been issued with an environment protection notice under section 44(1)(a) or (b) of EMPCA (excepting notices that have been revoked or overturned, and excepting notices that have been issued for the purposes of s.27(6) of EMPCA).	Ditto.

<sup>45</sup> I.e. the full fee must be paid on the next two occasions when the annual fee is due.

<b>Circumstance</b>	<b>Period of revocation</b>
The responsible person has been required by the Board to undertake a mandatory environmental audit in accordance with section 30 of EMPCA.	The responsible person is precluded from receiving any remission for at least two years. If the audit reveals a breach of a permit condition or legislation, the revocation will continue until one year after the non-compliance is rectified or for two years, whichever is the longer period.
The responsible person has been convicted of an offence under Tasmanian or Commonwealth environmental legislation.	The responsible person is precluded from receiving any remission for a period of three years <sup>46</sup> .
The responsible person is a respondent to civil enforcement proceedings under section 48 of EMPCA, and is ordered by the Tribunal to do one of the things listed in section 48(5).	Ditto.
Non-compliance with any of the other requirements for the relevant fee remission, as specified in these Guidelines.	The responsible person is precluded from receiving any remission for at least one year and until compliance with the requirements of the Guidelines is (in the opinion of the Board) substantially achieved <sup>47</sup> .
Non-compliance with any of the conditions of a fee remission.	The responsible person is precluded from receiving any remission for at least one year and until compliance with the conditions is (in the opinion of the Board) substantially achieved <sup>48</sup> .
The activity has been expanded or altered such that a new LUPAA permit has been issued by the relevant planning authority, and the Board determines that the fee remission for the activity will be revoked.	The responsible person may apply for a new remission after a period specified by the Board.

<sup>46</sup> I.e. the full fee must be paid on the next three occasions when the annual fee is due.

<sup>47</sup> For example, it may be revealed that an activity which has previously been granted low risk status now has a sensitive premises within the specified attenuation distance. The fee remission will be revoked and an application for a new remission will not be considered as long as the sensitive premises remains. Another example is where the responsible person has not complied with annual or triennial verification requirements, for example by failing to provide a new PER. The fee remission will be revoked and an application for a new remission will not be considered unless it is accompanied by a satisfactory PER. In either of these cases the fee remission will be lost for at least one year.

<sup>48</sup> For example, the responsible person may be required as a condition of a fee remission to submit a revised PER before the date at which it would otherwise be due. If the person fails to do so the fee remission will be revoked and an application for a new remission will not be considered unless it is accompanied by a satisfactory PER. The fee remission will be lost for at least one year.

Circumstance	Period of revocation
The activity has been expanded or altered such that a new or amended s.27 EPN is issued by the Director, and the Board determines that the fee remission for the activity will be revoked.	The responsible person may apply for a new remission after a period specified by the Board.

## 6.2 Notice of revocation and date of effect

The Board will give a responsible person written notice that a fee remission has been revoked, within 14 days of revocation. The reasons for the revocation will be stated in the notice. The revocation takes effect on the date that the next annual fee is due for payment. The next annual fee invoice following the revocation will therefore be for the full applicable fee<sup>49</sup>.

The notice of revocation will state the period of revocation. An application for a new remission will not be considered until after the revocation period has expired. In all cases it is necessary to apply for a new remission, in accordance with the relevant requirements of these Guidelines – the remission is not automatically reinstated after the revocation period.

<sup>49</sup> In the case where a fee remission is revoked because a new LUPAA permit or s.27 EPN has been issued for an existing activity, an annual fee invoice will be issued immediately after issue of the permit or EPN for the full applicable fee. If a successful application is made for a new fee remission, the remission will take effect from the due date of the next fee payment.

## APPENDIX 1 – LARGE ACTIVITIES

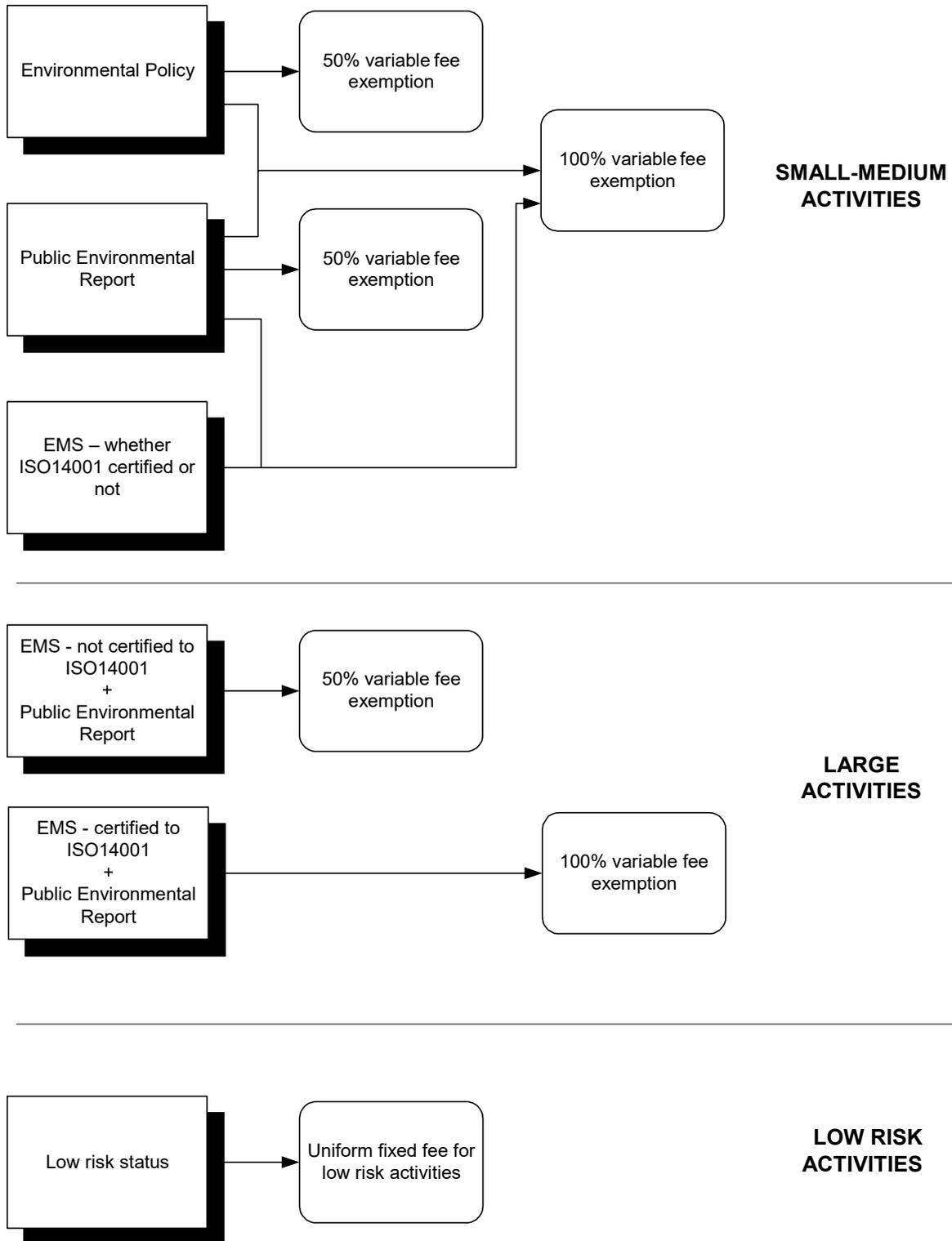
EMPCA Schedule 2 item no.	Activity	Criterion
1(a)	Chemical works – premises discharging all wastewater to an external treatment plant approved by the Board	Processing capacity more than 100,000 tonnes of raw material per year
	Chemical works – premises not discharging all wastewater to an external treatment plant approved by the Board	Processing capacity more than 30,000 tonnes of raw material per year
1(b)	Coal processing works	Processing capacity more than 50,000 tonnes of raw material per year
1(c)	Oil refineries – premises discharging all wastewater to an external treatment plant approved by the Board	More than 200,000 tonnes of raw material refined or produced per year
	Oil refineries – premises not discharging all wastewater to an external treatment plant approved by the Board	More than 50,000 tonnes of raw material refined or produced per year
1(d)	Wood preservation works	More than 10,000 cubic metres produced a year
2(a)	Cement works	More than 250,000 tonnes produced per year
2(b)	Ceramic works	Production capacity more than 200,000 tonnes per year
2(c)	Ferrous and non-ferrous metal melting – premises discharging all wastewater to an external treatment plant approved by the Board	Capacity to melt more than 60,000 kilograms metal per 8-hour working day
	Ferrous and non-ferrous metal melting – premises not discharging all wastewater to an external treatment plant approved by the Board	Capacity to melt more than 20,000 kilograms metal per 8-hour working day
2(d)	Metallurgical works	More than 20,000 tonnes of raw material processed per year
2(e)	Mineral works	More than 25,000 tonnes of raw material processed per year
2(f)	Pulp and paper works	More than 25,000 tonnes of product produced per year
2(g)	Wood processing works	More than 50,000 cubic metres of product produced per year

<b>EMPCA Schedule 2 item no.</b>	<b>Activity</b>	<b>Criterion</b>
2(h)	Textile bleaching and dyeing factories	More than 3,000 kilolitres capacity to consume water per 8-hour working day
2(i)	Woodchip mills	More than 500,000 tonnes of product produced per year
3(a)	Sewage treatment works	Capacity to treat an average dry weather flow of more than 10,000 kilolitres per day
3(b)	Inert waste depots	More than 50,000 tonnes of waste received or likely to be received per year, not including materials for recycling
3(b)	Other waste depots	More than 25,000 tonnes of waste received or likely to be received per year, not including materials for recycling
3(d)(i)	Resource recovery – production of compost or mushroom substrate	More than 10,000 tonnes of product produced per year
3(d)(ii)	Resource recovery – application of biosolids to land	<i>All activities of this type are SMAs.</i>
4(a)	Abattoirs or slaughter-houses	More than 10,000 tonnes of product produced per year
4(b)	Breweries and distilleries	More than 500 kilolitres capacity to consume water per 8-hour working day
4(c)	Fish processing	More than 10,000 tonnes of product produced per year
4(d)	Milk processing works – premises discharging all wastewater to an external treatment plant approved by the Board	More than 1,000 kilolitres of whole milk, skim milk or cream processing capacity per 8-hour working day
	Milk processing works – premises not discharging all wastewater to an external treatment plant approved by the Board	More than 500 kilolitres of whole milk, skim milk or cream processing capacity per 8-hour working day
4(e)	Produce processing works – premises discharging all wastewater to an external treatment plant approved by the Board	More than 15,000 kilograms processing capacity per hour
	Produce processing works – premises not discharging all wastewater to an external treatment plant approved by the Board	More than 5,000 kilograms processing capacity per hour

<b>EMPCA Schedule 2 item no.</b>	<b>Activity</b>	<b>Criterion</b>
4(f)	Rendering or fat extraction works – premises discharging all wastewater to an external treatment plant approved by the Board	More than 5,000 kilograms total processing capacity per hour
	Rendering or fat extraction works – premises not discharging all wastewater to an external treatment plant approved by the Board	More than 1,000 kilograms total processing capacity per hour
4(g)	Wool scourers, tanneries or fellmongeries	More than 1,000 tonnes of product produced per year
5(a)	Quarries	More than 250,000 cubic metres of product produced per year
5(b)	Extractive pits	More than 250,000 cubic metres of product produced per year
5(c)	Mines	More than 75,000 tonnes of product produced per year
6(a)	Crushing, grinding or milling – chemicals	More than 50,000 tonnes processed per year
	Crushing, grinding or milling – rocks, ores, minerals	More than 50,000 cubic metres processed per year
6(b)	Coal handling and washing	More than 2,000 tonnes handling or washing capacity per day
7(a)	Fuel burning	More than 50 tonnes capacity to consume fuel per hour
7(d)	Pre-mix bitumen plants	More than 50,000 tonnes of product produced per year
7(e)	Disposing of wastes in internal marine waters	More than 10,000 tonnes of material deposited per year
7(f)	Wind energy facilities	More than 30 megawatts maximum generating capacity

## APPENDIX 2 – FEE REMISSIONS AND REQUIREMENTS

Compliance record must be satisfactory in all cases



## APPENDIX 3 – INDUSTRY CODES OF PRACTICE AND GUIDELINES

EMPCA Schedule 2 item no.	Activity	Code of Practice/Guidelines	Publication details
2(g)	Wood processing works	<i>Sawmill Environmental Code of Practice</i>	Department of Environment and Land Management, Hobart, 1995
3(a)	Wastewater treatment works	<i>Tasmanian Biosolids Reuse Guidelines</i> <sup>50</sup>  <i>Environmental Guidelines for the Use of Recycled Water in Tasmania</i> <sup>51</sup>	Department of Primary Industries, Water and Environment, Hobart, 1999  Department of Primary Industries, Water and Environment, Hobart, 2002
3(c)	Waste depots	<i>Landfill Sustainability Guide</i>	Department of Primary Industries, Water and Environment, Hobart, 2004
4(a)	Abattoirs or slaughterhouses	<i>Environmental Code of Practice for Meat Premises (Slaughtering)</i>	Department of Environment and Land Management, Hobart, 1995
4(c)	Fish processing	<i>Environmental Guidelines for Fish Processors and Associated Waste Disposal Facilities</i>	Department of Environment & Planning, Hobart, 1990
5(a), 5(b)	Quarries and extractive pits	<i>Quarry Code of Practice</i>	Department of Primary Industries, Water and Environment & Department of Infrastructure, Energy and Resources, Hobart, 1999

<sup>50</sup> Applies only to reuse schemes for wastewater treatment works biosolids byproducts, where a scheme is covered by the permit conditions for the level 2 activity.

<sup>51</sup> Applies only to recycling schemes for wastewater treatment works discharges, where a scheme is covered by the permit conditions for the level 2 activity.

# APPENDIX 4 – APPLICATION AND APPROVAL PROCESS

