

GUIDELINE

Special Fee Remissions

May 2015 – Updated only for new Regulations and fee units in July 2019

This Guideline describes the principles that will guide the Board of the Environment Protection Authority when it considers applications for special remission of fees in accordance with regulation 17 of the *Environmental Management and Pollution Control (General) Regulations 2017*. The Guideline is made in accordance with regulation 18, which provides that the Board may issue guidelines for various administrative purposes.

This Guideline relates to the:

- remission of activity annual fees under special circumstances, but is separate to the remissions described in the Annual Fee Remission Guidelines; and
- remission of fees for notices issued in respect of contaminated sites under Part 5A of the *Environmental Management and Pollution Control Act 1994* (EMPCA).

The Board may grant remission of other fees (such as environmental assessment fees) and any application relating to remission of such fees will be considered on its own merits without reference to this Guideline.

The following outlines the principles the Board will use, the application process and timeframes the Board will work to, and the level of fee remissions the Board is likely to set in response to an application for a special fee remission.

Principles – activity annual fee remissions

An activity may seek a temporary special fee remission for a number of reasons, such as:

- temporary cessation of the activity;
- significantly reduced production;
- multiple activities at the same location; and
- development or operations not yet commenced.

A temporary special fee remission may be granted due to exceptional circumstances and where the administrative or operational cost to the EPA Division of regulating an activity is well below normal. Such remissions will only be granted retrospectively, for the previous 12 month period that the fees applied.

For example, a special fee remission is not appropriate simply because of a temporary downturn in production. Regulatory effort is generally more in line with permitted production capacity (upon which fees set in the Regulations are based) rather than actual production. Hence, the Board will generally only provide a special fee remission for downturn in production if it has come about due to exceptional circumstances. If production downturn is likely to be sustained for long periods, then consideration could be given to seeking a reduction in the activity's permitted production capacity.

An ongoing special fee remission may be granted for the following types of activity, where the level of regulatory oversight of the activity is significantly out of proportion with the single flat rate fee prescribed in the Regulations and where this can reasonably be expected to continue:

- level 1 activities that have been assessed by the Board;
- Projects of State Significance (level 3 activities) that would not otherwise be level 2 activities; and
- activities that are not level 2 activities and which have been assessed by the Board under section 27 of EMPCA.

A special fee remission will not usually be granted where it is more appropriate for the responsible person to apply for a variable fee exemption under regulation 9 or low risk status under regulation 10 of the General Fees Regulations (in accordance with the Annual Fee Remission Guidelines). Where a remission has already been granted under regulation 9 or 10 but exceptional circumstances apply, the Board may consider a special remission in addition to the existing remission.

A special fee remission may not be appropriate if another type of financial incentive has been provided by the EPA that is relevant to the application.

Principles – contaminated site notice fee remissions

A notice fee remission may be granted by the Board where:

- the recipient of the notice is a State Government agency or a council, and the notice relates to historical contamination at a decommissioned facility; or
- the recipient was not a polluter of the site and the Board is satisfied that the recipient is acting diligently, has fully planned for the investigation, remediation or management works or is already in the process of undertaking the works.

An important factor that will be considered is the level of service to be provided by the EPA in relation to a notice, ie. the resources required to prepare and issue a notice.

Another factor that will be taken into account is the personal circumstance of the applicant. For example a remission is more likely to be granted to a notice recipient who is a private individual required to remediate a residential property.

Application process and timeframe

An application to the Board for a special fee remission must be accompanied by a detailed description of the situation, and why it warrants such a remission. In particular, applications for remissions based on situations such as significantly reduced production or delayed construction should pay particular attention to why their situation is exceptional. Temporary market fluctuations are generally not considered exceptional enough to warrant a special fee remission.

Applications for a special fee remission will generally only be considered by the Board if they are received within 60 days of the anniversary of the permit to which the application relates.

Level of fee remission

The level of an activity annual fee remission will be determined by the Board on a case-by-case basis, but in all cases a basic administration fee will continue to be charged. This fee is 200 fee units¹ or 10% of the total applicable annual fee, whichever is the greater.

For contaminated site notice fee remissions, the full fee for issue of a notice will normally be waived. Remission of fees associated with enforcing or amending an existing notice will only be granted in exceptional circumstances and the level of remission will be considered on a case-by- case basis.

Disclaimer

The information provided in this document is provided in good faith. The Crown, its officers, employees and agents do not accept liability however arising, including liability for negligence, for any loss resulting from the use of or reliance upon the information in this document and/or reliance on its availability at any time.

Recommended citation: EPA (2015) Guideline on Special Fee Remissions, Published on behalf of the EPA by the EPA Division, Department of Primary Industries, Parks, Water and Environment, Tasmania.

¹ Fee units are indexed annually by the Department of Treasury and Finance. In 2019/20, 200 fee units is equal to \$324.