REGULATORY IMPACT STATEMENT

ENVIRONMENT PROTECTION (FEES) REGULATIONS 2012

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This regulatory impact statement has been prepared in accordance with the requirements of the *Subordinate Legislation Act 1994* and the *Victorian guide to regulation*, incorporating the *Victorian regulatory change measurement manual*.

ENVIRONMENT PROTECTION (FEES) REGULATIONS 2012 — REGULATORY IMPACT STATEMENT

This regulatory impact statement (RIS) has been prepared to fulfil the requirements of the *Subordinate Legislation Act 1994* and to facilitate public consultation on the proposed *Environment Protection (Fees) Regulations 2011*.

In accordance with the *Victorian guide to regulation*, the Victorian Government seeks to ensure that proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on Victorian business and the community.

A prime function of the RIS process is to help members of the public comment on proposed statutory rules (regulations) before they have been finalised. Such public input can provide valuable information and perspectives, and thus improve the overall quality of the regulations. The proposed Regulations are being circulated to key stakeholders and any other interested parties. A copy of the proposed Regulations is provided as an attachment to this RIS.

Public comments and submissions are now invited on the proposed *Environment Protection (Fees) Regulations 2011*. Unless otherwise indicated, all submissions will be treated as public documents and will be made available to other parties upon request.

Written comments and submissions should be forwarded by no later than 5:00pm, xx March 2012 to:

Environment Protection Authority Victoria
GPO Box 4395
Melbourne VIC 3001

or email:

feesregulationreview@epa.vic.gov.au

This regulatory impact statement was prepared for the Environment Protection Authority Victoria by Regulatory Impact Solutions Pty Ltd.

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ABBREVIATIONS

ABC – activity-based costing

APS –annual performance statement

COAG – Council of Australian Governments

DSE – Department of Sustainability and Environment

EFT – electronic funds transfer

EPA – Environment Protection Authority Victoria

MCA – multi-criteria analysis

NCC – National Competition Council

NCP – National Competition Policy

Premier's guidelines – *Subordinate Legislation Act 1994 guidelines*

PV – present value. Present value 'discounts' the value of money in future years to allow it to be valued in today's terms

PwC – PricewaterhouseCoopers

SEPP –state environment protection policy

the Act – *Environment Protection Act 1970*

the current Regulations – *Environment Protection (Fees) Regulations 2001*

the proposed Regulations – *Environment Protection (Fees) Regulations 2011*

the Review – *Compliance and Enforcement Review: a review of EPA Victoria's approach*

VCEC – Victorian Competition and Efficiency Commission

VGR – *Victorian guide to regulation*

SUMMARY

Purpose of a regulatory impact statement

While a regulatory impact statement (RIS) formally assesses regulatory proposals against the requirements in the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation* (VGR), its primary function is to help members of the public comment on new regulations before they have been finalised. Such public input can provide valuable information and perspectives, and thus improve the overall quality of the regulations.

The Environment Protection Authority Victoria (EPA) welcomes and values comments from holders of EPA licences, permits and approvals, as well as from businesses and members of the community on the proposed *Environment Protection (Fees) Regulations 2012* (the proposed Regulations). The proposed Regulations will remake fees for licences, works approvals, waste and prescribed waste transport permits, and environmental audits. While in no way limiting comments, this RIS asks a number of questions concerning how the fees should be designed and applied. It is important that the fees operate efficiently, but also are fair and take practical considerations into account.

Context

The upcoming expiry of the current *Environment Protection (Fees) Regulations 2001* (the current Regulations), along with acceptance of the broad findings of the EPA *Compliance and Enforcement Review*[1], provides a timely opportunity to review the current level and structure of fees to ensure that they are well targeted, effective and appropriate, and are consistent with Government policies.

The *Environment Protection Act 1970* (the Act) establishes EPA as an independent statutory authority and charges it with the duty to administer the Act and related Regulations in order to protect the environment. The Act provides a framework for the prevention and control of land, water and air pollution (including odour and noise pollution). The Act also provides that fees may be set for works approvals, licences, environmental audits, waste transport and septic tank permits.[2] Fees for these approvals are currently prescribed in the current Regulations. These regulations were extended for a period of 12 months in October 2011 and are due to expire on 30 October 2012. This RIS is part of the EPA project to remake the Regulations.

As stated in the *Victorian guide to regulation*[3], the preferred approach is that regulatory fees and user charges should be set on a full cost-recovery basis because this ensures that both efficiency and equity objectives are met. Full cost represents the value of all the resources used or consumed in the provision of an output or activity. Since the current Regulations were introduced, the *Cost recovery guidelines*[4] have been updated, most recently in 2010. These guidelines, however, do not permit fees to be collected on a polluter-pays basis, but must be levied to recover costs. Therefore, the cost recovery principle limits EPA's ability to impose fees of a high enough magnitude to be effective as a tool to reduce environmental impacts.

The current fee Regulations

The current fees are made under s. 71 of the Act. This section enables EPA to recommend regulations that set fees for licences, works approval applications, waste transport permits, septic tank permits and environmental audits.

Generally, licence fees comprise two parts: an activity element applicable to industry categories (a base fee) and a variable element (component fee). The base fees are contained in Schedule 2 of the current Regulations, while the variable components fees are contained in Schedule 3. The only exception is fees for premises receiving waste, which are calculated as a fee per tonne of waste received. Licence fees (total base and component fees) are capped by the Act. Licence fees for premises licensed to discharge, emit or deposit into the environment are capped at 42,000 fee units with respect to each element of the environment (atmosphere, land or water) to which waste is licensed to be discharged, emitted or deposited. Licence fees for premises licensed to receive waste are capped at 42,000 fee units.[5]

Fees for works approval applications are calculated on the basis of the cost of the proposed works. The fee categories increase with the estimated cost of the works, as this is considered a reasonable indication of the costs EPA will incur in processing the application. The Act allows EPA to make regulations prescribing fees in regards to works approvals up to a cap of 4500 fee units (or $54,990).

1 Krpan S 2011, *Compliance and Enforcement Review: a review of EPA Victoria's approach*, prepared for EPA Victoria, Melbourne.
2 Sections 19B, 24, 53G, 53M, 53T of the *Environment Protection Act 1970*.
3 Department of Treasury and Finance 2011, *Victorian guide to regulation*, 2nd ed, incorporating *Guidelines made under the Subordinate Legislation Act 1994* and *Guidelines for the measurement of changes in administrative burden*, Melbourne, section 3.2.13.
4 Department of Treasury and Finance 2010, *Cost recovery guidelines*, incorporating the information formerly published in the *Guidelines for setting fees and user-charges imposed by departments and central government agencies*, Melbourne.
5 *Environment Protection Act 1970*, ss. 24(2), 24(2A) and 71(aa).

There are two general types of permits covered by the current Regulations: a prescribed waste transport permit and a septic tank permit. Any person transporting prescribed waste must obtain a waste transport permit. The fee charged is based on the carrying capacity of the vehicle and the class of the prescribed waste. The Act imposes a cap of 200 fee units on waste transport permit fees.[6] Septic tank permits are not issued by EPA. They are administered and enforced through municipal councils. The Act allows EPA to set a maximum fee chargeable by municipal councils for septic tank permit applications.[7] The current Regulations provide for a maximum of 46.35 fee units that can be charged by municipal councils for these permits.

An environmental audit is an objective and robust assessment of either:

- the condition of a segment of the environment

  or
- the risk of harm or detriment to a segment of an environment

caused by an industrial process or activity, waste, substance or noise.

Since 1989, Victoria has had an environmental auditing system under which environmental auditors are appointed and regulated under the Act. EPA-appointed auditors may be engaged by any individual or organisation from private or public sectors, to provide independent, objective environmental advice to inform planning, approval, regulatory and management processes. EPA reviews all environmental audit reports submitted to it under s. 53ZB(2) of the Act. EPA fees for reviewing submitted environmental audit reports are currently based on the geographical size of the audited area.

Problem to be addressed

The current Regulations are set to expire on 30 October 2012. Without new regulations, the Victorian Government would not be able to recover the costs to EPA of regulating the activities covered by the fees.

The remaking of the Regulations will allow EPA to re-examine the costs and processes involved in administering activities covered by the proposed Regulations against the principles set out in the Victorian *Cost recovery guidelines*. Since their introduction in 2001, processes and costs structures, resource allocation, and compliance and audit procedures may have changed. The proposed fees, therefore, should be assessed to ensure that the fee structure reflects efficient practices and costs.

In June 2010, PricewaterhouseCoopers (PwC) was engaged by EPA to assess its costs in administering and enforcing environmental legislation and regulations. The PwC *Cost base assessment report* was provided to EPA in November 2010; it was subsequently updated to account for some changes. The updated modelling found that fees for works approvals and environmental audits significantly under-recovered EPA costs, while there was some over-recovery of fees with respect to EPA costs for the administration of the licence and waste transport permits system. That is, there is a mismatch between fees collected and regulatory costs incurred by EPA. Table 1 illustrates this mismatch.

EPA's ability to levy fees on a cost-recovery basis is constrained in some instances by caps set in the Act. These fee caps can shift the fee burden from large operators to smaller ones. Fee design options considered in this RIS are therefore constrained by requirements in the Act. (Given that the levels of the fee caps are set by the Act, these levels are not part of the current review.)

6 *Environment Protection Act 1970*, s. 53G.
7 *Environment Protection Act 1970*, s. 53M(2)(b).

Table 1: EPA costs and current amount of cost recovery

Fee type	EPA Costs ($)	Amount recovered ($)	Variance (%)
Works approval	2,412,565	402,184	-83%
Application	*2,410,267*	*400,901*	*-83%*
Transfer	*2,297*	*1,283*	*-44%*
Licences	9,889,851	13,904,243	41%
Licence fees	*9,830,522*	*13,884,630*	*41%*
Amendment	*43,247*	*13,022*	*-70%*
Transfer	*16,082*	*6,591*	*-59%*
Environmental audit	256,284	142,005	-45%
Waste transport	820,965	1,317,281	60%
Application	*802,700*	*1,307,315*	*63%*
Transfer/amend	*9,190*	*941*	*-90%*
Temporary permit	*9,075*	*9,025*	*-1%*
Total	**13,379,665**	**15,765,714**	18%

As a general principle, fees should be easy to understand and categories should be set to avoid borderline disputes. Currently, fees for works approvals are based on discrete categories based on the cost of proposed works, while fees for environmental audits are based on the size of the area audited. In addition, there are currently numerous fee categories for waste transport permits, which may set up borderline or compliance disputes. Fee proposals should examine ways to simplify and streamline the current arrangements.

Objectives of government intervention

The objective of the proposed Regulations is to recover government costs with respect to the administration and enforcement of environmental protection legislation in an efficient, equitable and effective manner.

Fee options considered

There are limited options available when considering alternatives to fees. Clause 2.04 of the *Subordinate Legislation Act 1994 guidelines* (the Premier's guidelines) states that 'where the authorising legislation provides for fees to be prescribed by statutory rule, there is no discretion to set those fees by another method'.[8]

Given this limited discretion, options in this RIS focus on fee design elements contained in a statutory rule rather than considering alternative funding options. As noted, the Act itself constrains fee options that can be considered. Therefore, the fee design options considered in this RIS are:

- cost-recovery options – this is a threshold issue that considers the most appropriate level of cost-recovery; that is, full or partial cost-recovery
- fee design options – options considered in this RIS were–
  - flat fees (such as for licences, works approvals and environmental audits)
  - variable fees (licences, waste transport permits, works approvals)
  - incorporation of risk elements into the fee structure (licence fees, waste transport fees)
  - fee-for-service fees.

These options are not mutually exclusive and there are potentially numerous combinations between them.

The assessment of options

Assessment of fees options in this RIS found that full cost recovery (subject to constraints in the Act) was the option that fulfilled the government's objectives to the greatest degree. However, within the full cost-recovery framework, each fee category had different characteristics, which resulted in different design options being preferred. Designing appropriate fees proved a relatively complex task given the tensions between efficiency, effectiveness and equity considerations. Consequently, multi-criteria analysis (MCA) was used as a tool to assess preferred fee design options. The MCA methodology is explained in section 4.2.2 of this RIS. MCA results are summarised in Table 2 below.

8 *Subordinate Legislation Act 1994 guidelines*, Revised May 2011, Section 2.04.

Table 2: Fee design options — MCA assessment summary results

Fee category	Design option	MCA score
Licence	Flat fee	+21.25
	Volumetric fee*	+36.25
	Base fee (risk-based) and volumetric fee*	**+53.75**
Works approval	Flat fee	+3.75
	Percentage value of works	**+38.00**
Environmental audit	Flat fee	**+53.75**
	Fee based on land area size	+42.25
Waste transport permits	Flat fee	+36.25
	Waste type risk and volume*	**+48.75**

* These fee options incorporate elements of risk-based design.

The results of the MCA assessment were used to inform the design principles of the proposed Regulations to ensure that fees are set in a way that balances efficiency and equity, while building on a system that is familiar to stakeholders. The preferred fee design options as suggested by the MCA assessment are described below.

Licences – risk-adjusted base fee and volumetric fee

This option is relatively similar to the current fee structure for licences. A base fee ensures that a minimum amount of regulatory costs is recovered. Without a base fee, smaller/low-volume licensees would not contribute enough fees to cover their regulatory costs. Given the diverse activities undertaken by licensees, a base fee incorporating a risk element was considered appropriate. This approach assumes that licensees with higher inherent risk would require more monitoring and enforcement resources. This approach is also consistent with the risk-based approach highlighted in the recent *Compliance and Enforcement Review*.

Cost recovery based entirely on risk-adjusted base fees would, however, raise equity issues. Therefore a volumetric fee based on the amount of emissions, discharges and other factors is incorporated into the fee design. A volumetric fee serves as a useful proxy for actual environmental impacts from an activity and is therefore a good indicator of the regulatory resources likely to be expended by EPA in monitoring, compliance and enforcement.

Combining the elements of a base fee and volumetric fee captures the advantages of these elements, while appropriate design can minimise some of the disadvantages (for example, equity issues).

The proposed licence fees will also recover a proportion of costs (approximately $1.5 million per annum) associated with works approvals. This position reflects the close nexus between works approvals and licensed premises, and will allow works approval fees to be set at a lower rate (to avoid barriers to entry) than would otherwise be the case.

The fees for landfills and handlers of prescribed industrial waste has remained the same; however, the discount applying to waste processed for reuse is proposed to be removed. The reason for this is that it is not consistent with cost-recovery principles and, considered in light of the substantial incentives for reuse of prescribed industrial waste through the landfill levy system, the incentives provided by the fee discount are not effective. It is also noted that waste receivers currently do not pay a 'base' fee.

Generally, EPA considers that the level of regulatory effort is proportional to the amount of waste received and, therefore, the fee's dependency on volume of waste is retained. However, a minimum fee has been introduced to reflect a baseline amount of regulatory activity in monitoring these sites, as the sites continue to pose an environmental risk even when minimal amounts of waste are accepted.

Works approval — percentage value of works, with minimum fee

A simpler approach to the current fee categories based on the cost of works was sought. The proposed fee, based on the percentage value of works, provides an approach that is clear and easy to understand. It avoids the borderline problems associated with discrete categories. To ensure that regulatory costs are recovered for works with low associated costs (such as process changes that result in an alteration of the type and quantity of wastes emitted from scheduled premises), a minimum fee is set. As noted above, approximately $1.5 million of works approval costs will be collected via licence fees.

Environmental audit fees — flat fee

Currently, the Regulations do not set fees for audits conducted under s. 53V of the Act, relating to the risk caused by an industrial process (as they do not result in the issue of a statement or certificate of environmental audit). Given that EPA reviews these audits, as it would for audits conducted under s. 53X of the Act, full cost recovery dictates that fees should be recovered for this service. The review of the two different types of environmental audits (s. 53V and s. 53X audits) by EPA revealed that they consume a similar amount of EPA resources. The attraction of simplicity and ease of administration, combined with an absence of significant equity issues (as the flat fee proposed is close to the average fee currently paid for environmental audits), suggests that a flat fee for environmental audits should be the preferred approach. The current approach of land area size categories did not provide a strong link between EPA costs and fees collected.

Waste transport permits — waste type risk and volume

The proposed option is relatively similar to the current fee structure for waste transport permits. The diverse nature of the risks of waste and differing volumes suggested that a flat fee was not appropriate for this category. Instead, waste transport permit fees were simplified by streamlining categories and differentials between waste/volume levels, incorporating a risk factor.

The proposed fee Regulations

In remaking the Regulations, attention was given to:

- establishing an accurate EPA cost base
- matching EPA costs with fee categories
- designing fees that are efficient, effective and equitable, while taking account of the *Cost recovery guidelines* and *Victorian guide to regulation*
- providing continuity by designing fees that are broadly familiar to holders of licences, permits and approvals.

Table 3 sets out the proposed fees and compares them with the current arrangements. The methodology and costing assumptions are set out in Attachment D. The draft fee Regulations are described at the end of this section, and can be viewed in their entirety in the attached draft.

Table 3: Proposed environment protection fees

Fee category	Proposed	Key change
Licence	Schedule 2 base fees reconfigured to take account of risk. Schedule 3 component fees mostly remain unchanged. The 'toxicant' category fee has been increased to reflect the fee units previously applicable under the former categories of 'hazardous substances' and 'priority wastes', and the category 'ammonia' has been added. Wastes receivers will be charged a minimum fee, and the discount applying to waste processed for reuse is proposed to be removed. See Attachment A for proposed rates and Attachment E for impacts on licence categories.	New risk ratings applied to base fees. Collection of some costs from works approvals from base licences.
Works approval	Fee based on 1% of value of works, with a minimum 81.83 fee units ($1000) fee and statutory 4500 fee unit cap.	Removal of discrete dollar value fee categories.
Environmental audit	Simple flat fee of 131.1 fee units ($1602).	Replaces land area size fee categories. Extends application to s. 53V audits
Waste transport permit	Realignment of costs and collections will result in a 38% fee decrease.	Categories simplified and consolidated. New risk ratings applied to categories.

Table 4 illustrates the current revenue collected compared with the revenue under the proposed fees. This table shows that the proposed fees will collect a total amount of approximately $13.3 million per annum, which is about 15 per cent lower overall compared to current collections. Over a 10-year period, the present value (PV) of the proposed fees will be in the order of $110.9 million, or a saving against the current fees of around $20.2 million.[9]

Table 4: Revenue collected per annum by fee category

Fee type	Current revenue ($)	Proposed fees ($)	Change (%)
Works approval	402,184	915,778	128%
Application	*400,901*	*914,495*	*128%*
Transfer	*1,283*	*1,283*	*0%*
Licences	13,904,243	11,346,709	-18%
Licence fees	*13,884,630*	*11,326,294*	*-18%*
Amendment	*13,022*	*13,316*	*2%*
Transfer	*6,591*	*7,099*	*8%*
Environmental audit	142,005	256,284	80%
Waste transport	1,317,281	812,557	-38%
Application	*1,307,315*	*802,700*	*-39%*
Transfer/amend	*941*	*782*	*-17%*
Temporary permit	*9,025*	*9,075*	*1%*
Total	**15,765,714**	**13,331,328**	-15%

Note: $1.5 million of the costs associated with works approvals will be recovered through licence fees.

Calculating EPA costs to be recovered by the fees

The activity-based costing approach is generally preferred because of its accuracy. However, it may not always be practical to use that methodology to allocate indirect costs because of the difficulty in identifying actual resource usage of different activities from an indirect-cost pool.

Given such difficulties, an approach was adopted that placed indirect costs into cost pools for each licence or permit type. The more disaggregated the approach (that is, the greater the number of indirect cost pools used), the more likely that the pro-rata methods will yield results similar to those achieved under the more complex (and more accurate) activity-based costing approach. Approximately 65 per cent of the total costs for fee-related activities were identified in this manner.

In the calculations of the cost base for this RIS the indirect costs were identified at the business unit level, with each business unit identifying the percentage of costs allocated to each activity. In this way, the cost pool approach taken in this RIS is more accurate than a simple pro-rata approach.

Key changes

The proposed fees contain a number of key differences compared to the current arrangements. These are as follows:

- Adjustments will be made to fee structures within a fee type to better reflect the level of work undertaken by EPA in regulating each type of activity, based on an assessment by EPA to align the level of regulatory effort with risks to the environment and the scale of the activity.
  - Schedule 2 licence base fees will incorporate risk as an important factor in setting the fees.
  - Schedule 3 licence component fees will remain unchanged, save for amendments required to update terms used for component categories, to reflect current statutory policies.[10]
- The calculation of works approval fees will be simplified. The proposed fees will be calculated on the basis of one per cent of the monetary value of the works. A minimum fee of 81.83 fee units ($1000) will be prescribed, while the Act places a cap on the fees of 4500 fee units ($54,990). Based on the works approval applications received in the 2010–11 year, the current average fee for 2011–12 would be $8909. Under the proposed arrangements the average fee would be $20,322 in 2011–12.

9 The discount rate used in this RIS is 3.5 per cent. In doing so, the RIS adopts the rate published in the Victorian *Guide to regulation* (Section C.3, p. C-9).

10 The definitions of 'hazardous substances' and 'priority wastes' have been deleted, while the 'toxicant' fee unit has been increased to the equivalent to the fee units previously applicable under the former categories. The category 'ammonia' has been added. It is not thought that this will significantly alter the fees collected through component fees.

- Approximately $1.5 million will be collected via licence fees to fund EPA administration of works approvals (see below).
- The fee for environmental audits will apply to both s. 53V and s. 53X audits under the Act (the former are not currently charged a fee). Fees for environmental audits will be simplified by charging a flat fee of 131.1 fee units ($1602).
- The categories of waste permit transport fees have been simplified and a risk factor has been incorporated into setting the fees. As part of the RIS process, EPA has developed nine risk categories to reflect the risks associated with the waste transported (the inherent risk of particular waste) and risks associated with volume of waste (other things being equal, the greater the volume of waste, the greater the environmental risk). Overall, fees in this category will decline by around 38 per cent.
- A minimum fee of 81.83 fee units ($1000) will be prescribed for waste receivers (licence categories A01 and A05) to ensure that a minimum amount is collected to cover EPA administrative costs. The current discount for waste processed for reuse will also be removed.
- The maximum septic tank permit application fee for local government will not be prescribed in the proposed Regulations. Local governments were consulted, and diverse approaches and different cost bases suggest that local government themselves are best positioned to determine the fees that should be charged for these applications.

Given the large amount currently under-recovered from works approvals, it is proposed that the balance required should be collected from licensees; in other words, this amount is added to the cost base of licences. When fees are designed, 'cross-subsidies' should generally be avoided. However, in the present case, there is a strong nexus between works approvals and licences. It makes sense to charge licensees for the cost of their works approval over the life of their activity, rather than as an upfront cost, because the latter approach could create a barrier to entry for smaller businesses.

In a practical sense, the works approval could be viewed as the first stage of the licensing process. In fact, there are no fees charged for licence applications, on the basis that all licensees would have undergone a works approval assessment prior to applying for a licence. By cost recovering an element of the works approval via annual licences, costs are spread over a number of years (on average) and large up-front fees are avoided. While all licensees would contribute to the cost recovery of 'new' works approvals, in the past licensees have benefited from the significant under-recovery of these fees.

Groups affected

The groups affected by the proposed Regulations include:

- licensees and permit holders (for example, waste industry receivers, recyclers, transporters and treaters; chemical manufacturers; water treatment operators; food processors and manufacturers, including abattoirs; and power generators)
- developers, in relation to works approvals
- environmental auditors and consultancies
- municipal councils, with respect to the septic tank permit fee removal.

Indirectly, the general public as consumers are affected to the extent that these fees are passed on or embedded in the cost of goods.

Small business impacts

Most landfills, industrial waste and water treatment facilities, chemical plants, mines, animal-derived product manufactories and food processing facilities are run by medium-sized or larger businesses. Similarly, most sewage treatment facilities are run by water authorities, which employ more than 20 staff. Data is not collected regarding the number of staff employed by licensees; however, EPA estimates that approximately 20 per cent of licensees may be categorised as small business, compared to the state average of 96 per cent.[11]

Given that the industries requiring licences and permits generally consist of larger businesses, it is unlikely that small businesses will be disproportionally affected by the proposed Regulations. Furthermore, consultation undertaken to date has not raised the issue of fees as a barrier to small businesses to enter an industry.

In terms of fee design options, fees for works approvals and licences were specifically designed with equity of access in mind. They avoid large upfront fees that may discourage smaller operators.

11 Business Victoria Resource Centre: http://www.business.vic.gov.au/BUSVIC/STANDARD/PC_50004.html

Competition assessment

The Victorian *Guide to regulation* sets out the 'competition test' criteria used to assess whether the proposed Regulations restrict competition. Given the structure and level of the fees, the proposed Regulations were not assessed as imposing such large barriers or cost burdens on business as to affect their competitive position in the broader market. Furthermore, given that the fees apply equally to market participants, no particular sectors or businesses are disadvantaged. A similar range of fees also applies in other jurisdictions.

Regulatory burden

In December 2009 the Department of Treasury and Finance released the *Victorian regulatory change measurement manual*.[12] The manual sets out the regulatory instruments and categories that are to be measured to assess regulatory burdens. To measure any change in the compliance burden of regulation, the existing position is taken as the base line. The current regulatory burden associated with the proposed Regulations consists of the administrative cost of paying the fees. These costs are estimated to be in the order of $140,000 per annum (or $1.1 million (PV) over a ten-year period). Given that the proposed Regulations do not introduce any new administrative obligations, compliance obligations or compliance requirements, or result in new compliance activity, there is no change to the administrative burden.

Conclusion

This regulatory impact statement concludes that:

- the proposed fee Regulations are set in accordance with the cost-recovery principles contained in the *Victorian Guide to Regulation*
- the proposed Regulations do not impose restrictions on competition
- the proposed Regulations do not impose any new reporting or compliance requirements, and therefore, do not increase the existing regulatory burden
- the fee levels are unlikely to impose barriers to entry to small business.

Description of the proposed Regulations

The draft *Environmental Protection (Fees) Regulations 2012* are attached to this RIS. The clauses of the proposed Regulations are described below:

Regulation 1 sets out the objectives of the proposed Regulations, which are to provide for the payment of fees under the *Environment Protection Act 1970*.

Regulation 2 provides the authority to make the Regulations under the Act. The Regulations are made under s. 71 of the Act.

Regulation 3 provides the date on which the Regulations will commence. The date prescribed is 1 July 2012.

Regulation 4 revokes the current Regulations and a number of amending Regulations.

Regulation 5 provides a list of definitions for the purposes of the Regulations. This clause defines 'class 1 indicator', 'class 2 indicator', 'class 3 indicator' and 'the Act'.

Regulation 6 prescribes the fee for works approvals. This regulation prescribes a fee for a work approval at the rate of one per cent of the cost of the works. To ensure that basic administrative costs are recovered, a minimum fee of 81.83 fee units is prescribed. The Act imposes a cap on these fees of 4500 fee units.

Regulation 7 prescribes the fee for an application to transfer a works approval. This fee is 35 fee units.

Regulation 8 prescribes fees for licences. Schedule 2 of the Regulations lists the proposed base fees relating to an activity in that schedule, while Schedule 3 prescribes component fees. Schedule 2 fees are fixed fees, while Schedule 3 fees vary with emission, discharges and so on. The Act imposes a cap on these fees of 42,000 fee units with respect to each element of the environment, being the atmosphere, land or waters to which waste is licensed to be discharged, emitted or deposited.

Regulation 9 prescribes the annual fee for a licence for premises licensed to receive solid inert waste and putrescible waste. The fee is the sum of the licence fee calculated in accordance with regulation 8 and the greater of 0.0103 fee units multiplied by the number of tonnes of waste received by the premises in a year or 81.83 fee units. The Act imposes a cap on these fees of 42,000 fee units.

Regulation 10 prescribes an annual licence fee for the deposit, reprocessing, treatment, storage, containment, disposal or handling of any prescribed industrial waste. The fee is the sum of the licence fee calculated in

12 Department of Treasury and Finance, 2009, *Victorian regulatory change measurement manual*, Melbourne, December 2009.

accordance with regulation 8 and the greater of 0.103 fee units multiplied by the number of tonnes of waste received by the premises in a year or 81.83 fee units. The Act imposes a cap on these fees of 42,000 fee units.

Regulation 11 prescribes the fee for an application to amend a licence. The fee payable for an application to amend a licence is the lower of 10 per cent of the annual licence fee or 85 fee units.

Regulation 12 prescribes the fee for transfer of a licence. The fee payable for an application to transfer a licence is the lower of 10 per cent of the annual licence fee or 35 fee units.

Regulation 13 prescribes the fee reduction for accredited licences. An accredited licensee under the Act is entitled to a 25 per cent reduction of the annual licence fee otherwise payable under these Regulations.

Regulation 14 prescribes the fee to transport prescribed waste. Subject to the limit set out in s. 53G(3) of the Act, the annual fee payable for a permit to transport prescribed waste is the sum of all applicable vehicle fees as set out in Schedule 4 of the Regulations.

Regulation 15 prescribes fees for temporary permits to transport prescribed waste. The fee payable for a permit to transport prescribed waste for a period not exceeding one month is the greater of 25 per cent of the fee payable under regulation 14 or 10.3 fee units.

Regulation 16 prescribes the fee for an application to transfer or amend a permit. Subject to the limit set out in s. 53G(2) of the Act, the fee payable for an application to transfer or amend a permit to transport prescribed waste is the higher of 10 per cent of the fee payable under regulation 14 or 5·15 fee units.

Regulation 17 prescribes the fee for an environmental audit. For the purposes of s. 53T(3) of the Act, the prescribed fee for an environmental audit 131.1 fee units.

Schedule 1 sets out the Regulations revoked by the proposed Regulations.

Schedule 2 sets out the applicable licence base fees for each scheduled category.

Schedule 3 sets out the component fees for licensees for discharge of pollutants to air, land and water.

Schedule 4 sets out the fees for waste transport permits.

Public consultation

The primary objective of the RIS process is to inform members of the public and seek comment on proposed Regulations before they are finalised. While comments on any aspect of the proposed Regulations are welcome, stakeholders may wish to comment on the following consultation points:

- Is a fee approach based on risk ratings consistent with general cost-recovery principles?
- Will the proposed fee for works approvals (a percentage of capital works) simplify and improve the current fee structure?
- Will the removal of the discount available for the reuse of prescribed industrial waste for waste receivers affect the levels of waste reuse for these licensees?
- Is it appropriate to recover a large proportion of works approval costs through licence fees?
- What are the advantages or disadvantages of charging fees on a fee-for-service basis (for example, for works approvals or environmental audits)?
- While not an issue that can be directly addressed through the remaking of the Regulations – as caps are set in the Act – are the current caps on works approval, licence and waste transport permit fees appropriate?
- Is the level of fee reduction (currently 25 per cent) appropriate for accredited licensees? While this is a broader question for the legislation, should these fee reductions be retained?
- There is currently a single fee for composters (AO7 licences). It is proposed to replace this fee with a fee scale based on monthly volumes. Are the new licence fee categories for composters appropriate?
- Is there any reason why a fee should not be charged for the review of s. 53V environmental audits by EPA?
- Is local government best placed to set fees on a cost-recovery basis for septic tanks?
- Are there any practical difficulties, or transitional or implementation issues associated with the preferred option?
- Are there any problems with the current fees not addressed or considered in this RIS?

1 WHAT IS THE ISSUE TO BE ADDRESSED?

1.1 Background

1.1.1 Environmental regulation in Victoria

The *Environment Protection Act 1970* (the Act) establishes EPA as an independent statutory authority and charges it with the duty to administer the Act and related Regulations in order to protect the environment. The Act provides a framework for the prevention and control of air, land and water pollution and industrial noise. The Act authorises EPA to use a number of regulatory tools to ensure that the environment is protected, including the power to:

- issue works approvals, licences and permits
- conduct inspections and issue notices
- commence prosecutions
- appoint environmental auditors and review environmental audits
- recommend the making of state environment protection policies and waste management policies
- recommend the making of Regulations.

The Act provides that fees may be set for various approvals and permits and, in most cases, sets a cap on the fees that can be prescribed. [13] Attachment F contains an outline of relevant provisions of the Act linking it to the proposed Regulations. The current Regulations set four broad categories of fees. These relate to:

- licences
- works approvals
- environmental audits
- waste transport permits.

Fees for these instruments are prescribed in fee units in the *Environment Protection (Fees) Regulations 2001*. The value of a 'fee unit' is set under the *Monetary Units Act 2004* (from 1 July 2011 a fee unit will equal $12.22). The current Regulations also prescribe a maximum fee for septic tank permits. This fee is administered by, and paid to, local governments.

1.1.2 EPA licences

Licences are required for premises undertaking activities that pose a significant risk to the environment, and are listed as 'scheduled premises' under the *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007*. The purpose of a licence is to regulate an activity that poses a risk to the environment and impose conditions on that activity in order to protect the environment. Compliance with the conditions is monitored by EPA. The administrative costs associated with licensing include the assessment of applications, the issuing of licences, ongoing guidance and advice to licensees, compliance, monitoring, inspections and some aspects of investigation and enforcement.[14]

Each licensee is required to pay an annual licence fee. The type of premises and the nature of the emissions determine the level of environmental risk and hence the level of resources EPA must commit to managing these risks.

Generally, licence fees comprise two parts: the base fee and a variable component fee. Base fees are set according to industry category to reflect the EPA time and effort involved in administering licences for that sector. Some industry categories have a scale of base fees, reflecting the greater level of resources required as premises become larger and more complex. Variable component fees relate to the substances a licensee is permitted to emit either to air, water or land under its licence. For discharges to the atmosphere this is generally calculated using the maximum amounts for each compound specified in a licence. For discharges to water and land, component fees are generally calculated using the median amounts for each compound.

The only exception to the base and component fee structure for licensees is fees for premises receiving waste, which are calculated as a fee per tonne of waste received. There is a discount available on the fees paid by waste receivers where they have received prescribed industrial waste and reused it in an approved way.[15] Waste receivers must have received at least 650 tonnes of prescribed industrial waste before the discount takes effect; thereafter they are eligible for a discount of to up to 50 per cent on the per-tonne rate for prescribed industrial waste they receive.

13 Sections 19B, 24, 53G, 53M, 53T and 71 of the *Environment Protection Act 1970*.

14 The regulatory effort associated with pollution abatement notices ('PANs') and clean up notices to licensees has not been included in the assessment of the licensing cost base because, currently, under section 60C(1) of the Act there is a fee of 40 fee units payable on service of a notice. The *Compliance and Enforcement Review* recommended the removal of this fee (recommendation 9.5).

15 Regulation 11(3) of the *Environment Protection (Fees) Regulations 2001*.

Waste receiver fees are capped at 42,000 fee units. The licence fees for premises licensed to discharge waste are capped at 42,000 fee units for each element of the environment (for example, air, waters or land) to which waste is licensed to be discharged.

Accredited licensees are currently provided with a 25 per cent discount on their total base and component fees. The basis of the accreditation system for licensees is that these licensees are expected to demonstrate a high level of environmental performance (involving environmental improvement and environmental audit programs) and therefore represent a lower environmental risk and require less attention from EPA. As EPA licence fees are based on the rationale of cost recovery, it is appropriate and necessary to recognise that it is anticipated that reduced resources are required to deal with accredited licensees by providing a discount to their fees.

In addition, the current Regulations include provision for a licensee to apply to EPA to enter into a fee-reduction agreement in circumstances where its licence fees have increased as a result of the classification of new Class 3 air quality indicators. Air quality indicators are set out in the State Environment Protection Policy (Air Quality Management) (SEPP) and are used as the basis for component fees for discharges to the atmosphere.

A landfill levy is payable by those licensed premises that deposit municipal waste or prescribed industrial waste to land.[16] The amounts payable under the landfill levy are set out in schedules D and E of the Act. The levy is aimed at environment protection and fostering environmentally sustainable use of resources, and best practice in waste management. As this levy is set under the Act, it is therefore not within the scope of the current review of the Regulations.

Similarly, there is an environment protection levy for premises that are subject to licence fees. This is calculated at three per cent of the annual licence fee. The levy is set under the Act and hence is not part of the review of the Regulations.

1.1.3 Works approvals

Works approvals are required for activities that have the potential for significant environmental impact, and which are currently listed as 'scheduled premises' under the *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007*. A works approval permits the construction of a plant, the installation of equipment or modification of processes. Works approvals are designed to ensure that development proposals adequately address potential environmental risks and comply with any applicable state environment protection and waste management policies before any construction begins.

The application for a works approval is submitted by the proponent and must identify and assess the nature and extent of environmental risks and opportunities, and consider design options. Applications are referred to the local council and other relevant government agencies for advice, and advertised for public comment. If it considers it necessary, EPA may organise a conference to jointly address comments on a works approval application. EPA must consider any comments received and make a decision within four months of receiving an application. EPA decisions on works approval applications can be reviewed by the Victorian Civil and Administrative Tribunal upon application by works approval applicants or parties whose interests are affected by the decision. Once a works approval application is approved, EPA may conduct inspections during or on completion of the construction process.

Fees for works approval applications are calculated on the basis of the cost of the proposed works. The fees increase with the estimated cost of the works, as this is considered a broad indication of the costs that EPA will incur in processing the application. The Act allows EPA to make Regulations prescribing fees for works approvals up to a cap of 4500 fee units ($54,990).

Works approval applications can be supported by an environmental auditor. The Regulations currently provide a 25 per cent reduction in works approval application fees when an application is supported by an EPA-appointed environmental auditor. The basis for this discount is that such applications may be of a better quality and EPA therefor incurs fewer costs to assess the quality of the application.

1.1.4 Environmental audits

An environmental audit is an objective assessment of either the condition of a segment of the environment or risk of harm or detriment to a segment of the environment caused by an industrial process or activity, waste, substance or noise.

The framework for the environmental audit system is established under Part IXD of the Act. The Regulations set a sliding scale of fees for environmental audits. Environmental audit fees relate to EPA reviewing environmental audits for which a certificate or statement of environmental audit has been issued, and which are submitted to it under s. 53ZB(2) of the Act. Currently, the Regulations do not set fees for audits conducted under s. 53V of the Act, relating

16 Section 50S of the Act.

to the risk caused by an industrial process (as they do not result in the issuing of an statement or certificate of environmental audit).

Environmental audits are conducted by EPA-appointed environmental auditors who have been engaged by external third parties to assess land for contamination or to assess a proposed or existing industrial process for potential contamination to land, groundwater, air and so on. That is, EPA does not conduct the audit itself, nor does it endorse the audit. Since it is a quality assurance process, EPA makes sure that an environmental audit has addressed all the relevant issues related to the scope of the audit.

1.1.5 Waste permits

There are two general types of permit issued by EPA: a waste transport permit and a septic tank permit (see 1.1.6 below). Any person transporting prescribed waste must obtain a waste transport permit for the transport vehicle. EPA can charge a fee for the issue, transfer and variation of permits and for the annual renewal of permits.

Part IXA of the Act establishes the framework for managing the transport of prescribed industrial wastes, including permit requirements for waste transport vehicles. The detail of the prescribed waste transport system is established in the *Environment Protection (Industrial Waste Resource) Regulations 2009*, which also classify certain wastes as 'prescribed wastes'. Fees for permits to transport prescribed waste are set on the basis of the recovery of EPA's costs relating to waste transport permits, including assessing applications, issuing permits and inspecting waste transport vehicles.

The fee charged is based on the carrying capacity of the vehicle and the class of the prescribed waste to be transported. The Act sets a cap of 200 fee units ($2444) on waste transport permit fees.

1.1.6 Septic tanks

The Act assigns EPA the discretion to set the maximum fee a municipal council may charge for a septic tank permit application. The Regulations currently prescribe the maximum fee for such an application as 46.35 fee units (approximately $566) for each septic tank system designed to discharge up to 5000 litres of sewage a day. This fee is paid directly to the municipal council administering the permit. The Act devolves all other administrative powers with respect to the issuing, maintenance and fee structure of septic tank permits to municipal councils.

1.2 Rationale for Government intervention

Victoria's *Cost recovery guidelines* note that there is often a need for government regulation, to reduce the risk of harm or damage that may arise to consumers, the whole community or the environment. On economic efficiency grounds, there is a case for the administrative costs of regulation to be internalised into the cost structure of the regulated industry.[17]

The recovery of costs incurred by government in undertaking regulatory activity will lead to what economists refer to as 'allocative efficiency'.[18] Incorporating the costs of administering government regulation into the prices of regulated products and services ensures that the costs to the community of the resources used to allow the regulated activity to take place will become apparent to producers and consumers. In addition, by decreasing the level of general taxation needed to finance government products, services or regulated activities, cost recovery also reduces the costs of tax administration and compliance and the 'deadweight losses'[19] of tax-related distortions.

1.3 Risk from non-intervention

The risk from not proceeding with the proposed Regulations is that the Regulations will expire and the Victorian Government will not recover the regulatory costs incurred by EPA in undertaking its activities associated with administering and enforcing the Regulations. Not collecting fee revenue from regulated parties would mean that the Victorian community would be providing a subsidy to these groups. Moreover, if the proposed Regulations are not made, the position will not be consistent with the Victorian Government's *Cost recovery guidelines*.

17 DTF 2010, ibid. p. 14.[Ed: 'ibid.' doesn't make sense here. MS]

18 Allocative efficiency is a situation in which economic resources are allocated in a way that maximises the net benefit to society. It is achieved when the value consumers place on a good or service equals the cost of resources used up in production.

19 In economics, a deadweight loss is a loss in economic efficiency that can arise from the imposition of taxes because the tax prevents some people in engaging in what they perceive as mutually beneficial transactions.

1.4 Type and incidence of costs

The *Victorian guide to regulation* identifies three categories of regulatory costs: compliance costs (including administrative costs), market costs and financial costs.[20] The only relevant costs in the case of the proposed Regulations are financial costs and some minor administrative costs.

Financial costs are the result of a concrete and direct obligation to transfer a sum of money to the government or relevant authority. Such costs include fees, which are the primary focus of this RIS. However, there is also an aspect of administrative cost associated with the proposed Regulations. Administrative costs are those costs incurred by business to demonstrate compliance with the Regulation or to allow government to administer the Regulation: in this case, the actual administrative effort associated with payment of the fees.

1.5 Problems the proposed Regulations seek to address

1.5.1 Nature of problem

There are two problems the proposed Regulations seek to address: environmental externalities (as part of the broader regulatory regime) and the recovery of regulatory costs.

Firstly, at a higher level, the Act and regulations form part of a regulatory regime that seeks to manage detrimental impacts on the environment. Pollution and waste products pose a classic problem of 'externalities'. Externalities arise when the market does not capture the actions of one party 'spilling over' onto third parties.

EPA can not use the fees as an economic instrument to fully capture the externality impacts of pollution, as the *Cost recovery guidelines* only permit fee collection up to the point of cost recovery. In addition, the Act imposes caps on the fees that may be charged for licences, works approvals and waste transport permits, arguably hindering EPA's ability to recover fees at a rate that would resemble externality pricing. It is also arguable that collection beyond the cost-recovery level would resemble a tax and would need to be included in the primary legislation.

Secondly, the specific problem the proposed Regulations seek to address is the recovery of the regulatory costs associated with the administration of works approvals, licences, environmental audits and waste transport permits. Based on an assessment of EPA's costs by PwC, it is clear that, at present, the costs are not being appropriately recovered through the fees imposed by the Regulations.

1.5.2 Environmental externalities

From an economic perspective, freely functioning markets generally provide the most efficient means of allocating goods and services between members of the community to maximise the wellbeing of the community. However, in some instances, the market does not deliver the best outcomes for society – a 'market failure' – and government intervention may be justified on the grounds that social and environmental outcomes could be improved. The *Victorian guide to regulation* described one such market failure:

> External costs and benefits, commonly referred to as externalities or spillovers – which occur when an activity imposes costs (which are not compensated) or generates benefits (which are not paid for) on parties not directly involved in the activity. Without regulation, the existence of externalities results in too much (where external costs or negative externalities occur) or too little (where external benefits or positive externalities arise) of an activity taking place from society's point of view. Pollution is the most common example of a negative externality.[21]

In other words, externalities are unintended costs and benefits of an activity that are experienced by people other than those directly involved in the activity. If the impacts of externalities are not managed, markets may tend to over-provide negative externalities (such as pollution), or under-provide positive externalities.

In the case of the activities covered by EPA licences and permits, inappropriately designed works or waste-receiving premises, unsafe transport of waste, or unregulated premises could lead to human health and environmental costs being imposed on the community. It is also likely that, in the absence of any controls or limits, a greater amount of pollution would be discharged into the environment. This may arise because a polluter receives 'benefits' from disposing of waste products or emitting harmful pollutants, but does not compensate third parties for the costs imposed on the environment and the surrounding community.

A common regulatory solution to correct the externalities is to establish rules and requirements governing waste, discharges and emissions, and to establish systems of permits and/or licences. The *Environment Protection Act 1970* provides such a framework, and the licences and permits established under the Act seek to manage environmental externalities.

20 DTF 2011, op cit. p. F-7.
21 DTF 2011, ibid., p. 2-2.

1.5.3 Risk-based approach

Broadly, environmental protection is largely concerned with risk management. This was highlighted in EPA's recent *Compliance and Enforcement Review*. Accordingly, EPA has re-confirmed a risk-based model to inform its targeting of enforcement, and responses to incidents, breaches and pollution reports will change depending on the risk or harm to health and the environment. For licensed premises, EPA defines risk as a combination of two elements, consequence (the risk or harm to health and environment) and likelihood (the chance that non-compliance – resulting in a risk or harm to health of environment – will occur). According to the new EPA *Compliance and Enforcement Policy*:

- Consequence relates to risk or harm to health or environment posed by licensed premises, and is categorised into five levels: low, minor, moderate, major and severe. Consequence takes into account actual or potential impacts on human health, environment and amenity. It considers the scale and duration of any harm or impact and the level of public concern.
- Likelihood refers to the likelihood of non-compliance by licensees and also has five levels: low, unlikely, possible, likely and certain. Likelihood takes into account (a) the track record of the business (past incidents, inspections, enforcement and pollution reports); (b) systems in place to identify and manage environmental risk; (c) capability of the business and its operators; and (d) the level of resources dedicated to environmental management, compliance and maintenance.[22]

1.5.4 Cost recovery

As stated in the *Victorian guide to regulation*, the preferred approach is that regulatory fees and user charges should be set on a full cost-recovery basis, because it ensures that both efficiency and equity objectives are met.[23] Full cost represents the value of all the resources used or consumed in the provision of an output or activity.

The current Regulations will expire on 30 October 2012. In the absence of the proposed Regulations the Victorian Government would not recover the regulatory costs incurred by EPA associated with activities covered by the current Regulations. A report prepared by PwC in November 2010 (and subsequently updated) details the costs of performing the activities covered by the current Regulations.

1.5.5 Consistency and efficiency

The costs being recovered need to reflect value for money for the processes being undertaken. This is referred to as 'efficient costs' and ensures that departments do not develop unnecessary or inefficient processes, and then recover the costs from business.

Consistency is achieved when all participants in a regulated market are treated equally. In the present case, this is primarily aimed at avoiding barriers to entry for small players in the market. It could be argued that caps on fees shift the cost burden from larger operators to smaller ones. This is because, under the current fee structure, large licensees, permit holders and works approval applicants have their fees capped, regardless of the fees that they may have been liable to pay beyond the cap (for instance, where a licensee emits more pollution than they can be charged for, due to the cap). However, fee caps are contained in the Act and therefore do not form part of the Regulations.

While the current fees are intended to recover EPA administration costs, the Act allows for fee discounts to encourage better environmental outcomes. While it may be desirable for EPA to provide financial incentives to reduce waste (the higher the pollution, the higher the cost), there are limitations under the current arrangements, as the primary rationale under the Government's *Cost recovery guidelines* is recovery of regulated costs. These guidelines provide limited scope to allow the fees to be set to encourage better environmental outcomes.

1.5.2 Extent of problem

The current fees provide a mismatch between fee revenue collected and costs incurred by EPA in administering and enforcing activities for licences, works approvals, environmental audits and waste transport permits. Overall, the current fees are over-recovering fees by approximately 18 per cent.

The proposed Regulations will set fees based on a recent review of the regulatory costs incurred by EPA. This review found that current fees were significantly under-recovering costs for works approvals and environmental audits, while fees for waste transport permits and licences were over-recovering costs. Table 5 shows the current fee revenue by category compared with the estimated EPA cost of regulating these categories.

22 EPA, *Compliance and Enforcement Policy*, June 2011, p. 7.
23 DTF 2011, op. cit., Section 3.2.13.

Table 5: EPA costs and level of cost recovery

Fee type	EPA Costs ($)	Amount recovered ($)	Variance (%)
Works approval	2,412,565	402,184	-83%
Application	*2,410,267*	*400,901*	*-83%*
Transfer	*2,297*	*1,283*	*-44%*
Licences	9,889,851	13,904,243	41%
Licence fees	*9,830,522*	*13,884,630*	*41%*
Amendment	*43,247*	*13,022*	*-70%*
Transfer	*16,082*	*6,591*	*-59%*
Environmental audit	256,284	142,005	-45%
Waste transport permit	820,965	1,317,281	60%
Application	*802,700*	*1,307,315*	*63%*
Transfer/amend	*9,190*	*941*	*-90%*
Temporary permit	*9,075*	*9,025*	*-1%*
Total	**13,379,665**	**15,765,714**	18%

2 OBJECTIVES OF GOVERNMENT INTERVENTION

2.1 Government policy

2.1.1 Cost recovery

The primary policy concerning the proposed Regulations is the Victorian Government's *Cost recovery guidelines*. These highlight that general government policy is for regulatory fees and to be set on a full cost-recovery basis, because it ensures that both efficiency and equity objectives are met. In terms of efficiency and equity:

- Full cost recovery promotes the efficient allocation of resources by sending the appropriate price signals about the value of all the resources being used in the provision of government goods, services and/or regulatory activity.
- From a horizontal equity point of view, full cost recovery ensures that those that have benefited from government-provided goods and services, or those that give rise to the need for government regulation, pay the associated cost. Those parties that do not benefit or take part in a regulated activity do not have to bear the costs.[24]

There are a number of types of costs that may need to be included in the calculation of the recoverable cost base. Typically, these will include both direct costs and indirect costs (including capital costs). Table 6 explains the types of costs in these categories.

Table 6: Types of recovered costs — direct and indirect costs

Type of cost	Examples
Direct costs are costs that can be readily and unequivocally attributed to a product or activity because they are incurred exclusively for that particular product/activity.	Labour costs (and on-costs), such as base wage/salary, payroll tax, superannuation. Office accommodation, equipment, supplies, materials/consumable supplies, power, maintenance.
Indirect costs are not incurred exclusively for the particular product/activity – often referred to as 'overheads'.	Corporate services costs, such as salary of the chief executive, financial services, human resources, information technology.
Indirect costs also include capital costs, which comprise depreciation of owned assets, and the opportunity cost of capital.	Depreciation. Opportunity cost of capital.

Source: Department of Treasury and Finance, *Cost recovery guidelines*, Table 4.3.

The costs of any functions that are not a fundamental part of, or directly related to the output are excluded from the cost base. In particular, costs associated with the broad development of policy/regulation and general parliamentary servicing roles of government should be excluded from the cost base.

2.1.2 Environmental protection

While the Department of Sustainability and Environment (DSE) is responsible for the conservation and sustainable use of Victoria's natural environment, biological diversity and cultural heritage, EPA administers a number of Acts, associated Regulations and policies aimed at protecting the environment.

The principal Acts administered by EPA include the *Environment Protection Act 1970*, *Pollution of Waters by Oil and Noxious Substances Act 1986* and *National Environment Protection Council (Victoria) Act 1995*. Key Regulations administered by EPA include the *Environment Protection (Environment and Resource Efficiency Plans) Regulations 2007*, *Environment Protection (Fees) Regulations 2001* (the subject of this RIS), *Environmental Protection (Industrial Waste Resources) Regulations 2009*, *Environment Protections (Vehicle Emission) Regulations 2003* and *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007*.

The overarching purpose of the *Environment Protection Act 1970* is to create a legislative framework for the protection of the environment in Victoria that has regard to the principles of environment protection. EPA's purpose is to 'protect, care for and improve our environment'.[25]

[24] DTF 2010, op. cit., p. 7.
[25] EPA Victoria website, www.epa.vic.gov.au.

2.2 Objectives

The objective of the proposed Regulations is to recover government costs in an efficient, effective and equitable manner with respect to the administration and enforcement of environmental protection legislation, which in turn seeks to achieve the government's broader environmental objectives. This objective is subject to the following considerations:

- efficiency – fees should be set to enhance allocative efficiency and to minimise distortions and calls on general revenue
- effectiveness – fees need to be easy to understand, set in a way to encourage compliance and set at a level to achieve the government's policy objective
- equity – fees should not create a barrier for smaller businesses to enter the market.

2.3 Authorising provision

The proposed Regulations are authorised under s. 71 of the *Environment Protection Act 1970*. This section allows the Governor-in-Council, on the recommendation of EPA, to make Regulations under the Act. Section 71(p) of the Act permits Regulations to be made in respect to any matter or thing that, by the Act, is authorised, required or permitted to be prescribed or that is expedient to be prescribed for carrying the Act in effect. Specifically, Regulations may be made under s. 71 in respect to:

(a) prescribing scales of fees to a maximum of 4,500 fee units with respect to an application for a works approval;

(aa) prescribing scales of fees in respect of a licensed scheduled premises to a maximum of 42,000 fee units with respect to each element of the environment being the atmosphere, land or waters to which waste is licensed to be discharged, emitted or deposited, payable on the issue of a licence and annually on the date fixed by the Authority under section 24(1)(a);

(ab) prescribing fees not exceeding 85 fee units with respect to an application to amend a licence;

(ac) prescribing fees not exceeding 35 fee units with respect to an application to transfer a works approval or a licence;

(aca) prescribing a fee with respect to a completed environmental audit;

(add) prescribing reduced scales of licence fees payable by licence holders in respect of accreditation on the anniversary of the issue of the licence;

(lc) prescribing fees not exceeding 200 fee units for applications for the issue, transfer and variation of permits under Part IXA and, for the annual renewal of those permits, fees not exceeding 200 fee units in respect of each vehicle to which the permit is to apply;

(le) prescribing maximum fees for the issue of permits for septic tank systems for different premises or class of premises, which fees may vary according to the extent and nature of–

(i) the septic tank system; and

(ii) the premises.

(na) prescribing the fees chargeable or payable for doing any act or providing any service for the purposes of the regulations and prescribing the person, people or body to which the fees are payable, and providing for the distribution of those fees and for the refund of fees in specified circumstances; …

It is observed that the Act imposes a number of upper limits (caps) on the fees that can be charged. This in turn imposes constraints on the ability to fully recover costs from some holders of licences, permits or approvals.

3 OPTIONS TO ACHIEVE THE OBJECTIVES

3.1 Principles of fee setting

In May 2010 the previous Victorian Government released its revised *Cost recovery guidelines* (the Guidelines) to clarify its policy principles underpinning cost-recovery arrangements.[26] The Guidelines establish a whole-of-government framework, thereby ensuring that cost-recovery arrangements in Victoria are transparent, efficient, effective and consistent with legislative requirements and government policy. The Guidelines follow the principle that properly designed cost-recovery arrangements can deliver both equity and efficiency benefits to the community.

Cost recovery may be defined as the recuperation of the costs of government-provided or funded products, services or activities that, at least in part, provide private benefits to individuals, entities or groups, or reflect the costs imposed by their actions. The Guidelines apply to cost-recovery arrangements of government departments and general government agencies and include the recovery of the costs incurred by government in administering regulation (such as registration, licensing, issuing of permits, monitoring compliance, investigations and enforcement activity).

As stated in the Guidelines, general government policy is that regulatory fees and user charges should generally be set on a full cost-recovery basis; however, if it is determined that full cost recovery is not consistent with other policy objectives of the government, then it may not be appropriate to introduce a full cost-recovery regime.

3.2 Options — Limited to Regulations

In identifying options for responding to issues arising from implementation of legislation, it seems reasonable to assume that in certain cases regulatory instruments are the only viable option because they 'give effect' or 'operationalise' key elements of the Act. While these suppositions should generally be avoided, clause 2.04 of the *Subordinate Legislation Act 1994 Guidelines* (the Premier's Guidelines) states that, when the Act requires that a thing or matter be prescribed in regulations, then it must be provided in the Regulations:

> where the authorising Act dictates the form of subordinate legislation required, for example, where the authorising legislation provides for fees to be prescribed by statutory rule, there is no discretion to set those fees by another method.[27] [Emphasis added]

Given the limited discretion (since fees must be set in regulations), options in this RIS will focus on fee design elements contained in a statutory rule, rather than considering alternative funding options or use of alternative regulatory/economic instruments.

The Act provides EPA with authority to regulate activities that pose an environmental hazard. These activities are prescribed in the *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007*. These Regulations ensure that activities and operations assessed as posing significant environmental risk continue to be effectively managed and monitored through a system of works approvals and licensing.

In addition, the Act itself places constraints on fee design options for the proposed Regulations. Most notably, the Act specifies that the fees must be capped at certain levels. The maximum fee that can be prescribed for licences that allow a discharge into the environment is 42,000 fee units for each element of the environment (atmosphere, land or water) to which waste is licensed to be discharged. The maximum fee that can be prescribed for licences that allow waste to be received is 42,000 fee units. Works approval fees are capped at 4500 fee units, while waste transport permit fees are capped at 200 fee units per vehicle.

Finally, environmental levies or charges are increasingly being used by governments as a way of correcting environmental externalities and thus improving environmental outcomes. Such fees are set at a rate to capture external costs resulting from the pollution of the environment. As noted above, the *Cost recovery guidelines* do not allow fees to be set on this basis outside of specific authorising provisions in the principal Act.[28]

This RIS analyses the proposed fees in two steps: firstly, the amount of costs recovered will be considered (in other words, full or partial cost recovery); and secondly, individual fees will be designed to recover costs efficiently, equitably and effectively.

26 DTF 2010, op. cit.
27 *Subordinate Legislation Act 1994 Guidelines*, Revised 2007, Section 2.04.
28 'The Guidelines do not apply to the setting of taxes, fines or other penalties to limit negative externalities associated with a particular activity.' DTF 2010, op. cit., p. 2.

3.3 Full or partial cost-recovery

When designed and implemented appropriately, the adoption of cost recovery has the potential to advance efficiency and equity objectives. However, the Guidelines note that 'efficiency and equity considerations may need to be balanced against each other in determining the appropriate form of cost recovery'.[29]

The *Cost recovery guidelines* also set, as the main objective, full cost recovery from regulatory activity. While this does not preclude partial cost recovery, it does set out conditions under which partial cost recovery would be considered appropriate. The following points outline conditions where partial cost recovery may be deemed appropriate:

- where merit goods are being provided or where activities generate benefits to unrelated third parties
- where objectives of income redistribution or social insurance are important
- where concessions are deemed appropriate
- where full cost recovery may undermine innovation and product development
- where the government is providing goods and services on a commercial basis in competition with the private sector

  and/or
- where full cost charging could undermine other objectives.

When assessing effectiveness, the fees should not be set at such a rate as to discourage compliance.

A departure from full cost recovery would result in the Victorian community providing a subsidy to licensees and permit holders of around $13.3 million. On the other hand, it is important to set fees at a level that does not deter businesses from participating in the industry.

In deciding the appropriate nature of fee regimes, an assessment should be made of where the good or service sits on the public–private good continuum. At one end of the public–private good continuum are 'pure public goods', which are non-excludable and non-rivalrous, so that consumption of the good and the benefits arising from that consumption are available to the community as a whole. Such goods are often associated with the free rider problem, which exists when people enjoy the benefits of government-provided goods/services regardless of whether or not they pay for them. Defence, lighthouses or public parks are examples of public goods.

At the opposite end of the public–private good continuum are 'private goods', where consumption by one party prevents its use by another, and where benefits of consumption only accrue to the consuming party. Under these circumstances, there is a strong case for the party consuming and benefiting from the private good to pay for its provision. The provision of a licence to pollute has private good characteristics and therefore a strong case for 'beneficiary pays' can be made.

The question arises as to the division of private versus public benefits: that is, where does the 'good' lie on the continuum of pure private and pure public goods. In turn, this hinges on how the 'goods' the proposed Regulations seek to manage are defined. While the objective of the Act is environmental protection, which may have third-party benefits and public good characteristics, the actual activities managed by the proposed Regulations related to emissions, discharges and so on are privately produced, for private benefit. This would suggest the 'goods' are at the 'private good' end of the continuum and that full cost recovery is appropriate.

Finally, as a general design principle, the *Cost recovery guidelines* provide that fees should be set on a cost-recovery basis. This limits the extent to which they can be used as 'economic instruments' in an attempt to influence behaviour. This is particularly relevant when considering the fee discount for landfills and handlers of prescribed industrial waste. Such discounts are not consistent with cost-recovery principles. Other incentives, such as the substantial incentives for reuse of prescribed industrial waste through the landfill levy system, may be more effective.

3.4 Fee design options

The fee design options below are considered and assessed within a cost–benefit analysis framework. In this RIS, the cost to EPA of undertaking the administration and compliance activities associated with the activities for which fees are set in the Regulations is the target for cost recovery.

There are four main categories of fees (licences, works approvals, environmental audits and waste transport permits). Each of these fee categories will be examined separately and fee design options considered. There are also a number of other minor fees that are examined. The options for the maximum septic tank fee permit application fee are also discussed.

29 DTF 2010, ibid.

3.4.1 Licence fee design options

Licence fee design options could consider fees set at a fixed rate, variable rate or a combination of these two rates. Fee design could also incorporate risk, which may be a useful proxy for EPA effort and compliance activities (hence regulatory costs).

Feasible fees options identified in this RIS are considered below.

Option 1 — Flat fees

Option 1 would simply charge a flat fee to all licensees. The main attraction of this approach is its simplicity.

Option 2 — Variable fees

Option 2 would charge a fee based on volumes of discharges or pollutant emissions only. Therefore, smaller licensees with low discharges or pollutant emissions would be charged a much lower fee than those with larger discharges. This approach may have attractions on equity grounds.

Option 3 – A base fee (incorporating risk) and variable fee component

Option 3 most resembles the current licence fees structure for licences under the Regulations. This fee design option would charge a base fee and variable component fee, which takes risk into account.

The base fee would be informed by the risk categories that reflect the potential for environmental harm. This risk rating in turn reflects the time EPA takes in assessing and monitoring the different categories of licensee (as set out in the *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007*) in accordance with the recommendations for a risk-based model for compliance and enforcement in the *Compliance and Enforcement Review*.[30]

A variable component would apply fees according to the volume of discharge of certain pollutants, weighted according to their relative impacts on the receiving environment (land, water or air). Again, the rationale is that, depending on the relative volume of the discharges, certain pollutants pose greater environmental risks. Hence, this option provides an indication of where EPA expends its regulatory effort in managing and reducing the likelihood of these risk through monitoring compliance with emission limits and assessing the environmental impact of these emissions.

This option examines the most appropriate way to calculate both the base fee and the variable component fee, and investigates how a risk-based approach can most effectively be applied.

3.4.2 Works approval fee design options

EPA's costs for administering works approvals exceed the amount collected by the current fees by around $2 million. However, increasing works approval fees faces two obstacles: a fee cap contained in the Act; and the large amount that would need to be recovered from a relatively small number of projects.

Option 3 discussed above in 3.4.2, 'Licence fee design options', incorporates a risk-based approach, taking into account the environmental risk associated with specific industry sectors. This type of approach is not specifically discussed here because it is not considered appropriate for calculating works approval fees.

This is so, firstly, because the risk associated with a proposed project is taken into account at an earlier stage — when establishing whether a works approval is required. Regulations 8 to 12 in the *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007* provide conditions of low environmental impact under which a works approval is not required and s. 19A(4)–(6) of the *Environmental Protection Act 1970* gives EPA discretion to exempt a licence-holder from the requirement to obtain a works approval where it is satisfied that the proposed works will not lead to environmental hazard or adversely affect the interests of a person other than the applicant. Therefore, projects of low risk, designed to reduce pollution, will not generally require a works approval.

Secondly, due to the diversity of projects, design of an equitable risk framework for assessing fees would be particularly difficult.

Option 1 — Flat fee

A flat fee for works approvals would see each project charged the same fee irrespective of the size, value or type of project, subject to the value of the fee cap. The cap was introduced as it was recognised that there is only a certain amount of work that is expected to be undertaken in the assessment of works approvals and that, for very large projects, over-recovery might occur.

30 Krpan S 2011, op. cit., Recommendation 7.2, p. 99.

While this option would be simpler to administer, a flat fee would be more costly than most of the projects. It is likely that this would act as a barrier for many projects, or may even contribute to non-compliance.

Option 2 — Percentage of capital value of approved works

This option most closely resembles the current works approval fees set by the Regulations. It provides that the fee might be calculated (up to the cap of 4500 fee units) as a small percentage of the capital value of the project. A minimum fee would need to be applied to recover the administrative costs associated with very small projects. In assessing the investment returns of a project, businesses will assess the financial viability. A percentage-of-capital-value formula for a fee calculation is easily taken into account in an investment decision, without further consultation required with EPA, to estimate the potential cost of the works approval. This approach would appear to have merit on both simplicity and equity grounds.

There are two main reasons and an additional factor as to why the value of works is considered an appropriate method. Firstly, as a broad rule, larger value projects are more complex and require more time and effort for EPA to assess. In this sense the value-of-works method resembles a simplistic fee-for-service method. Secondly, the value-of-approved-works method provides certainty. Certainty is very important when businesses make investment or other decisions, and an uncertain fee environment could result in smaller projects not going ahead (if it was anticipated that the fee would be larger than the benefits derived from the works). In addition, since this option resembles the current arrangements, applicants will be broadly familiar with the fees; thus, any transitional/familiarisation costs should be relatively low.

Given that this approach does not recover the full amount of EPA costs, the balance could be recovered from licence-holders (in other words, added to the pool of costs to be recovered from licensees). This would allow licensees to contribute to the cost of the works approval over time, rather than in one large amount at the commencement of a project.

Option 3 — Fee for service

As this is a high-value and low-volume fee, this approach is more relevant for works approvals than the other fee types. As there were only 50 works approvals undertaken in the past year, it is reasonable to assume that it may be possible for EPA to appropriately allocate the costs of the administration of the works approval to a particular case. While it may be administratively straightforward to calculate the cost in this instance, that does not mean it is the most appropriate way to charge for a works approval.

A works approval is required when it is proposed to develop a facility or activity that is scheduled under the *Environment Protection (Scheduled Premises and Exemptions) Regulations 2007*, or if changes are required to an existing licensed facility that will result in increased environmental impacts associated with that facility. EPA often undertakes significant work in order to understand the proposed process, plant and equipment and their likely impacts on the environment.

The work undertaken by EPA to understand new processes and technologies can be extensive and, if a fee-for-service approach is taken, this could lead to a substantial additional cost, especially to smaller businesses or small projects, or where novel equipment or processes are proposed to be used but their environmental impacts are not fully determined. This may create a barrier to innovation.

3.4.3 Environmental audit fee design

Option 1 — Flat fee

The processes undertaken for reviewing audits are reasonably similar, even for audits dealing with different aspects of risk to the environment. A flat fee proposes to charge each environmental auditor the same amount in order to cover the administration costs of EPA reviewing submitted audits.

Option 2 — Fees charged on land area size

This option would resemble the approach taken in the current Regulations. Fees could be charged on the basis of the geographic area of an audited site. The rationale for this approach is that the size of the land might represent a function of complexity and time taken to perform an audit, and therefore the time taken by EPA to review it. However, an option based on land size may not be appropriate for s. 53V audits, as these are based on assessing an industrial process rather than premises or land size.

Other options

A risk-based approach has not been considered as an option for environmental audit fees because EPA does not necessarily spend longer reviewing and quality assuring audits relating to environmentally risky activities. That is, the quality assurance process is relatively standardised across different sites with different risk levels. The quality of the

audit itself, the complexity of the issues it addresses and the purpose of the audit (that is, the proposed actions resulting from the audit to ameliorate the environmental risk/harm from the land/activity) will be determinants of EPA time spent on reviewing audits. However, it would be extremely complex to assign fees based on these determinants, because they do not naturally arise out of an industrial process or type of audit.

3.4.4 Waste transport permits fee design options

Option 1 — Flat fee

A flat fee could be applied to waste transport permits. Under this option each permit would attract the same fee, regardless of the type of waste carried, the amount carried or the distance travelled.

Option 2 — Cost-recovery based on waste type, risk and volume

This option attributes levels of risk to the different types of waste being transported, similarly to the risk categorisation identified for licences. This recognises that different types of waste will require different packaging and storage and pose different risks to the environment whilst on the road. In addition to the type of waste being transported, the size of the truck is relevant, as it represents the volume of waste and, in the event of an incident, the extent of the potential environmental impact. The levels of risk attributed to each waste transport permit category would be indicative of the application of EPA's regulatory effort in issuing permits and conducting compliance inspections on permitted vehicles, and to take account of the recommendations for a risk-based model for compliance and enforcement in the *Compliance and Enforcement Review*.[31]

Option 3 — Fee for service

In calculating the costs incurred by EPA for a single permit-holder, it would be possible for EPA to calculate fees on a 'fee for service' basis. This approach calculates the time and materials spent on a particular permit-holder and then bills them accordingly. Instead of taking into account risk and volume information, the fees could be calculated by the actual time spent servicing the permit-holder (including administration and monitoring).

It is possible that, under the current arrangements, businesses with lower risks/demands are cross-subsidising other businesses that require more attention. It would be possible to charge each permit-holder for time taken to process a permit and take compliance activity into account. A fee-for-service approach is, however, potentially more complex in operation than the alternative fee options.

In order to undertake a fee-for-service approach for waste transport permits, it would be necessary to collect data on the amount of time it takes to administer each of the approximately 1450 permits. At present, EPA does not collect such data and it is considered that, given the smaller fees imposed for permits (relative to the other fee categories), additional costs spent in accurately identifying the effort that goes into each permit would be an unnecessary expense and increase the cost to permit-holders without providing any additional value in the majority of cases. Therefore, such an approach is not considered practicable.

3.5 Fee arrangements in other jurisdictions

Each state and territory in Australia regulates activities that could potentially harm the environment. At the centre of these regulatory frameworks is a licensing system. However, there are considerable differences in approach to regulation, operational monitoring and enforcement and fee structures that make it difficult to compare the different systems.

The different structures and approaches to environmental regulation mean that a comparison of costs of these jurisdictions would be difficult. In addition to these differences, the cost data available from other jurisdictions does not separate the cost of administration from the cost of monitoring, compliance and enforcement. It is therefore difficult to determine whether EPA's costs are 'efficient' relative to the costs of the other jurisdictions.

However, it is observed that other states and territories generally ground their 'licence' (or equivalent instrument) fees on an externality basis, or a combination of externality pricing and cost-recovery; for example, pollutant load fees in New South Wales, environmental management fees in South Australia and load-based fees in Western Australia. While there are theoretical merits with an externality pricing approach, the Act and *Cost recovery guidelines* constrain this option with respect to the proposed Regulations. While the specific goal of externality pricing is to reduce the level of emissions (this is outside of the scope of the RIS), it is observed, nevertheless, that most jurisdictions appear to charge both a base fee and a variable fee for licences, which is the current approach adopted in Victoria.

While administrative activities could be benchmarked for efficiency, the split between administration and operational activities is not readily available for the other jurisdictions. Operational activities are more difficult to benchmark for efficiency, as spending more money on monitoring and compliance may lead to better environmental outcomes that

31 ibid.

are not observable via the finances of the organisation. Attachment B contains the details of the arrangements in other jurisdictions.

However, in a recent review by the Victorian Auditor-General of EPA's enforcement and compliance activities[32], no suggestions of cost inefficiency were raised. In addition, the detailed, independent *Compliance and Enforcement Review* of EPA[33] released in March 2011 found strategic issues with the targeting of compliance and enforcement work, but not any evidence of operational inefficiencies.

32 Victorian Auditor-General 2010, *Hazardous Waste Management*, PP No 315 Session 2006-10.
33 Krpan S 2011, op. cit..

4 COSTS AND BENEFITS OF THE FEE OPTIONS

4.1 Base case

The 'base case' describes the regulatory position that would exist in the absence of the proposed Regulations. For the purposes of regulatory analysis, the base case of 'doing nothing' is not considered an alternative, given that the government has identified a problem that needs to be addressed. However, it is necessary to establish this position in order to make a considered assessment of the incremental costs and benefits of the viable options.

While it may seem appropriate that the base case be represented by the current fee regime, as the Regulations are sunsetting, the base case is that of zero cost recovery in the absence of new Regulations (in other words, no fees are set). Whilst EPA is funded from consolidated revenue by the Victorian Government, if no fees were set under the Regulations then the Victorian Government would need to fund the activities of EPA without any specific contributions to consolidated revenue by the recipients of EPA's services and subjects of its regulatory oversight (all Victorian taxpayers would meet the costs for the delivery of these specific services and oversight to a small portion of the community).

4.2 Methodology

4.2.1 Recovery of efficient costs

Two broad approaches to costing may be adopted to allocate direct and indirect costs to outputs – the activity-based costing method and the pro-rata approach, in which costs were allocated into pools.

The activity-based costing method examines the activities undertaken within an organisation, determines what resources are used in the process to deliver a good or service, and then assigns costs to outputs according to the consumption of each activity in the production of the outputs. Each activity is costed on the basis of the resources consumed.

The activity-based costing approach is generally preferred because of its accuracy. However, it may not always be practicable to use that methodology to allocate indirect costs, because of the difficulty in identifying actual resource usage of different activities from an indirect cost pool. Given such difficulties, an approach was adopted that placed indirect costs into cost pools for each licence or permit type. The more disaggregated the approach (that is, the greater the number of indirect cost pools used), the more likely that the pro-rata methods will yield results similar to those achieved under the more complex (and more accurate) activity-based costing approach. Approximately 65 per cent of the total costs for fee-related activities were identified in this manner.

In the calculations of the cost base for this RIS the indirect costs were identified at the business unit level, with each business unit identifying the percentage of costs allocated to each activity. In this way, the cost-pool approach taken in this RIS is more accurate than a simple pro-rata approach.

4.2.2 Multi-criteria analysis

Reflecting the objectives of the proposed Regulations (section 2.2) and the government's *Cost recovery guidelines*, a multi-criteria analysis (MCA) was used to assess the preferred fee options. MCA is presented in this RIS as an alternative assessment tool to complement the financial analysis.

The MCA approach is described in part 5–18 of the *Victorian guide to regulation*. It represents a convenient way of comparing a range of alternative approaches about how proposals will contribute to a series of criteria that are chosen to reflect the benefits and costs associated with the proposals. A qualitative score is assigned, depending on the impact of the proposal on each of the criterion weightings, and an overall score can be derived by multiplying the score assigned to each measure by its weighting and summing the result. If a number of options are being compared, then the option with the highest score would represent the preferred approach.

This technique requires judgement reflecting good design principles of fees and the objectives of the proposed Regulations. Accordingly, three criteria – efficiency, effectiveness and equity – were chosen and weightings selected. These are described in Table 7.

Reflecting the *Cost recovery guidelines*, the criteria selected were:

- efficiency – fees set at a level to promote the efficient allocation of resources
- effectiveness – fees need to be easy to understand, set in a way to encourage compliance and set at a level to achieve the government's policy objective
- equity – fees should not create a barrier for smaller businesses to enter the market.

Accordingly, the 'efficiency' and 'effectiveness' criteria were each assigned a weighting of 35 per cent, reflecting their overall importance in achieving the Government's policy objectives in relation to fee setting, while the 'equity' criterion was assigned a weighting of 30 per cent.

Table 7: Multi-criteria analysis criteria

Criterion	Description of criterion	Weighting (%)
Efficiency	Fees should be set to enhance allocative efficiency and to minimise distortions and calls on general revenue. In addition, this criterion incorporates the concept of 'horizontal equity': those that benefit from regulation pay the associated cost, rather than being subsidised from other financial sources.	35
Effectiveness	Fees need to be easy to understand and set in a way to encourage compliance.	35
Equitable	Fees should not create a barrier for smaller businesses to enter the market. The concept of 'vertical equity' provides that fees should be charged with some notion of ability to pay.	30

For the purposes of an MCA assessment, an assigned score of zero (0) represents the base case, while a score of plus one hundred (+100) means the alternative fully achieves the objectives. A score of minus one hundred (–100) means the proposal does not achieve any of the objectives. In terms of assessment using the MCA, under the base case each criterion is awarded a score of zero reflecting the default position (the regulatory position in the absence of the proposed Regulations). Accordingly, the base case scenario overall receives a net score of zero.

4.2.3 Decision criteria

The decision criteria implied by the *Subordinate Legislation Act 1994* is that the benefits of a proposal should outweigh the costs, and that the preferred option is that which results in the largest net benefit. The MCA assessment tool is used to assess the costs and benefits of the viable options. As noted above, the option with the highest score represents the preferred approach.

The Premier's Guidelines provide limited discretion concerning options when the primary legislation dictates that the fees are to be prescribed by regulation. Given the limited discretion, options focused on ensuring that the proposed fees are designed in a way that balances efficiency, equity and effectiveness.

4.3 Licences

Option 1 — Flat fee

Flat fees are generally the most common approach to fee setting for licences in Victoria (for example, drivers licences and firearms licences), although most incorporate concessions on equity grounds. The simplest fee approach for EPA licences would be a flat fee charged for each licence. The fee would be relatively simple to calculate, based on the estimated regulatory costs divided by the number of annual licences. Based on the current licence fee base and number of licensees, this would suggest a flat annual licence fee of around $17,000.

This option receives an MCA score of 100 for the efficiently criterion, because all regulated costs are recovered and the flat fee avoids distortions.

In terms of equity, while such a fee would be relatively straightforward to calculate and administer, it would significantly disadvantage small businesses. For example, around two-thirds of licensees currently pay fees of less than $10,000 (see Figure 3 in section 7). While a small number of licensees would pay lower fees, a significant majority would be disadvantaged. Therefore, a score of –75 is assigned to this criterion.

The effectiveness of a flat fee would also be low relative to other options. While it would be easy to understand and administer, the cost imposed on smaller licensees might act as a barrier for smaller business, and at the margin result in non-compliance in payment of fees because of the large amount required upfront. In addition, a fixed fee would generally not provide licensees with an incentive to reduce emissions, and might create an incentive for smaller premises to not be licensed, reducing regulatory oversight of environmentally damaging operations. This in turn could compromise the government's overarching objectives of environmental protection. A score of 25 is therefore assigned to this criterion.

The MCA score for this option results in a net score of +21.25.

Table 8: MCA of flat fee

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35	100	35.00
Effectiveness	35	25	8.75
Equity	30	-75	-22.50
Total	**100**		**+21.25**

Option 2 — Variable fee-based on type of pollutant, type of emission and volume of emissions

Currently the Regulations provide for fees to be charged based on volumes of emissions (the component fee in Schedule 3 of the Regulations). The fee charged to a licensee therefore directly varies according to the amount of emissions they are licensed to emit. There are a number of different fee categories, based on the different pollutants and whether they are emitted to air, water or land, and these fees are varied according to the risk that these pollutants pose to the receiving environment.

The main rationale underlying recovering costs based on volumes is that, the higher the volume, the higher the level of scrutiny EPA must apply in order to be satisfied that all is being done to protect the environment. There are two components of risk that must be addressed by EPA. The first is associated with the type of activity that is conducted on the premises, and the inherent risk that that activity poses to the environment (in terms of the process, chemicals that are present on that premises and so on). Secondly, EPA must take account of the volume of emissions that the site is lawfully authorised to emit into the environment under its licence. The higher the emission levels in the licence, the more closely EPA will monitor activities to ensure they are not negatively impacting the environment. The volumetric method acts as a proxy for EPA administrative and compliance activities.

An MCA assessment was undertaken of the merits of this option. A disadvantage of variable fees is that, for many licensees who have low emissions, the fee amount is likely to be lower than the actual administrative and compliance costs incurred. As the majority of licensees have comparatively low emission levels, there is likely to be significant under-recovery for these businesses. For this reason, the efficiency criterion received a score of 75 (notwithstanding full cost recovery).

In terms of effectiveness, this option would be relatively easy to understand and administer, and will broadly support the government's policy objectives in relation to environmental management. Accordingly, a score of 50 is assigned to this criterion. However, this option may raise some equity issues. The caps on fees also may result in a proportionally larger amount being collected from smaller and medium-sized businesses. As noted, EPA is likely to be under-recovering costs from licensees with low volumes. Consequently a score of -25 is assigned to this criterion. This results in a net score of +36.25.

Table 9: MCA of volumetric fees

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35%	75	26.25
Effectiveness	35%	50	17.50
Equity	30%	-25	-7.50
Total	**100%**		**+36.25**

This score is considerably higher than the score for the flat-fee option, primarily because the latter scored poorly on equity grounds. It will be observed, however, that there are advantages associated with both flat and variable fees, and if these options are combined in an appropriately designed fee, the disadvantages of each may be significantly reduced. The following option considers a fee with a fixed and variable component.

Option 3 — Base fee based on industry type and variable fee based on quantity and type of emissions

The current fees contain an 'activity' component (a base fee set according to industry type) and a component element (a variable fee based on quantity and type of emissions). This option considers a base fee that explicitly takes risk associated with an activity into account and a has volumetric component.

Currently Schedule 2 of the Regulations sets 10 different base fees across the different scheduled categories, and which are set in some cases according to size or volume. As part of this RIS process these categories were reviewed according to risk, to account for the recommendations in the EPA *Compliance and Enforcement Review*.[34] This has resulted in reduction of categories from 10 to eight, with each category explicitly taking account of risk (category 1 represents the lowest risk while category 8 represents the highest). While this fee structure is slightly more complicated compared to a purely flat-fee structure, it is simpler than the current base-fee structure.

The volumetric component should set fee categories according to risk. Set in such a manner, variable fees would take into account the risks inherent in the emission of certain pollutants on the receiving environment (land, water, and air), as well as the relative risk associated with the volume of pollutants emitted.

Taken together, a base fee that is risk-based according to activity undertaken, combined with a variable element that takes account of risk inherent in emissions and volumes, may be considered as a 'risk-based cost-recovery approach'.

An MCA assessment was undertaken to consider the merits of this option. Given that costs are fully recovered in a way that minimises distortions, the efficiency criterion is assigned a score of 100. In terms of effectiveness, such a fee would be easily understood (it is similar to current arrangements) and recovers costs in a manner that is unlikely to result in non-compliance. Therefore, a score of 75 is assigned to this criterion. Fees designed with appropriately set base and volumetric components ensure that minimum levels of costs are recovered, while taking into account the risks associated with greater volumes. The equity criterion is assigned a score of –25, reflecting a greater financial cost than the base case (which is no fee) but set in way that treats licensees consistently within categories.

This option receives a net score of +53.75, which is higher than the other alternatives. This option combines the advantages of a base fee and a variable fee whilst taking account of risk. These features minimise the equity issues associated with a flat fee and under-recovery of fees for low-volume licensees.

Table 10: MCA of cost-recovery based on risk and volume

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35	100	35.00
Effectiveness	35	75	26.25
Equity	30	-25	-7.50
Total	**100**		**+53.75**

4.4 Works approvals

Option 1 — Flat fee

The simplest fee mechanism available to EPA would be to charge a flat fee for each works approval. The fee would be relatively simple to calculate, based on the costs of administering the works approval process divided by the number of permits. Given the costs to be recovered and annual number of work approvals, this would imply a flat fee of around $48,230 ($2,411,477 ÷ 50 works approvals). The large fee compared to current fees arises from the significant under-recovery of costs associated with the current fee arrangements.

While this would be easy to calculate and administer, it would significantly disadvantage smaller projects and create a barrier to entry for small participants. For example, such a fee could be greater than the entire value of the proposed works. Such a fee could lead to businesses not undertaking works (stifling innovation) or, in some cases, avoiding the approvals process.

An MCA assessment of the efficiency criteria would suggest a score of 100 given that full costs are being recovered. However, the large up-front fee costs could have unintended consequences. Smaller projects may not proceed and the higher hurdle might witness elements of avoidance. Innovation could also be stifled. The overall effectiveness of this option in achieving the Government's broader objective is therefore likely to be less than for the base case. Consequently, a negative score of –25 is assigned to the effectiveness criterion. In terms of equity, the large up-front fee would significantly affect smaller projects. Therefore a negative score of –75 is assigned to this criterion. This results in a net score of +3.75. This implies the efficiency benefits associated with full cost recovery are almost entirely offset by possibly unintended consequences (effectiveness issues) and equity concerns.

34 ibid., pp. 2 and 99.

Table 11: MCA of works approval flat fee approach

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35	100	35.00
Effectiveness	35	-25	-8.75
Equity	30	-75	-22.50
Total	**100**		**+3.75**

Option 2 — Percentage of capital value of approved works

An option that calculates the fee based on a percentage of the value of the capital works being undertaken could be considered. Given that the Act places a cap on the fees of works approvals, fees must be set to recover regulatory costs within this limit. The percentage values were considered, in combination with a minimum fee, taking into account the equity concerns raised in the flat-fee option. The results suggest that a fee set at one per cent of the value of works, with a minimum fee of $1000, largely overcomes equity concerns. However, a fee at this rate does not fully recover costs for two reasons:

- The legislative cap prevents full recovery of costs from capital works above $5.5 million.
- The minimum cost to EPA of assessing works approvals applications was estimated by PwC at around $10,000 per approval. However, it was considered undesirable for fees for smaller capital works to create incentives for doing works without approval or disincentives from capital works that may lead to better environmental management. Therefore, the percentage approach allows a lower fee for smaller works, although a minimum fee of $1000 was considered appropriate to cover some administrative activities.

The percentage/minimum fee combination was chosen to address these concerns, while avoiding having some applicants paying fees higher than the proxy costs to EPA. The appropriate combination, therefore, should just recover the full costs for works approvals below the fee cap level.

Given the amount required to be recovered, this option suggests an amount should be collected from licensees (that is, this amount is added to the cost base of licences). When fees are designed, 'cross-subsidies' should generally be avoided, but in the present case, there is a strong nexus between works approvals and licences: prior to receiving a licence, licensees are required to obtain a works approval.

A survey of 96 licensees across Victoria (representing a diverse range of industry sectors) conducted by EPA in 2007 found that 68 per cent of respondents were required to apply for a works approval and hold a licence, 30 per cent held an accredited licence (for which works approvals are not required) and the remaining 2 per cent were required to hold a works approval only. The survey covered a wide cross-section of business categories.

The survey also sought to gain an understanding of the overlap between the works approval process and other environmental management practices. Of the 96 survey respondents, 55 indicated that they have applied for a works approval in the past five years.

EPA estimates that, on average, each licensee will apply for a works approval once during a 10-year period. While some sites require no works approvals during this period and others multiple ones[35], there is no pattern by which this differs between business categories. The factors that will influence whether a site undergoes a works approval are ones such as upgrading to new technology, responding to new competition and responding to new environmental standards.

Further, it is arguably more equitable to charge licensees for the cost of their works approval over the life of their activity, rather than as an upfront cost, because it would create a barrier to entry for smaller businesses if they were charged the full price. Charging the full cost of works approval assessment upfront may also result in a level of non-compliance with the works approvals and licensing process, as the cost may provide an incentive to avoid the system altogether. While all licensees would contribute to the cost recovery of 'new' works approvals, in the past licensees have benefited from the significant under-recovery of these fees.

The percentage-of-capital-value model allows any combination of percentage/minimum fee to be analysed. A higher percentage fee was not chosen because it would mean that works approvals between $2m and $5.5m would pay fees higher than the estimated costs of processing the application, which is not consistent with cost-recovery principles. A

35 Multiple works approvals for a single licensee are not common. Between July 2001 and June 2011 there were 632 successful works approvals over 524 different sites. Between July 2008 and June 2011 there were 108 successful works approvals over 107 different sites. These figures indicate that, over a 10-year period, the majority of licensed sites will be subject to a works approval, with only a minority being subject to multiple approvals.

lower percentage would see all applicants paying less than cost. Note that, under the current proposal, at no level are fees expected to recover more than the cost associated with that level of works approval.

Medium-size projects are most impacted by the fee proposed under this option, as shown in Figure 1. This is a result of moving to greater cost recovery in these fees, with the constraints of not being able to get more from larger projects due to the fee cap, and equity and effectiveness reasons for not increasing fees for smaller projects (although there is an increase for the smallest, due to the minimum fee).

The outcome is also a consequence of moving from bands to a simple percentage. The current fee arrangement, based on fee bands, leads to anomaly where project costs are close to the end of a fee bracket. For example, a project costing $5,000,000 would lead to a fee of $8,616.00, whereas a project costing $5,000,100 falls within the higher bracket, which results in a fee of $17,231.90. Under the proposed amendments the fees would be proportional to the project costs ($50,000 and $50,001 respectively). The higher impact on medium-sized projects is considered reasonable, as it provides a greater consistency than the current arrangement and represents a low proportion of the overall project value (1 per cent).

Figure 1 shows that, for works below $1 million, the new fees would effectively smooth current distortionary fee bands, and increases above that reflect better cost recovery.

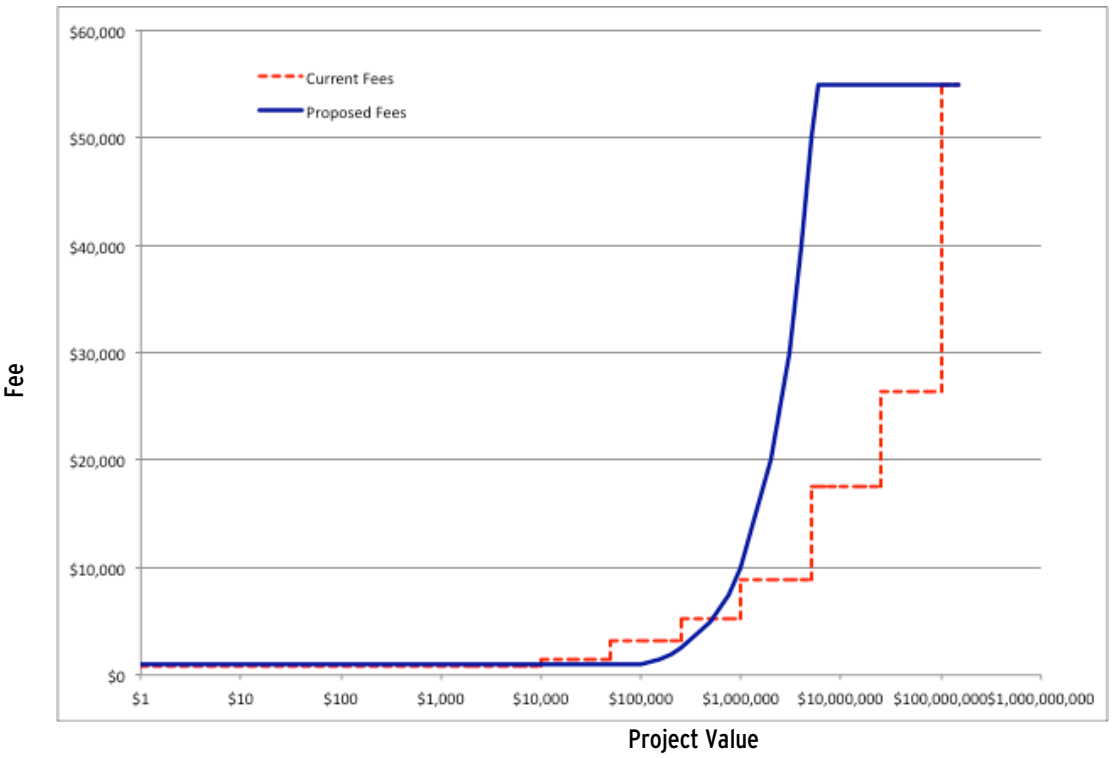


Figure 1: Comparison of current fee structure and proposed fee structure for works approval applications

An MCA assessment was undertaken to assess the merits of this option.

This option assumes full cost recovery (within the legislative cap, with the balance of regulatory costs recovered from licensees – the recovery of costs from licensees is not regarded as inefficient, given the close link between works approvals and licences). However, at smaller project values, the fee is set below the cost to EPA; the minimum cost of assessing a works approval is around $10,000, but a fee of this size would be prohibitive to smaller capital projects. Consequently the efficiency criterion receives a relatively high score of 80.

In terms of effectiveness, the structure of the fees should avoid the unintended consequences associated with a flat fee, supporting compliance within all sectors and, hence, broadly supporting the government's policy in relation to environment protection. They are also very simple for regulated parties to understand and for EPA to administer. A score of 50 is assigned to the effectiveness criterion.

The staged approach of cost recovery and scaled rates results in the fees being relatively affordable, and consequently a score of –25 is assigned to the equity criterion.

Taken together, this results in a net score of +38.00, which suggests that this is a significantly superior option.

Table 12: MCA of works approval percentage of capital works approach

Criterion	Weighting (%)	Assigned score	Weighted score
Efficient	35	80	28.00
Effective	35	50	17.50
Equitable	30	-25	-7.50
Total	**100**		**+38.00**

Option 3 — Fee for service

A fee-for-service approach (fee based on the actual cost to EPA per application) is not formally assessed in this RIS, firstly because of uncertainty as to whether the *Environmental Protection Act 1970* provides authority to charge fees retrospectively, given that s. 19B requires the fee to be paid upfront (with the application). EPA does not currently charge any fees retrospectively based on fee-for-service.

Secondly, there are inherent difficulties in predicting fees based on fee-for-service. Fee options considered in a RIS need to be feasible and practicable. That said, in theory the works approval process lends itself to such a charge. A primary benefit of this approach is that business would be charged the amount that EPA incurs in processing work approvals. Against this is the level of uncertainty the structure would produce. It would be extremely difficult and time-consuming for EPA to provide a predicted cost prior to undertaking full assessment of the works approval application. Indeed, effort will vary, dependent on complexity of proposal and level of public interest. Therefore, fee-for-service arrangements may deter new entrants given a potential large 'unknown' fee amount which they could be charged. This could create considerable uncertainty and a barrier to small business. It may also encourage non-compliance for certain types of project – such as changes to process – where fee costs are potentially higher than the costs of completing the project.

Finally, inefficiencies could be inadvertently built into the system and these costs simply passed on to the regulated party.

As part of this RIS process comments are encouraged concerning the advantages or disadvantages of this approach.

4.5 Environmental audits

Currently, the Regulations do not set fees for audits conducted under s. 53V of the Act, relating to the risk caused by an industrial process (as they do not result in the issue of a statement or certificate of environmental audit). Given that EPA reviews these audits, as it does audits conducted under s. 53X of the Act, to achieve the goal of full cost recovery of environmental audit review, all options with respect to fees for environmental audits necessarily include fees for the review of s. 53V audits. There are approximately 100 s. 53X audits and 60 s. 53V audits submitted to EPA for review each year.

Option 1 — Flat fee

For environmental audits, flat fees represent a simple approach that is easy to understand. From an EPA perspective the monitoring and assessing of audits is reasonably similar across different types of audit. In addition, compliance is rarely an issue. The similar amount of resources devoted by EPA in administering all environmental audits means that a flat fee is considered to be substantially more equitable than a flat fee for licences or works approvals.

An MCA assessment of this option suggests that it is superior to the base case, and to the option similar to the current arrangements (which is assessed next).

A score of 100 is assigned to the efficiency criterion, given that it fully recovers administrative costs.

A relatively high score of 75 is assigned to effectiveness, because it is easy to understand and simple to administer, with a neutral effect on government policy objectives.

Given that the fees will impose a financial impost that is greater than under the base case, a score of -25 is assigned to this criterion. The MCA score for this option is +53.75, which is superior to the geography-based fee categories.

Table 13: MCA of environmental audit flat fee approach

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35	100	35.00
Effectiveness	35	75	26.25
Equity	30	-25	-7.50
Total	**100**		**+53.75**

Option 2 — Categories based on land area size

Fees based on land size of the audit being reviewed resemble the approach in the current Regulations. These fees are currently based on the geographic area of the land subject to the environmental audit. There are currently six categories of fees according to geographical size of the audited area. The smallest is less than 0.05 hectares, which attracts 36.05 fee units, while the largest category is 5 hectares or greater, which attracts fees of 360.5 fee units. Presumably, when these arrangements were introduced it was considered that geographic size of the audited area represented a function of complexity and time taken to perform an audit, and hence the time needed to review it by EPA. However, experience over the past 10 years suggests that geographic area-based fee categories do not necessarily reflect the resources EPA expends reviewing these audits.

An MCA assessment of this option results in a score of 100 for the efficiency criterion, since costs are fully recovered.

In terms of effectiveness, a relatively low score is assigned. This is because fees with multiple categories tend to be more difficult to administer, although they have a neutral impact on government policy objectives.

As mentioned above, experience has borne out that there is little relationship between land area size and complexity of an audit. For the purposes of the equity criterion, it is assumed that there is some (albeit small) relationship between land area and audits, but it still represents an overall financial impost relative to the base case. Therefore, a small negative score of -5 is assigned to this criterion.

This results in a net score of +42.25 for this option.

Table 14: MCA of categories based on land area size

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35	100	35.00
Effectiveness	35	25	8.75
Equity	30	-5	-1.50
Total	**100**		**+42.25**

4.6 Waste transport permits

Option 1 — Flat fee

The simplest fee-setting approach available to EPA would be to charge a flat fee for each waste transport permit. The fee would be relatively simple to calculate, based on the budgeted costs for the year divided by the number of permits expected to be issued. While such a fee would be easy to calculate and administer, it would disadvantage small businesses, and businesses transporting relatively benign waste.

For the MCA of this option, a score of 100 is assigned to the efficiency criterion, as this option would fully recover costs.

Fees calculated on this basis would be easy to understand and administer, but they would not take into account the risk associated with loads, and therefore the variation in EPA's effort in administering and enforcing the permits. This fee structure does not, per se, make a contribution to the government's policy objectives in relation to environment protection. Therefore a relatively low score of 25 is assigned for effectiveness.

A flat fee would not take into account smaller loads (for example, a load of one tonne would pay the same amount as a 30-tonne load). On equity grounds, flat fees do not suit variations in risk posed by different waste types and in load amounts. Therefore a score of -25 is assigned to the equity criterion for the flat fee option.

This results in a net score of +36.25 for the flat-fee option.

Table 15: MCA of waste transport permit flat fee approach

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35	100	35.00
Effectiveness	35	25	8.75
Equity	30	-25	-7.50
Total	**100**		**+36.25**

Option 2 — Cost-recovery based on waste type risk and volume

Current fees for waste transport permits are levied on the basis of the type of waste and on categories describing the waste-carrying capacity of the truck (currently 15 categories). While this option would be similar to current arrangements, categories will be streamlined, with only nine proposed categories[36] and a risk factor used to calculate fees for each category. Essentially, the risk factor for the activities undertaken by a permit-holder is determined in accordance with the type of waste transported and the quantity of waste transported. The more environmentally risky the waste, the higher fee; likewise with the quantity of waste being transported. This is broadly in line with the current approach to assigning waste transport permit fees.

An MCA analysis of this option was undertaken to assess its merits.

Given that fees will be set to fully recover costs, a score of 100 is assigned to the efficiency criterion.

In terms of effectiveness, the fee categories will be simplified (easier to understand) and a risk factor applied to each category (achievement of Government objectives). These measures should improve the effectiveness of the fee arrangements, and consequently a score of 50 is assigned to this criterion.

The fees under this option will impose proportionally lower fees for smaller loads and therefore are considered reasonably equitable. In terms of fee amounts, all proposed fees will be set at a lower amount than the current fee, but will continue to impose a burden greater than the base case (which is no fee). The equity criterion is therefore assigned a score of –12.5.

This results in a net score of +48.75.

Table 16: MCA of waste transport permit risk-based approach

Criterion	Weighting (%)	Assigned score	Weighted score
Efficiency	35	100.0	35.00
Effectiveness	35	50.0	17.50
Equity	30	-12.5	-3.75
Total	**100**		**+48.75**

4.7 Other fees

4.7.1 Fees for licence for premises licensed to receive waste

The fees for landfills (A05) and handlers of prescribed industrial waste (A01) have remained the same; however, the discount applying to waste processed for reuse is proposed to be removed. The reason for the removal of this discount is that it is not consistent with cost-recovery principles and, considered in light of the substantial incentives for reuse of prescribed industrial waste through the landfill levy system, the incentives provided by the fee discount are not effective. Generally, EPA considers that the level of regulatory effort is proportional to the amount of waste received, and therefore the fee's dependency on volume of waste is retained. However, a minimum fee of $1000 per annum has been introduced to reflect a baseline amount of regulatory activity in monitoring these sites, as the sites continue to pose an environmental risk even when minimal amounts of waste are accepted.

36 The current categories of 1.5–8 tonnes, 8–23 tonnes and 23–30 tonnes will be replaced by a single category of 1.5–30 tonnes for putrescibles organic waste etc; prescribed waste (other than putrescibles or high-risk); and explosive, flammable, or highly active prescribed waste. Thus, nine current categories will be streamlined and replaced by three new categories (i.e., a category of 1.5 to 30 tonnes for each waste category).

4.7.2 Fees for the amendment of licence

The estimated costs to EPA for the amendment of licences are in the order of $43,247 per year, for an expected 16 amendments per year. Per licence amendment, costs to EPA vary from under $1000 to over $5000. Currently, amendment fees are recovered based on the lower of a percentage of licence fee or a fixed amount; however, the existing licence fee may not be a good indicator of the amount of effort required by EPA to process the amendment. It is also noted that, at a maximum of 85 fee units, the current fee significantly under-recovers EPA's costs for this function. Given equity considerations (specifically, regarding amendment by smaller operators), and to adopt an approach familiar to operators, the preferred option is to set the fee at 10 per cent of the annual licence fee or 85 fee units. This reflects the current arrangements.

4.7.3 Fees for transfer of works approval, transfer of licence, transfer or amendment of transport permit, and temporary waste transport permits

The PwC review of EPA's costs did not identify the costs to EPA of these activities, generally because they are infrequent. However, in most instances these activities are subject to legislative caps and are therefore not able to be fully cost recovered. Fees are therefore mostly unchanged from the current regulations. Fees for these activities are then as follows:

- transfer of licence – currently there are around 20 transfers each year. However, the Act places a cap on the licence transfer fees at 35 fee units. The proposed fee is therefore the lower of 10 per cent of the licence fee or 35 fee units
- transfer of works approval – currently there are around three transfers each year. It is proposed to retain the current fee of 35 fee units, which is the cap set by the Act
- transfer or amendment of transport permit – currently there are around 12 transfers per year. It is proposed to retain the current arrangements of the higher of 10 per cent of permit fee or 5.15 fee units
- temporary waste transport permits – there are currently 33 temporary waste transport permits issues per year. It is proposed to prescribe a fee of the higher of 25 per cent of permit fee or 10.3 fee units.

4.7.4 Fee reductions for accredited licences

Fee discounts are currently provided in the Act to accredited licensees. The discount represents 25 per cent of the fee. Licensees that qualify must be the holder of an EPA licence, have a certified environmental management system, an endorsed environmental improvement plan, an environmental audit program endorsed by an EPA-appointed environmental auditor (industrial facilities) and have a good environmental record. The rationale for the discount is that EPA does not need to spend as much time on monitoring, compliance and enforcement for accredited businesses compared with other licensees.

However, significant work is undertaken by EPA in considering applications for accreditation, for which the fee recoverable is fixed under the Act at 100 fee units. Further, EPA must review the accreditation status of licensees at least every five years, for which no costs are directly recoverable.

No specific review has been undertaken of the cost savings or additional costs flowing to EPA associated with the accreditation system for licensees. The proposed Regulations continue the current discount of 25 per cent of licence fees, although this is intended to be reviewed in the future.

While consultations indicated that the fee reduction was not sufficient to offset the cost to engage an auditor to conduct the accreditation, it is noted that this is not the purpose of the fee reduction. The fee reduction represents assumed cost savings to EPA resulting from accredited licences, passed through to the licensees. Whether or not licensees become accredited remains a commercial decision for individual entities, and it is not expected that this will be appropriate for all licensees. The fee reduction is not a policy tool to promote accreditation, but to appropriately reflect costs of regulation. As such, a larger discount has not been considered in this RIS ahead of a future review.

4.7.5 Proposal to remove discount for environmental auditor-supported works approvals

There is also currently a 25 per cent discount on works approval fees if assessed by an EPA-appointed environmental auditor.[37] The suggested rationale for this is to reflect that works approval applications prepared by an environmental auditor are of a higher quality, and thus reduce the work of EPA in approving some works approvals. However, in practice, on average only one environmental auditor-assessed works approval applications occurs each year and it is difficult to verify whether such applications result in lower administrative costs for EPA. It is therefore proposed that this discount be removed.

37 Regulation 7(3), *Environment Protection (Fees) Regulation 2001*.

4.7.6 Septic tanks fees

The Act assigns EPA the discretion to set the maximum fee a municipal council may charge for a septic tank permit. The Regulations currently prescribe the maximum fee a municipal council can impose for a septic tank permit at 46.35 fee units (approximately $566.40) with respect to each septic tank system designed to discharge up to 5000 litres of sewage a day. This fee is paid directly to the municipal council administering the permit. The Act devolves all other administrative powers with respect to the issuing, maintenance and fee structure of septic tank permits to municipal councils.

As part of this RIS process, Environmental Health Australia assisted EPA in contacting representatives of all municipal councils with respect to septic tank fees. Of these, 32 municipalities responded (57 per cent of all Victorian municipalities). The survey revealed the following:

- Septic tank application fees varied considerably from municipality to municipality – from $110 to $555, with an average of around $332.
- The basis of fees charged by the municipalities varies considerably as follows – full cost recovery (15.6 per cent), partial cost recovery (37.5 per cent), historic fees indexed (34.4 per cent), unknown (6.3 per cent) and other (6.3 per cent).
- In cases where costs were recovered, all respondents covered administrative costs, while a considerable proportion of final inspection costs (90.3 per cent) and pre-approval inspections (80.6 per cent) were recovered.
- Some councils also charge separate fees for ongoing inspections over the life of the septic tank, extensions to permits, amendments, sand analysis and so on. (The quantum of these fees is beyond the scope of the Regulations, as the Act only permits a maximum fee to be prescribed for septic tank permit applications.)
- A major concern raised was the ability of municipal councils to achieve full cost recovery for ongoing monitoring and compliance of septic tank systems and for inspections of failing septic tanks (which is beyond the scope of the Regulations).

Generally, respondents to the survey wanted more guidance about what costs should be recovered by councils for septic tanks permits. The municipal councils suggested that this would reduce the variation of fees between them, or allow them to be more transparent about the fees being charged.

Unfortunately, EPA cannot provide this guidance through a maximum fee in the proposed Regulations. In fact, the maximum fee may prevent municipal councils from setting their fees at an appropriate cost-recovery level.

In June 2011, EPA announced a joint review of domestic onsite wastewater treatment policy with DSE and in consultation with municipal councils. The feedback from the survey will be used in this review to identify the fee-related issues related to septic tank permits. The review may result in legislative changes related to septic tank permits. In light of this review, it was decided that removing the maximum fee in the Regulations will facilitate any changes, whereas keeping it in Regulations may hinder the consultation and reform processes.

4.7.7 Other

The definitions of 'hazardous substances' and 'priority wastes' with respect to component fees for land and water have been deleted as the policies that defined these terms are no longer in effect. The 'toxicant' category fee has been increased to reflect the fee units previously applicable under the former categories of 'hazardous substances' and 'priority wastes' (0.309 fee units), and the category 'ammonia' has been added with a fee of 0.0515 fee units per milligram per litre of median amount that may be discharged under the licence. It is not anticipated that these changes will materially affect the fees paid by licensees with land and water component fees.

As part of the review of risk ratings for licences, certain categories were found to be too narrow. Therefore, the previous single category for composters (premises with aerobic or anaerobic composting that are designed to or have capacity to process more than 100 tonnes of waste per month) has been divided into four separate categories to better reflect risk associated with volume. The new categories will relate to premises with monthly capacity of 100–300 tonnes; 300–1000 tonnes; 1000–3000 tonnes; and more than 3000 tonnes per month.

4.8 Summary

Clause 2.04 of the Premier's Guidelines states that, when the Act requires that a thing or matter be prescribed in Regulations, then it must be so prescribed. In the case of fees, this limits the consideration of options and there is no practical alternative to prescribing fees in regulation. Therefore, alternatives considered in this RIS relate to fee design options. The threshold issue in setting fees is to consider whether they should be set to fully recover costs or whether partial recovery is appropriate. Discussion concluded that, given that the activities regulated by EPA are at the 'private good' end of the continuum, full cost recovery was appropriate. Therefore, fees in this RIS were set to fully recover EPA's costs of administering and monitoring licences and permits subject to the Regulations.

Fee design options were examined using the MCA assessment tool, using the criteria of efficiency, effectiveness and equity to assess the relative merits of each option. Fee design options for licences, works approvals, environmental audits and waste transport permits were also considered using the MCA assessment tool. Table 17 summarises the results.

Table 17: Fee design options – MCA assessment summary results

Fee category	Design option	MCA score
Licence	Flat fee	+21.25
	Volumetric fee*	+36.25
	Base fee (risk-based) and volumetric fee*	**+53.75**
Works approval	Flat fee	+3.75
	Percentage value of works	**+38.00**
Environmental audit	Flat fee	**+53.75**
	Fee based on land area size	+42.25
Waste transport permits	Flat fee	+36.25
	Waste type risk and volume*	**+48.75**

* These fee options incorporate elements of risk-based design.

5 THE PREFERRED OPTION

5.1 *Cost recovery guidelines* — Issues to be addressed

The *Cost recovery guidelines* set out ten steps to consider when setting fees. These steps are set out in the table below, together with a brief summary of EPA's consideration of each step in accordance with the Guidelines.

Table 18: Consideration of issues against *Cost recovery guidelines*

Step	Issues to be addressed	EPA consideration
Appropriateness of cost recovery		
1	Is provision of the output or level of regulation appropriate?	The proposed Regulations deal only with fees. The licensing, approvals and permits are established in the Act. EPA regularly reviews its regulatory activities to ensure its level of activity is appropriate given its legislative responsibilities and policy objectives.
2	What is the nature of the output or regulation?	The objective of the Regulations is to recover EPA regulatory costs associated with activities covered by the Regulations.
3	Who could be charged?	Potential parties to be charged are the parties undertaking the relevant activities, or the beneficiaries of the Regulations (being the community in general). As the costs to government are directly linked to decisions of the regulated parties, and the regulation of the sector concerns mitigating environmental risks rather than creating new benefits, it is considered appropriate that fees be levied on the licensees rather than the community. Further, the Act provides only that fees may be prescribed and charged to applicants.
4	Is charging feasible, practical and legal?	Charging of fees is feasible and practical as it can be administered as part of the application processes. This also minimises transaction costs. The Act provides that fees may be prescribed. This RIS has given consideration to the effectiveness of fees; in particular, whether high fees (relative to the cost of activities) would result in non-compliance with registration requirements. The desire to minimise incentives for non-compliance has resulted in fees for works approvals being set less than the actual cost to EPA for low-valued works. The Act imposes caps on some chargeable fees; these caps are reflected in the proposed fees.
5	Is full cost recovery appropriate?	Holders of licences, permits and approvals receive a private benefit (i.e., permissions not available to other businesses or members of the community). It is therefore appropriate that full cost recovery applies. This position is consistent with the principle in the *Cost recovery guidelines* that fees should generally be set to fully recover costs.
Cost structures and nature of charges		
6	Which costs should be recovered?	An activity-based costing method and cost pooling of indirect costs (pro-rata method) was used to determine the fee for each individual activity. The cost base for the purposes of assessing recovery is based on the incremental costs associated with EPA administering the Act as it relates to processing applications and other approvals for works approvals, occupier licences, waste transport permits, compliance audits and a number of other minor approvals. The cost base reflects additional costs directly attributable to processing and administering applications, and division of other EPA costs to each fee category. Costs related to ongoing regulation, enforcement and actions are also included. This gives the total costs to EPA of undertaking these regulatory functions.
7	How should charges be structured?	It is not considered necessary to spread payment of fees over a longer period to support cash flow, investment, innovation or competition considerations. Elements of cross-subsidisation are contained in the fees, but these are largely unavoidable. For example, caps imposed by the Act on some fees prevent full cost recovery in some instances, while licence fee collect an element of works approval costs. The fees are structured to reflect as far as possible the expected level of costs to EPA for different types of approvals, permits and licences, while seeking simplicity and certainty in calculating the fees payable.
8	Are cost-recovery charges based on efficient costs?	The activity costs estimated for this RIS follow a review undertaken by PricewaterhouseCoopers, which determined base costs to EPA for each fee type following a detailed process analysis to support the cost estimates. Some adjustments have been made to reflect anticipated changes in enforcement activities planned by EPA. EPA regularly reviews its level of regulatory effort. A number of recent reviews of EPA's regulatory activities (such as the recent *Compliance and Enforcement Review*) have not revealed any issues concerning operational inefficiencies.
Implementation features		

Step	Issues to be addressed	EPA consideration
9	What is the importance of consultation?	The development of the proposed Regulations and RIS were informed by stakeholders from industry, local government and within EPA. To facilitate this process, in December 2010 EPA released a discussion paper, the *Review of Environment Protection (Fees) Regulations 2001*, which sought comments on the current Regulations and ways to improve them. EPA received 18 responses to the discussion paper, which are summarised in section 10 of this document. Further consultation on fees is occurring via this RIS process.
10	How should cost-recovery arrangements be monitored and reviewed?	Requirements about the review of existing cost-recovery arrangements are stipulated in the Standing Directions of the Minister for Finance under the *Financial Management Act 1994*. These directions require the Chief Financial and Accounting Officer of the Authority to document, approve and annually review the level of charges levied by the Authority for the goods and services it provides. EPA will monitor the impact of the proposed fees.

5.2 Preferred option

The expiry of the current Regulations, combined with acceptance of the broad findings in the EPA *Compliance and Enforcement Review*, provides a timely opportunity to revise the fees to ensure consistency with government policies. As noted throughout this RIS, the general government principle with respect to fee setting is full cost recovery. This RIS finds that there are not strong grounds to depart from this general principle. Consequently, where possible given caps on fees imposed by the Act, fees are set on a full cost-recovery basis.

However, within this framework each fee category had different characteristics, suggesting that no one fee design would suit all fees. Designing appropriate fees proved a relatively complex task, given the tensions between efficiency, effectiveness and equity considerations. The identified design principles were used to frame the new Regulations in a way that balanced efficiency and equity, while building on a system that is familiar to stakeholders. The preferred fee design options are described in Table 19.

Table 19: Summary of preferred fee design options

Fee category	Rationale
Licence Risk-adjusted base fee and volumetric fee	This option is relatively similar to the current fee structure for licences. A base fee ensures that a minimum amount of regulatory cost is recovered. Without a base fee, smaller/low-volume licensees would not contribute enough in fees to cover their regulatory costs. Given the diverse activities undertaken by licensees, a base fee incorporating a risk element was considered appropriate. This approach assumes that licensees with higher inherent risk would require more monitoring and enforcement resources. This approach is also consistent with the risk-based approach highlighted in the recent EPA *Compliance and Enforcement Review*. Cost recovery based entirely on a risk-adjusted base fee would, however, raise equity issues. Therefore, a volumetric fee based on the amount of emissions, discharges etc, is incorporated into the fee design. A volumetric fee serves as a useful proxy for actual environmental impacts from an activity and therefore a good indicator of the regulatory resources likely to be expended by EPA in monitoring, compliance and enforcement. Combining the elements of a base fee and volumetric fee captures the advantages of these elements, while appropriate design can minimise some of the disadvantages (e.g. equity issues). The proposed licence fees will also recover costs associated with works approvals. This position reflects the close nexus between works approvals and licensed premises, and will allow works approval fees to be set at a lower rate (to avoid a barrier to entry) than would otherwise be the case.
Works approval Percentage value of works, with minimum fee	A simpler approach to the current fee categories based on the cost of works was sought. The proposed fee, based on the percentage value of works, provides a clear and easy-to-understand approach. It avoids the borderline problems associated with discrete categories. To ensure that regulatory costs are recovered for works with low associated costs (e.g. process changes that result in an alteration of the type and quantity of wastes emitted from scheduled premises), a minimum fee is set. As noted above, a proportion of work approval costs will be collected via licence fees.
Environmental audit Flat fee	The two different types of environmental audits (s. 53V and s. 53X audits) by EPA consume a similar amount of EPA resources. The attraction of simplicity and ease of administration, combined with an absence of significant equity issues (as the proposed flat fee is close to the average fee currently paid for environmental audits), suggests that a flat fee for environmental audits is the preferred approach. The current approach of land-area size categories did not provide a strong link between EPA costs and fees collected.

Fee category	Rationale
Waste transport permit Waste type risk and volume	The proposed option is relatively similar to the current fee structure for waste transport permits. The diverse nature of the risks of waste and different volumes did not suggest that a flat fee was appropriate for this category. Instead, waste transport permit fees were simplified by streamlining categories, and differentials between waste/volume categories incorporated a risk factor.

5.2 Proposed fees

Having settled on the most appropriate fee structure and characteristics implied by the MCA assessments, a financial modelling exercise was undertaken and fees calculated.

In 2010 EPA costs associated with the undertaking of regulatory activities relevant to the major fee categories were estimated in the cost base assessment report produced by PwC. This report was used by EPA to determine the costs associated with EPA administering the Act for each of the following categories:

- environmental audit
- works approval
- licensing
- prescribed waste transport permits.

The report assessed the level of cost recovery required for processing applications for works approvals, licences, waste transport permits; reviewing environmental audits; monitoring compliance of approval holders with their approvals and the Act; and a number of other minor administrative functions associated with the relevant activities. In addition, the report considered the extent to which the cost to EPA of administering each regulatory activity might vary, depending on the intensity of regulatory effort and the mix of resources necessary to satisfy the requirements of the Act.

The cost bases for each fee type followed each stage outlined in a process map, which set out all tasks associated with the EPA regulation. The process maps and cost calculations were developed through extensive consultation across the different units of EPA (see Attachment C). Costs for the steps in each of the processes were based on estimates of the time taken to perform specific tasks, which were provided by the EPA units.

There were also some 'pooled' costs, which were determined and attributed to each fee type. These pooled costs generally related to the variable input of some business units into each of the processes. The cost base pools include the costs from each of EPA's five regional offices (North West, South West, Southern Metro, Gippsland and North East), the Enforcement Unit, Client Services and Legal Services.

These costs were estimated by each of the business units, based on experience with their contribution to the administration of each of the activities. For example, the regional cost base pools attributable to licences include the work of environment protection officers and client relationship managers related to licensed premises in their region, including attending sites during the licensing process, responding to community complaints and pollution reports, and dealing with queries by licensees. Generally, they are the first port of call for issues related to licensed premises in their area, and this is why they form such a significant portion of the costs related to licences.

EPA reviewed PwC's cost base, taking into account the recent *Compliance and Enforcement Review* of EPA activities and correcting some minor errors. The significant changes made to the cost base were:

- to reflect anticipated changes in some activities (for example, the planned increase in some compliance inspections of waste transport permit holders)
- removal of some double-counting
- indexation to take account of cost increases.

The finalised costs determined through this process have been used to identify the appropriate fees within each fee category. The fees have been structured to reflect as far as possible the expected level of costs to EPA for different types of approvals, permits and licences, while seeking simplicity and certainty in calculating the fees payable. This is effected by linking fees for works approvals to the value of works (a credible proxy for the level of EPA effort) and basing licence fees on a number of factors that are indicative of EPA regulatory effort, such as potential risks to the environment.

The Act places maximum limits on some fees, which have been reflected in the proposed fees. Further, consideration has been given to the potential for high fees (relative to business costs) to lead to non-compliance with the Act.

Table 20: Revenue collected by fee category

Fee type	Current revenue ($)	Proposed fees ($)	Change (%)
Works approval	402,184	915,778	128%
Application	*400,901*	*914,495*	*128%*
Transfer	*1,283*	*1,283*	*0%*
Licences	13,904,243	11,346,709	-18%
Licence fees	*13,884,630*	*11,326,294*	*-18%*
Amendment	*13,022*	*13,316*	*2%*
Transfer	*6,591*	*7,099*	*8%*
Environmental audit	142,005	256,284	80%
Waste transport permit	1,317,281	812,557	-38%
Application	*1,307,315*	*802,700*	*-39%*
Transfer/amend	*941*	*782*	*-17%*
Temporary permit	*9,025*	*9,075*	*1%*
Total	**15,765,714**	**13,331,328**	-15%

The proposed fees will collect a total amount of approximately $13.3 million, which is about 15 per cent less than current collections. Over a 10-year period, the present value of the proposed fees will be in the order of $110.9 million (PV).[38]

5.3 Groups affected

The groups affected by the proposed Regulations include current EPA licensees (including the waste industry [receivers, recyclers, transport and treatment]; chemical manufacturers; water treatment operators, food processing/manufacturing; power generators; environmental auditors/consultancies; local Government [septic tank permit fees]; and rural developers [septic tank permits]). Indirectly, the general public as consumers are affected to the extent that these fees are passed on or embedded in the cost of goods.

Attachment E contains a summary of the number and categories of licensed premises affected, along with percentage changes in base and component fees.

Another result of the reassessment of risk categories was the reduction in base fees (of between 29 cent and 67 per cent) for power stations (K01 licences), and for premises licensed to discharge or emit to the atmosphere specified substances or compounds (LO1 licences) by around 84 per cent. It is important to note that these base fees make up a generally small part of the total licensee fees for such licensees and that the overall fee reduction will be more moderate.

38 The discount rate used in this RIS is 3.5%. In doing so, the RIS adopts the rate published in the *Victorian guide to regulation* (Section C.3, p. C-9).

Table 21: Groups affected by proposed Regulations

Licence/permit	Numbers	Impact
Environmental audits	160	It is proposed to significantly simplify environmental audit fees by removing the land area-based categories and replacing them with a simplified flat fee. The fee for environmental audits will apply to both s. 53X audits (approximately 100) and s. 53V audits (approximately 60) – the latter are not currently charged a fee. A flat fee of $1602 will apply across all categories. The average fee currently paid is in the order of $1585 (mean $1594; median $1538; mode $1538). Therefore, the proposed fee would result in an increase over the current rate of around one per cent.
Licences	516	Licence fees (Schedule 2 – base fees) have been recalculated, taking into account a risk weighting and accounting for the scale of the activity. Base fees will recover around 21 per cent of costs incurred by EPA to administer licences. The remainder is collected via component fees. Licence component fees are based on volumes and have an implied risk weighting (i.e. the greater the volume, the more is charged). Rates also reflect the relative risk of the pollutant discharges to the receiving environment (air, water and land)). These fees will remain relatively unchanged, save for amendments required to update terms used for component categories to reflect current statutory policies.
Works approvals	50	It is proposed that the new fees be significantly simplified and an *ad valorem* rate of one per cent be levied on the cost of works. To ensure that routine administrative costs are recovered, a minimum floor of $1000 is suggested. Therefore, the minimum fee would be $1000, while the maximum would be $54,990 (the cap currently imposed by the Act), with fees within this range calculated at one per cent of the value of the works. This proposal would raise approximately $914,495, leaving $1,495,772 of unrecovered administrative costs. Given the close nexus between works approvals and licences, it is proposed to collect this unrecovered amount from licensees. This proposal results in total fee increases in the order of 128 per cent, reflecting the current significant under-recovery of EPA costs.
Waste transport permits	1,450	Categories have been simplified by replacing nine categories with three (with each new category covering waste from 1.5 to 30 tonnes). Total revenue collected is estimated to be $802,700 – a decrease from current collection by approximately 39 per cent. As part of EPA's increased compliance and enforcement efforts, compliance inspections will increase from around 100 to 400. The costs from these increased inspections have been used in calculating the proposed fees.

Box 2 contains a number of scenarios that illustrate the effect of the proposed fees on licence and permit-holders. *It is worth recalling that overall fees in the proposed Regulation will collect around 15 per cent less than the current fees*. Therefore, 'on average', licensees and permit-holders will generally pay less in fees. Examples under which a business is more likely to pay higher fees are cases where there has been a significant change in the assessed risk of a licence category and for work approvals over approximately $500,000. Fees for environmental audits will, on average, remain about the same. Fees for waste transport permits will decline by 39 per cent on average.

Box 2: Proposed fee case scenarios

Scenario 1: Licence

A licensed site from which up to 5000 litres per day or more but less than 100,000 litres per day of sewerage is discharged currently pays a base fee of $629 under Schedule 2 of the Regulations. The proposed Regulations will increase this amount to $855, which results in a 36 per cent increase.

The component fee under Schedule 3 of the regulations is currently $10,000, based on the volumes of sewerage it discharges.

Given that Schedule 3 fees units will remain the same in the proposed Regulations, the total increase in fees (base plus component fees) is not 36 per cent, but 2 per cent. This is because Schedule 2 base fees generally make up a small proportion of total licence fees. (Overall, 21 per cent of licence fee revenue in the proposed Regulations is expected to come from Schedule 2 base fees.)

Scenario 2: Works approvals

As part of a capital expenditure program a large business intends to modernise three treatment plants at different locations. These will require works approvals. The first plant requires changes to existing works costing $75,000. The second plant plans to extend existing works, and capital expenditure will cost $4 million. The third project is a major greenfields investment and will cost $100 million. Under the current Regulations fees for these projects would be $3147, $8810 and $54,990, respectively.

Under the proposed fees, which are based on one per cent of the value of the works, fees for these projects would be $1000 (1 per cent of the value of the works is $750, so the minimum floor fee of $1000 applies), $40,000 and $54,990.

Fees for the third project are the same under both scenarios, because they both reach the fee cap.

Scenario 3: Environmental audits

An environmental auditor is engaged to audit multiple sites across Victoria. One of these audits is for the risks posed by an industrial process (under s. 53V of the Act), while another three are to assess the risk posed to a segment of the environment (under s. 53X of the Act). Of the three latter sites, the smallest is 0.04 hectares, while the other two are large at 0.95 hectares and 1.15 hectares.

The fees for EPA review of these three audits under the current arrangements would be $440, $1573, and $2517, respectively. There would be no fees imposed for the review of the first audit by EPA under the current Regulations.

Under the proposed fees, a flat fee of $1602 would be charged for the review of each of these audits by EPA.

Scenario 4: Waste transport permits

A business regularly transports three loads of waste in different vehicles: 15 tonnes of putrescible organic waste; 25 tonnes of prescribed waste (which is not explosive, flammable or highly reactive); and one tonne of highly reactive prescribed waste. Under the current arrangements, annual waste transport permit fees for each of these vehicles used to transport these loads of waste would be $629, $1321 and $629 for these categories and volumes.

The proposed fees for these waste transport vehicles used to transport these loads of waste would be $480, $599 and $419, respectively, representing considerable fee reductions compared with the current fees.

* The fee unit for 2011-12 is $12.22.

6 REGULATORY CHANGE MEASUREMENT

Calculation of administrative costs related to preferred option

EPA advises that fees are usually paid by cheque or, in some cases, by electronic funds transfer (EFT). The administrative steps for licences consist of a letter that is issued to most licensees – with the exception of waste receivers (A01 or A05 scheduled categories) – on their anniversary date (the date on which their licence was first issued). The fee is for the continued operation of the licence for the next financial year.

The component fee and, in some cases, the base fee, is calculated on the licence emission limits (not on the annual performance statements), so it will not vary from year to year unless the licence is amended.

Waste receivers are usually issued with a letter with the fee calculation for the previous financial year in October, after they have submitted their annual performance statements (APS), which details the amount of waste they received in the previous financial year. The administrative element, therefore, is reasonably minor, consisting of the physical payment of the fee.

For a smaller business this would simply consist of writing a cheque and posting it. For larger businesses, some form of executive approval may be required and businesses may choose to pay their fees online via EFT.

Advice from EPA suggests an assumption that, on average, these processes take one hour to complete and that the value of a person's time is twice average weekly earnings ($128.38 per hour, reflecting an element of seniority), plus overheads, would appear reasonable. It is assumed that these payment processes are similar for works approvals and for the payment of environmental auditor fees.

Payment of waste transport permits is simpler compared to the other categories. The average weekly earnings hourly rate is applied to the 1450 waste transport permits, while assuming that each payment takes around 30 minutes.

Taken together, administrative costs associated with the payment of 726 licence, works approval and environmental auditor fees, along with the 1450 waste transport permits, would result in total administrative costs over a 10-year period in the order of $1.1 million (present value or PV).

Table 22: Administrative costs associated with paying fees, present value

	Time (hours)	Tariff ($) 39	Number	Cost ($)
Licence, works approval, environmental audit	1.0	128.38	726	93,203
Waste transport permits	0.5	64.19	1,450	46,537
Sub-total (nominal)				139,740
Cost 10-year (PV)				1,162,176
Average. annual (PV)				116,217

Regulatory change measurement

In December 2009 the Department of Treasury and Finance released the *Victorian regulatory change measurement manual*.[40] The manual sets out the regulatory instruments and categories that are to be measured to assess regulatory burdens. All legally enforceable obligations imposed by State Government Ministers, courts, departments, regulatory agencies and local governments in Victoria are included. These obligations must relate to the compliance costs (substantive compliance costs and administrative costs) of regulation. To measure any change in the compliance burden of regulation, the existing position is taken as the base line.

Given that the proposed Regulations do not introduce any new administrative obligations, compliance obligations or compliance requirements, or result in new compliance activity, there is no change to the administrative burden. In addition, the proposed changes to the Regulations relate to financial costs (fees) and are therefore outside the scope of the regulatory change measurement methodology.

Therefore, in accordance with, and for the purposes of, the *Victorian guide to regulation* and *Victorian regulatory change measurement manual*, it has been determined that the proposed *Environment Protection (Fees) Regulations 2011* will not lead to a material change in the compliance burden on business, not-for-profit organisations, economic (income-generating) activities of private individuals, or government services in Victoria.

39 A discount rate of 3.5% is adopted. Hourly tariff rate for waste transport permits is derived from average weekly earnings (ABS Cat 6302.0 – November 2010) multiplied by 1.75 to allow for corporate overheads. The rate for licences, works approvals and environmental audits is based on twice the average weekly earnings hourly rate.

40 Department of Treasury and Finance 2009, *Victorian regulatory change measurement manual*, Melbourne, December 2009.

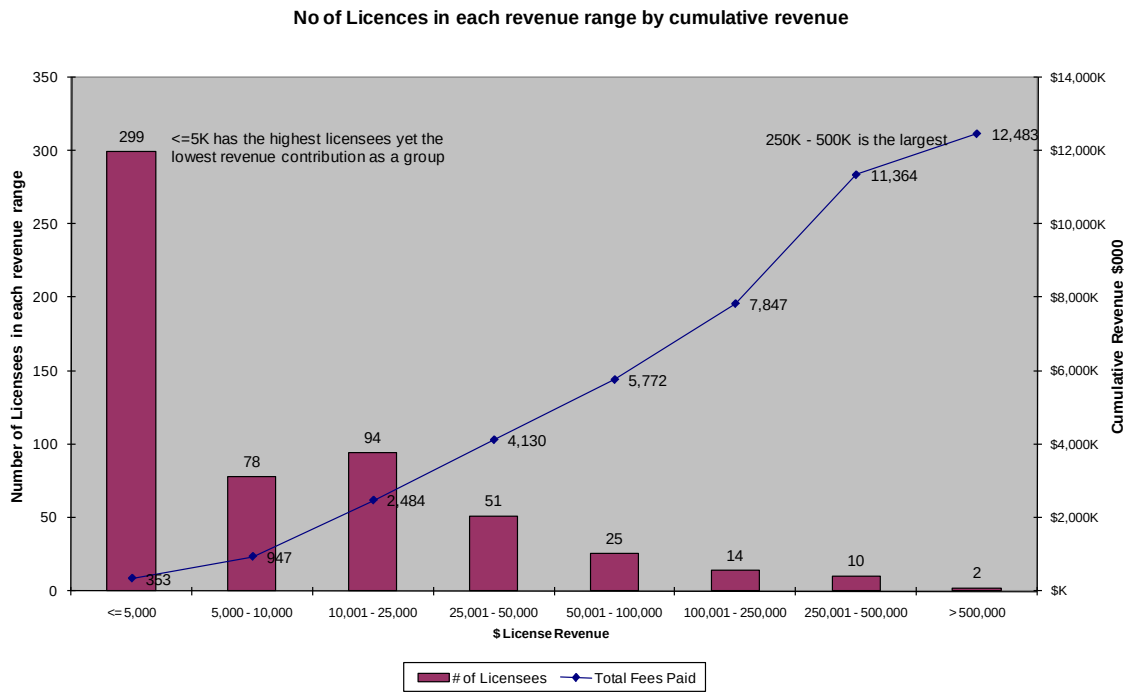
7 IMPACT ON SMALL BUSINESS

Regulation can have a disproportionate impact on small businesses.[41] Often, small firms have to divert a greater proportion of their resources to meet regulatory requirements. In addition, small businesses are less likely to have specialist staff (such as lawyers or accountants) with detailed knowledge of regulation. While such impacts may be unavoidable, it is important that decision makers are aware of all impacts on small business.

EPA does not record whether a licensee is a small business; however, the nature of the regulated industry sectors suggests that it is unlikely that there are many small businesses holding EPA licences. That said, EPA estimates that around 20 per cent of licensees may be small businesses (compared with the state average of 96 per cent[42]).

Most sewage treatment facilities are operated by water authorities and would employ well over 20 staff. Similarly, landfills, industrial wastewater treatment facilities, chemical plants, mining, animal derived product and food facilities are typically owned or run by medium to large sized businesses and generally employ more than 20 staff.

Figure 2: No. of Licences in each revenue range by cumulative revenue



Source: EPA Victoria licence data June 2011.

It is likely that the estimated 20 per cent of small businesses are contained within the 299 licensees that pay less than $5000 per annum each in fees. It should be noted that the fee structure that sets a fixed and variable component may assist small business in entering the industry. If fees were simply an average of the required costs to be recovered (in the form of a single annual fixed fee), then the higher amount might act as a hurdle for smaller businesses.

With respect to works approval fees, a fee structure based on the percentage of the value of works, as opposed to a flat fee across all categories, will provide an equitable sharing of costs and avoid large upfront fees for relatively small projects. In practice this will mean that projects costing under $500,000 will generally pay lower fees. For example, currently works approvals fees for a $130,000 project are in the order of $3000. Under the proposed fees, this figure will be $1300 – a 58 per cent decrease.

Overall, waste transport permit fees will decline by 39 per cent and fees for temporary permits and for transfer and amendments will remain unchanged. The overall decline in fees for waste transport permits will result in lowering costs for small business.

41 The ABS defines a small business as a business employing fewer than 20 people. ABS Cat. 1321.0.

42 ABS Cat. 8165.0 *Counts of Australian businesses, including entries and exits*, June 2003 – June 2007, Businesses by Industry Class by Main State by Employment Size Ranges, Construction (Victoria)

8 ASSESSMENT OF COMPETITION IMPACTS

At the Council of Australian Governments (COAG) meeting in April 1995 (reaffirmed in April 2007), all Australian governments agreed to implement the National Competition Policy (NCP). As part of the Competition Principles Agreement, all governments, including Victoria, agreed to review legislation containing restrictions on competition under the following principle:

> The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:
>
> (a) The benefits of the restriction to the community as a whole outweigh the costs; and
>
> (b) The objectives of the regulation can only be achieved by restricting competition.

The *Victorian guide to regulation* adopts these fundamental principles and states that a legislative measure is likely to have an impact on competition if any of the following questions can be answered in the affirmative:

- Is the proposed measure likely to affect the market structure of the affected sector(s); in other words, will it reduce the number of participants in the market, or increase the size of incumbent firms?
- Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?
- Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (for example, small firms, part-time participants in occupations)?
- Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?
- Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?
- Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?

Each proposed fee category was assessed against these criteria.

The characteristics of works approval fees (percentage-based value and collection of a proportion from licensees) and licence fees (base fee to permit access and then variable fees based on output thereafter) are designed to remove financial hurdles that may act as a barrier to smaller businesses. By contrast, a flat upfront fee could discourage smaller businesses from entering the market.

The fees for environmental audits (a proposed flat fee of $1602) are considered relatively low in the context of the cost of environmental audits generally and are therefore not anticipated to restrict competition.

The cost of waste transport permits will decline on average by 39 per cent and, given that competition issues have not currently been observed or raised, it is not expected that these fees will restrict competition.

Finally, it is worth pointing out that, over the 10-year operation of the current fees, fee levels have not been raised as an issue affecting or influencing competition. The proposed fees will raise a lower amount overall than the current fees and therefore the fee amounts should not impinge on competition.

The fees apply in a consistent manner across industries subject to works approvals, licences and permits, and are comparable to arrangements in other jurisdictions. In fact, the proposed fees may provide incentives for individual licensees to innovate, because lowering emissions/waste volumes will reduce the variable component of licence fees. Necessarily, fees increase costs of those liable to them; however, overall the proposed fees will mostly represent a smaller proportion of total operating costs.

Taken together, it is therefore assessed that the proposed Regulations will not impose restrictions on competition.

9 ENFORCEMENT AND IMPLEMENTATION ISSUES

In early 2010 EPA commissioned a review of its compliance and enforcement approach by the leading regulatory academic professor Neil Gunningham.[43] The report included a review of the *Enforcement policy* and new compliance framework. A review was also undertaken of existing compliance and enforcement policies of all Australian jurisdictions and examined international approaches. Building on these reports, in February 2011 a major EPA review was released – the *Compliance and Enforcement Review: a review of EPA Victoria's approach* (the Review).[44]

The Review's broad recommendations included:

- significantly increasing the level of compliance monitoring, including the number of authorised officers
- increasing the level of enforcement and prosecutions
- adopting a risk-based and responsive regulatory model, and clearly communicating its activities in the context of its regulatory role
- providing more clarity on its approach to regulation, compliance and enforcement, by making the law and standards more accessible and publishing new policies on how enforcement decisions will be made.

A key output from the Review is the development of a new EPA *Compliance and enforcement policy* (released June 2011), based on international best practice. This policy replaces the current enforcement policy developed in 2006. The central principle of the new regulatory model is its risk-based approach. The policy notes that:

> EPA's regulatory model is based on risk. EPA will prioritise compliance and enforcement activity, and allocate resources where it can, to make the biggest difference to Victoria's environment by addressing the biggest risks to environment and health.[45]

The *Compliance and Enforcement Policy* also draws upon eight principles to guide EPA's compliance and enforcement activities (compliance and enforcement should be targeted, proportionate, transparent, consistent, accountable, inclusive, authoritative and effective).

The proposed Regulations seek to incorporate these findings by using the risk-based approach to determine that fees are set:

- providing higher fees for those relatively more risky activities that will attract relatively greater attention from EPA
- to ensure enforcement activities are appropriately funded
- to provide greater clarity and ease of administration by simplifying and streamlining fees
- with respect to waste transport permits, to provide for additional compliance checks.

Compliance and enforcement activity on licensed premises and waste transport vehicles is primarily undertaken by EPA's authorised officers. The duties of authorised officers include carrying out inspections and assessments to verify and ensure compliance with the Act and regulations, and with notices, licences and works approvals. Authorised officers undertake their activities using a combination of powers that are conferred by the act of appointment (for example, the power to enter premises under s. 55 of the Act) and EPA powers that are delegated to them under an instrument of delegation. In September 2010 EPA had 111 authorised officers (27 per cent of EPA personnel).[46]

It is not anticipated that the implementation issues will arise. The proposed Regulations are broadly similar to the current Regulations, which have been in place since 1991 (remade in 2001). Administrative and payment practices will not change and, aside from the changes to the fee structure and categories, it will largely be 'business as usual' for most licensees.

The proposed Regulations take effect on 1 July 2012. This will allow businesses to take the new fees into account for the following financial year. This will also smooth the transition for the collection of waste receiver licence fees, as they are calculated on the previous year's receipt of waste.

43 Gunningham N and Parker C 2010, Report to EPA, *Environment, compliance and pollution response review: environmental law and regulation*, May 2010.
44 Krpan S 2011, *Compliance and Enforcement Review: a review of EPA Victoria's approach*, prepared for EPA Victoria, Melbourne.
45 EPA 2011, *Compliance and enforcement policy*, Publication 1388. p. 6, viewed at 30 June 2011: www.epa.vic.gov.au/compliance-enforcement/ce-policy.asp.
46 Krpan 2011, op. cit., p. 212.

10 CONSULTATION

The development of the proposed Regulations and RIS were informed by stakeholders from industry, local government and within EPA itself. To facilitate this process, in December 2010 EPA released a discussion paper, *Review of Environment Protection (Fees) Regulations 2001*, which sought comments on the current Regulations and ways to improve them.[47] EPA received 11 responses to its online survey and 7 detailed responses by letter to the discussion paper. These responses are summarised below.

Licence fees

There was broad support for retaining the current fee structure: 85 per cent of respondents to the survey supported the base and component fee elements of the fees.

However, there was general consensus that the current fees do not provide an incentive to reduce emissions. It was noted by a number of respondents that, in order to provide an effective incentive to reduce emissions, fees would need to double or triple. This is not possible under the current Regulations, given that revenue cannot recover more than EPA's costs, while fee caps imposed by the Act also constrain cost recovery. While it is not possible to increase fees to drive client behaviour, the use of volumes as a proxy for EPA compliance effort is still considered a useful approach. Generally, the greater the emissions, the greater scrutiny EPA will pay to a particular client. This is because higher emissions generally correlate to a higher environmental risk.

In relation to waste receivers, there were some comments on the fee calculation method – for example, changing fee per tonne of waste to fee by contaminant concentration, such that they would be liable for lower fees where the waste has only a low level of contamination by prescribed industrial waste, and vice versa. While these changes could be made with a significant cost of compliance in the form of testing every load of waste received, the majority of respondents agreed that the current method was appropriate.

Stakeholders generally supported the concept of fee discounts, but comments included that discounts should only be made available where there is a demonstration of improved environmental performance. Another comment concluded that, given the effort by accredited licensees to achieve this level, a higher discount is justified (this incorporates the cost-recovery principle that less EPA oversight would be required).

It is important to reiterate that the primary purpose of the fees in the proposed Regulations is to recover EPA costs. As such, the fees by themselves have very limited capacity to change behaviour or correct environmental externalities.

Waste transport permits

Only minor changes to the fees for the transport of waste were suggested and most of these were in relation to simplifying the fees to a flat fee. The proposed Regulations will simplify the fee structure and set fees at a lower rate to reflect recovered costs.

Works approvals

EPA received a number of submissions concerning works approval fees in response to the discussion paper. There were a number of general criticisms concerning works approvals. Firstly, there was a view that the current system of charging based on the capital value ranges means that the fee does not represent the effort of EPA in assessing the application. Secondly, the current discount for auditor-supported works approval applications is considered insufficient to offset the costs of the auditor.

The proposed fees will simplify the categories by replacing them with an *ad valorem* rate. A flat fee was considered inequitable and fee for service not practicable.

While some commenters preferred a fee scale that would provide certainty, others advocated an approach based on time spent by EPA processing the application and/or environmental risk posed by the project. EPA considered both options and concluded that a fee based on percentage of project cost will produce the most equitable, simple and transparent outcome. Fees based on percentage of project budget will prevent works approval fees acting as a barrier to small business or innovative projects by providing certainty and transparency.

Fees per service were considered unnecessarily complex and led to increased uncertainty for applicants, and there were concerns about how the fee would be levied in practice, given that the fee must be paid with an application. Therefore, a proxy was used to reflect estimated costs per application. While the discussion paper noted that relative capital value may not necessarily reflect the cost of processing the application, EPA considered this was the most

47 The discussion paper can be found at: http://epanote2.epa.vic.gov.au/EPA/publications.nsf/PubDocsLU/1362?OpenDocument.

appropriate proxy, based on its experience and its desire to have a certain and transparent mechanism for establishing fees.

Environmental audits

Three-quarters of respondents considered that there was no alternative for recovering costs for audits conducted under s. 53V of the Act. One comment argued that, as some s. 53V audits are required as a licence condition, EPA should not be seeking to recover the costs of verifying these audits through a fee, as it should be included in the licence fee. It should be noted, however, that the requirement for an s. 53V audit for a licence only applies to some industries that pose a significant environment risks and, as their performance improves, the licensee will be less likely to be required to conduct these audits on as frequent a basis.

Some stakeholders argued that there should be a flat fee.

To simplify the fee structure the proposed fee for environmental audits will charge a flat fee.

Comments sought

This RIS represents another step in the consultation process and EPA welcomes comments or suggestions with respect to the proposed scope of fees and their levels. The *Subordinate Legislation Act 1994* requires that the public be given at least 28 days to provide comments or submissions regarding the proposed Regulations. The consultation period for this RIS will be 28 days, with written comments required by no later than **5.00pm, xx March 2012**.

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11 ATTACHMENTS

Attachment A: Proposed environment protection fees

1 Licence fees

Schedule 2 (base fees)

	Fee type	Costs ($)	Cost ($)	% change
	Licences	Original	Proposed	
	Schedule 2 fees			
A02	Waste treatment works engaged in the treatment of non PIW waste	629	5,991	852%
A03, A04	Premises on or form which sewage effluent is discharges etc, exceeding a design flow rate:			
	up to 5000 litres per day or more but less than 100 000 litres per day	629	855	36%
	0.1 megalitres per day or more but less than 5 megalitres per day	7,867	3,635	-54%
	5 megalitres per day or more but less than 50 megalitres per day	15,733	5,991	-62%
	50 megalitres per day or more	31,467	11,123	-65%
A06	Land disposal facilities for the disposal of nightsoil, septic tank sludge or sewage treatment plant sludge	315	1,711	444%
A07	Premises with aerobic or anaerobic composting which are designed to or have a capacity to process more than 100 tonnes of waste per month			
	100 - 300 tonnes per month	2,517	1,711	-32%
	300 - 1000 tonnes per month	2,517	3,635	44%
	1000 - 3000 tonnes per month	2,517	5,991	138%
	more than 3000 tonnes per month	2,517	11,123	342%
A08	Premises which recover energy from waste at a rated capacity of at least 1 megawatt with an installed capacity of—			
	less than 15 megawatts	1,259	855	-32%
	15 megawatts or more but less than 100 megawatts	7,867	5,991	-24%
	100 megawatts or more but less than 200 megawatts	15,733	11,123	-29%
	200 megawatts or more	31,467	22,247	-29%
B01	Intensive animal industry, being premises upon which are situated piggeries or cattle feedlots and the like, where more than 5000 animals are confined for the purposes of agricultural production.	629	1,711	172%
B02	Livestock sale yards or holding pens which are designed to have a throughput of at least 10 000 animal units per year	629	855	36%
B03	Fish farms or other facilities for the cultivation of edible aquatic organisms with a design water flow rate of 0·2 or more megalitres per day	629	1,711	172%
C01	Extractive industry including mining and quarrying	629	855	36%
D01	Abattoirs, knackeries or poultry processing works which are designed to have a throughput of—			
	up to 5000 tonnes per year	1,259	1,711	36%
	5000 tonnes or more per year	7,867	5,991	-24%
D02	Rendering works, being works for the manufacture or extraction of non-edible substances derived from animals with a total product input capacity of—			
	less than 5 tonnes per hour;	1,259	1,711	36%
	5 tonnes per hour or more, but less than 10 tonnes per hour;	7,867	5,991	-24%
	10 tonnes per hour or more, but less than 15 tonnes per hour;	15,733	11,123	-29%
	more than 15 tonnes per hour	31,467	22,247	-29%
D03	Animal skin tanning or re-tanning works	7,867	11,123	41%
D05	Pet food processing or pet food manufacturing works, which are designed to produce—			
	up to 1000 tonnes per year;	1,259	1,711	36%
	1000 tonnes or more per year	7,867	5,991	-24%
D06	Food processing works, being a works in which food is preserved, canned, bottled or dried by means of fuel fired plant and which are designed to produce at least 200 tonnes per year of food	629	855	36%
D07	Milk processing or dairy product manufacturing works, which are designed to produce at least 200 tonnes per year of product	629	855	36%
D08	Edible oil or fat processing works, where either seed crushing, solvent extraction or edible oil or fat deodorising takes place, which are designed to produce at least 200 tonnes per year of product	7,867	11,123	41%
D09	Beverage manufacturing or processing works	629	855	36%
E01	Textile manufacturing and processing works including carpet manufacturing, wool scouring, textile bleaching, textile dyeing and textile finishing works	7,867	2,566	-67%
F02	Fibreboard, plywood, or particle board works, being a works in which wood, wood products or other cellulose materials are processed to form fibreboard, plywood or particle board	7,867	11,123	41%
F03	Pulp or paper mills being works in which wood, wood products, waste paper or other cellulose materials are processed to form pulp, paper or cardboard	15,733	22,247	41%
G01	Chemical works with a design production rate of—			
	less than 500 tonnes per annum;	3,776	3,635	-4%
	500 tonnes per annum or more but less than 5000 tonnes;	7,867	5,991	-24%
	5000 tonnes per annum or more but less than 20 000 tonnes;	15,733	11,123	-29%
	20 000 tonnes per annum or more	31,467	22,247	-29%
G02	Coal processing works in which coal is converted to gaseous, liquid or solid products, with a design production rate of—			
	500 tonnes per annum or more but less than 5000 tonnes;	7,867	11,123	41%
	5000 tonnes per annum or more	15,733	22,247	41%
G03	Oil or gas refinery works being works in which crude oil or gas is refined or hydrocarbon fractions are produced	15,733	22,247	41%

Schedule 2 (base fees) continued

	Fee type	Costs ($)	Cost ($)	% change
	Licences	Original	Proposed	
G04	Bulk storage facilities which store compounds of carbon (including petroleum products or oil) which contain at least one carbon to carbon bond as well as derivatives of methane and are liquid at Standard Temperature and Pressure or contain any substance classified as a class 3 indicator in State environment protection policy (Air Quality Management) and which have a total design capacity (in tanks exceeding 10 000 litres capacity) of—			
	1 megalitre or more but less than 10 megalitres	629	1,711	172%
	10 megalitres or more	15,733	5,991	-62%
G05	Premises receiving bulk transport containers for the purpose of internal washing or cleansing where the containers have contained prescribed industrial waste; or any material that is a dangerous good as classified under the Road Transport (Dangerous Goods) Act 1995	629	1,711	172%
H01	Cement works in which clays or limestone materials are used in either a furnace or a kiln in the production of cement clinker; or cement clinker or clays or limestone or like materials are ground	15,733	11,123	-29%
H03	Ceramic works being works in which bricks, tiles, pipes, pottery goods or refractories are processed in dryers or kilns which are designed to produce at least 10 000 tonnes per year of ceramic product	15,733	5,991	-62%
H04	Mineral wool or ceramic fibre works	15,733	3,635	-77%
H05	Glass works, being works manufacturing glass by the melting of raw materials	15,733	5,991	-62%
I01	Primary metallurgical works, being works in which ores or ore concentrates are processed or smelted to produce metal, with a design production rate of—			
	500 tonnes per annum or more, but less than 5000 tonnes;	7,867	5,991	-24%
	5000 tonnes per annum or more but less than 20 000 tonnes;	15,733	11,123	-29%
	20 000 tonnes per annum or more	31,467	22,247	-29%
I02	Metal melting works being works in which metal melting is performed in furnaces having a total design rate of at least 10 tonnes per hour for ferrous foundries or 2 tonnes per hour for non-ferrous foundries, with a design production rate of—			
	1000 tonnes per annum or more, but less than 20 000 tonnes;	7,867	3,635	-54%
	20 000 tonnes per annum or more but less than 100 000 tonnes;	15,733	5,991	-62%
	100 000 tonnes per annum or more	31,467	11,123	-65%
I03	Metal galvanising works which are designed to have a throughput of at least 5000 tonnes per year of steel	7,867	3,635	-54%
I04	Metal finishing works including electroplating of metal or plastic, anodising, electroforming or printed circuit board manufacturing	7,867	5,991	-24%
I05	Can and drum coating works in which surface coating is applied to metal before or after the metal is formed into cans, closures, coils or drums	7,867	3,635	-54%
I06	Vehicle assembly or sub-assembly works, with a design capacity of—			
	2000 units per annum or more but less than 5000 units;	7,867	11,123	41%
	5000 units per annum or more but less than 10 000 units;	15,733	11,123	-29%
	10 000 units per annum or more	31,467	11,123	-65%
J01	Printing works emitting more than 100 kilograms per day of volatile organic compounds	7,867	2,566	-67%
K01	Power stations which generate electrical power from the consumption of fuel at a rated capacity of at least 5 megawatt electrical power, with an installed capacity of—			
	less than 15 megawatts;	1,259	855	-32%
	15 megawatts or more but less than 100 megawatts;	7,867	2,566	-67%
	100 megawatts or more but less than 200 megawatts	15,733	5,991	-62%
	200 megawatts or more	31,467	22,247	-29%
K02	Premises which capture, separate, process or store waste carbon dioxide for the purposes of geological disposal	15,733	11,123	-29%
K04	Premises at which salt is removed from water for potable or other uses that have a design capacity to process—			
	1–10 megalitres per day	3,776	1,711	-55%
	10–50 megalitres per day	7,867	3,635	-54%
	50 megalitres or more per day	15,733	5,991	-62%
L01	Premises which discharge or emit, or from which it is proposed to discharge or emit to the atmosphere any of the following:			
	at least 100 kilograms per day of volatile organic compounds; particles; sulphur oxide; nitrogen oxides; or other acid gases (excluding carbon dioxide); or	15,733	2,566	-84%
	at least 500 kilograms per day of carbon monoxide;	15,733	2,566	-84%
	any quantity of the following substances from industrial plant or fuel burning equipment— any substance classified as a class 3 indicator in State environment protection policy (Air Quality Management)	15,733	2,566	-84%
L03	Road tunnel ventilation systems	15,733	3,635	-77%

Notes:

1. A fee unit for 2011/12 has been set at $12.22
2. An accredited licensee under the Act is entitled to a 25% reduction in the annual licence fee otherwise payable under the Regulations.

Schedule 3 (component fees)

Fee type	Current Fees (units)1	Costs ($)	Proposed Fees (units)	Cost ($)	% change
Licences					
Schedule 3, Table 1 fees					
Discharge to the atmosphere (tonnes per year):					
Class 1 indicator	0.412	5.035	0.412	5.035	0%
Class 2 indicator	4.120	50.346	4.120	50.346	0%
Class 3 indicator	412.000	5034.640	412.000	5,034.640	0%
Schedule 3, Table 2 fees					
Discharge to water and land (annual flow):					
For each milligram per litre of the median amount that may be discharged under licence of—					
total dissolved solids, discharged to anywhere other than the ocean	0.000618	0.008	0.000618	0.008	0%
suspended solids	0.00309	0.038	0.00309	0.038	0%
organic matter	0.00309	0.038	0.00309	0.038	0%
total phosphorus	0.00515	0.063	0.00515	0.063	0%
total nitrogen	0.00515	0.063	0.00515	0.063	0%
total ammonia	n.a.	n.a.	0.0515	0.629	n.a.
toxicants	0.0515	0.629	0.309	3.776	500%
any other waste component, not specified elsewhere	0.0515	0.629	0.0515	0.629	0%
For each platinum cobalt unit of colour that may be discharged under licence	0.000309	0.004	0.000309	0.004	0%
For each degree of Celsius of temperature above ambient that may be discharged under licence	0.00309	0.038	0.00309	0.038	0%
Where a licence permits discharges of bacteria (E coli) at a concentration of—					
greater than 10 organisms per 100 mls or more but not greater than 200 organisms per 100 mls	0.00103	0.013	0.00103	0.013	0%
greater than 200 organisms per 100 mls or more, but not greater than 2000 organisms per 100 mls	0.0103	0.126	0.0103	0.126	0%
greater than 2000 organisms per 100 mls	0.103	1.259	0.103	1.259	0%
Premised licensed to receive waste					
Solid inert/putrescible waste per tonne per annum	0.0103	0.126	0.0103	0.126	0%
Storage, treatment, reprocessing, or disposal of PIW per tonne per annum	0.1030	1.259	0.1030	1.259	0%
Minimum fee for waste receivers	n.a.	n.a.	81.833	1,000.000	n.a.
Application to amend a licence - maximum	85.00	1038.700	85.00	1,038.700	0%
Application to transfer a licence - maximum	35.00	427.700	35.00	427.700	0%

2 WASTE TRANSPORT PERMITS

Fee type	Costs ($)	Cost ($)	% change
Waste transport permits	Original	Proposed	
Prime mover or passenger vehicle (non-prescribed waste)	125.87	125.87	0%
Putrescible organic waste, etc			
Less than 1.5 tonnes	314.67	238.29	-24%
1.5 tonnes to 8 tonnes	503.46	479.64	-5%
8 tonnes to 23 tonnes	629.33	479.64	-24%
23 tonnes to 30 tonnes	944.00	479.64	-49%
Equal to or more than 30 tonnes	1,258.66	1,258.66	0%
Prescibed waste (other than putrescible or high risk)			
Less than 1.5 tonnes	503.46	360.49	-28%
1.5 tonnes to 8 tonnes	629.33	598.78	-5%
8 tonnes to 23 tonnes	881.06	598.78	-32%
23 tonnes to 30 tonnes	1,321.59	598.78	-55%
Equal to or more than 30 tonnes	1,762.12	1,735.24	-2%
Explosive, flammable, or highly reactive prescribed waste			
Less than 1.5 tonnes	629.33	418.54	-33%
1.5 tonnes to 8 tonnes	755.20	717.93	-5%
8 tonnes to 23 tonnes	1,006.93	717.93	-29%
23 tonnes to 30 tonnes	1,510.39	717.93	-52%
Equal to or more than 30 tonnes	2,013.86	1,976.59	-2%

Notes:

1. A fee unit for 2011/12 has been set at $12.22

Note: *Putrescibles organic waste*, *Prescribed waste (other than putrescibles or high risk)*, and *Explosive, flammable, or highly reactive prescribed waste* categories will be consolidated to include a new category of 1.5-30 tonnes (replacing four categories).

3 Works approvals

It is proposed that the new fees be significantly simplified and an *ad valorem* rate of 1 per cent be levied on the cost of works.

Section 24(4) of the *Environment Protection Act 1970* imposes a fee limit of 4500 fee units (or $54,990) on works approvals permits. To ensure that routine administrative costs are recovered, a minimum floor of 81.83 fee units ($1000) will be applied. Therefore, the minimum fee will be $1000, while the maximum will be $54,990, with fees within this range calculated at one per cent of the value of the works.

4 Environmental audits

It is proposed to significantly simplify environmental audit fees by removing the land size-based categories and replacing them with a flat fee. The fee for environmental audits will apply to both s. 53X audits (approximately 100 submitted to EPA each year) and s. 53V audits (approximately 60 submitted to EPA each year). The latter are not currently charged a fee.

As these fees will be simplified and a flat fee charged, this will result in a flat fee of $1601.78 across all categories. The proposed fee revenue for the review of environmental audits by EPA will increase by 80 per cent. It is important to note that the flat fee itself will remain approximately the same as the current fee average for environmental audits. The increase in fee revenue relates to the additional number of s. 53V audits for which fees will now be charged.

Attachment B

Overview of licence fee arrangements across states and territories

Jurisdiction	Commenced	Principles	Summary
New South Wales Protection of the Environment (General) Operations Regulation 1998	July 1999	Harness power of the market to drive incentives to reduce emissions.	The load-based licensing (LBL) system creates one licence controlling all aspects of pollution to different segments and concentrates on the pollutant load (amount and impact of pollution) rather than the concentration of pollution. The LBL system is comprised of: • administration fee (minimum fee) based on type and size of activity • pollutant load fee (PLF) which is payable on prescribed pollutants based on the potential for impact to the environment (less the admin fee). The PLF is made up of: o pollution load (amount) (AL) o how harmful (PW) o where it is released (CZ) The fees are calculated according to the following formula: PLF = f(AL*PW*CZ*PFU), where PFU is pollutant fee units. All licences attract annual administrative fees and some licences will also require payment of annual pollutant load fees. Where sites have multiple discharge points, the fee is calculated on total discharge. Where different types of pollutants are emitted, a fee for each type of pollutant is calculated to get the total fee. There are three possible methods of discount for the fees. The discounts are for effluent reuse, flow-optimised discharge and the salinity trading scheme. The opportunity for emissions trading broadens LBL from individual sites to whole groups of licensees and a focus on containing and reducing total emissions.

Jurisdiction	Commenced	Principles	Summary
South Australia Environmental Protection Regulations 2009	2008	The Licence Fee System (LFS) enables the South Australian EPA to: • recover, in an efficient and equitable manner, the costs incurred due to the environmental management of licences • provide an economic incentive to reduce pollution.	There are three components to licence fees in South Australia: • flat fee, which is set for basic licence administration costs common to all licences • environmental management fee (EMF), which reflects regulatory effort (i.e. compliance costs) for managing an activity; aligned to environmental risk (the riskier the premises, the greater the compliance requirements and costs). The activity that attracts the highest EMF will apply to the site (with some exceptions). The formula for EMF is: tonnes emitted x fee unit/tonne x fee unit value x zone weighting • resource efficiency fee (REF), which applies to a subset of licensees that emit key pollutants above the threshold level. The REF includes – o pollutant load fees for key pollutants emitted (above a certain limit) to air or water o water reuse fees for the discharge of fresh water to the marine environment. The values of fee units and fee calculations for each of these three components are available on the South Australian website. There are also a number of opportunities for licensees to reduce their licence fee and to make payments easier: • accredited licence • reduce emissions • improve environmental performance • review activities • surrender licence • pay by instalments • fee reduction or waiver.
Western Australia Environmental Protection Regulations 1987	July 2008	Use financial incentives to reduce emissions to the environment.	The fees for licences in Western Australia are comprised of a facility fee plus load-based fees depending on what and how much is discharged: • licence fee = A + B_{max} + C, where A is a function of the type and capacity of premises; B the discharge quantity; C the type (toxicity) of discharge • a 4% increase is built into the fee structure as yearly increments to account for inflation. This will be reviewed in 2012. The fees in Western Australia allow for geographic differentiation; for example, by charging higher fees for facilities in an environmental protection policy area or certain areas that have greater environmental sensitivity. In addition to this, lower-risk prescribed premises may be registered instead of holding a licence, thereby lowering the fees payable. The fees in Western Australia are set to recover regulatory costs.

Jurisdiction	Commenced	Principles	Summary
Queensland Environmental Protection Regulation 2008	January 2009	Fees are charged for environmentally relevant activities (ERAs), and are based on activity variables including use, input and production capacity.	The fees for each threshold of an environmentally relevant activity (ERA) are based on environmental risk of associated activity, as measured by the aggregate environmental score (AES). The AES is the total activity impact score for each ERA category derived through: • determining the average emissions of contaminants from operations of that type • assessing other site attributes, such as noise, odour and generation of regulated wastes • using agreed formula to calculate a score for that ERA category. Low-risk ERAs have a low or no AES. The annual fee where no AES is set at $500. The annual fee where there is an AES is: • AES x $100 (for ERAs 1–4; animal-related) • AES x $200 for all other ERAs. Three discounts are possible for positive environmental performance, which can be used to obtain a cumulative total of a 50% discount off the annual fee.
Tasmania Environmental Management and Pollution Control (General Fees) Regulations 2007	December 2007	Fees are charged for environmental management and Departmental provision of pollution control services.	The annual permit fee for environmentally relevant activities is charged to recover the cost of ongoing environmental regulation of activities regulated under the *Environmental Management and Pollution Control Act 1994* (EMPCA). The fee has 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 an SMA or a large activity depends on its production capacity. Annual fees are specified in fee units, which are multiplied by a factor called the fee unit value to calculate the fee in dollars.
Northern Territory Waste Management and Pollution (Administration) Regulations	May 2003	Fees are charged for costs of environmental regulation.	The Northern Territory has provisions for licensing that include financial incentives. There are two types of licence: • an environmental protection licence • a best practice licence (operator may receive benefits such as reduced fees and modified reporting arrangements). Licensees who hold a licence to conduct more than one scheduled activity under the Act are required to pay the sum of all fees due for each activity for which they are licensed. Annual licence fees take account of activity type, premises location and waste streams.
Australian Capital Territory Environment Protection Regulation 2005	August 2007	Outcome-focused and able to be tailored to a variety of specific outcomes; provides appropriate opportunity for self-regulation; is based on the principles of 'polluter-pays' and 'user-pays' charging for fees.	In the Australian Capital Territory, environmental authorisations are a form of licence to conduct an activity that has a significant potential to cause environmental harm. There are three different kinds of authorisation: • standard authorisations – main category; can be issued for a specific or unlimited period • accredited authorisation – can be given to a person who is applying an 'environmental improvement initiative' to an activity • special authorisation – an authorisation issued for up to 3 years for research and development. Annual authorisation fees are charged based on the activity authorisation type and the scale of the activity. There are also annual pollutant fees for some pollutants, which apply to the extent that they equate to an amount over the annual authorisation fee.

Attachment C

Process maps of regulated activities under proposed Regulations

Figure C1. Process for audit review

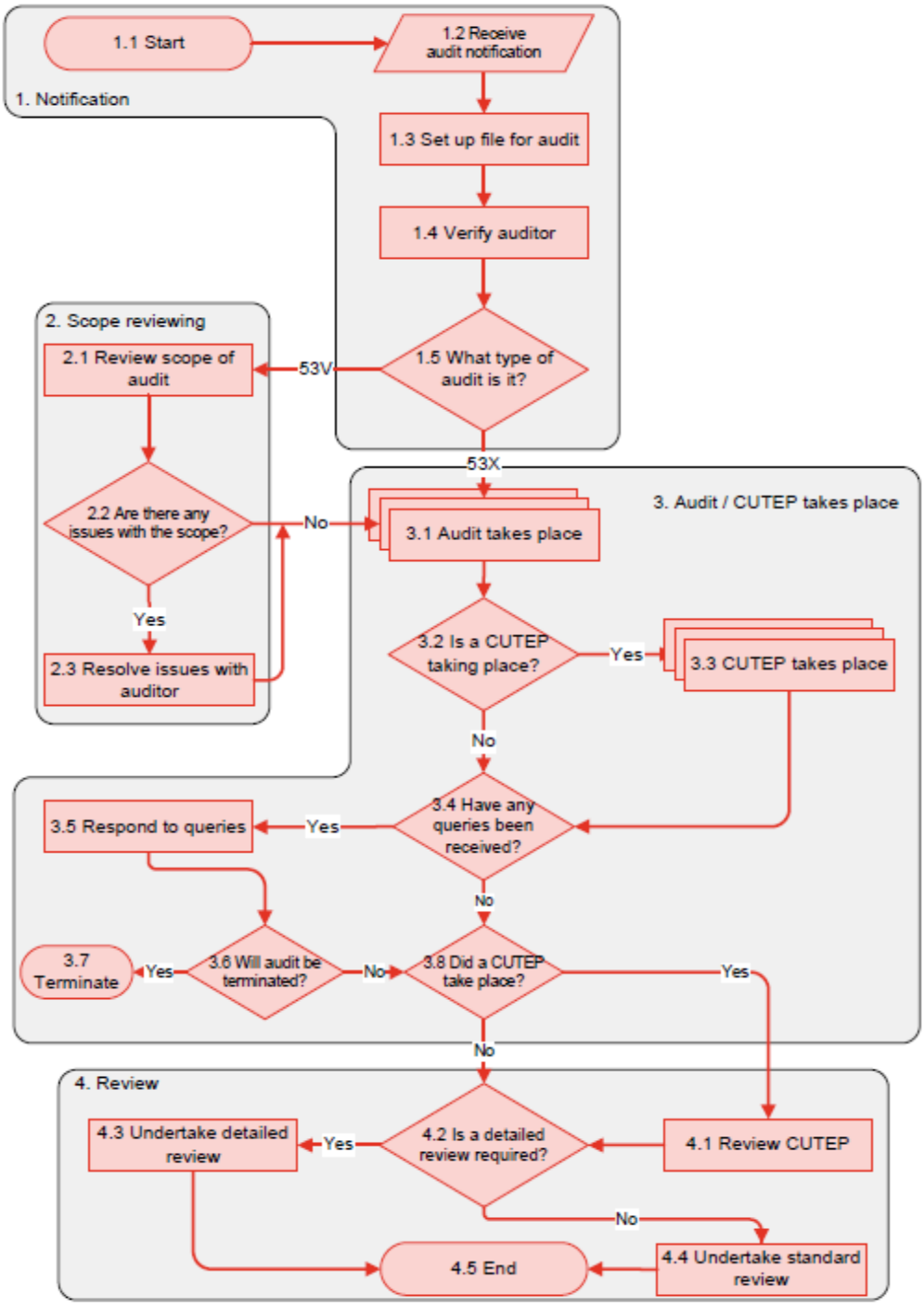


Figure C2: Process for issuing works approval

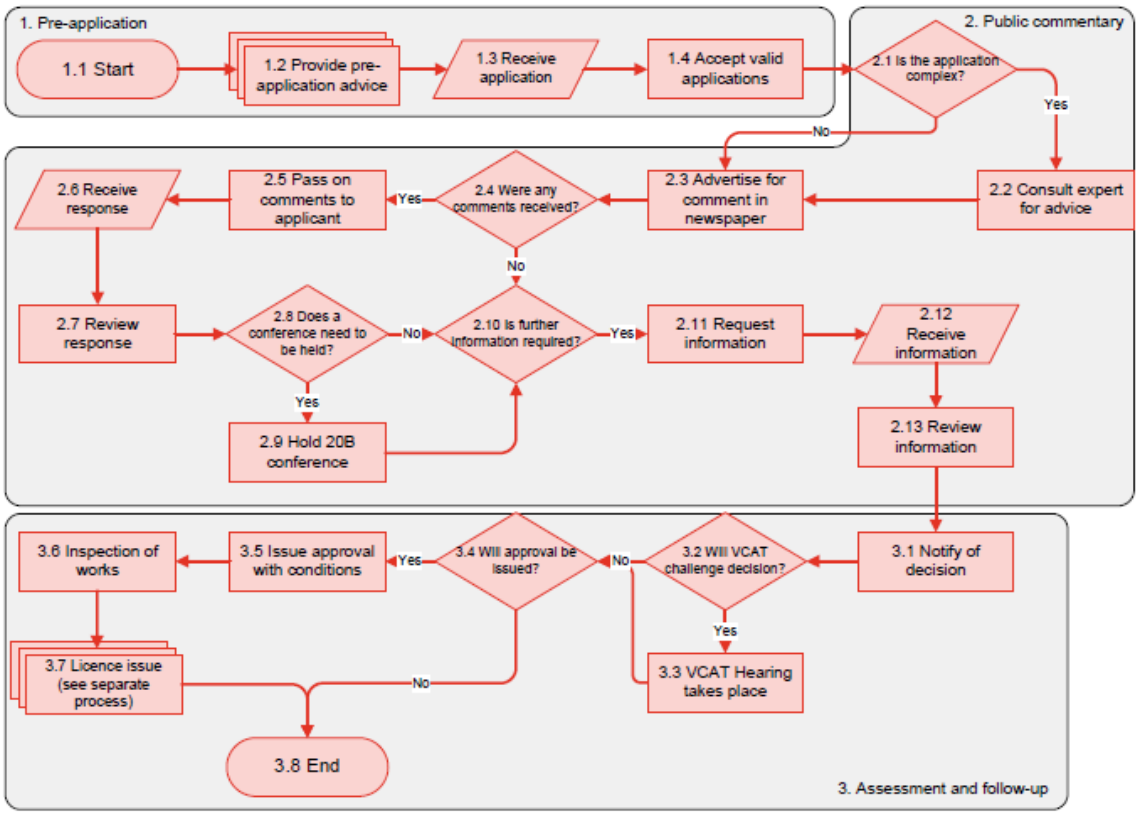


Figure C3: Licence issue and amendment process

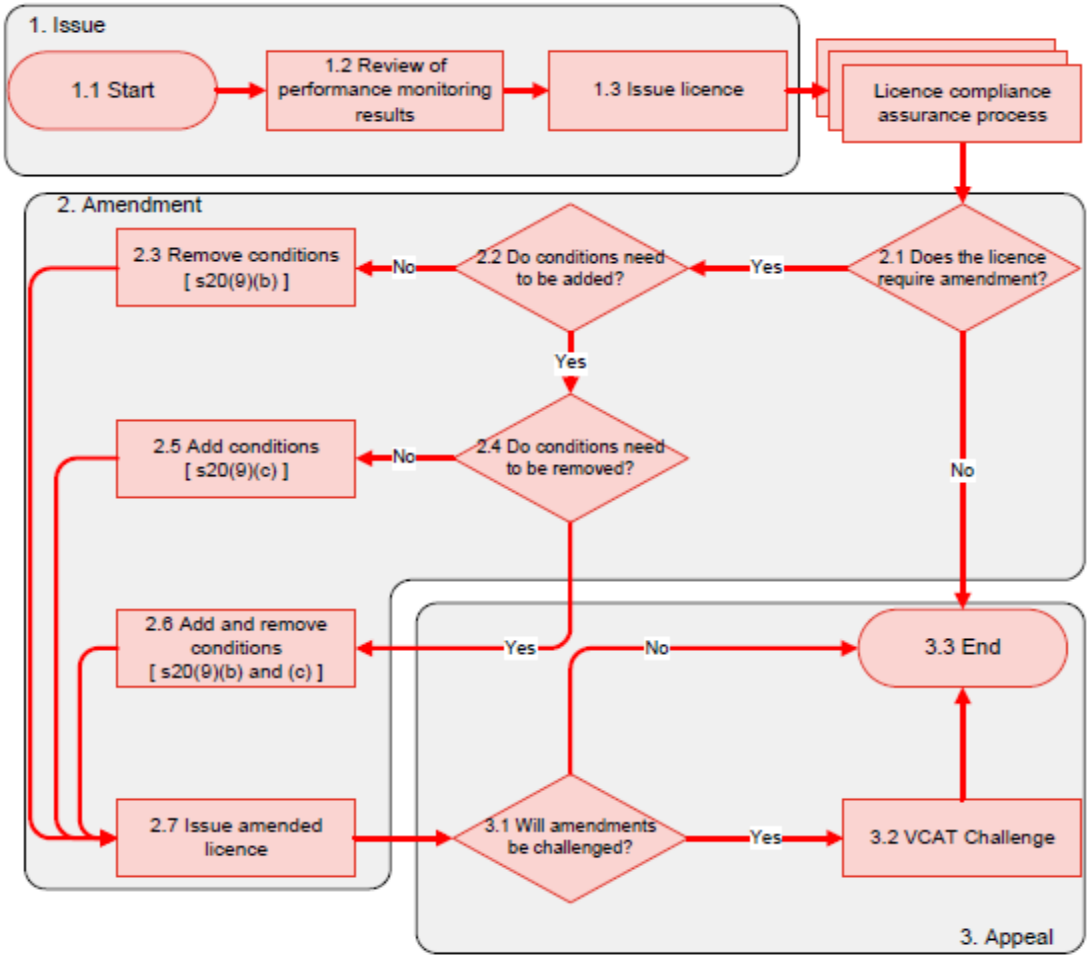
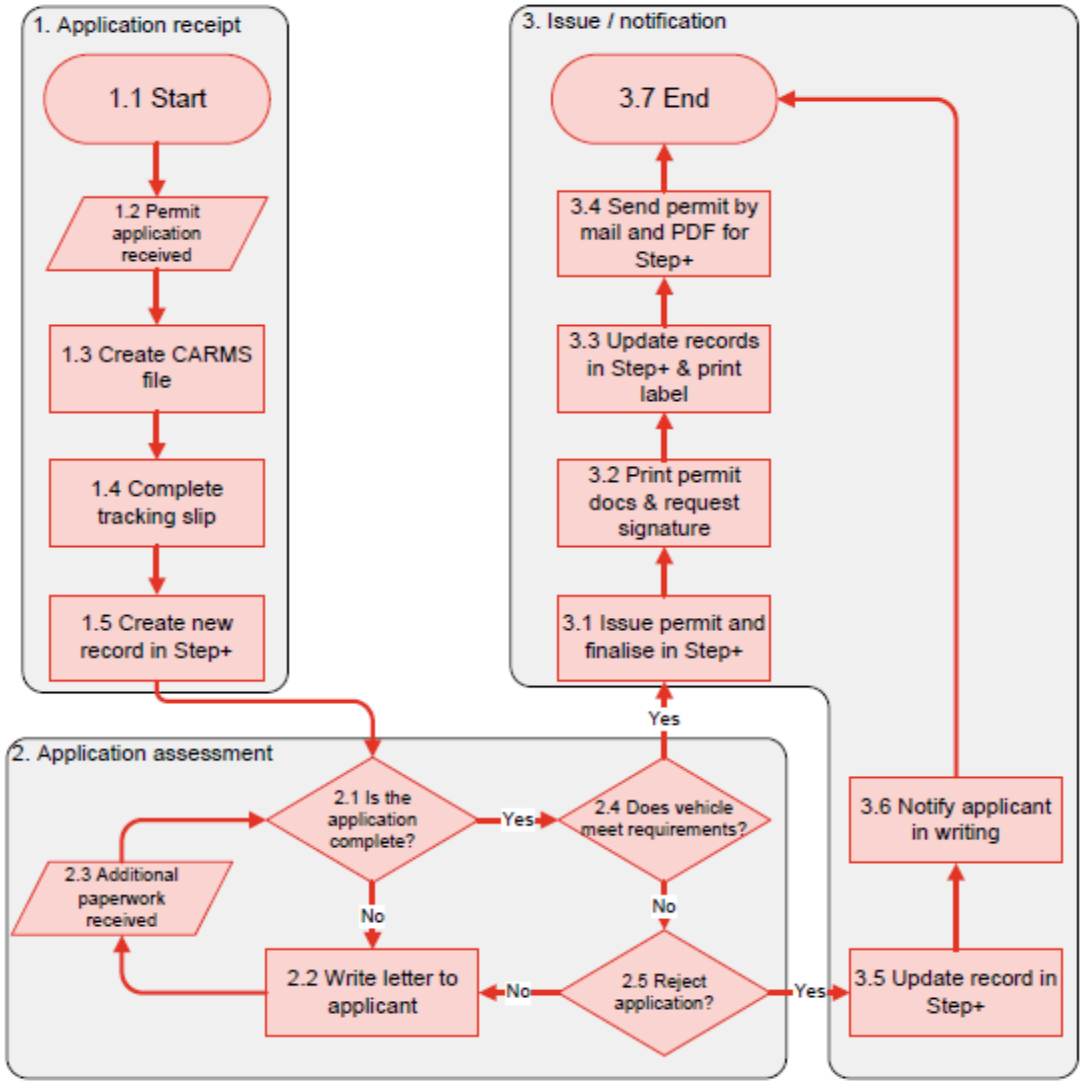


Figure C4: Process for issuing waste transport permit



Attachment D

Calculation methodology

Cost to be recovered by fee type

Fees within each fee type have been determined to recover the costs to EPA associated with each activity. The costs to EPA of each activity type and the total fee revenue expected based on the proposed fees are shown in Table D1.

Table D1: Aligning expected fee revenue to EPA costs per fee type

Fee type	EPA Costs ($)	Proposed fees ($)	Variance ($)
Works approval	2,412,565	915,778	-1,496,787
Application	*2,410,267*	*914,495*	*-1,495,772*
Transfer	*2,297*	*1,283*	*-1,014*
Licences	9,889,851	11,346,709	1,456,858
Licence fees	*9,830,522*	*11,326,294*	*1,495,772*
Amendment	*43,247*	*13,316*	*-29,930*
Transfer	*16,082*	*7,099*	*-8,984*
Environmental audit	256,284	256,284	0
Waste transport	820,965	812,557	-8,408
Application	*802,700*	*802,700*	*0*
Transfer/amend	*9,190*	*782*	*-8,408*
Temporary permit	*9,075*	*9,075*	*0*
Total	**13,379,665**	**13,331,328**	**-48,337**

Notes
1 All figures expressed in 2011-12 dollars, based on fee unit value of $12.22.
2 Cost base taken from PwC modelling, adjusted to 2011-12 dollars, with some adjustments as noted below.
3 The waste transport permit cost base includes an additional $143,800 for additional planned compliance activities.

The Act imposes caps on some fees able to be prescribed in the Regulations. For works approvals, the maximum that could be recovered – assuming that all works approvals are charged the maximum fee – is $2,474,550. This is above the cost of EPA activities in this category but, as noted in this RIS, fees for works approvals have been proposed to be lower than actual costs to reflect the disincentives associated with the high cost of such fees relative to the cost of capital works undertaken. As a result, the cost associated with works approvals that are not recovered by the fees ($1,495,772) has been added to the amount to be recovered from licence fees.

Fees for works approvals have been structured as a percentage of the value of the capital works, which EPA considers a suitable proxy for the amount of regulatory effort. To reflect a minimum amount of work undertaken by EPA even for small approvals, a minimum of $1000 is proposed.

For licences, the various business categories have been placed into one of eight fee value categories to reflect the expected level of EPA activity associated with processing and regulating each licence type. The categorisation reflects EPA experience, supplemented by an EPA assessment of risk associated with each licence category, and an adjustment made for size. These regulatory effort relativities were fixed, with the overall level of the fee scale adjusted to recover the expected costs.

There have been minor changes made to the 'Schedule 3' component elements of licence fees to update the terminology used to reflect current statutory policy. It is not anticipated that these changes will materially impact the component fees paid by licensees, which in most cases represent the greatest element of fees paid by licensees overall (79 per cent of all licence fees are Schedule 3 component fees).

The costs to be recovered for waste transport permits and environmental audits are taken from the outcomes of the PwC review. However, as part of increased EPA compliance and enforcement efforts, compliance inspections for waste transport permits are planned to increase, providing an extra enforcement cost of around $143,800 per annum. Permit categories have been simplified and a risk assessment has been undertaken by EPA on the new categories to

determine the likely regulatory effort required based on this risk. Audit fees have been determined based on a flat fee for all audits, as there was insufficient evidence to link the EPA costs to the size of land being audited. It should also be noted that the PwC review did not particularise waste receiver costs, and these were assessed separately in this RIS.

ASSUMPTIONS

Cost assumptions

The cost bases for each fee type are based on the findings of a review by PwC in 2010. The review identified costs on an activity basis as far as possible. Some costs were not directly attributable through this activity-based approach, and instead a proportion of EPA costs were identified as part of a cost pool that was allocated to each fee type activity by PwC. This allocation was based on an analysis of business units and consultation within EPA.

For example, the regional cost base pools attributable to licences include the work of environment protection officers and client relationship managers related to licensed premises in their region, including attending sites during the licensing process, responding to community complaints and pollution reports, and dealing with queries by licensees. Generally, they are the first port of call for issues related to licensed premises in their area, and this is why they form such a significant portion of the costs related to licences.

The PwC methodology had inherent limitations, due to the scope of the review, the variance of EPA activities related to particular licences, and the inability to more precisely link the 'pooled' costs to fee types. That said, where feasible, EPA has sought to validate the assumptions and findings of the review, and has made some adjustments for the purposes of this RIS. It is considered that further improvements to the cost estimates would involve considerable time and costs that at the moment outweigh the benefits of establishing more robust estimates.

The PwC cost estimates have been adjusted to reflect:

- the assumed amount of compliance and enforcement planned to be undertaken, as a result of EPA's response to compliance review
- removal of double-counting of some costs
- separately estimating the costs of licence amendments, using a lower assumed number of events per year, based on EPA historical data
- indexing the costs from 2010–11 dollars to 2011–12 dollars using an indexation factor of 2.26 per cent (the same percentage increase as for the value of the fee unit between these years).

Determining fees to recover expected costs requires assumptions about the number of activity types undertaken each year. In all cases, these assumptions have been based on historical data and, in particular, the calculations assume a generally steady level of activity from 2010–11 onwards. No growth has been factored in for the number of works approvals, licences, audits, or permits, or for the number of amendments and transfers.

Software-based data limitations

The EPA software system (Step+) will be replaced with a new system in 2012. It is anticipated that, as a result of this reform, better information on licensee risks will be available and will be integrated into the software. For example, information with respect to a licensee's proximity to sensitive environmental receptors (such as residents, habitats and waterways), community complaints and compliance history will complement the information currently in Step+ (including licence type, licence emissions limits and so on).

The new system will assign a score to each of these risk factors and will enable EPA to assign resources to the riskiest activities. The system will also allow EPA to rank each licensee's environmental risk (permitting an accurate assessment of the cost base for each licensee). It is anticipated that this will enable EPA to more accurately determine where it should direct its monitoring, compliance and enforcement resources. This approach is consistent with the *Compliance and Enforcement Review* recommendation that EPA take a risk-based approach to compliance and enforcement.

Attachment E

Impacts of proposed annual licence fee changes on licensees

Scheduled premises type	Activity	Number of licensees	Average change in annual licence fee (%)[48]
A01 (PIW management)	Storage, treatment, reprocessing, containment or disposal facilities handling any prescribed industrial waste not generated at the premises.	115	Nil*
A02 (Other waste treatment)	Waste treatment works engaged in the immobilisation, thermal degradation, incineration or other treatment of waste.	3	82
A03 (Sewage treatment)	Premises on or from which sewage (including sullage) exceeding a design or actual flow rate of 5000 litres per day, is treated, discharged or deposited.	88	-27
A04 (Industrial waste water treatment)	Premises on or from which industrial wastewater effluent not generated at the premises, exceeding a design or actual flow rate of 5000 litres per day, discharged or deposited.	0	NA
A05 (Landfills)	Landfills used for the deposit of solid wastes (including solid industrial wastes) onto land, except premises with solely land discharges or deposits, used only for the discharge or deposit of mining wastes and in accordance with the *Extractive Industries Development Act 1995* or the *Mineral Resources (Sustainable Development) Act 1990*.	43	Nil*
A06 (Land disposal)	Land disposal facilities for the disposal of nightsoil, septic tank sludge or sewage treatment plant sludge.	1	444
A07 (Composting)	Premises with aerobic or anaerobic composting that are designed to or have a capacity to process over 100 tonnes per month.	12	123
A08 (Waste to energy)	Premises that recover energy from waste at a rated capacity of at least 1 megawatt.	0	NA
B01 (Intensive animal industry)	Intensive animal industry, being premises upon which are situated piggeries or cattle feedlots and the like, where more than 5000 animals are confined for the purposes of agricultural production.	0	NA
B02 (Livestock saleyards)	Livestock sale yards or holding pens that are designed to have a throughput of at least 10,000 animal units per year.	1	36
B03 (Fish farms)	Fish farms or other facilities for the cultivation of edible aquatic organisms with a design water flow rate of 0·2 or more megalitres per day.	21	28
C01 (Extractive industry and mining)	Extractive industry including mining and quarrying, but excluding eductor dredging.	22	4
D01 (Abattoirs)	Abattoirs, knackeries or poultry processing works that are designed to have a throughput of more than 200 tonnes per year.	17	-15
D02 (Rendering)	Rendering works, being works for the manufacture or extraction of non-edible substances derived from animals.	11	-27
D03 (Animal skin tanning)	Animal skin tanning or re-tanning works.	2	41

48 Impact reflects the real change in total annual licence fees paid by licensees, taking account of proposed changes in the Schedule 2 (base) fees for each category and average Schedule 3 (component) fees paid by licensees in each category. Base fees have been averaged for each business category (where fee depends on volume). Impact does not reflect potential changes in the relevant (i.e. highest) base fee applicable to individual licensees as a result of the proposed Regulations. Component fees are particular to the licensee and not the business category, and therefore individual impacts may differ significantly from those indicated.

Scheduled premises type	Activity	Number of licensees	Average change in annual licence fee (%)[48]
D05 (Pet food processing)	Pet food processing or pet food manufacturing works, which are designed to produce at least 200 tonnes per year of pet food.	3	-14
D06 (Food processing)	Food processing works, being works in which food is preserved, canned, bottled or dried by means of fuel-fired plant and which are designed to produce at least 200 tonnes per year of food.	10	6
D07 (Milk processing)	Milk processing or dairy product manufacturing works, which are designed to produce at least 200 tonnes per year of product(s).	20	2
D08 (Edible oil)	Edible oil or fat processing works, where either seed crushing, solvent extraction or edible oil or fat deodorising takes place, which are designed to produce at least 200 tonnes per year of product(s).	4	39
D09 (Beverage manufacturing)	Beverage manufacturing or processing works, except wineries processing less than 300 tonnes per year of grapes, and retaining all wastes on site.	0	NA
E01 (Textiles)	Textile manufacturing and processing works, including carpet manufacturing, wool scouring, textile bleaching, textile dyeing and textile finishing works.	1	-20
F02 (Fibreboard)	Fibreboard, plywood, or particle board works, being works in which wood, wood products or other cellulose materials are processed to form fibreboard, particle board or plywood.	2	15
F03 (Paper pulp mills)	Pulp or paper mills being works in which wood, wood products, waste paper or other cellulose materials are processed to form pulp, paper or cardboard.	3	4
G01 (Chemical works)	Chemical works: (i) where products are manufactured by any chemical process, and which are designed to produce at least 2000 tonnes per year of chemical products or (ii) where acrylic compounds, herbicides, insecticides or pesticides are manufactured by any chemical process.	34	-17
G02 (Coal processing)	Coal processing works in which coal is converted to gaseous, liquid or solid products.	3	30
G03 (Oil and gas refining)	Oil or gas refinery works, being works in which crude oil or gas is refined or hydrocarbon fractions are produced.	9	6
G04 (Bulk storage)	Bulk storage facilities that have a total design capacity of more than 0.1 megalitres (in tanks exceeding 10,000 litres capacity) and which store compounds of carbon (including petroleum products or oil), which: (i) contain at least one carbon-to-carbon bond, as well as derivatives of methane and (ii) are liquid at standard temperature and pressure or (iii) contain any substance classified as a class 3 indicator in *State Environment Protection Policy (Air Quality Management)*.	8	-38
G05 (Container washing)	Premises receiving bulk transport containers for the purpose of internal washing or cleansing, where the containers have contained: (i) prescribed industrial waste or (ii) any material that is a dangerous good as classified under the *Road Transport (Dangerous Goods) Act 1995*.	2	118

Scheduled premises type	Activity	Number of licensees	Average change in annual licence fee (%)[48]
H01 (Cement)	Cement works in which: (i) clays or limestone materials are used in either a furnace or a kiln in the production of cement clinker or (ii) cement clinker or clays or limestone or like materials are ground.	3	-18
H03 (Ceramics)	Ceramic works, being works in which bricks, tiles, pipes, pottery goods or refractories are processed in dryers or kilns, which are designed to produce at least 10,000 tonnes per year of ceramic product.	8	-35
H04 (Mineral wool)	Mineral wool or ceramic fibre works.	1	-69
H05 (Glass works)	Glass works, being works manufacturing glass by the melting of raw materials.	2	-26
I01 (Primary metallurgical)	Primary metallurgical works, being works in which ores or ore concentrates are processed or smelted to produce metal.	2	-2
I02 (Metal melting)	Metal melting works, being works in which metal melting is performed in furnaces having a total design rate of at least 10 tonnes per hour for ferrous foundries or 2 tonnes per hour for non-ferrous foundries.	5	-42
I03 (Metal galvanising)	Metal galvanising works that are designed to have a throughput of at least 5000 tonnes per year of steel.	8	-41
I04 (Metal finishing)	Metal finishing works, including electroplating of metal or plastic, anodising, electroforming or printed circuit board manufacturing.	0	NA
I05 (Can and drum coating)	Can and drum coating works, in which surface coating is applied to metal before or after the metal is formed into cans, closures, coils or drums.	2	-18
I06 (Vehicle assembly)	Vehicle assembly or sub-assembly works that are designed to produce at least 200 units per year.	2	-20
J01 (Printing)	Printing works emitting more than 100 kilograms per day of volatile organic compounds.	11	-30
K01 (Power stations)	Power stations that generate electrical power from the consumption of fuel at a rated capacity of at least 5 megawatts of electrical power.	15	-3
K02 (Carbon geosequestration)	Premises that capture, separate, process or store waste carbon dioxide for the purposes of geological disposal.	0	NA
K04 (Water desalination plants)	Premises at which salt is removed from water for potable or other uses, which have a design capacity to process more than 1 megalitre per day of feed water.	0	NA

Scheduled premises type	Activity	Number of licensees	Average change in annual licence fee (%)[48]
L01 (General emissions to air)	Premises that discharge or emit, or from which it is proposed to discharge or emit to the atmosphere any of the following: (i) at least 100 kilograms per day of– • volatile organic compounds • particles • sulphur oxide • nitrogen oxides or • other acid gases (excluding carbon dioxide) or (ii) at least 500 kilograms per day of carbon monoxide (iii) any quantity from industrial plant or fuel burning equipment any substance classified as a class 3 indicator in *State Environment Protection Policy (Air Quality Management)*.	22	-48
L03 (Tunnel ventilation systems)	Road tunnel ventilation systems.	0	NA
Total		**516**	

* A01 and A05 licence fees have not been changed. However, some licensees may incur additional fees as a result of the introduction of a minimum fee for each category. Also, some licensees may face higher fees due to proposed removal of fee reduction for material reuse.

NA = there are currently no licences in these categories, and therefore no information on what component fees may be payable should a licence be granted.

Attachment F

Outline of proposed fees in relation to the Act

Environment Protection Act 1970	**Proposed Regulations**
Works approvals s. 19B(1)(b) An application for a works approval shall be forwarded with the prescribed fee. *s. 24(4) The fee prescribed in respect of an application for a works approval shall not exceed 4500 fee units.* *s. 71(1)(a) regulations may prescribe a scales of fees to a maximum of 4500 fee units.*	Proposed Regulation 6(1) prescribes this fee as 1% of the value of capital works with a minimum fee of 81.83 fee units, subject to the cap.
Licences s. 24(1) The fee prescribed in respect of a licence is due and payable on the day on which it is issued and annually on the date fixed by EPA. *s. 24(2) The licence fee for each licensed scheduled premises must not exceed 42 000 fee units with respect to each element of the environment being the atmosphere, land or waters to which waste is licensed to be discharged, emitted or deposited.* *s. 24(2A) The licence fee must not exceed 42 000 fee units with respect to each licensed scheduled premises used to reprocess, treat, store, contain, dispose of or handle waste, or substances which are a danger or potential danger to the quality of the environment or any segment of the environment.* *s. 71(1)(aa) reinforces this cap.*	Proposed Regulation 8 prescribes the annual fee payable by reference to Schedules 2 and 3. Proposed Regulation 9 prescribes the fee payable for premises licensed to accept solid inert waste and putrescible waste. Proposed Regulation 10 prescribes the annual fee payable for premises licensed to accept prescribed industrial waste.
Licence amendments s. 20A(2)(b) An application for the amendment of a licence under this section shall be forwarded with the prescribed fee. *s. 71(1)(ab) the prescribed fee cannot exceed 85 fee units*	Proposed Regulation 11 sets this fee as the lower of 10% of the annual licence fee or 85 fee units.
Licence transfer s. 25(1)(b) An application for the transfer of a works approval or a licence shall be accompanied by the prescribed fee. *s. 71(1)(ac) the prescribed fee cannot exceed 35 fee units*	Proposed Regulation 12 sets this fee as the lower of 10% of the annual licence fee or 35 fee units.
Transfer of works approval s. 25(1)(b) An application for the transfer of a works approval or a licence shall be accompanied by the prescribed fee. *s. 71(1)(ac) the prescribed fee cannot exceed 35 fee units*	Proposed Regulation 7 sets this fee at 35 fee units for works approvals.
Discount for licensee granted accreditation **s. 26D(1) A licensee grated accreditation is entitled to pay a reduced licence fee calculated in accordance with the regulations in respect of an accreditation.**	Proposed Regulation 13 sets a reduction of 25% of the annual licence fee otherwise payable under the Regulations.
Waste transport permits s. 53G EPA may charge the fees prescribed by the regulations for applications for the issue, transfer and variation of waste transport permits and for the annual renewal of permits. An application fee must not exceed 200 fee units. An annual fee for a permit must not exceed 200 fee units in respect of each vehicle to which the permit applies.	Proposed Regulations 14–16 sets the prescribed fees for the issue, transfer and amendment of permits.
Fees for environment audits s. 53T(3) An environmental auditor must pay the fee prescribed in respect of an environmental audit within 7 days after completing an audit.	Proposed Regulation 17 prescribes the fee per audit of 131.1 fee units.

Note: s. 24(2B) EPA may reduce the licence fee that is otherwise payable in respect of a licence if EPA is satisfied, upon application to EPA for a reduction, that in all the circumstances it is reasonable to do so.