

Section 157 authorisation guidance

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EPA acknowledges Aboriginal people as the first peoples and Traditional custodians of the land and water on which we live, work and depend. We pay respect to Aboriginal Elders, past and present.

As Victoria's environmental regulator, we pay respect to how Country has been protected and cared for by Aboriginal people over many tens of thousands of years.

We acknowledge the unique spiritual and cultural significance of land, water and all that is in the environment to Traditional Owners, and recognise their continuing connection to, and aspirations for Country.



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Purpose

This guideline has been written to explain how and when to apply to EPA Victoria for an authorisation under Section 157 of the Environment Protection Act 2017 (the Act), and the information that EPA requires in support of an application. If an application does not demonstrate that it will meet the requirements under the Act, or does not provide the required information, then EPA will not approve the application.

What is a Section 157 authorisation?

Section 157 authorisations are an over-riding provision in the Act that permit an authorisation holder to temporarily:

- a) discharge, emit or deposit waste from any place or premises into the environment; or
- b) store, treat, handle or dispose of waste on or from any place or premises.

For the purpose of:

- a) meeting a temporary emergency; or
- b) providing for the temporary relief of a public nuisance or community hardship; or
- c) enabling the commissioning, repair, decommissioning or dismantling of any item of plant or equipment.

When issued, a section 157 authorisation of discharge or disposal (ADD) includes conditions that the authorisation holder must comply with to ensure the discharge, emission, deposition, storage, treatment or handling of waste is managed appropriately and does not result in significant adverse effects on human health and the environment, whilst considering the needs of the community and requirements of other stakeholders. This excludes waste transport activities.

A section 157 authorisation includes an expiry date and can be valid for up to 120 days. You do not need to be an existing permission holder to apply for a section 157 authorisation.

Key principles

EPA will consider the following as key principles when assessing an application for a section 157 authorisation:

- Is there a genuine '**emergency**'? EPA will assess whether there is an actual or imminent occurrence of an event that endangers health and safety of life or the environment and warrants a temporary authorisation. EPA will not approve proposals where the situation was foreseeable, or has been caused by carelessness, poor management, operator negligence or non-compliance with policies or guidelines.
- Is the emergency or hardship '**temporary**'? The period needed to meet the emergency or to provide relief to public nuisance and/or community hardship is limited to a maximum of

120 days. If repeat applications are sought for the same issue, EPA will assess whether the situation is ongoing rather than temporary and therefore does not fulfil the requirements of a section 157 authorisation (see 'Can I get a subsequent authorisation for the same situation?' of this guideline).

- Is there a '**public nuisance**' or '**community hardship**'? A public nuisance includes widespread disturbance and inconvenience caused by noise, odour or other impact on amenity. Hardship relates to difficulties experienced by a community arising from a lack of access to essential services such as water, power or transport. It could also include widespread unemployment or significant financial loss by a community.
- Is '**commissioning, repair or decommissioning**' of plant or equipment required? EPA acknowledges that commissioning, repair and decommissioning are a routine part of running a business that may occasionally require a temporary discharge, storage or a discharge beyond existing permission limits. Where repairs or maintenance activities are regularly programmed, EPA will consider whether this is ongoing and whether a different statutory instrument is more appropriate.

How do I apply for a section 157 authorisation?

- If your s157 authorisation application is for a temporary emergency, or temporary relief, phone 1300 372 842 (1300 EPA VIC). An EPA officer will then notify you of what actions to take.
- Complete an **[Authorisation of discharge or disposal \(ADD\) application form \(section 157\)](#)**. The Act requires applications for a section 157 authorisation to be submitted online.
- In **[the Portal](#)**, login and choose the "**Apply for a Permission**" option. You may need to register for Portal access first. Get **[help using the Portal here](#)**, or by phoning 1300 372 842 (1300 EPA VIC).
- In the **Applications** menu, choose **Exemptions, ADD and waste designations**, and complete the ADD (authorisation of discharge or disposal) Portal form.
- Attach your completed and signed application form prior to submitting the online Portal application form.
- An **[application fee](#)** is payable. You can apply to have your application fee waived for a temporary emergency or temporary relief authorisation by emailing **contact@epa.vic.gov.au** and including your application number. The fee waiver application will be considered during the assessment of your authorisation application.

When should you apply for a section 157 authorisation?

Temporary emergency

A section 157 authorisation may be granted to meet a temporary emergency, which would otherwise result in a breach of the Act or non-compliance with your permission. Contact EPA if you are unsure about whether your activity will be a breach of the Act.

Relief from public nuisance or community hardship

A section 157 authorisation may be issued to provide temporary relief from a public nuisance or community hardship (see 'Key principles' for an explanation of these terms). For example, following a bushfire EPA may temporarily allow the transport of asbestos without the need for transport certificates to expedite clean-up for the affected community.

Commissioning, repair or decommissioning

Businesses may occasionally require a temporary discharge and/or waste storage to facilitate:

- completion and testing of a new plant following an EPA Development Licence
- bringing industrial equipment on or offline for repair and maintenance
- the commissioning or decommissioning of any items of industrial plant or equipment.

In some cases, the above situations will also require a subsequent permission amendment to reflect a permanent change to the permitted activities and/or discharge limits.

What activities do not require a section 157 authorisation?

A section 157 authorisation is not required where an EPA authorised officer has issued directions under Section 260 of the Act, to address the existence or likely existence of an immediate risk of material harm to human health or the environment, for example, a direction to transport waste on a non-permitted vehicle following the clean-up of a spill.

A section 157 authorisation is also not required where the discharge or management of waste is authorised by the conditions of an existing EPA permission or is a condition of an EPA statutory notice.

Table 1: Examples of potential triggers for Section 157 authorisations

Situation	Example
Temporary emergency	
Natural disasters e.g. bushfires	<ul style="list-style-type: none"> handling of materials and/or waste resulting from bushfires
Waste arising from industrial or transport accidents	<ul style="list-style-type: none"> storage, handling or treatment of waste at a site not usually permitted to accept that type of waste
Relief from public nuisance or community hardship	
Providing relief to other utilities or essential services	<ul style="list-style-type: none"> accepting or temporarily holding waste from another site that can no longer operate due to unforeseen circumstances
Failure of major utility or essential service	<ul style="list-style-type: none"> use of alternative fuels during electricity or gas supply disruption temporary discharge from a water or wastewater treatment plant
Commissioning, repair or decommissioning	
Unexpected shutdown of a plant due to malfunction	<ul style="list-style-type: none"> temporary increase in emissions that exceed licence limits to allow for repairs
A new plant that has been the subject of a development licence	<ul style="list-style-type: none"> new biological treatment system that needs time for biomass to develop before it will provide the required level of treatment

When will EPA not issue a section 157 authorisation?

A section 157 authorisation will not be issued if:

- the situation is not a genuine emergency
- there is no evidence of a public nuisance or community hardship
- may have significant adverse effects on human health or the environment,
- the applicant has not taken all reasonable steps to identify and assess alternatives to waste disposal (section 140 Duty to investigate alternatives)
- when the applicant engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste has not minimised those risks, so far as reasonably practicable (section 25 General environmental duty)
- when the applicant is solely using it to avoid non-compliance with another EPA permission or statutory notice

- when it has been established that the situation is the result of carelessness, poor management and/or operator negligence.
- the activity is for the transport of waste
- the applicant is seeking an exemption from requirements to track the movement of reportable priority wastes

If your situation does not fulfil the requirements of a section 157 authorisation, you may apply for a permission or an amendment to an existing permission. Contact EPA to discuss your options. If an unauthorised discharge occurs, EPA will respond in line with its [Compliance and Enforcement Policy](#).

Can I get a subsequent authorisation for the same situation?

Typically, EPA will not grant subsequent authorisations for the same issue. It is the responsibility of the person performing the activity to minimise a reoccurrence, install new developments to minimise any discharges and apply for a development licence or permission amendment for ongoing management. Exceptions are:

- commissioning authorisations subsequent to a development licence, whereby EPA must be satisfied that the new or modified infrastructure have been tested and verified to an appropriate standard
- decommissioning authorisations for major industrial facilities where shutdown processes may take longer than 120 days
- authorisations for the relief of community hardship that are linked to natural disasters requiring long-term solutions for clean-up and remediation.

How do I declare a section 157 authorisation in my Permission Information and Performance Statement (PIPS)?

If you have not complied with a permission condition you must declare non-compliance in any requested Permission Information and Performance Statement (PIPS) for the specified period, even if a section 157 authorisation was in place. You may then detail the fact that a section 157 authorisation was approved when you complete your response.

Can a section 157 authorisation be enforced?

A section 157 authorisation has no effect unless the conditions to which it is subject are complied with. If any of the conditions are not met, you may be liable for an offence under the Act. These conditions may include monitoring requirements, consultation with stakeholders, maintaining records and reporting. EPA authorised officers may inspect your site following the issue of a section 157 authorisation to check compliance against these conditions.

Contact EPA

epa.vic.gov.au

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North Geelong 3215

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Dandenong 3175

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27–29 Faithfull Street
Wangaratta 3677

Gippsland

8-12 Seymour St
Traralgon 3844

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Building One,
13a Albert Street
Preston 3072

North West

Level 1, 47–51 Queen Street
Bendigo 3550



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