

Frequently Asked Questions: The New Substances Program Remissions Approach

The New Substances Program (NSP) is responsible for assessing and managing new substances, including chemicals and polymers, prior to manufacture or import in Canada. The Program charges [fees](#) for regulatory and non-regulatory services associated with the [New Substance Notification Regulations \(Chemicals and Polymers\)](#) (NSNR(C&P)).

Q1: What is the [Service Fees Act](#) (SFA)?

A: The *Service Fees Act* (SFA) is a Canadian law that increases transparency, accountability and predictability regarding service fees that the Government of Canada charges to Canadians, including regulated parties.

The SFA helps ensure that the fees federal departments and agencies charge Canadians remain current and better reflect the costs of delivering related services. The Government of Canada introduced the SFA in 2017 as a replacement for the *User Fees Act* which has since been repealed.

Under the SFA, Government departments and agencies are required to consult Canadians on new fees, and report on fees collected and remitted.

Q2: What steps has ECCC taken to come into compliance with the SFA?

A: In order to comply with the SFA, Environment and Climate Change Canada (ECCC) has developed a Departmental Remissions Policy that sets out the corporate approach to remissions. All ECCC programs that collect fees from Canadians, including regulated parties, are required to comply with the departmental policy.

ECCC is required to make its Departmental Remissions Policy available by April 1, 2021. The NSP will ensure that the policy is shared with NSP clients when it is released.

Q3: What responsibilities has the SFA imposed on the New Substances Program?

A: In order to comply with the SFA, the New Substances Program (NSP) has had to increase the fees set out in the [New Substances Fees Regulations](#) based on the Consumer Price Index (CPI). [Fees](#) were increased for the first time since 2003 on April 1, 2019, and were increased again on April 1, 2020.

Fees will continue to be adjusted annually every April based on the CPI, except for fees that are considered low materiality (see question 11).

In addition, the NSP has had to develop an approach for remission payments that is aligned with the ECCC Departmental Remissions Policy.

Q3: Why is the NSP moving to establish a Remissions Approach at the present time?

A: The establishment of a NSP-specific Remissions Approach is required in order for ECCC to be considered compliant with the SFA. The New Substances Remissions Approach is also another way that the Program remains accountable to its clients in that the Approach provides for a certain portion of fees paid to be returned if the Program fails to meet a given performance standard.

Q4: What is a service or performance standard?

A: A service standard is a public commitment to a measurable level of performance that clients can expect under normal circumstances. The SFA refers to performance standards which are the equivalent of a service standard. Most of the performance standards for the NSP are regulatory timelines with the exception of proposed performance standards for masked names and confidential search.

Q5. What is the difference between the Departmental Remissions Policy and the New Substances Remissions Approach?

A: The purpose of the ECCC Remissions Policy is to provide clarification and direction to departmental officials responsible for creating performance standards for fees set out in regulation, including the portion of the fee that is to be remit in cases when said standards have not been met. It will also serve to provide a fair and consistent departmental approach in the management of remissions in accordance with Treasury Board policies and directives regarding:

- The authority under which a remission may be granted;
- Considerations for programs to follow in setting performance standards and establishing an appropriate remission; and
- Establishment of a rigorous process to document and action remissions.

In contrast, the NSP Remissions Approach sets out the specific performance standards applicable and remission payable to regulatory and non-regulatory services associated with the *New Substances Notification Regulations (Chemicals & Polymers)*.

Q6. What is a remission payment?

A: A remission payment is a portion of the fee returned to a fee-payer when a performance standard for a particular service has not been met.

Q7: How did the NSP come up with the performance standards set out in the proposed Remissions Approach?

A: Many of the performance standards set out in the proposed Remissions Approach mirror the assessment periods for various notification schedules for new chemicals and polymers set out in the [NSNR\(C&P\)](#). Where the NSNR(C&P) do not already include a performance standard for an established service, the NSP has included one in the draft Remissions Approach.

Q8: When will the NSP Remissions Approach come into effect?

A: The Remissions Approach will be in effect by April 1, 2021. Input on the Remissions Approach was sought from stakeholders, including but not limited to new substance fee payers and their associations, during English and French webinars that took place on November 24, 2020.

The program accepted written comments from stakeholders until January 6, 2021, and will post its final Remissions Approach on the New Substances web page by April 1, 2021.

Q9: What percentage of the fee paid for any given service will be eligible for remission to fee payers?

A: The Program is proposing that 25 per cent of the fee paid will be returned to fee payers if a performance standard is not adhered to. This percentage was determined as a result of a scan of remissions policies in other government departments.

Q10: When will fee-payers receive any remissions owing?

A: Based on the SFA, fee-payers who are owed a remission will receive the amount owed before July 1st of the fiscal year following the year in which the performance standard was missed. In practice, fee payers should expect to receive their remissions within 3 months of communication from the NSP that a remission is owing.

Q11: What does low-materiality mean?

A: As outlined in the SFA, low-materiality fees are not subject to remissions, nor to annual CPI adjustments. The [Low-Materiality Fees Regulations](#) define low-materiality fees as those fees that are less than \$51 and fees that are equal to or greater than \$51 and less than \$151 if the annual fee revenue collected by the Program is below \$500,000.

Q12: Which NS fees are low-materiality?

A: Since the *Low-Materiality Fees Regulations* came into force on May 1, 2019, the baseline to determining if fees are low-materiality is based on the fees set out as of that date. The fees that are considered low-materiality and are consequently exempt from the NSP Remissions Approach are:

- The NSNR Schedule 4 fees paid by fee-payers with annual sales below and equal to \$26 million
- The NSNR Schedule 9 fees paid by fee-payers with annual sales below and equal to \$13 million
- Confidential searches of the DSL and NDSL paid by fee-payers with annual sales below and equal to \$26 million

These fees are also not subject to the SFA, which means that they are also exempt from the annual price adjustment based on the CPI.

The following table summarizes which NSP services have fees that are deemed to be low-materiality based on the annual sales of the fee-payer.

Annual Sales (million)	NSNR Schedule 4	NSNR Schedule 9	Confidential Search of DSL and NDSL
≤\$13	Low-Materiality	Low-Materiality	Low-Materiality
>\$13-≤26	Low-Materiality	Material	Low-Materiality
>\$26-≤40	Material	Material	Material
>\$40	Material	Material	Material

Q13: Why are some notifiers receiving a refund?

A: Low-materiality fees are exempted from the annual CPI adjustments under the SFA. Due to a recent interpretation of low-materiality in the context of the NSP, some notifiers are now owed a refund equivalent to the increase in fees by annual CPI adjustments that took place in 2020. Although small in amount, these refunds are required to be issued by ECCC because the SFA was erroneously applied to them earlier this year.

Q14: Does the launch of the New Substances Remissions Approach change the new substance notification process at all?

A: No, notification processes under the NSNR(C&P) and the NSNR (O) are not changing as a result of the New Substances Remissions Approach.

Q15: Does the New Substances Remissions Approach have any impact on notifiers of organisms or other substances regulated under the *New Substances Notification Regulations (Organisms)* (NSNR(O))?

A: No, the Remissions Approach has no impact on these notifications as services provided under NSNR(O) are not currently subject to fees.