

EPA Licensing

23rd September 2026

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CMG

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Today's Agenda

- **9.30 – 11.00am**
- **11.00-11:15 (Break)**
(Breakout 1)
- **11:15am-12:30**
- **12:30 pm – 1:30pm (Lunch)**
(Breakout 2)
- **1:30pm – 3.30pm**





Topics Covered

- Introduction
- Key Concepts
- Legal Overview
- Licence Application, Amendment & Review
- Enforcement
- Licence Compliance
- Reporting & Management
- Licence Surrender
- Break Out 1 Fit and Proper Person
- Break Out 2 Enforcement

KEY CONCEPTS AND DEFINITIONS

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- EPA Act 1992 (as amended),

"BAT conclusions" means a document containing the parts of a BAT reference document laying down the conclusions on best available techniques, their description, information to assess their applicability, the emission levels associated with the best available techniques, associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures;

"BAT reference document" in relation to an industrial emissions directive activity, means a document drawn up by the Commission of the European Union in accordance with Article 13 of the Industrial Emissions Directive, resulting from the exchange of information in accordance with that Article of that Directive and describing, in particular, applied techniques, present emissions and consumption levels, techniques considered for the determination of best available techniques as well as BAT conclusions and any emerging techniques, particular consideration having been given to the same matters as are specified in *subparagraphs (i) to (xii) of section 5(3)(b)*

3. In this Act, except where the context otherwise requires, "development" means—

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)

"emerging technique" means a novel "technique for an industrial emissions directive activity that, if commercially developed, could provide either a higher general level of protection of the environment or at least the same level of protection of the environment and higher cost savings than existing best available techniques

"emissions" means, in relation to greenhouse gases, emissions of those gases into the earth's atmosphere attributable to industrial, agricultural, energy or other anthropogenic activities in the State; (CALCD Act 2015)

"Emission" means, in relation to an activity referred to in Part IV, IVA, IVB or IVC, any direct or indirect release of substances, heat or noise from individual or diffuse sources in the activity into the atmosphere, water or land, and includes—

(a) an emission into the atmosphere of a pollutant within the meaning of [the Air Pollution Act 1987](#),

(b) the release of a greenhouse gas or a precursor of a greenhouse gas into the atmosphere,

(c) a discharge of polluting or tradematter, sewage effluent effluent within the meaning of [the Local Government \(Water Pollution\) Act 1977](#), to waters or sewers within the meaning of that Act, or

(d) waste,

does not include a radioactive substance within the meaning of Council Directive 96/29/Euratom¹, a genetically modified micro-organism within the meaning of Council Directive 90/219/EEC² or a genetically modified organism within the meaning of Directive 2001/18/EC of the European



Key Concepts

Emission levels associated with the best available techniques" means the range of emission levels obtained under normal operating conditions using a best available technique or a combination of best available techniques, as described in BAT conclusions, expressed as an average over a given period of time, under specified reference conditions;

Emission limit value means the mass, expressed in terms of a specific parameter, concentration or level of an emission, or both a specific concentration and level of an emission, which may not be exceeded during one or more periods of time;

Environmental impact statement means a statement of the direct and indirect effects that a proposed activity will have or is likely to have on the environment and shall include the information specified in Annex IV to Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹ on the assessment of the effects of certain public and private projects on the environment.

What is a Fit and Proper Person?

a) neither that person nor any person employed by him or her to direct or control the carrying on of the activity to which the waste collection permit relates or, as the case may be, may relate, has been convicted (i) summarily of an offence under—(I) subsection (6) of section 32 consisting of a contravention of subsection (1) of that section, or (II) section 55(8), or (ii) on indictment of an offence under this Act, the Environmental Protection Agency Acts 1992 to 2011, the Local Government (Water Pollution) Acts 1977 to 2007, or the Air Pollution Acts 1987 and 2011,

(b) in the reasonable opinion of the nominated authority, that person or, as appropriate, any person employed by him or her to direct or control the carrying on of the activity to which the waste collection permit relates or, as the case may be, may relate has the requisite technical knowledge or qualifications to carry on that activity in accordance with the waste collection permit and the other requirements of the Act

(c) in the reasonable opinion of the nominated authority, that person is likely to be in a position to meet any financial commitments or liabilities that will be entered into or incurred by him or her in carrying on the activity to which the waste collection permit relates in accordance with the terms thereof or in consequence of ceasing to carry on that activity,

(d) that person has not had a waste collection permit revoked under section 34A, other than where the permit was surrendered, and

(e) that person has not had an order made against him or her under section 57 or 58.

"installation" means a stationary technical unit or plant where the activity concerned referred to in the First Schedule is or will be carried on, and shall be deemed to include any directly associated activity, whether licensable under this Part or not, which has a technical connection with the first-mentioned activity and is carried out on the site of that activity

"monitoring" includes the inspection, measurement, sampling or analysis for the purposes of this Act of any emission, or of any environmental medium in any locality, whether periodically or continuously

Key Concepts

Waste Management Act 1996 (As Amended)

3.— (1) This Act shall NOT apply to—

(a) gaseous effluents emitted into the atmosphere and carbon dioxide captured and transported for the purposes of geological storage and geologically stored in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009¹⁹ on the geological storage of carbon dioxide or excluded from the scope of that Directive pursuant to Article 2(2) of that Directive,

(b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land,

(c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated,

(d) the dumping (within the meaning of the [Dumping at Sea Act 1981](#) (No. 8 of 1981)) of waste at sea,

(e) radioactive waste,

(f) decommissioned explosives, or

(g) faecal matter, if not covered by *subsection (2)(b)*, straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health. 2) This Act shall not apply to the following to the extent that they are covered by other Community acts:

(a) waste waters;

(b) animal by-products, including processed products covered by Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 21 October 2009²⁰ laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation) F11[, except those which are destined for incineration, landfilling or use in a biogas or composting plant];

(c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No. 1069/2009;

(d) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by Directive 2006/21/EC.

F12[(e) substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC)No 767/2009¹⁰ of the European Parliament and of the Council and that do not consist of or contain animal by-products.]

(3) Without prejudice to obligations under other relevant Community acts, this Act shall not apply to sediments relocated inside surface waters for the purpose of managing waters and waterways or of preventing floods or mitigating the effects of floods and droughts or land reclamation if it is proved that the sediments are non-hazardous.

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Key Concepts

WMA 1996

“**activity**” includes operation;

“**disposal**” —

(a) means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy, and

(b) without prejudice to the generality of paragraph (a), includes the disposal operations listed in the *Third Schedule*,

and “**waste disposal activity**” shall be construed accordingly;

“**hazardous waste**” means waste which displays one or more of the hazardous properties listed in the *Second Schedule*;

F13[“**non-hazardous waste**” means waste which is not covered by the definition of hazardous waste.]

“**recovery**” —

(a) means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy, and

(b) without prejudice to the generality of paragraph (a), includes the recovery operations listed in the *Fourth Schedule*,

and “**waste recovery activity**” shall be construed accordingly;

“**waste**” means any substance or object which the holder discards or intends or is required to discard.

(2) A reference in this Act to waste shall be construed as including a reference to hazardous waste.

Key Concepts

WMA 1996

- “**Aftercare**” means, in relation to a facility which has been used for the purpose of waste recovery or disposal, any measures that are necessary to be taken in relation to the facility for the purpose of preventing environmental pollution following the cessation of the activity in question at the facility;
- “**backfilling**” means any recovery operation where suitable non-hazardous waste is used for purposes of reclamation in excavated areas or for engineering purposes in landscaping. Waste used for backfilling must substitute non-waste materials, be suitable for the aforementioned purposes, and be limited to the amount strictly necessary to achieve those purposes
- “**European Waste Catalogue**” means the list of waste set out in Commission Decision 94/3/EC of 20 December, 1993¹, (made pursuant to Article 1 (a) of Council Directive 75/442/EEC² on waste) and includes such list as amended from time to time



environmental pollution” means, in relation to waste, the holding, transport, recovery or disposal of waste in a manner which would F27[...] endanger human health or harm the environment, and in particular—



(a) create a risk to waters, the atmosphere, land, soil, plants or animals,



(b) create a nuisance through noise, odours or litter, or



(c) adversely affect the countryside or places of special interest

Key Concepts

WMA 1996

- “**Industrial waste**” includes waste produced or arising from manufacturing or industrial activities or processes

“**land**” includes any subsoil thereunder and structure thereon and land covered with water (whether inland or coastal);

“**landfill**” means a waste disposal site for the deposit of waste onto or into land (i.e. underground), including:

- (a) internal waste disposal sites (i.e. landfill where a producer of waste is carrying out its own waste disposal at the place of production), and
- (b) a permanent site (i.e. more than one year) which is used for temporary storage of waste, but excluding
- (c) facilities where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere, and
- (d) storage of waste prior to recovery or treatment for a period less than three years as a general rule, or
- (e) storage of waste prior to disposal for a period less than one year

“**municipal waste**” means:

(a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture;

(b) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households;

Municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or construction and demolition waste. This definition is without prejudice to the allocation of responsibilities for waste management between public and private actors;

WMA 1996

“recycling”—

- (a) subject to *paragraph (b)*, means any recovery operation by which waste materials are reprocessed into products, materials or substances, whether for the original or other purposes, including the reprocessing of organic material,
- (b) does not include—
 - (i) energy recovery, and
 - (ii) the reprocessing into materials that are to be used as fuels or for backfilling operations;
- “regeneration of waste oils” means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, the oxidation products and the additives contained in such oils

A reference in this Act to “**best available techniques**” shall be construed as meaning the most effective and advanced stage in the development of an activity and its methods of operation, which indicate the practical suitability of particular techniques for providing, in principle, the basis for emission limit values designed to prevent or eliminate, or where that is not practicable, generally to reduce an emission and its impact on the environment as a whole.

(b) For the purposes of paragraph (a)—

- (i) “**best**”, in relation to techniques, means the most effective in achieving a high general level of protection of the environment as a whole;
- (ii) “**available techniques**” means those techniques developed on a scale which allows implementation in the relevant class of activity specified in the Third and Fourth Schedules, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced within the State, as long as they are reasonably accessible to the person carrying on the activity;
- (iii) “**techniques**” includes both the technology used and the way in which the installation is designed, built, managed, maintained, operated and decommissioned.

Air Pollution Act 2026

This Act shall not apply in relation to an emission arising from—

- (i) the disposal at sea of a substance by deliberate combustion for thermal destruction, or
- (ii) the use of any radioactive substance or device

“Air pollution” in this Act means a condition of the atmosphere in which a pollutant is present in such a quantity as to be liable to—

- (a) be injurious to public health,
- (b) have a deleterious effect on flora or fauna or an ecosystem,
- (c) damage property,
- (d) create a nuisance, or
- (e) impair or interfere with amenities or the environment.”.

“industrial process” includes any process which is carried on in the course of trade, business or industry and which is for, or incidental to, the making or production of any article, part of an article, substance, energy or thing or the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or the adapting for sale, or breaking up or demolition of any article, substance or thing; including, in particular, the getting, raising, taking, carrying away and processing (including size reduction, grading and heating) of minerals, the storage of mineral wastes and the incineration, treatment or recovery of other wastes

“pollutant” means any substance specified in the First Schedule or any other substance (including a substance which gives rise to odour) or energy which, when emitted into the atmosphere either by itself or in combination with any other substance, may cause air pollution;

Dust is specifically included.

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Water Pollution Act 1977 (as amended)

“polluting matter” includes any poisonous or noxious matter, and any substance (including any explosive, liquid or gas) the entry or discharge of which into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish, or to injure fish in their value as human food, or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish or to render such waters harmful or detrimental to public health or to domestic, commercial, industrial, agricultural or recreational uses

“sewage” includes domestic sewage and a combination of domestic sewage and storm water;

“sewage effluent” means effluent from any works, apparatus, plant or drainage pipe used for the disposal to waters of sewage, whether treated or untreated;

F1[***“sewer”*** means a sewer within the meaning of the Local Government (Sanitary Services) Acts, 1878 to 1964, that is vested in or controlled by a sanitary authority and includes a sewage treatment works, and a sewage disposal works, that is vested in or controlled by a sanitary authority;

Legal Overview

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Key Environmental Legislation

Regulations:

European Communities (Environmental Liability) Regulations (2008 – 2011) (Environmental Liability Regulations).

European Union (EIA) (IPPC) Regulations 2012

Industrial Emissions Directive and Regulations 2010 - 2013

Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013

2. COMAH 2015

Legislation:

- Environmental Protection Agency Act (1992)
- Protection of the Environment Act (2003)
- Environmental (Miscellaneous Provisions) Act (2011)
- Waste Management Acts (1996 to 2011)
- Air Pollution Acts (1987 – 2026)
- Local Government (Water Pollution) Acts (1977 – 1990)
- Water Services Acts (2007 – 2012)
- Dangerous Substances Acts (1972 – 1979)
- Fisheries (Consolidation) Acts (1959 – 2003)
- EIA Directives
- Habitats Directive
- Climate Action & Low Carbon Development Act 2015 -2021
- Environmental Protection (Misc Provisions) Act 2024



European Union (Industrial Emissions) (Amendment) Regulations 2024

Amends *Environmental Protection Agency Act 1992* by implementing stricter emission limits

Must comply with limits for water and air emissions outlined in Annex VIII of the Industrial Emissions Directive

Enhances emission monitoring requirements.



Environmental Protection Agency (Industrial Emissions) (Licensing) (Amendment) Regulations 2024

Amends Regulation 9 of the EPA Regulations 2013.

When submitting an application, to fulfil any of the requirements, an applicant may now include/attach:

- Information supplied for EIA purposes
- Safety Report for the control of major chemical accident hazards for the Seveso III Directive
- Other information already produced in response to other legislation.



Number 5 of 2026

Environment (Miscellaneous Provisions) Act 2026

Why did the current regime need amending?

- Amending EPA Act 1992;
- Amending WMA 1996;
- Miscellaneous Provisions;



Decisions on applications for and reviews of Industrial Emissions, Integrated Pollution Control and Waste licences are taking longer than is optimal for our transition to net zero and to stimulate environmentally sustainable economic activity. This is attributed to:

- The legislation that governs the above licensing regimes not providing firm statutory timelines for decision making;
- Provide greater scope for the use '**General binding rules**' for lower risk activities;
- Disproportionately cumbersome with regard to reviews of licences where the change proposed to the activity is not substantial;
- The resources available to the Environmental Protection Agency to process licence applications and reviews.
- It is not unusual for licence applications to the Environmental Protection Agency (the Agency) to take up to two years to get to a final determination.

New Act

Options Considered

Option 1 : Do Nothing

Option 2 Amend EPA Act 1992 and Waste Management Act 1996 To provide certainty regarding the length of time it takes to secure an IE/IPC or Waste licence decision while ensuring that appropriate and proportionate environmental protections are in place. The preferred option (detailed below) is to amend Environmental Protection Agency Act 1992 and the Waste Management Act 1996.

New Act

- The timely development of critical infrastructure in the energy sector which will facilitate the transition to renewables and also reduce the potential need for future 'emergency generation'.
- The development of circular economy infrastructure;
- The deployment of better emissions abatement and other progressive environmental protection technologies which require amendments to licences, including in the context of the proposed revision of the Industrial Emissions Directive; and
- Providing definitive timeframes for licence decisions that will better facilitate the securing of investment in infrastructure which will in turn stimulate significant sustainable economic activity.

Proposed Statutory Timeframes for Decisions



Three overall statutory timeframes are :



- Where the application for a licence is made at the same time as an application for planning consent, a 26 week period is being proposed after the planning permission has been granted and the time for appeal has elapsed or where appeal has been submitted, 26 weeks after that appeal decision has been made and the time for judicial review has expired.



- Where the application for a licence is made post planning process then the timeframe proposed is 52 weeks after the planning permission has been granted and the time for appeal has elapsed or where appeal has been submitted 52 weeks after that appeal decision has been made and the time for judicial review has expired.



- A period of 16 weeks is being proposed for limited licence reviews where planning is not required (limited licence reviews not permissible where EIA is required).

New Act

Limited Licence Review

The power to carry out a limited licence review is not explicit in the Act and by virtue of its absence the Agency undertakes a full review upon receipt of an application for a review of a licence.

The General Scheme proposes that in limited circumstances where an environmental impact assessment is not required and the change proposed does not represent a substantial change or the case of a waste licence, a material change, then the Agency will be enabled to carry out a review on particular aspects only of the licence (a limited licence review).

General Binding Rules



There is provision for the application of 'General Binding Rules' in the IE Directive and 'General Rules' in the Waste Framework Directive which entail the development of template conditions for particular (lower risk) activities. Operators register with the Agency (as opposed to applying for a licence) and undertake to adhere to the 'General Binding Rules' which are enforced using a risk-based approach.



An example of such a regime is the register of medium combustion plants. 'General Binding Rules' could take up to two years to develop as significant consultation is required and ensuring the protection of the environment is paramount. However, the benefits to both operators and the Agency in terms of simplifying a licensing/registration regime which would be appropriate and proportionate for lower risk activities.

The introduction of a statutory deadline will have considerable resource implications for the Agency, as will proposed timeframes being suggested for An Bord Pleanála under the draft Planning and Development Bill 2023. It is estimated that the Agency would require approximately up to 70 staff at an annual cost of up to €7m.

New Act

Benefits

- The Bill will enable the EPA to be more efficient and effective in its determinations by providing firm timelines for decision making and providing for limited licence reviews in particular circumstances. Benefits associated with improved licencing times are as follows:
 - Providing a shorter timeframe for applications that are made concurrently with planning will provide certainty of decision time to developers who are in position to submit developed EIAR to both planning and licensing regimes;
 - Increased investment arising from shorter timeframes and definite timeframes for decisions;
 - Increased economic activity resulting from enhanced investment in infrastructure;
 - Lower risk of unforeseen emergency investment;
 - Environmental benefits from more material being fed back directly into the circular economy;
 - Lower emissions from more material being managed within the State;
 - Enhanced resilience of the supply of materials through the circular economy.

Impacts



The expected outcome will be that the scope for a more coordinated approach to development applications between An Bord Pleanála/Planning Authorities and the Agency can be developed and achieved in circumstances where developers are in a position to submit their application for planning/licence to both Government agencies at the same time. Overall, it is expected that the provisions in the Act will enable the Agency to be more efficient in its determinations by providing a stream-lined approach for decision making (limited licence reviews, general binding rules).



National Competitiveness Given investors preference for certainty, it follows that measures which increase certainty lead to higher levels of investment and it is expected that the certainty provided in this proposal with regard to timeframes for decision making will feed into this principal. This has been illustrated practically by the National Competitiveness and Productivity Council's call for Government to take a consistent long-term approach so that Irish business face as much certainty as possible.



The Environment It is expected that the introduction of limited reviews will encourage the installation of newer abatement and lower emission technologies, which will have a positive impact on the environment.

Judicial Review and Preliminary Reference Procedure

Judicial review is the review by a Court of the legality of a decision made by a public body

Not a review of the “merits” – only concerned with the process

Various legal obligations arise as a result of Habitats Directive – an applicant for judicial review can argue that a decision maker has failed to comply with those obligations and accordingly the decision is unlawful

Irish Courts can make a “preliminary reference” to the Court of Justice of the European Union (CJEU) i.e. ask the CJEU a question about the correct interpretation of European law.

CJEU gives its answer, which is binding, and sends the matter back to the Irish court to apply its judgment





Fit and Proper Person Breakout Session

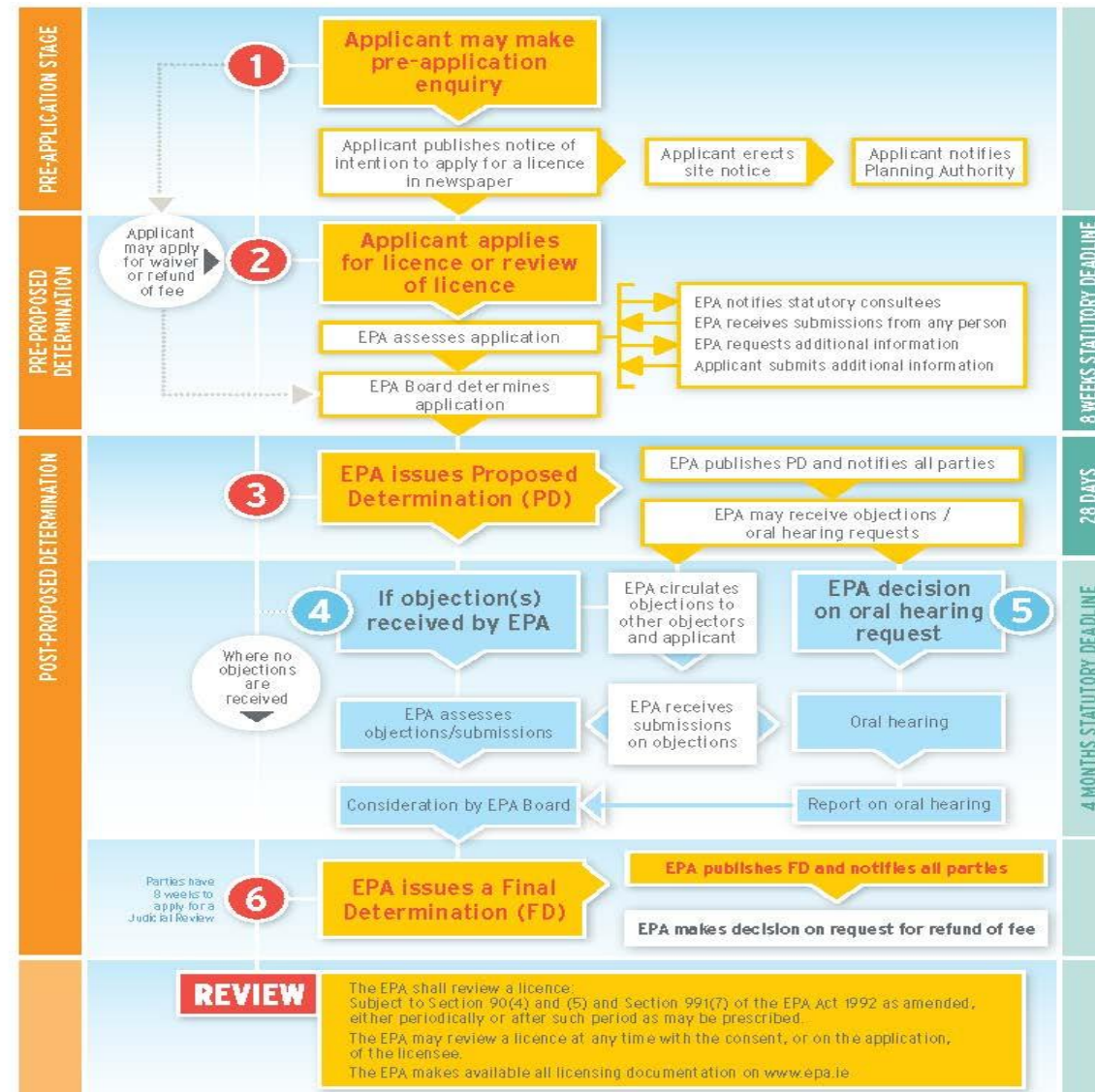
Licence Application / Review / Amendment

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Current Processes

SUMMARY OF INDUSTRIAL EMISSIONS & IPC LICENSING PROCESSES





Environmental Impact Assessment

- Environmental Impact Assessment (EIA) is the assessment of the effects of a proposed project (including both public and private projects) on the environment prior to a development consent being granted.
- First EIA Directive (Directive 85/337/EEC) was adopted in 1985.
- Prior to 2014, there was no express definition of an “*environmental impact assessment*”.
- Amending EIA Directive adopted in 2014 (Directive 2014/52/EU).
- Transposed in respect of planning with the European Union (Planning and Development)(Environmental Impact Assessment) Regulations 2018 (the “Regulations”).

Preliminary Screening

- Article 103 of the Planning Regulations
- Where a planning application for a sub-threshold development is not accompanied by an EIAR, planning authority shall carry out a preliminary examination of the nature, size or location of the development. Once considered, three options open:
 - no further action on EIA is required if it can conclude that ‘there is no real likelihood of significant effects on the environment’;
 - if the planning authority has a ‘*significant and realistic doubt in regard to the likelihood of significant effects*’ arising from the proposed development, the Planning Authority shall require the applicant to submit the information contained in Schedule 7A to enable a screening for EIA to be carried out; or
 - the planning authority is required to conclude an EIAR is required if there is a ‘*real likelihood of significant effects*’ arising from the proposed development.

What is EIA? The Basics

- Article 1(2)(g) of the Amending EIA Directive:
 - the preparation of an environmental impact assessment report by the developer;
 - the carrying out of a consultation;
 - the examination by the competent authority of the information presented in the environmental impact assessment report and any supplementary information provided, where necessary, by the developer and any relevant information received through consultation;
 - the reasoned conclusion by the competent authority on the significant effects of the project on the environment, taking into account the results of the examination referred to in point (c) and where appropriate, its own supplementary examination; and
 - the integration of the competent authority's reasoned conclusion into its decision.
- The EIA Directive makes clear that EU policy on the environment is based on the precautionary principle, and requires that effects on the environment be taken into account at the earliest possible stage in all technical planning and decision-making processes, and this is the purpose the EIA intends to fulfil

EIA – The Basics

- **Coyne v An Bord Plenala** [2023] Judge Holland stated:
- ‘One must bear in mind the warning of Hogan J in the Kilkenny Cheese case that, notwithstanding its wide scope and broad purpose and the consequent requirement that the EIA Directive be purposively interpreted the proper scope of the EIA Directive should not be artificially expanded beyond its remit – which is to assist in identifying and assessing the direct and indirect significant environmental effects of a specific project – and it “should not, so to speak, be conscripted into the general fight against climate change by being made to do the work of other legislative measures” such as the Climate Action and Low Carbon Development Act’.

EU Guidelines -

- The 2013 Guidance states that EIA, to properly address climate change, should take into account its complexity (including of causal relationships) and long-term direct and indirect impacts and consequences.
- EIA should describe the sources of, and characterise the nature of, uncertainty.
- Judging an impact's magnitude and significance must be context-specific. The contribution of an individual project to GHGs may be insignificant on the global scale but may be significant on the local/regional scale, in terms of its contribution to set GHG-reduction targets.
- Manage complexity. Consider the complex nature of climate change and biodiversity and the potential of projects to cause cumulative effects.
- Be comfortable with uncertainty, because you can never be sure of the future. Use tools such as scenarios (for example, worst-case and best-case scenarios) to help handle the uncertainty inherent in complex systems and imperfect data. Think about risks when it is too difficult to predict impact.
- Base your recommendations on the precautionary principle and acknowledge assumptions and the limitations of current knowledge. • Be practical and use your common sense!
- The guidance also states that “considering a range of possible uncertain futures and understanding the uncertainties is part of good EIA practice and permits better and more flexible decisions.”²³¹ In other words, it is no error to acknowledge and assess uncertainty and risk as best you reasonably can. Error may well lie in ignoring them.

What is a Project for purposes of EIA?

- The requirement for EIA applies only to certain projects. The EIA Directive defines the term “project” to mean:
- “the execution of construction works or of other installations or schemes,
- other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources”.
- What does this mean? Essentially, any kind of physical intervention to the land can constitute a “project”; the term has been broadly interpreted .
- Case C-275/09 Brussels Hoofdstedelijk Gewest (**Brussels Airport**) and Case C-2/07 Abraham (**Liege Airport**) – this involved the renewal of an existing permit to operate an airport. The Court held that a simple licence renewal would not constitute a project, but only if no accompanying works were carried out.

Mandatory Assessment v Case by Case basis

- Annex I has been transposed into Irish law at Part 1 of Schedule 5 to the Planning Regulations.
- Sub paragraph (2) provides that projects listed in Annex II are different. For those, Member States must determine whether EIA of the project is required through case-by-case examination, or thresholds or criteria set by the Member State. EIA is required for such projects, only where thresholds are exceeded or case-by-case examination requires. Annex II has been transposed into Irish law at Part 2 of Schedule 5 to the Planning Regulations.
- In **Halpin v An Bord Pleanála** [2019] IEHC 352, Simons J. explained that the planning authority (in that case, An Bord Pleanála (the “Board”)) must consider whether proposed development falls within a prescribed class of project under Schedule 5 of the Planning Regulations. If so, and the development exceeds the relevant threshold, then an EIA is mandatory. If the development is sub-threshold, then the Board must make a determination as to whether the development would be likely to have significant effects on the environment. This is to be done by reference to the criteria set out in Schedule 7 of the Planning Regulations. This process is often described as a “screening exercise”, and the resulting determination described as a “screening determination”.

Appropriate Assessment

- Assessment process to determine the impact of a proposed plan or project on Natura 2000 Sites and their habitats and species.
- The central objective is the preservation, protection and improvement of the quality of the environment, including the conservation of natural habitats and wild fauna and flora.
- Intended to recognise and balance the interaction between bio-diversity while taking account of economic, social, cultural and original development requirements.
- Carried out by the competent authority prior to the grant of development consent.
- Arises from the Habitats Directive.

The Screening Test

The core test is whether the plan or project:

- in view of best scientific knowledge;
- and in view of the conservation objectives of the site;
- is likely to have a significant effect on any European Site;
- either individually or in combination with any other plan or project.

Appropriate Assessment Procedure Reasons

Key aspect of decision making by public bodies is that reasons for decisions must be given.

Reasons must be such as to enable an interested party to assess the lawfulness of the decision and to allow the court, if such decision is challenged, to have access to sufficient information to enable as assessment as to lawfulness.

In an AA context, the decision must include the complete, precise and definitive findings and conclusions relied on by the competent authority as the basis for its determination.

Very frequent ground of judicial review!

Legislative Basis

- Article 6(3): Habitats Directive

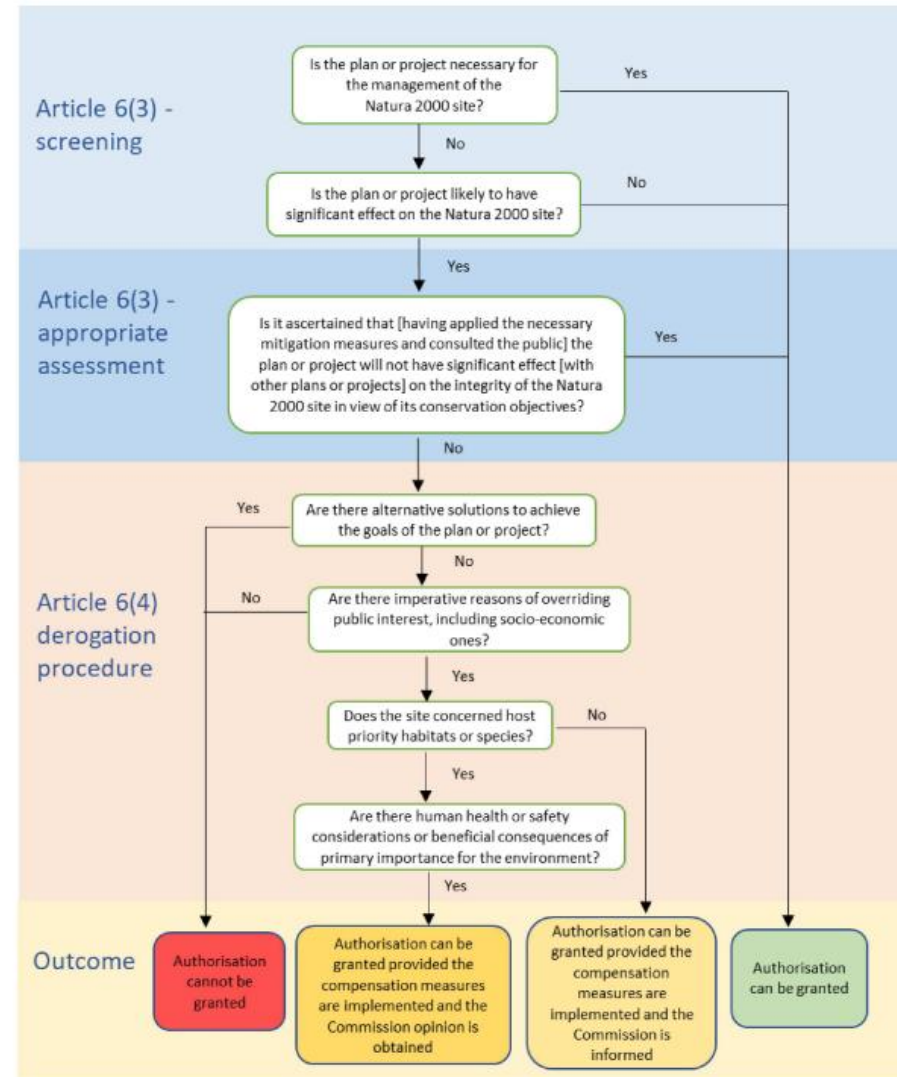
Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.

In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

Adverse Effects” on the Integrity of a European Site

- In **Case C-258/11 *Sweetman v Ireland***, AG Sharpston considered the criterion of whether a proposed development will adversely affect the integrity of a European site.
- Refers to the standard in the Directive:
 - *“The competent national authorities may grant authorisation to a plan or project only if they are convinced that it will not adversely affect the integrity of the site concerned. If doubt remains as to the absence of adverse effects, they must refuse authorisation.”*
- *“... the notion of ‘integrity’ must be understood as referring to the continued wholeness and soundness of the constitutive characteristics of the site concerned.”*
- *“... in determining whether the integrity of the site is affected, the essential question the decision-maker must ask is ‘why was this particular site designated and what are its conservation objectives?’.”*

Appropriate Assessment Flow Chart



Source: "Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC" (2021/C 437/01)



Differences between EIA and AA Processes

- Worth pausing to highlight a key difference between EIA and AA. Summarised by Butler J. in *Hayes v. EPA*:

“... the requirement for an EIA is determined by the nature, location and scale of the project itself, the need for an AA is determined by reference to the potential effects of a development, regardless of its nature or scale, on a protected site. An EIA is general in nature, designed to ascertain the likely effects of a project on a range of factors and to assess their interaction in a holistic way. An AA is more focused, looking specifically at the effect the development might have on a protected site and, even more specifically, on the site’s conservation objectives which usually pertain to the presence of the particular birds, habitats and/or species for which it has been designated. In practice, AA tends to be very technical and scientific in nature. An EIA may be technical and scientific in part but other parts (for example assessment of the effects of a project on cultural heritage) will be less so.

These differences, although important, **are not the most fundamental difference between the two types of assessment.** Where an AA is required the decision maker cannot grant development consent unless it is satisfied that the development will not have an adverse effect on a EU site. This threshold is accepted as being a very high one. In *Kelly v An Bord Pleanála* [2014] IEHC 400 Finlay Geoghegan J. described the determination that must be made at this stage as a pre-condition to the jurisdiction of the decision maker to make a decision to grant development consent. (There are limited circumstances in which development consent can be granted where there has been a negative outcome of an AA. These require there to be imperative reasons of overriding public interest justifying the development, compensatory measures and in certain circumstances Commission approval under Art. 6(4). These provisions are rarely invoked in Ireland.) **The outcome of an EIA, even where that is negative, does not determine the jurisdiction of the decision-maker to grant development consent.”**

Access to Environmental Information

The logo features the letters 'CMG' in a bold, sans-serif font, centered within a circular area. This central area is surrounded by a complex, multi-layered circular maze pattern. The entire logo is rendered in a light teal color against a darker teal background.

CMG

Do Regulators Keep Public Registers of Environmental Information?

Aarhus Convention

Public Authorities

EPA

Local Authorities

ESG Reporting



Welcome to EDEN

EDEN provides an online gateway to Environmental and Radiological Protection Licensing, Monitoring, GIS and Reporting applications for organisations to communicate with the EPA and share data with each other.

Visit the [EDEN Portal Help](#) section

Single Sign-On

EDEN is based on single sign-on technology to allow users to logon to multiple applications using a single username / password combination.

Note: Requests for new organisations are approved by the EPA, requests for organisation membership and application access are approved by organisation and application administrators.

Please email eden@epa.ie for all technical issues and queries regarding the EDEN system.

General Data Protection Regulation (GDPR)

In line with GDPR requirements the EPA has updated its [Privacy Policy](#) and [Terms of Use](#).

By continuing to use this website you have been deemed to have accepted these policies.

 Sign In

Sign Up

Types of Licenses/Permits & Emissions

The background of the slide features a large, faint, circular maze pattern. In the center of this maze, the letters "CMG" are displayed in a bold, teal-colored font.

CMG

IE Licence



What is BREF?

BREF (Best Available Technique Reference Document):

BREFs are drawn up for defined activities (e.g. Food, Drink and Milk Industries) and describe in detail applied techniques, present emissions, consumption levels, best available techniques and BAT conclusions. The European IPPC Bureau (EIPPCB) organises and co-ordinates the exchange of information between member states/non-governmental organisations (NGOs) and the EU Commission that leads to the drawing up and review of BREFs. BREFs are adopted by Ireland and are used by the EPA as the reference for setting permit conditions for Industrial Emissions licences.

BAT Conclusions:

Section of BAT Reference Document (BREF) laying down conclusions on best available techniques, their descriptions, emission levels associated with BAT, associated monitoring and associated consumption levels.

What is a CID?

Commission Implementing Decisions:

Once a BREF is reviewed and adopted, a Commission Implementing Decision (CID) (listing the BAT conclusions) is published for each BREF. The adoption of CID (incl. list of BAT conclusions) is mandatory in the permitting/licensing process.

If you succeed in getting an IE licence what would it look like?

Content of an IE Licence

Section 86(1)(a) of the EPA Act

Emission limit values

Minimising pollution

Soil and groundwater and waste

Monitoring periods

Monitoring emissions

Monitoring results provided to the EPA regularly and at least once a year

Breakdown of any plant or equipment or procedures to be taken in relation to start-up, shutdown, leaks, malfunctions or momentary stoppages

EPA to be informed of any incident or accident significantly

Permanent cessation of the activity

Inform the EPA if any of the conditions of the Guidance are breached



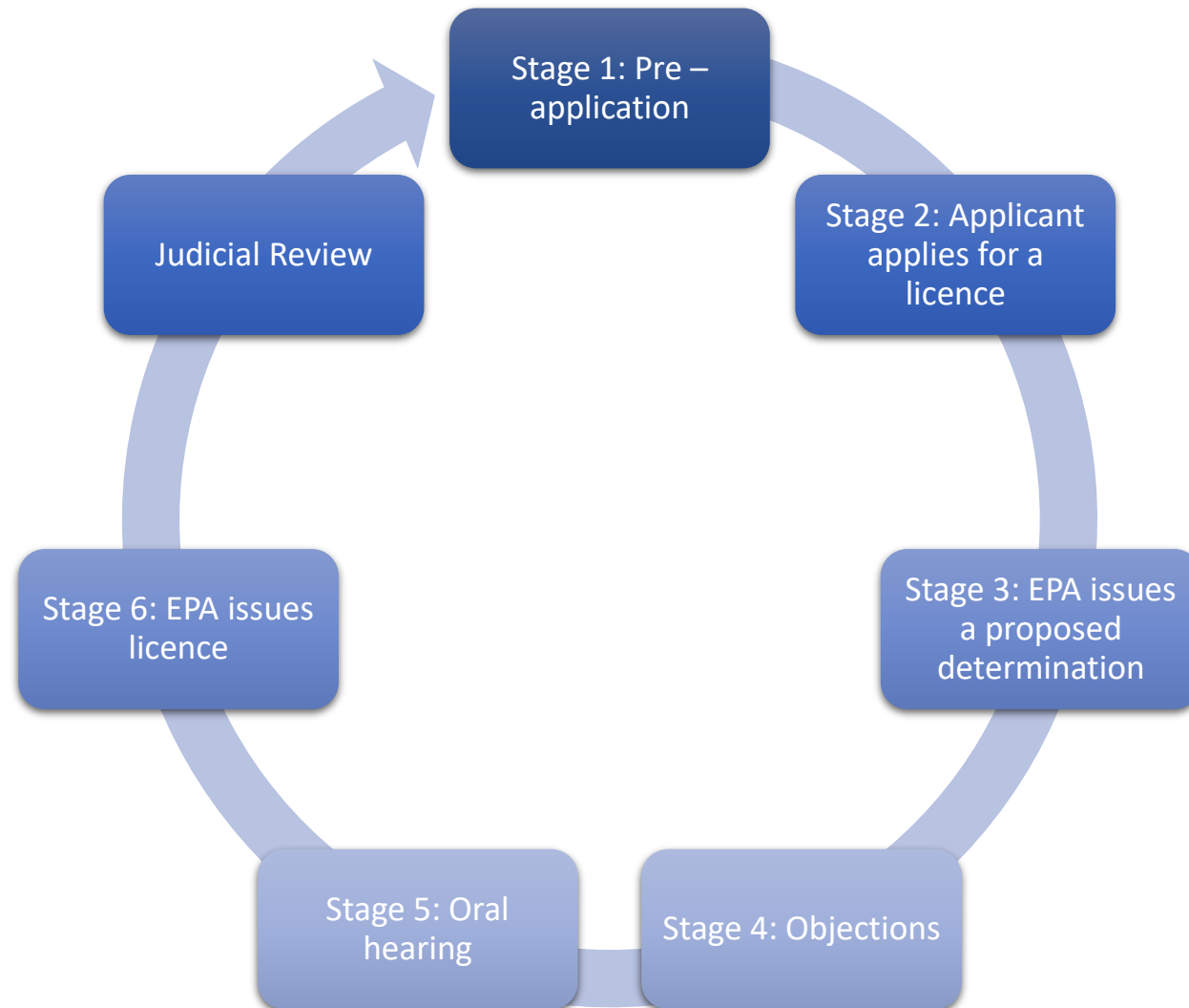
Waste



The EPA licenses certain activities in the waste sector including:

- Landfills
- Transfer stations
- Hazardous waste disposal
- Other significant waste disposal and recovery activities
- Licences contain strict conditions on how an activity must operate

IE Application Process



How to request an alteration to the installation/facility covered by industrial and waste licences:

Not limited to those which have an adverse environmental impact

Proposed alterations include any change in the nature or functioning, extension, or reconstruction of the installation, if those changes would or would be likely to, change or increase emissions or cause new emissions which may have a significant impact on the environment

Three mechanisms available for seeking approval for an alteration to a licensable activity and/or installation

The application has a 'screening' stage, an 'option selection' stage and 'licence amendment details' stage

Process

Oral Hearings

Opening statement

Agenda allocating approximate timeframes to each objection party

Section 88(1) EPA Act 1992 – without undue formality

Non – technical language

Chairperson submits report recommending grant/refusal of licence on completion

4 month consideration period

Judicial Review – 8 weeks (IE/IPPC) or 2 months (otherwise)

- Can be requested by anyone who makes a valid objection to a proposed determination
- EPA have absolute discretion
- EPA appoints a person to conduct the Oral Hearing
- Provides forum for parties to express objections & concerns



Waste Collection Permit

Waste Facility – Licencing

Waste Facility – Permits

Planning

Extended Producer
responsibility
(Packaging, Batteries End
of Life vehicles, WEEEEE,
wet wipes, balloons)

- **What is Waste?**
- **Waste Holder?**
- **Criminal Sanctions**
- **Circular Economy**



By Product and End of Waste:

By Product:

Further use of Substance or object
certain,

No further processing other than normal
practice,

Integral part of a production process,

Further use is lawful.

End of Waste :

Certain specified waste shall cease to be
waste when it has undergone a recovery
operation and complies with criteria:

The substance or object is commonly
used for specific purpose;

A market or demand exists for such a
substance or object

The substance or object fulfils the
technical requirements for the specific
purpose and meets existing legislation
and standards applicable to products and

The use of the substance or object will
not lead to overall adverse
environmental or human health impacts



WASTE DISPOSAL – Article 11 and Certificates of Registration

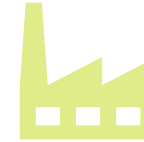
- Third Schedule of the Waste Management (Facility Permit and Registration) Regulations, 2007 (S.I. No. 821 of 2007) as amended
- Authorisation comes in three forms:



1. Certificate of Registration
(for activities listed in Part II
of the Third Schedule);



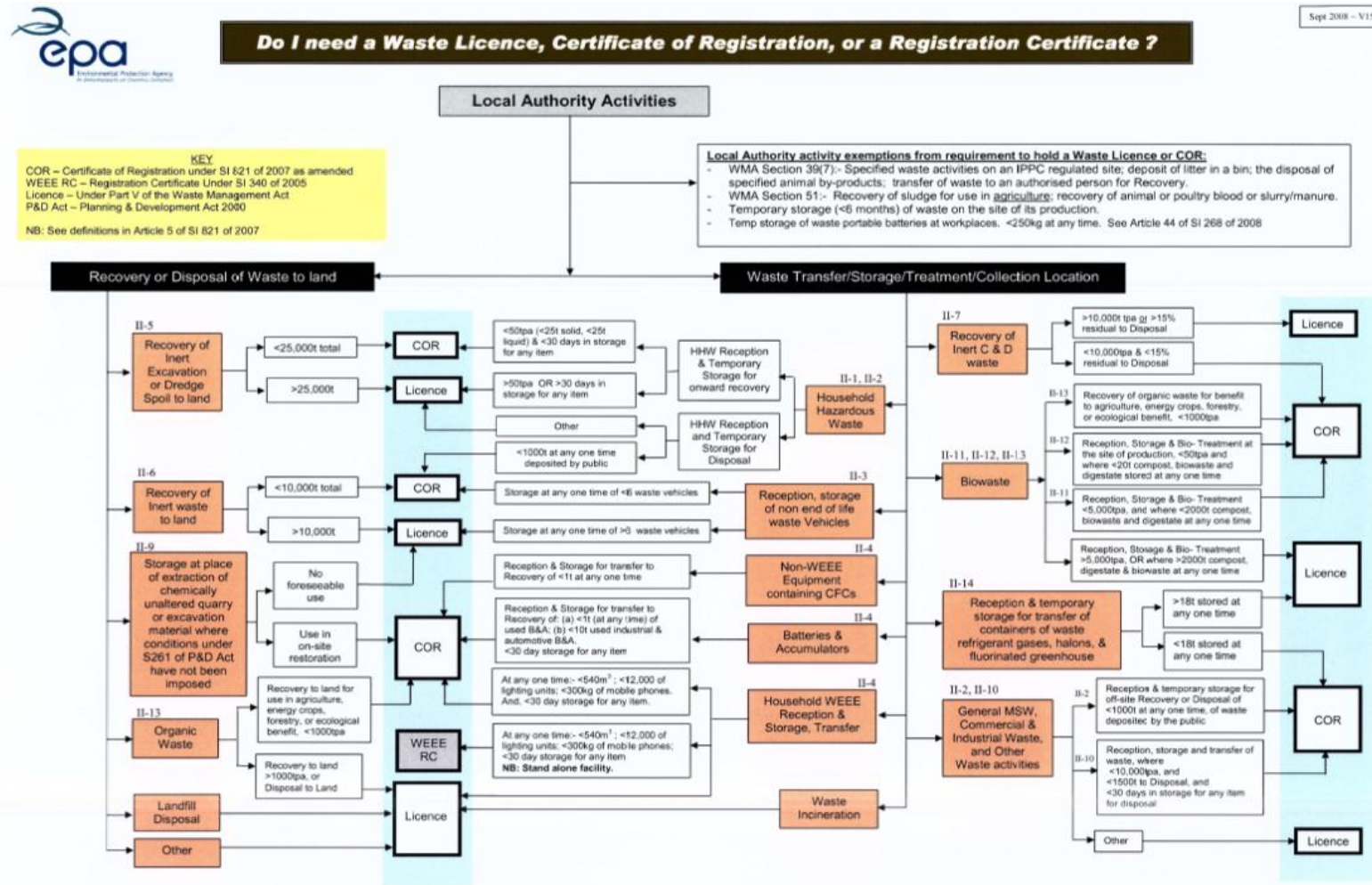
2. Waste Facility Permit (for
activities listed in Part I of
the Third Schedule); or



3. Waste Licence or
Industrial Emissions licence
(all other activities)

- Section 3, Section 39(7) and Section 51 of the Waste Management Act 1996 as amended

Local Authority- Do I need a Waste Licence or Certificate of Registration?



Private Sector - Do I need a Waste Licence, Permit or Certificate of Registration?



Do I need a Waste Licence, Permit or Certificate of Registration ?

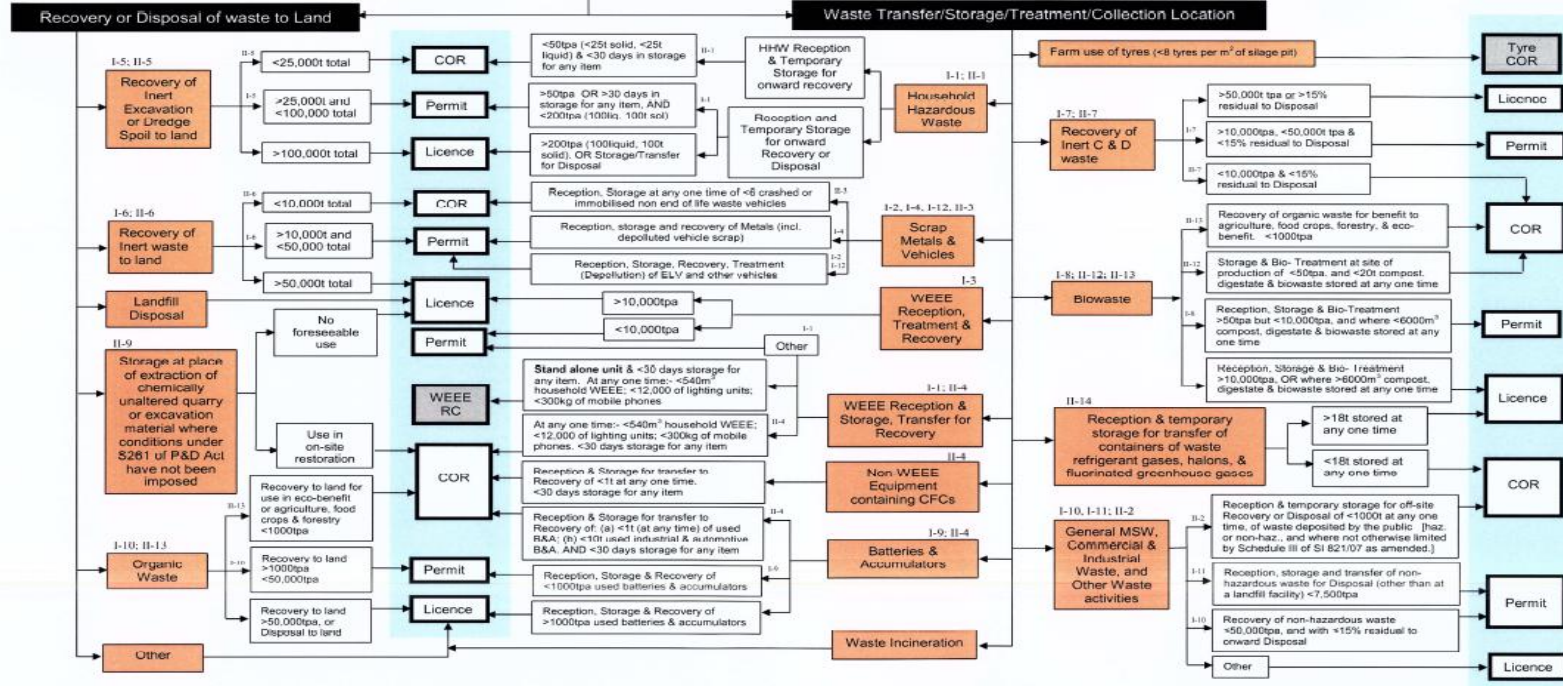
Sept 2008 - V15

KEY
 COR – Certificate of Registration under SI 821 of 2007 as amended
 Permit – under SI 821 of 2007 as amended
 Licence – under Part V of the Waste Management Act
 Tyre COR – under Tyre Regulations SI 664 of 2007
 WEEE RC – Registration Cert. under WEEE Regulations SI 340 of 2005
 P&D Act – Planning & Development Act 2000
 NB: See definitions in Article 5 of SI 821 of 2007

Private Sector Activities

Exempt from requirement to hold a Waste Licence, Permit or COR:

- WMA Section 39(7): Specified waste activities on an IPPC regulated site; deposit of litter in a bin; the disposal of specified animal by-products; the disposal of household waste within the curtilage of the dwelling where produced; transfer of waste to an authorised person for Recovery.
- WMA Section 51:- Recovery of sludge for use in agriculture; recovery of animal or poultry blood or slurry/manure.
- Temporary storage (<6 months) of waste on the site of its production (certain limitations for WEEE distribution centres, see Art 39(1a) of SI 340 of 2005).
- WEEE Regs SI 340 of 2005, Art 39(1) & (1b):- Temporary storage of certain quantities & types of WEEE at a distribution outlet; and storage by registered charities of <90m³ of certain household WEEE and <50kg mobile phones (at any one time).
- Tyre supplier temporarily storing <160m³ waste 'take-back' tyres (SI 664 of 2007, Article 3(3)(i)).
- Temp storage of waste batteries at workplaces, distributors & charity venues. Certain limits apply. See Article 44 of SI 268 of 2008



Certificates of Registration

Activities are listed in Part II of the Third Schedule of the Waste Management (Facility Permit and Registration) Regulations 2007, S.I. No. 821 of 2007

Activities amended in 2008 by S.I. No. 86 of 2008

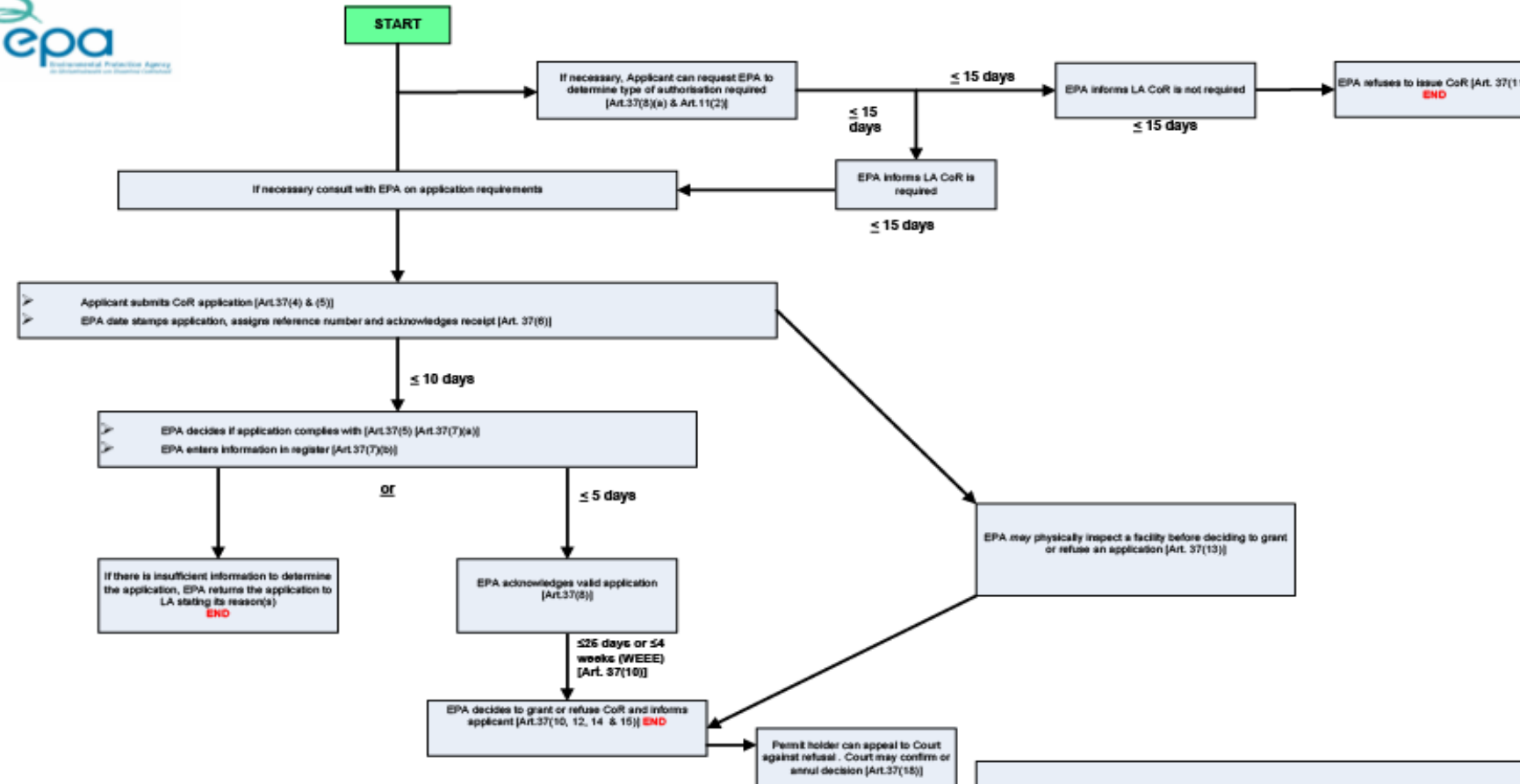
Local authorities: the EPA can grant a certificate of registration as authorisation for the activity

Individuals or organisations: certificates of registration are granted by the local authority in whose area the activity will be carried out

Application for a Certificate of Registration: made under Article 37 of the Waste Management (Facility Permit and Registration) Regulations 2007 as amended

Application for a Review of an existing Certificate of Registration: made under Article 38 of the Waste Management (Facility Permit and Registration) Regulations 2007 as amended

FLOWCHART 5. CERTIFICATE OF REGISTRATION APPLICATION PROCESS – LOCAL AUTHORITIES



Note
[Reg]: Waste Management (Facility Permit & Registration) Regulations 2007 (S.I. No. 621 of 2007, as amended by S.I. No. 96 of 2008).

Day - means 'working day' which is defined as meaning 'a day on which the principal office of the local authority... is open for business' [Art. 5(2)]
CoR - means Certificate of Registration
LA - Local Authority
EPA - Environmental Protection Agency

Waste Classification

Commission Decision of 18 December 2014, amending Decision 2000/532/EC on the list of waste pursuant to Directive 2008/98/EC of the European parliament and of the Council (2014/955/EEC) ['The List of Waste (LoW)']

2000

Commission Regulation (EU) No 1357/2014 of 18 December 2014, replacing Annex III to Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives

2008–2014

Council Regulation (EU) 2017/997 of 8 June 2017 amending Annex 111 to Directive 2008/98/EC of the European parliament and of the Council as regards the hazardous property HP 14 'Ecotoxic'

2017

Noise



Noise

Environmental Protection Agency Acts 1992 and 2003

The Environmental Noise Directive (END) 2002/49/EC

Waste Management Acts 1996 to 2003

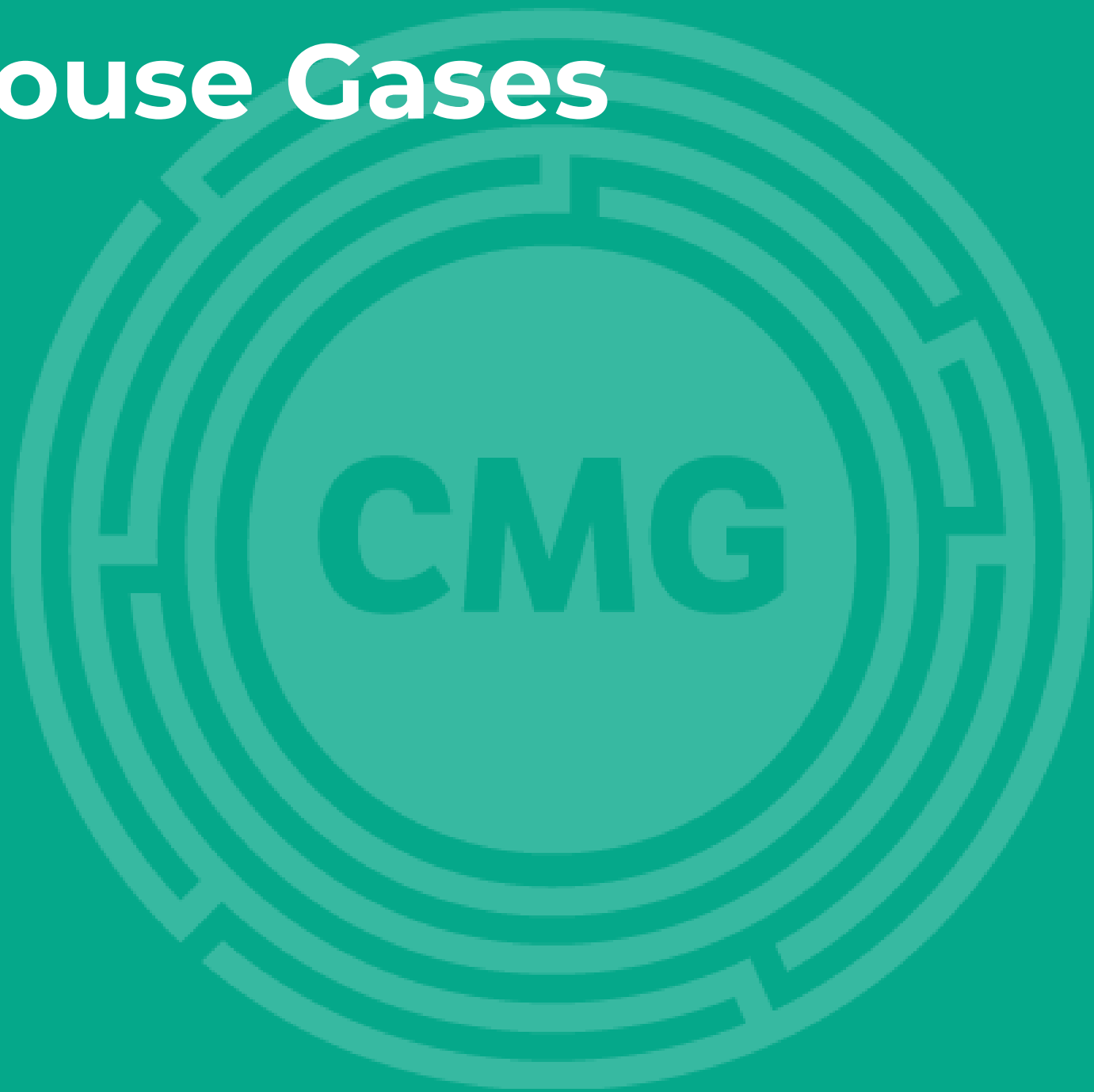
Environmental Noise Regulations 2006

EPA Guidance note for noise in relation to scheduled IE activities



- **Environmental Protection Agency Act 1992 and the Waste Management Act 1996 required the use of BATNEEC**
- **Environment Act 2003 requires the use of best available techniques (BAT)**
- **Section 7 of the Protection of the Environment Act 2003**
- **Local factors**
- **Tonal & impulsive noise**
- **Considerations taken into account for existing facilities include:**
 - the nature, extent and effect of the emission concerned
 - the nature and age of the existing facility connected with the activity and the period during which the facility is likely to be used or to continue in operation
 - whether a disproportionate cost would be incurred to replace the old plant with the new techniques for only a small reduction in emissions

Greenhouse Gases



Greenhouse Gas Permits



Carbon Dioxide, Methane, Nitrous Oxide, Hydrofluorocarbons, Perfluorocarbons, Sulphur, Hexafluoride



Greenhouse Gas Emissions Permit



Combustion of fuels in installations with a total rated thermal input > 20 MW



Compliance involves the annual purchase of emission allowances through the EU emissions trading system



What happens to the Greenhouse Gas Permit (GHG Permit) if a new operator takes over the company and the installation?

Water



Water Pollution Control

- Control of water pollution is exercised through the Local Government (Water Pollution) Acts 1977-1990 and Water Services Acts.
- Transfer of Water Services to UE (12 SLAs)
- Effluent discharge licences to waters (LA)
- Effluent discharges to sewers (UE)



Air Pollution



Introduction to Air Pollution

Pollutants in the air can be bad for people's health and the environment

Certain pollutants can contribute to climate change

Air quality standards are set out in EU and Irish legislation

Ireland is committed to the EU's National Emission Ceilings Directive

Good News!

- <https://www.rte.ie/news/environment/2026/0424/1569871-epa-report/>

The Environmental Protection Agency has reported that Ireland has complied with all its EU air pollution reduction targets for 2024, and is on track to meet its targets for 2030.

The agency said reducing the use of fossil fuels to generate electricity, and adopting low-emission slurry-spreading techniques on farms, have been key to achieving the targets and improving air quality.

Five key air pollutants impact on air quality, human health and the environment.

Sulphur dioxide, from burning coal and oil, acidifies soil and water and accelerates the external corrosion of acid rain.

Nitrogen dioxide pollution, from power plants and diesel engines, aggravates diseases like diabetes, hypertension, stroke, COPD and asthma.



Monitoring air pollution and enforcement action

Monitoring

Local authorities can take measures to prevent or limit air pollution including:

- *Monitoring*
- *Assessing compliance*
- *Dealing with complaints*
- *Enforcement*
- *Researching*
- *Running educational programmes*
- *Supporting*
- <https://www.rte.ie/news/environment/2026/0424/1569871-epa-report/>

Enforcement

Local authorities are responsible for enforcing the Air Pollution Act 2026

They can prosecute premises that are polluting the area, even if the pollution is coming from a source outside their area

Companies have a responsibility to limit pollution, otherwise enforcement action can be taken against them

Ignoring warnings and recommendations can lead to the High Court issuing an injunction against the company

Air emissions licences

Air emissions licences

Application form available from local authority website



Environmental licences for large industry

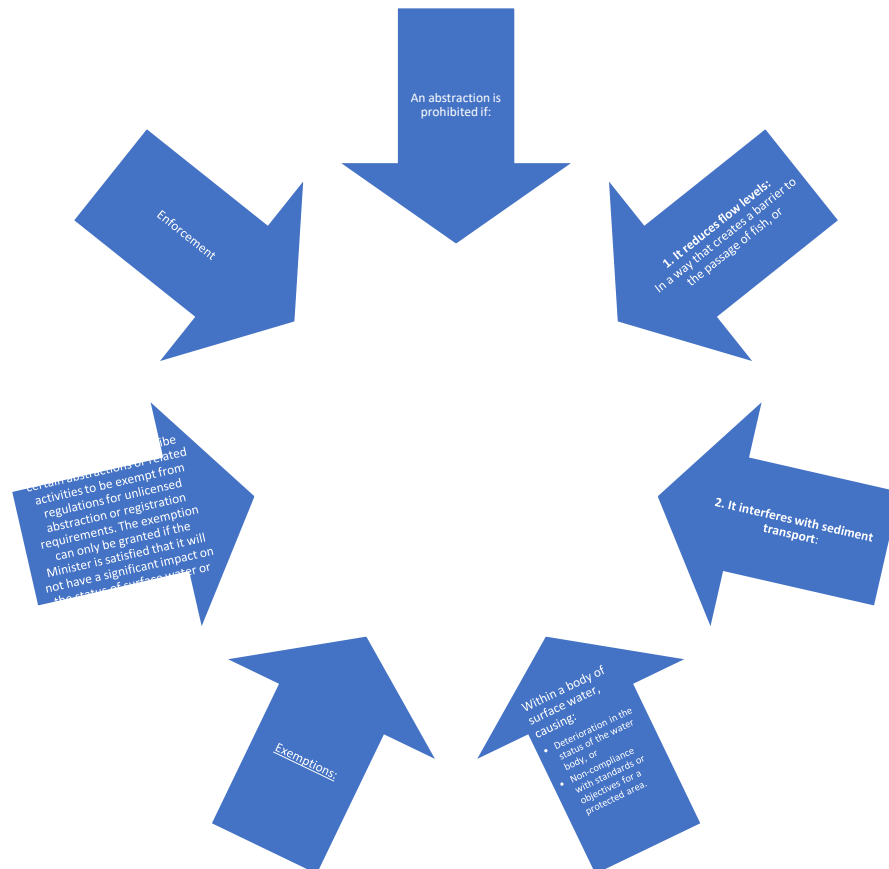
- Environmental Protection Agency Act
- Integrated Pollution Control (IPC) licence
- All emissions must be within set limits and must not break any relevant air quality standard
- Register of IPC licences is available to the public
- EPA monitors emissions from these industries and ensures that compliance with terms of licence
- Court can impose fines and prison sentences

Water Abstraction



Water Environment (Abstraction & Associated Impoundment) Act 2022

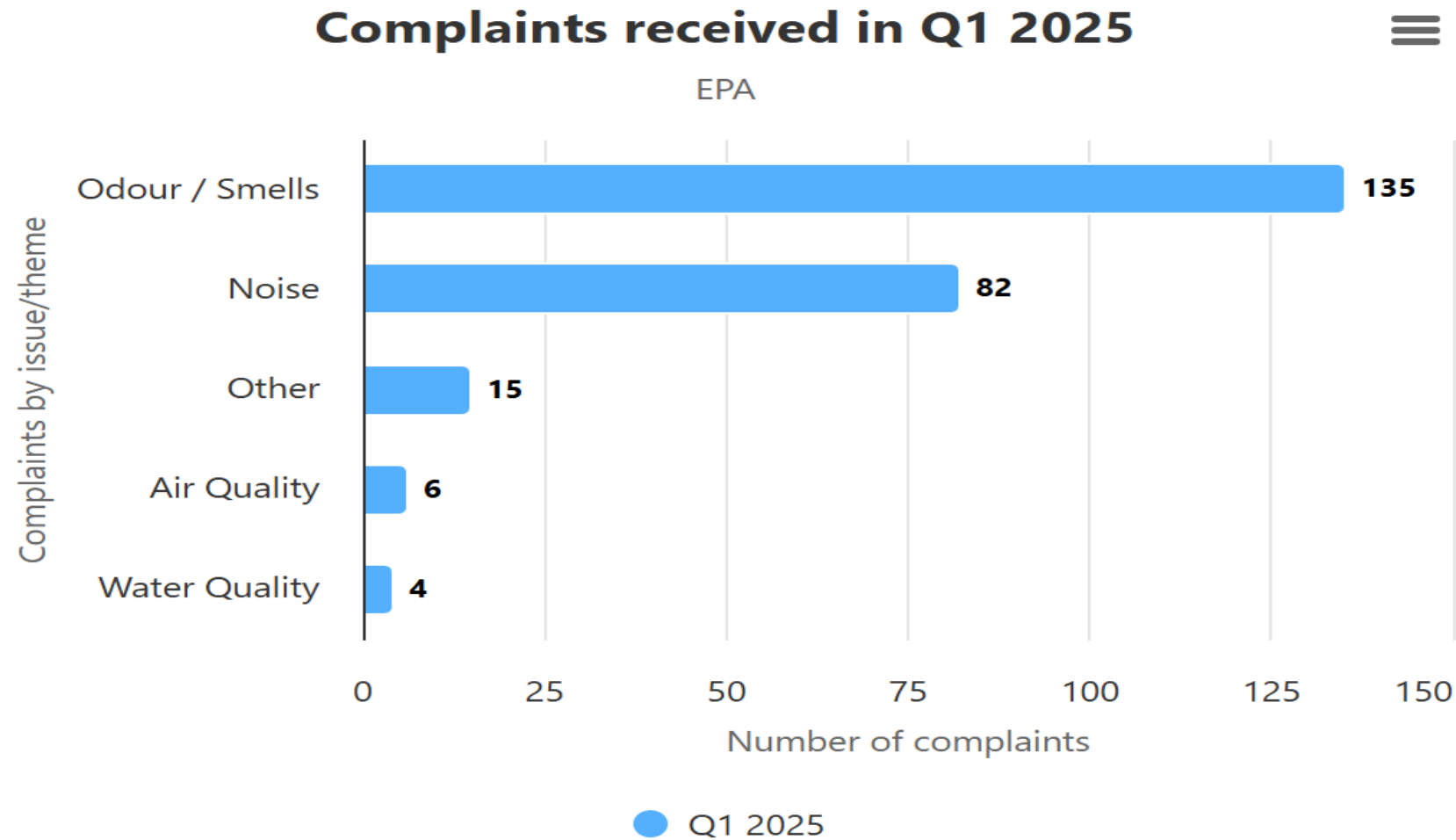
28th August 2024



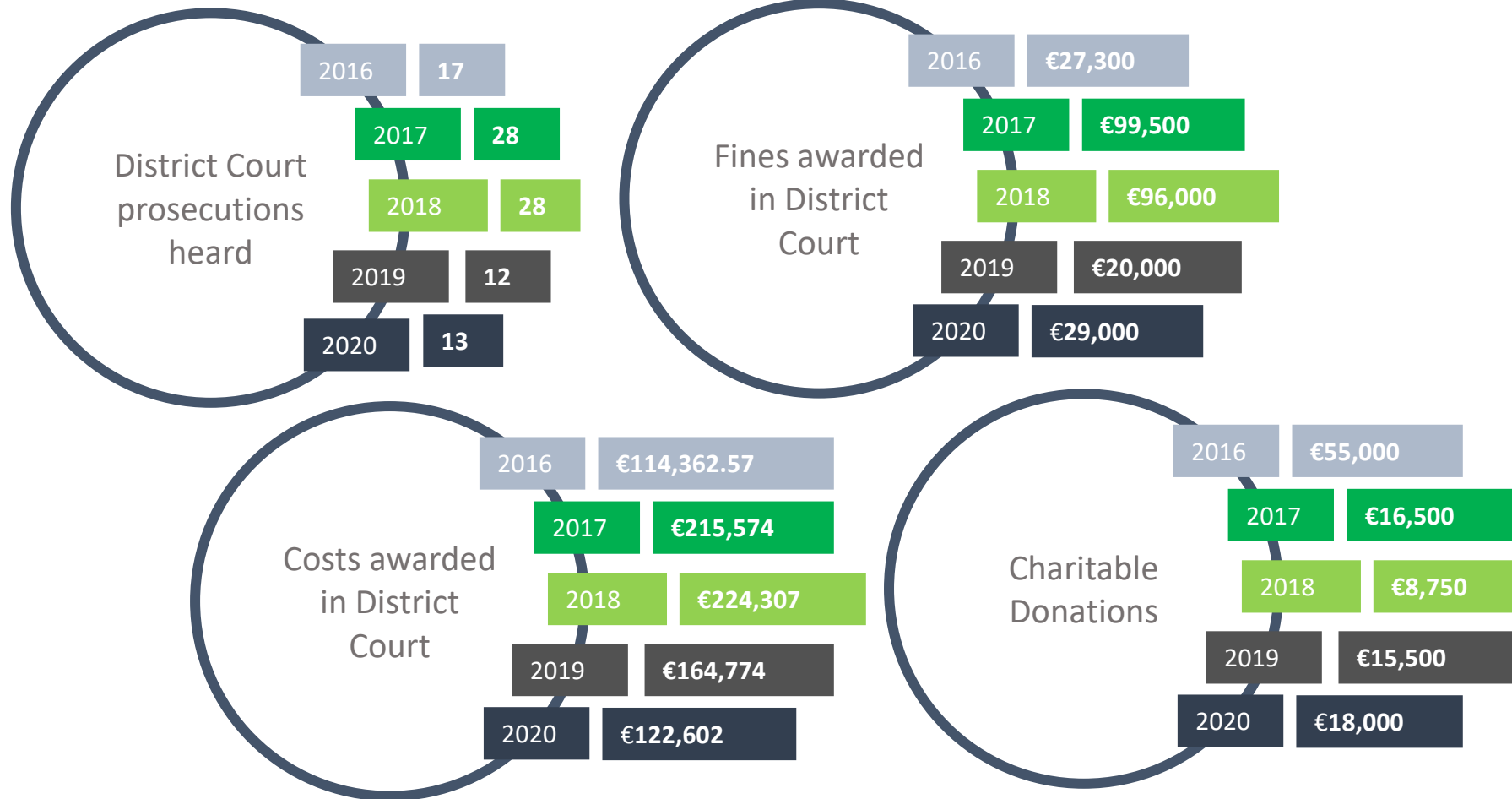
- It repeals and replaces the Water Supplies Act 1942 in order to bring Ireland into line with the EU Water Framework Directive. It sets new EPA licensing requirements for water abstractions, amongst other things
- The 2018 Regulations governed the registration of all water abstractions of 25 cubic metres and above per day. This is defined as the “*registration threshold*” under the Act. The Act replicates the requirements under the 2018 Regulations, ie in that registration is required for abstraction above the registration threshold. That is unless a rate has been prescribed by the Minister for the Environment
- These abstractions must now be registered with the EPA
- An above registration threshold abstraction must notify the EPA within one month of commencement

Enforcement





EPA enforcement trends



Compliance Actions and Enforcement Powers

Revocation of Licence

Suspension of Licence

Prosecution

Civil action – Injunction

Statutory Notice and Directions

Publish list of priority sites for enforcement

Warning letters, compliance investigations

Site visits, compliance meetings

Networks, advice and guidance

National Priority Sites System

- A performance-based indicator
- Enforcement Priority
- Last 6 Months

The system has four key scoring components:

- Complaints
- Incidents
- Non-Compliances (NCs)
- Compliance investigations (CIs)
- The higher the score the poorer the compliance is at a site.

Complaints

The EPA takes account of the number of complaints made by the public about a site, which are linked to either a Medium or High ranked open Compliance Investigation. A complaint alone does not contribute to the total score; it must be linked to either a Medium or High ranked open Compliance Investigation and the score for complaints is capped to a maximum of 20 points.

Incidents

Licensees must notify EPA of a breach of a licence condition.

Non-Compliances (NC)

A NC notification is issued to a facility when a licence condition is breached or where a Licensee fails to notify the EPA of an incident on-site. Points are assigned based on the number of non-compliances recorded by the EPA.

Incidents Score Allocation

Minor	No Score
Limited	5 points
Serious	10 points
Very Serious	20 points
Catastrophic	30 points

Compliance Investigations (CI)

Opened by EPA on foot of an issue on a site causing, or has the potential to cause, an environmental impact and requires action by the Licensee.

EPA Monitors until actions completed

Compliance Investigations are categorised as High, Medium, or Low based on the risk to the environment.

Points are assigned based on the category of the CI and whether it is 'Open' or 'Closed'.

Compliance Investigations Score Allocation

CI Rating*	Open	Closed
High	20 points	4 points
Medium	10 points	2 points
Low	3 points	1 point
Note: only the top 3 highest scoring CIs are counted		

Liability of Companies and their Officers

9.—(1) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

Sample Environmental Crimes

Who enforces depends on the offence in question

Causing or permitting

- S. 24 Air Pollution Act 1987 as amended
- S. 53, 63 Water Services Act 2007 as amended
- S. 3(1), 16 Water Pollution Act 1977 as amended
- S. 53, 55, 57, 61, 74 Water Services Act 2007 as amended

Not having a licence

- S. 86(6) EPA Act 1992 as amended
- S. 30 Air Pollution Act 1987 as amended
- S. 16 Water Pollution Act 1977 as amended

Not reporting an incident

- S. 29 Air Pollution Act 1987 as amended
- S. 14 Water Pollution Act 1977 as amended
- S. 86(1) EPA Act 1992 as amended
- Reg. 7, 9 Environmental Liability Regulations 2008 as amended

Failing to comply with notices

- Reg. 8, 10, 12 Environmental Liability Regulations 2008 as amended
- S. 11, 26 Air Pollution Act 1987 as amended
- S. 30, 43, 49, 58, 59, 80 Water Services Act 2007 as amended
- S. 12, 23 Water Pollution Act 1977 as amended
- S. 9(7) Litter Pollution Acts (1997 to 2009)
- S. 55(6) Waste Management Act (1996 to 2016)

Providing false or misleading information

- S. 13, 83, 89, 105 EPA Act 1992 as amended
- S. 6(2) Water Services Act 2007
- S. 19, 23 Water Pollution Act 1977 as amended
- S. 16(3) Air Pollution Act 1987 as amended

Obstruction

- S. 13(5), 105 EPA Act 1992 as amended
- Reg. 23(8) Environmental Liability Regulations 2008 as amended
- S. 12, 22(7) Water Services Act 2007 as amended
- S. 28 Water Pollution Act 1977 as amended
- S. 14, 42 Air Pollution Act 1987 as amended

Common Defences

- Common defences include:
 - The link between the accused and the polluting event was broken by an intervening event
 - Extraordinary and abnormal circumstances
 - Compliance with a permit or licence
 - Compliance with some sort of environmental authorisation, environmental standard, good practice or industry technical standard
 - Taking reasonable care / due diligence
 - Failure to establish all necessary elements of the offence

Common Law Actions

Nuisance

Trespass



Industrial and Waste Licence Enforcement SUMMARY 2024

HIGHLIGHTS 2024

905
Licences were enforced by the Office of Environmental Enforcement (OEE)



634
individual sites were inspected



1309
inspections carried out (increase of 107 on 2023)

Complaints



Complaints from members of the public have reduced from 1490 in 2021 to 809 in 2024 representing a reduction of 46%.

Peat Extraction



Continued enforcement of illegal large scale peat extraction activities including 42 site visits, targeting 38 peatlands across 7 different counties in 2024.

LEAP Online



The Licence & Enforcement Access Portal (LEAP), which provides public access to enforcement records, had over 195,000 page views in 2024 (up from 100,000 in 2023).

Data Centres



Ambient air quality monitors installed and operational at 8 licensed sites clustered in the west Dublin area.

Waste



The remediated Kerdiffstown landfill site (which previously caused significant environmental impacts and public nuisance) opened as a public park in 2024

Financial Provision



In 2024, the amount of financial provision secured at licensed sites to provide for significant incidents or site closure was €1.140 billion, an increase of €72 million since 2023.

Water Quality



Site-specific enforcement plans have been developed for the 41 industrial and waste licensed sites identified as placing significant pressures on water quality.

Reporting & Management



Topics Covered

EDEN: The EPA's online portal

Annual Environmental Reports (AER) and Environmental Performance Reporting (EPR)

Notifying incidents to the EPA

Waste classification and reporting

Movement of materials on and off building sites

Liaison with the EPA

Why reporting matters

EPA enforcement is built on a combination of self-monitoring by the licensee and verification by the EPA



Get reporting right → reduced enforcement risk



Get it wrong → consequences escalate: non-compliance findings → compliance investigations → prosecution → suspension or revocation of licence

EDEN – The EPA's Online Portal

All reporting and management now runs through EDEN

Licence applications and reviews submitted via EDEN online forms

AER and EPR submissions via EDEN

EPA notices issued and responded to through EDEN

Push alerts for inspection reports, complaints, RFIs, and compliance investigation actions

Not all EDEN users within an organisation will be notified of EPA correspondence the organisation must nominate appropriate contacts

Regularly review and update EDEN contact lists

Risk: if nominated contacts have left or changed roles and the list is not updated, alerts may go into a void

A step-by-step guide (30 steps) is available for new user registration

AER and EPR – Separate Obligations

	AER	EPR
Deadline	31 March annually	31 March annually
Audience	Public-facing	Data return to EPA
Format	Mandatory EPA template (since 2020); plain English	EDEN webform
Purpose	Concise summary of environmental performance and site developments	Key performance statistics from monitoring and assessment

AER – Key Contents

Environmental objectives and targets achieved

Goals for maintaining compliance and improving performance

Power, water, and resource efficiency information

Summary of complaints and incidents (including classification and corrective/preventive actions)

Summary emissions monitoring results (air, water, sewer, noise, odour, dust)

Waste transfer and acceptance details

Confirmation of financial provision

Beyond Compliance

EPA invites licensees to showcase proactive improvements

Improvements can feature in enforcement reports and on EPA social media

Demonstrating continuous improvement reinforces trust and may lead to less scrutinous oversight

EPR – Data Reporting

Submitted via EDEN
webform

Captures key
performance statistics
from monitoring and
assessment

Data used by EPA for
compliance purposes
and European reporting

EPA guidance available in
six parts: logging in,
general data, emissions,
waste, large combustion
plants, and submission

Incident Notification



Environmental Impact Assessment Criteria

Ranking	Classification	Impact on Environment
1	Minor	• No contamination, localised effects • Minor effect on air quality as evidenced by dust or odour complaint(s) • ELV breaches • An emission which does not comply with the requirement of the licence/COA (A pattern of repeated minor incidents should be taken into account when considering the level of response)
2	Limited	• Simple contamination, localised effects of short duration • Local limited impact to water, land and air • Notification to and short term closure of potable water extractors required
3	Serious	• Simple contamination, widespread effects of extended duration • Significant effects on water quality • Major damage to an ecosystem (e.g. significant impact on fish population) • Longer term closure of potable water extractors • Significant reduction in amenity value • Significant Damage to agriculture or commerce • Significant Impact on man
4	Very Serious	• Heavy contamination, localised effects of extended duration
5	Catastrophic	• Very heavy contamination, widespread effects of extended duration

EPA system ranks incidents from 1 (minor) to 5 (catastrophic) based on the effect or potential effect on the environment

All notifications must include a ranking

Additional criteria to consider: effects on water quality, reduction in amenity value, etc.

"Major emergencies" (little/no warning, threatens death/injury, requires activation of specific emergency procedures) are Class 4 or 5

Responding to Incidents

Deploy	Deploy necessary resources
Notify	Notify relevant bodies as specified in the licence
Activate	Activate the facility's Emergency Response Procedure where necessary
Initiate	Initiate corrective and preventive actions
Maintain	Maintain appropriate level of contact with the public/media for the impact ranking

Incident Notification – Timing and Method

Notification obligation is strictly construed even a one-day delay may be too late

During office hours (9–5, Mon–Fri): phone and fax to regional EPA inspector

Outside office hours: phone and fax, leaving a message

Rank 2–5: mark as urgent; Rank 1: non-urgent

Complete and fax an incident notification form for all incidents

Emergency Response Procedures

Most licences require preparation and maintenance of an environmental emergency response procedure

At a minimum: contact emergency response agencies and EPA, be available for calls, monitor the situation, provide technical response, ensure safety precautions, advise on public notification and remedial action

Incident Publication and Close-Out

Rank 2+ incidents may be posted to EPA website where offsite impact occurs or is possible

EPA inspector investigates and completes a publicly available inspection report

EPA may follow up to verify corrective actions, prevention, and remediation

Close-out timelines: non-complex cases ~1 month; complex cases ~2 months

Non-notification is easy to prosecute and allows the EPA to issue a press release

Waste Classification – The Basics

Correct classification is fundamental to ensuring waste is collected, transported, handled, and processed appropriately

Misclassification carries significant consequences

"Waste" = any substance or object the holder discards or intends or is required to discard

"Hazardous waste" = waste displaying hazardous properties

Physical appearance is not determinative clean, inert material may still be waste

The List of Waste (LoW) Catalogue



Each waste type assigned a six-digit LoW code



Structure: Chapter (2 digits: source) → Sub-chapter (2 digits: activity) → Identification number (2 digits: specific material)



Key chapters for this audience: 01 (mining/quarrying), 02 (agriculture), 17 (C&D waste), 19 (waste management), 20 (municipal waste)

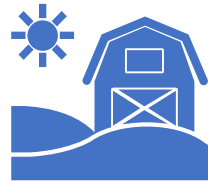


Hazardous waste marked with an asterisk (*)

Principal Waste Streams



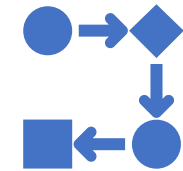
Municipal: Generated from commercial premises or domestic activities



Industrial: Sourced from manufacturing, farming, and processing



Construction: Generated by construction and demolition activities



Identifying the correct waste stream is the first step, but errors most frequently arise at the sub-chapter and specific waste type stage

Hazardous Waste



Identified by asterisk (*) in the LoW Catalogue



Assessment against Hazardous Properties (HP 1–HP 15) with concentration thresholds



Classification as hazardous triggers additional obligations: storage, labelling, transport, C1 movement forms, collection permit requirements, restricted receiving facilities

Waste Reporting and Mass Balance

AER reports each waste stream by LoW code and annual tonnage

Data pipeline: LoW code on docket → captured at weighbridge → raw data for AER

Mass balance: Total tonnage in = total transferred offsite + remaining in storage

Where incoming classification is incorrect, mass balance will not reconcile → EPA statistics team will query the AER

Common Classification Errors

Error	Correct Code	Incorrect Code
"Green bin" waste	20 03 01 (mixed municipal)	15 01 06 (mixed packaging)
Bulky skip waste	20 03 07 (municipal bulky)	17 09 04 (C&D waste)
RDF vs SRF	19 12 12 (RDF)	19 12 10 (SRF)
Rubble vs soil/stones	17 08 02 (rubble)	17 05 04 (soil and stones)

Consequences of Misclassification

Mixing of waste streams, inaccurate reporting, EPA audit, or AER rejection

Non-compliance against the licence; up to 5 points on the National Priority listing

Penalties under the Waste Management Act 1996: Summary conviction class A fine or up to 12 months' imprisonment; on indictment fine up to €15,000,000 or up to 10 years' imprisonment

Continuing contravention: daily fines up to €1,000 (summary) or €130,000 (indictment)

Movement of Materials – When Is It Waste?

- The first and most consequential determination is whether material constitutes "waste"
- Three principal questions: (a) when does material become waste? (b) when does it cease to be waste? (c) what obligations attach?
- **Statutory exclusion:** Uncontaminated, naturally occurring material excavated in construction, certain to be reused in its natural state on the originating site
- Conditions are cumulative and strict; material moved off-site does not benefit from this exclusion

By-Products and End-of-Waste

	By-Product	End-of-Waste
Key distinction	Material has never become waste	Material was waste but has been sufficiently recovered
Test	Four cumulative conditions (further use certain, no processing beyond normal industrial practice, integral part of production, lawful use)	Four pillars (commonly used for specific purposes, market/demand exists, meets product standards, no adverse impacts)
Registration	Via EDEN; national criteria for site-won asphalt and greenfield soil/stone	Via EDEN; national criteria for recycled aggregates
Burden of proof	On the person asserting by-product status	Requires prior recovery operation and waste authorisation

Construction and Demolition Waste

17 01: Concrete, bricks, tiles, ceramics

17 02: Wood, glass, plastic

17 03: Bituminous mixtures, coal tar, tarred products

17 04: Metals

17 05: Soil, stones, dredging spoil

17 06: Insulation materials, asbestos-containing materials

17 08: Gypsum-based materials

17 09: Other C&D wastes

Reminder: rubble ≠ soil and stones; heterogeneous mixes must be classified per component

Moving Waste Off Building Sites

Section 32, Waste Management Act 1996: no person shall cause or facilitate abandonment, dumping, or unauthorised management of waste



The site operator (as holder) must ensure:

Waste is correctly classified by LoW code

Collected by an authorised waste collector with appropriate permit

A waste transfer docket accompanies each movement

The receiving facility holds the requisite authorisation



Hazardous waste: additional C1 movement form and EPA notification required

Moving Materials Onto Building Sites

Receiving site operator must verify end-of-waste status or lawful usability

Having a use for material does not affect whether it is "waste"

Accepting waste without appropriate authorisation exposes the operator to prosecution

Verify against EPA's By-Product Register or End-of-Waste Register

Unauthorised deposits may be regarded as an unauthorised landfill facility

Practical Tips for Building Site Operators

Contemporaneous record-keeping

Verify end-of-waste status or lawful usability

Accepting waste without appropriate authorisation
exposes the operator to prosecution

Verify against EPA's By-Product Register or End-of-
Waste Register

Liaison with the EPA



Good liaison is consistent, candid, and documented



EPA applies risk-based, proportional, and transparent enforcement principles



Key liaison touch-points: accurate returns, timely EDEN responses, briefing inspectors on material changes, evidencing close-out of compliance actions



LEAP Online publishes licence applications, site-visit reports, and licensee returns your public record is built from these interactions

Site Inspections and Conduct

Be helpful, not obstructive

Avoid trying to be "the smartest person in the room"

Respect the inspector

Post-inspection follow-up reinforces the positive relationship

Remember: LEAP correspondence is accessible to journalists and third parties

The National Priority Sites System

Points-based system with no discretion ranking over 900 licensed sites

Factors: complaints, incidents, compliance investigations, non-compliances over the previous six months

Updated quarterly

Top-five ranking: prosecution likely forthcoming or already live

Even one flagged site in a group can bring all sites under increased attention

Poor reporting converts directly into reputational damage and enforcement escalation

Reporting and Management: Key Takeaways



Reporting is not paperwork
it is the foundation of your
enforcement profile



Keep EDEN contacts current
and respond to notices on
time



Know your licence
understand exactly what
you must report and when



Classify waste correctly
errors cascade through
AERs and mass balance



Notify incidents
immediately and build a
robust notification
procedure



Invest in the EPA
relationship transparency
and candour outperform
defensiveness

Environmental Liabilities and Financial Provision

The logo for CMG (China Merchants Group) is centered on the slide. It consists of the letters "CMG" in a bold, sans-serif font, enclosed within a circular emblem. The emblem features a complex, concentric maze-like pattern that forms a ring around the central text. The entire logo is rendered in a light teal color, matching the background's color scheme.

CMG

Topics Covered

What are environmental liabilities?

The regulatory framework

Identifying and assessing liabilities

Costing environmental liabilities

Financial provision mechanisms

Regulatory expectations and compliance

Practical implications

What Are Environmental Liabilities?

Environmental liability: A legal and financial obligation arising from environmental damage, pollution, or cessation of a potentially harmful activity



Known liabilities: Closure, restoration, aftercare obligations anticipated and plannable



Unknown liabilities: Incidents/unplanned events such as fires, spillages, or containment failures

Benefits of Proper Liability Management



Minimised or
eliminated residual
environmental
impacts upon
closure



Reduced potential for
environmental
impact from
incidents



Forward financial
planning



Reduced cost of
financial
provision



Protection of
business from
potentially
ruinous costs

The Regulatory Framework

EU:

- Environmental Liability Directive (2004) – "polluter pays" principle
- Industrial Emissions Directive
- Waste Framework Directive
- Mining Waste Directive
- Landfill Directive

National: IED, IPPC, and waste licensing regimes

EPA licensing conditions and powers to require financial provision

EPA Licensing Requirements



Emissions will not cause significant environmental pollution



Necessary measures will be taken to prevent accidents and remedy consequences



Upon permanent cessation, the site will be returned to a satisfactory state



The EPA may require evidence of financial provision

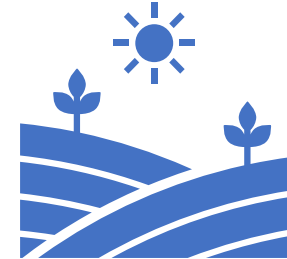
Identifying and Assessing Liabilities – Scoping



Determine what liabilities need to be assessed



Closure plan: Short-term measures, decommissioning, residuals management



Restoration and aftercare plan: Longer-term measures where liabilities remain post-closure (e.g., contaminated land, landfills, mines)

Closure Plan – Key Elements

Summary and introduction (site description, licence details)

Site evaluation (compliance history, enforcement history, incident history)

Environmental pathways and sensitivity (geology, water bodies, sensitive receptors)

Closure tasks, programmes, and criteria for successful closure

Validation arrangements and costing

Environmental Liability Risk Assessment (ELRA)



IDENTIFIES AND QUANTIFIES LIABILITIES FROM
UNPLANNED BUT PLAUSIBLE EVENTS DURING
OPERATION



ENCOURAGES CONTINUOUS ENVIRONMENTAL
IMPROVEMENT THROUGH RISK MANAGEMENT

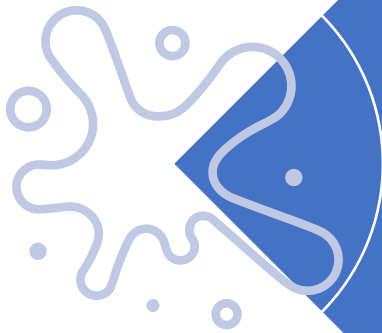


ELRA PROCESS: SCOPING → RISK
IDENTIFICATION → RISK ANALYSIS → RISK
EVALUATION → RISK TREATMENT → COSTING

Common Environmental Risks



Generic risks: Fuel spillage, loss from above-ground tanks/pipelines, bulk storage spillages, fire leading to emissions and contaminated fire water



Sector-specific examples:

- Waste water treatment: Inlet works failure, aeration tank failure, power failure
- Landfills: Landfill fires, liner damage, leachate escape

Costing Closure Liabilities



Aim: Bring site to a state posing no pollution risk; return to satisfactory state if pollution caused



Include **all** closure costs: no exclusions for wind-down, normal operations, or asset offsets



Include additional costs for sudden closure scenarios

Key Cost Components



Closure: Plant decontamination, decommissioning, demolition, waste disposal, monitoring, security, validation, management/utility costs



Restoration/Aftercare: Site investigation, risk assessment, remediation programme, maintenance, monitoring

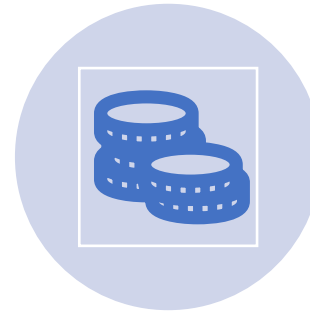


Landform changes (e.g., landfills): Backfilling, landscaping, landfill gas extraction, leachate management

Principles of Costing Incidents



Cost the plausible worst-case scenario the event posing maximum environmental liability



Quantify and cost in detail



Include contingency for uncertainty



Adjust for future inflation

Real-World Cost Examples

Incident	Approximate Cost
Fire at licensed landfill (Ireland)	€2.79 million
Fire at waste transfer station (Ireland)	€410,000
Hydrocarbon leaks/spillages at recycling facility (Ireland)	€1.28 million
Buncefield explosion (UK)	Tens of millions of euro
Chemie-Pack fire (Netherlands)	Over €65 million

What Is Financial Provision?

- A financial instrument to cover costs of closure, restoration, aftercare, or incidents
- Also known as: financial security, financial guarantee, financial mechanism
- **Purpose:** Protect the environment and the public purse; ensure the polluter pays

Core Principles of Financial Provision

Secure: Must remain in place for the duration of obligations, including in insolvency

Sufficient: Must cover all obligations closure costs and liability risks

Available: Funds must be accessible to the EPA when required

Acceptable Forms of Financial Provision

Secured fund (bank account with first-ranking charge to EPA)

On-demand performance bond

Parent company guarantee (not suitable for inevitable closure costs)

Charge on property (subject to valuation limitations)

Environmental impairment liability insurance (unknown liabilities only)

Combinations of the above are permitted

High-Risk Facility Categories

Upper and Lower Tier Seveso facilities



Hazardous waste transfer stations



Landfills (privately operated; local authority post-July 2009)



Category A extractive waste facilities



Incineration and co-incineration waste facilities



High-risk contaminated land facilities



Non-hazardous waste transfer stations (>50,000 tonnes p.a.)



"Exceptional circumstances" category

Exceptional Circumstances

Known,
documented
liability unusual for
the sector

Significant waste
stockpiling at the
facility

Groundwater or
soil contamination
requiring
intervention

Compliance and Enforcement



EPA takes non-compliance seriously: a strategic priority



Enforcement tools: Enforcement correspondence, non-compliance notices, compliance investigations, demands on existing provisions, legal action



Even non-high-risk licensees must leave the site in a satisfactory state

Environmental Liabilities and Financial Provision: Key Takeaways

Know	Know your obligations
Engage	Engage proactively with the assessment process
Ensure	Ensure closure/restoration plans are comprehensive and current
Conduct	Conduct rigorous ELRAs
Plan	Plan for financial provision
Consider	Consider the full range of financial provision options
Implement	Implement risk treatment measures
Maintain	Maintain ongoing awareness and review

Surrender, Cessation and Closure of Licensed Sites

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CMG

Cessation, Surrender, and Retention

Licence duration and critical time periods

Enforcement after cessation

Transfer, cessation, and surrender processes

The Independent Closure Audit

The consequences of licence retention

Conditions as Legal Requirements

Once a licence is granted, its conditions become legal requirements

Responsibility for compliance rests with the licensee

That responsibility does not evaporate simply because the activity stops

Obligations persist until the licence is formally surrendered, or ceases in narrow circumstances

EPA Guidance – Three Scenarios

The licensed activity never commences and the commencement period expires

The activity is the sole operation on site and stops completely

The activity stops, but the company remains in production and the remaining activities do not require a licence

Three Pathways

Pathway	What Happens	Outcome
Cessation	Activity never commences; licence ceases	Clean endpoint; no surrender needed
Surrender	Licensee applies; EPA accepts	Clean break from obligations
Retention	Activity stops; licence not surrendered	Obligations, charges, and liabilities continue indefinitely

The Risk of Retention



Retaining the licence without surrendering it leaves the licensee exposed to ongoing obligations and costs indefinitely



Clients sometimes assume that once an activity stops, the regulatory burden falls away it does not



Licence conditions continue to apply and remain enforceable



Failure to surrender does not extinguish obligations; it simply prolongs them

Licence Duration



New installations: Typically 3–5 years to commence the activity



After commencement: If not resumed within 3 years of cessation, the licence ceases to have effect as an authorisation



Critical point: The 3-year expiry does not mean licence conditions cease to be legal requirements they continue to bind, and the EPA will enforce them, until formal surrender

Temporary vs Permanent Stop

	Temporary Stop	Permanent Stop
Duration	>6 months but <3 years	≥3 years
Licence status	Licence remains as authorisation	Licence ceases to authorise the activity
Key action	Contact the EPA as soon as cessation >6 months is known	Surrender or retention pathway applies

Licence Enforcement After Pause of Activity

Licence conditions apply from the date of grant until demonstrated to be no longer relevant

Monitoring may be discontinued only with prior approval

Exception: contaminated sites may require a CRAMP with longer-term monitoring

AER required until surrender is accepted, including E-PRTR reporting where emissions or off-site transfers continue

Changes to monitoring or reporting must be agreed with the EPA not a unilateral decision

Transfer of Licence

The transferee assumes and accepts all liabilities, requirements, and obligations under the licence - including those from before the transfer

Transfer is only relevant where the licensed activity is not stopping permanently

Joint application required by original licensee and proposed transferee

Submitted to the EPA using the prescribed Application Form

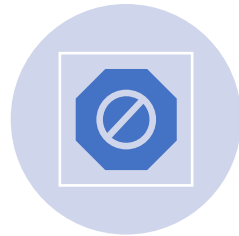
Cessation of Licence



APPLIES WHERE THE
LICENSED ACTIVITY
NEVER COMMENCES
AND THE
COMMENCEMENT
PERIOD EXPIRES



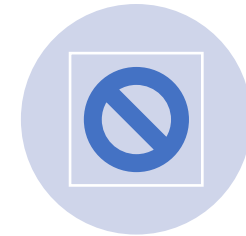
THE EPA MUST FORM
THE OPINION THAT
THE ACTIVITY HAS
NOT BEEN
SUBSTANTIALLY
COMMENCED, AND
MUST NOTIFY THE
LICENSEE



UPON NOTICE, THE
LICENCE CEASES
TO HAVE EFFECT



ESSENTIALLY A
CLEAN ENDPOINT -
THE POTENTIALLY
POLLUTING
ACTIVITY NEVER
OPERATED



NO SURRENDER
APPLICATION
REQUIRED

Actions Required Following Closure

Communicate plans as soon as possible

Discuss with the OEE inspector:

- Does the licensee intend to transfer within 3 years?
- Is the stop permanent or temporary?
- If permanent, does the licensee intend to surrender?

Early engagement enables efficient licence close-out

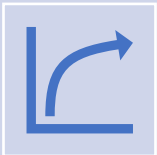
Residuals Management



Standard IPPC condition: following cessation >6 months, the licensee must decommission, render safe, or remove for disposal/recovery any soil, subsoils, buildings, plant, equipment, waste, materials, or substances that may result in environmental pollution



Compliance involves implementing the agreed CRAMP, Residuals Management Plan, Decommissioning Management Plan, or Independent Closure Audit



Even where no explicit condition exists, implementation of such a plan is best practice

Information Requirements Post-Closure

Date when activity stopped or will stop

Expected date of staff vacation from site

Proposed future use of premises

Post-exit contact details for the company

Contact details for landowner, building owner, local authority, current occupiers

Proposals for revised sampling, analysis, and reporting

Status of bonds or financial provisions

Validation report once the CRAMP or equivalent has been implemented

Licence Surrender

A licensee may apply to surrender if the activity stops permanently

Two distinct criteria - both must be satisfied:

- The technical unit and any equipment/materials on site must not be causing or likely to cause pollution
- The site itself - including subsoil and groundwater - must be in a satisfactory state

Once surrendered, conditions, requirements, and obligations no longer apply

Procedure to Surrender

Reconfirm basic licensee and site information
(e.g., boundary changes, entity changes)



Assessment by the OEE (not the Licensing
section)



Ultimate decision rests with the Director of
the OEE

Surrender Fees



Surrender application fee is a legal requirement, determined by class and size of licensed activity



Fee covers: correspondence, compliance assessment, monitoring, closure validation review, and exit audit



The process can take months to over a year; delays increase if contamination is identified



Payment of the fee does not guarantee approval - both substantive criteria must still be met



Licensee may apply to have the fee reviewed if not considered just and reasonable (EPA's absolute discretion)



The surrender process does not release the licensee from unpaid enforcement charges

The Independent Closure Audit

The ICA demonstrates the site has been returned to a satisfactory state and is not causing or likely to cause pollution

Where a CRAMP was previously agreed, confirm it still satisfies ICA scoping requirements

Where no CRAMP exists or new issues have arisen, the ICA scope must be agreed in advance with the OEE

Reference checklist attached to the surrender application form

The EPA may require additional monitoring, sampling, or investigations

The Exit Audit and Decision



After ICA completion, a validation report is submitted to the EPA



The EPA may consult with third parties (local authorities, fisheries boards, etc.)



The EPA inspector carries out an Exit Audit to verify the condition of the installation and site



The Exit Audit Report may identify additional or outstanding issues



Once all corrective actions are closed out, the inspector recommends to the Director of OEE

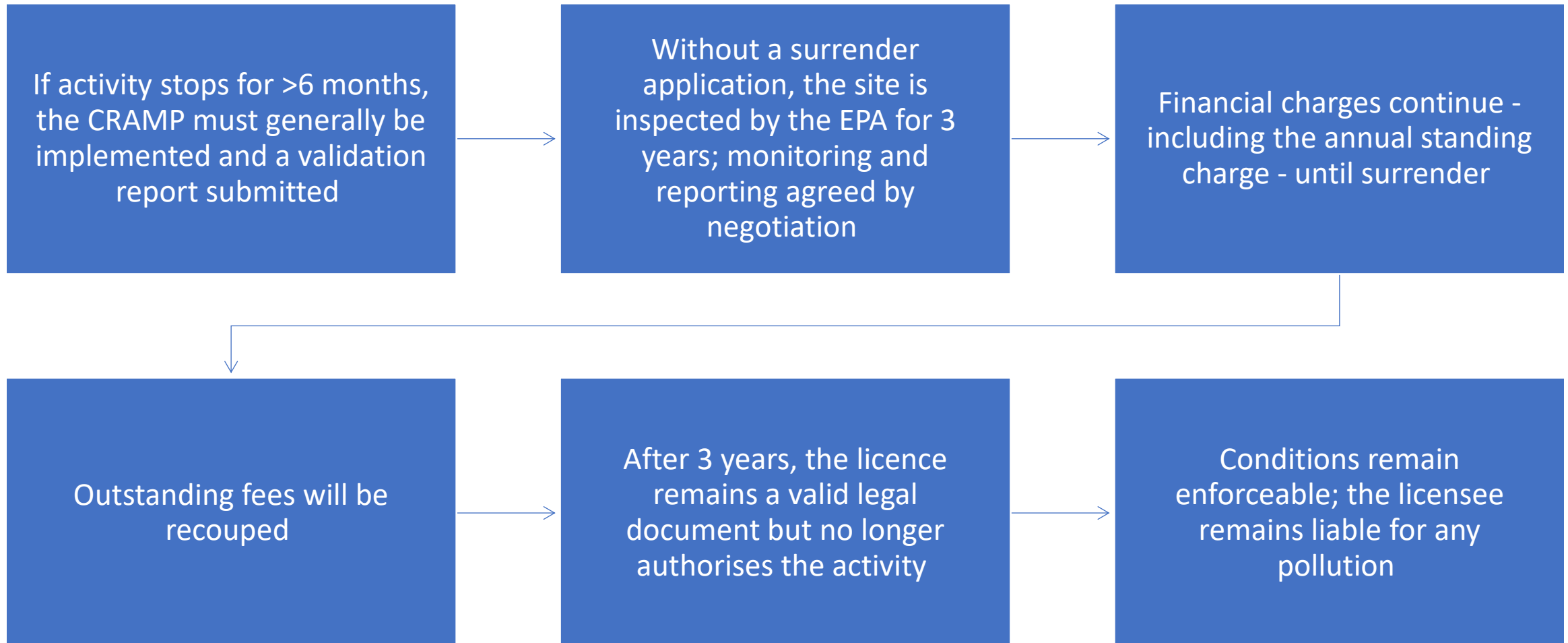


The Director makes the decision; the licensee is notified in writing



The date of receipt of the surrender approval notification is the official date of surrender

The Consequences of Licence Retention



Key Takeaways

Stopping the activity does not stop the obligations

Engage with the EPA inspector early - it enables efficient close-out

The ICA is the centrepiece of surrender - scope it properly and early

Payment of fees does not guarantee approval

Retention is not an endpoint - it prolongs obligations with ongoing costs and regulatory exposure

Surrender is the only route to a genuine clean break

Case Law Update

The logo features the letters "CMG" in a bold, sans-serif font, centered within a circular area. This central area is surrounded by a complex, multi-layered circular maze pattern that fills the rest of the image. The maze consists of several concentric rings with various openings and dead ends, creating a labyrinthine effect. The entire design is rendered in a light teal color against a darker teal background.

CMG

Case Law Update

- **Hayes & Anor v Environmental Protection Agency & Ors**
- [2024] IECA 162
- Court of Appeal
- Judge: Butler, Nuala J.
- This judgment concerns appeals against a decision by the Environmental Protection Agency (EPA) to grant a revised industrial emissions licence to Irish Cement Limited (ICL) for its cement plant in Limerick. The appellants challenged the EPA's environmental impact assessment (EIA) and appropriate assessment (AA) through judicial review. After the High Court rejected their challenges, they appealed to the Court of Appeal.
- ICL had applied to revise its existing licence to allow for the incineration of waste as fuel. The EPA granted the revised licence after conducting an EIA and AA. Two local residents challenged this decision, raising issues about the assessment processes and the EPA's conclusions.
- The Court of Appeal dismissed both appeals, affirming the High Court's decision.
- **Fit and proper person:** The court found that the EPA had provided adequate reasons for deeming ICL a fit and proper person to hold the licence, despite previous convictions for breaching licence conditions. The reasoning obligation was light given the context of revising an existing licence.
- **Air emissions:** The court upheld the EPA's assessment of air emissions, including its treatment of nitrogen deposition and sulphur dioxide. It deferred to the EPA's expertise on these technical matters, finding no basis to conclude there were gaps or lacunae in the assessment.

Chromium VI: The court rejected challenges to the EPA's treatment of chromium VI emissions, finding that the EPA was entitled to accept uncontradicted expert evidence presented at the oral hearing about background levels.

Bryophyte survey: The court ruled that a bryophyte survey was not required for a valid AA. It held that the appellants had not established a nexus between bryophytes and the conservation objectives of the relevant Special Area of Conservation to necessitate such a survey.

Throughout its judgment, the Court of Appeal emphasized the need to defer to the EPA's expertise on technical scientific matters. It also clarified the scope of judicial review in such cases, noting that while courts must ensure assessments are complete and free from lacunae, they should not attempt to re-evaluate scientific evidence or substitute their judgment for that of the expert decision-maker.

Case Law Update

- **Sweetman v The Environmental Protection Agency & anor**
- [2025] IECA 49
- Court of Appeal
- Judge: MacGrath J.
- Background:
- Appeal against a High Court decision which refused to quash an Industrial Emissions (IE) licence granted by the Environmental Protection Agency (EPA) to a poultry farm. The central issue was whether the EPA was required to assess the environmental impacts of off-site land spreading of poultry waste as part of the licensing process.
- The EPA granted an IE licence to Michael O'Connor for a farm rearing 74,000 broiler chickens in County Limerick. The licence allowed for the transport of poultry litter and wash water off-site. The appellant, Peter Sweetman, argued that the EPA should have conducted an appropriate assessment of the potential environmental impacts of land spreading this material on off-site lands as part of the licensing process.
- The Court of Appeal affirmed the High Court's decision, finding that the EPA had correctly defined the scope of its jurisdiction under the Environmental Protection Agency Act 1992. The court held that the EPA's remit was limited to assessing and regulating the on-site activities listed in the First Schedule of the Act, namely the intensive rearing of poultry. The licence did not purport to authorise off-site land spreading, which is separately regulated by the Department of Agriculture under the Nitrates Regulations.

The court rejected the appellant's contention that the licence conditions implicitly authorised land spreading. While the conditions acknowledged that land spreading might occur and imposed record-keeping requirements, this did not amount to authorisation of off-site activities beyond the EPA's jurisdiction.

The court also considered whether poultry litter and wash water constituted "waste" under EU law when intended for reuse as fertiliser. Referring to CJEU case law, the court noted that such materials may fall outside the definition of waste if their reuse is certain and part of a continuing process of production. However, the court did not definitively resolve this issue, as it was not necessary for determining the scope of the EPA's jurisdiction.

The judgment emphasised that the EPA was entitled to have regard to the wider regulatory framework, including the role of other statutory bodies in regulating land spreading. The court found no error in the EPA's approach of acknowledging potential off-site uses without purporting to assess or authorise them.

Case Law Update

- **Sweetman v Environmental Protection Agency & Ors**
- [2025] IEHC 144
- High Court
- Judge: Holland J.
- Argues EPA should have conducted EIA
- This case concerned a challenge by Peter Sweetman to a decision by the Environmental Protection Agency (EPA) granting an industrial emissions licence for a rendering plant. The key issue was whether Mr Sweetman had standing to bring the case.
- Mr Sweetman did not participate in the licence review process and lives far from the plant. He claimed a general interest in environmental protection and argued the EPA should have conducted an Environmental Impact Assessment (EIA). During the review process, 89 local residents had objected to the licence.

Case-Law Update

The Environmental Protection Agency v Harte Peat Limited

[2024] IECA 202

Court of Appeal

- Judge: Faherty J.
- This case concerns Harte Peat's application for an Integrated Pollution Control (IPC) licence for peat extraction, which the Environmental Protection Agency (EPA) refused to consider due to lack of planning permission. Harte Peat sought judicial review of this decision, whilst the EPA pursued an injunction to restrain Harte Peat's extraction activities.

Harte Peat claimed pre-1964 user status, arguing that no planning permission was required. The EPA contended that an Environmental Impact Assessment (EIA) and planning permission were necessary due to the scale of operations. Harte Peat's extraction spanned multiple areas (A, B, F, G) totalling over 50 hectares, though current extraction was confined to Area G (26.53 hectares).

The Court of Appeal found that planning permission was required despite Harte Peat's pre-1964 claim. It held that EIA Directive requirements trump domestic exclusions, and the temporal limitation in the definition of 'unauthorised works' in the Planning and Development Act 2000 should be disapplied to ensure compliance with EU law. The Court upheld the EPA's refusal to consider the licence application, finding that planning permission was a prerequisite. However, the Court allowed Harte Peat's appeal against the High Court's injunction under s.99H of the Environmental Protection Agency Act 1992. It found that the statutory threshold of 50 hectares was not met at the time of the application, as extraction was only occurring in Area G. The Court emphasised that s.99H is limited to ongoing activities and does not permit quia timet relief.

A large, faint, circular watermark logo is centered in the background. It features the letters 'CMG' in a bold, sans-serif font, surrounded by concentric circles and a complex, maze-like pattern of lines.

Thank you
Questions??