



STATUTORY INSTRUMENTS.

S.I. No. 186 of 2023



ENVIRONMENTAL PROTECTION AGENCY (DESIGNATED
DEVELOPMENT) (INDUSTRIAL EMISSIONS) (LICENSING)
REGULATIONS 2023

S.I. No. 186 of 2023

ENVIRONMENTAL PROTECTION AGENCY (DESIGNATED
DEVELOPMENT) (INDUSTRIAL EMISSIONS) (LICENSING)
REGULATIONS 2023

I, EAMON RYAN, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 6 and section 89 (amended by section 8 of the Environmental Protection Agency (Emergency Electricity Generation) (Amendment) Act 2023 (No. 6 of 2023)) of the Environmental Protection Agency Act 1992 (No. 7 of 1992), and for the purpose of giving further effect to Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010¹ on industrial emissions (integrated pollution prevention and control) (Recast), hereby make the following regulations:

PART 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the Environmental Protection Agency (Designated Development) (Industrial Emissions) (Licensing) Regulations 2023.

Interpretation

2. (1) In these Regulations –
- “alternative assessment” has the meaning given to it by Regulation 10(1);
- “Act of 1992” means the Environmental Protection Agency Act 1992 (No. 7 of 1992);
- “Act of 1996” means the Waste Management Act 1996 (No. 10 of 1996);
- “Act of 2022” means the Development (Emergency Electricity Generation) Act 2022 (No. 35 of 2022);
- “Agency” means the Environmental Protection Agency;
- “applicant” means a person making a designated application;
- “application” means a designated application;
- “designated application” has the same meaning as section 3(1) of the Act of 1992;
- “designated development” means development designated by section 2(1) of the Act of 2022;

¹ OJ L 334, 17.12.2010, p. 17

“environmental report” means a report prepared in accordance with Regulation 7 of the Regulations of 2022;

“Industrial Emissions Directive” means Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010¹ on industrial emissions (integrated pollution prevention and control) (Recast);

“licence” means a licence granted under section 83 of the Act of 1992 to operate all or part of an installation which forms part of the designated development within which one or more Industrial Emissions Directive activities listed in the First Schedule to that Act are carried out;

“offices of the Agency” means the headquarters and the Regional Inspectorates of the Agency;

“Regulations of 2022” means the Development (Emergency Electricity Generation) Regulations 2022 (S.I. No. 719 of 2022).

(2) Where a requirement of or under the Act of 1992 or these Regulations requires submissions to be made, or documents, particulars or other information to be submitted, to the Agency within a specified period and the last day of that period is a Saturday, a Sunday, a public holiday (within the meaning of the Organisation of Working Time Act (No. 20 of 1997)) or any other day on which the offices of the Agency are closed, the submissions, or documents, particulars or other information, as the case may be, shall be regarded as having been received before the expiration of that period if received by the Agency on the next following day on which the offices of the Agency are open.

Scope

3. (1) These Regulations apply to the industrial emissions directive activities within the meaning of section 3 of the Act of 1992 in respect of which an application is made.

(2) Regulation 3(1) of the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. No. 137 of 2013) is amended by the substitution of “section 3 of the Act of 1992 other than such activities in respect of which a designated application within the meaning of that section is made” for “section 3 of the Act of 1992”.

PART 2 APPLICATIONS

Notice of intention to apply for licence

4. An applicant shall –
- (a) within the period of 2 weeks before the making of an application, publish notice of the intention to make the application in a newspaper circulating in the district in which the

activity is or will be situate, in accordance with Regulation 5, and

- (b) not later than the making of the application for the licence, give notice of the application by the erection or by the fixing of a site notice on the land or structure concerned, in accordance with Regulation 6.

Notices in newspapers

5. A notice published in a newspaper pursuant to Regulation 4(a) shall contain as a heading the words “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A LICENCE IN RESPECT OF DESIGNATED DEVELOPMENT WITHIN THE MEANING OF THE DEVELOPMENT (EMERGENCY ELECTRICITY GENERATION) ACT 2022” and shall –

- (a) give the name and address of the applicant,
- (b) state the location or postal address (including, where appropriate, the name of the townland or townlands) to which the application relates,
- (c) specify the class or classes and nature of the activities in accordance with the First Schedule to the Act of 1992,
- (d) state that the application is in respect of designated development which is exempt from the provisions of the EIA Directive in accordance with subsection (1) of section 5 of the Act of 2022 and that an assessment will be carried out by the Agency in relation to the application for the purposes of ensuring that the objectives of the EIA Directive are met,
- (e) state that an environmental report will be submitted to the Agency with the application,
- (f) state that –
 - (i) a copy of the environmental report,
 - (ii) a copy of the application,
 - (iii) any further information, including reports and advice, relating to the application as may be furnished to the Agency in the course of the Agency’s consideration of the application,

shall each be made available to be inspected on the Agency’s website and at the headquarters of the Agency as soon as is practicable after the receipt by the Agency of the application for the licence,

- (g) state that submissions may be made in writing to the Agency in relation to the application and the likely main effects on the environment of the proposed activity within the period specified by the Agency on its website under Regulation 9(2)(c),

- (h) state that where the application is duly made to the Agency the Agency may grant the licence subject to such conditions as it considers appropriate or refuse the application,
- (i) state that a decision under section 83(1) of the Act of 1992 in respect of the application shall be published by the Agency on its website, in accordance with Regulation 17.

Site notices

6. (1) A site notice erected or fixed pursuant to Regulation 4(b) on any land or structure shall –

- (a) be painted or inscribed, or printed and affixed, on a durable material,
- (b) be securely erected or fixed in a conspicuous position –
 - (i) on or near the main entrance to the land or structure from a public road, or
 - (ii) on any other part of the land or structure adjoining a public road,

and shall be so erected or fixed, and the text so painted, inscribed or printed, that the notice shall be capable of being read by persons using the said public road.

(2) Where the land or structure to which an application for a licence relates does not adjoin a public road, a site notice shall be erected or fixed in a conspicuous position on the land or structure so as to be easily visible and legible by persons outside the land or structure.

(3) A site notice erected or fixed on any land or structure pursuant to Regulation 4(b) shall be headed “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A LICENCE IN RESPECT OF DESIGNATED DEVELOPMENT WITHIN THE MEANING OF THE DEVELOPMENT (EMERGENCY ELECTRICITY GENERATION) ACT 2022”, and shall –

- (a) state the name and address of the applicant,
- (b) specify the class or classes and nature of the activities in accordance with the First Schedule to the Act of 1992,
- (c) indicate the site location or proposed location of the activity,
- (d) state that the application is in respect of designated development which is exempt from the provisions of the EIA Directive in accordance with subsection (1) of section 5 of the Act of 2022 and that an assessment will be carried out by the Agency in relation to the application for the purposes of ensuring that the objectives of the EIA Directive are met,
- (e) state that an environmental report has been, or will, be submitted to the Agency with the application,
- (f) state that –

- (i) a copy of the environmental report submitted to the Agency,
- (ii) a copy of the application,
- (iii) any further information, including reports and advice, relating to the application as may be furnished to the Agency in the course of the Agency's consideration of the application,

shall each be made available to be inspected on the Agency's website and at the headquarters of the Agency as soon as is practicable after the receipt by the Agency of the application for the licence,

- (g) state that submissions may be made in writing to the Agency in relation to the application and the likely main effects on the environment of the proposed activity within the period specified by the Agency on its website under Regulation 9(2)(c),
- (h) state that where the application is duly made to the Agency, the Agency may grant the licence subject to such conditions as it considers appropriate or refuse the application,
- (i) state that a decision under section 83(1) of the Act of 1992 in respect of the application shall be published by the Agency on its website in accordance with Regulation 17.

(4) A site notice in accordance with this Regulation shall be maintained in position where erected or fixed in accordance with Regulation 4(b) for at least one month after the making of the application and shall be renewed or replaced if it is removed or becomes defaced or illegible within the period during which it is required to be displayed.

Application for a licence

7. (1) An application shall be submitted to the headquarters of the Agency and shall be in such form as may be determined by the Agency which may include electronic submission via the website of the Agency.

(2) Without prejudice to the generality of paragraph (1), an application shall –

- (a) give –
 - (i) the name, address and telephone number of the applicant and, if different, any address to which correspondence relating to the application should be sent and, if the applicant is a body corporate, the address of its registered or principal office, and
 - (ii) the location or postal address (including, where appropriate, the name of the relevant townland or townlands) of the premises to which the activity relates,

- (b) specify the relevant class or classes in the First Schedule to the Act of 1992 to which the industrial emissions directive activity relates,
- (c) include –
 - (i) the environmental report,
 - (ii) where An Bord Pleanála has reached a conclusion under Regulation 8(9) of the Regulations of 2022, a copy of that conclusion together with the reasons for it,
and
 - (iii) an electronic link or hyperlink to the application submitted to the Minister under section 4 of the Act of 2022,
- (d) specify the raw and ancillary materials, substances, preparations, fuels and energy which will be produced by or utilised in the activity,
- (e) describe the plant, methods, processes, ancillary processes, abatement, recovery and treatment systems, and operating procedures for the activity,
- (f) indicate how the requirements of section 83(5)(a)(i) to (v) and (vii) to (xa) of the Act of 1992 shall be met, having regard, where appropriate, to any relevant specification issued by the Agency under section 5(3)(b) of that Act or any applicable best available techniques (BAT) conclusions adopted in accordance with Article 13(5) of the Industrial Emissions Directive and the reasons for the selection of the arrangements proposed,
- (g) give particulars of the source, nature, composition, temperature, volume, level, rate, method of treatment and location of emissions, and the period or periods during which the emissions are, or are to be, made,
- (h) identify monitoring and sampling points and outline proposals for monitoring emissions and the environmental consequences of any such emissions,
- (i) provide –
 - (i) details, and an assessment, of the impacts of any existing or proposed emissions on the environment as a whole, including on an environmental medium other than that or those into which the emissions are, or are to be, made, and
 - (ii) details of the proposed measures to prevent or eliminate, or where that is not practicable, to limit, reduce or abate emissions,
- (j) describe in outline the main alternatives to the proposed technology, techniques and measures which were studied by the applicant,
- (k) describe the condition of the site of the installation,

- (l) provide, when requested by the Agency, in the case of an activity that involves the use, production or release of relevant hazardous substances (as defined in section 3 of the Act of 1992) and having regard to the possibility of soil and groundwater contamination at the site of the installation, a baseline report in accordance with section 86B of the Act of 1992,
- (m) specify the measures to be taken to comply with an environmental quality standard where such a standard requires stricter conditions to be attached to a licence than would otherwise be determined by reference to best available techniques,
- (n) describe the measures to be taken for minimising pollution over long distances or in the territory of other states,
- (o) describe the measures to be taken under abnormal operating conditions, including start-up, shutdown, leaks, malfunctions, breakdowns and momentary stoppages,
- (p) describe the measures to be taken on and following the permanent cessation of the activity or part of the activity to avoid any risk of environmental pollution and to return the site of the activity to a satisfactory state or the state established in the baseline report if such is required under section 86B of the Act of 1992,
- (q) describe the arrangements for the prevention of waste in accordance with Part III of the Act of 1996, and where waste is generated by the installation, how it will be in order of priority in accordance with section 21A of the Act of 1996, prepared for re-use, recycling, recovery or where that is not technically or economically possible, disposed of in a manner which will prevent or minimise any impact on the environment,
- (r) specify, by reference to the relevant European Waste Catalogue codes as prescribed by Commission Decision 2000/532/EC of 3 May 2000², the quantity and nature of the waste or wastes produced or to be produced by the activity, or the quantity and nature of the waste or waste accepted or to be accepted at the installation,
- (s) state whether the activity consists of, comprises, or is for the purposes of an establishment to which the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (S.I. No. 209 of 2015) apply,
- (t) describe, in the case of an activity which gives rise, or could give rise, to an emission containing a hazardous substance which is discharged to an aquifer and which is specified in Annex VIII or Annex X to Directive 2000/60/EC of the

² OJ No. L 226, 6.9.2000, p. 3.

European Parliament and of the Council of 23 October 2000³ establishing a framework for Community action in the field of water policy,

- (u) include a non-technical summary of information provided in relation to the matters specified in subparagraphs (b) to (v) of this paragraph, and
 - (v) include any other information required under Article 11 of the Industrial Emissions Directive.
- (3) An application shall be accompanied by –
- (a) a copy of the relevant page of the newspaper in which the notice in accordance with Regulation 5 has been published,
 - (b) a copy of the text of the site notice erected or fixed on the land or structure in accordance with Regulation 6,
 - (c) a copy of such plans, including a site plan and location map, and such other particulars, reports and supporting documentation as are necessary to identify and describe –
 - (i) the activity,
 - (ii) the position of the site notice in accordance with Regulation 6,
 - (iii) the point or points from which emissions are made or are to be made,
 - (iv) monitoring and sampling points, and
 - (d) any fee specified in accordance with section 99A of the Act of 1992.
- (4) An application shall be signed by or on behalf of the applicant and shall be submitted to the Agency in hard copy or in electronic form.

Further notice

8. Where –
- (a) a period of more than 2 weeks has elapsed between the publication in a newspaper of a notice in accordance with Regulation 4 and the making of the application, or
 - (b) it appears to the Agency that any notice published or given in pursuance of Regulation 4 –
 - (i) if published in a newspaper, does not comply with the provisions of Regulation 5, or
 - (ii) if erected or fixed on any land or structure, does not comply with the provisions of Regulation 6, or

³ OJ No. L 327, 22.12.2000, p. 1.

- (iii) in either case, because of its content or for any other reason, is misleading or inadequate for the information of the public,

the Agency shall require the applicant to publish, erect or fix such further notice in such manner, whether in a newspaper or otherwise, in such terms as it may specify and to submit to it such evidence as it may specify in relation to compliance with any such requirement.

Procedure on receipt of an application for licence

9. (1) On receipt of an application, the Agency shall –

- (a) in the case of an application received in hardcopy format, stamp the hardcopy format with the date of receipt, and
- (b) examine whether the application, whether or not received in hard copy format, complies with subparagraphs (a) to (c) of Regulation 7(2), Regulation 7(3) and Regulation 7(4),

(2) If the Agency considers that an application complies with the provisions specified in paragraph (1)(b), the Agency shall publish a copy of the application on its website together with a notification stating that –

- (a) the application is in respect of designated development which is exempt from the provisions of the EIA Directive in accordance with subsection (1) of section 5 of the Act of 2022,
- (b) an assessment will be carried out by the Agency in relation to the application for the purposes of ensuring that the objectives of the EIA Directive are met, and
- (c) submissions in writing in relation to the application and the likely main effects on the environment of the proposed activity may be made within a period specified by reference to the date on which information is received under paragraph (1), not being a period of less than 30 days.

(3) A notification under paragraph (2) shall state that where the application is duly made to the Agency, the Agency may grant the licence subject to such conditions as it considers appropriate or refuse the application.

(4) Where the Agency considers that an application complies with the provisions specified in paragraph (1)(b), it shall send to the applicant an acknowledgment stating the date of receipt of the application.

(5) Where the Agency considers that an application for a licence does not comply with all of the provisions specified in paragraph (1)(b), it may, as it considers appropriate having regard to the extent of the failure to comply with the said provisions, by notice in writing –

- (a) inform the applicant of such failure of compliance and that the application cannot be considered by the Agency, or
- (b) require the applicant, within such period as may be specified by the Agency, to take such steps, or to furnish such further information, particulars, plans, drawings or maps, as may be

necessary to comply with the provisions specified in paragraph (1)(b) and, where the applicant fails to comply with a requirement under this subparagraph, the Agency may, as it considers appropriate having regard to the extent of the failure, inform the applicant, by notice in writing, of such failure and that the application cannot be considered by the Agency.

(6) Where the Agency considers that an application does not comply with any or all the requirements referred to in subparagraphs (d) to (v) of Regulation 7(2) or that further information is necessary to be provided by the applicant for the purposes of an alternative assessment, it may, as it considers appropriate having regard to the extent of the failure to comply with the said requirements or, as the case may be, the necessity for further information, by notice in writing –

- (a) inform the applicant of such failure of compliance and that the application cannot be considered by the Agency, or
- (b) require the applicant, within such period as may be specified by the Agency, to take such steps, or to furnish such further information, particulars, plans, drawings or maps, as may be necessary to comply with the requirements of subparagraphs (d) to (v) of Regulation 7(2) or to assist the Agency in carrying out an alternative assessment.

(7) Where the applicant fails to comply with a requirement under paragraph (6)(b), the Agency may, as it considers appropriate having regard to the extent of the failure, inform the applicant, by notice in writing, of such failure and that the application cannot be considered by the Agency.

(8) In the case where further information is received pursuant to paragraph (5)(b) or, as the case may be, paragraph (6)(b), the Agency shall, on receipt of the information, publish a copy of the information on its website, together with a notice stating that during a specified period (which shall not be less than 14 days) submissions in relation to the information may be made to the Agency in writing or by electronic means which may include electronic submissions via the website of the Agency.

PART 3

ALTERNATIVE ASSESSMENT

Alternative assessment by Agency

10. (1) An assessment (referred to in these Regulations as an “alternative assessment”) shall be carried out by the Agency in relation to an application for the purposes of ensuring that the objectives of the EIA Directive are met.

(2) An alternative assessment shall identify the likely main effects on the environment of the designated development.

(3) Without prejudice to the generality of paragraph (1), an alternative assessment shall include an examination, analysis and evaluation by the

Agency in an appropriate manner, in light of the purpose referred to in section 2(1) of the Act of 2022, and to the extent reasonably possible in light of the information contained in the application and further information (if any) provided in accordance with this Regulation by the applicant to the Agency, of the likely main effects of the designated development on the following factors:

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC of 21 May 1992 and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape;
- (e) the interaction between the factors referred to in subparagraphs (a) to (d).

(4) In carrying out an alternative assessment, the Agency shall take into account –

- (a) the application (including the environmental report),
- (b) the conclusion of An Bord Pleanála under Regulation 8(9) of the Regulations of 2022,
- (c) any further information received in accordance with these Regulations,
- (d) any submissions duly made to the Agency in accordance with paragraphs (2)(c) and (8) of Regulation 9,
- (e) the decision of the Minister under section 7(1) of the Act of 2022,

and shall reach a conclusion on the likely main effects of the designated development on the environment.

(5) The Agency shall carry out an alternative assessment as expeditiously as possible having regard to the purpose referred to in section 2(1) of the Act of 2022.

Decision on applications

11. Where, on an application, the Agency makes a decision to grant a licence subject to such conditions as it considers appropriate or to refuse the application, the Agency shall incorporate into its decision under section 83 of the Act of 1992 –

- (a) the conclusion reached under Regulation 10(4), and
- (b) such conditions including but not limited to conditions regarding any feature of the project or measures (including monitoring measures, the parameters to be monitored and the duration of the monitoring) as the Agency considers necessary to avoid, prevent or reduce and, if possible, offset significant adverse effects (if

any) of the activity in respect of the designated development on the environment.

PART 4 CONSIDERATION OF APPLICATIONS

Notice to certain bodies

12. (1) Where the Agency receives an application, other than an application in respect of which a notice in accordance with paragraphs (5)(a) or (6)(a) of Regulation 9 has been or will be given, it shall notify each of the following of the application and of the fact that submissions in writing in relation to the application and the likely main effects on the environment of the proposed activity may be made within the period referred to in Regulation 9(2)(c):

- (a) any planning authority and regional assembly in whose functional area the designated development would be situated;
- (b) the Minister for the Environment, Climate and Communications;
- (c) the Minister for Transport;
- (d) the Minister for Housing, Local Government and Heritage;
- (e) the Minister for Agriculture, Food and the Marine;
- (f) the Minister for Enterprise, Trade and Employment;
- (g) the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media;
- (h) An Taisce - the National Trust for Ireland;
- (i) the Commission for Regulation of Utilities;
- (j) the Health and Safety Authority;
- (k) the Health Service Executive;
- (l) the Heritage Council;
- (m) Inland Fisheries Ireland;
- (n) in the case of a discharge to a sewer to which section 99E of the Act of 1992 relates, Uisce Eireann;
- (o) the National Roads Authority;
- (p) the National Tourism Development Authority;
- (q) such other public authorities, persons or bodies, if any, as the Agency considers appropriate.

- (2) A notice given in accordance with paragraph (1) shall at least indicate –
- (a) the reference number given under Regulation 18 to the application in the register of licences,
 - (b) the name and address of the applicant,

- (c) the location or postal address (including, where appropriate, the name of the relevant townland or townlands) of the premises to which the application relates,
- (d) the class or classes and nature of the industrial emissions directive activity in accordance with the First Schedule to the Act of 1992,
- (e) that a copy of the application will be available to view and download on the Agency's website as soon as practicable after its receipt by the Agency.

Agency investigations

13. The Agency may carry out, or arrange to have carried out, such investigations as it considers necessary to enable it properly to decide on an application for a licence, and may require the applicant to defray or contribute towards the cost of any such investigations.

Inspection and availability of documents including alternative assessment carried out by Agency

14. (1) In accordance with the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), the Agency shall make the environmental information specified in paragraph (3) available to view and download for inspection from the Agency's website, as soon as practicable after its receipt by the Agency, for at least 4 years following the day on which a decision is made on the application for a licence.

(2) In the event that a person cannot access the environmental information referred to in paragraph (3) on the Agency's website, the Agency shall, upon request, provide that information by any other effective means.

(3) For the purposes of paragraph (1) information to be made available includes but is not limited to –

- (a) an application for a licence,
- (b) such other notices as are given by the Agency under Part IV of the Act of 1992 or under these Regulations in respect of the application for a licence in respect of a designated development,
- (c) such information, particulars, plans, drawings, maps including site location maps, photographs, evidence, reports, notices, submissions, views or observations as are received or obtained by the Agency from the applicant or any other person in accordance with Part IV of the Act of 1992 or in accordance with these Regulations in respect of the application.

(4) Upon expiration of the period referred to in paragraph (1) where the Agency removes any environmental information from its website, the Agency shall in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 make available to the public, whether for

public inspection during office hours at the headquarters of the Agency or otherwise, environmental information held by it.

Withdrawal or abandonment of application for a licence

15. (1) An application may be withdrawn by the applicant at any time before the making of the decision of the Agency on the application.

(2) Where the Agency is of the opinion that an application has been abandoned it may give to the applicant a notice stating that fact and requiring that person, within a period specified in the notice (being a period of not less than 14 or not more than 28 days beginning on the date of the giving of the notice), to make to the Agency a submission in writing as to why the application should not be regarded as having been abandoned.

(3) Where a notice has been given under paragraph (2), the Agency may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the Agency pursuant to the notice, declare that the application to which the notice relates shall be regarded as having been abandoned.

(4) Where pursuant to this Regulation the Agency declares that an application is to be regarded as having been withdrawn or abandoned, any submission in relation to the application shall not be further considered by the Agency.

Results of monitoring and evaluations

16. (1) A licensee shall, not later than 31 March in each year, furnish to the Agency information, of such nature and in such form as may be specified in guidance documents published by the Agency to include the results of emissions monitoring required under the conditions attaching to the licence concerned, in relation to the environmental performance of the installation concerned.

(2) The Agency shall make the information under paragraph (1) publicly accessible on the Agency's website as soon as is practicable after its receipt by the Agency.

PART 5

NOTIFICATION AND PUBLICATION OF DECISIONS

Notification and publication of decisions

17. (1) When a decision is taken to grant or refuse a licence the Agency shall notify –

- (a) the applicant,
- (b) any person who made a submission to the Agency in accordance with these Regulations, and

(c) each person notified under Regulation 12, of its decision and provide each such person with an electronic link or hyperlink to the decision on the Agency's website.

(2) The Agency shall, within 10 days of the giving of a decision referred to in paragraph (1), publish a notice of its decision on its website and in a newspaper circulating in the district in which the industrial emissions directive activity is or will be situated.

(3) Where the Agency publishes a notice pursuant to paragraph (2) on its website, the notice shall include the following information:

- (a) the reference number given under Regulation 18 to the application in the register of licences;
- (b) the name and address of the applicant or licensee;
- (c) the class or classes of the industrial emissions directive activity and nature of the industrial emissions directive activity in accordance with the First Schedule to the Act of 1992;
- (d) the location and postal address (including, where appropriate, the name of the relevant townland or townlands) of the premises to which the decision relates;
- (e) the nature of the decision;
- (f) the date of the giving of the decision;
- (g) any report referred to in section 83(2A)(g) of the Act of 1992;
- (h) the conclusion reached by the Agency under Regulation 10(4) and a description, where necessary, of the main measures to avoid, reduce, and, if possible, offset the major adverse effects (if any) on the environment;
- (i) the title of the best available techniques reference documents (BREFs) relevant to the installation or activity concerned;
- (j) information about how emission limit values have been determined in relation to best available techniques and emission limit values associated with the techniques;
- (k) if a derogation has been granted in accordance with section 86A(6)(a) of the Act of 1992, the specific reasons for such derogation and the conditions imposed;
- (l) the location at which –
 - (i) the content of the decision, including a copy of the licence and of any conditions and any subsequent updates,
 - (ii) the reasons and considerations on which the Agency, having examined the concerns and opinions expressed by any person, has based its decision, including information on the public participation process, and
 - (iii) practical information on the review mechanism, may be obtained;

- (m) that –
 - (i) any application for judicial review or any other legal proceedings which question the validity of the decision of the Agency must, in accordance with section 87(10) of the Act of 1992, be instituted within the period of 8 weeks beginning on the date indicated in accordance with subparagraph (f), and
 - (iii) a person shall not question the validity of the decision of the Agency other than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(4) Where the Agency publishes a notice pursuant to paragraph (2) in a newspaper circulating in the district in which the activity is or will be situate the notice shall include at least the information specified under subparagraphs (a),(b), (c), (e), (f), (l) and (m) of paragraph (3),

PART 6

REGISTER

Form of register

18. (1) The register of licences required under section 91 of the Act of 1992 shall in respect of each application contain the following:

- (a) the reference number in accordance with paragraph (2);
- (b) the name and address of the applicant, or the licensee, as the case may be;
- (c) the class or classes and nature of the industrial emissions directive activity in accordance with the First Schedule to the Act of 1992;
- (d) the location or postal address (including where appropriate, the name of the relevant townland or townlands) of the premises to which the application relates;
- (e) the date on which the Agency is in receipt of the application for a licence and supporting documentation and particulars required to be submitted under Regulation 7;
- (f) the date of any notification given by the Agency under these Regulations;
- (g) the date of receipt of any submission, document, plans, drawings, maps, evidence, particulars or information submitted to the Agency in compliance with any notice given under these Regulations;
- (h) the date on which the Agency is in receipt of further information required under these Regulations;

- (i) the date of a declaration under Regulation 15(3);
- (j) the date of the decision on the application.

(2) Each application shall be given a reference number in the register of licences.

PART 7

MISCELLANEOUS

Principal Polluting Substances

19. The Agency shall have regard, in fulfilling its duty under section 83(4)(a) of the Act of 1992, to the principal polluting substances listed in the Schedule.

Criteria for the determination by the Agency of a relevant person

20. In determining whether a person shall be a relevant person for the purposes of section 84(4) and (5) of the Act of 1992 the Agency shall, where an applicant or licensee is a body corporate, have regard to whether the said person is a director, manager, secretary or other similar officer of that body corporate or is otherwise in, or likely to be in, a position to direct or control the carrying on of the industrial emissions directive activity to which the relevant application or licence, as the case may be, relates.

Assessment of impacts of designated development on certain species

21. (1) As part of the alternative assessment the Agency shall assess the impacts (if any) of the activities in respect of which a licence has been applied for, on the species listed in Annex IV of Council Directive 92/43/EEC of 21 May 1992⁴ on the conservation of natural habitats and of wild fauna and flora, amended by Council Directive 97/62/EC of 27 October 1997⁵, Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29 September 2003⁶, Council Directive 2006/105/EC of 20 November 2006⁷ and Council Directive 2013/17/EU of 13 May 2013⁸ (referred to in this Regulation as the “Directive”) and on their breeding sites and resting places and consider whether there is a need for a derogation for the purpose of Article 16 of that Directive in respect of those activities.

(2) Where, following an assessment referred to in paragraph (1), the Agency considers that there is a need for a derogation for the purpose of Article 16 of the Directive in respect of the activities in respect of which a licence has been applied for, the Agency shall consider granting the licence

⁴ OJ No. L206, 22.7.1992, p. 7

⁵ OJ No. L305, 8.11.1997, p. 42

⁶ OJ No. L284, 31.10.2003, p. 1

⁷ OJ No. L363, 20.12.2006, p. 368

⁸ OJ No. L158, 10.6.2013, p. 193

subject to a condition that the applicant obtain a derogation licence in accordance with the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).

SCHEDULE

INDICATIVE LIST OF THE PRINCIPAL POLLUTING SUBSTANCES TO BE TAKEN INTO ACCOUNT (IF RELEVANT) BY THE AGENCY FOR THE FIXING OF EMISSION LIMIT VALUES

AIR

- 1.Sulphur dioxide and other sulphur compounds.
- 2.Oxides of nitrogen and other nitrogen compounds.
- 3.Carbon monoxide.
- 4.Volatile organic compounds.
- 5.Metals and their compounds.
- 6.Dust including fine particulate matter.
- 7.Asbestos (suspended particulates, fibres).
- 8.Chlorine and its compounds.
- 9.Fluorine and its compounds.
- 10.Arsenic and its compounds.
- 11.Cyanides.
- 12.Substances and mixtures which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air.
- 13.Polychlorinated dibenzodioxins and polychlorinated dibenzofurans.

WATER

- 1.Organohalogen compounds and substances which may form such compounds in the aquatic environment.
- 2.Organophosphorus compounds.
- 3.Organotin compounds.
- 4.Substances and mixtures which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment.
- 5.Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances.
- 6.Cyanides.
- 7.Metals and their compounds.
- 8.Arsenic and its compounds.
- 9.Biocides and plant protection products.
- 10.Materials in suspension.

11.Substances which contribute to eutrophication (in particular, nitrates and phosphates).

12.Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.).

13.Substances listed in Annex X to Directive 2000/60/EC.



GIVEN under my Official Seal,
18 April, 2023.

EAMON RYAN,
Minister for the Environment, Climate and
Communications.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
MOUNTSHANNON ROAD,
KILMAINHAM, DUBLIN 8,
D08 XAO6

Tel: 046 942 3100
E-mail: publications@opw.ie

€4.50

