

## Guidance Note for Licensees:

# LEAP Online: compliance & enforcement information accessible on the EPA's website



## For the information of EPA Licensees and permit holders in the industry, waste management, urban wastewater and dumping at sea sectors

Guidance Note V. 2.0, May 2023

### Summary

- i. LEAP Online Phase 1 is being launched in May 2023 to provide online access to regulatory records exchanged between the EPA and licensed operators (including holders of permits and other EPA authorisations). Phase 2 will be implemented in Autumn 2023.
- ii. 'Regulatory records' are the formal compliance & enforcement correspondence between the EPA and its regulated communities.
- iii. LEAP Online replaces
  - o the existing LEAP Portal which has provided public access to these regulatory records at EPA Offices since 2013, and
  - o the online publication of certain enforcement documents (including Site Visit and Monitoring reports) on the "Licence Details" pages of [www.epa.ie](http://www.epa.ie).
- iv. LEAP Online provides online public access to regulatory records issued or received by the EPA in the current year and in the prior seven calendar years. This is subject to certain exceptions provided for in law, including GDPR, FoI and AIE.
- v. Upload of regulatory records will be deferred for a period of 30 calendar days following their acceptance or issue by the EPA.
- vi. A Licensee Public Response (LPR) to an EPA Site Visit Report (SVR) will be published simultaneously on calendar day 30 following issue of the SVR, provided that the LPR is received by the EPA in time to allow review prior to publication.
  - o EPA commits to simultaneous publication where the LPR is submitted within 21 calendar days of the issue of the SVR;
  - o LPRs received by the EPA after 21 calendar days cannot be guaranteed to be reviewed in time for simultaneous publication with the SVR.
- vii. Licensees are reminded that, in making a submission to the EPA, they are making a legal declaration that the content of the submission is complete, accurate and truthful.

## 1 Overview

This Guidance Note is intended to advise holders of EPA licences and permits<sup>1</sup> about LEAP Online. This is our latest initiative to progressively improve public access to the environmental information that arises from compliance and enforcement interactions with EPA-regulated operators.

The EPA has since its foundation had a policy of providing open access to the information we hold on behalf of the Irish public, including regulatory correspondence.

Since 2013, the EPA has provided public access to this information by appointment at our public viewing facilities located in EPA Offices. With the introduction of LEAP Online, the public will now be able to access this same information on the EPA website. It will no longer be necessary to visit an EPA office to view this information.

This Guidance Note accompanies the webinar on LEAP Online delivered to all licensed operators on 16th February 2023. It provides a description of the purpose, design, content and operation of this new service.

## 2 Background

The EPA's regulatory files contain documents that arise from both licence applications and the enforcement of issued licences. The EPA's [Compliance and Enforcement Policy](#) includes a commitment to conduct our regulatory work in an open and transparent manner, and to make information on our compliance and enforcement activities available and accessible to the public. Central to this has been the provision of public access to the regulatory correspondence arising in the course of

- licensing major industrial, waste management and comparable activities, and
- enforcement and monitoring of the environmental performance of licensed operators.

Our open and transparent access to information is in line with the [UN Aarhus Convention](#) of June 1998 and with associated European and national law, principally the [AIE Directive 2003/4/EC](#) and the [Access to Information on the Environment Regulations 2014](#) as amended, which enacted Aarhus in Irish law. The [Freedom of Information Act 2014](#) is also relevant to public accessibility of environmental records.

### Environmental information and the scope of public access

LEAP Online is the latest in a series of advances EPA has made over the years in providing public access to enforcement information. It directly addresses the obligation per Article 5.3 of Aarhus and Article 7 of the AIE Directive 2003/4/EC to “ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks”. Under Article 2.1 of the AIE Directive, “Environmental Information” is defined thus:

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<sup>1</sup> Referred to hereafter as ‘Licensed Operators’. Likewise, ‘Licenses’ refers also to EPA permits and authorisations.

“Environmental information” means any information in written, visual, aural, electronic or any other material form on:

- (a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) Factors, such as substances, energy, noise and radiation, and **activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes**, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;
- (c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above.
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).

This definition, and in particular the highlighted portion, establishes a clear legal basis for making publicly available environmental information arising during the course of environmental regulation.

This obligation is not absolute, and public authorities are obliged to protect, among others, legal confidentiality, commercial and trade secrecy, and the privacy of personal information. Beyond these identified constraints, information arising in the course of environmental regulation is in the public record.

## Incremental improvements in EPA’s online regulatory information

In 2005, we began to publish regulatory information on our website, starting with uploading the full licence application file for each licence. Since then, we have progressively published more compliance & enforcement information on the EPA’s website, notably:

- 2009 The Annual Environmental Report
- 2011 The National Pollutant Release and Transfer Register
- 2016 The ‘Keystone Enforcement Documents’: EPA Site Visit Reports (Inspection and Monitoring), licensee self-monitoring, site closure, management plans
- 2017 The National Enforcement Priority Sites list
- 2020 Online summary of compliance & enforcement data and statistics

### 3. Introduction of LEAP Online

The EPA has now decided to change how the public can access our holding of Formal Compliance & Enforcement Correspondence (FCEC), the official regulatory records exchanged between EPA and regulated operators for the purposes of maintaining environmental compliance. This change is the introduction of our web-based access system, LEAP Online.

#### Original LEAP: The Licence & Enforcement Access Portal

Prior to 2013, regulatory communication with our licensed communities took place through paper-based correspondence. Beginning in 2013, EPA adopted the **EDEN Environmental Data Exchange Network** to enable the exchange of compliance and enforcement correspondence with licensees in electronic format.

As part of that change, we created a viewer called the Licence & Enforcement Access Portal or LEAP. The LEAP Portal provided public access to all of these electronic-format records. LEAP was installed on dedicated desktop computers at the existing public viewing facilities located in each EPA Office.

In 2016, we began publishing some types of enforcement documents to the Licence Details page of our website, but most of the correspondence remained inaccessible except at EPA offices. This arrangement was considered an advance at the time, but in recent years it has been recognised as being insufficient and not in line with current legislation on public information. LEAP Online is intended to address this and to meet the expectation of today's engaged public.

LEAP Online provides public access to the same range of formal compliance and enforcement correspondence that have been available on our office-based LEAP Portal since 2013. It will greatly improve the public's ability to learn about licensed and permitted activities in Ireland and will give operators an effective way to communicate to their neighbours and the wider community.

### 4 How will LEAP Online work?

#### 4.1 What are the categories of EPA licences and permits involved?

LEAP Online will be used to provide access to the FCEC arising from the following activity sectors:

- Industry
  - Industrial Emissions (IED)
  - Integrated Pollution Prevention & Control (IPPC)
  - Integrated Pollution Control (IPC)
- Waste Management
- Dumping at Sea
- Radiation Protection (Site Visits)
- Urban Waste Water:
  - Waste Water Discharge Authorisations (WWDA)
  - Certificates of Authorisation (CoA)

## 4.2 Range of Document Types and launch phases

LEAP Online Phase 1 is being launched in May 2023, and will focus on three main categories of FCEC documentation:

- **EPA Site Visit and Monitoring Visit Reports**
- **Licensee Returns (including Licensee Public Responses to EPA Reports)**
- **EPA Requests for Information and operators' responses**

The remaining categories of documentation will be added to LEAP Online in Quarter 3 of 2023.

### Phase 1: May 2023

**Organisation / Site**

**Licence Profile**

**Licence Version**

**Licensee Returns**

**Site Visit Reports: Inspection & Monitoring**

**Licensee Public Responses**

**Requests for Information & operator responses**

### Phase 2: Quarter 3 2023

**Incidents**

**Complaints**

**Non-Compliances**

**Compliance Investigations**

**CI - Action / Instruction**

**EDEN Messages**

**Public 3rd Party Correspondence**

**EPA-Initiated Correspondence**

**Meetings**

**Licence Change Requests**

## 4.2 Format of LEAP Online

LEAP Online will be hosted on the "Our Services" domain of the EPA website [www.epa.ie](http://www.epa.ie). There is a dedicated main page for each Licenced Site, which provides basic information about the licence and the site and its operations; this is similar to the information already published on your Licence Details Page. The Landing Page will contain a list of Latest Compliance Records, and will allow users to search for specific categories of record.

Further “drilldown” pages will be provided for each Compliance Record Type, which will allow users to browse by type, subject matter, detail, date, status etc., and will provide links to associated documents such as inspection and monitoring reports.

The screenshot displays the LEAP Online portal interface. At the top, there is a navigation bar with the EPA logo and menu items: Environment & You, Environmental Topics, Our Services, Publications, and Who we are. Below this is a blue header with the text 'LEAP Online Home / XYZ Company - P9999'. The main content area is titled 'XYZ Company - P9999 Industrial Emissions Licence' and features the LEAP logo. A navigation menu below the title includes 'Licence Dashboard', 'Licence Versions', and 'Compliance Records'. The 'Compliance Records' section is active and contains three panels: 'Licence Details', 'Active Licence Details', and 'Site Details'. Below these panels is a table titled 'Latest Compliance Records' with the following data:

Type	Reference No.	Subject	Status	Date
Incident	INCI99999	Details about an incident	Open	01 Jul 2021
Complaint	COM99999	A complaint that has been made about something	Open	31 May 2021
Complaint	COM99999	Another complaint that has been made about ...	Closed	24 Apr 2021
Compliance Investigation	CI999999	This is a compliance investigation which is ...	Open	12 Mar 2021
Non Compliance	NC999999	Details of the non compliance	Closed	12 Mar 2021

At the bottom right of the table, there is a link: [View all Compliance Records](#).

#### 4.4 Publication deferral period

Previously, all FCEC documentation was made publicly accessible via our office-based LEAP Portal on the day following its issue or receipt by the EPA.

The Agency considers that the immediate publication of such documentation in an online portal is inappropriate, as it might impact on the conduct of regulatory business between the EPA and licensed operators. The Agency also considers, in line with the AIE Regulations, that the documentation should be nonetheless made accessible to the public in a reasonable period of time.

We therefore apply a 30-calendar day deferral target for upload of FCEC documentation. This aligns with the timescales for requests under the FOI Acts and AIE Regulations and complies with the Agency’s Quality Customer Service Goals.

Accordingly, the Agency applies:

- a minimum **30 calendar day deferral period** between the actioning of a document by an EPA inspector and its publication to LEAP Online;
- a minimum **30 calendar day deferral period** applies between the acceptance by an EPA inspector of your submission and its publication to LEAP Online;
- Operators who wish to do so may submit a Licensee Public Response (LPR) to the Site Visit Report (SVR):
  - The LPR will be published simultaneously with the SVR - provided that the LPR has been received in time for the EPA to review it for Suitability for Publication;
  - To be confident that the LPR will be published concurrently with the SVR, operators are advised to submit it within 21 days of receiving the SVR;
  - EPA will endeavour to concurrently publish LPRs received between 21 and 28 days after issue of the SVR, but simultaneous upload may be less certain;
  - LPRs received too late to be published concurrently with the SVR will be published the day after their review by the EPA.

Updates made to certain records that have already been published will be uploaded on the following calendar day. This applies to, for example, updates to Incident Notifications.

It is important that licensees make arrangements to maintain close review of their EDEN Portal (or “Authorisation Module”), to ensure that they can respond in a timely way to Agency notifications. By doing so, the gap between your receiving an EPA Site Visit Report, request or notification and your response to it can be minimised.

The EPA is committed to meeting the same standard of timeliness.

## 4.5 Lookback period

Under the EPA’s Records Management Policy, general FCEC correspondence is available for public access for a period of seven calendar years after their issue by the Agency or receipt from licensees.

The seven-year lookback date will roll forward on 01 January each year. This means that items of FCEC available in 2023 will be those issued or received beginning in 2015, and in 2024 items back to 2016 will be accessible.

There may be some exceptions to the general 7-year lookback rule, that apply in the case of certain documents or document types. These are documents that, by their nature, are liable to contain data whose publication is restricted under GDPR. In such cases, the EPA will defer the upload of the full seven-year record pending further assessment of possible GDPR risk. See Para. 4.7 for further information in this regard.

It is important to note that there is no specified time limit to the lookback period for public records which are subject to requests for access under either the [Freedom of Information Acts](#) (FoI) or the [Access to Information on the Environment Regulations](#) (AIE).

## 4.6 Confidentiality of certain documents

All of the formal compliance and enforcement documentation listed above are by nature in the public record, except where legal mechanisms permitting the withholding from publication apply, for example under the FoI Act and the AIE Regulations.

### Confidential by nature

Certain types of documentation have been designated by the Board of the EPA to be commercially sensitive by nature; these have not been published on the LEAP Portal in the past and will not be published to LEAP Online.

### Specific requests for confidentiality

Certain correspondence may be considered by regulated operators to fall within the definition of confidential information under various legislative provisions, including the EPA Act 1992 as amended, the FoI Act and the AIE Regulations. The EPA provides a mechanism for licensees to [request confidentiality](#) in respect of any item/s of correspondence on request to the Board of the EPA.

It is open to citizens to challenge any such confidentiality designation under the FoI Act or the AIE Regulations.

## 4.7 GDPR and the protection of personal data

The General Data Protection Regulation, [Regulation \(EU\)2016/679](#), provides for the full protection of the personal data of individuals where it is held by public bodies.

EPA is committed to ensuring that we only process personal data 'lawfully, fairly and in a transparent manner in relation to the data subject' as required by GDPR. 'Lawful' processing includes "processing that is necessary for the purposes of the legitimate interests pursued by the controller" - in this case, the EPA pursuing compliance with environmental law and providing access to Environmental Information.

### 4.7.1 Personal details of private third parties

The EPA has taken measures to ensure that the conduct of regulatory business creates no requirement for either licensed operators or the EPA to include any form of personal information of private third parties in any of the regulatory correspondence we undertake.

The EPA treats as confidential all personal information of private citizens who correspond with the EPA, or with licensees, about the performance of licensed operators or problems associated with licensed sites. No identifying details of persons who lodge complaints or report incidents are included in the summaries published in LEAP.



The EPA examines each submission to identify any potentially GDPR-sensitive content. Where the EPA detects what we consider to be the inappropriate inclusion of the personal data of private citizens, we will reject the submission and require that the licensee resubmits the item with the personal details deleted or obscured.

#### **4.7.2 Professional details of responsible participants**

The environmental information that arises in the course of environmental regulation contains, by its nature, the professional details of individuals employed by or acting on behalf of the EPA, licensed operators and their service providers. These professional details are not considered to be subject to GDPR where they appear or are contained in regulatory correspondence. This is because such professional details relate to the holders of environmental licences or, more commonly, to the officers holding responsible positions in regulated organisations or their service providers, or in the EPA. The inclusion of the professional details of persons responsible for environmental compliance is essential to the value and credibility of the information. Such individuals are acting in their professional capacities in the course of business that involves environmentally sensitive activities; they are not, when acting in their professional capacities, the personal details of private citizens.

Licensed operators are made aware of the public status of regulatory information as and from the time of their applications for such licences. This is clearly set out in the various regulations governing the licensing process, and is stated on our website, which advises that:

Applicants for licences and authorisations and those who make submissions and objections are informed of the fact that any information they give to the EPA will be made publicly available, both at the offices of the EPA and on this website. This is notified to applicants by means of a declaration of the licence application form and to the public on the [licence search page](#) on this website.

#### **Environmental Contact details**

Licensees must maintain a List of Environmental Contacts, the officers of the organisation who are responsible for communicating with the EPA on compliance and enforcement matters and for maintaining awareness of their EDEN portal.

Operators should ensure not to include in their correspondence any telephone numbers, email addresses or similar operational information relating to their or their agents' personnel, other than their Environmental Contacts.

#### **GDPR responsibilities on licensed operators**

Licensed operators are asked to note that, while the EPA holds the primary responsibility for ensuring that nothing is put into the public record that might breach GDPR rules, they also have a role in this regard. It is important that operators recognise that they are responsible for ensuring that their submissions do not include any personal data, and implement measures to comply with GDPR in their submissions to the EPA, by ensuring that names, addresses, contact details and other information relating to private citizens are not included in any correspondence.

## 4.8 GDPR and older FCEC documents

Paragraph 4.5 stated that we publish Formal Compliance & Enforcement Correspondence issued or received during the current year and the prior 7 calendar years.

It is our intention to moving as much as possible of our FCEC legacy from the office-based LEAP Portal to LEAP Online, while also complying with the GDPR Regulation to prevent the release of personal information that may be present. However, we recognise that, in previous years, licensees did not always compose their submissions in the knowledge that it would become accessible online, and were not explicitly instructed to do so.

Some document types, for example monitoring reports and incident notifications, may have included information such as addresses of monitoring locations that we now recognise as potentially sensitive under GDPR.

In practice, this means that, as described in Para. 4.5, the full seven years' records for certain types of FCEC documents may not be made available on LEAP Online until the risk that they might contain personal data has been addressed.

## 4.9 Suitability for publication

The EPA considers that the content of a licensee's FCEC correspondence is a matter for the licensee. You may make any request or notification to us, and respond to our notifications, reports, requests for information and Compliance Investigation Actions, as you deem appropriate. When composing your submission, you must treat all formal correspondence with the EPA as being in the public record.

EPA wishes to ensure that content on its website is appropriate for this public arena, and we therefore retain the right to apply limited and stated grounds for a decision not to publish any specific submission.

These grounds are:

- i. **Discrepancy between content of the record and other licensee submissions**
- ii. **Defamatory, vexatious or misleading content**

In the event that the EPA decides not to publish a submission for reasons of suitability, we will inform the licensee of the decision, we will reject the submission and require that the licensee resubmits the item with the identified unsuitable details deleted or obscured.

## 4.10 Legal responsibility for submissions

Licensees are reminded that, when they make a formal submission to the EPA for the purposes of compliance with the requirements of their licence, they are making a legal declaration that the content of the submission is complete, accurate and truthful. As such, licensees may be held accountable, including in the courts, for any breaches of this declaration.

## 5 Concluding remarks

The EPA's online publication, as of Quarter 1 2023, of formal compliance & enforcement documentation is in line with our ongoing commitment to improve our services to the licensed community and the wider public, and to exploit the capabilities of new information and communications technologies.

We are confident that this initiative will improve the accessibility of relevant information to the public and contribute to their understanding of environmental regulation. It will at the same time provide an opportunity to licensed operators to communicate directly with their neighbours and to demonstrate good environmental performance in the communities in which they operate.

The EPA is confident that this initiative will be welcomed by the licensed community and by the wider public as a positive development in open and transparent environmental regulation, and will serve to further promote similar improvements in the information services of other parts of the public administration in Ireland and beyond.

This measure forms part of the EPA's longer-term strategy towards making more and more relevant environmental information available to users at a local level. It is envisaged that further developments will include the provision of information on the environmental performance and enforcement status of individual licensed sites as well as ambient air and water quality, within the framework of the "[My Local Environment](#)" resource on [www.epa.ie](http://www.epa.ie).

