

EPA Approach to Environmental Liabilities and Financial Provision



ENVIRONMENTAL PROTECTION AGENCY

The Environmental Protection Agency (EPA) is responsible for protecting and improving the environment as a valuable asset for the people of Ireland. We are committed to protecting people and the environment from the harmful effects of radiation and pollution.

The work of the EPA can be divided into three main areas:

Regulation: *We implement effective regulation and environmental compliance systems to deliver good environmental outcomes and target those who don't comply.*

Knowledge: *We provide high quality, targeted and timely environmental data, information and assessment to inform decision making at all levels.*

Advocacy: *We work with others to advocate for a clean, productive and well protected environment and for sustainable environmental behaviour.*

Our Responsibilities

Licensing

We regulate the following activities so that they do not endanger human health or harm the environment:

- waste facilities (e.g. *landfills, incinerators, waste transfer stations*);
- large scale industrial activities (e.g. *pharmaceutical, cement manufacturing, power plants*);
- intensive agriculture (e.g. *pigs, poultry*);
- the contained use and controlled release of Genetically Modified Organisms (*GMOs*);
- sources of ionising radiation (e.g. *x-ray and radiotherapy equipment, industrial sources*);
- large petrol storage facilities;
- waste water discharges;
- dumping at sea activities.

National Environmental Enforcement

- Conducting an annual programme of audits and inspections of EPA licensed facilities.
- Overseeing local authorities' environmental protection responsibilities.
- Supervising the supply of drinking water by public water suppliers.
- Working with local authorities and other agencies to tackle environmental crime by co-ordinating a national enforcement network, targeting offenders and overseeing remediation.
- Enforcing Regulations such as Waste Electrical and Electronic Equipment (WEEE), Restriction of Hazardous Substances (RoHS) and substances that deplete the ozone layer.
- Prosecuting those who flout environmental law and damage the environment.

Water Management

- Monitoring and reporting on the quality of rivers, lakes, transitional and coastal waters of Ireland and groundwaters; measuring water levels and river flows.
- National coordination and oversight of the Water Framework Directive.
- Monitoring and reporting on Bathing Water Quality.

Monitoring, Analysing and Reporting on the Environment

- Monitoring air quality and implementing the EU Clean Air for Europe (CAFE) Directive.
- Independent reporting to inform decision making by national and local government (e.g. *periodic reporting on the State of Ireland's Environment and Indicator Reports*).

Regulating Ireland's Greenhouse Gas Emissions

- Preparing Ireland's greenhouse gas inventories and projections.
- Implementing the Emissions Trading Directive, for over 100 of the largest producers of carbon dioxide in Ireland.

Environmental Research and Development

- Funding environmental research to identify pressures, inform policy and provide solutions in the areas of climate, water and sustainability.

Strategic Environmental Assessment

- Assessing the impact of proposed plans and programmes on the Irish environment (e.g. *major development plans*).

Radiological Protection

- Monitoring radiation levels, assessing exposure of people in Ireland to ionising radiation.
- Assisting in developing national plans for emergencies arising from nuclear accidents.
- Monitoring developments abroad relating to nuclear installations and radiological safety.
- Providing, or overseeing the provision of, specialist radiation protection services.

Guidance, Accessible Information and Education

- Providing advice and guidance to industry and the public on environmental and radiological protection topics.
- Providing timely and easily accessible environmental information to encourage public participation in environmental decision-making (e.g. *My Local Environment, Radon Maps*).
- Advising Government on matters relating to radiological safety and emergency response.
- Developing a National Hazardous Waste Management Plan to prevent and manage hazardous waste.

Awareness Raising and Behavioural Change

- Generating greater environmental awareness and influencing positive behavioural change by supporting businesses, communities and householders to become more resource efficient.
- Promoting radon testing in homes and workplaces and encouraging remediation where necessary.

Management and structure of the EPA

The EPA is managed by a full time Board, consisting of a Director General and five Directors. The work is carried out across five Offices:

- Office of Environmental Sustainability
- Office of Environmental Enforcement
- Office of Evidence and Assessment
- Office of Radiation Protection and Environmental Monitoring
- Office of Communications and Corporate Services

The EPA is assisted by an Advisory Committee of twelve members who meet regularly to discuss issues of concern and provide advice to the Board.



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Introduction

This document applies to EPA licensees that require the agreement of closure and restoration/aftercare plans (CRAMPs), Environmental Liabilities Risk Assessments (ELRAs), and/or financial provision to be put in place.

What are environmental liabilities and financial provisions?

Environmental liabilities may arise at EPA authorised facilities due to closure and restoration/aftercare (considered known liabilities), and/or incidents (unknown liabilities). Where they occur, the cost of addressing the liabilities can be significant.

IT IS IMPORTANT TO ENSURE THAT THERE IS ADEQUATE FINANCIAL PROVISION IN PLACE TO MANAGE ENVIRONMENTAL RISKS

It is important to ensure that there is adequate financial provision in place to manage environmental risks, protect the environment and minimise the exposure of the state to the cost of remediating environmental damage and pollution when persons carrying out licensed activities fail to do so.

The Regulatory Framework

Under Irish Law, licensees are required to ensure that sites are returned to a satisfactory state following closure. This may require the remediation of a site and long-term aftercare. Thus, many EPA licences contain conditions requiring licensees to cost their environmental liabilities (both known and unknown) and make financial provision for same.

Current EPA Guidance

The EPA has published Guidance on Assessing and Costing Environmental Liabilities, and Guidance on Financial Provision for Environmental Liabilities. These documents are available on the EPA's website and should be referred to for any technical queries in relation to the assessment and costing of environmental liabilities and financial provisions.

What is this document about?

The EPA's Strategic Plan (2016-2020) has committed to achieving:

- A risk-based, responsive regulatory approach that engages stakeholders and protects the environment and people, and
- Reduced environmental risks at EPA regulated facilities through tailored interventions and ensuring appropriate financial provisions are in place.

In implementing the strategic plan, the EPA has applied a risk based approach to environmental liability and financial provision requirements. As a result, only licensed facilities that pose a high risk to the environment will be required to agree the assessment and costings for environmental liabilities and financial provision in future. This ensures that legislative requirements are met, keeping environmental protection to the fore, while being a balanced and fair approach for both industry and the public.

This document sets out the types of facilities considered high risk and the actions required of operators with respect to environmental liabilities and financial provisions.



What are my obligations under the licence?

For facilities whose licensable classes of activity are considered higher risk i.e. fall into one of the 8 categories outlined on page 3, licence conditions related to environmental liabilities and financial provision continue to apply in their current format.

For all other licensees, the agreement of environmental liabilities assessments and costings, and associated financial provisions, is no longer required by the EPA. However, the EPA recommends that these licensees complete the assessments and retain financial provision for potential environmental liabilities at their facilities as best practice.

Peace of mind for the operator

The process of assessing and costing environmental liabilities can be beneficial in many ways. For example, in engaging in the process of assessing unknown environmental liabilities, operators are proactively identifying and gathering information about environmental risks. This information can then be applied to daily practices and procedures on site to minimise the risk of an event occurring in the first instance, or to limit the impact of the event if one does occur. Furthermore, financial provisioning allows for the operator to plan for potentially significant costs in the event of unexpected closure or the occurrence of an incident at their facility.

Does this make the environment a safer place?

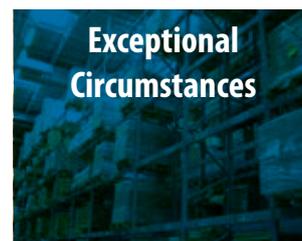
Yes! For example:

The public can be assured that taking a risk based approach ensures that risk is actively identified and minimised at licensed sites that have the potential to have the largest impact on the environment in the event of sudden closure or the occurrence of an incident.

Where sudden closure or an incident does occur, funds in the form of secure financial provisions can be utilised to achieve the timely return of the relevant site to a safe state and mitigate the impacts of any environmental pollution which may have resulted.



Licensed facilities **REQUIRED** to agree costs and provisions for environmental liabilities



If a facility falls into one of the 8 categories above, the licensee is required to assess and cost for known and unknown liabilities, and secure financial provision, in accordance with their licence and relevant EPA guidance.

Licensees who fall into these categories have a legislative requirement to make financial provision for the facility and/or have been determined to pose the most significant risk to the environment in the event of an incident or closure of the facility. If a facility falls into one of the categories, the licensee is required to assess and cost for known and unknown liabilities, and secure financial provision, in accordance with their licence and relevant EPA guidance.

The EPA maintains a dynamic list of the licensees required to agree costs for environmental liabilities and financial provision (as, for example, facilities can be added to or removed from the list of Seveso sites, or an event may occur causing the facility to be reclassified as having exceptional circumstances).

What are contaminated land facilities?

High risk contaminated land facilities are licensed facilities considered to pose a significant threat to groundwater bodies under the Water Framework Directive. A circular letter was issued to licensees in this category in July 2018 advising them of their designation as Significant Groundwater Pressure Sites.

What are exceptional circumstances?

A facility falls into the "Exceptional Circumstances" category if they do not fall into one of the other categories above, but they meet one or more of the following criteria:

- There is a known, documented liability;
- That liability is unusual for the sector;
- There is significant waste stockpiling at a facility (i.e. storage of large volumes of waste which would incur significant cost upon sudden closure);
- There is groundwater/soil contamination requiring intervention to prevent/limit off-site impacts.

How do I know if this applies to me?

If you operate a facility with a licence which falls under one of the categories above, your licence conditions related to environmental liabilities and financial provision continue to apply.

Where a facility is deemed to have "exceptional circumstances", the licensee will be contacted to confirm that the conditions related to environmental liabilities and/or financial provision in their licence apply.

If your facility does not currently operate under one of the 8 categories, and circumstances change the licensee will be advised of their obligations with respect to the agreement of environmental liabilities and financial provisions.

Licensed Facilities NOT REQUIRED to agree cost and financial provision for environmental liabilities



Facilities that do not fall into the eight categories opposite are no longer required to agree costs and financial provisions for environmental liabilities.

The EPA will over time, amend licences to align with this approach. As the list of facilities that require agreement of environmental liabilities is dynamic in nature, revised licence conditions will enable the EPA to further amend the licence to require the agreement of costed environmental liabilities and financial provision instruments as required.

This does not remove the obligation on licensees to leave the site in a satisfactory state and submit a decommissioning validation report in the event of closure.

Irrespective of this, it is good practice to be aware of the nature and scale of environmental liabilities for your facility and to provide for these and licensees are advised to retain adequate financial provision to address any environmental liabilities that may arise as a result of an incident/sudden closure.

How do I know if this applies to me?

The EPA will contact all licensees to whom this applies individually.

What if a licensee that is no longer required to agree provision for environmental liabilities has financial provision in place or under negotiation with the EPA?

The EPA will cease pursuing any financial provisions under negotiation and allow the financial provisions currently agreed to expire, or will release them on request from the licensee.

What should I do now?

No action is required for licensees in these circumstances unless they wish to request the release of an agreed financial provision. To do so, please contact a member of the OEE Waste and Financial Provision Team or submit a licensee return stating this on Eden.

Non-Compliance and the consequences

This matter is a strategic priority for the EPA to ensure the protection of both the environment and the public purse. Where operators fail to plan for environmental liabilities, they risk exposure to significant costs in the event of sudden closure or if an incident occurs.

The EPA will pursue the agreement of any remaining liability assessments and costings, and financial provision costings, using a range of the enforcement tools available to it, including but not limited to enforcement correspondence, the issuing of non-compliances, opening compliances investigations, making demands pursuant to existing financial provisions and where necessary legal action.

THIS MATTER IS A STRATEGIC PRIORITY FOR THE EPA TO ENSURE THE PROTECTION OF BOTH THE ENVIRONMENT AND THE PUBLIC PURSE



Where to find additional information

EPA published guidance and templates related to environmental liabilities and financial provision are available at: www.epa.ie/enforcement/financialprovisionforenvironmentalliabilities/

Any queries can be directed to the designated regional enforcement team for your facility, or to a member of the OEE Waste and Financial Provision team.



AN GHNÍOMHAIREACHT UM CHAOMHNÚ COMHSHAOIL

Tá an Gníomhaireacht um Chaomhnú Comhshaoil (GCC) freagrach as an gcomhshaoil a chaomhnú agus a fheabhsú mar shócmhainn luachmhar do mhuintir na hÉireann. Táimid tiomanta do dhaoine agus don chomhshaoil a chosaint ó éifeachtaí díobhálacha na radaíochta agus an truaillithe.

Is féidir obair na Gníomhaireachta a roinnt ina trí phríomhréimse:

Rialú: Déanaimid córais éifeachtacha rialaithe agus comhlíonta comhshaoil a chur i bhfeidhm chun torthaí maithhe comhshaoil a sholáthar agus chun díriú orthu siúd nach gcloíonn leis na córais sin.

Eolas: Soláthraimid sonraí, faisnéis agus measúnú comhshaoil atá ar ardchaighdeán, spriocdhírthe agus tráthúil chun bonn eolais a chur faoin gcinnteoireacht ar gach leibhéal.

Tacaíocht: Bímid ag saothrú i gcomhar le grúpaí eile chun tacú le comhshaoil atá glan, táirgiúil agus cosanta go maith, agus le hiompar a chuirfidh le comhshaoil inbhuanaithe.

Ár bhFreagrachtaí

Ceadúnú

Déanaimid na gníomhaíochtaí seo a leanas a rialú ionas nach ndéanann siad dochar do shláinte an phobail ná don chomhshaoil:

- saoráidí dramhaíola (*m.sh. láithreáin líonta talún, loisceoirí, stáisiúin aistrithe dramhaíola*);
- gníomhaíochtaí tionsclaíoch ar scála mór (*m.sh. déantúsaíocht cógaisíochta, déantúsaíocht stroighne, stáisiúin chumhachta*);
- an diantalmhaíocht (*m.sh. muca, éanlaith*);
- úsáid shrianta agus scaoileadh rialaithe Orgánach Géinmhodhnaithe (*OGM*);
- foinsí radaíochta ianúcháin (*m.sh. trealamh x-gha agus radaiteiripe, foinsí tionsclaíochta*);
- áiseanna móra stórála peitрил;
- scardadh dramhuise; agus
- gníomhaíochtaí dumpála ar farraige.

Forfheidhmiú Náisiúnta i leith Cúrsaí Comhshaoil

- Clár náisiúnta iniúchtaí agus cigireachtaí a dhéanamh gach bliain ar shaoráidí a bhfuil ceadúnas ón nGníomhaireacht acu.
- Maoirseacht a dhéanamh ar fhreagrachtaí cosanta comhshaoil na n-údarás áitiúil.
- Caighdeán an uisce óil, arna sholáthar ag soláthraithe uisce phoiblí, a mhaoirsiú.
- Obair le húdarás áitiúla agus le gníomhaireachtaí eile chun dul i ngleic le coireanna comhshaoil trí chomhordú a dhéanamh ar líonra forfheidhmiúcháin náisiúnta, trí dhírú ar chiontóirí, agus trí mhaoirsiú a dhéanamh ar leasúcháin.
- Cur i bhfeidhm rialachán ar nós na Rialachán um Dhramhthrealamh Leictreach agus Leictreonach (DTLL), um Shrian ar Shubstaintí Guaiseacha agus na Rialachán um rialú ar shubstaintí a ídíonn an ciseal ózóin.
- An dlí a chur orthu siúd a bhriseann dlí an chomhshaoil agus a dhéanann dochar don chomhshaoil.

Bainistíocht Uisce

- Monatóireacht agus tuairisciú a dhéanamh ar cháilíocht aibhneacha, lochanna, uisce idirchriosacha agus cósta na hÉireann, agus screamhuise; leibhéal uisce agus sruthanna aibhneacha a thomhas.
- Comhordú náisiúnta agus maoirsiú a dhéanamh ar an gCreat-Treoir Uisce.
- Monatóireacht agus tuairisciú a dhéanamh ar Cháilíocht an Uisce Snámha.

Monatóireacht, Anailís agus Tuairisciú ar an gComhshaoil

- Monatóireacht a dhéanamh ar cháilíocht an aeir agus Treoir an AE maidir le hAer Glan don Eoraip (CAFÉ) a chur chun feidhme.
- Tuairisciú neamhspleách le cabhrú le cinnteoireacht an rialtais náisiúnta agus na n-údarás áitiúil (*m.sh. tuairisciú tréimhsíúil ar staid Chomhshaoil na hÉireann agus Tuarascálacha ar Tháscairí*).

Rialú Astaíochtaí na nGás Ceaptha Teasa in Éirinn

- Fardail agus réamh-mheastacháin na hÉireann maidir le gáis cheaptha teasa a ullmhú.
- An Treoir maidir le Trádáil Astaíochtaí a chur chun feidhme i gcomhair breis agus 100 de na táirgeoirí dé-ocsaíde carbóin is mó in Éirinn.

Taighde agus Forbairt Comhshaoil

- Taighde comhshaoil a chistiú chun brúnna a shainaithe, bonn eolais a chur faoi bheartais, agus réitigh a sholáthar i réimsí na haeraíde, an uisce agus na hinbhuanaitheachta.

Measúnacht Straitéiseach Timpeallachta

- Measúnacht a dhéanamh ar thionchar pleananna agus clár beartaithe ar an gcomhshaoil in Éirinn (*m.sh. mórphleananna forbartha*).

Cosaint Raideolaíoch

- Monatóireacht a dhéanamh ar leibhéal radaíochta, measúnacht a dhéanamh ar nochtadh mhuintir na hÉireann don radaíocht ianúcháin.
- Cabhrú le pleananna náisiúnta a fhorbairt le haghaidh éigeandála ag eascairt as taismí núicléacha.
- Monatóireacht a dhéanamh ar fhorbairtí thar lear a bhaineann le saoráidí núicléacha agus leis an tsábháilteacht raideolaíochta.
- Sainseirbhísí cosanta ar an radaíocht a sholáthar, nó maoirsiú a dhéanamh ar sholáthar na seirbhísí sin.

Treoir, Faisnéis Inrochtana agus Oideachas

- Comhairle agus treoir a chur ar fáil d'earnáil na tionsclaíochta agus don phobal maidir le hábhair a bhaineann le caomhnú an chomhshaoil agus leis an gcosaint raideolaíoch.
- Faisnéis thráthúil ar an gcomhshaoil ar a bhfuil fáil éasca a chur ar fáil chun rannpháirtíocht an phobail a spreagadh sa chinnteoireacht i ndáil leis an gcomhshaoil (*m.sh. Timpeall an Tí, léarscáileanna radóin*).
- Comhairle a chur ar fáil don Rialtas maidir le hábhair a bhaineann leis an tsábháilteacht raideolaíoch agus le cúrsaí práinnfhreagartha.
- Plean Náisiúnta Bainistíochta Dramhaíola Guaisí a fhorbairt chun dramhail ghuaiseach a chosaint agus a bhainistiú.

Múscailt Feasachta agus Athrú Iompraíochta

- Feasacht chomhshaoil níos fearr a ghiniúint agus dul i bhfeidhm ar athrú iompraíochta dearfach trí thacú le gnóthais, le pobail agus le teaghlaigh a bheith níos éifeachtúla ar acmhainní.
- Tástáil le haghaidh radóin a chur chun cinn i dtithe agus in ionaid oibre, agus gníomhartha leasúcháin a spreagadh nuair is gá.

Bainistíocht agus struchtúr na Gníomhaireachta um Chaomhnú Comhshaoil

Tá an ghníomhaíocht á bainistiú ag Bord Iánamseartha, ar a bhfuil Ard-Stiúrthóir agus cúigear Stiúrthóirí. Déantar an obair ar fud cúig cinn d'Oifigí:

- An Oifig um Inmharthanacht Comhshaoil
- An Oifig Forfheidhmithe i leith cúrsaí Comhshaoil
- An Oifig um Fianaise is Measúnú
- Oifig um Chosaint Radaíochta agus Monatóireachta Comhshaoil
- An Oifig Cumarsáide agus Seirbhísí Corparáideacha

Tá Coiste Comhairleach ag an nGníomhaireacht le cabhrú léi. Tá dáréag comhaltá air agus tagann siad le chéile go rialta le plé a dhéanamh ar ábhair imní agus le comhairle a chur ar an mBord.



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