

Environmental Protection Agency

Submission to the Cost of Business Advisory Forum

“Regulation and Planning: Regulatory Burden and Infrastructural Delivery”

1. Introduction

The Environmental Protection Agency welcomes the opportunity to make a written submission to the Cost of Business Advisory Forum on the “Regulation and Planning” theme. The EPA recognises the importance of timely decision-making on applications for authorisation submitted by the business community and public bodies. One of our strategic outcomes, to be achieved by 2026, according to the [EPA Strategic Plan 2022-2026 \(2025 Revision\)](#), is :

“We will have an agile, effective and responsive regulatory system, delivering timely decisions to promote sustainable and environmentally sound development.”

The EPA’s progress towards this goal is good and is described in this submission. Our backlog of applications across regulated sectors is low or reducing and our ability to assess licence applications and deliver timely decisions has improved.

The key “asks” of the legislative system, in the context of the scope of the Forum’s work and this submission, is to continue to streamline our processes, remove administrative burdens that don’t add value to an EPA decision, and ensure that adequate resources are sanctioned for the task in hand. Some examples:

- The Environment Miscellaneous Provisions Bill (described below) will deliver efficiencies in the form of limited licence reviews and greater scope for minor licence amendments. These changes are welcome and should be significant time and cost savers for the regulated community.
- The Bill’s proposal for timelines on EPA decision-making will provide certainty for applicants.
- We have sought an upward adjustment of EIA thresholds for wastewater discharge licensing, thus removing smaller scale licence applications from the scope EIA and thereby removing complexity from such applications.
- We have expressed general support for making changes to how EIA is done in Ireland if such change were to allow for shorter overall times to decision on critical developments and infrastructure.
- We have identified the need to ensure the regulation of water abstraction is adequately resourced so that applications for new abstraction activities can be dealt with in a timely manner.
- We have been engaged in ongoing discussions with DCEE regarding the move of the Dumping at Sea regulatory framework into MARA’s marine consenting regime with the objective of streamlining the application processes relating to the marine environment.

- We have sought amendment of the GMO Regulations to reduce the regulatory burden on low-risk activities.

2. Overview of the role of the Environmental Protection Agency

The Environmental Protection Agency (EPA) is an independent public body established under the Environmental Protection Agency Act, 1992. Managed by a full-time Executive Board, the EPA operates under the Department of Climate, Energy and the Environment (DCEE) with additional responsibilities assigned by the Department of Housing, Local Government and Heritage (DHLGH). Our mission is to protect, improve, and restore our environment through regulation, scientific knowledge, and collaboration. The EPA has a wide range of environmental protection roles set out across various legislation and regulation. Our main responsibilities include:

- Licensing (waste facilities, large industrial activities, intensive agriculture, wastewater discharges, water abstraction, dumping at sea)
- Regulating and enforcing environmental standards for licensed facilities
- Climate science
- Managing the carbon emissions trading system
- Promoting the circular economy and waste management
- Monitoring, analysing and reporting on the environment
- Conducting environmental research and development
- Radiological protection
- Overseeing strategic environmental assessments
- Raising awareness and providing guidance on environmental matter

3. EPA role in environmental regulation

The EPA's role and responsibilities are set down in legislation and regulation. Specific examples of our duties include:

- The **licensing of large industrial and waste installations** under the EU Industrial Emissions Directive which includes such activities as, for example:
 - pharmaceutical and biopharmaceutical manufacturing,
 - energy generation (i.e. combustion plant),
 - intensive agriculture (piggeries and poultry),
 - anaerobic digestion plants producing biomethane,
 - landfills, and
 - incineration plants.
- The **authorisation and enforcement of wastewater discharges** from public wastewater treatment plants owned by Uisce Éireann. All such discharges require an authorisation from the EPA. The EPA is required by law to ensure that the chemical or biological condition of a waterbody is not allowed to deteriorate as a result of a wastewater discharge.

- Each of the above applications is subject to screening for more detailed environmental assessments which may be required by law such as Environmental Impact Assessment (EIA) and Appropriate Assessment under the EU Habitats Directive.

Other regulatory decisions the EPA make include the following topics. Every decision counts and every decision takes time and resources:

- authorising and regulating dumping at sea activities
- authorising water abstractions
- regulation of drinking water quality
- deciding on end-of-waste status for materials
- deciding on by-product status for materials
- authorising the use of GMOs.

As with other regulatory bodies, the EPA's decisions are subject to judicial review by the courts.

The EPA's authorisation processes are subject to detailed provisions set out in acts and regulations, both national and European. Licence applications are required to be comprehensive, and applicants typically require and procure specialist advisors and consultants to prepare their applications. The primary purpose of EPA regulation is to prevent pollution being caused by emissions to air, water and land by the regulated community. The legal requirements to control these emissions are generally set down in law. For example, the Industrial Emissions Directive and its subsidiary legislation prescribes detailed "Best Available Techniques" and associated limit values for emissions that must be prescribed in industrial, intensive agriculture and waste licences.

The EPA's authorisation processes (including for industrial, waste, intensive agriculture, wastewater discharge and abstractions licences) are characterised by transparency and a requirement to ensure public participation in decision-making. Submissions from interested parties are invited and the EPA is obliged to consider these submissions when making its decisions. For some authorisation processes, there are objection periods whereby the EPA is obliged to publish a Proposed (or draft) Decision (to grant or refuse a licence) and invite submissions from the applicant and interested parties in the form of objections. Interested parties can then make further submissions on any objections made. Objections and submissions on objections are then considered prior to the EPA making a Final Decision to grant or refuse a licence.

4. Industrial, waste and intensive agriculture regulation

The principal reason for historical long lead times in EPA decision-making has been the number of applications for authorisations exceeding the EPA's capacity to process them. However, in the last 3 years, the backlog of industrial, waste and intensive agriculture applications has reduced significantly. At time of writing, we predict that the EPA will have 30 to 35 applications for industrial, waste and intensive agriculture licences on hand on 1 January 2026. By way of comparison, there were 61 applications on hand on 1 January 2025, 78 on 1 January 2024 and 101 on 1 January 2023. This data shows that the EPA has made steady progress in reducing the backlog of applications, not least through the employment of additional inspectors sanctioned by Government. In addition, there has been process improvements made and a reduction in the number of licence applications being made to the EPA, particularly from the intensive agriculture sector. A smaller backlog of applications means a shorter queue and overall shorter times to a decision, thus addressing the main source of concern from the business community.

The backlog of applications came about in the first place because the number of applications exceeded the capacity of the EPA to process them. Along with this, the complexity of the licence assessment process increased as the legislation grew in volume and complexity. On foot of Case C50/09, in which the Court of Justice of the European Union found in 2011 that Irish legislation was not fully in conformity with the EIA Directive, the EPA was made a competent authority for EIA in 2013. This included a requirement in law for formal consultation between the EPA and the planning system, and the EPA was prohibited from making licence decisions in advance of planning decisions. This led to significantly increased complexity in the assessments and the reports to be written to support EPA decision-making.

Specifically in relation to industrial, intensive agriculture and waste licencing, the Environment Miscellaneous Provisions Bill 2025 includes provisions for:

- statutory timelines for EPA decision-making;
- limited (or partial) licence reviews where full licence reviews would have formerly been required; and
- expanded use of Technical Amendments which provide for simple licence amendments to be made.

The Bill will, if enacted as proposed, impose timelines on the EPA's decision-making for industrial, waste and intensive agriculture licensing, thus providing more certainty to applicants. The timelines as proposed range from 16 weeks for a limited review of a licence to 52 weeks for a full licence application that was not made at the same time as a planning application. The EPA expects to meet the incoming timelines but this will depend on resources and number of licence applications, i.e. that the demand for licence decisions does not exceed the EPA's resource capacity to process the applications.

Limited (or partial) reviews will allow for smaller changes to licences to be made more quickly and with less complexity and cost than a full licence review. A broadened scope for "Technical Amendment" to licences also has the potential to reduce the cost of preparing documentation to support simple licence amendments.

5. Wastewater discharge licensing

The EPA has responsibility for regulating the discharge of urban wastewater by Uisce Éireann to the water environment. There are 43 licence applications on hand from Uisce Éireann in relation to wastewater discharges. The EPA engages closely with Uisce Éireann to prioritise applications for decision. Uisce Éireann have identified 10 applications for larger and strategic wastewater treatment plants, serving a population of almost 750,000. Seven of these are currently with the EPA and we will prioritise these and future prioritised applications to facilitate housing and other infrastructure demands. Other priority applications on the list include those involving the discharge of raw sewage and discharges that are causing significant localised pressure on water quality.

6. Environmental Impact Assessment

It is important to note that the EPA's licensing systems above are linked to the planning system (planning authorities and An Coimisiún Pleanála) through EIA. The EPA cannot, by law, issue a decision on a licence application where EIA is required until such time as the planning decision is made.

This can be the cause of extended end-to-end timelines in EPA decision-making. The EPA would look favourably on changes to how EIA is done in Ireland if such changes removed any unnecessary duplication in the process while protecting the integrity and environmental protective objectives of the EIA process.

EIA for wastewater discharge licence applications is done on all applications involving wastewater treatment plants with a population equivalent greater than 10,000, as required by national law. The EIA Directive puts this threshold at 150,000 population equivalent and the EPA is supportive of a change in national legislation to match the requirements of the EIA Directive. The elimination of mandatory EIA for applications between 10,000 and 150,000 population equivalent will reduce the complexity of the assessment process for those applications.

7. Water abstractions

An abstraction is the removal or diversion of water from, for example, a river, lake, stream or groundwater. Water abstractions and their associated impoundments need to be regulated so that our rivers, lakes and groundwaters can be managed and protected. Such regulation was introduced by the Water Environment (Abstractions and Associated Impoundments) Act 2022 and the Water Environment (Abstractions and Associated Impoundments) Regulations 2024. In 2025, the EPA built and operationalised a new regulatory system for the regulation of water abstractions. Five decisions have been issued so far and the EPA is committed, when assessing these applications, to giving priority to new water supplies and applications to expand water supply. There will be an ongoing need to ensure this regulatory sector is adequately resourced to ensure that significant projects of national or business importance can be processed in a timely manner.

8. Dumping at Sea

The EPA is the competent authority for the regulation of dumping at sea activities. This encompasses dredging (both capital/development works and maintenance works for navigation) carried out at ports and harbours across the country. The permits are critical in ensuring ports can continue to function and facilitate the import and export of goods. To facilitate Offshore Renewable Energy (ORE), enhanced infrastructure will be required at ports to build bigger and deeper berths to transfer turbines offshore. Two permits were issued in 2025, one to enable the import/export of bulk materials and one to facilitate naval operations at Haulbowline in Cork. The EPA uses an application prioritisation system to ensure that key projects of national significance are not hampered by consenting delays in this sector.

We have been engaged in ongoing discussions with DCEE regarding the move of the Dumping at Sea regulatory framework into MARA's marine consenting regime with the objective of streamlining the application processes relating to the marine environment.

9. Genetically Modified Organisms

The EPA regulates the following activities in relation to GMOs:

- the contained use of GMOs,
- the deliberate release of GMOs, and
- the transboundary movement of GMOs to third countries (outside the EU).

The EPA has sought amendment to the Regulations governing the contained use of GMOs by removing the requirement for formal consent for lower risk contained-use activities, in line with the

EU Directive on contained use. Such changes would generate benefits for both users of GMOs and the EPA while still maintaining a high level of protection for human health and the environment.

10. Other regulatory regimes

The EPA as a regulatory body in 2024 made 143 decisions in the form of licences and permits, including those described above. Over 1,100 other decisions were made including by-product decisions, amendments to existing licences and registrations of medium combustion plant. This wide range of regulatory work carried out by the EPA is prioritised within the envelope of our existing resources, with a particular focus on significant infrastructure and investment and the delivery of the necessary authorisations. The EPA can and does plan in advance for the allocation of resources in anticipation of applications for authorisation for major strategic infrastructure projects, for example in the industry, water abstractions, dumping at sea, waste and wastewater sectors.

The EPA is acutely aware of the need to balance competing demands for the authorisation of projects in the sectors we regulate. The priority to be accorded each decision is routinely examined and decisions made about whether and how to allocate the necessary resources.

11. Judicial review

The EPA has a record of making considered, reasoned and legally sound regulatory decisions. As with other regulatory bodies, the EPA's decisions are subject to judicial review. Since 1997, there have been 57 judicial reviews of EPA decisions of which 31 were successfully defended and 17 are ongoing. The pace of judicial review has increased - 17 have been taken since 2023, almost 30% of the historic total. This is giving rise to increased costs to the Agency and the expenditure of staff resources.

The EPA's external costs defending each judicial review are typically in the range €100,000 to €200,000. These costs are generally not recoverable by EPA.

The EPA notes there are ongoing discussions with regard to reliance on the courts to adjudicate on planning and regulatory matters. The EPA would support any measures that would streamline processes whilst continuing to ensure public participation.

12. Future and potential legislative change

The EPA's regulatory processes are dictated by the detailed and complex legislation that underpin them, whether EU or national legislation. Given the pace of change in new European legislation and the imperative to implement it nationally, and the pressure to deliver critical infrastructure and development, the EPA recommends ongoing review of legislation underpinning regulatory processes. To this end, the EPA is supportive of changes in legislation that keep it up to date and relevant, learning from implementation of existing legislation, and bringing improvements to regulatory processes whilst protecting the quality of our decisions and the right to public participation and justice. The following are key areas where we are supportive of or promoting change:

- the introduction of limited licence reviews and timelines for licence decisions in the industrial, intensive agriculture, waste and wastewater sectors, increasing certainty for licence applicants;
- amending EIA thresholds for wastewater discharge licensing, to reduce complexity and align with the requirements of EU legislation;

- generally considering how EIA is done in Ireland to ensure it adds value and that the administrative burden is proportionate to the outcome;
- transferring the Dumping at Sea function from the EPA to MARA, with the objective of streamlining the authorisation processes relating to the marine environment;
- amending GMO licensing, to reduce complexity and align with the requirements of EU legislation;
- reforming licence application and related fees, including for technical amendment, to ensure cost recovery;
- the consolidation of section 13 powers of authorised persons, to support our enforcement work.

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