

Environmental Permitting (England and Wales) Regulations 2016 Regulation 61(1)

Notes:

1. For the purposes of discharging its functions under the Environmental Permitting (England and Wales) Regulations 2016, the Environment Agency may (by virtue of Regulation 61(1) of those Regulations), require any person to provide information.
2. Failure to comply with this notice without reasonable excuse is an offence under Regulation 38(4)(a) of the Environmental Permitting (England and Wales) Regulations 2016, and may lead to legal action being taken against you.
3. Making any statement in response to this notice that you know to be false or misleading in a material particular, or recklessly making any statement which is false or misleading in a material particular is an offence under Regulation 38(4)(b) of the Environmental Permitting (England and Wales) Regulations 2016, and may lead to legal action being taken against you.
4. There is no right to appeal against this notice.
5. You may wish to seek independent legal advice.

Background to Schedule 1 Information Required

The Environment Agency is required to review your permit, following the publication of the revised Best Available Techniques (BAT) Reference Document (BRef) for Food, Drink and Milk industries. The associated BAT conclusions to this document were published on the 4th December 2019 in the Official Journal of the European Union. This document is available here: [FDM BAT Conclusions published Dec 2019](#)

This Notice sets out the information we require from you in order to be able to carry out that review. Subject to your response to this Notice we may vary your permit to ensure that it delivers compliance with the updated requirements.

We have produced a Reg61 Notice Response Tool which must be used to structure your answers to the Notice, with supporting information provided separately where required. Please ensure that you refer to the Response Tool Guidance document as you prepare your submission. You should receive these documents by email and they will also be available on our [Citizen Space webpage](#).

As part of this permit review, we will be covering a number of additional areas;

Emissions to water and Water Framework Directive: The Water Framework Directive requires that there is no deterioration in the quality of a water body, as a consequence of releases of chemicals. As part of our delivery of the Water Framework Directive requirements, we need to identify and assess the impact of all sources of hazardous pollutants to surface waters and/or sewer from regulated industry. If your installation is a source of chemicals you must also provide information about these.

Emissions to air: you are required to supply details of all point source emissions to air along with a site plan showing the locations of the emission points. We will review Table S3.1 in your permit to ensure all emission points are included, with small emissions included as a group within the table.

The **Medium Combustion Plant Directive (MCPD):** you are required to supply information on the supplied worksheet relating to your combustion plant which is part of your permitted installation, and this will fulfil the registration requirement of the MCPD. We will include post-dated conditions for MCP which have to comply by 1 January 2024 (of size 5 to 50 MWth). Guidance on compliance with MCPD is available [here](#).

Climate change adaptation (CCA): F&D sites are regarded as critical infrastructure and we wish to ensure their resilience to severe weather. The aim of including CCA within this permit review is to establish which are the priority sites (most at risk) and ensure that they have an action plan. You do not need to produce a plan in response to this Notice; the questions have been set for us to assess the vulnerability of your site and know whether you have already produced a plan or carried out a Risk Assessment. If a Plan is not in place at a priority site, an improvement condition will be set to produce one.

Site Condition Baseline: Articles 16 and 22 of the Industrial Emissions Directive require that a quantified baseline is established for the level of contamination of soil and groundwater by relevant hazardous substances, in order that a comparison can be made on final cessation of activities. You may have already done this work, notably if your site was permitted for the first time after 2013.

Guidance on baseline reports is available [here](#).

'Relevant Hazardous substances' are defined within the CLP Regulations (Article 3 and Annex 1, parts 2 – 5), available [here](#):

We have also produced bespoke guidance to how to respond to this question. Refer to the Guidance to the Response Tool and our [Citizen Space webpage](#).

Underground structures: you are required to supply details of all underground structures associated with the permitted installation. We will assess whether pollution prevention measures are adequate and if any further work is required, we will set an improvement condition. CIRIA has produced comprehensive guidance C736 “*Containment systems for the prevention of pollution*”, (current version is dated 2014, ISBN 978-0-86017-740-1) which includes a risk assessment methodology.

Other information: further information to be provided as requested to ensure permits across the sector are consistent, in the current format and including an indication of the size of the process.

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SCHEDULE 1 INFORMATION REQUIRED		
<p>Where questions are marked * in the left hand column, provide your responses on the appropriate worksheet within the accompanying Reg61 response tool.</p> <p>Refer to the Response Tool Guidance document as you prepare your submission.</p>		
Description of BAT information required		
*		<p>For each relevant BAT Conclusion and its individual sub-elements, contained within sections 1 and 2 of this BAT Conclusions document; please:</p> <ol style="list-style-type: none"> 1. Confirm whether or not you currently comply with the standards described in the relevant BAT Conclusion reference document providing a description of how you meet the standard. 2. Describe how and when you intend to comply with those standards you do not currently meet, as identified in paragraph 1, to ensure that you are fully compliant with relevant BAT Conclusions by 4th December 2023, being the date which, hereafter in this Notice, is referred to as the 'compliance date'. 3. Confirm: <ol style="list-style-type: none"> a) If you intend to cease operating any activity which would be in breach of the relevant new BAT Conclusion after the compliance date, the date by which you intend to cease operation; or, b) if you intend to continue operating in a manner which would fail to comply with the relevant new BAT Conclusions after the compliance date, what your justification for being allowed to do so is; and by what date you intend to come into full compliance. Where there is a BAT Associated Emission Level described in the BAT Conclusion Document, you should provide sufficient technical and commercial information to demonstrate that [using a methodology equivalent to that outlined in the Environment Agency Guidance note EPR-H1ⁱ] achieving these emissions levels would lead to disproportionately higher costs, compared to the environmental benefitsⁱⁱ, due to either: <ol style="list-style-type: none"> i. the geographical location of your installation; or ii. the local environmental conditions around your installation; or iii. the technical characteristics of your installation.
Description of additional information required		
*	Emissions to water	<p>4. Identify any effluents eg. boiler blowdown or vehicle wash, which discharge directly to surface or groundwater and provide an assessment of volume and quality, including the results of any monitoring data currently available. For any effluent discharges to water/soakaway, has a recent assessment of the feasibility of connection to sewer been carried out?</p>
*	Emissions to air	<p>5. Provide an inventory of process and emergency release points to air using the format provided. Where relevant, provide details of volumetric flow, any monitoring data currently available and any abatement installed for each emission point.</p>

*	Medium Combustion Plant Directive Directive (EU) 2015/2193	6. Provide details of all plant within the permitted installation which comes under the scope of the MCPD.
*	Climate change adaptation	7. Provide details of whether your site may be affected by severe weather events, such as flooding, unavailability of land for landspreading of waste, and Prolonged Dry Weather/Drought. Have you developed a Climate Change Adaptation Plan which considers all identified relevant risks for your installation?
	Site Condition Baseline	<p>8. Have you carried out an assessment to determine whether a baseline report was needed, either at the time of applying for your permit or shortly afterwards? If you have, please submit evidence of your assessment to complete this section and confirm that it is still relevant. If not, continue to question 9 and 10 below.</p> <p>9. Assess if your activity involves the use, production or release of a relevant hazardous substance (as defined in Article 3(18) of the Industrial Emissions Directive) and explain how you have reached your conclusion.</p> <p>10. Where your activity involves the use, production or release of relevant hazardous substances, carry out a risk assessment considering the possibility of soil and groundwater contamination at the installation with such substances. Where there is a possibility of soil and/or groundwater contamination either:</p> <ul style="list-style-type: none"> • prepare and submit a baseline reportⁱⁱⁱ containing information necessary to determine the current state of soil and groundwater contamination <p>OR</p> <ul style="list-style-type: none"> • provide a summary report demonstrating existing soil and/or groundwater measurements (which you may have already submitted to us previously) are fit for purpose and enable a baseline to be defined for relevant hazardous substances in the locations that they are likely to be used, produced or released so as to enable a <u>quantified</u> comparison to be made with the state of soil and groundwater contamination upon definitive cessation of the activity. <p>Where you have concluded that there are no risks of soil and/or groundwater contamination, provide a copy of your assessment ^{iv} at the earliest opportunity to seek our agreement that a baseline report is not required. By providing your assessment at the earliest opportunity this will enable you to have sufficient time to prepare a baseline report should we determine one is required.</p>
*	Underground structures	11. Identify any underground storage tanks or below ground pipework (operational or redundant) in the permitted installation used for the storage/ transfer of liquids whose emissions to water or land could cause pollution eg oil and chemicals.

*	Other Information	<p>12. Please provide the following:</p> <ul style="list-style-type: none"> • an updated site plan, with the installation boundary clearly marked with a green line and the locations of all discharge points. Water/effluent discharge locations should be identified at the point they leave your pipe/drain and enter public sewers/watercourses. If there are a significant number of air emission points, include only the key ones. Note: you do not need to provide us with a site plan if your current site plan meets these requirements. • the finished product production capacity of the site
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ⁱ Environment Agency Guidance note [EPR - H1](#)

ⁱⁱ Defra Guidance. [Industrial Emissions Directive EPR Guidance on Part A Installations](#) (Section 4)

ⁱⁱⁱ Baseline report - Defra Guidance - Industrial emissions Directive EPR Guidance on Part A installations (Section 5.10 – 5.15, pages 28-29)
<https://www.gov.uk/government/publications/environmental-permitting-regulations-guidance-on-part-a-installations>

^{iv} Further information on how to complete this assessment is provided within Stages 1- 3 of the [European Commission Guidance](#) concerning baseline reports under Article 22 (2) of Directive 2010/75/EU on industrial emissions.

^v Further information on how to prepare a baseline report is provided within Stages 4 – 8 of the [European Commission Guidance](#) concerning baseline reports under Article 22 (2) of Directive 2010/75/EU on industrial emissions and DEFRA guidance [Industrial Emissions Directive EPR Guidance on Part A Installations](#) (Sections 5.10 – 5.15, pages 28 – 29).

In all cases, where information required by this notice has been previously submitted to and accepted by the Environment Agency, and where this remains current and valid, you do not need to resubmit it. Instead, clearly specify the nature of the information and the date it was submitted, with the document reference and version number.