



Department
for Environment
Food & Rural Affairs

Seacole Building
4th Floor
2 Marsham Street
London
SW1P 4DF

T: 03459 33 55 77
[REDACTED]@defra.gov.uk
www.gov.uk/defra

Rachel Salvidge
By email: [REDACTED]@watershedinvestigations.com

Our ref: EIR2024/08478
8 May 2024

Dear Rachel Salvidge,

REQUEST FOR INFORMATION: Consultation on the Persistent Organic Pollutants (POPs) Regulations

Thank you for your follow-up request for information of 17 April 2024 about the consultation on the Persistent Organic Pollutants (POPs) Regulations. We have handled your request under the Environmental Information Regulations 2004 (EIRs).

The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

Your information request and our response are set out below.

You have asked me to select a number of organisations' responses to your consultation from the list in your appendix.

Please could you send me the consultation responses from the following:

- *AGC Chemicals Europe, Ltd*
Annex C
- *British Plastics Federation - Recyclers & Product Safety Groups*
Annex D
- *British Plastics Federation EPS Group*
Annex E
- *Cambridgeshire County Council*
Annex F
- *CIWM (Chartered Institution of Wastes Management)*
Annex G
- *EDF Energy*
Annex H
- *Environmental Services Association (ESA)*
Annex I
- *European Electronics Recyclers Association*
Annex J
- *Plastics Recyclers Europe (PRE)*
Annex K

- *Sellafield Ltd*
Annex L
- *Veolia*
Annex M

Please find attached Annexes C – M that contain the consultation responses.

After careful consideration we have decided that the names and contact details of those providing the consultation responses in the Annexes should be withheld under regulations 12(3) and 13(1) and (2A) of the EIRs as the information constitutes personal data relating to persons other than you. These regulations exempt personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would breach any of the data protection principles in Article 5(1) of the UK General Data Protection Regulation (GDPR).

We consider that disclosure of this information is likely to breach the first data protection principle, which provides that personal data must be processed lawfully, fairly, and in a transparent manner.

Disclosure would not constitute 'fair' processing of the personal data because these stakeholders would not reasonably expect their names and contact details to be disclosed in relation to this request for information. Moreover, the contact details of the different organisations/bodies that have provided responses to the consultation are accessible by an internet search via a search engine.

In addition, two consultation responses of the eleven show further redactions beyond personal information (at Annexes C and F) and the information is being withheld under the exception at Regulation 12(5)(e) of the EIRs, which relates to the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Furthermore, Regulation 12(5)(f) has been applied to the redactions (at Annexes C and F) as it provides for the exception of information which, if disclosed, would adversely affect the interests of the person who provided the information and they were under no obligation to provide the information to a public authority, did not supply the information in circumstances such that Defra or any other public authority is entitled apart from the EIRs to disclose it and have not consented to the disclosure of that information.

In applying these exceptions, we have had to balance the public interest in withholding the information against the public interest in disclosure. In considering the exceptions we have also applied a presumption in favour of disclosure, as required by Regulation 12(2) of the EIRs.

Regulation 12(5)(e)

We recognise there is a public interest in the disclosure of information relating to waste management and Persistent Organic Pollutants, and any responses we received from these organisations. We understand that the release of such information will show transparency within government and inform the public what discussions are going on in relation to this matter.

However, it is important that the organisations are able to share information with Defra in confidence should they wish to. It is therefore important that commercial confidentiality is maintained so that various options can be explored without fear that disclosure of this information may reveal information that might affect the commercial interests of these organisations and/or damage competitiveness. If this information were to be disclosed then the relationship of trust between the bodies providing and receiving the information would be undermined, which in turn could lead to the bodies concerned being less willing to share further information for fear of disclosure. It could also be used by other suppliers to gain a competitive advantage which is not in the public interest.

Therefore, in all the circumstances of the case the exception Reg. 12(5)(e) is engaged.

Regulation 12(5)(f)

We recognise that it is in the public interest to disclose information in order to show clear and transparent decision-making.

However, there is a stronger public interest in withholding this information because Defra needs to ensure that third parties are not discouraged from providing information for fear that it will become public against their wishes. If this information were to be disclosed, then the relationship of trust between Defra and the organisations supplying feedback would be undermined, which in turn could lead to those organisations being less willing to share further information in future for fear of disclosure.

Consequently, we have concluded that in this case, the redacted information should be withheld.

Information disclosed in response to this EIRs request is releasable to the public. In keeping with the spirit and effect of the EIRs and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](https://www.gov.uk), together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

We attach Annex A, explaining the copyright that applies to the information being released to you, and Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact me.

Yours sincerely

J Davies

Information Rights Team

 [@defra.gov.uk](mailto:[redacted]@defra.gov.uk)

Annex A

Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs or logos) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

Most documents produced by Defra will be protected by Crown Copyright. Most Crown copyright information can be re-used under the [Open Government Licence](#). For information about the OGL and about re-using Crown Copyright information please see [The National Archives website](#).

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the [Intellectual Property Office's website](#).

Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 11 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Andrew Mobsby, Head of Information Rights via email at [\[REDACTED\]@defra.gov.uk](mailto:[REDACTED]@defra.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our website.

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner's Office (ICO) for a decision. Please note that generally the ICO cannot make a decision unless you have first exhausted Defra's own complaints procedure.

The ICO can be contacted using the following link:

<https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>

Annexes C – M