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16 December 2024

Dear Edward,

### **The Environmental Authorisations Scotland (Amendment) Regulations 2025**

Thank you for your letter of 03 December 2024 on the Net Zero, Energy and Transport Committee's approach to scrutiny of the above Regulations. In my initial response dated 06 December 2024 I agreed that there is a clear public interest in ensuring that the Regulations are comprehensive, robust and workable and that there would be benefit to the Committee having additional time for scrutiny. The instrument has therefore formally been withdrawn with the intention of re-laying it early in 2025. In my letter I also committed to providing the Committee with a response to the questions included in the annexe to your letter.

My officials and I value the cooperative working relationship between Scottish Government and the Committee and we look forward to continuing to have an effective dialogue over the remainder of this Parliamentary session.

I would like to set the context for this draft instrument. In 2017 the Scottish Government consulted on a single authorisation framework for environmental regulation, which was widely supported. The Environmental Authorisation (Scotland) Regulations 2018 ("the 2018 Regulations") then established this single framework and brought radioactive substances activities within its scope with the intention to bring the other environmental regulatory regimes in scope in the future. The aim of this draft instrument is to amend the 2018 Regulations to bring the other three environmental regulatory regimes (Industrial Emissions, Waste, and Water) into the framework provided by the 2018 Regulations so as to provide a single integrated regime for environmental regulation in Scotland. The instrument makes limited policy changes to the current regulation of environment activities, although the regulations do substantially simplify SEPA's environmental regulatory regime. Minor changes to the existing regimes have been made to ensure compatibility and improvements. By streamlining SEPA's regulatory regime this draft instrument will contribute to the improvement and efficiency of Scotland's public services.

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More significant changes have been made in relation to sewage sludge. Based on the recommendations from the “Review of the storage and spreading of sewage sludge on land in Scotland” (The Sludge Review) in 2016, I have taken the opportunity to review and amend the regulation of the sewage sludge to land regime. Further information is provided in the annexe in response to the relevant question from the Committee.

Also, this draft instrument will bring three new activities within scope of environmental regulation, namely: non waste anaerobic digestion; carbon capture (where not associated with an existing industrial emissions installation), utilisation and storage; and generators of electricity aggregating to 1 Megawatt Thermal input (MWth) or more. Currently, regulation of anaerobic digestion activities is limited to anaerobic digestion using waste feedstocks. From an environmental regulatory perspective, there is little difference between the environmental impacts of the two types of anaerobic digestion and so this draft instrument removes this discrepancy, aligning this activity with established environmental regulatory controls.

Carbon capture, utilisation and storage is a fledgling sector and is currently only regulated where the carbon capture activity relates to a separate industrial emissions activity; this draft instrument establishes a framework within which the sector will be able to grow and support Just Transition to net zero, whilst protecting the environment.

Finally, generators of electricity aggregating to 1 Megawatt Thermal input or more at a single site can have a significant impact on air quality. These generators have a similar environmental impact to larger units already in scope of regulation. Including this activity in this draft instrument is in line with our commitments to improve air quality, and our net zero and decarbonisation goals. The introduction of these three new activities will provide a level playing field and ensure environmental risks are appropriately managed, with the aim of achieving proportionate and equitable regulation of activities based on their risk to the environment.

This letter is copied to the Minister for Parliamentary Business and the Convener of the Delegated Powers and Law Reform Committee for information.

Yours sincerely,

**GILLIAN MARTIN**

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## ANNEXE

### **Sewage sludge Review**

*The Environmental Rights Centre for Scotland (ERCS) stated in its 2023 consultation response that “The biggest concern for community members who have previously been impacted negatively by the practice of sewage sludge spreading is effective enforcement. A review of monitoring and enforcement should be conducted after the new authorisation regulations have been in place for a period of time (e.g. 1 year).” Will the Scottish Government review the implementation of the new regime for sewage sludge?*

Scottish Government officials will receive regular updates from SEPA regarding the effectiveness of the new regulatory regime. Once the first year’s data is available we will have a better idea of the impact of the new requirements and consider if any further action is required.

### **Inspection/monitoring**

*What are the inspection or monitoring requirements in relation to sewage sludge licences (including frequency or requirements for spot inspections) and do those requirements differ from other waste management licensing?*

This instrument does not contain any inspection requirements / frequencies for any waste activity, including sewage sludge. SEPA will include auditing of sewage sludge activities based on risk. Currently, SEPA audits the data it receives (the sludge register), sampling and analytical practices, takes its own confirmatory soil sampling, inspects stockpiles and responds to public complaints. There are also quarterly meetings with Scottish Water to discuss issues such as data and future plans.

### **Purpose of application**

*Do the same requirements in relation to application to sewage sludge to land regardless of purpose e.g. are there different requirements for application to agricultural land versus application to restoration sites or for ecological improvement?*

Schedule 18 of the draft regulations applies to all uses of sewage sludge where it is used as a fertiliser on existing soils, whether in agriculture or in other land uses such as forestry. It does not apply to the use of sewage sludge to create new soils such as in large scale open cast coal restoration. Large scale restoration projects will be subject to a full Environmental Authorisations (Scotland) Regulations (EASR) Permit lasting the lifetime of the activity as per the sludge review. SEPA will apply bespoke rules to such a Permit, appropriate to the specific project including those contained in Schedule 18.

### **Information provided and publicly available on authorisation**

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*What information will applicants be required to provide to SEPA as part of an authorisation for sewage sludge application to land, and will this information be publicly available on the SEPA register?*

This instrument requires the following information to be recorded and made available to SEPA:

- the quantities of waste produced, and the quantities supplied for use in agriculture,
- the composition and properties of the soil in relation to the parameters referred to in Table 1,
- the composition and properties of the waste in relation to the parameters referred to in Table 2,
- the type of treatment carried out in relation to any treated sewage sludge,

SEPA will make this information available on its public register.

*Will an application be required to set out what other inputs are being used in relation to the same land (e.g. pesticides/other fertilisers) to enable a consideration of cumulative impact?*

SEPA will require that the use of sewage sludge is limited to the needs of the crops considering other fertilisers used on the land.

## **Further research**

*The 2016 report on sewage sludge and health, and recent ESS report on soil quality both highlight the need for more research, evidence and understanding of the impacts of sewage sludge (e.g. in areas such as microplastics and also noting stakeholder concerns about PFAS/'forever chemicals' in sewage sludge). How is the Scottish Government responding to those findings and recommendations? How will the Regulations support that increased understanding and evidence base e.g. through the provision of information on land uses, land input, monitoring or sampling requirements etc?*

A recent evaluation of the Sewage Sludge Directive by the European Commission concluded that whilst the Directive remained relevant, there was a need to review the list of contaminants which are regulated, notably organic compounds, pathogens, pharmaceuticals and microplastics which are present in sewage sludge. In line with the Scottish Government's commitment to remain aligned, where possible, with EU law, we intend to await the results of this review and will consider further potential amendments to the 2018 Regulations as appropriate, as a consequence of any new EU legislation.

## **Scottish Water/other producers**

*How will producers of sewage sludge i.e. Scottish Water (or any others) be impacted by the regulatory changes, and what regulations is Scottish Water already subject to*

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*in relation to the storage or transfer of sewage sludge, including any requirements to test/sample for contaminants, and keep records or report in this area?*

Scottish Water and other sludge producers are already required to sample and test sludge and soil in line with the Sludge (Use in Agriculture) Regulations 1989 (“the 1989 Regulations”). The draft regulations move these requirements into environmental authorisation and update existing requirements under the 1989 Regulations with the following features.

- The need for those managing sludge to hold an authorisation from SEPA.
- The need for authorised persons under the 2018 Regulations to be a Fit and Proper Person.
- Payment of charges to SEPA to fund regulatory compliance work
- Prohibition on sending untreated sludge to land.
- Adoption of the Safe Sludge Matrix
- More frequent soil sampling
- Tighter soil protection values

Scottish Water and sludge producers will either need to get an authorisation or employ an authorised contractor. This will include paying subsistence charges to cover SEPA auditing / monitoring etc. which has not been the case in the past. There will be changes to the rules with respect to sludge treatment (although these have been complied with voluntarily for a long time), soil protection values, and reporting.

## **Impacts on households and small businesses**

*What changes in the Regulations are likely to affect the ordinary householder (e.g. septic tanks, hot tubs) or small business (e.g. waste storage) and what is being done to ensure these are effectively communicated to support compliance?*

With respect to householders, the 2018 Regulations as amended by the draft instrument will exclude domestic activities carried on in connection with a person’s private dwelling, except for water activities. This ensures that domestic waste activities – storing own bins, having a small bonfire, driving waste to the Household Waste and Recycling Centre – are excluded.

Septic tanks currently need an authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) and will continue to require one under the 2018 Regulations, with the vast majority requiring a registration. Whilst the 2018 Regulations require SEPA to specify the authorised person in respect of any authorisation, the draft instrument makes an exception for private sewage activities, with the owner of any land from which domestic sewage is or is to be discharged into a private sewage treatment works being deemed to be the authorised person in keeping with the current situation under CAR and so as to ensure that the authorisation passes from owner to owner.

There are some changes for water activities that will affect householders:

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- Any person with an existing authorisation under CAR who cannot comply with the standard conditions associated with this activity under the 2018 Regulations as amended by the draft instrument, would need to apply for a permit (this is expected to be a rare occurrence).
- For existing septic tanks that are already authorised under CAR, SEPA has developed a new Environmental Authorisations (Scotland) Regulations (EASR) registration. This will require householders to maintain their current level of treatment as a minimum and maintain their treatment system. This avoids the need for the householder to have to change or upgrade their treatment system.
- A new digital application service to allow applicants to easily and quickly apply for a new small sewage discharge authorisation has been developed by SEPA. This service will automatically determine the applicable standard conditions for the activity which will apply to the registration.
- For householders with an individual hot tub, the discharge of this water to land will be authorised by the rules set out in General Binding Rule (GBR) 35 in Chapter 2 of schedule 9 (once amended) without need for any further authorisation.

The new waste storage General Binding Rule (GBRs) will make it easier for small businesses to store and manage their own waste prior to it being collected without the need for a higher level of authorisation. Further, very low risk activities, undertaken at the place where the waste is produced, such as small scale composting at a school or golf course, will benefit from reduced administrative and cost burdens. On the whole, for small businesses outside the formal 'waste' industry the move to regulation under the 2018 Regulations will reduce regulatory burdens (the Duty of Care will continue to apply).

As part of the implementation of this draft instrument SEPA will ensure stakeholders are aware of the changes.

## General Binding Rules

*ESS said in its 2023 consultation response on the draft Regulations that the current language and format of General Binding Rules “could limit user comprehension, compliance and ultimately effective environmental regulation” and suggested simplified language in practical guides would be needed– what consideration did the Scottish Government give to this concern and recommendation and what is its response?*

General Binding Rules (GBRs) are already used as a means of authorising certain low risk radioactive substances activities in the 2018 Regulations, as well as low risk water activities in the Water Environment (Controlled Activities) Scotland Regulations 2011. In so far as possible, in transferring the water GBRs into the 2018 Regulations, we have retained the existing text and current numbering so as to avoid confusion. The additional GBRs include the new waste GBRs and the single emissions activity GBR.

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The Scottish Environment Protection Agency (SEPA) produces guidance to describe and support all the tiers of authorisations. The Scottish Government will continue to work with SEPA, to use this guidance to assist the public and operators in the understanding of the GBRs.

We have sought to make the language of the new GBRs more accessible and will keep this under review. It is important though that the GBRs are specific and contain sufficient technical details in order to be enforceable by SEPA.

## **Integration of regimes into new tiers**

*As a result of the Regulations, will any regulated activities move from being licensed activities to a lower tier i.e. registration or lower, or move from being registered activities into General Binding Rules? What is the justification in those cases and how will those changes be communicated to the relevant stakeholders?*

The 2018 Regulations use a tiered system of authorisation (General Binding Rules, Notifications, Registrations, and Permits) for regulated activities according to the potential risk to the environment and do not allow for the use of exemptions as is the case with the Waste Management Licensing (Scotland) Regulations 2011. Several activities have been moved from being licensed (permit) activities to a lower tier and the rationale for each was set out in SEPA's consultation on the "[Environmental Authorisations \(Scotland\) Regulations: Proposed types of authorisation for waste, water and industrial activities](#)<sup>1</sup>." This consultation ran from January to April 2024.

Some waste activities will move from registerable exemptions to GBRs. These are very low risk storage activities prior to collection – textile banks outside a school, pharmacy receiving returns of unused medicines. These will no longer need to be registered (with SEPA) provided they can comply with the GBRs. As part of its implementation work, SEPA will ensure stakeholders are aware of these changes.

The use of crushing and screening equipment above ground and the storage of associated waste materials has moved from being a permitted activity to a GBR. Activities associated with crushing and screening are considered low risk and the employment of methods to prevent pollution are standard across the industry – for example, the inclusion of spray bars on crushing and screening equipment. The environmental risk these activities pose is generally low.

## **EU alignment**

*The consultation on the Regulations highlights how EU alignment with existing Directives has been taken into account in various areas. Given this is an evolving area, with changes at EU level (as part of the European Green Deal), including significant 2030 targets across energy, agriculture and waste – what are the future implications of maintaining EU alignment with environmental standards for these Regulations?*

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<sup>1</sup> [https://consultation.sepa.org.uk/regulatory-services/better-regulation-consultation-types-of-authorisation/supporting\\_documents/240208\\_Consultation\\_EASR2018\\_Types\\_of\\_authorisation.pdf](https://consultation.sepa.org.uk/regulatory-services/better-regulation-consultation-types-of-authorisation/supporting_documents/240208_Consultation_EASR2018_Types_of_authorisation.pdf)  
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This draft instrument maintains the same degree of EU alignment as the existing environmental authorisation regimes. The Scottish Government will work to maintain alignment with the EU as and when is practicable. The integration of the four main environmental regulatory regimes will enable a consistent application of environmental standards on any specified activity. Therefore, as the EU develops environmental standards, Scottish Government will, as we currently do, review and assess the proposed standards in relation to the environment and activities within Scotland and consideration will then be given as to whether any further amendment to the 2018 Regulations is appropriate in the future.

## **Call-in procedure and access to justice**

*The Regulations remove the requirement for SEPA to notify a third party who has objected to a proposed licence that it proposes to determine the application, and notify the Scottish Ministers of the objection (and removes the requirement for SEPA to then allow 21 days for Scottish Ministers to decide whether or not to call-in an application).*

*The consultation sets out that “recent practical experience in respect of the similar call-in procedures under CAR has generally demonstrated that the procedure results in delays, rarely results in a change of outcome, and is of limited utility to the process of determining applications and variations under CAR”.*

- *How did the Scottish Government analyse the current impact of the call-in procedure to support this conclusion?*
- *How many times has the Scottish Government exercised the call-in procedure based on a third party objection, and what was the outcome of that?*
- *Have any concerns been raised with the Scottish Government about the potential impact of removing the existing call-in notification procedure on access to environmental justice?*
- *In the absence of the notification and 21-day requirements being removed from the 2018 Regulations, how might Scottish Ministers become aware that proposed applications are particularly controversial and face significant local opposition, for example?*

The Water Environment (Controlled Activities) (Scotland) Regulations 2005 were the precursor to CAR and came into force April 2006. Provisions for procedures in connection with call-ins to the Scottish Ministers were included (Schedule 9) and maintained in CAR when it came into force in 2011. In total, Scottish Ministers have received third-party representations in relation to around 54 CAR applications (34 of which related to finfish farm applications, 15 to hydropower and the rest in relation to mining, a borehole and a distillery permit variations). To date, Ministers have only called in one finfish farm application (in 2016) but the application was withdrawn before determination.

In large part, objections received as part of the CAR call-in process related to issues outwith SEPA’s remit (such as matters relating to the planning process) and the

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applicable criteria for assessing an application for authorisation and making a determination under CAR. There were frequently objections made with little or no supporting evidence. Whilst these objections demonstrated the concerns of those making representations, they were not generally of a nature so as to justify calling in an application to be determined by Ministers rather than by SEPA as the independent regulator.

The draft instrument instead increases the opportunities for earlier public engagement in the decision-making process. The aim of any pre-application engagement is to explore local environmental knowledge and understand any potential issues or community concerns in relation to a proposed development. Understanding these at an early stage will enable the applicant to take them into account during the early stages of development of their proposals and potentially address them in advance of the application for authorisation.

The provisions within this draft instrument will require pre-application engagement with the public where an activity, due to its nature or location, may have a significant public interest, or where experience has shown that engaging with the local community is beneficial to the application process (such as finfish farms). SEPA will consult the public on applications for activities that are likely to cause significant environmental harm, or where applications which due to their nature or location have higher likelihood of environmental or community impacts (such as schedule 20 emissions activities or finfish farms). In addition, the pre-application engagement provision has been designed to ensure that applicants engage with the local communities and that any concerns raised can be directed to the relevant regime (i.e. planning or environmental protection).

Scottish Ministers will retain the power to call-in any application for their determination under the 2018 Regulations, as is the case under the PPC Regulations, and as Ministers become aware of controversial issues by various means. It is the Scottish Government's intention to develop guidance around the use of these call-in powers to provide additional clarity. Scottish Ministers also have a general power of direction in respect of SEPA under the Environment Act 1995.

Of the 50 responses received to the consultation on the proposed amendments to the Environmental Authorisations (Scotland) Regulations 2018, no response raised any concerns on access to environmental justice resulting from the removal of the existing call-in notification procedure.

## **Fit and proper person test**

*Will a fit and proper test apply to all licences issued under the Regulations, and will this only apply to new licences or will the requirement be retrospectively applied to all licences? If the latter, what are the timeframes and resourcing implications of this?*

The fit and proper person test applies to all registrations and permits (excluding those for private sewage activities because the authorised person is deemed as the owner of any land from which domestic sewage is or is to be discharged into a

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private sewage treatment works). It will apply to new and existing authorisations and any authorised person must maintain their fit and proper person status.

The 2018 Regulations require that the determination of whether a person is a fit and proper person, must include consideration as to whether a person is likely to comply with the conditions of the authorisation which apply or would apply to the regulated activity. An equivalent test already exists in the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) and the Pollution Prevention and Control (Scotland) Regulations 2012 (PPC).

Fit and proper tests already apply to waste activities although the 2018 Regulations provide greater flexibility to SEPA to determine the criteria that apply to the determination of whether or not a person is a fit and proper person with reference to the provision in regulation 68 of the 2018 Regulations. The transitional arrangements will 'deem' existing Waste Management Licences to be permits under the 2018 Regulations as result of which, authorised persons will become subject to the new fit and proper person test.

The Scottish Government expects that fit and proper person assessments will become a normal part of routine compliance assessment work, with existing authorisation holders unlikely to be affected by the retrospective application of the new fit and proper test to past behaviour so that the resourcing implications of the test automatically applying to deemed authorisations is small.

## **SEPA public register**

*What are the implications of the Regulations for SEPA's public register including:*

- *When will new authorisations begin to appear on the public register?*
- *How will the migration of existing licences to the new framework impact on the public register – is SEPA under a legal obligation to update the permits on the public register to reflect their new status or any new conditions?*
- *Has SEPA set out or agreed a timescale with the Scottish Government for updating the public register in this regard?*

New authorisations determined under the 2018 Regulations and notifications made to SEPA in respect of regulated activities will be placed on the public register. It is expected that for water, waste and industrial emissions activities these new authorisations will be published within 24 hours of being issued.

Permits, licences etc. which were issued under the previous environmental authorisation regimes, and which will be 'deemed' authorisations under the 2018 Regulations will remain on the public register. This draft instrument does not place any duty on SEPA to update permits on the public register to reflect their new status under the 2018 Regulations, but where any authorisation is amended to include new conditions, these amendments will be included on the public register.

The public register will be updated as and when any amendments are made to deemed authorisations or when new authorisations are issued.

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## Transition and resourcing

*What does the Scottish Government consider will be the cost of SEPA of transitioning to the new system (assuming there will be initial costs before the expected savings begin to accrue) and will that be reflected in the forthcoming Scottish Budget allocation to SEPA?*

SEPA is the principal environmental regulator in Scotland. SEPA will benefit from the simplified processes that this draft instrument will make possible through reductions in administration requirements. This draft instrument will however result in an increase in work and resource requirements for SEPA around regulation of the new activities, but this will be covered by the organisation's cost recovery model when setting chargeable fees. SEPA has been consulted throughout the process of development and drafting of this draft instrument.

SEPA will expand the range of activities it "actively" regulates. SEPA will not incur any additional overall costs as it is able to recover the cost of any additional regulation through charging. SEPA will also see improvements in the efficiency of its regulatory systems through the operation of a single regime rather than multiple regulatory regimes, and industry benefits from a levelling of the regulatory playing field. These efficiency improvements will take some time to bed in but will include rationalisation and coordination of site inspections and improved fit-for-purpose digital services that meet the needs of SEPA's staff and customers.

The charging scheme for the new activities will be based on SEPA's current charging scheme. Charges by SEPA will facilitate full cost recovery for the regulatory activity. This is the subject of a separate consultation. SEPA is committed to building accessible and equitable digital services, informed by user-centred design. In recognition of this SEPA's capital funding has been maintained at a consistently high level since 2020 to allow for transformation.

## Guiding principles

*How has due regard to the guiding principles on the environment helped to shape the proposals, and did the Scottish Government make a written record of this consideration?*

The Scottish Government undertook a Strategic Environmental Assessment (SEA) Screening assessment (October 2024). This screening assessment recorded that:

The 2018 Regulations once amended by the draft instrument will retain the environmental principles embedded within each of the currently regulatory regimes (radioactive substances, waste, water, pollution prevention and control (PPC) and landfill).

The current regulatory regimes (including radioactive substances prior to the 2018 Regulations) in large part, implement relevant EU Directives and/or international conventions (e.g. Euratom), where environmental principles similar to these are

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integral. Specifically, that EU legislation and various Conventions require activities be authorised with regard to certain precautionary thresholds so as to **protect the environment** (e.g. under the Industrial Emissions Directive, emission limit values for activities are required to be set at a **precautionary level** to prevent harm). They also require appropriate mitigation measures (**preventative actions**) to avert environmental damage and provide for a hierarchy of controls to protect the environment, whereby a light touch is applied to the lower tiers of authorisation and more intervention applied at the permit level activities. This in turn enables a proportionate charging scheme reflecting the **polluter pays principle**. Powers in each of the current regulatory regimes also enable any environmental damage (by accident or on purpose) to be **rectified at source**.

The 2018 Regulations similarly incorporate and align with these environmental principles so that they apply to the current regulations of radioactive substances activities as they applied under the former regime, and will apply to the environmental regimes when they are brought into the scope of the 2018 Regulations by the draft instrument. It should also be noted that regulation 9 of the 2018 Regulations is a key provision. Regulation 9 sets out the general aims and provides that SEPA must take these general aims into account when carrying out its functions under the 2018 Regulations. The general aims, in relation to the carrying on of regulated activities, include that all appropriate measures are taken to prevent or, where that is not practicable, to minimise environmental harm, to prevent and limit the consequences of accidents which could have an impact on the environment.

## **Ammonia**

*What actions has the Scottish Government taken forward, or planned to take forward, to tackle the issues around ammonia emissions set out in the consultation and has increased regulation been ruled out? How will the Scottish Government monitor the impact of any voluntary measures adopted?*

As a result of the agricultural sector's responses to the consultation, and discussion during the consultation engagement sessions, the Scottish Government noted the support for the provision of advice and guidance to the sector. Further investigation is required to identify the different mitigation measures and how these can be demonstrated with appropriate costings. Currently we are considering how to proceed to further promote good practice across the sector.

In addition, the Scottish Government is aware of the recast 2024 Industrial and Livestock Rearing Emissions Directive ("IED2.0"). We will take the same pragmatic approach as outlined elsewhere towards progressing regulation that aligns with the EU and improve environmental protection. It is understood that the Commission will be publishing a report by the end of 2026 on solutions to more comprehensively address the emissions from the rearing of livestock, in particular cattle. The Scottish Government will take into consideration any developments within this sector when forming its view as to whether further regulation will be required.

## **Changes made to the draft Regulations consulted on**

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*The level of detail provided in the Policy Note and BRIA makes it challenging to understand what specific changes have been made to the Regulations as a result of the consultation. Could the Scottish Government provide a 'tracked changes' version of the Regulations, Or a table of changes, illustrating where the draft Regulations consulted on have been changed in the 2025 Regulations?*

The Scottish Government's response to the consultation on the draft Regulations is contained with the consultation analysis which is available on the Scottish Government website: [Environmental Authorisations \(Scotland\) Regulations 2018: proposed amendments - Scottish Government consultations - Citizen Space](#)<sup>2</sup>. The policy note to accompany the re-laying of this instrument will be updated to include this link, which also includes the consultation and stakeholders' responses.

The consultation analysis summarises the consultation responses, includes the government's response and outlines where changes would be made as a result of the consultation. In particular the changes which have been made include changes in respect of:

- Sewage Sludge (new schedule 18 inserted by schedule 9)
  - Paragraph 3 adds an interpretation provision with respect to "application"
  - Changes to the definitions of "conventionally treated sewage sludge" and enhanced treated sewage sludge" in paragraph 4.
  - Wording in paragraph 5(d) now reflects the wording in the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008.
  - Amendment to paragraph 7(d) to provide that conventionally treated sewage sludge must be deep injected or ploughed down when applied to land to be used for grazing.
  - Table 2 (soil sampling frequencies) – nitrogen removed, "total carbon" amended to "total carbon or organic matter".
  - Addition of GBR 4 to the waste GBRs in Chapter 3 of schedule 9 to be inserted into the 2018 Regulations addressing the use of agricultural land following the application of sewage sludge to agricultural land.
  - GBR 18 in Chapter 2 of schedule 9 amended to clarify that it does not include where storage of fertiliser is regulated as a waste management activity under the 2018 Regulations
- Schedule 26 Activities:
  - Carbon Capture
    - Activity description in paragraph 68 in Part 3 of schedule 26 amended to clarify the activity
  - Non waste anaerobic digestion
    - Activity description in paragraph 69 in Part 3 of schedule 26 amended to clarify the scope of the activity
  - Electricity Generators aggregating to 1 MWth or more at a single site
    - Amendments made to paragraph 1 in Part 3 of schedule 26 to provide for exceptions for:

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<sup>2</sup> <https://consult.gov.scot/environment-forestry/easr-2018-proposed-amendments/>  
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- generators with a defined nuclear safety role under a nuclear site licence issued by the Office for Nuclear Regulations,
- mobile plant that are not connected to a transmission system or distribution system,
- generators located on islands dependent on the mainland for electricity that are only operated during planned and unplanned interruptions to the main power supply
- Addition of a review provision with respect to the islands exceptions
- Fish ensiling activity
  - Activity description in paragraph 66 in Part 3 of schedule 26 simplified.
- Radioactive substances GBRs
  - Amendment to the effect that an activity authorised under Chapter 1 of schedule 9 is only authorised to the extent that any substances possess radioactivity so that the GBR only authorises the activity insofar as it relates to radioactive substances, but any authorisation that is otherwise needed to keep or dispose of the substance or materials will still be required.
- Addition to the offence description in regulation 34 amending regulation 69 of the 2018 Regulations to add a knowledge requirement.

Additionally, minor changes were made to the placement of definitions in the regulations to bring a number of them into the main interpretation provision in regulation 2 of the 2018 Regulations rather than in individual schedules.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

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