



The Scottish Parliament
Pàrlamaid na h-Alba

Net Zero, Energy and Transport Committee

Gillian Martin MSP
Acting Cabinet Secretary for Net Zero and Energy
Scottish Government

06 February 2025

Dear Gillian,

The Environmental Authorisations (Scotland) Amendment Regulations 2025

In anticipation of the above Regulations being re-laid, the Committee agreed on 3 December 2024, to write to a range of stakeholders to gather further information. Stakeholder responses are available on the Committee's [website](#).

Broadly, stakeholders welcomed the Integrated Authorisation Framework and the expansion of environmental regulation to new areas. However, some stakeholders raised concerns regarding the proposed regulatory changes, particularly in relation to sewage sludge, anaerobic digestion, ammonia, and water regulation.

In advance of the Committee considering the Regulations in March, we would appreciate further information regarding the areas set out below.

The Committee would appreciate a response by 27 February.

Yours sincerely,

Edward Mountain MSP

Convener

Net Zero, Energy and Transport Committee

Contact: Net Zero, Energy and Transport Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email netzero@parliament.scot. We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

Sewage sludge – impacts on current practice

Scottish Water told the Committee that the amendment Regulations implement many of the recommendations from the Scottish Government's 2016 Sewage Sludge Review in 2016, and many of the changes are already part of the Biosolids Assurance Scheme (BAS) Standard, a quality assurance scheme that it adheres to. As a result, Scottish Water said its biosolids activities are already aligned with most of the new requirements. However, it has raised concerns that some of the proposed conditions under the amendment Regulations are different to this BAS Standard and "could significantly impact landbank availability, particularly in island communities and rural areas".

Specific areas highlighted are "the reduced limit for cadmium concentration in soils and the revised definition of enhanced biosolids" which Scottish Water states will restrict land that is suitable for biosolids applications, and questions the evidence base for these changes.

Scottish Water has told the Committee that in some areas, "there is no alternative local landbank and practical issues, such as limitations imposed by ferry operators, will make it challenging, if not impossible, to transport material across the country to suitable locations" and it believes its "operational activities will be severely affected by these requirements".

The Committee would welcome information from the Scottish Government on the evidence base for the reduced limit for cadmium concentration and revised definition of enhanced biosolids.

The Committee would also welcome a view from the Scottish Government on the concerns raised by Scottish Water that these changes will significantly impact on its operational activities by restricting the land available for application of sewage sludge.

NFUS said in its written evidence that whilst it supports the move to a single licence for spreading waste to land, clarity is required on whether those requirements apply to spreading slurry and farmyard manure in addition to sewage sludge.

The Committee asks the Scottish Government to clarify whether the agricultural practice of applying slurry and farmyard manure to land for soil improvement is impacted by the amendment Regulations.

Sewage sludge – wider concerns

The Committee received written evidence citing the 2024 James Hutton Institute (JHI) update to its 2016 risk assessment of sewage sludge. ESS said in evidence to the Committee that the Scottish Government consultation analysis on the draft Regulations cited the previous 2016 JHI report (which did not identify new or increased risks from sewage sludge) and said "it is unclear how the Scottish Government have reviewed and revised their position in light of this new report."

The Committee would welcome a view from the Scottish Government on the findings of the 2024 JHI update assessment on sewage sludge and its implications for this policy area – including regulation and research.

The Environmental Rights Centre for Scotland (ERCS) said that the recommendation in the 2016 Sewage Sludge review to review the Safe Sludge Matrix has not been implemented, and that “An updated Safe Sludge Matrix must incorporate the best available science and adhere to the precautionary principle”.

The Committee asks the Scottish Government if it has reviewed the Safe Sludge Matrix as recommended in the 2016 sewage sludge review.

The Committee asks the Scottish Government if there are (any further) outstanding recommendations from the 2016 sewage sludge review (that are not being taken forward through the amendment Regulations) and If the Scottish Government is taking action in relation to them.

Anaerobic digestion (AD)

Concerns have been raised with the Committee by AD stakeholders that regulating non-waste AD (in a similar manner to how waste AD sites are regulated) will mean applying Best Available Techniques (BAT) under the Industrial Emissions Directive (IED), which will not be financially viable and will lead to more energy intensive practices.

The Committee is keen to understand what changes, in practical terms, non-waste AD sites may be required to make e.g. to their infrastructure or site management to comply with SEPA authorisations. The Committee asks the Scottish Government to clarify what conditions will apply to non-waste AD sites under these amendment Regulations including in what circumstances BAT under the Industrial Emissions Directive may apply e.g. relevant thresholds, and what flexibility SEPA will have under these Regulations to apply varying conditions.

The Committee would also welcome a view from the Scottish Government on the concerns raised by AD stakeholders more generally, including the concerns about the financial viability of the changes. The Committee notes that these aspects of the Regulations come into force in April 2028 and is interested to understand how the Scottish Government assessed stakeholder feedback regarding adjustments required in the industry to prepare for regulation, in setting this timeframe.

Grissan Renewable Energy raised concerns that SEPA has indicated it intends to amend the Distillers Materials Position Statement (which states that Distillers Materials will not be regulated as waste) which has been in place since 2013, and that consequently, Grissan is “attempting to discern proposals to operate in a new non-waste regulated environment and also in a potential environment where we operate as a processor of wastes”. Both Grissan and the Scotch Whisky Association expressed strong views that this Position Statement should not be revoked.

The Committee asks the Scottish Government to clarify if there has been a re-classification of AD feedstocks (or if this is being considered) and if this flows

from the amendment Regulations or from a change in SEPA policy or guidance, and what the implications of this change are for the AD industry including those using feedstocks from distilleries.

Ammonia

The Scottish Government told the Committee in its letter of 16 December 2024 that it is “aware of the recast 2024 Industrial and Livestock Rearing Emissions Directive (“IED2.0”)” and “will take the same pragmatic approach as outlined elsewhere towards progressing regulation that aligns with the EU and improve environmental protection”.

SEPA has told the Committee in written evidence that it provided advice to the Scottish Government in relation to ammonia emissions from intensive agriculture including updates to EU law. Regarding EU alignment, the Committee understands that IED 2.0 - which came into force in August 2024 - requires the European Commission to assess solutions to address emissions from the rearing of livestock, in particular cattle, and report the results by the end of 2026, including a legislative proposal if appropriate. It also includes new (lower) capacity thresholds for the regulation of intensive rearing of poultry or pigs, and Member States have until 1 July 2026 to update their laws to comply. SEPA told the Committee that it has presented these revisions to the Scottish Government, including a threshold assessment of how many livestock units this would impact in Scotland if the Scottish Government were to implement the revised IED 2.0.

The Committee asks the Scottish Government to provide available information on the implications of aligning with IED 2.0 in relation to ammonia emissions, including any threshold assessment of how many livestock units or other sites would be affected in Scotland.

The Committee asks the Scottish Government what consideration was given to implementing these revised thresholds via the amendment Regulations including any discussions with relevant stakeholders, and why these Regulations were not used as a mechanism to pursue EU alignment in light of its policy commitment to align with EU environmental standards. The Committee asks if it is the Scottish Government’s intention to align with IED 2.0 before July 2026.

Water regime

Scottish Water has queried whether its water abstraction activities will be able to be excluded from the SEPA public register “for national security reasons” e.g. under Regulation 45 of the 2018 Regulations.

The Committee would welcome further information on how Regulation 45 of the 2018 Regulations may be applied in respect of water abstraction or other areas of regulation being brought into the Integrated Authorisation Framework, and what the process would be for any ‘direction’ issued under that Regulation by Scottish Ministers or the Secretary of State.

Scottish Water also made a number of comments regarding definitions in the Regulations.

The Committee would like to draw the Scottish Government's attention to these comments in advance of re-laying the Regulations.