

Proposed Environmental Authorisations (Scotland) Amendment Regulations 2025

Further information for NZET Committee



Introduction

SEPA provided written evidence to the Net Zero, Energy and Transport Committee on 10th December 2024 regarding the proposed Environmental Authorisations (Scotland) Amendment Regulations 2025 (EASR 2025), in advance of giving oral evidence on 17th December 2024.

On 13th January 2025, SEPA provided further written evidence on a number of matters raised during the oral evidence session where the Committee requested further information.

On 6th February 2025, the Committee wrote to SEPA seeking further information on issues raised by some stakeholders. We hope that the information below provides the Committee with the further evidence it needs to consider these matters.

Sewage sludge

The Committee asked if SEPA will work with local authorities to clarify roles in light of the regulatory changes for sewage sludge, covering how those roles will be publicised so the general public know who to approach in the case of complaints or concerns.

The responsibility for odour issues from the spreading of sewage sludge to land will fall to SEPA once EASR is implemented but Local Authorities will still have responsibility for statutory nuisance in general. SEPA will collaborate with partners to provide clear advice and support on roles and responsibilities once EASR is introduced. All of our regulatory guidance is being reviewed and where necessary updated to reflect the introduction of EASR from November 2025.

Anaerobic digestion

The Committee asked SEPA 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 anaerobic digestion (AD) of waste materials already requires an authorisation from SEPA. AD of non-waste materials is not regulated in the same way, although the potential risks to the

environment are similar. The introduction of non-waste AD as a new activity is designed to create an even playing field across all AD activities in recognition of the similar risks to the environment.

Best Available Techniques (BAT) must be applied to activities covered by the Industrial Emissions Directive (IED) and these activities are set out in Schedule 20 of EASR.

Waste AD activities of 100 tonnes a day or more are identified as a Schedule 20 activity. Other waste AD (below 100 tonnes per day materials throughput) and non-waste AD are not a Schedule 20 activity and therefore SEPA will have more flexibility when setting authorisation conditions.

SEPA is currently considering our approach to standards and conditions, and we will continue to proactively engage with sectors. In our consultation on the proposed types of authorisations for waste, water and industrial activities¹ we stated that *"We have applied an authorisation threshold based on material throughput, as this intrinsically increases the risk to the environment. If the throughput is above 100 tonnes of non-waste materials per day, we propose that a Permit authorisation will be required, aligned to Best Available Techniques. If the throughput is less than 100 tonnes of non-waste materials per day, a Registration authorisation will be required"*.

"Aligned to BAT" means that we will consider BAT as we develop our standards and conditions for the larger scale non-waste AD. SEPA will continue to engage with operators as we develop guidance on the standards and conditions that will apply to non-waste AD. As part of that engagement we will take into account any evidence to show where compliance with BAT is considered to be unsuitable for the non-waste AD sector.

The transitional arrangements mean that non waste AD plant do not require an authorisation until 1 April 2028. In addition, SEPA will have flexibility under the regulations for individual plant that might have valid reasons as to why they need a little longer to come into compliance and would discuss options with such operators on an individual basis.

¹See page 132-133 of [Environmental Authorisation \(Scotland\) Regulations 2018: Proposed types of authorisations for waste management, water and industrial activities](#)

The Committee asked SEPA 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. The Committee also welcomed information on whether SEPA is in ongoing discussions with stakeholders in this area.

SEPA has always considered distillery production residues used as AD feedstocks to be waste. However, to support innovation in the sector, SEPA took a position that AD plant using distillery waste as a feedstock did not require a permit and, now the sector is well established, we are reconsidering this position. This is not driven by a change in regulations but a desire to consistently apply the law in the same way that we do with other sectors, for example the brewing sector. We are working directly with the Scotch Whisky Association on this matter.

Water regime

The Committee asked for 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 SEPA's role is in this, noting that Scottish Ministers and the Secretary of State have powers to make directions in this area.

SEPA may only exclude information from the public register we maintain under EASR 2018 on the basis that its inclusion would be contrary to the interests of national security if we are directed to do so by either the Secretary of State or Scottish Ministers under the powers set out in sections 20(6) or 21 of the Environmental Protection Act 1990, or where we are required to do so in terms of section 21(4)(b) of the Environmental Protection Act 1990. This is set out clearly in Regulation 45 of EASR 2018. There are no provisions in the Amendment Regulations which propose amendments to Regulation 45.