

Better Environmental Regulation Programme

Environmental Authorisations (Scotland) Regulations 2018: proposed amendments

Consultation on draft Regulations

December 2023

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Consultation Foreword

This consultation sets out proposals for incorporating SEPA's four main regulatory regimes into an integrated environmental authorisation framework as part of Scottish Government and SEPA's joint Better Environmental Regulation Programme.

The Environmental Authorisations (Scotland) Regulations 2018 (the 2018 Regulations) provide a simplified, streamlined, and standardised common framework for environmental authorisations in Scotland. At present, this framework only applies to the regulation of radioactive substances and we now propose to extend this to the regulation of water, waste, and industrial activities so that the 2018 Regulations become the framework for environmental regulation in Scotland.

This consultation shares the Environmental Authorisations (Scotland) Amendment Regulations 2024 (the draft Regulations), which will amend the 2018 Regulations in order to bring these three regulatory regimes into the common framework provided by the 2018 Regulations, and a partial Business Regulatory Impact Assessment. Stakeholder views are important to us, and we are seeking your views on the draft text to ensure that the draft Regulations achieve the overall policy intention and objectives which were the subject of previous consultation in 2017. We would particularly welcome your views on the proposed new activities under the common framework provided by the 2018 Regulations, the technical provisions relating to water, waste and industrial activities, and the various amendments to the common procedures and the radioactive substances activities technical provisions. The Regulations are in draft and will require further changes and review prior to finalisation after the consultation. Lastly, we are making a number of small amendments to the framework provided by the 2018 Regulations to correct minor errors and improve the operation of the framework.

Consistent, proportionate, and simplified regulation is an essential component of Scotland's environmental protection framework. It is vital to the promotion of responsible business growth.

The proposed changes to the 2018 Regulations will support delivery of SEPA's statutory purpose, which is to ensure that environmental protection and improvement is conducted in a way that, so long as consistent with that purpose, supports health and wellbeing and sustainable economic growth.

The sustainable use of our environment is important to our economic potential as a nation. Consistent and proportionate regulation plays a vital role in making Scotland an attractive place for doing business. SEPA has set out its approach to regulation and the integrated authorisation framework underpins its work to:

- control pollution
- help Scotland to tackle the climate and nature loss crises
- support environmentally safe and successful organisations and activities
- tackle environmental crime, protecting Scotland's environment and communities
- support sectors who want to use innovation to go further and to do more than required by environmental regulations

Both the Scottish Government and SEPA wish to make clear that compliance with environmental regulations is the minimum standard expected and is non-negotiable. We want to help encourage, incentivise, and support businesses who want to use innovation to go further and to do more than required by environmental regulations to reduce their environmental impact in a way that builds business benefits. Doing so will not only help businesses to innovate and grow sustainably; it will enable our communities and environment to thrive and our country to prosper.

Part 1

1. Introduction and Purpose

1.1.1 The Environmental Authorisations (Scotland) Regulations 2018 (the 2018 Regulations) came into force in September 2018. These regulations set out the common procedures for an authorisation framework with the aim of integrating, as far as possible, the authorisation, procedural and enforcement arrangements relating to radioactive substances, water, waste management and industrial activities. The 2018 Regulations include the technical provisions for radioactive substances activities thus bringing that regime into this integrated authorisation framework.

1.1.2 The framework is a key component of the joint Scottish Government-SEPA programme of policy, legislative and operational improvements which will deliver a simpler, more risk-based, proportionate system of environmental regulation. It also enables SEPA to deliver proportionate, joined up, outcome focussed regulation, whilst reducing the regulatory burden for operators.

1.1.3 In January 2017 the Scottish Government ran a substantial consultation on the detailed proposals for the framework ([Scottish Government consultation on proposals for an integrated authorisation framework - 12 January 2017](#)) with a further consultation on the draft Regulations themselves in October 2017 (a copy is included with the supporting documents linked to this consultation). A summary of the January 2017 consultation responses can be found at: [Scottish Government better environmental regulation programme - integrated authorisation framework: consultation responses - 18 August 2017](#). A summary of the October 2017 consultation responses can be found at: [Scottish Government draft regulations for an integrated authorisation framework: consultation analysis - 22 February 2018](#).

1.1.4 As part of the development of this consultation package stakeholder feedback was revisited. This consultation does not seek views on the content of the 2018 Regulations.

1.1.5 This Scottish Government-SEPA joint consultation invites stakeholders to comment on the draft Environmental Authorisations (Scotland) Amendment Regulations 2024 (the draft Regulations) relating to water, waste, and industrial activities. This consultation will run for 12 weeks.

1.1.6 The purpose of this consultation is to seek views and to invite comments on the draft Regulations, and in particular:

- the technical provisions relating to water, waste, and industrial activities
- the four proposed new activities and changes to the process in relation to the public consultation and call-in procedure
- various amendments to the common procedures in the 2018 Regulations and technical provisions for radioactive substances activities

1.1.7 This consultation also seeks your views to explore how ammonia emission from livestock farms, particularly dairy and intensive livestock might be better managed and reduced.

1.1.8 Annexes A and B include the draft Regulations and a partial Business Regulatory Impact Assessment, respectively.

1.1.9 Over a similar period SEPA will be consulting on proposals for the type of authorisation that will be required for waste, water and industrial activities once they are brought into the 2018 Regulations by means of the draft Regulations, which will support implementation of the framework. This consultation will be on SEPA's website and is anticipated to be available in early 2024:

- Types of authorisations required for waste, water, and industrial activities under the Environmental Authorisations (Scotland) Regulations 2018.

1.1.10 SEPA published other guidance to support the framework in 2018. You may wish to refer to this guidance although SEPA are not consulting on it at this time. These guidance documents are:

- involving you... in environmental authorisations (SEPA's public participation statement)
- guidance on who can hold an authorisation
- an authorisation guide for radioactive substances activities.

1.1.11 These documents include, but are not limited to, the guidance SEPA needs to produce and consult on under the Environmental Authorisations (Scotland) Regulations 2018. These are on SEPA's website at: [SEPA - How we regulate - Environmental Authorisations \(Scotland\) Regulations 2018](#) You may find it helpful to read these various documents together.

1.1.12 In addition to this formal consultation, we will also provide opportunities to speak to us and SEPA face to face about the proposed changes, including stakeholder events over the consultation period so we can listen to, and understand your views, and answer any questions. These events also intend to help you understand the proposed changes and put together your response.

Part 2

2. New Activities

2.1 Introduction

2.1.1 This consultation is seeking your views on the following new activities: a change in relation to the regulation of sewage sludge activities once they are in the 2018 Regulations, and the extension of environmental regulation to the activities of carbon capture, non-waste anaerobic digestion and certain generators by bringing them within the scope of the 2018 Regulations.

2.2 Sewage Sludge

2.2.1 Sewage sludge is the residual semi solid material that is produced as a waste during the treatment of wastewater (sewage). The use of sewage sludge to provide nutrients for agricultural crops is a long-established practice. Sludge can only be stored at the place where it is to be used. It must be stored securely, for a limited time and at defined distances away from the water environment.

2.2.2 The Sludge (Use in Agriculture) Regulations 1989 and the Waste Management Licensing (Scotland) Regulations 2011 address the current requirements placed upon the handling, storage, transportation and use of sewage sludge.

2.2.3 In light of a considerable number of complaints received by Scottish Ministers relating to the use of sewage sludge, a review of the legislation and guidance relevant to the storage and spreading of sludge to land was undertaken in 2015 by the Scottish Government.

2.2.4 Certain key recommendations arising from the review require legislative change and include:

- incorporating requirements of the Safe Sludge Matrix into law
- an operator's permit including a 'Fit and Proper Person' test should be introduced for all operators who are involved in the handling, storage, transportation and spreading of sewage sludge
- establishing one regulatory system for organic waste to land, including the agricultural and non-agricultural application of sludge
- tighter regulatory powers for SEPA, by having it as the lead agency with a single point of contact for incidents and complaints relating specifically to sewage sludge, subject to cost recovery via charging.

2.2.5 We propose to give effect to these recommendations by bringing the regulation of sludge into the 2018 Regulations and incorporating a number of new technical requirements in proposed Schedule 18 which will:

- make appropriate parts of the Safe Sludge Matrix mandatory
- ensure the transport, storage and use of sewage sludge is subject to environmental authorisations and that all Authorised Persons can demonstrate they are a 'Fit and Proper' person

- tighten soil protection values in line with best evidence and improve monitoring and sampling provisions
- make it possible for SEPA to charge for authorisations to fund regulatory activity in this area.

2.2.6 Annex C contains additional details as to the specific proposed legislative changes.

2.2.7 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.

Question 1 *Are there any other regulatory measures relating to the spreading of sewage sludge to land that you feel should be considered for inclusion in the Regulations?*

2.3 Carbon Capture

2.3.1 The Pollution Prevention and Control (Scotland) Regulations 2012 (the PPC regulations) provide the current regulatory regime for industrial emissions, and include carbon capture for geological storage as an activity requiring a permit, in line with the requirements of the Industrial Emissions Directive (IED).

2.3.2 The definition of the carbon capture and storage activity in PPC regulations is: *“Capture of carbon dioxide streams from an installation for the purposes of geological storage pursuant to Directive 2009/31/EC of the European Parliament and of the Council of 23rd April 2009 on the geological storage of carbon dioxide.”*

2.3.3 This means that to regulate emissions from a carbon capture plant:

- the carbon capture plant must be located at an installation carrying out another industrial activity regulated by the PPC regulations
- the plant must capture carbon dioxide from a point source
- the captured carbon dioxide is for the purpose of geological storage.

2.3.4 The role of carbon capture is evolving, and several types of carbon capture technologies are emerging. Current regulation captures only one specific activity and proposals for new plants are already coming forward which would not be captured under the PPC regulations. This means operations with the same environmental risk are treated differently. For example, an identical carbon capture plant where the captured carbon is utilised rather than going to geological storage would currently not be regulated in the same way as one where the carbon were going to geological storage.

2.3.5 Environmental regulations need to support the deployment of carbon capture technology in-line with our national 2045 net-zero greenhouse gas emissions reduction target, as well as protect the environment and human health. Carbon capture technologies are evolving at pace with different contexts, scales, and environmental impacts. There are potential significant impacts on air and water quality, and from noise. Impacts on the environment could include emissions to air from amines, nitrogen oxides and sulphur oxides from the capture plant itself or noise from use of compression equipment.

2.3.6 We propose to include “*Any activity, if not related to any activity described in paragraph 46(13) of Part 4 of Schedule 20 for the capture of carbon dioxide from any other source*” as an other emissions activity in proposed Schedule 26 such that this activity will require an authorisation in Scotland.

2.3.7 The types of activity that would require an authorisation are:

- carbon capture removal technologies such as Direct Air Capture
- carbon capture and utilisation plant
- carbon capture plant for the purpose of storing carbon dioxide

2.3.8 This will provide a level playing field and ensure environmental risks are appropriately managed, with the aim of achieving proportionate and equitable regulation of carbon capture activities based on the level of risk to the environment. SEPA is currently consulting on the type of authorisation needed for different types of carbon capture plant.

Question 2 *Do you agree that this carbon capture activity should be an environmental activity in the Regulations?*

2.4 Non-Waste Anaerobic Digestion

2.4.1 The anaerobic digestion of waste is currently regulated according to capacity. The anaerobic digestion of materials that are not waste (e.g. energy crops) is not regulated in the same way, even though the potential environmental risk is similar. The size and number of non-waste anaerobic digestion plants have increased in recent years.

2.4.2 Anaerobic digestion processes biomass (plant and animal materials) into methane or biogas for heating and power. Management of materials in this manner can be a significant source of pollution to air and water from gaseous releases and liquid effluent. The impact of an anaerobic digestion plant on the environment will depend on the location, size, management of the process and infrastructure of the site, but there have been instances of anaerobic digestion plants causing significant impacts. Anaerobic digestion plants processing non-waste biomass present similar risks to the environment as those processing waste biomass.

2.4.3 We propose to add the anaerobic digestion of non-waste biomass as an other emissions activity in a new Schedule 26 so that this activity will require an authorisation in Scotland.

2.4.4 Anaerobic digestion is important to the circular economy and net zero, but requires management of associated environmental risks. Regulating this activity will provide a level playing field and ensure the appropriate management of the environmental risks with the aim of achieving proportionate and equitable regulation of anaerobic digestion activities based on risk to the environment.

Question 3 *Do you agree non-waste anaerobic digestion should be an environmental activity in the Regulations?*

2.5 Generators of Electricity Aggregating to 1 Megawatt Thermal Input (MWth) or More

2.5.1 We are proposing to apply controls to any combustion plants that generate electricity and aggregate to 1 MWth or more at the same location. This will include any generator which generates and then supplies electricity, either to the grid or for independent production for use at site of generation. Generators can be used in arrays to supply power and as back up to power supplied from the grid. Some may be operated intermittently to supply the grid to balance electricity supply and demand in real time. Additionally, standby generation is relied upon by island communities in Scotland to provide additional peak supply and contingency in the event of subsea cable faults.

2.5.2 The use of unabated generators can have a significant impact on air quality, and individual plants with a capacity of 1 MWth or more already need an environmental authorisation. Sites where there are smaller plants which aggregate to 1 MWth have an equivalent environmental impact and including this activity in the 2018 Regulations is in line with our commitments to improve air quality, and our net zero and decarbonisation goals. It will provide a level playing field and ensure environmental risks are appropriately managed, with the aim of achieving proportionate and equitable regulation of generation activities based on risk to the environment.

2.5.3 Controls of specified generators have been in place in England and Wales since 2018 and we are proposing that equivalent generators in Scotland be subject to similar controls, the details of which will be set out in SEPA guidance. The expectation is that the operation of these plants will meet modern emissions standards. For island communities, this may involve the upgrading of electrical distribution networks and/or facilitate the greater use of renewable/low carbon technologies to displace the current old fossil fuel power stations.

2.5.4 We propose to add combustion plants generating electricity on the same site with an aggregated total rated thermal input of 1 MWth as an other emissions activity in the proposed Schedule 26 so that this activity will require an authorisation in Scotland.

Question 4 *Do you agree that any combustion plant on the same site that generate electricity and aggregate to 1 MWth or more should be an environmental activity in the Regulations?*

Question 5 Should the scope be expanded to all combustion plants on the same site that aggregate to 1 MWth or more including those that generate heat (e.g. boilers)?

Question 6 For combustion plants on the same site that generate electricity and aggregate to 1 MWth or more, located in the highlands or on the islands are there plans in place to upgrade the plant or to replace it with renewable / low carbon technology / carbon capture usage and storage?

2.6 Emissions of Ammonia From Livestock Farms

2.6.1 Agricultural emissions related to air quality are dominated by ammonia (NH₃). Agriculture accounted for 92% of total Scottish ammonia emissions in 2020, with Scottish emissions accounting for 12% of total UK ammonia emissions. Cattle represent the largest livestock source, with beef and dairy cattle responsible for approximately 33% of UK emissions each.

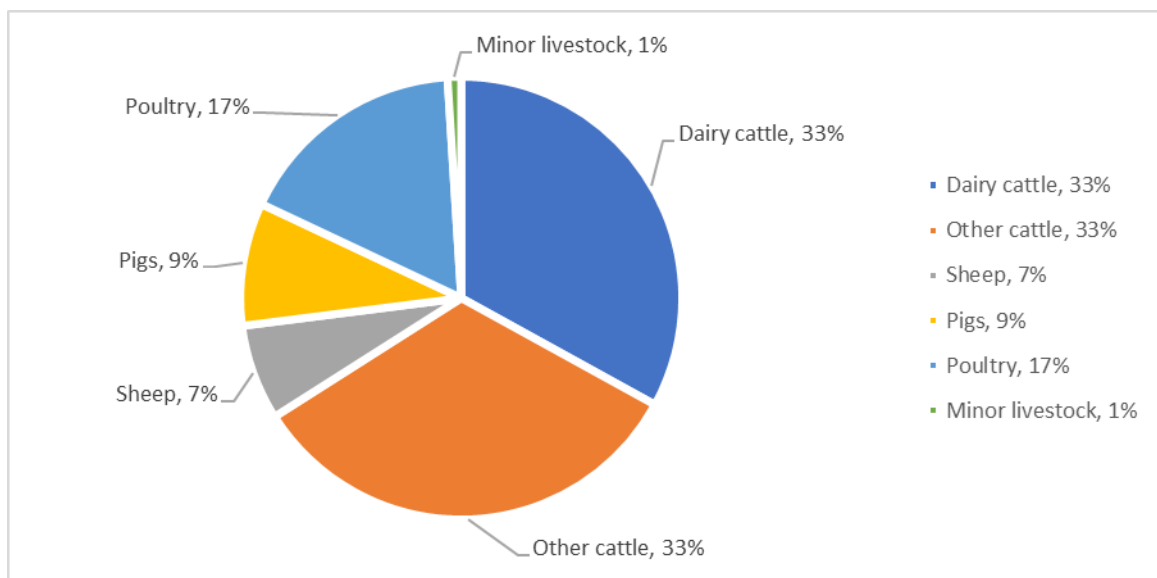


Figure 1. UK emissions split by livestock category, 2020

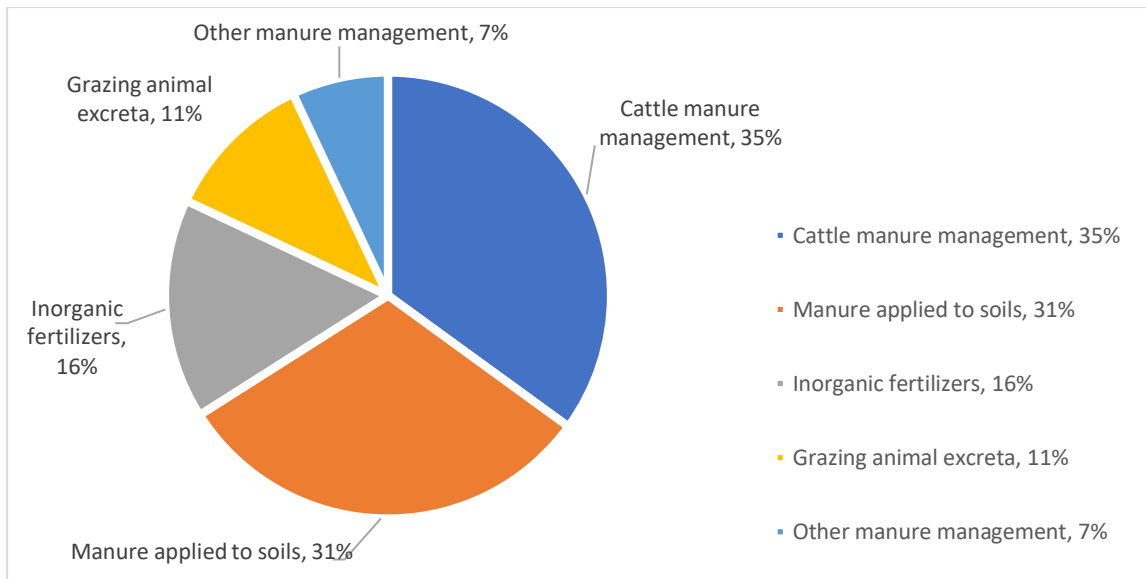


Figure 2. Scottish agricultural emissions split by sector, 2020

2.6.2 Unlike emissions of the other main air pollutants, which have declined significantly over the last 30 years, ammonia levels have decreased by only around 12% in this period. Even this modest reduction has started to reverse slightly since 2012. Sources such as large intensive pig and poultry units above certain capacities are classed as industrial installations and are regulated under the Industrial Emissions Directive and the Pollution Prevention and Control (Scotland) Regulations 2012 (the PPC Regulations). However, there are currently no regulatory mechanisms in place in the UK for other agricultural ammonia emission sources, which make up the bulk of emissions.

2.6.3 The Scottish Government would like to explore how ammonia emission from livestock farms, particularly dairy and intensive livestock might be better managed and reduced. This might be through a number of measures ranging from regulation to providing advice and information relating to good practice (including the Prevention of Environmental Pollution from Agricultural Activity (PEPFAA) code) or linking emission management to cross compliance rules in relation to future agricultural support.

2.6.4 Potential Mitigation Measures

2.6.5 The bullet points below describes the ammonia mitigation measures currently available. These measures bring a variety of cost-scales and it would be helpful to understand from the industry what the likely costs and impact of these measures might be.

- Slurry storage – Covering slurry stores & lagoons prevents ammonia emission from the slurry. Covering stores can result in up to an 80% reduction in ammonia emissions. There are a variety of methods to do this – from straw or clay ball covers to bespoke tension covers.
- Slurry bags – Enclosed flexible bags to store slurry in.
- Slurry treatment – For example: anaerobic digestion; acidification; separation (screen); aeration system; minimise agitation.

- Farmyard manure covers – Covering manure with heavy gauge black polythene sheeting.
- Dairy and yard washing – Increased washing of fouled areas (collection yards, parlour, feeding passages, etc.).
- Livestock housing – For example: new purpose-built slatted cattle shed; additional straw.
- Diet and additives – Excess protein in cattle diets is excreted as undigested protein, this then produces ammonia. Feed additives specifically marketed to reduce ammonia emissions from cattle do exist but not currently approved for use in the UK.
- Manure and slurry incorporation – Incorporating organic manure into soil quickly (as opposed to leaving it on the soil surface) after application reduces the amount of ammonia lost to the atmosphere, so increasing the amount of nitrogen available to plants for growth. Organic manure may be incorporated by harrowing or ploughing. Alternatively, slurry may be injected straight into the soil at application.
- Genetic improvement – Breeding cattle with high nitrogen use efficiency can be achieved through use of artificial insemination (AI) programmes

2.6.6 No decisions have been taken on how ammonia emissions should be controlled or managed in future and the Scottish Government recognises that there are already good practice examples within the industry. Nevertheless, any changes in the way emissions are managed in future will have impacts on intensive livestock businesses both in terms of scale and farm type. To understand further what those impacts may be, particularly given current cost pressures with the industry and the transitional nature of agricultural policy as Scotland moves to new support measures from existing ones, the Scottish Government wishes to seek views on the options for controls.

Question 7 *How should ammonia emissions from intensive livestock farms be controlled in future? This could include, a regulatory basis, the provision of advice, information and examples of good practice or other means.*

Question 8 *What considerations should be taken into account when considering future control or management of ammonia emissions from intensive livestock farms? Such considerations may include specific issues relating to farm type, size or other matters related to management of emissions such as costs.*

3. Common Framework – Proposed Amendments

3.1 Introduction

3.1.1 Bringing all four environmental regulatory regimes together in the common framework provided by the 2018 Regulations will ensure a consistent approach to environment regulation. The common framework has been in place since 2018, and has applied to the regulation of radioactive substances. This has provided an opportunity to consider a number of changes which will potentially allow for improvements to the 2018 Regulations. We intend to take this opportunity to propose amending the call-in procedure as well as enhancing the opportunities for public participation under the 2018 Regulations. Additionally, we will give SEPA the ability revoke a permit or registration where the authorised person is a sole operator who has died, or a body corporate that has been dissolved and make provision so that information from the register maintained by SEPA under the 2018 Regulations with respect to a permit or registration, and the conditions of that permit or registration, is presumed to be correct unless there is evidence to the contrary, with a related provision that causing false information to be put on the register is an offence under the Regulations.

3.2 Public Consultation and Call-in Procedure

3.2.1 The 2018 Regulations require public consultation by SEPA in relation to certain permit applications, variations and surrenders and provide for a call-in procedure where Scottish Ministers may direct SEPA to refer an application or variation for determination by Ministers similar to that which is set out in the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (“CAR”). With the integration of the four environmental regimes into the common framework by means of the draft Regulations, these provisions will apply across the four environmental regimes.

3.2.2 The call-in procedure applies to an application for the grant, surrender or variation of a permit in respect of which a public (third party) representation has been made and requires that before granting an application or issuing a permit, SEPA must notify any person who has made a representation of proposed decision and that they may, within the 21 days following, notify the Scottish Ministers that they object to the proposed decision, which then provides an opportunity for Scottish Ministers to call-in the application for their determination should they view it as appropriate to do so. This notification freezes the clock and SEPA may not finally determine the application or variation until either the 21 day period expires and no objections are registered, or the Scottish Ministers advise SEPA that they do not intend to call-in the application or variation, or in the absence of any notice by Ministers, 28 days after the 21 day period have expired.

3.2.3 We wish to continually improve aspects within the 2018 Regulations and 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. We consider that more and earlier public engagement in the process would be of much greater impact, and that this, along with current public

engagement requirements at the permit evaluation and, where required, permit determination stages, coupled with the power for Scottish Ministers to refer applications to them for their determination where appropriate, but in the absence of the prescriptive notification and timing requirements currently imposed by the 2018 Regulations (and under CAR), would result in a more effective process for ensuring public representations are appropriately considered.

3.2.4 Experience under the other regimes has also shown that the earliest stages of a permit application (or application for variation of a permit) are the best time for meaningful engagement to explore local environmental knowledge and resolve issues in relation to a proposed development. We propose to make changes to the public consultation provisions in the 2018 Regulations to incorporate, where appropriate, early public engagement in the authorisation process under the 2018 Regulations by means of pre-application public consultation and community engagement. For certain activities, due to their nature or location being of significant public interest or where experience has shown this would be beneficial to the application process (for example, in relation to fin fish farms), we aim to ensure effective early engagement with communities affected by proposed activities.

3.2.5 Appropriate early public engagement would be achieved by amending the 2018 Regulations to provide SEPA with the discretion to require pre-application public consultation and community engagement in relation to applications for permits and variations to existing permits.

3.2.6 Under the 2018 regulations, SEPA is required to publish a public participation statement outlining its policies for exercising its public participation statement, which will provide further details as to how and when pre-application consultation will be considered appropriate or required as part of the application process in its public participation statement

3.2.7 There may be circumstances where required pre-application engagement in relation to environmental permitting could be combined with similar requirements under the planning system process.

Question 9 *Do you have any comments on the proposal to amend the existing public consultation requirements in the 2018 Regulations so that SEPA may require pre-application public consultation in relation to permit applications or applications for variations to permits in certain circumstances?*

Question 10 *Do you have any comments on the proposal to simplify the call-in procedure provisions in the 2018 Regulations so as to remove the requirement that SEPA directly notify those who have made third-party representations of a proposed determination of a permit application or variation and the associated timing provisions which prevent SEPA from finally determining the application or variation until the elapse of the statutory time periods?*

3.3 Other Amendments

3.3.1 We are also taking the opportunity to make minor amendments and corrections to the 2018 Regulations and also to technical provisions for the other

regulatory regimes (PPC, Water, Waste) as they are brought into the 2018 Regulations and these are set out in Annex D.

3.3.2 One of these minor amendments will allow revocation notices to be issued where an authorised person has died or no longer exists (e.g. a dissolved corporate body). Currently, an authorisation under the 2018 regulations automatically transfers to a person's trustee, executor, receiver, administrator, liquidator or partner, where an authorised person has died or has become bankrupt or insolvent. Separate provision in the 2018 Regulations provides that a permit and registration cease only to have effect when it is either surrendered or revoked in accordance with the regulations. Revocation requires service of a revocation notice upon the holder of the permit or registration and there is no alternate method of service where the person has died or is a dissolved corporate body. The combined effect of these provisions means that SEPA cannot revoke a permit or registration where insolvency or estate proceedings have completed and the holder of that permit or registration no longer exists.

3.3.3 We propose that where SEPA, after reasonable inquiry, is satisfied that the authorised person no longer exists, that it publishes the revocation notice on its website, and sends a copy to the last known address of the authorised person, rather than SEPA having to serve the notice on the authorised person. This will allow SEPA to disburden land of unnecessary environmental permits and incentivise transfers of permits where they are still necessary.

Question 11 *Do you have any comments on the proposed amendment to provide for a procedure for issuing revocation notices where an authorised person has died or no longer exists?*

3.3.4 We also propose a minor amendment to the provisions in respect of the public register required to be maintained by SEPA under the 2018 Regulations. This register provides a public record of various documents under the Regulations including applications for permits and registrations, consultations, public representations, regulatory notices issued and various other matters. We propose to amend the provisions in respect of the register so that information as to permits or registrations on the register, and any conditions of those permits and registrations are evidence of those authorisations and conditions for the purpose of court proceedings, unless there is evidence to the contrary. We also propose a complementary offence of making or causing to be made a false entry in the register. These two provisions will provide certainty and assist in the enforcement of the 2018 Regulations as well as simplify court proceedings for regulatory offences.

Question 12 *Do you have any comments on the proposed amendment to the provisions in respect of the public register required to be maintained by SEPA?*

3.3.5 The other proposed minor amendments to the 2018 regulations in relation to the common framework are set out in Annex D

Question 13 *Do you have any comments on the minor amendments as set out in Annex D for the common framework: minor changes relevant to all activities?*

Part 3

4. Radioactive Substances Technical Provisions

4.1 Introduction

4.1.1 The 2018 Regulations incorporated radioactive substances activities and associated technical requirements into the common framework. To continually improve the regulation of this regime, we have identified the following proposals for minor changes.

4.2 Major Changes

4.2.1 We do not propose any major changes regarding radioactive substances activities.

4.3 Minor Changes

4.3.1 We are proposing a few minor changes to correct errors and clarify technical information and requirements. In addition, clarification of certain technical information and definitions has been included to enable integration of the Pollution Prevention and Control (PPC), Water and Waste regimes into the common framework, and these are set out in Annex D.

4.3.2 Alignment with EU Basic Safety Standards Directive. We are proposing changes to Schedule 8 to clarify which activities may/may not require another tier of authorisation (registration, notification, or GBR) on a licensed nuclear site to ensure proportionate and consistent regulation and support alignment with the EU Basic Safety Standards Directive (BSSD). This will ensure that the 2018 Regulations are clear that activities on a nuclear site, for example the management of security equipment containing radioactive sealed sources that have become waste, are regulated consistently with the same activity being conducted on a non-nuclear site as the levels of risk are no greater.

4.3.3 Disposal of smoke detectors. Disposal routes for smoke detectors are not clear, as there are different requirements for the various parts of the smoke detector. We propose to clarify the requirements of Schedule 9 of the 2018 Regulations and align with the Waste Electrical and Electronic Equipment Regulations 2013 (WEEE Regulations). Smoke detectors can be broken down to remove the metallic radioactive sealed source and the plastic casing with electronics can be recycled. The metallic radioactive sealed sources must only be removed by someone authorised to do so, and must be sent to landfill while the remainder can be recycled. Smoke detectors can also be disposed of via waste management companies that are legally entitled to manage them.

4.3.4 Use of radioactive substances for veterinary diagnosis and treatments. Veterinary practices are extensively regulated. The deliberate administration of radioactive substances for veterinary diagnosis and treatment within veterinary practices is addressed by the Ionising Radiations Regulations 2017 and regulated by the Health and Safety Executive(HSE) whilst the management of radioactive substances falls under the 2018 Regulations and is regulated by SEPA, with the aim

of protecting human health and the environment. We are therefore proposing to remove reference to the deliberate administration of radioactive substances for veterinary diagnosis and treatment from the 2018 Regulations Schedule 8 to ensure that this is clear. Management of radioactive substances from veterinary practices, e.g., disposal of waste, will still be regulated under the 2018 Regulations.

4.3.5 The Regulations are an integrated authorisation framework, and as such we aim to have consistency in the language used across the regime. We propose to change the language around the use of the term 'normal refuse' to bring the 2018 Regulations into line with the current waste segregation regime.

4.3.6 The proposed minor amendments to the 2018 regulations in relation to the radioactive substances are set out in Annex D

Question 14 *Do you have any comments on the minor amendments as set out in Annex D for the minor changes relevant to radioactive substances activities?*

4.4 Legislative Changes

4.4.1 The 2018 Regulations incorporated radioactive substances activities and associated technical requirements, transposing the Basic Safety Standards Directive. This section described the proposed legislative changes.

Question 15 *Do you agree with or have comments on the proposed changes to Schedules 8 and 9 for radioactive substances activities?*

5. Water Technical Provisions

5.1 Introduction

5.1.1 The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) currently provide the principal regulatory framework for protecting the water environment in Scotland. First introduced in 2005, CAR has been progressively improved.

5.1.2 Many aspects of the 2018 Regulations are derived from CAR and, consequently, there are many similarities, including the availability of different tiers of authorisation depending on environmental risk.

5.1.3 Transitioning authorisations for water activities into the 2018 Regulations will have benefits for water users. These include:

- authorising radioactive substances, waste, water, and industrial activities under a single framework
- more flexible permitting approaches, such as entire site permits and corporate permits to suit the needs of operators
- the ability to use standard conditions in permits and registrations to improve regulatory consistency
- the availability of notification as a new tier of authorisation, to give more flexibility for the authorisation tiers in future
- a 'Fit and Proper Person' test, better able to uphold high standards in the industry
- more effective enforcement tools to better deal with non-compliant sites and protect the water environment

5.2 Major Changes

5.2.1 We do not propose any major changes regarding water activities.

5.3 Minor Changes

5.3.1 Existing CAR licences and registrations will automatically become an authorisation under the draft Regulations without the need for licence holders to reapply. We expect the exception to be a small number of CAR registration holders who may be unable to comply with the standard conditions in their equivalent registration under the 2018 Regulations. In those circumstances the person carrying on the activity will need to apply for a permit.

5.3.2 Water activities – **General Binding Rules (GBRs)**. These are used for low-risk activities, where it is judged that the activity can be carried out without the need to apply to SEPA for an authorisation provided the associated rules are complied with.

5.3.3 The current GBRs for water activities are contained in CAR. These will be brought into the draft Regulations, with some minor amendments as noted in section 5.3.6 and Annex D below. We are proposing two new GBRs for water activities:

GBR 35 – The discharge of hot tub effluent, from a site with only one hot tub, to groundwater.

GBR 7- The installation and removal of —

- (a) temporary crossings and temporary structures in a river, burn, ditch or loch, or
- (b) any temporary works associated with the undertaking of any other activity specified in this schedule or for the purpose of maintaining an existing man-made structure in a river, burn, ditch or loch.

Unless the installation or removal is authorised by a registration or permit under these Regulations.

5.3.4 GBR 35 – The discharge of hot tub effluent, from a premises with only one hot tub, to groundwater. This new GBR activity relates to the discharge of hot tub effluent from a single hot tub. To control the bacteria and make it safe to bathe chemicals disinfect the water in hot tubs. These chemicals, usually chlorine and bromine, can be harmful to aquatic life. By establishing this GBR the discharge to groundwater from a single hot tub (e.g. from a domestic house) would be allowed, whilst discharges to groundwater from more than one hot tub would require a registration.

5.3.5 GBR 7 – The installation and removal of — (a) temporary crossings and temporary structures in a river, burn, ditch or loch, or (b) any temporary works associated with the undertaking of any other activity specified in this schedule or for the purpose of maintaining an existing man-made structure in a river, burn, ditch or loch [unless the installation or removal is authorised by a registration or permit under these Regulations. This new GBR activity covers temporary bridges and other temporary structures where these are not regulated by a registration or a permit. Currently there are various levels of authorisation for activities that may require temporary works in or around a watercourse. The proposed GBR would simplify this activity, create the same level of authorisation (GBR) for the same level of environmental risk.

5.3.6 Proposed changes to the existing GBRs include adding “lochs, or burns, ditches etc.” text to ensure the applicability to all relevant water bodies. Adding notification requirements in two GBRs (Nos. 30 and 33) to ensure that the construction of a constructed farm wetland is in accordance with guidance and designed correctly. Also, the addition of a rule to activity 23 to allow the application of pesticide to skunk cabbage (an invasive non-native species) which grows in waterlogged areas. And, widening the scope of GBR 6 to include what was previously GBR 7 in a single simpler GBR.

5.4 Legislative Changes

5.4.1 CAR will be revoked completely, and the provisions will be incorporated into the 2018 Regulations. In doing this the draft Regulations align with the parts of the following European legislation previously transposed in part by CAR:

- The Water Framework Directive (Directive 2000/60/EC)
- The Groundwater Directive (Directive 2006/118/EC)
- The Priority Substances Directive (Directive 2008/105/EC as amended by Directive 2013/39/EU)
- The Environmental Impact Assessment (EIA) Directive (Directive 85/337/EEC)

5.4.2 The technical requirements of these Directives (detailed in Schedule 10) apply to these water activities.

Question 16 *Do you have any comments on the new General Binding Rules (nos. 7 and 35) for water activities in Schedule 9 and the water activities in Schedule 10 in the draft Regulations?*

5.4.3 Other amendments. We are also taking the opportunity to make minor amendments and corrections to the water activities arrangements, and these are set out in Annex D. The draft Regulations will enable SEPA to continue to work with operators of controlled activities to protect, and improve, the water environment in a similar way to now. The activities and technical requirements are largely unchanged, however, there will be a few differences in detail.

Question 17 *Do you have any comments on the minor amendments relevant to water activities as set out in Annex D?*

6. Industrial Activities Technical Provisions

6.1 Introduction

6.1.1 The Pollution Prevention and Control (PPC) regime is procedurally and technically complex and provides limited flexibility to allow regulation to reflect the risk of a specific activity. The draft Regulations and the associated SEPA guidance on the type of authorisation needed aim to create a framework which will:

- maintain a high level of environmental protection and alignment with the technical standards at EU level
- provide simplified and responsive regulation that is proportionate to risk
- reduce administrative burdens and increase regulatory clarity.

6.1.2 Transitioning PPC permitting into the 2018 Regulations will have benefits for the industry. These include:

- authorising radioactive substances, waste, water, and industrial activities under a single framework
- more flexible permitting approaches, such as entire site permits and corporate permits to suit the needs of operators
- a broader 'Fit and Proper Person' test, better able to uphold high standards in the industry
- more effective enforcement tools to better deal with non-compliance, failing sites and illegal deposits of waste
- a more flexible approach to suspension and revocation of authorisations giving SEPA more effective powers to intervene where necessary.

6.2 Major Changes

6.2.1 The major changes for industrial activities are the new activities of carbon capture, non-waste anaerobic digestion and generators aggregating to 1 MWth or more. Any comments regarding the technical requirements for these new activities in Schedule 26 in the draft Regulations should refer to section 2 where there are questions relating to each proposed new activity.

6.3 Minor Changes

6.3.1 Proposed industrial activities. All existing PPC activities will require an authorisation under the 2018 Regulations. The description of some activities has changed but the activities themselves are the same. Where these activities already need a permit under PPC, the existing permits will automatically become authorisations under the draft Regulations without the need for permit holders to reapply, apart from potentially a small number of existing part B activities that SEPA are proposing to move to the registration tier, which may not be able to comply with the relevant standard conditions.

6.3.2 The draft Regulations include the following regulated activities:

6.3.3 Industrial emissions activities, including:

- activities listed in Annex I of the Industrial Emissions Directive (IED). This includes the majority of existing PPC Part A activities. These activities (including any directly associated activities, whether they fall under another regulated activity description or not) will continue to be subject to the full

technical and procedural requirements of the IED. The technical requirements in Schedules 19 and 20 apply to these activities

- Operation of a Large Combustion Plant described in Chapter III of the IED. The technical requirements in Schedule 21 apply to this activity
- waste incineration plant and co-incineration plant described in Chapter IV of the IED. The technical requirements in Schedule 22 apply to this activity
- Solvent emissions activities described in Part 1 of Annex VII to the IED. The technical requirements in Schedule 23 apply to these activities
- Titanium dioxide activities described in Chapter VI of the IED. The technical requirements in Schedule 24 apply to this activity.

Question 18 *Do you have any comments on the activity “industrial emissions activities” or on the technical requirements in Schedules 19 to 24 in the draft Regulations?*

6.3.4 • **“Additional technical requirements for relevant Schedule 20 and 26 activities operating an energy efficiency installation”** – This covers installations and relevant district heating and cooling networks described in articles 14(5) to (8) of the Energy Efficiency Directive and imposes various energy efficiency requirements upon these installations. This activity will include combustion and incineration installations with an aggregate thermal input capacity of greater than 20 MWth as well as relevant district heating and cooling networks.

6.3.5 The technical requirements in Schedule 25 apply to this activity.

Question 19 *Do you have any comments on the additional technical requirements in Schedule 25 in the draft Regulations?*

6.3.6 • **“Other emissions activities”** – These activities will include the current PPC Part B activities and a few existing non-IED PPC Part A activities such as crude oil handling and storage, making solid fuel from waste (sewage sludge drying), and recovery by distillation of oil (drilling mud treatment). It also includes operating a medium combustion plant, and petrol vapour recovery activities. Waste activities, including incineration and co-incineration plant, with a capacity below the Annex I threshold are not included under this activity description because they are described by and included within waste management activities.

6.3.7 We have taken the opportunity to simplify the description of activities and removed the “Part A” and “Part B” categorisation of activities in PPC. The majority of former Part B activities are now ‘other emissions’ activities and are listed in Part 3 of schedule 26. This gives SEPA greater flexibility in regulation and means that for former Part B activities SEPA may set conditions relating to impacts arising from emissions other than emissions to air. However, as these activities would have been regulated where applicable by the previous water, waste, and radioactive substances regimes in addition to PPC, in practice no additional requirements on an individual activity are anticipated, with the process for operators being a much simpler one. This change reflects the overall policy intent to integrate environmental requirements.

6.3.8 Whilst these activities no longer have “directly associated activities”, and so any activities on the same site that have the potential to cause pollution would need an authorisation in their own right, these may continue to be authorised under a single authorisation. However, the new framework allows them to be authorised under separate authorisations where that is more appropriate.

6.3.9 The technical requirements in Schedule 26 apply to these activities.

Question 20 *Do you have any comments on the industrial activity carrying out “other emissions activities” Schedule 26 in the draft Regulations?*

6.3.10 • **“Operating a medium combustion plant”** – This activity will cover combustion of fuel in plant with a total thermal input of between 1 and 50 MWth as described in the Medium Combustion Plant Directive (MCPD).

6.3.11 The technical requirements in Schedules 26 and 27 apply to this activity.

6.3.12 The proposed amendments to the 2018 Regulations simplify the regulation of medium combustion plant of 1-50 MWth in keeping with the Medium Combustion Plant Directive. Medium combustion plant with a capacity of 20 MWth and above are regulated under PPC as a Part B activity requiring a permit. This has been the case for many years and prior to regulation of these plant at the European level. The Medium Combustion Plant Directive was brought into PPC in 2017 and extended regulatory control to all medium combustion plants between 1-50 MWth with no distinction between 1-20 MWth and 20-50 MWth. PPC, however, maintained this existing distinction with the consequence that additional requirements, above and beyond those required by the Medium Combustion Plant Directive remained in place for plant of 20 MWth and above. For example, there was a requirement that plant must apply Best Available Techniques and various additional requirements including that an assessment of the impact of the plant on air quality had to be included permit applications.

6.3.13 The 20 MWth threshold has been in place for several decades and over that time technology and our understanding of the impacts of smaller plant has changed considerably while the need to protect air quality has become more prominent, and standards tightened. The proposed amendments mean that SEPA does not need to apply these specific additional requirements to plant of 20 MWth or more, removing blanket application of prescriptive requirements. SEPA instead will have the flexibility to set suitable standards for all medium combustion plant in order to provide appropriate environmental protection based on a plant’s level of risk to the environment. For example, SEPA would be able to apply Best Available Techniques to any combustion plant requiring an authorisation under the draft Regulations and require the inclusion of an air quality impact assessment in an application for any combustion plant where appropriate, not just those meeting the 20 MWth threshold. The proposed amendments also significantly simplify the regulatory arrangements for combustion plant and provide clearer alignment with EU standards.

6.3.14 In practice, operators of the few existing PPC Part B combustion plant will not see any changes in regulatory requirements.

Question 21 Do you have any comments on the activity “operating a medium combustion plant” in Schedule 27 in the draft Regulations?

6.3.15 • **“Petrol vapour recovery activities”** – These activities cover emissions of volatile organic compounds (VOC) from the storage and distribution of petrol and from vehicle refuelling at services stations.

6.3.16 The technical requirements in Schedule 28 apply to this activity.

Question 22 Do you have any comments on the activity “operating a petrol vapour recovery activity” in Schedule 28 in the draft Regulations?

6.3.17 Other emissions activities – General Binding Rules. These are used for low-risk activities, where it is judged that the activity can be carried out without the need for direct authorisation from SEPA, provided that the associated rules are applied.

6.3.18 We are proposing one GBR for **using crushing and screening equipment**. 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.

Question 23 Do you have any comments on this general binding rule 1, from Schedule 9, Chapter 4, Low Emission Activities in the draft Regulations?

6.3.19 Other amendments. We are also taking the opportunity to make minor amendments and corrections to the emissions activities’ arrangements, and these are set out in Annex D. The draft Regulations will enable SEPA to continue to work with operators of controlled activities to protect, and improve, the environment in a similar way to now. The activities and technical requirements are largely unchanged. However, there will be some differences in detail.

Question 24 Do you have any comments on the minor amendments relating to PPC activities as set out in Annex D?

6.4 Legislative Changes

6.4.1 The PPC Regulations will be repealed completely and replaced by Schedules 19 -28 as well as certain parts of the Waste Management schedules of the 2018 Regulations once amended. In doing this the draft Regulations align with all or part of the following European legislation:

- Directive 2010/75/EU on industrial emissions (IED)
- Directive 2012/27/EU on energy efficiency (EED) – Articles 14(5) to 14(8)
- Directive (EU) 2015/2193 on the limitation of emissions of certain pollutants into the air from medium combustion plants
- Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting in the storage of petrol and its distribution from terminals to service stations

- Directive 2009/126/EC on stage II petrol vapour recovery during the refuelling of motor vehicles at service stations
- Directive 2006/66/EC the Batteries Directive
- Regulation EC 1272/2008 on classification, labelling and packaging of substances and mixtures

6.4.2 European requirements have been implemented in such a way that prescriptive Directive requirements continue to apply only where necessary, thereby enhancing flexibility within the regime, and enabling effective risk-based regulation.

7. Waste Technical Provisions

7.1 Introduction

7.1.1 While successful in reducing harm from waste management activities and facilitating millions of tonnes of resource recovery, decades of evolution has left waste permitting legislation unnecessarily complex both for SEPA and waste managers. There are at least eight separate statutory instruments (and associated amendments) for inclusion in the waste regime in the 2018 regulations; this has been made more complex since leaving the EU.

7.1.2 The current waste regulatory regime can be poorly mapped to risk, can over-regulate low risk activities, and under-regulate higher risk activities. Parts of it have not changed since 1994 and have not kept pace with the new waste and resource economy where value recovery has priority. Also, the waste regulatory regime is not well enough equipped to prevent the infiltration of serious and organised crime into the industry.

7.1.3 The draft Regulations and the proposed types of authorisations required for waste activities, set out in SEPA's consultation, aim to create "an authorisation regime which protects the environment and communities, prevents waste crime and supports the move to a zero-waste society and a circular economy." We want a waste permitting framework which can:

- maintain a high level of environmental protection and alignment with the technical standards at EU level
- provide simplified and responsive regulation that is proportionate to risk
- reduce administrative burdens and increase regulatory clarity
- favour the practical application of the waste hierarchy
- prevent waste crime

7.1.4 Transitioning waste management permitting into the 2018 Regulations will have benefits for the waste industry. These include:

- authorising radioactive substance, waste, water, and industrial activities under a single framework
- more flexible permitting approaches, such as entire site permits and corporate permits to suit the needs of operators
- the ability to use standard conditions in permits and registrations to improve regulatory consistency
- a broader 'Fit and Proper Person' test, better able to uphold high standards in the industry and to tackle threats from criminal activity
- more effective enforcement tools to better deal with non-compliance, failing sites and illegal deposits of waste
- a more flexible approach to suspension and revocation of authorisations gives SEPA more effective powers to intervene where necessary
- a lighter touch approach to waste collection points supporting innovative means of recovering waste
- a simplified and strengthened approach to waste carriers

- a review of the exempt activities or ‘exemptions’ system to better map to risk, remove administrative burden and apply the ‘Fit and Proper Person’ test where necessary
- a joined-up approach for applying waste (including sewage sludge) to agricultural land for benefit.

7.1.5 Waste activities requiring an authorisation under the draft Regulations are

- the storage, treatment (including sorting), recovery and disposal of waste, including the supervision of such operations and the aftercare of disposal sites
- the collection and transport of waste on a professional basis
- acting as a dealer or broker

in or on land, or in the vicinity of land when connected with a waste management activity taking place on land,

with:

- “waste” defined in accordance with the Waste Framework Directive (Directive 2008/98/EC) (WFD) as set out in Section 75 of the Environmental Protection Act 1990 (EPA 1990),
- “Collection,” “recovery,” “disposal,” “broker” and “dealer” defined in accordance with the WFD.

7.1.6 This broad definition captures the current range of regulated waste activities, including those specified in Articles 23 and 26 of the WFD and enables integration of relevant waste provisions in the Pollution Prevention Control Regulations 2012 (the PPC regulations), and Environmental Protection Act 1990 (the EPA 1990), the Waste Management Licensing (Scotland) Regulations 2011 (the WML regulations), the Sludge (Use in Agriculture) Regulations 1989, the Landfill (Scotland) Regulations 2003, carriers licensing and broker and dealer’s licensing.

7.1.7 As the proposed definition of “waste management” is broad, in addition to the various exclusions from the definition of ‘waste’ in Article 2 of the WFD, the management of waste carried on in connection with a person’s private dwelling or a place where the person is resident is excluded under the proposed amendment to regulation 3 of the 2018 Regulations. This ensures that, for example, carrying household waste to a civic amenity (CA) site, burning leaves, or burying a dead pet in a garden will not fall within the scope of the 2018 regulations.

7.1.8 Regulation 7 of the 2018 Regulations provides a general prohibition such that a “person must not carry on a regulated activity except in so far as it is authorised... ..and carried on in accordance with, and to the extent authorised by, that authorisation”. This is equivalent, in relation to waste, to section 33(1)(a) of EPA 1990 which makes it an offence to “deposit or treat, keep or dispose of waste in or on land” without an authorisation.

7.1.9 The proposed waste activity does not refer to “controlled waste” as defined in Section 75 EPA 1990 and the Controlled Waste Regulations 1992. It is not necessary to refer to this definition for the purpose of waste permitting; however, it is not

proposed to repeal the definitions as they are relevant to the carrying out of waste collection functions by local authorities.

Question 25 *Do you agree that the regulations adequately capture waste activities?*

7.2 Major Changes

7.2.1 The major change identified for waste activities is the activity of applying sewage sludge to land. This activity has been included as a new activity in the technical requirements. Any comments regarding the technical requirements in schedule 18 in the draft Regulations should be addressed in the section 2 where there are questions relating to each new activity.

7.3 Minor Changes

7.3.1 Geographical extent. The draft Regulations limit the geographical scope to maintain a clear boundary between SEPA's regulatory role and that of Marine Scotland. The draft Regulations maintain an equivalent provision to the existing provision in section 33(1) of EPA 1990 which references "in or on land", limiting the requirement for an authorisation for waste activities to activities which occur "in or on land, or in the vicinity of land when connected with a waste management activity taking place on land".

7.3.2 The addition of activities that are "in the vicinity of land when connected to a waste management activity taking place on land" is to ensure that those activities which are partly on land and partly in the marine environment such as ship and offshore de-commissioning facilities can be regulated as a waste management activity under the 2018 Regulations.

Question 26 *Do you have any comments on the geographical extent in the draft Regulations?*

7.3.3 Technical requirements. The draft Regulations set out a range of technical requirements deriving from EU Directives and from matters of domestic policy in relation to the waste management of specific types of waste. These have their own technical schedules in the draft regulations order to address necessary requirements for environmental regulation and include some aspects of hazardous waste management, the waste management of waste motor vehicles, waste batteries and waste electrical and electronic equipment and dry recyclable waste, the landfilling of waste, and waste to land (sludge). The incineration and co-incineration of liquid and solid waste at a waste incineration or co-incineration plant is both an emissions activity and a waste management activity. The draft Regulations bring these technical requirements together for the first time making it much easier for users to navigate and implement.

7.3.4 Transitional arrangements. Where these activities already need a waste management licence under EPA 1990 the existing licence will automatically become an authorisation under the draft Regulations without the need for licence holders to reapply. People currently operating under exemptions from the requirement to hold a waste management licence under the WML regulations will need to apply for a new authorisation (at registration or permit level) unless a GBR covers their activity, the person in control of the activity will need to apply for a new authorisation before their

current exemption expires. We expect this transition will start in 2025 and anticipate simple exemptions will end in 2026.

7.3.5 Waste carriers and brokers registrations will be deemed to be Registrations under the draft Regulations and will keep their existing expiry date. The registered carrier or broker will need to apply for a new authorisation under the draft Regulations before the expiry date, as is the case under the current process, but will be subject to the 'Fit and Proper Person' test in the 2018 Regulations.

7.3.6 Requirements applying to all waste management activities are set out in Schedule 11. The draft Regulations align with various requirements in the Waste Framework Directive (Directive 2008/98/EC) (WFD).

Question 27 Do you have any comments on the requirements applying all waste management activities (Schedule 11) in the draft Regulations?

7.3.7 Requirements applying to landfill activities are set out in Schedule 13. The draft Regulations align with the requirements of the Landfill Directive (Directive 1999/31/EC) and reflect existing provisions in the Landfill (Scotland) Regulations 2003.

Question 28 Do you have any comments on the requirements applying to landfill activities (Schedule 13) in the draft Regulations?

7.3.8 Requirements applying to hazardous wastes mixing and treatment of waste oil are set out in Schedule 12. The draft Regulations align with requirements in Articles 17, 18 and 21(1)(c) of the Waste Framework Directive (WFD).

7.3.9 With respect to waste oil, regulation 15 of the WML 2011 and regulation 31 of the PPC Regulations apply different technical standards. The draft Regulations create a single technical standard for waste oil, more closely aligned to the Waste Framework Directive.

Question 29 Do you have any comments on the requirements applying to hazardous waste mixing and treatment of waste oil (Schedule 12) in the draft Regulations?

7.3.10 The requirements for management of separately collected recyclable waste and for operating a materials facility are set out in Schedule 14. The draft Regulations bring in existing requirements relating to the management of separately collected recyclable waste. They aim to further Scotland's ambitions for a circular economy and a zero-waste society by supporting recycling chains and improving the quality of dry recyclable wastes made available for reprocessing.

7.3.11 These provisions are currently in both the PPC Regulations and the WML regulations. There is a change in scope to certain of these requirements relating to compliance with the Materials Recovery Code. These are necessary to implement Extended Producer Responsibility for Packaging (EPR) in Scotland and have been separately consulted upon in relation to EPR. They are not being considered in this consultation.

Question 30 *Do you have any comments on the requirements for management of separately collected recyclable waste and for operating a materials facility (Schedule 14) in the draft Regulations?*

7.3.12 Requirements on the management of end-of-life vehicles (ELV) (are set out in Schedule 15). The draft Regulations align with Directive 2000/53/EC on end-of-life vehicles as last amended by Directive 2018/849 (ELV Directive). These requirements are currently transposed by the WML regulations.

7.3.13 The draft Regulations require SEPA to only authorise a relevant activity subject to conditions that will achieve the technical storage and treatment requirements as set out in schedule 15 of the draft regulations and which align with Article 6 and Annex 1 to the ELV Directive.

7.3.14 The draft Regulations maintain the policy of going beyond the requirements of the ELV Directive and apply to 'waste motor vehicles' which is broader than 'ELVs' as defined in the directive. The broader term 'waste motor vehicles' includes, for example, tractors, buses, and motorcycles.

Question 31 *Do you have any comments on the requirements for the management of waste motor vehicles (Schedule 15) in the draft Regulations?*

7.3.15 Requirements applying to the management of Waste Electrical and Electronic Equipment (WEEE) are set out in Schedule 16. The draft Regulations require that SEPA only authorise a relevant activity subject to conditions that will achieve the technical storage and treatment requirements of Articles 8(2), 8(3), 8(5) and 9, and Annexes VII and VIII of the Waste Electrical and Electronic Equipment Directive (2012/19) (the WEEE Directive). This reflects existing provision in the WML regulations.

7.3.16 With respect to activities which are storage only or where treatment is restricted to the preparation for reuse (i.e. repair and refurbishment), the draft Regulations continue to apply the discretion in Article 8.2 of the WEEE Directive and so, for such activities, the requirements to remove fluids and components do not apply.

Question 32 *Do you have any comments on the requirements applying to the management of WEEE (Schedule 16) in the draft Regulations?*

7.3.17 Storage and treatment of batteries (Batteries Directive). Requirements applying to the management of waste batteries are set out in Schedule 17. The draft Regulations align with the technical storage and treatment standards set Batteries and Accumulators and Waste Batteries and Accumulators Directive (2006/66) ("the Batteries Directive"), which are currently implemented by existing provision in the WML 2011.

7.3.18 The draft Regulations require that SEPA only authorise a relevant activity subject to conditions that will achieve the technical storage and treatment requirements of Article 12.2 and Annex III Part A of the Batteries Directive.

Question 33 *Do you have any comments on the requirements applying to the management of waste batteries (Schedule 17) in the draft Regulations?*

7.3.19 General Binding Rules are used for low-risk activities, where it is judged that the activity can be carried out without the need for direct authorisation from SEPA, provided that the associated rules are applied.

7.3.20 We are proposing four GBRs for in relation to specific waste management activities:

- GBR-1 - temporary storage of waste at the place of production
- GBR-2 - temporary storage of waste at a place controlled by the producer
- GBR-3 - temporary storage and treatment of waste at a collection point
- GBR-4 - the deposit of non-hazardous dredging sludges or sediment on or alongside the bank or towpath of inland waters from which they have been dredged.

7.3.21 It should be as easy as possible to get waste into the legitimate waste management system. New circular approaches to resource management means new forms of waste collection are emerging all the time. Creating GBRs for these activities supports emerging innovative methods of collecting waste and removes any administrative issues associated with getting recyclable and other specialist materials into the formal waste management system. The GBRs will replace certain existing registrable exemptions under the WML 2011 and result in hundreds fewer activities needing to be registered with SEPA.

7.3.22 GBR 1 – Temporary storage of waste, other than waste liquid digestate, at the place of production - authorises the temporary storage of waste at the place of production and basic treatment of that waste at that place. This will allow:

- temporary secure storage of waste at the place of production which occurs at almost every business premises in Scotland
- a range of basic treatment operations to facilitate storage and transport

7.3.23 Treatment activities make waste easier to store and transport for recovery or disposal somewhere else are also authorised, for example:

- compacting paper and cans to facilitate less frequent collections
- de-watering food waste prior to collection of the solid fraction
- separating recyclables into separate storage containers
- shredding confidential paper
- crushing oil filters or aerosol cans.

7.3.24 GBR 2 – Temporary storage of waste at a place owned or occupied by the producer - authorises the temporary storage and basic treatment of waste at another place owned or occupied by the person who produced that waste. This will allow:

- waste to be brought back to the producer's premises for temporary storage prior to collection where it is produced at a remote place

- a range of basic treatment operations to facilitate storage and transport.

7.3.25 Examples include, but not limited to -

- healthcare waste produced by medical practitioners or vets during home visits and returned to their surgery or practice
- a builder/landscaper/tradesperson who generates waste in the course of trade or business and return it to a storage yard to place in designated skips
- roadside recovery companies who return car tyres, oil, car parts or batteries to their central base for placing in designated containers
- retailers who back-haul cardboard and other packaging waste from customers to a central facility for bulking prior to collection
- a tree surgeon produces brush and trimmings and brings them back to their yard for temporary storage
- a local authority takes used fluorescent tubes removed from schools and other buildings back to a central point for collection.

7.3.26 GBR 3 – Temporary storage of waste at a collection point - authorised the temporary storage and treatment of waste at a collection point. “Collection point” means a place which is used for the collection of waste where the person does not receive payment for collecting the waste by the waste producer or collect waste as its main business activity. This will allow:

- operation of a collection point for wastes such as batteries, clothing, or glass
- carrying out a range of basic treatment operations to facilitate storage and transport. See above discussion in relation to GBR 1 for examples of basic treatment options.

7.3.27 Examples include, but not limited to:

- community collection points or bring banks at churches, schools, car parks and supermarkets
- recycling boxes in offices for staff to deposit household batteries
- out of date medicines returned to pharmacies
- operating a needle exchange
- receiving wastes from ships at a collection point provided within a harbour
- take back schemes in shops for consumer goods such as electrical items
- operating a collection point for plasterboard off-cuts at a DIY store
- operating a collection point for cardboard at a wholesaler
- auction marts providing space to deposit agricultural plastics

7.3.28 GBR 4 –The deposit of non-hazardous dredging sludges or sediment on or alongside the bank or towpath of inland waters from which they have been dredged - allows the non-hazardous dredged sludge or sediment from an inland water to be placed in the immediate vicinity of the bank or towpath provided that it does not lead to the heightening of the bank. This is a lower risk activity that can be appropriately addressed by means of a GBR.

Question 34 Do you have any comments on draft GBRs 1 to 4?

7.3.29 Other amendments. We are also taking the opportunity to make minor amendments in relation to the waste activities arrangements, and these are set out in Annex D. The 2018 Regulations will enable SEPA to continue to work with operators of regulated activities to protect, and improve, the environment in a similar way to now. The activities and technical requirements are largely unchanged though there will be some differences in detail.

Question 35 *Do you have any comments on the minor amendments relating to waste activities as set out in Annex D?*

7.4 Legislative changes being made

7.4.1 The draft Regulations consolidate parts of: .

- sections 33 to 44 (except for S.34), 59, 64, 65, 66, 71, 73, 74, 78 of the Environmental Protection Act 1990 (EPA 1990)
- The Waste Management Licensing (Scotland) Regulations 2011
- Section 5 of Schedule 1 to the Pollution Prevention & Control (Scotland) Regulations 2012 (PPC 2012)
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991
- Sludge (Use in Agriculture) Regulations 1989
- Special Waste Regulations 1996
- End-of-Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003
- Landfill (Scotland) Regulations 2003

7.4.2 The Waste Management Licensing (Scotland) Regulations 2011, the Landfill (Scotland) Regulations 2003, and the End of Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003 will be repealed and replaced by schedules 11-17 of the 2018 Regulations once amended. The Sludge (Use in Agriculture) Regulations 1989 will be repealed for Scotland and replaced by schedule 18. The Pollution Prevention and Control (Scotland) Regulations 2012 will also be repealed and replaced by the combined effect of the Industrial Emissions activities schedules, the other emission activities schedules and the waste management technical schedules. In doing this the draft Regulations align all or parts of the following European Directives in line with our policy to maintain alignment, where possible, with EU law

7.4.3 Continued EU alignment has been done in such a way that prescriptive requirements are applied only where necessary under the various Directives , thereby enhancing flexibility within the regime, and enabling effective risk-based regulation.

7.4.4 Some existing technical standards go beyond EU requirements, and these too will be carried over. For example, compliance with the MRF Code of Practice which forms part of the requirements addressed in schedule 19, and the upcoming ban on landfilling Biodegradable Municipal Waste.

7.4.5 Provisions relied upon by local authorities and regulators other than SEPA will remain in place to ensure continuity of enforcement. For example, local authorities

use Section 33 of the EPA 1990 to tackle fly-tipping and as such these provisions will be retained.

7.4.6 For clarity, the Duty of Care obligations (section 34 of the EPA 1990) and the consignment note procedures in the Special Waste Regulations 1996 are not included in these reforms as they do not relate directly to the granting of authorisations. Amendments to these systems will be consulted on as part of Digital Waste Tracking.

7.4.7 Lastly, nothing in this consultation will affect the Extended Producer Responsibility schemes (packaging, WEEE, batteries and ELVs) or the Trans Frontier Shipment (TFS) regime.

8. Annexes

Annex A Draft [Environmental Authorisations (Scotland) Amendment Regulations 2023]

Available as a supporting document

Annex B Partial Business and Regulatory Impact Assessment

Available as a supporting document

Annex C Sewage Sludge: The Requirements for Recovery of Waste by Application to Land for the Purpose of Soil Improvements as set out in Schedule 18.

8.1.1 In line with Sludge Review Recommendations 1, 6 & 9 the draft Regulations provide a series of prohibitions and restrictions to ensure environmental protection, implement the Sludge Directive and put elements of the Safe Sludge Matrix on a statutory basis.

8.1.2 Article 6(a) of the Sludge Directive requires that sludge be treated before being used in agriculture but provides a derogation such that untreated sludge can be injected or worked into the soil. The Sludge (Use in Agriculture) Regulations 1989 took advantage of that derogation, but we propose not to carry this forward into the new regulations. SEPA will be required to ensure no untreated sewage sludge, including septic tank sludge, is applied to agricultural land.

8.1.3 The regulations carried forward a requirement such that wastes must not be mixed with any material which would not itself provide benefit. This applies across all waste types, including sludge.

8.1.4 The following proposed changes apply across all waste types, including sewage:

- sludge used takes account of the nutrient needs of the plants and that the quality of the soil and of the surface and ground water is not impaired (Regulation 3(7) of the 1989 Regulations, transposing Art 8 Sludge Directive)
- the pH value of the soil shall not be less than 5 if sludge is to be applied (Regulation 3(5) of the 1989 Regulations)
- set values for the concentration of heavy metals in the receiving soil, and the maximum annual rate of addition, by prohibiting application where limits already breach or liable to be breached, and steps to be taken to ensure limits are not exceeded (regulations 3 and 4 of and Schedules 1 and 2 to the 1989 Regulations, transposing Sludge Directive Articles 4 and 5).

8.1.5 These provisions derived from the Sludge (Use in Agriculture) Regulations 1989 but need to be enhanced further, considering new science and experience of use. We propose to change the soil protection limits as follows.

- limits given in the table for maximum permissible average annual rate of Potentially Toxic Element addition over a 10-yr period kg/ha should be regarded as annual limits
- Zinc (Zn): 200 mg/kg limit extended to pH 5.5-7 for precautionary reasons. These are the values that are currently used in the [Biosolids Assurance Scheme Standard](#)
- Cadmium (Cd): Reduction of Cd limit and introduction of pH related limits. Research has shown there is a high risk of exceeding the European Union Cd

maximum permissible concentration in wheat at the present soil Cd limit (3 mg/kg), especially at low soil pH.

8.1.6 Article 7 of the Sludge Directive provides a series of requirements and prohibitions relating to the types of crops to which sludge can be applied and minimum grazing or harvesting periods after use. In line with the Scottish Government's Sludge Review, these requirements are to be enhanced by bringing them in line with the Safe Sludge Matrix, a voluntary code of practice which has been in place for over ten years. The draft Regulations require that:

- no fruit or vegetable crops, other than fruit trees, shall be growing or being harvested in the soil at the time of use or application of sludge
- sludge may only be applied to land used to grow food crops if it is "conventionally treated sludge" or "enhanced treated sludge"
- "conventionally treated sludge" shall not be surface applied to grass to be used for grazing

8.1.7 Paragraph 2(2)(b) of Schedule 2 to the 1989 Regulations only requires soil sampling every 20 years. SEPA guidance on Paragraph 7 exemptions specifies that soil sampling data should be no older than 12 months at the time of submission (including renewal). However, older analysis up to three years prior to the submission of the notification is acceptable provided documentary evidence is supplied to show how other wastes/fertilisers applied since that date have been accounted for in terms of calculated application rates. The draft Regulations create an integrated approach.

Annex D Other Minor Amendments

The table below captures the minor amendments required by bringing radioactive substances, water, waste, and industrial emission activities into a single regime.

Draft Regulation	Proposed change	Reason for change
Common framework: Minor changes relevant to all activities		
Regulation 5 amending regulation 3 in the 2018 Regulations	New paragraph (4) has been added “(4) where a person carries on an activity which meets the definitions of more than one of the regulated activities specified in paragraph (1)(a) – (f), that person carries on each of those regulated activities.”	Clarification that where a particular activity falls within the scope of more than one schedule the specific requirements of all the relevant schedules apply to that activity.
Regulation 9 amending regulation 9 in the 2018 regulations	For the avoidance of doubt clarification has been added that resources includes energy and water.	Clarification.
Regulation 10 amending regulation 22(3) in the 2018 Regulations	“or varying” has been added.	Clarification that SEPA may include any conditions it thinks fit when varying as well as granting a permit.
Regulation 11 amending regulation 24 in the 2018 Regulations.	That where SEPA carries out a review under Regulation 24, any fee payable under a charging scheme for that review is payable by the authorised person has been added.	For the avoidance of doubt that SEPA may recover its costs for carrying out a review of a permit.
Regulation 15 amending regulation 33 in the 2018 Regulations.	That SEPA may include such conditions as it thinks fit in any standard conditions has been added.	SEPA has wide discretion to both determine and impose conditions. This is clear for permits (Regulation 22(3)) but isn't as clear for registrations as they only include standard conditions. The change is to clarify that this wide discretion applies to the determination standard conditions, and therefore the conditions imposed in registrations.

<p>Regulation 16 amending regulation 38 in the 2018 Regulations</p>	<p>(a) “unless otherwise specified in relation to a particular entry.” has been added.</p>	<p>To reflect that technical schedules may specify that particular information to be placed on the register must be available in a particular format, for example, electronically.</p>
	<p>(b) provision has been added so that that information as to any permit or registration and any conditions of those permits or registrations is in the absence of evidence to the contrary, prima facie evidence of those permits and registrations and associated conditions and may be admitted into evidence in any court proceedings under the 2018 Regulations without need of any further proof.</p>	<p>It is important that there is certainty over which permits are in force and what the conditions of those permits are, for SEPA, from a compliance and permitting perspective, for authorised persons so they understand their environmental responsibilities, and for stakeholders so that they can hold both SEPA and authorised persons to account. This provision provides greater certainty for SEPA, authorised persons and other stakeholders and will assist in the enforcement of the Regulations by making information from the register with respect to permits and registrations and their associated conditions admissible in proceedings under the Regulations without need for further proof unless there is evidence to the contrary. This will avoid the need for unnecessary evidence being required to be given in relation to what should be uncontroversial evidence.</p>
<p>Regulation 51 amending regulation 51(2) in the 2018 Regulations.</p>	<p>Sub-paragraph (a) “or to whom the duty to comply with the notice has transferred as a result of regulation 28(2)”, has been added.</p>	<p>Clarification that cost recovery notices can be served on a person to whom the duty to comply with a regulatory notice, surrender notice or revocation notice is transferred, not only the person on whom it was served or would have been served.</p>
	<p>Sub-paragraph (b) “or to whom the duty to comply with the notice has transferred as a result of regulation 29(5)”, has been added.</p>	

	<p>Sub-paragraph (d) “was served” to the end, has been replaced by “or the person to whom a duty to comply with that notice has transferred under regulation 28(2) or 29(5) or the person who would have been served [with the regulatory notice, surrender notice or revocation notice].”</p>	
<p>Regulation 19 amending regulation 54 in the 2018 regulations.</p>	<p>Regulation 54(2) has been amended by adding the following wording: “or, where sub-paragraph 2A applies, by being sent to the person using electronic communication” added to paragraph 2.</p> <p>Sub-paragraphs 2A and (5) have been added as follows:</p> <p>(2A) This sub-paragraph applies where, before the notice is served, SEPA and the person upon whom it is to be served agree in writing that the notice may be sent to the person by being transmitted to an agreed electronic address, and in an agreed electronic form.</p> <p>“(5) Where a document is served as mentioned in sub-paragraph (2) to a postal address in the United Kingdom or by electronic communication to an electronic address it is to be taken to have been received 48 hours after it is sent unless the contrary is shown.”</p>	<p>These amendments allow SEPA to serve notices electronically where agreed upon by SEPA and the person to be served with the notice.</p>
<p>Regulation 20(a) amending regulation 55(1)(e) in the 2018 Regulations.</p>	<p>“or has been treated as having notified an activity” has been added.</p>	<p>Clarification of wording so that it is clear that a person can appeal against a notification under Regulation 60 or 61 that has been deemed to exist by SEPA as</p>

		is the case for a permit or registration – as notifications are not “granted” by SEPA.
Regulation 21 amending regulation 57(2) of the 2018 Regulations.	Adds a new sub-paragraph (g): an off-site condition under regulation 22(3)(b) by a person whose consent is required in order for the authorised person to comply with it, the appealed condition does not take effect until the day following the day on which— <ul style="list-style-type: none"> (i) the appeal is withdrawn, or (ii) the appeal is finally determined and the condition is affirmed.” has been added. 	Clarification that an offsite condition does not take effect until after conclusion of an appeal against it by a person whose consent is needed in order for the authorised person to comply with the off-site condition.
Regulation 23 amending regulation 60 of the 2018 Regulations.	New Paragraph (5) has been added: “(5) Where SEPA treats an activity in accordance with paragraph (1), the person or persons it considers to be in control of the carrying on of the activity are to be treated for the purposes of these Regulations as— <ul style="list-style-type: none"> (a) in relation to a permit or registration, the applicant, (b) in relation to a notification, the person who has made an notification in accordance with regulation 12(3).” 	This clarifies that when SEPA elects to treat an unauthorised activity as one which has been notified, or one in respect of which an application for permit or registration has been made, the person carrying on the activity is to be treated as either the applicant or the person who has made the notification for the purpose of the Regulations; this will mean, for example, that the person carrying on the activity, may be served with a notice requiring further necessary information in order to determine a deemed application for permit in accordance with paragraph 6 of schedule 1.
Regulation 24 amending regulation 62 of the 2018 Regulations.	Wording added as follows: to paragraph (3): “or to whom the notice or the duty to comply with the notice has transferred” has been added.	These provisions all clarify that where a regulatory, surrender or revocation notice under the Regulations is served upon a person and SEPA takes action in relation to that notice, which requires further notice of a kind specified in this regulation,

		the notice may be served on the person to whom the notice or the duty to comply with that notice has transferred.
	to paragraph (4)(b): “or to whom the duty to comply with a regulatory notice has transferred” has been added.	
	to paragraph (5)(b): “or upon whom the duty to comply with a surrender notice has transferred” has been added.	
	to paragraph (5), new sub-paragraph (c): “SEPA served a revocation notice, or to whom a revocation notice has transferred” has been added.	
Regulation 25 adding Regulation 62A to the 2018 Regulations.	Adds a new regulation 62A: SEPA may carry out any examination and investigation it considers necessary to allow it to make a determination in respect of an application for an authorisation” has been added.	Clarification that SEPA may carry out any examination and investigation it considers necessary to allow it to make a determination in respect of an application for an authorisation.
Regulation 26 amending regulation 63(6) in the 2018 Regulations.	“in so far as it is practicable to do so” has been removed.	Clarification that when SEPA grants an accelerated application, it must notify the authorised person of the activity authorised, any conditions or standard conditions, the date the authorisation takes effect and the authorised place. .
Regulation 27 amending regulation 64 in the 2018 Regulations.	“Where SEPA initiates and carries out a consolidation under regulation 64, any fee payable under a charging scheme for that consolidation is payable by the authorised person.” has been added as new sub-paragraph (9A).	For the avoidance of doubt that SEPA may recover its costs for carrying out a consolidation of a permit.
Regulation 30 amending schedule 1 of the 2018 Regulations		
(a) New paragraph 1A	Adding a new paragraph 1A to provide that:	Extends the public consultation requirements

	<p>“Pre-application community engagement 1A.—(1) SEPA may require any person who intends to apply for a permit or a variation to an existing permit to consult with members of the public who are likely to be affected by the proposed activity or variation, (2) SEPA may require that person to take such steps as SEPA considers appropriate.</p>	<p>under the 2018 Regulations to include pre-application consultation where considered appropriate by SEPA.</p>
(b) paragraph 2	<p>Adding new sub-paragraph (d): “any information relating to pre-application engagement required by SEPA under paragraph 1A.”</p>	<p>Makes it clear that SEPA may decline to an application in terms of paragraph 2(2) where the applicant has failed to carry out community engagement or take such steps as required by SEPA in that regard.</p>
(c) paragraph 7(3)(b)	<p>“has the potential” has been replaced by “is likely”.</p>	<p>Almost any regulated activity has the potential to cause significant environmental harm if it is not subject to the appropriate controls and we consider it to be disproportionate to require public consultation for all activities regulated by the 2018 Regulations. This amendment is similar to the current in the Water Environment (Controlled Activities) (Scotland) Regulations that public consultation must take place where the activity is likely to cause significant environmental harm. SEPA retains the discretion to require public consultation in respect of any permit application or variation under sub-paragraph (c).</p>
paragraph 7(3)(c)	<p>“having regard to the public participation statement” has been added.</p>	<p>This amendment makes it clear that in determining that there should be public consultation in respect of a particular permit application,</p>

		variation or surrender SEPA is to have regard to its public participation statement.
(d) , paragraph 8(1)	New sub-paragraph (e) has been added: “ (e) the times and places where, or the means by which, public consultees may access copies of the application, proposed SEPA initiated variation and any other relevant information required to be publicised as a result of the technical schedules is made known to public consultees.”	Clarification that where public consultation requirements apply, SEPA must ensure that this information is made available. .
(e) , paragraph 13	“(3) Where SEPA issues a SEPA initiated variation notice under regulation 25, any fee payable under a charging scheme for the variation is payable by the authorised person.” has been added.	Clarifies, for the avoidance of doubt that SEPA may recover its costs for carrying out a SEPA initiated variation of a permit.
(f) , paragraph 14(3)	“on the date specified in the notice and” has been deleted.	Correction to reflect that under paragraph 15 an authorisation ceases to have effect on either the date specified in the notice or the date SEPA confirms to the authorised person in writing that any required steps have been completed to its satisfaction.
(g) , paragraph 15 (i) sub-paragraph (1)(a)(v)	“which adversely affect” has been replaced by “or otherwise preserve”	Clarification that a surrender notice can require removal of equipment, plant, articles, waste or substances whether or not they adversely affect amenity, and SEPA can require other steps to be taken to preserve amenity.
(ii) sub-paragraph (1)(b)(i) & (ii)	“in whole or in part” has been added in both provisions after “effect”.	Clarification that these provisions apply to full or partial surrender.
, (h) paragraph 16	“(3) SEPA may impose an off-site condition in a revocation notice.” has been added.	Clarification that SEPA may include off-site conditions in revocation notices.
(o) new paragraph 25	Provision has been added to provide that Scottish Ministers may delegate the functions in connection with applications	This enables Scottish Ministers to delegate functions in relation to called-in applications and variations

	and SEPA initiated variations which Scottish Ministers have directed SEPA be referred to them for determination under paragraph 19.	as is the case for appeals and means that the Scottish Ministers may appoint a person to exercise these functions on their behalf and refer a matter to a person for this purpose.
Regulation 31 amending s, subparagraph 3(2)(b) & 3(3)(b) of schedule 2 of the 2018 Regulations.	“or the person upon whom a notice imposing an off-site condition was served” has been added to both provisions.	Clarification that off-site conditions can be included in notices as well as permits.
Regulation 32 amending schedule 3 of the 2018 Regulations.		
(a)(i)	New entry 7A to Table 1 (Information to be included in the register): Any notice given by SEPA to an applicant under paragraph 6 of Schedule 1, and where applicable, any information provided in response to such a notice.	Applications for permits, registrations, variations to permits and registrations, and applications for transfer or surrender of permits and registrations are already required to be included in the register. This change makes it clear that any additional information provided separately to SEPA in response to a notice under paragraph 6 of Schedule 1 must also be included in the register.
(a)(iii) , entry 38	“inspection report” has been replaced with “programme of inspections (as defined in schedule 8)”.	To reflect the requirements of Article 104(4) of the Basic Safety Standards Directive, which does not require a summary of the inspection report but instead requires a summary of the main findings from the programme of inspections.
Regulation 33(a) amending paragraph 4 of schedule 4 of the 2018 Regulations.	(a)(iii)(aa) “another person” has replaced the words “authorised person”. (a)(iii)(bb) “a notice or permit” has replaced the words “an authorisation”.	Clarifications to reflect that off-site conditions may be included in notices as well as permits, and as a result, compliance with off-site conditions may be required

	(a)(iii)(dd) “the date that a copy of the notice or permit is given to that person under paragraph 4” has replaced “the date of the notice given to that person under paragraph 3”	by persons other than just the authorised person. Also amends the start date for the appeal period to the date upon which any person who it appears may need to grant rights to the authorised person in order to enable compliance is notified of the proposed condition.
Minor changes relevant to radioactive substances activities.		
Regulation 34 amending schedule 8 of the 2018 Regulations		
(b) Paragraph 2	Paragraphs 2(d) and (e) have been removed.	These exclusions are no longer needed in the integrated regime as waste and PPC authorisations will now be addressed by the 2018 Regulations.
(d), paragraph 4	The definitions for: ““high-activity sealed source” and ““sealed source” have been moved from paragraph 5 to paragraph 4.	Paragraph 5 applies to the regulations as a whole, whereas paragraph 4 only applies to Schedule 8 and 9. The definitions of “high-activity sealed source” and “sealed source” are only used in Schedule 8 and 9.
(g) , paragraph 14(2)(b)	“arising from the operation of that nuclear site”, has been added.	Clarification that the requirement for a permit in paragraph 14 applies to the management of radioactive waste on a nuclear site arising from the operation of that nuclear site, but does not include other radioactive waste, for example, waste smoke alarms which may be addressed by a different form of authorisation.
(h) paragraph 18(3)	“high-activity sealed source” has been replaced by “sealed source in IAEA Categories 1 to 4”.	This clarifies that the exclusion in sub-paragraph (3) should apply to all sealed sources in IAEA Categories 1 to 4, not just high activity

		sealed sources, consistent with the wording paragraph 18(2) of schedule 8. .
(i) paragraph 19	“(JOPIIRR) insofar as the JOPIIRR apply to the activity, or (b) it is an existing class or type of practice.” has been added.	To clarify that an existing class or type of practice can be authorised in addition to those ‘found to be justified’. Paragraph 19 of schedule 8 of the 2018 Regulations requires that SEPA refuse an application unless the activity is found to be justified under Justification of Practices Involving Ionising Radiation Regulations (JOPIIR) but JOPIIR (regulation 2) only applies to activities to the extent that the Basic Safety Standards Directive applies to them. This amendment to makes provision for circumstances when the JOPIIR does not apply, e.g. receipt of radioactive waste from defence activities.
Regulation 35 amending schedule 9 of the 2018 Regulations		
(f) Activity 7	Rule (f) the maximum amount of uranium or thorium that can be held on a premises at any time is 5 kilograms.” has been added.	The limit replicates what was in the Radioactive Substances Exemption (Scotland) Order 2011 and corrects an omission in the 2018 Regulations.
(g) Activity 8	Rule (b)(ii) has been replaced in its entirety by “disposed into a relevant sewer, or the sea (except for any part of the sea that is part of the water environment)”.	This is a change required to reflect that as a result of the draft regulations, the 2018 Regulations will now be an integrated regime so that disposal will have also have to take into account of the impacts to the water environment. Currently, discharges to river or sea within coastal waters should have a licence under the Water Environment (Controlled Activities)

		(Scotland) Regulations 2011 and any specific requirements relating to radioactive substances will now need to be integrated with those requirements.
	New rule (i): “the maximum amount of a radioactive material that can be held on a premises at any time is 1 x 10 ⁹ becquerels of Tc-99m and 2 x 10 ⁸ becquerels of all other radionuclides, no more than 1 x 10 ⁸ becquerels is radioactive material” has been added.	Corrects an omission to the 2018 Regulations in which the maximum amount a person is entitled to hold was missing.
(i) , Activity 11	Rule (e) has been replaced by “(e) an aqueous liquid radioactive substance must only be disposed of into a relevant sewer or the sea (except for any part of the sea that is part of the water environment),”.	This change relies on the same reasoning as for Activity 8, rule (b)(i).
	Rule (i) “the total activity of radioactive waste disposed of in normal refuse in a year must not exceed— (i) 2 x 10 ⁹ becquerels for tritium or C-14, (ii) 2 x 10 ⁸ becquerels for any other radionuclide”, has been added.	The limit replicates what was in the Radioactive Substances Exemption (Scotland) Order 2011 and corrects an omission to the 2018 Regulations.
Minor changes relevant to water activities.		
Regulation 4 (1)(e) amending regulation 2(1) of the 2018 regulations and regulation 36 amending regulation 2(1) of, and inserting new regulation 24A to the Water Environment (River Basin Management	A new definition of “groundwater hazardous substances” replaces the existing “hazardous substances” definition. These definitions differ in name only.	This definition is relevant to the water environment and is required to differentiate between different types of hazardous substances in an integrated regime.

Planning: Further Provision) (Scotland) Regulations 2013		
Minor changes relevant to industrial activities currently regulated by the PPC regulations.		
Paragraph 11(2) of new schedule 19 inserted into the 2018 regulations by schedule 10 of the draft regulations	“SEPA may impose authorisation conditions requiring that decarbonisation measures are implemented” has been added in relation to greenhouse gas emissions.	Clarification that whilst SEPA may not set an emission limit value for greenhouse gases for installations that have a greenhouse gas emissions permit under the Greenhouse Gas Emissions Trading Scheme Order 2020, it can set conditions requiring that decarbonisation measures are implemented.
Schedule 11 inserting new schedule 20 into the 2018 regulations:		
Paragraph 3(b)	“the relevant BAT applicable to an activity is as determined by SEPA,”	Clarification that it is SEPA that determines the applicable BAT for a particular regulated activity.
Paragraph 3(i)(ii)	Provides that where achieving an environmental quality standard requires stricter conditions than those achievable by the use of best available techniques, SEPA must include additional measures in the permit and “(ii) may take into account other measures, outwith the permit conditions that may be taken meet an environmental quality standard.”	Clarification that when setting conditions for a particular regulated activity SEPA may take account of other measures to improve air quality that are not addressed by way of permit conditions. Air quality can be affected by multiple sources and improvements being made by another regulated activity or to reduce the impact of road traffic emissions will also contribute to improving air quality.
Paragraph 7(1)(g)	An application is required to include “a description of the proposed technology and other techniques for preventing or, where this is not possible, reducing emissions from the installation” ; this	This aligns with the current wording in the Industrial Emissions Directive (IED) and does not prevent SEPA for requiring the information as to rendering emissions harmless be included in an

	differs from the current wording in the equivalent provision of PPC regulations which also includes “or render harmless”.	application for a schedule 20 activity given the combined effect of paragraph 2(1)(c) of schedule 1 and regulation 9 of the 2018 Regulations.
Paragraph 7(4)(c)	Adds a requirement in head (c) that where an applicant includes the information referred to in sub-paragraph (a) in or attached to the application, the applicant must specify which requirement is addressed by that information and where the information can be located.” .	It can be difficult and time consuming for SEPA to extract relevant information from information attached to an application that was originally produced in response to other legislation. This provision requires the applicant to specify which requirement is addressed by that information and where the information can be located to make it easier for SEPA to find.
Paragraph 9(10)	Adds a definition for ““equivalent level of protection” means achieving the equivalent percent reduction in concentration of each relevant pollutant, whilst ignoring any dilution from other wastewater streams, that would be achieved through applying the emission limits associated with best available techniques”	“equivalent level of protection” was not defined in the PPC regulations and this has caused confusion.
Paragraph 13	The requirement for SEPA to provide for the frequency of inspections has been moved from being a part of the inspection plan to being a requirement to regularly draw up programmes for environmental inspections, including the frequency of site visits for different types of installations.	This is a simplification of requirements and aligns more closely with the requirements of the IED.
Paragraph 15	The requirement for SEPA to acknowledge receipt of a notification of a proposed change in operation has not been carried over from the PPC regulations.	This continues to align with the IED requirement that SEPA be notified of any proposed change in operation, but removes an unnecessary step and makes it clearer that it is the responsibility of the authorised person to

		determine whether a permit variation is required in advance of making the proposed change.
Schedule 26, Paragraph 3 of new schedule 26 inserted into the 2018 regulations by schedule 17 of the draft Regulations.	Provides that “SEPA may when carrying out a relevant function related to other emissions activities have regard to any applicable Scottish, UK or EU guidance on the best available techniques for preventing, or where that is not practicable, reducing emissions from an activity when taking into account the general aims in accordance with regulation 9 of the Regulations.” .	We consulted in 2017 on replacing “Best Available Techniques” (BAT) for activities outwith the scope of the IED with a set of “universal outcomes”, and this is provided for by Regulation 9 of the 2018 Regulations. Since that time, and partly as a result of the UK’s exit from the EU, there have been significant changes in how BAT guidance is produced in the UK and SEPA plays a role in the development of that guidance. This provision has been included to supplement the general aims in regulation 9 of the 2018 Regulations to make it clear that SEPA may take account of guidance on BAT in setting conditions for other emissions activities.
Minor changes relevant to waste activities		
Schedule 2 inserting new schedule 11 to the 2018 Regulations:		
	The ‘relevant objectives’ from Schedule 4 to the Waste Management Licensing Regulations 2011 are not included and have been replaced with the reference to general aims in in regulation 9 of the 2018 regulations.	This has the same effect as the relevant objectives in practice but ensures alignment across regimes to create an integrated approach.
Paragraph 4	The duty on SEPA to take account of the waste hierarchy is limited to the functions of setting conditions in permits	This reflects that consideration of the waste hierarchy at the systemic level, and in the context of

	and determining and revising standard conditions which apply to registrations.	strategic network of facilities is better taken at the planning stage, rather than in relation to the regulation of individual waste activities.
Paragraph 5	The minimum inspection frequencies in the Waste Management Licensing Regulations 2011 have not been included in the draft regulations and have been replaced by duty on SEPA to carry out appropriate periodic inspections in relation to waste management activities.	This allows for decisions on inspection frequencies to be taken at the operational level by SEPA and allows for a flexibility of approach.
Schedule 5 inserting new schedule 14 into the 2018 Regulations.	Requirements in relation to the management of separately collected recyclable waste have been added so that SEPA must ensure that authorisations for operating a materials facility contain conditions sufficient to require compliance with the Materials Recovery Code. A "materials facility" includes a materials recovery facility which maintains its current definition, but also includes first points of consolidation and transfer stations which handle dry recyclable waste.	These obligations on material recovery facilities are currently included in the WML regulations and PPC regulations and will be amended in due course to make similar changes in relation to these other facilities. These changes are necessary to give effect to the Extended Producer Responsibility (EPR) regime for packaging which requires that sampling be undertaken by a broader range of facilities. These changes have been separately consulted upon on a UK-wide basis and are not being considered in this consultation.
Paragraph 3(3) of schedule 7 inserting new schedule 16, into the 2018 Regulations	The definition of BATRRT (best available treatment, recovery and recycling techniques) for WEEE which referenced the 2006 joint-UK guidance has been omitted and provision has been included that SEPA may have regard to any applicable Scottish, UK or EU guidance relating to the best available treatment, recovery and recycling techniques (BATRRT) for WEEE.	The 2006 guidance is now out of date; this provision will instead allow for reliance on up to date guidance in relation to BATRRT for WEEE.

Minor changes relevant to water activities – Regulation 35 amending schedule 9 of the 2018 Regulations - Chapter 2 Water -General Binding Rules (GBR)

GBR 2, new Rule (c)	Added a new rule (c): “ the activity must not be located within 50 metres of any existing well, spring or borehole used for a water supply.”	New rule to control potential impacts on any nearby abstractions for water supply. Consistency with other GBR's.
GBR 3, Rule (a)	<p>Amendment to rule (a):</p> <p>Rephrasing and replacing “pollutants “ with “substances or heat to the water environment that may give rise to harm to the water environment”</p> <p>Added a new rule (a) (ii) (cc): “(cc) prevent the flow of water between two hydro-geologically separate aquifers”</p>	<p>Rephrasing the rule to make clearer to the reader</p> <p>Replacing the word “avoid” with “prevent” to make clear that introduction of such substances in (a) (ii) (aa) should be prevented not merely avoided.</p> <p>Replacing word pollutants in (a) (ii) (aa) with “substances or heat to the water environment that may give rise to harm to the water environment”.</p> <p>Changes are being made to replace the terms “pollution” and “pollutants” in all relevant GBRs, as definitions for these do not feature in the proposed amended Regulations.</p> <p>Added in a new part (a) (ii) (cc) to prevent a reduction in the flow in nearby existing abstractions due to mixing between two hydro geologically separate aquifer units.</p>
GBR 3, Rule 3(b)	<p>Amendment to rule 3(b):</p> <p>Remove word “pollution of” replace with “harm to”</p>	<p>Amendment to rule(b)</p> <p>Changes are being made to replace the terms “pollution” and “pollutants” in all relevant GBRs, as definitions for these do not feature in the</p>

		proposed amended Regulations.
GBR 3, Rule (d)	<p>Amendment to rule (d):</p> <p>replacing “pollutants” with “substances or heat which may give rise to harm to the water environment” as below:</p> <p>“(d) when the well or borehole is no longer required it must be back filled or sealed to the extent necessary to:</p> <p style="padding-left: 40px;">(a) avoid loss of groundwater from any aquifer; and</p> <p style="padding-left: 40px;">(b) avoid the introduction, into any body of groundwater, of:</p> <p style="padding-left: 80px;">(aa) substances or heat which may give rise to harm to the water environment; or</p> <p style="padding-left: 80px;">(bb) water of a different chemical composition. “</p>	<p>Amendment to the layout of rule (d) to make it easier to read.</p> <p>Changes are being made to replace the terms “pollution” and “pollutants” in all relevant GBRs, as definitions for these do not feature in the proposed amended Regulations.</p>
GBR 3, New Rule (f)	<p>Added a new rule (f):</p> <p>“the borehole must not be constructed within 50 metres of an existing well or borehole for the supply of water without the consent of the owner of the existing well or borehole.”</p>	<p>Added new rule to ensure protection of water supplies</p>
GBR 4, Rule(a)	<p>Amendment to rule (a):</p> <p>Replace “pollutants” with “substances or heat which may give rise to harm to the water environment”.</p> <p>Amendments and amended layout of the rule (a):</p> <p>“(a) The abstraction must not cause the introduction to any body of groundwater of —</p>	<p>Amendment to layout of rule (a) to make it easier to read.</p> <p>Changes are being made to replace the terms “pollution” and “pollutants” as they relate to the water environment in all relevant GBRs, as definitions for these do not feature in the draft Regulations.</p>

	(i) substances or heat which may give rise to harm to the water environment, or (ii) water of a different chemical composition.”	
GBR 5, Rule(b)	Amendment to rule (b): Removed “channel” Replaced with “river, burn or ditch”	Rule extended to all parts of river burn or ditch (as opposed to just channel). This is consistent with wording used in other GBRs and ties in with the activity definition.
GBR 5, Rule(e)	Amendment to rule (e): Added ‘in the wetted part of the river, burn or ditch’.	Amended wording to provide consistency with other GBR rules and with wording used within conditions in registrations and licences. This controls the potential impacts to the areas of concern. Currently the wording is more restrictive than that used to control or higher risk activities.
GBR 6, Activity	Amendment to GBR Activity description – change in wording and scope. Revised activity becomes: “The installation— (a) of a crossing where no part of the crossing is on the bed or banks of a river, burn, ditch or loch, (b) of an outfall which discharges into a river, burn, ditch or loch,”.	Significant amendments are proposed to simplify the regulation for all types of crossings and outfalls by bringing them under a single GBR. The proposed amendments to the scope of GBR 6: <ul style="list-style-type: none"> • Replace the word “construction” with “installation” so it covers all eventualities which may not be considered construction such as the installation of prefabricated crossing structure (which will have been constructed at a different place) . • Extend controls to cover all types of crossings (not just

		<p>bridges) A new definition for “crossing” is proposed within part 2 paragraph 1</p> <ul style="list-style-type: none">• Increasing the scope to cover all “crossings” means that the controls for pipelines and cable crossings within existing GBR 7 are now fully incorporated within revised GBR 6. As a result of this change the rules in existing GBR 7 will be deleted.• Extended controls to cover crossings and outfalls on lochs.• Removed 'Maintenance' within the activity' of GBR 6 as it's not consistent with the current or proposed approach to regulating the maintenance of structures. Controls on maintenance are not currently specified within other GBRs so it is consistent to remove these. Controls for maintenance will be set out within SEPAs authorisation guide for water activities.• Remove controls for temporary bridges (b) of existing GBR 6. These are being altered and incorporated into a new GBR 7 which will cover temporary crossings, structures and temporary works
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		<p>associated with carrying out a GBR activity and those not associated with a registration or permit activity.</p> <ul style="list-style-type: none"> Removing the surface water limitation for outfalls so that part (c) which becomes part (b) now covers all outfall types.
GBR 6, Rule (a)	<p>Amendment to rule (a):</p> <p>Added “or loch”</p> <p>Added “without such removal or modification;”</p> <p>Replaced “must” with “may”</p>	<p>This rule is extended to cover vegetation removal on the banks of lochs making it consistent with changes to the activity title.</p> <p>Amendment to add ‘without such removal or modification’ at the end of rule (a) to make consistent with wording used at rule (a) of GBR 5.</p> <p>Replaced “must” with “may” for consistency with other GBR’s that have this control.</p>
GBR 6, Rule (b)	<p>Amendment to rule (b):</p> <p>Remove word “channel” and replaced with “river, burn, ditch or loch.”</p>	<p>Deleting word 'channel' and replaced with 'river, burn, ditch or loch.' as we want to make it apply to all parts not just the channel.</p> <p>The addition of “loch” makes it consistent with changes to the activity title.</p>
GBR 6, Rule (e)	<p>Amendment to rule (e):</p> <p>Deleting “where the activity requires any work” and replaced with “any works”.</p> <p>Added “loch”</p>	<p>Used 'works ' for consistency. This term is currently used in other rules in this GBR (c) & (d).</p> <p>The addition of “loch” makes it consistent with changes to the activity title.</p>
GBR 6, existing Rule (f)	<p>Delete exiting rule (f):</p> <p>“(f) if necessary, a temporary culvert may be installed to facilitate the works but the culvert must not extend more</p>	<p>This rule is being deleted as controls on temporary crossings will now be covered within a new GBR 7.</p>

	than 10 metres along the length of the river, burn or ditch and must be removed on completion of the works;”	
GBR 6, existing Rule (g) – becomes (f)	Rules (f) and (g) Added “loch”	As existing rule (f) is being deleted and existing rule (g) now becomes rule (f) The addition of “loch” makes it consistent with changes to the activity title.
GBR 6, existing Rule (h)	Delete existing rule (h): “(h) as far as reasonably practicable, within 12 months of the commencement of the works, the bed and banks of the river, burn or ditch must be reinstated to at least their condition prior to the commencement of the works;”	This rule is being deleted as controls on temporary works will now be covered within the new GBR 7.
GBR 6, existing Rule (i)	Delete existing rule (i): “(i) for temporary bridges, as far as reasonably practicable, and within 12 months of the removal of the bridge, the bed and banks must be reinstated at least to their condition prior to the commencement of the works;”	This rule is being deleted as controls on temporary crossings will now be covered within the new GBR 7.
GBR 6, existing Rule (j) becomes Rule (g)	Amendment and re reference current rule (j) to (g) Remove “activity” and replace with “works”. Replace “Pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to the water environment, and”	Due to deletion of other existing rules this is referenced to (g) Replaced “activity” with “works” for consistency. This term is currently used in other rules GBR 6(c) & (d). Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the proposed amended Regulations.
GBR 6, existing Rule (k) becomes Rule (h)	Amendment and re reference current rule (k) to (h)	Due to deletion of other existing rules this is referenced to (h)

	<p>Remove “constructed” and relace with “installed”.</p> <p>Added “loch”</p>	<p>Replaced the word from “constructed” to ‘installed’ to match the proposed change in activity title.</p> <p>The addition of “loch” makes it consistent with changes to the activity title.</p>
GBR 7	<p>Deleting whole of existing GBR 7 under CAR as its provisions have been moved within a modified GBR 6</p>	<p>By increasing the scope of GBR 6 to cover all “crossings” means that the controls for pipelines and cable crossings in GBR 7 are now incorporated within GBR 6.</p> <p>As a result of this change existing GBR 7 will be deleted.</p>
GBR 7 (new)	<p>A new GBR relating to controls for temporary crossings , temporary structures and temporary works has been inserted here.</p>	<p>Details of this change are explained within the main consultation text</p>
GBR 8 Activity	<p>Amendment to GBR Activity title:</p> <p>“Bank works by revetment or bank reprofiling of a river, burn, ditch or loch.”</p>	<p>A number of amendments to the activity title are proposed:</p> <ul style="list-style-type: none"> • Amendment to use the term “Bank works” to make it clearer and bring clarity to the reader what the GBR relates to. This also aligns with terminology changes being proposed to activity descriptions for registrations and permits. • Amendment to add in “bank reprofiling” in the activity description as these are a distinct form of bank works. Reprofiling does not fall into the definition of a revetment. Reprofiling is often carried out

		<p>independently of works for revetments.</p> <ul style="list-style-type: none"> • Amendment to delete the limitation "...to control the erosion of... ." The current activity description was felt to be too restrictive and meant some low risk bank and reprofiling works carried out for the purposes of morphological and riparian habitat improvements such as lowering the angle of a bank were not covered by the existing GBR. • Extended the scope to cover bank works on lochs.
GBR 8, Rules (a), (b), (c), (d) and (h)	<p>Amendment to rules (a), (b), (c), (d) & (h):</p> <p>Added "loch"</p>	The addition of "loch" in rules (a), (b), (c), (d) and (h) makes it consistent with changes to the activity title.
GBR 8, Rule (d)	<p>Amendment to rule (d):</p> <p>Removed "channel"</p> <p>Replaced with "river, burn, ditch or loch"</p>	Amendment to rule(d): deleting word 'channel' and replacing with 'river, burn , ditch or loch.' As we want to make the rule apply to all parts not just the channel
GBR 8, Rule (f)	<p>Amendment to rule (f):</p> <p>Added "or bank reprofiling" after revetment.</p>	Amendment to add in "or bank reprofiling" to align with changes proposed in the activity title.
GBR 8, Rule (g)	<p>Amendment to rule (g)</p> <p>Added "only" after "must".</p>	Amendment to add in "only" to provide clarity on the restriction for the use of wood or rip rap in this GBR in that its use is restricted to the bank toe.
GBR 8, Rule (i)	<p>Amendment to rule (i):</p> <p>Added "top" after "bank".</p>	Add in word "top" after bank for clarity to make clear it is the height of the bank top being controlled rather than

		<p>the height of all parts of the bank.</p> <p>The current restriction on not lowering a bank would mean a case where the bank being reprofiled at a shallower angle (thus altering part of the bank height) but without altering the bank top height could be in breach of the current rule. This is overly restrictive and it's the bank top we wish to control.</p>
GBR 8, existing rule (j)	<p>Delete existing rule (j):</p> <p>(j) the works must not be undertaken during periods in which fish are likely to be spawning in the river, burn or ditch nor in the period between any such spawning and the subsequent emergence of the juvenile fish; and</p>	<p>This rule is being deleted for consistency with GBR 25 which also covers low risk bank works. It is felt that controls on working and entering the wetted part of the watercourse can be adequately controlled by amended GBR 9 rule(f) which prohibits equipment or vehicles are being operated within the wetted part of any river, burn, ditch or loch during the fish spawning and emergence periods.</p> <p>For completeness we consider operation of equipment to also cover basic equipment such as shovels.</p>
GBR 8, new rule (j)	<p>New rule (j):</p> <p>“ (j) the works must not result in the introduction of any substances or heat to the water environment which may give rise to harm to the water environment.”</p>	<p>new rule (j) is proposed to be consistent with other GBRs in setting controls on the introduction of substances or heat which may cause harm to the water environment.</p>
GBR 9, Rule (f)	<p>Amendment to rule (f)</p> <p>Added “the wetted part of ”</p> <p>Added “loch”</p>	<p>Amended wording to provide consistency with other GBR rules and wording used within conditions in registrations and licences. This controls the potential impacts to the area of concern. Currently</p>

		<p>the wording is more restrictive than that used to control or higher risk activities.</p> <p>The addition of “loch” makes it consistent with changes to the activity title.</p>
GBR 9, Rule (g)	<p>Amendment to rule (g):</p> <p>Added “loch”</p>	The addition of “loch” makes it consistent with changes to the activity title.
GBR 9, Rule (i)	<p>Amendment to rule (i):</p> <p>Added “or wetland” after “surface water”</p>	The addition of “or wetland” makes the rules consistent with the activity scope and other rules of this GBR. This corrects an omission in current rule.
GBR 10A, Rules (a) & (e)	<p>Amendment to rules(a) & (e):</p> <p>Replace “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”.</p>	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 10A, Rule (d)	<p>Amendment to rule(d):</p> <p>Replace “pollution” with “the introduction of substances or heat to the water environment which may give rise to harm to the water environment”.</p>	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 10B, Rules (a), (d), & (g)	<p>Amendment to rules (a), (d) & (g):</p> <p>Replace “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”.</p>	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 10B, Rule (f)	<p>Amendment to rule(f):</p> <p>Replace “pollution” with “the introduction of substances or heat to the water environment which may give rise to harm to the water environment”.</p>	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 10C, Rule (a), (e) & (g)	<p>Amendment to rule(a):</p>	Changes are being made to all relevant GBRs to replace

	Replace “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”.	the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 10C, Rule (f)	Amendment to rule(f): Replace “pollution” with “the introduction of substances or heat to the water environment which may give rise to harm to the water environment”.	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 10D, Rules (a), (d), (g) & (h)	Amendment to rules (a),(d), (g) & (h): Replace “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”.	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 11, Rule (a)	Amendment to rule(a): replace “pollutants” with “substances or heat which may give rise to harm to the water environment”.	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 11, Rule (b)	Amendment to rule (b): Replace “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”.	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 12, Rule (c)	Amendment to rule (c): Replace current rule with “subject to paragraph (d), any gravel and coarse sediment that has been removed must, where possible, be returned to the river, ditch or burn from which it was taken”	Replace current wording in rule (c) for clarity. Using similar wording used in GBR 13(g)
GBR 12, Rule (d)(iii)	Amendment to rule (d) iii: Added “or ditch” after “burn” in two places.	This is correcting an omission in existing rule and to ensure its consistent with the scope of the activity.
GBR 12, New Rule (d) (vi)	New Rule (d) (vi) “not result in the introduction of substances or heat to the	New rule added to control potential impacts from the introduction of substances or

	water environment which may give rise to harm to the water environment”	heat into the water environment. This uses wording consistent with that used in other GBR’s.
GBR 12, Rule (e)	<p>Amendment to rule (e):</p> <p>Adding “and other matter” after “removed sediment”</p> <p>Deleting “or on the banks of a” and Replacing with “or left on the banks such that its placement heightens the banks of any “</p> <p>Replacing “in the channel” with “on the bed”</p> <p>insert “and (d)” after “paragraph (c)”.</p> <p>Rule (e) now reads as below:</p> <p>“(e) removed sediment and other matter must not be deposited on the bed or left on the banks such that its placement heightens the banks of any river, burn or ditch except in accordance with paragraph (c) and (d);”</p>	<p>Addition of “other matter” to make the rule consistent with the scope of the activity.</p> <p>Correction to rule to insert “and (d)” after “paragraph (c)”.</p>
GBR 12, Rule (f)	Replace “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 12, Rule (g)	<p>Amendment to rule (g):</p> <p>Replaced “must” with “may”</p>	Use “may” instead of “must” to be consistent across other GBRs where this rule is also used.
GBR 13, Activity and Rules (a), (b), (c), (d), (f), (g) and (h)	<p>Amendment to activity title and rules (a), (b) (c), (d) ,(f), (g) and (h)</p> <p>Added “loch”</p>	The addition of “loch” ensures the GBR controls cover sediment removal within lochs. It also ensures the rules align with the revised scope of the activity title.
GBR 13, Rule (c)	Amendment to rule (c):	Amended wording to provide consistency with other GBR

	Add “the wetted part of the river, burn, ditch or loch” after “undertaken”.	rules and wording used within conditions in registrations and licences. This controls the potential impacts to the area of concern. Currently the wording is more restrictive than that used to control or higher risk activities. Also ties into wording used within the activity title.
GBR 13, Rule (d)	Amendment to rule (d): Replace “must” with “may”	Use “may” instead of “must” to be consistent across other GBRs where this rule is also used.
GBR 13, Rule (f)	Amendment to rule (f): Removed “placed” Added “left on the banks such that its placement heightens the banks ”	Modified rule to ensure no change to existing bank height from removed sediment and other matter.
GBR 13, Rule (i)	Amendment to rule (i) Replace “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the proposed amended Regulations.
GBR 14, Activity	Revised Activity Title Added “The installation of instream structures or” in front of “the placement of” so title is now: “The installation of instream structures or the placement of one or more boulders in a river, burn or ditch.”	Extended scope of this GBR to cover instream structures.
GBR 14, Rule (a)	Amendment to rule (a): Added “or the installed instream structures”.	Extending rule (a) to cover instream structures to align with the change in activity scope.
GBR 14, Rule (b)	Amendment to rule (b): Added “croy or flow deflector” after “boulders”	Extending rule to cover only certain instream structures (croys and flow deflectors) to align with the change in activity scope.

	<p>Removed “(whether placed or not), croy, jetty or other in-stream structure occupying more than 10% of the bed width;”</p> <p>Added “or any structure on the bed of the river, burn or ditch;” after other “placed boulder or boulders”</p> <p>Rule (b) is now: “(b) the boulder or boulders, croy or flow deflector must not be placed within 20 metres of any other placed boulder or boulders or any structure on the bed of the river, burn or ditch;”</p>	<p>In relation to the limitation on nearby features we have removed “Croy, jetty or other in-stream structure” and replaced this with “any structure”. This widens the scope to cover any structures on the bed such as bridges, culverts and impoundments. This ensures protection of existing structures from scour and prevents additive impacts on morphology.</p>
GBR 14, Rule (c)	<p>Amendment to rule (c):</p> <p>Added “and no instream structure”.</p> <p>Added “or installed” after “placed”.</p> <p>Removed “in-stream structures” and replaced with “any structure”.</p> <p>Rule (c) is now: (c) no boulder or boulders and croy or flow deflector must be placed or installed in such a way as to extend the width occupied by any structure to greater than 10% of the bed width,</p>	<p>We have added “no instream structure” given the widening of the activity description. We have replaced “instream structures” with “structures” as we want to cover other structures on the bed too , e.g. bridge weirs and impounding works which are excluded from the definition of instream structure. This ensures hydro morphological protection.</p>
GBR 14, Existing Rule (d)	<p>Existing rule (d) below is deleted.</p> <p>“(d) no boulder or boulders must be placed against the banks of a river or burn unless such placement forms part of works authorised under these Regulations to control the</p>	<p>This control is no longer felt to be necessary, as the widening in scope of the GBR to include instream structures, such as croys and flow deflectors which often start at the bank side, it would provide inconsistency with controls for boulders and controls for such instream</p>

	erosion of a bank of a river or burn by revetment;”	structures. Previous modified Rule (e) which becomes rule (d) is considered to provide controls to minimise impacts.
GBR 14, Existing Rule (e) – becomes Rule(d)	Existing rule (e) below is re-referenced (d) Added “croy or flow deflector”	Due to deletion of existing rule(d) existing rule (e) is re referenced to (d). Extending rule to include croys and other forms of flow deflectors to align with changes proposed in rule (c)
GBR 14, Existing Rule (f) – becomes Rule (e)	Existing rule (f) below is re-referenced (e) Amendments: Removed “the placement” and replaced with “any works in the wetted part of the river, burn or ditch”. Removed “or” before “burn” and added “or ditch” after “burn”.	Due to deletion of existing rule (d) this is re referenced to (e) Amended wording to provide consistency with other GBR rules and wording used within conditions in registrations and licences. This controls the potential impacts to the area of concern (the wetted part). Currently the wording is more restrictive than that used to control or higher risk activities. Also ties into wording using within the activity description. Added in “or ditch” to correct a previous omission and make consistent with other GBRs.
GBR 14, Existing Rule (g) – becomes Rule (f)	Existing rule (g) below is referenced (f) Removed “placement does” and replace with “works do”	Due to deletion of existing rule (d) this is re referenced to (f) Used term “works do” instead of “placement does” as this is covers more actions and better reflects the activities this GBR now covers.
GBR 14, Existing Rule (h) – becomes Rule (g)	Existing rule (h) below is referenced (g) Added “and instream structures” after “boulders”.	Due to deletion of existing rule (d) this is re referenced to (g)

	<p>Added “or installed” after “placed”.</p> <p>Rule (g) is now: “(g) boulders and instream structures must not be placed or installed if there is a reasonable likelihood that, within 50 metres of the intended placement, there are freshwater pearl mussels”</p>	<p>The rules is being extending to cover instream structures and including use of word “or installed” as instream structures are not just 'placed'</p>
GBR 14, Rule (h)	<p>New rule (h)</p> <p>“(h) boulders and instream structures must not be placed or installed such that they prevent the free passage of migratory fish, and”</p>	<p>New rule to ensure protection of migrating fish.</p>
GBR 14, Rule (i)	<p>New rule (i)</p> <p>“the works must not result in the introduction of substances or heat which may give rise to harm to the water environment, and”</p>	<p>New rule added to control potential impacts from the introduction of substances or heat into the water environment. This uses wording consistent with that used in other GBR’s.</p>
GBR -15 Rule (h)	<p>Replacing “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”.</p>	<p>Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the proposed amended Regulations.</p>
GBR 16, Activity	<p>Amendment to activity title:</p> <p>Replacing “pollutants” with “substances or heat which may give rise to harm to the water environment”</p>	<p>Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.</p>
GBR 16, Rule (b)	<p>Amendment to Rule (b):</p> <p>Added “and grout used to stabilise underground workings” After “the works”.</p> <p>Added “or grouting” after “drilling”.</p> <p>Replacing “pollution of” with “the introduction of substances</p>	<p>Amendment of this rule allow the use of grout to stabilise underground workings which may come in contact with groundwater provided they do not cause harm to the water environment.</p> <p>Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and</p>

	or heat to the water environment which may give rise to harm to”	‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 16, Rule (c)	Amendment to Rule (c): Replacing “pollution of” with “the introduction of substances or heat to the water environment which may give rise to harm to”	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 16, New Rule (d)	New rule (d): “the edge of any grouted area must not be within 250 metres of any springs, wells or boreholes that supply water for human consumption,”	New rule proposed to ensure protection for water supplies used of human consumption.
GBR 17, Rule (f)	Amendment to rule (f): Insert: “that is in use prior to the activity commencing” after “consumption” Insert: “provided it is in use prior to the activity commencing.” after “Regulations”	Amendments to reflect that the operator of the activity has no requirement under this general binding rule to comply with rule (f) in relation to a water supply for human consumption which is established within that 250m zone after commencement of the GBR 17 activity.
GBR 18	Activity title amendment: Removed “waste management licence in terms of section 35 (waste management licence: general) of the Environmental Protection Act 1990” and replaced with “waste activity under these Regulations,”.	Amendment to reflect changes to regulation as these controls will now fall under the 2018 Regulations.
GBR 18, Rule (h)	Amendment to rule (h) (i) (1): Delete “bank top” replace with “top of the bank”	Amended wording for ease of reading consistency with rule (g) (i) (1)
GBR 18, Rule (m)	Amendment to rule (m): Replace “pollution of” with “the introduction of substances or heat to the water environment that may give rise to harm to ..”	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.
GBR 20, Rule (c)	Amendment to rule (c):	Changes are being made to all relevant GBRs to replace

	<p>Replace “Pollution of any surface water or wetland”</p> <p>with</p> <p>“ the introduction of substances or heat which to any surface water or wetland which may give rise to harm to the water environment.”]</p>	<p>the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.</p>
GBR 21, Rule (a)	<p>Amendment to rule (a):</p> <p>Replace “Pollution of”</p> <p>with</p> <p>“in the introduction substances or heat to any river, burn, ditch, wetland, loch, transitional water or coastal water which may give rise to harm to the water environment.”].</p>	<p>Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the draft Regulations.</p>
GBR 22, Rule (a)	<p>Amendment to rule (a):</p> <p>Replace “pollution of” with “the introduction of substances or heat to the water environment that may give rise to harm to ..”</p>	<p>Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the proposed amended Regulations.</p>
GBR 23, Rule (f) (vii)	<p>Amendment to rule (f)(vii):</p> <p>Replace “pollution of any river, burn, ditch, wetland, loch, transitional water, coastal water or surface water drainage system”</p> <p>With</p> <p>“the introduction of any substance or heat to any river, burn, ditch, wetland, loch, transitional water, coastal water or surface water drainage system which may result in harm to the water environment”</p>	<p>Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the proposed amended Regulations.</p>
GBR 23, Rule (g) (iv)	<p>Amendment to Rule (g) (iv):</p>	<p>Skunk cabbage is now classed as an Invasive non-native species. It tends to</p>

	<p>Rephrasing for clarity in (aa) and (bb) and adding in exception in relation to the control of skunk cabbage in waterlogged ground.</p> <p>“(iv) the ground over or onto which pesticide is applied is not— (aa) frozen or snow-covered, (bb) waterlogged, except where the application in, onto or over waterlogged grounds is necessary for the purpose of controlling American skunk cabbage (<i>lysichiton americanus</i>) and all precautions are taken to minimise the risk of pesticide entering any river, burn, ditch, wetland, loch, transitional or coastal water”</p>	<p>grow in boggy areas and so spraying in waterlogged areas is necessary in order to control it, hence an exception to rule (iv) (bb) has been added.</p>
GBR 23, Rule (h)	<p>Amendment to Rule (h):</p> <p>Replace “pollution of any river, burn, ditch, wetland, loch, transitional water or coastal water” With “ the introduction of any substance or heat to any river, burn, ditch, wetland, loch, transitional water or coastal water which may give rise to harm to the water environment..”</p>	<p>Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the proposed amended Regulations.</p>
GBR 25, Activity	<p>Amend activity title to</p> <p>“Bank works using the placement of trees or parts of trees in any river, burn, ditch or loch.”</p>	<p>Reason for change:</p> <p>“Bank works” inserted to make the nature of the activity clearer.</p> <p>We have widened the scope of the activity to ensure the works are not limited to protecting eroding banks. We want the scope of the activity to cover prevention of erosion and also other things such as habitat enhancement or</p>

		<p>where the banks had been reprofiled and parts of trees are put anyplace to prevent erosion form occurring rather than wait for bank to have started to erode . Such activities carry the same level of risk and we believe can fit into this GBR.</p> <p>Extended scope to cover lochs as this was omitted from control previously and previously required a level of authorisation higher than its inherent risk.</p>
GBR 25, Rule (a)	<p>Amendment to rule(a):</p> <p>Rephrasing to: “(a) the trees or parts of trees must be placed only in or along banks ;”.</p>	Amendment to this condition to reflect the changes to the activity title
GBR 25, Rules (b) and (c)	<p>Amendment to rules (b) and (c)</p> <p>Added in “loch”.</p>	The addition of “loch” in rules (a) and (b), makes these consistent with changes to the activity title
GBR 25, Rule (d)	<p>Amendment and rewording of rule (d):</p> <p>Rephrasing to: “(d) the placed trees or parts of trees must be graded smoothly into the existing line of the bank.”</p>	<p>Existing Rules (d) and (e) have been combined into new (d) (revised rule to consolidate and simplify controls.</p> <p>Existing Rule (d) (i) being deleted as we want to allow the flexibility to be able to fill in the toe back to the original alignment and not the eroded bank line and then do the placement of trees. The current rule (d(i) is considered unnecessarily restrictive.</p> <p>Existing rule (d)(ii) has been rephrased using wording from deleted rule (e) (ii). Both these conditions were controlling the same issue and it was felt the words in</p>

		<p>e(ii) better capture what is required.</p> <p>It then enables deletion of rule (e) and simplifies the layout of the rules.</p>
GBR 25, Rule (e)	Deletion of existing rule (e).	<p>All of rule (e) is being deleted.</p> <p>Due to change in scope within the activity title rule (e) (i) is no longer considered necessary.</p> <p>The controls within existing rule (e) (ii) have been incorporated into a revised rule (d) (ii)</p>
GBR 25, existing Rule (f) becomes Rule (e)	<p>Existing rule (f) becomes Rule (e)</p> <p>Amendment to (i) Delete “of an eroding” Replace with “or profile”.</p> <p>Delete “reduced” and relace with “altered”.</p> <p>Amendment to (ii)</p> <p>Delete “eroded”.</p> <p>Delete “channel”.</p> <p>New rule (e) becomes:</p> <p>“(e) in protecting banks— (i) the angle or profile of the bank may only be altered for the purpose of enabling the establishment and growth of trees or the placement of trees or parts of trees, (ii) stones may be placed at the toe of the bank for the purpose of preventing the bank being undercut before the trees have become established, provided that any stones used are no larger than</p>	<p>– Existing rule (f) becomes rule (e) due to deletion of existing rule (e)</p> <p>minor edits to (i)</p> <p>deletion of words “eroding” and “eroded”, as this activity is not limited to dealing with eroded banks.</p> <p>Added word "profile" because in certain cases changes in the overall profile of the bank may be carried out such as in creating a stepped bank.</p> <p>Deleted word "reduced" and replaced with "altered" as in certain cases parts of the bank may be rebuilt to fill in eroded areas. This would not be a reduction but an increase. Altered better reflects the range of activities that may take place.</p> <p>Delete word “channel” from (ii) as this term is not relevant in connection with lochs. The term “bed” in used in other</p>

	the largest stones that have been deposited on the bed within 500 metres of the bank.”	GBRs and will also work for lochs.
GBR 25, existing Rule (g) becomes Rule (f)	Re reference existing rule (g) to (f) Add “loch”.	Re reference - rule (g) to rule (f) due to deletion of existing rule (e) The addition of “loch” makes this rule consistent with changes to the activity title
GBR 25, existing Rule (h) becomes Rule (g)	Existing rule (h) to (g)	rule (h) becomes rule (g) due to deletion of existing rule (e)
GBR 25, existing Rule (i) becomes Rule (h)	Re reference existing rule (i) to (h) Add “loch”.	Re reference: rule (i) to rule (h) due to deletion of existing rule (e) The addition of “loch” makes this rule consistent with changes to the activity title.
GBR 26	Added “that is not waste oil” after “The storage of oil”.	Waste oil has been excluded to avoid an overlap with the waste GBRs.
GBR 27	No changes proposed.	
GBR 28	Added “other than waste oil” after “The storage of oil.	Waste oil has been excluded to avoid an overlap with the waste GBRs.
GBR 30, Rules (a), (b) & (c)	Amendment to Rules (a), (b) and (c) Existing rules (a) ,(b) and (c) have become rule(a), parts (i) to (iii) A new rule (b) parts (i) and (ii) have been inserted to require notification and submission of plans when a constructed farm wetland is constructed or substantially rebuilt or enlarged, as follows: “(b) where a constructed farm wetland is to be constructed or substantially rebuilt or enlarged— (i) “the authorised person must give notice to SEPA of	Existing rules (a) ,(b) and (c) have been repackaged in rule(a) parts (i) to (iii). A new rule (b) parts (i) and (ii) have been inserted to require notification and submission of an engineering plan prior to the construction, substantial rebuilding or enlargement of a constructed farm wetland. This allows SEPA to check the design and will help avoid issues with the overloading of constructed farm wetlands due to inadequate size which can cause serious impacts on the water environment. This change is consistent with the approach taken for GBRs 31, 32 and 34.

	<p>the works no later than 30 days prior to any work commencing, and</p> <p>(ii) the notice in subparagraph (i) must be accompanied by an engineering plan for the works to be carried out. “</p>	
GBR 31, Rule (h) (ii)	<p>Amendment to rule (h) (ii)</p> <p>Replace existing rule with:</p> <p>“where the silo has retaining walls made other than of earth, extend beyond those walls and be provided with channels designed and constructed so as to collect any effluent which may escape from the silo and adequate provision must be made for drainage of that effluent from the channels to an effluent tank through a channel or pipe,”</p>	<p>Amendment to rule (h) (ii) to clarify that the floor beyond the wall needs to have a channel to collect effluent that may escape.</p>
GBR 31, Rule (g)	<p>Amendment to rule (g)</p> <p>Replace existing wording: “must be no greater than the height of the retaining wall.” with: “must be managed so that the retaining walls of the silo are not overloaded.”</p>	<p>Amendment in wording of the rule to ensure that the loading criteria of the walls are not exceeded.</p> <p>The existing rule could be seen to be overly restrictive and could prevent farmers from following British standards which allows domed silos.</p>
GBR 31, Rule (o)	<p>Amendment to rule (o)</p> <p>In (o) (i) replace “notify” with “give notice to SEPA of the works”.</p> <p>In (o) (ii) replace “notification” with “notice”.</p>	<p>Replaced the words “notification” and “notify” being replaced with “notice” to avoid being confused with the new notification tier of authorisation under EASR.</p>
GBR 32, Rule (a)	<p>Amendment to rule (a)</p> <p>After “by housed livestock” , insert “from dungsteeds or from dirty yards,”</p>	<p>Change are being made as to ensure that slurry produced in dungsteeds and</p>

		dirty yards also requires collection.
GBR 32, Rule (r)	<p>Amendment to rule (r)</p> <p>In (r) (i) replace “notify” with “give notice of the works” to SEPA”.</p> <p>In (r) (ii) replace “notification” with “notice”</p>	Replacing the words “notification” and “notify” being replaced with “notice” to avoid being confused with the new notification tier of authorisation under EASR.
GBR 33, Rule (d)	<p>Amendment to rule (d):</p> <p>Replace “pollution of” with “the introduction of substances or heat to the water environment that may give rise to] harm to ..”</p>	Changes are being made to all relevant GBRs to replace the terms ‘pollution’ and ‘pollutants as definitions for these do not feature in the proposed amended Regulations.
GBR 33, new Rule (e)	<p>Insert a new rule (e):</p> <p>“ (e) where a constructed farm wetland is to be constructed or to be substantially rebuilt or enlarged—</p> <p style="padding-left: 40px;">(i)the operator must give notice to SEPA of the works no later than 30 days prior to commencing the works,</p> <p style="padding-left: 40px;">(ii) the notice under sub-paragraph (i) must be accompanied by an engineering plan for the works to be carried out.”</p>	<p>A new rule (e) parts (i) and (ii) have been inserted to require notification and submission of an engineering plan prior to the construction, substantial rebuilding or enlargement of a constructed farm wetland. This allows SEPA to check the design and will help avoid issues with the overloading of constructed farm wetlands due to inadequate size which can cause serious impacts on the water environment.</p> <p>This change would be consistent with the approach taken for GBRs 31, 32 and 34.</p>
GBR 34, Activity	<p>Revised Activity Title:</p> <p>“Storage of liquid digestate unless the storage is regulated by a registration or permit under these Regulations.”</p>	Amended activity wording to reflect changes in legislation.
GBR 34, Rule (n)	<p>Amendment to rule (n)</p> <p>In (n) (i) replace “notify” with “give notice of the works”</p>	Replacing the words “notification” and “notify” being replaced with “notice” to avoid being confused with

	In (n) (ii) replace “notification” with “notice”	the new notification tier of authorisation under EASR.
GBR 34, new Rule (p)	New rule (p) inserted: “waste liquid digestate must only be stored at the place where it will be used.”	This will ensure that the appropriate rules apply to storage of waste prior to collection.
Regulation 35(k) amending Part 2, paragraph 1 of schedule 9 in the 2018 Regulations	Existing definition of ‘minor bridge’ not carried over to the draft Regulations.	Definition no longer required as the term is no longer used.
	Existing definition of “eroding bank” not carried over to the draft Regulations.	Definition no longer required as the term is no longer used.
Regulation 35(k)(v)	Inserts new definition: “crossing” means any structure which is constructed and installed for the purpose of supporting a footpath, cycle route or transport route across any river, burn, ditch or loch or any pipe, pipeline or cable which crosses over or underneath any river, burn, ditch or loch, but excluding temporary crossings, impounding works and culverts installed for land gain,	New definition required to provide clarity on the scope and meaning of the term crossing.
Regulation 35(k)(viii)	Inserts new definition: “in-stream structure” means any structure that occupies a portion of the bed of the river, burn, ditch including bed reinforcement, jetties, platforms, marinas, croys, groynes and other flow deflectors, but excluding temporary structures, bridge piers and impounding works,	Definition for instream structure is being provided to provide clarity.
Regulation 35(k)(xv)	Inserts new definition: “temporary structure” means any structure, excluding impounding works, which will be removed within a period of 12 months beginning with the date on which its installation commences”,	Definition for temporary structure is being provided to provide clarity as these excluded from the definition of instream structure. Controls for temporary structures are set out in new GBR 7.

9. Responding to this Consultation

Responding to this consultation

We are inviting responses to this consultation by 31 March 2024.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/environment-forestry/easr-2018-proposed-amendments>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 31 March 2024.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Environmental Quality and Resilience Division
Scottish Government
Area 3-J(S)
Victoria Quay
Edinburgh, EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at chemicals@gov.uk.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Weblinks used in the consultation

Weblinks in this consultation use the display text to inform the user where the link is directed and the information expected to be shown. We have included the full URLs here for those accessing the print version of this consultation:

From paragraph 1.1.3

1. <https://www.gov.scot/publications/consultation-proposals-integrated-authorisation-framework/pages/1/>
2. <https://www.gov.scot/publications/consultation-proposals-integrated-authorisation-framework-9781788511490/>
3. <https://www.gov.scot/publications/draft-regulations-integrated-authorisation-framework-consultation-analysis/>

From paragraph 1.1.11

1. <https://www.sepa.org.uk/regulations/how-we-regulate/environmental-authorisations-scotland-regulations-2018/>

10. Respondent Information Form



Environmental Authorisations (Scotland) Regulations 2018: proposed amendments.

Respondent Information Form

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email Address

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again

in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

Questionnaire

Question 1

Are there any other regulatory measures relating to the spreading of sewage sludge to land that you feel should be considered for inclusion in the Regulations?

Question 2

Do you agree that this carbon capture activity should be an environmental activity in the Regulations?

Question 3

Do you agree non-waste anaerobic digestion should be an environmental activity in the Regulations?

Question 4

Do you agree any combustion plant on the same site that generate electricity and aggregate to 1 MWth or more should be an environmental activity in the Regulations?

Question 5

Should the scope be expanded to all combustion plants on the same site that aggregate to 1 MWth or more including those that generate heat (e.g. boilers)?

Question 6

For combustion plant (or plants) on the same site that generate electricity and aggregate to 1 MWth or more, located in the highlands or on the islands are there plans in place to upgrade the plant or to replace it with renewable / low carbon technology / carbon capture usage and storage?

Question 7

How should ammonia emissions from intensive livestock farms be controlled in future? This could include, a regulatory basis, the provision of advice, or information and examples of good practice or other means.

Question 8

What considerations should be taken into account when considering future control or management of ammonia emissions from intensive livestock farms? Such considerations may include specific issues relating to farm type, size or other matters related to management of emissions such as costs.

Question 9

Do you have any comments on the proposal to amend the existing public consultation requirements in the 2018 Regulations so that SEPA may require pre-application public consultation in relation to permit applications or applications for variations to permits in certain circumstances?

Question 10

Do you have any comments on the proposal to simplify the call-in procedure provisions in the 2018 Regulations so as to remove the requirement that SEPA directly notify those who have made third-party representations of a proposed determination of a permit application or variation and the associated timing provisions which prevent SEPA from finally determining the application or variation until the elapse of the statutory time periods?

Question 11

Do you have any comments on the proposed amendment to provide for a procedure for issuing revocation notices where an authorised person has died or no longer exists?

Question 12

Do you have any comments on proposed amendment to the provisions in respect of the public register required to be maintained by SEPA?

Question 13

Do you have any comments on the minor amendments as set out in Annex D for the common framework: minor changes relevant to all activities?

Question 14

Do you have any comments on the minor amendments as set out in Annex D for the minor changes relevant to radioactive substances activities?

Question 15

Do you agree with or have comments on the proposed changes to Schedules 8 and 9 for radioactive substances activities?

Question 16

Do you have any comments on the new General Binding Rules (nos. 7 and 35) for water activities in Schedule 9 and the water activities in Schedule 10 in the draft Regulations?

Question 17

Do you have any comments on the minor amendments relevant to water activities as set out in Annex D?

Question 18

Do you have any comments on the activity “industrial emissions activities” or on the technical requirements in Schedules 19 to 24 in the draft Regulations?

Question 19

Do you have any comments on the additional technical requirements in Schedule 25 in the draft Regulations?

Question 20

Do you have any comments on the industrial activity carrying out “other emissions activities” Schedule 26 in the draft Regulations?

Question 21

Do you have any comments on the activity “operating a medium combustion plant” in Schedule 27 in the draft Regulations?

Question 22

Do you have any comments on the activity “operating a petrol vapour recovery activity” in Schedule 28 in the draft Regulations?

Question 23

Do you have any comments on this general binding rule 1, from Schedule 9, Chapter 4, Low Emission Activities in the draft Regulations?

Question 24

Do you have any comments on the minor amendments relating to PPC activities as set out in Annex D?

Question 25

Do you agree that the regulations adequately capture waste activities?

Question 26

Do you have any comments on the geographical extent in the draft Regulations?

Question 27

Do you have any comments on the requirements applying all waste management activities (Schedule 11) in the draft Regulations?

Question 28

Do you have any comments on the requirements applying to landfill activities (Schedule 13) in the draft Regulations?

Question 29

Do you have any comments on the requirements applying to hazardous waste mixing and treatment of waste oil (Schedule 12) in the draft Regulations?

Question 30

Do you have any comments on the requirements for management of separately collected recyclable waste and for operating a materials facility (Schedule 14) in the draft Regulations?

Question 31

Do you have any comments on the requirements for the management of end-of-life vehicles (Schedule 15) in the draft Regulations?

Question 32

Do you have any comments on the requirements applying to the management of WEEE (Schedule 16) in the draft Regulations?

Question 33

Do you have any comments on the requirements applying to the management of waste batteries (Schedule 17) in the draft Regulations?

Question 34

Do you have any comments on draft GBRs 1 to 4?

Question 35

Do you have any comments on the minor amendments relating to waste activities as set out in Annex D?



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