Business and Regulatory Impact Assessment

Environmental Authorisations (Scotland) Amendment Regulations 2025 – new activities

Final Business and Regulatory Impact Assessment – October 2024

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Introduction

The Environmental Authorisations (Scotland) Amendment Regulations 2025 ("the 2025 Regulations") include new activities which will be brought within the scope of the integrated authorisation framework, enacted by the Environmental Authorisations (Scotland) Regulations 2018 and regulated by the Scottish Environment Protection Agency (SEPA).

The 2025 Regulations are designed to consolidate the integrated authorisation framework, bringing together all the regulatory authorisation arrangements for SEPA's four main regulatory areas (*water, waste, radioactive substances and Pollution Prevention and Control*) into an integrated structure under a single standardised procedure.

This final BRIA expands on the partial BRIA that was published alongside Scottish Government's consultation on the 2025 Regulations.

Environmental regulation is currently more complex than it needs to be. The four existing main environmental regimes regulate activities throughout Scotland at many locations, and have multiple authorisations under different legislation, covering one or more activity, often at the same location. Regulating multiple authorisations requires different procedures, different monitoring arrangements and multiple inspections by different officers.

The 2018 Regulations came into force in September 2018. These regulations set out the common procedures for an integrated authorisation framework. The aim of the framework is to integrate, as far as possible, the authorisation, procedural and enforcement arrangements relating to the four main areas of SEPA's regulatory work.

The majority of the changes to SEPA's authorisation structure do not involve any substantive changes to the role SEPA carries out or to operators' obligations under these four regulated areas. However, the 2025 Regulations also bring into scope activities that were previously outwith the scope of sector-specific regulatory arrangements, or that involve certain changes to their regulation. It is these specific changes that are the subject of this final BRIA. The activities that this BRIA concerns are as follows.

Changes to regulation of:

 Sewage sludge activities (schedule 18; recovery of waste by application to land for the purpose of soil improvement)

Extension of environmental regulation ("newly in scope") to:

- Additional Carbon Capture and Storage (CCS) activities
- Non-waste anaerobic digestion (AD)
- Electricity Generators (combustion plant with an aggregated rated thermal input of 1 MW or more at a single site)

In this document these changes are collectively referred to as "the new activities".

Sewage Sludge (schedule 18; recovery of waste by application to land for the purpose of soil *improvement*)

A published review of legislation and guidance relevant to the storage and spreading of sludge to land in 2016¹ indicated that a number of changes were needed to improve the regulation of this activity. These changes, now part of the amendments made by the 2025 Regulations, include: incorporating relevant parts of the Safe Sludge Matrix into law; adding

¹ <u>Sludge review: final recommendations - gov.scot (www.gov.scot)</u>

a "Fit and Proper Person" test for authorised persons; establishing a single regulatory system for organic waste to land activities; and tighter regulatory powers for SEPA.

Carbon Capture, Utilisation and Storage (schedule 26; other emissions activities) Although carbon capture for geological storage is already a regulated activity when carried out at the same site as an installation regulated under Pollution Prevention and Control (Scotland) Regulations 2012 (PPC), there is a need to extend the scope so that other related activities, likely to become more important as part of Scotland's just transition, are regulated similarly. This means that activities involving carbon capture and storage need to be captured under the Regulations regardless of whether they relate to an installation that is already regulated under PPC or not, and must now extend to other activities including utilisation of captured carbon dioxide. This will provide a level playing field for these industrial activities that share very similar environmental risks. These other activities include carbon capture removal technologies like Direct Air Capture, carbon capture and utilisation plant and carbon capture plant for the purpose of storing carbon dioxide. In this document these activities are referred to using the acronym CCUS (carbon capture, utilisation and storage).

Non-waste anaerobic digestion (schedule 26; other emissions activities) The 2025 Regulations bring non-waste anaerobic digestion (AD), which is currently not regulated, into scope of the 2018 Regulations so that it is regulated in the same way as anaerobic digestion that uses waste as a feedstock. This is because the processes, regardless of feedstock, present the same environmental risks. The non-waste AD sector has also recently been growing in size in Scotland.

Electricity Generators (combustion plant with an aggregated rated thermal input of 1 MW or more at a single site) (schedule 26; other emissions activities)

The 2025 Regulations bring electricity generators with an aggregated rated thermal input of 1 MW (1 MWth) or more at a single site, which are currently not regulated, into scope of the 2018 Regulations so that they will be regulated in the same way as electricity generators >1MWth input. This is because aggregations of smaller generators at a single site present the same environmental risks as one (or more) larger generators with a similar overall thermal input power rating. Generators ≥1MWth are already regulated as medium combustion plant and will already be subject to stricter emission limits from 2029. The 2025 Regulations also bring regulation of generators in Scotland in line with that in England and Wales.

Executive summary

Issue and why it needs to be addressed

The Scottish Environment Protection Agency (SEPA) regulates business and operators to protect and improve Scotland's environment. SEPA's regulation falls under four main regulatory regimes – water, waste, radioactive substances and industrial emissions. These regimes were developed over a number of years, largely as a result of initiatives and subsequent Directives in the European Union, which were then transposed into Scots law. Because this legislation was developed at the EU level and subsequently transposed independently and over a very broad timeframe, it is fragmented and unaligned in terms of both the legislation itself and its operation. This is unnecessary, and causes inefficiencies and a lack of transparency for SEPA and for those whom it regulates. To address this, the Scottish Government and SEPA developed an integrated authorisation framework (IAF) policy which would bring SEPA's regulatory duties into a single piece of legislation, with common procedures, simplifying processes for SEPA and those whom it regulates, and maintaining current standards.

The first step to realising this IAF were the Environmental Authorisations (Scotland) Regulations 2018 ("the 2018 Regulations") which set out the common procedures for environment regulation and the technical provisions for the regulation of radioactive substances activities. To provide business with certainty and time to adjust to the changes in regulation the IAF would necessarily bring, and to ensure manageable workloads for SEPA, the 2018 Regulations did not include technical provision for the other regimes. The introduction of the other regimes has been in the planning since those regulations entered into force; the Environmental Authorisations (Scotland) Amendment Regulations 2025 ("the 2025 Regulations") bring the other three regulatory regimes into the IAF provided by the 2018 Regulations, alongside some other changes to correct deficiencies or update regulation that have been identified over the years.

As part of these legislative changes, new activities are being brought into the sphere of regulation that will affect businesses and their obligations.

Intended outcomes

The 2025 Regulations represent the final part of putting in place an integrated authorisation framework for the regulation of environmental activities in Scotland under which SEPA can regulate in a more efficient way. Those that are regulated will also see benefits in terms of efficiencies and clarity over their obligations. In parallel SEPA are reviewing their charging schemes so that regulated operators pay a fair fee for SEPA's work to protect and improve Scotland's environment when it comes to the risks those activities may pose for the environment.

The main changes introduced by the 2025 Regulations that will impact business are as follows:

- Changes to the way the application of sewage sludge (and other waste for the purposes of soil recovery) to land is regulated
 Following a review in 2016, these changes include incorporating relevant parts of the "Safe Sludge Matrix" into law, adding a "Fit and Proper Person" test for authorised persons, establishing a single regulatory system for organic waste to land activities, and tightening regulatory powers for SEPA.
- Widening the scope of regulation for carbon capture, utilisation and storage (CCUS) activities

Regulation of these activities only covered capture and geological storage of carbon dioxide streams at industrial sites that already had a permit under the Pollution Prevention and Control (Scotland) Regulations 2012. With these changes CCUS activities above certain thresholds will be regulated regardless of whether the site already has a permit to operate, and activities in scope are widened to include use activities as well as storage. These changes are necessary to ensure regulation is fair and to recognise increased activity in this sector as a result of decarbonisation goals as part of a just transition.

• Introducing regulation for the non-waste Anaerobic Digestion (AD) sector

Anaerobic digestion that uses various feedstocks identified as wastes has been regulated for a number of years because of its potential to impact the water environment and cause nuisance issues (odour). The 2025 Regulations introduce regulation for anaerobic digestion that use bio-based feedstocks not defined as waste (for example crops grown specifically for this purpose). This activity carries the same risks for the environment as waste AD does, and is becoming a significant part of the AD sector in Scotland. The 2025 Regulations will ensure there is a level regulatory playing field for

those operating AD in Scotland and ensure all AD activities are conducted in ways that do not impact the environment.

• Introducing regulation for small electricity generators at a single site, where they aggregate to One MW thermal input or more

Diesel and heavy fuel oil generators are used for various purposes throughout Scotland industrially. The transposition of the EU Medium Combustion Plant Directive (MCPD) by the Pollution Prevention and Control (Scotland) Regulations 2012 (with which the 2025 Regulations align) means that by 1 January 2029 all generators with a thermal input of 1 – 50 MW require to be permitted (or, in the case of the 2025 Regulations, authorised) and all will need to meet certain air quality derived emission limit values (ELVs) from 1 January 2030. This has been a phased process, commencing with larger generators, and moving to small generators with rated thermal inputs equal to or greater than 1 and less than or equal to 5 megawatts. To avoid a loophole in this scheduled Regulation, the 2025 Regulations introduce obligations for smaller generators that aggregate to 1 MW thermal input or more at a single site, because the environmental impact of such generator arrays is very similar to that of single, larger generators captured by the MCPD. Under the 2025 Regulations, such generator arrays will need to meet ELVs set by SEPA under the authorisation regime to protect air quality, in line with the requirements for larger individual generators.

Options

This BRIA considers two options – "do nothing" (option 1) and "Include the new activities, amended according to stakeholder engagement" (option 2). A third option, to implement changes proposed prior to consultation, was discounted in light of the outcome of the public consultation. We consider the changes covered by option 2 are the only realistic way to progress the objectives of the IAF.

Sectors affected

The new activities brought into scope of environmental regulation by the 2025 Regulations affect the following stakeholder groups: public and private sector operators that produce, treat, handle, store and spread sewage sludge, including Scottish Water and other operators of PFI contracts such as Northumbrian Water, Veolia and Scottish Power; operators that plan to develop and implement CCUS technologies (little is known about the shape and size of this sector yet, as it is in development); private sector operators that use non-waste material in their digestors and their suppliers (including farmers and whisky distillers); Scottish and Southern Electric (SSE) and private organisations that use generators.

Engagement completed, ongoing and planned

Completed engagement has included Scottish Government and SEPA specific engagement with affected sector representatives and policy leads with Scottish Government, Agencies of government and our counterparts in England and Wales, COSLA, the UK energy regulator Ofgem, and separate public consultations run by Scottish Government (Dec 2023 – Mar 2024) and SEPA-led engagement sessions (Jan – Apr 2024).

Anticipated impacts (intended and unintended, positive and negative) and mitigating actions

The 2025 Regulations' new activities will bring additional costs for business. These will include direct costs (e.g. fees payable to SEPA) as well as indirect costs (e.g. investment to bring facilities up to compliance standards). It was not possible to get a full picture of these costs for this BRIA across all of the new activities. Where this is the case, a qualitative

approach has been taken. The public and sectoral engagement has been instrumental in informing this discussion.

The 2025 Regulations' new activities will bring benefits for the environment and the people of Scotland. They will bring a better regulatory approach to sewage sludge, and include the regulation of the other activities that can pollute water or cause poor air quality, as well as cause nuisance issues.

One specific consideration that stakeholder engagement brought to light was the potential adverse impact on island communities and their security of electricity supply. Island communities are reliant on mainland power via subsea cables, so when there are problems with these cables, or maintenance of cables is required, islands' electricity supply must be maintained by the use of electricity generators. To prevent island communities being disproportionately impacted by the 2025 Regulations, specific derogations exempt the continued use of these generators from the requirements until end 2039 in the case of unplanned mainland power outages, and end 2033 for planned power outages, by which time we are confident that investment will mean air quality objectives can be met and remaining island generation brought into compliance.

Enforcement/ compliance

SEPA will enforce the Environmental Authorisations (Scotland) Regulations 2018 as amended by the 2025 Regulations. A phased approach is being taken to their implementation to allow business time to adjust, and SEPA time to set up the internal systems it needs to regulate effectively and efficiently.

Recommendations/ implementation plans

The option that the 2025 Regulations represent has been developed following extensive stakeholder engagement. The do nothing option (1) does not meet the objectives of the integrated authorisation framework the EASR 2018 represents and the associated environmental benefits. Scottish Ministers are content to progress the 2025 Regulations as drafted, informed by the extensive engagement with stakeholders

The following schedule has been agreed to phase in the new activities once the 2025 Regulations enter into force.

Activity	Specified date
Application of sewage sludge to land	June 2025
Carbon capture, utilisation and storage	April 2027
Non-waste anaerobic digestion	April 2028
Electricity generators (with an aggregated rated thermal input of 1	January 2029
MW or more at a single site)	

Evaluation and monitoring of implementation/ review of BRIA

The integrated authorisation framework will be amended from time to time in line with advances in technology and as need arises. When this happens, this BRIA will be revisited as needed.

Section 1: Background, aims and options

Background to policy issue

Currently, SEPA's regulatory duties fall under different regulatory regimes, introduced over a number of years that implement various national and international commitments and EU Directives. This created a tapestry of requirements for regulated business to navigate and for SEPA to operate under, also creating arbitrary differences in how different sectors are regulated despite similarities in environmental risk profiles.

The Environmental Authorisations (Scotland) Regulations were introduced in 2018 and sought to address this issue by providing an integrated authorisation framework for environmental regulation. Initially, only the technical provision for the regulation of radioactive substances activities was included, with the intention to bring in the other regulatory regimes over time.

The 2025 Regulations make the outstanding changes foreseen for the 2018 Regulations. The amendments mean that all four areas of SEPA's main regulatory regimes – on radioactive substances, water, waste management and industrial activities (PPC) – are captured in one piece of legislation and subject to the same regulatory framework. The effect of this is a simplified, streamlined regime for both the regulator and operators to whom the regulations apply. This will give continuity, increased clarity and transparency for regulated business, efficiencies for the regulator, and deliver environmental benefits. Businesses in Scotland will be clearer on what is required to meet their regulatory obligations and achieve compliance.

These amendments include changes to the regulation of sewage sludge (and other waste applied to land for purposes of soil improvement) activities and extend environmental regulation to incorporate carbon capture, utilisation and storage (CCUS), non-waste anaerobic digestion (AD), and certain electricity generation activities not in scope of current regulation.

Purpose/ aim of action and desired effect

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

The individual amendments that this final BRIA concerns are new activities that will enter into law as part of the transition from the previous regulatory regimes, and separately, changes to the regulation of the use of sewage sludge and other waste added to land for soil improvement. These new activities do not directly contribute to this streamlining of regulation; the primary aim of introducing the new activities is to bring them into SEPA's sphere of regulation and improve environmental protection, for the benefit of local communities across Scotland and to give certainty to regulated business. The introduction of new provisions for small generators will also mean that Scotland is more closely aligned with the rest of the UK. Including these new activities as part of the wider amendment of the 2018 Regulations is the most straightforward way to do this in a timely manner.

Options (considered so far/ still open)

Option 1: Do Nothing ("de minimis")

No change is made to the way the application of sewage sludge (and other waste) to land is regulated, and the new activities are not brought into scope of SEPA's regulation.

Recommendations from the Government's 2015 review of sewage sludge legislation and guidance would not be taken forward.

This would perpetuate the potential for communities to encounter adverse impacts from a sub-optimal regulatory framework for these activities. Application of sewage sludge to land is currently subject to 'passive' regulation where operators must abide by certain rules but there are limited enforcement options, limited cost recovery for SEPA and no system for checking that those who spread sewage sludge are 'fit and proper' to do this work.

Carbon capture, utilisation and storage would continue to only be regulated as an activity where carbon dioxide is produced as a result of an industrial emissions activity and then geologically stored.

Carbon capture, utilisation and storage technologies are essential if Scotland is to progress its just transition and meet its net zero commitments. Without the inclusion of this new activity, it is likely this developing area would be inadequately regulated compared with other industrial operations of a similar scale that are regulated, just as work is gathering pace to develop and deploy these technologies as part of Scotland's approach to meeting these commitments. Without regulation there will be no level playing field for business and potential environmental risks to air and water quality and from noise will not be appropriately managed.

Non-waste anaerobic digestion would remain outwith SEPA's regulatory scope.

This would mean an activity with similar environmental risks to analogous regulated activities (anaerobic digestion with waste feedstocks) would continue to be unregulated, with continuing unchecked potential impacts on communities and the environment. Non-waste anaerobic digestion has been growing in Scotland recently and may continue to do so in the future.

Aggregations of electricity generators which combine to 1MWth or more at a single site would be unregulated, while single generators of this size are covered by regulation.

The approach to regulating emissions from **electricity generators** would remain skewed, as multiple generators at a single site aggregating to 1 MWth would remain unregulated in contrast to single generators with a rated thermal input equal to or greater than 1MW, with the potential for local air quality impacts not adequately addressed through regulation. Additionally, operators would lack further incentive to move to more environmentally sustainable forms of generation as part of their planned replacement equipment procurement strategies².

² See, for example, SSEN's <u>hebrides-and-orkney-whole-system-um-core-narrative---january-</u> <u>2024 redacted.pdf (ssen.co.uk)</u>, which states "• Decarbonisation of our diesel generation fleet: This is a significant source of carbon emissions for SHEPD (Scottish Hydro Electric Power Distribution) when required to run for long periods of time. Emissions reached 2238.49tCO2-e in 2022/23 across the fleet, and we must reduce these to meet our 1.5-degree Science Based Target (SBT)"

SEPA could attempt to address some of these issues by producing sector-specific guidance, but there is no guarantee operators would act on this in the absence of regulation. This would not consolidate the current approach to regulation into a single integrated authorisation framework and would be unlikely to result in the same improvements for air quality.

Option 2: Include the new activities and the changes to the way the application of sewage sludge (and other waste) to land is regulated, amended according to stakeholder engagement

Option 2 represents the changes being introduced by the 2025 Regulations and entails the following. Please see also Section 2 (Engagement and Information gathering) for summaries of the evidence used in deriving this option.

Application of sewage sludge (and other waste) to land

These changes will result in new requirements, for example preventing application of untreated sewage to land and tightening soil protection, that protect the environment and the use of agricultural land following application of sewage sludge will be subject to authorisation (by way of general binding rules). The 2025 Regulations will allow SEPA to regulate all aspects of sewage sludge use on agricultural land, including odour. From investigations into this industry we anticipate this will impact on approximately six producers of sewage sludge for application to land in Scotland, and on sludge haulage and spreading contractors across Scotland.

The 2025 Regulations will move the entire system of managing the application of sewage sludge (and other waste) to land into the integrated authorisation framework. This requires operators to be 'fit and proper' to carry out the activity and be subject to conditions necessary to protect the environment.

Alongside new requirements in relation to the application of sewage sludge and other waste to land, this option simplifies and integrates the overall regulation of this activity. The new regime enables each operator who applies waste to land to choose to be authorised under a single permit, rather than requiring a separate exemption to be registered for each site at which they spread waste, thereby reducing administration costs and resources.

These amendments also introduce other changes to the current regulatory requirements for the application of sewage sludge, or any waste, to land. The 2025 Regulations will prevent the application of untreated sewage sludge to land, tighten the soil protection values and monitoring requirements, and put relevant parts of the safe sludge matrix on a statutory footing.

This option also addresses the need for various clarifications (on definitions, nitrogen addition), and removes the default requirement for total nitrogen soil sampling in Schedule 18, following stakeholder feedback from the public consultation.

Carbon Capture, Utilisation and Storage

The approach will mean that any activity for the capture of carbon dioxide from any source, whether related to an industrial emissions or other emissions activity (as defined in the 2018 Regulations once amended) regulated by SEPA or otherwise, is an activity requiring an authorisation under the 2025 Regulations. The types of activity that would require an authorisation are:

- Carbon dioxide removal (CDR) technologies such as Direct Air Capture
- Carbon capture and utilisation plant
- Carbon capture plant for the purpose of storing carbon dioxide.

This is a developing industry. We have little information on the current scale of the sector, or potential new entrants over the next few years and quantitative information is not available.

Under current legislation (PPC) carbon capture for geological storage arising from an installation otherwise regulated under the PPC Regulations is an activity requiring a permit, in line with the requirements of the Industrial Emissions Directive. This means that in order to be regulated, the carbon capture plant:

• must be located at an installation already carrying out another industrial activity listed in the PPC Regulations

- must capture carbon dioxide from a point source
- must capture carbon dioxide for the purpose of geological storage.

The role of carbon capture is evolving, and many types of carbon capture technology will not fit these definitions and would therefore be uncontrolled.

This new regulated activity will provide a level playing field and ensure potential environmental risks to air and water quality and from noise are appropriately managed. The level of authorisation, through permit or registration, will be proportionate to the risk to the environment which is important given the developing nature of the sector.

This option clarifies that activities in scope of regulation are those that are carried out in a technical unit for the capture of carbon dioxide for the purposes of utilisation or storage, addressing comments raised by stakeholders in the public consultation.

Non-waste Anaerobic Digestion

The approach is for these activities to be brought into scope of regulation so that the activity is treated in the same manner as the anaerobic digestion of waste. This is important to mitigate pollution (e.g. odour impacts on local communities and leakage from storage tanks into the water environment) and provide a level playing field across the anaerobic digestion sector as a whole.

Anaerobic digestion processes biomass (plant and animal materials) into methane or biogas for heating and power. The environmental risk from anaerobic digestors that use non-waste biomass as feedstock is similar to those that use waste feedstock, which are currently regulated.

Anaerobic digestion is important to the circular economy and net zero. Bringing non-waste anaerobic digestion into the Regulations will provide a level playing field for all operators of anaerobic digestion plant, whether waste or non-waste, and ensure that regulation is appropriate, proportionate and equitable based on risk to the environment. In the consultation, a capacity threshold of 100 tonnes/day was included, below which SEPA would require registration of such activities, and above which a permit would be required.

To address stakeholder comments from the public consultation, this option clarifies that it applies to non-waste materials and associated feedstock and digestate handling and storage.

Electricity Generators

The 2025 Regulations will amend the 2018 Regulations to apply regulatory controls on **electricity generators** such that any combustion plant that generates electricity and aggregates to 1 MWth or more at the same location are in scope. This will include any generator which supplies electricity, either to the grid or for independent production and use at site of generation. Bringing this into regulation will enable the consistent application of appropriate controls on the emissions to air across the UK. Air pollutants resulting from combustion plant which can impact on human health and the environment include oxides of nitrogen (NOx), sulphur dioxide (SO2), and dust.

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. Importantly, standby generation is relied upon by island communities to provide additional peak supply and contingency in the event of subsea cable faults or power outages when the distribution network is being improved or maintained.

This option subjects plant that aggregate to 1 MWth or more on a single site to similar controls as those that have been in place for specified generators in England and Wales since 2018, via the Environmental Permitting (England and Wales) Regulations 2016. This brings the operation of these generating plant up to modern emissions standards. For island communities, and with reference to operators' Environmental Management Strategies (EMS; see also the SSEN Hebrides and Orkney whole system uncertainty mechanism), over time this should involve the upgrading of electrical distribution networks and/or facilitate the greater use of renewable/low carbon technologies to displace the current fossil fuel power plant.

In the public consultation stakeholders identified that certain exclusions are required from this Regulation, and this option incorporates these as set out below.

- any combustion plant operated for the sole purpose of maintaining power supply at a site during an on-site emergency
- generators with a defined nuclear safety role under a nuclear site licence issued by the Office for Nuclear Regulation -
- any combustion plant operated for the purpose of testing if used for 50 hours or less per year
- any combustion plant that is mobile unless it is connected to (i) an [electricity] transmission system or distribution system (and where this is not being used for emergency community supply continuity) or (ii) other apparatus, equipment or appliances at a site and performing a function that could be performed by plant that is not mobile (where "mobile" means combustion plant designed to move or to be moved whether on roads or other land)

We are also aware that complying with the Regulations, as drafted for purposes of consultation and presented under option 3, could place additional costs and burdens on electricity providers on islands that rely on existing fossil fuel generators as back-up power in the event of subsea cable faults and related emergency /security of supply situations.

However, funding for these operators that relates to security of supply on the islands, where required to comply with regulations or demonstrated to be economic and efficient, is recovered from electricity customers across the UK, so we do not expect necessary changes that are agreed with the UK energy regulator Ofgem to impact island communities disproportionately. This is discussed further in section 3 (Costs, impacts and benefits). In the 2025 Regulations we have included two specific derogations to allow the planned (for

maintenance) and unplanned use of island electricity generators that would not comply with the Regulations to continue until their use can be discontinued.

Option 3: Implement the proposals as initially drafted

Option 3 represents the proposals as included in the Scottish Government public consultation on the Regulations that was live from 15 December 2023 for 12 weeks. Aside from clarifications and revised definitions as noted above, this option would mean that the scope of **CCUS** regulation could be interpreted to extend further than a technical unit for the capture of carbon dioxide for the purposes of utilisation or storage (i.e. the scope of this Regulation was not clearly defined). For **sewage sludge**, it would still be necessary for operators to submit total nitrogen information from soil sampling. But the main implication of option 3 is that all generators would be captured by the Regulations (those exceptions listed under option 2 would not apply).

We consider this option not to be a realistic proposal in light of the consultation responses and Scottish Government's commitments following these, and so is not discussed further in this BRIA.

Sectors/ Groups affected

The 2025 Regulations will impact the following stakeholder groups:

- Businesses already regulated and currently unregulated
 - For sewage sludge (and other waste) application to land this will directly impact approximately six public and private sector operators that produce, treat, handle, store and spread sewage sludge. These businesses are currently only subject to passive regulation and will incur application and subsistence fees for new permits, they will also see some increases in administration associated with new permits and they will need to undergo a 'fit and proper person' test. The main affected operators include Scottish Water and other operators of PFI contracts such as Northumbrian Water, Veolia and Scottish Power, all of which are large companies. There are expected to be reductions in administration costs for other (non sewage) waste to land operators who will be able to choose to operate with a single permit rather than multiple registrations for different sites. These savings may be passed onto private sector producers of waste which is spread to land, including whisky distillers. There will be a level regulatory playing field for all applications of waste to land which will particularly benefit those who apply non-sewage waste to land, but the simplified permitting framework will benefit all.
 - For CCUS, operators who plan to develop these technologies will be affected (compared with the current narrow regulatory position on these activities). Potential operators of carbon capture technologies, where not already associated with a PPC permit, will require an authorisation. Operators who are already permitted at PPC sites will benefit from a level regulatory playing field. Operators who are currently unregulated will require an authorisation and, depending on the scale of their activity, may incur permit application costs, subsistence fees and some additional administration. Given that this sector is currently undeveloped we know very little about the types, size or location of businesses who will get involved in CCUS.
 - For non-waste anaerobic digestion this will directly impact private sector operators that use non-waste material in their digestors. Some of these businesses will currently be regulated because they already use waste materials in digestors but others who solely use non-waste materials will currently be unregulated. Impacted operators will incur charges for new authorisations and increases in administration. SEPA estimates that between 10 and 20 plants

currently operating in Scotland are likely to be affected in this way. The proposals may also indirectly impact suppliers of non-waste anaerobic materials for digestate, these are likely to be farmers who grow biomass crops. Some of these growers may operate their own non-waste AD plant and some will supply biomass to AD operators. Biomass crops may be grown exclusively or as a break in a farming food or fodder crop rotation.

- For electricity generation, primarily affected will be Scottish and Southern Electric (SSE plc) and private organisations that use generators for on or off site power. Exemptions from the Regulations are proposed for situations where electricity supply is essential for emergency back up and for human welfare or health and safety reasons. This will avoid disproportionate impacts on communities in the Scottish Islands where generators can be used to provide contingency power in the event of supply outages from the mainland, and at nuclear sites where generators can be essential for safety. Businesses mostly likely to be impacted are therefore those who operate electricity plant to supply on site power or to the grid, including for peak lopping ("top up power" during periods of high demand), but also some Combined Heat and Power (CHP) operators on AD plant, domestic and industrial CHP users that are not covered by the Medium Combustion Plant Directive already, landfill engines, and engines participating in the electricity supply market.
- The regulator

SEPA will expand the range of activities it "actively" regulates. SEPA will not incur any additional costs as it is able to recover the cost of any additional regulation through charging. SEPA will also see improvements in the efficiency of its regulatory systems through the operation of a single regime rather than multiple regulatory regimes and a levelling of the regulatory playing field. These efficiency improvements will take some time to bed in but will include rationalisation and coordination of site inspections and improved efficiency of electronic systems.

- Scottish Government
 - Will enact the legislation
- Other public bodies including Local Authorities, NatureScot and statutory consultees improvements in the clarity and objectives of regulation and simplified processes, for example consultation processes, are likely to benefit other statutory bodies, reducing administration and delivering efficiency improvements.
- Consumers of products produced by affected businesses see indirect impacts described above (under businesses). Unlikely to be significant.
- Communities local to regulated businesses
 - Communities local to regulated businesses will benefit from improvements to the local environment in all the proposed scenarios, these improvements include reductions in odour from sewage sludge application to land and anaerobic digestors, reductions in water pollution from land run off and digestors. There will be reassurance for communities local to carbon capture sites that the operations will give rise to minimal environmental impacts. There may also be reductions in odour and air quality impacts from large electricity generator arrays. It should be noted that for existing island generation plant that continues to operate under the derogations in the Regulations, these benefits will not be realised until replacement of these assets has been completed according to the power company's investment plan.

Section 2: Engagement and information gathering

Engagement approach

The 2025 Regulations represent the enactment of a long-planned phased process to bring all of SEPA's authorisation systems into one place, the integrated authorisation framework (IAF). Stakeholders have been aware of this work before the IAF entered into force by way of the 2018 Regulations. The changes that this BRIA concerns were a major part of a public consultation in 2023 (see below), alongside other changes made by the 2025 Regulations. Before this, regulated business stakeholders have had the opportunity to informally discuss future changes and proposals relevant for their sectors with SEPA, as the regulator and, also to approach Scottish Government directly.

A typical approach to engagement for regulatory changes of this type has been taken, involving informal engagement, evidence gathering, public consultation on a proposal and targeted engagement sessions. For already regulated businesses, informal engagement ahead of more formal engagement through public consultation was possible. However, for sectors that are currently unregulated including non-waste anaerobic digestion, carbon capture and some electricity generators the regulator approached operators that it was aware of and through separate more formal engagement attempted to bring views to the table.

Internal SG engagement/ engagement with wider Public Sector

Internal SG engagement

All relevant policy areas within Scottish Government were consulted before, during and after the public consultation and other engagement activities for these Regulations. This outreach included NatureScot. Policy leads in other areas with a peripheral interest were also consulted.

Policy areas involved or engaged included: water environment, waste management, island communities, agriculture, SEPA sponsorship hub, wildlife, air quality, local authorities, Rural and Environmental Science and Analytical Services, and Scottish Government legal dept.

No engagement with the International Trade and Investment Directorate (DITI) has been undertaken for the 2025 Regulations, as they do not impact international trade and investment (see separate IA).

UK/ Devolved Administrations

Yes. As part of the engagement sessions described above, SEPA engaged with the Environment Agency of England, Natural Resources Wales, Northern Ireland Environment Agency. Scottish Government policy counterparts in Defra were made aware of the proposals and kept up to date with progress towards delivering these amendments. Regulation of generators was discussed with the UK energy operator Ofgem, specifically in relation to the islands.

Wider Public Sector

Local authorities and COSLA were made aware of engagement sessions and six local authorities were invited specifically to attend the session on changes to electricity generators' regulation. Scotland's enterprise agencies were not engaged with.

International

Not relevant for this BRIA.

Business / Third Sector engagement

Scottish Government and SEPA, jointly and separately, held a series of stakeholder engagement sessions while the 2023 public consultation (see below) was open. The Scottish Government-led sessions comprised six sessions held either in-person or virtually between 20 February and 12 March 2024. One of these sessions dealt specifically with the proposals for electricity generators, while another targeted a specific stakeholder (NFUS). For the online session on generators, the six Local Authorities that have islands within their boundaries were invited. In total more than 150 people representing various organisations and businesses attended these engagement sessions.

SEPA recorded 31 instances of engagement between 19 January and 9 April 2024 with each involving a single targeted stakeholder organisation as follows: Grissan, Scottish Water (two sessions), Binn Group, RMAS (Resource Management Association Scotland), Scottish Salmon, Law Society, UKELA, Energy UK, EA, NRW, NIEA, OPRED, Aggreko, SSE, Chartered Institute for Waste Management, REA, Dalgleish Associates, NatureScot, SAC, SESA, Scotch Whisky Association, NetRegs Business Advisory Group, Entrust Environmental, Cooke Aquaculture Scotland. The engagements took a number of formats; 12 were meetings but the others included phone conversations and written engagement through email.

SEPA have contacted individually the potentially impacted non-waste anaerobic digestion operators, and their representative trade bodies, where it had contact details, and spoken at conferences to identify whether and how they might be impacted by the proposals. No responses to the questions addressed by the BRIA were received, though further contact will be maintained as the specific detail of regulation is developed.

Public consultation

Proposals for this integrated authorisation framework have been subject to several public consultations, such as the joint Scottish Government–SEPA consultation on Proposals for an Integrated Framework of Environmental Regulation in 2012. This generated strong and widespread support, with proposals for simpler, more risk-based environmental regulation supported by 92% of respondents.

In January 2017, a consultation on a more detailed set of proposals was published. 61 responses were received. The vast majority of respondents (over 80%) agreed with the proposals, and feedback was taken on board to inform the development of the draft Regulations.

The draft Environmental Authorisation (Scotland) Regulations (EASR) in turn were subject to public consultation during September-November 2017 (see Annex 1 for the draft Regulations). This time 29 responses were received. The bulk of the detailed provisions set out in the draft EASR were widely supported. Some comments on specific points of detail were made, and these were taken into account in preparing the final draft of the EASR which came into force in 2018.

Most recently the "Scottish Government Environmental Authorisations (Scotland) Regulations 2018 draft - proposed amendments: consultation" opened on 15 December 2023 and ran for 12 weeks. The consultation sought views on all the changes that the 2024 draft Regulations proposed, and included six questions on the new activities that are the subject of this BRIA.

Stakeholders generally welcomed the proposals presented in the consultation. The following themes in responses were apparent in relation to the new activities and the changes related to sewage sludge. The change in relation to the regulation of sewage and sludge activities was broadly accepted, but with certain caveats on specific technical requirements. Inclusion of the new activities carbon capture, non-waste anaerobic digestion, and generators was generally supported. However, stakeholders raised the point that care is required to support "fledgling" sectors (carbon capture and non-waste anaerobic digestion) and any regulation needs to be proportionate. For generators, the main concerns were about meeting proposed requirements on the islands. The consultation was helpful in that it allowed respondents to identify a number of issues with the proposals, and suggest where changes would be needed to ensure workability, proportionality and that operators/stakeholders would not be disproportionately impacted by any of the proposed changes.

Stakeholders from business, public sector, NGOs and private individuals were all represented in the 53 responses.

Other stakeholders

Policy officials have continued to engage with specific sectors after the public consultation prior to the introduction of the 2025 Regulations, including externally in the power generation sector and internally with policy leads across Scottish Government.

Section 3: Costs, impacts and benefits

Quantified costs to businesses

Costs, where they can be determined, have been summarised based on each impacted stakeholder group for the option that the 2025 Regulations represent (option 2). We do not have a full picture of exact costs, so elements of this final BRIA are by necessity qualitative.

It is not possible to estimate the extent and scale of some of the impacts of the new activities in the Regulations proposed. This is simply because data is not available as some of these new activities are still being developed and in the early stages of deployment, not just in Scotland but globally (carbon capture, utilisation and storage).

The charging scheme for regulating the new activities will be based on SEPA's current charging scheme. This is consistent with current policy and best practice whereby charges to potential environmental polluters are designed to facilitate full cost recovery for SEPA's regulatory activity. Charges are the subject of a separate consultation and the levels at which they will be set are not yet known.

The focus of this section is on considering additional/differing costs to affected stakeholder businesses associated with Option 2 when compared with the status quo ('do nothing' option 1).

Sewage Sludge

Additional costs associated with the 2025 Regulations will fall to the operators who apply sewage sludge (and other waste) to land and who will require a permit (currently operators pay charges for registration of their exemptions, so this represents a change in how companies are charged rather than introduction of fees). They will have to pass a 'fit and proper' person test and pay subsistence fees for their permits. The additional fees paid by operators will cover SEPA's costs to conduct additional regulation. Sewage sludge suppliers (including Scottish Water, and other PFI operators) of the sewage sludge to land operators may end up paying these additional costs if they are passed up the supply chain by the companies they supply to.

Carbon Capture, Utilisation and Storage

For CCUS activities, any cost estimates are highly uncertain because these activities do not yet exist at scale. However, as this provision is about extending existing regulatory obligations that apply to carbon capture activities at sites that are currently subject to PPC permitting, we anticipate that costs to business from regulation of related activities at other sites would be similar. New businesses and businesses who undertake new operations are responsible for ensuring that they comply with all legal requirements. SEPA will need to engage with businesses in these sectors to raise awareness of the need to apply for an authorisation and will make necessary information about permitting requirements and processes available via their website and helplines.

Business operators will incur the main costs associated with this new regulated activity. We do not know very much about the current or future scale of the industry that will be brought into regulation but introducing the Regulations now, before the industry emerges, will enable operators to include costs of permitting and compliance in the early stages of development

for their business plans. Given that the industry does not yet exist at scale, any costs associated with Regulation cannot strictly be classed as additional.

Non-Waste Anaerobic Digestion

From desk-based investigations into publicly available information about this sector, we estimate that there are up to 10 -20 non-waste anaerobic digestion (AD) plants in Scotland that will be impacted by this Regulation. In the waste sector there are currently 25 AD plants authorised in Scotland.

For non-waste AD, SEPA contacted potentially affected businesses but these did not provide responses that would allow one to understand whether costs might need to differ from those that apply to the waste AD sector, as currently regulated. As the activities are very similar, we think it is reasonable to assume that costs would be similar to those currently borne by the waste AD sector. The main additional costs will be for operators of the facilities who currently do not require an authorisation to operate. They will incur costs associated with registration or permit application (total for all operators estimated to be around £50,000/year; costs of authorisation will differ between operators depending on authorisation level) and, where necessary, investment costs for changing their operations to comply with permit requirements. The public consultation resulted in some limited information on indirect costs (that is, costs for businesses to comply with regulation based on what is required for waste AD sites): one stakeholder stated that, while they supported bringing non-waste AD under the 2018 Regulations as non-waste AD operations have similar environmental and human health considerations as waste AD operations, costs to retrofit mandatory secondary containment could come to £900,000 in additional costs, while for other sites, retrospectively fitting secondary containment could be nearly impossible due to buried pipes. They stated that existing sites would need time and investment to adapt their processes to meet the new requirements. Because of the apparent wide range of compliance readiness in this sector. based on this response, and the varying levels of authorisation that will be applied, it is not possible to give indicative overall costs per operator. It should be noted that the respondent here did support this new activity, and their comment was more related to how the activity will be introduced in practice; the information is useful to understand necessary transition periods for bring this activity under regulation. SEPA, as the regulator, works with operators and has the ability to make case-by-case assessments to, for example, set conditions in permits designed to bring operators into compliance in a way that does not cause unacceptable impacts to their business or the environment.

Electricity generators

There is no centrally held information on the number of generator sites or banks of generators that will be brought into scope of regulation with the 2025 Regulations in Scotland, although we anticipate the number to be in the hundreds based on information supplied by SEPA.

The main costs of this option will fall to operators of combustion plant which generate power with an aggregated rated thermal input of 1 MW or more. The majority of these generators don't currently require an authorisation so SEPA does not hold complete records of these plant (SEPA hold records for individual plant that have a thermal input capacity of five or greater MWth). As stated above, SEPA believes the number of these generator sites to be in the hundreds. It has not been possible to collect accurate details here, but some of the information submitted during the consultation is useful to give a (mostly) qualitative view of costs.

Island communities rely on generators as power generation back up when there are faults with subsurface cables and sometimes at peak usage times. Generators are also used on the mainland for multiple purposes. If the operators pass these additional costs of generation onto all consumers, then those in these communities may incur further costs.

There are several options including replacing, upgrading or substituting existing plant that cannot meet new Emission Limit Values (ELV) that will apply through permitting to meet air quality standards after transitional periods once the 2025 Regulations are made. It is possible to retrofit abatement (selective catalytic reduction, SCR) to existing plant, but size constraints at some locations make this not viable. A second option is to replace existing plant with new plant that meet the new standards. And a third option is to replace existing plant with mobile plant (that also have SCR abatement to meet the new NOx emission standard). The stakeholder, SSE plc, estimated costs of ca £250M to replace existing plant across the islands where they operate to give back-up capacity of 145MWth³. This option, as well as the other two that both also involve SCR abatement, additionally include costs associated with buying and transporting the urea that is required for the abatement: they estimated these at a total of £3.25M per annum across the islands where they operate. The stakeholder also argued that replacement of existing plant with mobile units would be a retrograde step, because these units don't have the high stacks of the existing plant that aid dispersion of gaseous emissions in general, even though they would meet new ELV set through permits.

In relation to the islands, an important point to note is that no single approach fits all requirements given the differing range of situations, issues and pressures with emergency supply provision on the different islands. An investment strategy is in place to improve resilience of supply from the mainland that is estimated to reduce reliance on generators for backup supply at some plant by 90%. However back up supply will still be required, but this could also be met by alternatives to generators. The same stakeholder considers battery storage still to be not viable or cost effective given the potentially longer spells of running required (battery back up with current technology would last only hours or days). Alternative fuels are also an option, but require abatement in the same way that fossil fuels do.

It is our view that the stakeholder has presented a reasonable argument in relation to backup supply on the islands. Based on this, and related discussions with the sector on their plans for investment and improvements, the 2025 Regulations include specific provisions to address the issue of island generation back up. Forcing companies that provide power to distribution networks on the islands to comply with the 2025 Regulations to the same timescales, 1 January 2029, as for other situations (where the operator and communities are not reliant on subsea cables for their connection to the national grid) is disproportionate and unfair. Although the regulations are not directly related to carbon emissions, doing so would also go against the principles Scottish Government has in relation to a Just Transition.

The specific exemptions in the 2025 Regulations, and time-limited exemptions that will allow a different approach on the islands, will not change the overall costs of complying with the provisions but will spread costs over a longer timeframe and give operators a practical way of replacing generator capacity on the islands with new equipment/alternatives in line with their longer term investment programme. It is our view that the inclusion of these exemptions allows this new activity to take effect in a proportionate way, and will still lead to an improvement for air quality and a level playing field for operators over an acceptable time period.

³ See <u>Response 553750262 to Environmental Authorisations (Scotland) Regulations 2018: proposed</u> <u>amendments - Scottish Government consultations - Citizen Space</u>

Other impacts

The 2025 Regulations will also have impacts for the regulator and potentially for consumers/communities. Costs and benefits fall not only to operators but also SEPA and local communities. Impacts for SEPA are covered below in section 4. If operators that provide a service to the general public, for example electricity suppliers, choose to pass on any additional costs then customers may see an increase in these service charges. We think the 2025 Regulations strike the right balance in that business is given time to adjust, and in the case of the regulation of generators the provisions will bring Scotland into closer alignment with similar regulation in England and Wales, meaning that there will be a levelling of the regulatory playing field for businesses that operate across the nations.

Overall the 2025 Regulations will bring significant environmental benefits for the general public and local communities. These include implementation of the recommendations from the Scottish Government's sludge review, which will reduce odour and water pollution from sludge application to land. They will also make it clearer for the public to know who to contact with respect to odour issues arising from sewage sludge activities because SEPA will be empowered to act across the whole supply chain. They will reassure communities local to potential new carbon capture installations and the general public that any environmental impacts associated with this new technology will be controlled. They will significantly reduce the risk of potentially serious environmental incidents associated with non-waste anaerobic digestion plant. They will reduce the risk of air quality impacts for communities that are local to large aggregations of electricity generators (but it should be noted that the 2025 Regulations' exceptions for island communities' back-up power generation mean that improvements in local air quality resulting from these operations may only be seen over a longer timeframe). In the longer term, they should also help facilitate a switch away from combustion generators to low carbon electricity generation, thereby contributing to reductions in greenhouse gas emissions.

Scottish firms' international competitiveness

The 2025 Regulations should not disadvantage Scottish businesses' ability to compete internationally, and should not affect Scotland's attractiveness as a destination or capital investment opportunity, as the 2025 Regulations do not directly impact these things.

Benefits to business

Sewage sludge

For sewage sludge operations, there will be multiple benefits associated with reductions in administration resource required by waste-to-land operators for whom the proposals will simplify the application process. In general, based on previous sector discussions with stakeholders through previous consultations and informal engagements during 2023, as well as engagement since, the benefits (to waste-to-land operators, but also SEPA, the general public, communities, and the environment) of the 2025 Regulations on sewage sludge are likely to outweigh additional costs to operators (or their customers) who apply sewage sludge to land.

Carbon Capture, Utilisation and Storage

The CCUS amendments will bring improved clarity of regulation and introduction of a level playing field for businesses operating in this sector. Other benefits are environmental and associated with controlling activities which have potential to cause environmental harm.

Non-waste Anaerobic Digestion

The (current) 25 permitted operators of waste-based anaerobic digestion facilities will benefit due to the levelling of the playing field with non-waste operators who are currently unregulated, even though their operations pose the potential for similar environmental impacts. From the baseline information we have available we anticipate that the additional benefits to the general public, local communities, currently permitted operators and SEPA outweigh the additional costs associated with permit applications and changes to working practices for operators of non-waste based anaerobic digestion facilities.

Electricity generators

There are multiple benefits associated with bringing electricity generators with an aggregated thermal input of 1MW or more at a single site into regulation, including levelling the playing field with combustion generation operators who are already regulated, reducing environmental impacts associated with combustion plant for local communities and the general public (part of many companies' EMS goals), and potentially encouraging operators to switch away from combustion to low carbon electricity generation. The use of unabated generators can have a significant impact on air quality, and plant with a capacity of 1 MWth or more already need an environmental authorisation. Sites where smaller plant aggregate to greater than 1 MWth can have an equivalent environmental impact. 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.

Small business impacts

The changes to **sewage sludge** regulation should overall reduce the administrative burden for small businesses although, for the most part, the affected operators are generally not small businesses. We do not think the introduction of additional regulation in the **CCUS** sector will impact small business, as to date any pilot projects or plans for development have involved larger organisations/conglomerates.

Bringing **non-waste anaerobic digestion** into regulation could add an additional administrative and cost burden for small business operators. We do not know what proportion of these assets in Scotland that currently operate fall into this category. In the case of **electricity generators**, we are in a similar position, although in the case of the islands we understand that the majority of assets that would be newly in scope will be owned/operated by larger companies (ie. power suppliers).

Investment

We believe the impact of the 2025 Regulations on competitiveness and encouraging investment is low. The regulations will bring Scotland into closer regulatory alignment with the rest of Great Britain. The regulations align in ethos with companies' EMS commitments, including larger entities' investment and net zero plans.

Workforce and Fair Work

We do not believe the 2025 Regulations will impact on Fair Work First principles.

Climate change/ Circular Economy

The 2025 Regulations' new activities and the changes in relation to sewage sludge, should contribute to moving towards a more circular economy and to reducing emissions of greenhouse gases. The reuse of sludge as a soil conditioner or fertiliser is a key part of the circular economy, preventing this resource from being lost; the regulations will make the required authorisation procedures around this activity easier for the operator to navigate and easier for SEPA to enforce. CCUS by its nature is about diverting carbon dioxide emissions that would otherwise add to the vast stock of human-produced greenhouse gases already in the atmosphere and oceans that is driving anthropogenic global heating, and regulating this activity will mean CCUS is done in a safe and responsible way. Introducing regulation for non-waste anaerobic digestion will ensure this activity, which reuses by-products or crops to produce a useful resource and biogas, will give certainty to the sector and make clear to those entering the sector their obligations to ensure they carry out this activity in a way that is safe and sustainable. Back-up electricity generators rely on fossil fuels in their operation. While the regulations will enforce a legal limit for NOx and other emissions to protect local air guality as opposed to limiting greenhouse gas emissions, this regulation brings into sharper focus power companies' investment strategies towards meeting net zero as part of a just transition to more sustainable back-up power resource.

Competition Assessment

The 2025 Regulations will have an overall positive impact on competitiveness. They bring elements of SEPA's regulation into line with England and Wales; they level the playing field for electricity generators because some operators of these plant in England and Wales have had to meet tighter emissions standards than equivalent plant in Scotland since 2018, and they level the playing field for the anaerobic digestion sector.

Consumer Duty

The goal of the 2025 Regulations is to simplify for both the regulator and regulated business the way that environmental regulation works in Scotland. When it comes to regulation of the four new activities, this will benefit consumers who will see positive impacts for air quality, noise and odour nuisance, and better clarity and transparency in decision making around environmental regulation. The Regulations are being introduced in such a way that consumers should not see an increase in e.g. bills for services they procure from affected operators (e.g. power companies), in as far as they may be related to the changes the 2025 Regulations represent.

Section 4: Additional implementation considerations

Enforcement/ compliance

SEPA is the principle environmental regulator in Scotland. SEPA will benefit from the simplified processes that the 2025 Regulations will make possible through reductions in administration requirements. The 2025 Regulations will however result in an increase in work and resource requirements for SEPA around regulation of the new activities, but this will be covered by the organisation's cost recovery model when setting chargeable fees. SEPA has been consulted throughout the process of drafting and proposing the 2025 Regulations.

SEPA has various powers it can use to enforce its environmental regulation where it has reason to suspect non-compliance or negligence on the part of an operator. These range from advice and guidance, through statutory notices and monetary penalties, to criminal proceedings.

UK, EU and International Regulatory Alignment and Obligations

Internal Market/ Intra-UK Trade

The Regulations will bring Scotland into closer alignment with England and Wales. There are no implications for the Internal Market Act or for Common Framework Agreements.

International Trade Implications

None

EU Alignment consideration

The 2025 Regulations are broadly aligned with similar community or national-level regulation in the EU and reflect the further development of legislation that is derived from EU Directives and that was previously transposed into Scottish law.

Legal Aid

None

Digital impact

Not relevant for the subject of this BRIA

Business forms

The 2025 Regulations themselves do not mean any new forms are required, but in implementing the regulations SEPA may make changes to the way regulated business submit information or the way in which SEPA communicate or catalogue regulatory information.

Section 5: Next steps and implementation

Recommendations/ preferred options

The option that the 2025 Regulations represent has been developed following extensive stakeholder engagement. The do nothing option (1) does not meet the objectives of the integrated authorisation framework the EASR 2018 represents and the associated environmental benefits. Scottish Ministers are content to progress the 2025 Regulations as drafted, informed by the extensive engagement with stakeholders.

Implementation considerations/ plan

The 2025 Regulations will be laid in draft in the Scottish Parliament on 20 November 2024 and, provided that they are approved of, will enter into force in 2025. The regulations include provision to ensure transitional arrangements are in place to allow businesses sufficient time to adjust to these new requirements, as follows.

Activity	Specified date
Application of sewage sludge to land	June 2025
Carbon capture, utilisation and storage	April 2027
Non-waste anaerobic digestion	April 2028
Electricity generators (with an aggregated rated thermal input of 1	January 2029
MW or more at a single site)	

Post implementation review

The 2018 Regulations and the integrated authorisation framework included within those regulations will be amended from time to time in line with advances in technology and as need arises.

Declaration

I have read the Business and Regulatory Impact Assessment and I am satisfied that it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and that these have been taken into account when making the policy decision. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

I am also satisfied that officials have considered the impact on consumers as required by the <u>Consumer Scotland Act 2020</u> in completion of the Consumer Duty section of this BRIA.]

Signed: Gillian Martin

Date: 21/11/2024

Minister's name: Gillian Martin

Minister's title: Cabinet Secretary for Net Zero & Energy

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