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ENVIRONMENTAL
Standards Scotland
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The Scottish Environment Protection Agency
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1. Environmental Standards Scotland (ESS) welcomes the opportunity to respond to the Scottish Environment Protection Agency's (SEPA) consultation on proposals to incorporate SEPA's four main regulatory regimes into a single Integrated Authorisation Framework (IAF).
2. ESS is a non-ministerial office (directly accountable to Scottish Parliament) with a remit to monitor and secure improvements to:
 - a. Public bodies' compliance with environmental law;
 - b. The effectiveness of environmental law; and
 - c. The implementation and application of environmental law.
3. ESS strongly supports the ambition of delivering a consistent, proportionate and simplified environmental protection framework. ESS also recognises the positive step that integrating the remaining regimes into the IAF represents, with a wide range of benefits including:
 - a. A standardised and more efficient authorisation application process bringing greater clarity and simplification to applicants.
 - b. The ability to grant single authorisations covering multiple activities which will remove existing complexity, provide greater clarity and enable greater public accessibility.

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- c. A more consistent approach to enforcement and the stronger regulatory notice will drive greater regulatory compliance and allow remediation of environmental harm.
4. In the longer term, the Scottish Government and the Scottish Environment Protection Agency should consider the following areas to further embed the integrated approach:
 - The scope for further integration, simplification and improvement of the integrated regulations
 - The adaptiveness of the Regulations to future change
 - The transparency and accessibility of General Binding Rules (GBRs)
5. ESS has undertaken a range of work to date that overlaps with the following areas covered by the consultation:
 - Proposed changes to the public consultation process
 - Controlling emissions from agriculture
 - Implementation of the sewage sludge review recommendations.

Scope for further integration, simplification and improvement of integrated regulations:

6. The Environmental Authorisations (Scotland) Amendment Regulations 2024 (the draft Regulations) will amend the Environmental Authorisations (Scotland) Regulations 2018 by integrating many extant regulations. These regulations span a significant period (over 30 years) and reflect many different regulatory approaches. In ESS' assessment, the proposed IAF largely incorporates existing regulations in their current ('as is') form into the IAF with only minor procedural revisions and standardisation undertaken. A more fundamental (and bespoke) revision and improvement of these regulations (over the longer-term) would further the degree of integration. In turn, this would strengthen the framework and further delivery of simple, proportionate and consistent environmental regulation.
7. ESS notes the limited application of General Binding Rules (GBRs) for waste management activities and alternative proposals to use 'low-risk waste positions'. The

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scope for when such positions would apply is broadly similar to that of GBRs; ‘...for common, low-risk, activities where the administrative burden of notifying SEPA is disproportionate’. The use of low-risk waste positions (purely for waste activities) could create a mismatch between ‘regimes’ and imbalance the framework. ESS recognise the need for proportionality in relation to regulatory effort. However, ESS suggests that further consideration is given to the balance of proportionate regulatory effort against the need for consistent and balanced application of the IAF.

Adaptiveness of Regulations:

8. As previously set out, the current draft regulations integrate many extant regulations, which originate from EU Directives. If Scotland is to keep pace with developments in environmental law and maintain alignment with EU environmental standards (as the Scottish Government has committed to), it is likely that the Environmental Authorisation (Scotland) Regulations will require frequent amendment. For context, from 2013 to 2023 (inclusive), the regulations to be integrated were amended a total of 102 times, representing an average of nine amendments per year. This high degree of change is compounded by the current pace of development at an EU level, with revisions to many of the core directives underway (including the Waste Framework Directive, Water Framework Directive and Industrial Emissions Directive).
9. ESS recognises the greater efficiency afforded by the IAF through updating a single legislative instrument often. This should allow greater responsiveness and capacity to adapt to a high frequency of change. However, ESS would emphasise the importance of ensuring any advancements in environmental law and standards are enshrined in a timely manner with no undue lag. ESS will continue to monitor developments in this area and how Scotland keeps pace with EU environmental standards.
10. The insertion of GBRs directly into the Regulations has the potential to restrict the ability for these to be readily and adaptively updated, with legislative amendment the only route by which these can be altered. Given the detailed and prescriptive nature of the drafted GBRs, there is a risk that they could become outpaced or become unfit for purpose. This effect is compounded by the integration of multiple regimes and increased number of GBRs. It is therefore key that consideration is given to the

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adaptiveness of the framework and how potential barriers to future adaptation can be minimised. This will ensure that the IAF remains fit for purpose into the future and delivers robust environmental protection.

Transparency and accessibility of general binding rules:

11. The draft regulations include GBRs for the purposes of regulating environmentally low-risk activities. Compliance with a GBR confers compliance with the regulations and there is no requirement for a formal application to be made to SEPA. GBRs cover a wide range of environmental activities and are applicable to an equally diverse range of users (including members of the public who may have little environmental knowledge). It is therefore crucial that GBRs are presented in a transparent, accessible and easily understood format. The GBRs included in the draft Regulations are limited in meeting these needs given their technical and legalistic nature. ESS suggests that the current language and format of GBRs could limit user comprehension, compliance and ultimately effective environmental regulation.
12. The intention to use 'practical guides' to increase understanding of the GBRs is welcome. However, the language and format used in the current practical guides mirrors that of the regulations. ESS suggests simplifying GBRs (within the regulations) and maximising the simplicity of practical guides is a potential further improvement that could be explored to enhance delivery of a transparent, accessible and easily understood set of regulatory requirements.

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Public consultation process

13. ESS is supportive of the proposed amendments to the public consultation process and call-in procedure given the improved public participation and increased ability for an individual to input to environmental decision making. Combined, this will help embed the principles of the Aarhus Convention. However, ESS would caution that early public consultation and engagement must be meaningful, with sufficient detail of any proposed application available to interested parties.

Controlling emissions from agriculture:

14. ESS have recently published a [report](#) outlining its analysis of the efficacy of Scotland's current legal framework for the air pollutant particulate matter. Particulate matter is one form of air pollution that has a detrimental impact on human health and the environment. The report recommends that action to reduce emissions of particulate matter must be broadened (from the current focus on transport) to a wider range of sectors including industry, residential combustion and agriculture.
15. Agricultural emissions of ammonia are a precursor (and pathway to the formation) of particulate matter. ESS is therefore strongly supportive of action to reduce agricultural ammonia emissions and would welcome further discussion to share the findings of our analysis.

Implementation of sewage sludge review recommendations:

16. ESS have considered (following a public representation) the delayed implementation of the recommendations contained within the Scottish Government's 2016 review of the [Storage and Spreading of Sewage Sludge in Land in Scotland](#) ('the sludge review'). During ESS' consideration, the Scottish Government confirmed that recommendations of the sludge review were due to be implemented through the IAF.
17. Upon reviewing the draft Regulations and supporting consultation packs, ESS suggests that further detail on the intended approach to implementing the following recommendations would be beneficial to provide greater clarity to the public and operators:

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- a. SEPA should be the lead agency for incidents and complaints relating specifically to sewage sludge.
- b. Investigate the practicalities of reducing the on-site storage time limit for sewage sludge from 6 months, with a view to introducing risk-based case by case variance of time limits.
- c. Consider the most appropriate means of regulating lime treatment of sewage sludge as currently undertaken through waste mobile plant licensing.

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