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Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee
Scottish Parliament
Edinburgh
EH99 1SP
By email

13 January 2025

Dear Mr Mountain,

1. Environmental Standards Scotland (ESS) welcomes the opportunity to contribute to the Committee's consideration of the Environmental Authorisations (Scotland) Amendment Regulations 2025. In this letter, we focus on the questions that the Committee posed to ESS in your letter of 4 December 2024.

Ammonia

Noting ESS' 2023 consultation response on the Regulations regarding ammonia emissions, what is ESS' view on the Scottish Government's position in the consultation analysis that it intends to progress this area through 'good practice'?

2. There is a lack of specificity in the Scottish Government's position in the consultation analysis over which of the measures identified will and will not be considered as part a promotion of good practice, and whether or not this will include regulation. This ambiguity makes it challenging to determine whether the Scottish Government's approach is likely to deliver progress on reducing ammonia emissions from agriculture.

3. The consultation analysis notes that some respondents support the use of voluntary measures, citing that these can be as effective as regulation. Any decision on the use of voluntary measures versus regulatory measures should be underpinned by evidence on the effectiveness of these two approaches with effective monitoring in place to ensure measures have a meaningful impact on ammonia emissions.
4. In August 2024, the [European Union's \(EU\) updated Directive on industrial and livestock rearing emissions](#) entered into force. This revised Directive seeks to reduce emissions (including ammonia) from large industrial installations and pig and poultry farms, in line with the EU's 'Zero Pollution' ambition. By the end of 2026, the European Commission plan to publish a report on the rearing of livestock with solutions to more comprehensively address the related emissions. The Scottish Government should consider implications for Scottish policy and legislation from the updated Directive and its implementation.

Has ESS met with the Scottish Government to discuss this issue and made further recommendations about how issues with ammonia and air quality should be tackled?

5. The Scottish Government and SEPA have responded to ESS' recommendations on particulate matter, stating that WHO guidelines on thresholds and reviewing monitoring approaches will be considered as part of the development of a successor to the Cleaner Air for Scotland 2 Strategy.
6. ESS met with both organisations, following receipt of their responses, and has subsequently [published a statement setting out ESS' view on the Scottish Government and SEPA responses](#).
7. ESS has not made any further recommendations on ammonia or air quality at this time. ESS will assess the extent to which its recommendations on air quality limits and monitoring are included in the next Scottish Government air quality strategy when it is published.

Sewage sludge

Noting ESS has published a report on soil quality (including recommendations on sewage sludge) since the consultation on these Regulations, do you have any comments on the Regulations or wider approach to sewage sludge? Specifically, have you discussed your recommendation with the Scottish Government regarding the need for further research in this area?

8. In March 2024, [ESS responded to the Scottish Government's consultation](#) on proposals to incorporate SEPA's four main regulatory regimes into a single Integrated Authorisation Framework (IAF). The response noted that 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.
9. In the above consultation response, ESS suggested that further detail on the intended approach to implementing the following recommendations would be beneficial to provide greater clarity to the public and operators:
 - 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.
10. The ESS soil report noted that the proportion of sewage sludge spread on land is relatively low in Scotland. However, there is a lack of primary research studies which assess the risk of contamination associated with sewage sludge spreading in Scotland. In particular, there remains a lack of research and monitoring of persistent organic pollutants (such as PFAS and PCBs) associated with sewage sludge. For this reason,

ESS recommended that the Scottish Government, in association with the wider public sector, commission research to address identified gaps in the evidence base.

11. The Scottish Government is currently considering the recommendations in ESS' soil report, and we expect a response by the end of April 2025. ESS has not yet discussed the recommendations further with the Scottish Government. We intend to follow up with the Scottish Government once we receive their response.

12. The [James Hutton Institute \(JHI\) published an update to their 2016 risk assessment on sewage sludge on 5 December 2024](#). This report also concludes that further research on the environmental risks associated with sewage sludge spreading in terms of microplastics, persistent organic pollutants and pharmaceuticals is required. Given that the Scottish Government consultation analysis cites the 2016 JHI report (which did not identify new or increased risks from sewage sludge) in setting out their proposed response and next steps, it is unclear how the Scottish Government have reviewed and revised their position in light of this new report.

Changes to public consultation and call-in procedure

Noting ESS's comments in its consultation response regarding public consultation and Aarhus compliance, what is ESS's view on the changes to the 'call-in' procedure in the 2018 Regulations, removing the requirement for SEPA to notify third party objectors of its intention to determine an application, notify Scottish Ministers of that objection, and wait 21 days to allow for a decision to be made regarding use of call in powers? How, in your view, is this 'balanced' by the increased provision for pre-application consultation, with respect to the overall picture on access to environmental information and justice?

13. ESS commented on the changes to public consultation and the call-in procedure in [ESS' response to the Scottish Government's consultation](#) on proposals to incorporate SEPA's four main regulatory regimes into a single Integrated Authorisation Framework (IAF). 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

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engagement must be meaningful, with sufficient detail of any proposed application available to interested parties.

Are there any other ESS reports or live investigations relevant to these Regulations that you would like to highlight to the Committee?

14. There are currently no live ESS investigations directly relevant to these Regulations, however they remain relevant to a range of representations and investigations that ESS has considered. In May 2023, ESS published a statement on [Consideration of the delayed implementation of recommendations contained within the Review of the Storage and Spreading of Sewage Sludge on Land in Scotland](#).

I hope this information is useful in the Committee's considerations.

Yours sincerely,

Mark Roberts
Chief Executive