

# PUBLIC PARTICIPATION STATEMENT (PPS)

## GUIDANCE UNDER THE ENVIRONMENTAL AUTHORISATIONS (SCOTLAND) REGULATIONS 2018



The Environmental Authorisations (Scotland) Regulations (EAR) are being developed in a phased manner and currently the PPS applies to radioactive substances activities (Schedule 8) only.

## CONTENTS

<b>Is this of interest to me?</b>	<b>3</b>
<b>How we regulate</b>	<b>3</b>
<b>What is an environmental authorisation?</b>	<b>3</b>
<b>Why should I get involved?</b>	<b>4</b>
<b>When can I get involved?</b>	<b>4</b>
<b>How can I get involved in permit consultations?</b>	<b>6</b>
<b>How can I get involved in the preparation of standard conditions?</b>	<b>8</b>
<b>Who else will we work with?</b>	<b>9</b>
<b>How can I contact you?</b>	<b>9</b>
<b>Glossary of terms</b>	<b>10</b>
<b>Annex 1: Publicising and participating in a permit for public consultation</b>	<b>11</b>
<b>Annex 2: Schedule 3 Information to be included in the register</b>	<b>12</b>

## PUBLIC PARTICIPATION STATEMENT

This is our **Public participation statement (PPS)** that explains when and how we will involve the public and other interested bodies in our decisions on environmental authorisations. It will help you to understand how you can be involved.

### Is this of interest to me?

You may be interested in this statement if you are:

- **a member of the public** who lives near to an existing or proposed activity and wants to find out more about applications we are consulting on;
- **an operator** that is applying for or is a holder of an environmental authorisation;
- **a public body** with related responsibilities to protect the environment and human health;
- **an interested body** seeking information about regulated activities, who may wish to participate in the authorisation process or be kept informed of them.

By implementing this statement, we want to:

- engage with you **before a decision has been made** so that we can make **informed decisions** that take account of all relevant facts;
- engage you at the **right time** with the **right information** and with **ongoing communication** throughout the determination process (e.g. through consultation, information on our website, etc.);
- be clear on when you can influence or challenge a decision and make it simple to **make your views known**;
- improve transparency by ensuring that you have **access to information** about the activities we authorise and their compliance;
- encourage **operators to engage with their communities** and to be good neighbours;
- make additional arrangements for participation for those sites or activities that attract a **high level of public interest** (see Annex 1).

Our level of engagement with you will vary depending on the activity and the environmental authorisation being applied for.

### How we regulate

As Scotland's principal environmental regulator, we regulate certain activities that could impact on the environment or human health. We authorise these activities subject to certain conditions and check compliance with our authorisations by carrying out audits, inspections and monitoring. Where necessary we take enforcement action to ensure authorisations are complied with and the environment and people are protected.

We help authorisation holders and individuals to understand and comply with environmental regulations and, where possible, realise the economic and social benefits of good environmental practice. We expect that the best businesses will already involve their communities and be good neighbours.

### What is an environmental authorisation?

Some activities can potentially be harmful to the environment and human health and require an environmental authorisation. These authorisations set out conditions so that activities are carried out to minimise pollution and environmental damage.

Activities that require an authorisation before they can be carried out include:

- those with the potential to cause **pollution** such as factories, waste management sites and intensive agriculture;
- **abstraction of water** for activities such as agricultural irrigation and hydro schemes;
- **building and engineering** works affecting inland waters such as building flood defence schemes and engineering works on river banks.

Different types of environmental authorisation exist depending on the scale and nature of activities (see Table 1). All these types of authorisations include rules or conditions that aim to protect the environment and people.

Table 1 – Types of environmental authorisation

Type of authorisation	What does the authorisation cover?	What controls are in place?
<b>Permit</b>	Permits regulate activities that: <ul style="list-style-type: none"> <li>■ may have environmental and community impacts;</li> <li>■ are non standard;</li> <li>■ are complex;</li> <li>■ need rigorous assessment.</li> </ul>	Permits place conditions on the authorised person to ensure the activity can take place in ways that protect the environment and human health. These may be standard conditions or bespoke conditions.
<b>Registration</b>	Registration activities are lower risk and a simple assessment can take place to enable us to grant or refuse the application.	A set of standard conditions will apply to a particular activity and the registration will contain no bespoke conditions.
<b>Notification</b>	Low risk activities that we do not need to grant or refuse the authorisation for, but where we need to know where and when certain activities take place to understand the potential for cumulative effects or for reporting purposes.	General Binding Rules (GBRs) may apply to certain activities.
<b>General Binding Rule (GBR)</b>	Low risk activities that need to be carried out in accordance with a set of GBRs.	GBRs authorise an activity automatically without any prior contact or agreement from us.

### Why should I get involved?

We recognise you may be affected by some of the activities we regulate and have local knowledge and insight. Involving you will ensure that we benefit from this insight. Similarly, involving public and other bodies that have specialist or local knowledge is invaluable in helping us regulate effectively.

While we have technical expertise that enables us to understand the activities and their potential impacts on the environment and people, we want to use your specialist knowledge or knowledge about what is happening in your local environment to help us make better decisions.

### When can I get involved?

There are two ways in which you can get involved: (i) through consultations on applications we receive for some permits (see *How can I get involved in permit consultations?*) and (ii) through consultations on proposals to make or change standard conditions. We will also make information available and as far as possible this information will be made available on our [website](#). Please note that commercially confidential information or that subject to national security **will not** be made available.

**Table 2 – When will you be consulted and when will we provide information\***

Type of authorisation	When will we consult and what information will we make available?
<p><b>Permit</b> Longer determination period (normally four months or less)</p>	<p><b>We will consult on:</b></p> <ul style="list-style-type: none"> <li>■ some permit applications and draft permits (see section '<i>How can I get involved in permit consultations?</i>');</li> <li>■ proposed standard conditions that will be used in permits.</li> </ul> <p><b>We will make available:</b></p> <ul style="list-style-type: none"> <li>■ all permit applications (including surrenders, variations and transfers);</li> <li>■ draft decision documents and draft permits in some cases;</li> <li>■ all granted permits;</li> <li>■ responses to a public consultation (if requested by the responder);</li> <li>■ compliance history under our Compliance Assessment Scheme for the permit;</li> <li>■ any completed enforcement action taken by SEPA;</li> <li>■ all standard conditions and associated guidance.</li> </ul>
<p><b>Registration</b> Determination period (28 days or less)</p>	<p><b>We will consult on:</b></p> <ul style="list-style-type: none"> <li>■ proposed standard conditions that will be used in registrations.</li> </ul> <p><b>We will make available:</b></p> <ul style="list-style-type: none"> <li>■ all applications for registrations (including surrenders, variations and transfers);</li> <li>■ all granted registrations;</li> <li>■ compliance history under our Compliance Assessment Scheme for the registration;</li> <li>■ any completed enforcement action taken by SEPA;</li> <li>■ all standard conditions and associated guidance.</li> </ul>
<p><b>Notification</b> No determination</p>	<p>The Scottish Government will consult on all draft GBRs.</p> <p><b>We will make available:</b></p> <ul style="list-style-type: none"> <li>■ all notifications;</li> <li>■ any completed enforcement action taken by SEPA;</li> <li>■ GBRs and associated guidance.</li> </ul>
<p><b>GBRs</b> Automatic authorisation</p>	<p>The Scottish Government will consult on all General Binding Rules.</p> <p><b>We will make available:</b></p> <ul style="list-style-type: none"> <li>■ any completed enforcement action taken by SEPA;</li> <li>■ GBRs and associated guidance.</li> </ul>

\*See [Annex 2](#) for what information we are required to provide under the The Environmental Authorisation (Scotland) Regulations (EAR).

## How can I get involved in permit consultations?

We will consult on those applications for permits and substantial variations to existing permits, which due to their nature or location have higher likelihood of environmental impact and community impact.

Activities that require a **permit** before they can be carried out include:

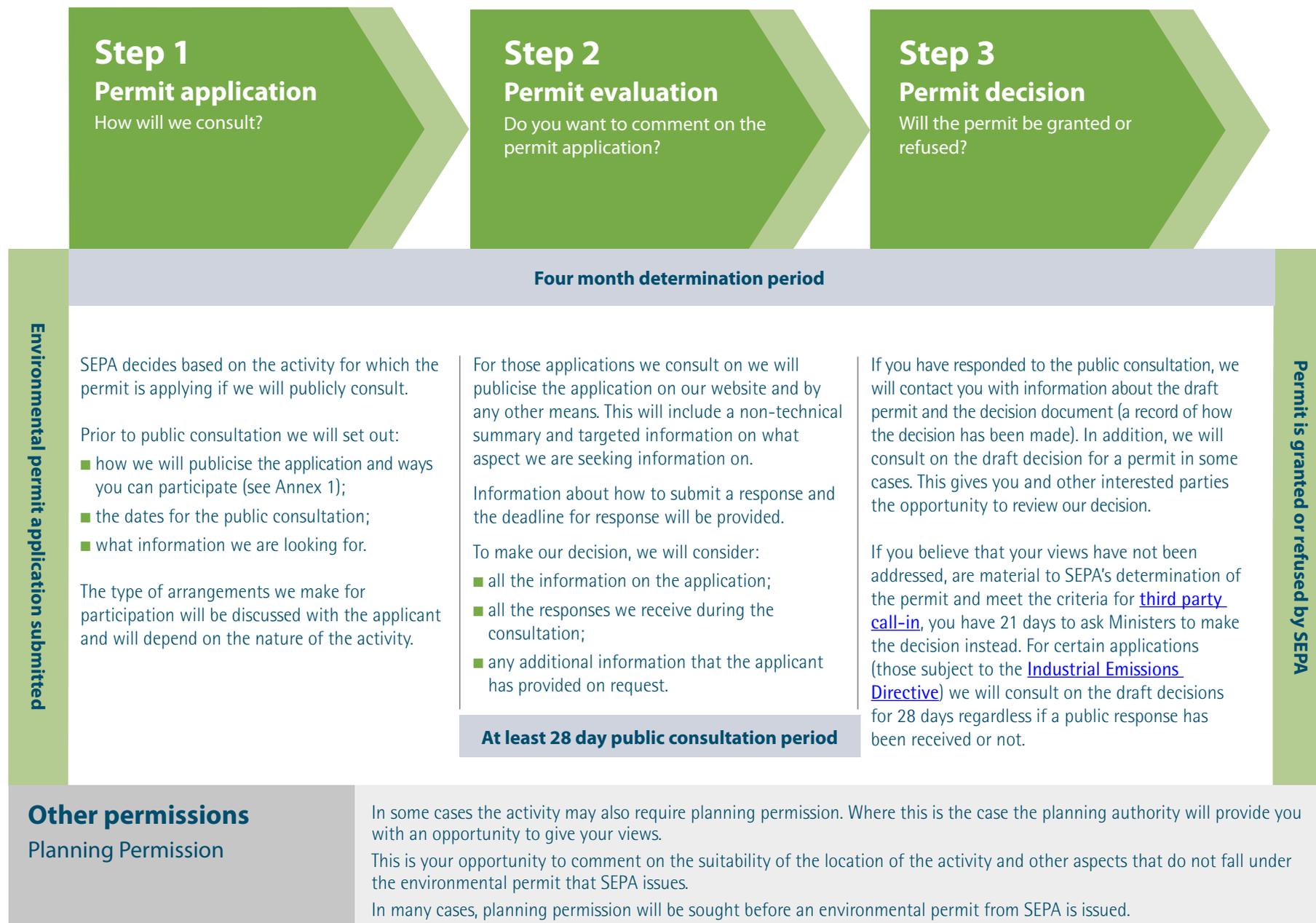
- Activities that have the potential to cause significant harm to the environment and people if not correctly managed, such as large scale energy production, intensive pig and poultry rearing, food and drink manufacturers.
- Activities that are likely to have a significant adverse impact on the water environment or the interests of other users of the water environment, such as applications for large flood defence schemes, hydropower schemes.
- Activities that due to their nature or location may have a particular local or national public interest.

Our authorisation guide will set out in more detail which permit activities we will normally consult on. We will put all our permit applications on our website subject to commercial confidentiality and national security directions. If you become aware of an application for a permit that we are not consulting on but you feel that we should be consulting on it, please [contact us](#). Our aim is to engage with you when you have an interest in a particular activity.

In most cases we will be seeking your views on **how the activity proceeds** not whether the activity goes ahead at a particular location. This **does not** imply that the activity will be permitted if it has been through the planning process, but SEPA will not consider the suitability of the location of the activity at the permitting stage if that has already been considered by the Planning Authority. Although SEPA will not consider the suitability of the location of the activity if that has already been considered by the Planning Authority it may include conditions in a permit based on where the activity is taking place. We may ask specific questions around the activity we are seeking to regulate and the environment that surrounds it. For example, we may ask you to tell us about businesses in the area that we might not know about because we do not regulate them, the type of recreational activities that take place in the area or if places around you are prone to flooding. This will help us form a more complete picture of what impacts might occur.

It is our aim to determine permits within four months (including the public consultation period of at least 28 days). When we will take longer to determine a permit we will agree this with the applicant from the outset. This may include some cases where we think we need a longer public consultation period and this is agreed with the applicant. The four month period does not include the process of [third party representations](#) whereby respondents have 21 days to ask Scottish Ministers to determine the permit instead.

Figure 1 – Application process for a permit



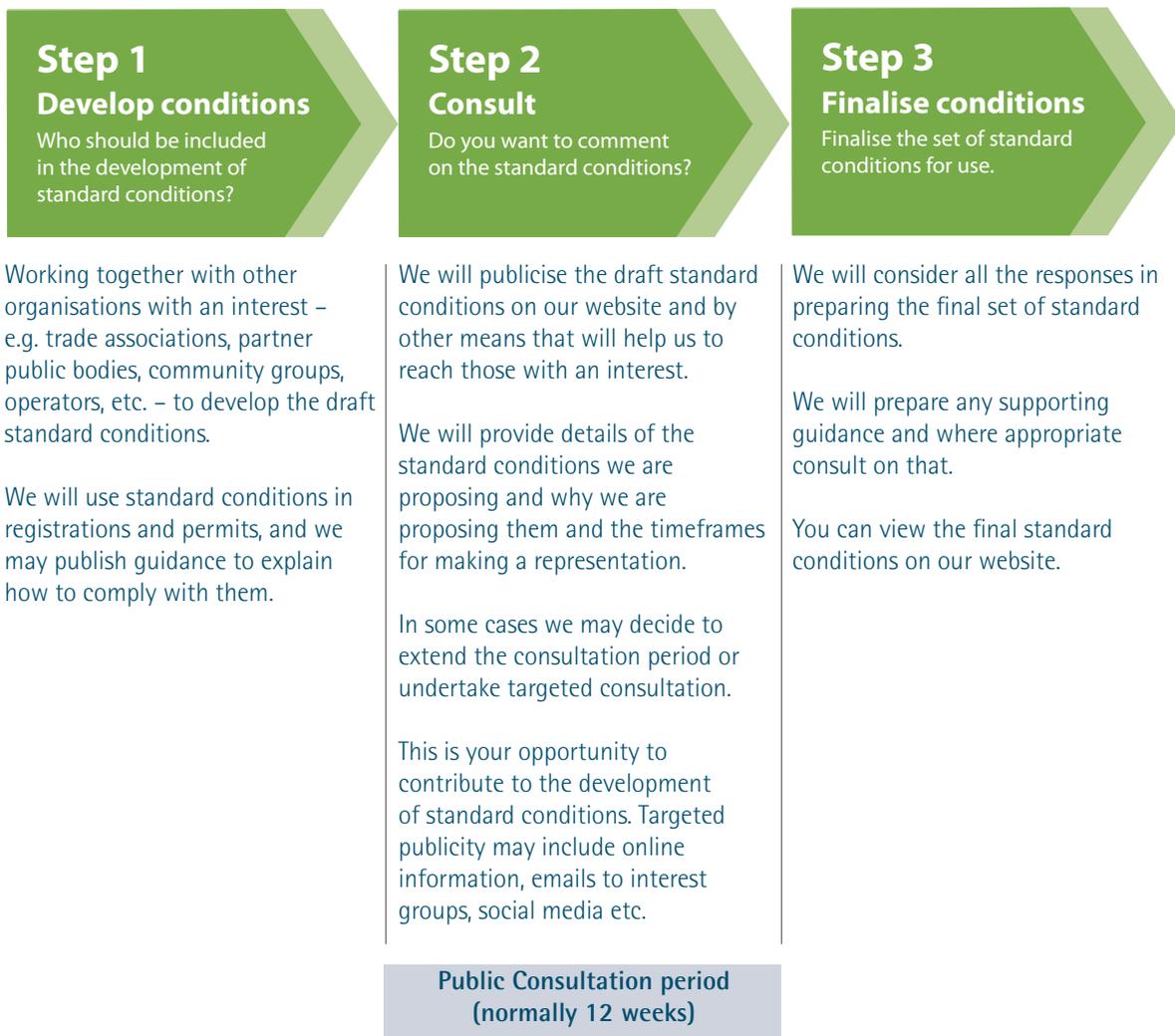
### How can I get involved in the preparation of standard conditions?

Standard conditions are a set of rules that an applicant must comply with. They are used to control activities that are fairly consistent from site to site (e.g. emissions from petrol stations or emissions of solvents used in dry cleaning). Standard conditions will be used for all registrations and some permits. We will consult you when developing or changing the standard conditions we use.

In developing standard conditions, we will engage with those operators affected by them, any trade bodies that represent them and any other interested parties. We will, normally, publically consult on all proposed standard conditions for at least 12 weeks. If we are making amendments to existing conditions we will take a similar approach to consultation. If the changes are administrative changes we will not consult.

The Scottish Government will follow a similar process for preparing and consulting on proposed GBRs.

Figure 2 – Developing standard conditions



### Who else will we work with?

SEPA works in partnership with several public bodies in determining certain permit applications. These include:

- fisheries boards;
- food Standards Scotland;
- health and Safety Executive;
- health boards and Health Protection Scotland;
- local authorities;
- National Park authorities;
- Office for Nuclear Regulation;
- Police Scotland;
- Scottish Natural Heritage;
- Scottish Water;
- other relevant organisations.

We will involve our public body partners in our decision making. Working with other experts ensures that we understand all aspects of our decision. For example, Scottish Natural Heritage can tell us if there is a site of special scientific interest (sites that best represent our natural heritage) that would be compromised by the conditions we propose to put in the permit.

We will work in a collaborative way with our partners and we will make sure advice that is relevant to the decision being made is recorded and made available to the public. It is important that others have access to the advice given by our public body partners.

### How can I contact you?

#### Environmental Information Regulation

If you want information from us that we have not already made available to the public you can request it. To submit a request for information, you can contact our team directly using the contact details below.

Access to Information team  
Strathallan House  
Castle Business Park  
Stirling  
FK9 4TZ  
Tel: 01786 457700  
Email: [foi@sepa.org.uk](mailto:foi@sepa.org.uk)

#### Registry

If your interest relates to a specific permit or if you want to contact us about this statement, then you can contact us using the details below.

#### Registry team

Tel: 03000 99 66 99  
Email: [registry@sepa.org.uk](mailto:registry@sepa.org.uk)

## Glossary of terms

<b>Appeal</b>	The opportunity provided for the applicant to dispute certain actions or decisions made by SEPA, by appealing to the Scottish Ministers.
<b>Application</b>	A submission made to SEPA, for example to seek the granting of a new permit, surrender of a permit, variation of the conditions of a permit or transfer of a permit.
<b>Authorise</b>	In relation to regulated activities, it means giving permission to carry out the activities in accordance with a permit, registration, notification or compliance with general binding rules.
<b>Determination</b>	The process by which SEPA decides whether or not to grant an authorisation, for example by issuing a permit with appropriate conditions or by refusing the permit.
<b>Determination period</b>	The period within which SEPA must determine an application.
<b>Environmental Authorisations Regulations (EAR)</b>	Environmental Authorisations (Scotland) Regulations 2018 (EAR).
<b>General Binding Rules (GBRs)</b>	A set of mandatory rules that cover specific low risk activities. Activities complying fully with the rules do not require an application to be made to SEPA, although we can take enforcement action where activities are not being undertaken in compliance with GBRs.
<b>Publish</b>	Publish on SEPA's website, unless otherwise indicated.
<b>Regulated activity</b>	Any activity to which the Environmental Authorisations (Scotland) Regulations 2018 applies.
<b>Standard conditions</b>	A set of standard rules, generally applicable to a particular type of activity, which must be complied with.
<b>Substantial variation</b>	A change in operation which, in the regulator's opinion, may have significant negative effects on people or the environment.
<b>Third party call-in</b>	The opportunity for third parties to object to the proposed determination. Where SEPA receives written representations from third parties following consultation on an application, we are obliged to serve notice on any third party who made such a representation giving them 21 days to notify Scottish Ministers if they object to our proposed determination. If Scottish Ministers receive such a notification, they may direct SEPA to refer the application to them for their own determination (or "call in" the application), provided certain criteria are met. The criteria are set out in a third party representations policy statement. ( <a href="https://www.gov.scot/Resource/0053/00538602.pdf">https://www.gov.scot/Resource/0053/00538602.pdf</a> )

## Annex 1: Publicising and participating in a permit for public consultation

SEPA will outline in the Authorisation Guide which activities it intends to consult the public on. For each consultation the means to engage the public will depend on the site and activity (see Figure 1, on the steps of a permit application). We will always publicise the permit application on our website. In conjunction with the potential operator, we will choose the best way to advertise the application for permit, such as:

- advertisement in newspaper;
- dedicated project websites, media releases, fact sheets, freephone community information numbers, social media;
- site visits and open houses;
- newsletters, posters, surveys posted to homes and businesses in the local area, community councils and relevant stakeholder groups.

In certain circumstances, we will also consider activities for more active participation by yourself, this could include:

- public meetings and exhibitions;
- focus groups and workshops.

## Annex 2: Schedule 3 Information to be included in the register

Information to be included in the register (from [The Environmental Authorisations \(Scotland\) Regulations 2018](#))

### Information

1. The particulars specified in regulation 12(3)(c) of any notification made to SEPA that a regulated activity is being, or is proposed to be, carried on.
2. Any application made to SEPA for a registration.
3. Any application made to SEPA for a permit.
4. Any application made to SEPA for variation of a permit or a registration.
5. Any application made to SEPA for transfer of a permit or registration.
6. Any application made to SEPA for surrender of a permit or registration.
7. Any modifications accepted by SEPA to an application.
8. Any notice of surrender of a notification received by SEPA.
9. Any application for consolidation of a permit or registration.
10. Any consultation carried out by SEPA.
11. Any representations made to SEPA—
  - (a) in response to a consultation by SEPA as part of its public participation functions; and
  - (b) where the person who made the representations requests these to be made available to the public at the time when representations are made.
12. Any notice given to SEPA by an authorised person required by these Regulations.
13. Any permit or registration granted by SEPA.
14. Any variation, transfer, consolidation or surrender of a permit or registration made or granted by SEPA.
15. Any revocation by SEPA of an authorisation.
16. Any regulatory notice issued by SEPA.
17. Any costs recovery notice issued by SEPA.
18. Any fixed monetary penalty imposed by SEPA.
19. Any variable monetary penalty imposed by SEPA.
20. Any VMP undertaking accepted by SEPA.
21. Any non-compliance penalty imposed by SEPA.
22. Any enforcement undertaking accepted by SEPA.
23. Any certificate of non-compliance issued by SEPA.
24. Any notice served by SEPA withdrawing, varying or revoking another notice served by SEPA under these Regulations.
25. Any notice of appeal against a decision by or notice issued by SEPA.
26. The grounds of appeal submitted by the appellant.
27. Any correspondence between the appellant and SEPA in connection with the appeal.
28. Any representations made by any person in response to a notice by SEPA under paragraph 6 of schedule 4 advising of an appeal, but only if, or to the extent that, the person requests that these be made available to the public at the time when the representations are made.
29. Any determination of an appeal, including any report accompanying a determination.
30. Any information relating to the monitoring of emissions or other parameters held by SEPA and provided by an authorised person in compliance with a condition of an authorisation.
31. Any other information given to SEPA in compliance with a condition of a permit or registration, or a general binding rule, or a notice.
32. Any information held by SEPA as a result of its monitoring of emissions or compilation of information relating to the environment, but only in so far as it relates to—
  - (a) emissions from a regulated activity; or
  - (b) the impact on the environment from a regulated activity.
33. Any licence, permit, registration or authorisation granted by SEPA which ceased to have effect on either—
  - (c) the coming into force of these Regulations; or
  - (d) the grant of an authorisation.
34. Any direction given to SEPA by Scottish Ministers under these Regulations.
35. The information referred to in paragraph 30(d) of schedule 8 (information relating to dose estimates).
36. Information relating to the regulation of radiation sources.
37. Any outline of a radioactive substances activities programme of inspections (as defined in schedule 8).
38. A summary of the main findings from the implementation of the radioactive substances activities inspection report.

In this schedule, "fixed monetary penalty", "variable monetary penalty", "VMP undertaking", "enforcement undertaking", "non-compliance penalty" "certificate of non-compliance" and "notice of intent" have the same meaning as in the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015<sup>(1)</sup>.



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### Further Information

#### Scottish Environment Protection Agency

[www.sepa.org.uk](http://www.sepa.org.uk)

Tel: 03000 99 66 99

 [ScottishEnvironmentProtectionAgency](https://www.facebook.com/ScottishEnvironmentProtectionAgency)

 [ScottishEPA](https://twitter.com/ScottishEPA)

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For information on accessing this document in an alternative format or language please either contact SEPA by telephone on 03000 99 66 99 or by email to [equalities@sepa.org.uk](mailto:equalities@sepa.org.uk)

If you are a user of British Sign Language (BSL) the Contact Scotland BSL service gives you access to an online interpreter enabling you to communicate with us using sign language.

<http://contactscotland-bsl.org/>