

**Principles for Regulatory Approach to EU Exit and COVID-19**

Background

SEPA is committed to supporting everyone we regulate during EU Exit and COVID-19 in ways that maintain protection for Scotland's environment. We will listen, and quickly respond to any challenges as they emerge, and encourage early dialogue with us to achieve shared solutions. We are issuing these Principles to provide clarity on our regulatory approach to EU Exit and COVID-19 and, in particular, on when we will consider taking a temporary regulatory position in relation to these unusual circumstances.

In relation to EU Exit, SEPA has been planning for all eventualities and has put mechanisms in place to manage issues that may arise as a result of the UK leaving the EU, including how we will respond to a no deal exit. The Scottish Government has been clear in its commitment to maintain or enhance Scotland's environmental commitments.

In relation to COVID-19, SEPA recognises that during a significant outbreak, the ability of operators to run their operations may be compromised by a lack of available staff, and/or the need to protect staff and minimise transmission of the COVID-19 virus..

SEPA Principles

SEPA expects people to have business continuity arrangements in place to ensure compliance with their SEPA permit or other environmental regulatory requirements during EU Exit and COVID-19. We are clear we expect everyone we regulate to continue to comply with Scotland's environmental laws.

Where compliance with a SEPA Permit or other regulatory requirement is not possible for an individual site(s), a type of activity or for a sector, we may temporarily take a regulatory position that any failure to comply with those requirements will not be treated as a non-compliance for compliance assessment or enforcement purposes. This will be where that non-compliance is unavoidable and solely as a direct result of the impact of EU Exit and/or COVID-19 and will not lead to significant environmental harm.

We are only likely to consider taking a temporary regulatory position if the person contacts us at an early stage to advise us of a non-compliance or potential non-compliance, and we are satisfied that:

- they have taken all reasonable steps to try and maintain compliance;
- they will adequately manage any risks of harm to the environment or human health arising from the non-compliance.

If we take a temporary regulatory position, we expect the person to:

1. Tell us as soon as possible when they have, or will, become non-compliant;
2. Comply with conditions attached to a temporary regulatory position
3. Continue to meet all other Permit conditions or other environmental regulatory requirements not covered by a temporary regulatory position
4. Return to compliance as quickly as possible. Any temporary regulatory position we take is likely to be time limited (normally to three months) but if the person can return to compliance quicker we will expect them to do so;

5. Prevent and mitigate harm to the environment or human health;
6. Follow the waste hierarchy in making waste management decisions and when waste is sent for re-use, recycling or disposal send it to a suitably authorised site.

**Where we take a temporary regulatory position we reserve the right to depart from it and to take appropriate action to avoid any risk to human health and the environment.**

**The terms of any temporary regulatory position may be subject to periodical review and be varied or withdrawn, for example in light of changes in circumstances during EU Exit or COVID-19; technological, regulatory or legislative changes; future government guidance; or experience of its use.**

**SEPA reserves its discretion to depart from these Overarching Principles and any temporary regulatory position at any time for example in order to take appropriate action to avoid any risk of pollution or harm to human health or the environment.**

**SEPA will generally provide notice in advance of its intention to vary or withdraw any temporary regulatory positions, but on occasions may require to do so without providing notice.**

We will normally publish temporary regulatory positions on our website but may choose not to in certain circumstances