

**Environmental performance assessment scheme (EPAS)**

31 March 2025

* **Respondent information form**
* **Consultation response**

# Your response

If you can, our preference is for you to respond to this consultation using our online [consultation hub](https://consultation.sepa.org.uk/). If this is not possible, please complete the:

* Respondent information form, and your
* Consultation response.

Once complete, please submit to [epas@sepa.org.uk](mailto:epas@sepa.org.uk) or post to the following address:

SEPA

Angus Smith Building

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4 Parklands Avenue

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Your response must be received by the closing date of **Monday 30th June**.

## Handling your response

By submitting your response to this consultation, you give us permission to analyse and include your response in our results.

We would like to know if you are happy for your response to be made public. If you ask for your response not to be published, it will be regarded as confidential and treated in accordance with our published [Privacy Policy](https://www.sepa.org.uk/help/privacy-policy/).

If you would like this document in an accessible format, such as large print, audio recording or braille, please contact us by [email](mailto:epas@sepa.org.uk) or telephone 0300 099 6699.

# Respondent information form

Please note that this form **must** be completed and returned with your response.

To find out how we handle your personal data, please read our [privacy policy](https://www.sepa.org.uk/help/privacy-policy/).

1. What is your name?
2. What is your email address?

Your email address will never be published.

1. Are you responding as an individual or on behalf of an organisation?

* Individual or member of the public
* Organisation

**If you are responding as an individual or member of the public, proceed to question 8.**

1. What is your organisation’s name? (Do not use abbreviations)
2. Which of the following best describes your organisation as a respondent to this consultation?

* Small or medium-sized business (SME)
* Large business or corporation
* Industry trade body
* Representative organisation or chartered professional body
* Environmental consultancy or professional advisor
* Non-governmental organisation (NGO) or charity
* Academic or research institution
* Public sector or government agency
* Community group
* Other (please specify)

1. If you are an industry trade body, representative organisation or chartered professional body, how many members do you have?
2. Which of the following best describes your organisation or which sector or sectors you represent? Please tick all that apply.

### Farming and forestry

* Animal or dairy production
* Crop production
* Marine or freshwater pen fish farming
* Forestry

### Energy

* Energy generation from burning fuel, refining oil etc
* Energy generation from water
* Nuclear power generation and/or decommissioning

### Water supply and waste water

* Water supply
* Waste water

### Waste / Materials recovery

* + Landfill
  + Materials recovery
  + Waste collection transportation and storage

### Manufacturing or processing of:

* + Chemicals
  + Drinks including whisky
  + Food
  + Wood
  + Metals
  + Minerals
  + Packaging
  + Oil and gas

### Other

* + Construction
  + Defence
  + Healthcare and clinical
  + Mining and Quarrying
  + Retail
  + Wholesale or distribution

If your sector is not listed, please specify:

1. Are you happy for us to publish your response to this consultation?

* Yes, publish response with name. If you are responding on behalf of an organisation, your organisation’s name will be published.
* Yes, publish response only (without name). This option can only be selected if you are an individual or member of the public.
* No, do not publish response

If you would like to receive further information from us, you can subscribe to a [monthly email newsletter](https://www.sepa.org.uk/help/sepa-update-sign-up/) that can be tailored to the following topics: business, towards net zero or water environment. You can follow also follow us on our social channels [Facebook](https://www.facebook.com/ScottishEnvironmentProtectionAgency/), [LinkedIn](https://www.linkedin.com/company/scottish-environment-protection-agency), [Instagram](https://www.instagram.com/scottishepa/) or [X](https://x.com/ScottishEPA), or view our latest news on our [news centre](https://beta.sepa.scot/news/).

# Consultation response

There are 22 questions in this consultation.

## Section 5: What is the environmental performance rating?

There are three environmental performance ratings: good, below expectations and unacceptable.

**Question 1:** How far do you agree or disagree with the three proposed environmental performance ratings of good, below expectations and unacceptable?

* Strongly agree
* Agree
* Neither agree nor disagree
* Disagree
* Strongly disagree

Please provide reasons for your views

## Section 6: Compliance

Major non-compliance criteria for the nine regulatory regimes proposed to be included in the first phase of EPAS can be viewed in Annex 4.

**Question 2:** Do you have any concerns with what we propose to categorise as ‘Major non-compliant’?

* Yes, I have some concerns
* No, I have no concerns
* I need more information

If you have any concerns, which major non-compliance criteria do they relate to?

* Marine and freshwater pen fish farms, CAR
* Water resources: abstractions and impoundments of water, including the installation and operation of boreholes, CAR
* Engineering, CAR
* Point source discharges (excluding sewage), CAR
* Waste Water Treatment Works (public and private), CAR
* Sewer Network Licences, CAR.
* Industrial activities, PPC
* Waste, WML
* Radioactive substances, EASR

Please tell us what additional information, support or guidance would address your concerns?

## Section 7: Time taken to resolve compliance issues

We think that how long an operator takes to resolve compliance issues matters. A longer time in non-compliance places the environment at greater risk and undermines other operators that invest to remain compliant.

**Question 3:** How important do you think it is to include the length of time taken to resolve compliance issues within the environmental performance assessment?

* Very important
* Quite important
* Neither important nor unimportant
* Not very important
* Not important at all
* Don’t know

Please provide reasons for your views

**Rule 2: If a ‘Non-compliant’ issue is resolved within 30 days, environmental performance is rated as ‘Good’.**

Compliance issues categorised as ‘Non-compliant’ are generally of lower environmental significance. When an issue categorised as ‘Non-compliant’ is resolved quickly, we think it is fair that an operator retains a ‘Good’ performance rating. We have proposed 30 days is an appropriate time for an operator to resolve any issues categorised as ‘Non-compliant’. We think this will act as an incentive for operators to resolve any non-compliance quickly. This does not apply for any issue categorised as ‘Majornon-compliant’ or where a Category 1 or 2 environmental event has been caused, see table 4 section 9.1.

**Question 4:** In your view, how many days should an operator have to resolve an issue categorised as ‘Non-compliant’ and still retain a ‘Good’ performance rating?

* No time at all – operators should not retain a good performance rating if they are non-compliant
* Less than 30 days
* 30 days is about right
* More than 30 days
* Don’t know

Please provide reasons for your views

If you think operators should be allowed more or less than 30 days, how many days do you think is appropriate? Please enter number of days.

**Rule 4: If a ‘Non-compliant’ issue took more than 180 days to resolve, environmental performance is rated as ‘Unacceptable’.**

Compliance issues categorised as ‘Non-compliant’ are generally of lower environmental significance. Therefore, we think it is appropriate that operators have a longer time to resolve issues categorised as ‘Non-compliant’ before being rated as ‘Unacceptable’. However, it is still important that operators meet all their legal environmental requirements. Therefore, if an operator takes longer than 180 days (approximately 6 months) to resolve an issue that is generally of lower environmental significance, we think it is fair for operators to be rated as ‘Unacceptable’. If ongoing environmental harm caused equates to a Category 1 or 2 environmental event, an operators’ performance will be rated as ‘Unacceptable’ immediately as stated in rule 8, table 4 section 9.1.

**Question 5:** How many days should an operator have to resolve an issue categorised as ‘Non-compliant’ before their environmental performance is rated as ‘Unacceptable’?

* Less than 180 days
* 180 days is about right
* More than 180 days
* Don’t know

Please provide reasons for your views

If you think operators should be allowed more or less than 180 days, how many days do you think is appropriate? Please enter number of days.

**Rule 6: If a ‘Major non-compliant’ issue took more than 30 days to resolve, environmental performance is rated as ‘Unacceptable’.**

Compliance issues categorised as ‘Major non-compliant’ are of higher environmental significance. Therefore, we think it is appropriate that operators have a shorter time to resolve issues categorised as ‘Major non-compliant’ before being rated as ‘Unacceptable’. If environmental harm caused equates to a Category 1 or 2 environmental event, an operators’ performance will be rated as ‘Unacceptable’ immediately, see rule 8, table 4 section 9.1.

**Question 6:** How many days should an operator have to resolve an issue categorised as ‘Major non-compliant’ before their environmental performance is rated as ‘Unacceptable’?

* Less than 30 days
* 30 days is about right
* More than 30 days
* Don’t know

Please provide reasons for your views

If you think operators should be allowed more or less than 30 days, how many days do you think is appropriate? Please enter number of days.

## Section 8: Environmental harm caused

The definition of environmental harm and the types of impacts that are likely to result in a Category 1 or 2 environmental event can be viewed in Annex 5.

**Question 7:** Do you understand what a Category 1 or 2 environmental event is?

* Yes, I fully understand
* Mostly, but further information would be beneficial
* No, I do not understand

Please share your suggestions for any additional information or guidance that is needed.

**Rule 8: Caused a Category 1 or 2 environmental event, environmental performance is rated as ‘Unacceptable’.**

Category 1 or 2 environmental events are events that cause the most environmental harm. We think if an operator causes this level of environmental harm, their environmental performance should always be rated as ‘Unacceptable’ regardless of how quickly they resolve the issues that caused the environmental event.

**Question 8:** How far do you agree or disagree that causing a Category 1 or 2 environmental event should always be considered ‘Unacceptable’ environmental performance?

* Strongly agree
* Agree
* Agree, except for in exceptional circumstances
* Neither agree nor disagree
* Disagree
* Strongly disagree

Please provide reasons for your views

If you have answered agree, except for in exceptional circumstances, under what circumstances do you think an operator **should not** be rated as unacceptable despite having caused a Category 1 or 2 environmental event.

## Section 9: Applying the Environmental Performance Assessment Scheme

The environmental performance rules can be viewed in figure 2 section 5 and table 4 section 9.1 of the consultation document.

**Question 9:** How well do you understand how we are proposing to assess environmental performance?

* Very well
* Quite well
* Not well
* Not at all

Please provide reasons for your views

We think that it is important that an environmental performance rating has real time relevancy to enable everyone to take decisions based on that rating.

**Question 10:** How far do you agree or disagree that real time relevancy is important to enable everyone to take decisions based on an operators’ environmental performance rating?

* Strongly agree
* Agree
* Neither agree nor disagree
* Disagree
* Strongly disagree
* Don’t know

Please provide reasons for your views

The Compliance Assessment Scheme that ran from 2009 to 2019 rated an operator for one year and did not change until the following year. We propose that an environmental performance rating lasts for 90 days so that it has real time relevancy but also lasts a sufficient length of time to be meaningful. An operator’s rating will change from ‘Unacceptable’ to ‘No known issues’ after 90 days, subject to all compliance issues being resolved. Equally, where an operator is ‘Good’ their rating will revert to ‘’No known issues’ after 90 days. We think that with easy access to performance history and the fact that a new environmental performance rating will be calculated after every compliance verification activity, a rating that lasts 90 days helps provide an accurate picture of environmental performance. Note, where any compliance issues are unresolved a ‘Below expectations’ or ‘Unacceptable’ will stay in place until we receive evidence that all compliance issues are resolved, see figure 11 (section 9.2).

**Question 11:** How far do you agree or disagree that the duration of 90 days is an appropriate timescale for an environmental performance rating to enable real time relevancy?

* Strongly agree
* Agree
* Neither agree nor disagree
* Disagree
* Strongly disagree
* Don’t know

Please provide reasons for your views

If you think an environmental performance rating should last more or less than 90 days, how many days do you think an environmental performance rating should last? Please enter number of days.

**Rule 7: If a major non-compliance is repeated and it is the same cause, environmental performance is rated as ‘Unacceptable’.**

Repeat compliance issues can indicate environmental performance issues. This is why we will have a 365-day lookback to assess repeat non-compliance or major non-compliance.

**Question 12:** How fair is a 365-day lookback period for assessing repeat compliance issues?

* Very fair
* Fair
* Neither fair nor unfair
* Unfair
* Very unfair
* Don’t know

Please provide reasons for your views

If you think a 365-day lookback period is unfair, how many days do you think is appropriate? Please enter number of days.

**Question 13:** How fair do you think the proposed Environmental Performance Assessment Scheme is?

* Very fair
* Fair
* Neither fair nor unfair
* Unfair
* Very unfair
* Don’t know

Please provide reasons for your views

## Section 10: Priority site status and compliance recovery plans

Our priorities are:

* ‘Unacceptable’ sites with no compliance recovery plan in place and
* Sites causing ongoing harm (Category 1 or 2 event), despite having a compliance recovery plan in place.

We propose to publish a list of priority sites on an ongoing basis.

**Question 14:** How far do you agree or disagree that publishing a priority sites list would drive improvements in performance?

* Strongly agree
* Agree
* Neither agree nor disagree
* Disagree
* Strongly disagree
* Don’t know

Please provide reasons for your views

Our proposals for priority site status and compliance recovery plans are set out in section 10 of the consultation document. We propose to give operators rated as ‘Unacceptable**’** 90 days to establish a compliance recovery plan that we have confirmed contains reasonable steps to resolve compliance issues before being designated as a ‘Priority site’, see figure 15 section 10. We recognise that we will need to provide guidance on what constitutes an appropriate compliance recovery plan, and that some issues can be so complex a multi-phase plan will be required; we will do this before the scheme launches.

**Question 15:** How long should an operator have to establish a compliance recovery plan before a site rated as unacceptable is listed as a ‘priority site’?

* No additional time – operators should immediately appear on a priority sites list if they are rated as ‘Unacceptable’.
* Less than 90 days
* 90 days is about right
* More than 90 days
* Don’t know

Please provide reasons for your views

If you think an operator should have more or less time to establish a compliance recovery plan, how many days do you think is appropriate? Please enter number of days.

## Section 11: Appeals

Our appeals process is set out in section 11 of the consultation document.

**Question 16:** How far do you agree or disagree our proposed appeals process is fair?

* Strongly agree
* Agree
* Neither agree nor disagree
* Disagree
* Strongly disagree
* Don’t know

Please provide reasons for your views, in particular what in your view would make the appeals process fairer.

## Section 12: How we will communicate relevant information

**Question 17:** What would you like to be able to do on an online platform to interact with us?  Please tick all that apply.

Please tick all that apply

* Able to receive notifications when performance ratings change
* Able to view past performance ratings
* Able to download current performance ratings
* Able to upload compliance information
* Able to submit appeals
* Able to download compliance information
* Able to view sites by sector
* Able to view sites by location
* Able to view sites by authorisation type
* Able to view sites by operator

Other (Please state what you would find most beneficial and why)

## Section 13: Next steps to launch EPAS

**Question 18:** Do you think the overall impact of EPAS for Scotland’s environment will be:

* Extremely positive
* Mostly positive
* Minimal or neutral impact
* Mostly negative
* Extremely negative
* Don’t know

Please provide reasons for your views

**Question 19:** What impact do you think EPAS will have on your business or organisation?

* Extremely positive
* Mostly positive
* Minimal or neutral impact
* Mostly negative
* Extremely negative
* Don’t know
* This question does not apply to me
* How could EPAS be improved to better support your operations?

We recognise that some operators voluntarily go beyond legal requirements to reduce their impact to the environment and tackle pressing challenges such as biodiversity loss and climate change. We are considering whether EPAS should include a rating that acknowledges and recognises these proactive efforts, and if so, how this could work in practice.

**Question 20:** How important do you think it is that EPAS should recognise voluntary actions that go beyond compliance?

* Very important
* Important
* Neither important nor unimportant
* Unimportant
* Very unimportant
* Not appropriate
* Don’t know

**Question 21:** What factors should we consider if we were to introduce a performance rating that acknowledges these proactive efforts?

**Question 22:** Do you have any other important suggestions, opportunities or concerns around EPAS that you would like to highlight?