

# Consultation on proposals to change subsistence fees for Materials Facilities

July 2024



## Contents

1	Overview .....	4
2	Why we are consulting? .....	4
3	Proposal to change the annual subsistence charge for material facility operations.....	5
	3.1 Charges applicable under the 2015 Code.....	5
	3.2 Charging proposal under the New Code .....	5
	3.3 What is included in the subsistence charge? .....	6
4	How have the charges been calculated?.....	6
	4.1 Our approach to assessing compliance with the New Code .....	6
	Desk-based data audits.....	6
	On-site audits .....	7
	On-site sampling analysis audits .....	7
	4.2 Questions.....	7
	4.3 What is not included in the charge? .....	7
	4.4 Interim arrangements .....	8
5	What are the components for the new charging scheme?.....	9
	5.1 Charging Changes .....	9
	5.2 Retail Price Index (RPI) increases .....	10
	5.3 Questions.....	10
6	Responding to this consultation.....	10
	6.1 How to respond.....	10

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# 1 Overview

The Scottish Environment Protection Agency (SEPA) is Scotland’s principal environmental regulator, protecting and improving Scotland’s environment. We charge the businesses we regulate for the work we do to regulate them. We are committed to making sure our charges are fair and transparent. We want them to reflect the full cost of the chargeable services we provide. To achieve this, we propose to amend the additional subsistence charge for materials facilities operations to make sure we fully cover the cost of our activities.

From 1 April 2025, a new statutory Code of Practice on Sampling and Reporting at Materials Facilities (“the New Code”) is due to come into force. The New Code replaces the existing Code of Practice on Sampling and Reporting at Materials Recovery Facilities (“the 2015 Code”).

As well as continuing the policy intent of the 2015 Code, the New Code should support the introduction of extended producer responsibility (EPR) for packaging from 2025 through data sharing and analysis. Packaging EPR is being introduced by the Scottish Government, alongside the other governments of the UK, as part of their work to build a more circular economy and address the global climate emergency.

## 2 Why we are consulting?

We have reviewed the activity component (subsistence) charge which applies to facilities subject to the New Code against our regulatory costs. We know our charges can affect those we regulate so we have considered our proposals carefully. We are always interested to hear how you think we can regulate more fairly, while safeguarding the environment more effectively.

We must be consistent and transparent about the charges for services we provide and follow guidance set out in the [Scottish Public Finance Manual](#) and [Treasury guidance to managing public money](#) when setting those charges. All proposed charges will be subject to approval by the Scottish Ministers.

## 3 Proposal to change the annual subsistence charge for material facility operations

### 3.1 Charges applicable under the 2015 Code

These can be found in the Environmental Regulation (Scotland) Charging Scheme 2018. To recover our costs under the 2015 Code, there are two activity component charges included within Table 1 of the charging scheme:

- Annual subsistence activity charge – this is additional charge applied to in-scope material recovery facility operations (reference number 12610). This charge is subject to an environmental component.
- Additional Recovery Costs (“ARC”) activity charge – this is an additional charge applied to authorised waste site operations (reference number 12600).

Under the 2015 Code, the annual activity charge applied to operate a material recovery facility is £3,056, and the ARC charge applied to authorised waste sites is £189. There are over 1000 authorised waste site operations in Scotland. These charges are applicable to the 2024 to 2025 financial year.

More information can be found here: [Charging schemes and summary charging booklets](#).

### 3.2 Charging proposal under the New Code

Compliance with the 2015 Code is a condition of an authorised Material Facility operator’s waste management licence and/or PPC permit, or exemption from the requirement to have a waste management licence. In line with proposed changes to how SEPA will charge for regulated activities (as part of the Integrated Authorisation Framework), a requirement to comply with the New Code is also expected to be a condition of an in-scope Material Facility’s authorisation under the Environmental Authorisations (Scotland) Regulations 2018. More information on these changes will be available on [SEPA’s consultation hub](#).

SEPA is responsible for enforcing the 2015 Code and the New Code. Experience under the 2015 Code has shown the value of SEPA delivering a programme of data checks, on-site auditing and sampling to determine whether operators are compliant, and we intend to continue this work under the New Code. In addition, the New Code increases the required

sampling frequency for input sampling, introduces new material categories to be sampled and reported and brings some bulking facilities and transfer stations into scope. The enhanced sampling and reporting requirements are set out in Scottish Government's Code of Practice on Sampling and Reporting at Materials Facilities.

### **3.3 What is included in the subsistence charge?**

To determine the appropriate level of charge necessary, we have calculated the time taken to audit data returns, conduct site audits and sampling analysis at facilities, to check data quality and help determine compliance with the New Code.

We propose to no longer charge the additional recovery cost to authorised waste site operations which are not regulated under the New Code and place the full cost of regulation onto those material facilities directly regulated under the New Code. Therefore, we propose increasing the annual subsistence charge for operating a material facility to £12,539 from 1 April 2025. The charges are set out in Section 5.1.

## **4 How have the charges been calculated?**

We want to be open about what we charge for, what we do not, and how these charges will be applied. This consultation provides you with the opportunity to give your views on the proposed charges applicable to facilities regulated under the New Code. These charges must also be agreed by the Scottish ministers. The charges outlined in this consultation are based on how we intend to assess compliance with the New Code.

### **4.1 Our approach to assessing compliance with the New Code**

We will continue to carry out a programme of desk-based data checks and site-based audits, including conducting our own sampling and compositional analysis of waste. Please note that although standard checks are carried out prior to publication, SEPA is not responsible for any errors contained within the data provided by operators.

#### **Desk-based data audits**

Desk-based audits will include checking the data submitted by operators.

## **On-site audits**

We aim to audit all in-scope facilities within 18 months of the New Code coming into force and will aim to conduct at least one audit per facility each year thereafter. The on-site audit will predominantly involve checks to support data audits, review of the sampling methodology and observing operator sampling and compositional analysis.

## **On-site sampling analysis audits**

We will conduct sampling analysis audits, which will involve taking our own samples of input and/or output waste and measuring the composition of those samples. We will precede a sampling analysis audit with an unannounced site visit to select and isolate waste for sampling. This will be to check the waste accurately represents a facility's inputs and outputs. This is how sample analysis audits are conducted under the 2015 Code.

We will use risk profiling to determine which facilities will receive a sampling analysis audit. We aim to conduct sampling analysis audits at 10 facilities in the first 18 months of the New Code coming into force, decreasing to 5 facilities per year thereafter.

## **4.2 Questions**

1. Do you agree with SEPA's approach to regulation of material facilities which are subject to the New Code?
2. If you answered 'No', please explain your answer.

## **4.3 What is not included in the charge?**

The activity component charge (reference number 12610) applied to facilities in-scope of the New Code will make up one part of the total annual subsistence fee that will be charged to these facilities. For full details please see our charging schemes and associated guidance which are available on our [website](#).

Our charges do not include implementation costs, relevant to the New Code, which have to be borne by SEPA, including development of guidance, digital reporting systems, staff training, purchase of sampling equipment and liaising with stakeholders.

## 4.4 Interim arrangements

To align with the start of the financial year, we propose implementing the new charge from 1 April 2025. Prior to this date, the existing Material Facilities charges set out in the Environmental Regulation (Scotland) Charging Scheme 2018 will apply to sites in scope of the 2015 Code. The charges are set out in Section 5.1. Facilities in scope of the New Code but not in scope of the 2015 Code will not be charged for Material Facilities regulatory work until 1 April 2025.

SEPA expects that a small handful of operators currently undertaking activities under paragraph 11 or 17 exemptions from the Waste Management Licensing Regulations (Scotland) 2011 may come into scope under the New Code. Operators undertaking these activities will have to comply with any relevant obligations under the New Code, but it is proposed that these activities will not be charged for regulatory work until any such sites become authorised under proposed changes to the Environmental Authorisation Scotland Regulations.



## 5 What are the components for the new charging scheme?

### 5.1 Charging Changes

SEPA Reference	Legal Description	New Legal Description	Current Charge under the 2015 Code	Proposed Charge from 1 April 2025 under the New Code
Band 0	Application for WMA: Storage and Treatment of waste which includes the operation of a MRF subject to the statutory Code of Practice.	Application: Storage and Treatment of waste which includes the operation of a MF subject to the statutory Code of Practice.	£0	£0
12610*	WMA: Storage and Treatment of waste which includes the operation of a MRF subject to the statutory Code of Practice.	Storage and Treatment of waste which includes the operation of a MF subject to the statutory Code of Practice.	£3,056	£12,539
12600	WMA: Additional recovery costs.	WMA: Additional recovery costs.	£189	£0

\*This charge will remain subject to an environmental component.

## 5.2 Retail Price Index (RPI) increases

Each year SEPA has the ability to increase charges up to (and including) the Retail Price Index (RPI) in line with increases in the Office for National Statistics measures of inflation as at 30 September in the immediately preceding year.

Increases beyond RPI would only occur after we have consulted on such changes and subject to approval by the Scottish Ministers.

The charges in this consultation would be subject to this potential RPI increase.

## 5.3 Questions

1. Do you agree with SEPA's proposal to no longer charge the Additional Recovery Cost (reference number 12600), placing the full cost of regulatory work under the New Code directly onto the facilities being regulated?
2. If you answered 'No', please explain your answer.
3. Do you have any general comments or suggestions to make about the matters set out in this consultation?

# 6 Responding to this consultation

## 6.1 How to respond

You can respond to this consultation online. You can email your responses on the proposal to: [ncc@sepa.org.uk](mailto:ncc@sepa.org.uk)

Responses should be submitted to us by 11<sup>th</sup> September 2024.

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 SEPA's published [Privacy Policy](#).