

Neil Langhorn
Environmental Standards Scotland

Via email

If emailing, mark FAO:
Alex Flucker

4 March 2025

Dear Neil,

SEPA response to ESS Analytical Report; “Storm overflows – an assessment of spills, their impact on the water environment and the effectiveness of legislation and policy”

SEPA welcomes the in-depth analysis that ESS has undertaken. The majority of recommendations relate to areas of work that have been underway for some time through delivery of the River Basin Management Plan, the Improving Urban Waters route map and through compliance inspections and assessment.

We welcome the recognition by ESS that there has been significant progress made in reducing the impacts of wastewater on the water environment.

In respect of this report, SEPA has two key roles:

- Our regulatory role for protection and improvement of the environment, based on sound-science and applying current regulations, policies and guidance.
- Our role as an authority on the environment, based on our understanding of the environment and the risks to it.

We work with Scottish Government, Scottish Water and other stakeholders to ensure that investment on the environment is prioritised. We prioritise the investment needs based on evidence of environmental harm.

ESS made six recommendations, three requiring a response from SEPA.

- **Recommendation one:** *That Scottish Government, Scottish Water & SEPA must make data in relation to wastewater spills, compliance with licences and environmental pollution incidents available to the public to provide a comprehensive and accessible picture of the scale of spills from storm overflows. This should include reporting where and when discharges occur, their scale and the reasons for any discharges, as well as more details on when these result in pollution incidents covering the source, reasons and links to licence compliance.*



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The Improving Urban Waters route map is a national plan, required by SEPA. Scottish Water published this in 2021. The route map details the actions required by Scottish Water for environmental improvement and monitoring; SEPA will ensure these actions are delivered. As part of the route map, Scottish Water are publishing data on their monitored overflows and have published near-real time overflow map.

SEPA is currently developing a new approach to compliance assessment, the Environmental Performance Assessment Scheme (EPAS). EPAS will consider relevant factors such as the length and severity of the non-compliance, impacts on people and the environment, and the response of the operator. The new scheme will record compliance information in relation to discharges (where reporting is required under a licence) and will also link pollution incidents to licence compliance where appropriate. A public consultation on EPAS will be launched on the 31st of March 2025; our aspiration is to implement EPAS in 2026.

We will continue to explore ways of making our data publicly available in ways that provide a comprehensive and accessible picture of the scale of spills from storm overflows. Annual data on spills from wastewater treatment works operated by Private Finance Investment companies are available from SEPA on request; we are exploring how to make these data available proactively.

We will update ESS by the 1st of September 2025 with our progress on providing increased information available to the public.

- **Recommendation four:** *SEPA should review and update its authorisation regimes and associated regulatory and operational guidance to reflect the Scottish Government's revised guidance and ensure that it remains up to date, publicly available and is in line with best practice.*

We welcome ESS' recommendation to the Scottish Government to publish guidance about the exceptional circumstances in which it is permissible for storm overflows to spill (recommendation three).

We take a proactive approach to reviewing and maintaining our guidance to operators, to ensure it reflects government objectives and legislative obligations.

As the Government's independent environmental regulator, SEPA will work with the Scottish Government as requested on any review of the exceptional circumstances guidance and implement any changes directed by Scottish Government.

As with all our guidance, we will ensure it reflects the Scottish Government's objectives, and that we engage with stakeholders appropriately as it is developed. and clearly communicate any revised requirements to them.

Recommendation five: *Scottish Water and SEPA should more routinely assess available rainfall, flow and spill event data to identify all instances of overflows which appear to spill in dry weather and prioritise these for investigation and improvement as soon as possible. Scottish Water and SEPA have identified 12 storm overflows which are at risk of operating in dry weather. ESS' analysis suggests that this is an underestimate.*

4 March 2025

Through our water environment classification scheme we identified combined sewer overflows which had the potential to have a water quality impact. Working with Scottish Water we ensured catchment-based studies were undertaken; where an environmental impact was confirmed these sites have been prioritised for investment within the strategic review of charges 2021-2027 (which will deliver improvements by 2027).

With regards to combined sewer overflows that are at risk of operating in dry weather, as part of the investment process SEPA identified 60 catchments in which we required Scottish Water to undertake studies and identified a small number of CSOs which spill in dry weather. We are reviewing Scottish Water's analysis to identify high priority CSOs where we will require investment. We will continue to prioritise CSOs which are suspected of discharging in dry weather, using intelligence from an increase in intelligent networks and event duration monitors availability.

We are continuing to develop an analytical tool to look at the relationship between rainfall and spill data to identify patterns and trends. The relationship between rainfall data and network response is complex, and the tool cannot yet be used to identify specific sites. We will use this data to further inform our compliance and prioritisation approach.

We will provide a more detailed outline of the work underway to ESS by the 1st of September, 2025, and provide an annual update to ESS on progress.

I hope this response provides ESS with reassurance that SEPA is already taking action to address the ESS recommendations, and we look forward to keeping you informed on progress.

Best,

Alex Flucker
Chief Operating Officer Data, Evidence & Innovation