POLICY NOTE

THE RESERVOIRS (SCOTLAND) AMENDMENT REGULATIONS 2015

S.S.I. 2015/315

1. The above instrument was made in exercise of powers conferred by sections 2(3)(a), 9(3)(a), 14(1), (3) and (4), 23(8), 24(7) and 114(2)(b) of the Reservoirs (Scotland) Act 2011 ("the Act"). It is subject to the negative procedure.

Policy objectives

2. The main purpose of these Regulations is to make further provision in relation to the review and appeal of risk designations given to reservoirs under the Act.

3. The Act requires that reservoirs with a capacity greater than 25,000 cubic metres are registered with the Scottish Environment Protection Agency (SEPA) by 1 October 2015. SEPA must give each registered the reservoir a provisional risk designation of high, medium or low. The reservoir manager may apply to SEPA for a review of that designation and, if dissatisfied with the decision taken by SEPA on review, may appeal to Scottish Ministers.

4. These Regulations supplement the review and appeal provisions in the Act, with some further procedural requirements. In particular, they require that applications for a review or appeal must be in writing. They also set out the information that SEPA must give a reservoir manager when giving notice of a risk designation and the information that must be submitted to Scottish Ministers as part of an appeal against a risk designation.

5. In addition, these Regulations make changes to the Reservoirs (Scotland) Regulations 2015 so that SEPA is only allowed to charge a 'new manager fee' under regulation 17. They also amend regulations 8 and 10 of the 2011 Regulations to make these provisions clearer.

Consultation

6. The policy proposals were discussed with key stakeholders before the Regulations were drafted. A draft of the Regulations were then subject to a formal public consultation. 16 responses were received. Most respondents were content with the proposals but two suggested that the time that an appellant has to provide comments on representations by SEPA during an appeal was too short. As a result a change was made to the draft Regulations to extend the time that an appellant has to provide comments. The draft Regulations were also updated to ensure that SEPA can only charge a 'new manager fee' under regulation 17 of the Reservoirs (Scotland) Regulations 2015. SEPA was consulted and was content with this.

Financial effects

7. No business and regulatory impact assessment was prepared for these Regulations as no significant impact upon business, charities or voluntary bodies is foreseen.

Scottish Government
Environmental Quality Division
August 2015