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Thursday, 26th September 2023

Lorna Slater, Minister for Green Jobs, Circular Economy and Biodiversity,

Scottish Government,

St. Andrew's House,

Regent Road,

Edinburgh EH1 3DG

Dear Minister,

**Request for SEPA direction to refuse PPC permits for new incinerators**

**The Pollution Prevention and Control (Scotland) Regulations 2012**

We are writing to you on behalf the local communities and environmental groups listed below to request that the Scottish Government uses its powers under the Pollution Prevention and Control (Scotland) Regulations 2012 (‘the PPC Regulations’) to direct the Scottish Environment Protection Agency (‘SEPA’) to refuse permits to new incineration plants in Scotland.

In this letter we set out the rationale for this request. Incineration overcapacity poses a serious risk to the Scottish Government’s climate and circular economy agendas. Allowing unnecessary incineration capacity to develop is counterproductive. Incineration plants operate for many years, so the Scottish Government’s decisions today will have social and environmental consequences in Scotland for decades to come.

Over a year ago, the Scottish Government fully accepted a recommendation from its independent review ‘Stop, Sort, Burn, Bury - incineration in the waste hierarchy’ to “ensure adequate time and resource is dedicated to local and community engagement” (Recommendation 8). Since then, very little engagement with communities has been initiated by the Scottish Government. We urge the Scottish Government to act now, before it is too late, on the concerns raised by the overlooked communities represented in the letter to immediately limit overcapacity of incineration in Scotland.

**Scotland’s incinerator overcapacity problem**

The independent review on the role of incineration in the waste hierarchy, conducted for the Scottish Government, found “a risk of long-term overcapacity beginning from 2026 or 2027, if all or most of the incineration capacity in the pipeline is built” and that “given the risks of overcapacity, Scottish Government should limit the amount of national capacity that is developed.” (p28).

These conclusions led to Recommendations 4 and 5 in the review: no further planning permission should be granted for new incineration structures and the Scottish Government should develop an indicative cap that declines over time for the amount of residual waste treatment capacity needed as Scotland transitions towards a fully circular economy.

The Scottish Government accepted these recommendations in full, in June 2022. Since then, it has acted to stop new incinerators entering the planning system. However, reversing overcapacity of planned plants has not been acted on so decisively. This means there is still a risk of incineration overcapacity by 2027.

The Scottish Government indicates that the Waste Route Map, due to be published in 2024, will set out the required strategic direction for waste management in Scotland. However, this will be too late for many communities as developers continue to progress and invest in their plans across Scotland. For example, the NESS incinerator in Aberdeen, which was at the construction phase when the review was published, has moved from construction to hot-commissioning and construction has begun on the Oldhall incinerator in Irvine.

Urgent action must be taken to prevent the predictions of overcapacity in the review becoming a reality.

**Using the PPC Regulations to refuse new incineration permits**

The PPC Regulations are used to environmentally regulate some industrial activities. Operators of installations that fall under the PPC regulations must have a permit, granted by SEPA, in order to operate. If regulatory requirements are satisfied, it would be unusual for SEPA to refuse a permit on wider environmental grounds.

Regulation 60 gives Scottish Ministers the power to give ‘directions’ to SEPA with respect to the carrying out of SEPA’s functions under the PPC Regulations. Regulation 60 is phrased very broadly, and clearly gives the Scottish Ministers the power to direct SEPA to refuse PPC permits for all new incinerators. According to Regulation 60(5), SEPA must comply with any directions from Scottish Ministers.

We therefore call on the Scottish Government to prevent overcapacity of incineration in Scotland by directing SEPA to refuse PPC permits to projects for new incinerators.[[1]](#footnote-1) In the event that the Scottish Government intends to allow SEPA to issue any new incinerator permits, this must be done in a strategic fashion.

While we do not believe any new incineration capacity is justified, if the Scottish Government believes that a small amount of new capacity should be allowed then, in line with the findings of the incineration review, strategic decisions would need to be made based on factors such as a proposed facility’s location and impacts. For example, the Scottish Government should, if they allow any new incineration capacity at all, at the very least, require that any new plant must be connected to a district heating scheme.

The direction should delay awarding any environmental permits until the Scottish Government has set the cap that will provide certainty to how much capacity is needed and how fast this is expected to reduce over time. Only at this point will it be clear how much capacity is needed.

**Conclusion**

We call on the Scottish Government to prevent overcapacity of incineration in Scotland by directing SEPA to refuse PPC permits to projects for new incinerators.

According to the PPC Regulations, only Scottish Ministers have the power to direct SEPA in this way. This action is the simplest way of preventing an overcapacity of incineration. It is important that the Scottish Government act as soon as possible because every additional investment that developers make into incineration infrastructure makes lock-in to a polluting and harmful waste management system more likely.

We would welcome a meeting to discuss these points with you in more detail. We look forward to your reply.

Yours,

Kim Pratt, Friends of the Earth Scotland

Ben Christman, Environmental Rights Centre for Scotland

*On behalf of the following organisations and individuals*

Ayrshire Against Incineration Group

Badenoch & Strathspey Conservation Group

Dovesdale Action Group

Friends of the Earth Falkirk

Friends of the Earth Inverness and Ross

Irvine Without Incinerators

Kenny Little, coordinator of local action against a proposed incinerator in Clydebank

Dr Ronald Parr, local activist concerned about the planned incinerator in Inverurie

*With the support of*

Shlomo Dowen, UK Without Incineration Network (UKWIN)

1. Our understanding is that the incinerator plants which have obtained planning permission prior to the ban but have not yet begun construction or obtained a permit are Avondale Energy from Waste plant in Falkirk, Inverurie in Aberdeenshire, and Levenseat 2 in South Lanarkshire. The Glenfarg incinerator in Perthshire and Oldhall incinerator in North Ayrshire are believed to be in the early construction stages and do not have permits. [↑](#footnote-ref-1)