

SEPA to submit a report to the Crown Office and Procurator Fiscal Service for consideration of prosecution over Mossmorran flaring

13 May 2020

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- Move follows 2018 'Final Warning Letter' issued to ExxonMobil Chemical Limited.
- Focus on company addressing the 'root causes of unacceptable flaring.'
- SEPA announces technical assessment of the timelines for new ground flare installations by ExxonMobil Chemical Limited including utilising independent technical advisor(s) to verify the proposed programme.
- Actions of ExxonMobil Chemical Limited continue to be under continual review during the current coronavirus pandemic with intensified compliance programme to focus on the steps the company is taking to prevent and minimise flaring.
- Monitoring reports continue to be published on a fortnightly basis on its sepa.org.uk/mossmorran hub
- SEPA announces external review by the Irish Environmental Protection Agency to share best practice and advise on further actions that may be taken to drive compliance.
- SEPA supporting Fife Council's review of formal groups for community liaison aimed at refreshing community participation and engagement around the Mossmorran complex.
- SEPA collaborating with Fife Council to review monitoring with input from local communities and other public partners as soon as is safely practical to do so
- SEPA working closely with the Health and Safety Executive which has responsibility for site safety as part of the Competent Authority under the Control of Major Accident Hazards Regulations.

The Scottish Environment Protection Agency (SEPA) today (Wednesday 13 May 2020) announced its intention to submit a report to the Crown Office and Procurator Fiscal Service for consideration of prosecution in relation to the flaring at the Mossmorran complex during April 2019. The report will be submitted shortly which follows unplanned flaring over a seven day period in April 2019 and an extensive regulatory investigation involving specialist regulatory, technical, scientific and enforcement teams from across the

agency.

Over 900 complaints were received by the agency's Pollution Hotline, the highest number the agency has received for any single environmental event. The move also follows a 2018 'Final Warning Letter' issued to ExxonMobil Chemical Limited for a 2017 'preventable and unacceptable' flaring incident.

SEPA said it was working closely with the Health and Safety Executive which has responsibility for site safety as part of the Competent Authority under the Control of Major Accident Hazards Regulations. SEPA's focus remains on ensuring the company addresses the root causes of unacceptable flaring.

Announcing a package of new measures, SEPA confirmed a detailed technical assessment of the timelines for new ground flare installations by ExxonMobil Chemical Limited including utilising independent technical advisor(s) to verify the proposed programme.

The agency confirmed the actions of ExxonMobil Chemical Limited continue to be under continual review during the current coronavirus pandemic with an intensified compliance programme to focus on the steps the company is taking to prevent and minimise flaring.

The agency confirmed that 39 scientific monitoring reports had now been published online, with these continuing to be published on a fortnightly basis on its sepa.org.uk/mossmorran hub. Published data continues to demonstrate no breach of UK air quality standards.

SEPA also announced an external review by the Irish Environmental Protection Agency of regulation to share best practice and advise on further actions that may be taken to drive compliance. The review will report by October 2020.

Recognising the requirement to strengthen arrangements for community engagement, the agency confirmed it was actively supporting Fife Council's review of the Mossmorran and Braefoot Bay Community and Safety Committee aimed at refreshing community participation and engagement around the Mossmorran complex. The agency confirmed it is collaborating with Fife Council to review monitoring with input from local communities and other public partners as soon as is safely practical to do so.

Terry A'Hearn, Chief Executive of SEPA, said:

"Compliance with Scotland's environmental laws is simply non-negotiable. Over a number of years, communities across Fife have repeatedly endured unplanned flaring. Whilst flaring is an important safety mechanism of such facilities, it must become the exception, rather than routine.

"People rightly expect that their lives won't be impacted by nearby industrial processes and yet again, over an extended period during Easter 2019, communities were impacted by unacceptable and preventable flaring. The incident resulted in over 900 complaints to our Pollution Hotline, the highest number we've received for any single environmental event.

“Consequently, following an extensive investigation into the flaring at Mossmorran during April 2019, we intend to shortly submit a report to the Crown Office and Procurator Fiscal Service for consideration of prosecution.

“It’s right that we take enforcement action for the Easter 2019 flaring event. What is just as important is that ExxonMobil Chemical Limited address the root-causes of ‘unacceptable flaring’.

“Today we’ve announced a series of important steps and a pathway to compliance at Mossmorran. We’ve been clear with both operators on what we and the community expect and have outlined the steps they need to take to make this happen. Whilst flaring will continue to be required, this must become the exception rather than routine. We’ll keep a firm focus on compliance, monitoring and the package of measures required over the period ahead and we’ll keep local communities informed at sepa.org.uk/mossmorran”

REGULATION OF MOSSMORRAN DURING COVID-19:

The agency published its [SEPA COVID-19 Philosophy](#) and [overarching guidance on regulation during COVID-19](#).

For Mossmorran we will:

- Work closely with the HSE as the Competent Authority under the Control of Major Accident Hazards Regulations to continue to assure ourselves that ExxonMobil is taking appropriate steps to manage any risks that may arise from COVID-19.
- Continue our robust regulation and assessment of the site. Whilst SEPA’s Compliance Assessment Scheme (CAS) cannot practically be applied during the 2020 calendar year, this will not limit or inhibit our compliance work or have an impact on our ability to take action should non-compliance issues arise.
- Focus our compliance work on those conditions where non-compliance may lead to a risk of impact on local communities and the environment, for example, the condition that requires that ExxonMobil must ensure that all appropriate preventative measures are taken against noise and vibration emissions through the application of BAT and ensure that no significant pollution is caused.
- Continue to monitor noise and air quality across local communities and we have upgraded our monitors so that we are able to download all data remotely. Air quality monitoring results published fortnightly at sepa.org.uk/mossmorran.
- Continue to focus on delivery of flaring improvements in the shortest possible timeframe.
- Review and follow up on complaints, but for the safety of our staff and others, we may not be able to visit or engage with members of the community in person. As our staffing levels have been impacted we encourage people to use our web reporting tool. In addition, we will be unable to provide a personal response, as we would normally have done when complainants request to speak directly to a SEPA officer.
- Continue to respond to any significant elevated flaring by deploying staff on the ground whilst maintaining physical distancing. However, as

all our staff are working from home our response may not be as rapid as it would be normally.

[Campaign launches to help people in Scotland manage their waste during the coronavirus pandemic](#)

📅 27 April 2020

Some waste and recycling collection services across Scotland are temporarily disrupted as a result of the coronavirus.

This is necessary to prioritise the health of workers in line with government guidance and deal with the impact of staff shortages.

Local authorities are working hard to make sure any disruption isn't in place any longer than it needs to be. To help householders and businesses manage their waste in the meantime, Zero Waste Scotland, SEPA, COSLA and the Scottish Government have launched a campaign to raise awareness of changes to local waste collections, providing guidance and directing people to up-date-information.

The new website – managingourwaste.scot – will give householders and businesses updates and guidance on how to manage waste. Local authority websites will continue to provide the latest updates on local service changes.

Iain Gulland, chief executive of Zero Waste Scotland, said:

“Refuse collectors are working in exceptional conditions to maintain as many essential services as they can. Now is a good time to avoid wasting so much as this is ultimately the best way to help councils cope.

“Zero Waste Scotland is working with key partners to communicate changes to householders and businesses in Scotland in the meantime. We'd encourage everyone to visit the campaign website to find out how they can best manage their waste.”

Environment and Climate Change Secretary Roseanna Cunningham said:

“We owe a massive thank you to all those in the waste industry who are working hard to keep services running in challenging circumstances. While they do their best for us it's vitally important that we do what we can to help them by following the advice on properly dealing with and reducing waste.

“The new campaign website offers lots of safe ways to help people avoid waste and protect the environment. This includes instructions on safe disposal of certain items and on keeping large items at home until recycling centres open because fly-tipping is not acceptable.

“We all have to make necessary changes to help limit the spread of the virus. By following this advice, we can help those who are working hard to keep our services running.”

Terry A’Hearn, chief executive of SEPA, said:

“Now more than ever, we need to recognise the responsibility we have for the waste we produce, store, transport and dispose of. We all have a role to play in managing our waste during this period.

“At SEPA, we are supporting vital waste services by helping businesses to adapt. We have published guidance to help those who are struggling, as well as temporary regulatory guidance specifically for waste management.

“Equally, we will be uncompromising towards those that choose to deliberately do the wrong thing. Remember, services that sound too good to be true often are, and could lead to illegal fly-tipping, burning or illegal disposal.

“We all have a legal responsibility to ensure that only licensed professionals handle our waste. SEPA maintains an online register of licensed waste carriers and brokers enabling the public or businesses to check and ensure that contractors are sufficiently compliant.”

Councillor Steven Heddle, COSLA Environment and Economy spokesperson, said:

“Local authority staff are doing an amazing job keeping waste services running at this very difficult time. Many of us will have seen changes to our waste collections in the last few weeks and further changes may be needed in the weeks to come. This campaign shows how individuals and communities can help Local Authorities by reducing the amount of waste created. This is the right thing to do now but it will also help the environment in the longer term once we return to more normal lives”

Everyone can take action to reduce the pressure on essential services and manage their waste. Zero Waste Scotland has issued the following guidance for householders:

- Wash and squash: Washing means there is less contamination in your bin and squashing your recyclables leaves room for more. Fill up existing bins with as much waste as you can.
- Try home composting: Vegetable and fruit peelings, egg shells, tea leaves and coffee grounds can go in a standard compost bin and create a natural fertiliser for plants.
- Keep items at home until recycling centres reopen: Now is not the time to try and get rid of large items following a spring clean. Clearing up after flytippers ultimately costs the taxpayer, leaving less funding for essential services. Report flytipping via the [Dumb Dumpers form](#) on the Zero Waste Scotland website or reporting directly to the council.

Anyone with symptoms of Covid-19 should follow government advice on securely storing personal waste to help keep themselves and waste management workers safe. This means placing items such as used tissues in a disposable rubbish bag which should be placed in another bag, tied securely, kept separate from other waste and put aside for at least 72 hours before it is put out for collection.

Ends

[Scottish business sustainability leader announced as SEPA Deputy Chair](#)

📅 17 April 2020

The Scottish Environment Protection Agency (SEPA) today (17 April 2020) announced the appointment of board member Michelle Francis to the post of Deputy Chair.

Ms. Francis, who has been a member of the board for six years, was appointed as Deputy Chair by the Cabinet Secretary for Environment, Climate Change and Land Reform, Roseanna Cunningham, and will assume the post from April 2020.

With two decades of experience in environment and sustainability across the public and private sectors, the role will complement that of the Chair, Bob Downes, on the 11-strong agency board with SEPA CEO Terry A'Hearn.

An alumnus of the University of Aberdeen and Edinburgh Napier University, Ms. Francis previously held the position of Head of Environment at Network Rail, was formerly on the board of Scottish Natural Heritage and is the director of two environment and sustainability consultancies.

Bob Downes, SEPA Chair, said:

“SEPA plays an important role in the life of Scotland and now more than ever we have a critical role to play in helping support Scottish businesses adapt during this next period. More than that, we’ll be helping Scotland plan for recovery. With Michelle’s Scottish business sustainability experience she will play a critical role in helping our people deliver our ambitious One Planet Prosperity agenda.”

Michelle Francis, SEPA Deputy Chair, said:

“It is a privilege to take on this role at a critical time where for many an extended period indoors reminds us all how important the wider environment is. I look forward to helping to ensure SEPA supports Scotland to get through the current crisis and then push forward with delivering One Planet

Prosperity as part of our recovery.”

SEPA’s board is responsible for the overall direction and performance of the agency, including its effectiveness as a public body, and continues to meet virtually during the COVID-19 pandemic.

Appointments are made by Scottish Ministers and are regulated by the Commissioner for Public Appointments in Scotland.

SEPA’s response to the COVID-19 pandemic can be found at coronavirus.sepa.org.uk.

ENDS

[Scottish Environment Protection Agency staff support national effort to combat virus](#)

📅 17 April 2020

Key workers across the Scottish Environment Protection Agency (SEPA) have stepped up to further assist the national effort against coronavirus.

- SEPA’s Lanarkshire labs donate 120 boxes of gloves and face masks to public partners
- 3D printing masks for local hospitals
- Staff volunteering across communities

As well as accelerating their support to Scottish businesses adapting to the pandemic, regulating and supporting communities through flood forecasting and warning, workers across the agency are also donating time and resources to support partners and communities through this public health emergency.

In recent days, SEPA’s purpose-built Lanarkshire labs have donated 120 boxes of gloves and face masks to public partners and local care facilities.

And engineer Bryce Syme (48) is using his expertise to create life-saving 3D-printed visors every day from his home in East Kilbride using the agency’s 3D printers.

Each visor takes more than four hours to create, but the father-of-two has already donated over a hundred to the Queen Elizabeth University Hospital, University Hospital Hairmyres, University Hospital Monklands, and further afield to Borders General Hospital, where colleague Fiona Wyllie’s daughter

works as a medic.

Bryce said: “Working every day to protect Scotland’s environment is really rewarding, but in these testing times I wanted to do even more to support our broader family of public partners. Working to make bespoke 3D-printed equipment for our labs, it was a no-brainer to step-up and create visors for frontline key workers.

“SEPA has really supported my work, providing the kit and supplies to manufacture from home. With well over a hundred made and distributed to date, the production process is taking over our home.

“It’s great to see the visors in use, including by the daughter of one of our colleagues in a borders hospital. I feel like I’m a very small part in this national effort, but knowing that these visors could help save lives is what moved me to action. And as long as there is need, I’ll keep going.”

Sarah Brown, Chemistry Unit Manager, who co-ordinated the collection and distribution of surplus lab gloves and masks, said: “At SEPA we’re supporting Scotland’s fight against Coronavirus. Sharing our personal protective equipment with other frontline public partners was one practical way we could help and the supplies were well received both by public partners and our local hospice.”


Terry A’Hearn, SEPA’s CEO, said: “These are hugely challenging times, and what we’ve seen across SEPA, across Scotland and across the world are people like Bryce, Sarah and others rising to the challenge and using their talents and resources to aid our response.

“We’ll continue to do everything we can to support these efforts as we play our role in helping Scotland respond to this public health emergency.”

SEPA’s regulatory response to COVID-19 can be found at coronavirus.sepa.org.uk.

ENDS

[SEPA supports Scottish business adapt to public health emergency](#)

 06 April 2020

Warning that “if you deliberately do the wrong thing, you’ll get the uncompromising regulator your behaviour deserves.”

- SEPA confirms next steps in its response to the “biggest public health

emergency in living memory.”

- SEPA will play its role in helping Scotland get through this public health emergency.
- SEPA will partner with other regulators, public and private sector organisations and communities to respond.
- Supporting national focus on food security, the provision of clean water and the maintenance of critical infrastructure and the support services on which we all rely.
- SEPA helping Scottish businesses adapt to this next period.
- Clear, short-term regulatory positions which recognise that where businesses can continue to do so, they should continue to meet their license obligations.
- Recognising that many will be unable to do so, they should prioritise conditions which directly protect the environment over those of an administrative nature.
- They should contact SEPA, work closely with us and document the choices and actions they take.
- SEPA knows regulated businesses are operating under extraordinary pressures and constraints and will prioritise helping businesses work through their challenges.
- Clear message to Scottish business – “if you try to do the right thing in this next period, you will find a helpful and supportive agency. If you deliberately do the wrong thing, you’ll get the uncompromising regulator your behaviour deserves.”

The Scottish Environment Protection Agency (SEPA) today [6th April 2020] confirmed the next steps in its regulatory approach in response to the COVID-19 pandemic.

In a strategic statement from SEPA Chief Executive, Terry A’Hearn and Chairman, Bob Downes, the agency outlines the philosophy it will follow to supporting the 33 sectors of the economy it regulates, in addition to the 13 critical national infrastructure sectors identified by Scottish Government. A separate ‘over-arching’ approach document outlines the agency’s approach to compliance, enforcement, monitoring, permitting and regulatory position statements in the immediate period.

The response, outlined on a new SEPA Coronavirus (COVID-19) website, aims to support the national focus on food security, the provision of clean water and the maintenance of critical infrastructure and support services by helping Scottish businesses adapt in this next period.

The site will also host temporary regulatory positions and guidance which will be published in the coming days in response to specific issues across sectors and regulated businesses.

Terry A’Hearn, Chief Executive, Scottish Environment Protection Agency, said:

“Scotland, as are many nations, is facing a public health emergency unprecedented in recent times. SEPA will play our role in working together with other regulators, public and private sector organisations and communities to help Scotland respond. With our statutory purpose focused on

protecting and improving the environment and human health in ways that, as far as possible, create social and economic success, we will help Scottish businesses adapt to this next period.

“The Scottish Government has designated 13 critical national infrastructure sectors vital to the functioning of society. Many of these are sectors we regulate and we’ll help that national focus on food security, the provision of clean water and the maintenance of critical infrastructure and the support services on which we all rely.

“We know that all businesses we regulate are trying to operate in extraordinary circumstances. We know they are trying to look after the health of their own workforces. We know they may have supply-chain and other challenges.”

“So, where businesses are unable to fully meet their compliance obligations, they should prioritise conditions which directly protect the environment over those of an administrative nature. They should contact SEPA, work closely with us and document the choices and actions they take.

“The positions are a direct response to circumstances no-one wanted to see. We ask Scottish businesses to adapt responsibly and we expect the majority will. Our message is clear: if you try to do the right thing in this next period, you will find a helpful and supportive regulator. If you deliberately do the wrong thing, you’ll get the uncompromising regulator your behaviour deserves.”

Mr. A’Hearn added: “we will continue to use a variety of means of checking and assessing compliance, including phone calls, issuing written advice, remotely managed technologies such as drones, targeted site and field visits, and other forms of intelligence gathering.

“We will be proportionate in our approach to enforcement and monitoring by regulated businesses and where SEPA is not fully able to undertake its planned monitoring, we will maintain a field and laboratory standby position. This will enable us to respond to incidents with the highest environmental risk and impacts on the health and wellbeing of communities.”

The updates can be found in full on SEPA’s [Coronavirus \(COVID-19\) Response hub](#).

ENDS

NOTES TO EDITORS:

Compliance

SEPA is clear we expect everyone we regulate to make their best endeavours to meet their environmental obligations. If a regulated business is unable to meet all its obligations under SEPA’s licence, permit or other authorisations (hereafter referred to as Permit) because of these exceptional circumstances, we expect it to:

- prioritise compliance with conditions which directly protect the environment over those which are indirect controls or more administrative in nature;
- alert us as early as possible if it believes it will be unable to meet any obligations and work closely with us on making choices and finding solutions;
- document choices made and actions taken.

If a regulated business behaves in line with the above, SEPA will take a proportionate and reasonable approach to how we assess compliance during COVID-19.

We will continue to use a variety of means of checking and assessing compliance including phone calls, issuing written advice, remotely managed technologies (such as drones, targeted site and field visits) and other forms of intelligence gathering.

Where environmental harm may have been caused as a result of actions taken, we expect regulated businesses at the end of the emergency to assess the extent of any harm and take actions to restore.

At the end of the emergency, we also expect regulated businesses to work with us on lessons learned to improve resilience and environment management in future working.

Enforcement

Enforcement action may still be considered to be appropriate by SEPA in respect of non-compliance with Permits or other environmental regulatory requirements during or after COVID-19. However, we recognise the challenging circumstances faced by regulated businesses and where we become aware of non-compliance (either through self-reporting or by another means) we will take a proportionate approach.

In making enforcement decisions we will consider our [Enforcement Policy](#) and [Enforcement Guidance in the context of COVID-19](#) and we will in particular take account of whether any non-compliance was unavoidable and solely as a direct result of the impact of COVID-19 on operations and did not, or was not likely to lead to significant environmental harm.

We anticipate that the vast majority of regulated business will use their best endeavours to look after Scotland's environment and meet their environmental obligations.

Any business which does the opposite and deliberately takes the opportunity to cause environmental harm or in any way seeks to exploit COVID-19 will feel the full force of SEPA's powers.

Compliance Assessment Scheme

SEPA will continue to check and assess compliance during this period. However, we have decided to cease applying the existing Compliance Assessment Scheme in the 2020 calendar year. This suspension is intended to recognise

the practicalities of the current circumstances and that SEPA will not be in a position to carry out the systematic compliance work required by the scheme this year. We cannot guarantee therefore that we could apply the scheme fairly or accurately. This decision has been taken now to provide a clear position for all.

However, as set out above, SEPA will use a variety of means to continue to check and assess compliance over 2020 and will consider over the coming period what sort of reporting on compliance is appropriate.

Monitoring

Regulated businesses

Many regulated businesses will have monitoring requirements set out in their permit and it is important that regulated business understand the impact their activities have on the environment. However, given the current exceptional circumstances, it may not be possible for monitoring to be undertaken across all sites and activities. Therefore we expect regulated business to:

- prioritise compliance with monitoring conditions which is specifically intended to protect human health and the environment from harm;
- alert us as early as possible if it believes it will be unable to meet any obligations and work closely with us on making choices and finding solutions;
- document choices made and actions taken.

If a regulated business behaves in line with the above SEPA will take a proportionate and reasonable approach to how we assess compliance with monitoring conditions during COVID-19.

SEPA's monitoring

During COVID-19, when it is not possible to fully undertake SEPA's planned monitoring programme, we will maintain a field and laboratory standby position. This will enable us to respond to incidents which have highest environmental risk and impacts on the health and wellbeing of communities. In addition, it will allow us to carry out appropriate monitoring of sites with known significant impact and those which may emerge as this emergency situation evolves. The extent of monitoring undertaken will be regularly reviewed to ensure it continues to support compliance and enforcement decision making for the duration of this crisis.

Permitting

We are expecting our overall capacity to determine new Permits to be affected by staff absences and work will need to be prioritised according to the Scottish Governments 13 Critical National Infrastructure Sectors. These sectors are identified as particularly important to keep society functioning in this period. These include some sectors that SEPA regulates, such as those involved in securing food supply, the provision of clean water and the maintenance of critical infrastructure and support services.

Under the current circumstances we will not be able to provide the complete level of service that would normally be expected and therefore it is important that our permitting staff focus on those applications from these 13 sectors that are critical to support the nation's health, wellbeing and economic future.

You can help us do this by only submitting applications for activities that will be starting on the ground prior to 30 June 2020.

If your application does not fall into any of these categories and you still consider the need to make an application, whether it is for a new or an existing activity, please contact us early to discuss. Please note that site visits to provide pre-application advice will not be undertaken. However, we will continue to provide this advice for urgent pre-application discussions via the phone.

Temporary regulatory position statements

Where compliance with the requirements of Permits is not possible for an individual site(s), a type of activity or for a sector, and where a regulated business requires something specific in addition to this overarching guidance, we may temporarily take a specific regulatory position that any failure to comply with those requirements will not be treated as a non-compliance for compliance assessment or enforcement purposes. This will be where that non-compliance is unavoidable and solely as a direct result of the impact of COVID-19 and will not lead to significant environmental harm.

Enquiries relating to SEPA's COVID-19 response and our regulation are being managed through our dedicated email mailbox, covid19.regpos@sepa.org.uk