

Response ID ANON-7C7V-3D1J-S

Submitted to Environmental Authorisations (Scotland) Regulations 2018: Proposed types of authorisation for Waste, Water and Industrial activities
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About you

1 What is your name? (optional)

Name:

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3 If you have supplied an email address, are you happy to receive communication from SEPA about ongoing developments in the Better Environmental Regulation Programme?

Yes

4 Are you responding to this consultation on behalf of yourself, or a business or organisation?

Business or Organisation

If you are responding on behalf of a business or organisation, please provide the name below:

The Association for Renewable Energy and Clean Technology (REA)

5 Are you happy for us to publish your response to this consultation?

Yes

5.3. Transporting waste

6 Do you agree these activities should be authorised by Registration?

Yes

If you answered 'No', please explain your answer below::

7 Do you agree with the proposed names of these new authorisations (i.e., transporting your own waste, and transporting waste produced by another person)?

Yes

If you answered 'No', please explain your answer below::

8 Do you agree with an authorisation period of 5 years when registering to transport your own waste?

Yes

If you answered 'No', please explain your answer below::

9 Do you agree with an authorisation period of 3 years when registering to transport waste produced by another person?

Yes

If you answered 'No', please explain your answer below::

10 Do you agree that SEPA should apply a level of technical competence assessment to anyone seeking authorisation to transport waste produced by another person?

Yes

11 Do you have views on possible Standard Conditions?

Yes

If you answered 'Yes', please share them below::

Regarding the technical competence assessment (Question 10): REA supports applying a reasonable level of technical competence assessment to anyone seeking authorisation to transport waste produced by another person as it could help reduce fly-tipping issues. We do believe there needs to be clarification for carriers of waste who operate in both England and Scotland. Currently, carriers operating in both countries only need to be registered with the EA or SEPA, not both. If SEPA implements a technical competence requirement, SEPA authorisations will become more stringent than EA authorisations as the EA does not require technical competence assessments for transporting waste. Given this change, will all carriers operating in both countries be required to register with SEPA? Clear and timely communication with businesses in this situation will ensure a smooth, and effective transition.

Regarding Standard Condition (Question 11): The Standard Conditions for transporting waste seem reasonable, but we need more details from SEPA to fully understand how authorisations will be implemented for transporting waste and all other activities under the EASR.

12 Do you have views on whether charities and voluntary organisations should be liable to pay the appropriate fee when registering to transport waste produced by another person?

Yes

If you answered 'Yes', please share them below::

An exemption from fees seems appropriate for registered charities.

13 Do you think anyone operating waste collection services should be required to display their registration authorisation number on any advert for waste services, whether in print or online, including social media?

Not Answered

5.4. Acting as a broker or dealer of waste

14 Do you agree that acting as a broker or dealer of waste should be authorised by Registration?

Yes

If you answered 'No', please explain your answer below::

15 Do you agree with an authorisation period of 3 years when registering as a broker or dealer of waste?

Yes

If you answered 'No', please explain your answer below::

Regarding technical competence assessments (Question 16): REA supports applying a technical competence assessment to anyone seeking authorisation as a broker or dealer of waste if the assessment requirements are clearly communicated and reasonable. As mentioned in our response to Question 10, there does need to be further clarification about requirements for brokers and dealers of waste operating in both Scotland and England. If all brokers and dealers of waste will be required to register with SEPA, given the new technical competence assessments, that will need to be communicated with businesses in a timely manner.

16 Do you agree that SEPA should apply a level of technical competence assessment to anyone seeking authorisation as a broker or dealer of waste?

Yes

5.5. Storage and treatment of waste

17 Is "Table 2: Type of authorisation for the storage and treatment of waste", clear and understandable?

Yes

If you selected 'No', how could "Table 2: Type of authorisation for the storage and treatment of waste", be improved::

18 Do you agree with the type of authorisation for the "Preparation of waste for reuse for its original purpose (excluding Waste Electrical and Electronic Equipment)"?

Not Answered

If you answered 'No', please explain your answer below::

19 Do you agree with the type of authorisation for the "Storage of asbestos waste in a single sealed container"?

Not Answered

If you answered 'No', please explain your answer below::

What maximum size of container do you consider appropriate for the storage of asbestos at Registration level?:

20 Do you agree with the type of authorisation for the "Storage of less than, or equal to, 10 waste motor vehicles at any one time"?

Not Answered

If you answered 'No', please explain your answer below::

21 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 5 waste motor vehicles at any one time"?

Not Answered

If you answered 'No', please explain your answer below::

22 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 25m³ of used cooking oil at any one time to manufacture biodiesel"?

Not Answered

If you answered 'No', please explain your answer below::

23 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 100,000m³ of waste in a 12-month period, within the boundary of a water treatment works or a wastewater treatment works (including the sludge treatment facility)"?

Not Answered

If you answered 'No', please explain your answer below::

24 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 20,000 tonnes of inert and excavation waste at any one time to manufacture construction aggregates"?

Not Answered

If you answered 'No', please explain your answer below::

25 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 10,000 tonnes of metal waste for recovery at any one time"?

Not Answered

If you answered 'No', please explain your answer below::

26 Do you agree with the type of authorisation for the "Storage and treatment of less than or equal to 1,000 tonnes of segregated waste wood for recovery at any one time"?

Not Answered

If you answered 'No', please explain your answer below::

27 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 500 tonnes of segregated non-hazardous waste for recycling at any one time"?

Not Answered

If you answered 'No', please explain your answer below::

28 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 35 tonnes of Waste Electronic and Electrical Equipment at any one time by repairing, refurbishing, or dismantling"?

Not Answered

If you answered 'No', please explain your answer below::

29 Do you agree with the type of authorisation for the "Treatment of waste for the purpose of remedial action with respect to land or the water environment (Mobile Plant)"?

Not Answered

If you answered 'No', please explain your answer below::

30 Do you agree with the type of authorisation for the "Any other storage and treatment of waste"?

Yes

If you answered 'No', please explain your answer below::

We are fine with requiring a permit for the storage and treatment of any other waste. However, we would like to encourage SEPA to adjust the storage limits for waste liquids. The paragraph 7 exemption currently limits waste liquid storage to 1250 tonnes. We have received feedback that SEPA plans to increase this limit to 3000 tonnes. This adjustment is necessary to ensure waste liquids can be stored during the winter. The current limit discourages storage and leads to more winter spreading. Requiring a permit for this storage is fine, but the permits must be reasonable and related to risk so that people storing waste liquids are not discouraged from storage. In general, it is difficult to support the proposal without seeing the full permit conditions.

5.6. Composting

31 Is "Table 3: Type of authorisation for composting", clear and understandable?

Yes

If you selected 'No', how could "Table 3: Type of authorisation for composting", be improved::

The existing information in Table 3 is clear and understandable. It may be useful to add in a row that clarifies that no registration will be required for composting at the place where waste is produced (open systems) and the associated tonnage limits (1 tonne of waste per day in enclosed systems).

32 Do you agree with the type of authorisation for the "Storage and treatment of less than, or equal to, 500 tonnes of waste for composting at any one time"?

Yes

If you answered 'No', please explain your answer below::

We support applying registration to the storage and treatment of less than, or equal to, 500 tonnes of waste for composting at any one time as this requirement is similar to the existing paragraph 12 exemption limits of 400 tonnes at any one time. We also support the proposal to not require a waste authorisation for composting activities at the place the waste is produced. This will allow continued benefits from on-site, small-scale composting.

33 Do you agree with the type of authorisation for the "Storage and treatment of over 500 tonnes of waste for composting at any one time"?

Not Answered

If you answered 'No', please explain your answer below::

In general, it is difficult to support permitting throughout this consultation without further details on permit requirements. If the permitting requirements for composting more than 500 tonnes of waste at one time are in line with the current conditions in waste management licenses, then we would support the proposal. If the permit requirements are more onerous and require significant infrastructure or investment, then we would probably oppose the proposal. A 500-tonne threshold is quite small for most composting operations. A 1000 tonne threshold for permitting may be more appropriate. No matter the threshold, the cost of the permit should be in line with, or cheaper than, the current waste management license fees.

5.7 Anaerobic digestion

34 Is "Table 4: Type of authorisation for anaerobic digestion", clear and understandable?

Not Answered

If you selected 'No', how could "Table 4: Type of authorisation for anaerobic digestion", be improved::

The information on AD registrations and permits is clear and understandable. It may be useful to clarify the tonnage limit for small scale AD where waste is treated at the place it is produced. For small-scale closed composting systems, the proposal sites a 1 tonne of waste per day limit. We could not find any similar limit for small-scale AD proposed in the consultation. This makes it difficult to determine the difference between 'small-scale' AD and AD of less than 100 tonnes per day (tpd). Will on farm sites treating their own manures require any type of authorisation? While we do think clarifying the table would be useful, REA does support the proposal to not require authorisation for small-scale, on-site AD. Regulation should encourage uptake of environmentally beneficial activities, and it is important that farmers are able to continue treating their waste through AD on-site without significant barriers.

35 Do you agree with the type of authorisation for the "Anaerobic digestion of less than, or equal to, 100 tonnes of biowaste per day"?

Yes

If you answered 'No', please explain your answer below::

The proposal to require registration for anaerobic digestion of less than, or equal to, 100tpd seems reasonable pending details on the requirements associated with a waste-AD registration application.

36 Do you agree with the type of authorisation for the "All other anaerobic digestion"?

Not Answered

If you answered 'No', please explain your answer below::

The proposal to require a permit for all other anaerobic digestion is reasonable, pending details on the requirements associated with waste-AD permit applications. As the details on permit requirements and applications are sorted out, SEPA should aim to align details with existing permit requirements in the other UK nations. We have members with AD facilities in both Scotland and England. Their sites in England already require permits, so SEPA adopting a parallel approach would save them time and money as they aim to comply with the new environmental authorisations framework. While REA recognises the differences between the Scottish and English waste processing industry and regulatory approach, we encourage SEPA to consider following a similar format to the EA standard rules permits when developing the details on registration and permitting requirements to improve regulatory transparency in the UK and create businesses efficiencies that allow cost savings for the industry.

5.8. Recovery of waste by application to land for the purpose of soil improvement.

37 Is "Table 5: Type of authorisation for recovery of waste by application to land for the purpose of soil improvement", clear and understandable?

Yes

If you selected 'No', how could "Table 5: Type of authorisation for recovery of waste by application to land for the purpose of soil improvement", be improved::

38 Do you agree with the type of authorisation for the "Use of waste on land for the purpose of soil improvement (single farm/site)"?

Not Answered

If you answered 'No', please explain your answer below::

REA supports the proposal to require registration for single farms/sites applying waste to land for soil improvement. However, we would like to understand further details on what is involved in a 'registration'. Is it similar to the current requirements for a paragraph 7 exemption? It is important that the application of waste to land, even on one site, should be regulated as over application of waste, particularly waste ash, can severely damage soils and their productive capacity. Waste materials like ash often have excessively high conductivity, sodium content, PTE concentrations, and liming value that can cause environmental harm is not applied appropriately. The application of waste materials can contribute to Scotland's circular economy goals, benefitting the soil and reducing GHG emissions, but the properties of the waste product must be appropriately matched to the characteristics and properties of the receiving soil. This requires careful regulation and monitoring. The list of waste types that can be spread to land should be reviewed, both for registrations and for permits. There are some materials not currently permitted to be spread that could be beneficial, an example is cement kiln dust used successfully in England as a renewable source of agricultural lime. There are also some materials not covered by the regulations and permitted to be spread without regulatory control, such as poultry manure. Whilst this material contains high levels of readily available nutrients and can be beneficial, it must be applied in the correct quantities and at the right time. Poultry manure should be brought into scope of the regulations. The registration system should recognize the expertise of BASIS / FACTS qualified agronomists who may be providing technical advice on the correct use of organic materials.

39 Do you agree with the type of authorisation for the "Use of waste on land for the purpose of soil improvement (multiple farms/sites)"?

Not Answered

If you answered 'No', please explain your answer below::

As above REA supports the regulation of the application of wastes to land. A permit for multiple farms could be beneficial for organisations with multiple sites but without sight of the details on what a permit is likely to entail, this is difficult to answer. We have included some of our points for clarification below.

We would like to understand further details on who holds the permit. There are many people involved in recycling waste to land – the waste producer, technical advisors, haulers, farmers and spreading contractors. Who is the 'authorised person' with overall control and subjected to the Fit and Proper Persons test? BASIS qualified agronomists are often advising farmers on the correct use of organic materials to gain maximum benefit and to protect the environment, but they may not be in control over the actual application. Details on the appeal system for rejected applications and exemptions is also necessary.

Additionally, REA acknowledges the need for financial provision checks to be included in the Fit and Proper Person check. However, for new (and some existing) businesses, setting aside a large sum of money can be overly prohibitive and have a huge impact on the viability of projects. SEPA should consider alternative ways of providing financial provision and be able to be more flexible when assessing this.

The list of materials that may be spread to land should be reviewed. There are materials that can provide benefits when applied correctly, and under a permit, it should be possible to include further materials when they can be justified.

Regarding the application of sewage sludge, REA supports proposals to regulate the application of sewage sludge in the same manner that other beneficial organic materials are regulated. Will the Biosolids Assurance Scheme be integrated into the new registration and permitting requirements?

Finally, an REA member has raised concerns about how permits will apply to areas of landbank. Will the permitting of an entire landbank by one operator prevent another operator from gaining access to that landbank when contracts change, etc.? Could an operator 'sit' on a landbank permit and prevent access to another operator?

These questions will need to be resolved before REA can provide a comprehensive response on the proposed authorisations for applying waste to land for soil improvement.

5.9. Recovery of waste for construction, restoration, reclamation, or improvement of land

40 Is "Table 6: Type of authorisation for recovery of waste for construction, restoration, reclamation, or improvement of land" clear and understandable?

Yes

If you selected 'No', how could "Table 6: Type of authorisation for recovery of waste for construction, restoration, reclamation, or improvement of land", be improved::

Waste types will be restricted to those suitable for these types of activities at Registration level. What types of waste do you consider appropriate for use?:

We support the use of soils and stones for the construction, restoration, reclamation, and land improvement projects. We also recommend a review of SEPA's greenfield soils guidance alongside the introduction of these new authorisations. The greenfield soils guidance is restrictive in where soils can be used and could benefit from review. There are many uncontaminated virgin soils that could be beneficially that are not able to due to the current complex system. These soils are currently being recycled without the appropriate authorisation or are ending up in landfill. The use of soils (uncontaminated) by households and landscape gardeners should be considered to maximise the potential for uncontaminated soils to be reused, rather than landfilled.

41 Do you agree with the type of authorisation for the "Use of less than, or equal to, 250 tonnes of waste in construction and maintenance projects in a 12-month period"?

Yes

If you answered 'No', please explain your answer below::

42 Do you agree with the type of authorisation for the "Use of less than, or equal to, 100,000 tonnes of waste in construction, restoration, reclamation, and land improvement projects"?

Yes

If you answered 'No', please explain your answer below::

Yes, a registration seems reasonable. As mentioned throughout the consultation, we will need to understand further details of the registration requirements. Uplifted soils (recycled or virgin) are precious resources which we need to protect and preserve. The current regulations are complex and ambiguous regarding re-use of soils and don't support its protection. As a result, a great deal of valuable soils is wasted, illegally disposed of, to avoid this complex system. The registration process needs to ensure the environment is protected but be more flexible to allow legitimate use of these valuable resources. We support the need for a Fit and Proper person test regarding relevant convictions, but any financial provision requirements must be reasonable otherwise this could prevent genuine beneficial use of valuable resources.

43 Do you agree with the type of authorisation for the "Use of greater than 100,000 tonnes of waste in construction, restoration, reclamation, and land improvement projects"?

Yes

If you answered 'No', please explain your answer below::

44 Do you agree with the 100,000 tonnes threshold separating Registrations from Permits?

Yes

If you answered 'No', please explain your answer below::

45 Do you agree with the type of authorisation for the "Restoration of former open cast coal sites"?

Not Answered

If you answered 'No', please explain your answer below::

5.11. Landfill

51 Do you agree with the type of authorisation for the 'Landfill of waste'?

Yes

If you answered 'No', please explain your answer below::

5.12. Emerging activities

52 Do you carry out, or are you aware of, any new or emerging waste management activities that SEPA should take into consideration under the new framework?

Not Answered

If you answered 'Yes', please list the activities below::

REA would support further discussion on the regulation of biochar production. We have some members who are looking at incorporating biochar into their processing. Biochar production may be undertaken at existing or separate facilities. If biochar is produced at an existing waste facility, will it be possible for the processor to include biochar production under their permit?

53 Do you carry out, or are you aware of, any other activity that may be appropriately authorised at Notification or Registration level, which would require a Permit under current proposals?

Not Answered

If you answered 'Yes', please list the activities below::

Regarding the consultation on all waste activities: REA generally supports most of the proposals, however, it is very difficult to provide specific feedback because there is insufficient information currently. We understand SEPA plans to consult further on permit details which is welcome. Without this detail, it is difficult to fully understand the implications for existing exempt and licensed facilities and what the new regime will involve. Members are less concerned about what their authorisation is called, but more on what the operational requirements are and what is the financial cost. We look forward to further engaging with SEPA and providing feedback as the Integrated Authorisation Framework develops.

14.1. Anaerobic digestion (AD) (non-waste)

157 Is 'Table 39: Type of authorisation for anaerobic digestion (AD) (non-waste)' clear and understandable?

Yes

If you selected 'No', how could 'Table 39: Type of authorisation for anaerobic digestion (AD) (non-waste)', be improved::

158 Do you agree with the type of authorisation for 'Anaerobic digestion of non-waste materials with a throughput of less than 100 tonnes of non-waste feedstock per day'?

Yes

If you answered 'No', please explain your answer below::

REA does support bringing non-waste AD (less than 100tpd) under registration. The risks are similar regardless of whether a waste or a product is used as feedstock, so it makes sense to have similar regulations in place.

159 Do you agree with the type of authorisation for 'Anaerobic digestion of non-waste materials with a throughput of greater than 100 tonnes of non-waste feedstock per day'?

Not Answered

If you answered 'No', please explain your answer below::

REA supports requiring permits for non-waste AD processing more than 100tpd. We appreciate that the authorisations proposed for non-waste AD are aligned with the proposed authorisations for waste AD operations. These requirements should also be consistent with the other UK nations' authorisation requirements to create regulatory transparency and business efficiencies for the industry in Scotland and beyond.

Our support is conditional on reasonable forthcoming requirements associated with registrations and permits for non-waste AD. For example, requiring secondary containment for non-waste AD sites could cost £800-900 thousand for some plants and would be nearly impossible for others. So, while we support bringing non-waste AD under the EASR framework, the registration and permit requirements need to be fit to industry. Sites also need clarity on if non-waste AD sites with a 100tpd capacity will be considered 'installations' (as 100tpd waste AD plants are) because that would cause non-waste AD sites to be subject to Integrated Pollution Prevention and Control (IPPC) permitting and therefore subject to best available techniques (BAT). If sites are required to become BAT compliant, we believe SEPA should work with existing sites to understand what can be reasonably achieved where retrofitting of infrastructure may not be financially feasible or practically possible.

We would also like clarity on the output status from AD plants processing distillery by-products. Currently, sites can accept material from distilleries that is

supplied as a waste (material not suitable for animal feed) or material that is supplied as a non-waste-by-product (material that goes to AD or animal feed markets). We encourage SEPA to retain this distinction between waste and non-waste-by-product distillery materials when providing clarity about regulatory controls for meeting the end-of-waste position for distillery by-product derived digestate.

As we stated in our response to the Scottish Government consultation on EASR, the registration and permitting of non-waste AD should cover the AD process rather than the digestate sites produced. There are existing quality standards that ensure consistency in waste and non-waste-derived digestate and controls on the spreading of these materials.

14.2. Carbon capture

160 Is 'Table 40: Type of authorisation for carbon capture', clear and understandable?

Yes

If you selected 'No', how could 'Table 40: Type of authorisation for carbon capture', be improved::

161 Do you agree with the type of authorisation for Table 40, item (a)?

Not Answered

If you answered 'No', please explain your answer below::

REA generally agrees with the type of authorisation proposed for carbon activities (items a and b), but we would appreciate further details on the proposed measures associated with registrations and permits for carbon capture activities, including any measures that affect the status of end products arising from carbon capture for industrial and food grade use. It is important the authorisations for carbon capture activities do not discourage this activity from taking place.

162 Do you agree with the type of authorisation for Table 40, item (b)?

Not Answered

If you answered 'No', please explain your answer below::