

## Response ID ANON-W9VH-3WVM-U

Submitted to **Consultation on Proposals for an Integrated Authorisation Framework**  
Submitted on 2017-04-11 21:35:00

### About You

#### What is your name?

**Name:**

Jenny Grant

#### What is your email address?

**Email:**

jenny@r-e-a.net

#### Are you responding as an individual or an organisation?

Organisation

#### What is your organisation?

**Organisation:**

Renewable Energy Association

#### The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

**We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?**

Yes

### Part 2: Policy Overview

#### 1 Do you agree with the benefits set out here?

Yes

#### 2 Are there any other comments you would like to make on Part 2?

##### Are there any other comments you would like to make on Part 2?§:

We support the principle of an integrated authorisation framework and support moving to a more streamlined, consistent and transparent system. Like many things, the key to success is in the detail. There are few details in the consultation relating to the activities our members are mostly involved with (organics recycling and use of organics in agriculture) and it is not clear what authorisation tier certain activities will fall under so it is difficult to make further comment.

#### 3 How could SEPA better support the uptake of new technologies?

##### How could SEPA better support the uptake of new technologies?:

By ensuring that the 'Practical Guide' that sets out what authorisation is needed for an activity is updated regularly and when necessary in a timely manner to take account for new developments, research and new technologies.

### Part 3: Key features of the new framework for authorisation holders.

#### 4 Do you agree that the framework should include a set of universal outcomes?

Yes

#### 5 If so, are the outcomes proposed the right ones?

Yes

**Comments::**

**6 Do you see any opportunities within your sector for industry- led guidance to be produced to support this approach and how could it support you to deliver better?**

Yes

**Comments::**

There is already a great deal of guidance for organic recycling, both regulator produced technical guidance on Best Available Techniques, European BREFs and industry guides / code of practices. There is scope for these to be collated into a reference / sign posting type guidance document to make it easy for operators to find the required information.

There is also a need for good, modern guidance on how best to use organic materials in land restoration.

**7 Do you understand the descriptions of the regulated activities in Annex 2?**

Yes

**Comments::**

**8 Do you agree that these are the right factors for SEPA to consider?**

Yes

**Comments::**

We support a risk based approach and support the aim to improve consistency. We also support the need for financial provision and welcome measures taken to ensure this reflects the actual genuine costs of remediation. Whilst we also support measures to reduce waste crime, we would not like to see legitimate operators suffer due to the fact that their activity is sometimes the focus of waste crime.

**9 Do you agree that SEPA should consult on the guidance setting out the likely tier of authorisation for particular activities?**

Yes

**Do you agree that SEPA should consult on the guidance setting out the likely tier of authorisation for particular activities?:**

Given the potential impacts it is essential that SEPA consults on the details of the tiers of authorisation for particular activities. The detail given in section 6 on the types of activities our members are involved in (mostly composting, Anaerobic digestion and use of organics on land) is still to be decided and we would welcome the opportunity to gather feedback from industry on the proposals. One implemented, we would like to see the guidance updated when required based on new technology and other developments.

**10 Do you agree that standard rules will deliver the benefits we have set out?**

Yes

**Comments::**

We welcome measures to improve consistency and also to allow operators flexibility to meet outcome focused objectives. The standard rules need to be publicly available so that operators can see what likely rules they will have to comply with in advance of making an application.

**11 Do you agree with the procedure for making standard rules?**

Yes

**If not, why not?:**

The process for updating or introducing new standard rules when required needs to be documented and clear. It is essential that draft standard rules are consulted on and industry is given an opportunity to comment.

**12 Do you agree that SEPA and Scottish Ministers should have the ability to make GBRs?**

Yes

**Comments::**

**13 Do you agree that all regulated activities should have an authorised person responsible for overall compliance and that this person should be named in a permit and registration?**

Yes

**If not why not?:**

We do support the need for an authorised person, or several people within the responsible organisation. The process for transferring the authorisation in event of personnel changes within an operation needs to be straightforward and not excessively costly or time consuming.

**14 Do you think it is proportionate to require the person in control to be the person that notifies an activity in the notification tier?**

Yes

**Comments::**

We agree with the provision that the application can be filled out on their behalf by third party authorised by the 'person in control'. This is often very important as

some applications can be complex and companies pay someone with the appropriate qualifications and experience to act on their behalf. This is often more appropriate than someone who works for the company but has little relevant experience. For example the current paragraph 7 exemptions are often completed by an external expert.

**15 Do you agree that SEPA should include more than one person as the authorised person where appropriate?**

Yes

**Comments::**

**16 Do you have any views on how SEPA should decide if a person is in “control”?**

**Comments::**

There should be a statement defining what “in control” means. The person in control should have a management role in the company operating the site and be responsible for issuing instructions to the staff on site. This person should have the ability and knowledge in how to dispose/treat/recycle waste safely, with due consideration for the environment and while conforming to all regulations and codes of practice

Depending on the level of authorisation, they should be present on site for a certain number of hours per week or month. This may not be required for all types of activities, for example: Restoration activities, some of the best qualified staff in the company may well be responsible for restoration of a number of sites over a wide area and might only visit them a few times per year, e.g. when preparing the initial notification/application and a few times during restoration.

**17 Question 17 – Do you think the core requirements set out here will deliver the right approach to FPP for the integrated authorisation framework?**

Yes

**Comments::**

In principle the outlined approach seems reasonable. We look forward to having the opportunity to comment on a consultation on how the FPP will be applied in practice.

**18 Do you think that the criteria set out above will achieve the stated purpose of the FPP test?**

Yes

**Comments::**

**19 Do you agree with the proposed application processes?**

No

**Comments::**

We support a more streamlined approach to applications and think applications determined within the 4 month determination period will be welcomed by industry. In general, we support the proposals but the proposal for applications not granted within the determination period to be treated as refused concerns us. If SEPA are planning to refuse an application, this should be clearly communicated to the applicant, at the time the concern is highlighted along with the reasons for refusal and not left for the applicant to 'choose to treat it as refused'. The option to extend the determination period, based on the requirement for additional information, should be an option, to be agreed between both parties. This would avoid re commencing the complete application process which would be time consuming and onerous for all parties.

**20 Do you agree with the proposal to have a statutory determination period of four months for the majority of permit applications?**

Yes

**If not, what do you think the determination period should be?:**

**21 Should the legislation make a clear distinction for applications for “non-standard” activities?**

Yes

**Comments::**

**22 What other alternative arrangements would you suggest for managing non-standard applications?**

**Comments::**

**23 Do you agree with the proposals for variations?**

Yes

**If not, why not?:**

**24 Do you agree with the proposals for transfer?**

Yes

If not, why not?:

**25 Do you agree with the proposals for surrender?**

Yes

If not, why not?:

**26 Do you agree with the proposed approach to enforcement notices set out above?**

Yes

Comments::

**27 Do you agree a notice used in the way set out in 3.7.10 to 3.7.12 is a different type of notice and should be therefore be called something different, such as an improvement notice?**

Yes

Comments::

Improvement notice sounds reasonable.

**28 What benefits and drawbacks do you foresee from SEPA using enforcement notices in the way set out at 3.7.10 to 3.7.12?**

Comments::

In general, we feel that the new approach is balanced, sensible and fair. It is agreed that introducing temporary additional requirements on poor performers would prove more beneficial than revoking the authorisation. Likewise, suspension of an authorisation seems a fair method to allow SEPA time to re assess the activity and discuss options to progress or revoking the authorisation.

There would be some concern over SEPA's ability to serve enforcement where harm 'might arise' if this wasn't prescriptive and remained subjective. In addition, it would be queried if the temporary additional requirement period would attract additional SEPA charges during this time.

**29 Do you agree we should retain suspension notices for use in circumstances where we wish to suspend an activity in order to protect the environment, but the authorised person is not being 'enforced' against?**

Yes

Comments:

**30 Do you agree SEPA should have the power to revoke authorisations in these circumstances?**

Yes

Comments::

Yes. Although this power should only be considered necessary where no improvement to protect the environment was likely.

**31 Do you agree that appeals against SEPA decisions should continue to be heard by the DPEA on behalf of Scottish Ministers?**

Yes

If not, which alternative body do you think should hear such appeals and why?:

**32 Do you have any views on the proposed policy principles for transitional arrangements?**

Comments::

For those exemptions from WML moving to the registration or permit requirements will require sufficient time for the authorised person to submit an application. Clear and timely communication will be required to avoid confusion. In general it will need careful communication and management to ensure that there are not long delays when companies submit proposals for approval under the new rules.

We would like to see some standard rules and GBR in place before the integrated authorisation framework is fully implemented otherwise new applicants may end up with a higher level of authorisations than is justified by their activity.

**33 Do you have any suggestions for how SEPA might manage the workload to implement integrated, and corporate, authorisations?**

Comments::

Having designated and trained personnel for each tier of registration. An area of criticism is the changing staff roles where expertise in a particular area is lost.

**Part 4: Key features of the new framework for the public**

**34 Do you support SEPA having more flexibility in how information is made available to the public?**

Yes

**Comments::**

Yes in principle however a large amount of information supplied to SEPA is commercially confidential. This expensive information may be easily transferred, via SEPA, between applicants so there needs to be consideration how this can be prevented whilst also allowing the public to access information they require.

**35 Do you agree that a consistent, flexible and proportionate approach to public participation should be adopted?**

Yes

**Comments::**

Participation by the public is difficult as in most cases there is a lack of subject knowledge. Waste is an emotive subject and opinions tends towards the negative view. It is agreed that public knowledge should be increased to avoid this however, an acceptable method of transfer would require sensitive handling by SEPA. We look forward to hearing more about the proposals in a consultation.

**36 Do you agree that the procedural arrangements for third party call-in under CAR should be extended to all regulated activities?**

Yes

**Comments::**

**Part 5: Pollution Prevention and Control**

**37 Do you consider that the provisions of the universal outcomes contain equivalent protection as BAT in relation to domestic activities?**

Not Answered

**If not, why not?:**

**38 Do you have any comments on the potential impact of this change for other industrial pollution risk activities?**

**Do you have any comments on the potential impact of this change for other industrial pollution risk activities?:**

This approach should work well.

**Evaluation**

**Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)**

**Matrix 1 - How satisfied were you with this consultation?:**

Slightly satisfied

**Please enter comments here.:**

The consultation was mostly clear and easy to follow. However for our particular sector the proposals lack detail (as they are still to be decided) so it was difficult to answer some of the questions. We would have liked to have had the opportunity to answer question on section 6 and look forward to commenting on a consultation in the future.

**Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:**

Very satisfied

**Please enter comments here.:**