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Submitted to Environmental Authorisations (Scotland) Regulations 2018: proposed amendments
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About you

1 What is your name?

Name:
Claire Shipp

2 Are you responding as an individual or an organisation?

Organisation

3 What is your organisation?

Organisation:
The Association for Renewable Energy and Clean Technology

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

Publish response only (without name)

5 Do you consent to Scottish Government contacting you again in relation to this consultation exercise?

Yes

6 What is your email address?

Email:
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7 I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

New Activity - Sewage Sludge

1 Are there any other regulatory measures relating to the spreading of sewage sludge to land that you feel should be considered for inclusion in the Regulations?

Yes

Please give us your views:

REA supports the regulation of spreading sewage sludge to land under the 2018 Regulations.

We are aware regulators in other UK nations are also looking to bring this material under regulatory control, so we encourage the Scottish Government to coordinate with the other nations to ensure consistent requirements and regulations across the UK. The regulations should support but not duplicate existing regulations and rules that control the application of sludge. The regulations should be consistent with the regulations in place for other similar organic waste materials.

Each of the regulations on the spreading of sewage sludge should be supplemented with adequate guidance for those who will be affected, and the requirements need to be well communicated both within the Water Treatment Industry and farming sector. Consistency between nations and clear communication will ensure businesses with operations in Scotland or multiple UK nations can understand and implement the new requirements effectively and will create business efficiencies that benefit the wider industry.

REA also supports the addition of a Fit and Proper Person test for all operators involved in the handling, storage, transport, and spreading of sewage sludge. It is important to note that there are many individuals involved in moving waste to land, including consultants and brokers who provide technical input and organise registrations. When creating the details of the Fit and Proper person test, there needs to be clear guidance on who should be registered as a Fit and Proper person under each permit. This guidance should consider the role of consultants and brokers within the process. For example, in situations where brokers do not have control over the agricultural activities (e.g. transportation, storage, and application to land) but are contributing to the process by providing technical support and guidance, will a Fit and Proper Person test be applicable to them? There also needs to be clarity around requirements for a Fit and Proper Person test for registrations and exemptions.

We also recommend that the Scottish Government and SEPA consider the new farm payment support scheme for agriculture which is set to replace the EU Basic Payment Scheme in 2026. This scheme will allocate 50% of its payments based on the ability of farms to demonstrate sustainable practices, soil

health, and animal health. The application of sewage sludge (and other recycled organic fertilisers and soil conditioners) clearly falls under these practices. Therefore, the upcoming regulations and requirements need to allow confidence in the application of sewage sludge to land as a sustainable practice that improves soil health so that it may be included as a beneficial practice under the new farm payment support scheme.

The regulations should include provisions for appealing decisions, for example a rejected exemption. In our members' experience, issues are usually resolved with the permitting team but it would be helpful to have a defined process to deal with any issues.

Finally, these regulations must be accompanied by adequate resources for enforcement to ensure an effective roll-out and a level playing field for industry.

New Activity - Carbon Capture

1 Do you agree that this carbon capture activity should be an environmental activity in the Regulations?

Yes

Please give us your views:

We agree that carbon capture should be viewed as an environmental activity, and it is appropriate that SEPA consider how best to regulate such developments. It is, however, important that SEPA take a proportional approach that recognises the nascent nature of the sector. As identified in the consultation, there will be a wide range of carbon capture technologies coming forward. This includes bioenergy carbon capture and storage (BECCS), industrial CCS sites, and CCS on biogas facilities, as well process like Enhanced rock weathering, DACCS and use of Biochar. Beyond this there will also be market participants looking to use the carbon, as opposed to storing it, to displace fossil carbon sources.

It is essential that the SEPA evolves its regulatory position in parallel to the development of these individual sectors, and that early decisions on regulatory positions do not become a barrier to deployment of innovative approaches. We strongly encourage SEPA to engage with the Scottish Government as they develop policies to support carbon capture, especially following the publication of the Scotland's Negative Emissions Technologies Feasibility Study last year. Regulation should allow for the sector evolve and develop, to establish best environmental practice as lessons are learned.

New Activity - Non-Waste Anaerobic Digestion

1 Do you agree non-waste anaerobic digestion should be an environmental activity in the Regulations?

Yes

Please give us your views:

REA supports the proposal to bring non-waste AD under the 2018 Regulations as we agree that non-waste AD operations have similar environmental and human health considerations as waste AD operations.

However, the details on the associated requirements for non-waste AD sites are key to successful regulation. Requirements for retrospectively fitting secondary containment could be difficult for the sector. For some sites, mandatory secondary containment could add up to £900,000 in additional costs, while for other sites, retrospectively fitting secondary containment is nearly impossible due to buried pipes. Additionally, we do not support the regulation of non-waste derived digestate. The regulation of non-waste AD should cover the process rather than the product as there are existing rules and regulations, including the current GBR 18, to ensure best use of non-waste derived digestate. The requirements associated with bringing non-waste AD under regulatory control should be reasonable and fit to industry needs and capabilities. Existing sites will need time and investment to adapt their processes to meet the new requirements.

New Activity - Emissions of Ammonia From Livestock Farms

1 How should ammonia emissions from intensive livestock farms be controlled in future? This could include, a regulatory basis, the provision of advice, information and examples of good practice or other means.

Please give us your views:

Defra have been running a regulation co-design group on tackling pollution from slurry which has included ammonia emissions. There has been a wide range of stakeholders represented in the group. The group considered various approaches for the best management of emissions from agriculture with the aim to develop a shared approach to reducing ammonia emissions from farming. The output from the first round was that new measures for ammonia need to be considered alongside the wider regulatory proposals that impact farming practices around the storage, handling, and management of nutrients.

Defra have just launched the next round of the co-design group. We urge Scottish Government to consult colleagues in Defra to see if there are any outputs or learnings that would be useful to take into account when considering controlling ammonia emissions in Scotland.

REA supports a flexible approach to controlling ammonia emissions, not a one-size-fits-all approach, although requirements around monitoring should be consistent. New measures need a joined-up approach and be based on evidence and be backed by support and advice.

2 What considerations should be taken into account when considering future control or management of ammonia emissions from intensive livestock farms? Such considerations may include specific issues relating to farm type, size or other matters related to management of

emissions such as costs.

Please give us your views:

REA supports a whole farm approach when considering managing ammonia emissions. The regulations should be flexible and take account of local conditions and changing practices and focus on prevention of pollution. However, the requirements must be clear enough for farmers to understand what they have to do, for there to be consistency across the sector and for the requirements to be enforced by the regulator.

Although covers for stores and lagoons can result in a reduction in ammonia emissions, these can be problematic to retrofit. Requiring covers on new stores and lagoons seems reasonable but a flexible approach enables other emission reduction techniques to be considered. A mix of control measures may give equivalent ammonia reduction as covering lagoons and stores.

Waste Technical Provisions

1 Do you agree that the regulations adequately capture waste activities?

Not Answered

Please give us your views:

REA agrees that the regulations adequately capture waste activities. However, we do believe that the list of permitted waste to land should be reviewed. Our members have concerns about the amount of poultry manure that is being applied to land. Poultry manure is a high available nutrient source, so it is very popular with farmers. However, lack of regulations has led to over-application and miss-use in some areas which creates environmental and human health risks. Alternatively, cement kiln dust has been used successfully in England as a renewable source of agricultural lime and could benefit from being included as a permitted waste to land activity. For these reasons, we believe a review of the permitted waste to land activity list is necessary to ensure the new regulations capture all relevant waste activities.

2 Do you have any comments on the geographical extent in the draft Regulations?

Yes

Please give us your views:

REA agrees with the proposal to limit the geographical scope of the regulations to maintain a clear boundary between SEPA and Marine Scotland. We would like to re-emphasise the importance of collaboration, despite the delineated scope, due to the connection between the application of recycled organic material to land and potential nutrient leaching into waterways.

3 Do you have any comments on the requirements applying all waste management activities (Schedule 11) in the draft Regulations?

Yes

Please give us your views:

REA supports transitional arrangements which will allow activities that already need a waste management license (WML) under EPA 1990 to automatically receive an authorisation under the draft Regulations without the need for license holders to reapply. We would also like to stress the importance of communicating the process for applying for new authorisations, complete with details about requirements, before the transition begins in 2025 to allow companies to receive their authorisations before simple exemptions begin to end in 2026. If this is not possible, the timeframe should be extended proportionately. There also needs to be sufficient time for sites to make any operational or infrastructure changes that may be needed to comply with the new authorization.

4 Do you have any comments on the requirements applying to landfill activities (Schedule 13) in the draft Regulations?

No

Please give us your views:

5 Do you have any comments on the requirements applying to hazardous waste mixing and treatment of waste oil (Schedule 12) in the draft Regulations?

No

Please give us your views:

6 Do you have any comments on the requirements for management of separately collected recyclable waste and for operating a materials facility (Schedule 14) in the draft Regulations?

No

Please give us your views:

7 Do you have any comments on the requirements for the management of waste motor vehicles (Schedule 15) in the draft Regulations?

No

Please give us your views:

8 Do you have any comments on the requirements applying to the management of WEEE (Schedule 16) in the draft Regulations?

No

Please give us your views:

9 Do you have any comments on the requirements applying to the management of waste batteries (Schedule 17) in the draft Regulations?

No

Please give us your views:

10 Do you have any comments on draft General Binding Rules (GBRs) 1 to 4?

Yes

Please give us your views:

REA supports the development of General Binding Rules for low-risk activities. We appreciate that the GBRs will reduce the number of applications needed for new authorisations, freeing up capacity for SEPA to address the applications that do come in for activities that do need authorisations.

It may be useful to provide an example of 'separating compostable packaging from non-compostable packaging' under the listed treatment activities to make waste easier to store and transport for recovery or disposal (Section 7.3.23). The section includes compacting paper and cans to facilitate less frequent collections and separating recyclables into separate storage containers. As compostable packaging is often inappropriately disposed of in dry-recyclable bins, it is important that they are removed and placed in the proper storage containers, where possible, before compaction to prevent contamination of the dry-recyclable waste stream and ensure they can be directed to the appropriate treatment facility and achieve full circularity in the waste stream.

In general, the GBRs should be written to prevent contamination in recycling schemes while also remaining convenient and reasonable for all relevant parties.

11 Do you have any comments on the minor amendments relating to waste activities as set out in Annex D (in the consultation document)?

No

Please give us your views: