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Ìrean Àrainneachdail na h-Alba

ENVIRONMENTAL
Standards Scotland
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The Scottish Environment Protection Agency
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9 October 2024

1. Environmental Standards Scotland (ESS) welcomes the opportunity to respond to the following consultations that are being undertaken by the Scottish Environment Protection Agency:
 - a. Proposed standard conditions for registration level activities as part of the Integrated Authorisation Framework (IAF); and
 - b. Proposed changes to the charging scheme to support delivery of the IAF.
2. ESS is a Non-Ministerial Office (directly accountable to Scottish Parliament) with a remit to monitor and secure improvements to:
 - a. Public bodies' compliance with environmental law;
 - b. The effectiveness of environmental law; and
 - c. The implementation and application of environmental law.
3. ESS strongly supports the ambition of delivering a consistent, proportionate and simplified environmental protection framework. ESS also recognises the benefits that can be gained from implementing standard conditions for registration level activities.
4. However, The Scottish Environment Protection Agency should consider the following areas to maximise the potential benefits of the IAF:

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- The use of corporate permits.
- The potential mismatch in accessibility between general binding rules and the standard conditions proposed for registration level activities.
- The adaptiveness of the standard conditions for registration level activities.

Use of corporate permits:

5. ESS notes the intended pause on the use of corporate permits where a single authorised person undertakes multiple, but distinct activities. ESS understands this is due to restrictions set by the current charging schemes¹ and the risk that this could result in a significant under recovery of charges as a result.
6. SEPA have committed (in their [Corporate Plan for 2024 – 2027](#)) to undertake a review of charging schemes to ensure that they are proportionate and fully recover costs. However, there is currently no further publicly available information on the timing of this review or future implementation of any revised schemes.
7. ESS would emphasise the importance of ensuring that the wider review of SEPA's charging schemes is actioned in a timely fashion and the full use of corporate permits promptly enabled. This will ensure that the potential efficiency gains and high degree of integration afforded by corporate permits can be realised.

Mismatch in accessibility between authorisation tiers:

8. ESS strongly supports the largely transparent, accessible and easy to understand format of the proposed standard conditions for registration level activities. ESS would encourage that a similar style is applied across the full range of authorisation tiers to maximise user comprehension and facilitate compliance. This should be accompanied by the introduction of supporting guidance to further increase user understanding.
9. ESS would caution against the observed divergence in style between the proposed standard conditions for registration level activities and the proposed general binding rules. As stated in [ESS' previous response](#) to the Scottish Government's prior

¹ SEPA's current charging scheme currently discounts multiple activities regulated under one authorisation.

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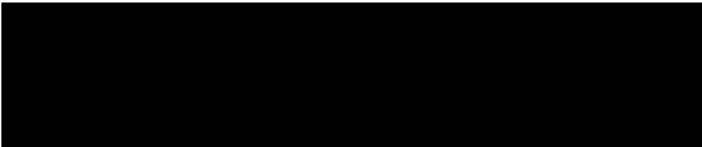
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consultation, ESS finds that the general binding rules included in the draft Regulations are technical and legalistic in nature, in turn hindering ease of understanding.

10. This divergence in overall accessibility between these authorisation tiers could imbalance the framework, introduce regulatory challenges and affect compliance. ESS would encourage SEPA and The Scottish Government to embed an accessible approach across **all** authorisation tiers. This is essential to deliver a transparent, easily understood and coherent set of regulatory requirements.

Adaptiveness of Standard Conditions:

11. SEPA must 'consult such persons as it considers appropriate' where standard conditions are revised, as set out in [Regulation 34\(1\) of the Environmental Authorisation \(Scotland\) Regulations 2018](#). This requirement does not apply where the revision 'makes only minor administrative changes' as set out in Regulation 34(2).
12. Standard conditions must be routinely reviewed and updated to ensure they remain contemporary, reflect best practice and deliver effective environmental regulation. ESS would emphasise the importance of ensuring that any advancements in environmental law and standards are enshrined in a timely manner with no undue lag.
13. ESS would therefore suggest that further consideration is given to the adaptiveness of the proposed standard conditions and for SEPA to embed processes that allow for regular review and swift revision. This will ensure that the standard conditions remain fit for purpose into the future and deliver robust environmental protection.
14. Additionally, ESS would encourage SEPA to define and publish what is considered a 'minor administrative change' that would not require consultation. Effective public participation and the ability for individuals to input to environmental decision making is essential to embed the principles of the Aarhus Convention. This must be considered when interpreting this duty and determining consultation requirements.



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