

RESPONSE TO THE CONSULTATION ON REVISION OF CONDITION C.4.1 OF THE STANDARD CONDITIONS FOR RADIOACTIVE SUBSTANCES ACTIVITIES

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Contents

Introduction 4

 1..... Why we consulted 4

 2..... What we proposed 4

 3.....Response to the consultation 5

Appendix 6

Introduction

The Scottish Environment Protection Agency (SEPA) published a [consultation](#) on the proposed revision of Radioactive Substances Standard Condition C.4.1 in permits granted under the Environmental Authorisations (Scotland) Regulations 2018 (EASR). The consultation was published on Citizen Space on 22 September 2020 and was open for twelve weeks. This response document gives a summary of the responses received from respondents.

1. Why we consulted

The current Condition C.4.1 of the [Standard Conditions](#) for radioactive substances activities states:

“Except for sealed sources, you must not transfer radioactive waste to a person outside of the United Kingdom unless:

- 1. The transfer is carried out in accordance with an authorisation granted under the Transfrontier Shipment of Radioactive Waste and Spent Fuels Regulations 2008;*
- 2. The purposes of the transfer is treatment of the radioactive waste; and*
- 3. Any waste following treatment is returned in accordance with Government Policy.”*

The United Kingdom has now left the European Union, and as a consequence, is no longer subject to the Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations 2008. Condition C.4.1 must be revised to reflect this change.

EASR Regulation 34 requires that in determining or revising standard conditions, SEPA must consult such persons as it considers appropriate unless it considers that a revision makes only minor administrative changes to the standard condition. SEPA does not consider its proposed revision to be a minor administrative change. Therefore, as all EASR registrations and permits are subject to this standard condition and in the interests of transparency, SEPA has decided to publicly consult on the proposed revision.

2. What we proposed

We proposed the removal of sub-section (a), *“The transfer is carried out in accordance with an authorisation granted under the Transfrontier Shipment of Radioactive Waste and Spent Fuels Regulations 2008”* in its entirety.

You must still comply with the Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019 if you transfer radioactive waste outwith the United Kingdom; however, it will no longer be a requirement of the EASR authorisation.

We sought input from the affected authorised persons and the wider community by asking what impact the proposed revision would have by providing choices of: significant impact, some impact, no impact and not sure. In addition, an open text box was provided.

3. Response to the consultation

We received 12 responses to the consultation, six from impacted industry, two from members of the public and four from other persons or organisations. The responses were as follows:

Significant Impact	0
Some Impact	1
No Impact	9
Not Sure	2

In addition, six comments were received.

Appendix

The following table contains the comments received.

Impacted Industry	As stated, compliance with the updated Transfrontier Shipment of Radioactive Waste and Spent Fuel Regulations would still apply, so not stipulating this in the Standard Conditions should be of no consequence.
Impacted Industry	We do not transfer RA Waste outside the UK, and all the sources we hold are sealed sources
Member of the Public	Operators of activities generating radioactive waste should have established and effective management systems with written processes to identify applicable legislation, in addition to competent individuals within the organisation (e.g., Radioactive Waste Advisers). Operators, therefore, should be cognisant of all regulatory requirements that need to be complied with. I do not consider it the responsibility of UK regulators to design regulations that signpost to other pieces of legislation, unless there is a need reconcile potential conflicts and complications with other requirements.
Impacted Industry	<p>Potential for the removal of reference to the legislation that must be complied with may result in miss consignment OR delays in consignment once it is realised that additional legislation applies by those not familiar with the requirements.</p> <p>However, it is useful to remove specific references because this allows the title of the regulations to change without it impacting upon the permit/authorisation</p>
Impacted Industry	<p>I believe the wording is effectively the same in terms of what activities are allowable, but it is the relevant reference to legislation that has been removed. It would be the definition of "treatment" that would be critical here.</p> <p>It should be noted that NORM decontamination and NORM is a significant opportunity for UK businesses to retain Decommissioning work in the UK in line with OGA strategy</p>
Regulatory Body	<p>We do not expect this change to have any regulatory impact or consequence for ONR and do not see any significance in removing reference to the Transfrontier Regs. Referencing them does not alter their legal standing, so it appears only a minor change.</p> <p>We do not fully understand the reasoning for not revising sub-section (a) to reflect the new set of regulations as an administrative change. In particular, it's not clear why there is a risk of introducing dual regulation as only one set of regulations will be in force at any time (the new regulations revoke the existing regulations as soon as they enter force).</p>

	<p>However, we acknowledge the point made that the duty holder still needs to comply with these regulations, whether or not they are included in the condition, and so we do not object to the proposed revision.</p>
SEPA Comment	<p>We understand that sign-posting other legislation can be of benefit, and we considered simply replacing the 2008 Regulations with the 2019 EU Exit Regulations (which would have been an administrative change to the standard condition that does not require consultation) as well as including reference to all the transfrontier legislation (e.g., Waste Shipment Regulations). However, by including other legislation in the standard condition, if the transfer of radioactive waste did not comply with that legislation, it would also be a contravention of the EASR authorisation. We consider that to be unnecessary and the removal of sub-section (a) to be the best solution as it both removes this dual regulation and protects the condition against future changes in legislation.</p>

