Scottish Environment Protection Agency
Buidheann Dìon Àrainneachd na h-Alba

For the future of our environment

CONSULTATION ON THE IMPLEMENTATION OF THE ENVIRONMENTAL AUTHORISATIONS (SCOTLAND) REGULATIONS 2018 FOR RADIOACTIVE SUBSTANCES ACTIVITIES – RESPONSE DOCUMENT

November 2023

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Introduction

During the development of the Environmental Authorisations (Scotland) Regulations 2018 (EASR), the Scottish Government and SEPA held several consultations on the integrated authorisation framework, the regulations, associated guidance, charging scheme and standard conditions for radioactive substances activities. These consultations set out the reasons for any changes in legislation, how radioactive substances activities would be regulated and any benefits that it was thought this might introduce. As well as the formal consultations, a variety of other stakeholder engagement events were held on the proposals such as workshops with operators to develop standard conditions, presentations to interested stakeholder groups and updates at stakeholder meetings.

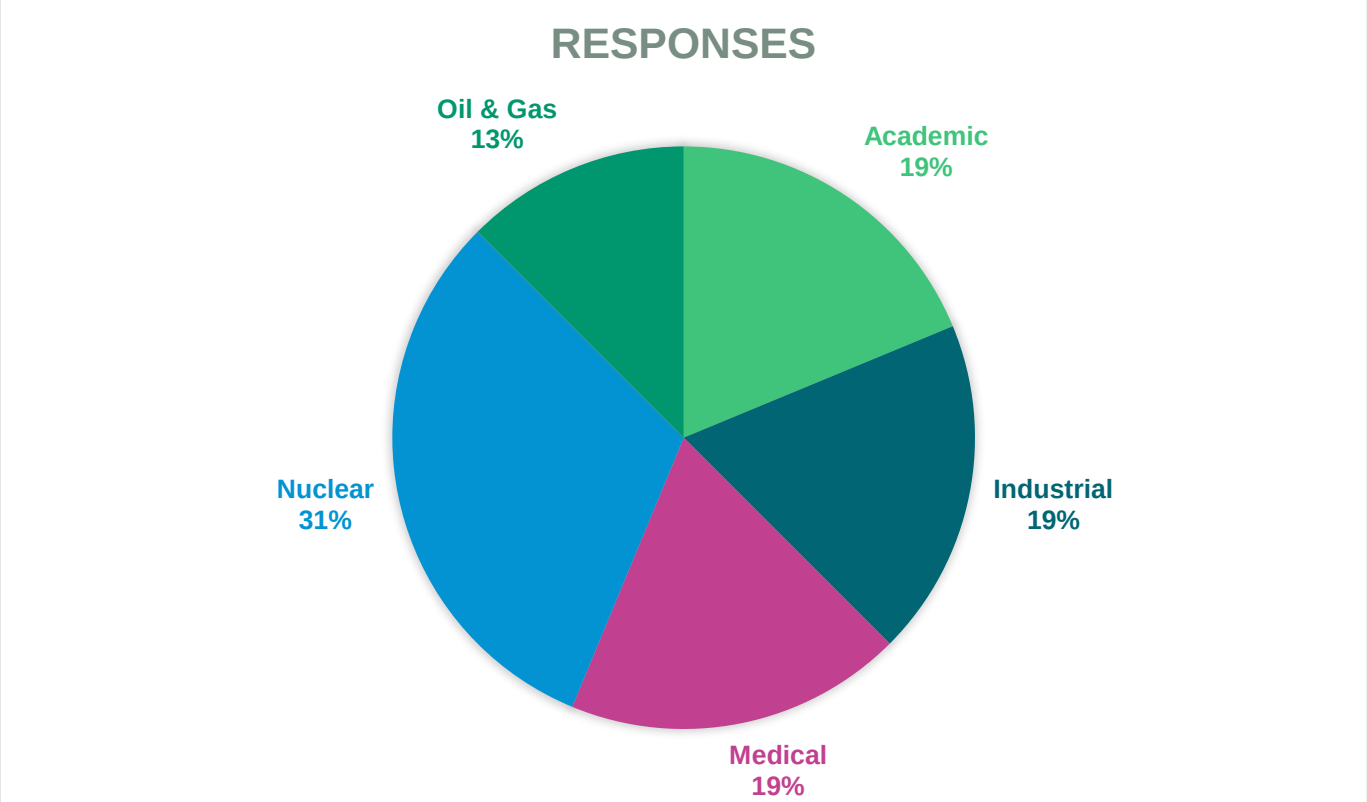
Now that the regulations have been in force for more than four years, we wanted to consult you on our implementation of EASR to assess if it has brought the benefits we foresaw and if there are any improvements that we can make.

We asked some specific questions on our implementation of EASR and some more general questions to seek your views on our implementation of EASR.

Responses

We received 11 responses from a range of stakeholders including academic, industrial, nuclear, medical, and oil & gas sectors. A percentage breakdown is given below in Figure 1 – Respondents by sector.

Figure 1 – Respondents by sector



Most responses were supportive of our implementation of EASR. Our detailed responses to comments made and a summary of the percentage[1] response for each question is given below.

[1] Percentages have been rounded to the nearest whole number and may not add up to 100%

Question 5 - Do you agree with the type of authorisation that SEPA has assigned radioactive substances activities to? 100% agreed**.**
Question 6 - Do you find our 'Authorisation Guide for Radioactive Substances Activities' helpful? 91% said yes and 9% were unsure.
Question 7 - Do you agree with the radioactive substances activities that we authorise by notification? 91% said yes and 9% were unsure.
Question 8 - Do you find the process for making a notification easy to use? 64% said yes, 27% were unsure and 9% did not answer the question.
Question 9 - Do you agree with the radioactive substances activities that we authorise by registration? 64% said yes, 9% said no, 18% were unsure and 9% did not answer the question.
Question 10 – Are you satisfied with the application process for a registration? 27% said yes, 64% were unsure and 9% did not answer the question.
Question 11 - Do you agree with the radioactive substances activities that we authorise by permit? 82% said yes, 9% said no and 9% that were unsure.
Question 12 - Do you find the application process for a permit straightforward? 45% said yes, 45% said no and 9% were unsure.
Question 13 – Is the surrender process for a permit easy to understand and undertake? 27% said yes 9% said no and 64% were unsure.
Question 14 - Do you agree with us referring to published standard conditions instead of copying the relevant ones into your registration or permit? 82% said yes and 18% were unsure.

Question 15 - Do you find our guidance to standard conditions useful? 73% said yes and 27% were unsure.
Question 16 - Do you find the standard conditions easy to understand and comply with? 82% said yes and 18% were unsure.
Question 17 – Do you have any comment on the layout of the standard conditions with respect to having a summary of the record requirements, data return requirements and information requirements listed in schedules? 36% said yes, 55% said no and 9% were unsure.
Question 18 - Do you agree with our requirements to prepare, maintain and implement a waste management plan as stated in our standard conditions? 91% said yes and 9% were unsure.
Question 19 – Do you agree with how we regulate holdings of sealed sources by removing individual radionuclide and activity limits and applying a limit based on source categorisation? 64% said yes and 27% were unsure.
Question 20 – Do you agree with our requirement for annual reporting of your sealed source holdings? 55% said yes, 9% said no and 27% were unsure.
Question 21 – Are you satisfied with the current EASR application forms and guidance? 82% said yes and 18% were unsure.
Question 22 – Please provide any additional comments you have regarding our implementation of EASR. There were 9 responses to this question.

Responses to specific comments made by respondents

Question 5 - Do you agree with the type of authorisation that SEPA has assigned radioactive substances activities to?
It demonstrates a proportionate approach to regulation.
The approach is straightforward and easy to navigate. The way that the type of authorisation has been written means that anybody can apply themselves to these requirements. We have found that the SEPA website presents the information in a way that is easy to navigate.
The four-tier authorisation system is clear and adopts a proportionate system for managing radioactive material. The introduction of the notification tier is a good development as it removes the need for a permit for many holders of low hazard radioactive material while maintaining clarity as to the conditions under which sources are to be managed.
Our response
We are pleased that all respondents agree with the type of authorisation to which we have assigned radioactive substances activities.

Question 6 - Do you find our 'Authorisation Guide for Radioactive Substances Activities' helpful?
The Authorisation guide is helpful. Additionally, we found the session that SEPA provided introducing the new Authorisation guidance particularly useful.
It is clear and well thought out. It's a useful document in determining what authorisation is required for a user of radioactive material.
The guide provides a useful and succinct summary of the tiered approach to regulation, however it would be helpful if the purpose of the Authorisation Guide made clear that the document represents the authoritative point of reference for the list of activities which are to

be authorised by means of notification, as these are not specified in the EA(S)R18, rather Part 3 of the regulations gives powers to SEPA to require that a regulated activity is subject to authorisation through notification.
However, it has not been utilised as we have not been required to apply for a new authorisation under EASR. With specific reference to Section 4.1, the term 'normally' highlighted in bold text is less helpful and it is unclear as to what this term is referring to.
Our response
We note the comments on the authorisation guide and will carefully consider these.

Question 7 - Do you agree with the radioactive substances activities that we authorise by notification?
The introduction of the notification tier is a good development removing the need for a permit for many holders of low hazard radioactive material while maintaining clarity as to the conditions under which sources are to be managed.
We are content with the activities which are listed in the Authorisation Guide as requiring notification. However, we note from discussions at the time of EA(S)R18 implementation and in subsequent workshops concerning to the regulations, that authorised persons managing radioactive substances must operate wholly within highest "tier" of Notification, Registration or Permit applicable to them, based on the full range of radioactive substances activities carried on. For instance, a permit holder cannot make use of the notification for parts of their activity at the authorised premises where their permit(s) is (are) in force. For clarity, we understand that GBRs are available in all circumstances. However despite our position with an authorised activity of managing radioactive substances, and therefore holding permits, we have been advised by SEPA that in specific circumstances some activities may require to be authorised by notification. Examples include, management of an orphan source, management of waste arising from the decontamination of persons following an incident and the management of firewater following an incident. The advice to make such notifications, if such circumstances arise on our sites conflicts with the

understanding that as an authorised person holding Permits, we are unable to access the notification “tier” for these sites.
Our response
Subsequent legal advice has clarified that lower tier authorisations are available to registration or permit holders, where appropriate. This has also been raised with Scottish Government as a potential point of clarification in forthcoming proposals for amendments to EASR. SEPA is reviewing the availability of lower tier authorisations to permit holders.

Question 8 - Do you find the process for making a notification easy to use?
The online application is easy and quick to complete. Easy application under the notification tier has reduced the burden of applying for an appropriate authorisation for a number of radioactive materials users. In the past it has not been easy to find SEPA forms on the website but this has been improved significantly which is appreciated.
We have no experience of making a notification, but the process appears to be straightforward.
To date, the notification process has been straightforward to follow.
The online form is very easy and straightforward to fill out. It is very helpful that it makes it clear at the start of the process all the information which will be required. We have appreciated that as the RPA service for Scottish Schools we have been able to manage this and be the contact for all the relevant schools - saving any issues with staff turnover within schools. One improvement which would make the process even easier for us would be auto-renewal reminders sent out to the contact email address given close to the end of the 3 year period the notification is valid for.

Our response
We note the comment on auto-renewal reminders and are considering if this can be implemented.

Question 9 - Do you agree with the radioactive substances activities that we authorise by registration?
Additional industrial activities to be added to the current list. Examples include:- offshore mobile installations with no discharges and offshore installations handling sealed sources removed from the seabed (outwith 500m of another installation)
As this authorisation tier only applies in a limited number of circumstances it is not utilised by many persons who use radioactive material. Its use to allow permit holders in other parts of the UK carrying out peripatetic in Scotland is welcome to remove the burden of them to apply for additional permits.
Appears to be appropriate, although the registration activities are not applicable to Magnox Ltd.'s business and status as a nuclear operator/licensee.
Our response
We note the suggestions for additional activities and SEPA is considering if these can be implemented.

Question 10 - Are you satisfied with the application process for a registration?
Process is fine, with reasonable timescale for determination.
Our response
We note the response received.

Question 11 - Do you agree with the radioactive substances activities that we authorise by permit?
In particular, bespoke permits
It is clear what is relevant and not relevant to sites that require a permit. Since issue of the EASR 2018, it has been noted that there are several differences between the wording of the conditions between the English and the Scottish permits. For operators/companies that have sites in both England and Scotland, it is important that these differences are understood.
Offshore mobile installations with no discharge should be covered by a Registration, as should the recovery of a sealed source from the seabed.
The use of radioactive materials that require permitting is appropriate.
Our response
We note the responses received.

Question 12 - Do you find the application process for a permit straightforward?
The process for applying for a variation to an existing permit is straightforward, but SEPA should consider ways of speeding up the assessment process of these variation applications.
The permit in question was for an existing contaminated site with an old RSR Authorisation in place so the application was more complex than for a new operational site.
We have found that because the sites have dedicated SEPA Inspectors it means that there can be continued verbal communication through the application process. This ensures that the process is efficient and consistent. The forms themselves are also reasonably easy to understand.

No direct experience of making an application for a permit or received feedback form users of radioactive material. The issue of a variation by SEPA for users that had existing authorisations under the Radioactive Substances Act did not require users to re-apply for new permits and worked well.
Forms relevant to applying, or varying a permit are clear and procedures for initial submission to SEPA are satisfactory. However in our experience, the determination of applications is excessively lengthy and not commensurate with determination timescales laid out in EA(S)R18 Schedule 1, Part 1, Paragraph 10.
We have not been required to apply for a new EASR permit. However, in relation to applying for a variation, the forms only allow for brief information to be included, although any complex applications must rely on provision of additional supporting information. Some of the information requested can be difficult to provide as the form expects and it may be useful to have a ‘see supporting documentation’ option available. Further, SEPA’s determination process and period is unclear which can have an impact on industry. A published guidance document on the process would be of benefit.
Our response
We note the comments received. With reference to excessively lengthy determination times: Generally, the time it takes SEPA to determine applications is a reflection of the quality and complexity of the application itself. Paragraph 10(3)(c), Schedule 1 of EASR allows for longer determination periods as agreed with the applicant in writing. This usually relates to nuclear sites but may also relate to other novel or contentious activities. For nuclear sites, the longer period is required to allow us sufficient time to consult with the Office for Nuclear Regulation and Food Standards Scotland in respect of our Memoranda of Understanding and with Scottish Government. If the variation is deemed to be substantial in nature, we are also obliged to carry out a formal public consultation in accordance with SEPA’s Public Participation Statement. There can also be lengthy discussions with the applicant on the draft permit and bespoke conditions, and in some cases the need for external contractors to be engaged to verify aspects of the application.

With regards to “See supporting documentation” option: the questions in the application forms reflect the minimum information SEPA requires in order to determine an application. Having an option for supporting documentation to avoid completing these questions could circumvent the process and lead to insufficient information being provided. Published guidance on the determination process and period: SEPA will consider this request.

Question 13 - Is the surrender process for a permit easy to understand and undertake?
What constitutes a "satisfactory site" is not clear.
We have yet to start to collate information/evidence for surrender due to the sites lifecycle. However, it will be important that the RSR and Directive waste requirements are carefully considered.
Clients have reported surrendering their permit following advice from their SEPA inspector has been trouble free.
We have no experience of the surrender process as of yet, but it is considered that it will take an extended period of time and will be significantly complicated. Furthermore, we are required to anticipate what level of records SEPA are going to wish us to retain and submit to allow for closure. Guidance and better understanding of the process now would be useful to help us prepare.
Our response
With reference to satisfactory state: although "satisfactory state” is not defined, the factors SEPA may take into account are set out in paragraph 17, Schedule 1 of EASR. Furthermore, SEPA has published guidance on our principles for surrendering permits under EASR as well as decommissioning guidance for non-nuclear sites, which are available on SEPA’s website. For nuclear sites, we expect the operator to follow the guidance presented in “Management of radioactive waste from decommissioning of nuclear sites: Guidance on Requirements for Release from Radioactive Substances Regulation (the GRR)”.

Question 14 - Do you agree with us referring to published standard conditions instead of copying the relevant ones into your registration or permit?
Yes this seems to be a straight forward process once you start using it.
It avoids any confusion - ie variations from site to site. all on same level.
Nuclear sites have the Standard conditions listed and bespoke conditions. We are content that the Standard conditions are included as a list rather than copying relevant ones into our permit as it is clear which ones we must comply with (A, B, C, G, H and J), and those that are not relevant as they are controlled through the Nuclear Site License. The only slight concern we have is that the standard conditions can be changed by SEPA and then it would be up to stations to demonstrate that they comply with these. Although these would be consulted on, it would be important to receive early notification of this and also to provide a publication timeline to ensure compliance before they are issued.
This is a very welcome development. The standard conditions are easy to understand and well drafted. Having all users of radioactive material subject to the same standard conditions ensures consistency across all users and is an effective method for the conditions to evolve in the future.
Whilst the approach was a marked change from the previous RSA93 regime, we are supportive, and see the benefit of publishing standard conditions in reducing the need for variations to individual permits and the associated administrative burden.
In general, however, more clarity is required for how standard and bespoke conditions interact, particularly when a standard condition references the authorisation. It would be of benefit if terminology was consistent between standard and bespoke conditions, considering terminology changes between RSA and EASR and to ensure that any misalignments between standard and bespoke conditions is minimised or clarified. For example:

1. We have a bespoke condition which allows us to return radioactive waste to site (described as a disposal route), however this is a transfer under EASR and is authorised via Section C of the Standard Conditions.

2. Standard Condition B.3.1 states you may only receive radioactive waste that is described in your authorisation, there is no bespoke condition describing what radioactive waste we are allowed to receive.

3. Standard Condition Section J includes reporting timescales which conflict with our Bespoke Conditions.

Our response

Early notification and publication timeline before standard conditions change: Regulation 36(2) of EASR requires SEPA to inform you of the date the revision of a Standard Condition takes effect and Regulation 36(3) specifies when it takes effect. Minor administrative changes, as has been done recently, come into effect the day after publication, but they are unlikely to affect compliance. All other revisions will take effect three months after the date of publication on the SEPA website.

If there is no bespoke condition describing the radioactive waste you are allowed to receive in your permit, then you are not authorised to receive radioactive waste.

Standard Conditions points: Regulation 22(6) of EASR makes it clear that if a Standard Condition is inconsistent with any other condition of a permit, the other condition (the bespoke condition) will prevail to the extent of that inconsistency.

Question 15 - Do you find our guidance to standard conditions useful?

Some of the guidance on the standard conditions could be expanded more for example; Standard condition H2 - discharge form an non authorised outlet. Standard condition G5 - are there not more examples of fugitive emissions than just opening a container.

In addition the guidance should be made clearer about what SEPA consider to be waste and waste samples. The standard conditions suggest waste samples can be treated separately

but SEPA appear to have a different interpretation (they consider waste and waste samples to be the same) of this compared to Operators interpretation.
It seems clear enough.
The guidance to the standard conditions is easy to navigate and find the evidence sections helpful. In the table, we are not clear what CAS stands for or why it is important. There is no reference to what this is in the 'Definitions Section' of the document or prior to the standard conditions table.
The guidance is useful. It is worth however, noting as the standard conditions are easy to understand and well drafted the guidance does not need to be consulted regularly.
Whilst we are generally supportive of the guidance, we would make the following observations: There is an error throughout the current edition of the standard conditions guidance, where the grey coloured box immediately adjacent to the standard condition wording reads "bespoke condition," this appears to be mistaken and should read "standard condition." We feel that guidance on some conditions e.g. A.4.2 (Record Retention) could be more detailed to ensure that SEPA's expectations are better understood by operators when compliance arrangements are being established. Condition H.2. "Radioactive gaseous discharges outwith authorised outlets" is a standard condition which does not have an analogue in the RSA93 regime. We welcome the potential flexibility this standard condition provides. However, it would be helpful if the guidance could be expanded to make clear what the "relevant limits" referred to are e.g. site limits, limits associated with an authorised outlet that it is not BPM to direct the discharge to and the scenario for discharges where there is no obvious existing authorised outlet to which discharges may be routed?
Guidance on standard conditions is generally helpful but could be improved to include details on how standard conditions and bespoke conditions interact.

Our response
With regards to waste & waste samples: “waste” is defined in Regulation 2 of EASR as any substance or object which the holder discards or intends or is required to discard. A sample may be interpreted as either material or waste; however, SEPA regulates either interpretation the same under Standard Condition section C.7. With reference to CAS: This stands for Compliance Assessment Scheme. This scheme has been discontinued by SEPA and will be replaced by another means of reporting compliance in due course. Regarding the “Bespoke” Condition in Guidance: We have noted the error and will correct it at the next opportunity. Record retention guidance: it is difficult to provide useful guidance to that degree in the Standard Conditions guidance document which covers all types of permits, from sealed sources to nuclear sites. We expect nuclear sites operators to understand themselves what records they need to retain to demonstrate compliance: there is considerable regulatory guidance regarding records retention (e.g. Near-surface Disposal Facilities on Land for Solid Radioactive Wastes Guidance on Requirements for Authorisation February 2009, Management of radioactive waste from decommissioning of nuclear sites: Guidance on Requirements for Release from Radioactive Substances Regulation July 2018, The management of higher activity radioactive waste on nuclear licensed sites July 2021). There is also guidance published by the NDA. H.2 & relevant site limits: usually the relevant gaseous discharge limit will be the overall site limit; however, the Standard Condition has to allow for the possibility of other relevant limits to be present in the permit. If it is not clear which limit this refers to, you should discuss this with your SEPA site inspector. It may be necessary to vary the permit if this remains unclear. Interaction between standard & bespoke conditions: Regulation 22(6) of EASR makes it clear that if a Standard Condition is inconsistent with any other condition of a permit, the other condition (the bespoke condition) will prevail to the extent of that inconsistency.

Question 16 - Do you find the standard conditions easy to understand and comply with?
I refer you to my previous answers on this topic earlier in the questionnaire.
Generally, they are easy to understand and straightforward to comply with. There is one condition that may result in a sub-optimal option being taken. C2.14 requires 'Following transfer, you must ensure that the radioactive substances will be returned without delay to the authorised place if: a. they are not in accordance with the description that you have provided; or b. cannot be delivered for any reason'. For some waste streams handled on nuclear sites, if this situation were to arise, complying with this condition may not meet ALARP. It may be better to discuss the options applying BPM and ALARP principles with the SEPA Inspector before a decision is taken. The standard conditions are common sense, proportionate and fit for purpose.
Please see comments on Q15 re standard condition guidance.
Please see comments on Q15 re standard condition guidance. We also note some GBRs are transcribed into the standard conditions, but others are not. Although GBRs are universally applicable, this partial transposition of the GBRs creates an impression that only those appearing in the standard conditions may be used by registration & permit holders. We feel it would be clearer if none are transposed, with a signpost to the relevant GBR schedule of EA(S)R18 provided instead. For example the GBR for management of Cat 5 sealed sources is not transcribed, but the "Dustbin disposal" of VLLW GBR is transcribed. This scenario leads to doubt as to whether a registrant or permit holder could, for example, dispose of a Cat 5 source above VLLW limits to the dustbin. Whilst we are now confident that GBRs in their entirety are available to registrants and permit holders, it would be helpful if this could come across clearly in the Standard Conditions to avoid confusion. Further, the full incorporation of some GBRs into the standard conditions results in disposals made under conditions such as G3 (VLLW "dustbin disposal") or G4 (Disposal of small

quantities of radioactive aqueous waste) becoming “caught” by other standard conditions pertaining to reporting requirements, e.g. a VLLW “dustbin disposal” made by a registrant or permit holder would be treated no differently from any other radioactive disposal of solid waste and thus would have to be reported in monthly returns. This appears to be inconsistent with the acknowledged low risk associated with the activities authorised by GBR and which do not require to be routinely reported to SEPA. We feel it is important that the risk associated with the radioactive substances activity, rather than the nature of the authorised person’s business should be the over-riding principle. e.g. A nuclear site making a “dustbin disposal” of a small amount of VLLW or aqueous waste to sewer, under the relevant GBR should not be subject to more onerous reporting conditions than a small user undertaking an equivalent disposal authorised under the GBRs.

Notwithstanding the above comments we find the standard conditions in isolation relatively easy to understand. However, we have found that the interpretation of terminology can differ between ourselves and SEPA.

Our response

Expanded guidance-Standard condition H2 - discharge form a non authorised outlet. Standard condition G5 - are there not more examples of fugitive emissions than just opening a container: It is difficult to provide detailed guidance that potentially relates to all types of permits for each Standard Condition; however, these comments will be considered at the next revision of the guidance document.

Transfer back to site if can’t be delivered or not as described: It is important to understand that the operator’s responsibility for radioactive waste does not end at the point of transfer, and usually if the transfer cannot be completed, the best place for managing any such waste is the place where it was produced. This mitigates against radioactive waste ending up at a site not authorised to manage that waste safely. Standard Condition C.6.1 does allow some flexibility for returned waste to go to other sites, provided that the site is appropriately authorised and represents best practicable means for the management of that waste in accordance with Standard Condition C.3.1. If the site which received the mistakenly described waste is also authorised to manage that waste if it were correctly described, SEPA is amenable to allowing the waste to stay there, provided that it can be demonstrated as being BPM. It is

recommended that you discuss these situations with your SEPA site inspector as soon as reasonably practicable.

Remove G.3/G.4/G.5 as redundant with GBR's: there is value to both SEPA and the operator in reporting all radioactive waste disposals at the same time since this helps demonstrate that you have optimised your approach to radioactive waste management in compliance with Standard Condition B.2.2. SEPA will keep this under review.

Question 17 - Do you have any comment on the layout of the standard conditions with respect to having a summary of the record requirements, data return requirements and information requirements listed in schedules?
This is ok in my opinion
We are used to having these requirements listed in a Schedule so feel this is a reasonable layout. As stated previously in Question 14, advanced notice is welcomed if any changes are made to the record, data and information requirements.
The schedules are clear.
This is consistent with the approach in former RSA93 Authorisations and EPR16 Permits in other UK Nations and we are content with these arrangements. We would point out an apparent inconsistency in Schedule 1, entry corresponding to "Registrations and permits involving the transfer of radioactive substances to another person." Except for line 4, which refers to radioactive waste, all other lines of this entry lines refer to radioactive substances. If line 4 is intended to refer to radioactive waste only, it would be clearer if line 4 made this explicit e.g. "where radioactive waste is to be transferred, the volume or weight of the waste." In addition, we note the use of "to be transferred" throughout this same entry in Schedule 1. Whilst we acknowledge that some duties on operators must be fulfilled before any transfer of radioactive substances (e.g. C.2.1); as the transfer of radioactive substances may be in the

planning phase for some time, the wording used in Schedule 1 introduces some ambiguity as to when such transfer records should be made.
Our response
Schedule 1 inconsistency: point #4 of Schedule 1 of the Standard Conditions relating to the required records for "registrations and permits involving the transfer of radioactive substances to another person" is specific to radioactive waste. SEPA will consider whether this could be made clearer in relation to the other points that relate to both radioactive material and radioactive waste. When should transfer records be made: the nature of the Standard Conditions is such that is not possible to be more specific on when a transfer record should be made; however, SEPA would expect that once a consignment has been arranged with the receiving site, the transfer records should have been created with only the date of uplift and relevant confirmatory signatures to be added.

Question 18 - Do you agree with our requirements to prepare, maintain and implement a waste management plan as stated in our standard conditions?
Yes my organisation does this.
Helps demonstrate the BPM/ALARA principles.
It is good practice to have a Waste Management Plan, as stated in the standard condition for Nuclear sites.
Yes. However for holders of sealed sources the management of waste is a simple process for ensuring waste sources are transferred for disposal appropriately. This particularly applies to decommissioning of facilities used for sealed sources. Decommissioning is often only required perhaps many years into the future. Consequently, in practice plans are best made just prior to decommissioning. Recognition of this would be useful in the standard conditions and it would useful for the conditions or guidance to be tweaked to reflect this (ie giving flexibility to create a plan at a time that is appropriate).

As a nuclear operator the Waste Management Plan as envisaged by Guidance of Requirements for Release from Radioactive Substances Regulation (GRR) will fulfil this requirement, however there is no timeframe given in the standard conditions or bespoke part of the permit to produce this (and the associated SWESC). We would prefer these requirements to be introduced through time-bound conditions, as has been the approach in other parts of the UK.
However, the existing guidance for standard condition B.8 may be improved by signposting to the Guidance for Release from RSR (the GRR) and the related guidance documents (i.e. Technical Q&A). We appreciate the flexibility in the existing GRR.
Our response
In practice decommissioning plans are best made just prior to decommissioning: SEPA is of the opinion that the operator should have an idea of how they intend to dispose of their radioactive substances and any resulting contamination, preferably before an application for authorisation is made. The end of the radioactive substances activity is not the appropriate point to consider decommissioning if you wish to optimise your approach to radioactive waste management in accordance with Standard Condition B.2.2. However, we recognise that any plans are subject to change throughout the life of the activity and that all details may not be available until nearer to the point of decommissioning. There is no timeframe given in the standard conditions or bespoke part of the permit to produce the WMP and the associated SWESC. We would prefer these requirements to be introduced through time-bound conditions, as has been the approach in other parts of the UK: SEPA has adopted a goal-setting approach and is not prescriptive except in some enforcement circumstances. There are a number of Standard Conditions, including B.1.1, B.2.2 and G.1.5, that taken together are analogous to the requirements of the ‘Management of radioactive waste from decommissioning of nuclear sites: Guidance on Requirements for Release from Radioactive Substances Regulation July 2018’ (GRR). Therefore, if an operator fully implements the GRR, they will also be able to demonstrate compliance with these Standard Conditions. SEPA asked all nuclear sites in Scotland when they would be able to demonstrate compliance with the GRR when it was published, and we have been working to

these agreed timescales since then. In the event that there is excessive slippage in the timescales provided, SEPA may impose more formal deadlines. The existing guidance for standard condition B.8 may be improved by signposting to the the GRR and the related guidance documents (i.e. Technical Q&A): the guidance for Standard Condition B.8.1 does reference the “General Requirements for Revocation”; however, this will be updated to reflect the full name of the document as well as the technical Q&A guidance at the next available revision.

Question 19 - Do you agree with how we regulate holdings of sealed sources by removing individual radionuclide and activity limits and applying a limit based on source categorisation?
Yes my organisation does this.
A risk based approach.
Allows more flexibility.
This is a big advantage to holders of radioactive material giving them much greater flexibility to add to their holding without having to apply for a permit variation. It has reduced the administrative burden, saved time and effort and has reduced the risk of beaching permit conditions when the inventory of radioactive material is added to.
Our response
We are pleased that all respondents agree with how we regulate holdings of sealed sources.

Question 20 - Do you agree with our requirement for annual reporting of your sealed source holdings?
Ensures that sources are well managed and less likely to be become" orphan"

It is a relatively easy procedure when you only have one or two sources to report each year. - It should be easy provided that you have good records!
Yes for HASS, but not necessary for other categories, so long as the site(s) are maintaining their own records.
Annual reporting is a straightforward process. If the annual reporting allows to SEPA to maintain oversight of holdings as a trade off for flexibility within the permitted holdings then this is welcomed.
Our response
Yes for HASS, but not necessary for other categories: the practice under RSA93 of listing every sealed source on the premises was one way of limiting the holding of excess sources; however, this resulted in many cases in the need for multiple variations to reflect the actual holdings with minimal benefit in terms of regulatory control. However, to balance the removal of the individual listings, SEPA has opted for an annual snapshot to check whether holdings have changed significantly since the previous year. This is used to target site inspections for the forthcoming year.

Question 21 - Are you satisfied with the current EASR application forms and guidance?
We have not completed a major variation to any of the Scottish permits to date, however minor variations have been easy to complete. This is facilitated by regular communication with our site inspectors.
The notification authorisation tier form is easy to use. The authorisation guide is particularly useful. The guidance is useful. It is worth noting as the standard conditions are easy to understand and well drafted the associated guidance does not need to be consulted regularly.
Forms and guidance are straightforward and easy to follow, although the general level of detail in the guidance could be improved to cover more involved scenarios applicable to nuclear sites. We note that no guidance exists for applications for transfer of permits and we would encourage its production.

Generally yes however, as noted above, the forms for a permit variation are relatively brief and can be difficult to complete for a complex site. Further guidance on the determination process and transfer of authorisations would be welcomed.
Our response
No guidance exists for applications for transfer of permits and we would encourage its production: the transfer of permits and registration is a relatively straightforward, administrative process. Provided that the transferee passes the Fit and Proper Person test, the authorisation will be transferred. Further information can be obtained in the document "Guidance on who can hold an authorisation: in control and fit and proper person tests" on our website. Guidance on the determination process and transfer of authorisations would be welcomed: see response above.

Question 22 - Please provide any additional comments you have regarding our implementation of EASR.
It appears to give SEPA more flexibility in the permitting process. Bespoke conditions can be introduced, which are site specific.
We thank SEPA for their engagement on EASR 2018 and hope that our feedback is informative.
It would have been beneficial if SEPA had consulted with their legal team before declaring their position on a number of important implementation issues, regarding authorisations.
EASR has been a positive development in the regulation of radioactive material as it reduces the burden to holders at the same time as maintaining common sense conditions based on the hazard to public health.
Three standalone comments are made in this box and have been separated from each other by a dashed line.

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The regulations linked to from the SEPA website are the draft EA(S)R18, whilst legislation.gov.uk provides an easy click-through to the “made” regulations, please could the link be updated to link directly?

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SEPA has made clear that it takes a view that samples of radioactive waste are considered as equivalent to “bulk” radioactive wastes. For example, we have been advised by SEPA that condition C.3.2 (Prior notification to SEPA of transfer of radioactive waste to a person for the first time) applies to transfers of samples of radioactive waste, as well as transfers of “bulk” waste for the purposes of disposal/waste treatment.

Therefore, 28 days’ advance notice to SEPA is required prior to consignment of samples of radioactive waste to any laboratory which has not previously received such samples from the site.

By extension of this position on samples of radioactive waste, the transfer of samples of ILW to other parts of the UK and samples of all radioactive waste outside the UK for the purposes of analysis may become problematic; as conditions C.4.1 (transfers of radioactive waste outside UK) and C.5.1 (ILW transfers outside Scotland but within UK) only permit transfer of radioactive waste for the purposes of treatment. Access to the range of laboratory services both within and outwith the United Kingdom for samples of waste could therefore become significantly limited.

This situation did not arise under the former RSA93 regime through a combination of Authorisation condition 2.3.8 (specifically authorising transfer of samples of radioactive waste and return of samples/residues following testing) coupled with further Authorisation limitations and conditions on transfers of radioactive waste covering disposals only.

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Stack/stack group sub-limits have been applied to EA(S)R18 bespoke permits, with the aim of ensuring demonstration of BPM for minimisation of gaseous waste from the stack or group in question. On our decommissioning sites, in some cases these sub-limits are extremely low

and are associated with public dose consequences very substantially below thresholds of optimisation or regulatory concern featuring in national and international guidance. Relatively small exceedances of these sub-limits can result in shutdowns of processes or decommissioning operations, leading to waste remaining in an un-passivated, higher hazard state for longer. This challenges the principles of BPM and inevitably gives rise to greater generation of secondary wastes associated with maintaining the un-passivated waste and/or remaining plant in safe condition. In addition, unforeseen applications for variation are likely to be required in such scenarios, creating extra demands on resources in both SEPA and the Operator. Alternative approaches, such as notification levels set commensurate with low dose consequences, accompanied by conditions to investigate causes of any exceedance of the notification level; coupled with explicit demonstrations that BPM continued to be applied, would provide appropriate levels of control and represent a more efficient use of resources for both parties.
Although the requirement to transfer permits from RSA to EASR as like-for-like is understood, existing RSA Authorisations were not always considered as to whether they were in a suitable state to be transferred. As it stands, some bespoke conditions often do not align with EASR terminology and in some cases refer to outdated legislation. This was particularly evident in the application of disposal and newly introduced option of ‘transfer’, as well as the move away from accumulation towards the more general term of ‘management’. A longer implementation period would have allowed for operators and regulators to understand any misalignments before EASR permits went live. Industry would benefit from a decision document made available to permit holders (for existing and new EASR Permits) documenting the reason and justification for each bespoke condition.
We have appreciated the letter produced by SEPA which clarifies the situation for waste operators regarding landfill disposal of category 5 sealed sources, as keeping this route open is very important for schools.
Our response
The transfer of samples of ILW to other parts of the UK and samples of all radioactive waste outside the UK for the purposes of analysis may become problematic; as conditions C.4.1

(transfers of radioactive waste outside UK) and C.5.1 (ILW transfers outside Scotland but within UK) only permit transfer of radioactive waste for the purposes of treatment: As noted in our response to comments under Question 15 above, samples of radioactive substances can be transferred under C.7 and SEPA will consider any necessary changes to the Standard Conditions and/or provision of guidance.

On our decommissioning sites, in some cases these sub-limits are extremely low and are associated with public dose consequences very substantially below thresholds of optimisation or regulatory concern featuring in national and international guidance: for queries on individual authorisations, we would recommend that you speak to your SEPA site inspector.

Industry would benefit from a decision document made available to permit holders (for existing and new EASR Permits) documenting the reason and justification for each bespoke condition: SEPA provides information to the applicant on each new bespoke condition in the same format as the Guide to Standard Conditions document (4-box model of condition/reason/guidance/CAS). It was beyond the scope of the transition programme to provide this for existing bespoke conditions. The justification of these existing bespoke conditions can be found in the relevant decision document for the application when they were introduced.