

Response ID ANON-6CCT-MFR8-D

Submitted to Exemptions Reform to the Environmental Permitting (England and Wales) Regulations 2016
Submitted on 2025-06-03 11:55:28

Introduction

About you

1 Would you like your response to be confidential?

No

If you answered 'Yes', please provide your reason. :

2 Your name:

Your name::
Jenny Grant

3 Your email address:

Your email address::
jenny@r-e-a.net

4 Which of the options below best describes you?

Industry representative organisation/trade body

Details::

5 If you are responding on behalf of a business/organisation, what is its name?

If you are responding on behalf of a business/organisation, what is its name? :
The Renewable Energy Association (REA)

6 If responding on behalf of a business/organisation, what is the average number of staff members

10-49

7 Where are you located?

London

The Regulations

Your experience of environmental permitting

8 Do you, or the business/organisation you are responding on behalf of, operate any regulated facilities under the Environmental Permitting (England and Wales) Regulations 2016, or waste controlling and transporting activities (which could become regulated under our separate plans as part of any reforms to the waste carrier, broker and dealer registration system in England)? This includes all activities that require a permit, even if they are small in scale, such as household sewage discharge and minor activities on, or near, a main river or flood defence structure.

Yes

9 Do you, or the business/organisation you are responding on behalf of, operate any exempt facilities (i.e. those that do not require a permit while generic conditions still apply) under the Environmental Permitting (England and Wales) Regulations 2016?

Yes

10 Do you operate or have an interest in any of the following classes of regulated facilities which are in scope for our proposals?

Waste operations, Waste controlling and transporting activities

Proposed changes to make the hierarchy more flexible

11 Do you agree that lead regulators should be given these new powers?

Unsure

Existing classes of facilities the powers will apply to

12 Do you agree that these powers should apply to flood risk activities?

Not Answered

13 Do you agree that these powers should apply to waste operations?

Unsure

14 Do you agree that these powers should apply to water discharges?

Not Answered

15 Do you agree that these powers should apply to groundwater activities?

Not Answered

16 Do you agree that, in England only, these powers should apply to the waste controlling and transporting activities if introduced to the regulations?

Unsure

17 Should these powers apply to any other class of facilities?

Unsure

Please provide any details::

This answer is more in response to Q11. 'Do you agree that lead regulators should be given these new powers?'

The REA supports, in principle, actions by government and the regulators to streamline the permitting system, and we agree there is scope to reduce unnecessary regulatory burden for low-risk activities. However, there are various areas where members have expressed relevant concerns.

Members have flagged issues around regulatory delays several times, so we are supportive of the EA (and other lead regulators) looking for ways to mitigate these delays. However, we have concerns that extending greater discretionary power to regulators to issue, remove, and modify the conditions of exemptions may create new uncertainties for operators and result in less transparent decision-making.

While the consultation document states that these changes will have the advantage of 'providing greater business certainty' and that Lead regulators 'have a good awareness of the practical issues and a track record of making effective interventions to address these', our members have flagged that the negative experiences they have had with regulatory officers are often due to the regulators being under-resourced and staff having limited operational experience. Members have reported that regulatory officers do not always seem to have experience with practical and operational issues, sometimes leading to decisions that they feel are unfair or not appropriate for the conditions of their site. This again raises concerns about the regulator being given additional discretion to remove or modify the conditions of exemptions more easily. If changes are made without operators feeling it's justified or appropriate, this could erode trust further. If the regulator is granted this new power, transparency in the decision-making process will be essential.

Application of the powers

18 Do you agree that these powers should be given to the Environment Agency in relation to facilities in England?

Yes

19 Do you agree that these powers should be given to Natural Resources Wales in relation to facilities in Wales?

Yes

Safeguarding

Safeguard for objectives

20 Do you agree that regulators making use of these powers should only do so if they do not contravene any of the applicable objectives and criteria?

Yes

21 What other objectives should apply?

Details :

Economic and operational impact: That the use of these powers do not unduly create hindrances, roadblocks, or operational difficulties for legitimate waste operators trying in good faith to support the UK's waste management needs. (Recognising that in the absence of legitimate businesses working to manage waste effectively and safely, unmanaged waste becomes significantly more hazardous to the environment and human health.)

Proportionality to risk: Any changes to exemptions must be proportionate to the actual environmental risk posed by the activity. Low-risk activities such as temporary waste storage should not be drawn into permitting without clear justification.

Avoidance of duplication: Where activities are already regulated through other environmental frameworks, any additional controls via the permitting system should be carefully considered to avoid overlap or double regulation.

Safeguard for environmental risk

22 Do you agree that these powers should only be available to exempt a type of facility from the need to hold a permit to operate if that activity is assessed as low risk?

Yes

23 How should the level of risk be defined?

Details :

We support the designation of exemptions only on the basis that they are considered sufficiently low-risk. This level of risk should be defined using similar criteria to the way risk is defined in the existing exemption process through the risk assessment guidance. However, it is unclear why the regulator would consider risk when designating exempt facilities but not when removing the exempt status from facilities – why is this not more consistent?

Safeguard requiring consultation

24 Do you agree that regulators should only be able to use these powers after they have undertaken a public consultation and published a response to it?

Yes

Please provide any details::

Public consultation may be useful to foresee and respond to public and industry concerns and take on board feedback. However, we'd recommend guidelines about the duration and process for public consultation to ensure it does not become a strain on regulatory resources and cause further undue delays, particularly for low-risk facilities.

It is also important that any changes to exemptions include transition periods to give businesses sufficient time to adapt.

Safeguard allowing Government ministers to prevent the powers being used

Safeguard on multiple facilities on a single site

25 When this power is used to exempt facilities from permitting requirements, should a limit apply on the number or total scale of facilities on a single site without a permit?

Unsure

26 How should such a limit be set for flood risk activities?

Details :

27 How should such a limit be set for waste operations (beyond the existing plans that the total amount of each waste type at a site should not exceed the lowest limit in the exemptions registered)?

Details :

We could support a limit in principle, but more information needed on how the limit would be imposed. For instance, many farms operate under several 'common on farm' exemptions – would these be excluded from this safeguard? While in some circumstances, having multiple exemptions on one site may increase risk, in other cases it may not. How does the regulator propose to determine what limit would be appropriate? It seems like this would require some level of bespoke assessment on a site-by-site basis. Alternatively, the regulator could set limits for only exemptions known to increase risk when combined at a single site. More detail is needed to understand how this would work in practice.

28 How should such a limit be set for water discharge activities?

Details :

29 How should such a limit be set for groundwater activities?

Details: :

30 How should such a limit be set for waste controlling and transporting activities?

Details: :

31 Do you have any further comments on how such limits would be set?

Details: :

Additional safeguards

32 Should any other safeguards apply to the use of these powers? If answering yes, please provide details if possible.

Yes

Details::

Transparency safeguard: we are supportive of the regulator working more efficiently. However, we feel it's important that there be genuine transparency about how the powers will be utilised.

Without sharing how and why certain decisions to change, add or remove exemptions this risks operators feeling confused about why decisions have been made and can diminish trust. This transparency could be achieved through a flowchart to show operators how decisions will be made; by engaging with affected operators throughout the process, or sharing reasons for changes and giving operators the opportunity to respond. Whatever the form, transparency is crucial.

Appeal safeguard: to enable an appeals process for any changes to exemptions that regulated operators feel are inappropriate (not adequately informed by operational realities), unfair, or are counterproductive to the intended outcome. The EA's regulatory appeals process should apply to this power.

Transitional arrangement safeguard: where changes to exemptions are proposed, regulators should provide a reasonable lead-in period and clear transition arrangements to avoid operational disruption.

Costs and benefits

33 Do you think these powers will impose any additional costs or burdens on yourself or your organisation? Please provide details if possible.

Yes

Details: :

Certainly, if exemptions are removed and facilities currently operating under exemptions are required to apply for a permit, this will have associated costs. There are likely to be additional costs, not only for the permit application and any associated compliance costs, but also for technical and legal advice to understand the changes and what they mean for each business. This cost and uncertainty could also be exacerbated if several changes to exemptions are made at once and/or if changes are made frequently. Uncertainty of this nature can also undermine long-term planning and investment, which can incur further costs. These changes could have particularly significant impacts on waste management operations that already operate at low profit margins.

34 Do you think these powers could result in harm to the environment or human health? Please provide details if possible.

Unsure

Details: :

Greater flexibility to change requirements to improve environmental outcomes would be ideal, in principle. However, it's important that the regulators have the operational expertise to understand these systems to avoid unintentionally creating conditions that can ultimately cause more harm. Operational requirements that make it difficult to comply profitably may also deter companies which might otherwise wish to invest in the circular economy.

35 Do you think these powers will result in any benefits to yourself or your organisation? Please provide details if possible.

Unsure

Details: :

It's too soon to tell – the details about how this will be rolled out will determine potential benefits.

36 Do you think these powers could result in additional benefits to the environment or human health? Please provide details if possible.

Unsure

Details: :

The ability to react more dynamically to emerging technology could result in additional benefits to the environment and human health.

37 Do you have any evidence that would support the calculation of costs or benefits resulting from the proposal? Please provide details if possible.

No

Details: :

Further comments

38 Do you have any further comments on our proposals?

Details: :

Consultee Feedback on the Online Survey

39 Overall, how satisfied are you with our online consultation tool? Please give us any comments you have on the tool, including suggestions on how we could improve it.

Not Answered

Details of suggestions: :