

Pollution Prevention and Control (Scotland) Regulations 2010 – Proposals to introduce standard rules

March 2011

Introduction

The FSB is Scotland's largest direct-member business organisation, representing over 20,000 members. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper.

We welcome the opportunity to submit our response on the above consultation. The consultation document has been clearly written and the purpose and objectives of the changes proposed are clearly and explicitly stated. It is also refreshing to review proposed changes to regulation which actively take into account the principles of better regulation and the FSB would wish to see this practice becoming more widespread in Government policy and regulatory development.

Consultation Questions

- 1. Do you consider standard rules to be an improvement over the current system of permits containing individual, site-specific conditions?**

We welcome moves towards use of standard rules and generally agree that the changes proposed will lead to a streamlined and simplified system, which will reduce the regulatory burden on businesses in the long term.

- 2. Do you agree that a rule-making authority should be able to develop standard rules, following a full risk assessment and consultation, for all activities covered by the PPC regulations?**

Consultation and pilot schemes will tell whether this is feasible for all activities but the FSB supports the general direction of travel.

3. What other sectors do you consider might be candidates for standard rules?

The FSB is not best placed to consider this question, but would hope that other sectors might benefit from similar measures where this were appropriate.

4. What might be the benefits of introducing standard rules for your business or the sector within which your business operates (quantified if possible)?

Beyond those general benefits listed above, the FSB has no comment.

5. What additional costs or implications, for your business or sector as a whole, might result from the introduction of standard rules (quantified if possible)?

We welcome the fact that this question has specifically been asked in the context of proposals which will affect businesses. The FSB would not support introduction of a cost for businesses with a bespoke permit to convert to a standard permit unless there were a direct advantage to be had in an existing permit holder changing their permit type. If conversion represents a notable variation in a business' activity or if it would result in fewer visits and less ongoing paperwork, an additional one-off cost for conversion would be reasonable. If, however, conversion were only an administrative advantage to SEPA and there were no real change in the way the business operates, we do not think that businesses should have to cover the cost of conversion, especially given the long term savings projected for the regulator under the new arrangements. Businesses already pay an annual fee or subsistence charge.

6. Do you agree that standard rules should focus on outcomes rather than listing detailed measures to be taken to achieve the outcome?

The FSB is supportive of an outcomes-based approach, provided that the available guidance to the relevant sectors is updated in the light of standard rules. It is important that light touch regulation is accompanied by clear interpretation of the acceptable operation parameters.

7. Do you have comments, either generally or on specific points, on the draft permit and draft standard rules shown in Annex A to this consultation paper?

We have no comments other than that the draft permit rules appear to be clear and understandable. As above, we would urge that SEPA continue to provide comprehensive compliance and good practice guidance for the businesses eligible for standard permits in order to ensure that their obligations remain clear.

8. Do you consider the removal of site boundary plans and relaxed advertising requirements would be appropriate for standard rules permits?

The FSB believes this is a positive move. Providing businesses are aware of their obligations with regard to their site boundaries there appears to be no need for them to demonstrate where these are for the purposes of a permit. Compliance with the regulations is the issue; not the shape or extent of a business property.

9. Do you agree that having no appeal rights against the standard rules themselves would be a fair price to pay for simplification of regulatory procedures and reduced administrative costs?

We believe that if the standard rules are agreed in consultation with relevant industries and if these are subject to regular, periodic review to ensure that they fulfil their intended purpose there should be no need for appeals for exemption to the standard rules.

Other comments

Conversion

If SEPA elects to convert a permit on its own initiative, it is important that the business concerned is notified in good time to allow it to make preparations and to understand the changes to their obligations before they come into effect.

Hybrid permits

The introduction of a hybrid permit seems, at first sight, like a logical procedure following the proposed introduction of standard permits. However, it is unclear at present how a hybrid permit would differ from the current permit, given the additional information and obligations a hybrid permit would require. The FSB would seek clarification on this point and assurance that the introduction of a new type of permit is not simply going to involve introduction of new procedures and costs for the same outcome as those associated with the current permits.

Transfer and surrender

Should the requirement to agree extensions to the determination periods in writing for transfer or surrender of permits be removed, it is important to ensure that SEPA's service level agreement to permit holders and applicants is well publicised and monitored. We agree that requirements should be consistent across the regulatory regime but regulated businesses should not be subject to un-notified delays to decisions.

For further information on any of the points raised in this submission, please contact Mary Goodman, Senior Policy Advisor, email: mary.goodman@fsb.org.uk t: 0141 221 0775.