



Water Use

Regulatory Method (WAT-RM-48)

SEPA Application for CAR Authorisation

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Update Summary

Version	Description
v1.0	First issue for Water Use reference using approved content from the following documents: <i>SG- Processing SEPA CAR authorisation Guidance.doc</i>
v2.0	Expired CMS links reviewed & updated, Regs revised for CAR 2011.

Notes

References: Linked references to other documents have been disabled in this web version of the document. See the References section for details of all referenced documents.

Printing the Document: This document is uncontrolled if printed and is only intended to be viewed online.

If you do need to print the document, the best results are achieved using Booklet printing or else double-sided, Duplex (2-on-1) A4 printing (both four pages per A4 sheet).

Always refer to the online document for accurate and up-to-date information.

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1. Key Points

SEPA carries on some controlled activities requiring authorisation under the [Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011](#) (CAR).

Regulation 55 of CAR says that where SEPA intends to carry on a controlled activity, its licensing functions are to be carried out by the Scottish Ministers.

SEPA therefore has to apply to the Scottish Ministers for CAR authorisation.

Scottish Ministers have asked SEPA, when submitting a CAR application, to give them advice when carrying out specific functions in relation to:

- advertising of the application (regulation 13(1))
- assessing the risk to the water environment (regulation 15(1)) and
- setting conditions of authorisation (regulation 7(2) or 8(2)).

This document contains:

- Procedures to be followed when a SEPA department (e.g. Facilities or Hydrology) needs to apply for CAR authorisation – see section 3.1
- Procedures for SEPA Operations to give advice to Ministers to help them determine these applications – see section 3.2
- Procedures for Registry to process these applications in CLAS – see section 3.2

The document describes the key steps and where to find further relevant guidance.

2. Introduction

Where SEPA wishes to carry out any activity which would require authorisation under the [Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011](#) (CAR) it is required to submit an application for authorisation, like anyone else.

However, regulation 55(1) of CAR requires that where SEPA intends to carry out a controlled activity then any functions conferred on SEPA by CAR will instead be carried out by the Scottish Ministers. This means that SEPA has to apply to Scottish Ministers for authorisation under CAR

Regulation 55(2) states that regulation 55(1) does not apply to certain regulations. The effect is that:

- SEPA does not have to pay fees or charges for CAR authorisations;
- Ministers do not monitor SEPA compliance with CAR authorisations;
- Ministers cannot serve enforcement notices on SEPA;
- SEPA has no right of appeal against Ministers' decisions; and
- there is no provision for a third party to seek call-in of a SEPA application.

SEPA may wish to carry on a number of activities relating to all CAR regimes, namely engineering, water resources and point source. Examples are provided below. These may range from registration level to complex licence level activities.

Note: This list just provides examples and it is not intended to be exhaustive

Engineering

- Bank protection work to protect SEPA property from bank erosion.
- Bank protection and sediment management works associated with up-keep of hydrology gauging stations.
- Placing of any structures in a watercourse associated with SEPA work/duties.

Water Resources

- Construction of impounding works for hydrology gauging stations.
- Abstraction of ground or surface water for consumption by SEPA.

Point Source

- Discharge of sewage effluent from a SEPA property.

3. Procedures

3.1 Application

This section is aimed at the internal SEPA department that seeks authorisation (e.g. Facilities or Hydrology) (“the client department”).

Level of Authorisation

The CAR Practical Guide should be referred to, to ascertain what level of authorisation should be applied for. Local Operations teams or WFD Specialists should be consulted where the level of authorisation required is not clear or if it is uncertain if the proposed activity is a controlled activity requiring authorisation. Pre-application discussion should take place with the local Operations team prior to completing an application form.

Application Form

The appropriate application form should be completed but not signed (i.e. for a licence, Form A, together with the associated activity specific form B, D, E or F).

Responsible Person

SEPA will be the responsible person.

Correspondence Address

The local registry office address and contact information should be inserted for correspondence.

Application Fee

No fee will be required for a SEPA application for CAR authorisation.

Next step

The completed, unsigned application form should be passed to the Operations officer dealing with the application (the Coordinating Officer).

3.2 Processing the Application

This section is aimed at Operations staff, including Registry.

Ministers have asked SEPA to provide them with advice on certain aspects of determining each application when it is submitted to them. Operations staff should therefore ‘process’ the application as normal, with any necessary support from other functions such as Hydrology, Ecology, WFD specialists etc., up to the point of preparing a draft authorisation. The application form will then be signed and formally submitted to Scottish Ministers, together with

a document detailing the draft determination of the application (the “DD document”) and draft conditions of authorisation. The Scottish Ministers can then make its own independent assessment of the application, taking into consideration any technical information provided by SEPA and any information obtained from third parties following consultation and advertising, using SEPA’s guidance and regulatory methods.

SEPA’s regulatory methods for dealing with the application should be applied in the same way they would be if the application were from an external applicant:

- The Coordinating Officer (CO) must ensure the application is valid apart from the signature. Should further information be required then the CO should contact the client department.
- The CO should assess the requirement for consultation and advertising in line with [WAT-RM-20: Advertising and Consultation](#) and log their recommendation in the DD document for forwarding to the Scottish Ministers with the application. Scottish Ministers will decide if the application should be advertised or consulted on, based on this recommendation, and, if it is, any representations will be sent directly to them.
- Sector specific guidance (e.g. WAT-RM-01 for Water Resources, WAT-RM-02 for Engineering activities) should be consulted and any necessary assessments carried out by the CO.
- The CO should then prepare a draft authorisation, DD document and Document Approval Form (DAF), with sign-off by the Unit Manager. **Important note:** if the authorisation is a licence, the explanatory notes which form part of every licence template should be deleted, and no licence front sheet is required.
- The Regulatory Review Team (RRT) should be consulted where appropriate in accordance with the RRT Constitution.
- The CO should then arrange for the application to be signed and dated by the relevant manager within the client department, and returned to the CO.
- The CO should pass the originals of all pertinent information including signed and dated application form, DAF, DD document including recommendation on consulting and advertising, draft authorisation conditions, and any other supporting documents to Registry.
- Registry should then allocate a CAR reference number from CLAS and enter it on all relevant documents, including the application form, copy the entire package (not including the DAF) to the public register, then submit it to Scottish Ministers together with covering letter [WAT-LETT-73: SEPA Application for CAR Authorisation - Covering Letter](#).
- At this stage, CLAS should be completed in line with procedures, as described on the [Licence Administration \(CLAS\)](#) intranet pages.

- If Scottish Ministers decide that it is necessary for the application to be advertised, they will notify Registry, who will be responsible for placing the necessary advertisement using template in [WAT-TEMP-85: SEPA Application for CAR Authorisation - Advertisement](#) after completion by the CO.
- If granted, the authorisation will then be issued to Registry, who should complete CLAS and public register procedures before forwarding the authorisation to the client department and copying it to the CO.

3.3 Subsistence charging and Compliance

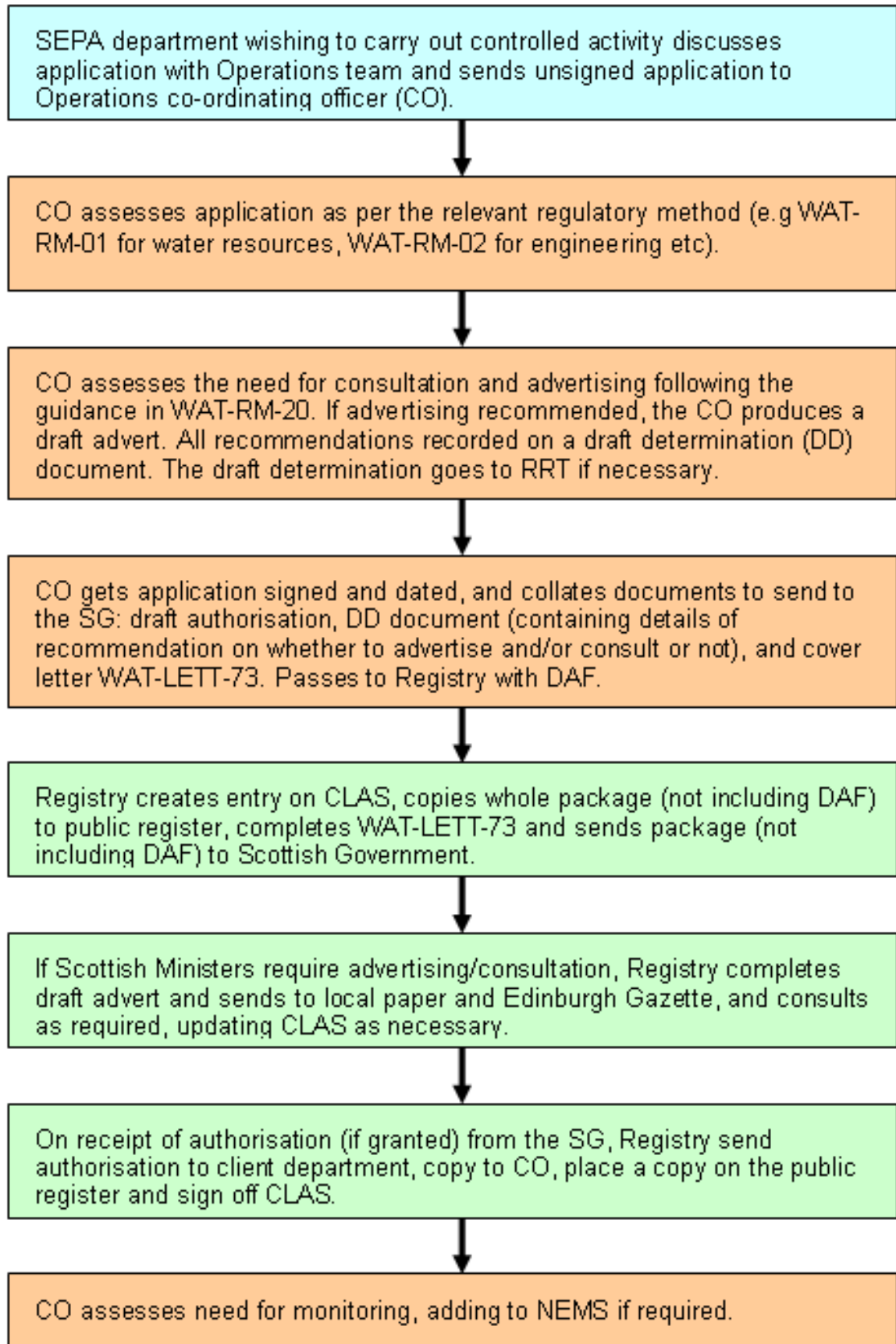
As stated above, the Scottish Ministers do not take on responsibility for ongoing regulation or the assessment of SEPA's compliance with a CAR authorisation.

SEPA should assess the need to carry out monitoring of a SEPA authorisation as it would with any other authorisation by utilising the relevant section of [DREAM](#) (Dynamic Regulatory Effort Assessment Model & Risk Assessment Tool), however no subsistence fees will be charged in respect of any monitoring undertaken in relation to a SEPA authorisation.

3.4 Variations, Transfers and Surrenders

The above summarises the process of dealing with an application made by SEPA to Scottish Ministers for a CAR authorisation. Applications for variations, surrenders and transfers should be dealt with in a similar manner, following the standard SEPA business procedures as if the application were from a normal applicant. Any variation would be under regulation 24, i.e. an operator-initiated variation. Again a draft determination and supporting documents must be sent with the application to the Scottish Government for determination.

4. Process Flow Summary



References

NOTE: Linked references to other documents have been disabled in this web version of the document.

See the Water >Guidance pages of the SEPA website for Guidance and other documentation (www.sepa.org.uk/water/water_regulation/guidance.aspx).

All references to external documents are listed on this page along with an indicative URL to help locate the document. The full path is not provided as SEPA can not guarantee its future location.

Supporting Documents

[WAT-RM-20: Advertising and Consultation](#)

[WAT-LETT-73: SEPA Application for CAR Authorisation - Covering Letter](#)

[WAT-TEMP-85: SEPA Application for CAR Authorisation - Advertisement](#)

[DREAM](#) (Dynamic Regulatory Effort Assessment Model & Risk Assessment Tool) SEPA Intranet

[Licence Administration \(CLAS\)](#) SEPA Intranet

Legislation

[Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011](#) SSI 209 (www.netregs.org.uk)

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