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Consultation on reform of the regulatory system to control small sewage discharges from septic tanks and small sewage treatment plants in England

Summary of responses and government response

October 2014



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Contents

Summary of Responses to the consultation on reform of the regulatory system to control small sewage discharges from septic tanks and small sewage treatment plants in England	1
Introduction	1
The proposed new approach to regulating small sewage discharges	2
Respondents' views	4
Government response	14
Communicating changes in the law	15
Working within the Catchment Based Approach	16
Collecting and sharing information on small sewage discharges	16
Keeping records of maintenance.....	16
Approach to permitting new discharges in designated sensitive areas for SSDs	17
Addressing cumulative impacts from small sewage discharges.....	19
Older systems	19
Discharges direct to water courses	20
Improving the definition of “operator”	20
Sale of property.....	21
Enforcement and monitoring	21
Annex A: List of organisations who responded to the consultation	23
Annex B: Note of discussions with stakeholders in May	25
Annex C: Summary of general binding rules.....	32
Annex D: The Environment Agency’s enforcement approach for small sewage discharges	33

Summary of responses to the consultation on reform of the regulatory system to control small sewage discharges from septic tanks and small sewage treatment plants in England

Introduction

The control and prevention of pollution is vital to protect our health and wellbeing, and that of the natural environment. Preventing contamination of drinking water supplies and pollution of the environment from septic tanks and other small sewage treatment plants is an important part of how we do this.

On 30 April 2014, the Government issued a consultation on proposals to reform the regulatory system to control small sewage discharges in England. The consultation proposed a new approach to regulating domestic¹ wastewater systems where the discharges are small, for example systems serving individual or small groups of properties. Such discharges are known as small sewage discharges (SSDs)². The aims of the proposals are, firstly to simplify existing regulation within less sensitive areas (which cover most of the country) by removing registration and record keeping requirements whilst keeping key requirements for preventing pollution, and secondly, to provide a more risk-based approach to permitting so that permits are only required in the most sensitive areas where a higher level of protection is needed.

The online public consultation was open for 6 weeks between 30 April 2014 and 10 June 2014. Additionally around 500 organisations were specifically invited to respond and help raise awareness of the consultation with their members and customers. These included the water and waste services industries, environmental organisations, catchment partnerships, local authorities and legal and professional services.

Thank you to everyone who participated in the consultation and gave us their views.

¹ Domestic sewage includes wastes arising from normal domestic activities wherever carried out. Therefore, sewage from schools, restaurants, takeaways, holiday parks and nursing homes is domestic. Determining whether a discharge contains trade effluent should not involve a detailed audit of the substances used by an applicant on a particular site. If the effluent is broadly of a domestic nature it is domestic sewage.

² SSDs are defined as discharges of domestic sewage of 2 cubic metres or less per day to ground or 5 cubic metres or less per day to surface water.

We received 120 responses. A list of organisations who responded is at Annex A, summarised in Table 1. During the consultation period we also held a stakeholder event. A note of the discussion at the event is at Annex B.

Table 1 Respondents by category

Category	Number of respondents	Percentage of respondents
Householder	40	33%
Small or medium business	2	2%
Farmer	5	4%
Land owner	4	3%
Water and waste industry services	24	20%
Environmental organisation	14	12%
Tourist or leisure industry	0	0%
Local authorities	11	9%
Professional, trade and industry organisations	12	10%
Regulators and public bodies	5	4%
Other	3	2%

The proposed new approach to regulating small sewage discharges

The consultation proposed that reforms would comprise amended regulations (Environment Permitting Regulations 2010) and requirements set by the Environment Agency on the location and siting of equipment and drainage arrangements. Together these would be known as the *general binding rules* (see Annex C). The *general binding rules* would apply to the whole of England, including sensitive areas. In or near *designated sensitive areas*, which need a higher level of protection, permits would also be required in addition to the general binding rules. Areas removed from the list of *designated sensitive areas* would still be governed by the *general binding rules*.

The amended regulations would continue to set the controls that govern discharges to groundwater and to surface waters to prevent and control pollution.

Our proposals aim to simplify the regulatory framework by:

1. Removing the existing registration scheme
2. Removing the requirement to keep records of maintenance work (records are currently required to be kept for five years)
3. Removing the requirement to notify the Environment Agency if the waste water system ceases to be in operation
4. Retaining (and updating) the requirements that apply to England for controlling small sewage discharges from domestic systems

5. Retaining (and updating) guidance on technical standards set by the Environment Agency through their duties as the Regulatory Authority to protect water resources and the environment
6. Clarifying that septic tanks and small sewage treatment plants should meet British Standards in force at time of installation
7. Clarifying that responsibility for the small sewage discharge lies with the owner of the property or land on which a discharge is made or the legal tenant if responsibility is transferred as part of a rental or leasehold agreement.
8. Implementing a more focused approach to permitting by reducing the number of *designated sensitive areas* where owners are routinely required to have an environmental permit for their discharge.

Respondents' views

Questions 1 to 5 of the online survey asked for some basic information about respondents: Q1 What category best describes you? (see Table 1); Q2 What is your name; Q3 What is your email address; Q4 If you would like to be kept informed about progress with the reforms; Q5 What is your organisation (Annex A gives a list of organisations who responded).

Q6 Do you agree with removing the requirements of registration, record keeping and notification?

Table 2 Respondents answers to question 6

Option	Number of respondents	Percent
Yes	64	53%
No	48	40%
Don't know	8	7%
Not Answered	0	0%

Proposal 1: Removing the existing registration scheme

64 respondents were in favour of removing registration. Many felt this was “a proportionate and sensible response” and that the registration scheme was “burdensome and impractical to use”. Some caveated their responses saying that they were supportive of a move to lighter touch regulation but that this should not signal a reduction in effective oversight of small sewage treatment plants.

48 respondents were against removing the registration requirement. Many respondents favoured keeping registration because of the information that it could provide about locations and types of system, which they felt was useful to monitor and trace sources of pollution. They were concerned that there would be much more pollution and no incentive for people to maintain their systems. Some commented that the Environment Agency needs to keep records of discharge systems to assess risk and enforce effectively., A few suggested that the regulation of SSDs should be strengthened.

Many respondents highlighted the need for some information on the location of septic tanks and small sewage treatment plants to be gathered even if the formal registration scheme is stopped. They saw this as being useful to catchment management and efforts to improve water bodies to protect local environments

Several respondents suggested that a voluntary register or database should be kept, and highlighted that this would need to work on a catchment scale.

Some respondents gave examples of poorly performing and maintained systems and mentioned issues with cesspits, septic tanks that drain directly into water courses, and old systems where it is impossible to find out what the specifications are. Some respondents also gave examples of systems functioning well and being regularly maintained, and that owners had a good awareness of what they needed to do. Many felt it would be helpful to have clearer advice on what to look for, and how to check if a discharge is causing pollution.

Many respondents stressed the need for effective communication of the changes to households and other owners, and a number of organisations offered help with this.

Proposal 2: Removing the requirement to keep records of maintenance work (records are currently required to be kept for five years)

38 respondents commented on keeping records of maintenance. Views in favour of removing the requirement included that the regulation was “burdensome”, “disproportionate”, should not be mandatory and that removal would be “consistent with a risk based approach”. Other views stressed the importance of adequate maintenance of facilities, and the lack of incentives to maintain systems if record keeping were not mandatory. Some felt that record keeping is not an onerous requirement which could be useful both for the Environment Agency and to aid handover of systems when properties are sold.

Proposal 3: Removing the requirement to notify the Environment Agency if the waste water system ceases to be in operation

13 respondents gave views on the notification requirement. Of these, seven agreed that the notification requirement was burdensome and could be removed. The remainder disagreed and considered that notification of ceased waste systems was useful in tracing pollution by eliminating systems no longer operating.

Q7 Do you have any views on the new approach for regulating small sewage discharges through general binding rules?

[Proposal 4: Retaining (and updating) the requirements that apply to England for controlling small sewage discharges from domestic systems

and

Proposal 5: Retaining (and updating) guidance on technical standards set by the Environment Agency through their duties as the Regulatory Authority to protect water resources and the environment]

A summary of the proposed general binding rules is in Annex B.

Table 3 Respondents answers to question 7

Option	Number of respondents	Percent of respondents
Yes	80	67%
No	40	33%
Not Answered	0	0%

Comments from respondents who agreed with using general binding rules included that it was a “good”, “sensible and practical” and “proportionate” approach that would “simplify the whole process”. While in favour, one respondent stressed the need for safeguards to protect public health and the environment. Respondents who disagreed with the proposed approach were not necessarily against the concept of general binding rules but some felt that the approach would be difficult to implement and enforce without registration. Some suggested that more and tighter controls were needed, and that there needed to be better enforcement and monitoring to prevent and control pollution.

A number of respondents consider that there are significant numbers of outdated systems that are no longer fit for purpose. It was suggested that a plan is needed to replace and modernise old systems alongside financial support to help with the costs.

Many respondents commented on the details of individual rules, highlighting where things needed to be made clearer, or where more information would be useful, for example explaining the differences between septic tanks and small sewage treatment plants and the composition of the effluent each produces. For example one respondent felt there “is currently some ambiguity as to whether it would be mandatory... to connect to a public sewer if one had since been installed within 30m of their property.” While another respondent stated that there needed to be a further binding rule concerning local impact and nuisance factors e.g. soakaways should not erupt to surface, and odour issues relating to poor maintenance.

Proposal 6: Clarifying that septic tanks and small sewage treatment plants should meet British Standards in force at time of installation

Many thought the clarification about British Standards applying to new plant was sensible. Some respondents suggested that guidance on modifying or upgrading systems would be useful. Four respondents gave more specific comments identifying that it is the manufacturing standards for plant in combination with the design and drainage arrangements specified in Building Regulations that are critical.

One respondent felt that meeting the British Standard at the time of installation would not protect the public from wastewater pollution where the number of people or properties connected to a septic tank has increased beyond the design specifications. It was also mentioned that the discharge of phosphorus from such systems is not regulated by any British or European Standard as standards only apply to nitrogen, suspended solids and biochemical oxygen demand at present.

Proposal 7: Clarifying that responsibility for the small sewage discharge lies with the owner of the property or land on which a discharge is made or the legal tenant if responsibility is transferred as part of a rental or leasehold agreement.

Four respondents gave views on clarifying responsibility for small sewage discharges. Many thought the proposed clarification was helpful and that it was “sensible” and positive that vendors would be required to provide information to purchasers. One respondent stated that a change of home ownership is a useful opportunity to highlight potential issues with a SSD and negotiate on improvement as part of the sale.

Several respondents highlighted that drainage arrangements for rural properties can be complicated and that legal responsibility may not be clear cut. For example where several properties are using the same wastewater system, where a system may drain onto a neighbour’s land or where new development has occurred adding to an existing system.

Q8 If you disagree with the proposed approach, can you suggest an alternative one?

Alternative approaches suggested included:

- Retaining the existing registration and record keeping requirements and providing resource to increase the ability of SSDs owners to comply.
- Deregulating all small sewage discharges while leaving in place the option for the regulator to enforce if pollution occurs.
- Requiring permits for all surface water discharges.
- The adoption of larger private sewage treatment systems by water companies.
- Registering small sewage treatment plants and septic tanks with local authorities rather than the Environment Agency to be managed within the existing building control structure to facilitate local inspections of suspect installations.
- Exempting sewage plant installations from VAT to bring into line with customers on mains drainage.
- Establishing a new “competent approved contractor” scheme for small sewage treatment plant installations and require vacuum tanker operators to record and submit details of sites where extraction has occurred. The records would be available to the Environment Agency for random inspections or, in the event of an incident, to help locate possible sources.

Q9 The proposed changes outlined in this consultation require the Environmental Permitting (England and Wales) Regulations 2010 to be amended. Do you have any comments on the proposed draft legislation in Annex 1 (in the consultation document)?

Comments from respondents on the draft legislation included:

- It was suggested that the term "design and manufacturing standards", which implies hard engineered solutions, should be flexible enough to also include systems that utilise natural processes to manage waste water. Similarly, a question was raised over how the "appropriate authority" is to be determined in relation to design and manufacturing standards and whether there will be regulatory guidance to clarify this point.
- It was felt it would be preferable for the owner of the septic tank to have responsibility for the discharge rather than the owner of the land onto which the discharge is made. It was suggested that Government could look to Section 80(7) of the Water Industry Act 1991 which sets out the principle of "relevant person" in terms of responsibilities for private water supplies and could be a useful model to allow for responsibility to be shared where there are multiple parties involved in pollution incidents.

Proposal 8: Implementing a more focused approach to permitting by reducing the number of *designated sensitive areas* where owners are routinely required to have an environmental permit for their discharge.

We proposed a more risk-based approach to permitting by rationalising the list of *designated sensitive areas* (see Annex 3 of the consultation document for further information). Under the new proposals all septic tank or small sewage treatment plant owners will be expected to follow the *general binding rules* as a minimum. In or near *designated sensitive areas* where a higher level of protection is needed, small sewage discharges will continue to require permits.

As at February 2014 the following areas are listed by the Environment Agency as *designated sensitive areas*:

Groundwater Source Protection Zone 1s (SPZ1), Special Areas of Conservation, Special Protection Areas, Ramsar sites, Sites of Special Scientific Interest (SSSIs) designated for biological and/or geological reasons, designated bathing waters, shellfish protected waters, local wildlife sites, sites where protected species are located, protected habitats, national nature reserves, local nature reserves, ancient woodlands, and scheduled monuments (See Glossary in consultation document for definitions).

Of that list, SPZ1, Special Areas of Conservation, Special Protection Areas, Ramsar sites, Biological SSSIs, designated bathing waters and shellfish protected waters **will continue to be *designated sensitive areas*** for protection from pollution from small sewage discharges.

We proposed that the remaining areas, as set out in Table 4, are removed from the list of *designated sensitive areas* and instead be governed solely by the *general binding rules*. We invited views on removing all of these areas from the list, removing some of them or retaining all of them as *designated sensitive areas*.

Table 4: Proposed areas to be removed from the designated sensitive areas list for small sewage discharges

Protected Areas	Reason for removal
SSSIs (geological)	Certain SSSIs are designated for geological features only. It is extremely unlikely that an SSD could cause any physical damage to a geological feature.
Sites where protected species and protected habitats are located	SSDs pose a limited risk to protected species and habitats in isolation. Important populations of protected species and areas of habitats are associated with designated sites (such as SACs and Ramsars) and will be afforded protection through this route.
National nature reserves	National nature reserves are also designated as SSSIs and therefore risk to these sites is already accounted for.
Local nature reserves and local wildlife sites	These sites have a nature conservation function and are areas for people to experience wildlife. They are not afforded the same level of protection as other sites and therefore the risk of SSDs affecting these sites is low.
Ancient woodland	Ancient woodlands are areas that have existed since at least 1600. Only a direct discharge to ground could affect an ancient woodland. The quantity of discharge from an SSD is highly unlikely to impact any site.
Scheduled monuments	It is extremely unlikely that an SSD could cause any physical damage to a monument.

Q10 Is this the right approach?

Table 5 Respondents answers to question 10

Option	Number of Respondents	Percentage of respondents
Yes	65	54%
No	36	30%
Don't know	19	16%
Not Answered	0	0%

Respondents who agreed with the proposed approach felt that this was “in keeping with a deregulatory approach” to remove certain categories if they are unlikely to be affected by small sewage discharges, and thought that reducing the number of triggers for discharges to require permits was a “sound move”.

Some respondents who disagreed had strong concerns about protecting sensitive areas from the effects of small sewage discharges and the possible impact that removing them from the designated sensitive areas list might have which could undermine efforts to protect such areas. Some respondents pointed out that local wildlife sites and local nature reserves are often smaller in scale than nationally important sites, and could be more at risk of degradation from SSDs, particularly those that include wetland habitats, ponds and lakes. One person suggested that any rivers that are “protected for a lower stretch should need to be permitted across their entire length”.

Many respondents were concerned about the cumulative effects on the local environment from several small sewage discharges in close proximity, and asked how the Environment Agency will address these “hot spots”.

Several respondents asked how they would find out if they live in a sensitive area.

Some respondents wanted further information about the distance requirements around sensitive sites and felt that in some circumstances these may not give sufficient environmental protection.

Q11 If you disagree with the proposed approach, can you suggest an alternative one?

36 respondents disagreed with the approach, of these 10 wanted to keep the existing designated sensitive areas list. Suggestions for alternative approaches included:

- Permitting should be based on individual assessment of local landscape features, drainage and ecology etc.
- A risk-based approach to monitoring and investigation based on the density of septic tanks.

- Permits should be required where SSDs are close to water bodies not meeting their Water Framework Directive objectives.
- Catchment partnerships could be involved in identifying and monitoring pollution from SSDs.
- That the regulation of SSDs should be strengthened and enforced. There should be increased monitoring of SSDs, information should be gathered about their locations and potential flows in order to increase visibility. This approach would provide a more comprehensive understanding of the potential cumulative impacts of SSDs and enable better source apportionment between point and diffuse pollution sources to support the implementation of a Catchment Based Approach.

Q12 For each area in Table 1 (of the consultation document) please say if you agree or disagree with the proposal to remove the area from the designated sensitive areas list and give reasons for your view

Table 6 Respondents answers to question 12

	Agree with removing this area from the designated sensitive areas list		Disagree		No opinion		Not Answered	
	Total	Percent of All	Total	Percent of All	Total	Percent of All	Total	Percent of All
Geological SSSIs	60	50%	22	18%	25	21%	13	11%
Sites where protected species and protected habits are located	47	39%	34	28%	18	15%	13	11%
National Nature Reserves	55	46%	34	28%	17	14%	14	12%
Local nature reserves and local wildlife sites	54	45%	37	31%	17	14%	12	10%
Ancient woodlands	56	47%	33	28%	19	16%	12	10%
Scheduled monuments	64	53%	18	15%	25	21%	13	11%

Many respondents agreed with the principle of targeted permitting but felt that protected species, protected habits, local nature reserves and local wildlife sites were vulnerable. Removing such sites from the designated areas list could be perceived as undermining efforts to protect and preserve these sites. They suggested that further consideration should be given to how these sites are managed in relation to small sewage discharges.

Some respondents said that each type of site needs to be considered on its own merits as some will be more vulnerable than others.

Q13 If you favour no change please give your reasons for your view

31 people commented, most restated their views on the overall approach. A few made suggestions for alternative approaches for sensitive areas including:

- A new and fresh approach to how development can be made in balance with environmental protection.
- Environmental Permits should continue to be required for all areas.

Q14 We would like to understand if people have any concerns about the regulatory approach to managing new and existing discharges in designated sensitive areas, bearing in mind that if our proposed new approach is implemented, the *general binding rules* will apply as minimum and that permits would set any additional conditions that might be needed in a particular area.

69 respondents expressed views, most of which were reflecting their earlier responses so there was a mixture of views both supporting and against the proposals. Regarding the approach to managing existing discharges, some felt the current approach was “pragmatic” providing existing systems were not causing pollution and that there was a need to take a proportionate approach to balance the risk of pollution with the likelihood of a pollution incident and the cost of avoiding pollution and updating systems. However other respondents expressed strong concerns about the risks posed from both old and new discharges. The need to prevent pollution from SSDs meant all discharges should be “monitored and have environmental permits”. One suggested that septic tanks should “phased out when any property development is planned.”

Several people stressed that “Regulation is essential to protect these designated sensitive areas” and that the rules should be clear and simple to understand and well publicised. They also felt that regulation should be supported by “ongoing monitoring” and with stronger enforcement and penalties for non-compliance.

Q15 Are there any other comments you would like to make about our proposals?

66 respondents answered this question. Most respondents restated views they had made earlier but also raised other points relating to the details of some of the proposed general binding rules and the need for good communication with households and other owners. Suggestions were made as to where guidance would be helpful, for example if older

systems do not meet current British Standards, if development in the area means that properties are now within 30m of a mains sewer, or what to do if your system may be causing pollution.

A few respondents were concerned that screening distances for some individual sensitive sites or water abstraction points did not give sufficient protection.

Other comments made include:

“The approach must be kept simple and workable. Complex arrangements that can’t be understood by the general public are of no use whatsoever.”

“Safeguard Zones and Drinking Water Protected Areas and other potable abstraction points must continue to be protected from all diffuse pollution sources.”

“Every year we get a considerable number of SSD discharges throughout our Catchment that are reported to the EA by anglers. The proposals do nothing to alleviate this situation. We lose spawning waters every year to pollution. Efforts to improve the habitat are being undermined. All faecal matter eventually ends up on the beaches, which is a major problem under WFD. There needs to be incentives for owners to improve their systems and the proposals do nothing towards that.”

“Some guidance on grey water disposal should be published, we manage a number of small pavilions and kiosks for example, that only have perhaps limited hand washing or occasionally showers and no foul drainage as such”.

“My main concern is that, should the proposals mentioned in the consultation go ahead, only those households whose domestic sewage discharges have real potential environmental impact be required to hold permits, so that we can avoid any households unnecessarily spending money acquiring one.”

Government response

Following consideration of respondents' views, the Government plans to implement the proposed simpler regulatory approach to control small sewage discharges from septic tanks and small sewage treatment plants in England. This comprises general binding rules (GBRs), and a more risk-based approach to permitting in sensitive areas, which will apply from January 2015.

We believe that general binding rules that apply automatically, without requiring registration, provide a more proportionate approach whilst still ensuring effective control of pollution from septic tanks and small sewage treatment plants.

We plan to take forward the necessary amendments to the Environmental Permitting Regulations to make the general binding rules and to remove the requirements for registration, record keeping and notification to the Environment Agency of discharges that have ceased.

The Environment Agency intends to rationalise the designated sensitive areas list for small sewage discharges largely as proposed. However, following feedback during the consultation period, the proposals for certain sensitive areas have been amended to ensure a higher level of protection from the impacts of small sewage discharges than was originally proposed – see pages 17 to 20. The Environment Agency plans to establish a risk-based approach to permitting small sewage discharges in sensitive areas, working with Natural England and other partners to ensure that permitting decisions are appropriate and take into account local circumstances and evidence. GBRs will provide a standard level of pollution control in all areas, supplemented by permitting in areas where a higher level of protection is deemed necessary.

Under this approach, new discharges in designated sensitive areas will continue to require permits, but we plan to reduce the number of sensitive areas on the list, leading to fewer permits being required overall. New and existing discharges to ground will continue to require permits if they are located in groundwater source protection zone 1s (SPZ1s). Where existing discharges are located in or near other sensitive areas, if local evidence identifies that tighter controls than just the GBRs alone would bring about environmental improvements in a particular area, then the existing small sewage discharges in that area would be reviewed and permitted if appropriate. Permitting requirements will be clearly communicated to owners.

The Government plans to implement a new regulatory framework to control small sewage discharges in England that will comprise:

- General binding rules that will set standard legal requirements applying to the whole country. These rules will set the conditions which must be met for discharges to be deemed to be **small sewage discharges**, and therefore exempt from needing an environmental permit. Where domestic waste water systems do not meet these

rules then an environmental permit will be necessary in order for the system to be used.

- In or near sensitive areas described in the Environment Agency's **designated sensitive areas list** for small sewage discharges, new discharges (i.e. those started on or after 1 January 2015³) will be required to have an environmental permit. Existing discharges (i.e. those which were already being made before 1 January 2015) will be governed by the general binding rules, and additional measures to protect local environments may be set through environmental permits depending on the type of area and local conditions.
- For areas in groundwater source protection zone 1s, **all** small sewage discharges to ground will continue to require an environmental permit (ie both existing and new discharges).

The Environment Agency will continue to be the Regulatory Authority, and will work with households and businesses and partner organisations to raise awareness of what needs to be done to comply with the law and promote good practice on the maintenance of systems so that they operate well and are fit for purpose.

The planned reforms take account of respondents' views, in particular concerns about the loss of registration as a source of information for the locations of SSDs, which respondents felt was important to support the Environment Agency's pollution prevention and control work.

The Environment Agency has been investigating alternative sources of information on the location of small sewage discharges and is obtaining data from water companies to derive the location of properties not on mains sewerage networks and therefore likely to have either a small sewage discharge or a cesspit. The Environment Agency is also considering other sources of information such as from local authorities and waste water services companies.

Communicating changes in the law

The Government agrees with respondents that it is important to communicate how the changes will affect households and other small sewage discharge owners. Defra and the Environment Agency will undertake communications and engagement to inform people of the changes and what is expected of them. In view of the large number of people for whom the changes are relevant, Defra and the Environment Agency will work closely with water companies, waste water services, catchment partnerships and others, to encourage good maintenance of septic tanks and small sewage treatment plants to prevent and reduce point source and diffuse pollution.

³ Anticipated date of new regulations coming into force.

We will also work with local authorities and the Drinking Water Inspectorate to better inform planning and environmental health officials and to encourage information sharing to identify and address local pollution risks and problems.

Working within the Catchment Based Approach

Reform of regulations for small sewage discharges should be seen in the context of the Catchment Based Approach, river basin management plans, diffuse water pollution management plans, catchment actions and ongoing work to improve water bodies. Improving how small sewage discharges are managed is not an isolated action and much can be done at the local level to tackle pollution from this source. In particular, encouraging owners to ensure their systems are maintained and working effectively will improve local environments relatively quickly. Where systems are found to be polluting, the Environment Agency will work with the owners to address the problems.

Collecting and sharing information on small sewage discharges

Arguments in favour of keeping the formal registration requirement hinge on the information it could provide for monitoring and catchment investigations. As described above, steps have already been taken to identify properties not on mains sewerage which will inform the control of pollution from small sewage discharges. Several respondents suggested that it would be valuable to gather information on location on a voluntary basis and that it would be helpful to catchment partnerships if such data could be shared, together with monitoring information. Defra and the Environment Agency will explore these ideas further with stakeholders.

Keeping records of maintenance

We recognise that keeping records of maintenance of septic tanks and small sewage treatment plants is useful for a number of reasons and encourage this. However we consider that it is disproportionate for record keeping to be a mandatory requirement and an offence if records are not kept for five years. Most people keep recent utility bills and invoices for work undertaken to repair and maintain their property and see this as good practice and common sense. Keeping bills or invoices for emptying or repairing a septic tank or treatment plant is no different and does not need to be stipulated by law. This will instead be recommended as good practice.

Approach to permitting new discharges in designated sensitive areas for SSDs

Under the current regulatory system, operators of new SSDs are required to apply for a permit if the discharge is located in or near to a designated sensitive area. In SPZ1s this is to protect drinking water and water for food production and is mandatory for discharges to ground. The consultation proposed moving to a more risk-based approach to permitting by removing some of the lower-risk categories of designated sensitive areas. The aim of this approach is to remove burdens from households and businesses with small sewage discharges as far as possible, whilst retaining the required level of protection for the environment.

Some respondents expressed concern over removing certain categories from the list, in particular local nature reserves, local wildlife sites, and protected species and protected habitats. We have considered these points carefully. Table 7 below shows the areas that were proposed to be removed from the designated sensitive areas list and the final decision for each area.

Table 7 Decisions on areas proposed to be removed from the designated sensitive areas list for small sewage discharges

Area proposed to be removed from the designated sensitive areas list	Decision following consultation	Justification
Scheduled monuments	Remove	While there is the potential for an SSD to impact a scheduled monument, evidence from the Environment Agency indicates that the risks are negligible.
Geological SSSIs	Remove	While there is the potential for an SSD to impact a geological SSSI, evidence from the Environment Agency indicates that the risks are negligible.
National nature reserves	Remove	Most national nature reserves are SSSIs, and therefore the risk to these sites is already accounted for. There are a few national nature reserves which do not have other designations. In these cases the Environment Agency will follow the risk-based approach to permitting.
Ancient woodlands	Retain	There is the potential for an SSD or groups of SSDs to impact on an ancient woodland, although evidence from the Environment Agency indicates that the risks are low. The Environment Agency

		will review any further evidence which becomes available to determine permitting requirements in the future.
Protected species and protected habitats	Remove most, but retain certain types	While there is the potential for an SSD to impact a protected species or protected habitat, the impact on most species and habitats is hard to detect. However there are some exceptions, and such areas will be retained on the list of designated sensitive areas.
Local nature reserves and local wildlife sites	Remove terrestrial (land based) sites, but retain aquatic ones	There are limited conservation targets set for these sites, making individual assessments difficult (therefore minimising the benefits of permitting over GBRs in many cases). There is no strong evidence on the impact of SSDs on these types of site, but it is almost certain that there will be no effect on purely terrestrial sites. Therefore in the future only aquatic sites will trigger permit requirements.

The new list of designated sensitive areas which will automatically trigger permit requirements for new discharges in or near to these areas will therefore be:

Groundwater Source Protection Zone 1s (SPZ1) for discharges to ground

Discharges to ground and surface water:

- Special Areas of Conservation (SAC)
- Special Protection Areas (SPA)
- Ramsar sites
- Sites of Special Scientific Interest (SSSIs) designated for biological reasons
- Designated Bathing Waters
- Shellfish Protected Waters
- Ancient Woodlands
- Selected protected species and protected habitats
- Local nature reserves and local wildlife sites which are aquatic in nature

We intend for this list to come into force in January 2015. Full details and relevant screening distances will be published in due course.

Anyone planning to install a **new** SSD will need to contact the Environment Agency to check whether or not a permit will be required.

Owners of **existing** discharges will not be expected to contact the Environment Agency, and if permitting is required to tackle a problem with existing SSDs in a particular area (see below) the Environment Agency will attempt to notify owners directly.

The Environment Agency will keep the list of designated sensitive areas for small sewage discharges under review, and make changes to it if any new evidence comes to light about the impact of SSDs on a particular type of sensitive area.

Addressing cumulative impacts from small sewage discharges

Clusters of SSDs can have an impact on sensitive areas due to the combined effects of multiple small discharges releasing effluent into the same watercourse or underlying groundwater, even where correctly installed and properly maintained. This can lead to pollution due to high levels of phosphate and other nutrients in the effluent, which can cause eutrophication. In many cases this pollution will originate from existing SSDs that have been discharging for many years and hence any additional new SSDs will compound the problem.

The consultation sought views on the regulatory approach to existing small sewage discharges in sensitive areas. Many respondents said that addressing the impacts from existing SSDs was as important as controlling new discharges. The Environment Agency is already working with Natural England to tackle impacts on sensitive areas from agriculture and sewage discharges through diffuse water pollution management plans. Where there is evidence of a cumulative impact on sensitive areas and habitats, the Environment Agency will work with Natural England and the catchment partnerships to help identify pollution sources and devise local strategies to reduce pollution in these areas.

For operators of existing discharges actions could include raising awareness of the general binding rules, encouraging the use of low phosphate detergents, exploring whether a mains sewerage connection is possible, or in some cases requiring a permit where this will deliver a benefit over the general binding rules alone.

Controlling the proliferation of new discharges will primarily be achieved through environmental permitting, but the Environment Agency will also explore new ways in which areas at risk from new SSDs can be flagged up at the planning stage to help inform local authority planning decisions for new developments.

Older systems

A number of respondents have said there are significant numbers of outdated systems that are no longer fit for purpose, and identified that there can be substantial costs for replacing and modernising waste water systems.

For the vast majority of existing SSDs, the Environment Agency will not expect people to upgrade older waste water systems where these are functioning satisfactorily and meet the requirements for small sewage discharges. The only exceptions are:

- where there is evidence that they are causing pollution
- where they are from septic tanks discharging directly to water (see below)
- where they are existing discharges in a groundwater SPZ1 which are assessed through the permitting process to be at risk of causing pollution in their current form

New technology in waste water treatment means that systems can be improved relatively easily.

Discharges direct to water courses

Septic tanks discharging to ground via an infiltration system (where much of the treatment takes place in the soil) often provide a satisfactory level of treatment for protecting groundwater. However the current regime and new proposals do not allow discharges to be made direct to water courses from septic tanks because the effluent they produce is not clean enough to release directly to a river. Instead, either a package treatment plant should be used (which will treat the effluent to a higher standard) or the discharge can be made to ground via an infiltration system if the local conditions are suitable to ensure the underlying groundwater is also protected.

A number of respondents were aware of septic tanks in their area that they believe to be draining directly into water courses and causing pollution. The Environment Agency also has evidence indicating that pollution incidents are commonly due to septic tanks draining directly to water courses.

We will develop an approach to tackling this issue so that the practice of septic tanks draining directly to water courses is ultimately phased out.

Improving the definition of “operator”

We will be taking forward amendments to the regulations to replace the existing definitions of “operator” and “occupier” with a single new definition of “operator” which will clarify who is responsible for a small sewage discharge. Several respondents highlighted that drainage arrangements for rural properties can be complicated and that legal responsibility may not be clear cut. For example there may be several properties using the same waste water system, or a system may be located on someone else’s land.

In the consultation we had proposed to clarify the position for landlords and tenants. Following feedback from respondents, we will also clarify the position for multiple operators (i.e. where the waste water system is shared) and that operators are responsible for the whole system – plant and drainage arrangements – not just the point at which the

discharge is made. In doing this we recognise that this will provide clarification of responsibility for new systems, but that ambiguity may remain for existing systems. To address this we will suggest that appropriate arrangements are agreed between the relevant parties for maintenance and repair. Changes in tenants or renewal of leases will provide an opportunity to clarify responsibility for discharges and maintenance of waste water systems and to document this.

Sale of property

We agree with respondents who suggested that the sale of properties provides a good opportunity to ensure that waste water systems and their drainage comply with the regulations. Defra and the Environment Agency plan to work with the legal and conveyancing professions and the professional bodies representing estate agents and valuers to promote awareness of the GBRs and in particular the requirements when a property is sold. Given that systems must comply with the GBRs, it is reasonable to expect that where properties with septic tanks or treatment plants come up for sale, that these systems can be shown to be properly installed and in good order. Where they are not, we would expect action to be taken as a condition of sale.

Enforcement and monitoring

The Environment Agency will seek to ensure compliance by offering advice and guidance on how to install and maintain septic tanks and waste water systems that make SSDs.

If the Environment Agency finds a problem they will provide information to the operator (usually the legal owner of the property) to encourage them to adopt good practices and help protect the environment by preventing pollution. This may include explaining about general binding rules and how to follow them and the importance of regular maintenance.

In some cases the Environment Agency may identify that a small sewage discharge operator requires a permit for their discharge. In this situation, the Environment Agency will offer advice and guidance to help the operator make an application and agree a timetable for them doing so.

Many SSD operators will carry on operating and maintaining their plants in the same way as usual without the need for Environment Agency checks. Operators of SSDs are responsible for complying with the law by following the GBRs and if needed, applying for, and complying with, a permit. There will be some instances when the Environment Agency may visit to check that the septic tank or small sewage treatment plant is operating correctly, such as:

- if a permit has been issued which contains improvement conditions
- during the investigation of pollution in the vicinity
- as part of the Environment Agency's routine work.

More information about the Environment Agency's enforcement approach for small sewage discharges is provided in Annex D.

Annex A: List of organisations who responded to the consultation

ALRO Services Ltd
Anglian Water Services Ltd
Ashford Borough Council
Balmoral Tanks Ltd
Borough Council of Wellingborough
Bristol Gloucestershire Somerset Wiltshire Environmental Protection Group
Central Association of Agricultural Valuers
Centre for Ecology & Hydrology
Centre for Environment, Fisheries and Aquaculture Science (Cefas)
Chartered Surveyors, Land and Estate Agents
CLA
Clear
Constructed Wetland Association
Consumer Council for Water
Daventry District Council
DWI Drinking Water Inspectorate
Dwr Cymru Welsh Water
Epping Forest District Council
EPS Water
Euston Estate
Frith Farm Partnership
Grillo LLP Chartered Surveyors
Hampshire & Isle of Wight Wildlife Trust
Hawkley Parish Council
Hutchinson Environmental Solutions
I.H.S. Systems Ltd
Infrastructure Design Studio Ltd
JIG LTD
Joseph Black & Son Ltd
Kingspan Environmental Ltd
Marsh Industries
Milton Keynes Council
Natural England
NFU
NFU Watercress Association
North Warwickshire Borough Council
Northern Ireland Environment Agency
Northumbrian Water Ltd
Pumping & drainage Systems
Rainstorms Devon Ltd
RH & RW Clutton
Ribble Fisheries Consultative Association
Ribble Rivers Trust
Robert West Ltd
Royal Institution of Chartered Surveyors
Severn Trent Water
Skelton and Son

South East Water
South Gloucestershire Council
South West Water Ltd
Southern Water
Stafford Borough Council
Stockport Metropolitan Borough Council
Thames Water Utilities Ltd
The Rivers Trust
The Society of British Water & Wastewater Industries
UK Drainage Protocol
United Utilities Water PLC
Viltra
Wendage Pollution Control Ltd
West Cumbria Rivers Trust
Wildfowl & Wetlands Trust
Wildlife and Countryside Link
Wilsham Consulting Ltd
WPL
WRc
WTE Ltd
Yorkshire Ecological Solutions Ltd

Annex B: Note of discussions with stakeholders in May

Stakeholder session: Wednesday 21 May

Organisations present:

CLA

Consumer Council for Water

Cress Water Solutions

Constructed Wetlands Association

Royal Institute of Chartered Surveyors, RCIS

The Rivers Trust (also representing Catchment Partnerships, Wildlife and Countryside Link)

Natural England

Drinking Water Inspectorate

ENDS

Environment Agency

Defra

Others:

Two private householders

Stakeholder teleconference: Friday 23 May

National Farmers Union

Central Association of Agricultural Valuers

Wildfowl & Wetlands Trust, representing the Blueprint for Water Coalition

Introduction

Defra hosted a stakeholder session, and a phone conference with interested parties as part of the consultation engagement to discuss the proposals and listen to views. The session on 21 May took the form of a short presentation, followed by general questions and group discussions of issues and ideas to help us get a fuller picture. We would like to thank everyone who took part. Views from these discussions will be considered together with responses to the consultation.

Stakeholder session on 21 May

Defra and the Environment Agency outlined why we need to tackle pollution from septic tanks and small sewage treatment plants and the proposed new approach to regulating small sewage discharges, which is intended to:

- reduce administrative burdens on rural households and businesses

- address issues with a registration scheme,
- keep the necessary controls to protect drinking water supplies, the environment and sensitive areas and habitats.

The new policy approach has three main strands:

- ❖ simplifying the regulatory framework
- ❖ a more risk-based approach to sensitive areas
- ❖ better communication and engagement with rural householders and business to promote awareness and encourage local responsibility.

The proposals are to simplify the regulatory framework by removing the registration requirement, requirements to keep records of maintenance and to notify the Environment Agency if the discharge ceases, to rationalise the number of sensitive areas where environmental permits are routinely required, and to keep the rules which control and prevent pollution.

Owners will no longer need to register their systems. Instead, the standard requirements (which will be known as general binding rules) will apply automatically to everyone who owns a septic tank or small sewage treatment plant in England.

The emphasis of the new approach will be on keeping systems in good working order and fit for purpose.

The Environment Agency explained that the regulation of small sewage discharges is part of a much wider scheme of environmental permitting. The proposed general binding rules (GBRs) will apply automatically to everyone who has a septic tank or small sewage treatment plant where the discharge is expected to be within the thresholds for a small sewage discharge. In regulatory terms, the GBRs will set the conditions for exemption from needing an environmental permit – this is technically known as a non-registerable exemption, and is a regulatory measure that can be applied to lower risk activities, enabling a proportionate and risk-based approach to regulation.

Views on general binding rules as an alternative to registration

- There was general agreement that this would help reduce burdens on householders, but concern over the potential loss of information on the location of small sewage discharges (SSDs). The Environment Agency spoke about the alternatives to registration including use of information from water companies which is being progressed.
- An idea was put forward to put a requirement on equipment merchants, installers, maintenance and emptying companies to notify the Environment Agency about the location of any SSDs that they are aware of.
- Although the proposals will help clarify responsibility for a discharge in new tenancy and leasing arrangements it may not address existing agreements and concerns over legal liability and who is responsible. It also does not address other issues such as more than one property sharing one septic tank and systems discharging

onto a neighbour's property. It was noted that Drinking water regulations apply to "any relevant person".

Views on reducing the list of designated sensitive areas (which trigger permit requirements for new discharges)

- There was general agreement that it made sense to remove geological SSSIs, scheduled monuments and ancient woodlands from the list due to lack of likely impact on these areas, and also national nature reserves as these are already covered by SSSI status. There was less certainty over local wildlife sites, local nature reserves and protected species and habitats and whether the proposed GBRs will provide sufficient protection. A view was also expressed that a precautionary approach should be taken towards permitting meaning a preference for retaining designated site types where there is any doubt.
- The Environment Agency and Defra will look more closely at the proposals to remove local wildlife sites, local nature reserves and protected species and habitats from the list of designated sensitive areas (taking into account the views expressed at the session and the written responses to the consultation) will discuss them further with relevant stakeholders including Natural England.

Views on the removal of record keeping and notification requirements

- There was general consensus that it was sensible for householders to keep maintenance records and that this should be encouraged. No strong views were expressed as to whether this should be mandatory (i.e. that the requirement in the current regulations should be maintained).
- There were no objections raised to removing the requirement to notify the Environment Agency when an SSD ceases.

Other comments

- The requirement for when a property changes hands to notify the next occupier/owner of the property about a system making a small sewage discharge and its maintenance and regulatory requirements was discussed and agreed to be sensible. This will not only ensure that the new occupier/owner of the property is aware of the SSD and associated regulatory requirements, but also represents a good opportunity to communicate messages about the need to maintain the treatment plant.
- A question was asked about who will be responsible for compliance where a system is shared or where a discharge point is on someone else's land. The Environment Agency spoke about changes to the regulations to make the "operator" of the SSD responsible for compliance and guidance which will help with this.
- A question was asked about information being made available about pollution incidents from domestic waste systems recorded by the Environment Agency and where these have occurred, as this would be helpful in identifying diffuse pollution "hotspots".

Views on how the Environment Agency should communicate the new requirements

- Communicating the changes clearly and effectively to householders and other property owners will be critical. The Environment Agency sees communicating through partners as being one of the most effective ways of getting messages to SSD owners, and the general feedback from those at the session was that they would be willing to help the Environment Agency with this. It was suggested to ask water companies to include information for their water-only customers in their annual billing exercise in March.

General points made in discussion

- There were concerns expressed around people living in close proximity being treated differently e.g. where there are groundwater source protection zone 1 (SPZ1) boundaries meaning that one neighbour may need a permit whereas the other does not. An example was given of properties in close proximity to each other in the same village where part of the village was in an SPZ1 where permits are required for small sewage discharges. Different decisions about whether individual properties required environmental permits or not, had led to perceptions of unfair treatment.
- A view was expressed that more could have been done to raise awareness of the consultation in local and national media. A request was made to Defra to consider extending the consultation to allow more time for local media to help convey the consultation and the proposed approach to local communities.
- It was highlighted that there will be many cases where systems need to be updated or upgraded and that people will be worried about costs and about possible enforcement action. Concerns were raised by several people about the costs of improvements or replacement of systems which are significant for individual householders. It was suggested that there needs to be financial support available to help with the investment needed, in a similar way to how the water industry has been given support for infrastructure investment. A suggestion was also made that Defra and the Environment Agency should engage with the water companies to see whether they might be able to make any funding available to assist people who will be otherwise unable to afford to carry out the necessary work. Many water companies are looking to improve the quality of water before it enters the drinking water supply, so there may be opportunities within wider catchment plans to encourage funding to tackle septic tank 'hot spots'.
- Discharges from septic tanks and small sewage treatment plants which are above the thresholds for small sewage discharges are currently required to be permitted - that requirement will continue.
- It was suggested that Cesspits (or cesspools) should be subject to the same regulatory controls as septic tanks due to concerns that many existing cesspits are leaking and are never emptied by their owners, meaning that they are effectively discharging to ground. The Environment Agency explained that cesspits are not

within the scope of the Environmental Permitting Regulations as they do not make a discharge when operating correctly, and that the installation of new cess pits is governed through the planning process. The Environment Agency is aware of the issue of leaking cesspits and has existing powers to deal with them under other environmental legislation. Where problems are occurring these can be reported to the Environment Agency through the Incident Hotline 0800 80 70 60.

- The Constructed Wetlands industry would like to take forward discussion with the Environment Agency about possible accreditation of reed bed systems and recognition that they offer an effective alternative to septic tanks and package treatment plants. [Note Building Regulations Guidance allows reed beds as secondary or tertiary infiltration used with a septic tank or sewage treatment plant]. A meeting will be arranged.
- Many septic tanks are thought to make discharges directly to water courses – evidence in the North West catchments identified septic tanks as causing coliform contamination. However the overall scale of this problem is not known or addressed in the proposals.
- Local authorities need to risk assess all private water supplies for contamination annually.
- People need to have a better understanding of why they need to maintain their waste water systems and prevent contamination of water supplies.
- Many problems arise where new buildings overtake or alter existing discharge arrangements.
- The estimate of 400,000 small sewage discharges in England is recognised as conservative, research evidence indicates many more, 800,000 to a million may be more realistic. It was suggested that better information was necessary about the number of people who will be affected. More effort is needed to derive intelligence from a variety of sources of data which can be shared to identify and monitor “hotspots” or clusters of septic tanks/treatment plants, where pollution is occurring. There appeared to be general consensus that the Environment Agency should concentrate its compliance activities for SSDs in pollution “hotspots”.
- At the same time, a view was expressed that most septic tanks discharge into smaller water courses which are not covered by the Water Framework Directive and which may go undetected. Removing the registration burden on households does not take away the need to know where small sewage discharges are being made and how those discharges are affecting the local environment and biodiversity.
- Stakeholders broadly welcomed the move to deregulate but concern remains whether alternative sources of data compared to what registration would provide, will give enough intelligence to identify clusters or multiple discharges.

- It was suggested that another mechanism besides the EA Pollution Hotline number, could be used for lower level pollution issues that do not require an emergency response.
- Annex 2 of the consultation outlines how the GBRs will apply. This will form the basis for the EA's formal Guidance for GBRs.
- One consultee said that they were pleased that they are being consulted before the introduction of any changes which they felt had not happened when the registration system was first introduced.

Views expressed during a teleconference with National Farmers Union, Central Association of Agricultural Valuers and the Blueprint for Water Coalition 23 May 2014

- The biggest concern is communication and getting in touch with people to make them aware of the importance of correctly maintaining their septic tank/small sewage discharge and how they can do this. Consultees are likely to be able to help the Environment Agency communicate following any changes to the regulatory framework.
- A suggestion was made that instead of general binding rules, a code of practice could be considered.
- Concerns were expressed regarding only permitting new discharges given that existing discharges are often a source of pollution, as well as the Environment Agency's resources for dealing with the problem and a perception that SSDs are a low priority in the river basin management plans.
- Removing the registration system would mean the Environment Agency would lose out on a source of information about the type and age of SSDs (which would not be provided by water company information).
- Diffuse pollution from septic tank discharge is a real problem and more information is needed about how this will be addressed and enforced.
- It was pointed out that in some cases an SSD may discharge on someone else's land and that this should be taken into account when determining who the operator is, as well as the fact that in some lease agreements a landlord may be responsible for maintaining the fabric of a plant whereas the leaseholder is responsible for emptying it.
- The purpose of permitting was discussed and it was suggested that messages to SSD owners should focus on the need for permitting as a process which involves an assessment of the discharge (rather than just needing to "get a permit" which is otherwise likely to be seen as bureaucratic). It was also suggested that for properties in SPZ1s that more could be done to make people aware of the

requirement for permits in these areas, for example the Law Society could make conveyancing solicitors aware of the requirement.

- A request was also made for the Environment Agency to share a copy of the permit template so that the difference between the requirements of permits and general binding rules could be better understood.
- In answer to a question about how information on locations of septic tanks and small sewage treatment plants will be kept up to date in future, the Environment Agency explained that information from a range of sources including from planning applications where EA are informed of plans for 10 or more dwellings will be used to keep their intelligence current. The information gathering exercise with water companies may be periodically repeated.

Annex C: Summary of general binding rules

We proposed to keep the following as standard requirements⁴ (general binding rules) – listed in summary below - these will be published in full on Gov.uk in January:

1. The discharge from a small sewage treatment plant is 5 cubic metres per day or less to surface waters and 2 cubic metres per day or less if made to ground.
2. The discharge from a septic tank is 2 cubic metres per day, and must be made to ground. (Septic tanks must not discharge to inland fresh waters or coastal waters).
3. The discharge must not cause pollution of groundwater or surface waters.
4. The discharge cannot be reasonably, at the first time it is made, be made to a mains sewer.
5. The system must be installed, operated and maintained in accordance with the manufacturer's specification ie the British Standard in force at the time of the installation, and in line with guidance from the Environment Agency. This includes periodically removing waste sludge (to be done by an authorised person).
6. The sewage must only be domestic and not trade effluent.
7. Discharges to ground must be outside a groundwater Source Protection Zone 1, unless a permit is in place and be further than 50 metres from any well, spring or borehole that is used to supply water for domestic or food production purposes.
8. The owner must ensure a system is appropriately decommissioned where it ceases to be in operation so that there is no risk of pollutants entering ground water or entering inland fresh waters or coastal waters.
9. If a property is sold, the owner must give the new owner a written notice stating that a small sewage discharge is being carried on the land, and giving a description of the waste water system and its maintenance.

⁴ In the Environmental Permitting (England and Wales) Regulations 2010, Schedule 3 Part 2 and Part 3

Annex D: The Environment Agency's enforcement approach for small sewage discharges

General approach to securing compliance with the Environmental Permitting Regulations

The Environment Agency will seek to ensure compliance by offering advice and guidance on how to install and maintain septic tanks and small sewage treatment plants (also known as package treatment plants). Prevention is better than cure and the Environment Agency will engage with customers to encourage this approach.

If the Environment Agency finds a problem they will provide information to the operator (usually the legal owner of the property) to encourage them to adopt good practices and help protect the environment by preventing pollution. This may include things like explaining about general binding rules and how to follow them, including the need to de-sludge septic tanks when they become full.

In some cases the Environment Agency may identify that a small sewage discharge (SSD) operator requires a permit for their discharge. In this case they will offer advice and guidance to help the operator make an application and agree a timetable for doing so.

The Environment Agency anticipates that offering advice and guidance will be sufficient to ensure compliance in the majority of cases without the need for enforcement action. The Environment Agency has the powers to take enforcement action if necessary as outlined in the compliance diagram below, generally these will only be used where advice and guidance has failed. Past experience shows this is rarely necessary.

If pollution is being caused, or there is a significant risk of it being caused, the Environment Agency may require the operator to make upgrades to their treatment plant or even replace it completely. For example, if a septic tank is found to be discharging direct to a river (which is not allowed under the general binding rules) the Environment Agency may agree a timetable with the operator for installing an infiltration system or replacing the septic tank with a small sewage treatment plant. However, in most cases where problems are identified this is due to poor maintenance which is relatively straightforward to address through, for example, regular emptying.

Cesspits or cesspools are not classed as small sewage discharges because when they are operating correctly there is no discharge from them. However, if the Environment Agency discovers a cesspit which is leaking or overflowing, they will require the owner to take action and can still take enforcement action if necessary under relevant legislation.

Checking that treatment systems are operating correctly

The operator of an SSD will be responsible for complying with the law through abiding by the standard requirements (also known as General Binding Rules) and if needed, applying for, and complying with a permit. The operator will usually be the legal owner of the property which the SSD serves, unless there are contractual arrangements to the contrary.

Many SSD operators already run and maintain their plants effectively without the need for Environment Agency checks, but there will be some instances when the Environment Agency may visit to check that the septic tank or small sewage treatment plant is operating correctly and is complying with the requirements such as:

- if a permit has been issued which contains improvement conditions;
- during the investigation of pollution in the vicinity; or
- as part of the Environment Agency's routine work.

SSD operators can seek further advice and guidance from the Environment Agency's National Customer Contact Centre 03708 506 506.

Permits are required for new and existing discharges to ground in groundwater source protection zone 1s and for new discharges in designated sensitive areas. They are also required for all discharges over 2 m³ per day per ground or 5 m³ per day to surface water, regardless of their location (see the gov.uk website for how to work out the daily discharge volume of your plant).

As our understanding and knowledge of the sources and effects of SSD pollution improves, the Environment Agency may require permits to be in place for some SSDs in certain areas outside of the designated sensitive areas, or for existing SSDs in or near to designated sensitive areas. This will be a risk-based approach applied where there is evidence the environment is deteriorating (eg due to the cumulative effects of a cluster of SSDs) and where permitting could redress this and achieve an improvement. The Environment Agency will always look to help people meet the statutory minimum requirements (ie the general binding rules).

SSD operators will be able to check whether they are in a designated sensitive area by contacting the Environment Agency by email, phone or post. Under the proposals the SSD operator will remain responsible for identifying whether a permit is required and applying for one if necessary, but in certain areas which are very high risk or where there is evidence of problems due to SSD pollution, the Environment Agency may contact people to raise awareness of the need for permits.

If the Environment Agency identifies a SSD which requires a permit, their first course of action will always be to provide advice and guidance to help the operator make a permit application.

Environment Agency’s approach to compliance where it finds a problem

The diagram below shows the process that will be followed if the Environment Agency finds a problem. This is not an exhaustive list and in all cases the response will depend on the severity of the problem.

