



Consultation on the reform of the regulatory system to control small sewage discharges from septic tanks and small sewage treatment plants in England
[Small sewage discharges: new approach to how we regulate in England](#)
The online consultation is open until 10 June.

Notes of Stakeholder sessions

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.