

## Reform of the regulatory system to control small sewage discharges from septic tanks and small sewage treatment plants in England

### Additional Information – October 2014

This document provides additional information about the changes to the regulatory framework for small sewage discharges which are being taken forward as described in the [summary of responses and government response](#) to an online consultation on the reform proposals which was held earlier this year from 30 April to 10 June 2014.

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## What is it about?

The government consulted on proposals to simplify the regulation of small sewage discharges. The government response to the consultation set out that we will take forward changes to the regulations, as proposed, to establish a simpler regulatory framework to control small sewage discharges from septic tanks and small sewage treatment plants in England. A written statement by Dan Rogerson, Parliamentary Under Secretary of State for water, forestry, rural affairs and resource management explains the new approach.

In summary from January 2015 the regulatory framework will comprise:

- General binding rules that apply to all small sewage discharges in England. These rules set the conditions that septic tanks and treatment plants will need to meet in order for them to be used without an environmental permit.
- 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 2015) will be required to have an environmental permit. Existing discharges (i.e. those already being made before 1 January 2015) will be governed by the general binding rules. Additional measures to protect local environments may be set through environmental permits depending on the type of area and local conditions. The Environment Agency will take a risk-based approach to permitting and will work with Natural England, other stakeholders and local communities to take account of local conditions and evidence.
- For areas in groundwater source protection zone 1s, all small sewage discharges to ground, both existing and new, will continue to require an environmental permit.

Further information is available on the policy for **Improving water quality** on [Gov.uk](http://Gov.uk).

## **Designated Sensitive Areas list from January 2015**

The designated sensitive areas which will continue to trigger permit requirements for small sewage discharges are:

### **Discharges to ground:**

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

### **Discharges to ground or 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

### **The following areas are being removed from the list of designated sensitive areas:**

- Scheduled monuments
- Geological SSSIs
- Local nature reserves and local wildlife sites which are terrestrial in nature
- Protected species and habitats not considered to be at risk from small sewage discharges

### **When will the new regulations start?**

1 January 2015.

### **What will this mean for people who have a septic tank or sewage treatment plant?**

Most people will not need to do anything new if they are already maintaining their septic tank or treatment plant. The changes mean that people will no longer need to register their septic tank, keep records of maintenance or notify the Environment Agency if the discharge ceases. They will still need to make sure their system is working well and not causing pollution. We still encourage record keeping as good practice but it is no longer an offence not to keep records.

### **What are small sewage discharges?**

In rural areas and other parts of the country where there is no public sewer, householders and other property owners usually treat their sewage using septic tanks or small sewage treatment plants. The treated effluent is then discharged either to ground through use of a soakaway, or into a river or stream if using a sewage treatment plant. Discharges are measured by volume. If the discharge is up to 2m<sup>3</sup> to ground or 5m<sup>3</sup> per day to water, this

is known under environmental legislation as a small sewage discharge (SSD). For larger discharges, different rules apply.

The risk of pollution from small sewage discharges is usually low provided the septic tanks or small sewage treatment plants are properly maintained and regularly emptied (known as desludging). However, if systems are not properly maintained or are incorrectly installed they can pollute water, cause odour and pose a threat to health if they contaminate drinking water supplies.

### **What are the general binding rules – are these new?**

The changes are deregulatory and remove unnecessary burdens on homes and businesses but keep existing essential controls to protect the environment and prevent pollution. These controls will be now known as the general binding rules. The general binding rules will apply across the whole of England. A copy of the general binding rules is available on [Gov.uk](https://www.gov.uk).

### **Will some areas still need environmental permits?**

Yes. Permits will continue to be used in sensitive areas, and where systems are not able to meet the GBRs – see section on permits later.

### **How will the Environment Agency make sure that people comply with the legal requirements?**

- The Environment Agency will help provide information to property owners on how to maintain their septic tanks and small sewage treatment plants so they do not cause pollution to the environment and drinking water supplies. Keeping the equipment in good working order and making sure new equipment is installed properly are the most important actions people need to take to comply with the rules and protect their local environment.
- The Environment Agency will normally only contact individual property owners if they are in a particularly sensitive area and may need a permit, or if there is evidence of pollution from small sewage discharges in the vicinity.
- If a property owner needs a permit or if a problem is found, the Environment Agency will give advice and guidance and help people to take the necessary steps to comply.
- The Environment Agency will give people sufficient time to comply and only take enforcement action if absolutely necessary where advice and guidance has failed.

## **When does the Environment Agency expect people to be compliant with the requirements?**

- The general binding rules will come into effect on 1 January 2015 and restate the conditions necessary to control and prevent pollution from small sewage discharges. People will need to follow these conditions in order for a septic tank or sewage treatment plant to be used without an environmental permit.
- Over the coming months and during 2015, Defra and the Environment Agency will work with stakeholders and partners to communicate the new approach to rural households and businesses.
- Many people with septic tanks or small sewage treatment plants that are correctly installed, in good working order and regularly emptied will already be meeting the general binding rules and will not need to do anything differently.
- It will take some time before everyone becomes aware of the new approach. The Environment Agency will continue to take a proportionate and reasonable approach to compliance, particularly in the months following the reformed regulations coming into effect. This will give time for people to become familiar with the new approach.

## **How can I find out more?**

Further information on the changes will be published in due course. The consultation documents give background information and are available on Gov.uk. Questions can be directed to the Environment Agency's National Customer Contact Centre on 03708 506 506, or you can email us on [SSDs\\_Reform@Defra.gsi.gov.uk](mailto:SSDs_Reform@Defra.gsi.gov.uk).

## **Further information**

### **If you are no longer going to have a registration scheme how will you know where septic tanks or treatment plants are?**

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

### **Why are you removing the requirement to keep records of maintenance?**

Most people keep recent utility bills or invoices for repairs to their property and see this as good practice and common sense. Keeping records of maintenance of your septic tank or

treatment plant is useful for a number of reasons and we will continue to encourage this, but it does not need to be stipulated in law.

### **How will these changes be communicated to households?**

Over the coming months Defra and the Environment Agency will work with stakeholders and partners to communicate the changes to rural households and businesses.

### **How are you going to tell people about the changes?**

- Defra and the Environment Agency will carry out communications activities so that people are aware of the changes and what they need to do.
- The communications will be aimed at rural communities and organisations such as installers, maintenance companies, trade bodies, environmental organisations and local authorities.

### **How will I know whether I just need to follow general binding rules or if I will have to apply for a permit?**

Under the regulations everyone who has a septic tank or small sewage treatment plant will be expected to follow the general binding rules as a minimum, and the vast majority of owners will not require a permit.

In or near designated sensitive areas where a higher level of protection is needed, small sewage discharges will continue to require permits as necessary.

There will be information on gov.uk to help owners of septic tanks or small sewage treatment plants decide whether or not they need to apply for a permit, and people can also contact the Environment Agency's National Customer Contact Centre on 03708 506 506.

### **Will I have to make any improvements to my septic tank or small sewage treatment plant in order to meet the required standards?**

The majority of property owners will not need to make any improvements, and will instead need to ensure that their septic tank or package treatment plant is regularly emptied and maintained. There may be a number of people who have to make improvements to their plants if they are posing a risk to the environment or causing pollution.

### **How do I find out what I need to do to maintain my septic tank or small sewage treatment plant?**

You should firstly check the guidance on small sewage discharges on the Gov.uk web page. Guidance on looking after your septic tank or sewage treatment plant is also available on the [British Water website](#) and your local maintenance company will also be able to advise.

## **How can I check that my septic tank or package treatment plant meets the necessary requirements and standards?**

You should firstly check the guidance on small sewage discharges on the Gov.uk webpage. Guidance is also available on the [British Water website](#). If you are still unsure we recommend that you contact a local waste water service company who should be able to advise you.

## **Is there any financial help available for people who need to make improvements to their septic tanks or package treatment plants?**

There is no financial help available for improvements, unless they are designed to make a property more resilient to flooding, in which case a grant may be available. However, where the Environment Agency identifies that improvements are required they will agree a reasonable timescale for the improvements to be made with the owner.

## **How does the new description of an operator work?**

Where general binding rules apply, the person who is responsible for complying with them is called an “operator”. To help make it clear who this person is, the Regulations describe an operator as a person who has control over the operation of a septic tank or sewage treatment system. An “operator” may be (a) an owner of the system, (b) someone who uses it even though the system itself or part of it may be located on neighbouring land or (c) another person e.g. a tenant or leaseholder who agrees to be responsible for the operation and maintenance of the system, through a written agreement with the owner of the land or part of the land. Any written agreement should explain what maintenance means in practice for the facility.

The new description of where responsibility for compliance lies no longer refers to the occupier of a property. Nor is it dependent upon the physical location of the actual discharge. Instead it places responsibility on the owner of the property or land where the septic tank or treatment plant is located or being used, as being the person in control of a discharge. The onus is on the owner to either operate and maintain the system themselves or have a written agreement with another person for them to be responsible for the operation and maintenance instead.

The description also accommodates situations where there is more than one operator e.g. where several properties share the same septic tank or treatment plant. The premise is that they all benefit from using the system, so its maintenance is a shared responsibility.

## **I am renting a property which has a small sewage discharge – who will be responsible for complying with the GBRs?**

The owner of the property (landlord) will be responsible for complying with the GBRs, unless responsibility for the operation and maintenance of the plant has been transferred as part of your rental or leasehold agreement.



## **I share a septic tank with two other properties, who is responsible for the discharge?**

In this case there are likely to be three operators – you and your two neighbours. Responsibility for the septic tank and its discharge and for complying with the general binding rules is a shared responsibility, unless you have a written agreement which states otherwise.

## **What happens if a property with a septic tank or small sewage treatment plant is sold?**

After 1 January 2015, the same as now, an owner of the property is required to provide the purchaser with a written notice giving details of the discharge and a description of the waste water system. In most cases this information is included within property information forms that are completed as part of the conveyancing process. Although keeping records will no longer be mandatory we suggest that this information is also passed on if available, as this will help the new owner.

## **I'm buying a property but the sewage treatment plant is in poor condition, what should I do?**

When you take ownership of the property you will be responsible for making sure that the sewage treatment plant complies with the general binding rules. This includes maintaining the plant and ensuring it doesn't cause pollution. It is therefore advisable that you either make sure that the current owner rectifies any problem as a condition of sale, or that you negotiate a price that takes into account the repairs you will need to make when you take ownership of the property.

## **My septic tank is very old do I have to replace it?**

As long as a waste water system is functioning well, meeting the needs of the household or business and not causing pollution there will be no need to change it.

## **What about if I want to upgrade my septic tank or install a new one – will there be any standards that the new equipment will need to meet?**

Yes. Before installing a new or upgraded treatment plant you should check with your local authority's Building Control department whether the plant will meet [Building Regulations](#). You will also need to ensure equipment meets the British Standards at the time of the installation. The Environment Agency can provide guidance about the standards required for septic tanks and small sewage treatment plants.

## **Are offences and penalties changing?**

No, the changes do not alter offences and penalties, which continue as stated in the Environmental Permitting Regulations. If a small sewage discharge is not meeting the standard requirements (general binding rules) or permit conditions (if appropriate) then the

Environment Agency will usually firstly try to provide advice and guidance to help resolve the issue. If this is not successful further enforcement action may be taken.

## **Registration**

### **I registered my septic tank so what happens now registration has stopped?**

The details of your original registration will be removed from the public register and placed on the National Archive.

### **Will the Environment Agency be contacting people who have registered?**

The Environment Agency is not planning to contact people directly who have registered, as the general binding rules will not require them to do anything new compared to the current registration criteria. Instead the Environment Agency aim to inform owners through general awareness-raising exercises to tell them about the new regulatory system and what they need to do to comply.

### **I'm selling my house in the next few weeks, do I still need to register?**

While the Environment Agency is not requiring people to register, the law technically still requires you to do so if you are selling your property before January 2015, therefore your conveyancing solicitor is likely to require this. For more information see the Environment Agency's [guidance](#) on registration.

## **Permits**

### **I already have a permit – do I need to do anything?**

Just keep following the conditions of your permit. Existing permits will be reviewed in due course and the Environment Agency will contact you if there are any changes.

### **Will a lot of people have to apply for a permit when the new regulations come in?**

No, the vast majority of people will need to ensure that they follow the general binding rules and will not require a permit. However if you are in doubt about whether you need a permit please contact the Environment Agency's National Customer Contact Centre on 03708 506 506 who can check for you.

### **How much does a permit cost?**

The current permit application charge for a small sewage discharge is £125. This charge may be subject to review in future. (No charges will apply to the general binding rules.)

### **How does the Environment Agency determine where permits are needed?**

The vast majority of septic tanks and package treatment plant owners will come under the general binding rules and will not need permits for their discharges. The Environment Agency only requires permits for discharges in the most environmentally sensitive areas. This includes for both new and existing discharges to ground in areas designated to protect drinking water supplies known as groundwater source protection zone 1s(SPZ1s), and for new discharges in sensitive areas for wildlife and habitats.

Permitting allows the Environment Agency to assess the discharge to make sure that it won't cause pollution, and if necessary to specify additional requirements beyond the general binding rules. For existing discharges to ground in groundwater SPZ1s, this may mean requiring some owner to make improvements in cases where the discharge could otherwise pose a risk to public health.

### **What do you mean by a risk based approach for existing discharges in sensitive areas?**

As described above, the Environment Agency does not usually require small sewage discharge owners making an existing discharge to have a permit, unless they are located in a groundwater SPZ1. However, in some cases where the cumulative effect of a group of existing discharges is found to be having a particularly significant effect on a habitats site or a river for example, the Environment Agency may require the owners of those discharges to apply for permits in order to assess each discharge and require any improvements which might be needed.

The Environment Agency will continue to take a pragmatic approach to permitting and will only require permits for existing discharges outside of groundwater SPZ1s if there is no other practical way in which pollution from those discharges can be reduced. In the vast majority of cases, raising awareness and giving advice and guidance is likely to help achieve the necessary improvements in areas where existing discharges are having an impact on the environment, without the need for permitting.

### **When will a permit be required?**

Permit requirements are different depending on whether the small sewage discharge is classed as "new" or "existing". New small sewage discharges are those from septic tanks or sewage treatment plants that were installed on or after 1 January 2015. Existing small sewage discharges are those from systems in operation before this date.

A permit will be required for all new small sewage discharges in or in close proximity to designated sensitive areas, and both new and existing small sewage discharges to ground

located in a groundwater source protection zone 1. The Environment Agency can advise if this applies to you. All other existing discharges will be automatically covered by general binding rules.

The designated sensitive areas which will continue to trigger permit requirements for small sewage discharges are:

**Discharges to ground:**

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

**Discharges to ground or 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

**Which areas are being removed from the designated sensitive areas list?**

The following areas are being removed from the list of designated sensitive areas:

- Scheduled monuments
- Geological SSSIs
- Local nature reserves and local wildlife sites which are terrestrial in nature
- Protected species and habitats not considered to be at risk from small sewage discharges

If you are planning to apply for a permit before 1 January 2015 for a small sewage discharge in a sensitive area which is being removed from the designated sensitive areas list, you are advised to contact the Environment Agency's National Customer Contact Centre on 03708 506 506 to discuss your application.

**How can I check if I am in a designated sensitive area?**

Designated sensitive areas include ground water source protection zones 1 and other types of protected areas. You can check if you are in a groundwater source protection zone 1 (SPZ1) or other types of designated sensitive area by looking at the "What's in Your Backyard" webpage on [www.gov.uk](http://www.gov.uk), or by calling the Environment Agency's National Customer Contact Centre on 03708 506 506.

## **What are SPZ1s and why do I need a permit for my SSD if I am located in one?**

Groundwater provides a third of the drinking water in England. The areas nearest to where drinking water (either public or private water supply) is abstracted from groundwater are known as source protection zone 1s (SPZ1s).

Anything that gets into the groundwater in a SPZ1 may get into the drinking water. A permit will be needed for discharges to ground in an SPZ1 to ensure that small sewage discharges in SPZ1s are properly looked after and are not causing pollution in these highly sensitive areas.

The minimum size for a groundwater SPZ1 for a drinking water supply is a 50m radius from the abstraction point. Some groundwater SPZ1s are larger than others due to the geology of the area and the way in which the groundwater flows. For example, the South Downs and some parts of the Cotswolds have very large groundwater SPZ1s due to porous rocks such as chalk and limestone. No matter how large a groundwater SPZ1 is, any small sewage discharge discharging to ground within it will still require a permit.

For more information please see Environment Agency's [Groundwater Protection Principles and Practice](#).