

Consultation on Amendments to the Environmental Permitting Regulations
Department for Environment, Food and Rural Affairs

By email

Wednesday 22nd December 2021

To whom it may concern,

**Re: Consultation on Amendments to the Environmental Permitting (England and Wales)
Regulations 2016 as applied to Groundwater Activities and related Surface Water Discharge
Activities**

Blueprint for Water¹ welcomes the opportunity to respond to the consultation on Amendments to the Environmental Permitting (England and Wales) Regulations 2016 in relation to groundwater activities.

We welcome that there will be a greater range of regulatory tools at the Agency's disposal, but are concerned that, for some operations, this will mean a reduced level of scrutiny. Given the extremely poor state of the water environment we feel that this is a risk, and so wish to make the following key points in relation to these proposals:

Regulatory triage

We note that an assessment has been undertaken to quantify the potential impacts on businesses as a result of the proposals, and ask whether a similar assessment has been undertaken to quantify the potential impacts upon the environment. If Standard Rules Permits (SRPs) are in future issued for activities that were previously subject to Bespoke Permits, there is a risk that environmental protections will be lost. However, where access to a greater range of permitting options for groundwater activities enables the Agency to issue permits where previously activities would have been exempt, Blueprint would welcome the use of these measures given the already significant and increasing pressures facing the water environment.

¹ Wildlife and Countryside Link is a coalition of 64 organisations working for the protection of nature. Together we have the support of over eight million people in the UK and directly protect over 750,000 hectares of land and 800 miles of coastline. Blueprint for Water, part of Wildlife and Countryside Link, is a unique coalition of environmental, water efficiency, fisheries and recreational organisations that come together to form a powerful joint voice across a range of water-based issues.

Mobile Plant Permits

We are concerned that the justification for the introduction of such permits includes reducing ‘the risk that groundwater pollution incidents are left unaddressed due to affordability issues’; it should not be the role of the permitting system to reduce financial burdens upon polluters. The type of permit issued should be appropriate to the activity rather than being determined by the ability of a polluter to pay.

General Binding Rules

We note that GBRs only provide the envisaged level of environmental protection if they are known about and complied with. We ask how the proposed new GBRs for cemeteries and heat pumps will be communicated, and to what extent compliance with the rules will be assessed in order to determine their effectiveness?

Range of pollutants

We welcome the proposal to recognise microbial entities and heat as ‘pollutants’, which would enable regulatory controls to be used with respect to groundwater activities, bringing the regime into line with that for other waters. However, with respect to microbial controls we note that these will be brought in only ‘where evidence supports the requirement for such additional permitting controls to be necessary’, and for heat pollution, regulatory controls will apply ‘in the same way that they do for other pollutants’. We are unclear as to whether this will apply to existing licences or only new applications; and if the latter, are concerned that environmental damage under existing permits will continue unabated.

Updates to the regulations

We welcome the proposals relating to Small Sewage Discharges, and onshore Oil and Gas permits, which will provide additional environmental safeguards. Regarding the GBRs for Small Sewage Discharges, we would also like to see additional rules relating to (pre-2015) SSDs located in or near important sites for nature conservation, such as designated sites and chalk rivers. Potentially-damaging SSDs should not be subject to lesser restrictions simply by virtue of having been installed prior to a certain date – whilst operators may believe their systems to be compliant with the rules, most are likely not well-equipped to judge whether in fact rule 4 is being broken (“The discharge must not cause pollution of surface water or groundwater”). Natural England should be asked to provide recommendations for additional rules to reduce the impact of SSDs upon protected sites.

Regarding new exemptions to the prohibition of direct discharges of pollutants to groundwater, we recommend that any activities to be permitted which were previously exempt should be subject to Bespoke Environmental Permits, as the form of control providing the strongest environmental protections.

Regarding defences for sewerage undertakers in breach of permit conditions, we welcome the clarifications but with some caveats. Where a breach occurs when the undertaker was bound to

receive the discharge subject to conditions which were not observed, action should instead be taken against the third party failing to observe the conditions. In addition, the agency should clarify how it will determine whether 'the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works'; specifically, what is the role of customer (business and domestic) education here in ensuring that inappropriate and damaging discharges are not made to the sewerage system? Expectations on customer education in relation to this risk should be set out by the Agency in time to feature in PR24 Business Plans at the latest.

We would be pleased to discuss any of these points further.

Many thanks and kind regards,



Ali Morse
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