

Blueprint for Water response: Spill Frequency Threshold Permitting for Storm Overflows

24th January 2025

This consultation response is on behalf of Wildlife and Countryside Link (Link), a coalition bringing together 86 organisations to campaign for the natural world.

This response is supported by Angling Trust, Campaign for National Parks, Friends of the Earth England, Institute of Fisheries Management, Marine Conservation Society, Paddle UK, River Action, The Rivers Trust, The Wildlife Trusts.

Summary

Blueprint for Water¹ welcomes the the opportunity to respond to this consultation on the Spill Frequency Threshold Permitting for storm overflows.

Generally, we understand the merits of the approach proposed by the Environment Agency in this consultation. For example, it seems sensible to seek greater consistency of approach with the Storm Overflows Discharge Reduction Plan, in order to reduce complexity across the policy landscape and to ensure that there are clear drivers for storm overflow improvement. We also welcome the clarification throughout the document that where more stringent standards are required to ensure no ecological harm, these will be used, though would welcome further detail on how this will be determined and applied.

Blueprint for Water has raised in previous consultations that spill frequency alone will not be a suitable proxy for environmental impact. Greater information on spill volumes and loads is needed to develop metrics capable of approximating environmental impacts. Furthermore, it is essential that a sufficient data record is compiled for all storm overflows, such that it is possible

¹ [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.

to determine whether their performance causes an adverse ecological impact. If the overflow is causing harm, permitting requirements should be set to a level that eliminates harm.

Given the technical nature of the questions, we suggest further opportunities to workshop the proposals with stakeholders including eNGOs would be helpful. We also note that with the Environment Agency and Defra consulting on related documents at the same time, it would be helpful for the final published versions to clarify any relationships between the three documents as well as with further documents set to be consulted on.

We would be pleased to discuss any of the points raised in our response further.

Questions

Q. Is spill frequency threshold permitting a suitable approach for protecting storm overflow spill performance?

The introduction of spill frequency threshold permitting is a suitable approach. As stated in the consultation document, this should be an addition to permit conditions, rather than a replacement.

We welcome the intention that, as stated in the consultation document, the addition of spill frequency thresholds will mean 'increased line of sight between permit conditions and storm overflow performance'. However, spill frequency alone is also not a suitable proxy for impact. Indeed, as the document acknowledges, in some cases local adverse ecological harm can occur even if spills are kept below an average of 10 per year. Inclusion of volume and load information data would help bring this metric closer to a meaningful approximation of environmental impact. In their absence, UPM assessments should be used to provide the evidence for permit limits being set below 10 wherever it is indicated that environmental harm may still occur at that threshold.

Furthermore, it is essential that a sufficient data record is compiled for all storm overflows to assess whether their performance causes ecological harm.

Q: Should we apply these permit conditions to low-spilling overflows i.e. those that already meet the SODRP standards?

Yes, permit conditions should be applied to all overflows, including low-spilling overflows that already meet SODRP standards. This will help ensure that a standard of no deterioration is implemented, that spills cannot be redirected to unpermitted Storm Overflows to avoid breaches elsewhere, and that long-term planning can account for growing pressure from climate change and population growth.

Q: Should we use the described approach in the consultation document to protect current performance?

Yes. We welcome the proposal to use a minimum-ten-year modelled time-series to determine thresholds for individual overflows, and suggest that these permits should be applied during AMP8.

Q: What spill frequency should these “no-deterioration overflows” be permitted to be protect? See options A/B/C above.

No-deterioration overflows should be permitted at the most stringent spill frequency. Therefore, permitting at current performance (Option A) could be an appropriate approach, assuming that current performance is both better than the SODRP requires, and does not cause ecological harm.

The document states that some low-spilling storm overflows will not yet have a sufficient data record to determine whether their performance causes an adverse local ecological impact. Storm overflows should not be permitted at current performance without assurance that this performance is not causing adverse local ecological impacts. If the overflow is causing harm, permitting requirements should be set to a level that eliminates harm.

We would not support the use of the SODRP targets (Option C) where these are higher than current performance as this would not adhere to the ambition of no deterioration. We are also unable to support Option B (‘with some allowance for variation’) without understanding what that allowance might be.

Q: Should we have a long-term spill frequency (assessed over up to 10 years) average target as part of the spill frequency threshold conditions?

We can see the merits in including a long-term spill frequency average target as part of the spill frequency threshold conditions, in order to maintain consistency with the SODRP. A longer-term approach may also be useful to encourage sustained, consistent improvements in performance.

However, as acknowledged in the document, assessing whether this long-term average is being met will take a long time given that most overflows do not have a 10-year record. Non-compliant storm overflows should not be allowed to remain so for 10 years before action is taken. The inclusion of a short-term frequency condition alongside this long-term condition is therefore welcome, potentially enabling an earlier compliance assessment.

Additionally, the requirement to assess SOs under the SOAF based on 1-3 years' data (rather than 10) should be reiterated to water companies, to ensure that the absence of a permit, or of an assessment of compliance with a long-term target, does not operate as a reason to put off considering the actions that might be needed to improve SOs. This is important as such delays could cause significant and potentially irreparable harm to the environment and to public relationships with the water industry and regulators.

We welcome clarification that where a frequency lower than 10 annual spills will be required to protect against ecological harm, this lower frequency will be used for the long-term condition.

Q: Should we consider excluding data (e.g. exceptionally wet years) or resetting (when improvement schemes or addressing known operational deficiencies are realised) the rolling ten-year period, and in which circumstances?

No, we agree that data from exceptionally wet years should not be excluded from the rolling ten-year period.

As climate changes, extreme weather events including heavy rainfall are likely to increase in the UK.² Water companies must be driven to sufficiently invest in and maintain the resilience of their sewerage assets, to ensure that these systems can function as required without causing

² Kew at al. (2024). 'Autumn and Winter storms over UK and Ireland are becoming wetter due to climate change'. <https://spiral.imperial.ac.uk/handle/10044/1/111577>

harm. To exclude data from exceptionally wet years would suggest that the industry does not need to improve resilience to changing climate.

We agree that it could be appropriate to reset the 10-year period once improvements to overflows have been delivered. To include pre-improvement years in a rolling average would mean companies may still ‘fail’ the average target for several years afterwards, despite having made the required improvements. Although we recognise that resetting would mean that assessments are less robust, being based on fewer years’ data, we think it is important to rapidly be able to demonstrate that the vast investment in Storm Overflow improvements is delivering positive outcomes (or conversely, to identify where improvements are *not* delivering the benefits envisaged so as to inform future scheme design). To include pre-improvement years in the rolling average would not present a helpful picture of whether these improvements are indeed resulting in reduced spills and therefore reduced environmental harm.

Where EA considers setting a higher spill frequency condition in the short term (protecting existing performance ahead of a tightening of permit conditions following future improvements), we suggest that these less stringent limits should be time-bound and tied to the proposed dates for scheme delivery. This structure will act as an incentive for companies to keep on track with improvement timetables, knowing that their permit will be tightened regardless of whether or not they have managed to deliver the improvement scheme they have promised.

Q: Do you have an alternative approach that you think we should consider? Please will you describe it.

In addition to the approach set out, we would welcome transparency about permit conditions and the timetable for delivering permit updates. We suggest that this information could be summarised via the interactive map on the Water UK Storm Overflows Plan for England (<https://www.water.org.uk/overflows-plan>) which shows the performance and plans for every overflow across the country. This would give stakeholders, including water company customers, a clear view of the expectations of the Environment Agency in its regulatory role.

In addition, for permits within National Parks or National Landscapes in England, this must also consider statutory obligations to seek to further the purposes of these landscapes.³ Under

³ [Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes - GOV.UK](#)

section 245 of the Levelling Up and Regeneration Act (2023) water companies in exercising or performing any functions in relation to, or so as to affect, these landscapes, must seek to further the purpose of conserving and enhancing:

1. Wildlife, natural beauty, cultural heritage and promoting opportunities for public enjoyment in National Parks, and;
2. Natural beauty in National Landscapes.

Q: We are protecting 10 spills (if that is the governing spill frequency of the design). Where the spill frequency needs to be lower (e.g., to protect ecological harm), is it appropriate for us to permit to protect the lower frequency?

Yes. Storm overflows should be permitted at the level required to eliminate local adverse ecological impacts, and to allow waterbodies to recover.

Q: Should we also have a short-term (assessed over less years than the 10 ten-year period to set the average) spill frequency permit condition?

Yes. We welcome that this will 'enable an earlier compliance assessment, and earlier rectification of issues occurring'. This is essential to prevent significant and potentially irreparable damage to the environment whilst the longer period is assessed.

Q: Do you have a preference for which of these two options (1. 90th percentile or 2. 4 in 5 years options) we should use for the shorter-term permit condition? Which option would you prefer, and why?

If the purpose of a shorter-term permit condition is to enable early identification and rectification of issues - and similarly, would show early confirmation of compliance, enabling the relative efficacy of the range of employed solutions to be compared - then the metric which is most sensitive to exceedances may be more valuable here.

A metric based on a single year of data (option 1) understandably needs to be less stringent and therefore may not be the most valuable choice in this case. We feel that option 2 (the '4 in 5 year' metric) balances the benefit of having a shorter-term metric with the robustness of an approach that uses data from more than a single year. In addition, there may be benefits in

adopting an approach already used (at Wastewater Treatment Works) and therefore familiar to the sector and to stakeholders.

Q: Are there any considerations or exceptions we should give to overflows exceeding these shorter-term conditions?

We agree with the approach stated in the document that where the annual spill frequency required to protect against ecological harm is lower than the SODRP threshold of 10 spills, this lower spill frequency should be used for the shorter-term permit conditions.

As is the case for the ten-year assessment, we see merit in resetting the period after any SO improvement works have been completed. This would exclude pre-improvement data from the assessment, therefore reducing incidences of repeated ‘failures’ long after works have been carried out simply because pre-works data are still included in the average. If the purpose of detecting a permit breach is to encourage works to rectify that breach and prevent it from happening again, it is hard to see the benefit of deeming companies to have failed to comply with permit conditions based on outdated data if they have already undertaken works to resolve those breaches. In such cases current performance may well be compliant.

Indeed, we consider it more important to assess whether the works have delivered the necessary improvements. Therefore, a reset in the period following the completion of works would seem logical.

Q: Should we use the same principles to set spill frequency permit conditions for the bathing season? Why or why not?

We can see the merits in setting spill frequency permit conditions for the bathing season using the same principles, for consistency of approach.

Q: Do you have any suggestions for our approach to utilising spill frequency permitting for storm overflows to designated bathing waters?

We welcome the proposed approach to set targets specific to the location of the bathing water impacted and the performance of the bathing water, assuming this means that risk to the bathing water and water users can be better managed and mitigated.

However, we would welcome further consideration as to whether an average of 1-3 spills is acceptable for a bathing water within bathing season. For example, pollution alert maps such as the Safer Seas and Rivers Services will discourage bathing when flagging a Pollution Incident Alert, which can be a single spill.

As discussed previously with regards to ecological impacts, these issues reflect that spill frequency alone is not a sufficient proxy for impact – whether on people, or on the environment. It should be explored whether further data on spill volume and loads can be incorporated into metrics to better approximate impact.

Spill frequency permitting for bathing waters should incorporate a cumulative approach, rather than solely considering each overflow in isolation as currently proposed. For example, an additional cumulative spill frequency permit for all overflows in one water company patch affecting a bathing water. This is essential to recognising cumulative impact water quality and public health, particularly in inland, high-use, and low-flow areas.

Q: Should we use the same principles to set spill frequency permit conditions for overflows discharging to designated Shellfish Waters? Please say why.

Yes.

We would welcome an update on the development of the ecological standard for estuarine and coastal waters, to clarify when the standard might be expected, and what Defra intends the standard to incorporate. For example, will the standard consider both immediate and longer-term impacts of pollution from storm overflows, including excess nutrients, litter, microplastics and chemicals?

Spill frequency permit conditions for shellfish waters must align with ecological importance and reflect ecological sensitivity.

Q: Do you have any suggestions for our approach to utilising spill frequency permitting for storm overflows to designated Shellfish Waters?

Given that both Bathing Waters and Shellfish Waters are priority sites within the SODRP, it is important to also ensure that the permitting approach for these sites reflects the earlier target dates for compliance.

Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 86 organisations to protect the natural world. Wildlife and Countryside Link is a registered charity number 1107460 and a company limited by guarantee registered in England and Wales number 3889519.

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This response is supported by the following organisations:

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