



Septic tanks: new regulations

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Septic tanks can pollute groundwater supplies and surface water in rivers, streams and lakes. Such pollution can make supplies unusable for drinking and cause damage to the environment, with economic and social consequences.

The regulation of septic tanks began in 2010. At that time, all septic tanks had to be registered. In 2011 the Government reviewed this approach and issued a consultation in 2014.

New regulations have been laid following the consultation and will come into force on 1 January 2015. Certain sites have been removed from the list of designated sensitive areas, so that small sewage discharges in those areas will no longer require an environmental permit. Discharges within groundwater source protection zone 1 will continue to require a permit. The requirement to register all septic tanks has been removed.

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1 How do septic tanks create a pollution risk?

Septic tanks can be an effective method for handling small amounts of sewage. However, if they are located in sensitive areas or are poorly built or operated they can cause pollution to water supplies and the environment. This pollution can have serious environmental and economic implications:

[Septic tanks] can impact public and private space water supplies, other groundwater abstractions, and surface water in rivers, streams and lakes. Such pollution can make water unusable for drinking water and toxic to aquatic life. Once contaminated, groundwater is very difficult and expensive to make good, and for this reason there are UK and EC laws to protect it.

Persons involved with non-mains sewerage systems must comply with relevant water protection legislation. Failure to do so could result in long-term contamination of valuable groundwater and as a consequence may result in serious penalties, costs and liabilities.¹

Even if one septic tank by itself does not pose a risk to groundwater, many in one area can create a “significant” impact.² Information on the construction and use of septic tanks to avoid pollution can be found [here](#).

2 What new legislation applies to septic tanks?

The European *Groundwater Directive 80/68/EEC* introduced Europe-wide protections for groundwater. Septic tanks used by ‘isolated dwellings’ were largely exempt from controls unless located in sensitive locations. In 2006 the revised *Groundwater Directive 2006/118/EC* removed this exemption—although it still permitted authorities to exempt releases to groundwater “of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater”.³

In 2009 the then Minister said that, to transpose the 2006 Directive, septic tanks would enter the environmental permitting system:

Under the 2006 directive... discharges from septic tanks are no longer exempt and so will now be subject to permitting under [*Groundwater (England and Wales) Regulations 2009*]. The controls relating [to] discharges from septic tanks are expected to enter the

¹ *Groundwater Protection Code: Use and construction of septic tanks and other non-mains sewerage*, Defra, 2006

² *Groundwater protection: Policy and practice (GP3)*, Environment Agency, 2008

³ OJ L 27.12.2006

environmental permitting regulations in 2010. In relation to discharges from septic tanks, the current exemption will be carried over in relation to discharges that amount to less than two cubic metres per day, but from 1 January 2012 it will be necessary to register with the environmental agencies such discharges, subject to basic rules of operation and maintenance.⁴

Septic tank regulation was introduced in the *Environmental Permitting (England and Wales) Regulations 2010*. The system introduced free one-off registration of “most” septic tanks, although some operators would be required to obtain an environmental permit. A charge can be made to obtain a permit. It was thought that this would be the “simplest...and least burdensome” form of regulation.⁵

In order to be eligible for free registration certain criteria would have to be met. These criteria included that the septic tank was only used for domestic waste, that releases to the ground were 2 cubic metres or less per day (roughly equivalent to a 9 person household), and that it was outside of a groundwater Source Protection Zone 1 (see below).⁶ For full information please consult [the guidance](#).

2.1 Situation as of October 2014

In July 2011 the Minister, Richard Benyon MP, requested the Agency to review this approach “to check whether [it was] the most appropriate and whether there might be opportunities for further simplification”.⁷ Following the announcement the Environment Agency stopped actively seeking owners of many septic tanks, although it still permitted owners to register should they so wish. Richard Benyon MP, the Minister, answered some PQs on the registration of septic tanks, including on the penalties that may apply:

Mr Brine: To ask the Secretary of State for Environment, Food and Rural Affairs what the penalty is for failure to register with the Environment Agency the discharge of sewage effluent from a septic tank under the Environmental Permitting Programme Second Phase regulations. [66242]

Richard Benyon: Owners of septic tanks that discharge to ground do not legally need to be registered until 1 January 2012. There will therefore be no penalties before this date. After this date, the owner would be committing an offence under the Environmental Permitting Regulations if they do not have a registration or a permit. The Environment Agency will advise owners who do not have a registration or permit that they are committing an offence, and that they must apply for a registration at their earliest convenience. Further action will be considered on a case by case basis.

DEFRA is currently working closely with the Environment Agency to consider whether the current approach or an alternative one is the most appropriate.

Mr Brine: To ask the Secretary of State for Environment, Food and Rural Affairs what guidance her Department plans to provide to householders required to register sewage discharge from a septic tank under the Environmental Permitting Programme Second Phase regulations. [66243]

Richard Benyon: The Environment Agency is responsible for implementing and administering the Environmental Permitting Regulations 2010. Guidance for

⁴ Seventh Delegated Legislation Committee, 21 October 2009

⁵ *Guidance for the registration of small sewage effluent discharges*, Environment Agency, July 2011

⁶ *Guidance for the registration of small sewage effluent discharges*, Environment Agency, July 2011

⁷ HC Deb 1 Aug 2011 c1179W

householders on the requirements of these regulations for sewage discharges from septic tanks can be found online at:

<http://www.environment-agency.gov.uk/business/topics/water/default.aspx>

DEFRA is currently working closely with the Environment Agency to check whether the approach is the most appropriate and whether there might be opportunities for further simplification.⁸

The Environment Agency released a statement in December 2012 confirming that the review had been completed in 2011 and that a public consultation would be announced in 2013:

In August 2011 we announced that the registration scheme for England was being reviewed by the Government. This review is now complete and will inform a consultation by the Department for Environment, Food and Rural Affairs (Defra) on policy options, details of which will be announced in 2013.

Pending the outcome of this consultation, we will not require the registration of small domestic sewage discharges in England - although householders can still register if they wish. This review does not affect the need to apply for a permit for sewage discharges made to ground within a groundwater source protection zone 1 (SPZ1). This is because discharges to ground in SPZ1 can most easily affect public and private drinking water supplies so we need to ensure controls are in place to protect them.

This position statement replaces our previous position statement dated September 2011 and applies to small domestic sewage discharges to ground of 2 cubic metres per day or less that still need to apply for an environmental permit because they are located within a groundwater SPZ1.⁹

The consultation was announced in 2014, running from 30 April to 10 June.¹⁰ It covered two proposals: a simpler regulatory framework for England, and a move to a risk-based approach for environmental permitting.

The Environment Agency said:

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.¹¹

It was proposed that the simpler regulatory framework would apply only to areas outside of sensitive areas, and which were at least 50m from a well, spring or borehole that is used to supply water for domestic use or food production.¹² Only small sewage discharges (SSDs) fell within the remit of the consultation. An SSD is defined as a discharge to ground of less

⁸ HC Deb 1 Aug 2011 c1179W

⁹ [Environment Agency position statement](#), Environment Agency, December 2012

¹⁰ Environment Agency, announcement of consultation, [online]. Available at: <https://consult.defra.gov.uk/water/reform-regulatory-system-small-sewage-discharges/> (accessed 16 October 2014).

¹¹ Environment Agency, announcement of consultation, [online]. Available at: <https://consult.defra.gov.uk/water/reform-regulatory-system-small-sewage-discharges/> (accessed 16 October 2014).

¹² Environment Agency, consultation document, [online]. Available at: https://consult.defra.gov.uk/water/reform-regulatory-system-small-sewage-discharges/supporting_documents/SSD%20Reform%20Consultation.pdf (accessed 16 October 2014).

than 2 cubic metres per day for a septic tank, or a discharge to surface water of less than 5 cubic metres per day for a small sewage treatment plant.

The second proposal involves moving to a risk-based approach to permitting. This would mean that permits are required only for sensitive areas. The Environment Agency currently defines a sensitive area as:

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 for definitions).¹³

Under the proposals, the following will continue to be designated sensitive areas:

SPZ1, Special Areas of Conservation, Special Protection Areas, Ramsar sites, Biological SSSIs, designated bathing waters and shellfish protected waters.¹⁴

The following will cease to be 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.

A total of 120 responses were received.

The outcome was published on 9 October 2014.¹⁵

The Government laid the new regulations on 27 October 2014. In a written statement, the Minister said:

I will today lay new regulations [Statutory Instrument No. 2014/2852] which amend the Environmental Permitting (England and Wales) Regulations 2010. These changes will come into effect on 1 January 2015 and will remove unnecessary administrative burdens on many rural households and businesses whilst keeping the essential controls to protect the environment and prevent pollution.

The new approach focuses action on making sure septic tanks and sewage treatment plants are well maintained and not causing pollution through poor maintenance or installation, and that water resources, drinking water supplies, sensitive areas and rare habitats continue to be protected. Over the coming months and during 2015, Defra and

¹³ Environment Agency, consultation document, p.9 [online]. Available at: https://consult.defra.gov.uk/water/reform-regulatory-system-small-sewage-discharges/supporting_documents/SSD%20Reform%20Consultation.pdf (accessed 17 October 2014).

¹⁴ Environment Agency, consultation document, p.9 [online]. Available at: https://consult.defra.gov.uk/water/reform-regulatory-system-small-sewage-discharges/supporting_documents/SSD%20Reform%20Consultation.pdf (accessed 17 October 2014).

¹⁵ Environment Agency, outcome of consultation [online]. Available at: <https://www.gov.uk/government/consultations/small-sewage-discharges-new-approach-to-how-we-regulate-in-england> (accessed 16 October 2014).

the Environment Agency will work with stakeholders and partners to communicate the new approach to rural households and businesses.

The amendments simplify existing regulation by removing the requirements to register, keep records of maintenance and notify when a discharge ceases. The requirements to prevent pollution are retained and will be known in future as the general binding rules—this means that the basic rules that people need to follow are not changing. The amendments also update the definition of an “operator”—the person in control of a small sewage discharge.¹⁶

The General Binding Rules on small sewage discharges in England were published at the same time.¹⁷ These Rules outline the new requirements on small sewage discharges, which will take effect from 1 January 2015:

- must not be within 30 metres of a public foul sewer
- the necessary planning and building control approvals for the treatment system must be in place
- discharges to surface water must be made to a watercourse that normally has flow throughout the year (but not to an enclosed lake or pond).

3 Source Protection Zone 1—automatic requirement for a permit

Source Protection Zones have been mapped around groundwater sources, such as wells and boreholes used for public drinking water supply. The Environment Agency said:

These zones show the risk of contamination from any activities that might cause pollution in the area. The closer the activity, the greater the risk. The maps show three main zones (inner, outer and total catchment) and a fourth zone of special interest, which we occasionally apply, to a groundwater source.

Source Protection Zone 1 (SPZ1) is the most vulnerable to groundwater pollution, and it is defined “as the 50 day travel time from any point below the water table to the source. This zone has a minimum radius of 50 metres”.¹⁸ The Environment Agency publishes maps of Source Protection Zones [on its website](#).¹⁹

If a septic tank is in a SPZ1 a permit has to be obtained from the Environment Agency. The Agency will charge to process a permit application.

It is possible that the Environment Agency will not issue a permit to a septic tank in a SPZ1 if it causes pollution, and an alternative sewage disposal method will have to be installed. However the Agency said that it will “treat permit applications for existing discharges sympathetically where there is sufficient evidence that the discharge has not or will not cause

¹⁶ HC Deb, col 6-7WS, 27 October 2014

¹⁷ Defra, Small sewage discharges in England: general binding rules [online]. Available at: <https://www.gov.uk/government/publications/small-sewage-discharges-in-england-general-binding-rules> (accessed 26 November 2014).

¹⁸ *How the zones work*, Environment Agency, viewed 7 September 2011

¹⁹ Environment Agency, Groundwater source protection zones [online]. Available at: <http://apps.environment-agency.gov.uk/wiyby/37833.aspx> (accessed 26 November 2014).

problems. If the discharge and the abstraction have co-existed for a number of years with no apparent problem we will normally permit the discharge".²⁰

New septic tank discharges in SPZ1 are not permitted.²¹

²⁰ *Guidance for the registration of small sewage effluent discharges*, Environment Agency, July 2011

²¹ *Guidance for the registration of small sewage effluent discharges*, Environment Agency, July 2011