



Standard Rules for the Environmental Permitting Regulations - Consultation No.13

Summary of consultation responses

December 2015

We are the Environment Agency. We protect and improve the environment and make it a better place for people and wildlife.

We operate at the place where environmental change has its greatest impact on people's lives. We reduce the risks to people and properties from flooding; make sure there is enough water for people and wildlife; protect and improve air, land and water quality and apply the environmental standards within which industry can operate.

Acting to reduce climate change and helping people and wildlife adapt to its consequences are at the heart of all that we do.

We cannot do this alone. We work closely with a wide range of partners including government, business, local authorities, other agencies, civil society groups and the communities we serve.

Published by:

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1. Introduction

The Environmental Permitting (England and Wales) Regulations 2010 ("EP Regulations") allow us to offer standard permits, to reduce the administrative burden on business while maintaining environmental standards. They are based on sets of standard rules that can apply widely in England and Wales. The rules have been developed using assessments of the environmental risk posed by the activity.

In the thirteenth consultation, live from 10 December 2014 to 12 March 2015, we proposed some new standard rules and risk assessments related to flood risk activities, in preparation for the existing Flood Defence Consenting Regime moving into the EP Regulations later this year. The consultation invited views on whether we have correctly identified the risks associated with each activity and whether the new sets of rules are appropriate to manage the environmental and flood risks.

2. How we ran the consultation

The Standard Rules Consultation No 13 was live from 10 December 2014 to 3 March 2015. We solicited the views of operators, trade associations and businesses, other regulators, the public, community groups and non-governmental organisations with an interest in environmental and flood risk issues.

We invited comments on new sets of standard rules for the following activities:

- Temporary dewatering affecting up to 20 metres of a main river. SR2015 No.26
- Installation of an outfall of 300mm to 500mm through a headwall into a main river. SR2015 No.27
- Installation of a clear span bridge on a main river. SR2015 No.28
- Temporary storage within the flood plain of a main river. SR2015 No.29
- Temporary diversion of a main river. SR2015 No.30
- Installation of a habitat structure made from natural materials occupying up to 100m of a main river. SR2015 No.31
- Installation of an access culvert on a main river. SR2015 No.32
- Repair and protection of the bank of a main river using natural materials. SR2015 No.33
- Temporary scaffolding affecting up to 20 metres of the bank of a main river. SR2015 No.34
- The excavation of a wetland or pond in a main river floodplain. SR2015 No.35
- Installation of site investigation boreholes and temporary trial pits within a main river floodplain. SR2015 No.36
- The removal of accumulated silt and sand from up to 1.5 kilometres of certain main rivers. SR2015 No.37
- Removal of a total of 100 metres of exposed gravel from bars and shoals over a 1 kilometre length of main river. SR2015 No.38

The consultation was carried out in coordination with Defra's consultation on changes to the EP Regulations, to bring flood risk activities into the regime. The process was mainly an e-consultation, although hard copies were available to those who requested. This report, summarising our response to comments, is published alongside Defra's response to its own consultation on the regulations.

We received and considered a total of 41 responses. Out of the 41 responses, eleven were from government organisations, eleven from non-government organisations, nine from industry, five from individuals, three from trade associations and two from consultants.

3. Summary of key findings and actions we will take

The majority of respondents agreed with our approach to use standard rules for flood risk activities, subject to certain amendments.

Comments and concerns have been raised about a number of the standard rules; the consultation comments and our responses are documented in section 4.

Most concern was raised over in-channel activities, particularly *The removal of accumulated silt and sand from up to 1.5 kilometres of certain main rivers (SR2015 No 37)* and *Removal of a total of 100 metres of exposed gravel from bars and shoals over a 1 kilometre length of main river (SR2015 No 38)*. We will carry out a review of the draft standard rules and risk assessments for SR2015 No 38 taking into consideration both the comments received in this consultation and the final outputs of the River Maintenance Pilots. SR2015 No 37 has been withdrawn following the co-ordinated consultations on exemptions and standard rules. Dredging of up to 1.5km will be permitted through an exemption rather than a standard rules permit. The activity, with additional conditions to safeguard the environment, is now included in the exemptions listed in the EP Regulations.

Concerns were also raised that the standard rules are too restrictive, meaning that they cannot be used for a number of activities or in certain locations. No location specific assessment can be carried out for a standard rule permit application. Standard rules are based on generic risk assessments in order to apply in the same way wherever the activity is carried out. Location restrictions are necessary in order to ensure that the risks to flooding can be managed and environmental harm minimised in line with Environment Agency duties.

We will continue to work with Natural England to review the buffer distances (between the activity and the environmentally sensitive sites) that are most appropriate for each of the standard rules activities.

We will ensure that we produce appropriate guidance to sit alongside the final set of standard rules.

Following completion of our review of the draft standard rules, we will publish the final sets of standard rules before the commencement of the new regulations.

4. Responses to questions one to seven and our response to these

Question 1: Do you agree with our approach to use standard rules for watercourse activities?

Out of 41 responses received 34 answered this question and 24 respondents were in favour of our approach, 7 objected and one "didn't know". Another 2 respondents provided comments on the detail of the rules but did not answer as to whether they agreed or disagreed.

Question 2: Do you agree with the proposed new rules that we have set out in section 3 of this consultation?

Out of 41 responses 12 agreed with the proposed new rules, 10 did not agree. We received a number of comments related to this question, and our responses to the main issues raised are set out below.

Some respondents answered this question for each standard rule. A breakdown of these responses is in Annex 2.

Regarding concern over the level of permitting of some activities

Some respondents raised concerns over the environmental impacts of the proposal to offer standard rules for these activities - the standard rules for *The removal of accumulated silt and sand from up to 1.5 kilometres of certain main rivers (SR2015 No 37)* and *Removal of a total of 100 metres of exposed gravel from bars and shoals over a 1 kilometre length of main river (SR2015 No 38)* were particularly highlighted as being more suited to a bespoke permit. One respondent suggested that no in river activities should be permitted through a standard rule.

Our response - The benefits of moving to the EP Regulations are to reduce red tape - remove some activities from regulation and reduce the regulation of other activities. Standard rule activities have been developed to complement the exemptions and exclusions, but at the next level up in terms of flood and environmental risk. We have also developed them using learning from the River Maintenance Pilots as they have progressed.

Following the co-ordinated consultations on exemptions and standard rules, dredging of up to 1.5km will be permitted through an exemption rather than a standard rules permit. We agree with respondents that these activities have the potential to cause some environmental harm if not managed correctly. The exemption will therefore include additional conditions to those previously set out in order to protect designated sites and Water Framework Directive sensitive waterbodies.

Through the generic risk assessments for the remaining Standard Rules we identified a number of conditions that operators should adhere to in order to have a permit issued under the standard rules. These manage the level of flood and environmental risk down. Any activity outside of these conditions does not qualify for a Standard Rule permit.

We will review standard rule No38 in light of consultation responses and the outputs from the River Maintenance Pilots, to ensure that we are satisfied that the conditions in it are adequate to manage risks to the environment and flood risk.

Regarding the use of generic buffer distances to protect designated and other sites

We received comments that the use of generic buffers from designated sites will result in bespoke applications in many situations. A particular example highlighted where an in channel activity would require a bespoke permit because it is within 750 metres of a geological SSSI.

Our response - We standardised the buffers for protected sites to 1km. We are working with Natural England to review the screening distances for each standard rule to ensure that the distance better reflects the level of risk the activity poses to protected sites.

Regarding the conditions of the standard rules permits limiting the uptake of these standard rules permits

Two respondents suggested that there will be a limited uptake of standard rules permits due to the extent of limits and conditions placed upon them.

Our response - We believe that the conditions we've developed are required to manage the level of flood and environmental risk associated with each activity. Without these conditions, we believe the activities would not be suitable to be permitted under Standard Rule.

We will review the draft standard rules before finalising them for publication to ensure we are satisfied that the conditions are reasonable and appropriate.

Regarding the ongoing checking and enforcement of operators

One respondent highlighted the importance of actively and appropriately promoting, monitoring, enforcing and reviewing standard rules permits. Another said that the risk based approach could cause a significant impact if activities are done incorrectly, so measures need to be in place for checking and enforcing.

Our response - We will have a range of compliance and enforcement powers available to deal with non-compliances appropriately according to risk and seriousness of any breach and taking into account the public interest.

Regarding including a lighting condition for all activities

Installation of a clear span bridge on a main river (SR2015 No 28) has conditions relating to lighting in order to limit the impact on certain species. One respondent suggests that this should be applied to all standard rules activities.

Our response - The lighting condition has been applied to this rule as it allows the construction of a permanent structure which is likely to be lit as part of the final construction. We will review whether this requirement needs to be added to any other rule.

Regarding screening out activities where a man-made structure is within 50m, where the activity is to carry out work on that man-made structure

Some respondents highlighted that there is a buffer of 50 metres from a man-made structure for some activities, where the activity that is being carried out is to work on that very structure. An example being *Temporary dewatering affecting up to 20m of a main river (SR2015 No 26)* in order to carry out works on a weir.

Our Response - In the specific instance, we would expect a bespoke permit to be issued for the weir work as more than 10% of the channel width is likely to be affected by dewatering and therefore the activity could not be carried out under a standard rule permit.

We will review the standard rules for other examples of this and review where this condition can be removed, taking a risk based approach.

Regarding the condition to remove a structure within 2 hours in some standard rules permits

Some respondents have highlighted the condition that requires a temporary structure to be removed within 2 hours of a flood warning as being impractical. Suggestions were given to increase this time, or remove the condition due to safety concerns.

Our response - We will take this into account in our review prior to finalising the standard rules.

Regarding the concern that the standard rules do not set out the requirement to comply with other legislation

One respondent has highlighted that the standard rules permits do not set out all of the environmental legislation that an operator must comply with, for example the Wildlife and Countryside Act, Wild Bird Act and Countryside and Rights of Way Act requirements.

Our response - It is inappropriate to replicate all other relevant legislation as it would mean that offences for non-compliance would be duplicated as action could be taken against the operator both under the other environmental legislation and for a breach of the environmental permit. The

other environmental legislation clearly still applies. We will consider whether it is appropriate to reference these in guidance documents.

Regarding the limit of projecting no more than 10% across the river in *Temporary dewatering affecting up to 20 metres of a main river (SR2015 No 26)*

Two respondents highlighted that the limit of projecting no more than 10% across the river cross section as being too restrictive; with the example of a 2 metre wide river being cited, which would have a working area of just 200 mm.

Our response - We will consider this further before we finalise the wording of the standard rule. For smaller rivers, all or the majority of the bed may need to be dewatered. If this is the case the activity will require a bespoke assessment to look at impacts on flood risk and the environment.

Regarding the 2 metre soffit height required for *Installation of a clear span bridge on a main river (SR2015 No 28)*

Some respondents highlighted that the need for a soffit that is 2 metres above bank does not take into account the surrounding location. It was also highlighted that this requirement and the condition on having no abutments within the flood plain would result in many activities requiring a bespoke permit.

Our response - We will consider this further before we finalise the wording of the standard rule.

Regarding the size of the diversion channel in *Temporary diversion of a main river (SR2015 No 30)*

Some respondents said that the guidance around the size of the diversion channel needs clarification.

Our response - We recognise that there is some confusion in the wording of this within the standard rules. We will consider this further before we finalise the wording of the standard rule, and also consider whether it is appropriate to publish guidance.

Regarding what materials can be used in *Installation of a habitat structure made from natural materials occupying up to 100m of a main river (SR2015 No 31)*

Two respondents highlighted that the materials used are limited to naturally occurring woody material, but that other materials such as wire or cable are used to secure the structure.

Our response - We will clarify that the requirement to use natural materials does not apply to materials used to fasten a structure in place.

Regarding the height of the habitat structure installed in *Installation of a habitat structure made from natural materials occupying up to 100m of a main river (SR2015 No 31)*

A respondent highlighted that the condition controlling the height of the permissible structure is confusing. It was also suggested that the limit on the height eliminates use of the standard rule on a number of rivers and techniques and that the condition should allow for 100% of the bank height.

Our response - We recognise that it could be confusing and will review this. We will also consider whether to explain this further in guidance.

Allowing the height of the structure to be 100% of the bank height would significantly reduce the capacity of the river. This would require site specific consideration and is therefore not appropriate for a standard rule.

Regarding how *Installation of an access culvert on a main river (SR2015 No 32)* fits in with the local and national culverting policy

One respondent queried how the standard rule fits within the Environment Agency's local and national culverting policy.

Our response - The policy currently states that:

We are generally opposed to the culverting of watercourses because of the adverse ecological, flood risk, human safety and aesthetic impacts. Watercourses are important linear features of the landscape and should be maintained as continuous corridors to maximise their benefits to society.

We will consider each application to culvert a watercourse on its own merits and in accordance with our risk-based approach to permitting. We will only approve a culvert if there is no reasonably practicable alternative, or if we think the detrimental effects would be so minor that a more costly alternative would not be justified. In all cases where it is appropriate to do so, applicants must provide adequate mitigation measures, accept sole ownership and responsibility for future maintenance.

We will normally object to proposals to build over existing culverts because of health and safety considerations, increased maintenance costs, and because this would preclude future options to restore the watercourse.

The standard rule permit forms part of this risk based approach to permitting. We believe that the conditions in the standard rule are sufficiently restrictive and minimise the detrimental effects of the culvert to an acceptable level.

Regarding a lack of recognition of mammal migration in *Installation of an access culvert on a main river (SR2015 No 32)*

One respondent highlighted that there was no mitigation for mammal migration described in the standard rule.

Our response - We are discussing this suggestion and will consider whether to add a condition within the final standard rule.

Regarding the suggestion that the design standard for a culvert in *Installation of an access culvert on a main river (SR2015 No 32)* should be the 1% Annual Exceedance Probability event plus 20%

One respondent suggested that an appropriate design standard to be used in the standard rule should be 1% AEP event plus 20%, rather than the proposed condition of current flows plus 20%.

Our response - We consider the situations that this would apply to are low enough to negate the need for this mitigation.

Regarding the length of bank included within *Repair and protection of the bank of a main river using natural materials (SR2015 No 33)*

Some respondents felt that the length of bank to be repaired or protected was inadequate; suggestions included 50 metres, 100 metres or no limit, as opposed to the 20 metres in the standard rules.

Our response - 20m is the value that experts developed when designing the Water Framework Directive screening process. If the distance was more than 20m, a site specific assessment would be needed, and as such it would need to be considered as a bespoke application. Whether or not the materials are natural, bank protection is still interrupting the natural movement (erosion and deposition) of sediment and may have consequences remote from the area of construction.

Regarding what materials can be used for *Repair and protection of the bank of a main river using natural materials (SR2015 No 33)*

Two respondents highlighted that the materials used are limited to naturally occurring woody material, but that other materials such as wire or cable are used to secure the structure.

Our response - We will clarify that the requirement to use natural materials does not apply to materials used to fasten a structure in place.

Regarding concern that removing spoil created as part of *The excavation of a wetland or pond in a main river floodplain (SR2015 No 35)* from the flood plain greatly increases cost

Some respondents highlighted that the condition requiring spoil to be removed from the flood plain was unnecessary, with others citing the high cost of doing so. One respondent said that this ignores the agreement that 50mm depth can be spread from rotary ditching machines.

Our response - The standard rule allows for an excavation that could be 10s of square metres, so could produce large amounts of spoil, hence removal from the flood plain is required. The example of spreading from ditching machines is not relevant in this case as it is concerning

spreading silt from dredging a linear waterway where the scale is much smaller and therefore the amount of spoil generated is also much smaller.

Regarding concern that removing accumulated silt as part of SR2015 No 37 is unsustainable as features will occur again naturally

One respondent highlighted that siltation is naturally occurring and so the activity of silt and sand removal is unsustainable as it will simply happen again.

Our response - In a number of locations the regular removal of silt and sand is a necessary part of managing flood risk and land drainage. We will produce guidance to Operators on the use of the exemption.

Regarding concern that the silt being removed as part of *The removal of accumulated silt and sand from up to 1.5 kilometres of certain main rivers (SR2015 No 37)* is a vital habitat

Some respondents highlighted the importance of silt and sand as a habitat. Its removal can reduce the diversity and density of invertebrates, which can affect the local food chain.

Our response - We agree that this is a relevant risk, but we believe that sufficient safeguarding is in place through screening criteria which avoid the operation being carried out in the most sensitive locations, and by the requirement to follow good practice referred to in the exemption conditions. As noted above, standard rule 37 has been replaced with an exemption in the EP Regulations.

Regarding concern that *The removal of accumulated silt and sand from up to 1.5 kilometres of certain main rivers (SR2015 No 37)* can have a negative impact on flood risk

Some respondents highlighted the negative environmental impacts of silt and sand removal, while it was also highlighted that there are also associated negative flood risk issues. This includes increased flow velocity which can increase downstream flooding and siltation.

Our response - We agree that this is a relevant risk, but we believe that with the scale of activity considered and the conditions in place to manage the operation, that sufficient safeguards are in place. As noted above, standard rule 37 has been replaced with an exemption in the EP Regulations.

Regarding concern that if you cannot have heavy machinery on the bank, how can *The removal of accumulated silt and sand from up to 1.5 kilometres of certain main rivers (SR2015 No 37)* be carried out

One respondent queried how you would carry out the activity if no heavy machinery can be used on the bank.

Our response - Heavy machinery would work from the flatter bank top area, which is not included as part of the specific definition of 'bank' within the regulations.

Regarding concern that a rolling programme under *Removal of a total of 100 metres of exposed gravel from bars and shoals over a 1 kilometre length of main river (SR2015 No 38)* will result in downstream areas being deprived of gravel

One respondent highlighted the risk that an ongoing programme of gravel removal would seriously deprive the downstream catchment of gravel.

Our response - There is a requirement in the standard rule that the activity cannot be carried out on a watercourse identified as being sensitive to gravel removal or sediment management activities. Along with the limitations on what material can be taken out and how frequently, we believe the conditions that we have put in place for this standard rule permit will adequately manage the cumulative impacts of this activity under the standard rule.

Regarding concern that gravel reduction through *Removal of a total of 100 metres of exposed gravel from bars and shoals over a 1 kilometre length of main river (SR2015 No 38)* will have a major impact on spawning, feeding and growing habitats

One respondent highlighted the importance of gravel as a habitat for spawning, feeding and growing of a number of species. It was suggested that this activity could significantly impact on this little understood habitat.

Our response - To mitigate against this we have limited the amount of gravel that can be taken from each bar. The risks to fish spawning gravels are reduced by the condition that requires that 'only dry gravels found above normal winter levels shall be removed.'

Regarding concern that *Removal of a total of 100 metres of exposed gravel from bars and shoals over a 1 kilometre length of main river (SR2015 No 38)* could have a significant impact on downstream flooding

Some respondents highlighted that this activity could significantly increase the downstream flood risk.

Our response - We agree that this is a relevant risk, but believe that the conditions in the standard rule adequately manage this risk. We are reviewing this standard rule as a whole as explained above.

Question 3: Have we correctly identified all the risks for each activity, as described in the generic risk assessments associated with the consultation?

Out of 41 responses 14 agreed with the proposed risk assessments, 7 did not agree. Comments were also made to make to suggested revisions to the risk assessments. We received a number of comments related to this question, and our response to the main issues raised is set out below.

Some respondents answered this question for each standard rule. A breakdown of these responses is in Annex 2.

Regarding risk to archaeology and the historic environment not being taken into account

One respondent suggested that risk to archaeology and the historic environment should be included within the generic risk assessments.

Our response - We will review the generic risk assessments having regard to the desirability of protecting and conserving archaeology and the built environment. We note that these also have their own protection under separate legislation, which will apply in any event. We will consider whether to reference these protections in published guidance.

Regarding risk to the migration of species other than fish

One respondent highlighted that where risk to migration is mentioned, only fish are referred to and this should be expanded for other species.

Our response - We will consider this before we finalise the generic risk assessments and standard rules.

Regarding concern of risk of downstream impacts

One respondent suggested that risk of downstream impacts should be included within the generic risk assessments.

Our response - We agree that there could be downstream impacts from some of these activities. We have taken this into account when developing the generic risk assessments and the conditions for each standard rule as part of considering the overall impacts on flood risk and land drainage.

Regarding risk of spreading non-native species

One respondent suggested that risk of spreading non-native species should be included within the generic risk assessments.

Our response - We will review this before we finalise the generic risk assessments and standard rules. We will also consider whether to address this in the associated published guidance.

Regarding the lack of reference to the impact of weather conditions on the activity

One respondent suggested that risk of the impact of weather conditions on the activity should be included within the generic risk assessments.

Our response - We will review this before we finalise the generic risk assessments and standard rules. Where relevant, we may add a condition relating to work during certain weather conditions. We will also consider whether to address this in the associated published guidance.

Regarding solely looking at high morphological status waterbodies and not those with high ecological status

One respondent queried why we were only looking at high morphological status waterbodies, as opposed to those that have high ecological status.

Our response - High morphology is a necessary condition of high ecological status, so all high ecology waterbodies also have high morphology.

Regarding not referencing the requirements of other legislation

One respondent has highlighted that the standard rules permits do not set out all of the environmental legislation that an operator must comply with, for example the Wildlife and Countryside Act, Wild Bird Act and Countryside and Rights of Way Act requirements.

Our response - It is inappropriate to replicate all other relevant legislation as it would mean that offences for non-compliance would be duplicated and action could be taken against the operator both under the other legislation and for a breach of the environmental permit. The other legislation clearly still applies. We will consider whether it is appropriate to reference these in the guidance documents.

Regarding the risk of storing fuels and plant that can contaminate in a flood in *Temporary storage within the flood plain of a main river (SR2015 No 29)*

One respondent suggested that risk of storing fuels and plant that can contaminate in a flood should be included within the generic risk assessments.

Our response - We will include this in the final generic risk assessment.

Regarding the need to assess the percentage of flood plain used and the flood water that would be displaced due to materials stored under *Temporary storage within the flood plain of a main river (SR2015 No 29)*

One respondent suggested that an assessment should be undertaken of the percentage of the flood plain that is being used for storage, and that the flood water that would be displaced due to the stored materials considered.

Our response - We will consider this further before we finalise the generic risk assessment and standard rule.

Regarding risk to fish mortality in the depleted stretch of a diverted river in *Temporary diversion of a main river (SR2015 No 30)*

One respondent suggested that risk of fish mortality in a depleted stretch of river should be included within the generic risk assessments.

Our response - We will include this in the final generic risk assessment.

Regarding the risk to fish due to inadequate screening on pumps in *Temporary diversion of a main river (SR2015 No 30)*

One respondent suggested that risk to fish due to inadequate screening on pumps should be included within the generic risk assessments.

Our response - We will include this in the final generic risk assessment.

Regarding the risk that the exceedence flood flow will hit receptors, rather than the size of the watercourse in *Installation of an access culvert on a main river (SR2015 No 32)*

One respondent described a key risk for culverting surrounds whether the exceedence flood flow would hit a receptor, rather than the cross sectional size of the watercourse.

Our response - We agree that this may affect flood risk, but for continuation of natural processes there is a need to pass bankfull flows plus 20%.

In addition some respondents highlighted their responses to Question 2 as their response to Question 3.

Question 4: Are there any barriers to complying with the standard rules?

Out of 41 responses one said there were no barriers. All others responded to this question by reference to a specific standard rule activity, and their responses are set out in Annex 2. In their responses many people repeated points made in response to Questions 1 and 2.

We received a number of comments related to this question, and our responses to the main issues raised are set out below.

Regarding comments that the standard rules are limiting

One respondent raised a concern that the standard rules are limiting and will result in most activities needing a bespoke application.

Our response - The option of applying for a standard rule permit forms part of our risk based approach to permitting. The standard rules are deliberately limiting, as they limit the risk from the activity ensuring that they can be carried out anywhere that the conditions allow, without the need for a site based assessment. We will monitor use of the standard rules to see how often and how easily they can be used, and whether any modification is needed to them in future years.

Regarding comments that permits need to be more user friendly

One respondent said that the permits need to be more user friendly, with a simple summary for guidance

Our response - Guidance is being prepared that will help users understand how the standard rules apply. This will be published prior to the move to the EP Regulations.

Regarding the need to remove some in-river structures within 2 hours

Some applicants raised concerns that the need to remove some in-river structures within 2 hours notice is not practical.

Our response - We will review this condition before we finalise the standard rules.

Regarding concern that applicants will develop activities with inappropriate designs and or calculations

One respondent raised concerns that a lack of understanding of the impact construction can have in a watercourse will result in significant flooding and environmental harm. Mistakes in hydraulic calculations and designs were highlighted.

Our response - The standard rules permits have been developed to reduce the risk of this happening, by setting specific standards that an operator must comply with. The standard rules all require operators to have an adequate management system. In addition there will be published guidance that will help users understand how to comply with the standard rules as well as the opportunity to get pre-application advice.

Question 5: Do you think that the introduction of standard rules for watercourse activities will have a significant financial impact overall on your operation? If you agree or disagree, please explain why, and provide evidence to support your view of the likely impacts.

Out of 41 responses 20 said there would not be a significant financial impact, while 10 said there would be, 2 respondents said they don't know. We received a number of comments related to this question, and our responses to the key issues raised are set out below.

Regarding negative impacts due to increased flooding

One respondent highlighted concerns that there will be a significant financial impact due to an increase in flooding caused by the introduction of standard rules.

Our response - We do not agree that there will be an increase in flooding due to the introduction of standard rules. Activities under standard rules will require an operator to apply for and comply with a permit. The standard rules will apply only to activities which have a lower flood and environmental risk. They have been designed to ensure that the risk of flooding and environmental harm caused by the activity are adequately managed under the standard conditions.

Regarding positive impacts due to time saving and a reduction in meetings

One respondent highlighted that there likely to be a positive financial impact due to time savings in the application process and the removal for the need for site visits.

Regarding significant financial impact caused by the need to apply for a bespoke permit

One respondent highlights that contractors working on complex projects will be impacted due to the fact that the standard rules will not be suitable, meaning that they will have to apply for a bespoke permit. The issue of a time delay is also highlighted due to the need for a bespoke permit is also raised.

Our response - Standard rules permits are only suitable for lower risk activities and where there is no need for a site specific assessment. As such they are not appropriate for the complex projects that have been highlighted. The current approach to flood defence consenting requires a bespoke consent for every application. There is no reason for this change to result in an increase in permitting time.

Regarding waiving fees for organisations wishing to deliver environmental improvement

One respondent highlighted inconsistencies between Areas around waiving fees for organisations wishing to deliver environmental improvements through beneficial habitat improvements.

Our response - Our charges are based on the activity being undertaken and cannot be based on who is the operator carrying out the activity. We are required to charge consistently for the work that we carry out. Therefore there is no potential to waive fees under the EP Regulations even if the work is environmentally beneficial. We and Defra have developed a suite of exclusions, exemptions and standard rules that reduce the regulatory burden in respect of many activities that are beneficial for habitat improvement. For example there is a standard rule for soft bank reinforcement, but not one for hard bank work.

Question 6: Are there any other activities that you think would benefit from the standard permitting approach or future revisions?

15 respondents answered no to this, and 3 "didn't know". The following activities were suggested as potential standard rules for the future:

- some out of channel activities that are currently subject to a Flood Defence Consent.
- introducing pre-defined areas where works should or should not be restricted into the permitting process (apart from protected areas).
- Flood Defence Consenting on Ordinary Watercourses (carried out by Internal Drainage Boards and Local Authorities). These consents are not currently covered in the proposals form Government for environmental permitting. It is not appropriate for the Environment Agency to comment on the potential for these consents for ordinary watercourses to be brought within environmental permitting or standard rules.
- highway activities. Some highway activities are already addressed by exclusions and exemptions. We welcome further detailed suggestions for what other activities were under consideration.
- monitoring activities or installation of gauges particularly if communities want to improve their own resilience.
- channel narrowing as part of a river restoration scheme.

- typical and routine navigation authority actions such as replacement of lock gates; repairs to structures; temporary erection of dams to allow work on below-water structures; repair to existing hard bank and mooring facilities; works to navigational safety features such as weirs, sluices, booms, signage.

We will consider if these activities are appropriate for a future consultation on standard rules. In many cases we will need input from those suggesting the standard rules in order to understand fully what their suggestion encompasses. We welcome further information on these suggestions.

Question 7: Please tell us if you have any other views or comments on these proposed revisions that have not been covered by previous questions.

A number of respondents answered this question with additional views or comments, the majority of which have been addressed above. A summary of other responses is below.

Regarding the cumulative impact of multiple constructions or activities

One respondent highlights concern that the impact of multiple constructions or activities has not been taken into account. The example provided is allowing a culvert within 50m of another manmade structure, and the impact that this would have on migration.

Our response - This is not the case. Almost all of the standard rules include a condition that prohibits an activity from being carried out within 50m of a manmade structure. *This is the case for Installation of an access culvert on a main river (SR2015 No 32).*

Regarding the need for further guidance

Some respondents highlight the need for additional guidance to explain the requirements of the permits, particularly around operating techniques.

Our response - We are developing the guidance to help operators understand and comply with the standard rules; this will be published prior to the standard rules being available.

Regarding the relaxation of buffer distances due to submission of an appropriate method statement.

One respondent has suggested that the buffer distances to protected sites could be reduced if a suitable method statement was submitted and reviewed as part of the application process, showing that there would be no impact.

Our response - This would not be suitable for a standard rule permit. One of the main principles of standard rules is that they do not need any location specific assessment. Introducing this is not an option.

5. Next steps

Responses from this consultation will be used to inform the new standard rules and the generic risk assessments.

We anticipate that the proposed new standard rules will be published on www.gov.uk in 2016, alongside the new EP regulations for flood risk activities.

Individuals who wish to follow up their responses, or points made within this document, in more detail are welcome to contact us:

Environment Agency Horizon House Deanery Road Bristol BS1 5AH

email: enquiries@environment-agency.gov.uk

6. Annexes

6.1. List of respondents

Affinity Water	National Farmers Union
Association of Drainage Authorities	Network Rail
BAM Nuttall	Northumberland Rivers Catchment Partnership
Bristol Water	Oldham Council
Canal and River Trust	Rail Infrastructure Environmental Forum
CIWEM	Rivers Trust
Clancy Group	Rotherham Metropolitan Council
Coventry City Council	Severn Trent Water
Devon County Council	South Cumbria Rivers Trust
Dudley Metropolitan Council	Swansea Council
Environmental Charity	United Utilities
Hertfordshire County Council	Upper Thames Fisheries Consultative
Institute of Civil Engineers Wales	Warwickshire County Council
Kent County Council	Wessex Water
Land and Water Services	West Berkshire District Council
Law Society	Wildfowl and Wetlands Trust
Local Government Association - Coastal Special Interests Group	Wild Trout Trust
Morgan Sindall	5 members of the public

6.2. Break down of further responses

Question 2: Do you agree with the proposed new rules that we have set out in section 3 of this consultation?

Permit	Yes	No	Don't know
SR2015 No 26	1	4	-
SR2015 No 27	2	1	3
SR2015 No 28	4	3	-
SR2015 No 29	3	-	-
SR2015 No 30	3	3	-
SR2015 No 31	3	1	-
SR2015 No 32	2	2	-
SR2015 No 33	3	2	-
SR2015 No 34	2	1	-
SR2015 No 35	2	4	-
SR2015 No 36	2	-	-
SR2015 No 37	3	3	-
SR2015 No 38	1	3	-

Question 3: Have we correctly identified all the risks for each activity, as described in the generic risk assessments associated with the consultation?

Permit	Yes	No	Don't know
SR2015 No 26	2	2	1
SR2015 No 27	4	1	1
SR2015 No 28	2	1	3
SR2015 No 29	3	1	-
SR2015 No 30	2	3	1
SR2015 No 31	2	2	-
SR2015 No 32	1	3	-
SR2015 No 33	2	2	1
SR2015 No 34	2	1	-
SR2015 No 35	2	1	1
SR2015 No 36	2	-	-
SR2015 No 37	2	2	2
SR2015 No 38	1	2	1

Question 4: Are there any barriers to complying with the standard rules?

Permit	Yes	No	Don't know
SR2015 No 26	3	2	-
SR2015 No 27	3	3	-
SR2015 No 28	4	3	-
SR2015 No 29	2	2	-
SR2015 No 30	3	2	1
SR2015 No 31	1	3	-
SR2015 No 32	2	-	-
SR2015 No 33	3	2	-
SR2015 No 34	-	2	-
SR2015 No 35	2	2	
SR2015 No 36	-	1	-
SR2015 No 37	5	0	1
SR2015 No 38	3	1	-

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