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Environmental Permitting Guidance Water Discharge Activities

For the Environmental Permitting (England and Wales)
Regulations 2010

December 2010

Version 2.0



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



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This document is available on the Defra website:

www.defra.gov.uk/environment/policy/permits/index.htm

Published by the Department for Environment, Food and Rural Affairs

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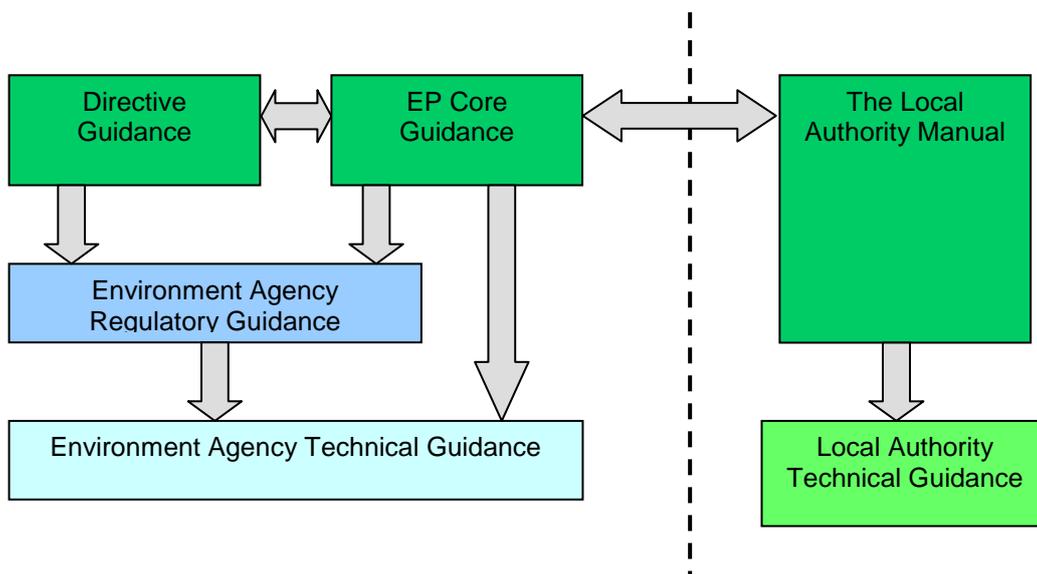
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1. Summary

About this guidance

- 1.1 This guidance is intended to help the regulator, the regulated community, and others with an interest in water discharge activities. It describes the views of the Secretary of State for the Department for Environment, Food and Rural Affairs (Defra) and the Welsh Ministers on how the European Directives and other legislation relating to water discharge activities should be applied and how particular terms should be interpreted in England and Wales. This guidance explains the legal requirements but only the national or European Courts can give a definitive interpretation of the legislation.
- 1.2 'Water discharge activities' includes both those activities that require a permit, and those activities that are unlawful, for instance causing pollution to surface water, whether deliberate or accidental.
- 1.3 This guidance is part of a series of guidance documents which accompany the Environmental Permitting (England and Wales) Regulations 2010, SI 2010 No. 675 ('the Regulations')¹.

Figure 1. Illustration of guidance relationships.



- 1.4 The series consists of the Environmental Permitting Core Guidance², which describes the general permitting and compliance requirements for all activities covered by the Environmental Permitting system, and specific guidance on each of the European Directives and other legislation

¹ Available at www.defra.gov.uk/environment/policy/permits/index.htm

² *Ibid.*

implemented through the Environmental Permitting system³. This is illustrated in Figure 1.

- 1.5** This guidance should be read in conjunction with the Environmental Permitting Core Guidance.
- 1.6** The Environment Agency provides more detailed technical guidance on many aspects of water discharge activities. These are available on its website at www.environment-agency.gov.uk/epr.
- 1.7** Along with the directives addressed in this guidance, a number of other European Directives are relevant to water discharge activities. Connections between the Regulations and other legislation are outlined in Annex 1 to the Environmental Permitting Core Guidance.
- 1.8** Where a water discharge activity is carried on as part of the operation of a regulated facility of a different class, the Government guidance for that class of regulated facility also applies. The Environment Agency also publishes regulatory and technical guidance for these other classes – available on the Environment Agency website⁴.
- 1.9** To ensure this guidance is current and up to date, from time to time this guidance will be updated. Where made, revisions can be found in the ‘Revision of Guidance’ section at the front of the document.
- 1.10** This guidance document is compliant with the Code of Practice on Guidance on Regulation⁵. If you feel this guidance breaches the code, or notice any inaccuracies within the guidance, please contact the EPP team at eppadministrator@defra.gsi.gov.uk.

³ Available at www.defra.gov.uk/environment/policy/permits/index.htm

⁴ www.environment-agency.gov.uk/epr

⁵ See Environmental Permitting Guidance and Glossary Chapter 3 – available at www.defra.gov.uk/environment/policy/permits/index.htm

2. Introduction

Water Discharge Activities

- 2.1 This chapter provides an introduction to permitting water discharge activities. Chapter 3 sets out the scope of water discharge activities. Chapter 4 describes the requirements of the Directive which will be delivered through environmental permits and sets out how the Regulations transpose the relevant parts of the Directive. Chapter 5 describes other requirements relevant to environmental permitting.
- 2.2 Annex 1 reproduces the relevant requirements for water discharge activities (as set out in Schedule 21 to the Regulations). The relevant requirements and description of exempt water discharge activities are set out in Schedule 2 and Schedule 3 to the Regulations.
- 2.3 Annex 2 reproduces section 104 of the Water Resources Act 1991 on the meaning of 'controlled waters' etc.
- 2.4 Annex 3 provides details of the exemption requirements for small discharges of sewage effluent.
- 2.5 Annex 4 provides details of the vegetation management exemption requirements.
- 2.6 A separate glossary of terms is available⁶. The glossary briefly explains the meaning of many words, phrases and acronyms used in the Regulations and directives.

The Environmental Permitting Regulations 2010

- 2.7 The Environmental Permitting Regulations 2010 replace those parts of the Water Resources Act 1991 that relate to the regulation of discharges to controlled waters. Under the Regulations, water discharge activities relate to discharges to surface waters that are controlled waters but do not apply to groundwater. Discharges to groundwater come under groundwater activities and are subject to separate guidance.

⁶ Available at www.defra.gov.uk/environment/policy/permits/index.htm

2.8 The Environment Agency must take into account the Water Resources Act 1991 and the various directives:

- Water Framework Directive⁷;
- Freshwater Fish Directive⁸;
- Bathing Waters Directives⁹;
- Shellfish Waters Directive¹⁰;
- Dangerous Substance Directive¹¹; and
- Urban Waste Water Treatment Directive¹².

2.9 The Regulations do not directly deliver the requirements of these directives but some requirements are delivered by conditions in an environmental permit.

2.10 In 2013 the Water Framework Directive repeals the Freshwater Fish, Dangerous Substances and Shellfish Waters Directives, but equal control and protection will be maintained by the provisions of the Water Framework Directive.

2.11 A permit must be obtained for any water discharge activity that is covered by any of the above directives or that affects waters to which any of the above directives apply. This is so that the regulator can limit the potential for pollution in the receiving waters and ensure the waters achieve the objectives set by the legislation, thereby protecting the environment and human health. The specific permitting requirements that arise from them is explained in Chapter 4.

⁷ Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy.

⁸ Directive 2006/44/EC of the European Parliament and of the Council on the quality of fresh waters needing protection or improvement in order to support fish life

⁹ Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality; Directive 76/160/EEC concerning the quality of bathing water. The original Bathing Water Directive (76/160/EEC) will be repealed by the new Bathing Waters Directive with effect from eight years after the latter's entry into force (i.e. on 31/12/2014).

¹⁰ Directive 2006/113/EC of the European Parliament and of the Council on the quality required of shellfish waters

¹¹ Council Directive 76/464/EEC (repealed and replaced by Directive 2006/11/EC) on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

¹² Council Directive 91/271/EEC concerning urban waste-water treatment

3. Scope of Water Discharge Activities

What is a 'water discharge activity'?

- 3.1** The term 'water discharge activity' covers the discharge or entry to surface waters which are controlled waters (but not to groundwater) of any poisonous, noxious or polluting matter; waste matter; trade effluent or sewage effluent. It is an offence to cause or knowingly permit an entry or discharge to inland freshwaters, coastal waters or relevant territorial waters of any poisonous, noxious or polluting matter; waste matter; trade effluent or sewage effluent except under and to the extent authorised by an environmental permit.
- 3.2** Certain activities that would otherwise need a permit can be exempted (see section 3.12).
- 3.3** A water discharge activity may be carried on as part of the operation of a regulated facility of another class, for example Part A installations which discharge to surface water, or it may be a stand-alone water discharge activity, such as a sewage effluent discharge from a pub or restaurant. Where it is part of the operation of a regulated facility of another class any such discharge must at least comply with the requirements for permitted water discharge activities.
- 3.4** It may be operated by an individual (for example, the person causing a polluting discharge or entry, whether accidental or intended), or an organisation or company occupying a site and operating a treatment system.
- 3.5** 'Polluting matter' is not explicitly defined: 'pollute' should be given its ordinary dictionary meaning¹³, and so means 'to make physically impure, foul or filthy; to dirty, stain, taint, befoul'. The matter entering or being discharged into inland freshwaters, coastal waters or relevant territorial waters need not be shown to have caused actual harm: capacity to pollute is sufficient for it to count as 'polluting matter'. 'Poisonous' and 'noxious' should also be taken to have their ordinary dictionary meanings. 'Waste' in the term 'waste matter' is defined in Schedule 21 to the Regulations as anything that is waste for the purposes of the Waste Framework Directive or the Mining Waste Directive. 'Water discharge activity' includes the discharge of trade or sewage effluent into the sea beyond the limits of relevant territorial waters where the effluent is discharged from land through a pipe e.g. a long sea outfall.
- 3.6** 'Water discharge activity' also includes activities causing deposits to be carried away in water, except for those that relate to land drainage, flood prevention or navigation. So, for example, the removal of a deposit from the

¹³ As decided in the case of *R v Dovermoss ex parte National Rivers Authority* (Court of Appeal) (1995)

bottom of a channel where the deposit had accumulated because of a dam holding back the waters is a water discharge activity.

- 3.7** Cutting or uprooting a substantial amount of vegetation in or near inland freshwaters counts as a water discharge activity if the debris falls into the water; however, if certain conditions are met, the activity can be exempt (see 'Exemptions', below, and Annex 4).

What is not a 'water discharge activity'?

- 3.8** The following are not water discharge activities:

- Discharges made or authorised by any of the following 'prescribed statutory provisions':
 - Part 2 of the Food and Environment Protection Act 1985¹⁴;
 - Section 163 of the Water Resources Act 1991¹⁵ (discharges for works purposes by the Environment Agency);
 - Sections 165 of the Water Industry Act 1991¹⁶ (discharges for certain works purposes by water undertakers);
 - any local statutory provision that expressly confers a power to discharge effluent to water.
- Discharge of uncontaminated surface water;
- Discharge of trade or sewage effluent from a vessel (for example, a ship);
- Discharge from a highway drain, unless a highway drain notice has been served and has taken effect (see 'Notices', below); and
- Discharge into the waters of a lake or pond that are not 'inland freshwaters', unless a notice has been served and has taken effect (see 'Notices', below).

Notices

- 3.9** The regulator can serve a notice specifying that, from a date specified on the notice, some activities not ordinarily regulated as water discharge activities are water discharge activities, and therefore cannot be operated unless authorised by a permit or unless exempt.

Discharge from a highway drain

- 3.10** The regulator can serve a notice specifying that the operation of a highway drain (where that activity might lead to a discharge) is a water discharge activity from the specified date. This means the activity cannot be carried on without being authorised by an environmental permit. Such a notice may be

¹⁴ www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1985/cukpga_19850048_en_1

¹⁵ www.opsi.gov.uk/ACTS/acts1991/ukpga_19910057_en_14#pt7-ch1-pb5-l1g163

¹⁶ www.opsi.gov.uk/ACTS/acts1991/ukpga_19910057_en_14#pt7-ch1-pb6-l1g165

served on a highway authority, or any other person entitled to keep open a drain under Section 100 of the Highways Act 1980. A notice specifies the date from which it takes effect, which will be not less than six months after being served.

Discharge of trade effluent or sewage effluent

- 3.11** The regulator can serve a notice specifying that a discharge into the waters of a lake or pond that are not 'inland freshwaters' is a water discharge activity. This means that the activity cannot be carried on without being authorised by an environmental permit, unless it is registered as an exempt water discharge activity. Such a notice specifies the date from which it takes effect, which will be not less than three months after being served.

Exemptions

- 3.12** Water discharge activities that meet certain conditions can be exempted from the requirement for a permit. These are described briefly below. Any exempt water discharge activity must be registered with the regulator, and the regulator must be notified if the exempt water discharge activity ceases to be in operation. At this time, the works and equipment for treating and discharging must be appropriately decommissioned to reduce the risk of further pollution.

Discharge of sewage effluent

- 3.13** A discharge from a small sewage treatment plant, i.e. discharging five cubic metres per day or less of sewage effluent to inland freshwaters, coastal waters or relevant territorial waters, may be registered as an exempt water discharge activity, provided it meets certain conditions¹⁷. These are that:

- all works and equipment used for the treatment and discharge of sewage effluent must meet certain requirements, which are described in Annex 3 to this guidance. These cover the standards for design and manufacture; construction, installation and operation specifications; and siting and installation.
- the discharge could not reasonably have been made to the foul sewer at the time it was first made; that the discharge does not contain trade effluent; and that all works and equipment for the treatment and discharge of the sewage effluent are maintained as specified by the manufacturer. Records of maintenance work must be kept for at least five years after the work has been done.

- 3.14** When an occupier or operator ceases to occupy land on which an exempt water discharge activity operates, they must notify the next occupier of the land of the exempt water discharge activity. This notice must

- describe the exempt facility;

¹⁷ See the section on Exemptions in the Environmental Permitting Core Guidance

- state the conditions of the exemption; and
 - be accompanied by the records of any maintenance that had been carried out in the preceding five years.
- 3.15** Septic tank¹⁸ discharges to surface waters do not fall into the scope of this exemption. Discharges from septic tanks of two cubic metres of sewage effluent or less per day to the ground or to a soakaway may be registered as exempt groundwater activities¹⁹.
- 3.16** Details of the exemption requirements for small discharges of sewage effluent are provided in Annex 3.

Vegetation management activities

3.17 As mentioned above, cutting or uprooting a substantial amount of vegetation in or near inland freshwaters is within the scope of a water discharge activity. However, if certain conditions are met, a permit is not required. These conditions are that:

- that vegetation removed from the waters must be deposited in accordance with guidance issued by the appropriate authority; and
- that where it is necessary to allow vegetation to pass downstream
 - prior notice of the dates of the water discharge activity is given, in accordance with guidance issued by the appropriate authority, to persons likely to be affected by such an activity; and
 - the activity is not carried on if there is insufficient flow to convey the vegetation.

Details of the vegetation management exemption requirements are provided in Annex 4.

¹⁸ A septic tank is a two or three chamber system, which retains sewage from a property for sufficient time to allow the solids to form into sludge at the base of the tank, where it is partially broken down. The remaining liquid in the tank then drains from the tank by means of an outlet pipe. A cesspool or cesspit is a covered watertight tank used for receiving and storing sewage and has no outlet. It relies on road transport for the removal of raw sewage and is therefore the least sustainable option for sewage disposal. Because of this, a cesspool is best regarded as a temporary measure pending a more satisfactory solution, such as the provision of mains drainage. It is essential that a cesspool is, and remains, impervious to the ingress of groundwater or surface water and has no leaks.

¹⁹ See the Environmental Permitting Groundwater Activities Guidance (to be issued in December 2010, following analysis of the consulted response to the 'Draft revised guidance on the Groundwater (England and Wales) Regulations 2009'; see www.defra.gov.uk/corporate/consult/groundwater/index.htm.

4. Permitting

- 4.1** In the context of this guidance, 'permitting' is taken to mean the complete regulatory cycle which includes application, determination, reporting, compliance and surrender. This Chapter describes the requirements that the permitting process must deliver.
- 4.2** Permitting requirements derive from the relevant directives and other legislation, as transposed in England and Wales. In the permitting process, the Environment Agency must have regard to any Statutory Guidance and should also take into account relevant Commission Recommendations and statements of Government policy and national strategies.
- 4.3** Environmental Quality Standards (EQS) for water are set in a number of directives. Compliance with these is delivered in part through conditions in environmental permits.

The Water Framework Directive

- 4.4** The Water Framework Directive integrates the requirements of a number of existing directives, and introduces new ecological objectives. It does not seek to change or overrule the objectives set out in other directives: equivalent measures are put in place to maintain the level of protection provided in any directives that it repeals²⁰.
- 4.5** The aims of this Directive are to:
- prevent further deterioration of aquatic ecosystems;
 - to protect and enhance their status;
 - to promote sustainable water use;
 - to provide further protection to the aquatic environment; and
 - for groundwater, to ensure the progressive reduction of the present level of pollution and prevent its further pollution;
 - to contribute to mitigating the effects of floods and droughts.
- 4.6** The Water Framework Directive has further aims relating specifically to surface water. These include:
- implementing necessary measures to prevent deterioration of the status of all bodies of surface water;

²⁰ The Freshwater Fish Directive, the Shellfish Waters Directive and the Dangerous Substances Directives are to be repealed in 2013.

- protecting, enhancing and restoring all surface water bodies (other than heavily modified or artificial) with the aim of achieving good status by 2015 at the latest;
- in relation to artificial or heavily modified water bodies, protecting and enhancing them with a view to achieving good ecological potential and good surface water chemical status by 2015 at the latest; and
- phasing out discharges of priority hazardous substances and progressively reducing the pollution from priority substances.

In order to achieve the first of these, the Directive establishes a demanding water classification system to identify pressures that may lead to a deterioration in ecological status of water bodies.

- 4.7** River Basin Management Plans²¹ (RBMPs) detail the measures that must be taken to improve or maintain the ecological status of water bodies. Some of these measures can be achieved by controlling environmental emissions. It is these measures that are delivered through the Environmental Permitting Regulations, by means of environmental permits for water discharge activities.
- 4.8** There is separate guidance to the Environment Agency on the delivery of Water Framework Directive obligations²².

Discharges to Freshwaters Supporting Fish Life

- 4.9** The aim of the Freshwater Fish Directive is to protect or improve the quality of running or standing fresh waters which support, or could become capable of supporting, particular species of fish. The Directive affects any discharges into designated waters, including discharges from industrial and urban waste water treatment plants, by laying down water quality requirements.
- 4.10** The Directive requires the UK to designate those freshwaters in England and Wales that support particular fish populations, or would become capable of supporting these fish populations if pollution were reduced or eliminated. In these designated waters, the Directive's water quality standards must be met. Member States must also endeavour to respect the Directive's guideline standards.
- 4.11** The waters designated under this Directive include all rivers with an average natural daily flow of greater than 0.31 cubic metres per second, and all still waters of surface area greater than 50 hectares. The designated waters now cover over 14,500 kilometres of rivers and canals and 14,000 hectares of still

²¹ For more details see: www.environment-agency.gov.uk/research/planning/33106.aspx

²² Defra and Welsh Assembly Government, River Basin Planning Guidance Volume 1 (August 2006) and Volume 2 (August 2008)

waters in England and Wales²³. These are included in the Protected Areas under the Water Framework Directive.

- 4.12** Where an environmental permit is granted for discharges to waters designated under the Directive, the regulator must set permit conditions which will not jeopardise the waters' compliance with the Directive's mandatory standards, known as the Environmental Quality Standards (EQSs); the regulator must endeavour to ensure that the Directive's guideline standards are respected. These values are set out in the Regulations that form part of the UK's transposition of the Directive.

Discharges to Bathing Waters

- 4.13** The Bathing Waters Directives aim to protect designated bathing waters from faecal pollution, in order to protect human health and the environment. They therefore affect any discharges from urban waste water treatment works, as well as some other types of business, agriculture and industry, that may impact on the quality of the bathing waters. The Directive therefore primarily affects permits for sewage effluent discharges.
- 4.14** In the waters that are designated as bathing waters under the 1976 Directive, more stringent environmental standards apply, which affects the requirements on permits to discharge into these bodies of water. These bathing waters are identified in lists published under the Bathing Waters Regulations 2008 (SI No 1097) by the Secretary of State and Welsh Ministers, along with any waivers at these sites. These waters are included in the Protected Areas under the Water Framework Directive. The Bathing Waters Directive was revised in 2006, and this revised Directive will be fully implemented in 2015 when the first report on compliance under the new standards will be produced, based on 4 years of data from 2012. Any new discharge potentially affecting compliance with the new Bathing Waters standards has to be designed to ensure compliance with them.
- 4.15** Where an environmental permit is granted for discharges to waters designated under the Directive, the regulator must ensure that the permit contains conditions such that compliance with the permit conditions results in the EQSs being met. These are set out in Regulations²⁴ that originally transposed the 1976 Bathing Water Directive. These reflect the mandatory values set by the Directive. The 2006 Directive will not be fully implemented until 2015, so some existing limits will become more stringent during the transition to full implementation.

²³ Full lists of designated waters in England and Wales are available on both Defra's website: www.defra.gov.uk/environment/quality/water/waterquality/fwfish/index.htm and the Welsh Assembly Government's website:

<http://new.wales.gov.uk/topics/environmentcountryside/foodandfisheries/fisheries/freshwaterfish/>

²⁴ The Bathing Waters (Classification) Regulations 1991 (SI 1991 No 1597); the revised Directive was transposed through the Bathing Water Regulations 2008 (SI 2008 No 1097) and the Bathing Waters (England) Notice 2008.

- 4.16** For intermittent discharges, the regulator has developed design standards based on likely spill frequency which are consistent with the EQSs.
- 4.17** The regulator must exercise its powers to ensure compliance with the mandatory EQSs. Where waters meet either imperative or guideline standards in every Bathing Season, the regulator must act to ensure no deterioration.
- 4.18** In addition to the imperative standards, there are guideline standards. The regulator is responsible for establishing programmes to reduce pollution in the designated waters and must endeavour to respect the guideline standards.

Discharges to Shellfish Waters

- 4.19** The Shellfish Waters Directive aims to protect or improve the quality of water for shellfish, in order to support shellfish life and growth and thus to improve the high quality of shellfish products for consumption. It requires the UK to designate shellfish waters. In these waters, the Directive's water quality requirements must be met; this can affect the requirements on permits to discharge into these bodies of water. These waters are Protected Areas under the Water Framework Directive.
- 4.20** The Directive affects any discharges to designated waters as well as any that impact on these waters, including those from urban waste water treatment plants, agriculture and industry, by laying down water quality requirements. The Directive affects all types of discharge, as there is pressure on the quality of shellfish waters from both microbiological organisms and toxic or persistent substances.
- 4.21** Where an operator wishes to discharge to waters designated under the Directive, they must apply to the regulator for an environmental permit. Where a permit is granted, the regulator must ensure that it contains conditions such that compliance with the permit conditions results in the mandatory EQSs being met, and guideline EQSs respected. These values are set out in the Regulations²⁵ that form part of the UK's transposition of the Shellfish Waters Directive.
- 4.22** For intermittent discharges, the regulator has developed design standards based on likely spill frequency which are consistent with the EQSs.
- 4.23** The regulator must exercise its powers to ensure compliance with the mandatory EQSs. For most of the substances covered by the EQSs, the regulator will set numerical limits in permits, so that compliance results in the waters meeting the EQSs. Microbiological quality will be controlled through specifying treatment levels that must be achieved prior to the discharge entering the designated waters.

²⁵ The Surface Waters (Shellfish) (Classification) Regulations 1997 (SI 1997 No 1332); the Surface Waters (Shellfish) Directions 1997.

4.24 The regulator is responsible for establishing programmes in designated waters to reduce pollution and to ensure that they conform with the EQSs. The UK must meet the mandatory water quality standards and must endeavour to respect the guideline standards.

Discharges of Hazardous Substances

4.25 One of the requirements of the Water Framework Directive is that environmental objectives should be at least as stringent as those required under the Dangerous Substances Directive²⁶ (DSD). The DSD with its daughter directives aims to eliminate particularly toxic substances and to reduce pollution from other less severely toxic substances. For any discharges to inland, coastal and territorial surface waters, it is necessary to obtain prior authorisation if the discharge is likely to contain dangerous substances. The directives set emission limit values and environmental quality objectives. They are to be integrated into the Water Framework Directive, as one of the requirements of the Water Framework Directive is that environmental objectives should be at least as stringent as those required under the Dangerous Substances Directive²⁷.

4.26 The Priority Substances Directive²⁸, a daughter directive of the Water Framework Directive, establishes EQSs for a list of 33 prioritised substances, and includes the standards established in the daughter directives of the Dangerous Substances Directive.

4.27 Different environmental standards apply where a discharge may contain the listed substances. This may affect the requirements on permits for all types of discharge.

4.28 The Priority Substances Directive requires Members States:

- subject to Article 4 of the Water Framework Directive to apply the environmental quality standards laid down in that Directive.
- subject to Article 4 of the Water Framework Directive to take measures aimed at ensuring that the concentrations of certain bioaccumulative substances do not significantly increase in sediment or relevant biota.
- if designating mixing zones, to restrict the zone to the locale of the point of discharge; to ensure the size zone is proportionate to the concentrations of pollutants at the point of discharge; to include in RBMPs a description of the way in which such zones are defined and how the zones can be reduced in future.

²⁶ Council Directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community. The Water Framework Directive repeals the Dangerous Substances Directive in 2013 and repeals its 'daughter Directives' in 2012.

²⁷ Council Directive 76/464/EEC (repealed and replaced by Directive 2006/11/EC) on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community. The Water Framework Directive repeals the Dangerous Substances Directive in 2013 and repeals its 'daughter Directives' in 2012.

²⁸ Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy.

- to establish an inventory (including maps where possible) of losses, discharges and emissions of all substances listed in the Priority Substances Directive, and to share these inventories with the Commission.
- 4.29** Article 4 of the Water Framework Directive requires that emissions, discharges and losses of the listed priority substances should be progressively reduced, and, for a subset of priority hazardous substances, should be ceased if possible within 20 years of the adoption of the Priority Substances Directive²⁹.

Discharges from Waste Water Treatment Plants

- 4.30** The Urban Waste Water Treatment Directive aims to protect the environment from the adverse effects of the discharge of waste water. The Directive includes requirements for the collection and treatment of urban waste water and so mainly affects the statutory water and sewerage companies, since they own and operate the public sewerage system and the urban waste water treatment works. Discharges from certain industrial sectors such as food and drink processing plants can have a similar polluting effect to untreated sewage, so some of these are also covered by the Directive.
- 4.31** The Directive broadly sets treatment levels for discharges on the basis of the size of the discharge and the sensitivity of the waters receiving the discharge. Most discharges will require secondary treatment, which is usually a biological process. Discharges into waters identified as Sensitive Areas will require more stringent treatment than this ordinary secondary treatment.
- 4.32** The Directive identifies Sensitive Areas on the basis of three criteria set out in the Regulations that originally transposed the Directive³⁰. These criteria are:
- waters that are eutrophic or may become eutrophic if protective action is not taken;
 - waters that exceed or could exceed a specified concentration of nitrate; and
 - waters receiving discharges that are subject to more than secondary treatment under the requirements of other directives.
- 4.33** The Directive requires Member States to review environmental waters every four years to determine whether they are Sensitive Areas.
- 4.34** The regulator must exercise its powers to ensure compliance with the treatment standards prescribed by the Directive, and must ensure that pollution from storm water is limited.

²⁹ It is recognised that cessation of emissions of naturally occurring substances is not possible.

³⁰ The Urban Waste Water Treatment (England and Wales) Regulations 1994 (SI 1994 No 2841)

- 4.35** The Directive requires that significant discharges of urban waste water receive the appropriate level of treatment. Significant discharges are those that serve population equivalents of more than 10,000 and those to freshwaters and estuaries that serve population equivalents of between 2,000 and 10,000.

Discharges into and from Public Sewers

- 4.36** Under the Water Resources Act 1991, in certain circumstances a sewerage undertaker may be liable for discharges to surface water even where it did not cause or knowingly permit the discharge, if the discharge came from a sewer it owns and operates. This situation has been reflected in the Environmental Permitting Regulations.
- 4.37** Where there is more than one sewerage undertaker operating on a sewerage network, a sewerage undertaker may be liable if it received the matter included in the discharge into its sewer. Liability also depends on whether the undertaker was bound to receive effluent into their sewers, whether unconditionally or subject to conditions that were observed.

5. Other requirements

Variations

- 5.1 Subject to a few exceptions, such as when it is necessary to change a permit condition to meet the requirement of a European Directive, regulator-initiated variations of a water discharge activity permit condition are subject to a 'four year rule' (Regulation 20(4) and (5)). This means that where a regulator has issued a permit, the regulator cannot vary any conditions in that permit within four years of the date of issue unless the operator agrees to the variation or it is the operator that requests the variation.
- 5.2 The four-year rule does not apply to conditions in standard permits for water discharge activities.

Appeals

- 5.3 Where an operator appeals against a regulator-initiated variation of a permit condition by the regulator, or the imposition of conditions on a previously unconditional permit, the effect of the varied or newly imposed condition(s) is suspended until the appeal has been resolved.

Annex 1 –Extracts from the Environmental Permitting Regulations

SCHEDULE 21

Regulation 35(2)(o)

Water discharge activities

Application

1. This Schedule applies in relation to every water discharge activity.

Interpretation

2. In this Schedule—

“discharging sewer” means the sewer or works from which sewage effluent is discharged;

“discharging undertaker” means the sewerage undertaker in which a discharging sewer is vested;

“main connection” has the same meaning as in section 110A of the Water Industry Act 1991(b);

“pipe” has the same meaning as in the 1991 Act;

“sending undertaker” means a sewerage undertaker which discharges sewage effluent into the discharging sewer or other sewer or works vested in the discharging undertaker; and

“waste” in the term “waste matter” includes—

- (a) anything that is waste for the purposes of the Waste Framework Directive and is not excluded from the scope of that Directive by Article 2(1) of that Directive,
- (b) anything that is waste for the purposes of the Mining Waste Directive and is not excluded from the scope of that Directive by Article 2(2) of that Directive.

Meaning of “water discharge activity”

- 3.—(1) A “water discharge activity” means any of the following—

- (a) the discharge or entry to inland freshwaters, coastal waters or relevant territorial waters of any—
 - (i) poisonous, noxious or polluting matter,
 - (ii) waste matter, or
 - (iii) trade effluent or sewage effluent;

(a) 1990 c. 8. Sections 191 and 192 were amended by the Planning and Compensation Act 1991 (c. 34), section 10(1).

(b) Section 110A was inserted by the Competition and Service (Utilities) Act 1992 (c. 43), section 45 and amended by the Water Act 2003 (c. 37), section 36(2) and the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 104.

- (b) the discharge from land through a pipe into the sea outside the seaward limits of relevant territorial waters of any trade effluent or sewage effluent;
 - (c) the removal from any part of the bottom, channel or bed of any inland freshwaters of a deposit accumulated by reason of any dam, weir or sluice holding back the waters, by causing it to be carried away in suspension in the waters, unless the activity is carried on in the exercise of a power conferred by or under any enactment relating to land drainage, flood prevention or navigation;
 - (d) the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them and failure to take reasonable steps to remove the vegetation from these waters;
 - (e) an activity in respect of which a notice under paragraph 4 or 5 has been served and has taken effect.
- (2) A discharge or an activity that might lead to a discharge is not a “water discharge activity”—
- (a) if the discharge is made, or authorised to be made, by or under any prescribed statutory provision; or
 - (b) if the discharge is of trade effluent or sewage effluent from a vessel.
- (3) In determining whether a discharge or an activity is a water discharge activity, no account must be taken of any radioactivity possessed by any substance or article or by any part of any premises.

Highway drains – notice requiring environmental permit

4.—(1) This paragraph applies where—

- (a) a person is operating a highway drain; and
- (b) that activity might lead to a discharge mentioned in paragraph 3(1)(a) or (b).

(2) The regulator may serve a notice on the person operating the highway drain requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.

(3) A notice under this paragraph takes effect on the date specified in it, which must be at least 6 months after it is served.

Discharge of trade effluent or sewage effluent into lake or pond – notice requiring environmental permit

5.—(1) The regulator may serve a notice on a person who discharges trade effluent or sewage effluent into the waters of any lake or pond which are not inland freshwaters requiring the person, from the date the notice takes effect, to hold an environmental permit authorising the carrying on of that activity.

(2) A notice under this paragraph takes effect on the date specified in it, which must be at least 3 months after it is served.

Liability resulting from discharge of sewage effluent from public sewer

6.—(1) This paragraph applies for the purpose of determining liability for a water discharge activity that consists of a discharge of sewage effluent from a discharging sewer vested in a discharging undertaker.

(2) A discharging undertaker causes a discharge of sewage effluent if—

- (a) matter included in the discharge is received by the discharging undertaker into the discharging sewer or into any other sewer or works vested in it;
- (b) the discharging undertaker was bound (either unconditionally or subject to conditions which were observed) to receive the matter into the discharging sewer or other sewer or works; and
- (c) sub-paragraph (3) does not apply.

(3) This sub-paragraph applies if, before the discharging undertaker discharges the sewage effluent from the discharging sewer, the sending undertaker, under an agreement with the discharging undertaker under section 110A of the Water Industry Act 1991, discharges the sewage effluent through a main connection into—

- (a) the discharging sewer; or
- (b) any other sewer or works vested in the discharging undertaker.

(4) If sub-paragraph (3) applies, the sending undertaker causes the discharge if—

- (a) matter included in the discharge is received by the sending undertaker into a sewer or works vested in it; and
- (b) it was bound (either conditionally or subject to conditions which were observed) to receive that matter into that sewer or works.

(5) A sewerage undertaker is not guilty of an offence under regulation 38(1) in relation to a water discharge activity that consists of a discharge of sewage effluent from a sewer or works vested in it if—

- (a) the contravention is attributable to a discharge which another person caused or knowingly permitted to be made into the sewer or works;
- (b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and
- (c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

(6) A person is not guilty of an offence under regulation 38(1) in relation to a discharge which the person caused or knowingly permitted to be made into a sewer or works vested in a sewerage undertaker if that undertaker was bound to receive the discharge, either unconditionally or subject to conditions which were observed.

Annex 2 – Water Resources Act 1991- Section 104: Meaning of ‘controlled waters’ etc³¹

- (1) References in this Part to controlled waters are references to waters of any of the following classes—
- (a) relevant territorial waters, that is to say, subject to subsection (4) below, the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to England and Wales is measured;
 - (b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as—
 - (a) the limit of the highest tide; or
 - (b) in the case of the waters of any relevant river or watercourse, the fresh-water limit of the river or watercourse,together with the waters of any enclosed dock which adjoins waters within that area;
 - (c) inland freshwaters, that is to say, the waters of any relevant lake or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;
 - (d) ground waters, that is to say, any waters contained in underground strata;
- and, accordingly, in this Part “coastal waters”, “controlled waters”, “ground waters”, “inland freshwaters” and “relevant territorial waters” have the meanings given by this subsection.
- (2) In this Part any reference to the waters of any lake or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any lake, pond, river or, as the case may be, watercourse which is for the time being dry.
- (3) In this section—
- “fresh-water limit”, in relation to any river or watercourse, means the place for the time being shown as the fresh-water limit of that river or watercourse in the latest map deposited for that river or watercourse under section 192 below;
 - “miles” means international nautical miles of 1,852 metres;
 - “lake or pond” includes a reservoir of any description;
 - “relevant lake or pond” means (subject to subsection (4) below) any lake or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another lake or pond which is itself a relevant lake or pond;
 - “relevant river or watercourse” means (subject to subsection (4) below) any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.
- (4) The Secretary of State may by order provide—
- (a) that any area of the territorial sea adjacent to England and Wales is to be treated as if it were an area of relevant territorial waters for the purposes of this Part and of any other enactment in which any expression is defined by reference to the meanings given by this section;

³¹ www.opsi.gov.uk/acts/acts1991/ukpga_19910057_en_9

- (b) that any lake or pond which does not discharge into a relevant river or watercourse or into a relevant lake or pond is to be treated for those purposes as a relevant lake or pond;
 - (c) that a lake or pond which does so discharge and is of a description specified in the order is to be treated for those purposes as if it were not a relevant lake or pond;
 - (d) that a watercourse of a description so specified is to be treated for those purposes as if it were not a relevant river or watercourse.
- (5) An order under this section may—
- (a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.
- (6) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Annex 3 – Registration of Exempt Water Discharge Activities relating to small discharges of sewage effluent

Introduction

Purpose of this guidance

- A.3.1** This guidance annex is aimed at those regulating small discharges of sewage effluent and those who are manufacturing, installing, maintaining or operating sewage treatment plants including householders and others, such as water companies. It relates to discharges to surface water only. Separate guidance will be published for small sewage discharge activities that discharge to groundwater (i.e. Groundwater Activities).
- A.3.2** In this Annex, water discharge activities that relate to small discharges of sewage effluent (of 5 cubic metres per day or less) are referred to as ‘small sewage effluent discharge activities’.
- A.3.3** It expands on paragraphs 3.12 - 3.16 of this guidance. The Environment Agency website provides more detailed technical guidance on many aspects of registration of exempt facilities³².
- A.3.4** The requirements for the registration of exempt water discharge activities are set out in Schedule 2, Part 2 and Schedule 3, Part 2 of the Regulations.
- A.3.5** The next section of this Annex sets out the scope of the registration process for small sewage effluent discharge activities. The third section provides the requirements for registration. The final section sets out the other requirements.

³² Available from: www.environment-agency.gov.uk/epr

Scope of Registration

What is a 'small sewage effluent discharge activity'?

- A.3.6** A small sewage effluent discharge activity relates to the discharge or entry into inland freshwaters, coastal waters, relevant territorial waters of sewage effluent from sewage treatment plants (also termed 'package treatment plants').
- A.3.7** For further definition of the scope of water discharge activities, groundwater activities and discharges of sewage effluent refer to Chapter 3.

Conditions for registration

- A.3.8** A small sewage effluent discharge activity is as an exempt facility if it meets the following requirements:
- it falls within the relevant description in Schedule 3 of the Regulations;
 - it meets specific qualifying conditions relating to location, design and operation;
 - the activity is registered; and
 - it does not cause pollution.
- A.3.9** The descriptions and conditions are set out in Schedule 3, Part 2 to the Regulations.

Preventing environmental pollution

- A.3.10** It is the occupier's responsibility to register for an exemption for the small sewage effluent discharge activity and to ensure that the treatment system is operated in such a way that it does not cause pollution of the environment.
- A.3.11** Carrying on a water discharge activity is an offence under the Regulations if it is:
- unregistered or unpermitted;
 - non-compliant with the terms of the registration; or
 - non-compliant with the terms of an environmental permit.

Protection of sensitive environmental receptors

- A.3.12** Small discharges of sewage effluent must not interfere with sensitive environmental, groundwater or conservation interests.
- A.3.13** The Environment Agency guidance may specify minimum distances between the place of discharge and known sensitive receptors. Where information is held by the Environment Agency, it will develop a system to

check the suitability of the place of the discharge activities as part of the registration process.

Registering an exempt facility

- A.3.14** The Regulations identify the types of activities that can be exempt: see Schedule 3, Part 2 to the Regulations.
- A.3.15** It is the registration that is important, therefore the registration relates to the property rather than the owner or occupier.
- A.3.16** The registration will remain valid so long as the activity is carried on in accordance with the terms and conditions of the registration, including the maximum daily volume. The sewage treated must be domestic in origin and contain no trade effluent as defined in Section 221 of the Water Resources Act 1991³³.
- A.3.17** A person who is unable to comply with these conditions may still be able to carry on the activity subject to application and determination of a permit (see Chapter 4).

³³ See: www.opsi.gov.uk/acts/acts1991/Ukpga_19910057_en_1

Procedures for Registration

Notification of relevant particulars

- A.3.18** An occupier or operator must notify the Environment Agency of the relevant particulars relating to that activity in the format specified³⁴. The notification should include:
- the name and address of the occupier or operator;
 - a description of the small sewage effluent discharge activity; and
 - the place of the activity including either the postcode or the Ordnance Survey National Grid reference.
- A.3.19** There is no fee for the registration of a small sewage effluent discharge activity as an exempt facility.
- A.3.20** The Environment Agency will assess whether the small sewage effluent discharge activity is suitable for registration. It may refuse to register activities to ensure that discharges do not adversely affect sensitive environmental receptors. The Environment Agency will notify the occupier within fifteen working days if the activity is not considered to meet the qualifying conditions.
- A.3.21** The Environment Agency will provide detailed guidance on registering a small sewage effluent discharge activity and the criteria for refusal to register.

Other Requirements

- A.3.22** The Environment Agency must be notified when the exempt facility ceases operation. The works and equipment for treating and discharging must be appropriately decommissioned.
- A.3.23** When an occupier or operator ceases to occupy land on which the exempt facility is located, the occupier must notify the next occupier of the land of the location of the exempt facility. This notice must describe the exempt facility, state the conditions of the exemption, and must be accompanied by the records of maintenance carried out during the preceding five years.
- A.3.24** Once registered, change of occupier need not be notified to the Environment Agency, as it already has a record of the location and nature of the discharges.

³⁴ See www.environment-agency.gov.uk/epr

Register of exempt facilities

- A.3.25** The Environment Agency must maintain a register of exempt facilities and it must put the details of registration on to the register within fifteen working days of receiving the information.
- A.3.26** If the Environment Agency becomes aware that an exempt facility is no longer in operation, or no longer qualifies to be exempt, the entry must be removed from the register and the occupier notified without delay. Special circumstances apply to the registration of existing small sewage effluent discharge activities in operation prior to 6 April 2010 (see paragraph A.3.33).

Design and manufacturing standards

- A.3.27** Works and equipment used for the treatment of small discharges of sewage effluent (“sewage treatment systems”) must comply with British³⁵ and European design and manufacturing standards in force at the time of installation. The standards are set out in the Environment Agency’s guidance³⁶.
- A.3.28** Sewage treatment systems that are not designed or constructed to the relevant British Standard may be available in the UK. Any small sewage effluent discharge activities using such treatment systems cannot be registered as exempt facilities, and an environmental permit will be required (see Chapter 3, paragraph 3.13).

Siting and installation controls

- A.3.29** The sewage treatment system must be sited and installed in accordance with any relevant planning and building controls (see below).
- A.3.30** Connection to foul sewer should be made where the small sewage effluent discharge activity is carried on within a public sewered area, or if it is reasonable to connect to it at the time when the notification of relevant particulars is made.
- A.3.31** It will not normally be possible to register as an exempt facility a small sewage effluent discharge activity that is within a public sewered area. Occupiers who are unable to connect to the public foul sewer or register their activity must apply for an environmental permit. Permits may be

³⁵ including industry standards for water companies that are recognised by OFWAT

³⁶ See www.environment-agency.gov.uk/epr

granted where there are sustainability benefits or cost and practicality prohibit connection to the foul sewer.

A.3.32 Further details of the siting and installation requirements are set out in the Environment Agency's technical guidance.

Design, manufacturing and siting standards for small sewage effluent discharges existing on 6 April 2010

A.3.33 Special circumstances apply for small sewage effluent discharge activities in operation prior to 6 April 2010. They are that:

- sewage treatment plants will not be required to comply with the current British design Standard, but must be designed in accordance with the requirements available at the time of installation;
- the activities can be registered even if they are in a public sewered area, where they satisfy the other qualifying conditions;
- sewage treatment plants are not required to comply with the existing British siting and installation Standards, but must be sited and installed in accordance with any other requirements available at the time of their installation; and
- the activities can be registered where they satisfy the other qualifying conditions.

A.3.34 Existing small sewage effluent discharge activities that were previously consented (under the Water Resources Act 1991) and qualify for registration will be taken to be exempt facilities from 6 April 2010. The owner or occupier will not need to register them again (Regulation 73(2)).

Operation and maintenance requirements

A.3.35 All sewage treatment systems require ongoing maintenance to ensure that they operate satisfactorily and that the discharges do not cause environmental pollution. Occupiers must follow the manufacturer's specific instructions or general industry standards identified within the industry codes of practice (see paragraphs A.3.41 to A.3.43).

A.3.36 Regular maintenance must be carried out in accordance with manufacturers' instructions and using maintenance operatives who are competent to service the system. This includes any maintenance agreement with an authorised servicing company. The UK and Welsh Assembly Governments welcome the training and certification schemes developed by British Water³⁷ (for service engineers of small wastewater

³⁷ Details of this scheme: www.britishwater.co.uk/ptp_engineers/Accredited_Service_Engineers.aspx

treatment systems). It encourages the development of further such schemes.

- A.3.37** Sewage treatment systems must be desludged on a frequency recommended by the manufacturer or industry code of practice. Any waste material must be removed and disposed of in an appropriate and controlled manner, using authorised disposal contractors.
- A.3.38** Further details of the operation and maintenance requirements are set out in the Environment Agency's guidance.

Occupiers' record-keeping

- A.3.39** Adequate records must be kept to demonstrate that the sewage treatment system is being appropriately maintained. Maintenance engineers and contractors may provide this type of service as part of a maintenance service contract.
- A.3.40** Maintenance records should be kept for at least five years following the maintenance. These should show that the maintenance requirements issued by the manufacturer or relevant industry code of practice have been complied with.

Other Requirements

Application of industry agreed codes of practice

- A.3.41** The UK and Welsh Assembly Governments recognise the very useful industry codes of practice written by the UK package sewage treatment plant and septic tank manufacturers and installers. These codes of practice are available for download from British Water's website³⁸ or by emailing eppadministrator@defra.gsi.gov.uk.
- A.3.42** These codes provide practical guidance on the installation, management and maintenance of sewage treatment units and complement manufacturers' operational instructions. Where issued, these codes must be followed in conjunction with any manufacturer's instructions.
- A.3.43** Demonstrating an occupier has followed a relevant code of practice will be considered as a contribution to compliance with the registration. Manufacturers' instructions, where available, will take precedence over codes of practice.

Relationship with other legislation and regulators

- A.3.44** Several local authority functions have a regulatory responsibility for the management of small sewage effluent discharge activities. England and Welsh Assembly Government guidance on the relationship between local authority planning and pollution control is set out in Planning Policy Statement 23³⁹ and Planning Policy Wales⁴⁰.
- A.3.45** Local authority building control and environmental health functions have a responsibility for enforcement of the siting, installation and operation of the systems in relation to Building Regulations and Public Health legislation. Local authority trading standards have a responsibility to ensure sewage treatment systems supplied for sale in the UK comply with the EU Construction Products Directive⁴¹. The Directive sets out design standards for treatment efficiency and performance, water tightness and durability in order to protect human health and the wider environment.
- A.3.46** In an Internal Drainage Board's district, any erection of a structure on a watercourse requires a consent from the IDB. Outside an IDB district,

³⁸ Available from www.britishwater.co.uk/publications/publications_and_technical_guides.aspx

³⁹ See:

www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements/planningpolicystatements/pps23

⁴⁰ <http://wales.gov.uk/topics/planning/policy/ppw2002/?lang=en>

⁴¹ <http://ec.europa.eu/enterprise/construction/internal/cpd/cpd.htm>

consent is required from the Environment Agency for works in, over or under a Main River.

Annex 4 – Vegetation Cutting Exemption (downstream disposal)

Introduction

Purpose of this guidance

- A.4.1** This guidance annex is for people who cut vegetation in or around inland freshwaters where the cut vegetation is not immediately removed from the water. It clarifies how the Regulations affect the activity of vegetation cutting.
- A.4.2** It has been written in close consultation with the Environment Agency, the Association of Drainage Authorities and industry bodies to provide a clear and proportionate code of practice for any operator of this activity.

Vegetation cutting practices

- A.4.3** A number of organisations, including the Environment Agency, Internal Drainage Boards, British Waterways, local authorities and riparian owners, undertake operational work to manage submerged, floating and emergent bankside vegetation. This is an operation undertaken to reduce flood risk, aid navigation and improve or protect fisheries and biodiversity.

Scope of Registration

Scope of guidance

- A.4.4** Under the Regulations, activities that can affect water quality may require either an environmental permit or to be registered as exempt. Most vegetation cutting in or around inland freshwaters should involve the prompt removal of vegetation from the waters, and all reasonable steps need to be taken to undertake this.
- A.4.5** When vegetation is removed from the water, the disposal of this vegetation becomes a waste management activity. The Exempt Waste Operations Guidance⁴² is the 'appropriate guidance' referred to in paragraph. 1(2)(a) of Part 2 of Schedule 3 as a condition of exemption, ie this annex does not apply to this activity.
- A.4.6** When vegetation is not removed from the water, the disposal of this vegetation within water becomes a water discharge activity, as it involves:
'(d) the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them and failure to take reasonable steps to remove the vegetation from these waters' (Schedule 21, paragraph 3(1)(d)).

Scope of exemption

- A.4.7** This vegetation cutting is exempt from an environmental permit where:
- 'it is necessary to allow vegetation to pass downstream-
- i. prior notice of the dates of the water discharge activity is given, in accordance with guidance issued by the appropriate authority, to persons likely to be affected by such an activity, and
 - ii. the activity is not carried on if there is insufficient flow to convey the vegetation' (Schedule 3, Part 2, paragraph 1(2))
- A.4.8** Such an exemption will need to be registered with the Environment Agency.

⁴² This guidance is available at: www.defra.gov.uk/environment/policy/permits/guidance.htm

Environmental Risks

Water Quality

- A.4.9** Vegetation cut from river and canal channels has the potential to cause pollution as it decays. This decay removes oxygen from the water and in extreme cases could cause the death of fish and other river life from suffocation. This is similar to the breakdown of any organic matter, for example sewage effluents or farm wastes such as silage liquor.
- A.4.10** High temperatures and low water flows can make the impact much worse, as oxygen is less soluble in warm water, the rate of decay increases and natural re-aeration due to turbulent flow is reduced.

Flood Risk

- A.4.11** The excessive growth of vegetation can reduce the channel carrying capacity (conveyance) in the summer, so the management of vegetation is often undertaken to prevent flooding. But if the cut weed is not removed, it can accumulate further downstream, blocking culverts, weirs and other structures in the channel. This could result in flooding.

Other Conditions for the vegetation cutting (downstream disposal) exemption

Registration

A.4.12 Operators who do not remove cut vegetation from a watercourse are required by law to register as an exempt water discharge activity with the Environment Agency. To register, operators will need to provide the following:

- name of operator;
- address of operator;
- type of activity;
- name of contact point individual for registration;
- OS map showing the area of operation (for example, an IDB would submit a map of their drainage district); and
- confirmation of compliance with this guidance.

A.4.13 The Environment Agency will provide a registration process. Contact the Environment Agency for further details by phone or via their website⁴³.

Notification

A.4.14 Operators must inform in advance anyone with a downstream interest who could be affected by their activity, giving the dates on which the vegetation cutting will be undertaken. Those considered to have a downstream interest should include:

- owners of structures within or on the watercourse;
- owners of designated biodiversity sites (SSSIs/ local nature reserves);
- fisheries interests;
- boating interests;
- operating authorities (Internal Drainage Boards; and District/Unitary/Borough Councils, Environment Agency)

⁴³ www.environment-agency.gov.uk/epr

- A.4.15** Operators will be expected to make a judgement on the impact of the vegetation on downstream interests and, consequently, on the extent of the notification of interested parties.
- A.4.16** This will help protect water quality and prevent flooding, ensuring that the water flows are appropriately managed to prevent the stranding of the weed or blockage of weirs, pumping stations, abstraction points or other structures. It will also prevent the unintended disruption of downstream activities by vegetation suspended in the water.

Insufficient flow

- A.4.17** The operator must not carry out vegetation cutting when there is insufficient flow to convey the vegetation downstream. It is the operator's responsibility to judge when the water flow is insufficient.
- A.4.18** If there is insufficient flow in the watercourse, the suspended vegetation could become caught up on shallows and the banks and decay in the watercourse. This could cause water quality problems and under these circumstances cutting should be postponed or the vegetation should be removed immediately.

Record keeping

- A.4.19** It is important that operators should have an annual work programme in place in advance and should maintain a record of the work undertaken (and where it may have deviated from the work programme). These records should be kept for five years and should be made available for inspection on request from the Environment Agency. The operator should make these records available to the Environment Agency within ten working days of the request being received.

Further Information

- A.4.20** Buisson, R. S. K., Wade, P. M., Cathcart, R. L., Hemmings, S. M., Manning, C. J. & Mayer, L. (2008), *The Drainage Channel Biodiversity Manual: Integrating Wildlife and Flood Risk Management*, Association of Drainage Authorities and Natural England, Peterborough.
- A.4.21** Centre for Ecology and Hydrology Website, Aquatic Plant Management (see: www.ceh.ac.uk/sci_programmes/AquaticPlantManagement.html).