

Department for Environment, Food and Rural Affairs

Summary of responses to the consultation on the future regulation of pet cemeteries in England and Wales, consultation period: 29 March 2007 to 21 June 2007

August 2007

1. Introduction

On 29 March 2007, Defra and the Welsh Assembly Government published a 12-week consultation on the future regulation of pet cemeteries in England and Wales.

The consultation which closed on 21 June 2007 invited views on a proposal to allow the Environment Agency to continue regulating pet cemeteries under the existing Waste Management Licensing (WML) system. The objective of the consultation was to negate the need for pet cemetery operators to apply for a Pollution Prevention and Control (PPC) permit so that operators would avoid the financial outlay associated with providing the necessary risk assessment and other information in support of the PPC application. This will require amending legislation to remove pet cemeteries from the list of activities, installations and mobile plants to which the PPC Regulations apply.

Dead pets are waste within the meaning of the Waste Framework Directive. For many years, pet cemeteries have been regulated under WML legislation. There are currently 25 pet cemetery licence holders in England (23) and Wales (2).

Pet cemeteries are defined as landfills within the meaning of the Landfill Directive i.e. a waste disposal site for the deposit of waste onto or into land. Landfill sites are in the process of changing from being regulated under the WML system to the PPC regime.

It is recognised that pet cemeteries are unique and bear little resemblance to “traditional” landfill sites in terms of environmental impact, scale or operation or indeed the maintenance for the purposes of visiting and remembrance.

The scale and nature of pet cemetery operations pose low environmental risk and the Environment Agency has stated that the current WML system will deliver an appropriate level of environmental protection, provided the necessary modifications are made to ensure that existing WMLs comply with the Landfill Directive.

There is a sound legal basis to exclude pet cemeteries from PPC requirement. The Integrated Pollution Prevention and Control Directive (IPPC) does not apply to landfills receiving 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less. It is understood that each of the 25 licensed pet cemetery sites receive less than 10 tonnes per day.

Operators of pet cemeteries have expressed concerns about the costs associated with applying for a PPC permit. The purpose of the consultation was to negate the need for pet cemetery operators to apply for a PPC permit so that operators will avoid the financial outlay associated with providing the necessary risk assessments and other information in support of the PPC application.

2. Responses

This was a small-scale consultation affecting a very specific industry sector. The consultation document was placed in the Defra and Assembly Government libraries: in the libraries of the Houses of Parliament and on the Defra website at <http://www.defra.gov.uk/corporate/consult/pet-cemetery/index.htm>; the National Assembly for Wales' Publication Centre (02920 823683) and on the Assembly Government's website at http://new.wales.gov.uk/consultations/closed/envandcouncilscons/pet_cemeteries_cons/?lang=en.

All existing pet cemetery licence holders in England and Wales were sent a copy of the consultation document.

In total, seven responses were received (six in England and one in Wales). One individual and six organisations responded and the names of those respondents representing an organisation is attached at Annex 1.

3. Summary

Stakeholders were invited to comment on:

Question 1. Other than pet cemetery operations, are you aware of any other types of disposal operations that accept less than 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less?

There were two respondents. Bath and North East Somerset Council has stated that its cemetery receives less than 10 tonnes per year. The Kennel Club has written that it was not aware of any other types of disposal operations that accept less than 10 tonnes per day or less or with a total capacity of 25,000 tonnes or less, but this was not their area of expertise.

Question 2. Do you agree that continuing to regulate pet cemeteries under the existing WML regime is the appropriate approach for these operations. If not, please provide details of alternative regulation.

Bath and North East Somerset Council and Pembrokeshire Local Health Board supported the existing WML system of monitoring by the Environment Agency.

The Kennel Club considered that the continuing to regulate pet cemeteries under the existing WML regime to be the most appropriate approach for pet cemetery operations.

The Environment Agency has worked with Defra and the Assembly Government in drawing up the consultation proposals. The Environment Agency's response reiterated their support for the WML regime to be most proportionate and risk based way to regulate the pet cemetery sector.

One organisation had specific reservation. The Scottish Environment Protection Agency (SEPA) indicated that its current practice was to issue a risk assessed and Landfill Directive compliant PPC permit for a pet cemetery. This currently attracts no charge to reflect the low environmental risk, scale and nature of pet cemeteries. SEPA would like to see this process be replicated in England and Wales.

Although the Association of Private Pet Cemeteries and Crematoria (APPCC) had not specifically responded to the 2 questions, they have raised a number of processing/practical issues. The APPCC has suggested that these issues may be best clarified by guidance.

Stakeholders have questioned whether pet cemeteries should be classified as landfills and need to apply for a modification to their WML in order to comply with the requirements of the Landfill Directive.

4. Partial Regulatory Impact Assessment

Only one respondent provided comments on the partial Regulatory Impact Assessment. The Kennel Club reiterated that pet cemeteries were unique and bore little resemblance to traditional landfill sites in terms of environmental impact, scale of operation or for maintenance purposes of visiting and remembrance. The Kennel Club advocated the choosing of either to allow pet cemetery operations under WML and disapply the requirement to apply under the PPC regime or Option 5; that was to regulate pet cemeteries under Animal By-Products Regulation. This option was not favoured as it would significant changes in the regulatory responsibilities.

5. Statutory Instrument

None of the respondents commented on the draft Statutory Instrument.

6. Availability of detailed responses

The detailed responses will be available in the Defra and Welsh Assembly Government libraries on request.

7. Government response

The objective of the consultation was to negate the need for pet cemetery operators to apply for a PPC permit so that operators would avoid the financial outlay associated with providing the necessary risk assessment and other information in support of the PPC application.

Defra and the Welsh Assembly Government have considered SEPA's comments to replicate Option 2 of the consultation; that is to continue with the requirement to apply under the PPC permit and seek to reduce the application requirements and costs.

Defra has contacted SEPA to discuss the issue. The intention of SEPA's response was not to object to Defra and the Assembly Government's proposal but to point out the processing differences in regulating the pet cemetery sector in Scotland to those in England and Wales. SEPA's main concern is that the requirements of the Landfill Directive will be met. Officials have assured SEPA that the Landfill Directive requirements will be implemented by the Environment Agency through licence modification to conditions.

SEPA has also noted that the move to the Environment Permitting (EP) Regulations in England and Wales in April 2008 would create an area of different regulation as the EP Regulations do not apply in Scotland. The effect of the EP Regulations will mean that the IPPC requirements will no longer apply to certain small landfills, including pet cemetery operations. It is necessary for Defra and WAG to introduce legislative amendment now to ensure that existing pet cemeteries comply with the Landfill Directive because there is no provision for introducing this requirement in the EP Regulations.

The 1999 EU Landfill Directive regulates the deposit of waste onto or into land. For many years, pet cemetery operations have been classified, operated and licensed as landfill sites. It is considered that the WML regime would be more appropriate for controlling the environmental impact of pet cemetery sites, provided the necessary modifications are made to licences to ensure existing WMLs comply with the Landfill Directive. The Environment Agency will facilitate this process.

Defra, the Welsh Assembly Government with full support of the Environment Agency propose to allow pet cemetery operations under WML and disapply the requirement to apply under the PPC regime.

Government has discussed and agreed with the Environment Agency on producing appropriate guidance on practical implementation issues. This will be taken forward.

Government will remove pet cemeteries from the list of activities, installations and mobile plants to which the PPC Regulations apply. The instrument also make consequential changes to the Landfill (England and Wales) 2002 (as amended) and the Waste Management (England and Wales) Regulations 1994 (as amended) to ensure that pet cemeteries comply with the requirements of the Landfill Directive. Government will introduce amending legislation on 1 October 2007.

Annex 1

Respondents to the consultation on the future regulation of pet cemeteries in England and Wales

- Bath and North East Somerset Council
- The Kennel Club
- Association of Private Pet Cemeteries and Crematoria
- Environment Agency
- Pembrokeshire Local Health Board
- Scottish Environment Protection Agency