

Storm overflows consultation response- Respondent 3 (09/05/23)

Q1: Do you agree with our proposals to set a performance commitment based on average spills, with financial consequences for companies that do not meet their targets?

In principle it is a good Performance Commitment as it will drive the water companies to first improve their EDM monitoring that in some cases is woefully inadequate for its purposes. The only potential pitfall is that the U_MON3 monitors that are being installed this AMP (are they to be included as this is spill to storm tank although in some circumstances it is also spill to environment. The problem is that these monitors are not due to be certified until 2026 under the Environment Agency Monitoring Certification Scheme.

Also the accuracy requirement for EDMs within the network installed under the EDM1 and EDM2 programmes is not currently in standard and so there is monitoring uncertainty at this point. All of this is going to be under MCERTS next AMP which is welcome as it will introduce a quality standard.

In principle the PC is good however there are some conversations to be had as to how it is applied

Q2: Do you agree with our proposed approach to unmonitored storm overflows?

In short No and care has to be taken as to “Unmonitored” (or in this case broken monitoring). This will probably be covered under the MCERTS scheme which states an allowance for 10% of monitoring (36 days) or 14 consecutive days. In the case of assuming a set amount of spills per monitor this is an assumption and there is no proof as to a spill or not. The actual lack of performance by the water company is in asset management and this is where it can be penalised. In reality this should apply to all regulatory monitoring (not just storm overflows). In this case what can be done is an allowance of 36 days or 14 consecutive days (to ensure that a winter or Autumn season isn't missed and then if this is exceeded then a retrospective penalisation covering maintenance costs and then a punitive level after this.

An example – if an EDM monitor does not record for a period of 90 days in a year split into 4 periods of 15 days then the level of fine is

1. £100/day for the first 36 days
2. £250/day for every day after this
3. £500/day for exceeding the 14 day period by 1 day for 4 occasions

For part 1 a fine of £3,600 (a maintenance fine)

For part 2 (a further 54 days) £13,500 (a punitive fine)

For part 3 (Double counting 4 days) a further £2000

This makes a total of £19,100 for an individual monitor. Now the levels of fines can be adjusted but reflect the asset management failure of the water company rather than making an assumption over numbers of spills. It also makes it easy for a water company to pass on the costs to a contractor if they choose this sort of delivery model. This reflects the actual failure to deliver a service much more acutely and enables a much easier business case.

Q3: Do you agree with our proposed approach to mid-period changes?

Yes.

Q4: Do you agree with our proposed approach to emergency overflows?

In principle yes but the majority of emergency overflows are not monitored and so it will be difficult to measure this performance commitment. There is the U_MON6 driver coming into delivery in the next AMP period and it will be appropriate to monitor these once they are certified under the MCERTS scheme. These could be regulated under a pollution incident approach and maybe this is the most appropriate mechanism.

Again U_MON6 monitors should be covered under a Regulatory Monitoring Performance Commitment (covering all regulatory monitoring).

Q5: Do you have any further comments on this performance commitment?

There needs to be a much wider look at Regulatory Monitoring, its certification (and penalisation for not holding certification) and performance in this regard. This maybe an Environment Agency responsibility but there is also the failure to deliver the service.

There is also a lack of a performance commitment that is related around FFT monitoring and this is being covered under MCERTS and the U_MON3/U_MON4 drivers also need to be covered under a performance commitment along with the same regime reported for unmonitored storm overflows. In this there has a disconnect between OFWAT and the Environment Agency as in reality the asset management failing is an OFWAT issue rather than a EA issue and this is a lack of performance should be counted under a regulatory wastewater monitoring performance commitment which will drive the water companies to better performance.