

**WAS-G-02**

**SEPA Guidance: Land Remediation and Waste Management**

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## Introduction

This document is intended to help site developers, consultants, contractors, local authorities and SEPA staff understand when waste management regulation applies to land remediation projects. It does not apply to the remediation of radioactive contaminated land or the treatment of Japanese knotweed or other invasive species.

## Roles and Responsibilities

SEPA provides advice to local authorities on sites being remediated under Planning and Development Control and Part IIA of the Environmental Protection Act 1990 (Contaminated Land Regime) and is the lead for Special Sites.

**Table 1: Roles and Responsibilities**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Remediation Route** | | |
|  | **Planning** | **Part IIA** | **Part IIA – Special Site** |
| **Organisation** |  |  |  |
| Local Authority | Lead regulator | Lead regulator | Advisory |
| SEPA (contaminated land) | Advisory | Advisory | Lead regulator |
| SEPA (waste) | Lead regulator | Lead regulator | Lead regulator |
| **Task** |  |  |  |
| Agreeing remediation criteria | Local Authority | Local Authority | SEPA |
| Authorising waste treatment | SEPA | SEPA | SEPA |
| Authorising use of waste | SEPA | SEPA | SEPA |

## On-site use of excavated material without treatment

The on-site use of uncontaminated soil and other naturally occurring materials is specifically excluded from the legal definition of waste.

Exclusion from the definition of waste - “Uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated.”

A ‘site’ in this context may include:

* The area covered by a specific planning permission or permitted development.
* The area covered by a single remediation strategy.
* The area covered by a single design statement, e.g. pipeline route or road.

In many cases, materials containing contaminants may also be suitable for on-site use without treatment within a project. This will depend on:

* The risks and pollutant linkages identified during the site investigation.
* The measures to mitigate those risks described in the remediation plan.

SEPA will not require a waste management authorisation for the on-site use of contaminated soils and materials where that use is covered by a remediation plan agreed with the relevant regulator, and which complies with the following criteria:

* There is a certain use as part of the planned works.
* The material is suitable for that use, without further treatment.
* No more than the quantity necessary is used.
* The use of the materials will not result in environmental harm.

For example, some materials may be suitable for direct use in engineered backfill beneath cover layers, capping layers, buildings and hard standing or for site regrading.

The remediation plan must be agreed with the relevant authority. Local authorities are the lead regulator for remediation through the planning and contaminated land regimes (except for special sites). Through the remediation plan, they will assess the site-specific suitability of a material for a particular use. In general, SEPA will not duplicate this assessment but will provide advice to the Local Authority in its role as a consultee.

SEPA does not consider Asbestos Containing Materials (ACMs) to be a suitable material for backfilling or other construction purposes. ACMs must not be backfilled or otherwise used in site works. The use of soils containing free and dispersed asbestos fibres should be subject to a risk assessment via the remediation plan as with any other contaminant.

SEPA would also consider the deposit of contaminated materials in an engineered cell as a waste management activity.

## On-site treatment and use

A mobile Land Remediation Permit (formally called a Mobile Plant Licence) authorises the treatment of contaminated soil and materials, including groundwater, for the purpose of land remediation subject to a Site-Specific Working Plan (SSWP).

A single mobile Land Remediation Permit can cover treatment across several sites at the same time provided the Authorised Person remains in control of the activities and the relevant SSWPs have been agreed with SEPA.

The Land Remediation Permit can also authorise the use of treated contaminated soil and materials or the discharge of treated groundwater where it is described in an agreed SSWP and:

* The use is covered by a remediation plan agreed with the appropriate regulator and complies with the four use criteria above.
* The material is used on the same site from which it was excavated.
* Sampling demonstrates the treated material meets the agreed suitability for use criteria.

## Off-site treatment and use – hub sites

Hub sites are designed to facilitate site remediation where:

* Space constraints mean the development or remediation site cannot accommodate the treatment plant.
* Several sites near one another require use of the same treatment plant.

A hub site is temporary and linked to specific, identified projects in advance.

SEPA will consider authorising off-site treatment at a hub site under a mobile Land Remediation Permit subject to an agreed SSWP.

Once material has been treated at a hub site, it can be returned to the source site (i.e. site of excavation) without an additional waste management authorisation provided:

* The hub site and the source / receiving site are defined in the SSWP.
* Soils from different sites are not mixed. Treatment areas, stockpiles, biopiles, etc at the treatment site must ensure segregation of materials.
* A full mass balance approach has been taken that shows quantities imported, treated and exported, matched to transfer notes/consignment notes.
* The use is covered by a remediation plan agreed with the appropriate regulator and complies with the four use criteria above.
* Sampling demonstrates the material treated on the site meets the suitability for use criteria agreed for the receiving site.

Material used anywhere other than the site of excavation will require a separate waste management authorisation.

## Fixed Soil Treatment Facilities

A fixed STF is established on a permanent basis and accepts wastes from a variety of waste producers. It is not linked to a specific project or have a pre-determined plan for where treated wastes will be used.

Fixed soil treatment facilities require a site-based waste management permit and will not be authorised by a mobile Land Remediation Permit.

A fixed STF may perform the role of a hub site where treated material can be returned to the source site without an additional waste management authorisation provided the conditions above are met.

## Site specific working plan

Before a Land Remediation Permit is used at a remediation site or hub site, a SSWP must be agreed with SEPA.

Where treated materials are to be used on the site of excavation, the site-specific working plan must include details of the proposed use and the treatment targets. Extracts from a remediation plan agreed with the local authority (or SEPA) must form part of this evidence. In general, SEPA will not scrutinise the derivation of treatment targets agreed with a local authority.

Following treatment, SEPA will require confirmation that:

* The soil, materials or groundwater has been treated successfully.
* The treatment targets have been met.
* Treated soils, materials or groundwater have been used or discharged in accordance with the SSWP.

Any change of use due to unsuccessful treatment should be discussed with SEPA and the local authority (where appropriate) before the material is used. Relevant updates to the site-specific working plan should be provided as required. Once the use of treated soils is complete, records showing the final soil quality and location must be submitted to SEPA.

**Disclaimer**

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