**Department for Environment, Food and Rural Affairs**

Defra Public Consultations

Proposed repeal of construction Site Waste Management Plans regulations (2008)

# June 2013

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This document/publication is also available on our website at:

<https://consult.defra.gov.uk/>

# 1. Purpose of this consultation

In 2012 the Department for Environment, Food and Rural Affairs (Defra) proposed the repeal of the construction Site Waste Management Plans (SWMP) regulations, subject to consultation on the impact of doing so. This was in response to the Government's Red Tape Challenge, which was designed to remove unnecessary legislation to free-up business. This consultation is intended to ensure we understand the implications of the proposed repeal of the Site Waste Management Plan regulations.

# 2. **Geographical extent**

The Site Waste Management Plans are England only regulations and as such this consultation applies to England.

# 3. Impact Assessment

A consultation stage Impact Assessment has been prepared and can be found at

<https://consult.defra.gov.uk/>

# 4. Audience

This consultation is primarily aimed at (but not exclusively): Clients, Architects/Designers, Contractors, Health and Safety Officers, On-site workers, Central Government, Local/Regional Government, Agency/Public Bodies, Business/Private Sector, Consultants, Charity/Voluntary bodies

# 5. Responding to this Consultation

Please send responses **to arrive by 16th July** to either

Christian Wadey

Defra Waste Division,

Area 2B, Nobel House

17 Smith Square

London

SW1P 3JR

Or email: mailto:SWMPconsultation@defra.gsi.gov.uk

# 6. Duration

Consultation **opens** on 18th June 2013

Consultation **closes** on 16th July 2013

# 7. After the consultation

When this consultation ends, we intend to put a copy of the responses in the Defra library at Ergon House, London. This is in line with Defra’s policy of openness, so that the public may see them. Members of the public can ask for a copy of responses under freedom of information legislation. Copies of the consultation responses to personal callers or in response to telephone or email requests will be supplied by the Defra Information Resource Centre (020 7238 6575), defra/library@defra.gsi.gov.uk. Wherever possible, personal callers should give the centre 24 hours notice of their requirements. An administrative charge will be made to cover any photocopying and postage costs.

A summary of the responses to this consultation will also be published and placed on our website at <https://consult.defra.gov.uk/>

This summary will include a list of names and organisations that responded but not peoples personal names, addresses or other contact details.

If you do not want your response - including your name, contact details and any other personal information - to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that won’t count as a confidentiality request.

Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, **we cannot promise that we will always be able to keep those details confidential.**

# 8. Compliance with the Code of Practice on Consultation

This consultation is being conducted in line with the “Consultation Principles” as set out in the Better Regulation Executive guidance which can be found at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please addresses them to:

Consultation Co-ordinator
Room 629
9 Millbank
17 Smith square
London
SW1P 3JR

Email: mailto:consultation.coordinator@defra.gsi.gov.uk

**Part II**

# 9. Background

The Red Tape Challenge was a Coalition initiative that sought to remove unnecessary legislation that was considered to be stifling economic growth. In 2012 the Government launched the Red Tape Challenge website which sought the views of the public and business regarding how well different legislation was working and what could be done to improve it, in a bid to maximise growth.

Following analysis and stakeholder meetings, Defra recommended to the Red Tape Challenge 'Star Chamber' that the Site Waste Management Plans regulations were not fit for purpose, and on that basis should be repealed, subject to further consultation. This consultation looks for any insights that industry or others may have on the regulations, and seeks to understand all likely consequences of their repeal.

Site Waste Management Plans encourage the effective management of materials and were intended to ensure waste is considered at all stages of a construction project - from design through to completion. SWMPs enable businesses to identify good and best practice opportunities to drive down waste and potentially reduce costs. The DTI introduced a voluntary code of practice in July 2004 encouraging the use of these plans, and then legislation to make Site Waste Management Plans mandatory was introduced in 2008. These regulations were introduced for the purposes of formalising the approach for using such plans to reduce the waste produced by construction projects.

Site Waste Management Plans are classed as environmental legislation. Protecting and enhancing the natural environment is crucial to Britain's long-term economic success and quality of life. It is important that our environmental policies are implemented in the most effective way possible, and that our environmental regulations are not impeding businesses and individuals with red tape.

In a rapidly changing world, this means considering different ways of achieving policy goals. There is potential to explore how alternatives to regulation can help us achieve the same, or better, environmental outcomes.

# 10. Implications of the proposed repeal of the regulations.

a) Cost savings

Repealing the regulations will provide business with the flexibility to use SWMPs as a tool, rather than a mandatory requirement. More explicitly, the benefits of repealing SWMPs are the avoided administration and implementation costs associated with maintaining SWMPs. Therefore, there is an estimated benefit of £20.3m over 5 years (an annual average of £4.1m). In Net Present Value terms this is £18.3m.

**Table 1: Estimated Business Administration Costs of Option 1**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **1. Business Administration****Costs** | **2014** | **2015** | **2016** | **2017** | **2018** |
| Maximum potential annual impactAdmin cost efficiency factorTotal business administrative costs | £6,100,43370%£4,270,303 | £6,277,13465%£4,080,137 | £6,448,88360%£3,869,330 | £6,621,50860%£3,972,905 | £6,791,37360%£4,074,824 |
|  | 5 Year TotalAnnual AverageNet Present Value | £20,267,499£4,053,500-£18,317,712 |

Enforcement of the regulations has generally been inconsistent, and no-one has been prosecuted to date. The expected savings to cover enforcement activity (by reducing fly tipping clean up costs) have not sufficiently materialised, and thus local authorities and the Environment Agency have not had sufficient resource to provide nationwide coverage for enforcement.

b) Environmental impacts

Business has already made strides to manage waste effectively on site and so the onus will increasingly be to reduce waste in the design process. SWMPs and guidance will still be available for those that find them useful. Landfill tax remains the most effective way to keep waste out of landfill

More work is needed to reduce the waste arising in the first instance. This means the design phase of construction is vital in achieving the aim. SWMPs tend to be produced after the design phase. We support the industry's focus on reducing construction waste by designing and managing it out, and the involvement of designers in the work of the Green Construction Board waste subgroup in delivering this aim.

In addition, the government will publish the first Waste Prevention Programme for England by December 2013 which will aim to support growth and help businesses to save money. This focus in prevention will help to reduce waste arising. Protecting and enhancing the natural environment is crucial to Britain's long-term economic success and quality of life, and reducing waste is a key aspect of this.

c) Fly-tipping

One of the main benefits that Site Waste Management Plans were supposed to deliver was a drop in fly-tipping incidents. Evidence shows that as a proportion of Local Authority fly-tipping occurrences, construction waste has stayed at a fairly constant level from the years 2008-2012. Whilst construction-waste related incidents have decreased in number, this is in-line with the national trend and they have remained steady at nearly 6% of incidents throughout the period. For the regulations to be deemed successful we would have expected an improvement above and beyond this prevailing trend. Therefore we do not expect the repeal to have any adverse effect on fly-tipping.

**Table 2: Local Authority Fly-tipping incidents in England**



Further work is now being carried out to tackle waste crime such as fly-tipping. Defra is working with the Sentencing Council to ensure fines and sentences for waste crime act as a real deterrent to offending, and strengthening the powers for local authorities and the Environment Agency to stop, search and seize the vehicles of suspected waste criminals. In tandem with this we are aiming to make it easier for businesses to dispose of their waste legally, for instance through responsibility deals that will increase access to local facilities and help smaller businesses understand their waste management responsibilities such as compliance with the waste duty of care.

Work is also underway to encourage behaviour change through the National Fly-tipping Prevention Group which has produced guidance on fly-tipping prevention for landowners and local authorities, and helped to develop a draft Fly-tipping Partnership Framework. The Framework recognises that the nature and scale of fly-tipping varies from place to place and is best tackled by a range of interested groups working together on a local level. It outlines best practice for the prevention, reporting, investigation of fly-tipping and clearance of fly-tipped waste. In addition Defra is providing funding for two partnerships, the Suffolk Waste Partnership and one led by Swindon Borough Council to pilot some of the best practice options set out in the Frameworkduring the 2013-14 financial year*.* The partnerships include local authorities, the police, fire and rescue service, the Environment Agency and private landowners and members of the community working together with the common aim of tackling fly-tipping in their areas.

In conclusion, considering all these factors the impact of repealing on the effort to reduce construction waste, keep it out of landfill and out of fly-tipping is assessed as being minimal. Repealing the regulations will provide a cost saving to business, while retaining SWMP as a tool that can be applied to any project where savings are possible. Reducing waste saves business money, and with appropriate guidance and awareness within business we would expect business to make every opportunity to reduce costs in this way.

# Questions

|  |  |  |
| --- | --- | --- |
| **Question number** |  **Question** |  **Answer** |
|  | 1) What are your views, if any, on the proposal to repeal the Site waste management plans regulations? |  |
|  | 2) The impacts of repealing the regulations have been identified in the impact assessment. Do you agree with the impacts identified there? Are there any that we have missed? |  |
|  | 3) If the regulations are repealed, would you continue to use Site Waste Management Plans in any form? Why? |  |
|  | 4) Finally, from which perspective / sector are you responding? I.e.1. Client
2. Architect/Designer
3. Contractor
4. Health and Safety Officer
5. On-site worker
6. Central Government
7. Local/Regional Government
8. Agency/Public Body
9. Business/Private Sector
10. Consultants
11. Charity/Voluntary
12. General Public
 |  |