

Department for Environment, Food and Rural Affairs

Site Waste Management Plans (SWMPs) – Q&A

June 2008

Q1. What do the Site Waste Management Plans Regulations 2008 require?

A1. The Regulations require that any person intending to carry out a construction project in England with an estimated cost of greater than £300,000 must prepare a site waste management plan – an ‘SWMP’. The SWMP must be updated in accordance with the Regulations, with different requirements depending on whether the cost of the project is greater than £500,000.

Q2. When do the new rules come into force?

A2. The rules apply from 6 April 2008. They do not apply in relation to a project which has been planned before 6 April 2008 and where construction work begins before 1 July 2008.

Q3. Do SWMPs apply to projects which are over the £300,000 threshold but which take place over multiple sites, e.g. maintenance projects?

A3. There is no legal requirement for a project of contract value greater than £300,000 but undertaken over multiple sites (clearly geographically separate) to undertake a SWMP. However a client/contractor may decide that it is in their interests to do so, because a SWMP should help to save costs on materials, disposal costs, and labour.

Q4. Do SWMPs apply to a person planning a project in relation to their own residence?

A4. No, the regulations state that “client” means a person acting in the course of their business. If a person intends a building to be their own residential property, then the project is not in the course of their business. However, the principal contractor who is employed for the job would need to produce a SWMP if the project cost were over the minimum threshold.

Q5. Does the SWMP author or responsible person need qualifications?

A5. No

Q6. Should there be a separate SWMP for demolition, especially if there is a time lag between demolition

A6. Potentially yes. If a construction project is of such a significant duration that it is broken down into stages, each with a separate SWMP, an individual plan need only be kept for two years after completion of that particular stage. Ultimately the enforcing authority (usually the local authority) would decide these questions on a case-by-case basis.

Q7. What is the alignment of SWMPs with Construction (Design and Management) Regulations 2007 (CDM regulations)?

A7. The SWMP regulations draw upon the CDM regulations to define the roles of client and principal contractor. Otherwise SWMP regulations are free-standing.

Q8. What if there are two or more projects (each of which is over the basic threshold) on the same site?

A8. If the projects each cost over the £300,000 threshold, then separate SWMPs should be acceptable. However, it is not acceptable to split one project in order to avoid either the need for a SWMP or the more detailed SWMP reporting requirements for projects costing more than £500,000. If projects on the same site have the same client or principal contractor, it can be assumed that they are all one project. Again, the enforcing authority (usually the local authority) would decide these questions.

Q9. Who makes the client aware of the need for a SWMP? CDM specify a notifiable person (the designer) who is required to notify the client.

A9. There is no formal notification mechanism, as exists with CDM regulations. At the point where the construction phase of a project commences, it is the joint responsibility of both the client and principal contractor to ensure that a SWMP is in place. In practice, where the client uses a contractor, it is likely to be the principal contractor who will be responsible for ensuring compliance with the SWMP, once the construction phase has commenced.

Q10. Is there an approved methodology for identifying cost savings?

A10. There is no approved methodology. Cost savings will be identified by comparing the initial projected costs of dealing with the waste that arises on site and, at the end of the project, comparing them with the costs that were actually incurred by the project.

Q11. Why does the waste transfer paperwork (carrier registration details and waste transfer notes) not have to be kept with SWMPs for projects costing less than £500,000?

A11. For smaller projects, it might prove onerous and impractical if a large quantity of paperwork had to be stored on-site with the SWMP. However, details of waste transfers (including waste type and destination) and the carriers used must be recorded on the SWMP, and providing false or misleading information is an offence.

Q12. Is there a legal document that should be used for SWMPs?

A12. No. The regulations only require that certain details are recorded (see the regulations and guidance). However a number of possible templates that you may wish to use are published on Defra's website.

Q13. Does anyone have to approve the SWMP?

A13. Formal approval is not required by these regulations, although some local authorities require SWMPs, through their Supplementary Planning Documents.

Q14. Are there any specific requirements for designers?

A14. There are no specific requirements placed upon designers in these regulations. However, the regulations and guidance identify their key role in maximising waste efficiency, especially in the early, pre-construction phase of a project. For many projects it will be appropriate for the designer to write the SWMP on behalf of the client, but the responsibility for ensuring the SWMP is in place will remain with the client.

Q15. Are there any specific requirements for subcontractors?

A15. There are no new requirements placed upon sub-contractors in these regulations. However, they remain subject to all the pre-existing waste controls, such as those covering the duty of care and illegal disposal of waste (fly-tipping). SWMPs simply strengthen the chain of responsibility for all waste actions from the sub-contractor to the principal contractor or corporate body

Q16. Would Fixed Penalty Notices (FPNs) be used in the first instance?

A16. This is possible. FPNs are available as an alternative to prosecution for the offences of failing to produce an SWMP or any other record relating to the plan when so requested by an authorised officer. But prosecutions may be pursued if the offence justifies this action. Any repeat or persistent offences are likely to be pursued through the Courts, thus providing a stepped approach to enforcement.

Q17. Should the SWMP cover information on waste exemptions and hazardous waste registrations?

A17. Yes. If waste exemptions are applicable to the treatment, storage or transport of waste they should be referred to in the SWMP, and hazardous waste registration details of operators/carriers are also required.

Q18. Is the £300,000 minimum threshold applicable to all construction projects?

A18. No, some local authorities require SWMPs for smaller projects, through their Supplementary Planning Documents.