

<b>Title:</b> Review of Site Waste Management Plans Regulations 2008 <b>IA No:</b> DEFRA 1477  <b>Lead department or agency:</b> Defra  <b>Other departments or agencies:</b> BIS, Environment Agency	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 08/11/2013		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> Paul Bleazard Tel: 0207 238 3285			
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> RPC Opinion Status	

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
£4.9m	£4.9m	£-0.9m	Yes   OUT

**What is the problem under consideration? Why is government intervention necessary?**

The Site Waste Management Plan (SWMP) Regulations were put in place primarily to combat fly tipping of construction waste, however the proportion of construction waste being fly-tipped is largely unchanged since the introduction of SWMPs. Enforcement has been inconsistent. Funding for enforcement was intended to be met partly from savings resulting from reduced clean-up costs due to reduced fly tipping but such saving did not prove sufficient to fund robust enforcement activity. The SWMP Regulations are inflexible as a mandatory requirement. Removing this requirement should reduce admin costs for many businesses, while leaving SWMPs available as a flexible resource efficiency tool.

**What are the policy objectives and the intended effects?**

The intended policy objective is de-regulation to free up businesses from some of the more onerous parts of the regulations, when they are unnecessary. This would allow businesses to use Site Waste Management Plans as a flexible resource efficiency tool, rather than an inflexible requirement of legislation. The landfill tax escalator is a more effective tool to minimise waste to landfill across all waste streams, and SWMPs should be available as a tool to help business manage resource to reduce waste and thereby save money. SWMPs are still recommended when appropriate, and it is likely that they will be retained for larger construction projects, but as a tool rather than an administrative and regulatory burden.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 0 - Do nothing - Keep the Regulations in place  
Option 1 - Repeal the Regulations & keep SWMPs as a resource efficiency tool for businesses

Option 1 is the preferred option as described in the Red Tape Challenge announcement. Initial consultation as part of the Red Tape Challenge and further consultation that followed indicated that stakeholders supported the view the Regulations could be repealed and Defra proposed the course of action as a result. SWMPs are very rarely enforced. There is little supporting evidence that they have reduced fly-tipping, as fly-tipping of construction waste as a proportion of all waste has been static, and landfill tax is likely to be the main driver. The consultation responses suggested that at least 73% of business would continue to use SWMP but others did not find them valuable and could save administrative costs by not carrying them out.

<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> Month/Year					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b>	<b>Non-traded:</b>

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: 3.7	High: 8.0	Best Estimate: 4.9

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		
High	N/A		
Best Estimate	N/A		

#### Description and scale of key monetised costs by 'main affected groups'

#### Other key non-monetised costs by 'main affected groups'

Potential indirect loss of financial savings to businesses through deterioration in resource efficiency  
Potential indirect environmental damages associated with increased waste production

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	0.8	3.7
High	N/A	1.8	8.0
Best Estimate	N/A	1.1	4.9

#### Description and scale of key monetised benefits by 'main affected groups'

Direct savings to businesses through reduction in administration associated with SWMP regulations (PV £4.9m)

#### Other key non-monetised benefits by 'main affected groups'

Indirect savings to businesses through reduction in costs associated with implementing waste management procedures

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

There is uncertainty regarding the impact of repealing Site Waste Management Plans due to a lack of empirical evaluation following their implementation.  
The indirect costs and benefits of the impact of repealing SWMPs on resource efficiency and waste management have not been monetised; however, it is assumed that the impact of SWMPs on business practices has been lower than originally estimated on implementation of the regulations.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: 0.9	Net: -0.9	Yes	OUT

# Evidence Base (for summary sheets)

## Executive Summary

The Site Waste Management Plan (SWMP) Regulations were reviewed under the Red Tape Challenge as a potential piece of legislation that was either ineffective or holding back growth. In addition to the Red Tape Challenge consultation, meetings were held with key stakeholders, who agreed that the Regulations should either be repealed or amended. Subsequently, a proposal to repeal the Regulations was approved by the Red Tape Challenge Star Chamber.

An impact assessment was prepared and a consultation exercise was held between 18 June and 16 July 2013 to consider the impacts of the repeal. The impact assessment looks at the costs and impacts for two options – to leave the Regulations in place (Option 0) or repeal them (Option 1). SWMPs were already a tool that was used by business with virtually no cost in maintaining availability of SWMP templates and guidance, so the option of stopping use of the plans was not considered as many in the industry find them valuable tools. Option 1 would merely remove the regulatory requirement rather than stopping use of the plans themselves where businesses find them beneficial.

The consultation findings suggest that the views were mixed on the value of retaining the Regulations and out of a total of 169 respondents there were 49% in favour and 49% against the repeal (the remainder were neutral). 73% (of 157 respondents) said they would still use SWMP with at least another 10% who would use another method for recording and managing waste. No significant evidence was provided to add to or contradict the impacts identified in the consultation level impact assessment and the decision was made to continue with the repeal.

The key groups that will be affected by this measure are those that are responsible for writing and implementing SWMPs, i.e. clients and principal contractors; and those with a power to regulate the plans, i.e. the Environment Agency and local authorities, carrying out basic checks, inspections and enforcement activity. The administrative exercise of completing SWMPs entails a direct cost. Secondly, the process of completing a SWMP may instigate a change in waste-related processes or behaviours. The costs and benefits of any such change are a secondary impact of the regulation.

The evidence suggests that Option 1 would provide a total direct cost saving for business of £5.4m over 5 years; a five year period has been used as a comparable period to that for which the SWMP Regulations have been in place. This is an annual average of £1.1m, and gives a Net Present Value of £4.9m. This is based on around one quarter of relevant businesses being likely to no longer use the plans in their complete form, as suggested by the consultation responses. It is acknowledged that many businesses would voluntarily continue to use SWMPs if there was an associated financial saving through improved resource efficiency; no administrative cost saving is counted for these firms. As there was no clear reduction in fly-tipping or relative amounts of construction waste as a result of the plans, it appears unlikely that there would be a significant increase in fly tipping, waste arisings or other environmental impacts as result of the repeal. Furthermore, there are a number of better-targeted policies underway to tackle these issues more effectively than SWMPs such as the landfill tax, the work of the National Fly-Tipping Partnership, and work with court authorities to ensure that fines and sentences act as a genuine deterrent whilst also making it easier for businesses to dispose of waste legally.

A repealing Statutory Instrument shall be laid in Parliament to repeal the Regulations, taking effect on 1 December 2013, after which there will not be a mandatory requirement to produce a SWMP.

Table A: Summary of impacts

Option 1: Repeal SWMPs			
Total Administrative Savings	£		5,390,334
Total Administrative Savings (NPV)	£		4,858,509
EANCB	-£		856,328

## 1. Problem under consideration

The Red Tape Challenge was a coalition initiative that sought to remove unnecessary legislation 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 legislation is working and what could be done to improve it in a bid to maximise growth.

In a rapidly changing world, this will mean considering different ways of achieving policy goals. Environmental policy often aims to encourage people to act in certain ways – and overly complex, burdensome regulation may not be the best way to do this. Instead, there is potential to explore how alternatives to regulation can help us achieve the same, or better, environmental outcomes.

The Environment Theme of the Red Tape Challenge has been open for comment on the Cabinet Office website since April 2011, with a ‘spotlight’ period in September 2011. The Site Waste Management Plan (SWMP) Regulations 2008 were considered as part of this process, which included discussions with the construction industry and other Government Departments to consider the effectiveness of the Regulations.

Site Waste Management Plans encourage the effective management of materials and ensure waste is considered at all stages of a construction project - from design through to completion. The DTI introduced a voluntary code of practice in July 2004 requiring 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. The purpose was to reduce fly-tipping of construction waste and to improve resource efficiency within the sector. The Regulations only apply to projects with a value over £300k in order to not have an undue impact on smaller companies.

The SWMP Regulations were put in place primarily to combat fly tipping of construction waste; however, as the expected cost savings to fund this did not materialise, enforcement has been inconsistent. Since implementation of SWMP Regulations the proportion of fly-tipping of construction waste has been largely unchanged at around 6%. Defra recognises the value of SWMPs as a tool for businesses to effectively manage resources and reduce costs and as such should be promoted as a tool for businesses to reduce and save money rather than seen as a mandatory burden. Templates and guidance would still be available but businesses would be free to make a business decision based on the potential cost savings.

Under the Red Tape Challenge process Defra intends to repeal the Site Waste Management Plans regulations. A consultation was carried out from June 18 to July 16 2013 to understand the consequences of repeal, and gain industry's opinion on any potential consequences that we have not foreseen. Opinion was evenly split with 49% in favour of repeal and 49% against repeal (169 respondents; the remaining percentage were indifferent) and no significant evidence was provided to contradict the information in the impact assessment. More information is in the summary of responses with is available here:

<https://www.gov.uk/government/consultations/site-waste-management-plans>

## 2. Rationale for intervention and policy objective

The intended policy objective is deregulation. The intended effect of this deregulation is to free up businesses from some of the more onerous parts of the regulations, when they are unnecessary, and to use Site Waste Management plans as a flexible resource efficiency tool rather than an inflexible legislative requirement. The rationale of the original SWMP regulation was to improve materials resource efficiency in order to reduce waste in the construction industry, as well as to tackle the illegal disposal of waste. The landfill tax escalator is a far more effective instrument for reducing waste to landfill across all waste streams, and as described below there are better-targeted actions underway to tackle fly-tipping, which did not reduce following the introduction of the Regulation and therefore did not provide savings to councils from which enforcement could have been funded. It is likely that SWMPs will be retained for larger construction projects as the construction sector value them as a tool rather than a regulatory burden.

The rationale for intervention is to allow greater flexibility in the construction industry; businesses for which the administrative cost of producing an SWMP exceeds the benefits from improved waste management can reduce their costs by no longer complying with the regulations. Those businesses that find SWMPs cost-beneficial can continue to use them, in whole or in part.

## 3. Description of options considered

**Option 0** - Do nothing - Keep the Regulations in place

**Option 1** - Repeal the Regulations, but keep SWMPs as a resource efficiency tool for businesses (preferred option)

**Option 1 is the preferred option** as indicated in the Red Tape Challenge announcement. Initial consultation as part of the Red Tape Challenge indicated that stakeholders supported that the view the Regulations could be repealed and Defra proposed this course of action as a result. This would reduce the regulatory burden and administrative cost to business as they will be able to use SWMPs as a flexible tool that they can adapt to meet the needs of the project. SWMPs are very rarely enforced, and there is little supporting evidence that they have had the expected impact; The evidence base of this impact assessments looks at the probable effects of implementing this option in comparison with maintain the status quo by leaving the Regulations in place. SWMPs were already a tool that was used by business with templates available virtually no cost in maintaining availability of SWMP templates and guidance.

### Main Affected Groups

The key groups that will be affected by this measure are those that are responsible for writing and implementing SWMPs, i.e. clients and principal contractors; and those with a power to regulate the plans, i.e. the Environment Agency and local authorities, carrying out basic checks, inspections and enforcement activity.

There may be a small monetary benefit to local authorities and the Environment Agency in that they will no longer need to incur enforcement costs. However, as enforcement is uncommon and inconsistent with no cases taken as far as prosecution, it is extremely difficult to quantify, and if an assumption was made to provide an estimate then it is likely that this would be both negligible and subject to a wide variance.

Enforcement is inconsistent for two reasons:

- 1) This power is unfunded, and was supposed to be funded by the decrease in clearing-up costs of fly-tipping (which did not occur). Some members of the industry said it was aimed at the wrong people (i.e. those above the £300k barrier). Common consensus is that it is those below the £300k threshold that need support on resource efficiency, without which fly-tipping may result.
- 2) Local Authorities and Environment Agency have a power but not a duty to enforce.

Parties indirectly affected by the measure will include: the building supply industry, faced with a potential slight increase in demand if resource use is less efficient, but it is likely that businesses will continue to use SWMPs if it reduces costs. For citizens in general, no specific group is expected to be more affected than any other. There may be a small environmental impact if the repeal of the regulation leads to a reversion in previous good practice. The proposed deregulation will not lead to fewer court cases as none have been brought yet under these powers.

#### 4. Costs and Benefits

The costs and benefits of the SWMP regulations can be broadly divided into two categories. Firstly, the regulation requires the completion of a documented site waste management plan; **this involves an administrative process of drafting and recording but does not in itself necessitate a change in waste-related processes or behaviours.** This administrative exercise entails a direct cost. Secondly, a potential consequence of completing this administrative exercise is that the attention of businesses is more closely drawn to the levels of waste arisings and the method of management; this may instigate a change in waste-related processes or behaviours. The costs and benefits of any such change are a secondary impact of the regulation. The additional costs associated with the implementation of SWMPs are the benefits of repeal, and *vice versa*, adjusted for any expected changes since implementation.

The direct impacts of this regulation are those associated with the required administrative burden. In this assessment, these direct impacts are monetised while indirect impacts associated with changes in behaviour and business practices are not monetised. Indirect impacts are considered to be subject to far greater uncertainty; it is assumed that, in general, businesses will tend to seek opportunities to make financial savings, regardless of the presence or absence of regulation.

Therefore, the cost of maintaining SWMP Regulations is the direct administrative burden of completing the plans for those who would not complete them in the absence of regulation. Conversely, the benefit of repealing SWMP Regulations is the avoided administrative burden of completing the plans.

#### Option 0: Do Nothing (maintain regulations)

##### Benefits: Option 0

There is a significant lack of quantitative evidence regarding the impact that the SWMP Regulations have had on resource efficiency and waste management practices. A number of surveys have suggested that some financial savings for using SWMPs have been realised in many cases [Reference: 3,8,14], but there is also a widespread acknowledgement that the full potential impact has not been realised due to a lack of clarity, inconsistent enforcement and some design flaws of the regulations [Reference: 2,5,8,17].

The benefits of maintaining SWMP regulations would be any secondary benefits that result from positive behaviour change which is stimulated by the completion of a mandatory SWMP. Such behaviour change may include greater efforts to prevent the generation of waste or increased

use of recycling services over disposal services. Actions such as these would lead to two key types of benefit: (1) businesses achieve financial savings from lower material requirements and more efficient management of waste; and (2) environmental benefits from increased prevention and recycling are attained.

The 2008 IA for SWMP Regulations identified the following potential financial benefits arising from the introduction of waste minimisation initiatives alongside SWMPs:

1. Reduction in waste disposal costs through waste reduction, segregation for reuse or recycling, and savings from reduced transport costs.
2. Resource efficiency gains (i.e. waste reduction) which reduce costs associated with the procurement, storage and transport of un-used materials. Further cost savings would be possible through better design specifications, improved material storage, off-site prefabrication and just-in-time delivery.
3. Increased salvage values from building materials that either save the purchase cost of new materials or create sales revenues.

The financial benefits of maintaining SWMP regulations through greater resource efficiency and improved waste management practices have not been monetised. There is considerable uncertainty surrounding the extent to which SWMPs actually drive changes in behaviour and business process. Furthermore, there is a presumption that the existing financial incentives (e.g. material prices, landfill tax) will tend to drive these changes even in the absence of mandatory SWMPs. However, where SWMPs offer financial benefits in excess of their costs, it is assumed that firms would continue to use them.

The process of preparing and implementing a SWMP was intended to have embedded waste minimisation principles into the project design process and identify opportunities for reusing or recycling waste before it is produced on site. However since the design element is only mentioned in the guidance to SWMP regulations, and not the regulations themselves, contractors are left with the responsibility for the SWMP and the greatest waste opportunities are missed. For this reason, it is believed that the impact of SWMPs on generation of waste has been less than anticipated.

Furthermore, an evaluation study of the implementation of SWMPs has highlighted a number of problems with awareness, interpretation and implementation that suggest the impact of the regulations has been lower than expected [Reference: 2]. However, a number of impact surveys [References: 7,8] have found that a majority of respondents perceived some benefits from implementing SWMPs in terms of cost-savings and other qualitative factors. It is unclear how much can be attributed to SWMPs.

Arising data shows that construction waste has roughly moved in line with construction sector output over recent years [Reference: 1]. This suggests that substantial efficiencies (such as those expected from SWMPs) have not been realised. The data is not considered sufficiently accurate to eliminate the possibility that some smaller level of efficiencies was achieved.

For these reasons, and following discussions with industry experts, it is believed that the historical impact of SWMPs in terms of process and behaviour change, although positive, has been less than expected. However, the consultation's finding that around three quarters of respondents would continue to use something like SWMPs implies that there is a perceived benefit of such plans to a large number of firms.

If it is the case that SWMPs do stimulate additional financial savings from (non-mandatory) resource efficiencies and improved waste management, then this component of benefits will be positive. Any such behaviour change implies not only financial savings but also benefits to the environment through reduced waste arisings and increased recycling and recovery.

The intended environmental benefits of SWMP regulations appear not to have been realised. Fly-tipping of construction waste has remained proportional to total fly-tipping at around 6% (see table 3) and, while waste to landfill has reduced, this is likely to be due in part to the landfill tax escalator as this affects landfill across waste streams and not just construction. There are therefore no monetised environmental benefits associated with maintaining the regulations.

### **Costs: Option 0**

The costs to businesses of maintaining SWMPs as a regulatory instrument are comprised of two key components:

- (1) the direct administrative cost of drafting, monitoring and recording details in a plan
- (2) the costs of implementing any subsequent actions that involve a change in waste-related processes and behaviours.

SWMPs were intended to simplify the administrative burden placed on those responsible for construction projects as they were expected to provide a framework for bringing together a range of documentation required by existing legislation including the waste duty of care. However the process of writing and implementing a SWMP formalised a number of project management tasks that should already be carried out, and can add an unnecessary burden for certain businesses and projects.

As with the benefits described above, the indirect impacts of greater resource efficiency and improved waste management are not monetised. However, the direct administrative costs of implementing SWMPs are monetised, based on estimated costs from the 2008 IA for SWMP Regulations, in order to allow Option 1's impact to be calculated.

### **Option 1: Repeal the Regulations, but keep SWMPs as a resource efficiency tool for businesses (preferred option)**

The costs and benefits of repealing SWMP regulations are assessed relative to the "Do Nothing" scenario, Option 0.

### **Benefits: Option 1**

The benefit of repealing the Regulations is providing business with the flexibility to use SWMPs as a tool, but not as a mandatory requirement. More explicitly, the benefits of repealing SWMPs are the avoided administration and implementation costs associated with maintaining SWMPs where the costs are not justified by the benefits they deliver.

The 2008 IA for SWMP Regulations estimated that the direct administrative costs were around £5.1m per year. These costs were estimated based on the Standard Cost Model and assumptions regarding the time required to complete various aspects of the SWMP. Annex 3 provides detail of how the £5.1m figure was calculated for the 2008 IA.

Prior to the SWMP regulations being brought in, it was estimated that 10% of projects below £300k and 20% of projects with a value above this would have undertaken SWMPs whether or not regulations were in place [Reference: 13]; their administrative costs are not *caused* by the Regulations and were not included in the cost calculations. It was recognised that businesses already engaged in certain practices and used certain tools to manage their waste which partially fulfilled SWMP requirements; it was assumed that between 40-60% of the requirements were incorporated in business-as-usual. This activity is not included in the cost estimates and therefore not counted as a cost saving from ceasing to perform SWMPs, since it is assumed that such businesses would continue to incur some administration costs in managing waste as part of normal business planning.

With a potential repeal there will still be the duty of care which requires waste producers to:



- Prevent the waste being deposited illegally
- Prevent the waste escaping
- Ensure that waste is only passed to those authorised to receive it (Professional carriers of waste must be registered with the Environment Agency).
- Ensure that on transfer of the waste a written description is completed to ensure the transferee is able to deal with the waste appropriately. (The information which has to be included on a waste transfer note, and the retention requirements, are set out in Regulation 35 of the Waste (England and Wales) Regulations 2011 <http://www.legislation.gov.uk/uksi/2011/988/regulation/35/made>).
- Regulation 35(6) states that both the transferor and transferee of the waste must keep a copy of the waste transfer note for at least two years and produce it for inspection by an officer of the Environment Agency or waste collection authority if required.

Direct administrative costs of performing SWMPs were estimated at £5.1m per year based on an average cost of around £1,136 per project (in 2006 prices). This is equivalent to £338 per project in additional administration costs caused by SWMPs in 2013 prices (adjusted using HMT GDP deflators). In the absence of clear evidence to the contrary, it is thought that these estimates of administrative burdens are roughly appropriate (see further discussion under Key Assumptions below). A 2013 impact assessment conducted by Eunomia Consulting on behalf of the Welsh Government estimated higher administrative costs for SWMPs in Wales at £624-1,425 per project [Reference: 20].

The £5.1m figure is converted to 2013 prices using HMT GDP deflators, and assumed to vary in line with growth in the construction sector; the cost from 2008 is indexed to projected GVA growth in the construction industry provided by Oxford Economics.

We believe that much of the industry will continue to use SWMPs in the event of repeal and, consequently, will continue to realise financial savings and pay some administration costs to facilitate this. The UK Contractors Group and CECA have already indicated that they will continue to use SWMPs even if they are removed as a regulation. These account for a third of construction output (UKCG - £33billion; CECA - £15 billion). Since the strength of SWMPs is the cost savings that they provide to business, Defra sees them more as a tool for business, as opposed to a regulatory instrument. Schemes such as BREEAM and Code for Sustainable Homes will also still require the use of a SWMP.

To a certain degree, this is taken into account in the original estimate from the 2008 IA on SWMP Regulations (with the aforementioned estimate of 10-20% of businesses already fulfilling SWMP requirements). However, following a number of years of using SWMPs, embedding them into systems and experiencing potential resource savings, a greater number of businesses would continue to use SWMPs than voluntarily used them before. Results of the consultation carried out in summer 2013 suggested that 76% of businesses (out of 157 respondents and including half of “unsure” respondents) would continue to implement SWMPs (or something similar) if the regulation was repealed [Reference: 19]; higher and lower proportions are tested to allow for uncertainty due to “unsure” respondents and sampling error (see tables 6 and 7 in Annex 1). As such, the savings from avoided administration costs are only counted for those firms which were doing SWMPs as a result of the regulation, and would stop doing them following its repeal.

Projects less than £300,000 in value were exempt from the SWMP Regulations, but repealing the regulations will also reduce the administrative burden for medium sized businesses and small firms which are growing, thereby reducing the regulatory barriers to business growth. It is not known whether there is a systematic difference in size between those firms that would continue to perform SWMPs and those that would stop. It is possible that smaller businesses find the requirements more burdensome, but the respondents to the consultation were

representative of the industry and in the absence of any firm information it is assumed that this applies to the proportions of businesses that stop undertaking SWMPs.

It is assumed that administrative costs fall over time as businesses become more accustomed to the process and can complete SWMPs more quickly and efficiently. This was highlighted as a likely scenario in the 2008 IA for SWMP Regulations. The impact assessment conducted by Eunomia Consulting on behalf of the Welsh Government estimates that administrative costs may fall by as much as 50% after a number of years. In this assessment it is assumed that, in the central scenario, administrative costs faced by the average firm would fall to 70% of the original value by 2014 and to 60% by 2018. High and low ranges (where costs by 2018 end up at 52% and 70%) were considered in order to reflect uncertainty.

Table 1 shows the profile of direct administration costs associated with maintaining the regulation. These are taken forward to calculate the savings made in Option 1.

*Table 1: Estimated Business Administration Costs of maintaining SWMP Regulation*

<b>1: Business Administration Costs</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Maximum potential annual impact £	6,100,433 £	6,277,134 £	6,448,883 £	6,621,508 £	6,791,373
Admin cost efficiency factor	70%	65%	60%	60%	60%
Total business administration costs £	4,270,303 £	4,080,137 £	3,869,330 £	3,972,905 £	4,074,824

However, it is assumed that there is likely to be a systematic difference in the costs of using SWMPs between those firms that would use them voluntarily and those that would choose not to. If SWMPs are a voluntary tool that businesses can choose to use, then they will only use them if the benefits to the business in terms of resource savings outweigh the costs of doing so. A business is more likely to use SWMPs if they are well embedded in their systems and they face a low marginal cost of completing the next plan. A business is less likely to use SWMPs if it finds them more expensive and administratively burdensome. It would therefore be incorrect to assume no difference in administration cost between the firms that continue and the firms that stop. To allow for this, the higher estimate for the administration cost efficiency factor (i.e. more costs are maintained) is used for those businesses that stop using SWMPs. The effect of this is to increase the value of costs saved by ceasing to use the plans.

This assumption is tested by using both the previous efficiency factor (as shown in table 1) and by assuming no efficiency improvement (i.e. a factor of 100%) in the low and high scenarios respectively (see tables 6 and 7 in Annex 1). Isolating the impact of this assumption (see table 8 in Annex 1) shows the difference this makes to the NPV and EANCB; it makes a smaller than 10% difference if the previous efficiency factor is used.

## **Costs: Option 1**

The costs of repealing SWMPs would be any sacrificed financial and environmental benefits associated with indirect changes in resource use or waste management. The purpose of deregulation is not to outlaw SWMPs or to discourage their use; it is merely to allow businesses to balance the costs and benefits of using a SWMP. Businesses can use the guidance and previous experience of implementing SWMPs to weigh up the benefits of using SWMPs compared with the costs of their implementation and administration in order to make a decision that is most effective in reducing costs. It is not therefore envisaged that significant financial benefits would be sacrificed. However, it is noted that for those businesses that cease to perform SWMPs, it is probably not the case that they receive zero benefits from their SWMPs, just that the benefits are not enough to offset the costs. As mentioned above, such indirect effects are uncertain and have not been monetised.

As mentioned above, the incidences of fly-tipping appear not to have reduced as a result of the SWMP regulations, and construction waste arisings have continued to move in line with the sector's output. With no monetised environmental benefits associated with maintaining the

regulations, there are therefore no monetised environmental costs of repealing compared to that baseline. Furthermore, there are other policies in place which tackle the environmental effects of construction waste; for example, one response to the consultation highlighted the landfill tax as sufficient incentive for waste minimisation [Reference: 19], and there is other on-going work to tackle fly-tipping (see Environmental Impacts section below).

## Net impact of preferred policy option

Table 2 summarises the profile of expected benefits under Option 1 relative to Option 0 (Do Nothing). The net present value (NPV) is calculated over a five year period from the expected time of repeal (2014-2018) but with the current year (2013) as the base year. A five year period has been used as a comparable period to that for which the SWMP Regulations have been in place.

*Table 2: Estimated Business Administration Savings of Option 1*

Business Administration Savings	2014	2015	2016	2017	2018
Maximum potential annual impact	£ 6,100,433	£ 6,277,134	£ 6,448,883	£ 6,621,508	£ 6,791,373
Admin cost efficiency factor	70%	70%	70%	70%	70%
% would continue to use SWMPs	76%	76%	76%	76%	76%
% would stop using SWMPs	24%	24%	24%	24%	24%
Total business administration savings	£ 1,019,977	£ 1,049,521	£ 1,078,237	£ 1,107,099	£ 1,135,500
				5 Year Total	£ 5,390,334
				Annual Average	£ 1,078,067
				NPV	£ 4,858,509

The high and low scenarios are detailed in Tables 6 and 7 in Annex 1.

## Competition Assessment

The construction sector is composed of a large number of firms, none of which possesses more than a 2% overall share of the market. So there are no dominant firms on which the repeal of SWMPs might significantly alter competition within the industry. Repealing SWMPs is likely to have a more significant impact on companies that find the administrative costs of SWMPs onerous relative to the benefits achieved, which may be more likely to be smaller companies. However, this is neither likely to result in firms leaving the market nor will it discourage new firms from entering the market. Placing a requirement to implement a SWMP might have encouraged innovation within the industry, such as developing new methods for recovering aggregates, but has not yet significantly affected methods of construction.

Although this measure primarily affects the construction industry, it may in turn impact on the materials suppliers and property sales markets. However, since the expected impact is relatively small this is unlikely to be significant.

So the repeal of SWMPs, whilst potentially slowing innovation in some areas and increasing costs of waste and waste management on sites, is unlikely to have any significant effect on competition within the construction market.

Although the SWMP Regulations currently only apply in England, similar proposals are being considered in both Scotland and Wales. Scottish Planning Policy SPP10 supports the use of SWMPs on a voluntary basis and currently states that: 'Planning authorities should consider requiring the preparation of SWMPs as a condition of planning permission in order to manage waste on site. The Welsh Government is currently consulting on the introduction of SWMP Regulations in Wales. In Northern Ireland, sustainable construction guidance for public sector contracts issued by the Central Procurement Directorate in February 2006 requires SWMPs for all projects over £200k. The Northern Ireland Waste Management Strategy 2006-2020 published by the Department for the Environment notes that this guidance is equally applicable to private sector developments and announces the Department's intention to consult on proposals for a statutory requirement to prepare SWMPs. It is not expected that these proposals

will put construction projects in England at a disadvantage. Any English project that finds SWMPs a competitive advantage may continue to use them in the absence of regulation.

## **Costs and Benefits for Regulators**

### **Costs and benefits to Local Authorities**

The 2008 IA for SWMP Regulations estimated a small expected cost to local authorities (LAs), which may need to regulate and enforce SWMPs. It was expected that this may be offset by a decrease in construction fly-tipping incidents. However the regulations ensured that there was a power, not a duty to enforce SWMPs. Since the cost savings were supposed to be after the first year, many councils couldn't find the funding for the first year's enforcement. To date no court proceedings have been brought as a result of the SWMPs, and only a small number of fixed-penalty notices have been issued. As mentioned earlier in the document, fly-tipping of construction waste has stayed roughly similar as a proportion of total fly-tipping, so the savings councils are making in fly-tipping costs are assumed not to be due to the regulations and cannot be seen as a legitimate source of funding for enforcement. Therefore, it is assumed that the impact of repealing SWMPs on LAs would not be significant and, accordingly, it has not been monetised.

### **Costs and benefits to the Environment Agency**

It was anticipated that the majority of the day-to-day regulatory workload would be a matter for the local authorities, so the cost of regulation for the Environment Agency should have been less significant. The Agency is called into play where more significant waste offences are suspected, although it is for the Agency to determine their level of involvement in taking prosecutions.

Regulation of SWMPs has not been a priority for the Environment Agency. Both the Environment Agency and local authorities were designated as regulatory/enforcing bodies for the regulations. Additional funding was not provided for this new duty and the Environment Agency presence on construction and demolition in general sites is minimal. The Agency has taken no enforcement action for offences in relation to the site waste management regulations. Where the Agency has requested sight of SWMP's this has normally been as a result of responding to other issues at the site, such as a complaint about smoke or dust, or a pollution incident. In these cases enforcement action would be targeted at the more serious offence, such as Duty of Care. Guidance to Environment Agency staff states that most SWMP offences should receive no more than a warning. Data on the number of times a SWMP has been requested or questioned is not available.

### **Environmental Impacts**

In terms of wider environmental benefits, the main expected impact of introducing the regulation was a reduction in the illegal disposal of construction waste, increasing the quality of the local environment and generating associated improvements in public perception, health, civic pride and inward investment. Wildlife habitats that would otherwise be adversely affected by illegal waste disposal would also have benefited. The repeal of the regulations should not significantly affect the status quo as it has not had a demonstrable effect on fly tipping on construction waste as a proportion of all waste streams, which has remained fairly constant (see Table 3). This suggests that some unidentified factor has affected the level of overall fly-tipping; this factor cannot be the implementation of SWMPs since the regulations do not apply to all types of waste. Therefore, it is assumed that specific regulations focused on construction, such as the SWMP Regulations, have not had a significant effect on illegal fly tipping.

Table 3: Local Authority Fly-tipping incidents in England (Environment Agency Fly capture data)

Country	Year	Total Incidents	Constr / Demol / Excav Incidents	as a percentage
England	2007	1,630,776	93,053	5.71
England	2008	1,185,077	63,000	5.32
England	2009	992,445	55,428	5.58
England	2010	849,001	51,291	6.04
England	2011	771,243	46,109	5.97
England	2012	653,521	37,952	5.8

In addition, further work is now being carried out to tackle waste crime such as fly-tipping. Defra is working with the court authorities 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 Defra-chaired 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 to pilot some of the best practice options set out in the *Framework*.

### Social Impacts

A key social aspect that SWMP regulation intended to address was health and safety in the construction industry. While there was some potential for improvement as indicated in the original Impact Assessment for the SWMP Regulations, there is no evidence to suggest that SWMPs have had any effect on health and safety on construction sites.

Repealing SWMPs could potentially affect the value of new buildings as the desirability of sustainable construction methodology could command a premium price tag. The cost of construction may increase through less efficient use of resources; however, there is no empirical evidence to support this supposition and, compared to the influence of other factors on property prices, this impact is likely to be negligible. More generally, SWMPs should not affect the quality or the availability of goods and services.

### Other Impacts

#### Health impact assessment

As mentioned above under Social Impacts, there is no evidence to suggest SWMPs have had any effect on health on construction sites, and the prior discussion on environmental impacts suggests there are unlikely to be any environmental health impacts.

### **Race equality assessment**

There are no race equality impacts associated with this measure.

### **Gender equality assessment**

No gender equality impacts have been identified.

### **Disability equality assessment**

No disability equality impacts have been identified.

### **Rural proofing**

Since the regulations seem to have had little direct impact on fly-tipping it seems reasonable to assume that it will have little impact on rural areas.

## **5. Risks and assumptions**

### **Key Risks**

- There is a commitment under the Revised Waste Framework Directive to recover at least 70% of all construction and demolition waste by 2020. The proposed repeal of SWMPs might lead to a more drastic behaviour change than envisaged and endanger chances of meeting this target. This in turn could lead to an infraction from the European Commission. Although currently we are meeting the target, there are legacy issues from post-war buildings that are coming into the waste stream (materials such as asbestos/blown foams) that will not be so readily recovered, and could threaten the target, however the risk should be seen as low/moderate as current statistics suggest performance for the UK is likely to be around 90%, as the recovery rate for England was 93% (Defra waste statistics).
- There is a risk that positive behaviour change isn't as embedded in business as usual as is believed and bad practice may become standard within the industry, which would see a greater cost to both individuals and businesses, with business overheads increasing due to increased material costs and landfill tax. This would eat into profit margins as well as potentially increasing house prices for consumers. This is not considered likely, as it is in the interests of business to continue actions which lead to resource efficiency and financial savings. An information failure of firms not realising the benefits of efficient waste management is less likely to resurface following several years of being required to perform SWMPs. However, the response from the consultation suggests that at least 73% of companies are likely to continue using SWMPs, so this does not appear to be a significant risk.

- There is a risk that the repeal of the regulations may send out a message that the government is not committed to resource efficiency and could lead to a loss of momentum. However, resource efficiency has been highlighted as a key area in the recent Industrial Strategy for Construction, produced by BIS. In addition WRAP is working with BIS to develop a resource efficiency voluntary agreement with key companies with the industry and have developed Resource Efficiency Action Plans (REAPs) with the industry for key materials within the sector.

## Key Assumptions

- It is assumed that the administrative cost impact previously estimated for the implementation of SWMP regulations in 2008 is a suitable estimate for the initial effect of SWMPs on businesses. Following the consultation carried out in summer 2013, there is no reason to believe this estimate is not legitimate, or that there is any superior evidence to use in its place. The consultation asked whether stakeholders agreed with the identified impacts. The majority of respondents did agree with the estimated impacts, and of those that disagreed the reasons for this tended to focus on the fact that savings would be overstated if it was not recognised that many businesses would continue to use the plans (which is now accounted for in the above analysis).
- It is assumed that this impact varies by year in line with growth in the gross value added (GVA) of the construction industry. The relationship between GVA and administrative practices may not be so direct; however, it is thought that this is the closest available proxy.
- It has been assumed that the costs of administrative procedures associated with SWMPs reduce over time as businesses become more efficient at conducting them, but that this happens to a lesser extent for those businesses which would choose not to voluntarily implement SWMPs.

## 6. Direct costs and benefits to business

In line with RPC guidance the equivalent annual net cost to business (EANCB) is calculated based on the direct costs and benefits to business only. As mentioned above, an assessment period of five years has been used in line with the current duration of the regulations. Administrative costs are taken as direct first-order impacts; any implementation costs and associated financial benefits would be second-order impacts. Therefore, the **average annual direct net cost to business of Option 1 is -£1.1m (i.e. a benefit)**.

**The Equivalent Annual Net Cost to Business (EANCB) calculated according to RPC guidance (see Table 4) produces a figure of:**

**-£0.9m.**

*Table 4: Calculating the EANCB of Option 1*

EANCB: Option 1										
	Administration costs to businesses: -£									
	2010	2011	2012	2013	2014	2015	2016	2017	2018	
					931,426	958,405	984,628	1,010,984	1,036,920	
Discount factor:	1	0.9662	0.9335	0.9019	0.8714	0.842	0.8135	0.786	0.7594	
					811,644	806,977	800,995	794,634	787,437	
										NPV £ 4,001,686
Price base year: 2009										Annuity rate 4.6731
PV Base year: 2010										<b>EANCB -£ 856,328</b>

## 7. Wider impacts

Wider impacts may include a negative impact on consultants that specialise in the practice of Site Waste Management Plans. Since there is no regulatory requirement construction companies will be less likely to pay for training. However, SWMP consultancy is unlikely to constitute the full range of services provided by any business, so this impact may not be significant. Parts of the industry may become more efficient as they no longer have to comply with the more onerous parts of the regulations and may use them only where there is a clear business need.

## **8. One In-Two Out**

This measure is classed as an OUT as it is removing the regulatory impact of the mandatory requirement to produce a SWMP, by the repealing of SWMP Regulations. This measure is in scope of One In Two Out (OITO). OITO applies to all changes in, or introduction/removal/expiry of, measures that require clearance from the Reducing Regulation Committee (RRC). This is subject to applicable out-of-scope exemptions, which include: Measures that are not in scope for RRC clearance, New regulatory proposals from national regulators that are not statutory in nature, measures where impacts on business are purely indirect, EU measures or International agreements and obligations and Civil emergencies regulation etc. Clearance from RRC for this measure was given at the consultation stage and further policy clearance was not required following consultation as the policy did not substantively change.



## Annex 1 – Sensitivity Analysis

Table 6:

<b>Low: Business Administration Savings</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Maximum potential annual impact	£ 6,100,433	£ 6,277,134	£ 6,448,883	£ 6,621,508	£ 6,791,373
Admin cost efficiency factor	70%	65%	60%	60%	60%
% would continue to use SWMPs	80%	80%	80%	80%	80%
% would stop using SWMPs	20%	20%	20%	20%	20%
Total business administration savings	£ 870,380	£ 831,620	£ 788,653	£ 809,764	£ 830,537
				5 Year Total	£ 4,130,955
				Annual Average	£ 826,191
				NPV	£ 3,733,506

Table 7:

<b>High: Business Administration Savings</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Maximum potential annual impact	£ 6,100,433	£ 6,277,134	£ 6,448,883	£ 6,621,508	£ 6,791,373
Admin cost efficiency factor	100%	100%	100%	100%	100%
% would continue to use SWMPs	73%	73%	73%	73%	73%
% would stop using SWMPs	27%	27%	27%	27%	27%
Total business administration savings	£ 1,670,819	£ 1,719,215	£ 1,766,255	£ 1,813,534	£ 1,860,058
				5 Year Total	£ 8,829,881
				Annual Average	£ 1,765,976
				NPV	£ 7,958,700

Table 8: Isolated impact of assumptions on NPV and EANCB

Admin cost efficiency factor				
	Low	Central	High	
NPV	£ 4,375,202	£ 4,858,509	£ 6,940,727	
EANCB	-£ 771,142	-£ 856,328	-£ 1,223,325	
% would stop using SWMPs				
	Low	Central	High	
NPV	£ 4,145,927	£ 4,858,509	£ 5,571,090	
EANCB	-£ 730,733	-£ 856,328	-£ 981,922	

## Annex 2 – References

No.	Legislation or publication
1	Defra Construction and Demolition Statistics ( <a href="http://www.defra.gov.uk/statistics/environment/waste/wrfq09-condem/">http://www.defra.gov.uk/statistics/environment/waste/wrfq09-condem/</a> ) and Oxford Economics Sector GVA estimates].
2	Local Authority Implementation of Site Waste Management Plans Regulations 2008 <a href="http://www.wrap.org.uk/sites/files/wrap/Local%20Authority%20Implementation%20of%20Site%20Waste%20Management%20Plan%20Regulations%202008.pdf">http://www.wrap.org.uk/sites/files/wrap/Local%20Authority%20Implementation%20of%20Site%20Waste%20Management%20Plan%20Regulations%202008.pdf</a>
3	Survey of Three Stakeholder Groups on Site Waste Management Plans <a href="http://www.wrap.org.uk/sites/files/wrap/SWMP-Stakeholder-Survey1.pdf">http://www.wrap.org.uk/sites/files/wrap/SWMP-Stakeholder-Survey1.pdf</a>
4	Site Waste Management Plans South-East trial
5	SECBE Survey report
6	Analysis of BRE Smartwaste data
7	Site Waste Management Plans Impact Survey 2009 <a href="http://www.wrap.org.uk/sites/files/wrap/SWMP%20Impacts%20Survey%20Final%20Report.pdf">http://www.wrap.org.uk/sites/files/wrap/SWMP%20Impacts%20Survey%20Final%20Report.pdf</a>
8	Site Waste Management Plans Impact Survey 2011
9	Environment Agency flycapture data
10	Assessing the costs and benefits of waste in construction
11	Netregs SME survey
12	Reducing waste in smaller construction and refurbishment projects and programmes of minor works <a href="http://www.wrap.org.uk/sites/files/wrap/Reducing%20waste%20in%20smaller%20construction%20and%20refurbishment%20projects%20and%20programmes%20of%20minor%20works.pdf">http://www.wrap.org.uk/sites/files/wrap/Reducing%20waste%20in%20smaller%20construction%20and%20refurbishment%20projects%20and%20programmes%20of%20minor%20works.pdf</a>
13	Original Defra Impact Assessment
14	Knox and Wells (Case Study)
15	SECBE Survey-Site Waste Management Plans-effective implementation?
16	Minutes of RTC meeting
17	Brighton Site Waste Management Plan Enforcement study.
18	Wanlip Site Waste Management Plan case study.
19	Defra Consultation outcome – Proposed repeal of construction Site Waste Management Plan Regulations (2008) – Summary of responses <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237398/site-waste-manage-consult-sum-resp-20130830.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237398/site-waste-manage-consult-sum-resp-20130830.pdf</a>
20	Waste (Wales) Measure 2010 Site Waste Management Plans Impact Assessment <a href="http://wales.gov.uk/docs/desh/consultation/130131draft-site-waste-management-plan-impact-en.pdf">http://wales.gov.uk/docs/desh/consultation/130131draft-site-waste-management-plan-impact-en.pdf</a>

Annex 3 – Standard Cost Model Calculations (originally presented as Annex D to the 2008 Impact Assessment of Site Waste Management Plans)

IO No.	IO Description	IO type	Origin classification (A/B/C)	Population metric	Population 'P'	Internal time (hours) 'T'	Labour rate (£/hr) 'P'	Internal cost (£) 'TxP'	Overhead Rate of 30%	Total Internal cost (£)	External cost (£)	Total Admin Unit Costs (£)	Total Costs (£000)	BAU proportion	Net Total Costs (ex BAU) (£000)
		Column 1	Column 2	Col 3	Col 4	Col 5	Col 6	Col 7 = 5x6		Col 8	Col 9	Col 10=8+9	Col 11=3x10	Col 12	Col 13=11-12
1	Basic level - initial drafting of the plan to include: details of the project and responsibilities, statement on waste minimisation, description of each waste type and how it will be managed, declarations; estimating and recording waste quantities	5	C	1	4,108.5	1.5	46.0	69.1	20.7	89.8		89.8	368.9	60%	147.5
2	Basic level - recording the waste types produced, identity of the person removing the waste and the site where the waste is taken, each time waste is removed	5	C	1	4,108.5	1.0	46.0	46.0	13.8	59.9		59.9	245.9	60%	98.4

3	Basic level - recording confirmation that the plan has been regularly monitored and updated and an explanation of any deviation from the planned arrangements	5	C	1	10,384.0	1.0	46.0	46.0	13.8	59.8		59.8	621.0	40%	372.6
4	High level - initial drafting of the plan to include: details of the project and responsibilities, statement on waste minimisation, description of each waste type and how it will be managed, declarations; estimating and recording waste quantities	5	C	1	10,384.0	3.0	46.0	138.0	41.4	179.4		179.4	1,862.9	60%	745.2
5	High level - recording the identity of the person removing the waste, the waste carrier registration number and copies of, or reference to the waste transfer note, each time waste is removed	11	C	1	10,384.0	4.0	46.0	184.0	55.2	239.2		239.2	2,483.9	60%	993.5

6	High level - recording the different types and quantities of waste generated and the waste management solution for each at least every 6 months, and producing a further plan if necessary	5	C	1	10,384.0	6.0	46.0	276.0	82.8	358.8		358.8	3,725.8	50%	1,862.9
7	High level - recording confirmation that plan has been regularly monitored and updated and an explanation of any deviation from the planned arrangements	5	C	1	10,384.0	1.0	46.0	46.0	13.8	59.8		59.8	621.0	40%	372.6
8	High level - comparing the estimated versus actual waste figures and recording the cost savings achieved	5	C	1	10,384.0	1.5	46.0	69.0	20.7	89.7		89.7	931.4	50%	465.7
<b>Total</b>															<b>5,058.4</b>