

Paragraph 8 Exemption: Storage and use of sewage sludge

1 INTRODUCTION

This document provides guidance, definitions, operational policy and strategy with regard to registering a paragraph 8 exemption to store sludge on land and to treat non-agricultural land with sludge. It will be updated as the need arises.

2 SEPA'S OPERATIONAL POLICY CONCERNING PARAGRAPH 8 EXEMPTIONS.

2.1 What activities does a Paragraph 8 exemption allow?

The application of sludge to agricultural land is regulated by the [Sludge \(Use in Agriculture\) Regulations 1989](#) ("the 1989 Regulations"). Paragraph 8(1) allows the secure storage of sludge at the place it is to be used but only if (1) it is to be used in accordance with the 1989 Regulations. "Use" means spreading on the soil or any other application on or in the soil. Or (2) it is to be used for land treatment in reliance upon the exemption conferred by paragraph 8(2).

Paragraph (2) allows the treatment with sludge of land which is not agricultural land within the meaning of the 1989 Regulations if the treatment –

- Results in ecological improvement or enhanced growth of non-food crops, and
- it does not cause the concentration in the soil of any of the elements listed in column 1 of the soil table set out in Schedule 2 to the 1989 Regulations to exceed the limit specified in the corresponding entry in column 2 of the table.

Note - Sludge may also be applied to non-agricultural land as a paragraph 9 activity.

2.2 How does WML Para 8(1) interact with Controlled Activity Regulations GBR 18?

Where sewage sludge is being stored in accordance with, paragraph 8(1) of the Waste Management Licensing (Scotland) Regulations 2011 ("WMLR", the activity is exempt from the requirement to hold a waste management licence (WML). The exempt storage activity is by virtue of Regulation 18 of the WMLR deemed to be authorised under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 Controlled Activity Regulations (CAR) for the purposes of any prohibition under Regulation 4 of CAR.. In short, where the requirements of the WML exemption are met, the sewage sludge storage requirements of CAR GBR 18 do not apply.

2.3 What are the additional requirements if the site is within a Nitrate Vulnerable Zone ("NVZ")

The NVZ requirements for sewage sludge (and other organic manures) that are stored or stacked in a freestanding stockpile in a field are:

- 2.3.1: The site of a previous field stockpile cannot be reused within 24 months of the previous site being cleared
- 2.3.2: Field stockpiles must not be located on land that slopes down toward a body of surface water and has a slope of 12 degrees or at any location where there is a significant risk of nitrogen from the field stockpile entering a body of surface water.

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- 2.3.3: Field stockpiles must be identified on the NVZ risk assessment map, and must not be located in an area identified as high risk.

2.4 What is sludge?

"Sludge" is defined in the 1989 Regulations as residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters. No other wastes may be used under this exemption.

2.5 What are the requirement on the storage of sludge under Paragraph 8?

The sludge can only be stored at the place where it is to be used in accordance with the 1989 Regulations. It must be stored in a secure container or lagoon or, in the case of dewatered sludge, in a secure place.

In order to protect the water environment the sludge must be stored not be less than:

- 10 metres from any inland or coastal waters;
- 50 metres from any well, borehole or similar work sunk into underground strata for the purpose of any water supply other than a domestic water supply; and
- 250 metres from any well, borehole or similar work sunk into underground strata for the purpose of a domestic water supply.

Sludge should not be stored for longer than 6 months.

No sludge should be stored to the extent that the volume stored exceeds 90% of the available capacity of the container or lagoon.

It is an overarching requirement for this and all other exempt activities that the type and quantity of waste and the method of disposal or recovery must be consistent with ensuring the attainment of the relevant objectives. This means that the waste must be managed without endangering human health and without using processes or methods which could harm the environment and in particular without:

- Risks to water, air, soil, plants or animals; or
- Causing nuisance through noise or odours; or
- Adversely affecting the countryside or places of special interest.

2.6 What is meant by 'place where it is to be used'?

SEPA considers this to mean sludge stored and used on a farm that is under the same ownership and is contiguous. Normally this would be one farm unit under one Integrated Administration and Control System (IACS) code. When sludge is stored on a farm, its use must comply with the 1989 Regulations.

SEPA will accept:

- separate notifications for geographically separate farm units, even if IACS farm holding numbers are the same; or

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- single notifications for multiple farms where the farms neighbour one another and are managed as one unit and which are, as a result of amalgamation of farm businesses, under the same IACS holding number.

2.7 What is meant by ‘secure’?

The WMLR state [Regulation 17 (9)] that a container, lagoon or place is secure if all reasonable precautions are taken to ensure that the sludge cannot escape from it and members of the public are unable to gain access to the sludge. It is good practice to ensure that livestock are also unable to access the waste.

Provided it is stored in a secure place dewatered sludge does not need to be stored in a container or lagoon. A dewatered sludge has had liquid removed from it and is capable of being stacked in a free standing stockpile without slumping during storage. Typically, sludge that consists of at least 20% dry material meets this criteria.

2.8 What are reasonable precautions?

The specifics and detail of what precautions should reasonably be taken to prevent the escape of sludge depends on the properties of both the sludge and the site, their interaction, and the environmental risk.

SEPA considers that taking reasonable precautions requires operators to:

- (1) adequately risk assess storage sites prior to storage,
- (2) identify an appropriate inspection frequency and carry out inspections as necessary during sludge storage, and
- (3) implement mitigation measures, as appropriate, to address risks that are identified during inspections.

2.8.1 Storage site selection- reasonable precautions

As guidance, SEPA recommends that your selection procedure to determine whether a storage site is suitable includes full consideration of all the following factors:

- 2.8.1.1: whether the sludge is capable of being stacked in a free standing stockpile without slumping during storage
- 2.8.1.2: whether the sludge is solid enough to be stored in in a free draining stockpile and unlikely to allow free drainage from within the stacked material. A visual assessment should be carried out to confirm stacking without slumping.
- 2.8.1.3: the sludge properties including quantity, dry matter, treatment standard, and content of volatiles
- 2.8.1.4: the most prevalent rainfall pattern and prevailing wind direction
- 2.8.1.5: method, type of duration of sludge storage
- 2.8.1.6: influence of site properties on surface water and groundwater pollution risks. This includes consideration of soil type, structure and recent management, presence of waterlogging, field drainage and slope of site.
- 2.8.1.7: distance of storage area from water (with particular reference to the minimum distances specified above).

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- 2.8.1.8: precautions that will be taken to ensure that the sludge cannot escape from storage.
- 2.8.1.9: whether the site is within a designated NVZ) and is regulated by The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008.
- 2.8.1.10: risk of causing public nuisance through odours including consideration of distance from sensitive receptors

SEPA recommends that stockpiles should not be located:

- 2.8.1.11: on excessively wet soils including areas at high risk of flooding,
- 2.8.1.12: where very low soil infiltration rates regularly lead to standing water or excessive runoff after high rainfall events.
- 2.8.1.13: on soils with excessively high infiltration rates (such as gravels or recently drained and subsoiled soils).

SEPA recommends that stockpiles should be placed on level or near level land, unless it is ensured that any run-off is intercepted by means of a sufficient buffer zone to prevent it from entering any watercourse towards which the land slopes.

2.8.2 Stockpile inspection - reasonable precautions

As guidance, SEPA recommend that your stockpile inspection programme identifies:

- 2.8.2.1: any risks from sludge storage to water, air, soil, plants or animals
- 2.8.2.2: any risks of causing a public nuisance, e.g. through noise, odours or mud on the road. SEPA will report any cases of significant mud on roads to the roads dept, and if necessary the police.
- 2.8.2.3: any preventative measures that will be put in place to mitigate any risks identified.
- 2.8.2.4: an appropriate frequency of site inspections taking into account the risks of the material entering the water environment.

Stockpiles should be inspected regularly, particularly after heavy rainfall events, to ensure that runoff controls are compliant.

2.8.3 Mitigation measures – reasonable precautions

As guidance, SEPA recommends that where the risk of harm to the environment or causing nuisance through odour or noise has increased, appropriate mitigation measures are identified and implemented as required.

Examples of changes to the risk level could include:

- 2.8.3.1: Unforeseen conditions (e.g. adverse weather) prevent use as planned and the length of time for which the sludge has been stored is close to the permitted limit of 6 months
- 2.8.3.2: The stockpile condition has deteriorated and it may no longer be regarded as free standing

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- 2.8.3.3: A previously unknown water interface becomes known (source or receptor) closer to the stockpile than the specified limits
- 2.8.3.4: Insufficient quantity alters the intent to utilise the stockpile within 6 months,

SEPA would expect to be notified promptly about any change in risk and proposed mitigation measures. If the mitigation is to move a stockpile to a new location a new exemption would be required. If the stockpile is to be left in situ, but at an escalated risk, SEPA would expect the assessment of risks to be submitted to demonstrate that alternatives have been considered. Estimated time scales for mitigation measures to be implemented would also be expected. SEPA reserves the right to take appropriate enforcement action if the conditions applicable to the exempt activity, including time limits on storage, are not met.

2.9 How do I register a paragraph 8 exempt activity?

To register a **Paragraph 8(1)** exemption, the establishment or undertaking must notify SEPA of:

- your name and address;
- the activity which constitutes the exempt activity; and
- the place where the activity is carried on.

Simple exemption registration forms are available from the SEPA website (www.sepa.org.uk) or from any local SEPA office. Paragraph 8(1) exemptions do not have to be renewed and there is no fee.

To register a **Paragraph 8(2)** exemption, the establishment or undertaking must provide the following:

- At least 21 days written notice of the date on which the exempt activity is first to be carried on. Paragraph specific forms are available from the SEPA website (www.sepa.org.uk) or from any local SEPA office.
- A plan of each place at which the exempt activity will be carried on showing the boundary of that place and the locations within that place at which the spreading activity is to be carried on and where the associated storage will take place. You are required to mark on the locations of any buildings, public rights of way, abstraction points or surface waters above Ordnance Datum which are situated within 400m of the boundary of the spreading site.
- A document (described as a certificate in the WMLR) describing how the treatment will result in ecological improvement or enhanced growth of non-food crops. This should identify individual species or habitat type and discuss how they will benefit from the treatment. The statement shall be prepared by or based on advice from a person who, in the opinion of SEPA, has appropriate technical or professional expertise. The document should state this experience and be signed and dated by that person. If you require information on this requirement see Annex 2 or contact your local SEPA office.

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- The appropriate notification fee (cheques made payable to “Scottish Environment Protection Agency”). The charging scheme may be found on SEPA’s website at www.sepa.org.uk or obtained by contacting your local SEPA office.

A Paragraph 8(2) exemption is valid for 12 months unless the registration is renewed. To renew a registered exemption, where there are no changes to the activity being carried out, the following documents must be provided:

- A renewal form (available from the SEPA website (www.sepa.org.uk) or from any local SEPA office) submitted at least 21 days before the exempt activity is to expire. Paragraph specific forms are available from the SEPA website (www.sepa.org.uk) or from any local SEPA office.
- The appropriate notification fee (cheques made payable to “Scottish Environment Protection Agency”). Found on www.sepa.org.uk or obtained by contacting your local SEPA office.

Where minor changes are identified at the renewal stage these should be highlighted in an additional document. It is good practice to discuss this with your local SEPA office prior to the 21 day notification period commencing to ensure that SEPA consider them to be minor.

2.10 What happens if a notification is taken off the public register?

SEPA has the power to remove a registration of an exempt activity from the register. It is an offence for an establishment or undertaking to carry on an exempt activity without being registered; the maximum fine is £5000.

If you fail to comply with the conditions and limitations applicable to the exempt activity then the activity is no longer exempt and you may be committing an offence under section 33 of the Environmental Protection Act 1990 as a result of the keeping, treating or disposal of controlled waste without a waste management licence.

2.11 How often will a paragraph 8 exemption be inspected?

The WMLR require that:

“An initial inspection shall be carried out at the time when the exempt activity commences. Thereafter, periodic inspections shall be carried out at intervals not exceeding 12 months.” In practice this means SEPA will carry out one inspection when registered and only inspect again upon renewal or if there is a complaint or incident.

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2.12 What changes can I make to the land notified at renewal time?

You cannot add additional land (not previously registered under this exemption) at renewal time. You may however reduce the area registered.

3 Do I need to comply with the Duty of Care obligations for waste?

Yes. The Duty of Care obligations for waste are laid out in Section 34 of the Environmental Protection Act 2019. It lays out a number of duties for those dealing with waste. For example it requires producers and managers of waste to store waste securely, to only give it to appropriately authorised persons, and to ensure it is accompanied by an accurate description to enable its safe recovery or disposal without harming the environment. You can find more information in the Scottish Government's "Duty of Care – A Code of Practice" guidance document here: <https://www2.gov.scot/resource/0040/00404095.pdf>.

4 OTHER SOURCES OF INFORMATION AND GUIDANCE

- The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008.
- The Sludge (Use in Agriculture) Regulations 1989, Statutory Instrument 1989 No. 1263
- The Waste Management Licensing (Scotland) Regulations 2011), Statutory Instrument 2011 No 228