

MANAGEMENT OF FORESTRY WASTE.

Introduction.

This document provides guidance on the Management of Forestry Waste, in particular, the circumstances in which SEPA would expect waste legislation to apply to materials arising from forestry operations. It updates the original SEPA Waste Advisory Note (WAN) 002 (Version 2) of 01 July 2002, which dealt with forestry brash and lop/top from traditional commercial felling operations.

This guidance does not deal with specific plant health disease outbreaks such as *Chalara fraxinea* which affects ash trees. In such cases, specific advice should be sought from SEPA's National Operations Waste Unit.

Context.

Forestry operations have always had the potential to generate forestry wastes and SEPA has provided guidance and advice on this issue since 2000.

Recently, as a statutory consultee in the development planning system and as Scotland's principal waste regulator, SEPA has been consulted on applications and developments for Windfarms and Hydroschemes within forests. Many of these applications and developments involve proposals for large scale felling of timber with the potential to produce waste, as part of the preparatory ground clearance for the construction of windfarms or hydroschemes and the associated tracks, turbine bases, crane pads and borrow pits.

Felling from traditional forestry operations.

Felling from traditional forestry operations is subject to approval by Forestry Commission Scotland; in these situations compliance with the UK Forestry Standard and its associated Environmental Guidelines is invariably required. Commercial felling operations are undertaken with a view to extracting and realising the value of the timber (e.g. as a raw material in production and manufacturing processes or as biomass in energy production). Harvesting of this timber resource can lead to the incidental production of small roundwood, brash and lop/top.

The EU Waste Framework Directive 2008 (2008/98/EC) (WFD) introduced a new exclusion from waste controls, namely "natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy".

It is important to note that the exclusion applies only where the material is to be used, not discarded. If there is no identified use then the material does not fit into this exclusion. However it is equally important to realise that the use of appropriate types and quantities of material for beneficial purposes such as habitat creation/restoration or soil protection, may be wholly justified and appropriate, particularly in the case of brash and lop/top.

An indication of legitimate on-site uses of natural material can be drawn from the UK Forestry Standard and its associated Environmental Guidelines. Compliance with these guidelines would be expected regardless of the material's status.

Felling resulting from construction activities on forestry land

This section of guidance is intended to cover scenarios where felling does not require consent from Forestry Commission Scotland because it is approved through planning permission or other development consents (e.g. in relation to felling to facilitate the construction of a windfarm or hydro scheme). Forestry Commission Scotland remains an important source of advice for such developments with regard to their impact on forests.

Where a market for the timber, small roundwood, brash or lop/top has been identified and secured prior to production then the materials would not be regarded as waste. An example would be to have the timber processed at a sawmill and the small roundwood, brash or lop/top processed in a biomass plant. However SEPA considers it less likely that the exclusion from the scope of the Waste Framework Directive set out in the previous section of this guidance would apply to forestry material at these sites, since the development sites themselves are no longer used for forestry.

If developers have not developed proposals to take the material to market, then the materials may be waste and the following considerations would be relevant:

1. All Waste Producers have a statutory duty to apply the waste hierarchy. SEPA expects to see the principles of waste prevention adopted with strenuous efforts taken to avoid waste production where possible. Disposal of timber residues as waste in or on land requires a landfill permit and should be the option of last resort.

2. Where felling is unavoidable, and developers have failed to consider complementary proposals to realise the value of the timber in conventional commercial forestry markets at the development scoping and design stage, they should seek to minimise waste production, secure the most sustainable waste management option and avoid any disposal of waste material on the development site.

3. Where felling is unavoidable and the developer proposes to reuse felled timber on the development site, then provided the use is genuine, the material used is suitable for that use (e.g. the use of timbers in the construction of a floating road), and the quantities used are appropriate then the timber is unlikely to be regarded as waste. However, care must be taken to avoid disposal of waste materials on-site through sham uses. For example if the material is put to uses which are not genuine or uses for which it is not suitable, or if it is used in excessive quantities or depths then SEPA's position is that it is likely to be waste and its use regulated as a disposal activity. It is therefore critical that developers engage with SEPA at the earliest possible stage to discuss their proposals for onsite uses to avoid any conflict with the requirements of waste regulations.

4. Where felling is unavoidable, and materials remain after the application of appropriate on-site uses, these materials, although waste, might find alternative genuine and suitable uses off-site. Such uses may be regarded as waste activities and may require permission from SEPA so again it is critical that developers engage with SEPA at the earliest possible stage to discuss their proposals to avoid any conflict with the applicable regulatory requirements. In some cases developers or the end users of the material might be able to register an exemption from the requirement to hold a waste management licence. Such exemptions are only available for recovery operations, so the use must be genuine, the material must be suitable for that use, and the quantities used must be appropriate to the activity.

Exemptions from licensing are set out in Schedule 1 to the Waste Management Licensing (Scotland) Regulations 2011. Those relevant to forestry waste include:-

Paragraph 7 – The treatment of land for agricultural benefit or ecological improvement.

This exemption allows the treatment of land used for agriculture with plant-tissue waste provided that the treatment activity results in benefit to agriculture or ecological improvement. Plant-tissue waste can also be used to treat land which is not used for agriculture but which is a forest,

woodland, park or landscaped area (among others - see paragraph 7 for the full list) provided the treatment results in ecological improvement.

Paragraph 12 – Composting.

This exemption allows composting of biodegradable waste, including wastes from forestry (01-01-07), under certain specific conditions.

Paragraph 13 – Manufacture of specified goods from specified wastes.

This exemption allows the manufacture from wood or bark of timber products.

Paragraph 21 – Chipping etc, waste plant matter.

This exemption allows the chipping of waste plant matter, including wood and bark on any premises for the purposes of recovery or re-use. No more than 1000 tonnes can be dealt with on the premises in any seven day period.

Paragraph 30 – Burning plant tissue waste on land in the open.

This exemption allows the open burning of plant tissue waste on certain types of land, including forest and woodland. The waste must be burned where it is produced and the quantity of waste that can be burnt in any 24 hour period is restricted so it likely that this exemption will have limited application. Ash from the waste burnt under this exemption can be incorporated into the soil at the premises for the benefit of agriculture or ecological improvement.

Regulatory Background.

Section 33 of the Environmental Protection Act 1990 (EPA 1990) prohibits the keeping, treating or disposal of waste without a relevant waste management licence. Schedule 1 of the Waste Management Licensing (Scotland) Regulations 2011 makes provision for specified waste management activities to be exempt from the need to hold a waste management licence, provided they are carried out in accordance with the terms of the exemption and in a manner consistent with ensuring the attainment of the relevant objectives.

The Waste (Scotland) Regulations 2011 amended Section 34 of the EPA 1990 (duty of care) to place a specific duty on any person who produces, keeps or manages (controlled) waste to take all such measures available to them to apply the waste hierarchy in Article 4 (1) of the WFD, that is (a) prevention; (b) preparing for re-use; (c) recycling; (d) other recovery, including energy recovery; and (e) disposal, in a way which delivers the best overall environmental outcome.

Disclaimer

This guidance applies only in Scotland and is based on current understanding. The terms of this guidance may be subject to periodical review and be changed or withdrawn in light of technological developments, regulatory or legislative changes, future government guidance or experience of its use. SEPA reserves its discretion to depart from the position outlined in this guidance and to take appropriate action to avoid any risk of pollution or harm to human health or the environment.