

Regulatory Position Statement 190

The use of manufactured topsoil for recovery operations

If you comply with the requirements below, we will allow the use of up to 1000 tonnes of manufactured topsoil as topsoil at any given site without the need for an environmental permit.

Background

Excavated natural topsoil that requires treatment prior to use and/or cannot be used at the site of production, remains 'waste' until the point at which it is fully recovered.

Naturally-occurring topsoil is the product of dynamic chemical, physical and biological processes acting on weathered mineral matter.

Manufactured topsoil is produced by combining mineral matter and organic matter (and where appropriate, fertiliser and lime) and which provides the same function as topsoil. Where this production involves the use of waste materials the manufactured topsoil is considered a waste and should be coded as 19 12 12 and described as manufactured topsoil.

This regulatory position statement will be reviewed when The Definition of Waste: Development Industry Code of Practice Version 3 is published.

Our approach

The use of waste soil, including manufactured waste topsoil, would normally need to comply with an environmental permit or registered permit exemption.

We will not pursue an application for an environmental permit for the final recovery (beneficial use) of less than 1000 tonnes at any one place of manufactured topsoil (such as for landscaping) provided that:

- The waste is used for the purpose of creating a soil profile on which to establish a vegetative layer.
- The place where it is used is not currently nor is intended to be put into agricultural use.
- The manufactured topsoil is produced in accordance with BS 3882:2015 at a suitably permitted site under a SR2010No11 or SR2010No12 permit, or a suitable bespoke permit.
- The manufactured topsoil has been produced from use of non wastes (including for example PAS100 Quality Protocol compliant compost) and the treatment of the following wastes only:

Table 1 - List of wastes (excludes contaminated materials)

Waste code	Description
01 01 02	Chalk only (clean, naturally occurring stone materials)
01 04 08	Waste chalk other than those mentioned in 01 04 07 (clean, naturally occurring stone materials)
01 04 09	Waste sand and clays (Clean, naturally occurring soil and mineral materials*)
02 01 06	Horse manure only
02 01 99	Spent mushroom compost from the growing of mushrooms only
02 03 99	Soil from cleaning and washing fruit and vegetables only
02 04 01	Soil from cleaning and washing beet

17 05 04	Soil and stones including chalk from Greenfield sites (Clean, naturally occurring topsoil and subsoil*)
20 02 02	Soil and stones (Clean, naturally occurring topsoil and subsoil*)

*Further guidance on Clean, naturally occurring soil can be found in Appendix 2 of the [Definition of Waste: Development Industry Code of Practice Version 2](#)). A Greenfield site is a site upon or within the boundary of which development has never occurred, where development constitutes the erection of permanent structure (including agricultural and forestry buildings) and associated fixed surface infrastructure.

- The producer must be able to demonstrate that the manufactured topsoil supplied complies with BS3882:2015, and is suitable for use for a known purpose. If more manufactured topsoil is used than necessary, or the material is used for something other than the intended purpose, we would consider this to be waste disposal and this RPS would not apply. Further guidance on waste recovery can be found in '[RGN 13: Defining waste recovery - permanent deposit of waste on land](#)'¹ and '[How to comply with your landspreading permit](#)'²
- Manufactured topsoil should be used as a soil substitute for landscaping purposes. Manufactured topsoil must not be used for land treatment activities on notified agricultural land or land intended for agricultural use. Manufactured topsoil should not be supplied for commercial horticultural or home garden use. Guidance on the meaning of soil substitutes and soil conditioners can be found in TGN EPR 8.01 '[How to Comply with your landspreading permit](#)'³.
- Manufactured topsoil should not be used at a depth greater than 300mm.
- The maximum amount of manufactured topsoil that can be used or stored over any 3 year period at any one place is 1000 tonnes. It cannot be stored for longer than 12 months prior to use. The definition of place is defined in position statement '[The meaning of "place" under the new waste exemption system](#)'. Records must be kept to record the amount of material that is received.
- The storage, transfer and transport of the waste should comply with the requirements of the [Duty of Care](#).
- You meet the relevant objectives of the Waste Framework Directive;
 - '... ensuring that waste management is carried out without endangering human health, without harming the environment and in particular:
 - (i) without risk to water, air, soil, plants or animals;*
 - (ii) without causing a nuisance through noise or odours; and
 - (iii) without adversely affecting the countryside or places of special interest.'

* This includes sediment, dust emissions and run off.

Enforcement

In not pursuing an application for a permit, we will not normally take enforcement action unless the activity has caused, or is likely to cause, pollution or harm to health. For a more detailed explanation of this enforcement position, please see our [Enforcement and Sanctions](#) statement.

This regulatory position will be reviewed by April 2017.

MWRP RPS 199 Version: 2 (review date extended by a year).

Issued: April 2016

¹ <https://www.gov.uk/government/publications/rgn-13-defining-waste-recovery-permanent-deposit-of-waste-on-land>

² <https://www.gov.uk/government/publications/landspreading-additional-guidance>

³ <https://www.gov.uk/government/publications/landspreading-additional-guidance>