



Review of changes to Part 2A

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Introduction to Part 2A

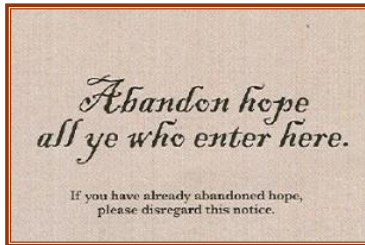
- ⇒ A system for the identification and remediation of land where contamination is causing unacceptable risks to human health or the wider environment
- ⇒ Six current categories of contaminated land:

Significant harm is being caused	Significant possibility of such harm being caused
Pollution of controlled waters is being caused	Or is likely to be caused
Harm is being caused (radioactivity)	Significant possibility of such harm being caused (radioactivity)



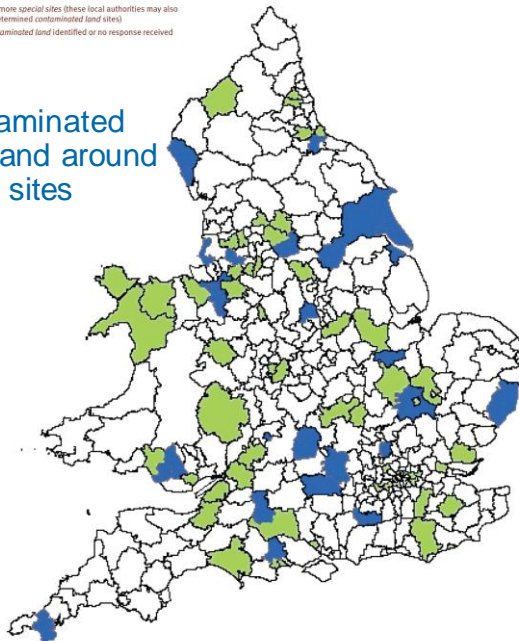
Part 2A introduction (continued)

- ⇒ Indirectly, it helps drive market solutions
- ⇒ Used where nothing would be done without regulatory intervention - an “option of last resort”



800+ contaminated
land sites and around
40 special sites

- One or more contaminated land sites
- One or more special sites (these local authorities may also have determined contaminated land sites)
- No contaminated land identified or no response received



Changes since 2000/01

- ⇒ 2004: Partial implementation of Water Act redefined groundwater. Aligns with Water FD
- ⇒ 2006: Introduction of the radioactive contaminated land regime
- ⇒ 2006: SoS now hears all appeals
- ⇒ 2007: included certain activities, practices or emergencies associated with nuclear sites



Investigating the need for change

- ⇒ Defra held 25+ meetings with around 150 stakeholders from across the sector in 2010
- ⇒ Case law
- ⇒ Operational experiences and difficulties
- ⇒ Our “Modernising Part 2A” project
- ⇒ Water pollution change foreseen in the 2000 statutory guidance:
 - “Government has indicated its intention of reviewing the wording...on this aspect and of seeking amendments”



Defra and Welsh Government's aims

- ⇒ No major changes...more a case of fine-tuning the existing regime
- ⇒ Broad aim - to produce a regime that is clearer, simpler and in line with principles of good regulation
- ⇒ Clarify various aspects of the guidance and the broad outcomes that the regime aims to achieve
- ⇒ Commence section 86 of the Water Act 2003 – the definition of “contaminated land” as it relates to the water pollution



Key elements

- ⇒ Simpler, shorter guidance
- ⇒ Separate guidance on radioactivity
- ⇒ Statement on broad objectives of regime
- ⇒ Expanded sections on risk assessment and sustainability
- ⇒ Definition of background/normal contamination levels
- ⇒ New red-amber-green tests for “significant harm” and “significant possibility of significant harm” (SPOSH) to human health (and significant water pollution)
- ⇒ Clarity on pollution of controlled waters (full commencement of Section 86 of the Water Act 2003)



Significant water pollution

- ⇒ “pollution of controlled waters” means the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter
- ⇒ Section 86 of the Water Act 2003
- ⇒ Significant pollution of controlled waters is being caused
- ⇒ The draft statutory guidance describes what is and is not significant



Consultation proposals

Red	Red/ Amber /Green	Green
⇒ EDR damage	⇒ Significant	⇒ Minor entry
⇒ Drinking water needs treatment	⇒ concentrations at appropriate compliance point	⇒ Not discernable
⇒ statutory surface water EQS		⇒ Authorised discharge
⇒ upward trend in GW		



Significant possibility

- ⇒ SPoSPoCW !
- ⇒ Consultation sets out 2 options:
- ⇒ Option 1 (relatively simple)
 - ⇒ On balance of probability, significant pollution is more likely to occur than not
- ⇒ Option 2 (less simple)
 - ⇒ Understand the possibility of significant pollution, then decide (qualitatively) whether that possibility is significant
 - ⇒ Take into account the estimated likelihood, impact and timescale; costs, benefits and feasibility of remediation; and broad objectives of the regime



What's next?

- ⇒ Defra and WG considering consultation responses
- ⇒ More than 130 received
- ⇒ Redrafting and sign off
- ⇒ Aiming for implementation in October 2011
- ⇒ Supplementary guidance to follow?



Conclusions

- ⇒ Significant pollution change expected for some time – is it that significant?
- ⇒ Aligns better with ‘harm’ under Part 2A
- ⇒ A future Soil Framework Directive?

- ⇒ Change – new Part 2A, new planning system, new technologies, new contaminants



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