



South Lakeland District Council

CONTAMINATED LAND INSPECTION STRATEGY

Part IIA Environmental Protection Act 1990

Revised June 2003



Environmental Protection Group

SOUTH LAKELAND DISTRICT COUNCIL
CONTAMINATED LAND STRATEGY
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1.0 INTRODUCTION

Industrial activities in Britain have led to a substantial legacy of land which is contaminated. It is not known how much land is contaminated. Various estimates have been made, the Environment Agency has estimated that 300,000 hectares of land in the UK may be affected to some extent by industrial or natural contamination.

Section 57 of the Environment Act 1995 amended the Environmental Protection Act 1990 by inserting a new Part IIA which introduces a regulatory regime for the identification and remediation of contaminated land. The responsibility for this new duty rests with Local Authorities.

The Government has set out three main objectives to contaminated land under the new regime. They are:

- a) To identify and remove unacceptable risks to human health and the environment.
- b) To seek to bring damaged land back into beneficial use.
- c) To seek to ensure that the cost burdens faced by individuals, companies and society as a whole are proportionate, manageable and economically sustainable.

These three objectives underlie the "suitable for use" approach to the remediation of contaminated land. The "suitable for use" approach focuses on the risks caused by land contamination. The approach recognises that the risks presented by any given level of contamination will vary greatly according to the use of the land and a wide range of other factors, such as the underlying geology of the site. Risks therefore need to be assessed on a site by site basis.

The new regime provides a new framework for regulatory action, however it is also designed to encourage voluntary remediation of contaminated sites, which the Council will actively pursue.

1.1 General Policy of South Lakeland District Council

1.1.1 General Policy

This strategy sets out South Lakeland District Council's policy for the identification, inspection, assessment and remediation of contaminated land to meet the Council's obligations under Part IIA of the Environmental Protection Act 1990, which came into effect on 1 April 2000.

South Lakeland District Council's vision is to strive to become a modern, inclusive, efficient Council, working within the North West Region, to provide high quality services within an attractive area.

The Council is committed to working with, and on behalf of, the people of South Lakeland to provide sustainable improvements to the quality of life for all.

The Council has six priority themes for developing services. Two of these relate to the concepts of the new regime, they are

- 1) To promote, strengthen and sustain, in partnership with others whenever appropriate, a diverse and prosperous economy.
- 2) To raise the awareness of the public to "Local Agenda 21" and promote the concept of sustainable living.

1.1.2 Enforcement

In relation to contaminated land the Council will promote the concept of voluntary remediation as specified in the legislation. However, where necessary the Council will be prepared to take legal proceedings to enforce the regime following the service of a Remediation Notice.

1.1.3 Land Contamination

At present the Council's only formal strategy to deal with contaminated land is within the South Lakeland Local Plan 2006. This is to enforce Structure Plan Policy 23:

"Policy 23: Development of Unstable or Contaminated Land

Proposals for the development of potentially unstable or contaminated land will normally not be considered without the satisfactory site investigation and appropriate measures to remedy any identified hazards."

1.1.4 Public Access to Information

The Council will comply with the requirements of the Environmental Information Regulations 1992 and any other statutory legislation in relation to public access to information. The regulations entitle the public to gain access to environmental information held by the Government and Local Authorities. The Councils standard fees and charges will be applied for the supply of this information. Information is also provided through the standard land charges search.

1.2 Regulatory Context

The new contaminated land provisions are contained under Part IIA of the Environmental Protection Act 1990. The Environment Act 1995 was the enabling Act, which inserted Part IIA into the Environmental Protection Act. The new regulations came into force on 1 April 2000, giving a joint responsibility to South Lakeland District Council and the Environment Agency.

1.2.1 The Role of South Lakeland District Council

Local Authorities have been given the primary regulatory role under the new regulatory regime, under Part IIA South Lakeland District Council has a duty to:

- (a) cause its areas to be inspected from time to time for the purpose of identifying areas of contaminated land (Section 78B)
- (b) determine whether a particular site is contaminated land as defined by the legislation;
- (c) act as the enforcing authority for all contaminated land which is not designated as a "special site" (the Environment Agency will be the enforcing

- authority for special sites. Special sites are defined in Appendix 1), and to require remediation of the same;
- (d) establish after consultation, the remediation required on areas of contaminated land and to ensure that the remediation is carried out to the necessary standard;
 - (e) determine the appropriate person or persons to bear responsibility for remediation of contaminated land;
 - (f) maintain a public register containing regulatory information in respect of contaminated land.

Each Local Authority has a duty to inspect its area from time to time for the purpose of identifying Contaminated Land, and to determine if any such land is to be designated as a special site. The Local Authority needs to take a strategic approach to the inspection of its area. It is to set out this approach as a written strategy, which is to be published by 30 June 2001.

The inspection strategy must set out how the local authority proposes to implement its inspection duties. By adopting a strategic approach local authorities can identify in a rational ordered and efficient manner the land which merits detailed individual inspection, and identify the most pressing and serious problems first.

1.2.2 *The Role of the Environment Agency*

The Environment Agency has a secondary regulatory role in assisting local authorities, it has four principle roles with respect to contaminated land, they are:

- (a) to assist local authorities in identifying contaminated land, particularly cases where water pollution is involved;
- (b) provide site-specific guidance to local authorities on contaminated land;
- (c) act as the "enforcing authority" for any land designated as a special site;
- (d) publish periodic reports on contaminated land.

1.2.3 The Role of the Enforcing Bodies

Once it has been determined that land is contaminated the enforcing authorities have five main tasks:

- (a) to establish who should bear responsibility for the remediation of the land;
- (b) to give notice to the appropriate owner, occupier, agency, or other body;
- (c) to decide, after consultation, what remediation is required in any individual case and to ensure that such remediation takes place, either through agreement, or by serving a remediation notice if agreement is not possible, or in certain circumstances through carrying out the works themselves;
- (d) where a remediation notice is served, or the authority itself carries out the work, to determine who should bear what proportion of the liability for meeting the costs of the work;
- (e) to record certain prescribed information about their regulatory actions on a public register.

1.2.4 Definition of Contaminated Land

For the purpose of this strategy the definition of contaminated land will be based on the guidance produced by the DETR "Environmental Protection Act 1990: Part IIA Contaminated Land"

Section 78A(2) defines Contaminated Land as

"any land which appears to the local authority in whose area is situated to be in such a condition, by reason of substance in, on or under the land, that

- (a) significant harm is being caused or there is a significant possibility of such harm being caused; or
- (b) pollution of controlled waters is being or is likely to be caused."

Section 78A(5) requires the regulatory authority to act in accordance with guidance issued by the Secretary of State in determining the significance and likelihood of harm.

1.2.5 Pollution Linkages

For land to be classified as Contaminated Land a pollution linkage must be established. A pollutant linkage consists of three parts;

- (i) A source of contamination in, or under the ground
- (ii) A pathway by which the contaminant is causing significant harm (or which presents a significant possibility of such harm being caused)
- (iii) A receptor of a type specified in the regulations

i.e.



Receptors, which are recognised as been potentially sensitive, are:

Human Beings

Property in the form of buildings, including:

- Any structure or erection
- Ancient Monuments

Ecological systems or living organisms forming part of a system within certain protected locations, including:

- Sites of Special Scientific Interest (SSSIs)
- National Nature Reserves
- Marine Nature Reserves
- Areas of Special Protection for Birds
- Special Areas of Conservation (SACs)
- Special Protection Areas (SPAs)
- Candidate SACs and SPAs
- Ramsar sites
- Natures Reserves.

Property in the form of:

- Crops including timber
- Domestic produce
- Livestock
- Other owned or domesticated animals
- Wild animals subject to shooting or fishing rights.

Controlled waters:

- Surface waters (eg rivers, lakes, streams)
- Drinking water abstraction zones
- Source protection zones
- Groundwater – private abstractions
- Groundwater – major aquifers

All three elements of a pollution linkage must be identified before land is designated as contaminated land. More than one pollution linkage may be established on any given piece of land.

1.2.6 Principles of Risk Assessment

The definition of contaminated land is based on the principles of risk assessment. The guidance defines risk as the combination of:

- (a) the probability or frequency of occurrence of a defined hazard (for example exposure to a property of a substance with the potential to cause harm); and
- (b) the magnitude (including the seriousness) of the consequences.

This Strategy follows the established approaches to risk assessment, including the concept of contaminant – pathway – receptor (or source – pathway – target).

1.2.7 Requirements for a Strategic Approach

South Lakeland District Council is required to adopt a strategic approach to the identification of land, which merits more detailed individual inspection. This approach should:

- (a) be rational, ordered and efficient;
- (b) be proportionate to the seriousness of any actual or potential risk;
- (c) seek to ensure that the most pressing and serious problems are located first;
- (d) ensure that resources are concentrated on investigating in areas where the authority is most likely to identify contaminated land; and
- (e) ensure that the authority efficiently identifies requirements for the detailed inspection of particular areas of land.

1.3 Development of the Strategy

This strategy has being developed to meet South Lakeland District Councils statutory inspection duties under the new contaminated land regime.

The Councils overall approach in developing its inspection strategy was to follow the guidance set out in the DETR circular 02/2000 and the Inspection Strategies Advice Note issued by the DETR and the Environment Agency.

The strategy has been written and developed by the Environmental Protection Group of the Council. Liaisons have been made with other Groups within the Council.

External liaison with other local authorities and the Environment Agency have been established through a County Contaminated Land Group. This is to ensure a consistent approach throughout the County.

1.4 Objectives of the Strategy Document

To meet the requirements of the statutory guidance to produce and publish a Strategy by 30 June 2001;

To ensure that a strategic approach is followed as set out in paragraph B9 of the statutory guidance;

To inform all stakeholders of the Authority's intentions;

To provide information for the Environment Agency for its report on contaminated land.

2 CHARACTERISTICS OF THE LOCAL AREA

2.1 Geographical Location

South Lakeland is a District Council situated in the North West of England. The district itself covers much of South Cumbria, and is one of the largest Shire districts covering an area of 600 square miles. It embraces a wide variety of landscapes. Including mountains, fells, lakes, tarns, valleys, pastureland, estuary and coastline. Large parts of the District fall within two National Parks, the Lake District National Park, and the Yorkshire Dales National Park.

2.2 Population Distribution

The resident population of the District is about 102,000, this is however dramatically increased by visitors to the area from all over Britain, and abroad. The principle centres of population are Kendal, Ulverston, Windermere, and Grange-over-Sands.

2.3 Brief History of South Lakeland

Farming has traditionally been and remains one of the principle industries in much of South Lakeland. However abundant natural resources such as slate, limestone, iron ore, coppice wood, and water power were essential ingredients for the historic industrial growth of the South Lakeland communities.

The 19th century is regarded as the age of the steam engine, however in South Lakeland water power played an important role in the location of industry. Infact the abundant supply of water gave power to such industries as the bobbin industry, sawmills, the manufacture of gunpowder, and the manufacture of woollen goods.

The production of charcoal from coppice woods also supported other industries such as the iron ore industry. Backbarrow Furnace continued to smelt iron using charcoal until 1921.

The leather trade, and Kendal's famously named shoe company K Shoes (now C & J Clarks) which is still an important local industry, resulted in many leather tanneries throughout the district.

Quarrying and mining have also long been a part of the culture and landscape of South Lakeland. Mining has now ceased in the district however limestone, slate, and gritstone quarries still scatter the landscape.

2.4 Current Land Use Characteristics

Whilst tourism is an ever expanding industry, agriculture still dominates much of the landscape. Two major employers are C & J Clark in Kendal, and Glaxo Smith Kline in Ulverston. There are however numerous specialist industries at these two main centres, both of which have developing industrial estates.

2.5 Authority Owned Land

The Council owns a wide variety of land throughout the District including housing estates, offices, commercial land, parks and open spaces, old landfills and some derelict land.

2.6 Broad Geological and Hydrogeological Characteristics

South Lakeland encompasses rock of diverse age and type. It is situated on the Southern flank of the Lake District dome, the core of which is formed by volcanic and low grade metamorphic rocks of Ordovician age. These are overlain by a wide tract of Silurian rocks (the Windermere Group) comprising of slates and grits. The pre-Carboniferous basement bed from the Lakeland Fells, being generally hard and resistant to erosion. In hydrogeological terms they may be considered to be effectively impermeable, except for some limited groundwater storage and movement. They are classed as non-aquifer.

Younger Carboniferous rocks, represented predominately by thick (Dinantian) limestones are present to the south, overlooking Morecambe Bay. Groundwater movement is by fissure flow. The limestones are often considered as minor aquifers.

Localised deposits of the Namurian (Millstone Grit Series) strata of the Carboniferous age occur in the south of the district around Grange act as a minor aquifer. Permo-Triassic Sherwood Sandstones in a localised deposit around Grange act as a major aquifer.

2.7 Protected Locations

2.7.1 *Natural Habitats*

South Lakeland has some of the most beautiful and spectacular scenery in Britain. The District falls within two National Parks, Morecambe Bay is classified as a Special Protection Area (SPA). There are 23 Sites of Special Scientific Interest (SSSI) outside the National Parks, 30 Limestone Pavement Orders, 20 Regionally important Geological and Geomorphological Sites, and 206 County Wildlife Site.

2.7.2 *Protected Property*

There are 60 Scheduled Ancient Monument Sites outside the National Parks, including Castles, Bridges and a Roman Fort.

2.8 Water Resource and Protection Issues

Ground water Vulnerability maps for the district will be examined to identify areas which act as major and minor aquifers. Vulnerability depends upon the natural characteristics of a site and is assessed on the physical, chemical and biological properties of the soil and rocks beneath the site which determine the ease with which an unprotected hazard can affect ground water.

The river quality within the District is generally of a Very Good or Good quality. The only watercourse with a bad classification is from Meathop entering Morecambe Bay.

There are approximately 200 licensed surface water abstraction sources, and 134 licensed abstractions from ground water sources within the district. There are also approximately 1200 private water supplies within the district, covering single properties to multiple properties. These private water supplies are sampled by the Council on behalf of the property owners, under the Private Water Supplies Regulations 1991.

2.9 Known Information on Contamination and Redevelopment

As the strategy has developed the Councils knowledge in respect of Brownfield sites has increased. Several sites have now been redeveloped through the planning process, these include petrol stations, gas work sites, gun powder works, and old shoe makers sites. The

South Lakeland District Council's Contaminated Land Strategy

Council has also remediated one site since the strategy was published, this was determined as contaminated under the regime.

The Landmark historical and land use maps has given the Council key information regarding potentially contaminated sites. This information is still been collated, however it is been utilised when assessing and commenting on planning applications.

3 THE AUTHORITY STRATEGY: OVERALL AIMS

3.1 Aims of the Strategy

The overall aim of the strategy and legislation is to ensure that no land in the District of South Lakeland is creating an unacceptable risk to human health or the environment by reason of contamination in relation to its current or future use.

The overall aims of the strategy can be summarised under five main headings:

- a) To devise, consult on and ultimately adopt, a strategy on how the Council will meet the requirements of the new regime.
- b) To investigate the condition of land that has the potential to be contaminated.
- c) To secure the clean up of any land that is found to be contaminated to ensure it is suitable for its current use.
- d) To prevent as far as possible new contamination.
- e) To ensure that new developments on contaminated sites does not create unreasonable risks to health or the environment.

The council will adopt a strategic approach to its inspection duty, which will be rational, ordered and efficient. This strategy will ensure that these five criteria to deal with contaminated land are addressed. The strategy will be published by 30 June 2001.

3.1.1 The Council's Priorities

Due to continuing staff development and training the timescales for the strategy have been adjusted to reflect the availability of staff resources, therefore the revised priorities and timescales for the Council are as follows:

3.1.1.1 Identification of all potentially contaminated land to be completed by December 2004

The identification of land which is potentially contaminated will continue to be carried out as a desktop study using a combination of historical land use data and maps, which have been purchased from the Landmark group, and by the examination of

data previously held by the Council. The consultation with parish councils has been carried out, with some sites identified which will require further examination.

Those sites which have been identified will be mapped on the Council's Geographical Information System, and details pertaining to the sites will be registered in a database.

3.1.1.2 Risk Assessments and site prioritisation. (December 2004 to July 2005)

For each site identified a risk assessment will be carried out to assess the possibility of harm being caused to any actual or potential receptors from the contaminants.

From this information the sites will be prioritised so that those sites which are thought to pose the greatest risk to cause harm will be inspected first.

3.1.1.3 Detailed Inspection (July 2005 to April 2010)

At those sites where there has been identified a potential risk to receptors further investigations and remediation if deemed necessary will be carried out. These sites will be inspected in order of priority.

3.1.1.4 Land to be developed (Immediate Response)

Land, which is to be developed and is considered likely to be contaminated will be considered immediately and recommendations for planning conditions will be given to Development Control in line with the Group's standard response times.

3.2 Objectives and Milestones

The Council will adopt a strategic approach consistent with the requirements set out in paragraph B.9 and taking account of the factors set out in paragraph B10 of the DETR statutory guidance.

3.2.1 Assessment of land for which the Council may be the "Appropriate Person"

Land owned by South Lakeland District Council will be assessed in the same manner as any other privately owned land. Sites of potentially contaminated land will be checked against areas of land in the Council's ownership. If assessments indicate that the land is deemed to be contaminated land then appropriate action will be taken to deal with the contamination.

3.2.2 Evidence of actual harm or water pollution collated and reviewed.

The definitions in Table A "Categories of Significant Harm" and Table B "Significant possibility of Significant Harm" see appendices 3 and 4 will be used to determine if actual harm or if there is a significant possibility of significant harm is being caused by a pollutant. Evidence of actual harm will result in land being determined as contaminated land.

Each identified site will be examined for potential water pollution. Groundwater information will be assessed with reference to source protection zones and groundwater vulnerability maps published by the Environment Agency. Surface water will be identified during site walk over, and from OS maps. Where there is evidence of water pollution the Environment Agency will be contacted and advice sought on whether the potential contamination could be classed as causing significant harm.

3.2.3 Possible Receptors and Risk to those Receptors

At each site where there is potential contamination, all receptors will be identified in accordance with the identified receptors in the DETR guidance.

A risk assessment will be carried out for each receptor to determine the potential level of harm from the contaminants.

3.2.4 Liaison and Information exchange

The development and implementation of the strategy will require efficient liaison and communication with internal and external bodies. Internally liaisons have been organised with appropriate Groups in the Council. Good working relationships have also been established with external bodies.

4 LOCAL AUTHORITY PRIORITY ACTIONS AND TIMESCALES

4.1 Priorities

South Lakeland District Council is required to take a strategic approach to identifying contaminated land and to focus on the most pressing and serious problems first. Therefore resources will be focused on areas where contaminated land is most likely to be found.

Due to the large geographical area of South Lakeland, which is predominantly agricultural land, resources will initially be concentrated on identifying contaminated sites in populated areas. These areas are where many of the historical industrial industries were concentrated, and also where many of the potential receptors can be found. Once site identification has been carried out in populated areas, the rural areas of the District will be examined.

The priority order for carrying out detailed inspections on land will be as follows:

- 1 Sites where actual significant harm to human health is suspected
- 2 Sites where actual pollution of controlled waters is thought to be occurring
- 3 Sites where it is suspected that there is a significant possibility of significant harm to human health
- 4 Sites where pollution of controlled waters is suspected
- 5 Sites where contaminants are suspected to be causing harm to other defined receptors.

4.2 Timescales

The Government has not provided details on how quickly the Councils duties must be completed under Part IIA, other than requiring the publication of the inspection strategy before 30th June 2001. The guidance does require the Authority to include in the strategy appropriate timescales for the inspection of different parts of its area. Therefore the timescales in table 4.1 are the ones which have been revised.

In setting out this timescale it is recognised that in some cases urgent action will be required. In these cases inspection and regulatory work will commence in accordance with the Groups standard response times, i.e. within 10 days of notification.

Table 4.1

Timescale	Activity
June 2001	Strategy Published and Adopted
July 2001 to December 2004	Identification of Contaminated Sites
December 2004 to July 2005	Risk Assessment
July 2005	Prioritisation of sites for Detailed Inspection from risk assessments
July 2005 to April 2010	Complete Detailed Inspection of all identified sites.
June 2003	First review of strategy and timescales
Every 4 years	Re-inspect the District
Continuing work	
10 days of notification	Commence inspection and regulatory work on urgent sites
10 days	Respond to requests / complaints

5 PROCEDURES

5.1 Internal Management Arrangements For Inspection and Identification

5.1.1 Environmental Protection Group

The Environmental Protection Group has the primary responsibility for implementing and enforcing Part IIA EPA 1990. The group will be responsible for internal and external consultation in respect of contaminated land.

It will be the responsibility of this group to inspect the District and determine if land is to be designated as contaminated land. The public register will be held and maintained by this group.

5.1.2 Development Control and Building Control

For all developments requiring Planning and/or Building Control regulation on potentially contaminated land, a contaminated land investigation (which will include an appropriate desktop study, site investigation and risk assessment) will be provided. Prior to the development commencing a scheme to deal with contaminated land, remedial and/or control measures will be agreed with the Environmental Protection Group. It will be the responsibility of the Development Control Group or National Park Authorities for planning applications, and the Building Control Group for developments requiring Building Regulation to ensure that an appropriate contaminated land investigation is provided by the developer, and that any schemes to deal with contaminated land are incorporated into developments.

5.1.3 Legal Group

This group will be consulted for legal advice regarding responsibilities for remediation, and the content of notices.

5.1.4 Elected Members

The Environmental Services Committee will be notified as soon as possible if land which the Authority currently owns or where it may be the appropriate person is to be designated as contaminated land.

5.2 Considering Local Authority Interests in Land

All land currently owned by the Council or where the Council may be the appropriate person will be inspected to determine if the historical usage may have created potential land contamination. Where potential contamination is identified the same procedures used for land in private ownership will be followed. Council owned land will not be treated in any different manner from any other.

When purchasing land the Council will consider whether the land is contaminated prior to making any purchasing decisions.

5.3 Information Collection

The following information will be collected:

5.3.1 Contaminants

- a) Historical data – maps and industrial information in the library
- b) Consultations with Parish Councils to gather local information
- c) Examining information held by the Council
- d) Examining information supplied by the Environment Agency
- e) Cumbria County Council Records
- f) Contaminated land assessments

This is not an exhaustive list, information will be gathered from as many sources as possible to try and draw together a comprehensive list of potentially contaminated sites.

5.3.2 Receptors

Information will be gathered from various sources, including Council departments, Environment Agency, English Nature, English Heritage, etc so that all potentially receptors can be identified.

5.4 Information and Complaints

5.4.1 Complaints

Complaints regarding contaminated land will be investigated in accordance with the Council's approved procedures. The complainant's details will be logged on the Environmental Health System. Complainants will be contacted within 10 days of making their complaint.

If the complaint of contamination is considered to be of a serious nature then the complaint will be dealt with immediately. However wherever possible the complaint will be investigated following the strategic procedures mentioned earlier.

5.4.2 Information

Receiving information from the public is an essential source of obtaining data on possible contaminated sites. On receiving information it will be recorded and used for the identification of potential sites. This information will in all instances be verified by examining other sources.

5.4.3 Confidentiality

Information designated as confidential when supplied by an individual or company is the only such material, which will be treated as such. Enquirers in respect of such information will only be supplied with the name and address of the informant, no other information will be given.

All other information will be subject to the Environmental Information Regulations, 1992 and other relevant legislation.

5.5 Information Evaluation

5.5.1 Evaluating information on actual harm or pollution

At each site the following assessments will be carried out to evaluate the potential for actual harm or pollution.

1) *Site Walk Over/Survey*

A site walk over will be carried out at each identified site. This survey will be carried out in accordance with the "Contaminated Land Report No 2, Guidance on Preliminary Site Inspection".

2) *Site Risk Assessment*

Part IIA requires Authorities to adopt a risk based approach when assessing contaminated land sites. Therefore risk assessments will be carried out at each identified site.

The DETR is developing a risk assessment methodology to support the Part IIA regime. This methodology will be adopted for site risk assessments. All assessment prior to the publication of the methodology will be carried out using the approach in "Contaminated Land Research Report No 6 – Prioritisation and Categorisation Procedure for Sites which may be Contaminated" (CLR 6). Sites assessed using this guidance will be reassessed when the new DETR guidance is published.

3) *Risk Prioritisation*

The Council is required under Part IIA to adopted risk based approach to prioritise site inspections. This to ensure that the most pressing and serious problems are identified first in a rational, ordered and efficient manner.

The DETR is again developing a methodology for the prioritisation of individual sites. This methodology will be adopted for site prioritisation when it is published. Prior to publication CLR 6 will be used.

5.5.2 Effectiveness of previous actions or other regimes in preventing or dealing with contamination

Government policy has introduced a range of regimes aimed at achieving sustainable development. For example Integrated Pollution Control (IPC), is soon to be replaced by Integrated Pollution Prevention and Control (IPPC) which is aimed at preventing new contaminated land sites. The new contaminated land legislation together with other statutory controls such as planning, primarily focus on land that has been contaminated in the past.

The following regimes currently deal with or have prevented contamination in the past, they are:

a) *Statutory Nuisance*

Part III of the Environmental Protection Act 1990 was the main mechanism for local authorities to take action against contamination land if it was considered to be prejudicial to health or a nuisance prior to the implementation of Part IIA. This was effective in dealing with the immediate health or nuisance problem, but did not always deal with other aspects associated with contaminated land.

b) Planning Regimes

The planning regime has historically dealt with the majority of contaminated sites and will continue to ensure that any development on sites with contamination are "suitable for any new use", as land contamination is a material planning consideration. However the planning regime has only dealt with land which is to be redeveloped.

The current trend toward the redevelopment of Brownfield sites will ensure that planning controls play an integral part in managing contaminated land.

c) Water Pollution

Sections 161 and 161D of the Water Resources Act 1991, give the Environment Agency powers to prevent the continuation of contamination to controlled waters. This act is effective in preventing water pollution issues however it would not necessarily remedy the underlying land contamination aspects of a pollutant. The Act may be useful in cases where there are historic pollution of groundwater problems, but where Part IIA will not apply.

d) Integrated Pollution Prevention and Control (IPPC)

Section 27 of the Environmental Protection Act 1990 gives the Environment Agency powers to remedy significant harm or the pollution of controlled waters if it is as a result of the carrying out a process covered by the Integrated Pollution Regime (IPC) or the Local Air Pollution Control (LAPC) regime.

If the Council considers that this may apply then it will consult with the Environment Agency.

e) Waste Management Licensing

The Environment Agency, as the "waste regulation authority" for the District, has powers under Section 59 of the Environmental Protection Act 1990, to deal with illegally deposited controlled waste. These powers permit the Agency to remove, or require the removal of the waste, and to take other steps to eliminate or reduce the consequences of the deposit of waste.

If it is considered that these circumstances might apply, then the Environment Agency will be consulted.

5.5.3 Identification of Key Geographical Areas

The Councils approach to the inspection of the District will be rational, ordered, efficient and priority based. This should facilitate the identification of any key geographic areas, which require further investigation.

5.5.4 Specific Pollutant Linkages and Identification of Individual Sites

The inspection of South Lakeland will not commence until the publication of the strategy document in June 2001. Any sites brought to the Council attention prior to this date will be dealt with under the new regime.

6 GENERAL LIAISON AND COMMUNICATION STRATEGIES.

The effective management and implementation of the new contaminated land regime will require co-operation and liaison with a number of internal Council, and external bodies. The Environmental Protection Group of the Council is the initial point of contact/liaison for contaminated land within the Authority.

Consultation on the content of this strategy and its implementation will take place internally with the following Groups. Building Control Group, Development Control, Economy and Development, Property Services Group and the Councils Legal Group.

The external consultations will be the Environment Agency, County Council, Lake District National Park, Yorkshire Dales National Park, Neighbouring Local Authorities and MAFF.

Guidance and advice will be available to interested parties from officers of the Environmental Protection Group at the Council.

The Chief Environmental Health Officers, Environmental Protection Working Group for Cumbria liases on a monthly basis with the Environment Agency and any other relevant bodies on contaminated land. This is to ensure a consistent approach to the implementation of the contaminated land regime throughout Cumbria through the exchange of policy and protocols.

7 PROGRAMME FOR INSPECTION

7.1.1 Inspection Programme

The inspection programme has been prepared with the local characteristics in mind. The main contaminated industries have historically been concentrated in the more populated areas of the district. Therefore the initial site identification will be based on populated areas first, then extended to the rural areas. Notwithstanding this the initial identification of sites with potential land contamination will be completed by December 2004.

These sites will be identified using the desk top study methods specified earlier in the strategy.

7.1.2 Risk Assessment

At each identified site a risk assessment will be carried out using the criteria outlined in Section 5.1. The risk assessment will be documented for each site. All risk assessments will be completed by July 2005 for identified sites.

7.1.3 Site Prioritisation

Sites which have been identified from the risk assessment as requiring further investigations will be prioritised for inspection, so that the most pressing cases are examined first. Site prioritisation will be completed by July 2005.

7.1.4 Detailed Inspections

At each site identified from the risk assessments as requiring more detailed inspections, the appropriate person will be identified to carry out these inspections. All detailed inspections will be carried out by April 2010.

7.1.5 Development Land

Where land is to be developed on a site where there was a historical contaminated land use it will be the responsibility of the developer to prove to the Authority that the proposed land is

suitable for use. Responses to planning applications will be in line with the existing Councils procedures

7.2 Arrangement for carrying out detailed inspection

Detailed inspection of potentially contaminated sites will meet the requirements in paragraphs B19 – B25, of the DETR circular. The detailed inspection will include the collation and assessment of documentary information, or other information from other bodies. A visit to the site for the purpose of a visual inspection, and in some cases limited sampling. Where appropriate intrusive investigation of the site by exploratory excavations. The appropriate person responsible for the site will be required to carry out the detailed inspection and risk assessments.

7.2.1 Methods of Inspection

The inspection of land will occur in three stages:

1) *The collation of documentary information*

This is the desktop study and risk assessments and has been described in earlier sections.

2) *Visual inspection of sites*

Site walkovers/visual inspections will be carried out at each identified site, this information in conjunction with the documentary information will determine whether further intrusive investigations will then be required. The visual inspection will be carried out in accordance with the DETR guidance "Contaminated Land Research Report No2, Guidance on Preliminary Site Inspections".

3) *Intrusive Sampling*

If the previous investigations indicate that a pollution linkage exists on the site, then an intrusive site investigation may be carried out. Sampling may include trial pits or boreholes excavations. This sampling is intended to discover whether contaminants are present on site, if so where, and whether a pollution linkage exists.

Site investigations will be site specific. Appropriate sampling and sampling strategies will be carried out for potential contaminants on site. Appropriate techniques will be used in collecting, storage and analysing samples, which will be tested by relevant

accredited laboratories. Site investigations will be carried out following the guidance in Bs 10175:2001, and BS 5930:1999.

7.2.2 Site Specific Liaison

At each site which has been identified for further sampling by intrusive sampling liaison will occur with the following:

a) Owners and Appropriate Persons

The landowner, current occupier and any other appropriate person who may be liable for the costs of remediation and detailed investigation will be contacted by letter and advised of the conclusions of the initial investigations.

b) Environment Agency

The Environment Agency will be advised of any sites, which are considered to be "special sites". The appropriate authority can then carry out further investigations.

c) English Nature and English Heritage

The Authority will contact English Nature if the area under investigation is within a Site of Special Scientific Interest (SSSI) or at sites of international importance. English Heritage will be contact regarding sites which may affect ancient monuments or listed buildings.

A site visit will be arranged with all relevant parties prior to the detailed intrusive investigation to discuss the proposed sampling and to seek details of any additional information, which may be relevant.

7.2.3 Statutory Powers of Entry

Section 108 of the Environment Act 1995 gives authorised Council officers, or those authorised by the Council specific powers of entry to carry out its inspection duties under

Part IIA. These powers of entry will only be used in accordance with paragraphs B.22 and B.23 of the DETR circular.

7.2.4 Health and Safety Procedures

Prior to any intrusive investigations made by Council officers appropriate Health and Safety risk assessments will be made in accordance with technical guidance.

Contractors working for the Council will be required to produce Health and Safety protocols prior to site investigations.

7.2.5 Potential Special Sites

Where investigations indicate that the site is a potential "special site" as defined under Part IIA, the Council will write to the Agency providing them with details as to why the Council believes the site to be a classed as such.

The memorandum of understanding between the Council and the Environment Agency require consultation and co-operation wherever possible.

Once agreement has been reached on which Authority is the relevant enforcement body for the site, then they will initiate the site investigation. Consultation will occur throughout this whole process.

Following notification of a site as a "special site" the Environment Agency has 21 days to decide whether it accepts the Council's conclusions. If the Agency and the Council are in dispute the Secretary of State will make the final judgement.

7.2.6 Appointing Consultants

Where necessary the intrusive investigations of a site may require the service of specialist consultants. When employing a consultant the council will take note of the recommendations in the "Contaminated Land Research Report No 12 – A Quality Approach for Contaminated Land Consultancy" to ensure an appropriately qualified, experienced, resourced and accredited consultant is selected.

7.2.7 Risk Communication Strategy

Risk communication with the local community and interested persons will be site specific. The Council will give advice by the use of public notices, letters to appropriate persons, press releases, and in extreme cases public meetings.

7.2.8 Frequency of Inspection

Land will be re-inspected at least once every 4 years, unless there are changes to or surrounding the site.

8 REVIEW MECHANISMS

Part IIA requires that Authorities inspect their areas from time to time for the purpose of identifying land, which may fall within the definition of, contaminated land. The frequency at which such re-inspection takes place is not prescribed because appropriate inspection frequencies are likely to vary significantly depending on local circumstances.

8.1 Triggers for review of inspection decisions

In addition to the routine review of inspection findings, there are likely to be situations where the following changes in the condition or circumstances of land require an immediate review:

- a) Proposed changes of land use
- b) Additional information from any stakeholder
- c) Unplanned changes in the use of land (eg persistent unauthorised use of the land)
- d) Pollution incidents
- e) Legislative changes

The Authority will immediately investigate a site if there are other triggers which would suggest that there is a significant possibility of significant harm to a receptor.

8.2 Review of the Inspection Strategy

The Authority will review the strategy document informally on a yearly basis, and formally once every four years to ensure the effectiveness of inspection strategy in meeting the legal requirements and, so that any new legislation or guidance can be incorporated into the strategy.

9 INFORMATION MANAGEMENT

9.1 General Principles

Information collected regarding potentially contaminated sites will be stored in two formats.

- a) Electronically - Information will be stored on the Geographical Information System (GIS) indicating the area considered to be contaminated, this will be linked into a database recording information on contaminants and risk assessments.
- b) Site Files – Hardcopies of site files will be kept by the Environmental Protection Group of the Council.

This information which will not be held within the public register will be subject to the Environmental Information Regulation 1992 and other relevant legislation. This regulation underlines the obligation to make environmental information available subject to exceptions (eg relating to national defence or public security, legal or other proceedings and commercial or industrial confidential information). Information held electronically will not be open for public access. Access to other information will be available during office hours by prior arrangement at the Council Offices at South Lakeland House, Kendal.

9.2 Contaminated Land Register

Section 78R of the Environmental Protection Act 1990 requires the Authority to maintain a Public Register of land designated as Contaminated Land. The Environmental Protection Group of the Council will hold this register. Access to the register will be available by prior arrangement during office hours from the Council Offices at South Lakeland House, Kendal.

9.3 Local Authority Departments

Information collected by the Authority in carrying out its duties under Part IIA, will be made available to other Council departments on request.

9.4 Provision of Information to the Environment Agency

Information exchange with the Environment Agency will be based on the memorandum of Understanding Environment Agency and Local Government Association Protocol for Land Contamination. For formal consultation the Authority will use the standard agreed forms to simplify information exchange. Informal consultation will be via telephone and letters.

APPENDIX 1

Special Sites

Land required to be designated as a special site

- a) Land affecting certain controlled waters, as specified in Regulation 3 of the Contaminated Land (England) Regulations 2000.
- b) Land which is contaminated land by reason of waste acid tars.
- c) Land on which any of the following activities have been carried out at any time:
 - i) The purification (including refining) of crude petroleum or an oil extracted from petroleum, shale or any other bituminous substances except coal.
 - ii) The manufacture or processing of explosives.
- d) Land on which a prescribed process designated for central control has been or is being carried on under an authorisation
- e) Land within a nuclear site.
- f) Defence sites.'
- g) Chemical/biological weapons sites.
- h) Atomic weapons sites.

Land adjacent to lands described in (b) to (i) above which is contaminated by substances which appear to have escaped from these sites.

APPENDIX 2

List of Statutory Consultees

Environment Agency	English Nature
Mr Peter Barsdley Environment Agency Ghyll Mount Gillan Way Junction 40 Business Park Penrith Cumbria CA11 9BP Tel: 01768 866666 Fax: 01768 892432	Dr Des O'Halloram English Nature Juniper House Murley Moss Oxenholme Road Kendal Cumbria LA9 7RL Tel: 01539 792800 Fax: 01539 792830
English Heritage	MAFF
Paul Austin English Heritage Arnhem Block Carlisle Castle Carlisle CA3 8UR Tel: 01288 591880 Regional Officer – Rob Burns Tel: 0161 242 1430 Land Use Planner – Judith Nelson Tel: 0161 242 1423	Fiona Reynolds MAFF HEO –Sustainable Agriculture Branch Room 311/312 16 Palace Street London SW1E 5FF Tel: 020 7963 5620 Fax: 020 7963 5637 E-mail: fiona.reynolds@maff.gsi.gov.uk
HSE	North West Development Agency
Phil Pappard Health & Safety Executive 2 Victoria Place Carlisle Cumbria Tel: 01228 539321 Chris Goodlad HSE Policy Matters HSE Victoria House Ormskirk Road Preston PR1 1HH Tel: 0161 952 8200	Brendan Lithgow Building Surveyor North West Development Agency Lakeland Business Park Cockermouth Cumbria CA13 0QT Tel: 01900 827161 Fax: 01900 827160 E-mail: brendan.lithgow@nwda.co.uk
Cumbria County Council	Food Standards Agency
Allan Haile Cumbria County Council Community, Economy & Environment Citadel Chambers Carlisle CA3 8SG Tel: 01228 606682	Dr Patrick Millar Food Standards Agency Room 707c Aviation House 125 Kingsway London WC2B 6NH Tel: 020 7276 8726 E-mail: patrick.millar@foodstandards.gsi.gov.uk

APPENDIX 3

Table A: Categories of Significant Harm

Type of Receptor	Description of harm to that type of receptor that is to be regarded as significant harm
1 Human beings	<p>Death, disease, serious injury, genetic mutation, birth defects or the impairment of reproductive functions.</p> <p>For these purposes, disease is to be taken to mean an unhealthy condition of the body or a part of it and can include, for example, cancer, liver dysfunction or extensive skin ailments. Mental dysfunction is included only insofar as it is attributable to the effects of a pollutant on the body of the person concerned.</p> <p>In this Chapter, this description of significant harm is referred to as a "human health effect".</p>
<p>2 Any ecological system, or living organism forming part of such a system, within a location which is:</p> <ul style="list-style-type: none"> • an area notified as an area of special scientific interest under section 28 of the Wildlife and Countryside Act 1981; • any land declared a national nature reserve under section 35 of that Act; • any area designated as a marine nature reserve under section 36 of that Act; • an area of special protection for birds, established under section 3 of that Act; • any European Site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994 (ie Special Areas of Conservation and Special Protection Areas); • any candidate Special Areas of Conservation or potential Special Protection Areas given equivalent protection; • any habitat or site afforded policy protection under paragraph 13 of Planning Policy Guidance Note 9 (PPG9) on nature conservation (ie candidate Special Areas of Conservation, potential 	<p>For any protected location:</p> <p>harm which results in an irreversible adverse change, or in some other substantial adverse change, in the functioning of the ecological system within any substantial part of that location; or harm which affects any species of special interest within that location and which endangers the long-term maintenance of the population of that species at that location.</p> <p>In addition, in the case of a protected location which is a European Site (or a candidate Special Area of Conservation or a potential Special Protection Area), harm which is incompatible with the favourable conservation status of natural habitats at that location or species typically found there.</p> <p>In determining what constitutes such harm, the local authority should have regard to the advice of English Nature and to the requirements of the Conservation (Natural Habitats etc) Regulations 1994.</p> <p>In this Chapter, this description of significant harm is referred to as an "ecological system effect".</p>

<p>Special Protection Areas and listed Ramsar sites); or</p> <ul style="list-style-type: none"> any nature reserve established under section 21 of the National Parks and Access to the Countryside Act 1949. 	
<p>3 Property in the form of: crops, including timber; produce grown domestically, or on allotments, for consumption; livestock; other owned or domesticated animals; wild animals which are the subject of shooting or fishing rights.</p>	<p>For crops, a substantial diminution in yield or other substantial loss in their value resulting from death, disease or other physical damage. For domestic pets, death, serious disease or serious physical damage. For other property in this category, a substantial loss in its value resulting from death, disease or other serious physical damage.</p> <p>The local authority should regard a substantial loss in value as occurring only when a substantial proportion of the animals or crops are dead or otherwise no longer fit for their intended purpose. Food should be regarded as being no longer fit for purpose when it fails to comply with the provisions of the Food Safety Act 1990. Where a diminution in yield or loss in value is caused by a pollutant linkage, a 20% diminution or loss should be regarded as a benchmark for what constitutes a substantial diminution or loss.</p> <p>In this Chapter, this description of significant harm is referred to as an "animal or crop effect".</p>
<p>4 Property in the form of buildings. For this purpose, "building" means any structure or erection, and any part of a building including any part below ground level, but does not include plant or machinery comprised in a building.</p>	<p>Structural failure, substantial damage or substantial interference with any right of occupation.</p> <p>For this purpose, the local authority should regard substantial damage or substantial interference as occurring when any part of the building ceases to be capable of being used for the purpose for which it is or was intended.</p> <p>Additionally, in the case of a scheduled Ancient Monument, substantial damage should be regarded as occurring when the damage significantly impairs the historic, architectural, traditional, artistic or archaeological interest by reason of which the monument was scheduled.</p> <p>In this Chapter, this description of significant harm is referred to as a "building effect".</p>

APPENDIX 4

Table B: Significant Possibility of Significant Harm

	Descriptions Of Significant Harm (As Defined In Table A)	Conditions For There Being A Significant Possibility Of Significant Harm
1	Human health effects arising from the intake of a contaminant, or other direct bodily contact with a contaminant.	<p>If the amount of the pollutant in the pollutant linkage in question: which a human receptor in that linkage might take in, or to which such a human might otherwise be exposed, as a result of the pathway in that linkage, would represent an unacceptable intake or direct bodily contact, assessed on the basis of relevant information on the toxicological properties of that pollutant.</p> <p>Such an assessment should take into account: the likely total intake of, or exposure to, the substance or substances which form the pollutant, from all sources including that from the pollutant linkage in question; the relative contribution of the pollutant linkage in question to the likely aggregate intake of, or exposure to, the relevant substance or substances; and the duration of intake or exposure resulting from the pollutant linkage in question.</p> <p>The question of whether an intake or exposure is unacceptable is independent of the number of people who might experience or be affected by that intake or exposure.</p> <p>Toxicological properties should be taken to include carcinogenic, mutagenic, teratogenic, pathogenic, endocrine-disrupting and other similar properties.</p>
2	All other human health effects (particularly by way of explosion or fire).	<p>If the probability, or frequency, of occurrence of significant harm of that description is unacceptable, assessed on the basis of relevant information concerning: that type of pollutant linkage, or that type of significant harm arising from other causes.</p> <p>In making such an assessment, the local authority should take into account the levels of risk which have been judged unacceptable in other similar contexts and should give particular weight to cases where the pollutant linkage might cause significant harm which: would be irreversible or incapable of being treated; would affect a substantial number of people; would result from a single incident such as a fire or an explosion; or would be likely to result from a short-term (that is, less than 24-hour) exposure to the pollutant.</p>
3	All ecological system effects.	<p>If either: significant harm of that description is more likely than not to result from the pollutant linkage in question; or there is a reasonable possibility of significant harm of that description being caused, and if that harm were to occur, it would result in such a degree of damage to features of special interest at the location in question that they would be beyond any practicable possibility of restoration.</p> <p>Any assessment made for these purposes should take into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.</p>
4	All animal and crop effects.	<p>If significant harm of that description is more likely than not to result from the pollutant linkage in question, taking into account relevant information for that type of pollutant linkage, particularly in relation to the ecotoxicological effects of the pollutant.</p>

APPENDIX 5

Glossary of Terms

Appropriate person: defined in section 78A(9) as:

"any person who is an appropriate person, determined in accordance with section 78F..., to bear responsibility for any thing which is to be done by way of remediation in any particular case."

Assessment action: a remediation action falling within the definition of remediation in section 78A(7)(a), that is the doing of anything for the purpose of assessing the condition of the contaminated land in question, or any controlled waters affected by that land or any land adjoining or adjacent to that land.

Attribution: the process of apportionment between liability groups.

Building: any structure or erection, and any part of a building including any part below ground, but not including plant or machinery comprised in a building.

Caused or knowingly permitted: test for establishing responsibility for remediation, under section 78F(2); see paragraphs

Charging notice: a notice placing a legal charge on land served under section 78P(3)(b) by an enforcing authority to enable the authority to recover from the appropriate person any reasonable cost incurred by the authority in carrying out remediation.

Class A liability group: a liability group consisting of one or more Class A persons.

Class A person: a person who is an appropriate person by virtue of section 78F(2) (that is, because he has caused or knowingly permitted a pollutant to be in, on or under the land).

Class B liability group: a liability group consisting of one or more Class B persons.

Class B person: a person who is an appropriate person by virtue of section 78F(4) or (5) (that is, because he is the owner or occupier of the land in circumstances where no Class A person can be found with respect to a particular remediation action).

Contaminant: a substance which is in, on or under the land and which has the potential to cause harm or to cause pollution of controlled waters.

Contaminated land: defined in section 78A(2) as

"any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that -

"(a) significant harm is being caused or there is a significant possibility of such harm being caused, or;

"(b) pollution of controlled waters is being, or is likely to be, caused."

Controlled waters: defined in section 78A(9) by reference to Part III (section 104) of the Water Resources Act 1991; this embraces territorial and coastal waters, inland fresh waters, and ground waters.

Enforcing authority: defined in section 78A(9) as:

(a) in relation to a special site, the Environment Agency;

(b) in relation to contaminated land other than a special site, the local authority in whose area the land is situated.

Harm: defined in section 78A(4) as:

"harm to the health of living organisms or other interference with the ecological systems of which they form part and, in the case of man, includes harm to his property."

Industrial, trade or business premises: defined in section 78M(6), for the purpose of determining the penalty for failure to comply with a remediation notice, as:

"premises used for any industrial, trade or business purposes or premises not so used on which matter is burnt in connection with any industrial, trade or business process, and premises are used for industrial purposes where they are used for the purposes of any treatment or process as well as where they are used for the purpose of manufacturing."

Inspection using statutory powers of entry: any detailed inspection of land carried out through use of powers of entry given to an enforcing authority by section 108 of the Environment Act 1995.

Intrusive investigation: an investigation of land (for example by exploratory excavations) which involves actions going beyond simple visual inspection of the land, limited sampling or assessment of documentary information.

Liability group: the persons who are appropriate persons with respect to a particular significant pollutant linkage.

Local authority: defined in section 78A(9) as meaning any unitary authority, district council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

Orphan linkage: a significant pollutant linkage for which no appropriate person can be found, or where those who would otherwise be liable are exempted by one of the relevant statutory provisions.

Owner: defined in section 78A(9) as:

"a person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let."

Part IIA: Part IIA of the Environmental Protection Act 1990.

Pathway: one or more routes or means by, or through, which a receptor:

(a) is being exposed to, or affected by, a contaminant, or

(b) could be so exposed or affected.

Pollutant: a contaminant which forms part of a pollutant linkage.

Pollutant linkage: the relationship between a contaminant, a pathway and a receptor.

Pollution of controlled waters: defined in section 78A(9) as:

"the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter."

Possibility of significant harm: a measure of the probability, or frequency, of the occurrence of circumstances which would lead to significant harm being caused.

Receptor: either:

(a) a living organism, a group of living organisms, an ecological system or a piece of property which:

(i) is in a category listed in Table A in Chapter A as a type of receptor, and

(ii) is being, or could be, harmed, by a contaminant; or

(b) controlled waters which are being, or could be, polluted by a contaminant.

Register: the public register maintained by the enforcing authority under section 78R of particulars relating to contaminated land.

Remedial treatment action: a remediation action falling within the definition in section 78A (7)(b), that is the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose:

(a) of preventing or minimising, or remedying or mitigating the effects of any significant harm, or any pollution of controlled waters, by reason of which the contaminated land is such land, or

(b) of restoring the land or waters to their former state.

Remediation: defined in section 78A(7) as

"(a) the doing of anything for the purpose of assessing the condition of -

"(i) the contaminated land in question;

"(ii) any controlled waters affected by that land; or

"(iii) any land adjoining or adjacent to that land;

"(b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land or waters for the purpose -

"(i) of preventing or minimising, or remedying or mitigating the effects of any significant harm, or any pollution of controlled waters, by reason of which the contaminated land is such land; or

"(ii) of restoring the land or waters to their former state; or

"(c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land or waters."

Remediation action: any individual thing which is being, or is to be, done by way of remediation.

Remediation declaration: defined in section 78H(6). It is a document prepared and published by the enforcing authority recording remediation actions which it would have specified in a remediation notice, but which it is precluded from specifying by virtue of sections 78E(4) or (5), the reasons why it would have specified those actions and the grounds on which it is satisfied that it is precluded from specifying them in a notice.

Remediation notice: defined in section 78E(1) as a notice specifying what an appropriate person is to do by way of remediation and the periods within which he is required to do each of the things so specified.

Remediation package: the full set or sequence of remediation actions, within a remediation scheme, which are referable to a particular significant pollutant linkage.

Remediation scheme: the complete set or sequence of remediation actions (referable to one or more significant pollutant linkages) to be carried out with respect to the relevant land or waters.

Remediation statement: defined in section 78H(7). It is a statement prepared and published by the responsible person detailing the remediation actions which are being, have

been, or are expected to be, done as well as the periods within which these things are being done.

Risk: the combination of:

- (a) the probability, or frequency, of occurrence of a defined hazard (for example, exposure to a property of a substance with the potential to cause harm); and
- (b) the magnitude (including the seriousness) of the consequences.

Significant harm: defined in section 78A(5). It means any harm which is determined to be significant in accordance with the statutory guidance in Chapter A (that is, it meets one of the descriptions of types of harm in the second column of Table A of that Chapter).

Significant pollutant: a pollutant which forms part of a significant pollutant linkage.

Significant pollutant linkage: a pollutant linkage which forms the basis for a determination that a piece of land is contaminated land.

Significant possibility of significant harm: a possibility of significant harm being caused which, by virtue of section 78A(5), is determined to be significant in accordance with the statutory guidance in Chapter A.

Sold with Information: an exclusion test for Class A persons set out in Part 5 of Chapter D.

Special site: defined by section 78A(3) as:

"any contaminated land -

"(a) which has been designated as such a site by virtue of section 78C(7) or 78D(6)...;and

"(b) whose designation as such has not been terminated by the appropriate Agency under section 78Q(4)...".

The effect of the designation of any contaminated land as a special site is that the Environment Agency, rather than the local authority, becomes the enforcing authority for the land.

Substance: defined in section 78A(9) as:

"any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour."