

# cleaner land, healthier people

## Creating a better farming environment

### A summary of our approach to the new Agricultural Waste Regulations during 2006 and 2007

Agricultural waste is a significant challenge for us. Early in 2006 we will have to implement waste controls that have applied to other industrial sectors to farmers for the first time.

These controls range from landfill regulations, restrictions on burning, waste exemptions from waste management licensing (and subsequent inspection), registration of carriers and the Duty of Care.

## Our aim for the environment

To improve the environmental performance and waste management standards on farms progressively and in a fair and proportionate way so that the environment and human health are better protected.

## What we expect from farmers

- These new controls will change the way farmers manage their waste. Briefly, we expect farmers to:
- be aware of the new controls and how they will affect their farming business;
- plan how they will manage their waste, taking opportunities to reduce, reuse and recycle their waste when they can;
- stop using their farm tips before the controls come into force;
- understand that applying for a Pollution Prevention and Control (PPC) permit for their farm tip will be technically complex and costly;
- stop burning waste other than plant tissue. We have given the industry a year to phase out using drum incinerators to burn cleaned polyethylene pesticides containers;
- use the transitional provisions to give them time to understand and comply with the new controls;
- comply with Duty of Care when the new controls are introduced, making sure that they store their waste securely and only give it to people who are authorised to handle it/take it away;
- use the Waste Recycling Directory to find organisations who will treat and dispose of their waste;
- register the exemptions that they can benefit from and manage their activities so that they comply with those exemptions;
- apply for waste management licences when they wish to diversify into the waste management business or continue practices that are not covered by exemptions.

## What farmers can expect from us

- We will implement these regulations in a fair and proportionate way
- We understand that these regulations will need significant changes in practice on farms and that it will take several years for farmers to adapt to them
- We will introduce the controls progressively over time
- We will concentrate initially on informing and advising and educating people about these changes
- We will move to enforcement in a phased manner
- We will focus on responding to incidents that could cause pollution rather than technical breaches of the legislation.

## What are we going to deliver?

This plan deals with the following aspects of regulation. These are **what** we have to deliver:

- Farm Tips
- Burning
- Odour nuisance and dark smoke
- Monitoring compliance
- Enforcement during the first year
- Providing information
- Duty of Care
- Registering exemptions
- Manure and slurry
- Milk
- Other organic materials
- Waste Management Licensing
- Schedule 4 paragraph 12 registration for professional transporters etc.
- Hazardous waste controls
- Used sheep-dip disposal
- Lined biobeds
- Fly-tipping
- Animal By-Products Regulation (for example fallen stock)

## Farm tips

Farmers need to stop using their farm tips before the regulations come into effect. We will be emphasising this message in our communications plan. We will assume that a farm tip has been closed before the regulations start unless we have direct evidence to show otherwise. If we discover an old tip that is causing pollution, we will use a variety of regulatory tools to put this right.

## Burning

Farmers will have to stop burning waste other than “plant tissue”. Plant tissue includes untreated wood, hedge cuttings etc. We will allow farmers to burn cleaned pesticide containers in a drum incinerator for twelve months after the regulations come into force, subject to that use not causing pollution of the environment or harm to human health.

## Odour nuisance and dark smoke

Farmers should make sure that their activities do not cause nuisance odours or dark smoke. Local authorities are the regulators of these issues, but we are also concerned when emissions from waste activities pollute the environment or harm human health. We will respond to these instances following our published enforcement and prosecution guidance.

## Monitoring compliance

Farmers should be aware that they will face inspections when they register an exemption. We expect farmers to co-operate with these inspections. Our inspection of farms under the Waste Framework Directive will be risk-based and form part of our integrated approach to agriculture (Integrated Regulation of Agriculture Project, IRAP). We will only carry out a waste inspection as part of that programme or if we receive a complaint or respond to an incident.

## Enforcement during the first year

Farmers need time to get up to speed, and comply, with the new regulations. We have to be sensitive and phase in our approach. First of all, our role will be to educate and advise farmers rather than to enforce the new regulations. We will help them to comply rather than imposing penalties for not complying. However, we will take action if a farmer causes pollution or harm to human health.

## Providing information

Although most farmers are aware of the new waste controls, we don't think they know about them in much detail. We want farmers to take every opportunity to find out more about the new regulations. This will help them to build compliance into their normal business planning.

Our National Customer Contact Centre (NCCC) will be the main point of contact for queries. We are working closely with the National Farmers Union, Farmers Union of Wales, their regional technical advisors and the ADAS waste minimisation contract to make sure that they carry our regulatory and environmental messages. Regional Strategy Unit agricultural specialists will provide a focal point for liaising with regional interest groups. We will also use our agricultural waste communications plan to make sure that we send out consistent and co-ordinated messages.

- Guidance available on agricultural waste:
- New Rules on Agricultural Waste – What's going to happen?
- New Rules on Agricultural Waste – Stop tipping, stop burning
- New Rules on Agricultural Waste – Duty of Care

This information is available from our E-Catalogue Service

<http://publications.environment-agency.gov.uk/epages/eapublications.storefront>

## Duty of Care

Farmers need to keep their waste safely, preventing it from escaping. When they give their waste to someone else they need to comply with the requirements of the Duty of Care. Although farmers can use the Recycling Directory as a guide to find organisations that will dispose of/treat their waste, they should not rely on it to fulfil their Duty of Care. We will tell farmers what the Duty of Care means and what they have to do to comply with it by publishing guidance. We will enforce the Duty of Care according to our published enforcement and prosecution guidance.

## Registering exemptions

Farmers should use the first year of the regulations to decide what they want to do: register exemptions or apply for waste management licences.

Our registration system will be informed by the following principles:

- We will provide a registration service from day one to make sure that any farmers who wish to register can do so;
- We will make sure that a system is available during the first year that has the capacity to register all farm exemptions;
- We will have a system that adds value to our business (using data) rather than just registering exemptions;
- We will issue a confirmation to the notifier (farmer) when he has successfully notified us of an exemption.

## Manure and slurry

Following a recent ECJ case (ECJ Case C-416/02 – Commission v Spain), manure and slurry used to benefit agriculture has not been discarded and is therefore not regarded as waste.

Using manure and slurry to benefit agriculture will not need an exemption.

## Milk

Farmers have up to a year to register an exemption for spreading milk to benefit agriculture. During this year we expect farmers to comply with the spirit of that exemption.

## Other organic materials (including compost)

We do not consider that organic materials produced on a farm that are used as part of normal farming practice, for example, potato outgradings that are ploughed back to fields have been discarded as waste.

However, intentionally composting this material is a waste management activity. During the first year farmers will not need to register an exemption relating to composting or using composted agricultural waste. After the first year farmers will need a paragraph 12 exemption to cover the composting and a paragraph 7A exemption to cover the spreading to land to benefit agriculture or improve the environment.

## Waste Management Licensing

We will process any application for a waste management licence in the same way as we process any other application for a waste management licence. The farmer will have to pay fees and charges for this.

## Schedule 4 paragraph 12 registration for professional transporters etc.

Normal Registration of Carriers does not apply to agricultural waste (Control of Pollution (Amendment) Act 1989) registration. Instead, the Government will apply the low-level system of Professional Transporters etc (Paragraph 12, schedule 4 of Waste Management Licensing Regulations 1994).

## Hazardous waste controls

Most farms will produce some type of hazardous waste. A recent survey of farmers estimates that 43% of the farming industry will need to register each year (approximately 70,000 registrations). However, agricultural waste will be excluded from the Hazardous Waste Regulations 2005 for one year after

15th May 2006. After this time, farmers need to comply with the Hazardous Waste controls in the same way as other business sectors. It should be noted that there is no need to register if they produce 200kg or less of hazardous waste a year.

## Used sheep-dip disposal

We will control the disposal of used sheep-dip to land through groundwater authorisations. Using an authorised area more than once a year is banned through the landfill regulations. We expect farmers to have a groundwater authorisation allowing them to dispose of used sheep-dip to land, not using an area more than once a year.

## Lined biobeds

There is currently no exemption from waste management licensing for lined biobeds, used to treat pesticide wastewaters. We expect a consultation from Defra in the near future on creating an exemption for biobeds. However, we will not prosecute a farmer for not having a waste management licence during the first year, assuming that the lined biobed does not pollute the environment or harm human health. This position only applies to **lined** biobeds.

## Fly-tipping

Farmers should take precautions to avoid becoming the victims of fly-tipping. They should take opportunities to develop and share, through their representatives of the National Fly-tipping Prevention Group, good practice in:

- handling fly-tipped waste;
- avoidance techniques to help to stop people fly-tipping on their land;
- reporting fly-tipping to the authorities.

We will fulfil our commitments on fly-tipping, contained within the Memorandum of Understanding with the Local Government Association.

## Animal By-Products Regulation (for example fallen stock)

Carcasses will not be a controlled waste, as they will not be covered by the new agricultural waste regulations. This is because they are classified as animal by-products, which are controlled through the Animal By-Products Regulation (ABPR).

## Farmers should make sure that:

- their fallen stock is not buried on the farm;
- any incineration of animal by-products complies with the ABPR;
- any spreading of animal by-products complies with the ABPR.