

**The Waste Management (England and Wales) Regulations 2006  
(S.I. 2006 No. 937)  
“The Agricultural Waste Regulations”  
Frequently Asked Questions and Answers**

**NOTE:** This question and answer brief is a “living” document and has been compiled by Defra, in consultation with the Environment Agency and the Agricultural Waste Stakeholders’ Forum. It has been compiled to address questions related to the Waste Management (England and Wales) Regulations 2006 (S.I. 2006 No. 937) which came into force 15 May 2006. The Regulations are available on the Office of Public Sector Information (HMSO) website at [www.opsi.gov.uk/si/si2006/20060937.htm](http://www.opsi.gov.uk/si/si2006/20060937.htm). Because the main subject of the Regulations is agricultural waste, they are often referred to as “the Agricultural Waste Regulations”. The Q and A briefing does not purport to provide definitive legal advice on the Regulations or waste management legislation generally – it is intended only as a helpful guide to some of the main issues.

**Index**

<b>Subject/Area</b>	<b>Page Number</b>
What is agricultural waste?	2
How will the Regulations affect agricultural waste?	3
Timing of Regulations?	7
Farm dumps/tips?	8
Professional waste carriers?	9
Who will enforce the Regulations?	10
Waste management licences and exemptions?	11
Sheep Dip and Pesticide Washings?	14
Manure and slurry?	15
Open burning of waste?	16
Fallen stock?	17
Waste plastic?	19
Food and drink waste?	21
Fly-tipping?	22
Hazardous waste?	24
How much will the Regulations cost farmers?	26
Other questions?	28

If there are any additional questions or queries that you would like answering please telephone the agricultural waste helpline on 0845 603 3113.

**Please Note:** If you have any questions about other waste streams please contact the Environment Agency’s National Customer Contact Centre on 08708 506506 or email [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk).

## What is agricultural waste?

### 1. What is the definition of “agricultural waste”?

The legal definition of “agricultural waste” is:-

“waste from premises used for agriculture within the meaning of the Agriculture Act 1947.”

The Agriculture Act 1947 defines “agriculture” as including:-

“...horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and ‘agriculture’ shall be construed accordingly.”

### 2. What is “waste”?

“Waste” is “...any substance or object...which the holder discards or intends or is required to discard.”

Whether or not a substance or object is discarded as waste must be determined on the facts of the case and in light of judgments issued by the European Court of Justice and our national Courts. It is not possible to say whether any particular substance, in any particular circumstance is discarded as waste. **There is, therefore, no definitive list of what is and is not waste.**

But it will often be clear that a substance is waste. For example, pesticide containers, silage wrap, tyres, batteries and oil which are discarded after use.

### 3. Is agricultural waste different from “farm waste”?

Historically, the term “farm waste” has been used to describe livestock manure, slurry and effluent. With the introduction of the Regulations, all substances or objects from premises used for agriculture, and which are discarded by the holder, are subject to control as **waste**. This includes many non-natural types of waste. However, manure and slurry is not classified as waste when used as a fertiliser (see manure and slurry section). Increasingly, the planning and use of manure, slurry and effluent will be referred to as “**manure management**”.

## How will the Regulations affect agricultural waste?

### 4. Why are we introducing controls to agricultural waste?

Agricultural waste has been excluded from the UK's waste management controls by section 75(7)(c) of the Environmental Protection Act 1990. The European Court of Justice has concluded that this exclusion contravenes European legislation - the Waste Framework Directive and the Landfill Directive. The UK Government accepts that the exclusion contravenes the Directives and has given a commitment to the European Commission to apply the controls necessary under the Directives to agricultural waste.

This does not mean that agriculture is being singled out for special treatment. The Directives already apply to all other sectors of industry and types of waste. What the Regulations do is to extend to agricultural waste the controls that are already in place in the UK to comply with the Directives – and which have applied to all other sectors of industry for many years. We also know from research that until now most agricultural waste has been disposed of on-farm by open burning, by burial or by disposal in “farm dumps”. This can cause pollution of the environment and harm to human health. For many years there have been legal controls on the management of household, commercial and industrial waste. Household, commercial and industrial waste is collectively classified as “controlled waste”.

The exclusion also contravenes the Hazardous Waste Directive. Separate Regulations apply the requirements of the Hazardous Waste Directive to agricultural waste and came into force at the end of the 12-month transitional period provided in the Agricultural Waste Regulations.

### 5. Are the controls similar to those applied to farmers and growers throughout the EU?

**Yes** – All Member States are required to make Regulations that fulfil the requirements of the Directives. Failure to do so can result in fines being imposed by the European Court of Justice. All Member States have made Regulations applying the Directives to agriculture. The UK has applied these Directives to other industries in the UK – with the exception of the agricultural sector and non-mineral waste from the mining and quarrying sectors.

### 6. How will controls apply to agricultural waste?

At a meeting between the Government and representatives of the agricultural sector in March 2000 the **Action Plan for Farming** was launched. This confirmed that in applying controls to agricultural waste the Government would:-

- “Start from the position that the Waste Framework Directive does not apply to manure and other natural, non-dangerous substances used on farms for agricultural benefit;
- Ensure that, where controls are necessary, they will be proportionate to the environmental and human health risk;
- Make full use of powers to provide licensing exemptions – especially for the re-use and recycling of waste – without charges;

- Ensure that registration schemes for exemptions and waste carriers are as simple as possible; and
- Provide that farmers carrying waste as an incidental part of their businesses are exempt from the requirement to register.”

The Regulations have been written to fulfil these commitments.

## 7. What do the Regulations mean for farmers?

The basic options available to farmers – and which **may be used in combination** – are to:-

**Option 1** Store your waste, pending collection, on the site where it is produced for up to 12 months. You do not have to inform the Environment Agency that you are doing this. After this 12 month period you will have to recover or dispose of your waste using one of the other options below; or

**Option 2** Take the waste yourself for recovery or disposal off-farm at an appropriately licensed site – you will **not** have to register as a waste carrier to transport your own waste as an incidental part of your business as a farmer – see Questions 26 - 27 below on “professional” waste carriers; or

**Option 3** Transfer your waste to someone else for recovery or disposal off-farm at an appropriately licensed site. There are waste management companies who can visit your farm to do this; or

**Option 4** Register a licence exemption with the Environment Agency to recover or dispose of your waste on-farm; or

**Option 5** Apply to the Environment Agency for a waste management licence or a landfill permit to recover or dispose of your waste on-farm.

## 8. For Option 1 (storage) are there controls on how waste is stored?

**Yes** – You must store the waste in a way that complies with the “duty of care” – see Question 15 below. Additional controls will apply to the storage of hazardous waste after the twelve month transitional period. – see Questions 60-63 below. For example there are quantity limits on the storage of solid and liquid hazardous waste and it must be stored in a secure container or place.

## 9. For Option 3 (having waste collected) who collects waste?

Waste management contractors collect waste. Lists of waste management contractors can be found in Yellow Pages, on the National Recycling Directory at [www.wasterecycling.org.uk](http://www.wasterecycling.org.uk) or on the internet. Certain controls apply to waste management contractors – you must be sure that the person to whom you give your waste to is authorised to take it. The “duty of care” applies when you give your waste to someone else – see Question 15 below.

## 10. What about waste transfer notes?

The “duty of care” applies when you transfer your waste to someone else (**Options 2 and 3**) – see Question 15 below. One of the requirements of this duty is that you must describe the waste in writing and fill in and sign a transfer note for it. You must keep a copy of this transfer note – to save on paperwork you can

write the description on the transfer note. You must keep your copy of the transfer note and the description of the waste for 2 years.

**11. What is a licensing exemption or a waste management licence (Options 4 and 5)? See page 11 for more questions on Licensing and Exemptions.**

Anyone who wants to **deposit, recover or dispose** of controlled waste must have a licence issued by the Environment Agency. “Controlled waste” is a term to used to describe household, commercial and industrial waste. Agricultural waste is classified as industrial waste. There is a charge for getting a waste management licence and certain conditions apply - including whether the applicant is a “fit and proper person” (see Question 35) to hold a licence.

However, Member States have discretion under the Waste Framework Directive to provide **exemptions** from the requirement to have a waste management licence. To date the UK has provided 46 licensing exemptions, mainly for the recovery of waste. The exemptions are provided in paragraph 17 of and Schedule 3 to the Waste Management Licensing Regulations 1994.

Licence exemptions are a “light-touch” method of environmental control and are used to encourage the recycling of waste. A wide range of licence exemptions is available to farmers – all of them free of charge for agricultural waste

**12. How are licensing exemptions registered (Option 4)?**

Most licensing exemptions are registered with the Environment Agency. For some of these, you will have to provide specific information (for example, on the type and quantity of waste) to the Environment Agency. The basic information that someone proposing to make use of a licensing exemption has to provide to the Environment Agency is:-

- (a) Their name and address;
- (b) The exempt activity; and
- (c) The place where the exempt activity is carried on.

The Environment Agency is producing an “Exemptions Pack” to help farmers register their exemptions. Farmers can register exemptions online (England only), by phoning the Environment Agency on 0845 603 3113 or in writing. Farmers are free to choose – and each option is straightforward.

**13. How do I find the nearest licensed waste disposal or recovery site or contractor?**

Waste management facilities and contractors can be found in Yellow Pages or by viewing the National Recycling Directory at [www.wasterecycling.org.uk](http://www.wasterecycling.org.uk). The Directory has been developed by the Environment Agency with the Agricultural Waste Stakeholders’ Forum, (see Question 14 below).

**14. What is the National Recycling Directory?**

The National Recycling Directory is an internet site designed to help farmers find ways of recycling or disposing of their waste. Farmers and growers will need to log onto the website [www.wasterecycling.org.uk](http://www.wasterecycling.org.uk), enter their postcode, select the types of waste that they wish to recycle or dispose of and it will search for the

nearest sites. The results will show the sites nearest to the postcode given for each waste type selected. Only waste management companies who choose to be listed on the site are shown.

If farmers and growers do not have internet access or are unable to log on to the site they can contact the Environment Agency on 0845 603 3113, who will then search the site for them.

### **15. What is the duty of care?**

Section 34 of the Environmental Protection Act 1990 imposes a “duty of care” on people who produce, import, carry, keep, treat or dispose of controlled waste or as a broker have control of such waste – and on the introduction of the Regulations this duty will apply to farmers and those to whom they transfer their waste.

The duty of care requires everyone who has control of waste to take all measures that are reasonable in the circumstances:-

- (a) To prevent any contravention by another person of waste management controls;
- (b) To prevent the escape of the waste from his control or that of any other person; and
- (c) On the transfer of the waste to ensure that:-
  - (i) it is transferred only to an “authorised person” (e.g. a registered waste carrier or someone who holds a licence to recover or dispose of the waste);
  - (ii) a written description of the waste is transferred;
  - (iii) a “transfer note” is completed and signed by both parties to the transfer; and
  - (iv) copies of the written description and the transfer note are kept by both parties for 2 years.

Further information about the duty of care is available on the Defra website at <http://www.defra.gov.uk/environment/waste/legislation/duty.htm> The duty of care applies to agricultural waste from the date the Regulations come into force on 15 May 2006.

### **16. Are these Regulations part of CAP cross compliance?**

**No** – However, the disposal of used sheep dip under a groundwater authorisation is part of cross compliance.

Farmers who belong to Tir Cynnal (Wales Entry Level Agri-environment Scheme) are required to “keep the farm clear of rubbish and avoid dumping rubbish such as derelict vehicles and disused domestic appliances, in the fields or curtilage of the farmstead.”

## Timing of Regulations?

### 17. When will the Regulations come into force?

The Waste Management (England and Wales) Regulations 2006, came into force on **15 May 2006** – **there was a transitional period on some of the controls but this came to an end on 15 May 2007.**

### 18. Did the Government consult on the proposed Regulations?

**Yes** – a consultation paper was published on 9 December 2004 for a 14-week consultation period. The consultation closed for comments on 18 March 2005. The main consultation paper was sent to 495 organisations and a summary, with a pull-out questionnaire, was sent to 162,000 farmers and growers in England and Wales. There were 103 responses to the main consultation and 2,485 responses to the summary questionnaire. The consultation paper was sent to a wide range of trade associations and other organisations. A summary of the consultation paper – with a pull-out questionnaire – was sent to all farmers and growers in England and Wales..

Defra announced the result of the consultation on the 30 March 2006. There were 103 responses to the main consultation and 2,485 responses to the summary questionnaire.

### 19. What has been done to help farmers comply with the proposed Regulations?

The Agricultural Waste Stakeholders' Forum was established in 2002 to help in the development of the Regulations, to implement a communications campaign and to help develop practical solutions for agricultural waste.

When the Regulations begun to come into force, there were advertisements in the farming press and regional meetings. The regional meetings include, self help groups, farm walks and workshops, and run as part of the Environment Sensitive Farming project. Farmers can contact ADAS on 01954 268301 for information on these events.

The Environment Agency have provided guidance which is available from their website at :

[http://www.environment-agency.gov.uk/business/444304/1224648/660279/241420/1387827/588543/?version=1&lang=\\_e](http://www.environment-agency.gov.uk/business/444304/1224648/660279/241420/1387827/588543/?version=1&lang=_e)

or by ringing 0845 603 3113.

To stay in touch with what is happening in this important area, see

<http://www.environment-agency.gov.uk/business/444304/1224648/660279/241420/1387789/1448871/>

## Farm Dumps/Tips?

### 20. What is a farm dump or tip?

A farm dump or tip is any location on the farm that has been used to dispose or get rid of wastes or unwanted materials. It can be a hole in the ground - old quarries, sink holes, borrow pits, embankments, depressions in fields or ponds – or, on the surface – in woodlands, along river banks or in the corner of a field. A single deposit of waste can constitute a dump or tip.

### 21. Can I get a licence to continue to use my farm dump or tip?

**This is very important.** If you want to create a farm dump or tip for on-farm disposal - then you will have to apply to the Environment Agency for a landfill permit. Your farm dump or tip will then have to meet the stringent requirements of the Landfill Directive - including the provision of a liner to stop liquids escaping. Landfill permits are also very expensive and a serious undertaking. If you do not have a licence **you should have stopped using a farm dump or tip before the Regulations came into force on 15 May 2006.** If you have not stopped using it the Environment Agency will apply very stringent controls on how you then close down your farm dump or tip and it will have to be monitored – **at your expense** – for many years.

### 22. When does a storage of waste become a farm dump or tip?

Waste can be stored for up to 12 months prior to disposal. After this time the store may be considered a farm dump or tip and the Environment Agency may take enforcement action to ensure the waste is removed.

### 23. Did the existing farm dumps or tips have to be removed before the Regulations came into force on 15 May 2006?

**No** – but no more waste must be added to the dump or tip on or after the date the Regulations come into force – **15 May 2006.**

## “Professional” Waste Carriers?

### 24. What is a professional waste carrier?

A professional waste carrier is someone who has registered with the Environment Agency to carry controlled waste on behalf of others as a business. Registration is a one off exercise and is free of charge for farmers and growers carrying only agricultural waste.

### 25. What does “register as a waste carrier” mean?

We recognise that farmers and growers may want to:-

- transport their own agricultural waste to a waste management facility for recovery or disposal; ***farmers and growers will not need to register as a waste carrier if the waste is produced on their own farm,***
- collect agricultural waste from another farm for recovery on their own farm; ***farmers and growers will need to register as a waste carrier for this activity and also might need to register an appropriate waste management permit or licensing exemption with the Environment Agency,***
- collect agricultural waste from another farm and take it to a waste management facility; ***farmers and growers would need to be registered as a waste carrier for this activity.***

Unless you wish to become a “professional” waste carrier and carry other peoples’ waste as a business activity, you will **not** need to register with the Environment Agency as an agricultural waste carrier. To register, you will need to call the agricultural waste helpline on:- 0845 603 3113.

## **Who will enforce the Regulations?**

### **26. Who will enforce the Regulations in England and Wales?**

The Environment Agency will implement and enforce the Regulations.

### **27. How will the Regulations be enforced?**

The enforcement of the Regulations will be risk based, fair and proportionate. The enforcement agencies will work in partnership with farmers, growers and the waste industry to build on good practice and find practical solutions to managing waste on farms. Farm inspections for these Regulations will be combined with visits for other controls in order to take up as little of farmers' and growers' time as possible.

### **28. Are there Regulations that apply to agricultural waste in Northern Ireland and Scotland?**

**Northern Ireland** – Similar Regulations came into force July 2006 and will be enforced by the Northern Ireland Environment Heritage Service.

**Scotland** – Regulations have applied to agricultural waste since 21 January 2005 and are enforced by the Scottish Environment Protection Agency.

## Waste Management Licences and Exemptions?

### 29. Are there any licensing exemptions specifically for agricultural waste?

The Regulations contain the following proposals for agricultural waste:-

- the deposit of waste milk diluted by water or slurry from farms by spreading to agricultural land, and;
- the deposit of plant tissue on land to allow it to rot down e.g. crop waste from handling, grading and storage.

In addition to the above exemptions, 3 new exemptions came into force 2 May 2007. They are:-

- The land treatment of ash from on-farm incineration of pig and poultry carcasses;
- The land treatment of dredgings from farm ditches; and
- The disposal of pesticide washings through a lined biobed

### 30. Who needs to register licensing exemptions?

The person (the 'establishment or undertaking') who is carrying out the waste management activity that is covered by the exemption. For example, to burn hedge trimmings and other plant matter at the place of production on land in the open; a Schedule 3 Paragraph 30 exemption; would need to be registered by the farmer or grower of that farm.

### 31. Is there a charge for registering licensing exemptions?

There is **no charge** for licensing exemptions involving agricultural waste.

### 32. How often do exemptions for agricultural waste need to be registered?

Once – although for some exemptions you may be required to renew them annually, more information can be obtained from the Environment Agency who will carry out periodic inspections to ensure compliance with the terms of the registered exemption.

However, if any of the following details change then you will need to contact the Environment Agency in order to ensure that the activity can still be registered as exempt:-

- The name and address of the establishment or undertaking;
- The activity which is the exempt activity;
- The place where the activity is carried on.

For more information contact the Environment Agency on 0845 603 3113.

### 33. How do I register licensing exemptions?

The majority of exemptions are registered with the Environment Agency some are registered with the Local Authority. Contact the Environment Agency's agricultural waste help line on 0845 603 3113 to find out more information.

The Environment Agency has produced an “Exemptions Pack” to help farmers register their exemptions, to obtain your pack call the Environment Agency on 0845 603 3113, farmers can register exemptions online (England only):- <https://secure.wholefarm.defra.gov.uk/wps/portal>. Farmers are free to choose – and each option is straightforward.

#### **34. What does “fit and proper person” mean?**

In order to hold a waste management licence, the Environment Agency need to ensure that the applicant:-

- has not been convicted of a relevant (environmental) offence;
- is technically competent to manage the waste operation proposed – this may necessitate training, and;
- has financial provision adequate to discharge the requirements of the licence.

#### **35. What does “recovery” of waste mean?**

The objective of recovery of waste is that the waste serves a useful purpose by replacing other substances that would have had to be used for that purpose (thereby saving natural resources), This is distinguished from disposal where the primary aim is to get rid of the waste. Examples of recovery operations include:-

- recycling it to produce a useable product; or
- composting it to create products; or
- re-using it for another purpose; or
- recovering energy or beneficial value (such as land spreading for agricultural benefit).

The Government is keen to encourage the recovery of waste because it means less waste is disposed of in licensed landfill sites. Licensing exemptions are provided to encourage the recovery of waste.

#### **36. How do I apply for a waste management licence?**

You apply to the Environment Agency, for more information see [www.environment-agency.gov.uk/business/444217/590750/590821/wml/?lang=e](http://www.environment-agency.gov.uk/business/444217/590750/590821/wml/?lang=e) or contact the National Customer Contact Centre on 0845 603 3113. Planning Permission may be required from your local authority.

#### **37. Will the spreading of sewage sludge and other industrial waste be stopped when these Regulations are introduced?**

**No** – these are not **agricultural waste**. You may continue to accept these wastes to be landspread on your land as long as you have registered a Schedule 3 paragraph 7A\* or 8A\* (\*depending on the circumstances) exemption to the Waste Management Licensing Regulations 1994 with the Environment Agency.

#### **38. What happens when I mix waste with non waste?**

You must be very careful what you do here. If you add waste to non-waste then it all becomes waste. In addition, you must be able to demonstrate that any waste you spread to land is for agricultural benefit and either covered by a waste management licence or licensing exemption.

**39. Do I need to separate my waste?**

If you separate your waste it will make it easier to manage and may save you money. For information on waste minimisation you can order the Waste Minimisation Manual (PB4819) from Defra free publications 08459 556000.

**40. Can I compost waste on my farm?**

**Yes** – If farmers and growers are composting only agricultural waste they have to register the exemption provided in paragraph 12 of Schedule 3 to the Waste Management Licensing Regulations 1994 with the Environment Agency. This exemption is free of charge.

In addition the Animal By-Products Regulations may apply. For more information see [www.defra.gov.uk/animalh/by-prods/](http://www.defra.gov.uk/animalh/by-prods/).

**41. Can farmers accept liquid digestate waste from anaerobic digestion plants?**

**Yes** – if it is for recovery for agricultural benefit. A paragraph 7A exemption would need to be registered with the Environment Agency.

**42. Can I use building waste to repair my farm tracks?**

Yes, road planings are not agricultural waste and normally a full chargeable Exemption 19A would be required to use them. However, The Environment Agency has taken the position that they will not expect people to register Exemption 19A if they are using less than 150 tonnes of road planings at a site. But you are still required to let the Agency know where you intend to carry this out by completing form PLAN 2 and returning it to the Agency.

If you are intending to use more than 150 tonnes please contact the Environment Agency and ask for a WMX19 form. The WMX19 form will need to be submitted, the appropriate fee paid and approval received before work can commence.

The Environment Agency can be contacted on:- 0845 603 3113

**43. Can I let vegetable waste rot down on my land?**

**Yes** – Where organic plant tissue are discarded as waste, this can be rotted-down under the terms of a registered licensing exemption. Certain conditions apply.

## Sheep Dip and Pesticide Washings?

### 44. How can I dispose of used sheep dip and pesticide washings?

You may continue to dispose of used dip and pesticide washings to land under the terms of the groundwater authorisation that the Environment Agency have granted to you. **You must ensure that you have one.** For more information on the disposal of used sheep dip see [www.defra.gov.uk/environment/water/ground/sheepdip/index.htm](http://www.defra.gov.uk/environment/water/ground/sheepdip/index.htm) or contact the Environment Agency on 0845 603 6113.

New legislation in the form of the Landfill Directive will prevent anyone using particular sites for disposals of used dip. It will be necessary to review authorisations to establish if this is the case in practice. Whilst this will only affect a small number of individual authorisation holders, the likely impacts on farmers are:-

- Mobile dipping contractors who take used dip back onto their own land for disposal will need to show they have sufficient land to dispose of all the dip received. We expect that in many cases they will not be able to do so and so will no longer be able to dispose of dip away from your farm.
- Farmers using mobile contractors who can no longer take used dip off site will need to make alternative arrangements, which might require them to obtain an authorisation for a suitable area of land on their own farm for the disposal of used dip.
- Farmers with existing authorisations that permit multiple disposals within an area of land may need to identify additional land for the disposal of used dip if the existing authorised area is insufficient to ensure any single plot within that area does not fall within Landfill Directive controls. The Agency will formally assess this during the 4-yearly review of authorisations. It may be acceptable for a single authorisation to identify more than one area of land on a farm for the disposal used sheep dip.
- Discharging certain substances (which include sheep dip and other pesticides) into or onto the ground without an authorisation is illegal and could result in prosecution. Anyone found guilty of causing pollution of surface or groundwater is liable for fines of up to £20,000 in a Magistrates court.

A new exemption came into force on 2 May 2007 that allows the disposal of pesticide washings (not sheep dip) through a lined biobed. For more information on this exemption contact the Environment Agency.

## Manure and Slurry?

### 45. What about livestock manure, slurry and effluent?

In a recent European Court judgment (Case C-416/02 European Commission v Kingdom of Spain) the Court ruled that:-

“89. As the United Kingdom Government correctly maintains in its statement of intervention, livestock effluent may, on the same terms, fall outside classification as waste, if it is used as soil fertiliser as part of a lawful practice of spreading on clearly identified parcels and if its storage is limited to the needs of those spreading operations.

90. Contrary to the Commission’s submission, it is not appropriate to limit that analysis to livestock effluent used as fertiliser on land forming part of the same agricultural holding as that which generated the effluent [...]”

The effect of the judgment is to confirm that livestock effluent (e.g. manure and slurry) **may** fall outside classification as waste:-

- (a) If it is used as a soil fertiliser and:-
  - (i) that use is part of a lawful practice of spreading; and
  - (i) the spreading takes place on clearly identified parcels of land; and
- (b) If its storage is limited to the needs of those spreading operations;
- (c) Furthermore, to fall outside classification as waste it is not necessary for livestock effluent used as fertiliser to be spread on land forming part of the same agricultural holding as that which generated the effluent.

Defra’s interpretation of the judgment is on our website at

<http://www.defra.gov.uk/environment/waste/topics/agwaste.htm>

and the full judgment can be obtained from the European Court of Justice’s website at

[http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=62002J0416](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=62002J0416).

However other legal controls such as the NVZ Action Programme and Groundwater Regulations still need to be complied with. Even as a fertiliser manure and slurry still needs to be managed properly. And see Question 40 above about mixing waste and non-waste.

## **Open burning of waste?**

### **46. Can I continue to burn waste?**

The burning of small quantities of untreated wood and plant matter will continue to be allowed, subject to certain restrictions. You will need to register a paragraph 30 exemption with the Environment Agency. Uncontrolled burning of other waste materials is no longer allowed, for example farm plastic, paper, cardboard.

### **47. Can I burn hedge trimmings and grain store sweepings?**

**Yes** – These wastes can be burnt under a Schedule 3 paragraph 30 waste management licensing exemption, and needs to be registered with the Environment Agency. Certain conditions apply.

### **48. Can I still use my “drum incinerator”?**

Environment Agency research shows that the use of “drum incinerators” to burn plastic wastes is unacceptable – because it pollutes the environment and harms human health. Copies of the report can be obtained from the Environment Agency.

### **49. Can I still burn waste oil to heat my farm buildings?**

**Yes** – You may continue to use your waste oil burner as long as the appropriate licensing exemption is registered with the regulator (Environment Agency or Local Authority).

## Fallen Stock?

### 50. Is fallen stock regulated under these controls?

The EU Animal By-Products Regulation (APBR) applies to the disposal of fallen stock. This means that fallen stock cannot, generally, be buried on farms. Fallen stock must either be removed for disposal at an approved facility or disposed of in an approved incinerator on-farm. For more information see [www.defra.gov.uk/animalh/by-prods/fallen/fallen.htm](http://www.defra.gov.uk/animalh/by-prods/fallen/fallen.htm)

### 51. Can I continue to use my animal carcass incinerator?

**Yes** – provided you have the appropriate authorisations. You will not need a waste management licence for your incinerator. For more information see [www.defra.gov.uk/animalh/by-prods/](http://www.defra.gov.uk/animalh/by-prods/).

### 52. Can I incinerate my neighbours fallen stock?

**Yes** – provided the incinerator is appropriately authorised in accordance with the ABPR. Fallen stock must not be taken from one livestock holding for incineration onto another livestock holding unless the two holdings are operated as though they were a single farming operation. If farmers are to share a stationary incinerator, it should be sited on premises on which no livestock are kept. If the premises was originally part of the livestock holding, it must be treated as completely separate i.e. fenced, with a dedicated entrance and equipment and, if possible, a dedicated operator. In particular, the hygiene standards outlined in relation to paragraph 2 of Annex IV of the ABPR (EU Regulation 1774/2002) must be followed. If alterations to premises are necessary, planning permission may be required.

### 53. Can I burn waste in my animal carcass incinerator?

**No** – Those incinerator plants which burn material other than animal carcasses must be approved under the Waste Incineration Directive, 2000/76/EC (WID) and will also require a waste management licence, even if they burn animal carcasses as well.

### 54. Do I require a waste management licence to burn animal carcasses?

**No** - Whole animal carcasses from agricultural premises are not considered waste as the ABPR controls their disposal. This means that incinerators burning whole animal carcasses from agricultural premises will continue to be regulated under ABPR and not under waste management legislation.

### 55. Where can I find information regarding disposal of ash derived from my on-farm incinerator?

Ash from on-farm incinerators should not be spread to land. Waste consisting of animal carcass ash must be consigned for disposal to an appropriately authorised landfill. Farmers or growers operating shared or commercial incinerators can contact their local Environment Agency office, via their general helpline 08708 506506 or email [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk), to ascertain which landfill sites in their local area can accept carcass ash for disposal. The Environment Agency will also be able to provide practical guidance to ensure that carcass ash is landfilled safely.

However on the 2<sup>nd</sup> May 2007, a new agricultural waste exemption came into force that allows the land treatment of ash from on-farm incineration of **only** pig and poultry carcasses.

## Waste plastic?

### 56. What can I do about waste non-packaging farm plastics (silage wrap, horticultural films etc)?

Research has shown that most farmers and growers are keen to recycle waste non-packaging farm plastics. The consultation paper published in December 2004 (see Question 18 above) contained proposals for a scheme to collect and recycle these plastics.

In response to that consultation Defra announced on 21 March 2006 plans to develop statutory producer responsibility Regulations to increase the collection and recycling of non-packaging farm plastics. The Regulations, which will be developed in collaboration with the devolved administrations, would cover England, Scotland and Wales. Northern Ireland will consider introducing regulations following consultation.

Producer responsibility Regulations are already in place for producers that place packaging on the market and it is expected that any collection scheme would be set up to collect both packaging and non packaging farm plastics. It is estimated that about 86,000 tonnes of waste plastic are generated on farms in England each year. Over 90% of holdings produce plastic waste, with packaging waste estimated to be about 21,000 tonnes and non-packaging plastic waste estimated at about 65,000 tonnes per year.

Local Environmental Quality Minister, Ben Bradshaw, explained in his announcement that Defra had carefully considered whether to bring in separate producer responsibility Regulations or a voluntary scheme to deal with the collection of farm plastics and that responses to a consultation on this indicated that a majority of responses strongly favoured a statutory scheme. He went on to say:-

“We have considered carefully whether to bring in regulations to deal with farm plastics or whether to use a voluntary approach. Responses to our consultation on the Waste Management Regulations indicated that the majority of stakeholders were in favour of the legislation including, importantly, the businesses who would bear the cost – the producers of agricultural films themselves. These companies were unanimously in favour of legislation. Voluntary schemes are susceptible to free riding, a problem which led to the collapse of a previous voluntary scheme.

Therefore, in this case, legislation is the right approach. It avoids importers undercutting domestic prices and gaining a competitive advantage. A regulatory regime will also provide the right signal and the certainty to stimulate investment in collection and recycling.”

On 29 July 2005 Margaret Beckett, the Secretary of State for the Environment, awarded the Agricultural Waste Stakeholders' Forum (AWSF) £1million of [BREW](#) funding over three years, to develop a programme of work to look at how farm plastic waste can best be collected and recovered The development of

Regulations will be informed by this funding. The project is looking at how farm plastic waste can best be collected for recovery from farms within the formal structure of a producer responsibility scheme. The Government is also setting-up an Advisory Group as part of the existing Advisory Committee on Packaging to advise on the development of Regulations. This group will include producers of both packaging and non-packaging farm plastics, the farming community, the waste industry and the relevant Government Departments and Environment Agencies.

The full text of the announcement is available on the Defra website at [www.defra.gov.uk/news/2006/060321a.htm](http://www.defra.gov.uk/news/2006/060321a.htm)

For further information contact either:

Project Management Board	Defra
Ivan Good	Laura Jockers
Executive Administrator (CIWM(EB))	Policy Advisor
Tel: 01604 844625	Tel: 020 7082 8755
Email: <a href="mailto:ivan.good@btinternet.com">ivan.good@btinternet.com</a>	Email: <a href="mailto:Laura.jockers@defra.gsi.gov.uk">Laura.jockers@defra.gsi.gov.uk</a>

## Food and drink waste?

### 57. If I buy brewers' grains and sugar beet pulp as animal feed will I need a licence?

**No.** In the light of discussions with Defra and consideration of ECJ case law, the Environment Agency have concluded that **materials resulting from the manufacture of food or drink which are passed on directly to another undertaking for processing into food or drink (for human or animal consumption) are not waste.** The rationale behind this view is that raw materials are being processed in a series of stages (albeit by different undertakings) to extract nutritional value for a number of different purposes. In these circumstances, the Agency considers that it is appropriate to regard these food and drink by-products as not being discarded as waste but simply as another food and drink product obtained from the original raw materials.

This reasoning applies, for example, to brewers' grains and spent yeast, where they are used to make animal feed or yeast based products, and to molasses and other derivatives from sugar manufacturing where they are used to make animal feed. However, where residues from the manufacture of food and drink are disposed of, or are used for a different purpose, which amounts to a waste recovery operation (e.g. use of olive residues as a fuel or spreading food waste to land for agricultural benefit), they will be waste.

The Agency is giving further consideration to whether off-specification or out of date food or drink products are waste. For more information contact the Environment Agency.

## Fly-tipping?

**58.** Local authorities (LAs) do not have duty to clear fly-tips from farms, or other privately owned land. However, the occupier or owner of a farm may work with the LA to clear the waste

LAs and the Environment Agency (EA) do have powers to enter land under section 59 of the Environmental Protection Act 1990, and to serve notice on the occupiers of land to clear illegally deposited waste. The notice may also be served on the land owners in cases where the land is unoccupied, or where the occupier has successfully appealed against a notice. The EA uses these powers to serve notices requiring the removal of waste principally for larger scale fly-tipping or where waste has accumulated at illegally operated sites and the offender has been identified.

However, there is a right of appeal against a notice served under s.59. The notice can be quashed if the appellant demonstrates that they neither deposited nor knowingly caused or permitted the deposit of waste.

## **59. What is being done about the problem of fly-tipping?**

Defra consulted on the **Fly-Tipping Strategy** that included a range of options to further enhance and improve the powers available to local authorities and the EA. These measures were brought forward through the **Clean Neighbourhoods and Environment Act 2005** (the CNEA). This Act develops a further range of proactive policies to enable local authorities and the EA to conduct effective investigations to trace the perpetrators of fly-tipping offences, rather than leaving the victims or the public purse to bear the cost of clearing fly-tipped waste.

The EA and LAs have a discretionary power to pursue a prosecution against those they believe to be guilty of fly-tipping. If the prosecution results in a conviction, measures in the CNEA allow the courts to award clean-up costs against the convicted person. The costs could also be paid to the landowner or occupier, if they were involved in clearing the waste.

Private land owners can also take forward a prosecution themselves under this legislation. The costs involved with taking this forward can be prohibitive, however if successful, the land owner would be entitled to claim the same costs for clearance from the defendant.

Defra commissioned the **Jill Dando Institute** of Crime Science, part of University College London, to carry out further research into the impacts and causes of fly-tipping and the best ways to prevent it. Defra published the results in July 2006. This publication included a detailed **good practice guide** on the preventative measures, to assist local authorities, the EA, and private landowners.

The concerns of private landowners, including farmers, can also be voiced on the National Fly Tipping Prevention Group (NFTPG). This a group of organisations

that works to identify solutions to fly-tipping, It is chaired by the EA and includes the National Farmers Union among its members.

## Hazardous waste?

### 60. When will the Hazardous Waste Regulations 2005 affect agricultural waste from farms?

The Hazardous Waste Regulations applies to agricultural waste from 15 May 2007.

Some waste on your farm may be classed as hazardous waste. This includes used oil, un-depolluted scrap vehicles, batteries, asbestos, unwanted or obsolete pesticides and veterinary wastes. These wastes can be more harmful to the environment and human health so you should take more care with their handling, storage and disposal. Special controls also apply to their disposal.

If you produce more than 500kg of hazardous waste (excluding scrap vehicles) you will need to notify your premises to the Environment Agency. Further advice on this can be found at <http://www.environment-agency.gov.uk/subjects/waste/1019330/1217981/1218079/?version=1&lang=e>.

All movements of hazardous waste must be accompanied by “consignment notes” when they are moved off your holding to provide an audit trail. When you complete the consignment note, you must describe the waste and keep a copy of the note for a minimum of 3 years. You must also keep a copy of any return from the waste management facility certifying receipt of the waste. Further information about consignment notes can be found at [http://www.environment-agency.gov.uk/subjects/waste/1019330/1217981/1219538/?lang=\\_e](http://www.environment-agency.gov.uk/subjects/waste/1019330/1217981/1219538/?lang=_e)

More information on hazardous waste is provided in **guidance** that accompany the Regulations. You could also look at the following joint Environment Agency, NFU and Forum guidance note at [www.environment-agency.gov.uk/commondata/103599/awsf\\_nfu\\_note\\_julyv4\\_826296.doc](http://www.environment-agency.gov.uk/commondata/103599/awsf_nfu_note_julyv4_826296.doc).

### 61. What can I do with asbestos, in particular cement bonded asbestos?

**All forms of asbestos are hazardous.** Though many existing farm buildings may have asbestos sheeting forming part of the structure, regulations no longer allow its use or re-use in the construction of new buildings. For further advice on handling asbestos see the Control of Asbestos at Work Regulations 2002 (SI 2002 No 2675) and contact your local authority Environmental Health Department or the Health and Safety Executive.

### 62. If pesticide containers are rinsed, are they considered hazardous waste?

**No** – providing the containers are at least “triple rinsed” and there is no pesticide residue left in the container then pesticide containers will not normally be considered to be hazardous waste. Further advice can be obtained from the Environment Agency’s guidance document WM2 at

### 63. Do I need to separate my hazardous waste?

**Yes** – It is also important that you separate your hazardous waste from your non-hazardous waste – otherwise all your waste will be considered hazardous waste.



## How much will the Regulations cost farmers?

### 64. How much will these Regulations cost?

This will depend on how much and what type of waste you produce. **The less waste you produce the less it will cost.** Therefore you should think carefully when ordering products to try to **minimise** the amount of waste you produce – more information on waste minimisation can be found at <http://www.defra.gov.uk/environment/waste/topics/agwaste.htm>

If you store your waste on your farm (**Option 1**) for up to 12 months or register a licensing exemption (**Option 4**) there is **no charge**. If you take your own waste to a licensed landfill site then you will have to pay a gate fee for your waste and Landfill Tax. If a registered waste carrier collects your waste you will have to pay a fee for the transport of your waste, the gate fee and Landfill Tax. For more detailed information contact the Environment Agency. The table below summarises the estimated costs **excluding** your own transport and handling costs (where applicable).

Option	Cost of collection and transport by registered waste carrier per tonne		Cost of Disposal at a licensed site per tonne		Landfill Tax per tonne	Total Cost per tonne	
	Mixed	Haz*	Mixed	Haz		Mixed	Haz
<b>Option 1</b> – Store waste for 12 months – prior to disposal or recovery	<b>No charge</b>						
<b>Option 2</b> – Take waste off-farm	N/A**	N/A	£5-£30	£38-£100	£18	£23-£48	£56-£118
<b>Option 3</b> – Transfer waste to 3 <sup>rd</sup> party off-farm	£22-£110	£44-£110	£5-£30	£38-£100	£18	£45-£158	£100-£228
<b>Option 4</b> – Register a licensing exemption	<b>No Charge for agricultural waste</b>						
<b>Option 5</b> – Apply for a waste management licence	N/A	N/A	N/A	N/A	N/A	£873-£2,155***	N/A

**Note** \*Haz = Hazardous waste – There may be different charges for different hazardous wastes – batteries, asbestos and liquid wastes.

\*\*N/A = Not Applicable

\*\*\*The cost of a waste management licence depends on the quantity of waste the licence applies to and the activity it covers. Figures shown are annual subsistence charges. There is also a one-off application charge (£2,548-£6,075). The cost of a landfill permit is considerably higher.

Overall, the estimated total disposal cost for all farmers in England and Wales complying with the Regulations is £28.7m-£69.8m pa – the mid-point of the range being £49.25m pa. This assumes that all agricultural waste will be disposed of to licensed landfill by authorised waste management contractors.

**65. Will the Government help pay for these costs?**

**No** – the Waste Framework Directive states that the

“...cost of disposing of waste must be borne by: the holder...”.  
Therefore, farmers and growers will have to pay for complying with these Regulations – in the same way as all other sectors of industry.

## Other questions?

### **66. If I pay for waste, does this mean it is no longer waste?**

**No** – Some waste has a value – for example scrap metal – and this does not stop it from being waste. Waste has to be fully recovered for it to cease to be waste. For example, it must be incorporated into a new product – for example, waste glass must be recycled into a new bottle for it to cease to be waste.

### **67. Can I take my tractor onto a landfill site?**

It is always advisable to contact the operator of a waste management site to confirm what waste types they are able to take. Each operator's licence will restrict the types of waste that they can accept. In particular, mixed loads of hazardous and non-hazardous wastes can prove problematical and may well increase the cost of disposal. For Health and Safety reasons, some farm vehicles may not be allowed on landfill sites.

### **68. Can I take my waste to my local civic amenity site (council run tip)?**

You will need to check with your local authority first to see if they will accept your waste.

### **69. Can I put my waste in my dustbin for the Local Authority to collect?**

**No** – Agricultural waste is classified as an “industrial” waste for waste collection purposes. The Local Authority collects “household “ waste. If you put “industrial” waste in your dustbin you may be prosecuted (under section 46(6) of the Environmental Protection Act 1990) and in breach of your duty of care – see Question 14 above. However, your Local Authority may collect your industrial waste if you ask them to do so – there will be a charge for this service.

### **70. Can farmers “bulk-up” waste at a central point, without having to apply for a licence?**

**No** – in the majority of cases a waste management licence would be required for this activity – this is a waste transfer station.

- However, under some waste management licensing exemptions, waste may be stored pending recovery.