

2006 No. 937

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Waste Management (England and Wales) Regulations 2006

<i>Made</i> - - - -	<i>28th March 2006</i>
<i>Laid before Parliament</i>	<i>30th March 2006</i>
<i>Coming into force</i> - -	<i>15th May 2006</i>

The Secretary of State has been designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and in relation to measures relating to the prevention, reduction and elimination of pollution of water.

She makes the following Regulations in exercise of the powers conferred upon her by that section and by section 1(3)(a) of the Control of Pollution (Amendment) Act 1989(c) and sections 33(3), 75(8) and 156 of the Environmental Protection Act 1990(d) (having in particular had regard in exercising her powers under section 33(3) of that Act to the matters specified in section 33(4) of that Act):

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Waste Management (England and Wales) Regulations 2006.

(2) These Regulations come into force on 15th May 2006.

(3) These Regulations extend to England and Wales only.

Amendment of the Environmental Protection Act 1990

2.—(1) The Environmental Protection Act 1990 is amended as follows.

(2) In section 33 (prohibition on unauthorised or harmful depositing, treatment or disposal etc. of waste)—

(a) for subsection (2), substitute—

“(2) Subject to subsection (2A) below, paragraphs (a) and (b) of subsection (1) above do not apply in relation to household waste from a domestic property which is treated, kept or disposed of within the curtilage of the property.

(a) S.I. 1989/2393 and 1992/2870.
(b) 1972 c.68.
(c) 1989 c.14.
(d) 1990 c.43.

- (2A) Subsection (2) above does not apply to the treatment, keeping or disposal of household waste by an establishment or undertaking.”;
- (b) at the beginning of subsection (8)(a), insert “Subject to subsection (9) below,”;
- (c) after subsection (8), insert—
- “(9) A person (other than an establishment or undertaking) who commits a relevant offence shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine.
- (10) In this section, “relevant offence” means an offence under this section in respect of a contravention of subsection (1)(c) above consisting of the treatment, keeping or disposal within the curtilage of a domestic property of household waste from that property.”.
- (3) In section 33B(b) (section 33 offences: clean-up costs)—
- (a) at the beginning of subsection (5), insert “Subject to subsection (6) below,”;
- (b) after subsection (5), insert—
- “(6) Subsection (5) above does not apply where a person (other than an establishment or undertaking) is convicted of a relevant offence within the meaning of section 33 above.”.
- (4) In section 33C(c) (section 33 offences: forfeiture of vehicles)—
- (a) at the beginning of subsection (1), insert “Subject to subsection (1A) below,”;
- (b) after subsection (1), insert—
- “(1A) This section does not apply where a person (other than an establishment or undertaking) is convicted of a relevant offence within the meaning of section 33 above.”.
- (5) Sections 63(1) and 63(4) (waste other than controlled waste) are repealed.
- (6) In section 75(d) (meaning of “waste” and household, commercial and industrial waste and hazardous waste)—
- (a) at the end of subsection (6)(c), omit “or”;
- (b) at the end of subsection (6)(d), add—
- “; or
- (e) any mine or quarry or any premises used for agriculture within the meaning of the Agriculture Act 1947(e)”;
- (c) at the end of subsection (7)(b), add “and”;
- (d) subsection (7)(c) is repealed;
- (e) in subsection (8), omit “but no regulations shall be made in respect of such waste as is mentioned in subsection (7)(c) above”;
- (f) at the end of subsection (12)(a), omit “and”; and
- (g) at the end of subsection (12)(b), add—

(a) Subsection (8) of section 33 was substituted by section 41 of the Clean Neighbourhoods and Environment Act 2005 (c.16).

(b) Section 33B was inserted by section 43 of the Clean Neighbourhoods and Environment Act 2005 (c.16). Section 43 was commenced by S.I. 2005/2896 (c.122).

(c) Section 33C was inserted by section 44 of the Clean Neighbourhoods and Environment Act 2005 (c.16). Section 44 was commenced by S.I. 2005/2896 (c.122).

(d) Section 75 was amended by paragraph 88 of Schedule 22 to the Environment Act 1995 (c.25).

(e) 1947 c.48 (see section 109(3)).

- “;
- (c) the decision of the European Commission, dated 24th May 1996^(a), adapting Annexes IIA and IIB to directive 75/442/EEC on waste^(b); and
 - (d) EC Regulation No. 1882/2003 of the European Parliament and the Council dated 29th September 2003^(c)”.

Amendment of the Environment Act 1995

3.—(1) Section 41 of the Environment Act 1995^(d) (power to make schemes imposing charges) is amended as follows.

(2) After subsection (2), insert—

“(2A) But, in relation to a relevant environmental licence, charges may not be prescribed in respect of waste from premises used for agriculture within the meaning of the Agriculture Act 1947.”.

(3) In subsection (10), after the definition of “authorised activity”, insert—

““relevant environmental licence” means any registration mentioned in paragraph (j) of the definition of “environmental licence” which applies in relation to the Agency”.

Amendment of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991

4.—(1) Regulation 2 of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991^(e) (exemption from registration) is amended as follows.

(2) In paragraph (1), for sub-paragraph (i), substitute—

“(i) a person who transports controlled waste which comprises only animal by-products collected and transported in accordance with Article 7(1) or 7(2) of the Community Regulation; and

(j) a person who transports controlled waste which comprises only mines or quarries waste or agricultural waste”.

(3) In paragraph (2)—

(a) for the definition of “animal by-products”, substitute—

““animal by-products” has the same meaning as in the Community Regulation;”;

(b) omit the definition of “knacker’s yard licence”;

(c) insert the following definitions at the appropriate places—

““agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947;”

““the Community Regulation” has the same meaning, in relation to England and Wales, as in regulation 2(1) of the Animal By-Products Regulations 2005^(f);” and

““mines or quarries waste” means waste from a mine or quarry;”.

(a) O.J. No. L135, 6.6.1996, p. 32.

(b) O.J. No. L194, 25.7.1975, p. 39 (as amended by Council Directives 91/156/EEC (O.J. No. L78, 26.3.1991, p. 32), 91/692/EEC (O.J. No. L377, 31.12.1991, p. 48 (as corrected by Corrigendum, O.J. No. L146, 13.6.2003, p. 52)), Commission Decision 96/350/EC (O.J. No. L135, 6.6.1996, p. 32) and Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1).

(c) Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1).

(d) 1995 c.25.

(e) S.I. 1991/1624; a relevant amending instrument is S.I. 1994/1056.

(f) S.I. 2005/2347. Regulation 2(1) of S.I. 2005/2347 defines “the Community Regulation” to mean Regulation (EC) No. 1774/2002 as amended by various Community measures.

Amendment of the Controlled Waste Regulations 1992

- 5.**—(1) The Controlled Waste Regulations 1992(a) are amended as follows.
- (2) Omit regulation 1(4)(a).
 - (3) Omit regulation 3(1).
 - (4) In regulation 7 (waste not to be treated as industrial or commercial waste), for paragraphs (3) and (4), substitute—
 - “(3) Section 34 (duty of care etc. as respects waste) does not apply to waste which comprises animal by-products collected and transported in accordance with Article 7(1) or 7(2) of the Community Regulation.
 - (4) In this regulation, “Community Regulation” has the same meaning, in relation to England and Wales, as in regulation 2(1) of the Animal By-Products Regulations 2005 and “animal by-products” has the same meaning as in the Community Regulation.”
 - (5) In Schedule 3 (waste to be treated as industrial waste), at the end, insert—
 - “**19.** Any other waste which is Directive Waste, with the exception of any waste which is expressed by any other provision of these Regulations or section 75(5) or (7) of the Act to be household waste or commercial waste.”.

Amendment of the Waste Management Licensing Regulations 1994

- 6.**—(1) The Waste Management Licensing Regulations 1994(b) are amended as follows.
- (2) In regulation 1(3) (interpretation) —
 - (a) at the end of the definition of “the Directive”, add “, Commission Decision 96/350/EC and Regulation (EC) No 1882/2003”; and
 - (b) insert the following definitions at the appropriate places—
 - ““agricultural waste” means, in relation to England and Wales, waste from premises used for agriculture within the meaning of the Agriculture Act 1947;” and
 - ““mines or quarries waste” means, in relation to England and Wales, waste from a mine or quarry;”.
 - (3) Regulation 15 (groundwater) is revoked.
 - (4) In regulation 16 (exclusion of activities under other control regimes from waste management licensing)—
 - (a) at the end of paragraph (1)(c), omit “and”; and
 - (b) at the end, insert—
 - “; and
 - (e) the disposal of agricultural waste in or on land under an authorisation under regulation 18 of the Groundwater Regulations 1998(c);”.
 - (5) In regulation 18 (registration in connection with exempt activities)—
 - (a) omit paragraphs (1A) and (1B)(d);
 - (b) omit paragraph (10)(b); and
 - (c) for paragraph (10)(c), substitute—
 - “(c) in the case of an exempt activity falling within paragraph 23 of Schedule 3—

(a) S.I. 1992/588; a relevant amending instrument is S.I. 1994/1056.

(b) S.I. 1994/1056; relevant amending instruments are S.I. 1995/288, S.I. 1996/972 and S.I. 2005/1728.

(c) S.I. 1998/2746.

(d) Paragraphs (1A) and (1B) of regulation 18 were inserted by regulation 3(8) of S.I. 1995/228.

- (i) in England, the authority responsible for granting an authorisation under which the exempt activity is carried on under regulation 27 of the Animal By-Products Regulations 2005; and
- (ii) in Wales, the authority responsible for granting an authorisation under which the exempt activity is carried on under regulation 27 of the Animal By-Products (Wales) Regulations 2003(a);”.

(6) After regulation 18AA, insert—

“Records in relation to exempt activities

18A.—(1) An establishment or undertaking carrying on an exempt activity to which this regulation applies shall keep records of the quantity, nature, origin and, where relevant, destination and treatment method of all waste recovered in the course of that activity.

(2) This regulation—

- (a) applies to an activity falling within paragraph 47 of Schedule 3(b); but
- (b) does not apply where that activity is carried out on land subject to an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998(c).

(3) Records required under this regulation shall be kept for a period of at least two years and shall be made available to the appropriate registration authority on request.

(4) A person who fails to comply with a requirement imposed on him by this regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.”

(7) In regulation 18AA (supervision of exempt activities), in paragraph (12) after “In this regulation,” insert ““appropriate registration authority” has the same meaning as in regulation 18(10) and”.

(8) In regulation 20 (registration of brokers)—

- (a) in paragraph (4)—
 - (i) at the end of sub-paragraph (c) delete “or”; and
 - (ii) at the end insert—
 - “;
 - (e) arranges on behalf of another person (as dealer or broker) for the disposal or recovery of agricultural waste or mines or quarries waste only; or
 - (f) arranges on behalf of another person (as dealer or broker) for the disposal or recovery of waste comprising animal by-products only”;

(b) at the end, insert—

“(9) In this regulation, in relation to England and Wales, “animal by-products” has the same meaning as in the Community Regulation, and “Community Regulation” has the same meaning as in regulation 2(1) of the Animal By-Products Regulations 2005.”.

(9) In Schedule 3 (activities exempt from waste management licensing)—

- (a) omit paragraph 16;
- (b) for paragraph 23, substitute—

“23.—(1) The recovery of waste consisting of animal by-products at a collection centre—

- (a) in relation to England, in accordance with an authorisation under regulation 27 of the Animal By-Products Regulations 2005; or

(a) S.I. 2003/2756 (W. 267). Regulation 2(1) of S.I. 2003/2756 (W. 267) defines “the Community Regulation” to mean Regulation (EC) No. 1774/2002 as amended by various Community measures.
 (b) Paragraph 47 of Schedule 3 was inserted by regulation 6(9)(e) of these Regulations.
 (c) S.I. 1998/1202, to which there are amendments not relevant to these Regulations.

- (b) in relation to Wales, in accordance with an authorisation under regulation 27 of the Animal By-Products (Wales) Regulations 2003;

if the total quantity of waste being recovered at that collection centre at any time does not exceed 10 tonnes.

(2) The storage of the waste intended to be submitted to such a recovery operation as is referred to in sub-paragraph (1) above if—

- (a) storage takes place in a secure place; and
- (b) no waste is stored for more than twelve months.

(3) In this paragraph—

- (a) in relation to England, “animal by-products” and “collection centre” have the same meaning as in the Community Regulation and “Community Regulation” has the same meaning as in regulation 2(1) of the Animal By-Products Regulations 2005; and
- (b) in relation to Wales, “animal by-products” and “collection centre” have the same meaning as in the Community Regulation and “Community Regulation” has the same meaning as in regulation 2(1) of the Animal By-Products (Wales) Regulations 2003.”;

(c) in paragraph 30—

- (i) for sub-paragraph (1)(a), substitute—
“the waste consists of plant tissue.”;
- (ii) at the beginning of sub-paragraph (1)(b), insert “it is agricultural waste or”; and
- (iii) at the end, insert—

“(4) The incorporation into soil of ash from cereal straw or cereal stubble burned in reliance of the exemption conferred by sub-paragraph (1) above if—

- (a) the incorporation is on the land where the ash was produced; and
- (b) the ash is incorporated in accordance with paragraph 10 of Schedule 2 to the Crop Residues (Burning) Regulations 1993(a).”;

(d) in paragraph 45, at the beginning of sub-paragraph (6), insert “In sub-paragraphs (3) and (4), “appropriate registration authority” has the same meaning as in regulation 18(10), and”;

(e) after paragraph 46A(b), insert—

“47.—(1) The treatment of land used for agriculture with agricultural waste where such treatment results in benefit to agriculture or ecological improvement if—

- (a) the waste consists only of liquid milk;
- (b) the land is at least—
 - (i) 10 metres from a watercourse; and
 - (ii) 50 metres from a spring, well or borehole;
- (c) before the treatment the waste is diluted with not less than an equal quantity of water or slurry;
- (d) at the start of the treatment and at any time during the treatment—
 - (i) the land has not been frozen for 12 or more hours during the preceding 24 hours;
 - (ii) the land is not waterlogged, flooded or snow-covered;

(a) S.I. 1993/1366.

(b) Inserted by S.I. 2005/1728, regulation 18.

- (e) the activity is carried out in accordance with any requirement imposed by an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998;
- (f) the land is treated at a rate no greater than 50 cubic metres (tonnes) of diluted waste per hectare per 24 hours;
- (g) in any month the land is treated with no more than 50 cubic metres (tonnes) of diluted waste per hectare; and
- (h) the total amount of nitrogen added to the soil as a result of the treatment does not exceed 250 kilogrammes per hectare in any period of twelve months.

(2) The secure storage or dilution of waste intended to be used to treat land as specified in sub-paragraph (1) above.

48. The deposit of agricultural waste consisting of plant tissue at the place of production if—

- (a) there is no more than 250 cubic metres (tonnes) in any one deposit;
- (b) the deposit is made on land which is at least—
 - (i) 10 metres from a watercourse; and
 - (ii) 50 metres from a spring, well or borehole;
- (c) the deposit is not immediately adjacent to any other deposit made in reliance on this exemption;
- (d) at the time the deposit is made—
 - (i) the land has not been frozen for 12 or more hours during the preceding 24 hours;
 - (ii) the land is not waterlogged, flooded or snow-covered; and
- (e) the deposit is carried out in accordance with any requirement imposed by an action programme under the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998.”.

(10) In Part I of Schedule 4 (Waste Framework Directive etc.)—

- (a) in paragraph 9, omit sub-paragraphs (2) and (6).
- (b) omit sub-paragraph (3) of paragraph 10 (modification of Part I of the Control of Pollution Act 1974);
- (c) at the end of paragraph 11 (references to “waste” in planning and water legislation), insert “and section 85(1) of the Water Resources Act 1991(a) shall have effect as if the word “solid” were omitted”;
- (d) in paragraph 12 (registration by professional collectors and transporters of waste, and by dealers and brokers)—
 - (i) for sub-paragraphs (1) and (2) substitute—

“(1) Subject to sub-paragraph (3) below, it shall be an offence for an establishment or undertaking falling within—

 - (a) sub-paragraph (a), (c), (f) or (g) of regulation 2(1) of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 to collect or transport waste on a professional basis; or
 - (b) sub-paragraph (i) or (j) of that regulation to collect or transport waste on a professional basis after 15th November 2006,

unless it is registered in accordance with the provisions of this paragraph.

(2) Subject to sub-paragraph (3) below, it shall be an offence for an establishment or undertaking falling within—

(a) 1991 c.57.

- (a) sub-paragraph (a), (b) or (c) of regulation 20(4); or
 - (b) sub-paragraph (e) or (f) of that regulation after 15th November 2006,
- to arrange for the recovery or disposal of waste on behalf of another person unless it is registered in accordance with the provisions of this paragraph.”;
- (ii) in sub-paragraph (11) for “and “controlled waste” have the same meaning as they have”, substitute “has the same meaning as it has”.
- (11) For Parts III and IV of Schedule 4 substitute—

“Part III

Waste Disposal Operations

- 1.** Deposit of waste into or onto land (for example, landfill) (D1).
- 2.** Land treatment of waste (for example, biodegradation of liquid or sludgy discards in soils) (D2).
- 3.** Deep injection of waste (for example, injection of pumpable discards into wells, salt domes or naturally occurring repositories) (D3).
- 4.** Surface impoundment of waste (for example, placement of liquid or sludgy discards into pits, ponds or lagoons) (D4).
- 5.** Specially engineered landfill of waste (for example, placement of waste into lined discrete cells which are capped and isolated from one another and the environment) (D5).
- 6.** Release of waste into a water body except seas or oceans (D6).
- 7.** Release of waste into seas or oceans including sea-bed insertion (D7).
- 8.** Biological treatment of waste not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations listed in paragraphs 1 to 12 of this Part of this Schedule (D8).
- 9.** Physico-chemical treatment of waste not listed elsewhere in this Part of this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations listed in paragraphs 1 to 12 of this Part of this Schedule (for example, evaporation, drying, calcination) (D9).
- 10.** Incineration of waste on land (D10).
- 11.** Incineration of waste at sea (D11).
- 12.** Permanent storage of waste (for example, emplacement of containers in a mine) (D12).
- 13.** Blending or mixing of waste prior to the waste being submitted to any of the operations listed in paragraphs 1 to 12 of this Part of this Schedule (D13).
- 14.** Repackaging of waste prior to the waste being submitted to any of the operations listed in paragraphs 1 to 13 of this Part of this Schedule (D14).
- 15.** Storage of waste pending any of the operations listed in paragraphs 1 to 14 of this Part of this Schedule, but excluding temporary storage, pending collection, on the site where the waste is produced (D15).

(Note:- the reference in brackets at the end of each paragraph of this Part of this Schedule is the number of the corresponding paragraph in Annex IIA to the Directive.)

Part IV

Waste Recovery Operations

1. Use of waste principally as a fuel or for other means of generating energy (R1).
2. Reclamation or regeneration of solvents (R2).
3. Recycling or reclamation of organic substances which are not used as solvents, including composting and other biological transformation processes (R3).
4. Recycling or reclamation of metals and metal compounds (R4).
5. Recycling or reclamation of other inorganic materials (R5).
6. Regeneration of acids or bases (R6).
7. Recovery of components used for pollution abatement (R7).
8. Recovery of components from catalysts (R8).
9. Re-refining, or other reuses, of oil which is waste (R9).
10. Land treatment resulting in benefit to agriculture or ecological improvement (R10).
11. Use of waste obtained from any of the operations listed in paragraphs 1 to 10 of this Part of this Schedule (R11).
12. Exchange of waste for submission to any of the operations listed in paragraphs 1 to 11 of this Part of this Schedule (R12).
13. Storage of waste pending any of the operations listed in paragraphs 1 to 12 of this Part of this Schedule, but excluding temporary storage, pending collection, on the site where the waste is produced (R13).

(Note:- the reference in brackets at the end of each paragraph of this Part of this Schedule is the number of the corresponding paragraph in Annex IIB to the Directive.)”

Amendment of the Waste Management Regulations 1996

7.—(1) The Waste Management Regulations 1996(a) are amended as follows.

(2) In paragraph (2) of regulation 4 (pre-qualification technical competence), for “in Table 1 of Regulation 4(1) of”, substitute “in Table 1 of Schedule 1A to”.

Amendment of the Groundwater Regulations 1998

8.—(1) The Groundwater Regulations 1998(b) are amended as follows.

(2) In regulation 1(3), in the definition of “authorisation”—

(a) at the end of paragraph (d), omit “and”; and

(b) at the end of paragraph (e), add—

“and

(f) a waste management licence (within the meaning of Part 2 of the Environmental Protection Act 1990);”.

(3) In regulation 2—

(a) at the end of sub-paragraph (1)(b), insert “or”;

(b) at the end of sub-paragraph (1)(c), omit “or”; and

(a) S.I.1996/634; to which there are amendments not relevant to these Regulations.

(b) S.I. 1998/2746; a relevant amending instrument is S.I. 2000/1973.

(c) omit sub-paragraph (1)(d).

(4) In regulation 3, after “Part 1 of the Environmental Protection Act 1990 (integrated pollution control)”, insert “, Part 2 of the Environmental Protection Act 1990 (waste on land)”.

Amendment of the Landfill (England and Wales) Regulations 2002

9.—(1) The Landfill (England and Wales) Regulations 2002(a) are amended as follows.

(2) In regulation 2 (interpretation), insert the following definitions at the appropriate places—

““agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947;”

““mines or quarries waste” means waste from a mine or quarry;”.

(3) In regulation 4 (cases where regulations do not apply)—

(a) at the end of paragraph (c), omit “or”;

(b) at the end of paragraph (d), add—

“; or

(e) any landfill for the disposal of agricultural waste or mines or quarries waste which ceased to accept waste for disposal before 15th May 2006”.

(4) In regulation 8(4) for “paragraph 3(3) to (5)” substitute “paragraphs 3(3) to (5) and 6(2)”.

(5) In regulation 17(1)(c) after “paragraph 3(5)” insert “, 5(3), (6), (10)(b) or 6(2)”.

(6) In Schedule 4 (transitional provisions)—

(a) in paragraph 1(1) at the end of paragraph (b), add—

“; and

(c) it is not a landfill to which paragraph 5 applies”;

(b) in paragraph 3—

(i) at the beginning of sub-paragraph (1), insert “Subject to sub-paragraph (1A)”;

(ii) after sub-paragraph (1), insert—

“(1A) This paragraph does not apply to a landfill to which paragraph 5 applies.”;

(c) in paragraph 4(1)—

(i) at the end of paragraph (a), omit “and”;

(ii) at the end of paragraph (b), add—

“; and

(c) it is not a landfill to which paragraph 5 applies”;

(d) at the end of paragraph 4, insert—

“5.—(1) This paragraph shall apply to a landfill if—

(a) it is a site for the disposal of—

(i) agricultural waste only;

(ii) mines or quarries waste only; or

(iii) agricultural waste and mines or quarries waste only; and

(b) it is in operation on 15th May 2006.

(2) A landfill to which this paragraph applies shall be treated as an existing installation for the purposes of Part 1 of Schedule 3 to the 2000 Regulations.

(a) S.I. 2002/1559; relevant amending instruments are S.I. 2005/894 and S.I. 2005/1640.

(3) If the operator proposes to continue to accept waste after 15th June 2006 he shall prepare a conditioning plan for the landfill site and submit it to the Environment Agency before that date.

(4) The conditioning plan required by sub-paragraph (3) shall—

- (a) be prepared on a form provided for that purpose by the Environment Agency; and
- (b) contain details of any corrective measures which the operator considers will be needed in order to comply with the relevant requirements of these Regulations.

(5) Closure of the landfill (in whole or in part) shall take place as soon as possible in accordance with sub-paragraphs (6) to (10) if—

- (a) the operator does not propose to continue to accept waste;
- (b) the Environment Agency decides, following the submission by the operator of a conditioning plan, that there is no reasonable prospect of the landfill or part of it meeting the relevant requirements of these Regulations (such decision, and the reasons for it, to be set out in a notice served on the operator); or
- (c) the operator fails to submit a conditioning plan as required by sub-paragraphs (3) and (4).

(6) The operator shall submit to the Environment Agency such reports in connection with the closure of the landfill site as it may require by notice in writing.

(7) The Environment Agency shall—

- (a) assess all the reports submitted by the operator; and
- (b) carry out an on-site inspection.

(8) The Environment Agency shall by notice in writing served on the operator require closure of the landfill in accordance with the control and monitoring procedures set out in Schedule 3 subject to such conditions as are specified in the notice for such period as the Environment Agency determines is reasonable, taking into account the time during which the landfill could present a hazard to the environment.

(9) The Environment Agency may, at any time during which the landfill could present a hazard, vary a notice served under sub-paragraph (8) by notice in writing served on the operator and such notice shall state the reasons for the Agency's decision to make the variation.

(10) The operator shall as soon as reasonably possible—

- (a) notify the Environment Agency of any significant adverse environmental effects revealed by the control and monitoring procedures required by sub-paragraph (8); and
- (b) comply with a notice—
 - (i) served under sub-paragraph (8); or
 - (ii) varied under sub-paragraph (9).

(11) In any case where the whole of a landfill is not subject to closure under sub-paragraph (5) the operator must within the relevant period submit an application for a landfill permit under regulation 10 of the 2000 Regulations (permits: general provisions) so that the Environment Agency may determine whether waste may continue to be accepted for disposal at the landfill.

(12) Where the Environment Agency decides to grant a landfill permit pursuant to an application made in accordance with sub-paragraph (11), the Agency shall specify the date or dates on which the permit conditions authorised or required by these Regulations shall take effect.

(13) The Environment Agency shall exercise its powers under sub-paragraph (12)—

- (a) on the basis of an assessment of environmental risks; and
- (b) with a view to achieving full compliance with the relevant requirements of these Regulations—

- (i) as soon as possible; and
- (ii) by 31st March 2007 at the latest.

(14) A notice served under sub-paragraph (8) shall be treated as a closure notice for the purposes of regulation 27 of the 2000 Regulations (appeals) and a condition of such a notice shall be treated as a condition of a permit for the purposes of regulation 24 of the 2000 Regulations (enforcement notices).

(15) Sections 41 and 42 of the Environment Act 1995(a) (charging schemes) shall apply in relation to a notice under sub-paragraph (8) as if any reference to an environmental licence included a reference to such a notice.

(16) In sub-paragraph (11), “relevant period” means the relevant period specified pursuant to paragraph 2(2) of Schedule 3 to the 2000 Regulations(b) for landfills to which this paragraph applies.

6.—(1) The Environment Agency shall by notice in writing served on the operator before 15th August 2006 classify any landfill to which paragraph 5 applies and which continues to accept waste which appears to the Environment Agency to require classification as a landfill for hazardous waste.

(2) Regulations 9, 10 and 12 of these Regulations shall impose obligations directly on the operator of any landfill which is for the time being classified under sub-paragraph (1) as a landfill for hazardous waste pending determination of an application made pursuant to paragraph 5(11).”.

(7) For the second column of the table in paragraph 1(14)(a) of Schedule 5 (amendments to subordinate legislation), substitute—

“In the case of a landfill to which paragraph 1 of Schedule 4 to the 2002 Regulations applies, the period specified in the notice served on the operator under paragraph 1(9) of that Schedule and, in the case of a landfill to which paragraph 5 of that Schedule applies, the period of six months starting on 15th August 2006.”.

Amendment of the Hazardous Waste (England and Wales) Regulations 2005

10.—(1) The Hazardous Waste (England and Wales) Regulations 2005(c) are amended as follows.

(2) In regulation 16 (agricultural waste) for “1st September 2006”, substitute “15th May 2007”.

(3) In regulation 17 (mines and quarries waste) for “1st September 2006”, substitute “15th May 2007”.

Amendment of the Hazardous Waste (Wales) Regulations 2005

11.—(1) The Hazardous Waste (Wales) Regulations 2005(d) are amended as follows.

(2) In regulation 16 (agricultural waste)—

- (a) in the English text, for “1 September 2006”, substitute “15 May 2007”; and
- (b) in the Welsh text, for “1 Medi 2006”, substitute “15 Mai 2007”.

(3) In regulation 17 (mines and quarries waste)—

- (a) in the English text, for “1 September 2006”, substitute “15 May 2007”; and
- (b) in the Welsh text, for “1 Medi 2006”, substitute “15 Mai 2007”.

(a) 1995 c.25.

(b) The table in paragraph 2(2) of Schedule 3 was amended by regulation 9(7) of these Regulations.

(c) S.I. 2005/894.

(d) S.I. 2005/1806 (W.138).

Amendment of the Waste Management Licensing (England and Wales) (Amendment and Related Provisions) (No. 3) Regulations 2005

12.—(1) The Waste Management Licensing (England and Wales) (Amendment and Related Provisions) (No. 3) Regulations (a) are amended as follows.

(2) In regulation 21(1), for “paragraph (2)”, substitute “paragraphs (1A) and (2)”.

(3) After regulation 21(1), insert—

“(1A) Paragraph (1) does not apply in relation to an activity where the waste to be disposed of or recovered comprises agricultural waste only.”.

(4) After regulation 21(2), insert—

“(3) In this regulation, “agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947.”.

Transitional provisions

13.—(1) Section 33(1)(a) and (b) of the Environmental Protection Act 1990 shall not apply to the deposit, disposal or recovery of mines or quarries waste or agricultural waste by any person at any premises if he had carried on the activity in question at those premises before 15th May 2006.

(2) Subject to paragraph (3) below, the exemption conferred by paragraph (1) above, in relation to an activity carried on by a person at any premises, shall after 15th May 2007 cease to have effect in relation to the carrying on of that activity at those premises unless on or before that date he applies for a waste management licence in relation to the activity in question.

(3) Where a person makes such an application as is mentioned in paragraph (2) above, the exemption conferred by paragraph (1) above shall continue to have effect in relation to the activity in question until the date on which the licence applied for is granted or, if the application is (or is deemed to be) rejected, until the date on which—

(a) the period for appealing expires without an appeal having been made; or

(b) any appeal is withdrawn or finally determined.

(4) In this regulation—

“agricultural waste” means waste from premises used for agriculture within the meaning of the Agriculture Act 1947; and

“mines or quarries waste” means waste from a mine or quarry.

28th March 2006

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) S.I. 2005/1728.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement (in part), in relation to England and Wales, Council Directive 75/442/EEC on waste(a) (“the Waste Framework Directive”) and Council Directive 1999/31/EC on the landfill of waste(b) (“the Landfill Directive”).

Regulation 2 amends sections 33, 33B, 33C, 63 and 75 of the Environment Act 1990 (“the 1990 Act”).

The amendments to section 33 mean that, in relation to household waste, establishments and undertakings must comply with all the requirements of section 33(1) of the 1990 Act, but that persons who are not establishments or undertakings must only comply with the requirements of section 33(1)(c).

Section 33B of the 1990 Act is amended so that a person who is not an establishment or undertaking and who commits a relevant offence shall not be ordered by a magistrates’ court to pay more than £5000 in clean-up costs (regulation 2(3)). Section 33C of the 1990 Act is disapplied where a person who is not an establishment or undertaking is convicted of a relevant offence (regulation 2(4)). “Relevant offence” for these purposes is defined in section 33(10) of the 1990 Act (regulation 2(2)(c)).

Regulation 3 amends the Environment Act 1995 so that, in respect of agricultural waste, no charges may be imposed under a charging scheme in relation to a relevant environmental licence.

Regulation 4 amends the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 so that the registration requirements of the Control of Pollution (Amendment) Act 1989 do not apply to those who only transport animal by-products waste, mines or quarries waste, or agricultural waste on a professional basis. Instead the registration requirements of paragraph 12 of Schedule 4 to the Waste Management Licensing Regulations 1994 (“the 1994 Regulations”) will apply in these circumstances (see regulation 6(10)(d)).

Regulation 5 amends the Controlled Waste Regulations 1992. The amendment in regulation 5(4) provides that section 34 of the 1990 Act (duty of care etc. as respects waste) does not apply to waste which comprises animal by-products collected and transported in accordance with the Community Regulation (as defined in Regulation 5(4)). The amendment in regulation 5(5) provides that any Directive waste is to be classified as industrial waste if it is not otherwise classified as household or commercial waste.

Regulation 6 amends the 1994 Regulations in a number of respects. These include: (a) inserting a new regulation 18A which sets out certain record-keeping requirements in relation to activities which are exempt from waste management licensing (regulation 6(6)); and (b) inserting new paragraphs into Schedule 3 of the 1994 Regulations to provide for exemptions from waste management licensing for activities involving— the recovery of animal by-products (regulation 6(9)(b)), the treatment of land with liquid milk (regulation 6(9)(e)), and the deposit of plant tissue (regulation 6(9)(e)).

Regulations 8 to 12 make minor amendments to secondary legislation.

Regulation 13 contains transitional provisions which apply to the deposit, disposal or recovery of agricultural waste, or mines or quarries waste, for a period of 12 months after the Regulations come into force.

(a) O.J. No. L194, 25.7.1975, p. 39 (as amended by Council Directives 91/156/EEC (O.J. No. L78, 26.3.1991, p. 32), 91/692/EEC (O.J. No. L377, 31.12.1991, p. 48 (as corrected by Corrigendum, O.J. No. L146, 13.6.2003, p. 52)), Commission Decision 96/350/EC (O.J. No. L135, 6.6.1996, p. 32) and Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1)).

(b) O.J. No. L182, 16.7.1999, p.1 (as amended by Regulation (EC) No. 1882/2003 (O.J. No. L284, 31.10.2003, p. 1)).

A transposition note has been prepared, explaining the transposition into law by the Government of the provisions of the Waste Framework Directive and the Landfill Directive transposed by these Regulations. A full regulatory impact assessment of the effect that this instrument will have on the costs of business has also been prepared.

Copies of the transposition note and the regulatory impact assessment are available in the libraries of both Houses of Parliament, and from Waste Management Division, Waste Framework Directive Unit, Department for Environment, Food and Rural Affairs, Zone 6/F6, Ashdown House, 123 Victoria Street, London SW1E 6DE.

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