

EXPLANATORY MEMORANDUM TO
THE NITRATES ACTION PROGRAMME (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2009

2009 No. 360

Introduction

1. This Explanatory Memorandum has been prepared by the Department of the Environment and the Department of Agriculture and Rural Development to accompany SR 360 which is laid before the Northern Ireland Assembly.
2. The Regulations are made by the Department of the Environment and the Department of Agriculture and Rural Development under Section 2(2) of the European Communities Act 1972 and is subject to negative resolution procedure before the Assembly.
3. The rule is due to come into operation on 14 December 2009

Purpose

4. The Statutory Rule amends the Nitrates Action Programme Regulations (Northern Ireland) 2006 (the NAP Regulations) to allow the storage of poultry litter in field heaps until 31 December 2010. The Statutory Rule also provides for the quantity of poultry litter stored in a field heap or midden to be taken into account when calculating the livestock manure storage capacity of a holding.

Background

5. During the development of the NAP Regulations it became evident that off-farm solutions as an alternative to land spreading needed to be advanced, particularly for the intensive pig and poultry industries. An expert working group, chaired by the then Chief Scientist of DARD, was established to investigate technical solutions for alternative uses of manure other than land spreading. In respect of the poultry industry, the group reviewed and endorsed the technical approach being adopted by a consortium within the industry to develop a single poultry-litter fired generator.
6. The working group support for this technical solution and recommendation for the industry advancing the proposal helped persuade the European Commission to allow a temporary measure in the NAP Regulations for the storage of poultry litter in field heaps until 31 December 2008 only.
7. Progress has not been made with the off-farm solution for poultry litter on the timescale originally envisaged. With no alternative off-farm solution, poultry farmers have continued with the practice of storing poultry litter in field heaps prior to land spreading, putting them in breach of the NAP Regulations. This practice is also not sustainable in the long term due to the high phosphorus content of poultry litter, the enriched status of soils and the resultant impact on water quality.
8. Agreement was therefore sought and secured from the European Commission to extend the temporary measure in the NAP Regulations up to 31 December 2010, when

a review of the NAP Regulations must be completed, so that poultry farmers will no longer be in breach.

9. The Statutory Rule amends the NAP Regulations as follows:

- Re-instatement of the provisions of regulation 14 of the NAP Regulations extending the use of poultry litter field heaps from the operative date of the amending Regulations to 31 December 2010. This regulation details the management and siting of field heaps, allowing farmers to use field heaps for 180 days prior to land application and in accordance with environmental requirements.
- Amendment of regulation 16 allowing farmers to use the quantity of poultry litter stored in temporary field heaps or middens prior to land application to be off-set against the overall 26 weeks storage requirement for a poultry enterprise. This will not remove the legal requirement to have adequate built storage facilities in place.

Consultation

10. Officials from both Departments reached agreement with stakeholders, including the Ulster Farmers' Union, industry representatives and environmental non-government organisations, through working group participation, correspondence and face-to-face discussions.

Equality Impact

11. A screening analysis was carried out by the Departments for the NAP Regulations and it was determined that the NAP Regulations would have no impact in terms of the main groups relevant to section 75 categories of the Northern Ireland Act 1998. This would be considered the same for the amending Regulations.

Regulatory Impact

12. A regulatory impact was undertaken as part of the NAP Regulations and is not therefore required for the current Regulations which make beneficial amendments for the poultry sector to the NAP Regulations.

Financial Implications

11. The amending Regulations do not add any burdens beyond what is already required under the NAP Regulations.

Section 24 of the Northern Ireland Act 1998

12. The Rule does not discriminate on grounds of religious belief or political opinion nor does it modify the European Communities Act 1972, the Human Rights Act 1998 or other statutory provisions listed in section 7 of the 1998 Act.

EU Implications

13. The European Commission acknowledges the need for the amending Regulations and that the position will be fully reviewed in the 4-year review cycle of the NAP Regulations to be completed by 31 December 2010.

Parity or Replicatory Measure

14. The GB Action Programme(s) permits the use of poultry litter field heaps prior to land spreading.

Additional Information

15. Under the Nitrates Directive there is a requirement to review the NAP Regulations every four years, with the next review to be completed by 31 December 2010. The use of field heaps for the storage of poultry litter will be fully reviewed in the four year review cycle in 2010.