

**EXPLANATORY MEMORANDUM TO**  
**THE NITRATES ACTION PROGRAMME (AMENDMENT) REGULATIONS**  
**(NORTHERN IRELAND) 2011**

**2011 No. 388**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment and the Department of Agriculture and Rural Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 32 of the Waste and Contaminated Land (Northern Ireland) Order 1997 and Section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

**2. Purpose**

- 2.1. The Statutory Rule amends the Nitrates Action Programme Regulations (Northern Ireland) 2010 (the NAP Regulations) to allow the storage of poultry litter in field heaps from the operative date of the amending Regulations to 31 March 2012.

**3. Background**

- 3.1. Following public consultation and discussion with the European Commission (the Commission) in 2010, the NAP Regulations contain a temporary measure permitting field storage of poultry litter (subject to certain management criteria) until 30 September 2011. The NAP Regulations were made jointly by the Department of the Environment (DOE) and the Department of Agriculture and Rural Development (DARD) (the Departments). The Departments consider an interim extension of the existing temporary measure until 31 March 2012 to be proportionate pending the Commission's view of a research report on the effect of poultry litter field storage on water quality. It will provide clarity for both farmers and regulators and also assist farmers in complying with the requirements of the NAP Regulations over the 2011-2012 closed period.

**4. Consultation**

- 4.1. A consultation was carried out in relation to the NAP Regulations in 2010. This consultation process included correspondence and meetings with stakeholders including industry representatives and environmental non-government organisations. All comments made during the consultation process were carefully considered by the Departments before making the recommendations for the NAP Regulations. The subsequent synopsis of responses highlighted that the provision in respect of field storage of poultry litter would expire on 30 September 2011 and that the Departments would either extend the period over which the field storage of poultry litter was permitted or identify alternative controls on poultry litter storage.

- 4.2. As this is a cross cutting issue, Executive approval was sought prior to making the NAP Regulations in 2010. At that time the Executive Committee was made aware that an amendment of this nature was likely to be required in autumn 2011.

## **5. Equality Impact**

- 5.1. 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 on any of the groups relevant to section 75 categories of the Northern Ireland Act 1998. The proposed amendment will also have no impact.

## **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment (RIA) was completed for the NAP Regulations in 2010. The Departments' final recommendations had less financial implications for farmers than those outlined in the preferred option in the pRIA in the consultation document. However, some additional costs to farm businesses in Northern Ireland are still likely to arise from implementation of the 2010 NAP Regulations. It is estimated that the total cost to the agricultural industry is likely to range from £0.18m per year to £0.37 m per year. The proposed amendments will not affect these cost estimates. It is not anticipated that the proposed amendments will impact any other sector.

## **7. Financial Implications**

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

## **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. 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.

## **9. EU Implications**

- 9.1. The NAP Regulations implement an action programme for the period 1 January 2011 to 31 December 2014 to fulfill obligations under European Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ No. L375, 31.12.1991, p1) (the Nitrates Directive). When the NAP Regulations were made the Commission was made aware that the temporary measure permitting field storage of poultry litter would expire and a further or alternate measure introduced, if considered necessary.

## **10. Parity or Replicatory Measure**

- 10.1. Provisions for the temporary field storage of poultry litter (prior to land application) are also included in the nitrates action programmes in operation in England, Wales and Scotland.

## **11. Additional Information**

- 11.1. Not applicable.