

EXPLANATORY MEMORANDUM TO
THE NITRATES ACTION PROGRAMME (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2012

2012 No. 231

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) (i) to allow the continued storage of poultry litter in field heaps from the operative date of the amending Regulations until 31 December 2014, (ii) to revise the specified phosphorus content of poultry litter, and (iii) to update the specified values for nitrogen excretion for red deer and the nitrogen content of pig slurry.

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). This temporary measure was further extended until 31 March 2012 by The Nitrates Action Programme (Amendment) Regulations (Northern Ireland) 2011 to provide some clarity for farmers and regulators while the Commission considered the findings of a research report provided by the Departments' on the effect of poultry litter field storage on water quality.
- 3.2. Based on the findings of the research report, the Commission has advised the Department that it is content to permit the extension of the temporary poultry litter field heap storage measure until the end of the current action programme in 2014 subject to four requests (i) that the buffer zones between poultry litter field heaps and surface water features are doubled to 100m from lakes and 40m from watercourses; (ii) to introduce a Northern Ireland Environment Agency procedure to authorise individual poultry litter field heaps; (iii) that the measure is to be thoroughly reviewed during the next review of the NAP to evaluate any impact on water quality and any issues with controls over the measure and (iv) that periodic updates on the state of the search for a long term sustainable solution are provided.

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. The synopsis also indicated 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 in light of the outcome of the research trials.
- 4.2. As this is a cross cutting issue, Executive approval was sought and granted prior to making the NAP Regulations.

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.

- 9.2. Following the completion of a report into the effects of field storage on water quality, which indicated that poultry litter stored in covered field heaps poses a negligible risk to water quality if sited correctly and managed carefully during field heap setup and storage, the Departments' indicated their desire to extend the existing measure until the end of the current action programme. The Commission agrees with the extension.

10. Parity or Replicatory Measure

- 10.1. The Action Programmes in Scotland, England and Wales permit the storage of poultry litter in field heaps prior to land spreading.

11. Additional Information

- 11.1. 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 2014. The use of field heaps for the storage of poultry litter will be fully reviewed in the four year review cycle in 2014.