

## Agreement between the Environment Agency and Kent Local Authorities for Regulating the Storage and Application of Waste to Agricultural Land and Non Agricultural Land.

### 1. Introduction

This document explains the respective role and responsibility of the Environment Agency (EA) and the Kent Local Authorities listed in Appendix 1 for regulating the storage and application of waste to agricultural land and non agricultural land. It includes recent changes to the Environmental Permitting regime introduced on 6 April 2010, in particular standard rules permits and new waste exemptions.

### 2. Environment Agency Role and Responsibility

The Environmental Permitting (England and Wales) Regulations 2010 introduced mobile plant standard rules permits for land-spreading controlled waste on land for agricultural benefit or ecological improvement. In addition there are a number of exemptions for 'low risk' waste activities. The standard rules for land-spreading are described below.

#### Mobile Plant Permit SR2010 No.4 – Paper Sludge, seaweed, soil/stones, compost

These standard rules apply to land-spreading controlled waste such as paper sludge, seaweed, soil/stones, and compost to land for agricultural benefit or ecological improvement. A mobile plant permit will replace the former paragraph 7 waste management licensing exemption. Before each spreading activity proceeds, the permit holder is required to submit a deployment form to the Environment Agency for approval. The deployment form will include the following information,

- Location of the spreading activity
- Risk assessment
- Analysis of waste and suitability of the receiving land
- Statement of agricultural benefit or ecological improvement

#### Mobile Plant Permit SR2010 No.6

These standard rules apply to land-spreading sewage sludge to non-agricultural land or agricultural land used for the production of non food crops not grown in short term rotation with food crops for agricultural benefit or ecological improvement. A mobile plant permit will replace the former paragraph 6 waste management licensing exemption.

However, it is important to note that this particular mobile plant permit is unlikely to be used because it only applies to non-agricultural land or agricultural land that is not used for food production. In most cases the Sludge (Use in Agriculture) Regulations 1989 will therefore apply and a mobile plant permit will not be required.

Before each spreading activity proceeds, the permit holder is required to submit a deployment form to the Environment Agency for approval.

### New Waste Exemptions

The following new waste exemptions should be noted as they are relevant to this protocol.

#### (a) Storage of Sewage Sludge (S3)

This exemption replaces the former paragraph 8 waste management licensing exemption. It allows storage of sewage sludge at a place where it will be used in accordance with the Sludge (Use in Agriculture) Regulations 1989. This exemption allows the storage of up to 1250 tonnes of sludge at any one time and for a maximum period of 12 months prior to use.

#### (b) Spreading Waste on Agricultural Land to Confer Benefit (U10)

This exemption allows land-spreading of a limited range of wastes in small quantities on agricultural land to improve or maintain the physical, chemical and biological properties of the soil. The types of waste include,

- Chalk (50 tonnes per hectare)
- Milk from agricultural premises (50 tonnes per hectare)
- Dredging spoil (150 tonnes per hectare)
- Compost from a T23 or T26 exemption only (50 tonnes per hectare)

#### (c) Spreading Waste on Non Agricultural Land to Confer Benefit (U11)

This exemption allows land-spreading of a number of different wastes on non agricultural land for beneficial purposes to recover the waste instead of using manufactured fertilisers or virgin products.

Each of the new waste exemptions must comply with the specific conditions attached to the exemption. If any of the conditions are breached then the exemption will no longer apply and the activity will become an illegal waste operation. In such circumstances the Environment Agency will investigate and undertake appropriate enforcement action in accordance with the EA Enforcement and Prosecution Policy.

All new waste exemptions must also comply with the 'relevant objectives' of the Waste Framework Directive which state that waste must be disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without,

- (i) Risk to water, air, soil, plants or animals, or
- (ii) Causing nuisance through noise or odours, or
- (iii) Adversely affecting the countryside or places of special interest.

In the event that any exempt waste activity breaches the relevant objectives the EA may de-register the activity and undertake appropriate enforcement action in accordance with the EA Enforcement and Prosecution Policy. The EA may seek assistance from the relevant Local Authority officer to determine whether or not the exempt waste activity is causing a nuisance through noise or odours.

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## Farm Manures

A legal judgement handed down by the European Court of Justice has stated that livestock effluent is not waste when it is,

- Used as a soil fertiliser
- Spread lawfully e.g. does not cause pollution
- Spread on clearly identified parcels of land, and
- No more than is required is stored prior to spreading

Although the phrase used in the judgement is 'livestock effluent', in the UK this is taken to include farm manures as we traditionally use litter and bedding as well as slurry systems. It also includes uncontaminated lairage effluent from abattoirs and livestock markets.

The EA also considers that stable manure is not waste when stored and used in accordance with the ECJ judgement. This applies whether or not the stable manure is derived from a local source e.g. livery yard, police and racing stables.

This means that land-spreading of farm manures do not normally require an environmental permit or waste exemption.

## **3. Local Authority Role and Responsibility**

### **Storage and Spreading of Farm Manures**

The local authority role and responsibility will include investigation of potential nuisance from odour and flies.

Note that the Environment Agency will continue to retain enforcement responsibility for any water quality incidents relating to the activity and in the case of poultry manure will ensure that field storage within a Nitrate Vulnerable Zone complies with relevant regulations.

### **Storage and Spreading of Sewage Sludge for use in accordance with the Sludge (Use in Agriculture) Regulations 1989**

The local authority role and responsibility will include investigation of potential nuisance from odour, and flies.

Note that the Environment Agency will continue to retain enforcement responsibility for any water quality incidents relating to the activity and ensure that field storage (S3 waste exemption) of sewage sludge complies with the relevant objectives.

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## 4. Response to Complaints

### Incident Notification

When a complaint has been received by either the Environment Agency or local authority it will be necessary to establish from the outset which organisation is responsible for investigating the complaint. Where appropriate, early discussion may be required between the relevant EA and LA officer(s) to agree which officer is responsible for the investigation. Once this has been agreed any further complaints should then be directed to the lead officer (refer to Appendix 1 for contact details).

If the type of waste is known and covered by an environmental permit or waste exemption then the EA will be the lead authority and the relevant LA may provide support for assessing potential statutory nuisance from noise or odour.

If the type of waste is unknown, the relevant EA and LA officer(s) will discuss and agree which organisation will initially act as lead authority, based upon the information currently available.

The relevant EA or LA officer will then respond to the incident within the time-scale and enforcement policy set out for the incident by that organisation.

### Press Releases

If a press release is required, a copy shall be provided by the lead authority to the other organisation at least one working day prior to its release.

### Enforcement

If necessary each organisation will furnish the other with supporting documentation (including witness statements and exhibits) to facilitate the success of any proposed enforcement action(s).

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# Appendix 1

Local Authority	Department	Tel Number	Email address
Gravesham Borough Council	Regulatory Services	01474 337334	health.admin@gravesham.gov.uk
Dover District Council	Environmental Health	01304 872428	envhealth@dover.gov.uk
Swale Borough Council	Customer Services	01795 417850	csc@swale.gov.uk
Shepway District Council	Environmental Health	01303 858660	environmental.health@shepway.gov.uk
Canterbury City Council	Environmental Protection Section	01227 862202	pollution@canterbury.gov.uk
Ashford Borough Council	Environmental Health	01233 331111	envhealth@ashford.gov.uk
Dartford Borough Council	Customer Services	01322 343374	<a href="mailto:customer.services@dartford.gov.uk">customer.services@dartford.gov.uk</a>
Tunbridge Wells Borough Council	Environmental Protection	01892 526121	envprotection@tunbridgewells.gov.uk
Medway Council	Environmental Health	01634 331792	environmental.protection@medway.gov.uk
Thanet District Council	Environmental Services Dept	01843 577274	environmental.health@thanet.gov.uk
Sevenoaks District Council	Environmental Health	01732 227000	environmental.protection@sevenoaks.gov.uk
Maidstone Borough Council	Customer Services	01622 602202	customerservices@maidstone.gov.uk
Rother District Council	Environmental Health	01424 787550	envhealth@rother.gov.uk

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Wealden Borough Council	Environmental Health	01323 443555	environmentalprotection@wealden.gov.uk
Tandridge District Council	Environmental Health	01883 722000	eh@tandridge.gov.uk
Tonbridge & Malling BC	Environmental Protection	01732 876184	environmental.protection@tmbc.gov.uk
Mid Sussex District Council	Environmental Health	01444 477292	pollution@midsussex.gov.uk
<b>Environment Agency</b>	<b>Incident Communication Service</b>	<b>0800 807060</b>	<b>Incident_Communication_Service@environment-agency.gov.uk</b>

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# Annex A

## Duties and Powers of the Environment Agency

A1.1 The EA's powers in relation to water pollution are principally set out in Part III of the Water Resources Act 1991 (with some relatively minor modifications included in the Environment Act 1995).

A1.2 In general these powers make it an offence to 'cause or knowingly permit any poisonous, noxious or polluting matter or any solid waste to enter any controlled waters'.

A1.3 'Controlled waters' are defined in Section 104 of the Water Resources Act 1991 and include inland freshwaters, coastal waters and relevant territorial waters.

A1.4 More specifically, Section 104 defines 'relevant territorial waters' as the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to England and Wales is measured and 'coastal waters' as the waters which are within the areas which extend landward from those baselines as far as the limit of the highest tide or the freshwater limit of any watercourse together with the waters of any enclosed dock which adjoins waters in that area. England and Wales excludes the Isles of Scilly although the Act provides for the Secretary of State to extend the EA's powers to include them if deemed necessary.

A1.5 The EA has powers (Section 88 and Schedule 10) to control discharges made to controlled waters by applying conditions imposed through 'consents to discharge' (this also includes any discharge from land made through a pipeline which extends beyond 3 miles).

A1.6 The Water Resources Act 1991 provides that certain discharges (trade and sewage effluent) from vessels do not constitute an offence under Section 89 nor can the EA require such discharges to be subject to consent. However the discharge of other noxious, poisonous or polluting matter from vessels to controlled waters may constitute an offence.

A1.7 When any poisonous, noxious or polluting matter or any solid waste matter has entered or is likely to enter any controlled waters then S161 of the Water Resources Act 1991 (as amended by the Environment Act 1995) provides for the EA to undertake work to prevent or remedy pollution and to recover the costs of such operations from those responsible for the pollution. New powers in the Environment Act 1995 provide for the serving of notices requiring such works to be undertaken by those responsible for the pollution or threat of pollution.

A1.8 The EA is the competent authority in England and Wales for the implementation of certain aspects of EU legislation and those relevant to estuarine and coastal waters include EC Directive relating to the control of Dangerous Substances discharged to water (76/464/EEC), the Bathing Waters Directive (76/160/EEC) relating to the quality of bathing waters, the Shellfish Waters Directive (79/923/EEC) relating to the quality of shellfish waters and the Urban Wastewater Treatment Directive (91/271/EEC) relating to the quality of discharges of urban waste waters.

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A1.9 The EA has a general duty to monitor the extent of pollution in controlled waters for the purposes of carrying out its water pollution control functions. The Agency also has a duty under Section 84 of the Water Resources Act 1991 to exercise its water pollution control powers in such manners as it ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters are achieved at all times.

## **A2 Waste Regulation**

A2.1 The EA's powers in relation to Waste Regulation are set out principally in Part II of the Environmental Protection Act 1990 (as amended by the Environment Act 1995) and subsequent more specific Statutory Instruments.

A2.2 These powers make it an offence to deposit or knowingly cause or knowingly permit controlled waste to be deposited, kept or treated except in accordance with an environmental permit. Environmental permits issued by the EA include a range of conditions which ensure the environment is protected through adequate standards for the design, construction and operation of any site where waste is deposited, stored or treated. This includes the management of any site by a suitably qualified and experienced person.

A2.3 The legislation also provides for additional more stringent requirements to apply to the movement and ultimate disposal of certain wastes that have hazardous properties and are designated as 'hazardous waste'.

**Note that RJW has added some extra text to clarify the following,**

**Clarification of key limits for S3 waste exemption for temporary storage of sewage sludge,**

**Relevant objectives by reference to the Waste Framework Directive,**

**Minor amendment to the text relating to Farm Manures,  
Clarifying the EA's responsibility for monitoring storage of poultry manure in NVZ and S3 waste exemption for temporary storage of sewage sludge,**

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