

Technical Newsletter February 2010

Dear

Well it's stopped snowing so spring must be on the way. And the Environment Agency is asking questions to kick off the new seasonal year. This month we see two consultations in the areas of waste – a) is it or is it not waste; and b) how do you / should you be controlling pesticides? So if you're getting prepared for spraying – your fields or your lawn - then watch this space.

And then again, there is the monthly round up of scary prosecutions just to remind everyone of why we try to keep you up to date with what's happening. For one there is a prosecution of a firm for non-compliance with packaging regulations (deadline for data returns was the end of February).

WHEN IS WASTE NOT WASTE?

The Department for Environment, Food and Rural Affairs (Defra) is currently consulting on draft guidance on the legal definition of waste and its application. Businesses take decisions about whether something is or is not waste on a day-to-day basis. In most cases the decision is straightforward and most will question what this consultation is all about. But for some the decision is complicated – eg. where the substance or object to be discarded has a potential value or future use in being fully recovered or recycled and therefore ceases to be waste.

There are a lot of regulatory controls that apply to waste with obligations being placed on organisations as a result. Clarity of what 'waste' is therefore is important. This consultation paper is likely to be of most interest to

- a) businesses which produce substances classified as 'waste'; and
- b) businesses subject to the controls that apply to waste.

The purpose of the draft guidance is to ensure businesses and other organisations make the right decisions in determining when an object or substance is waste. The draft guidance seeks to address two main questions:

- i) has a substance become waste; and if so
- ii) when does it cease to be waste?

The consultation can be found at the <http://www.defra.gov.uk/corporate/consult/waste-definition/100118-waste-condoc.pdf> . Closing date for responses is Monday 12th April 2010.

COUNT AND RETURN

- **Most packaging compliance schemes' deadlines for data returns – end of February;**
- **WEEE returns deadlines for data returns mid-March**

We reminded everyone in the last issue and we do so again – now is the season to be ensuring you get in your returns under Producer Responsibility Regulations – ie. the packaging regulations and WEEE. Do you handle more than 50 tonnes of packaging per year and have an annual turnover of £2m or more each year? And/Or Are you a manufacturer or distributor of electrical or electronic

equipment? Then this **does** affect you and it is the season for the returns to be completed. Either go to www.e4emanager.co.uk or contact E4environment Ltd for advice.

(See below for the latest prosecution of a company found not to have met its obligations under the Packaging Regulations).

MORE QUESTIONS - SUSTAINABLE PESTICIDES USE

A second consultation is under way, this time on how to implement new European rules on pesticides. This consultation is seeking views on areas including the training of pesticide users, inspection of spraying equipment and minimising the risk of pollution from consultation. The consultation also puts forward options around information on pesticides used near homes and how people could be given the option to obtain this information.

The consultation can be found at the <http://www.defra.gov.uk/corporate/consult/pesticides/> . Closing date for responses is Tuesday 4th May 2010.

OLD FOR NEW - BOILER SCRAPPAGE SCHEME

The government has announced a new national scheme to upgrade household heating system to renew household boilers. Up to 125,000 households in England with working 'G-rated' boilers can apply through the Energy Saving Trust for a voucher which will entitle them to £400.00 off the price of a new 'A-rated' boiler or renewable heating system like a biomass boiler or heat pump.

The aim of the Scheme is to save money for householders on energy bills and to save carbon – estimated to be in the region of 140,000tCO₂ per year – equivalent to 45,000 cars off the road. For more information go to www.est.org.uk .

PROSECUTIONS

Waste offence fine for food supplier for failing packaging regs

Asiana Limited, a supplier and retailer of ethnic food products, based in Nottingham, was yesterday (10 February) ordered to pay £8,411.82 (a fine of £3,000, compensation of £2,304 and costs of £3,092.82, along with a £15 victim surcharge), after failing to comply with packaging regulations.

The company pleaded guilty to nine charges between 2006 and 2008 that related to not registering with the Environment Agency, failing to meet its recycling obligations and for not producing a certificate of compliance during those years. The charges were brought under the Producer Responsibility Obligations (Packaging Waste) Regulations 2005 and 2007. It was estimated that the company had avoided costs of £4,575 by its non-compliance with the regulations.

In mitigation, the company said that it was unaware of the regulations and was now compliant with the legislation.

Caravan site owners to pay more than £50,000

Today (Wed) Blue Anchor Leisure Ltd, which owns 17 residential and leisure caravan parks, was fined a total of £47,500 and ordered to pay full costs of £5,190 after pleading guilty to running an illegal waste site. Waste from Blue Anchor caravan sites was stored illegally on land where some of it was burned.

Skegness Magistrates' Court was told that despite advice from the Environment Agency to apply for a permit or exemption, the company continued to use the site illegally. 'It would have cost them a significant amount of money to prepare the site properly for legitimate use', said Mrs McDonald, prosecuting. If a site is to be used as a waste transfer station it has to conform to certain standards to protect the environment such as having impermeable areas on which to store waste preventing leaks into the ground.

Mrs McDonald said according to paperwork provided by Blue Anchor Leisure a large number of hazardous electrical items had been transferred from the Anchor Lane site. More than a tonne of asbestos was also transferred off site during the same time.

Peter Stark an Environment Agency investigating officer said: 'Illegal waste activity of this nature has been a sporadic problem within the seasonal leisure and tourism industry for several years. We are continuing to monitor this sector and are happy to help legitimate businesses with their operations.'

Blue Anchor Leisure Ltd pleaded guilty to the unauthorised operation of a regulated facility for the deposit and storage of waste, contrary to Regulation 12 and 38(1)(a) Environmental Permitting (England and Wales) Regulations 2007. Fined £20,000. They also pleaded guilty to treating, keeping and / or disposing of controlled waste in a manner likely to cause pollution of the environment or harm to human health, contrary to s33(1)(c) and s33(6) Environmental Protection Act 1990. Fined £27,500.

Pig farmer fined for water pollution

On 16th February, Mr Lewis, a pig farmer from Welshpool, was fined £8,000 and ordered to pay costs of £6,884.46, along with a £15 victim surcharge after pleading guilty to one charge relating to polluting the Cyfronydd Brook.

In 2006 the Environment Agency inspected a tributary of the Afon Banwy, known as the Cyfronydd Brook after a report of pollution by a local resident. A water sample was taken from the brook and showed that the water quality was poor. Slurry and dirty water from a nearby pig farm were seen pooling in a field and a large area of land was heavily contaminated with pig slurry and dirty water which was flowing into the Cyfronydd Brook. Environment Agency officers also saw the pig slurry entering a tributary of the Cyfronydd Brook through a white plastic pipe. The pipe was hidden in a trench with chippings lying on the top.

An Environment Agency officer involved in the investigation said: "This was a deliberate act that led to the brook being filled with pig slurry and dirty water. It also meant that the fish population in the stream was affected. We want to work with farmers to avoid problems like this by offering advice

and guidance. “If you are having problems with slurry on your farm and need some advice contact the Environment Agency on 08708 506 506.”

Charges were brought by the Environment Agency under Section 85 of the Water Resources Act 1991.

Hefty fine for unlicensed waste carrier

Worcestershire man Mr Davis was fined £400 and ordered to pay costs of £500, along with a £15 victim surcharge for illegal waste activity – he pleaded guilty to one charge related to carrying scrap metals illegally. He could have easily avoided the charge by registering as a waste carrier at a cost of £152 for three years. Anyone that carries controlled waste for profit is required to do so.

Pete Yeomans, an Environment Agency officer involved in the investigation said: “This sends a clear message to all those scrap metal dealers continuing to carry waste without being registered that they risk being caught, brought before the courts and heavily penalised. We work in close partnership with the police to ensure anyone carrying waste operates within the law. “

The charges were brought by the Environment Agency under Section 1(1) & (5) of the Control of Pollution Act (Amendment Act) 1989.