

Right to Know

By email: requests@righttoknow.ie

14th December 2023

Re: Internal Review Decision - AIE request OEE AIE 2023 45

Dear Right to Know

I refer to your request, received 17th November 2023, which you made under the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (S.I. No. 133 of 2007, S.I. No. 662 of 2011, S.I. 615 of 2014 and S.I. No. 309 of 2018) (hereafter referred to as the AIE Regulations) for an internal review of the decision to refuse access to records requested by you on the grounds that the records are not held by the EPA and are held by the Department of Agriculture, Food and the Marine.

Result of the internal review of this decision

I made a decision on this review on 14th December 2023.

I am varying the decision of the original decision maker which was to refuse access to the information requested by you on 4th November (received by the EPA on 6th November 2023).

Your original request was for *“any records supplied to EPA in 2023 by licensees with regard to off-site third party lands used for the application of slurry from intensive agriculture activity This would include Maps identifying the location / scope of the lands on which slurry from the licenced installations may be applied as fertiliser; Nutrient management plans (NMP) for each farm on which slurry from licensees may be used as fertiliser.”*

I note the grounds of appeal in your request for internal review received on 17th November 2023.

I can confirm that in December 2011, the EPA informed the intensive agricultural sector (pig and poultry) of reduced information requirements in relation to organic fertiliser at EPA licensed facilities and the associated licences were technically amended by the Agency to reflect these new requirements. The terms of the amended intensive agriculture licences no longer required the licensees to submit to the EPA the information sought by you in your request.

I can confirm that Licensees are required to submit to the Department of Agriculture, Food and the Marine the completed records of movement of organic fertiliser from the installation (referred to as ‘Record 3’ by the Department of Agriculture, Food and the Marine). See associated notice published by DAFM in the Irish Independent Newspaper (Farming Supplement) on 22/11/2011 and the Irish Farmers Journal on the 26/11/2011 below in **Appendix 1**. I also attach the associated press release issued 25th January 2012, in **Appendix 2**.

I also note the follow-up email you sent to the EPA on the 29th November 2023, in support of your appeal, which contained a number of links to the EPA’s enforcement documentation on LEAP Online, a number of which links did not bring us to any documents.

I note that the slurry related records contained at the links that did work are not 2023 records (i.e. not within scope of your request). Notwithstanding that fact, the Office of Enforcement has confirmed to me that, for instance, where an issue relating to slurry might arise at a licensed site, the inspector enforcing the licence may request the licensee to submit information. The information received is uploaded to LEAP Online. OEE has also confirmed that records relating to slurry held on-site by the licensee may be checked during site visits by enforcement inspectors. Occasionally, if the records are not available on the day of the inspection, the enforcement inspector may ask the licensee to submit them to the EPA. In such circumstances, the EPA uploads those records to LEAP Online. Such requests by inspectors are not routine.

Therefore, where circumstances as outlined in the above paragraph arise occasionally, such records are available on LEAP Online or will be made available on LEAP Online. For clarity - if the situation arises where a licensee submits information to the EPA of the type they are obliged to submit to DAFM, either arising from a site visit by an inspector or an issue arising on-site, the EPA uploads this information to LEAP Online.

Taking all of the above into consideration, I am varying the original Decision by part-granting your request on the grounds that there may be a limited number of records relating to slurry movements received in 2023 available on a case by case basis on [LEAP Online](#). In accordance with the new requirements from 2011, I am satisfied that the information sought in your original request is held by the Department of Agriculture Food and the Marine and advise that you direct your request to them <https://www.gov.ie/en/organisation-information/9d5f8-access-to-information-on-the-environment-aie/>

Right of Appeal

In accordance with Article 12(3) of the AIE Regulations you may appeal this decision to the Commissioner for Environmental Information. If you wish to appeal, you must do so, within one month of receipt of this notification, to:

The Office of the Commissioner for Environmental Information,
6 Earlsfort Terrace, Dublin 2, D02 W773.
Phone: +353-1-639 5689
Email: info@ocei.ie

It is also possible to appeal online, see the website of the Commissioner for further details <https://www.ocei.ie/>.

The fee for such an appeal is €50 or €15 if you are the holder of a medical card or the dependent of the holder of a medical card.

Yours sincerely,



Stephen Fennell
Programme Manager
Office of Communications and Corporate Services

APPENDIX 1

Nitrates Regulations - Important notice regarding submission of Record of Movement of Organic Fertiliser Forms

Completed Record of Movement of Organic Fertiliser forms (Record 3) must be submitted to Nitrates Section, Dept of Agriculture, Food and the Marine, Johnstown Castle Estate on or before 31 December 2011 in respect of all exports of organic fertiliser which occur in 2011. This applies to all farmers including those with an approved Derogation. If farmers require nitrates credit, they are advised that any Record of Movement of Organic Fertiliser forms, received after the 31 December 2011, will not be eligible for nitrates credit for 2011. Also please note that the only acceptable proof of postage will be Swift Post Receipt or Registered Post Receipt.

Forms are available from the Department's website at www.agriculture.gov.ie/ruralenvironment/environmentalobligations/nitrates/additionalforms/ or can be obtained by phoning Nitrates Section on 053-9163444.

email: info@agriculture.gov.ie
www.agriculture.gov.ie



APPENDIX 2

New agreement on organic fertiliser control set to reduce administrative burden for pig and poultry sector

Issued by the

Environmental Protection Agency and the Department of Agriculture, Food and the Marine

25th January 2012:

The Environmental Protection Agency (EPA) and the Department of Agriculture, Food and the Marine (DAFM) have, following discussions with representatives of the pig and poultry industry, agreed a new approach for the control and management of pig and poultry manure from Integrated Pollution Prevention Control (IPPC) licensed installations. This integrated approach by the EPA and the DAFM will deliver an improved service to these operators by reducing the administrative burden and avoiding any potential duplication of effort, while ensuring continued protection of the environment and retaining effective control of the use of such fertiliser.

The control and management of organic fertiliser from licensed pig and poultry units is subject to control under a number of EU Directives and was therefore subject to controls being conducted by both the EPA and the Department. This agreement will see the Department of Agriculture, Food and the Marine conducting the required checks on the use of pig or poultry manure from licensed establishments and providing the necessary reports to the Agency. The reduced information requirements in relation to organic fertiliser at EPA licensed facilities were communicated to licensees in December.

The Director General of the EPA, Ms Laura Burke, said *“In agreeing this new approach the EPA is seeking to streamline as much as possible the administrative burden on the intensive agriculture sector, while at the same time ensuring that the industry is fully compliant with its environmental responsibilities”*

In welcoming the agreement, Minister Coveney highlighted *‘this agreement will significantly assist the industry and make the transfer of pig or poultry manure to both new users and existing farms much easier. It will also help towards achieving compliance with the transitional arrangement put in place for the industry as part of the Review of Ireland’s Nitrates Action Programme’*. The Minister also pointed out that the *‘Pig or poultry manure is a very valuable nutrient source particularly when used in the spring time’*.

ENDS

Notes to Editors:

Under section 23 (4) of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 (S.I. No. 610 of 2010), DAFM require completed record of movement of Organic

Fertiliser forms (Record 3) to be submitted to the Nitrates Section, Department of Agriculture, Food and Marine at the end of each year in respect of all exports of organic fertiliser (slurry/manure).

The last date for receipt by the Department of Agriculture, Food and the Marine, of records of movement of organic fertilisers has been extended to the 31st January (from the 31st Dec,2011)

DAFM published notices in the Irish Independent Newspaper (Farming Supplement) on 22/11/2011 and the Irish Farmers Journal on the 26/11/2011 and also issued letters to IPPC licensees in January 2012 on the new requirements for all exporters of organic fertiliser.

Environmental Protection Agency Acts 1992 to 2011, First Schedule identifies that activities which exceed the following thresholds are required to hold an Integrated Pollution Prevention and Control (IPPC) licence:

Class 6.1: The rearing of poultry in installations, whether within the same complex or within 100 metres of the same complex, where the capacity exceeds 40,000 places.

Class 6.2: The rearing of pigs in an installation, whether within the same complex or within 100 metres of the same complex, where the capacity exceeds—
750 places for sows in a breeding unit, or
285 places for sows in an integrated unit, or
2,000 places for production pigs.

In this paragraph—

‘breeding unit’ means a piggery in which pigs are bred and reared up to 30kg in weight;

‘integrated unit’ means a piggery in which pigs are bred and reared to slaughter;

‘production pig’ means any pig over 30kg in weight which is being fattened for slaughter;

‘sow’ means a female pig after its first farrowing.