

Department for Environment, Food and Rural Affairs

Government response to the consultation on the interpretation of the definition of municipal waste used in the Landfill Allowances Trading Scheme (LATS) in England April 2008

1. This document sets out the Government's intended way forward following consultation on the interpretation of the definition of municipal waste used in the Landfill Allowances Trading Scheme (LATS) in England. This document should be read in conjunction with the original consultation and the summary and analysis of responses to the consultation.

Need for clarification of the definition and timing

2. The overwhelming majority of responses to the consultation agreed that there is a need to clarify the interpretation of municipal waste used in LATS.

3. The Government has therefore decided to take forward changes for the 2008/09 LATS scheme year.

Changes to legislation and guidance

4. Article 5(2) of the EU Landfill Directive sets targets for the diversion of biodegradable municipal waste from landfill based on the proportion sent to landfill in 1995. To measure performance against these targets they must be agreed with the European Commission. Defining municipal waste is a complex issue and is approached differently by different Member States, depending on the methods used to manage municipal waste in each country. The basis for data on municipal waste in 1995 that the UK reported included all waste in the hands of local authorities and reflected, in the absence of any other aggregate data, the best understanding of what constituted the rather uncertain concept of municipal waste. The European Commission has accepted and published these data as the basis for UK targets according to Article 5(2) of the Landfill Directive. LATS is the mechanism chosen to ensure compliance with these targets and the Government therefore used this same interpretation for the purposes of LATS. The Government has maintained this interpretation of the definition since the scheme's inception and believes it to be both measurable and consistent with the figures agreed with the Commission.

5. A majority of respondents to the consultation favoured the Government's preferred option, to amend the definition of municipal waste in the Waste and Emissions Trading Act 2003 in line with the Government's interpretation.

6. The Government's view having considered those responses, is that it would be in the interests of certainty and clarity for the statutory definition and the interpretation in the guidance to be more fully aligned and that the

interpretation provided by the guidance was an appropriate basis for LATS in the past and will provide the best basis for the scheme going forward.

7. The Government will therefore introduce legislation to amend the definition of municipal waste in the Waste and Emission Trading Act 2003. The legislation will amend the definition so that it encompasses all waste which comes into the possession or under the control of waste disposal or waste collection authorities, with the exception of construction and demolition waste.

8. Over half of the respondents that favoured a change to legislation raised issues about specific waste streams. The Government recognises that there are concerns around specific issues and has decided to publish expanded guidance covering a number of the issues raised in response to the consultation at the same time as changes to legislation are introduced.

9. This change will ensure that LATS has long-term stability and give local authorities certainty about the future of the scheme so that they can continue to implement their plans to meet their obligations under the scheme.