Representing Drainage Water Level & Flood Risk Management Authorities

Response to the Landfill Tax: call for evidence

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Introduction

The Association of Drainage Authorities (ADA) is the membership association for drainage, water level and flood risk management authorities throughout the UK. ADA represents over 230 members nationally, including internal drainage boards, regional flood & coastal committees, local authorities and national agencies, as well our Associate Members who are contractors, consultants and suppliers to the industry. ADA is recognised as the national representative for Internal Drainage Boards (IDBs).

Specific consultation responses

2 About You

2(a) Association of Drainage Authorities (ADA)
2(b) Sofi Lloyd, Technical Officer at ADA, email: Sofi.Lloyd@ada.org.uk
2(c) Category – other – ADA responds to this consultation specifically as the national representative for Internal Drainage Boards who do not operate a landfill site but produce waste that ultimately is deposited at one
2(d) No – Our response should not be confidential

3 Policy Landscape - Waste & Environmental Policy

Waste Crime

Q1: In the context of the government's overall response to waste crime being led by Defra, what more could HMRC do, together with Defra and the Environment Agency, to tackle waste crime?

Landfill tax exemptions for Internal Drainage Boards.

ADA recognises and welcomes all that is being done to discourage waste crime through new provisions being brought forward by the Environment Act 2021. As part of the NFTPG, ADA also welcomes the extra guidance being provided to landowners and Local Authorities to ensure that those responsible for waste crimes can more easily and more frequently be held accountable in a more proportionate and discouraging way.

However, specifically from an Internal Drainage Board (IDB) perspective, there is still a significant gap in the procedures around how illegal "fly-tipped" waste should be dealt with in channels managed by IDBs for flood risk which protects IDBs from undue cost or risk of prosecution. IDBs as risk management authorities manage over 19,500km of channels

across the UK in order to maintain water levels and manage flood risk in lowland areas. Unfortunately, there is a significant issue with fly-tipping into IDB channels both in rural and urban areas across the country. The channels that IDBs maintain are owned by private landowners but the IDBs have a duty to keep those channels clear in order to maintain the necessary flood risk protection in the local area. Fly-tipped waste into such a channel requires swift removal by the IDB, sooner than the landowner is required or able to take action, in order to ensure the required flood protection is maintained. Once the IDB touches the waste, the IDB becomes the controller and as such, is required to handle and dispose of the waste compliantly which includes the payment of landfill tax. If IDBs were to leave the waste on the bank, they risk being prosecuted themselves as fly tippers. If the channel were not maintained as a flood defence asset by the IDB, the responsibility to dispose of the waste would be the landowners. Depending upon the type and volume of waste, a landowner as private individual would have the opportunity to dispose of the waste to a local waste amenity site at no cost.

ADA recommends that all illegally deposited waste removed from IDB channels by Internal Drainage Boards in order to maintain levels of local flood risk protection, and accompanied by a crime reference number or similar, should be exempt from landfill tax.

Internal Drainage Boards are under increasing pressure to adapt to climate change and reduce their carbon emissions. IDBs have very limited opportunity to obtain additional budget as a Public Authority so continuing to charge IDBs to dispose of illegally fly-tipped waste on private land erodes the ability of IDBs to channel their finite funds into more carbon-efficient solutions to help protect and improve the environment.

Improved public campaigns

It is suggested that more could be done to educate the public on how to prevent their waste being illegally disposed, particularly through social media. An improvement in the understanding of personal responsibility around ensuring waste is disposed of compliantly is needed alongside the liability each individual can be subject to if they have not been diligent with their checks of waste collectors.

We suggest that if a certification scheme be implemented for waste contractors, as prominent and recognised as red tractor for example. A logo associated with the scheme would be understood by the public to mean that their chosen waste collection service had been “approved” in some way and was on the register (which can be checked). Alongside a national awareness campaign, it could help to harness more citizen support for and understanding of of the use of compliant waste contractors. Further, if a central payment database was created which certified waste companies were able to join, similar to those that schools use for parents to pay for any school meals or other costs, a national awareness campaign could help the public understood that that their waste would be dealt with compliantly if payment was made through that database but, **could** risk non-compliance if payment was made outside of it and they could be held personally liable if found to be the originator of illegally disposed waste.

Awareness campaigns have helped to highlight the unknown consequences of fly-tipping and help to increase high-visibility community-backed incentives to deter waste crime and improve the opportunity to identify and hold perpetrators to account through citizen support. Several funding streams could be extended to resource these campaigns including those offered for environmental and community projects by major waste management organisations themselves. There are several successful community education initiatives that

have already taken place across the country which could be used as a template which have been highlighted on the NFTPG.

Q2: Are there any other areas where you think HMRC could work collaboratively with environmental regulators to prevent Landfill Tax avoidance and evasion?

As above.

5 The Lower Rate of Landfill Tax

Q3: How do the current criteria for the lower rate of Landfill Tax align with the government's evolving environmental goals?

ADA is supportive of this and agrees that a lower rate is encouraging compliance and sustainable waste disposal.

Q4: Would considering the potential for materials to be moved up the waste hierarchy as a criteria for the lower rate help to align the tax with environmental goals?

ADA would very much support a version of this. For example, the creation of a middle rate or range of rates would continue to encourage the compliant disposal of such materials and the additional funds above those of a lower tier could allow for a proportion of the costs for assessment / screening / testing to be covered to determine if materials could be moved up the waste hierarchy.

Q5: Are there any other considerations which the government should take into account when setting the criteria for considering whether materials should be included in the lower rate?

Yes. The cost of transporting waste accounts for a significant proportion of the carbon emissions relating to the waste management industry. If there was a way to offer a material recognition for reduced "waste miles" for materials which were able to be re-used locally, it could further contribute towards the Governments environmental goals. This could make use of the electronic waste tagging approach being brought forward by the Environment Act 2021 and take the form of a lower rate if the waste miles were kept below a certain level and charged more highly if they exceeded a certain level but still below the higher rate.

Q6: For each group of materials in the QMO;

• Is there scope for materials to be moved up the waste hierarchy?

• Is eligibility for the lower rate acting as a barrier to these materials being moved up the waste hierarchy?

• If current barriers are reduced what scale of material could be diverted from landfill and what would remain?

Soils and sediment

This is a main focus for ADA on behalf of the water level management industry who manage a significant volume of soil and silt during their operations across approx. 19,500km of waterways in the UK. As set out in the consultation guidance itself, during 2020, around 1.3 million tonnes of dredged material was disposed of at landfill in England.

ADA's thoughts align with those who view soil and silt as a valuable commodity rather than a waste. In fact soil conservation is a major focus of the Governments' 25 year environment plan. Soil within which to grow food for a rapidly increasing population is a diminishing resource. It is known already to be eroded from intensively-farmed land into waterways through surface run-off where it is becomes a significant maintenance issue and pollutant. This process will only increase with the weather extremes we are to expect from climate change. Similarly, poor quality soil is much more prone to erosion in drought conditions from the wind.

ADA believes that the regulation and taxes around the re-use or disposal of soil needs to be reviewed to allow soil to be transported and re-used more easily, not only for risk management authorities such as IDBs, but for many other industries including construction. There should of course continue to be a process to ensure that where there is a possibility that the material may contain a hazardous element that it is subject to tests and that the most appropriate disposal method is used if it is shown to be inappropriate for re-use. However the current volume and cost of testing of such material should be reviewed as the current requirements are prohibitive to the redirection of such material away from landfill into other re-uses for many. We suggest that a range of classifications of such waste in the context of its likelihood to contain hazardous or contaminant elements should define the volume of testing required and the taxes applied if direction to landfill is the only option. This should be considered alongside scalable testing requirements depending upon likelihood of hazardous or contaminant elements, reduced testing costs and improved testing facilities.

In terms of IDB operations which involve the management of soil as a "waste", they can be both a producer or a receiver of silts and soils. Silts dredged from drainage channels, whilst exempt from landfill tax are subject to significant regulation as a waste material including the need to apply for a range of environmental permits and exemptions in order to remove, deposit, store, spread and transport the material even on neighbouring fields, very close from its point of origin.

As a user of soil waste, IDBs often require large volumes of particular soil types to use to create new embankments or bunds or to re-profile or repair existing flood defence embankments. Far less than a waste, soil is a valuable resource to IDBs in this context. It would be of benefit to ensure that tax incentives were available to producers of that waste who were able to make it available for use in this way. The environmental permits linked to such operations should also be reviewed to improve the supportive of this, including the interim storage of the material for onward use.

There are arguments that silts within river channels are mostly derived from some distance upstream but ADA would argue that in a lowland context within drainage channels where the

gradient of land is close to zero and the waters are often static or very slow moving, this is unlikely to be the case. As such, the risk of hazardous elements in the silt being derived from elsewhere upstream is likely to be low. Most often landowners in these areas are very keen to be in receipt of the nutritious material within the field if the risks of contaminant or hazardous elements are known to be very small.

Impact on environmental stewardship uptake in lowland areas

We would also highlight that the need for IDBs to restrict their deposits of dredged material as a classified waste on river banks only, rather than as a valuable commodity onto the cropped field, is a barrier to many farmers being able to enter riparian margins into environmental stewardship. Any material deposited onto a stewardship margin which prevents it from meeting the criteria for the funded stewardship option could result in penalties from the regulator, (the RPA) if the margin was not returned to a compliant state after the dredging operations by the landowner. This is a significant cost in terms of time and money to the landowner so is discouraging to the uptake of stewardship in lowland areas where many drainage channel margins will receive such arisings. And it is in these intensively-farmed areas that environmental stewardship options are most needed to provide a refuge for wildlife and to protect soil from erosion. If the categorisation of arisings as a waste was reviewed, alongside the environmental permitting regulations, and the material was instead seen as a valuable addition to the cropped area, it could enable further uptake of environmental stewardship options on riparian margins without the fear of penalty from the regulator (RPA).

Conclusion

The current classification of soils and silts as a waste, and the volume and costs of testing required of the material regardless of its known risk to contain hazardous elements is, we feel, counterproductive to the goals of the 25 year environment plan in terms of soil as a valuable resource being directed to landfill instead of being used to improve and replenish degraded soils.

Plant Matter Arisings

ADA views waste plant matter arising from the course of flood risk management operations i.e. from weed cutting, mowing and flailing or from weed screens as another potentially valuable commodity which should have its waste classification reviewed.

The need to improve soil health, of which soil organic matter is a major component, is another priority of the Government's 25 year environment plan. Historically, nearly all farms had an arable and livestock element. The waste from raising livestock was a valuable organic addition to arable soils and was widely available. Now with much less livestock and more purely arable farms, there is a real shortage of organic matter available as an addition to add to agricultural soils. Organic additions to soil help to renew soil nutrients and reduce soil erosion by water through improving their permeability or infiltration rates, which have positive impacts on flood risk, slowing the flow of water through land into waterways.

Some recipients of vegetation cuttings, such as municipal composting sites, require a large percentage of the cuttings to be tested in order to determine that they do not contain hazardous substances before they will accept them. As such the approach is mostly prohibitive in terms of time and cost of testing for IDBs and they will likely instead have to

send such material to landfill with a specialised waste contractor and be subject to associated costs and taxes. There should of course continue to be a process to ensure that where there is a possibility that the material may contain a hazardous element that it is subject to tests and that the most appropriate disposal method is used if it is shown to be inappropriate for re-use in agricultural or other areas where a risk could be posed to human health. However the current volume and cost of testing of such material should be reviewed as the current requirements are prohibitive to the redirection of such material away from landfill into other re-uses for many. We suggest that a range of classifications of such waste in the context of its likelihood to contain hazardous or contaminant elements should define the volume of testing required and the taxes applied if direction to landfill is the only option. This should be considered alongside scalable testing requirements depending upon likelihood of hazardous or contaminant elements, reduced testing costs and improved testing facilities

With the ban on horticultural peat expected in the near future, it would be prudent for a plentiful organic alternative growing medium to be made available. It is again here that soil and plant matter which are currently viewed as waste could be seen as a potential valuable commodity rather than a waste and could significantly reduce any impacts following the ban on the use of peat in horticulture.

Conclusion

The current classification of plant matter as a waste, particularly in the context of arisings from drainage channel maintenance, and the volume and costs of testing required of the material regardless of its known risk to contain hazardous elements is, we feel, counterproductive to the goals of the 25 year environment plan in terms of the opportunities to improve soil quality and in reducing the volume of waste reaching landfill. A review of these processes, taxes and criteria is needed in order to redirect such valuable material away from landfill and into more composting facilities in order for it to be put to good use on land to improve soil quality or to other re-uses.

6 Exemptions

Filling of quarries

Q7: Does the exemption for filling quarries act as a barrier to excavation material being moved up the waste hierarchy?

No response.

Q8: Are there other factors which should be taken into account in assessing this exemption?

No response

Mining and quarrying materials

Q9: Material from what type of mining or quarrying operation benefits from the exemption for materials from this activity, and what sort of quantities are involved?

No response.

Q10: Does the exemption for mining and quarrying materials act as a barrier to these being moved up the waste hierarchy?

No response.

Dredgings – material removed from water

Q11: Do you have any details of the types and amounts of other materials that are currently being added to dredged waste?

No response

Q12: Does this exemption act as a disincentive to the moving dredged material up the waste hierarchy?

ADA's thoughts align with those who view soil and silt as a valuable commodity rather than a waste. In fact soil conservation is a major focus of the Governments' 25 year environment plan. Soil within which to grow food for a rapidly increasing population is a diminishing resource. It is known already to be eroded from intensively-farmed land into waterways through surface run-off where it then becomes a significant maintenance issue. This process will only increase with the weather extremes we are to expect from climate change. Similarly, poor quality soil is much more prone to erosion in drought conditions from the wind.

ADA believes that the regulation and taxes around the re-use or disposal of dredgings needs to be reviewed to allow the dredged material to be transported and re-used more easily, predominantly being used on agricultural areas There should of course continue to be a process to ensure that where there is a possibility that the material may contain a hazardous element that it is subject to tests and that the most appropriate disposal method is used if it is shown to be inappropriate for re-use in agricultural areas. However the current volume and cost of testing of such material should be reviewed as the current requirements are prohibitive to the simple redirection of such material onto adjacent farmland with the landowner's consent. We suggest that a range of classifications of such waste in the context of its likelihood to contain hazardous or contaminant elements should define the volume of testing required and the taxes applied if direction to landfill is the only option. This should be considered alongside scalable testing requirements depending upon likelihood of hazardous or contaminant elements, reduced testing costs and improved testing facilities

In terms of IDB operations which involve the management of dredgings as a "waste" mean that silts dredged from drainage channels, whilst exempt from landfill tax are subject to significant regulation as a waste material including the need to apply for a range of environmental permits and exemptions in order to remove, deposit, store, spread and transport the material even on neighbouring fields, very close from its point of origin.

There are arguments that silts within river channels are mostly derived from some distance upstream but ADA would argue that, with generally well document exceptions, in a lowland context within drainage channels where the gradient of land is close to zero and the waters are often static or very slow moving, this is unlikely to be the case. As such, the risk of hazardous elements in the silt being derived from elsewhere upstream is likely to be low. Most often landowners in these areas are very keen to be in receipt of the nutritious material within the field if the risks of contaminant or hazardous elements are known to be very small.

Impact on environmental stewardship uptake in lowland areas

We would also highlight that the need for IDBs to restrict their deposits of dredged material as a classified waste on river banks only, rather than as a valuable commodity onto the cropped field, is a barrier to many farmers being able to enter riparian margins into environmental stewardship. Any material deposited onto a stewardship margin which prevents it from meeting its required criteria, such as when pollen and nectar mixes are established in field margins, could result in penalties from the regulator, the RPA if the margin was not returned to a compliant state after the dredging operations. This is a significant cost in terms of time and money to the farmer so is discouraging to the uptake of stewardship in lowland areas where many drainage channel margins will receive such arisings. And it is in these intensively-farmed areas that environmental stewardship options are most needed to provide a refuge for wildlife and to protect soil from erosion. If the categorisation of arisings as a waste was reviewed, alongside the environmental permitting regulations, and the material was instead seen as a valuable addition to the cropped area, it could enable further uptake of environmental stewardship options on riparian margins without the fear of penalty from the regulator (RPA).

Conclusion

The current classification of dredged material as a waste, and the volume and costs of testing required of the material regardless of its known risk to contain hazardous elements is, we feel, counterproductive to the goals of the 25 year environment plan in terms of dredged material either being confined to disposal on areas of river banks ideal for environmental stewardship field margins or as a valuable resource being directed to landfill instead of being used to improve and replenish degraded soils.

Q13: If the materials on which exemption could be claimed when added to dredged waste were to be limited to those listed in the Schedule to the QMO, which of these would have the necessary dehydrating properties and are they available in the required quantities?

No response

7 Discounting Water

Q14: Are there circumstances in which water discounting can act as a disincentive to maximising the recovery of materials?

No response.

Q15: What changes could be made to ensure that water discounts accurately reflect the added water content of waste?

No response.

8 Other Impacts

Q16: Unless already covered in your responses to other questions within this document, is there anything else you would like us to note about the current impact of the tax or any changes to it?

As set out in sections 3 & 5.

Q17: Unless already covered in your responses to other questions within this document, is there any other information the government should consider as part of its wider evaluation and monitoring of the impacts of the tax?

As set out in sections 3 & 5.

Q18: Are there any potentially adverse impacts on groups with protected characteristic?

No response.