Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Water Resources (Control of Pollution) (Silage, Slurry and Agriculture Fuel Oil) (Wales) Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2010 No. 1493 (W.136)

WATER, WALES

The Water Resources (Control of Pollution) (Silage, Slurry and Agriculture Fuel Oil) (Wales) Regulations 2010

Made - - - -	*26 May 2010*
Laid before the National Assembly for Wales - -	*27 May 2010*
Coming into force - -	*18 June 2010*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 92 and 219(2)(d) to (f) of the Water Resources Act 1991(**1**).

Title, application and commencement

1.—(1) The title of these Regulations is the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (Wales) Regulations 2010.

(2) These Regulations apply in relation to Wales, and come into force on 18 June 2010.

Commencement Information

I1 Reg. 1 in force at 18.6.2010, see **reg. 1(2)**

Interpretation

2.—(1) In these Regulations—

"construct" ("adeiladu") includes install;

"Environment Agency" ("*Asiantaeth yr Amgylchedd*") means the agency established under Chapter I of the Environment Act 1995(**2**);

"fuel oil" ("*olew tanwydd*") means oil intended for use as a fuel for the production of heat or power but does not include oil intended for use exclusively as a fuel for heating a farmhouse or other residential premises on a farm and stored separately from other oil;

(**1**) 1991 c. 57. By virtue of: (1) Article 2 of, and Schedule 2 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672 and (2) Section 162 of, and Schedule 11 to, the Government of Wales Act 2006 c. 32; functions under sections 92 and 219 now vest in Welsh Ministers.

(**2**) 1995 c. 25.

"livestock" ("*da byw*") means—

(a) animals kept for the production of food or wool, or

(b) birds kept for the production of food;

"reception pit" ("*pydew derbyn*") means a pit used for the collection of slurry before it is transferred into a slurry storage tank or for the collection of slurry discharged from such a tank;

"silage" ("*silwair*") includes a crop being made into silage;

"silage effluent" ("*elifiant silwair*") means effluent from silage;

"silo" ("*seilo*") means a structure used for making or storing silage;

"slurry" ("*slyri*") means liquid or semi-liquid matter composed of—

(a) excreta produced by livestock while in a yard or building (including that held in wood chip corrals); or

(b) a mixture wholly or mainly consisting of livestock excreta, livestock bedding, rainwater and washings from a building or yard used by livestock,

of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process;

"slurry storage tank" ("*tanc storio slyri*") includes a lagoon, a pit (other than a reception pit) or tower used for the storage of slurry.

(2) A reference in these Regulations to a slurry storage system includes a slurry storage tank and—

(a) any reception pit and any effluent tank used in connection with the tank; and

(b) any channels and pipes used in connection with the tank, any reception pit or any effluent tank.

(3) A requirement in these Regulations for a silo or slurry storage tank to conform to a British Standard (in whole or in part) is satisfied if the silo or tank conforms to a standard or specification that provides an equivalent level of protection and performance and is recognised for use in a member State, Iceland, Liechtenstein, Norway or Turkey.

Commencement Information

I2 Reg. 2 in force at 18.6.2010, see **reg. 1(2)**

Making or storage of silage

3.—(1) Subject to paragraph (3), a person who has custody or control of silage that is being made or stored must ensure that—

(a) the silage is kept in a silo that satisfies the requirements of Schedule 1; or

(b) the silage is compressed into bales that—

(i) are wrapped and sealed into impermeable membranes, or enclosed in impermeable bags; and

(ii) are stored at least 10 metres from any inland freshwaters or coastal waters that effluent escaping from the bales could enter; or

(c) if the silage is a crop being made into field silage (that is, silage made on open land by a method different from the baling method referred to in sub-paragraph (b)) or silage that is being stored on open land–

(i) the Environment Agency is given notice of the place where the silage is to be made or stored at least 14 days before the place is first used for that purpose; and

(ii) the place is at least 10 metres from any inland freshwaters or coastal waters, and at least 50 metres from the nearest relevant water abstraction point of any protected water supply source that silage effluent could enter if it escaped.

(2) For paragraph (1)(c)(ii), a water supply source is a protected water supply source if–

(a) any relevant water abstraction from the source is licensed under Part II of the Water Resources Act 1991; or

(b) the person making or storing the silage was aware of the source's location—

(i) before the making of the silage began; or

(ii) if the silage was made elsewhere, before it was stored on the land in question.

(3) Paragraph (1) does not apply to silage while it is stored temporarily in a container, trailer or vehicle in connection with its transport about the farm or elsewhere.

(4) A person who has custody or control of a silage bale must not open or remove the wrapping of the bale within 10 metres of any inland freshwaters or coastal waters which silage effluent could enter as a result.

(5) In this regulation—

(a) "relevant water abstraction" means the abstraction of water for use for—

(i) human consumption; or

(ii) domestic purposes (within the meaning given by section 218 of the Water Industry Act 1991(**3**)) other than human consumption; or

(iii) manufacturing food or drink for human consumption; and

(b) "water supply source" means inland freshwaters or ground waters from which a relevant water abstraction is made or licensed to be made.

Commencement Information

I3 Reg. 3 in force at 18.6.2010, see **reg. 1(2)**

Storage of slurry

4.—(1) Subject to paragraph (2), a person having custody or control of slurry must store it only in a slurry storage system that satisfies the requirements of Schedule 2.

(2) Paragraph (1) does not apply to slurry while it is stored temporarily in a tanker that is used for transporting slurry on roads or about a farm.

Commencement Information

I4 Reg. 4 in force at 18.6.2010, see **reg. 1(2)**

Storage of fuel oil on farms

5.—(1) Subject to paragraph (2), a person who has custody or control of fuel oil on a farm must ensure that it is stored—

(**3**) 1991 c. 56.

(a) in a fuel storage tank within a storage area or facility that satisfies the requirements of Schedule 3;

(b) in drums within such a storage area; or

(c) in an underground fuel storage tank.

(2) Paragraph (1) does not apply—

(a) to the temporary storage of fuel oil in a tanker used for transporting fuel oil on roads or about a farm; or

(b) where the total quantity of fuel oil stored on the farm does not exceed 1,500 litres.

Commencement Information

I5 Reg. 5 in force at 18.6.2010, see **reg. 1(2)**

Exemptions

6.—(1) Subject to paragraph (2), these Regulations do not apply to a silo, slurry storage system or fuel storage tank—

(a) which, before 1 March 1991, was being used for the purpose of making silage, storing slurry or, as the case may be, storing fuel oil;

(b) where it was not used before 1 March 1991 for that purpose, it was constructed before that date for such use; or

(c) in relation to which—

(i) a contract for its construction, substantial enlargement or substantial reconstruction was entered into before 1 March 1991, or

(ii) such work was commenced before that date, and

and in either case the work was completed before 1 September 1991.

(2) These Regulations apply to a silo, slurry storage system or fuel storage tank meeting the requirements of paragraph (1) if any requirement of a notice under regulation 7 is not complied with within the period stated in the notice.

(3) Any reference in paragraph (2) to the period stated in a notice is to that period as extended if it has been extended under regulation 7(6)(b) or by virtue of regulation 8(6) and any reference in those paragraphs to a requirement of a notice is to that requirement as modified if it has been modified under regulation 7(6).

Commencement Information

I6 Reg. 6 in force at 18.6.2010, see **reg. 1(2)**

Notice requiring works etc.

7.—(1) The Environment Agency may serve, on a person who has custody or control of silage, slurry or fuel oil or is responsible for the silo, slurry storage system or fuel oil storage tank, in circumstances in which these Regulations apply, a notice ("regulation 7 notice") requiring the person to carry out works, or take precautions or other steps, specified in the notice.

(2) The works, precautions or other steps must be, in the opinion of the Environment Agency, appropriate, having regard to the requirements of these Regulations, for reducing to a minimum any significant risk of pollution of controlled waters.

(3) The notice must—

(a) specify or describe the works, precautions or other steps that the person is required to carry out or take;

(b) state the period within which any such requirement is to be complied with; and

(c) inform the person of the effect of regulation 8.

(4) The period for compliance stated in the notice is–

(a) 28 days; or

(b) such longer period as is reasonable in the circumstances.

(5) A person on whom a regulation 7 notice has been served must comply with the requirements of that notice.

(6) The Environment Agency may at any time (including a time after the period for compliance has ended)—

(a) withdraw the notice;

(b) extend the period for compliance with any requirement of the notice; or

(c) with the consent of the person on whom the notice is served, modify the requirements of the notice.

(7) The Environment Agency must withdraw the notice, extend the period for compliance, or modify the requirements of the notice if so directed by the Welsh Ministers under regulation 8(5).

Commencement Information

I7 Reg. 7 in force at 18.6.2010, see **reg. 1(2)**

Appeals against regulation 7 notices

8.—(1) A person served with a regulation 7 notice may, within the period of 28 days beginning on the day after the date on which the notice is served (or such longer period as the Welsh Ministers allow), appeal to the Welsh Ministers against the notice.

(2) An appeal under this regulation must be made by the appellant serving notice on the Welsh Ministers.

(3) The notice must contain or be accompanied by a statement of the grounds of appeal.

(4) Before determining an appeal under this regulation, the Welsh Ministers must, if requested to do so by the appellant or the Environment Agency, afford them an opportunity of appearing before and being heard by a person appointed by the Welsh Ministers for the purpose.

(5) On determining an appeal under this regulation, the Welsh Ministers may direct the Environment Agency to—

(a) withdraw the regulation 7 notice;

(b) modify any of its requirements;

(c) extend the period for compliance with any requirement; or

(d) dismiss the appeal.

(6) The period for compliance with a regulation 7 notice against which an appeal has been made is, subject to any direction under paragraph (5), extended so that it expires on the date on which the Welsh Ministers finally determines the appeal or, if the appeal is withdrawn, the date on which it is withdrawn.