STATUTORY RULES OF NORTHERN IRELAND

2003 No. 319

WATER AND SEWERAGE

The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003

Made - - - -	*30th June 2003*
Coming into operation	*21st July 2003*

The Department of the Environment, in exercise of the powers conferred on it by Article 14 of the Water (Northern Ireland) Order 1999(**1**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003 and shall come into operation on 21st July 2003.

Interpretation

2.—(1) In these Regulations –

"animal" means any animal or bird bred or on agricultural land for the production of food, wool, skin or fur or for other farming purposes;

"construct" includes install;

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993;

"farm" means land occupied as a unit for agricultural purposes;

"forage crop" means any crop grown as food for animals;

"fuel oil" 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 which is stored separately from other oil;

"reception pit" 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;

"relevant substance" means –

(**1**) S.I. 1999 No. 662 (N.I. 6)

(a) slurry;

(b) any crop which is being made, or has been made, into silage; and

(c) fuel oil;

"silage" means any forage crop which is being, or has been, conserved by fermentation or preservation (including the use of additives), or both, and which is intended for consumption by animals;

"silage effluent" means –

(a) effluent produced from any forage crop which is being made, or has been made, into silage; and

(b) a mixture consisting wholly of or containing such effluent, rain or water coming from a silo, silage effluent collection system or drain;

"silo" means any structure used for making or storing silage;

"slurry" means –

(a) excreta including any liquid fraction, produced by animals whilst in a yard or building;

(b) a mixture containing such excreta; or

(c) rainwater, seepage or washings containing or consisting of such excreta from a building or yard used by animals or from any structure in which dung or slurry is stored

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

"slurry storage system" means –

(a) a slurry storage tank;

(b) any reception pit and any effluent tank used in connection with the slurry storage tank; and

(c) any channels and pipes used in connection with the slurry storage tank, any reception pit or any effluent tank;

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

(2) In these Regulations, any requirement for a silo, slurry storage system, fuel storage tank or any other product to comply with a specified standard shall be satisfied by compliance with:

(a) a relevant standard or code of practice of a national standards body or equivalent body of any EEA State; or

(b) any relevant international standard recognised for use as a standard by any EEA State; or

(c) a technical specification or code of practice which, whether mandatory or not, is recognised for use as a standard by a public authority of any EEA State

in so far as the standard, code of practice, international standard or technical specification in question enables the pollution prevention objectives pursued by the present Regulations to be met in an equivalent manner.

Making and storage of silage

3.—(1) Subject to regulation 7, a person shall not have custody or control of any crop which is being made into silage or of any silage which is being stored unless –

(a) it is kept in a silo in relation to which the requirements of Schedule 1 are satisfied or which is an exempt structure by virtue of regulation 6; or

(b) it is compressed in the form of bales which are wrapped and sealed within impermeable membranes (or are enclosed in impermeable bags) and are stored at least 10 metres from any waterway.

(2) A person having custody or control of any crop which is being or has been made into silage in the manner described in paragraph (1)(b) shall not open or remove the wrapping of any bales within 10 metres of any waterway.

Storage of slurry

4.—(1) Subject to paragraph (2), a person having custody or control of slurry shall store it in a slurry storage system in relation to which the requirements of Schedule 2 are satisfied or which is an exempt structure by virtue of regulation 6.

(2) Paragraph (1) shall not apply to slurry while it is stored temporarily in a tanker with a capacity not exceeding 18,000 litres which is used for transporting slurry on roads or about a farm.

Storage of agricultural fuel oil on farms

5.—(1) Subject to paragraph (2), a person shall not have custody or control of fuel oil on a farm unless it is stored –

(a) in a fuel storage tank within a storage area in relation to which the requirements of Schedule 3 are satisfied;

(b) in drums within such a storage area;

(c) temporarily in a tanker used for transporting fuel oil on roads or about the farm; or

(d) in a fuel storage tank which is an exempt structure by virtue of regulation 6; or

(e) in an underground fuel storage tank.

(2) Paragraph (1) shall not apply if the total quantity of fuel stored on the farm does not exceed 1,250 litres.

Exemptions

6. A silo, slurry storage system or fuel storage tank is for the time being an exempt structure if –

(a) it was used before 21st July 2003 for the purpose of making silage, storing slurry or, as the case may be, storing fuel oil;

(b) where it was not used before 21st July 2003 for that purpose, it was constructed before that date for such use; or

(c) a contract for its construction was entered into before 21st July 2003 or its construction was commenced before that date and in either case was completed before 1st December 2003

and it has not ceased to be an exempt structure by virtue of regulation 8(1).

7.—(1) Subject to paragraph (2), regulation 3 shall not apply where a person makes bulk bagged silage on a farm in bags which –

(a) are made of 1000 gauge polyethylene or material of at least equivalent impermeability and durability;

(b) are kept sealed to prevent the escape of silage effluent; and

(c) incorporate a facility designed to enable the safe removal of excess effluent when present.

(2) A person shall not be entitled to rely on the exemption conferred by paragraph (1) unless that person stores any bags in which silage is being made or stored at a place at least 10 metres from any waterway.

(3) A person having custody or control of any crop which has been made into silage in the manner described in paragraph (1) shall not open or empty any bag in which silage has been made within 10 metres of any waterway.

Loss of exemption

8.—(1) A structure to which the circumstances set out at regulation 6(a) apply shall cease to be an exempt structure if –

(a) any requirement of a notice under regulation 9(1) is not complied with within the period stated in the notice; or

(b) it is substantially enlarged; or

(c) it is substantially reconstructed, unless, in the opinion of the Department, the risks of pollution will be reduced by such works.

(2) Any reference in paragraph (1) to the period stated in a notice is to that period as extended if it has been extended under regulation 9(5) and any reference in that paragraph to a requirement of a notice is to that requirement as modified if it has been modified under regulation 9(5).

Notice requiring works etc.

9.—(1) The Department may serve notice on any person, who has custody or control of any relevant substance in circumstances in which these Regulations apply, requiring that person to carry out such works, take such precautions or take such other steps as are specified in the notice and which, in the opinion of the Department, are appropriate, having regard to any requirements of these Regulations in relation to that substance, for reducing to a minimum any significant risk of pollution of water in a waterway or underground strata arising from the custody or control of that substance.

(2) The notice shall specify or describe the works, precautions or other steps which the person is required to carry out or take, state the period within which any such requirement is to be complied with and inform him of the effect in relation to the notice of regulation 10.

(3) Any period for compliance stated in the notice shall be such period as the Department may consider reasonable in the circumstances, but no period shall end earlier than on the expiry of the period of 28 days beginning on the day on which the notice is served.

(4) The works, precautions or other steps as may be specified or described in the notice may include the requirement to establish and implement any measures or procedures contained in the Code of Good Agricultural Practice for the Prevention of Pollution of Water and published by the Department of Agriculture and Rural Development.

(5) The Department may at any time –

(a) withdraw the notice;

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

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

Appeals against notices

10. A person may appeal by notice in writing to the Water Appeals Commission against any decision by the Department under regulation 9 within 28 days from the date on which notice of the decision of the Department is given to him.

Notification requirements

11. A person who proposes to have custody or control of any relevant substance which is to be kept or stored on a farm in a silo, slurry storage system or, as the case may be, fuel storage area constructed, substantially enlarged or substantially reconstructed on or after 21st July 2003 shall serve notice on the Department specifying the type of structure to be used and its location at least 28 days before it is to be used for such purpose.

Offences

12. A person who contravenes regulation 3(1), 3(2), 4(1), 5(1), 7(3) or 11 shall be guilty of an offence and liable –

(a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Sealed with the Official Seal of the Department of the Environment on 30th June 2003.

Felix Dillon
A senior officer of the
Department of the Environment