
STATUTORY INSTRUMENTS

1991 No. 324

WATER, ENGLAND AND WALES

**The Control of Pollution (Silage, Slurry and
Agricultural Fuel Oil) Regulations 1991**

Made - - - - 22nd February 1991
Laid before Parliament 27th February 1991
Coming into force - - 1st September 1991

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by sections 110 and 185(2)(c) to (e) of the Water Act 1989(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991 and shall come into force on 1st September 1991.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“construct” includes install and cognate expressions shall be construed accordingly;

“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 stored separately from other oil;

“livestock” means—

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

(b) any birds kept for the production of food;

“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 slurry, fuel oil or, as the case may be, the crop being made into silage;

“slurry” means—

(1) 1989 c. 15; and see the definition of “prescribed” in section 189(1).

- (a) excreta produced by livestock whilst in a yard or building; or
 - (b) a mixture consisting wholly or mainly of such excreta, bedding, rainwater and washings from a building or yard used by livestock or any combination of these,
- 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; and

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

Making of silage

3.—(1) Subject to regulation 7 below, no person shall have custody or control of any crop which is being made into silage 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 below; 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 inland or coastal waters which effluent escaping from the bales could enter.

(2) No 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) above shall open or remove the wrapping of any bales unless he does so at a place at least 10 metres from any inland or coastal waters which silage effluent could enter as a result.

Storage of slurry

4.—(1) Subject to paragraph (2) below, a person having custody or control of slurry shall store it only 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 below.

(2) Paragraph (1) above shall not apply to slurry whilst 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 fuel oil on farms

5.—(1) Subject to paragraph (2) below, no person shall 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;
- (d) in a fuel storage tank which is an exempt structure by virtue of regulation 6 below; or
- (e) in an underground fuel storage tank.

(2) Paragraph (1) above shall not apply if the total quantity of fuel stored on the farm does not exceed 1500 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 1st March 1991 for the purpose of making silage, storing slurry or, as the case maybe, storing fuel oil;
 - (b) where it was not used before 1st March 1991 for that purpose, it was constructed before that date for such use; or
 - (c) a contract for its construction was entered into before 1st March 1991 or its construction was commenced before that date and in either case was completed before 1st September 1991,

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

7.—(1) Subject to the following provisions of this regulation and regulation 8(2) below, regulation 3 above shall not apply where a person makes silage on a farm—

- (a) otherwise than in a silo;
- (b) by a method different from that described in regulation 3(1)(b) above,

and made the majority of his silage on that farm by that method in the period of 3 years immediately before 1st March 1991.

- (2) A person shall not be entitled to rely on the exemption conferred by paragraph (1) above—
- (a) unless he has given notice to the Authority before 1st September 1991 of his intention to do so and he keeps any crop which is being made into silage in a place at least 10 metres from any inland or coastal waters which silage effluent could enter if it were to escape;
 - (b) on or after 1st September 1996.

Loss of exemption

8.—(1) A structure which is an exempt structure by virtue of regulation 6 above shall cease to be an exempt structure if—

- (a) any requirement of a notice under regulation 9 below is not complied with within the period stated in the notice; or
- (b) at any time on or after 1st March 1991 it is substantially enlarged or substantially reconstructed unless a contract for the work was entered into or the work was commenced before that date and in either case the work was completed before 1st September 1991.

(2) The exemption conferred by regulation 7 above shall cease if any requirement of a notice under regulation 9 below is not complied with within the period stated in the notice.

(3) Any reference in paragraphs (1) and (2) above to the period stated in a notice is to that period as extended if it has been extended under regulation 9(4) below or by virtue of regulation 10(5) below; 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 9(4) below.

Notice requiring works etc.

9.—(1) Where the Authority is satisfied that there is a significant risk of pollution of controlled waters as a result of—

- (a) the use of an exempt structure mentioned in regulation 6 above for storage of a relevant substance; or
- (b) the making of silage in circumstances in which the exemption conferred by regulation 7 above applies,

it may serve notice on the person having custody or control of the relevant substance requiring him to carry out such works and to take such precautions and other steps as it considers appropriate, having regard to the requirements of Schedule 1, Schedule 2 or, as the case may be, Schedule 3, for reducing that risk to a minimum.

(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 below.

(3) The period for compliance stated in the notice shall be such period as is reasonable in the circumstances and shall not in any case be less than 28 days.

(4) The Authority 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,

and shall do so if so directed by the Secretary of State under regulation 10(4) below.

Appeals against notices requiring works etc.

10.—(1) A person served with a notice under regulation 9 above may within the period of 28 days beginning with the day on which that notice is served (or within such longer period as the Secretary of State may allow) appeal to the Secretary of State against the notice.

(2) An appeal under this regulation shall be made by the appellant serving notice on the Secretary of State and the notice shall contain or be accompanied by a statement of the grounds of appeal.

(3) Before determining an appeal under this regulation the Secretary of State shall, if requested to do so by the appellant or the Authority, afford them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) On determining an appeal under this regulation the Secretary of State shall have power to direct the Authority to withdraw the notice under regulation 9 above, to modify any of its requirements, to extend the period for compliance with any requirement or to dismiss the appeal.

(5) The period for compliance with a notice under regulation 9 above shall, subject to any direction under paragraph (4) above, be extended by a period equal to the period beginning with the date on which notice of appeal is served and ending on the date on which the Secretary of State finally determines the appeal or, if the appeal is withdrawn, the date on which it is withdrawn.

Notice of construction etc.

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 1st September 1991 shall serve notice on the Authority specifying the type of structure to be used and its location at least 14 days before it is to be used for such keeping or storage.

Criminal offences

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

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(2) A person who contravenes regulation 11 above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

22nd February 1991

Michael Heseltine
Secretary of State for the Environment

22nd February 1991

David Hunt
Secretary of State for Wales

SCHEDULE 1

Regulation 3(1)(a)

REQUIREMENTS FOR SILOS

1. The requirements which have to be satisfied in relation to a silo are that—
 - (a) it complies with the following provisions of this Schedule; or
 - (b) it is designed and constructed in accordance with the standard on cylindrical forage tower silos published by the British Standards Institution and numbered BS 5061: 1974⁽²⁾.
2. The base of the silo shall extend beyond any walls of the silo and shall be provided at its perimeter with channels designed and constructed so as to collect any silage effluent which may escape from the silo and adequate provision shall be made for the drainage of that effluent from those channels to an effluent tank through a channel or pipe.
3. The capacity of the effluent tank—
 - (a) in the case of a silo with a capacity of less than 1500 cubic metres, shall be not less than 20 litres for each cubic metre of silo capacity; and
 - (b) in the case of a silo with a capacity of 1500 cubic metres or more, shall be not less than 30 cubic metres plus 6.7 litres for each cubic metre of silo capacity in excess of 1500 cubic metres.
4. The base of the silo, the base and walls of its effluent tank and channels and the walls of any pipes shall be impermeable.
5. The base and any walls of the silo, its effluent tank and channels and the walls of any pipes shall, so far as reasonably practicable, be resistant to attack by silage effluent.
6. No part of the silo, its effluent tank or channels or any pipes shall be situated within 10 metres of any inland or coastal waters which silage effluent could enter if it were to escape.
7. If the silo has retaining walls—
 - (a) the retaining walls shall be capable of withstanding minimum wall loadings calculated on the assumptions and in the manner indicated by paragraphs 13.9.1 to 13.9.9 of the code of practice on buildings and structures for agriculture published by the British Standards Institution and numbered BS 5502: Part 22: 1987⁽³⁾;
 - (b) the silo shall at no time be loaded to a depth exceeding the maximum depth consistent with the design assumption made in respect of the loadings of the retaining walls; and
 - (c) notices shall be displayed on the retaining walls in accordance with paragraph 13.9.9 of that code of practice.
8. Subject to paragraph 9 below, the silo, its effluent tank and channels and any pipes shall be designed and constructed so that with proper maintenance they are likely to satisfy the requirements of paragraphs 2 to 5 and, if applicable, 7(a) above for a period of at least 20 years.
9. Where any part of an effluent tank is installed below ground level, the tank shall be designed and constructed so that without maintenance it is likely to satisfy the requirements of paragraphs 4 and 5 above for a period of at least 20 years.

(2) The International Standard Book Number (ISBN) in respect of BS 5061: 1974 is 0 580 080706.

(3) The International Standard Book Number (ISBN) in respect of BS 5502: Part 22: 1987 is 0 580 162869.

SCHEDULE 2

Regulation 4(1)

REQUIREMENTS FOR SLURRY STORAGE SYSTEMS

1. The requirements which have to be satisfied in relation to a slurry storage system are as follows.
2. The base of the slurry storage tank, the base and walls of any effluent tank, channels and reception pit and the walls of any pipes shall be impermeable.
3. The base and walls of the slurry storage tank, any effluent tank, channels and reception pit and the walls of any pipes shall be protected against corrosion in accordance with paragraph 7.2 of the code of practice on buildings and structures for agriculture published by the British Standards Institution and numbered BS 5502: Part 50: 1989(4).
4. The base and walls of the slurry storage tank and of any reception pit shall be capable of withstanding characteristic loads calculated on the assumptions and in the manner indicated by paragraph 5 of that code of practice.
- 5.—(1) Any facilities used for the temporary storage of slurry before it is transferred to a slurry storage tank shall have adequate capacity to store the maximum quantity of slurry which (disregarding any slurry which will be transferred directly into a slurry storage tank) is likely to be produced on the premises in any two day period.
(2) Where slurry flows into a channel before discharging into a reception pit and the flow of slurry out of the channel is controlled by means of a sluice, the capacity of the reception pit shall be adequate to store the maximum quantity of slurry which can be released by opening the sluice.
- 6.—(1) Subject to sub-paragraph (2) below, the slurry storage tank shall have adequate storage capacity for the likely quantities of slurry produced from time to time on the premises in question having regard to—
 - (a) the proposed method of disposal of the slurry (including the likely rates and times of disposal); and
 - (b) the matters mentioned in sub-paragraph (3) below.
(2) Where it is proposed to dispose of the slurry on the premises by spreading it on the land nothing in sub-paragraph (1) above shall require the tank to have a greater storage capacity than is adequate, having regard to the matters mentioned in sub-paragraph (3) below, to store the maximum quantity of slurry which is likely to be produced in any continuous four month period.
(3) The matters to which regard is to be had under sub-paragraphs (1) and (2) above are—
 - (a) the storage capacity of any other slurry storage tank on the premises in question;
 - (b) the likely quantities of rainfall (including any fall of snow, hail or sleet) which may fall or drain into the slurry storage tank during the likely maximum storage period; and
 - (c) the need to make provision for not less than 750 millimetres of freeboard in the case of a tank with walls made of earth and 300 millimetres of freeboard in all other cases.
7. No part of the slurry storage tank or any effluent tank, channels or reception pit shall be situated within 10 metres of any inland or coastal waters which slurry could enter if it were to escape.
8. The slurry storage tank and any effluent tank, channels, pipes and reception pit shall be designed and constructed so that with proper maintenance they are likely to satisfy the requirements of paragraphs 2 to 4 above for a period of at least 20 years.
9. Where the walls of the slurry storage tank are not impermeable, the base of the tank shall extend beyond its walls and shall be provided with channels designed and constructed so as to collect

(4) The International Standard Book Number (ISBN) in respect of BS 5502: Part 50: 1989 is 0 580 172112.

any slurry which may escape from the tank and adequate provision shall be made for the drainage of the slurry from those channels to an effluent tank through a channel or pipe.

10.—(1) Subject to sub-paragraph (2) below, where the slurry storage tank, any effluent tank or reception pit is fitted with a drainage pipe there shall be two valves in series on the pipe and each valve shall be capable of shutting off the flow of slurry through the pipe and shall be kept shut and locked in that position when not in use.

(2) Sub-paragraph (1) above does not apply in relation to a slurry storage tank which drains through the pipe into another slurry storage tank of equal or greater capacity or where the tops of the tanks are at the same level.

11. In the case of a slurry storage tank with walls which are made of earth the tank shall not be filled to a level which allows less than 750 millimetres of freeboard.

SCHEDULE 3

Regulation 5(1)(a)

REQUIREMENTS FOR FUEL OIL STORAGE AREAS

1. The requirements which have to be satisfied in relation to a fuel oil storage area are as follows.
2. The fuel storage area shall be surrounded by a bund capable of retaining within the area—
 - (a) in a case where there is only one fuel storage tank within the fuel storage area and fuel oil is not otherwise stored there, a volume of fuel oil not less than 110 per cent of the capacity of the tank;
 - (b) in a case where there is more than one fuel storage tank within the fuel storage area and fuel oil is not otherwise stored there, a volume of fuel oil not less than whichever is the greater of—
 - (i) 110 per cent of the capacity of the largest tank within the storage area; and
 - (ii) 25 per cent of the total volume of such oil which could be stored in the tanks within the area;
 - (c) in a case where there is no fuel storage tank within the fuel storage area, a volume of fuel oil not less than 25 per cent of the total of such oil at any time stored within the area;
 - (d) in any other case, a volume of fuel oil not less than any of the following—
 - (i) 110 per cent of the capacity of the fuel storage tank or, as the case may be, of the largest tank within the fuel storage area;
 - (ii) where there is more than one fuel storage tank within the fuel storage area, 25 per cent of the total volume of such oil which could be stored in the tanks within the area;
 - (iii) 25 per cent of the total volume of such oil at any time stored within the area.
3. The bund and the base of the storage area shall be impermeable and shall be designed and constructed so that with proper maintenance they are likely to remain so for a period of at least 20 years.
4. Every part of any fuel storage tank shall be within the bund.
5. Any tap or valve permanently fixed to the tank through which fuel oil can be discharged to the open shall also be within the bund, shall be so arranged as to discharge vertically downwards and shall be shut and locked in that position when not in use.
6. Where fuel from the tank is delivered through a flexible pipe which is permanently attached to the tank—

(a) it shall be fitted with a tap or valve at its end which closes automatically when not in use; and

(b) it shall be locked in a way which ensures that it is kept within the bund when not in use.

7. No part of the fuel storage area or the bund enclosing it shall be situated within 10 metres of any inland or coastal waters which fuel oil could enter if it were to escape.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require persons with custody or control of a crop being made into silage, livestock slurry or certain fuel oil to carry out works and take precautions and other steps for preventing pollution of waters which are controlled waters for the purposes of Part III of the Water Act 1989.

The Regulations provide exemptions from their requirements and for the loss of those exemptions in certain circumstances. They also confer a right of appeal to the Secretary of State and provide that contravention of certain regulations is a criminal offence.

Copies of the documents published by the British Standards Institution referred to in the Regulations may be obtained from any of the sales outlets of the British Standards Institution or by post from the British Standards Institution, Linford Wood, Milton Keynes MK14 6LE (Telephone number: Milton Keynes (STD 0908) 220022).