
STATUTORY INSTRUMENTS

1997 No. 547

WATER RESOURCES, ENGLAND AND WALES

**The Control of Pollution (Silage, Slurry and
Agricultural Fuel Oil) (Amendment) Regulations 1997**

<i>Made</i>	- - - -	<i>27th February 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

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 92 and 219(2)(d) to (f) of the Water Resources Act 1991(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) (Amendment) Regulations 1997 and shall come into force on 1st April 1997.

Amendment of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991

2.—(1) The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991(2) shall be amended as follows.

(2) In regulation 2, for the definition of “relevant substance”, the following definitions shall be substituted —

““relevant substance” means slurry, fuel oil, a crop being made into silage or silage which is being stored;

“silage effluent” means effluent from silage or a crop being made into silage;

“silo” means any structure used for making or storing silage;”.

(3) In regulation 3 —

(a) in paragraph (1)–

(1) 1991 c. 57; relevant amendments were made by paragraph 128 of Schedule 22 to the Environment Act 1995 c. 25.
(2) S.I.1991/324; continued in force by paragraph 1(1) of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1996 c. 60; relevant amendments were made by paragraph 233(1) of Schedule 22 to the Environment Act 1995 and by S.I. 1996/2044.

- (i) for the words “Subject to regulation 7 below,” there shall be substituted the words “Subject to paragraph (1A) below.”;
 - (ii) after the words “any crop which is being made into silage” there shall be inserted the words “or any silage which is being stored”;
 - (iii) in sub-paragraph (a), at the beginning, there shall be inserted the words “subject to paragraph (1B) below.”;
 - (iv) in sub-paragraph (b) for the words “inland or coastal waters” there shall be substituted the words “inland freshwaters or coastal waters”;
 - (v) at the end of sub-paragraph (b), the following shall be added —
 - “;or
 - (c) it is a crop being made into field silage or silage which is being stored on open land and —
 - (i) the Agency is given notice of the place where the silage is to be made or stored at least 14 days before it 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 the specified distance⁽³⁾ from any protected water supply source⁽⁴⁾, which silage effluent could enter if it escaped.”;
- (b) after paragraph (1), the following paragraphs shall be added —
- “(1A) Paragraph (1) above shall not apply to silage whilst it is stored temporarily in a container, trailer or vehicle in connection with its transport about the farm or elsewhere.
- (1B) The Agency may by notice relax the requirements of paragraph (1)(a) above subject to such conditions (if any) as are specified in the notice where a silo is used solely for the purpose of storing silage made elsewhere if it is satisfied that there is no significant risk of pollution of controlled waters from that use of the silo.
- (1C) A water supply source is a protected water supply source if —
- (a) any relevant abstraction from the source is licensed under Part II of the Water Resources Act 1991; or
 - (b) any relevant abstraction from the source is not so licensed but the person making or storing the silage was aware of the source’s location before the making of the silage began or, in the case of silage made elsewhere, before it was stored on the land in question.
- (1D) The specified distance in relation to a protected water supply source is 50 metres from the nearest relevant abstraction point.”;
- (c) in paragraph (2) for the words “inland or coastal waters” there shall be substituted the words “inland freshwaters or coastal waters”;
- (d) at the end of paragraph (2), the following paragraph shall be added —
- “(3) In this regulation —
- “field silage” means silage made on open land by a method which is different from that described in paragraph (1)(b) above;
- “relevant abstraction” means the abstraction of water from inland freshwaters or ground waters for use for —

⁽³⁾ See regulation 3(1D).

⁽⁴⁾ See regulation 3(1C).

- (a) human consumption or other domestic purposes within the meaning of section 218 of the Water Industry Act 1991⁽⁵⁾; or
 - (b) for manufacturing food or drink for human consumption;
- “water supply source” means inland freshwaters or ground waters from which any relevant abstraction is made or licensed to be made.”
- (4) Regulations 7⁽⁶⁾ and 8(2) shall be omitted; but regulation 3 shall apply in relation to the making of field silage or storage of any silage at any place where silage was made in reliance on the exemption in regulation 7 as if the Agency had been given notice in accordance with regulation 3(1)(c)(i).
- (5) In regulation 8(3) for the words “paragraphs (1) and (2)” there shall be substituted “paragraph (1)”.
- (6) The following paragraph shall be substituted for regulation 9(1) —
- “(1) The Agency may serve notice on any person, who has custody or control of any relevant substance in circumstances in which these Regulations apply, requiring him to carry out such works, take such precautions or such other steps as are specified in the notice and which, in the opinion of the Agency, 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 controlled waters arising from the custody or control of that substance.”
- (7) In regulation 10(5) for the words “by a period equal to the period beginning with the date on which notice of appeal is served and ending” there shall be, substituted the words “so that it expires”.
- (8) In paragraph 6 of Schedule 1 for the words “inland or coastal waters” there shall be substituted the words “inland freshwaters or coastal waters”.
- (9) In Schedule 2 —
- (a) at the end of paragraph 5(1), there shall be added the words “or such smaller capacity as the Agency may agree in writing is adequate to avoid any significant risk of pollution of controlled waters”; and
 - (b) in paragraph 7 for the words “inland or coastal waters” there shall be substituted the words “inland freshwaters or coastal waters” and at the end of that paragraph, there shall be added the words “unless such precautions are taken as the Agency may agree in writing are adequate to avoid any significant risk of pollution of controlled waters”.
- (10) In paragraph 7 of Schedule 3 for the words “inland or coastal waters” there shall be substituted the words “inland freshwaters or coastal waters”.

Signed by authority of the Secretary of State for the Environment

25th February 1997

Robert Jones
Minister of State,
Department of the Environment

(5) 1991 c. 56.

(6) Regulation 7 was amended by S.I. 1996/2044.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Wales

27th February 1997

Jonathan Evans
Parliamentary Under-Secretary of State, Welsh
Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991.

The main changes are as follows —

- (a) regulation 3 of the 1991 Regulations (precautions to be taken against water pollution in relation to silage) is extended so that it applies, subject to certain exceptions, to the storage of silage and the making of field silage;
- (b) the exemption conferred by regulation 7 of the 1991 Regulations (exemptions) in relation to the making of field silage is removed and the new rules in regulation 3 apply instead (except that notice need not be given to the Environment Agency in cases which benefited from the exemption);
- (c) the Environment Agency's power to serve an anti-pollution notice under regulation 9 of the 1991 Regulations (notice requiring work etc.) where there is a significant risk of pollution of controlled waters from slurry, fuel oil and crops being made into silage is no longer confined to the use of exempt structures and the making of field silage but applies to anyone with custody or control of those substances (or silage) in the circumstances specified in the Regulations;
- (d) the period for compliance with an anti-pollution notice under regulation 9 of the 1991 Regulations is extended so that it does not expire whilst an appeal is pending even when notice of appeal is given late;
- (e) the Environment Agency is given power to relax the requirements of Schedule 2 to the 1991 Regulations (requirements for slurry storage systems) —
 - (i) in relation to the minimum capacity of temporary storage facilities for slurry where a smaller capacity is adequate to avoid any significant water pollution risk;
 - (ii) in relation to the minimum distance of storage tanks, effluent tanks, channels and reception pits from inland freshwaters or coastal waters where appropriate precautions are taken to avoid any significant water pollution risk.

A regulatory appraisal and a compliance cost assessment of the effect that these Regulations would have on the cost of business may be obtained from:

- Water Quality Division,
Department of the Environment,
Romney House,
43 Marsham Street,
London SW1P 3PY.
- Environment Division,
Welsh Office,
Cathays Park,
Cardiff CF1 3NQ.

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