

Regulatory Position Statement

The environmental regulation of the production and use of anaerobic digestate from source-segregated biodegradable waste in Northern Ireland

Purpose of this position statement

A Quality Protocol setting out end-of-waste criteria for the production and use of anaerobic digestate from source-segregated biodegradable waste is available from our website www.ni-environment.gov.uk. As the Quality Protocol is voluntary, the purpose of this statement is to advise our staff and customers on the legal obligations that apply to those who produce anaerobic digestate from source-segregated biodegradable waste.

This position statement provides clarity on how we will regulate:

- the collection and processing of source-segregated biodegradable waste;
- anaerobic digestate that meets the requirements of the Quality Protocol;
- anaerobic digestate that does not meet the requirements of the Quality Protocol.

By complying with the Quality Protocol, producers will have certainty that the anaerobic digestate they produce will be regarded as having ceased to be waste and can be used without the need for waste management controls.¹

The main purposes of the Quality Protocol are:

- clarifying the point at which waste management controls are no longer required;
- providing producers and users with confidence that the anaerobic digestate conforms to an approved standard;
- protecting human health and the environment by setting standards for the production and use of anaerobic digestate in designated applications, and describing acceptable good practice for its use.

In summary, the following criteria must be met:

- the anaerobic digestate is produced using only non-waste inputs or the source-segregated waste specified in section 2 of the Quality Protocol;
- the anaerobic digestate meets the requirements of BSI PAS 110;
- the anaerobic digestate is destined for use in agriculture, forestry or land restoration;



- producers must provide and keep copies of customer supply documentation which includes a statement of conformance with the Quality Protocol;
- producers must obtain certification from an appropriate certification body.

Full details of the requirements are set out in the Quality Protocol, which can be downloaded from our website www.ni-environment.gov.uk.

If you intend to export quality protocol compliant anaerobic digestate outside of Northern Ireland, the receiving country may still consider the material to be waste and so you would need to adhere to the relevant waste management controls.

How we regulate the collection and processing of source-segregated biodegradable waste for the production of anaerobic digestate

The Quality Protocol does not change the regulatory requirements that apply to:

- the **delivery** and **storage** of source-segregated biodegradable waste for processing;
- the **processing** of source-segregated biodegradable waste to produce anaerobic digestate;
- the **burning** of biogas produced from the anaerobic digestion process.

The source-segregated biodegradable waste must be:

- handled in accordance with the Duty of Care requirements;
- transported by a person who is registered as a waste carrier;
- taken to a suitably licensed or exempt waste facility.

The Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments require individuals or companies storing and treating controlled waste to do so under a waste management licence or an exemption. The **storage** of source-segregated biodegradable waste can only take place with a waste management licence or an exemption from licensing under Paragraph 13 of the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments.

The **processing** of source-segregated biodegradable waste at an anaerobic digestion plant can only take place under a PPC permit, a waste management licence or an exemption from licensing under Paragraph 13 of Schedule 2 to the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments. The type of authorisation required will depend on the scale and nature of the processing carried out at a particular plant (see summary in Annex 1).

Note: It is the responsibility of the producer to determine if the facility needs to comply with the requirements of the Animal By-Products Regulations. Producers should contact the Department of Agriculture and Rural Development (www.dardni.gov.uk) to determine if they need to comply with the Animal By-Products Regulations.

The **burning** of the biogas produced from the anaerobic digestion process should be done in accordance with;

- a waste management licence for appliances with a rated thermal input up to 3 megawatts, or;
- a pollution prevention and control (PPC) permit for appliances with a rated thermal input of 3 megawatts or more.

You may be able to register an **exemption** from the need to hold a PPC permit or waste management licence if your appliance has a net rated thermal input of less than 0.4 megawatts.

How we regulate anaerobic digestate that meets the requirements of the Quality Protocol

Producers and users are not obliged to comply with the Quality Protocol. If they do, they will benefit from the certainty that we will not regard the anaerobic digestate as waste. This means it can be used without the need for waste management controls.

Quality Protocol compliant anaerobic digestate should be stored in a clearly defined area, separate to that used for feedstocks, material undergoing processing and other waste materials. It is the responsibility of the producer/ user of the material to ensure that they are compliant with the appropriate planning legislation for the storage of the material.

How we regulate anaerobic digestate that does not meet the requirements of the Quality Protocol

If producers do not comply with the Quality Protocol **including** PAS 110, the material will normally be regarded as waste. If the anaerobic digestate remains waste, the following waste management controls continue to apply:

- it must be stored in accordance with a waste management licence or exemption from licensing;
- it must be transported by a registered waste carrier;
- it must be applied to land in accordance with either a waste management licence or an exemption from licensing under Paragraph 9 or 10 of Schedule 2 to the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments.

Manures and slurries processed via anaerobic digestion

Agricultural manures and slurries are not considered waste if they are processed on their own via anaerobic digestion, and are used in the same manner that undigested manures and slurries are normally used, i.e. spread as a fertiliser on agricultural land.

Regulation of anaerobic digestion if operators registered with the appropriate certification scheme before 1st July 2010.

If you have registered with an appropriate certification scheme² by 1st July 2010, you can benefit from the following interim position provided:

- the business involves one of the final uses of the digestate specified in the QP;
- digestate is not mixed with other wastes or materials;
- the activity is carried out in such a way that it does not, or is unlikely to cause pollution of the environment.

Our interim position is as follows:

- **Licensing** – If you already have a licence for the activity, you should continue to comply with its conditions. If the final use of the digestate would require a licence but you do not yet have one, we will not normally require you to have a licence.
- **Exemptions** – If you have already registered an exemption for the activity, you should continue to comply with its conditions. If the final use of the digestate would require an exemption and you do not yet have one, you should register the activity as exempt and comply with the conditions of that exemption.
- **Duty of care/ waste carrier registration** – These requirements will still apply as normal during the interim period.

The above will apply until the time at which operators begin to comply with the Quality Protocol providing this is before **30 September 2010**. After that date this interim position will be revoked.

Composting of digestate in line with the Compost QP

Producers of anaerobic digestate may wish to compost digestate in line with the requirements of the Quality Protocol for the production of quality compost from source-segregated biodegradable waste (Compost QP). Compliance with the Compost QP **including** PAS 100 means that the composted digestate can be used without the need for waste management controls.

In summary, the following criteria must be met:

- the compost is produced using only the source-segregated input materials listed in the Compost QP;
- the compost meets the requirements of BSI PAS 100;
- the compost is destined for appropriate use in land restoration and soft landscape operations, horticulture (including domestic use), agriculture and soil-grown horticulture;
- the producer must obtain certification from the appropriate certification scheme;
- the producer must keep copies for two years of contracts of supply or information to customers which includes a declaration of conformance with the Quality Protocol.

Full details of the requirements of the Compost QP are available from our website www.ni-environment.gov.uk. The regulatory position statement for the

Compost QP contains information on what waste management obligations apply to companies who produce compost and is also available from our website.

Enforcement

If the activity is likely to cause pollution or harm to human health, is being carried out without the appropriate licence or permit or exemption, or there is a breach of waste management licence/permit conditions, we will take action in line with our enforcement and prosecution policy.

It should be noted that offences under Article 4 of the Waste and Contaminated Land (NI) Order 1997 as amended (such as treating or keeping waste without a licence or in a manner likely to cause environmental pollution) are classed as serious crime under the Serious Crime Act 2007 and that NIEA has powers to carry out investigations under the Proceeds of Crime Act 2002 as amended in the event that offending has resulted in financial gain.

Further advice

Detailed guidance on regulatory controls can be obtained from our website www.ni-environment.gov.uk or from the NetRegs website

¹ Waste management controls are not required from the point at which the anaerobic digestate is produced to the criteria required by the Quality Protocol.

² The Bio Fertiliser Certification Scheme at www.biofertiliser.org.uk

Annex 1 – Type of Authorisation needed

Please refer to guidance available from our website to ensure you are aware of all the conditions.

Activity	Type of authorisation needed
The anaerobic digestion of biodegradable waste in a plant with a capacity greater than 50 tonnes per day:	PPC permit required under the Pollution Prevention and Control (Northern Ireland) Regulations 2003
Composting of biodegradable material in quantities not exceeding 200 tonnes at any one time:	Paragraph 13 exemption required under the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments
The anaerobic digestion of biodegradable waste in a plant with a capacity less than 50 tonnes per day:	Waste management licence required under the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments
Storing non-liquid waste not at the site of production – up to 50 m ³ of waste can be stored in secure containers for a maximum period of 3 months:	Exemption from a waste management licence under paragraph 40 of schedule 2 of the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments
Waste for the benefit of land – up to 250 tonnes per hectare per year can be applied to agricultural land if it can be demonstrated that it will have an agricultural or ecological benefit:	Exemption from licensing under paragraph 9 of schedule 2 of the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments
Burning biogas in any appliance with a net rated thermal input of up to 0.4 megawatts:	Exemption from waste management licensing under paragraph 7 of schedule 2 of the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments
Burning biogas as a fuel in any appliance with a rated thermal input of 3 megawatts or more:	PPC Permit - Part 1(A)
Any other waste recovery activity not covered above, including burning biogas in any appliance with a net rated thermal input of between 0.4 and 3 megawatts:	A waste management licence under the Waste Management Licensing Regulations (Northern Ireland) 2003 and Amendments