

Regulatory Position Statement

The environmental regulation of the compost sector in Northern Ireland

Purpose of this position statement

This position statement advises on the regulation of composting operations following the publication in July 2010 of *the Quality Protocol for the production and use of quality compost from source-segregated biodegradable waste*.

The Quality Protocol, which is available from our website www.ni-environment.gov.uk, provides the end of waste criteria for the production and use of quality compost from source-segregated biodegradable waste. It clarifies when such material will be regarded as having ceased to be waste and can be used without the need for waste management controls.¹

The quality protocol for the production and use of quality compost from source-segregated biodegradable waste was notified to the European Commission as required under the Technical Standards and Regulations Directive 98/34/EC²

As compliance with 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 decide not to comply with the Quality Protocol.

This position statement provides clarity on how we will:

- regulate operators that meet the requirements of the Quality Protocol;
- regulate composts that do not meet the requirements of the Quality Protocol;
- treat community composting groups and composting clubs; and
- treat compost sold for domestic retail use.

It also explains what enforcement action may be taken and points to sources of further advice.

Implementation Stage

With effect from 1st July 2010 (i.e. midnight on 30th June) compost from source-segregated biodegradable waste meeting the criteria in the Quality Protocol (including PAS100) will be regarded by us as having ceased to be waste (in Northern Ireland). However, an interim position statement (Guide to the Regulation of Outputs from the Composting and Mechanical Biological Treatment of Waste³) will continue to have effect until midnight on 31st December 2010.

The Quality Protocol fully replaces this interim position statement from 1st January 2011 in relation to the production of compost from source-segregated biodegradable waste. The interim position statement will be amended with effect from 1st January 2011 (i.e. midnight on 31st December 2010) to reflect the new position whereby only compost meeting the requirements of the Quality Protocol and PAS100 in full will be regarded by NIEA as having ceased to be waste.

Background

The main purposes of the Quality Protocol are:

- clarifying the point at which waste management controls are no longer required;
- providing users with confidence that quality compost they purchase conforms to an approved standard;
- protecting human health and the environment (including soil) by setting standards for the production and use of quality compost in specified end uses.

In addition, the Quality Protocol points to acceptable good practice for the use of quality compost.

In summary, the following criteria must be met:

- the quality compost is produced using only the source-segregated input materials listed in Appendix B of the Quality Protocol;
- the quality compost meets the requirements of BSI PAS100;
- the quality compost is destined for appropriate use in land restoration and soft landscape operations, horticulture (including domestic use), agriculture and soil-grown horticulture;
- the producer obtains certification from the Association for Organics Recycling ([AfOR](#));⁴
- the producer prepares and keeps copies of contracts of supply or information supplied to customers that includes a declaration of conformance with the Quality Protocol.

Full details of the requirements are set out in the Quality Protocol, which can be downloaded from our website.

If you intend to export quality protocol compliant compost (“quality compost”) outside of Northern Ireland, the receiving country may still consider the material to be waste and therefore you will need to adhere to the relevant waste management controls.

How we regulate the manufacture of compost from waste materials

The Quality Protocol does not change the regulatory requirements that apply to the manufacture of compost from waste materials. The production of compost, the storage of the input materials and the storage of non-compliant

compost can only take place under a waste management licence or an exemption from a waste management licence in accordance with the Waste Management Licensing Regulations (Northern Ireland) 2003 (as amended).

However, provided that the requirements of the Quality Protocol (including the PAS100 standard) is met in full, the quality compost will no longer be regarded by NIEA as a waste and the waste management controls will not apply to its onward transfer and use.

How we regulate compost 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 regard the quality compost they produce as having ceased to be waste. This means it can be used without the need for waste management controls.

Quality Protocol compliant compost should be stored in a clearly defined area separate to that used for feedstocks, compost undergoing processing and compost that does not comply with the Quality Protocol.

Regulation of composts that do not meet the requirements of the Quality Protocol

If the compost does not comply with the Quality Protocol, it will normally be regarded as waste until it has been applied to land. The Duty of Care requirements apply to any movements of this waste.

Compost that does not comply with the Quality Protocol and is waste must be:

- stored in accordance with a waste management licence or exemption from licensing;
- transported to where it will be used by a registered waste carrier;
- applied to land in accordance with either a waste management licence or an exemption.

Treatment of community composting groups and compost clubs

We will take a risk-based approach to regulation where:

- community compost clubs are run as a genuine composting club and produce a finished compost that is used on the gardens of club members;
- a national gardening institution such as the National Trust or Royal Horticultural Society (RHS) is composting its own waste on its own grounds for use in its own gardens.

Where these circumstances are met, we will not pursue an application for a waste management licence to make the compost, provided these operations are registered as Paragraph 13 exemptions.

Compost sold into domestic retail uses

Waste management controls will normally apply to compost that does not meet the requirements of the Quality Protocol.

Enforcement

If the activity is likely to cause pollution or harm to human health, is being carried out without the appropriate licence or exemption, or there is a breach of waste management licence / exemption 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 (www.netregs.gov.uk).

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¹ Waste management controls are not required from the point at which the compost is produced to criteria required by the Quality Protocol (including the PAS100).

² Member States are obliged to send the Commission a draft of proposed technical regulations and to observe a three-month standstill period before the regulation is made or brought into force.

³ Accessible from http://www.ni-environment.gov.uk/composting_guidance-2.pdf [accessed 24 June 2010]

⁴ Formerly known as The Composting Association.