

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

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](#). 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 holders 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 as 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](#).

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

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

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 permitted or exempt waste facility.

The Environmental Permitting (England and Wales) Regulations 2010 require individuals or companies storing and treating controlled waste to do so under an environmental permit or an exemption. These regulations introduced a new set of exemptions. These are subject to transitional provisions so if you had an exemption registered on 5 April 2010, it will be valid for between 18 months and 3.5 years from that date depending on what you are actually doing. More information on these transitional periods can be found on our [website](#).

Exempt activities registered before 5 April 2010

If you had an exemption registered on 5 April 2010 then this was registered under the Environmental Permitting (England and Wales) Regulations 2007 (EPR 2007).

The **storage** of source-segregated biodegradable waste can only take place with an environmental permit, an exemption from permitting under Paragraph 12 or under the provisions of paragraph 50 of Schedule 3 to the EPR 2007 (see Annex 1).

The **processing** of source-segregated biodegradable waste at an anaerobic digestion plant can only take place with an environmental permit or an exemption from permitting under Paragraph 12 of Schedule 3 to the EPR 2007. The type of authorisation required will depend on the scale and nature of the processing carried out at a particular plant (see 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. Should the facility require approval, the approval would be issued by Animal Health and enforced by the relevant Local Authority.

The **burning** of the biogas produced from the anaerobic digestion process can only take place under an environmental permit, or an exemption from permitting under Paragraph 5 of Schedule 3 to the EPR 2007 (see Annex 1).

Activities started since 5 April 2010 and covered by EPR 2010

The **storage** of source-segregated biodegradable waste can only take place with an environmental permit or an exemption from permitting. You can also store up to 50m³ at an anaerobic digester covered by a T25 exemption or, if you are only treating agricultural waste, up to 1250 m³ at a site covered by a T24 exemption (see our [exemptions](#) guidance).

The **processing** of source-segregated biodegradable waste at an anaerobic digestion plant can only take place with an environmental permit or an exemption from permitting. Exemptions T24 and T25 allow associated prior treatment (screening, chipping, shredding, cutting, or sorting waste) prior to the anaerobic digestion of the material. These exemptions also allow the **burning** of the biogas produced from the anaerobic digestion process.

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 an environmental permit or exemption from permitting;
- it must be transported by a registered waste carrier;
- it must be applied to land in accordance with either an environmental permit or an exemption from permitting.

For activities registered under EPR 2007 - The relevant exemptions for application to land are paragraph 7 or 9 of schedule 3 to the EPR 2007.

For activities started since 5 April 2010 - The relevant exemptions for application to land are U10 or U11 (non-agricultural land).

Digestate Produced from Manures and slurries

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. See our note on anaerobic digestion of manure and slurry available on our [website](#).

Regulation of anaerobic digestion if operators registered with the appropriate certification scheme before 31 December 2009

If you registered with an appropriate certification scheme (as defined in the Quality Protocol) by 31 December 2009, you can benefit from the following interim position provided:

- the business involves one of the final use 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:

- **Permitting** – If you already have a permit for the activity, you should continue to comply with its conditions. If the final use of the digestate would require a permit but you do not yet have one, we will not normally require you to have a permit.
- **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 2011. 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 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](#). The [regulatory position statement](#) for the Compost QP contains information on what waste management obligations apply to companies who produce compost.

Enforcement

If the activity is likely to cause pollution or harm to human health, or there is a breach of waste management controls, we will take action in line with our [enforcement and prosecution policy](#).

Further advice

Detailed guidance on regulatory controls can be obtained from our National Customer Contract Centre on 08708 506 506, from our [website](#) or from the [NetRegs](#) website

This regulatory position statement will be reviewed by March 2011.

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Annex 1 – Summary of conditions associated with exemptions and permits (applicable for exemptions registered on 5 April 2010)

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

Activity	Type of authorisation needed
<p>The anaerobic digestion of up to 1,000m³ of biodegradable waste at any time:</p> <ul style="list-style-type: none"> • at the place of production or • where the digestate is to be used, or • at any place occupied by the waste producer or person using the digestate <p>The storage of waste which is to be digested at the place where it was produced or where it is to be digested</p>	<p>Exemption from permitting under paragraph 12 of schedule 3 of the Environmental Permitting Regulations</p> <p>If the activity is a directly associated activity in relation to Burning biogas as a fuel in any appliance with a rated thermal input of 3 megawatts or more, then it will have to be permitted with that activity²</p>
<p>Storing non-liquid waste not at the site of production – up to 50 m³ of waste can be stored in secure containers for a maximum period of 3 months.</p>	<p>Exemption from permitting under paragraph 50 of schedule 3 of the Environmental Permitting Regulations</p>
<p>Waste for the benefit of land - up to 250 tonnes/hectare/ year of digestate can be applied to agricultural land if it can be demonstrated that it will have an agricultural or ecological benefit and the area of land is 50 hectares or less. Associated storage of material is limited to a 12 month period.</p>	<p>Exemption from permitting under paragraph 7 of schedule 3 of the Environmental Permitting Regulations</p>
<p>Burning biogas in any appliance with a net rated thermal input of up to 0.4 megawatts</p>	<p>Exemption from permitting under paragraph 5 of schedule 3 of the Environmental Permitting Regulations</p>
<p>Burning biogas as a fuel in any appliance with a rated thermal input of 3 megawatts or more</p>	<p>Environmental Permit - Part A(1)</p>
<p>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</p>	<p>Environmental Permit - waste management operation</p>

The Environmental Permitting (England and Wales) Regulations 2010 (EPR10) introduced a new set of exemptions. These are subject to **transitional provisions** so if you had an exemption registered on 5 April 2010, it will be valid for between 18 months and 3.5 years from that date depending on what you are actually doing. More information on these transitional periods and the new set of exemptions can be found on our [website](#).

² An activity is a directly associated activity if it has a technical connection with the other activity, is carried out on the same site as the other activity or if it could have an effect on pollution.