

The environmental regulation of the compost sector

Purpose of this position statement

This position statement advises on the regulation of composting operations following the publication in September 2008 of *The Quality Protocol on the production and use of quality compost from source-segregated biodegradable waste*.

The Quality Protocol, which is available from our [website](#), 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

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.

This position statement supersedes the one dated July 2008 when the draft Quality Protocol was notified to the European Commission as required under the Technical Standards and Regulations Directive 98/34/EC.²

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;

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

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.

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- 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 PAS 100;
- 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](#));³
- 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](#).

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 and storage of compost can only take place with an environmental permit or an exemption⁴ from permitting under the Paragraph 12 of Schedule 3 to the Environmental Permitting (England and Wales) Regulations 2007.

The exemption places a restriction on the use of compost at a different site to the site where it was produced. We recognise that this restriction is a disproportionate regulatory requirement if the compost is produced to PAS 100 and all the conditions of the Quality Protocol are met. We will not therefore pursue an application for an environmental permit for the composting of waste if:

- the operator of the site has provided us with the necessary information normally required to register an exemption from permitting;

³ Formerly known as The Composting Association.

⁴ The exemptions from the Environmental Permitting (England and Wales) Regulations 2007 are under review. New regulations are expected to come into force in autumn 2009.

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- site activities are restricted to those currently covered by a Paragraph 12 exemption from permitting;
- the producer of the quality compost has obtained certification from Association for Organics Recycling to show that PAS100 compost is produced; and
- the compost produced complies with the requirements of the Quality Protocol.

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 and compost undergoing processing.

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

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 permit to make the compost provided these operations are registered as Paragraph 12

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exemptions. In addition, National Trust and RHS type establishments should register a Paragraph 26 exemption with us for the use of the compost.

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, or there is a breach of waste management controls, we will take action in line with our enforcement and prosecution policy. This can be found on the 'How we regulate you' page in the Business & Industry section of our website.

Further advice

Detailed guidance on regulatory controls can be obtained from our National Customer Contract Centre on 08708 506 506, from our website (www.environment-agency.gov.uk) or from the NetRegs website (www.netregs.gov.uk).

This regulatory position statement will be reviewed by 30 October 2009.

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