SCHEDULE

Regulation 3

ACTION PROGRAMME

1.—(1) In this Schedule–

"autumn sown crop" means–

(a) a cover crop sown before 1st October and not removed (whether by mechanical cultivation, herbicide or grazing) before 1st December in the same year; and

(b) a crop, not being a cover crop, sown between 1st August and 1st October in any year;

"chemical fertiliser" means nitrogen fertiliser which is manufactured by an industrial process;

"coastal waters" and "inland waters" have the same meaning as in section 30A(1) of the Control of Pollution Act 1974(**1**);

"cover crop" means a crop sown primarily for the purpose of taking up nitrogen from the soil and which is not harvested;

"crop requirement" means the amount of nitrogen fertiliser which it is reasonable to apply to land in any year having regard to the foreseeable nitrogen requirement of the crop growing or to be grown on the land and the nitrogen supply to the crop from the soil and from other sources, including any previous applications of livestock and other organic manures;

"fertiliser and manure plan" means a plan to assess the crop requirement for nitrogen fertiliser for each crop on each field each year and to establish the quantities of waste produced and safe methods of collection, storage and land-application;

"grassland" means land on which the vegetation consists predominantly of grass species;

"livestock" means any animal kept for use or profit;

"livestock manure" means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;

"nitrogen compound" means any nitrogen-containing substance other than gaseous molecular nitrogen;

"nitrogen fertiliser" means any substance containing a nitrogen compound utilised on land to enhance growth of vegetation;

"organic manure" means–

(a) livestock manure; and

(b) nitrogen fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter,

and includes sewage sludge and other organic wastes;

"sandy" in relation to soil means sandy, sandy loamy and loamy sand soils where in the layer up to 40cm deep and in the layer between 40cm and 80cm deep, there is–

(a) more than 50 per cent by weight of sand sized particles (that is particles more than 0.06mm and less than 2mm in diameter);

(b) less than 18 per cent by weight of clay sized particles (that is particles less than 0.002mm in diameter); and

(c) less than 5 per cent by weight of organic carbon;

"shallow" in relation to soil means less than 40cm deep;

"slurry" means–

(**1**) 1974 c. 40; section 30A was inserted by the Water Act 1989 (c. 15), Schedule 23.

(a) excreta, including any liquid fraction, produced by livestock whilst in a yard or building; or

(b) a mixture consisting wholly of or containing such excreta, bedding, feed residues, rainwater and washings from a building or yard used by livestock, dungsteads or middens, high level slatted buildings and weeping wall structures or any combination of these, provided such excreta is present,

of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process;

"spring sown crop" means a crop sown between 1st February and 31st July in the same year;

"year", means, unless provided otherwise, any period of 12 months ending with 31st December,

and other expressions used in Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources(**2**) have the same meaning as in that Directive.

(2) For the purposes of this Schedule, material is applied to land where the material is added to the land whether by spreading on the surface of the land, injecting into the land, placing below the surface of the land or mixing with the surface layers of the land, and for the purposes of paragraph 10 below includes material deposited by livestock.

(3) In relation to a farm only part of which is in a nitrate vulnerable zone, references in this Schedule to a farm shall be taken as references to that part of the farm which is in the nitrate vulnerable zone.

2.—(1) Without prejudice to the specific provisions set out in paragraphs 3 to 16 below, the land application of nitrogen fertiliser shall take account of local environmental factors.

(2) For the purpose of paragraph (1) above, local environmental factors are–

(a) soil conditions, type and slope;

(b) climatic conditions, rainfall and irrigation; and

(c) land use and agricultural practices, including crop rotation systems.

3. Nitrogen fertiliser shall not be applied to any land in excess of crop requirement, and without prejudice to that generality, account shall be taken of crop uptake and soil supply from organic matter, crop residues and organic manures.

4. A fertiliser and manure plan shall be prepared and implemented each year.

5.—(1) Subject to paragraph (4) below from 1st September 2003 a chemical fertiliser shall not be applied to land specified in paragraphs (2) and (3) below between the dates so specified in relation to that land.

(2) In relation to the area of land designated as the Moray, Aberdeenshire, Banff and Buchan nitrate vulnerable zone (**3**), the land and dates specified for the purposes of paragraph (1) above are–

(a) in the case of grassland, 15th September in any year and 20th February in the following year; and

(b) in the case of other land, 1st September in any year and 20th February in the following year.

(3) In relation to areas of land designated as nitrate vulnerable zones other than the area of land mentioned in paragraph (2) above, the land and dates specified for the purposes of paragraph (1) above are–

(**2**) O.J. No. L 375, 31.12.91, p.1.

(**3**) Designated as a nitrate vulnerable zone by regulation 3(1) of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2002 (S.I.2002/276).

(a) in the case of grassland, 15th September in any year and 15th February in the following year; and

(b) in the case of other land, 1st September in any year and 15th February in the following year.

(4) Subject to paragraph (5) below, where, in relation to any land, taking into account the characteristics of the crop and soil, the nitrogen requirement of the crop between the dates specified in paragraphs (2) and (3) above can only be met by applying fertiliser between those dates, the occupier may apply chemical fertiliser to that land between those dates.

(5) No later than 3 days after establishing that the nitrogen requirement of the crop can only be met by applying fertiliser between the dates specified in paragraphs (2) and (3) above, the occupier shall provide evidence to the Scottish Ministers as to–

(a) the quantity of chemical fertiliser to be applied to the field, the nitrogen content of that chemical fertiliser and the date of the proposed application; and

(b) why the nitrogen requirement of the crop can only be met by applying fertiliser between those dates.

6. Nitrogen fertiliser shall be applied to land in as accurate and uniform a manner as is practicably possible consistent with good agricultural practice.

7. Nitrogen fertiliser shall not be applied to steeply sloping fields in a manner which is inconsistent with good agricultural practice.

8. Nitrogen fertiliser shall not be applied to any land if–

(a) the soil is waterlogged;

(b) the land is flooded;

(c) the soil has been frozen for 12 hours or longer in the preceding 24 hours; or

(d) the land is covered by snow.

9. Chemical fertiliser shall not be applied to any land in a location or manner that makes it likely that the chemical fertiliser will directly enter any inland or coastal waters.

10.—(1) Without prejudice to paragraph 11 below, organic manure shall not be applied to land where the application would result in the total nitrogen in kilograms contained in organic manure applied in each year to land on the farm (including that deposited by animals whilst grazing) exceeding the specified amount calculated in accordance with paragraph (2) below.

(2) For the purpose of paragraph (1) above, the specified amount is the sum of–

(a) the number of hectares of grassland on the farm multiplied by 250kg; and

(b) the number of hectares of agricultural land other than grassland on the farm multiplied by 170kg.

11. Organic manure shall not be applied to any field where the application would result in the total nitrogen in kilograms contained in organic manure applied in any 12 month period to any field exceeding a rate of 250kg per hectare.

12. Organic manure shall not be applied to any land which is situated fewer than–

(a) 10 metres from any inland or coastal waters; or

(b) 50 metres from any well, borehole or similar work sunk into underground strata for the purposes of any water supply.

13. On or after 1st August 2003, organic manure in the form of slurry, poultry manure or liquid digested sewage sludge shall not be applied to any land that has a sandy or shallow soil–

(a) between 1st October and 1st November in any year where the land is in grass or is to be sown with an autumn sown crop; or

(b) between 1st August and 1st November in any year in any other case.

14. Field middens must be sited at least–

(a) 10 metres from any inland or coastal waters; or

(b) 50 metres from any well, borehole or similar work sunk into underground strata for the purposes of any water supply.

15. The capacity of storage vessels for livestock manure shall exceed the capacity required to store livestock manure produced throughout the longest period during which land application of livestock manure is prohibited by paragraph 13 above except where it can be demonstrated that any livestock manure in excess of the storage capacity will be disposed of in a manner which will not cause harm to the environment.

16.—(1) Where any land on a farm has been used in any year to produce a leafy vegetable crop–

(a) any further cultivation of that land prior to 1st December of that year shall be for autumn sown crops only;

(b) any preparation of that land for a spring crop shall not commence before 1st December of that year; and

(c) any unharvested residues of that crop shall be–

(i) removed from the nitrate vulnerable zone;

(ii) left in field and incorporated into the soil during cultivation for autumn sown crops;

(iii) by 1st October of that year, incorporated in field with a suitable binding material; or

(iv) left in field and incorporated into the soil during cultivation for the next spring sown crop.

(2) In paragraph (1) above–

"leafy vegetable crop" means a crop whose leaves or flowers are marketed as–

(a) compact or loose vegetative organs; or

(b) immature flowers;

"unharvested residues" of a leafy vegetable crop includes discarded stems and leaves and rejected vegetables; and

"a suitable binding material" means a cellulose-based binding material which shall have a carbon to nitrogen ratio exceeding 50:1.

17.—(1) Subject to paragraph (2) below, the occupier shall keep records which shall be sufficient to enable any person inspecting those records readily to ascertain–

(a) the area of the farm;

(b) any field which has sandy or shallow soils;

(c) for each field comprised in the farm–

(i) the area of the field;

(ii) the quantity of any chemical fertiliser applied to the field, the nitrogen content of that chemical fertiliser and the date of application and, where fertiliser is applied under paragraph 5(4) above, the information specified in paragraph 5(5) above;

(iii) the quantity of any organic manure applied (other than by the animals themselves) to the field and the date of application;

(iv) whether organic manure applied to the field (other than by the animals themselves) was farmyard manure, poultry manure, slurry, sewage sludge or other organic manure; and

(v) the type of any crop grown and the date the crop is sown;

(d) the number of livestock kept on the farm, their species and type, and the length of time for which they were kept on the farm;

(e) the quantity of each type of livestock manure (whether farmyard manure, slurry, poultry manure, or other livestock manure) moved off the farm, the date of that movement and the name and address of the consignee;

(f) the quantity of each type of livestock manure (whether farmyard manure, slurry, poultry manure, or other livestock manure) moved onto the farm, the date of that movement and the name and address of the consignor; and

(g) the fertiliser and manure plan for the farm.

(2) The records referred to in sub-paragraph (1) above shall be kept for the period beginning with 1st August 2003 and ending with 18th December 2003, and thereafter shall be prepared on a yearly basis.

(3) For the purposes of this paragraph a year shall be the period of 12 months ending with 18th December.

18. Any record made for the purposes of paragraph 17 above shall be retained for a period of 5 years after the latest event recorded therein.