

Commission Decision of 22 October 2007 granting a derogation requested by Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (notified under document number C(2007) 5095) (Only the English text is authentic) (2007/697/EC)

## COMMISSION DECISION

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granting a derogation requested by Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources

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(2007/697/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources<sup>(1)</sup>, and in particular the third subparagraph of paragraph 2 of Annex III thereto,

Whereas:

- (1) If the amount of manure that a Member State intends to apply per hectare each year is different from the one specified in the first sentence of the second subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC and in point (a) thereof, that amount has to be fixed so as not to prejudice the achievement of the objectives specified in Article 1 of that Directive and has to be justified on the basis of objective criteria, such as, in the present case, long growing seasons and crops with high nitrogen uptake.
- (2) On 12 November 2004, Ireland submitted to the Commission a request for a derogation under the third subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC. An updated request, based on the revised *European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2006 (Statutory Instrument Number 378 of 2006)* was submitted on 18 October 2006.
- (3) The requested derogation concerns the intention of Ireland to allow the application of 250 kg nitrogen per hectare per year from livestock manure in farms with at least 80 % grassland. A maximum of 10 000 cattle holdings in Ireland representing 8 % of total holdings, 8 % of the Utilized Agricultural Land and 20 % of the Livestock Unit are potentially encompassed by the derogation.

- (4) The Irish legislation implementing Directive 91/676/EEC, *the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2006 (Statutory instrument No 378 of 2006)*, applies equally to the requested derogation.
- (5) The Irish legislation implementing the Directive 91/676/EEC includes application maximum fertilisation rates both for nitrogen and phosphate. These maximum fertilisation rates are differentiated on the basis of nitrogen and phosphate soil content and, therefore, take into account the contribution of nitrogen and phosphate from the soil.
- (6) The Third report on the implementation of the Nitrates Directive in Ireland and the recent Environmental Protection Agency reports covering the period 2001-2003 submitted to the Commission showed that mean nitrate concentration recorded in groundwater is of the order of 2,5 mg/L N and concentrations greater than 50 mg/L nitrates were recorded in no more than 2 % of the sampling points. Data on water quality in rivers for the period 2000-2003 showed that the mean value in Eurowaternet monitoring stations is 6,9 mg/L nitrates.
- (7) 70 % of groundwater monitoring sites showed stable or decreasing trends in nitrates concentration; rivers recorded an improved quality in 2001-2003 compared to the previous reporting period 1995-1997 and reversed a decline in water quality that had been in evidence since the late 1980'. A decline of hypertrophic lakes was also noticed.
- (8) Ireland, in conformity with paragraph 5 of article 3 of Directive 91/676/EEC, applies an action programme throughout its whole territory according to the *European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2006 (Statutory instrument No 378 of 2006)*.
- (9) The number of livestock and the utilisation of chemical fertilisers decreased in the last decade. Cattle, pig and sheep number decreased respectively by 7 %, 3 % and 17 % in the period 1997-2004. Average nitrogen loading from livestock manure in 2004 was 103 kg/ha, with a significant decline compared to 140 kg/ha in 1998. Phosphorus (P) average loading was 16 kg/ha. Chemical nitrogen fertiliser use decreased by 21 % in the period 1999 to 2005, phosphate fertiliser use declined by 37 % in the period 1995 to 2005.
- (10) In Ireland ninety percent of agricultural land is devoted to grassland with prevalence of grassland types well suited for grassland production. Overall, in grassland farms, 47 % of land area is farmed extensively and has therefore a relatively low stocking rate and low fertiliser inputs, 36 % is farmed under agro-environmental programmes (Rural Environment Protection Scheme, REP Scheme) and only 7 % is farmed intensively; 10 % is used for arable agriculture. Average chemical fertiliser use on grassland is 82 kg/ha nitrogen and 7,6 kg/ha phosphorus.
- (11) Irish climate, characterised by an annual rainfall evenly distributed throughout the year and a relatively narrow annual temperature range promote a long grass-growing season ranging from 330 days per year in the south-west to around 250 days per year in the north-east.

- (12) The technical and scientific documents presented in the Irish notification show that the proposed amount of 250 kg per hectare per year nitrogen from grazing livestock manure in farms with at least 80 % grassland is justified on the basis of objective criteria such as long growing seasons and crops with high nitrogen uptake.
- (13) The Commission considers therefore that the amount of manure requested by Ireland will not prejudice the achievement of the objectives of Directive 91/676/EEC, subject to certain strict conditions being met.
- (14) This Decision should be applicable in connection with the action programme of Ireland, *European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2006 (Statutory instrument No 378 of 2006)*.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Nitrates Committee set up pursuant to Article 9 of Directive 91/676/EEC,

HAS ADOPTED THIS DECISION:

- (1) [OJ L 375, 31.12.1991, p. 1](#). Directive as amended by Regulation (EC) 1882/2003 of the European Parliament and of the Council ([OJ L 284, 31.10.2003, p. 1](#)).