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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 217**

**EUROPEAN COMMUNITIES  
WATER AND SEWERAGE**

**The Protection of Water Against Agricultural Nitrate  
Pollution Regulations (Northern Ireland) 1996**

*Made - - - - 30th May 1996*  
*Coming into operation 3rd July 1996*

The Department of the Environment and the Department of Agriculture, being departments designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to the prevention, reduction and elimination of pollution of water, acting jointly in exercise of the powers conferred on them by that section and of every other power enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 1996, and shall come into operation on 3rd July 1996.

**Interpretation**

2.—(1) In these Regulations—

“action programme” means an action programme established in accordance with regulation 6;

“chemical fertiliser” means any fertiliser which is manufactured by an industrial process;

“the Department” means the Department of the Environment;

“the Departments” means the Department of the Environment and the Department of Agriculture acting jointly;

“the Directive” means Council Directive [91/676/EEC](#) concerning the protection of waters against pollution caused by nitrates from agricultural sources<sup>(3)</sup>;

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(1) S.I.1989/2393

(2) 1972 c. 68

(3) O.J. No. L375, 31.12.91, p. 1

“eutrophication” means the enrichment of water by nitrogen compounds, causing an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance to the balance of organisms present in the water and to the quality of the water concerned;

“fertiliser” means any substance containing a nitrogen compound or nitrogen compounds utilised on land to enhance growth of vegetation, and may include livestock manure, the residues from fish farms and sewage sludge;

“freshwater” means naturally occurring water having a low concentration of salts, which is often acceptable as suitable for abstraction and treatment to produce drinking water;

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“land application” means the addition of materials to land whether by spreading on the surface of the land, injection into the land, placing below the surface of the land or mixing with the surface layers of the land;

“livestock” means all animals kept for use or profit;

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

“nitrate vulnerable zone” has the meaning given by regulation 3;

“nitrogen compound” means any nitrogen-containing substance except for gaseous molecular nitrogen;

“the Objectives” means the objectives specified in Article 1 of the Directive, that is to say—

- (a) reducing water pollution caused or induced by nitrates from agricultural sources; and
- (b) preventing further such pollution; and

“pollution” means the discharge, directly or indirectly, of nitrogen compounds from agricultural sources into the aquatic environment the results of which are such as to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water.

(2) Other expressions used in these Regulations have the same meaning as in the Directive.

(3) The Interpretation Act (Northern Ireland) 1954(4) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

### **Vulnerable zones**

3.—(1) In these Regulations, “nitrate vulnerable zone” means any areas designated by the Departments, being all known areas of land which drain into and contribute to pollution of the waters which the Departments have identified, in accordance with the criteria set out in Schedule 1, as waters affected by pollution and waters which could be affected by pollution if action pursuant to regulation 6 were not taken.

(2) The Departments shall, by 19th December 1997 and at least every 4 years thereafter, review and if necessary revise or add to the designation of nitrate vulnerable zones to take into account changes and factors unforeseen at the time of the previous designation.

### **Monitoring**

4.—(1) For the purpose of the designation and revision of designations of nitrate vulnerable zones, the Department—

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(4) 1954 c. 33 (N.I.)

- (a) subject to paragraph (2), by 19th December 1997 and at least every 4 years thereafter shall monitor the nitrate concentration in freshwaters over a period of 1 year—
  - (i) at surface water sampling stations laid down in Article 5(4) of Directive [75/440/EEC](#)(5) or at other sampling stations which are representative of surface waters, or at both, at least monthly and more frequently during flood periods; and
  - (ii) at sampling stations which are representative of groundwater aquifers, at regular intervals and taking into account the provisions of Directive [80/778/EEC](#)(6); and
- (b) shall review the eutrophic state of fresh surface waters, estuarial and coastal waters by 19th December 1997 and every 4 years thereafter.

(2) Where the nitrate concentration in all previous samples taken in pursuance of the Directive at any sampling station has been below 25 mg/1 and no new factor likely to increase the nitrate content has appeared, paragraph (1)(a) shall have effect in relation to that sampling station as if the reference to 1997 and the reference to 4 years were references to 2001 and 8 years respectively.

(3) Monitoring under this regulation shall be carried out using the reference methods of measurement set out in Schedule 2.

### **Code of good agricultural practice**

5. The Code of Practice for the Protection of Water entitled “Water, Preventing Pollution by Nitrate”(ISBN 1 85527 1168) (published 1994) shall have effect as the code of good agricultural practice established for the purposes of Article 4 of the Directive.

### **Action programmes**

6.—(1) The Departments shall, for the purpose of achieving the Objectives, by Regulations under section 2(2) of the European Communities Act 1972, make provision establishing action programmes in respect of nitrate vulnerable zones.

(2) An action programme may relate to more than one nitrate vulnerable zone, and different action programmes may be established in respect of different nitrate vulnerable zones or parts of zones.

(3) An action programme in respect of a nitrate vulnerable zone shall be established—

- (a) in the case of a nitrate vulnerable zone designated in accordance with regulation 3(1) as soon as practicable after designation and in any event not later than 19th December 1997; and
- (b) in the case of a nitrate vulnerable zone designated in accordance with regulation 3(2), not later than 1 year after the designation of that zone.

(4) An action programme shall be implemented—

- (a) in a case falling within paragraph 3(a) by 19th December 1999;
- (b) in any other case, within 4 years of its establishment.

(5) The Department shall draw up and implement suitable monitoring programmes to assess the effectiveness of action programmes.

(6) The Departments shall, at least every 4 years, review and if necessary revise the action programmes, including any additional measures taken pursuant to regulation 7(2).

### **Contents of action programmes**

7.—(1) An action programme shall include—

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(5) O.J. No. L194, 25.7.75, p. 26  
(6) O.J. No. L229, 30.8.80, p. 11

- (a) the provisions described in Schedule 3; and
  - (b) provisions embodying the measures contained in the code of good agricultural practice referred to in regulation 5, other than such provisions as have been superseded by the provisions described in Schedule 3.
- (2) Action programmes shall also contain such additional requirements, restrictions and prohibitions as the Departments consider necessary if, at the outset or in the light of experience gained in implementing the programmes, it becomes apparent to them that the provisions referred to in paragraph (1) will not be sufficient for achieving the Objectives.
- (3) In determining the provisions of an action programme, the Departments shall take into account —
- (a) available scientific and technical data, mainly with reference to respective nitrogen contributions originating from agricultural and other sources;
  - (b) environmental conditions in the relevant regions.
- (4) In selecting the additional provisions referred to in paragraph (2), the Departments shall take into account the effectiveness and cost of such provisions relative to other possible preventive provisions.

Sealed with the Official Seal of the Department of the Environment on .

29th May 1996

*R. W. Rogers*  
Assistant Secretary

Sealed with the Official Seal of the Department of Agriculture on .

30th May 1996

*Liam McKibben*  
Assistant Secretary

## SCHEDULE 1

regulation 3(1)

### Criteria for Identifying Waters referred to in Regulation 3(1)

1. Waters referred to in regulation 3(1) shall be identified making use, inter alia, of the following criteria:
  - (a) whether surface freshwaters, in particular those used or intended for the abstraction of drinking water, contain or could contain, if action pursuant to regulation 6 is not taken, more than the concentration of nitrates laid down in accordance with Directive [75/440/EEC](#);
  - (b) whether groundwaters contain more than 50 mg/l nitrates or could contain more than 50 mg/l nitrates if action pursuant to regulation 6 is not taken;
  - (c) whether natural freshwater lakes, other freshwater bodies, estuaries, coastal waters and marine waters are found to be eutrophic or in the near future may become eutrophic if action pursuant to regulation 6 is not taken.
2. In applying these criteria, the Departments shall also take account of:
  - (a) the physical and environmental characteristics of the waters and land;
  - (b) the current understanding of the behaviour of nitrogen compounds in the environment (water and soil);
  - (c) the current understanding of the impact of the action to be taken pursuant to regulation 6.

## SCHEDULE 2

regulation 4(3)

### Reference Methods of Measurement

#### **Chemical fertiliser**

Nitrogen compounds shall be measured using the method described in Commission Directive [77/535/EEC](#) of 22nd June 1977 on the approximation of the laws of the member States relating to methods of sampling and analysis for fertilisers(7), as amended by Directive [89/519/EEC](#)(8).

#### **Freshwaters, coastal waters and marine waters**

Nitrate concentration shall be measured in accordance with Article 4a(3) of Council Decision [77/795/EEC](#) of 12th December 1977 establishing a common procedure for the exchange of information on the quality of surface fresh water in the Community(9), as amended by Decision [86/574/EEC](#)(10).

## SCHEDULE 3

regulation 7(1)

### Provisions to be included in Action Programmes

1. An action programme shall include rules relating to—

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(7) O.J. No. L213, 22.8.77, p. 1  
(8) O.J. No. L265, 12.9.89, p. 30  
(9) O.J. No. L334, 24.12.77, p. 29  
(10) O.J. No. L335, 22.11.86, p. 44

- (1) periods when the land application of certain types of fertiliser is prohibited;
- (2) the capacity of storage vessels for livestock manure; this capacity must exceed that required for storage throughout the longest period during which land application in the nitrate vulnerable zone is prohibited, except where it can be demonstrated to the Departments that any quantity of manure in excess of the actual storage capacity will be disposed of in a manner which will not cause harm to the environment;
- (3) limitation of the land application of fertilisers, consistent with good agricultural practice and taking into account the characteristics of the nitrate vulnerable zone concerned, in particular—
  - (a) soil conditions, soil type and slope;
  - (b) climatic conditions, rainfall and irrigation;
  - (c) land use and agricultural practices, including crop rotation systems and to be based on a balance between—
    - (i) the foreseeable nitrogen requirements of the crops, and
    - (ii) the nitrogen supply to the crops from the soil and from fertilisation corresponding to—
      - the amount of nitrogen present in the soil at the moment when the crop starts to use it to a significant degree (outstanding amounts at the end of winter),
      - the supply of nitrogen through the net mineralisation of the reserves of organic nitrogen in the soil,
      - additions of nitrogen compounds from livestock manure,
      - additions of nitrogen compounds from chemical and other fertilisers.

2. These rules shall ensure that, for each farm or livestock unit, the amount of livestock manure applied to the land each year, including by the animals themselves, shall not exceed a specified amount per hectare.

The specified amount per hectare shall be the amount of manure containing 170 kg N. However—

- (a) for the first 4 year action programme an amount of manure containing up to 210 kg N may be allowed;
  - (b) during and after the first 4 year action programme, different amounts from those referred to above may be fixed. These amounts must be fixed so as not to prejudice the achievement of the Objectives and must be justified on the basis of objective criteria, for example—
    - long growing seasons,
    - crops with high nitrogen uptake,
    - high net precipitation in the vulnerable zone,
    - soils with exceptionally high denitrification capacity.
3. The amounts referred to in paragraph 2 may be calculated on the basis of animal numbers.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations make provision in relation to Council Directive [91/676/EEC](#) concerning the protection of waters against pollution caused by nitrates from agricultural sources.

The objective of the Directive is to ensure that measures are taken to reduce and prevent nitrate pollution from agricultural sources. It provides a framework for action to reduce nitrate levels in the catchments of rivers and groundwater sources affected by such pollution. These Regulations transpose the requirements of the Directive.

No Nitrate Vulnerable Zones have as yet been designated in Northern Ireland. Any zones designated will be in specific areas where nitrate pollution caused by agriculture can be identified. Some non-agricultural sources of nitrate pollution are addressed by the Urban Waste Water Treatment Regulations (Northern Ireland) 1995 (S.R. [1995 No. 12](#)).

Copies of the Code of Good Agricultural Practice referred to in regulation 5 may be obtained free of charge from the Department of Agriculture for Northern Ireland, Annex A, Dundonald House, Upper Newtownards Road, Belfast BT4 3FB.

Copies of Council Directive [91/676/EEC](#) may be obtained from Her Majesty's Stationery Office, 16 Arthur Street, Belfast BT1 4GD.