

STATUTORY INSTRUMENTS

2015 No. 668

The Nitrate Pollution Prevention Regulations 2015

PART 2

Nitrate vulnerable zones

Designation

3.—(1) An area is designated as a nitrate vulnerable zone for the purposes of these Regulations if, as an area of land that drains into polluted waters and contributes to the pollution of those waters, it is marked as such a zone on a relevant map.

[^{F1}(2) For the purposes of this regulation—

- (a) for the period beginning with 1st December 2016 and ending with the day on which the Secretary of State next revises or adds to the designation of nitrate vulnerable zones under regulation 4(5), “relevant map” means a map marked “Nitrate Vulnerable Zones (England) 2017 to 2020” and published on 1st December 2016 on the Agency’s website;
- (b) following any subsequent review under regulation 4(5), “relevant map” means a map which is published on the Agency’s website and which—
 - (i) is marked “This map identifies those areas of England designated by the Secretary of State as a Nitrate Vulnerable Zone for the purposes of the Nitrate Pollution Prevention Regulations 2015 (England).”; and
 - (ii) specifies the period to which it relates.]

[^{F2}(3) The Agency must make provision for a relevant map to be obtainable by persons without access to the internet.]

F1 [Reg. 3\(2\) substituted \(29.3.2019\) by The Environment, Food and Rural Affairs \(Miscellaneous Amendments etc.\) Regulations 2019 \(S.I. 2019/526\), regs. 1\(2\), 5\(3\)\(a\)](#)

F2 [Reg. 3\(3\) inserted \(29.3.2019\) by The Environment, Food and Rural Affairs \(Miscellaneous Amendments etc.\) Regulations 2019 \(S.I. 2019/526\), regs. 1\(2\), 5\(3\)\(b\)](#)

Review

4.—(1) The Secretary of State must keep under review the eutrophic state of fresh surface waters, estuarial waters and coastal waters.

(2) The Secretary of State must, before 1st January 2017 and [^{F3}before 1st January of every fourth year thereafter], monitor the nitrate concentration in freshwaters over a period of one year—

- (a) at sampling stations that are representative of surface water, at least monthly and more frequently during flood periods, and

(b) at sampling stations that are representative of groundwater, at regular intervals and taking into account the provisions of [^{F4}the Water Supply (Water Quality) Regulations 2016^{F5} and the Private Water Supplies (England) Regulations 2016]^{F6}.

(3) But in the case of a sampling station at which the nitrate concentration in all previous samples taken for the purposes of paragraph (2) has been below 25mg/l and no new factor likely to increase the nitrate content has appeared, that paragraph is to be read as if for “2017” there were substituted “2021” and for “every four years” there were substituted “every eight years”.

(4) Nitrate concentration must be measured [^{F7}by subtracting the amount of nitrite from the amount of total oxidised nitrogen (“TON”), where both nitrite and TON are calculated using the method known as molecular absorption spectrophotometry].

(5) No later than the end of each four-year period provided for under paragraph (2), the Secretary of State must—

- (a) identify water that is affected by pollution, or could be if the controls in these Regulations are not applied in the area concerned, using the criteria in Annex I to Council [Directive 91/676/EEC](#),
- (b) identify land which drains into those waters, or into water which has been similarly identified in Wales or Scotland, and that contributes to the pollution in those waters,
- (c) take into account changes and factors unforeseen at the time of the previous designation, and
- (d) if necessary, revise or add to the designation of nitrate vulnerable zones.

(6) In this Part, references to pollution, in relation to water, are to be construed in accordance with paragraph (5)(a).

[^{F8}(7) For the purposes of paragraph (5)(a), the reference to Annex 1 to Council [Directive 91/676/EEC](#)^{F9} is to be read as if—

- (a) each reference in it to Article 5 of that Directive were to regulations 7 to 35 of these Regulations;
- (b) in point A(1), for the words from “more than” to “[Directive 75/440/EEC](#)” there were substituted “ a concentration of nitrates greater than 50 mg/l ”.]

F3	Words in reg. 4(2) substituted (29.3.2019) by The Environment, Food and Rural Affairs (Miscellaneous Amendments etc.) Regulations 2019 (S.I. 2019/526), regs. 1(2), 5(4)
F4	Words in reg. 4(2)(b) substituted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558), regs. 1(1), 16(3)(a) ; 2020 c. 1, Sch. 5 para. 1(1)
F5	S.I. 2016/614, amended by S.I. 2017/506, 2018/378, 2018/706.
F6	S.I. 2016/618, amended by S.I. 2017/506, 2018/707.
F7	Words in reg. 4(4) substituted (1.6.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575), regs. 1(2), 10(3)
F8	Reg. 4(7) inserted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558), regs. 1(1), 16(3)(b) ; 2020 c. 1, Sch. 5 para. 1(1)
F9	OJ No L 375, 31.12.1991, p 1, as last amended by Regulation (EC) No 1137/2008 (OJ No L 311, 21.11.2008, p 1).

Recommendations and proposals

5.—(1) The Agency must, before 10th August 2016 and [^{F10}before 10th August of every fourth year thereafter], make recommendations to the Secretary of State by reference to the matters referred to in regulation 4(5)(a) to (c) as to which areas of land should be, or should continue to be, designated as nitrate vulnerable zones for the purposes of these Regulations.

(2) In deciding whether to revise or add to the designation of nitrate vulnerable zones for the purposes of regulation 4(5)(d), the Secretary of State must have regard to the recommendations made under paragraph (1).

(3) Before revising or adding to the designation of nitrate vulnerable zones, the Secretary of State must ^{F11}, (except where paragraph (3A) applies)—

- (a) publish the proposals to revise or add to the designation, and
- (b) send written notice to any person appearing to the Secretary of State to be the owner or occupier of a relevant holding.

^{F12}(3A) Where the Secretary of State revises or adds to the designation of nitrate vulnerable zones before 1st January 2017, the Secretary of State must—

- (a) by 31st December 2016, publish the proposals to revise or add to the designation on the Agency’s website;
- (b) by 1st March 2017, send written notice to any person appearing to the Secretary of State to be the owner or occupier of a relevant holding.]

(4) A notice under paragraph (3)(b) ^{F13}or (3A)(b)] must contain—

- ^{F14}(a) a reference to the page on the Agency’s or Secretary of State’s website on which can be found the Secretary of State’s proposals or, in the case of a notice under paragraph (3A) (b) where the designation has already been revised or added to, the designation,]
- (b) information about other means of obtaining the information mentioned in sub-paragraph (a) which do not require access to the internet.

(5) In this regulation and regulation 6, “relevant holding” means land and any associated buildings at the disposal of the occupier—

- (a) which are used for growing crops in soil or rearing livestock for agricultural purposes, and
- (b) which are wholly or partly in an area which the Secretary of State has proposed should be, or should continue to be, designated as a nitrate vulnerable zone for the purposes of these Regulations ^{F15}, or which the Secretary of State has so designated].

- F10** Words in [reg. 5\(1\)](#) substituted (29.3.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments etc.\) Regulations 2019 \(S.I. 2019/526\)](#), regs. 1(2), **5(5)**
- F11** Words in [reg. 5\(3\)](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) Regulations 2016 \(S.I. 2016/1190\)](#), regs. 1(1), **4(a)**
- F12** [Reg. 5\(3A\)](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) Regulations 2016 \(S.I. 2016/1190\)](#), regs. 1(1), **4(b)**
- F13** Words in [reg. 5\(4\)](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) Regulations 2016 \(S.I. 2016/1190\)](#), regs. 1(1), **4(c)**
- F14** [Reg. 5\(4\)\(a\)](#) substituted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) Regulations 2016 \(S.I. 2016/1190\)](#), regs. 1(1), **4(d)**
- F15** Words in [reg. 5\(4\)\(b\)](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) Regulations 2016 \(S.I. 2016/1190\)](#), regs. 1(1), **4(e)**

^{F16}Transitional periods for new holdings

5A. The requirements of the regulations listed in Schedule 4 do not apply in relation to a new holding until the dates set out in that Schedule.]

- F16** [Reg. 5A](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) Regulations 2016 \(S.I. 2016/1190\)](#), regs. 1(1), **5(1)**

Appeal

6.—(1) An owner or occupier of a relevant holding who is sent a notice under regulation 5(3)(b) [^{F17}or 5(3A)(b)] may appeal to the First-tier Tribunal⁽¹⁾ against the proposals [^{F18}or designation] referred to in the notice.

(2) For the purposes of rule 22(2)(g) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009⁽²⁾ (notice of appeal: grounds), the only grounds of an appeal under this regulation are that the relevant holding (or any part of it)—

(a) does not drain into water which the Secretary of State proposes to identify, or to continue to identify, as polluted or which has been similarly identified in Wales or Scotland, ^{F19}...

[^{F20}(aa) in a case within regulation 5(3A), does not drain into water which the Secretary of State has identified as polluted or which has been similarly identified in Wales or Scotland, or]

(b) drains into water which the Secretary of State should not identify, or should not continue to identify, as polluted.

(3) If the First-tier Tribunal upholds an appeal under paragraph (2)(a), the Secretary of State, when acting under regulation 4(5), must treat the relevant holding (or the part of it in respect of which the appeal was upheld) as not draining into the water concerned.

(4) If the First-tier Tribunal upholds an appeal under paragraph (2)(b), the Secretary of State, when acting under regulation 4(5), must—

(a) treat the water concerned as water which should not be identified, or should not continue to be identified, as polluted, and

(b) treat any holding (or part of any holding) which drains into that water accordingly (regardless of whether the owner or occupier of the relevant holding appealed under this regulation).

- F17** Words in [reg. 6\(1\)](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/1254\)](#), regs. 1(1), **2(2)(a)(i)**
- F18** Words in [reg. 6\(1\)](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/1254\)](#), regs. 1(1), **2(2)(a)(ii)**
- F19** Word in [reg. 6\(2\)\(a\)](#) omitted (31.12.2016) by virtue of [The Nitrate Pollution Prevention \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/1254\)](#), regs. 1(1), **2(2)(b)(i)**
- F20** [Reg. 6\(2\)\(aa\)](#) inserted (31.12.2016) by [The Nitrate Pollution Prevention \(Amendment\) \(No. 2\) Regulations 2016 \(S.I. 2016/1254\)](#), regs. 1(1), **2(2)(b)(ii)**

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- (1) The First-tier Tribunal was established by section 3(1) of the Tribunals, Courts and Enforcement Act 2007 (c. 15). By virtue of article 3 of the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 (S.I. 2010/2655), the General Regulatory Chamber of the First-tier Tribunal is allocated all functions related to proceedings in respect of the decisions and actions of regulatory bodies which are not allocated to the Health, Education and Social Care Chamber or to the Tax Chamber by other provisions of that Order.
- (2) [S.I. 2009/1976](#).

Changes to legislation:

There are currently no known outstanding effects for the The Nitrate Pollution Prevention Regulations 2015, PART 2.