
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 307

**The Nitrates Action Programme
Regulations (Northern Ireland) 2014**

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Nitrates Action Programme Regulations (Northern Ireland) 2014 and shall come into operation on 1st January 2015.

Purpose of and application of Regulations

2. These Regulations give effect to a Nitrates Action Programme throughout the territory of Northern Ireland, in accordance with Article 5 of Council Directive [91/676/EEC](#)(1) of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources. The measures in these Regulations also provide a basic level of protection against possible adverse impacts to waters arising from potential agricultural expansion, including that proposed under the “Going for Growth” plan.

Interpretation

3.—(1) The Interpretation Act (Northern Ireland) 1954((2) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

“action programme” means measures regarding the protection of water against pollution caused by nitrates from agricultural sources as set out in Article 5 and Annex III of the Directive;

“adequate effluent collection facilities” means effluent collection facilities that meet the requirements of regulation 14 (4);

“agricultural area” means any land suitable for agricultural activities, including any common land used for grazing and excludes areas under farm roads, paths, buildings, woods, dense scrub, rivers, streams, ponds, lakes, sandpits, quarries, areas of peat cutting, bare rock, areas of forestry and areas fenced off or inaccessible other than forests where the use of the same is ancillary to the farming of land for other agricultural purposes;

“agricultural land” has the same meaning as in the Agriculture Act (Northern Ireland) 1949((3);

(1) OJL 375, 31.12.91, p. 1-8

(2) 1954 c.33 (N.I.)

(3) 1949 c.2 (N.I.)

“anaerobic digestate” means a stable, sanitised material resulting from the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable waste carried out under controlled anaerobic conditions, and which can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land;

“Appeals Commission” means the Water Appeals Commission for Northern Ireland as constituted in accordance with Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006(4);

“appropriate person” means—

- (a) the controller;
- (b) any person permitted by the controller to carry out, on their behalf, any activity described in these Regulations;
- (c) the owner of any storage facility used for the storage of livestock manure and silage effluent; and
- (d) any person using such storage facilities for the storage of livestock manure and silage effluent;

“authorised person” means a person authorised by the Department in accordance with Article 72 of the Order;

“available nitrogen” means forms of nitrogen that can be taken up by a crop immediately or within a short period;

“available phosphorus” means forms of phosphorus that can be taken up by a crop immediately or within a short period, the proportion of which contained in fertilisers is set out in Table 2 of Schedule 2 to the Phosphorus Regulations;

“chemical fertiliser” means any fertiliser in which the declared plant nutrients are in the form of minerals obtained by extraction or by physical and/or chemical industrial processes;

“chemical nitrogen fertiliser” means any fertiliser containing one or more nitrogen compounds which is manufactured or blended by an industrial process;

“chemical phosphorus fertiliser” means any fertiliser containing one or more phosphorus compounds which is manufactured or blended by an industrial process;

“Code of Good Agricultural Practice” means the “Code of Good Agricultural Practice for the Prevention of Pollution of Water, Air and Soil” published by the Department of Agriculture and Rural Development (as may from time to time be reissued);

“construct” includes install;

“controller” means in relation to a holding, the person charged with management of the holding for the calendar year in question and will be taken to be—

- (a) for calendar years prior to 2015 and in the absence of a written nitrates controller agreement to the contrary, the person claiming direct agricultural aid payments for the agricultural area or, where direct agricultural aid payments are not being claimed, the owner of the agricultural area; or
- (b) for calendar years from 2015, the person claiming direct agricultural aid payments for the agricultural area or, where direct agricultural aid payments are not being claimed, the person who enjoys the decision making power, benefits and financial risks in relation to the agricultural activity carried out on the land.

“crop requirement” means the amount of nitrogen, phosphorus and other plant nutrients in fertiliser which is reasonable to apply to land in any year for the purpose of promoting the growth of the crop having regard to the foreseeable nutrient supply to the crop from the soil

and from other sources, including any previous applications of livestock and other organic manure and any chemical fertilisers estimated as described in the fertiliser technical standards and, with regard to nitrogen, regulations 9, 10, and 11 of these regulations;

“Department” means the Department of the Environment;

“Departments” mean the Department of the Environment and the Department of Agriculture and Rural Development acting jointly;

“derogated holding” means a holding over which a derogation has been granted;

“derogation” means a derogation from the limit of livestock manure that can be applied to land each year as provided for in paragraph 2(b) of Annex III of the Directive and approved by the Department which is valid for one calendar year;

“derogation application” means an application for derogation submitted by the controller using a form provided by the Department;

“direct agricultural aid payments” means the Basic Payment Scheme as referred to in Title III of Regulation (EU) No 1307/2013⁽⁵⁾ and/or Payments to areas facing natural or other specific constraints as referred to in Article 31 of Regulation (EU) No 1305/2013⁽⁶⁾;

“Directive” means Council Directive 91/676/EEC⁽⁷⁾ of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;

“dirty water” means water contaminated by organic manure, urine, effluent, milk and cleaning materials with a Biochemical Oxygen Demand (BOD) no greater than 2000 mg/litre and total nitrogen and dry matter contents no greater than set out in Table 2 of Schedule 1;

“environment” means any or all of the following media, namely the air, water and land;

“farmyard manure” means a mixture of bedding material and animal excreta in solid form arising from the housing of cattle, sheep and other livestock, excluding poultry manure, but including spent mushroom compost and the stackable solids fraction from mechanical separation of slurry excluding pig slurry;

“fertilisation account” means an account prepared in accordance with regulation 12(5);

“fertilisation plan” means a plan prepared in accordance with regulation 12(4);

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

“fertiliser technical standards” means—

- (a) the “DEFRA Fertiliser Manual (RB209) 8th Edition” (as may from time to time be reissued) and any supplementary guidance;
- (b) with regards to phosphorus recommendations for grassland, Table 1 of Schedule 2 to the Phosphorus Regulations; and
- (c) any other publication by DEFRA or the Departments substituting any of the standards referred to in sub-paragraphs (a) and (b);

“forage crop” means any crop grown as food for animals;

“Going for Growth” is a strategic action plan in support of the Northern Ireland Agri-Food Industry, published electronically in May 2013 by the Northern Ireland Agri-Food Strategy Board;

“grassland” means any land on which the vegetation consists predominantly of grass species;

⁽⁵⁾ OJL 347, 20.12.13, p. 865-883

⁽⁶⁾ OJL 347, 20.12.13, p. 487-547

⁽⁷⁾ OJL 375, 31.12.91, p. 1-8

“grassland holding” means a holding where 80 % or more of the agricultural area available for manure application is cultivated with grass;

“grazing livestock” means cattle (with the exclusion of veal calves), sheep, deer, goats and horses;

“heavy rain” means more than 4 mm of rain per hour;

“holding” in relation to a controller means all the agricultural area managed by that controller;

“lake” means a body of standing inland surface water;

“land application” means the addition of materials to agricultural 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 but does not include the direct deposition of manure onto land by animals;

“livestock” means any animal kept for use or profit;

“livestock enterprise” means any enterprise where livestock are kept;

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

“midden” means a storage facility with an impermeable base for solid, stackable organic manure;

“nitrates controller agreement” means, for any stipulated calendar years prior to 2015, a written agreement transferring responsibility for compliance with these Regulations and the Phosphorus Regulations for a defined agricultural area from—

- (a) the person claiming direct agricultural aid payments for the agricultural area; or
- (b) where direct agricultural aid payments are not being claimed, the owner of the agricultural area

to a third person who enjoys the decision making power, benefits and financial risks in relation to the agricultural activity carried out on the defined agricultural area;

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

“nitrogen fertiliser” means any substance, including chemical fertiliser, containing one or more nitrogen compounds utilised on land to enhance growth of vegetation;

“notice” means notice in writing;

“the Order” means the Waste and Contaminated Land (Northern Ireland) Order 1997⁽⁸⁾;

“organic manure” means—

- (a) livestock manure; and
- (b) fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter, and includes sewage sludge, residues from fish farms and other organic wastes;

“phosphorus fertiliser” means any substance, including chemical fertiliser, containing one or more phosphorus compounds utilised on land to enhance growth of vegetation;

“Phosphorus Regulations” means the Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014⁽⁹⁾;

“pig enterprise” means any enterprise with more than 10 breeding sow places or 150 finishing pig places;

“poultry enterprise” means any enterprise with more than 500 places;

⁽⁸⁾ S.I. 1997/2778 (N.I. 19)

⁽⁹⁾ S.R. 2014 No. 308

“poultry litter” means a mixture of bedding material and poultry manure arising from the housing of poultry and with a dry matter content not less than 55 %;

“public” means such persons as appear to the Departments—

- (a) to be representative of those carrying on any business which—
 - (i) is, or is likely to be, directly affected by the action programme; or
 - (ii) relies upon the water environment; or
- (b) to have an interest in the protection of the water environment;

“reception pit” means a pit used for the collection of slurry before it is transferred into a slurry storage tank or for the collection of slurry discharged from such a tank;

“scientific case” means a reasoned case, as set out in guidance issued on these Regulations, designed to demonstrate that the proposed deviation from the values set out in Tables 1a to 1c or 2 of Schedule 1 will have no worse effect on the environment than that caused by using the aforementioned values;

“silage” means any forage crop which is being, or has been, conserved by fermentation or preservation (including the use of additives), or both, and which is intended for consumption by animals;

“silage effluent” means—

- (a) effluent produced from any forage crop which is being made, or has been made, into silage; and
- (b) a mixture consisting wholly of or containing such effluent, rain or water coming from a silo, silage effluent collection system or drain;

“silo” means any structure used for making or storing silage;

“slurry” means—

- (a) excreta produced by livestock whilst in a yard or building;
- (b) a mixture of such excreta with bedding, rainwater, seepage, washings or any other extraneous material from a building or yard used by livestock or in which livestock manure is stored; or
- (c) any other organic manure or any combination of these, of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process and includes dirty water that is stored with slurry or mixed with slurry;

“slurry storage system” means—

- (a) a slurry storage tank;
- (b) any reception pit and any effluent tank used in connection with the slurry storage tank; and
- (c) any channels and pipes used in connection with the slurry storage tank, any reception pit or any effluent tank;

“slurry storage tank” includes a lagoon, pit (other than a reception pit) or tower used for the storage of slurry.

“soil phosphorus index” means the index number (0 to 4) assigned to the soil in accordance with Schedule 1 to the Phosphorus Regulations to indicate the amount of phosphorus available from the soil to the crop;

“steeply sloping land” means land which has an average incline of 20 % or more in the case of grassland or 15 % or more in the case of other land;

“total nitrogen” means the sum of all nitrogen forms including nitrate, nitrite, ammonia and organic nitrogen;

“underground strata” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999((10);

“Waste Regulations” means the Waste Management Licensing Regulations (Northern Ireland) 2003(11);

“water pollution” means the discharge, directly or indirectly, of nitrogen compounds from agricultural sources into the aquatic environment, the results of which are such 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;

“waterlogged” means soil where water appears on the surface of the land when pressure is added; and

“waterway” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999.

(3) A requirement in these Regulations for a silo or slurry storage tank to conform to a British Standard (in whole or in part) is satisfied if the silo or tank conforms to a standard or specification that provides an equivalent level of protection and performance and is recognised for use in a member State, Iceland, Liechtenstein, Norway or Turkey.

PART 2

General

Duty of the controller to prevent water pollution

4. The controller of a holding shall not cause or permit, directly or indirectly—
- (a) the entry of fertiliser into any waterway; or
 - (b) the entry or risk of entry of fertiliser into water contained in any underground strata.

Duty of the controller to comply with these Regulations

5. In complying with a duty under these Regulations, the controller of a holding shall have regard to any guidance which may be issued from time to time by the Department or Departments for the purposes of these Regulations and, in accordance with Article 4 of the Directive, the Code of Good Agricultural Practice as may be amended from time to time.

Exemptions granted by the Department

- 6.—(1) The Department may exempt from the requirements of these Regulations—
- (a) research activities of the Departments, and institutes or agencies authorised by the Department, for the purpose of—
 - (i) protecting or improving water quality; or
 - (ii) increasing nutrient efficiency in agricultural systems; and
 - (b) activities carried out by the Departments, and institutes or agencies authorised by the Department, so as to address emergency situations where there is a risk of—
 - (i) impact on human health;
 - (ii) widespread impact on animal health; or

(10) S.I. 1999/662 (N.I. 6)

(11) S.R. 2003 No. 493

- (iii) impact on the quality of the environment as a whole.
- (2) The Department shall record all exemptions under this Regulation.

PART 3

Prevention of water pollution from the application of fertilisers

Periods when the land application of fertiliser is prohibited

7.—(1) The land application of chemical nitrogen and chemical phosphorus fertiliser to grassland shall not be permitted from 15th September in any year to 31st January of the following year.

(2) The land application of chemical fertiliser to any land shall not be permitted from 15th September in any year to 31st January of the following year for crops other than grass unless there is a demonstrable crop requirement between those dates.

(3) The land application of organic manure, excluding farmyard manure and dirty water, to any land shall not be permitted from 15th October in any year to 31st January of the following year.

(4) The land application of farmyard manure to any land shall not be permitted from 31st October in any year to 31st January of the following year.

(5) The land application of organic manure, to a derogated holding, shall not be permitted from 15th October in any year to 31st January of the following year where the fertiliser plan indicates a proposal to disturb the soil as part of grass cultivation.

Requirements as to the manner of land application of fertiliser to any agricultural land

8.—(1) The land application of fertiliser shall be done in an accurate and uniform manner and in accordance with paragraphs (2) to (11).

(2) The land application of fertiliser shall not be permitted when—

- (a) soil is waterlogged;
- (b) land is flooded or likely to flood;
- (c) the soil is frozen;
- (d) land is snow-covered;
- (e) heavy rain is falling or forecast within 48 hours; or
- (f) the land is steeply sloping land and where, taking into account the risk assessment set out in Schedule 4, there is a significant risk of causing water pollution.

(3) The land application of fertiliser shall not be permitted on any land in a location or manner which would make it likely that the fertiliser will directly enter a waterway or water contained in any underground strata.

(4) Subject to paragraph (6), the land application of chemical fertiliser shall not be permitted within 2 metres of any waterway.

(5) Subject to paragraph (6), the land application of organic manure shall not be permitted within—

- (a) 20 metres of lakes;
- (b) 50 metres of a borehole, spring or well;
- (c) 250 metres of a borehole used for a public water supply;

- (d) 15 metres of exposed, cavernous or karstified, limestone features (such as swallow-holes and collapse features); or
 - (e) 10 metres of any waterway, other than lakes, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate; except that
 - (f) the distance for (e) may be reduced to 3m of any waterway where the land has an average incline less than 10 % towards the waterway and where—
 - (i) organic manure is spread by bandspreader, trailing hose or trailing shoe or soil injection;
 - (ii) the adjoining area is less than 1 hectare in size; or
 - (iii) the adjoining area is not more than 50 metres in width.
- (6) On grassland with an average incline of greater than 15 % and any other land with an average incline of greater than 12 %, the land application of fertilisers shall not be permitted—
- (a) for organic manures within—
 - (i) 30 metres of lakes; or
 - (ii) 15 metres of any waterway, other than lakes, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate; and
 - (b) for chemical fertiliser within—
 - (i) 10 metres of lakes; or
 - (ii) 5 metres of any waterway, other than lakes, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate.
- (7) The maximum land application of solid organic manure shall be 50 tonnes per hectare at any one time provided this does not exceed the limits set out in regulation 9(1) and a period of at least 3 weeks shall be left between such land applications.
- (8) The maximum land application of slurry shall be 50 cubic metres per hectare at any one time provided this does not exceed the limits set out in regulation 9(1) and a period of at least 3 weeks shall be left between such land applications.
- (9) The maximum land application of dirty water shall be 50 cubic metres per hectare at any one time and a period of at least 2 weeks shall be left between such land applications.
- (10) The land application of slurry shall only be permitted by spreading close to the ground using inverted splash plate spreading, bandspreading, trailing hose, trailing shoe, soil injection or soil incorporation methods.
- (11) The land application of dirty water shall only be permitted by spreading close to the ground using inverted splash plate spreading, bandspreading, trailing hose, trailing shoe, soil injection, soil incorporation or irrigation methods.

General measures governing the limits on land application of nitrogen fertiliser

9.—(1) Save where regulation 12 applies, the amount of total nitrogen in livestock manure and anaerobic digestate containing digested livestock manure applied to the agricultural area of a holding, both by land application and by the animals themselves, shall not exceed 170 kg of nitrogen per hectare per year when calculated in accordance with paragraphs (2) and (3).

(2) The total nitrogen from livestock manure from animals kept on the holding is calculated in accordance with Table 1 of Schedule 1.

(3) The total nitrogen from imported livestock manure and other fertilisers is calculated in accordance with Table 2 of Schedule 1.

(4) The amount of nitrogen available to a crop from organic manure or chemical fertiliser, in the year of application of that fertiliser, is the percentage specified in Table 3 of Schedule 1.

(5) Any controller wishing to deviate from the values set out in Tables 1 or 2 of Schedule 1 must present a scientific case in order to obtain prior approval from the Department, and the Department shall only grant such approval where it is satisfied that a scientific case has been established.

(6) A controller may appeal the decision by the Department in paragraph (5) in accordance with the procedure set out in regulation 29.

Measures governing the limits on land application of nitrogen fertiliser to grassland

10. For each holding, the total amount of available nitrogen in organic manure and chemical fertiliser, excluding livestock manure and anaerobic digestate containing digested livestock manure, applied to grassland each year, shall be in proportion to the crop requirement for nitrogen of the holding and shall not exceed the amounts as defined in Table 4 of Schedule 1, when calculated in accordance with regulation 9.

Measures governing the limits on land application of nitrogen fertiliser to land other than grassland

11.—(1) For each holding, the total amount of available nitrogen in organic manure and chemical fertiliser applied to land other than grassland or land under cultivation for the crops set out in Table 5 of Schedule 1 both by land application and by the animals themselves each year shall not exceed the recommendations contained in the fertiliser technical standards for crop requirement for nitrogen when calculated in accordance with regulation 9.

(2) For each holding, the total amount of available nitrogen in organic manure and chemical fertiliser applied to land under cultivation for the crops set out in Table 5 of Schedule 1 both by land application and by the animals themselves each year shall be applied in accordance with the recommendations contained in the fertiliser technical standards for crop requirement for nitrogen when calculated in accordance with regulation 9 and shall in no case exceed the limits set out in Table 5 of Schedule 1, adjusted in accordance with the notes to the table.

Derogation from the measures governing the limits on land application of livestock manure

12.—(1) Where the Department approves a derogation for a grassland holding in accordance with this Regulation, the amount of total nitrogen in livestock manure from grazing livestock manure and anaerobic digestate containing only digested grazing livestock manure and forage crops applied to that derogated holding shall not exceed 250 kg of nitrogen per hectare per year when calculated in accordance with regulation 9.

(2) For the purposes of this provision “applied” means applied both by land application and by the animals themselves.

(3) With regard to derogation applications—

- (a) a controller seeking a derogation shall submit a derogation application annually accompanied by a fertilisation account in accordance with paragraph (5) to the Department no later than 1st March for that calendar year;
- (b) the Department shall grant or refuse a derogation application within a period ending on 28 days from its receipt and where no response is served prior to the expiry of that period the derogation shall be deemed to have been granted;

- (c) the deemed approval of a derogation application shall not preclude service by the Department of a notice under regulation 28; and
 - (d) the controller may appeal the refusal by the Department of the derogation application under sub-paragraph (b) in accordance with the procedure set out in regulation 29.
- (4) With regard to fertilisation plans—
- (a) the controller of a derogated holding shall prepare and keep a fertilisation plan describing crop rotation and the planned application of nitrogen and phosphorus fertilisers to its agricultural area;
 - (b) fertilisation plans shall be made available on the derogated holding every year no later than 1st March for that calendar year;
 - (c) fertilisation plans shall include—
 - (i) the number of livestock on the derogated holding;
 - (ii) a description of livestock housing and livestock manure storage systems, including the volume of livestock manure storage available on the derogated holding;
 - (iii) the amount of nitrogen and phosphorus from livestock manure produced on the derogated holding calculated in accordance with Table 1 of Schedule 1;
 - (iv) the crop rotation and area of each crop, including a sketch map indicating the location of the area of each crop;
 - (v) the derogated holding's foreseeable crop requirement for nitrogen and phosphorus in accordance with fertiliser technical standards;
 - (vi) the quantity of each type of organic manure moved on or off the derogated holding;
 - (vii) the results of soil analysis relating to nitrogen and phosphorus soil status if available;
 - (viii) the amount of nitrogen from nitrogen fertilisers applied in each area of the derogated holding under the same cropping regime and soil type calculated in accordance with Tables 1 to 5 of Schedule 1;
 - (ix) the amount of nitrogen from other organic manure, excluding livestock manures, applied in each area of the derogated holding under the same cropping regime and soil type, calculated in accordance with regulation 9; and
 - (x) the amount of phosphorus from chemical phosphorus fertilisers and organic manures applied in each area of the derogated holding under the same cropping regime and with the same soil phosphorus index calculated in accordance with Tables 1 and 2 of Schedule 1; and
 - (d) where changes in agricultural practices necessitate changes in the fertilisation plan of a derogated holding the controller shall revise the plan within seven days of such changes taking effect.
- (5) With regards to fertilisation accounts—
- (a) the controller of a derogated holding shall submit fertilisation accounts for the calendar year to the Department by 1st March of the following year; and
 - (b) fertilisation accounts shall include—
 - (i) an account of the crop requirement for nitrogen of the derogated holding;
 - (ii) an account of the nitrogen fertiliser applied to the derogated holding;
 - (iii) information relating to the derogated holding's management of dirty water; and
 - (iv) information to allow the calculation of the derogated holding's phosphorus balance.

(6) At least every four years the controller of a derogated holding shall undertake nitrogen and phosphorus soil analysis of every four hectares of the agricultural area of the derogated holding under the same cropping regime and soil type.

(7) The phosphorus balance of a derogated holding, calculated in accordance with paragraph 1 of Schedule 1 and Tables 2 and 7 of Schedule 1, shall not exceed a surplus of 10 kg phosphorus per hectare per year.

Measures governing the limits on land application of organic manures with a high proportion of phosphorus

13.—(1) From 31st December 2016, where an organic manure contains more than 0.25 kg of total phosphorus per 1 kg of total nitrogen calculated in accordance with Table 2 of Schedule 1 it shall not be applied to land unless the controller of a holding can demonstrate that the total amount of available phosphorus applied does not exceed the recommendations contained in the fertiliser technical standards for crop requirement for phosphorus taking into consideration soil phosphorus index, the recommended soil phosphorus index for the crop and the supply of phosphorus available from the application of other fertilisers.

(2) The soil phosphorus index shall be ascertained in accordance with the provisions of Schedule 1 to the Phosphorus Regulations.

(3) Paragraph (1) does not apply where—

- (a) the organic manure is applied in accordance with the Sludge (Use in Agriculture) Regulations (Northern Ireland) 1990⁽¹²⁾ or a licence or exemption granted under the Waste Regulations; or
- (b) the organic manure arises from a livestock enterprise contributing no more than 7 kg of nitrogen per hectare per year applied to the agricultural area of a holding, both by land application and by the animals themselves.

PART 4

Storage requirements

General obligations as to storage facilities for livestock manure and silage effluent

14.—(1) Subject to paragraphs (2) and (3) and regulations 15 to 21, the capacity of storage facilities for livestock manure and silage effluent of a holding shall be sufficient and adequate to provide for the storage of all the livestock manure and silage effluent which is likely to require storage on the holding for such period as may be necessary to ensure compliance with these Regulations and the avoidance of water pollution.

(2) For the purposes of paragraph (1), the controller shall have due regard to the storage capacity likely to be needed by the holding during periods of adverse weather conditions when, due to extended periods of wet weather, frozen ground or otherwise, the application to land of organic manure is not permitted.

(3) Subject to regulation 15, the total livestock manure storage capacity on holdings shall be sufficient for at least 22 weeks storage.

(4) All storage facilities for livestock manure and silage effluent shall be maintained free of structural defect, shall be of such standard as is necessary and be managed to prevent run-off or

seepage, directly or indirectly, into a waterway or water contained in any underground strata and where applicable shall comply with regulations 16 and 21.

Obligations as to livestock manure storage capacity on pig and poultry enterprises

15.—(1) Subject to paragraphs (2) and (3), on any holding where there is a pig or poultry enterprise or both the total livestock manure storage capacity on the holding shall be sufficient for at least 26 weeks storage.

(2) On any holding with less than 10 breeding sow places or 150 finishing pig places and any holding with less than 500 poultry places the total livestock manure storage capacity on the holding shall be sufficient for at least 22 weeks storage.

(3) On any holding where there is—

- (a) a pig enterprise;
- (b) a poultry enterprise; or
- (c) both a pig and poultry enterprise,

in addition to another livestock enterprise the livestock manure storage capacity on the holding shall be sufficient for at least 26 weeks storage for the pig or poultry enterprise and at least 22 weeks storage for the other livestock enterprise.

Manner of storage of slurry

16.—(1) Subject to paragraph (2), an appropriate person having custody or control of slurry shall store it in a slurry storage system in relation to which the requirements of Schedule 2 are satisfied or which is an exempt structure by virtue of paragraph (3).

(2) Paragraph (1) shall not apply to slurry while it is stored temporarily in a tanker with a capacity not exceeding 18,000 litres which is used for transporting slurry on roads or about a holding.

(3) A slurry storage system is an exempt structure if—

- (a) its construction for the purpose of storing slurry was completed before 1st December 2003; and
- (b) it has not ceased to be an exempt structure by virtue of paragraph (4).

(4) A structure to which the circumstances set out at paragraph (3) apply shall cease to be an exempt structure if—

- (a) any requirement of a notice under regulation 28(1) is not complied with within the period stated in the notice;
- (b) it is substantially enlarged; or
- (c) it is substantially reconstructed, unless, in the opinion of the Department, the risks of pollution will be reduced by such works.

(5) Any reference in paragraph (4) to the period stated in a notice is to that period as extended if it has been extended under regulation 28(6) and any reference in that paragraph to a requirement of a notice is to that requirement as modified if it has been modified under regulation 28(6).

(6) Any appropriate person who proposes to have custody or control of slurry which is to be kept or stored on a holding in a slurry storage system constructed, substantially enlarged or substantially reconstructed on or after 1st December 2003 shall serve notice on the Department specifying the type of structure to be used and its location at least 28 days before it is to be first used for such purpose.

Manner of storage of farmyard manure and location of storage facilities

17.—(1) Prior to land application, farmyard manure shall only be stored on a holding—

- (a) in a midden which shall have adequate effluent collection facilities; or
 - (b) subject to paragraphs (2) and (3), in the field where land application will take place.
- (2) Where stored in a field, farmyard manure shall be stored in a compact heap and such heaps shall not be placed in the same location of the field in consecutive years or within—
- (a) 50 metres of lakes;
 - (b) 20 metres of any waterway, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate;
 - (c) 50 metres around a borehole, spring or well;
 - (d) 250 metres from any borehole used for a public water supply; or
 - (e) 50 metres of exposed, cavernous or karstified, limestone features (such as swallow-holes and collapse features).
- (3) Where stored in a field, land application of the farmyard manure shall take place within 120 days from placement in that field, and the farmyard manure heap shall not be placed where—
- (a) the soil is waterlogged; or
 - (b) the land is flooded or likely to flood.

Manner of storage of poultry litter and location of storage facilities

- 18.**—(1) Prior to land application, poultry litter shall only be stored on a holding—
- (a) in a midden which shall have adequate effluent collection facilities; or
 - (b) subject to paragraphs (2) to (6), in the field where land application will take place.
- (2) Poultry litter shall not be stored in a field heap except under and to the extent granted by an authorisation from the Department in accordance with paragraphs (3) to (6).
- (3) With regard to authorisations—
- (a) an application by an appropriate person for authorisation shall be made on a form provided by the Department for the purpose and accompanied by such information in such form as the Department may reasonably require;
 - (b) the Department shall authorise or refuse an application within 28 days from its receipt;
 - (c) an authorisation of an application for storage of poultry litter in a field heap shall not preclude service by the Department of a notice under regulation 28; and
 - (d) the appropriate person may, within the period of 28 days from the day on which a refusal is made, appeal the refusal under sub-paragraph (b) in accordance with the procedure set out in regulation 29.
- (4) Where stored in a field, poultry litter shall be stored in a compact heap and such heaps shall not be placed in the same location of the field in consecutive years or within—
- (a) 100 metres of lakes;
 - (b) 40 metres of any waterway, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate;
 - (c) 50 metres around a borehole, spring or well;
 - (d) 250 metres from any borehole used for a public water supply; or
 - (e) 50 metres of exposed, cavernous or karstified limestone features (such as swallow holes and collapse features).
- (5) Where stored in a field, land application of the poultry litter shall take place within 120 days from placement in that field, and the poultry litter heap shall not be placed where—

- (a) soil is waterlogged; or
 - (b) the land is flooded or likely to flood.
- (6) Where stored in a field, poultry litter shall be covered with an impermeable membrane within 24 hours of placement.

Manner of storage of dirty water

19. Provision for the safe storage of dirty water should be available for those periods when weather and ground conditions, as set out in regulation 8(2), are unsuitable for land application.

Calculation of livestock manure storage capacity

20.—(1) In calculating the livestock manure storage capacity of a holding, the following farming practices may be taken into account—

- (a) the quantity of farmyard manure stored in a midden or field prior to land application in accordance with regulation 17;
 - (b) any solids removed from slurry other than pig slurry by means of a slurry separator;
 - (c) any additional storage available off the holding, by means of a rental agreement;
 - (d) any valid contract the holding has with a manure processing facility or demonstrable access to an approved treatment or recovery outlet; and
 - (e) the quantity of poultry litter stored in a midden or field prior to land application in accordance with regulation 18.
- (2) Subject to paragraph (4), the livestock manure storage capacity of a holding may be less than the capacity specified in regulation 14 in relation to—
- (a) sheep, deer and goats which are out-wintered at a grassland stocking rate which does not exceed 130 kg of nitrogen at any time during the period specified in regulation 7(3) in relation to the application of organic manure as calculated in accordance with paragraph (6);
 - (b) livestock (other than dairy cows, sheep, deer and goats) which are out-wintered at a grassland stocking rate which does not exceed 85 kg of nitrogen at any time during the period specified in regulation 7(3) in relation to the application of organic manure, as calculated in accordance with paragraph (6), provided the amount of livestock manure produced on the holding does not exceed 140 kg of nitrogen per hectare per year, as calculated in accordance with regulation 9; and
 - (c) in the case of a mixed holding the nitrogen limit in sub-paragraph (b) shall apply except where the controller of the holding demonstrates to the Department that the livestock out-wintered more appropriately reflects the composition of the livestock applicable in sub-paragraph (a).
- (3) The livestock manure storage capacity of a holding shall be calculated in accordance with—
- (a) the livestock manure production figures specified in Table 6 of Schedule 1; and
 - (b) any further procedures for calculating such storage capacity which may be specified in any guidance issued in accordance with regulation 5.
- (4) A holding falling within paragraph (2) must ensure that—
- (a) out-wintered livestock have free access at all times to the land area required for the relevant stocking rate;
 - (b) land is maintained in good agricultural and environmental condition; and

(c) the reduction in storage capacity is proportionate to the extent of out-wintered livestock on the holding.

(5) Any land used for the purpose of out-wintering under paragraphs (2) and (4) must be under the control of the controller of the holding to which the exemption applies.

(6) In this regulation, a grassland stocking rate of 130 kg or 85 kg of nitrogen, as the case may be, means the stocking of grassland on a holding at any time by such numbers and types of livestock as would in the course of a year excrete waste products containing 130 kg or 85 kg of nitrogen, as the case may be, per hectare of the grassland when calculated in accordance with the nitrogen excretion rate for livestock specified in Table 1a of Schedule 1.

(7) In this regulation, mixed holding means a holding where there are sheep, deer, goats or other livestock (other than dairy cows).

Making and storage of silage

21.—(1) Subject to paragraph (3), an appropriate person shall not have custody or control of any crop which is being made into silage, or of any silage, which is being stored unless—

- (a) it is kept in a silo in relation to which the requirements of Schedule 3 are satisfied or which is an exempt structure by virtue of paragraph (3);
- (b) it is compressed in the form of bales which are wrapped and sealed within impermeable membranes (or are enclosed in impermeable bags) and are stored at least 10 metres from any waterway that effluent escaping from the bales could enter; or
- (c) it is made as bulk bagged silage in bags which—
 - (i) are made of 1000 gauge polyethylene or material of at least equivalent impermeability and durability;
 - (ii) are kept sealed to prevent the escape of silage effluent;
 - (iii) incorporate a facility designed to enable the safe removal of excess effluent when present; and
 - (iv) are stored at a place at least 10 metres from any waterway that effluent escaping from the bales could enter.

(2) Any appropriate person having custody or control of any crop which is being made, or has been made, into silage in the manner described in paragraph (1)(b) or (c) shall not open or remove the wrapping of any bales or open or empty any bulk bags within 10 metres of any waterway that effluent escaping from the bales or bulk bags could enter.

(3) A silo is for the time being an exempt structure if—

- (a) its construction for the purpose of making and storing silage was completed before 1st December 2003; and
- (b) it has not ceased to be an exempt structure by virtue of paragraph (4)

(4) A structure to which the circumstances set out at paragraph (3) apply shall cease to be an exempt structure if—

- (a) any requirement of a notice under regulation 28(1) is not complied with within the period stated in the notice; or
- (b) it is substantially enlarged; or
- (c) it is substantially reconstructed, unless, in the opinion of the Department, the risks of pollution will be reduced by such works.

(5) Any reference in paragraph (4) to the period stated in a notice is to that period as extended if it has been extended under regulation 28(6) and any reference in that paragraph to a requirement of a notice is to that requirement as modified if it has been modified under regulation 28(6).

(6) Any appropriate person who proposes to have custody or control of any crop which is being made into silage, or of any silage, which is to be kept or stored on a holding in a silo constructed, substantially enlarged or substantially reconstructed on or after 1st December 2003 shall serve notice on the Department specifying the type of structure to be used and its location at least 28 days before it is to be first used for such purpose.

PART 5

Measures relating to land management

Cover in winter

22. After harvesting a crop of cereals (other than maize), oil seeds or grain legumes (such as peas or beans) the controller shall ensure that from harvest to 15th January in the following year, one of the following conditions is met on the land at any time—

- (a) the stubble of the harvested crop remains in the land; or
- (b) the land is sown with a crop which will take up nitrogen from the soil.

Crop management

23. In having regard to these Regulations, the following principles of crop management shall apply—

- (a) residues of crops harvested late, such as maize and potatoes, shall be left undisturbed until immediately prior to sowing the following spring; and
- (b) where grass leys are grown in rotation with arable crops the first crop should be sown as soon as possible after the grass has been ploughed.

Crop management for derogated holdings

24. In addition to the measures mentioned in regulations 22 and 23, where regulation 12 applies the controller of a derogated holding shall carry out the following measures—

- (a) temporary grassland shall be ploughed in spring;
- (b) ploughed grass on all soil types shall be followed immediately by a crop with high nitrogen demand; and
- (c) crop rotation shall not include leguminous or other plants fixing atmospheric nitrogen except for grassland with less than 50 % clover and to areas with cereals and pea undersown with grass.

PART 6

Record keeping and compliance monitoring

Type of records required

25.—(1) In relation to all holdings and in accordance with paragraphs (2) and (3), the controller of the holding shall keep sufficient records to allow the following information to be ascertained on an annual basis—

- (a) the identity of the controller of the land for the calendar year in question;

- (b) the total agricultural area including the size and location of each field;
- (c) the cropping regimes and their individual areas;
- (d) the soil nitrogen supply index for cropping areas other than grassland as estimated in accordance with the fertiliser technical standards;
- (e) the number of livestock kept on the holding, their species and type, and the length of time for which they were kept on the holding;
- (f) the capacity of livestock manure storage, and where applicable the details of rented storage, authorisation for storage of poultry litter in a field heap, farmyard manure production, out wintered livestock, manure separation and manure processing facilities utilised;
- (g) the details of any rental or contractual agreement to demonstrate compliance with regulation 20(1)(c) and (d);
- (h) the amount of each type of nitrogen fertiliser applied, the certified nitrogen content of any chemical fertiliser applied and the total nitrogen content per tonne of other organic manures as in accordance with Table 2 of Schedule 1;
- (i) where regulation 13(1) applies—
 - (i) the results of any soil tests carried out in accordance with Schedule 1 to the Phosphorus Regulations;
 - (ii) the quantity of each type of phosphorus fertiliser applied;
 - (iii) the certified phosphorus content of any chemical fertiliser applied and the available phosphorus content of all organic manures applied in accordance with Table 2 of Schedule 1 to the Phosphorus Regulations;
 - (iv) the date of application of any phosphorus fertiliser; and
 - (v) the type and date of any crop sown;
- (j) evidence of the right to graze common land; and
- (k) the quantity of each type of nitrogen fertiliser moved on to the holding, the date of that movement and, in the case of organic manure, the name and address of the consignee, the consignor and any third party transporter of the manure.
- (l) the quantity of each type of nitrogen fertiliser moved off the holding, the date of that movement and, in the case of organic manure, the name and address of the consignee, the consignor and any third party transporter of the manure.

(2) Records under paragraph (2)(a) to (k) shall be prepared for each calendar year by 30th June of the following year and shall be retained for a period of 5 years from that date.

(3) Records under paragraph (2)(l) shall be prepared for each calendar year and shall be submitted to the Department by 31st January of the following year in a format specified by the Department and a copy shall be retained by the controller for a period of 5 years from that date.

(4) The controller of a derogated holding shall retain the fertilisation plan and fertilisation account for each calendar year for that derogated holding for 5 years from the date upon which they were prepared or submitted to the Department, whichever is the later.

(5) Records under paragraphs (1) and (4) shall be made available by the controller for inspection by the Department on request.

Duty of the controller not to provide false or misleading information

26. The controller shall not compile records which are false or misleading or furnish any false or misleading information in any notice or other document for the purposes of these Regulations.

PART 7

Enforcement

Enforcement

27.—(1) The enforcement authority for the purpose of compliance with these Regulations shall be the Department or any person authorised by the Department.

(2) In ensuring compliance with these Regulations an authorised person may have regard to the Code of Good Agricultural Practice and any guidance produced on these Regulations.

(3) A person authorised under Article 72 of the Order may exercise any of the functions under that Article to determine or ensure compliance with these Regulations.

Notices

28.—(1) The Department may serve notice on any appropriate person—

- (a) who has custody or control of slurry, or any crop which is being made into silage, or of any silage, in circumstances in which these Regulations apply, requiring that person to carry out such works, take such precautions or take such other steps as are specified in the notice and which, in the opinion of the Department, are appropriate, having regard to any requirements of these Regulations in relation to that substance, for reducing to a minimum any significant risk of pollution of water in a waterway or underground strata arising from the custody or control of that substance; or
- (b) where the Department is of the opinion that the appropriate person is in breach or is likely to be in breach of these Regulations.

(2) A notice served in accordance with paragraph (1) shall—

- (a) require the person upon whom it is served to carry out such works or to take such precautions and other steps as the Department specifies in the notice as appropriate to reduce to a minimum any significant risk of pollution of water in a waterway or underground strata arising from the custody or control of slurry, or any crop which is being made into silage, or of any silage, or to prevent any breach, to remedy any breach or to prevent the continuation or repetition of any breach to which the notice relates;
- (b) subject to paragraph (3) state the period within which any such requirement is to be complied with; and
- (c) inform the person on whom the notice is served of their right to appeal under paragraph (4).

(3) The period for compliance stated in the notice pursuant to paragraph (2)(b) shall be such as is reasonable in the circumstances and shall not in any case be less than 28 days from the day on which the notice is served.

(4) A notice served pursuant to this regulation may be appealed in accordance with regulation 29.

(5) Where an appeal is brought under regulation 29, the notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(6) The Department may at any time—

- (a) withdraw the notice;
- (b) extend the period for compliance; or
- (c) with the consent of the person on whom the notice is served, modify any requirement of the notice.

Appeals against notices requiring works etc.

29.—(1) Any appropriate person upon whom a notice is served under regulation 28 may, within the period of 28 days from the day on which the notice is served, appeal in writing against the notice to the Appeals Commission.

(2) Appeals under regulations 9(6), 12(3)(d), 18(3)(d), and 28(4) shall be determined by the Appeals Commission in accordance with the procedure pursuant to Article 293 of the Water and Sewerage Services (Northern Ireland) Order 2006(13) and, for the purposes of appeals under these Regulations, references to the Department in Article 293 shall have the same meaning as under these Regulations.

Offences

30.—(1) It shall be an offence for the controller to fail to comply without reasonable excuse with regulation 4, 9(1), 12(1), 12(6) or 12(7).

(2) It shall be an offence for the appropriate person to fail to comply without reasonable excuse with regulation 7(3), 7(4), 7(5), 8(2), 8(3), 8(7), 8(8), 8(9), 17(3) or 18(5).

(3) It shall be an offence for the controller to fail to comply with regulation 9(5), 10, 11(1), 11(2), 12(4), 12(5), 13(1), 14(1), 14(3), 15, 19, 22, 24, 25(1), 25(2), 25(4), 25(5) or 26.

(4) From 1st January 2017, it shall be an offence for the controller to fail to comply with regulation 25(3).

(5) It shall be an offence for the appropriate person to fail to comply with regulation 7(1), 7(2), 8(1), 8(4), 8(5), 8(6), 8(10), 8(11), 14(4), 16(1), 16(6), 17(1), 17(2), 18(1), 18(2), 18(4), 18(6), 21(1), 21(2), 21(6) or 23.

(6) It shall be an offence for the appropriate person to fail to comply without reasonable excuse with any requirement of a notice issued under regulation 28.

Penalties

31. Any person guilty of an offence under regulation 30 shall be liable on summary conviction, to a fine not exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, not exceeding an amount equal to one-tenth of level 5 on the standard scale; or on conviction on indictment to imprisonment for a term not exceeding 2 years.

PART 8

Powers, duties and functions of the Departments

Reporting

32.—(1) The Departments shall prepare at four-yearly intervals a report in accordance with Article 10 of the Directive.

(2) The Departments shall submit a report to the European Commission within 6 months of the reporting cycle which ends on 31st December 2015 and every four years thereafter.

Reviewing

33.—(1) The Departments shall review at four-yearly intervals, in consultation with the public, this action programme and, if appropriate, publish a revised action programme for the protection of water against nitrates from agricultural sources.

(2) An action programme shall include such necessary measures as are required by Article 5 of the Directive and shall contain a review of the action programme most recently made and of such additional measures as may be required.

(3) The Departments shall—

(a) ensure that in accordance with Article 2 of Directive [2003/35/EC](#)(**14**) the public is given early and effective opportunity to participate in the preparation, review or revision of an action programme; and

(b) in doing so shall—

(i) ensure that the public is informed by public notices or other appropriate means, such as electronic media, about any proposals for the preparation, review or revision of an action programme;

(ii) ensure that the information about the proposals referred to in paragraph (3)(a), is made available to the public, including information about the right to participate in decision making in relation to those proposals;

(iii) ensure that the public is entitled to make comments before any decision is made on the establishment, review or revision of an action programme;

(iv) in making any such decision, take due account of the results of the public participation; and

(v) having examined the comments made by the public, make reasonable efforts to inform the public of the decisions taken and the reasons and considerations on which these decisions are based, including information on the public participation process.

(4) In carrying out their functions under paragraph (3), the Departments shall ensure that reasonable time is allowed such as is sufficient to enable the public to participate effectively.

(5) In carrying out their functions under paragraph (3), where the Departments publish any information, the Departments shall—

(a) do so in a way as they consider appropriate for the purpose of bringing the information to the attention of the public; and

(b) make copies of that information accessible to the public free of charge through their websites or otherwise.

(6) The Departments shall specify in a notice on their websites or otherwise the detailed arrangements made to enable public participation in the preparation, review or revision of an action programme, including—

(a) the address to which comments in relation to those proposals may be submitted; and

(b) the date by which such comments should be received.

PART 9

Miscellaneous

Transitional provisions

34.—(1) A notice served under regulation 23 (notices) of the Nitrates Action Programme Regulations (Northern Ireland) 2010(**15**) shall, notwithstanding the revocation of those Regulations, be deemed to be a notice served under regulation 28 (notices) with the coming into operation of these Regulations.

(2) Records required to be retained under regulation 20 (type of records required) of the Nitrates Action Programme Regulations (Northern Ireland) 2010 shall, notwithstanding the revocation of those Regulations, be deemed to be records required to be retained under regulation 25 (type of records required) with the coming into operation of these Regulations.

Consequential amendments

35.—(1) The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003(**16**) are amended as follows—

- (a) regulation 3 is revoked;
- (b) regulation 4 is revoked;
- (c) in regulation 6(a), the words “making silage, storing slurry or, as the case may be,” shall be omitted;
- (d) regulation 7 is revoked;
- (e) in regulation 11, the words “silo, slurry storage system or, as the case may be,” shall be omitted;
- (f) in regulation 12, for “3(1), 3(2), 4(1), 5(1), 7(3) or 11” substitute “5(1) or 11”;
- (g) Schedule 1 shall be omitted; and
- (h) Schedule 2 shall be omitted.

(2) Schedule 2 to the Waste Management Licensing Regulations (Northern Ireland) 2003(**17**) is amended as follows—

- (a) in paragraphs 9(3)(c), 10(1)(c), 11(3)(e), 47A(1)(d) and 47B(c) of Part I, for ‘2010’ substitute “2014”;
- (b) in paragraphs 47C(3)(c), 47D(2)(b), 47E(1)(b) and 47F(b) of Part I, for ‘2006’ substitute “2014”; and
- (c) in paragraph 2(b) of Part III, for ‘2010’ substitute “2014”.

(3) For paragraph 1 of Schedule 1 to The Common Agricultural Policy Direct Payments and Support Schemes (Cross Compliance) Regulations (Northern Ireland) 2014(**18**) substitute “A farmer shall comply with Regulations 8(4), 8(5) and 8(6) of the Nitrates Action Programme Regulations (Northern Ireland) 2014”.

Revocations

36.—(1) The following regulations are revoked—

(15) S.R. 2010 No. 411, as amended by S.R. 2011/388 and S.R. 2012/231

(16) S.R. 2003 No. 319, as amended by S.R. 2006/489 and S.R. 2010/411

(17) S.R. 2003 No. 493, as amended by S.R. 2006/489 and S.R. 2010/411

(18) S.R. 2014 No. 291

- (a) the Nitrates Action Programme Regulations (Northern Ireland) 2010;
- (b) the Nitrates Action Programme (Amendment) Regulations (Northern Ireland) 2011((**19**);
and
- (c) the Nitrates Action Programme (Amendment) Regulations (Northern Ireland) 2012((**20**).

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 11th
December 2014



John Speers
A senior officer of the Department of Agriculture
and Rural Development

Sealed with the Official Seal of the Department of the Environment on 11th December 2014



Dave Foster
A senior officer of the Department of the
Environment