
STATUTORY INSTRUMENTS

1996 No. 888

WATER, ENGLAND AND WALES

**The Protection of Water Against Agricultural Nitrate
Pollution (England and Wales) Regulations 1996**

<i>Made</i>	- - - -	<i>21st March 1996</i>
<i>Laid before Parliament</i>		<i>22nd March 1996</i>
<i>Coming into force</i>	- -	<i>17th April 1996</i>

The Secretary of State for the Environment and the Minister of Agriculture, Fisheries and Food, acting jointly as respects England, and the Secretary of State for Wales as respects Wales, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the prevention, reduction and elimination of pollution of water, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1. These Regulations may be cited as the Protection of Water Against Agricultural Nitrate Pollution (England and Wales) Regulations 1996, shall come into force on 17th April 1996 and shall extend to England and Wales.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

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

“the Agency” means the Environment Agency;

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

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

“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;

(1) S.I. 1989/2393.

(2) 1972 c. 68.

(3) OJ No. L 375, 31.12.91, p. 1.

“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 and 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;

“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;

“the relevant Minister”—

- (a) in relation to land or waters which are wholly in England or which are partly in England and partly in Wales, means the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly; and
 - (b) in relation to land or waters which are wholly in Wales, means the Secretary of State;
- and other expressions used in the Directive have the same meaning as in the Directive.

(2) Any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations,

Nitrate vulnerable zones

3.—(1) In these Regulations, “nitrate vulnerable zone” means any of the areas referred to in Schedule 1 and more particularly shown coloured pink on the maps contained in the volume of maps marked “Volume of Maps of Nitrate Vulnerable Zones S.I. 1996 No. 888” and deposited at the offices of the Secretary of State for the Environment and the Secretary of State for Wales, being all known areas of land in England and Wales which drain into and contribute to pollution of the waters which the relevant Minister has identified, in accordance with the criteria set out in Schedule 2, as waters affected by pollution and waters which could be affected by pollution if action pursuant to regulation 6 were not taken.

(2) The relevant Minister shall, by 19th December 1997 and at least every four 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 Agency—

- (a) subject to paragraph (2) below, shall have monitored by 19th December 1997 and at least every four years thereafter shall monitor the nitrate concentration in freshwaters over a period of one year—
 - (i) at surface water sampling stations laid down in Article 5(4) of Directive 75/440/EEC⁽⁴⁾ or at other sampling stations which are representative of surface waters in England and Wales, or at both, at least monthly and more frequently during flood periods; and
 - (ii) at sampling stations which are representative of the groundwater aquifers in England and Wales, at regular intervals and taking into account the provisions of Directive 80/778/EEC⁽⁵⁾; and
- (b) shall review the eutrophic state of fresh surface waters, estuarial and coastal waters by 19th December 1997 and every four 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/l and no new factor likely to increase the nitrate content has appeared, paragraph (1)(a) above shall have effect in relation to that sampling station as if the reference to 1997 and the reference to four years were references to 2001 and eight years respectively.

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

Code of good agricultural practice

5. Those parts of the Code of Good Agricultural Practice for the Protection of Water published in 1991 by the Ministry of Agriculture, Fisheries and Food which are aimed at providing all waters with a general level of protection against pollution 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 relevant Minister 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 referred to in regulation 3(1), as soon as practicable; and
 - (b) in the case of a nitrate vulnerable zone designated in accordance with regulation 3(2), not later than one year after the designation of that zone.
- (4) An action programme shall be implemented—
 - (a) in a case falling within paragraph (3)(a) above, by 19th December 1999;
 - (b) in any other case, within four years of its establishment.

(4) OJ No. L 194, 25.7.75, p. 26.

(5) OJ No. L 229, 30.8.80, p. 11.

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

(6) The relevant Minister shall, at least every four 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—

- (a) the provisions described in Schedule 4; and
- (b) provisions embodying the measures contained in the parts of 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 4.

(2) Action programmes shall also contain such additional requirements, restrictions and prohibitions as the relevant Minister considers necessary if, at the outset or in the light of experience gained in implementing the programmes, it becomes apparent to him that the provisions referred to in paragraph (1) above will not be sufficient for achieving the Objectives.

(3) In determining the provisions of an action programme, the relevant Minister 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) above, the relevant Minister shall take into account the effectiveness and cost of such provisions relative to other possible preventive provisions.

Information and assistance required in connection with the control of pollution

8. For the purposes of section 202 of the Water Resources Act 1991(6) (information and assistance required in connection with the control of pollution), the following obligations shall be treated as functions of the relevant Minister under the pollution provisions of that Act:

- (a) the obligation under Article 10 of the Directive to submit reports to the Commission;
- (b) the duties of the relevant Minister under these Regulations.

Signed by authority of the Secretary of State

Department of the Environment
21st March 1996

James Clappison
Parliamentary Under Secretary of State,

Signed by authority of the Minister of Agriculture, Fisheries and Food

20th March 1996

Tim Boswell
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

Signed by authority of the Secretary of State for Wales

Welsh Office
21st March 1996

Gwilym Jones
Parliamentary Under Secretary of State,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 3(1)

NITRATE VULNERABLE ZONES

Bridlington	Rivers Leam, Cherwell and Great Ouse
River Hull	Wighton
Millington Springs	Great Bircham
Springwells	Swaffham
Cottingham	Lyng Forge
Brayton	Wroxham
Carlton	River Waveney
Pollington	Moulton
Hatfield	Bury St. Edmunds
North Lincolnshire Wolds	Fulbourn
North Nottinghamshire	Linton
Lincoln	Fowlmere
River Witham	Slip End
Husbands Bosworth	Weston
Kelsall	Great Offley
Swynnerton	Kings Walden
Telford	Rivers Blackwater and Chelmer
Bednall	Old Chalford
Shifnal	Lewknor
Lichfield	Ogbourne St George
Oakeley Farm	Compton
Tom Hill	Twyford
Hinksford	Dorney
Kinver	Boxley
Wildmoor	Thurnham
Astley	Minster
Haseley	Egford
Bromsberrow	Castle Cary
Snowhill	Milbourne Wick
Stow-on-the Wold	Beaminster
Garway	Otter Valley
Cheltenham	Duckaller

The Slaughters

Dyserth

Fairford

Trelech

SCHEDULE 2

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 relevant Minister 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 3

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).

(7) OJ No. L 213, 22.8.77, p. 1.

(8) OJ No. L 265, 12.9.89, p. 30.

(9) OJ No. L 334, 24.12.77, p. 29.

(10) OJ No. L 335, 28.11.86, p. 44.

SCHEDULE 4

Regulation 7(1)

PROVISIONS TO BE INCLUDED IN ACTION PROGRAMMES

1. The provisions of an action programme shall include rules relating to—
 - (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 authority designated for the purpose in the regulations establishing the programme 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 provisions 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 four year action programme an amount of manure containing up to 210 kg N may be allowed;
 - (b) during and after the first four 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 nitrate vulnerable zone,
 - soils with exceptionally high denitrification capacity.
3. The amounts referred to in paragraph 2 above may be calculated on the basis of animal numbers.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in England and Wales 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 in England and Wales, and implement the requirement to designate Nitrate Vulnerable Zones where the measures required by the Directive are not to be applied across the whole national territory. The Nitrate Vulnerable Zones designated by these Regulations are 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 (England and Wales) Regulations 1994 (S.I. [1994/2841](#)).

Copies of the maps showing the Nitrate Vulnerable Zones, referred to in regulation 3, may be inspected during normal office hours at the Department of the Environment, 2 Marsham Street, London SW1P 3EB; at the Agriculture Department, Welsh Office, Cathays Park, Cardiff CF1 3NQ; and at MAFF Regional Service Centres.

Copies of the Code of Good Agricultural Practice referred to in regulation 5 may be obtained free of charge from MAFF Publications, London SE99 7TP (telephone: 0181 694 8862), quoting code PB 0587.