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STATUTORY RULES OF NORTHERN IRELAND

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**2019 No. 81**

**The Nutrient Action Programme  
Regulations (Northern Ireland) 2019**

**PART 1**

Preliminary

**Citation and commencement**

1.—(1) These Regulations may be cited as the Nutrient Action Programme Regulations (Northern Ireland) 2019 and come into operation on 11th April 2019.

**Purpose and application of the Regulations**

2.—(1) These Regulations shall apply to the whole territory of Northern Ireland as required under the Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2004 <sup>M1</sup>.

(2) The purpose of these Regulations is to give effect to Northern Ireland's Nutrient Action Programme for the protection of waters against pollution caused by agricultural sources. The measures in these Regulations provide a basic level of protection against possible adverse impact to waters arising from potential agricultural expansion.

**Marginal Citations**

**M1** S.R. 2004 No. 419

**Interpretation**

3.—(1) The Interpretation Act (Northern Ireland) 1954 <sup>M2</sup> applies to these Regulations as it applies to Act of the Assembly.

(2) In these Regulations—

“action programme” means measures regarding the protection of water against pollution caused by nutrients from agricultural sources as set out in these Regulations;

“adequate effluent collection facilities” means effluent collection facilities that meet the requirements of regulation 17(4);

“agricultural area” means any land suitable for agricultural activities, including any common land used for grazing and excludes area under farm roads, paths, buildings, woods, dense scrub, rivers, streams, ponds, lakes, sandpits, quarries, areas of peat cutting, bare rock, area of forestry and areas of 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 <sup>M3</sup>;

“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 nutrient in land;

“anaerobic digestate fibre” means the solid material separated out of anaerobic digestate;

“Appeals Commission” means the Water Appeals Commission for Northern Ireland as constituted in accordance with Article 292 of the Water and Sewage Services (Northern Ireland) Order 2006 <sup>M4</sup>;

“appropriate person” means—

- (a) the controller;
- (b) any person, whether or not permitted by the controller to carry out any activity described in these Regulations;
- (c) the owner of any storage facilities for storage of livestock manure, silage and silage effluent; and
- (d) any person using such storage facilities for storage of livestock manure, silage 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 3 of Schedule 3;

“chemical fertiliser” means any fertiliser in which the declared plant nutrients are in the form of minerals obtained by extraction or by physical 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 (as may be amended from time to time);

“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 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, 11 and 12;

“Department” means the Department of Agriculture, Environment and Rural Affairs;

[<sup>F1</sup>“derogated holding” means a grassland holding for which a derogation has been granted;

“derogation” means a derogation from the limit of livestock manure that can be applied to land each year, granted by the Department in accordance with regulation 39;

“derogation application” means an application for derogation submitted by the controller to the Department in such manner as it may require;]

“direct agricultural aid payments” means the Basic Payment Scheme as referred to in Title III of Regulation (EU) No 1307/2013<sup>M5</sup> or payments to areas facing natural or other specific constraints as referred to in Article 31 of Regulation EU No 1305/2013<sup>M6</sup>;

“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 2;

“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 plan” means a plan prepared in accordance with regulation 16;

“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 “AHDB Nutrient Management Guide (RB209) January 2019” (as may from time to time be reissued) and any supplementary guidance;
- (b) with regards to phosphorus recommendations for grassland, Tables 1 and 2 of Schedule 3; and
- (c) any other publication by Department for Environment, Food and Rural Affairs or the Department substituting any of the standards referred to in paragraphs (a) and (b);

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

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

“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;

“livestock unit of cattle” has the meaning given in Schedule 1;

[<sup>F1</sup>“low emission slurry spreading equipment” means equipment which is used to spread slurry by bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods;]

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

“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 <sup>M7</sup>;

“organic manure” means—

- (a) livestock manure; and
- (b) fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter, and includes anaerobic digestate, 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;

“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;

“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 Department—

- (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 by the Department, designed to demonstrate that the proposed deviation from the values set out in Tables 1a to 1c or 2 of Schedule 2 will have no worse effect on the environment than that caused by using those values;

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

“silage effluent” means—

- (a) effluent produced from any forage crop which is being made, or has been made, into silage; or
- (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 contractor” means a person who, in the course of a business, spreads slurry on an agricultural area and who is not claiming direct agricultural payments on that agricultural area;

“slurry storage system” means—

- (a) a slurry storage tank;
- (b) any reception pit and any effluent tank used in connection with the slurry 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 5 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, ammonia and organic nitrogen;

“underground strata” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999 <sup>M8</sup>;

“Waste Regulations” means the Waste Management Licensing Regulations (Northern Ireland) 2003 <sup>M9</sup>;

“water pollution” means the discharge, directly or indirectly, of nitrogen or phosphorus 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 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.

#### Textual Amendments

- F1** Words in reg. 3(2) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, 4

#### Marginal Citations

- M2** 1954 c.33 (N.I.)
- M3** 1949 c.2 (N.I.)
- M4** S.I. 2006/3336 (N.I. 21)

- M5** OJL 347, 20.12.13, p. 865-883
- M6** OJL 347, 20.12.13, p. 487-547
- M7** [S.I. 1997/2778 \(N.I. 19\)](#)
- M8** [S.I.1999/662 \(N.I. 6\)](#)
- M9** [S.R. 2003 No. 493](#)

## **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 for the purposes of these Regulations and the Code of Good Agricultural Practice as may be amended from time to time.

#### **Exemption granted by the Department**

- 6.—(1) The Department may exempt from the requirements of these Regulations—
- (a) research activities of the Department, and institutes or agencies authorised by the Department, for the purpose of—
    - (i) protecting or improving water quality;
    - (ii) increasing nutrient efficiency in agricultural systems; and
  - (b) activities carried out by the Department, 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
    - (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**

#### **Prohibited application of fertiliser**

7.—(1) The land application of chemical nitrogen fertiliser 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.

### **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 (13).

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

- (a) soil is waterlogged;
- (b) land is flooded or is likely to flood;
- (c) the soil is frozen;
- (d) land is snow covered;
- (e) heavy rain is falling or is forecast within 48 hours;
- (f) the land is steeply sloping land and where, taking into account the risk assessment set out in [F2Part 1 of Schedule 4] , there is significant risk of causing water pollution.

[F3(g) taking into account the risk assessment set out in Part 2 of 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 paragraphs (6) and (9), 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 or aggregate; except that
- (f) the distance mentioned in sub-paragraph (e) may be reduced to 3 metres of any waterway where the land has an average incline of less than 10% towards the waterway and where—
  - (i) organic manure is spread close to the ground using a bandspreader, dribble bar, trailing hose, 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;
  - (ii) 15 metres of any waterways, 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 or aggregate; and
- (b) for chemical fertilisers—
  - (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 or 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) Subject to paragraph (9), 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) During the month of February and the period of 30th September to 15th October—

- (a) paragraph (5)(a) shall apply as if for 20 metres there were substituted 30 metres;
- (b) paragraph (5)(e) shall apply as if for 10 metres there were substituted 15 metres;
- (c) paragraph (8) shall apply as if for 50 cubic metres there were substituted 30 cubic metres.
- [<sup>F4</sup>(d) paragraph (5)(f) shall apply as if for 3 metres there were substituted 5 metres.]

(10) 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.

(11) The land application of slurry shall only be permitted by spreading close to the ground using inverted splash plate spreading, bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods, except—

- (a) when applied by a slurry contractor, it shall be permitted only by spreading close to the ground using bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods, from 1st February 2021;
- (b) on holdings with an average in any calendar year of 200 or more livestock units of bovine animals or holdings with a total annual livestock manure nitrogen production of 20,000kg or more from pigs, where it shall be permitted only by spreading close to the ground using bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods, from 1st February 2022;

<sup>F5</sup>(c) .....

[<sup>F6</sup>(d) where it is not practical to comply with sub-paragraph (a) or (b) or paragraph (13), on a field due to the slope, the appropriate person may then spread on that field, close to the ground using inverted splash plate spreading and must keep a record of such spreading, in such format as the Department may specify.]

(12) The land application of dirty water shall be permitted only by spreading close to the ground using inverted splash plate spreading, bandspreading, dribble bar, trailing hose, trailing shoe, soil injection, soil incorporation or irrigation methods.

(13) From 1st February 2020, the land application of anaerobic digestate shall be permitted only by spreading close to the ground using bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods.



#### Textual Amendments

- F2** Words in reg. 8(2)(f) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **5(a)**
- F3** Reg. 8(2)(g) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **5(b)**
- F4** Reg. 8(9)(d) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **5(c)**
- F5** Reg. 8(11)(c) omitted (15.10.2019) by virtue of [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **5(d)(i)**
- F6** Reg. 8(11)(d) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **5(d)(ii)**

### General measures governing the limits on land application of nitrogen fertiliser

9.—(1) [<sup>F7</sup>Except where regulation 39 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 2.

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

(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 2.

(5) Any controller wishing to deviate from the values set out in Tables 1 or 2 of Schedule 2 must present a scientific case in order to obtain prior approval from the Department, and the Department shall grant such approval only 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 31.

#### Textual Amendments

- F7** Words in reg. 9(1) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **6**

### 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 2, 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 2 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 crops set out in Table 5 of Schedule 2 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 requirements for nitrogen when calculated in accordance with regulation 9 and shall in no case exceed the limits set out in Table 5 of Schedule 2, adjusted in accordance with the notes to the table.

### Measures governing the application of anaerobic digestate

**12.**—(1) The controller shall not apply or permit the application of anaerobic digestate to the land unless he has in his possession the nutrient content analysis, containing the percentages of those substances listed in paragraph (5).

(2) Where the controller applies anaerobic digestate to the land that application shall not exceed the recommendations contained in the fertiliser technical standards for crop requirements 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 livestock manure and other fertilisers.

(3) For the purposes of paragraph (2)—

- (a) the soil phosphorus index shall be ascertained in accordance with Schedule 5;
- (b) the phosphorus fertiliser recommendations for grassland shall be those set out in Tables 1 and 2 of Schedule 3, adjusted in accordance with the note to Table 1; and
- (c) the available phosphorus content of livestock manures and other fertilisers is as set out in Table 3 of Schedule 3.

(4) Where anaerobic digestate is applied, the controller must prepare and retain a fertilisation plan.

[<sup>F8</sup>(4A) Paragraphs (2) and (3) shall not apply in relation to the controller where anaerobic digestate is produced—

- (a) on the holding on which it is to be applied; and
- (b) from livestock manure or non-waste feedstocks generated on the holding.]

(5) The substances mentioned in paragraph (1) are—

- (a) dry matter;
- (b) total N (nitrogen);
- (c) total P<sub>2</sub>O<sub>5</sub> (phosphate);
- (d) total K<sub>2</sub>O (potash) and;
- (e) ammonia N or NH<sub>4</sub><sup>+</sup>.

(6) This regulation applies from 1st January 2020.

#### Textual Amendments

**F8** Reg. 12(4A) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, 7

### Measures governing the limits on the land application of chemical phosphorus fertiliser

13.—(1) The controller of a holding shall ensure that the total amount of available phosphorus in chemical phosphorus fertiliser applied each year to grassland and to land other than grassland shall 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 organic manures.

(2) For the purposes of paragraph (1)—

- (a) the soil phosphorus index shall be ascertained in accordance with Schedule 5;
- (b) the phosphorus fertiliser recommendations for grassland shall be those set out in Tables 1 and 2 of Schedule 3, adjusted in accordance with the note to Table 1; and
- (c) the available phosphorus content of livestock manures and other fertilisers is as set out in Table 3 of Schedule 3.

(3) From 1st January 2020, where chemical P fertiliser is applied to grassland, the controller shall prepare and retain a fertilisation plan.

[<sup>F9</sup>(4) The application limits set out in Table 2 of Schedule 3 shall have effect from 1st January 2020.]

#### Textual Amendments

- F9** Reg. 13(4) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, 8

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

14.—(1) 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 2 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) For the purposes of paragraph (1)—

- (a) the soil phosphorus index shall be ascertained in accordance with Schedule 5;
- (b) the phosphorus fertiliser recommendations for grassland shall be those set out in Tables 1 and 2 of Schedule 3, adjusted in accordance with the note to Table 1; and
- (c) the available phosphorus content of livestock manures and other fertilisers is as set out in Table 3 of Schedule 3.

(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 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.

(4) From 1st January 2020, where paragraph (1) applies, the controller shall prepare and retain a fertilisation plan.

### Measures governing the location of supplementary feeding sites and livestock drinking points

15.—(1) From 1st January 2020, where there is significant risk of pollution to any waterway, supplementary feeding sites shall not be located within 20 metres of any waterway.

(2) From 1st January 2022, where there is a significant risk of pollution to any waterway, supplementary livestock drinking points shall not be located within 10 metres of any waterway.

### Fertilisation plans

16.—(1) Where the controller is required to prepare and retain a fertilisation plan, describing crop rotation and the planned application of nitrogen and phosphorus fertilisers to their agricultural area, it shall be made available on the holding every year.

(2) Subject to paragraph (3), a fertilisation plans shall include—

- (a) the number of livestock on the holding;
- (b) the amount of nitrogen and phosphorus from livestock manure produced on the holding calculated in accordance with Table 1 of Schedule 2;
- (c) the crop rotation and area of each crop, including a sketch map indicating the location of the area of each crop;
- (d) the holding's foreseeable crop requirement for nitrogen and phosphorus in accordance with fertiliser technical standards;
- (e) the quantity of each type of organic manure moved on or off the holding;
- (f) the results of soil analysis relating to nitrogen and phosphorus soil status if available;
- (g) the amount of nitrogen from nitrogen fertilisers applied in each area of the holding under the same cropping regime and soil type calculated in accordance with Tables 1 to 5 of Schedule 2;
- (h) the amount of nitrogen from other organic manures, excluding livestock manures, applied in each area of the holding under the same cropping regime and soil type, calculated in accordance with regulation 9 and Schedule 2; <sup>F10</sup> ...
- (i) the amount of phosphorus from chemical phosphorus fertilisers and organic manure applied in each area of the holding under the same cropping regime and with the same soil phosphorus index calculated in accordance with Tables 1 and 2 of <sup>F11</sup>Schedule 2; and]
- <sup>F12</sup>(j) in the case of a derogated holding, a description of the housing and manure storage system, including the volume of manure storage available.]

(3) Paragraph (2) is satisfied if a controller prepares and retains a fertilisation plan in accordance with the Department's crop nutrient calculator <sup>M10</sup> or such other format as the Department may specify.

(4) Where changes in agricultural practices necessitate changes in the fertilisation plan of a holding the controller shall revise the plan within seven days of such changes taking effect.

#### Textual Amendments

- F10** Word in reg. 16(2)(h) omitted (15.10.2019) by virtue of [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\), regs. 1, 9\(a\)](#)
- F11** Words in reg. 16(2)(i) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\), regs. 1, 9\(b\)](#)
- F12** Reg. 16(2)(j) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\), regs. 1, 9\(c\)](#)

#### **Marginal Citations**

**M10** available from the Department's website: [www.daera-ni.gov.uk](http://www.daera-ni.gov.uk)

## **PART 4**

### **Storage requirements**

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

**17.**—(1) Subject to paragraphs (2) and (3) and regulations 18 to 24, 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 period of wet weather, frozen ground or otherwise, the application to land of organic manure is not permitted.

(3) Subject to regulation 18, 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 19 and 24.

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

**18.**—(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,

(4) 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 for the other livestock enterprise.

#### **Manner of storage of slurry**

**19.**—(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 6 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 30(1) is not complied with within the period stated in the notice;
  - (b) it is substantially enlarged; or
  - (c) it is substantially reconstructed, unless, it appears to 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 30(5) 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 30(5).
- (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**

- 20.**—(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 or 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 applications of the farmyard manure shall take place [<sup>F13</sup>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.

#### **Textual Amendments**

- F13** Word in reg. 20(3) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **10**

### **Manner of storage of poultry litter or anaerobic digestate fibre and location of storage facilities**

21.—(1) Prior to land application, poultry litter or anaerobic digestate fibre shall only be stored on a holding—

- (a) in a midden which shall have adequate effluent collection facilities;
- (b) where anaerobic digestate fibre is stored in open midden, it must be covered within 24 hours of storage; or
- (c) subject to paragraphs (2) to (6), in the field where land application will take place.

<sup>F14</sup>(2) If poultry litter or anaerobic digestate fibre is to be stored in a field heap, the controller must inform the Department in such manner as it may require.]

<sup>F15</sup>(3) .....

(4) Where stored in a field, poultry litter [<sup>F16</sup>or anaerobic digestate fibre] 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 or 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 katstified limestone features (such as swallow holes and collapse features).

(5) Where stored in a field, land application of the poultry litter or anaerobic digestate fibre shall take place within 120 days from storage in that field, and the poultry litter or anaerobic digestate fibre 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 or anaerobic digestate fibre shall be covered with an impermeable membrane within 24 hours of storage.

(7) This regulation applies to the location and storage of anaerobic digestate fibre from 1st January 2020.

#### **Textual Amendments**

- F14** Reg. 21(2) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **11(a)**
- F15** Reg. 21(3) omitted (15.10.2019) by virtue of [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **11(b)**
- F16** Words in reg. 21(4) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **11(c)**

### **Manner of storage of dirty water**

22. 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

23.—(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 20;
- (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 controller has with a manure processing facility or demonstrable access to an approved treatment or recovery outlet; and
- (e) the quantity of poultry litter or anaerobic digestate fibre stored in a midden or field prior to land application in accordance with regulation 21.

(2) Subject to paragraph (4), the livestock manure storage capacity of a holding may be less than the capacity specified in regulation 17 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) 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 2; 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 with 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 nitrogen, as the case may be, per hectare of the grassland when calculated in accordance with the nitrogen excretion rate of livestock specified in Table 1a of Schedule 2.

(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**

**24.**—(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 7 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
- (d) 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 30(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, it appears to 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 30(5) 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 30(5).

(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.

## **Cover in winter**

**25.** After harvesting a crop other than grass the controller shall ensure that from the date of harvesting 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;

- (b) the land is sown with a crop which will take up nitrogen from the soil; or
- (c) where soil or weather conditions prevent a subsequent crop from being sown, appropriate measures are put in place to limit soil erosion.

## PART 5

### Measures relating to land management

#### Crop management

**26.** Where grass leys are grown in rotation with arable crops the first crop shall be sown as soon as possible after the grass has been ploughed.

## PART 6

### Record keeping and compliance monitoring

#### Records required

**27.**—(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 for any calendar year—

- (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 or anaerobic digestate fibre in a field heap, farmyard manure production, outwintered livestock, manure separation and manure processing facilities utilised;
- (g) the details of any rental agreement or contract to demonstrate compliance with regulation 23(1)(c) or (d);
- (h) where regulation 8(11)(d) applies, particulars of <sup>F17</sup>the reason why that regulation applies to any particular field];
- (i) 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 2;
- (j) where regulation 12 applies—
  - (i) the quantity of anaerobic digestate applied;
  - (ii) the date of application of any anaerobic digestate; and
  - (iii) the nutrient content analysis for the anaerobic digestate;
- (k) where <sup>F18</sup>regulation 12(2), 13(1) or 14(1)] applies—

- (i) the results of any soil tests carried out in accordance with Schedule 5;
  - (ii) a statement of the foreseeable crop requirement for phosphorus;
  - (iii) the quantity of each type of phosphorus fertiliser applied;
  - (iv) the certified phosphorus content of any chemical fertiliser and the available phosphorus content of all organic manures applied in accordance with Table 3 of Schedule 3;
  - (v) the date of application of any phosphorus fertiliser; and
  - (vi) the type and date of any crop sown;
- (l) evidence of the right to graze common land;
  - (m) 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; <sup>F19</sup> ...
  - (n) the quantity of each time 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 <sup>F20</sup> manure; and]
- <sup>F21</sup>(o) where regulation 21(2) applies, particulars of any communications given to the Department.]
- (2) Records under paragraph <sup>F22</sup>(1)(a) to (m) and (o)] 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.
- <sup>F23</sup>(3) Records under paragraph (1)(n) shall be prepared for each calendar year and shall be submitted to the Department by 1st March of the following year for derogated holdings and by 31st January of the following year for all other holdings, in a format specified by the Department and a copy shall be retained by the controller for a period of 5 years from the date of preparation or submission whichever is later.]
- <sup>F24</sup>(3A) Where the controller is required to <sup>F24</sup>prepare a fertilisation plan in relation to a derogated holding for a calendar year they shall prepare that plan no later than 1st March in that calendar year.]
- (4) Where the controller is required to complete a fertilisation plan, they shall retain the fertilisation plan for each calendar year for that holding for 5 years from the date upon which it was prepared or submitted to the Department, whichever is the later.
- (5) Records under paragraphs (1) to (4) shall be made available by the controller for inspection by the Department on request.

#### Textual Amendments

- F17** Words in reg. 27(1)(h) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(a)**
- F18** Words in reg. 27(1)(k) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(b)**
- F19** Word in reg. 27(1)(m) omitted (15.10.2019) by virtue of [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(c)**
- F20** Words in reg. 27(1)(n) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(d)**
- F21** Reg. 27(1)(o) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(e)**
- F22** Words in reg. 27(2) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(f)**

- F23** Reg. 27(3) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(g)**
- F24** Reg. 27(3A) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **12(h)**

### **Duty of the controller not to provide false or misleading information**

**28.** 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**

**29.**—(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) An authorised person may exercise any of their functions to determine or ensure compliance with these Regulations.

#### **Notices**

**30.**—(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 reception 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 in accordance with the procedure set out in regulation 31.

(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) Where an appeal is brought under regulation 31, the notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(5) 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.

**31.**—(1) Any appropriate person upon whom a notice is served under regulation 30 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), [F2530(2)(c) and 40(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<sup>M11</sup> 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.

#### Textual Amendments

**F25** Reg. 31(2) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, 13

#### Marginal Citations

**M11** [S.I. 2006/3336 \(N.I. 21\)](#)

### Offences

**32.**—[F26(1) It shall be an offence for the controller to fail to comply without reasonable excuse with regulation 4, 9(1), 17(1) or (3), 18, 25, 27(3), 40(3) or Schedule 8 except paragraph 4.]

(2) It shall be an offence for the appropriate person to fail to comply without reasonable excuse with regulation 7(3) or (4), 8(2), (3), (7), (8), (10), (11)(c) or (d), 20(3) or 21(5).

[F27(3) It shall be an offence for the controller to fail to comply with regulation 9(5), 10, 11(1) or (2), 13(1), 14(1), 22, 27(1), (2), (3A) or (4), 28, 40(5) or paragraph 4 of Schedule 8.]

[F28(3A) It shall be an offence—

- (a) for the controller in relation to a derogated holding to fail to comply with regulation 16(1) or (4);
- (b) for the controller in relation to any other holding to fail to comply without reasonable excuse with regulation 16(1) or (4).]

(4) It shall be an offence for the appropriate person to fail to comply with regulation 7(1) or (2); 8(1), (4), (5), (6), (9), (11) or (12), 17(4), 19(1) or (6), 20(1) or (2), 21(1), (2), (4) or (6), 24(1), (2) or (6) or 26.

(5) From 1st January 2020, it shall be an offence for the controller to fail to comply with regulation 12(1), (2) or (4), 13(3), 14(4) or 15(1).

(6) From 1st February 2020, it shall be an offence for the appropriate person to fail to comply without reasonable excuse with regulation 8(13).

(7) From 1st February 2021, it shall be an offence for the appropriate person to fail to comply without reasonable excuse with regulation 8(11)(a).

(8) From 1st January 2022, it shall be an offence for the controller to fail to comply with regulation 15(2).

(9) From 1st February 2022, it shall be an offence for the appropriate person to fail to comply without reasonable excuse with regulation 8(11)(b).

(10) It shall be an offence for the appropriate period to fail to comply without reasonable excuse with any requirement of a notice issued under regulation 30.

#### Textual Amendments

- F26** Reg. 32(1) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **14(a)**
- F27** Reg. 32(3) substituted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **14(b)**
- F28** Reg. 32(3A) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, **14(c)**

#### Penalties

- 33.** Any person guilty of an offence under regulation 32 shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum together with a fine of an amount equal to one-tenth of that level for each day upon which the offence continues after the conviction; or
  - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

## PART 8

### Powers, duties and functions of the Department

#### Implementation Report

**34.—**(1) The Department must prepare a report on the implementation of these Regulations at four-yearly intervals.

- (2) A report in paragraph (1) must contain—
  - (a) details of any steps taken to promote good agricultural practice;
  - (b) a summary of the monitoring results on the effectiveness of the action programme;
  - (c) a summary of the most recent review conducted under regulation 35.
- (3) A report under paragraph (1) must be published—
  - (a) in such manner as the Department considers appropriate;
  - (b) by the last day of the six month period beginning with the day on which the four-yearly interval ends.

## Reviewing the action programme

**35.**—(1) The Department 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 waters against nutrients from agricultural sources.

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

(3) The Department shall—

(a) ensure that 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 sub-paragraph (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 Department 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 Department publish any information, the Department 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 its websites or otherwise.

(6) The Department shall specify in a notice on its 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.

[<sup>F29</sup>(7) As part of the review conducted under this regulation, the Department must review the overall position of derogations granted under regulation 39(3) against the effectiveness in meeting objectives of reducing water pollution from nutrients and preventing further pollution.]

### Textual Amendments

**F29** Reg. 35(7) inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, 15

## PART 9

### Miscellaneous

#### Transitional provisions

**36.**—(1) A notice served under—

- (a) regulation 28 (notices) of the Nitrates Action Programme Regulations (Northern Ireland) 2014 <sup>M12</sup>; or
- (b) regulation 9 (notice) of the Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014 <sup>M13</sup>

shall, notwithstanding the revocation of those Regulations, be deemed to be a notice served under regulation 30 (notices) of these Regulations.

(2) Records required to retain under—

- (a) regulation 25 (type of records required) of the Nitrates Action Programme Regulations (Northern Ireland) 2014; or
- (b) regulation 7 (duty of the controller to provide information) of the Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014;

shall, notwithstanding the revocation of those Regulations, be deemed to be records required to be retained under regulation 27 (records required) of these Regulations.

#### Marginal Citations

**M12** S.R. [2014 No. 307](#) to which there are amendments not relevant to these regulations.

**M13** S.R. [2014 No.308](#)

#### Consequential amendments

**37.**—(1) Schedule 2 to the Waste Management Licensing Regulations (Northern Ireland) 2003 <sup>M14</sup> is amended as follows—

- (a) in paragraphs 9(3)(c), 10(10)(c), 11(3)(e), 47A(10)(d) and 47B(c) of Part I, for ‘Nitrates Action Programme Regulations (Northern Ireland) 2014’ substitute ‘‘ Nutrient Action Programme Regulations (Northern Ireland) 2019 ’’;
- (b) in paragraphs 47C(3)(c), 47D(2)(b), 47E(1)(b), and 47F(b) of Part I for ‘Nitrates Action Programme Regulations (Northern Ireland) 2014’ substitute ‘‘ Nutrient Action Programme Regulations (Northern Ireland) 2019 ’’; and
- (c) in paragraph 2(b) of Part III, for ‘Nitrates Action Programme Regulations (Northern Ireland) 2014’ substitute ‘‘ Nutrient Action Programme Regulations (Northern Ireland) 2019 ’’.

(2) For paragraph 1 of Schedule 1 to the Common Agricultural Policy Direct Payments and Support Schemes (Cross Compliance) Regulations (Northern Ireland) 2014 <sup>M15</sup> substitute ‘‘A farmer shall comply with regulations 8(4), (5), (6) and (9) of the Nutrient Action Programme Regulations (Northern Ireland) 2019’’.

#### Marginal Citations

**M14** S.R. [2003 No.493](#), relevant amending Regulations are S.R. [2006 No. 208](#), S.R. [2006 No. 489](#), S.R. [2008 No. 18](#), S.R. [2010 No. 411](#) and S.R. [2014 No. 307](#)



**M15** S.R. 2014 No. 291; relevant amending Regulations are S.R. 2014 No. 307

### Revocation and saving provisions

**38.**—(1) Subject to paragraph (2), the following regulations are revoked—

- (a) the Nitrates Action Programme Regulations (Northern Ireland) 2014;
- (b) the Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014 <sup>M16</sup>;
- (c) the Nitrates Action Programme (Amendment) Regulations (Northern Ireland) 2015 <sup>M17</sup>; and
- (d) regulations 10 and 11 of the Pesticides, Genetically Modified Organisms and Fertilisers (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 <sup>M18</sup>.

(2) Table 1a of Schedule 1 to the Nitrates Action Programme Regulations (Northern Ireland) 2014 shall continue to have effect until 31st December 2019.

#### Marginal Citations

**M16** S.R. 2014 No. 308

**M17** S.R. 2015 No. 369

**M18** S.R. 2018 No. 188

## [<sup>F30</sup>PART 10

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

#### Textual Amendments

**F30** Pt. 10 inserted (15.10.2019) by [The Nutrient Action Programme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/183\)](#), regs. 1, 16

**39.**—(1) A controller may submit to the Department an application for an annual authorisation by such date as may be specified by the Department in a calendar year to apply grazing livestock manure containing up to 250kg nitrogen per hectare in that year.

(2) In the application referred to in paragraph (1), the controller shall undertake in writing to submit to all the controls provided for in regulation 40 and to fulfil the conditions set out in Schedule 8.

(3) An authorisation to apply an amount of livestock manure containing up to 250kg nitrogen per hectare per year shall be granted by the Department, subject to the conditions set out in Schedule 8.

**40.**—(1) The Department shall carry out administrative controls in respect of all applications for authorisation for the assessment of compliance with the conditions set out in Schedule 8.

(2) The Department shall refuse a derogation application as follows—

- (a) where it is demonstrated that those conditions are not fulfilled, the Department shall refuse the application within a period of 28 days from the date specified by the Department in accordance with regulation 39(1) and the applicant shall be informed of the reasons for refusal, but;

(b) where the Department has not notified the applicant of a refusal within the period mentioned in sub-paragraph (a), the derogation shall be deemed to have been granted.

(3) Where it is established that in any year, a grassland holding covered by an authorisation did not fulfil the conditions set out in Schedule 8, the controller commits an offence and shall not be eligible for an authorisation the following year.

(4) The controller may appeal the decision by the Department in relation to a refusal under paragraph (2) or in relation to an authorisation under paragraph (3) in accordance with the procedure set out in regulation 31.

(5) Where the derogation has been granted or deemed to have been granted, the controller shall prepare and retain a fertilisation plan.]

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 8th April 2019.

L.S.  
Department of Agriculture, Environment and  
Rural Affairs

*Dave Foster*  
A senior officer of the

**Changes to legislation:**

There are currently no known outstanding effects for the The Nutrient Action Programme Regulations (Northern Ireland) 2019.