

2013 No. 1001

AGRICULTURE, ENGLAND

WATER, ENGLAND

The Nitrate Pollution Prevention (Amendment) and Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (Amendment) Regulations 2013

Made - - - - *25th April 2013*

Laid before Parliament *26th April 2013*

Coming into force in accordance with regulation 1(2)

The Secretary of State is designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment. In respect of the amendments to the Nitrate Pollution Prevention Regulations 2008(c), the Secretary of State makes the following Regulations under the powers conferred by that section.

In respect of the amendment to the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010(d), the Secretary of State makes the following Regulations under the powers conferred by sections 92(1) and 219(2)(e) and (f) of the Water Resources Act 1991(e).

Citation and commencement

1.—(1) These Regulations—

- (a) may be cited as the Nitrate Pollution Prevention (Amendment) and Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (Amendment) Regulations 2013;
- (b) apply in relation to England only.

(a) SI 2008/301.

(b) 1972 c. 68. Section 2(2) was amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7) and by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51).

(c) SI 2008/2349, amended by SI 2009/3160, 2010/1159 and 2012/1849.

(d) SI 2010/639, as amended by SI 2010/1091.

(e) 1991 c. 57. The functions of the Secretary of State and of the Minister of Agriculture, Fisheries and Food under section 92, so far as exercisable in relation to Wales outside of the catchments of the rivers Dee, Wye and Severn, were transferred to the National Assembly for Wales under article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672), and subsequently to Welsh Ministers under section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32.). In relation to those parts of the catchments of the rivers Dee, Wye and Severn in Wales, it was directed in the 1999 Order that the functions of the Secretary of State and of the Minister of Agriculture, Fisheries and Food be exercisable by the National Assembly for Wales concurrently with the Secretary of State. Remaining functions of the Minister of Agriculture, Fisheries and Food were transferred to the Secretary of State under article 2 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (SI 2002/794).

(2) These Regulations come into force on 17th May 2013, save as follows—

(a) the following come into force on 1st January 2014—

- (i) regulation 9(b) and (c)(ii);
- (ii) regulation 11, except in so far as necessary to give effect to amendments introduced by regulations 4, 6 and 10;
- (iii) regulation 12, except in so far as the amendment it introduces refers to regulations 4(5)(b), 13(5) and 16A(4) of the Nitrate Pollution Prevention Regulations 2008;
- (iv) regulation 24, except in so far as necessary to give effect to amendments introduced by regulations 4, 6 and 10;

(b) regulation 20 comes into force on 16th May 2014.

(3) In paragraph (2), references to amendments are references to amendments by these Regulations to the Nitrate Pollution Prevention Regulations 2008.

Amendment of the Nitrate Pollution Prevention Regulations 2008

2. The Nitrate Pollution Prevention Regulations 2008 are amended in accordance with regulations 3 to 25 of these Regulations.

Amendments in respect of the designation of nitrate vulnerable zones

3. In regulation 7 (designation of nitrate vulnerable zones)—

(a) for paragraph (1), substitute—

“(1) Subject to paragraph (3), the areas marked as nitrate vulnerable zones on the maps marked “Nitrate Vulnerable Zones (England 2013)” and stored at the offices of the Secretary of State for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR in unalterable electronic form on digital disk, the disk having been signed on behalf of the Secretary of State and dated 23rd April 2013, are designated as nitrate vulnerable zones for the purposes of these Regulations.”;

(b) after paragraph (2), insert—

“(3) An area of land which is the subject of an appeal upheld by the First-tier Tribunal under regulation 11C(a) or (b) after 12th February 2013 and before 25th April 2013 is not an area designated as a nitrate vulnerable zone.”.

Amendments in respect of the action programme measures

4. For regulation 4 (transitional measures for holdings not previously in a nitrate vulnerable zone), substitute—

“Exemptions for greenhouse crops, low intensity grassland farmers, and transitional provisions for holdings newly in a nitrate vulnerable zone

4.—(1) Part 1 of Schedule A1 has effect in relation to any holding on which nitrogen fertiliser is used on crops growing in one or more greenhouses.

(2) Regulations 13 (spreading organic manure – nitrogen limits per hectare) and 42 (records of spreading nitrogen fertiliser) do not apply to an occupier of a holding in any calendar year in which the requirements of paragraphs (3) and (4) are met.

(3) The requirements are that throughout the calendar year concerned—

- (a) eighty per cent or more of the holding’s agricultural area is sown with grass;
- (b) the total amount of nitrogen in organic manure applied to the holding, whether directly by an animal or by spreading, does not exceed 100 kg multiplied by the area of the holding in hectares;

- (c) the total amount of nitrogen from manufactured nitrogen fertiliser applied to the holding does not exceed 90 kg multiplied by the area of the holding in hectares; and
 - (d) the occupier does not bring organic manure onto the holding.
- (4) The requirement is that the occupier must make a record demonstrating compliance with paragraph (3).
- (5) For the purposes of paragraph (3)—
- (a) the calculation of the area of a holding excludes land on which the occupier does not spread fertiliser or work the soil; and
 - (b) the total amount of nitrogen in organic manure must be calculated by reference to the methods described in regulation 17 for establishing nitrogen content.
- (6) Part 2 of Schedule A1 has effect in relation to a new holding.
- (7) For the purposes of paragraph (6) of this regulation and Part 2 of Schedule A1, a “new holding” is a holding which was not a holding pursuant to regulation 7(1) of the Nitrate Pollution Prevention Regulations 2008 as in force immediately before 17th May 2013.”

5. In regulation 6 (interpretation)—

- (a) after the definition of “agriculture”, insert—
 - ““anaerobic digestion” has the meaning given in paragraph 1 of section 1.1, Chapter 1, Part 2 of Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2010(a)”;
- (b) omit the definition of “deemed derogation”;
- (c) in the definition of “derogation”, omit “granted by the Commission Decision 2009/43/EEC and deemed or”;
- (d) after the definition of “grazing livestock”, insert—
 - ““green compost” means any nitrogen fertiliser derived exclusively from plant sources in the form of composted landscaping or garden waste;
 - “greenhouse” means any structure such as a glasshouse or polytunnel in which crops are grown under cover in an enclosed space, but excludes any such structure in which livestock are kept;
 - “green/food compost” means any nitrogen fertiliser which is derived from plant or animal sources in the form of composted catering waste in any combination with green compost, and which excludes organic manure from livestock;”.

6. For regulation 13 (spreading organic manure – nitrogen limits per hectare), substitute—

- “**13.**—(1) Subject to paragraph (2), the occupier of a holding must ensure that in any twelve-month period, the total amount of nitrogen in organic manure spread on any given hectare of land on the holding does not exceed 250 kg.
- (2) The occupier of a holding may exceed the limit imposed in paragraph (1) if that occupier spreads organic manure in the form of certified green compost or certified green/food compost and meets the requirements of paragraphs (3) and (4).
- (3) The occupier relying on paragraph (2) must ensure that the total amount of nitrogen in the form of green compost or green/food compost which is spread on any given hectare of land on the holding does not exceed—
- (a) 500 kg in any two-year period, whether the compost is spread as mulch or incorporated into the soil; or
 - (b) 1,000 kg in any four-year period if it is spread as mulch, where that land is orchard land.

(a) SI 2010/675, as amended by SI 2012/630.

(4) The occupier must not spread any other form of organic manure over the land referred to in paragraph (3) during the period which applies under subparagraph (a) or, as the case may be, (b) of that paragraph.

(5) For the purposes of paragraphs (1) and (3), the total amount of nitrogen in organic manure must be calculated by reference to the methods described in regulation 17 for establishing nitrogen content.

(6) In this regulation—

- (a) “orchard land” means land on which fruit of the genus *Malus*, *Pyrus* or *Prunus* is grown;
- (b) “certified” means, in relation to green compost and green/food compost, certified by a statement issued in respect of that compost by the manufacturer or supplier confirming that the compost has been produced in accordance with the standards set out in the publication *PAS 100:2011* dated January 2011(a).”.

7. In regulation 13A (application for a derogation), for paragraph (2), substitute—

“(2) A derogation application must be accompanied by a written declaration that the applicant will comply with the derogation conditions and must be submitted—

- (a) no later than 31st May 2013 for a 2013 derogation;
- (b) in relation to an application for any year after 2013, between 1st October and 31st December in the calendar year preceding that in respect of which the application is made.

(2A) In paragraph (2), “the derogation conditions” are the requirements set out in Schedule 4.”.

8. Regulation 13B (deemed derogation) is omitted.

9. In regulation 16 (total nitrogen spread on a holding)—

- (a) for “Irrespective of the figure in the plan,” substitute “Subject to regulation 16A, and irrespective of the figure in the fertilisation plan, ”;
- (b) in paragraph (b), for “livestock manure” substitute “organic manure”;
- (c) in the table—
 - (i) in the last row, for “330” substitute “300”;
 - (ii) after the last row, insert the following new rows—

“Asparagus	180	n/a
Carrots	180	n/a
Radishes	180	n/a
Swedes	180	n/a
Celery	280	n/a
Courgettes	280	n/a
Dwarf beans	280	n/a
Lettuce	280	n/a
Onions	280	n/a
Parsnips	280	n/a
Runner beans	280	n/a
Sweetcorn	280	n/a
Turnips	280	n/a
Beetroot	370	n/a
Brussels sprouts	370	n/a

(a) published by the British Standards Institution, 389 Chiswick High Road, London W5 5AL (www.bsigroup.com), ISBN 978-0-580-65307-0.

Cabbage	370	n/a
Calabrese	370	n/a
Cauliflower	370	n/a
Leeks	370	n/a”;

(d) in the notes to the table, at note (f) omit the final sentence.

10. After regulation 16, insert—

“Grass grown for dehydration or for chlorophyll production

16A.—(1) This regulation applies without prejudice to regulations 12 and 13, in respect of nitrogen which is spread in any twelve-month period, as manufactured nitrogen fertiliser and as nitrogen available for crop uptake from organic manure, on grass grown to achieve a minimum protein content of 16% once harvested and dried.

(2) Subject to paragraph (3), acting on the written advice of a person who is a member of the Fertiliser Advisers Certification and Training Scheme^(a) (a “FACTS adviser”), the occupier of a holding may spread or permit the spreading of nitrogen in an amount advised by the FACTS adviser which exceeds the amount otherwise allowed in respect of grass under regulation 16.

(3) The total amount of nitrogen which an occupier may spread on any given hectare may not exceed—

- (a) 700 kg if the grass is irrigated; or
- (b) 500 kg if the grass is not irrigated.

(4) For the purposes of calculating the amounts referred to in paragraphs (2) and (3), the total amount of nitrogen from organic manure must be calculated by reference to the methods described in regulation 17 for establishing available nitrogen.

(5) After the first year during which this regulation is relied on, the occupier who so relies must provide the FACTS adviser with soil analyses from representative autumn soil samples so that that adviser may take the analyses into account when advising for the purposes of paragraph (2) in relation to any subsequent years.

(6) In this regulation, “representative autumn soil samples” are soil samples taken during the period 1st September to 31st October which provide a representative indication of mineral nitrogen levels in the soil on which grass described in paragraph (1) is grown, taking into account the number of fields, soil type and terrain.”.

11. For regulation 17, substitute—

“Calculating the amount of nitrogen available for crop uptake from organic manure

17.—(1) This regulation provides for values which must be established for the purposes of regulation 4(5)(b), 13(5), 16 and 16A(4).

(2) In this regulation—

- “the Fertiliser Manual” means the Fertiliser Manual RB209, 8th edition^(b);
- “nitrogen content” means the total amount of nitrogen in organic manure;
- “available nitrogen” means the amount of nitrogen in that organic manure that is available for crop uptake in the growing season in which it is spread.

(3) In relation to livestock manure—

^(a) The scheme is administered by Basis Registration Ltd, and a list of qualified persons is available from them on request at <http://www.basis-reg.com/contact.aspx>

^(b) The Fertiliser Manual RB209, 8th edition, is published by TSO, June 2010, ISBN 978-0-11-243286-9.

- (a) nitrogen content must be established either using the standard table in Schedule 2 or by sampling and analysis in accordance with that Schedule;
- (b) the available nitrogen is a percentage of the value established under subparagraph (a), the relevant percentage for the particular livestock manure concerned being set out in the following table.

Available nitrogen calculated as a percentage of nitrogen content

<i>Type of livestock manure</i>	<i>Amount of nitrogen available for crop uptake in the growing season in which it is spread</i>	
	<i>before 1st January 2014</i>	<i>On and after 1st January 2014</i>
Cattle slurry	35%	40%
Pig slurry	45%	50%
Poultry manure	30%	30%
Other livestock manure	10%	10%

(4) In relation to organic manure other than livestock manure, nitrogen content and available nitrogen must be established—

- (a) in the case of organic manure which is supplied by a manufacturer or other supplier by reference—
 - (i) to the technical analyses carried out by the manufacturer or supplier for that organic manure and provided to the occupier or otherwise published by the manufacturer or other supplier; or
 - (ii) to the extent that such information is unavailable, to the values given for nitrogen content and available nitrogen in respect of that organic manure in the Fertiliser Manual (referred to in the Fertiliser Manual as “total nitrogen” and “nitrogen available to the next crop” respectively);
- (b) in the case of any other organic manure, by reference to the values given for nitrogen content and available nitrogen in respect of it in the Fertiliser Manual (referred to in the Fertiliser Manual as described in subparagraph (a)(ii));
- (c) in any case, by sampling and analysis in accordance with Part 2 of Schedule 2.”.

12. After regulation 17, insert—

“Organic manure for which no value is established

17A. If a value is not established in respect of any organic manure for the purposes of regulations 4(5)(b), 13(5), 16(b) and 16A(4), the occupier may not spread the organic manure in question pursuant to those provisions on the crops referred to in regulations 16 and 16A.”.

13.—(1) Regulation 21 (spreading organic manure near surface water, boreholes, springs or wells) is amended in accordance with this regulation.

(2) For paragraph (1), substitute—

“(1) Subject to paragraphs (2) and (3) of this regulation, no person may spread organic manure less than 10 metres from surface water.”.

(3) In paragraph (2), for “But livestock” substitute “Livestock”.

(4) For paragraph (3), substitute—

“(3) A person may spread organic manure in the form of slurry, sewage sludge or anaerobic digestate, or some or all of these manures in combination, 6 metres or more from surface water provided that spreading equipment meeting the requirements in regulation 22(2A) is used.

(4) No person may spread organic manure less than 50 metres from a borehole, spring or well.

(5) In this regulation—

- (a) “anaerobic digestate” means the product of anaerobic digestion other than from the anaerobic digestion of sewage or material in a landfill; and
- (b) “sewage sludge” means sludge within the meaning of the Sludge (Use in Agriculture) Regulations 1989(a) whose use complies with regulation 3 of those Regulations.”.

14. In regulation 22 (controlling how nitrogen fertiliser is spread)—

(a) before paragraph (1), insert—

“(A1) Paragraphs (1) and (2) apply where slurry is spread 10 metres or more from surface water.”;

(b) in paragraph (2), for “2 millimetres”, substitute “0.2 millimetres”.

(c) after paragraph (2), insert—

“(2A) For the purposes of regulation 21(3), the spreading equipment used must be—

- (a) a trailing hose band spreader or a trailing shoe band spreader;
- (b) an injector which injects the organic manure no deeper than 10cm below the surface of the soil; or
- (c) a dribble bar applicator.”.

15. In regulation 23 (incorporating organic manure into the ground), in paragraph (3), for “applied in separated bands”, substitute—

“applied using equipment of a type described in regulation 22(2A)(a) or (c) or an injector which injects the organic manure into the ground.”.

16. In the table in regulation 25 (closed periods for spreading organic manure), where it appears, for “15th January”, substitute “31st January”.

17. At the end of regulation 27 (exemptions for organic holdings) and of paragraph (2) of regulation 29 (times in which spreading manufactured nitrogen fertiliser is prohibited), insert “, and, in the case of winter oilseed rape, brassica or grass, the requirements for those crops set out in the footnotes to the table in Schedule 3 are met”.

18. In regulation 28 (restrictions following the closed period), for “50 cubic metres”, substitute “30 cubic metres”.

19. In regulation 31 (storage of organic manure), in paragraph (b), after “a covered building”, insert “(which for these purposes includes a greenhouse)”.

20. In regulation 32 (temporary field sites)—

(a) before paragraph (1), insert—

“(A1) A heap of solid manure described in regulation 31(d) forming a temporary field site must occupy as small a surface area as is practically required to support the mass of the heap and prevent it from collapse.”;

(b) in paragraph (1)(d) for “years” substitute—

“years;

- (e) on land having a slope of 12 degrees or more which is within 30 metres of surface water”.

(a) SI 1989/1263; relevant amending instruments are SI 1990/880 and 1996/593.

21. In regulation 47A(4), for “the day on which these Regulations come into force” substitute “7th August 2012”.

Greenhouse exemptions and transitional provisions for holdings newly in a nitrate vulnerable zone

22. Before Schedule 1, insert the following schedule—

“SCHEDULE A1

PART 1

regulation 4(1)

Exemptions for greenhouse crops

1. For the purposes of calculations required under the following regulations, “the holding” excludes any area of land which is covered by a greenhouse during the entire period in respect of which the calculations are made—

- (a) regulation 12(1) (application of livestock manure – total nitrogen limit for the whole holding);
- (b) regulation 13 (spreading organic manure – nitrogen limits per hectare);
- (c) regulation 13A(1) (application for a derogation).

2. The following regulations do not apply to the extent that nitrogen fertiliser is spread or to be spread on crops growing in a greenhouse, and any calculations required under those regulations in respect of crops are to exclude such crops—

- (a) regulation 14(1), (2) and (4) to (6) (planning the spreading of nitrogen fertiliser);
- (b) regulation 15 (additional information to be recorded during the year);
- (c) regulation 16 (total nitrogen spread on a holding);
- (d) regulation 16A(1) (grass grown for dehydration or for chlorophyll production);
- (e) regulation 17 (calculating the amount of nitrogen available for crop uptake);
- (f) regulation 17A (organic manure for which no value is established);
- (g) regulation 41 (records of crops sown).

3. The following regulations do not apply in respect of a holding on which organic manure is spread exclusively in a greenhouse—

- (a) regulation 18(2) to (4) (risk maps);
- (b) regulation 39 (livestock manure brought onto or sent off the holding).

4. The following regulations do not apply in relation to land which is covered by a greenhouse—

- (a) regulation 19 (when to spread fertiliser);
- (b) regulation 20 (spreading manufactured nitrogen fertiliser near surface water);
- (c) regulation 21 (spreading organic manure near surface water, boreholes, springs or wells).

5. The following regulations do not apply in relation to nitrogen fertiliser spread in a greenhouse—

- (a) regulation 22 (controlling how nitrogen fertiliser is spread);
- (b) regulation 23 (incorporating organic manure into the ground);
- (c) regulation 25 (closed periods for spreading organic manure with high readily available nitrogen);

- (d) regulation 27 (exemptions for organic holdings);
- (e) regulation 28 (restrictions following the closed period);
- (f) regulation 29 (times in which spreading manufactured nitrogen fertiliser is prohibited);
- (g) regulation 42 (records of spreading nitrogen fertiliser);
- (h) regulation 43 (subsequent records).

6. The requirement to update records under regulation 35(2) (recording the size of the holding) does not apply in respect of any of land which is covered by a greenhouse.

PART 2

regulation 4(6)

Transitional provisions for holdings newly in a nitrate vulnerable zone

7. The following regulations do not apply in relation to a new holding until 1st January 2014—

- (a) regulation 12 (application of livestock manure – total nitrogen limit for the whole holding);
- (b) regulation 13 (spreading organic manure – nitrogen limits per hectare);
- (c) regulation 16 (total nitrogen spread on a holding);
- (d) regulation 16A (grass grown for dehydration or for chlorophyll production);
- (e) regulation 17 (calculating the amount of nitrogen available for crop uptake);
- (f) regulation 17A (organic manure for which no value is established);
- (g) regulation 23 (incorporating organic manure into the ground);
- (h) regulation 31 (storage of organic manure);
- (i) regulation 32 (temporary field sites);
- (j) regulation 35 (recording the size of the holding);
- (k) regulation 37 (annual records relating to storage);
- (l) regulation 38 (record of nitrogen produced by animals on the holding);
- (m) regulation 39 (livestock manure brought on to or sent off the holding);
- (n) regulation 40 (sampling and analysis);
- (o) regulation 43 (subsequent records).

8. The following regulations do not apply in relation to a new holding until 1st July 2013, except in relation to permanent grassland on new holdings, in which case they do not apply until 1st January 2014—

- (a) regulation 14 (planning the spreading of nitrogen fertiliser);
- (b) regulation 15 (additional information to be recorded during the year);
- (c) regulation 41 (records of crops sown);
- (d) regulation 42 (records of spreading nitrogen fertiliser).

9. In regulation 22 (controlling how nitrogen fertiliser is spread), paragraphs (A1), (1) and (2) do not apply in relation to a new holding until 1st January 2016.

10. The following regulations do not apply in relation to a new holding until 31st July 2015—

- (a) regulation 25 (closed periods for spreading organic manure);
- (b) regulations 26 and 27 (exemptions subject to certain requirements);
- (c) regulation 28 (restrictions following the closed period).

11. Regulations 33 (separation of slurry) and 34 (storage capacity) do not apply in relation to a new holding until the date on which the latest closed period applying in relation to that holding begins pursuant to paragraph 10(a) (regardless of whether an exemption in regulation 26 or 27 is relied on).

12. Regulations 35 (recording the size of the holding) and 36 (records relating to storage of manure during the storage period) apply as if the date referred to in paragraph (1) in each of those regulations (30th April 2009) were 1st January 2014.”.

Other amendments to Schedules

23. In Schedule 1, in Table 2, in the heading to the second column (“Daily manure produced by each animal”), for “(litres)” substitute “(litres or, in the case of poultry, kilograms)”.

24.—(1) Schedule 2 (calculating nitrogen in manure) is amended in accordance with this regulation.

(2) In Part 2 (sampling and analysis), for paragraph 1 (slurry), substitute—

“Slurry and other liquid and semi-liquid organic manure

1.—(1) In relation to slurry and other liquid and semi-liquid organic manure, at least five samples, each of two litres, must be taken.

(2) Subject to paragraph (3), the five samples must be taken from a vessel, and—

(a) if reasonably practicable, the slurry or other manure must be thoroughly mixed before the samples are taken, and

(b) each sample must be taken from a different location.

(3) If a tanker used for spreading is fitted with a suitable valve, the five samples may be taken while spreading and each sample must be taken at intervals during the spreading.

(4) Whether taken as described in subparagraph (2) or (3), the five samples must be poured into a larger container, stirred thoroughly and a two-litre sample taken from that container and poured into a smaller, clean container.

(5) The two-litre sample produced in accordance with paragraph (4) must then be sent for analysis.”.

Amendments to grassland derogation conditions

25.—(1) Schedule 4 (derogated holdings) is amended in accordance with this regulation.

(2) In paragraph 1, omit “but not to holdings with the benefit of a deemed derogation”.

(3) After paragraph 3, insert—

“Other requirements for fertilisation plans

3A. In addition to the requirements under paragraph 3, the fertilisation plan must—

(a) include a sketch plan indicating the location of the fields to which the plan relates;

(b) clearly state in relation to any field referred to in the plan the nature of the fertilizer to be used.”.

(4) In paragraph 5(3)—

(a) for “2010” substitute “2013”;

(b) for paragraph (a), substitute—

“(a) 75% of the agricultural area no later than twelve months after the date on which a derogation is first granted to the occupier;”;

(c) for paragraph (b), substitute—

“(b) 100% of the agricultural area no later than twelve months after the date on which a derogation is granted for the second time to the occupier.”.

(5) In paragraphs 7(c), 12(1), 13, 14 and 15(2), wherever the words appear, for “by 1st March for that calendar year”, substitute “by 30th June for the calendar year 2013, and by 1st March for any subsequent calendar year”.

(6) In paragraph (19)(3)(e), for “amount and type”, substitute “amount, type and characteristics”.

Amendment of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010

26. In the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010(a), for regulation 9 (notice of construction etc), substitute—

“9.—(1) This regulation applies to any silo, slurry or fuel oil storage system whose construction is to be begun on or after 15th June 2013 (“a new or improved store”).

(2) A person who proposes to have custody or control of silage, slurry or fuel oil that is to be kept in a new or improved store must give the Agency notice specifying the type of silo or storage system and its location, at least 14 days before work constructing the new or improved store is to be begun.

(3) In this regulation, “construction” includes substantial enlargement and reconstruction.”.

Richard Benyon

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

25th April 2013

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain provisions of the Nitrate Pollution Prevention Regulations 2008 (S.I. 2008/2349) (“the 2008 Regulations”) which relate to the measures required in the nitrate vulnerable zones in England. They also give statutory effect to the revised designations of nitrate vulnerable zones in England made by the Secretary of State on 10th April 2013. The 2008 Regulations implement in England Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ No L375, 31.12.1991, p.1) (“the Nitrates Directive”). These Regulations also make a minor amendment to the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 (“the 2010 Regulations”). The 2010 Regulations make provisions in respect of the storage of slurry on farms throughout England and in that respect form part of the implementation in England of the Nitrates Directive.

The Regulations apply in England and for the greater part come into force on 17th May 2013. Certain amendments, principally those bringing non-livestock organic manure within the requirements of regulation 16 (total nitrogen spread on a holding) of the 2008 Regulations and extending the crops to which limits apply under regulation 16, come into force on 1st January 2014. New regulation 17 introduced to the 2008 Regulations is partially brought into force on 17th May 2013 for limited purposes of giving effect to new exemptions introduced to the 2008 Regulations (for greenhouses, green composts and grass). A related new prohibition in regulation 17A inserted into the 2008 Regulations by these Regulations also comes into force partially on

(a) SI 2010/639, as amended by SI 2010/1091.

17th May 2013 but is otherwise commenced on 1st January 2014. Amendments concerning temporary field sites come into force on 16th May 2014 (regulation 1).

Regulation 3 amends regulation 7 of the 2008 Regulations to recognise the latest revisions to the areas of land designated by the Secretary of State as nitrate vulnerable zones (“NVZs”). The maps referred to in that amendment are also available on the Environment Agency’s website, at: <http://www.environment-agency.gov.uk/nvzmaps>.

Regulation 4 introduces new exemptions from certain aspects of the rules for greenhouse crops and low intensity grassland farming. It also makes transitional provision for those holdings which are newly in the NVZs as from 17th May 2013, with most provisions not applying to them until 1st January 2014. Provisions in the 2008 Regulations requiring fertiliser plans and records of crops sown and fertiliser which has been spread apply in respect of arable holdings from 1st July 2013. Regulation 22 inserts Schedule A1 which sets out the detail of the exemptions for greenhouse crops and the transitional provisions for new holdings.

Regulation 6 introduces a new exception to the 250 kg limit on the total amount of nitrogen in organic manure which may be spread on any given hectare. This provides for the application of certified green compost or certified green/food compost (green compost mixed with catering waste) as mulch on orchard land or as mulch or fertiliser on any land at specified volumes over specified periods. Where the exemption is relied on, no other organic manure may be spread during the period specified. Green compost to which this exemption applies is defined so as to exclude compost of non-plant origin. Similarly, green/food compost is defined so as to exclude livestock manure. Certification of these composts as defined refers to the statement of the manufacturer or supplier that the compost has been produced in compliance with a specific British Standard (PAS 100:2011) dated January 2011.

Regulations 7, 8 and 25 make provision in respect of derogations which may be granted to grassland farmers under the 2008 Regulations. The closing date for applications for the 2013 derogation is 31st May 2013. In subsequent years, the time for applying will continue to be 1st October to 31st December of the year before the derogation is required. The date for compliance with various record-keeping requirements in Schedule 4 of the 2008 Regulations for derogations granted in 2013 is 30th June 2013, and continues to be 1st March in subsequent years.

Regulations 9, 11, 12 and 24 make amendments concerning the introduction of non-livestock organic manure into the requirements relating to the total nitrogen spread on a holding where certain crops are grown (listed in the table in regulation 16 of the 2008 Regulations). Regulation 9 also extends the list of crops subject to these controls. Amendments are made to regulation 17 of the 2008 Regulations to provide for the calculation of nitrogen content and nitrogen available for uptake by crops in the case of organic manure other than livestock manure. Regulation 12 inserts a new regulation 17A into the 2008 Regulations, prohibiting the application of organic manure for which a value is not established in accordance with regulation 17.

Regulation 10 inserts a new regulation 16A into the 2008 Regulations to make provision for the application of nitrogen to grass grown for dehydration or for the production of chlorophyll, that is, grass which must achieve a protein content of 16% when dry, so that farmers may apply greater amounts per hectare than would otherwise be permitted where they do so on the advice of a FACTS adviser as to the appropriate amount of nitrogen which may be spread. This is subject to a maximum amount in any twelve-month period of 700 kg on any given hectare for irrigated grass and 500 kg in any given hectare for grass which is not irrigated. In relation to organic manure, this is calculated by reference to nitrogen available for crop uptake. The provisions do not alter the obligations in regulations 12 and 13 of the 2008 Regulations, which set limits on the amount of nitrogen which may be spread via livestock and organic manure respectively.

Regulations 13 and 14 make amendments to provisions allowing specified types of organic manure to be spread nearer to water where precision spreading equipment is used. Regulation 15 makes an amendment consequential to those provisions.

Regulation 16 extends the closed periods set out in regulation 25 of the 2008 Regulations ending 15th January so that these periods will end on 31st January. Regulation 17 clarifies the terms of

the exemption for organic holdings in regulation 27 of the 2008 Regulations and of the exception to manufactured closed periods in regulation 29 of those Regulations. Regulation 18 amends the restriction on the amount of slurry which may be spread following the end of the closed periods, reducing the amount from 50 cubic metres to 30 cubic metres.

Regulation 20 amends regulation 32 rules for temporary field sites.

Regulation 26 amends regulation 9 of the 2010 Regulations so that persons proposing to build or improve their storage facility for slurry, silage or fuel oil will be required to notify the Environment Agency 14 days before construction work is begun, replacing the previous requirement for notification prior to the storage facility's actual use. The notice requirement applies to works which are to begin on or after 15th June 2013.

An impact assessment has been carried out in respect of these Regulations and has been placed in the libraries of both Houses of Parliament. Copies can also be obtained from the Nitrates Policy Team, Nobel House, 17 Smith Square, London SW1P 3JR and from the Defra website, www.defra.gov.uk.

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