

Statutory Instrument 1996 No. 888

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

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STATUTORY INSTRUMENTS

1996 No. 888

WATER, ENGLAND AND WALES

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

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

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

Citation, commencement and extent

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

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—
"action programme" means an action programme established in accordance with regulation 6;
"the Agency" means the Environment Agency;
"chemical fertiliser" means any fertiliser which is manufactured by an industrial process;
"the Directive" means Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources^[3];
"eutrophication" means the enrichment of water by nitrogen compounds, causing an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance to the balance of organisms present in the water and to the quality of the water concerned;
"fertiliser" means any substance containing a nitrogen compound or nitrogen compounds utilised on land to enhance growth of vegetation, and may include livestock manure, the residues from fish farms and sewage sludge;
"freshwater" means naturally occurring water having a low concentration of salts, which is often acceptable as suitable for abstraction and treatment to produce drinking water;
"groundwater" means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;
"land application" means the addition of materials to land whether by spreading on the surface of the land, injection into the land, placing below the surface of the land or mixing with the surface layers of the land;
"livestock" means all animals kept for use or profit;
"livestock manure" means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;
"nitrate vulnerable zone" has the meaning given by regulation 3;
"nitrogen compound" means any nitrogen-containing substance except for gaseous molecular nitrogen;
"the Objectives" means the objectives specified in Article 1 of the Directive, that is to say—
 (a) reducing water pollution caused or induced by nitrates from agricultural sources; and
 (b) preventing further such pollution;
"pollution" means the discharge, directly or indirectly, of nitrogen compounds from agricultural sources into the aquatic environment, the results of which are such as to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water;
"the relevant Minister"—
 (a) in relation to land or waters which are wholly in England or which are partly in England and partly in Wales, means the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly; and
 (b) in relation to land or waters which are wholly in Wales, means the Secretary of State;
and other expressions used in the Directive have the same meaning as in the Directive.

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

Nitrate vulnerable zones

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

(2) The relevant Minister shall, by 19th December 1997 and at least every four years thereafter, review and if necessary revise or add to the designation of nitrate vulnerable zones to take into account changes and factors unforeseen at the time of the previous designation.

Monitoring

4.—(1) For the purpose of the designation and revision of designations of nitrate vulnerable zones, the Agency—

- (a) subject to paragraph (2) below, shall have monitored by 19th December 1997 and at least every four years thereafter shall monitor the nitrate concentration in freshwaters over a period of one year—
 - (i) at surface water sampling stations laid down in Article 5(4) of Directive 75/440/ EEC^[4] or at other sampling stations which are representative of surface waters in England and Wales, or at both, at least monthly and more frequently during flood periods; and
 - (ii) at sampling stations which are representative of the groundwater aquifers in England and Wales, at regular intervals and taking into account the provisions of Directive 80/778/ EEC^[5]; and
- (b) shall review the eutrophic state of fresh surface waters, estuarial and coastal waters by 19th December 1997 and every four years thereafter.

(2) Where the nitrate concentration in all previous samples taken in pursuance of the Directive at any sampling station has been below 25 mg/l and no new factor likely to increase the nitrate content has appeared, paragraph (1)(a) above shall have effect in relation to that sampling station as if the reference to 1997 and the reference to four years were references to 2001 and eight years respectively.

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

Code of good agricultural practice

5. Those parts of the Code of Good Agricultural Practice for the Protection of Water published in 1991 by the Ministry of Agriculture, Fisheries and Food which are aimed at providing all waters with a general level of protection against pollution shall have effect as the code of good agricultural practice established for the purposes of Article 4 of the Directive.

Action programmes

6.—(1) The relevant Minister shall, for the purpose of achieving the Objectives, by regulations under section 2(2) of the European Communities Act 1972, make provision establishing action programmes in respect of nitrate vulnerable zones.

(2) An action programme may relate to more than one nitrate vulnerable zone, and different action programmes may be established in respect of different nitrate vulnerable zones or parts of zones.

(3) An action programme in respect of a nitrate vulnerable zone shall be established—

(a) in the case of a nitrate vulnerable zone referred to in regulation 3(1), as soon as practicable; and

(b) in the case of a nitrate vulnerable zone designated in accordance with regulation 3(2), not later than one year after the designation of that zone.

(4) An action programme shall be implemented—

(a) in a case falling within paragraph (3)(a) above, by 19th December 1999;

(b) in any other case, within four years of its establishment.

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

(6) The relevant Minister shall, at least every four years, review and if necessary revise the action programmes, including any additional measures taken pursuant to regulation 7(2).

Contents of action programmes

7.—(1) An action programme shall include—

(a) the provisions described in Schedule 4; and

(b) provisions embodying the measures contained in the parts of the code of good agricultural practice referred to in regulation 5, other than such provisions as have been superseded by the provisions described in Schedule 4.

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

(3) In determining the provisions of an action programme, the relevant Minister shall take into account—

(a) available scientific and technical data, mainly with reference to respective nitrogen contributions originating from agricultural and other sources;

(b) environmental conditions in the relevant regions.

(4) In selecting the additional provisions referred to in paragraph (2) above, the relevant Minister shall take into account the effectiveness and cost of such provisions relative to other possible preventive provisions.

Information and assistance required in connection with the control of pollution

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

(a) the obligation under Article 10 of the Directive to submit reports to the Commission;

(b) the duties of the relevant Minister under these Regulations.

Signed by authority of the Secretary of State

James Clappison

Parliamentary Under Secretary of State,
Department of the Environment

21st March 1996

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

Tim Boswell

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

20th March 1996

Signed by authority of the Secretary of State for Wales

Gwilym Jones

Parliamentary Under Secretary of State,
Welsh Office

21st March 1996

Notes:

[1] S.I. [1989/2393](#). [back](#)

[2] 1972 c. 68. [back](#)

[3] OJ No. L 375, 31.12.91, p. 1. [back](#)

[4] OJ No. L 194, 25.7.75, p. 26. [back](#)

[5] OJ No. L 229, 30.8.80, p. 11. [back](#)

[6] [1991 c. 57](#). [back](#)