STATUTORY INSTRUMENTS

2018 No. 151

AGRICULTURE, ENGLAND
WATER, ENGLAND

The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018

Made - - - -	*5th February 2018*
Laid before Parliament	*7th February 2018*
Coming into force - -	*2nd April 2018*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ("the 1972 Act")(**1**).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to the environment(**2**).

Citation, commencement, extent and application

1. These Regulations—

(a) may be cited as the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018,

(b) come into force on 2nd April 2018,

(c) extend to England and Wales, and

(d) apply to agricultural land in England.

Interpretation

2.—(1) In these Regulations—

"the Agency" means the Environment Agency;

"agricultural diffuse pollution" means the transportation of agricultural pollutants into inland freshwaters or coastal waters, or into a spring, well or borehole, where—

(a) the transportation occurs by means of soil erosion or leaching, and

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

(**2**) S.I. 2008/301.

(b) the agricultural pollutants may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems;

"agricultural land" means land used for agriculture for the purposes of a trade or business;

"coastal waters" has the meaning given in section 104 of the Water Resources Act 1991(**3**);

"inland freshwaters" has the meaning given in section 104 of the Water Resources Act 1991;

"land manager" means any person who has custody or control of agricultural land;

"livestock" means cattle, sheep, goats, deer, horses, poultry or pigs;

"livestock manure" means excreta from livestock or a mixture of litter and excreta from livestock, including in processed form;

"manufactured fertiliser" means fertiliser made by an industrial process;

"organic manure" means fertiliser derived from one or more animal, plant or human source, including—

(a) anaerobic digestates and liquors,

(b) ash from meat, poultry litter or biomass,

(c) bone meal,

(d) livestock manure,

(e) paper crumble,

(f) silage effluent,

(g) sludge, and

(h) slurry;

"poaching" means the trampling or treading of agricultural land by livestock resulting in a layer of compacted soil with overlying mud;

"precision spreading equipment" includes—

(a) a trailing hose spreader or a trailing shoe spreader,

(b) a shallow injector which injects organic manure no deeper than 10 centimetres below the surface, and

(c) a dribble bar applicator;

"slurry" means liquid or semi-liquid matter with a consistency enabling it to be pumped or to be discharged by gravity, which is composed of—

(a) excreta produced by livestock while in a yard or building (including that held in wood chip corrals), or

(b) a mixture of livestock excreta, livestock bedding, rainwater and washings from a yard or building used by livestock.

(2) References in these Regulations to "application" in relation to organic manure or manufactured fertiliser—

(a) include—

(i) spreading on the surface of the land,

(ii) injection into the land, and

(iii) mixing with the surface layers of the soil, and

(**3**) 1991 c. 57. Section 104(1) was modified by S.I. 1996/3001, 1997/1331 and 1997/1332. The functions of the Secretary of State under section 104 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by S.I. 1999/672, article 2; see the entry in Schedule 1 for the Water Resources Act.

(b) do not include the direct deposit of excreta onto land by livestock.

(3) In this regulation—

"agricultural pollutants" means—

(a) soil,

(b) sediment, or

(c) any substance found in soil, sediment, organic manure or manufactured fertiliser which, as a result of human activity, is directly or indirectly introduced to agricultural land, including—

(i) faecal organisms (from animal excreta),

(ii) magnesium,

(iii) nitrogen,

(iv) phosphorus,

(v) potassium, and

(vi) sulphur;

"agriculture" includes—

(a) horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping,

(b) the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and

(c) the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

"anaerobic digestate" means a product of anaerobic digestion, other than from sewage or material in a landfill, which has a consistency enabling it to be pumped or to be discharged by gravity;

"anaerobic digestion" means the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable waste which—

(a) is carried on under controlled anaerobic conditions,

(b) produces a methane-rich gas mixture, and

(c) results in stable sanitised material that can be applied to land for the benefit of agriculture or to improve the soil structure or nutrients in land;

"leaching" means the process by which agricultural pollutants are washed or drained from soil into inland freshwaters or coastal waters, or into a spring, well or borehole, by rainwater or other liquid applied to agricultural land;

"sludge" means residual sludge from—

(a) septic tanks and other similar installations for the treatment of sewage, or

(b) sewage plants treating—

(i) domestic or urban waste waters, and

(ii) waste waters of a composition similar to domestic and urban waste waters;

"soil erosion" means soil loss caused by—

(a) soil runoff or degradation over a single area of agricultural land (whether or not crossing permanent boundary features) of at least 1 hectare, or

(b) poaching adjacent to inland freshwaters or coastal waters over a single stretch of agricultural land (whether or not crossing permanent boundary features) which is at least 2 metres wide and 20 metres long;

"soil runoff" means the transportation of agricultural pollutants into inland freshwaters or coastal waters, or into a spring, well or borehole, by rainwater or other water running over the soil surface.

Circumstances in which applying organic manure and manufactured fertiliser is prohibited

3. A land manager must ensure that organic manure or manufactured fertiliser is not applied to agricultural land if—

(a) the soil is waterlogged, flooded or snow covered, or

(b) the soil has been frozen for more than 12 hours in the previous 24 hours.

Applying organic manure and manufactured fertiliser to agricultural land

4.—(1) A land manager must ensure that, for each application of organic manure or manufactured fertiliser to agricultural land, the application—

(a) is planned so that it does not—

(i) exceed the needs of the soil and crop on that land, or

(ii) give rise to a significant risk of agricultural diffuse pollution, and

(b) takes into account the weather conditions and forecasts for that land at the time of the application.

(2) When planning under paragraph (1)(a)(ii), the land manager must ensure that any factors which mean there would be a significant risk of agricultural diffuse pollution from the application are taken into account, including—

(a) the slope of the land, in particular if greater than 12 degrees,

(b) any ground cover,

(c) proximity of the land to inland freshwaters, coastal waters, wetlands, or to a spring, well or borehole,

(d) the soil type and condition of the land, and

(e) the presence and condition of any agricultural land drains.

(3) In addition to paragraphs (1) and (2), the land manager must ensure that reasonable precautions are taken to prevent agricultural diffuse pollution resulting from applications.

(4) Without limiting what may otherwise be done to comply with paragraph (3), examples of reasonable precautions include—

(a) checking spreading equipment for leaks and correct calibration,

(b) incorporating organic manure and manufactured fertiliser into the soil within 12 hours of, or as soon as possible after, its application, and

(c) checking the organic matter content in, and moisture levels of, the soil.

(5) In this regulation—

"spreading equipment" means any machinery used for the application of organic manure or manufactured fertiliser to agricultural land and includes precision spreading equipment;

"wetlands" means land that is covered with or saturated by water permanently or for a significant part of the year.

Applying organic manure and manufactured fertiliser to cultivated agricultural land

5.—(1) When planning an application under regulation 4(1)(a) to cultivated agricultural land, a land manager must ensure that the results of soil sampling and analysis are taken into account.

(2) The results of the soil sampling and analysis—

(a) must include the pH of the soil and the levels of nitrogen, phosphorous, magnesium and potassium present,

(b) must be no more than 5 years old at the time of the application, and

(c) may have been collected before the date on which these Regulations come into force, including by another land manager.

(3) For the purpose of paragraph (2)(a), nitrogen levels may be determined by means of assessment of the soil nitrogen supply, rather than the sampling and analysis of soil.

(4) In this regulation, "cultivated agricultural land" means agricultural land which has been cultivated—

(a) by physical means (including ploughing, sowing or harvesting) at least once in the previous year, or

(b) by chemical means (including the application of organic manure or manufactured fertiliser) at least once in the previous 3 years.

Applying manufactured fertiliser near inland freshwaters or coastal waters, or near a spring, well or borehole

6. A land manager must ensure that manufactured fertiliser is not applied to agricultural land within two metres of inland freshwaters or coastal waters, or of a spring, well or borehole.

Applying organic manure near inland freshwaters or coastal waters

7.—(1) A land manager must ensure that organic manure is not applied to agricultural land within 10 metres of inland freshwaters or coastal waters.

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

(a) the application is made using precision spreading equipment, in which case the land manager must ensure that the manure is not applied within 6 metres of inland freshwaters or coastal waters, or

(b) the application is of livestock manure (other than slurry or poultry manure), and—

(i) the land is—

(aa) managed for breeding wader birds or as a species-rich semi-natural grassland, and

(bb) subject to an agri-environmental commitment or has been notified as a site of special scientific interest under the Wildlife and Countryside Act 1981(**4**),

(ii) the manure is applied in the period beginning on 1st June and ending on 31st October,

(iii) the manure is not applied directly onto the surface of the inland freshwaters or coastal waters, and

(iv) the total annual amount of manure applied does not exceed 12.5 tonnes per hectare.

(3) In paragraph (2)(b)(i)(bb), "agri-environmental commitment" means any commitment entered into under Council Regulation (EC) No. 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development(**5**) or Regulation (EU) No. 1305/2013 of

(**4**) 1981 c. 69.
(**5**) OJ No L 277, 21.10.2005, p 1. This was repealed by Regulation (EU) No. 1305/2013 but commitments entered into under it remain in force by virtue of Article 88 of that Regulation.