STATUTORY INSTRUMENTS

2016 No. 1190

AGRICULTURE, ENGLAND
WATER, ENGLAND

The Nitrate Pollution Prevention (Amendment) Regulations 2016

Made - - - -	*6th December 2016*
Laid before Parliament	*8th December 2016*
Coming into force - -	*31st December 2016*

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**).

In accordance with Article 5(3) of Council Directive 91/676/EEC (concerning the protection of waters against pollution caused by nitrates from agricultural sources)(**3**), the Secretary of State has taken into account available scientific and technical data, mainly with reference to the respective nitrogen contributions originating from agricultural and other sources, and the environmental conditions of the nitrate vulnerable zones in England.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Nitrate Pollution Prevention (Amendment) Regulations 2016 and come into force on 31st December 2016.

(2) These Regulations apply to England only.

Amendments to the Nitrate Pollution Prevention Regulations 2015

2. The Nitrate Pollution Prevention Regulations 2015(**4**) are amended in accordance with regulations 3 to 9.

(**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 by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
(**2**) S.I. 2008/301.
(**3**) OJ No L 375, 31.12.1991, p1, as last amended by Regulation (EC) No 1137/2008 (OJ No L 311, 21.11.2008, p1).
(**4**) S.I. 2015/668.

Amendment of regulation 3 (designation)

3. For regulation 3(2), substitute—

"(2) The relevant maps are the maps marked "Nitrate Vulnerable Zones (England) 2017 to 2020" and published on 1st December 2016 on the Agency's website(**5**).".

Amendment of regulation 5 (recommendations and proposals)

4. In regulation 5—

(a) in paragraph (3), after "must" insert ", (except where paragraph (3A) applies)";

(b) after paragraph (3), insert—

"(3A) Where the Secretary of State revises or adds to the designation of nitrate vulnerable zones before 1st January 2017, the Secretary of State must—

(a) by 31st December 2016, publish the proposals to revise or add to the designation on the Agency's website;

(b) by 1st March 2017, send written notice to any person appearing to the Secretary of State to be the owner or occupier of a relevant holding.";

(c) in paragraph (4), after "paragraph (3)(b)" insert "or (3A)(b)";

(d) for paragraph (4)(a), substitute—

"(a) a reference to the page on the Agency's or Secretary of State's website on which can be found the Secretary of State's proposals or, in the case of a notice under paragraph (3A)(b) where the designation has already been revised or added to, the designation,";

(e) in paragraph (5)(b), at the end insert ", or which the Secretary of State has so designated".

Insertion of regulation 5A and Schedule 4 (transitional provisions)

5.—(1) After regulation 5, insert—

"**Transitional periods for new holdings**

5A. The requirements of the regulations listed in Schedule 4 do not apply in relation to a new holding until the dates set out in that Schedule.".

(2) After Schedule 3, insert new Schedule 4 contained in the Schedule to these Regulations.

Insertion of regulations 25A and 25B (records)

6. Before regulation 26, insert—

"**Record of size of holding**

25A. The occupier of a new holding must record the total size of the holding, calculated in accordance with regulation 7(4).

Record of storage capacity

25B. The occupier of a new holding with livestock must calculate and record—

(**5**) https://www.gov.uk/guidance/nutrient-management-nitrate-vulnerable-zones. The information can also be obtained by writing to the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham, S60 1BY.

(a) the amount of manure that will be produced by the number of animals expected to be kept in a building or on hardstanding during the storage period (as defined by regulation 25), using the figures in Schedule 1;

(b) the amount of storage capacity (in slurry vessels and hardstanding) required to enable compliance with regulation 25, taking into account—

(i) the amount of manure intended to be exported from the holding,

(ii) the amount of manure intended to be spread on land that has a low run-off risk, and

(iii) in the case of a slurry vessel, the amount of liquids other than slurry likely to enter the vessel; and

(c) the current storage capacity of the holding.".

Amendment of regulation 34 (keeping records up to date)

7. In regulation 34—

(a) for paragraph (1), substitute—

"(1) Where the size of a holding changes, the occupier of the holding must update the record required by regulation 35(1) of the old Regulations, or by regulation 25A of these Regulations, within one month.";

(b) for paragraph (3), substitute—

"(3) Where the amount of storage capacity of a holding changes, the occupier of the holding must update the record required by regulation 36(1)(b) of the old Regulations, or by regulation 25B of these Regulations, within one week.".

Amendment of regulation 36 (application for derogation)

8. In regulation 36—

(a) for paragraph (4) substitute—

"(4) A derogation granted under this regulation ceases to have effect unless the occupier to whom the derogation is granted has sent to the Agency a written declaration that the conditions set out in Schedule 3 ("the derogation conditions") will be met in relation to the holding.

(4A) The written declaration must be sent to the Agency within 28 calendar days of the derogation being granted.";

(b) after paragraph (5) insert—

"(5A) But an application relating to the calendar year commencing on 1st January 2017 may be submitted by 20th March 2017.".

Miscellaneous amendments

9.—(1) In regulation 2(1) (interpretation)—

(a) in the definition of "new holding", for "after 16thMay 2013" substitute "on 31st December 2016 (and which was not a holding immediately before that date)";

(b) in the definition of "shallow soil", for "40mm" substitute "40cm".

(2) In regulation 20 (closed periods for organic manure), omit paragraph (6).

(3) In regulation 21 (exemption for organic holdings), omit paragraph (6).

(4) For regulation 24 (separation of slurry), substitute—