STATUTORY RULES OF NORTHERN IRELAND

2006 No. 488

ENVIRONMENTAL PROTECTION

Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2006

Made - - - - 1st December 2006

Coming into operation- 1st January 2007

The Department of the Environment, in exercise of the powers conferred on it by Articles 32, 44 and 74 of the Water and Contaminated Land (Northern Ireland) Order 1997(**1**) and of all other powers enabling it in that behalf, makes the following Regulations:

PART 1

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2006 and shall come into operation on 1st January 2007.

(2) The Interpretation Act (Northern Ireland) 1954(**2**) shall apply to these Regulations as it applies to an Act of the Assembly.

(3) In these Regulations—

"agricultural land" has the same meaning as in the Agriculture Act (Northern Ireland) 1949(**3**);

"authorised person" means a person authorised by the Department under Article 72 of the Order in respect of fulfilling its functions;

"available phosphorus content" means the amount of phosphorous available for uptake by the crop;

"chemical fertiliser" means any fertiliser containing a phosphorus compound or phosphorus compounds which is manufactured or blended by an industrial process;

(**1**) S.I. 1997/2778 (N.I. 19)
(**2**) 1954 c.33 (N.I.)
(**3**) 1949 c.2 (N.I.)

"controller" means in relation to a holding, the person charged with the management of the holding for the calendar year in question and in the absence of written agreement to the contrary, the owner of the agricultural area will be taken to be charged with its management;

"crop requirement" means the amount of phosphorus 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 phosphorus supply to the crop based on the phosphorus index of the soil and from other sources, including any previous applications of livestock and other organic manure estimated as described in the fertiliser technical standards;

"Department" means Department of the Environment;

"Directive" means Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources(**4**);

"fertiliser technical standards" means the 'DEFRA Fertiliser Recommendations for Agricultural and Horticultural Crops (RB209) 2000 7th edition' (as may from time to time be re-issued) and any supplementary guidance and any other DEFRA publication substituting the standards set out in RB209 and any supplementary guidance;

"holding" in relation to a controller means all the agricultural area managed by that controller;

"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 manure" means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;

"notice" means notice in writing;

"organic manure" means

(a) livestock manure; and

(b) phosphorus fertiliser not being livestock manure or chemical fertiliser, that is derived from organic matter, and includes sewage sludge, residues from fish farms and other organic wastes.

"phosphorus fertiliser" means any substance, including chemical fertiliser, containing a phosphorus compound or phosphorus compounds utilised on land to enhance growth of vegetation;

"phosphorus index" in relation to soil means the index number (0 to 4) assigned to the soil in accordance with Schedule 1 to indicate the amount of phosphorus available from the soil to the crop;

"soil fertility status" means the soil reserves of phosphorus available for uptake by the next crop estimated as described in the fertiliser technical standards;

"soil test" means the chemical analysis of phosphorus in a soil sample taken and analysed in accordance with Schedule 1 and from any supplementary guidance;

"steeply sloping ground" means land which has an average incline of 20% or more;

"the Order" means The Waste and Contaminated Land (Northern Ireland) Order 1997;

"underground strata" has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999(**5**);

(**4**) O.J. L. 375, 31/12/1991 P. 0001- 0008
(**5**) S.I. 1999/662 (N.I. 6)

"water pollution" means the discharge, directly or indirectly, of chemical fertiliser 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;

"waterlogged" means soil where water appears on the surface of the land when pressure is added;

"waterway" has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order, 1999.

PART 2

MEASURES RELATING TO THE LAND APPLICATION OF FERTILISERS

Measures governing limits on the land application of chemical fertiliser

2.—(1) Chemical fertiliser shall not be applied to land unless the controller of a holding can demonstrate in accordance with the provisions of Schedule 1 that the amount is not in excess of crop requirement taking into consideration soil fertility status, the recommended phosphorus index of the soil for the crop and the supply of phosphorus available from the application of organic manures.

(2) For the purposes of 2(1) the available phosphorus content of livestock manures is as defined in Schedule 2 Table 1.

(3) The available phosphorous content per tonne of other organic manures, excluding livestock manure, shall be equivalent to the total phosphorous content per tonne of those manures as declared in accordance with the Waste Management Licensing Regulations (Northern Ireland) 2003(**6**)

Duty of the controller to prevent water pollution

3. Subject to regulation 2, the controller of a holding shall not knowingly or otherwise cause directly or indirectly the entry of chemical fertiliser into any waterway or water contained in any underground strata.

Requirements as to the manner of land application of chemical fertiliser

4.—(1) Chemical fertiliser shall be applied to land in an accurate and uniform manner and in accordance with paragraphs (2) to (4).

(2) The land application of chemical fertiliser shall not be permitted when: -

(a) the soil is waterlogged; or

(b) the land is flooded or likely to flood; or

(c) the land is snow-covered; or

(d) the soil has been frozen for 12 hours or longer in the preceding 24 hours; or

(e) heavy rain is forecast within 48 hours; or

(f) the land is steeply sloping land where, taking into account factors such as proximity to waterways, soil condition, ground cover and rainfall there is a significant risk of causing water pollution.

(**6**) S.R. 2003 No. 493

(3) Chemical fertiliser shall not be applied to any land in a location or manner which would make it likely that chemical fertiliser will directly enter a waterway or water contained in any underground strata.

(4) The land application of chemical fertiliser shall not be permitted within 1.5 metres of any waterway.

PART 3

GENERAL

General duty of owner and/or controller

5. In complying with any duty under these Regulations the owner and/or the controller of a holding shall have regard to any guidance which may be issued from time to time by the Department and/or by the Department of Agriculture and Rural Development for the purposes of these Regulations and, in accordance with Article 4 of the Directive the Code of Good Agricultural Practice as may be amended from time to time.

Duty of controller to provide information

6.—(1) With effect from the operative date of these Regulations, the Department may by notice served on the controller of a holding applying chemical fertiliser to any agricultural land, require the controller to furnish the Department, as required, the following information on an annual basis:

(a) the identity of the controller of the land for the calendar year in question;

(b) the size and location of each field in the holding to which chemical fertiliser was applied;

(c) the results of any soil tests carried out to satisfy compliance with Schedule 1;

(d) a statement of the foreseeable phosphorous requirements of the crops;

(e) the quantity of each type of phosphorus fertiliser applied, the certified phosphorous content of the chemical fertiliser, the total phosphorus content per tonne of other organic manures as declared in accordance with regulation 2(3) and the date of application of any phosphorous fertiliser; and

(f) the type and date of any crop sown.

(2) For the purposes of the discharge of its functions under paragraph (1), the controller of a holding shall prepare the information for each calendar year by 30 June of the following year and shall retain such information for a period of 5 years from that date.

(3) A controller shall not compile information, which is false or misleading to a material extent or furnish any such information in any notice or other document for the purposes of these Regulations.

PART 4

ENFORCEMENT

Monitoring and inspections

7. A person authorised under Article 72 of the Order may exercise any of the functions under that Article to determine or ensure compliance with these Regulations.