STATUTORY RULES OF NORTHERN IRELAND

1996 No. 217

EUROPEAN COMMUNITIES
WATER AND SEWERAGE

The Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 1996

Made - - - -	*30th May 1996*
Coming into operation	*3rd July 1996*

The Department of the Environment and the Department of Agriculture, being departments 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, acting jointly in exercise of the powers conferred on them by that section and of every other power enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 1996, and shall come into operation on 3rd July 1996.

Interpretation

2.—(1) In these Regulations—

"action programme" means an action programme established in accordance with regulation 6;

"chemical fertiliser" means any fertiliser which is manufactured by an industrial process;

"the Department" means the Department of the Environment;

"the Departments" means the Department of the Environment and the Department of Agriculture acting jointly;

"the Directive" means Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources(**3**);

(**1**) S.I.1989/2393
(**2**) 1972 c. 68
(**3**) O.J. No. L375, 31.12.91, p. 1

"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 or 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; and

"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.

(2) Other expressions used in these Regulations have the same meaning as in the Directive.

(3) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Vulnerable zones

3.—(1) In these Regulations, "nitrate vulnerable zone" means any areas designated by the Departments, being all known areas of land which drain into and contribute to pollution of the waters which the Departments have identified, in accordance with the criteria set out in Schedule 1, as waters affected by pollution and waters which could be affected by pollution if action pursuant to regulation 6 were not taken.

(2) The Departments shall, by 19th December 1997 and at least every 4 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 Department—

(**4**) 1954 c. 33 (N.I.)

(a) subject to paragraph (2), by 19th December 1997 and at least every 4 years thereafter shall monitor the nitrate concentration in freshwaters over a period of 1 year—

(i) at surface water sampling stations laid down in Article 5(4) of Directive 75/440/EEC(**5**) or at other sampling stations which are representative of surface waters, or at both, at least monthly and more frequently during flood periods; and

(ii) at sampling stations which are representative of groundwater aquifers, at regular intervals and taking into account the provisions of Directive 80/778/EEC(**6**); and

(b) shall review the eutrophic state of fresh surface waters, estuarial and coastal waters by 19th December 1997 and every 4 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/1 and no new factor likely to increase the nitrate content has appeared, paragraph (1)(*a*) shall have effect in relation to that sampling station as if the reference to 1997 and the reference to 4 years were references to 2001 and 8 years respectively.

(3) Monitoring under this regulation shall be carried out using the reference methods of measurement set out in Schedule 2.

Code of good agricultural practice

5. The Code of Practice for the Protection of Water entitled "Water, Preventing Pollution by Nitrate"(ISBN 1 85527 1168) (published 1994) 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 Departments 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 designated in accordance with regulation 3(1) as soon as practicable after designation and in any event not later than 19th December 1997; and

(b) in the case of a nitrate vulnerable zone designated in accordance with regulation 3(2), not later than 1 year after the designation of that zone.

(4) An action programme shall be implemented—

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

(b) in any other case, within 4 years of its establishment.

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

(6) The Departments shall, at least every 4 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—

(**5**) O.J. No. L194, 25.7.75, p. 26
(**6**) O.J. No. L229, 30.8.80, p. 11