



Department
for Environment
Food & Rural Affairs

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Informal Consolidation of Nitrate Pollution Prevention Regulations 2008, as amended.

January 2014

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PB 14128

The Nitrate Pollution Prevention Regulations 2008, as amended

This informal consolidation includes the following regulations

[SI 2008/2349: The Nitrate Pollution Prevention Regulations 2008](#)

[SI 2009/3160: The Nitrate Pollution Prevention \(Amendment\) Regulations 2009](#)

[SI 2010/1159: The Environmental Civil Sanctions \(Miscellaneous Amendments\) \(England\) Regulations 2010](#)

[SI 2012/1849: The Nitrate Pollution Prevention \(Amendment\) Regulations 2012](#)

[SI 2013/1001: The Nitrate Pollution Prevention \(Amendment\) and Water Resources \(Control of Pollution\) \(Silage, Slurry and Agricultural Fuel Oil\) \(England\) \(Amendment\) Regulations 2013](#)

[SI 2013/2619: The Nitrate Pollution Prevention \(Designation and Miscellaneous Amendments\) Regulations 2013](#)

NB: This document has been produced by Department for Environment, Food and Rural Affairs officials to help understand the regulations as amended. Every effort has been taken to ensure that it is accurate. However, it should not be relied on as a definitive text of the regulations. Always refer to the regulations on matters of interpretation.

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PART 1

Introduction

Citation

1. These Regulations may be cited as the Nitrate Pollution Prevention Regulations 2008, (SI 2008/2349), as amended by Regulations SI 2009/3160, SI 2012/1849, SI 2013/1001 and SI 2013/2619.

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a), being designated^(b) in relation to the environment,

having 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 as required by Article 5(3) of Council Directive 91/676/EEC (concerning the protection of waters against pollution caused by nitrates from agricultural sources^(c)),

in respect of the amendment to the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010^(d), the Secretary of State makes the following Regulations under the powers conferred by sections 92(1) and 219(2)(e) and (f) of the Water Resources Act 1991^(e),

makes the following Regulations:

Application

2.—(1) These Regulations apply in England in relation to any holding in a nitrate vulnerable zone designated as such in these Regulations.

(2) In the case of a holding partly in a nitrate vulnerable zone, the Regulations apply only in the part of the holding inside the zone, and a reference to a holding is a reference to that part.

Coming into force

3.—(1) These Regulations (other than regulation 22(1) and Part 7) come into force on 1st January 2009.

(2) Regulation 22(1) and Part 7 come into force on 1st January 2012, unless the holding is within an area marked as a NVZ deferred slurry storage area on the maps marked “Nitrate Vulnerable Zones (England 2009)” and deposited at the offices of the Secretary of State for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR, where these provisions come into force on 17 May 2013.

Exemptions for greenhouse crops, low intensity grassland farmers, and transitional provisions for holdings newly in a nitrate vulnerable zone

4.—(1) Part 1 of Schedule A1 has effect in relation to any holding on which nitrogen fertiliser is used on crops growing in one or more greenhouses.

(2) Regulations 13 (spreading organic manure – nitrogen limits per hectare) and 42 (records of spreading nitrogen fertiliser) do not apply to an occupier of a holding in any calendar year in which the requirements of paragraphs (3) and (4) are met.

(3) The requirements are that throughout the calendar year concerned—

(a) 1972 c. 68.

(b) SI 2008/301.

(c) OJ No. L 375, 31.12.1991, p. 1.

- (a) 80% or more of the holding's agricultural area is sown with grass;
 - (b) the total amount of nitrogen in organic manure applied to the holding, whether directly by an animal or by spreading, does not exceed 100 kg multiplied by the area of the holding in hectares;
 - (c) the total amount of nitrogen from manufactured nitrogen fertiliser applied to the holding does not exceed 90 kg multiplied by the area of the holding in hectares; and
 - (d) the occupier does not bring organic manure onto the holding.
- (4) The requirement is that the occupier must make a record demonstrating compliance with paragraph (3).
- (5) For the purposes of paragraph (3)—
- (a) the calculation of the area of a holding excludes land on which the occupier does not spread fertiliser or work the soil; and
 - (b) the total amount of nitrogen in organic manure must be calculated by reference to the methods described in regulation 17 for establishing nitrogen content.
- (6) Part 2 of Schedule A1 has effect in relation to a new holding.
- (7) For the purposes of paragraph (6) of this regulation and Part 2 of Schedule A1, a “new holding” is a holding which was not a holding pursuant to regulation 7(1) of the Nitrate Pollution Prevention Regulations 2008 as in force immediately before 17th May 2013.

Meaning of “polluted water”

5. Water is polluted if—

- (a) it is freshwater and contains a concentration of nitrates greater than 50 mg/l, or could do so if these Regulations were not to apply there, or
- (b) it is eutrophic or may in the near future become eutrophic if these Regulations were not to apply there.

Interpretation

6. In these Regulations—

“Agency” means the Environment Agency;

“agricultural area” means any agricultural land used for agricultural purposes;

“agriculture” has the same meaning as in section 109(3) of the Agriculture Act 1947;

“anaerobic digestion” has the meaning given in paragraph 1 of section 1.1, Chapter 1, Part 2 of Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2010(a)

“crop with high nitrogen demand” includes, but not limited to, grass, potatoes, sugar beet, maize, wheat, oilseed rape, barley, brassicas, rye and triticale;

“derogated holding” means a holding over which a derogation has been granted;

“derogation” means a derogation from the limit of the total amount of nitrogen in livestock manure that can be applied to land each year as provided for in paragraph 2(b) of Annex III of Council Directive 91/676/EEC granted by the Agency or, on appeal, the derogation application appeals panel under regulation 13C;

“derogation application” means an application for a derogation;

(a) SI 2010/675, as amended by SI 2012/630.

“eutrophic” means water that is enriched by nitrogen compounds, causing an accelerated growth of algae and higher forms of plant life that produces an undesirable disturbance to the balance of organisms present in the water and to the quality of the water concerned;

“fertilisation plan” means a plan prepared under regulation 14(1)(c) or other similar plans required under Schedule 4;

“grass” means—

- (a) permanent grassland or temporary grassland (temporary means for less than four years);
- (b) existing between the sowing and ploughing the grass; and
- (c) including crops under-sown with grass,

but does not include grassland with 50% or more clover;

“grazing livestock” means any animal specified in Table 1 in Schedule 1;

“green compost” means any nitrogen fertiliser derived exclusively from plant sources in the form of composted landscaping or garden waste;

“greenhouse” means any structure such as a glasshouse or polytunnel in which crops are grown under cover in an enclosed space, but excludes any such structure in which livestock are kept;

“green/food compost” means any nitrogen fertiliser which is derived from plant or animal sources in the form of composted catering waste in any combination with green compost, and which excludes organic manure from livestock;

“holding” means, except in the phrase “relevant holding”, all the land located within a nitrate vulnerable zone and its associated buildings that are at the disposal of the occupier and which are used for the growing of crops in soil or rearing of livestock for agricultural purposes;

“land that has a low run-off risk” means land that—

- (a) has an average slope less than 3°;
- (b) does not have land drains (other than a sealed impermeable pipe); and
- (c) is at least 50 metres from a watercourse or conduit leading to a watercourse;

“livestock” means any animal (including poultry) specified in Schedule 1;

“manufactured nitrogen fertiliser” means any nitrogen fertiliser (other than organic manure) manufactured by an industrial process;

“manufactured phosphate fertiliser” means any phosphate fertiliser (other than organic manure) manufactured by an industrial process;

“nitrogen fertiliser” means any substance containing one or more nitrogen compounds used on land to enhance growth of vegetation and includes organic manure;

“non-grazing livestock” means any animal specified in Table 2 in Schedule 1;

“organic manure” means any nitrogen fertiliser or phosphate fertiliser derived from animal, plant or human sources and includes livestock manure;

“phosphate fertiliser” means any substance containing one or more phosphorus compounds used on land to enhance growth of vegetation and includes organic manure;

“poultry” means poultry specified in Schedule 1;

“sandy soil” means any soil over sandstone, and any other soil where—

- (a) in the layer up to 40 cm deep, there are—

- (i) more than 50% by weight of particles from 0.06 to 2 mm in diameter,
 - (ii) less than 18% by weight of particles less than 0.02 mm diameter, and
 - (iii) less than 5% by weight of organic carbon; and
- (b) in the layer from 40 to 80 cm deep, there are—
- (i) more than 70% by weight of particles from 0.06 to 2mm in diameter,
 - (ii) less than 15% by weight of particles less than 0.02 mm diameter, and
 - (iii) less than 5% by weight of organic carbon;

“shallow soil” is soil that is less than 40 cm deep;

“slurry” means excreta produced by livestock (other than poultry) while in a yard or building (including any bedding, rainwater or washings mixed with it) that has a consistency that allows it to be pumped or discharged by gravity (in the case of excreta separated into its liquid and solid fractions, the slurry is the liquid fraction);

“spreading” includes application to the surface of the land, injection into the land or mixing with the surface layers of the land but does not include the direct deposit of excreta on to land by animals.

PART 2

Designation of nitrate vulnerable zones

Designation of nitrate vulnerable zones

7.—(1) The areas marked as nitrate vulnerable zones on the maps marked “Nitrate Vulnerable Zones (England 2013) (Revised October 2013)” and stored at the offices of the Secretary of State for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR in unalterable electronic form on digital disk, the disk having been signed on behalf of the Secretary of State and dated 1st October 2013, are designated as nitrate vulnerable zones for the purposes of these Regulations.

(2) These are areas of land that drain into polluted waters and that contribute to the pollution of those waters.

Regulations 8, 9 and 10 are omitted

Review of nitrate vulnerable zones

11—(4) The Secretary of State must keep under review the eutrophic state of fresh surface waters, estuarial and coastal waters.

(5) Before 1st January 2013, and at least every four years subsequently, the Secretary of State must monitor the nitrate concentration in freshwaters over a period of one year—

- (a) at sampling stations that are representative of surface water, at least monthly and more frequently during flood periods, and
- (b) at sampling stations that are representative of groundwater, at regular intervals and taking into account the provisions of Council Directive 98/83/EC on the quality of water intended for human consumption(a),

except for those sampling stations where the nitrate concentration in all previous samples taken for this purpose has been below 25 mg/l and no new factor likely to increase the nitrate content has appeared, in which case the monitoring programme need be repeated only every eight years.

(a) OJ No. L330, 5.12.1998, p. 32.

(6) Nitrate concentration must be measured in accordance with Article 4a(3) of Council Decision 77/795/EEC establishing a common procedure for the exchange of information on the quality of surface fresh water in the Community^(a).

(7) At the end of each four year or eight year period at the latest the Secretary of State must—

- (a) identify water that is or could be affected by pollution if the controls in these Regulations are not applied in that area, using the criteria in Annex I to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources^(b);
- (b) identify land that drains into those waters, or water similarly identified in Wales or Scotland, and that contributes to the pollution of those waters;
- (c) take into account changes and factors unforeseen at the time of the previous designation; and
- (d) if necessary revise or add to the designation of nitrate vulnerable zones.

Recommendations and proposals in relation to designation

11A.—(1) The Agency must, before 10th August 2012, and subsequently at intervals not exceeding four years, make recommendations to the Secretary of State by reference to the matters mentioned in regulation 11(4)(a) to (c) as to which areas of land should be, or should continue to be, designated as nitrate vulnerable zones for the purposes of these Regulations.

(2) In deciding whether to revise or add to the designation of nitrate vulnerable zones for the purposes of regulation 11(4)(d), the Secretary of State must have regard to those recommendations.

(3) Before revising or adding to the designation of nitrate vulnerable zones, the Secretary of State must—

- (a) publish the proposals to revise or add to the designation (“proposals for designation”); and
- (b) send written notice to any person appearing to the Secretary of State to be the owner or occupier of a relevant holding.

(4) A notice mentioned in paragraph (3)(b) must contain—

- (a) a reference to the page on the Agency’s or Secretary of State’s website where the following can be found—
 - (i) the Secretary of State’s proposals for designation;
 - (ii) where the Secretary of State’s proposals for designation rely on the identification in Wales or Scotland of water as polluted, an indication of that fact; and
- (b) information about other means of obtaining the information mentioned in sub-paragraph (a) which do not require access to the internet.

Appeals

11B. An owner or occupier of a relevant holding who is sent a notice under regulation 11A(3)(b) may appeal to the First-tier Tribunal^(c) against the Secretary of State’s proposals for designation referred to in that notice.

(a) OJ No. L334, 24. 12. 1977, p. 29 as last amended by the 2003 Act of Accession.

(b) OJ No. L375, 31.12. 1991, p. 1 as amended by Regulation (EC) 1882/2003 (OJ No. L284, 31.10.2003, p. 1).

(c) The First-tier Tribunal was established by section 3(1) of the Tribunals, Courts and Enforcement Act 2007, c. 15. By virtue of article 3 of the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 (SI 2010/2655) the General Regulatory Chamber of the First-tier Tribunal is allocated all functions related to proceedings in respect of the decisions and actions of regulatory bodies which are not allocated to the Health, Education, and Social Care Chamber or to the Tax Chamber by other provisions of that Order.

Grounds of appeal

11C. For the purposes of rule 22(2)(g) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(a), the only grounds of appeal are that the relevant holding or any part of it—

- (a) does not drain into water which—
 - (i) the Secretary of State proposes to identify, or to continue to identify, as polluted; or
 - (ii) has been similarly identified in Wales or Scotland; or
- (b) drains into water which the Secretary of State should not identify, or continue to identify, as polluted.

Effect of a decision of the First-tier Tribunal

11D.—(1) In carrying out the duties set out in regulation 11(4)(a) to (c), and in revising or adding to the designation of nitrate vulnerable zones under regulation 11(4)(d), the Secretary of State must give effect to a decision of the First-tier Tribunal as follows.

(2) If the First-tier Tribunal upholds an appeal under regulation 11C(a), the Secretary of State must treat the relevant holding, or the part of it in respect of which the appeal was upheld, as not draining into water described in that paragraph.

(3) If the First-tier Tribunal upholds an appeal under regulation 11C(b), the Secretary of State must—

- (a) treat the water described in that paragraph as water which should not be identified, or continue to be identified, as polluted; and
- (b) treat any relevant holding or part of a relevant holding which drains into that water accordingly (regardless of whether the relevant holding's owner or occupier appealed under this Part).

Interpretation of Part 2

11E. In this Part—

“polluted” in relation to water means water that is, or could be affected by pollution in the circumstances described in regulation 11(4)(a);

“proposals for designation” has the meaning given in regulation 11A(3)(a);

“relevant holding” means land and any associated buildings at the disposal of the occupier which are used for the growing of crops in soil or rearing of livestock for agricultural purposes and which land and buildings are wholly or partly within an area which the Secretary of State has proposed should be, or should continue to be, designated as a nitrate vulnerable zone for the purposes of these Regulations.

PART 3

Limiting the application of organic manure

Application of livestock manure – total nitrogen limit for the whole holding

12.—(1) Except where the occupier has been granted a derogation, the occupier of a holding must ensure that, in any year beginning 1st January, the total amount of nitrogen in livestock manure applied to the holding, whether directly by an animal or by spreading, does not exceed 170 kg multiplied by the area of the holding in hectares.

(a) SI 2009/1976, relevant amendments to which were made by SI 2010/43 and SI 2011/651.

(2) The amount of nitrogen produced by livestock must be calculated in accordance with Schedule 1.

(3) In calculating the area of the holding for the purposes of ascertaining the amount of nitrogen permitted to be spread on the holding, no account is taken of surface waters, any hardstanding, buildings, roads or any woodland unless that woodland is used for grazing.

Spreading organic manure – nitrogen limits per hectare

13.—(1) Subject to paragraph (2), the occupier of a holding must ensure that in any twelve-month period, the total amount of nitrogen in organic manure spread on any given hectare of land on the holding does not exceed 250 kg.

(2) The occupier of a holding may exceed the limit imposed in paragraph (1) if that occupier spreads organic manure in the form of certified green compost or certified green/food compost and meets the requirements of paragraphs (3) and (4).

(3) The occupier relying on paragraph (2) must ensure that the total amount of nitrogen in the form of green compost or green/food compost which is spread on any given hectare of land on the holding does not exceed—

- (a) 500 kg in any two-year period, whether the compost is spread as mulch or incorporated into the soil; or
- (b) 1,000 kg in any four-year period if it is spread as mulch, where that land is orchard land.

(4) The occupier must not spread any other form of organic manure over the land referred to in paragraph (3) during the period which applies under subparagraph (a) or, as the case may be, (b) of that paragraph.

(5) For the purposes of paragraphs (1) and (3), the total amount of nitrogen in organic manure must be calculated by reference to the methods described in regulation 17 for establishing nitrogen content.

(6) In this regulation—

- (a) “orchard land” means land on which fruit of the genus *Malus*, *Pyrus* or *Prunus* is grown;
- (b) “certified” means, in relation to green compost and green/food compost, certified by a statement issued in respect of that compost by the manufacturer or supplier confirming that the compost has been produced in accordance with the standards set out in the publication *PAS 100:2011* dated January 2011(a).

PART 3A

Derogation

Application for a derogation

13A.—(1) An occupier of any holding or any person on the occupier’s behalf (“the applicant”) may apply to the Agency for a derogation where 80% or more of the agricultural area is sown with grass.

(2) A derogation application must be accompanied by a written declaration that the applicant will comply with the derogation conditions and must be submitted—

- (a) no later than 31st May 2013 for a 2013 derogation;
- (b) in relation to an application for any year after 2013, between 1st October and 31st December in the calendar year preceding that in respect of which the application is made.

(a) Published by the British Standards Institution, 389 Chiswick High Road, London W5 5AL (www.bsigroup.com), ISBN 978-0-580-65307-0.

(2A) In paragraph (2), “the derogation conditions” are the requirements set out in Schedule 4.

(3) The Secretary of State must publish the manner and form in which the application must be made.

(4) The Agency must grant or refuse a derogation application as soon as practicable and notify the applicant of the decision in writing and, where the Agency refuses a derogation application, must give reasons for the refusal at the same time.

(5) The Agency must refuse a derogation application where it considers the granting of the derogation would have an adverse effect on the integrity of—

(a) a European site; or

(b) a European offshore marine site,

where those sites have been subject to an appropriate assessment under regulation 48 of the Conservation (Natural Habitats, & c.) Regulations 1994^(a).

(5A) Subject to paragraphs (5B) and (5C), the Agency must refuse a derogation application in the case of an applicant who has been found in breach of derogation conditions during the calendar year preceding the calendar year in respect of which the derogation is sought.

(5B) Where an applicant is found in breach of derogation conditions after the date of the derogation application but before the calendar year to which the derogation application relates—

(a) if the application has not already been granted by the time the breach has been found, the Agency may, taking into account the seriousness of the breach,—

(i) grant the application, in which case the Agency must refuse any derogation application which is next made by that applicant for a subsequent calendar year; or

(ii) refuse the application;

(b) if the application has been granted when the breach is found, the Agency may, taking into account the seriousness of the breach, revoke the derogation by sending written notice to the applicant before the calendar year for which the derogation was granted.

(5C) In paragraphs (5A) and (5B), reference to an applicant being found in breach of derogation conditions means—

(a) the applicant has been convicted of an offence under regulation 48 in respect of which no further appeal may be made, or, if an appeal has been made, that appeal was decided against the applicant;

(b) the applicant has accepted a simple caution;

(c) a penalty or notice has been imposed under regulation 48A in respect of which no further appeal may be made, or, if an appeal has been made, that appeal was decided against the applicant; or

(d) the applicant has given the Agency an enforcement undertaking under regulation 48A;

and the offence to which the conviction, simple caution, penalty, notice or undertaking relates arises from a breach of a requirement set out in Schedule 4.

(6) Where the Agency has refused to grant the derogation application, the applicant may appeal in accordance with the procedure set out in regulation 13C.

(7) Where the Agency has granted the derogation application, the holding to which the derogation applies shall be designated by the Agency as a derogated holding for the calendar year in respect of which the application was made.

(8) The occupier must keep a record of the derogation application and decision.

(9) In this regulation—

(a) “European offshore marine site” means a European offshore marine site within the meaning of regulation 15 (meaning of European offshore marine site) of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007^(a); and

(a) SI 1994/2716.

- (b) “European site” means a European site within the meaning of regulation 10 (meaning of European site) of the Conservation (Natural Habitats, &c.) Regulations 1994.

Regulation 13B is omitted

Appeal against refusal of a derogation application

13C.—(1) Where the Agency has refused a derogation application, the applicant may by notice appeal the decision to an independent panel appointed by the Secretary of State for the purpose of these Regulations (“the derogation application appeals panel”).

(2) An appeal against a refusal of a derogation application must be submitted within 30 days beginning on the day after the date of the refusal.

(3) The Secretary of State must publish the manner and form in which an appeal must be made.

Proceedings of the derogation application appeals panel

13D.—(1) The derogation application appeals panel must consist of an odd number of persons, not being less than 3 persons, and make its decision by a simple majority.

(2) The derogation application appeals panel must consider the appeal and determine whether or not to allow the appeal.

(3) The derogation application appeals panel must arrive at its decision based on documentation submitted to it by the appellant and the Agency, unless it decides that it needs additional information to form a judgement, in which case it may—

- (a) request the appellant, or the Agency, to provide additional material; and
- (b) in exceptional circumstances may convene an oral hearing.

(4) At an oral hearing the appellant and the Agency have the right to appear.

(5) All parties must bear their own costs.

Effect of derogation application appeals panel findings

13E.—(1) If the derogation application appeals panel allows the appeal, the holding to which the derogation application applies must be designated by the Agency as a derogated holding for that calendar year.

(2) The derogation application appeals panel must—

- (a) notify the Agency, the applicant and the Secretary of State, as soon as reasonably practicable, of its findings; and
- (b) where the appeal is refused, give reasons for the refusal.

Derogated holdings

13F. Schedule 4 has effect in relation to derogated holdings.

PART 4

Crop requirements

Planning the spreading of nitrogen fertiliser

14.—(1) The occupier of a holding must—

(a) SI 2007/1842.

- (a) calculate the amount of nitrogen in the soil that is likely to be available for uptake by the crop during the growing season ("the soil nitrogen supply");
 - (b) calculate the optimum amount of nitrogen that should be spread on the crop, taking into account the amount of nitrogen available from the soil nitrogen supply; and
 - (c) produce a plan for the spreading of nitrogen fertiliser for that growing season.
- (2) In the case of any crop other than permanent grassland, the occupier must do this before spreading any nitrogen fertiliser for the first time for the purpose of fertilising a crop planted or intended to be planted.
- (3) In the case of permanent grassland the occupier must do this each year beginning 1st January before the first spreading of nitrogen fertiliser.
- (4) The plan must be in permanent form.
- (5) The plan must record—
- (a) the reference or name of the field;
 - (b) the total area of the field;
 - (c) the area of the field planted or intended to be planted; and
 - (d) the type of crop.
- (6) For the area planted or intended to be planted the plan must record—
- (a) the soil type;
 - (b) the previous crop;
 - (c) if it is grass, how it was last managed (cutting or grazing);
 - (d) the soil nitrogen supply calculated in accordance with paragraph (1) and the method used to establish this figure;
 - (e) the anticipated month that the crop will be planted;
 - (f) the anticipated yield (if arable); and
 - (g) the optimum amount of nitrogen that should be spread on the crop, taking into account the amount of nitrogen available from the soil nitrogen supply.

Additional information to be recorded during the year

15.—(1) Before spreading any organic manure, the occupier must on each occasion calculate the amount of nitrogen from that manure that is likely to be available for crop uptake in the growing season in which it is spread.

- (2) The occupier must, before spreading the organic manure, record—
- (a) the area on which the organic manure will be spread;
 - (b) the quantity of organic manure to be spread;
 - (c) the planned date for spreading (month);
 - (d) the type of organic manure;
 - (e) the total nitrogen content of the organic manure; and
 - (f) the amount of nitrogen likely to be available from the manure intended to be spread for crop uptake in the growing season in which it is spread.
- (3) Before spreading manufactured nitrogen fertiliser, the occupier must record—
- (a) the amount required; and
 - (b) the planned date for spreading (month).

Total nitrogen spread on a holding

16. Subject to regulation 16A, and irrespective of the figure in the fertilisation plan, an occupier must ensure that the total amount of—

- (a) nitrogen from manufactured nitrogen fertiliser, and
- (b) nitrogen available for crop uptake from organic manure in the growing season in which it is spread, calculated in accordance with regulation 17,

spread on the following crops not exceed the following limits in any twelve month period (the total amount of nitrogen permitted to be spread on any given crop or group of crops is the figure in the second column, adjusted in accordance with the notes to the table and multiplied by the total area in hectares of that crop or group of crops sown on the holding).

Maximum Nitrogen

Crop	Permitted amount of nitrogen (kg) ^(a)	Standard yield (tonne/ha)
Autumn or early winter sown wheat	220 ^{(b) (c) (d)}	8.0
Spring-sown wheat	180 ^{(c) (d)}	7.0
Winter barley	180 ^{(b) (c)}	6.5
Spring barley	150 ^(c)	5.5
Winter oilseed rape	250 ^(e)	3.5
Sugar beet	120	n/a
Potatoes	270	n/a
Forage maize	150	n/a
Field beans	0	n/a
Peas	0	n/a
Grass	300 ^(f)	n/a
Asparagus, carrots, radishes, Swedes, individually or in any combination	180	n/a
Celery, courgettes, dwarf beans, lettuce, onions, parsnips, runner beans, sweetcorn, turnips, individually or in any combination	280	n/a
Beetroot, Brussels sprouts, cabbage, calabrese, cauliflower, leeks, individually or in any combination	370	n/a

Notes

(a) An additional 80 kg per hectare is permitted to all crops grown in fields if the current or previous crop has had straw or paper sludge applied to it.

(b) An additional 20 kg per hectare is permitted on fields with shallow soil (other than shallow soils over sandstone).

(c) An additional 20 kg per hectare is permitted for every tonne that the expected yield exceeds the standard yield.

(d) An additional 40 kg per hectare is permitted to milling wheat varieties.

(e) This is inclusive of any nitrogen that is applied as an exemption to the closed period for manufactured nitrogen fertiliser. The permitted amount may be increased by up to 30 kg per hectare for every half tonne that expected yield exceeds the standard yield.

(f) An additional 40 kg per hectare is permitted to grass that is cut at least three times a year. (Final sentence omitted here).

Grass grown for dehydration or for chlorophyll production

16A.—(1) This regulation applies without prejudice to regulations 12 and 13, in respect of nitrogen which is spread in any twelve-month period, as manufactured nitrogen fertiliser and as nitrogen available for crop uptake from organic manure, on grass grown to achieve a minimum protein content of 16% once harvested and dried.

(2) Subject to paragraph (3), acting on the written advice of a person who is a member of the Fertiliser Advisers Certification and Training Scheme^(a) (a “FACTS adviser”), the occupier of a holding may spread or permit the spreading of nitrogen in an amount advised by the FACTS adviser which exceeds the amount otherwise allowed in respect of grass under regulation 16.

(3) The total amount of nitrogen which an occupier may spread on any given hectare may not exceed—

- (a) 700 kg if the grass is irrigated; or
- (b) 500 kg if the grass is not irrigated.

(4) For the purposes of calculating the amounts referred to in paragraphs (2) and (3), the total amount of nitrogen from organic manure must be calculated by reference to the methods described in regulation 17 for establishing available nitrogen.

(5) After the first year during which this regulation is relied on, the occupier who so relies must provide the FACTS adviser with soil analyses from representative autumn soil samples so that that adviser may take the analyses into account when advising for the purposes of paragraph (2) in relation to any subsequent years.

(6) In this regulation, “representative autumn soil samples” are soil samples taken during the period 1st September to 31st October which provide a representative indication of mineral nitrogen levels in the soil on which grass described in paragraph (1) is grown, taking into account the number of fields, soil type and terrain.

Calculating the amount of nitrogen available for crop uptake from organic manure

17.—(1) This regulation provides for values which must be established for the purposes of regulation 4(5)(b), 13(5), 16 and 16A(4).

(2) In this regulation—

“the Fertiliser Manual” means the Fertiliser Manual RB209, 8th edition^(b);

“nitrogen content” means the total amount of nitrogen in organic manure;

“available nitrogen” means the amount of nitrogen in that organic manure that is available for crop uptake in the growing season in which it is spread.

(3) In relation to livestock manure—

- (a) nitrogen content must be established either using the standard table in Schedule 2 or by sampling and analysis in accordance with that Schedule;
- (b) the available nitrogen is a percentage of the value established under subparagraph (a), the relevant percentage for the particular livestock manure concerned being set out in the following table.

(a) The scheme is administered by Basis Registration Ltd, and a list of qualified persons is available from them on request at www.basis-reg.com/contact.aspx

(b) The Fertiliser Manual RB209, 8th edition, is published by TSO, June 2010, ISBN 978-0-11-243286-9.

Available nitrogen calculated as a percentage of nitrogen content

Type of livestock manure	Amount of nitrogen available for crop uptake in the growing season in which it is spread	
	before 1st January 2014	On and after 1st January 2014
Cattle slurry	35%	40%
Pig slurry	45%	50%
Poultry manure	30%	30%
Other livestock manure	10%	10%

(4) In relation to organic manure other than livestock manure, nitrogen content and available nitrogen must be established—

- (a) in the case of organic manure which is supplied by a manufacturer or other supplier by reference—
 - (i) to the technical analyses carried out by the manufacturer or supplier for that organic manure and provided to the occupier or otherwise published by the manufacturer or other supplier; or
 - (ii) to the extent that such information is unavailable, to the values given for nitrogen content and available nitrogen in respect of that organic manure in the Fertiliser Manual (referred to in the Fertiliser Manual as “total nitrogen” and “nitrogen available to the next crop” respectively);
- (b) in the case of any other organic manure, by reference to the values given for nitrogen content and available nitrogen in respect of it in the Fertiliser Manual (referred to in the Fertiliser Manual as described in subparagraph (a)(ii));
- (c) in any case, by sampling and analysis in accordance with Part 2 of Schedule 2.

Organic manure for which no value is established

17A. If a value is not established in respect of any organic manure for the purposes of regulations 4(5)(b), 13(5), 16(b) and 16A(4), the occupier may not spread the organic manure in question pursuant to those provisions on the crops referred to in regulations 16 and 16A.

PART 5

Controlling the spreading of nitrogen fertiliser

Risk maps

18.—(1) Before 1st January 2010 an occupier of a holding who spreads organic manure on his holding must produce a map of the holding (“a risk map”) in accordance with this regulation.

(2) If circumstances change the occupier must update the risk map within three months of the change.

(3) The risk map must show—

- (a) each field, with its area in hectares;
- (b) all surface waters;
- (c) any boreholes, springs or wells on the holding or within 50 metres of the holding boundary;

- (d) areas with sandy or shallow soils;
 - (e) land with an incline greater than 12°;
 - (f) land within 10 metres of surface waters;
 - (g) land within 50 metres of a borehole, spring or well;
 - (h) land drains (other than a sealed impermeable pipe);
 - (i) sites suitable for temporary field heaps if this method of storing manure is to be used;
 - (j) land that has a low run-off risk (this is optional for an occupier who does not intend to spread manure on low run-off risk land during the storage period in accordance with regulation 34).
- (4) The occupier must keep a copy.

When to spread fertiliser

19.—(1) An occupier who intends to spread nitrogen fertiliser must first undertake a field inspection to consider the risk of nitrogen getting into surface water.

(2) No person may spread nitrogen fertiliser on that land if there is a significant risk of nitrogen getting into surface water, taking into account in particular—

- (a) the slope of the land, particularly if the slope is more than 12°;
- (b) any ground cover;
- (c) the proximity to surface water;
- (d) the weather conditions;
- (e) the soil type; and
- (f) the presence of land drains.

(3) No person may spread nitrogen fertiliser if the soil is waterlogged, flooded or snow covered, or has been frozen for more than 12 hours in the previous 24 hours.

Spreading manufactured nitrogen fertiliser near surface water

20. No person may spread manufactured nitrogen fertiliser within 2 metres of surface water.

Spreading organic manure near surface water

21.—(1) Subject to paragraphs (2) and (3) of this regulation, no person may spread organic manure less than 10 metres from surface water.

(2) Livestock manure (other than slurry and poultry manure) may be spread there if—

- (a) it is spread on land managed for breeding wader birds or as a species-rich semi-natural grassland and the land is—
 - (i) notified as a Site of Special Scientific Interest under the Wildlife and Countryside Act 1981^(a) or
 - (ii) subject to an agri-environment commitment entered into under Council Regulation (EC) No. 1257/1999 (on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF))^(b) or under Council Regulation (EC) No. 1698/2005 (on support for rural development by the European Agricultural Guidance and Guarantee Fund (EAGGF))^(c);
- (b) it is spread between 1st June and 31st October inclusive;
- (c) it is not spread directly on to surface water; and

^(a) 1981 c. 69.

^(b) OJ No. L160, 26.6.1999, p. 80.

^(c) OJ No. L277, 21.10.2005, p. 1.

- (d) the total annual amount does not exceed 12.5 tonnes per hectare.
- (3) A person may spread organic manure in the form of slurry, sewage sludge or anaerobic digestate, or some or all of these manures in combination, 6 metres or more from surface water provided that spreading equipment meeting the requirements in regulation 22(2A) is used.
- (4) No person may spread organic manure less than 50 metres from a borehole, spring or well.
- (5) In this regulation—
 - (a) “anaerobic digestate” means the product of anaerobic digestion other than from the anaerobic digestion of sewage or material in a landfill; and
 - (b) “sewage sludge” means sludge within the meaning of the Sludge (Use in Agriculture) Regulations 1989(a) whose use complies with regulation 3 of those Regulations.

Controlling how nitrogen fertiliser is spread

22.—(1A) Paragraphs (1) and (2) apply where slurry is spread 10 metres or more from surface water. (1) Subject to paragraph (2), any person spreading slurry must use spreading equipment with a low spreading trajectory less than 4 metres from the ground.

(2) Spreading equipment with a spreading trajectory of more than 4 metres from the ground can be used where such equipment can achieve a maximum slurry application rate of 1 millimetre per hour when it is operating continuously.

(2A) For the purposes of regulation 21(3), the spreading equipment used must be—

- (a) a trailing hose band spreader or a trailing shoe band spreader;
 - (b) an injector which injects the organic manure no deeper than 10cm below the surface of the soil; or
 - (c) a dribble bar applicator.
- (3) Any person spreading nitrogen fertiliser must do so in as accurate manner as possible.

Incorporating organic manure into the ground

23.—(1) Organic manure spread on bare soil or stubble (other than soil that has been sown) must be incorporated into the ground in accordance with this regulation.

(2) Poultry manure must be incorporated as soon as practicable, and within 24 hours at the latest.

(3) Slurry and liquid digested sewage sludge (that is, liquid from the treatment of sewage sludge from anaerobic digestion) must be incorporated as soon as practicable, and within 24 hours at the latest, unless it was spread applied using equipment of a type described in regulation 22(2A)(a) or (c) or an injector which injects the organic manure into the ground.

(4) Any other organic manure (other than organic manure spread as a mulch on sandy soil) must be incorporated into the soil as soon as practicable, and within 24 hours at the latest, if the land is within 50 metres of surface water and slopes in such a way that there may be run-off to that water.

(a) SI 1989/1263; relevant amending instruments are SI 1990/880 and 1996/593.

PART 6

Closed periods for spreading nitrogen fertiliser

Meaning of “high readily available nitrogen”

24. In this Part “organic manure with high readily available nitrogen” means organic manure in which more than 30% of the total nitrogen content is available to the crop at the time of spreading (for example cattle and pig slurry, poultry manure, and liquid digested sludge).

Closed periods for spreading organic manure with high readily available nitrogen

[NB For land designated as an NVZ for the first time in 2013, Regulation 25 applies from autumn 2015.]

25. No person may spread organic manure with high readily available nitrogen on land during the following dates, all inclusive (“the closed period”)—

The closed period

Soil type	Grassland	Tillage land
Sandy or shallow soil	1st September to 31st December	1st August to 31st December
All other soils	15th October to 31st January	1st October to 31st January

Exemptions: crops sown before 15th September

26. Spreading organic manure with high readily available nitrogen on tillage land with sandy or shallow soil is permitted between 1 August and 15 September inclusive provided that the crop is sown on or before 15th September.

Exemptions for organic holdings

27. An occupier of a holding registered as an organic producer with a body registered with the Advisory Committee on Organic Standards^(a) may spread organic manure with high readily available nitrogen at any time on—

- (a) crops specified in the table in Schedule 3 (permitted crops for the closed period), or
- (b) other crops in accordance with written advice from a person who is a member of the Fertiliser Advisers Certification and Training Scheme^(b),

provided that each hectare to which organic manure is spread, does not receive more than 150 kg total nitrogen between the start of the closed period and the end of February, and, in the case of winter oilseed rape, brassica or grass, the requirements for those crops set out in the footnotes to the table in Schedule 3 are met.

Restrictions following the closed period

28. From the end of the closed period until the last day in February—

-
- (a) The Advisory Committee on Organic Standards is a non-executive, non departmental public body that approves organic inspection bodies.
 - (b) The scheme is administered by Basis Registration Ltd, and a list of qualified persons is available on request at www.basis-reg.com/contact.aspx.

- (a) the maximum amount of slurry that may be spread at any one time is 30 cubic metres per hectare and the maximum amount of poultry manure that may be spread at any one time is 8 tonnes per hectare; and
- (b) there must be at least three weeks between each spreading.

Times in which spreading manufactured nitrogen fertiliser is prohibited

29.—(1) No person may spread manufactured nitrogen fertiliser on land during the following periods—

- (a) in the case of grassland, from 15th September to 15th January, or
- (b) in the case of tillage land, from 1st September to 15th January.

(2) Spreading fertiliser during these periods is permitted to the crops specified in the Table in Schedule 3, provided that the maximum rate in column 2 is not exceeded.

(3) Spreading during those periods to crops not in Schedule 3 is permitted on the basis of written advice from a member of the Fertiliser Advisers Certification and Training Scheme and, in the case of winter oilseed rape, brassica or grass, the requirements for those crops set out in the footnotes to the table in Schedule 3 are met.

Defence

30. In any proceedings for any breach of a provision in this Part relating to organic manure, it is a defence for the defendant to prove that—

- (a) the breach took place before 1st January 2012, and
- (b) the holding did not have the storage facilities for organic manure required by Part 7 at the time of the breach.

PART 7

Storage of organic manure

Storage of manure

31. An occupier of a holding who stores any organic manure (other than slurry), or any bedding contaminated with any organic manure, must store it—

- (a) in a vessel;
- (b) in a covered building (which for these purposes includes a greenhouse);
- (c) on an impermeable surface; or
- (d) in the case of solid manure that can be stacked in a free standing heap and that does not drain liquid from the material, on a temporary field site.

Temporary field sites

[NB Paragraphs A1 and 1(e) come into force on 14 May 2014.]

32.—(A1) A heap of solid manure described in regulation 31(d) forming a temporary field site must occupy as small a surface area as is practically required to support the mass of the heap and prevent it from collapse.

(1) A temporary field site must not be—

- (a) in a field liable to flooding or becoming waterlogged;
- (b) within 50m of a spring, well or borehole or within 10m of surface water or a land drain (other than a sealed impermeable pipe);
- (c) located in any single position for more than 12 consecutive months;

- (d) located in the same place as an earlier one constructed within the last two years;
 - (e) on land having a slope of 12 degrees or more which is within 30 metres of surface water.
- (2) Solid poultry manure that does not have bedding mixed into it and is stored on a temporary field site must be covered with an impermeable material.

Separation of slurry

33. Separation of slurry into its solid and liquid fractions must either be carried out mechanically or on an impermeable surface where the liquid fraction drains into a suitable receptacle.

Storage capacity

34.—(1) An occupier of a holding who keeps any of the animals specified in Schedule 1 must provide sufficient storage for all slurry produced on the holding during the storage period, and all poultry manure produced in a yard or building on the holding during the storage period.

(2) The volume of the slurry and poultry manure produced by the animals on the holding must be calculated in accordance with Schedule 1.

(3) In the case of slurry, the vessel must have the capacity to store, in addition to the slurry, any rainfall, washings or other liquid that enters the vessel (either directly or indirectly) during the storage period.

(4) Storage facilities are not necessary for slurry or poultry manure—

- (a) sent off the holding; or
 - (b) spread on low run-off risk land (provided that this is done in accordance with the restrictions on spreading in these Regulations); but in this case storage facilities for an additional one week's manure must be provided as a contingency measure in the event of spreading not being possible on some dates.
- (5) For the purposes of this regulation the "storage period" is—
- (a) the period between 1st October and 1st April for pigs and poultry;
 - (b) the period between 1st October and 1st March in any other case.

PART 8

Calculations and records

Recording the size of the holding

35.—(1) By 30th April 2009 the occupier of a holding must record the total size of the holding calculated in accordance with regulation 12.

(2) If the size of the holding changes this must be updated within one month.

Records relating to storage of manure during the storage period

36.—(1) By 30th April 2009 an occupier of a holding with livestock must calculate and record—

- (a) the amount of manure that will be produced by the anticipated number of animals that will be kept in a building or on hardstanding during the storage period referred to regulation 34, using the figures in Schedule 1.
- (b) the amount of storage capacity (slurry vessels and hardstanding) required to enable compliance with regulation 34 (storage capacity), taking into account—
 - (i) the amount of manure intended to be exported from the holding; and
 - (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;
 - (c) the current capacity for storage capacity on the holding.
- (2) An occupier who introduces animals on to a holding for the first time must comply with paragraph (1) within one month of the introduction of the animals.
- (3) If the amount of storage capacity changes the occupier must record the change within one week.

Annual records relating to storage

37.—(1) Before 30th April each year the occupier must record, for the previous storage period referred to in regulation 34 the number and category of animals in a building or hardstanding during the storage period.

- (2) The occupier must also record the sites used for field heaps and the dates of use.

Record of nitrogen produced by animals on the holding

38.—(1) Before 30th April every year the occupier must make a record of—

- (a) the number and category (in accordance with the categories in Schedule 1) of animals on the holding during the previous calendar year, and
 - (b) the number of days that each animal spent on the holding.
- (2) The occupier must then calculate the amount of nitrogen in the manure produced by the animals on the holding during that year using the Table in Schedule 1.
- (3) Alternatively, in the case of permanently housed pigs or poultry, the occupier may use—
- (a) software approved by the Secretary of State; or
 - (b) in the case of a system of keeping livestock that only produces solid manure, sampling and analysis in accordance with Part 2 of Schedule 2.
- (4) The occupier must make a record of the calculations and how the final figures were arrived at.
- (5) An occupier who used software approved by the Secretary of State must keep a printout of the result.

Livestock manure brought on to or sent off the holding

39.—(1) An occupier who brings livestock manure on to a holding must, within one week record—

- (a) the type and amount of livestock manure;
 - (b) the date it is brought on to the holding;
 - (c) the nitrogen content, if known;
 - (d) the name and address of the supplier.
- (2) An occupier who sends livestock manure off a holding must within one week record—
- (a) the type and amount of livestock manure;
 - (b) the date it is sent off the holdings;
 - (c) the nitrogen content;
 - (d) the name and address of the recipient; and
 - (e) details of a contingency plan to be used in the event that an agreement for a person to accept the livestock manure fails.
- (3) If the nitrogen content of the livestock manure brought on to a holding is not known, the occupier must ascertain it, as soon as is reasonably practicable after arrival, and record it within one week.

(4) All nitrogen content must be ascertained using either the standard figures in Part 1 of Schedule 2 or by sampling and analysis as set out in Part 2 of that Schedule.

Sampling and analysis

40.—(1) Any person using sampling and analysis to determine nitrogen content in organic manure must keep the original report from the laboratory.

Records of crops sown

41. The occupier must record within one week of sowing a crop—

- (a) the crop type sown;
- (b) the date of sowing.

Records of spreading nitrogen fertiliser

42.—(1) Within one week of spreading organic manure the occupier must record—

- (a) the area spread;
- (b) the quantity of organic manure spread;
- (c) the date;
- (d) the method;
- (e) the type of organic manure;
- (f) the total nitrogen content;
- (g) the amount of nitrogen that was available to the crop.

(2) Within one week of spreading manufactured nitrogen fertiliser the occupier must record—

- (a) the date of spreading; and
- (b) the amount of nitrogen spread.

Subsequent records

43.—(1) An occupier who has used nitrogen must record the yield achieved by an arable crop within one week of ascertaining it.

(2) Before 30th April each year an occupier must record how any grassland was managed (cut or grazed) in the previous calendar year.

Fertiliser Advisers Certification and Training Scheme advice

44. An occupier must keep a copy of any advice from a member of the Fertiliser Advisers Certification and Training Scheme relied on for any purpose under these Regulations.

Duration of records

45. Any person required to make a record under these Regulations must keep them for five years.

PART 9

Review

Monitoring and review

46.—(1) At least every four years the Secretary of State must review the effectiveness of the restrictions in nitrate vulnerable zones imposed by these Regulations as a means of reducing or preventing water pollution caused by nitrates from agricultural sources and if necessary revise them.

(2) In order to do this the Secretary of State must establish a monitoring programme to assess the effectiveness of the restrictions in these Regulations, and

(3) When carrying out this review the Secretary of State must take into account—

- (a) available scientific and technical data, particularly with reference to respective nitrogen contributions originating from agricultural and other sources; and
- (b) regional environmental conditions.

Public participation

47.—(1) When carrying out this review the Secretary of State must ensure that the public is given early and effective opportunities to participate.

(2) The Secretary of State must make adequate arrangements for public participation to enable the public to prepare and participate effectively.

(3) the Secretary of State must ensure that—

- (a) the public is consulted about any proposals and that relevant information about such proposals is made available to the public, including information about the right to participate in decision-making and about the body to which comments or questions may be submitted;
- (b) the public is entitled to express comments and opinions when all options are open before decisions on the plans and programmes are made.

(4) The Secretary of State must identify the public entitled to be consulted, including non-governmental organisations promoting environmental protection.

(5) Reasonable time must be allowed for consultation.

(6) Consultation must be taken into account in reaching a decision.

(7) Following consultation the Secretary of State must inform the public about the decisions taken and the reasons and considerations upon which those decisions are based, including information about the public participation process.

Regulatory review

47A.—(1) The Secretary of State must from time to time, so far as not done pursuant to regulation 46—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Council Directive 91/676/EEC concerning the protection of waters against pollution by nitrates from agricultural sources is implemented in other member States.

- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with 7th August 2012.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

PART 10

Enforcement

Offences and penalties

48.—(1) Any person who breaches any provision of these Regulations is guilty of an offence and liable —

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) For the purposes of this regulation, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Civil sanctions

48A.—(1) The Environment Agency may impose a fixed monetary penalty, variable monetary penalty, restoration notice, compliance notice or stop notice, or accept an enforcement undertaking, in relation to any offence under these Regulations, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (England) Order 2010.

(2) The terms used in this regulation have the same meaning as in that Order.

(3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.

Enforcement

49. These Regulations are enforced by the Environment Agency.

Revocations

50. The following are revoked in so far as they apply in England—

- (a) the Nitrate Sensitive Areas Regulations 1994**(a)**
- (b) the Nitrate Sensitive Areas (Amendment) Regulations 1995**(b)**
- (c) the Nitrate Sensitive Areas (Amendment) (No. 2) Regulations 1995**(c)**
- (d) the Protection of Water Against Agricultural Nitrate Pollution (England and Wales) Regulations 1996**(d)**;
- (e) the Nitrate Sensitive Areas (Amendment) Regulations 1996**(e)**
- (f) the Nitrate Sensitive Areas (Amendment) Regulations 1997**(f)**
- (g) the Nitrate Sensitive Areas (Amendment) Regulations 1998**(g)**
- (h) the Action Programme for Nitrate Vulnerable Zones (England and Wales) Regulations 1998**(h)**;
- (i) the Nitrate Sensitive Areas (Amendment) (No. 2) Regulations 1998**(i)**
- (j) the Nitrate Sensitive Areas (Amendment) Regulations 2002**(j)**
- (k) the Nitrate Vulnerable Zones (Additional Designations) (England) (No 2) Regulations 2002**(k)**;
- (l) the Farm Waste Grant (Nitrate Vulnerable Zones) (England) Scheme 2003**(l)** and
- (m) the Protection of Water Against Agricultural Nitrate Pollution (England and Wales) (Amendment) Regulations 2006**(m)**.

SCHEDULE A1 - Exemptions for greenhouse crops and transitional provisions

Regulation 4(1)

PART 1 Exemptions for greenhouse crops

1. For the purposes of calculations required under the following regulations, “the holding” excludes any area of land which is covered by a greenhouse during the entire period in respect of which the calculations are made—

- (a) regulation 12(1) (application of livestock manure – total nitrogen limit for the whole holding);
- (b) regulation 13 (spreading organic manure – nitrogen limits per hectare);
- (c) regulation 13A(1) (application for a derogation).

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- (a) SI 1994/1729.
 - (b) SI 1995/1708.
 - (c) SI 1995/2095.
 - (d) SI 1996/888.
 - (e) SI 1996/3105.
 - (f) SI 1997/990.
 - (g) SI 1998/79.
 - (h) SI 1998/1202.
 - (i) SI 1998/2138.
 - (j) SI 2002/744.
 - (k) SI 2002/2614.
 - (l) SI 2003/562.
 - (m) SI 2006/1289.

2. The following regulations do not apply to the extent that nitrogen fertiliser is spread or to be spread on crops growing in a greenhouse, and any calculations required under those regulations in respect of crops are to exclude such crops—

- (a) regulation 14(1), (2) and (4) to (6) (planning the spreading of nitrogen fertiliser);
- (b) regulation 15 (additional information to be recorded during the year);
- (c) regulation 16 (total nitrogen spread on a holding);
- (d) regulation 16A(1) (grass grown for dehydration or for chlorophyll production);
- (e) regulation 17 (calculating the amount of nitrogen available for crop uptake);
- (f) regulation 17A (organic manure for which no value is established);
- (g) regulation 41 (records of crops sown).

3. The following regulations do not apply in respect of a holding on which organic manure is spread exclusively in a greenhouse—

- (a) regulation 18(2) to (4) (risk maps);
- (b) regulation 39 (livestock manure brought onto or sent off the holding).

4. The following regulations do not apply in relation to land which is covered by a greenhouse—

- (a) regulation 19 (when to spread fertiliser);
- (b) regulation 20 (spreading manufactured nitrogen fertiliser near surface water);
- (c) regulation 21 (spreading organic manure near surface water, boreholes, springs or wells).

5. The following regulations do not apply in relation to nitrogen fertiliser spread in a greenhouse—

- (a) regulation 22 (controlling how nitrogen fertiliser is spread);
- (b) regulation 23 (incorporating organic manure into the ground);
- (c) regulation 25 (closed periods for spreading organic manure with high readily available nitrogen);
- (d) regulation 27 (exemptions for organic holdings);
- (e) regulation 28 (restrictions following the closed period);
- (f) regulation 29 (times in which spreading manufactured nitrogen fertiliser is prohibited);
- (g) regulation 42 (records of spreading nitrogen fertiliser);
- (h) regulation 43 (subsequent records).

6. The requirement to update records under regulation 35(2) (recording the size of the holding) does not apply in respect of any of land which is covered by a greenhouse.

Regulation 4(6)

PART 2

Transitional provisions for holdings newly in a nitrate vulnerable zone

7. The following regulations do not apply in relation to a new holding until 1st January 2014—

- (a) regulation 12 (application of livestock manure – total nitrogen limit for the whole holding);
- (b) regulation 13 (spreading organic manure – nitrogen limits per hectare);
- (c) regulation 16 (total nitrogen spread on a holding);
- (d) regulation 16A (grass grown for dehydration or for chlorophyll production);
- (e) regulation 17 (calculating the amount of nitrogen available for crop uptake);

- (f) regulation 17A (organic manure for which no value is established);
- (g) regulation 23 (incorporating organic manure into the ground);
- (h) regulation 31 (storage of organic manure);
- (i) regulation 32 (temporary field sites);
- (j) regulation 35 (recording the size of the holding);
- (k) regulation 37 (annual records relating to storage);
- (l) regulation 38 (record of nitrogen produced by animals on the holding);
- (m) regulation 39 (livestock manure brought on to or sent off the holding);
- (n) regulation 40 (sampling and analysis);
- (o) regulation 43 (subsequent records).

8. The following regulations do not apply in relation to a new holding until 1st July 2013, except in relation to permanent grassland on new holdings, in which case they do not apply until 1st January 2014—

- (a) regulation 14 (planning the spreading of nitrogen fertiliser);
- (b) regulation 15 (additional information to be recorded during the year);
- (c) regulation 41 (records of crops sown);
- (d) regulation 42 (records of spreading nitrogen fertiliser).

9. In regulation 22 (controlling how nitrogen fertiliser is spread), paragraphs (1A), (1) and (2) do not apply in relation to a new holding until 1st January 2016.

10. The following regulations do not apply in relation to a new holding until 31st July 2015—

- (a) regulation 25 (closed periods for spreading organic manure);
- (b) regulations 26 and 27 (exemptions subject to certain requirements);
- (c) regulation 28 (restrictions following the closed period).

11. Regulations 33 (separation of slurry) and 34 (storage capacity) do not apply in relation to a new holding until the date on which the latest closed period applying in relation to that holding begins pursuant to paragraph 10(a) (regardless of whether an exemption in regulation 26 or 27 is relied on).

12. Regulations 35 (recording the size of the holding) and 36 (records relating to storage of manure during the storage period) apply as if the date referred to in paragraph (1) in each of those regulations (30th April 2009) were 1st January 2014.

SCHEDULE 1 - Volume of manure and nitrogen produced by livestock

Amount of manure, nitrogen and phosphate produced by grazing livestock and non-grazing livestock

Regulations 6 and 38

Table 1

Grazing livestock

Category	Daily manure produced by each animal (litres)	Daily nitrogen produced by each animal (grams)	Daily phosphate produced by each animal (grams)
Cattle			
Calf (all categories except veal) younger than 2 months:	7	23	12.7
Dairy cow—			
From 2 months and less than 12 months:	20	95	34
From 12 months up to first calf:	40	167	69
After first calf and—			
annual milk yield more than 9,000 litres:	64	315	142
annual milk yield between 6,000 and 9,000 litres:	53	276	121
annual milk yield less than 6,000 litres:	42	211	93
Beef cows or steers ^(a) —			
From 2 months and less than 12 months:	20	91	33
From 12 months and less than 24 months:	26	137	43
From 24 months—			
females or steers for slaughter:	32	137	60
females for breeding—			
weighing 500kg or less:	32	167	65
weighing more than 500kg:	45	227	86

Category	Daily manure produced by each animal (litres)	Daily nitrogen produced by each animal (grams)	Daily phosphate produced by each animal (grams)
Bulls			
Non-breeding, 2 months and over:	26	148	24
Breeding—			
from 2 months and less than 24 months:	26	137	43
from 24 months:	26	132	60
Sheep			
From 6 months up to 9 months old:	1.8	5.5	0.76
From 9 months old to first lambing, first tupping or slaughter:	1.8	3.9	2.1
After lambing or tupping^(b)—			
weight less than 60kg:	3.3	21	8.8
weight from 60kg:	5	33	10.0
Goat, deer and horses			
Goat:	3.5	41	18.8
Deer—			
breeding:	5	42	17.6
other:	3.5	33	11.7
Horse:	24	58	56

(a) Castrated male.

(b) In the case of a ewe, this figure includes one or more suckled lambs until the lambs are aged six months.

Table 2**Non-grazing livestock**

Category	Daily manure produced by each animal (litres, or in the case of poultry, kilograms)	Daily nitrogen produced by each animal (grams)	Daily phosphate produced by each animal (grams)
Cattle			
Veal calf:	7	23	12.7
Poultry^(a)			
Chicken used for production of eggs for human consumption—			
less than 17 weeks:	0.04	0.64	0.47
from 17 weeks (caged):	0.12	1.13	1.0
from 17 weeks (not caged):	0.12	1.5	1.1
Chickens raised for meat:	0.06	1.06	0.72
Chickens raised for breeding—			
less than 25 weeks:	0.04	0.86	0.78
from 25 weeks:	0.12	2.02	1.5
Turkey—			
male:	0.16	3.74	3.1
female:	0.12	2.83	2.3
Duck:	0.10	2.48	2.4
Ostrich:	1.6	3.83	18.5
Pigs			
Weight from 7kg and less than 13kg:	1.3	4.1	1.3
Weight from 13kg and less than 31kg:	2	14.2	6.0
Weight from 31kg and less than 66kg—			
dry fed:	3.7	24	12.1
liquid fed:	7.1	24	12.1
Weight from 66kg and—			
intended for slaughter—			

Category	Daily manure produced by each animal (litres, or in the case of poultry, kilograms)	Daily nitrogen produced by each animal (grams)	Daily phosphate produced by each animal (grams)
dry fed:	5.1	33	17.9
liquid fed:	10	33	17.9
sow intended for breeding that has not yet had its first litter:	5.6	38	20
sow (including litter up to 7kg) fed on a diet supplemented with synthetic amino acids:	10.9	44	37
sow (including litter up to 7kg) fed on a diet without synthetic amino acids:	10.9	49	37
breeding boar from 66kg up to 150kg:	5.1	33	17.9
breeding boar, from 150kg:	8.7	48	28

(a) Note: all figures for poultry include litter.

SCHEDULE 2

Calculating nitrogen in manure

Regulation 17

PART 1

Standard table

Total amount of nitrogen in manure

Manure other than slurry	Total nitrogen in each tonne (kg)
Manure other than slurry from—	
cattle:	6
pigs:	7
sheep:	7
ducks:	6.5
horses:	7
goats:	6
Manure from laying hens:	19
Manure from turkeys or broiler chickens:	30

Slurry	Total nitrogen in each cubic metre (kg)
Cattle:	2.6
Pigs:	3.6
Separated cattle slurry (liquid fraction)—	
strainer box:	1.5
weeping wall:	2
mechanical separator:	3
Separated cattle slurry (solid fraction):	4
Separated pig slurry (liquid fraction):	3.6
Separated pig slurry (solid fraction):	5
Dirty water:	0.5

PART 2

Sampling and analysis

Slurry and other liquid and semi-liquid organic manure

1.—(1) In relation to slurry and other liquid and semi-liquid organic manure, at least five samples, each of two litres, must be taken.

(2) Subject to paragraph (3), the five samples must be taken from a vessel, and—

- (a) if reasonably practicable, the slurry or other manure must be thoroughly mixed before the samples are taken, and
- (b) each sample must be taken from a different location.

(3) If a tanker used for spreading is fitted with a suitable valve, the five samples may be taken while spreading and each sample must be taken at intervals during the spreading.

(4) Whether taken as described in subparagraph (2) or (3), the five samples must be poured into a larger container, stirred thoroughly and a two-litre sample taken from that container and poured into a smaller, clean container.

(5) The two-litre sample produced in accordance with paragraph (4) must then be sent for analysis.

Solid manures

2.—(1) In relation to solid manures, the samples must be taken from a manure heap.

(2) At least ten samples of 1kg each must be taken, each from a different location in a heap.

(3) Each sub-sample must be taken at least 0.5 metres from the surface of the heap.

(4) If samples are being collected to calculate compliance with the whole farm limit for pigs and poultry, four samples for analysis must be taken in a calendar year (one taken in each quarter) from manure heaps not more than 12 months old.

(5) The sub-samples must be placed on a clean, dry tray or sheet.

(6) Any lumps must be broken up and the sub-samples must be thoroughly mixed together.

(7) A representative sample of at least 2kg must then be sent for analysis.

SCHEDULE 3

Permitted crops for the closed period

Regulations 27 and 29

Crop	Maximum nitrogen rate (kg/hectare)
Oilseed rape, winter ^(a)	30
Asparagus	50
Brassica ^(b)	100
Grass ^{(a) (c)}	80
Over-wintered salad onions	40
Parsley	40
Bulb onions	40

(a) Nitrogen must not be spread on these crops after 31st October.

(b) An additional 50kg of nitrogen per hectare may be spread every four weeks during the closed period up to the date of harvest.

(c) A maximum of 40kg of nitrogen per hectare may be spread at any one time.

SCHEDULE 4 Derogated holdings

Regulation 13F

1. The following additional requirements apply to derogated holdings.

Derogation from the measures governing the limit on application of livestock manure

2. An occupier of a derogated holding must ensure that in any calendar year for which the derogation has been granted—

$$A \geq (Ngl \div 250) + (Nngl \div 170)$$

where—

A is the area of the derogated holding (hectares), as existing on 1st January for that calendar year,

Ngl is the total amount of nitrogen (kilogrammes) in livestock manure from grazing livestock, whether applied directly by an animal or by spreading, and

Nngl is the total amount of nitrogen (kilogrammes) in livestock manure from non-grazing livestock, whether applied directly by an animal or by spreading.

Planning the spreading of phosphate fertiliser

- 3.—(1) In addition to the production of nitrogen spreading plans under regulation 14 (planning the spreading of nitrogen fertiliser) the occupier must—

- (a) assess the amount of phosphorus in the soil that is likely to be available for uptake by the crop during the growing season (“the soil phosphorus supply”);
- (b) calculate the optimum amount of phosphate fertiliser that should be spread on the crop, taking into account the amount of phosphorus available from the soil phosphorus supply; and
- (c) produce a plan for the spreading of phosphate fertiliser for that growing season.

- (2) The occupier must do this—

- (a) in the case of any crop other than permanent grassland, before spreading any phosphate fertiliser for the first time for the purpose of fertilising a crop planted or intended to be planted; and
- (b) in the case of permanent grassland, each year beginning on 1st January before the spreading of phosphate fertiliser.

Other requirements for fertilisation plans

- 3A. The fertilisation plan must—

- (a) include a sketch plan indicating the location of the fields to which the plan relates;
- (b) clearly state in relation to any field referred to in the plan the nature of the fertilizer to be used.

4. In addition to the requirements under paragraph 3 the fertilisation plan must record—

- (a) the soil phosphorus supply and the method used to establish this figure;

- (b) the optimum amount of phosphate fertiliser that should be spread on the crop, taking into account the amount of phosphorus from the soil phosphorus supply;
- (c) the amount of nitrogen likely to be available for uptake by the crop from any organic manure intended to be spread for crop uptake in the growing season during the calendar year in which it is spread;
- (d) the amount of phosphate likely to be supplied to meet the requirement of the crop from any organic manure spread or intended to be spread during the calendar year;
- (e) the amount of manufactured nitrogen fertiliser required (that is, the optimum amount of nitrogen required by the crop less the amount of nitrogen that will be available for crop uptake from any organic manure spread during that calendar year); and
- (f) the amount of manufactured phosphate fertiliser required (that is, the optimum amount of phosphate required by the crop less the amount of phosphate supplied for crop uptake from any organic manure spread for the purpose of fertilising the crop during that calendar year).

Soil sampling and analysis

5.—(1) At least every four years the occupier must undertake soil sampling and analysis for the supply of phosphorus of at least every five hectares of the agricultural area of the derogated holding under the same cropping regime and soil type.

(2) An occupier may rely on the results of previous phosphorus soil sampling and analysis of the agricultural area of the derogated holding under the same cropping regime and soil type for the purposes of paragraph (1), provided such sampling and analysis was carried out within four years before the derogation.

(3) Where phosphorus soil sampling and analysis of the agricultural area of the derogated holding under the same cropping regime and soil type has not been carried out before 2013, such sampling and analysis must be carried out as follows—

- (a) 75% of the agricultural area no later than twelve months after the date on which a derogation is first granted to the occupier;
- (b) 100% of the agricultural area no later than twelve months after the date on which a derogation is granted for the second time to the occupier.

Additional information to be recorded during the year

6.—(1) In addition to the information to be recorded under regulation 15 (additional information to be recorded during the year) the occupier must, before spreading organic manure, record—

- (a) the total phosphate content of the organic manure; and
- (b) the amount of phosphate likely to be supplied from the organic manure intended to be spread for the purpose of fertilising the crop in the growing season in which it is spread.

(2) In addition to the requirements of paragraph (1) the occupier must, before spreading manufactured phosphate fertiliser, record—

- (a) the amount required (that is, the optimum amount of phosphate required by the crop less the amount of phosphate that will be supplied for crop uptake from any organic manure spread); and
- (b) the planned date for spreading (month).

Risk maps

7.—(1) In addition to the requirements under regulation 18 (risk maps), the risk map must—

- (a) show each field marked with a reference number or number to enable cross reference to fields recorded in fertilisation plans;
- (b) correspond with the agricultural area of the derogated holding; and
- (c) be completed by 30th June for the calendar year 2013, and by 1st March for any subsequent calendar year.

(2) The occupier must update the risk map within one month of any change in circumstances.

Maintaining the derogated holding as a grassland holding

8. The occupier must maintain the holding to ensure 80% or more of the agricultural area is sown with grass during that calendar year.

Closed period for ploughing grass on the derogated holding

9. In relation to any grass ploughed on or after 1st January 2010, no person may—

- (a) plough temporary grassland on sandy soils between 1st July and 31st December;
- (b) plough grass on sandy soils before 16th January where livestock manure has been spread on that grass between 1st September and 31st December in the previous calendar year; and
- (c) plough grass on soils that are not sandy soils before 16th January where livestock manure has been spread on that grass between 15th October in the previous calendar year and 15th January.

Sowing of crops following grass on the derogated holding

10. In relation to the sowing of crops or grass on any grass ploughed on or after 1st January 2010, the land must be—

- (a) sown with a crop with high nitrogen demand within four weeks beginning on the day after the date of ploughing grass; or
- (b) sown with grass within six weeks beginning on the day after the date of ploughing grass.

Crop rotation on the derogated holding

11. Crop rotation must not include leguminous or other plants fixing atmospheric nitrogen except for grass with less than 50% clover and other leguminous plants that are under-sown with grass.

Recording the size of the derogated holding

12.—(1) An occupier must record the total agricultural area and the area of grass within the derogated holding by 30th June for the calendar year 2013, and by 1st March for any subsequent calendar year.

(2) If the size of the derogated holding or area of grass changes the occupier must update the record within one month beginning on the day after the change

Records relating to storage of manure during the storage period

13. In addition to the requirements of regulation 36 (records relating to storage of manure during the storage period) the occupier must make a record describing the livestock housing and manure storage systems together with the volume of manure storage in place on the holding by 30th June for the calendar year 2013, and by 1st March for any subsequent calendar year.

Record of nitrogen and phosphate produced by animals

14.—(1) The occupier must make a record of the expected number and category (in accordance with the categories in Tables 1 and 2 in Schedule 1) of livestock to be kept on the holding during that calendar year.

(2) Following the record making requirements in paragraph (1), the occupier must then calculate and record the amount of nitrogen and phosphate in manure expected to be produced by the livestock on the holding during that year using Tables 1 and 2 in Schedule 1.

(3) The records to be made in accordance with paragraphs (1) and (2) must be made by 30th June for the calendar year 2013, and by 1st March for any subsequent calendar year.

Livestock manure intended to be brought on to or sent off the derogated holding

15.—(1) The occupier must—

- (a) make a record of the type and amount of livestock manure that is intended to be brought on to the holding and sent off the holding during that calendar year; and
- (b) calculate and record the amount of nitrogen in the livestock manure recorded under paragraph (a) in accordance with regulation 39(4).

(2) The records to be made under paragraph (1) must be made by 30th June for the calendar year 2013, and by 1st March for any subsequent calendar year.

Records of crops sown

16. In addition to the requirements of regulation 41 (records of crops sown) an occupier who intends to spread phosphate fertiliser must, within one week of sowing a crop record—

- (a) the crop sown; and
- (b) the date of sowing.

Records of spreading phosphate fertiliser

17. In addition to the requirements of regulation 42 (records of spreading nitrogen fertiliser), an occupier must record—

- (a) within one week of spreading organic manure—
 - (i) the total phosphorus content; and
 - (ii) the amount of phosphate that was supplied for uptake by the crop; and
- (b) within one week of spreading manufactured phosphate fertiliser—
 - (i) the date of spreading; and
 - (ii) the amount of phosphate spread.

Recording the date of ploughing

18. In addition to the requirements of regulation 43 (subsequent records) an occupier must record within one week of ploughing, the date of that ploughing.

Fertilisation accounts

19.—(1) An occupier, or any person on behalf of the occupier, must submit fertilisation accounts for the calendar year to the Agency by 30th April of the following year.

(2) The Agency must publish the manner and form in which the fertilisation account must be made.

(3) The fertilisation account must record—

- (a) the total agricultural area of the derogated holding;
- (b) the area of the derogated holding covered by—
 - (i) winter wheat,
 - (ii) spring wheat,
 - (iii) winter barley,
 - (iv) spring barley,
 - (v) winter oilseed rape,
 - (vi) sugar beet,
 - (vii) potatoes,
 - (viii) forage maize,
 - (ix) grass, and
 - (x) other crops;
- (c) the number and category of animals kept on the derogated holding during the previous calendar year in accordance with the categories described in Tables 1 and 2 in Schedule 1;
- (d) the amount of nitrogen and phosphate in the manure produced by the animals on the derogated holding during the previous calendar year using Tables 1 and 2 in Schedule 1;
- (e) the amount, type and characteristics of livestock manure brought on to or sent off the derogated holding during the previous calendar year;
- (f) the amount of nitrogen and phosphate in the manure recorded under paragraph (e) calculated in accordance with paragraph 14(2);
- (g) the weight (tonnes) and nitrogen content of all manufactured nitrogen fertiliser stocks kept on the derogated holding between 1st January and 31st December in the previous calendar year; and
- (h) the weight (tonnes) and nitrogen content of all manufactured nitrogen fertiliser brought on to and sent off the derogated holding between 1st January and 31st December in the previous calendar year.

Amendments to other Regulations

Amendment of the Conservation (Natural Habitats, & c.) Regulations 1994

The Conservation (Natural Habitats & c.) Regulations 1994(a) are amended as follows.
After regulation 84C (marine works), insert—

“Derogations under the Nitrate Pollution Prevention Regulations 2008

84D.—(1) Regulations 48 (assessment of implications for European site) and 49 (considerations of overriding public interest) apply in relation to the granting of a derogation under Part 3A of the Nitrate Pollution Prevention Regulations 2008(b).

(2) Where regulations 48 and 49 apply, the competent authority may, if they consider any adverse effects of the plan or project on the integrity of a European site or European offshore marine site would be avoided if the derogation were subject to conditions, grant the derogation, subject to those conditions.”.

Amendment of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010

In the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010(a), for regulation 9 (notice of construction etc), substitute—

“9.—(1) This regulation applies to any silo, slurry or fuel oil storage system whose construction is to be begun on or after 15th June 2013 (“a new or improved store”).

(2) A person who proposes to have custody or control of silage, slurry or fuel oil that is to be kept in a new or improved store must give the Agency notice specifying the type of silo or storage system and its location, at least 14 days before work constructing the new or improved store is to be begun.

(3) In this regulation, “construction” includes substantial enlargement and reconstruction.”.

(a) SI 2010/639, as amended by SI 2010/1091.

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