

How do the
Nitrates
Regulations
Affect Farmers'
Obligations

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Introduction

On November 14th last it became public knowledge that the EU Nitrates Committee¹ had approved a derogation to the annual amount of livestock manure applied to land established in the Nitrates Directive² for Ireland. However, the Commission's Decision on the derogation has not yet been published. This Article will focus on the contents of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2006 ("Nitrates Regulations") which implement the Nitrates Directive. Most of the provisions of the Regulations are already in force.

So how do the Nitrates Regulations affect Irish farmers?

The Nitrates Directive was approved by the EU Council in December 2001 after growing concerns on increasing levels of nitrates in the waters in some European countries. The aims of the Directive are to reduce and prevent water pollution caused by nitrates originating from agricultural sources. The Nitrates Directive is currently transposed into Irish Law by the Nitrates Regulations.

The Nitrates Regulations provide for certain obligations for farmers. First of all, there is an obligation to take reasonable steps to minimise soiled water (for example, by ensuring that rainwater from roofs is diverted to a clean water outfall). Livestock manure and other organic fertilisers, before being applied into the land, shall be collected and held in a manner that prevents run-off or seepage into the waters.

Some rules regulate the structural integrity of storage facilities, focused mainly on preventing run-off or seepage of manure or fertilisers into groundwater or surface water and the capacity of storage facilities. The storage capacity required will depend on several factors

¹ The Nitrates Committee was set up by the Nitrates Directive and it is composed of the representatives of the Member States and chaired by the representative of the Commission.

² Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by Nitrates from agricultural sources.

such as the animals from which the manure is originated or the county where the farm is located.

The Nitrates Regulations limit the application of fertilisers on land by establishing a number of tables and indices. Regarding livestock manure, the amount applied any year to land together with that deposited by livestock, shall not exceed an amount containing 170 Kg of nitrogen per hectare. Tables to calculate the amount of nitrogen produced by livestock and the nitrogen content of livestock manure are provided in the Regulations.

Some provisions regulate the distances that should be kept from water bodies when spreading the fertilisers and requirements are placed on the manner of application of fertilisers, soiled water etc. Ploughing and the use of non-selective herbicides are also regulated.

Certain periods are set where the application of fertilisers on land is prohibited, which generally start in September, October or November and last until January and vary depending on the county where the land is located.

There is finally a record-keeping obligation whereby records for each holding shall be maintained which shall include, amongst other information, the total area of the holding, cropping regimes and their individual areas, livestock numbers and type, estimation of annual fertilisers requirement, soil test etc.

Grant of the Derogation

According to the Department of the Environment, the grant of the derogation will depend on an increase in the penalties for breach of the regulations in the legislation. The European Communities (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2007 (S.I. 526 of 2007) has provided for an increase in the penalties accordingly. The text of the derogation is expected to be published soon.

Date: September, 2007

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