STATUTORY INSTRUMENTS

2006 No. 1289

WATER, ENGLAND AND WALES

The Protection of Water Against Agricultural Nitrate Pollution (England and Wales) (Amendment) Regulations 2006

Made - - - -	*10th May 2006*
Laid before Parliament	*10th May 2006*
Coming into force - -	*1st June 2006*

The Secretary of State is a Minister designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to matters relating to water resources.

The National Assembly for Wales is designated(**c**) for the purposes of section 2(2) of that Act in relation to matters relating to the protection of waters against pollution caused by nitrates from agricultural sources.

In exercise of the powers conferred upon them by that section and acting respectively in relation to land in England and land in Wales, they make the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Protection of Water Against Agricultural Nitrate Pollution (England and Wales) (Amendment) Regulations 2006 and shall come into force on 1st June 2006.

(2) Regulation 3 applies in relation to England and the remaining provisions of these Regulations apply in relation to England and Wales.

Amendment to the Protection of Water Against Agricultural Nitrate Pollution (England and Wales) Regulations 1996

2. The Protection of Water Against Agricultural Nitrate Pollution (England and Wales) Regulations 1996(**d**) are amended by inserting after regulation 6 (action programmes)—

"Preparation, etc of action programmes: public participation

6A.—(1) The relevant Minister shall—

(a) ensure that the public is given early and effective opportunities to participate in the preparation, review or revision of any action programme; and

(**a**) S.I. 2003/2901.
(**b**) 1972 c. 68.
(**c**) S.I. 2001/2555.
(**d**) S.I. 1996/888; amended in relation to England by S.I. 2002/2614; there are other amending instruments but none is relevant.

(b) in doing so—

(i) ensure that the public is informed, by public notices or other appropriate means such as electronic media, about any proposals for the preparation, review or revision of an action programme;

(ii) ensure that information about such proposals is made available to the public, including information about the right to participate in decision-making in relation to those proposals;

(iii) ensure that the public is entitled to make comments before any decision is made on the establishment, review or revision of an action programme;

(iv) in making any such decision, take due account of the results of the public participation; and

(v) having examined any comments made by the public, make reasonable efforts to inform the public of the process of public participation that has taken place, and about the decisions taken in relation to the preparation, review or revision of an action programme and the reasons and considerations on which those decisions are based.

(2) In carrying out the functions mentioned in paragraph (1), the relevant Minister shall ensure that sufficient time is allowed to afford the public a reasonable period for response so as to participate effectively.

(3) Where, in carrying out those functions, the relevant Minister publishes any information, the information shall—

(a) be published in such manner as the relevant Minister considers appropriate for the purpose of bringing it to the attention of the public; and

(b) be made accessible to the public free of charge on a website maintained by the relevant Minister.

(4) The relevant Minister shall publish on that website the detailed arrangements made to enable public participation in the preparation, review or revision of an action programme, including—

(a) the address to which comments in relation to those proposals may be submitted; and

(b) the date by which such comments should be received.

(5) In this regulation "the public" includes such persons as appear to the relevant Minister, in relation to the action programme to which the Minister's proposals relate to be representative of those who have, or carry on any business which has, an interest in water affected by pollution, or waters which could be affected by pollution if action pursuant to regulation 6 were not taken.".

Amendments to the Nitrate Vulnerable Zones (Additional Designations) (England) (No. 2) Regulations 2002

3.—(1) The Nitrate Vulnerable Zones (Additional Designations) (England) (No. 2) Regulations 2002(**a**) are amended in accordance with paragraph (2).

(2) In paragraph (1) of regulation 9 (application of the Principal Regulations)—

(a) for "and" on the first occasion when it occurs, substitute ","; and

(b) after "programmes)" insert "and 6A (preparation, etc of action programmes: public participation)".

(**a**) S.I. 2002/2614.

Ian Pearson
Minister of State
10th May 2006 Department for Environment, Food and Rural Affairs

D Elis-Thomas
9th May 2006 The Presiding Officer of the National Assembly

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for implementing, in part, Article 2 of Directive 2003/35/EC of the European Parliament and of the Council on public participation in respect of drawing up certain plans and programmes relating to the environment (O.J. No. L156, 25.6.2003, p. 17). The programmes to which that Article applies include action programmes in relation to nitrate vulnerable zones designated under Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (O.J. No. L375, 31.12.91, p. 1).

Regulation 2 amends the Protection of Water Against Agricultural Nitrate Pollution (England and Wales) Regulations 1996 (S.I. 1996/888, as amended), to require provision to be made for public participation in the preparation, review or revision of any action programme in England or Wales. Where an action programme relates to a nitrate vulnerable zone in England, that provision must be made by the Secretary of State; where an action programme relates to a nitrate vulnerable zone in Wales, that provision must be made by the National Assembly for Wales.

Regulation 3, which applies to England only, ensures that the new public participation obligations apply in relation to action programmes for the nitrate vulnerable zones in England designated by the Nitrate Vulnerable Zones (Additional Designations) (England) (No. 2) Regulations 2002 (S.I. 2002/2614).

A Regulatory Impact Assessment and a Transposition Note in relation to these Regulations have been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Water Quality Division, Department for Environment, Food and Rural Affairs, 55 Whitehall, London SW1A 2HH.

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