

MOGEELY PIG FARM

APPENDIX 6

BUFFER ZONES

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- (c) Where a period of six years or more has elapsed after the taking of a soil test in relation to soil the results of that test shall be disregarded for the purposes of paragraph (a) except in a case where that soil test indicates the soil to be at phosphorus index 4.

(3) Without prejudice to the generality of sub-article (1) and subject to sub-article (4), the amount of available nitrogen or available phosphorus applied to promote the growth of a crop specified in Table 12, 13, 14, 15, 16, 17, 18, 19, 20 or 21 of Schedule 2 shall not exceed the amount specified in the table in relation to that crop having regard to the relevant nitrogen index or phosphorus index, as the case may be, for the soil on which the crops are to be grown.

(4) In the case of a holding on which grazing livestock are held, the amount of available phosphorus supplied to the holding by the concentrated feedstuff shall be the amount fed to such livestock in the previous calendar year and the phosphorus content of such concentrated feedstuff shall in the absence of a known phosphorus content or phosphorus content provided by the supplier be deemed to be 0.5 kg phosphorus in respect of each 100 kg of such concentrated feedstuff.

(5) (a) In the case of a holding on which grazing livestock are held, the amount of available nitrogen and available phosphorus supplied to the holding by manure from such livestock shall (save insofar as such manure is exported from the holding) be deemed to be the relevant proportion of the amount of available nitrogen and available phosphorus contained in the total manure produced by such livestock.

(b) In paragraph (a), the "relevant proportion" means the proportion of a year as is represented by the storage period specified in Schedule 3 in relation to the holding.

PART 4

PREVENTION OF WATER POLLUTION FROM FERTILISERS AND CERTAIN ACTIVITIES

Distances from a water body and other issues

17. (1) Chemical fertiliser shall not be applied to land within 2m of any surface waters.

(2) Organic fertiliser or soiled water shall not be applied to land within—

(a) 200m of the abstraction point of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 100m³ or more of water per day or serving 500 or more persons,

(b) 100m of the abstraction point (other than an abstraction point specified in paragraph (a)) of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water

scheme supplying 10m³ or more of water per day or serving 50 or more persons,

- (c) 25m of any borehole, spring or well used for the abstraction of water for human consumption other than a borehole, spring or well specified in paragraph (a) or (b),
- (d) 20m of a lake shoreline,
- (e) 15m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features), or
- (f) subject to sub-articles (13) and (14), 5m of any surface waters (other than a lake or surface waters specified at paragraph (a) or (b)).

(3) Notwithstanding the requirements of sub-articles (2)(a), (2)(b) and (2)(c), the following distances shall apply from 12 January 2011 (in the case of drinking water abstractions located in counties Carlow, Cork, Dublin, Kildare, Kilkenny, Laois, Offaly, Tipperary, Waterford, Wexford and Wicklow), from 15 January 2011 (in the case of drinking water abstractions located in counties Clare, Galway, Kerry, Limerick, Longford, Louth, Mayo, Meath, Roscommon, Sligo and Westmeath) and from 31 January 2011 (in the case of drinking water abstractions located in counties Cavan, Donegal, Leitrim and Monaghan) or as soon as may be thereafter-

- (a) 30m from the abstraction point in the case of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 10m³ or more of water per day or serving 50 or more persons,
- (b) 15m from the abstraction point in the case of any borehole, spring or well used for the abstraction of water for human consumption other than a borehole, spring or well specified in paragraph (a).

(4) Sub-article (3) shall only apply in situations where a local authority has completed a technical assessment of conditions in the vicinity of the abstraction point, including taking into account variation in soil and subsoil conditions, the landspreading pressures in the area, the type of abstraction, available water quality evidence and the likely risk to the water supply source and the local authority has determined that the distance does not give rise to a risk to the water supply and a potential danger to human health.

(5) A local authority may decide to apply the landspreading restriction to the upstream catchment area and to the close proximity downstream of the abstraction point in the case of any surface waters referred to in sub-article (3)(a).

(6) A local authority may, in the case of any particular abstraction point and following consultation with the Agency, specify a greater distance to that specified in sub-articles (2) or (3) where, following prior investigations, the authority is satisfied that such distance is appropriate for the protection of waters being abstracted at that point. The distance so specified shall be determined by the

local authority using an evidence-based approach which takes into account the natural vulnerability of the waters to contamination from land spreading, the potential risk to human health arising from the landspreading activity as well as the water quality evidence, including information on water quality trends.

(7) Notwithstanding the provisions of sub-articles (2), (3) and (6) a local authority shall as soon as may be practicable, following prior investigations and following consultation with the Agency, specify an alternative distance, including a landspreading exclusion area where necessary, in the case of a water abstraction for human consumption in a scheme supplying 10m³ or more of water per day, or serving 50 or more persons, where—

(a) on the basis of the results of monitoring carried out for the purposes of Article 7 of the European Communities (Drinking Water) (No. 2) Regulations 2007 (S.I. No. 278 of 2007), the quality of water intended for human consumption does not meet the parametric values specified in Part I of the Schedule of those Regulations or the quality of water constitutes a potential danger to human health, and it appears to the local authority that this is due to the landspreading of organic fertilisers or soiled water in the vicinity of the abstraction point, or

(b) investigations undertaken by a water services authority as part of the management of a water supply scheme indicate that the landspreading activity presents a significant risk to the drinking water supply or a potential danger to human health having regard to catchment factors in the vicinity of the abstraction point including but not limited to slope, vulnerability, and hydrogeology, the scale and intensity of land spreading pressures, the type of water supply source and water quality evidence, including information on water quality trends.

(8) A distance specified by a local authority in accordance with sub-articles (3), (6) and (7) may be described as a distance or distances from an abstraction point, a hydrogeological boundary or topographical feature or as an area delineated on a map or in such other way as appears appropriate to the authority.

(9) In relation to sub-articles (6) and (7), "prior investigations" means, in relation to an abstraction point, an assessment of the susceptibility of waters to contamination in the vicinity of the abstraction point having regard to—

- (a) the direction of flow of surface water or groundwater, as the case may be,
- (b) the slope of the land and its runoff potential,
- (c) the natural geological and hydrogeological attributes of the area including the nature and depth of any overlying soil and subsoil and its effectiveness in preventing or reducing the entry of harmful substances to water, and

- (d) where relevant, the technical specifications set out in the document "Groundwater Protection Schemes" published in 1999 (ISBN 1-899702-22-9) or any subsequent published amendment of that document.

(10) Where a local authority specifies a distance in accordance with either of sub-articles (3), (6) or (7) the authority shall, as soon as may be—

- (a) notify the affected landowners, the Agency and the Department of Agriculture, Fisheries and Food of the distance so specified,
- (b) send to the Agency a summary of the report of any investigations undertaken and the reasons for specifying the alternative distance,
- (c) make an entry in the register maintained in accordance with Article 30(6), and
- (d) publish and maintain on the local authority website an updated schedule of setback distances specified for each drinking water supply.

(11) The requirements under sub-article (10) shall apply in the case of each local authority water supply and all other supplies for which the local authority has supervisory authority.

(12) The Agency may issue advice and/or direction to a local authority in relation to any requirements including requirements for technical assessments and prior investigations arising under sub-articles (2), (3), (4), (5), (6), (7), (8) or (9) and a local authority shall comply with any such advice or direction given.

(13) The distance of 5m specified in sub-article (2)(f) may be reduced to 3m where one of the following conditions is met—

- (a) the water in question is an open drain, or
- (b) the area of land adjacent to the water is a narrow parcel of land not exceeding one hectare in area and not more than 50m in width.

(14) Notwithstanding sub-articles (2)(f) and (13), organic fertiliser or soiled water shall not be applied to land within 10m of any surface waters where the land has an average incline greater than 10% towards the water.

(15) Where farmyard manure is held in a field prior to landspreading it shall be held in a compact heap and shall not be placed within-

- (a) 250m of the abstraction point of any surface waters or borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying 10m³ or more of water per day or serving 50 or more persons,
- (b) 50m of any other borehole, spring or well used for the abstraction of water for human consumption other than a borehole, spring or well specified at paragraph (a),

- (c) 20m of a lake shoreline,
- (d) 50m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features),
- (e) 10m of any surface waters (other than a lake or surface waters specified at paragraph (a)).

(16) Farmyard manure shall not be held in a field at any time during the periods specified in Schedule 4 as applicable to that substance.

(17) Silage bales shall not be stored outside of farmyards within 20m of a surface watercourse or drinking water abstraction point in the absence of adequate facilities for the collection and storage of any effluent arising.

Requirements as to manner of application of fertilisers, soiled water etc

18. (1) Livestock manure and other organic fertilisers, effluents and soiled water shall be applied to land in as accurate and uniform a manner as is practically possible.

(2) Fertilisers or soiled water shall not be applied to land in any of the following circumstances—

- (a) the land is waterlogged;
- (b) the land is flooded or likely to flood;
- (c) the land is snow-covered or frozen,
- (d) heavy rain is forecast within 48 hours, or
- (e) the ground slopes steeply and, taking into account factors such as proximity to waters, soil condition, ground cover and rainfall, there is significant risk of causing water pollution.

(3) A person shall, for the purposes of sub-article (2)(d), have regard to weather forecasts issued by Met Éireann.

(4) Organic fertilisers or soiled water shall not be applied to land—

- (a) by use of an umbilical system with an upward-facing splashplate,
- (b) by use of a tanker with an upward-facing splashplate,
- (c) by use of a sludge irrigator mounted on a tanker, or
- (d) from a road or passageway adjacent to the land irrespective of whether or not the road or passageway is within or outside the curtilage of the holding.

(5) Subject to sub-article (6), soiled water shall not be applied to land—

(a) in quantities which exceed in any period of 42 days a total quantity of 50,000 litres per hectare, or

(b) by irrigation at a rate exceeding 5 mm per hour.

(6) In an area which is identified on maps compiled by the Geological Survey of Ireland as "Extreme Vulnerability Areas on Karst Limestone Aquifers", soiled water shall not be applied to land—

(a) in quantities which exceed in any period of 42 days a total quantity of 25,000 litres per hectare, or

(b) by irrigation at a rate exceeding 3 mm per hour

unless the land has a consistent minimum thickness of 1m of soil and subsoil combined.

(7) For the purposes of sub-article (6), it shall be assumed until the contrary is shown that areas so identified as "Extreme Vulnerability Areas on Karst Limestone Aquifers" do not have a consistent minimum thickness of 1m of soil and subsoil combined.

Periods when application of fertilisers is prohibited

19. (1) Subject to this article, the application of fertiliser to land is prohibited during the periods specified in Schedule 4.

(2) Sub-article (1) shall not apply in relation to the application to land of—

(a) soiled water, or

(b) chemical fertilisers to meet the crop requirements of Autumn-planted cabbage or of crops grown under permanent cover, or

(c) fertilisers whose application rate or usage rate is less than 1kg per hectare of available nitrogen or phosphorus.

Limits on the amount of livestock manure to be applied

20. (1) Subject to this article, the amount of livestock manure applied in any year to land on a holding, together with that deposited to land by livestock, shall not exceed an amount containing 170 kg of nitrogen per hectare.

(2) For the purposes of sub-article (1), the amount of nitrogen produced by livestock and the nitrogen content of livestock manure shall be calculated in accordance with Tables 6, 7 and 8 of Schedule 2 except in the case of pig manure or poultry manure where a different amount is specified in a certificate issued in accordance with Article 32 in relation to that manure.

(3) For the purposes of sub-article (1), the area of a holding shall be deemed to be the net area of the holding.

(4) The application to land on a holding in any year of livestock manure in excess of the amount specified in sub-article (1) shall be deemed not to be a contravention of that sub-article where all of the following conditions are met—

- (a) the occupier of the holding has made application in respect of that year to the Minister for Agriculture, Fisheries and Food for authorisation of a derogation from the requirements of that sub-article;
- (b) the application under paragraph (a) is duly completed in the form and on or before the date specified for the time being by that Minister;
- (c) the application under paragraph (a) is accompanied by an undertaking in writing by the occupier to comply with all the conditions specified in Schedule 5, and
- (d) all the conditions set out in Schedule 5 are met by the occupier in relation to the holding.

(5) Where an application is made to the Minister for Agriculture, Fisheries and Food in accordance with sub-article (4) that Minister shall consider the application and, where that Minister considers that the application does not comply with the conditions therein, shall issue a notice of refusal to the occupier.

Ploughing and the use of non-selective herbicides

21. (1) Where arable land is ploughed between 1 July and 30 November the necessary measures shall be taken to provide for emergence, within 6 weeks of ploughing, of green cover from a sown crop. A rough surface shall be maintained prior to a crop being sown in the case of lands ploughed between 1 December and 15 January.

(2) Where grassland is ploughed between 1 July and 15 October the necessary measures shall be taken to provide for emergence by 1 November of green cover from a sown crop.

(3) Grassland shall not be ploughed between 16 October and 30 November.

(4) When a non-selective herbicide is applied to arable land or to grassland in the period between 1 July and 30 November the necessary measures shall be taken to provide for the emergence within 6 weeks of the application, of green cover from a sown crop or from natural regeneration.

(5) Where green cover is provided for in compliance with this article, the cover shall not be removed by ploughing or by the use of a non-selective herbicide before 1 December unless a crop is sown within two weeks of its removal.

(6) In the case of land which is ploughed in the course of a ploughing competition under the auspices of the National Ploughing Association, a temporary exemption in the form of an extension to the time period specified in sub-article (1) or (2) for establishment of green cover after the land is ploughed may be granted to a person by the Minister for Agriculture, Fisheries and Food where it can be shown that conditions are such that an extension is necessary.