

Noodville Pigs Ltd

Response to An Bord Pleanála.

(PL 22.226887)

PA Reg 07 / 51 / 0106.

Dated - 17th Jan. 2008

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DATE: 17th January 2008

YOUR REF: PL. 22.226887
P.A.REG.Ref: 07/51/0106
OUR REF: NRGE

APPEAL RE: **DEMOLISH 11 No. OLD FATTENING HOUSES,
CONSTRUCTION OF 3 No. NEW PIG FATTENING
HOUSES AND ALL ASSOCIATED SITE WORKS, AT
BALLYKNOCKANE, BALLYMACKY, NENAGH, CO
TIPPERARY.**

Dear Michael,

I herein acknowledge receipt of your correspondence dated 13th December 2007 in respect of the above referenced planning application, and respond hereunder to statements contained therein. Firstly I wish to point out that every effort has been made to engage with all stakeholders prior to and during the planning process, regarding this application. A public meeting was organised where full details were disclosed, and during the application process a further meeting was specifically held with the appellant to discuss his issues. A full copy of all submissions and supporting detail has been supplied to him at all stages. A few days after the last meeting, he met with that applicant and stated that he was happy and that his issues were resolved.

WE are extremely surprised and disappointed that this appeal was lodged, as we understood after our last meeting with him, that we had dealt with his concerns. It is worthy of note that all other stakeholders are happy to see this development proceed, including neighbours who live closer to the pig farm than the appellant. The purpose of this application is compliance with environmental and welfare regulations, WITHOUT increasing stocking

levels. This was clearly stated in section 1.2 of the Non Technical Summary, of the E.I.S. submitted in support of this application.

The Non Technical Summary of the E.I.S. submitted to North Tipperary County Council in support of the above referenced application is included as Attachment 1, of this submission along with a copy of Judgment of European Court Of Justice Decision (JUDGMENT OF THE COURT (Third Chamber) dated 8 September 2005 (Failure of a Member State to fulfil obligations – Directives 75/442/EEC and 91/156/EEC – Meaning of ‘waste’ – Directives 85/337/EEC and 97/11/EC – Assessment of the effects of certain public and private projects on the environment – Directive 80/68/EEC – Protection of groundwater against pollution caused by certain dangerous substances – Directive 80/778/EEC – Quality of water intended for human consumption) In this case (C-121/03), ACTION under Article 226 EC for failure to fulfil obligations, brought on 19 March 2003, the Commission of the European Communities, represented by G. Valero Jordana, acting as Agent, with an address for service in Luxembourg, (the applicant), v the Kingdom of Spain, represented by N. Díaz Abad, acting as Agent, with an address for service in Luxembourg, as Attachment 2, which clarifies that if pig manure is recovered on agricultural land, in accordance with nutrient requirements, it is not “Waste”. In addition, the Nitrate Directive Regulation (S.I. No 378 of 2006), is included as Attachment 3.

I wish to respond specifically to issues raised in the appellants’ submission thus:

1. The application of animal manure to farmland is now regulated under S.I. No. 378 of 2006 and distribution of manure from this site will comply with those regulations. This facility is entitled to supply manure to any local farmer who wants it, and is obliged to record all dispatches from the holding and the farmers acquiring manure are obliged to record all consignments acquired and to use it in compliance with the regulations. Manure will not be supplied to customer farms between 15th October and 31st January in any year except with the consent of the local authority, or any other relevant authority. Outside that period, manure will be supplied from the site to a customer farmer, only in response to an order. Managed and used in this way, manure produced at this facility will not have any adverse impact on environmental parameters either inside or outside the site. The Nitrate Directive Regulations (S.I. No 378 of 2006), imposes the regulatory requirement on all farmers to ensure that application of manures is undertaken on their holdings, in compliance with the recommendations set out therein. A full copy of these regulations is included in Attachment 3. Therefore we submit that the pig manure supplied to customer farms for recovery as a chemical fertilizer replacement, is not a waste, but a valuable resource, and the application of same is fully regulated under the Nitrate Directive Regulations.
2. Section 1.2 of the Non Technical Summary stated that “The proposed works will not increase the stock numbers on site, which is currently 8,000

pigs reared to bacon weight, but rather provide compliance with the forthcoming E.C. Regulations on Animal Welfare, Nitrate Directives, and incorporates emission reduction measures, as required by IPPC Licence, along with the replacement of existing old structures on site". This facility has operated for many years at this capacity, as early as the mid 80's when it was under different ownership. There is no intention of expanding this facility as it is directly linked with Woodville Pigs other pig farm which is a breeding unit, currently operating under IPC License Ref No P0467-01. This pig farm fattens all progeny from the breeding unit, and together both operate as an integrated facility. In fact following a lengthy discussion process with the Environmental Protection Agency, IPPC Licensing unit, a formal request has been submitted to the Agency to review the existing IPC License Reg No P0467-01, to include this pig fattening facility, and a proposed Anaerobic Digester facility, to treat pig manure from both facilities, which is located between both facilities. The fact that this facility required an IPPC License was clearly stated in section 1.1 of the Non Technical Summary, of the E.I.S. Over the last two and a half years while this application, and the associated application for the proposed Anaerobic Digester, were being processed, we engaged extensively with all stakeholders, by organising public meetings, and specifically inviting individuals including the appellant, we openly stated that we were in discussion with the Agency to clarify whether it would be best to Review the existing IPC License, or whether separate applications would have to be submitted for each facility. It was upon conclusion of these discussions that the request for review of the existing IPC license was lodged with the Agency.

3. The appellant states in the second paragraph of his submission that "*I am not in objection to the modernisation but I am in opposition to the expansion in this fashion.*" We have clearly stated that there is no intension to increase stock numbers, but that additional space pr animal is required to comply with Animal Welfare Regulations. And I must again reiterate that this fattening pig farm is directly linked with the applicants other pig farm which is a breeding unit. As both operate as an integrated facility, the stock flow is set.

The only means of increasing stock numbers of this pig fattening facility would be to take weaners in from another breeding unit, and because of disease risk, in the current climate, this would be commercial suicide. Therefore I herein again clarify that this application will not result in an increase of animal numbers on site.

4. The Appellant makes reference to a building on site which is in contravention of the Planning & Development Acts 2000/2002. I wish to clarify that the house in question was reconstructed by the Applicant on the site of an old pig house which was obsolete. It was constructed to provide modern and efficient housing for animals in compliance with animal welfare regulations. It further aided compliance with Nitrate Directive Regulations (S.I. 378 of 2006) by provision of additional pig manure storage in underfloor tanks.

5. In the third paragraph of the appellant's submission he states "*I feel that I have been excluded from the process due to the lack of relevant information, that is the nutrient management plans associated with the landbanks of the suppliers and also a list of business or individuals who will supply the raw materials*"

I must point that the appellant has been included fully in this process, and supplied with all relevant detail. In fact a specific meeting was organised for him, after he lodged his objections to North Tipperary County Council, to discuss his issues. After that meeting he left to have a think over the issues, and what had been discussed. A few days later he met with the applicant and stated that he was happy with the applications, and would not proceed with his objections. All other stakeholders have stated that they are happy that this development would proceed, and many are annoyed that the appellant is taking this approach, after the commitment he gave to the applicant. To quote one stakeholder "*It shows a lack of character*".

6. The appellant made reference to the run off associated with agricultural activities, and they being a major contributor to eutrophication in the Lough Derg basin. In response I must again point out that the main purpose of this application and the associated application for the proposed anaerobic digester is to reduce environmental impacts. This will be done by reduction of emissions due to gas removal, alteration of the N content, to make it available for crop uptake, and separation of fibrous material to reduce P content by 80%. This is a fact clearly accepted by the Environmental Protection Agency, and is based on proven science. In fact the Government are anxious that some farmers should engage this technology, and are currently offering grant aid for the development of a number of on farm pilot plants. The applicant is willing to proceed with these developments, which will result in environmental benefits, a fact that is accepted by North Tipperary County Council, The Environmental Protection Agency, The Dept Of Agriculture and Food, to mention a few regulatory authorities, along with all other stakeholders with whom we have been in contact.

7. The Appellant further states "*The IFA have refused to forward Nutrient Management Plans to the EPA in recent time.*" This is not the case. The facts are that the IFA were in negotiations with the EPA regarding what level of content has to be put on public file, as much of the detail is commercially sensitive information. We have already referred to the nitrate directive regulations (S.I. No. 378 of 2006) and the European Court of Justice decision, which clarifies that pig manure is not waste if applied to agricultural land in accordance with nutrient requirement on clearly defined parcels of land. The nitrate directive regulations require all farmers to operate their holdings in accordance with the guidelines set down therein. Therefore the pig manure delivered from pig farms to customer farms for recovery as fertilizer is clearly not waste. The Appellant was incorrect in his insertion that the IFA were refusing to submit any information to the Agency.

I respectfully request that you take account of these comments in reaching your decision on this matter, and that you grant this permission, which is fully in line with the proper development of this site.

The development of this pig farm will help ensure the future viability of the associated pig farms, and help compliance with the Nitrate Directives (S.I. 378 of 2006), and at the same time provide proven emission reductions to benefit all stakeholders in the hinterland of the facility.

Yours Sincerely

Mr MICHAEL SWEENEY

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ATTACHMENT NO 1:

1. NON-TECHNICAL SUMMARY

- 1.1 This proposal for permission to demolish 11 No. old pig fattening houses, construction of 3 No. new modern pig fattening houses and associated site works on an existing pig farm at Ballyknockane, Ballymackey, Nenagh, Co. Tipperary (Grid Ref E1981550, N822050), is being put forward by NRGE (Nutrient Recovery to Generate Electricity) Ltd, whose registered office is at Mooresfort, Lattin, Co. Tipperary. This application has been prepared and submitted by NRGE on behalf of Woodville Pig Farms Ltd, (Site Owners), whose registered office is at Woodville, Ballymackey, Co. Tipperary to improve the environmental performance of the existing facility. The facility will conform to the highest standards. This development comprises of an activity in relation to which a licence under Part IV of the new first schedule to Environmental Protection Agency 1992 as amended by Protection of the Environment Act 2003 is required at Ballyknockane, Ballymackey, Nenagh.
- 1.2 The development will occupy a landscaped site of approximately 2.74 hectares, (6.77 acres). The proposed works will not increase the stock numbers on site, which is currently 8,000 pigs reared to bacon weight, but rather provide compliance with the forthcoming E.C. Regulations on Animal Welfare, Nitrate Directives, and incorporates emission reduction measures, as required by their IPPC Licence, along with the replacement of existing old structures on site.
- 1.3. The buildings and their layout will be state of the art for the industry. All clean water from the site, is collected via the stormwater collection system (See Site Layout Plan, in Appendix 2), and directed into the monitoring point identified as SW1, which is marked on said drawing. These monitoring points are visually inspected weekly, and sampled quarterly. All soiled water is diverted into the adjacent pig manure storage tanks. Each of the proposed structures will have an independent leak detection system, with individual inspection chambers, which will be connected to a site inspection chamber at the south western end of the site identified as LD1, on the site layout plan.
- 1.4. An application for an IPPC Licence will be submitted to the Agency shortly as the stock numbers on site are greater than the capacity for which an IPPC Licence is required. It is planned to submit this application within the next month. The main components of this proposal are;
- (i) Provision of new animal houses providing area compliance with Animal Welfare Regulations.
 - (ii) Provision of covered pig manure storage to replace existing open Pig Manure Storage tanks.
 - (iii) Provision of independent leak detection systems under all proposed structures on site
 - (iv) Covering of all passageways used for pig movement.

- (v) Removal of pig manure from under pig houses to proposed anaerobic digester for treatment within 2-4 weeks of production.
- (vi) Bunding of all feed tanks and fuel tanks on site.
- (vii) Treatment of pig manure in proposed anaerobic digester which is the subject of a separate planning application.

1.5 The estimated annual production of pig manure from this pig farm is 15,276 m³.

1.6 The pig farm and anaerobic digester (which is currently subject of a separate application) will give direct employment to 6 staff members, and a trained manager. It will also give rise indirectly to another 40 jobs in the pig meat processing, milling and service sectors.

1.7 The application of animal manure to farmland is now regulated under S.I. No. 378 of 2006 and distribution of manure from this site will comply with those regulations. This facility is entitled to supply manure to any local farmer who wants it, and is obliged to record all dispatches from the holding and the farmers acquiring manure are obliged to record all consignments acquired and to use it in compliance with the regulations. Manure will not be supplied to customer farms between 15th October and 31st January in any year except with the consent of the local authority, or any other relevant authority. Outside that period, manure will be supplied from the site to a customer farmer, only in response to an order. Managed and used in this way, manure produced at this facility will not have any adverse impact on environmental parameters either inside or outside the site.

1.8 Steps have been taken in the selection of the customer farms whereupon it is proposed to use digestate and in designing the management of its use to ensure that no contamination of surface and groundwater takes place. The proposed development of an anaerobic digester on an adjacent site will significantly reduce the risk to surface and groundwater.

1.9 An Environmental Impact Assessment was carried out in support of this application. This entailed site surveys of water quality analyses, geohydrological surveys, Flora & Fauna, archaeological monuments and traffic levels were also noted. The following statements may be made.

(a) The customers lands selected whereupon pig manure will be used are well drained. No contamination of surface waters with run-off waters containing high phosphorus content can be foreseen with the applied management. Neither will contamination of groundwater with nitrate-nitrogen take place

(b) The quality of the surface and groundwater leaving the area of customer farms is good.

(c) The impacts from traffic, noise and odours at the pig unit are insignificant after all practical steps have been taken to mitigate them.

(c) Pig manure will be applied using tankers equipped with low trajectory splash plate or the band spreading method.

- 1.10 Proposals for monitoring surface and ground waters at the site are set down in the Environmental Impact Statement. A register of digestate quantities, date of delivery and name and farm code of landowner will be maintained for inspection by North Tipperary County Council, and the EPA at all reasonable times.
- 1.13 The flora, fauna and habitats of the site were studied. See report by Carl Dixon of Dixon Brosnan Environmental Consultants (Appendix No. 4). Flora and fauna should not be affected by this development. There will be no loss of habitat.
- 1.14 There will be no damage to any site of archaeological or historic interest as a result of the development or digestate applications. An archaeological report is included in appendix No 8.
- 1.15 Disturbance of the landscape will be minimal during the construction period.
The site will be suitably landscaped, with the planting of trees etc., in a manner sensitive to the environment. This site is not in or near any NHA, SAC or SPA and does not threaten any such site in any way.
- 1.16 There will be no negative effects on tourism in the area.
- 1.17 The development will have a positive impact on human beings from the increased employment it will create, and the resultant reduction of existing impacts from emissions. The development is located in an agricultural area and the buildings will blend into the surrounding area. Also, the development will be landscaped with a screening of trees, shrubs and flowers. Thus, there will be no nuisance or loss of amenity. A landscaping report is included in appendix No 13.

Effects of the development on air are insignificant outside the buildings and adjoining yards. The ventilation system will ensure that foul air is dispelled high into the atmosphere where it will mix with fresher air and thus minimise odour. Mitigation measures taken will minimise the effects of odour from this pig farm by the replacement of 4 No existing open pig manure storage tanks with an engineered geomembrane covered storage basin. If the proposed development on an anaerobic digester at Ballyaghveny, Ballymackey, Nenagh, Co. Tipperary, should proceed), the current practice of pig manure application to agricultural land, will be replaced by application of digestate, resulting in an 80% reduction of odours generated, due to gas extraction. Pig manure will also be moved fresh from the farm to the Anaerobic Digester, every 2-4 weeks, thereby further reducing emissions from the pig farm. Low protein diets are being utilised on site, which can achieve a reduction of 30%, of emissions from

the site. Inserting the slurry tankers armoured suction hose in a fixed pipe in the walls of the pig manure tanks will minimise the effects of odour as will the use of a low trajectory splashplate and/or bandspreader, and adhering to the Code of Good Practice for Spreading of Slurry.

Noise levels from the development are unlikely to be a nuisance. The main sources of noise on the development will be at feeding time (10-15 minutes) and from feed delivery vehicles. However, at a distance of 100 metres from the development noise levels are not greatly above background noise levels.

The development will have an insignificant effect on the climate of the area.

Thus the measures that have been put in place will ensure that impact/effects of the Development on human beings, noise, air, climate and the interaction of human beings, Fauna, soils, air, water, climate, landscape and material assets will be minimised.

- 1.18 In a discussion paper published by the Environmental Protection Agency (January 2005), it concluded that "*Anaerobic Digestion has the potential to deliver multiple environmental benefits, including reduced water pollution potential, lower green house gas emissions, and reduced odours from agricultural slurries.*"
- 1.19 This proposed development has the potential to benefit all stakeholders adjacent to the proposed site and the customer farms. The nett result of this proposed development will be a reduction of existing impacts to the order of at least 50%, from the site and 80% from the application of digestate in place of pig manure to customer farms, should the proposed anaerobic digester be constructed.

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ATTACHMENT 2

JUDGMENT OF THE COURT (Third Chamber)

8 September 2005 (*)

(Failure of a Member State to fulfil obligations – Directives 75/442/EEC and 91/156/EEC – Meaning of 'waste' – Directives 85/337/EEC and 97/11/EC – Assessment of the effects of certain public and private projects on the environment – Directive 80/68/EEC – Protection of groundwater against pollution caused by certain dangerous substances – Directive 80/778/EEC – Quality of water intended for human consumption)

In Case C-121/03,

ACTION under Article 226 EC for failure to fulfil obligations, brought on 19 March 2003,

Commission of the European Communities, represented by G. Valero Jordana, acting as Agent, with an address for service in Luxembourg,

applicant,

v

Kingdom of Spain, represented by N. Díaz Abad, acting as Agent, with an address for service in Luxembourg,

defendant,

THE COURT (Third Chamber),

composed of A. Rosas, President of the Chamber, J.-P. Puissochet (Rapporteur), S. von Bahr, U. Löhmus and A. Ó Caoimh, Judges,

Advocate General: C. Stix-Hackl,

Registrar: M. Ferreira, Principal Administrator,

having regard to the written procedure and further to the hearing on 15 December 2004,

after hearing the Opinion of the Advocate General at the sitting on 26 May 2005,

gives the following

Judgment

- 1 By its application, the Commission of the European Communities seeks a declaration by the Court that:
 - by failing to adopt the measures necessary to comply with its obligations under Articles 4, 9 and 13 of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32) (hereinafter 'Directive 75/442'), by not taking the necessary measures to ensure that waste from the pig farms located in the Baix Ter (Lower Ter) area, in the Province of Gerona, is disposed of or recovered without endangering human health and without harming the environment, by allowing many of those farms to operate without the permit required by that directive and by failing to carry out the requisite periodic inspections of such farms,

- by failing to carry out a prior impact assessment on projects to create or alter such pig farms, contrary to the requirements of Articles 2 and 4(2) of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ 1985 L 175, p. 40, hereinafter 'Directive 85/337, in its original version'), or contrary to the provisions of that directive, as amended by Council Directive 97/11/EC of 3 March 1997 (OJ 1997 L 73, p. 5, hereinafter 'Directive 85/337'),
- by failing to carry out the requisite hydrogeological studies in the area affected by the pollution, in relation to the pig farms which are the subject of these proceedings, in accordance with Articles 3(b), 5(1) and 7 of Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (OJ 1980 L 20, p. 43),
- by exceeding, in various public water distribution networks in the Baix Ter area, the maximum admissible concentration for the nitrates parameter laid down in point 20 of Annex IC to Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption (OJ 1980 L 229, p. 11), contrary to Article 7(6) of that directive,

the Kingdom of Spain has failed to fulfil its obligations under those directives.

- 65 In this case, as regards, first, the slurry generated by the livestock farms, it is clear from the contents of the case-file that the slurry is used as an agricultural fertiliser in the context of rules for spreading in accordance with good agricultural practice laid down by the Autonomous Community of Catalonia. The persons running those farms are not therefore seeking to discard it, with the result that the slurry is not 'waste' within the meaning of Directive 75/442.
- 66 The fact that in the European Waste Catalogue 'waste from agricultural primary production' includes 'animal faeces, urine and manure (including spoiled straw), effluent, collected separately and treated off-site' is not such as to bring that conclusion into question. That general mention of the effluents from stock-rearing does not take into account the conditions in which the effluent is used and which are decisive for the purposes of assessing the meaning of 'waste'. In addition, the preliminary note in the annex to the European Waste Catalogue states that this list of waste is 'non-exhaustive', that 'the inclusion of a material in the EWC does not mean that the material is a waste in all circumstances' and that 'the entry is only relevant when the definition of waste has been satisfied'.
- 67 Therefore, the complaints alleging infringement of Directive 75/442 must, in so far as they concern the management of pig slurry, be rejected.

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ATTACHMENT 3

STATUTORY INSTRUMENTS

S.I. No. 378 of 2006

European Communities
**(Good Agricultural Practice for Protection of Waters) Regulations
2006**

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S.I. No. 378 of 2006

European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2006

The Minister for the Environment, Heritage and Local Government in exercise of the powers conferred on him by section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purposes of giving further effect to Directive 75/442/EEC of 15 July 1975¹, Directive 76/464/EEC of 4 May 1976², Directive 80/68/EEC of 17 December 1979³, Directive 91/676/EEC of 12 December 1991⁴, Directive 2000/60/EC of 23 October 2000⁵ and Directive 2003/35/EC of 26 May 2003⁶ hereby makes the following Regulations:

PART 1

PRELIMINARY

Citation and commencement

1. (a) These Regulations may be cited as the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2006.
- (b) These Regulations shall come into effect on 1 August, 2006 save as is otherwise provided in relation to any particular provision.

1. O.J. No. L 194/39, 25 July 1975
2. O.J. No. L 129/23, 18 May 1976
3. O.J. No. L 20/43, 26 January 1980
4. O.J. No L 375/1, 31 December 1991
5. O.J. No. L 327/1, 22 December 2000
6. O.J. No. L 156/17, 25 June 2003

Revocations

2. The European Communities (Protection of Waters Against Pollution from Agricultural Sources) Regulations, 2003 (S.I. No.213 of 2003) and the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2005 (S.I. No. 788 of 2005) are hereby revoked.

Interpretation

3. (1) In these Regulations, save where the context otherwise requires—

“Act of 1992” means the Environmental Protection Agency Act, 1992 (No. 7 of 1992);

“Agency” means the Environmental Protection Agency established under section 19 of the Act of 1992;

“agriculture” includes the breeding, keeping and sale of livestock (including cattle, horses, pigs, poultry, sheep and any creature kept for the production of food, wool, skins or fur), the making and storage of silage, the cultivation of land, and the growing of crops (including forestry and horticultural crops);

“application to land”, in relation to fertiliser, means the addition of fertiliser to land whether by spreading on the surface of the land, injection into the land, placing below the surface of the land or mixing with the surface layers of the land but does not include the direct deposition of manure to land by animals;

“aquifer” means any stratum or combination of strata that stores or transmits groundwater;

“chemical fertiliser” means any fertiliser that is manufactured by an industrial process;

“farmyard manure” means a mixture of bedding material and animal excreta in solid form arising from the housing of cattle, sheep and other livestock excluding poultry;

“fertiliser” means any substance containing nitrogen or phosphorus or a nitrogen compound or phosphorus compound utilised on land to

enhance growth of vegetation and may include livestock manure, the residues from fish farms and sewage sludge;

“groundwater” means all water that is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“holding” means an agricultural production unit and, in relation to an occupier, means all the agricultural production units managed by that occupier;

“livestock” means all animals kept for use or profit (including cattle, horses, pigs, poultry, sheep and any creature kept for the production of food, wool, skins or fur);

“livestock manure” means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;

“local authority” means a city council or county council within the meaning of the Local Government Act, 2001 (No. 37 of 2001);

“the Minister” means the Minister for the Environment, Heritage and Local Government;

“net area”, in relation to a holding and the grassland stocking rate, means the gross area of the holding or the grassland as appropriate excluding areas under farm roads, paths, buildings, farmyards, woods, dense scrub, rivers, streams, ponds, lakes, sandpits, quarries, expanses of bare rock, areas of bogland not grazed, areas fenced off and not used for production, inaccessible areas and areas of forestry (including Christmas trees), or required to be totally destocked under a Commonage Framework Plan;

“the Nitrates Directive” means Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;

“occupier”, in relation to a holding, includes the owner, a lessee, any person entitled to occupy the holding or any other person having for the time being control of the holding;

“organic fertiliser” means any fertiliser other than that manufactured by an industrial process and includes livestock manure, dungstead manure, farmyard manure, slurry, soiled water, non-farm organic substances such as sewage sludge, industrial by-products and sludges and residues from fish farms;

“ploughing” includes ploughing and primary cultivation, excluding light cultivation carried out to encourage natural regeneration;

“relevant local authority” means the local authority in whose administrative area a farm holding or part of a farm holding is situated;

“river basin district” means a river basin district established by the European Communities (Water Policy) Regulations, 2003 (S.I. No. 722 of 2003);

“slurry” includes –

- (a) excreta produced by livestock while in a building or yard, and
- (b) a mixture of such excreta with rainwater, washings or other extraneous material or any combination of these,

of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process but does not include soiled water;

“soil test” means a soil sample taken in accordance with the soil sampling procedure set out in Schedule 1 and analysed in accordance with that Schedule, at a laboratory approved for this purpose by the Minister for Agriculture and Food;

“soiled water” has the meaning assigned by sub-article (2);

“steep slope” means ground which has an average incline of 20% or more in the case of grassland or 15% or more in the case of other land;

“tidal waters” includes the sea and any estuary up to high water mark medium tide and any enclosed dock adjoining tidal waters;

“waters” includes –

- (a) any (or any part of any) river, stream, lake, canal, reservoir, aquifer, pond, watercourse, or other inland waters, whether natural or artificial,
- (b) any tidal waters, and
- (c) where the context permits, any beach, river bank and salt marsh or other area which is contiguous to anything mentioned in paragraph (a) or (b), and the channel or bed of anything mentioned in paragraph (a) which is for the time being dry,

but does not include a sewer,

“waterlogged ground” means ground that is saturated with water such that any further addition will lead, or is likely to lead, to surface run-off;

and cognate words shall be construed accordingly.

- (2) (a) In these Regulations “soiled water” includes, subject to this sub-article, water from concreted areas, hard standing areas, holding areas for livestock and other farmyard areas where such water is contaminated by contact with any of the following substances –
 - (i) livestock faeces or urine or silage effluent,
 - (ii) chemical fertilisers,
 - (iii) washings such as vegetable washings, milking parlour washings or washings from mushroom houses,
 - (iv) water used in washing farm equipment.
- (b) In these Regulations, “soiled water” does not include any liquid where such liquid has either –
 - (i) a biochemical oxygen demand exceeding 2,500 mg per litre, or
 - (ii) a dry matter content exceeding 1%.

- (c) For the purposes of these Regulations, soiled water which is stored together with slurry or which becomes mixed with slurry is deemed to be slurry.
- (3) In these Regulations a reference to:-
- (a) an Article, Part or Schedule which is not otherwise identified is a reference to an Article, Part or Schedule of these Regulations,
 - (b) a sub-article or paragraph which is not otherwise identified is a reference to a sub-article or paragraph of the provision in which the reference occurs, and
 - (c) a period between a specified day in a month and a specified day in another month means the period commencing on the first-mentioned day in any year and ending on the second-mentioned day which first occurs after the first-mentioned day.
- (4) In these Regulations a footnote to a table in Schedule 2 shall be deemed to form part of the table.

PART 2

FARMYARD MANAGEMENT

Minimisation of soiled water

4. (1) An occupier of a holding shall take all such reasonable steps as are necessary for the purposes of minimising the amount of soiled water produced on the holding.
- (2) Without prejudice to the generality of sub-article (1), an occupier of a holding shall take all such reasonable steps as are necessary to ensure that rainwater from roofs and unsoiled paved areas and water flowing from higher ground onto a farmyard
- (a) is diverted to a clean water outfall, and
 - (b) is prevented from entering onto soiled paved areas or otherwise becoming soiled.
- (3) This article shall come into operation on 1 January 2007.

Collection and holding of certain substances

5. Livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits or silage pits arising or produced in a building or yard on a holding shall, prior to its application to land or other treatment, be collected and held in a manner that prevents the run-off or seepage, directly or indirectly, into groundwaters or surface waters of such substances.

Structural integrity of storage facilities

6. (1) Storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits or silage pits shall be maintained free of structural defect and be of such standard as is necessary to prevent run-off or seepage, directly or indirectly, into groundwater or surface water, of such substances.
- (2) Storage facilities being provided on a holding on or after 1 August 2006 shall -
- (a) be designed, sited, constructed, maintained and managed so as to prevent run-off or seepage, directly or indirectly, into groundwater or surface water of a substance specified in sub-article (1), and
 - (b) comply with such construction specifications for those facilities as may be approved from time to time by the Minister for Agriculture and Food.
- (3) In this article "storage facilities" includes out-wintering pads, earthen-lined stores, integrated constructed wetlands and any other system used for the holding or treatment of livestock manure or other organic fertilisers.

General obligations as to capacity of storage facilities

7. (1) The capacity of storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits or silage pits on a holding shall be adequate to provide for the storage of all such substances as are likely to require storage on the holding for such period as may be necessary as to ensure compliance with these Regulations and the avoidance of water pollution.

- (2) For the purposes of sub-article (1) an occupier shall have due regard to the storage capacity likely to be required during periods of adverse weather conditions when, due to extended periods of wet weather, frozen ground or otherwise, the application to land of livestock manure or soiled water is precluded.
- (3) For the purposes of Articles 7 to 13, the capacity of storage facilities on a holding shall be disregarded insofar as the occupier does not have exclusive use of those facilities.
- (4) For the purposes of Articles 9 to 13 the capacity of facilities required in accordance with these Regulations for the storage of manure from livestock of the type specified in Tables 1, 2 or 3 of Schedule 2 shall be determined by reference to the criteria set out in the relevant table and the rainfall criteria set out in Table 4 of that schedule and shall include capacity for the storage for such period as may be necessary for compliance with these Regulations of rainwater, soiled water or other extraneous water which enters or is likely to enter the facilities.

Capacity of storage facilities for effluents and soiled water

8. Without prejudice to the generality of Article 7, the capacity of facilities for the storage on a holding of -
 - (a) effluent produced by ensiled forage and other crops shall equal or exceed the capacity specified in Table 5 of Schedule 2, and
 - (b) soiled water shall equal or exceed the capacity required to store all soiled water likely to arise on the holding during a period of 10 days.

Capacity of storage facilities for pig manure

9. (1) Without prejudice to the generality of Article 7, the capacity of facilities for the storage on a holding of livestock manure produced by pigs shall, subject to sub-article (2) and Article 13, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of 26 weeks.
- (2) The period specified in Schedule 3 shall, in substitution for that prescribed by sub-article (1), apply in relation to livestock manure

produced by pigs on a holding in case where all the following conditions are met –

- (a) the number of pigs on the holding does not at any time exceed one hundred pigs, and
- (b) the holding comprises a sufficient area of land for the application in accordance with these Regulations of all livestock manure produced on the holding.

Capacity of storage facilities for poultry manure

10. (1) Without prejudice to the generality of Article 7, the capacity of facilities for the storage on a holding of livestock manure produced by poultry shall, subject to sub-article (2) and Article 13, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of 26 weeks.
- (2) The period specified in Schedule 3 shall, in substitution for that prescribed by sub-article (1), apply in relation to livestock manure produced by poultry on a holding in case where all the following conditions are met –
- (a) tillage or grassland farming is carried out on the holding,
 - (b) the number of poultry places on the holding does not exceed 2,000 places, and
 - (c) the holding comprises a sufficient area of land for the application in accordance with these Regulations of all livestock manure produced on the holding.

Capacity of storage facilities for manure from deer, goats and sheep

11. Without prejudice to the generality of Article 7, the capacity of facilities for the storage on a holding of livestock manure produced by deer, goats and sheep shall, subject to Article 13, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of six weeks.

Capacity of storage facilities for manure from cattle

12. Without prejudice to the generality of Article 7, the capacity of facilities for the storage on a holding of livestock manure produced by cattle shall, subject to Article 13, equal or exceed the capacity required to store all such livestock manure produced on the holding during the period specified in Schedule 3

Reduced storage capacity in certain circumstances

13. (1) The capacity of facilities for the storage of livestock manure on a holding may, to such extent as is justified in the particular circumstances of the holding, be less than the capacity specified in Article 9, 10, 11 or 12, as appropriate, in the case of a holding where –
- (a) the occupier of the holding has a contract providing exclusive access to adequate alternative storage capacity located outside the holding,
 - (b) the occupier has a contract for access to a treatment facility for livestock manure, or
 - (c) the occupier has a contract for the transfer of the manure to a person authorised under and in accordance with the Waste Management Acts 1996 to 2003 or the Environmental Protection Agency Acts 1992 and 2003 to undertake the collection, recovery or disposal of the manure.
- (2) Subject to sub-article (3), the capacity of facilities for the storage of livestock manure may be less than the capacity specified in Article 11 or 12, as appropriate, in relation to –
- (a) deer, goats or sheep which are out-wintered at a grassland stocking rate which does not exceed 130 kg nitrogen at any time during the period specified in Schedule 4 in relation to the application of organic fertiliser other than farmyard manure, or
 - (b) livestock (other than dairy cows, deer, goats or sheep) which are out-wintered at a grassland stocking rate which does not exceed 85 kg nitrogen at any time during the period specified in Schedule 4 in relation to the application of organic fertiliser other than farmyard manure.
- (3) Sub-article (2) shall apply only in relation to a holding where all the following conditions are met –
- (a) all the lands used for out-wintering of the livestock are comprised in the holding,
 - (b) the out-wintered livestock have free access at all times to the required lands,

- (c) the amount of manure produced on the holding does not exceed an amount containing 140kg of nitrogen per hectare per annum,
 - (d) severe damage to the surface of the land by poaching does not occur, and
 - (e) the reduction in storage capacity is proportionate to the extent of out-wintered livestock on the holding.
- (4) In this article, a grassland stocking rate of 130 kg or 85kg of nitrogen, as the case may be, means the stocking of grassland on a holding at any time by such numbers and types of livestock as would in the course of a year excrete waste products containing 130 kg or 85 kg of nitrogen, as the case may be, per hectare of the grassland when calculated in accordance with the nutrient excretion rates for livestock specified in Table 6 of Schedule 2.

Operative dates

14. (1) In the case of a holding on which there are in place on 1 August 2006 storage facilities in compliance with the storage capacity requirements prescribed by Articles 8, 9, 10, 11 or 12, the relevant article and Article 7 shall come into effect in relation to those facilities on 1 August 2006.
- (2) In the case of a holding on which there are not in place on 1 August 2006 storage facilities in compliance with the storage capacity requirements prescribed by Article 9, that article and Article 7 shall come into effect in relation to those facilities on 31 December 2006 or the day on which such storage facilities are put in place on that holding, whichever day first occurs.
- (3) In the case of a holding on which there are not in place on 1 August 2006 storage facilities in compliance with the storage capacity requirements prescribed by Article 8, 10, 11 or 12, the relevant article and Article 7 shall come into effect on 31 December 2008 or the day on which such storage facilities are put in place on that holding, whichever day first occurs.
- (4) Save as is otherwise provided by this article, Article 7 shall come into operation on 31 December 2008.