

## **Farming Rules for water – Q&A briefing**

### **Introduction**

On April 2nd 2018, the Farming Rules for Water (The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018) came into force.

The rules apply to **all farmers** and landowners in England and set out how they must manage nutrients, soils and livestock in order to reduce the risks of water pollution.

There are 8 rules which:

- Promote good practice in managing fertilisers and manures
- Encourage land managers to take reasonable precautions to prevent diffuse pollution from runoff or soil erosion
- Require soil tests at least every 5 years

The rules are focused as follows:

- Rule 1: planning use of manures and fertilisers
- Rule 2: storing organic manures
- Rule 3: applying manures or fertilisers
- Rule 4: where not to apply organic manures
- Rule 5: where not to apply fertiliser
- Rule 6: reasonable precautions to prevent soil erosion
- Rule 7: protecting against soil erosion by livestock
- Rule 8: position of livestock feeders

To read a more detailed version of the rules and what they entail click [here](#).

The regulations can often appear complex and confusing, this briefing aims to provide answers to common questions and provide links to further sources of information.

The briefing is split into two sections:

- Section A – General questions
- Section B – Rule 1 specific questions

### **Section A – general questions**

#### **1. Do the regulations apply to me?**

Yes, the regulations apply to all farmers and landowners in England.

#### **2. Are the rules legally binding?**

Yes, the rules are legislation and The Environment Agency (EA) is the regulator for these rules.

The EA will work with farmers by providing advice on how to meet the rules and help make sure they are compliant. The EA can use their formal enforcement powers where necessary to ensure compliance and to prevent or stop pollution. We expect that most cases will be dealt with by issuing advice, however, it is important to note if the non-compliance presents immediate serious threat to the environment the EA will skip the initial advice and use their formal enforcement powers.

### 3. What is the penalty for breaching one of the rules?

The offence could trigger a civil or criminal sanction and the offence may make the land manager liable to a fine. The Environment Agency will always take an advice-led approach but will take further enforcement action where appropriate and necessary.

### 4. Are the rules the same for nitrate vulnerable zones NVZ's?

While there is some crossover between the Farming Rules for Water and other rules such as those for NVZ and storing silage, slurry and agricultural fuel oil (SSAFO), it is quite possible to be compliant with one set of rules and not the other.

For instance, if your farm falls within an NVZ, you may need to take extra steps to comply with the farming rules for water beyond those found in [The guide to cross compliance in England 2019](#).

You can find government guidance on storing silage, slurry and agricultural fuel oil (SSAFO) [here](#), and nitrate vulnerable zones (NVZ) [here](#).

### 5. What evidence is useful to demonstrate compliance in case of inspection?

A land manager must be able to demonstrate that they have planned all applications of manufactured fertilisers and organic manures to be in accordance with crop and soil need or without causing significant risk of diffuse pollution. They will need to be able to show they have used results of soil testing that has been done within the last five years.

Examples of information that might prove useful in demonstrating compliance soil test results, fertiliser and manure application records including a spreading risk map, cropping details.

### 6. Do I already comply with the rules?

We expect that most farmers are already likely to comply with the rules, Defra stated that the rules are 'standardising good farm practices that many are already performing'.

Despite this it is important to check against each of the rules to see whether you meet the requirements. You are responsible for making sure that you comply, as failure to do so may result in an enforcement action.

### 7. Where can I find further information?

Government guidance on the regulations can be found [here](#). Further information on what actions you need to take to comply can be found [here](#).

Tried & Tested have produced a briefing on the regulations which is [available here](#)

The Farming Advice Service have produced an informative [webinar](#) which explains the regulations and provided examples and practical tips to help you to comply.

You can contact the Environment Agency's National Customer Contact Centre, Monday to Friday, 8am to 6pm by dialling 03708 506 506 or emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

## **Section 2 – Rule 1 specific questions**

### **8. What is rule 1: planning use of manures and fertilisers?**

Application of organic manures and manufactured fertilisers to cultivated land must be planned in advance to meet soil and crop nutrient needs and not exceed these levels.

Your planning must take into account where there is significant risk of pollution and the results of testing for Phosphorus, Potassium, Magnesium, pH and Nitrogen levels in the soil, which must be done at least every 5 years. You may determine soil Nitrogen levels by assessing the soil Nitrogen supply instead of testing the soil.

In assessing whether there is “significant risk of pollution” a person must take into account the following factors:

- the slope of the agricultural land, especially if the slope is greater than 12 degrees
- any ground cover
- the proximity to inland fresh waters and coastal waters
- the proximity to wetlands
- the weather conditions and weather forecasts
- the soil type and condition
- the presence and condition of agricultural land drains

### **9. Can I apply organic manures this Autumn?**

Following the recent EA [regulatory position statement](#) there has been confusion around eligibility to spread organic manures. You are able to spread organic manures this autumn providing you can comply with rule 1. You will need to show you have produced a nutrient management plan which shows you have planned each of your applications of organic material to meet (and not exceed) a crop or soil need and avoid causing a significant risk of diffuse pollution.

The NFU have produced a Farming Rules for Water Flowchart to help their members answer questions about the RPS and whether organic manures can be applied this autumn. If you are a member you can access the flowchart [here](#).

### **10. What if my nutrient management plan shows I will exceed the crop or soil need in applying manures, but will not cause a risk of pollution?**

In this case, you could investigate using the RPS, you will need to notify the EA that you are spreading under the RPS and ensure that you comply with all the specific conditions attached to the RPS.

### **11. What if I am unable to comply with the conditions of the RPS?**

If you cannot comply with the conditions, email [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk) or call 03708 506 506 (general enquiries). The Environment Agency will assess the risk of your activities. For this autumn, they will allow activities that will not cause significant risks (significant risk may result from repeated applications to the same field or spreading close to protected sites, such as Natura 2000 sites). You must not start your activities until the Environment Agency confirms you can do so.

For more information:

[Read the new Environment Agency statement on Gov.uk - Spreading organic manure on agricultural land: RPS 252](#)

[Download the Environment Agency Farming Rules for Water Q&A, which answers common questions posed](#)

## **12. Where can I find further clarity on Rule 1: planning use of manures and fertilisers?**

Farming Rules for Water has created some uncertainty among farmers about the implications of the first rule on specific organic manures and the timing of spreading.

The Environment Agency produced further guidance around the ['Clarification on Rule 1'](#).

## **13. How can I demonstrate I comply with Rule 1?**

You will have to demonstrate how you have planned your nutrient needs to comply with Rule 1. To do this you will need to:

- Plan what nutrients you are going to spread on the land.
- Ensure that these nutrients are only applied in quantities that are sufficient to meet and not exceed the crop or soil need on cultivated agricultural land.
- Ensure that they must only be applied at a time when they will be needed by the soil and a crop on that land.

The Environment Agency (EA) will be expecting industry recognised guidance such as the [Tried & Tested Nutrient Management Plan](#) to have been used to assess compliance with the rules. If a land manager can supply evidence for deviating from a recognised nutrient management system (such as RB209) the EA will take this into consideration.

All Tried & Tested resources are free to use and can be downloaded or [ordered via the website here.](#)

## **14. Rule 1 refers to cultivated land, what is included in the definition of cultivated agricultural land?**

It is classed as land you've ploughed, sowed or harvested at least once in the last year and land where you've applied organic manure or fertiliser at least once in the last 3 years.

## **15. Rule 1 states when planning an application of manure or fertiliser, you must take into account where there is significant risk of pollution. What factors should be taken into account when assessing "significant risk"?**

Before application of manures or fertilisers there factors should be taken into consideration:

- the slope of the agricultural land, especially if the slope is greater than 12 degrees
- any ground cover
- the proximity to inland fresh waters and coastal waters
- the proximity to wetlands
- the weather conditions and weather forecasts
- the soil type and condition
- the presence and condition of agricultural land drains

**16. The regulations refer to actions which must be taken to protect “inland freshwater” What is the definition of "inland freshwater"?**

Anything that holds or carries water is a watercourse, including winterbournes, drainage and blind ditches, also lakes, ponds and rivers.