

2021 No.

ENVIRONMENTAL PROTECTION

WATER

**The Water Environment (Miscellaneous) (Scotland) Regulations
2021**

<i>Made</i>	- - - -	2021
<i>Laid before the Scottish Parliament</i>		2021
<i>Coming into force</i>	- -	

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20 and 36(2) and schedule 2 of the Water Environment and Water Services (Scotland) Act 2003(a) (the “Act”), and all other powers enabling them to do so.

In accordance with section 21(1) of the Act, they have consulted the persons required.

In accordance with section 21(2) of the Act, they have published a draft of the proposed general binding rules, publicised the opportunity to make representations, and made copies of the proposed rules available for public inspection.

In accordance with section 21(4) of the Act, they have had regard to the representations on the proposed rules received by them.

Citation and commencement

1.—(1) These Regulations may be cited as the Water Environment (Miscellaneous) (Scotland) Regulations 2021.

(2) With the exception of the provisions mentioned in paragraph (3), these Regulations come into force on [*coming into force date*].

(3) Regulation 3(2)(j) and regulation 4 come into force on [*1 year after coming into force date*].

Interpretation

2. In these Regulations—

(a) the “2003 Regulations” means the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003(b),

(a) 2003 asp 3.
(b) S.S.I. 2015/376.

- (b) the “2011 Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2011(a), and
- (c) “nitrate vulnerable zone” means any area of land designated as a nitrate vulnerable zone by regulation 2 of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015(b).

Amendment of the 2011 Regulations

3.—(1) The 2011 Regulations are amended as follows.

(2) In regulation 36 (power of the Scottish Ministers and SEPA to obtain information), in paragraph (3), for “must include” substitute “includes”.

(3) In schedule 3 (general binding rules), part 1—

- (a) in the entry relating to activity 5—
 - (i) in column 1, for paragraph (a) substitute—
 - “(a) has an average bed width of less than one metre along the stretch to be worked,”
 - (ii) in column 2, in paragraph (c), after “of the” insert “ bed width of the”,
- (b) in the entry relating to activity 6, in column 1, in paragraph (b) for “channel” substitute “bed”,
- (c) in the entry relating to activity 8, in column 2—
 - (i) in paragraph (e), immediately before “geotextiles” insert “biodegradable”, and
 - (ii) in paragraph (i), after “heightening” insert “or lowering”,
- (d) in the entry relating to activity 9, in column 2, in paragraph (c) for “tank”, in the second place it occurs, substitute “plant”,
- (e) for the entry relating to activity 10 substitute—

<p>“10A. The discharge of water run-off from a surface water drainage system to the water environment from buildings, roads other than waterbound roads, yards, or any other built development constructed before 1 April 2007, with the exception of run-off from any motorway or trunk road where—</p> <ul style="list-style-type: none"> (i) any one outfall serves a length of road greater than 1km, and (ii) the footprint of the road or its associated infrastructure is enlarged or otherwise altered on or after 1 April 2007. 	<ul style="list-style-type: none"> (a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment, (b) the discharge must not— <ul style="list-style-type: none"> (i) contain any trade effluent or domestic sewage, (ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, or (iii) contain any water run-off from a construction site, (c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water, (d) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors, silt traps and SUD system attenuation, settlement and treatment facilities, must be maintained in good order and repair,
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(a) S.S.I. 2011/209, as amended by S.S.I. 2013/176, S.S.I. 2014/373, S.S.I. 2015/211, S.S.I. 2016/19 S.S.I. 2017/214, S.S.I. 2017/389 and S.S.I. 2019/26.
 (b) S.S.I. 2015/376.

		<p>(e) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system.</p>
<p>10B. The discharge of water run-off from a surface water drainage system to the water environment from buildings, roads other than waterbound roads, yards, or any other built development constructed on or after 1 April 2007, with the exception of run-off from:</p>	<ul style="list-style-type: none"> (i) land of more than 30 hectares which is used for residential premises, (ii) industrial estates, (iii) land used as a motorised vehicle parking area with more than 1,000 parking spaces, (iv) motorways and trunk roads where any one outfall serves a length of road greater than 1km. 	<ul style="list-style-type: none"> (a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment, (b) the discharge must not— <ul style="list-style-type: none"> (i) contain any trade effluent or domestic sewage, (ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, or (iii) contain any water run-off from a construction site, (c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water, (d) the development must be drained by a SUD system equipped to avoid pollution of the water environment, unless— <ul style="list-style-type: none"> (i) the run-off is from a development that is a single dwelling and its curtilage; or (ii) the discharge is to coastal water. (e) the discharge must not contain any water run-off from: <ul style="list-style-type: none"> (i) any fuel delivery areas constructed on or after 1st April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1st April 2007, (ii) vehicle loading or unloading bays constructed on or after 1st April 2007 where potentially polluting matter is handled, or (iii) oil and chemical storage handling and delivery areas constructed on or after 1st April 2007, (f) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors, silt traps and SUD system attenuation, settlement and treatment facilities, must be maintained in good order and repair; and

	<p>(g) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system.</p>
<p>10C. The discharge of water run-off from a quarry or borrow pit constructed on or after [coming into force date].</p>	<p>(a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment,</p> <p>(b) the discharge must not—</p> <p>(i) contain any trade effluent or domestic sewage, or</p> <p>(ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment,</p> <p>(c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water,</p> <p>(d) the discharge must not contain any water run-off from:</p> <p>(i) any fuel delivery areas constructed on or after 1st April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1st April 2007,</p> <p>(ii) vehicle loading or unloading bays constructed on or after 1st April 2007 where potentially polluting matter is handled, or</p> <p>(iii) oil and chemical storage handling and delivery areas constructed on or after 1st April 2007,</p> <p>(e) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors, silt traps and SUD system attenuation, settlement and treatment facilities, must be maintained in good order and repair, and</p> <p>(f) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system.</p>
<p>10D. The discharge of water run-off from a construction site to the water environment where the site, including any constructed access tracks, does not—</p> <p>(i) exceed 4 hectares,</p>	<p>(a) All reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment,</p> <p>(b) the discharge must not—</p>

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| <ul style="list-style-type: none"> (ii) contain a road or track length in excess of 5km, or (iii) include any area of more than 1 hectare or any length of more than 500 metres on ground with a slope in excess of 25°. | <ul style="list-style-type: none"> (i) contain any trade effluent or domestic sewage, or (ii) result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, (c) the discharge must not result in the destabilisation of the banks or bed of the receiving surface water, (d) the discharge must not contain any water run-off from any built developments, unless during construction those developments are drained by a SUD system or equivalent systems equipped to avoid pollution of the water environment; (e) the discharge must not contain any water run-off from: <ul style="list-style-type: none"> (i) any fuel delivery areas constructed on or after 1st April 2007, or any areas where vehicles, plant and equipment are refuelled constructed on or after 1st April 2007, (ii) vehicle loading or unloading bays constructed on or after 1st April 2007 where potentially polluting matter is handled, or (iii) oil and chemical storage handling and delivery areas constructed on or after 1st April 2007, (f) all parts of a construction site on which— <ul style="list-style-type: none"> (i) operations first commenced on or after 1st June 2018; and (ii) any works are to be undertaken, or any vehicles are to be operated or parked, <p>must be drained by a surface water drainage system with capacity to accommodate the maximum volume of run-off that would reasonably be expected to occur from that land during the period of construction,</p> (g) all facilities with which the surface water drainage system is equipped to avoid pollution, including oil interceptors, silt traps and SUD system attenuation, settlement and treatment facilities, must be maintained in good order and repair, and (h) all reasonable steps must be taken to ensure that any matter liable to block, obstruct, or otherwise impair the ability of the surface water drainage system to avoid pollution of the water environment is prevented from entering the drainage system.” |
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- (f) in the entry relating to activity 11, in column 2, at the start of paragraph (c) insert “domestic” before “sewage”,
- (g) in the entry relating to activity 14, in column 2, in paragraphs (a), (b) and (c) for “channel”, in each place it occurs, substitute “bed”,
- (h) in the entry relating to activity 15, in column 2—
 - (i) for paragraph (b), substitute—
 - “(b) other than where paragraph (g)(i) applies, groundwater must not be abstracted from any excavations, wells or boreholes that are within 250 metres of any surface water unless the abstracted water is discharged into the surface water at the nearest part of the surface water to the point of abstraction and in accordance with paragraph (f) or g(ii), as applicable.”,
 - (ii) at the end of paragraph (e), omit “and”,
 - (iii) in paragraph (f), for “and, if it is pumped directly from an excavation,” substitute “is taken directly from an excavation and this water, and”,
 - (iv) after paragraph (f), insert—
 - “(g) if the abstracted groundwater is taken from a borehole or well, and is discharged to the water environment, it must be—
 - (i) discharged directly back to the same part of the geological formation or the mine workings from which it was abstracted, provided that the abstracted water does not contain any radioactive substance, and that not substances are added to, or otherwise allowed to enter, the abstracted water prior to its return, or
 - (ii) discharged via a surface water drainage system authorised under these Regulations subject to the consent of the person having control of the system, and
 - (h) all reasonable steps must be taken to ensure that the discharge of abstracted groundwater does not result in pollution of the water environment.”,
- (i) in the entry relating to activity 18—
 - (i) in column 1, omit paragraph (a)(ii),
 - (ii) in column 2—
 - (aa) omit paragraph (b),
 - (bb) in paragraph (c) omit “liquid digestate or” and “digestate or”, and
 - (cc) after paragraph (m) insert—
 - “(n) where organic manures are to be applied to land—
 - (i) a risk assessment must be carried out in respect of that land, including the preparation of a map of the farm which clearly shows—
 - (1) the delineation of every field,
 - (2) the area of every field in hectares,
 - (3) the location of all surface water, wells and boreholes or similar work sunk into underground strata for the purpose of providing a water supply,
 - (4) any area of land with a slope of 12 degrees or more,
 - (5) the location of any field heaps, and
 - (6) any other area of high risk to the water environment,
 - (ii) the person carrying out the application of organic manures must be provided the map for the area to which manures is being applied

- (iii) no field heap of organic manures may be located in any area of high risk identified on the map.”,

(j) in the entry relating to activity 18, in column 2, after paragraph (n) insert—

- “(o) slurry must not be applied by means of a high trajectory raised splash plate or rain guns,
- (p) slurry must be applied using precision equipment, and
- (q) liquid digestate must be applied using precision equipment.”,

(k) for the entry relating to activity 22, substitute—

<p>“22. The discharge of surface water from waterbound roads and tracks to the water environment, including during the construction and maintenance of such roads and tracks.</p>	<ul style="list-style-type: none"> (a) All reasonable steps must be taken to ensure that any discharge does not result in pollution of the water environment, (b) any discharge must not result in visible discolouration, iridescence, foaming or sewage fungus in the water environment, and (c) any discharge must not result in the destabilisation of the banks or bed of the receiving surface water,”
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(d) in the entry relating to activity 25—

- (i) for the description of the activity in column 1, substitute “The placement of trees or parts of trees in any river, burn or ditch to protect eroding banks.”,
- (ii) in column 2, in paragraph (e)(i), for “the river” substitute “any part of the river, burn or ditch”,
- (iii) in column 2, in paragraph (f)(i), for “the willow” substitute “trees or the placement of trees or parts of trees”,
- (iv) in column 2, in paragraph (f)(ii), for “willow has” substitute “trees have”,
- (e) in the entry relating to activity 27, in the description of the activity in column 1, for “for residential purposes” substitute “as a private dwelling”,
- (f) in the entry relating to activity 28, in column 2—
 - (i) in paragraph (f)(vii)3—
 - (aa) in sub-paragraph (b) omit “the pipe must”, and
 - (bb) in sub-paragraph (c) for “the premises in which the pipe is situated must” substitute “be situated in premises which”,
 - (ii) at the start of paragraph (f)(vii)(4), insert “where sub-paragraph 3(b) or (c) applies,”
 - (iii) in paragraph (f)(viii)(1), after “valve” insert “or an isolating device”,
- (g) after the entry relating to activity 28, insert—

<p>“29. The making and storage of silage in bales or bulk bags.</p>	<ul style="list-style-type: none"> (a) The bales or bulk bags must not be stored, opened, or unwrapped within 10 metres of any— <ul style="list-style-type: none"> (i) river, burn, ditch or loch, as measured from the top of the bank, (ii) wetland,
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	<ul style="list-style-type: none"> (iii) transitional or coastal water, as measured from the shoreline, or (iv) opening into a surface water drain which silage effluent could enter if it were to escape, <p>(b) the bulk bags must—</p> <ul style="list-style-type: none"> (i) have an impermeable membrane, (ii) be resealed when not in use, to prevent the escape of silage effluent, (iii) incorporate a facility to enable the removal of any excess effluent without spillage, and (iv) be situated on a firm level surface. <p>(c) the bales must be wrapped and sealed into impermeable membranes or enclosed in impermeable bags.</p>
<p>30. The drainage of silage effluent which consists mainly of rainwater from a silo to a constructed farm wetland.</p>	<p>(a) Such drainage may only take place from a silo if—</p> <ul style="list-style-type: none"> (i) the silo is open for use, (ii) the drainage of the silage effluent from the silo to the constructed farm wetland is direct and through a separate channel or pipe from the base of the silo, and (iii) no crop is added to the silo whilst it is open,
<p>31. The storage of silage in a silo</p>	<p>(a) The silo must:</p> <ul style="list-style-type: none"> (i) comply with the requirements of paragraphs (b) to (h), and (ii) if new (including silos constructed from used materials), substantially reconstructed or enlarged on or after [<i>coming into force date</i>] have a life expectancy of at least 20 years, with proper maintenance, <p>(b) the base of the silo must:</p> <ul style="list-style-type: none"> (i) comply with British Standard EN 1992-3:2006(a) and British Standard EN-1-1-2004 +A1:2014(b) (for concrete bases), or British Standard EN

(a) ISBN 978 0 580 71245 6.
(b) ISBN 978 0 580 83726 5.

- 13108-4:2016(for hot-rolled asphalt bases)(a),
- (ii) where the silo has retaining walls made other than of earth, extend beyond those walls, and
 - (iii) be constructed with channels to collect silage effluent from the silo, and with channels and/or pipes which must drain any such silage effluent to an effluent tank,
- (c) the capacity of the effluent tank must be at least:
- (i) for a silo with a capacity of less than 1500m³, 20 litres for every 1m³ of silo capacity, or
 - (ii) for a silo with a capacity of 1500 m³ or greater, 30,000 litres plus 6.7 litres for every 1m³ of silo capacity over 1500m³,
- (d) where the effluent collection system associated with the silo incorporates a system of pumps and sumps, it must be fitted with an automatic overflow prevention device with a dedicated electrical supply and an alarm,
- (e) the base of the silo, the base and walls of its effluent tank and channels, and the walls of any pipes must be impermeable,
- (f) the base and any walls of the silo, its effluent tank and channels, and the walls of any pipes must, so far as reasonably practicable, be resistant to attack by silage effluent and, where the walls are made of earth, they must be lined with an impermeable membrane of 1000 gauge polyethylene or a material of at least equivalent impermeability and durability,
- (g) no part of the silo, its effluent tank, channels or any associated pipes may be situated within 10 metres of any surface water or opening into a surface water drain which silage effluent could enter if it were to escape,
- (h) if the silo has retaining walls:
- (i) the retaining walls must be capable of withstanding

	<p>minimum wall loadings calculated in accordance with paragraphs 15.6.1 to 15.6.3 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-22:2003+A1:2013(a),</p> <p>(ii) the silo must not be loaded to a depth exceeding the maximum depth consistent with the design assumption made in respect of the loadings of the retaining walls, and</p> <p>(iii) the maximum loadings of any silo constructed (including from used materials), substantially reconstructed or enlarged on or after [<i>coming into force date</i>] must be visibly displayed on the silo,</p> <p>(i) the silo, its effluent tank, channels and pipes must be operationally maintained to be free of any structural defects during its lifecycle,</p> <p>(j) where any part of an effluent tank is installed below ground level, it must be designed and constructed in accordance with BS 5502 as referred to in paragraph h(i) and must be operationally maintained to be free of any structural defects during its lifecycle,</p> <p>(k) the silo must not be filled beyond the drainage channel,</p> <p>(l) where a silo or effluent tank is to be constructed or to be substantially rebuilt or enlarged—</p> <p>(i) the operator must notify SEPA prior to commencing the works,</p> <p>(ii) the notification under paragraph (i) must be accompanied by an engineering plan for the works to be carried out, and</p> <p>(iii) the operator must retain, for inspection by SEPA on request, the engineer's final sign-off certificate for the works.</p>
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<p>32. The storage of slurry from housed livestock on a farm in a slurry storage system or a slurry bag.</p>	<ul style="list-style-type: none"> (a) The minimum capacity of the slurry storage system and/or slurry bags must be sufficient to store the total quantity of slurry likely to be produced in— <ul style="list-style-type: none"> (i) 26 weeks by housed pigs, or (ii) 22 weeks by housed cattle, (b) the total quantity of slurry referred to in paragraph (a) is to be calculated by adding up the total figures produced for each type of livestock, as applicable, in accordance with the formula for housed pigs or housed cattle, contained in regulation 7(2) of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008(a), (c) in calculating the minimum capacity of the slurry storage system and/or slurry bags necessary to comply with paragraph (a), the following figures must be included— <ul style="list-style-type: none"> (i) the quantity of any rainfall (including any fall of snow, hail or sleet) that is likely to enter the system (directly or indirectly) including from dungsteads, silage pits or dirty yards, (ii) the quantity of any cleaning water that is likely to enter the system or slurry bag, (iii) the likely quantity of any imported slurries and liquid digestate added to the system or slurry bag, and (iv) the quantity of any slurry exported off farm, (d) the slurry storage system must— <ul style="list-style-type: none"> (i) comply with the requirements of paragraphs (e) to (n), and (ii) if new (including systems constructed from used materials), substantially reconstructed, or enlarged on or after [<i>coming into force date</i>] have a life expectancy of at least 20 years with proper maintenance, (e) subject to paragraph (k), the base and walls of any slurry storage tank, any channels and reception pit and the walls of any pipes must be
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(a) S.S.I. 2008/298.

- impermeable,
- (f) the base and walls of any slurry storage tank, channels and reception pit, valves, and the walls of any pipes must be protected against corrosion in accordance with paragraph 7.2 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-50:1993+A2:2010,
 - (g) the base and walls of any slurry storage tank and any reception pit must be capable of withstanding characteristic loads calculated on the assumptions and in the manner as set out in paragraph 5 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution,
 - (h) the capacity of any facility used for the temporary storage of slurry before it is transferred to a slurry storage tank must be the equivalent of at least 1.5% of the minimum on farm storage capacity required by paragraph (a),
 - (i) where slurry flows into a channel before discharging into a reception pit, and the flow is controlled by means of a sluice or valve, the capacity of the reception pit must be sufficient to store the maximum quantity of slurry which can be released by opening the sluice or valve,
 - (j) no part of any slurry storage tank, channels, pipes or reception pit may be situated within 10 metres of any surface water or opening into a surface water drain which slurry could enter if it were to escape,
 - (k) the slurry storage tank, channels, pipes, valves, and reception pit must be operationally maintained to be free of any structural defects during their lifecycle.
 - (l) where the walls of the slurry storage tank are not impermeable—
 - (i) the base of the tank must extend beyond its walls and be provided with channels designed and constructed so as to collect any slurry released from the tank, and
 - (ii) the tank must have adequate

- provision to collect, drain and store slurry from the channels to a slurry storage system,
- (m) where the slurry storage tank or reception pit is fitted with a drainage pipe—
 - (i) there must be two valves in series on the pipe and each valve must be capable of stopping the flow of slurry through the pipe and must be kept shut and locked in that position when not in use,
 - (ii) sub-paragraph (i) above does not apply in relation to a slurry storage tank which drains through the pipe into another slurry storage tank of equal or greater capacity or where the tops of the tanks are at the same level,
 - (n) where a slurry storage system has walls which are made of earth, the system must not be filled to a level which allows less than 750 millimetres of freeboard, and in all other cases the slurry storage tank must not be filled to a level which allows less than 300 millimetres of freeboard,
 - (o) where a slurry storage system has walls which are made of earth, it must be lined with an impermeable sheet material of a type approved by SEPA,
 - (p) a slurry bag may only be used to store slurry if—
 - (i) the bag is constructed of impermeable material of sufficient strength and structural integrity, and is unlikely to burst or leak in its ordinary use, and
 - (ii) it is situated in a bund, of equivalent capacity to the slurry bag, which is lined with an impermeable sheet material, of a type approved by SEPA, and has a means of removing rainwater from the bund,
 - (q) where a slurry storage system (including a reception pit or channels) is to be constructed or to be substantially rebuilt or enlarged—
 - (i) the operator must notify

	<p>SEPA prior to commencing the works,</p> <p>(ii) the notification under paragraph (i) must be accompanied by an engineering plan for the works to be carried out, and</p> <p>(iii) the operator must retain, for inspection by SEPA on request, the engineer's final sign-off certificate for the works.</p>
<p>33. The treatment of slurry by draining through a constructed farm wetland</p>	<p>(a) Slurry may be drained to a constructed farm wetland only if it consists mainly of rainwater and washings which derive from—</p> <p>(i) a midden which mainly contains farm yard manure and is situated where its contents can be affected directly by precipitation,</p> <p>(ii) any uncovered yard, used by livestock to move from one area to another but not including areas covered by paragraph (b),</p> <p>(iii) a yard which is used for the gathering or holding of livestock no more than once a week and which can be directly affected by precipitation,</p> <p>(b) slurry must not be drained to a constructed farm wetland from areas:</p> <p>(i) where livestock are gathered or held on it more regularly than once a week, or</p> <p>(ii) used for livestock movement or holding prior to, during or after being—</p> <ol style="list-style-type: none"> 1 milked, 2 housed, or 3 fed, <p>(c) slurry which contains pesticide must not be drained to a constructed farm wetland,</p> <p>(d) all reasonable steps must be taken to ensure that the drainage of slurry through a constructed farm wetland has no adverse impact on the water environment.</p>
<p>34. Storage of liquid digestate in a liquid digestate storage system or slurry bag.</p>	<p>(a) where liquid digestate is produced on the farm, there must be sufficient storage capacity on the farm to accommodate the volume of liquid digestate produced during periods</p>

	<p>when application is not authorised under activity 18 of column 1 of this Schedule or would not comply with the requirements of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008,</p> <p>(b) where liquid digestate is imported onto a farm, there must be sufficient storage capacity on the farm to store the quantities imported during periods when application is not authorised under activity 18 of column 1 of this Schedule or would not comply with the requirements of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008,</p> <p>(c) in calculating the minimum capacity of the storage facilities, the following figures must be included—</p> <ul style="list-style-type: none"> (i) the quantity of any rainfall (including any fall of snow, hail or sleet that is likely to enter the storage facilities (directly or indirectly) including from dungsteeds, silage pits or dirty yards, (ii) the quantity of any cleaning water that is likely to enter the storage facilities, (iii) the quantity of any slurry from housed livestock, (iv) the likely quantity of any imported slurries and liquid digestate added to the storage facilities, and (v) the quantity of any liquid digestate exported off farm. <p>(d) a liquid digestate storage system must,</p> <ul style="list-style-type: none"> (i) comply with the provisions of paragraphs (e) to (k), and (i) if new(including systems constructed from used materials), substantially reconstructed, or enlarged on or after [<i>coming into force date</i>] have a life expectancy of at least 20 years with proper maintenance, <p>(e) the base and walls of the liquid digestate storage tank and the walls of any feedstock tank, channels and pipes must be impermeable,</p> <p>(f) the base and walls of the liquid digestate storage tank and feedstock</p>
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- tank, valves and the walls of any pipes must be protected against corrosion in accordance with paragraph 7.2 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502-50:1993+A2:2010,
- (g) the base and walls of the liquid digestate storage tank and any feedstock tank must be capable of withstanding characteristic loads calculated on the assumptions and in the manner as set out in paragraph 5 of the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution,
 - (h) no part of the liquid digestate storage tank, feedstock tank and pipes may be situated within 10 metres of any surface water or opening into a surface water drain which liquid digestate could enter if it were to escape,
 - (i) the liquid digestate tank, pipes, valves and feedstock tank must be operationally maintained to be free of any structural defects during their lifecycle,
 - (j) where the liquid digestate storage tank is fitted with a drainage pipe—
 - (i) there must be two valves in series on the pipe and each valve must be capable of stopping the flow of liquid digestate through the pipe and must be kept shut and locked in that position when not in use,
 - (ii) sub-paragraph (i) does not apply in relation to a liquid digestate storage tank which drains through the pipe into another liquid digestate storage tank of equal or greater capacity or where the tops of the tanks are at the same level,
 - (k) where a liquid digestate storage system includes a lagoon with walls which are made of earth, the lagoon must not be filled to a level which allows less than 750 millimetres of freeboard, and in all other cases the liquid digestate storage tank must not be filled to a level which allows less

	<p>than 300 millimetres of freeboard,</p> <p>(l) where a liquid digestate storage system includes a lagoon with walls which are made of earth, the lagoon must be lined with an impermeable sheet material of a type approved by SEPA,</p> <p>(m) a slurry bag may only be used to store liquid digestate if—</p> <p style="padding-left: 20px;">(i) the bag is constructed of impermeable material, is of sufficient strength and structural integrity, and is unlikely to burst or leak in its ordinary use, and</p> <p style="padding-left: 20px;">(ii) it is situated in a bund, of equivalent capacity to the slurry bag, which is lined with an impermeable sheet material of a type approved by SEPA and has a means of removing rainwater from the bund,</p> <p>(n) where a liquid digestate storage system is to be constructed or to be substantially rebuilt or enlarged :</p> <p style="padding-left: 20px;">(i) the operator must notify SEPA prior to commencing the works,</p> <p style="padding-left: 20px;">(ii) the notification under paragraph (i) must be accompanied by an engineering plan for the works to be carried out, and</p> <p style="padding-left: 20px;">(iii) the operator must retain, for inspection by SEPA on request, the engineer’s final sign-off certificate for the works.”</p>
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(4) in Part 2, at the appropriate places insert—

““bed width” means the straight line distance that is between the opposite bank toes of a river burn or ditch, and which spans the bed of the river, burn or ditch, including any exposed bars and vegetated islands,”,

““BS 5502” means the Code of Practice on Buildings and Structures for Agriculture published by the British Standards Institution and numbered BS 5502,”,

““constructed farm wetland” means a series of one or more ponds for the treatment of slurry or silage effluent consisting mainly of rainwater, which have been constructed in such a manner that any discharge from the ponds does not pollute the water environment,”,

““domestic sewage” has the same meaning as in section 59 of the Sewerage (Scotland) Act 1968(a),”

(a) 1968 c.47.

“draff” means the residue of grain after fermentation of the grain in a brewing or distilling process,”

“draw off pipe” means a pipe used to withdraw oil from a container,”

“farm” means land occupied as a unit for agricultural purposes,”

“farm yard manure” means a mixture of bedding material and animal excreta in solid form arising from the housing of livestock (excepting such arising from the keeping of birds for the production of food), and includes digestate fibrous residue,”

“fill pipe” means a pipe used to deliver oil into a container,”

“forage crop” means any crop grown as food for livestock or for use in energy production,”

“housed” means kept permanently or overwintered, indoors or outside, on a collection based slurry system,”

“impermeable sheet materials” means—

- (a) synthetic rubbers, EDPM (ethylyne propylene diene monomer rubber) and butyl,
- (b) plastics, including poly vinyl chloride, low density polyethylene and high density polyethylene, and
- (c) reinforced geomembranes,”

“livestock” means any animal kept for use or profit as part of a commercial enterprise,”

“liquid digestate” means—

- (a) the liquid fraction, or
- (b) any run-off from the storage of fibrous residue,
resulting from an anaerobic digestion process of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process,”

“liquid digestate storage system” means—

- (a) a liquid digestate tank,
- (b) any feedstock tank used in connection with the liquid digestate tank, and
- (c) any channels and pipes used in connection with the liquid digestate tank or feedstock tank,”

“liquid digestate tank” includes a lagoon or tower used for the storage of liquid digestate,”

“radioactive substance” has the same meaning as in schedule 8 of the Environmental Authorisation (Scotland) Regulations 2018(a),”

“reception pit” means a pit used for the collection of slurry before it is transferred into a slurry storage tank or for the collection of slurry discharged from such a tank,”

“silage” means any forage crop (including draff) which is being, or has been, conserved by fermentation or preservation (including the use of additives), or both, and which is intended for consumption by livestock,”

“silage effluent” means—

- (a) effluent produced from any forage crop which is being made or has been made, into silage,
- (b) a mixture consisting wholly of or containing such effluent, rainwater or groundwater emanating from a silo, silage effluent collection system or drain,”

“silo” means any structure used for making or storing silage,”

“slurry includes—

(a) S.S.I. 2018/219.

- (a) excreta, including any liquid fraction, produced by livestock whilst in a yard or building (including woodchip corrals), and
- (b) a mixture consisting wholly of or containing such excreta, bedding, feed residues, rainwater and washings from a building or yard used by livestock, dungsteads or middens, high level slatted buildings and weeping wall structures or any combination of these, provided such excreta is present,”

““slurry storage system” means—

- (a) a slurry storage tank,
- (b) any reception pit and any effluent tank used in connection with the slurry storage tank, and
- (c) any channels and pipes used in connection with the slurry storage tank, any reception pit or any effluent tank,”

““slurry storage tank” includes a lagoon, pit (other than a reception pit) or tower used for the storage of slurry,” and

““trunk road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984(a)”.

Transitional provision: general binding rules activity 18

4.—(1) In relation to the amendments made to activity 18 (the storage of fertiliser) of schedule 3 (general binding rules) of the 2011 Regulations by regulation 3(j), slurry does not need to be applied using precision equipment until after [5 years after coming into force date], unless the slurry is—

- (a) applied by contractors,
- (b) applied on farms with more than 100 milking cows or 200 beef cattle livestock units, or
- (c) applied on pig units with more than 100 fattening pigs or 800 sows.

(2) In calculating the number of beef cattle livestock units on the farm for the purposes of subparagraph (1)(c)—

- (a) an animal of 2 years and older is 1 unit, and
- (b) an animal under 2 years old is 0.5 of unit

Transitional provision: general binding rules activity 31

5. In relation to new activity 31 (the storage of silage in a silo) inserted into schedule 3 (general binding rules) of the 2011 Regulations by regulation 3(g)—

- (a) a silo which was exempt under regulation 5 of the 2003 Regulations immediately before [the coming into force date] is not required to comply with the rules specified in column 2 until after [4 years after the coming into force date].
- (b) a silo constructed before [the coming into force date], to which paragraph (a) does not apply, is not required to comply with the rules specified in column 2 until after [2 years after the coming into force date], and
- (c) a silo in respect of which planning permission was granted before [the coming into force date], but which is not constructed before that date, is not required to comply with the rules specified in column 2 until after [2 years after coming into force date].

(a) 1984 c.54. The definition of “trunk road” in section 151 has been amended by paragraph 38(15)(b) of schedule 2 of the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), section 12(7) of the Forth Crossing Act 2011(asp 2) and section 1(4) of the Forth Road Bridge Act 2013 (asp 8).

Transitional provision: general binding rules activity 32

6. In relation to new activity 32 (the storage of slurry from livestock on a farm in a slurry storage system or a slurry bag) inserted into schedule 3 (general binding rules) of the 2011 Regulations by regulation 3(g)—

- (a) a slurry storage system which was exempt under regulation 5 of the 2003 Regulations immediately before [*the coming into force date*] is not required to comply with the rules specified in paragraphs (d) to (o) of column 2 until after [*4 years after the coming into force date*],
- (b) a slurry storage system constructed before [*the coming into force date*], to which paragraph (a) does not apply, is not required to comply with the rules specified in paragraphs (d) to (o) of column 2 until after [*2 years after the coming into force date*],
- (c) a slurry storage system in respect of which planning permission was granted before [*the coming into force date*], but which is not constructed before that date, is not required to comply with the rules specified in paragraphs (d) to (o) of column 2 until after [*2 years after coming into force date*].
- (d) the rules specified in paragraphs (a) to (c) of column 2 do not apply where the activity takes place outside a nitrate vulnerable zone until after [*4 years after the coming into force date*].

Transitional provision: general binding rules activity 34

7. In relation to new activity 34 (storage of liquid digestate) inserted into schedule 3 (general binding rules) of the 2011 Regulations by regulation 3(g)—

- (a) a liquid digestate storage system which was constructed before [*coming into force date*] is not required to comply with the rules specified in column 2 until after [*2 years after the coming into force date*], and
- (b) a liquid digestate storage system in respect of which planning permission was granted before [*the coming into force date*], but which is not constructed before that date, is not required to comply with the rules specified in column 2 until after [*2 years after the coming into force date*].

Revocation

8. The 2003 Regulations are revoked.

A member of the Scottish Government

St Andrew's House,
Edinburgh

2020