



Submission to the public consultation on the
Draft Nitrates Action Programme (NAP)
Strategic Environmental Assessment (SEA) Report

26th January 2022

1. Introduction

The Irish Farmers Association is Ireland's largest farming organisation with approximately 71,000 members in 940 branches nationwide. We welcome the opportunity to make a submission to the public consultation on the draft Nitrates Action Programme (NAP) Strategic Environmental Assessment (SEA) Report.

The SEA report broadly acknowledges the positive or neutral environmental impact of the proposed mitigation measures set out in the draft NAP. The report stresses the importance that measures are fully implemented and complied with to optimise the positive impact on water quality and reverse the downward trend in water quality.

The SEA report recognises the significant financial implications of some of the proposed measures and the importance of additional incentives under Targeted Agricultural Modernisation Scheme (TAMS) or the new scheme in CAP 2023 – 2027 to support compliance.

As custodians of the environment, farmers understand their responsibility to comply with regulations to protect and improve water quality. However, effective and timely communication will be critical if farmers are to be supported to comply with the new programme. Training, particularly on nutrient management planning, will be necessary to support changes in management practices at farm level.

2. SEA Report

The purpose of the report is to:

- Inform the development of the Nitrates Action Programme;
- Identify, describe and evaluate the likely significant effects of the implementation of the NAP and its reasonable alternatives; and
- Provide an early opportunity for the Statutory Authorities and the public to offer views on any aspect of the environmental report and accompanying draft NAP documentation, through consultation.

The SEA Directive requires programmes which are likely to have a significant impact on the environment to be subject to the SEA process. The draft NAP is a national programme so the review has focussed on relevant national, European and International frameworks relating to key areas.

The report recognises that Ireland's natural environment, although under increasing pressure, generally remains of good quality and represents one of the countries' most essential national assets. The SEA summary highlights compliance challenges but considers that the programme as set out in the draft NAP is broadly positive or neutral to the protection of water quality.

3. Nitrates Action Programme

The NAP is the national programme designed to prevent pollution of surface waters and groundwater from agricultural sources and to protect and improve water quality. The fifth iteration of the NAP (2022 to 2026) has been developed in the context of significantly greater environmental ambition.

In previous submissions to the consultation on the NAP, IFA highlighted serious concerns in relation to some of the proposed measures that would impose significant financial burden on farmers, that are either not scientifically justified or whose benefits to water quality are negligible. The key concerns include:

- The outwintering eligibility must be retained for farms with stocking rate less than 140 kg/N/ha. Farmers are legally responsible for the health and welfare of animals under their care. As a critical

component, the NAP must ensure farmers are not prohibited from meeting their legal obligations regarding animal health and welfare. The feeding and management practices associated with overwintering must continue to be facilitated. Animal health and welfare must take precedence in recognition of their sentient beings' status established in EU law.

- There are concerns that applying a linear 10% reduction in nitrogen allowance across all farms, based on stocking rates, will have a disproportionate effect on livestock farms, who are already using lower levels of chemical fertiliser.
- The compulsory use of Low Emission Slurry Spreading (LESS) on farms operating above 100 kg /N/ha from 2023 would be severely cost prohibitive and have minimal impact on water quality. While the use of LESS is encouraged, it must be supported via grants rather than enforced under regulation.

4. Nitrates Derogation

The report concludes that **farm holdings with a derogation are not the driver of a decrease in water quality**. It is vital that the current nitrates derogation is maintained, without further onerous requirements. Farmers in derogation make a substantial contribution to the sector, the wider and rural economy.

The Irish Nitrates Derogation, which has been in place since 2007, allows approximately 7,000 farmers to stock their farms to their productive capacity and recognises the unique characteristics of Ireland's grass-based livestock production systems. It facilitates a more efficient use of grass produced on these farms and is a key feature of our grass-based agricultural economy, particularly in the dairy sector.

As outlined in the report farmers who are granted a Nitrates Derogation are subject to significant additional regulations with a strict set of conditions including the compulsory use of Low Emissions Slurry Spreading (LESS), liming of soils, incorporation of clover into swards, reduced crude protein content in concentrate feeds in the April to September period and environmental training.

Any removal or alternative scenarios of the Nitrates Derogation would have a massive negative impact on the economic and social sustainability of thousands of Irish farmers. It would significantly erode their financial viability and would also lead to a major disruption of the land market, which would have an indirect impact on all farming sectors.

5. IFA response to Environmental Assessment

5.1. Farmyard Management measures

IFA welcomes the recognition in the report of the significant investment costs associated with improving both infrastructure and operations on holdings to maximise storage capacity for organic fertilisers.

The financial implications of the proposed measures in relation to provision and management of storage facilities and capacity pose the risk of increasing the financial vulnerability of more farms. This may result in more farmers unable to comply with regulations.

IFA supports the recommendation in the report that additional incentives, through TAMS or the new version of the scheme in the CAP 2023 – 2027, be provided to promote awareness and to support adoption of measures. As noted in the report providing grant aid provides a high degree of protection that the requisite design standards are applied to storage systems to mitigate the potential for adverse impacts.

In addition, Accelerated Capital Allowance (ACA) schemes must be introduced to support the adoption of measures and improve compliance. These schemes would support farmers to rectify any slurry storage deficiency.

Supporting farmers to invest in additional slurry storage capacity and improve farmyard management operation, will enable farmers to realise greater environmental standards which would benefit the entire country.

5.1.1. Reduced storage capacity in certain circumstances (Article 14)

The proposed measure to reduce storage capacity through outwintering to farmers stocked <100kgs/ha from 1st January 2025 is a serious concern to these more extensive farming systems, which are typically the most financially vulnerable. The cost of compliance of this proposed measure is not proportionate to the benefits to water quality.

These farms provide a range of environmental benefits in the management of these lands and have limited impact water quality. Outwintering has several potential advantages for the health and welfare of animals. A critical component of this is ensuring adequate feed for these animals. Outwintering enables farmers to manage their farms in a manner that ensures they have adequate feed for the production cycle of the animal on the farm, for example ensuring enough winter forage is available.

The potential adverse impacts of outwintering identified in the assessment can be mitigated against through management practices, soil and drainage management, feeder types, post treatment of the fields etc.

Within the NAP there is already a requirement that the stocking rate for the closed period must not exceed 85kgN/ha. Therefore, given that this provision is already in place there is no additional benefit to lowering the overall farm stocking rate from 140kgN/ha/year to 100kgN/ha/year.

IFA propose that rather than reducing the stocking rate eligible for outwintering s, that strategies to mitigate against any potential negative impacts are evaluated.

5.2. Nutrient Management Plan (Article 16)

5.2.1. Article 16(1)

IFA does not support the rewording of Article 16(1) as the current wording provides sufficient certainty with regards enforcement. As outlined in the points raised the Environmental Protection Agency (EPA) during the Statutory consultation the Article should support applying the principle of the “right measure in the right place”. The certain wording supports this.

IFA would like to see greater focus on the mitigation measures to support and incentivise farmers to increase understanding of nutrient management planning through appropriate training and development of tailored Nutrient Management Plans (NMP) for their farms. Also, the option for suitably qualified and trained farmers to submit their NMP via the Teagasc Online NMP system should be provided.

5.2.2. Article 16 (2)

The report outlines concern that the application of a retrospective stocking rate to determine nutrient requirements could be detrimental to water quality. The use of the previous calendar year’s stocking rate to establish nutrient requirements in the coming year was introduced in the

last review of the NAP in 2018. This addition was welcomed by Teagasc and the farming community as it brought clarity and certainty to nutrient management.

Prior to this, it was very difficult to plan on farm nutrient requirements based on an intended stocking rate. This resulted in a decline in soil fertility on some farms and on other farms an excessive use of nutrients.

The certainty provided by the use of last years' stocking rate to calculate farm nutrient requirements has been beneficial to protecting water quality and therefore IFA recommend that it continues to be applied in the next NAP.

5.2.3. Article 16 (3)

IFA does not support the recommendation in the report that 50% of prescribed P limits be applied for Index 3 soils where testing has not occurred. This could have unintended negative consequences to soil fertility and optimum nutrient efficiency of soils.

The draft NAP proposes that:

- From 1st January 2022, all farmers above 170 kg N/ha must take soil samples. Where soil samples are not undertaken, Index 4 for Phosphorus will be assumed.
- From 1st January 2023, all farmers above 130 kg N/ha must take soil samples. Where soil samples are not undertaken, Index 4 for Phosphorus will be assumed.
- All arable land sown from 1st January 2023 must take soil samples.

The new proposed measures are sufficient, and in combination with other measures contained with the draft NAP, will minimise the over application of P.

5.3. Prevention of Water Pollution from Fertilisers and Certain Activities

5.3.1. Distances from a water body and other issues (Article 17)

It is extremely difficult to draw generalisations from riparian studies in relation to set-back distances due to the inherent variability found between and within catchments, with streams having a unique combination of characteristics including climate, morphology, geology, hydrogeology and soils.

The expansion of the Agricultural Sustainability Support and Advisory Programme (ASSAP) programme to work collaboratively with farmers to identify and implement targeted measures, applying the principal of the right measure in the right place on farms is the most effective method to improve water quality.

5.3.2. Ploughing and the use of non-selective herbicides (Article 22)

The requirement to shallow cultivate 7 days after harvest where straw is chopped is workable for tillage farmers. However, the proposed maximum 14-day interval for cultivation in fields where straw is baled remains impractical and ignores the reality that straw remains on fields post harvesting either in the swathe or in bale form for greater than 14 days.

The main harvest month of August is statistically one of the wettest months of the year in many parts of eastern Ireland where tillage farms are predominately located. In periods of difficult harvest weather, it will be necessary to get a derogation or an extension to this cultivation interval to comply with proposed measure.

The requirement to cultivate almost immediately post-harvest risks compromising the cultural control of certain invasive grassweeds such as brome species and wild oats, which require sunlight on the soil surface to germinate. IFA propose that where growers can clearly demonstrate problems with such invasive grassweeds, cultivation should not be necessary until a satisfactory chit or emergence of these weeds has taken place on the surface.

For farmers practising zero or strip till establishment systems, there must be no requirement for stubble cultivation prior to crop establishment. Where the interval between harvesting and establishment of the following crop is greater than 14 days, IFA suggests that a summer or secondary cover crop should be established by users of these establishment systems.

For growers of maize, root crops and later harvested combinable crops, clarity is needed on (i) the location of critical source areas and (ii) all watercourses which require a 6m buffer zone to be implemented.

IFA proposes that a pilot scheme for inter-row sowing of maize crops with temporary grass species should be investigated especially in counties where critical source areas have been identified.

5.4. General

5.4.1. Offences and related matters (Article 26)

The IFA does not condone non-compliance and considers improved communication in relation to breaches in compliances would be beneficial to improve and promote awareness of measures in the NAP. IFA would support the annual publication of outcome of cross compliance inspections to avoid unintended breaches. In addition, IFA propose the introduction of a yellow card system for minor non-compliances so that farmers are afforded the time to rectify the non-compliance without incurring a fine.

5.5. Implementation of Commission Decision

IFA would have serious concerns with the regards the recommendation to publish a register of farms and associated documentation that have been granted a Nitrate Derogation. As outlined in the report there is transparency in relation to the number of farmers that have been granted a derogation, which states that in 2020, approximately 7,000 farmers availed of the derogation. In addition, the strict set of conditions that apply to the derogation are also published.

5.5.1. Article 36 (2)

The decision making framework for granting a derogation is outlined in the report which lists the strict set of conditions that apply to farmers that are granted a derogation. This decision making framework for granting a derogation must be maintained.

The complexity of nutrient loss in a catchment based on the research undertaken in the Agricultural Catchments Programme (ACP) concludes that while the nitrogen load to the land is one factor that influences nitrogen loss to water, it is not the determining factor since the nitrogen cycle is very complex.

Transformations of nitrogen from when it is applied to the land to when it ends up in water are influenced by many factors such as soil texture, the weather (soil temperature and moisture content, sunlight), soil pH and cultivation.

Research undertaken by Teagasc on the impact of nitrogen, referenced in the report, found that surplus nitrogen is more important than the overall nitrogen application rate to water quality.

6. Additional GAP Regulation Measures

6.1. Improving Compliance

The IFA does not condone non-compliance but considers improved communication and the provision of adequate supports integral to improving compliance. If increased and targeted enforcement approach is to be adopted as proposed in the draft NAP it is crucial that a communication campaign is developed to support understanding of the proposed measure set out in the draft NAP.

In addition, sufficient time must be provided to adopt measures with information events and training provided for farmers and advisors to ensure all changes are properly communicated and implemented. Technical guidance must be provided prior to the introduction of any new regulation.

6.2. Review of Agricultural Sustainability Support and Advisory Programme (ASSAP)

The consultation paper states that the “...evidence from the Agricultural Catchment Programme indicates that supporting farmers to make better decisions regarding how they manage nutrient applications is likely to be the single area with the greatest potential to improve outcomes for water quality on Irish farms - delivering better profits for the farmer while reducing risk of nutrient loss to water...”

The high level of engagement by farmers and significant changes to agricultural practices achieved by the programme in priority areas demonstrated the importance of the programme with regards driving change at farm level and improving water quality.

It is IFA's position that the ASSAP programme should be expanded significantly to support greater compliance with draft NAP measures by working collaboratively with farmers to identify and implement targeted measures on farms is the most effective method to improve water quality.

7. Conclusion

Farmers are acutely aware of their role in protecting water quality but it is critical that they are supported through the provision of adequate educational resources and financial support to comply with regulations.

We trust that these comments are useful. If you wish to discuss any aspect of this submission, please contact Geraldine O'Sullivan, IFA Senior Policy Executive by email on geraldineosullivan@ifa.ie or on 087 9385283.

Ends.