The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008 – Proposed Amendments – A Consultation

Scottish Environment LINK Response

June 2012

Scottish Environment LINK is the forum for Scotland's voluntary environment organisations, with over 30 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Introduction

Scotland's water environment shapes our landscape, sustains biodiversity, provides drinking water and food, enables us to produce world-class goods and supports recreational activities. A healthy water environment that is used sustainably underpins our economy and the services therein. There are many threats to the water environment such as abstraction, diffuse and point source pollution, invasive non-native species and other threats associated with a changing climate.

Diffuse nitrate pollution has a negative impact on biodiversity[1] and contributes to greenhouse gas emissions. Recent data[2] indicates that only 41% of monitored rivers in Scotland have a mean concentration less than 0.3mg N/l (the level considered to be natural or background level). The presence of nitrates in drinking water is a potential public health risk and some parts of Scotland have unacceptably high levels of nitrate in drinking water sources. For example, Scottish Water is currently taking action[3] around the Dumfries basin aquifer with the aim of facilitating land management practices in order to reduce nitrate levels in water. Scottish Environment LINK supports such sustainable catchment management approaches where land managers are supported for delivering services (e.g. drinking water quality, biodiversity, flood risk management, climate change mitigation and adaptation) that are additional to what is already required under regulation and cross-compliance. Sustainable land management practices (e.g. reducing inputs to land and creating woodland features or grassland buffer strips in the right places to intercept run-off) can all reduce water industry's operating expenditure for

[1] MacDonald, M.A., Densham, J.M., Davis, R. and Armstrong-Brown, S. (2006) Force-Feeding the Countryside: the impacts of nutrients on birds and other biodiversity. RSPB review
[2] http://www.scotland.gov.uk/Publications/2011/09/05154117/27
[3] http://www.scottishwater.co.uk/protectdwsources

nitrate removal stages in drinking water treatment works thus making good economic sense as well as environmental.

Scottish Environment LINK seeks a reduction in diffuse nitrate pollution from agriculture because of the long-term impact that this nutrient poses to biodiversity, ecosystem services and climate change mitigation. While we recognise and welcome the effort that is being invested by some land managers to reduce the input of nutrients to land, we are not aware of any data to indicate that nitrate levels are showing consistent or significant signs of improving. Therefore, any relaxation of requirements associated with the Action Programme and with the overall implementation of the Nitrates Directive would be wholly inappropriate at this stage. Furthermore, we note that the recently published consultation[4] on the Marine Strategy Framework Directive relies heavily on measures taken under the Water Framework Directive and the Nitrates Directive to achieve the Good Environmental Status targets proposed for pressures such as contaminants, eutrophication and hydrographical conditions across the UK's marine area. It is, therefore, imperative that the Action Plan and the Nitrates Directive are fully implemented, together with any additional measures required, to deliver Good Environmental Status in Scottish marine waters.

In order to ensure that the regulations and rules are effectively implemented, we wish to see adequate inspection and enforcement backed up by sufficient advice and guidance to all land managers. We also believe that the results from monitoring of nitrate levels in water bodies should be available to all stakeholders and should be presented in a transparent and meaningful way.

Consultation Questions

1. **Do you agree with the proposed changes to the livestock manure N efficiency standard values to be used when calculating the Nmax for any crop type?**

Yes, we agree with the proposal to increase the pig slurry standard value from 45 to 50% and the cattle slurry and other livestock manure standard value from 35 to 40%. We welcome the fact that this proposal is underpinned by a review of scientific evidence which indicated that these efficiency values can realistically be achieved. We hope that this proposal will promote a shift from inorganic nitrogen use and increase overall efficiency of use.

2. **Do you consider the limit of 500kg/ha of compost total N in any 2 year period is workable and would not be a substantial risk to the water environment?**

We appreciate the reasoning behind this proposal to increase the application limit for green compost i.e. because it has a far lower available

[4] http://www.defra.gov.uk/consult/2012/03/27/marine-strategy-framework-1203/

N content (and thus leaching risk) than other forms of waste. However, we are concerned that green compost may not be clearly differentiated from 'green/food compost' which has higher N content and similar availability to some types of FYM[5]. Therefore, we seek assurance that sufficient safeguards are in place to ensure that this proposed revised limit would only result in changes to 'green compost' application. Furthermore, it would be helpful if information were available on the extent of use of green compost on agricultural land and whether it is locally sourced or transported from a distance. This would help to inform thinking on the sustainability of green compost use on agricultural land.

3. **Which of the proposed options do you consider best meets the challenges of balancing fertiliser applications and protecting water quality?**

The consultation document does not clearly set out the reasoning behind the proposed changes which makes it difficult to comment on this. There is some explanation of the basis for Options 4 and 5 i.e. that these would account for any increased run-off risk due to wet weather in these months. However, it is not clear why Options 2 and 3, which bring forward the start date, are being proposed. We would be supportive of the option that best minimises the entry of nitrates to the water environment.

4. **Do you agree with the proposals to reduce the minimum distance for spreading slurry near watercourses if a precision slurry spreader is used? Is the proposed minimum distance, of 6 metres, acceptable or do you consider it poses an unacceptable increased risk of pollution?**

No, we do not agree that the minimum distance should be reduced. We are concerned that there would be a greater risk of N entering the watercourse via surface run-off from a distance of 6 metres as opposed to the current 10m buffer. Moreover, the 10m buffer is consistent with existing requirements under CAR and cross compliance. Therefore, any change could increase confusion among land managers about the regulatory requirements which may ultimately be detrimental for protection of the water environment.

5. **Do you agree that clarification is required on the keeping of a risk assessment for manure and slurry (RAMS) map as a record of field heap location?**

Yes, we agree that clarification is needed and support the proposal to do this by amending the NVZ regulations. In addition, we believe that the GBR18 requirements relating to fertiliser storage could be clarified via the Action Programme. This would remind farmers of the regulation that stipulates fertilisers must not be stored within 10m of any surface water

[5] SAC Technical Note TN622 '*Optimising the application of bulky organic fertilisers*' http://www.sac.ac.uk/mainrep/pdfs/tn632grasslandfertiliser.pdf

or wetland, or within 50m of any spring supplying water for human consumption.

6. **Do you think that reducing the amount of slurry that can be spread in the periods immediately before and immediately after the closed period is a better mechanism for managing nitrate leaching than extending the closed periods?**

We do not agree that reducing slurry application rates should be used instead of extending the closed period. As well as offering less protection to the water environment from run-off, this mechanism would be more difficult to inspect and monitor than closed periods in which no application is permitted. However, we agree that there is value in having reduced application rates on either side of the closed period to avoid large amounts of slurry being applied in a short window of time, which brings increased risk of run-off to the water environment.

7. **Do you agree clarification is required as to what adjustments can be made when carrying out an Nmax calculation?**

Yes, we agree it is sensible to clarify the basis for yield adjustments for Nmax calculations.

8. **Do you agree that consideration should be given to determine a method by which very small farms' record-keeping burden can be reduced?**

The Scottish Government is proposing to consider what can be done to link participation in the Small Farmer Scheme with compliance with the NVZ Action Programme in order to ease administrative burden. While we are generally supportive of streamlining regulation to alleviate *unnecessary* administration, it is critical that any reduction in 'record-keeping burden' does not happen at the expense of environmental protection. We fully recognise that many small farms have a valuable role in supporting biodiversity and providing public goods but it should be remembered that any farm, regardless of size, can have significant negative environmental impacts if the land is not managed appropriately.

9. **Do you agree that clarification should be made, within the Action Programme, on the storage of silage effluent?**

Yes, we welcome this proposal to clarify the legal requirement.

10. **Do you agree that the Scottish Government should seek a renewal of the grassland derogation for 2013-2016?**

We do not agree that a renewal of the derogation should be sought. We remind Government that the derogation should only be adopted if it does not affect achievement of the Directive's main objective of "*reducing*

water pollution caused or induced by nitrates from agricultural sources". We are not aware of any evidence to indicate that agricultural nitrate pollution of water in Scotland has reduced to a level that warrants this derogation. Indeed, agricultural diffuse pollution is recognised as one of the most significant pressures on Scotland's water environment and the NVZ action programme is listed as a River Basin Management Plan 'measure'[6] to help meet WFD obligations. As such, it is critical that all steps are taken to have an NVZ Action Programme that makes a concerted effort to reduce nutrient inputs to the water environment, and we do not think that the grassland derogation is consistent with this.

This response was compiled on behalf of the Freshwater Taskforce and is supported by:

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[6] Scotland's River Basin Management Plans http://www.sepa.org.uk/water/river_basin_planning.aspx