

# Water Framework Directive

## State aid: Agricultural Block Exemption Regulation

### Environment Agency funding for the attainment of Water Framework Directive objectives for the years 2017 to 2021 in England.

**Objective of the Environment Agency Water Environment Improvement Fund (previously known as the Water Framework Directive Programme) Programme and Natural Flood Management Programme.**

Since the 1990s, England has made good progress in tackling the major polluting and abstraction pressures. This has made it clearer that we also need to focus on problems where individual responsibility is harder to assign: tackling diffuse sources of pollution and the legacy of alterations that society has made to the shape and connectivity of water channels. Since many of these pressures on the water environment have no clear responsible polluter, we need public funds to tackle the problems they cause.

Only 17% of water bodies in England achieve 'good ecological status' as specified under the WFD. The default objective under WFD is to aim for 100% of water bodies to be at good status.

The Water Environment Improvement programme (WEIF) (previously known as the WFD programme) is delivering the 2015 (second cycle) river basin management plans (2016 to 2021) including investigations and measures and reporting of the first river basin management plans. In addition, the FCRM funded Natural Flood Management Programme's purpose is to manage flood risk by innovative measures at a landscape scale to reduce run-off and store floodwater. Many of these measures will be similar to those for the WEIF and therefore will be developed and delivered in the same project.

This is an extension of the Environment Agency Funding for the Attainment of WFD objectives for the years 2016 to 2017 in England (SA 44103 which expires on 31 March 2017).

#### Priority areas for action are:

- habitat restoration, improvement and creation
- diffuse agricultural and rural pollution
- diffuse urban pollution
- managing pollution from metal mines
- managing the problem of invasive non-native species
- managing flood risk by measures at a landscape scale
- in river habitat improvements



## Measures that fall under these categories include

Fencing of river and stream banks will exclude grazing livestock from the banks and watercourses or reduce the density and period of grazing. Fencing is designed to achieve several specific environmental outcomes, which will make a major contribution towards achieving good ecological status of watercourses by:

- reducing or halting faecal pollution of watercourses, usually by cattle
- halting damage and erosion of banks by livestock, which causes soils to wash into the water and alters the natural form and profile of the river (could be cattle or sheep, but usually cattle)
- reducing or ceasing grazing of vegetation along river and stream banks to create a buffer of taller vegetation

Tree planting helps WEIF and NFM objectives by:

- improving thermal regulation and oxygenation of the water
- creating buffers to slow down water running off the land and reduce run off of soils and pollution
- contributing a future supply of woody debris for habitat creation
- increasing in-channel diversity

Coppicing and minor replanting activities to improve riverside habitats.

Capital improvements to block surface water channels, improve upland peat environments and prevent sediment and organic matter entering watercourses.

Capital improvements to trap or reduce sediment and pollution and prevent it entering rural and urban watercourses. This could include improvements to drainage systems and water capture and storage systems.

Activities and works concerned with changing the inundation regime to create wet habitats and reconnect rivers to their floodplains.

Reinstatement or creation of capital / infrastructure works, to include allowing or changing access routes necessary in effectively managing land and also works necessary for river restoration (for example weirs and fish passes). The need of which may have arisen as a result of river re-naturalisation or re-alignment, land re-parcelling and changes to the inundation regime.

Tackling diffuse pollution by providing best environmental practice advice and training to the agricultural sector (including farmers and other agricultural entities), along with sharing knowledge.

## How projects are selected

83% of water bodies in England are currently not achieving good ecological status. Using the best available techniques, only the most suitable water bodies are identified for improvement works, such as those in the worst condition or those important for the long-term sustainability of the water body.

A water body is a designated unit which may be a lake or part of a river. In some cases there may be several owners of a single water body where relevant works are necessary for improvement. It is important to note that a great deal of water improvement activity does not take place within the water but on land around it. Often there is also little or no incentive for a landowner to take the required action. Engagement with landowners is therefore critical to the success of the projects.

## Project selection criteria

As part of the Environment Agency's ongoing work to identify and address failures (including second cycle river basin management planning), the Environment Agency will develop and implement new projects up until 2021. Projects will:

- contribute to or improve water body and / or element status
- align with one or more of the priority activity areas (see above)
- contribute to wider strategic projects
- deliver value for money (as predicted by internal economics tools)
- ideally involve collaborative working with external partners and opportune external funding
- be deliverable - there will be confidence in the ability to spend the funds requested, and the perceived risk of non-delivery is not high
- not pay for work others have a legal responsibility, duty to undertake or pay for
- benefit priority species
- allow engagement with relevant landowners (when possible)

## Eligibility

The involvement of undertakings under this scheme is not limited to those in the agricultural sector. The scheme is open to everyone if the activity fits into the scheme's aims and objectives outlined above.

Only small or medium enterprises (SMEs) are eligible for the scheme – as defined in annex I of Commission Regulation (EU) No 702/2014 (except for training aid under Article 47 which also includes large rural enterprises).

## Legal basis of this programme

- Water Environment (Water Framework Directive) (England and Wales) Regulations 2003
- Appropriation Act 2008
- Environment Act 1995
- Conservation of Habitats and Species Regulations 2010

## State aid compliance

This section sets out the elements of the scheme that are subject to agricultural state aid as covered in Commission Regulation (EU) No 702/2014. They are covered using the Agricultural Block Exemption Regulation which allows the granting of certain categories of state aid to the agricultural and forestry sectors and in rural areas without prior notification to the European Commission.

Where funding is intended for non-productive (where the works will not lead to any increase in production capacity) investments or capital works for the achievement of agri-environment-climate objectives, aid will be provided in accordance with Article 14 of Commission Regulation (EU) No 702/2014.

The maximum aid intensity shall not exceed 100% of eligible costs.

Where funding is intended for non-productive (where the works will not lead to any increase in production capacity) investments or capital works aimed at the conservation of natural heritage located on agricultural holdings, aid will be provided in accordance with Article 29 of Commission Regulation (EU) No 702/2014.

The aid intensity shall be limited to 100% of the eligible costs.

Training aid will be provided to agricultural undertakings in accordance with Article 21 of Commission Regulation (EU) No 702/2014 and also to rural SMEs and rural large enterprises in accordance with Article 47 of Commission Regulation (EU) No 702/2014 and point 676 of the European Union guidelines for state aid in the agricultural and forestry sectors.

The aid intensity shall be limited to 100% of the eligible costs for Article 21.

For Article 47 the aid intensity shall be limited to 70%, 60% and 50% of the eligible costs for small, medium and large sized enterprises respectively.

Advisory aid will be provided to agricultural undertakings in accordance with Article 22 of Commission Regulation (EU) No 702/2014 and also to rural SMEs and other land managers in accordance with Article 46 of Commission Regulation (EU) No 702/2014.

For both articles the amount of aid will be limited to €1,500 per advice and will not be paid directly to the beneficiary.

Where applicable and eligible, compensatory aid will be provided in accordance with points 241 to 250 of the European Union guidelines for state aid in the agricultural and forestry sectors, and in rural areas 2014 to 2020 (2014/C 204/01) aid for disadvantages related to Natura 2000 areas and the WFD. This relates to aid for agricultural undertakings and other land managers to cover compensation for additional costs and income foregone resulting from disadvantages in the areas concerned related to the implementation of the WFD. These disadvantages relate to there being major changes in the type of land use, and / or major restrictions in farming practice resulting in a significant loss of income. Aid will be limited as set out in points 249 and 250.

Where applicable and eligible, aid for agri-environment-climate commitments will be provided in accordance with points 659 to 662 of the European Union guidelines for state aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 (2014/C 204/01). This relates to aid for other land managers and undertakings in rural areas not active in the agricultural sector to carry out operations aimed at agri-environment-climate commitments.

Other aid to non-agricultural businesses and activities under this scheme (not covered by compensatory aid, Articles 46 and 47 or agri-environment-climate commitment aid) may also be provided in accordance with Commission Regulation (EU) No 1407/2013 on de minimis aid.

In Accordance with the General Conditions of EU Regulation 702/2014 (ABER);

Aid shall not apply to export related activities contingent to import over export activities In accordance with Article 1.4(c)

Undertakings with an outstanding recovery as set out in Article 1.5 are not eligible to apply

Undertakings that are in difficulty as set out in Article 1.6 are not eligible to apply

The Scheme will not provide aid for activities or projects in which the beneficiary would in any case engage even in the absence of the aid.

No aid will be granted in respect of activities or projects already undertaken by the beneficiary.

### **Duration of the programme**

The programme will run until 31 March 2021. Some potential projects have been initially identified, but no commitment to project expenditure will be made until after the scheme has been registered and published by the Commission for the purposes of state aid.