

# Implementation of the Nitrates Directive in England 2013-2016 Questions and Answers

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## A. Administration questions

### A1. Where can I find the consultation?

- The consultation document has been emailed and posted out to key stakeholder groups and made available on the Defra website. <http://www.defra.gov.uk/consult/open/>

### A2. Why are the NVZs and Action Programme being revised?

- The Nitrates Directive requires the NVZs and the Action Programme to be reviewed at least every four years.

### A3. What is the timing of this review?

- The consultation is open from the 16<sup>th</sup> December through to the 16<sup>th</sup> March 2012. The Government will then consider all your responses and publish their formal response later in Spring 2012. Regulations will be drafted through the summer to be implemented from January 2013.

### A4. How do I respond to the consultation?

- The closing date for this consultation is 16 March 2012. Responses should be sent to the following email address: [nitratesdirectiveteam@defra.gsi.gov.uk](mailto:nitratesdirectiveteam@defra.gsi.gov.uk)
- Or by post to: Nitrates Team, Department for Environment, Food and Rural Affairs, Area 2B, Ergon House, Horseferry Road, London SW1P 2AL
- There is a simple form at the end of the Consultation document that you can use.

### A5. What is the outcome of the review of designations?

- Our early indication of the review of the NVZ designations shows that coverage is broadly to stay the same as in the previous round, although some 2.4% will be removed from the designation and around 2% added.
- The indicative maps are shown in the consultation document and indicate just under 62% of England is likely to be designated as NVZs.
- In this review there are more surface waters improving than declining in nitrate levels – this is good news.

### A6. Can we appeal against the NVZ designations?

- No – not at this consultation stage. The Government response in the spring will include the detailed recommendations from the Environment Agency at a field level as to the intended boundaries of the NVZs. You can appeal, if appropriate, at that stage.

### A7. When will the details of the appeal system be published?

- The consultation document gives a brief overview of the grounds for appeal and for the intended timescale. Defra will publish further details as to the full mechanism early in the New Year and before the Government response in the spring.

### A8. Does the consultation document include everything I need to be aware of with respect to this review?

- The website includes the Impact Assessment which outlines the economic costs of the consultation proposals.

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- the evidence papers that the proposals are based upon. Also included are
- maps are available to view in more detail on the Environment Agency website ('Whats in Your Back Yard'). This has searchable functions such as by place names. The indicative
- methodology papers will be published on the Defra websites in the New Year. The detailed
- will be able to assist and there is also the nitrates directive teams email contacts - The Defra helpline - [nitratesdirectiveteam@defra.gsi.gov.uk](mailto:nitratesdirectiveteam@defra.gsi.gov.uk)

### A9. Why do we need to reduce nitrate levels in water?

For two main reasons:

1. **Water companies are required by law to supply drinking water with a nitrate concentration below 50mg/l.** Removing nitrates from waters is expensive and energy intensive. For the period 2005-2010, costs for treating water to drinking water standard are estimated to be £288 million in capital expenditure and £6 million per annum for operating expenditure. These costs are passed on to consumers in water bills.
2. In rivers, lakes, estuaries and coastal waters, an excess of nutrients, such as nitrate and phosphorus, **can cause eutrophication** - usually apparent as a mass of plant and algal growth. This disturbs the natural water environment, is harmful to aquatic organisms - to the extent of killing fish through depletion of oxygen - and reduces the amenity and leisure value of the water. It is estimated that the total annual cost of environmental damage to river and wetland ecosystems and natural habitats in England and Wales is in the region of £716-1,297 million.

## B. Methodology questions

### B1. Why was the NVZ methodology revised?

- The NVZ methodology was revised **to reflect new scientific understanding and after learning lessons from previous reviews.** In particular:
  - Improvements in statistical analysis and modelling techniques
  - Developments in the understanding of the role nitrogen in driving the eutrophication of freshwaters
  - Dealing with the effect of sewage treatment works

### B2. Why isn't there a consultation on the revised methodology?

- Defra are not seeking comments on the methodology during this consultation given the **scientific and technical nature** of it. Instead we gathered independent academic experts and stakeholder groups together over the last year.
- The methodology used for designating NVZs has been developed by a working group learning from the experience of previous rounds. The group comprises Government, the Environment Agency, key industry stakeholders including the NFU and CLA and academic experts. The group agreed the methodologies at a meeting on 16<sup>th</sup> November 2011 and the full methodologies will be made available on the Defra website early in 2012.

### B3. Why have you included an option for a 'whole territory' approach to tackling nitrate pollution from agriculture?

- It is an option under the Nitrates Directive for member states to apply an Action Programme across the whole of their national territory. As well over half of England is already designated it is right that this should be considered.
- Both a whole England approach and discrete NVZs have been included within this consultation. Your views on this question are important.

### B4. Why have Scotland and Wales designated smaller areas of land as NVZs?

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- This is a reflection of differing intensity of agricultural production, climatic variables, soil type and topography, which lead to generally lower levels of nitrate pollution.

### C. Action programme

#### C1. What are the main changes to the Action Programme in the consultation?

- There are proposals relating to whether to extend the closed periods for slurry storage or to include further steps to reduce the risk of leaching in the periods immediately after the closed periods.
- There are proposals to align the way the calculation of slurry storage is undertaken between SSAFO and NVZ regulations.
- There are proposals to reduce the record keeping and potential duplication between schemes such as between certified organic farmers and NVZ requirements.
- There are changes based on recent research to the Nmax efficiency figures and to include all organic manures in the Nmax calculations.
- There are proposals to include cover crops on sandy / shallow soils over groundwater NVZs.

#### C2: Is the European Commission the driving force behind the revisions to the Action Programme measures?

- No - In developing the revised Action Programme Defra focussed on an evidence based approach. Research had been undertaken on a number of areas since the start of the current action programme.

#### C3. Do other Member States have Action Programmes as stringent as Defra's proposals?

- The Nitrates Directive is quite prescriptive and lists measures that must be included in the Action Programme. Therefore **there is a level of consistency between Member States**. However, the Directive permits Member States to take account of the prevalent environmental conditions within their country when defining the more specific rules that implement these measures.
- **Some Member States have far stricter controls than those proposed in England** (e.g. 12 months slurry storage is required in Finland; satellites are used to check compliance in Belgium; applications of N fertiliser are restricted below economic optimum in Denmark).

#### C4. What does the Nitrates Directive require Member States to do?

- There are three main requirements of the Nitrates Directive. The first is to publish a Code of Good Agricultural Practice for all farmers to follow, which includes some specific measures to reduce nitrate losses.
- The second is to identify waters which are or could become polluted by nitrates and to **designate as Nitrate Vulnerable Zones (NVZs)** the land that drains to them.
- The third requirement is to **establish a mandatory Action Programme of measures**, relating to the use and management of manure and fertiliser, which must be followed by farmers with land in NVZs. The Directive outlines the measures to be contained within the Action Programme.
- There is an obligation to review the designations and Action Programme measures every four years.

#### C5. Why target agriculture?

- Agriculture is estimated to **contribute approximately 60%** of the nitrogen entering surface waters in England.

#### C6. What is being done about other sources of water pollution?

- Work is ongoing to develop measures that tackle other sources of water pollution. In particular:

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- Implementation of the **EC Urban Waste Water Treatment Directive** has led to reductions in pollution from sewage treatment works.
- Plans to tackle **non-agricultural diffuse pollution** include, encouraging the uptake of sustainable drainage systems (SUDS), correcting sewer misconnections, and a ban of phosphates in certain detergents.

Defra wish to move to a more holistic approach to the demands upon farmers and reduce a range of potential pollutants. The current trial of the catchment approach to the Water Framework Directive will help inform us as to the benefits and practical difficulties of this approach.

### C7. Have any estimates been made of the costs to farmers of complying with revised measures?

- An Impact Assessment accompanies the consultation and indicates potential savings from the administrative changes.

### C8. What impacts do the revised Action Programme measures have on losses of other pollutants, in particular ammonia emissions?

- In developing options for the Action Programme Defra have tried to **minimise any negative environmental impacts** and achieve an overall improvement in nitrogen efficiency on farms.
- As an example in considering the options to extend the closed periods Defra were conscious of the need to minimise ammonia losses if slurry spreading did not commence until later in the spring.

### C9. Will the Action Programme lead to reductions in nitrate loss?

- We are seeing improving trends in water quality monitoring data and we recognise that this is due to a range of factors including the effect of the Action Programme.

### C10. In some areas, nitrate levels are falling or stable. Why then is the Action Programme still necessary?

Defra recognise that in some areas of the country there may have been an improvement in water quality. However:

- **Nitrate concentrations in ground and surface waters remain high** in many parts of the country. A number of water bodies also continue to display signs of eutrophication. Clearly there is still some way to go before our waters achieve their full environmental and ecological potential, and contribute to an improved living environment.
- **Care needs to be taken when interpreting trends in water quality** monitoring data and should only be done in conjunction with an appropriate understanding of **the possible causes of any trend** and whether that trend will be sustained.

## D. Help and support

### D1. Why is Government not providing any financial support to farmers to help them meet the costs of constructing new manure storage facilities?

- Past experience would indicate that **awarding capital grants can be fraught with difficulties**. For example, such grants could simply increase storage tank supply prices and merely postpone the impact of market forces.
- Providing grants would also **contravene the 'polluter pays' principle**, and Defra prefer to avoid putting public funds towards securing compliance with regulatory standards.
- Defra have previously provided a long **lead-in period of three years** for getting adequate storage in place.

### D2. What additional advice will be provided to farmers?

- The previous Nitrates review included extensive advice and guidance to farmers and we intend to continue such an approach.

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### D3. How is Defra proposing to minimise the administrative burdens of the revised Action Programme?

- The Department is seeking through this consultation to improve the way it regulates and enforces regulation, and is seeking views as to how we can keep administrative burdens to a minimum.
- Defra have included options for consideration such as reducing duplication.
- Defra are seeking to remove prescription as to records and your views will be invaluable.
- And Defra are exploring how to limit the measures of the Action Programme for some farm types such as low intensity and size.

### D4. Defra should adopt a supportive approach rather than introducing more Regulation

- Defra have a **legal obligation to implement the EC Nitrates Directive**.
- However the Task Force on Farming regulation have specifically commented upon the implementation of the Nitrates Directive within England following stakeholder input. Where ever possible Defra are seeking to address the Task Force recommendations such as through the principle of earned recognition to reduce the likelihood of inspection or duplication of record keeping.

### D5. What happens to Deferred Slurry Storage Areas?

- The indicative maps suggest that around three quarters of the areas of the NVZs which were previously described as Deferred Slurry Storage Areas can now be de-designated. The areas that remain as NVZs will be subject to the new Action Programme measures.

### D6. How do I find out if my farm is still in the NVZ?

- The maps included in the consultation document are indicative only at this stage. The Environment Agency website already includes these indicative maps but at a scale where you will be able to see the potential effect on your own farm. These maps are on their 'What's In Your Back Yard' website (WIYBY).
- The Environment Agency will make firm proposals to Defra in the spring and at that point further detailed maps will be available on their 'What's In Your Back Yard' website (WIYBY).
- However you can still find out if you are currently in an NVZ by visiting the Defra website which will direct you to the appropriate maps. Farmers should know if they are currently within an NVZ.

### D7. I do not wish to incur any expenditure until maps are published next year, what should I do?

- If your holding is currently in the NVZ, you should be complying with the regulations now.
- Meanwhile for the majority of farmers we expect continued compliance.

### D8. What is happening while the consultation process is underway?

- Defra will explore further with the Environment Agency, NFU and CLA mechanisms to improve the recording and reporting arrangements and minimising the red tape effect on farmers and yet still achieve the necessary environmental improvements.
- Defra will be working to develop the guidance for the appeals system and publish further details.
- The Environment Agency will be developing the indicative maps included in the consultation document into firm definitive NVZ recommendations for the spring. This is a two stage task which includes additional water catchment information and then the mapping work to change from 'soft' boundaries to 'hard' boundaries which are visible on the ground such as field hedges or roads.

## E. Looking ahead

### E1. How long will the grassland derogation last?

- The derogation allows farmers who meet certain conditions to apply manure from grazing livestock up to a maximum rate of **250 kg N/ha/yr**.
- **The terms of the derogation are set by the European Commission** and must be compatible with achieving the objectives of the Nitrates Directive and other environmental Directives.

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- The current derogation lasts until the end of 2012. Defra have included in the consultation a question on whether we should apply for it to be renewed. If an application to renew the derogation is successful it will last until the end of 2016.

### **E2. Should the Nitrates Directive be incorporated into the Water Framework Directive?**

- Yes - The Water Framework Directive rightly looks at causes and measures to address pollution in the round. In adopting it, we have moved EU legislation on from the single issue approach of the past.
- In the longer term we wish to move to a more holistic approach to the demands upon farmers and reduce a range of potential pollutants. The current trial of the catchment approach to the Water Framework Directive will help inform us as to the benefits and practical difficulties of this approach.
- But in achieving such an agreement at EU level we need to continue applying the requirements of the Nitrates Directive. When we can show that farmers are making real inroads into nitrate losses we can argue more strongly that a separate narrowly focussed Directive on Nitrates is no longer necessary. We are not currently in that position.

### **E3. Will the predicted reductions in nitrate loss be sufficient to achieve the environmental objectives of the Nitrates Directive?**

- Defra **cannot be completely certain** that the reductions in nitrate loss actually realised by the revised Action Programme will be sufficient to achieve the environmental objectives Defra are seeking.

**Future reviews of the Action Programme will be required** in response to the monitored and predicted trends in water quality. These reviews will also be necessary to adapt the measures in response to climate change and other Government approaches such as catchment sensitive farming and the relationship of the Nitrates Directive to the Water Framework Directive.