

## ***Consultation on the Nitrates Action Programme Regulations (Northern Ireland) 2010***

***Comments by***

**Northern Ireland Environment Link**

**13 August 2010**

Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the environment of Northern Ireland. Its 58 Full Members represent over 90,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

These comments are agreed by Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be delighted to do so.

Prof Sue Christie, Chief Executive  
Northern Ireland Environment Link  
89 Loopland Drive  
Belfast, BT6 9DW  
P: 028 9045 5770  
E: [Sue@nienvironmentlink.org](mailto:Sue@nienvironmentlink.org)  
W: [www.nienvironmentlink.org](http://www.nienvironmentlink.org)

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## **General Comments**

Northern Ireland Environment Link (NIEL) welcomes the opportunity to comment on the proposed Nitrates Action Programme Regulations (Northern Ireland) 2010 consultation. These Regulations are a key element of the legislative protection afforded to the water environment. It has implications for biodiversity, human health, air pollution and climate change.

Departmental figures acknowledge that approximately 75% of diffuse nitrate loadings into water in Northern Ireland is caused by agriculture. Farms cover about 70% of the land area; therefore the sector has a major role in the protection and improvement of the environment, with over a million hectares used for agricultural production. Diffuse and point source pollution from agriculture arises from nutrient leaching to groundwater or runoff into surface waters, organic matter or faecal pathogens washed from yards or direct access to water ways by cattle or sheep, toxic substance spillage or inappropriate disposal and sediment loss through soil erosion.

## **Nitrates Directive**

The Nitrates Directive (ND) is a major piece of legislation that requires farmers to reduce diffuse pollution through regulation. The ND will help to partially deliver Water Framework Directive (WFD) objectives and the total territory approach that was adopted to ensure that all farmers manage nutrient loads is commendable. However, NIEL believes that government must continue to prepare the industry to ensure compliance with this directive and other legislation so that farmers do not incur further regulation, which could occur if WFD targets on diffuse pollution from agriculture are not met.

During the consultation on the Nitrates Directive, many environmental NGOs expressed concerns on the closed period for the spreading of chemical fertilizers. The agreed closed period from 15th September- 31st of January was decided upon, even though a period from 1<sup>st</sup> September to 31st March was scientifically sound and in line with rainfall patterns. The recent Northern Ireland statistics report (2009)<sup>1</sup> published by DOE backs this case up by showing how average winter rainfall is increasing (December-February) and average summer rainfall is decreasing (June-August)<sup>2</sup>. It records 1994 as being the wettest winter on record with 40% of the annual rain falling in the winter months. It also records 1995 as the driest with only 15% of annual rainfall falling in the summer months. The United Kingdom Climate Impacts Programme (UKCIP) predicts more intense rainfall days in winter and spring. There is greater probability that an extreme rainfall event will occur on any given winter day<sup>3</sup>. NIEL urges DOE to insert climate considerations into policy programmes that will take account of observed present changes and future climatic fluctuations so that WFD commitments can be met.

Although NIEL is supportive of the setting of total territory approach under the Nitrates Directive, many areas in Northern Ireland are suffering more from the effects of diffuse pollution than others. While the total territory approach should be retained, NIEL believes

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<sup>1</sup> [http://www.doeni.gov.uk/northern\\_ireland\\_environmental\\_statistics\\_report\\_-\\_january\\_2009.pdf](http://www.doeni.gov.uk/northern_ireland_environmental_statistics_report_-_january_2009.pdf)

<sup>2</sup> Figures based on ten yearly averages beginning in 1932.

<sup>3</sup> UKCIP (2007) *Preparing for a changing climate in Northern Ireland*.  
[http://www.ukcip.org.uk/images/stories/Pub\\_pdfs/ni\\_preparing\\_tech.pdf](http://www.ukcip.org.uk/images/stories/Pub_pdfs/ni_preparing_tech.pdf)

that nutrient sensitive areas should benefit from an increasingly targeted approach. We believe this can be delivered through the existing mechanism of Agri-environment schemes, and in particular through:

- Habitat enhancement options, including farm waterway and riparian zone management;
- Field boundary restoration and riverbed enhancement to help the water quality and biodiversity of waterways;
- The creation of new native woodland to buffer watercourses from pollution, form a component in a sustainable drainage system and contribute to flood mitigation where planting is targeted on floodplains;
- The recent addition of Special Environmental Projects to the NICMS. These projects provide another potentially useful delivery mechanism, with the opportunity for support for water protection projects carried out in cooperation with other farmers.

NIEL believes that NIEA and the DARD Countryside Management Branch (CMB) should be pro-active in seeking farmers in nutrient sensitive areas to carry out such programmes. WWF Northern Ireland with support from DARD, have produced advice sheets for farmers to promote Water Friendly Farming Options available to farmers under the NICMS. These packs, detailing the requirements for eligibility, potential available funding, required elements necessary to obtain funding and examples of potential projects, should be actively disseminated and promoted across the agricultural sector.

### **Nitrates Action Programmes Regulations**

NIEL is keen to secure environmental protection that can go hand in hand with sustainable agriculture where a stronger decoupled market can flourish. We are keen to support a programme of measures that seeks to minimise the financial burden imposed on farmers whilst securing good water quality and delivering biodiversity objectives. NIEL is therefore broadly supportive of the measures suggested in the consultation. We would however make some specific comments on the key changes in the proposed 2010 NAP Regulations:

Definition of ‘steeply sloping land’ NIEL is content for the definition to be amended to mean land which has an average incline of 20% or more in the case of grassland or 15% or more in the case of other land;

Regulations 6 & 13 (Farmyard Manures) - We support the increased restriction on the spreading and field storage of farmyard manure. We concur with the Commission’s suggestion that the spreading of this manure during winter months should be phased out as there is no crop requirement for nutrients during these months and therefore no reason to apply the manures. All of the issues raised can be addressed through the development of appropriate storage facilities or through destocking;

Regulation 7 (2)(f) (Application of fertiliser of steeply sloping land) NIEL are supportive of this proposal and share the Commission’s concerns regarding the assessment and interpretation of ‘risk’ before application of fertilizer. The proposal will remove any uncertainties by preventing the application of fertiliser (including manure) to all grassland over 20% slope;

Regulation 7 (4) (Spreading distance for chemical nitrogen fertilizer from waterways).

We are content with this proposal as it provides additional environmental protection and in bringing Northern Ireland into line with a number of EU Member States will allow for greater regional comparative analysis of the environmental impact of this approach;

Regulation 11(1) and 11(4) (Silage effluent collection and storage) Given the number and severity of water pollution incidents due to inadequate management of silage effluent collection and storage, NIEL strongly support this proposed amendment. While the existing regulation requires farmers to construct and maintain silage effluent storage facilities it is important that the Department has the power to ensure these facilities are managed properly to prevent water pollution. NIEL consider this extra care of duty on farmers to manage their facilities to be a simple, inexpensive, yet extremely beneficial environmental measure.

Regulation 14 (Field storage of poultry litter) NIEL support the proposal to end the practice of field storage of poultry litter. We share the Commission's concern that the storage of poultry litter in fields provides a concentrated source of nutrients which are prone to leaching and thus present a significant risk to water quality. NIEL is concerned however that the agriculture industry has not yet progressed a solution for poultry litter. The continued failure to develop a solution to the problem of poultry litter is therefore likely to result in significant fines from the European to the Northern Ireland Executive (which would ultimately come from the public purse) as well as heavy environmental price through damage caused to local water quality from enriched phosphorous status of local soils.

Regulation 25 (Responsibility for Adherence to Regulations). We feel this proposal is an important step towards ensuring greater adherence to the NAP Regulations. Greater clarification on who will be held responsible for different offences is essential if the NIEA is to have an effective enforcement policy.

### **Assessment of possible Options**

As mentioned previously, we are keen to support a programme of measures that seeks to minimise the financial burden imposed on farmers whilst securing good water quality and delivering biodiversity objectives. Of the options provided, NIEL believe Option 3: *Allow a phase-in period for a closed period for farmyard manure field storage and make all other proposed amendments to the 2006 NAP Regulations operational from 1 January 2011*, to be the most suitable.

However, NIEL believes that the measures currently outlined in the consultation document, constitutes the minimal requirements if we are to see an improvement in our freshwater environment and therefore that these proposals should not be weakened in any way.