20th February 2024

An Taisce responses to the 6 questions posed by The Joint Committee on Agriculture, Food and the Marine for their consideration of the topic "Compliance with the Nitrates Directive: Implications for Ireland".

1. What are the anticipated economic effects for the agricultural sector that would result from a further decrease to the Nitrates Derogation?

2. What are the anticipated social effects for the agricultural sector that would result from a further decrease to the Nitrates Derogation?

Question 1 and 2 are best answered by those working within the sector, or a body such as Teagasc that works closely with the farming sector on these issues. An Taisce is approaching this topic from an ecological and environmental compliance perspective, we do not have the necessary expertise to fully address this question.

We do, however, acknowledge that the loss of the derogation would likely have significant impacts economically and socially, and believe the Government should be preparing derogation farmers for that potential eventuality. It is concerning that Teagasc dairy advisors are being told not to speak publicly about the potential loss of derogation, or to factor that into farmer business plans, given the significant ramifications on farming businesses of losing the derogation. We are of the view that there should be Governmental scenario planning (with derogation/without derogation) in place to support farmers in case the total loss of the derogation comes to pass, which given the stance of the European Commission to date and the declining water quality trends, should be considered as a credible risk. The lack of forward planning or effective communication from the Government to farmers on the reduction in the upper limit of the derogation from 250 kg/N/Ha to 220 kg/N/ha appeared, from our perspective, to be rushed and badly executed, and it is not a template we should be seeing repeated. The loss of the derogation would be a significant change for those farmers impacted, and it's essential that if that comes to pass that they are provided with an orderly transition plan. Failure by the State to plan for that potential scenario now, ahead of time, is ultimately a failure to support and protect the farming community, who have expanded in line with Government advice. These farmers are now standing on a cliff edge, with no State safety net in sight.

As outlined in our opening statement, we believe decision makers should be cognisant of the impact on farmers of requiring them to put in place measures which are not designed to address the pollutant at hand. We are of the view that farmers are being asked to jump through a growing number of environmental hoops and at their own cost. We believe that many of these measures are inadequate for addressing nitrate water pollution. Farmers should be confident that the measures which they put in place will actually address the environmental problem at hand. Failure by the State to provide for adequate nitrate measures will potentially

lead to a lack of confidence by farmers in regulations for achieving their stated objective, and may lead to a lack of buy in from the farming sector for achieving water quality objectives. This would be a lose-lose outcome both for farmers and water quality.

We would recommend to the Committee that they request the Department of Housing and the Department of Agriculture, Food and the Marine to provide the evidence base to demonstrate that the measures which are being put in place under NAP and CAP will be sufficient for reducing the nitrate load necessary per catchment (as identified by the EPA[1]), in areas of the country where waterbodies are suffering from excess nitrogen (as distinct from phosphorus or sediment pollution).

Additionally, the economic and social impacts of further declines in water quality on Ireland as a whole should be considered under these headings. Polluted water can lead to loss of recreation areas and beach closures, tourism revenue declines, increased water treatment costs and health implications from ingesting contaminated water, to name just a few social/economic impacts. It could also damage our green image, which the agri-food sector relies on for marketing our produce both nationally and internationally. It's worth noting that a CSO study[2] from last year found that 79% of people surveyed put water pollution as their top environmental concern above all else.

3. Is it possible to maintain Ireland's Nitrates Derogation at its current level, while ensuring that there are improvements to Ireland's water quality?

From a water quality perspective, we do not believe the two are mutually exclusive. However, we are of the view that the safeguards in place under the NAP and GAP regulations are not sufficient for protecting water quality from agricultural activity, particularly nitrate pollution, and that is currently exacerbated with increased stocking density on derogation farms, among others. This is clearly evidenced in the Strategic Environmental Assessment (SEA) for the Nitrates Action Programme[3] which states that over the period of the past two NAPs, the prescribed measures have failed to sufficiently protect water quality from agricultural activity.

Additionally, the SEA for the NAP recommended that the State not seek an additional derogation:

> *"for the State to seek a mechanism to facilitate even greater nitrogen loading .. is environmentally unsustainable against the current baseline and it is recommended that the State does not seek this derogation".*

The EPA has clearly identified the areas which need additional measures for nitrate and phosphate[4], along with extensive work highlighting the areas of the country which are most

[1] EPA (2021) Assessment of the catchments that need reductions in nitrogen concentrations to achieve water quality objectives WFD River Basin Management Plan – 3 rd Cycle
[2] Main Findings - CSO - Central Statistics Office
[3] gov - Fifth Nitrates Action Programme 2022-2025 (www.gov.ie)
[4] Updated map published by EPA: Targeting Agricultural Measures - Catchments.ie - Catchments.ie

at risk of nitrate and phosphate loss, these are the pollution impact potential maps, or PIP maps. The Targeting Agricultural Measures map is particularly useful in this regard (Figure 1).

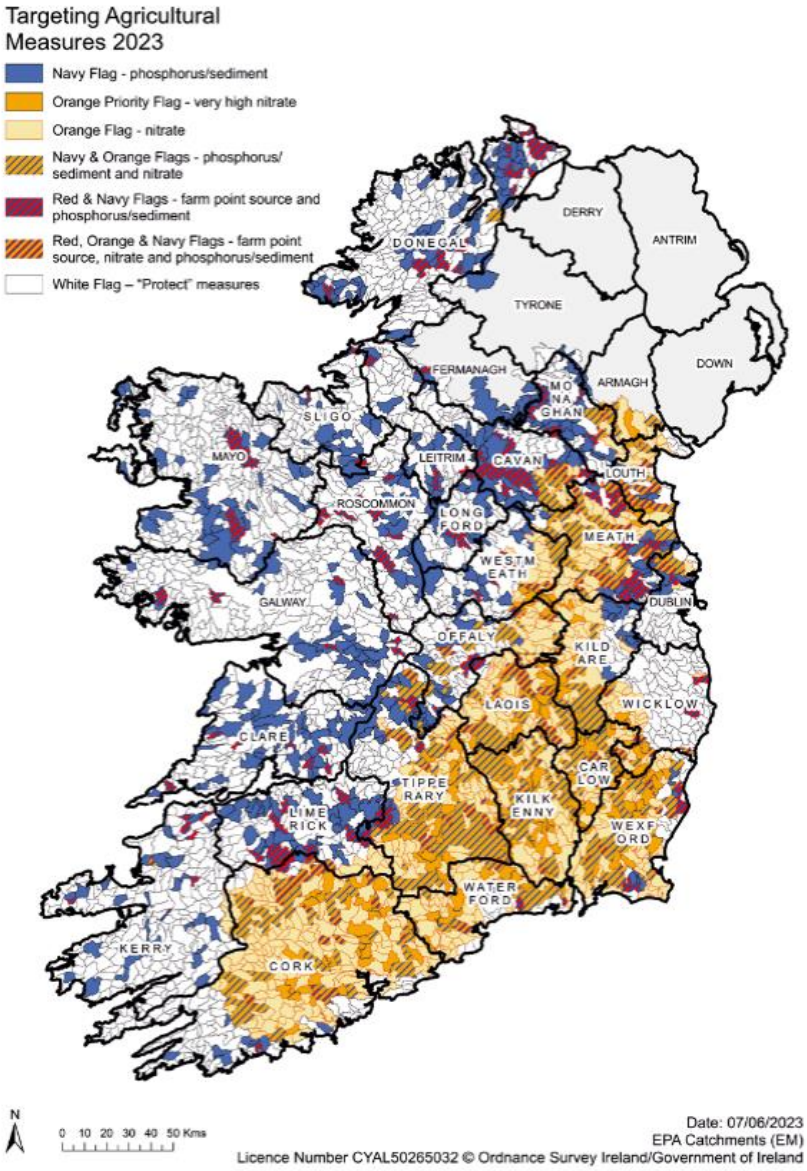


Figure 1: Targeting Agricultural Measures (Source EPA)

What is required is an assessment of the ability of a catchment to carry the additional load from a derogation farm. This is in keeping with a recommendation in the Natura Impact Statement for the draft River Basin Management Plan[5] which called for site specific appropriate assessments (AA) for derogation farms:

> *"It will therefore be vital that any derogations which emerge from the NAP will be subject to AA; which should include a robust assessment of in-combination adverse effects."*

[5] NATURA IMPACT STATEMENT Draft 3rd Cycle River Basin Management Plan https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj4tLuOuq2EAxXjX0EAHSC5D0wQFnoECBsQAQ&url=https%3A%2F%2Fassets.gov.ie%2F199797%2Fe98a6563-6dd5-4890-a721-046f57e9ad9c.pdf&usg=AOvVaw2LdqZhwM3RSTELRARMWvpX&opi=89978449

There will likely be areas of the country which can support a higher stocking density compared with others, but we need to take a catchment-based approach, as outlined in our Opening Statement. It is imperative that in areas which are already clearly overloaded with nitrogen, any facility to increase the nitrogen loading from any given farm must be assessed against the ability of that catchment to retain and utilise the nitrogen. In our view, the only way to continue to provide derogations while protecting water quality is to have site by site risk assessments, based on the overarching nitrogen balance of the catchment. The work done by EPA in this regard should facilitate this type of risk-based approach.

4. Is the Nitrates Action Programme fit for purpose in protecting Ireland's water quality?

An Taisce have repeatedly expressed serious concerns regarding the adequacy of the measures in the 5th Nitrates Action Programme. We are strongly of the opinion that it is not sufficient to address our water quality crisis, particularly when it comes to nitrate. As part of the public consultation on the NAP An Taisce has engaged extensively with the Department of Housing on this issue, giving very detailed recommendations and feedback[6], but none of those were reflected in the final plan.

The fundamental weakness in the NAP, and indeed in the draft River Basin Management Plan, is that it does not address the primary driver of nitrate loss, which is surplus nitrogen load onto the land, largely arising from deposition from the animals themselves while they are out at pasture. Teagasc modelling[7] has demonstrated that these urine patches can be responsible for as much as 62% of nitrate leached in the modelling scenario for a farm operating under the current regulations. Only 29% of the loss was attributable to fertiliser and just 8% was attributable to slurry.

However, there are no measures to effectively address this under the NAP or GAP regulations. While many of the measures in the NAP may be effective to varying degrees for mitigation for phosphorus and sediment run off, not all water quality measures are effective for all pollutants. In an Irish context the main pollutants from agriculture to water are phosphorus, nitrogen and sediment. There can be a tendency to assume that measures designed to mitigate other pollutants, such as phosphorus, sediment or ammonia are equally effective at addressing nitrate. This is frequently not the case.

While many of the measures in the NAP are welcome, and will be beneficial for preventing phosphorus and sediment run off, the problem Irish waterways face in the south and south-east is predominantly nitrate pollution. We are of the view that until such a time as there are measures put in place to address surplus load of nitrate onto these catchments, water quality cannot sufficiently recover, particularly in those catchments with current heavy loads of nitrate as identified by the EPA[8]. We need to rely on a tailored catchment-based approach to adequately address the nitrate pollution problem. The evidence base for the proposed measures should be provided, so that there is reasonable certainty that what the farmers are

[6] Ireland's Water Quality and fifth Nitrates Action Programme 2022 (antaisce.org)
[7] Teagasc (2021) The Impact of Nitrogen Management Strategies within Grass Based Dairy Systems
[8] EPA (2021) Assessment of the catchments that need reductions in nitrogen concentrations to achieve water quality objectives WFD River Basin Management Plan – 3 rd Cycle

being asked to do will result in the necessary reductions. This is important from both a farmer's perspective and an environmental perspective.

5. Are there additional supports required to ensure farmers can be compliant with the Nitrates Action Programme?

The NAP outlined how bad compliance with the GAP regulations is, and to address that proposed bringing in more Local Authority inspections, with more inspections targeted at derogation farms. Recently, it has been widely publicised that there are serious, systemic breaches of the GAP regulations in regard to slurry movements, with apparent widespread fraudulence, and from a comment by Eddie Burgess of Teagasc, this is often facilitated by agricultural advisors. The issue of 'map acres[9]' has been acknowledged by those in State agencies for years. Another recent article indicated that slurry spreading contractors are also complicit in facilitating non-compliant slurry spreading in the closed season. One clear solution to this is to mandate real time GPS tracking for slurry movements, which will help cut out the use of map acres, and fraudulent movements.

Agricultural advisors should also be obliged to ensure any advice they give farmers is compliant with the regulations, and should be held accountable if they fail to do so. Farmers should be able to rely fully on advice from their advisors, and that advice should be legally compliant, and science based. There is a lot of research underway on catchment science as it relates to agriculture, and supports should be put in place to ensure that farm advisors are fully up to date and equipped to convert the research findings into well-founded advice for farmers.

6. Are there additional resources required to ensure the measures required by the Nitrates Action Programme are adequately enforced?

Clearly, additional inspections need to be carried out by the Local Authority. There were just under 1,000 local authority farm inspections carried out during 2022[10]. There were roughly 10 full-time equivalent persons throughout the whole country who were dedicated to agricultural inspections, which is a very low number. We understand that 21 additional staff are currently being recruited by Local Authorities around the country, but note that it was previously stated that 57 additional staff are required to deliver the target of over 4,000 agricultural inspections per year, and for follow-up enforcement[11]. This number needs to be rapidly ramped up, with rigorous training and support under the auspices of the National Agricultural Inspection Programme (NAIP).

[9] Map acres are used to generate payments and dilute stocking rates, but are often not farmed.
[10] Local authorities hiring staff for increased farm inspections (agriland.ie)
[11] New inspectors for nitrates programme (irishexaminer.com)