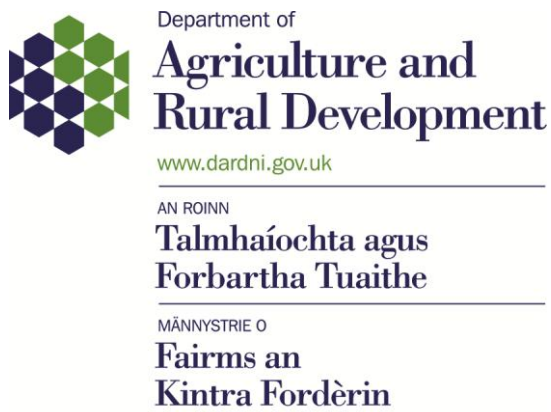


Screening Report on the determination of the need for Strategic Environmental Assessment (SEA)* for:

The Nitrates Action Programme Regulations (Northern Ireland) 2014

**The Department of Agriculture and Rural Development
& The Department of the Environment**

December 2014



**(in accordance with regulation 9 of the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004)*

1. Contact details

Name of Responsible Authority:

The Department of Agriculture and Rural Development for Northern Ireland (DARD) and the Department of Environment for Northern Ireland (DOE) (The Departments).

Contact name & job title:

Mrs Siobhan Bowers, Deputy Principal Officer, Environmental Policy, DARD.

Address:

Department of Agriculture & Rural Development
Environmental Policy Branch
R652 Dundonald House
Upper Newtownards Road
Ballymiscaw
Belfast
BT4 3SB

E-mail: Siobhan.Bowers@dardni.gov.uk

Tel: 028 90520806

2. Information about the programme

Programme name:

The Nitrates Action Programme Regulations (Northern Ireland) 2014 (the 2014 NAP Regulations).

Programme purpose and objectives:

The 2014 NAP Regulations revoke and replace the Nitrates Action Programme Regulations (Northern Ireland) 2010 (2010 NAP Regulations) which set out an action programme to reduce nitrates from agricultural sources entering the aquatic environment. In particular, the 2010 NAP Regulations aimed to promote the better management of animal manures, chemical nitrogen fertilisers and other nitrogen-containing materials applied to land. The 2010 NAP Regulations required farmers to observe rules to reduce nitrate pollution, with measures on storing manure and controls on the application of manure and chemical nitrogen fertiliser to land.

Background to programme

The Nitrates Directive (91/676/EEC) (the Directive) requires Member States to either designate and apply action programmes to discrete areas of land known as Nitrate Vulnerable Zones (NVZs), or establish an action programme to be applied to the whole territory. Northern Ireland has a widespread problem of eutrophication of surface waters and a large proportion of this nutrient enrichment is attributable to agriculture. Following extensive consultation in 2004, the total territory of Northern Ireland was established as the area to which an action programme would be applied.

The first Nitrates Action Programmes (NAP) was introduced in Northern Ireland in 2007 under the NAP Regulations (NI) 2006. The Regulations applied to all agricultural land (as defined in the Agriculture Act (Northern Ireland) 1949) and, therefore, affected all farm businesses in Northern Ireland which produce livestock manure, or store or apply organic manure or chemical nitrogen fertiliser to land.

The Directive requires Member States to review and, where necessary, revise their action programmes, at least every four years. Therefore, following a review of the 2006 Regulations, a revised Programme was introduced for the period 2011 to 2014 under the 2010 NAP Regulations.

Since 2007, Northern Ireland has operated under a Nitrates derogation which permits an increase in the amount of grazing livestock manure that may be applied to land from 170kg nitrogen/ha/year up to a limit of 250kg nitrogen/ha/year, for intensive grassland farms which meet certain criteria. The derogation is an important measure to facilitate more efficient use of manure in intensive grassland agriculture in Northern Ireland.

An application to renew the derogation was made to the Commission and granted by Commission Decision 2011/128/EU. Measures to implement the derogation were included in the 2010 NAP Regulations. This derogation is due to expire on 31 December 2014 and due to its importance to intensive grassland farms in Northern Ireland, an application has been made to renew it.

A review of the effectiveness of the 2010 NAP was carried out by a Scientific Working Group in 2013-14 and a report of the review findings was sent to the European Commission in March 2014. The Departments engaged with stakeholders, the Commission and the EU Nitrates Committee (comprising representatives of EU member states) throughout the review process and issued a public consultation on 16 June 2014 proposing to revise the 2011-2014 action programme by revoking the 2010 NAP Regulations and making the 2014 NAP Regulations (for an action programme covering the period 2015-2018). The consultation closed on 29 August 2014 and all responses made during the consultation process were carefully considered by the Departments.

The Departments propose to carry the majority of NAP measures for 2011 - 2014 forward into the NAP for 2015-2018. However, on the basis of scientific evidence and/or technical, regulatory and policy developments a number of amendments or extensions to NAP and SSAFO Regulations had to be considered and are described in Section 3(f). The modifications also necessitate the remaking of, the Phosphorus (Use in Agriculture) Regulations (Northern Ireland).

Subject to a positive vote on Northern Ireland's application at the EU Nitrates Committee meeting in December 2014, the Regulations will also implement renewal of the Commission Decision allowing derogation from the 170 kg of nitrogen per hectare per year loading limit for grazing livestock manures.

It is anticipated that the 2014 NAP Regulations will be made in December 2014 and will come into operation in January 2015.

Area covered:

Northern Ireland.

Period covered by the programme:

January 2015 to 31 December 2018.

Frequency of programme updates/revisions:

The Directive requires Member States to review and, where necessary, revise their action programmes, including additional measures, at least every four years. The 2014 NAP Regulations, therefore, must be reviewed by 31 December 2018. In light of previous experience this review will commence in mid-2017.

3. Screening information

Key screening information about the programme is as follows:

(a) What prompted the programme?

The Directive requires Member States to either designate and apply action programmes to NVZs, or establish an action programme to be applied to the whole territory. Northern Ireland has a widespread problem of eutrophication of surface waters and a large proportion of this nutrient enrichment is attributable to agriculture. Following extensive consultation in 2004, the total territory of Northern Ireland was established as the area to which an action programme would be applied.

On 1 January 2011 the 2010 NAP Regulations came into operation. The Directive requires Member States to review and, where necessary, revise their action programmes, at least every four years. The 2010 NAP Regulations, therefore, had to be reviewed by 31 December 2014. The Departments are proposing to revise the 2010-2014 action programme by revoking the 2010 NAP Regulations and making the 2014 NAP Regulations (for an action programme covering the period 2015-2018).

Please see Section 2 'Background' for further information.

(b) What is the subject of the programme?

Agriculture and water quality.

(c) Does the programme set the framework for development consent of projects? What kind of projects?

The proposed minor modifications to the programme do not set any new framework for development consent of projects. All livestock installations, including those permitted under the Pollution Prevention and Control Regulations (Industrial Emissions) Regulations (Northern Ireland) 2013 are already required to comply with the NAP Regulations. In terms of development consent in Northern Ireland, the Northern Ireland Environment Agency (NIEA) is a statutory consultee to Planning Service and may already ask for clarification on development proposals which involve action programme related issues, including those which require an Environmental Impact Assessment. For example, if a new intensive livestock installation is proposed for development, NIEA may recommend that development consent should not be granted until the applicant has demonstrated they have sufficient land area to spread livestock manure on (or an alternative end-use) in order to comply with the NAP Regulations. The proposed minor modifications do not alter this procedure or assessment.

(d) Is the programme likely to have a significant impact on the integrity of any Special Protection Area for birds, Special Area of Conservation for habitats and species, Ramsar wetland sites, European marine sites or candidate sites?

No. The action programme has been subject to a 'test of likely significance' as part of the screening procedure under Article 6 of the Habitats Directive. From the consideration of all the potential effects it has been objectively concluded that the 2014 NAP Regulations are not likely to give rise to any significant effects on Natura 2000 sites and no further assessment under Article 6 is required.

(e) Does the programme determine the use of small areas at local level?

The NAP Regulations, as a whole, affect the entire farmed area of Northern Ireland, but analysis of the minor modifications considered in this screening indicate that out of a total of 24,500 farms and 1,000,000 ha of agricultural land in Northern Ireland a limited number of farms and land area would be affected.

(f) Is the programme a modification of a previous programme?

Yes, please see Section 2 'Background' for further information on the development of the programme. The modifications are outlined below (References below refer to the draft 2014 NAP Regulations which are available in the consultation document on the Departments' websites at www.doeni.gov.uk and www.dardni.gov.uk).

1. **Regulation 2** is included to explain that these Regulations give effect to a Nitrates Action Programme for Northern Ireland and inclusion of a reference to the fact that the measures provide protection against possible impacts to water quality arising from any proposed agricultural expansion under the "Going for Growth" plan.
2. **Regulation 5** is expanded to cover all types of fertiliser and entry or risk of entry of fertiliser into groundwater.
3. **Regulation 7** is included to permit limited authorised exemptions to facilitate the activities of government and institutes/agencies authorised by government research and emergency situations.
4. **Regulation 8** is expanded so that the periods when land application of fertiliser is prohibited cover more types of fertiliser.
5. **Regulation 9** is revised to:
 - expand the manner of land application of fertiliser to land to cover all types of fertiliser;
 - simplify wording relating to frozen land;
 - clarify that land application of fertiliser should not take place when heavy rain is either falling or forecast; and
 - specify that fertiliser application to grassland with an average incline of greater than 15% and other land with an average incline of greater than 12% is not permitted within 30m of lakes and 15m of other surface waters for organic manures and 10m of lakes and 5m of other surface waters for chemical fertilisers.
6. **Regulation 12** is revised to specify that, for most cereal crops, the nitrogen applications shall take account of the recommendations contained within the DEFRA

Fertiliser Manual and shall in no case exceed the limits set out in the regulations.

7. **Regulation 14** is included to specify that organic manures containing more than 0.25 kg total P per kg of total N will not be applied to land unless crop P requirement is demonstrated.
8. **Regulation 17 and Schedule 2** are included to transfer details of storage requirements for slurry from the SSAFO Regulations to the 2014 NAP Regulations.
9. **Regulation 19** is revised to specify the reduction in the length of time poultry litter can be stored in field heap from 180 to 120 days.
10. **Regulation 22 and Schedule 3** is included to transfer of details of requirements for making and storing of silage from the SSAFO Regulations to the 2014 NAP.
11. **Regulation 23** is revised to amend the date for complying with the stipulated conditions from harvest until “15 January” and to remove the option of leaving the land cultivated with a rough surface after harvest of certain crops.
12. **Regulation 26** is revised to specify that records of exports of organic manures should be submitted annually to NIEA.
13. **Schedule 1** is amended with updates to a number of values in different tables, including nitrogen excretion rates for goats, changes in livestock categories and nitrogen and phosphorus contents of pig (and possibly poultry) manures.

Further detail on the reasons for the minor modifications can be found in the Consultation Paper on the Proposed Nitrates Action Programme Regulations (Northern Ireland) 2014 and the Synopsis of Responses to the Consultation which are, or will be, available on the Departments’ websites at:

www.doeni.gov.uk/index/protect_the_environment/water/nitrates_.htm and
www.dardni.gov.uk/NAP2014_Consultation_Page

4. Conclusion of screening process – statement of determination

The Departments (DOE and DARD) consider that the 2014 NAP Regulations:

- ☐ require strategic environmental assessment because
- ☒ do not require strategic environmental assessment because, as set out in Section 5, the programme constitutes a minor modification to an existing programme and the modification is not likely to have significant environmental effects.

5. Screening for significant environmental impacts *(needed only if the Screening Flowchart leads to Box 8. in Figure 2, OFMDFM Practical Guide)*

Criteria for determining the likely significance of effects on the environment	Any interaction of minor modifications with determining criterion? (yes/no)	Likely to have significant environmental effects? (yes/no/not applicable)	Summary of significant environmental effects <i>add supporting / explanatory information in this column</i>
1. Characteristics of the proposed modifications contained in the 2014 NAP Regulations			
(a) the degree to which the minor modifications contained in the 2014 NAP Regulations set a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources	No	Not applicable	The modifications do not set any new framework for projects and other activities. All livestock installations, including those permitted under the Pollution Prevention and Control (Industrial Emissions) Regulations (NI) 2013 are already required to comply with the NAP Regulations and the Regulations are already a consideration with regard to development control. The modifications will not impact these processes.
(b) the degree to which the modifications contained in the 2014 NAP Regulations influence other plans including those in a hierarchy	Yes	No	<p>The modifications necessitate legislative drafting amendments (updating references from 2010 to 2014 Regulations) to the Waste Management Licensing Regulations (Northern Ireland) 2003.</p> <p>The modifications also necessitate the following amendments to the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003 (SSAFO):</p> <ul style="list-style-type: none"> • The silage and slurry storage aspects of the SSAFO Regulations will be transferred into the 2014 NAP Regulations. • The oil storage aspects of the SSAFO Regulations will be transferred to the Control of Pollution (Oil Storage) (Northern Ireland) Regulations 2010 and the SSAFO Regulations revoked. <p>The modifications also necessitate the remaking of, the Phosphorus (Use in Agriculture) Regulations (Northern Ireland).</p> <p>The modifications will also need to be reflected in the Code of Good</p>

Criteria for determining the likely significance of effects on the environment	Any interaction of minor modifications with determining criterion? (yes/no)	Likely to have significant environmental effects? (yes/no/not applicable)	Summary of significant environmental effects <i>add supporting / explanatory information in this column</i>
			<p>Agricultural Practice for the Prevention of Pollution of Water, Air and Soil (CoGAP) and in the statutory management requirements for Cross Compliance (for farm businesses receiving direct aid payments). These along with updated guidance documents will assist in promoting awareness of, and compliance with, the minor modifications contained in the 2014 NAP Regulations, but will not, in themselves, have any significant environmental effects.</p> <p>The NAP is one of the measures cited in the Northern Ireland Water Framework Directive River Basin Management Plans (RBMPs) for addressing diffuse and point source pollution from agriculture. As the NAP sits below the RBMPs in plan hierarchy, the modifications contained in the 2014 NAP Regulations will make a minor contribution to, but not influence the objectives of the RBMPs.</p>
(c) the relevance of the modifications contained in the 2014 NAP Regulations for the integration of environmental considerations in particular with a view to promoting sustainable development	Yes	No	Overall, the NAP Regulations promote sustainable use of chemical fertilisers and organic manures (through measures requiring limiting use of fertiliser to crop requirement). The modifications are likely to have minor positive effects on sustainable development in the agriculture sector.
(d) environmental problems relevant to the modifications contained in the 2014 NAP Regulations	Yes	No	<p>The aim of the modifications contained in the 2014 NAP Regulations is to enhance a number of measures already in place. The following modifications would be expected to have positive environmental effects, in particular with regard to water quality:</p> <ul style="list-style-type: none"> • The extension of the 'closed period' to cover more types of fertiliser (in addition to nitrogen). • The extension of 'land application requirements' to cover all types of fertiliser. • The modification that application of fertiliser to grassland with an average incline of greater than 15% and other land with an

Criteria for determining the likely significance of effects on the environment	Any interaction of minor modifications with determining criterion? (yes/no)	Likely to have significant environmental effects? (yes/no/not applicable)	Summary of significant environmental effects <i>add supporting / explanatory information in this column</i>
			<p>average incline of greater than 12% is not permitted within 30m of lakes and 15m of other surface waters for organic manures and 10m of lakes and 5m of other surface waters for chemical fertilisers.</p> <ul style="list-style-type: none"> • The introduction of a measure governing the limits on land application of organic manures with a high proportion of P to N will help ensure organic fertilisers with a high P to N value are utilised in a sustainable manner and, in particular, that phosphorus is not over applied. • The reduction in the length of time poultry litter can be stored in field heaps from 180 to 120 days, will help minimise nutrient run-off. • The updating of a number of values in line with new scientific evidence will improve accuracy of calculations of nitrogen loading and crop nitrogen requirements. <p>The remaining modifications have been proposed to clarify and/or streamline measures and are expected to be environmentally neutral.</p>
(e) the relevance of the minor modifications contained in the 2014 NAP Regulations for the implementation of European Community legislation on the environment (for example, plans linked to waste management or water protection)	Yes	No	<p>As the NAP Regulations are, in their entirety, a programme implementing the Nitrates Directive (91/676/EEC), with the objective of improving water quality, the minor modifications are relevant to the implementation of European Community legislation on the environment. However, as discussed at 1(d), the modifications to the existing programme would be expected to have only minor, but positive, effects on the environment, in particular with regard to water quality.</p>

Criteria for determining the likely significance of effects on the environment	Likely to have significant environmental effects? (yes/no)	Summary of significant environmental effects <i>add supporting / explanatory information in this column</i>
2. Characteristics of effects of the proposed minor modifications contained in the 2014 NAP Regulations and of the area likely to be affected		
(a) the probability, duration, frequency and reversibility of effects of the minor modifications contained in the 2014 NAP Regulations	No	As discussed at 1(d), the modifications to the existing programme would be expected to have only minor, but positive, effects on the environment, in particular with regard to water quality. The minor modifications will be reviewed by 2018 (review likely to begin in 2017), as part of the four-yearly review cycle of action programmes required by the Nitrates Directive. Hence, if any negative environmental effects are observed at that stage, the 2014 NAP Regulations can be altered to address this.
(b) the cumulative nature of the effects	No	As the proposed minor modifications are either environmentally neutral, or expected to have positive effects on water quality, any cumulative effects are likely to be further improvements in water quality through reductions in agricultural nutrient input to the water environment.
(c) the transboundary nature of the effects (i.e. environmental effects on other EU Member States)	No	It is possible that the minor modifications could affect shared waters with the Republic of Ireland, where an action programme is also in place. Ireland is represented at the EU Nitrates Committee and through this means have been party to the presentations on the review of the 2010 NAP Regulations. No concerns regarding the proposed minor modifications have been raised by Ireland. The Irish authorities have also reviewed their action programme (in 2013) and the modifications to both NAPs may bring further consistency between the two jurisdictions. As discussed at 1(d), the modifications would be expected to have only minor, but positive, effects on the environment, in particular with regard to water quality.
(d) the risks to human health or the environment (for example, due to accidents)	No	No risks to human health are foreseen. As discussed at 1(d), the modifications would be expected to have only minor, but positive, effects on the environment, in particular with regard to water quality.
(e) the magnitude and spatial extent of the effects (geographical area and size of the population)	No	For some of the minor modifications which have been identified as potentially having minor, but positive environmental effects, it is assumed that the

Criteria for determining the likely significance of effects on the environment	Likely to have significant environmental effects? (yes/no)	Summary of significant environmental effects <i>add supporting / explanatory information in this column</i>
likely to be affected)		<p>modifications reflect what is already normal practice on farms (eg the extension of land application requirements to all fertilisers) and that the magnitude of any additional effects will, therefore, be minimal. Analysis of the other modifications which have been identified as potentially having minor, but positive environmental effects indicates that out of a total of 24,500 farms and 1,000,000 ha of agricultural land in Northern Ireland a limited number of farms and land area would be affected. Estimated numbers and land areas as appropriate are as follows:</p> <ul style="list-style-type: none"> • 1800 farms (7.3%) affected by the modification that organic manures containing more than 0.25kg total P per kg of total N will not be applied to land unless P requirement is demonstrated. However, as many poultry farms export the manure produced, and the number of farms receiving imports is an approximation, it is difficult to validate this estimate. • Approximately 0.01 % of the total area of crop and grassland would be affected by the modification extending the no-spread' zones near water bodies on sloping ground.
(f) the value and vulnerability of the area likely to be affected due to special natural characteristics or cultural heritage; exceeded environmental quality standards or limit values; or intensive land-use.	No	The minor modifications should not adversely impact any special natural characteristics or cultural heritage and, as discussed at 1(d), the modifications would be expected to have only minor, but positive, effects on the environment, in particular with regard to water quality. Therefore areas vulnerable due to exceeded environmental quality standards or limit values should not be adversely affected. Some minor reduction in intensity of land use may be noted due to increased restrictions on the application of chemical fertiliser and organic manures.
(g) the effects on areas or landscapes which have a recognised national, Community or international protection status	No	The action programme has been subject to a 'test of likely significance' as part of the screening procedure under Article 6 of the Habitats Directive. The results of this indicate that the 2014 NAP Regulations, including the minor modifications, will not have any significant environmental effect on protected sites.