



Llywodraeth Cymru
Welsh Government

Number: 55678090

Welsh Government
Consultation – summary of response

Nutrient management – Managing the application of livestock manures sustainably

Proposals for a licensing scheme to 2025

10 October 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

This consultation was part of the package of measures the Welsh Government and Plaid Cymru have agreed to progress the implementation of the Co-operation Agreement commitment on agricultural pollution. It sought views on proposals for a licensing scheme in connection with the nutrient management measure set out in the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021. The measure places a limit – measured as 170kg nitrogen per hectare – on the nutrients from livestock manures that may be applied across a holding, as defined in the Regulations, annually.

The proposals in the consultation focused on proposed arrangements by which a licence might be granted in certain circumstances which would allow the above limit to be exceeded, up to a maximum of 250kg nitrogen per hectare, subject to a crop requirement and conditions designed to protect the environment. The proposals comprised an application process and licence conditions. All other measures contained within the Regulations would remain in force, or else would be subject to the relevant transition period.

Action Required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

For further information:

Agriculture – Sustainable Development Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: nmls.queries@gov.wales

Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: [Consultation document on Agricultural Pollution regulations licensing scheme \(gov.wales\)](#)

Contents

Contents.....	4
Background Information	5
Consultation process.....	5
The consultation proposals and questions	6
Consultation Responses	6
Welsh Government Response	11

Background Information

The causes of water quality failures in Wales are varied, with contributions coming from a range of sectors, including transport, urban pollution, agriculture, mining and quarrying (including pollution from abandoned metal mines), and water industry discharges. This is having a direct and devastating impact on wildlife and habitat and constraining our ability to build the low carbon homes and supporting infrastructure our communities need. We must develop and implement an integrated cross-sectoral 'Team Wales' approach to ensure long-term water quality improvement and maintain a healthy environment for our future generations.

The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (the Regulations) help address the causes of pollution from agricultural activity. The measures are based on long-standing good practice carried out by many of our farmers and land managers. They are designed to prevent pollution from occurring and include actions about the planning, management, storage and application to the land of nutrients, amongst other things. They help to deliver on a wide range of our international¹ and domestic obligations² and help to meet key objectives on biodiversity, air quality, ammonia and particulate matter and contribute to reducing greenhouse gas emissions.

Consultation process

On 5 October 2022, a [Written Statement](#) updated on the Co-operation Agreement commitment on Agricultural Pollution to work with the farming community to improve water quality and air quality, deploying the Water Resources Regulations 2021, taking an approach targeted at those activities known to cause pollution. The statement committed to consult on support and evidence for a licensing scheme to be operational until 2025.

The 12-week [Nutrient Management - Managing the application of livestock manures sustainably](#) consultation ran from 25 November 2022 until 17 February 2023. The consultation, and response form, was published on the Welsh Government consultation webpage. Additional promotion and stakeholder engagement activity took place at the Royal Welsh Agricultural Society Winter Fair 2022.

A [Written Statement](#) of 21 July 2023 thanked those who participated in the consultation, noting whilst no new evidence was presented, consultation responses showed high levels of support for a scheme, subject to it being simple and straightforward to apply for a licence. Objections to the scheme focussed on the environmental and water quality impacts.

This publication now provides the formal summary of the responses received to the consultation.

¹ This includes the [United Nations Framework Convention on Climate Change](#); [Convention on Biological Diversity](#); the [UN's Sustainable Development Goals](#), and the [Gothenburg Protocol](#)

² The Regulations contribute to our obligations under the [Well-being of Future Generations Act \(Wales\) 2015](#) and the aims of the [Environment \(Wales\) Act 2016](#)

The consultation proposals and questions

The consultation sought views on proposals for a licensing scheme in connection with regulation 4 of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021. The measure places an annual limit – measured as 170kg nitrogen per hectare – on the nutrients from livestock manures that may be applied across a holding, as defined in the Regulations.

The consultation focused on proposed arrangements by which a licence might be granted in certain circumstances, and which would allow the annual limit to be exceeded, up to a maximum of 250kg nitrogen per hectare, subject to a crop requirement and conditions designed to protect the environment. The proposals comprised an application process and licence conditions.

Consultation Responses

The consultation asked 15 questions. Many respondents chose to group their response, making statistical comparisons against the original questions difficult.

The following section summarises the consultation responses based upon the chapters within the consultation and the questions asked.

Question 1: Do you support the proposal to introduce a licensing scheme, to operate until 2025, to allow higher levels of nitrogen application in certain specified circumstances? Please include any evidence to support your view.

The majority of respondents indicated strong support for the principle of a limited licence scheme alongside controls to mitigate potential environmental risks. A substantial number of those indicating support also noted a preference for ensuring any scheme was accessible to as many farms as possible and for bureaucratic processes to be limited and proportionate.

The administrative burden, and the associated costs, of running a licence scheme was raised as an issue by a significant number of respondents, particularly given the limited duration of the proposed scheme, which would run until 2025. Some respondents also highlighted issues in relation to cost, both in the cost of developing a licence application and although not consulted upon, costs related to the administration of a licence from the regulator.

Other respondents offered qualified support for the principle of a time limited licence scheme. Some also identified the opportunity for a licence regime to offer a stronger mechanism for ensuring compliance than regulations alone. The opportunity to remove a licence was seen as a potential benefit for those not adhering to the conditions.

A minority of respondents opposed the proposals. Opposition was primarily on the basis of environmental concerns, or impact upon other sectors from an increased risk of pollution to water. The potential impact on Special Areas of Conservation (SAC) rivers and the imbalance between the proposals and nutrient neutrality requirements required of other sectors were raised by those objecting.

Question 2: Do you agree with the proposed eligibility criteria? If not, why not and what criteria would you propose?

The majority of respondents were supportive of an application process, subject to timely handling to ensure minimal interruption to business planning and ensure farmers have regulatory certainty.

The majority of respondents also supported the proposed eligibility requirement for 80% of the holding to be managed as grass due to its high nitrogen uptake and as a permanent cover crop and reducing soil losses. However, some raised concerns this may unfairly impact those who may narrowly miss the 80% threshold and urged consideration should be given to farm businesses in these circumstances.

Concerns were raised regarding the potential increase in soil denitrification in warm wet soils which may become more common due to climate change. Additionally, some respondents questioned the necessity of the 80% grassland criteria given soil testing and analysis results were to be taken into account in any case. Many felt the soil testing and analysis results would provide appropriate eligibility criteria alone.

Question 3: Do you agree with the proposal to require a clear demonstration of crop need?

Whilst the principle of determining crop requirement was supported by the majority of respondents, both the mechanism of identifying, and the resulting demonstrating of, the requirement drew a range of different views.

Most respondents were supportive of an approach which encompassed an assessment of soil and crop need for both nitrogen and phosphorus and used soil testing to a degree. However, the views on how to successfully demonstrate crop requirement varied significantly.

Some respondents questioned the purpose of demonstrating the crop requirement at an application stage and the ability of Welsh Government or Natural Resources Wales (NRW) to assess applications. Others were supportive of the demonstrating a crop requirement on application to allow plans to be assessed.

Question 4: Do you agree with the proposed contents of the nutrient management plan?

There was broad recognition of the need for nutrient management planning given the requirement within the Control of Agricultural Pollution Regulations for plans for nitrogen. Again, there were a number of different views on how this could best be achieved and the factors to be included within a nutrient management plan.

Some agricultural stakeholders were concerned an agreed nutrient management plan granted under a licence could be restrictive and prevent farms from responding to changing climatic conditions or changing market conditions. Reference was made to processes for operating a derogation from nitrate limits in both England and Northern Ireland and the differences within the application processes.

Concerns were also raised about the level of detail which may be required for a nutrient management plan, particularly in relation to the associated potential time

and costs of developing bespoke plans and availability of consultants to assist farm businesses to do so. There was also concern about developing plans in advance, with some agricultural stakeholder responses stating a preference for submitting nutrient accounts at the end of the year.

Other responses, particularly those from the environmental sector expressed support for a comprehensive approach with as many components as practical to be included within nutrient management plans.

Question 5: How might risks to the wider environment best be taken into account and nutrient management plans be assessed in a standardised way?

Responses to this question were mixed with no clear consensus. Many responses raised concerns about the potential impacts on existing SAC rivers and other protected sites. These concerns included issues relating to the Habitats Regulations requirements and assessing cumulative impacts of licences granted on any catchment area.

Some respondents advocated managing these risks by excluding vulnerable areas from any licence scheme, whilst others raised concerns about exclusion of any areas.

Some respondents also noted the additional burden a licence scheme would place on NRW and its impact on NRW's resourcing and capacity to undertake existing activity in relation to the regulations.

Question 6: Do you agree it is appropriate to require soil testing and analysis to inform nutrient management plans?

The majority of respondents supported using soil testing and analysis in this way. Responses recognised soil testing is a best practice within the sector and an activity many farms will already be participating in either from a farm assurance requirement or having previously been supported by activity from Farming Connect.

Concerns were raised by some respondents about the requirement for phosphorus applications to consider the full needs of a crop rotation as opposed to individual requirements of a single crop. Others questioned the capacity of laboratories to handle additional soil testing demands within the proposed timescale needed. A small number of respondents felt the proposed requirements were unclear and would add an additional level of confusion.

Finally, some respondents questioned the effectiveness of using results from within the last 4 years, suggesting a period of 12 months would provide a greater level of accuracy.

Question 7: Should a 'whole farm phosphorus balance approach' be considered? Please include evidence to support your view

This approach was not widely supported. Respondents raised concerns about the lack of a methodology for calculating such a balance and lack of values set out in the consultation. Others raised concerns about how exported manures would be treated the calculations.

Where there was support for the approach, there was recognition there would need to be significant development of appropriate methodologies and further consultation with the sector, which respondents felt would not be feasible within the proposed timescale.

Question 8: Should nutrient management plans require other soil nutrient and soil condition factors other than nitrogen and phosphorus? If so which

Many respondents referred back to responses to earlier questions. Of those providing specific responses, there was broad recognition of the need to take a range of factors into account if nutrient management planning is to be effective.

Other responses felt a discretionary approach to items to be included beyond nitrogen and phosphorus requirements would be more appropriate, and would recognise some farms will already be undertaking nutrient management on a wider spectrum than required by the proposed scheme. This view complemented other responses which highlighted the potential for additional requirements to lead to duplication or limiting the potential for farm businesses to apply for, or participate, in other schemes or funding opportunities in future.

Question 9: Do you agree with the additional requirements regarding eligible livestock manure types and additional requirements for the import and export of livestock manures?

Responses to this question were mixed. Some respondents felt it appropriate to exclude non-grazing livestock manures from any scheme, due its typically higher phosphorus content than grazing livestock and potentially a higher risk. Respondents from the agriculture sector raised concerns over calculation methodologies, and felt it could lead to confusion and present a particular challenge to mixed holdings. Some questioned its relevance given the requirement to demonstrate a crop requirement in any case.

On the additional requirements for the import and export of manures there was again a mixed response. Concerns coalesced around the additional administrative burden and potential lack of flexibility to react and respond to environmental or market conditions, with a focus on the right application at the right time being important. On the other hand, some felt additional controls were important to mitigate traceability risks.

Question 10: How might the risks of spreading of high nitrogen manures be managed through the licence conditions?

What are your views on managing this risk by specifying a period during which the spreading of such manures is restricted?

This question drew a mixed response. Many felt the conditions already in the Regulations to be sufficient to address the concern around additional applications. Other respondents however believed there was need for greater protections to reduce the risks of higher levels of nutrients from manures being applied.

There was limited support for restricting application of high nitrogen manures during specific periods within the overall licence duration. Most respondents felt the existing 'closed period' conditions in Regulations to be appropriate and sufficient. Some also considered the nutrient management requirements reduced the risk of spreading manures at higher risk times of the year due to the limited crop requirement.

Question 11: Do you agree with the requirements for soil protection outlined above? If not provide reasons

Whilst the principles of reducing soil losses were broadly supported, the proposed requirements received a mixed response. Some they were too prescriptive, for example, that including fixed dates for certain activities could have perverse impacts on participation in agri-environment schemes.

Responses from environmental stakeholders recognised the measures outlined would mitigate risks to some extent, but felt they would not fully address concerns about sufficient soil cover during winter. Broader concerns about the lack of legislative protection for soils were also raised.

Question 12: Do you agree with our approach to enforcement and appeals?

There was broad support for the approach to enforcement and the proposed approach to an appeals process. Responses highlighted a need to ensure the both the enforcement approach and appeals process was clear and fair, and appeals dealt with in a timely manner.

Concerns were raised by all respondents about the resource requirements to appropriately undertake these processes.

Question 13: We would like to know your views on the effects that the introduction of the proposed licensing scheme would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 14: Please also explain how you believe the proposed licensing scheme could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Respondents generally grouped their responses to questions 13 and 14. Responses to these questions highlighted the higher proportion of Welsh speakers employed within agriculture and the agricultural supply chain. The scheme was felt to be a benefit to Welsh speakers as it would provide greater economic resilience to the agricultural sector.

Connections were also made to the Well-being of Future Generations Act and the well-being goal of 'A Wales of vibrant culture and thriving Welsh language'.

Question 15: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them

This question drew several responses about the proposed duration of the scheme, with agricultural and food processing sectors indicating support for a scheme to run beyond 2025 to give greater certainty for farmers and the wider agricultural supply chain.

Welsh Government Response

We received 1504 responses to the consultation, from a wide range of stakeholders across Wales and the UK more broadly. We have carefully considered all responses, and they will continue to inform the developments of our policy and legislation as we tackle the activities known to cause water pollution.

No new evidence was presented to support a scheme in the responses received. There was clear and strong support for a scheme from a majority of stakeholders and respondents, subject to it being simple and accessible to farm businesses, whilst maintaining important environmental protections.

The issues raised by respondents highlighted the complexities in developing a licence scheme, in particular the need to balance comprehensive environmental protection with a proportionate and fair process.

After careful consideration of all responses received, the Welsh Government has announced it intends to proceed with a time limited Enhanced Nutrient Management approach, as announced by the Minister for Rural Affairs, North Wales and Trefnydd and the Plaid Cymru designated member, on 10 October, through the Co-operation Agreement.