

Control of Agricultural Pollution Regulations Review Recommendations

CoAPR Review Recommendations Task and Finish Group (PHASE 1)

Terms of Reference

Introduction

The independently chaired Review of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (CoAPR) was published in March this year. The Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs has committed to take forward all 23 recommendations in full and at pace.

Delivering the Recommendations

Many of the recommendations contain multiple, complex issues which will need to be resolved before being taken forward. To facilitate this, actions have been consolidated in a phased approach to take forward the recommendations as follows:

PHASE 1 (12-18 months):

Recommendation 2 :

Further consideration should be given to minimise any regulatory burden placed on identified lower-risk activities ensuring the regulatory burden is proportionate to the risk of the activity undertaken, material being managed and overall risk of pollution.

Recommendation 6:

Include requirements within the Control of Agricultural Pollution regulations to protect against soil loss to the environment, potentially replicating the Good Agricultural and Environmental Condition (GAEC) requirements of Cross Compliance.

Recommendation 10:

Review the requirement for external drainage channels on silage stores and take into account a wider range of store designs to be compliant.

Recommendation 16:

Review definitions and recording processes, including the Welsh Government workbook used within the regulations to ensure improved usability, clarity of requirements and relevance to farming practices.

Recommendation 17:

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

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Consider the suitability for formal exemptions for holdings under animal disease restrictions, such as bTB, where the restrictions impact upon the normal management of the holding.

Recommendation 18:

Review if provisions made under relevant tenancy legislations to ensure third party requirements provide sufficient protection and if responsibilities could be clarified in the CoAPR regulations by improved definitions.

NB Preliminary work for Phase 2 Recommendations *5, *7 and *8 (see below) in the form of procurement of additional advice will be undertaken during Phase 1.

PHASE 2

(18 months – 3 years):

Recommendation 4:

Data collection appropriate to improved decision making on agricultural pollution regulations should be considered as part of any future changes to the regulatory baseline but any increased regulatory burden should be minimised.

***Recommendation 5** (Phase 1 Preliminary works, Phase 2 implementation):

The inclusion of an alternative to the 170kg limit within the regulations should be considered which includes all organic manures. Such an approach would need to include an enhanced nutrient management planning regime, to incorporate as a minimum, nitrogen, phosphorus, potassium and pH, including soil testing as appropriate and additional controls related to the risks of material being applied (in particular processed manures). Where such an approach is taken, the 170kg threshold may need to be reconsidered, to ensure it does not incentivise non-compliance with Environmental Permitting Regulations.

***Recommendation 7:**

Consider the role of higher risk cropping on potential losses of soil to the environment and effective mitigation techniques such as buffer strips.

***Recommendation 8:** (Phase 1 Preliminary works, Phase 2 Implementation)

The possibility of an alternative to the closed period should be assessed in more detail and an appropriate regime considered which may enable farms to apply slurry and other organic manures with a high readily available nitrogen content during the closed period, where the farm is able to demonstrate there is a crop need for the nutrients being applied and the risk of nutrient losses to water is minimal.

Recommendation 9:

Consider if provision for statutory guidance or a similar legal mechanism could be utilised to allow for variation in the closed period where unfavourable weather has impacted spreading of manures or whether appropriate temporary storage would be more effective in helping farms to prevent pollution.

Recommendation 11:

Consideration should be given to requiring pre-1991 stores (slurry and silage) to be inspected by a structural engineer or other suitable person to ensure that if the store presents a significant pollution risk, then action is taken, whilst enabling structurally sound stores to continue to be used. A similar process should also be considered, to confirm whether a technically non-compliant store (in relation the construction standards) does not risk causing pollution, where it may be appropriate for the store to then become an exempt structure.

Recommendation 12:

Consideration should be given to adopting a regulatory provision to clarify that, in relation to slurry storage, farms should take into account factors which may impact on compliance with requirements, to not apply nutrients unless it is appropriate to do so, according to soil, weather conditions, crop need and pollution risks. Any such approach would need to carefully consider the availability of grant support and timings needed for any additional infrastructure needed as a result.

Recommendation 13 (Phase 3 implementation):

Consider a requirement for newly constructed slurry stores and manure not stored in temporary field heaps to require covers.

Recommendation 14:

Consider the requirement for all slurry and liquid organic manure applications to be undertaken using Low Emission Slurry Spreading Equipment (LESSE) where practicable and significantly restrict the use of splash plates. Where relevant consider the incorporation time for manures to minimise atmospheric losses.

Recommendation 15:

Consider limiting the use of urea fertiliser and require the use of a urease inhibitor with urea fertiliser.

Recommendation 21:

Consider provision within the regulations to allow for the use of innovative or novel technologies on-farm, subject to a proportionate assessment of risk and an appropriate approval process.

Recommendation 22:

Consider provision for alternative slurry, organic manure and silage store designs, including temporary structures not currently within the schedules where they can deliver combined water quality and air quality benefits.

PHASE 3
(3 years +)

Recommendation 13 (Phase 2 preliminary works Phase 3 implementation): Consider a requirement for newly constructed slurry stores and manure not stored in temporary field heaps to require covers.

Recommendation 23:

Review the scope of the regulations to consider the management of manure from housed animals from the point of production to application to land to ensure an approach to best available techniques (BAT) can be applied.

The phases and timescales may be subject to change, due to the ability to progress matters in shorter timescales or where unforeseen matters are identified as part of the process.

Objectives and Scope

The CoAPR Review Recommendations Task and Finish Group objectives for Phase 1 are:

Consider the recommendations included in **Phase 1** of the Implementation Plan within a 12-18-month timeframe, to assist Welsh Government to take the recommendations forward

appropriately, with the aim of achieving improvements which will deliver for both the environment and farmers.

Methodology

The CoAPR Review Recommendations Task and Finish Group will consider material of a technical nature and must include members with sufficient expertise and experience to provide a valuable contribution to discussions on technical aspects of the relevant recommendations. Given the technical nature of the recommendations is varied, it may be appropriate for organisations to nominate different representatives to cover specific recommendations.

In addition to the core membership of the CoAPR Review Recommendations Task and Finish Group, further expert input may be sought if required. On issues where further expertise is required, members can be co-opted to the Group temporarily, to bring that additional expertise. Where considered viable and beneficial, pilot groups may be established to explore key issues to supplement the work of the Task and Finish Group.

Recommendations will be taken forward through the following routes:

- Due to the scale and scope of the recommendations and to minimise the burden placed on members, papers will be submitted for consideration and response in writing.
- Welsh Government officials will provide updates to Ministerial roundtables on progress.
- Where the procurement of additional advice is needed and where possible, members will be afforded the opportunity to comment on draft specifications.
- Proposals will be shared with the Group in writing, for comment. Where there is any significant level of disagreement, the issue will be escalated to stakeholder group meetings for discussion.
- Proposals which require further exploration by stakeholders will be taken forward through Group meetings.

Operation

The CoAPR Review Recommendations Task and Finish Group will be Chaired by Gareth Bevington.

The Secretariat will be operated by Welsh Government.

It is anticipated meetings will be held on a quarterly basis (every three months). However, this will be subject to need, noting the matters raised above.

Recommendations be taken forward in correspondence with the CoAPR Review Recommendations Task and Finish Group, where considered appropriate to do so. Sufficient time will be given to enable members to consider and comment as necessary.

Issues of significant concern or disagreement will be escalated to meetings of the CoAPR Task and Finish Group for discussion. Final decisions will be for Welsh Ministers.

Documentation provided and any discussions and recommendations, made in any meetings of the CoAPR Review Recommendations Task and Finish Group, should remain confidential and should not be disclosed.

Any decisions or recommendations will need to remain restricted to the CoAPR Review Recommendations Task and Finish Group and the Welsh Government, unless the DFM/CSCCRA has given prior consent to the release of information.

Annex B

Expression of Interest submission form

If you wish to submit an expression of interest for membership of the CoAPR Review Recommendations Task and Finish Group, please complete the following form and return it to coapreview2024-25@gov.wales.

Where possible, we will accommodate all expressions of interest. However, for reasons of practicality and to ensure we have the appropriate representation in respect of the subject matter, we may need to select membership from the expressions of interest received. To assist this process, we request that 150 words are provided in relation to the expertise of the representative in respect of the recommendation or group of recommendations in the following table.

Recommendation	Name and organisation	Email address	Expertise (150 words max)
Recommendation 2 Further consideration should be given to minimise any regulatory burden placed on identified lower-risk activities ensuring the regulatory burden is proportionate to the risk of the activity undertaken, material being managed and overall risk of pollution. and Recommendation 3 Consider working with a technical task and finish group to determine a separate definition within the regulations and guidance of 'higher risk' for activities and manure types to clarify when requirements are needed and assist with why they are required. This is important when considering the role of diffuse agricultural pollution as well as minimising point source pollution, whilst maintaining an all-Wales geographic approach.			

Recommendation 4 Data collection appropriate to improved decision making on agricultural pollution regulations should be considered as part of any future changes to the regulatory baseline but any increased regulatory burden should be minimised.			
Recommendation 5 The inclusion of an alternative to the 170kg limit within the regulations should be considered which includes all organic manures. Such an approach would need to include an enhanced nutrient management planning regime, to incorporate as a minimum, nitrogen, phosphorus, potassium and pH, including soil testing as appropriate and additional controls related to the risks of material being applied (in particular processed manures). Where such an approach is taken, the 170kg threshold may need to be reconsidered, to ensure it does not incentivise non-compliance with			

Environmental Permitting Regulations.			
Recommendation 6 Include requirements within the Control of Agricultural Pollution regulations to protect against soil loss to the environment, potentially replicating the Good Agricultural and Environmental Condition (GAEC) requirements of Cross Compliance. and Recommendation 7 Consider the role of higher risk cropping on potential losses of soil to the environment and effective mitigation techniques such as buffer strips.			

Recommendation 8 The possibility of an alternative to the closed period should be assessed in more detail and an appropriate regime considered which may enable farms to apply slurry and other organic manures with a high readily available nitrogen content during the closed period, where the farm is able to demonstrate there is a crop need for the nutrients being applied and the risk of nutrient losses to water is minimal. and Recommendation 9 Consider if provision for statutory guidance or a similar legal mechanism could be utilised to allow for variation in the closed period where unfavourable weather has impacted spreading of manures or whether appropriate temporary storage would be more effective in helping farms to prevent pollution.			
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Recommendation 10 Review the requirement for external drainage channels on silage stores and take into account a wider range of store designs to be compliant. and Recommendation 11 Consideration should be given to requiring pre-1991 stores (slurry and silage) to be inspected by a structural engineer or other suitable person to ensure that if the store presents a significant pollution risk, then action is taken, whilst enabling structurally sound stores to continue to be used. A similar process should also be considered, to confirm whether a technically non-compliant store (in relation the construction standards) does not risk causing pollution, where it may be appropriate for the store to then become an exempt structure and			
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Recommendation 12 Consideration should be given to adopting a regulatory provision to clarify that, in relation to slurry storage, farms should take into account factors which may impact on compliance with requirements, to not apply nutrients unless it is appropriate to do so, according to soil, weather conditions, crop need and pollution risks. Any such approach would need to carefully consider the availability of grant support and timings needed for any additional infrastructure needed as a result. and Recommendation 13 Consider a requirement for newly constructed slurry stores and manure not stored in temporary field heaps to require covers.			
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Recommendation 14 Consider the requirement for all slurry and liquid organic manure applications to be undertaken using Low Emission Slurry Spreading Equipment (LESSE) where practicable and significantly restrict the use of splash plates. Where relevant consider the incorporation time for manures to minimise atmospheric losses. and Recommendation 15 Consider limiting the use of urea fertiliser and require the use of a urease inhibitor with urea fertiliser.			
Recommendation 16 Review definitions and recording processes, including the Welsh Government workbook used within the regulations to ensure improved usability, clarity of requirements and relevance to farming practices.			

Recommendation 17 Consider the suitability for formal exemptions for holdings under animal disease restrictions, such as bTB, where the restrictions impact upon the normal management of the holding.			
Recommendation 18 Review if provisions made under relevant tenancy legislations to ensure third party requirements provide sufficient protection and if responsibilities could be clarified in the CoAP regulations by improved definitions.			
Recommendation 19 Review values within schedules and record keeping processes to ensure greater ease of use, ongoing relevance to modern farming practices and latest scientific understanding, and support improved on-farm decision making.			

Recommendation 20 Consider the suitability of a streamlined civil sanctions mechanism to improve enforceability and efficiency of sanctions when required.			
Recommendation 21 Consider provision within the regulations to allow for the use of innovative or novel technologies on-farm, subject to a proportionate assessment of risk and an appropriate approval process.			
Recommendation 22 Consider provision for alternative slurry, organic manure and silage store designs, including temporary structures not currently within the schedules where they can deliver combined water quality and air quality benefits.			
Recommendation 23 Review the scope of the regulations to consider the management of manure from			

housed animals from the point of production to application to land to ensure an approach to best available techniques (BAT) can be applied.			
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Please detail any accessibility requirements below.

Accessibility requirements:
