



Our reference: DAERA/24-125

[REDACTED]
[REDACTED]

Water Management Unit
17 Antrim Road
Tonagh
Lisburn
BT28 3AL

Email: WMU.FOI@daera-ni.gov.uk

14 May 2024

Dear [REDACTED]

Environmental Information Regulations 2004

With regard to your request for information received by the Department on 12 March 2024 that sought the following information:

26. Please confirm DAERA/NEIA's current approach to enforcing the NAPR and explain if there are any alternative approaches DAERA/NEIA has adopted to secure compliance with NAPR and to reduce agricultural pollution.

The Nutrient Action Programme (NAP) Regulations (Northern Ireland) 2019 aim to reduce and prevent water pollution from agricultural sources and apply to all farms in Northern Ireland. The NAP Regulations include limits on the amount of livestock manures and chemical fertilisers and when they can be applied to agricultural land. This is to prevent excess application of nutrients and reduce the risk of pollution to our waterways. The Department is currently taking forward a review of the Nutrients Action Programme which is considering additional measures that are needed to help reduce nutrient losses to waterways from agricultural sources.

From 2005, the Northern Ireland Environment Agency (NIEA) has been the Competent Control Authority in Northern Ireland for Cross Compliance inspections for the Statutory Management Requirements (SMRs) relating to the Conservation and Water Directives in Northern Ireland. The Nitrates Directive is implemented through the NAP. NIEA selects 1% of farm businesses claiming direct aid for annual inspection using a risk-based approach. In addition, 5% of the farm businesses operating under a NAP derogation are also inspected.

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Inspections of farm business conducted by NIEA fall into two broad categories, scheduled and reactive. The minimum 1% requirement as stated above comprises solely of scheduled inspections and these are planned throughout the calendar year. Reactive inspections are conducted at any time during the year and these are made in response to referrals from other competent authorities and complaints from members of the public.

In addition to the NAP Regulations, The Pollution Prevention and Control (PPC) Regulations require large poultry and pig farms to meet a range of environmental requirements. These include completing a nutrient management plan which must demonstrate that the land on which the manure is spread has sufficient crop requirement to utilise the phosphorus contained in the manure.

As well as existing regulatory controls the Department runs an extensive education programme through the College of Agriculture, Food and Rural Affairs (CAFRE) for the management of slurry and nutrients on farm. There has been significant advisory effort and support in relation to NAP since it was introduced. This includes CAFRE training courses, comprehensive guidance documents and a range of CAFRE online nutrient calculators to help farmers meet NAP requirements. However, despite this support, implementation and compliance at farm level still needs to be improved along with a greater awareness of how farming practices can impact on water quality. Recently, in January 2024 CAFRE held two on farm Slurry Management events for farmers which highlighted NAP requirements and best practice. Further Knowledge Transfer events are planned for this year.

DAERA is also taking forward measures to improve the efficient use of nutrients and export of excess phosphorus. These include the Soil Nutrient Health Scheme, which provides farmers, across Northern Ireland, with information and training to help them optimise the use of nutrients, such as phosphorus, to reduce excess application and run-off to watercourses.

Another measure is Phase 2 of the Small Business Research Initiative (SBRI) on the Sustainable Use of Livestock Slurry (SULS). It aims to establish centralised demonstrator projects for processing of livestock slurry and anaerobic digestate to reduce surplus phosphorus within NI agriculture and ensure efficient export and recycling of organic nutrients. This follows on from a previous initiative on the Sustainable Use of Poultry Litter. This established the Stream Bioenergy AD plant near Ballymena which processes poultry litter, removes phosphorus from land spreading in NI and generates renewable energy.

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27. Please confirm what measures DAERA/NEIA has taken pursuant to its obligations under the NI Habitats Regulations and Environment Order in respect of designated sites, including Lough Neagh.

NIEA Natural Environment Division (NED) has a role in the designation of Protected Sites which sets the legal protection of features, defines specific conservation objectives, details operations likely to damage and Views About Management, and carries out condition assessment monitoring.

NIEA has designated 394 ASSIs, 57 SACs, 20 SPAs and 16 Ramsar sites to afford special protection for their respective biodiversity and geodiversity features, including Lough Neagh which is designated as an ASSI, SPA and Ramsar.

NIEA NED performs the functions of the statutory nature conservation body, providing statutory conservation advice and guidance to competent authorities on potential impacts on protected sites features to inform decisions on licensing and authorisations.

For example, NIEA RED teams would undertake their own Test of likely significance (ToL's) and if required Habitats Regulation Assessment (HRA) for discharge consents and other licences, seeking advice from NIEA NED on potential impacts on site features.

DAERA NIEA is a statutory consultee under the Planning (General Development Procedure) Order (Northern Ireland) 2015, considering planning proposals, and providing statutory advice, to ensure that they are in line with the requirements of both the Habitats Regulations and the Environment Order.

28.a) A copy of any other guidance produced which DAERA/NEIA officers have regard to in ensuring compliance with NAPR, pursuant to Regulation 29(2) NAPR.

Links to DAERA NAP guidance booklets can be found online at <https://www.daera-ni.gov.uk/nutrientsactionprogramme2019-2022> and the Code which is specifically mentioned in 29(2) <https://www.daera-ni.gov.uk/publications/code-good-agricultural-practice-cogap>

b) A copy of any enforcement policy or similar document setting out the approach DAERA/NEIA currently takes and/or intend to take to enforcing the NAPR.

Link to DAERA cross compliance verifiable standards <https://www.daera-ni.gov.uk/publications/cross-compliance-2024-0>
Link to DAERA enforcement policy <https://www.daera-ni.gov.uk/publications/daera-enforcement-policy>

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Please include in this request any documents which explain the basis on which sites which might be contributing to the problem are not monitored and /or acted

Under Regulation 12(4)(a) the Department is excepted from the duty to disclose the information on the grounds that the information sought is not held.

and the basis on which environmental impact is assessed for the purpose of determining the appropriate offence response option under NAPR's enforcement policy.

Copy of Inspectors guidance is attached in **Annex A**

c) Notes or minutes of any relevant meetings where DAERA/NEIA's approach to enforcing the NAPR has been discussed.

Please see **Annex B**

The Department has decided not to disclose some of the information you requested as it considers Regulations 12(3) and 13(1) of the Environmental Information Regulations 2004 to be engaged. Some of the information held constitutes personal data of which you are not the data subject. In these instances, the Department is required to consider if disclosure would breach the first Data Protection Principle, which states that processing must be lawful, fair and transparent.

The Department has considered this element within the test attached at **Annex C** and has determined that no lawful basis for disclosure under EIR exists. Please bear in mind that any disclosure must be considered in terms of disclosure to the "world at large" and not just to you, the requester. Consequently, third party personal data falling within the scope of this request has been withheld.

If you require any clarification, believe that any part of your request has been overlooked, misunderstood or misinterpreted, please contact me in the first instance to see if it is a matter that can be resolved.

If you are unhappy with the manner in which your request for information has been handled or the decision to release / withhold information, you have the right to request a formal review by the Department.

If you wish to do so, please contact The Review Section either by e-mailing daera.informationmanager@daera-ni.gov.uk or by post at The Department of Agriculture, Environment and Rural Affairs, Data Protection & Information Management Branch, Floor 2, Ballykelly House, 111 Ballykelly Road, Ballykelly, Limavady BT49 9HP, within two months from the date of this letter.

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If after such an internal review you are still unhappy with the response, you have the right to appeal to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, CHESHIRE SK9 5AF, who will undertake an independent review of the Department's decision.

Yours sincerely,

[Redacted signature]

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