Iascach Intíre Éireann
Inland Fisheries Ireland

Nitrates Consultation
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1 December 2025

Description: Public Consultation on the draft Sixth Nitrates Action Programme (NAP6) and the draft Good Agricultural Practice for the Protection of Waters Regulations

Submitted via email to WAUConsultation@housing.gov.ie

To whom it may concern:

Thank you for the opportunity to contribute to the public consultation on the draft Sixth Nitrates Action Programme. Inland Fisheries Ireland (IFI) is the statutory authority tasked under section 7(1) of the Inland Fisheries Act 2010 (No. 10 of 2010) with responsibility for the protection, management, and conservation of the inland fisheries resource. IFI's role relates to all aspects of the aquatic environment, including water quality, biodiversity and hydromorphology. The following comments reflect the views of IFI in respect of the draft Sixth Nitrates Action Programme and the draft Good Agricultural Practice for the Protection of Waters Regulations.

Introduction

Agriculture is listed a significant pressure by the EPA in almost 1,000 waterbodies in Ireland. At the national scale, there is a broad relationship between the numbers of livestock on land, the amount of nitrogen fertiliser used, and nitrogen emissions in waters (EPA, 2021). The EPA's *Water Quality in Ireland 2019-2024* Report, shows a decline from 54% to 52% in surface waterbodies meeting satisfactory ecological status. This figure falls to 48% for rivers (2% decline) and 31% for transitional waters (5% decline).

The Report found that 44% of river sites, mostly in the south and southeast of the country, have high nitrate concentrations, while over a quarter of river sites (27%) and a third of lakes (32%) have elevated phosphorus concentrations, with lakes in the northeast of the country being particularly badly affected. The *Water Quality in Ireland 2019-2024* Report also found that pesticides accounted for 15% of chemical status failures for non-ubiquitous substances.

In the south and east of the country, there has been an alarming fall in the percentage of surface water bodies reaching satisfactory ecological status (Good or High). The table below shows the decline in the number of waterbodies reaching satisfactory status from the 2010-2012 reporting period to the latest reporting period (2019-2024).

Catchment	2010-2012	2019-2024	% Decline
Barrow	47%	34%	13%
Nore	60%	43%	17%
Suir	65%	37%	28%
Munster Blackwater	86%	70%	16%

Nutrient losses from agriculture are one of the significant drivers for waters not meeting their environmental objectives under the Water Framework Directive (WFD). Elevated nitrogen concentrations lead to poor water quality outcomes in all waters, with nutrient pollution is listed by the EPA as having an impact on over 1,100 water bodies. This is having a negative impact on water quality and the ecological health of rivers and the downstream marine waters.

In 2024, the EPA reported that 38% of river monitoring stations had concentrations higher than 8 mg/l NO3 which is the level at which impacts to the ecological health of rivers and downstream marine waters occurs. The EPA also found that 21% of river monitoring stations had phosphorus concentrations which are greater than the good status environmental quality standard (0.035 mg/l P) (EPA, 2025). In freshwater, elevated phosphorous levels also increase the biological availability of the high nitrogen loadings in those ecosystems.

The NAP6 consultation document acknowledges that 85% of nitrogen in rural catchments originates from agricultural practices. The EPA's Water Quality Insights Report Bulletin Vol 3 on Nitrogen Concentrations, dated September 2025, indicates that nitrogen concentrations have increased by 16% in the first half of 2025, relative to the corresponding six-month period in 2024.

Proper regulation and enforcement of good agricultural practices is essential to protect freshwater quality. All public authorities have an important statutory role in achieving the WFD objectives. Article 4 of the Surface Waters Regulations (SI 272 of 2009) states that a public authority whose functions may affect the achievement of the environmental objectives shall undertake those functions in a manner that will promote compliance with the requirements of those regulations. Article 5 of the Regulations requires that a public authority shall not knowingly cause or allow deterioration in the chemical or ecological status of a body of surface water. Furthermore, article 28(2) states that a surface water body whose status is determined to be less than Good shall be restored to at least good status.

Draft Sixth Nitrates Action Programme – Public Consultation Document

With regard to the themes contained in the Public Consultation document, IFI wishes to make the following observations:

Applying the Mitigation Hierarchy

A mitigation hierarchy must be implemented for the management of all potential sources of pollution from agricultural sources, i.e. prevention / reduction at source, then containment, and finally treatment.

The primary objective of the Regulations should be the source-load reduction of excessive nutrient application, in association with appropriate and effective containment and control of nutrient sources. New mitigation measures, e.g. nature-based solutions, for the interception, treatment and remediation of nutrient levels along nutrient pathways should be considered. However, mitigation measures which target pathway interception should be considered a secondary measure in the overall strategy to reduce nutrient losses to waters.

Nutrient Budgeting

The introduction of nutrient balances at individual farm level for derogated farms would be greatly welcomed by IFI. IFI request that this is accompanied by nutrient budgeting at sub-catchment / surface-water body level. IFI also recommend that nutrient budgeting is also mandatory in non-derogation farms in high-risk areas, for example medium to large holdings with significant areas of PIP-N and PIP-P values of 1 to 3.

To be effective, nutrient balancing must apply to nitrogen and phosphorous source inputs, i.e. stock numbers and fertiliser inputs. Balancing and budgeting of nutrients at individual farm level must also be linked to nitrate and phosphate loadings in receiving waters. Where nitrate and phosphate concentrations exceed regulatory thresholds and EPA guidelines for good ecological status, nutrient inputs at farm level should be reduced until such targets are achieved, for example by limiting the sale of fertilisers to herd numbers within the affected surface water bodies.

Reductions in nutrient losses must allow the restoration of good ecological status in surface waters where it does not currently exist. There should be a presumption against agricultural expansion in catchments where the nutrient levels exceed those required for Good Ecological Status in the receiving waters. In particular, nutrient budgeting should be applied to the EPA's seven "catchments of concern", namely the Barrow, Slaney, Bandon, Blackwater, Boyne, Nore and Suir. Targeted measures must be implemented within critical source areas in these catchments to address the specific sources of nutrients, using Source Load Apportionment Modelling (SLAM) and loadings calculated from WFD monitoring data.

Additional Regulatory Measures in At Risk Water Bodies

There should be a presumption against granting derogations in catchments where nitrogen levels exceed thresholds for healthy river ecosystems. However, in isolation, this measure will not lead to significant improvement in water quality. Reduction in nutrient loading must be accompanied by the introduction of the additional water quality protection measures currently applied to derogated farms to all dairy holdings. These additional measures, for example with respect to fencing and drinking water points, must be applied to all farms where surface water ecological status is less than good.

In addition, measures must be implemented to prevent the spread of holdings to achieve lower stocking densities, whereby marginal land is acquired to maintain overall herd numbers and loading while meeting nitrogen application rates. This is essential to protect hydromorphology and biodiversity. See under "Hydromorphology" below.

Weather Alerts

It is notable that one of the findings of the Agricultural Catchments Programme (ACP) is the importance of real-time weather advice with regard to fertiliser application. IFI supports the provision of regional alerts to advise landowners when fertilisers cannot be applied within the open season: for example, where frost or heavy rain is forecast. Implementing bodies and authorised persons as defined under the Regulations should be included in the alert systems. During the months of January to March in particular, when groundwater recharge rates are high and spreading of chemical and organic fertilisers is permitted, more stringent and more granular advice is required to control and restrict losses to waters.

IFI regards the definition of heavy rain (yellow, orange or red warning), as too broad and too permissive in terms of spreading periods for fertiliser. More targeted advice is required, taking into account soil moisture deficits (SMD), temperatures, expected rainfall amounts and PIP-vulnerability for nitrogen and phosphorous.

Restrictions on the application of chemical fertiliser should be considered during prolonged drought periods. The increased mineralisation of nitrogen in such conditions increases its mobility and the risk to ground and surface waters. An alert system similar to that suggested above should be applied in such circumstances.

Restrictions on Spreading of Fertiliser

The document acknowledges that storage capacity requirements for slurry and soiled water must be increased due to higher excretion rates. However IFI also requests that consideration is given to the increasing meteorological uncertainty due to climate change and the increasing frequency of extreme weather events.

Soiled Water

Soiled water from yards requires a defined lower threshold for BOD, suspended solids and nutrient concentrations. In addition, the upper threshold for the purposes of categorising soiled water for land-spreading and / or storage should be reduced significantly from its current level of 2,500mg/l. Any materials which exceed this concentration should be classified as animal waste and treated as such for the purposes of the Regulations.

Hydromorphology

Smaller streams on marginal lands or uplands represent a significant proportion of Ireland's critical salmonid spawning and nursery habitat. Land use change, including land drainage, has the potential to impact negatively on instream habitats, water quality, biodiversity, and climate resilience. Riparian zones are also important for the health and biodiversity of watercourses. Riparian zones vegetated with native species enrich biodiversity and provide bank stability. They enhance and improve climate resilience and are important for intercepting polluting materials and sediment. They also reduce rates of surface water run-off.

Dredging and drainage of small streams causes significant damage in a number of ways.

- The digging or 'cleaning' or drains can result in the discharge of large volumes of sediment and silt into receiving waters.
- Culverting or piping of waters degrades habitat quality and presents barriers to fish migration and downstream movement of gravels.
- It reduces habitat for macroinvertebrates and fish in those watercourses, which can be very important for spawning and juvenile fish. It also reduces biodiversity in the surrounding land
- It lowers the water table in the soil, reducing the capacity for denitrification, i.e. for facultative anaerobic bacteria to covert leached nitrate to nitrogen gas.
- It creates pathways for run-off of nutrients, suspended solids and pesticides to freshwater receptors. This results in increased eutrophication, siltation and contamination downstream.
- It disconnects watercourses from their floodplains resulting in increased risk of flooding downstream during extreme rainfall events
- It reduces the climate resilience of those watercourses, and makes them more vulnerable to drought and flood events, as well as temperature extremes

A lack of protection of for the hydromorphology of Ireland's waterways has been identified in the recent CJEU judgement on Ireland's implementation of the Water Framework Directive (Case C-204/24). Member states are also obliged to jointly restore at least 20% of EU land and seas to 'good condition' by 2030 and all ecosystems in need of restoration by 2050.

IFI have previously submitted to the Department of Housing regarding the Exempted Development Regulations (Ref. DHLGH-C1-870) that instream or riparian works on any watercourse marked on the 1:5,000 Tailte Éireann mapping should require planning permission. Works on any watercourse or riparian vegetation removal within an agricultural holding should also be subject to more stringent thresholds for referral and aligned with revised EIA (Agriculture) Regulations.

Water Crossings

Incentives should be provided to protect watercourses from being used for instream crossing by farm animals. Clear-span crossings of all watercourses marked on 1:5,000 maps should be supported, initially for new crossings and then retrospectively applied to upgrade existing crossings. Waterbodies with less than Good Ecological Status should be prioritised.

Alignment with the Habitats Directive

The draft Regulations must be fully aligned with the Habitats Directive to ensure that Conservation Objectives on Natura 2000 sites are being met. Where the conservation objectives of the qualifying interests within a designated area are not being met due to elevated nutrient levels in surface waters, then catchment scale mitigation measures in the form of nutrient budgeting must be implemented until those objectives are satisfied. Measures should include a moratorium on the introduction or increase of nutrient sources until it can be shown that there is no risk to conservation objectives.

IFI requests that the revised Regulations are amended to include CJEU Rulings C-293/17 and C-294/17, which state that "*the grazing of cattle and the application of fertilisers on the surface of land or below its surface in the vicinity of Natura 2000 sites may be classified as a 'project'*" within the meaning of Article 6(3) of the Habitats Directive 92/43/EEC. Nutrient Management Plans and the application of fertilisers within the zone of influence of Natura 2000 sites and should be subject to Appropriate Assessment.

IFI also considers that cattle farms exceeding 350 Livestock Units (LSUs) as defined by the European Union, or farms currently receiving a derogation, should be subject to licensing under the Industrial Emissions Directive (2010/75/EU), similar to that currently required for intensive pig and poultry installations.

Moreover, the publication for the Sectoral Action Work Plan for Agriculture must also be a matter of priority. That this is not yet available for the most significant pressure on the quality of our waters is a matter of significant concern, particularly considering that Ireland is now four years into the six-year cycle for the third River Basin Management Plan (RBMP).

Draft Good Agricultural Practice for the Protection of Waters Regulations

IFI has the following comments and observations regarding the Draft Good Agricultural Practice for the Protection of Waters Regulations:

Article 4 (1) Interpretation

"heavy rain" IFI regards the definition of heavy rain (yellow, orange or red warning), as too broad and too permissive in terms of spreading periods for fertiliser.

"sloping steeply" Land defined as "sloping steeply" under Article 4 should be mapped and shared with the statutory authorities with persons authorised under Article 26 of the draft Regulations

Article 4 (2) IFI requests that there is a defined lower bound for soiled water BOD in mgs per litre. This is to distinguish between soiled water and water from roofs, guttering or clean surfaces which may be discharged to soak pits or via wetland systems.

Where ICWs are discharging to waters, this lower bound should be a minimum standard for such discharges, and that minimum thresholds for nutrient levels for orthophosphate and total ammonia should also be required. Where discharges exceed 5m^3 per day, these systems should require a discharge licence under Section 4 of the Local Government (Water Pollution) Acts.

Where ICWs are used for water treatment there must also be strict guidelines with regard to their location and use. These include:

1. Minimum setback distances from watercourses marked on Tailte Éireann 1:5,000 mapping
2. No online systems may be permitted, i.e. ICWs may not be constructed on existing mapped watercourses
3. ICWs must not be used for any substances listed in Article 7 (1) of the draft Regulations
4. Landowners must be obliged to consult with statutory agencies to ensure minimum construction standards to ensure no contamination of ground or surface waters

Only those liquids defined in Article 5(2) should be permitted to be diverted to ICWs. IFI considers that the use of integrated constructed wetlands (ICWs) [Article 7(4)] for storage of livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps [Article 7 (1)] is entirely inappropriate and should be prohibited. IFI's experience of such systems is that they require ongoing maintenance and over time their integrity and effectiveness become compromised. Often they are poorly constructed, and do not comply with the requirement in Article 7 (1) "to prevent run-off or seepage, directly or indirectly, into groundwater or surface water, of such substances".

The term "Grey Water" has been used extensively by Teagasc and other agencies to define water coming from yards etc. The term Grey Water has no legal definition and in at least one documented instance adjacent to the Breagagh River on the Nore Catchment, an ICW has been receiving contaminated water with a BOD in excess of 900 mg/l. This is an entirely unregulated treatment mechanism, and underlines the need to set clear regulatory distinctions between clean or grey water on one hand, and soiled water on the other.

Article 8 (7) permitting slurry spreading between 1 and 15 October

IFI considers that more objective metrics must be provided for allowing the spreading the slurry between these dates. These must take the form of quantifiable metrics which can be independently assessed.

Article 9 [Schedule 2, Table 3] on the calculation of soiled water capacity

Soiled water capacity should also take into consideration the hard standing area being diverted into storage facilities, and their capacity calculated based on defined probability rainfall event.

Article 15 Nutrient Management

Nutrient application rates for nitrogen and phosphorous must take into consideration nutrient loadings in receiving watercourses within the catchment area of the landholding. If necessary, nutrient budgeting should be implemented to restore surface and ground-water bodies to good ecological status.

Article 17 (1) (d) IFI requests that proposed restrictions on post-harvest application of sewage sludge or biosolids should be applied in catchments with high levels of excess nutrients, namely the seven "catchments of concern" identified by the EPA.

Article 17 (6) ('c) Where a farm nutrient management plan is submitted for the landholding to the Department, IFI requests that this is carried out in accordance with CJEU Rulings C-293/17 and C-294/17. Namely, Nutrient Management Plans must be subject to the Appropriate Assessment within the Zone of Influence of a designated Natura 2000 site.

Article 18 – Distances from a Water Body

Article 18 (2) (f) With regard to the 5m buffer from surface waters for the spreading of soiled water or organic fertiliser, IFI requests that this is increased to 10m in catchment areas not meeting good ecological status.

Article 18 (2) (g) IFI requests that the area of land with slope exceeding 10% be mapped and shared with public authorities with officers authorised under Article 26 of the draft Regulations.

Article 18 (15) IFI request that the 3m buffer from surface waters for the spreading of chemical fertilisers is increased to 5m and applied to all surface waters, not only those identified on a modern 1:5,000 scale Tailte Éireann map.

Further to the provisions of Article 18, IFI requests that an additional provision be included to provide for clear-span water crossings to be put in place for all watercourses identified on modern 1:5,000 scale Tailte Éireann maps. This should apply to all new crossings and be implemented retrospectively for existing crossings within specified timeframes. Design of water crossings must align with best practice to eliminate the potential for barriers to fish passage.

Article 19 (2) on restrictions on spreading of chemical and organic fertilisers

Article 19 (2) ('c) Land defined as "sloping steeply" under Article 4 should be mapped and shared with the statutory authorities with officers authorised under Article 26 of the draft Regulations.

IFI request that an additional provision under Article 19 (2) be included that restricts the spreading of chemical and organic fertilisers during periods of extended drought when the risk of mineralisation and leaching is elevated. Restrictions during such periods should be notified to landholders and statutory agencies authorised under these Regulations.

Article 22 The Use of Herbicides

IFI considers that the application of herbicides, pesticides and fungicides should be subject to seasonal and weather-related restrictions similar to those applied to the application of fertilisers as outlined in Schedule 4 of the draft Regulations. IFI request that herbicides be defined under *Article 4* of the Regulations and that no such chemicals may be applied within 5m of any waters.

Article 26 Authorised Person and Article 27 Offences and Related Matters

Where an offence under the provision of these Regulations has been reported to the Department of Agriculture by an Authorised Person as defined under Article 26, IFI requests that the Department is required under the Regulations to provide an acknowledgement of such a report within one week, and notification of the outcome arising from consideration of that report is provided to the relevant authorised person within two weeks of the decision being made.

Article 28 (5) in relation to provision of information on holdings, IFI requests that a clause be added that such information shall be made available upon written request to persons authorised under Article 26 of these Regulations.

IFI also request that where extensions, alterations or limitations on the spreading of chemical and organic fertilisers are made, that these are communicated to statutory agencies authorised under Article 26 of these Regulations.

Article 31 Local Authorities

Similar to Article 28 above, IFI requests that a sub-section be added that information on holdings shall be made available upon written request to persons authorised under Article 26 of these Regulations by the local authority.

Part 7 – Implementation of Commission Decision

IFI request that the decision to grant a derogation under these Regulations takes into consideration the ecological status of the surface water body in which catchment area or areas the derogation will pertain. Where the ecological status is less than good (i.e. does not meet the objectives of the Water Framework Directive / Water Action Plan), then there should be a presumption against the granting of such derogations.

Where a holding previously in derogation has had its derogation revoked, or where the permitted application rate for nitrogen has been reduced, measures and restrictions must be in place to prevent the reclamation and/or drainage of marginal or scrubland to maintain herd numbers. The reduction in fertiliser spreading rates should lead to an absolute reduction in nutrient application, rather than displacement on to marginal or outlying lands. Implementing such measures would protect biodiversity and upstream watercourses which are essential for fish spawning and juvenile recruitment.

The protection of such marginal land also has co-benefits for flood management and building resilience to the effects of climate change. Implementing such measures is also essential for meeting nature restoration targets by restoring degraded ecosystems and protecting biodiversity by minimising habitat loss and destruction.

Schedule 2, Table 10 – Nutrient Availability in Fertilisers

IFI notes that the figures for percentage nutrient availability are based on best-case scenarios. Allowances need to be made for lower levels of availability and the consequences for loss to the receiving environment. For example, The Teagasc National Farm Survey Sustainability report suggests that average nitrogen use efficiencies (NUE) from organic fertiliser in Ireland's predominantly grass based farming systems are approximately 25%. IFI also requests that nitrogen and phosphorous availability from waste sludge from wastewater treatment plants is added to this table.

Schedule 3 – Storage Periods for Livestock Manure

IFI notes that the required storage periods have not been amended since the original regulations in 2005, despite increasingly unpredictable weather and ground conditions due to climate change. IFI requests that consideration be given to increasing minimum requirements for storage facilities in line with EPA / OPW climate change scenarios.

IFI also requests that restrictions are in place regarding the placement of storage facilities, and that they must be located outside of 1% AEP flood zone +20% allowance for Climate Change, and preferably outside the 0.1% AEP zone.

Schedule 4 – Periods when Application of Fertilisers to Land is Prohibited

Part 5 – Where the Minister publishes updated criteria for the application of slurry in exceptional circumstances, IFI requests that formal notification be provided to bodies authorised under Article 26 of these draft Regulations.

Schedule 5 – Conditions Applying in Relation to Derogation

Further to comments under Part 7 above, IFI requests that there is a presumption against granting the derogation where ecological status of the receiving bodies is less than good. Where nitrogen and phosphorous are exceeding statutory thresholds and guidelines, nutrient application should be reduced in proportion to the nitrogen and phosphorous surplus in the catchment areas of the receiving waters. Nutrient budgeting must be applied to ensure that nutrient levels in receiving waters do not exceed thresholds for good ecological status.

Nutrient Management Plans or fertilisation Plans such as those required under item 3 must be subject to the provisions of CJEU Rulings C-293/17 and C-294/17 and be subject to the Appropriate Assessment within the zone of influence of designated Natura 2000 sites.

Moreover, the 30km threshold for the stocking rate limit of 170kg per hectare in item 1(a) of Schedule 5 requires greater oversight and must be strictly enforced.

Conclusion

Inland Fisheries Ireland is grateful for the opportunity to have these views considered as part of the evaluation of the Nitrates Directive. Should you require clarification on any of the above or require a consultation meeting please contact Inland Fisheries Ireland on 01 8422600, in writing at the address below, or by email at environmentalplanning@fisheriesireland.ie.

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