

POLICY NOTE

THE DESIGNATION OF NITRATE VULNERABLE ZONES (SCOTLAND) REGULATIONS 2015

SSI 2015/376

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to the negative procedure.

Policy objectives

Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources is designed to reduce the losses of nitrate (NO₃) from agricultural sources and thus help safeguard the water environment. The threshold of 50mg NO₃/l is the World Health Organisation standard for nitrate in drinking water, and is also the standard under the Drinking Water Directive. Directive 91/676/EEC plays an important part in achieving these standards.

Article 3(1) of the Directive requires Member States to identify groundwater bodies impacted by nitrates and under Article 3(2) they are required to designate as vulnerable zones all known areas of land which drain into those waters and which contribute to pollution. Under Article 3(4) they are required to carry out a review of the designation of vulnerable zones at least every 4 years to assess the situation and take appropriate action.

Those farming within a nitrate vulnerable zone are required to comply with the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008.

In 2002/3 four Nitrate Vulnerable Zones (NVZ), covering 14.2% of Scotland, were designated:

- Moray/Aberdeenshire/Banff and Buchan,
- Strathmore/Fife,
- Lothian and Borders, and
- Lower Nithsdale.

Further reviews were carried out in 2005 and 2009 without change to the designated areas.

The 2013 review, carried out by a panel consisting of membership from Scottish Government, SEPA, NFU Scotland, SNH, and SRUC, used a new methodology. The methodology still followed the requirements of the Directive, but took a more targeted approach to determine the impacts of nitrates at a groundwater body level.

Consultation

The recommendations of the review panel were consulted on in April 2014 and some areas draining to identified groundwater bodies were proposed for de-designation.

There were also 2 areas proposed for designation where nitrate levels failed, or were at risk of failing, to meet the required standard.

During the consultation period the Scottish Government, in association with NFU Scotland and SEPA, held public meetings in the 2 areas proposed for designation. All farmers in these areas were invited to attend the meeting. Questions raised at these meetings were responded to directly through the NFU Scotland and in the consultation summary.

A total of 17 responses to the consultation were received most of which, including the NFU Scotland, supported the new methodology, which has been seen as a step forward in assessing the impact of nitrates on Scotland's water environment.

Revision of NVZs

Over **2200 farm businesses** were fully or partially removed from NVZs on 2 February 2015 by the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2014 ("the 2014 Regulations"), which decreased the NVZ area in Scotland by excluding the areas to be de-designated.

The 2 new areas, which affect **130 farm businesses**, are:

- Finavon groundwater body on the edge of the existing Strathmore/Fife NVZ,
- The Stranraer Lowlands in Dumfries and Galloway.

This instrument, which comes into force on 1 January 2016, revokes the 2014 Regulations, and designates as nitrate vulnerable zones all the areas covered by those Regulations with the addition of the two new areas referred to above. It also provides for a transitional period as regards the application of certain provisions of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008 to those new areas.

The maps of the areas designated as nitrate vulnerable zones will be available for public inspection at the offices of the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ and on the Scottish Government website. Farmers registered on the Rural Payments and Services website will be able to view where the NVZ boundary [lies?] in relation to their farm.

Financial effects

Cabinet Secretary for Rural Affairs Food and the Environment confirms that no Business and Regulatory Impact is necessary as:

- A full RIA for introduction of NVZ Action Programme was carried out in 2003.
- Only 130 farms are to be added to NVZs through new designations.
- During the consultation period public meetings were held where land managers had the opportunity to raise any issues on the designation process. Valid points raised at these meetings were responded to in the consultation summary.
- The Scottish Government, through the Scotland Rural Development Programme funding, is making 100% grants for basic slurry storage available to those land managers who did not bring their storage up to the required standard in previous SRDP rounds. Indications are that there are only a small number of farmers in the new NVZs who are not yet compliant with regard to slurry storage.
- Other key requirements, which include nutrient management plans, are recognised good practice and are at minimal cost to the farmer. Compliance with some of these is

already required under other legislation. i.e Controlled Activities Regulations, Cross Compliance Regulations and Silage Slurry and Agricultural Fuel Oil Regulations.-

- A cost/ benefit analysis for all those farming in NVZs is proposed as part of the agreed recommendations from the Brian Pack Review. This will be carried out in association with the review of the Nitrates Action Programme in 2016.
- There is a 2 year transitional period to allow farmers to achieve compliance with the slurry storage requirement.

Support for farmers

In recognition of the need to comply with slurry spreading closed periods, the new NVZs are 'target' areas with regard to funding for slurry storage in the SRDP. Scottish Government is making available funding of 100% grants for basic slurry storage systems, subject to qualification.

Scottish Government has arranged local workshops for both the new designated areas to ensure farmers are aware of their responsibilities of farming in a NVZ.

Impact assessments

An equality impact assessment was not carried out as there are no equality impact issues, the designation process relates to a geographical area that triggers the designation required by the Nitrates Directive.

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