THE PROPOSED NITRATES ACTION PROGRAMME (NAP) FOR 2019-2022: STAKEHOLDER ENGAGEMENT PAPER

ULSTER FARMERS' UNION RESPONSE

1. INTRODUCTION

The Ulster Farmers' Union (UFU) accepts that the EU Nitrates Directive (91/676/EEC) requires Member States to review and, where necessary revise their action programmes, at least every four years. The UFU therefore accepts that the Northern Ireland 2014 Nitrates Action Programme Regulations must be reviewed.

The UFU also accepts that the Commission Decision (EU) 2015/346 granting a derogation for Northern Ireland expired on 31 December 2018 and must also be renewed and that before a derogation can be granted by the EC, an acceptable action programme must be in place.

Taking into account that the reviews outlined above are required by the EC, the UFU welcomes the opportunity to comment on proposals for a new Nitrates Action Programme 2019-2022. However, the Union has concerns about the proposals outlined by the Department in the stakeholder engagement document.

2. NITRATES DEROGATION

The Nitrates derogation is vital to Northern Ireland farmers and will be more important in the future with the revised N excretion figures for dairy cows. The UFU agrees that concluding discussions and securing a vote at the EU Nitrates Committee before the end of March would provide independent endorsement of the NAP and the derogation and certainty to farmers. As the derogation is based on a scientific case and requires additional requirements for farmers operating under a derogation, the UFU is confident that the derogation has no detrimental impact on the NI environment.

3. SUMMARY OF THE REVIEW

Disappointingly, unlike previous consultations, the full review has not been made available during the stakeholder engagement to allow full consideration of the information held by DAERA. Also there is no inclusion of a Regulatory Impact Assessment (RIA) and this is particularly relevant given that a number of the proposed measures could add significant costs to farm businesses. This has limited the ability of the Ulster Farmers' Union to constructively engage on this topic. However, the UFU generally welcome the findings of the review of the current Action Programme that have been summarised in the stakeholder document and notes the positive long-term trends in terms of water quality. We have

consistently stated that these improvements in water quality should be conveyed to farmers as many are unaware of this.

The UFU stated in our response to the 2015-2018 NAP consultation that the reduction in chemical fertiliser usage was welcome but the current usage figures may be unsustainable in the long term and therefore the amount of chemical phosphorus used across NI may increase in the future. This appears to be the case.

It is positive to note that compliance with the various measures is 'generally good' and this again shows the benefit of the guidance and training that continues to be provided in this area. It is also positive to note that derogation compliance has been 'very good'. Continued advisory support is needed and if the proposed changes are brought into effect a communications programme will be required to ensure farmers are fully informed about these.

The UFU welcomes the ongoing research programme and in particular the catchment work.

4. RECOMMENDATIONS OF THE REVIEW

The UFU has noted the key recommendations of the internal review and welcome the commitment by DAERA to apply to the EC to renew the Nitrates Directive derogation and to promote this to the industry. As outlined above the derogation is extremely important to many intensive grassland farmers. The Union would agree that the monitoring and research programme must continue to be supported and funded during the next NAP period. Stakeholder engagement is vital in the process and will be particularly important as the next Guidance booklet and associated documents are developed.

The UFU generally feels that the current Nitrates Action Programme is delivering and therefore there is no need for this to be changed going forward. The Union's views on the proposed changes are outlined in the following sections of this response.

5. PROPOSED CHANGES TO NAP FOR 2019-2022

The UFU are opposed to the DAERA proposals to amend the current NAP and therefore rejects most of the revisions to the regulations in the stakeholder document as outlined below. It is also particularly disappointing that most of the proposed changes that will detrimentally impact on the industry have been developed by the Department here and do not appear to be required by the EC.

Despite the Sustainable Agricultural Land Management Strategy making a number of recommendations on how to improve water quality and delivering a sustainable agricultural sector, these recommendations have largely been ignored in this document.

The additional proposals will bring additional measures into cross-compliance for farmers to be inspected against, and therefore bring an increased risk of penalty.

7.1 Water Protection: intercepting / breaking nutrient pathways

7.1 (1) Further restrictions on slurry applications in February and October for all livestock farms. **OPPOSE**

The UFU have consistently taken the position that farming by calendar dates does not work. As technology develops and allows more precision farming, DAERA must revisit the current closed period. The 2018/19 winter has been a classic example where there has been grass growth due to milder temperatures and rainfall has been lower than average resulting in minimal risk to the waterways. More flexibility is needed and a move towards spreading when soil and weather conditions are appropriate regardless of the date.

(i) Increase the buffer zone from 10m to 15m of any waterways and from 20m to 30m for lakes **OPPOSE**

The UFU would have concerns over the increase in buffer zone widths during the months of October and February. This will results in large swathes of land lacking nutrients. It would be a particular concern in February where those aiming to make early silage could be forced to use more chemical fertiliser on the buffer zones to ensure grass is receiving adequate nutrients. This goes against the principle of using organic manures more efficiently.

(ii) *Reduce the maximum slurry application rate from 50m3 to 30m3 per ha*

The UFU can understand why this proposal has been included and can agree with the sentiment. However applications in February are crucial to silage production and any reduction in limit may require more chemical fertiliser to be used.

7.1 (2) From 1 January 2020, supplementary feeding sites to be situated a minimum of 20m from a waterway. ***OPPOSE***

The UFU believe that this is already adequately covered within cross-compliance GAEC measures. The main issue to be addressed here is soil erosion however GAEC 5: 'Minimum land management reflecting site specific conditions to limit erosion' already provides guidance and compliance standards on this issue. The DAERA documents clearly outlines concerns around soil erosion and highlights how this can diminish water quality.

One of the verifiable standards within GAEC 5 requires inspectors to check for 'Evidence of supplementary feeding sites on semi-natural habitats, within 10m of an archaeological site; or 10m from waterways; or 50m from boreholes or wells; or 250m from boreholes used for public water supply.' This clearly shows that this standard is already in place and has been

for a number of years. It does not make sense to have additional rules in place in a different piece of legislation that is also part of cross-compliance and confusing the issue. Farmers and advisers when seeking advice on the location of supplementary feeding sites know to get this from the GAEC standards. The suggestion in the consultation document that this is a 'new' measure for NI is concerning in that it suggests DAERA are not aware of their own guidance elsewhere.

It appears that DAERA have simply copied this aspect from the Nitrates Action Programme for the Republic of Ireland however, the ROI does not have as detailed guidance and verifiable standards on supplementary feeding sites as part of their GAEC measures hence the need for inclusion in their NAP. This is not the case in NI and therefore it is inappropriate to include this within the NAP and have this element potentially inspected twice by the DAERA inspectors who consider compliance with GAEC, and then by NIEA inspectors who inspect on the NAP. This also leaves the potential for conflicting information and confusion for the farmer as well as the potential for being penalised twice for the same breach. DAERA would be better placed to focus resources on improving the guidance, awareness and training around suitable sites for supplementary feeding sites that will ultimately help improve water quality rather than creating additional rules to penalise farmers.

7.1 (3) From 1 January 2022, livestock drinking points to be situated a minimum of 10m from a waterway where there is a significant risk of water pollution arising from their use. **STRONGLY OPPOSE**

The UFU believe that this is again adequately covered within cross-compliance GAEC measures. The consultation document focuses on concerns about animals congregating close to waterways, and the potential for poaching however, GAEC 5 as outlined above clearly requires farmers to avoid poaching and thus the potential for soil erosion and failure to do so is already considered a breach of cross compliance. UFU members do not believe that erosion from drinkers is a significant issue yet the proposal has the potential to result in huge costs and practical difficulties to farmers with limited evidence of how this could improve water quality across NI.

As the definition of a waterway is so wide ranging, this proposal if interpreted in the strictest sense (which we believe would be the case by some inspectors), could be extremely restrictive and costly to farmers. There are many fields in Northern Ireland that are surrounded on all sides by sheughs or watercourses leaving no option but to have a drinker beside a waterway. Another factor is the availability and ability to source a water supply in some fields limiting options for the location of drinkers.

The movement of drinkers to comply with this proposal would result in the disturbance of soils and in some areas due to various designations this may not be permitted. Drinker location is also linked to shelter.

It is interesting that DAERA propose to allow pasture pumps to remain close to waterways as they are unable to pump water more than 10m. This method has been promoted by DAERA through various agri-environment schemes hence the reasoning to exempt it as there is unlikely to be any difference between how livestock congregate around a pasture pump versus a standard drinker.

The UFU is concerned about the interpretation of 'where there is significant risk'. This grey area leaves farmers vulnerable to over-zealous NIEA inspectors who may take a very strict interpretation of this proposed rule.

There are also concerns about possible future controls to prevent cattle from accessing waterways. In many parts of NI this is the only suitable source of drinking water, particularly in hill areas. The cost of installing drinkers in more remote locations could be excessive and also there are concerns around whether NI Water could cope with increased demand if more farmers were to move to using mains water. Water pressure from mains in some areas won't provide the necessary water supply- particularly on hill farms. The use of mains water is again an additional cost to a farm business.

While the UFU accept that there can be environmental issues with large numbers of animals drinking from waterways, the UFU believes the best way to deal with this is on a catchment basis. Using this approach, high-risk areas can be clearly identified and farmers can work with others to find a suitable, practical and cost-effective alternative supply of drinking water for stock, using agri-environment and other schemes to help to fund this.

7.2 Phosphorus Reduction and Efficiency

7.2 (1) Voluntary declaration of phosphorus content in animal feeds to be provided to farmers by all animal livestock feed supply companies. ***NEUTRAL***

The UFU accept that this will help ensure that there is more focus on feed phosphorus and urges DAERA to work with NIGTA and the industry to explore this measure further. There is concern that moves towards lower P feeds could result in additional costs for farmers and it is important that this measure is considered carefully to ensure there are no perverse outcomes. There also needs to be consideration of those farmers who home mix. More information is needed on how this would be regulated and checked by inspectors. Animal welfare must remain at the forefront of any discussions.

7.2 (2) Include regulations on chemical P fertiliser in cross compliance requirements
OPPOSE

Further controls within cross compliance result in more opportunities for farmers to be breached and penalties applied. The basic farm payment makes up a significant proportion of farm incomes in Northern Ireland, particular on beef and sheep farms, therefore any proposal which could result in a percentage of a payment being removed from a farmer raises concerns. However, the UFU accept that the actual requirements for farmers have not changed.

If there are farms that continue to use chemical P unnecessarily, it is vital that DAERA, NIEA and the industry focus on training and education to change behaviours. The fact that farmers continue to use chemical P at a cost to their businesses and in the absence of soil analysis has been a continual concern. This subject was discussed at length in the Sustainable Agricultural Land Management Strategy (SALMS) and a number of recommendations made on how this issue can be addressed.

As outlined in the Executive Summary of the SALMS "We want to see changes in how government regulates and advises farmers on the environment. Too many farmers associate the environment with regulation and penalties leading to a culture of fear. We want farmers to recognise that so much of what is good for the environment is also good for farm businesses and that the environment can be a profit centre and not just a cost centre. We strongly believe that government should take an "advocacy first" approach to improving environmental management on farms. Providing advice and guidance to farmers on how to correct environmental issues should be the initial priority with regulation and enforcement undertaken only where they are needed."

The SALMS makes a number of recommendations on soil testing, support, training, decision support tools etc which would address the issues around chemical P. The UFU supports this approach rather than introducing further regulations.

It is important that any training delivered to farmers is not a one off; farmers should be offered continual training on soil analysis and nutrient management.

7.2 (3) From 1 January 2020, Fertilisation Plan will be required for any farms using Chemical P fertiliser, P rich manure and anaerobic digestate. **OPPOSE**

The UFU is concerned that the additional paperwork required by this proposal, will result in more bureaucracy for farmers and there is no evidence that this would deliver improvements in water quality.

The requirements for a Fertilisation Plan are over the top and will do little to improve the phosphorus situation. The direct lift of this requirement from derogation farms has resulted in DAERA not fully considering the implications of this proposal. The rationale within the consultation document focuses on grassland farmers but does not take into account the many farmers who use chemical P etc to fertilise crops responsibly in other

sectors who have detailed records to prove their need already in place on farm. Vegetable, cereal and apple/fruit growers etc will already be keeping detailed records on farm and all will generally have a P requirement yet DAERA are punishing their efficiencies by requiring additional bureaucracy on top of what they are already providing.

As it is a copy from the derogation requirements, a Fertilisation Plan goes beyond nutrient management and requires farms to complete a plan on other aspects of their business. These records such as storage requirements are required as part of the inspection process therefore there is no need for these to be duplicated for non-derogated farms. This is a pointless exercise and could result in farms being penalised unnecessarily as well as additional bureaucracy for farmers.

DAERA propose that there is a need to demonstrate an insufficiency of 'on-farm' manure-P resources but do not take into account that due to other regulations this may not be able to be used. For example, the 170kgN/ha/year restriction will prevent many livestock farms from using poultry manure which originates on their own farm. There are many examples where this is exported and then the farmer is forced to purchase chemical P to satisfy crop demands. Vegetable farmers are often required to comply with additional retailer standards, which can prevent them from using organic manures on their crops.

From the document DAERA suggest that their main concerns are with beef and sheep farms yet evidence suggests these are the farms that are more likely to require assistance with the interpretation of soil analysis and more training around nutrient management. The soil testing programme that has started and implements the recommendations of the Sustainable Agricultural Land Management Strategy, is the appropriate way of delivering real change. This programme should ultimately deliver water quality improvements. Lumbering additional bureaucracy on a sector that is already struggling is unlikely to achieve much in terms of environmental improvements.

The UFU is extremely concerned that this requirement will result in many farmers who have previously imported P rich manures and digestate now refusing to accept these. It has been a battle over the last number of years to ensure that farmers importing organic manures provide their Farm Business ID to the exporter to allow them to complete their export farm returns and many importers have refused to give the required details for fear of paperwork errors, inspection and penalties. This requirement to provide a Fertilisation Plan will result in more complexity and confusion and will further restrict the redistribution of manures. One of the recommendations of the Sustainable Agricultural Land Management Strategy (recommendation 2g) outlines the need to 'simplify the administrative burden of moving slurries and manures between farms to ensure that it is as straightforward as possible'. These additional requirements go against this recommendation.

Large farms licensed under IPPC are already required to keep more detailed records on manure/litter movements. This would take into account many of the farms which produce the P rich manures. This should be sufficient at this time and would allow the soil testing and knowledge transfer work to continue to be delivered and improve the understand of all farmers before more heavy handed regulations are imposed that may further restrict the redistribution of nutrients.

For extensively managed grassland (i.e. less that 60kgN/ha/year of chemical N fertiliser applied and with manure N loadings less than 120 kgN/ha/year) a Phosphorus index of 2- (Olsen P) is proposed to meet crop requirement, reflecting grass offtake.

This is complex and difficult for farmers to understand. There is also concern that this is being imposed before the AFBI field trials to consider this recommendation have been concluded. The UFU are concerned that extensive grassland will be disadvantaged by this proposal as it could in the future limit production.

Account also needs to be taken of those farms who have a low chemical N usage such as those using clover/legumes as a source of N but may not be being managed extensively. Organic farms also will struggle with this definition. Farms with a manure N loading of less than 120kgN/ha/year should not be considered extensive, the reality is much more complex than this e.g. there are many farms that intensively manage grassland but also have hill areas as part of this business, which will bring their average N loading and chemical N down. Other farmers who use slurry enhancers to maximise the nutrients in their slurry may also operate with low levels of chemical fertiliser yet grass offtake would be high.

7.3 Nitrogen Efficiency

7.3 (1) *Mandatory use of low emissions slurry spreading (LESSE) equipment*

STRONGLY OPPOSE

The UFU is opposed to the mandatory use of LESSE for digestate, contractors and farms with more than 100 livestock units / 10,000kg N (pigs). The timeline proposed is not feasible and completely unrealistic and there would be a significant cost to farms should this be imposed in NI. The UFU is extremely concerned that DAERA and NIEA are trying to impose a measure that is largely about reduction ammonia emissions into the Nitrates Action Programme as it is easier for them to do this in the absence of a Minister rather than waiting until the consultation on the Ammonia Action Plan for NI. This is unacceptable.

Farmers have been moving towards LESSE over the last number of years and it is positive that a survey of slurry spreading practices in NI by AFBI in 2013 reported that an estimated 33% of slurry was spread by LESSE improving nutrient efficiencies. These changes have

been driven by the various funding schemes that have assisted farmers in purchasing the LESSE.

The majority of farms in Northern Ireland own their own slurry tanker, which offers them the flexibility to spread slurry when conditions are most suitable minimising environmental risk and maximising nutrient efficiency. While there has been an increase in the number of dribble bar or trailing shoe tankers on farms, these are costly and the majority of farmers are not in a position to purchase new LESSE. In addition, many farms would not have a tractor large enough to operate LESSE. Even with the current FBIS support for low emission spreading it will be still unviable for most farm businesses in Northern Ireland.

The UFU are particularly concerned that DAERA are implying that 100 Livestock Units is a large farm. Many farms in around 100 LU are considered part time farms. This threshold is too low and it is not acceptable to assume that small farmers are in the position to move to LESSE. CAFRE highlighted during the implementation of the METS scheme that the use of LESSE results in a 25% increase in contractor spreading costs and a 10% reduction in work-rate. While there is potential for savings in terms of chemical N fertiliser it was estimated by CAFRE that the farm scale to justify LESSE was around 300 dairy cows (without grant aid). This is much higher than the 100 Livestock Units threshold proposed by DAERA.

Many small dairy and beef farms run a profitable business as they can carry out their own slurry spreading using their own equipment at the most suitable times. Imposing additional costs plus the likelihood that contractors are unlikely to prioritise smaller farms could threaten the viability and future of these smaller businesses. There will also be a reduction in nutrient efficiency as the ability to choose the most suitable times for spreading will be removed.

The 10,000 kg N threshold for pig farms is completely inappropriate. The UFU would question DAERA's figures for the number of farms likely to be impacted by this and suggests it is much higher as it would bring in birth to bacon farms with more than around 130 sows. This proposal will bring in the majority of commercial pig farms in Northern Ireland, this is unacceptable and many are not in the position to move to LESSE. Many pig farmers own small amounts of land with the majority of their slurry exported; therefore, it would be uneconomical to purchase LESSE for their own use. As outlined above contractors are unlikely to want to spread on these small areas of land. In addition, many pig farms have a large number of small tanks that need to be regularly emptied during the spreading season and it would be unlikely that a contractor would be available or interested in this spreading.

A large proportion of the pig herd and therefore pig slurry is covered by IPPC regulations. IPPC rules require pig farmers to spread in a way that reduces emissions therefore the pig industry is already making a substantial contribution to this aspect. The UFU estimate that

around 18,000 sows are regulated under IPPC which is approximately 40% of the breeding herd.

It is also important to note that there are farms with over 100 LU but produce limited amounts of slurry due to extended grazing systems or as they straw bed animals. Therefore for these farms, LESSE would not be economically feasible and due to the small amounts of slurry produced, it would be difficult to get a contractor to do this work.

Also of concern will be the requirement for farmers to carry out an additional calculation to see if they meet the proposed livestock unit threshold adding to the bureaucratic burden of these regulations.

Despite the benefits of LESSE, there also many practical concerns with the usage of LESSE. This equipment is more expensive to purchase and to use than splashplate tankers. The reliability of LESSE is questionable and is dependent on slurry composition and quality. At times famers and contractors report that it has been difficult to obtain replacement parts resulting in long periods of downtime for LESSE again reducing the reliability of this equipment. Splashplates will be necessary on most farms for some spreading at certain times of the year and for emptying the last few loads of a tank which is thicker in consistency etc. Farmers have found that spreading with LESSE in dry and warmer months of the year results in the slurry staying in the lines in which it was spread and contaminating silage crops. This is an animal health and welfare concern and a reason why many farmers do not use LESSE between silage cuts. While this can be managed on farm, it is exacerbated when farmers are relying on contractors as farmers are dependent on the contractors schedule rather than spreading at the most appropriate times. This is a major concern.

The LESSE are heavier machines and soil compaction is a real concern and, while umbilical systems are preferable these may not be practical to use in some locations. Even the operation of umbilical systems with heavier tractors can cause compaction issues. A contractor is unlikely to set up an umbilical system to spread on a small area of land again impacting on the smaller farmers. Larger tractors are required to haul LESSE and therefore a move away from splashplates not only requires the replacement of a tanker but also a tractor.

There are locations which are unsuitable for LESSE and while there is a proposal to allow exemptions, there must be a practical approach to ensure these are granted in a timely and simple manner. Many fields in NI will be unsuitable for LESSE as they are small in size or due to the slope. We would have concern about the advice to spread across slopes from a health and safety perspective this goes against all the advice given to farmers over the years. Access to yards could restrict the ability to use LESSE on some farms, and narrow laneways to fields may be unsuitable for the larger tankers and distance could make them unsuitable for umbilical systems. Farms split by roads again may be unable to use umbilical equipment.

The definition of a contractor is totally unsuitable. As it is written this could include family members or employees as contractors as they are not the direct support claimants. If this proposal was to be introduced, we are aware of some large contractors who have already stated that they will not invest in LESSE mainly due to slow operation, costs, difficulties getting farmers to pay for the higher cost of this work and the general practicalities of operating this machinery.

Farmers have also highlighted the difficulty in getting contractors to do slurry spreading work at peak times e.g. silage time and therefore in order to get nutrients applied at the most appropriate time it is necessary to do this work yourself however a LESSE could not be justified. It is too simplistic to suggest the contractors would increase capacity to cope with the potential increased demand as contractors are already facing labour shortages. The seasonal nature of the work with anti-social hours often makes it difficult to attract employees. Spreading would be dictated by the contractors schedule as opposed to the optimum time for nutrients and the decisions around spreading would be taken out of the farmer's hands.

Any moves to drive farmers towards LESSE must be accompanied by a suitable support package. The UFU has welcomed the various funding schemes that have assisted farmers in purchasing LESSE to date and would like to see such schemes extended and with a more attractive support rate.

7.3 (2) From 1 January 2020, prohibit the use of chemical urea fertilisers unless they contain inhibitors ***OPPOSE***

This measure relates to ammonia reductions and should not be part of the Nitrates Action Programme consultation. This is another example of DAERA trying to impose ammonia related measures by the back door and is not acceptable. There is a proposal to consult on an Ammonia Action Plan later this year and this measure should be considered as part of those discussions. Urea use in Northern Ireland is low therefore the imposition of this proposal will have limited benefits in terms of ammonia reduction.

While usage of urea in Northern Ireland is relatively low, it is important and the cheapest source of chemical nitrogen for many farmers. Access to commodity urea keeps the UK fertiliser market in step with the global nitrogen fertiliser market and therefore by having access to commodity urea from the global market, there is a greater chance that the UK fertiliser prices remain competitive. The requirement to use an inhibitor puts a barrier between the global market and NI agriculture therefore will restrict competition in the marketplace. Fertiliser is a significant cost on farms and any increases will increase production costs and reduce competitiveness. The ammonia losses from urea are dependent on spreading conditions. The assumptions behind the emission factor for urea fertiliser we believe does not take into account the mitigation efforts put in place by farmers to protect

urea such as spreading conditions etc. The majority of urea is spread in the early part of the year when conditions are most suitable and losses will be minimal.

The study outlined in the consultation document referring to the benefits of urea + NBPT is based on grassland experiments. The UFU would like to see similar evidence for arable and other crops where urea is more commonly used. In addition there are farmers who use urea in liquid form and the UFU would like to see more information and research on the costs and yield implications for using inhibitors with this form of urea. Urea is also used in orchards and it is important to ensure that there is a suitable cost effective alternative if this ban is to be imposed.

7.3 (3) Revised nitrogen excretion rate for cattle, with rates for dairy cows based on different milk yields. To apply from 1 January 2020. **STRONGLY OPPOSE**

The revised figures will result in additional costs to many dairy farmers as they struggle to meet the 170 kgN/ha/year limit. These farmers will be forced to reduce stock numbers, find additional land, export more slurry or apply for a derogation if they can meet the conditions. All of these options, apart from the derogation, will result in additional costs to the farm at a time when there is greatest uncertainty in the industry. It does highlight the importance of securing a derogation for Northern Ireland as more farms in NI will need this option if these revised N excretion rates are introduced.

The 170kgN/ha/year limit set out in the EU Nitrates Directive has always concerned the UFU. The Union would query the science behind this figure and would question the appropriateness for Northern Ireland. The UFU believe that it results in inefficiencies in nutrient management particularly on more intensive farms as it prevents them from using their own slurry. Post Brexit, there may be opportunities to reconsider a more appropriate means of driving nutrient efficiencies and delivering environmental improvements on farm and we would welcome the opportunity to discuss this further using farm case studies.

The UFU would challenge the assumptions used to calculate the revised rates and therefore query the need to revise the current rate for a dairy cow. While the consultation document recognises that crude protein contents in dairy cattle diets have decreased, it also states that feed intake is higher. UFU members would argue that feed intake is also lower and production efficiencies have considerably improved.

The UFU is opposed to the banding of milk yields and urge DAERA to implement one figure for Northern Ireland as at present. Adopting a banded system will result in more paperwork for farmers as each year they will have to calculate average milk yields and work out which figure to use for their farm. This adds to the bureaucratic burden of these regulations, introduces another level of complexity and therefore increases the potential for non-compliance and penalties. DAERA and NIEA are unable to request milk yield data as this is commercially sensitive information.

Low output farms have always had the option of using a lower figure as this is permitted within the existing regulations (regulation 9 (5)). NIEA has been asked in the past to outline the information they need to allow farmers to take up this option but have never produced the required guidance which is generally why farmers did not deviate from the standard figure.

The UFU welcomes the revised figures for other cattle which more accurately reflects excretion rates for N and P in NI. The UFU also notes changes to other figures in the schedule and these are welcomed.

7.3 (4) Proposed development and introduction of a licencing system for slurry spreading contractors during NAP 2019 – 2022 **OPPOSE**

These measures requires further discussion with the contracting sector in Northern Ireland. The UFU recognises there are some issues with some contractors but the majority act responsibly and operate within the regulations. Any move towards licensing contractors could result in higher costs for farmers. There has been some discussion about a Code of Practice for contractors or an approach similar to the Voluntary Initiative for Plant Protection Products.

7.4 Slurry and Manure Storage

7.4(1) From 1 January 2020, new above ground stores and lagoons to be covered.
STRONGLY OPPOSE

7.4(2) From 1 January 2022, existing above ground slurry stores to be fitted with a floating of fixed cover. **STRONGLY OPPOSE**

These measures relate to ammonia reductions and should not be part of the Nitrates Action Programme consultation. This is another example of DAERA trying to impose ammonia related measures by the back door and is not acceptable. There is a proposal to consult on an Ammonia Action Plan later this year and this measure should be considered in those discussions. Covering tanks is a major change for Northern Ireland farmers and more time for proper consultation on this aspect is required to ensure the most appropriate measures are introduced to tackle NI's environmental issues as there may be more appropriate means of tackling this issue.

The UFU feels that it is totally unacceptable that DAERA are even considering this proposal and yet include no figures on the costs to the industry. It is widely agreed that the cost of installing covers on tanks either on new tanks or on existing tanks is significant with very limited benefits. The saving in tank space due to the reduction in rainwater will not offset the installation costs. Allowing the formation of a crust can result in reduction of emissions by up to 50% and therefore the UFU questions the real benefit of covering tanks. Rainwater

entering tanks helps slurry consistency and particularly if LESSE is used, thinner slurry is necessary. Also more dilute slurry has lower ammonia emissions therefore covering tanks may not be as beneficial for emissions as suggested.

Covering existing stores present even more challenges than new tanks and must be removed from the proposed regulations. Many existing stores will not be structurally fit to hold a fixed cover and floating covers present a number of difficulties and more importantly safety issues. The small proportion of slurry stored in outdoor stores in NI, will mean that covering existing stores potentially results in only limited ammonia mitigation. The AFBI ammonia scenario output work estimates that if all existing stores were covered this would only result in approximately 1% reductions in emissions in NI.

While there are a number of options for floating covers there are concerns around all of these. Farmers who operate floating covers have highlighted a number of practical and safety issues and these are outlined below.

Impermeable floating covers offer no savings in terms of reducing rainwater entry to tanks and therefore are just a cost to farms. The clay balls which can be used are known to block pumps and cause issues when mixing and have to be replaced periodically.

There is evidence of the plastic floating covers sinking in places and there are requirements to pump rainwater off the surface. This presents a number of practical challenges and the UFU would have serious concerns around safety. There is evidence of farmers entering tanks to fix problems which is a major safety concern. There are also issues with mixing tanks with covers, while there may be a mixing hatch on some of the plastic covers, this does not allow for a change in the mixing position. Mixing from the top of above ground stores is necessary, as the internal pumps do not offer sufficient mixing of the slurry. Many farmers with above ground stores operate pumps that can be moved around the top of the tank to allow efficient mixing this would not be possible with a cover.

The 'tented' covers present numerous challenges and have proved difficult to manage. Experience on farm has seen damage to tanks following strong winds increasing the risk of spillages/pollution. Also there is evidence of covers collapsing following snow. This has resulted in the need for cranes to be hired in to remove the covers safely at a cost. Snow lying on covers has also caused additional strain on the panels of above ground stores again resulting in structural damage.

The build up of gas under covers is a safety concern. Above ground stores that use jet pumps to move slurry are also unsuitable for covering.

Covering existing lagoons present even more challenges due to the large surface area and will depend on how they are constructed. Some lagoons mix from several points and empty from various points and therefore this would be difficult if a cover is installed.

There also needs to be more research on the release of ammonia once mixing starts. While the UFU accepts a cover will reduce emissions there needs to be a full analysis carried out on what happens when the tank is mixed. In addition the amount of water going into above ground stores from rainfall and also from yard runoff will result in slurry being more dilute than the standard figures would suggest. This would result in ammonia emissions potentially being lower than the current estimates and therefore the benefits in terms of nutrient efficiency from covering tanks are probably over estimated.

7.4 (3) From 1 January 2020, new slurry tanks to be sited 50m from waterways. No overflow pipe allowed except to a storage tank. Flexibility on the 50m requirement based on on-site circumstances will be included. **OPPOSE**

The UFU is opposed to this measure. There are concerns that for some farmers a strict interpretation of this clause could result in no suitable sites for locating tanks on their farms. Many farms will be limited in terms of the siting of tanks by other buildings. Slurry tanks need to be located close to housing to avoid excessive costs in moving slurry, existing housing may already be sited within 50m of waterways leaving limited options for tanks if this was imposed. Even more concerning is that this does not only apply to the tank itself but also to the channels. This is totally unfeasible and impractical and must be removed from the regulations.

The UFU is particularly concerned that this is proposed for below ground stores where risks are minimal. The UFU are not aware of any cases where a below ground store has caused pollution due to tank failure if it was built to the required legal standards.

The UFU accept that there may be a pollution risk with above ground stores however when maintained properly this should be minimal. Again options for sites may be limited due to the farm location. There is a need for a practical approach that minimises risk. The suggested flexibility must be practical and workable and not impose excessive cost.

The UFU would encourage DAERA and NIEA to work on more information and advice for farmers on the checking and maintenance of stores. This is something the UFU have been highlighting for a number of years but limited action has been taken by NIEA/DAERA to get these messages out to farmers. There also needs to be increased messaging and advice around the movement/pumping of slurry between tanks to reduce risks and pollution potential.

7.5 Controls on Anaerobic Digestion (AD) Plants and Digestate

7.5 (1) Controls on farms using AD as a fertiliser

As outlined above, ammonia measures should not be part of this proposed Nitrates Action Programme.

The UFU proposes that controls on importing digestate needs to be comparable to importing organic manures. There are some concerns that the additional controls could put off farmers from receiving digestate. This will reduce the redistribution of nutrients and will increase bureaucracy for all concerned. Many farmers take digestate to thin thick slurry in the early Spring/Summer to improve ease of spreading and to increase the nutrient value of their slurry.

The UFU would challenge the requirement to cover the AD fibre when stored in the field yet no explanation is given for this proposal. There is evidence to suggest that when covered, emissions are reduced however, these are released once the cover is removed therefore the process is pointless. This will also increase the use of farm plastics which contradicts all Government policy at present as well as adding addition costs in terms of the plastic covers but also disposal costs.

The UFU are concerned that only trailing shoes are being permitted to spreading digestate. Trailing shoe tankers present more problems and there are fewer used in NI therefore limiting the farms that would be able to accept digestate. Restricting spreading to using trailing shoe only is not feasible. As outlined in the sections above, low emissions spreading presents many practical challenges and therefore it will be difficult to ensure spreading digestate is done with LESSE in such a short timeframe (1 Jan 2020).

It is suggested that the format of the digestate analysis is standardised to make it easier for the importer to interpret and ascertain the nutrient content.

7.5 (1) Controls on AD Plant Operators

The UFU supports the introduction of requirements similar to those required of farmers for those operating AD plants however anything beyond this causes concern.

The requirement to submit monthly returns on exports to NIEA seems excessive.

7.6 Manure Export Records

The UFU are concerned that DAERA are considering enhancing the on-line system to include a facility for the importing farmer to register receipt of manure. There are many farmers who are reluctant to give their details to farmers exporting manure for fear of inspection. This has become even more of an issue since the requirement to submit export forms was introduce and farmers receiving manures often refuse to or are reluctant to disclose their Farm Business ID. The UFU has been actively trying to reassure farmers importing manures that this is acceptable, to add further controls and requirement to register receipt would only increase the fear of importing manures and redistributing nutrients.

As outlined earlier, this goes against recommendation 2g of the Sustainable Agricultural Land Management Strategy, which outlines the need to 'simplify the administrative burden of moving slurries and manures between farms to ensure that it is as straightforward as possible'.

Some farmers send manures to alternative outlets that are not farms and therefore would not be in a position on confirm receipt online.

In addition, requiring farmers to register online receipt could prove impossible in areas where broadband access isn't available and for those farmers who struggle with online services and have to employ an agent for this work.

7.7 New title: Nutrients Action Programme

The UFU accepts this proposal to take account of the inclusion of phosphorus measures however is totally opposed to the proposals to include ammonia measures within these regulations.

6. DRAFT REGULATIONS

Definitions

Slurry contractor: means a person who spreads slurry on an agricultural area who is not claiming direct agricultural payments on that agricultural area.

This definition is unsuitable and would result in farm family members who are not named on the Farm Business ID and employees effectively being classified as contractors. A more suitable definition is needed.

Offences: The UFU propose that additional clauses should be introduced to allow for greater flexibility where there is reasonable excuse. There is current no flexibility to allow for 'reasonable excuse' in circumstances which may result in a farmer being unable to submit export forms by the deadline e.g. farmer illness. Also a farmer may find himself overstocked due to a serious disease outbreak which could result in him having less than the required amount of slurry storage (22 or 26 weeks). There is no flexibility in these circumstances for reasonable excuse and this should be rectified.

7. OTHER ISSUES

There are a number of other issues within the current Nitrates Action Programme which the UFU believe should be re-considered during this review and the necessary amendments made. These are as follows;

- The NIEA must show more flexibility when policing the Nitrates Regulations on farm. It is apparent in cases where an incident has been reported that the assumption taken by the inspectors is that the farmer is guilty of an offence before any investigation has taken place which is not acceptable. A more flexible system needs to be put in place which would allow farmers more opportunity to 'fix' a low or medium severity incident and penalties should only be applied where an incident is ongoing or of high severity. This 'yellow card' approach should be a key focus in any new Agricultural Policy

- The UFU believes that farms that can demonstrate a level of environmental compliance through participation in other schemes such as the various sectoral Farm Quality Assurance Schemes or agri-environment schemes should have a reduced risk of being chosen for inspection. It is also unacceptable that some farms can be selected for both IPPC and Nitrates cross-compliance inspections. IPPC farms are regularly visited and a raft of areas are inspected included all those under the Nitrates Action Programme. It is therefore a waste of Government resources for these IPPC farms to be also selected for Nitrates inspections.

- The UFU wish to highlight that farmers are also inspected against environmental standards through the various Farm Quality Assurance Schemes. For example there are 11,500 members of the Beef and Lamb FQAS and 8700 inspections take place annually with an inspection cycle of 18 months. In addition to checking the yards, silos and tanks, farmers are also required to provide soil testing records if chemical P is used. There are similar requirements for other sectors. There are around 2500 dairy farms operating under Red Tractor and almost all pig and poultry farms are quality assured. There is also a scheme for cereals. There may be additional standards required on farms imposed by the various retailers. All of this results in multiple inspections on farms annually from either industry of Government officials.

- The UFU supports the continued support through the CAFRE advisory service to help farmers understand and meet the various measures. There are a number of messages that need to be delivered to farmers to help compliance and environmental improvements and the recent formation of the CAFRE Sustainable Land Management branch will be particularly important going forward. It is positive that around 3000 farmers were part of the Business Development Groups which offer an important means to get messages to farmers however, it is also vital that farmers outside of BDGs are also targeted with advice and training.

8. CONCLUSIONS

The UFU is opposed to the majority of the proposed changes to the current Nitrates Action Programme for Northern Ireland. Many of the changes proposed in the DAERA

consultation document would have a detrimental effect on local farmers and the entire agri-food sector and are not acceptable. It is totally unacceptable to include ammonia measures within this NAP.

There are mountains of evidence to show catchment-based approaches, working with farmers and other partners in local areas is the best way to achieve results and to target the problem catchments. The Sustainable Agriculture Land Management Strategy has recommended this as a way forward and we strongly encourage DAERA to embrace this method when it comes to tackling water quality and allocate sufficient resources to ensure that it happens rather than adopting a broad brush approach. There is scope to use the Environmental Farming Scheme Group element to assist with this.

The UFU welcomes the constructive engagement that it has had with the Department and NIEA on the previous Action Programmes and it is vital that this continues to ensure the best outcomes for both the industry and the environment.