Cyswllt Amgylchedd Cymru | Wales Environment Link

Welsh Government's Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

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Introduction

Wales Environment Link (WEL) has strongly supported the introduction of the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 because Wales needs to take urgent action to ensure that pollution is controlled at source, before it is too late to recover our river and other ecosystems.

NRW's River Basin Management Plans for Wales highlight "diffuse pollution as a key reason for failure to meet good ecological status in a number of rivers". The 2020 State of Natural Resources Report (SoNaRR) states that:

- 66% of river water bodies fail to achieve good ecological status under the Water Framework Directive (WFD) classification;
- no freshwater ecosystem type achieves a high score for all four resilience attributes;
- three species associated with rivers, white-clawed crayfish, freshwater pearl mussel and southern damselfly - are at risk of extinction in Wales;
- the latest salmon and sea trout stock assessments show a continuing sharp decline; and
- one of the major causes is continued widespread agricultural diffuse pollution, resulting in elevated nutrient (such as nitrogen and phosphorous) and sediment loadings into freshwaters.

Natural Resources Wales recently stated that over 60% of the most protected SAC rivers in Wales exceed phosphate pollution limits – this includes the Rivers Cleddau, Eden, Gwyrfai, Teifi, Tywi, Glaslyn, Dee, Usk and Wye. These rivers support some of Wales' most special wildlife like Atlantic salmon, freshwater pearl mussel, white-clawed crayfish and floating water-plantain.

Agriculture is also a significant source of air pollution in the forms of ammonia and nitrous oxide emissions, leading to significant impacts on public health, the climate and biodiversity.

Previous legislation and good practice guidelines such as the Code of Good Agricultural Practice (CoGAP) have been insufficient to prevent diffuse pollution from farms in Wales. Farm pollution events have occurred for many years and are not improving. In some areas they are increasing as the intensification of agriculture is established in new areas. The new regulations are vitally needed if this trend is to be reversed.

We have answered the Committee's specific questions below, but we have not commented on the process for introducing them, as we understand this may be the subject of judicial review.

Positive aspects of the current all-Wales approach

As the new regulations will have greatest impact on slurry-based systems its impact is most likely to be felt by the c.1600 predominantly dairy farms in Wales (which is also the sector responsible for most pollution incidents). NRW data from its recent dairy project indicates around 50% do not have sufficient storage to manage slurry effectively (measured against the SSAFO 4 months requirement). For these farms, the Welsh Government has indicated funding will be available to help them respond and has committed £35m in 2020 and 2021 to help improve on-farm nutrient management infrastructure and water quality. In some cases what may be required are relatively low-cost solutions to keep clean and dirty water separate e.g. maintain/improve guttering and roofs over existing slurry stores. If a farm does not produce slurry then the regulatory approach will have little impact on them.

WEL members support an all-Wales approach because it is important to regulate activity that could cause pollution, rather than focusing on geographical areas. A pan-Wales approach allows for regulation of activity in all areas and is ready for intensification of the industry moving into new, more sensitive areas, including the impacts of short-term leases for dairy production outside traditional areas. If the regulations were not pan-Wales these new operations would be able to avoid

geographically defined areas of increased regulation. The all-Wales approach places all farmers and contractors on a level playing field. A system with discrete NVZs would establish a competitive imbalance between farmers within the zones and those without. The current approach ensures that there is regulation where needed and allows for future changes within the industry. The phased approach and support grants provided by the Welsh Government should enable necessary improvements.

Various voluntary solutions to the problem, including some schemes from farmer-led groups, have been suggested and tried over the years, but none have had the required impact at scale that has produced significant improvements to pollution. There have been a variety of reasons for this, including lack of investment to implement successful voluntary projects at the required scale and difficulty engaging all farm businesses. The voluntary CoGAP rules (which are Wales-wide) have also not prevented agricultural pollution from contributing to the steady decline of our rivers in the last 10 years, so we are pleased to see some of these rules put on a statutory basis within the regulations. Whilst we are also aware of the contribution of water company pollution, which is being widely discussed at the moment, this should not result in a loss of focus on the impact of agricultural pollution, which is worsening as the industry grows and intensifies. Both types of pollution are unacceptable and both need to be tackled.

Given the difficulty of embedding effective voluntary approaches across Wales over the last decade, WEL members are of the opinion that a Wales-wide regulatory approach is strongly needed, though we remain concerned that the new regulations will not have the desired effect if NRW does not have the resources to properly enforce them.

Alternatives to the current approach

The Afonydd Cymru Water Quality Improvement Project (2019) was delivered in two sub-catchments, one of which is the Ceri, which falls within the Teifi catchment. This project aimed to establish an advisory function within Wales to engage land managers, encourage separation of clean and dirty water, reduce losses of slurry, manure and sediment and reduce the impact of diffuse pollution. Working with

farmers in the sub-catchment afon Ceri (Ceri brook), the project achieved returns on investments within 12 months and farmers were found to be receptive to implementing changes.

However, whilst individual voluntary initiatives have shown potential, the overall position across Wales is of worsening pollution impacts. WEL members believe that the Control of Agricultural Pollution Regulations' provision to require nutrient management planning could drive very significant improvements in both water quality and air quality, and that this is needed to drive forward activity at scale. Activity to tackle pollution needs to be driven by a strong regulatory baseline, but also investment in advice, enforcement and farmer support to bring all farm infrastructure up to a minimum standard.

Using cost estimates from the Afonydd Cymru Water Quality Improvement Project, replicating this project across the entire area of Wales would theoretically cost £8.4 million for one-off on-farm capital works payments matched 1:1 with farmer contributions. In addition, for catchment advisors, a cost based on somewhere in the region of 500 advisors would cost £27 million per annum. This level of investment is worthwhile to tackle the pollution of our rivers.

How the current all-Wales approach could be improved

WEL members are concerned that the Regulations, as they currently stand, do not tackle the issues of phosphate and ammonia pollution as effectively as they could. Whilst they will have some impact through the greater restrictions on slurry and manure storage and spreading, the nutrient management planning process is more focused on nitrates. We are unclear how effective the Regulations will be in reducing phosphates from poultry manure, for example.

WEL members believe that there is simply too much waste product - often spread inappropriately and at the wrong time - for the land to cope with, resulting in excess nitrate, ammonia and phosphate. In the specific case of poultry manure, any checks occurring at the planning stage on the existing, planned or cumulative loads of poultry manure spread on the land are not subject to any monitoring or enforcement. We would like to see the Regulations strengthened in relation to

controlling ammonia and phosphate, but also believe that NRW should set, record and monitor absolute cumulative limits on a holding by holding or catchment basis, against which proposed changes in farm operations or new developments can be assessed.

We suggest that Northern Ireland's Nutrients Action Programme 2019-2022 Regulations captures the key the issues relating to phosphorus and proposes an approach that is equally applicable to Wales. The requirement to prepare and maintain a fertilisation plan, informed by soil analysis applies to all grassland farms using chemical phosphorus fertiliser and organic manures. This contrasts to the current, relatively narrow scope of agricultural phosphorus controls in Wales, which has only very recently featured in planning assessment for some intensive pig and poultry units.

Other key areas where the Regulations could be strengthened are in relation to controlling pesticides and reducing soil erosion. Sedimentation of rivers is a key cause of water quality degradation, yet there is no regulatory framework for controlling soil loss and nor is there sufficient monitoring of the problem to demonstrate where current guidance is failing and where action is needed. We suggest that bringing CoGAP Chapter 4 into the regulatory framework would be helpful in this respect. This chapter covers field and soil husbandry, including rules for maize, which causes soil loss if planted in the wrong locations.

It will also be important for Welsh Government to consider how the regulations, and any changes to the regulations, will fit with the proposed National Minimum Standards that are proposed to be set under the Agriculture (Wales) Bill. The National Minimum Standards are an opportunity to set a clear regulatory baseline for sustainable agriculture, and to fill regulatory gaps.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.

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