

GENERAL COMMENTS

The Forestry Commission, as the Executive's forestry department, welcomes the chance to comment on this consultation paper. This is in addition to comments that we made during the process of developing the consultation.

We recognise that this consultation focuses on agriculture while making some references to forestry – which is appropriate given the generally lower risk posed by forestry. However, by focusing on agriculture we could find that regulations developed with the agricultural sector in mind are applied directly to forestry activities, where they may be inappropriate. We think it sensible to include forestry in the consultation and in subsequent regulations, but maintaining distinct processes between the sectors for characterising impacts and regulating pollution risks will ensure that any regulations are both proportionate and effective for each sector.

We are keen to work with the Executive and SEPA to characterise the risks from forestry, and to develop appropriate regulations and incentives to control forestry diffuse pollution. We would draw your attention to the expertise on forestry and the water environment that we have within our Forest Research branch, as well as to the Forests and Water Guidelines (2003) which would form the basis of our input into this process.

3. QUESTIONS

1. Do you agree that we have accurately identified the water quality issues that need to be addressed? If not, why and what supports your view?

There is a range of different ways in which forestry can lead to diffuse pollution, for example, acidification, sedimentation, pesticide runoff. It would be helpful to be able to characterise the relative importance of each factor for each catchment, because this would enable a proportionate approach to be taken both to regulation and to incentives to tackle the problems.

2. Do you consider there are other problems not identified?

3. What aspects do you consider may require regulation or to be more rigorously controlled using existing powers of enforcement?

4. Do you consider that advice on water pollution risks, within the PEPFAA Code and/or the Forest and Water Guidelines, is effective? If not, what else is required?

With regard to the Forests and Water Guidelines, we think that the advice on water pollution risks is effective. These guidelines have been revised a number of times (latest revision 2003) and are well known and well understood within the sector. We suggest that these guidelines do not need revising or replacing in the near future.

5. Which measures to protect watercourses would you wish to see eligible for financial support under the planned Tier 3 of LMCs?

The forestry measures which should be included within Tier 3 of LMCs include woodland expansion, restocking and stewardship, i.e. those activities covered by the existing Scottish Forestry Grant Scheme. We don't think that there need to be further special forestry-related measures for protecting

watercourses because the existing arrangements are already sufficiently flexible to enable the funding of such works.

6. Do you agree with the idea for self-audit/environmental checklist of the farm's environmental practice?

The self-assessment checklist contained within the Forests and Water Guidelines (page 40) has proved a useful way for foresters to check that their operations are following best practice for the water environment.

7. We think it is important to help farmers/foresters/land managers understand the likelihood of water pollution from their enterprise. What is most likely to be effective?

- **Advice/guidance/training/codes of practice/voluntary initiative etc?**
- **Seminars/farm visits/catchment officers?**
- **Structured Auditing?**

We have found the written advice and guidance contained within our Forests and Water Guidelines to be helpful to the majority of foresters because it enables them to check that they are following the most environmentally sound practices as they carry out forestry operations. As the new regulatory regime is developed we may need to develop training and awareness-raising programmes for farmers and foresters to refresh their knowledge of such guidance and to alert them to the new rules.

Foresters can currently access planting and stewardship grants through the Scottish Forestry Grant Scheme to enhance the water environment within and downstream from their land holding. However, there may need to be further assistance for landowners to help them address catchment-scale issues in a joined up way. Such catchment-scale planning and implementation of management will be particularly important as River Basin Management Plans are developed.

7. Do you agree that farming should be subject to a regulatory structure similar to that already planned for other activities under CAR?

Yes, though as many activities as possible should be covered by GBRs without the need for registration or licences (and their associated costs).

The current consultation proposes using the terminology 'National GBR', 'Targeted GBRs with registration' and 'Licence'. This is potentially confusing, given that the regulatory structure planned for other activities under CAR uses different terminology (GBR, Registration, Licence). It would seem sensible to align the terminologies to make the regulatory structure more comprehensible to those who will be regulated by it.

8. Do you agree that measures should be introduced as early as possible to enable us to meet WFD Targets?

Yes, though it may be best initially to develop a basic level of national regulation (GBRs) and some targeted GBRs if practical, and then to add further targeted GBRs as and when the evidence base becomes available to do this properly. Having a date of 2012 by which the regulations will need to be up and running will keep the second stage of such a two-stage approach on track.

9. Are you content that there should be general binding rules (GBRs) for activities which contain potentially polluting practices?

Yes, though the number of such GBRs should be minimised if at all possible, focusing on activities which pose a risk to the water environment. Minimising the volume of GBRs might be achieved by

cross-referencing GBRs to other guidance, as has been done in Annex A of the consultation where draft GBRs are cross-referenced to the PEPFAA code, GAEC etc. In the context of forestry, we suggest that most of the background information for National GBRs is contained within the Forests and Water Guidelines and that this publication should be the basis for developing forestry-related GBRs.

10. Do you agree that specific problems in "at risk" catchments should be dealt with through targeted GBRs to be developed in consultation with the industry?

Yes. However, this process should not be rushed in instances where we do not yet have the evidence base to develop well-targeted GBRs. Further characterisation of the pressures on the water environment resulting from forestry should be carried out so that we have good evidence to demonstrate that these new regulations are needed. See answer to question 8 above.

11. Do you agree with the proposed approach of combining regulations (GBRs) with the development of guidance, support and the promotion of voluntary action?

Yes, but the three-pronged approach set out in the consultation (regulations, guidance and voluntary action, and support) needs to be packaged as a balanced approach. The first two of these tend to be seen as 'sticks' by land managers and need to be offset by appropriate 'carrots' (see question 12 below). This is particularly the case because guidance documents (e.g. PEPFAA code, Forests and Water Guidelines) are not only used to promote best practice but also set out minimum standards for receiving grant payments.

12. Do you agree that the proposed GBRs and a suite of supportive measures is the right approach? What should they include?

Yes. However, the consultation gives the impression that the supportive measures consist merely of 'business as usual'. There needs to be more emphasis given to the supportive measures side of the 'stick and carrot' approach. Presenting the new regulations alongside the accompanying incentive package would be helpful. Furthermore, there may need to be additional assistance for landowners to help them address catchment-scale issues in a joined up way.

13. How might the proposed approach best be developed?

FCS and SEPA have initiated scoping discussions about the form that GBRs for forestry might take. We suggest that the final package of GBRs should be developed with SEERAD by a working group involving FCS, SEPA, scientists and the private forestry sector. This approach worked well in developing the Forests and Water Guidelines and would ensure that the resulting regulations are as workable and proportionate as they possibly can be, while achieving the objectives of the Water Framework Directive.

14. Are there any further factors we need to take into account?

15. How should the Executive work most effectively with the agricultural sector?

17. Can a similar approach be used for forestry as for agriculture?

On behalf of the forestry sector, we suggest that early involvement of practitioners (or their representatives) in the process of developing the regulations is key to producing a workable and proportionate set of regulations which achieve the objectives of the Water Framework Directive. We look forward to engaging with the Executive, SEPA and others in such a process.