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Water Division
Scottish Executive
Area 1-H Victoria Quay
Edinburgh
EH6 6QQ

DIFFUSE WATER POLLUTION FROM RURAL LAND USE

The Scottish Rural Property and Business Association welcomes the opportunity to comment on the Scottish Executive's proposals to address issues in relation to diffuse water pollution from rural land use. The SRPBA recognises that diffuse water pollution related to industrial or urban land use will be a subject for future consultation.

Introduction

The SRPBA represents the interests of a wide range of land managers and rural businesses, many of which are involved in farming, forestry and freshwater fisheries. Nitrogen, phosphorus, crop protection products and the valuable soil resource all play an essential role in such enterprises. The majority of land managers using organic and inorganic nutrients and crop protection products use them as efficiently as possibly, not least as it makes no economic sense to do otherwise.

Equally, the majority of such land managers are also concerned with environmental management matters, including the biodiversity value of water and the need for good water quality to underpin ecosystems such as those associated with freshwater fisheries. Therefore, the SRPBA has a great interest in how diffuse water pollution from rural land use is tackled as part of the wider rural policy framework.

General Principles

It is evident from the consultation document itself that land managers already have to comply with a range of regulations with regard to the water environment, from abstraction regulations (Controlled Activities), to the use of pesticides and the Action Programmes of Nitrate Vulnerable Zones (NVZs). All of these regulatory approaches put additional costs on land-based businesses some of which are significant, such as constructing new slurry storage.

Moreover, the consequences of the significant changes in the delivery of land use policy, notably CAP Reform and the development of the Land Management Contracts (LMCs), on diffuse pollution issues is not yet proven. The SRPBA agrees that the LMC model could be used as a vehicle to address such environmental concerns, but only if the right incentives and advice are made available so that the desired outcomes do not rely solely on obligation.

Taken together, the changing rural policy framework in Scotland could have a large and positive effect on the environment in general, and diffuse water pollution in particular. This should be re-inforced by the increasing awareness of farmers and foresters of environmental issues in relation to land management decisions. However, it must be recognised that environmental benefits can only be secured in the long term through enterprises that are sufficiently profitable so that land managers are willing and able to maintain their capital and labour within such activities. An important principle is the cost-effective delivery of outcomes.

By its very nature, diffuse water pollution is generally not amenable to direct 'command and control' solutions. Equally, over-regulation does not facilitate economically or environmentally sustainable land use activities. The SRPBA considers that an environmentally prosperous countryside needs viable land-based businesses, and vice versa.

It is against this background that the SRPBA considers that measures to control diffuse water pollution must be proportionate to the problem, practical to implement and have little associated bureaucracy. In addition, solutions must be of a 'low cost, no cost' nature if the positive aspects of environmental management associated with rural land use are to continue. At the same time, it is also essential that incentives are also developed to promote good and best practice aimed at addressing the causes of diffuse water pollution.

In that respect, the SRPBA largely supports the proposed approach to be developed by the Scottish Executive in communication with relevant interests. To that end, therefore, the SRPBA offers the following specific responses to the 17 questions posed by the Scottish Executive in the consultation document.

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

The SRPBA considers that the commentary and figures of Section 2 of the consultation document provide a balanced view of diffuse pollution issues in terms of sources of pollutants from agriculture, forestry, urban run-off, roads, septic tanks, sewage, discharges, etc.

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

The SRPBA considers that Section 2 is comprehensive in its coverage and that no further significant diffuse water pollution issue has been omitted.

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

The SRPBA believes that there is more than enough existing regulation, all of which is exercised with sufficient rigour, to ensure that land-based businesses are obliged to address all issues in relation to diffuse water pollution from rural land use. As is inferred in the comments above, the SRPBA is firmly of the view that any additional regulations would be counter-productive, as the associated costs would simply undermine further those best placed to ensure a range of environmental benefits are delivered in the public interest.

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?

The SRPBA is satisfied that the existing advice within the PEPFAA Code and the Forest and Water Guidelines is sufficiently comprehensive to provide a basis for 'good' management practice. However, the SRPBA also considers that 'best' management practice should be developed further for practitioners and should be complementary to appropriate incentive schemes to ensure uptake.

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

Any policy package (measures and advice, as well as the backstop of regulation) that is put in place to tackle diffuse water pollution must be compatible with sustainable land use. That is, it must enable land managers to continue their activities and make a living, while at the same time helping to deliver the environmental benefits required.

The SRPBA view on the appropriate package of measures would embrace the Tier 2 Menu Scheme and not just Tier 3 of LMCs, and would be as follows:

- Free information on good practice delivered on a catchment scale by an appropriate body, including more integration of business and environment advice and nutrient (manure and inorganic fertiliser) and soil plan guidance.
- Voluntary initiatives with local support networks to create awareness and change practice by fully involving land managers in the process. Voluntary initiatives should also feed into catchment level advisory services.
- Incentives through the LMC model (both Tiers 2 and 3) to target specific problems in particular catchments/regions. This should also include a capital grant scheme under Tier 3 to assist with appropriate fencing off of watercourses, upgrading of slurry storage, etc.
- Improved targeting of existing policy instruments to help tackle diffuse water pollution. For example, if set-aside must continue in the future it should be tailored for better environmental outcomes.

The SRPBA believes there is a strong correlation between the increased production of environmental positives and the reduced production of environmental negatives, i.e. the measures that bring about the former also tend to do the latter. Because society appears to want, and would seem to be willing to pay for, more of the positives, this offers a more effective route to achieve improved resource protection, and subsequently reduce diffuse water pollution.

Moreover, the SRPBA is against command and control approaches. In the case of pollution taxes in the context of fertilisers and pesticides they will have little impact in reducing diffuse water pollution. It is the management of these inputs that should be targeted rather than the fact of their use. A tax on inputs is too blunt a mechanism to reduce diffuse water pollution, and would penalise all land managers whether they observed good practice or not. Furthermore, the introduction of such measures at this time would undermine the hard work put in by the majority of land managers to address diffuse water pollution issues.

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

So long as the associated costs and bureaucracy are proportionate, then the SRPBA believes that this practice should be encouraged. An incentive to carry out such planning should be made available through a Tier 2 LMC Menu Scheme measure. However, such an approach should not be restricted to agricultural holdings only if "diffuse water pollution from rural land use" is to be addressed in any meaningful and integrated way.

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?

See the first two bullet points of the response to question 5 in particular, and the clear SRPBA message in the response to question 6.

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

By the very nature of diffuse water pollution, and the very reason the Scottish Executive and SEPA chose to omit these issues from the Controlled Activities Regulations (CARs), the SRPBA does not agree that farming should be subject to a regime similar to that of the CARs. Nor should any rural land use. The need to tackle diffuse water pollution will not be served by implementing levels of authorisation for particular activities, that will inevitably require the costs of administration to be fully recovered from those who comply.

At very most, the SRPBA believes that only the General Binding Rules (GBRs) approach can be extended to diffuse water pollution from farming and other rural land use activities. Registration or licensing would be meaningless in the context of diffuse pollution and would penalise those complying with good or best practice.

The SRPBA accepts the proposal of Scotland-wide GBRs for a range of land use activities as a standard. However, for the reasons outlined in this response the SRPBA does not accept the application of targeted GBRs and registration where specific problems are identified in catchments at risk. A more appropriate and effective approach is outlined by the SRPBA in the second and third bullet points of the response to question 5.

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

The SRPBA considers that if the measures outlined in response to question 5 were put in place by the Scottish Executive and SEPA, then there would be no need to regulate any further in order to attain Water Framework Directive (WFD) targets.

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

Yes. See the response to question 8, and subsequent reference to the response to question 5.

11. 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?

No. See the response to question 8, and subsequent reference to the response to question 5.

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

Given the responses to previous questions, the SRPBA inevitably agrees with such a proposed approach.

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

Given the responses to previous questions, most notably questions 5 and 8, the SRPBA agrees that GBRs and a suite of supportive resources is the right approach. As for content, again reference should be made of the response to question 5.

14. How might the proposed approach best be developed?

The SRPBA considers that the complementary measures envisaged to tackle diffuse water pollution from rural land use would best be developed through the LMC model, both the Tier 2 Menu Scheme and Tier 3 from 2007. It is essential that the most is made of this current opportunity, under a new Scottish Rural Development Plan (2007-2013), and so reduce the need to use regulation.

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

The Scottish Executive and SEPA must be extremely mindful of the costs of tackling diffuse water pollution on Scotland's land-based businesses. Given the SRPBA's comments earlier in this response, it would be sensible if a full Regulatory Impact Assessment (RIA) was undertaken to ensure that real costs do not outweigh potential benefits, bearing in mind the need to ensure that land-based businesses remain viable if a range of environmental services are to continue.

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

The SRPBA considers diffuse water pollution to be a non-sector specific issue. The Scottish Executive and SEPA should work closely with land managers per se, the bodies that represent their interests (including the SRPBA), and those individuals in particular circumstances that require specific advice and assistance.

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

As is made clear in response to question 16, the SRPBA does not believe that sectoral interests should be differentiated if "diffuse water pollution from rural land use" is to be tackled effectively. There needs to be a single approach, involving land-based interests from across rural Scotland.

Conclusions

By the very nature of diffuse water pollution, the SRPBA does not agree that all land use across rural Scotland, and not just agriculture, should be subject to a regime similar to that of the CARs.

The SRPBA does accept the proposal of Scotland-wide GBRs for a range of land use activities as a standard. However, for the reasons outlined in this response the SRPBA does not accept the application of targeted GBRs and registration where specific problems are identified in catchments at risk. A more appropriate and effective approach is outlined by the SRPBA in its response to question 5.

The SRPBA considers that measures to control diffuse water pollution must be proportionate to the problem, practical to implement and have little associated bureaucracy. In addition, solutions must be of a 'low cost, no cost' nature if the positive aspects of environmental management associated with rural land use are to continue.

At the same time, it is also essential that incentives are also developed to promote good and best practice aimed at addressing the causes of diffuse water pollution.

The changing rural and land use policy framework in Scotland could have a large and positive effect on the environment in general, and diffuse water pollution in particular. This should be re-inforced by the increasing awareness of farmers and foresters of environmental issues in relation to land management decisions.

Any policy package (incentives and advice, as well as the backstop of existing regulation) that is put in place to tackle diffuse water pollution must be compatible with sustainable land use. That is, it must enable land managers to continue their activities and make a living, while at the same time helping to deliver the environmental benefits required.

However, it must be recognised that environmental benefits can only be secured in the long term through enterprises that are sufficiently profitable so that land managers are willing and able to maintain their capital and labour within such activities.

The SRPBA considers this response to be as constructive as it may be critical. The SRPBA looks forward to working with the Scottish Executive on developing effective ways of tackling diffuse water pollution from rural land use within a new policy framework from 2007 onwards.

Yours sincerely

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