Nitrates Regulations – How to Avoid Breaching the Limits

This leaflet provides information on the Nitrates Regulations, including how the figures are arrived at along with options you can take to avoid penalty deductions being made from any EU funded scheme payments.
Overview of Nitrates Regulations
Under the Nitrates Regulations, farmers are obliged to ensure that the total amount of Nitrogen (N) from organic manure applied to their own lands (including that deposited by the animals themselves) does not exceed 170 kgs of N per hectare per year (NPH), i.e. equivalent to two dairy cows per hectare. The most recent Regulations in force are the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2014. Farmers can apply for a Nitrates Derogation which allows them to farm up to 250 kgs nitrogen per hectare per year, subject to some additional conditions being met.

Why am I subject to these Regulations? What is their Purpose?
The purpose of the Regulations is to provide a basic set of measures to ensure the protection of waters, including drinking water sources, against pollution caused by nitrogen and phosphorus from agricultural sources, with the primary emphasis on the management of livestock manures and other fertilisers.

Does a breach of the nitrates regulations affect my Basic Payment Scheme?
Yes, a percentage reduction will be applied to your annual payments (for a given year) under the Direct Payment Schemes and Rural Development Programme measures, where applicable. Some of the Schemes that reductions can be applied to include Basic Payment Scheme, Areas of Natural Constraints (ANC), AEOS, Grassland Sheep Scheme etc. That is why it is so important to understand the Regulations and know exactly how they apply to you, and to what you do on your own holding.

How is the NPH figure arrived at?
The kg of Nitrogen figure per hectare figure is arrived at by dividing the total kgs of Nitrogen produced on the farm, which is extracted from the Animal Identification and Movement System (AIM), by the eligible area under the Basic Payment Scheme. The annual nutrient excretion rate for dairy cows in the Regulations is 85 kgs, so if for example you had 30 dairy cows on the farm (with a farm size of 20 hectares) for the full year, the total N figure would be 2,550 kgs and the NPH would be 127.5 kgs, rounded to 128, i.e. 2,550 divided by 20.
### Nitrogen Excretion figures for some typical animals

<table>
<thead>
<tr>
<th>Animal</th>
<th>kg per year</th>
<th>Kg per day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dairy Cow</td>
<td>85</td>
<td>0.23288</td>
</tr>
<tr>
<td>Suckler cow</td>
<td>65</td>
<td>0.17808</td>
</tr>
<tr>
<td>Cattle &gt; 2 years</td>
<td>65</td>
<td>0.17808</td>
</tr>
<tr>
<td>Cattle (1-2 year old)</td>
<td>57</td>
<td>0.15616</td>
</tr>
<tr>
<td>Cattle (0-1 year old)</td>
<td>24</td>
<td>0.06575</td>
</tr>
</tbody>
</table>

N figures for cattle are calculated on a daily basis using data from AIMS.

Maximum amount of Kgs of organic fertiliser you're allowed to apply to land

= Your hectares x 170 kgs (or 250 kgs for derogation farmers)

e.g. 20 ha x 170 kgs per ha = 3,400 kgs Nitrogen

e.g. 20 ha x 250 kgs per ha = 5,000 kgs Nitrogen

To get your NPH (nitrogen per hectare) divide your total kgs by your hectares.

e.g. 30 dairy cows and 10 sucklers on farm for 6 months (184 days):

\[30 \times 0.23288 + 10 \times 0.17808\] x 184 = 1,613.17 kg N

1,613.17 kg N divided by 20 ha = 81 NPH
How will I know if I may have breached the 170/250 Kg Limits?
You will receive a statement in January/February following the year of the breach and given an opportunity to explain why you should not be penalised. At that stage submission of export forms or rental agreements cannot be accepted as the deadline for submission would have been the 31st December of the year in question. If you had submitted documentation, or responded to the statement, all correspondence is processed and if still over the limit, a penalty letter will issue stating that “according to our records you are in breach of the Nitrates Regulations. Our records indicate that the total amount of Nitrogen from livestock manure applied on your farm for [YEAR] was XXX kg per hectare (kg N/ha), which is more than the limit of 170 kg...”

On that basis, a percentage reduction will be applied to your annual payments (for a given year) under the Direct Payment Schemes and Rural Development Programme measures, where applicable.

It is advisable you make sure that your farm does not breach the Regulations for a second year in any three year cycle, as the loss of payments for a repeated breach will increase substantially. The risk of an on-farm inspection also increases.

What happens next?
Where the penalty is applied prior to, for example, your 2015 payments having issued, details of the penalty amount recouped from the payments will be identified in the payment remittance. Where the penalty is applied post payment a letter will issue to you with details of the penalty amount and repayment options. Your Local Authority will also be notified of this non-compliance.

I received a sanction under cross compliance, can I appeal it?
YES, If you are dissatisfied with the penalty decision, you may appeal it.

How can I appeal this Decision?
It is open to you to appeal it to the Agriculture Appeals Office, Kilminchy Court, Portlaoise, Co. Laois. Note the appeal must be made in writing within three months of the date of the notification letter issued to you. The appeal must include the facts and contentions upon which you intend to rely on together with such documentary evidence that you wish to submit in support of your appeal.
**What happens if I exceed the limit more than once?**

Penalties will be multiplied by 3 for repeated breaches within three calendar years. On a first repetition the current sanction is multiplied by a factor of 3. For second or further repetitions (reoccurrences) the previous percentage sanction is multiplied by 3, up to a maximum of 15% for negligent sanctions. Repetition breaches after this will be deemed intent, and will lead to higher sanctions up to the loss of the current calendar year’s entire payment(s). It can also lead to the loss of any payment(s) due in the following calendar year.

**What can I do to avoid further payment losses?**

To avoid payment losses as a result of exceeding the 170/250kg N/ha/year livestock manure limit, you can do any of the following:

- Reduce livestock numbers or
- Export enough farmyard manure/slurry or
- Rent additional land

Reminder: Forms in respect of the above must be submitted before end of year.

You could also engage an Agricultural Advisor – List of advisors approved under the Farm Advisory Service (FAS) can be accessed through the following link [http://www.agriculture.gov.ie/farmerschemespayments/crosscompliance/farmadvisorysystem/](http://www.agriculture.gov.ie/farmerschemespayments/crosscompliance/farmadvisorysystem/)

Another option is to apply for a nitrates derogation to operate above the 170kg N/ha/year threshold and not exceed 250kg N/ha/year, subject to certain additional conditions being met. An application for a derogation must be applied for [online](http://www.agriculture.gov.ie/farmerschemespayments/crosscompliance/farmadvisorysystem/) prior to 31st March of the year in question.

**How do I find out what my Nitrogen and Phosphorus Figures are during the year?**

The Department provides annual Nitrogen and Phosphorus Statements online as a service to all farmers registered with agfood.ie. This is a record of the annual production of Nitrogen & Phosphorus on the holding produced by cattle only, so if you have other livestock you will have to calculate and add on their N and P production.
Interim Nitrogen and Phosphorus Statements are now available online covering the periods January to August 2015. These statements, for cattle only, are of great benefit to farmers, especially if stock numbers have increased in the past year. It should assist in deciding whether or not to take any action before the end of the year to stay within the 170/250kg N/ha/year limit.

This year the Department is increasing the frequency of these interim statements by making them available bi-monthly until the end of the year. Statements for the January to October 2015 period will be available online towards the end of November.

If you are not already registered for agfood.ie, you can do so by logging onto www.agfood.ie and clicking the 'Register' button.
Can I get information via text?
YES. Text messages issue to farmers who are registered for the service, if at the end of August you are at or over 100kg of N per hectare (i.e. approaching or likely to exceed the limit by year end). If you are a derogation farmer, you will receive a text if at or over 150 kgs for the same period. If you do receive this text, then you should heed the warning and take steps to reduce the nitrates loading before the end of the year. If your eligible land area is not finalised by the time the texts issue, you will not receive one, but can still view your total kg Nitrogen figure online.

To register a mobile phone number for future SMS text alerts log on to www.agriculture.gov.ie/contactsupdates/ to access the sign-on form, or alternatively contact your regional office.

Where can I get additional information?
Additional information can be found on the Department’s website at www.agriculture.gov.ie, via the ‘Nitrates’ link under ‘Rural Environment’ on the homepage. It can also be obtained from the Department of Agriculture, Fisheries and Food, Nitrates Section, Johnstown Castle Estate, Co Wexford, Y35 PN52 (Tel. 053–916 3444) or send an email to nitrates@agriculture.gov.ie.