

Consultation Response Form

for DARD's Public Consultation on the introduction of new Environmental Impact Assessment (Agriculture) Regulations

- Please use this form to respond to the questions listed in the consultation paper.
- Answer only the questions you wish to answer – leave the other spaces blank. Additional comments may be added at the end of the form.
- Please return by post or email **no later than Monday 4 September 2006.**

General Comments

Please give some details of your/your organisation's interest in this consultation.

WWF (World Wide Fund for Nature) Northern Ireland welcomes the opportunity to respond to the Department of Agriculture and Rural Development's (DARD's) consultation on the introduction of new environmental impact assessment (agriculture) regulations (Northern Ireland) 2006.

WWF Northern Ireland is part of the world's largest voluntary conservation organisation, with a global network operating in 90 countries. WWF's mission is to take action to protect the environment for the benefit of people and nature and it endeavours to conserve endangered species, protect endangered spaces and address global threats to the planet by seeking sustainable solutions.

Endeavouring to ensure the protection, restoration and enhancement of freshwater globally is one of WWF's six key areas of work, and it sees the EIA process as a key element of delivering this in Northern Ireland.

Chapter 1 – The EIA Directive

Please give your views on the proposed new way of setting thresholds under the EIA (Agriculture) Regulations.

WWF Northern Ireland welcomes the proposed new way of setting thresholds under the EIA regulations in the expectation that it will provide a simpler and more accessible system for the impact of projects on the environment to be registered and assessed.

Please give your views on the proposed new screening procedures.

WWF Northern Ireland welcomes the proposal for screening notices to be targeted, proportionate, transparent, accountable, enforceable, time bound, joined up and forward-looking. However it is concerned that this focuses only on projects that are notified to the department and would like to hear more about DARD's plans to become 'aware that potentially damaging work is planned' (23) and avoid simply 'policing the policeable'.

In what type of case do you feel screening notices should be used?

Screening notices should be used where projects will result in significant impact and WWF Northern Ireland anticipates that DARD will use the EU guidance in Annex II according to Northern Ireland conditions. It is also imperative that cumulative effects of projects are taken into consideration.

WWF Northern Ireland would also like to see DARD take future environmental drivers into consideration when considering screening notices so that projects agreed on the basis of current environmental standards will not be in breach of known future legislation, e.g. the soil and flooding directives.

What would you consider to be an appropriate enforcement sanction for someone who ignores a screening notice? Should it be lower than, or higher than, the level of fines for other offences under the regulations? How would you justify this?

It would seem fair and sensible that ignoring screening notices should be penalised at a similar level to other offences under the EIA regulations.

However WWF Northern Ireland remains more concerned about those who do not notify about projects and thereby dodge the screening process altogether and would like to hear about sanctions proposed by DARD to deter this type of offence.

Chapter 2 – New EIA rules on projects for the restructuring of rural land holdings

Please give your views on what is included in and excluded from restructuring projects.

WWF Northern Ireland is keen to see the full implementation of the Water Framework Directive in Northern Ireland which includes the hydromorphological properties of our waterways. It would therefore like to see any projects that involve significant changes to rivers and riparian zones, culverts or diversions, changes to, or the introduction of, field drainage in fields adjacent to rivers, included in the projects eligible for screening.

WWF Northern Ireland would like to note its concern that work on non-agricultural rural land is exempt from this process although fully recognising that it would not necessarily be within DARD's remit to carry out this work.

Would it be reasonable to exclude beneficial restructuring projects taking place under Environmental Stewardship from the new rules?

Assuming this to refer to CMS and ESA, WWF Northern Ireland agrees it would be reasonable to exclude beneficial restructuring projects. This is on the basis that these schemes have the support and guidance of DARD staff to ensure proposed projects are truly beneficial and there is no detrimental cumulative impact over a large number of farms. WWF Northern Ireland assumes that DARD would remain in a position to prevent a project within the schemes if it was found not to be beneficial.

Are the proposed new rules proportionate to the problems/risks they are designed to address?

WWF Northern Ireland is content that these new rules are proportionate to the problems they are trying to address providing the threshold levels are set appropriately.

Please give your views on the level at which thresholds should be set. Do you prefer one of the threshold options set out in Chapter 2?

With an average farm size of ~35ha and an average farm field area of ~1ha WWF Northern Ireland is concerned that even under the lower option thresholds several field boundaries could legitimately be removed and whole farms could be converted. WWF Northern Ireland would therefore prefer to see thresholds more in keeping with the farming structure in Northern Ireland in order to protect and preserve its unique landscape and the many non-food goods that emanate from it.

Despite the added complexity, WWF Northern Ireland would like to see the introduction of more sophisticated thresholds to encourage

beneficial projects like hedgerow creation.

Please give your views on how screening notices should work in relation to restructuring projects.

WWF Northern Ireland accepts the summary flow-chart (p18) as a sensible workable model of how the screening process for restructuring projects could work.

What should be included as sensitive areas? How would you justify their inclusion?

WWF Northern Ireland would like to see all sites of European, national and local importance included as sensitive areas (i.e. SACs, SPAs, ASSIs, AONBs, SLNCIs, Ramsar and National Parks). It also suggests that in order to retain the integrity of these special areas, the area of sensitivity, for the purposes of the EIA process, should include a buffer zone to ensure there is no indirect impact on the sensitive area itself. For example, projects impacting on tributaries that drain into a protected river.

Do you agree with the split between linear-based and area-based projects?

WWF Northern Ireland agrees with the proposed split between linear and area-based projects.

Do the proposed new rural restructuring rules meet the rules of good practice summarised in Annex 1?

WWF Northern Ireland is content that the proposed restructuring rules meet the rules of good practice in the main. However it urges the Department not to miss this opportunity of putting secure measures to ensure the protection of Northern Ireland's landscape in place, in its bid not to 'gold plate'. There are too many examples of where taking the minimalist approach in the short term has led to more costly requirements in the future. Implementation of the Nitrates Directive in Northern Ireland is a case in point, and it behoves DARD to provide a strong leadership role by ensuring processes like EIA take into account forthcoming public demand and legislation for the long-term benefit of the land management sector.

Are the new rules straightforward enough for land managers to comply with? Could they be made more straightforward?

WWF Northern Ireland thinks the proposed new rules are straightforward and should be easy enough to allow land managers to comply. However it is essential that land managers are made fully aware of their responsibilities in this regard. The biggest risk perceived by WWF Northern Ireland is the avoidance of the screening process altogether rather than non-compliance once within the system.

Please comment on how the new rules will relate to other legislation, e.g. planning and other EIA rules?

Complementarity with other rules is essential and WWF Northern Ireland urges DARD to work closely with other government departments to ensure a seamless approach to agreeing projects that affect Northern Ireland's landscape and natural resources.

It is also important that those wishing to engage in projects get clear and simple directions from government about the process they are required to go through and how this fits with other rules and regulations. Accordingly, EIA staff should be totally familiar with all other rules that might impact on the project and be able to advise accordingly.

Chapter 3 – Review of the EIA (Uncultivated Land and Semi-Natural Areas) Regulations

Do you agree with the revised risk assessment? Why?

WWF Northern Ireland is concerned that the risk analysis places too great an assumption on a decoupled system removing pressure from further development of land. In a study for DARD during CAP reform, QUB researchers predicted an overall extensification of farming in Northern Ireland. However they stressed that this overall picture will comprise a dichotomy of increased extensification of already extensive farms but a further intensification of intensive farms trying to compete within the world market. Under this scenario, the EIA process will be the only protection of land in areas where intensification is taking place. Such farms are unlikely to want or be able to access agri-environment schemes and ultimately might even forego their single farm payment if it decreases to a point where it no longer justifies the cost of cross compliance.

It is therefore essential that the EIA process remains robust enough to ensure that UL&SNA is protected, particularly in areas that are likely to be put under pressure from further intensification.

What are your views on the performance of the existing Regulations?

WWF Northern Ireland finds the most worrying statistic emanating from the existing regulations is the number of breaches, which is nearly the same as those that went through the proper process. It would be useful to know what area of land was involved in these breaches.

Within the EIA process, although the area saved seems relatively small WWF Northern Ireland applauds the prevention of this land from being damaged. It is also quite possible that the EIA system prevented projects from being put forward because landowners had received the message that they would not be allowed to damage UL&SNA. In the absence of an inventory of UL&SNA it is impossible to measure this but should not be ignored.

Chapter 4 – Proposed Changes to the EIA (Uncultivated Land and Semi-Natural Areas) rules

Please give your views on the definitions of uncultivated land, semi-natural areas and intensive agricultural purposes.

WWF Northern Ireland agrees that activities that physically disrupt the soil like ploughing, harrowing and discing are examples of cultivation along with an increase in the rate at which fertiliser is applied.

One key indicator of cultivation that has many impacts and should be included is a significant improvement in the drainage of land. New drains or improved drains in fields adjacent to rivers will have a direct impact on water flow and could also affect nutrient and sediment levels, and should be included in the assessment of cultivation for the purposes of an EIA for UL&SNA.

WWF Northern Ireland agrees that landowners should have the opportunity to prove recent cultivation and accepts 15-20 years as a reasonable period for this on the basis of the rationale presented.

Where a species test is required, WWF Northern Ireland would prefer the 25% cultivated grasses to remain until science clearly proves that it should be lowered. However, of utmost importance is the need for consistency and WWF Northern Ireland welcomes the proposal to align the species-based test with that used within the agri-environment schemes.

Are the proposed amendments to the EIA and UL&SNA rules proportionate to the problems/risks they are designed to address?

As referred to previously, WWF Northern Ireland is concerned that there has been too great an assumption placed on decoupling removing risk to UL&SNA and urges DARD not to become complacent with its approach to EIA.

It is therefore extremely important to ensure that the thresholds are set at a level that will protect the integrity of our landscape and our natural resources.

Please give your views on the proposed changes to the enforcement mechanisms.

WWF Northern Ireland welcomes the proposed enforcement mechanisms and reiterates that this is where the organisation believes most effort will need to be taken in order to protect Northern Ireland's remaining UL&SNA.

Are the proposed changes to the Regulations sufficient to address possible effects on the Agri-Environment Schemes?

WWF Northern Ireland is not convinced by the arguments suggesting that the new EIA might deter participation in agri-environment schemes. Admittedly it can see why the current EIA regulations might have had, or been perceived to have had this effect but since the test case this argument surely no longer applies. With projects bringing land back into normal production now being excluded there is no reason why farmers should worry about the effects of participating in the schemes.

WWF Northern Ireland believes the whole rationale behind agri-environment schemes is long-term protection and enhancement of landscape and resources. Policies should not encourage landowners to see the schemes as temporary land management arrangements to be removed or undone as soon as scheme participation stops.

What are your views on the levels at which area thresholds should be set?

WWF Northern Ireland is very concerned by the proposed thresholds. Much of the damage to Northern Ireland's landscape and resources has resulted from 'death by a thousand cuts'. No one or two big projects have caused the damage but a series of small ones, often emanating from a collective response to government policy. Setting even the low threshold as high as 4ha (2ha for sensitive areas) will not deter this process and must be made more realistic if this legislation is to have any impact.

The threshold should be set at a level that reflects farm and field size and be sufficient to ensure that cumulative effects are prevented as required by the European Court of Justice (21).

Please give your views on how screening notices should work in relation the revised EIA/UL&SNA rules.

WWF Northern Ireland is content with the proposals presented in the skeleton guidance for the screening process in relation to UL&SNA.

Do the proposed changes meet the rules of good practice contained in Annex 1?

As previously, WWF Northern Ireland urges DARD not to lose this opportunity to protect landscape and resources in its bid not to 'gold plate' regulations.

Will the new rules be straightforward for land managers to comply with?

As previously, WWF Northern Ireland is content that the proposed new rules are straightforward and should allow land managers to comply.

Do you have comments on how the new rules will relate to other legislation – e.g. the planning system and other EIA rules?

As previously there should be complementarity between these rules and other legislation and EIA staff should be sufficiently briefed to advise land managers accordingly.

Any other comments:

Please return to: eia@dardni.gov.uk or M Emerson, Room 651, Dundonald House, Upper Newtownards Road, Belfast, BT4 3SB
no later than Monday 4 September 2006.