

# The Nitrogen Derogation

*Applying for a DAFM-approved derogation is the right thing to do, as the benefits can be far greater than simply receiving the derogation itself.*

**Brendan Smiddy,**  
Teagasc Dairy Advisor, Middleton,  
**and Tim Hyde,**  
Environment specialist, Teagasc Crop,  
Environment and Land Use Programme

Many farmers complete the derogation plan and records because they have to for cross-compliance, stock density reasons and to protect their Basic Payment. The additional benefits from discussing all aspects of nutrient management for the next few years (a liming plan, where to target organic/chemical fertiliser) means a win-win for all concerned. The discussion of regular soil test results will ensure farmers can maximise grass production and also comply with Department (DAFM) regulations.

While completing the derogation application with your Teagasc advisor, you will also discuss feed and fertiliser purchases for the previous year, stocking rates and any plans you may have to increase this, the implication of dropping rented land/taking on extra land, the amounts and types of fertiliser you should be purchasing, fertiliser allowances for different crop types, etc.

On the day you come in, there are three main jobs to be done; (1) complete records for the year just gone, (2) apply for the derogation and (3) prepare a fertiliser plan for the coming year.

### What you should bring

- Feed for 2015: To complete records for 2016.
- Fertiliser for 2016: To complete records for 2016.
- Feed 2016: To prepare plan for 2017.

- Projected stock figures for 2017.
- Any changes to land area for 2017.
- Any changes to yard: e.g. new buildings, slurry storage facilities, etc.
- Copy of your 2015 fertiliser records (any opening stock of chemical fertiliser in 2016).

### What you will have when leaving

- Maps showing the lime, phosphorus (P) and potassium (K) status of your farm so you can plan a lime campaign over the next four years, where to target your livestock manures and chemical P and K compounds (remember 6:1 return on money spent on lime).
- A full understanding of the updated fertiliser plan, particularly what the soil analysis is saying.
- Details about the livestock manure storage capacity of the farm – what is the limit of the stock you could keep over a winter based on your current facilities – this is one major area that will be checked if you get a cross-compliance inspection.
- Clarity about what your fertiliser nitrogen (N) and P requirements and what your limits are for Department nitrates inspections. Remember; there are no limits to potassium (K) or lime.
- Information about when your soil samples need to be retaken.
- Completed records for 2016.

### How is the N/ha figure arrived at?

The kg of N per hectare figure (N/ha) is arrived at by dividing the total kg of N produced on the farm, by the eligible area under the Basic Payment Scheme. The annual nutrient excretion rate for dairy cows in the regulations is 85kg, so if, for example, you had 30 dairy cows on the farm (with a farm size of 20ha) for the full year, the total N figure would be 2,550kg and the N/ha would be 127.5kg, rounded to 128, i.e. 2,550 divided by 20.

- N figures for cattle are calculated on a daily basis using data from AIMS.
- Maximum amount of kg of livestock manure fertiliser you're allowed to apply to land = your hectares x 170kg (or 250kg for derogation farmers) – e.g. 20ha x 170kg per ha = 3,400kg N – e.g. 20ha x 250kg per ha = 5,000kg N.
- Example of a farm with 30 dairy



**Table 1:** Nitrogen excretion figures for some typical animals

Animal type	kg/head/year
Dairy cow	85
Suckler cow	65
Cattle > 2 years	65
Cattle (1-2 year old)	57
Cattle (0-1 year old)	24

cows and 10 suckler cows for 12 months: [30 x 85 + 10 x 65] = 3,200kg N. 3,200kg N divided by 20ha = 160 N/ha.

The Department issues text messages throughout the year to help farmers comply with the limit.

Farmers not already registered for agfood.ie can do so by logging on to [www.agfood.ie](http://www.agfood.ie) and clicking the 'register' button. To register a mobile



phone number for future SMS text alerts, log on to [www.agriculture.gov.ie/mobileupdates/](http://www.agriculture.gov.ie/mobileupdates/) to access the sign-on form. There is also a nitrates helpline at 053-916 3444 or email [nitrates@agriculture.gov.ie](mailto:nitrates@agriculture.gov.ie).

### Derogation statistics

- 6,323 farmers applied for a derogation in 2015 and 6,803 applied for derogation in 2017.
- Teagasc help support 60% to 70% of the derogation applicants yearly.
- 4,129 farmers breached the 170kg N/ha limit in 2015 and did not apply for a derogation. Some of these farms may have exported slurry, rented/ grazed other lands not declared on BPS in 2016 or some farms may have been locked up with TB during 2015 and were unable to reduce cattle numbers. All of these can help reduce the N/ha on farms.

### Penalties

Farmers who exceeded 170kg N/ha without a derogation or those derogation farmers who exceeded 250kg N/ha will receive letters from the Department this spring indicating the breaches. Therefore, they will be penalised on payments from EU-funded schemes of which they are in receipt, unless they can provide an adequate explanation which shows that the farm was not above the 170kg N/ha limit in 2016. The Department recommends that all recipients of these letters should contact their agricultural consultant for advice on this issue.

The Department letters will contain the following text: "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 XXXkg

per hectare (kg N/ha), which is more than the limit of 170kg...."

### What happens if I exceed the limit more than once?

Penalties will be multiplied by three for repeated breaches within three calendar years.

On a first repetition, the current sanction is multiplied by a factor of three. For second or further repetitions (reoccurrences), the previous percentage sanction is multiplied by three, 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.

**Table 2:**

Year	Approved Derogation applicants (REPS & Derogation farmers)*	Farms > 170 who did not apply for a derogation **	Farms > 250 who did not apply for a derogation ***
2007	4,133	3,600	700
2008	3,855	3,700	500
2009	4,909	3,477	470
2010	4,190	3,520	496
2011	4,600	2,800	450
2012	5,214	3,047	446
2013	4,932	1,511	158
2014	5,120	2,336	250
2015****	6,329	1,876	146
2016	6,803	4,129****	No data yet

\* Derogation applications rising steadily since 2007

\*\* Farms >170 NpH who did not apply for a derogation have reduced significantly since 2007 however in 2014 and 2015 these have risen due to increased stock numbers on mainly dairy farms

\*\*\* Farms >250 reducing gradually as farmers are proactive in reducing stocking rates to comply with the Nitrates and Derogation Terms and Conditions.

\*\*\*\* These figures contain data after exports and restrictions (TB), are taken into consideration.

\*\*\*\*\* These figures may not include Record 3, 4 or 5 forms submitted to DAFM in 2016 as this data is currently being processed.

Source: DAFM Data

**Table 3: DAFM Nitrates penalties for exceeding the stocking rate limits**

Band for non-derogation Applicants	% Penalty
>170 <=180	1%
>180 <=210	3%
>210 <=250	5%
>250	20%

  

Band for Derogation Applicants	% Penalty
>250 <=300	5%
>300	20%

## DEROGATION ADVANTAGES

Brendan Smiddy, Teagasc advisor, Middleton, highlights the top five advantages for farmers who apply for a derogation:-

- Completing the derogation plan encompasses looking at your overall farming enterprise efficiency. It takes into account stocking rates, soil fertility, feed/ forage input and farm output.
- Completing the derogation gives a full profile of the soil fertility status on the farm and to see how the soil fertility has changed over time. The status and requirements for lime is a very important part of soil fertility in terms of achieving the optimum pH for nutrient availability and responses.
- On the basis of soil fertility and crop use, a better mix of fertilisers can be used to balance soil requirements and farmers can manage the cost of fertiliser and lime to be purchased.
- Issues such as silage and grazing areas need to be identified to target optimum slurry and fertiliser applications based on land use.
- Slurry storage calculations are part of the discussion and this highlights any surpluses or deficits on farm especially where farms are in an expansion mode in that it highlights any investments that will be required over time.

## DEROGATION REQUIREMENTS THAT YOU NEED TO KNOW

- Application deadline for 2017 is 31 March 2017 (only be submitted online).
- Fertiliser records for 2016 must be submitted online by the deadline of 31 March 2017.
- You must be farming a holding that is at least 80% grass.
- A derogation is only available in respect of grazing livestock.
- You cannot import livestock manure on to their holding.
- You must have a fertiliser plan in place for your holding by 1 March. Where a new or amended fertiliser plan is submitted in 2017, only a plan pro-

duced by the Teagasc online Nutrient Management Plan (NMP Online) programme is acceptable.

- Only soil analysis dated after 15 September 2013 can be used.

### You must submit

- A farm map indicating location of soil samples;
- A fully labelled farmyard sketch showing manure storage facilities and livestock housing, that provides a link with the buildings outlined on the fertiliser plan.
- If fertiliser plans are subsequently amended for either new soil analysis,

farm map and/or farmyard sketch, they should be submitted online.

- Soil samples must be for every 5ha of all land declared on BPS 2016 (including owned, leased and conacre lands).
- Derogation farmers are liable to a 5% Department inspection if in derogation.
- Full details of the scheme are available on the Department of Agriculture, Food and the Marine website at [www.agriculture.gov.ie/ruralenvironment/environmentalobligations/nitrates/nitratesderogation/2017derogationforms/](http://www.agriculture.gov.ie/ruralenvironment/environmentalobligations/nitrates/nitratesderogation/2017derogationforms/)