

**Welsh Government Cross Compliance proposals for 2015  
Consultation response form**

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Responses should be returned by **18 July 2014** to the:

Sustainable Land Management Team

Welsh Government

Rhodfa Padarn

Llanbadarn Fawr

Aberystwyth

Ceredigion

SY23 3UR

or completed electronically and sent to:

Email: [SLMenquiries@wales.gsi.gov.uk](mailto:SLMenquiries@wales.gsi.gov.uk)

**Question 1 Do you agree with the introduction of the buffer zone for field silage required by SSAFO regulations for the protection of water from pollution?**

<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

The inclusion of buffer zones, as defined in the SSAFO regulations, would provide simplification, clarity of understanding and reinforcement of the regulatory requirements under SSAFO.

**Question 2 Do you agree with the introduction of pesticide application buffer zones?**

X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

We welcome the use of no-spray zones, which, if implemented in conjunction with other application considerations (for example persistence, toxicity and mobility within the environment), will help to reduce the risk of pesticides reaching controlled waters. There is a breadth of information available relating to safe use of pesticides including the Voluntary Initiative guidelines for pesticide use and protection of water. It would be helpful to reference lessons learnt from the use of some specific pesticides issues in recent years, for example Cypermethrin and Metaldehyde.

**Question 3 Do you agree with the principle of including silo and slurry store construction standards within Cross Compliance?**

X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

The inclusion of silo and slurry storage construction standards within cross compliance would help to reduce the risk of pollution incidents occurring from unsuitable or failed structures. Ensuring the provision of adequate and suitable storage facilities will help farms become more resilient to adverse weather conditions and also be able to make the most efficient use of the nutrients on farm through nutrient management planning.

Industry is used to installation and operation codes for assets which pose risks, for example Corgi for gas installation and NRW inspection of water impoundments and reservoirs. NRW is currently exploring how it can ensure private sewerage systems, such as septic tanks, are constructed, commissioned and operated to limit their risk to the environment. It is considered that a similar approach may be warranted for silage, slurry and fuel oil storage facilities.

**Question 4 Are there any other requirements that should be added to this GAEC for the protection of groundwater?**

X	<input type="checkbox"/>	<input type="checkbox"/>
Yes	No opinion	No

Reason:

The inclusion of all SSAFO requirements including agricultural fuel oil would provide greater protection to groundwater an important resource that supports both numerous private water supplies in rural Wales and base flow to water courses and wetlands.

**Question 5 Do you agree with the Welsh Government proposals for meeting the requirements of GAEC 4, 5 & 6?**

<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

We agree with a more proactive approach to tackle the issues of soil degradation

and erosion relating to inappropriate agricultural management. Appropriate management of soils is the keystone to maintaining agricultural productivity and protecting and enhancing the environment.

Adequate ground cover throughout the crop rotation cycle (not only at harvesting) is important, particularly during heavy storm and prolonged rainfall events. Natural Resources Wales would advocate an approach which promotes careful pre-planning with consideration for land suitability associated with the selection of appropriate crop types, timing and location so risks from establishment through to harvesting are assessed minimised and mitigated if necessary. This would include identifying high risk land where it is inappropriate for certain activities to be undertaken and therefore should be avoided. Measures to address poorly maintained or located farm tracks and gateways where these provide connectivity and exacerbate soil erosion should also be included in this assessment. It is recommended that emergency action plans, should unforeseen circumstances be experienced, are developed for on and off yard areas of the farm.

The proposed Soil Assessment Record should be a tool that ensures appropriate proactive planning and action preventing issues from occurring rather than a reactive document for recording the issues after they have occurred which is the current default option.

Natural Resources Wales welcome the proposals for addressing soil erosion issues related to overgrazing, supplementary feeding, erosion down slope or off field and stock access to watercourses. It would be useful to further define, in detail, the issues relating to definitions of 'uncontrolled access' (for example at purpose built stock watering points) and revise the wording so that it is clear that it means "no supplementary feeding within 10m of a water course" (rather than just 'unsuitable' supplementary feeding).

**Question 6      Are there any additional provisions that you believe could be introduced to protect minimum soil cover?**

X	<input type="checkbox"/>	<input type="checkbox"/>
Yes	No opinion	No

Reason:

The Soil Assessment Record should be used as a proactive tool for the assessment of risk and implementation of measures required. Actions could include, for example, the use of specific measures for mulches or contour farming as mechanisms for intercepting and reducing the erosive potential of rainwater on

soils.

**Question 7      Should cross-compliance be extended to include Historic Environment Features?**

X	<input type="checkbox"/>	<input type="checkbox"/>
Yes	No opinion	No

Reason:

Natural Resources Wales supports the proposal to include historic environment features. These are a significant factor in the richness, quality and sense of place of our landscape, where boundaries and scrub similarly add texture, diversity and often colour to landscape. We support its appropriate retention and management wherever possible.

It would be appropriate to refer to LANDMAP and the protected landscapes management plans.

**Question 8      Given the importance of traditional boundaries to the historic Welsh landscape, should they be retained regardless of their condition, except for the purposes of widening existing access points up to 10 metres to enable machinery and animal access?**

X	<input type="checkbox"/>	<input type="checkbox"/>
Yes	No opinion	No

**If not, can you suggest other criteria to determine what boundaries should be protected/retained?**

Comments:

All traditional field boundaries are part of a rich and historic picture regardless of condition and therefore we believe that they should be retained for their landscape value.

From a pragmatic position it would be extremely difficult / impossible to provide clear guidelines on when a boundary was in too poor condition to retain.

From a biodiversity perspective, traditional boundaries usually have wildlife value regardless of their condition. For example, the earth bank of a relict hedge will often support a diverse flora and a tumbled down drystone wall provides the same habitat opportunities as a well maintained one.

There are also historical and cultural reasons to retain the lines of what could be ancient boundaries. Many have already been lost and the surviving boundaries are extremely important features. These again often contribute greatly to local distinctiveness, for example the slate fences of North Wales or the laburnum hedges of south Ceredigion.

Careful consideration also needs to be made regarding the position or movement of gateways with regard to water quality, where connectivity between landscape features can exacerbate soil erosion and associated water quality issues.

**Question 9  
proposal?**

**Do you agree with the cutting and removal of scrub**

X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

It is logical to extend the protection of nesting birds to scrub outside a hedge line. The definition of scrub as an area larger than 10m x 10m is considered to be problematic. It would be extremely difficult to check such a large area to establish if nesting birds are present and is highly likely that occupied nests would be missed. Any area of scrub would be difficult to reliably check for nests, however if a minimum area is required, we would recommend a smaller area of 2m x 2m.

**Question 10 Do you think further clarification is needed on the best means to prevent the spread of invasive non-native plants?**

X                                              
Yes                      No opinion                      No

Reason:

The inclusion to locate and prevent the spread of invasive non-native plant species (INNS) is welcomed.

We request that guidance is provided to ensure easy recognition of INNS and use of appropriate best practice control methods. Clarification would be helpful to detail the requirements for whether the control is managed directly by the farmer or if there would be a system of reporting and third party access given to treat plant INNS.

Some excellent INNS identification and management resources already exist especially via the GB Non Native Species Secretariat, which are the national focus for much of this information. It would be valuable to develop clear information specifically aimed at providing identification and management information for a range of species likely to be encountered on agricultural land.

The guidance will need to identify which activities should be advisory and those which should be considered mandatory. The activity required will need to take account of the most appropriate action, timing of action and subsequent aftercare for that location.

An interpretation of 'prevention of spreading' will need to be provided. As an example, the guidance could highlight inappropriate activities and timing of activities that farmers / landowners should avoid e.g. flailing knotweed or dealing with balsam after it has set seed for example.

This guidance should also highlight the importance of conducting plant management in a sensitive way – ragwort for example is a native species that is a highly valuable plant for pollinators - and in places where it is not threatening livestock it should be viewed as valuable food resource for invertebrates.

With respect to under grazing, clarification on the derogation system is needed to ensure there is no detrimental impact on positive management activities of fencing such as habitat restoration and streamside corridors.

## FURTHER OPTION FOR CROSS COMPLIANCE INCLUSION 2015

**Question 11** Do you agree that, from January 2015, the existing rules should be further strengthened so that a penalty is automatically applied to Direct Payments in all cases where a TB test is overdue by one day or more and not just to those who are found at Cross Compliance inspections to have an overdue surveillance (WHT/IA12) TB test?

<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

Natural Resources Wales has no comment to make on this question.

## LOOKING AHEAD – POTENTIAL FUTURE DEVELOPMENTS

### PUBLIC RIGHTS OF WAY (PRoW)

**Question 12** What are your views on the above potential approach?

<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

We support and welcome the intention to include public rights of way as a cross compliance condition for the reasons stated in the consultation. However, we strongly recommend that public rights of way be included under cross compliance with immediate effect and that the requirement should be for landowners and occupiers to comply with all of their statutory responsibilities for public rights of way, not just maintenance as referenced in paragraph 93 of the consultation document.

The inclusion of this condition would:

- provide an incentive to landowners and occupiers to ensure their public rights of way are open for use,
- would support local authorities in carrying out their responsibility by sending a message to all of the importance which WG places on public rights and



- making Wales accessible, and
- by reducing the time and resources needed for local authorities in having to carry out enforcement work to remove obstructions from rights of way, which is both costly and time consuming.

We agree that a requirement to standardise maps to a regulated electronic format should provide more consistent up to date information for public use of paths across Wales. However, we do not consider that there is a need to delay inclusion of public rights of way as a condition of cross compliance until such a time as the definitive map becomes digitised. Most local authorities have digital copies of maps, and this information, together with the definitive map, should provide sufficient information to support the implementation and monitoring of this under cross compliance.

The inclusion of public rights of way as a cross compliance issue would also reinforce and benefit the work supported by the Minister for Culture and Sport for the implementation of the Rights of Way Improvement Plan funding programme.

In suggesting Welsh Government takes forward cross compliance in relation to PROW now, we would note that to secure the important benefits Welsh Government have identified, there will be a need for Welsh Government to work closely with local authorities' PROW sections or departments to ensure active co-ordination, communication and action for the measure to be successful. To delay inclusion of public rights of way under cross compliance would contribute to the expense of both continued public inconvenience and the public purse.

### GENERAL BINDING RULES (GBR's)

**Question 13 Do you agree with the scope of activity for General Binding Rules, as suggested above?**

- |                |                          |                            |                          |                          |
|----------------|--------------------------|----------------------------|--------------------------|--------------------------|
| X              | <input type="checkbox"/> | <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> |
| Strongly Agree | Agree                    | Neither agree nor disagree | Disagree                 | Strongly Disagree        |

Reason:

NRW would strongly support the introduction of a comprehensive suite of General Binding Rules that either;

- Address unregulated areas of poor practise where there is evidence to demonstrate that they lead to environmental impact, or;
- Where regulatory outcomes can be delivered in a more effective or more

equitable manner.

Natural Resources Wales (NRW) broadly agrees with proposed scope of activities to be covered by General Binding Rules (GBRs) as detailed in Section 98 of the Welsh Governments Cross compliance Proposals for 2015 consultation document. However, further consideration should be given to reviewing the full range of existing regulations facing land managers to establish if they maybe better delivered via a General Binding Rule rather than the current systems. There are likely to be instances where GBRs are a more efficient regulatory instrument and would deliver Better Regulation outcomes in line with Hampton Principles and Welsh Governments Working Smarter in Agriculture initiative.

Introducing GBRs as a tool in the regulatory framework facing land managers has the potential to deliver greater equity to the sector being regulated. For example, moving elements of Cross Compliance, specifically some of the Good Agricultural and Environment Condition (GAEC) rules into GBRs would ensure that all land managers would need to comply not just those in receipt of the EU's Single or Direct Payment.

NRW holds significant evidence that demonstrates the impact of poor land management activities on the environment. Some of these poor practices, whilst advised against in the Code of Good Agricultural Practice, are outside the current regulatory framework. With many of these practices it is the cumulative effect that impacts the environment rather than an isolated incident. NRW's evidence of the poor practices that lead to environmental damage would help underpin the development of General Binding Rules in the Land Management Sector.

**Question 14 Do you agree that NRW would be the appropriate enforcement body for General Binding Rules?**

<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

Natural Resources Wales is well placed to take on the enforcement role for General Binding Rules but would need extra resources to be able to undertake this new work area. There are also other organisations that regulate the rural land management sector that could also play a role in enforcing those General Binding Rules that underpin their specialist areas. For example, Rural Inspectorate Wales

(RIW), Animal Health and the Local Authorities.

There are likely to be instances where both NRW and RIW would be the enforcing authority for a specific GBR. This would most likely be the case where a GAEC requirement, originally regulated by RIW under cross compliance, is moved to a GBR as suggested in our answer to question 13.

**Question 15 Do you agree that variable monetary penalties would be an appropriate enforcement mechanism for General Binding Rules?**

X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree

Reason:

Natural Resources Wales agrees that variable monetary penalties are likely to be the most appropriate enforcement mechanism for General Binding Rules.

**General**

**Question 16 We have asked a number of questions related to proposals for changes to the Cross Compliance requirements. If you have any related issues which we have not specifically addressed, please use the space below to report them. You may also use this space to report issues with proposals to retain current Cross Compliance requirements:**

Agricultural production plays a key role in determining the quality of both our land and water based environment. Many of the farming practices that impact our environment are not economically beneficial; poor management practices reduce the financial viability of farm businesses and impact on the wider rural economy. Conversely, sustainable land management practices are economically beneficial, support rural communities and deliver a better environment.

Advice and guidance, together with key regulatory regimes such as cross compliance, are the essential tools that we and others can use to help us achieve the delivery of sustainable environmental outcomes. These outcomes include those that meet the requirements of Water Framework, Habitats and Birds Directives, and positive outcomes for our protected sites, habitats and species, and for our access

and recreation remits. Working together with Welsh Government, Natural Resources Wales aims to integrate regimes to meet our aspiration for integrated natural resource management.

**Loss of link to the Environment Impact Assessment (Agriculture) (Wales) Regulations.** We are concerned that removing the Environment Impact Assessment (Agriculture) (Wales) Regulations (EIA regulations) from Cross Compliance in all areas apart from those relating to soil will seriously dilute the effectiveness of these regulations. Cross compliance is currently one of the main mechanisms for enforcing the EIA regs.

Natural Resources Wales recognises that the Welsh Government has elected to transfer 15% of the Direct Payments budget into the Rural Development Plan. At the same time the greening of Pillar 1 payments will be implemented in ways that are most straightforward for farmers. Whilst this overall approach makes sense from the point of view of developing a more targeted approach to the greening of the CAP in Wales, it would be unfortunate if a simplified approach to greening (and in particular the protection of permanent pasture) resulted in any reduction in the existing level of protection applying to semi-improved species-rich grasslands.

These semi-improved species-rich grassland not only represent a very significant (albeit diminishing) biodiversity resource, but also serve to protect a very substantial amount of sequestered soil carbon. As a result, there are strong arguments under the Ecosystem Services agenda for ensuring that all breaches of the existing EIA Regulations continue to be viewed by the Welsh Government as constituting a breach of the cross compliance system. We recognise that the EIA regulations are retained in the soil GAEC, but feel that the EIA regulations provide greater protection for biodiversity as a whole rather than soils alone.

**Retention of landscape features.** Natural Resources Wales supports the retention of specific landscape features (ponds, ditches and field margins). These features can be locally important especially in small scale landscapes. The remaining ponds, ditches and margins are precious additions to the quality and richness of our landscape as a whole. They can enhance the experience of the walker in the countryside due to the wildlife they support and the story they tell about land management past and present.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: