

Why abstraction regime must be fair

Paul Hammett, NFU national specialist for water resources, reports on proposals for the new 2020 abstraction management system

Defra has announced how it intends to take forward plans for reform of the water abstraction management system in England¹.

This latest move follows the Department's consultation exercise in early 2014, *Making the most of every drop*², and focuses on the management of surface water at the catchment scale. Similar proposals have been announced in Wales.

Following the NFU's detailed response to the original consultation and ongoing lobbying work, it is reassuring that many of the NFU's recommendations have been adopted by the Government. In particular, the proposals that seek to recognise and cater for the erratic use patterns common in irrigated cropping. However, the transition process that will convert existing abstraction licences to new permits will be challenging for some farmers and growers.

The main proposals

Defra proposed the introduction of a new abstraction management system from the early 2020s by replacing current abstraction licences with new permits. Permitted volumes will not be the same as current licensed volumes. Instead the permits will be based on abstractors' peak usage over the past 10 years. Any 'unused headroom' will be removed.

The concept of 'permanent' and 'time limited' licences will disappear. All new permits will be managed more collectively, subject to local catchment rules. They will also be subject to periodic review,

depending on local environmental risks. Management rules will be devised for each catchment and all permits within the catchment will be subject to an ongoing 'risk based review'.

All new permits will:

- contain both annual and daily abstraction limits;
 - disregard 'seasonality' of use;
 - include similar conditions to the previous revoked licence, such as hands-off flow (HOF) conditions; and
 - include new controls at low flows.
- Alongside national rules, some additional rules will apply in 'enhanced catchments'. An enhanced catchment is one where 'water is scarce and there are benefits from trading'. At the time of writing, the identity and location of enhanced catchments had not been finalised.

All permits in enhanced catchments will:

- include flow based controls capable of being gradually applied as environmental conditions change;
- allow abstractors to remove and store 'high flow' water that will not count towards the annual permitted volume; and
- include 'water shares' to enable a system of pre-approved trades. This will be tested initially in some pilot catchments.

Key features

The NFU welcomes proposals for a catchment based approach, and the creation of catchment rules that respond to local needs and circumstances. These include:

Removing seasonality from all licences

All permits will be issued with annual and daily volumes. The current two tiered approach to spray irrigation licences, with summer and winter volumes, will be removed. This will be carefully monitored with a view to creating a closer link between water use and availability.

Additional water at high flows

In enhanced catchments, permit holders will be able to take and store additional water at times of very high flow. This high flow water will not count towards annual permitted volumes and will be addressed by the management rules for the catchment.

Transfer of flow based controls

The new system aims to provide a more graduated link between the volume of abstraction and flow levels in each catchment. The approach is different for 'enhanced' or ordinary catchments, and for surface water and groundwater:

- *Surface water permits in ordinary catchments* - permits will be subject to annual and daily volumes. Any existing licence conditions, such as HOF constraints, will be transferred to the new permit.
- *Surface water permits in enhanced catchments* - permits will be subject to annual and daily volumes and any licence conditions will be transferred to the new permit. However, HOF constraints will be refined in enhanced catchments so that controls are gradually applied to reflect current conditions rather than the blunt

'on/off' approach typical of the current system.

Groundwater management

Proposals for managing groundwater are less advanced than those for surface water due to the complex nature of hydrogeology. There is no strong link between current weather and groundwater availability. Therefore, it is proposed that groundwater abstraction will be managed through a catchment review process that considers the attributes of the local aquifer.

Smart meters

Smart meters will be required for all permits. These will help the Environment Agency (EA) to track water usage on a daily basis. However, the NFU is concerned about the cost and complexities of a mass meter replacement exercise that may exceed its modest benefits. Any new data collection system must be sympathetic to practical issues on farms, where growers might be frequently moving many metered pumps and irrigation rigs between different water sources.

New flow based controls

Section 57 restrictions that currently apply only to spray irrigation are to be removed and replaced with low flow conditions for all users.

Surface water abstractors currently without HOFs will be subject to new conditions to enable low flow controls to be introduced. Low flow controls will be applied on a catchment by catchment basis, and their application will be preceded by requests for users to adopt voluntary restrictions.

The NFU agrees that restrictions at low river flows should be applied to all, not just to spray abstractors.

Water trading

The current limited system of trading water will continue in ordinary catchments.

In enhanced catchments, annual and daily permit allocations will be linked to 'shares' of water available for abstraction in different parts of the catchment. The EA will publish trading rules for each catchment that will identify potential trading partners, volumes and conditions.

The proposed system will be piloted in a few catchments. Defra is committed to working with the farming sector to ensure that any remaining concerns are covered by the creation of trading codes of practice. The NFU has welcomed Defra's proposals for further engagement to ensure adequate protection for smaller farmer and grower abstractors.

Catchment management

The new system of abstraction permits will centre on a catchment approach, and the

creation of catchment rules that respond to local needs and circumstances.

The EA, working with interested parties, will develop a new system of management rules for each specific catchment. These will include:

- environmental objectives for the catchment;
- basis for abstraction flow controls; and
- pre-approved trading rules in enhanced catchments.

Permanent licences of right and time limited licences will be removed in the transfer to permits and this will enable relatively minor adjustments to be made to all permits rather than major changes to a few licences, as at present. Catchment rules will be reviewed as necessary, based on the following principles:

- Reviews can be instigated at any time if risk indicators in the catchment rules are triggered.
- Investigations leading up to a review could take up to six years. If significant mandatory changes to permit conditions are proposed, a period of notice of at least three years would be given, except in exceptional circumstances.
- An appeals process will be developed for abstractors facing permit changes.
- No compensation will be payable for permit changes.
- Powers and duties to be exercised by the EA will be subject to consultation.

Reducing abstraction volumes

Defra aims to reduce environmental risk by removing unused licensed volumes during the transition to the new system.

Volume reductions will be targeted to only those catchments where future use of current headroom would risk environmental deterioration. Volume reduction will be based on actual past use based on an assessment period of at least 10 years' historical data. The approach will also focus on those particular licences that are contributing to the risk of deterioration.

Many farmers will be disappointed that their allocation of water could be curtailed while neighbouring large public supply abstractions will be subject to different rules. The potential loss of allocated water during the transition process is a key concern to farmers and growers. Reduced volumes can diminish water security and constrain business certainty. Also, the Government does not intend to pay compensation to any abstractor adversely affected during the transition process.

Throughout the consultation process the NFU has called for full licensed volumes, rather than peak use volumes to be transferred because they reflect historic rights. Although this hasn't been achieved there are a number of important concessions including:

- recognition of farmers' irregular usage, given that allocations will be based on

historic 'peak' volumes rather than historic average volumes as originally proposed; and

- security for the needs of currently unlicensed trickle irrigators, with no formal record of historic water use, will be acknowledged in the transition process.

Review of charging

Defra wants to create a greater link between abstraction and value and thereby encourage more efficient water use. Agriculture is the only sector where this already happens to any extent.

Charging will still be based on a cost recovery system but the charge could, for example, align to different management costs of different permits, and vary between catchments. The implication is that more secure water may cost more. Net consumptiveness will continue to be a factor in the charging formula. Defra will consult separately on charging in 2016 and the NFU will be looking for a simple, transparent approach based on the 'cost recovery' principles of the current system.

Appeals system

Abstractors will be able to appeal if they are unhappy about the terms of their new permit at transition. Grounds for appeal are being developed and are likely to include factual errors, previous investment on the presumption of retaining licensed volume and previous use constrained by government policy during the historic period.

Outlook

The NFU agrees that the current abstraction management system is not flexible enough to improve the efficient use of water while protecting the environment. Also, changes are needed in the way that water is currently managed to ensure the fair treatment of existing and future abstractors.

Through ongoing engagement with government and its agencies, including the Water for Food group and Defra's Abstraction Reform Advisory Group, the NFU is working to help shape the new system. The challenge facing the agri-food sector lies in ensuring that producers are given a fair allocation of water for food production. The link between food security and water security needs to be recognised.

Footnotes:

1 Further information is available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/492411/abstraction-reform-govt-response.pdf

2 The consultation document can still be viewed at https://consult.defra.gov.uk/water/abstraction-reform/supporting_documents/abstractionreformconsultcondoc20131217.pdf