

# ASPECTS OF THE UK “CONSULTATION ON THE IMPLEMENTATION OF EU PESTICIDES LEGISLATION”

THAT COULD BE SET AS A HARMONIZED APPROACH FOR THE IMPLEMENTATION OF NAP'S

WORKING DOCUMENT

# OPERA



EUROPEAN OBSERVATORY ON  
PESTICIDE AND RISK ANALYSIS

European Observatory  
on Pesticide Risk Analysis

Via Emilia Parmense 84  
29100 Piacenza Italy

[www.opera-indicators.eu](http://www.opera-indicators.eu)

The UK consultation document tackles article by article what provisions Member States are required to transpose and implement within the Sustainable Use Directive, what UK legislation and/or voluntary based systems are already in place and what should be changed to answer the required provisions.

Apart from the UK specific legislation, the document provides with a view of possible methods of implementation that may raise important issues for other administrations to follow.

On this premises, OPERA experts have extracted the positive aspects that can form a harmonised approach of the consultation document putting together an open working document subject to further comments and development.

## **ART. 4: NATIONAL ACTION PLAN**

### **MONITORING 'SUBSTANCES OF CONCERN'**

The Directive identifies substances of concern as those for which alternatives to pesticides are available. This is referring to approaches developed in a way which allows implementation under economically and technically viable conditions, taking into consideration costs and advantages and being reasonably accessible to the operator.

Provided approved pesticides are applied correctly, no concerns should arise from their use.

### **USE REDUCTION TARGETS**

Use reduction targets can take many forms, for example being designed to cut: the number of applications made; the amount of some or all active substances which are applied; or the amount of substances applied in particular situations or by particular application techniques.

Risks from the use of pesticides arise from, essentially, two factors: the intrinsic chemical properties of the product and the way in which they are applied.

Policies to cut the use of particular active substances will not deliver any meaningful reduction in risk.

The regulatory risk assessment process identifies and mitigates the risks arising from the chemical properties of pesticides and greater risk from the way in which products are used.

However after analyses of impact of possible active substances included in the list of substances of concern shows that monitoring is needed, then a more proactive approach to the identification of areas for improvement in monitoring use and in developing indicators should be taken.



## **ART. 5: TRAINING AND CERTIFICATION**

### **INITIAL TRAINING AND CERTIFICATION**

The new arrangements for initial training and certification required by the Directive apply equally to the whole range of plant protection products placed on the market.

### **ADVISORS**

Although the Directive does not specifically require advisors to participate in formally recognized training two key benefits arise by requiring advisors to undergo initial and additional training in the same manner as professional users and distributors:

- would further strengthen practice – there is heavy usage of advisors (agronomists) in the agricultural sector making decisions about which pesticides are used.
- emphasis on the role of the advisor in assisting users to work in a sustainable manner, thus is important that they are well qualified and have up-to-date knowledge.

### **ADDITIONAL TRAINING**

The certification schemes established by Member States should consist of requirements for both initial training and additional training at an appropriate interval to refresh skills and knowledge.

Although the level of additional training required by the Directive is not defined, continuous professional development for professional users, distributors and advisors would provide an appropriate vehicle for ensuring that knowledge is kept up-to-date and standards are maintained.

For distributors selling solely products for amateur use, it may be disproportionate to require them to undertake the same level of additional training to renew their certification as other distributors, as the products they supply are specifically assessed for safe use by amateurs. Therefore distributors of non professional use products should undergo a short course to update their skills and knowledge.

### **WITHDRAWAL OF CERTIFICATES**

Procedures for withdrawing certificates although would have a negative impact on users in terms of losing jobs and income may have a positive aspect in the form of a threat and act as an incentive for good practice.

### **RECOGNITION OF TRAINING ORGANISATIONS AND AWARDING BODIES**

To ensure independent controls are exercised over the standard and the quality of the training as well as the awarding of certificates designated awarding bodies by the competent authority will be able to provide training and certification services to ensure a continuing and consistent high standard of qualification.

## **ART. 6: SALES REQUIREMENTS**

### **SUFFICIENT STAFF**

It is the responsibility of distributors to decide if the availability of trained staff is 'sufficient'. To define a 'sufficient' number of staff for a range of different scenarios would be impractical and disproportionate to the risk presented by allowing distributors to exercise their judgment responsibly.

### **MICRO DISTRIBUTORS**

The Directive offers a potential derogation to micro- distributors "selling only products for non-professional use if they do not offer for sale pesticide formulations classified as toxic, very toxic, carcinogenic, mutagenic or toxic for reproduction." Micro- distributors meeting these criteria could be exempted from the requirement that the Directive places on distributors to have sufficient certificated staff available to provide advice to customers.

Whatever type of product is being sold there is a legal requirement for staff to be competent, or for employers to provide sufficient instruction and guidance relating to the sale of any pesticide product.

Removing the requirement to have trained staff available at micro distributors may mean some users have to seek alternative information sources or may



not bother to seek advice if it is not immediately available.

#### RESTRICTION OF SALES

The requirement in the Directive restricts the purchase of products to trained persons, thereby reducing the likelihood of incidents of bad practice, but also introduces an element of accountability by the user and assists in traceability during investigations.

A possible system for restricting sales proposed is based on linking the provision of the user certificate registration number to the purchase of products for professional use. Here there could be two options:

- A person purchasing professional products for their own use provides their user certificate registration number directly to the distributor.
- A person purchasing on behalf of several qualified users

The number provided should be recorded as part of the Records of Sale by the distributor, and made available to the competent authority on request.

#### PROVISION OF INFORMATION

The Directive requires that distributors selling amateur products must provide general information to purchasers. Member States have the discretion to require pesticide producers to provide this information.

There is clearly a benefit in ensuring that users are well-informed about the choices available to them, and, if they choose a pesticide product, how to use it in a way which minimizes any risks.

#### **ART. 7: INFORMATION AND AWARENESS – RAISING**

The most common situation where the general public may come into contact with pesticides is through the purchase and use of amateur products.

Through information gathering systems investigations of alleged ill-health possibly caused by pesticide exposure and assessments whether the

incident were likely to have been caused by pesticide exposure could be examined.

Further data on alleged ill-health from pesticide use could be gathered from approval holders, who are required to log all reports of this nature, from both professional and amateur use.

Data are also provided by the National Poisons Information Service.

#### **ART. 8: INSPECTION OF PESTICIDE APPLICATION EQUIPMENT**

##### FREQUENCY OF INSPECTION

Options proposed for implementation would be in the form of a system based on the registration of equipment; so that government can meet the responsibility to 'ensure' equipment in professional use is inspected. The requirement would be on the equipment owner to register any pesticide application equipment within the scope of inspection.

##### EXEMPTION FOR HANDHELD EQUIPMENT/KNAPSACKS

For the derogation for this type of equipment, any risk could be mitigated through appropriate user training; user bad practice is just as likely to be the cause of inadvertent exposure as the efficacy of the equipment. It is already a requirement for commercial operators using agricultural pesticides, unless working under supervision, to hold a Certificate of Competence. To gain this certificate operators are required to demonstrate that they can carry out routine maintenance on the applicator they are using and calibrate and use the equipment correctly.

##### APPLICATION OF DIFFERING TIMETABLES

To allow equipment that falls into the categories to be inspected under different timetables, the Member States have to carry out risk assessments for human health and the environment, including an assessment on the scale of use.

In order to ensure that the interpretation of 'very low scale of use' is practical and the risk measurable, the criteria of 'very low scale of use' will be applied to equipment types, rather than any other



variable, such as the amount of area sprayed or number of uses. These variables are particular to each operator and therefore extremely difficult and time-consuming to measure on a large scale. Using the criteria of "equipment type" assesses the risk inherent to the type of equipment, assuming that all operators are adequately trained in its use.

It would be proportionate to allow the application of different inspection timetables where there is equipment that meets the criteria, it is practical to do so and a risk assessment indicates that this approach would be proportionate to the risk presented from the equipment use. However, before the appropriate risk assessment can be carried out, it needs to be decided whether there is any pesticide application equipment which meets the relevant criteria.

#### **ART. 9: AERIAL SPRAYING**

##### **CIRCUMSTANCES IN WHICH THE DEROGATION MAY APPLY**

There must be an absence of viable alternatives, or clear advantages in terms of reduced impacts on human health and the environment compared with land-based applications.

The use of aerial applications are often an essential first stage of bracken control programmes and that the nature of the terrain poses significant health and safety risks if land-based application technology is used.

For the requirement that from 2013 aircraft must be fitted with accessories that constitute the best available technology to reduce spray drift, interpretation can be the following:

- 'techniques' shall include both the technology used and the way in which it is designed, built, maintained and operated;
- available 'techniques' means those developed on a scale which allows implementation under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator;

- 'best' means most effective in achieving a high general level of protection of the environment as a whole.

#### **ART. 10: INFORMATION PROVISION**

MS may include SUD provisions of art 10 in the NAP on informing persons who could be exposed to spray drift. This art is not compulsory to be introduced in the plans and the SUD makes no direct reference to measures defined by art 31 and 67 of the PPP R, as regard to the UK interpretation. Therefore legislation drafting should not combine the two pieces of legislation.

#### **ART. 11: AQUATIC ENVIRONMENT AND DRINKING WATER**

##### **GIVING PREFERENCE TO PARTICULAR PRODUCTS**

Measures to protect water quality must take into account wider considerations. Promoting the use of chemicals with particular hazard classifications or inclusion as a priority hazardous substance will not necessarily reduce risk.

The regulatory risk assessment process takes hazard into account when identifying and mitigating the risks associated with the individual uses of particular products. Product choice is the responsibility of the user and their advisors; industry advice and training programmes provide users with the knowledge to enable them to choose the product which achieves the best balance between necessary control and minimizing risk to human health and the environment.

Pesticide manufacturers provide advice to users and advisors on risks to water from particular products. Options to explore may include whether all manufacturers should be encouraged/required to produce such information.

##### **GIVING PREFERENCE TO PARTICULAR APPLICATION TECHNIQUES**

Options to explore may include whether the use of low-drift technology might be considered as a condition of use for certain pesticide products. This



may also result in a wider range of products being available for use. However, the risks associated with introducing an increased degree of complexity for users and their advisors and enforcing authorities should also be taken into account.

Development of mitigation measures for the various routes of contamination

Directive provides for the creation of 'buffer zones' where pesticides must not be used or stored.

It is important that measures developed under this Directive should support and not duplicate, overlap or cut-across measures taken to implement the developing WFD implementation programme.

#### DRAIN FLOW

Mitigation of risk is achieved by restricting applications for relevant products to periods of the year when the drains are less likely to be running, restricting dose rates.

### **ART.12: REDUCTION OF PESTICIDE USE OR RISK IN SPECIFIC AREAS**

#### RECENTLY TREATED AREAS

The protection of agricultural workers is provided by mitigation measures which are imposed as a result of the regulatory risk assessment process (in particular controls on re-entry' intervals to treated areas) and the good practice measures

### **ART. 13: HANDLING AND STORAGE OF PESTICIDES AND TREATMENT OF THEIR PACKAGING AND REMNANTS**

#### PROFESSIONAL USERS: STORAGE, HANDLING, DILUTION, MIXTURE AND DISPOSAL

One option for reducing risk is to consider whether to promote further development of direct injection and closed transfer systems.

Handling and packaging of remnants - how to dispose of pesticide waste containers and other waste materials - follow manufacturer's instructions or if none are available rinse three times and add to

spray solution. Paper sacks and cartons are to be handled as if they still contained the products (disposed through a licensed waste contractor).

Disposal of tank mixtures - how dilute waste should be disposed of in order to protect human health and the environment - store contaminated water in container until licensed waste-disposal contractor collects, use of suitable processing equipment, use of a biobed. `

Cleaning of equipment - how cleaning operations should take place - using the minimum volumes of rinse water, repeated small rinses being better than a single big rinse, use of brushes rather than high pressure spray guns, remembering to clean all pipes, hoses, filters.

Recovery or disposal of remnants and packaging - containers must be passed to licensed waste disposal contractors, taken to a licensed waste disposal or recovery site or burned in a licensed incinerator. Paper sacks and cartons are to be handled as if they still contained the products and disposed through a licensed waste contractor. Options for reducing risks include: maximizing the amount of packaging sent for recycling; promoting development and adoption of reusable containers.

#### AMATEUR HANDLING OPERATIONS

Work to minimize impacts in the amateur sector is being directed such as: promoting the use of ready to use formulations; limits on pack sizes and containers. The regulatory risk assessment process regime addresses the requirement relating to products of low toxicity by ensuring that any product which requires the use of protective clothing is not to be approved for amateur use.

### **ART. 14: IPM**

Several activities which could be undertaken to help achieve the aims of Article 14:

- Education
  - can be carried out using statutory mechanisms which reach large numbers of users, such as the requirements for initial and additional training



- R&D projects include developing measures such as monitoring levels of weed infestation before carrying out spray operations
- Use Reduction Targets
- Monitoring and enforcement

#### **ART. 15. INDICATORS**

Due to the requirements of the SUD a set of balanced indicators to measure risk to human health and the environment is required.