Dear Consultee

Consultation on implementing EU pesticides legislation

1. I am writing to invite views on how the UK should implement measures under two key pieces of European pesticides legislation under the EU’s Thematic Strategy on Pesticides, which aims to minimise the risks to health and the environment from the use of pesticides.

2. The consultation seeks views on the transposition of the Directive on the Sustainable Use of Pesticides (the SUD) and two measures relating to the provision of public information on pesticides under the Plant Protection Products Regulation (‘the PPP Regulation’). It also seeks views on how the UK should use charging arrangements provided by this legislation and another Regulation on maximum residue levels of pesticides in food and feed.

3. This consultation is being carried out by the Chemicals Regulation Directorate of the Health and Safety Executive on behalf of Defra and the devolved administrations and it is published on the Defra website at: www.defra.gov.uk/corporate/consult/pesticides/

4. The following documents may be found on Defra’s website:
   - Consultation letter
   - Consultation document, including Consultation Stage Impact Assessments on the Sustainable Use Directive and the Plant Protection Products Regulation
   - List of consultees

5. We welcome your views and comments on the proposals.

Responding to the consultation

6. To assist those who wish to comment on the key transposition issues, a list of questions is set out in Chapters 5 – 7 of the consultation document. You may have a particular interest in certain sections and may wish to confine your answers to those sections or you may have views on all the issues. You are welcome to answer as many or as few questions as you like. A link to an electronic reply form, which contains all of the questions is available via the above website. You can print off the form and use it to submit written replies if you choose.
7. Responses should be sent to the Chemicals Regulation Directorate at the address below. **The closing date for the submission of responses is 4 May 2010.** Responses will not be considered after this date.

8. Responses can be submitted online using the link in the previous paragraph, or sent by post, fax or email to:-

Caroline Kennedy  
EU Pesticides Consultation (Stage One)  
Room 214  
Chemicals Regulation Directorate  
Kings Pool  
3 Peasholme Green  
York  
YO1 7PX  

Fax: 01904 455763  
Email: ConsultationCoordinator@hse.gsi.gov.uk

**Consultees in Scotland should also copy their consultation responses to:**  
Marie Coventry  
Scottish Executive Rural Directorate  
Agriculture and Rural Development Division  
CAP Reform & Crop Policy Branch  
Room 259  
Pentland House  
47 Robb's Loan  
Edinburgh, EH14 1TY  
email: EUPestlegconsult@scotland.gsi.gov.uk

**Consultees in Wales should also copy their responses to:**  
David Thomas  
Plant Health and Biotechnology Branch  
Technical Services Division  
Welsh Assembly Government  
Cathays Park  
Cardiff  
CF10 3NQ  
email: planthealthandbiotech@wales.gsi.gov.uk

**Consultees in Northern Ireland should also copy their responses to:**  
Deborah Currie  
Department of Agriculture and Rural Development Northern Ireland  
Environmental Policy Branch  
Room 656 Dundonald House  
Upper Newtownards Road
Implications for Wales, Scotland and Northern Ireland

9. This consultation covers England, Scotland, Wales and Northern Ireland. However, the Scottish Executive and the Northern Ireland Assembly will be producing Statutory Instruments to implement the legislation in Scotland and Northern Ireland. Each country may adopt individual approaches to implementation in some areas, to take account of different circumstances.

Consultation process and publishing responses

10. The Chemicals Regulation Directorate (CRD) of the Health and Safety Executive (HSE) is the delivery body for Defra’s responsibilities for pesticides and is undertaking this consultation, and will implement the resulting legislation, on behalf of Defra and the devolved administrations. The consultation covers England, Scotland, Wales and Northern Ireland. Each administration will consider its own approach to the outcome of the consultation.

11. This consultation is in line with the Code of Practice on Consultations, which can be found at: http://www.berr.gov.uk/br. The Code includes the following key criteria:

- **Criterion one - When to consult**
  Formal consultation should take place at a stage when there is scope to influence the policy outcome.

- **Criterion two - Duration of consultation exercises**
  Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

- **Criterion three - Clarity of scope and impact**
  Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

- **Criterion four - Accessibility of consultation exercises**
  Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

- **Criterion five - The burden of consultation**
  Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees’ buy-in to the process is to be obtained.

- **Criterion six - Responsiveness of consultation exercises**
  Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

- **Criterion seven - Capacity to consult**
  Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.
12. When the consultation ends, we intend to put copies of the responses in the Defra library at Ergon House, London, so the public can see them. Members of the public may also ask for copies under Freedom of Information legislation.

13. If you do not want your response, including your name, contact details and any other personal information, to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note that if your computer automatically includes a confidentiality disclaimer, it will not count as a confidentiality request.

14. Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under Freedom of Information legislation. But, because of the law, we cannot promise we will always be able to keep those details confidential.

15. We will summarise all responses and place this summary on our website at www.defra.gov.uk/corporate/consult/. This summary will include a list of names of organisations that responded but not people’s personal names, addresses or other contact details.

16. To see consultation responses and summaries, please write to the library at:

Defra
Information Resource Centre
Lower Ground Floor
Ergon House
17 Smith Square
London
SW1P 3JR

Telephone: 020 7238 6575
E-mail: defra.library@defra.gsi.gov.uk

Please give the library 24 hours’ notice. There is a charge for photocopying and postage.

17. If you have any comments or complaints about the consultation process, please address them to Defra’s Consultation Co-ordinator, Area 7C Nobel House, 17 Smith Square, London SW1P 3JR, or email consultation.coordinator@defra.gsi.gov.uk.

Background to the consultation
18. Under the European Community’s Thematic Strategy for Pesticides, two important new pieces of pesticides legislation came into force in 2009;


19. The SUD, which is intended to create a framework for the sustainable use of pesticides, will need to be transposed and implemented by the Member States within 2 years.


20. The PPP Regulation is essentially a revision of Directive 91/414 which currently governs the approvals regime for plant protection products with some new elements. While the PPP Regulation will be directly applicable in all the Member States, some of its provisions will need to be implemented by domestic Regulations setting out penalties for infringement.

Sustainable Use Directive 2009/128/EC

21. The overall objective of the Directive is to establish “… a framework to achieve a sustainable use of pesticides by reducing the risks and impacts of pesticide use on human health and the environment and promoting the use of Integrated Pest Management and of alternative approaches or techniques such as non-chemical alternatives to pesticides”. The UK must transpose and implement the Directive by 25 November 2011.

22. Key features of the Directive include: the establishment of National Action Plans; compulsory testing of application equipment, certification of operators and distributors, and access to certification for advisors; a ban (subject to derogations) on aerial spraying; special measures to protect the aquatic environment, public spaces and conservation areas; minimising the risks to human health and the environment through handling, storage and disposal; and the promotion of low input regimes (including Integrated Pest Management (IPM)).

23. The consultation invites views on the implementation and transposition of the following provisions:

- Article 4: National Action Plans
- Article 5: Training and Certification
- Article 6: Sales Restrictions and Information Provision
- Article 7: Information and Awareness Raising
- Article 8: Testing of Pesticides Application Equipment
- Article 9: Aerial Spraying
- Article 10: Information on Pesticides
- Article 11: Protection of Water
- Article 12: Reduction of Pesticide Use or Risks in Specific Areas
- Article 13: Storage, Handling and Waste
- Article 14: Integrated Pest Management
- Article 15: Indicators

24. The Regulation is essentially a revision of Directive 91/414/EEC that currently governs the approvals regime for plant protection products, but with some new elements. The Regulation’s overall objective is to “… lay down rules for the authorisation of plant protection products in commercial form and for their placing on the market, use and control within the Community [and] … ensure a high level of protection of both human and animal health and the environment and to improve the functioning of the internal market through the harmonisation of the rules on the placing on the market of plant protection products including active substances, while improving agricultural production.”

25. The Regulation updates the existing regime and aims to increase the level of protection for people and the environment as well as speeding up decision making and providing clearer rules. The majority of the Regulation is directly binding and is not therefore included in this consultation. There are, however, two discretionary provisions in the Regulation where we have undertaken to consult.

26. The two provisions are:

- Article 31: Authorisations – Notification of Neighbours
- Article 67: Recording and Disclosing Information on pesticides

27. They concern the provision of information in two main categories: advance notification to neighbours who could be exposed to crop spraying activity; and making available records of plant protection products used, on request by the competent authority.

28. The Regulation provides an opportunity to consider the introduction of measures that would provide greater transparency of pesticides use post-approval. Despite the precautionary nature of the approval system and the high level of protection that it affords people, animals and the environment, people may wish to know about pesticides which they see being used.

Implementation Options

29. Our top priority continues to be the protection of human health and the environment. This new EU legislation offers an opportunity to review some major aspects of our policy on pesticides regulation and we are approaching this opportunity with an open mind. We have not set out preferred options at this stage and will wait until we have considered the responses before deciding on our approach. The consultation therefore seeks views on a range of implementation options. Although they represent a broad spectrum of potential implementation options, the approaches can broadly be described as:

- **Option 1**: Maintain status quo; retain the current UK framework of controls where these meet the minimum requirements of the Directive (where current controls would not be in compliance with the Directive, option 1 will not be considered).

- **Option 2**: Improve and strengthen current statutory and voluntary controls, and implement additional measures necessary to comply with the Directive.

- **Option 3**: Adopt regulatory controls wherever possible.
30. The outcome of this consultation may be an implementation package consisting of a combination of measures under any of these three approaches, rather than a simple choice between options 1, 2 and 3.

**Charging arrangements**

31. The Regulation, the Directive and Regulation (EC) No 396/2005 on maximum residue levels (‘the MRLs Regulation’) all provide for Member States to recover the costs of work carried out under that legislation. The Regulation introduces new requirements to the regulatory regime that will be charged to pesticide authorisation holders. All three pieces of legislation provide for Member States to recover certain costs that are not currently recoverable.

32. The consultation invites views on how charging arrangements in the UK should operate in future.

**Impact Assessments**

33. The consultation is accompanied by two initial stage impact assessments and views on these impact assessments would also be welcome.

34. Thank you for your help in developing our policies.

Yours faithfully

David P Williams
Department for Environment, Food and Rural Affairs