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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a REGULATION ON THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115 - Follow up to the Working Party on Plants and Plant Health Questions (Pesticides/Plant Protection Products) on 27 January 2023 – comments from the Netherlands on IPM

Delegations will find in annex comments from the Netherlands on articles 15-17.

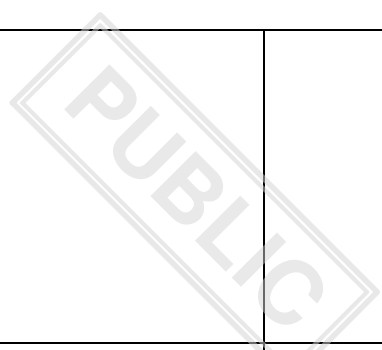
Member State:	The Netherlands
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Commission proposal (SUR)	Drafting Suggestions	Comments
<i>Article 15</i> Implementation of integrated pest management using crop-specific rules		
1. Member States shall adopt agronomic requirements based on integrated pest management controls that must be adhered to when growing or storing a particular crop and are designed to ensure that chemical crop protection is only used after all other non-chemical methods have been exhausted and when a threshold for intervention is reached ('crop-specific rules'). The crop-specific rules shall implement the principles of integrated pest management, set out in Article 13, for the relevant crop and be set out in a binding legal act.	1. Member States shall adopt agronomic requirements based on integrated pest management controls that must be adhered to when growing or storing a particular crop and are designed to ensure that chemical crop protection is only used after all other non-chemical methods have been exhausted and when a threshold for intervention is reached ('crop-specific rules') OR AFTER ALL OTHER NON-CHEMICAL METHODS HAVE BEEN CONSIDERED AND THE REASONS FOR NOT APPLYING ANY NON-CHEMICAL METHOD IS RECORDED.	The Netherlands has several general concerns in relation to binding crop specific rules: - professional users can no longer make their own choices and government will largely determine the implementation of IPM on farms. This isn't desirable; on the one hand because IPM can differ in practice between companies within a crop or between regions. And on the other hand because it doesn't do justice to the responsibility and knowledge of the professional user and his or her adviser(s). -NL wonders whether the government can be held

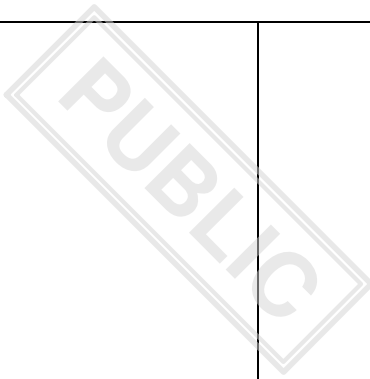
		<p>responsible for quantitative or qualitative loss of yield resulting from the on farm application of crop specific rules.</p> <p>- The obligation for the setting up of crop specific rules will lead to enormous administrative burdens for Dutch government and for the Commission itself. The obligation to draw up binding cultivation regulations for 90% of the agricultural area and review them annually goes too far. This means that NL must draw up regulations for dozens of crops.</p> <p>As regards the subsequent IPM steps, NL believes that, of course after preventive measures and proper monitoring, there must be possibilities to deviate from them. For example, when a strict application of IPM steps would lead to an overall increase in the use and risks of plant protection products or the application of chemical plant protection products (as last resort) would be too late to effectively combat pests and diseases and would result in a large quantitative or qualitative loss of yield.</p>
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<p>2. Each Member State shall designate a competent authority responsible for ensuring that the crop-specific rules are scientifically robust and comply with this Article.</p>		
<p>3. By ... <i>[OP: please insert the date = the first day in the month following 24 months after the date of entry into force of this Regulation]</i> each Member State shall have in place effective and enforceable crop-specific rules, for crops covering an area that accounts for at least 90 % of its utilised agricultural area (excluding kitchen gardens). Member States shall determine the geographic scope of those rules taking account of relevant agronomic conditions, including, the type of soil and crops and the prevailing climatic conditions.</p>	<p>3. By ... <i>[OP: please insert the date = the first day in the month following 24 months after the date of entry into force of this Regulation]</i> each Member State shall have in place effective and enforceable crop-specific rules, for crops covering an area that accounts for at least 90 % of its utilised agricultural area (excluding kitchen gardens). Member States shall determine the geographic scope of those rules taking account of relevant agronomic conditions, including, the type of soil and crops and the prevailing climatic conditions. FOR A MAXIMUM OF 5 CROPS LISTED IN THE NATIONAL ACTION PLANS IN ARTICLE 8, IN WHICH ACTIVE SUBSTANCES ARE USED THAT MOST STRONGLY INFLUENCE THE TREND IN THE REDUCTION IN THE USE AND RISKS OF CHMICAL PLANT PROTECTION</p>	<p>NL proposes not to link crop specific rules to a general % of agricultural area, but to crops and chemicals that can make the largest contribution to the reduction targets.</p> <p>Article 8 on national action plans states that Member States should identify the five crops with the highest use of chemical PPPs and what the five most used chemical PPPs and/or five most used Cfs are. This inventory is intended to clarify which substances need to be “addressed” in order to achieve the reduction targets for 2030. NL believes that, depending on the outcome of that inventory, it should be determined for which crops IPM cultivation regulations should be drawn up. This way, Member States efforts in achieving the intended reduction targets will be more effective.</p>

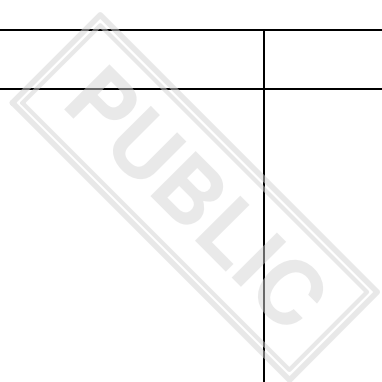
	PRODUCTS AND OF THE USE OF THE MOST HAZARDOUS PLANT PROTECTION PRODUCTS.	
<p>4. At least 9 months prior to the point in time when a crop-specific rule becomes applicable under national law, the Member State shall perform all of the following actions:</p> <p>(a) publish a draft for public consultation;</p> <p>(b) take into account comments received from stakeholders and members of the public on the draft in a transparent manner;</p> <p>(c) submit the draft that takes into account the comments as referred to in point (b) to the Commission.</p>		
<p>5. Where the Commission is notified of a draft in accordance with paragraph 4, point (c), it may within 6 months of receipt of the draft object to its adoption by a Member State, if it considers that the draft does not comply with the criteria set out in paragraph 6. If the Commission objects, the Member State shall refrain from adopting the draft until it has amended</p>		



the text so as to remedy the shortcomings identified in the Commission's objections. The absence of a reaction from the Commission in accordance with this paragraph to a draft crop-specific rule shall not prejudice any action or decision which might be taken by the Commission under other Union acts.		
<p>6. The crop-specific rules shall convert the requirements of integrated pest management laid down in Article 13 into verifiable criteria by, among others, specifying the following:</p> <p>(a) the most economically significant harmful organisms affecting the crop;</p> <p>(b) the non-chemical interventions involving cultural, physical and biological control which are effective against the harmful organisms referred to in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(c) the low-risk plant protection products or alternatives to chemical plant protection products which are effective against the harmful organisms referred to in point (a) and qualitative criteria or conditions under which these interventions are to be</p>	<p>(e) the quantitative criteria or conditions under which chemical plant protection products may be used after all other means of control that do not require the use of chemical plant protection products have been exhausted OR HAVE BEEN CONSIDERED AND THE REASONS FOR NOT APPLYING ANY NON-CHEMICAL METHOD IS RECORDED;</p>	<p>In crop specific rules, the emphasis should be on IPM aspects that are more generic, such as determining the damage/deterioration using damage thresholds and evaluating the measures taken.</p>



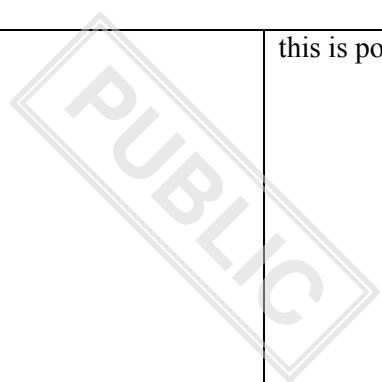
<p>made;</p> <p>(d) chemical plant protection products that are not low-risk plant protection products and that are effective against the harmful organisms referred to in point (a) and qualitative criteria or conditions under which these interventions are to be made;</p> <p>(e) the quantitative criteria or conditions under which chemical plant protection products may be used after all other means of control that do not require the use of chemical plant protection products have been exhausted;</p> <p>(f) the measurable criteria or conditions under which more hazardous plant protection products may be used after all other means of control that do not require the use of chemical plant protection products have been exhausted.</p> <p>(g) the obligation to record observations demonstrating that the relevant threshold value has been reached.</p>		
<p>7. Each Member State shall review its crop-specific rules annually and update them where necessary, including when it is needed to reflect changes in the</p>		



availability of harmful organism control tools.		
<p>8. A Member State that is planning to update a crop-specific rule shall, at least 6 months before the update becomes applicable under national law:</p> <p>(a) publish a draft of the updated rules for public consultation;</p> <p>(b) take into account comments received from stakeholders and members of the public on the draft in a transparent manner;</p> <p>(c) submit the draft that takes into account the comments as referred to in point (b) to the Commission.</p>		
<p>9. Where the Commission is notified of a draft under paragraph 8, it may within 3 months of receipt of the draft object to the updating of the crop-specific rule by a Member State, if it considers that the draft does not comply with the criteria set out in paragraph 6. If the Commission objects, the Member State shall refrain from updating the crop-specific rule until it has amended the text so as to remedy the shortcomings identified in the Commission's</p>		

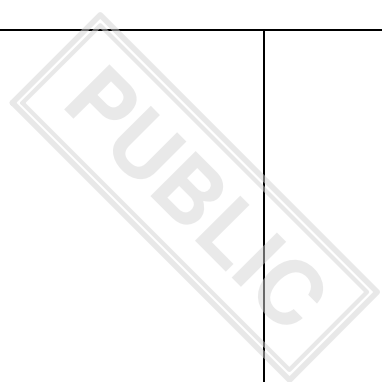
objections. The absence of a reaction from the Commission in accordance with this paragraph to a draft crop-specific rule shall not prejudice any action or decision which might be taken by the Commission under other Union acts.		
10. A Member State with significant climatic or agronomic differences between regions, shall adopt crop-specific rules for each of those regions.		
11. Each Member State shall publish all of its crop-specific rules on a single website.		
12. The Commission shall publish on a website links to the websites referred to in paragraph 11 of the Member States.		

<p>13. By ... [OP: please insert the date = the first day of the month following 7 years after the date of entry into force of this Regulation], the Commission shall submit a report to the European Parliament and the Council on the adoption and enforcement of crop-specific rules in the Member States and the compliance of those rules with Article 15.</p>		
<p>Article 16</p> <p>Electronic integrated pest management and plant protection product use register</p>		
<p>1. Each Member State shall designate a competent authority or competent authorities to establish and maintain an electronic integrated pest management and plant protection product use register or registers.</p> <p>The electronic integrated pest management and plant protection product use register or registers shall contain all of the following information for a</p>	<p>(b) the name of the advisor and dates and content of advice entered in accordance with Article 14(2);</p>	<p>It is necessary to agree on a realistic transitional period for setting up electronic registers for integrated crop protection with MS. Thereafter, this could be laid down in Article 16. As the current Sustainable Use Directive does not require electronic registers, many MS including NL, need time for building ICT infrastructure, ICT links etc.</p> <p>We question the added value of registering the name of the advisor and the date and have doubts whether</p>



<p>period of at least 3 years from date of entry:</p> <p>(a) any preventative measure or intervention and the reasons for that preventative measure or intervention entered in accordance with Article 14(1);</p> <p>(b) the name of the advisor and dates and content of advice entered in accordance with Article 14(2);</p> <p>(c) an electronic record of each application of a plant protection product under Article 67 of Regulation (EC) No 1107/2009 and a report on any aerial application carried out under Article 20, as required by Article 14(3).</p>		<p>this is possible in view of privacy legislation.</p>
<p>2. The register(s) referred to in paragraph 1 shall be accessible to professional users so that they are able to enter the electronic records in accordance with Article 14.</p>		
<p>3. Competent authorities referred to in paragraph 1 shall verify compliance of professional users with Article 14.</p>		

4. Competent authorities referred to in paragraph 1 shall, once a year submit to the Commission a summary and analysis of the information collected under Article 14 and of any additional data on use of plant protection products gathered in accordance with Article 67 of Regulation (EC) No 1107/2009.		
5. Competent authorities referred to in paragraph 1 shall share the data gathered under paragraph 1, points (a) and (c), of this Article with the national competent authorities in charge of the implementation of Directives 2000/60/EC and (EU) 2020/2184 for cross-linking that data, in anonymised form, with environmental, groundwater and water quality monitoring data, to enhance the identification, measuring and reduction of risks from the use of plant protection products.		
6. Competent authorities referred to in paragraph 1 shall ensure access to the register(s) referred to in paragraph 1 to national statistical authorities for the development, production and dissemination of official statistics.		

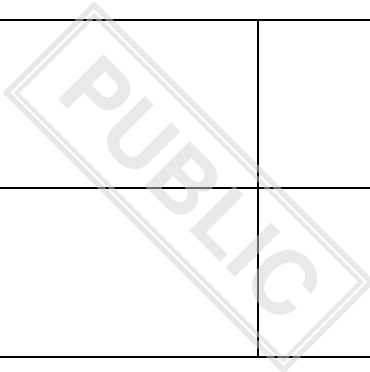


<p>7. In order to ensure a uniform structure of the summary and analysis referred to in paragraph 4, the Commission may, by means of implementing acts, adopt a standard template for such summary and analysis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 41(2).</p>		
<p>CHAPTER V</p> <p>USE, STORAGE AND DISPOSAL OF PLANT PROTECTION PRODUCTS</p>		
<p><i>Article 17</i></p> <p>General requirements for the use of plant protection products for professional use and of application equipment in professional use</p>		
<p>1. A plant protection product authorised for professional use may only be used by a professional user who:</p> <p>(a) has been issued with a training certificate for following courses for professional users in accordance with Article 25, or has a proof of entry in a central electronic register for following such</p>	<p>1. A plant protection product authorised for professional use may only be used by a professional user who:</p> <p>(a) has been issued with a training certificate for following courses for professional users in accordance with Article 25, or has a proof of entry in a central electronic register for following such courses in accordance with Article 25(5), and</p>	<p>NL propose to delete paragraph 1b. This paragraph “doubles” with Article 26 paragraph 3.</p> <p>It should be clarified who should have the obligation to make use of independent advice. This article seems to be drafted based on the idea that professional users are always carrying out their own spraying. Hybrid situations occur in NL. For example, contractors are hired for spraying or</p>

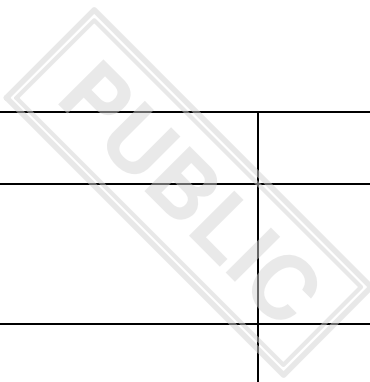
courses in accordance with Article 25(5), and (b) uses the services of an independent advisor in accordance with Article 26(3).	(b) uses the services of an independent advisor in accordance with Article 26(3).	<p>agricultural land is leased for arable farming by other professional users.</p> <p>We suggest to link the obligation to the person who practices the cultivation, usually the company owner or the tenant. It would be reasonable to impose the obligation above a certain company size, e.g. in hectares of agricultural land, and above a number of kilo's of use of PPP's.</p>
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2. More hazardous plant protection products may only be used and purchased by professional users.		
3. Application equipment in professional use may only be used by professional users that hold a training certificate issued to them for following courses for professional users in accordance with Article 25 or have a proof of entry in a central electronic register for following such courses in accordance with Article 25(5).		

<p>4. Within 3 years starting from date of first purchase, and every 3 years thereafter, a professional user shall submit his or her application equipment in professional use for inspection pursuant to Article 31. Where 3 years have passed from the date of first purchase of application equipment in professional use, a professional user may only use it for the application of plant protection products, if that equipment meets any of the following conditions:</p> <p>(a) the equipment has successfully passed inspection and the results have been recorded in the electronic register of application equipment in professional use in accordance with Article 31(6);</p> <p>(b) a derogation under Article 32(1), or Article 32(3) applies to that equipment.</p> <p>At the time of submitting the equipment for inspection, the owner of the equipment or his or her representative shall provide to the competent authority or body carrying out the inspection, the</p>	<p>4. Within 3 years starting from date of first purchase, and WITHIN every 3 years thereafter, a professional user shall submit his or her application equipment in professional use for inspection pursuant to Article 31. Where 3 years have passed from the date of first purchase of application equipment in professional use, a professional user may only use it for the application of plant protection products, if that equipment meets any of the following conditions:</p>	<p>Several private quality schemes exist in NL in which it's a requirement to inspect equipment every two years. We propose to allow (in paragraph 4) for more frequent inspections on a voluntary basis by adding the word "within".</p>
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information necessary for the competent authority to comply with its record-keeping obligations pursuant to Article 30(1), point (b).		
5. A professional user shall inspect and operate application equipment in accordance with the manufacturer's manual of instructions.		



Article 3 Definitions		
<i>Relevant definitions</i> <i>Please comment on definitions linked to Article 15-17 and 20-23</i> <i>Please insert rows below for the relevant definitions you want to comment on, and indicate clearly in this column which definition you are commenting on</i>		