

Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (Text with EEA relevance)

CHAPTER IV

**SPECIFIC PRACTICES AND USES**

*Article 9*

**Aerial spraying**

- 1 Member States shall ensure that aerial spraying is prohibited.
- 2 By way of derogation from paragraph 1 aerial spraying may only be allowed in special cases provided the following conditions are met:
  - a there must be no viable alternatives, or there must be clear advantages in terms of reduced impacts on human health and the environment as compared with land-based application of pesticides;
  - b the pesticides used must be explicitly approved for aerial spraying by the Member State following a specific assessment addressing risks from aerial spraying;
  - c the operator carrying out the aerial spraying must hold a certificate as referred to in Article 5(2). During the transitional period where certification systems are not yet in place, Member States may accept other evidence of sufficient knowledge;
  - d the enterprise responsible for providing aerial spray applications shall be certified by a competent authority for authorising equipment and aircraft for aerial application of pesticides;
  - e if the area to be sprayed is in close proximity to areas open to the public, specific risk management measures to ensure that there are no adverse effects on the health of bystanders shall be included in the approval. The area to be sprayed shall not be in close proximity to residential areas;
  - f as from 2013, the aircraft shall be equipped with accessories that constitute the best available technology to reduce spray drift.

3 Member States shall designate the authorities competent for establishing the specific conditions by which aerial spraying may be carried out, for examining requests pursuant to paragraph 4 and for making public information on crops, areas, circumstances and particular requirements for application including weather conditions where aerial spraying may be allowed.

In the approval the competent authorities shall specify the measures necessary for warning residents and bystanders in due time and to protect the environment in the vicinity of the area sprayed.

4 A professional user wishing to apply pesticides by aerial spraying shall submit a request for approval of an application plan to the competent authority accompanied by evidence to show that the conditions referred to in paragraphs 2 and 3 are fulfilled. The request for application of aerial spraying in accordance with the approved application plan shall be submitted in due time to the competent authority. It shall contain information about the provisional time of spraying and the amounts and the type of pesticides applied.

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Member States may provide that requests for applications of aerial spraying in accordance with an approved application plan, for which no answer was received on the decision taken within the time period laid down by the competent authorities, shall be deemed to be approved.

In particular circumstances such as emergency or specific difficult situations, single requests for application of aerial spraying may also be submitted for approval. Where justified, competent authorities shall have a possibility to apply an accelerated procedure in order to verify that the conditions referred to in paragraphs 2 and 3 are fulfilled before the application of aerial spraying.

5 Member States shall ensure that the conditions referred to in paragraphs 2 and 3 are met by conducting appropriate monitoring.

6 The competent authorities shall keep records of the requests and approvals as referred to in paragraph 4 and shall make available to the public the relevant information contained therein such as the area to be sprayed, the provisional day and time of the spraying and the type of pesticide, in accordance with the applicable national or Community law.

#### *Article 10*

### **Information to the public**

Member States may include in their National Action Plans provisions on informing persons who could be exposed to the spray drift.

#### *Article 11*

### **Specific measures to protect the aquatic environment and drinking water**

1 Member States shall ensure that appropriate measures to protect the aquatic environment and drinking water supplies from the impact of pesticides are adopted. Those measures shall support and be compatible with relevant provisions of Directive 2000/60/EC and Regulation (EC) No 1107/2009.

- 2 The measures provided in paragraph 1 shall include:
- a giving preference to pesticides that are not classified as dangerous for the aquatic environment pursuant to Directive 1999/45/EC nor containing priority hazardous substances as set out in Article 16(3) of Directive 2000/60/EC;
  - b giving preference to the most efficient application techniques such as the use of low-drift pesticide application equipment especially in vertical crops such as hops and those found in orchards and vineyards;
  - c use of mitigation measures which minimise the risk of off-site pollution caused by spray drift, drain-flow and run-off. These shall include the establishment of appropriately-sized buffer zones for the protection of non-target aquatic organisms and safeguard zones for surface and groundwater used for the abstraction of drinking water, where pesticides must not be used or stored;
  - d reducing as far as possible or eliminating applications on or along roads, railway lines, very permeable surfaces or other infrastructure close to surface water or groundwater or on sealed surfaces with a high risk of run-off into surface water or sewage systems.

### Article 12

#### **Reduction of pesticide use or risks in specific areas**

Member States shall, having due regard for the necessary hygiene and public health requirements and biodiversity, or the results of relevant risk assessments, ensure that the use of pesticides is minimised or prohibited in certain specific areas. Appropriate risk management measures shall be taken and the use of low-risk plant protection products as defined in Regulation (EC) No 1107/2009 and biological control measures shall be considered in the first place. The specific areas in question are:

- (a) areas used by the general public or by vulnerable groups as defined in Article 3 of Regulation (EC) No 1107/2009, such as public parks and gardens, sports and recreation grounds, school grounds and children's playgrounds and in the close vicinity of healthcare facilities;
- (b) protected areas as defined in Directive 2000/60/EC or other areas identified for the purposes of establishing the necessary conservation measures in accordance with the provisions of Directives 79/409/EEC and 92/43/EEC;
- (c) recently treated areas used by or accessible to agricultural workers.

### Article 13

#### **Handling and storage of pesticides and treatment of their packaging and remnants**

1 Member States shall adopt the necessary measures to ensure that the following operations by professional users and where applicable by distributors do not endanger human health or the environment:

- a storage, handling, dilution and mixing of pesticides before application;
- b handling of packaging and remnants of pesticides;
- c disposal of tank mixtures remaining after application;
- d cleaning of the equipment used after application;
- e recovery or disposal of pesticide remnants and their packaging in accordance with Community legislation on waste.

2 Member States shall take all necessary measures regarding pesticides authorised for non-professional users to avoid dangerous handling operations. These measures may include use of pesticides of low toxicity, ready to use formulations and limits on sizes of containers or packaging.

3 Member States shall ensure that storage areas for pesticides for professional use are constructed in such a way as to prevent unwanted releases. Particular attention shall be paid to location, size and construction materials.

### Article 14

#### **Integrated pest management**

1 Member States shall take all necessary measures to promote low pesticide-input pest management, giving wherever possible priority to non-chemical methods, so that professional

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users of pesticides switch to practices and products with the lowest risk to human health and the environment among those available for the same pest problem. Low pesticide-input pest management includes integrated pest management as well as organic farming according to Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products<sup>(1)</sup>.

2 Member States shall establish or support the establishment of necessary conditions for the implementation of integrated pest management. In particular, they shall ensure that professional users have at their disposal information and tools for pest monitoring and decision making, as well as advisory services on integrated pest management.

3 By 30 June 2013, Member States shall report to the Commission on the implementation of paragraphs 1 and 2 and, in particular, whether the necessary conditions for implementation of integrated pest management are in place.

4 Member States shall describe in their National Action Plans how they ensure that the general principles of integrated pest management as set out in Annex III are implemented by all professional users by 1 January 2014.

Measures designed to amend non-essential elements of this Directive relating to amending Annex III in order to take account of scientific and technical progress shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(2).

5 Member States shall establish appropriate incentives to encourage professional users to implement crop or sector-specific guidelines for integrated pest management on a voluntary basis. Public authorities and/or organisations representing particular professional users may draw up such guidelines. Member States shall refer to those guidelines that they consider relevant and appropriate in their National Action Plans.

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(1) [OJ L 189, 20.7.2007, p. 1.](#)