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Water Division
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6th March 2006

Dear Sir/Madam,

DIFFUSE WATER POLLUTION FROM RURAL LAND USE – PAPER 2005/35

Thank you for consulting Scottish Natural Heritage on this package of measures to tackle diffuse water pollution from rural land use. We broadly welcome the proposals and feel there is much to be gained in seeking to tackle many of the issues surrounding diffuse water pollution through elements embedded in the system of Land Management Contracts.

Our detailed responses to the questions posed in the consultation document are set out in the attached annex.

Yours truly,

John Thomson
Director of Strategy & Operations

ANNEX – SNH’s responses to questions posed.

1. Do you agree that we have accurately identified the water quality issues that need to be addressed? If not, why and what supports your view?

2. Do you consider there are other problems not identified? We have examples from Site Condition Monitoring of a number of SSSIs & Natura sites where diffuse pollution from agriculture and forestry is a problem. Eutrophication of wetlands by agricultural runoff emerges as one of the key issues.

3. What aspects do you consider may require regulation or to be more rigorously controlled using existing powers of enforcement? Chapter 3 contains little or no analysis of how effective the various current measures have been, either in changing farmer/forester behaviour, or in reducing diffuse pollution. We suggest that this is a serious gap in the consultation paper as it inhibits rational consideration of future options. The current proliferation of initiatives and schemes listed in this chapter makes the whole process very complicated and some simplification would be desirable. There will be a considerable increase in timber harvesting in the next few decades and there may be a need to more closely monitor adherence to best practice by harvesting contractors.

4. Do you consider that advice on water pollution risks, within the PEPFAA Code and/or the Forest and Water Guidelines, is effective? If not, what else is required? From a practical perspective, the PEPFAA code is lengthy and hard to digest. It is unlikely that many farmers find time to read it and implement it. It would be useful to supplement advice in PEPFAA with training supported through the training element in the LMC Tier 2 Menu Scheme.

5. Which measures to protect watercourses would you wish to see eligible for financial support under the planned Tier 3 of LMCs? It will be important to make compliance with the PEPFAA code a condition of receipt of Single Farm Payment if Good Farming Practice is no longer relevant with the introduction of the new Rural Development Regulation in 2007. For Tier 2 items, there is scope within the Ditch Management option in the Menu Scheme for farmers not to manage their ditches for environmental benefit. It would be useful to support measures under Tier 2 with guidance on good practice in order to maximize the potential benefits of these measures. We will be commenting fully on the content of LMCs when the consultation on LMCs is issued. As an indication of the sort of the measures we would support under Tier 3, these should include existing RSS measures for water-margins as well as additional measures to cover nutrient budgets. In order to address diffuse pollution, it will be important to find a mechanism to encourage collaborative action throughout a catchment or sub-catchment in order for the measures to have any real benefit. Tier 3 measures will need to be carefully targeted to those catchments most requiring activity and where the measures can significantly contribute to the aims of achieving good ecological quality.

6. Do you agree with the idea for self-audit/environmental checklist of the farm’s environmental practice? Self-auditing can play a useful part in helping raise awareness of environmental issues. However, it also needs to be used with caution.

The issues involved in understanding diffuse pollution are relatively new to many farmers which may limit farmer's ability to undertake effective self-audits.

7. We think it is important to help farmers/foresters/land managers understand the likelihood of water pollution from their enterprise. What is most likely to be effective?

Feedback from farmers on farm open days has shown that the way they most prefer to receive information is from farm visits. The use of catchment officers would also be an important part of helping farmers understand what is required and how they might achieve those requirements. However, it is probably best to have a number of different ways of engaging with farmers, both through guidance, training and site visits.

We note that river channel restoration is omitted from the range of measures proposed. This is not the same as 'buffer strips'. Instead, it would involve restoring the physical structural diversity of watercourses, to allow more instream habitat diversity to develop, which should have a range of benefits (landscape, biodiversity, geomorphology, fishery, flood management) in addition to creating river systems better able to 'defend themselves' from diffuse pollution through pollutant adsorption, dilution, dispersal and oxidation/reduction.

8. Do you agree that farming should be subject to a regulatory structure similar to that already planned for other activities under CAR? Yes, there is no reasons why farming should be exempt. The regulatory approach should mean that environmental standards are raised that in turn should provide benefits for the natural heritage.

9. Do you agree that measures should be introduced as early as possible to enable us to meet WFD Targets? Implementing measures over a longer time-scale should help farmers plan and prepare for full implementation of the WFD.

10. Are you content that there should be general binding rules (GBRs) for activities which contain potentially polluting practices? General Binding Rules are a useful way to progress. However, what will be important, is deciding on the detail of what goes into forming GBRs, and how these are then enforced.

11. Do you agree that specific problems in "at risk" catchments should be dealt with through targeted GBRs to be developed in consultation with the industry? Diffuse pollutant impacts tend to be site specific, depending on, for example, the pollutant of concern, landscape and climate factors, so it will be important to have the scope to target some GBRs in specific catchments. In particular, some water bodies are SACs under the Habitats Directive and will need targeted proposals.

12. Do you agree with the proposed approach of combining regulations (GBRs) with the development of guidance, support and the promotion of voluntary action? Yes, a combined approach will be necessary to address the range of issues raised by diffuse pollution.

13. Do you agree that the proposed GBRs and a suite of supportive measures is the right approach? What should they include? More work needs to be done to see

what would be the most effective GBRs. Roles and responsibilities need to be clear, especially regarding monitoring and enforcement, which should focus on two types of outcome: desired changes in practice as well as desired changes in the environment.

14. How might the proposed approach best be developed?

15. Are there any further factors we need to take into account?

16. How should the Executive work most effectively with the agricultural sector?

17. Can a similar approach be used for forestry as for agriculture?

We suggest there is a need to quickly reconvene the working group which had previously been considering these issues. SNH will be happy, as before, to help the work of this group.