

# Government Response to the Farming Regulation Task Force

February 2012

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PB 13717

## Government Response to the independent Farming Regulation Task Force

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In this report, the Farming Regulation Task Force's recommendations are set out in **bold**. The Government Response is in plain text.

# **Part 1 Ministerial introduction to the full Government Response to the independent Farming Regulation Task Force**

## **Introduction**

As the Minister for Agriculture it is my job to make a difference to the farming sector. In May last year the independent Farming Regulation Task Force published a challenging agenda for changing the way we regulate the farming industry in England and how we work with farmers<sup>1</sup>. I had specifically asked Richard Macdonald to ensure it left a long term legacy of change and not just some regulations to amend or abolish. The report achieved this by calling for a fundamentally different approach and culture in Defra. I am pleased to be able to set out a full response to the Task Force's report.

A number of key themes for action have become clear, and we shall be focussing resources on driving these forward over the coming months. Out of 220 recommendations that the Task Force made (with a further 18 recommendations directed at the Food Standards Agency), we have said an immediate yes to over 159 and are actively considering what could be possible on a further 31. Some we are exploring through formal consultations which are currently underway, and for others we are working closely with different parts of the farming industry. Where we have decided not to take forward a recommendation, we have set out clearly why. You can see the detailed responses to each recommendation in the attached document.

In responding to the recommendations, I would like to highlight the key actions, and where we have already made good progress.

## **Inspection and earned recognition**

We fully accept the principle of reducing the inspection burden upon those who have a strong track record of reliability and adherence to standards. This risk-based approach to inspections is happening now in a number of inspection regimes, for example Integrated Pollution Prevention and Control (IPPC) inspections in the pig and poultry sectors, and with livestock welfare and dairy hygiene inspections. Farmers who are in certain farm assurance schemes are no longer inspected as frequently for these purposes. We want to go further. We want to build a higher level of trust between farmers and inspection bodies where professionalism and high standards in farm businesses are routinely rewarded by a reduction in the number of inspections.

In the response we detail the next steps, working closely with Assured Food Standards, Linking Environment and Farming (LEAF) and the National Farmers' Union (NFU). We are working with the Rural Payments Agency (RPA) to review cross compliance inspections

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<sup>1</sup> <http://www.defra.gov.uk/publications/2011/05/17/pb13527farming-reg-report/>

this year, with the intention of implementing changes for 2013. We need to get this right, and we will take a step by step approach to ensure that the food we grow continues to be safe and that environmental and animal welfare standards are high. It is important that we continue to address non-compliance and take effective enforcement action where needed.

## **Sharing data and information**

To help reduce unnecessary duplication of inspections, we need to get better at sharing information between our delivery partners to enable them to take a more risk-based approach and direct inspection activity to where it is most needed.

There is no substitute for close working relationships between farming organisations and regulatory bodies at the local level. In East Anglia, the NFU are leading the way with Local Authorities and other regulatory bodies including AHVLA and EA. Simply by talking to each other and working together with shared information, they are reducing duplication of inspections and co-ordinating action in a more targeted way. Given this success, NFU have committed to rolling this approach out across all regions, and we will support them.

Sharing information between organisations needs to be done properly to make sure farmers' data is handled appropriately, and we need the consent of individual farmers and business owners. We are making progress: the NFU has already played a lead role in developing a draft data sharing statement. The next step is to identify which information it would be most helpful to share to reduce the burden of information requests. We are talking to farmers to find out how our information gathering could be improved, and where we can, we will respond to this feedback by phasing out repeated requests for the same information. I want to use simple approaches to do this now, rather than waiting for complex IT solutions, which could delay progress.

In December 2011 we published our first Paperwork Plan, which we will review twice a year. This set out our priorities for reducing the burden of paperwork on farmers and food processors, so everybody can see what we are doing. In March this year we are kicking off a series of farmer workshops to look in greater detail at their paperwork loads, so we can understand the cumulative burden from the farmer's point of view, and identify where we can make the biggest differences.

## **Digital by default**

Many of our services are available online and we are encouraging farmers to do more of their business this way, as the whole of Government moves to phase out the paper-based approach. In the future, all online Government services will be available through a single Government website. This provides opportunities to streamline the way we can do business and offer tools and services to farmers. We plan to use online working to make earned recognition happen more rapidly and speed up effective sharing of information and data

For example, it might be possible for farmers to submit key information such as their membership of livestock health or farm assurance schemes, to support automatic

assessment of their risk status, and so make it easy for farmers to identify what else they could do to reduce their risk status and therefore the number of inspections. Later this year we are setting up a prototype webpage to give farmers the opportunity to test these ideas, and offer their views on how they could be improved and developed further. We will work closely with farming organisations so that as we implement our drive towards online working, it is done inclusively, and farmers get advice and support.

## **EU engagement and CAP**

Many legal requirements on the farming industry originate in the EU. We will improve the way that we work with the EU by working in closer partnership with the industry early on in the policy development process. We have started doing this by setting up an industry / Government group to participate in the very early stages of the proposals for an EU Animal Health Law to help shape our negotiating strategy. We have recently secured notable successes. For example, we persuaded the EU to defer the introduction of reporting the movement of individual sheep until December 2014 for the historic flock, which means that farmers are spared an unnecessary burden. We will continue to press for the EU to adopt a more risk-based rather than hazard-based approach to legislation. Our Chief Scientist has been active in promoting this approach in the EU for pesticides and chemicals. Where we have shared objectives in the EU, we want to use the farming industry's networks to influence outcomes and to take a more strategic approach to engagement in the EU.

We need to get CAP reform right. We will continue to push to simplify CAP for farmers and are working in a number of ways to do this. We want to ensure that farmers are recognised for the public benefits they provide. We also want to secure flexibility in the regulations so that we are able to develop schemes that achieve our objectives for the farming industry and the environment.

## **Integrated environmental messages**

Over the years, new environmental legislation and voluntary schemes have generated a cumulative burden of processes and requirements which are not always complementary. We recognise that this complexity can make it difficult for farmers to know how to comply. This is not easily or quickly addressed if we want to tackle it at EU level. We will continue to use opportunities to push for outcome and risk-based legislation. But we can take action now to respond to the Task Force recommendation to simplify and integrate environmental messages.

The most important aspect of this work is to give some clear and simple guidance to farmers on what will work best for the environment and help them improve their bottom line. We are working in close collaboration with farming and environmental organisations to jointly draw up a draft list of the types of key actions that we collectively want to encourage land managers and farmers to take. For example we all agree that in many cases actions, such as nutrient management planning, can achieve multiple beneficial environmental outcomes for water and air quality, and they also make sound business sense. We achieved strong consensus that these messages are most effectively delivered

at the local level, so that they can be tailored to local farming practices and environmental circumstances. We will use local networks to get the information out to farmers to help them decide which actions are right for them.

## **Animal Movements**

Controls on animal movements and livestock identification are vitally important in controlling and preventing the spread of animal diseases. Our ability to respond effectively to a disease outbreak and get the livestock industry back to normal business as soon as possible depends on our ability to trace livestock and determine how long stand stills and other controls need to be in place. The Task Force recommended that we review how we implement the 6 day standstill requirements. We have undertaken extensive risk assessment to ensure that if we do this there will be minimal increase in overall disease risk. We have worked closely with industry organisations to develop a way forward which would lift the 6 day standstill requirements for movements of cattle, sheep and goats for farms which have separation units that meet minimum requirements. We have invited the industry to develop proposals for how separation units can be approved through assurance schemes, in a way that the required standards can be met. There is still work to do and it is critical we get it right, but this way forward, developed with the industry, is a clear demonstration of responsibility sharing in managing risks.

We have also made progress in implementing electronic reporting of pigs and sheep movements. E-reporting of pig movements was introduced in October last year, and we are on target to achieve 70% of all pig movements being recorded by the end of this year.

## **TSEs and Meat Hygiene Inspections**

The Task Force made several recommendations to Food Standards Agency (FSA) about TSEs and meat hygiene inspections. The FSA published its response to these recommendations in November 2011 and an update on progress has been published. You can view their response at [www.food.gov.uk](http://www.food.gov.uk).

## **Better Regulation – Making it happen**

We have made significant progress in responding to the Task Force recommendations in changing the way we work. The detailed response includes many examples of how we are working in partnership with industry, involving interested parties from the start in developing practical solutions. The Task Force recommended that we should recruit industry specialists and use staff exchanges. We are fully behind this recommendation and will, jointly with NFU, launch a business exchange programme in April this year.

We have set up two groups to make sure that the changes we commit to in this report actually make a difference on the ground. The independent Regulatory Scrutiny Panel will take a strategic overview of the way that Defra is shaping and implementing regulation. We have also established the Task Force Implementation Group, chaired by Richard Macdonald. It is made up of members of farming and environmental organisations,

farmers and Defra officials; they will oversee progress and feed in ideas to help develop innovative solutions. We will regularly report progress so you will be able to keep track of where we have got to.

Through the Task Force itself and the way in which we have responded to the recommendations, farming is leading the way in taking forward the Government's wider agenda on better regulation. There is a strong focus on risk-based intervention and changing the way we work with stakeholders to develop solutions in partnership. We are committed to driving this agenda forward - the Task Force report and this response is only the start.

A handwritten signature in black ink, appearing to read 'James Paice', with a horizontal line underneath the name.

**James Paice MP,**

**Minister of State for Agriculture and Food**



## **Part 2 Changing the way we work: from bureaucracy to responsibility and partnership**

### **Revisit and refine the regulation culture**

#### **Start by asking whether there is a problem to address – and then identify alternatives to regulation**

**2.06 Once a problem has been identified, we recommend that Defra's starting point – for addressing wholly domestic problems and when negotiating in the European Union (EU) – should be non-regulatory solutions.**

#### Yes

We will encourage a culture of seeking non-regulatory solutions where these can achieve desired outcomes, particularly for domestic problems. In most cases, regulation can be avoided if the farming sector and their partners can deliver solutions to problems and achieve the desired outcomes through voluntary action, assurance schemes or other market-based incentives. We have given the industry opportunities to address important environmental issues through voluntary initiatives instead of imposing regulation: in the Campaign for the Farmed Environment, for example, farmers are encouraged to voluntarily retain and exceed the environmental measures that used to be provided by set-aside. The Task Force has set both Government and the farming industry a significant challenge and our ability to adopt more non-regulatory approaches depends on industry willingness to take responsibility and help us find solutions to identified problems.

**2.07 We recommend that policy-makers, regulators, industry and others start by asking themselves a series of questions:**

- **what's the problem? Do we need to address it at all?**
- **what's the desired outcome? How is existing action (including regulation) contributing to this outcome?**
- **does *Government* need to do this? Can *only* Government do this?**
- **can we do this without regulation?**
- **if there is an unambiguous need for regulation:**
  - **how will it contribute to the desired outcome?**
  - **how do we keep it simple and clear, while keeping the focus on the outcome?**
  - **how do we avoid duplication in both legislation and subsequent enforcement?**
  - **and how do we keep the focus on *outcome* rather than *process*?**
- **is the private sector already doing something similar? If so, how can we use what they are doing including as a risk assessment tool?**
- **if we need regulation, what is the most efficient and cost effective inspection regime possible that achieves the desired outcome?**

- **what might be the unintended consequences of our proposal, and how might we avoid them?**
- **who is best placed to produce clear, succinct and simple guidance to help businesses comply?**

### Yes

We endorse the Task Force approach to regulatory reform. We will adopt these principles in our approach to policy development and establish ways of working which ensure policy teams answer these questions at the outset of the policy making process, so we can avoid legislation wherever possible.

## The Better Regulation Programme

Our Better Regulation Programme is driving forward reform of the way we regulate across all sectors of the UK economy. We are establishing:

- a more consistent approach to regulation across Defra and its delivery network;
- tighter scrutiny over regulatory and deregulatory plans; and;
- an efficient way of reporting the progress we make to Better Regulation Executive, the Cabinet Office and others.

Before we introduce any new regulation we always undertake an impact assessment, to make sure we fully understand the consequences for those affected. In response to the Task Force's recommendations we will ensure that the questions at 2.07 are always addressed in the impact assessment process. Early engagement between regulators and industry is a key part of this process.

All proposals for legislation are challenged by the Regulatory Policy Committee (RPC) which is supported by the Department for Business Innovation and Skills (BIS). The RPC looks at the implications of impact assessments for all businesses, including the farming sector, and its conclusions directly influence our decision on how to proceed with legislative proposals.

We have assessed and published the costs and benefits of all our regulation. We are the first Whitehall Department to do this and we are using it to help us work out where we should target our efforts for regulatory reform. We will also conduct more detailed research to understand the cumulative effect of our regulations on micro-businesses, and research on what encourages and / or supports businesses to comply.

To make meaningful change in regulatory culture we will ensure that all new regulatory proposals are properly challenged at the beginning and end of their development. To do so, we will:

- Subject all new regulatory proposals to an internal scrutiny process to make sure that we have identified a range of policy options, including alternatives to regulation, before commencing work to gather evidence and develop Impact Assessments. We will fully scrutinise final proposals before recommendations are made to Ministers. The Better Regulation team will ensure that this new clearance process is introduced from May 2012.
- Ensure policy teams have sufficient knowledge of better regulation principles. We will roll out a training programme for policy officials, economist and lawyers during 2012.
- We have already introduced a regulatory management database to track all our initiatives. This will help ensure that regular reviews of regulations are carried out.
- Increase transparency of the regulatory landscape. We currently compile the regulations we own on a web-based portal “Defra-lex” to which we will add guidance and published impact assessments. It is hoped this database will be publicly available from the National Archive website from early 2013.

**2.08 We recommend that trade associations continue to develop voluntary initiatives to address agreed problems and meet desired outcomes, and facilitate take-up by their membership. We also recommend that trade associations strengthen their ‘marketing’ of successful voluntary initiatives, including to policy-makers in the European Commission and European Parliament.**

Yes

We fully endorse the Task Force’s recommendation. We look forward to continued close working with Trade Associations and other industry stakeholders to encourage the use of voluntary approaches where these can achieve the results we need, instead of using regulation. Where these initiatives can be shown to be successful, we will use them as examples of responsibility sharing in the EU.

## **Cultivate and celebrate partnership**

### **Trust and responsibility: the basis of partnership**

**2.10 We endorse the view that regulators should trust business, but this trust must be matched by industry taking responsibility. We recommend that industry should demonstrate this by trade associations informing their membership that the consequences of partnership include accepting punishment for breaches of trust. Just as we expect Government will respond to this report, we recommend that key industry bodies publish their own responses, demonstrating how they propose to take responsibility.**

Yes

Industry organisations are important messengers to farmers. The farming industry has a vital role to play in helping deliver key messages, to make farmers aware of important changes or new initiatives, to encourage better ways of working to improve standards and returns, and in encouraging compliance. The UK farming industry has a hard won reputation for high standards of food production, and this reputation can be further enhanced by industry bodies taking responsibility for ensuring that the wider industry plays its part. We look forward to seeing industry bodies' response to this recommendation, and will work in partnership with them to help build a higher level of trust between regulators and farmers.

**2.11 We recommend that such a response from industry bodies might include their views on the proposals we direct towards them throughout this report<sup>2</sup>, as well as the following elements:**

- **engaging openly with Government on key tools such as Impact Assessments that are already in place: the quality of Impact Assessments partly depends on industry providing detailed and accurate information; they would be more powerful if they were an agreed document;**
- **engaging fully with Government and third-party assurance bodies to develop a workable system of 'earned recognition' (for which see paragraphs 3.12–33);**
- **trade associations should continue to help their members become involved with approaches such as the Voluntary Initiatives on Pesticides and the Campaign for the Farmed Environment;**
- **trade associations and other industry bodies such as the Agricultural and Horticultural Development Board (AHDB) should drive, own and fund training and continuous professional development (CPD) for farmers, farm advisers and inspectors (e.g. agronomists, vets, Lantra), and that such training for farmers be recognised through earned recognition;**
- **promoting a role for farmers in assessing outcomes, and the sharing of data with regulators and industry representatives; and**
- **agreeing with the regulator what constitutes bad behaviour and how it should be addressed.**

## Yes

We fully endorse the Task Force's proposals. We are working closely with trade organisations to implement these ideas, in particular through driving forward the earned recognition proposals and supporting industry in developing voluntary initiatives.

Industry organisations have a key role to play in developing the evidence base which allows us to make robust decisions about how outcomes get delivered. We need reliable industry evidence, for use in our impact assessments, to help us properly understand the

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<sup>2</sup> specifically in paragraphs 2.12, 2.14, 2.16, 2.17, 2.19, 2.20, 2.28, 2.34, 2.36, 2.45 (final bullet), 2.50, 3.10, 3.20, 3.24, 3.31, 4.07, 4.62, 4.69, 4.83, 5.09, 5.17, 6.15, 6.22, 6.30, 6.50, 6.61, 6.67, 8.14, 8.22, 8.41, 9.13, 9.14, 9.17, 9.18, 9.26, 9.39, 9.42, 9.46, 10.17, 10.20 and 10.29.

effects of proposed regulation on farm businesses and farming sectors. We will use this evidence to influence EU policy making.

## **Sharing the problem and desired outcomes**

**2.12 We recommend that problem, outcome and solution should be routinely shared, discussed, collectively considered and owned between Government and industry. This includes informing the UK negotiating position in the EU.**

### Yes

We are putting increasing emphasis on working together with industry to solve specific problems and are committed to building an even closer partnership so we can achieve agreed outcomes together. Given the increasing demands on the agricultural sector - to increase sustainable food production and remain competitive, while safeguarding the environment and other standards - we strongly believe that the best way to address this challenge is for us to work with farming, environmental and consumer groups to develop innovative ways of working and deliver these in partnership at the local level. We have the same goal: a thriving and sustainable agricultural industry. We must work together, sharing responsibility, and helping each other, to get there.

As outlined in our interim response, we are supporting innovative approaches to engaging with industry sectors and other stakeholders, in initiatives such as the Campaign for the Farmed Environment, Tried and Tested, the Pesticides voluntary initiative and the Greenhouse Gas Action Plan. We have pioneered responsibility sharing in Whitehall in setting up the newly instituted Animal Health and Welfare Board, which creates a direct link between those creating policy and those affected by it. It is our intention to use this approach wherever possible.

## **Voluntary approaches and partnership working**

### **Dairy Contracts**

We stated in our interim response that producers and processors had risen to the challenge of working together to create a voluntary code of practice to secure better and clearer milk contracts, rather than imposing a further regulatory burden. We are supporting representatives of dairy producers and processors to continue working together, with the aim of agreeing a voluntary Code of Best Practice in Spring 2012. The EU dairy package requirements on contracts are relatively narrow and cannot be embellished or strengthened by Government in domestic legislation. Assuming agreement can be reached and it is fully complied with, the code would bring broader results more quickly and would keep the industry in control rather than relying on Government or legislation.

We want industry organisations to have the opportunity to develop innovative solutions with us. Later in this response we will show where we are working with industry to jointly prepare for, and proactively influence EU policy, for example Animal Health Law.

## **Using independent industry expertise to shape the regulatory future**

**2.13 We recommend the establishment of a senior panel or board within Defra to have oversight of better regulation matters. Periodic independent regulatory review should be a key principle for Government.**

Yes

**2.14 We recommend that the group:**

- **should be a genuine ‘enquire and challenge’ panel if it is to hold Defra to account;**
- **include, as equal partners, up to three independent members, one of whom should chair the panel;**
- **include independent members who participate *as individuals* should have the breadth of experience to contribute fully;**
- **monitor Defra’s adherence to *better regulation* principles and have a strategic overview of regulations;**
- **steer Defra’s engagement on regulation issues with industry and act as a point of reference where business feels that standards are not being met;**
- **review progress with implementing the recommendations of this report; and**
- **be accountable to Ministers.**

**2.15 We recommend that the board should have a role in contributing to better regulation decisions in relation to animal health and welfare.**

Yes

We appointed an independent Strategic Regulatory Scrutiny Panel in response to these recommendations, in November 2011. The Panel’s role is to advise and challenge us on our strategic approach to regulatory reform. Its remit extends across all our policies and their implementation. Its responsibilities are to:

- enquire and challenge and provide independent advice to Ministers and officials on the effectiveness of our strategic approach to regulatory reform;
- monitor our adherence to Better Regulation principles and take a strategic overview of our regulatory plans;
- advise us on our strategy for engaging with stakeholders so as to ensure that their views are taken into account in the shaping of regulatory policies.

## Making it happen

We have set up two groups to make sure that the changes we commit to in this report actually make a difference on the ground. They will oversee the implementation of the recommendations, and provide a robust, independent challenge. The Independent Regulatory Scrutiny Panel will take a strategic view of the work we are doing to reduce regulation, and the Farming Regulation Task Force Implementation Group will look at the practical things we are doing to implement the Task Force's recommendations.

### Independent Regulatory Scrutiny Panel

The Panel consists of three independent members, appointed in a personal capacity, having knowledge or experience of the interests of external stakeholders impacted by our regulatory activities. The current members, who have been appointed for a two year term are:

- **Andy Robertson** – former roles include Chief Agricultural Officer in the Scottish Executive's Rural Affairs department, Chief Executive of NFU Scotland, and various positions in East Sussex County Council, where he currently works. He was also a member of the Task Force;
- **Peter Young** - Strategy Director at SKM Enviros and Chairman of the Aldersgate Group. He has 30 years international experience in multi-disciplinary environmental management consulting;
- **Christine Tacon** – until very recently Managing Director of The Co-operative Farms which is owned by the consumer-owned Co-operative Group. She was awarded a CBE for services to agriculture in 2004; she was Chair of the 2011 Oxford Farming Conference and is Chair of the BBC Rural Affairs Advisory Committee.

The Panel's current programme of work includes assessing the strategic impact of our proposals for reducing regulation as part of the Red Tape Challenge. They will also advise on how we embed a culture of better regulation in practice.

### Farming Regulation Task Force Implementation Group

The Implementation Group will oversee and monitor progress in implementing the specific recommendations in the Task Force report, and will hold us, Defra, our agencies, wider Government and industry organisations accountable for progress. The Implementation Group will also help to identify and remove barriers to progress and help build relationships between Government and industry. Richard Macdonald, who led the initial Task Force, chairs the Implementation Group. The core membership is:

- independent members: David Christensen (farmer); Caroline Drummond (farmer and Chief Executive of LEAF); Jeremy Moody (farming advisor and Secretary of Central Association of Agricultural Valuers); Ian Pye (farmer); William Wolmer

(farmer);

- representatives from NFU, RSPB and Defra.

The Group held its first meeting on 6th February. Progress will be reported on the Group's pages on the Defra website.

### **Animal Health and Welfare Board**

We have also established a new Animal Health and Welfare Board for England, comprising experts from outside Government and senior Government officials with responsibility for animal health and welfare. The Board, chaired by Michael Seals MBE, is the principal source of Departmental advice to Ministers on all strategic health and welfare matters relating to kept animals in England, such as farm animals, horses and pets. The first Board meeting was held on 8 November 2011.

### **Defra should engage with industry at the earliest stages of developing (and possibly co-designing) legislation**

**2.16 Where a regulatory route has been agreed to address a problem, we recommend that the framework should be designed by Government and industry in partnership to the greatest extent possible.**

Yes

We will work in partnership with the industry and other stakeholders in discussions on problems and any regulatory routes that are being used to address them.

**2.17 We recommend that policy-makers always invite a working group of industry representatives (both trade associations and farmers) to sense-check draft proposals in confidence and 'instructions to departmental lawyers' before they are turned into legal text. We recommend that Ministers should not approve formal consultation on any legislative proposal where industry has not been invited to contribute in this way.**

We will continue to involve industry representatives and other stakeholders in developing policy and the mechanisms we need to put in place to achieve desired outcomes, including how regulations should be shaped. However, while we will involve stakeholders and industry as fully as we can it is not always appropriate to involve interested parties in drafting instructions to lawyers. We often have to take account of conflicting views of stakeholders and wider considerations, in shaping the final instructions to lawyers. Involving one particular group of stakeholders in favour of others would be contentious and could be subject to challenge. It would also inevitably slow down the drafting process which involves extensive engagement in an iterative process. We will continue to involve industry and other stakeholder organisations in commenting on draft legislation before the formal consultation process.

## **Defra should invite industry to play a leading role in drafting jointly owned guidance on implementation of regulations**

2.19 **We recommend that:**

- **Defra and its regulators invite appropriate trade associations and farmers, where they have appropriate capacity, to play a leading role in drafting guidance, consulting other interest groups as appropriate;**
- **those involved in drafting jointly own that guidance with Government (assuming that Government is happy to sign up to that guidance) and should help promote it with those needing to use it; and**
- **Defra, its regulators and trade associations trial guidance with ordinary farmers in advance to sort out problems.**

Yes

It is important that guidance is jointly owned. The approach to explaining requirements, providing useful advice and supporting evidence needs to be shaped by farmers for farmers. Some of our guidance is statutory, in that we are required by law to produce it in support of regulations. Whatever the purpose of our guidance, we will:

- ensure that it delivers its primary purpose: to help farmers achieve the desired outcomes and to comply with regulatory requirements;
- seek to avoid introducing more process or prescriptive requirements;
- test guidance with farmers to ensure that it is clear and accessible;
- develop new principles for producing guidance by May 2012, which will commit to involving stakeholders in drafting guidance.

For example, the Rural Payments Agency (RPA) will work with technical stakeholders and individual groups of representative farmers when developing and launching any new forms or guidance. This will make sure that the language, content and format of RPA advice, guidance and other publications reflects the needs of those that are going to use it. RPA has used this approach recently when working with bovine industry representatives on the new cattle passport, the end of the cattle keepers' statement and changes to legislation for electronic cattle death reporting. Their technical stakeholder group led the development of the cross compliance guidance, which is critical documentation for ensuring farmers understand their responsibilities.

## **Strengthening Government's agricultural expertise**

2.20 **We recommend that Defra recruit industry specialists. In the short term, we recommend a programme of two-way secondments and training between Defra, its agencies and delivery partners, and industry, e.g. trade associations. We recommend exchanges, induction programmes and farm visits by Defra/agency staff. We endorse Environment Agency and Food Standards Agency efforts in encouraging such interchange and recommend that the practice become more common within Defra, its agencies and delivery partners.**

Yes

An understanding of farming practices is important for any policy team that is developing and implementing policies that primarily affect the farming industry. Staff working with the farming sector are strongly encouraged to undertake farm visits, facilitated by industry organisations. We agree that improved hands-on experience for policy makers is a good idea. Our Change Programme will be picking this up in terms of thinking about the Department's skills and ways of working. But, we want to do something specific for agriculture in response to this recommendation. Therefore we will, jointly with the National Farmers Union (NFU), launch a business exchange programme in April this year.

## **Develop and demonstrate a new targeted and fairer approach to inspection and enforcement**

### **A comprehensive risk-based approach to inspections must be the future**

2.23 **We recommend (see Chapter 3 for details):**

- **adoption of a system of *earned recognition* to inform and target inspections and that serves as an incentive for good practice;**
- **that regulators provide a proper explanation of their inspection programme.**

Yes

We are committed to embedding earned recognition into inspection regimes to incentivise good practice and reduce the inspection burden on those that are complying with their obligations. Our response to the recommendations in Part 3 provides more details of the work we are doing to achieve this.

### **Making penalties proportionate**

2.26 **We recommend that the proportionality and type of penalties applied by enforcement bodies be reviewed.**

Yes

We endorse the Task Force's proposal. Our Better Regulation Programme is currently embarking on a project to assess how a risk-based approach to compliance and enforcement could be adopted across the Defra network to better target the persistent and deliberately non compliant.

## Smart enforcement

### National Intelligence Model (NIM)

The Wildlife Licensing and Registration Service of the Animal Health Veterinary Laboratory Agency (AHVLA) has introduced the use of the National Intelligence Model (NIM) approach by working with enforcement partners across the National Wildlife Crime Unit, UK Border Agency and Local Authorities. The model focuses upon intelligence led enforcement action which is based on risk assessments and national priorities. The result has been fewer inspector visits and an increase in successful outcomes.

### 2.27 We recommend that regulators should have a greater range of penalties at their disposal; specifically:

- Where non-compliance is minor we recommend that regulators should be allowed to give warnings and require faults to be put right.
- Where non-compliance is major we recommend that tough punishments are applied. We recommend there should be a robust and transparent system for determining what non-compliances count as 'major'.
- We recommend that a good way of applying proportionate penalties would be to use civil sanctions, a Macrory principle<sup>3</sup>, rather than criminal punishments (which should target the most serious cases).

Yes

### Transforming Regulatory Enforcement

The Government (through the BRE) recently published its response to a consultation on Transforming Regulatory Enforcement. The Government made a commitment to "end tick box regulation" and to improve business experience of regulatory enforcement.

The response recommends greater use of co-regulation and earned recognition. It also announced a review of all regulators responsible for enforcement on business and civil society organisations to identify where enforcement is not working efficiently and where there is a need for fundamental reform. The first stage of the review of regulators has started with a data-gathering phase. A further announcement on the arrangements for the review will be made in spring 2012.

Defra is piloting Compliance and Enforcement Plans for a few selected new regulations. This will be a new step in our policy development process, and means we will be working with the delivery partners and stakeholders to explicitly consider:

- clear definition of desired outcome;
- compliance rate required to achieve outcome;
- impact (or risk) of non compliance;
- permitted or licensed activity;
- business engagement plan;

<sup>3</sup> R. Macrory (2006) *Regulatory justice: making sanctions effective. Final report.* Department for Environment, Food and Rural Affairs

- local or national delivery;
- how compliance will be monitored –opportunities for co regulation, earned recognition;
- advice and guidance –including ownership, methods of delivery and adherence to Code of Practice on Guidance;
- plans for targeting the deliberately non compliant;
- incentivising compliance;
- sanctions for non compliance – criminal, civil;
- powers of entry;
- plans for monitoring and evaluating.

The pilots will commence before the end of December 2012.

We agree that regulators should have greater flexibility to use a range of penalties which will help to ensure that the sanctions applied are proportionate to the level of non-compliance shown. These are some of the new types of penalty being used instead of criminal proceedings:

## Proportionate penalties

### Enforcement Undertaking

The Environment Agency introduced civil sanctions for minor breaches. These include Enforcement Undertakings (EUs), which enable a person who a regulator reasonably expects to have committed an offence to voluntarily take corrective action rather than face further proceedings. These EUs have been welcomed by business and, by the end of September, 49 offers had been made, of which 19 were accepted and 10 completed. The majority of these were for packaging offences. A full report of the first year will be published in early 2012. The EA plan to introduce civil sanctions for Environmental Permitting offences in 2012.

### Administrative Sanctions

We have designed a system of Financial Administrative Penalties to encourage Salmonella testing. Where an operator has committed an offence under the Regulations a financial penalty may be offered as an alternative to criminal prosecution. AHVLA has successfully implemented this system, with the level of penalty being decided by a central moderation panel and dependent on the circumstances of the individual case. There has been a reduction in the number of late or non-testing by producers as a result, safeguarding the food chain.

## Recent simplifications of legislative frameworks

### **Implementation of the Flood and Water Management Act**

Implementation of the Flood and Water Management Act includes reforming the regulation applying to reservoirs (many of which are found on farms). This will make it more risk based - including de-regulation for large reservoirs that don't pose a significant risk and the extension of regulation to smaller ones that do. Regulator responsibilities for consenting and enforcement of works to watercourses to the lead local flood authorities will be reallocated to better reflect their wider responsibilities. The net benefits to business are estimated at £286,000 per year.

### **Guidance on the Date Marking of Foods**

We have revised our guidance to businesses on how to take a risk based approach in deciding whether to use "best before" and "use by" dates for their products. This simplifies the process for businesses and allows consumers to have confidence in the date marks provided. The net benefits to business are estimated at £89,000 per year.

### **Streamlining Environmental Permitting**

The Environmental Permitting framework provides a common platform for activities whose risk to the environment means they need either a permit or some general rules. The framework allows a single permit where several might otherwise be required, standardised guidance for operators and common business processes for the regulators. This leads to lower charges and business costs (estimated net benefit of £121m NPV over 10 years). The framework was established in 2008 bringing together the licensing of waste management and Pollution Prevention and Control activities, and expanded in 2010 to include water discharge consents, groundwater authorisations and radioactive substances regulation.

We want to extend the framework where the benefits warrant it and business supports it. We are currently seeking the necessary powers to enable Ministers to regulate the use of water resources and so bring water abstraction and impoundment licensing, flood defence consents and fish pass approvals into Environmental Permitting at a later date. The framework also allows for easier transposition of EU permitting requirements, for example, those stemming from the industrial emissions and sewage sludge directives. We also make periodic changes to improve the framework: for April 2012, we propose to introduce civil sanctions to enable the EA to apply a wider range of proportionate enforcement responses to secure compliance with the environmental permitting regulations, and to make some further simplifications.

2.28 **We further recommend that:**

- **the UK seeks to renegotiate EU rules to incorporate the principle of proportionate penalties<sup>4</sup>; and**
- **industry endorse the approach of proportionate penalties – and apply peer and market pressure to develop high standards.**

Yes

We will press the case for proportionate penalties in EU rules.

## **Reduce and reform paperwork and process**

### **Introducing general licences where possible**

2.30 **To reduce burdens on the end-user, we recommend that Defra, its agencies and delivery partners should make a presumption in favour of general licences wherever legally possible.**

Yes

Our regulators will discuss with farmers what licences could be usefully bound together, while ensuring farmers are aware of their obligations. We will make any new combinations of licences available within 18 months (to allow for formal consultation where necessary). We will use models of general licences that already exist. For example, Natural England (NE) already issues general licences e.g. permitting the management of certain bird species causing damage, disease and public health and safety problems. No application is needed, providing that the land owner is satisfied that that the use of the licence is justified and conditions can be complied with. NE is also looking at expanding Class Licensing arrangements, some of which requires changes to regulations e.g. Protection of Badgers Act 1992, to facilitate use of Class Licensing. This will allow people to only register once to undertake some activities that would otherwise require several licence applications.

### **Introducing maximum response times and fixed decision points**

2.31 **We recommend that the Government commits to maximum response times [for taking decisions]. We recommend that the regulator gives a commitment to take decisions at fixed decision points to allow all parties to consider whether to proceed or not.**

Yes

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<sup>4</sup> e.g. to avoid a recurrence of the situation experienced by the RPA on cross compliance., In 2005, RPA adopted a light-touch approach to payment reductions for non-compliance, only to be subject to European Commission Audit criticism in 2008.

We agree that permissions and consenting arrangements should be as streamlined as possible. For many regulation schemes, there are published general rules for processes. For activities where the risks are higher or locally-specific, site-specific determinations will continue to be necessary. We expect all permissions to have a statutory decision time, with the clock running from the moment an adequate application has been accepted. Where requested, our regulators will agree interim decision points with developers who have complex applications, for example to identify show-stopping issues before committing to further expense. Generally, these arrangements already exist, but we will make the processes clearer.

For example, since July 2010, NE has undertaken to publish performance data against its published target for responding to species licences applications; the target is to respond to applications within 30 working days (or 15 working days for less complex applications like renewals of licence commonly used by farmers e.g. to manage problems caused by geese).

We also announced in the Autumn Statement that we are implementing the Penfold Review of non-planning consents to give:

- 13-week decisions on most environmental permissions;
- creation of Environmental Account managers for complex multi-regulator applications;
- improving linkage to non-planning consents through the planning portal.

As a new commitment, we will seek to make the 13-week decision time statutory at the first opportunity, replacing statutory decision times where these are currently longer.

## **Introducing single sources of information**

**2.32 In the light of this, we recommend that Defra establishes a single access point to information on inspections (e.g. the Farming Theme of Business Link) and single customer contact points in each regulator.**

Recommendations 2.32 – 2.43 are addressed together, below 2.43

## **Reducing paperwork**

**2.33 We recommend that Defra, its agencies and delivery partners:**

- **develop a partnership approach to designing forms (paragraph 2.34);**
- **introduce new principles for collecting data (paragraph 2.35);**
- **review requirements on farmers to write plans (paragraph 2.36);**
- **move from paperwork to ‘digital by default’ (paragraph 2.37); and**
- **make better use of the Farming Theme of Business Link (paragraphs 2.38–40).**

## **A partnership approach to designing forms**

2.34 We recommend that with every new administrative burden, Defra and industry collectively engage a sample of ordinary working farmers to help design the form.

## **Adopting new principles for collecting data**

2.35 We recommend that:

before any process is considered the question is asked – ‘do we really need this information?’;

- regulators comply with the Regulators Compliance Code by not collecting the same data twice where this can be avoided;
- regulators should make clear to farmers who their data is being shared with and offer farmers the opportunity to ‘opt in’ to data-sharing between Defra and its regulators;
- there should be a presumption that regulators share data except where they are not legally or technologically able to do so;
- regulators be sensitive to sectoral calendars when issuing requests for data;
- industry trade associations push the take-up of electronic means of data supply by its members; and
- regulators investigate alternative means of gathering data that do not impinge on farmers.

## **Review requirement on farmers to write plans**

2.36 We recommend that Defra reviews its rationale for requiring farmers to write plans.

## **From paperwork to ‘digital by default’**

2.37 We recommend that:

- Defra, its agencies and delivery partners aspire to create a comprehensive system of pre-populated forms;
- Defra, its agencies and delivery partners, and trade associations, encourage take-up of opportunities to complete ‘paperwork’ electronically as part of good business management practice;
- the Government sets a goal of 100% quality broadband access in rural areas;
- the Government and trade associations encourage farmers and food-processors to use online facilities, whether directly or through a third-party including call centres; and
- IT training for farmers should be a priority for training providers.

## **Making better use of the Farming Theme of Business Link**

**2.38 We are convinced that the Farming Theme of Business Link is the best vehicle to deliver our proposals on earned recognition and risk-based inspections as well as being the place for online applications and information.**

**2.40 We recommend that:**

- **the Government makes it easy for farmers to find the Farming Theme, by improving the signposting of the Farming Theme within Business Link (e.g. through a link on the Business Link homepage); and**
- **trade associations take on the important role of encouraging take-up of Business Link among their members.**

## **Defra, its agencies and delivery partners should produce a plan for reducing paperwork and process**

**2.43 We recommend that Defra, its agencies and delivery partners, including the Food Standards Agency produce a coherent plan for Ministers of how they intend to further reduce and rationalise the process and paperwork for farming and food-processing businesses, with aim of improving efficiency and effectiveness. We recommend that the plan:**

- **is produced by the end of 2011;**
- **explains where paperwork and process cannot be reduced, and address ‘customer journey mapping’ where it makes sense to do so; and**
- **is based on the Task Force principles and recommendations elsewhere in this report.**

### Yes

We published our paperwork plan in December 2011<sup>5</sup>, setting out what we have done recently, and what we will do to try to reduce the burden of paperwork and process on farmers and food processors. The paperwork plan sets out many of the areas below, and we will review the plan twice a year to make sure that we are always doing all we can to reduce paperwork.

The Government as a whole is moving to providing services “digitally-by-default” and plans to launch a single Government website in late 2012. This will bring together the current Direct Gov and Business Link under a single platform under the Government Digital Service (GDS) badges. The Farming Theme currently located on the Business Link site will also transfer over to the new platform.

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<sup>5</sup> <http://archive.defra.gov.uk/food-farm/farm-manage/documents/farm-reg-paperwork-plan-dec2011.pdf>

This new platform will eventually become the single access point to all Government online services, including for all the guidance and transactional services that help farmers need do business more efficiently.

To support the move to digital-by-default, broadband roll out across rural areas is one of our top priorities. The deployment of superfast broadband in rural areas is at the heart of the Government's Broadband Strategy "Britain's Superfast Broadband Future"<sup>6</sup>. It aims to establish superfast broadband connectivity to a minimum of 90% of each County in England, and a standard service to the remaining 10%, but capable of upgrade to a superfast solution in the future. On 29 November 2011, we launched the Rural Community Broadband Fund (RCBF), with £20 million of funding to deliver broadband projects. This will ensure that a greater proportion of businesses and consumers in those communities can take advantage of the benefits of superfast broadband with the intention that virtually everyone will have access by 2015. We know that there is currently some variability in rural internet access, and we will take this into account in the manner and timescale in which we move to digital-only services.

In the shorter-term we are looking at the role online services can play in providing information and tools to support the implementation of earned recognition and risk-based inspections. We want to trial a 'farmer page' for earned recognition on Business Link, and plan to open a prototype page in spring 2012 so that farmers can test it and give us their views. We will use the feedback from the prototype page to help us develop a fully functioning online tool for earned recognition.

We also want to make the farming-specific webpages currently on Business Link easier to use. To help farmers gain easier access to the online services they require the Farming Theme already provides 'friendly' URLs linked to key services. The quickest and easiest route for farmers to access the farming home page is by using [www.businesslink.gov.uk/farming](http://www.businesslink.gov.uk/farming).

We are moving more of our services to farmers online. For example, we moved pig movement reporting from a paper-based system to electronic in October 2011. This new system saves time as it pre-populates basic information automatically, reducing the number of times pig-keepers have to fill in the same information. We plan to introduce a similar system for e-reporting of sheep, goats and deer movements by spring 2013, and we will move "The Guide to Cross Compliance in England" online from 2013.

It is important that we work closely with industry on this and therefore will establish an Industry-Government Group, including industry bodies and independent farmers to advise on how to help farmers move online and how other businesses can provide online support services to farmers.

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<sup>6</sup> <http://www.culture.gov.uk/publications/7829.aspx>

There are other ways in which we are trying to make it easier for farmers to interact with Government, for example:

- We will design forms to make them easier and simpler to use, and we'll get farmers and others who are using the forms to help design them. We will make forms more tailored to their audience, for example the Environment Agency will tailor environmental permitting application forms to the agricultural sector by providing a "farmer-specific" application form.
- We want to make best use of pre-populated forms, although there are some technological and data-sharing barriers to this which we need to think further about before deciding the best way forward. (Also see the responses to recommendation 5.07.)
- We will adopt the Task Force's principles for data collection. A key part of this will be reducing the amount of data we ask farmers and others for though increasing data sharing across the Defra agencies. We have set up a pilot project to see how this could work in practice. (Also see the responses to recommendations 5.08 and 5.15.)
- We will also work to improve the guidance we issue. For example we will include "quick start" guides at the beginning of new guidance; and we are working to make all guidance documents shorter. (Also see the responses to recommendations 5.21 and 5.22.)

For more information on how we will work to reduce the burden of paperwork on farmers, see the responses to recommendations 5.07 – 5.33.

## **Explore and embrace tools to influence farmer behaviour**

### **Understanding farmers to influence behaviour**

**2.44 We recommend that Government and industry use insights from behavioural science to *enable, encourage or persuade* farmers and food-processors to contribute to achieving better outcomes.**

**2.45 We recommend that Defra further encourages the use of farming industry 'segmentation' in policy-making. We recommend that regulators and industry representatives partner their approach to farmers and food-processors.**

Our customer insight research indicates that a range of approaches to enable, encourage and exemplify is required to stimulate change within industry. We are working to develop more flexible sector based policy options that respond to local contexts and situations. Further insights from behavioural science can help with the exemplification of best practices – by us and by industry – and so help more farmers improve their environmental and business performance.

We also recognise the need to improve our customer insight of those who engage directly with farmers such as providers of advice and guidance, and also learn from their experiences, since they have an important influence over the choices that farmers make.

**2.46 This feeling of ‘guilt’ is behind much of farmers’ worries about inspections and can be compounded by heavy-handed or insensitive enforcement. It is essential that full account is taken of the cumulative and individual impact of regulation, guidance and enforcement.**

Yes

We want to better engage with farmers and food processors to support and encourage them to obtain the best outcomes for themselves, the environment and consumers. The more we understand about why farmers and food processors operate as they do, the more readily we can create and implement policy to underpin this, without unnecessary legislation. We are working in partnership with industry groups to adopt an approach that is more behaviour-based – not only in our work, but supporting them to adopt a similar approach.

We continue to develop our expertise on influencing behaviours and are embedding this across the department by working with policy teams to identify opportunities where influencing the behaviours of citizens or organisations could be helpful. We will also work with industry organisations to help shape non-regulatory options for achieving desired outcomes, for example improving the impact of voluntary initiatives.

Non-regulatory approaches are increasingly encouraged and used by Defra, for example:

- Campaign for the Farmed Environment: Led by the farming industry in response to the removal of “set-aside”, this encourages farmers to adopt a voluntary approach to environmental land management;
- Project 50%: A partnership between scientists and Devon beam trawlermen to help protect fish stocks by reducing the amount of juvenile fish discarded overboard by over 50%.

## **Engaging in the EU: more, earlier and in partnership**

### **The Coalition Government’s guiding principles for EU legislation**

**2.49 We endorse the Coalition Government’s *Guiding Principles for EU legislation*, as announced in December 2010, particularly:**

- **We believe Defra, the UK Permanent Representation to the EU, Cabinet Office and Better Regulation Executive should allocate more specialist resource to**

**engagement, not less. There may also be benefit in integrating a better regulation module into training in EU negotiations.**

- **We recommend that the UK argues to the European institutions that it can help industry better comply with regulation by agreeing realistic transposition and implementation timescales. We recommend that timescales should not be traded off against other elements as part of the negotiation end-game.**
- **We recommend that the Government goes further and presses EU partners to introduce post-implementation reviews or sunset clauses as standard in EU legislation, where this is not already the case. We recommend that the European Commission should lead the review and should consult end-users in doing so.**
- **We recommend that the UK should encourage the institutions to shift their focus from process to outcomes. We recommend that the UK presses the European institution policy-makers to ask themselves the same questions that we suggest Defra policy-makers ask (paragraph 2.07).**
- **In coming to a decision, we recommend that Ministers consider whether gold-plating:**
  - **would place industry in an uncompetitive position (as we fear from the Poultrymeat regulations);**
  - **would simply ‘export’ the problem overseas; and/or**
  - **could be provided by the marketplace rather than legislation (e.g. farm assurance standards).**

**Where Ministers decide not to use copy-out, we recommend that they publicly consult industry and other stakeholders with their reasoning.**

## Yes

Influencing in the EU is a key priority for the Department given most of our regulatory stock comes from Europe. We will continue to allocate staff resource to this priority area and we will make better use of the existing resources at our disposal, as set out in the Government’s Guiding Principles for EU legislation. However, in the current economic climate, it is not possible to allocate more specialist resource to EU engagement. We are leading the way in improving training on EU negotiations. We launched new internal guidance for Defra officials on conducting a successful EU negotiation in October 2011, and it has been taken up as a cross-Government model. The guidance covers all aspects of negotiation, including engagement with stakeholders, project planning, impact assessment, better regulation, and includes practical examples from real negotiations.

The guidance address transposition and implementation timescales; we will push in individual negotiations to ensure that these are realistic. The guidance also covers issues of gold-plating and copy out (implementing legislation by directly copying of the text of an EU directive without amendments). In most cases we consult on regulations before making them; we will ensure that if Ministers decide not to use copy out, this is addressed in the consultation. We will also ensure that we consult and work closely with industry, to discuss these issues and try to resolve them very early on in the implementation process.

We will continue to encourage the use of review or sunset clauses in EU legislation where they are appropriate (there are legal reasons why sunset clauses might not always be appropriate). We will encourage the European Commission to continue to conduct post-implementation reviews and involve stakeholders in them.

## **Using the European Commission's Communication on smart regulation to lead change**

**2.50 We recommend that the UK Government use the European Commission's *Communication on Smart Regulation*<sup>7</sup> to help lead regulatory change in Brussels. Specifically, we recommend that:**

- **the Government should collaborate with the European Commission's Secretariat General to push the other European institutions to incorporate the European Commission's *Communication on Smart Regulation* into their policy- and law-making;**
- **the Government should argue that smart regulation is key to the European Commission's *Europe 2020* strategy;**
- **as a matter of continuing policy, the Government should press the European Commission to simplify existing legislation and ensure that this results in improvement to end-users.**

### Yes

We will continue to use the Commission's Communication on Smart Regulation, and other tools, to lead regulatory change in the EU.

We are successfully driving forward a new and smarter approach to regulation in Europe which aims to support business and helps enterprise flourish. These aims are central to the Prime Minister's EU growth agenda, which seeks to reduce the overall burden of regulation on business, particularly small businesses. These aims are supported by a broad group of like-minded EU Member States.

In June 2011 the Government finalised its Guiding Principles on EU Legislation. Three additional Operating Principles were added to promote early engagement with the EU and ensure we hold the EU institutions to account on their better regulation commitments. In summary, the three Operating Principles are:

- i. twice a year, Ministers will report to the Foreign Secretary on their department's EU priorities and early engagement strategies. This strategy check will help us agree priorities across Government and ensure that we are not proposing or agreeing to unnecessary regulation;

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<sup>7</sup> [http://ec.europa.eu/governance/better\\_regulation/key\\_docs\\_en.htm](http://ec.europa.eu/governance/better_regulation/key_docs_en.htm)

- ii. Departments will agree their negotiating positions on EU proposals as early as possible and will assess the likely impact of a variety of positions, to help Ministers make evidence-based decisions;
- iii. the Government will work with EU partners to hold the EU institutions to account on their commitments to better regulation principles.

## **Placing the end-user at the centre of EU policy-making and regulation**

2.51 We recommend that the Government lobbies European institutions to put end-users at the heart of how interventions are chosen and developed. Specifically, we recommend that:

- the Government uses the Council of the European Union to hold the European Commission's Impact Assessment Board to account in its role of assessing European Commission impact assessments. It should focus on the impacts on micro-businesses;
- the Government presses the European institutions to look at cumulative burdens on industry;
- the Government, working together with the Council of the European Union and European Parliament, presses the European Commission to deliver on its commitment to 'think small first' when developing policy that affects businesses. It should examine cross-DG issues (e.g. inspections) as part of the 'fitness checks' unveiled by the European Commission's *Communication on Smart Regulation*;
- the Government presses the European Commission in particular to engage more thoroughly and at an earlier stage in policy development with industry practitioners likely to be impacted by the proposed problem and solution; and
- trade associations strengthen their engagement with European institutions. This involves making alliances with equivalent organisations from other Member States. It also involves Defra regularly inviting industry on lobbying visits to Europe.

### Yes

We fully endorse the Task Force's recommendation that those who are affected by EU decisions should be at the heart of the decision making process, and we will continue to work with EU institutions and industry organisations to make sure this happens.

We are pushing EU institutions to ensure that policy decisions are always based on evidence and that impact assessments are properly scrutinised by the Council and Parliament, so that the likely effects of legislation on the end-user are always fully considered. Following a sustained campaign by the UK, the European Parliament recently announced that it will create a dedicated impact assessment directorate, and we are still calling, along with another eleven Member States, for a similar unit in the Council. We also want the Commission to consult on draft impact assessments, so that stakeholders

and businesses can have their say, and ensure growth is supported rather than hampered by proposals.

We are encouraging the Commission to consider impacts on micro-businesses, and deliver on its commitment to 'think small first'. For example, following UK intervention, the Commission Communication on Smart Regulation extended the minimum public consultation period from 8 to 12 weeks and also committed to review its consultation process. Furthermore, following concerted UK lobbying, the Commission committed to preparing all future legislative proposals based on the premise that micro enterprises should be excluded from the scope of the proposed legislation, unless there is an explicit justification to include them, as of January 2012. The Commission also committed to ensuring that in cases where micro-enterprises must be covered by its legislative proposals for wider public policy reasons, tailored approaches and lighter regimes to reduce burdens on micros will be considered. It is also screening the existing stock of EU legislation to identify opportunities where micro enterprises could be exempted or where burdens on them could be reduced. We will hold the Commission to account on these commitments as a matter of priority and will continue to make suggestions for specific areas of EU law which would be suitable candidates for micro-exemptions or lighter treatment for micro-businesses and SMEs.

We will work in a new way with industry on EU issues, and invite industry bodies to meetings to influence EU Commission where appropriate. We will engage stakeholders earlier in strategic discussions to establish priorities for influencing in the EU, and will join up information gathering and lobbying with stakeholders more effectively, for example by using their European networks. We have been working collaboratively with industry on a number of EU issues, for example:

- The Animal Health Law is one component of a package of new legislation underpinning revision of the Official Food and Feed Controls. In December 2011, we established a Core Group of industry colleagues to work with us in developing and delivering the UK's negotiating strategy on the proposal, so that we can:
  - i. improve risk analysis and risk management;
  - ii. flag up issues that the proposed Animal Health Law might raise;
  - iii. identify potential benefits of the proposal, and opportunities for the industry to take the lead in managing implementation (e.g. codes of conduct, assurance schemes)The Core Group will consider and advise on emerging issues in relation to surveillance, tracing, welfare, disease mitigation and trade as European negotiations proceed.
- The proposed draft Soil Framework Directive was introduced by the Commission in 2006 following publication of the EU Thematic Strategy on Soil Protection. We support the objective of protecting Europe's soils, and agree there is a need to deal with serious soil degradation in some parts of Europe, but we have serious concerns about the current proposals which we would like to see changed. We have worked closely with the NFU, to share information, particularly about costs, additional administrative burdens and to better recognise our current approach over soil protection. We have

also worked with the NFU to lobby their counterparts through COPA-COGECA (the European agricultural union).

We commit to working in a collaborative way on other issues as they arise. For example, through 2012 we will work with the pig industry on the ban of close confinement stalls for breeding sows which comes in to force on 1 January 2013. We will develop a plan for how we can work together to be as effective as possible in this European negotiation. We also commit to working with the dairy industry and other key players in other EU Member States to influence policy discussions on possible future extensions of IPPC to this sector.

## **How the European Commission can improve compliance**

2.52 **We recommend that the Government:**

- **explores with the European Commission how they might better take responsibility for helping end-users comply with EU legislation;**
- **presses other Directorates General to follow DG ENV's compliance promotion initiative<sup>8</sup>. This may involve questioning European auditors and their approach on disallowance decisions; and**
- **encourages the European Commission to work with industry and Member States to draft guidance on implementing EU law.**

Yes

We want legislation, and particularly the Common Agricultural Policy (CAP), to be clear and simple for farmers, administrations and other end-users, and a key driver for efficiency and improved compliance. This is one of our key objectives for the current post 2013 CAP negotiations.

We have been exploring with the Commission how it can help end-users comply with EU legislation through ex-ante review rather than post-implementation audits, and have had a positive response from them so far. Our negotiating team will continue to work with the Commission, the European Parliament and other Member States to ensure that the legislation is as clear and understandable as possible for our customers and for our implementing bodies. We will continue to work with the Commission on compliance promotion and are championing the principles for refining and better targeting compliance promotion practices with the Directorate-General for Agriculture (DG AGRI). Measures to encourage compliance and understanding of the rules should be given greater emphasis by the Commission to avoid the risk of disallowance as a result of misunderstanding.

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<sup>8</sup> [http://impel.eu/wp-content/uploads/2010/01/Communication-on-implementing-European-Community-Environmental-Law-2008-com\\_2008\\_773\\_en.pdf](http://impel.eu/wp-content/uploads/2010/01/Communication-on-implementing-European-Community-Environmental-Law-2008-com_2008_773_en.pdf)

## **Improving inspections required by EU law**

**2.53 We recommend a better balance between risk-based and random inspections. This means that the European Commission should review its use of breach rates in calculating the size of samples for inspection regimes.**

### Yes

We will press this point during the CAP reform negotiations. To facilitate increased use of risk targeted inspections we will continue to argue that Member States should not have to increase inspection rates unless there is a clear increase in non-compliance in the general population.

## **Part 3 Improved inspections including through earned recognition**

### **Our vision for change**

**3.03 We would like to see reconsideration of the [European Union] EU requirement for unannounced visits, so as to achieve a better balance between surprise and business disruption.**

Unannounced visits are a requirement of a number of EU regulations. The EU considers these visits are important in order to assess true levels of compliance, for example where farmers are receiving payments. We recognise that these visits can cause some disruption to farming businesses, and where possible we are exercising flexibility in how much notice we give of such inspections. We will press for reasonable flexibility in how these visits are conducted during the Common Agricultural Policy (CAP) reform negotiations.

### **Principles for inspection**

**3.04 To improve inspection and help the Government end what it calls “the culture of tick-box regulation”, we recommend that the following principles should apply to farms and primary processors:**

- **there should be as few inspections as are necessary to meet obligations and maintain standards;**
- **inspection must be risk based and targeted;**
- **regulators should provide a clear explanation of their inspection programme;**
- **regulators must make full use of all evidence available to them (paragraphs 3.13, 3.23) to implement earned recognition;**
- **regulators must have greater confidence in industry to meet standards;**
- **inspections should, where possible, fit the business calendar (e.g. not during lambing);**
- **inspections should fit with the way that business works and limit requirements on farmers to what is reasonable;**
- **adequate notice should be given before an inspection (unless the law requires unannounced checks);**
- **where possible checks should be made on a sample basis: e.g. checking perhaps only 10% of cattle during cattle identification inspections or only selecting certain criteria to be checked during a cross compliance visit. A full check should be carried out only where non-compliances are found;**
- **to avoid multiple visits, an inspection should cover all issues for which that regulator is responsible;**

- **regulators must share information, as far as possible, to improve prioritisation, reduce frequency of visits and improve coordination, e.g. animals should only have to be gathered once for inspection purposes; and**
- **inspectors must understand the business and be aware of any associated assurance scheme coverage;**
- **these principles should be applied across the sector, e.g. livestock markets.**

## Yes

We have been told by farmers that when correctly carried out, inspections can be a positive experience. They can receive useful feedback and advice, and be reassured that they are achieving the necessary standards and complying with legal requirements. In many cases the frequency of inspections is set out in EU law. In some cases, such as cross compliance, a proportion of inspections must be random.

In response to the Task Force's recommendations we will:

- improve our risk-based targeting of inspection and enforcement;
- encourage inspectors, including Trading Standards Officers, to work together at local level so that visits are not duplicated;
- continue to train inspectors and ensure they are equipped with the necessary skills and knowledge of farming and land management;
- give farmers fair warning of inspections and, as far as possible, time inspections when it will cause least disruption to business;
- combine inspections where appropriate, particularly when they involve the gathering of livestock. The Animal Health and Veterinary Laboratory Agency (AHVLA) will ensure that their Veterinary Officers liaise with the Rural Payments Agency (RPA) so that Cattle ID cross compliance checks can be combined with TB testing visits;
- plan to apply the earned recognition principle across all inspection regimes, so that farmers who have a record of high compliance are inspected less.

We are undertaking a fundamental review of all our regulatory bodies, and will use this opportunity to test how our agencies and partners are applying the Task Force principles. We will examine each agency's feedback and complaints arrangements as we want to make sure that farmers and others can report incidences where these principles are not being met, and have confidence that their concerns will be addressed. All agencies now have training programmes to enhance inspector skills. We will work with our delivery partners to ensure that the Task Force principles are included in training programmes.

## **Organisation of regulators**

**3.06 We recommend that the CAP cross compliance inspectorate should be confined to RPA and AHVLA, ideally with the whole process being led by RPA to reduce the potential for multiple official inspections. In the longer term, we recommend that RPA carry out all visits, with input from AHVLA as needed.**

Yes

We have now made this change. From 1 January 2012 the RPA will carry out cross compliance visits on farms previously made by the Environment Agency (EA). We will review the scope for RPA taking greater responsibility for managing the cross compliance inspection programme.

**3.08 We recommend that the Government ensures that local authorities are not carrying out inspections for the same purpose as another regulatory body. In the case of such duplication, only one body should carry out the inspection.**

Yes

Inspections should not be duplicated. It is an unnecessary burden to farmers, and a waste of our resources. We are working with farming and local authority representatives right now to address this recommendation. To start with, we will focus our attention on inspections that require checks on livestock (primarily cattle) and all associated records. Some inspections are necessary to address an identified non-compliance issue. In such cases, visits are fully justifiable.

We are considering what else might be done to ensure that there is a culture of best practice and a constructive working relationship between farmers and regulatory bodies, at a local level. We want inspectors to work closely together to exchange information and intelligence as part of the drive to embed a risk-based approach to inspection visits. Local Authorities and the National Farmers Union (NFU) in the East Anglia region jointly established a network for farmer representatives to work with Trading Standards Officers from each county. Regional representatives of Assured Food Standards, AHVLA, the Food Standards Agency (FSA), EA and RPA also participate. This network has agreed best practice guidelines for inspections, and provides a forum for ensuring close communication between regulatory bodies, information sharing, and addressing identified problems. Feedback suggests this is working really well. NFU have agreed to roll out this model in other regions and we have secured positive engagement from local authority organisations to help make this happen.

## **Enforcement and emergency capacity**

**3.09 We recommend that regulators and local authorities continue to work together to pursue enforcement.**

Yes

As referenced above, we believe that an effective working relationship between farmers and regulators at the local level is critical to effective enforcement. Clarity about roles and responsibilities in an emergency is critical to managing disease outbreaks and contamination incidents. Roles and responsibilities are set out in our Exotic Disease

Contingency Plan and Operations Manual. We hold joint exercises between our agencies and local authorities to test responses to such events.

## **Inspector behaviour and skills**

**3.10 We recommend that the Government and trade and professional associations jointly develop new arrangements to ensure that inspectors and assessors have appropriate training, and understand the business sectors in which they operate.**

Yes

Inspectors must have appropriate training and skill and all of our delivery bodies have on-going training programmes for their inspection staff. For example, the RPA Inspectorate has a bespoke professional development programme for its inspectors, as well as mandatory scheme specific training and refresher training programmes. Competence is assessed on an ongoing basis. About 60% of RPA inspectors hold at least one level three accredited professional qualification (BTEC Certificate in Management, Communication and Customer services or a NPTC City and Guilds Certificate of Competence (COC) in livestock inspection) and 13% hold two.

An understanding of farming may be important in many areas and some inspectors have an agricultural degree or other relevant qualification. We will consider the need for additional training as part of the fundamental review of regulators – see the response to recommendation 3.04

## **Earned recognition**

### **Principles of earned recognition**

**3.16 We recommend that the principles of earned recognition become central to Government regulatory policy-making and implementation, so wherever possible individuals/businesses have the opportunity to provide evidence and benefit from a reduced or less costly regulatory burden.**

Yes

We are committed to establishing earned recognition as a principle that should be applied more widely than just farm regulation. We have already implemented earned recognition principles in some inspection regimes:

- Integrated Pollution Prevention and Control (IPPC) inspections for pigs and poultry, where the EA has encouraged the industry to participate in the IPPC Farm Assurance Scheme;
- introduced by FSA for dairy hygiene inspection regimes in 2011 (estimated saving to dairy farmers of £1.32m per year);

- farmers who are members of certain assurance schemes are now considered as low risk in the AHVLA risk model for allocating animal welfare inspections from 2012.

We will build on the lessons learned from this experience when applying earned recognition more widely, while ensuring that we maintain standards in food safety, environment and animal welfare.

We will be mindful of the need to make sure that any changes are fair and proportionate and do not have unintended effects on costs to business, in particular small businesses. For example businesses that are not members of accredited assurance schemes may have other ways to demonstrate competence. We also encourage business to think about how the principle of earned recognition for farming practises might be further developed and adopted in the commercial sector.

## Earned recognition in practice

### Accredited assurance schemes

**3.20 We recommend that regulators, industry and assurance providers review current arrangements and agree a list of accredited and other schemes that provide assurance against specific official controls.**

In response to the Task Force's ideas about earned recognition we have worked closely with NFU, Assured Food Standards and Linking Environment and Farming (LEAF) to review current arrangements, and have completed a detailed analysis to identify overlap between official inspections and farm assurance audit requirements. We have used this to set out our initial priorities for introducing earned recognition into other inspection regimes. These are set out below. But there may also be opportunities where we can apply earned recognition more widely under CAP reform, and we will work to identify where it might apply to other inspections. We invite the farming industry to suggest other areas where there is potential for earned recognition, and the standards or other information that we might take into account in assessing the frequency or need for inspections. As stated in our Interim Response in November 2011, we will publish a more detailed earned recognition implementation plan later in 2012.

### Outline plan for prioritising work on earned recognition

Inspection	Background	Action
Single Payment Scheme (SPS) – cross compliance	EU obligation to check at least 1.0% of claimants each year – selection is 20% random control and 80% risk-	From 2012 checks on animal welfare by AHVLA will operate earned recognition for members of several welfare based accredited assurance

	based.	schemes.  RPA will implement earned recognition in 2013 as part of its cross compliance inspections <sup>9</sup> , and then consider with Defra further implementation of earned recognition as part of CAP reform.
SPS – eligibility checks	EU obligation to check at least 5.0% of claimants each year – selection is 20% random control and 80% risk-based.	We will identify opportunities to apply earned recognition more widely in inspections under the new CAP in 2014.
Agri-environment stewardship schemes	EU obligation to check at least 5.0% of claimants in their first five years and 2.0% of other claimants each year - selection is 20% random control and 80% risk-based.	
Animal by-products incinerators	Risk-based checks by AHVLA. Operators who are generally compliant when inspected will receive an annual inspection. In England and Wales on poultry premises the inspection will usually be made at the same time as other visits, for example Egg Marketing Inspectors, or as part of the national feed survey.	We will invite industry to submit proposals for earned recognition in relation to inspection of animal carcass incinerators. We will agree with industry the criteria for carrying out visits differently and/or less frequently.
Poultry meat regulations	Checks on producers using special marketing terms (approx every six weeks).	The UK opposed these checks before they were introduced in 2010, but the EU requirement is clear. But we will review the inspection regime in the summer 2012 to explore opportunities with the industry to introduce earned recognition in UK.
Zoonoses	Checks under the National	Earned recognition is already

<sup>9</sup> For which RPA is the Inspecting Body in respect of Statutory Management Requirements and Good Agricultural and Environmental conditions

surveillance	Control Plan for <i>salmonella</i> .	operating as industry testing is carried out by accredited commercial assurance schemes and testing and checks are risk-based. We will take the opportunity to adopt earned recognition as plans are reviewed or new national control plans proposed.
Intelligence-led checks	Environmental controls – water, waste, nitrates – risk-based checks (catchment based or individual premises) to address specific problems.	The Environment Agency will consider how to build on its current risk-based approach to introduce further opportunities for earned recognition.
Licensing or other applications	Many regulatory schemes require an official inspection following an application for a licence.	We will consider on a case by case basis the potential for change, simplification or earned recognition.

**3.24 We recommend that regulators and industry organisations consider an issue-by-issue list of information that would be appropriate for guiding risk assessment.**

Yes

This recommendation provides an opportunity for farmers to provide regulators with information about their skills and competencies and the way that they work to feed into risk assessment processes. Currently the official risk-assessment when planning inspection programmes or other interventions, does not take account of the full range of information that may be available on an individual farmer and/or his business from other official sources, or from information provided by third parties; as a result:

- the assessment may not be a true reflection of risk;
- farmer and inspector time may not be used effectively; and
- there may be duplication of official and third party checks, even though both are delivering the same overall outcome.

We will be exploring the potential for drawing up a list of indicators for demonstrating competence that might be used by all Defra regulators as part of earned recognition.

## Information sharing

**3.28 We consider that the Farming Theme on Business Link (paragraphs 2.38–40) offers the best practical way for farmers and regulators to share earned recognition evidence (paragraph 3.22–25), and strongly recommend its development to this end.**

We are at an early stage in developing with industry and our delivery partners how online provision of information by farmers could facilitate earned recognition. In Part 2 we agreed Department for Environment, Food and Rural Affairs

that online working provides opportunities for farmers to submit information and evidence that can be used to earn recognition, and we will develop IT solutions to facilitate this in the future Government Digital Service (GDS). We are trialling a prototype webpage during 2012 that will show how evidence might be submitted to earn recognition and reduce inspection frequencies, and we will invite farmers to test the concept.

### **Inspections where earned recognition could apply**

**3.29 We recommend that regulators consider all current farm inspections to assess whether there is close alignment between official inspection and third-party schemes with a view to addressing duplication and adopting the principles of earned recognition.**

#### Yes

In response to this recommendation, we have worked with Assured Food Standards and NFU to undertake an analysis of overlap between assurance audit and official inspection. That work is now complete and has been used to prioritise how we take forward implementation of earned recognition as set out in the table above. As part of the implementation plan for earned recognition we will publish a list of all farm inspections by Defra and its delivery partners with an assessment of the potential for earned recognition.

### **Recommendations made in other chapters**

- **We believe that the Gangmasters Licensing Authority (GLA) should move its inspection regime to a more targeted, risk-based approach using the principles of earned recognition (paragraph 4.53).**

See responses to recommendations in Part 4

- **The IPPC Farm Assurance Scheme is an exemplar for other forms of earned recognition. We recommend that if the scheme shows continued standards of compliance, the EA should consider further significant reductions in inspection frequency (paragraph 6.76).**

See responses to recommendations in Part 6

- **We recommend greater use of earned recognition in respect of meat hygiene controls and in particular moving to commercially operated control bodies to undertake certain official controls (paragraph 10.16).**

See responses to recommendations in Part 10

- **Import controls on high risk products: FSA should work with trade bodies, ports and designated laboratories to minimise delays of products produced to internationally recognised standards (paragraph 10.45).**

See responses to recommendations in Part 10

## **Recommendations to assurance and other schemes**

**3.31 We recommend that third-party assurance schemes: ‘keep it simple’; ask what is really needed and leave out what is superfluous; use language the farmer understands and keep paperwork short and simple.**

### Yes

We agree, and are working closely with Assured Food Standards and LEAF Marque to develop earned recognition opportunities, and ensure that our messages, guidance and requirements are clear.



## Part 4 Business and management

### Planning

#### Localism

4.07 The onus will be on farmers to participate proactively in neighbourhood plans under the Localism Bill and we recommend that they do so.

#### Yes

We strongly encourage the farming industry to fully engage in plan-making, including neighbourhood plans.

#### National Planning Policy Framework (NPPF)

4.12 The NPPF must recognise importance of food production and agricultural businesses. We propose the following specific wording for inclusion in the NPPF:

*“Competitive and profitable agricultural and food-processing industries, producing as much food as possible whilst maintaining environmental standards, are a key feature of national government policy. The planning system must therefore facilitate sustainable intensification<sup>10</sup> and productive farming which can grow, adapt, innovate and change; and promote the development of agricultural business and the wider food supply chain, recognising the economic and social benefits that these businesses can add to the local community.”*

The NPPF is a key part of Government’s reforms to make the planning system less complex and more accessible. The NPPF is currently being finalised and will be published by the end of March 2012. We cannot pre-empt publication in responding to this recommendation.

#### Permitted development and Prior notification

4.15 We recommend a return to the development regulations which were in place pre-1995 where any agricultural buildings under 465m<sup>2</sup> on an agricultural unit of 5ha or more is permitted development without prior notification.

4.17 We recommend that agricultural buildings between of 465–1,500m<sup>2</sup> surface area, on agricultural units of a minimum size of 5ha, should be subject to the prior notification procedure rather than full planning control.

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<sup>10</sup> The term ‘sustainable intensification’ features in the recent Foresight report on *Global food and farming futures*. See <http://www.bis.gov.uk/foresight/our-work/projects/current-projects/global-food-and-farming-futures/reports-and-publications>

Any large building, whatever its purpose, should be subject to appropriate planning safeguards. The NPPF, however, is designed to be streamlined and fit for the needs of modern business. The NPPF is a key part of Government's reforms to make the planning system less complex and more accessible.

As part of the Autumn Statement in 2011, the Government announced the intention to consult on allowing greater flexibility for changes of use of existing agricultural buildings for other business purposes, for example offices, leisure and retail space.

**4.18 We recommend that the construction of on-farm winter-fill reservoirs up to 25,000m<sup>3</sup> be permitted under the GPDO [General Permitted Development Order]. LPAs [Local Planning Authorities] should expedite their construction, with appropriate conditions regarding siting and design. Water infrastructure for agriculture and horticulture should be recognised as strategic within the NPPF and by LPAs.**

We support the principle of this recommendation. We want to encourage farmers to build reservoirs to provide resilience during extended dry periods and as part of wider sustainable farming practice. There is nothing to stop farmers building on-farm reservoirs now, and engineering operations reasonably necessary for the purposes of agriculture are in many cases already permitted development.

But these structures must be sited and built safely. At present, there is no evidence to support a lowering of the current threshold for the regulation of high risk reservoirs from 25,000 to 10,000 cubic meters and therefore we will not enact that provision in the Flood and Water Management Act 2010.

We want to minimise the uncertainty for farmers so that it is not a barrier to the construction of on-farm reservoirs. We will, in consultation with industry, produce guidance for farmers in 2012/13 on how to build 'low risk' reservoirs. This guidance should also reassure LPAs as to the safety of on-farm reservoirs. EA experts are on hand to offer advice about positioning and construction of 'low risk' reservoirs.

## **Polytunnels**

**4.21 We recommend that Part 6 of the GPDO is amended to create a category that would include polytunnels.**

Polytunnels may already benefit from agricultural permitted development rights, depending on a number of factors such as their design, size and permanence, if local councils determine that they constitute development. Local councils are expected to have due regard to the needs of agriculture in bringing forward plans for their areas and in any decisions affecting development.

There is a debate to be had about polytunnels. They play an important role in British horticulture, enabling an increase in sustainable food production, and local benefits to the

rural economy. We recognise that at a local level their potential effects on landscape can be controversial, and there is a need to strike a sensible balance.

We have asked the Farming Regulation Task Force Implementation Group to review the way that the farming industry can work with the planning system to optimise opportunities for sustainable food production, to enhance the sector's competitiveness. This will include gathering more evidence to inform a wider discussion with stakeholder organisations.

**4.23 We recommend that LPAs take a pragmatic, non-regulatory approach to horticultural support structures, such as 'table tops', training systems and fruit-netting; these should all remain outside the planning system.**

Yes

Minor horticultural structures are unlikely to be viewed as developments that require planning consent. Local planning authorities are best placed to determine how such structures should be regulated on a case-by-case basis, but local planning authorities are expected to be pragmatic, and to have due regard to the needs of agriculture in planning and development management work.

### **Information requirements**

**4.27 In order to simplify and reduce unnecessary delays in the planning application process, we make the following recommendations:**

- **for outline planning permission and prior notifications, LPAs should be required to respond within 14 days to notify if there is a need for any additional information to validate the application (this is consistent with our wider strategic recommendation that Government commit to maximum response times (paragraph 2.31);**
- **for outline planning permission and prior notifications, LPAs should be required to provide a substantive reply and decision within 42 days of the original request (ditto);**
- **local planners should be offered training in agriculture, horticulture and the food industry. The onus on this should come from farming organisations but we also commend this opportunity to agricultural colleges.**

Yes

We agree with the principle of this recommendation. In July 2011, the Government announced the intention to look at both the length of time it takes to determine any planning applications, and the level of information required in support of planning applications.

### **Village greens and footpaths**

**4.34 We recommend that for both the application for designation of village greens and the recording of new rights-of-way, mechanisms should be introduced to**  
Department for Environment, Food and Rural Affairs

**rebalance the process and to ensure that reasonable costs are met by both parties (i.e. including applicants).**

**4.35 We recommend that the proliferation of inappropriate village green designations is addressed. We understand that, as part of their Business Plan commitments, Defra and (the Department for Communities and Local Government] (DCLG) will be looking to reform village green designations and to introduce a new local 'green space designation'. We would recommend that Defra/DCLG use this reform to address our concerns in paragraphs 4.28–34.**

**4.36 We recommend that the Group's conclusions that a cut-off date of 2026 for discoveries of historic routes should be implemented, as originally introduced by the Countryside and Rights of Way Act 2000, whereby a final map is drawn up with all footpaths and rights-of-way, with no more being added.**

**4.38 We recommend that a pragmatic solution for temporary diversions should be to put the proposed diversion to the relevant local access forum, for agreement or otherwise. We believe that it might be helpful for the Government to supplement this local approach with a code of practice.**

**4.39 [We understand that Defra is currently considering the various access proposals put forward by the Stakeholder Working Group on Unrecorded Rights of Way]. We encourage the Government to consider our recommendations and the strong sentiment behind them in any wider package of measures to come out of the work of the stakeholder working group.**

Under consideration

We have recently consulted on proposals to reform the system for registering new town or village greens. The Government wants to achieve an improved balance between providing protected green space for local communities and reducing the administrative burden on local authorities and landowners. We plan to publish a summary of the consultation responses soon and announce our proposed reforms in the summer.

Last year we published the Natural Environment White Paper (NEWP). It set out the Government's intention to consult on simplifying and streamlining the processes for recording and making changes to public rights of way. This will be based on proposals made by Natural England's (NE) Stakeholder Working Group on unrecorded rights of way, in its report 'Stepping Forward' (published in March 2010). The Group included a full range of rights of way stakeholders, including the National Farmers Union (NFU) and the Country Landowners Association (CLA). We believe it produced a balanced package of measures which would offer benefits to all concerned. We expect to make an announcement on the consultation later this year.

## **Seasonal workers' accommodation**

**4.41 We recommend that there should be a presumption in favour of planning applications for seasonal workers' accommodation in established horticultural businesses. This would mean allowing permitted development for buildings up to 465m<sup>2</sup> surface area and prior notification for buildings between this threshold and 1,500m<sup>2</sup>.**

As part of the Autumn Statement in 2011, the Government announced the intention to consult on allowing greater flexibility for changes of use of existing agricultural buildings for other business purposes, for example offices, leisure and retail space.

The NPPF is designed to be streamlined and fit for the needs of modern business, and is a key part of Government's reforms to make the planning system less complex and more accessible. It will be published in March 2012.

## **Renewable energy operations**

**4.44 We recommend that the NPPF should recognise the importance of on-farm renewable energy developments.**

Under consideration

The responses to the consultation on the draft NPPF are being considered, and we will await the outcome before considering this recommendation further.

## **Agricultural labour**

### **UK and European Union (EU) citizens in seasonal work**

**4.49 We recommend that the Department for Work and Pensions (DWP) adapts the benefit system to reduce financial disincentives (such as loss of benefits) for the unemployed to undertake seasonal work. We recommend that the agricultural industry improves its collective communication strategy to encourage greater take up of seasonal work by EU citizens, particularly students.**

Yes

We have already taken a number of measures to provide improved employment support and financial incentives to work. In particular the Universal Credit system which aims to be introduced from 2013, will improve incentives to work (especially for low earners) by ensuring that people are better off for each hour that they work and every pound they earn.

We would welcome any initiatives from the industry to encourage greater take up of seasonal agricultural work by the EU workforce.

## **Seasonal Agricultural Workers Scheme (SAWS)**

**4.54 We urge the Home Office to introduce a replacement for the Seasonal Agricultural Workers Scheme to enable workers from prospective accession states to provide seasonal labour for UK agriculture and horticulture.**

Under consideration

We have announced that the SAWS will continue for 2012 and 2013 in its current form and at the maintained quota level of 21,250. Defra, the Home Office and other Government departments with an interest will consider options for addressing seasonal labour needs beyond 2013. In order to inform this consideration, the Home Office intends to commission advice from the independent Migration Advisory Committee on the issue.

## **Gangmasters licensing scheme**

**4.60 We urge those leading the review to consider our recommendations as a means of reducing the burden of administration and inspection when enforcing workplace rights.**

## **Communications and perceptions**

**4.62 We recommend that the GLA [Gangmasters Licensing Authority] continues to work with the National Farmers Union (NFU) and other representatives of labour users to lead drafting of future guidance specific to labour users. In line with our strategic recommendation (paragraphs 2.18–19), we recommend that the GLA and NFU jointly own this guidance.**

**4.63 To improve its relationships with the farming and horticultural industry, we recommend that the GLA should better communicate its priorities (enforcement against rogue gangmasters) and further engage with labour users on its enforcement approach.**

## **Inspections and enforcement**

**4.64 We welcome the GLA's pilot [to test lighter-touch regulation in the forestry sector], and recommend that it be extended to low-risk activities in farming and growing.**

**4.65 We believe that the GLA should move its inspection regime to a more targeted, risk-based approach using the principles of earned recognition.**

**4.66 We recommend that the GLA ensures that its inspectors are clear as to the guidelines that are in place when conducting inspections.**

**4.67 We recommend that the GLA explores further alternative means of interviewing gang workers without disrupting farm businesses as far as possible and without adversely affecting its ability to identify worker exploitation.**

**4.69 We recommend that the GLA and trade associations should work together to better communicate the advantages of a labour user voluntarily registering on the GLA website as a labour user. We also recommend that the GLA make clear that labour users that voluntarily register on the website are at no higher risk of inspection than if they do not register.**

### **An alternative to licensing**

**4.70 We recommend that Defra explores the costs and benefits of a 'registration and enforcement' model as an alternative way of delivering desired outcomes.**

#### Yes

The Government's Red Tape Challenge process has endorsed the need for the GLA to enforce protection for vulnerable workers in its sectors. The Government will continue to look at what more the GLA needs to do to tackle the non-compliant, while reducing unnecessary burdens on the compliant, and any legal changes needed to support this. Any future approach will be reviewed as part of the Red Tape Challenge process. The GLA will also be monitored under the Government's ongoing review of public bodies and enforcement agencies.

As a result of the recommendations by the Task Force the GLA will also:

- issue new guidance to its inspectors by April 2012 and will look at its approach to minimising disruption when interviewing gang workers on a case-by-case basis. The GLA's website already has a new page providing information specifically for labour users;
- look at ways to work closer with labour user representatives and labour users, including establishing user groups, during spring 2012;
- communicate its priorities across its whole remit of fish processing, shellfish, meat, dairy and food processing, during the summer 2012.

In addition, the GLA is running a Forestry Pilot Scheme on the scope for using an earned recognition approach to licensing for forestry operators, including dispensing with an Application Inspection, and at how this might be applied more widely across its regulated sectors. The GLA will introduce changes by September 2012. We will also respond in detail to the Forestry Regulation Task Force's report by March.

## Transport

### Trailer licences

**4.74 We recommend that the DVLA introduces an exemption from the B and E category licence requirement for vehicles used for agriculture, horticulture and forestry.**

The driver licensing requirements for towing trailers contained in the Motor Vehicles (Driving Licences) Regulations 1999 implement very clear requirements in EU law. Whilst experienced tractor drivers who are subject to this requirement may consider it as unnecessary, it is a one-off test. There will be few opportunities to amend this EU legislation in the near future. However, new driving licence holders with category F entitlement still do not have to take separate tests to operate tractors with trailers or other equipment, although it is advisable that they receive appropriate training.

### Weight/speed restrictions for trailers

**4.77 In the light of the size/needs of modern farm machinery, we recommend that Department for Transport (DfT) amends the 1986 regulations, making the following changes:**

- **the maximum speed limit for tractors should be aligned with the rest of the EU at 40 km/h;**
- **the maximum weights of trailers and combinations are increased from 18.29 tonnes and 24.39 tonnes to 21 tonnes and 31 tonnes respectively. We appreciate that, due to other legislation, any machinery of this weight would be required to be registered with an appropriate scheme to ensure roadworthiness. We understand that such a scheme is being developed by the industry in partnership with the DfT.**

Under consideration

We will engage with industry organisations to consider how these recommendations might be taken forward. Maintaining high standards of road safety is of key importance, whilst permitting farmers to take full advantage of modern equipment. Whilst it might be possible to allow increases in trailer and combination weights, there must be a robust mechanism to ensure that such combinations are roadworthy. The speed issue needs careful consideration, including where tractors are capable of exceeding 40km/h. We will consider both of these issues while also taking account of developments in construction standards in the EU Regulation for the approval of agricultural and forestry vehicles. Any proposals to change would be subject to normal regulatory process including public consultation.

## Forklift testing

4.79 **We recommend that the relevant training guidance or application form from the certification body makes this clear** [that there is no requirement for forklift drivers to take a retest within a certain time limit, instead the onus is on the employer to assess staff and decide whether refresher training should take place] **to test candidates booking a forklift-driver training and certification test. We also recommend refresher courses for all forklift drivers from time to time.**

Yes

Guidance on the training required for lift truck operators is covered in the Health and Safety Executive (HSE) Approved Code of Practice (ACOP) "Rider-operated lift trucks: Operator training" reference L117. The ACOP covers refresher training. The guidance states that there is no specific requirement for refresher training after set intervals but points out that lift truck operators need to be re-assessed from time to time to ensure that they continue to operate lift trucks safely.

All HSE ACOPs and guidance (including L117) are to be reviewed this year as set out in the Government's response to the Lofstedt review of health and safety legislation. We will take this opportunity to review the guidance on refresher training to make it clearer.

## Health and safety

4.83 **We urge farmers to remember the HSE message “Make the promise: come home safe” and increase their professionalism in awareness of health and safety issues.**

Yes

We agree with this recommendation. Health and Safety in the farming industry remains a key issue given the accident rate for the industry remains unacceptably high.

## Tenancy issues

### Agricultural Holdings Act 1986

4.85 **We think there should be consideration of a less costly approach** [to solving disputes which arise within agricultural tenancies]. **In particular this should allow the parties to a Tenancy Agreement to contract out of the arbitration provisions within the existing legislation and to opt for disputes to be settled by an Independent Expert where the matter does not relate to a notice to quit.**

Yes

The Tenancy Reform Industry Group agrees that this is an area of tenancy legislation which should be examined with a view to reform. As a first step, we have asked the Group Department for Environment, Food and Rural Affairs

to consider the issues more fully and to report back to Ministers with clear recommendations. Changes to agricultural tenancy legislation would be required to implement this recommendation and this will depend upon a suitable legislative vehicle and Parliamentary time.

### **Agricultural (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973**

4.86 **We recommend that Defra invites the Tenancy Reform Industry Group to undertake such a review** [of the Agricultural Regulations].

Yes

These Regulations are outdated and we have asked the Tenancy Reform Industry Group to carry out a review and report back to Ministers.

## Part 5 Paperwork

### Principles of paperwork

#### Government and industry should design forms in partnership

**5.07 We recommend that for every new administrative burden, Defra, its agencies and delivery partners, and industry should collectively engage a sample of ordinary working farmers to help design the form/record/plan.**

#### Yes

We are developing new principles for producing guidance and forms which we will publish/put into operation by May 2012, and which will commit us to involving farmers and other stakeholders in producing forms wherever this is appropriate. For more information on this, see the paperwork plan<sup>11</sup>.

As a response to the Task Force recommendations, Defra and its agencies are already working in partnership on developing forms, records, plans and other paperwork, as set out in our paperwork plan. For example, the Rural Payments Agency (RPA) set up a Farmer Panel to provide independent views and insight from up to 1000 farmers. The RPA used the Panel to review the draft 2010 Single Payment Scheme (SPS) Claim Form and Handbook. In response, the form was changed to allow customer details to be manually changed on the form (rather than requiring farmers to telephone the Agency) and subsequent versions of the guidance used more helpful language.

#### A new approach to data collection that improves the efficiency of its supply, capture and use

**5.09 We recommend that, before soliciting data, Government asks itself whether it really needs the information. The question should be ‘do we really need this information in order to comply with legislation?’ not ‘would the information be useful?’**

Responses to recommendations 5.09 – 5.13 are together, see 5.13.

**5.10 We recommend that regulators do not collect the same data twice where this can be avoided. We recommend that Government agencies endeavour to join up their information-gathering wherever possible.**

**5.11 We recommend that regulators do not collect superfluous data.**

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<sup>11</sup> <http://archive.defra.gov.uk/food-farm/farm-manage/documents/farm-reg-paperwork-plan-dec2011.pdf>

**5.12 To reduce burdens on farmers, we recommend that there should be a presumption that regulators share data except where they are not legally or technologically able to do so. We recommend that regulators make clear to farmers who their data is being shared with and offer farmers the opportunity to 'opt in' to data-sharing between Defra and other regulators.**

**5.13 We recommend that regulators demonstrate sensitivity to sectoral calendars when issuing requests for data.**

### Yes

We are responding to these recommendations by developing ways of capturing and using data more efficiently. We are, right now, working closely with the Environment Agency (EA), RPA, Natural England (NE) and Animal Health and Veterinary Laboratories Agency (AHVLA), Food Standards Agency (FSA), Local Authorities, the National Farmers Union (NFU) and, most importantly, farmers themselves, to build a comprehensive evidence base of what farmers are asked to do to meet both regulatory and non-regulatory requirements, and in particular what they feel are the most superfluous and/or onerous requests for information. We will have completed this work by spring 2012 and will use it to help us make changes to stop collecting unnecessary information, avoid duplication of requests, and see where we can share data more effectively. Data sharing is a key part of reducing the burden of information requests. We already share some data (see example in the box below) but we need to do this more often and more effectively. In light of the Task Force's findings, we are already trying to share more data between different agencies as outlined in the cases below:

**Case 1:** NE and the EA have started to work on sharing data on Environmental Stewardship Schemes. The EA have asked for greater access to this information for use in their risk assessment process. We are working with our lawyers and both agencies to establish whether sharing this data is legally possible and, if so, how we can overcome any technical or logistical difficulties to ensure that the information can be shared securely. We will have a response to these questions by spring 2012 and hope to have data sharing underway by autumn 2012.

**Case 2:** The EA asked for data held by Defra from the Agricultural Survey in June, to assist with risk assessment. We investigated whether this was possible, and found that while we can share the information for analytical purposes, it cannot be used directly for inspections or enforcement at the moment. We are working with our lawyers to see how we can adapt the way we collect this information so that it can be used for these purposes in future. In the interim, we are making this data available to the EA who are using it to target their mail shots and to identify trends or pressures in a particular catchment.

The Task Force also asked us to invite farmers to agree that their data will be shared between regulators. Anecdotally it seems that there is support for this within the farming industry, and an understanding that without it we will be unable to maximise the potential of earned recognition. As mentioned in our interim response, we are working with the NFU to produce a single data protection statement which may make it easier to share

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information between us and our delivery agents in the future. We are examining data protection legislation and looking at how we can assure farmers that information about them is being handled appropriately. We will do all we can to make sure data can be shared efficiently and effectively.

We will provide an update on this work in the six month paperwork action plan progress report.

## Existing data sharing practice

### Livestock Holdings

AHVLA have recently developed a new geospatial IT application to help better understand the spread of land making up livestock holdings in England. The 'CPH viewer' has been developed using information already held by the AHVLA and plotting this together with data on land holding held by the RPA. This application will help AHVLA in its day-to-day activities and also to support work during a disease outbreak, which will help us minimise the spread of disease and protect livestock.

### Customer and Land Data

We manage CLAD, a database which provides Customer and Land Data to support evidence-based policy development and to make operational decisions.

The current service provides access to RPA's customer and land data for specific business purposes. It also receives and stores data from the Welsh Government and the Forestry Commission. Since 2008 we have arranged and managed data sharing agreements between the RPA and organisations requiring access. We also facilitate access for individual users, which means that contractors for those organisations can also use the information. CLAD data has been used, for example, to manage disease outbreaks and for epidemiological studies by science agencies, helping farmers to keep their livestock and crops healthy by containing the spread of disease and enabling us to research preventive measures.

We are currently working with the Welsh Government to put in place a data sharing agreement which will mean that we can share CLAD information with different organisations without having to construct individual agreements. We will have this agreement in place by April 2012 and we are working to give the Welsh Government access to the AHVLA CPH viewer by the same date.

**5.14 We recommend that trade associations encourage their members to submit data electronically.**

Yes

We support this principle; we want trade associations to encourage their members, and individuals to choose electronic options. We will support trade associations and individual farmers and customers in this. See the response to recommendation 2.43 for more information on our approach to electronic and online services.

**5.15 We recommend that regulators investigate alternative means of gathering data that do not impinge on farmers.**

Yes

We will look at alternative, less burdensome ways to collect data.

In response to the Task Force recommendations, in December 2011 we set up a pilot project to look at data sharing between Defra agencies. This will help support better data sharing in the future and could minimise the need for some data to be collected. We are working closely with industry representatives on this project which will run until spring 2012 (see responses to recommendations 5.09 – 5.13, and the Paperwork Plan for more general information on data collection.)

We have already reduced the impact of data collection on farmers by, for example, using remote sensing and aerial photography to maintain the Rural Land Register. This allows the number of physical inspections to be reduced, while still meeting the regulatory requirements. This means that for many customers all they will know of a remote sensing inspection is a letter informing them that the inspection has been completed and there is no action for them. Looking further ahead, we are exploring the potential for digital maps and geographic information services (GIS) to offer new interactive ways of exchanging data and communicating with farmers. We see the development of GIS capability as one key elements of the ‘digital by default’ approach.

**An aspiration that paperwork becomes ‘digital by default’**

**5.17 We recommend that Defra and industry set a joint vision of making all paperwork available for electronic completion and online submission. As the Farming Theme of Business Link (paragraph 2.38–40) expands in membership, it should become the default means through which farmers can store and submit forms electronically.**

Yes

The Government as a whole is moving to providing services “digitally-by-default” and plans to launch a single Government website in late 2012. This will replace the current Direct Gov and Business Link platforms. The Farming Theme currently located on the Business Link site will also transfer over to the new platform. The new platform will eventually be the single access point to all Government services, including for all the guidance and services that farmers need. This will make it easier for them to find this information so that

they can do business more efficiently. See the response to recommendation 2.43 for more information on our approach to electronic and online services.

We have been working to move form filling online across Defra and the agencies; details of what we are doing are set out in our paperwork plan<sup>12</sup>. For example, the RPA has made significant progress in encouraging online applications for the SPS with a third of customers now claiming online. The online cattle tracing system (CTS) provided by the RPA's British Cattle Movements Service now has approximately 37,000 regular users (UK wide): about 45% of UK cattle farmers are now reporting births, deaths and movements online.

## Reviewing the requirements to produce plans

**5.19 We recommend that Defra/regulators review the requirements on farmers to complete plans.**

Yes

We will review requirements to complete plans as we prepare for implementing the reformed Common Agricultural Policy (CAP) (post 2013), and during the detailed design of CAP 2013 schemes.

However, good planning often makes good business sense. For example, we think that nutrient management planning is essential to help farmers maximise yields and to balance the benefits of nutrient use against the costs, both economic and environmental, to the farmer as well as to society in general. We want all farmers to adopt comprehensive good nutrient management, alongside other good farming practice. Our view is that nutrient management planning should be standard practice for all farms where fertilisers, manures, slurries, composts, or other sources of nutrients are being applied. They are essential tools for keeping track field by field of nutrient inputs and outputs, soil test data, and other relevant information, allowing farmers to note what they have done in the past and to plan appropriately for future farm management.

## Improving guidance

**5.21 We recommend that Government considers ways to improve co-ordination of related guidance and the frequency with which it is made or changed.**

Yes

We will minimise the number of changes and updates to guidance we provide, to reduce the amount of time businesses have to spend familiarising themselves with new paperwork and processes.

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<sup>12</sup> <http://archive.defra.gov.uk/food-farm/farm-manage/documents/farm-reg-paperwork-plan-dec2011.pdf>

We will develop new principles for producing guidance and forms, which will include co-ordinating revisions to guidance through existing reviews. New guidance tends to be published in the run up to the two annual common commencement dates, in April and October, when regulations are generally made or revised. Sometimes it may be necessary to amend or update guidance or forms quickly, and it may not be possible or appropriate to co-ordinate (or delay) a revision. We will continue to discuss any changes with stakeholders before they are formally consulted so there should be no surprises for the farming sector.

We are increasing the amount of guidance provided in digital and online formats as these give better opportunities to make sure that farmers are only alerted to changes that are relevant to them, and make it easier for farmers to tailor guidance to their specific needs. For example, we have recently introduced the Cross Compliance Guidance Search Tool on the business link farming theme to help farmers quickly identify and filter the cross compliance requirements that apply to their business. The tool can be accessed via [www.businesslink.gov.uk/defra-farming-online](http://www.businesslink.gov.uk/defra-farming-online).

**5.22 Where guidance documents relate to rule changes, we recommend that they provide upfront a short, 'quick-start' guide on how rules have changed. We suggest that guidance documents should be as short as possible; page numbers in single figures if possible!**

Yes

We are developing new principles for producing guidance and forms which will come into force by May 2012, which will include producing "Quick Start" guides to documents, and keeping guidance documents concise and targeted.

## **Summary of regulation-specific paperwork recommendations**

### **Nitrate Regulations**

**5.23 We recommend that:**

- **the review of the Nitrate Regulations significantly reduces the paperwork, including the need for detailed plans and maps;**
- **it is necessary to keep a record only of the amount of nitrogen applied per field in organic and inorganic form. Where a farmer has a more detailed nutrient management plan, they could earn the right to be less frequently inspected as part of an earned-recognition approach;**
- **the Farming Theme of Business Link is expanded to enable farmers to submit electronic copies of nutrient management plans online.**

- **farmers can apply for a derogation from the 170 kg/ha whole-farm nitrogen loading limit through the SPS claim, rather than submitting a separate application;**
- **a new calculation for NMax should be required only when a significant change in farming practice takes place, or unless the fertiliser recommendations<sup>13</sup> change substantially; and**
- **organic and low-intensity farming systems are exempted from record-keeping requirements under this regime.**

See responses to recommendations 6.16 – 6.22.

## **Environmental permitting**

5.24 **We recommend that:**

- **the environmental permitting application form and accompanying charging note should be tailored to the agricultural sector;**
- **the EA should allow and encourage permit applications to be completed online;**

See responses to recommendations 6.61-6.62.

## **Single Payment Scheme and cross compliance**

5.25 **We recommend:**

- **that the Soil Protection Review becomes voluntary and be used in earned recognition (with [Good Agricultural and Environmental Condition] (GAEC) 1 itself being reframed as a ‘duty of care’);**
- **removing crop codes from the SPS form where possible;**
- **extending the SPS-application window so that forms can be submitted from the beginning of January;**
- **changing the entitlements form to include an option which allows RPA to rotate the entitlements so they remain viable;**
- **that in cases of dual claims, the RPA gives farmers the option to forward their personal details to the other claimant;**
- **that the RPA should return to its previous pragmatic approach to ‘obvious errors’ on SPS forms;**
- **that the RPA should introduce a system of fixed-date replies throughout any appeals process.**

See responses to recommendations 7.45 to 7.64.

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<sup>13</sup> Fertiliser recommendations as contained in the Defra [‘Fertiliser Manual’](#) (RB209).

## **Livestock movements and farmed animals**

### **5.26 We recommend:**

- **increasing the use of electronic reporting for livestock movements;**
- **reviewing information in cattle passports, herd books, flock registers and the fallen stock register to ensure that information is provided only where necessary and in a way consistent with normal farming practice.**

See responses to recommendations 8.12 – 8.14.

## **Food chain information**

**5.27 We recommend that existing information from contractual arrangements between producers and slaughterhouses, and/or farm assurance schemes, should replace the need for food chain information requirements.**

See response to recommendation 10.39.

## **Agricultural and other surveys**

### **Agricultural surveys**

**5.30 We urge Defra to continue lobbying the [European Union] EU over the size and extent of the [agricultural] surveys. We recommend that Defra integrates into its negotiations the new approach for data collection that we outline in paragraphs 5.08–15.**

#### Yes

Surveys are important: Defra's statistical surveys are used widely by Government and the industry in developing policy (for example to measure the impact of the Campaign for the Farmed Environment, or to influence the direction of CAP reform) and to improve the functioning of the market (such as by making timely information available on the supply and use of key crops). However, we believe that the size and extent of the surveys required by the EU is in excess of that needed by Government and industry. In response to the Task Force recommendations we have stepped up our lobbying of the EU on the development of farm surveys after 2013, where we are contributing to a Commission-led Task Force. The UK is leading one of the sub-groups (comprising representatives from half a dozen Member States and European Commission officials from the statistical office of the European Union (Eurostat), and the Directorates-General for Agriculture and Environment (DG Agri and DG Environment)) looking at new data needs. By engaging early and constructively we hope to influence the EU to include smaller and cheaper surveys, with a greater focus on the key policy questions, as part of a new Regulation. We will also encourage the Commission to join up its data needs across the various domains (statistics, disease control, CAP reporting, etc.) to avoid duplication and inconsistencies.

**5.31 We recommend that the June survey is completed entirely online, using information that applicants are already providing for the SPS forms.**

Yes

We will aim to maximise the number of farmers who complete the June Survey electronically through Farming Online, and in future the GDS platform. We have already put in place measures to increase take-up, with 8,500 (9% of the total) providing electronic responses to the Census in 2010 and 8,800 (41%) to the much smaller 2011 survey. We intend to obtain an even higher proportion of responses through Farming Online in 2012 by making online completion of the survey the default option. We will also work closely with the Industry-Government Group being set up to advise on how to help farmers move online and how other businesses can provide online support services to farmers.

However, we cannot use data from SPS forms directly to replace June Survey responses as less than 5% of the items we ask for on the June Survey are collected through the SPS. To meet EU regulations, and the information needs of stakeholders and policy makers, we require data on the areas of individual crops grown. This information allows us to, for example, produce the cereal balance sheets that are used by the industry (often via the HGCA) to inform planting decisions and market prices. This data is not collected through the SPS form and it would be inefficient to introduce it. The overall burden on farmers will be lower from small, targeted, surveys than from a blanket approach to collecting detailed data from all SPS claimants. However, we will ensure that the data collected through the SPS and statistical surveys is as integrated as possible following any changes to the monitoring and evaluation of the CAP prompted by upcoming reforms.

### **Food and Environment Research Agency (Fera) surveys**

**5.33 We recommend that Fera continues to make the best use of online and electronic tools to reduce the time it takes farmers to complete surveys.**

Yes

Fera will continue to maximise the use of online and electronic tools, including email and farm management software, as well as posted records and telephone calls, to reduce the amount of farmers' time the Pesticide Usage Surveys (PUS) occupy.



## Part 6 Environment and land management

### Introduction

6.04 **We recommend that, through the [Natural Environment White Paper] (NEWP), Defra sets out a framework to deliver better integrated and prioritised environmental messages to farmers and their advisers.**

#### Yes

We agree that the current environmental messages given to farmers and advisers can be confusing because of:

- cumulative environmental regulations with sometimes overlapping requirements and high level of process – for example paperwork, records and calculations, and;
- different messages about environmental priorities that farmers and advisers receive from multiple sources.

We will integrate and prioritise environmental messages for farmers and advisers by tackling the causes of the current confusion.

Environmental regulations: Environmental regulations generally exist for good reason. Nevertheless we are continuing, through the Red Tape Challenge particularly, to look for opportunities for reform to make it easier and cheaper for business to protect essential ecosystem services. However, there are cases where environmental goals overlap, such as with the Nitrates and Water Framework Directives. Our response to recommendation 6.34 describes how we are addressing this. Elsewhere in this response we have set out how we will address burdensome paperwork and implement a more risk-based approach to inspections.

Environmental messages: Before we can integrate and prioritise the environmental messages that farmers and their advisers receive, we all need to agree on our key environmental priorities. We are working with delivery partners and key stakeholders to agree a list of priority environmental outcomes. We will also identify the actions we want farmers to focus on and develop clear messages to explain what we need to achieve.

We have taken a strong first step towards defining more clearly the things farmers can do to help deliver these priority environmental outcomes. An indicative list is attached in the box below. The list contains a mixture of actions that farmers may currently consider when meeting the requirements of existing regulations (such as under the Nitrates, Water Framework and Habitats Directives), incentivised schemes (such as Entry and Higher Level Stewardship schemes) and voluntary initiatives (such as the industry-led Greenhouse Gas Action Plan). These types of actions can be beneficial to a farmer's business with regard to productivity and efficiency, as well as beneficial for soil, air, water quality and basic land management for biodiversity purposes.

**Indicative list of key on-farm actions beneficial to both the farming business and the environment****Manage nutrient requirements of crops**

- Use nutrients efficiently i.e. when crops most need it and/or at times least likely to waste benefits through losses by diffuse pollution to air, soil and water. For example;
  - do not over-apply organic or inorganic fertilisers (e.g. test soils to assess nutrient requirements and test slurries for nutrient content);
  - incorporate nutrients quickly to soil (to avoid gaseous losses of nutrients);
  - use appropriate (e.g. band spreaders or injection for slurry) and calibrated spreading equipment;
  - use non-urea based fertilisers to help reduce ammonia emissions. Where urea fertilisers are used, use with urease inhibitors; and
  - ensure adequate storage for slurry and manure, and cover stores where possible.

**Protect agricultural soil**

- Identify the risks of soil erosion, compaction and loss of soil organic matter and put in place appropriate measures to mitigate these risks (e.g. implementing a soil management plan). For example:
  - reduce risk of soil erosion and runoff by water;
  - prevent and relieve soil compaction due to cultivations and mechanical damage.

**Manage water resources and watercourses**

- Manage drainage and overflows;
- Manage water resources;
- Reduce direct impact of livestock on watercourses (to avoid direct defecation into water and erosion), for example fence off access to water courses and riverbanks;
- Use, site and manage buffer strips (also has significant benefits for biodiversity).

**Manage Pests**

- Store, use and dispose of Pesticides in compliance with conditions of use and the principles of good plant protection practice;
- Increase awareness and use of Integrated Pest Management.

**Maintain and Enhance Landscapes and Biodiversity**

- Increase awareness of biodiversity and landscape assets and how to improve their resilience to threats e.g. climate change, invasive species;
- Maintain and enhance historic features, woods and habitats including hedges, walls and longer-term uncultivated habitats (such as flower-rich habitats), seed-rich habitats and in-field features (such as conservation headlands) that support beneficial insects, farmland birds and other wildlife and which add to the distinctiveness of local landscapes;

- Work with neighbouring landowners to improve the condition of habitats that straddle farm boundaries and help connect those that span a landscape;
- Contribute to the delivery of local plans for the natural environment, including those for landscapes, biodiversity and green infrastructure;
- Keep public rights of way unobstructed and convenient to use, and stiles and gates in good order. Never plough field edge paths and quickly restore any cross-field path you do plough.

When this list is further developed it will provide a starting point for us, our delivery partners and advisory networks to simplify and prioritise environmental messages to farmers which help meet national priorities. However, this is only part of the way forward.

It is clear from our discussions with delivery partners and stakeholders that the other key to achieving integrated and prioritised environmental messages is to enable the farmers to work together on a local scale to tailor environmental messages. Experience suggests that significant progress can be made where the local farming community works closely with environmental agencies and organisations to solve local problems. We want to build on this so that messages can be tailored to be relevant to local and national environmental priorities.

We are working in partnership with delivery partners, advisers and farming and environmental stakeholders to develop a framework that will enable delivery of integrated and prioritised environmental messages on a local scale. We will do this through a review of existing advice and incentives (see box below).

### **Projects delivering a localised approach to simplifying and prioritising environmental messages**

- Review of Advice and Incentives

We are reviewing existing advice and incentives and approaches taken under voluntary and industry-led schemes (such as the Campaign for the Farmed Environment, which often work on a local scale) with a view to simplifying current schemes to enable clearer communication of environmental priorities and advice on a local scale.

This review, which will report in late 2012, will build on the work of the Integrated Advice Pilot (IAP) and initial work carried out to define priority environmental outcomes and the national level actions (Box A).

- Integrated Advice Pilot (IAP)

The aim of the Integrated Advice Pilot is to develop a novel farmer-focused approach to the delivery of flexible, integrated advice that balances farm business objectives with Government policy objectives and integrates measures to achieve multiple benefits. An ADAS led consortium is undertaking the pilot which started in February 2011 and is due to conclude in March 2012. This aims to produce sector specific integrated advice, flexible advisory protocols, a training course and to agree

a legacy for the pilot. We will use the findings of this pilot in the review of advice, incentives and voluntary initiatives (as above).

## The Nitrates and Water Framework Directives

### Package of recommendations

**6.15 We recommend that farmers use initiatives such as the Campaign for the Farmed Environment to encourage water protection measures.**

Yes

We are working on providing clearer guidance for farmers on the basic measures required to safeguard local water quality, to coincide with the Common Agricultural Policy (CAP) and associated Rural Development Programme for England (RDPE) arrangements for 2014. This will be informed by the Catchment Based Approach (as set out in 6.34). This will help ensure that the farming community understands its responsibility to reduce diffuse pollution from agriculture and takes advantage of schemes, such as the Campaign for the Farmed Environment or the Catchment Sensitive Farming initiative, that help inform them of how they can undertake on-farm measures. It is also Government's role to ensure that there are consistent messages about water protection measures and measures for other environmental priorities, across Government-led/partnership schemes (see the response to recommendation 6.04).

### Record-keeping and calculations

**6.16 We recommend that the review of the Nitrate Regulations significantly reduces the paperwork, including the need for detailed plans and maps. It should also reduce the complex calculations required of farmers, particularly in relation to manure and slurry.**

Responses to recommendations 6.16-6.20 are together; see 6.20

**6.17 In terms of compliance, we believe it is necessary to have only a record of the amount of nitrogen applied per field in organic and inorganic form. In line with our earned recognition proposals (paragraph 3.23), where farmers have a detailed nutrient management plan we recommend that they could earn the right to be less frequently inspected.**

**6.18 We recommend that the Farming Theme of Business Link should be expanded to enable farmers to submit electronic copies of nutrient management plans online. To complement this, we recommend that Defra, the [Environment Agency] EA and trade associations jointly encourage better take-up of PLANET, the**

**Defra-developed nutrient management software that helps with doing the calculations and keeps records.**

**6.19 We recommend that this application for a derogation could be incorporated into the [Single Payment Scheme] (SPS) claim, with the [Rural Payments Agency] (RPA) then sharing this information with the EA<sup>14</sup>.**

**6.20 We recommend that a new NMax calculation should be required only when a significant change in farming practice takes place, or the fertiliser recommendations<sup>15</sup> change substantially.**

Under consideration as part of the current Nitrates Consultation (launched on 20 December and due to close on 16 March 2012).

We agree that the Nitrates Regulations<sup>16</sup> are more prescriptive on a number of the planning and record-keeping provisions than is necessary. We have put forward some concrete proposals to address this point and other recommendations of the Task Force in the current Nitrates Consultation<sup>17</sup>, published on 20 December 2011 and closing on 16 March 2012. We will ensure that Nmax<sup>18</sup> calculations are required only when there is a risk of the limits being breached (recommendation 6.20). These and other changes being brought about through the Nitrates Consultation will take effect from 1 January 2013 or later, depending on the complexity of the issues.

We agree that good nutrient management is part of standard good farming practice. It helps maximise profits and minimise the environmental impact of farming. Indeed, we believe that all farms should manage their nutrients well. This does not mean that all farms need highly detailed plans, but the evidence of the 2011 Farm Practices Survey shows that almost two farmers in every five do not have a nutrient management plan of any sort. This suggests that a significant proportion of the industry needs to improve its nutrient planning. We will therefore continue to work with the EA and trade associations to encourage greater uptake of PLANET and other nutrient management tools, and will provide free expert advice to farmers and land managers on nutrient management issues via the new Farming Advice Service (recommendation 6.18).

We will not remove the requirement in the Nitrates Regulations for farmers in Nitrate Vulnerable Zones (NVZs) to have a nitrate fertilisation plan (recommendation 6.16) because this is a requirement of the Nitrates Directive. However, we accept that it is not for the Government to dictate exactly how plans and records should be kept and we will continue to leave it to farmers how they fulfil this requirement. We want fertilisers to be

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<sup>14</sup> We recognise that this is reliant on the EU granting a further derogation.

<sup>15</sup> Fertiliser recommendations as contained in the Defra '[Fertiliser Manual](#)' (RB209).

<sup>16</sup> Nitrate Pollution Prevention Regulations 2008, as amended by the Nitrate Pollution Prevention (Amendment) Regulations 2009

<sup>17</sup> The Nitrates consultation can be found at <http://www.defra.gov.uk/consult/2011/12/20/nitrates-directive/>

<sup>18</sup> Nmax is the maximum amount of nitrogen permitted to be applied to a crop in a twelve month period.

applied to crops when they need it, in the quantities required and in compliance with the Nitrates rules: farmers need to be able to demonstrate when asked that this is happening.

We are consulting on how to reflect earned recognition in the planning and record-keeping aspects of the Nitrates Regulations (recommendations 6.17 and 6.18) in practice and will discuss this with industry experts at a workshop in late February 2012. We are uncertain whether submitting nutrient management plans online (recommendation 6.18) would prove cost-beneficial - we will do some further analysis - but believe we can probably take a step in the direction of reducing inspection rates where quality plans have been made (recommendation 6.17). We will report on progress in the Government's response to the Nitrates Consultation.

### **Exemptions for organic and low-intensity farming systems**

**6.21 We recommend that if an organic farmer in an NVZ is fully certified by a relevant organic certification body, the organic land should be assumed to be compliant with the Nitrate Regulations and the farmer should not have to carry out the additional record-keeping.**

Responses to recommendations 6.21 and 6.22 are together; see 6.22.

**6.22 We recommend that the Government takes a lighter-touch approach to record-keeping for low-intensity farms within an NVZ. We propose that the forthcoming Nitrate Regulations exempt these farms from the record-keeping requirements. We recommend that farmers should either complete a self-declaration or use an accredited adviser to claim this exemption.**

Under consideration, as part of the current Nitrates Consultation (launched on 20 December and due to close on 16 March 2012).

We are considering exemptions from the need to keep specific NVZ records for two categories of enterprise:

- The organic farming sector. It seems likely that the records required under the organics rules would also provide assurance of compliance with the NVZ rules. We are reviewing this during the Nitrates consultation, and provided our analysis shows that the organics standard does provide the assurances the Government needs, we propose to exempt certified organic farms from separate record-keeping requirements. Further to this, through the Nitrates Consultation we have asked the industry to propose other certification or assurance schemes that would also provide sound evidence of compliance with the Nitrates rules without the need for some or all of the current Nitrates records.
- Low intensity and small farms. We have set out proposals in the Nitrates Consultation to exempt farms where the farming system is extensive, and where we

can be confident that the Nitrates rules would not be breached. In such cases keeping records would not provide any extra environmental protection. For small farms, we believe that the cost of keeping records may also be disproportionate to the environmental benefit. We are therefore seeking views on whether such an exemption would be workable and what definition of “small” would be appropriate.

### **Review of rules for the use of organic materials with low readily available nitrogen**

#### **6.23 We recommend that Defra revises the rules to allow for higher limits on the nitrogen content of slow release nitrogen organic materials under the Nitrate Regulations.**

Under consideration as part of the current Nitrates Consultation (launched on 20 December and due to close on 16 March 2012).

We accept this recommendation and we are consulting on two options to address it. We propose to allow the application of either 500 Kg/ha of total N in any 2 year period or 1000 Kg/ha of total N in any 4 year period. Because only a very small proportion of the nitrogen in compost is readily available, this would allow the use of composts as mulches and soil conditioners without introducing an unacceptable risk of nitrate leaching to water. This is in line with evidence put forward by the top fruit sector.

### **Recommendations for long-term change**

#### **6.26 So, in the long term, we would like to see measures to address nitrate pollution integrated within river basin management planning and delivery. We hope that, over the next five years, a catchment-based approach to managing all the pressures on the water environment could be operational across England.**

Responses to recommendations 6.26, 6.30 and 6.34 are together; see 6.34.

### **Key actions needed to integrate nitrate reduction with a catchment-based approach to nitrate pollution**

#### **6.30 We recommend that the farming industry works with others to roll out catchment-based projects to demonstrate that nutrient pollution can be tackled locally and effectively.**

Responses to recommendations 6.26, 6.30 and 6.34 are together; see 6.34.

#### **6.33 We recommend that the minimum national closed period for manure and slurry spreading and their storage arrangements in NVZs should be looked at again and also made to reflect local differences. A zonal approach to these, such as in operation in Ireland, could be a useful model. We further think there is a case for**

**staggering the beginning and end of the closed periods so that farmers can make the best use of good weather to spread manure early or late.**

Under consideration as part of the current Nitrates Consultation (launched on 20 December and due to close on 16 March 2012).

We have put forward some proposals to implement this recommendation through the Nitrates consultation. This includes asking whether to include rainfall variation in the determination of closed periods (as this point has consistently been made by some in the industry).

In response to the 2007 Nitrates consultation on this issue, stakeholders felt that the complexity of the rules to implement this outweighed the benefits. This tension remains. The existing closed periods already take into account farming system (arable or grassland) and soil type (light/sandy and others). In addition, to factor in rainfall and growing season would mean an absolute minimum of 16 different classifications of farms with up to 16 different closed periods. Our priority is to deliver a transparent and workable system as well as one which reflects the variation in the risk of nitrate leaching to water: there is a real and difficult balance to be made here.

**6.34 We believe there would be a case for the European Commission to look again at the provisions of the Nitrates Directive. Ideally we would like to see an integration of any revised measures under the Nitrates Directive with those of the Water Framework Directive in a way that minimises burdens, avoids duplication and preserves outcomes.**

Yes

The Nitrates Directive should not be seen in isolation from other environmental challenges and our goal is to look at the causes of, and measures to address, all sources of diffuse pollution in a more joined up way. The Water Framework Directive has the potential to achieve this as it takes a wider look at diffuse pollution rather than focussing on a single issue such as nitrates.

Tackling the various causes of diffuse pollution from agriculture is a big and complex ask which needs to be addressed by both industry and Government.

As a first step, we have established 25 pilot catchments that we will evaluate to inform the roll out of a wider catchment based approach to tackle diffuse pollution during 2013. Initially this will be over a limited number of catchments but the intention is to have these schemes nationwide. We will work in partnership with local stakeholders on these catchment scale operations to help ensure that local knowledge is used to drive change by:

- identifying and understanding issues within a particular catchment;
- involving local groups in decision making;

- sharing evidence;
- identifying priorities for action; and
- seeking to deliver integrated interventions in cost effective ways that protect local resources.

Once local issues are identified, we will provide clear information to farmers (as in 6.15) on what measures they can implement in order to tackle diffuse pollution and meet the requirements of the Nitrates Directive and the Water Framework Directive.

When we can show that farmers are making real inroads into nitrate losses, through the action they are taking under the catchment based approach, we will have a stronger case to put to the European Commission to convince them that a separate narrowly focussed Directive on Nitrates is no longer necessary. We are not currently in that position.

While the Water Framework Directive is specifically addressing diffuse water pollution issues, some of the measures farmers can implement, such as good nutrient management, can also achieve multi-beneficial environmental outcomes i.e. in reducing GHG emissions. Therefore this work and that on integrating and prioritising environmental messages, as set out in 6.04, will feed into each other.

For information on the development of the approach and progression within the pilot catchments please visit the Environment Agencies website at: <http://www.environment-agency.gov.uk/research/planning/131506.aspx>

## Managing water resources

### Water White Paper

**6.37 We recommend that Defra take account of farmers as customers of the public water supply, as private water suppliers, as small scale abstractors of water, and take account of farms as a potential source of water storage for agricultural and horticultural use.**

#### Yes

We recognise the interests and importance of farmers, both as abstractors of water or private water suppliers and as customers of the public water supply. We will continue to work with the farming community, along with other stakeholders, as we develop policy for the long-term reform of the abstraction management system as suggested in the Water White Paper.

## **Water abstraction: problems with licensing**

**6.40 We recommend the granting of longer water-abstraction licences, with further renewal being permitted as long as the conditions are met. We also recommend that the EA do more to encourage the trading of abstracted water.**

Yes

As the Task Force recognised, longer duration abstraction licences (24 years) are already granted by the EA as long as certain criteria are met. However demand for irrigation and water in general is expected to increase due to climate change, among other pressures. Simultaneously water availability is expected to increasingly fluctuate and be lower. Increased abstraction alone will not solve the problem in the long term. In order to address current water pressures and to proactively prepare for the future, farmers must engage in a variety of actions to increase their water resilience.

We agree that trading of abstracted water is an important issue for farmers. The EA has just published new and clear rules that presume the trading of abstracted water should be allowed if there no risk of increasing environmental damage. The EA will improve market information to make it easier for willing buyers and sellers to understand the potential value of their abstraction licences. By July 2012 it will publish (on the internet) data on water licences so that those interested in buying licences can approach potential sellers, encouraging the emergence of market makers and brokers.

We will encourage trading by increasing the volume of water that may be available to trade. The EA will examine large unused licences to consider whether it should revoke the licence if the holder does not have a reasonable need for it. The EA will also identify a number of catchments with potential for increased trading. We will use this experience to help design a new abstraction regime more encouraging to trades.

## **Avoiding summer abstraction – on farm reservoirs**

**6.43 Unless there is strong evidence to the contrary, we recommend that Ministers set the threshold which triggers registration of reservoirs back to 25,000m<sup>3</sup>.**

Yes. Also see response to recommendation 4.18.

We want to encourage farmers to build reservoirs to provide resilience during extended dry periods. But these structures must be sited and built safely. We will not enact the provision in the Flood and Water Management Act 2010 to lower the threshold for the regulation of high risk reservoirs from 25,000 to 10,000 cubic metres, unless evidence suggests there is a widespread and significant risk to life or property.

We want to minimise the regulatory uncertainty for farmers so that it is not a barrier to the construction of on-farm reservoirs. In consultation with industry, we will produce guidance for farmers in 2012/13 on how to build 'low risk' and therefore deregulated reservoirs. This Department for Environment, Food and Rural Affairs

guidance should also reassure Local Planning Authorities as to the safety of on-farm reservoirs.

There is nothing, however, to stop farmers building on-farm reservoirs now, particularly in light of an increasingly fluctuating and diminishing water supply. EA experts are on hand to offer advice about positioning and the construction of a 'low risk' reservoir to ensure deregulation.

### **Private Water Supply Regulations 2009**

**6.47 The [Food Standards Agency] FSA plans to issue guidance on the use of private water supplies, including use in dairy premises, which will clarify the requirements of relevant food hygiene legislation and the relationship with the Private Water Supply Regulations. We recommend that the FSA acts promptly to issue this guidance.**

Recommendation for the FSA. The FSA has provided its own response which can be found at <http://www.food.gov.uk/>

### **Water Supply (Water Fittings) Regulations 1999**

**6.50 We recommend that the water industry, through the Water Regulations Advisory Service, reviews its guidance for farms, in collaboration with relevant farming organisations to ensure that compliance is cost effective, practical and relevant to risk.**

Yes

We support this recommendation, and will engage with the Water Regulations Advisory Service and to encourage them to do so.

### **Maintenance of seawalls and other coastal/fluvial assets**

**6.54 We recommend that Defra and the EA press ahead with plans to streamline the consenting system [for seawalls and other coastal defences]. We also recommend that outdated byelaws are reviewed. The aim should be to move towards a more risk-based and easier to understand system with time-specific consents for routine maintenance operations.**

Yes

We will continue streamlining the consenting system and moving towards a simple and risk-based system.

In the next steps of the Penfold Review, we have committed to expanding the Environmental Permitting programme (EPP). We will also include provisions in the Water Bill to allow for the framework to be expanded to include flood defence consents.

We are currently considering integration of flood defence consents into the EPP. We want to reduce the burden on all applicants and regulators will target resources at higher risk activities. Our aim is to help streamlining, introduce a risk based approach to issuing permits and provide web based guidance to applicants. We will review regional byelaws as part of work to integrate EA flood defence consents into the EPP.

**6.55 We believe the EA should be required to actively encourage and facilitate the involvement of landowners who come forward with proposals to maintain defences that would otherwise not be maintained.**

Yes

Where the EA no longer carry out maintenance work at a specific location, we will discuss options for future maintenance with landowners. We have also provided online guidance to help landowners determine what, if anything, would need consent. Consent is risk based, and when landowners require it, the EA will provide further support and bespoke consent advice.

## **Environmental Permitting Regulations: Integrated Pollution Prevention and Control and waste**

### **Overarching permitting issues**

**6.61 We recommend that the EA, working in partnership with specialist trade associations, should:**

- **tailor the environmental permitting application form and the accompanying charging note to the agricultural sector;**
- **identify a checklist of information that needs to be submitted with each application;**
- **produce a Standard Operating Procedures (SOP) note that sets out the service standards that farmers can expect; and**
- **produce guidance to help farmers best navigate the parallel planning and permitting processes; in order to ensure consistency and to make the processes expeditious, the EA should lead on aspects of applications covering local wildlife sites.**

Yes

The EA agree that there is scope to improve design and usability of documents. They have developed an Action Plan to rationalise process and paperwork. As part of this plan

the EA released an improved Environmental Permitting Charging Scheme Guidance document for all sectors in April 2011.

The EA will also revise the Environment Permitting Regulations application forms for intensive pig and poultry businesses so there is a farm specific application form by July 2012. The forms will be revised using input from the Environment Permitting Regulations Industry liaison group which includes representatives from Defra, Natural England (NE), the British Pig Executive (BPEX), the National Planning Authority (NPA), British Egg Information Service (BEIC) and the National Farmers Union (NFU) (for more information on this see the paperwork plan<sup>19</sup>).

**6.62 We recommend that the EA should examine options for online [IPPC] permit applications. We recommend that the Farming Theme of Business Link (paragraphs 2.38–40) should become the hub for registering exemptions and applying for permits. Farmers registering on this site should have simple waste exemptions and their waste-carrier registration registered automatically.**

### Yes

We support this recommendation and the EA will provide the facility for permit applications to be completed online, through its Integrated Regulation programme. There are already links to the EA registration pages in the farming section of Business Link, as well as EA guides on Business Link itself.

Waste exemptions may also be registered online and the EA have already embedded these links on Business Link. The EA's National Permitting Service is exploring potential for other links from Business Link to the EA website.

The EA will publish a short waste exemptions guide in early 2012. This will link to the detailed guidance on the web pages as an interim solution whilst a single consolidated exemption guidance document is finalised. Whether it is Business Link, or its successor, we are committed to bringing together online tools in one easy to find and easy to use place.

## **Waste management**

**6.66 We recommend that waste regulations should be as light touch as possible, to grow trust with the industry. We believe that a three-tier approach to regulation and exemptions is needed. Where appropriate, Defra may need to renegotiate the Waste Framework Directive [WFD] to achieve this.**

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<sup>19</sup> <http://archive.defra.gov.uk/food-farm/farm-manage/documents/farm-reg-paperwork-plan-dec2011.pdf>

The WFD requires that all waste recovery and disposal operations be subject to a permit or the registration of an exemption. This rule means a general licence is impossible without lengthy and difficult negotiations in Europe.

Despite this we have implemented a three tier system that makes permitting as risk-based as possible. This consists of waste exemptions, which are valid for three years, standard permits and bespoke permits. We have also made extensive use, unlike most Member States, of the derogation permitted in the Directive allowing exemptions from the permitting requirement.

In the short term, the EA will continue developing standard permits and where possible we will amend the current exemptions to ensure they encourage low risk waste recovery and reuse of waste. Our aim will continue to be making regulation as light touch as possible.

**6.67 We recommend that Defra and the EA should work with the farming industry to further develop national End-of-Waste Protocols for appropriate farm waste. We also endorse work by regulators to advise farmers of how they can best recover resources.**

Yes

Quality Protocols lay out the 'end of waste' criteria for the production and use of a product from a specific waste type. These protocols ensure that the WFD is upheld and that there is no need for waste management controls. We recognise the importance of these protocols and the opportunities they present, especially to the farming industry.

We have already put 'end-of-waste' protocols in place for compost and digestate from anaerobic digestion. We are continuing to investigate suitable materials for generic 'end of waste' assessments, including agricultural wastes or waste derived products for agricultural markets.

Through the 'European Pathway to Zero Waste', the EA is also developing a protocol for meat and bone meal ash, which if successful will allow its use as a non-waste fertiliser. The EA has established a demonstration project called EQual (Ensuring Quality of Waste Derived Products). EQual will replace the EA's Waste Protocols Programme this autumn, and is being run in partnership with Government and industry, with industry taking greater ownership of the evidence gathering elements.

**6.68 We believe that farmers should not be penalised by having to treat fly-tipped material as business waste. We recommend that the EA should reclassify fly-tipped material on farms as household waste, so that farmers can dispose of it at council waste sites at no cost.**

We recognise that fly-tipping continues to be a major and expensive frustration to many in the rural community, but allowing farmers to dispose of fly-tipped waste free of charge would be prohibitively expensive, unfair to other industries and essentially, would not tackle the underline causes of the problem. However, we believe that there is much that can be done, both to prevent fly-tipping and importantly to lessen the burden of clean-up for landowners.

By summer 2012 we will hold a Ministerial fly-tipping summit that brings together major stakeholders to discuss how national support can be used to back regional and local projects. We will work with industry and local authorities to prioritise better reporting in order to focus efforts and map trends. The Summit will aim to identify and champion affordable solutions and find a holistic approach that is based on communication between affected parties, Local Authorities and the Police.

### **Integrated Pollution Prevention and Control (IPPC)**

**6.74 If the [IPPC Farm Assurance] scheme shows continued standards of compliance, we recommend that the EA should consider further significant reductions in inspection frequency.**

#### Yes

The EA has implemented a pig and poultry farm scheme which has reduced inspections for almost 70% of farms from yearly to 3 yearly, the minimum frequency possible under the Industrial Emissions Directive.

The EA is working to ensure that all farms will be eligible for entry to the scheme by demonstrating improved compliance, through raising awareness of issues common to that sector and rolling out improved advice and guidance delivered in partnership with trade associations.

**6.75 We recommend that if there is any opportunity to remove farming altogether from IPPC controls then it should be taken. If this is not possible, we recommend that the thresholds for applying IPPC to pig and poultry businesses should remain unchanged, and that IPPC should not be extended to cattle. We recommend a long-term objective of basing the limits [for requiring IPPC permits] on actual numbers of livestock housed.**

We believe the application of IPPC provides necessary protection for the environment, particularly in respect of potential emissions of manure and ammonia. Compliance with IPPC provides a significant environmental credential to the operator.

We do not agree that IPPC thresholds should be based upon actual numbers of livestock rather than places. IPPC controls are properly concerned with the potential for pollution to occur and ensuring that measures are in place to prevent or, where that is not possible, to

minimise potential pollution. Since the pollution potential of intensive livestock rearing is directly related to the number of animals potentially involved, we think that the maximum number of places is the appropriate criterion for setting these environment protection thresholds. This approach is also much more readily auditable, particularly as it does not require scrutiny of actual stocking levels which may vary frequently and so lessens the regulatory administrative burden on both inspectors and farmers.

The European Commission must review the inclusion of the intensive rearing of cattle in IPPC by the end of 2012. We are working with the NFU and other sector representatives to ensure that UK environmental and farming concerns are fed effectively into those reviews. On the basis of currently-available evidence we do not think there is sufficient justification for including cattle in IPPC.

**6.78 We recommend that the EA:**

- **should have an objective process for dealing with applications for [pig and poultry] installations that could impact on new and existing local wildlife sites;**
- **should demonstrate that it has assessed the risk properly, accurately and consistently;**
- **should base decisions on sound science;**
- **should give considered reasons for requiring applicants to model possible impacts; and**
- **with others, should make it easier for industry to access public records on sensitive sites, including local wildlife sites.**

Yes

The EA will produce guidance for its planning and permitting officers on how to respond to planning applications that include activities requiring an environmental permit. This will include agricultural development. The EA will issue the guidance to key stakeholders for consultation in spring 2012 and aim to publish later in 2012.

NE will produce a guidance note specifically for intensive farming operators on the planning permitting interface and nature conservation sites by spring 2012.

The industry must have confidence in and trust the EA's risk assessment process and the science upon which it is based. It is important that evidence used to underpin decision making is robust. EA, NE and the Countryside Council for Wales (CCW) have established two groups to:

- i. review the scientific evidence ensuring the correct critical emission loads on habitats are established and not exceeded; and
- ii. improve understanding of the use of site survey and modelling techniques to predict the potential impacts of ammonia at SSSIs.

This will give us a more robust permitting approach that benefits nature conservation sites and has the confidence and support of the farming industry.

The agencies are also reviewing (by April 2013) existing screening distances for all nature conservation sites, based on past permitting experience, to refine them and ensure no sites are screened unless based on evidence.

**6.79 We recommend that the EA should establish a mediation scheme to address persistent or vexatious complaints regarding odour, noise and other nuisance issues.**

The EA has a well established mechanism in place to address persistent complaints. The EA is also working toward a dedicated sector approach - existing Environment Officers have been given specialist training and guidance over the last six months to support their work around amenity issues and regulated sites. The EA is also recruiting 20 new specialists before the end of March 2012 to help resolve amenity issues around regulated sites.

Farmers also have a role to play in helping to overcome persistent or vexatious complaints by trying, where possible, to work through problems in a consultative manner with neighbours. The EA is working with the industry to develop a Code of Conduct that should be available by spring 2012.

**6.81 We recommend that local planning authorities should consider the possible impacts on new housing developments from existing local farms before granting planning permission.**

Yes

Local planning authorities should consider the possible impacts on new housing developments from existing local farms before granting planning permission.

## **Energy**

**6.83 We recommend that Government must be consistent in its policies on renewables, and must provide businesses with long-term certainty and simple application processes that can be dealt with quickly.**

Yes

The Government's financial incentives – the Renewables Obligation (RO), the Feed-in Tariffs (FITs) and the Renewable Heat Incentive (RHI) - are designed to provide long-term support for the generation of renewable energy. We are committed to achieving the UK's legally binding target of 15% renewables by 2020 in the most cost effective way, which minimises the impact on consumer bills. We are doing this by:

- undertaking regular reviews of technology costs as the basis for financial incentives;
- tackling the non-financial barriers and supporting development of the supply chain;
- working within public spending and affordability limits;
- reforming the electricity market;
- promoting energy efficiency; and
- working with industry to reduce costs.

The FITs scheme is focused on consumers and communities and is intended to provide a mechanism that is easier to understand and more predictable than the RO. Since its launch in April 2010, the FITs scheme has been successful in encouraging the uptake of small-scale low-carbon electricity generating installations. In early 2011 we announced the start of the first review of the FITs scheme. This was prompted by concerns that demand for FITs, initially from large-scale solar photovoltaics (PV) and more recently from small-scale solar PV, was placing an unsustainable pressure on the budget allocated for FITs. We reviewed FITs for large scale solar PV in the first part of 2011: and consulted on changes to FITs for all solar PV from 31 October to 23 December 2011. We announced the outcome of the consultation on 9 February 2012 alongside a further consultation considering all other aspects of the FITs scheme, including tariffs for other technologies and administration of the scheme.

The Renewable Heat Incentive (RHI) scheme opened for applications from the non-domestic sector on Monday 28 November 2011. Support under the Renewable Heat Incentive (RHI) is index-linked for a 20 year period. In light of the later than expected launch of the non-domestic scheme, as a result of the changes required by the European Commission to the large biomass tariff, we are reviewing the timetable for introducing the domestic scheme. We will confirm the exact timing for the scheme early this year.

The Renewables Obligation (RO) is currently the Government's main support mechanism for incentivising the deployment of large-scale renewable energy technologies. We are currently reviewing the levels of banded support for the period 2013-17 and issued consultation proposals on 20 October 2011. The consultation closed on 12 January 2012 and we aim to publish our response in the spring. This will provide investors with early certainty of the support levels that will apply from 1 April 2013.

Ofgem are responsible for the administration of all the schemes. Detailed guidance for generators, setting out an overview of the schemes, the accreditation process and the information Ofgem require in order to issue payment, is published on the Ofgem website. Interested parties may use these consultations to provide feedback to Government on how the administration of the schemes can be improved.

## **Energy from waste**

**6.86 We recommend that a higher-level resolution must be found on the issues around the combustion of manures to generate energy.**

We are working with the NFU and poultry farmers to find cost effective ways of using poultry litter and manures as a renewable energy source while ensuring levels of environmental protection are maintained.

The Waste Incineration Directive places significant controls on plants burning waste in order to deliver a high level of protection to human health and we recognise that these controls place a disproportionately high cost burden on smaller operators. However, we currently have three chicken litter energy plants which meet the Waste Incineration Directive requirements and so provide an opportunity for farmers to dispose of their waste.

Poultry litter that is destined to be burnt is within the scope of the revised WFD unless it has passed an end-of-waste test. Any operator who wishes to burn poultry litter can submit to the EA an end-of-waste case for the material they wish to burn. If the material passes the end-of-waste test then it will become exempt from the controls stipulated in the Waste Incineration Directive.

We have been working with industry to explore if end-of-waste criteria for poultry litter can be achieved. Based on the latest application, poultry litter has not been able to meet the end-of-waste test as it contains a number of contaminants that are likely to result in a 'worse environmental effect' than the fuel comparator that had been proposed (in this case virgin wood). The industry are currently exploring whether there are alternative comparator fuels or treatment options that would enable them to meet the test.

**6.87 We recommend that the Government should be ambitious in its Anaerobic Digestion [AD] Strategy. This should set out a range of actions to promote a dramatic increase in the numbers of anaerobic digestion plants for agricultural waste. It should include projections to illustrate the growth in numbers of facilities that the Government expects can result.**

We are committed to substantially increasing energy from waste through anaerobic digestion. We published our AD Strategy and Action Plan in June 2011 [www.defra.gov.uk/publications/2011/06/14/pb13541-anaerobic-digestion-strategy](http://www.defra.gov.uk/publications/2011/06/14/pb13541-anaerobic-digestion-strategy). This sets out how we plan to achieve this increase by removing the barriers to uptake of this technology. We believe that AD has advantages in dealing with certain types of wastes such as food wastes and manures and slurries produced on farms. These advantages include reduced greenhouse gas emissions from diverting waste from landfill and the production of renewable energy and fertilisers.

We identified a potential for the AD sector dealing with the production of energy from waste to grow 3 – 5 times by 2020 if a number of barriers could be overcome. These barriers include accessing finance, availability of waste feedstocks and the regulatory framework. We are working with stakeholders to overcome these challenges but we recognise that they are significant and make it difficult to set a definitive target for AD at this time.

We have engaged with key stakeholders to consider the evidence on the sustainability and use of crops as feedstock for anaerobic digestions. The conclusions of this engagement

will be reflected in the Government's bioenergy strategy which will be published by March 2012, and proposals from the Government on future support for renewable energy under the FITs scheme and the RO.

## **CRC Energy Efficiency Scheme and Climate Change Agreements**

**6.90 We recommend that any future [CRC Energy Efficiency Scheme (CRC) or Climate Change Agreement (CCA)] scheme is responsive to the needs of the farming and food-processing sectors, whilst helping to secure further significant reductions in emissions.**

### Yes

We are committed to simplifying the CRC Energy Efficiency Scheme and will be consulting on proposals for a simplified scheme early this year. The new leaner and simplified CRC will be less burdensome, making compliance easier for business.

We have extended the CCA scheme to 2023 and increased the Climate Change Levy discount on electricity for CCA participants from 65 to 90% from April 2013, which gives industry more certainty to invest in energy efficiency measures.

Our response to the consultation detailing proposals to simplify the CCA scheme before the start of the new scheme period in 2013 was published in January 2012 along with regulations detailing proposals new to the scheme. The new scheme will achieve reduced administration burdens by revamping the contents of the agreements so they are easier to understand, and managing agreements via an IT platform enabling participants to manage elements of their own agreements.

**6.91 We recommend that, as part of negotiations on the Common Agricultural Policy [CAP] 2014–20, the Government seeks to reform the Energy Crops Scheme to remove barriers to its take-up.**

We are currently negotiating the future of the CAP post-2013 in Europe. At this stage in the negotiations, the emphasis is on providing sufficient flexibility in the regulations so that we are able to develop schemes which achieve our objectives. We aim to secure simplification and sufficient flexibility to achieve our objectives across the CAP regulations, but it is too early in the process to discuss specific scheme design.

## **Other environmental issues**

### **Environmental Impact Assessment Regulations**

**6.93 As part of Natural England's [NE] current review of the [Environmental Impact Assessment] (EIA) guidance, we think Natural England should establish a better way to identify these valuable sites to enable their protection. The upcoming review of**

**the guidance on the use of the Regulations provides an opportunity to do so and we would encourage all stakeholders to participate fully.**

Yes

NE has used the 2011 consultation on the EIA public guidance to request views from stakeholders on the Taskforce's recommendation. Of the 15 responses to the consultation, which ended in November 2011, ten responded to the specific question on this recommendation.

There was strong endorsement of the recommendation and several variations of ideas were put forward as to how this issue can be addressed. A proposal for a feasibility study as to how the NE Grassland Inventory can be developed further in England has been received and this will be explored with industry in 2012 to determine a way forward.

### **The Hedgerow Regulations**

6.94 **We recommend no change to the current Hedgerow Regulations.**

Yes

We have no plans to make changes to the Hedgerows Regulations 1997.



## **Part 7 The Common Agricultural Policy, Single Payment Scheme and cross compliance**

### **Common Agricultural Policy (CAP)**

**7.07 We recommend Defra incorporates the following points into its negotiating brief:**

- **regulations and regulators should focus on outcomes rather than process;**
- **constant reminders of the complexities of 2005 and subsequent costs of administering the scheme in England;**
- **provision should be made for regulators to demonstrate trust in farmers by developing a system of earned recognition to inform their risk-assessment strategy;**
- **a need to apply a simplification test against all proposals, e.g. capping;**
- **while we welcome the provision in cross compliance for Member States to use risk to target inspections, the European Commission should remove the disincentive to adopt such an approach and facilitate efficient enforcement;**
- **the European Commission should encourage Member States to improve their use of online tools for gathering information and completing forms, and encourage claimants to employ third parties if they are unable to use IT services themselves; and**
- **barriers to the Energy Crops Scheme should be reduced (paragraph 6.91).**

#### Yes

The Commission's proposals for the post-2013 CAP were published on 12 October 2011. We want a CAP that is simpler overall for farmers and for administrations; any new requirements that add to the administrative burden must be justified by the public benefits they deliver. We have identified a number of proposals that go against the principle of simplification. For example, the proposals on active farmers, capping, greening Pillar 1 and new audit procedures are likely to add substantially to the administrative burden for both farmers and administrators whilst delivering little, if any, benefit and, in the case of capping, damaging the policy objective of competitiveness.

We have been, we are now and will continue to engage with the Commission to achieve simplification, in a number of ways. For example:

- The UK Government contributed significantly to drafting a March 2011 Council paper on simplification principles – which was signed by 26 Member States. The paper proposes alternative approaches to existing control procedures and greater use of guidelines rather than regulatory controls.
- UK ministers have consistently raised the issue of simplification in Council, before the release of the Commission's proposals and during recent discussions of the proposals. Concerns expressed over the complexity of the proposals at the December Agriculture Council has led the European Union (EU) Agriculture Commissioner to write to Member Department for Environment, Food and Rural Affairs

States setting out which measures he thinks contribute to simplification of the CAP; we will press for further simplification in our response.

- In meetings of the CAP simplification experts group in Brussels we have stressed the need for simplification to be a central element of the CAP reform proposals, and in particular the need for a more modern approach to audit, inspection and sanctions. We have emphasised the UK Government's view that inspections and penalties should be proportionate to the risks posed to EU funds. We will continue to use this forum to push for simplification and clarity in the CAP as negotiations proceed.

We will continue to push for control systems that focus on achieving the desired outcomes, rather than following specified processes. We will also push for outdated control processes and penalties to be made proportionate to the risks posed by compliance failures. Measures to encourage compliance and understanding of the rules should be given greater emphasis by the Commission to avoid the risk of disallowance as a result of misunderstanding. To facilitate increased use of risk targeted inspections we will continue to argue that Member States should not have to increase inspection rates unless there is a clear increase in non-compliance in the general population.

We also want to ensure that farmers are recognised for the benefits they provide, for example, we are seeking to ensure that British farmers' contributions through agri-environment schemes can count towards "greening". We have met the EU Agriculture Commissioner to discuss this and welcome his willingness to explore the issue.

We support the use of online tools; across Government we are moving to providing services "digitally-by-default". However, we believe that Member States should have the choice to decide for themselves the delivery model that will best meet their requirements and achieve their objectives.

At this stage in the negotiations, we want to focus on providing sufficient *flexibility* in the regulations so that we are able to develop schemes which achieve our objectives. It is too early in the process to discuss specific scheme design.

**7.08 We recommend assessing the breach rate [of cross compliance] only with the random (and thus probably representative) sample of inspections, and not including the results from an already targeted (and thus unrepresentative) risk-based sample.**

Yes

We will negotiate to limit the assessment of the underlying breach rate in the general population to the random inspection sample. This will facilitate improved use of risk targeted inspections and we will continue to argue that Member States should not have to increase inspection rates unless there is a clear increase in non-compliance in the general population.

**7.09 When considering the CAP 2014–20, Defra should remember the lessons of previous negotiations.**

## Yes

Throughout the negotiations on post-2013 CAP we have, and will continue to, use the lessons we have learned from previous negotiations. We will push for simplification and we will negotiate strongly to avoid proposals which we do not think we can implement. We have strengthened links between the negotiating team and Defra's delivery bodies. We already have some clear negotiating lines from this process. For example, we know that testing the non-agricultural income of farmers to determine whether they are "active" or not would be excessively complex for farmers and authorities.

## **Single Payment Scheme (SPS)**

### **Mapping**

**7.11 We recommend that every effort should be taken to avoid 're-mapping'.**

## Yes

We want to avoid large-scale mapping exercises as they are inconvenient to farmers and land managers, as well as being extremely costly to administer. However, some updating is inevitable and the forthcoming CAP reform may add new requirements. The EU Regulations governing CAP schemes require us to keep the Rural Land Register up to date. This is an on-going challenge given the significant amount of change on the ground each year that is notified by farmers or discovered on inspections. We will continue to discuss with farming representatives how best to minimise the extent of any remapping required.

**7.12 We recommend that there is a single map for both SPS and agri-environment schemes.**

Under consideration

We agree that combining maps could offer benefits to farmers. The Rural Payments Agency (RPA) and Natural England (NE) maps both use the RPA's Rural Land Register as their base layer for SPS and agri-environment maps, then build the features relevant to each upon that. However, we have investigated using one set of maps in the past, and the variety and overlap of mapping requirements between schemes made the map very hard to read. It would also be complicated to update a single map as SPS and agri-environment maps last for different lengths of time. We will continue to seek a solution to this challenge, but any changes are unlikely to take place ahead of CAP reform.

**7.13 We believe that regulators determining land eligibility should be able to make greater use of remote sensing as a replacement for physical inspections on-farm. We also recommend:**

- **that Defra continue to only go to the minimum level of accuracy imposed by the European Commission;**
- **that Government should continue to push back should the Commission request more accuracy in mapping since this has little benefit for a lot of extra cost.**

### Yes

We will continue to push the Commission to ensure that the required mapping accuracy is limited to that needed to achieve the desired policy outcome.

The RPA considers the proportion of inspections carried out by Remote Sensing each year. For 2011 over 75% was completed this way. Each year we consider whether we can further increase the percentage (taking account of practical constraints such as cloud cover), but we are required by EU regulation to balance this against specific selection criteria.

## **The Single Payment Scheme form**

**7.15 We recommend that claimants should proactively notify the Rural Land Registry (RLR) of any changes to their holdings (e.g. when land changes hands) throughout the year.**

### Yes

We agree with this recommendation and we will continue to engage with the industry to help deliver this outcome.

Farmers and land managers making CAP payment claims are currently required to inform RPA of all changes to their holding during the year. An increase in notifications usually takes place immediately after the traditional land transfer dates. But other customers are currently less proactive, which means that penalties may then need to be applied if the changes are only discovered on inspection. Prompt notification would reduce the number of such penalties that RPA currently apply.

## **What the SPS should be claimed on**

**7.17 We recommend that Defra, in CAP negotiations, seeks greater simplification through requiring the claimant to map the outer boundaries of the holding and any ineligible areas (such as woods and concrete etc.).**

Under consideration

We will push for as much simplification in mapping requirements as possible during the CAP reform negotiations. Given the requirements of different schemes that currently exist

and are proposed by the Commission as a part of the CAP reforms, it is not clear whether we will be able to achieve the specific recommendation.

**7.18 We recommend that Defra make use of the power Member States have to introduce a minimum size of holding below which the SPS is not payable: in England, we recommend 5 hectares of *actively managed* land (see paragraphs 7.21-22) as an appropriate minimum.**

Under consideration

We will consult on the minimum size threshold as we develop our plans for implementing the reformed CAP in England for post-2013. Following consultation with stakeholders, an area minimum of one hectare was set for England from 2010. Having made that decision, a change would require amendment to the relevant EU rules. The CAP 2013 reform provides an opportunity to revisit that decision alongside any wider changes to eligibility rules that may be agreed in those negotiations.

### **Who should be able to claim the SPS?**

**7.22 We recommend that the SPS should only be available on *actively managed* land, which we define as ‘land which is capable or has the capacity to be farmed’.**

Yes

We want CAP direct payments to be restricted, as far as possible, to land which is actively managed. We will push, through CAP reform negotiations, to achieve that in a way which is both enforceable without significant bureaucracy and does not inadvertently exclude other land that should remain eligible.

**7.23 We recommend that the Government should press for the abolition of entitlements.**

Under consideration

We will explore possible alternatives to entitlements and will feed them into CAP reform negotiations. In practical terms, entitlements do not serve a useful purpose once Member States have moved to a flat rate model of the SPS, as will be the case in England from 2012. The challenge will be to find a workable system that operates without entitlements while still being within permitted rules for subsidies.

**7.24 We recommend that there should be a single payment made to the appropriate Commoners Association (or equivalent). The Association (or equivalent) should be responsible for identifying the active claimants, notifying the RPA and dividing the payment appropriately on the basis of those who are actively farming the common.**

Under consideration

We will consider whether and how we could make SPS payments to Commoners Associations (or equivalents) as we develop our plans for implementing the reformed CAP in England. Administering SPS across common land where there are a number of customers is particularly complex and will require in-depth consideration with a range of stakeholders.

**7.25 We recommend that the Government opposes any proposals in the EU to introduce a cap on direct payments (whether absolute or graduated) for single business claims.**

Yes

We have, and will continue to, oppose the Commission's proposal to cap direct payments.

## **Cross compliance**

**7.26 - Cross compliance is necessary as it allows SPS recipients to demonstrate their contribution to the provision of public goods and enables the Government to judge value for money for the taxpayer. Nevertheless, we believe that there is significant room for simplification, both for the recipients and the administrators without compromising outcomes.**

Yes

Cross compliance is an important means to ensure that farmers in receipt of significant public subsidy are complying with the law and basic good practice but there is significant room for simplification in the EU rules. We will assess the cross compliance measures and argue for a more risk-based and proportionate control system in EU negotiations on CAP reform.

## **Inspections**

**7.29 [We recommend that England should aim to move to a system with one, or at most two, appropriately skilled inspectorates responsible for cross compliance]. In our view, the most appropriate organisation would be the RPA, with input where necessary from [Animal Health Veterinary Laboratory Agency] (AHVLA) on animal issues (as per paragraph 3.06).**

Yes

We have altered the legal framework to allow RPA to take on cross compliance inspection responsibilities from the Environment Agency (EA) in time for 2012 inspections. The RPA Department for Environment, Food and Rural Affairs

and AHVLA are now the only bodies conducting cross compliance inspections. This will reduce cross compliance visits by more than 1000 per year.

**7.31 We recommend that Defra reviews EU risk-selection factors, and propose changes as appropriate. We recommend that membership of appropriate third-party assurance and other schemes should form part of the cross compliance inspector's risk toolkit.**

Yes

We regularly assess our risk selection criteria to make sure that they are appropriate and evidence-based and take account of information from other agencies. We intend to consider how earned recognition can be introduced into all other cross compliance measures from 2013 (see Part 3 for more information on earned recognition). EU rules set the framework for inspection (the national competent authority is responsible for the details of the inspection process), and we will continue to press for improvements to the way risk is used for determining inspection and enforcement in the EU negotiations on CAP reform.

**7.32 Where inspectors are not already doing so, we recommend that they should start by inspecting a sample of the holding/cattle/passports etc.**

Yes

We support a more proportionate, outcome-focused approach to inspections. However there are some cases where this may not be possible without compromising outcomes. Sampling is used; however, the instances where this is acceptable are limited. We will push for inspections to be proportionate and outcome focussed as part of CAP reform negotiations.

## **Enforcement**

**7.34 We recommend that enforcement of cross compliance should focus more on the overall outcome rather than process and exact measurements.**

Yes

We will review cross compliance measures in order to look at the opportunities available for making the inspection and enforcement more outcome-focused, where this can be done without compromising environmental outcomes or breaching EU law. We will report on our findings and next steps in the summer 2012.

## Guidance

**7.37 We recommend that cross compliance guidance be thoroughly overhauled to become a short, outcome-based 'summary note'. This should give clear advice on the requirements that Defra and industry jointly believe are the most important.**

### Yes

Over recent years we have worked with stakeholders to ensure guidance documents are fit for purpose. For 2012 we raised with stakeholders the possibility of producing a shortened summary guide, but received a clear steer that we should ensure that the guidance includes all of the relevant requirements for farmers so that they had a clear view of what would be required at inspection.

We intend to move cross compliance guidance to a fully digital format by 2013 using online tools, tailored guides and innovative digital formats, such as downloadable e-publications for smart phone.

We will set up a project group, including key stakeholders and delivery agencies to implement the move, give advice on how it should be done, and what supporting and intermediary services farmers will need following the switch from paper-based guidance. The electronic approach will give us the potential to tailor guidance for individuals to ensure they can access the information they need for their particularly farming business. We will rely on the industry to support this work and ensure that they encourage the increased use of electronic services.

**7.38 Recommend farm advice system should have better provision for targeted, specific, unequivocal and joined-up advice in a way that is tailored locally to the needs and contributions of local partners.**

### Yes

In response to this recommendation, in January 2012 we launched the new Farming Advice Service (FAS), replacing the previous Cross Compliance Advice Programme. The FAS will provide joined-up advice on a number of topics including cross compliance, climate change, nutrient management and competitiveness and will be delivered in active partnership with industry to ensure that it is tailored to the needs of farmers at a local level. The new service will help farmers to improve their environmental and economic performance and avoid losses to their single farm payment.

We are also running an Integrated Advice Pilot (IAP) project which is exploring the potential for, and benefits of, delivering integrated advice on a range of topics. This has so far been created for farm advisors on the dairy, arable, beef and sheep sectors. We will report on this pilot later in 2012 and will use the results of this work, and of the review of advice and incentives for managers announced in the Natural Environment White Paper (NEWP), to further develop our advice provision to farmers.

## **Good Agricultural and Environmental Condition and Statutory Management Requirements**

### **General approach**

**7.41 We recommend that Defra carefully reviews all cross compliance conditions to ensure that they are properly focused on outcomes as a demonstration of a farmer's duty of care, rather than unnecessary process, and to ensure that evidence justifies their continuation.**

#### Yes

We will assess all the cross compliance conditions, taking care to ensure that this is done without compromising environmental standards, to make sure they are outcome focused and not unnecessarily burdensome. We will publish the results of this investigation in summer 2012. The cross compliance measures currently in place will have to remain, as they are required under EU law. 75% of cross compliance measures are also based on existing UK law and we are conscious of the need not to create multiple but differing requirements under cross compliance and domestic law.

**7.43 On balance, we believe it would be consistent with the principles of earned recognition to change/remove standards that have very low underlying breach rates<sup>20</sup> – on two conditions. First, that there have been adequate inspections that mean that the low breach rate is real. Second, that Government is confident that the value of retaining the cross compliance deterrent is negligible given the retention of underlying legislation.**

#### Yes

We will look at areas of cross compliance that have low underlying breach rates as part of the review of cross compliance. We will look at what the underlying reasons for this are and assess the likely impact of their removal where this could be done in line with EU law. Where the presence of a standard in cross compliance with very low breach rates is not necessary for compliance with EU law, and where it can be shown that the removal of the standard will not adversely affect outcomes, we will remove them.

### **Good Agricultural and Environmental Condition (GAEC) 1 (Soil Protection Review)**

**7.46 We recommend that Defra changes GAEC 1 to a duty of care to protect the soil and to prevent damaging soil erosion, reduce compaction, damage to landscape features and, over the long run, maintain organic matter in mineral soils.**

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<sup>20</sup> In 2009, of the 36 standards (GAECs and SMRs), 11 standards (up from eight in 2008) were not found to be breached by any of those farmers inspected for that standard. Of the remaining 24 standards, there is a fall in breaches recorded for nine standards. In the case of 10 cross compliance standards, less than 10 breaches were found under each. The top 10 standards breached account for 96.49% of the breaches recorded.

Under consideration

We will work with industry to explore the full range of options for the Soil Protection Review (SPR10). We aim to put new arrangements in place by the end of 2013 when the current SPR10 comes to an end. We have already conducted initial analysis to explore how a duty of care for soils could be implemented and believe a duty could be one of several options which could be considered. As part of the review, we will consider how the SPR and other industry schemes can be used in earned recognition.

To start the process, we will launch a farmer survey in February 2012 to evaluate the implementation of the SPR10 so far and explore current soil management trends in England.

**7.47 We recommend that completion of the Soil Protection Review remains an advisory feature under GAEC 1 but that not completing the Review correctly (or at all) should not result in a breach of GAEC 1.**

Under consideration

We do not want to penalise farmers simply for non completion of paperwork. However the SPR10 does provide a risk based approach to managing soil degradation without the need for intensive fieldwork which would greatly increase the inspection time on farm. The challenge for industry is to help Government to find a viable alternative to allow us to put in place improved arrangements by the end of 2013.

**7.49 We recommend that unless there are sound reasons for retaining the crop-residue burning restrictions element of the GAEC we believe that its removal would not risk lessening environmental impacts.**

Crop-residue burning restrictions help to prevent air pollution and protect human health and are therefore included in cross compliance as a requirement of EU law. The purpose of cross compliance is to provide a mechanism to limit the payment of taxpayer subsidy to those who fail to comply with the law, especially where other members of society may be affected. We are required to make sure that those receiving public subsidy are not breaking the law.

### **GAEC 11 (control of weeds)**

**7.50 Should it be shown that the *injurious* weeds element of this GAEC meets the conditions we identify in paragraph 7.42, we believe it would be a candidate for removal. We recommend that Defra explores alternative ways of combating the spread of invasive weeds.**

Yes

We will consider GAEC 11 along with the other GAECs as part of the review of cross compliance which will be published in the summer. However, EU law requires us to use cross compliance to ensure that farmers who claim subsidy from the taxpayer under CAP are complying with the law in relation to injurious weeds on agricultural land, meaning it is very unlikely that we could remove reference to existing legal commitments without breaching our legal obligations.

It is important that certain injurious weeds, for example ragwort, are effectively controlled as they are highly toxic to grazing animals. In order to understand the current status of these species we recently commissioned an analysis of the change in frequency and abundance of injurious weed and selected invasive non native species in England. In reviewing this GAEC, we will take account of this study and ensure that the right controls for controlling these weeds are in place.

### **GAEC 12 (land not in agricultural production)**

**7.52 We recommend that Defra and industry closely monitor GAEC 12 to ensure this condition does not continue to have adverse unintended consequences.**

Yes

We improved GAEC 12 in 2010 to make it more fit for purpose. In 2011 the RPA received no enquiries from farmers facing problems with this standard. We will continue to monitor all measures as part of our wider work on cross compliance.

### **GAEC 18 (water abstraction)**

**7.53 We believe that removing GAEC 18 as a cross compliance condition would not risk lessening environmental impacts.**

This GAEC will not be removed as it enables the UK to fulfil its statutory duties as part of the Water Framework Directive. We are pushing for a move towards sustainable agriculture and removing the duty of care for water abstraction does not support this aim. In addition we are explicitly required by the EU to have a standard in place that covers abstraction and GAEC18 provides this without creating any additional obligations beyond those already contained in domestic law.

### **Statutory Management Requirements (SMRs)**

**7.55 We have heard that SMRs 3 (sewage sludge) is acting as a disincentive to the use of this recycled product. SMR 10 (hormones) has a nil breach rate. We believe there is a case for their removal.**

These SMRs will not be removed. SMRs relate to obligations for farmers under EU law and form part of the standards that all EU states must implement to ensure that farmers

receiving subsidy payment are acting legally. We believe that these SMRs are important environmentally and it is important to maintain them because of this: SMR 3 requires a farmer to ensure that sewage sludge applied to land does not contain harmful levels of mercury, lead and other potentially dangerous substances and is applied in a way that does not threaten the local environment or contaminate food supplies. Similarly SMR 10 requires farmers claiming subsidy to be compliant with the law regarding the use of certain medical products (i.e. substances with a hormonal or thyrostatic action) in livestock that, if not administered correctly, could enter the human food chain.

## **Paperwork**

**7.57 We recommend that the current system of crop codes should be disbanded with the exception of energy/protein crops and those essential for [Entry Level Stewardship] (ELS) agreements.**

### Yes

We will continue to review crop codes each year and remove those that are no longer required. As an example, with the end of Protein Crop and Nuts Premia for 2012, five codes have been removed. There is the potential for further reductions as SPS continues, but the need to retain some specific crop codes will remain, for example regulatory EU reporting (such as area of permanent pasture), cross checking against some Rural Development Programme for England (RDPE) schemes (such as ELS) and achieving environmental measures including through voluntary initiatives.

**7.58 We recommend changes to the paperwork that a farmer is required to fill in regarding the rotation of entitlements.**

### Yes

We have changed the entitlements system so that for 2012 all entitlements within each of the three SPS regions in England will have the same value, removing the main driver to rotate entitlements. RPA will also set the default rotation of entitlements to minimise the chance of any entitlements expiring due to under usage. Given these changes, it is expected that the need for claimants to submit additional paperwork (SP11) alongside their annual application for payment will be reduced.

**7.60 We recommend that the RPA sends SPS application forms and opens the online application facility at the beginning of January. The RPA should communicate clearly to farmers that submitting their application early in the year will not result in an increased risk of inspection.**

Under consideration

We will consider opening applications in January as we develop our plans for implementing the reformed CAP in England. There would be practical issues to overcome, for example, a change would reduce the accuracy of pre-populated data on the application form and so potentially affect the speed and accuracy of payments. In the meantime, RPA will look for all opportunities, with the assistance of farmer representative groups, to communicate clearly to farmers that submitting their application early in the year will not result in an increased risk of inspection.

**7.62 We recommend that the RPA offers the farmer the option of the RPA giving their details to the other [farmer]. This would enable the farmers concerned to resolve the matter themselves and lessen the burden on the RPA.**

Under consideration

RPA will look at what improvements to current arrangements might be possible now, and we will consider this further as we develop our plans for implementing the reformed CAP in England. Customers would need to opt in to this arrangement in order to avoid contravening data protection regulations.

## **Errors and appeals**

**7.63 We recommend that Defra should seek to allow the RPA to adopt a proportionate approach to 'obvious errors' on SPS forms.**

Yes

We agree that, in principle, a proportionate approach should be taken to errors on SPS forms. However, the application of obvious error rules must continue to fall within what is permissible within EU rules, otherwise the UK would be exposed to EU fines (disallowance). As the number of farmers who claim SPS online increases the occurrence of this type of error will diminish due to the existing validation carried out before a claim can be submitted.

**7.64 We recommend that the RPA introduces a system of fixed-date replies throughout the appeals process and clearly sets out its timescale.**

Yes

We are currently reviewing and improving the RPA complaint and appeals process. We will consider fixed-date replies during the design of the end-to-end process which will happen in the first half of 2012.

## **Miscellaneous points**

**7.65 We recommend that Defra investigates a better method of assessing whether or not high-quality (as opposed to all) grassland is being eroded.**

Yes

As part of the negotiations on the reform of the CAP we are arguing for a system of controls on permanent pasture that conserve areas of environmental value but do not place an unnecessary burden on farmers. This includes looking at how we differentiate high and low value permanent pasture.

## Part 8 Farmed animals

### Livestock movements, identification and reporting

#### Recommendations: a new livestock movements regime

8.12 In summary terms, we recommend that the standstill operates within a simpler structure that recognises that some movements are inherently more risky than others.

#### Yes

We need robust controls to protect the livestock industry and individual farm businesses from the effects of animal diseases. We agree that controls must be simple and clearly understood if they are to be complied with and enforced effectively. In response to the Task Force's recommendations, we have made much progress in delivering the proposed changes. We are carrying out the detailed risk and cost assessments that are needed to support implementation of the recommendations. None of these proposed changes is easy. We must make sure that changes are practical, affordable and can be implemented effectively without increasing the risk of disease spread. They must also be cost-effective: not only for farmers, but also to ensure value for money where public money is to be spent on developing new systems. We are working closely with the livestock industry to make sure that changes are worked through thoroughly and are introduced in the right order and at the right time.

The Task Force recommendations cover three main areas:

- electronic information and reporting;
- simplification of movement controls including the 6 day standstill; and
- enforcement.

So far we have:

- introduced electronic reporting for pigs;
- started the process for establishing a sheep database;
- carried out epidemiological modelling to support decisions on changes to the standstill;
- agreed with industry possible alternative changes to the standstill;
- started a major review of rationalising County Parish Holding (CPH) numbers;
- deferred individual movement reporting for the 'historic' sheep flock; and
- introduced a simpler single page cattle passport.

Detail of implementation or further work is set out against the specific recommendations in this part.

## **E-reporting of livestock movements**

**8.14 We recommend development of rapid and accurate provision of information on animal movements by adopting electronic reporting for all species. Specifically, we recommend:**

- **immediate adoption of a single database, commercially and privately operated, to record sheep movements to ultimately replace entirely and make redundant the Animal Movement Licensing System (AMLS);**
- **early adoption of electronic reporting and recording of pig movements;**
- **an end to paper-based reporting of cattle movements;**
- **consideration in the longer term to developing a single private-sector database for all species;**
- **electronic data entry and recording should be immediate;**
- **where alternate reporting systems are provided, movements must be reported within 72 hours;**
- **maximum use of the Central Point Recording Centre (CPRC);**
- **industry should take the opportunity to offer support to non-IT enabled producers, through livestock markets or 'call-centre' arrangements to collect and record information; and**
- **the paper trail currently associated with AMLS should be abandoned as soon as replacement arrangements are robust.**

### Yes

We have delivered some of these changes and action is being taken on others. E-reporting of pig movements was rolled out in England on 1 October 2011 and is working well. We have seen a steady increase in the number of movements being reported electronically and are on target to achieve 70% of all pig movements electronically by end 2012. We are considering similar arrangements for sheep (and goats and deer) and the first stage of a procurement process was launched on 10 November 2011. We are working closely with the livestock industry to ensure that the underpinning commercial database provides the additional services that the sheep, goat and ancillary industries need and expect to launch the second stage of the procurement process in the spring this year. If a suitable supplier exists and the price is right, we will aim to implement this as soon as possible.

## **Simplification and the 6-day standstill**

**8.15 We recommend that the complex rules for linking premises should be simplified to introduce the same arrangements for cattle, sheep and pigs.**

**Specifically, we propose that:**

- **producers should be able to link premises within a single CPH within a radius of 10 miles of the centre of the 'home' premises;**
- **each CPH should be managed under the same herd/flock register; and**
- **[Sole Occupancy Agreements] (SOAs) and [the Cattle Tracing System] (CTS)-links and any other links/distance rules should be removed.**

**8.16 We recommend that movement-reporting requirements should be the same for cattle, sheep and pigs. Specifically, we propose that:**

- **movement within a single CPH should neither be recorded in the herd book/flock register nor reported;**
- **movement to any other CPH, whether or not with a change of owner/keeper, must be reported; and**
- **movement to market or to slaughter must be recorded and reported.**

Under consideration

There is significant work to be done to quantify the impact of the Task Force's recommendations to rationalise the allocation of CPH numbers and simplify rules for defining livestock premises so that the same rules apply across species. In response to these recommendations we have acted promptly to carry out the detailed assessment of the costs, benefits, implementation and regulatory impacts. This work is now well advanced. This assessment will be available in the spring and will enable us to fully consider, with the livestock industry, all of the facts before taking final decisions on whether to proceed.

**8.17 We recommend that the standstill rules should continue to apply to all susceptible animals on a CPH other than to:**

- **movement within a single CPH;**
- **movement between farms (or commons), whether or not there is a change of owner/keeper and where those farms are not engaged in animal gathering;**
- **movement direct to slaughter or via a slaughter market; or**
- **where animals are held in an approved separation or isolation facilities (para 8.18); but**
- **in all cases, movement restrictions for specific disease regimes (e.g. bovine TB) must take precedence.**

**8.18 We recommend that approved separation or isolation facilities should provide for animals to move from premises under standstill where it is essential for management reasons. Specifically, we propose that:**

- **approved separation requires animals to be held on land managed separately from other animals on that holding or on contiguous holdings (e.g. on distinct parcel of land within a CPH, with separate handling, feed and water management, and appropriate distance separation from other animals);**
- **approved isolation in a building within a farm premises requires a dedicated facility with separate arrangements for handling stock and discharges, effluent etc that ensure they do not come into contact with other livestock;**
- **approval for an isolation facility would be dependent on the applicant operating electronic reporting; and**
- **separation or isolation arrangements should be approved by the Animal Health and Veterinary Laboratory Agency (AHVLA) on the basis of producer 'self-**

**declaration' supported by information provided by a private veterinarian and monitored by a private veterinarian and/or annual farm assurance audit; AHVLA should monitor operation in the course of other visits.**

We commissioned epidemiological modelling to establish whether changing the current standstill arrangements as suggested by the Task Force would increase the size and duration of disease outbreaks. This modelling indicated that effective on-farm separation has a broadly similar impact on the spread of exotic disease to that of standstills. We have agreed with industry to work towards removing the current standstill requirement for all movements of cattle, sheep and goats for those farmers who choose to introduce separation units.

It is fundamentally good practice to keep newly purchased stock separate so that their health status can be monitored and assessed.

We think that the introduction of separation units approved under farm assurance and/or equivalent accreditation schemes, or possibly by a veterinarian as part of a formal farm health plan could offer a way forward. The Task Force report itself gives a very clear steer on the design criteria and appropriate operational standards for such units. We have invited industry to develop a proposition for "approved" separation units that provides sufficient assurance and confidence in the proposal, and demonstrates that the industry itself is ready to seize the opportunity to take responsibility for managing livestock movement risks. We see little value in retaining the current arrangements for isolation premises on farms. Farmers who chose not to have a separation unit, or for whom such a set up was unnecessary, would remain subject to a 6-day standstill.

We believe these changes, taken together with electronic reporting of movements, could offer a clearer and simpler arrangement that would allow producers to manage their business without undue restriction, and reduce the risk of non-compliance through misunderstanding or deliberate corner-cutting. There is a lot of work to be done to develop the proposal further and determine its enforceability and affordability. Getting the details right is now a joint enterprise for industry and Government.

## **Enforcement**

**8.19 We recommend that animal identification regulations should be risk-based and proportionate to the objective of ensuring clear traceability. We propose that they be designed in a way that facilitates rather than impedes compliance (e.g. without imposing burdens that are seen as restrictive). Specifically, we propose that:**

- **the Government must continue to seek European Commission agreement to arrangements for batch recording and transitional arrangements for the 'historic' flock; and**
- **in the longer term, the Government should seek to negotiate [European Union] (EU) sheep electronic identification (EID) rules that take greater account of the way the country's flock is managed.**

Yes

We were pleased to secure changes to EU legislation deferring the introduction of individual movement reporting until 31 December 2014 for the 'historic flock'. Without this agreement sheep farmers would have had to record individual numbers manually on movement documents for sheep born before 31 December 2009 or retrospectively EID them, at a cost of between £4million and £11.5 million. This represents a significant financial saving and reduction in administrative burden for the industry as a whole. We have also considered the Task Force's recommendation to seek EU agreement for batch reporting of sheep movements. Individual reporting and recording of sheep movements is a fundamental principle of the EU Regulation and, despite significant work to influence the EU position on this, the EU Commission and other Member States do not support such a change. We will keep this under review, although a move to allocating sheep holdings on the basis of a 10 mile radius (as is already the case for cattle and pigs) will alleviate much of the burden.

**8.20 We recommend that livestock recording arrangements should also work with best management practices and not duplicate information. Specifically, where it is not already in hand, we propose that:**

- **the content, size and weight of cattle passports should be reviewed with a view to replacing documentation with electronic reporting;**
- **in the meantime, maximum use should be made of reporting systems that do not require the submission of the passport or tear-off strips; and**
- **provision should be considered for herd books and flock registers to be kept electronically, and for such electronic records to remove the need for paper copies. This also provides a chance to simplify and minimise the data needs of the register.**

Yes

The new single page cattle passport was introduced on 1 August 2011 and the transition to the new arrangements has been smooth. We continue to encourage and facilitate e-reporting, with the number of transactions reported electronically steadily increasing. In December 2011 the percentage of cattle movements, births and deaths reported electronically was running at 86%.

**8.21 We recommend that enforcement must be consistent. In line with our strategic recommendation on the proportionality of penalties (paragraphs 2.26–2.27), we believe that poor practice and regular/wilful poor performance must be identified and dealt with effectively – but that the normally compliant producer is not penalised disproportionately. Specifically, we propose that:**

- **it must be a high priority to agree with the EU appropriate tolerance levels to address errors in data reading when using electronic tag readers;**
- **there should be clearly defined and communicated flexibility in the enforcement of cattle tag rules. For example, we suggest that if an animal that has left a**

**holding has lost one of its two tags but can still be readily identified, the loss of a tag should not trigger rejection or further enforcement action, provided that the animal can be clearly identified throughout the remainder of its journey and the incident is not evidence of a wider failure on the part of the keeper;**

- **in line with our strategic recommendation that there should be a presumption of data-sharing between regulators (paragraph 2.35), official agencies must share information within their organisations and with other agencies, to ensure best use is made of data to identify risk and to co-ordinate and monitor inspection and tests.**

We have put considerable effort into trying to establish flexibility to address sheep farmers' concerns about incomplete EID reading when using CPRCs and the potential for single farm payment penalties. Since our interim response we have analysed the data from inspections in 2011 (3.0% of flocks) and found only five sheep farmers in England who would have benefitted from this additional flexibility, with a total estimated reduction of around £2,680 to their Single Payment Scheme (SPS) payments compared with a significant financial risk to the tax payer of up to several million pounds if we opted to operate such arrangements. On balance we are not persuaded that the benefit justifies the introduction of such arrangements in England. We will, however keep this under review for future years. We have carefully considered the Task Force's recommendation to maximise flexibility for cattle tagging rules where the identity of the animal in question is not compromised. The clear EU requirement is that all cattle must be double tagged. However we do already offer some flexibility whereby single tagged animals presented for slaughter may still enter the human food chain provided the supervising Official Veterinarian is satisfied that the animal's identity is not in question.

**8.22 Finally, in line with the Coalition Government's principle of 'Government doing only what only Government can do' and our proposed approach of earned recognition (paragraphs 3.12–30), we believe that Government and industry in partnership should generate greater opportunities for trust and adoption of private-sector arrangements in making risk assessment.**

Yes

The work described in this Part is evidence of effective partnership working and developing the potential for future earned recognition.

**8.27 We recommend that livestock producers, whether as individuals or through their representative organisations, must take responsibility for improving training and understanding the importance of bio-security and movement controls at times when there is not a disease outbreak.**

Yes

Good understanding of disease risks and effective bio-security at all times is essential to prevent disease spread. While everyone recognises the need for exceptional measures during an emergency we encourage the industry to take leadership and responsibility for making sure that appropriate behaviour and standards are adopted as normal practice the rest of the time. Every day diseases and parasites cause significant production losses. It makes good business sense to enhance the health status of a herd or flock so that food production efficiency and margins can be optimised.

## **Bovine TB**

**8.32 We recommend that TBEG [TB Eradication Group], in the near future, should consider options for a system of communicating the test history and status of cattle with the aim of developing a joint industry/government solution.**

Yes

The issue is firmly on TBEG's agenda and the Bovine TB Eradication Programme for England committed to develop risk-based trading options. We will work jointly and engage more widely with industry stakeholders to develop options for risk-based/informed trading during 2012 with a view to introducing changes by the end of the year.

**8.33 We recommend to TBEG that owners of non-bovine susceptible species (e.g. sheep, goats, pigs and camelids) should be part of the national TB eradication programme. To reflect the relatively lower risk presented by these animals, we recommend that a proportionate, risk-based approach should be developed.**

Yes

Non-bovine species are included in our comprehensive TB Eradication Programme and we have adopted or are developing measures proportionate to the risk. These include:

- raising awareness of abattoir meat inspectors (April/May 2011) and private vets undertaking post mortems in farmed animals (article planned for 'In Practice' Summer 2012);
- raising keeper awareness to the risks of TB in their flock or herd and measures to improve bio-security (sheep and goats completed Autumn 2011);
- reviewing the current policy of movement restrictions in the wake of a suspected TB outbreak (to be completed by March 2012); and
- reviewing compensation arrangements (March 2012).

## Animal welfare

### Welfare of animals at slaughter

**8.39 We recommend that an authorised veterinary surgeon should be able to take account of supplementary evidence available about an applicant's competence and skills from another veterinarian. We recommend that this change should be implemented in advance of the new welfare-at-slaughter rules that come into effect on 01 January 2013.**

#### Yes

We have in place arrangements with 'Improve the Food and Drink Skills Council' to develop assessments for the Certificate of Competence requirements in the new EU rules and to obtain Ofqual accreditation. This work is being done in consultation with the industry and animal welfare organisations. We anticipate that the assessment strategy will allow assessment to be carried out in-house, where appropriate, and that third party evidence could be used to inform the assessment process

The new arrangements should be implemented during 2012 and we will provide further guidance and advice on how to obtain a Certificate of Competence before the new welfare at slaughter rules come into effect on 1 January 2013.

**8.40 We recommend that Ministers consider changing the law now to enable the use of carbon dioxide for poultry slaughter rather than wait until 2013: the savings involved would appear to represent a 'compelling reason' for early transposition (see paragraph 2.49).**

#### Yes

We have consulted on changes to the Welfare of Animals (Slaughter or Killing) Regulations 1995 to permit the use of biphasic carbon dioxide gas mixtures for the slaughter of poultry. Some concerns were raised about the welfare implications of the proposed new gas mixtures and these are being considered further before a final decision is made on whether to amend the current legislation before 2013.

### Welfare of animals during transport

**8.41 We recommend that industry, in consultation with Government, bring together existing guidance on fitness for transport so that there is a common reference for producer, haulier and regulator.**

#### Yes

The Task Force recommended that industry take the lead in bringing together existing non-official guidance to propose a common reference and understanding. This would be an opportunity to take account of practical experience in considering this often difficult and

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subjective judgement. As this is of interest to the Food Standards Agency (FSA), the Animal Health and Veterinary Laboratories Agency (AHVLA) and local authorities it may be a candidate for identifying issues at local level in the first instance

**8.42 To improve information about the handling process, we recommend that, if requested by the exporter, the issuing agency informs them of the date on which the documentation will be sent to the veterinary officer for completion.**

Yes

AHVLA aim to issue Export Health Certification 3-5 days before the export date to the Official Veterinarian to sign on AHVLA's behalf. An exporter can contact the Specialist Service Centre – Exports to find out when their paperwork will be processed.

To improve the speed and quality of certification, funding has been requested to develop a replacement for AHVLA's Centaur and Unicorn systems in 2012/13. The aim is to provide an online self-service portal for applications and guidance so that exporters will be able to request clearances via a single online application process. This will also reduce duplication for Convention on International Trade in Endangered Species (CITES) customers who also require an Export Health Certificate.

### **Fallen stock/disposal/on-farm burial**

**8.44 We recommend:**

- **the continued development and adoption of methods of containing stock prior to disposal and bio-reduction; and**
- **continuing to seek a derogation for burial of small farm animals.**

Yes

We support farmers having greater choice when disposing of fallen stock than is currently permitted by the EU Animal By-Product Regulations if it can be demonstrated that the alternatives are safe.

Two reviews are in place to help us develop our evidence:

- The Welsh Government has sponsored research at Bangor University into use of bio-reducers (vessels for storing animal carcasses pending disposal); and
- Defra has sponsored research into the risks from Transmissible spongiform encephalopathies (TSE) transmission in the soil and results are expected later this year to help consideration of relaxation of the rules banning burial of fallen stock.

We intend to review the position later this year as this evidence becomes available to see if it can support a case for seeking changes to the current EU controls.

## Animal health and veterinary medicines

### Availability of veterinary medicines

8.45 To address farmer concerns, **we recommend that** [the Veterinary Medicines Directorate] **VMD and industry consider if there are additional ways of advising farmers of changes to the regulations**

Yes

VMD will work with the National Farmers Union (NFU) and others to develop more effective ways of reaching farmers: they have already consolidated some Guidance Notes (October 2011) and written articles in trade and farming publications. VMD has approximately 450 approved on-farm manufacturers of medicated feed. If there are any significant changes that affect farmers, VMD will write to them. VMD will also provide plain language articles for the wider farming sector through their website and the farming press. As set out under recommendations 5.21, we will consider how to co-ordinate updates to guidance.

8.46 **We recommend that the regulator should continue to seek every opportunity in EU discussion to increase the availability of treatments by adopting regulatory approval processes to allow products to be approved for use across the EU.**

Yes

VMD will continue to seek ways to improve the availability of veterinary medicines. There is an EU-wide desire to improve the availability of medicines and the UK takes an active part in this initiative. There is already a mechanism whereby veterinary surgeons can use the 'cascade' to prevent unnecessary suffering in animals. The cascade allows vets to import products when no authorised medicine is available (veterinary or human) due to either lack of availability or supply issues with authorised products. The VMD has two import schemes:

- the Special Import Certificate (SIC) Scheme for veterinary medicinal products (VMP) authorised in another EU Member State; and
- the Special Treatment Certificate (STC) Scheme for human products authorised in another EU Member State or, for veterinary or human products authorised in a third country.

### Farm veterinary medicines records

8.48 **We recommend that the VMD should take steps to simplify record-keeping demands where the regulation allows. We also recommend that the VMD pursues its policy of asking the European Commission to consider the extent of the records to be kept and to retain only those necessary for consumer safety and, on a proportionate basis, for animal safety.**

Yes

VMD is pursuing simplification of record keeping as part of the revision of the Directive on Veterinary Medicines (Directive 2001/82). VMD has asked the Commission to consider that only those records which are necessary for consumer safety and, on a proportionate basis, for animal safety should be kept and retained. The review is expected to be completed in 2014 and VMD will work closely with farming and veterinary sectors to obtain changes that provide necessary safeguards and reduce burdens.



## Part 9 Growing and crops

### EU fruit and vegetables producer organisation scheme

#### Making the scheme work

**9.09 We believe it essential for Defra and [the Rural Payments Agency] (RPA) (in consultation with industry) to review the current [European Union] (EU) Fruit and Vegetables Producer Organisation scheme and make prompt changes to get this model right. Growers must also ensure that they comply with the scheme rules and co-operate with Government so that the review is effectively and speedily executed.**

Yes

We published additional guidance on criteria for the Fruit and Vegetables Producer Organisation scheme in March 2011. We produced guidance in partnership with industry and the NFU which provides further explanation and understanding of the scheme requirements. We reviewed all UK Producer Organisations (POs) to determine their compliance with scheme rules and eligibility for aid. This review concluded in September 2011 and the outcomes have been discussed individually with POs. Suspended POs have been given up to a year to demonstrate compliance or adapt their procedures to achieve full recognition.

#### Short-term recommendations (domestic level)

**9.12 We recommend that POs use this guidance to consider whether they need to amend their operational and organisational structure to meet the scheme requirements.**

Yes

The additional guidance we published in March 2011 will help clarify the scheme for POs. The RPA has also offered to work with suspended POs to help them understand how they can more effectively meet scheme requirements. Some POs have already started to implement changes.

**9.13 We recommend that POs themselves provide RPA with a much clearer picture of their operational practices and the evidence of how they meet the scheme requirements.**

Yes

We welcome greater communication with POs, to enable us to help them meet scheme requirements and look forward to receiving their evidence.

**9.14 We recommend that members of those POs that do not comply with the scheme requirements should be encouraged to join existing compliant POs, and consideration should be given as to how Defra could facilitate this.**

Changing membership of a PO is a business decision for individual growers and individual Producer Organisations. It would be inappropriate for Defra to seek to influence such decisions. However, the RPA has been working with suspended POs to help them understand the requirements for recognition.

**9.15 We recommend that RPA staff responsible for scheme administration should have the opportunity to gain an understanding of the fruit and vegetable industry and how PO businesses operate in it. This is something with which POs should assist.**

Yes

We believe farm visits play an invaluable role in training our staff and we welcome the offer of assistance from POs in arranging farm visits. We want to work with POs to make sure we support them as much as we can.

**9.16 Where problems arise, we recommend that Defra, the RPA and POs work together immediately to solve them before they cause difficulties for the scheme.**

Yes

We will engage POs at the earliest stage when problems occur. We have already taken steps, for example, through the guidance working group to improve the relationship and communication that exists between Government and growers.

**9.17 We recommend that Government and industry should work together to improve communication with POs about the reasons for the separate audit processes, and the auditing of the inspections themselves. Government should seek to improve the efficiency of the audit process while remaining consistent with EU requirements.**

Yes

We agree that clarity of communication is crucial. In 2010 and 2011, we held meetings with POs, including staff responsible for auditing who explained the audit process and how inspections are audited. Auditors were also part of the industry/Government “additional guidance” working group to help with formulating the guidance and sharing how auditors work.

We have engaged in Brussels with auditors from other Member States to increase our understanding of the process. We will continue to engage with EU auditors about the challenges the legislation presents and work with other Member States to lobby for improvements to make things easier. However, we must be clear that the EU audit

processes remain challenging, both in terms of the lengthy timescale from initial audit through to the auditors final decision, and also the difficulties of influencing current opinion.

### **Longer-term recommendations (EU level)**

9.18 **We recommend that:**

- **the European Commission and auditors pursue consistent interpretation of the scheme's regulations across the 27 Member States;**
- **the European Commission works with industry and Member States to draft guidance on interpreting scheme legislation;**
- **the European Commission considers developing a 'compliance promotion initiative' along the lines developed by the Directorate-General for the Environment on other regulatory frameworks; and**
- **Defra continues its dialogue with Member States who have faced similar problems, in order to draw together an approach that encourages clarity and consistency of application of the scheme rules.**

Yes

We will seek consistency, simplicity and clarity from the European Commission. This will allow our growers to benefit from the scheme and reduce the negative impact of audits on taxpayers, through the possibility of disallowance. We have established a group of Northern Member States to discuss POs and audit issues, and will continue to work collaboratively to make progress. This group is analysing the problems each country faces to identify common issues, and we will use this information to decide on the most effective way to influence the Commission. We are also working to ensure Common Agricultural Policy (CAP) reform plans reflect the need for clarity and simplicity based on our and other Member States' experiences of administering the PO Scheme.

## **Pesticides**

### **Dealing with change**

9.25 **It is essential for the Government, pesticides manufacturers and distributors, and farming industry associations to clearly communicate these legislative changes to pesticide users. In line with our strategic recommendation on post-implementation review (paragraph 2.49) and the Government's commitment to sunseting (paragraph 2.09), we recommend a review of the new legislative framework after it has bedded in.**

Yes

We let pesticides users know about changes to regulatory requirements in several different ways, including updates to the website of the Chemicals Regulation Directorate (CRD) and directly informing interested parties.

Our domestic law, which gives effect to the EU regulation, includes a provision for review every five years. We will include a similar review clause in the legislation to implement the EU Directive on the Sustainable Use of Pesticides.

In addition, the new EU legislation requires the Commission to report to the European Parliament and the Council by late 2014. The UK will contribute to this review, focusing on the effectiveness, practicality, costs and benefits of the regime as a whole. We are gathering evidence, particularly on the scope for simplifying the regime, to put the UK in a position to contribute to the EU debate well ahead of the Commission's report.

**9.26 We are concerned that the EU pesticides legislation is moving towards a hazard-based approach to regulation rather than one based on risk. We believe that this change is fundamentally contrary to good practice and the principles of better regulation. We are aware that the UK Government has repeatedly expressed this view and we reinforce its message.**

Yes

We will continue to press this message. However, to move away from a hazard-based approach we need to get political agreement from the Commission, many Member States, and members of the European Parliament so that we can amend the EU legislation. To get this agreement, we will need to effect substantial changes in the positions of these parties. We are working on this. The issue of hazard versus risk assessment goes beyond pesticides and both the Government's and Defra's Chief Scientific Advisers are engaging at a high level to influence EU thinking in our favour.

In the meantime, we are working to limit the impacts of the hazard-based elements of pesticides legislation which have been introduced despite UK opposition. A good example of this is our initiative with the German authorities on the development of endocrine disruptor criteria, where we have proposed an evidence-based and practical approach to identifying those compounds which pose a real risk.

## **Approvals**

**9.31 We support the move to a zonal approach to approvals that will take effect in June 2011 as a result of the new EU Regulation 1107/2009. We recommend that the UK should press for the development of this approach so that, ultimately, approvals (including for minor uses) in other Member States should immediately be available for use in the UK, and vice versa.**

Yes

We agree that the zonal approach would create a more level playing field for approvals. To this end, we are closely involved in developing the arrangements to support the new zonal approach and chair an expert group on behalf of the European Commission to achieve this. We are a long way from the point where approvals will be fully harmonised

within EU zones, but we are currently considering ways in which other Member States' approvals can be recognised in the UK ahead of this.

**9.33 We recommend that the Government should support the introduction of such an EU fund for minor use approvals. On [Specific Off-Label Approval] (SOLAs), we recommend that re-registration in groups is allowed, and incur a single fee.**

Under consideration

We fully agree that the cost and availability of approvals for minor uses are major concerns for growers and that joint action within the EU will be part of the answer. We are waiting for the Commission's report to the Council and Parliament on an EU fund for minor uses, which is now due. The degree to which we can support some form of fund depends on the detail of the Commission's proposal and the net benefit to the UK from any fund.

The SOLA scheme allows approval to be gained for minor uses even when the pesticide manufacturer is not prepared to invest in this approval. A fee is charged for each risk assessment. So, when the Horticultural Development Company (HDC) submits applications to re-register their existing off-label approvals, there is a charge for each crop or crop group to reflect the fact that different consumer, operator exposure and environmental risk assessments may be required for each. However, where possible, a single risk assessment is carried out to cover similar crops and a single fee is charged for the group. Our consultation in 2010 found little support for subsidising off-labels from other types of fee or from the general industry charge, as used to be the case. We will continue to engage with industry.

**9.34 We believe there remains room for significant improvement in the speed of the approvals process.**

Yes

We agree that the approvals process needs to be as swift and consistent as possible, allowing companies to plan the process of introducing new or updated products. As the Task Force notes, the UK currently compares very favourably in these respects with other Member States, but we will keep these procedures under review. However EU regulation is exacting and, in many cases, timescales depend on the activities of other Member States, EU agencies and institutions. We continue to work with those bodies to simplify and speed up processes.

**9.35 We recommend that CRD should actively work for simple interpretation of regulation on bio-pesticides. In particular, we recommend that regulation of the plant protection uses of pest-specific semio-chemicals, including the above uses, should be simplified to expedite their development, commercialisation and adoption.**

We will review our approach to bio-pesticides so we get the right balance between legal requirements, risk assessment, general Government policy on regulation and cost recovery within the authorisations system.

As a first step, a research study will review the issues surrounding bio-pesticides and help frame our long-term response to the Sustainable Use Directive's provisions. We plan to complete the review of our approach to bio-pesticides by autumn 2012. In the meantime, we are already making some changes to the current Bio-pesticides Scheme including facilitating the initial evaluation of bio-pesticide applications, which will improve the efficiency of the full application process.

## **Withdrawals**

**9.37 Where the active ingredient itself remains safe to use (and thus there is no risk to health or environment), we recommend that growers be allowed a significant grace period to use up their stock of pesticides following withdrawal.**

### Yes

We agree that normal use is often the best way to dispose of stocks. To allow this, we must have significant grace periods which align with the normal season of use. For example, an approval for a product used between May and September can continue to be used through to September, even if it is officially withdrawn in June.

The Task Force report recognises that this will require negotiation within the EU. Given that these periods are laid down in a Regulation of the Council and adopted in Parliament in 2009 after several years of negotiation, there is no realistic prospect of a change in the short term. However, we will continue to highlight problems as they occur and will tackle the issue in the scheduled review of the regulation in 2014.

**9.38 We recommend that more could be done nationally to communicate the cut-off dates throughout the industry so that growers are clearer on the deadline for using up approved products. We recommend that trade associations, suppliers and other representative bodies take responsibility for cascading this pesticides newsletter more widely.**

### Yes

We support the Task Force's push for better communication and will remain in close touch with key industry bodies on whether CRD can take further action to support their initiatives.

## **Pesticides use and harmonisation of worker exposure**

**9.40 We recommend that the CRD supports the development of new guidance by the European Food Safety Authority which aims to harmonise exposure assessment methods. We endorse CRD and industry's efforts to get data needed to refine worker exposure assessments and justify increased harmonisation.**

### Yes

We have helped the European Food Safety Authority (EFSA) to develop new guidance and will help EFSA finalise it. The Commission and Member States have now endorsed the principles in this draft guidance. We are also supporting other initiatives that aim to improve harmonised databases and models which underpin exposure assessment. These include the EU BROWSE project (expected to be completed in the next couple of years) and, on a shorter time scale, a German initiative to provide an interim update to the operator exposure database.

We are working in partnership with the horticultural sector to investigate how industry can provide information on work practices and clothing to reduce potential contact with treated crops. This will allow exposure assessments to be realistic and to make allowance for reductions in exposure, while ensuring that the health of workers is protected. Discussions have begun and we are considering specific case examples received from the industry.

## **Engagement between industry and Government**

**9.41 We recommend that CRD and industry establish an industry-only route of communicating sensitive information, to allow issues to be raised confidentially at an early stage.**

We regularly engage with a variety of industry groups both individually, collectively and with other stakeholders present. We have offered to meet growers' representatives separately to discuss matters of specific relevance to them or of particular sensitivity. We welcome any ideas on how industry think communication can be improved.

## **Minor issues**

**9.43 We recommend that manufacturers ensure that labels are clear and consistent with CRD guidance in its *Labelling handbook*.**

Yes

We commend this suggestion to pesticide manufacturers.

**9.44 We propose an online central register for datasheets for pesticides, so that the requirements for control of substances hazardous to health (COSHH) regulations could be fulfilled digitally rather than on paper. We recommend that CRD and industry together establish how this might best be achieved.**

Yes

We will ask the Pesticides Forum (a group of stakeholders) to look at this in the first instance. This is planned for the meeting in February 2012.

## Licensing of industrial hemp

**9.50 We recommend that the Home Office should immediately establish the [Tetrahydrocannabinol] (THC)-content below which *Cannabis sativa* varieties can be considered to be safe and where its cultivation cannot be considered as intended for drugs use (a figure of 0.5% has been suggested to us). The Misuse of Drugs Act should then be amended to only provide for licensing of *Cannabis sativa* cultivation of varieties with a THC level above the threshold.**

We do not intend to amend the Misuse of Drugs Act. It is important that we maintain robust controls on the misuse of drugs and maintain proportionate licensing regimes to licence specific uses and minimise the risk of diversion of drugs to the illicit market. We consider that growing *Cannabis sativa* must be subject to an appropriate level of control, and that exempting particular varieties from the controls will create complexities which do not necessarily remove burdens from farmers who want to grow this crop. Indeed, doing so may compromise the integrity of our cannabis laws and increase both the administrative and financial burden on those enforcing the laws. We accept that growing low-THC varieties of *Cannabis sativa* are a lower-risk activity and have created a light touch licensing mechanism, in conjunction with the industry and growers, which implements a proportionate level of control, keeping inspections to an absolute minimum. We think that it is reasonable to charge for licences on a cost recovery basis. We have kept charges for licences to cultivate hemp to the minimum (£580 and a £326 renewal fee for subsequent years; this is much lower than licences for other purposes, including the cultivation of high THC Cannabis which cost from £3,133- 4700 for a first time issue).

**9.51 We recommend that Home Office acts immediately to ensure that a single general licence and inspection regime is agreed until such a time as the Misuse of Drugs Act can be amended, in order to not further restrict the natural expansion of cultivation of this crop.**

We have already implemented a simplified licensing regime for growing low-THC varieties of *Cannabis sativa* for special purposes, in particular fibre and seeds for hemp oil. This ensures individual growers are appropriately licensed to cultivate low-THC cannabis in accordance with the terms of their licence without commission of an offence under the Misuse of Drugs Act. We have minimised the number of questions that farmers need to complete in the licence application form (only 7 out of 46 questions need to be answered for growing hemp). We do not routinely inspect farms. Provided farmers provide us with the essential information required, and have applied for a Criminal Records Bureau (CRB) check, most farmers can be issued with a licence within a reasonable time-scale that allows them to start planting. We have encouraged feedback from industry organisations on the guidance we provide to help farmers through the online application process, which we have kept as simple as possible.

In response to the Task Force recommendations we have considered how burdens can be reduced further. In September 2011, we offered the industry organisations a 3-yearly licensing regime. This will considerably reduce the costs and paperwork for the industry.

Some information, such as a location map of the field and confirmation of the low-THC variety being grown and its purpose of use, will still need to be provided on an annual basis. If the industry wants to move to a 3-year licence, we will work with organisations to finalise the arrangements so that the new regime can be implemented in time for this year's growing season.

## **Farm-saved seed**

**9.55 We recommend that it should be possible to trade home-saved seed between holdings that are linked by being under the same management, but understand that this may require renegotiation in the EU.**

The movement of Farm Saved Seed is restricted between holdings which are not owned by the same legal entity, and we understand this creates an administrative and cost burden for farmers. However removing the restriction would weaken intellectual property rights and potentially reduce plant breeders' income. We do not want to encourage practices that might result in a reduction of investment in plant breeding, undermine innovation, lower crop diversity and threaten the development of new, sustainable, UK specific seed. Renegotiating the restriction in EU would take considerable time and effort and have very little chance of success.

The Food and Environment Research Agency (FERA) will continue to consult all interested stakeholders through its Advisory Forum. This will inform our position ahead of any European Commission proposals on changes to seed marketing and plant breeders' rights legislation.



## Part 10 TSEs, meat hygiene inspections and food processing

The Task Force made several recommendations about food and meat hygiene inspections, which are the responsibility of the Food Standards Agency (FSA). The FSA is responding separately to those recommendations and their response will be published in parallel to this report at [www.food.gov.uk](http://www.food.gov.uk)

The recommendations covered by the FSA response are listed at the end of this Part.

### Meat hygiene controls

**10.21 We recommend that there should be consistency of approach in England and Scotland when dirty animals are presented for slaughter, with the option of returning animals to the producer.**

Allowing animals to leave an abattoir alive presents significant disease risks. Prompt slaughter of animals once they arrive at the lairage minimises the time they are potentially exposed to, or may be infected by, any undetected virus. We know that the health status of animals arriving at abattoirs can be variable, and animals can be moved long distances for slaughter risking spread of disease over such distances if allowed to return. Put together, we consider the risk of allowing dirty animals to leave an abattoir alive is generally unacceptable.

Our clean-animal policy is long-standing and it is clearly in the best interest of animals and owners if animals are not dispatched when covered with mud, faeces, or bedding sticking to their body. Dealing with dirty animals that are unloaded at abattoirs presents operational problems. However, there are actions that can be taken to deal with dirty stock. These include leaving the animal in a dry holding area to clean themselves, or slaughtering at the end of the day to avoid contamination of slaughter-hall equipment. The removal of pelt covered in mud, faeces, bedding or other contamination within the food establishment is strongly discouraged.

In terms of consistency, we understand the Scottish Government is reviewing its legislation and is likely to become far more difficult for dirty animals to be allowed to return home from Scottish abattoirs in the future.

### Food safety controls

**10.26 We recommend that Defra should engage constructively with this review [sampling milk for veterinary medicines residues] in order to ensure that the surveillance requirements are proportionate.**

Yes

We have pressed consistently for a more risk based approach to surveillance plans for all sectors, and will continue to do so now that the European Commission has started the review of Council Directive 96/23, on monitoring substances in animals and animal products in general. However, this is not expected to be complete until late 2013. The Veterinary Medicines Directorate (VMD) will work with the FSA to pursue the possibility of splitting milk samples to allow testing for both European Union (EU) hygiene controls and veterinary medicine residues to see if it will be possible to introduce such an arrangement from 1 April 2012.

## **Frozen foods**

**10.33 In line with our strategic recommendation relating to Government–industry partnership in EU negotiations, we encourage Defra to be more inclusive of comments received from the industry when preparing for negotiations.**

Yes

We have put increasing emphasis on working together with industry to solve problems in recent years and are committed to building a closer partnership to achieve agreed outcomes. We will work in a closer partnership with industry on EU issues. We will engage stakeholders earlier in strategic discussions to establish priorities for influencing in the EU, and will include comments from industry in preparations for negotiations.

See our responses to the recommendations in Part 2 for more information on Government–industry partnerships.

## **Labelling and information**

**10.40 We recommend that the Government should continue to seek to remove EU rules giving rise to the [voluntary] Beef Labelling Scheme.**

Yes

We supported the European Commission's proposal made in 2011 to remove the existing notification and approval procedure for voluntary beef labelling claims. This will reduce the administrative burden on producers and we will press the European Commission to make this change quickly.

## **Sales, packaging and marketing**

**10.43 We recommend an earned recognition approach to reducing the inspections of poultry and egg producers. Existing assurance arrangements should be used in each case to provide the necessary assurance and reduce burdens on the industry.**

Yes

See responses in Part 3 on inspections and earned recognition. We will consider how an earned recognition approach can be introduced to inspections of poultry and egg producers later in 2012.

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Recommendations to which the FSA is responding separately ([www.food.gov.uk](http://www.food.gov.uk))

## **TSEs and meat hygiene controls**

### **TSE controls and the EU TSE Roadmap<sup>2</sup>**

10.05 **We recommend that the Government makes maximum use of existing derogations in EU legislation, fully supports moves to more proportionate and risk-based [Transmissible spongiform encephalopathies] (TSE) controls, and implements changes without delay once revised EU legislation comes into effect.**

10.06 **We recommend that official controls on [Bovine spongiform encephalopathy] (BSE) testing and [specified risk material] (SRM) removal in abattoirs are reviewed to ensure that they are fully risk-based (not ‘tick-box’) and take account of the [Food Business Operator] (FBO) record of compliance.**

10.07 **We recommend that the domestic TSE regulations are changed to take advantage of the existing derogation in EU law, which permits authorised cutting plants to harvest head meat.**

### **Meat hygiene controls**

10.08 **We recommend that the Government supports moves to more proportionate and risk-based meat hygiene controls and inspection that take account of earned recognition.**

10.15 **We recommend that consistently competent FBOs should be able to use accredited private sector bodies to provide meat inspection services. We recommend that the FSA should approve and designate these accredited private-sector bodies as control bodies.**

10.17 **We recommend that a joint industry/official group with an independent Chair considers the criteria for accepting provision of meat inspection services by accredited third parties and reports to FSA as soon as possible.**

10.19 **We recommend greater use of cold inspection for small abattoirs.**

10.20 **We recommend that the FSA continues to work with industry to develop trials of innovative inspection arrangements.**

10.22 **We recommend reviews of the following elements, where there appear to be issues of consistency, flexibility or propriety that should be addressed:**

- **consistency in permitted process for sterilising knives etc in abattoirs and cutting plants;**
- **inspection arrangements for udders and testicles;**
- **greater flexibility for FBO staff to inspect and approve young animals and offal;**
- **arrangements for moving edible co-products between licensed meat premises;**
- **adopting risk-based controls to regulate the period between slaughter and minced-meat production; and**
- **the requirement for the FBO to collect forms relating to transporter cleaning of vehicles.**

## **Other food-processing issues**

### **Food safety controls**

10.24 **We recommend that the FSA should reopen discussions with the European Commission about the interpretation of legislation relating to antibiotic failures in milk. We recommend that Defra and the FSA should work with industry to establish a suitable way forward for disposing of milk that has failed antibiotic tests.**

10.25 **We recommend that Defra, the FSA and dairy trade associations should open discussions on how pasteurised milk from TB-reactor cows could safely enter the food chain.**

10.27 **We endorse [the European Food Safety Authorities] (EFSA's) review into trichinella controls.**

### **Abattoirs and slaughterhouses**

10.29 **We recommend a dialogue between the haulage industry, abattoirs and the FSA to ensure that abattoirs provide vehicle-washing facilities in line with their obligations, and appropriate actions are taken against those that do not provide adequate facilities.**

10.30 **We recommend that the FSA should review the opinion, including the risk assessment, and discuss with Ministers whether the UK should press for revised arrangements to allow for greater recycling of water in slaughterhouses.**

### **Labelling and information**

**10.39 We recommend that existing information from contractual arrangements between producers and slaughterhouses, and/or farm assurance schemes, should replace the need for food chain information requirements.**

### **Import controls on 'high-risk' products of non-animal origin**

**10.45 We recommend that the FSA work with trade bodies, ports and designated laboratories to minimise delays of products produced to internationally recognised standards.**

The Food Standards Agency has responded positively to these recommendations. An update on progress has been published on their website at [www.food.gov.uk](http://www.food.gov.uk)



## List of acronyms and abbreviations

ACOP	Approved Codes of Practice
AD	Anaerobic Digestion
AHDB	Agriculture and Horticulture Development Board
AHVLA	Animal Health Veterinary Laboratory Agency
AMLS	Animal Movement Licensing System
BEIC	British Egg Information Service
BIS	Department for Business Innovation and Skills
BPEX	British Pig Executive
BRE	Better Regulation Executive
BSE	Bovine Spongiform Encephalopathy
CAP	Common Agricultural Policy
CCA	Climate Change Agreement
CCW	Countryside Council for Wales
CITES	Convention on International Trade in Endangered Species
CLA	Country Landowners Association
COC	Certificate of Competence
COSHH	Control of Substances Hazardous to Health
CPD	Continuous Professional Development
CPH	County Parish Holding
CPRC	Central Point Recording Centre
CRB	Criminal Records Bureau
CRC	Carbon Reduction Commitment
CRD	Chemicals Regulation Directorate
CTS	Cattle Tracing System
DCLG	Department for Communities and Local Government
DECC	Department of Energy and Climate Change
DfT	Department for Transport
DG	Directorate-General
Department for Environment, Food and Rural Affairs	

DWP	Department for Work and Pensions
EA	Environment Agency
EFSA	European Food Safety Authority
EIA	Environmental Impact Assessment
EID	Electronic Identification
EPP	Environmental Permitting Programme
EQual	Ensuring Quality of Waste Derived Products
EU	European Union
EUs	Enforcement Undertakings
FAS	Farming Advice Service
Fera	Food and Environment Research Agency
FITs	Feed in Tariffs
FBO	Food Business Operator
FSA	Food Standards Agency
GAEC	Good Agricultural and Environmental Condition
GDS	Government Digital Service
GIS	Geographical Information Systems
GLA	Gangmasters Licensing Authority
GPDO	General Permitted Development Order
HDC	Horticulture Development Company
HSE	Health and Safety Executive
IAP	Integrated Advice Pilot
IPPC	Integrated Pollution Prevention and Control
LEAF	Linking Environment and Farming
LPA	Local Planning Authority
NE	Natural England
NEWP	Natural Environment White Paper
NFU	National Farmers Union
NIM	National Intelligence Model

NPA	National Planning Authority
NPPF	National Planning Policy Framework
PO	Producer Organisation
PV	Photovoltaic's
NVZ	Nitrate Vulnerable Zone
PUS	Pesticide Use Survey
RCBF	Rural Community Broadband Fund
RDPE	Rural Development Programme for England
RHI	Renewable Heat Incentive
RLR	Rural Land Registry
RO	Renewables Obligation
RPA	Rural Payments Agency
RPC	Regulatory Policy Committee
SAWS	Seasonal Agricultural Workers Scheme
SIC	Special Import Certificate
SMRs	Statutory Management Requirements
SOA	Sole Occupancy Agreement
SOLA	Specific Off-Label Approval
SOP	Standard Operating Procedures
SPR	Soil Protection Review
SPS	Single Payment Scheme
SRM	Specified Risk Material
STC	Special Treatment Certificate
TBEG	TB Eradication Group
THC	Tetrahydrocannabinol
TSE	Transmissible Spongiform Encephalopathy
VMD	Veterinary Medicines Directorate
VMP	Veterinary Medical Products
WFD	Waste Framework Directive

