

# ***Consultation on the Water Framework Directive (Priority Substances and Classification) Regulations (Northern Ireland) 2010***

***Comments by***

**Northern Ireland Environment Link**

**10 August 2010**

Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the environment of Northern Ireland. Its 58 Full Members represent over 90,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

These comments are agreed by Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be delighted to do so.

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## **Introduction**

Northern Ireland Environment Link (NIEL) welcomes the opportunity to respond to the Water Framework Directive (Priority Substances and Classification) Regulations (Northern Ireland) 2010 consultation. We believe the correct application of these regulations will make a useful contribution towards the improvement of our freshwater environment.

## **General Comments**

### Existing and Forthcoming Measures

Under the heading *Existing and Forthcoming Measures*, (p15), the consultation document states that ‘most pesticides on the EU priority list have been withdrawn from the EU market’. NIEL would like further information therefore on those pesticides not yet withdrawn, reasons for their continued availability, and clarification on the potential risk they pose to the environment. The document also lists a number of other measures already or soon to be in place, including the proposed adoption of Sustainable Urban Drainage schemes (SUDs) to reduce sediment borne contamination. NIEL believes that SUDs must be adopted as a matter of urgency as the benefits of its holistic approach include: flood alleviation; pollution prevention; biodiversity enhancement; water quality enhancement (services such as sedimentation, filtration, biodegradation and uptake by plants) and climate change adaptation. Overall, NIEL is concerned however that there may be over-reliance upon existing legislation for the protection of our water bodies from the risks associated with pollutants. In the absence of additional funding being made available, we believe NIEA will not have the financial and human resources necessary to effectively oversee the full requirements of existing and forthcoming legislation.

### Regulation 7 (Mixing Zones)

Given the potential for major and serious pollution incidents to occur, NIEL cannot support the designation of mixing zones close to discharge points and would question why concentrations of priority substances may exceed the relevant EQS within these zones. To allow for the designation of mixing zones close to discharge points would not appear to be in keeping with the spirit of the WFD.

## **Response to Specific Questions**

### **1. Do you agree with the Department’s approach to the incorporation of the UK-wide agreed classification schemes within Regulations?**

NIEL is content with the approach as outlined in the consultation document. We welcome this proposal as by taking a consistent approach to the content of the Regulations across the UK, this would facilitate simpler regional comparison of the transposition of the Priority Substances Directive. While acknowledging the suggestion that ‘*some standards and criteria may be reviewed over time in the light of further research, knowledge gained through monitoring and experience of the impact on the ecology of the aquatic environment*’, NIEL believes the Department should firm up this proposal and ensure that reviews are undertaken at pre-determined and regular intervals to ensure greater monitoring and protection for our freshwater environment.

### **2. Do you agree with the Department’s approach to the transposition of the Priority Substances Directive? If not, can you provide justification for an alternative approach?**

NIEL is broadly content with the Department's approach to the transposition of the Priority Substances Directive. We welcome the proposed Regulations as outlined in the consultation document and in particular Regulations 5, 7 and 8 as the Directive must be fully integrated within the Northern Ireland River Basin Management Plans if the overall synergistic benefits of the Water Framework Directive are to be realised.

**3. Do you agree with the Department's assessment of possible options and recommendation for the transposition of the Priority Substances Directive as detailed within the partial regulatory impact assessment?**

Option 1: Do Nothing – NIEL agree that this option should be ruled out as failure to comply with the Directive would result in high, yet justifiable, fines from the European Commission for non-compliance with this important environmental regulation.

Option 2: Technically feasible measures to meet the Environmental Quality Standards are introduced by 2015. Due to the lack of available monitoring information we accept that the selection of Option 2 could be problematic as:

- There would be a high risk associated with this option of inappropriate investment in potentially unnecessary measures;
- It would not be possible to know the extent of any potential failures of the EQS levels;
- It would not be possible to know the industries or sectors that will be affected;
- It would not be possible to know the potential costs of this option; and
- This option does not take into account the allowed exemption under WFD for reasons of disproportionate cost.

The failure by the Department to gather and present accurate and reliable baseline information means that Option 2 must be discarded. While we would prefer that all technically feasible measures are introduced by 2015, the economic reality is that in the current climate of financial prudence and spending cutbacks, we would be unlikely to see Departmental (and indeed NI Executive) support being directed towards a high risk investment strategy. NIEL already has concerns over the level of resources allocated to implementing the Water Framework Directive (WFD) in Northern Ireland and whether these will be sufficient to meet objectives required by the EU. Due to the lack of monitoring information we feel it would not be appropriate to spread these limited resources even further as would be required by the selection of Option 2. For this reason the NIEL believe there is no alternative but to accept Option 3 as outlined below.

Option 3: Phased approach to meeting Environmental Quality Standards by 2027. This option proposes that further monitoring and investigation is carried out during the 2009-2015 river basin planning cycle in order to better understand which priority substances are at risk of failing to meet the environmental standards set and the extent of resulting emissions and losses of those substances. This option also proposes that any necessary further measures be put in place during the 2015-2021 river basin planning cycle (and potentially the 2021-2027 cycle).

NIEL is concerned that this phased approach to meeting the Environmental Quality Standards by 2027 constitutes a deferral of the implementation of the Directive in order to undertake additional monitoring. Assuming that such a deferral would be acceptable to the European Commission, it is regrettable that there appears to be no alternative given the lack of monitoring information. In order for existing as well as new legislation to be effective, adequate levels of monitoring must take place. As highlighted within the Northern Ireland Freshwater Taskforce response to the River Basin Management Plans consultation, NIEL believes that this lack of monitoring information remains an ongoing problem and although the need for greater monitoring is acknowledged, we are concerned that little information is available as to how it is to be achieved. NIEL's qualified support for Option 3 is therefore dependent on further information being made available as to the nature, scope and timeframe associated with the phrase 'additional monitoring' and assurance that any monitoring is 'fit-for-purpose' for all aspects of the implementation of the WFD in Northern Ireland.

NIEL believes that both existing and new legislation must be enforced if it is to be effective. A higher priority must be given to increased enforcement of legislation across all pressures and statutory bodies must presume in favour of enforcement as an effective deterrent. This approach should be supported by an extensive education and awareness raising campaign to ensure high compliance levels.