

## III

*(Preparatory Acts)*

## COUNCIL

**COMMON POSITION (EC) No 3/2008****adopted by the Council on 20 December 2007****with a view to the adopting Directive 2008/.../EC of the European Parliament and of the Council of ... on environmental quality standards in the field of water policy and amending Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and 2000/60/EC**

(2008/C 71 E/01)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

(1) Chemical pollution of surface water presents a threat to the aquatic environment with effects such as acute and chronic toxicity to aquatic organisms, accumulation in the ecosystem and losses of habitats and biodiversity, as well as threats to human health. As a matter of priority, causes of pollution should be identified and emissions should be dealt with at source, in the most economically and environmentally effective manner.

(2) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme <sup>(3)</sup> states that environment and health and quality of life are

key environmental priorities of that Programme, highlighting in particular the need to establish more specific legislation in the field of water policy.

(3) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy <sup>(4)</sup> lays down a strategy against pollution of water and requires further specific measures for pollution control and environmental quality standards (EQS). This Directive lays down EQS in accordance with the provisions and objectives of Directive 2000/60/EC.

(4) In accordance with Article 4 of Directive 2000/60/EC, and in particular paragraph 1, point (a), Member States should implement the necessary measures in accordance with Article 16(1) and (8) of that Directive, with the aim of progressively reducing pollution from priority substances and ceasing or phasing out emissions, discharges and losses of priority hazardous substances.

(5) Numerous Community acts have been adopted since 2000 which constitute emission control measures in accordance with Article 16 of Directive 2000/60/EC for individual priority substances. Moreover, many environmental protection measures fall under the scope of other existing Community legislation. Therefore priority should be given to implementation and revision of existing instruments rather than establishing new controls.

<sup>(1)</sup> OJ C 97, 28.4.2007, p. 3.

<sup>(2)</sup> Opinion of the European Parliament of 22 May 2007 (not yet published in the Official Journal), Council Common Position of 20 December 2007 and Position of the European Parliament of ... (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 242, 10.9.2002, p. 1.

<sup>(4)</sup> OJ L 327, 22.12.2000, p. 1. Directive as amended by Decision No 2455/2001/EC (OJ L 331, 15.12.2001, p. 1).

- (6) As regards emission controls of priority substances from point and diffuse sources as referred to in Article 16 of Directive 2000/60/EC, it seems more cost-effective and proportionate for Member States to include, where necessary, in addition to the implementation of other existing Community legislation, appropriate control measures, pursuant to Article 10 of Directive 2000/60/EC, in the programme of measures to be developed for each river basin district in accordance with Article 11 of that Directive.
- (7) Decision No 2455/2001/EC of the European Parliament and of the Council of 20 November 2001 establishing the list of priority substances in the field of water policy and amending Directive 2000/60/EC <sup>(1)</sup> sets out the first list of 33 substances or groups of substances that have been prioritised for action at Community level. Among those priority substances, certain substances have been identified as priority hazardous substances for which Member States should implement necessary measures with the aim of ceasing or phasing out emissions, discharges and losses. Some substances were under review and should be classified. The Commission should continue to review the list of priority substances, prioritising substances for action on the basis of agreed criteria that demonstrate the risk to, or via, the aquatic environment, in accordance with the timetable provided for in Article 16 of Directive 2000/60/EC, and bring forward proposals as appropriate.
- (8) From the point of view of Community interest and for a more effective regulation of surface water protection, it is appropriate to set up EQS for pollutants classified as priority substances at Community level and to leave it to Member States to lay down, where necessary, rules for remaining pollutants at national level, subject to the application of relevant Community rules. Nonetheless, eight pollutants which fall under the scope of Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC <sup>(2)</sup>, and which form part of the group of substances for which Member States should implement measures with the aim of achieving good chemical status by 2015, subject to Articles 2 and 4 of Directive 2000/60/EC, were not included in the list of priority substances. However, the common standards established for those pollutants proved to be useful and it is appropriate to maintain their regulation at Community level.
- (9) Consequently, the provisions concerning current environmental quality objectives laid down in Council Directive 82/176/EEC of 22 March 1982 on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry <sup>(3)</sup>, Council Directive 83/513/EEC of 26 September 1983 on limit values and quality objectives for cadmium discharges <sup>(4)</sup>, Council Directive 84/156/EEC of 8 March 1984 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry <sup>(5)</sup>, Council Directive 84/491/EEC of 9 October 1984 on limit values and quality objectives for discharges of hexachlorocyclohexane <sup>(6)</sup> and Directive 86/280/EEC will become superfluous and should be deleted.
- (10) The aquatic environment can be affected by chemical pollution both in the short term and in the long term, and therefore both acute and chronic effects data should be used as the basis for establishing the EQS. In order to ensure that the aquatic environment and human health are adequately protected, EQS expressed as an annual average value should be established at a level providing protection against long-term exposure, and maximum allowable concentrations should be established to protect against short term exposure.
- (11) In accordance with the rules set out in Section 1.3.4 of Annex V to Directive 2000/60/EC, when monitoring compliance with the EQS, including those expressed as maximum allowable concentrations, Member States may introduce statistical methods, such as a percentile calculation, to deal with outliers (extreme deviations from the mean) and false readings in order to ensure an acceptable level of confidence and precision. To ensure the comparability of monitoring between Member States, it is appropriate to provide for the establishment of detailed rules for such statistical methods through committee procedure.
- (12) The establishment of EQS values at Community level should, at this stage, for the majority of substances be limited to surface water only. However, as regards hexachlorobenzene, hexachlorobutadiene and mercury, it is not possible to ensure protection against indirect effects and secondary poisoning at Community level by EQS for surface water alone. It is therefore appropriate to establish EQS for biota at Community level for those three substances. To allow Member States flexibility depending on their monitoring strategy, they should be able either to monitor and apply those EQS for biota, or to establish stricter EQS for surface water providing the same level of protection.
- <sup>(1)</sup> OJ L 331, 15.12.2001, p. 1.
- <sup>(2)</sup> OJ L 181, 4.7.1986, p. 16. Directive as last amended by Directive 91/692/EEC (OJ L 377, 31.12.1991, p. 48).
- <sup>(3)</sup> OJ L 81, 27.3.1982, p. 29. Directive as amended by Directive 91/692/EEC.
- <sup>(4)</sup> OJ L 291, 24.10.1983, p. 1. Directive as amended by Directive 91/692/EEC.
- <sup>(5)</sup> OJ L 74, 17.3.1984, p. 49. Directive as amended by Directive 91/692/EEC.
- <sup>(6)</sup> OJ L 274, 17.10.1984, p. 11. Directive as amended by Directive 91/692/EEC.

- (13) Furthermore, Member States should be able to establish EQS for sediment and/or biota at national level and apply those EQS instead of the EQS for water set out in this Directive. Such EQS should be established through a transparent procedure involving notifications to the Commission and other Member States so as to ensure a level of protection equivalent to the EQS for water set up at Community level. The Commission should summarise these notifications in its reports on the implementation of Directive 2000/60/EC. Moreover, as sediment and biota remain important matrices for the monitoring of certain substances by Member States, in order to assess long term impacts of anthropogenic activity and trends, Member States should take measures, subject to Article 4 of Directive 2000/60/EC, with the aim of ensuring that existing levels of contamination in biota and sediments will not significantly increase.
- (14) Member States have to comply with Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption <sup>(1)</sup> and manage the surface water bodies used for abstraction of drinking water in accordance with Article 7 of Directive 2000/60/EC. This Directive should therefore be implemented without prejudice to those requirements which may require more stringent standards.
- (15) In the vicinity of discharges from point sources concentrations of pollutants are usually higher than the ambient concentrations in water. Therefore, Member States should be able to make use of mixing zones, so long as they do not affect the compliance of the rest of the body of surface water with the relevant EQS. The extent of mixing zones should be restricted to the proximity of the point of discharge and be proportionate.
- (16) It is necessary to check compliance with the objectives for cessation or phase-out, and reduction, as specified in Article 4(1)(a) of Directive 2000/60/EC, and to make the assessment of compliance with these obligations transparent, in particular as regards the consideration of significant emissions, discharges and losses as a result of human activities. Further, a timetable for cessation or phase-out, and reduction, can only be related to an inventory. It should be also possible to assess the application of Article 4(4) to (7) of Directive 2000/60/EC. An appropriate tool is likewise needed for quantification of losses of substances occurring naturally, or resulting from natural processes, in which case complete cessation or phase out from all potential sources is impossible. In order to meet those needs, each Member State should establish an inventory of emissions, discharges and losses for each river basin district or part of a river basin district in its territory.
- (17) In order to avoid duplication of work by establishing those inventories and to ensure the coherence of those inventories with other existing tools in the area of surface water protection, Member States should use information collected under Directive 2000/60/EC and under Regulation (EC) No 166/2006 of the European Parliament and Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register <sup>(2)</sup>.
- (18) In order better to reflect their needs, Member States should be able to choose an appropriate 1-year reference period for measuring the basic entries of the inventory. However, account should be taken of the fact that the losses from the application of pesticides may vary considerably from one year to another because of different application rates, for example because of different climatic conditions. Therefore, Member States should be able to opt for a 3-year reference period for certain substances covered by Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(3)</sup>.
- (19) In order to optimise the use of the inventory, it is appropriate to fix a deadline for the Commission to verify that emissions, discharges and losses are making progress towards compliance with the objectives set out in Article 4(1)(a) of Directive 2000/60/EC, subject to Article 4(4) and (5) of that Directive.
- (20) Several Member States are affected by pollution the source of which lies outside their national jurisdiction. It is therefore appropriate to make clear that a Member State would not be in breach of its obligations under this Directive as a result of the exceedance of an EQS due to such transboundary pollution provided that certain conditions were met and that it had taken advantage, as appropriate, of the relevant provisions of Directive 2000/60/EC.
- (21) On the basis of reports from Member States, the Commission should review the need for additional specific Community-wide measures and, if appropriate, make relevant proposals.

<sup>(1)</sup> OJ L 330, 5.12.1998, p. 32. Directive as last amended by the 2005 Act of Accession.

<sup>(2)</sup> OJ L 33, 4.2.2006, p. 1.

<sup>(3)</sup> OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/50/EC (OJ L 202, 3.8.2007, p. 15).

(22) Criteria for identification of substances that are persistent, bioaccumulative and toxic, as well as substances of other equivalent concern, notably very persistent and very bioaccumulative, as referred to in Directive 2000/60/EC, are established in the Technical Guidance Document for Risk Assessment in support of Commission Directive 93/67/EEC of 20 July 1993 laying down the principles for assessment of risks to man and the environment of substances notified in accordance with Council Directive 67/548/EEC <sup>(1)</sup>, Commission Regulation (EC) No 1488/94 of 28 June 1994 laying down the principles for the assessment of risks to man and the environment of existing substances in accordance with Council Regulation (EEC) No 793/93 <sup>(2)</sup> and Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market <sup>(3)</sup>. To ensure consistency of Community legislation, only those criteria should be applied to the substances under review according to Decision No 2455/2001/EC, and Annex X to Directive 2000/60/EC should be replaced accordingly.

(23) The obligations laid down in the Directives listed in Annex IX to Directive 2000/60/EC are already incorporated in Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control <sup>(4)</sup> and in Directive 2000/60/EC and, at least, the same level of protection is guaranteed if the EQS are maintained or reviewed. In order to ensure a consistent approach to chemical pollution of surface waters and to simplify and clarify the existing Community legislation in that area, it is appropriate to repeal, pursuant to Directive 2000/60/EC, with effect from 22 December 2012, Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC.

(24) The recommendations referred to in Directive 2000/60/EC, in particular those of the Scientific Committee on Toxicity, Ecotoxicity and the Environment, have been considered.

(25) In accordance with paragraph 34 of the Interinstitutional Agreement on better law-making <sup>(5)</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

(26) Since the objective of this Directive, namely the achieving of good surface water chemical status by laying down EQS for priority substances and certain other pollutants, cannot be sufficiently achieved by the Member States and

can therefore, by reason of maintaining the same level of protection of surface water throughout the Community, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(27) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(6)</sup>.

(28) In particular, the Commission should be empowered to amend point 3 of part B of Annex I. Since that measure is of general scope and is designed to amend non-essential elements of this Directive, or to supplement it by the addition of new non-essential elements, it must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

##### Subject matter

With the aim of achieving good surface water chemical status and in accordance with the provisions and objectives of Article 4 of Directive 2000/60/EC, this Directive lays down environmental quality standards (EQS) for priority substances and certain other pollutants as provided for in Article 16 of Directive 2000/60/EC.

#### Article 2

##### Definitions

The definitions laid down in Directive 2000/60/EC shall apply for the purposes of this Directive.

#### Article 3

##### Environmental quality standards

1. In accordance with Article 1 of this Directive and Article 4 of Directive 2000/60/EC, Member States shall apply the EQS laid down in Annex I, Part A, to this Directive in bodies of surface water.

<sup>(1)</sup> OJ L 227, 8.9.1993, p. 9.

<sup>(2)</sup> OJ L 161, 29.6.1994, p. 3.

<sup>(3)</sup> OJ L 123, 24.4.1998, p. 1.

<sup>(4)</sup> OJ L 257, 10.10.1996, p. 26.

<sup>(5)</sup> OJ C 321, 31.12.2003, p. 1.

<sup>(6)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

Member States shall apply the EQS in bodies of surface water in accordance with the requirements laid down in Annex I, Part B.

2. Member States may opt to apply EQS for sediment and/or biota instead of those laid down in Annex I, Part A, in certain categories of surface water. Member States that apply this option shall:

- (a) apply, for mercury and its compounds, an EQS of 20 µg/kg, and/or for hexachlorobenzene, an EQS of 10 µg/kg, and/or for hexachlorobutadiene, an EQS of 55 µg/kg, these EQS being for prey tissue (wet weight), choosing the most appropriate indicator from among fish, molluscs, crustaceans and other biota;
- (b) establish and apply EQS other than those mentioned in point (a) for sediment and/or biota for specified substances. These EQS shall offer at least the same level of protection as the EQS for water set out in Annex I, Part A;
- (c) determine, for the substances mentioned in points (a) and (b), the frequency of monitoring in biota and/or sediment. However, monitoring shall take place at least once every year, unless technical knowledge and expert judgment justify another interval; and
- (d) notify the Commission and other Member States, through the Committee referred to in Article 21 of Directive 2000/60/EC, of the substances for which EQS have been established in accordance with point (b), the reasons and basis for using this approach, the alternative EQS established, including the data and the methodology by which they were derived, the categories of surface water to which they would apply, and the frequency of monitoring planned, together with the justification for that frequency.

The Commission shall include a summary of notifications pursuant to point (d) above and to note (viii) to Annex I, Part A, in the reports published in accordance with Article 18 of Directive 2000/60/EC.

3. Member States shall arrange for the long-term trend analysis of concentrations of those priority substances listed in Annex I, Part A, that tend to accumulate in sediment and/or biota (giving particular consideration to substances numbers 2, 5, 6, 7, 12, 15, 16, 17, 18, 20, 21, 26, 28 and 30) on the basis of monitoring of water status carried out in accordance with Article 8 of Directive 2000/60/EC. They shall take measures aimed at ensuring, subject to Article 4 of Directive 2000/60/EC, that such concentrations do not significantly increase in sediment and/or relevant biota.

Member States shall determine the frequency of monitoring in sediment and/or biota so as to provide sufficient data for a reliable long-term trend analysis. As a guideline, monitoring should take place every three years, unless technical knowledge and expert judgment justify another interval.

4. The Commission shall examine technical and scientific progress, including the conclusion of risk assessments as referred to in Article 16(2)(a) and (b) of Directive 2000/60/EC and information from the registration of substances made publicly available according to Article 119 of Regulation (EC) No 1907/2006, and, if necessary, propose that the EQS laid down in Part A of Annex I to this Directive be revised in accordance with the procedure laid down in Article 251 of the Treaty in line with the timetable provided for in Article 16(4) of Directive 2000/60/EC.

5. Point 3 of Part B of Annex I to this Directive may be amended in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

#### Article 4

#### Mixing zones

1. Member States may designate mixing zones adjacent to points of discharge. Concentrations of one or more pollutants within such mixing zones may exceed the relevant EQS if they do not affect the compliance of the rest of the body of surface water with those standards.

2. Member States that designate mixing zones shall include a description of the approaches and methodologies applied to derive such zones in river basin management plans produced in accordance with Article 13 of Directive 2000/60/EC.

3. Member States that designate mixing zones shall ensure that the extent of any such zone is:

- (a) restricted to the proximity of the point of discharge;
- (b) proportionate, having regard to the concentrations of pollutants at the point of discharge and to the conditions on emissions of pollutants contained in the prior regulations, such as authorisations and/or permits, referred to in Article 11(3)(g) of Directive 2000/60/EC and any other relevant Community law, in accordance with the application of best available techniques and Article 10 of Directive 2000/60/EC, in particular after those prior regulations are reviewed.

*Article 5***Inventory of emissions, discharges and losses**

1. Using the information collected in accordance with Articles 5 and 8 of Directive 2000/60/EC and under Regulation (EC) No 166/2006, Member States shall establish an inventory of emissions, discharges and losses of all priority substances and pollutants listed in Part A of Annex I to this Directive for each river basin district or part of a river basin district lying within their territory.

2. The reference period for the estimation of pollutant values to be entered in the inventories referred to in paragraph 1 shall be one year between 2008 and 2010.

However, for priority substances or pollutants covered by Directive 91/414/EEC, the entries may be calculated as the average of the years 2008, 2009 and 2010.

3. Member States shall communicate the inventories established pursuant to paragraph 1 of this Article, including the respective reference periods, to the Commission in accordance with the reporting requirements under Article 15(1) of Directive 2000/60/EC.

4. Member States shall update their inventories as part of the reviews of the analyses specified in Article 5(2) of Directive 2000/60/EC.

The reference period for the establishment of values in the updated inventories shall be the year before that analysis is to be completed. For priority substances or pollutants covered by Directive 91/414/EEC, the entries may be calculated as the average of the three years before the completion of that analysis.

Member States shall publish the updated inventories in their updated river basin management plans as laid down in Article 13(7) of Directive 2000/60/EC.

5. The Commission shall, by 2025, verify that emissions, discharges and losses as reflected in the inventory are making progress towards compliance with the reduction or cessation objectives laid down in Article 4(1)(a)(iv) of Directive 2000/60/EC, subject to Article 4(4) and (5) of that Directive.

*Article 6***Transboundary pollution**

1. A Member State shall not be in breach of its obligations under this Directive as a result of the exceedance of an EQS if it can demonstrate that:

- (a) the exceedance was due to a source of pollution outside its national jurisdiction;
- (b) it was unable as a result of such transboundary pollution to take effective measures to comply with the relevant EQS; and
- (c) it had applied the coordination mechanisms set out in Article 3 of Directive 2000/60/EC and, as appropriate, taken advantage of the provisions of Article 4(4), (5) and (6) of that Directive for those water bodies affected by transboundary pollution.

2. Member States shall use the mechanism laid down in Article 12 of Directive 2000/60/EC to provide the Commission with necessary information in the circumstances set out in paragraph 1 of this Article and with a summary of the measures taken in relation to transboundary pollution in the relevant river basin management plan in accordance with the reporting requirements under Article 15(1) of Directive 2000/60/EC.

*Article 7***Review**

On the basis of reports from Member States, including reports in accordance with Article 12 of Directive 2000/60/EC and in particular those on transboundary pollution, the Commission shall review the need for additional specific Community-wide measures, such as emission controls. It shall report its conclusions to the European Parliament and to the Council in the context of the report prepared in accordance with Article 18(1) of Directive 2000/60/EC, accompanied, if appropriate, by relevant proposals.

*Article 8***Amendment of Directive 2000/60/EC**

Annex X to Directive 2000/60/EC shall be replaced by the text set out in Annex II to this Directive.

*Article 9***Amendment of Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC**

- 1. Annex II to Directives 82/176/EEC, 83/513/EEC, 84/156/EEC and 84/491/EEC respectively shall be deleted.
- 2. Headings B in Sections I to XI of Annex II to Directive 86/280/EEC shall be deleted.

*Article 10***Repeal of Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC**

1. Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC and 86/280/EEC shall be repealed with effect from 22 December 2012.

2. Before 22 December 2012, Member States may carry out monitoring and reporting in accordance with Articles 5, 8 and 15 of Directive 2000/60/EC instead of carrying them out in accordance with the Directives referred to in paragraph 1 of this Article.

*Article 11***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... (\*).

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 12***Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 13***Addressees**

This Directive is addressed to the Member States.

Done at ...

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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(\*) 18 months after the date of entry into force of this Directive.

## ANNEX I

## Environmental quality standards for priority substances and certain other pollutants

## PART A: ENVIRONMENTAL QUALITY STANDARDS (EQS)

AA: annual average

MAC: maximum allowable concentration

Unit: [µg/l]

Number	Name of substance	CAS number <sup>(1)</sup>	AA-EQS <sup>(2)</sup> Inland surface waters <sup>(3)</sup>	AA-EQS <sup>(2)</sup> Other surface waters	MAC-EQS <sup>(4)</sup> Inland surface waters <sup>(3)</sup>	MAC-EQS <sup>(4)</sup> Other surface waters
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(1)	Alachlor	15972-60-8	0,3	0,3	0,7	0,7
(2)	Anthracene	120-12-7	0,1	0,1	0,4	0,4
(3)	Atrazine	1912-24-9	0,6	0,6	2,0	2,0
(4)	Benzene	71-43-2	10	8	50	50
(5)	Brominated diphenylether <sup>(5)</sup>	32534-81-9	0,0005	0,0002	Not applicable	Not applicable
(6)	Cadmium and its compounds (depending on water hardness classes) <sup>(6)</sup>	7440-43-9	≤ 0,08 (Class 1) 0,08 (Class 2) 0,09 (Class 3) 0,15 (Class 4) 0,25 (Class 5)	0,2	≤ 0,45 (Class 1) 0,45 (Class 2) 0,6 (Class 3) 0,9 (Class 4) 1,5 (Class 5)	
(6a)	Carbon-tetrachloride <sup>(7)</sup>	56-23-5	12	12	Not applicable	Not applicable
(7)	C <sub>10-13</sub> Chloroalkanes	85535-84-8	0,4	0,4	1,4	1,4
(8)	Chlorfenvinphos	470-90-6	0,1	0,1	0,3	0,3
(9)	Chlorpyrifos (Chlorpyrifos-ethyl)	2921-88-2	0,03	0,03	0,1	0,1
(9a)	Cyclodiene pesticides: Aldrin <sup>(7)</sup> Dieldrin <sup>(7)</sup> Endrin <sup>(7)</sup> Isodrin <sup>(7)</sup>	309-00-2 60-57-1 72-20-8 465-73-6	Σ = 0,01	Σ = 0,005	Not applicable	Not applicable
(9b)	DDT total <sup>(8)</sup> <sup>(7)</sup>	Not applicable	0,025	0,025	Not applicable	Not applicable
	para-para-DDT <sup>(7)</sup>	50-29-3	0,01	0,01	Not applicable	Not applicable
(10)	1,2-Dichloroethane	107-06-2	10	10	Not applicable	Not applicable
(11)	Dichloromethane	75-09-2	20	20	Not applicable	Not applicable
(12)	Di(2-ethylhexyl)-phthalate (DEHP)	117-81-7	1,3	1,3	Not applicable	Not applicable
(13)	Diuron	330-54-1	0,2	0,2	1,8	1,8
(14)	Endosulfan	115-29-7	0,005	0,0005	0,01	0,004
(15)	Fluoranthene	206-44-0	0,1	0,1	1	1



Number	Name of substance	CAS number <sup>(1)</sup>	AA-EQS <sup>(2)</sup> Inland surface waters <sup>(3)</sup>	AA-EQS <sup>(2)</sup> Other surface waters	MAC-EQS <sup>(4)</sup> Inland surface waters <sup>(3)</sup>	MAC-EQS <sup>(4)</sup> Other surface waters
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(16)	Hexachloro-benzene	118-74-1	0,01 <sup>(9)</sup>	0,01 <sup>(9)</sup>	0,05	0,05
(17)	Hexachloro-butadiene	87-68-3	0,1 <sup>(9)</sup>	0,1 <sup>(9)</sup>	0,6	0,6
(18)	Hexachloro-cyclohexane	608-73-1	0,02	0,002	0,04	0,02
(19)	Isoproturon	34123-59-6	0,3	0,3	1,0	1,0
(20)	Lead and its compounds	7439-92-1	7,2	7,2	Not applicable	Not applicable
(21)	Mercury and its compounds	7439-97-6	0,05 <sup>(9)</sup>	0,05 <sup>(9)</sup>	0,07	0,07
(22)	Naphthalene	91-20-3	2,4	1,2	Not applicable	Not applicable
(23)	Nickel and its compounds	7440-02-0	20	20	Not applicable	Not applicable
(24)	Nonylphenol (4-Nonylphenol)	104-40-5	0,3	0,3	2,0	2,0
(25)	Octylphenol (4-(1,1',3,3'-tetramethylbutyl)- phenol)	140-66-9	0,1	0,01	Not applicable	Not applicable
(26)	Pentachloro-benzene	608-93-5	0,007	0,0007	Not applicable	Not applicable
(27)	Pentachloro-phenol	87-86-5	0,4	0,4	1	1
(28)	Polyaromatic hydrocarbons (PAH) <sup>(10)</sup>	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
	Benzo(a)pyrene	50-32-8	0,05	0,05	0,1	0,1
	Benzo(b)fluor-anthene	205-99-2	$\Sigma = 0,03$	$\Sigma = 0,03$	Not applicable	Not applicable
	Benzo(k)fluor-anthene	207-08-9				
	Benzo(g,h,i)-perylene	191-24-2	$\Sigma = 0,002$	$\Sigma = 0,002$	Not applicable	Not applicable
	Indeno(1,2,3-cd)-pyrene	193-39-5				
(29)	Simazine	122-34-9	1	1	4	4
(29a)	Tetrachloro-ethylene <sup>(7)</sup>	127-18-4	10	10	Not applicable	Not applicable
(29b)	Trichloro-ethylene <sup>(7)</sup>	79-01-6	10	10	Not applicable	Not applicable

Number	Name of substance	CAS number <sup>(1)</sup>	AA-EQS <sup>(2)</sup> Inland surface waters <sup>(3)</sup>	AA-EQS <sup>(2)</sup> Other surface waters	MAC-EQS <sup>(4)</sup> Inland surface waters <sup>(3)</sup>	MAC-EQS <sup>(4)</sup> Other surface waters
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(30)	Tributyltin compounds (Tributhyltin-cation)	36643-28-4	0,0002	0,0002	0,0015	0,0015
(31)	Trichloro-benzenes	12002-48-1	0,4	0,4	Not applicable	Not applicable
(32)	Trichloro-methane	67-66-3	2,5	2,5	Not applicable	Not applicable
(33)	Trifluralin	1582-09-8	0,03	0,03	Not applicable	Not applicable

<sup>(1)</sup> CAS: Chemical Abstracts Service.

<sup>(2)</sup> This parameter is the EQS expressed as an annual average value (AA-EQS). Unless otherwise specified, it applies to the total concentration of all isomers.

<sup>(3)</sup> Inland surface waters encompass rivers and lakes and related artificial or heavily modified water bodies.

<sup>(4)</sup> This parameter is the Environmental Quality Standard expressed as a maximum allowable concentration (MAC-EQS). Where the MAC-EQS are marked as 'not applicable', the AA-EQS values are considered protective against short-term pollution peaks in continuous discharges since they are significantly lower than the values derived on the basis of acute toxicity.

<sup>(5)</sup> For the group of priority substances covered by brominated diphenylethers (No 5) listed in Decision No 2455/2001/EC, an EQS is established only for congener numbers 28, 47, 99, 100, 153 and 154.

<sup>(6)</sup> For Cadmium and its compounds (No 6) the EQS values vary dependent upon the hardness of the water as specified in five class categories (Class 1: < 40 mg CaCO<sub>3</sub>/l, Class 2: 40 to < 50 mg CaCO<sub>3</sub>/l, Class 3: 50 to < 100 mg CaCO<sub>3</sub>/l, Class 4: 100 to < 200 mg CaCO<sub>3</sub>/l and Class 5: ≥ 200 mg CaCO<sub>3</sub>/l).

<sup>(7)</sup> This substance is not a priority substance but one of the other pollutants for which the EQS are identical to those laid down in the legislation that applied prior to the entry into force of this Directive.

<sup>(8)</sup> DDT total comprises the sum of the isomers 1,1,1-trichloro-2,2 bis (p-chlorophenyl) ethane (CAS number 50-29-3; EU number 200-024-3); 1,1,1-trichloro-2 (o-chlorophenyl)-2-(p-chlorophenyl) ethane (CAS number 789-02-6; EU Number 212-332-5); 1,1-dichloro-2, 2 bis (p-chlorophenyl) ethylene (CAS number 72-55-9; EU Number 200-784-6); and 1,1-dichloro-2,2 bis (p-chlorophenyl) ethane (CAS number 72-54-8; EU Number 200-783-0).

<sup>(9)</sup> If Member States do not apply EQS for biota they shall introduce stricter EQS for water in order to achieve the same level of protection as the EQS for biota set out in Article 3(2). They shall notify the Commission and other Member States, through the Committee referred to in Article 21 of Directive 2000/60/EC, of the reasons and basis for using this approach, the alternative EQS for water established, including the data and the methodology by which they were derived, and the categories of surface water to which they would apply.

<sup>(10)</sup> For the group of priority substances of polyaromatic hydrocarbons (PAH) (No 28), each individual EQS is applicable, i.e. the EQS for Benzo(a)pyrene, the EQS for the sum of Benzo(b)fluoranthene and Benzo(k)fluoranthene and the EQS for the sum of Benzo(g,h,i)perylene and Indeno(1,2,3-cd)pyrene must be met.

#### PART B: APPLICATION OF THE EQS SET OUT IN PART A

- Columns 4 and 5 of the table: For any given surface water body, applying the AA-EQS means that, for each representative monitoring point within the water body, the arithmetic mean of the concentrations measured at different times during the year does not exceed the standard.

The calculation of the arithmetic mean and the analytical method used must be in accordance with Commission Decision .../... of ... adopting technical specifications for chemical monitoring and quality of analytical results in accordance with Directive 2000/60/EC of the European Parliament and of the Council <sup>(1)</sup>, including how to apply an EQS where there is no appropriate analytical method meeting the minimum performance criteria.

- Columns 6 and 7 of the table: For any given surface water body, applying the MAC-EQS means that the measured concentration at any representative monitoring point within the water body does not exceed the standard.

However, in accordance with Section 1.3.4 of Annex V to Directive 2000/60/EC, Member States may introduce statistical methods, such as a percentile calculation, to ensure an acceptable level of confidence and precision for determining compliance with the MAC-EQS. If they do so, such statistical methods shall comply with detailed rules laid down in accordance with the procedure referred to in Article 21(2) of Directive 2000/60/EC.

- With the exception of cadmium, lead, mercury and nickel (hereinafter 'metals') the EQS set up in this Annex are expressed as total concentrations in the whole water sample. In the case of metals the EQS refers to the dissolved concentration, i.e. the dissolved phase of a water sample obtained by filtration through a 0,45 µm filter or any equivalent pre-treatment.

Member States may, when assessing the monitoring results against the EQS, take into account:

- natural background concentrations for metals and their compounds, if they prevent compliance with the EQS value; and
- hardness, pH or other water quality parameters that affect the bioavailability of metals.

<sup>(1)</sup> OJL...

## ANNEX II

Annex X to Directive 2000/60/EC is replaced by the following:

## ‘ANNEX X

**List of priority substances in the field of water policy**

Number	CAS number <sup>(1)</sup>	EU number <sup>(2)</sup>	Name of priority substance <sup>(*)</sup>	Identified as priority hazardous substance
(1)	15972-60-8	240-110-8	Alachlor	
(2)	120-12-7	204-371-1	Anthracene	X
(3)	1912-24-9	217-617-8	Atrazine	
(4)	71-43-2	200-753-7	Benzene	
(5)	Not applicable	Not applicable	Brominated diphenylether <sup>(**)</sup>	X <sup>(***)</sup>
	32534-81-9	Not applicable	Pentabromodiphenylether (congener numbers 28, 47, 99, 100, 153 and 154) <sup>(*)</sup>	
(6)	7440-43-9	231-152-8	Cadmium and its compounds	X
(7)	85535-84-8	287-476-5	Chloroalkanes, C <sub>10-13</sub> <sup>(**)</sup>	X
(8)	470-90-6	207-432-0	Chlorfenvinphos	
(9)	2921-88-2	220-864-4	Chlorpyrifos (Chlorpyrifos-ethyl)	
(10)	107-06-2	203-458-1	1,2-dichloroethane	
(11)	75-09-2	200-838-9	Dichloromethane	
(12)	117-81-7	204-211-0	Di(2-ethylhexyl)phthalate (DEHP)	
(13)	330-54-1	206-354-4	Diuron	
(14)	115-29-7	204-079-4	Endosulfan	X
(15)	206-44-0	205-912-4	Fluoranthene <sup>(****)</sup>	
(16)	118-74-1	204-273-9	Hexachlorobenzene	X
(17)	87-68-3	201-765-5	Hexachlorobutadiene	X
(18)	608-73-1	210-158-9	Hexachlorocyclohexane	X
(19)	34123-59-6	251-835-4	Isoproturon	
(20)	7439-92-1	231-100-4	Lead and its compounds	
(21)	7439-97-6	231-106-7	Mercury and its compounds	X
(22)	91-20-3	202-049-5	Naphthalene	
(23)	7440-02-0	231-111-14	Nickel and its compounds	

Number	CAS number <sup>(1)</sup>	EU number <sup>(2)</sup>	Name of priority substance <sup>(*)</sup>	Identified as priority hazardous substance
(24)	25154-52-3	246-672-0	Nonylphenol	X
	104-40-5	203-199-4	(4-nonylphenol) <sup>(*)</sup>	X
(25)	1806-26-4	217-302-5	Octylphenol	
	140-66-9	Not applicable	(4-(1,1',3,3'-tetramethylbutyl)-phenol) <sup>(*)</sup>	
(26)	608-93-5	210-172-5	Pentachlorobenzene	X
(27)	87-86-5	231-152-8	Pentachlorophenol	
(28)	Not applicable	Not applicable	Polyaromatic hydrocarbons	X
	50-32-8	200-028-5	(Benzo(a)pyrene)	X
	205-99-2	205-911-9	(Benzo(b)fluoranthene)	X
	191-24-2	205-883-8	(Benzo(g,h,i)perylene)	X
	207-08-9	205-916-6	(Benzo(k)fluoranthene)	X
	193-39-5	205-893-2	(Indeno(1,2,3-cd)pyrene)	X
(29)	122-34-9	204-535-2	Simazine	
(30)	Not applicable	Not applicable	Tributyltin compounds	X
	36643-28-4	Not applicable	Tributyltin-cation	X
(31)	12002-48-1	234-413-4	Trichlorobenzenes	
(32)	67-66-3	200-663-8	Trichloromethane (chloroform)	
(33)	1582-09-8	216-428-8	Trifluralin	

<sup>(1)</sup> CAS: Chemical Abstracts Service.

<sup>(2)</sup> EU-number: European Inventory of Existing Commercial Substances (EINECS) or European List of Notified Chemical Substances (ELINCS).

<sup>(\*)</sup> Where groups of substances have been selected, typical individual representatives are listed as indicative parameters (in brackets and without number). For these groups of substances, the indicative parameter must be defined through the analytical method.

<sup>(\*\*)</sup> These groups of substances normally include a considerable number of individual compounds. At present, appropriate indicative parameters cannot be given.

<sup>(\*\*\*)</sup> Only Pentabromobiphenylether (CAS-number 32534-81-9).

<sup>(\*\*\*\*)</sup> Fluoranthene is on the list as an indicator of other, more dangerous polyaromatic hydrocarbons.'

## STATEMENT OF THE COUNCIL'S REASONS

### I. INTRODUCTION

The Commission adopted its proposal for a Directive on environmental quality standards in the field of water policy and amending Directive 2000/60/EC in July 2006.

The European Parliament adopted its first-reading opinion in May 2007.

The Economic and Social Committee adopted its opinion in April 2007 <sup>(1)</sup>. The Committee of the Regions has not provided an opinion.

The Council adopted its common position on 20 December 2007.

### II. OBJECTIVE

The proposed Directive would establish environmental quality standards (EQS) for priority substances and certain other pollutants, as provided for in Article 16 of Directive 2000/60/EC (the 'water framework directive').

### III. ANALYSIS OF THE COMMON POSITION

#### 1. *General*

The common position incorporates several of the European Parliament's first-reading amendments, either verbatim, in part or in spirit. It does not reflect the majority of the amendments, however, because the Council agrees with the Commission that they are unnecessary and/or undesirable.

The common position also includes a number of changes other than those envisaged in the European Parliament's first-reading opinion. The following sections describe the changes of substance. In addition, there are drafting changes to clarify the text or to ensure the overall coherence of the Directive.

#### 2. *Subject matter and definitions* (Articles 1 and 2)

Article 1 is partly consistent with amendment 20, in that it clarifies that the Directive lays down EQS with the aim of achieving good chemical status in accordance with the provisions and objectives of the water framework directive. The common position includes a new Article 2 to clarify that the definitions of the water framework directive are applicable.

#### 3. *Environmental quality standards* (Article 3 and Annex I)

Article 3 is partly consistent with amendments 21 and 66 in that its paragraph 1 clarifies the links with the water framework directive. The Article is also partly consistent with amendment 26, since the new paragraph 2 would give Member States the option of performing monitoring in biota or sediment on certain conditions.

Article 3(3) clarifies that, in addition to applying the EQS, Member States should carry out long term trend analysis of those priority substances that tend to accumulate in sediment and/or biota.

Article 3(4) incorporates a reference to the REACH Regulation and is therefore fully consistent with amendment 29.

Article 3(5) provides for the use of the regulatory procedure with scrutiny, since changes to the detailed rules concerning the monitoring of metals would constitute an amendment to the body of the Directive.

<sup>(1)</sup> OJ C 97, 28.4.2007, p. 3.

Annex I, Part A, is consistent with the aim of amendments 50 and 51 to the extent that it combines the table setting out EQS for other pollutants with that for priority substances. However, it clarifies that combining the tables does not re-classify the other pollutants as priority substances, which would overturn the classifications that the European Parliament and the Council agreed through Decision No 2455/2001/EC.

Annex I, Part B, is partly consistent with the aim of amendment 30 and broadly consistent with the aim of amendment 52, in that it widens the scope for taking account of background concentrations of metals and these rules could be amended through comitology. It includes clarification on the applicable analytical and statistical methods.

#### 4. *Mixing zones* (Article 4)

Article 4 is partly consistent with the aim of amendments 35 and 36, in that it clarifies that the extent of mixing zones must be proportionate and regularly reviewed. The common position uses the shorter and clearer term 'mixing zones' rather than 'transitional areas of exceedance'.

The common position makes no provision for the use of comitology. The Commission will instead issue guidelines for the implementation of the Article.

#### 5. *Inventory of emissions, discharges and losses* (Article 5)

Article 5 incorporates amendment 40 in part. The Council cannot accept the other amendments concerning the inventory, considering that they would create undue additional administrative burdens for Member States, would be inconsistent with the water framework directive, or are unnecessary.

Again, the common position makes no provision for the use of comitology. The Commission will instead issue guidelines for the implementation of the Article.

#### 6. *Transboundary pollution* (Article 6)

The common position includes a new Article to clarify Member States' obligations with regard to transboundary pollution. It is partly consistent with amendments 24 and 47.

#### 7. *Review* (Article 7)

The new Article 7 requires the Commission to review the need for additional specific Community-wide measures. This is consistent in part or in principle with amendments 20, 32, 33 and 45.

#### 8. *Annex II — Amendments to Annex X to the water framework directive*

The Council cannot accept amendments 53 to 63 and 70, which would classify several priority substances and the other pollutants as priority hazardous substances. Nor can it accept amendment 65, which would add to the water framework directive a list of substances subject to review for identification as possible priority substances or priority hazardous substances. Article 16 of the water framework directive already provides for a regular review of Annex X. The Council agrees with the Commission that this review should be based on scientific considerations alone.

A review of the list of priority substances, including the scope for inclusion of additional substances and the criteria for prioritisation, is currently being undertaken under the common implementation strategy for the water framework directive, with a view to the Commission making proposals for the amendment of the list as appropriate in accordance with the review timetable laid down in Article 16(4) of the water framework directive.

9. *Other*

In addition, the common position:

- incorporates text on correlation tables consistent with paragraph 34 of the Interinstitutional agreement on better law making,
- includes consequential changes to the recitals and incorporates amendments 1, 4, 7 (in part), 14 (in principle) and 73 (in part).

IV. **CONCLUSION**

The Council believes that the common position represents a balanced package that would respect the provisions and objectives of the water framework directive. It looks forward to constructive discussions with the European Parliament with a view to the early adoption of the Directive.

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