

ANNEX I

CRITERIA FOR IDENTIFYING WATERS REFERRED TO IN ARTICLE 3 (1)

A.

Waters referred to in Article 3 (1) shall be identified making use, *inter alia*, of the following criteria:

1. whether surface freshwaters, in particular those used or intended for the abstraction of drinking water, contain or could contain, if action pursuant to Article 5 is not taken, more than the concentration of nitrates laid down in accordance with Directive 75/440/EEC;
2. whether groundwaters contain more than 50 mg/l nitrates or could contain more than 50 mg/l nitrates if action pursuant to Article 5 is not taken;
3. whether natural freshwater lakes, other freshwater bodies, estuaries, coastal waters and marine waters are found to be eutrophic or in the near future may become eutrophic if action pursuant to Article 5 is not taken.

B. In applying these criteria, Member States shall also take account of:

1. the physical and environmental characteristics of the waters and land;
2. the current understanding of the behaviour of nitrogen compounds in the environment (water and soil);
3. the current understanding of the impact of the action taken pursuant to Article 5.

ANNEX II

CODE(S) OF GOOD AGRICULTURAL PRACTICE

A.

A code or codes of good agricultural practice with the objective of reducing pollution by nitrates and taking account of conditions in the different regions of the Community should contain provisions covering the following items, in so far as they are relevant:

1. periods when the land application of fertilizer is inappropriate;
2. the land application of fertilizer to steeply sloping ground;
3. the land application of fertilizer to water-saturated, flooded, frozen or snow-covered ground;
4. the conditions for land application of fertilizer near water courses;
5. the capacity and construction of storage vessels for livestock manures, including measures to prevent water pollution by run-off and seepage into the groundwater and surface water of liquids containing livestock manures and effluents from stored plant materials such as silage;
6. procedures for the land application, including rate and uniformity of spreading, of both chemical fertilizer and livestock manure, that will maintain nutrient losses to water at an acceptable level.

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- B. Member States may also include in their code(s) of good agricultural practices the following items:
7. land use management, including the use of crop rotation systems and the proportion of the land area devoted to permanent crops relative to annual tillage crops;
 8. the maintenance of a minimum quantity of vegetation cover during (rainy) periods that will take up the nitrogen from the soil that could otherwise cause nitrate pollution of water;
 9. the establishment of fertilizer plans on a farm-by-farm basis and the keeping of records on fertilizer use;
 10. the prevention of water pollution from run-off and the downward water movement beyond the reach of crop roots in irrigation systems.

ANNEX III

MEASURES TO BE INCLUDED IN ACTION PROGRAMMES AS REFERRED TO IN ARTICLE 5 (4) (a)

1. The measures shall include rules relating to:
 1. periods when the land application of certain types of fertilizer is prohibited;
 2. the capacity of storage vessels for livestock manure; this capacity must exceed that required for storage throughout the longest period during which land application in the vulnerable zone is prohibited, except where it can be demonstrated to the competent authority that any quantity of manure in excess of the actual storage capacity will be disposed of in a manner which will not cause harm to the environment;
 3. limitation of the land application of fertilizers, consistent with good agricultural practice and taking into account the characteristics of the vulnerable zone concerned, in particular:
 - (a) soil conditions, soil type and slope;
 - (b) climatic conditions, rainfall and irrigation;
 - (c) land use and agricultural practices, including crop rotation systems;
 and to be based on a balance between:
 - (i) the foreseeable nitrogen requirements of the crops,
and
 - (ii) the nitrogen supply to the crops from the soil and from fertilization corresponding to:
 - the amount of nitrogen present in the soil at the moment when the crop starts to use it to a significant degree (outstanding amounts at the end of winter),
 - the supply of nitrogen through the net mineralization of the reserves of organic nitrogen in the soil,
 - additions of nitrogen compounds from livestock manure,

- additions of nitrogen compounds from chemical and other fertilizers.
2. These measures will ensure that, for each farm or livestock unit, the amount of livestock manure applied to the land each year, including by the animals themselves, shall not exceed a specified amount per hectare.

The specified amount per hectare be the amount of manure containing 170 kg N. However:

- (a) for the first four year action programme Member States may allow an amount of manure containing up to 210 kg N;
- (b) during and after the first four-year action programme, Member States may fix different amounts from those referred to above. These amounts must be fixed so as not to prejudice the achievement of the objectives specified in Article 1 and must be justified on the basis of objectives criteria, for example:
 - long growing seasons,
 - crops with high nitrogen uptake,
 - high net precipitation in the vulnerable zone,
 - soils with exceptionally high denitrification capacity.

[^{F1}If a Member State allows a different amount under point (b) of the second subparagraph, it shall inform the Commission, which shall examine the justification in accordance with the regulatory procedure referred to in Article 9(2).]

Textual Amendments

- F1** Substituted by [Regulation \(EC\) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.](#)

- 3. Member States may calculate the amounts referred to in paragraph 2 on the basis of animal numbers.
- 4. Member States shall inform the Commission of the manner in which they are applying the provisions of paragraph 2. In the light of the information received, the Commission may, if it considers necessary, make appropriate proposals to the Council in accordance with Article 11.

ANNEX IV

REFERENCE METHODS OF MEASUREMENT

Chemical fertilizer

Nitrogen compounds shall be measured using the method described in Commission Directive 77/535/EEC of 22 June 1977 on the approximation of the laws of the Member States relating to methods of sampling and analysis for fertilizers⁽¹⁾, as amended by Directive 89/519/EEC⁽²⁾.
Freshwaters, coastal waters and marine waters

Nitrate concentration shall be measured in accordance with Article 4a (3) of Council Decision 77/795/EEC of 12 December 1977 establishing a common procedure for the exchange of

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information on the quality of surface fresh water in the Community⁽³⁾, as amended by Decision 86/574/EEC⁽⁴⁾.

ANNEX V

INFORMATION TO BE CONTAINED IN REPORTS TO IN ARTICLE 10

1. A statement of the preventive action taken pursuant to Article 4.
2. A map showing the following:
 - (a) waters identified in accordance with Article 3 (1) and Annex I indicating for each water which of the criteria in Annex I was used for the purpose of identification;
 - (b) the location of the designed vulnerable zones, distinguishing between existing zones and zones designated since the previous report.
3. A summary of the monitoring results obtained pursuant to Article 6, including a statement of the considerations which led to the designation of each vulnerable zone and to any revision of or addition to designations of vulnerable zones.
4. A summary of the action programmes drawn up pursuant to Article 5 and, in particular:
 - (a) the measures required by Article 5 (4) (a) and (b);
 - (b) the information required by Annex III (4);
 - (c) any additional measures or reinforced actions taken pursuant to Article 5 (5);
 - (d) a summary of the results of the monitoring programmes implemented pursuant to Article 5 (6);
 - (e) the assumptions made by the Member States about the likely timescale within which the waters identified in accordance with Article 3 (1) are expected to respond to the measure in the action programme, along with an indication of the level of uncertainty incorporated in these assumptions.

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- (1) OJ No L 213, 22.8.1977, p. 1.
- (2) OJ No L 265, 12.9.1989, p. 30.
- (3) OJ No L 334, 24.12.1977, p. 29.
- (4) OJ No L 335, 28.11.1986, p. 44.