

Council Directive of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC)

Article 1

This Directive has the objective of:

- reducing water pollution caused or induced by nitrates from agricultural sources and
- preventing further such pollution.

Article 2

For the purpose of this Directive:

- (a) ‘groundwater’: means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;
- (b) ‘freshwater’: means naturally occurring water having a low concentration of salts, which is often acceptable as suitable for abstraction and treatment to produce drinking water;
- (c) ‘nitrogen compound’: means any nitrogen-containing substance except for gaseous molecular nitrogen;
- (d) ‘livestock’: means all animals kept for use or profit;
- (e) ‘fertilizer’: means any substance containing a nitrogen compound or nitrogen compounds utilized on land to enhance growth of vegetation; it may include livestock manure, the residues from fish farms and sewage sludge;
- (f) ‘chemical fertilizer’: means any fertilizer which is manufactured by an industrial process;
- (g) ‘livestock manure’: means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;
- (h) ‘land application’: means the addition of materials to land whether by spreading on the surface of the land, injection into the land, placing below the surface of the land or mixing with the surface layers of the land;
- (i) ‘eutrophication’: means the enrichment of water by nitrogen compounds, causing an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance to the balance of organisms present in the water and to the quality of the water concerned;
- (j) ‘pollution’: means the discharge, directly or indirectly, of nitrogen compounds from agricultural sources into the aquatic environment, the results of which are such as to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water;
- (k) ‘vulnerable zone’: means an area of land designated according to Article 3 (2).

Article 3

1 Waters affected by pollution and waters which could be affected by pollution if action pursuant Article 5 is not taken shall be identified by the Member States in accordance with the criteria set out in Annex I.

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2 Member States shall, within a two-year period following the notification of this Directive, designate as vulnerable zones all known areas of land in their territories which drain into the waters identified according to paragraph 1 and which contribute to pollution. They shall notify the Commission of this initial designation within six months.

3 When any waters identified by a Member State in accordance with paragraph 1 are affected by pollution from waters from another Member State draining directly or indirectly in to them, the Member States whose waters are affected may notify the other Member States and the Commission of the relevant facts.

The Member States concerned shall organize, where appropriate with the Commission, the concertation necessary to identify the sources in question and the measures to be taken to protect the waters that are affected in order to ensure conformity with this Directive.

4 Member States shall review if necessary revise or add to the designation of vulnerable zones as appropriate, and at last every four years, to take into account changes and factors unforeseen at the time of the previous designation. They shall notify the Commission of any revision or addition to the designations within six months.

5 Member States shall be exempt from the obligation to identify specific vulnerable zones, if they establish and apply action programmes referred to in Article 5 in accordance with this Directive throughout their national territory.

Article 4

1 With the aim of providing for all waters a general level of protection against pollution, Member States shall, within a two-year period following the notification of this Directive:

- a establish a code or codes of good agricultural practice, to be implemented by farmers on a voluntary basis, which should contain provisions covering at least the items mentioned in Annex II A;
- b set up where necessary a programme, including the provision of training and information for farmers, promoting the application of the code(s) of good agricultural practice.

2 Member States shall submit to the Commission details of their codes of good agricultural practice and the Commission shall include information on these codes in the report referred to in Article 11. In the light of the information received, the Commission may, if it considers it necessary, make appropriate proposals to the Council.

Article 5

1 Within a two-year period following the initial designation referred to in Article 3 (2) or within one year of each additional designation referred to in Article 3 (4), Member States shall, for the purpose of realizing the objectives specified in Article 1, establish action programmes in respect of designated vulnerable zones.

2 An action programme may relate to all vulnerable zones in the territory of a Member State or, where the Member State considers it appropriate, different programmes may be established for different vulnerable zones or parts of zones.

3 Action programmes shall take into account:

- a available scientific and technical data, mainly with reference to respective nitrogen contributions originating from agricultural and other sources;
- b environmental conditions in the relevant regions of the Member State concerned.

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4 Action programmes shall be implemented within four years of their establishment and shall consist of the following mandatory measures:

- a the measures in Annex III;
- b those measures which Member States have prescribed in the code(s) of good agricultural practice established in accordance with Article 4, except those which have been superseded by the measures in Annex III.

5 Member States shall moreover take, in the framework of the action programmes, such additional measures or reinforced actions as they consider necessary if, at the outset or in the light of experience gained in implementing the action programmes, it becomes apparent that the measures referred to in paragraph 4 will not be sufficient for achieving the objectives specified in Article 1. In selecting these measures or actions, Member States shall take into account their effectiveness and their cost relative to other possible preventive measures.

6 Member States shall draw up and implement suitable monitoring programmes to assess the effectiveness of action programmes established pursuant to this Article.

Member States which apply Article 5 throughout their national territory shall monitor the nitrate content of waters (surface waters and groundwater) at selected measuring points which make it possible to establish the extent of nitrate pollution in the waters from agricultural sources.

7 Member States shall review and if necessary revise their action programmes, including any additional measures taken pursuant to paragraph 5, at least every four years. They shall inform the Commission of any changes to the action programmes.

Article 6

1 For the purpose of designating and revising the designation of vulnerable zones, Member States shall:

- a within two years of notification of the Directive, monitor the nitrate concentration in freshwaters over a period of one year:
 - (i) at surface water sampling stations, laid down in Article 5 (4) of Directive 75/440/EEC and/or at other sampling stations which are representative of surface waters of Member States, at least monthly and more frequently during flood periods;
 - (ii) at sampling stations which are representative of the groundwater aquifers of Member States, at regular intervals and taking into account the provisions of Directive 80/778/EEC;
- b repeat the monitoring programme outlined in (a) at least every four years, except for those sampling stations where the nitrate concentration in all previous samples has been below 25 mg/l and no new factor likely to increase the nitrate content has appeared, in which case the monitoring programme need be repeated only every eight years;
- c review the eutrophic state of their fresh surface waters, estuarial and coastal waters every four years.

2 The reference methods of measurement set out in Annex IV shall be used.

Article 7

The Commission may draw up guidelines for the monitoring referred to in Articles 5 and 6 in accordance with the regulatory procedure referred to in Article 9(2).

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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.

Article 8

The Commission may adapt the Annexes to this Directive to scientific and technical progress.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(3).]

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^{F2}Article 9

1 The Commission shall be assisted by a committee.

2 Where reference is made to this Article, Articles 5 and 7 of Decision 1999/468/EC⁽¹⁾ shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

[^{F13} Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]]

Textual Amendments

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- F2** Substituted by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 adapting to Council Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty.

Article 10

1 Member States shall, in respect of the four-year period following the notification of this Directive and in respect of each subsequent four-year period, submit a report to the Commission containing the information outlined in Annex V.

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2 A report pursuant to this Article shall be submitted to the Commission within six months of the end of the period to which it relates.

Article 11

On the basis of the information received pursuant to Article 10, the Commission shall publish summary reports within six months of receiving the reports from Member States and shall communicate them to the European Parliament and to the Council. In the light of the implementation of the Directive, and in particular the provisions of Annex III, the Commission shall submit to the Council by 1 January 1998 a report accompanied where appropriate by proposals for revision of this Directive.

Article 12

1 The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years of its notification⁽²⁾. They shall forthwith inform the Commission thereof.

2 When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3 Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 13

This Directive is addressed to the Member States.

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- (1) [^{F2}Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).]
- (2) This Directive was notified to the Member States on 19 December 1991.

Textual Amendments

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