

Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council

*Article 1*

**Subject matter**

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, with the aim of achieving good surface water chemical status and in accordance with the provisions and objectives of Article 4 of that Directive.

*Article 2*

**Definitions**

For the purposes of this Directive, the definitions laid down in Article 2 of Directive 2000/60/EC shall apply.

*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 Part A of Annex I to this Directive for bodies of surface water.

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

2 Member States may opt to apply EQS for sediment and/or biota instead of those laid down in Part A of Annex I 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 Part A of Annex I;
- 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 alternative EQS 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 9 to Part A of Annex I 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 Part A of Annex I 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 referred to in Article 9(3) of this Directive.

#### *Article 4*

#### **Mixing zones**

1 Member States may designate mixing zones adjacent to points of discharge. Concentrations of one or more substances listed in Part A of Annex I may exceed the relevant EQS within such mixing zones 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 in river basin management plans produced in accordance with Article 13 of Directive 2000/60/EC a description of:

- a the approaches and methodologies applied to define such zones; and
- b measures taken with a view to reducing the extent of the mixing zones in the future, such as those pursuant to Article 11(3)(k) of Directive 2000/60/EC or by reviewing permits referred to in Directive 2008/1/EC or prior regulations referred to in Article 11(3)(g) 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.

4 Technical guidelines for the identification of mixing zones shall be adopted in accordance with the regulatory procedure referred to in Article 9(2) of this Directive.

#### *Article 5*

### **Inventory of emissions, discharges and losses**

1 On the basis of the information collected in accordance with Articles 5 and 8 of Directive 2000/60/EC, under Regulation (EC) No 166/2006 and other available data, Member States shall establish an inventory, including maps, if available, 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 including their concentrations in sediment and biota, as appropriate.

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 2018, 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.

6 Technical guidelines for the establishment of inventories shall be adopted in accordance with the regulatory procedure referred to in Article 9(2) of this 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

### Reporting and review

1 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 to amend existing acts and the need for additional specific Community-wide measures, such as emission controls.

2 The Commission shall report 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, on:

- a the conclusions of the review referred to in paragraph 1 of this Article;
- b measures taken to reduce the extent of mixing zones designated in accordance with Article 4(1) of this Directive;
- c the outcome of the verification referred to in Article 5(5) of this Directive;
- d the situation regarding pollution originating outside the territory of the Community.

The Commission shall, if appropriate, accompany the report with relevant proposals.

## Article 8

### Review of Annex X to Directive 2000/60/EC

Within the framework of the review of Annex X to Directive 2000/60/EC, as provided for in Article 16(4) of that Directive, the Commission shall consider *inter alia* the substances set out in Annex III to this Directive for possible identification as priority substances or priority hazardous substances. The Commission shall report the outcome of its review to the European Parliament and to the Council by 13 January 2011. It shall accompany the report, if appropriate, with relevant proposals, in particular proposals to identify new priority substances or priority hazardous substances or to identify certain

priority substances as priority hazardous substances and to set corresponding EQS for surface water, sediment or biota, as appropriate.

#### *Article 9*

##### **Committee procedure**

1 The Commission shall be assisted by the Committee referred to in Article 21(1) of Directive 2000/60/EC.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC 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.

3 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.

#### *Article 10*

##### **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 11*

##### **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 12*

##### **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 13***Transposition**

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 13 July 2010.

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 14***Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 15***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 16 December 2008.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

B. LE MAIRE