

1989 No. 2286

WATER, ENGLAND AND WALES

**The Surface Waters (Dangerous Substances)
(Classification) Regulations 1989**

<i>Made</i> - - - -	<i>4th December 1989</i>
<i>Laid before Parliament</i>	<i>11th December 1989</i>
<i>Coming into force</i>	<i>1st January 1990</i>

The Secretary of State for the Environment and the Secretary of State for Wales, acting jointly in exercise of the powers conferred on them by sections 104 and 171 of the Water Act 1989(a) hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Surface Waters (Dangerous Substances) (Classification) Regulations 1989 and shall come into force on 1st January 1990.

(2) In these Regulations “the Act” means the Water Act 1989, and references to inland waters and relevant territorial waters include, respectively, references to waters which are, by virtue of an order under section 103(5) of the Act, to be treated as a relevant lake or pond and to waters which are, by virtue of such an order, to be treated as relevant territorial waters.

Classification of waters

2.—(1) A system employing the classification DS1 is prescribed as a system of classification applying to inland waters additional to the system prescribed by the Surface Waters (Classification) Regulations 1989(b).

(2) A system employing the classification DS2 is prescribed as a system of classification applying to coastal waters and relevant territorial waters.

3.—(1) The criterion for classification DS1 is that the annual mean concentrations of the substances listed in column (1) of Schedule 1 hereto do not exceed the concentrations specified in column (2) of that Schedule.

(2) The criterion for classification DS2 is that the annual mean concentrations of the substances listed in column (1) of Schedule 2 hereto do not exceed the concentrations specified in column (2) of that Schedule.

Modification of section 105 of the Water Act 1989

4. For the purpose of complying with Community obligations, section 105(4) and (5) of the Act shall not apply to the initial establishment of water quality objectives so far as they involve the specification of a classification prescribed by these Regulations.

4th December 1989

Chris Patten
Secretary of State for the Environment

4th December 1989

Peter Walker
Secretary of State for Wales

(a) 1989 c.15; see section 189(9) as to the joint exercise of functions exercisable concurrently. See also the definition of “the appropriate Minister” in section 171(3). (b) S.I. 1989/1148

SCHEDULE 1

Regulation 3(1)

CLASSIFICATION OF INLAND WATERS (DS1)

(1) <i>Substance</i>	(2) <i>Concentration in microgrammes per litre (annual mean)</i>
Aldrin, Dieldrin, Endrin and Isodrin	(i) 0.03 for the four substances in total; (ii) 0.005 for endrin
Cadmium and its compounds	5 (total cadmium: both soluble and insoluble forms)
Carbon tetrachloride	12
Chloroform	12
DDT (all isomers)	0.025
para-para-DDT	0.01
Hexachlorobenzene	0.03
Hexachlorobutadiene	0.1
Hexachlorocyclohexane (all isomers)	0.1
Mercury and its compounds	1 (total mercury: both soluble and insoluble forms)
Pentachlorophenol and its compounds	2

SCHEDULE 2

Regulation 3(2)

**CLASSIFICATION OF COASTAL WATERS
AND RELEVANT TERRITORIAL WATERS (DS2)**

(1) <i>Substance</i>	(2) <i>Concentration in microgrammes per litre (annual mean)</i>
Aldrin, Dieldrin, Endrin and Isodrin	(i) 0.03 for the four substances in total; (ii) 0.005 for endrin
Cadmium and its compounds	2.5 (dissolved cadmium)
Carbon tetrachloride	12
Chloroform	12
DDT (all isomers)	0.025
para-para-DDT	0.01
Hexachlorobenzene	0.03
Hexachlorobutadiene	0.1
Hexachlorocyclohexane (all isomers)	0.02
Mercury and its compounds	0.3 (dissolved mercury)
Pentachlorophenol and its compounds	2

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the system of classifying the quality of inland waters, coastal waters and relevant territorial waters (as defined in section 103(1)(c) of the Water Act 1989) according to the presence in them of concentrations of the dangerous substances listed in the Schedules to the Regulations.

With two exceptions, the classifications DS1 (in relation to inland waters) and DS2 (in relation to coastal waters and relevant territorial waters) reflect the quality objectives specified in Annex II to Council Directive 82/176/EEC (OJ No. L81, 27.3.82, p.29) (mercury and its compounds), Annex II to Council Directive 83/513/EEC (OJ No. L291, 24.10.83, p.1) (cadmium and its compounds), Annex II to Council Directive 84/156/EEC (OJ No. L74, 17.3.84, p.49) (mercury and its compounds), Annex II to Council Directive 84/491/EEC (OJ No. L274, 17.10.84, p.11) (hexachlorocyclohexane), Annex II to Council Directive 86/280/EEC (OJ No. L181, 4.7.86, p.16) (carbon tetrachloride, DDT and pentachlorophenol) and Council Directive 88/347/EEC (OJ No. L158, 25.6.88, p.35) which amends the 1986 Directive by adding quality objectives for aldrin, dieldrin, endrin and isodrin, hexachlorobenzene, hexachlorobutadiene and chloroform. The exceptions relate to the quality objectives for concentrations of cadmium and mercury in classification DS2. The Directive specifies an annual mean of not more than 5 and 0.5 microgrammes per litre for cadmium and mercury respectively in estuarial waters but the classification DS2 (which applies to estuarial waters) specifies a more stringent annual mean of not more than 2.5 and 0.3 microgrammes per litre.

The classifications are relevant for the purposes of setting water quality objectives for inland waters, coastal waters and relevant territorial waters under section 105 of the Water Act 1989. Regulation 4 modifies that section for the purpose of complying with Community obligations arising by virtue of Council Directive 76/464/EEC by relieving the Secretary of State of the requirements to give at least three months' notice before establishing initial water quality objectives giving effect to that and other Directives relating to discharges of dangerous substances, and to consider representations or objections to his proposals to establish those objectives.