

Water policy: priority substances

2011/0429(COD) - 31/01/2012 - Legislative proposal

PURPOSE: to amend Directives 2000/60/EC and 2008/105/EC to add 15 chemicals to the current list of 33 priority substances.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: this Commission proposal concerns the review of the list of priority substances (PS) in the field of water policy, i.e. the chemicals identified among those presenting a significant risk to or via the aquatic environment at EU level which are listed in Annex X to the Water Framework Directive (WFD) 2000/60/EC. The revision takes place following the review of priority substances required by both the WFD and the Environmental Quality Standards Directive (EQSD) 2008/105/EC. In the course of reviewing the priority substances list, improvements in the functioning of the EQSD were identified, as well as a mechanism for improving the identification of additional priority substances in future reviews.

IMPACT ASSESSMENT: technical work on the review of the PS list began in 2007 and was supported by an extensive consultation with experts from the Commission services, Member States, stakeholders and the Scientific Committee on Health and Environmental Risks (SCHER). As the technical work was in its final stages in 2010, work on the impact assessment began with the commencement of a study by the consultancy Entec.

The Impact Assessment Board discussed the Impact Assessment report at its meeting on 22 June 2011. The comments made were addressed in the accompanying Impact Assessment report.

LEGAL BASIS: Article 192(1) of the Treaty on the Functioning of the EU.

CONTENT: the proposal is limited to the identification of priority substances and to establishing EQS at EU level. The main amendments are as follows:

Amendments to Annex X of the WFD: the updated Annex X includes the newly proposed priority substances and identifies two existing priority substances as priority hazardous substances.

The new list is comprised of the following:

- Plant protection product substances: Aclonifen, Bifenox, Cypermethrin, Dicofol, Heptachlor, Quinoxifen
- Substances used in biocidal products: Cybutryne, Dichlorvos, Terbutryn
- Industrial chemicals: Perfluorooctane sulfonic acid (PFOS), Hexabromocyclododecane (HBCDD)
- Combustion by-products: Dioxin and Dioxin-Like PCBs
- Pharmaceutical substances: 17 alpha-ethinylestradiol (EE2), 17 beta-estradiol (E2), Diclofenac.

Amendments to EQSD: the main amendments are as follows:

New Annex for priority substances and biota: Part A of Annex I is replaced by Annex II to this Directive. The latter introduces the newly proposed priority substances, amends the EQS for some of the existing priority substances and introduces a column for biota standards. This latter column includes the three biota standards that were already established by EQSD as well as biota standards for some other existing priority substances and some new priority substances. Listing the biota standards in Annex I of the EQSD simplifies presentation and improves clarity.

Matrix: a definition of “matrix” is introduced i.e. the environmental compartment to which the EQS apply and in which the concentrations of priority substances and priority hazard substances are therefore to be monitored: usually water, sediment or biota (fish unless otherwise stated).

The text is amended to make it coherent with the new structure of Part A of Annex I (in particular with the inclusion of biota standards in the Annex), and to amend the obligations of Member States as regards the selection of the matrix for monitoring. A default monitoring matrix is specified for each substance, on the basis of its intrinsic properties. The existing flexibility for Member States to choose an alternative matrix is retained, but it is now conditional on the fulfilment of the minimum analytical performance criteria in Article 4 of Commission Directive 2009/90/EC¹¹.

Notification: the notification obligations set out in the EQSD are integrated into the reporting of the river basin management plans under the WFD.

Comitology: the comitology mandate to amend paragraph 3 of Part B of Annex I is aligned to the new delegated powers under Article 290 of the Treaty.

Furthermore, changes are made to the text to align it with Regulation (EU) No 182/2011 on Commission implementing powers.

PBT substances: persistent, bioaccumulative and toxic substances (PBTs) and other substances that behave like PBTs may be found for decades in the aquatic environment at levels posing a significant risk, even if extensive measures to reduce or eliminate emissions have already been taken. A new provision is inserted that makes specific provision for substances behaving as ubiquitous persistent, bioaccumulative and toxic substances.

Watch list: a new provision is inserted to establish a watch list for the targeted collection of monitoring data to support future reviews of the priority substances list.

BUDGETARY IMPLICATIONS: the proposal contains no budgetary implications.