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

COUNCIL DIRECTIVE

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concerning the protection of waters against pollution caused by nitrates from agricultural sources

(91/676/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the European Parliament[(2)],

Having regard to the opinion of the Economic and Social Committee[(3)],

Whereas the nitrate content of water in some areas of Member States is increasing and is already high as compared with standards laid down in Council Directive 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States[(4)], as amended by Directive 79/869/EEC[(5)], and Council Directive 80/778/EEC of 15 July 1980 relating to the quality of water intended for human consumption[(6)], as amended by the 1985 Act of Accession;

Whereas the fourth programme of action of the European Economic Communities on the environment[(7)] indicated that the Commission intended to make a proposal for a Directive on the control and reduction of water pollution resulting from the spreading or discharge of livestock effluents and the excessive use of fertilizers;

Whereas the reform of the common agricultural policy set out in the Commission's green paper ‘Perspectives for the common agricultural policy’ indicated that, while the use of nitrogen-containing fertilizers and manures is necessary for Community agriculture, excessive use of fertilizers constitutes an environmental risk, that common action is needed to control the problem arising from intensive livestock production and that agricultural policy must take greater account of environmental policy;

Whereas the Council resolution of 28 June 1988 of the protection of the North Sea and of other waters in the Community[(8)] invites the Commission to submit proposals for measures at Community level;

Whereas the main cause of pollution from diffuse sources affecting the Community's waters in nitrates from agricultural sources;

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Whereas it is therefore necessary, in order to protect human health and living resources and aquatic ecosystems and to safeguard other legitimate uses of water, to reduce water pollution caused or induced by nitrates from agricultural sources and to prevent further such pollution; whereas for this purpose it is important to take measures concerning the storage and the application on land of all nitrogen compounds and concerning certain land management practices;

Whereas since pollution of water due to nitrates on one Member State can influence waters in other Member States, action at Community level in accordance with Article 130r is therefore necessary;

Whereas, by encouraging good agricultural practices, Member States can provide all waters with a general level of protection against pollution in the future;

Whereas certain zones, draining into waters vulnerable to pollution from nitrogen compounds, require special protection;

Whereas it is necessary for Member States to identify vulnerable zones and to establish and implement action programmes in order to reduce water pollution from nitrogen compounds in vulnerable zones;

Whereas such action programmes should include measures to limit the land-application of all nitrogen-containing fertilizers and in particular to set specific limits for the application of livestock manure;

Whereas it is necessary to monitor waters and to apply reference methods of measurement for nitrogen compounds to ensure that measures are effective;

Whereas it is recognized that the hydrogeology in certain Member States is such that it may be many years before protection measures lead to improvements in water quality;

Whereas a Committee should be established to assist the Commission on matters relating to the implementation of this Directive and to its adaptation to scientific and technical progress;

Whereas Member States should establish and present to the Commission reports on the implementation of this Directive;

Whereas the Commission should report regularly on the implementation of this Directive by the Member States,

HAS ADOPTED THIS DIRECTIVE:

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.

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.

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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.

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 nitrage 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.

[F1 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).

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.