

STATUTORY INSTRUMENTS

1997 No. 1332

WATER RESOURCES, ENGLAND AND WALES

The Surface Waters (Shellfish) (Classification) Regulations 1997

Made - 19th May 1997

Laid before Parliament - 22nd May 1997

Coming into force - 12th June 1997

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 82, 102 and 219(2) of the Water Resources Act 1991[1] and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1. - (1) These Regulations may be cited as the Surface Waters (Shellfish) (Classification) Regulations 1997 and shall come into force on 12th June 1997.

(2) Expressions used in these Regulations which are also used in Directive 79/923/EEC[2] (the quality required of shellfish waters) shall have the same meaning as in that Directive.

Classification of waters

2. The classification SFW and the criteria for that classification set out in the Schedule to these Regulations shall apply for classifying controlled waters which are coastal or brackish waters for the purposes of Directive 79/923/EEC and which need protection or improvement in order to support shellfish (bivalve and gasteropod molluscs) life and growth and thus to contribute to the high quality of shellfish products directly edible by man.

Compliance with relevant requirements

3. - (1) Subject to paragraphs (2) and (3) below, any waters classified under these Regulations shall be treated in relation to any period of twelve months as complying with the requirements specified in the Schedule to these Regulations for any parameter if in that period in relation to those waters -

(a) in the case of the parameter for organohalogenated substances or metals, 100 per cent of the samples taken for that parameter in accordance with regulation 4 below comply with the requirements;

(b) in the case of the parameter for salinity or dissolved oxygen, 95 per cent of the samples taken for that parameter in accordance with regulation 4 below comply with the requirements;

(c) in the case of any other parameter, 75 per cent of the samples taken for that parameter in accordance with regulation 4 below comply with the requirements.

(2) Where in accordance with regulation 4(5) below the frequency of sampling is reduced for any parameter in relation to any waters classified under these Regulations, 100 per cent of samples taken

for that parameter in accordance with regulation 4 below in relation to those waters must comply with the requirements for that parameter specified in the Schedule to these Regulations.

(3) Non-compliant samples shall be ignored for the purposes of paragraphs (1) and (2) above if they are the result of a disaster.

Sampling and analysis

4. - (1) The Environment Agency shall ensure that waters classified under these Regulations are sampled and samples are analysed in accordance with the following provisions of this Regulation.

(2) Samples in relation to any waters classified under these Regulations shall always be taken at the same sampling point.

(3) The Environment Agency shall fix the exact position of the sampling point, and the depth at which samples are to be taken, having regard in particular to -

- (a) the distance of the sampling point to the nearest point where pollutants are discharged; and
- (b) local environmental conditions.

(4) Subject to paragraphs (5) and (6) below, sampling for any parameter shall be carried out at least at the minimum frequency specified in the Schedule to these Regulations in relation to that parameter.

(5) Where the Environment Agency's records show that the quality of any waters classified under these Regulations is appreciably higher for any parameter than the minimum required by these Regulations, the Agency may reduce the sampling frequency for that parameter or, if there is no pollution and no risk of deterioration of its quality, it may dispense with sampling for that parameter altogether.

(6) Where sampling shows that the requirements of regulation 3 above are not being met, the Environment Agency shall establish whether this is the result of chance, a natural phenomenon or pollution and shall adopt appropriate measures.

(7) Samples for any parameter shall be analysed using the reference methods of analysis specified in the Schedule to these Regulations in relation to that parameter or methods which are at least as reliable as the reference methods.

Derogations

5. The Agency may derogate from the requirements of these Regulations in the event of exceptional weather or geographical conditions.

Modifications of the Water Resources Act 1991

6. - (1) Section 83 of the Water Resources Act 1991 (water quality objectives) shall have effect -

(a) as if it imposed a duty on the Secretary of State to exercise the powers conferred on him under that section to classify under these Regulations such waters as are appropriate for the purpose of giving effect to Directive 79/923/EEC in relation to waters in or adjacent to England and Wales; and

(b) in relation to the performance of that duty, as if subsections (4) and (5) of that section were omitted.

(2) Section 104(1) of the Water Resources Act 1991 (meaning of "controlled waters") shall have effect for the purpose of giving effect to Directive 79/923/EEC as if "controlled waters" included all waters which are coastal or brackish waters for the purposes of that Directive.

(3) Section 202(2) of the Water Resources Act 1991 (information in connection with the control of pollution) shall have effect as if it conferred power on the Secretary of State and the Environment Agency to require the furnishing of information reasonably required for the purposes of giving effect to Directive 79/923/EEC.

John Prescott
Secretary of State, Department of Environment
19th May 1997

Signed by authority of the Secretary of State for Wales

Win Griffiths
Parliamentary Under Secretary of State, Welsh Office
19th May 1997

SCHEDULE
Regulations 2, 3 and 4

CRITERIA FOR CLASSIFICATION OF WATERS AS SHELLFISH WATERS

No. In Annex I to 79/923 /EEC	Parameter Minimum	Units	Requirements to be satisfied	Reference methods of analysis	Reference sampling and measuring frequency
1	pH	pH unit	≥7 and ≤9	Electrometry Measured in situ at the time of sampling	Quarterly
3	Coloration (after filtration)	mg Pt/l	A discharge affecting shellfish waters must not cause the colour of the waters after filtration to deviate by more than 10 mg Pt/l from the colour of waters not so affected Filter through a 0.45 µm membrane	Photometric the platinum/cobalt scale	Quarterly method, using
4	Suspended solids	mg/l	A discharge affecting shellfish waters must not cause the suspended solid content of the waters to exceed by more than 30% the content of waters not so affected	Filtration through a 0.45 µm membrane, drying at 105°C and weighing Centrifuging (for at least five minutes, with mean acceleration 2,800 to 3,200g), drying at 105°C and weighing	Quarterly
5	Salinity Monthly	per thousand	≤40 per thousand	A discharge affecting	Conductimetry

shellfish waters must not cause their salinity to exceed by more than 10% the salinity of waters not so affected

6	Dissolved oxygen Electrochemical %	Saturation Monthly, with (average value) If an individual measurement indicates a value lower than 70%, measurements shall be repeated	>=70%	Winkler's method	method	a
minimum of	representative	conditions on	sampling.	daily variations	suspected	of
in	shall	taken.	value lower than 60% unless there are no harmful consequences for the development of shellfish colonies	may not indicate a	one sample of low the day of However, where major are a minimum two samples one day be	be

7	Petroleum Quarterly hydrocarbons	Hydrocarbons	Visual
must not be present in the shellfish waters in such quantities as	examination		

to:

- produce a visible film on the surface of the waters and/or a deposit on the shellfish,

- have harmful effects on the shellfish

8	Organo-halogenated Half-yearly substances		<p>The concentration of each substance in the shellfish waters or in shellfish flesh must not reach or exceed a level which has harmful effects on the shellfish and their larvae</p>	<p>Gas chromatography after extraction with suitable solvents and purification</p>
9	Metals	mg/l	<p>The concentration of each substance in the shellfish waters or in the shellfish flesh must not reach or exceed a level which has harmful effects on the shellfish and their larvae</p>	<p>Spectrometry of Half-yearly atomic absorption preceded, where appropriate, by concentration and/or extraction</p>
	Silver	Ag		
	Arsenic	As		
	Cadmium	Cd		
	Chromium	Cr		
	Copper	Cu		
	Mercury	Hg		
	Nickel	Ni		
	Lead	Pb		
	Zinc	Zn	<p>The synergic effects of these metals must be taken into consideration</p>	
11	Substances affecting the taste of the shellfish		<p>Concentration should be lower than that</p>	<p>Examination of the shellfish by tasting where the</p>

which is liable to impair the taste of the shellfish

presence of one of these

substances is presumed

EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations prescribe a system for classifying the quality of controlled waters which are coastal or brackish waters and which need protection or improvement in order to support shellfish life and growth.

The classification SFW reflects the mandatory values assigned by Directive 79/923/EEC (the quality required of shellfish waters) to the parameters listed in the Schedule to these Regulations.

The Regulations also incorporate the reference methods of measurement, and the minimum frequency required for sampling and analysis, laid down in that Directive for those parameters.

The Regulations, together with the Surface Waters (Shellfish) Directions 1997, transpose Directive 79/923/EEC in relation to England and Wales. Copies of the Surface Waters (Shellfish) Directions 1997 may be obtained from:

Water Quality Division,
Department of the Environment,
Romney House,
43 Marsham Street,
London SW1P 3PY.

Environment Division,
Welsh Office,
Cathays Park,
Cardiff CF1 3NQ.

Notes:

[1] 1991 c.57; see section 221(7) as to the joint exercise of functions exercisable concurrently.

[2] O.J. No. L 281, 10.11.1979, p.47.