

Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community(1), and in particular Article 6 thereof,

Having regard to the proposal from the Commission(2),

Having regard to the opinion of the European Parliament(3),

Having regard to the opinion of the Economic and Social Committee(4),

Whereas, in order to protect the aquatic environment of the Community against pollution by certain dangerous substances, Article 3 of Directive 76/464/EEC introduces a system of prior authorization laying down emission standards for discharges of the substances in List I in the Annex thereto; whereas Article 6 of the said Directive provides that limit values shall be laid down for such emission standards and also quality objectives for the aquatic environment affected by discharges of these substances;

Whereas Member States are required to apply the limit values except in cases where they may employ quality objectives;

Whereas the dangerous substances covered by this Directive have been chosen mainly on the basis of the criteria adopted in Directive 76/464/EEC;

Whereas, since pollution due to the discharge of these substances into the aquatic environment is caused by a large number of industries, it is necessary to lay down specific limit values for discharges according to the type of industry concerned and to lay down quality objectives for the aquatic environment into which these substances are discharged;

Whereas the purpose of the limit values and quality objectives is to eliminate pollution of the various parts of the aquatic environment which might be affected by discharges of these substances;

Whereas such limit values and quality objectives must be laid down for this purpose and not with the intention of establishing rules pertaining to consumer protection or to the marketing of products from the aquatic environment;

Whereas, to enable Member States to demonstrate that the quality objectives are being met, provision should be made for reports to the Commission for each quality objective chosen and applied;

Whereas Member States should seek to ensure that the measures taken pursuant to this Directive do not have the effect of increasing soil or air pollution;

Whereas, moreover, for the purposes of effective implementation of this Directive, provision should be made for the monitoring by the Member States of the aquatic environment affected by discharges of the substances in question; whereas the powers to introduce such monitoring are not provided by Directive 76/464/EEC; whereas, since the specific powers have not been provided for in the Treaty, recourse should be had to Article 235 thereof;

Whereas, in the case of certain significant sources of pollution by these substances other than sources subject to Community limit values or national emission standards, specific programmes should be devised to eliminate the pollution; whereas the necessary powers to that effect have not been provided by Directive 76/464/EEC; whereas, since the specific powers have not been provided for in the EEC Treaty, recourse should be had to Article 235 thereof;

Whereas ground water can be excluded from the scope of this Directive since it is the subject of Directive 80/68/EEC(5);

Whereas, for the purposes of effective implementation of this Directive, it is important that the Commission should forward to the Council, every five years, a comparative assessment of its implementation by the Member States;

Whereas this Directive will have to be amended and supplemented, on proposals from the Commission, in line with developments in scientific knowledge relating principally to the toxicity, persistence and accumulation of the substances referred to in living organisms and sediments, or in the event of an improvement in the best technical means available; whereas it is necessary, for that purpose, to provide for additions to this Directive, relating to measures in respect of other dangerous substances, and for amendments to the content of the Annexes,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive:

- lays down, pursuant to Article 6 (1) of Directive 76/464/EEC, limit values for emission standards for the substances referred to in Article 2 (a) in discharges from industrial plants as defined in Article 2 (e) of this Directive,
 - lays down, pursuant to Article 6 (2) of Directive 76/464/EEC, quality objectives for the substances referred to in Article 2 (a) of this Directive in the aquatic environment,
 - lays down, pursuant to Article 6 (4) of Directive 76/464/EEC, the time limits for compliance with the conditions specified in the authorizations granted by the competent authorities of Member States in respect of existing discharges,
 - lays down, pursuant to Article 12 (1) of Directive 76/464/EEC, the reference methods of measurement enabling the content of the substances referred to in Article 2 (a) of this Directive in discharges and in the aquatic environment to be determined,
 - establishes, pursuant to Article 6 (3) of Directive 76/464/EEC, a monitoring procedure,
 - requires Member States to cooperate with one another in the case of discharges affecting the waters of more than one Member State,
 - requires Member States to draw up programmes to avoid or eliminate pollution arising from the sources referred to in Article 5,
 - lays down in Annex I a set of general provisions applicable to all the substances referred to in Article 2 (a) and relating, in particular, to limit values for emission standards (heading A), quality objectives (heading B) and reference methods of measurement (heading C),
 - lays down in Annex II a set of specific provisions which amplify and supplement those headings in respect of individual substances.
2. This Directive applies to the waters referred to in Article 1 of Directive 76/464/EEC, with the exception of ground water.

Article 2

For the purposes of this Directive:

(a)'substances' means:

those dangerous substances, belonging to the families and groups of substances appearing in List I in the Annex to Directive 76/464/EEC, which are specified in Annex II to this Directive;

(b)'limit values' means:

the values specified in Annex II, under heading A, in respect of the substances referred to in (a);

(c)'quality objectives' means:

the requirements specified in Annex II, under heading B, in respect of the substances referred to in (a);

(d)'handling of substances' means:

any industrial process involving the production, the processing or use of the substances referred to in (a), or any other industrial process in which the presence of such substances is inherent;

(e)'industrial plant' means:

a plant at which the substances referred to in (a), or any other substances containing them, are handled;

(f)'existing plant' means:

an industrial plant which is operational at a date 12 months after the date of notification of this Directive or, where applicable, at a date 12 months after the date of notification of any Directive amending it that relates to such plant;

(g)'new plant' means:

-an industrial plant which becomes operational later than 12 months after the date of notification of this Directive or, where applicable, later than 12 months after the date of notification of any Directive amending it that relates to such plant,

-an existing industrial plant whose capacity for handling the substances is substantially increased later than 12 months after the date of notification of this Directive or, where applicable, later than 12 months after the date of notification of any Directive amending it that relates to such plant.

Article 3

1. The limit values, the time limits for compliance therewith and the procedures for monitoring discharges

are laid down in the Annexes, under heading A.

2. The limit values shall normally apply at the point where waste waters containing the substances referred to in Article 2 (a) leave the industrial plant.

Should it be considered necessary in the case of certain substances to lay down other points where the limit values shall apply, these points shall be listed in Annex II.

When waste waters containing these substances are treated outside the industrial plant at a treatment plant intended for their removal, the Member State may permit the limit values to be applied at the point where the waste waters leave the treatment plant.

3. The authorizations referred to in Article 3 of Directive 76/464/EEC must contain provisions as stringent as those set out under heading A in the Annexes to this Directive, except where a Member State is complying with Article 6 (3) of Directive 76/464/EEC on the basis of heading B in the Annexes to this Directive.

Authorizations shall be reviewed at least every four years.

4. Without prejudice to their obligations arising from paragraphs 1, 2 and 3 and to Directive 76/464/EEC, Member States may grant authorizations for new plants only if those plants apply the standards corresponding to the best technical means available when that is necessary for the elimination of pollution in accordance with Article 2 of the said Directive or for the prevention of distortions of competition.

Whatever method it adopts, the Member State concerned shall, where for technical reasons the measures envisaged do not correspond to the best technical means available, provide the Commission, before any authorization, with evidence in support of those reasons.

The Commission shall immediately forward such evidence to the other Member States and shall send all Member States a report, at the earliest opportunity, giving its opinion on the derogation referred to in the second subparagraph. If necessary, it shall at the same time submit appropriate proposals to the Council.

5. The reference method of analysis to be used in determining the presence of the substances referred to in Article 2 (a) is given under heading C in Annex II. Other methods may be used provided that the limits of detection, precision and accuracy of such methods are at least as good as those laid down under heading C in Annex II.

6. Member States shall seek to ensure that the measures taken pursuant to this Directive do not result in an increase in the pollution of other media, notably soil and air, by these substances.

Article 4

The Member States concerned shall be responsible for monitoring the aquatic environment affected by discharges from industrial establishments and by other sources of significant discharges.

In the case of discharges affecting the waters of more than one Member State, the Member States concerned shall cooperate with a view to harmonizing monitoring procedures.

Article 5

1. As regards substances to which specific reference is made in Annex II, the Member States shall draw up specific programmes to avoid or eliminate pollution from significant sources of these substances (including multiple and diffuse sources) other than sources of discharges subject to Community limit value rules or national emission standards.

2. The programmes shall include the most appropriate measures and techniques for the replacement, retention and/or recycling of the substances referred to in paragraph 1.

3. The specific programmes must be implemented not later than five years after the date of notification of the Directive which relates specifically to the substance concerned.

Article 6

1. The Commission shall make a comparative assessment of the implementation of this Directive by Member States on the basis of information supplied to it by them pursuant to Article 13 of Directive 76/464/EEC at its request, which it must submit case by case. The information concerned shall, in particular, comprise:

- details of authorizations laying down emission standards for discharges of the substances,
- the inventory of the substances discharged into the waters referred to in Article 1 (2),
- compliance with either the limit values or the quality objectives set out under headings A and B of Annex II,
- the results of the monitoring referred to in Article 4 of the area of the aquatic environment which is

affected by discharges,

-the specific elimination programmes referred to in Article 5.

2. The Commission shall forward the comparative assessment referred to in paragraph 1 to the Council every five years, and for the first time four years after notification of this Directive.

3. Should there be a change in scientific knowledge relating principally to the toxicity, persistence and accumulation of the substances referred to in Article 2 (a) in living organisms and sediments, or in the event of an improvement in the best technical means available, the Commission shall submit appropriate proposals to the Council with the aim of making the limit values and the quality objectives more stringent, if appropriate, or of establishing new limit values and additional quality objectives.

Article 7

1. Member States shall bring into force the measures necessary to comply with this Directive by 1 January 1988. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission, immediately after adoption, the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 8

This Directive is addressed to the Member States.

Done at Luxembourg, 12 June 1986.

For the Council The President P. WINSEMIUS

ANNEX I

GENERAL PROVISIONS This Annex is divided into three headings which set out the general provisions applicable to all the substances concerned:

-A: limit values for emission standards,

-B: quality objectives,

-C: reference methods of measurement.

The general provisions are amplified and supplemented in Annex II by a series of specific provisions applicable to individual substances.

HEADING A Limit values, dates set for compliance therewith and procedures for monitoring discharges

1. The limit values and the dates set for compliance therewith are set out in Annex II, under heading A, in respect of the different types of industrial plant concerned.

2. The quantities of substances discharged are expressed in terms of the quantity of substances produced, processed or used by the industrial plant during the same period or, in accordance with Article 6 (1) of Directive 76/464/EEC, of another parameter characteristic of that activity.

3. Limit values for industrial plants which discharge substances referred to in Article 2 (a) and which are not mentioned under heading A in Annex II will, where necessary, be determined by the Council at a later stage. Meanwhile, the Member States will independently set, in accordance with Directive 76/464/EEC, emission standards for discharges of such substances. Such standards must take into account the best technical means available and must not be less stringent than the most nearly comparable limit value set out under heading A in Annex II.

This paragraph will also apply where an industrial plant has activities other than those for which limit values have been set under heading A in Annex II and which are likely to be a source of discharges of the substances referred to in Article 2 (a).

4. Limit values expressed as concentrations which, in principle, must not be exceeded are given in Annex II under heading A, in respect of the industrial plants concerned. In no instance may limit values expressed as maximum concentrations, when they are not the only values applicable, be greater than limit values expressed by weight divided by water requirements per element characteristic of the polluting activity. However, because the concentration of these substances in effluents depends on the volume of water involved, which varies for different processes and plants, the limit values expressed in terms of the weight of the substances discharged in relation to the parameters characteristic of the activity given under heading A in Annex II, must be complied with in all cases.

5. A monitoring procedure must be instituted to check whether the discharges of the substances referred to in Article 2 (a) comply with the emission standards.

This procedure must provide for the taking and analysis of samples and for measurement of the flow of

the discharge and the quantity of substances handled or, where appropriate, measurement of the parameters characteristic of the activity causing pollution as listed in Annex II, heading A. In particular, should the quantity of substances handled be impossible to determine, the monitoring procedure may be based on the quantity of substances that may be used as a function of the production capacity on which the authorization was based.

6. A sample representative of the discharge over a period of 24 hours must be taken. The quantity of substances discharged over one month must be calculated on the basis of the daily quantities of substances discharged.

Annex II may, however, lay down for discharges of certain substances quantitative thresholds below which the Member States may apply a simplified monitoring procedure.

7. The sampling and flow measurement provided for in paragraph 5 shall normally be effected at the points of application of the limit values provided for in Article 3 (2).

However, where necessary to ensure that the measurements comply with the requirements of heading C of the Annexes, a Member State may allow the sampling and flow measurement to be effected at another point before that at which the limit values apply, provided that:

- all waters discharged from the plant that may have been polluted by the substance in question are taken into account by those measurements,

- regular checks show that the measurements are fully representative of the quantities discharged at the points of application of the limit values or are always higher.

HEADING B Quality objectives, dates set for compliance therewith and procedure for monitoring compliance with them 1. For those Member States which opt for the exception provided for in Article 6 (3) of Directive 76/464/EEC, the emission standards which they must establish and apply, pursuant to Article 5 of that Directive, will be fixed so that the appropriate quality objective or objectives from those fixed pursuant to paragraphs 2 and 3 below is or are complied with in the area affected by discharges of the substances referred to in Article 2 (a). The competent authority will determine the area affected in each case and will select from the quality objectives fixed pursuant to paragraphs 2 and 3 below the objective or objectives that it deems appropriate having regard to the intended use of the area affected, while taking account of the fact that the purpose of this Directive is to eliminate all pollution.

2. With a view to eliminating pollution, as defined in Directive 76/464/EEC, and pursuant to Article 2 of that Directive, the quality objectives and dates set for compliance therewith are set out under heading B in Annex II.

3. Unless otherwise specified under heading B in Annex II, all the concentrations mentioned as quality objectives refer to the arithmetic mean of the results obtained over a year.

4. Where more than one quality objective is applied to waters within one area, the quality of the water must be sufficient to comply with each of those objectives.

5. For each authorization granted pursuant to this Directive, the competent authority will specify the detailed rules, monitoring procedures and dates for ensuring compliance with the quality objective or objectives concerned.

6. In accordance with Article 6 (3) of Directive 76/464/EEC, the Member States will, for each quality objective chosen and applied, report to the Commission on:

- the points of discharge and the means of dispersal,
- the area in which the quality objective is applied,
- the location of sampling points,
- the frequency of sampling,
- the methods of sampling and measurement,
- the results obtained.

7. Samples must be taken at a point sufficiently close to the discharge point to be representative of the quality of the aquatic environment in the area affected by the discharges, and the frequency of sampling must be sufficient to show any changes in the aquatic environment, having regard in particular to natural variations in hydrological conditions.

HEADING C Reference methods of measurement and limit of detection 1. The definitions given in Council Directive 79/869/EEC of 9 October 1979 concerning the methods of measurement and frequencies of sampling and analysis of surface water intended for the abstraction of drinking water in the Member States(1) will apply in the context of this Directive.

2. The reference methods of measurement to be used for determining the concentration of the substances in question and the limit of detection for the environment concerned are set out under heading C in Annex

II.

3.The limit of detection, the accuracy and the precision of the method are specified for each substance under heading C in Annex II.

4.Effluent flow measurements must be carried out to an accuracy of $\pm 20\%$.

ANNEX II

SPECIFIC PROVISIONS 1.Relating to carbon tetrachloride 2.Relating to DDT 3.Relating to pentachlorophenol The numbering of the substances listed in this Annex corresponds to the list of 129 substances contained in the communication from the Commission to the Council of 22 June 1982(1). Should substances be included in future in this Annex which are not set out in the abovementioned list, they shall be numbered in chronological order of inclusion beginning with N° 130.

I. Specific provisions relating to carbon tetrachloride (N° 13)(1) CAS N° 56-23-5(2) >TABLE MISSING.

Heading C (13): Reference method of measurement 1.The reference method of measurement to be used for determining the presence of carbon tetrachloride in effluents and water is gas chromatography.

A sensitive detector must be used when concentration levels are below 0,5 mg/l and in this case the determination limit(1) is 0,1 μ g/l. For concentration levels higher than 0,5 mg/l a determination limit(1) of 0,1 mg/l is acceptable.

2.The accuracy and precision of the method must be $\pm 50\%$ at a concentration which represents twice the value of the determination limit(1).

II. Specific provisions relating to DDT (N° 46)(1) (2) CAS N° 50-29-3(3) STANDSTILL:The concentration of DDT in the aquatic environment, sediments and/or molluscs and/or shellfish and/or fish must not increase significantly with time.

TABLE MISSING

Heading C (46): Reference method of measurement 1.The reference method of measurement to be used for determining DDT in effluents and the aquatic environment is gas chromatography with electron capture detection after extraction by means of an appropriate solvent. The limit of determination(1) for total DDT is approximately 4 μ g/l for the aquatic environment and 1 μ g/l for effluents, depending on the number of extraneous substances present in the sample.

2.The reference method to be used for determining DDT in sediments and organisms is gas chromatography with electron capture detection after appropriate preparation of samples. The limit of determination(1) is 1 μ g/kg.

3.The accuracy and precision of the method must be $\pm 50\%$ at a concentration which represents twice the value of the limit of determination(1).

III. Specific provisions relating to pentachlorophenol (N° 102)(1) (2) CAS N° 87-86-5(3)

STANDSTILL:The concentration of PCP in sediments and/or molluscs and/or shellfish and/or fish must not increase significantly with time.

TABLE MISSING

Heading C (102): Reference method of measurement 1.The reference method of measurement to be used for determining pentachlorophenol in effluents and the aquatic environment is high-pressure liquid chromatography or gas chromatography with electron-capture detection after extraction by means of an appropriate solvent. The limit of determination(1) is 2 μ g/l for effluents and 0,1 μ g/l for the aquatic environment.

2.The reference method to be used for determining pentachlorophenol in sediments and organisms is high-pressure liquid chromatography or gas chromatography with electroncapture detection after appropriate preparation of samples. The limit of determination(1) is 1 mg/kg.

3.The accuracy and precision of the method must be $\pm 50\%$ at a concentration which represents twice the value of the limit of determination(1).

(1)OJ N° C 176, 14. 7. 1982, p. 3.

(1)Article 5 applies in particular to use of carbon tetrachloride in industrial laundries.

(2)CAS (Chemical Abstract Service) number.

(1)The 'determination limit' μ g of a given substance is the smallest quantity, quantitatively determinable in a sample on the basis of a given working method, which can still be distinguished from zero.

(1)The sum of the isomers 1,1,1-trichloro-2,2 bis (p-chlorophenyl) ethane;

1,1,1-trichloro-2 (o-chlorophenyl) -2- (p-chlorophenyl) ethane;

1,1,1-dichloro-2,2 bis (p-chlorophenyl) ethylene; and 1,1,1-dichloro-2,2 bis (p-chlorophenyl) ethane.

(2)Article 5 applies to DDT if sources other than those mentioned in this Annex are identified.

(3)CAS (Chemical Abstract Service) number.

(1)The 'limit of determination' μg of a given substance is the smallest quantity, quantitatively determinable in a sample on the basis of a given working method, which can still be distinguished from zero.

(1)The chemical compound 2,3,4,5,6-Pentachloro-1-hydroxybenzene and its salts.

(2)Article 5 applies to pentachlorophenol, and particularly to its use for treating wood.

(3)CAS (Chemical Abstract Service) number.

(1)The 'limit of determination' μg of a given substance is the smallest quantity, quantitatively determinable in a sample on the basis of a given working method, which can still be distinguished from zero.