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(Acts whose publication is obligatory)

**DECISION No 2455/2001/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 20 November 2001
establishing the list of priority substances in the field of water policy and amending Directive
2000/60/EC
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

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

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾,

Following consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

- (1) Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community ⁽⁴⁾ and the Directives adopted within its framework currently represent the major Community instrument for the control of point and diffuse discharges of dangerous substances.
- (2) The Community controls under Council Directive 76/464/EEC have been replaced, harmonised and further developed by Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ⁽⁵⁾.
- (3) Under Directive 2000/60/EC specific measures must be adopted at Community level against pollution of water by individual pollutants or groups of pollutants presenting a significant risk to or via the aquatic environment, including such risks to waters used for the abstraction of drinking water. Such measures are aimed at the progressive reduction and, for priority hazardous substances, as defined in the second sentence of point 30 of Article 2 of Directive 2000/60/EC, at the cessation or phasing out of discharges, emissions and losses

within 20 years after their adoption at Community level, with the ultimate aim, as recognised in the context of achieving the objectives of relevant international agreements, of achieving concentrations in the marine environment approaching background values for naturally occurring substances and close to zero for man-made synthetic substances. With a view to the adoption of these measures, it is necessary to establish, as Annex X to Directive 2000/60/EC, the list of priority substances, including the priority hazardous substances. The list has been prepared taking into account the recommendations referred to in Article 16(5) of Directive 2000/60/EC.

- (4) For substances occurring naturally, or produced through natural processes, such as cadmium, mercury and poly-aromatic hydrocarbons (PAHs), complete phase-out of emissions, discharges and losses from all potential sources is impossible. When the relevant individual directives are drawn up, this situation must be properly taken into account and measures should aim at the cessation of emissions, discharges and losses into water of those priority hazardous substances which derive from human activities.
- (5) Directive 2000/60/EC introduces in Article 16(2) a scientifically based methodology for selecting priority substances on the basis of their significant risk to or via the aquatic environment.
- (6) The methodology set out in Directive 2000/60/EC enables, as a most practical option, the application of a simplified risk-based assessment procedure based on scientific principles taking particular account of:
 - evidence regarding the intrinsic hazard of the substance concerned, and, in particular, its aquatic ecotoxicity and human toxicity via aquatic exposure routes,
 - evidence from monitoring of widespread environmental contamination, and
 - other proven factors which may indicate the possibility of widespread environmental contamination, such as production, use volume and use pattern of the substance concerned.

⁽¹⁾ OJ C 177 E, 27.6.2000, p. 74 and OJ C 154 E, 29.5.2001, p. 117.

⁽²⁾ OJ C 268, 19.9.2000, p. 11.

⁽³⁾ Opinion of the European Parliament of 15 May 2001 (not yet published in the Official Journal) and Council Decision of 8 October 2001.

⁽⁴⁾ OJ L 129, 18.5.1976, p. 23. Directive as last amended by Directive 2000/60/EC (OJ L 327, 22.12.2000, p. 1).

⁽⁵⁾ OJ L 327, 22.12.2000, p. 1.

- (7) The Commission has, on this basis, developed a combined monitoring-based and modelling-based priority setting (COMMPS) scheme, in collaboration with experts of interested parties, involving the Scientific Committee for Toxicity, Ecotoxicity and the Environment, Member States, EFTA countries, the European Environment Agency, European business associations including those representing small and medium-sized enterprises and European environmental organisations.
- (8) The Commission should involve in the COMMPS procedure the countries which are candidates for membership of the European Union, assigning priority to those through whose territory watercourses pass which also pass through, or flow into, the territory of a Member State.
- (9) A first list of 33 priority substances or groups of substances has been selected on the basis of the COMMPS procedure, following a publicly open and transparent discussion with the interested parties.
- (10) The expeditious adoption of this list is desirable in order to enable the timely and continuing implementation of Community controls of dangerous and hazardous substances pursuant to the strategy set out in Article 16 of Directive 2000/60/EC, in particular the proposals for controls as set out in Article 16(6) and the proposals for quality standards as set out in Article 16(7) in order to achieve the objectives of the Directive.
- (11) The list of priority substances adopted under this Decision is to replace the list of substances in the Commission Communication to the Council of 22 June 1982 on dangerous substances which might be included in List I of Council Directive 76/464/EEC⁽¹⁾.
- (12) Pursuant to Article 16(3) of Directive 2000/60/EC, the identification of the priority hazardous substances requires consideration of the selection of substances of concern in relevant Community legislation regarding hazardous substances or relevant international agreements. Hazardous substances are defined in that Directive as 'substances or groups of substances that are toxic, persistent and liable to bio-accumulate, and other substances or groups of substances which give rise to an equivalent level of concern'.
- (13) International agreements of relevance include *inter alia* the OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic, the HELCOM Convention on the Protection of the Marine Environment of the Baltic Sea, the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution, the Conventions adopted within the International Maritime Organisation, the UNEP Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants of the UN-ECE Convention on Long-Range Transboundary Air Pollution.
- (14) The selection of priority substances and the identification of priority hazardous substances targeted to the establishment of controls of emissions, discharges and losses will contribute to the objectives and the Community commitments under international conventions for the protection of marine waters, in particular to the implementation of the Strategy with regard to hazardous substances adopted at the 1998 OSPAR Ministerial Meeting under the Convention for the protection of the marine environment of the North-East Atlantic pursuant to Council Decision 98/249/EC⁽²⁾.
- (15) The identification of the priority hazardous substances on the list of priority substances should be made with regard, *inter alia*, to hazardous substances agreed for phase-out or for cessation of discharges, emissions and losses in international agreements, such as hazardous substances which are agreed for phase-out in international fora including IMO, UNEP or UN-ECE; hazardous substances which are agreed for cessation of discharges, emissions and losses as a priority in the OSPAR Convention, including hazardous substances identified by the OSPAR DYNAMEC Selection I⁽³⁾ or III⁽⁴⁾; hazardous substances which give rise to 'an equivalent level of concern' as substances that are persistent, toxic and liable to bioaccumulate (PTBs), such as endocrine disrupters identified under the OSPAR Strategy; and heavy metals included in the Protocol on Heavy Metals of the UN-ECE Convention on Long-Range Transboundary Air Pollution and selected for priority action under OSPAR 1998 and 2000, which give rise to 'an equivalent level of concern' as PTBs.
- (16) In order to render measures to combat water pollution effective, the Commission must promote the synchronisation of research and of the conclusions effected in the framework of the OSPAR Convention and the COMMPS procedure.
- (17) The COMMPS procedure is designed as a dynamic instrument for the prioritisation of dangerous and hazardous substances open to continuous improvement and development with a view to review and adaptation of the first list of priority substances at the latest four years after the entry into force of Directive 2000/60/EC and at least every four years thereafter. In order to ensure that all potential priority substances are taken into account by the next selection process, it is essential that no substances are systematically excluded, that best available knowledge is taken into account, and that all chemicals and all pesticides on the EU market and all substances identified as 'hazardous' by OSPAR are included in the selection process.

⁽²⁾ OJ L 104, 3.4.1998, p. 1.

⁽³⁾ Not inherently biodegradable and log Kow (octanol-water coefficient ≥ 5 or BCF (bioconcentration factor) $\geq 5\ 000$ and acute aquatic toxicity $\leq 0,1$ mg/l or mammalian CMR (cancerogenicity, mutagenicity and toxic for reproduction).

⁽⁴⁾ Not inherently biodegradable and log Kow ≥ 4 or BCF ≥ 500 and acute aquatic toxicity ≤ 1 mg/l or mammalian CMR.

⁽¹⁾ OJ C 176, 14.7.1982, p. 3.

- (18) The effectiveness of COMMPS is largely determined by the availability of relevant data. Current Community legislation on chemical substances has been found to suffer from a major lack of data. The purpose of Directive 2000/60/EC can only be fully achieved if full data availability is ensured by revising the Community legislation on chemical substances.
- (19) The reference to the COMMPS procedure does not preclude the possibility that the Commission may use methods of assessing the harmfulness of certain substances which have already been developed or used in other anti-pollution measures.
- (20) In accordance with Article 1(c) of Directive 2000/60/EC, the future reviews of the list of priority substances under Article 16(4) of that Directive will contribute to the cessation of emissions, discharges and losses of all hazardous substances by 2020 by progressively adding further substances to the list.
- (21) During review and adaptation of the list of priority substances, in addition to the further developed COMMPS procedure, account should be taken as appropriate of the results of the reviews under Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market ⁽¹⁾, Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances ⁽²⁾, European Parliament and Council Directive 98/8/EC of 16 February 1998 concerning the placing of biocidal products on the market ⁽³⁾ and possibly other scientific information from the review of existing or new directives, in particular within the framework of legislation on chemicals. Duplicate reviews of substances must be avoided in view of the costs involved. In adapting the lists it must be possible both to set a lower priority ranking and also to place a substance in a higher category,

HAVE ADOPTED THIS DECISION:

Article 1

The list of priority substances including substances identified as priority hazardous substances, provided for in Article 16(2) and (3) of Directive 2000/60/EC, is hereby adopted. This list, as it appears in the Annex to this Decision, shall be added to Directive 2000/60/EC as Annex X.

Article 2

The list of priority substances established by this Decision shall replace the list of substances in the Commission Communication of 22 June 1982.

Article 3

In order to ensure consideration of all potential priority substances, the Commission and the Member States shall ensure that the substance and exposure-related data needed for the implementation of the COMMPS procedure are made available.

Article 4

This Decision shall enter into force on the day after its publication in the *Official Journal of the European Communities*.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 20 November 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

A. NEYTS-UYTTEBROECK

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Directive 2001/49/EC (OJ L 176, 29.6.2001, p. 61).

⁽²⁾ OJ L 84, 5.4.1993, p. 1.

⁽³⁾ OJ L 123, 24.4.1998, p. 1.

ANNEX

'ANNEX X

LIST OF PRIORITY SUBSTANCES IN THE FIELD OF WATER POLICY (*)

	CAS number (1)	EU number (2)	Name of priority substance	Identified as priority hazardous substance
(1)	15972-60-8	240-110-8	Alachlor	
(2)	120-12-7	204-371-1	Anthracene	(X) (***)
(3)	1912-24-9	217-617-8	Atrazine	(X) (***)
(4)	71-43-2	200-753-7	Benzene	
(5)	not applicable	not applicable	Brominated diphenylethers (**)	X (****)
(6)	7440-43-9	231-152-8	Cadmium and its compounds	X
(7)	85535-84-8	287-476-5	C ₁₀₋₁₃ -chloroalkanes (**)	X
(8)	470-90-6	207-432-0	Chlorfenvinphos	
(9)	2921-88-2	220-864-4	Chlorpyrifos	(X) (***)
(10)	107-06-2	203-458-1	1,2-Dichloroethane	
(11)	75-09-2	200-838-9	Dichloromethane	
(12)	117-81-7	204-211-0	Di(2-ethylhexyl)phthalate (DEHP)	(X) (***)
(13)	330-54-1	206-354-4	Diuron	(X) (***)
(14)	115-29-7	204-079-4	Endosulfan	(X) (***)
	959-98-8	not applicable	(alpha-endosulfan)	
(15)	206-44-0	205-912-4	Fluoranthene (****)	
(16)	118-74-1	204-273-9	Hexachlorobenzene	X
(17)	87-68-3	201-765-5	Hexachlorobutadiene	X
(18)	608-73-1	210-158-9	Hexachlorocyclohexane	X
	58-89-9	200-401-2	(gamma-isomer, Lindane)	
(19)	34123-59-6	251-835-4	Isoproturon	(X) (***)
(20)	7439-92-1	231-100-4	Lead and its compounds	(X) (***)
(21)	7439-97-6	231-106-7	Mercury and its compounds	X
(22)	91-20-3	202-049-5	Naphthalene	(X) (***)
(23)	7440-02-0	231-111-4	Nickel and its compounds	

	CAS number ⁽¹⁾	EU number ⁽²⁾	Name of priority substance	Identified as priority hazardous substance
(24)	25154-52-3	246-672-0	Nonylphenols	X
	104-40-5	203-199-4	(4-(para)-nonylphenol)	
(25)	1806-26-4	217-302-5	Octylphenols	(X) (***)
	140-66-9	not applicable	(para-tert-octylphenol)	
(26)	608-93-5	210-172-5	Pentachlorobenzene	X
(27)	87-86-5	201-778-6	Pentachlorophenol	(X) (***)
(28)	not applicable	not applicable	Polyaromatic hydrocarbons	X
	50-32-8	200-028-5	(Benzo(a)pyrene),	
	205-99-2	205-911-9	(Benzo(b)fluoranthene),	
	191-24-2	205-883-8	(Benzo(g,h,i)perylene),	
	207-08-9	205-916-6	(Benzo(k)fluoranthene),	
	193-39-5	205-893-2	(Indeno(1,2,3-cd)pyrene)	
(29)	122-34-9	204-535-2	Simazine	(X) (***)
(30)	688-73-3	211-704-4	Tributyltin compounds	X
	36643-28-4	not applicable	(Tributyltin-cation)	
(31)	12002-48-1	234-413-4	Trichlorobenzenes	(X) (***)
	120-82-1	204-428-0	(1,2,4-Trichlorobenzene)	
(32)	67-66-3	200-663-8	Trichloromethane (Chloroform)	
(33)	1582-09-8	216-428-8	Trifluralin	(X) (***)

(*) Where groups of substances have been selected, typical individual representatives are listed as indicative parameters (in brackets and without number). The establishment of controls will be targeted to these individual substances, without prejudicing the inclusion of other individual representatives, where appropriate.

(**) These groups of substances normally include a considerable number of individual compounds. At present, appropriate indicative parameters cannot be given.

(***) This priority substance is subject to a review for identification as possible "priority hazardous substance". The Commission will make a proposal to the European Parliament and Council for its final classification not later than 12 months after adoption of this list. The timetable laid down in Article 16 of Directive 2000/60/EC for the Commission's proposals of controls is not affected by this review.

(****) Only Pentabromobiphenylether (CAS-number 32534-81-9).

(*****) Fluoranthene is on the list as an indicator of other, more dangerous Polyaromatic Hydrocarbons.

(1) CAS: Chemical Abstract Services.

(2) EU-nummer: European Inventory of Existing Commercial Chemical Substances (EINECS) or European List of Notified Chemical Substances (ELINCS).'