



Arbeitsgemeinschaft der
Wasserwirtschaftsverbände
in Nordrhein-Westfalen

**Opinion of the *Arbeitsgemeinschaft
der Wasserwirtschaftsverbände in
Nordrhein-Westfalen* (AGW)**

**on the Proposal for a Directive of the
European Parliament and the Council
on Environmental Quality Standards
in the Field of Water Policy and
amending Directive 2000/60/EC,
COM(2006)398 final**

**as well as the Communication from
the Commission to the Council and
the European Parliament “Integrated
Prevention and Control of chemical
Pollution of Surface Waters in the
European Union”, COM(2006)397 final**

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Introduction:

The *Arbeitsgemeinschaft der Wasserwirtschaftsverbände in Nordrhein-Westfalen* (AGW) welcomes the Proposal of the European Commission of regulating the outstanding measures to protect water bodies within the Community throughout the EU for the substances stated in the list of priority substances in the field of water policy. The Proposal of the Commission for a Directive on “Environmental Quality Standards in the Field of Water Policy and amending Directive 2000/60/EC” as well as the simultaneous publication of the Communication on an “Integrated Prevention and Control of chemical Pollution of Surface Waters in the European Union” are aimed at implementing the requirements of Article 16 para. 6 of the Water Framework Directive (WFD) into EU legislation. Hence the EU Commission has to submit proposals for a control and cessation or phase out of discharges of priority substances including an adequate schedule.

In Article 16 para. 7 of its Draft the Commission suggests quality standards for the concentration of priority substances in surface water. The Communication states that the good chemical condition is to be defined with the adherence to the environmental quality standards as demanded in the WFD for the year 2015.

The Draft Directive and the Communication only come up to this demand in part. They both deviate from the requirements of the Water Framework Directive in a substantial aspect. In contrast to the requirement of Article 10 (combined approach) and Article 16 of the WFD, they do not submit any proposals to control discharges (limitations of emissions) for the substances indicated in the list of priority substances, but exclusively define environmental quality standards for water bodies. Thus, a major deficit of the

European water body protection policy will continue to exist: The lack of EU uniform requirements for commercial dischargers, in particular small dischargers (known as “small IPPC”). This may lead to substantial distortions of competition within the EU and to disadvantages of location for the Member States which, like Germany with its Wastewater Ordinance, provide of strict national requirements in particular to indirect dischargers.

Pursuant to Article 174 of the EC Treaty as well as pursuant to the 11th recital of the WFD, Community environment policy “is to be based on the precautionary principle and on the principle that preventive action should be taken, environmental damage should, as a priority, be rectified at source and that the polluter should pay”. In this context, AGW welcomes the catalogue of possible measures to achieve the quality standards as listed in the Communication. It especially considers so-called “end-of-pipe” solutions as only one approach for solutions among many others, and demands the priority application of the polluter pays principle.

The suggested maximum concentrations are conflicting with the limit values of the Drinking Water Directive under the aspect of the utilisation of surface water as a drinking water resource. These could not be adhered to without sophisticated treatment measures. This particularly applies to the quality standards which are suggested for components of pesticides and which are normally emitted into water bodies by means of diffuse discharges. Article 7 of the WFD points out the particular protection of drinking water utilisation. It also formulates the objective of reducing the technical effort for treatment. This technical reduction, however, is not to be understood as a demand for a technical shift of the purification effort towards municipal wastewater treatment. This would not be

appropriate from a macroeconomic, microeconomic as well as from a technical point of view.

AGW points out that the discharge of substances indicated in the list of priority substances into the water bodies has to be controlled or terminated in accordance with the precautionary as well as the polluter pays principle. It must be equally considered that pursuant to Annex III of the WFD it is mandatory to choose the most cost-effective combination of measures to be included in the program of measures.

The measures for complying with the environmental quality standards can therefore not be directed at the utilities of municipal wastewater disposal. AGW holds the opinion that no additional requirements to municipal wastewater disposal exceeding the applicable requirements of the EU Directive on Municipal Wastewater are necessary.

A solution must rather be found among the indirect dischargers, in the admission of these substances (e.g. applicable law for pesticides) or in the assessment for existing substances required in accordance with the REACH concept, thus taking account of the polluter pays as well as the precautionary principle.

Further to the Directive Proposal in detail:

Further to Article 2, para 2 of the environmental quality standards:

As a rule, the pollution of sediments and biota correlates with the contamination of the water body. Therefore, para (2) in Article 2 can be dispensed with.

Further to Article 3, para 2 transitional area of exceedance:

AGW welcomes the possibility of defining transitional areas for the vicinity of point source discharges. This is feasible and will substantially simplify its implementation in the Member States.

Furthermore, AGW suggests to allow the identification of such transitional areas also for those areas where existing substances are emitting into the water bodies.

Further to Annex I, Part A: Environmental quality standards (EQS) for priority substances in surface water bodies:

AGW asks the Commission to review the suggested quality objectives for cadmium and mercury. Obviously, the standards were derived from the particularly toxic compounds of methyl mercury and methyl cadmium and are therefore 37 times stricter for cadmium, and 120 times stricter for mercury than the WHO guidelines for these metals. These metal compounds, however, should be of minor importance in quantitative terms so that it is absolutely sufficient to gear the quality objectives to the metals themselves.

Also the suggested quality standards for PAHs should be reviewed. The proposal of the Commission provides limit values for 5 individual substances, but not for a summary limit value. For drinking water, the WHO recommends a summary limit value of 0.7µg/l. The WHO has reassessed the PAHs and has only established a particular toxicological relevance for benzo(a)pyrene. The Commission, in contrast, suggests an EQS for the compound with the highest toxicological relevance, i.e. benzo(a)pyrene, which is higher than that for the sum of the further PAH compounds. Furthermore, the EQS for the sum of PAHs are below the limit value of the EU Drinking Water Directive whereas the fivefold value is to be tolerated for benzo(a)pyrene. AGW calls upon the Commission

to review these facts. The same applies to endosulphane (no. 14, factor 20) and hexachlorcyclohexane (no. 18, factor 5) for which EQS are suggested which are far stricter than the WHO recommendations.

EQS are indicated for some organic microelements which are in some cases far below the identification limits resp. the lower operating limits of the common (standardised) analysis methods (e.g. under no. (28): Sum of benzo(ghi)perylene and indeno(1,2,3-cd)pyrene: EQS = 2 ng/l; OL pursuant to EN ISO 17993 = 10 ng/l for surface water, 5 ng/l for ground and drinking water; no. (30): tributyltin compounds: EQS 0.2 ng/l, OL pursuant to DIN 38407-13 = 10 ng/l). AGW asks the Commission to take also this crucial fact for the implementation in the Member States into account when defining the EQS.

Further to Part C, Point 1 "Compliance with the environmental quality standards":

AGW welcomes the proposal of the Commission to make use of the "arithmetic mean of the concentrations measured at different times" for identifying the condition of water bodies. It has to be criticised that there is no minimum number of tests. AGW suggests to implement at least six measurements p.a. in order to prevent distortions of competition among the Member States. These should be distributed over the year.

Regarding the monitoring of the EQS, the Draft of the Commission does not give any details about the number of measuring points in relation to the size of the water bodies. This is of particular importance for small water bodies. AGW suggests not to provide more than one overview measuring point for water bodies with a catchment area size of less than 1000 km³. This could preferably be located in the estuary area.

Further to Part C, Point 3 “Compliance with the environmental quality standards”:

It has to be taken into account that mercury and cadmium may be naturally existent in water bodies, though only in small contents. Against this background, AGW welcomes the proposal to take account of the natural background concentration of metals.