Consultation Strategy

Impact Assessment on the revision of the lists of pollutants affecting surface and ground-waters and the corresponding regulatory standards in the Environmental Quality Standards, Groundwater and Water Framework Directives

FINAL version (Date: 19 October 2020)

1. Background information to the consultation strategy

The public, agriculture, industry, and nature all need ‘non-polluted’ water. This means that the pollution of rivers, lakes, coastal waters and groundwater must be minimised, – hence this initiative to revise the lists of pollutants and corresponding regulatory standards in the Environmental Quality Standards, Groundwater and Water Framework Directives. The Impact Assessment (IA) of options clearly has to involve active exchange with all the main relevant stakeholders. This (draft) consultation strategy identifies those stakeholders and sets out how they will be consulted throughout the process. The process will be carried out in line with the European Commission’s Better Regulation Guidelines. While the consultation strategy might evolve as the work progresses, this document provides an overview of minimum consultation activities foreseen.

Since 2000, the Water Framework Directive (WFD) has been the main legal instrument for water protection in Europe. Together with its “daughter Directives”, the Environmental Quality Standards Directive (EQSD) and the Groundwater Directive (GWD), it applies to inland, transitional and coastal surface waters as well as ground-waters and ensures an integrated approach to water management respecting the integrity of whole ecosystems, including by regulating individual pollutants and setting corresponding regulatory standards. According to the Directives, the Commission is under a legal obligation to regularly review these lists of pollutants.

The need to reflect the latest scientific insights and developments in the lists of pollutants has been confirmed by the results of the Fitness Check of EU Water Law, published by the European Commission in December 2019. The Fitness Check covered the WFD, EQSD, GWD and the Floods Directive (FD), and concluded that the Directives are broadly fit for purpose, with some room for improvement. This relates in particular to: (1) Ensuring increased investment in water management and nature restoration; (2) Better implementing the existing rules; (3) Better integrating water objectives into other EU policies, (4) Improving measures against chemical pollution and (5) Enhancing administrative simplification and digitalisation.

1 The Directives include the following review clauses:
- Water Framework Directive - Article 16(4) and 16(7)
- Environmental Quality Standards Directive - Article 8
- Groundwater Directive - Article 10
2 https://ec.europa.eu/environment/water/fitness_check_of_the_eu_water_legislation
The aim of this consultation strategy and the planned impact assessment is to inform the revision of the lists of pollutants affecting surface and groundwaters and the corresponding regulatory standards in the EQSD, GWD and WFD, including to address the issue of pollutants of emerging concern such as (micro)plastics and pharmaceuticals. Some alternative and complementary actions will also be considered in the process.

The impact assessment will run in parallel to the impact assessments of the Urban Waste Water Treatment Directive (UWWTD)\(^3\)\(^4\) and of the Industrial Emissions Directive (IED)\(^5\), and will also need to consider possible changes to the European Pollutant Release and Transfer Register (E-PRTR) Regulation\(^6\), and the implementation needs of the new Drinking Water Directive\(^7\).

The European Green Deal\(^8\) and its initiatives, and in particular the Zero Pollution Action Plan expected in 2021, will be the appropriate framework for the comprehensive follow-up to the Fitness Check, with the aim of ensuring that citizens and the environment benefit from high levels of protection. Further important initiatives in particular with respect to chemical pollution are the European Union Strategic Approach to Pharmaceuticals in the Environment\(^9\), the 8\(^{th}\) Environment Action Programme\(^10\), the Chemicals Strategy for Sustainability\(^11\) and the forthcoming Pharmaceuticals Strategy.

Updates of the lists of pollutants will affect a range of stakeholders. The first to benefit from controlling more pollutants would be society in general through the protection of human health and the environment. Effects would also be felt by the stakeholders involved in implementing the new requirements: in particular national, regional and local authorities as well as industry. The main stakeholders are identified below.

2. Background information on impact assessment

In its impact assessment, the European Commission will consider how the list of priority substances in surface waters and and/or the lists of pollutants in groundwater could be best updated. A legislative proposal, for adoption by ordinary legislative procedure, would amend

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\(^4\) Roadmap revision EU urban waste water treatment directive: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12405-Revision-of-the-Urban-Wastewater-Treatment-Directive
and update, if appropriate, in line with the obligations laid down by Article 16(4) WFD, Article 8 EQSD and Article 10 GWD:

- the list of Priority Substances in surface waters (Annex X to the WFD) and their environmental quality standards (EQS), set in the EQSD;
- the lists of groundwater pollutants (Annexes I and II to the GWD).

Policy options aiming to regulate a range of pollutants will be based primarily on scientific work conducted by the Joint Research Centre and by experts in the working groups under the Common Implementation Strategy for the WFD. Some alternative and complementary policy options, for example as regards monitoring issues, will also be identified. As required by the Better Regulation Guidelines, the impact assessment will examine the economic, social and environmental impacts (costs and benefits) of the options in order to identify a preferred option or combination of options (relating to surface water, groundwater and general issues). The impact assessment will be supported by an externalised study, which will gather all relevant data, to quantify as far as possible the impacts of the options. This study will involve coordinating a range of consultation activities.

3. Consultation scope and objectives

Through the consultation activities, the Commission wishes to deepen its understanding of all implications of the possible policy options. Listing pollutants with standards (or the requirement to set threshold values in the case of certain groundwater pollutants) entails not only monitoring effort but also the need to take measures to reduce or phase out emissions. It is therefore important to consider the social and economic implications as well as the environmental benefits, and to work closely with the other relevant policy sectors, including as mentioned above.

Consultations will take place through the regular meetings of the working groups under the Common Implementation Strategy (CIS) for the WFD, as well as some additional consultation activities. The Commission needs to be aware of, and to understand, potentially divergent views among stakeholders.

4. Identification of stakeholders

The Commission has identified the stakeholder groups that are most crucial to involve in the stakeholder consultation activities, which will complement the consultation activities undertaken for the Fitness Check. Most of these groups would be affected by amendments to the Directives because they would need to work on implementing them, would see changes because of them, or have expertise relevant to the measures that might have to be applied. Some have an academic or research interest. The identification also takes account of WFD Article 16(5) in relation to the review of the priority substances list.

4.1. Existing consultation structures under the WFD - CIS

The Common Implementation Strategy for the WFD has established structures involving Member State competent authorities and experts, and a wide range of stakeholders (especially
industry and NGOs) as well as relevant Commission DGs and Agencies, such as ECHA, EMA, EEA, EFSA. Meetings and exchanges with the Strategic Coordination (expert) Group (SCG) and the working groups (WGs) on Chemicals, Groundwater, will play a crucial role in the consultation process. If necessary also the WGs on Ecological Status (Ecostat) and Data and Information Sharing (DIS) might be consulted. Experts in these groups can provide feedback on actions already taking place at national level and on the possible implications of the policy options.

4.2. EU Member States and their national, regional and local authorities

It is particularly crucial to reach the Member States and their national, regional and local authorities responsible for the environment, water management, health and related sections, as they are responsible when it comes to implementing the Directives on the ground. They have a good understanding of the day-to-day management and meeting the requirements stemming from the legislation.

4.3. Industrial/economic actors, including SMEs and EU associations

Changes to the Directives could have a direct impact on the producers or users of the substances concerned. Other industrial actors are active in the waste water treatment field, e.g. operating and/or developing technologies. They will be able to identify what is feasible, including from a technological perspective, and can inform on the related costs.

4.4. Non-Governmental Organisations and citizens' initiatives

Since priority substances including some pharmaceuticals and other (micro)pollutants are harmful for the aquatic environment and have direct effects on human health, non-governmental groups are likely to have a particular interest in ensuring that emerging substances and newly identified health concerns are included in the possible revision of the pollutant lists.

4.5. International organisations relevant to the Directives

International organisations relevant for the implementation of the WFD, EQSD, and GWD will be consulted as they hold valuable information on implementation, which they often support through providing funding, advice on economic, technical or governance issues, and local implementation aid. This information is very valuable to assess the feasibility of the policy options.

4.6. Academia, research and innovation organisations and institutes

There is abundant research on the health and environmental effects of chemicals in surface and groundwater as well as on the technological options for addressing them. Academics and researchers involved in this field can highlight knowledge gaps and help to assess whether the policy options would be effective.
4.7. Citizens

It will be important to understand what citizens see as important emerging pollutants and other substances of concern.

5. Consultation methods

The European Commission will use a select number of tools to enable stakeholders to provide input to the actions included in this consultation strategy. The different envisaged methods are specified below:

5.1. Targeted consultations

Stakeholders, such as the Member States representatives in the various consultation bodies under the WFD CIS, non-governmental organisations, industry organisations, experts in the field, working at national or European level will be reached by targeted consultations, i.e. via dedicated workshops. Through such workshops, thematic discussions among experts on key topics can be facilitated. This could, e.g., include discussions on objectives and policy options as well as preliminary analysis of impacts, costs and benefits. Valuable input for these workshops could come from ‘lessons learnt from Member States’ when dealing with similar problems at national level (if readily available). Such workshops could also be used to present and validate preliminary findings from the qualitative and quantitative research. The dates for these workshops are still to be determined, but are likely to be held in Q1-Q3 of 2021.

An open (public) consultation might be needed to complement the consultation work carried out via the workshops within CIS mechanisms, to reach out to stakeholders that might not have been consulted (if any) and create an opportunity for them to provide feedback on the possible revision of the Priority Substances List and of the annexes of the GWD.

If such a consultation would take place, it would need to last at least 12 weeks and would need to be planned between Q2 and Q3 of 2021. A possible questionnaire would consist of two sections, both of which would be publicly accessible. The general part would be aimed at respondents with a general level of knowledge, while respondents with particular expertise or interest would be encouraged to also fill in the specialist section.

5.2. Overview list of stakeholders for combined (targeted) consultation activities

This table lists groups of stakeholders and types of possible (targeted) consultation activities. The table will be updated with the help of the contractor. To increase the efficiency of consultation activities different groups of stakeholders might be consulted at the same time via larger (online) combined workshops / meetings.

<table>
<thead>
<tr>
<th>Group stakeholders</th>
<th>Types of possible consultation activities</th>
<th>Proposed timing&lt;sup&gt;12&lt;/sup&gt;</th>
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<tbody>
<tr>
<td>1. Existing consultation structures under</td>
<td>Normal CIS-meetings</td>
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<sup>12</sup> Timing to be decided in more detail at a later stage with the help of the contractor
the WFD - CIS

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a. Water Directors | Regular WD Meetings |
b. Strategic Co-ordination (expert) Group (SCG) | Regular SCG Meetings |
c. WG Chemicals | Regular WG Meetings |
d. WG Groundwater | Regular WG Meetings |
e. WG Ecostat | Regular WG Meetings |
f. WG Data & Information Sharing | Regular WG Meetings |

2. EU Member States and their national, regional and local authorities
   Dedicated (combined) workshop and/or online (public) consultation

3. Industrial/economic actors, including SMEs and EU associations
   Dedicated (combined) workshop and/or online (public) consultation

4. Non-Governmental Organisations and citizens' initiatives
   Dedicated (combined) workshop and/or online (public) consultation

5. International organisations relevant to the Directives
   Dedicated (combined) workshop and/or online (public) consultation

6. Academia, research and innovation organisations and institutes
   Dedicated (combined) workshop and/or online (public) consultation

7. Citizens (if needed)
   Dedicated (combined) workshop and/or online (public) consultation

6. Links to websites with further information
   - For the information on Clean Water related activities of the European Commission, please consult: [https://ec.europa.eu/environment/water/index_en.htm](https://ec.europa.eu/environment/water/index_en.htm)
   - The on-line questionnaire for the open (public) consultation will be published at this address: [https://ec.europa.eu/info/consultations](https://ec.europa.eu/info/consultations)