

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Revision of lists of pollutants affecting surface and groundwaters
LEAD DG (RESPONSIBLE UNIT)	DG ENV C.1 Clean Water
LIKELY TYPE OF INITIATIVE	Legislative proposal
INDICATIVE PLANNING	2022
ADDITIONAL INFORMATION	https://ec.europa.eu/environment/water/fitness_check_of_the_eu_water_legislation/index_en.htm

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context
<p>The public, agriculture, industry and nature all need clean water. This means that the pollution of rivers, lakes, transitional and coastal surface waters and groundwater must be minimised. Since 2000 the Water Framework Directive (WFD) has been the main legal instrument for water protection in Europe, supported by its “daughter Directives”, the Environmental Quality Standards Directive (EQSD) and the Groundwater Directive (GWD). Furthermore, water protection is also supported by legislation in the area of Industrial Emissions, the EU Pollutant Release and Transfer Register Regulation (E-PRTR), the Mercury Regulation and other instruments. Together they ensure an integrated approach to water management respecting the integrity of whole ecosystems, including by regulating individual pollutants and setting corresponding regulatory standards.</p> <p>The WFD and EQSD identify the so-called priority substances, for which standards have to be met in surface waters and whose emissions have to be reduced or (in the case of priority hazardous substances) phased out. The GWD sets standards for pesticides and nitrates in groundwater, and identifies a minimum number of other substances for Member States to consider setting thresholds. According to the directives, the Commission is under a legal obligation to regularly review these lists of pollutants every six years.</p> <p>The results of the 2019 Fitness Check (FC) of EU Water Law, which covered the WFD together with the EQSD, the GWD and the Floods Directive, confirmed the need to review the lists in the light of scientific developments.</p> <p>This initiative follows up on some of the findings of the Water FC regarding chemical pollution. It will involve assessing options for revising the lists of pollutants affecting surface and groundwaters, and their corresponding regulatory standards, taking account of recent technical work, including on the risks from several emerging pollutants.</p> <p>This initiative is important for achieving the Zero Pollution ambition announced in the European Green Deal, and wider efforts to secure more efficient and safer use of water. The initiative is also important in the context of the recently adopted Chemicals Strategy, which includes actions to address specific groups of substances through initiatives such as this one. Pharmaceutical substances will also be considered, as highlighted in the Pharmaceutical Strategy and the Strategic Approach to Pharmaceuticals in the Environment (see action 5.2.3). The initiative will also take account of the goals of the EU One Health Action Plan against Antimicrobial Resistance.</p> <p>The preparation of this initiative will be coordinated with the ongoing work on the revision of the Urban Waste Water Treatment Directive (UWWTD) and the Industrial Emissions Directive (and E-PRTR Regulation) and it will consider other interacting policy areas, e.g. the evaluation of the Sewage Sludge Directive, the implementation of the new Drinking Water Directive, and the implementation of the Marine Strategy Framework Directive.</p> <p>Revising the lists of chemical pollutants in water will also complement other Green Deal initiatives including the 2030 Biodiversity Strategy and the Farm-to-Fork Strategy, as well as the 8th Environment Action Programme; the Biodiversity Strategy stresses the crucial importance of stepping up the protection of aquatic and marine ecosystems, including by reducing pollution.</p>
Problem the initiative aims to tackle
<p>Various recent scientific reports, including the report 'European waters – Assessment of status and pressures', identify chemical pollution, along with nutrient enrichment and altered habitats due to morphological changes, as</p>

an important cause responsible for deteriorating the ecological and chemical status of water bodies.

The Water FC concluded that, in relation to chemical pollution, the legislation focuses on some less relevant older pollutants while not sufficiently addressing a number of pollutants of emerging concern, such as pharmaceuticals, (micro)plastics and PFAS¹. As a result, the aquatic environment is less well protected than it could be. Indeed, data obtained from monitoring substances on the surface water watch list and the voluntary groundwater watch list, as well as other sources, confirm that some of those substances pose a risk to, or via, the aquatic environment. It is therefore necessary to consider options for revising the lists of pollutants in the light of scientific developments. The FC also raised questions about the interplay between the surface water watch list and updating of the Priority Substances list.

New information on some of the substances which are already in the WFD, EQSD and GWD lists, for example on developments under other sectoral legislation, has come to light since the last reviews of the lists, prompting consideration of those substances and/or their standards or designation as hazardous, and that information must also be acted upon to ensure that the lists are up to date and that optimal use is made of monitoring efforts in the Member States.

Action to address the above problems is consistent with the legal obligation to review the list of priority substances in surface waters (Annex X to the WFD), their environmental quality standards (EQS) (in the EQSD), and the lists of pollutants and standards in groundwater (in Annexes I and II to the GWD).

Moreover, a Strategy on Chemicals for Sustainability was adopted in October 2020 highlighting issues such as the need to address risks from chemicals across policy areas, and to include some horizontal proposals to enhance consistency between water and other legislation on chemicals, for example as regards risk assessment and approaches to groups of substances or data sharing between different legislative areas. It also includes actions to address certain groups of substances of very high concern, such as endocrine disruptors, persistent mobile and toxic, and very persistent and very mobile substances, and specifically PFAS. The initiative addresses e.g. the following two actions highlighted in the Chemicals Strategy: a) the Commission will introduce or reinforce provisions to take account of the combination effects of chemical mixtures in other relevant legislation, such as legislation on water; and b) considering the large number of cases of contamination of soil and water - including drinking water- in the EU and globally as well as the number of people affected with a full spectrum of illnesses and the related societal and economic costs, the commission will give special attention to ensuring PFAS is phased out in the EU, unless it is proven essential for society.

Basis for EU intervention (legal basis and subsidiarity check)

The legal basis is Article 192(1) of the Treaty on the Functioning of the European Union and the following specific review clauses in the water legislation:

- Water Framework Directive Article 16(4) and 16(7);
- Environmental Quality Standards Directive Article 8;
- Groundwater Directive Article 10.

The Water FC confirmed that the subsidiarity principle is respected by the WFD and its daughter Directives. Considering that 60% of river basins cross at least one national border, and that pollutants also cross borders, there is clear EU added value in transboundary management of water pollution. The EU directives have triggered or reinforced action to address the transboundary pressures on water resources at river basin level, both nationally and internationally. The Water FC also highlighted the power of a long-term binding policy target and the fact that the level of ambition in Member States is higher than could have been expected without the directives. At the same time, the Directives leave sufficient flexibility to Member States to adapt water management to local conditions and give considerable discretion to identify location-specific measures to meet the objectives in line with the principle of subsidiarity.

B. Objectives and Policy options

Within the wider context of other developments in chemicals policy, this initiative aims at strengthening existing EU legislation for the protection of the environment and human health from the adverse effects of water pollution. The legislative option is to update the lists of pollutants affecting surface and groundwaters, and the corresponding regulatory standards. Non-legislative options could include measures such as updating and/or developing guidelines on monitoring or on thresholds. In addition, possibilities to increase the coherence between the substance lists in water legislation and other environmental legislation and to improve data sharing with other policy sectors, and the reuse of reported data may be considered. Finally, this initiative will look into possibilities to improve the relationship between the watch list, helpful for identifying relevant pollutants, and the prioritisation process for priority substances.

In compliance with the Better Regulation guidelines, the Commission will carry out an impact assessment to decide on the most appropriate legislative and non-legislative action.

¹ Per- and polyfluoroalkyl substances (PFAS): <https://echa.europa.eu/nl/hot-topics/perfluoroalkyl-chemicals-pfas>

The legislative policy options to be assessed are expected to include the following:

- Addition of substances and/or groups of substances to the list of Priority Substances in surface waters (Annex X to the WFD) and the setting of corresponding EQS in the EQSD;
- Possible removal of existing Priority Substances from the list in Annex X and/or amendment of their EQS;
- Designation/re-designation of some Priority Substances as Priority Hazardous Substances; re-designation of the eight “other pollutants” as Priority Substances;
- Amendments to provisions as regards surface water watch list monitoring;
- Addition of substances to the lists of groundwater pollutants (Annexes I and II to the GWD), with corresponding quality standards in the case of Annex I.

The policy options will be informed by the results of technical reviews of the lists of surface and groundwater pollutants.

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

The policy options are likely to result in several economic benefits through improved water quality resulting in:

- Avoided costs to drinking water treatment, as chemical substances that are dangerous to human health would no longer have to be removed from drinking water by costly processes;
- Avoided costs in the waste-water treatment industry e.g. from not having to remove (micro)plastics, PFAS and other substances of concern from municipal waste water and by being able to (re)use sludge much more widely, e.g. as fertiliser, due to its higher quality;
- Avoided costs of treating diseases related to the negative effects of chemicals in surface and groundwater; Various studies show that billions of Euros in health care costs are linked to the exposure to toxic chemicals. Consequently those costs can be avoided if the Burden of Disease (BoD) could decrease due to phasing out or substituting those chemicals that are most harmful;
- Enhanced tourism opportunities, as clean surface waters free of chemical pollutants are beneficial for (bathing) water quality and thus boost water related tourism like swimming, fishing, sailing etc.;
- Increased research & development and increased employment related to substituting harmful chemicals with less harmful / ‘greener’ chemicals would benefit industry incl. SMEs.

Economic costs are likely to include:

- Some additional monitoring and reporting costs for Member States if the number of priority substances to monitor increases;
- Costs of upstream measures to reduce emissions, such as prudent use, and/or finding and using substitute chemicals; depending on the kind of substitution, costs could differ, but would likely include costs related to classification and labelling of chemicals;
- Costs linked to reducing emissions of substances, if substitution and/or upstream measures are not possible, for example increased costs for additional treatment to remove substances from waste water.

Likely social impacts

The main social impacts are likely to include:

- Improved health and well-being (e.g. through improved quality of surface water (including bathing water) and groundwater, drinking water, fishery products, and eco-system services more generally);
- Potential increase in employment associated with greener chemicals research and development.

Likely environmental impacts

The main environmental impacts are likely to be:

- Improved environmental and thus human health (as these are closely correlated);
- Improved water quality (surface and groundwater), e.g. resulting in;
 - better conditions for irrigation, (inland and coastal) fisheries and aquaculture;
 - cleaner water and better sewage sludge (re)use options, e.g. in agriculture due to higher sludge quality;
 - improvements for food and drink-producing industries like breweries and other beverage and food-processing industries;
- Improved general environmental protection (e.g. protected habitats and species/biodiversity) and eco-system services.

Likely impacts on simplification and/or administrative burden

As noted above, there might be some additional monitoring and reporting costs to Member States, but some of these could be offset by streamlining and simplifying (electronic) reporting systems.

D. Evidence Base, Data collection and Better Regulation Instruments

Impact assessment

The Commission will assess the impacts of a range of options as regards surface and groundwater pollutants under the WFD and its daughter Directives, supported by a comprehensive external study of the costs and

benefits.

The impact assessment will be carried out in compliance with the Better Regulation guidelines, providing assessment of environmental, social and economic impacts. The work will be done in close cooperation with all relevant policy sectors, for example to coordinate with the parallel impact assessment on the revision of the Urban Waste Water Treatment Directive (UWWTD) and IED/E-PRTR, evaluation of the Sewage Sludge Directive and to take account of the needs of the new Drinking Water Directive.

Evidence base and data collection

The policy options will take account of:

- The conclusions of the Water FC, which were based on the findings of several external and internal studies;
- Recent and ongoing work in the Working Groups on Chemicals and Groundwater under the Common Implementation Strategy for the WFD and work by the Commission's Joint Research Centre;
- Data obtained from monitoring of substances on the surface water watch list and in the context of the voluntary groundwater watch list, as well as other sources;
- Findings of previous reviews of the lists of pollutants under the WFD;
- Information from other policy sectors that regulate chemicals;
- Approaches and priorities identified in the context of the Chemicals Strategy and other Green Deal initiatives;
- The above-mentioned external study supporting the impact assessment;
- Results of the ongoing work for the revision of the UWWTD, IED/E-PRTR, evaluation of the Sewage Sludge Directive etc.

Consultation of citizens and stakeholders

Consultation of stakeholders will be carried out in line with the Better Regulation requirements and the draft 'Consultation Strategy' developed by DG ENV, taking into account of Article 16(5)² of the WFD in relation to the review of the priority substances list.

As a minimum, the following categories of stakeholders will be consulted: Member State competent authorities and experts, scientific bodies and relevant Commission agencies, such as EMA, ECHA, EEA, etc., the water sector (and associations representing this sector), industry stakeholder groups, NGOs (environmental and health-related), the public and international institutions. The consultation activities will comprise as a minimum targeted consultations of stakeholders via survey(s) and workshops. The regular meetings of the Working Groups under the common implementation strategy for the WFD. A (minimum) 12-week public consultation is foreseen, which will be accessible through the Commission's central '[Have your say](#)' portal.

Will an Implementation plan be established?

The WFD is already being implemented and implementation mechanisms have been in place as part of the common implementation strategy for 20 years. Member States have already had to update the list of Priority Substances in surface waters (Annex X to the WFD) and their EQS, set in the EQSD, as well as the list of groundwater pollutants in Annex II to the GWD and guidelines on monitoring and other aspects of river basin management make that there is no need to establish a new implementation plan for this revision.

² Article 16(5) states that the Commission takes into account recommendations from the Scientific Committee on Toxicity, Ecotoxicity and the Environment, Member States, the European Parliament, the European Environment Agency, Community research programmes, international organisations to which the Community is a party, European business organisations including those representing small and medium-sized enterprises, European environmental organisations, and of other relevant information which comes to its attention.