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STATUTORY INSTRUMENTS

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**1998 No. 389**

**WATER RESOURCES, ENGLAND AND WALES**

**The Surface Waters (Dangerous Substances)  
(Classification) Regulations 1998**

*Made* - - - - 23rd February 1998  
*Laid before Parliament* 4th March 1998  
*Coming into force* - - 25th March 1998

The Secretary of State for the Environment, Transport and the Regions and the Secretary of State for Wales, acting jointly in exercise of their powers under sections 82, 102 and 219(2) of the Water Resources Act 1991(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Surface Waters (Dangerous Substances) (Classification) Regulations 1998 and shall come into force on 25th March 1998.

**Classification of inland freshwaters**

2. The classification DS6 and the criteria for that classification set out in Schedule 1 to these Regulations shall apply for classifying inland freshwaters(2) with a view to reducing the pollution of those waters by the dangerous substances listed in that Schedule.

**Classification of coastal waters and relevant territorial waters**

3. The classification DS7 and the criteria for that classification set out in Schedule 2 to these Regulations shall apply for classifying coastal waters(2) and relevant territorial waters(2) with a view to reducing the pollution of those waters by the dangerous substances listed in that Schedule.

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(1) 1991 c. 57; see section 221(7) as to the joint exercise of functions exercisable concurrently.  
(2) For the definition of “inland freshwaters”, “coastal waters” and “relevant territorial waters” see section 104(1) of the Water Resources Act 1991.  
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(2) For the definition of “inland freshwaters”, “coastal waters” and “relevant territorial waters” see section 104(1) of the Water Resources Act 1991.

### Sampling

4. The Environment Agency shall ensure that waters classified under these Regulations are sampled at such sampling points and at such times, and samples are analysed in such manner, as the Agency considers necessary for—

- (a) monitoring the effect on those waters of discharges containing the dangerous substances in question; and
- (b) determining the extent to which those waters are polluted by those substances and whether the requirements for the relevant classification are satisfied.

### Modification of section 83 of the Water Resources Act 1991

5. Section 83 of the Water Resources Act 1991 (water quality objectives) shall have effect as if—

- (a) it imposed a duty on the Secretary of State to exercise his powers under that section to apply the classification DS6 to all inland freshwaters and the classification DS7 to all coastal waters and relevant territorial waters and to specify 1st April 1998 as the relevant date in each case; and
- (b) in relation to performance of that duty and the resulting water quality objectives, subsections (3) to (6) of that section (reviews and consultation requirements) were omitted.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*Michael Meacher*  
Minister of State,  
Department of the Environment, Transport and  
the Regions

19th February 1998

Signed by authority of the Secretary of State for Wales

*Win Griffiths*  
Parliamentary Under Secretary of State, Welsh  
Office

23rd February 1998

**SCHEDULE 1**

Regulation 2

**CRITERIA FOR CLASSIFICATION DS6**

1. Subject to paragraph 2 below, the requirements for the classification DS6 are that—
  - (a) the annual mean concentration of each substance listed in column (1) of Table 1 in samples taken from the sampling point for the waters in question in accordance with regulation 4 above does not exceed the relevant limit shown in column (2); and
  - (b) the concentration of mevinphos in each sample so taken does not exceed 0.02 microgrammes per litre.
2. Where samples are taken in accordance with regulation 4 above from more than one sampling point in relation to the waters in question, the requirement in paragraph 1(a) above must be satisfied in relation to the samples from each sampling point.

**TABLE 1**

<i>(1)</i> <i>Dangerous Substance</i>	<i>(2)</i> <i>Limit (in microgrammes per litre) (annual mean)</i>
4-Chloro-3-methyl-phenol	40
2-Chlorophenol	50
2,4-Dichlorophenol	20
2,4-D (ester)	1
(non-ester)	40
1,1,1-Trichloroethane	100
1,1,2-Trichloroethane	400
Bentazone	500
Benzene	30
Biphenyl	25
Chloronitrotoluenes	10
Demeton	0.5
Dimethoate	1
Linuron	2
Mecoprop	20
Naphthalene	10
Omethoate	0.01
Toluene	50
Triazaphos	0.005
Xylene	30

**SCHEDULE 2**

Regulation 3

**CRITERIA FOR CLASSIFICATION DS7**

1. Subject to paragraph 2 below, the requirements for the classification DS7 are that the annual mean concentration of each substance listed in column (1) of Table 2 in samples taken from the sampling point for the waters in question in accordance with regulation 4 above does not exceed the relevant limit shown in column (2).

2. Where samples are taken in accordance with regulation 4 above from more than one sampling point in relation to the waters in question, the requirement in paragraph 1 above must be satisfied in relation to the samples from each sampling point.

**TABLE 2**

<i>(1)</i> <i>Dangerous Substance</i>	<i>(2)</i> <i>Limit (in microgrammes per litre) (annual mean)</i>
4-Chloro-3-methyl-phenol	40
2-Chlorophenol	50
2,4-Dichlorophenol	20
2,4-D (ester)	1
(non-ester)	40
1,1,1-Trichloroethane	100
1,1,2-Trichloroethane	300
Bentazone	500
Benzene	30
Biphenyl	25
Chloronitrotoluenes	10
Demeton	0.5
Dimethoate	1
Linuron	2
Mecoprop	20
Naphthalene	5
Toluene	40
Triazaphos	0.005
Xylene	30

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe a system for classifying the quality of inland freshwaters, coastal waters and relevant territorial waters with a view to reducing the pollution of those waters by the dangerous substances listed in the Schedules to the Regulations (regulations 2 and 3 and Schedules 1 and 2). Those substances are substances within List II of Council Directive 76/464/EEC<sup>(3)</sup> (which deals with pollution caused by certain dangerous substances discharged into the aquatic environment), and the regulations are made in order to establish water quality objectives for those substances for the purposes of Article 7 of the Directive (pollution reduction programmes).

The Environment Agency is required by the Regulations to sample waters classified under the Regulations (and analyse samples) to monitor the effect on those waters of discharges containing the dangerous substances in question, to determine the extent of any pollution by those substances and compliance with the requirements for the relevant classification (regulation 4).

Section 83 of the Water Resources Act 1991 provides for the establishment of water quality objectives by means of the Secretary of State serving a notice on the Environment Agency. That section is modified so that—

- (a) the Secretary of state is placed under a duty immediately to classify under the Regulations all inland freshwaters, coastal waters and relevant territorial water; and
- (b) subsections (3) to (6) (reviews and consultation requirements) are disapplied (regulation 5).

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(3) O.J. 1976 No. L 129, p.32.