Ministerie van Infrastructuur
en Waterstaat

GENERAL DIRECTORATE OF ADMINISTRATIVE AND LEGAL AFFAIRS

DRAFT DATED 11 June 2025

Regulation of the Minister for Infrastructure and Water Management of [date], No IENW/BSK-2025-43792, amending the Water Regulation in connection with the adjustment of the calculation formula for the pollution tax

(Chain ID WGK025858)

The Minister for Infrastructure and Water Management,

Having regard to Article 7.5(1), (4), and (5) of the Water Act;

HEREBY DECIDES

Article I

The Water Regulation is amended as follows:

A

Article 7.2 is amended as follows:

1. Paragraph 2 shall read as follows:
2. The amount of oxygen demand discharged over a 24-hour period, expressed in kilograms, shall be calculated in accordance with the formula:

$$Q\,x\left(3\,x\,TOC+4.57\,x\right)¿¿ \text{ [kg/24h]}$$

where:

Q: amount of waste water (m^3/d)
TOC: Total organic carbon (mg/l)
TN_b: Total bound nitrogen (mg/l)
TON: total oxidisable nitrogen (mg/l) = (NO_2+NO_3)
NO_2: nitrite nitrogen (mg/l)
No_3: nitrate nitrogen (mg/l)

2. The preamble to paragraph 3 shall read as follows:

3. If at least 25 % of the oxygen demand, as calculated in accordance with paragraph 2, is derived from non-biodegradable or nearly non-degradable substances in the waste water, a correction shall be applied to that value by multiplying it by the correction factor f:

$$f=\frac{\left(100-T\right)}{75}$$

where:

f = correction factor
T = the percentage of oxygen demand, as calculated in accordance with paragraph 2, which is derived from non-biodegradable or almost non-degradable substances.

T is calculated for:

3. In paragraph 3(a), ‘as referred to in Article 7.1(1) of the Water Act,’ is deleted.

4. Two paragraphs shall be added with the following text:

4. For the purpose of determining the correction referred to in paragraph 3, an application shall be submitted by the tax subject. The application shall contain at least:
a. a description of the waste water streams for which the correction is requested;
b. the method and frequency of measurement, sampling and analysis;
c. the type, number and methodologies to be followed of the toxicity tests and biodegradation studies to be carried out.

5. The tax official shall decide on the application referred to in paragraph 4 in a decision subject to appeal to which regulations may be attached. This may include at least rules on the frequency of measurements, sampling and analysis.

B

In Article 7.4, the words ‘Article 7.5(1) and (2)’ are replaced by ‘Article 7.5(1)’ and, in the formula appended thereto, ‘exported’ is replaced by ‘discharged substances’.

C

In Article 7.7(2), ‘quantity transported’ shall be replaced with ‘quantity discharged’.

D

In Article 7.9(3)(b), the words ‘shall be deleted’ are replaced by ‘deleted’.

E

In Article 7.12(1), ‘removed’ shall be replaced with ‘discharged’.

F

In Article 7.14(3), Table A shall now read as follows:

Table A

For analysis for the parameter/substance below	**Environmental temperature**		**Conservation method**	**Maximum retention time**
	during transport	**until the end of the retention period**		
Total Organic Carbon (TOC)	between 2 and 8 °C	between 1 and 5 °C	Cooling and acidification with H_2SO_4 to pH < 2	1 month
		< – 18 °C	Freezing within 12 hours	1 month
total bound nitrogen (TN_b)	between 2 and 8 °C	between 1 and 5 °C	Cooling and acidification with H_2SO_4 to pH < 2	1 month
		< – 18 °C	Freezing within 12 hours	1 month
total bound	between 2 and 8 °C	between 1 and 5 °C	Cooling and acidification with H_2SO_4 to pH < 2	1 month

nitrogen (TN_b) sum of nitrite and nitrate nitrogen (TON)	between 2 and 8 °C	< – 18 °C	Freezing within 12 hours	1 month
		between 1 and 5 °C	Filtering	4 days
sum of total bound nitrogen less nitrite and nitrate nitrogen (TN_b-TON)	between 2 and 8 °C	between 1 and 5 °C	Cooling and acidification with H_2S0_4 to pH < 2	1 month
		< – 18 °C	Freezing within 12 hours	6 months
chemical oxygen demand (COD)	between 2 and 8 °C	between 1 and 5 °C	Cooling and acidification with H_2SO_4 to pH < 2	6 months
		< – 18 °C	Freezing within 12 hours	6 months
biochemical oxygen demand (BOD)	between 2 and 8 °C	between 1 and 5 °C	Cooling to the exclusion of light.	1 day
		< – 18 °C	Freezing within 12 hours	1 month (if BOD ≤ 50 mg/l) 6 months (if BOD > 50 mg/l)

G

Article 7.15 is amended as follows:

1. In Paragraph 3, Table B shall read as follows:

Table B

Parameter/ substance	**Release according to standard document**	**Measurement according to standard document**	**Detection limit [1])**
Total Organic Carbon (TOC)		NEN-EN ISO 20236:2021 and	1 mg/l
total bound nitrogen (TN_b)		NEN-EN ISO 20236:2021 and	1 mg/l
sum of nitrite and nitrate nitrogen (TON)		NEN-EN-ISO 13395:1997 nl; or NEN-EN-ISO 15923-1:2024 and	
sum of total bound nitrogen less nitrite and nitrate nitrogen (TN_b-TON)	NEN 6645: 2005 en[2])	NEN-EN ISO 15923-1:2024 and NEN 6646+C1:2025 and NEN-EN ISO 11732:2005 and	0.5 mg/l
chemical oxygen demand (COD)		NEN 6633:2006 or NEN ISO 15705:2003 and[3])	5 mg/l[4])
biochemical oxygen demand (BOD)		NEN-EN ISO 5815-1:2019 and	According to standard; 1 mg/l

1) The detection limits for heavy metals are based on a waste water sample with a specific conductivity up to 1500 µS/cm and for undissolved substances up to 100 mg/l. For waste water samples with a matrix that is greater than the indicated values for electrical conductivity and undissolved substances, a higher detection limit may apply.
2) For the determination of the sum of total bound nitrogen less nitrite and nitrate nitrogen ($TN_{b\text{-}TON}$), the analysis may only be carried out according to standard document NEN 6645 nl if TN_b consists

of more than 90 % TON.

3) The analysis according to standard document NEN-ISO 15705 and applicable to undiluted samples with an oxygen demand content of up to 1.000 mg/l and chloride concentration lower than 1.000 mg/l. The tax official may also declare the method inapplicable if he or she considers that there are other circumstances that warrant it.
4) The analysis according to standard document NEN-ISO 15705 and has a detection limit of 6 mg/l for photometric detection at 600nm and 15 mg/l for titrimetric detection (based on a single single laboratory measurement) when cuvettes are used with a range of up to 1,000 mg/l. If a concentration is reported as being less than the detection limit, a concentration of half the detection limit shall be used for the pollution tax assessment.

2. Paragraphs 5 and 6 shall be deleted.

H

After Article 7.15, an article shall be added to Chapter 7, as follows:

Article 7.16

1. In order to determine the ratio over a given calendar year between the chemical oxygen demand and the total organic carbon content, the tax official shall decide, in a decision subject to appeal, upon request from a tax subject as referred to in Article 7.5(4) of the Water Act, and shall in any case issue instructions with regard to the:

a. waste water streams and substances included in the comparative study;
b. time periods in which measurement and sampling are carried out, either every 24 hours during those periods or during one or more designated 24-hour periods therein;
c. the manner in which the results obtained on the basis of subparagraph b are converted to the ratio between the chemical oxygen demand and the total organic carbon content over the fiscal year.

2. A special ratio between the chemical oxygen demand and the total organic carbon content in the discharged substances referred to in Article 7.5(4) of the Water Act shall apply until the fiscal year in which a new ratio is established.

3. Changes in operational situation, which may give rise to a change in the ratio between the chemical oxygen demand and the total organic carbon content in the discharged substances in the calendar year, shall be notified without delay by the tax subject to the tax official.

4. If, on the basis of Article 7.5(2) of the Water Act, the tax official has agreed to the measurement, sampling and analysis in a limited number of days, the ratio established for these days between the chemical oxygen demand and the total organic carbon content shall be considered representative for each calendar year in the period of validity of the decision determined by the tax official.

5. Article 7.2 shall apply accordingly in the case of a special ratio between the chemical oxygen demand and the total organic carbon content in the discharged substances, on the understanding that in Article 7.2(3), "the oxygen demand, as calculated in accordance with paragraph 2" shall be read as: the oxygen demand as calculated in accordance with the formula:

$$\frac{Q \times \left(X \times \left(\left(TOC - DOC\right) + \left(DOC \times f\right)\right) + 4.57 \times \left(TN_b - TON\right)\right)}{1000}$$

Where:
Q: amount of waste water (m^3/d)
X: the special ratio
TOC: Total organic carbon (mg/l)
TN_b: Total bound nitrogen (mg/l)
TON: total oxidisable nitrogen (mg/l) = (NO_2+NO_3)
NO_2: nitrite nitrogen (mg/l)
No_3: nitrate nitrogen (mg/l)
6. The tax official shall, at the request of the tax subject, who makes it plausible that the results of the measurement, sampling and analysis for determining the ratio in the calendar year between the chemical oxygen demand and the total organic carbon content are not affected thereby, decide that one or more of the requirements laid down in this scheme may be derogated from and may lay down further requirements in that regard.

7. The decision of the tax official on an application as referred to in paragraph 7 shall contain at least:

a. the provisions of this Regulation from which derogations may be made;
b. the permitted derogations from the rules laid down in this Regulation;
c. detailed rules of the tax official.

Article II

This Regulation shall enter into force on 1 January 2026.

This Regulation and the explanatory notes shall be published in the Government Gazette.

THE MINISTER FOR INFRASTRUCTURE AND WATER MANAGEMENT,

EXPLANATORY NOTE

General part

1. Introduction

The pollution tax for national waters is levied for discharges of waste water into surface water managed by the national government.[1] The amount of this tax depends on the oxygen demand of the discharged substances.[2] A formula is used to determine the oxygen demand. Due to a change in the law[3], this formula has been changed (the TOC formula instead of the COD formula). The two methods do not calculate exactly the same thing, so a conversion factor of three is used (COD = 3 x TOC). Because this conversion factor of three is not reasonable for everyone, the legislative amendment includes a possibility to show a different COD/TOC ratio than three.[4] This amendment to the Water Regulation amends the formula in the Water Regulation and lays down further rules on how the deviating COD/TOC ratio is determined. In addition, a number of technical changes are being made.

2. New parameters for determining the pollution value

The pollution tax due to the national government is levied for discharges of waste water into surface water managed by the national government (national waters). The tax shall be imposed by the Minister for Infrastructure and Water Management. This is carried out by Rijkswaterstaat (hereinafter: RWS).[5] The amount of the pollution tax for national waters depends on the pollutant value of the waste water discharged. This is based on the oxygen demand of the discharged substances. This is represented by the number of pollution units.

The oxygen demand is calculated using the following formula: This formula is included in the Water Regulation. In this formula, the chemical oxygen demand (COD) and nitrogen-Kjeldall (N-Kj) were the parameters. As explained in paragraph 7.1 of the above-mentioned legislative amendment, this previously prescribed analytical method for COD and N-Kj has been under pressure for a long time. This is due to the use of environmentally harmful chemicals (in particular potassium dichromate, mercury, chromium VI, smoking sulphuric acid and silver) in the laboratory analyses. There are also technical health and safety concerns in carrying out the analyses due to health hazards arising from the substances mentioned.[6] The Water Act has therefore been amended.[7] As an alternative to the direct measurement of COD, TOC (Total Organic Carbon) has been included and N-Kj has been replaced by TN_b (Total bound Nitrogen) or N-total (Nitrogen Total).[8] For both

[1] Article 7.2 of the Water Act.

[2] Article 7.3 of the Water Act.

[3] The Act of 10 February 2025 amending the Water Board Act, the Water Act and the General Administrative Law Act in connection with strengthening the application of the profit principle in the water system tax, giving room to new developments and resolving some bottlenecks (Bulletin of Acts and Decrees). 2025, 63).

[4] Article 7.5(4) of the Water Act.

[5] Implementation by the Bureau for the pollution tax on national waters of Rijkswaterstaat.

[6] Parliamentary Papers II 2022/23, 36412, No 3, p. 22 to 24.

[7] Article 7.5(3) of the Water Act.

alternatives, the basic oxygen demand remains, whereby N-total nitrite and nitrate are deducted and a conversion factor of three is used for TOC.

As a result of this legislative amendment, the Water Regulation must be amended. The formula included in Article 7.5(2) of the Water Regulation for calculating the COD value has been adjusted to a formula for calculating the TOC value. A reference to NEN-EN-ISO 20236 (TOC) is also added in Article 7.15 (Table B). This is a mandatory reference to an international standard. The mandatory reference is necessary to ensure that everyone uses the same measurement method and is therefore subjected to a correct assessment. Because of the copyright attached to this standard, it is not permitted to publish it electronically free of charge. However, the standard can be consulted free of charge at the Dutch Standardisation Institute (NEN) in Delft and at the Rijkswaterstaat.

3. Possibility of derogation

If the ratio of the chemical oxygen demand (COD) to the total organic carbon content (TOC) in the discharged substances is between two and a half and three and a half ($2,5 \leq$ ratio $\leq 3,5$), a ratio of 3 shall be used for the calculation of the pollution tax: COD = 3 x TOC. The COD/TOC ratio is substance-dependent. For specific types of waste water from companies, the conversion factor is not three. There are companies where the conversion factor is lower as well as companies where it is higher. Full application would cause the tax to be too high or too low. The legislative amendment therefore provides that companies that can demonstrate that their wastewater has a COD/TOC ratio that is less than 2.5 may apply a lower pollution value. In addition, the derogation scheme makes it possible that when RWS shows that the waste water of a company has a COD/TOC ratio that is greater than 3.5, the water board or RWS can apply a higher pollution value.

This amending regulation lays down in a new Article 7.16 more detailed rules to show this special ratio. In this case, the ratio of the chemical oxygen demand to the total organic carbon content shall also be determined using the COD method. An accountable person may submit an application to demonstrate a special ratio. Article 7.16 provides that this is done in accordance with the rules laid down in the decision of the tax official. This decision is subject to appeal.[9] In addition, rules are included about the validity period of the special ratio and a notification obligation in case of changed operational situation. For further explanations, please refer to the article by article section of this explanatory note.

Once a special ratio (V) has been determined, no complete correction will take place.[10] In a formula, the correction is as follows:

If the ratio is less than 2.5:

[8] Parliamentary Documents II 2020/21, 35570 XII, No 103, Annex II. In the proposals, the parameter TNb (Total bound Nitrogen) is named as N-total (Nitrogen total). This refers to the same thing.

[9] It is necessary to regulate this explicitly on the basis of 26 of the General Law on State Taxes.

[10] Article 7.5(1) of the Act.

$$Ratio \frac{V}{2.5} x\, 3$$

With a ratio higher than 3.5:

$$Ratio \frac{V}{3.5} x\, 3$$

For the sake of completeness, it should also be noted that the pollution tax for regional waters is imposed by the water boards. The above amendments also apply to the pollution tax for regional waters. Water boards will themselves adapt their regulation.

4. Regulatory burden

This amendment does not affect the regulatory burden of citizens and companies. However, this amendment does have an impact on the regulatory burden of companies. Companies that wish to qualify for a special ratio must investigate this option. If companies take the initiative to arrive at a special ratio, the costs and associated efforts shall be borne by them. This mainly concerns applying for a decision to show a special ratio and then carrying out the measurements in accordance with that decision and the rules laid down in the Water Regulation. It is expected that between 20 and 40 companies will conduct their own research in order to establish a special ratio. A reliable quantification of the time a company needs to demonstrate a special ratio cannot be given. This depends to a large extent on the quality of the company's administration, the familiarity with its own (production) process and the amount of oxygen-binding substances that are discharged.

If RWS determines this ratio, then the time and costs required for this are for RWS. However, this will require some capacity from the company because RWS may need additional information to be able to establish a special ratio.

It is expected that the application from a company will mainly occur if this is more advantageous for the company and could mean a possible reduction of the COD/TOC ratio of three laid down in the Water Board Act. A lower ratio leads to a lower amount of pollution tax to be paid. In addition, the costs to be incurred are normally non-recurring.

5. Implementation

The total number of companies with a special ratio higher than 3.5 is expected to be small. The number is estimated to be between 30 and 50 companies. That is about 10% of the number of relevant measuring companies. RWS will carry out the costs and associated efforts for this purpose. RWS expects to require 4.87 FTE of additional capacity. This assessment is based on the following work:

- Answering questions from tax subjects.
- Requests for approval of measurement and sampling plans.
- Issuing new measurement decisions.
- Possible increase in the number of appeals.
- Periodic adjustment of the TOC factor due to changed operational

situations.
- The assessment/approval of new sampling systems (TOC).
- Periodic adjustment of the TOC factor as a result of changed operational situations (adjustment of work flow, new business units, etc.).

In addition, there are a number of one-off activities:

- Updating the IPLO website.
- Updating the declaration form.

6. Financial impact

The costs for a TOC analysis are slightly higher than for a COD analysis. However, the costs for a COD analysis will increase because the costs for the disposal and processing of the residual chemicals will increase. In addition, companies will have to be in possession of the newly designated standard NEN-EN-ISO 20236:2021. This can be purchased from NEN or can be consulted free of charge at NEN or RWS offices.

7. Notification

The draft of this amendment was submitted on ... to the European Commission (Notification Number 2025/XXXX/NL) under Article 5(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ 2015 L 241).

PM

8. SME test

The proposals affect SMEs, namely companies that discharge waste water onto national waters. In order to hear how companies view the proposals, efforts have been made to come into contact with individual entrepreneurs. VNO-NCW and MKB-Nederland were asked whether there were any undertakings in their communities that wished to submit their views.

PM

9. Online consultation

During the period [PM], an internet consultation was carried out for this Bill/Decree/Regulation.

[TBC- responses received]

On the site www.internetconsultatie.nl, the received comments are made public if the person who has provided a comment has given permission for this. A short report shall also be published on the site, giving a general overview of the results of the internet consultation, and the main changes to the proposal or explanatory notes in response to the comments received.

10. Entry into force

This Regulation shall enter into force on 1 January 2026. This is in line with the entry into force of the Act of 10 February 2025 amending the Water Board Act, the Water Act and the General Administrative Law Act in connection with strengthening the application of the profit principle to the water system tax, giving room to new developments and resolving some problem areas (Gazette 2025, 63. When the date of entry into force is determined, account is taken of the fixed regulatory changes and the three-month minimum implementation period applicable to decisions addressed to co-authorities (Article 4.17 of the Legislation Guidelines [Aanwijzingen voor de regelgeving]).

Explanatory notes by article

Article I

Part A

In paragraph 2, the formula used to calculate the oxygen demand for the pollution tax for national waters has been adjusted. In this formula, the chemical oxygen demand (COD) and nitrogen-Kjeldall (N-Kj) were the parameters. As mentioned above in the general part of this explanatory memorandum, the analytical method necessary for the determination of COD has been under pressure for a long time, due to the use of substances harmful to humans and the environment. This has therefore been amended. TOC (Total Organic Carbon) applies instead of COD and for N-Kj TN b (Total bound Nitrogen) or N Total (Nitrogen Total) is applied.[11] Paragraph 2 of Article 7.2 has been amended accordingly.

Pursuant to Article 7.5(5) of the Water Act, if the result of the method for determining the chemical oxygen demand is significantly affected by biologically non-degradable or virtually non-degradable substances, a correction is applied. In Article 7.2(3) of the Water Regulation, this so-called T correction, also known as the ‘capacity correction’, is specified in more detail. For the T correction, the theoretical COD/TOC ratio of three is assumed. Article 7.2(3) has been amended accordingly. In addition, two paragraphs have been added. The T-correction must now be done on request. The new Paragraph 4 indicates what that application must contain as a minimum. Paragraph 5 provides that the tax official shall decide on this application for a decision subject to appeal in which he or she may impose conditions. This may include at least rules on the frequency of measurements, sampling and analysis.

Parts B to E

These are some technical corrections.

Parts F and G

Table A corresponding to Article 7.14 for the preservation of wastewater samples and Table B corresponding to Article 7.15 for detection limits are amended due to the inclusion of the analytical method of TOC. In addition, the reference to the NEN standard associated with the BOD method has been updated[12] and the order of the methods included in the table has been adjusted (from new to old). For each standard, a year has also been applied so that from now on static references are made to the standards, which is in accordance with the principle in the Legislation Guidelines [Aanwijzingen voor de Regelgeving]. With each standard is also added whether the English or the Dutch version should be used.

[11] Article 7.5(3), Water Act

[12] NEN-EN 1899-1 has been replaced by NEN-EN-ISO 5815-1.

Part H

In this section, a new Article 7.16 is added. Pursuant to Article 7.5(4) of the Water Act, it is possible for the tax subject and the tax official to show a special ratio between the chemical oxygen demand and the total organic carbon content in the discharged substances (different COD/TOC ratio). Article 7.16 lays down detailed rules for establishing such a special ratio.

Paragraph 1

The initiative to establish a different COD/TOC ratio may be taken by both the tax subject and the tax official. The tax subject will do so if he suspects that the COD/TOC ratio is lower than three and the tax official if he suspects that this ratio is higher. The tax subject submits an application for that purpose on the basis of Article 7.5(4) of the Water Act. Paragraph 1 provides which regulations shall in any case be included in that decision by the tax official. The tax official may therefore impose other requirements as well. This ensures that the tax subject establishes the correct COD TOC ratio. Paragraph 1 also provides that the tax official shall decide on this application in a decision subject to appeal.

Paragraph 2 and 3

Paragraph 2 determines how long the special ratio between chemical oxygen demand and total organic carbon in the discharged substances shall apply. This is up to the fiscal year in which a new ratio is established. Both the tax subject and the tax official may take the initiative to do so. The tax subject may submit an application on the basis of Article 7.5(4) of the Water Act. It is also possible that the tax official sees reason for a re-examination and a new special ratio follows from this. A reason for this may be a change in operational situation that may give rise to a change in the COD/TOC ratio in the calendar year. Paragraph 3 therefore provides that such changes in operational situation shall be reported to the tax official without delay.

Paragraph 4

Pursuant to Article 7.5(1) of the Water Act, the principle is that measurements are carried out every 24 hours. Under paragraph 2 of that article, derogations may be made from that provision. Paragraph 5 provides that as soon as a special ratio has been established, this deviating measurement frequency can also be used for this special ratio.

Paragraph 5

If the aforementioned T correction is applied (Article 7.5(5) of the Water Act), Article 7.2 applies accordingly if a special ratio is established. In the formula as included in the second paragraph of that Article, then the ratio used will not be 3 but instead the special ratio as established for the company. Shown below as X:

$$\frac{Q \times \left(X \times \left(\left(TOC - DOC\right) + \left(DOC \times f\right)\right) + 4.57 \times \left(TN_b - TON\right)\right)}{1000}$$

Paragraphs 6 and 7

These paragraphs state that the tax subject may submit an application to the officer of tax if the tax subject wishes to deviate from the provisions set out in these regulations. These will be requirements prescribed in the NEN-EN-ISO 20236:2021 and (TOC) as regards the use of equipment. Equipment that does not meet the requirements of this regulation, but with which a comparable result is achieved, is therefore permitted. This applies to both domestic and foreign equipment. This complies with the principle of mutual recognition. Paragraph 7 lays down the instruction which the decision from the tax official must contain in any case. The tax official may therefore impose other requirements as well.

THE MINISTER FOR INFRASTRUCTURE AND WATER MANAGEMENT,