



COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(97) 228 final

95/0010 (SYN)

**Amended Proposal for a
COUNCIL DIRECTIVE
on the Quality of Water Intended for
Human Consumption**

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

Pursuant to Article 189 (a) paragraph 2 of the EC Treaty, the Commission submits an amended Proposal for a Council Directive on the quality of water intended for human consumption. The amended proposal takes account of a number of amendments adopted by the European Parliament at its December 1996 Plenary Session.

In general the Commission cannot accept the amendments which are, in its opinion, unworkable, or which will make implementation unduly onerous. On the other hand the Commission can accept amendments which improve the clarity of the text and which remove any possible areas of ambiguity or doubt. The Commission can also accept those amendments which improve still further the transparency of proposed Directive.

Therefore, the Commission can accept amendments 1, 3, 4, 5, 16, 18, 20, 25, 28 to 33, 36, 38, 40, 42, 48 to 50, and 64 without reservation. These all improve the text, either by including sensible and logical additional requirements, or by removing possible areas of misinterpretation, or by improving transparency and the level of protection provided.

In addition the Commission can accept in principle Amendments 6, 10, 17, 19, 26, 39, 44, 45, 47, 58, 65, and 77. The Commission also accepts the thrust of amendment 121 under certain conditions as noted below.

Commentary on the above amendments accepted in principle follows:-

Amendment 6 concerns the scientific basis of the Proposal. This serves a useful purpose but the exact wording needs to be modified to include the Commission's Scientific Committee to examine the Toxicity and Ecotoxicity of Chemical Compounds.

Amendment 10 concerns Endocrine Disruptors. There is indeed rising concern about such substances but the text needs to be modified to ensure it encapsulates the full essence of the issues.

Amendments 17, 26 and 47 deal with the proposed exemption for not meeting the standards at the tap. The Commission agrees that there is a need to restrict the current exemption to the lead parameter and to domestic householders only. However such an important derogation, should not be relegated to Note 3 of Annex I Part B, but should instead be mentioned in the body of the Articles. Therefore, the Commission cannot agree that Articles 2(2) and 7(3) are deleted, but rather amended to reflect the spirit of this change. With respect to amendment 47, the Commission cannot accept the second part of the amendment which obliges Member States to report to the Commission on the incidence of lead piping in households, and to come forward with a plan to replace it. This obligation is inconsistent with the first part of the amendment.

Amendment 19 concerns Endocrine Disruptors and other harmful substances. The Commission does not think it is necessary to mention specifically endocrine disruptors since these are inferred and already included in the term "other substances harmful to health". Therefore the wording needs to be modified

Amendment 39 concerns the time limit for Article 18 special circumstances. This could cause some difficulties in some Member States, and the Commission would prefer a commitment for a review after two years and the opportunity for a possible extension of two years.

Amendment 44 refers to new scientific evidence and the Commission agrees that new scientific evidence must be assessed to ensure that our standards are fully in compliance with current scientific thinking. However in view of the 1997 World Health Organisation (WHO) review of their Guideline Values this note should refer to all the following parameters:- Trichlorethene;

Nickel; Nitrate and Nitrite; Polycyclic Aromatic Hydrocarbons (PAHs); and Trihalomethanes (THMs) in respect of Chloroform.

Amendment 45 refers to note 2 in Annex I, Part B on the Trihalomethane (THM) parameter. This is acceptable providing the interim standard is adjusted to 150 micrograms per litre ($\mu\text{g/l}$) after 5 years, in accordance with the comments on amendment 121 below.

Amendment 58 calls for monitoring of the lead parameter to be harmonised, and this seems a sensible proposition. The exact wording of this amendment needs to be adjusted to ensure consistency with other provisions of the Proposal.

Amendment 65 refers to protection measures for surface and groundwater resources. The Commission can accept this in principle since the context is fully consistent with what the Commission has included in the proposed Framework Directive.

Amendment 77 concerns disinfection, and the obligation to ensure that drinking water is not contaminated with disinfection by-products. This amendment can be accepted in principle since it is consistent with the need to find a balance between efficient disinfection and the contamination of drinking water from disinfection by-products.

Amendment 121 introduces a total standard for four named Trihalomethanes (THMs) of $80 \mu\text{g/l}$ at the tap, in place of the Commission's proposal of two individual standards at the treatment works. The Commission originally expressed an acceptance in principle for amendment 41, but the latter fell in the plenary voting in favour of amendment 121. Therefore, the Commission accepts the thrust of amendment 121 providing that the parametric value for all four THMs is changed to 100 micrograms per litre ($\mu\text{g/l}$) - instead of $80 \mu\text{g/l}$ - to be met after 10 years, with an interim standard of 150 micrograms per litre ($\mu\text{g/l}$) after 5 years. This would bring measurement of the THM parameter into line with many Member State current practices.

The Commission can accept Amendment 7 in part. The Commission can accept the first part of this amendment in full, as it is right that the measures taken should be co-ordinated with the Pesticides marketing Directive. However the second part of the amendment referring to the ECJ ruling cannot be accepted since it is not necessary or warranted.

The Commission cannot accept the remaining amendments, namely 2, 8, 9, 11, 12, 14, 15, 21 to 24, 27, 34, 35, 37, 43, 46, 51, 52, 53, 61, 73, 87, 91, 92, 118, and 119. Commentary on these amendments follows:-

Amendment 2 refers to the "modus vivendi" between Parliament, Council, and the Commission. This is an unnecessary reference and adds nothing of substance to the Proposal. Hence it is not acceptable.

Amendments 8 and 9 call for the "guaranteed protection" of catchments from Pesticides and Nitrates respectively. Such protection cannot, even with the best will in the world be "guaranteed", and such an amendment would be virtually impossible to implement fully.

Amendment 11 calls for the parametric values to be complied with in all cases at the tap. There are several parameters which do not change their value between the treatment works and the tap, and where this can be established, it is fair to offer Member States the opportunity to measure such parameters at the treatment works.

Amendments 12 and 34 deal with the regulation of materials in contact with water. The Commission accepts that the question of piping materials is highly relevant to the eventual quality of drinking water at the tap, but this is primarily a matter for Directive 89/106/EEC - the Construction Products Directive.

Amendment 14 calls for the Commission to update Parliament on the implementation of the Directive. This amendment stems from the mistaken impression that the costs of meeting the standards, and in particular the lead standard, are to be borne by the Community. These costs are to be met by Member States and not the Community, and therefore the Commission is unable to support this amendment.

Amendment 15 requires that failures to meet the standards "must" be investigated, rather than "should" be investigated. This is not acceptable since there may be cases where taking remedial action is not feasible, and the supply must be closed. This is not really remedial action. Therefore, "should" is preferable.

Amendment 21 calls for Member States inform the Commission of guidelines drawn up to deal with the implications of an interruption in the supply or a restriction in use. This is not acceptable since there would be no benefit to be gained if the Commission was to be informed of the mass of guidelines that may be produced by Member States.

Amendments 22 to 24 delete the notification procedure which is to be applied when Member States choose to introduce more stringent standards, or standards for additional parameters. The Commission cannot accept these amendments since the notification procedure is intended to ensure that other standards are not used in a manner which could constitute a barrier to trade, and hence prejudice the functioning of the internal market.

Amendment 27 calls for the Commission to be informed of Member States monitoring programmes. This is not acceptable since there would be no benefit to be gained if the Commission was to be informed about all the monitoring programmes that may be produced by Member States.

Amendment 35 proposes the deletion of the words "so far as this is relevant to the protection of human health" from Article 12. The effects of the this deletion would mean that parameters which are not relevant to human health could not be altered in the future, as this would be seen as a "deterioration". This could, ironically, lead to a reduction in the quality of the water, and therefore it cannot be accepted.

Amendment 37 proposes the deletion of all comitology procedures. The Commission took great care in adopting the proposal to ensure that any changes to Annex I - the parameters and parametric values- must be through the full legislative procedure involving Parliament. However, in the case of Annex II (monitoring) and Annex III (measurement methods), any updating should be by Committee. The Commission considers this to be the most efficient way to deal with what are essentially technical issues. There will, of course, be a full application of the Plumb - Delors procedure.

Amendments 43 and 51 relate to Endocrine Disruptors. The Commission is very aware that this is an area of rising concern, and therefore accepts the call for a study to be carried out to determine the need for such a parameter. However, the Commission believes it is premature to insert a new parameter for such substances at this stage, and therefore cannot accept these amendments.

Amendment 46 calls for the lead standard of 10 micrograms per litre (mg/l), to be met within 10 years after entry into force of the Directive. The Commission cannot accept such a timetable. The proposed figure is 15 years, and this is based on what the Commission believes to be the best balance between the protection of human health, and the economic consequences of achieving such a standard.

Amendment 52 calls for copper to be included in Annex I Part C i.e.: as an indicator parameter. The Commission's Scientific Committee has recommended that a parametric value of 2 mg/l

should be set in order to provide freedom from acute gastrointestinal disturbances, and furthermore the WHO will be reviewing their guideline value for copper in 1997. In view of this, it is considered that it would be premature to move the parameter to Annex I part C or change or delete the parametric value.

Amendment 53 calls for the parameters Tetrachlorethene and Trichlorethene to be replaced by one parameter for 5 specified organochlorine compounds with a parametric value of 10 mg/l. Tetrachlorethene and Trichlorethene were chosen by the Commission as appropriate parameters for the presence of chlorinated solvents, and the parametric values were fixed at 40 and 70 mg/l respectively, as advised by the Commission's Scientific Committee and in accordance with the World Health Organisation (WHO) Guidelines. The Commission feels that it would be inappropriate to impose anything other than the toxicologically based WHO standards on all Member States. However the Commission has asked its scientific Committee for a view on this amendment, and when the WHO comes up with its re-evaluation of the guideline value for Trichlorethene, the Commission will examine the results and may propose a revised standard, if appropriate and necessary.

Amendments 61 and 92 introduce radioactivity standards into the proposed Directive. The Commission cannot accept these amendments, since radioactivity in drinking water is already covered under the Euratom Treaty and Council Directive 96/29/Euratom¹ (Basic Safety Standards for the health protection for the protection of the health of workers and the general public against the dangers arising from ionising radiation).

Amendment 73 provides an exemption from the Directive for water in closed industrial systems. This amendment cannot be accepted since closed industrial systems are already excluded via Article 2(1) (b) of the proposal.

Amendments 87 and 91, propose the addition of Coliforms to Annex I Part A and Annex II Table A1. The Commission cannot accept these amendments, but it will examine the need for this and other microbiological parameters in both these annexes.

Amendments 118 and 119 deal the obligation to maintain a supply to domestic consumers at all times, without prejudice to the costs of the supply. The Commission cannot accept such amendments because they impinge on the subsidiarity principle, and hence the issue is one for Member States to deal with.

¹ OJ No L 159, 29.6.96, p 1

Amended Proposal for a

COUNCIL DIRECTIVE

on the Quality of Water Intended for Human Consumption

Commission Proposal

Amended Proposal

Recital 2

Whereas in keeping with the provision of Article 3(b) of the Treaty, whereby any action by the Community should not go beyond what is necessary to achieve the objectives of the Treaty, it is necessary to revise the provisions of Directive 80/778/EEC so as to focus on compliance with essential quality and health parameters, leaving Member States free to add secondary parameters if they see fit;

Whereas in keeping with the provision of Article 3(b) of the Treaty, whereby any action by the Community should not go beyond what is necessary to achieve the objectives of the Treaty, it is necessary to revise the provisions of Directive 80/778/EEC so as to focus on compliance with essential quality and health parameters, leaving Member States free to add other parameters if they see fit;

Recital 2a (new)

Whereas, in compliance with the subsidiarity principle, Community action must support and supplement action by the competent authorities in the Member States;

Recital 3

Whereas, in accordance with the principle of subsidiarity, the differences in natural and socio-economic features of the regions in the Union require that most decisions on monitoring, analysis, and on the measures to be taken to redress failures be taken at a local, regional or national level;

Whereas, in accordance with the principle of subsidiarity, the differences in natural and socio-economic features of the regions in the Union require that most decisions on monitoring, analysis, and on the measures to be taken to redress failures be taken at a local, regional or national level; in so far as the differences do not detract from the establishment of the framework of laws, regulations and administrative provisions laid down by this Directive;

Recital 4

Whereas Community standards for essential health-related quality parameters in water intended for human consumption are necessary in order to define the minimum environmental quality goals to be achieved in connection with other Community measures, in order to safeguard the sustainable use of water intended for human consumption;

Whereas Community standards for essential and preventive health-related quality parameters in water intended for human consumption are necessary in order to define the minimum goals for a high level of environmental protection to be achieved in connection with other Community measures, in order to safeguard and promote the sustainable use of water intended for human consumption;

Recital 4a (new)

Whereas the standards in Annex I are generally based on the World Health Organisation's Guidelines for Drinking Water Quality, and the advice of the Commission's Scientific Committee to examine the toxicity and Ecotoxicity of Chemical Compounds.

Recitals 6a and 6b (new)

Whereas to enable the quality standards for drinking water to be met by the water supply undertakings, appropriate water protection measures should be applied to ensure that surface and groundwater is kept clean;

Whereas the coherence of European water policy presupposes a suitable water framework directive will be adopted in due course

Recital 8

Whereas measures are required to meet specified values for all directly health-relevant parameters and for other parameters if a deterioration in quality has occurred; whereas furthermore such measures should not prejudice the implementation of Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market as last amended by Commission Directive 94/79/EC.

Whereas measures are required to meet specified values for all directly health-relevant parameters and for other parameters if a deterioration in quality has occurred; whereas furthermore such measures should be carefully coordinated with the implementation of Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market as last amended by Commission Directive 94/79/EC.

Recital 11a (new)

Whereas there is no conclusive evidence on which to base precautionary parameters, yet there is increasing concern about the potential impact on humans and wildlife of the effects of substances harmful to health, which include environmental endocrine disrupting chemicals;

Article 1(2)

2. The objective of the Directive is to protect human health from the adverse effects resulting from the contamination of water intended for human consumption by ensuring that it is wholesome.

2. The objective of the Directive is to protect human health from the adverse effects resulting from the contamination of water intended for human consumption by ensuring that it is wholesome and clean.

Article 2(2)

2. For the purpose of this Directive, "domestic distribution system" shall mean all pipe work and fittings which connect a consumer's tap to the supply and which, according to the relevant national law, are not the responsibility of the water supplier.

2. For the purpose of this Directive, "domestic distribution system" shall mean all pipe work and fittings which connect a household or group of households to the supply and which, according to the relevant national law, are not the responsibility of the water supplier.

Article 3(d)

(d) without prejudice to Article 5(1), water intended for human consumption from an individual source serving 15 or less households, unless the water is offered for sale.

(d) without prejudice to Article 5(1), water intended for human consumption from an individual supply serving 15 or fewer households, unless the water is offered for sale.

Article 4(1) (b)

(b) is free of pathogenic micro-organisms and parasites in numbers which constitute a potential danger to human health.

(b) is free of pathogenic micro-organisms and parasites, or other substances harmful to health, in numbers or concentrations which constitute a potential danger to human health.

Article 4(2)

2. Member States shall take all other measures necessary to ensure that water intended for human consumption meets the objective set out in Article 1.

2. Member States shall take all other measures necessary to ensure that water intended for human consumption meets the objective set out in Article 1. This shall include catchment protection measures that take full account of the precautionary principle and the polluter pays principle.

Article 7(2)

2. For water intended for human consumption supplied from a distribution network, the parametric values shall be complied with as it emerges from at least one tap in the consumer's premises.

2. For water intended for human consumption supplied from a distribution network, the parametric values shall be complied with as it emerges from all cold water taps, which are representative for human consumption.

Article 7(3)

3. Member States are deemed to have fulfilled their obligations under this Article and under Articles 4 and 9(2) where it can be established that non-compliance with the parametric values set in accordance with Article 6(1), (2) and (3) is due to the domestic distribution system.

3. Member States are deemed to have fulfilled their obligations under this Article and under Articles 4 and 9(2) where it can be established that non-compliance with the parametric value for lead set in accordance with Article 6(1), (2) and (3) is due to the domestic distribution system.

Article 8(1)

1. Member States shall take all measures necessary to ensure regular, representative monitoring of the quality of water intended for human consumption, in order to check whether the water available to consumers meets the requirements of this Directive. In addition, Member States shall take all measures necessary to ensure that, where disinfection forms part of the preparation of water intended for human consumption, the efficiency of the disinfection treatment applied is verified.

1. Member States shall take all measures necessary to ensure regular, representative monitoring of the quality of water intended for human consumption, in order to check whether the water available to consumers meets the requirements of this Directive. In addition, Member States shall take all measures necessary to ensure that, where disinfection forms part of the preparation of water intended for human consumption, the efficiency of the disinfection treatment applied is verified and that there is no unnecessary contamination from disinfection by-products.

Article 8(3)

3. The sampling points shall be determined by the competent authorities.

3. The sampling points shall be determined by the competent authorities, without prejudice to Article 7(2).

Article 8(6)

6. The Commission shall review at regular intervals the reference methods of analysis specified in Annex III.

6. The Commission shall review at least every three years the reference methods of analysis specified in Annex III.

Article 9(2)

2. If, despite the measures taken to meet the obligations under Article 4(1), water intended for human consumption does not meet the requirements of Annex I, Member States shall ensure that the necessary remedial action is taken as soon as possible to restore its quality.

2. If, despite the measures taken to meet the obligations under Article 4(1), water intended for human consumption does not meet the requirements of Annex I, Member States shall ensure that the necessary remedial action is taken as soon as possible to restore its quality, and that consumers are notified.

Article 9(3a) (new)

3a. Member States shall prioritise their enforcement action, having regard to the extent to which the relevant parameter has been exceeded.

Article 10(1)

1. Member States may make provision for derogations from the parametric values set out in Annex I part B for a limited period of time and up to a maximum value to be determined by them, provided that the derogation during such period does not constitute a potential danger to human health and provided that the supply of water intended for human consumption in the area concerned cannot otherwise be maintained by any other reasonable means.

1. Member States may make provision for derogations from the parametric values set out in Annex I part B up to a maximum value to be determined by them, provided that the derogation does not constitute a potential danger to human health and provided that the supply of water intended for human consumption in the area concerned cannot otherwise be maintained by any other reasonable means. Derogations should not exceed two years after which a review must be conducted and forwarded to the Commission to determine whether sufficient progress has been made. The Commission may, on the basis of the review, permit a further derogation up to two years.

Article 10(2) (d)

(d) an appropriate monitoring scheme, with an increased monitoring frequency where necessary;

(d) an appropriate monitoring scheme, with an increased monitoring frequency where necessary and relevant, and earlier monitoring results where available.

Article 14(1)

1. At least every 10 years, the Commission shall review Annex I in the light of scientific and technical progress and shall make proposals for amendments, where necessary, under the procedure in Article 189c of the Treaty.

1. At least every five years, the Commission shall review Annex I in the light of scientific and technical progress and shall make proposals for amendments, where necessary, under the procedure in Article 189c of the Treaty.

Article 16(4)

4. The formats and the minimum information for the reports referred to in paragraph 3 shall be determined having special regard to the measures referred to in Articles 3(d), 5, 6(3) and 9, and shall if necessary, be amended in accordance with the procedure laid down in Article 15.

4. The formats and the minimum information for the reports referred to in paragraph 3 shall be determined having special regard to the measures referred to in Articles 3(d), 5, 6(3), 8(2), 9, 10(5 and 6) and 18(1), and shall if necessary, be amended in accordance with the procedure laid down in Article 15.

Article 18(1)

1. Member States may in exceptional circumstances and for geographically defined population groups submit a special request to the Commission for a longer period than provided for in this Directive for complying with individual parametric values set in Part B of Annex I. This provision does not apply to water intended for human consumption offered for sale in bottles or containers.

1. Member States may in exceptional circumstances and for geographically defined population groups submit a special request to the Commission for a longer period than provided for in this Directive, for complying with individual parametric values set in Part B of Annex I. The period should not exceed two years after which a review must be conducted and forwarded to the Commission which may, on the basis of the review, permit a further period of up to two years, providing the total period does not exceed five years. This provision does not apply to water intended for human consumption offered for sale in bottles or containers.

Annex I, Part B, entry 5

Boron 300 µg/l

Boron 1.0 mg/l (= 1000 µg/l)

Annex I, Part B, entries 7 and 9

Bromodichloromethane
Chloroform

15 µg/l
40 µg/l
(Note 2)

Total Trihalomethanes (THM) 100 µg/l
- chloroform
- Bromoform
- Dibromochloromethane
- Bromodichloromethane

(Notes 1 and 2)

Annex 1, Part B, entry 21a (new), (after "pesticides")

Total pesticides	0.5	$\mu\text{g/l}$ (Note 5a)
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Annex I, Part B, Note 1

Applies to:-

Boron
Copper

Applies to:-

Boron
Copper
Nickel
Nitrate
Nitrite
Polycyclic Aromatic Hydrocarbons
Trichlorethene
Trihalomethanes (in respect of Chloroform)

Note 1: The values and classification of these parameters may be amended in the light of new scientific evidence which is expected to become available shortly.

Note 1: The values and classification of these parameters may be amended in the light of new scientific evidence which is expected to become available shortly.

Annex I, Part B, Note 2

Note 2: The samples for these parameters are to be taken after any chlorine contact time and at the outlet of the water treatment plant. Where necessary, the parametric value for bromodichloromethane can be increased to 25 µg/l provided that the parametric value for chloroform is reduced to 30 µg/l.

Note 2: The samples for these parameters are to be taken at the tap and must be met at the latest 10 calendar years from the date of entry into force of this Directive. When implementing the measures to achieve this value, Member States shall give priority to those areas where THM concentrations in water intended for human consumption are high.

Member States shall ensure that all appropriate measures are taken to reduce the concentration of THMs in water intended for human consumption as much as possible during the period needed to achieve compliance with the parametric value.

The parametric value for total THMs from 5 years after the entry into force of this directive until 10 years after it has entered into force is 150 µg/l to be met at the tap.

Member States must produce a report and forward it to the Commission in accordance with Article 16(5), on areas with high THM values and come forward within 5 years with a plan to reduce THMs to 100 µg/l.

Annex I, Part B, Note 3, paragraph 3a (new)

Where water sampled at a tap within a household does not comply with the parametric value, and in accordance with Articles 2(2) and 7(3), Member States need not oblige individual householders to replace or permit the replacement of those lead pipes or components containing lead, where the non-compliance is due to the domestic distribution system.

Annex I, Part B, Note 3, paragraph 3b (new)

The sampling and monitoring methods shall be carried out and defined in a harmonized fashion.

Annex I, Part B, Note 5(a)

(a) Pesticides means :

- organic insecticides,
- organic herbicides,
- organic fungicides,
- organic nematocides,
- organic acaricides,
- organic algicides,

and related products [growth regulators].

(a) Pesticides means :

- organic insecticides,
- organic herbicides,
- organic fungicides,
- organic nematocides,
- organic acaricides,
- organic algicides,

and related products [growth regulators and metabolites with an effect similar to pesticides].

Annex I, Part B, Note 5a (new)
New note to new line in table (Total pesticides)

- Note 5a: (a) Pesticides means :
- organic insecticides;
- organic herbicides;
- organic fungicides;
- organic nematocides;
- organic acaricides;
- organic algicides;
and related products
[growth regulators and
metabolites which are
pesticides].
- (b) Only those pesticides
which are likely to be
present in a given supply
need to be monitored.

Annex I, Part B, Note 5(d)

- (d) The Commission shall examine
whether an individual value can be
set for a given substance, after an
evaluation of the available scientific
information.

Deleted.

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