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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a directive of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC
(12884/1/2004 – C6-0006/2005 – 2002/0254(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Jules Maaten

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	25
PROCEDURE.....	27

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting a directive of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC
(12884/1/2004 – C6-0006/2005 – 2002/0254(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (12884/1/2004 – C6-0006/2005),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2002)0581)²,
 - having regard to the amended proposal (COM(2004)0245)³,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0102/2005),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and Commission.

Council common position

Amendments by Parliament

Amendment 1
Recital 8 a (new)

(8a) To protect and inform the public in good time on exceptional events such as floods or infrastructure breakdowns, appropriate emergency plans should be developed, including early warning systems.

¹ OJ C 82 E, 1.4.2004, p. 115.

² OJ C 45 E, 25.2.2003, p. 127.

³ Not yet published in OJ.

Justification

Reintroduction of Recital 12 of the initial Commission text. Linked to Amendment 14.

Amendment 2

Recital 11

(11) On 25 June 1998 the Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Århus Convention). Community law should be properly aligned with that Convention with a view to its ratification by the Community. It is therefore appropriate for this Directive to include provisions on public access to information and to provide for public participation in its implementation.

(11) On 25 June 1998 the Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Århus Convention). Community law should be properly aligned with that Convention with a view to its ratification by the Community. It is therefore appropriate for this Directive to include provisions on public access to information and to provide for public participation in its implementation ***in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information¹ and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment².***

¹ *OJ L 41, 14.2.2003, p. 26.*

² *OJ L 156, 25.6.2003, p. 17.*

Justification

Reinstatement of recital 13 of the Commission proposal in a modified and updated form.

As the relevant provisions of the Århus Convention have been implemented by two specific directives, these should be explicitly mentioned.

Amendment 3
Article 2, point 7, point (f a) (new)

(fa) setting up emergency plans and surveillance systems;

Justification

Reinstatement of Article 3 (3) (g) of the Commission proposal.

This is in line with amendment 14 of the rapporteur, who suggests to reintroduce Article 12 of the Commission proposal.

Amendment 4
Article 2, point 8

8. "Short-term pollution" means microbiological contamination as referred to in Annex I, column A, that has clearly identifiable causes, is not normally expected to affect bathing water quality for more than approximately 72 hours and for which the competent authority has established procedures to predict and deal with as set out in Annex II.

8. "Short-term pollution" means microbiological contamination as referred to in Annex I, column A, that has clearly identifiable causes, is not normally expected to affect bathing water quality for more ***than 48 hours after the termination of the cause and does not last longer*** than approximately 72 hours and for which the competent authority has established procedures to predict and deal with as set out in Annex II.

Justification

The beginning of a short term pollution can sometimes be difficult to determine, therefore a more clear and precise definition is needed. The end of a "clearly identifiable cause" can be determined more precisely.

Amendment 5
Article 5, paragraph 1, point b)

b) **"sufficient"**;

deleted

Justification

The 'sufficient' quality of bathing water was not envisaged in the Commission proposal nor was it introduced by amendments at first reading.

Amendment 6
Article 5, paragraph 2

2. The first classification according to the requirements of this Directive shall be completed by the end of the **2015** bathing season.

2. The first classification according to the requirements of this Directive shall be completed by the end of the **2011** bathing season.

Justification

Amends new element introduced in the Council Common Position.

Amendment 7
Article 5, paragraph 3

3. Member States shall ensure that, by the end of the **2015** bathing season, all bathing waters are at least **"sufficient"**. They shall take ***such realistic and proportionate*** measures as they consider appropriate with a view to increasing the number of bathing waters classified as "excellent" or "good".

3. Member States shall ensure that, by the end of the **2011** bathing season, all bathing waters are at least ***"good")and that the chemical water status objectives are achieved in accordance with the criteria, classification and deadlines laid down in Directive 2000/60/EC.*** They shall take ***all necessary*** measures as they consider appropriate with a view to increasing the number of bathing waters classified as "excellent" or "good".

Justification

Amends new element introduction in the Common Position.

Reintroduction of an earlier date for achieving the quality status in line with Article 8(3) of

the Commission proposal, reinstatement of amendment 16 adopted in first reading and reinstatement of the quality status in line with Articles 4 and 9 of the Commission proposal.

The Commission had suggested five years after entry into force (three years after the two years for implementation). Assuming that this directive enters into force early 2006, it is reasonable to set the new date at the end of the bathing season of 2011. This would give Member States more time than the five years that were initially proposed.

The aim is to improve the quality of bathing water, so that it comes under the highest category, within a specified period; and it is for Member States to judge what measures are necessary.

The original quality classification in the Commission proposal should be kept; it provides only for the categories 'excellent' and 'good quality'. Both more stringent and more generous values have already been rejected by Parliament, by a large majority, at first reading. The values originally adopted by the Commission are based on WHO-conducted research and reflect a high level of protection. Incorporating a third category - 'sufficient' - would maintain the 1976 bathing-water directive acquis and would not be in line with the minimum requirements represented by the WHO specifications.

Amendment 8
Article 5, paragraph 4

4. However, notwithstanding the general requirement of paragraph 3, bathing waters may temporarily be classified as "poor" and still remain in compliance with this Directive. The reasons for the failure to achieve "**sufficient**" quality status shall have been identified. In such cases, Member States shall ensure that the following conditions are satisfied:

4. However, notwithstanding the general requirement of paragraph 3, bathing waters may temporarily be classified as "poor" and still remain in compliance with this Directive. The reasons for the failure to achieve "**good**" quality status shall have been identified. In such cases, Member States shall ensure that the following conditions are satisfied:

Justification

See justification for amendment 7.

Amendment 9
Article 5, paragraph 4, point (a), point (i a) (new)

(ia) identification of the causes and reasons for non-conformity; and

Justification

Reinstatement of Article 13(2) of the Commission proposal.

It is important to explicitly demand that the causes and reasons for non-conformity are identified.

Amendment 10

Article 5, paragraph 4, point (ii)

(ii) adequate **management** measures to prevent, reduce or eliminate the causes of pollution.

(ii) **implementation of** adequate measures to prevent, reduce or eliminate the causes of pollution

Justification

Reinstatement of Article 13(2) of the Commission proposal.

It is more appropriate to speak of measures in general rather than only of management measures, especially as they are meant inter alia to prevent the causes.

Amendment 11

Article 5, paragraph 4, point (a), point (ii a) (new)

(ii a) the public is alerted by a clear and simple warning sign and is also informed of the causes of the pollution/contamination and all measures undertaken, on the basis of the bathing water profile .

Justification

Reinstatement of first-reading Amendment 18, adopted on 21 October 2003 (OJ C 82, 1.4.2004). The final point added is that it is appropriate also to inform the public about planned measures and that that information is to be based on the bathing-water profile.

Amendment 12

Article 5, paragraph 4, point (b)

(b) If a bathing water is classified as "poor" for five consecutive years, a permanent bathing prohibition or permanent advice against bathing shall be introduced. However, a Member State may introduce a permanent bathing prohibition or permanent advice against bathing before the end of the five-year period if it considers that the achievement of "**sufficient**" quality would be infeasible or disproportionately expensive.

(b) If a bathing water is classified as "poor" for five consecutive years, a permanent bathing prohibition or permanent advice against bathing shall be introduced. However, a Member State may introduce a permanent bathing prohibition or permanent advice against bathing before the end of the five-year period if it considers that the achievement of "**good**" quality would be infeasible or disproportionately expensive.

Justification

See justification for amendment 7.

Amendment 13

Article 6, paragraph 1, footnote

¹~~**Six**~~ years after the date of entry into force of this Directive.

¹**Five** years after the date of entry into force of this Directive.

Justification

Reinstates part of Amendment 12 at first reading, adopted on 21 October 2003, (OJ C 82, 1.4.2004).

Amendment 14

Article 7

Member States shall *ensure that timely and adequate management measures are taken when they are aware of unexpected situations that have, or could reasonably have, an adverse impact on bathing water quality and on bathers' health. Such measures shall include information to the public and, if necessary, a temporary prohibition on bathing.*

1. Member States shall *establish emergency plans for events such as floods, accidents or infrastructure breakdowns which may have an adverse impact on bathing water quality. Such plans shall identify potential causes and risks of impacts, establish surveillance and/or early warning systems and provide guidance on prevention or mitigation of damage.*

2. Member States shall ensure that *comprehensive national and/or local surveillance and early-warning systems are established, improved or maintained which will:*

(a) identify incidents of pollution or significant risks of such incidents which may have an adverse effect on bathing water quality, including those resulting from extreme weather conditions;

(b) give prompt and clear notification to the relevant public authorities of such incidents or risks;

(c) in the event of any imminent risk to public health, disseminate to those members of the public who may be affected all the relevant information that is held by a public authority and which could help the public to prevent or mitigate harm;

d) make recommendations to the relevant public authorities and, where appropriate, to the public about preventive and remedial actions;

(e) ensure that, in the event of an emergency situation, temporary signs are posted in prominent locations at the bathing water site.

3. Member States shall ensure that the relevant public authorities have the necessary capacity to respond to such incidents or risks in accordance with the

relevant emergency plan.

4. Surveillance and early warning systems, emergency plans and response capacities in relation to incidents and threats to bathing water quality may be combined with those in relation to other matters.

Justification

Reintroduction of Article 12 of the initial Commission text as amended by the Parliament, Amendment 15 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4.2004).

Amendment 15
Article 11

Member States shall encourage public participation in the implementation of this Directive by providing opportunities for the public concerned to formulate suggestions, remarks or complaints. Competent authorities shall take due account of any information obtained.

Member States shall ensure that all interested parties, including those at local level, are consulted and allowed to participate in establishing, reviewing and updating the list of bathing waters, bathing water profiles and the management measures. Member States shall inform the Commission and the public of the way(s) in which this is organised.

Justification

Reinstates Amendment 20 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004)

Amendment 16
Article 12, paragraph 1, point (b)

(b) a general description of the bathing water, in non-technical language, based on the bathing water profile established in accordance with Annex III;

(b) a general description of the bathing water, in non-technical language, based on the bathing water profile established in accordance with Annex III. ***It shall display prominently a Commission-approved symbol to advise users of the current status of bathing water quality;***

Justification

Reinstates parts of Amendment 21 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004).

Amendment 17

Article 12, paragraph 1, point (e a) (new)

(ea) in the event of a bathing water being removed from the list of bathing waters, a notice advising the public of such a removal and giving the reasons for it. Such notice shall be put up in the immediate vicinity of the water during the bathing season of the year that the removal takes place and the following year. It shall include warning signs at the beach and shall also indicate to the public the nearest available bathing water;

Justification

Reinstates Article 16(1)(c) of the Commission proposal as amended by amendment 23 in first reading, adopted on 21 October 2003 (OJ C 82, 1.4.2004).

Amendment 18

Article 12, paragraph 1, point (f a) (new)

(fa) information concerning the quality of water in which other recreational activities are traditionally practised, provided that such waters are at particular risk of pollution from urban waste water and/or other sources of pollution.

Justification

Reinstates Amendment 7 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004).

Amendment 19

Article 12, paragraph 1 a (new)

1a. In the event of an emergency, public authorities shall work together with all interested parties to ensure that the public is informed of any potential hazards clearly and coherently via temporary signs posted at the bathing site.

Justification

Reinstates Amendment 24 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004).

Amendment 20

Article 12, paragraph 2, subparagraph 1, introductory part

2. Member States shall use appropriate media and technologies, including the Internet, to ***actively and promptly*** disseminate the information concerning bathing waters referred to in paragraph 1 and also the following information:

2. Member States shall use appropriate media and technologies, including the Internet, to disseminate ***as quickly as possible*** the information, ***including at least English and French translations thereof***, concerning bathing waters referred to in paragraph 1 and also the following information:

Justification

Reinstates Amendment 25 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004).

When information is disseminated, account should be taken of a number of practical actions, including sampling and laboratory research.

Amendment 21

Article 12, paragraph 2, subparagraph 1, point (b)

(b) the classification of each bathing water over the last three years and its bathing water profile, including the results of monitoring carried out in accordance with this Directive since the last classification;

(b) the classification of each bathing water over the last three years and its bathing water profile, including the results of monitoring carried out in accordance with this Directive since the last classification.
Results of water inspection shall be available on the Internet within a week;

Justification

Reinstates Amendment 26 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004).

Amendment 22
Article 12, paragraph 4

4. Member States and the Commission shall, wherever possible, provide information to the public using geo-referenced technology and present it in a clear and coherent manner, in particular through the use of signs and symbols.

4. The Commission shall, after hearing the Member States, relevant tourist and consumer organisations, environmental organisations and other interested parties, develop within two years a simple standardised system of symbols which can be used in different matters by Member States, regional or local authorities, the tourist industry etc. as one among other information tools designed to provide information to the public. The system must be available on an EU website.

Justification

Reinstates Amendment 27 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004).

Amendment 23
Article 14, paragraph 3

3. In the light of that report, and of an extended impact assessment, the Commission ***may, if appropriate, accompany its report with proposals for amendment of this Directive.***

3. In the light of that report, and of an extended impact assessment, the Commission ***shall, no later than 2020, review this Directive with particular regard to the parameters for bathing water quality, and shall present if necessary appropriate legislative proposals in accordance with Article 251 of the Treaty.***

Justification

Reinstates Amendment 28 at first reading, adopted on 21 October 2003 (OJ C 82, 1.4. 2004).

Amendment 24
Article 15, introductory part

It **may** be decided in accordance with the procedure referred to in Article 16(2):

It **shall** be decided in accordance with the procedure referred to in Article 16(2):

Justification

Reinstatement of amendments 29 and parts of amendment 30 from first reading, adopted on 21 October 2003, (OJ C 82, 1.4.2004).

Amendment 25
Article 15, point (c a) (new)

(ca) to complete the parameters in Annex I concerning virus detection on the basis of scientific results;

Justification

Reinstatement of amendment 30 from first reading, adopted on 21 October 2003, (OJ C 82, 1.4.2004), in a modified form.

Amendment 26
Article 18, paragraph 1, subparagraph 1, footnote

* **Three** years after the date of entry into force of this Directive.

* **Two** years after the date of entry into force of this Directive.

Justification

Reinstatement of the provisions of Article 22 of the Commission proposal. There is no reason why Member States should have an additional year to implement the provisions.

Amendment 27 Annex I

*(Delete and reintroduce Annex I from Original Commission Proposal
COM(2002)0581) Council Common Position*

ANNEX I FOR INLAND WATERS

	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>
	<i>Parameter</i>	<i>Excellent Quality</i>	<i>Good Quality</i>	<i>Sufficient</i>	<i>Reference methods of analysis</i>
<i>1</i>	<i>Intestinal Enterococci (cfu/100 mL)</i>	<i>200 *</i>	<i>400 *</i>	<i>360 **</i>	<i>ISO 7899-1 or ISO 7899-2</i>
<i>2</i>	<i>Escherichia coli (cfu/100 mL)</i>	<i>500 *</i>	<i>1000 *</i>	<i>900 **</i>	<i>ISO 9308-3 or ISO 9308-1</i>

FOR COASTAL WATERS AND TRANSITIONAL WATERS

	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>
	<i>Parameter</i>	<i>Excellent Quality</i>	<i>Good Quality</i>	<i>Sufficient</i>	<i>Reference methods of analysis</i>
<i>1</i>	<i>Intestinal Enterococci (cfu/100 mL)</i>	<i>100 *</i>	<i>200 *</i>	<i>200 **</i>	<i>ISO 7899-1 or ISO 7899-2</i>
<i>2</i>	<i>Escherichia coli (cfu/100 mL)</i>	<i>250 *</i>	<i>500 *</i>	<i>500 **</i>	<i>ISO 9308-3 or ISO 9308-1</i>

* *Based upon a 95-percentile evaluation. See Annex II.*

** *Based upon a 90-percentile evaluation. See Annex II.*

Amendment

(Original Commission Proposal (COM(2002)0581)

ANNEX I **Parameters for Bathing Water Quality**

	A	B	C	D
	Microbiological Parameters	Excellent Quality	Good Quality	Methods of Analysis
1	Intestinal Enterococci (I.E.) in cfu/100 ml	100¹	200⁵⁸	ISO 7899-
2	Escherischia coli (E.C.) in cfu/100 ml	250⁵⁸	500⁵⁸	ISO 9308-1
3	Phytoplankton blooms or macro-algae proliferation²		Negative result on tests	Microscopic monitoring³, toxicity tests⁴, visual inspection.
	Physico-chemical Parameters	Excellent Quality	Good Quality	Methods of Inpection
4	Mineral oils	-	No film visible on the surface of the water and no odour	Visual and olfactory inspection
5	Tarry residues and floating materials such as wood, plastic, glass, rubber or any other waste substance.	-	Absence	Visual inspection
6	pH⁵	-	6 to 9 No unexplainable variations	Electrometry with calibration on pH 7 and pH 9

The 95 percentile value is calculated as defined as follows⁶.

Based upon 95 percentile evaluation of the log₁₀ normal probability density function of

¹ Based upon 95 percentile evaluation

² Only for sites which have been revealed physically sensitive to specific toxic blooms (eg dinophysis, alexandrium, blue algae)

³ determination and counting of cells

⁴ mouse test, skin test or by direct toxin dosage in plankton cells or water

⁵ Only for fresh waters

⁶ Bartram, J and Rees, G (Eds) *Monitoring Bathing Waters*. E and F N Spon, London.

microbiological data acquired from one bathing water; the 95 percentile value is derived as follows:

- (i) take the \log_{10} value of all bacterial enumerations in the data sequence to be evaluated,*
- (ii) calculate the arithmetic mean of the \log_{10} values (\square),*
- (iii) calculate the standard deviation of the \log_{10} values (\square).*

The upper 95 percentile point of the data probability density function is derived from the following equation:

$$95 \text{ percentile} = \text{antilog} ((\square) + (1.65 \times \square \square \square))$$

Justification

Amends new element introduced in the Council Common Position.

A deletion of Annex I make changes in the rest of the proposal necessary to make the directive consistent.

Amendment 28

Annex II, paragraph 1, "Poor quality"

Bathing waters are to be classified as "poor " if, in the set of bathing water quality data for the last assessment period ^a, the percentile values ^b for microbiological enumerations are worse ^c than the "**sufficient**" values set out in Annex I, column **D**.

Bathing waters are to be classified as "poor " if, in the set of bathing water quality data for the last assessment period ^a, the percentile values ^b for microbiological enumerations are worse ^c than the "**good**" values set out in Annex I, column **C**.

Justification

Deletion of a new element in the common position so as to reinstate the provisions on quality status in line with Articles 4 and 9 and Annex I and II of the Commission proposal. See also justification to amendment 7.

2. SUFFICIENT QUALITY

deleted

Bathing waters are to be classified as "sufficient":

1) if, in the set of bathing water quality data for the last assessment period, the percentile values for microbiological enumerations are equal to or better^d than the "sufficient" values set out in Annex I, column D; and

2) if the bathing water is subject to short-term pollution, on condition that:

(i) adequate management measures are being taken, including surveillance, early warning systems and monitoring, with a view to preventing bathers' exposure by means of a warning or, where necessary, a bathing prohibition;

(ii) adequate management measures are being taken to prevent, reduce or eliminate the causes of pollution; and

(iii) the number of samples disregarded in accordance with Article 3(6) because of short-term pollution during the last assessment period represented no more than 15% of the total number of samples provided for in the monitoring calendars established for that period, or no more than one sample per bathing season, whichever is the greater.

Justification

See justification for amendment 7.

Deletion of a new element in the common position so as to reinstate the provisions on quality status in line with Articles 4 and 9 and Annexes I and II of the Commission proposal.

Amendment 30
Annex III, paragraph 2, subparagraph 1

2. In the case of bathing waters classified as "good", "**sufficient**" or "poor", the bathing water profile is to be reviewed regularly to assess whether any of the aspects listed in paragraph 1 have changed. If necessary, it is to be updated. The frequency and scope of reviews is to be determined on the basis of the nature and severity of the pollution. However, they are to comply with at least the provisions and to take place with at least the frequency specified in the following table.

2. In the case of bathing waters classified as "good" or "poor", the bathing water profile is to be reviewed regularly to assess whether any of the aspects listed in paragraph 1 have changed. If necessary, it is to be updated. The frequency and scope of reviews is to be determined on the basis of the nature and severity of the pollution. However, they are to comply with at least the provisions and to take place with at least the frequency specified in the following table.

Justification

See justification for amendment 7.

Deletion of a new element in the common position so as to reinstate the provisions on quality status in line with Articles 4 and 9 and Annexes I, II and III of the Commission proposal.

Amendment 31
Annex III, paragraph 2, table, third column, "Sufficient"

"Sufficient"

deleted

3 years

(a) to (f)

Justification

See justification for amendment 7.

Amendment 32
Annex III, paragraph 2, subparagraph 2

In the case of bathing waters previously classified as "excellent", the bathing water profiles need be reviewed and, if necessary, updated only if the classification changes to "good", "**sufficient**" or "poor". The review is to cover all aspects mentioned in paragraph 1.

In the case of bathing waters previously classified as "excellent", the bathing water profiles need be reviewed and, if necessary, updated only if the classification changes to "good" or "poor". The review is to cover all aspects mentioned in paragraph 1.

Justification

See justification for amendment 7.

Deletion of a new element in the common position so as to reinstate the provisions on quality status in line with Articles 4 and 9 and Annexes I, II and III of the Commission proposal.

Amendment 33
Annex III, paragraph 4

4. ***When appropriate, the*** information referred to in paragraph 1(a) and (b) is to be provided on a detailed map.

4. The information referred to in paragraph 1(a) and (b) is to be provided on a detailed map.

Justification

Reinstatement of the corresponding provision in Annex III of the Commission proposal.

Amendment 34
Annex V, paragraph 4, subparagraph 3

The time between sampling and analysis is to be kept as short as possible. It is recommended that samples be analysed on the same working day. If this is not possible for practical reasons, then the samples are to be processed within no more than 24 hours. In the meantime, they are to be stored in the dark and at a temperature of $4^{\circ}\text{C} \pm 3^{\circ}\text{C}$.

The time between sampling and analysis is to be kept as short as possible. It is recommended that samples be analysed on the same working day. If this is not possible for practical reasons, then the samples are to be processed within no more than 24 hours. In the meantime, they are to be stored in the dark and at a temperature of $4^{\circ}\text{C} \pm 3^{\circ}\text{C}$. ***In the event of delay between sampling and analysis, the concentration of bacteria measured shall be adjusted by the known formulae of T-90 decay to give the concentration of bacteria at the time of sampling.***

Justification

Reinstatement of amendment 75 from first reading, adopted on 21 October 2003 (OJ C 1.4.2004). Even at 4°C , a decay of bacteria will take place. To ensure that the measurement represents the concentration at the time of sampling, a simple adjustment according to the known formulae (T-90 decay) needs to be undertaken.

EXPLANATORY STATEMENT

The European Parliament adopted the Commission proposal for a 'directive of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC' at the part-session on 21 October 2003, with a number of amendments. The Council's common position of 20 December 2004 incorporates a large number of Parliament's amendments, but a number of others are not included. On these points the common position probably represents a compromise between the various national interests, which play a significant role in the drawing up of this directive.

Parliament must now consider which of the amendments adopted at first reading it now wishes to reintroduce at second reading.

The rapporteur takes the view that the original 1976 directive needed updating, but asked at first reading whether bathing water quality in Europe must still be regulated from Brussels.

An aspect to which Parliament paid attention at first reading was the legal basis for the proposed bathing water directive. Article 175 (1) was chosen as the legal basis. That means that the Commission has drawn up this directive within the context of environmental legislation. The Commission justifies its approach mainly by referring to the effects on tourism. It was suggested that this legislation should come under Article 95 on the free movement of persons.

Despite the doubts about subsidiarity and the legal basis, the proposal was adopted at first reading.

Among the amendments by Parliament not incorporated by the Council, two stand out in particular.

Firstly, the Council's decision not to extend the scope of the directive to apply to other recreational activities. If water used for other recreational activities than bathing is not to fall within the scope of this directive, the recreational users concerned must at least be informed about the quality of the waters where they are engaging in such activities. In that way they can make a considered choice in each case as to whether they wish to practise such activities in the waters concerned.

Secondly, the Council has introduced a distinction between inland waters and coastal waters. Until the distinction between inland and coastal waters is supported by scientific evidence and therefore credible, it is completely incomprehensible to citizens that inland waters should not have to meet the same requirements as coastal waters. The rapporteur is accordingly proposing to abolish this distinction and bring the text into line with the original Commission proposal.

On the other hand, there is something to be said for the additional classification of quality, 'sufficient', introduced by the Council. An additional classification that would provide the same level of health protection as the minimum requirements of the existing directive acts as a

stepping stone to 'good' or 'excellent' quality.

In order to motivate the Member States to strive to achieve better bathing water quality, good information is very important. It cannot therefore be emphasised enough that the public must have good access to information both via the Internet and at the bathing locations themselves. Every recreational user cannot, after all, be expected to have a laptop with him/her at the coast in order to check whether water complies with the required standards. In addition, the information available must be up-to-date and not show the bathing water quality for a year ago, and it should be provided in at least English and French.

The Council emphasises in its statement of reasons the use of signs and symbols, but this is not adequately reflected in the wording of the common position. It is necessary to strengthen the wording by reintroducing an amendment adopted by Parliament at first reading which provides for the Commission to develop a simple, standardised system of symbols.

The Council deviates from the original proposal in limiting the article on emergency plans. A large number of floods have again recently occurred in several Member States, and precisely now is the time for an article on emergency plans, including the provision of related information to the public.

It is also possible to improve the common position with regard to public participation. It is therefore recommended that Parliament's amendment from first reading on this point be reintroduced.

PROCEDURE

Title	Council common position for adopting a directive of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC
References	12884/1/2004 – C6-0006/2005 – 2002/0254 (COD)
Legal basis	Articles 251(2) and 175(1) EC
Basis in Rules of Procedure	Rule 62
Date of Parliament's first reading – P5	21.10.2003 P5_TA(2003)0442
Commission proposal	COM(2002)0581 – C5-0508/2002
Amended Commission proposal	COM(2004)0245
Date receipt of common position announced in plenary	13.1.2005
Committee responsible Date announced in plenary	ENVI 7.11.2002
Rapporteur(s) Date appointed	Jules Maaten 18.1.2005
Previous rapporteur(s)	
Discussed in committee	14.3.2005 21.4.2005
Date adopted	21.4.2005
Result of final vote	for: 34 against: 7 abstentions: 3
Members present for the final vote	Georgs Andrejevs, Dorette Corbey, Chris Davies, Avril Doyle, Mojca Drčar Murko, Jillian Evans, Anne Ferreira, Norbert Glante, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Mary Honeyball, Caroline Jackson, Holger Krahmer, Urszula Krupa, Peter Liese, Jules Maaten, Roberto Musacchio, Riitta Myller, Adriana Poli Bortone, Vittorio Prodi, Frédérique Ries, Dagmar Roth-Behrendt, Guido Sacconi, Richard Seeber, Bogusław Sonik, María Sornosa Martínez, Thomas Ulmer, Anja Weisgerber and Åsa Westlund.
Substitutes present for the final vote	Margrete Auken, María del Pilar Ayuso González, Danutė Budreikaitė, Jerzy Buzek, Erna Hennicot-Schoepges, Caroline Lucas, Ria Oomen-Ruijten, Renate Sommer and Andres Tarand.
Substitutes under Rule 178(2) present for the final vote	Edit Herczog, Eluned Morgan, Seán Ó Neachtain, Paul Rübig, Ursula Stenzel
Date tabled – A6	25.4.2005 A6-0102/2005
Comments	...