

Amended Proposal for a decision of the European Parliament and of the Council establishing a list of priority substances in the field of water policy ⁽¹⁾

(2001/C 240 E/38)

(Text with EEA relevance)

COM(2001) 317 final — 2000/0035(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC-Treaty on 7 June 2001)

Article 250(2) of the EC Treaty establishes that, as long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Community act.

The Commission hereafter gives its opinion on the 20 amendments adopted by the European Parliament, thereby amending its proposal pursuant to Article 250(2) of the EC Treaty.

1. BACKGROUND

Based on the preliminary Article 16, the Commission submitted a first Proposal before the Second Reading on the proposed Directive establishing a framework for Community action in the field of water policy (hereafter referred as Water Framework Directive or Directive 2000/60/EC) in line with the requests from the Council and the European Parliament made earlier. However, the compromise in the conciliation came up with a new element introduced into Article 16 which required the identification of 'priority hazardous substances'. Hence, the Commission decided to amend its Proposal after the adoption of the Directive 2000/60/EC. The dates of the different procedural steps are as follows:

Transmission of the Proposal to the Council and the European Parliament (COM(2000) 47 final) (in accordance to Article 175(1) of the Treaty): 7 February 2000

Decision of the Committee of the Regions not to give opinion: 3 March 2000

Opinion of the Economic and Social Committee: 12 July 2000

Transmission of the Amended Proposal to the Council and the European Parliament (COM(2001) 17 final) (in accordance to Article 250(2) of the Treaty): 16 January 2001

Opinion of the European Parliament — first reading: 15 May 2001

The first reading in the European Parliament mainly endorses the Amended Proposal of the Commission. The key part of the proposed Decision, the list of priority substances in the Annex, was slightly strengthened by reducing the time for review of certain priority substances which might be identified as 'priority hazardous substances' to one year after adoption and identifying a further three priority substances which should be reviewed.

Many other aspects of discussions have been covered by amending and adding recitals which aimed at emphasising either at certain aspects in the Water Framework Directive or introducing guidance for the future review of the list which is foreseen by December 2004 at the latest.

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The objective of the Amended Proposal is to select the priority substances according to Article 16(2) of the Water Framework Directive 2000/60/EC ⁽²⁾ and identify the 'priority hazardous substances' according to Article 16(3). The list of priority substances will become Annex X of that Directive. The Commission will prepare proposals for quality standards and emission controls within two years after adoption of the list. For 'priority hazardous substances', the emission controls shall aim at cessation or phase-out of discharges, emissions and losses within 20 years.

⁽¹⁾ OJ C 177 E, 27.6.2000, p. 74.

⁽²⁾ OJ L 327, 22.12.2000, p. 1.

3. COMMISSION OPINION ON THE AMENDMENTS ADOPTED BY THE EUROPEAN PARLIAMENT

Twenty amendments were adopted by the European Parliament. The Commission can accept 12 amendments fully (3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 21 and 23). A further two amendments are acceptable partly (12 and 25) and another three amendments (24, 27 and 28) are acceptable in principle. The remaining three amendments (17, 18, and 19) are not acceptable for the Commission.

The Commission's position with regard to the amendments adopted by the European Parliament is as follows:

3.1. Amendments accepted by the Commission

The Commission fully accepts the amendments 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 21 and 23 for the following reasons:

Amendment 21 emphasises the timetable according to Article 16(6) and the ultimate aim similar to Article 1e for the implementation of measures for priority hazardous substances.

Amendment 23 clarifies that natural sources of naturally occurring substances cannot be subject to cessation or phase-out of discharges, emissions and losses. This is in line with Article 1e and recital 27 of Directive 2000/60/EC.

Amendment 3 requires the involvement of third countries with transboundary river basins to the Community. Since the preparation of this first priority list, this has become general practice in the preparatory work under Article 16.

Amendment 5 lists the relevant international agreements which should be taken into account for the identification of priority hazardous substances in accordance to Article 16(3). These international agreements were considered in the preparation of the Amended Proposal as set out in the Working Document ⁽¹⁾ of the Commission services.

Amendment 8 calls for a synchronisation of research and the work carried out under the OSPAR Convention. Both have become general practice already.

Amendment 9 provides some specifications for the review of the list of priority substances in order to ensure that all potential priority substances are taken into account. These aspects are, in principle, covered by the existing procedures.

Amendment 10 states that availability of relevant data for the future selection of priority substances under the Water Framework Directive is largely dependent on the improvement of available testing data through the chemicals policy. The current revision of the Community chemicals policy as outlined in the recent White Paper ⁽²⁾ will ensure that sufficient and adequate data for all chemical substances are available.

Amendment 11 emphasises that the existing method for selecting priority substances does not preclude the use of other methods developed under other Community measures. Although the language is very general and the terminology differs from the Directive 2000/60/EC, the content of the amendment is in line with Article 16(2).

The amendments 4 and 13 summarise provisions as set out in Directive 2000/60/EC mainly Article 2(29) and 16.

The amendments 6 and 15 are editorial changes which are in line with the Water Framework Directive.

⁽¹⁾ Working Document ENV/191000/01: 'Identification of Priority Hazardous Substances' of 16.1.2001 (Adonis No 901019).

⁽²⁾ Strategy for a future Chemicals Policy (COM(2001) 88 final of 27.2.2001).

3.2. Amendments accepted in principle by the Commission

Amendment 24 sets out the criteria and thresholds under relevant international agreements which were considered in the identification process as set out in the Working Document of the Commission services. However, no reference is made to criteria under relevant Community legislation as provided for in Article 16(3) of Directive 2000/60/EC. For this purpose, the Commission proposes to add in the beginning of the text the following words: 'Without prejudice to the selection of substances of concern undertaken in the relevant Community legislation regarding hazardous substances, the identification of the "priority hazardous substances" on the list ...'

Amendment 27 strengthens the provisions for 'priority substances under review' as set out in footnote (***) in the Annex of the Amended Proposal. The deadline for the review is brought forward to one year after the adoption of the list. The Commission acknowledges that the final identification of these possible 'priority hazardous substances' should be carried out as soon as possible. However, this might not be feasible because of the different timetables for ongoing assessments under other Community legislation. The Commission proposes to replace the words 'final classification' by 'identification' and to replace the words '12 months' by '24 months'.

Amendment 28 changes the listing of fluoranthene in the Annex of the proposed decision from an indicative parameter for polycyclic aromatic hydrocarbons (PAH No 27) to an individual priority substance (No 14a) including an explanatory footnote. The Commission can accept that fluoranthene should be treated as an individual priority substance because there is some indication that, in certain Member States, there are other sources from the use in products and intermediates. However, it should be scrutinised whether fluoranthene fulfils the criteria of a 'priority hazardous substances'. In conclusion, the Commission proposes to delete fluoranthene as an indicative parameter for PAHs but instead listing it as an individual 'priority substance under review' in the Annex as follows:

	CAS number	EU number	Name of priority substance	Identified as priority hazardous substance
(14a)	206-44-0	205-912-4	Fluoranthene	(X) (***)

The explanatory footnote (****) in the amendment 28 must be deleted.

3.3. Amendments accepted partly by the Commission

Amendment 12 requires the addition of further substances to the list in order to contribute to the cessation of discharges, emissions and losses of all priority hazardous substances by 2020. The text of the amendment is misleading in particular because reference is given to Article 1c of Directive 2000/60/EC. In order to be coherent with the text of the Water Framework Directive and the related principles, the Commission accepts the amendment if the words 'all' and 'by 2020' are deleted and the words, 'where appropriate' are added at the end of the text.

Amendment 25 broadens the obligations of the proposed decision by introducing an obligation which requires the Commission and the Member States to ensure that all the relevant substance and exposure related data are available for the future review of the list. Neither the Commission nor the Member States can ensure that all such data are available, mainly because they do not have the ownership on certain data. However, the Commission with the assistance of all other stakeholders, is committed to ensure that sufficient high quality information will be provided for the future selection of priority substances. In order to reflect this point, the Commission proposes to replace the text by the following wording:

'The Commission together with stakeholders as set out under Article 16(5) of Directive 2000/60/EC shall ensure that the substance and exposure related data needed for the implementation of the COMMPS procedure are made available subject to the provisions under relevant Community legislation.'

3.4. Amendments not accepted by the Commission

Amendments 17, 18 and 19 add footnote (***) in the Annex of the Amended Proposal to further three priority substances, diuron (No 13), isoproturon (No 18) and simazine (No 28) which makes them subject to the review as set out in that footnote. The justification for amending the status of these substances was mainly the concern for drinking water supply. First, the Commission did not find in its assessment that these three priority substances would fulfil the criteria for identification as priority hazardous substances based on the latest available information. Second, the surface waters used for the abstraction of drinking water will, in any case, be fully protected through setting of quality standards and the emission controls as foreseen for all priority substances. Together with the ongoing assessments under Council Directive 91/414/EEC ⁽¹⁾, it will be ensured that the application of these substances is safe for human health and for the environment. Hence, there is no additional concern which might justify the identification as 'priority hazardous substance' for the time being. For these reasons, these amendments are not acceptable to the Commission.

4. CONCLUSION

Having regard to Article 250, paragraph 2 of the EC Treaty, the Commission modifies its proposal as indicated above.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.