

IX. Évfolyam 2. szám - 2014. június

Zsuzsanna DÁVIDOVITS
davidovits.zsuzsanna@oki.antsz.hu

THE EFFECTS OF CHANGES IN LEGAL REGULATIONS ON PLANNING DRINKING WATER SAFETY

Abstract

Government Regulation No. 201/2001. (X.25.), amended by Government Regulation No. 430/2013. (XI.15.), brought changes in connection with drinking water safety plans as of 1 December 2013. The changes affect the plan preparation side on the one hand, and have brought modifications in the official authorisation of finished plans on the other hand. In the article, the author analyses the effects of changes in legal regulations on the preparation of drinking water safety plans and the authorisation aspect.

A 430/2013. (XI. 15.) Kormányrendelettel módosult 201/2001. (X. 25.) Korm. rendelet az ivóvízbiztonsági tervek kapcsán változást hozott 2013. december 1-től. A változások egyrészt a tervkészítési oldalt érintik, másrészt a kész tervek hatósági engedélyezésében is történtek módosítások. A cikkben a szerző a jogszabály változásoknak mind az ivóvízbiztonsági terv készítésre, mind a jóváhagyási oldalra vonatkozó hatásait elemzi.

Keywords: *Government Regulation No. 201/2001. (X.25.), drinking water safety planning, giving expert opinion, official authorisation, competent public health authority ~ 201/2001. (X. 25.) Korm. rendelet, ivóvízbiztonsági tervkészítés, szakvéleményezés, hatósági jóváhagyás, illetékes népegészségügyi szerv*

CHANGES IN LEGAL REGULATIONS WITH VIEW TO WATER SAFETY PLANNING

Government Regulation No. 65/2009. (III. 31.)

Nowadays, the most effective method to protect consumers' health and to secure that the drinking water provided meets the related medical requirements and limit values, as well as other legal and professional regulations, seems to be the development and operation of a drinking water safety planning system. By keeping in mind the principle of prevention, drinking water safety planning is a wide-scale risk analysis and evaluation, which is run through every element of the water supply chain, from the acquisition of water as far as the consumer. [1]

In Hungary, drinking water safety plan preparation as an obligation was integrated into legal regulations on the basis of Government Regulation No. 65/2009. (III.31.), upon the amendment of Government Regulation No. 201/2001. (X.25.), on the quality requirements of drinking water and the order of supervision (hereinafter: the Government Regulation). For the first time ever, the amendment set the requirements related to the so-called water safety plan. According to the regulation, every water supply system with a capacity exceeding 1,000 m³/day or supplying over 5,000 individuals, has to prepare a drinking water safety plan. The plan has to contain the water safety – management system of the water supply system. According to the previous regulation, from the aspect of public health, the plan had to be authorised by the National Public Health and Medical Officer Service (hereinafter: NPHMOS). Water suppliers also had to initiate the review of drinking water safety plans at NPHMOS. The Government Regulation also specified the required deadline for the submission of the plans as a function of the size of the population serviced.

In the case of systems supplying over 100,000 individuals, drinking water safety plans are to be submitted to NPHMOS for authorisation by 1 July 2012 the latest, in the case of systems supplying between 50,000 and 100,000 individuals by 1 July 2013 the latest. For systems supplying between 5,000 and 50,000 individuals, the Government Regulation set 1 July 2014 as the deadline. [2]

At the same time, amended Government Regulation No. 201/2001. (X. 25.) only set the obligation on the submission and authorisation of water safety plans, however, it gave no guidance in connection with the requirements on the preparation and contents of the plan. However, there are several aids helping the execution of the plan, namely, the documents issued by the World Health Organisation (hereinafter: WHO), “Guidelines for Drinking-water Quality” (hereinafter: WHO GDWQ). [3] The material entitled “Water Safety Plan Manual, Step-by-step risk management for drinking-water suppliers”, published by WHO in 2009, is also very useful. [4] In drinking water supply, putting the role and requirements of the drinking water safety plan programme (risk analysis, risk management programme) can be obviously detected in WHO GDWQ 4th 2011 publication as well. [5] In Hungary, “Guideline for the establishment and operation of drinking water safety plan systems, the bulletin of the National Institute of Environmental Health, 1/2009”, published by the National Institute of Environmental Health (hereinafter: NIEH), serves as a useful aid for the preparation of plans.

Government Regulation No. 430/2013. (XI. 15.)

An another amendment of the Government Regulation came into force: Government Regulation No. 430/2013. (XI.15.) on the amendment of Government Regulation No. 201/2001. (X.25.), on the quality requirements of drinking water and the order of supervision. The amendment brought changes in drinking water safety planning as well. The part of the text in Section 10(13), in the case of “systems supplying between 5,000 and 50,000 individuals, by 1 July 2014” was amended. It was replaced by the following: “affected operators are to submit the drinking water

safety plan to the competent public health authority for authorisation in the case of systems supplying individuals between 5,000 and 49,999 by 1 July 2014, while between 50-4,999 individuals by 1 July 2016.” This sentence brought changes from two aspects. On the one hand, the circle of water supply systems obligated to prepare plans has widened. On the other hand, plans did not have to be submitted for authorisation to NPHMOS but to the competent public health authorities. By virtue of the new amendment, yet another compulsory step was integrated into the authorisation procedure of drinking water safety plans. Prior to authorisation, it is the client’s task to obtain the public health expert opinion issued by the National Institute of Environmental Health. A further change took place in the period of review, which was modified from the original 4 years to 5 years. The review specified in the modification is not executed by NPHMOS but the competent public health authorities. The most important content elements of the drinking water safety plans also appeared in the modification of legal regulations, which serve as the basic framework of the preparation of plans. The international and Hungarian aids already mentioned still provide those preparing plans with useful help. [2]

THE EFFECT OF CHANGES IN LEGAL REGULATIONS FROM THE ASPECT OF PLAN PREPARATION AND OPERATION

The drinking water safety plan can be prepared by the operator operating the water supply system in question, with the help of his own experts, but he can also get outside experts involved.

From the aspect of the party preparing the plan, it brought relief that the content requirements of water safety planning appeared in the legal regulations. These can be found in Appendix 6 of the legal regulation presently in force. “The necessary data, possible dangers, the method of risk evaluation, the possibilities of intervention and control system are to be recorded in the water safety plan by taking them through the main elements of the water supply system.” [2] The water source and water treatment, the distribution network and finally, the points of consumption were named as the main elements of the water supply system. Following the route of water, this is the best classification that could be suggested.

An extra task is posed for operators of waterworks by the fact that the planning obligation of water supply systems over 50 persons or the capacity exceeding 10m³/day appeared in the Government Regulation. Thus operators are to prepare and submit far more plans for authorisation.

The amended Government Regulation also directs that in case the operator of the water supply system in question changes, a new water safety plan is to be prepared, the expert opinion on it obtained, and submitted for authorisation.

Operators are obligated to review the drinking water safety plan every year. The plan is to be updated according to the modifications. If changes in the plan affect significant elements, especially risk evaluation, analysis and points of intervention or monitoring, these are to be reported to the competent public health authority.

THE ROLE OF THE NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH

By virtue of the amendment of legal regulations, NIEH appeared as a new player in the authorisation process of drinking water safety plans. Even by virtue of Government Regulation No. 201/2001. (X. 25.), published before, the Water Hygiene Department of NIEH prepared and issued expert opinions with respect to materials and products in direct contact with water

in the drinking and household hot water supply (for instance: structural materials, coatings, water technologies, chemicals). The NIEH expert opinions written in connection with materials and products in contact with water were necessary for the application permits issued by NPHMOS, as well as the reviews. Though in the case of some products the amended Government Regulation has become somewhat stricter with regard to products in contact with water, in other cases, quite the contrary, it has become more lenient; the task of providing expert opinions still remained with NIEH. With regard to water safety plans, first only the authorisation of water safety plans was needed but the expert opinion of NIEH was not obligatory for this. However, in most cases, water suppliers and operators still consulted with NIEH before authorisation. They asked for the professional expertise and opinion of NIEH. Having recognised this, in the most recent Government Regulation No. 201/2001. (X. 25.), lawmakers made the acquisition of the expert opinion of NIEH obligatory with regard to drinking water safety plans.

The expert opinion is to be prepared before the launch of the authorisation procedure; then, it is submitted to the competent public health authority as the mandatory element of the documentation submitted for authorisation. [6]

In connection with the drinking water safety plans, the training of the process in the expert opinion is assisted by the experts of NPHMOS as well as independent environmental health and water supply experts, with their advice.

The expert opinion contains the general aspects of evaluation, followed by the brief description of the affected water supply system and its main characteristic features. The following part evaluates the processes of danger analysis and risk evaluation. It reveals their shortcomings and faulty processes. Finally, there is a summary that contains the recommendations necessary for the issuance of the decision and its later review.

The result of the expert opinion issued by NIEH may have three kinds of outcome. Optimally, a positive expert opinion is issued, which is recommended for authorisation. In a less favourable case, the plan in question is recommended for authorisation only after certain recommendations and shortcomings have been completed. It is also possible that the plan in question cannot be evaluated from a professional aspect at all; in this case, it is not supported for authorisation. For its expert opinion – if it finds that there are only minor shortcomings in the plan documentation – NIEH requests the competent party to submit the necessary data and documents.

THE ROLE OF PUBLIC HEALTH AUTHORITIES IN DRINKING WATER SAFETY PLANS

In addition to NIEH, the other new participant pursuant to the amended legal regulation is the competent public health authority. Competent public health authorities authorise the drinking water safety plans on the basis of the expert opinion of NIEH. By virtue of Section 2/A of the Government Regulation, “as the competent public health authority, in the case of water supply systems with a capacity lower than 1,000 m³/day and supplying a permanent population of fewer than 5,000 individuals, it is the public health institute of the district (metropolitan district) of the district (metropolitan district) office of the competent metropolitan and county government office that proceeds, while in the case of water supply systems larger than this or stretching over the border of a district, it is the competent public health administrative body that proceeds”. [2]

Official on-site audits may be connected to the acceptance of the suitability of water acquisition, water treatment, or the water supplier’s risk analysis of the water distribution

system. If, in addition to the expert opinion of NIEH, the competent public health body finds it necessary to acquire further completion or, based on familiarity with the site, further supplementation, it asks the client to clarify the facts of the case. Clarifying the facts of the case is the task of the competent public health body and not of NIEH. Dovetailing with each other, the technological expertise available at NIEH and the familiarity of the competent public health body with the site result in the full-circle audit of the water safety plans. [6]

Authorisation is possible if the supply of the residents with healthy drinking water is secured through operation on the basis of the plan. If necessary, in addition to those in the plan, the competent public health body may define further conditions for the improvement of drinking water quality and the further development of drinking water safety plans. The decision of approval issued may also be withdrawn by the competent public health body if it judges that the contents of the drinking water safety plan are not realised, or if the operator is not applying the directions set out. [6]

Pursuant to Section 72 of Act CXL of 2004, on the general rules of administrative proceedings and services, the decision issued by the competent authority is to contain the following:

- the name of the competent authority, the case number and the name of the officer in charge,
- the client's name, residential address, seat, and the data specified in the petition for personal identification,
- description of the subject matter of the case,
- The operative part should contain the decision of the authority and information on the availability of legal remedy, where to and by what deadline it can be filed. This part contains the information on the legal duty and fees to be paid for the execution of the procedure. It also contains the payment obligations established and the extent of the fee for the appeal.
- The part entitled justification must contain the facts of the case established, as well as the evidence accepted on the basis of that, the legal regulations quoted, and references to the legal regulations establishing the jurisdiction of the authority; if the deadline is exceeded, the day it is exceeded, the place and date the decision was passed, the name and position of the person exercising sphere of authority, and finally the signature of the issuer of the decision and the imprint of its official stamp. [7]

During authorisation, difficulty is posed mostly by the short deadline. The administrative deadline of the authorisation of a plan is 21 days from the day of submission, which may be extended by the authority not more than once, by another 21 days. [7]

In addition to the difficulties posed by the new tasks and the short deadlines, the authority also has advantages from the procedure on the authorisation of drinking water safety plans. From the aspect of official supervision, the easier and simpler traceability and transparency of the regional supervision of drinking water servicing can be realised. The plan helps to oversee the complete water supply system of the area of competence in question; it increases the transparency of the water technological processes and operative principles. It gives a faster overview of the reasons problems related to drinking water emerge in the area in question. Water safety plans also help faster reaction and the elimination of damage. In connection with dangers, events of danger and damage situations that may emerge, also requiring the cooperation of the competent public health body, drinking water safety plans help the public health bodies in the easier overview and faster solution of these events and situations.

The task of public health bodies is to protect the health of the population. Water safety plans give help primarily from the aspect of public health, thus securing a better protection of consumers' health in the area of drinking water supply and consumption.

HELPING THE TASKS OF PUBLIC HEALTH BODIES

After the tasks related to the authorisation of drinking water safety plans have been moved to the competent public health body, within the framework of a further training course, the comprehension and mastering of the material was helped by NPHMOS and NIEH jointly. The training of NPHMOS entitled “The professional and legal practise of the authorisation of drinking water safety plans” was accredited by the National University of Public Service under number PM-0636-1312-BS. The training was organised at 7 venues at a national level. At one venue, the training was offered simultaneously to the colleagues of the competent public health bodies of three counties. The training was constituted not only by theoretical lectures but participants also had to demonstrate understanding of the material through the solution of practical tasks.

Though the concept and practice of water safety planning, as well as the tasks of authorisation have brought new challenges for the public health bodies, they were also in possession of the necessary knowledge even before the amendment of the legal regulations. They have been executing the audit procedures as part of their daily routine, and the public-health supervision of drinking water is no novelty for them either. Official sampling and the regional supervision of drinking water supply from the aspect of public health have always belonged to their sphere of authority.

SUMMARY

Following the latest amendment of Government Regulation No. 201/2001. (X. 25.), novel tasks were required from all the participants in the area of drinking water safety planning. By virtue of the change in legal regulations, the obligation to prepare plans extends to water service providers supplying a population of more than 50 individuals. Before the authorisation of the plans, it is obligatory to acquire the expert opinion of the National Institute of Environmental Health on the finished drinking water safety plan. Contrary to previous practice, authorisation is not the task of the National Public Health and Medical Officer Service but that of the competent public health body. The competent public health body authorises the drinking water safety plan only after an expert opinion has been judged positively.

Providing expert opinions on drinking water safety plans emerged as a new task for NIEH. However, the knowledge necessary for the expert opinions is at disposal as, pursuant to Government Regulation No. 201/2001 (X. 25.), the experts of NIEH have had to provide the expert opinions on all the structural materials, technologies and other elements in contact with water.

Furthermore, changes in the distribution of tasks affect the experts of the authorities who have not authorised plans of this type before. The challenge is great, and the deadlines for submitting the plans and those of administration are also very short. To facilitate the work of the public health bodies, organised by NPHMOS, in cooperation with NIEH, trainings were offered in several locations in March 2014, which were constituted not only by lectures but also the solution of concrete practical tasks aimed at checking whether the material presented has been mastered. Though the task is novel for the public health bodies, the practical professional background is available as they have also been in charge of the official supervision of drinking water supplies. During the authorisation of the plans, compiled in a planned format, the competent public health bodies may get a more comprehensive picture and information on the water supply system (dangers, the analysis and evaluation of their risks, furthermore, in connection with the points of intervention for the elimination or the prevention of the fault),

which may greatly help the official water quality supervision work in practice and facilitate reaction in the case of events posing danger.

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