

Preliminary Note

Objectives

Objective 1: Update of the BHygV 2012 with regard to scientific and technical standards

Objective 2: Update of the BHygV 2012 in light of experience gained from enforcement practice

Contents

The project mainly comprises the following measures:

Measure 1: Revision of the requirements concerning pools, hot tubs (whirlpools) as well as saunas, hot air and steam baths

Measure 2: Inclusion of regulations on the transport of pets in the BHygV 2012

Measure 3: Creation of a transitional regime for already approved establishments, facilities and installations

Material impacts

No material impacts will occur in the dimensions of impact as defined in Section 17, Paragraph 1, of the Federal Budget Act of 2013.

Financial implications on the federal budget and other public budgets

The measure in question will not result in any financial impacts on the federal government, the states, the municipalities, or the social security institutions.

Relationship to European Union legislation

The proposed regulations fall partly within the scope of European Union law, but do not serve to fulfil EU legal requirements.

Specificities of the legislative process

Agreement with the Federal Minister for Economic Affairs, Energy and Tourism and completion of the information procedure in accordance with the Notification Act or the directive implemented by it

Simplified, outcome-oriented impact assessment

2. Amendment to the Bathing Water Hygiene Ordinance of 2012

Submitting entity: Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection

Title of the project: Ordinance of the Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection amending the Bathing Water Hygiene Ordinance of 2012 (BHygV 2012) (2nd amendment to the Bathing Water Hygiene Ordinance of 2012)

Project type: Regulation	Entry into force/ Date of entry	2025
Year of issue: 2024	into force: Last Update:	31.07.2025

Contribution to an impact objective or measure in the Federal Budget

Contribution to:

- Impact objective: Ensuring the promotion, maintenance and restoration of the health of the entire population, with special consideration given to infectious diseases, chronic and mental illnesses, and taking into account specific target groups (e.g. children). (Breakdown 24 Health - Federal Budget 2025)

Systems analysis

Definition of the problem

Recent developments in science and technology in the field of bathing water hygiene, as well as experience from enforcement practice, necessitate a revision of the ordinance, which essentially dates back to 2012, in order to maintain a high standard of hygiene with regard to the preventive health protection of bathers.

New findings have now emerged regarding parameters of particular importance from a technical point of view, such as Legionella, Pseudomonas aeruginosa and Enterococci, the implementation of which in the regulatory framework of the Bathing Water Hygiene Ordinance of 2012 is essential for a better assessment of any health risks.

Legionella are bacteria that can cause severe pneumonia (Legionnaires' disease). In cases of Legionnaires' disease diagnosed in Austria, Legionella pneumophila strains of serogroup 1 were identified as the causative agent in 92% of cases, Legionella pneumophila strains of serogroups other than 1 in approximately 6% of cases, and strains of the approximately 45 other Legionella species, of which only a few species can cause infections in humans, in approximately 2% of cases. Based on current knowledge, the question of an acute health hazard therefore also depends on the proven species, which requires a differentiation in this regard. Pseudomonas aeruginosa is a facultative pathogenic bacterium that causes infections of the external auditory canal and skin infections in particular. As typical representatives of biofilms, pseudomonads can multiply particularly when water is recirculated through technical equipment, thus posing a risk of infection within bathing establishments. Furthermore, Pseudomonas aeruginosa can cause interference in tests for the detection of Legionella.

Furthermore, technical standards that have proven effective in practice should be incorporated into the regulations governing bathing water hygiene. Furthermore, there is potential for optimisation with regard to certain organisational processes and procedures, and requirements that have proven to be outdated according to professional evaluation, and that therefore should be eliminated in the future or replaced by contemporary regulations adapted to the experiences and needs of enforcement practice.

Objectives

Objective 1: Update of the BHygV 2012 with regard to scientific and technical standards

Description of the objective:

Adaptations of the provisions of the BHygV 2012 to the current state of science and technology. The proposed new regulations are intended to ensure the best possible minimisation of the transmission of pathogens and thus the continued protection of the health of bathers.

Implemented by:

Measure 1: Revision of the requirements concerning pools, hot tubs (whirlpools) as well as saunas, hot air and steam baths

Measure 2: Inclusion of regulations on the transport of pets in the BHygV 2012 Measure 3: Creation of a transitional regime for already approved establishments, facilities and installations

Objective 2: Update of the BHygV 2012 in light of experience gained from enforcement practice

Description of the objective:

The aim is to optimise the regulations regarding organisational processes and procedures in the area of bathing water hygiene by adapting them. The aim is for the draft to take into account both the experience gained from enforcement practice since the enactment of the BHygV 2012 and the needs of the operators.

Implemented by:

Measure 1: Revision of the requirements concerning pools, hot tubs (whirlpools) as well as saunas, hot air and steam baths

Measure 2: Inclusion of regulations on the transport of pets in the BHygV 2012 Measure 3: Creation of a transitional regime for already approved establishments, facilities and installations

Measures

Measure 1: Revision of the requirements concerning pools, hot tubs (whirlpools) as well as saunas, hot air and steam baths

Description of the measure:

The requirements for pools, water quality, and water treatment plants and procedures for pools are to be revised.

Planned adjustments related to filling, pool and tub water include, among other things: Limit and guideline values (such as minimum and maximum chlorine content) as well as the use of permitted disinfectants and procedures or other chemicals. Developments regarding the biocidal product authorisations of the European Union, which are also relevant for bathing water hygiene law, are taken into account (Sec. 39).

The proposed guideline and limit values for the parameters *Legionella* and *Pseudomonas aeruginosa*, as well as the differentiation between the species of *Legionella*, will enable a better assessment of health hazards in the future. The stipulated tolerance limits for *Pseudomonas aeruginosa* and *Legionella* now allow, in the event of exceedance of the guideline values following an investigation according to Sec. 6 (water from water treatment before chlorination) or according to Sec. 7 (pool water), remediation measures tailored to the respective health hazard according to Sec. 43, Para. 6. Therefore, if the relevant values are exceeded, the affected facility no longer has to be closed immediately in every case – as was previously the case (Sec. 43 in conjunction with Secs. 6 and 7).

Technical evaluations have shown that the parameter Enterococci is more meaningful than the parameter *E. coli*. The mandatory testing for *E. coli* can therefore be discontinued in the future.

The requirements for filters are also being adapted to the state of the art; standardisation content that has proven successful in practice is being incorporated into the bathing water hygiene regulations.

The regulations concerning water treatment processes are being adapted to the current state of the art. The catalogue of permissible treatment methods for pool water is thus extended to include the use of UV equipment (Sec. 14a). By excluding lignite coke, the safety of a hygienically sound operation is increased and/or problems with the contamination of the activated carbon filters used are reduced (Sec. 28 Para. 1).

Adjustments and additions will also be made to the regulations concerning the internal control of pools (especially with regard to the annual water hygiene report and the operating log).

Creation of a new regulation that allows for the temporary shutdown of pools. The associated simplifications are enshrined in law with regard to corresponding needs arising in practice (Sec. 45a).

Further adjustments concern the design of sauna facilities as well as hot air and steam baths.

Implementation of:

Objective 1: Update of the BHygV 2012 with regard to scientific and technical standards
Objective 2: Update of the BHygV 2012 in light of experience gained from enforcement practice

Measure 2: Inclusion of regulations on the transport of pets in the BHygV 2012

Description of the measure:

The inclusion of a general ban on the transport of pets into facilities and installations according to the BHygV 2012 is intended to create a uniform regulatory situation and to address hygiene problems, especially in connection with the transport of dogs. This prohibition includes both the bathing areas themselves and the ancillary facilities belonging to the bathing facilities.

However, these new regulations take into account the fundamental rights-based exceptions for trained assistance and therapy dogs pursuant to Section 39a of the Federal Disability Act, Federal Law Gazette. No. 283/1990. In this respect, the implementation in the BHygV 2012 is also intended to guarantee legal certainty for people with disabilities who are dependent on being accompanied by such a dog when visiting facilities according to the BHygV 2012. However, for hygienic reasons, assistance or therapy dogs should not be taken into the water of baths, hot tubs (whirlpools), saunas, hot air and steam baths, or the water of small bathing ponds. Consideration is also given to bathers in surface waters and small bathing ponds that ensure organisationally or structurally separated areas for pets.

Implementation of:

Objective 1: Update of the BHygV 2012 with regard to scientific and technical standards
Objective 2: Update of the BHygV 2012 in light of experience gained from enforcement practice

Measure 3: Creation of a transitional regime for already approved establishments, facilities and installations

Description of the measure:

Insofar as the proposed changes affect baths, hot tubs (whirlpools), saunas, hot air and steam baths and small bathing ponds that have already been approved, suitable transitional provisions must be created. The modernisations required for the protection of health should be implemented with due consideration for the interests of the operators and with an appropriate transition period.

Implementation of:

Objective 1: Update of the BHygV 2012 with regard to scientific and technical standards
Objective 2: Update of the BHygV 2012 in light of experience gained from enforcement practice

Impact assessment

Companies

Other material impacts

Implementing the standards provided for in the present amendment may result in financial expenditure for establishments, facilities and other installations already authorised or approved under the relevant regulations. However, such effects are mitigated by appropriate transitional provisions that provide reasonable deadlines for existing establishments and are intended to prevent any hardships.

Social impacts

Impacts on people with disabilities

The project will have no material impact on the social participation of people with disabilities.

Explanation:

For hygiene reasons, the transport of pets into facilities and installations should generally be prohibited according to the BHygV 2012. This prohibition includes both the bathing areas themselves and the ancillary facilities belonging to the bathing facilities. However, with regard to the social participation of people with disabilities, exceptions should be provided for the transport of trained assistance dogs (guide dogs, service dogs and signal dogs) and therapy dogs in certain areas in accordance with Sec. 39a of the Federal Disability Act, BGBl. No. 283/1990. However, this does not apply to bringing them into the water of baths, hot tubs (whirlpools), saunas, hot air and steam baths, as well as the bathing water of small bathing ponds. Consideration is also given to baths in surface waters and small bathing ponds that provide organisationally or structurally separated areas for pets.

Impacts in terms of consumer protection policy

Impact on the health and safety of consumers

The project has no significant impact on the health and safety of consumers.

Explanation:

The draft of a 2nd amendment to the Bathing Water Hygiene Ordinance of 2012 (BHygV 2012) serves the aforementioned regulatory objective by minimising the transmission of pathogens in baths, hot tubs (whirlpools), saunas and warm air and steam baths.

Information on materiality

According to the submitting agency's assessment, the following dimensions of impact are not significantly affected by the project in question within the meaning of Annex 1 of the WFA Grundsatz-verordnung (OOIA Principles Ordinance).

Dimension of impact	Sub-dimension of the materiality criterion Dimension of impact
Social	Social participation - change in the number of mandatory positions filled by at least 1,000 positions or change in the number of people with disabilities registered as unemployed by at least 700 people or disability with regard to - at least 5% of people with disabilities or a specific type of disability (e.g. blind or severely visually impaired people, deaf people, wheelchair users) are currently or potentially affected Whose employment situation as well as outside the world of work)
Consumer protection policy	Health and safety in the number of cases of illness or accidents with an expected inability to work of more than three days In connection with products or services

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