

**EU Commission proposal for
a Regulation on Minimum Requirements for Water Reuse.
EIA Position and
Further steps in the legislative process**

(Draft V2)

In May 2018, following quite some years of preparation and discussions, the European Commission presented a proposal for a Regulation on Minimum Requirement for Water Reuse, a topic of direct relevance and importance for the members of the European Irrigation Association (EIA).

EIA Position

This Regulation proposal was debated at the EIA's Irrigation Forum 2018 in Bologna, and the outcome of the debate included in a position paper sent on 30 November 2018 to the EU Institutions, recalling the EIA's contribution to the public consultation proposing that the EU Institutions modify the Commission proposal by a) including non-food crop, urban green areas, golf courses and sport turf areas in the scope to facilitate a larger uptake of waste water reuse practice, b) moving away from explicitly prescribing stringent quality demands on water treatment system towards the regulatory framework which creates and controls the barriers to contamination throughout the entire process and c) prescribing in the Regulation the development of consolidated guidelines and Best Management Practices for implementation of water reuse for irrigation projects, which would help to cover the gap between Member States which already have a specific legislation on water re-use and the others.

The EIA position also included the following observations:

- At first, the EIA regrets the **lack of transparency** in the process, with the results of the initial consultation not considered and the content of the proposal not justified; as an example, the minimum standard to be applied listed in the guidelines edited in 2016 were not considered.
- The regulation proposal only refers to agricultural reuse, **but irrigation of turf and landscape are first targeted today**: if the regulation is applied as it is proposed, due to the cost it will be the only applications that could afford such a level of quality.
- A place for **irrigation actors** should be made: tertiary on purpose treatment at plot entrance, risk management according to the type of production and sensitivity of environment, BMP listed by ISO TC282 representing international consensus;
- **In general**, the impression is that the Commission proposal is based on the Australian regulatory framework, where all new projects development have stopped; that the proposal will not facilitate the uptake of reuse, hampering the creation in Europe and the global deployment of a market of treatment fit for reuse based on greener technologies; that most investments will be affected to urgent needs of maintenance (treatment plants and networks), meaning that direct reuse will be postponed, paving the way to indirect-uncontrolled reuse; and that the knowledge acquired in the last decade (thanks to EU financing in research) may be lost because it will not be applicable any longer. A counter example could have been the Israel example, where water tariff is 0.7\$/m³ for fresh water and 0.4\$/m³ for treated effluent, the regulation being based on the construction of successive barrier to contamination for agriculture and non-agriculture usage, with dedicated monitoring and best design and practices management;

- **Extra-cost of depuration:** Compliance with the Regulation as proposed would require an extra depuration cost estimated around 0.5 to 0.8€/m³. Part of the treatment could be supported by agriculture but not all. For example, for micro-pollutants, over-precautionary rules are made necessary by societal demand, that is the first level polluter. It may be more effective to forbid products and medicines that could not be removed by common waste water treatment methods. Such high costs would result in limiting water to high income activities (irrigation of golf, urban landscape...), not to agriculture. In addition, stringent rules require a more careful/costly administrative control that is not affordable.
- **Energy costs:** tertiary treatment as required by the draft regulation should increase energy cost by 50 to 200% from actual;
- **Risk analysis:** it is a good path to follow, if it is described, to manage the different barriers to contaminations. The World Health Organisation (WHO) method is the most balanced, keeping a treatment level that makes sense with the type of production and associated hazards. It remains that many of the pathogens that should be analysed are not properly known in terms of dose-response, making it necessary to apply to generalise pathogens management despite differences in contamination characteristics. The farmer should be involved in the management of the safety chain and not excluded from the chain of responsibilities.
- **Monitoring and practices** are keys of risk management chain, but they have to be feasible technically, financially and administratively. The questions around operation of such regulation are not addressed in the proposal as it stands. Monitoring for safety is based on rules that do not rely on proven epidemiology risks (e.g. based on Escherichia coli (E. coli) which is an indication, not a risk). Risk management: need to integrate the barriers made by soil and plant in addition to treatment, based on real data and adapted to local conditions;
- **Circular economy of water and nutrients** is in all policy makers minds and is justified in terms of energy balance. However, the proposal will cancel any nutrient benefits, and will result in enhanced energy use for treatment, compared to disposal in the environment, and in fertilizers production instead of recovery.
- Regarding **micro-pollutants**, a lot of pressure is made to enlarge the list, but it is impossible to manage treatment for many of them at reasonable cost;
- Regarding **food safety**, instead of referring to source of water, in which heavy metals are not listed, it should refer to quality of water. And instead of asking monitoring pharmaceutical that could not be treated it should be asked to remove it from the market;

Steps towards the adoption of the Regulation

The Commission proposal was discussed by both the European Parliament (adoption of the Bonafé Report in February 2019) and the EU Council of Ministers, which agreed upon a so-called [general approach at its meeting on 27 June last](#).

This general approach is the result of negotiations between the Member States. In order to be finally adopted, the text has now to go through another negotiation process between the European Parliament (which will use as a basis its report adopted in February) and the Council, with the support of the Commission as “honest broker” - the “trilogue negotiations”. The objective is for the European Parliament and the European Commission to finally agree on a common text which then will become an EU Regulation and applicable directly in all Member States. Whereas many Regulations apply shortly after their adoption,

Following the European election in May and the re-organisation of the European Parliament, these negotiations will start in the Autumn, after the designation of a new Rapporteur. Ms Simona Bonafé, who was Rapporteur in the previous Parliament, was re-elected as Member

of the European Parliament but it has not been confirmed yet if she will continue to work on this file.

In its general approach, the Council keeps the overall objective set by the Commission in its initial proposal, which is to address water scarcity by defining criteria for the use of treated urban waste water for irrigation purposes. The Commission estimated that the new Regulation could increase water re-use from 1.7 billion m³ to 6.6 billion m³ per year. It did not follow the European Parliament's more ambitious position that extended the scope of the Regulation to turf and landscape.

The other key elements of the Council's general approach are the following:

- Emphasis is made on the flexibility of the Regulation. Not all Member States have existing legal instruments or standards for managing the re-use of water, and therefore the Council's general approach allows the possibility for Member States to introduce the content of this Regulation whenever they consider it appropriate. If a Member State chooses, not to apply the Regulation, it must notify the Commission and justify its decision on the basis of criteria contained in article 2 of the Regulation. These criteria essentially refer to its geographical, climatic, social, economic or environmental specificities.
- The general approach sets obligations to reclamation plant operators to comply with minimum requirements outlined in Annex I, Section 2. These requirements will define the different classes of reclaimed water quality, based on the use and irrigation method. They will be based on a technical report of the Joint Research Centre of the Commission as well as ISO standards and WHO guidelines. The operators also have an obligation to monitor; the minimum frequencies for routine monitoring are defined in that Annex.
- Water Reuse Risk Management Plans have to be established, covering one or more water reuse systems, defined as "a group of infrastructures and other technical elements necessary for producing, supplying and using reclaimed water". These Plans will be based on guidelines still to be drafted by the Commission and have to identify risk management responsibilities, potential risks and hazards (and their preventive or corrective measures) and other requirements beyond those contained in Annex I. However, in its general approach, the Council no longer includes the consultation of the stakeholders.
- Based on these Water Reuse Risk Management Plans, parties or authorities in charge of reclaimed water will have to apply for a permit or an authorisation, and compliance checks will be performed by the competent authorities either via on spot checks or by use of monitoring data. Provision of such data is also a requirement of the future Regulation (Article 11).
- The Regulation would provide for minimum requirements for water Health assessments have should make use of existing standards and WHO guidelines

Other elements include an obligation for the member States to provide information to the public every two years on reuse of water and the Commission every six years on compliance checks, and to cooperate on cross-border matters.

Finally, and very importantly, the Council wants to postpone the application of this Regulation from one year (as proposed by the Commission), to five years after its formal adoption, so as to allow the relevant administrations and stakeholders to adapt.



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The EIA will continue to monitor and report about the further steps towards the adoption of the Regulation, **notably during its General Assembly on 3 December at Paysalia in Lyons.**