

Minimum requirements for water reuse

2018/0169(COD) - 08/04/2020 - Council position

The Council adopted its position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on minimum requirements for water reuse.

The proposed Regulation aims to ensure that reclaimed water is safe for agricultural irrigation, thereby:

- ensuring a high level of protection of the environment and of human and animal health,
- promoting the circular economy,
- supporting adaptation to climate change, and
- contributing to addressing water scarcity and the resulting pressure on water resources, in a coordinated way throughout the Union, thus also contributing to the efficient functioning of the internal market.

The Council's position at first reading reflects the compromise reached in the negotiations between the Council and the European Parliament. It includes the following main elements:

Scope of application

The Council's position stipulates that the minimum water quality and monitoring requirements laid down in the Regulation concern only the use of treated urban waste water for agricultural irrigation.

However, Annex I of the Regulation provides that, without prejudice to the relevant provisions of Union law in the fields of environment and health, Member States may use reclaimed water for other purposes, including industrial, environmental and amenity related purposes.

In addition, the Council's position:

- allows Member States to decide that it is not appropriate to reuse water for agricultural irrigation in one or more of their river basin districts or parts thereof. Member States shall justify their decisions, review them as necessary, at least every six years, and submit them to the Commission. Their decisions shall be made available to the public, online or by other means;
- provides that, under certain conditions, research and pilot projects may be exempted from the application of the Regulation;
- emphasises that the water reuse Regulation applies without prejudice to the legislative framework on food hygiene established by Regulation 852/2004;
- takes into account the multi-barrier approach by specifying that the Regulation on water reuse does not preclude food business operators from obtaining the water quality required to comply with Regulation 852/2004 by applying at a subsequent stage several water treatment options alone or in combination with other non-treatment options or from using other alternative water sources for agricultural irrigation.

Risk management plan

It is clarified that the risk management plan for water reuse shall in particular identify additional barriers in the water reuse system and set out any additional requirements after the point of compliance, necessary to ensure the safety of the water reuse system, including conditions related to distribution, storage and use where relevant, and identify the parties responsible for meeting those requirements.

Minimum requirements for water quality and monitoring

The proposed Regulation aims to protect human and animal health and the environment by setting minimum requirements for both the quality of reclaimed water and for monitoring compliance in combination with harmonisation of key elements of risk management. Those minimum requirements are set out respectively in Annex I and Annex II to the Regulation.

The Council's position:

- adds a footnote to Table 1 of Annex I stating that 'If the same type of irrigated crops falls under multiple categories in Table 1, the requirements of the most stringent category shall apply';
- introduces a provision for validation monitoring. This provision states that validation monitoring must be performed in all cases where equipment is upgraded and when new equipment processes are added. In addition, validation monitoring shall only be carried out for the most stringent reclaimed water quality class;
- specifies in Annex II that micropollutants and microplastics are substances of concern with regard to water quality, and that they shall be given particular consideration in a risk assessment. Substances of emerging concern are mentioned as an aspect that the Commission should pay particular attention in the evaluation.

Possibility to take into account the differences between water reuse systems in the EU

The Council's position provides flexibility for Member States that practise water reuse for agricultural irrigation as regards the organisation of their water reuse systems. At the same time, it leaves Member States flexibility as regards the responsibilities of the different actors in the water reuse system. It also provides flexibility as it specifies that it is the responsibility of the competent authority in the Member State to determine that compliance of water reuse is restored following procedures defined in the Water Reuse Risk Management Plan.

Furthermore, in order to provide the necessary possibility to adapt to local circumstances, the Council: (i) defines the point of compliance as the point where a reclamation facility operator delivers the reclaimed water to the next actor in the chain and (ii) sets out that the exact point of compliance can be determined in the permit.

In addition, the Council's position:

- provides that the Commission shall, in consultation with the Member States, establish guidelines to support the practical application of the Regulation. It shall present these guidelines within two years of the date of entry into force of the Regulation;
- provides that the competent authorities shall notify the applicant for a permit of the expected date of a decision on the application within 12 months;

- obliges Member States which practise water reuse for agricultural purposes to lay down rules on penalties applicable to infringements of the provisions of the Regulation and to take all measures necessary to ensure that they are implemented;

- obliges Member States in which reclaimed water is used for agricultural irrigation purposes to organise general information and awareness campaigns on the savings in water resources resulting from the reuse of water for agricultural irrigation purposes.

The power conferred on the Commission to adopt delegated acts for the purpose of adapting essential elements of risk management to technical and scientific progress and delegated acts to supplement the Regulation in order to establish technical specifications for risk management ensures that the Regulation remains up to date.