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Delegations will find attached document SEC(2022) 541.

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REGULATORY SCRUTINY BOARD OPINION

Revision of the Urban Wastewater Treatment Directive

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EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of the Urban Wastewater Treatment Directive

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Urban Waste Water Treatment Directive sets rules for the collection and treatment of waste water from households in urban areas and specific industries. The aim is to ensure a sufficient level of quality in order to minimise the effects of these discharges on the environment.

Building on the findings of an evaluation and to respond to new political priorities and societal challenges, the Commission is revising the Directive.

(B) Summary of findings

The Board notes the changes and additional explanations included in the report in response to the previous opinion.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) **The report does not present a fully developed and dynamic baseline scenario. It is neither sufficiently clear how the measures expected from the Member States to meet their national 'Fit for 55 targets' nor how the recent actions under the REPowerEU package have been incorporated and which overall energy saving gap would remain in absence of further sector specific action and targets.**

(2) **The report does not sufficiently demonstrate the need for and value-added of new sector specific energy neutrality targets over and above the already envisaged obligations for Member States.**

(3) **The report does not sufficiently justify the proportionality of individual measures as well as of the preferred option considering the estimated investment needs.**

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The report should present a fully developed, dynamic, baseline scenario, which incorporates the revised ambition and additional actions under the recent REPowerEU package as well as the measures expected by the Member States to meet their national 'Fit for 55 targets'. Assumptions made should be realistic and reflect the mandatory nature of already envisaged national targets.

(2) The report still needs to better demonstrate the need for and value-added of new energy neutrality targets in this sector for Member States over and above the already envisaged target obligations for Member States, including under the Effort Sharing Regulation. It should more convincingly show how regulatory overlap will be avoided and sufficient flexibility for Member States on the choice of the most cost-efficient measures in reaching their overall national climate policy and energy reduction targets will be ensured.

(3) The report should make a greater effort to quantify the costs necessary (by the Member States) to reach the energy neutrality target, as it will only be possible with sufficiently robust information to decide whether a sectorial target will provide an overall additional net benefit. It should clarify to what extent the assumption that actual costs of additional investments to reach energy neutrality would be compensated by financial savings due to the production of renewables and better energy savings is shared by the affected public authorities and industry experts. It should also be clearer on the different starting positions of Member States (as regards energy neutrality) as well as on the envisaged 2035 interim targets, including whether these will differ among Member States. It should explain how and on what evidence base these interim targets will be established. Any related distributional impacts between Member States should be clearly mapped and set out.

(4) Expected overall investment needs seem to substantially outweigh monetised benefits. The report should explain whether it can be reasonably assumed that all Member States will cover these in a timely manner (including those less reliant on water tariffs). It should be explicit about whether there are any risks for the implementation of the measures and for benefits materialising.

(5) The report should better demonstrate the proportionality of the preferred option, preferablly on the basis of a net present value analysis. When it comes to the proportionality assessment of the strom water overflow options, the report should better justify why it did not choose, as preferred option, the one, which provides the highest net benefits overall, performs best in terms of effectiveness and enforceability and has the most favourable benefit-cost ratio. When assessing the proportionality of imposing energy neutrality targets, the report should better reflect the relative small contribution to the overall monetised benefits and the uncertainty that the targets will be the most cost-efficient measure among those available for the Member States.

(6) The report should better explain the robustness and validity of the used evidence on the willingness to pay. It should justify why, in order to extrapolate to EU level, it assumes 10% of the value determined for the case study of Berlin in terms of public willingness to pay for ecosystem services associated with drainage. As willingness to pay depends on income, the report should explain why it did not consider a comparison of Germany's GDP and the EU average or other means of extrapolating.

(7) The report provides more information in an annex regarding the proposed extended producer responsibility scheme. It should be explicit about whether there are any choices for policy makers in this regard and if so, present them in the main report.

(8) The report provides stakeholder views without any numbers (either percentages or

absolute numbers). This presentation may be misinterpreted as a representative survey which is not the case. The report should be more specific on the views of particular categories of stakeholders and Member States, including by explaining why certain academics, business or Member States authorities were less supportive on some issues.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables. The report must ensure full consistency of the figures throughout, in particular between the figures presented in the main report and these tables.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Revision of the Urban Wastewater Treatment Directive
Reference number	PLAN/2020/7347
Submitted to RSB on	4 May 2022
Date of RSB meeting	Written procedure

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option - A breakdown per MS is provided in Annex 7, Table A7.6 (total costs and benefits).

Description	*Amount*	*Comments*
	Direct benefits	
Improvement of water quality	€ 6.156.474.955 /year	Monetised benefits due to reduced emissions of Nitrogen, Phosphorus and BOD in the environment and willingness to pay for SWOs/urban run off
Reduction of the toxic load in receiving waters	44% reduction of the toxic load rejected to receiving waters of which 64% happening in areas at risk (with low dilution rates)	Benefits mainly for the environment and public health (notably bathing and drinking water), for biodiversity (protection of fauna)
Reduction of GHG	€ 486.370.454 /year (GHG	Monetised benefit due to GHG

emissions and energy neutrality	reduction) € 1,49 bn/year (energy neutrality)	emission reduction from improved process (N_2O emissions) and energy neutrality Direct savings due to energy neutrality
Indirect benefits		
Improved bathing water quality	Significant reduction of *E. coli* emissions (key parameter for bathing water quality), impacts on tourism, well-being in the cities	
Improved raw water for drinking water	Improved protection of the raw water used for drinking water, reduced health risks, reduced treatment costs for water operators	
Biodiversity	Cleaner water is essential to preserve biodiversity on the rivers, lakes and coastal areas. Actions on SWO and urban runoff will incentivize actions to 'green' the cities	
Public Health	Monitoring COVID-19 and its variants as well as Anti-Microbial resistance is providing precious information for public health	
EU water industry	New business opportunities. Push for innovation, modernisation and transition towards climate neutral industry. Maintain/amplify of the worldwide leadership of the EU water industry	
Innovation	Energy and Climate neutrality as well as micro-pollutant treatment are new and will drive innovation. Same for improved N and P efficiency	
Administrative cost savings related to the 'one in, one out' approach*		
National digitalised database for reporting	Potential savings for operators compensated by additional costs due to reporting more parameters	
Better coherence reporting with E-PRTR		Modest savings

II. Overview of costs – Preferred option - A breakdown per MS is provided in Annex 7, Table A7.6 (total costs and benefits) and in Table A7.5 (detailed costs per MS). Costs are annual costs by 2040 including capex and opex.

		Citizens/Consumers		Waste Water operators/ municipalities		National/regional administrations	
		One-off	**Recurrent €/year in 2040**	**One-off**	**Recurrent €/year in 2040**	**One-off**	**Recurrent €/year in 2040**
SWO and urban run -off	Direct adjustment costs			6.446,7 million	372,472 million		
	Administrative costs				57,6 million		
Small scale agglomerations	Direct adjustment costs			1.141,23 million	140,41 million		
	Administrative costs				0,472 million		
Nutrients removal	Direct adjustment costs			12.129,51 million	2.008,83 million		
	Administrative costs				No change		
Micro-pollutnats removal	Direct adjustment costs			8.891,34 million	1.185,51 million		
	Administrative costs				27,6 million		
GHG and energy neutrality	Direct adjustment costs				Costs compensated by savings		
	Administrative costs				Audits and monitoring: 98,7 million		

Other actions	Direct adjustment costs		Average increase of water tariffs of 2,26% - or 1.806 million				Average increase in public budget of 774 million
	Administrative costs		No changes		55,7 million AMR + COVID-19 + non domestic waters		Neutral
Costs related to the 'one in, one out' approach (PCP's and pharmaceutical industry)							
Total	Direct adjustment costs				9 billion € for PRO's to cover investments for micro-pollutants advanced treatment		
	Indirect adjustment costs						
	Administrative costs (for offsetting)				16,2 million €/year to be shared between PRO (11,2 million) and industry (5 million)		

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of the Urban Wastewater Treatment Directive

Overall opinion: NEGATIVE

(A) Policy context

The Urban Waste Water Treatment Directive sets rules for the collection and treatment of waste water from households in urban areas and specific industries. The aim is to ensure a sufficient level of quality in order to minimise the effects of these discharges on the environment.

Building on the findings of an evaluation and to respond to new political priorities and societal challenges, the Commission is revising the Directive.

(B) Summary of findings

The Board notes the additional information provided in advance of the meeting and commitments to make changes to the report.

However, the Board gives a negative opinion, because the report contains the following significant shortcomings:

(1) The report is not specific enough about the remaining Green House Gas emission reduction and energy savings gap that the initiative aims to tackle. It is not clear how the coherence and consistency of the proposed revision will be ensured with related initiatives, such as the Effort Sharing Regulation, the Energy Efficiency Directive or the Nature Restoration Law and to what extent these initiatives are reflected in the dynamic baseline.

(2) The report does not provide a clear evidence base for possible Energy Neutrality Targets and measures related to Green House Gas emissions. The available policy choices and details of the envisaged Extended Producer Responsibility scheme for micro-pollutants are not set out clearly enough.

(3) The report does not sufficiently demonstrate the proportionality of the proposed measures in terms of their costs and benefits, specifically on storm water overflows and urban runoff, but also more broadly of the preferred option.

(C) What to improve

(1) The report should be clearer about how the initiative fits in the context of existing legislation and initiatives. It should explain the coverage of each of these and identify the

remaining gaps that the revised Directive would be expected to address.

(2) The report should explain clearly the evidence base for considering sector-specific Energy Neutrality Targets and further measures related to Green House Gas emissions. It should be specific on the scale of the identified Green House Gas emission reduction and energy savings gaps under the dynamic baseline, fully reflecting the impacts expected from the requirements of the Effort Sharing Regulation, the Energy Efficiency Directive and other relevant 'Fit for 55' initiatives. It should explain how the new targets and measures are expected to interact with the 'Fit for 55' initiatives, how double regulation will be avoided and flexibility for Member States on the choice of the best measures in reaching their overall reduction targets will be ensured. It should better justify the 2040 time horizon used for the baseline, given the need to ensure coherence with the 2050 climate neutrality objectives and the envisaged measures in the adopted 'Fit for 55' package.

(3) When it comes to micro-pollutants, the report should further elaborate on the Extended Producer Responsibility scheme it considers. It should set out the main elements and present the key policy choices to be made by policy makers (e.g. scope, progressive expansion) and assess the costs and benefits of available alternatives.

(4) The report needs to strengthen its narrative significantly and the argumentation in support of the proportionality of the preferred set of measures, in particular on storm water overflows and urban runoff. It should make an effort to further quantify the expected, most significant, benefits. Where this is not possible, the report should explain why and provide qualitative analysis to support the conclusion that the benefits overweigh the costs. It should provide more convincing arguments to show how the intervention is expected to bring about the non-monetised benefits and the extent to which this will happen. It should show the order of magnitude (e.g. case studies, expert estimates, literature) of the benefits expected to materialise. It should present a more balanced analysis of benefits and costs, fully reflecting the recurring and the (quite high) one-off investment costs. For 'one in one out' approach, it should only include the costs to businesses and citizens.

(5) The report should show more transparently where the impact is expected to be different across Member States. It should explain how the financing of the investment costs will be ensured. In this context, it should be more explicit about the expected use of EU funding to support the measures envisaged. It should also be more explicit about possible affordability issues for low-income households and whether this poses any risk for implementation.

(6) The analysis should report more systematically on the different views expressed by the consulted stakeholders.

(7) The report should specify when the initiative will be evaluated, and how success will be measured.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

Full title	Revision of the Urban Wastewater Treatment Directive
Reference number	PLAN/2020/7347

Submitted to RSB on	16 February 2022
Date of RSB meeting	16 March 2022