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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 11.3.2024 supplementing Regulation (EU) 2020/741 of the European Parliament and of the Council with regard to technical specifications of the key elements of risk management

Delegations will find attached document C(2024) 1454 final.

Encl.: C(2024) 1454 final



Brussels, 11.3.2024
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COMMISSION DELEGATED REGULATION (EU) .../...

of 11.3.2024

supplementing Regulation (EU) 2020/741 of the European Parliament and of the Council with regard to technical specifications of the key elements of risk management

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The water resources of the Union are increasingly coming under pressure, leading to water stress in several Member States. In addition, climate change, unpredictable weather patterns and drought are contributing significantly to the strain on the availability of freshwater. In the context of the European Green Deal, the Circular Economy Action Plan¹ and the new EU Climate Adaptation Strategy² refer to a wider reuse of treated wastewater as a key tool to enhance the Union's ability to respond to the increasing pressures on water resources. Such practice can limit abstractions from surface and groundwaters, promoting water conservation to help restore a sounder water cycle, in line with the overarching water resilience objective which the European Union promoted at the UN Water Conference of March 2023.

Existing legislation refers to the practice of water reuse. The Water Framework Directive 2000/60/EC³ mentions water reuse, in combination with the promotion of the use of water-efficient technologies in industry and water-saving irrigation techniques, as one of the supplementary measures which Member States may choose to apply to achieve the objectives of good qualitative and quantitative status for surface and groundwater bodies. The Urban Waste Water Treatment Directive 91/271/EEC⁴ requires that treated wastewater be reused whenever appropriate. Its ongoing legislative revision strengthens such requirement.

Robust risk management is a key safety element to foster public trust in this practice.

Risk management provisions in the Water Reuse Regulation

Regulation 2020/741 on minimum requirements for water reuse⁵ (hereafter the Water Reuse Regulation) sets out harmonised minimum water quality requirements for the safe reuse of treated urban wastewaters for agricultural irrigation. It also sets out minimum monitoring requirements, risk management provisions to assess and address potential additional health and environmental risks, permitting requirements and provisions on transparency, whereby key information on every water reuse project is made available to the public.

Under Article 6(1) of the Water Reuse Regulation, production and supply of reclaimed water is subject to a permit. Permits must be based on a thorough risk management plan (Article 6(3)), which must respect the requirements set out in Article 5. In addition, Annex II lists all

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A new Circular Economy Action Plan - For a cleaner and more competitive Europe (COM/2020/98 final).

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Forging a climate-resilient Europe – the new EU Strategy on Adaptation to Climate Change (COM/2021/82 final).

³ Directive 2000/60/EC establishing a framework for Community action in the field of water policy, (OJ L 327, 22.12.2000, p.1, ELI: <http://data.europa.eu/eli/dir/2000/60/oj>)

⁴ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.5.1991, p. 40, ELI: <http://data.europa.eu/eli/dir/1991/271/oj>)

⁵ Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse, (OJ L 177, 5.6.2020, p. 32, ELI: <http://data.europa.eu/eli/reg/2020/741/oj>)

the key elements that a risk management plan must address. Risk management requires the identification and management of risks in a proactive manner. Through an analysis based on the Annex II key elements, a risk management plan should identify any additional water quality requirements necessary to ensure the sufficient protection of human and animal health and the environment. Recognising that risk management is a complex exercise, the Water Reuse Regulation empowers the Commission to develop technical specifications of the Annex II key elements. Such technical specifications should also be in line with international guidelines and standards, such as those produced by the World Health Organisation (WHO) and the International Organisation for Standardization (ISO).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This Delegated Regulation has been developed based on several technical studies - including the reports “Minimum quality requirements for water reuse in agricultural irrigation and aquifer recharge – Towards a legal instrument on water reuse at EU level”⁶ and “Technical Guidance – Water Reuse Risk Management for Agricultural Irrigation Schemes in Europe”⁷ prepared by the Joint Research Centre (JRC) – and on internationally recognised guidelines and standards, notably the WHO Sanitation Safety Planning Manual⁸, ISO 20426 (2018)⁹, ISO 16075-1 to 2 (2020)¹⁰ and the Australian Guidelines for Water Recycling (2006)¹¹.

Between May and November 2021, five technical workshops on risk management for water reuse were organised. They provided an opportunity for authorities, water treatment companies and other stakeholders to discuss and raise issues. They resulted in a collection of case studies, which can be consulted in the abovementioned JRC Technical Guidance.

Experts from Member States authorities and stakeholders gathered in the Water Reuse Working Group, set up under the Common Implementation Strategy (CIS)¹², have been closely involved in the technical discussion on the specifications for risk management. The Expert Group on Water and Floods¹³ has also been closely involved in the discussions and was given the opportunity to comment on the draft Delegated Regulation and the technical specifications it lays out. Preparatory meetings were held on 17-18 November 2022, 13-14 March 2023 (Working Group Water Reuse) and 16 October 2023 (Expert Group).

⁶ Alcalde-Sanz, L. and Gawlik, B.M., *Minimum quality requirements for water reuse in agricultural irrigation and aquifer recharge - Towards a legal instrument on water reuse at EU level*, European Commission, Luxembourg, 2017, JRC109291.

⁷ Maffettone, R. and Gawlik, B.M., *Technical guidance: water reuse risk management for agricultural irrigation schemes in Europe*, European Commission, Luxembourg, 2022, JRC 129596.

⁸ WHO, *Sanitation safety planning: manual for safe use and disposal of wastewater, greywater, and excreta*, Geneva, 2016.

⁹ ISO 20426: 2018. Guidelines for health risk assessment and management for non-potable water reuse.

¹⁰ ISO 16075-1:2020 Guidelines for treated wastewater use for irrigation projects — Part 1: The basis of a reuse project for irrigation; ISO 16075-2:2020 Guidelines for treated wastewater use for irrigation projects — Part 2: Development of the project.

¹¹ NRMCC–EPHC–AHMC, *Australian guidelines for water recycling: managing health and environmental risks (phase 1). National Water Quality Management Strategy*, Canberra, 2006.

¹² <https://circabc.europa.eu/ui/group/9ab5926d-bed4-4322-9aa7-9964bbe8312d/library/dd9b4484-2935-4ee8-b3ce-72f844f3644c>

¹³ Published in the Register of Commission Expert Groups and Other Similar Entities, code number E03687.

The draft Delegated Regulation was open for public feedback between 11/01/2024 and 08/022024. In total 32 contributions were received: 6 from public authorities, 2 from research institutes, 14 from business associations, 3 from NGOs and 7 citizens. A small number of contributions expressed their opposition to the principle of water reuse rather than providing an opinion on the technical specifications. Other contributions called for setting out specific parameters, beyond the minimum requirements set by the Water Reuse Regulation. Other offered specific suggestions that helped improve the quality of the drafting.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 5(5) of the Water Reuse Regulation provides the legal basis for adopting this Delegated Regulation. More specifically, Article 5(5) empowers the Commission to adopt delegated acts supplementing the Regulation to lay down technical specifications of the key elements of risk management set out in Annex II of the same Regulation.

This Delegated Regulation is structured as follows:

- Article 1 states that the Annex to the Delegated Regulation sets out technical specifications of the key elements of risk management of Annex II of the Water Reuse Regulation.
- Article 2 sets out the date of entry into force and the applicability of the Delegated Regulation.
- Finally, the Annex to this Delegated Regulation provides the necessary technical specifications of all the key elements of risk management, to enable the responsible parties to draw robust risk management plans and ensure the safety of water reuse projects.

COMMISSION DELEGATED REGULATION (EU) .../...

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse¹⁴, and in particular Article 5(5), second subparagraph, thereof,

Whereas:

- (1) Regulation (EU) No 2020/741 sets out the minimum requirements for safe water reuse for agricultural irrigation. Article 6 of that Regulation requires that production and supply of reclaimed water is subject to a permit, and that such permit is to be based on a risk management plan. Article 5(3) of that Regulation requires in turn for the water reuse risk management plans to be based on the elements of risk management set out in Annex II to that Regulation.
- (2) Developing a water reuse risk management plan can be a complex exercise, requiring a multidisciplinary approach and the involvement of several actors in its preparation. For this reason, it is necessary to lay down technical specifications of the key elements of risk management set out in Annex II to Regulation (EU) No 2020/741 to ensure that the water reuse risk management plans are robust, of high quality, and based on a systematic approach. The aim is to set out in more detail how the authors of the risk management plan and the risk assessors involved in its establishment should appropriately consider all the key elements through a structured and comprehensive analysis of the water reuse system. It should be possible to use existing risk assessment and management protocols to prepare a risk management plan, provided that the technical specifications set out in this Delegated Regulation are respected.

¹⁴ OJ L 177, 5.6.2020, p. 32-55

- (3) For the risk management plans to provide solid evidence to underpin the establishment of preventive measures and barriers and to ensure that irrigation with reclaimed water is safe for human and animal health and the environment, it should be supported by the most reliable scientific evidence available and other supporting sources, fully documented in the risk management plan.
- (4) Water reuse systems in place in Member States may differ in their set up and may serve a large number of end-users. Moreover a single risk management plan may cover more than one water reuse system, in accordance with Regulation (EU) 2020/741. The technical specifications of the key elements of risk management should be sufficiently flexible to accommodate these differences, while providing a comprehensive overview of the system and sufficient information to make it possible to identify all potential risks involved.

HAS ADOPTED THIS REGULATION

Article 1

The technical specifications of the key elements of risk management laid out in Annex II to Regulation (EU) No 2020/741 are set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11.3.2024

For the Commission
The President
Ursula VON DER LEYEN