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FEAD feedback on sustainable investments – EU environmental taxonomy

TYPE OF RESPONDENT: Business Association	**TRANSPARENCY REGISTER NUMBER: 2157643512-49**
COUNTRY: Belgium	**SECTOR OF ACTIVITY: Water supply, sewerage, waste management and remediation**
ORGANISATION: FEAD	**ORGANISATION SIZE: Micro (< 10 employees)**
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FEAD, the European Waste Management Association, representing the private waste and resource management industry across Europe, **welcomes the opportunity to comment on the EU environmental taxonomy and the EU's ambition to steer investments to achieve its climate and environmental goals**.

The EU is at the global forefront of the fight against climate change and most ambitious environmental legislations. FEAD fully supports these objectives and actively commits on its daily activities to achieve a sustainable economy by sustaining the transition towards a circular and climate neutral economy. We therefore believe that, **as we already part from the globally highest standards, requirements under the EU Taxonomy, which must be ambitious to achieve its purpose, must also be achievable to create a real incentive for the industry to further improve its performance, and to not precisely exclude those activities where investments are mostly needed to make substantial contributions to the EU objectives.**

The waste management sector is not only intrinsically at the core of the circular economy but has also an important role to play in the decarbonisation and depollution of the EU, as well as in its energy and strategic independence. **The substantial contribution of the sector to the different EU Taxonomy objectives must be fully recognised along the whole waste management chain.**

Concerning activities to be included in the Delegated Acts to the Taxonomy Regulation in the future, the **energy recovery of residual waste that cannot be recycled** (waste-to-energy and SRF production and use) **should be covered**. Waste-to-energy plays an essential role in circularity, as it moves up the waste hierarchy and is a key complement to more recycling.

Waste-to-energy activities are not a competitor nor an alternative to recycling, but a complementary process that ensures safe treatment of non-recyclable residual waste, be it from municipal or from industrial and commercial origin, including residues from recycling operations. In addition, waste-to-energy plants supply energy in the form of electricity and heat (to both district heating and industries),

which entails CO2 savings compared to electricity produced by fossil fuel combustion[1] and allows to diversify our energy supply (in particular with regards to district heating and cooling networks), accelerating simultaneously the roll out of renewable energies. Finally, waste to energy plants have also the potential to produce hydrogen and e-fuels. Through CCUS technologies, CO2 emissions can be either stored or even utilised in other applications and so contribute further to decarbonisation.

A study on the CO2 saving potential of the waste management sector shows that the key to achieving maximum CO2 avoidance is to make full use of recycling and waste-to-energy capacities throughout EU27 and the UK.[2] Besides the production of energy, waste-to-energy enables the recovery of metals and inert materials from bottom ashes as well as the recovery of gypsum from flue gas cleaning. The production of gypsum from flue gas cleaning is becoming increasingly scarce due to the ongoing phase-out of coal; otherwise, gypsum would have to be extracted by mining natural gypsum, which would lead to serious impacts on nature and the environment. This shows that waste-to-energy keeps resources in the cycle as long as possible, thus reducing the use of primary raw materials through energy and resource recovery. This issue is also very rightly emphasised in Recital 14 of the draft Environmental Delegated Act. The current stringent and legally binding requirements for emissions control and energy efficiency, ensure that these plants operate in full alignment with European legislation.

From a legal perspective, a clear distinction should be made between incineration and waste-to-energy activities.[3] The first one is a disposal activity and the latter one a waste recovery activity (R1), falling as such, under different sections of the waste hierarchy. For these reasons, **energy recovery from residual non-hazardous waste should be fully recognised in a dedicated section as an activity substantially contributing to (a transition to) a circular economy, provided that the following conditions are cumulatively and rigorously met:**

- There is waste management plan in the given country to ensure there is no overcapacity and to ensure alignment with the waste hierarchy;

- Only residual waste, resulting from selective collection or sorting, is subject to energy recovery under application of the R1 Formula;

- The CCS/CCU feasibility is examined.

Please see our feedback to the activities covered in the proposed draft in the tables below. For more information, please contact:

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[1] The incineration of biogenic waste, which accounts for up to 50% of incinerated municipal waste, is climate neutral. Umweltbundesamt, UBA Texte 51/2018, S.81 und UBA Texte 33/2011, p.66.

[2] CO2 study https://fead.be/wp-content/uploads/2022/07/Final_CO2-Study_Dec2021.pdf

[3] Legal analysis of the sustainability of waste incineration for energy recovery under the EU Taxonomy https://fead.be/wp-content/uploads/2022/07/20200911_Legal_Analysis_Regulation_2020-852_final_EN.pdf

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex I to Environmental Delegated Act (WTR)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): WTR 2.2. Urban Waste Water Treatment

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: regarding the first DNSH criteria on climate change mitigation (p. 26), monitoring of methane leakage is not relevant because capturing methane is the core activity for anaerobic digestion of sewage sludge, so leakage is avoided/minimised by the very nature of the activity. It is also questionable, whether the monitoring of methane would be a very urgent necessity as nitrous Oxide (N2O) accounts for the far greater part of emissions at wastewater treatment plants, compared to methane. Therefore, the monitoring of N2O would be a more important criterion.

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 1.1 manufacturing of plastic packaging goods

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

In relation to the first requirement:

- With regards to (b) on page 2 and 3, we strongly support the prioritisation of mechanical recycling, especially considering the ambitious targets. This is of huge importance for a sustainable circular economy, and for environmental protection, as

chemical recycling processes imperatively need to be investigated in terms of their sustainability by means of life cycle assessment, before it is possible to properly assess their status.
We would also suggest including a **phased approach** for the use of circular feedstock, in line, for example, with the approach in the Packaging and Packaging Waste Regulation proposal. The targets must be ambitious, but also realistic and possible to achieve to create a real incentive for the industry to achieve them. A first immediate target could be 50 % of the input plastic materials from post-consumer mechanically recycled plastic, and 15 % of mechanically recycled post-consumer materials for contact sensitive packaging. A second more ambitious target should then follow.

- In relation to (c) on page 3, there is no established assessment with regards to the general sustainability of bio-waste feedstock in plastic packaging. Especially the recyclability of those materials should be taken into account in this substantial contribution criteria. Considering that more work, research and innovation is needed to determine this aspect (see Commission communication on the EU policy framework on biobased, biodegradable and compostable plastics), this criterion should be deleted at this stage because there would be no substantial contribution to the circular economy if the recyclability is not provided. As also determined by the Commission in the aforementioned communication of biobased, biodegradable and compostable plastics, they should not detract from the need to align the lifecycle of plastics with the circular economy and to ensure, among others, that materials of all feedstocks, including biobased feedstocks, are kept in the loop for as long as possible.

In relation to the second requirement, under 2.2 (p. 3 and 4), **we see a usability problem of the 'recyclable at scale' criteria in the Taxonomy DA**. First, it is essential that there is a uniform understanding in EU legislation of what recyclable at scale means. A definition has been proposed under the new Packaging and Packaging Waste Regulation (PPWR), which does not correspond to the one proposed in the draft DA. We believe that the definition and criteria of recyclability at scale should depart from the PPWR. In addition, in relation to the Taxonomy DA, we want to stress the fact that **the recyclability at scale requirement is beyond the control of individual operators either seeking or having to report under these criteria**. It can only be set and monitored at country level, not at operator level. Therefore, while we support the recyclability at scale requirement under the proposed PPWR, **we believe that it should be deleted for usability reasons from these TSC.**

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 2.3. Collection and transport of non-hazardous and hazardous waste

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION: the activity should cover, as taxonomy compliant, the activities of separate collection and transport of waste, including their organisation and related activities (e.g. education, public awareness, etc.).

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA: in line with the Climate Delegated Act, collection of source segregated waste according to Article 10(3) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 and the national legislation and waste management plans should be included.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: on pollution prevention and control, a transition period should be established for the application of the EURO V standard (e.g., 2030 or 2035) as the environmental benefit of changing entire fleets immediately is questionable. In general, considering the amount of transport legislation developed and still under development, it is important to ensure that there are no, and will not be, inconsistencies with the Taxonomy requirements.

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 2.4. Treatment of hazardous waste

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION: The recovery of materials from batteries, Waste from Electrical and Electronic Equipment (WEEE), End-of-Life Vehicles (ELV), inorganic materials from incineration processes, such as ashes, slags or dust should not be excluded from this activity. The EU has recognised the importance of the recovery of rare metals and other materials from these waste flows, especially for its strategic independence, and has therefore already developed, and continues to develop specific legislation, such as the WEEE Directive, the new Batteries Regulation, or the new Critical Raw Materials Regulation. The DA cannot exclude these flows from the activity CE 2.4 that is dedicated to the treatment of hazardous waste as means *for material recovery.* Even if the flows are (partly) covered under other activities, such as CE 2.6 on depollution and dismantling of end-of-life products, or CE 2.7 on recovery of non-hazardous waste, this should not exclude them from falling under this activity, dedicated to the treatment of hazardous waste as a means for material recovery. In fact, the material recovery aspect of the activity should be central, which is not the case under CE 2.6, whereas these flows can also be hazardous wastes, being thus not covered under CE 2.7.

In addition, we understand that the recovery of components used for pollution abatement (e.g., regeneration of spent activated carbon or resins) do not fall under recovery of inorganic materials <u>from</u> the incineration process because the activity is dedicated to the recovery of the components <u>used to abate</u> pollution in the incineration process. Inorganic materials from the incineration process would be the pollutants themselves but not the components used to abate them. So, to be clear it should be included explicitly in the list of the description of the activity, for example as new (f).

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA: It is unclear what is meant by 'the activities consist *exclusively* of the material recovery of secondary raw materials' from source separated hazardous. The word 'exclusively' should be deleted as companies carrying out such activities usually do not do it 'exclusively' but also carry out other activities.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 2.5. Recovery of bio-waste by anaerobic digestion or composting

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION: Biogas can replace the use of natural gas to in industrial production processes. We interpretate the proposal in a way so that direct injection of biogas into gas grids will meet the technical screening criteria. However, is should be clarified in order to avoid confusion at a later stage.

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: The DNSH requiring a monitoring plan for methane leakage is not relevant for a) anaerobic digestion as capturing methane is the core activity so leakage is avoided/minimised by the very nature of the activity and b) composting as the production of methane is negligible due to the process itself. It should be deleted.

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 2.7. Sorting and material recovery of non-hazardous waste

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): It shall by no means be implied that the sorting and final material recovery step is the same activity/happens at the same plant/ are only considered together as one activity contributing to the transition to a circular economy. This was also the interpretation of the activity "sorting and material recovery of non-hazardous waste" in the FAQ Nr. 68 from 19 December 2022 on the interpretation and implementation of certain legal provisions of the EU Taxonomy Climate Delegated Act. According to the given

answer, this activity only covers facilities that carry out recycling of separately collected waste, being often part of the process, an initial 'sorting' step.

In fact, both activities contribute individually to the transition to a circular economy, so that both have to be considered separately. Sorting operations are also material recovery operations per definition in the Waste Framework Directive, so it is inconsistent to exclude them from this activity when not linked to a final recycling step. In addition, sorting is a pre-condition for recycling. Whether it is made onsite or in a different facility or country, sorting operations make an essential contribution to the environment and must therefore be covered by the EU Taxonomy.

Both activities can be carried out by different economic operators. Therefore, sorting and other material recovery activities should be considered as activities that each contribute substantially to the transition to a circular economy in their own right, and not only in combination. Please see the attached letter where we address the problem in reaction to the FAQ Nr. 68 from 19 December 2022.

Considering this, **FEAD believes that the title and description of the activity are unclear and should be clarified, e.g., by adding 'and/or' between the words 'sorting' and 'material recovery':**

- Title: *Sorting and/or material recovery of non-hazardous waste*
- Description: *Construction, upgrade, and operation of facilities for the sorting and/or recovery of non-hazardous waste streams into high quality secondary raw materials using a mechanical transformation process.*
- TSC for a substantial contribution Nr.3 (f): *the facility has installed the sorting and/or material recovery technology and processes to meet relevant technical specifications…*

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA: The second paragraph of the second criteria (material recovery) should be deleted. A 50% threshold that is applicable to all streams does not make sense because it may result in excluding sorting facilities where recovery targets are not always measured, and it will negatively impact the waste flows where such threshold is not achieved, and where investments are actually needed.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 3 Construction and real estate activities

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): we welcome the subdivision into sub-chapters, such as "Renovation of existing buildings" (3.2.) or "Demolition and wrecking of buildings and other structures" (3.3). It is important to distinguish between different construction and real estate activities to underline that, among these different activities, the possible use of secondary raw materials varies.

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA: The recycling targets foreseen are too high (e.g., 90% for construction of new buildings or 100% for maintenance of roads and motorways). The Waste Framework Directive includes preparing for re-use, recycling and other material recovery, including backfilling operations in its target on such waste. If the targets in the Delegated Act do not include backfilling, 70% to 100% is too high and will not be easy to reach, so it should be lowered. Even with significantly improved selective deconstruction, such a high recycling targets cannot be achieved due to the constructional and ecological properties as well as the material composition, and differentiations must be made in the different waste streams. If the targets include backfilling, the targets can remain high. Thus, **the requirements should be revised to either include backfilling or lower the targets for preparation for re-use and recycling**. **If recycling targets are established, in addition to lower, they also need to be waste stream specific as there are wide variations e.g., for concrete, metals, woods, gypsum, plastic, glass, etc.**

In relation to recycled content, under CE 3.1.4(a), the requirement to have for the combined total of concrete, natural or agglomerated stone a maximum of 70% of the material come from primary raw material is very ambitious. In Germany, for example, the use of secondary raw materials for the totality of concrete, natural or agglomerated stones is less than 10 %, and a higher target is hardly achievable because there are not enough secondary raw materials. Instead, **FEAD suggest a target of maximum 85% for the combined total of concrete, natural or agglomerated stone to come from primary raw material**.

In contrast to the above-mentioned, **a higher proportion of secondary raw materials is possible for metals** (3.1.4.(g)). The proposed target of a maximum of 30 % of the total quantity from primary raw materials is actually achievable, and thus, the proportion could be even set lower, e.g. at 20 %.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex II to Environmental Delegated Act (CE)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): CE 4.1 Provision of IT/OT data-driven solutions and software

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): There should be requirements related more to the proper functioning of a whole industrial plant, not only individual components. The most important is to ensure that a software analyses the functioning of the whole plant and provides for solutions where it identifies problems.

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex III to Environmental Delegated Act (PPC)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): PPC 2.1 Collection and transport of hazardous waste

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA: a transition period should be established for the application of the EURO V standard (e.g., 2030 or 2035) as the environmental benefit of changing entire fleets immediately is questionable.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex III to Environmental Delegated Act (PPC)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): PPC 2.2 Treatment of hazardous waste

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act):

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA: it should not be required to have an own laboratory on site. In most cases, certified external laboratories are used to analyse samples of the hazardous waste received. This does not compromise with the need for strict routines and acceptance procedures. On the contrary, the use of external laboratories is normally seen as necessary to ensure safe treatment of hazardous waste, as a means for pollution prevention and control.

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA:

COMMENT

Delegated Act: Taxonomy Environmental Delegated Act

Annex: Annex III to Environmental Delegated Act (PPC)

ACTIVITY (e.g. CCM 3.19 Manufacture of rail constituents): PPC 2.4 Remediation of contaminated sites and areas

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): we suggest a reference to the EU soil strategy for 2030

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: