

Template for providing your feedback on the EU Taxonomy Delegated Acts

TYPE OF RESPONDENT: Business Association	TRANSPARENCY REGISTER NUMBER:
COUNTRY: Sweden	SECTOR OF ACTIVITY: Manufacturing
ORGANISATION: Construction Products Sweden	ORGANISATION SIZE: Micro (< 10 employees)
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The Delegated Acts presented in this call for feedback include several activities spanning over various economic sectors substantially contributing to all six environmental objectives of the Taxonomy Regulation, however only some of these activities may be of relevance to you. To facilitate your feedback process, find an overview of included activities per sector and environmental objective on the [EU Taxonomy website](#).

Stakeholders are asked to limit their feedback only to the content of the drafts Delegated Acts subject to this call for feedback. Any other comments, including suggestions to add new activities will not be considered. A specific mechanism to channel these requests will be made available on the Commission website in the future.

When replying to this call for feedback, please clearly signal which activities in the draft Delegated Regulation(s) your comments relate to. For example, if referring to activity 3.19 regarding the manufacture of rail constituents in the draft amending Delegated Regulation regarding the objective of climate change mitigation (CCM), please mention the activity reference number (3.19) and the objective (CCM) clearly in your submission. The objectives should be abbreviated as follows:

- Climate Change Mitigation: CCM
- Climate Change Adaptation: CCA
- Water: WTR
- Circular Economy: CE
- Pollution Prevention and Control: PPC
- Biodiversity and ecosystems: BIO

If referring to the amendments to Delegated Regulation (EU) 2021/2178 regarding disclosures under the Taxonomy (Art. 8), please also clearly highlight the relevant Section or Annex your reply refers to.

In line with the taxonomy's guiding principle of establishing robust, science-based criteria, the call for feedback puts emphasis on providing a **clear scientific and technical explanation and rationale** as well as **supporting evidence** (including links to published journals and articles) for any comments made with respect to the proposed technical screening criteria.

For more information on the EU Taxonomy and activities already covered in the Taxonomy Climate Delegated Act, please visit: https://finance.ec.europa.eu/sustainable-finance/tools-and-standards/eu-taxonomy-sustainable-activities_en.

Please copy/paste the below comment table for each activity that you would like to provide comments to. In addition, please name the file using your organisation's or first and last name: e.g. Company X or John_Smith.

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): CCM 3.1. Construction of new buildings and CCM 3.2. Renovation of existing buildings

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): Construction Products Sweden have comments on the Commissions draft regarding Substantial contribution to the transition to a circular economy paragraph 4. The proposal includes quota obligation for the use of recycled material for specific construction materials. Construction Products Sweden are questioning how and on what basis these values have been derived. If requirement levels for the proportion of reused/recycled material are to be introduced, the suitability for this and, if so, the appropriate levels need to be developed in dialogue with the relevant material industry and designed with flexibility based on national/regional/local conditions and type of products. Setting any quota obligations must be done in a thorough process with a system perspective. Construction Products Sweden therefore considers that the quota obligations in paragraph 4 needs to be revised/removed in dialogue with the specific material industries concerned and urges the Commission to contact the industry.

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA: CE

Substantial contribution to the transition to a circular economy – Paragraph 4

The Commission proposes major changes to paragraph 4 for “Substantial Contribution” compared to the previous proposal presented by the Platform in March 2022. Instead of having general requirement levels for the proportion of reused and recycled material, the European Commission now has proposed material-specific requirements for reused and recycled materials. Construction Products Sweden are questioning how and on what basis these values have been derived.

Construction Products Sweden support increased use of reused and recycled materials in building materials and construction products, but object to general requirements for reused and recycled materials for different types of materials. The level of the requirements may be possible to achieve for certain materials in certain applications and projects, but this is entirely determined by the availability of the reused/recycled material and this often a local/regional issue. In the case of heavier materials, the location of the project is decisive for whether the requirements for substantial contribution can be met, which cannot be the intention of the taxonomy. At the same time, the quality and durability of the building must also be ensured. Current regulations regarding appropriate

amounts of reused/recycled material in construction materials, for maintained function and quality are based on a solid and extensive basis in the form of test results and vast experience. Changes in this regard must therefore be introduced in such a way that do not compromise the desired and expected lifespan, quality and durability of buildings. **If requirement levels for quota obligations of reused/recycled material are to be introduced, the suitability for this and, if so, the appropriate levels need to be developed in dialogue with the relevant material industry and designed with flexibility based on national/regional/local conditions and type of products.**

For many materials, the availability of recycled and reused materials is insufficient. The demand for recycled materials, for example, for metals and steel, will be far greater than the supply on a global market for a long time to come. A requirement for a specific percentage of these materials therefore do not lead to increased collection and access to scrap from which to produce new steel. Further scrap-based steel is not available in all grades since the steel becomes harder, and therefore is it not possible to manufacture all products from the scrap-based steel in an efficient way. For other materials, access is completely dependent on local and regional conditions, which is why a set percentage risks leading to long-distance transport and a less sustainable solution.

Some material-specific standards, such as for concrete, specify the maximum percentage of permitted recycled materials based on the function of the materials (e.g. the concrete standard does not allow more than 5% in higher exposure classes, e.g. outdoor structures since water absorption is too high). Any development of requirements for quota obligations of recycled/recycled materials must take into account the function of the materials and the rules and standards that take into account the function, durability and long-term durability of the materials.

Requirements linked to the proportion of reused/recycled material must also be combined with clear definitions, for example in the case of bio-based material, it needs to be specified what is meant by reused or recycled bio-based material combined with information about origin and how the material has been handled in the past.

In industry, a major transition to fossil-free solutions and materials is underway, for example for fossil-free steel but also other materials. Primary material will continue to constitute a large part of the material for construction, the demand will not be able to be met by reused/recycled material, which is why also fossil-free production of primary materials is essential. Requirements for set percentages of reused/recycled materials disadvantage materials produced through a climate-smart manufacturing process and risk affecting investments for fossil-free production, which cannot be in line with the taxonomy's intentions.

Construction Products Sweden considers that the quota obligations in paragraph 4 needs to be revised/removed in dialogue with the specific material industries concerned and urges the Commission to contact the industry.

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 3.1. Construction of new buildings and CE 3.2. Renovation of existing buildings

GENERAL COMMENT (incl. comments on corrections of technical mistakes in Climate Delegated Act and Article 8 Delegated Act): The Commission's Taxonomy criteria for buildings concerning the DNSH criteria for pollution prevention make it difficult for any construction material to meet the requirements at all and thus for any construction activity to classify as Taxonomy aligned. This is due to the criteria referred to in Appendix C (point f,g). These criteria go significantly beyond the legal requirements for substances in mixtures and articles. The presence of substances of very high concern should be minimized as far as possible, but legal requirements need to be realistic and practicable.

COMMENT ON THE ACTIVITY DESCRIPTION:

COMMENT ON THE ACTIVITY SUBSTANTIAL CONTRIBUTION CRITERIA:

COMMENT ON THE ACTIVITY DO NO SIGNIFICANT HARM CRITERIA: PPC

DNSH Criteria for Pollution Prevention and Control

Initial comments

The Commission's Taxonomy criteria for buildings concerning the DNSH criteria for pollution prevention make it difficult for any construction material to meet the requirements at all and thus for any construction activity to classify as Taxonomy aligned.

The criteria refer to Appendix C "Generic criteria for DNSH to pollution prevention and control regarding use and presence of chemicals" and say that the activity (new construction or renovation) cannot lead to the manufacture, placing on the market or use of any substances that are listed of the Reach candidate list (point f) or that meet any of the criteria for carcinogenicity, mutagenicity, reprotoxicity, PBT, vPvB or endocrine disruption (point g). It should be acknowledged that these criteria go significantly beyond the legal requirements for substances in mixtures and articles. The presence of substances of very high concern should be minimized as far as possible, but legal requirements should be realistic and practicable. We see a problem in a tool for the financing sector including such far reaching regulation of chemicals in parallel with Reach and particularly as part of a "Do No Significant Harm"-criteria.

Concentration limits

If the criteria in point f and g are maintained however, in order for the criteria to be manageable in practice, **it is not possible to limit the presence of every single molecule of certain substances.**

Regardless of the material, you can always find trace levels of substances with these properties because they occur naturally and as a result of human activity. **A concentration limit must be set to enable compliance checks** by actors attempting to apply the Taxonomy-regulation.

A proposal is to use those concentration limits that trigger information obligation in chemical mixtures and articles as specified in the Reach-regulation (1907/2006/EC) article 31.3 and article 33. Aligning the criteria with the requirements for information in the supply chain, already in force, would enable actors to, with reasonable effort, determine if the materials they use are complying or not.

Harmonized classifications

Appendix C point (g) refers to substances “that meet the criteria (...) in one of the hazard classes mentioned”. It should be clarified that it is only those substances that have a harmonised classification and listed in Table 3 to Annex VI of the CLP-regulation (1272/2008/EC). Referring to the C&L Inventory or any informal lists as done in the Commission notice (2022/C 385/01) will create legal uncertainty and an unequal situation between actors in the market. **A clear reference to the official, harmonised classifications will provide legal certainty.**

Upstream processes

The criteria can be interpreted as including substances not only used in the construction process of substances ending up in the building but also substances used in the manufacturing processes, i.e. used in the manufacturing of paint and even during the manufacturing of raw materials. For the requirements to be manageable, the criteria should only cover the materials and products that are incorporated into the building or used in construction. **Including substances used in the extraction and manufacturing process of the materials will be disproportionate.**

Essential use concept

The revised text says that substances are restricted “*except if it is assessed and documented by the operators that no other suitable alternative substances or technologies are available on the market, and that they are used under controlled conditions*”. The previous reference to essential use (“except where their use has been proven to be essential for the society.”) is not yet defined in the legislation. It is positive that still undefined concepts are removed from the criteria. The reference to availability of alternative solves some acute issues for some products, however it also adds complexity to the assessment of compliance and legal uncertainty. Considering that the criteria cover many substances that are currently not restricted in the chemicals’ legislation assessing and assumably documenting the assessments will be a very big task. We believe it would be better to formulate the criteria to be more in line with the current chemicals’ legislation considering it is a “Do No Significant Harm” criteria. Should the criteria with point (f) and (g) in Appendix C remain we support the revised text regarding “suitable alternatives” but would like to reiterate that a concentration limit still needs to be defined to make the criteria practicable.

Emission to indoor air

Regarding the criteria for emissions. It is positive that a correction has been made to refer to concentration in the air rather than the material. For formaldehyde however there is at present still no restriction in Annex XVII of the Reach-regulation that the criteria are referring to. It should be clarified that the criteria applies once the restriction has entered into force with relevant dates of application considered.
