

Detailed Industry response to JRC proposal on pollutant limit values regarding end-of-waste criteria for recycled aggregates



1. Introduction

On 27th of November 2025, the JRC presented its proposal for EoW pollutant limit values for recycled aggregates. Stakeholders representing the joint industry have some significant concerns with the proposal as it currently stands. A letter explaining these concerns on a political level was sent to DG ENV and DG GROW on 18 December 2025. On 12 January 2026, the same stakeholders sent the JRC a short technical response to the proposal. Given the short deadline over the holiday period for this response, stakeholders communicated their intent to send a longer technical response after the deadline. This document compiles the shared concerns of the undersigned associations in detail. We hope the JRC will recognise the concerns raised, and that this document may serve as the baseline for further, deeper discussions.

2. Purpose and Scope of EoW Criteria

2.1 Proportionality and Subsidiarity

The undersigned associations support in principle the development of EU-wide End-of-Waste (EoW) criteria for recycled aggregates from mineral construction and demolition waste (CDW). A common EU framework will provide a useful baseline for Member States that currently lack national EoW provisions and contribute to greater administrative clarity.

EU EoW criteria should be conceived to not lead to overall adverse environmental or human health impacts. They should however not be overly stringent. EU criteria should leave practical margin for Member State differentiation. Otherwise, they risk becoming de facto the strictest thresholds, irrespective of local environmental, geological and regulatory conditions. Relying on Member State values would support the principles of subsidiarity and proportionality which would not undermine well-established national EoW systems that have demonstrably delivered high recycling rates while ensuring environmental protection for many years. EU-level criteria should be a minimum safeguard and therefore allow Member States the necessary flexibility to adapt requirements to local risk conditions based on a reliable risk assessment model and established regulatory practices.

2.2 Transnational Trade & well-functioning national systems

There are no identified issues regarding the transnational trade of recycled aggregates that would justify stringent EU-wide regulation. Recycled aggregates are predominantly produced and used in local or regional markets, with cross border trade being limited to certain urban areas close to borders, for example Luxembourg. Economic operators identify no difficulties in relation to the recognition of and compliance with EoW status between Member States.

Economic operators are broadly satisfied with the existing national EoW criteria in place, which Member States have developed over time in line with local conditions and which have proven effective in supporting recycling markets. EU EoW criteria should therefore not disrupt the good functioning achieved by national EoW systems.

2.3 Environmental Regulation

EU EoW criteria should enable, not hinder the continued development of recycling markets. If EU EoW criteria were to impose too stringent limit values, the outcome would be an overall reduction in recycling activities, increasing waste to landfill and therefore an increased reliance on primary extraction. This would go against the objectives of the circular economy and the efficient use of resources. Regulatory stringency should only be applied where required by local environmental conditions.

EoW is one of several instruments that contributes to environmental protection. Its primary function by definition is to determine when a material ceases to be waste under the Waste Framework Directive. As an instrument its purpose is not primarily to regulate environmental protection, nor can it be an adequate substitute broader environmental regulation, such as groundwater protection.

3. Selection of Pollutant Parameters

Stakeholders also highlight that the current list of pollutant parameters to be measured goes beyond what is relevant for recycled aggregates. The list of parameters should be risk based and limited to those substances that have both a high level of occurrence, and a high environmental impact, rather than applying a precautionary “measure-everything” approach. A precautionary approach is not supported by risk data and would create a significant technical and administrative burden, especially for SMEs and in certain Member States.

For example, a study in Germany¹ found that measured concentration data at LS 2, which yields higher concentrations than LS 10, consistently prove that arsenic, cadmium, mercury, lead, nickel, zinc, antimony, molybdenum, cobalt, selenium, barium, bromide, fluoride, chloride, ammonium, and nitrite do not play a role in risk assessment.

The current selection of parameters by the JRC is not based on a tailored risk assessment model. The inclusion of unnecessary parameters does not significantly improve environmental protection. Instead, it risks leading to increased analytical costs, unnecessary compliance complexity, and risks the exclusion of otherwise compliant recycled aggregates from EoW.

¹ Umwelt Bundesamt, “Weiterentwicklung von Kriterien zur Beurteilung des schadlosen und ordnungsgemäßen Einsatzes mineralischer Ersatzbaustoffe und Prüfung alternativer Wertevorschläge” (2018), p.276
https://www.umweltbundesamt.de/system/files/medien/1410/publikationen/2018-03-27_texte_26-2018_mine...

4. Statistical Approach

Stakeholders also identify an issue with the statistical approach suggested in the JRC proposal as there are multiple risks associated with assigning regulatory stringency to numerical values without an adequate analytical context. EU limit values should not be derived from statistical aggregation of heterogeneous datasets.

4.1 Lack of risk assessment

The reliance on a statistical approach substitutes a tailored environmental risks assessment. In the JRCs proposal, limit values are obtained from comparing national values numerically, without analysing how these individual values were derived. The same value may be stringent in one location and lenient in another due to different local conditions and test methods. The conclusions reached through the statistical methodology applied are not evidence-based, but arbitrary.

4.2 Arbitrary exclusion of national limit values

In calculating the EU-wide proposal, the JRC has excluded several national limit values (such as arsenic in the Netherlands, or Chromium in Germany) on the grounds of them being too “lenient” and uses scenarios (e.g. U-E (unbound E) or H-B (for hydraulic bonding) in Austria, or RC-3 in Denmark) instead. These limits were developed with specific local conditions in mind. Their elimination from JRC consideration without a thorough analysis of how they came to be developed, is not justified. Some examples of national limits that have been unjustifiably excluded can be found in Ireland, France and Wallonia to name a few.

4.3 Limits of 90th Percentile approach

The reliance on a 90th percentile rule for discarding national limit values considered too lenient is problematic due to the sensitivity of the outcome to initial values selection. If the arbitrarily discarded values mentioned above would have been taken into account, then the resulting percentiles, and therefore the proposed EU limit values, would change significantly.

5 Leaching Tests and Methodological Validity

Stakeholders have identified a number of methodological concerns related to the leaching test framework underpinning the JRCs proposal.

5.1 Issues with L/S=10 as a regulatory reference

The proposal refers to LS 10 emissions only. There are several Member States which use the LS 2 models. Leaching test methods and their derived values should remain a competence of the Member States as they are best capable to adjust to the national (geographical) situation.

5.2 Conversion between L/S ratios

Concentration ratios between different L/S levels are not consistent across substances and materials. This is due to differences in binding mechanisms, solubility control, and kinetic effects. If the JRC does propose limit values, conversions would still be an issue. The uncertainty of these conversions may lead to misclassification of materials and would undermine confidence in the EoW framework.

5.3 Dual Testing

The JRC proposal introduces dual testing. At the same time, testing regimes from other pieces of legislation apply (such as CPR, CLP, REACH...). An assessment of how the proposed regime aligns with other regimes is lacking. Such an assessment is required to prevent double testing.

The JRC proposal implies a dual-testing regime where column tests would be used for EoW characterisation while batch tests are used for product conformity/compliance (factory production control). This highlights an issue, as batch tests may be used by a manufacturer for his own FPC if he is able to establish a working relationship with the reference method. But these relationships are likely to be specific to the source material. Declared values under the Construction Products Regulation would need to be based on the reference method, thus increasing inconsistency.

All of this would greatly increase costs, the burden on laboratories, and administrative complexity. Moreover, it would introduce a great deal of uncertainty where results from different test methods may diverge.

6 Relationship with CPR, Standards and CE Marking

6.1 CE Marking and CPR

Under the Waste Framework Directive, EoW determines when a material ceases to be waste. Under the CPR, harmonised standards define essential characteristics, applicable test methods, and the manner of declaration independently of whether a material is waste or not. The CPR does not exclude construction products considered as waste from being placed on the market, nor does CE marking presuppose EoW status. Therefore, introducing EoW compliance as a precondition for CE marking (and placing on the market) would go beyond the CPR legal framework, creating an unjustified and unwanted barrier to market. Embedding binding EoW pollutant thresholds directly into CPR delegated acts or harmonised standards would fundamentally alter their role.

6.2 Non-level playing field

The approach of the JRC would impose additional criteria (EoW) for recycled aggregates within the CPR that would not apply to other non-primary aggregates, such as manufactured aggregates. This introduces a non-level playing field.

7. Conclusions

As stressed throughout this document, stakeholders are eager to support and foment a robust circular economy in Europe. Whilst the goal of EU-wide EoW criteria is commendable, we request the JRC take the concerns of stakeholders seriously. Stakeholders have actively engaged with the Commission on every step of this process and believe that solutions to the issues presented may only be solved via constructive dialogue. Measures must be taken in order to protect the biggest sector within the circular economy. The undersigned stakeholders remain at your full disposal to continue furthering and deepening the discussion.

In order to not hinder the circular economy, the following points must be considered:

1. EoW should set minimum safeguard levels, not overly stringent thresholds.
2. The number of parameters should be limited to high occurrence, high impact parameters.
3. Selection of parameters should be based on risk-assessment. The inclusion of unnecessary parameters does not improve environmental protection.
4. Double testing has to be avoided.
5. Leaching limit values should be left to Member States, in line with the subsidiarity principle.
6. Do not exclude waste from the market.
7. No double regulation (EoW should reduce bureaucratic burdens and not build up additional burdens).
8. Harmonised product standards should be the basis of any EoW regulation.