



Technical Annex to the Joint Industry Political Response to June 12th JRC EoW Proposal

JRC presented their final proposals for end of waste for recycled aggregates on 12th of June. Many fundamental parts of the proposals however are still questioned by the sector and should be amended before implementation in a dedicated EC Act, or as part of the CPR harmonized product standards. The table below shows the main concerns.

Explanation of colours

- = Minor amendments needed
- = Major amendments needed
- = Full reconsideration needed

The table follows the structure of the final JRC proposal (Background Document). Each section first summarises the relevant JRC proposal, then explains the practical implications and, where appropriate, proposes an amendment. Our aim is to strengthen the proposal while building on well-functioning existing legislation and proven national practices.

Point	Reference in JRC Background Document	Industry Coalition Comments
1	Page 2, scope	Summary JRC proposal: The JRC proposal excludes added filler materials from the scope of End-of-Waste (EoW), while these materials are covered by harmonised product standards. Comment: These fillers are increasingly used in high-quality concrete applications and are among the products that benefit most from End-of-Waste status. Innovative crushing techniques result in improved quality of course, fine and filler fractions which are very suitable for use in concrete. Course and fine aggregates are under scope of both harmonized standards and JRC proposal. Filler (added filler) is under the scope of the harmonized standards only (EN12620, EN13043). These filler aggregates result from techniques that now come to the market. These

		are most dependent on EoW status because clients require EoW status, more than is the case with road construction materials. There seems to be no objective reason to keep these out of the scope, because the regulatory framework is ready. So we ask to keep these materials in. Consequence: materials that would benefit most from EoW status are excluded from the proposal. Proposed amendment: include added filler materials into the proposal
2	Page 2, scope	Summary JRC proposal: The JRC proposal uses a limited list of acceptable input materials. Comment: In practice, this list is too restrictive given the current variety of suitable input materials. Recycling industry accepts a wide variety of proven source materials for recycling from which experience proves that end quality requirements can be met. It is impossible to have a limitative list of all (stony) materials used in the history of European construction. A limited list would lead to exemption of RA batches that contain fragments of materials that are not on the list. This will concern most of the stony C&DW present. For example silicious-limestone is widely used and recycled but has not been mentioned. Also shells and slags that have been used in construction or in bound applications can have many appearances in second life. Seeing the wide variety of materials used, other examples will appear anytime. These will be recyclable in many uses, while end products will still be able to fulfil technical and environmental regulations and criteria. Conclusion is that there has to be a practical solution to maintain recycling of these materials under EoW without suddenly losing this status when some unmentioned fraction is present. Here too, proportionality is essential. Consequence: any amount of not mentioned materials could lead to not fulfilling EoW criteria, meaning that a significant amount would not conform. To check this, like in case of third party control, is almost impossible. Proposed amendment: find a way to include not mentioned (stony) materials, as well as materials that do not harm end quality requirements: see harmonized product standards. Only the quality of the output material is essential, not the input materials. Leave it to the manufacturer to find techniques that are suitable for handling of input materials to prevent hindering innovation.
3	Page 3, scope	Summary JRC proposal: The JRC proposal introduces EoW requirements alongside the existing Construction Products Regulation (CPR), even to include EoW criteria in the harmonized standards. Comment: WFD Article 6.1 a, b and c state that EoW materials must be commonly used, require an existing market and must fulfil technical requirements. The only effective, practical and logical way to fulfil these provisions is to use CPR (harmonized) product standards. Also use of non-harmonized CEN standards could be considered. A separate regulation or separate requirements regulating the same issues, would lead to double requirements or different, thus confusing, wording. This seems to be noted in the consignment requirements (table 3), but is not part of the proposed main text. Consequences: 1. Many countries allow waste status RA to be used in works as CE marked products when these fulfil other proof of safe use. For decades the Commission and CEN have allowed waste to be included. Many Member States have accepted the inclusion of waste in standards, and competent authorities have, upon enforcing the CPD and later CPR, never taken action to prevent waste being used as a construction product under harmonised standards. 2. The JRCs proposal leads to an ineffective, duplicated and confusing regulatory system. 3. If EoW requirements of RA are to be included in the CPR, other comparable materials should also require EoW status. 4. See also the attached legal note. Proposed amendment: NOT implement EoW criteria in the harmonized product standards, but make a separate regulation which refers where possible to existing regulations, with no additional administrative or testing burden.
4	Page 3, scope	Summary JRC proposal: The JRC proposal requires End-of-Waste recycled aggregates to be used exclusively for construction works.

		Comment: “exclusively for construction works”, should include “civil engineering works”. Producers of recycled aggregates make sure their product fulfils standards fit for expected uses. However, producers have no control over the final application of the product. Producers have no power over the use that consumers give their product. EoW should be self-standing and cover all potential uses as these are beyond the control of producers anyway, not just be tied to construction. Stakeholders also question why “exclusively”? See above: limitation excludes certain fractions. It cannot (always) be checked in detail by producer what is the exact source (e.g. waste streams from community waste points that have source selection). It also cannot be fully checked what is the use by the client. Why restrict that? If another use is possible it still does not need to be waste from a legal point of view. Materials become waste again when there is no use. Consequence: regulations outside the reach of producers; this cannot be controlled. Proposed amendment: skip this requirement
5	Page 4, scope	Summary JRC proposal: The proposal introduces a new definition of mineral C&DW and setting composition requirements by using Figure 1 instead of the existing legal definitions in EU legislation. Comment: Requirement 1.1 on input materials talks about mineral C&DW, figure 1 narrows this down (not all possible minerals are mentioned). Both “C&DW” and “mineral” are defined in EU regulations. These should be used instead of figure 1 and the surrounding text. Already the figure and surrounding text do not fully coincide. Consequence: See above comments (page 2, scope); very confusion for practice Proposed amendment: See above comments (page 2, scope)
6	Page 5, table 1.2.	Summary JRC proposal: The proposal requires recycling facilities to employ “qualified staff”. Comment: the text does not define what this qualification should entail. It would be helpful when it is clear when this requirement is met. Consequence: JRC text might lead to requirements for costly external education courses and extra burdens for finding staff whilst not taking into account experience or internal training. Proposed amendment: use other wording: “... competent staff...” and add that qualification can be proven by experience and by internal training within the company. Competency goes beyond merely obtaining qualifications.
7	Page 5, table 1.2.	Summary JRC proposal: The proposal requires recyclers to obtain information from previous holders about pre-treatment steps in the supply chain. Comment: It must be clear that this is logical common practice because input materials always need checking to have certainty on good quality end products for which requirements apply. And also there are already obligations in place following the List of waste and following environmental and waste licencing systems used in member states. But at the moment additional written proof is required this will be an immense administrative burden. A recycler cannot be held responsible for checking earlier steps in the supply chain. Requirements should be about the input quality of the material, not about the process. Consequence: extra administrative burden for logical and already regulated processes. Proposed amendment: No need for this requirement.
8	Page 5, table 1.3.	Summary JRC proposal: No hazardous input material is allowed. Comment: Certain Member States exceptionally grant permits when hazardous mineral waste streams can already be safely recycled using proven technologies. A good example is tar-containing asphalt that is recycled on a full operational scale with proven technology. It destroys tar and results in products that fulfil all requirements. So in cases such as tar containing asphalt, exemptions should be allowed in those cases where Member States already exceptionally grant permits. Risks on these materials are controlled by the output product requirements and a licence system on the incoming side of the process. Consequence: improved recycling techniques that destroy substances of (very) high concern are exempted, so there is no stimulation anymore to develop these.

			Proposed amendment: include waste flows that are recycled with proven techniques with national permits, such as for tar containing asphalt.
9	Page 5, table 1.3.		Summary JRC proposal: JRC introduces requirements for “appropriate control measures” to prevent from the intake of hazardous wastes. Comment: This is already regulated in member states (mostly demolition requirements and environmental or waste licencing systems). Most of these regulations apply for activities earlier in the supply chain, e.g. demolition, before recycling. It would be necessary to clarify if “control measures” refers to visual and organoleptic documentation, or instead would require mandatory and structural testing for POPs on incoming materials, as the latter may result in unnecessary costs and bureaucratic burden. Sampling and testing on incoming materials is not possible in a reliable way due to the coarseness of the materials and would take too much time. Consequence: Testing on hazardousness of wastes on top of the already existing law and controls on incoming and outgoing wastes will prove to be unnecessary and are extra costs and create unlevel playing field compared to competing products. Proposed amendment: delete second paragraph in right column of table 1.3.
10	Page 6, table 2.1. and 2.2.		Summary JRC proposal: The JRC proposal introduces documentation requirements for storage and treatment processes through the quality management system. Comment: Quality management requirements must be fully aligned with CPR product standards. These requirements already exist as Factory Product Control (FPC) requirements in the harmonized aggregate standards. Consequence: double regulation with high risk on different wordings and interpretations Proposed amendment: Align requirements with those in CPR documentation.
11	Page 6, Table 3.1.		Summary JRC proposal: The JRC proposal requires output materials to demonstrate compliance with legislation such as REACH, POP and CLP through additional qualitative and quantitative characterisation. Comment: Although WFD article 6.1.c mentions this, there is no need to re-regulate this or add any additional requirement. 1. Based on studies so far no chemical substances or hazardous properties beyond those already accounted for in current national lists of substances are known that need monitoring (see for example SGS INTRON B.V. A108010/R20190414a report titled Substances of Very High Concern in Waste commissioned by the Dutch government¹). Neither national authorities, nor clients ask for it either. 2. Current practices in several Member States are designed to exclude hazardous substances earlier in the supply chain or latest at point of input. Until JRC comes up with a list of relevant characteristics, the proposed testing of output material is disproportional, leading to high costs. 3. Existing, scientifically risk-based regulatory testing requirements, combined with effective organisational measures such as acceptance controls for incoming materials, provide sufficient safeguards, making additional testing unnecessary. 4. From a practical point of view, a requirement like this is impossible to execute on company level. Consequence: testing on endless lists of substances with no proof of effectiveness, costly and negative impact on competitiveness. Already covered by lists of member states with required substances to be covered. Proposed amendment Showing compliance must be done on a risk-based approach based on the input process. Keep testing limited to high occurrence high risk parameters.
12	Page 7, table 3.2.		Summary JRC proposal: The proposal refers to CPR product standards and adds additional wording that creates uncertainty about whether extra obligations are intended. Comment: Good to refer to CPR product standards, but text is vague. Refer to these standards only, with no extra administrative or testing burden.

¹ <https://circulairmaterialenplan.nl/bibliotheek/inventarisatie-zzs-afvalstoffen/>

		Consequence: see comment Proposed amendment: see comment
13	Page 7, table 3.3.	Summary JRC proposal: The JRC proposal introduces EU-wide leaching limit values for recycled aggregates. Comments: 1. The idea of a tiered approach, where limit values can be replaced by more stringent limit values in the member state, underlines that it would make no sense to use the ones from this proposal. On one side JRC sets European values as a minimum requirement, but also leaves the possibility for the Member States to do some gold plating via establishing stricter leaching limits for some uses (within the CPR). We therefore completely lose the interest of a European wide End-of-Waste, where the recyclers will still struggle with a fragmented market and different rules that may apply from a MS to another. The approach of the JRC, introducing such flexibility at MS level for the leaching, clearly shows that leaching limits can't currently be established at EU level. 2. These values differ from scientifically developed national limit values already successfully applied in several Member States. The scientific research level on the limit values does not meet the level of research done in member states, where many factors were involved, like: background levels, geological situation, rainfall amounts, thickness of use, point of compliance, test method influences, safety factors, sampling and testing variance, acceptance of waste, regulations on source separation, recycling targets, etc.. All resulting in very balanced and sensitive limit values. 3. The EU-wide leaching values proposed by the JRC do not satisfy the requirements of avoiding adverse effects for human health and environment found in Article 6.1.d of the WFD, as these values were not obtained through a risk-based approach, but through a statistical method. Consequence: the lack of scientifically convincing limit values will force member states to keep hold of their own limit values. They will also dictate the list of substances to be tested. The proposed limit values deny specific but important uses (e.g. high levels of chloride can be used in certain chloride-rich coastal areas in the Netherlands) This highlights the geographical consequences of the proposed limit values (arbitrary limits do not reflect geographic conditions). Proper development of acceptable EU wide limit values will need years. Proposed amendment: until such a scientifically based harmonisation is proposed, EU-wide EoW should not be obligatory in replacing existing national approaches to leaching. Member States with their own environmental regulations should be allowed to opt out of the JRCs EU-wide limit proposals for domestic national use. Producers should not be forced to follow these either. In those countries where no framework exists the currently proposed limit values may be taken as a foundation and introduced by the Member States in question.
14	Page 8, table 3.3.	Summary JRC proposal: The proposal introduces a risk based approach for setting a test frequency. The minimum frequency is 1/10,000 tonnes. Comment: Good to have a risk based approach for testing frequency. The setting of a limit on 10.000 tonnes however denies the risk approach. Experience shows that less frequent testing is easily achievable for most essential requirements (substances) with no loss on reliability of the product. This proposal leads to more testing than needed. It is costly and sets RA on competitive and stigmatised disadvantage. Testing and factory production control is already developed in CPR harmonized standards, so that should be followed to avoid double testing and prevent from deviating methods. Consequence: heavy test burden, costs, no level playing field Proposed amendment: lower the test frequency and follow CPR harmonized standards for testing and frequency requirements.
15	Page 8, table 3.3.	Summary JRC proposal: The JRC proposal prescribes batch leaching as the standard test method. Comments: This leads to double testing. The production of recycled aggregates is a single phase process. Rough materials are selected and then processed. This directly results in ready-for-use aggregates. The only place for reliable sampling and testing

			is at the end of the recycling process. At this point the tests according to the harmonised European standards for aggregates take place. Batch tests are conducted according to series EN 12457 (although these EN are not mentioned anymore in the current JRC proposal). This is in contrast to the future harmonised European standards for aggregates, which will refer to series EN 16637 (column tests), developed for construction products by CEN/TC 351. The outcome of batch and column tests is different, the limit values proposed by JRC cannot be used to assess the results of the column tests. To do so, conversion factors would have to be introduced. Since these are very specific depending on the material and parameters, every manufacturer would need to derive product-specific working relationships, which would be practically unworkable. Consequently, the same product (which is the finished recycled aggregate) would have to undergo two separate tests in order to demonstrate both compliance with the EoW criteria and its suitability for use. EoW criteria should not lead to double testing. The same test method should be used for EoW and use. Consequence: Lack of broad acceptance of the EoW criteria by Member states, therefore ineffective. No additional benefit in EoW testing because environmental quality is already covered by CPR required testing at the moment the CPR Acquis process for aggregates is completed and the revised harmonised European standards are published. Unnecessary financial burden for the industry. Proposed amendment: Align the leaching test requirement with the European test standards that will have to be used for CE-marking anyway. Alternatively, develop and introduce conversion factors which are accepted in all Member States.
16	Page 8+9, table 4.1.		Summary JRC proposal: Quality management requirements are proposed Proposed amendment: See our comments on Point 10
17	Page 9, table 5.1.		Summary JRC proposal: introduction of administrative regulations Comment: The requirements proposed in Table 5.1 are already covered by the CPR harmonised standards and therefore do not need to be duplicated. Consequence: see comments on Point 10 Proposed amendment: see comments on Point 10