

Brussels, May 3rd 2023

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Position Paper

On the Draft Delegated Acts for Technical Screening Crite- ria (TSC) in the Context of the EU-Taxonomy

Transparency-Register-ID: 20457441380-38

The German Association of Energy and Water Industries (BDEW) and its regional organisations represent over 1,900 companies. The membership comprises both privately and publicly owned companies at the local, regional and national level. They account for around 90 percent of the electricity production, over 60 percent of local and district heating supply, 90 percent of natural gas, over 90 percent of energy networks and 80 percent of drinking water extraction as well as around a third of wastewater disposal in Germany.

Introductory Remarks

The German Association of Energy and Water Industries (BDEW) supports the overall objective of the Taxonomy Regulation to mobilise additional private investments for sustainable activities that contribute to the realisation of the EU's climate ambitions to become climate neutral by 2050 and to achieve net-GHG reductions of at least 55 per cent until 2030. According to the Commission Communication "Stepping up Europe's 2030 climate ambition", an additional €350 billion in investments per year is needed to achieve an increased 2030 climate target. To encourage the necessary sustainable investments, the EU must send clear and long-term signals to economic sectors. By creating a common classification system for green investments, the Taxonomy Regulation establishes the necessary common understanding of which investments are to be considered sustainable. Consequently, it is crucial that the Technical Screening Criteria (TSC) are fit for purpose and do not hamper the functioning and development of the energy and water sector now and in the future.

As the classification of economic activities via the technical screening criteria (TSC) will significantly impact their financing options on the financial markets, the criteria must be thoroughly assessed. They should reflect the general EU principles of efficiency, proportionality, and subsidiarity. Furthermore, to ensure planning security, the criteria should be based on existing regulatory requirements wherever possible and should not establish thresholds or parameters that have not yet been defined in existing European water legislation, for example, the Water Framework Directive (2000/60/EC), the Drinking Water Directive (2020/2184/EU) or the Urban Waste Water Treatment Directive (91/271/EEC).

As of now, some of the draft criteria proposed by the Commission risk setting standards that are disproportionate and therefore do not lead to the desired effect of directing investments towards activities that can contribute to achieving the Green Deal targets. BDEW thus proposes several changes to the current criteria before the final adoption of the delegated act. Those concern the following economic activities:

- › Water Supply
- › Urban Waste Water Treatment
- › Sustainable urban Drainage Systems (SUDs)
- › Phosphorus Recovery
- › Production of alternative Water Resources for Purposes other than human Consumption
- › Manufacture, installation, and servicing of high, medium and low voltage electrical equipment for electrical transmission and distribution that result in or enable substantial contribution to climate change mitigation

Annex 1 Sustainable Use and Protection of Water and marine Resources

Water Supply (Section 2.1)

› Substantial Contribution to the sustainable Use and Protection of Water and Marine Resources

According to the Drinking Water Directive (2020/2184/EU), the Member States are required to submit to the European Commission an assessment of their water leakage levels based on the ILI by 2026. In turn, the Commission will adopt a delegated act by 2028, setting an ILI threshold value above which Member States need to present an action plan for the reduction of water leakage. The taxonomy should not pre-empt this process by setting separate ILI thresholds. It is therefore crucial to also allow for measuring leakage levels based on the specific real water losses method per hour and length (km) of network (QVR) and the corresponding thresholds.

In the case of the renewal of an existing water supply system (point 3), it should be clarified that the requirement to close the gap between the current leakage level averaged over three years and an ILI of 1.5 or between the current leakage level averaged over three years and the threshold value established under art. 4 of the Drinking Water Directive by at least 20% only applies in case these values are being so far exceeded. Should the existing water supply system already conform to these limit values, no further reduction target should be established.

Moreover, BDEW acknowledges the vital importance of ensuring the goals of the Water Framework Directive (2000/60/EC) are reached and of contributing to the good status of our water bodies also in terms of quantity. However, it has to be acknowledged that while the abstraction of water for human consumption is closely monitored and regulated according to permits and limits, other sectors do not have to adhere to the same stringent requirements. To ensure an appropriate quantity of water according to the Water Framework Directive can therefore not be ensured by drinking water companies. It would hence be disproportionate to implement further requirements on the drinking water sector through the technical screening criteria under section 4, if the sector cannot control water extraction from other sectors and should instead enjoy priority over any other use of water resources. BDEW proposes to delete the corresponding paragraphs.

Urban Waste Water Treatment (Section 2.2)

› Substantial Contribution to the sustainable Use and Protection of Water and Marine Resources

The German waste water industry is fully committed to the goals of the Water Framework Directive and the protection of the aquatic environment. With the current revision of the lists of pollutants in surface waters and groundwater (COM (2022) 540 final) and the stricter thresholds proposed therein, reaching the goals of the Water Framework Directive will, however, become more difficult.

Paragraph 1 of section 1 of the substantial contribution criteria requires no deterioration of the status of the receiving water body. As the treatment of waste water is inherently contributing to a better status of water bodies, activities falling under this category should also be able to qualify for making a substantial contribution in case they do not lead to an improvement in the status of a water body. Ultimately, any treatment of waste water has to be seen as preferable to no treatment. Therefore, if the activity leads to a deterioration of the status of the water body but nevertheless constitutes an improvement compared to no action, the substantial contribution criteria should be fulfilled.

› Do No Significant Harm (DNSH) Criteria

Regarding the implementation of appropriate measures to avoid and mitigate harmful stormwater overflows in section 5, it has to be noted that such measures are currently under discussion as part of the revision of the Urban Waste Water Treatment Directive (COM (2022) 541 final). As this section already makes a reference to the directive, it is not necessary to require extra measures to deal with stormwater overflows.

Sustainable urban Drainage Systems (SUDs) (Section 2.3)

› Do No Significant Harm (DNSH) Criteria

SUDs do not constitute a treatment process and should therefore not be considered as treating waters by the taxonomy according to section 5. Otherwise it needs to be defined more clearly what is meant by the term “treatment” in this context.

Annex 2 Transition to a circular economy

Phosphorus Recovery (Section 2.1)

› Description of the Activity

The draft delegated act states that only facilities and processes that make phosphorous recovery possible but not previous steps are included in the scope of the activity. While this is a reasonable assumption for the construction of co-incineration processes, it should not exclude the construction of mono-incinerators. When mono-incineration is chosen for the disposal of sewage sludge, the respective facilities are set up for the direct purpose of recovering phosphorous. Indeed, the incineration of sewage sludge in mono-combustion facilities is a necessary precondition for phosphorus recovery from the sewage sludge. They should hence also be included under the scope of this activity as they directly facilitate the phosphorous recovery.

At the same time, future technological processes should not be excluded from the EU Taxonomy. By means of thermochemical treatment methods like gasification, carbon and hydrogen (synthesis gas) are very efficiently recovered from sewage sludge as well as from other waste materials. Compared to incineration, considerable portions of carbon and hydrogen are therefore not emitted as CO₂ and H₂O but re-used for chemical synthesis. Thus, thermochemical methods contribute to the environmental objectives Climate Change Mitigation (CCM) as well as Circular Economy (CE) and should also be mentioned here explicitly.

➔ Proposed Amendment

*“Construction, upgrade, operation and renewal of facilities for recovery of phosphorus from on-site waste water treatment plants (WWTP) (aqueous phase and sludge) and from materials (i.e. ashes) after thermal oxidation **or other comparable treatment methods (i.e. e.g. incineration or gasification)** of sewage sludge.*

*The economic activity **only** includes the facilities and processes that make phosphorus recovery possible, and additionally **not** the previous steps, such as necessary waste water treatment or incineration facilities.”*

› Substantial Contribution to the Transition to a circular Economy

The obligation to recover at least 15 % of the incoming P load according to section 1 should only be triggered once a certain threshold of incoming P load is reached and cannot be universally applied.

Additionally, thermochemical treatment methods such as gasification use mechanically dewatered sewage sludge as feedstock. In case phosphorus is recovered directly from sewage sludge, the German Sewage Sludge Ordinance requires a phosphorus recovery rate of 50%. It is suggested to take over this regulation in order to allow for implementation of processes with lower P-Recycling rate but on the other hand with significant contribution to other environmental objectives such as Climate Change Mitigation (CCM) or Circular Economy (CE).

Moreover, it must be ensured that the recovered phosphorus can be utilised. To this end, market access must be facilitated, e. g. through EU-wide authorisation and the dismantling and avoidance of competitive barriers. It is therefore crucial that the taxonomy also allows for uses other than the production of fertilisers of the recovered phosphorous. It would greatly hinder the successful uptake of further phosphorous recovery to limit its application to this field. As also established in the legislative proposal of the Critical Raw Materials Act (COM (2023) 160 final), phosphorous constitutes a critical raw material for the European Union. Its recovery should therefore be facilitated also through the taxonomy.

➔ **Proposed Amendment:**

*2. For down-stream recovery after sewage sludge thermal oxidation with chemical phosphorus recovery or after sewage sludge thermal oxidation with thermo chemical phosphorus recovery, the process recovers at least 80% of the incoming phosphorus load from the respective input material, such as sewage sludge ash. **For down-stream recovery directly from dewatered sewage sludge the process recovers at least 50% of the incoming phosphorus load.***

Production of alternative Water Resources for Purposes other than human Consumption (Section 2.2)

› **Description/Boundary of the Activity**

Aquifer recharge was explicitly removed from the scope of the regulation on minimum requirements for water reuse (2020/741/EU), it should therefore not be part of the activity under the taxonomy. BDEW proposes to limit the boundary of this activity to water reuse for the purpose of irrigation and industrial use.

› **Substantial Contribution to the Transition to a circular Economy**

As pertaining to section 1 a) in case of uses other than agricultural irrigation, water reuse should only be considered in alignment with the technical screening criteria when national

legislation and standards have been established in the absence of European ones. If this is not the case, the activity should not fall under the scope of the taxonomy.

Regarding section 2 b) it should be clarified that in cases of harvesting rain and storm water, no treatment is required when it is used for percolation into the ground.

Appendix A – Generic Criteria for DNSH to Climate Change Adaptation

General Comments

BDEW welcomes the Commission's proposal of a climate risk and vulnerability assessment. However, seeing the complexity of assessing the adherence to the substantial contribution and do no significant harm criteria in general, the scope of this assessment could become a further burden for companies. Especially smaller projects could be overwhelmed by the extent and depth of analysis required. The option for a simplified assessment for smaller projects should therefore be considered by the Commission to allow for the greatest reach and effectiveness of the taxonomy.

Climate Activities: Annex I Climate change mitigation

Manufacture, installation, and servicing of high, medium and low voltage electrical equipment for electrical transmission and distribution that result in or enable substantial contribution to climate change mitigation (Section 3.20)

› General remarks

The expansion of the electricity transmission and distribution grids is a cornerstone of the energy transition because it enables the integration of increasing amounts of renewable electricity into the system. Against this background, BDEW supports the inclusion of the manufacture, installation and servicing of equipment needed for grid expansion as taxonomy-eligible in the Commission's draft TSC.

› Technical Screening Criteria for substantial contribution

However, excluding all switchgear with insulating or breaking medium using, or whose functioning relies upon gases with a GWP above 10 and explicitly excluding all switchgear containing SF6 as not compliant does not correspond to the current state-of-the-art regarding the very limited availability of SF6-free alternative products. Therefore, while it is understandable

that the manufacture of new switchgear containing SF6 cannot be taxonomy-aligned, servicing of existing switchgear must not be excluded from the taxonomy-alignment until they have reached their end of life.

SF6 is currently widely used in electrical switchgear applications, which are indispensable parts of the electricity transmission and distribution grids at all voltage levels and at power generators' sites. In the past decades, system operators and switchgear manufacturers have significantly reduced their SF6 emissions through various and innovative techniques and the introduction of closed-cycle management of SF6. Despite this progress, there is political consensus to phase out the use of SF6 due to its high GWP value. The industry supports this goal.

Yet, substituting SF6 as an insulating and breaking medium in switchgear is very challenging. Only over the last five to ten years, alternative products have been developed and applied in pilot projects, they are just about to enter a phase of broader deployment. There are still application areas for which alternatives to the SF6 technology have not been developed yet. The current revision of the European F-gases Regulation will be an important cornerstone for the phase-out of SF6 in **new** applications.

However, for the sake of the safe and secure operation of the electricity systems and to enable the connection of hundreds of thousands of renewable power plants and new end users' appliances like charging infrastructure for electric vehicles or electric heat pumps, **existing** equipment containing SF6 has to be allowed to remain in operation until they reach their technical end-of-life. This is important because replacing the existing "switchgear fleet" while, at the same time, installing vast numbers of new switchgear as part of the necessary grid enlargement and reinforcement processes will not be feasible, neither technically nor from an organisational point of view – leaving aside the financial burden resulting in increasing grid tariffs. Therefore, adequate transition rules for the phase-out of SF6 and other gases with high GWP values in existing electrical switchgear should be introduced.

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