



Sent by e-mail to the European Commission and TAC members:

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ERPA comments on draft ‘Commission Regulation establishing criteria determining when recovered paper ceases to be waste under Directive 2008/98/EC of the European Parliament and of the Council.’

ERPA supports the work of the European Commission, Member States and their experts and the European Parliament in providing criteria to determine when waste paper ceases to be waste. Such European Regulations should enhance the internal market in recycled materials but will only work, with economic operators choosing the least costly route, if the burden of compliance with End-of-Waste Criteria is kept below the burden from the alternative Waste legislation, recognizing their equivalence in protection of the environment and human health.

Whilst the European Recovered Paper Association (ERPA) provided consolidated comments about the draft Regulation in May 2011 and in June 2011, the comments below address the 2012 draft.

Art.3, paragraph 1. The mid-sentence text ‘, upon transfer from the producer to another holder,’ does not bring clarity as to the exact point at which waste ceases to be waste as ‘transfer’ is unclear there being many contractual INCO terms in common use, besides ‘upon transfer’ could mean taking legal ownership, or it could mean the physical movement of the material, of most concern if ‘upon transfer’ was construed to include physical delivery some major benefits of End-of-Waste would be lost. Therefore ERPA requests **deletion of the phrase ‘, upon transfer from the producer to another holder,’**. The sentence should then read as: **Recovered** Waste paper shall cease to be waste where all of the following conditions are fulfilled: ’.

Art.5(5), paragraph 3, undefined term ‘third countries’, **suggest to replace ‘third countries’ with ‘non-EU countries’.**

Annex I, Section 1 (1.3). The situation where **recycled** paper is classified as hazardous should not arise firstly: as compliance with "Section 2. Waste used as input for the recovery recycling operation" ensures no hazardous materials would enter the R3 recycling/reclamation operation and so no hazardous properties would arise in the main product; and secondly: given the classifications of waste paper in Commission Decision of 16 January 2001 amending Decision 2000/532/EC as regards the list of wastes (2001/118/EC)* and in Regulation (EC) No 1013/2006 on shipments of waste*, the wastes allowed as input are all non-hazardous. Note especially that ‘03 03 05 de-inking sludges from paper recycling’ are classified as non-hazardous, so it makes no sense to include the phrase ‘and in particular ink and dyes,’ in the Criteria 1.3. To conclude due to Section 2 criteria **the paragraph Annex I, Section 1 (1.3) is not necessary and so can be deleted.** Alternatively reword as:

1.3 The **recovered** **recycled** paper, **including its constituents and in particular ink and dyes**, shall not display any of the hazardous properties listed in Annex III to Directive 2008/98/EC. The **recovered** **recycled** paper shall comply with the concentration limits laid down in Commission Decision 2000/532/EC⁶, and not exceed the concentration limits laid down in Annex IV of Regulation 850/2004/EC⁷ of the European Parliament and of the Council.

Annex I, Section 3, column 1, (3.3). **The criteria in 3.3 are unclear**, does it mean separation of ‘paper fibres’ from ‘non-paper materials’ in the treatment process take place before End-of-Waste can be claimed?

Annex II, Row 2 (b). The need for every consignment to be measured in order to complete the question

“b) Content of non-paper components, in percentage points of air dry weight:” is an unnecessary burden given that Section 1 (1.2) sets the limits for non-paper components. **The question at Annex II, Row 2, line (b) should be deleted.** Alternatively the question should be made into a confirmation of compliance with criteria 1.2 ‘The non-paper component content is less than or equal to 1.5 % of air dry weight.’

Annex II, Row 2 (c)(1) Is the question “c.1) multi-material origin, such as from comingled collection.” Consistent with the Waste Framework Directive’s Art.10(2) and Art.11(1) paragraph 3?

Annex II, Row 3 is redundant as the question at Row 2(a) is answered beforehand. **The question at Annex II, Row 3 should be deleted.**

Uncertainties regarding difference between: “Comingled collection” [Annex II, Row 2 (c)(1)] and “Multi-material collection system” [Annex I, Section 1, Row 1.2, Column 2, 2nd bullet]. Propose to add definitions for these terms if both are retained.

Accepting the differences in waste management infrastructure across Member States and considering the possibilities of exports to third countries in particular to non-OECD countries without specialized recovery facilities, are TAC members really sure that all the conditions set by the Directive 2008/98/EC on waste: in particular Art.6(1) First paragraph and Sub-paragraphs (a), (b) and (d) are met by “multi-material paper”?

Article 6

End-of-waste status

1. Certain specified waste shall cease to be waste within the meaning of point (1) of Article 3 when it has undergone a recovery, including recycling, operation and complies with specific criteria to be developed in accordance with the following conditions:

- (a) the substance or object is commonly used for specific purposes;
- (b) a market or demand exists for such a substance or object;
- (c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products; and
- (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.

The consistency in including untreated post consumer drinks cartons in an End-of-Waste Regulation with the decisions made in Commission Regulation (EU) No 664/2011 regarding certain mixtures of wastes in Annex A and Commission Regulation (EU) No 135/2012 regarding certain unclassified wastes in Annex IIIB to Regulation (EC) No 1013/2006 on shipments of waste needs checking.

As ‘multi-material paper’ is standardized in EN643, one affiliate proposes no special mention of ‘multi-material paper’ is needed in the Regulation. **Delete all references to ‘multi-material paper’.**

Throughout the draft Regulation use of terms: Waste; Recovery; Recycling; Recovered; Recycled need rechecking (see document ‘BIR proposed corrections to - draft Regulation EoW Paper - regarding recovery and recycling and the waste hierarchy’); **ERPA reiterates the need to use terminology consistent with the Waste Framework Directive.**

Yours sincerely,



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In Commission Decision of 16 January 2001 amending Decision 2000/532/EC as regards the list of wastes (2001/118/EC), there are no line items where paper is classified as hazardous (*) under Chapter 3: '03 03 wastes from pulp, paper and cardboard production and processing'. Furthermore '03 03 05 de-inking sludges from paper recycling' are classified as non-hazardous.

However under Chapter 15: '15 Waste Packaging; Absorbents, Wiping Cloths, Filter Materials and Protective Clothing not otherwise specified', whilst '15 01 01 paper and cardboard packaging' is classified as non-hazardous, entry '15 01 10* packaging containing residues of or contaminated by dangerous substances' is hazardous.

Likewise in chapter '19 12 wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified' the entry '19 12 01 paper and cardboard' is non-hazardous, whilst entry '19 12 11* other wastes (including mixtures of materials) from mechanical treatment of waste containing dangerous substances In the process' is hazardous.

Chapter 20 '20 Municipal Wastes (Household Waste and Similar Commercial, Industrial and Institutional Wastes) including separately collected fractions' under '20 01 separately collected fractions (except 15 01)' the entry '20 01 01 paper and cardboard' is non-hazardous. Besides such entries in the list of wastes, in Regulation (EC) No 1013/2006 on shipments of waste: "B3020 Paper, paperboard and paper product wastes" are classified as non-hazardous 'provided they are not mixed with hazardous wastes':