

# Eurometaux comments on the proposed amendment to the EU List of Waste

Eurometaux, representing the European non-ferrous metals industry (extraction, processing and recycling of metals), would like to respond to the public consultation on the update of the EU List of Waste (LoW) with the new codes for waste batteries and battery-related waste.

The proposed amendment is very important to create a level-playing field and to make sure that those waste streams, containing strategic materials, remain available for recycling in the EU and contribute to reaching the goals of the Circular Economy and the Critical Raw Materials Act.

## Key recommendations:

- **Amendment of the EU List of Waste** – Proceed with the proposed amendment to the EU LoW in relation to waste batteries and battery-related waste, including black mass.
- **Harmonised EU implementation** – Transpose the new waste codes to the national legislation in a harmonised and timely way to provide a level-playing field across the EU Member States.
- **Enforcement and correspondence with the combined nomenclature** – Provide correspondence between the codes of combined nomenclature under the Common Customs Tariff Regulation and the new EU LoW entries to avoid waste path circumvention and to ensure proper waste shipment procedure.
- **Practical implications for recyclers and competent authorities** – Create well-functioning waste market by effectively implementing key provisions of the Waste Shipment Regulation.

## New waste codes – update of the EU LoW

We are glad to see that the European Commission has fulfilled the intention stated in the Critical Raw Materials Communication (COM (2023) 164 final) to “propose in 2024 the inclusion of waste codes for Lithium-ion batteries and intermediate waste streams (“black masses”) under the European List of Waste to ensure their proper recycling within the EU”. This statement and the draft amendment to the LoW are also a direct response to industry and NGO community requests<sup>1</sup> to support circularity of battery materials and to make sure that they stay in Europe making us less dependent on imports from the third countries.

<sup>1</sup> The letter of 28<sup>th</sup> September 2023 by Eurometaux, Recharge, Transport & Environment (T&E), WWF and the letter of 3<sup>rd</sup> November 2023 by AVERE, Eurometaux, RECHARGE.



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According to Decision 2000/532/EG<sup>1</sup>, the LoW should be revised regularly on the basis of new knowledge and, in particular, of research results. In this context we are positive about the work done by the Joint Research Center (JRC) and we support all new waste codes proposed and especially those related to the:

- waste batteries (all chemistries);
- battery waste wastes from manufacture, supply and use of batteries covering all battery chemistries;
- intermediate waste fractions (black masses) from waste battery treatment;
- slags from waste battery recycling.

**Our recommendation:** Proceed as soon as possible with the proposed amendment to the EU List of Waste introducing new codes for waste batteries, battery-related waste and their intermediate waste streams (black masses).

## Harmonised EU-wide implementation

The List of Waste serves as a common encoding of waste in a broad variety of purposes like transport of waste, installation permits, decisions about recyclability of the waste or as a basis for waste statistics. That is why the update of the list must be followed by a harmonised implementation of the codes by all the Member States.

Timely implementation of the new codes is of extreme importance. The draft text subjected to the public consultation foresees a period of 18 months before its conditions apply. We would like to stress that this timeframe must be respected and that no Member State fails to transpose the new waste codes to the national legislation.

At present, some Member States already classify all types of batteries as hazardous while others don't. Only a strict implementation process can bring a level playing field for all operators involved in the recycling of waste batteries and related waste.

The next step will be an appropriate application of the new codes. To facilitate that, the European Commission should support the process by preparing, for example, guidance document or Frequently Asked Questions.

**Our recommendation:** Make a harmonised, EU-wide implementation of the new waste codes a priority.

## Enforcement and correspondence with the combined nomenclature (CN)

Introduction of the new, hazardous waste codes in the EU List of Waste comes with the objective of preventing the uncontrolled leakage of valuable waste streams, and especially the batteries black mass outside of the EU. That is why correspondence with the combined nomenclature provided in the Common Customs Tariff Regulation is needed to prevent the circumvention of waste classification, in particular for the extra-EU waste shipments.

<sup>1</sup> 2000/532/EC: Commission Decision of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes



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In addition, the European Commission under the EU Waste Shipment Regulation should prepare an updated correlation table indicating the correspondence between the codes of combined nomenclature and the new EU LoW entries to facilitate proper classification for waste shipments. Correspondence with the CN codes is key to avoid that waste batteries would be falsely declared as a product and exported, bypassing hazardous waste shipment procedure.

**Our recommendation:** Provide a correlation table indicating the correspondence between the codes of combined nomenclature under the Common Customs Tariff Regulation and the new EU LoW entries to avoid waste path circumvention and ensure proper procedure under the Waste Shipments Regulation.

### Practical implications for recyclers and competent authorities

The update of the EU List of Waste will also bring new obligation on recyclers like updating their permits, selecting the adequate waste codes or applying for new permits to transport hazardous waste. In parallel, Member States' competent authorities will deal with an increased number of notification procedures.

As the new waste codes will bring requirements on both industry and national administration side, we would like to remind that several provisions under the Waste Shipment Regulation require maximum attention to optimise the intra-EU waste shipments:

- **Electronic Data Interchange** (Art. 27) shall be operational not later than May 2026 and allow to submit and exchange directly, by electronic means, the information and documents necessary for notifications of shipments, requests for information and documents, decisions on shipments, confirmation of receipt of waste, certificates for recovery, etc. In addition, by 2029 it should be interconnected with the European Union Single Window Environment for Customs through the European Union Customs Single Window – Certificate Exchange System established by Regulation (EU) 2022/2399.
- **Language requirement of the accompanying documentation** (Art. 28) can be eased by the means of courtesy translations. Such a function shall be incorporated, by May 2028, into the central system of the Electronic Data Interchange.
- **Financial guarantee** (Art. 7) shall be calculated based on a simple, risk-based and harmonised method that is yet to be established by the European Commission or it can be based on an equivalent insurance instead.
- **Waste or used goods classification** (Art. 29) should be clarified via an implementing act. Proper distinction between used or waste battery is of particular importance to prevent the leakage of valuable, strategic materials from the European Union.
- **Tacit consent** (Art. 9) in the case of transit of waste destined for recovery within the EU shall be automatic and binding. The current provisions, only assuming the tacit consent, are not applied in a harmonised way across EU Member States.



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In addition to the above provisions of the Waste Shipment Regulation, we would like to stress that for facilitating the intra-EU waste shipments, the **pre-consented recovery facilities** (Art. 14) shall benefit from:

- an **automatic recognition of pre-consented status** across all the EU Member States, and not only in the country that issued it.
- a **fast-track notification procedure** allowing shipment (within max. 10 days) of waste batteries and battery-related waste to the pre-consented recovery facilities.

**Our recommendations:**

- Create well-functioning waste market for waste batteries and battery-related waste by fully implementing Waste Shipment Regulation provisions like electronic exchange of documentation, financial guarantee, automatic tacit consent, classification of waste vs. used goods.
- Extend the benefits for pre-consented recovery facilities allowing for an automatic recognition of their status across the EU and a fast-track notification procedure for waste shipments.

**ABOUT EUROMETAUX**

Eurometaux is the decisive voice of non-ferrous metals producers and recyclers in Europe. With an annual turnover of €120bn, our members represent an essential industry for European society that businesses in almost every sector depend on. Together, we are leading Europe towards a more circular future through the endlessly recyclable potential of metals. Website: [www.eurometaux.eu](http://www.eurometaux.eu)

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