
JRC Recycled content calculation and verification rules (Article 8 of Regulation (EU) 2023/1542)

Joint position of DUH, EEB, ECOS and T&E on first data inventory meeting

The Environmental NGOs DUH, EEB, ECOS and Transport & Environment welcome the initiative of the Joint Research Center to develop the methodology for the calculation and verification of the percentage share of recycled cobalt, lithium, nickel, and lead in industrial batteries, electric vehicle batteries, LMT batteries and SLI batteries as mandated by Article 8 of Regulation (EU) 2023/1542. The usage of recycled materials for the production of batteries is crucial to reduce social and environmental impacts in mining countries. For the policy measure of setting recycled content targets to be effective, it is important to establish reliable and transparent rules that exclude fraud during calculation and reporting. The signing organisations seek to emphasize that especially the planned mass balance approach with free allocation bears considerable risk of jeopardizing consumer confidence and the effectiveness of setting recycled content targets as a whole.

About DUH

Environmental Action Germany (Deutsche Umwelthilfe – DUH) is a recognized German environmental and consumer protection organization, which has been campaigning for resource conservation and consumer interests since 1975. DUH is politically independent, non-profit and it campaigns on a national and European level. It is for example renowned for its role in uncovering the Diesel Scandal and in establishing a deposit system for non-refillable beverage containers in Germany. Within its Department Circular Economy, DUH promotes waste prevention, responsible consumption and a sustainable economy. For more information, please visit: www.duh.de/englisch

About EEB

European Environmental Bureau (EEB): The European Environmental Bureau (EEB) is Europe's largest network of environmental citizens' organisations, standing for environmental justice, sustainable development and participatory democracy. It represents over 180 members in over 38 countries: www.eeb.org

About ECOS

ECOS - Environmental Coalition on Standards is an international NGO with a network of members and experts advocating for environmentally friendly technical standards, policies, and laws. We ensure the environmental voice is heard when they are developed and drive change by providing expertise to policymakers and industry players, leading to the implementation of strong environmental principles. For more information visit: www.ecostandard.org

About T&E

Transport & Environment (T&E): Founded over 30 years ago, T&E is one of the leading clean transport NGOs in Brussels, envisioning a zero-emission mobility system that is both affordable and has minimal impact on public health, climate and the environment. T&E serves as the umbrella organisation for 63 member organisations working to promote smarter and cleaner transport in 25 countries across Europe and beyond. transportenvironment.org

Calculation of recycled content by mass balance with free allocation should not be accepted

The undersigning organisations are deeply concerned that similar to the implementing act decision on recycled content of single-use plastic beverage bottles in the SUPD, a mass balance approach with free allocation may be allowed for the calculation of recycled content in batteries. Free allocation and “book and claim” are the models with the lowest traceability and, therefore, are difficult to control and may jeopardize consumer confidence in the recycling industry. We therefore propose to only allow the methods segregation and, in case needed, controlled blending (see Fig.1). Controlled blending means a mass balance approach with proportional allocation, a method that is applicable when a process mixes virgin material and waste.

From a consumer perspective it is important that consumers can rely on claims regarding the recycled content in products. A mass balance approach with free allocation would allow producers to market specific batteries with claims such as “made from 100 percent recycled materials” although in reality the product may only contain little recycled content (free allocation rule) or even no recycled content (book and claim rule). This would mean that producers who have in fact increased recycled content would no longer be recognizable on the market. Consumer confidence in the recycling system must not be jeopardized through non-transparent calculation rules.

Furthermore, allowing mass balance with free allocation is not necessary in order to fulfil the recycling targets set in the EU-Batteries Regulation:

Often it is argued that producers exporting BEV to non-EU countries have a disadvantage without free allocation. Therefore, these producers opt for free allocation and would label the exported batteries with 0% recycled content and allocate all recycled content to the batteries placed on the EU market. Considering the low net export share of passenger vehicles exported of 4.4% for the period 2018 – 2021¹ we do not see relevant additional challenges to achieve the target without free allocation. Furthermore, EU-producers not exporting to non-EU would have a disadvantage to those exporting to non-EU. And, last but not least, non-EU producers with a limited share of their production directed to the EU would have a huge advantage and could achieve the recycled content target with only very little recycled material.

The agreed recycled content targets under Article 8 should, furthermore, not require any additional flexibilities as battery manufacturing waste has already been included to achieve the targets and implementation was originally foreseen 1.5 years earlier (which is very relevant for this emerging market).

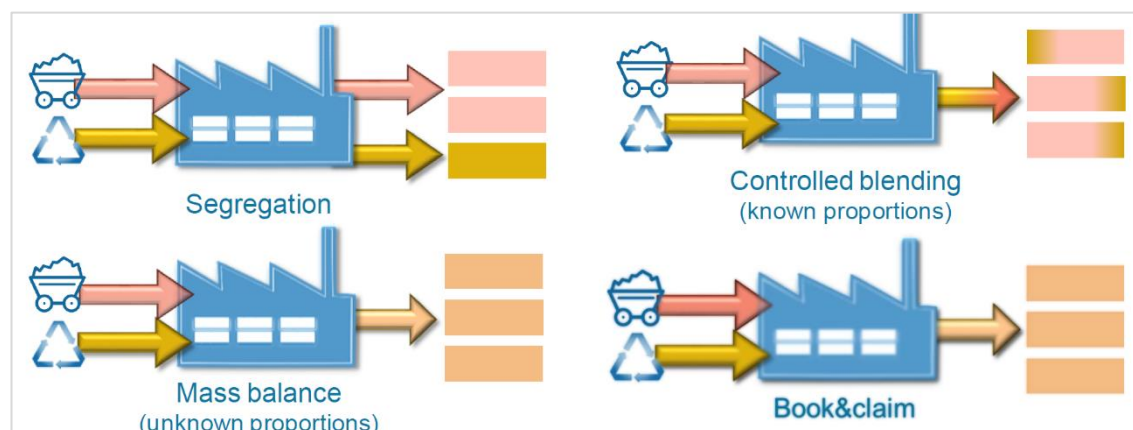
Further flexibilities that allow free allocation or even “book and claim”, would render the political instrument of recycled content targets completely ineffective.

All plants producing batteries for the European Market should fulfil the recycled content targets set in Article 8 or keep their production lines for different markets separated. This is the only way to ensure that the use of recyclates becomes the standard in Europe and to exploit the potential of recycling. This is also an important measure to create a stable economic situation for the recycling industry through maintaining a high demand for recyclates. We also like to note in this context that recycling plants are still able to sell/confirm the character as recyclate to their suppliers of battery wastes, since the discussed allocation method within mass balance only refers to the production of batteries and not to recycling.

Finally, we like to note that it is important that the recent decision within the SUPD – which was made without stakeholder participation – must not become a blueprint for the regulation of recycled content for all other products. Many Environmental NGOs as well as economic actors in the recycling sector oppose the use of mass balance with free allocation (called fuel use exempt model) within the SUPD framework.^{2,3}

Although the situation is not exactly the same between different products and materials, a harmonized method with the highest possible degree of transparency and traceability should be aimed at. **We therefore propose that mass balance with proportional allocation (controlled blending) should become such a standard method.**

Fig. 1: Possible chain of custody models as mentioned in the statement above



Source: Presentation by JRC team on battery recycled content, presented the 11th April 2024

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¹ Eurostat, detailed data on international trade in goods (Comext), accessed the 2 May 2024

² Joint statement calling for a transparent and reliable policy framework defining recycled content in plastic, July 2023, https://zerowasteeurope.eu/wp-content/uploads/2023/07/Joint_letter_recycled_content_methodology_SUPD-1.pdf

³ Business-NGO Coalition supports the motion objecting to the Commission's draft Implementing Act on the calculation of recycled content in single-use plastic beverage bottles, April 2024, <https://fead.be/position/ngo-business-coalition-supports-the-objection-to-the-draft-implementing-act-for-the-calculation-of-recycled-plastic-content-in-single-use-plastic-beverage-bottles/>