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EUROBAT Feedback — Public Consultation on Article 8 Recycled Content Delegated Act (Regulation (EU) 2023/1542)

EUROBAT welcomes the opportunity to comment on the draft delegated act adopted pursuant to Article 8 of Regulation (EU) 2023/1542. We appreciate the Commission's work and note that the proposed methodology is broadly aligned with the principles discussed during the JRC consultation, particularly as regards mass-balance accounting and documentation-based traceability. EUROBAT's comments are targeted and constructive.

Summary of EUROBAT's requests

Issue	Draft provision	EUROBAT's request
1.3 correction factor / level playing field	Annex 2.2.5	Ensure the factor does not distort competition between chemistries on market-access criteria
Who applies the factor	Annex 2.2.5	Application to rest with battery manufacturers, not recyclers; manufacturer proves eligibility
Carbon-footprint interaction	Annex 2.2.5	Clarify that carbon footprint is calculated on real, not corrected, recycled content
Overclaiming / green claims	Annex 2.2.5	Address consistency with the EmpCo Directive and other green-claims rules
Mass-balance level	Annex 2.2.1	Move from plant-level to group-level allocation, or justify plant level
Lead and lithium feasibility	Annex 2.3, 3.1–3.2	Clarify responsibilities, sufficient evidence, double-counting, supplier readiness
Traceability model	Annex 2.3.1	Adopt a tiered, responsibility-based approach with third-party audit
Definition of recycled content	Annex Section 1	Widen to include functional substitution / industrial by-products
Annex wording for lead	Annex 2.3.1, 2.4.2	Correct "battery manufacturing or post-consumer waste" to "from waste" for lead

1.3 correction factor and the level playing field

The draft Annex (Section 2.2.5) grants, until **31 December 2036**, a **correction factor of 1.3** to recycled material obtained from waste recycled in an installation operating in the Union. The factor applies **only to lithium, nickel and cobalt, and not to lead**.

EUROBAT understands and does not object to the underlying policy aim — supporting the Union recycling industry in a context of high import dependence for critical battery raw materials. However, as drafted the mechanism produces a **structural distortion of the level playing field between chemistries**:

- The factor allows a manufacturer to report a recycled content **higher than the physical quantity of recycled material actually used**. A battery containing an amount X of Union-recycled lithium may be credited with $1.3 \times X$. Lead-based batteries, by contrast, can only ever report their **real, physical** recycled content.
- These figures feed **criteria that determine market access** — the minimum recycled-content thresholds and, indirectly, the maximum carbon footprint. A systematic over-statement of circularity for one set of chemistries relative to another is not a neutral accounting choice; it advantages Li/Ni/Co batteries over lead-based batteries on regulated market-access metrics.

EUROBAT asks the Commission to ensure the correction factor does not distort competition between battery technologies, and in particular to prevent the "virtual" recycled content from carrying over into other regulated parameters (see carbon footprint, below). If a Union-recycling incentive is retained, its effects should be confined to the specific objective it serves and should not create cross-chemistry competitive advantage on market-access criteria.

Who may apply the correction factor

The application of the correction factor should rest with **battery manufacturers, not recyclers**. Recyclers cannot legitimately claim a recycled content higher than their recycling technology physically allows, and it should be the battery manufacturer who bears the burden of proving that the material is eligible for the factor. EUROBAT recommends the final text make this allocation of responsibility explicit.

Interaction with the carbon-footprint calculation

The draft does not clarify how the correction factor interacts with the carbon-footprint calculation, and this is a material gap. If the "virtual" (boosted) recycled content were used in the carbon-footprint calculation, batteries using Li/Ni/Co would show a **lower calculated carbon footprint than their real recycled content justifies**, while lead-based batteries would continue to be assessed on real content. This would compound the market-access distortion described above into a **double advantage** for a selected group of batteries.

EUROBAT asks the Commission to clarify explicitly that the carbon footprint must be calculated on the basis of the real, physical recycled content, not the corrected figure.

Overclaiming and consistency with green-claims rules

More broadly, because the correction factor allows a manufacturer to achieve a given recycled-content figure while using a lower physical quantity of recycled material, it will **systematically overestimate real circularity**. Beyond the competition concern, this raises a credibility question: how such over-statement can be reconciled with the Empowering Consumers for the Green Transition (EmpCo) Directive and other EU rules on environmental and sustainability claims. Consumers and downstream purchasers making decisions on the basis of reported recycled content would be relying on figures that do not reflect the physical reality of the product. EUROBAT invites the Commission to address this consistency issue.

Mass-balance allocation: group level rather than plant level

The draft sets the system boundary for mass-balance allocation at **plant level** (Section 2.2.1). EUROBAT's advised option is a **group-level mass-balance allocation**, which would give battery manufacturers materially more flexibility in managing recycled content across their operations — and could, in particular, help manufacturers reach the applicable targets (including the 85% lead target) without recourse to exemptions or transitional derogations. We recognise the drafting constraints, but ask the Commission to consider group-level allocation, or at minimum to explain why a plant-level boundary is necessary and proportionate.

Feasibility and supplier readiness — lead

For lead-acid batteries, compliance should not be treated **solely as a traceability and documentation exercise**. Several substantive feasibility questions remain:

- Many lead-acid manufacturers today use a **combination of primary and secondary lead** to meet product performance, reliability and manufacturing requirements. Increasing recycled content beyond current practice may require adjustments to **raw-material specifications, manufacturing processes and battery formulations**.
- It is **not yet clear whether enough recycled lead will be available** to replace the primary lead currently used by the industry — a point relevant to feasibility, supply security and the overall impact of the requirements, in both the short and long term and at global level.

- There is genuine uncertainty over the level of **traceability, chain-of-custody documentation, allocation records and audit evidence** that upstream suppliers and recyclers will be able to provide to support compliance and notified-body verification. Manufacturers currently lack sufficient visibility into whether lead suppliers and recyclers can furnish everything the delegated act may ultimately require. **Supplier readiness will be a decisive factor** in the overall compliance effort.

Feasibility and supplier readiness — lithium and responsibilities across the chain

For lithium-based systems, compliance will depend heavily on the ability of **cell manufacturers and their upstream supply chains** to provide the necessary recycled-content, traceability and verification data. Because most lithium-ion cells used in the European market are currently **sourced from manufacturers outside the EU**, implementation may be particularly challenging for battery manufacturers that do not produce cells themselves and must rely on external suppliers' data.

The respective **responsibilities of battery manufacturers, cell manufacturers, recyclers, refiners and raw-material suppliers should be clearly defined**. EUROBAT considers that further clarification is needed on the following points before the methodology can be reliably implemented:

- the specific evidence and documentation that will be considered **sufficient for notified-body verification**;
- the practical implementation of **chain-of-custody** requirements across established recycling supply chains;
- the **allocation of responsibilities** between the different value-chain actors;
- the approach to **demonstrating and preventing double counting** across the value chain;
- the expected **supplier documentation requirements** and the realistic availability of supporting data.

Given these uncertainties, it is difficult at this stage to fully assess the implementation effort and compliance impact. EUROBAT asks the Commission to provide this clarity as early as possible.

Traceability: a tiered, responsibility-based approach

Section 2.3.1 requires battery manufacturers to set up a traceability system that spans the **entire supply chain**. EUROBAT notes that information on inputs, outputs and contractual relationships is **commercially sensitive**, and that even cell manufacturers often cannot fully access such data from upstream suppliers.

Rather than a centralised system mandating full disclosure of detailed supply-chain data, EUROBAT recommends a **tiered and responsibility-based approach**: each actor in the supply chain independently calculates and reports its own use of recycled materials, supported by robust internal corporate information systems, with the accuracy and compliance of that data then subject to verification by **accredited third-party audit institutions**. This balances protection of business confidentiality against the need for reliable, auditable data, and is consistent with the principles of data minimisation and proportionality in the EU regulatory framework.

Definition of recycled content: industrial by-products and functional substitution

The current definition of "recycled content" is limited to materials recovered from **waste**. This does not fully reflect how modern industrial circularity operates: a significant share of circular material flows in Europe is based on the recovery and reuse of **industrial by-products** (for example, from copper and zinc production), which are reused in other production systems — including batteries — **without ever becoming waste**.

A waste-linked definition therefore penalises industrial models that prioritise waste prevention and overlooks their existing contribution to the circular economy. Excluding the EU battery market for lead by-products would likely increase the Union's reliance on imported waste-derived raw material and threaten the commercial viability of non-ferrous metal operations that depend on by-product income streams — weakening European competitiveness and domestic raw-material resilience.

EUROBAT therefore invites the Commission to consider **widening the definition of "recycled content" to include substances that achieve the functional substitution of primary materials**, such as industrial residues and by-products.

Technical correction: Annex wording on the origin of lead inputs

Several references in the Annex (for example, Sections 2.3.1 and 2.4.2) require **proof that "inputs originate from battery manufacturing waste or post-consumer waste."** This formulation is correct for cobalt, nickel and lithium, but it is **incorrect for lead**, for which the Annex's own definition (Section 1, point (1)) provides that recycled material is

obtained **"from waste"** more broadly — not only from battery manufacturing or post-consumer waste.

This inconsistency should be corrected so that the operative provisions match the Annex's own definitions. **EUROBAT asks the Commission to align the wording throughout the Annex to reflect the broader "from waste" origin applicable to lead.**

Conclusion

EUROBAT supports the objectives of Article 8 and the development of a robust, harmonised methodology for calculating and verifying recycled content. We ask the Commission to ensure that the final methodology preserves a level playing field across battery chemistries, remains workable and proportionate for economic operators along the value chain, and reflects the operational realities of both different supply chains. EUROBAT and its members remain available to support the Commission with technical input as the methodology is finalised.

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About EUROBAT:

EUROBAT is the leading association for European automotive and industrial battery manufacturers, covering all battery technologies, and has 34 members. The members and staff work with all policymakers, industry stakeholders, NGOs and media to highlight the important role batteries play for decarbonised mobility and energy systems as well as all other numerous applications.