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FEVE/FERVER joint request for clarifications: backfilling

FERVER, the European Federation of Glass Recyclers, and FEVE, the European Container Glass Federation, would like to take the opportunity of the JRC study on the Assessment of the definition of recycling to raise a number of questions for clarification on the status of backfilling.

Backfilling of glass is common practice in some Member States, where the separate collection system infrastructure is not performing well enough, or where glass is directly extracted from the collected mixed waste. While backfilling does represent a possible destination for recycled glass, the circular economy of glass is largely based on the closed loop from packaging glass to packaging glass.

For the glass industry and glass recyclers, it is of crucial importance to foster this closed loop as the most efficient circular economy for all the packaging materials.

1) Is backfilling recycling?

According to the Waste Framework Directive (Art. 3.17), *“recycling’ means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations”*.

The Directive explicitly mentions backfilling as a form of *“material recovery”* (Art. 3, paragraph 15a), alongside preparing for re-use and recycling: *“material recovery’ means any recovery operation, other than energy recovery and the reprocessing into materials that are to be used as fuels or other means to generate energy. It includes, inter alia, preparing for re-use, recycling and backfilling.”* We understand this to mean that backfilling is a form of material recovery that is distinct to recycling.

In addition, article 11.2.b) of the Waste Framework Directive confirms the accountancy of backfilling to reach the target of 70% set for non-hazardous construction and demolition waste *“By 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight”*.

However, Recital 12 introduces a different angle on the issue: *“Depending on the specific factual circumstances, such reprocessing [of waste into secondary raw materials for engineering purposes in construction of roads or other infrastructure] can fulfil the definition of recycling if the use of materials is based on proper quality control and meets all relevant standards, norms, specifications and environmental and health protection requirements for the specific use.”*

The definition of backfilling clearly encompasses the notion of waste used for *“engineering purposes in landscaping”* (Article 3, paragraph 17a): *“backfilling’ means any recovery operation where suitable non-hazardous waste is used for purposes of reclamation in excavated areas or for engineering purposes in landscaping. Waste used for backfilling must substitute non-waste materials, be suitable for the aforementioned purposes, and be limited to the amount strictly necessary to achieve those purposes”*.

- ⇒ Can the European Commission explain whether **backfilling is recycling**, according to the definitions of backfilling, recycling and material recovery?
- ⇒ Is the European Commission aware of Member States implementing the provision in Recital 12 allowing backfilling to be considered recycling?
- ⇒ Can the European Commission confirm that the scope of the target laid down for non-hazardous construction and demolition waste (“preparing for re-use, recycling and other material recovery, including backfilling operations”) differs from the scope of the packaging target (‘recycling target’)?
- ⇒ Is backfilling limited only to “purposes of reclamation in excavated areas” and “for engineering purposes” exclusively in landscaping and not for other purposes (e.g. road, railway, house foundations)?

2) Can backfilling count towards the attainment of the recycling targets?

Article 11a, paragraph 7 of the Waste Framework Directive suggests that backfilling can be accounted for towards the recycling targets: *“waste sent to another Member State for the purposes of preparing for re-use, recycling **or backfilling** in that other Member State may only be counted towards the attainment of the targets laid down in Article 11(2) and (3) by the Member State in which that waste was collected.”*

- ⇒ Does the European Commission confirm that **backfilling can be accounted for as recycling** for the purpose of meeting the recycling targets on municipal waste?

3) Is backfilling to be reported separately?

In Article 37, paragraph 2 of the Waste Framework Directive it is outlined that for the purposes of verifying compliance with the municipal waste recycling targets, *“Member States shall report the amount of waste used for backfilling and other material recovery operations separately from the amount of waste prepared for re-use or recycled. Member States shall report the reprocessing of waste into materials that are to be used for backfilling operations as backfilling.”*

- ⇒ Does the European Commission confirm that **backfilling will be reported separately** by Member States so that the share of backfilling will be made visible in the overall reported recycling rate?
- ⇒ Is such separate reporting also required for the backfilling of construction and demolition waste?

4) Can packaging glass be considered as recycled when used for backfilling?

In the Commission Implementing Decision 2019/1004 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC, the calculation point for glass described in Annex 1 is: *“sorted glass that does not undergo further processing before entering a glass furnace or the production of filtration media, abrasive materials, glass-based insulation and **construction materials**”.*

In the case of glass, according to Commission Regulation 1179/2012, end-of-waste status is granted only if cullet is sent to re-melt. This means that any destination for glass cullet that is not re-melt means that the cullet remains a waste, i.e. sorted glass that goes towards the production of construction materials is still a waste. In addition, Article 6a, paragraph 5 of the Packaging & Packaging

Waste Directive stipulates that “*end-of-waste materials to be [...] backfilled [...] shall not be counted towards the attainment of the recycling targets*”.

- ⇒ How is “construction materials” to be understood? Does the European Commission consider that the reference to construction materials includes backfilling as a possible destination **for glass** to be considered as “recycled”?

5) Is the European Commission currently working on guidelines for backfilling?

According to Article 38, paragraph 2 of the Waste Framework Directive, the European Commission shall develop guidelines on municipal waste and backfilling. As the glass recycling value chain, we would be very interested in providing our thoughts and concerns on backfilling.

- ⇒ What are the European Commission’s intentions as to the development and publication of **guidelines on municipal waste and backfilling**?

About FEVE

FEVE is the association of European manufacturers of glass containers. The glass packaging industry generates 125 000 direct and indirect jobs thanks to 160 Container glass production sites in Europe producing a wide range of glass packaging products for food and beverages, perfumery, cosmetics and pharmacy for European and global customers. FEVE members have plants in 23 European Member States. Container glass is one of Europe’s best recycled products. See more on www.feve.org.

About FERVER

FERVER is the association of glass recycling companies in Europe, with members spread over 19 countries and recycling more than 70% of the glass collected in Europe. More than 90% of their cullet production is handled as End-of-Waste in compliance with the European Regulation on End-of-Waste for Glass EU 1179/2012. This contributes significantly to the global circular economy and particularly to the conservation of the permanent status of glass. With their 79 plants, they provide employment to 2350 people. See more on www.ferver.eu