

Position on Extended Producer Responsibility (EPR) of EU Urban Wastewater Treatment Directive (UWWTD)

The Association TEGEWA e. V. represents the industry in the fields of cosmetic raw materials, surfactants, textile, paper and leather auxiliaries, colorants, antimicrobial agents, polymeric flocculants and allied products ([TEGEWA - TEGEWA\(en\)](#)).

In the new EU Urban Wastewater Treatment Directive (UWWTD¹), in force since 1.1.2025, a new system of Extended Producer Responsibility (EPR) has been implemented in Articles 9, 10, Annex III UWWTD which (initially) designates the cosmetics and pharmaceutical sectors as sectors responsible for paying EPR shares: The producer of an EPR-obliged product has therefore (among other costs) to pay at least 80 % of the full costs for complying with the requirements set out in Article 8 UWWTD (quaternary treatment), including the investment and operational costs for the quaternary treatment of urban wastewater to remove micropollutants resulting from the products they place on the market and from the residues of those products. In this context, the Polluter Pays Principle forms one of the important pillars of European environmental policy, Article 191 (2) TFEU²: Recital (20) of the UWWTD refers directly to the Polluter Pays Principle in Article 191 (2) TFEU in establishing the EPR in the UWWTD. The EPR has to be implemented by 31 December 2028 into national law by the EU Members States for producers who place cosmetic products and pharmaceuticals on the market, that contain specific substances, classified as micropollutants (pursuant Article 2 (17) UWWTD).

In this context, we represent industrial companies that manufacture cosmetic raw materials and that - even though these substance producers are not subject to EPR themselves - may be affected by the classification of substances as potential micropollutants, which triggers an EPR payment obligation for the end-product manufacturer of cosmetic products for further using this substance in the product to be placed on the market.

A. Impact Assessment of EU Commission on responsible EPR-sectors

We generally welcome and support the UWWTD's aims to introduce a quaternary treatment in urban wastewater treatment plants (WWTP) to remove micropollutants hazardous for public health and the environment from urban wastewater, resulting from products placed on the

¹ Directive (EU) 2024/3019 of the European Parliament and of the Council of 27 November 2024 concerning urban wastewater treatment, in force since 1.1.2025; <https://eur-lex.europa.eu/eli/dir/2024/3019/oj/eng>.

² Treaty on the Functioning of the European Union (TFEU), [EUR-Lex - 12012E/TXT - EN - EUR-Lex](#) (Consolidated Version).

market, that could not be reduced or removed in the previous treatment stages (first, secondary and tertiary treatment).

However, it must be ensured that the financial burden of this structural measures target the relevant and responsible polluters.

As a result of the EU Commission's impact assessment³, only two sectors - cosmetic and pharmaceutical - are regarded as responsible sectors for micropollutants in the urban wastewater and are obliged to the EPR of Article 9, Annex III UWWTD.

In that context,

- we question the fact that, with regard to the implementation of a system for introducing quaternary treatment in urban wastewater treatment plants to remove micropollutants, **consumers were not taken into account at all as the sole decision-maker as to which product to buy** (and how to dispose of it if it becomes waste⁴, which may also lead to an emission pathway outside the wastewater, e.g. if the purchased product will not be used and end up as waste in residual waste).
- we consider this EPR-system non-workable as the **financial basis** for implementing the quaternary treatment stages **is not ensured at all**.

Instead, we believe that the „Swiss model“- which uses a wastewater charge applied to connected residents (consumers) and business companies - more effectively and efficiently takes into account a feasible system with regard to the removal of micropollutants by implemented quaternary treatment in urban wastewater treatment plants than the EU's EPR-system (see B. III.).

With maybe 27 different national implementation systems with the respective EPR-fee-systems, the UWWTD's EPR-system will lead to significant economic impacts on European cosmetic raw materials industry - and could encourage a migration of this industry branch to countries outside the EU.

B. Sector-based-model of the EPR for financing the quaternary treatment (with its share)

I. Sector-based EPR-model as basis for the implementation of EPR in UWWTD

EU has implemented the sector-based model of EPR in Article 9 (1), Annex III UWWTD: The sector-based EPR model requires producers of cosmetic products to pay an EPR fee if they wish to continue using a substance that has been classified as a micropollutant in products they want to place on the market.

³ European Commission, Impact assessment, Accompanying the document Proposal for a Directive of the European Parliament and of the Council concerning urban wastewater treatment (recast), SWD(2022) 541 final, 26.10.2022; <https://environment.ec.europa.eu/system/files/2022-10/Impact%20assessment%20accompanying%20the%20proposal.pdf> .

⁴ EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 42: „(...)The fates and pathways of substances in cosmetic products are summarised in Figure 11. Some sold cosmetic products that are used are eventually washed directly into wastewater. Unused or expired products may be disposed of (incorrectly) directly to wastewater (through flushing in sinks and toilets) or discarded in solid household waste (...)“, <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en> .

The sector-based EPR-model is already used in the existing and implemented EPRs in European environmental law (for example in European waste law, with Packaging and Packaging Waste Directive (PPWD)⁵ or the Waste Electrical and Electronic Equipment (WEEE)⁶ Directive).

At the end of 2033, with the first evaluation of the UWWTD, more sectors could be included in the EPR-obligation-system of Article 9, 10, Annex III UWWTD.

General Comments

- Once EPR is spread across multiple sectors from 2033, we assume that EPR-fees should decrease.
- The sector-based model foresees that the producer of a cosmetic product has to pay an EPR-fee if he further wants to use a specific substance that is classified as a micropollutant in the product that is intended to be placed on the market. Depending on how the classification of a micropollutant will be implemented in the individual Member States and how this classification will be linked with the EPR fee structure, the EPR-charges could very much differ from each other in the 27 EU Member States - and also the classification of micropollutants would differ from each Member State and would lead to inconsistency and inequality on European market.
- At the same time, the EU and the competent authorities in the Member States should ensure that the three treatment stages preceding quaternary treatment are already functioning effectively in every urban wastewater treatment plant. This is a prerequisite both for the proper implementation of the UWWTD and for the efficient operation of quaternary treatment.
- Furthermore, it should be demonstrated that the micropollutants under consideration can in fact be effectively technically⁷ be removed by quaternary treatment stages. Such proof is essential to justify the imposition of EPR charges on obligated parties and to ensure that the objectives of the UWWTD can genuinely be achieved. At the same time, this includes, conversely, that only those substances that technically can be removed from the quaternary treatment stage may be classified micropollutants⁸ (also in reference to Recital (18) of UWWTD).

⁵ Article 45 PPWD; Regulation (EU) 2025/40 of the European Parliament and of the Council of 19 December 2024 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202500040&pk_campaign=todays_OJ&pk_source=EUR-Lex&pk_medium=X&pk_content=Environment&pk_keyword=Regulation.

⁶ Article 12 and 13 WEEE; Consolidated text: Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE); [EUR-Lex - 02012L0019-20240408 - EN - EUR-Lex](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_201200019-20240408-EN-EUR-Lex).

⁷ EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 14: Treatment technologies for micropollutants; <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en>.

⁸ EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 50, 51: „*Inorganic substances and water contained in (...) Cosmetic Products should be excluded from the scope of EPR because the fourth treatment does not target them. Inorganic substances can be defined as substances that do not contain carbon-hydrogen bonds*“; <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en>.

- Substances that do not even reach the quaternary treatment stage should logically be excluded from any EPR-based financing mechanism. For example, substances that are highly adsorptive or insoluble may primarily partition into sewage sludge rather than remain in the wastewater stream. In such cases, quaternary treatment would have no effect on their removal.
- It should also be recognised that the consumer ultimately decides which products are purchased and used. Micropollutants originating from cosmetic products do not typically result from direct industrial emissions. Instead, they enter urban wastewater primarily through consumer use of products and, in some cases, through improper disposal of cosmetic products once they become waste⁹. Any financial mechanism should therefore carefully consider who is actually able to influence the emission path and the resulting environmental exposure.
- If unused cosmetic products subject to the EPR are disposed of by consumers in residual waste, what consequences can be expected for substances classified as micropollutants that are incinerated as residual waste in these products? How does the EU Commission intend to deal with such cases? Shouldn't such a “waste factor”, which leads to a completely different emission path, also be taken into account in the classification of micropollutants? What data does the EU Commission have on this issue? (*Note: This topic was already discussed in the EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022)¹⁰.*)

II. Rejection of a substance-based EPR-model

Since a sector-based EPR model is implemented in Article 9, Annex III UWWTD in this context, we would like to clarify in general that **we reject a substance-based EPR-model for the following reasons** (even though this model is not included in the UWWTD in force since 1.1.2025, it may nevertheless be discussed in the context of the lawsuit of Poland against EPR provisions of UWWTD before the European Court of Justice (Case C-193/25¹¹)):

- (1) Cosmetic raw materials can be used across a wide range of product categories, resulting in different emission pathways for the same substance. For example, a

⁹ EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 42: „(...)The fates and pathways of substances in cosmetic products are summarised in Figure 11. Some sold cosmetic products that are used are eventually washed directly into wastewater. Unused or expired products may be disposed of (incorrectly) directly to wastewater (through flushing in sinks and toilets) or discarded in solid household waste (...)“, <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en>.

¹⁰ EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 42: „(...)The fates and pathways of substances in cosmetic products are summarised in Figure 11. Some sold cosmetic products that are used are eventually washed directly into wastewater. Unused or expired products may be disposed of (incorrectly) directly to wastewater (through flushing in sinks and toilets) or discarded in solid household waste (...)“, <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en>.

¹¹ Case C-193/25: Action brought on 10 March 2025 before the Court of Justice of the European Union (CJEU) – Republic of Poland v. European Parliament and Council of the European Union; <https://eur-lex.europa.eu/eli/C/2025/2189/oj/eng>.

substance may be incorporated into a product that is ultimately disposed of as residual waste (and then incinerated as waste) rather than discharged into wastewater.

(2) Consequently, substance manufacturers have no influence over the downstream use and application of their substances. In particular, they do not determine:

- in which products a substance will be used;
- at what concentration or percentage, it will be incorporated into a product; or
- which emission pathway the substance will follow during or after the product's use.

As a result, substance manufacturers are generally unable to identify which substances will ultimately enter urban wastewater. Positioned far upstream in the value chain, they are not involved in the product use phase and have no control over, or visibility of, the resulting emission pathways.

(3) Only the manufacturer of the final product has full knowledge of all substances contained in that product. Furthermore, only the product manufacturer determines, through its product formulation, which substances that may potentially qualify as micropollutants are used and at what concentration. In addition, for a given product, the likely emission pathway is generally known and can therefore be assessed.

(4) It should be clear that a substance-based model would render the EPR unworkable in the Member States. The EU would further weaken its own industry and contribute to the migration of additional industrial sectors to countries outside Europe.

(5) Furthermore, such a substance-based EPR model could be probably legally challengeable, as it is not compatible with the Polluter Pays Principle under European environmental law. Imposing financial responsibility on upstream substance manufacturers that neither control nor influence the use of a substance, its concentration in a product, or its emission pathway would not appropriately reflect actual responsibility for the release of micropollutants into urban wastewater.

III. Introduction of the approach according to „Swiss model“ - feasible and unbureaucratic

We believe that a system for implementing and financing a quaternary treatment in urban wastewater treatment plants should, at a minimum, meet the following criteria:

1. It must be practical and feasible.
2. It must be non-bureaucratic and easy to administer.
3. It must appropriately reflect the responsible sectors in line with the EU Polluter Pays Principle.
4. It must be harmonised across the EU, including a consistent application of definitions, such as those relating to micropollutants, and any derogations and exclusions.
5. It must avoid unnecessary complexity in implementation.

6. It must be based on technically proven approaches that are able to target and remove micropollutants.
7. The associated costs and fees must be affordable and realistic, thereby ensuring a viable and sustainable funding basis.

In contrast, the EPR system introduced under the UWWTD is highly complex, not harmonized across the EU and will lead to divergent implementation across EU Member States:

- This could lead to quaternary treatments plans just not being able to be financed by the industry (80 % or more, Article 9 (1) UWWTD) because of too high costs. High EPR-charges could lead to no funding basis for quaternary treatment, the EU planned EPR-system with two sectors would simply not be workable.
- The phase-out of one substance from a product could lead to its replacement by another substance. Such substitution effects would cause significant shifts within the European cosmetic raw materials industry market and could result in certain substances no longer being supplied to the European market, and therefore no longer being available on the European market.
- The withdrawal of cosmetic products from the market could have substantial economic consequences for the cosmetic raw materials industry. Such impacts would not be limited to substances classified as micropollutants: All other ingredients (not identified as micropollutants) contained in the affected products would also be touched and not further be used in these products, as these products would no longer be manufactured.
- This effect could also lead to substances (which are not classified as micropollutants) then being produced only in reduced quantities in the EU or no longer being produced at all and thus no longer being available on the European market.
- This system could lead to massive distortions of competition that would weaken the European cosmetic raw materials industry, which in turn could result in fewer cosmetic raw materials actually being available on the European market – which would at the same time strengthen competition from the cosmetic raw materials industry outside Europe.
- Simultaneously, the objectives of Articles 9, 8 UWWTD - namely the effective implementation of quaternary treatment for the removal of micropollutants - would not be achieved.

To provide an alternative perspective on the implementation of a quaternary treatment stage: Switzerland has successfully implemented a non-complex, practical and feasible system for financing and introducing quaternary treatment in urban wastewater treatment plants to remove micropollutants from urban wastewater („Swiss-model“¹²). This model meets the above-mentioned criteria and has demonstrated its well-working and its effectiveness in practice¹³.

¹² Federal Office for the Environment of Switzerland/ Schweizer Bundesamt für Umwelt (BAFU): <https://www.bafu.admin.ch/de/kommunale-abwasserreinigung>.

¹³ Federal Office for the Environment of Switzerland/ Schweizer Bundesamt für Umwelt (BAFU): <https://www.bafu.admin.ch/de/kommunale-abwasserreinigung>.

- Since 2016, Swiss water legislation has provided the legal framework for the introduction of quaternary treatment aimed at the removal of micropollutants¹⁴. The investment costs for upgrading wastewater treatment plants are co-financed through a dedicated wastewater fund, which covers 75% of the eligible costs¹⁵. This fund is financed by a wastewater levy collected until 2040¹⁶.
- The levy is based on the number of inhabitants connected to a wastewater treatment plant and amounts to a maximum of 9 Swiss franc (CHF) per connected person per year¹⁷. Commercial and industrial operators connected to the wastewater treatment system also pay their contribution¹⁸. The levy is administered through a simple and non-bureaucratic mechanism and is no longer charged once the relevant wastewater treatment plant has been upgraded.
- Ongoing operational costs are subsequently financed through regular wastewater charges borne by all users of the wastewater system, including households as well as connected commercial and industrial entities.

The Swiss model demonstrates that the implementation of quaternary treatment can be achieved through a technically proven, administratively simple and economically viable financing mechanism without the complexity associated with the UWWTD's EPR scheme.

Why has the EU Commission not further evaluated and introduced for implementation in the EU Member States a comparatively simple and practical approach such as the „Swiss model“ for financing and introducing quaternary treatment in urban wastewater treatment plants to remove micropollutants from urban wastewater? This is particularly important in this context, as the Swiss model was already compared with the EPR model by the EU in 2022¹⁹. (Note: The state of Baden-Württemberg in Germany has successfully introduced the quaternary treatment stages for removing micropollutants²⁰ since 2024, the financing and implementation is based on the "Swiss approach" - the additional costs are less than 10 € per person per year²¹ (2024).)

¹⁴ Swiss water protection legislation/ Swiss Bundesgesetz über den Schutz der Gewässer (Gewässerschutzgesetz, GSchG), Articles 60b and 61a of the revised Swiss water protection legislation / Swiss Gewässerschutzgesetz, in force since 1.1.2016; https://www.fedlex.admin.ch/eli/cc/1992/1860_1860_1860/de.

¹⁵ Articles 60b and 61a of the Swiss water protection legislation/ Swiss Gewässerschutzgesetz; https://www.fedlex.admin.ch/eli/cc/1992/1860_1860_1860/de.

¹⁶ Article 60b (4) of the Swiss water protection legislation/ Swiss Gewässerschutzgesetz; https://www.fedlex.admin.ch/eli/cc/1992/1860_1860_1860/de.

¹⁷ Article 60b (3) of the Swiss water protection legislation / Swiss Gewässerschutzgesetz; https://www.fedlex.admin.ch/eli/cc/1992/1860_1860_1860/de.

¹⁸ EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 109: 10.2 Generalised tax approach (Switzerland); <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en>.

¹⁹ EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 109 – 111: Page 110: 10.3 Comparison of alternatives with the EPR: (for example:) Legal feasibility - Swiss approach: „Fiscal rules are governed by the Member States and thus difficult for the EU to implement“; <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en>.

²⁰ Competence Center for Trace Substances Baden-Württemberg (in Germany) / Kompetenzzentrum Spurenstoffe Baden-Württemberg, <https://koms-bw.de/>.

²¹ Ministry for the Environment, Climate and Energy Sector of Baden-Württemberg: In 2024 „(...) The additional costs of this treatment stage, calculated on a per capita basis, amount to less than 10 euros per

C. EU-harmonized classification of micropollutants subject to EPR requested

The classification of a specific substance as a micropollutant according to UWWTD and the EPR-fee to be paid by the EPR-obliged sector-companies will be directly combined: This is why there should be a broad, flexible and harmonized system of classifications of micropollutants with different staged levels of EPR-fees.

At the same time, it should be clear in particular

- in which cases substances that may be classified as micropollutants are exempted from the EPR obligation under Article 9 of the UWWTD (e.g. because they are rapidly biodegradable, Article 9 (2) b), (5) UWWTD),
- when substances are excluded from classification as micropollutants – and therefore excluded from the EPR requirements - in the first place (e. g. because they never reach the quaternary treatment, because they are inorganic, Recital (18) of the UWWTD).

I. Classification and Non-Classification of specific substances as micropollutants

1. EU-Harmonized classification/ non-classification of a micropollutant needed

Micropollutants are defined in Article 2 (17) UWWTD as

„‘micropollutant’ means a substance as defined in Article 3(1) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council including its breakdown products, that is usually present in the aquatic environment, urban wastewater or sludge and that can be considered hazardous to the environment or human health on the basis of the relevant criteria set out in Parts 3 and 4 of Annex I to Regulation (EC) No 1272/2008, even in low concentrations“.

Pursuant to Article 9 (3) c) UWWTD the EPR-fee to be paid by the EPR-obliged company is a combination of **quantities and hazardousness of the substances** (classified as micropollutants) contained in the products that will be placed on the market:

Article 9 (3) c) UWWTD defines the EPR-fee-obligation to be fulfilled as

*„each producer’s contribution (...) is determined on the basis **of the quantities and hazardousness** in the urban wastewater of the **substances** contained in the products that are placed on the market“).*

These definitions are all very unclear, as they do not indicate when a particular substance is classified as a micropollutant and thus (if further used) the product concerned is subject to the EPR. The EPR fee system as a combination of quantities and hazardousness of the substances contained in the products (classified as micropollutants) also needs to be clarified. This requires further explanations and clarifications, which the EU has not provided for.

person per year (...)); <https://umweltportal.baden-wuerttemberg.de/umweltdaten-bericht-2024/vierte-reinigungsstufe>.

We therefore ask the EU Commission to initiate the following EU harmonizations concerning micropollutants:

- The combination of hazardousness and exposure (“...that is usually present ... even in low concentrations”) which is used for defining micropollutants generates a paradoxon. In contrast to hazardousness according to CLP regulation, the presence and concentration thresholds are not defined. It is not clear which references should be used for determining “usually present”. **In addition, there is no indication, what needs to be considered a “low concentration” and in which cases a concentration might fall below an undetermined threshold level.** In order to avoid arbitrary decisions or inconsistent decisions across EU Member States, either simple, clear and practicable rules are necessary or substance specific reference databases.
- Even if the above mentioned rules would get available, it might lead to scientifically unjustified and unfair burden to some substances, their manufacturers and the companies bringing products with this substance to the market. The reason is that the definition of micropollutant is not only too unspecific and unclear, but also insufficient to decide on the relevance for the environment. **Aspects like potency, adsorption and biodegradation are ignored under the proposed micropollutant definition** and this might lead to flawed regulatory consequences for companies and value chains. EU Commission needs to establish a holistic assessment in order to be able to focus on the right measures and to target the relevant substances.
- Recital (18) of the UWWTD must be applied mandatorily, which states: “(...) *Quaternary treatment should **first focus on organic micropollutants**, which represent a significant part of the pollution and for which removal technologies have already been designed.* (...)”. In contrast, this means that inorganic substances should not be considered as micropollutants, as they can not be targeted by quaternary treatment stages - according to EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022)²².
- The classification of certain substances as micropollutants should be harmonised in the EU Member States: There should be a **uniform, comprehensive classification system with different stages of hazard levels** to determine when a substance is considered a micropollutant and when it is not. This system should be linked to a EPR-fee system, **with different cost levels due to the different hazard level stages and due to the quantity (concentration) of the micropollutant in the product.** It is more likely that, for example, with several fee categories for the continued use of substances classified as micropollutants, the funding basis for the quaternary treatment could be covered. This would ensure that substances (classified or not classified as micropollutants) remain on the market without causing economic losses, market shifts and possible production stops in the EU. A strict and rigid classification system would instead only lead to a strict EPR fee system, which is prohibitive and therefore impractical.

²² EU-Final Report on „Feasibility of an EPR system for micro-pollutants“ (2022), page 50, 51: „*Inorganic substances and water contained in pharmaceutical preparations and Cosmetic Products should be excluded from the scope of EPR because the fourth treatment does not target them. Inorganic substances can be defined as substances that do not contain carbon-hydrogen bonds*“; <https://op.europa.eu/en/publication-detail/-/publication/14249cbc-5f1c-11ed-92ed-01aa75ed71a1/language-en>.

- For the classification of substances potentially classified as micropollutants a **tiered assessment in the frame of Article 2 (17) UWWTD** is required, that takes into account the effects of the specific substances. Only by examining the specific substances, potentially classified as micropollutants, by the individual tiered assessment (for example also by taking into account the PNEC (Predicted No-Effect Concentration)), a realistic classification – also due to the concentration of the substance in the product - can be realized, and justified.
- The **degradability of substances** that, due to their intrinsic properties and their removal from wastewater through e.g., volatilization or adsorption to activated sludge, do not reach the quaternary treatment stage should be taken into account when determining whether a substance qualifies as a liable micropollutant under the UWWTD. From the perspective of the European cosmetics ingredients industry, the criteria for determining whether a substance qualifies as a micropollutant are currently not sufficiently defined. Eligibility for exemption from consideration should not be based solely on rapid biodegradability. Instead, intrinsic substance properties (e., solubility, adsorption potential), wastewater treatment plant (WWTP) removal data (e.g. from OECD 303 studies), inherent biodegradation data (e.g. from OECD 302 tests), and anaerobic biodegradation data (e.g. from OECD 311 studies) should also be considered appropriate evidence to demonstrate that a substance does not constitute a relevant micropollutant contributing to the deterioration of urban wastewater (for example, because it is effectively removed from the wastewater or is not persistent) and/or does not reach the quaternary treatment stage to be removed therein. Consequently, such substances should not be classified as liable micropollutants.

2. EU-harmonized application of derogations from the EPR-obligation needed

Pursuant to Article 9 (2) UWWTD

Member States shall exempt producers from their extended producer responsibility under Article 9 (1) UWWTD where the producers can demonstrate any of the following:

*(a) the quantity of the **substances contained in the products** they place on the Union market **is below 1 tonne per year**;*

*(b) the substances contained in the products they place on the market **are rapidly biodegradable in wastewater** or do not generate micropollutants in wastewater **at the end of their life.***

Pursuant to Article 9 (5) UWWTD:

*„The Commission is empowered to adopt implementing acts to establish detailed criteria on the uniform application of the condition laid down in paragraph 2, point (b), **to specific categories of product and their biodegradability or hazardousness**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2) no later than 31 December 2027.“*

It is still not understandable and clear when a derogation applies to an EPR-obliged micropollutant and when it does not:

- Concerning the derogation of Article 9 (2) a), we could assume that the amount of substance of a potential micropollutant used in a product is calculated within the EU to be 1 tonne and that the derogation applies if the total amount of a substance in these products placed on the market in the EU in total is less than 1 tonne. But still much more clarification is requested. For example: To what does the 1 tonne refer: Per company? Or legal entity? Aggregated over all European legal entities of a company? Or aggregated for all legal entities in one EU Member State?
- EU is - pursuant to Article 9 (5) UWWTD - planning an implementing act for uniform application of Article 9 (2) b) UWWTD on specific categories of product and their biodegradability or hazardousness: It is still completely unclear at this point what exactly is meant by the derogation criteria with regard to **specific categories of product and their biodegradability or hazardousness**. In this context it is still not revealed, how „rapidly biodegradable in wastewater“ will be defined and which criteria must be fulfilled.
- It is also unclear how exactly Article 9 (2) b) UWWTD should be applied uniformly with regard to **substances contained in products that „do not generate micropollutants in wastewater at the end of their life“**. This important exception also requires early clarification and further explanation.

The relevant stakeholders should be involved and consulted at the most early stage regarding this planned implementing act. Also the European cosmetic raw materials industry represented by the European Federation for Cosmetic Ingredients (EFfCI), that could contribute expert knowledge from the member companies on biodegradability or hazardousness of substance, and TEGEWA as national Association should be involved.

We would like to point out that in our view it is **contradictory** for individual EU Member States to ultimately decide (in a different manner) which substances are classified as micropollutants, while the EU, pursuant to Article 9 (5) of the UWWTD, is supposed to determine **the uniform application in an implementation act of the derogation laid down in Article 9 (2) point (b) UWWTD** to specific categories of product and their biodegradability or hazardousness.

In return, other exceptions in Article 9 (2) a) UWWTD will again be regulated only by national legislators. All this results in an inconsistency of application of derogations within the EU members states that would have required chemical and legal clarity.

However, it should also be clear to the EU Commission that the industrial companies concerned must prepare to implement the requirements and need sufficient time to do so. Without harmonised application and clear derogations, the implementation as desired can hardly actually succeed.

We therefore ask the EU Commission to take action as soon as possible to clarify the exceptions in more detail and to ensure that the exceptions are applied in a harmonised manner across the EU. All relevant stakeholders – like EFfCI and TEGEWA - should be integrated urgently in this process.

II. Different, inconsistent application on micropollutants and EPR-derogations within the EU Member States

As a result of non-harmonization of classification of specific substances as micropollutants within the 27 EU Member States, there will certainly be

- different definitions/ classification systems of micropollutants within the 27 EU Member States
- different fee structures for EPR-obliged companies in each EU Member State,
- variations in the scope and pace of implementation of quaternary treatments in each EU Member State, etc.

It could therefore be the case that – due to different definitions/ classifications of a specific substance as a micropollutant in each EU Member State

- a substance in a product triggers EPR in one EU Member State - but not in another.
- EPR obligations for manufacturing/ importing a product may be very costly in one EU Member State - but maybe less costly in another.
- a strict fee-EPR-system in one Member State with strict micropollutants-classifications could lead (due to the maybe high fees for further using a specific substance that is classified as a „micropollutant“) to market shifts regarding EPR-related products and substances (micropollutants/ non-micropollutants) used in those products.

An EU-wide harmonization of classification of a specific substance as a EPR-obliged „micropollutant“ and a harmonized EPR-cost-structure within the EU is not foreseen. But instead of this, a uniform application of the derogation for micropollutants via Article 9 (2) b) UWWTD is regulated in Article 9 (5) UWWTD. This inconsistent implementation of classification of micropollutants by the EU could within the application of derogations lead to

- different approaches within the 27 EU Member States as to when an derogation applies, as each Member State makes its own classification of micropollutants, which are ultimately the basis of the derogations.
- 27 different EPR-fee-systems, which must include and apply the exceptions by national regulation (with reference to the foreseen implementation act, Article 9 (5) UWWTD).

It is unlikely that the EU Member States will be able to meet the objectives of the UWWTD regarding quaternary wastewater treatment (as set in Article 8 of the UWWTD) due to numerous, important “system uncertainties“. Additionally, this could cause serious competition distortions in the market of European cosmetic raw material manufacturers, supply chain disruptions, production stops and market shifts within the European cosmetic raw materials industry.

We ask EU Commission to provide within the EU Member States

- **a uniform application of the classification of micropollutants,**
- **a uniform consideration of degradability of micropollutants, that do not even reach the quaternary treatment, and that must be excluded as EPR-obliged micropollutants,**
- **a uniform application of substances, that are generally excluded from the classification as micropollutants (e. g. inorganic substances)/ from EPR-requirements,**
- **a uniform application of the derogations,**

- include urgently all relevant stakeholders in the process of clarifying the derogations in Article 9 (2) and (5) UWWTD, especially on „rapid biodegradability“ of micropollutants.

D. EU-wide enforcement system needed for companies outside of Europe that wish to import their EPR-obliged products into the EU

According to Article 29 (1) UWWTD „Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive (...)“.

We ask EU Commission to establish an enforcement system also for companies outside of Europe that wish to import their EPR-obliged products into the EU, for the following reasons:

- (1) EU should start to introduce control- and enforcement mechanisms in cooperation with each Member State that make it possible to require companies from non-EU countries to pay the EPR fee if their products are subject to EPR (e.g., through customs control mechanisms) and are planned to be imported in the EU.
- (2) If these companies subject to EPR outside the EU are not required to pay their share, the contribution for companies subject to EPR within the EU could potentially rise to ensure funding basis for the quaternary treatment in each Member State. This, in turn, could lead to even fewer substances being used in the product or numerous products being withdrawn from the market, as EPR fees for the two sectors involved would rise overall to meet the predetermined funding target (quaternary treatment stage).
- (3) Should the EU fail to introduce a monitoring mechanism in cooperation with the EU Member State authorities for companies outside the EU subject to EPR this could significantly weaken the competitiveness of European industrial cosmetic raw materials companies and create considerable scope for distortions of competition.
- (4) The EU would also weaken its own EU-plans - like for example the just founded EU-Critical Chemicals Alliance (CCA; [The Critical Chemicals Alliance - Internal Market, Industry, Entrepreneurship and SMEs](#)).

Frankfurt am Main, 6. August 2026