

Ministerie van Economische Zaken
en Klimaat

> Retouradres Postbus 20401 2500 EK Den Haag

De Voorzitter van de Tweede Kamer
der Staten-Generaal
Prinses Irenestraat 6
2595 BD DEN HAAG

Datum 21 februari 2022
Betreft Nederlandse reactie op de concept-uitwerking EU-taxonomie

Geachte Voorzitter,

In reactie op het verzoek van uw vaste commissie voor Economische Zaken en Klimaat en in aanvulling op mijn Kamerbrief over de Nederlandse reactie (Kamerstuk 21501-33, nr. 914) stuur ik u de bijgevoegde Nederlandse reactie op de concept-uitwerking van de taxonomie ten aanzien van aardgas en kernenergie toe, zoals verstuurd aan de Europese Commissie op 19 januari 2022. Volledigheidshalve heb ik de open brief aan de Europese Commissie van Nederland, Zweden, Denemarken en Oostenrijk toegevoegd.

Op 2 februari jl. heeft de Europese Commissie de definitieve uitwerking gepresenteerd. In afwachting van het verschijnen van de Nederlandstalige versie stuur ik u de Engelstalige versie van de uitwerking. Ik verwacht dat ik de Kamer in het tweede kwartaal van dit jaar kan informeren over de Nederlandse positie ten aanzien van de definitieve uitwerking.

R.A.A. Jetten
Minister voor Klimaat en Energie

**Directoraat-generaal Klimaat
en Energie**

Directie Klimaat

Bezoekadres

Bezuidenhoutseweg 73
2594 AC Den Haag

Postadres

Postbus 20401
2500 EK Den Haag

Overheidsidentificatienr

00000001003214369000

T 070 379 8911 (algemeen)

F 070 378 6100 (algemeen)

www.rijksoverheid.nl/ezk

Ons kenmerk

DGKE-K / 22058559

Uw kenmerk

2022Z01802/2022D03917

Bijlage(n)

3

Ministerie van Economische Zaken
en Klimaat

> Retouradres Postbus 20401 2500 EK Den Haag



**Directoraat-generaal Klimaat
en Energie**

Bezoekadres

Bezuidenhoutseweg 73
2594 AC Den Haag

Postadres

Postbus 20401
2500 EK Den Haag

Overheidsidentificatienr

00000001003214369000

T 070 379 8911 (algemeen)

F 070 378 6100 (algemeen)

www.rijksoverheid.nl/ezk

Behandeld door



Date January 21st 2022

Subject NL feedback on taxonomy draft Complementary Delegated Act



Ons kenmerk

DGKE / 22005792

Uw kenmerk

Bijlage(n)

The Netherlands attaches great value to the development of the taxonomy, as in our view it is a vital instrument to support the greening of the financial sector and the broader economy. The Netherlands has always emphasized the importance of a science based and technology-neutral taxonomy, in line with state of the art developments in the market and coherence with current policies.

We have read the draft Complementary Delegated Act with interest. In this letter we provide specific technical feedback on a number of articles in this Act. We would like to urge the Commission to comprehensively review all responses, taking into account these criteria that are enshrined in the taxonomy regulation, before adoption of the complementary delegated act. Please find The Netherlands' feedback on the draft Complementary Delegated Act below.

4.26 Pre-commercial stages of advanced technologies with minimal waste from the fuel cycle

The Netherlands supported the separate scientific process on the role of nuclear energy in the taxonomy, and supports that the outcome of that process is reflected by the inclusion of this research activity on nuclear energy in the taxonomy.

With regard to the do no significant harm criterion on disposal facilities in this activity, we refer to our feedback in relation to activity 4.27 on this matter, below.

4.27 Construction and safe operation of new nuclear power plants, for the generation of electricity or heat, including for hydrogen production, using best-available technologies

The Netherlands supported the separate scientific process on the role of nuclear energy in the taxonomy, and supports that the outcome of that process is

reflected by the inclusion of nuclear energy in the taxonomy. We do however have a few significant issues with regard to the technical screening criteria for this activity in the draft complementary delegated act.

Disposal facility

First, screening criterion 1f (page 14) requires a plan with detailed steps to have in operation, by 2050, a disposal facility for high-level radioactive waste. The Netherlands supports including criteria for the safe treatment of nuclear waste, in line with the relevant Euratom legislation. But the proposed criterium disregards the fact that a disposal facility is only needed upon conclusion of the nuclear activities.

The Netherlands has a unique waste management system in place (detailed below), that ensures a high level of safety. The technical screening criteria for this activity should facilitate the safe waste management system The Netherlands has in place. This requirement should be amended to *"Member states should have in place a disposal facility for radioactive waste by 2050, or as a temporary measure until a specified date, a specially designed and built storage. This storage has to be specifically designed and built to provide a level of safety comparable to geological depository. More specifically, to withstand a the regular hazards e.g. flooding and earthquakes."*

Background information

- The Netherlands has one national nuclear waste management organization: COVRA. It has very robust facilities for the long-term storage of low, intermediate and high-level waste. These facilities are situated on their site in Vlissingen, the province of Zeeland.
- All operators of nuclear reactors in The Netherlands are obliged to store their nuclear waste at COVRA. Operators pay a fee to COVRA, and COVRA becomes owner of the waste. During their lifespan, operators transfer waste regularly to COVRA. Operators don't collect waste on their site.
- The radioactive waste at COVRA is stored and safely managed in specially designed buildings until 2130. These buildings provide a level of safety comparable to a geological disposal. The Dutch geological disposal is foreseen to be in operation in 2130. The waste at the site of COVRA will then be transferred to the geological disposal facility. This National Program complies with directive EU 2011/70.
- This storage at COVRA provides a high level of safety, which eliminates the necessity of a disposal facility to be built earlier than 2130.
- Apart from the absence of the necessity for The Netherlands to have in operation a geological storage facility in 2050 from a safety point of view, it will be technically and financially unfeasible to meet the criterion of an operational geological storage, due to the short time period to design and build such a site.

Accident tolerant fuels

Regarding 'do no significant harm'-criterion 2, setting a requirement for the use of accident-tolerant fuel for nuclear power plants, The Netherlands is of the opinion that it is better not to include this in the 'do no significant harm'-criteria, until it is

scientifically absolutely clear that these type of fuels are actually safer in general, and specifically in the type of nuclear power plants that are in use in Europe. This is currently not the case yet. We therefore propose striking this criterion at this stage.

Other do no significant harm criteria

In addition The Netherlands has feedback on the DNSH-criteria for this activity.

Feedback regarding the sustainable use of water resources:

The Netherlands is reiterating that the activity should be in line with recitals 23 and 26, and articles 12, 14, 15 and 17 of the Regulation, and the Union legislation to which they refer. We very much support the idea of keeping (ground) water safe from contamination and heat, also in the context of environmental degradation. However, the risks resulting from increased water temperature on the ecological function (ecosystem functioning, loss of species and vulnerability to invasive species) are not addressed explicitly enough. This should be addressed by adding the following: "Environmental degradation risks related to preserving water quality and avoiding water stress, such as the ecological function of the affected water body, are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with relevant stakeholders." We furthermore invite the Commission to address the topic of vaporisation as part of the activity and the availability of fresh water in river and lake systems during times of draught, again also in light of environmental and ecosystem degradation risks. We support the concept of a "water use and protection management plan" to be established with all stakeholders as proposed in additional criteria 3 to the DNSH principle, but also urge that more clarity is brought into this text where it states "avoiding water stress". This in our view includes the water available (quantity) for the nuclear power plant and to all other (downstream) water uses depending on the source of water. The minimal use of water for cooling and techniques for safe discharge should be brought in to the best-in-class technology criteria.

Mining and milling

The Netherlands feels an additional (life-cycle) analysis addressing why the impact of mining and milling for uranium was not addressed in the Delegated Act should be provided by the Commission. This issue was referred to by the SCHEER, but not addressed in the draft delegated act.

4.28 Electricity generation from nuclear energy in existing installations

We refer to the feedback provided under 4.27.

4.29 Electricity generation from fossil gaseous fuels

Primarily, The Netherlands is opposed to including any exception to the 100 gram CO₂e/kWh threshold in the green taxonomy. This threshold is supported by scientific evidence: both the recent IPCC-report on 1,5 degrees, and the IEA have

made clear that new fossil fuel investments are incompatible with the 1.5 degrees objective, which is enshrined in the taxonomy regulation (art. 10-2).

Based on the available science, the Platform proposed this technology-neutral threshold of 100 gram CO₂e/kWh. The Commission has not provided scientific evidence to support deviating from this threshold, which was already included in the first delegated act, both explicitly and as a benchmark for many other thresholds (e.g. with regard to manufacturing). Including exceptions to that threshold, as proposed by the Commission in activities 4.29, 4.30 and 4.31, does in our view not meet the requirement that the technical screening criteria *'be based on conclusive scientific evidence and the precautionary principle enshrined in Article 191 TFEU'*, as per article 19-1f of the taxonomy regulation.

Based on scientific evidence, including fossil fuels as sustainable under the taxonomy regulation – even if this is for a limited period of time – would potentially undermine the credibility of the taxonomy as a tool to prevent greenwashing.

Secondarily, The Netherlands is in favour of addressing the role of coal/oil-to-natural gas switching only as amber or 'intermediate performance' in a general taxonomy. The Platform has delivered a draft report on the general taxonomy last July, and is expected to release a final report in Q1 2022. The Commissions' proposed Substantial Contribution threshold for electricity generation from fossil gaseous fuels is the same 270 gr CO₂e/kWh as the DNSH-threshold proposed by the Platform and supported by science. This performance level, between 100gr and 270gr, should only be used as an 'amber' or 'intermediate performance' category in a general taxonomy. The Netherlands would like to note that such an extension of the taxonomy would require a level 1 legislative act.

Thirdly, in the event that fossil gaseous fuels are included in the taxonomy despite the above arguments, The Netherlands strongly urges the Commission to further limit the scope of inclusion, with stricter and additional technical screening criteria, in order to decrease the risk of lock-in in unsustainable fossil fuels. We propose various elements, to be included jointly. All of these conditions together would in the view of the Netherlands be required to meet technical screening criteria for this activity.

1. The Netherlands proposes adjusting the deadline for the exception for gas-powered plants ("for the construction permit is granted by") to 2025.
2. Under technical screening criterion i), we propose amending the threshold for direct GHG emissions of the activity to 230gr CO₂e/kWh, which correlates with the best available technology in this sector. There should be no reference to average annual emissions, and no separate threshold of 550 kgCO₂/kW. This addresses security of supply, which is not the taxonomy's objective. In addition, as average annual emissions can also be lowered by reducing operational hours, this criterion would allow for high emission facilities to be eligible as sustainable under the taxonomy, which would not help the taxonomy's objective of combatting greenwashing.

3. Under technical screening criterion iii), we propose including a requirement that the facility to be replaced by the gas power plant, has been in full operation in the year prior to the replacement. This is needed to prevent that facilities that have already been retired for either regulatory or financial reasons, would be used to greenwash new fossil power facilities.
4. The Netherlands proposes including a high burden of proof to demonstrate that electricity in this location cannot be generated from renewable energy sources. We request the Commission to detail how and when this burden of proof can be met, both technically and economically.
5. With regard to technical screening criterion v., The Netherlands proposes that the production capacity of the (single) facility does not exceed the capacity of the replaced facility. In addition, there should be an additional requirement that the new facility has no more capacity than the actual power output over the last years of the facility that is being replaced.
6. Technical screening criterion vi. should be amended to read: "*the replacement leads to an immediate reduction in emissions of at least 55% GHG per kWh of output energy from the first year of operation of the facility*". In addition, a policy commitment is insufficient as underlying evidence for fuel switching. There needs to be assurance that this fuel switch actually takes place by the deadlines set in the technical screening criteria.
7. Technical screening criterion vii., which states that the activity takes place on the territory of a Member State that has committed to phase-out the use of energy generation from coal, should include the phrase "by at least 2035".
8. We propose that the exception to only be applicable for Member States with a large share of fossil fuels in their electricity mix at the time of approval for the project.
9. The requirements to avoid methane leakage under technical screening criterion 2 should both be met, so that it would not suffice to just meet one. In addition, this should be verified by a certified and independent third party, and included in the review by the Commission.
10. The Netherlands requests the Commission to address the upstream and life-cycle effects of methane leakage (based on the latest available science) in the technical screening criteria, and include these emissions as counting towards the applicable threshold for this activity.

Additionally and importantly, for this activity it should be made clear that only CAPEX investments can count as having a substantial contribution for climate mitigation, and only for improvements in performance. OPEX should not be eligible as sustainable investment under the taxonomy. Where the CAPEX investment might actually have a short-term and potentially substantial contribution in reducing harmful emissions, incentivising the continued operation of fossil fuel power plants creates incentives that lock-in these unsustainable technologies. Therefore, operational expenditures should not be eligible under this exception.

4.30 High-efficiency co- generation of heat/cool and power from fossil gaseous fuels

Ons kenmerk
DGKE / 22005792

We refer to the comments made in response to activity 4.29, which apply for this activity as well.

4.31 Production of heat/cool from fossil gaseous fuels in an efficient district heating and cooling system

We refer to the comments made in response to activity 4.29, which apply for this activity as well.

General remarks on do no significant harm

Cumulative and cross-border effects are not explicitly mentioned in the DNSH-criteria for all economic activities in this draft delegated act. The Netherlands invites the Commission to explicitly account for these effects in the DNSH-criteria for pollution prevention and control.

Reporting

NL is in favor of the proposed separate reporting obligation with regard to the activities covered in this (draft) complementary delegated act.

We look forward to continuing our joint efforts for a science-based and technology-neutral taxonomy, and request for a swift adoption of the definitive complementary delegated act by the Commission. The Netherlands will subsequently decide on our position with regard to this definitive complementary delegated act.

Best regards,

[Redacted signature block]

To:
Commissioner Mairead McGuinness
Executive Vice-President Valdis Dombrovskis (cc)
Commissioner Kadri Simson (cc)
Executive Vice-President Frans Timmermans (cc)
European Commission, Rue de la Loi 200, Brussels

Subject: The proposal to include fossil gas-based activities in the EU Taxonomy for Sustainable Activities

Dear Commissioner,

The climate and energy transition is fundamental to achieve sustainable development. To reach the EU's climate and energy targets for 2030 and beyond, it is of paramount importance that investments are redirected towards sustainable economic activities. The EU Taxonomy can serve as the gold standard in guiding this reallocation in Europe and beyond, and therefore the integrity and ambition of the Taxonomy should not be compromised.

We, the undersigned, would like to draw your attention to our common concerns with respect to the inclusion of fossil gas in the latest draft of the complementary delegated act. We emphasise that the lack of scientific evidence for including fossil gas in the Taxonomy should lead to a reconsideration of the proposal by the European Commission.

We would like to point out that the 1.5 degree objective and the importance of avoiding lock-in of assets incompatible with the achievement of climate neutrality are enshrined in the Taxonomy Regulation. More specifically, the Platform for Sustainable Finance stated, with reference to reports by the International Energy Agency and the Intergovernmental Panel on Climate Change, that the classification of investments in fossil gas-fired activities as sustainable, even under the proposed criteria, is largely incompatible with the path towards a maximum of 1.5 degrees increase in temperature.

Therefore, we call upon the European Commission to not include any fossil gas activities as sustainable in the current Taxonomy, as long as these activities are not subject to the same standards as other energy technologies, namely the 100 gram CO_{2e}/kWh threshold. In this context, we would also like to refer to the ongoing work of the Platform on Sustainable Finance on possible extensions of the current Taxonomy to include significant harm activities and intermediate performance levels.

We encourage the Commission to consider our common concerns.

Sincerely yours,

Rob Jetten – Minister for Climate and Energy for the Netherlands

Leonore Gewessler – Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology for Austria

Khashayar Farmanbar – Minister for Energy and Digital Development for Sweden

Dan Jørgensen – Minister for Climate, Energy and Utilities for Denmark



EUROPEAN
COMMISSION

Brussels, XXX
C(2022) 631 / 3

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

(Text with EEA relevance)

This draft has been approved in principle by the European Commission on 2 February 2022 and its formal adoption in all the official languages of the European Union will take place later on, as soon as the language versions are available.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

1.1 General background and objective

Regulation (EU) 2020/852 of the European Parliament and of the Council (the ‘Taxonomy Regulation’)¹ establishes the framework for the creation of the EU Taxonomy of environmentally sustainable economic activities. The Taxonomy Regulation provides that these economic activities should comply with the technical screening criteria set out in the delegated acts adopted by the Commission.

The delegated act specifying the technical screening criteria under which certain economic activities qualify as contributing substantially to climate change mitigation or climate change adaptation and not causing significant harm to any of the other relevant environmental objectives (‘the Taxonomy Climate Delegated Act’) was adopted on 4 June 2021². The Commission has also adopted on 6 July 2021 a delegated act specifying the content, methodology, and presentation of the information to be disclosed by both non-financial and financial undertakings required to report about the alignment of their activities with the EU Taxonomy (‘the Taxonomy Disclosures Delegated Act’)³.

The Taxonomy Climate Delegated Act sets out technical screening criteria for economic activities having the potential to contribute to climate change mitigation and climate change adaptation in most sectors. However, not all relevant sectors and activities have been covered in that Delegated Act. Notably, it was not possible to take a decision as to the inclusion of nuclear energy in the Taxonomy Climate Delegated Act due to the need to deepen the assessment of the ‘do no significant harm’ (‘the DNSH’) aspects of nuclear energy, which was ongoing at the time.⁴ As regards natural gas, the Commission announced that further reflection was needed on how to address the role of gas in the decarbonisation of the Union’s economy.

In establishing the technical screening criteria for climate change mitigation, the Commission should take into account and provide incentives for the ongoing and necessary transition towards a climate-neutral economy in accordance with Article 10(2) of the Taxonomy Regulation. As announced in the Commission Communications of 21 April 2021 and of 6 of

¹ Regulation (EU) 2020/852 of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

² Commission Delegated Regulation (EU) 2021/2139 of 4.6.2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives, Brussels, 4.6.2021, C(2021) 2800 final.

³ Commission Delegated Regulation (EU) 2021/2178 of 6.7.2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation, Brussels, 6.7.2021 C(2021) 4987 final.

⁴ The complementary steps of the assessment, namely the report by the Joint Research Centre, the review by the experts under Article 31 of the Euratom Treaty and the review by the Scientific Committee on Health, Environmental and Emerging Risks (SCHEER), are available on the Commission’s website.

July 2021⁵, the objective of this Delegated Act is to complement the Taxonomy Climate Delegated Act. This Delegated Act sets out the technical screening criteria for climate change mitigation and climate change adaptation for additional economic activities in the energy sectors which were not included in the Taxonomy Climate Delegated Act, in particular in the natural gas and nuclear energy sectors. As regards the objective of climate change adaptation, this Delegated Act is consistent with the approach of the Taxonomy Climate Delegated Act in reflecting the fact that all economic sectors will need to adapt to the adverse impacts of climate change. It therefore sets appropriate and consistent technical screening criteria for climate change adaptation for economic activities in the fossil gas and nuclear energy sectors. However, for specific transitional activities regarding fossil gas activities for which this Delegated Act provides for a time-limited recognition of contribution to climate change mitigation, it is not necessary to provide for specific technical screening criteria for climate change adaptation in view of that time-limited recognition. For the sake of clarity, technical screening criteria on do no significant harm concerning climate change adaptation do not prevent an economic activity from qualifying as providing a substantial contribution to climate change mitigation.

Moreover, to enhance market transparency and the information of investors, this Delegated Act provides for specific disclosure requirements for the natural gas and nuclear energy sectors by amending the Taxonomy Disclosures Delegated Act.

As outlined in the Taxonomy Regulation, the Taxonomy covers more than climate neutral and renewable investments. It also covers economic activities that are clearly not climate neutral or renewable but could, under strict conditions and for a limited time, enable the transition towards a sustainable energy system, such as the economic activities in the natural gas and nuclear sector. They should not hamper the development of renewable sources.

1.2 Legal background

This Delegated Act is based on the empowerments set out in Articles 8(4), 10(3) and 11(3) of the Taxonomy Regulation. This Delegated Act amends the Taxonomy Climate Delegated Act by adding technical screening criteria for certain economic activities in the natural gas and nuclear energy sectors that have not been included in that Delegated Act. The technical screening criteria are set out in accordance with the requirements of Article 19 of the Taxonomy Regulation. This Delegated Act also amends the Taxonomy Disclosures Delegated Act by providing for specific disclosure requirements for natural gas and nuclear energy sectors.

In accordance with Article 31 of the Inter-institutional Agreement of 13 April 2016 on Better Law-Making⁶, this Delegated Act combines in a single act two interrelated empowerments of the Taxonomy Regulation, namely those laid down in Articles 10(3) and 11(3), concerning the technical screening criteria for climate change mitigation and climate change adaptation respectively, and an empowerment of the Taxonomy Regulation laid down in Article 8(4) concerning the information to be disclosed by large non-financial and financial undertakings.

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties: Directing finance towards the European Green Deal, Brussels, 21.4.2021, COM/2021/188 final; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strategy for Financing the Transition to a Sustainable Economy, Strasbourg, 7.6.2021, COM/2021/390 final.

⁶ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

As regards natural gas, this Delegated Act builds on the recommendations of the Technical Expert Group on Sustainable Finance (the ‘TEG’), a Commission expert group composed of diverse private and public sector stakeholders set up in 2018. The mission of the TEG consisted of helping the Commission to develop the EU Taxonomy technical screening criteria in line with the Commission's legislative proposals of May 2018 and taking into account the objectives of the European Green Deal.

The TEG published two interim versions of its recommendations in its reports in December 2018 and in June 2019. Both reports were subject to an open call for feedback, to which 257 and 830 responses were received, respectively. During its mandate, the TEG also engaged with over 200 additional experts to develop recommendations for the technical screening criteria for climate change mitigation and climate change adaptation⁷. The Commission also organised two meetings with stakeholders to gather views on the TEG reports in June 2019 and in March 2020.

Furthermore, the technical screening criteria for natural gas, which were initially included in the draft Taxonomy Climate Delegated Act, were published on the Better Regulation portal for a four-week feedback period between 20 November and 18 December 2020, to which 46.591 stakeholders responded. Those criteria have also been discussed with the Member States’ experts and observers from the European Parliament, at several meetings of the Member States Expert Group on Sustainable Finance in 2020 and 2021.

As regards nuclear energy, the TEG has not included nuclear energy activities in its recommendations. Although the TEG has recognised that energy generation from nuclear energy has a high potential to substantially contribute to climate change mitigation, it was not able to reach a firm conclusion as to whether nuclear energy does no significant harm to other environmental objectives, considering in particular waste management, impact on biodiversity and water as well as potential pollution aspects. The TEG has, therefore, recommended that a more detailed assessment of nuclear energy should be carried out, involving experts with a high level of relevant expertise.

The Commission has therefore set up a specific process for an in-depth assessment of the DNSH aspects of nuclear energy. First, a technical assessment of nuclear energy under the Taxonomy Regulation and the DNSH criterion has been prepared by the Joint Research Centre (the ‘JRC’), the European Commission’s science and knowledge service.

The JRC report concluded that:

- (i) nuclear energy can make a substantial contribution to the climate change mitigation objective and meanwhile does not do significant harm to the other four environmental objectives of the Taxonomy Regulation provided that it meets the proposed technical screening criteria;
- (ii) deep geological repositories can be considered – at the state of today’s knowledge – appropriate and safe means of isolating spent fuel and other high-level radioactive waste from the biosphere for very long time scales and the necessary technologies are now available;

⁷ EU Expert Group on Sustainable Finance, Financing a sustainable European economy – Technical report – Taxonomy: Final report of the Technical Expert Group on Sustainable Finance, March 2020.

- (iii) where and when the environmental impacts are potentially harmful, appropriate measures to prevent the impacts or to mitigate their consequences can be implemented using existing technology; and
- (iv) compliance with the provisions of the Euratom legislation and licensing processes provides sufficient confidence that the impact of the nuclear energy full lifecycle, including the back end of the nuclear fuel cycle, on humans and the environment remains below harmful levels.

That report has been reviewed by Member States' experts on radiation protection and waste management appointed by the Scientific and Technical Committee under Article 31 of the Euratom Treaty, as well as by experts from the Scientific Committee on Health, Environmental and Emerging Risks (the 'SCHEER').

The opinion of the Group of Experts referred to under Article 31 of the Euratom Treaty provides a positive assessment of the JRC report⁸. The experts agree with the main findings of the report, whilst offering a small number of observations on possible improvements. For example, in their opinion, the existing European legal framework provides an adequate system to ensure the highest level of protection of workers, members of the public and the environment in the Union. For activities outside the Union, they find that international standards provide for a comparable level of protection and note that compliance with those standards should be incorporated in the technical screening criteria for such activities. Furthermore, the Group of Experts confirmed the view of the JRC that deep geological repositories are considered, at the state of today's knowledge, an appropriate and safe solution for the management of high-level waste, and noted that the technology for this is already available today. The Group of Experts confirmed also the JRC's assessment of the consequences of severe accidents which, however, was limited in scope. The Group of Experts noted that other direct and indirect impacts of severe accidents, not analysed by JRC as such, have not been assessed for any economic activities under the EU Taxonomy. Such assessment may also be important for understanding the broader impacts of severe accidents but may be more difficult to assess.

The opinion of the SCHEER experts is that the findings and recommendations of the JRC report with respect to non-radiological impacts are overall comprehensive. However, in the view of the experts, some findings require further assessment and evidence. Notably they consider that comparing nuclear power to other energy generating technologies as doing no more harm is different from the assessment of "do no significant harm" (DNSH) under the Taxonomy Regulation. The SCHEER also expressed the view that the existence of a regulatory framework is not in itself sufficient to mitigate all relevant risks and advocated for a deeper analyses of some aspects, in particular of the impacts of mining and milling (which is mostly done outside the Union):

- the uncertainties regarding the final disposal of high-level nuclear waste that is still an open research question; and
- the impact of radiation on the environment, specifically with regard to the protection of water and marine resources.

⁸ A dissenting opinion (out of the 32 experts from the 27 Member States) annexed to the report stated that the focus of the JRC report left out the consideration of some key risks, such as nuclear proliferation and low-probability, but high-impact accidents which are more acute for nuclear activities than for other energy technologies covered by the Taxonomy. However, it should be noted that the assessment of those issues was not included in the scope of the work specified in the Terms of Reference provided to JRC, as the assessment framework was based on the process followed by the TEG.

When establishing the technical screening criteria for nuclear energy related activities, the Commission has duly taken into account and addressed the observations of the SCHEER. In particular, the mining and milling activities have not been included in this Delegated Act and the remaining observations have been addressed by the technical screening criteria.

As regards the process of adoption of this Delegated Act, it was decided that an impact assessment was not necessary for natural gas energy activities, given that:

- this Delegated Act will implement policy choices already made and will only complement the Taxonomy Climate Delegated Act;
- the Taxonomy Climate Delegated Act was based on advice received from the TEG and from the Platform on Sustainable Finance and was accompanied by a proportionate impact assessment;
- the criteria for most activities which are planned to be included in this Delegated Act have been already subject to an impact assessment and public consultation as part of the preparation of the Taxonomy Climate Delegated Act.

With respect to nuclear energy activities, it was decided that an impact assessment was not necessary given that a detailed technical assessment was carried out as detailed above.

The relevant technical and policy issues concerning the natural gas and nuclear energy have, therefore, been in the public domain throughout the course of legislative deliberations on the Taxonomy Regulation, the work of the TEG, and the finalisation of the Taxonomy Climate Delegated Act. They have also been discussed several times with Member States and the European Parliament. Stakeholders have submitted extensive feedback to the Commission on these activities, based on the options discussed for the Taxonomy Climate Delegated Act for gas-activities, and on the JRC report and expert committee reviews for nuclear activities. Advanced disclosure of a draft delegated act to the public would have been likely to influence the markets.

No further open consultation was, therefore, necessary to prepare this Delegated Act.

The Platform on Sustainable Finance ('the Platform') and the Member States Expert Group have been consulted in accordance with Articles 10(4) and 11(4), and respectively, Articles 23(4) and 24(2) of the Taxonomy Regulation.

The Platform feedback notes a number of perceived shortcomings and inconsistencies with the Taxonomy Regulation. It also questions whether the criteria are in line with the conditions of Articles 10(2), 17 and 19 of the Taxonomy Regulation. A preference is expressed to rather include the activities in a possible future 'intermediate' environmental performance category, pursuant to the work underway in the Platform. The Platform notes a series of concerns with the future-oriented nature of some of the criteria, and uncertainties for financial market users to ascertain compliance with the criteria by operators. The Platform's proposals relate to clarifying disclosure and verification requirements concerning activities in the Delegated Act.

The feedback provided confirmation of widely known divided positions. The Commission has taken note of the criticism expressed by the Platform and by some Member States in the context of the consultation of the MSEG on Sustainable Finance, according to which the draft Delegated Acts would not be in line with the Taxonomy Regulation, both concerning the substantial contribution to climate change mitigation and the requirement of doing no significant harm to the other environmental objectives. The Commission rejects this criticism insofar as it seems to be based on the assumption, which is contrary to the purpose of Article 10(2) of the Taxonomy Regulation, that only the technical screening criteria that ensure the most substantial contribution to the climate change mitigation objective and do no harm, or

the least harm to the other environmental objectives could be included in the Delegated Act. Under Article 10(2) and (3) of the Taxonomy Regulation, the Commission is required to set out technical screening criteria for economic activities for which at present there is no technologically and economically feasible low-carbon alternative and which would be necessary in transition towards climate neutrality. The Commission also rejects the criticism expressed by other Member States, contesting the qualification of nuclear energy activities under Article 10(2) of the Taxonomy Regulation and arguing that they should be qualified under Article 10(1) thereof. Generating, transmitting, storing, distributing or using energy is limited, in Article 10(1), point (a), of the Taxonomy Regulation, to renewable energy in line with Directive (EU) 2018/11, and nuclear energy activities do not fall under the other categories of economic activities listed in points (b) to (i) of that provision. Targeted adjustments to the technical screening criteria and disclosure and verification requirements have been introduced to reinforce notably their clarity and usability. It is useful to recall that what does not qualify as a sustainable economic activity under the EU Taxonomy is not by definition harmful.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The empowerments to adopt delegated acts are provided for under Articles 8(4), 10(3) and 11(3) of the Taxonomy Regulation.

Article 1 lays down the amendments to the Taxonomy Climate Delegated Act.

Article 2 lays down the amendments to the Taxonomy Disclosures Delegated Act.

Article 3 specifies the dates of the entry into force and application of the Delegated Act.

Annex I to this Regulation lays down the amendments to Annex I of the Taxonomy Climate Delegated Act.

Annex II to this Regulation lays down the amendments to Annex II of the Taxonomy Climate Delegated Act.

Annex III to this Regulation adds a new Annex XII to the Taxonomy Disclosures Delegated Act.

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088⁹, and in particular Articles 8(4), 10(3) and 11(3) thereof,

Whereas:

- (1) The technical screening criteria set out in Commission Delegated Regulation (EU) 2021/2139¹⁰ cover several economic sectors and activities that have a potential to contribute to the Union climate change mitigation and climate change adaptation objectives. Those economic sectors and activities were chosen because of their share in overall greenhouse gas emissions, and their proven potential for avoiding the production of greenhouse gas emissions, reducing such emissions, or removing such emissions. In addition, those economic sectors and activities have a proven potential to enable such avoidance, reduction and removal for other economic sectors and activities, or to ensure long-term storage of such emissions for such other sectors and activities.
- (2) The total energy use accounts for approximately 75% of direct greenhouse gas emissions in the Union. Thus, the energy sector has a crucial role in continuing to reduce greenhouse gas emissions. The technical screening criteria laid down in Delegated Regulation (EU) 2021/2139 therefore cover a wide range of economic sectors and activities related to the energy supply chain, ranging from electricity or heat generation from different sources, through transmission and distribution networks to storage, as well as heat pumps and the manufacture of biogas and biofuels. However, Delegated Regulation (EU) 2021/2139 does not contain technical screening criteria for economic activities in the fossil gas and nuclear energy sectors, despite their potential to contribute to the decarbonisation of the Union's economy.

⁹ OJ L 198, 22.6.2020, p. 13.

¹⁰ Commission Delegated Regulation (EU) 2021/2139 of 4 June 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives (OJ L 442, 9.12.2021, p. 1).

- (3) As set out in Commission Communication of 21 April 2021 ('EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties: Directing finance towards the European Green Deal') and in Commission Communication of 6 July 2021 ('Strategy for Financing the Transition to a Sustainable Economy'), the establishment of technical screening criteria for energy generation from fossil gas was postponed in view of the need for further technical assessment, notably on the transitional role of fossil gas in the decarbonisation of the economy¹¹. The establishment of technical screening criteria for nuclear energy generation activities was also postponed awaiting an in-depth expert assessment, launched in 2020, of whether the nuclear life-cycle, and notably nuclear waste, could be considered compatible with the requirement, laid down in Article 17 of Regulation (EU) 2020/852, that an activity can do no significant harm to other environmental objectives. In the light of those assessments, it is necessary to recognise that the fossil gas and nuclear energy generation activities can contribute to the decarbonisation of the Union's economy.
- (4) In accordance with Article 10(2) of Regulation (EU) 2020/852 covering transitional economic activities, it is necessary to lay down technical screening criteria for electricity generation, high-efficiency co-generation of power and heat/cool, and production of heat/cool in efficient district heating and cooling systems from fossil gas, where greenhouse gas emissions from fossil gas are below an appropriate threshold. In addition, it is necessary to lay down technical screening criteria for the use of fossil gas in electricity generation, high-efficiency co-generation of power and heat/cool, and production of heat/cool in efficient district heating and cooling systems, where such electricity generation, high-efficiency co-generation of power and heat/cool, and production of heat/cool in efficient district heating and cooling systems do not yet comply with that appropriate threshold, as in addition to the use of climate-neutral energy and more investments in already low-carbon economic activities and sectors, the transition requires substantial reductions in greenhouse gas emissions in other economic activities and sectors for which there are no technologically and economically feasible low-carbon alternatives. All those economic activities should be qualified as transitional under Article 10(2) of Regulation (EU) 2020/852, given that technologically and economically feasible low-carbon alternatives may not yet be commercially available at a sufficient scale to cover the energy demand in a continuous and reliable manner. In particular, for electricity generation, it is appropriate to provide for an alternative approach to directly limiting the greenhouse gas emissions. Under this alternative approach, that should deliver similar results over a twenty years period, facilities may reach such results by limiting the number of hours in operation or by advancing the switch to renewable or low-carbon gases to an earlier date. The technical screening criteria should facilitate an accelerated phase-out from more emissions-intensive energy sources, including solid fossil fuels. In addition, in order to fulfil the requirements laid down in Article 10(2), first subparagraph, points (a), (b) and (c), of Regulation (EU) 2020/852, the technical screening criteria for the

¹¹ Communication from the Commission of 21 April 2021 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Taxonomy, Corporate Sustainability Reporting, Sustainability Preferences and Fiduciary Duties: Directing finance towards the European Green Deal (COM/2021/188 final) and Communication from the Commission of 7 June 2021 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strategy for Financing the Transition to a Sustainable Economy, (COM/2021/390 final).

use of fossil gas should also ensure that robust evidence is available to demonstrate that the same energy capacity cannot be generated with renewable sources, and that effective plans are put in place for each facility, in line with the best performance in the sector, to switch entirely to renewables or low carbon gases by a specific date. Finally, the technical screening criteria should provide for a time-limited recognition of the contribution of those activities to decarbonisation.

- (5) Renewables will play a fundamental role in meeting the climate and environmental goals of the Union. In that light, investments in renewables need to scale-up to meet the needs of the energy market of the Union for more renewable and clean energy.
- (6) Nuclear energy-related activities are low-carbon activities, they do not constitute energy from renewable sources as defined in Article 2, second subparagraph, point (1) of Directive (EU) 2018/2001 of the European Parliament and of the Council¹², and as referred to in Article 10(1), point (a) of Regulation (EU) 2020/852 and do not fall under the other categories of economic activities listed in points (b) to (i) of that provision. Such nuclear energy related economic activities should be qualified under Article 10(2) of Regulation (EU) 2020/852, in the absence of technologically and economically feasible low-carbon alternative at a sufficient scale to cover the energy demand in a continuous and reliable manner. In addition, in the Final Report of the Technical Expert Group on Sustainable Finance from March 2020¹³, it was stated that ‘nuclear energy generation has near to zero green-house gas emissions in the energy generation phase’ and ‘evidence on the potential substantial contribution of nuclear energy to climate change mitigation objectives was extensive and clear’. Moreover, a number of Member States’ plans include nuclear energy along with renewable energy in the energy sources to be used to meet climate targets, including the 2050 decarbonisation objective set out in Regulation (EU) 2021/1119 of the European Parliament and of the Council¹⁴. Finally, by providing a stable baseload energy supply, nuclear energy facilitates the deployment of intermittent renewable sources and does not hamper their development, as required by Article 10(2), point (b), of Regulation (EU) 2020/852. Nuclear energy related activities should therefore be considered as complying with Article 10(2) of Regulation (EU) 2020/852.
- (7) Scientific review conducted by experts¹⁵ concluded that technical screening criteria for nuclear energy related economic activities should ensure that no significant harm is done to other environmental objectives due to potential risks arising from the long-term storage and final disposal of nuclear waste. Those technical screening criteria should therefore reflect the highest standards of nuclear safety, radiation protection and radioactive waste management, building upon requirements laid down in the Treaty establishing the European Atomic Energy Community (‘Euratom Treaty’) and in legislation adopted under that Treaty, and in particular in Council Directive

¹² Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

¹³ The TEG report available on:
https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy_en.pdf

¹⁴ Regulation (EU) 2021/1119 of the European Parliament and of the Council¹⁴ of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021, p. 1)

¹⁵ JRC report: Technical assessment of nuclear energy with respect to the ‘do no significant harm’ criteria of Regulation (EU) 2020/852 (‘Taxonomy Regulation’) available on:
https://ec.europa.eu/info/file/210329-jrc-report-nuclear-energy-assessment_en

2009/71/Euratom¹⁶. That Directive contains a high-level nuclear safety objective covering all stages of the life-cycle of each nuclear installation, including the siting, design, construction, commissioning, operation and decommissioning of such installations. In particular, that Directive calls for significant safety enhancements in the design of new reactors, including the so-called Generation III+ reactors, for which state of the art knowledge and technology should be used, taking into account the latest international safety requirements. Those requirements provide for an effective implementation of the nuclear safety objective, including the application of the defence-in-depth principle and of an effective safety culture. Those requirements ensure that the impact of extreme human-made and natural hazards, including earthquakes and floods, is minimised and that accidents, abnormal operations and failures or loss of control systems are prevented, *inter alia* by protective structures or back-up cooling and electricity supply systems.

- (8) Accident-tolerant fuel for nuclear power plants which provides additional protection against accidents resulting from structural damages to fuel or reactor components has become available in the market. In order to take into account those recent technological developments, the use of that type of fuel should be set out as a requirement in the technical screening criteria, taking into account its licensing within the Union.
- (9) Worldwide, research and development efforts are ongoing to develop new nuclear reactor technologies that use, among others, closed fuel cycles or fuel self-breeding concepts and that minimise the production of high-level radioactive waste ('Generation IV reactors'). Although those Generation IV reactors are not yet commercially viable, technical screening criteria should be laid down for such reactors in light of their potential contribution to the objective of decarbonisation and minimisation of radioactive waste.
- (10) Nuclear energy is part of the future energy sources in a number of Member States, as part of their decarbonisation efforts. The scenarios assessed by the Commission lead to a decarbonised energy system based on renewables to a very large extent and on nuclear energy with a stable installed capacity compared to current levels. As the nuclear installations being currently exploited age, they need safety upgrades to extend operational life as well as newly built nuclear installations to replace obsolete installations. This is a continuous process that should ensure the availability of the necessary capacity for the decarbonisation of the energy system by 2050 and beyond this date as needed. Accordingly, significant investments in nuclear energy will be needed throughout the period until 2050 and beyond. It is necessary to ensure that new nuclear power plants use the most advanced solutions resulting from technological progress. The technical screening criteria for such new nuclear power plants should therefore provide for regular reviews of each investment project, and for technical parameters that correspond to the best-available technology in view of the outcomes of sustained research and development efforts and the continuous improvements of technologies. Specific dates should be defined to ensure phasing in of new technologies compatible with sustainable decarbonisation as soon as they become available.

¹⁶ Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18)

- (11) Annex II to the Euratom Treaty and Council Regulation (Euratom) No 2587/1999¹⁷ establish thresholds and other requirements for the notification to the Commission of investments in nuclear energy. To ensure, for the purpose of meeting the goals of the taxonomy, the highest possible regard to the principles and requirements of the Euratom legislation, including the nuclear safety objective, such investments should be subject to an opinion from the Commission, irrespective of whether Annex II to the Euratom Treaty and Regulation (Euratom) No 2587/1999 require any notification. For the same reason, all issues concerning the application of Article 10(2) and Article 17 of Regulation (EU) 2020/852 and the technical screening criteria identified by the Commission in its opinion should be satisfactorily addressed.
- (12) In view of the long lead times for investments in new nuclear generation capacity, extending the service time of selected existing nuclear installations can support the decarbonisation of the energy system in the near to medium term. The technical screening criteria for such extensions should, however, require modifications and safety upgrades to ensure that those nuclear installations comply with the highest achievable safety standards and with all safety objective requirements laid down in legislation adopted under the Euratom Treaty.
- (13) In the light of the expected technological and scientific developments, investments in the construction and safe operation of new nuclear installations using best available technologies and approved by an appropriate date by Member States' competent authorities in accordance with applicable national law should be subject to technical screening criteria and to time-limits that will encourage the development and future use of Generation IV reactors with closed fuel cycle or fuel self-breeding once they become commercially available. These time-limits should be appropriately reviewed in light of progress in the development of such technologies.
- (14) The technical screening criteria related to climate change mitigation or climate change adaptation objectives should ensure that economic activities do not cause significant harm to any of the other environmental objectives. Specifically for nuclear energy related economic activities, it is necessary to ensure that the long term disposal of waste does not cause significant and long-term harm to the environment, as referred to in Article 17(1), point (d)(iii), of Regulation (EU) 2020/852. It is therefore appropriate to set out in the technical screening criteria specific requirements for a radioactive waste management fund and a nuclear decommissioning fund, which can be combined, in line with the principle that waste generators should be responsible for the cost of managing it, and to require operational final disposal facilities for all radioactive waste, which should prevent any export of radioactive waste for disposal in third countries. In several Member States, low and intermediate level radioactive waste is currently being disposed of in near-surface disposal facilities already, and substantial experience and know-how in waste management have been accumulated during decades of operating those near-surface disposal facilities. For high-level radioactive waste and spent fuel, deep geological disposal represents the state of the art solution that is broadly accepted in the expert community world-wide as the safest and the most sustainable option for the end point of the management of high-level radioactive waste and spent fuel considered as waste. Member States, while retaining responsibility for their policies in respect of the management of their spent fuel and

¹⁷ Council Regulation (Euratom) No 2587/1999 of 2 December 1999 defining the investment projects to be communicated to the Commission in accordance with Article 41 of the Treaty establishing the European Atomic Energy Community (OJ L 315, 9.12.1999, p. 1).

low, intermediate or high-level radioactive waste, should include planning and implementation of disposal options in their national policies, in particular under the national programmes for the management of spent fuel and radioactive waste, covering all types of spent fuel and radioactive waste and all stages of spent fuel and radioactive waste management from generation to disposal. The national programmes' content is specified in Council Directive 2011/70/Euratom¹⁸ and includes key performance indicators to monitor progress transparently. The Member States have to report regularly on the progress of implementation of the national programmes to the Commission. Reporting from Member States from 2021 demonstrates that substantial progress is made in the realisation of the first deep geological disposal facilities on the Union territory. Realistic solutions are becoming available for Member States to develop and operate such facilities by 2050. Therefore, the inclusion of a corresponding requirement in the technical screening criteria ensures that no significant harm is caused to the environment.

- (15) It is necessary that non-financial and financial undertakings provide investors with a high degree of transparency concerning their investments in fossil gas and nuclear energy generation activities for which technical screening criteria should be laid down. To provide that transparency, specific disclosure requirements for non-financial and financial undertakings should be laid down. In order to ensure comparability of the information disclosed to investors, that information should be presented in the form of a template that indicates clearly the proportion of fossil gas and nuclear energy activities in the denominator and, where appropriate, the numerator of key performance indicators of those undertakings. In order to provide a high degree of transparency to investors in financial products referred to in Article 5 and Article 6 of Regulation (EU) 2020/852 concerning exposures to fossil gas and nuclear energy activities, for which technical screening criteria are laid down, the Commission will amend or propose to amend the disclosure framework pertaining to those financial products as appropriate to provide for full transparency over the whole life of those financial products. To ensure that such information is clearly identified by end-investors, the Commission will consider amending the requirements on the financial and insurance advice given by distributors.
- (16) To enhance investor confidence, compliance with the technical screening criteria related to fossil gas activities should be verified by an independent third party. To ensure an impartial and diligent verification of compliance, the independent third-party should have the resources and expertise to perform that verification, be independent to avoid any conflict of interest with the owner or the funder, and should not be involved in the development or operation of such fossil gas activities. In addition to the verification mechanism, financial and non-financial undertakings may be subject to specific verification requirements provided in other Union legislation on sustainable finance that cover compliance with the technical screening criteria. In accordance with Article 26(1), point (c), of Regulation 2020/852, the Commission should review the provisions required for setting up verification mechanisms of compliance with the criteria set out in that Regulation.
- (17) The fossil gas and nuclear energy sectors are characterised by rapid technological development. It is therefore necessary to review the technical screening criteria covering energy generation activities in those sectors regularly, as required by Article

¹⁸ Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (OJ L 199, 2.8.2011, p. 48).

19(5) of Regulation (EU) 2020/852. In addition, based on the conditions laid down in Article 10(2) of Regulation (EU) 2020/852, such review should cover the appropriateness of the periods of time laid down in the technical screening criteria.

- (18) Delegated Regulation (EU) 2021/2139 and Commission Delegated Regulation (EU) 2021/2178¹⁹ should therefore be amended accordingly. The amendments to Delegated Regulation (EU) 2021/2139 and Delegated Regulation (EU) 2021/2178 do not mandate any investments, but are intended to help financial markets and investors to identify, subject to strict conditions, relevant gas and nuclear related activities needed for the transition of the Member States' energy systems towards climate neutrality in line with Union climate goals and commitments.
- (19) The amendments to Delegated Regulation (EU) 2021/2139 and Delegated Regulation (EU) 2021/2178 laid down in this Delegated Regulation are closely linked. In order to ensure coherence between those provisions, which should enter into force at the same time to facilitate a comprehensive view of the legal framework for stakeholders and to facilitate the application of Regulation (EU) 2020/852, it is necessary to include those provisions in a single Regulation.
- (20) It is necessary to provide non-financial and financial undertakings with sufficient time to assess whether their economic activities related to fossil gas and nuclear energy comply with the technical screening criteria laid down in this Regulation, and to report on the basis of that assessment in accordance with Delegated Regulation (EU) 2021/2178. The date of application of this Regulation should therefore be deferred to 1 January 2023,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2021/2139

Delegated Regulation (EU) 2021/2139 is amended as follows:

- (1) the following Article 2a is inserted:

'Article 2a **Review**

When performing the review referred to in Article 19(5) of Regulation (EU) 2020/852, the Commission shall also review and assess the necessity to amend the dates referred to in Annex I, Section 4.27, Section 4.28, Section 4.29, point 1(b), Section 4.30, point 1(b) and Section 4.31, point 1(b).

Any review of the date referred to in point (2) of Sections 4.27 and 4.28 to Annex I shall take into account the technical progress in accident-tolerant fuel commercialisation in the Union and world-wide.'

- (2) Annex I is amended in accordance with Annex I to this Regulation.
- (3) Annex II is amended in accordance with Annex II to this Regulation.

¹⁹ Commission Delegated Regulation (EU) 2021/2178 of 6 July 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation (OJ L 443, 10.12.2021, p. 9).

Article 2
Amendments to Delegated Regulation (EU) 2021/2178

Delegated Regulation (EU) 2021/2178 is amended as follows:

- (1) in Article 8, the following paragraphs 6, 7 and 8 are added:
- ‘6. Non-financial undertakings and financial undertakings shall disclose the amount and proportion of:
- (a) the taxonomy-aligned economic activities referred to in Sections 4.26, 4.27 and 4.28 of Annexes I and II to Delegated Regulation (EU) 2021/2139 in the denominator and the numerator of their key performance indicators;
 - (b) the taxonomy-eligible, but not taxonomy-aligned, economic activities referred to in Sections 4.26, 4.27 and 4.28 of Annexes I and II to Delegated Regulation (EU) 2021/2139 in the denominator of their key performance indicators;
 - (c) the taxonomy-non-eligible nuclear energy related activities in the denominator of their key performance indicators.
7. Non-financial undertakings and financial undertakings shall disclose the amount and proportion of:
- (a) the taxonomy-aligned economic activities referred to in Sections 4.29, 4.30 and 4.31 of Annexes I and II to Delegated Regulation (EU) 2021/2139 in the denominator and the numerator of their key performance indicators.
 - (b) the taxonomy-eligible, but not taxonomy-aligned, economic activities referred to in Sections 4.29, 4.30 and 4.31 of Annexes I and II to Delegated Regulation (EU) 2021/2139 in the denominator of their key performance indicators;
 - (c) the taxonomy-non-eligible fossil gas related activities in the denominator of their key performance indicators.
8. The information referred to in paragraphs 6 and 7 shall be presented in tabular form by using the templates set out in Annex XII to this Regulation.’
- (2) the text set out in Annex III to this Regulation is added as Annex XII.

Article 3
Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 January 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN

Brussels, **XXX**
C(2022) 631/3

ANNEX 1

ANNEX

to the

COMMISSION DELEGATED REGULATION (EU) .../...

**amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain
energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public
disclosures for those economic activities**

*This draft has been approved in principle by the European Commission on 2 February
2022 and its formal adoption in all the official languages of the European Union will take
place later on, as soon as the language versions are available.*

ANNEX I

In Annex I to Delegated Regulation (EU) 2021/2139, the following Sections 4.26, 4.27, 4.28, 4.29, 4.30 and 4.31 are inserted:

‘4.26. PRE-COMMERCIAL STAGES OF ADVANCED TECHNOLOGIES TO PRODUCE ENERGY FROM NUCLEAR PROCESSES WITH MINIMAL WASTE FROM THE FUEL CYCLE

Description of the activity

Research, development, demonstration and deployment of innovative electricity generation facilities, licenced by Member States’ competent authorities in accordance with applicable national law, that produce energy from nuclear processes with minimal waste from the fuel cycle.

The activity is classified under NACE code M72 and M72.1 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

An economic activity in this category is an activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with all the technical screening criteria set out in this Section.

Technical screening criteria

General criteria pertaining to substantial contribution to climate change mitigation and Do no significant harm (‘DNSH’)

1. The project related to the economic activity (‘the project’) is located in a Member State which complies with all of the following:
 - (a) the Member State has fully transposed Council Directive 2009/71/Euratom^{*1} and Council Directive 2011/70/Euratom^{*2};
 - (b) the Member State complies with the Treaty establishing the European Atomic Energy Community (‘Euratom Treaty’) and with legislation adopted on its basis, in particular, Directive 2009/71/Euratom, Directive 2011/70/Euratom and Council Directive 2013/59/Euratom^{*3}, as well as applicable Union environmental law adopted under Article 192 TFEU, in particular Directive 2011/92/EU of the European Parliament and of the Council^{*4} and Directive 2000/60/EC of the European Parliament and of the Council^{*5};
 - (c) the Member State has in place, as of the approval date of the project, a radioactive waste management fund and a nuclear decommissioning fund which can be combined;
 - (d) the Member State has demonstrated that it will have resources available at the end of the estimated useful life of the nuclear power plant corresponding to the estimated cost of radioactive waste management and decommissioning in compliance with Commission Recommendation 2006/851/Euratom^{*6};
 - (e) the Member State has operational final disposal facilities for all very low-, low- and intermediate-level radioactive waste, notified to the Commission under Article 41 Euratom Treaty or Article 1(4) of Council Regulation 2587/1999, and included in the national programme updated under Directive 2011/70/Euratom;

- (f) the Member State has a documented plan with detailed steps to have in operation, by 2050, a disposal facility for high-level radioactive waste describing all of the following:
 - (i) concepts or plans and technical solutions for spent fuel and radioactive waste management from generation to disposal;
 - (ii) concepts or plans for the post-closure period of a disposal facility's lifetime, including the period during which appropriate controls are retained and the means to be employed to preserve knowledge of that facility in the longer term;
 - (iii) the responsibilities for the plan implementation and the key performance indicators to monitor its progress;
 - (iv) cost assessments and financing schemes.

For the purposes of point (f), Member States may use plans drawn up as part of the national programme required by Articles 11 and 12 of Directive 2011/70/Euratom.

2. The project is part of a Union financed research programme or the project has been notified to the Commission in accordance with Article 41 of the Euratom Treaty or with Article 1(4) of Council Regulation 2587/1999, where either of these provisions is applicable, the Commission has given its opinion on it in accordance with Article 43 of the Euratom Treaty, and all the issues raised in the opinion, with relevance for the application of Article 10(2) and Article 17 of Regulation (EU) 2020/852, and of the technical screening criteria laid down in this Section have been satisfactorily addressed.
3. The Member State concerned has committed to report to the Commission every five years for each project on all of the following:
 - (a) the adequacy of the accumulated resources referred to in point 1(c);
 - (b) actual progress in the implementation of the plan referred to in point 1(f).

On the basis of the reports, the Commission shall review the adequacy of the accumulated resources of the radioactive waste management fund and the nuclear decommissioning fund referred to in point 1(c) and the progress in the implementation of the documented plan referred to in point 1(f) and it may address an opinion to the Member State concerned.

4. The activity complies with national legislation that transposes the legislation referred to in point 1(a) and (b), including as regards the evaluation, in particular through stress tests, of the resilience of the nuclear power plants located on the territory of the Union against extreme natural hazards, including earthquakes. Accordingly, the activity takes place on the territory of a Member State where the operator of a nuclear installation:
 - (a) has submitted a demonstration of nuclear safety, whose scope and level of detail is commensurate with the potential magnitude and nature of the hazard relevant for the nuclear installation and its site (Article 6, point (b), of Directive 2009/71/Euratom);
 - (b) has taken defence-in-depth measures to ensure, *inter alia*, that the impact of extreme external natural and unintended man-made hazards is minimised (Article 8b(1), point (a) of Directive 2009/71/Euratom);

- (c) has performed an appropriate site and installation-specific assessment when the operator concerned applies for a licence to construct or operate a nuclear power plant (Article 8c(a) of Directive 2009/71/Euratom).
5. The activity fulfils the requirements of Directive 2009/71/Euratom, supported by the latest international guidance from the International Atomic Energy Agency ('IAEA') and the Western European Nuclear Regulator's Association ('WENRA'), contributing to increasing the resilience of the ability of new and existing nuclear power plants to cope with extreme natural hazards, including floods and extreme weather conditions.
6. Radioactive waste as referred to in point 1(e) and (f), is disposed of in the Member State in which it was generated, unless there is an agreement between the Member State concerned and the Member State of destination, as established in Directive 2011/70/Euratom. In that case, the Member State of destination has radioactive waste management and disposal programmes and a suitable disposal facility in operation in compliance with the requirements of Directive 2011/70/Euratom.

Additional criteria pertaining to substantial contribution to climate change mitigation

The activity aims at generating or generates electricity using nuclear energy. Life-cycle greenhouse gas (GHG) emissions from the generation of electricity from nuclear energy are below the threshold of 100 g CO₂e/kWh.

Life-cycle GHG emission savings calculated using Commission Recommendation 2013/179/EU or, alternatively, using ISO 14067:2018 or ISO 14064-1:2018.

Quantified life-cycle GHG emissions are verified by an independent third party.

Additional criteria pertaining to Do no significant harm ('DNSH')

(2) Climate change adaptation	<p>The activity complies with the criteria set out in Appendix A to this Annex.</p> <p>The activity complies with the requirements laid down in Article 6(b), 8b(1), point (a), and Article 8c(a) of Directive 2009/71/Euratom.</p> <p>The activity fulfils the requirements of Directive 2009/71/Euratom implemented in accordance with the international guidance of the IAEA and WENRA relating to extreme natural hazards, including floods and extreme weather conditions.</p>
(3) Sustainable use and protection of water and marine resources	<p>The activity complies with the criteria set out in Appendix B to this Annex.</p> <p>Environmental degradation risks related to preserving water quality and avoiding water stress are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with stakeholders concerned.</p>

	<p>In order to limit thermal anomalies associated with the discharge of waste heat, operators of inland nuclear power plants utilising once-through wet cooling by taking water from a river or a lake control:</p> <ul style="list-style-type: none"> (a) the maximum temperature of the recipient freshwater body after mixing, and (b) the maximum temperature difference between the discharged cooling water and the recipient freshwater body. <p>The temperature control is implemented in accordance with the individual licence conditions for the specific operations, where applicable, or threshold values in line with Union law.</p> <p>The activity complies with the Industry Foundation Classes (IFC) standards.</p> <p>Nuclear activities operate in compliance with requirements on water intended for human consumption of Directive 2000/60/EC and of Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.</p>
(4) Transition to a circular economy	<p>A plan for the management of both non-radioactive and radioactive waste is in place and ensures maximal reuse or recycling of such waste at end of life in accordance with the waste hierarchy, including through contractual agreements with waste management partners, the reflection in financial projections or the official project documentation.</p> <p>During operation and decommissioning, the amount of radioactive waste is minimised and the amount of free-release materials is maximised in accordance with Directive 2011/70/Euratom, and in compliance with the radiation protection requirements laid down in Directive 2013/59/Euratom.</p> <p>A financing scheme is in place to ensure adequate funding for all decommissioning activities and for the management of spent fuel and radioactive waste, in compliance with Directive 2011/70/Euratom and Recommendation 2006/851/Euratom.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>The relevant elements in this Section are covered by Member States' reports to the Commission in accordance with Article 14(1) of Directive 2011/70/Euratom.</p>
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Non-radioactive emissions are within or lower than the emission levels associated with the best available techniques (BAT-AEL) ranges set out</p>

	<p>in the best available techniques (BAT) conclusions for large combustion plants. No significant cross-media effects occur.</p> <p>For nuclear power plants greater than 1 MW thermal input but below the thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p> <p>Radioactive discharges to air, water bodies and ground (soil) comply with individual licence conditions for the specific operations, where applicable, or national threshold values in line with Directive 2013/51/Euratom^{*7} and Directive 2013/59/Euratom.</p> <p>Spent fuel and radioactive waste is safely and responsibly managed in accordance with Directive 2011/70/Euratom and Directive 2013/59/Euratom.</p> <p>An adequate capacity of interim storage is available for the project, while national plans for disposal are in place to minimise the duration of interim storage, in compliance with the provision of Directive 2011/70/Euratom that considers radioactive waste storage, including long-term storage, as an interim solution, but not an alternative to disposal.</p>
(6) Protection and restoration of biodiversity and ecosystems	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>For sites/operations located in or near biodiversity sensitive areas likely to have a significant effect on biodiversity sensitive areas (including the Natura 2000 network of protected areas, UNESCO World Heritage sites and Key Biodiversity Areas, as well as other protected areas), an appropriate assessment, where applicable, has been conducted and based on its conclusions the necessary mitigation measures are implemented.</p> <p>The sites/operations shall not be detrimental to the conservation status of any of the habitats or species present in protected areas.</p>

4.27. CONSTRUCTION AND SAFE OPERATION OF NEW NUCLEAR POWER PLANTS, FOR THE GENERATION OF ELECTRICITY OR HEAT, INCLUDING FOR HYDROGEN PRODUCTION, USING BEST-AVAILABLE TECHNOLOGIES

For the purposes of this Section, best-available technologies mean technologies that fully comply with the requirements of Directive 2009/71/Euratom and fully respect the most recent technical parameters of the IAEA standards and the WENRA Safety objectives and Reference Levels.

Description of the activity

Construction and safe operation of new nuclear installations for which the construction permit has been issued by 2045 by Member States' competent authorities, in accordance with applicable national law, to produce electricity or process heat, including for the purposes of district heating or industrial processes such as hydrogen production (new nuclear installations or NNIs), as well as their safety upgrades.

The activity is classified under NACE codes D35.11 and F42.22 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

An economic activity in this category is an activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with all the technical screening criteria set out in this Section.

Technical screening criteria

General criteria pertaining to substantial contribution to climate change mitigation and Do no significant harm ('DNSH')

1. The project related to the economic activity ('the project') is located in a Member State which complies with all of the following:
 - (a) the Member State has fully transposed Council Directive 2009/71/Euratom and Council Directive 2011/70/Euratom;
 - (b) the Member State complies with the Euratom Treaty and with legislation adopted on its basis, in particular, Directive 2009/71/Euratom, Directive 2011/70/Euratom and Directive 2013/59/Euratom, as well as applicable Union environmental law adopted under Article 192 TFEU, in particular Directive 2011/92/EU and Directive 2000/60/EC;
 - (c) the Member State has in place, as of the approval date of the project, a radioactive waste management fund and a nuclear decommissioning fund which can be combined;
 - (d) the Member State has demonstrated that it will have resources available at the end of the estimated useful life of the nuclear power plant corresponding to the estimated cost of radioactive waste management and decommissioning in compliance with Recommendation 2006/851/Euratom;
 - (e) the Member State has operational final disposal facilities for all very low-, low- and intermediate-level radioactive waste, notified to the Commission under Article 41 of the Euratom Treaty or under Article 1(4) of Council Regulation 2587/1999 and included in the national programme updated under Council Directive 2011/70/Euratom;
 - (f) the Member State has a documented plan with detailed steps to have in operation, by 2050, a disposal facility for high-level radioactive waste describing all of the following:
 - (i) concepts or plans and technical solutions for spent fuel and radioactive waste management from generation to disposal;
 - (ii) concepts or plans for the post-closure period of a disposal facility's lifetime, including the period during which appropriate controls are retained and the means to be employed to preserve knowledge of that facility in the longer term;

- (iii) the responsibilities for the plan implementation and the key performance indicators to monitor its progress;
- (iv) cost assessments and financing schemes.

For the purposes of point (f), Member States may use the plans drawn up as part of the national programme required by Articles 11 and 12 of Directive 2011/70/Euratom.

2. The project fully applies the best-available technology and from 2025 accident-tolerant fuel. The technology is certified and approved by the national safety regulator.
3. The project has been notified to the Commission in accordance with Article 41 of the Euratom Treaty or with Article 1(4) of Council Regulation 2587/1999, where either of these provisions is applicable, the Commission has given its opinion on it in accordance with Article 43 of the Euratom Treaty, and all the issues raised in the opinion, with relevance for the application of Article 10(2) and Article 17 of Regulation (EU) 2020/852, and of the technical screening criteria laid down in this Section, have been satisfactorily addressed.
4. The Member State concerned has committed to report to the Commission every five years for each project on all of the following:
 - (a) the adequacy of the accumulated resources referred to in point 1(c);
 - (b) actual progress in the implementation of the plan referred to in point 1(f).

On the basis of the reports, the Commission shall review the adequacy of the accumulated resources of the radioactive waste management fund and the nuclear decommissioning fund referred to in point 1(c) and the progress in the implementation of the plan documented referred to in point 1(f) and it may address an opinion to the Member State concerned.

5. The Commission shall review, as of 2025 and at least every 10 years, the technical parameters corresponding to the best-available technology on the basis of the assessment by the European Nuclear Safety Regulators' Group ('ENSREG').
6. The activity complies with national legislation that transposes the legislation referred to in point 1(a) and (b), including as regards the evaluation, in particular through stress-tests, of the resilience of the nuclear power plants located on the territory of the Union against extreme natural hazards, including earthquakes. Accordingly, the activity takes place on the territory of a Member State where the operator of a nuclear installation:
 - (a) has submitted a demonstration of nuclear safety, whose scope and level of detail is commensurate with the potential magnitude and nature of the hazard relevant for the nuclear installation and its site (Article 6, point (b), of Directive 2009/71/Euratom);
 - (b) has taken defence-in-depth measures to ensure, *inter alia*, that the impact of extreme external natural and unintended man-made hazards is minimised (Article 8b(1), point (a), of Directive 2009/71/Euratom);
 - (c) has performed an appropriate site and installation-specific assessment when the operator concerned applies for a licence to construct or operate a NPP (Article 8c(a) of Directive 2009/71/Euratom).

7. The activity fulfils the requirements of Directive 2009/71/Euratom, supported by the latest international guidance from the IAEA and WENRA, contributing to increasing the resilience of the ability of new and existing nuclear power plants to cope with extreme natural hazards, including floods and extreme weather conditions.
8. Radioactive waste as referred to in point 1 (e) and (f) is disposed of in the Member State in which it was generated, unless there is an agreement between the Member State concerned and the Member State of destination, as established in Directive 2011/70/Euratom. In that case, the Member State of destination has radioactive waste management and disposal programmes and a suitable disposal facility in operation in compliance with the requirements of Directive 2011/70/Euratom.

Additional criteria pertaining to substantial contribution to climate change mitigation

The activity generates electricity using nuclear energy. Life-cycle greenhouse gas (GHG) emissions from the generation of electricity from nuclear energy are below the threshold of 100 g CO₂e/kWh.

Life-cycle GHG emission savings calculated using Recommendation 2013/179/EU or, alternatively, using ISO 14067:2018 or ISO 14064-1:2018.

Quantified life-cycle GHG emissions are verified by an independent third party.

Additional criteria pertaining to Do no significant harm ('DNSH')

(2) Climate change adaptation	<p>The activity complies with the criteria set out in Appendix A to this Annex.</p> <p>The activity complies with the requirements laid down in Article 6(b), Article 8b(1), point (a), and Article 8c(a) of Directive 2009/71/Euratom.</p> <p>The activity fulfils the requirements of Directive 2009/71/Euratom, implemented in accordance with the international guidance of the IAEA and WENRA relating to extreme natural hazards, including floods and extreme weather conditions.</p>
(3) Sustainable use and protection of water and marine resources	<p>The activity complies with the criteria set out in Appendix B to this Annex.</p> <p>Environmental degradation risks related to preserving water quality and avoiding water stress are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with stakeholders concerned.</p> <p>In order to limit thermal anomalies associated with the discharge of waste heat, operators of inland nuclear power plants utilising once-through wet cooling by taking water from a river or a lake control:</p>

	<p>(a) the maximum temperature of the recipient freshwater body after mixing, and</p> <p>(b) the maximum temperature difference between the discharged cooling water and the recipient freshwater body.</p> <p>The temperature control is implemented in accordance with the individual licence conditions for the specific operations, where applicable, or threshold values in line with the Union law.</p> <p>The activity complies with the Industry Foundation Classes (IFC) standards.</p> <p>Nuclear activities operate in compliance with requirements on water intended for human consumption of Directive 2000/60/EC and of Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.</p>
(4) Transition to a circular economy	<p>A plan for the management of both non-radioactive and radioactive waste is in place and ensures maximal reuse or recycling of such waste at end of life in accordance with the waste hierarchy, including through contractual agreements with waste management partners, the reflection in financial projections or the official project documentation.</p> <p>During operation and decommissioning, the amount of radioactive waste is minimised and the amount of free-release materials is maximised in accordance with Directive 2011/70/Euratom, and in compliance with the radiation protection requirements laid down in Directive 2013/59/Euratom.</p> <p>A financing scheme is in place to ensure adequate funding for all decommissioning activities and for the management of spent fuel and radioactive waste, in compliance with Directive 2011/70/Euratom and Recommendation 2006/851/Euratom.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>The relevant elements in this Section are covered by Member States' reports to the Commission in accordance with Article 14(1) of Directive 2011/70/Euratom.</p>
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Non-radioactive emissions are within or lower than the emission levels associated with the best available techniques (BAT-AEL) ranges set out in the best available techniques (BAT) conclusions for large combustion plants. No significant cross-media effects occur.</p> <p>For nuclear power plants greater than 1 MW thermal input but below</p>

	<p>the thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p> <p>Radioactive discharges to air, water bodies and ground (soil) comply with individual licence conditions for the specific operations, where applicable, or national threshold values in line with Directive 2013/51/Euratom and Directive 2013/59/Euratom.</p> <p>Spent fuel and radioactive waste is safely and responsibly managed in accordance with Directive 2011/70/Euratom and Directive 2013/59/Euratom.</p> <p>An adequate capacity of interim storage is available for the project, while national plans for disposal are in place to minimise the duration of interim storage, in compliance with Directive 2011/70/Euratom that considers radioactive waste storage, including long-term storage, as an interim solution, but not an alternative to disposal.</p>
(6) Protection and restoration of biodiversity and ecosystems	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>For sites/operations located in or near biodiversity sensitive areas likely to have a significant effect on biodiversity sensitive areas (including the Natura 2000 network of protected areas, UNESCO World Heritage sites and Key Biodiversity Areas, as well as other protected areas), an appropriate assessment, where applicable, has been conducted and based on its conclusions the necessary mitigation measures are implemented.</p> <p>The sites/operations shall not be detrimental to the conservation status of any of the habitats or species present in protected areas.</p>

4.28 Electricity generation from nuclear energy in existing installations

Description of the activity

Modification of existing nuclear installations for the purposes of extension, authorised by Member States' competent authorities by 2040 in accordance with applicable national law, of the service time of safe operation of nuclear installations that produce electricity or heat from nuclear energy ('nuclear power plants' or 'NPPs').

The activity is classified under NACE codes D35.11 and F42.22 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

An economic activity in this category is an activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with all the technical screening criteria set out in this Section.

Technical screening criteria

General criteria pertaining to substantial contribution to climate change mitigation and Do no significant harm ('DNSH')

1. The project related to the economic activity ('the project') is located in a Member State which complies with all of the following:
 - (a) the Member State has fully transposed Council Directive 2009/71/Euratom and Council Directive 2011/70/Euratom;
 - (b) the Member State complies with the Euratom Treaty and with legislation adopted on its basis, in particular, Directive 2009/71/Euratom, Directive 2011/70/Euratom and Directive 2013/59/Euratom, and with applicable Union environmental law adopted under Article 192 TFEU, in particular Directive 2011/92/EU and Directive 2000/60/EC;
 - (c) the Member State has in place, as of the approval date of the project, a radioactive waste management fund and a nuclear decommissioning fund which can be combined;
 - (d) the Member State has demonstrated that it will have resources available at the end of the estimated useful life of the nuclear power plant corresponding to the estimated cost of radioactive waste management and decommissioning in compliance with Recommendation 2006/851/Euratom;
 - (e) the Member State has operational final disposal facilities for all very low-, low- and intermediate-level radioactive waste, notified to the Commission under Article 41 of the Euratom Treaty or under Article 1(4) of Council Regulation 2587/1999 and included in the national programme updated under Council Directive 2011/70/Euratom;
 - (f) for projects authorised after 2025, the Member State has a documented plan with detailed steps to have in operation, by 2050, a disposal facility for high-level radioactive waste describing all of the following:
 - (i) concepts or plans and technical solutions for spent fuel and radioactive waste management from generation to disposal;
 - (ii) concepts or plans for the post-closure period of a disposal facility's lifetime, including the period during which appropriate controls are retained and the means to be employed to preserve knowledge of that facility in the longer term;
 - (iii) the responsibilities for the plan implementation and the key performance indicators to monitor its progress;
 - (iv) cost assessments and financing schemes.

For the purposes of point (f), Member States may use the plans drawn as part of the national programme required by Articles 11 and 12 Directive 2011/70/Euratom.

2. The upgraded project implements any reasonably practicable safety improvement and from 2025 makes use of accident-tolerant fuel. The technology is certified and approved by the national safety regulator.
3. The project has been notified to the Commission in accordance with Article 41 of the Euratom Treaty or with Article 1(4) of Council Regulation 2587/1999, where either of these provisions is applicable, the Commission has given its opinion on it in

accordance with Article 43 of the Euratom Treaty, and all the issues raised in the opinion, with relevance for the application of Article 10(2) and Article 17 of Regulation (EU) 2020/852, and of the technical screening criteria laid down in this Section, have been satisfactorily addressed.

4. The Member State concerned has committed to report to the Commission every five years for each project on all of the following:

- (a) the adequacy of the accumulated resources referred to in point 1(c);
- (b) actual progress in the implementation of the plan referred to in point 1(f).

On the basis of the reports, the Commission shall review the adequacy of the accumulated resources of the radioactive waste management fund and the nuclear decommissioning fund referred to in point 1(c) and the progress in the implementation of the documented plan referred to in point 1(f) and it may address an opinion to the Member State concerned.

5. The activity complies with national legislation that transposes the legislation referred to in point 1 (a) and (b), including as regards the evaluation, in particular through stress-tests, of the resilience of the Union nuclear power plants against extreme natural hazards, including earthquakes. Accordingly, the activity takes place on the territory of a Member State where the operator of a nuclear installation:

- (a) has submitted a demonstration of nuclear safety, whose scope and level of detail is commensurate with the potential magnitude and nature of the hazard relevant for the nuclear installation and its site (Article 6, point (b), of Directive 2009/71/Euratom);
- (b) has taken defence-in-depth measures to ensure, *inter alia*, that the impact of extreme external natural and unintended man-made hazards is minimised (Article 8b(1), point (a), of Directive 2009/71/Euratom);
- (c) has performed an appropriate site and installation-specific assessment when the operator concerned applies for a licence to construct or operate a nuclear power plant (Article 8c(a) of Directive 2009/71/Euratom).

6. The activity fulfils the requirements of Directive 2009/71/Euratom, supported by the latest international guidance from the IAEA and WENRA, contributing to increasing the resilience of the ability of new and existing nuclear power plants to cope with extreme natural hazards, including floods and extreme weather conditions.

7. Radioactive waste referred to in point 1 (e) and (f) is disposed of in the Member State in which it was generated, unless there is an agreement between the Member State concerned and the Member State of destination, as established in Directive 2011/70/Euratom. In that case, the Member State of destination has radioactive waste management and disposal programmes and a suitable disposal facility in operation in compliance with the requirements of Directive 2011/70/Euratom.

Additional criteria pertaining to substantial contribution to climate change mitigation

The activity generates electricity using nuclear energy. Life-cycle greenhouse gas (GHG) emissions from the generation of electricity from nuclear energy are below the threshold of 100 g CO₂e/kWh.

Life-cycle GHG emission savings calculated using Recommendation 2013/179/EU or, alternatively, using ISO 14067:2018 or ISO 14064-1:2018.

Quantified life-cycle GHG emissions are verified by an independent third party.

Additional criteria pertaining to Do no significant harm ('DNSH')

(2) Climate change adaptation	<p>The activity complies with the criteria set out in Appendix A to this Annex.</p> <p>The activity complies with the requirements laid down in Article 6(b), Article 8b(1), point (a), and Article 8c(a) of Directive 2009/71/Euratom.</p> <p>The activity fulfils the requirements of Directive 2009/71/Euratom implemented in accordance with international guidance of the IAEA and WENRA relating to extreme natural hazards, including floods and extreme weather conditions.</p>
(3) Sustainable use and protection of water and marine resources	<p>The activity complies with the criteria set out in Appendix B to this Annex.</p> <p>Environmental degradation risks related to preserving water quality and avoiding water stress are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with stakeholders concerned.</p> <p>In order to limit thermal anomalies associated with the discharge of waste heat, operators of inland nuclear power plants utilising once-through wet cooling by taking water from a river or a lake control:</p> <ul style="list-style-type: none"> (a) the maximum temperature of the recipient freshwater body after mixing, and (b) the maximum temperature difference between the discharged cooling water and the recipient freshwater body. <p>The temperature control is implemented in accordance with the individual licence conditions for the specific operations, where applicable, or threshold values in line with Union law.</p> <p>The activity complies with the Industry Foundation Classes (IFC) standards.</p> <p>Nuclear activities operate in compliance with requirements on water intended for human consumption of Directive 2000/60/EC and of Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.</p>

(4) Transition to a circular economy	<p>A plan for the management of both non-radioactive and radioactive waste is in place and ensures maximal reuse or recycling of such waste at end of life in accordance with the waste hierarchy, including through contractual agreements with waste management partners, the reflection in financial projections or the official project documentation.</p> <p>During operation and decommissioning, the amount of radioactive waste is minimised and the amount of free-release materials is maximised in accordance with Directive 2011/70/Euratom, and in compliance with the radiation protection requirements laid down in Directive 2013/59/Euratom.</p> <p>A financing scheme is in place to ensure adequate funding for all decommissioning activities and for the management of spent fuel and radioactive waste, in compliance with Directive 2011/70/Euratom and Recommendation 2006/851/Euratom.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>The relevant elements in this Section are covered by Member States' reports to the Commission in accordance with Article 14(1) of Directive 2011/70/Euratom.</p>
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Non-radioactive emissions are within or lower than the emission levels associated with the best available techniques (BAT-AEL) ranges set out in the best available techniques (BAT) conclusions for large combustion plants. No significant cross-media effects occur.</p> <p>For nuclear power plants greater than 1 MW thermal input but below the thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p> <p>Radioactive discharges to air, water bodies and ground (soil) comply with individual licence conditions for the specific operations, where applicable, or national threshold values in line with Directive 2013/51/Euratom and Directive 2013/59/Euratom.</p> <p>Spent fuel and radioactive waste is safely and responsibly managed in accordance with Directive 2011/70/Euratom and Directive 2013/59/Euratom.</p> <p>An adequate capacity of interim storage is available for the project, while national plans for disposal are in place to minimise the duration of interim storage, in compliance with Directive 2011/70/Euratom that considers radioactive waste storage, including long-term storage, as an interim solution, but not an alternative to disposal.</p>

(6) Protection and restoration of biodiversity and ecosystems	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>For sites/operations located in or near biodiversity sensitive areas likely to have a significant effect on biodiversity sensitive areas (including the Natura 2000 network of protected areas, UNESCO World Heritage sites and Key Biodiversity Areas, as well as other protected areas), an appropriate assessment, where applicable, has been conducted and based on its conclusions the necessary mitigation measures are implemented.</p> <p>The sites/operations shall not be detrimental to the conservation status of any of the habitats or species present in protected areas.</p>
---	--

4.29. Electricity generation from fossil gaseous fuels

Description of the activity

Construction or operation of electricity generation facilities that produce electricity using fossil gaseous fuels. This activity does not include electricity generation from the exclusive use of renewable non-fossil gaseous and liquid fuels as referred to in Section 4.7 of this Annex and biogas and bio-liquid fuels as referred to in Section 4.8 of this Annex.

The economic activities in this category may be associated with several NACE codes, notably D35.11 and F42.22 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

An economic activity in this category is a transitional activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with the technical screening criteria set out in this Section.

Technical screening criteria

Substantial contribution to climate change mitigation

1. The activity meets either of the following criteria:

- (a) the life-cycle GHG emissions from the generation of electricity using fossil gaseous fuels are lower than 100 g CO₂e/kWh.

Life-cycle GHG emissions are calculated based on project-specific data, where available, using Recommendation 2013/179/EU or, alternatively, using ISO 14067:2018 or ISO 14064-1:2018.

Quantified life-cycle GHG emissions are verified by an independent third party.

Where facilities incorporate any form of abatement, including carbon capture or use of renewable or low-carbon gases, that abatement activity complies with the criteria set out in the relevant Section of this Annex, where applicable.

Where the CO₂ that would otherwise be emitted from the electricity generation process is captured for the purpose of underground storage, the CO₂ is transported and stored underground, in accordance with the technical screening criteria set out in Sections 5.11 and 5.12 of this Annex.

- (b) facilities for which the construction permit is granted by 31 December 2030 comply with all of the following:
- (i) direct GHG emissions of the activity are lower than 270g CO₂e/kWh of the output energy, or annual direct GHG emissions of the activity do not exceed an average of 550kgCO₂e/kW of the facility's capacity over 20 years;
 - (ii) the power to be replaced cannot be generated from renewable energy sources, based on a comparative assessment with the most cost-effective and technically feasible renewable alternative for the same capacity identified; the result of this comparative assessment is published and is subject to a stakeholder consultation;
 - (iii) the activity replaces an existing high emitting electricity generation activity that uses solid or liquid fossil fuels;
 - (iv) the newly installed production capacity does not exceed the capacity of the replaced facility by more than 15%;
 - (v) the facility is designed and constructed to use renewable and/or low-carbon gaseous fuels and the switch to full use of renewable and/or low-carbon gaseous fuels takes place by 31 December 2035, with a commitment and verifiable plan approved by the management body of the undertaking;
 - (vi) the replacement leads to a reduction in emissions of at least 55% GHG over the lifetime of the newly installed production capacity;
 - (vii) where the activity takes place on the territory of a Member State in which coal is used for energy generation, that Member State has committed to phase-out the use of energy generation from coal and has reported this in its integrated national energy and climate plan referred to in Article 3 of Regulation (EU) 2018/1999 of the European Parliament and of the Council^{*8} or in another instrument.

Compliance with the criteria referred to in point 1(b) is verified by an independent third party. The independent third-party verifier has the necessary resources and expertise to perform such verification. The independent third party verifier does not have any conflict of interest with the owner or the funder, and is not involved in the development or operation of the activity. The independent third party verifier carries out diligently the verification of compliance with the technical screening criteria. In particular, every year the independent third party publishes and transmits to the Commission a report :

- (a) certifying the level of direct GHG emissions referred to in point 1(b)(i);
- (b) where applicable, assessing whether annual direct GHG emissions of the activity are on a credible trajectory to comply with the average threshold over 20 years referred to in point 1(b)(i);
- (c) assessing whether the activity is on a credible trajectory to comply with point 1(b)(v).

When undertaking the assessment referred to in point 1(b), the independent third party

verifier takes into account in particular the planned annual direct GHG emissions for each year of the trajectory, realised annual direct GHG emissions, planned and realised operating hours, and planned and realised use of renewable or low carbon gases.

On the basis of the reports transmitted to it, the Commission may address an opinion to the relevant operators. The Commission shall take those reports into account when performing the review referred to in Article 19(5) of Regulation (EU) 2020/852.

2. The activity meets either of the following criteria:
 - (a) at construction, measurement equipment for monitoring of physical emissions, such as those from methane leakage, is installed or a leak detection and repair programme is introduced;
 - (b) at operation, physical measurement of emissions are reported and leak is eliminated.
3. Where the activity blends fossil gaseous fuels with gaseous or liquid biofuels, the agricultural biomass used for the production of the biofuels complies with the criteria laid down in Article 29, paragraphs 2 to 5, of Directive (EU) 2018/2001 while forest biomass complies with the criteria laid down in Article 29, paragraphs 6 and 7, of that Directive.

Do no significant harm ('DNSH')

(2) Climate change adaptation	The activity complies with the criteria set out in Appendix A to this Annex.
(3) Sustainable use and protection of water and marine resources	The activity complies with the criteria set out in Appendix B to this Annex.
(4) Transition to a circular economy	N/A
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Emissions are within or lower than the emission levels associated with ranges of the best available techniques (BAT-AEL) ranges set out in the latest relevant best available techniques (BAT) conclusions, including the best available techniques (BAT) conclusions for large combustion plants.</p> <p>No significant cross-media effects occur.</p> <p>For combustion plants with thermal input greater than 1 MW but below</p>

	the applicable thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.
(6) Protection and restoration of biodiversity and ecosystems	The activity complies with the criteria set out in Appendix D to this Annex.

4.30. High-efficiency co-generation of heat/cool and power from fossil gaseous fuels

Description of the activity

Construction, refurbishment, and operation of combined heat/cool and power generation facilities using fossil gaseous fuels. This activity does not include high-efficiency co-generation of heat/cool and power from the exclusive use of renewable non-fossil gaseous and liquid fuels referred to in Section 4.19 of this Annex, and biogas and bio-liquid fuels referred to in Section 4.20 of this Annex.

The economic activities in this category may be associated with NACE codes D35.11 and D35.30 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

An economic activity in this category is a transitional activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with the technical screening criteria set out in this Section.

Technical screening criteria

Substantial contribution to climate change mitigation

1. The activity meets either of the following criteria:

- (a) the life-cycle GHG emissions from the co-generation of heat/cool and power from gaseous fuels are lower than 100 g CO₂e per 1 kWh of energy output of the co-generation.

Life-cycle GHG emissions are calculated based on project-specific data, where available, using Recommendation 2013/179/EU or, alternatively, using ISO 14067:2018 or ISO 14064-1:2018.

Quantified life-cycle GHG emissions are verified by an independent third party.

Where facilities incorporate any form of abatement, including carbon capture or use of renewable or low-carbon gases, that abatement activity complies with the relevant Sections of this Annex, where applicable. Where the CO₂ emitted from the electricity generation is captured, the CO₂ shall meet the emissions limit set out in point 1 of this Section and, the CO₂ be transported and stored underground in a way that meets the technical screening criteria for transport of CO₂ and storage of CO₂ set out in Sections 5.11 and 5.12, respectively of this Annex.

- (b) facilities for which the construction permit is granted by 31 December 2030 comply with all of the following:

-
- (i) the activity achieves primary energy savings of at least 10% compared with the references to separate production of heat and electricity; the primary energy savings are calculated on the basis of formula provided in Directive 2012/27/EU;
 - (ii) direct GHG emissions of the activity are lower than 270 g CO₂e/kWh of the output energy;
 - (iii) the power and/or heat/cool to be replaced cannot be generated from renewable energy sources, based on a comparative assessment with the most cost-effective and technically feasible renewable alternative for the same capacity identified; the result of this comparative assessment is published and is subject to a stakeholder consultation;
 - (iv) the activity replaces an existing high emitting combined heat/cool and power generation activity, a separate heat/cool generation activity, or a separate power generation activity that uses solid or liquid fossil fuels;
 - (v) the newly installed production capacity does not exceed the capacity of the replaced facility;
 - (vi) the facility is designed and constructed to use renewable and/or low-carbon gaseous fuels and the switch to full use of renewable and/or low-carbon gaseous fuels takes place by 31 December 2035, with a commitment and verifiable plan approved by the management body of the undertaking;
 - (vii) the replacement leads to a reduction in emissions of at least 55% GHG per kWh of output energy;
 - (viii) the refurbishment of the facility does not increase production capacity of the facility;
 - (ix) where the activity takes place on the territory of a Member State in which coal is used for energy generation, that Member State has committed to phase-out the use of energy generation from coal and has reported this in its integrated national energy and climate plan referred to in Article 3 of Regulation (EU) 2018/1999 or in another instrument.

Compliance with the criteria referred to in point 1(b) is verified by an independent third party. The independent third party verifier has the necessary resources and expertise to perform such verification. The independent third party verifier does not have any conflict of interest with the owner or the funder, and is not be involved in the development or operation of the activity. The independent third party verifier carries out diligently the verification of compliance with the technical screening criteria. In particular, every year the independent third party publishes and transmits to the Commission a report:

- (a) certifying the level of direct GHG emissions referred to in point 1(b)(ii);
- (b) assessing whether the activity is on a credible trajectory to comply with point 1(b)(vi).

On the basis of the reports transmitted to it, the Commission may address an opinion to the operators concerned. The Commission shall take those reports into account when performing the review referred to in Article 19(5) of Regulation (EU) 2020/852.

-
2. The activity meets either of the following criteria:
- (a) at construction, measurement equipment for monitoring of physical emissions, including those from methane leakage, is installed or a leak detection and repair program is introduced;
 - (b) at operation, physical measurement of emissions are reported and any leak is eliminated.
-

Do no significant harm ('DNSH')

(2) Climate change adaptation	The activity complies with the criteria set out in Appendix A to this Annex.
(3) Sustainable use and protection of water and marine resources	The activity complies with the criteria set out in Appendix B to this Annex.
(4) Transition to a circular economy	N/A
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Emissions are within or lower than the emission levels associated with the ranges of the best available techniques (BAT-AEL) set out in the latest relevant best available techniques (BAT) conclusions, including the best available techniques (BAT) conclusions for large combustion plants.</p> <p>No significant cross-media effects occur.</p> <p>For combustion plants with thermal input greater than 1 MW but below the applicable thresholds for the BAT conclusions for large combustion plants, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p>
(6) Protection and restoration of biodiversity and ecosystems	The activity complies with the criteria set out in Appendix D to this Annex.

4.31. Production of heat/cool from fossil gaseous fuels in an efficient district heating and cooling system

Description of the activity

Construction, refurbishment and operation of heat generation facilities that produce heat/cool using fossil gaseous fuels connected to efficient district heating and cooling within the meaning of Article 2, point (41) of Directive 2012/27/EU. This activity does not include production of heat/cool in an efficient district heating from the exclusive use of renewable non-fossil gaseous and liquid fuels referred to in Section 4.23 of this Annex and biogas and bio-liquid fuels referred to in Section 4.24 of this Annex.

The activity is classified under NACE code D35.30 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

An economic activity in this category is a transitional activity as referred to in Article 10(2) of Regulation (EU) 2020/852 where it complies with the technical screening criteria set out in this Section.

Technical screening criteria

Substantial contribution to climate change mitigation

1. The activity meets either of the following criteria:

- (a) Life-cycle GHG emissions from the generation of heat/cool from gaseous fuels are lower than 100 g CO₂e/kWh. Life-cycle GHG emission savings are calculated using Recommendation 2013/179/EU or, alternatively, using ISO 14067:2018 or ISO 14064-1:2018.

Quantified life-cycle GHG emissions are verified by an independent third party.

Where facilities incorporate any form of abatement, including carbon capture or use of renewable or low-carbon gases, that abatement activity complies with the relevant Sections of this Annex, where applicable. Where the CO₂ emitted from the electricity generation is captured, the CO₂ shall meet the emissions limit set out in point 1 of this Section and shall be transported and stored underground in a way that meets the technical screening criteria for transport of CO₂ and storage of CO₂ set out in Sections 5.11 and 5.12, respectively of this Annex.

- (b) facilities for which the construction permit is granted by 31 December 2030 comply with all of the following:
 - (i) the thermal energy generated by the activity is used in an efficient district heating and cooling system as defined in Directive 2012/27/EU;
 - (ii) the direct GHG emissions of the activity are lower than 270 g CO₂e/kWh of the output energy;
 - (iii) the heat/cool to be replaced cannot be generated from renewable energy sources, based on a comparative assessment with the most cost-effective and technically feasible renewable alternative for the same capacity identified; the result of this comparative assessment is published and is subject to a stakeholder consultation;
 - (iv) the activity replaces an existing high emitting heating/cooling activity using
-

solid or liquid fossil fuel;

- (v) the newly installed production capacity does not exceed the capacity of the replaced facility;
- (vi) the facility is designed and constructed to use renewable and/or low-carbon gaseous fuels and the switch to full use of renewable and/or low-carbon gaseous fuels takes place by 31 December 2035, with a commitment and verifiable plan approved by the management body of the undertaking;
- (vii) the replacement leads to a reduction in emissions of at least 55% GHG per kWh of output energy;
- (viii) the refurbishment of the facility does not increase production capacity of the facility;
- (ix) where the activity takes place on the territory of a Member State in which coal is used for energy generation, that Member State has committed to phase-out the use of energy generation from coal and has reported this in its integrated national energy and climate plan referred to in Article 3 of Regulation EU/2018/1999 or in another instrument.

Compliance with the criteria referred to in point 1(b) is verified by an independent third party. The independent third-party verifier has the necessary resources and expertise to perform such verification. The independent third party verifier does not have any conflict of interest with the owner or the funder, and is not be involved in the development or operation of the activity. The independent third party verifier carries out diligently the verification of compliance with the technical screening criteria. In particular, every year the independent third party publishes and transmits to the Commission a report:

- (a) certifying the level of direct GHG emissions referred to in point 1(b)(ii);
- (b) assessing whether the activity is on a credible trajectory to comply with point 1(b)(vi).

On the basis of the reports transmitted to it, the Commission may address an opinion to the operators concerned. The Commission shall take those reports into account when performing the review referred to in Article 19(5) of Regulation (EU) 2020/852.

2. The activity meets either of the following criteria:

- (a) at construction, measurement equipment for monitoring of physical emissions, such as those from methane leakage, is installed or a leak detection and repair program is introduced;
- (b) at operation, physical measurement of emissions are reported and any leak is eliminated.

Do no significant harm ('DNSH')

(2) Climate change adaptation	The activity complies with the criteria set out in Appendix A to this Annex.
-------------------------------	--

(3) Sustainable use and protection of water and marine resources	The activity complies with the criteria set out in Appendix B to this Annex.
(4) Transition to a circular economy	N/A
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Emissions are within or lower than the emission levels associated with the ranges of the best available techniques (BAT-AEL) set out in the latest relevant best available techniques (BAT) conclusions, including the best available techniques (BAT) conclusions for large combustion plants.</p> <p>No significant cross-media effects occur.</p> <p>For combustion plants with thermal input greater than 1 MW but below the applicable thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p>
(6) Protection and restoration of biodiversity and ecosystems	The activity complies with the criteria set out in Appendix D to this Annex.

- *1 Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18).
- *2 Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (OJ L 199, 2.8.2011, p. 48).
- *3 Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1).
- *4 Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).
- *5 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1)
- *6 Commission Recommendation 2006/851/Euratom of 24 October 2006 on the management of financial resources for the decommissioning of nuclear installations, spent fuel and radioactive waste (OJ L 330, 28.11.2006, p. 31).
- *7 Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12).

*8

Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

Brussels, **XXX**
C(2022) 631/3

ANNEX 2

ANNEX

to the

COMMISSION DELEGATED REGULATION (EU) .../...

amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

This draft has been approved in principle by the European Commission on 2 February 2022 and its formal adoption in all the official languages of the European Union will take place later on, as soon as the language versions are available.

ANNEX II

In Annex II to Delegated Regulation (EU) 2021/2139, the following Sections 4.26, 4.27, 4.28, 4.29, 4.30, and 4.31 are inserted:

“4.26 Pre-commercial stages of advanced technologies to produce energy from nuclear processes with minimal waste from the fuel cycle

Description of the activity

Research, development, demonstration and deployment of innovative electricity generation facilities, licenced by Member States' competent authorities in accordance with applicable national law, that produce energy from nuclear processes with minimal waste from the fuel cycle.

The activity is classified under NACE code M72 and M72.1 in accordance with the statistical classification of economic activities established by Regulation (EC) No. 1893/2006.

Technical screening criteria

Substantial contribution to climate change adaptation

1. The economic activity has implemented physical and non-physical solutions ('adaptation solutions') that substantially reduce the most important physical climate risks that are material to that activity.
2. The physical climate risks that are material to the activity have been identified from those listed in Appendix A to this Annex by performing a robust climate risk and vulnerability assessment with the following steps:
 - (a) screening of the activity to identify which physical climate risks from the list in Appendix A to this Annex may affect the performance of the economic activity during its expected lifetime;
 - (b) where the activity is assessed to be at risk from one or more of the physical climate risks listed in Appendix A to this Annex, a climate risk and vulnerability assessment to assess the materiality of the physical climate risks on the economic activity;
 - (c) an assessment of adaptation solutions that can reduce the identified physical climate risk.

The climate risk and vulnerability assessment is proportionate to the scale of the activity and its expected lifespan, such that:

- (a) for activities with an expected lifespan of less than 10 years, the assessment is performed, at least by using climate projections at the smallest appropriate scale;
 - (b) for all other activities, the assessment is performed using the highest available resolution, state-of-the-art climate projections across the existing range of future scenarios¹ consistent with the expected lifetime of the activity, including, at least, 10 to 30 year climate projections scenarios for major investments.
 3. The climate projections and assessment of impacts are based on best practice and
-

¹ Future scenarios include Intergovernmental Panel on Climate Change representative concentration pathways RCP2.6, RCP4.5, RCP6.0 and RCP8.5.

available guidance and take into account the state-of-the-art science for vulnerability and risk analysis and related methodologies in line with the most recent Intergovernmental Panel on Climate Change reports², scientific peer-reviewed publications and open source³ or paying models.

4. The adaptation solutions implemented:

- (a) do not adversely affect the adaptation efforts or the level of resilience to physical climate risks of other people, of nature, of cultural heritage, of assets and of other economic activities;
- (b) favour nature-based solutions⁴ or rely on blue or green infrastructure⁵ to the extent possible;
- (c) are consistent with local, sectoral, regional or national adaptation plans and strategies;
- (d) are monitored and measured against pre-defined indicators and remedial action is considered where those indicators are not met;
- (e) where the solution implemented is physical and consists in an activity for which technical screening criteria have been specified in this Annex, the solution complies with the do no significant harm technical screening criteria for that activity.

5. The activity complies with the provisions laid down in the Euratom Treaty and the legislation adopted on its basis, in particular, Directive 2013/59/Euratom, Directive 2009/71/Euratom, and Directive 2011/70/Euratom as well as applicable Union environmental law adopted under Article 192 TFEU, in particular Directive 2011/92/EU and Directive 2000/60/EC.

6. The activity complies with national legislation that transposes Directive 2009/71/Euratom, including as regards the evaluation, through stress-tests, of the resilience of the Union nuclear power plants against extreme natural hazards, including earthquakes. Accordingly, the activity takes place on the territory of a Member State where the operator of a nuclear installation:

- (a) has submitted a demonstration of nuclear safety, whose scope and level of detail is commensurate with the potential magnitude and nature of the hazard relevant for the nuclear installation and its site (Article 6, point (b), of Directive 2009/71/Euratom).
- (b) has taken defence-in-depth measures to ensure, *inter alia*, that the impact of

² Assessments Reports on Climate Change: Impacts, Adaptation and Vulnerability, published periodically by the Intergovernmental Panel on Climate Change (IPCC), the United Nations body for assessing the science related to climate change produces, <https://www.ipcc.ch/reports/>.

³ Such as Copernicus services managed by the European Commission.

⁴ Nature-based solutions are defined as ‘solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions’. Therefore, nature-based solutions benefit biodiversity and support the delivery of a range of ecosystem services (version of [adoption date]: https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en/).

⁵ See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Green Infrastructure (GI) — Enhancing Europe’s Natural Capital, COM/2013/249 final.

extreme external natural and unintended man-made hazards is minimised (Article 8b(1), point (a), of Directive 2009/71/Euratom).

- (c) has performed an appropriate site and installation-specific assessment when the operator concerned applies for a licence to construct or operate a NPP (Article 8c(a) of Directive 2009/71/Euratom).

The activity fulfils the requirements of Directive 2009/71/Euratom, supported by the latest international guidance through the IAEA and WENRA, contributing to increasing the resilience of the ability of new and existing NPPs to cope with extreme natural hazards, including floods and extreme weather conditions.

Do no significant harm ('DNSH')

(2) Climate change mitigation	The direct GHG emissions of the activity are lower than 270 g CO ₂ e/kWh.
(3) Sustainable use and protection of water and marine resources	<p>The activity complies with the criteria set out in Appendix B to this Annex.</p> <p>Environmental degradation risks related to preserving water quality and avoiding water stress are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with stakeholders concerned.</p> <p>In order to limit thermal anomalies associated with the discharge of waste heat, operators of inland nuclear power plants utilising once-through wet cooling by taking water from a river or a lake shall control:</p> <ul style="list-style-type: none"> (a) the maximum temperature of the recipient freshwater body after mixing, and (b) the maximum temperature difference between the discharged cooling water and the recipient freshwater body. <p>The temperature control is implemented in accordance with the individual licence conditions for the specific operations, where applicable, or threshold values in line with the EU regulatory framework.</p> <p>The activity complies with the Industry Foundation Classes (IFC) standards.</p> <p>Nuclear activities operate in compliance with requirements on water intended for human consumption of Directive 2000/60/EC and of Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.</p>
(4) Transition to a circular economy	A plan for the management of both non-radioactive and radioactive waste is in place and ensures maximal reuse or recycling of such waste at end of life in accordance with the waste hierarchy, including through

	<p>contractual agreements with waste management partners, the reflection in financial projections or the official project documentation.</p> <p>During operation and decommissioning, the amount of radioactive waste is minimised and the amount of free-release materials is maximised in accordance with Directive 2011/70/Euratom, and in compliance with the radiation protection requirements laid down in Directive 2013/59/Euratom.</p> <p>A financing scheme is in place to ensure adequate funding for all decommissioning activities and for the management of spent fuel and radioactive waste, in compliance with Directive 2011/70/Euratom and Recommendation 2006/851/Euratom.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>The relevant elements in this Section are covered by Member States' reports to the Commission in accordance with Article 14(1) of Directive 2011/70/Euratom.</p>
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex. Non-radioactive emissions are within or lower than the emission levels associated with the best available techniques (BAT-AEL) ranges set out in the best available techniques (BAT) conclusions for large combustion plants. No significant cross-media effects occur.</p> <p>For nuclear power plants greater than 1 MW thermal input but below the thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p> <p>Radioactive discharges to air, water bodies and ground (soil) comply with individual licence conditions for the specific operations, where applicable, and/or national threshold values in line with Directive 2013/51/Euratom and Directive 2013/59/Euratom.</p> <p>Spent fuel and radioactive waste is safely and responsibly managed in accordance with Directive 2011/70/Euratom and Directive 2013/59/Euratom.</p> <p>An adequate capacity of interim storage is available for the project, while national plans for disposal are in place to minimise the duration of interim storage, in compliance with the provision of Directive 2011/70/Euratom that considers radioactive waste storage, including long-term storage, as an interim solution, but not an alternative to disposal.</p>
(6) Protection and restoration of biodiversity	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p>

ecosystems	<p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>For sites/operations located in or near biodiversity sensitive areas likely to have a significant effect on biodiversity sensitive areas (including the Natura 2000 network of protected areas, UNESCO World Heritage sites and Key Biodiversity Areas, as well as other protected areas), an appropriate assessment, where applicable, has been conducted and based on its conclusions the necessary mitigation measures are implemented.</p> <p>The sites/operations shall not be detrimental to the conservation status of any of the habitats or species present in protected areas.</p>
------------	--

4.27 Construction and safe operation of new nuclear power plants, for the generation of electricity and/or heat, including for hydrogen production, using best-available technologies

Description of the activity

Construction and safe operation of new nuclear installations, for which the construction permit has been issued by 2045 by Member States' competent authorities in accordance with applicable national law, to produce electricity or process heat, including for the purposes of district heating or industrial processes such as hydrogen production (new nuclear installations or NNIs), as well as their safety upgrades.

The activity is classified under NACE codes D35.11 and F42.22 in accordance with the statistical classification of economic activities established by Regulation (EC) No. 1893/2006.

Technical screening criteria

Substantial contribution to climate change adaptation

1. The economic activity has implemented physical and non-physical solutions ('adaptation solutions') that substantially reduce the most important physical climate risks that are material to that activity.
2. The physical climate risks that are material to the activity have been identified from those listed in Appendix A to this Annex by performing a robust climate risk and vulnerability assessment with the following steps:
 - (a) screening of the activity to identify which physical climate risks from the list in Appendix A to this Annex may affect the performance of the economic activity during its expected lifetime;
 - (b) where the activity is assessed to be at risk from one or more of the physical climate risks listed in Appendix A to this Annex, a climate risk and vulnerability assessment to assess the materiality of the physical climate risks on the economic activity;
 - (c) an assessment of adaptation solutions that can reduce the identified physical climate risk.

The climate risk and vulnerability assessment is proportionate to the scale of the activity and its expected lifespan, such that:

- (a) for activities with an expected lifespan of less than 10 years, the assessment is performed, at least by using climate projections at the smallest appropriate scale;
 - (b) for all other activities, the assessment is performed using the highest available resolution, state-of-the-art climate projections across the existing range of future scenarios⁶ consistent with the expected lifetime of the activity, including, at least, 10 to 30 year climate projections scenarios for major investments.
3. The climate projections and assessment of impacts are based on best practice and available guidance and take into account the state-of-the-art science for vulnerability and risk analysis and related methodologies in line with the most recent Intergovernmental Panel on Climate Change reports⁷, scientific peer-reviewed publications and open source⁸ or paying models.
4. The adaptation solutions implemented:
- (a) do not adversely affect the adaptation efforts or the level of resilience to physical climate risks of other people, of nature, of cultural heritage, of assets and of other economic activities;
 - (b) favour nature-based solutions⁹ or rely on blue or green infrastructure¹⁰ to the extent possible;
 - (c) are consistent with local, sectoral, regional or national adaptation plans and strategies;
 - (d) are monitored and measured against pre-defined indicators and remedial action is considered where those indicators are not met;
 - (e) where the solution implemented is physical and consists in an activity for which technical screening criteria have been specified in this Annex, the solution complies with the do no significant harm technical screening criteria for that activity.
5. The activity complies with the provisions laid down in the Euratom Treaty and the legislation adopted on its basis, in particular, Directive 2013/59/Euratom, Directive 2009/71/Euratom, and Directive 2011/70/Euratom as well as applicable Union environmental law adopted under Article 192 TFEU, in particular Directive 2011/92/EU
-

⁶ Future scenarios include Intergovernmental Panel on Climate Change representative concentration pathways RCP2.6, RCP4.5, RCP6.0 and RCP8.5.

⁷ Assessments Reports on Climate Change: Impacts, Adaptation and Vulnerability, published periodically by the Intergovernmental Panel on Climate Change (IPCC), the United Nations body for assessing the science related to climate change produces, <https://www.ipcc.ch/reports/>.

⁸ Such as Copernicus services managed by the European Commission.

⁹ Nature-based solutions are defined as ‘solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions’. Therefore, nature-based solutions benefit biodiversity and support the delivery of a range of ecosystem services (version of [adoption date]: https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en/).

¹⁰ See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Green Infrastructure (GI) — Enhancing Europe’s Natural Capital, COM/2013/249 final.

and Directive 2000/60/EC.

6. The activity complies with national legislation that transposes Directive 2009/71/Euratom, including as regards the evaluation, through stress-tests, of the resilience of the Union nuclear power plants against extreme natural hazards, including earthquakes. Accordingly, the activity takes place on the territory of a Member State where the operator of a nuclear installation:
- (a) has submitted a demonstration of nuclear safety, whose scope and level of detail is commensurate with the potential magnitude and nature of the hazard relevant for the nuclear installation and its site (Article 6, point (b), of Directive 2009/71/Euratom).
 - (b) has taken defence-in-depth measures to ensure, *inter alia*, that the impact of extreme external natural and unintended man-made hazards is minimised (Article 8b(1), point (a), of Directive 2009/71/Euratom).
 - (c) has performed an appropriate site and installation-specific assessment when the operator concerned applies for a licence to construct or operate a NPP (Article 8c(a) of Directive 2009/71/Euratom).

The activity fulfils the requirements of Directive 2009/71/Euratom, supported by the latest international guidance through the IAEA and WENRA, contributing to increasing the resilience of the ability of new and existing NPPs to cope with extreme natural hazards, including floods and extreme weather conditions.

Do no significant harm ('DNSH')

(2) Climate change mitigation	The direct GHG emissions of the activity are lower than 270 g CO ₂ e/kWh.
(3) Sustainable use and protection of water and marine resources	<p>The activity complies with the criteria set out in Appendix B to this Annex.</p> <p>Environmental degradation risks related to preserving water quality and avoiding water stress are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with stakeholders concerned.</p> <p>In order to limit thermal anomalies associated with the discharge of waste heat, operators of inland nuclear power plants utilising once-through wet cooling by taking water from a river or a lake shall control:</p> <ul style="list-style-type: none">(a) the maximum temperature of the recipient freshwater body after mixing, and(b) the maximum temperature difference between the discharged cooling water and the recipient freshwater body. <p>The temperature control is implemented in accordance with the individual licence conditions for the specific operations, where</p>

	<p>applicable, and/or threshold values in line with the EU regulatory framework.</p> <p>The activity complies with the Industry Foundation Classes (IFC) standards.</p> <p>Nuclear activities operate in compliance with requirements on water intended for human consumption of Directive 2000/60/EC and of Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.</p>
(4) Transition to a circular economy	<p>A plan for the management of both non-radioactive and radioactive waste is in place and ensures maximal reuse or recycling of such waste at end of life in accordance with the waste hierarchy, including through contractual agreements with waste management partners, the reflection in financial projections or the official project documentation.</p> <p>During operation and decommissioning, the amount of radioactive waste is minimised and the amount of free-release materials is maximised in accordance with Directive 2011/70/Euratom, and in compliance with the radiation protection requirements laid down in Directive 2013/59/Euratom.</p> <p>A financing scheme is in place to ensure adequate funding for all decommissioning activities and for the management of spent fuel and radioactive waste, in compliance with Directive 2011/70/Euratom and Recommendation 2006/851/Euratom.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>The relevant elements in this Section are covered by Member States' reports to the Commission in accordance with Article 14(1) of Directive 2011/70/Euratom.</p>
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex. Non-radioactive emissions are within or lower than the emission levels associated with the best available techniques (BAT-AEL) ranges set out in the best available techniques (BAT) conclusions for large combustion plants. No significant cross-media effects occur.</p> <p>For nuclear power plants greater than 1 MW thermal input but below the thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p> <p>Radioactive discharges to air, water bodies and ground (soil) comply with individual licence conditions for the specific operations, where applicable, and/or national threshold values in line with Directive</p>

	<p>2013/51/Euratom and Directive 2013/59/Euratom.</p> <p>Spent fuel and radioactive waste is safely and responsibly managed in accordance with Directive 2011/70/Euratom and Directive 2013/59/Euratom.</p> <p>An adequate capacity of interim storage is available for the project, while national plans for disposal are in place to minimise the duration of interim storage, in compliance with the provision of Directive 2011/70/Euratom that considers radioactive waste storage, including long-term storage, as an interim solution, but not an alternative to disposal.</p>
(6) Protection and restoration of biodiversity and ecosystems	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>For sites/operations located in or near biodiversity sensitive areas likely to have a significant effect on biodiversity sensitive areas (including the Natura 2000 network of protected areas, UNESCO World Heritage sites and Key Biodiversity Areas, as well as other protected areas), an appropriate assessment, where applicable, has been conducted and based on its conclusions the necessary mitigation measures are implemented.</p> <p>The sites/operations shall not be detrimental to the conservation status of any of the habitats or species present in protected areas.</p>

4.28 Electricity generation from nuclear energy in existing installations

Description of the activity

Modification of existing nuclear installations for the purposes of extension, authorised by Member States' competent authorities by 2040 in accordance with applicable national law, of the service time of safe operation of nuclear installations that produce electricity or heat from nuclear energy ('nuclear power plants' or 'NPPs').

The activity is classified under NACE codes D35.11 and F42.2 in accordance with the statistical classification of economic activities established by Regulation (EC) No. 1893/2006.

Technical screening criteria

Substantial contribution to climate change adaptation

-
1. The economic activity has implemented physical and non-physical solutions ('adaptation solutions') that substantially reduce the most important physical climate risks that are material to that activity.
 2. The physical climate risks that are material to the activity have been identified from those listed in Appendix A to this Annex by performing a robust climate risk and vulnerability assessment with the following steps:
 - (a) screening of the activity to identify which physical climate risks from the list in Appendix A to this Annex may affect the performance of the economic activity during its expected lifetime;
 - (b) where the activity is assessed to be at risk from one or more of the physical climate risks listed in Appendix A to this Annex, a climate risk and vulnerability assessment to assess the materiality of the physical climate risks on the economic activity;
 - (c) an assessment of adaptation solutions that can reduce the identified physical climate risk.

The climate risk and vulnerability assessment is proportionate to the scale of the activity and its expected lifespan, such that:

- (a) for activities with an expected lifespan of less than 10 years, the assessment is performed, at least by using climate projections at the smallest appropriate scale;
 - (b) for all other activities, the assessment is performed using the highest available resolution, state-of-the-art climate projections across the existing range of future scenarios¹¹ consistent with the expected lifetime of the activity, including, at least, 10 to 30 year climate projections scenarios for major investments.
3. The climate projections and assessment of impacts are based on best practice and available guidance and take into account the state-of-the-art science for vulnerability and risk analysis and related methodologies in line with the most recent Intergovernmental Panel on Climate Change reports¹², scientific peer-reviewed publications and open source¹³ or paying models.
4. The adaptation solutions implemented:
 - (a) do not adversely affect the adaptation efforts or the level of resilience to physical climate risks of other people, of nature, of cultural heritage, of assets and of other economic activities;
 - (b) favour nature-based solutions¹⁴ or rely on blue or green infrastructure¹⁵ to the extent possible;

¹¹ Future scenarios include Intergovernmental Panel on Climate Change representative concentration pathways RCP2.6, RCP4.5, RCP6.0 and RCP8.5.

¹² Assessments Reports on Climate Change: Impacts, Adaptation and Vulnerability, published periodically by the Intergovernmental Panel on Climate Change (IPCC), the United Nations body for assessing the science related to climate change produces, <https://www.ipcc.ch/reports/>.

¹³ Such as Copernicus services managed by the European Commission.

¹⁴ Nature-based solutions are defined as 'solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions'. Therefore, nature-based solutions benefit biodiversity and support the delivery of a range of ecosystem

-
- (c) are consistent with local, sectoral, regional or national adaptation plans and strategies;
 - (d) are monitored and measured against pre-defined indicators and remedial action is considered where those indicators are not met;
 - (e) where the solution implemented is physical and consists in an activity for which technical screening criteria have been specified in this Annex, the solution complies with the do no significant harm technical screening criteria for that activity.
5. The activity complies with the provisions laid down in the Euratom Treaty and the legislation adopted on its basis, in particular, Directive 2013/59/Euratom, Directive 2009/71/Euratom, and Directive 2011/70/Euratom as well as applicable Union environmental law adopted under Article 192 TFEU, in particular Directive 2011/92/EU and Directive 2000/60/EC.
 6. The activity complies with national legislation that transposes Directive 2009/71/Euratom, including as regards the evaluation, through stress-tests, of the resilience of the Union nuclear power plants against extreme natural hazards, including earthquakes. Accordingly, the activity takes place on the territory of a Member State where the operator of a nuclear installation:
 - (a) has submitted a demonstration of nuclear safety, whose scope and level of detail is commensurate with the potential magnitude and nature of the hazard relevant for the nuclear installation and its site (Article 6, point (b), of Directive 2009/71/Euratom).
 - (b) has taken defence-in-depth measures to ensure, *inter alia*, that the impact of extreme external natural and unintended man-made hazards is minimised (Article 8b(1), point (a), of Directive 2009/71/Euratom).
 - (c) has performed an appropriate site and installation-specific assessment when the operator concerned applies for a licence to construct or operate a NPP (Article 8c(a) of Directive 2009/71/Euratom).

The activity fulfils the requirements of Directive 2009/71/Euratom, supported by the latest international guidance through the IAEA and WENRA, contributing to increasing the resilience of the ability of new and existing NPPs to cope with extreme natural hazards, including floods and extreme weather conditions.

Do no significant harm ('DNSH')

(2) Climate change mitigation	The direct GHG emissions of the activity are lower than 270 g CO ₂ e/kWh.
-------------------------------	--

services (version of [adoption date]: https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en/).

¹⁵ See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Green Infrastructure (GI) — Enhancing Europe's Natural Capital, COM/2013/249 final.

(3) Sustainable use and protection of water and marine resources	<p>The activity complies with the criteria set out in Appendix B to this Annex.</p> <p>Environmental degradation risks related to preserving water quality and avoiding water stress are identified and addressed, in accordance with a water use and protection management plan, developed in consultation with stakeholders concerned.</p> <p>In order to limit thermal anomalies associated with the discharge of waste heat, operators of inland nuclear power plants utilising once-through wet cooling by taking water from a river or a lake shall control:</p> <ul style="list-style-type: none"> (a) the maximum temperature of the recipient freshwater body after mixing, and (b) the maximum temperature difference between the discharged cooling water and the recipient freshwater body. <p>The temperature control is implemented in accordance with the individual licence conditions for the specific operations, where applicable, or threshold values in line with the Union law.</p> <p>The activity complies with the Industry Foundation Classes (IFC) standards.</p> <p>Nuclear activities operate in compliance with requirements on water intended for human consumption of Directive 2000/60/EC and of Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.</p>
(4) Transition to a circular economy	<p>A plan for the management of both non-radioactive and radioactive waste is in place and ensures maximal reuse or recycling of such waste at end of life in accordance with the waste hierarchy, including through contractual agreements with waste management partners, the reflection in financial projections or the official project documentation.</p> <p>During operation and decommissioning, the amount of radioactive waste is minimised and the amount of free-release materials is maximised in accordance with Directive 2011/70/Euratom, and in compliance with the radiation protection requirements laid down in Directive 2013/59/Euratom.</p> <p>A financing scheme is in place to ensure adequate funding for all decommissioning activities and for the management of spent fuel and radioactive waste, in compliance with Directive 2011/70/Euratom and Recommendation 2006/851/Euratom.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>The relevant elements in this Section are covered by Member States' reports to the Commission in accordance with Article 14(1) of</p>

	Directive 2011/70/Euratom.
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex. Non-radioactive emissions are within or lower than the emission levels associated with the best available techniques (BAT-AEL) ranges set out in the best available techniques (BAT) conclusions for large combustion plants. No significant cross-media effects occur.</p> <p>For nuclear power plants greater than 1 MW thermal input but below the thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p> <p>Radioactive discharges to air, water bodies and ground (soil) comply with individual licence conditions for the specific operations, where applicable, and/or national threshold values in line with Directive 2013/51/Euratom and Directive 2013/59/Euratom).</p> <p>Spent fuel and radioactive waste is safely and responsibly managed in accordance with Directive 2011/70/Euratom and Directive 2013/59/Euratom.</p> <p>An adequate capacity of interim storage is available for the project, while national plans for disposal are in place to minimize the duration of interim storage, in compliance with the provision of Directive 2011/70/Euratom that considers radioactive waste storage, including long-term storage, as an interim solution, but not an alternative to disposal.</p>
(6) Protection and restoration of biodiversity and ecosystems	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p> <p>An Environmental Impact Assessment is completed prior to the construction of a nuclear power plant, in accordance with Directive 2011/92/EU. The required mitigation and compensatory measures are implemented.</p> <p>For sites/operations located in or near biodiversity sensitive areas likely to have a significant effect on biodiversity sensitive areas (including the Natura 2000 network of protected areas, UNESCO World Heritage sites and Key Biodiversity Areas, as well as other protected areas), an appropriate assessment, where applicable, has been conducted and based on its conclusions the necessary mitigation measures are implemented.</p> <p>The sites/operations shall not be detrimental to the conservation status of any of the habitats or species present in protected areas.</p>

4.29. Electricity generation from fossil gaseous fuels

Description of the activity

Construction or operation of electricity generation facilities that produce electricity using fossil gaseous fuels that meet the criteria in point 1(a) of Section 4.29 of Annex I. This activity does not include electricity generation from the exclusive use of renewable non-fossil gaseous and liquid fuels referred to in Section 4.7 of Annex I and biogas and bio-liquid fuels referred to in Section 4.8 of Annex I.

The economic activities in this category may be associated with several NACE codes, notably D35.11 and F42.22 in accordance with the statistical classification of economic activities established by Regulation (EC) No. 1893/2006.

Technical screening criteria

Substantial contribution to climate change adaptation

1. The economic activity has implemented physical and non-physical solutions ('adaptation solutions') that substantially reduce the most important physical climate risks that are material to that activity.
2. The physical climate risks that are material to the activity have been identified from those listed in Appendix A to this Annex by performing a robust climate risk and vulnerability assessment with the following steps:
 - (a) screening of the activity to identify which physical climate risks from the list in Appendix A to this Annex may affect the performance of the economic activity during its expected lifetime;
 - (b) where the activity is assessed to be at risk from one or more of the physical climate risks listed in Appendix A to this Annex, a climate risk and vulnerability assessment to assess the materiality of the physical climate risks on the economic activity;
 - (c) an assessment of adaptation solutions that can reduce the identified physical climate risk.

The climate risk and vulnerability assessment is proportionate to the scale of the activity and its expected lifespan, such that:

- (a) for activities with an expected lifespan of less than 10 years, the assessment is performed, at least by using climate projections at the smallest appropriate scale;
 - (b) for all other activities, the assessment is performed using the highest available resolution, state-of-the-art climate projections across the existing range of future scenarios¹⁶ consistent with the expected lifetime of the activity, including, at least, 10 to 30 year climate projections scenarios for major investments.
 3. The climate projections and assessment of impacts are based on best practice and available guidance and take into account the state-of-the-art science for vulnerability
-

¹⁶ Future scenarios include Intergovernmental Panel on Climate Change representative concentration pathways RCP2.6, RCP4.5, RCP6.0 and RCP8.5.

and risk analysis and related methodologies in line with the most recent Intergovernmental Panel on Climate Change reports¹⁷, scientific peer-reviewed publications and open source¹⁸ or paying models.

4. The adaptation solutions implemented:

- (a) do not adversely affect the adaptation efforts or the level of resilience to physical climate risks of other people, of nature, of cultural heritage, of assets and of other economic activities;
- (b) favour nature-based solutions¹⁹ or rely on blue or green infrastructure²⁰ to the extent possible;
- (c) are consistent with local, sectoral, regional or national adaptation plans and strategies;
- (d) are monitored and measured against pre-defined indicators and remedial action is considered where those indicators are not met;
- (e) where the solution implemented is physical and consists in an activity for which technical screening criteria have been specified in this Annex, the solution complies with the do no significant harm technical screening criteria for that activity.

Do no significant harm ('DNSH')

(2) Climate change mitigation	The direct GHG emissions of the activity are lower than 270 g CO ₂ e/kWh.
(3) Sustainable use and protection of water and marine resources	The activity complies with the criteria set out in Appendix B to this Annex.
(4) Transition to a circular economy	N/A

¹⁷ Assessments Reports on Climate Change: Impacts, Adaptation and Vulnerability, published periodically by the Intergovernmental Panel on Climate Change (IPCC), the United Nations body for assessing the science related to climate change produces, <https://www.ipcc.ch/reports/>.

¹⁸ Such as Copernicus services managed by the European Commission.

¹⁹ Nature-based solutions are defined as 'solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions'. Therefore, nature-based solutions benefit biodiversity and support the delivery of a range of ecosystem services (version of [adoption date]: https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en/).

²⁰ See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Green Infrastructure (GI) — Enhancing Europe's Natural Capital, COM/2013/249 final.

(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Emissions are within or lower than the emission levels associated with ranges of the best available techniques (BAT-AEL) ranges set out in the latest relevant best available techniques (BAT) conclusions, including the best available techniques (BAT) conclusions for large combustion plants²¹.</p> <p>No significant cross-media effects occur.</p> <p>For combustion plants with thermal input greater than 1 MW but below the applicable thresholds for the BAT conclusions for large combustion plants to apply, emissions are below the emission limit values set out²² in Annex II, part 2, to Directive (EU) 2015/2193.</p>
(6) Protection and restoration of biodiversity and ecosystems	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p>

4.30. High-efficiency co- generation of heat/cool and power from fossil gaseous fuels

Description of the activity

Construction, refurbishment and operation of combined heat/cool and power generation facilities using fossil gaseous fuels that meet the criteria in point 1(a) of Section 4.30 of Annex I. This activity does not include high-efficiency co-generation of heat/cool and power from the exclusive use of renewable non-fossil gaseous and liquid fuels referred to in Section 4.19 of Annex I and biogas and bio-liquid fuels referred to in Section 4.20 of Annex I.

The economic activities in this category may be associated with NACE codes D35.11 and D35.30 in accordance with the statistical classification of economic activities established by Regulation (EC) No. 1893/2006.

Technical screening criteria

Substantial contribution to climate change adaptation

1. The economic activity has implemented physical and non-physical solutions ('adaptation solutions') that substantially reduce the most important physical climate risks that are material to that activity.
2. The physical climate risks that are material to the activity have been identified from those listed in Appendix A to this Annex by performing a robust climate risk and

²¹ Commission Implementing Decision (EU) 2017/1442 of 31 July 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for large combustion plants (OJ L 212, 17.8.2017, p. 1).

²² Commission Implementing Decision (EU) 2017/1442 of 31 July 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for large combustion plants (OJ L 212, 17.8.2017, p. 1).

vulnerability assessment with the following steps:

- (a) screening of the activity to identify which physical climate risks from the list in Appendix A to this Annex may affect the performance of the economic activity during its expected lifetime;
- (b) where the activity is assessed to be at risk from one or more of the physical climate risks listed in Appendix A to this Annex, a climate risk and vulnerability assessment to assess the materiality of the physical climate risks on the economic activity;
- (c) an assessment of adaptation solutions that can reduce the identified physical climate risk.

The climate risk and vulnerability assessment is proportionate to the scale of the activity and its expected lifespan, such that:

- (a) for activities with an expected lifespan of less than 10 years, the assessment is performed, at least by using climate projections at the smallest appropriate scale;
 - (b) for all other activities, the assessment is performed using the highest available resolution, state-of-the-art climate projections across the existing range of future scenarios²³ consistent with the expected lifetime of the activity, including, at least, 10 to 30 year climate projections scenarios for major investments.
3. The climate projections and assessment of impacts are based on best practice and available guidance and take into account the state-of-the-art science for vulnerability and risk analysis and related methodologies in line with the most recent Intergovernmental Panel on Climate Change reports²⁴, scientific peer-reviewed publications and open source²⁵ or paying models.
4. The adaptation solutions implemented:
- (a) do not adversely affect the adaptation efforts or the level of resilience to physical climate risks of other people, of nature, of cultural heritage, of assets and of other economic activities;
 - (b) favour nature-based solutions²⁶ or rely on blue or green infrastructure²⁷ to the extent possible;
 - (c) are consistent with local, sectoral, regional or national adaptation plans and
-

²³ Future scenarios include Intergovernmental Panel on Climate Change representative concentration pathways RCP2.6, RCP4.5, RCP6.0 and RCP8.5.

²⁴ Assessments Reports on Climate Change: Impacts, Adaptation and Vulnerability, published periodically by the Intergovernmental Panel on Climate Change (IPCC), the United Nations body for assessing the science related to climate change produces, <https://www.ipcc.ch/reports/>.

²⁵ Such as Copernicus services managed by the European Commission.

²⁶ Nature-based solutions are defined as ‘solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions’. Therefore, nature-based solutions benefit biodiversity and support the delivery of a range of ecosystem services (version of [adoption date]: https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en/).

²⁷ See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Green Infrastructure (GI) — Enhancing Europe’s Natural Capital, COM/2013/249 final.

strategies;

- (d) are monitored and measured against pre-defined indicators and remedial action is considered where those indicators are not met;
 - (e) where the solution implemented is physical and consists in an activity for which technical screening criteria have been specified in this Annex, the solution complies with the do no significant harm technical screening criteria for that activity.
-

Do no significant harm ('DNSH')

(2) Climate change mitigation	The direct GHG emissions of the activity are lower than 270 g CO ₂ e/kWh.
(3) Sustainable use and protection of water and marine resources	The activity complies with the criteria set out in Appendix B to this Annex.
(4) Transition to a circular economy	N/A
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Emissions are within or lower than the emission levels associated with the ranges of the best available techniques (BAT-AEL) set out in the latest relevant best available techniques (BAT) conclusions, including the best available techniques (BAT) conclusions for large combustion plants.</p> <p>No significant cross-media effects occur.</p> <p>For combustion plants with thermal input greater than 1 MW but below the applicable thresholds for the BAT conclusions for large combustion plants, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p>
(6) Protection and restoration of biodiversity and ecosystems	The activity complies with the criteria set out in Appendix D to this Annex.

4.31. Production of heat/cool from fossil gaseous fuels in an efficient district heating and cooling system

Description of the activity

Construction, refurbishment and operation of heat generation facilities that produce heat/cool using fossil gaseous fuels connected to efficient district heating and cooling within the meaning of Article 2(41) of Directive 2012/27/EU that meet the criteria in point 1(a) of Section 4.31 of Annex I. This activity does not include production of heat/cool from in an efficient district heating from the exclusive use of renewable non-fossil gaseous and liquid fuels referred to in Section 4.23 of Annex I and biogas and bio-liquid fuels referred to in Section 4.24 of Annex I.

The activity is classified under NACE code D35.30 in accordance with the statistical classification of economic activities established by Regulation (EC) No 1893/2006.

Technical screening criteria

Substantial contribution to climate change adaptation

1. The economic activity has implemented physical and non-physical solutions ('adaptation solutions') that substantially reduce the most important physical climate risks that are material to that activity.
2. The physical climate risks that are material to the activity have been identified from those listed in Appendix A to this Annex by performing a robust climate risk and vulnerability assessment with the following steps:
 - (a) screening of the activity to identify which physical climate risks from the list in Appendix A to this Annex may affect the performance of the economic activity during its expected lifetime;
 - (b) where the activity is assessed to be at risk from one or more of the physical climate risks listed in Appendix A to this Annex, a climate risk and vulnerability assessment to assess the materiality of the physical climate risks on the economic activity;
 - (c) an assessment of adaptation solutions that can reduce the identified physical climate risk.

The climate risk and vulnerability assessment is proportionate to the scale of the activity and its expected lifespan, such that:

- (a) for activities with an expected lifespan of less than 10 years, the assessment is performed, at least by using climate projections at the smallest appropriate scale;
 - (b) for all other activities, the assessment is performed using the highest available resolution, state-of-the-art climate projections across the existing range of future scenarios²⁸ consistent with the expected lifetime of the activity, including, at least, 10 to 30 year climate projections scenarios for major investments.
 3. The climate projections and assessment of impacts are based on best practice and available guidance and take into account the state-of-the-art science for vulnerability
-

²⁸ Future scenarios include Intergovernmental Panel on Climate Change representative concentration pathways RCP2.6, RCP4.5, RCP6.0 and RCP8.5.

and risk analysis and related methodologies in line with the most recent Intergovernmental Panel on Climate Change reports²⁹, scientific peer-reviewed publications and open source³⁰ or paying models.

4. The adaptation solutions implemented:

- (a) do not adversely affect the adaptation efforts or the level of resilience to physical climate risks of other people, of nature, of cultural heritage, of assets and of other economic activities;
- (b) favour nature-based solutions³¹ or rely on blue or green infrastructure³² to the extent possible;
- (c) are consistent with local, sectoral, regional or national adaptation plans and strategies;
- (d) are monitored and measured against pre-defined indicators and remedial action is considered where those indicators are not met;
- (e) where the solution implemented is physical and consists in an activity for which technical screening criteria have been specified in this Annex, the solution complies with the do no significant harm technical screening criteria for that activity.

Do no significant harm ('DNSH')

(2) Climate change mitigation	The direct GHG emissions of the activity are lower than 270 g CO ₂ e/kWh.
(3) Sustainable use and protection of water and marine resources	The activity complies with the criteria set out in Appendix B to this Annex.
(4) Transition to a	N/A

²⁹ Assessments Reports on Climate Change: Impacts, Adaptation and Vulnerability, published periodically by the Intergovernmental Panel on Climate Change (IPCC), the United Nations body for assessing the science related to climate change produces, <https://www.ipcc.ch/reports/>.

³⁰ Such as Copernicus services managed by the European Commission.

³¹ Nature-based solutions are defined as 'solutions that are inspired and supported by nature, which are cost-effective, simultaneously provide environmental, social and economic benefits and help build resilience. Such solutions bring more, and more diverse, nature and natural features and processes into cities, landscapes and seascapes, through locally adapted, resource-efficient and systemic interventions'. Therefore, nature-based solutions benefit biodiversity and support the delivery of a range of ecosystem services (version of [adoption date]: https://ec.europa.eu/info/research-and-innovation/research-area/environment/nature-based-solutions_en/).

³² See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Green Infrastructure (GI) — Enhancing Europe's Natural Capital, COM/2013/249 final.

circular economy	
(5) Pollution prevention and control	<p>The activity complies with the criteria set out in Appendix C to this Annex.</p> <p>Emissions are within or lower than the emission levels associated with the ranges of the best available techniques (BAT-AEL) set out in the latest relevant best available techniques (BAT) conclusions, including the best available techniques (BAT) conclusions for large combustion plants.</p> <p>No significant cross-media effects occur.</p> <p>For combustion plants with thermal input greater than 1 MW but below the applicable thresholds for the BAT conclusions for large combustion plants, emissions are below the emission limit values set out in Annex II, part 2, to Directive (EU) 2015/2193.</p>
(6) Protection and restoration of biodiversity and ecosystems	<p>The activity complies with the criteria set out in Appendix D to this Annex.</p>

”



Brussels, **XXX**
C(2022) 631/3

ANNEX 3

ANNEX

to the

COMMISSION DELEGATED REGULATION (EU) .../...

amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities

This draft has been approved in principle by the European Commission on 2 February 2022 and its formal adoption in all the official languages of the European Union will take place later on, as soon as the language versions are available.

ANNEX III

‘ANNEX XII

Standard templates for the disclosure referred to in Article 8(6) and (7)

The information referred to in Article 8(6) and (7) shall be presented as follows, for each applicable key performance indicator (KPI).

Template 1 Nuclear and fossil gas related activities

Row	Nuclear energy related activities	
1.	The undertaking carries out, funds or has exposures to research, development, demonstration and deployment of innovative electricity generation facilities that produce energy from nuclear processes with minimal waste from the fuel cycle.	YES/NO
2.	The undertaking carries out, funds or has exposures to construction and safe operation of new nuclear installations to produce electricity or process heat, including for the purposes of district heating or industrial processes such as hydrogen production, as well as their safety upgrades, using best available technologies.	YES/NO
3.	The undertaking carries out, funds or has exposures to safe operation of existing nuclear installations that produce electricity or process heat, including for the purposes of district heating or industrial processes such as hydrogen production from nuclear energy, as well as their safety upgrades.	YES/NO
	Fossil gas related activities	
4.	The undertaking carries out, funds or has exposures to construction or operation of electricity generation facilities that produce electricity using fossil gaseous fuels.	YES/NO
5.	The undertaking carries out, funds or has exposures to construction, refurbishment, and operation of combined heat/cool and power generation facilities using fossil gaseous fuels.	YES/NO
6.	The undertaking carries out, funds or has exposures to construction, refurbishment and operation of heat generation facilities that produce heat/cool using fossil gaseous fuels.	YES/NO

Template 2 Taxonomy-aligned economic activities (denominator)

Row	Economic activities	Amount and proportion (the information is to be presented in monetary amounts and as percentages)
------------	----------------------------	--

		CCM + CCA		Climate change mitigation (CCM)		Climate change adaptation (CCA)	
		Amount	%	Amount	%	Amount	%
1.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.26 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
2.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.27 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
3.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.28 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
4.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.29 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
5.	Amount and proportion of taxonomy-aligned economic activity						

	referred to in Section 4.30 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI			
6.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.31 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI			
7.	Amount and proportion of other taxonomy-aligned economic activities not referred to in rows 1 to 6 above in the denominator of the applicable KPI			
8.	Total applicable KPI			

Template 3 Taxonomy-aligned economic activities (numerator)

Row	Economic activities	Amount and proportion (the information is to be presented in monetary amounts and as percentages)					
		(CCM+CCA)		Climate change mitigation		Climate change adaptation	
		Amount	%	Amount	%	Amount	%
1.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.26 of Annexes I and II to Delegated Regulation 2021/2139 in the numerator of the applicable KPI						
2.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.27						

	of Annexes I and II to Delegated Regulation 2021/2139 in the numerator of the applicable KPI			
3.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.28 of Annexes I and II to Delegated Regulation 2021/2139 in the numerator of the applicable KPI			
4.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.29 of Annexes I and II to Delegated Regulation 2021/2139 in the numerator of the applicable KPI			
5.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.30 of Annexes I and II to Delegated Regulation 2021/2139 in the numerator of the applicable KPI			
6.	Amount and proportion of taxonomy-aligned economic activity referred to in Section 4.31 of Annexes I and II to Delegated Regulation 2021/2139 in the numerator of the applicable KPI			
7.	Amount and proportion of other taxonomy-aligned economic activities not referred to in rows 1 to 6 above in the numerator of the applicable KPI			
8.	Total amount and proportion of taxonomy-aligned economic activities in the numerator of the applicable KPI		100%	

Template 4 Taxonomy-eligible but not taxonomy-aligned economic activities

Row	Economic activities	Proportion (the information is to be presented in monetary amounts and as percentages)
-----	---------------------	--

		(CCM+CCA)		Climate change mitigation		Climate change adaptation	
		Amount	%	Amount	%	Amount	%
1.	Amount and proportion of taxonomy-eligible but not taxonomy-aligned economic activity referred to in Section 4.26 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
2.	Amount and proportion of taxonomy-eligible but not taxonomy-aligned economic activity referred to in Section 4.27 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
3.	Amount and proportion of taxonomy-eligible but not taxonomy-aligned economic activity referred to in Section 4.28 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
4.	Amount and proportion of taxonomy-eligible but not taxonomy-aligned economic activity referred to in Section 4.29 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
5.	Amount and proportion of taxonomy-eligible but not taxonomy-aligned economic activity referred to in Section 4.30 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI						
6.	Amount and proportion of taxonomy-eligible but not taxonomy-aligned economic activity referred to in Section 4.31 of Annexes I and II to Delegated						

	Regulation 2021/2139 in the denominator of the applicable KPI			
7.	Amount and proportion of other taxonomy-eligible but not taxonomy-aligned economic activities not referred to in rows 1 to 6 above in the denominator of the applicable KPI			
8.	Total amount and proportion of taxonomy eligible but not taxonomy-aligned economic activities in the denominator of the applicable KPI			

Template 5 Taxonomy non-eligible economic activities

Row	Economic activities	Amount	Percentage
1.	Amount and proportion of economic activity referred to in row 1 of Template 1 that is taxonomy-non-eligible in accordance with Section 4.26 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI		
2.	Amount and proportion of economic activity referred to in row 2 of Template 1 that is taxonomy-non-eligible in accordance with Section 4.27 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI		
3.	Amount and proportion of economic activity referred to in row 3 of Template 1 that is taxonomy-non-eligible in accordance with Section 4.28 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI		
4.	Amount and proportion of economic activity referred to in row 4 of Template 1 that is taxonomy-non-eligible in accordance with Section 4.29 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI		
5.	Amount and proportion of economic activity referred to in row 5 of Template 1 that is taxonomy-non-eligible in accordance with Section 4.30 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of		

	the applicable KPI		
6.	Amount and proportion of economic activity referred to in row 6 of Template 1 that is taxonomy-non-eligible in accordance with Section 4.31 of Annexes I and II to Delegated Regulation 2021/2139 in the denominator of the applicable KPI		
7.	Amount and proportion of other taxonomy-non-eligible economic activities not referred to in rows 1 to 6 above in the denominator of the applicable KPI		
8.	Total amount and proportion of taxonomy-non-eligible economic activities in the denominator of the applicable KPI		

,