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# Nuclear in the taxonomy – review of the draft Delegated Regulation (inclusion of nuclear)

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# Taxonomy – short introduction

- What is the taxonomy: **EU-wide classification system for sustainable activities**
- Gives **criteria** for directing investments towards sustainable projects and activities
- The taxonomy is one instrument under the EC's "Action Plan on financing sustainable growth"
- **A sustainable activity has to substantially contribute to at least one of the six environmental objectives, and does no significant harm (DNSH) to any of the others:**
  - Climate change mitigation
  - Climate change adaptation
  - The sustainable use and protection of water and marine resources
  - The transition to a circular economy
  - Pollution prevention and control
  - The protection and restoration of biodiversity and ecosystems

# Taxonomy – main legal documents

- **Taxonomy Regulation (EU) 2020/852** of 18 June 2020
  - It tasks the European Commission (EC) to **define technical screening criteria** for each environmental objective through delegated acts.
- **First Taxonomy Delegated Act:** Delegated Regulation (EU) 2021/2139 of 4 June 2021: criteria for the first two environmental objectives and DNSH to the other four; approved in principle on 21 Apr 2021; in force since 1 Jan 2022
- (First Taxonomy Disclosures Delegated Act: Delegated Regulation (EU) 2021/2178 of 6 July 2021, in force since 1 Jan 2022)
- Upcoming: **Second Taxonomy Delegated Act** in Q1 2022: criteria for the other four environmental objectives
- Upcoming: **Extend Taxonomy** (with an amber category and an unsustainable category)
- Now in discussion: draft **Complementary Delegated Regulation** on nuclear and natural gas, to amend the first Delegated Regulations

# Taxonomy and Nuclear

- Technical Expert Group (TEG) prepared the Taxonomy Regulation criteria. They recommended in 2020: *"[...] it was not possible for TEG, nor its members, to conclude that the nuclear energy value chain does not cause significant harm to other environmental objectives on the time scales in question. The TEG has therefore not recommended the inclusion of nuclear energy in the Taxonomy at this stage."*

[https://ec.europa.eu/info/sites/default/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy-annexes\\_en.pdf](https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy-annexes_en.pdf), p. 211

- Since then, massive nuclear lobbying ongoing to include nuclear energy production in the taxonomy
- Joint Research Centre was tasked with an assessment of nuclear energy (JRC-Report in 2021)
- Euratom Art. 31-Group and SCHEER Committee were tasked to evaluate the JRC-Report
- Many critical assessments were made on the JRC-Report and its evaluations
- NGOs and several Members of European Parliament (MEP) asked for public consultation on this issue, no success yet

# Jan 2022: the draft Complementary Delegated Regulation

- 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
- Has been issued on 31 Dec 2021 for debate in Member States Expert Group and the Platform on Sustainable Finance
- **Three types of nuclear activities are included:**
  - 4.26: Pre-commercial stages of advanced technologies with minimal waste from the fuel cycle
  - 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
  - 4.28: Electricity generation from nuclear energy in existing installations
- In Annex 1 and Annex 2: **Criteria for the substantial contributions of these three types of nuclear activities** to the first two environmental objectives and **DNHS** to the other environmental objectives are defined

# General criteria for substantial contribution to climate change mitigation for the nuclear activities

- All provisions the Member State has to fulfil, amongst others:
  - has transposed and complies with the relevant law (f.e. Nuclear Waste Directive 2011/70/Euratom: high number of infringement procedures open due to non-compliance)  
[https://res.cloudinary.com/dhymuyvek/image/upload/v1642698048/Nuclear\\_Waste\\_Management\\_in\\_the\\_EU\\_Assessment\\_Report\\_2022\\_01\\_4257abfafb.pdf](https://res.cloudinary.com/dhymuyvek/image/upload/v1642698048/Nuclear_Waste_Management_in_the_EU_Assessment_Report_2022_01_4257abfafb.pdf) (Assessment Report on Implementation of Nuclear Waste Directive, 2022)
  - has final disposals for low and intermediate level waste
  - has enough funds for radioactive waste management and decommissioning, and this money will be available when needed
  - **has a plan to have in operation a high level waste (HLW) repository by 2050**
- The project fully applies the best available technology and **accident tolerant fuel**
- The project has to be notified to the EC, and EC has given its opinion
- Regular reporting to the EC (every 5 years)
- Nuclear safety has to be demonstrated, esp. against extreme natural hazards and unintended man-made hazards (no intended hazards are included)

# Criteria - Examples

- Additional criteria for substantial contribution to climate change mitigation and climate change adaptation:
  - Life cycle greenhouse gas emissions (GHG) from the generation of electricity from nuclear energy below the threshold of 100 g CO<sub>2e</sub>/kWh
- Criteria for DNSH
  - DNSH to climate change mitigation: The direct GHG emissions of the activity are lower than 270 g CO<sub>2e</sub>/kWh.
  - And a lot of other criteria for the DNSH (in appendices that are not available yet)

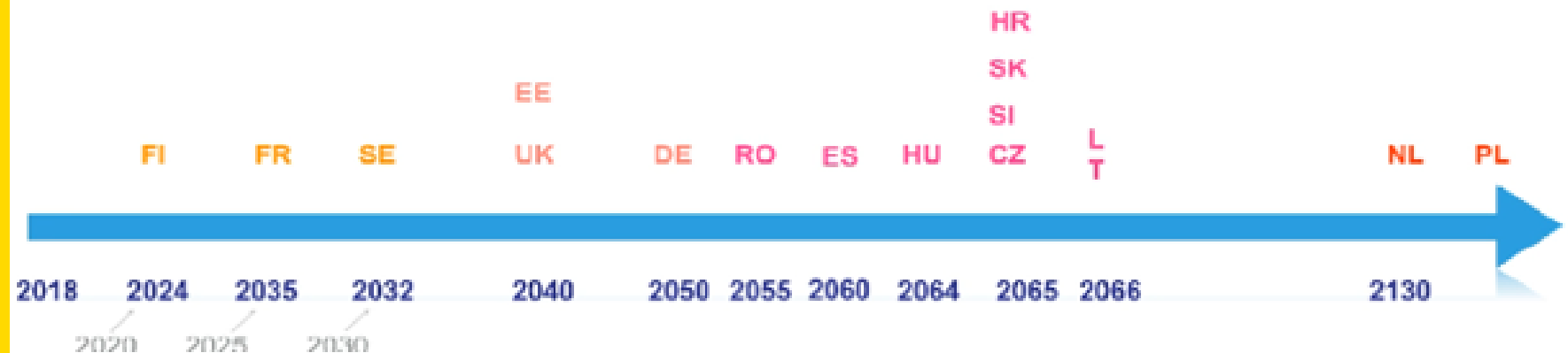
# First assessment of the criteria

- Mostly nothing new, state of the art (fulfilment of existing legislation)
- New aspects:
  - Setting a point in time where a HLW repository should be in operation (2050)
  - Accident tolerant fuel (according to Foratom “The Voice of the European Nuclear Industry” this is not available yet and therefore cannot be fulfilled)
  - Notification to EC of all projects (partly new)
- A very clear statement of the Platform on Sustainable Finance from 21 Jan 2022:  
[https://ec.europa.eu/info/files/220121-sustainable-finance-platform-response-taxonomy-complementary-delegated-act\\_en](https://ec.europa.eu/info/files/220121-sustainable-finance-platform-response-taxonomy-complementary-delegated-act_en)
  - The draft CDA activities are not in line with the Taxonomy Regulation
  - The Technical Screening Criteria (TSCs) differ in fundamental ways to the TSCs in the already in-force Climate Delegated Act and are not consistent with the provisions of the Taxonomy Regulation
  - ***Recommendation: That activities 4.27 and 4.28, as defined by the TSCs should not be considered as taxonomy aligned on the basis that they do not ensure DNSH and therefore do not meet the requirements of the Taxonomy Regulation.***



# Criterion: Plan to have an operating HLW repository by 2050

- Criterion valid for all new NPP with construction permit issued by 2045, but not for all existing NPP
- Figure below shows the scheduled operation starts of HLW repositories (EC-Report 2019):  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DCo632&from=EN>, p. 9
- **Most countries will not be able to fulfil this criterion**
- What will happen if a Member State's plan to operate a repository until 2050 cannot be realized?



# Loophole for existing NPP?

- 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 electricity generation facilities that produce electricity from nuclear energy ('nuclear power plants' or 'NPPs')."*
- Criterion for climate change mitigation: **Member State has for projects authorised after 2025 a plan with detailed steps to have in operation, by 2050, a disposal facility for HLW**
- What does this mean for existing NPP without lifetime extension or with LTE before 2025? That they do not need a HLW repository until 2050?
- What is the definition of authorisation and of modification? Operation license, 10-year-PSR, life-time extension per law...? (this question is linked to ESPOO Guidance on Lifetime extension, Dec 2021)

# Next steps

- EC might include the statements of the Member States and the Platform on Sustainable Finance into the Complementary Delegated Act (CDA)
- Then Member States have 4 (6) months to raise objections against the CDA
- Decision in the Council and the European Parliament
  
- Our next step:
- Evaluate the final CDA in detail and bring arguments for the debates

# Legal documents and link to EC information

- [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities_en)
- Platform on Sustainable Finance: [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/overview-sustainable-finance/platform-sustainable-finance\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/overview-sustainable-finance/platform-sustainable-finance_en)
- **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**; has been issued on 31 Dec 2021 for debate in Member States and EU Council  
<https://www.euractiv.com/wp-content/uploads/sites/2/2022/01/draft-CDA-31-12-2021.pdf>
- **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.  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021R2139&qid=1639037016630>
- **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.  
[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2021.443.01.0009.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2021.443.01.0009.01.ENG)
- **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) 2019/2088.  
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R0852>

# Contact

- Thank you for your attention!
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