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COMMISSION IMPLEMENTING DECISION

of XXX

on establishing rules for the calculation, verification and reporting of data for verifying compliance with the targets for recycling of packaging waste and laying down the formats for reporting of data and amending Commission Decision 2005/270/EC

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste[[1]](#footnote-1), and in particular Articles 5(4), 6a(9) and 12(3d) thereof,

Whereas:

1. Directive (EU) 2018/852[[2]](#footnote-2) amending Directive 94/62/EC introduces general calculation rules for the attainment of the packaging waste recycling targets for 2025 and 2035. It requires Member States to report data on the implementation of the recycling targets for each calendar year to the Commission in accordance with a format established by the Commission.
2. To ensure reliability and comparability of data and uniform conditions concerning the targets for the recycling of packaging waste set out in Article 6(1) of Directive 94/62/EC, the Commission is to establish common rules for the calculation, verification and reporting of data on those targets.
3. The Commission is also to establish harmonised rules for the calculation, verification and reporting of data in cases where Member States take account of reusable sales packaging and wooden packaging repaired for reuse in the calculation of the packaging waste recycling targets in accordance with Article 5(4) of Directive 94/62/EC.
4. The rules established in Article 6a(1) and (2) of Directive 94/62/EC for the calculation of the packaging waste recycling targets laid down in points (f) to (i) of Article 6(1) of that Directive distinguish between the point where the amount of packaging waste should be taken into account for the purpose of calculating whether the recycling targets have been attained, and the point where the amount of packaging waste should be measured and subsequently reported to the authorities. Only waste that enters a recycling operation should be used for the calculation of the recycling target and, as a general rule, the measurement of waste should be at that point. However, Member States may use a derogation and measure the amount of waste at the output of a sorting operation under certain conditions specified in Article 6a(2) of Directive 94/62/EC.
5. With a view to ensuring harmonised reporting on metals separated after incineration of packaging waste and high-quality recycling, the Commission is to establish a common methodology for the calculation of the amount of those metals. The methodology should take account only of the metal content of the materials that are separated from incineration bottom ash in order to be recycled into metals and should ensure that only metals originating from the incineration of packaging waste are taken into account.
6. According to Article 6a(3) and (8) of Directive 94/62/EC the data reported in accordance with this Decision should be underpinned by an effective system of quality control and traceability of packaging waste material streams. Member States should take measures to ensure high reliability and accuracy of the data gathered on generated and recycled packaging waste, in particular by collecting data directly from economic operators and by using electronic registries and technical specifications applied to sorted waste.
7. It is appropriate to revise the formats relating to the database system on packaging waste established in Commission Decision 2005/270/EC of 22 March 2005 [[3]](#footnote-3) to take account of the changes in the reporting on the recycling targets for packaging waste and on reusable packaging introduced by Directive (EU) 2018/852, to ensure consistency over time between the rules for reporting on the targets to be achieved by 2025 and 2030 and the rules for reporting on the targets to be achieved by 2008 and to reduce the administrative burden for the Member States.
8. Commission Decision 2005/270/EC should be amended to bring its provisions in line with the Directive (EU) 2018/852, while keeping the reporting rules for verifying compliance with the recycling targets set out in points (a) to (e) of Article 6(1) of Directive 94/62/EC as regards the point at which the amount of recycled packaging waste should be calculated.
9. At the same time, as the rules to calculate the amount of recycled packaging waste under the targets for 2025 and 2030 are stricter, Member States should be allowed to report on their compliance with the targets set out in points (a) to (e) of Article 6(1) of Directive 94/62/EC by applying those new rules and in this way avoid double reporting.
10. The formats for reporting on reusable packaging have to take into account that information on reusable packaging placed on the market for the first time and on the number of rotations that packaging performs per year, which is essential to determine the share of reusable packaging compared to single use packaging. As reusable sales packaging may be taken into account in the context of the recycling targets, it is also appropriate to distinguish between reusable sales packaging and other reusable packaging.
11. The measures provided for in this Decision are in accordance with the opinion of the Committee established pursuant to Article 21 of Directive 94/62/EC.

HAS ADOPTED THIS DECISION:

Article 1

**Objectives**

This Decision establishes the rules for the calculation, verification and reporting of data regarding the provisions of Directive 94/62/EC relating to:

* 1. attaining an adjusted level of the recycling targets referred to in points (f) to (i) of Article 6(1) by taking account of reusable packaging pursuant to Article 5(2),
  2. taking account of repair for reuse of wooden packaging pursuant to Article 5(3),
  3. compliance with the targets set in Article 6 (1), and
  4. quality check and the measures taken pursuant to Article 6a(3) and (8) of the Directive

and the formats for reporting data pursuant to Article 12 of Directive 94/62/EC.

Article 2

**Definitions**

For the purposes of this Decision, the following definitions shall apply in addition to the relevant definitions set out in Article 3 of Directive 94/62/EC:

1. ‘targeted materials’ means waste materials that are reprocessed in a given recycling operation into products, materials or substances that **are not waste**;
2. ‘non-targeted materials’ means waste materials that are not reprocessed in a given recycling operation into products, materials or substances that are not waste;
3. ‘preliminary treatment’ means any treatment operation that waste materials undergo before submission to the recycling operation whereby these materials are reprocessed into products, materials or substances that are not waste. This includes checking, sorting and other preliminary operations to remove **non-targeted materials** and to ensure high-quality recycling;
4. ‘calculation point’ means the point where waste materials **enter the recycling operation** whereby waste is reprocessed into products, materials or substances that are not waste or the point where waste materials **cease to be waste** following **preliminary treatment**;
5. ‘measurement point’ means the point where the mass of waste materials is measured with a view to determining the amount of waste at the calculation point;
6. “rotation” means a trip performed by reusable packaging from the moment it is placed on the market together with the goods it is intended to contain, protect, handle, deliver or present, to the moment it is sent back for reuse in a system to reuse packaging with a view to its repeated placing on the market together with the goods;
7. “a system to reuse packaging” means organisational, technical or financial arrangements which ensure that reusable packaging performs multiple rotations.

Article 3

**Taking account of reusable sales packaging in the calculation of the recycling targets set in Article 6(1), points (f) to (i) of Directive 94/62/EC**

1. Reusable sales packaging shall be considered to be placed on the market for the first time when newly manufactured reusable packaging is made available on the market for the first time, together with the goods it is intended to contain, protect, handle, deliver or present. Reusable sales packaging that is reused in subsequent rotations shall not be considered to be placed on the market for the first time.
2. Reusable sales packaging placed on the market for the first time may only be taken into account for attaining an adjusted level of the recycling targets referred to in Article 5(2) of Directive 94/62/EC when there is evidence that it is reused following its first rotation as part of a system to reuse packaging. The amount of reusable packaging which is discarded after its first rotation shall be deducted from the total amount of reusable sales packaging placed on the market for the first time in a given year.
3. The percentage points that may be subtracted from the recycling targets to determine the adjusted level referred to in Article 5(2) of Directive 94/62/EC shall be calculated as a simple average of the percentage points that represent the share of reusable sales packaging in each of the preceding three years. This share shall be calculated by dividing the amount of reusable sales packaging determined in accordance with this Article that is composed of the packaging material to which the recycling target applies, by the amount of all sales packaging composed of that packaging material and placed on the market for the first time in a given year. No more than five percentage points shall be subtracted from the respective recycling targets set out in Article 6(1), points (f) to (i) of Directive 94/62/EC.

Article 4

**Taking account of the repair of wooden packaging in the calculation of the recycling targets set in Article 6(1), points (f) to (i) of Directive 94/62/EC**

1. Where a Member State takes into account the amounts of wooden packaging that is repaired for reuse in the calculation of the targets laid down in point (f), point (g)(ii), point (h) and point (i)(ii) of Article 6(1) of Directive 94/62/EC, the amount of wooden packaging that is repaired for reuse shall be added to both the generated packaging waste and the recycled packaging waste.
2. The amount of wooden packaging that is repaired for reuse shall be established on the basis of the mass of the repaired wooden packaging units that are subsequently reused and shall exclude wooden packaging or components of wooden packaging that are directed to waste treatment operations.

Article 5

**Packaging waste generation**

1. The data for total packaging shall cover all packaging as defined in Article 2(1) and 3(1) of Directive 94/62/EC.
2. Composite packaging and other packaging composed of more than one material shall be reported per material contained in the packaging. Member States may derogate from this requirement where a given material represents an insignificant part of the packaging unit, and in no case more than 5% of the total mass of the packaging unit.
3. For the purposes of this Decision, packaging waste from reusable packaging generated in a Member State may be deemed to be equal to the amount of reusable packaging placed on the market for the first time within that Member State in the same year.
4. Reusable packaging shall not be considered packaging waste when it is returned for reuse. Reusable packaging discarded at the end of its useful life shall be considered packaging waste.

Article 6

**Calculation rules for verifying compliance with the targets set in Article 6(1), points (f) to (i) of Directive 94/62/EC**

1. The amount of packaging waste recycled shall be the amount of waste at the calculation point. The amount of waste entering the recycling operation shall include targeted materials. It may include non-targeted materials only to the extent that their presence is permissible for the specific recycling operation.
2. The calculation points applicable to certain waste materials and recycling operations are specified in a non-exhaustive list in Annex I of this Decision.
3. Where the measurement point relates to the output of a facility that sends waste for recycling without further preliminary treatment, or to the input of a facility where waste enters the recycling operation without further preliminary treatment, the amount of sorted waste that is rejected by the recycling facility shall not be included in the amount of recycled waste.
4. Where a facility carries out preliminary treatment prior to the calculation point in that facility, the waste removed during the preliminary treatment shall not be included in the amount of recycled waste reported by that facility.
5. Where biodegradable packaging that is subject to aerobic or anaerobic treatment is included in the recycled amounts for the respective packaging material, the amount of biodegradable packaging in biodegradable waste shall be determined by performing regular composition analyses of the biodegradable waste entering those operations. Biodegradable packaging waste that is removed before, during or after the recycling operation shall not be included in the recycled amounts.
6. The amount of recovered or recycled packaging waste shall be measured using a natural humidity rate of the packaging waste comparable to the humidity of equivalent packaging placed on the market. Corrections shall be made to measured data relating to the amount of recycled packaging waste, if the humidity rate of that packaging waste regularly and significantly differs from that of packaging placed on the market and if this factor risks leading to substantial over- or underestimates of packaging recovery or recycling rates.
7. The amount of recovered or recycled packaging waste shall exclude non-packaging materials collected together with the packaging waste such as waste of the same material that does not originate from packaging and residues from products that the packaging used to contain.
8. Where packaging waste generated in a given Member State has been mixed with other waste or waste from another country before the measurement point or the calculation point, the proportion of packaging waste originating from a given Member State shall be identified using appropriate methods, such as electronic registries and sampling surveys. When such waste undergoes further preliminary treatment, the amount of non-targeted materials removed by that treatment shall be deducted taking into account the proportion and, where appropriate, the quality of waste materials coming from packaging waste originating from a given Member State.
9. The recycling of composite packaging and other packaging composed of more than one material shall be reported per material contained in the packaging. Member States may derogate from this requirement where a given material represents an insignificant part of the packaging unit, and in no case more than 5% of the total mass of the packaging unit.
10. Where waste materials enter recovery operations whereby those materials are used principally as a fuel or other means to generate energy, the output of such operations that is subject to material recovery, such as the mineral fraction of incineration bottom ash or clinker resulting from co-incineration, shall not be included in the amount of packaging waste recycled with the exception of metals separated and recycled after incineration of packaging waste. Metals incorporated in the mineral output of the co-incineration process of packaging waste shall not be reported as recycled.
11. **Where waste materials enter recovery operations whereby those materials are neither principally used as a fuel or other means to generate energy, nor for material recovery, but result in output that includes recycled materials, fuels or backfilling materials in significant proportions, the amount of recycled waste shall be determined by a mass balance approach which results in taking account only of waste materials that are subject to recycling.**

Article 7

**Recycling of metals separated from incinerator bottom ash in the calculation of the recycling targets set in Article 6(1), points (f) to (i) of Directive 94/62/EC**

1. The amount of recycled metals separated from incineration bottom ash shall be the mass of metals in the metal concentrate that is separated from raw incineration bottom ash originating from packaging waste, and shall not include other materials contained in the metal concentrate such as mineral adhesions or metals that do not originate from packaging waste.
2. Member States shall apply the methodology laid out in Annex II for calculating the mass of recycled metals separated from incineration bottom ash.

Article 8

**Data collection and reporting by Member States**

1. Member States shall take appropriate measures to ensure the reliability and accuracy of data. In particular, where a Member State reports packaging waste generated on the basis of the amount of packaging placed on the market in the same year, the quantity of the waste reported shall be subject to verification, including by using relevant data on waste and composition analyses of mixed municipal waste. Member States shall inform the Commission of such verification carried out and, the case given, of any significant inconsistencies identified and corrective measures planned or taken.
2. Member States shall obtain data directly from establishments or undertakings managing waste, as appropriate. Member States shall consider the use of electronic registries in order to simplify data reporting requirements and automate the data collection process.
3. Where data collection is based on surveys, including those underpinning sampling methodologies, those surveys shall be carried out to a minimum standard which shall include the following minimum requirements:
   * + 1. the surveys are carried out at regular, specified intervals, to adequately reflect the variation in the data to be surveyed,
       2. the surveys are based on a representative sample of the population to which its results are applied.
4. Estimates may be used for packaging materials occurring in small quantities and for those not mentioned in this Decision. These estimates shall be based on the best information available and shall be described in the quality check reports accompanying the data on packaging waste generation and recycling.

Article 9

**Amendments to Commission Decision 2005/270/EC**

Decision 2005/270/EC is amended as follows:

* + 1. Article 2 is replaced by the following:

The rules established in Articles 3 to 6 of this Decision shall apply for the purpose of reporting on the implementation of points (a) to (e) of Article 6(1) of Directive 94/62/EC.

* + 1. Article 3 is amended as follows:

The first paragraph is replaced by the following:

‘Packaging waste generated in a Member State may be deemed to be equal to the amount of packaging placed on the market in the same year within that Member State.’

The third paragraph is amended as follows:

‘Composite packaging and other packaging composed of more than one material shall be reported per material contained in the packaging. Member States may derogate from this requirement where the material represents an insignificant part of the packaging unit, and in no case more than 5% of the total mass of the packaging unit.’

* + 1. Article 4 is amended as follows:

The first and the second paragraphs are deleted.

* + 1. Article 5 is amended as follows:

The forth subparagraph is replaced by the following:

‘Significant correction shall be reported in the descriptions regarding the data quality check report.’

* + 1. Article 7 is deleted.
    2. Article 9 is amended as follows:

The first paragraph is replaced by the following:

‘1. The Member States shall report the data on the generation and treatment of packaging waste and on reusable packaging using the formats set out in tables 1, 2 and 3 of Annex I.’

In the second paragraph, the reference to Annex should be replaced by a reference to Annex I.

The following paragraphs are added after paragraph 2:

‘3. The Member States shall submit a quality check report using the format set out in Annex II.

4.The Member States shall complete the reporting formats set out in Annex I to this Decision on an annual basis and shall submit them to the Commission within 18 months of the end of the reference year in electronic form, by means of an interchange standard set up by Eurostat. The reporting shall cover a full calendar year.

5. Where for the purposes of verifying compliance with the targets laid down in Article 6(1)(d) and (e) a Member State does not use the rules for the calculation of the targets laid down in Article 6(1)(f) to (i) set out in Decision xxx (the present IA), that Member State shall complete the Table 1 in Annex I twice with data calculated in accordance with each of the two applicable sets of rules.

6. Member States that decide to attain an adjusted level of a target in accordance with Article 5(2) of Directive 94/62/EC for a given year shall complete the reporting format set out in annex III to this Decision for that year for the respective packaging material and shall submit it to the Commission within 18 months of the end of the reference year in electronic form, by means of an interchange standard set up by Eurostat.

7. The Commission shall publish the data reported under the annexes of this Decision, unless, as regards information included in the quality check reports established under Annex II, a Member State provides a justified request to withhold the publishing of certain data.’

* + 1. Annex to Decision 2005/270/EC is amended as set out in Annex III to this Decision.

Article 10

This Decision is addressed to the Member States.

Done at Brussels,

For the Commission

Karmenu Vella  
  
 Member of the Commission

1. OJ L 365 31.12.1994, p. 10. [↑](#footnote-ref-1)
2. Directive as last amended by Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 (OJ L 150 , 14.6.2018, p. 141) [↑](#footnote-ref-2)
3. OJ L 86, 5.4.2005, p. 6 [↑](#footnote-ref-3)