Commission Implementing Decision (EU) 2019/1885 of 6 November 2019 laying down rules for the calculation, verification and reporting of data on landfill of municipal waste in accordance with Council Directive 1999/31/EC and repealing Commission Decision 2000/738/EC (notified under document C(2019) 7874)

COMMISSION IMPLEMENTING DECISION (EU) 2019/1885

of 6 November 2019

laying down rules for the calculation, verification and reporting of data on landfill of municipal waste in accordance with Council Directive 1999/31/EC and repealing Commission Decision 2000/738/EC

(notified under document C(2019) 7874)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste[(1)], and in particular Articles 5a(4) and 15(5) thereof,

Whereas:

(1) Member States are to report the amount of landfilled municipal waste in order to demonstrate that the targets laid down in Directive 1999/31/EC are met. The rules for the calculation of those targets should ensure that the data provided by all Member States is valid and comparable.

(2) In order to ensure that the calculation reflects the real extent of landfilling, the amount of waste reported as landfilled should include all municipal waste disposed in landfills referred to in point (b) and (c) of Article 5a(1) of Directive 1999/31/EC and no corrections for its moisture content should be made. In certain cases, treated municipal waste accepted and deposited in landfills, such as stabilised biodegradable municipal waste, contributes to ensuring compliance with the requirements laid down in point 5 of Annex I to Directive 1999/31/EC on measures to minimise nuisances and hazards arising from the landfill. Since such municipal waste is actually deposited in the landfill, it should be included in the amount of municipal waste reported as landfilled and should not be assigned to recovery operations.

(3) As the landfill targets for municipal waste laid down in Directive 1999/31/EC concern the same waste stream as the recycling targets for municipal waste laid down in Directive 2008/98/EC of the European Parliament and of the Council[(2)], the calculation rules for municipal waste reported as landfilled should be consistent with the calculation rules for recycling of municipal waste set out in Directive 2008/98/EC and in Commission Implementing Decision (EU) 2019/1004[(3)].
Therefore, in a situation where municipal waste is shipped from a Member State to another Member State or to a third country for the purpose of recycling or other recovery in accordance with Regulation (EC) No 1013/2006 of the European Parliament and

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Decision (EU) 2019/1885. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

of the Council[(4)], the amount of waste which is removed in the country of destination in the course of preliminary treatment before municipal waste enters the recycling operation and which is subsequently landfilled should be included in the amount of municipal waste reported as landfilled by the Member State where the municipal waste was collected.

(4) In accordance with Article 5a(1)(c) of Directive 1999/31/EC, the amount of municipal waste that enters incineration disposal operations in order to be subsequently landfilled is to be reported as landfilled. In order to ensure that the amount of municipal waste reported as landfilled does not include fractions of municipal waste that are subject to incineration disposal operations but are not actually landfilled, materials originating from municipal waste which are subsequently recovered from the waste resulting from incineration disposal operations should be deducted from the input to incineration disposal operations.

(5) Article 11a of Directive 2008/98/EC lays down a specific rule as regards the calculation of the amount of municipal waste that is prepared for re-use, which excludes all waste that is removed as a result of checking, cleaning and repairing operations to enable re-use without further sorting or pre-processing. Where such removed waste is subsequently landfilled, it should be included in the amount of municipal waste reported as landfilled in order to avoid that it is neither reported as prepared for re-use nor as landfilled and to ensure that the data on municipal waste is coherent and reflects the real extent of landfilling.

(6) In accordance with Article 4(1) of Implementing Decision (EU) 2019/1004, waste removed during the recycling of municipal bio-waste is not to be included in the recycling rates for municipal waste. Where such removed waste is subsequently landfilled, it should be included in the amount of municipal waste reported as landfilled in order to avoid that it is neither reported as recycled nor as landfilled and to ensure that the data on municipal waste is coherent and reflects the real extent of landfilling.

(7) In accordance with Article 5a(1)(d) of Directive 1999/31/EC, the amount of waste produced during recycling operations of municipal waste which is subsequently landfilled is not to be reported as landfilled. To ensure consistency with the calculation points for recycling of municipal waste established in Implementing Decision (EU) 2019/1004, it is necessary to specify that waste produced during recycling operations refers to waste produced in the course of reprocessing which takes place after those calculation points.

(8) Member States are to report data on the implementation of paragraphs 2, 5 and 6 of Article 5 of Directive 1999/31/EC in the format established by the Commission. The data is to be accompanied by a quality check report. The format should ensure that the reported information provides a sufficient basis for verifying and monitoring the attainment of the targets set out in paragraphs 2, 5 and 6 of Article 5 of that Directive.

(9) For the purpose of the reporting of data on the attainment of the landfill targets for biodegradable municipal waste laid down in Article 5(2) of Directive 1999/31/EC, Member States have been using the format established in Commission Decision 2000/738/EC[(5)]. Since the provisions of that Decision related to the submission of

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Decision (EU) 2019/1885. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

reports on the implementation of Directive 1999/31/EC have become obsolete, that Decision should be repealed. In order to ensure continuity, transitional provisions should be adopted as regards the deadline for reporting of data concerning the implementation of Article 5(2) of Directive 1999/31/EC for reference years 2016 and 2017.

(10) The rules for the calculation, verification and reporting of data concerning the implementation of paragraphs 5 and 6 of Article 5 of Directive 1999/31/EC are closely linked to the rules setting out the formats for the reporting of those data and of the data concerning the implementation of Article 5(2) of that Directive. In order to ensure coherence between those rules and facilitate the access to them, both sets of rules should be laid down in a single Decision.

(11) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 39 of Directive 2008/98/EC,

HAS ADOPTED THIS DECISION:

Article 1

Definition

For the purposes of this Decision, ‘amount’ means mass measured in tonnes.

Article 2

Calculation of municipal waste reported as landfilled pursuant to Article 5a of Directive 1999/31/EC

1 The amount of municipal waste reported as landfilled shall include all municipal waste referred to in point (b) and (c) of Article 5a(1) of Directive 1999/31/EC that is deposited in landfills, including where depositing treated municipal waste in landfills ensures compliance with point 5 of Annex I to Directive 1999/31/EC.

The amount of municipal waste reported as landfilled shall not be corrected by deducting its moisture content.

2 For the purpose of Article 5a(1)(b) of Directive 1999/31/EC, where municipal waste is shipped to another Member State or exported from the Union to a third country for the purpose of recycling or other recovery in accordance with Regulation (EC) No 1013/2006, the amount of waste which results from treatment operations carried out prior to recycling or other recovery, and which is subsequently landfilled or enters incineration disposal operations in order to be subsequently landfilled in the country of destination shall be included in the amount of municipal waste reported as landfilled by the Member State in which the municipal waste was collected.

3 For the purpose of Article 5a(1)(c) of Directive 1999/31/EC, the amount of municipal waste that enters incineration disposal operations in order to be subsequently landfilled shall be the amount of municipal waste that enters facilities for incineration operations classified as D10 in accordance with Annex I to Directive 2008/98/EC after deduction of materials originating from municipal waste that are subsequently recovered from waste resulting from such incineration disposal operations.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Decision (EU) 2019/1885. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

The amount of materials to be deducted shall be calculated by taking into account the share of municipal waste in all waste entering the facility and, where appropriate, the composition of wastes other than municipal waste entering the facility.

4 For the purpose of Article 5a(1)(d) of Directive 1999/31/EC, the following shall apply:

a waste that results from checking, cleaning and repairing operations to prepare municipal waste for re-use and that is subsequently landfilled shall be included in the amount of municipal waste reported as landfilled. Member States may deduct from the amount of municipal waste reported as landfilled parts of products or of components of products that are removed during repairing operations to prepare municipal waste for re-use;

b materials which are mechanically removed during or after aerobic or anaerobic treatment of municipal bio-waste and which are subsequently landfilled shall be included in the amount of municipal waste reported as landfilled;

c waste produced during recycling operations of municipal waste shall be waste which is produced during recycling operations that municipal waste undergoes after the calculation point as defined in Articles 3 and 4 of Implementing Decision (EU) 2019/1004.

Article 3

Reporting of data

1 Member States shall report the data and submit the quality check report concerning the implementation of Article 5(2) of Directive 1999/31/EC in the format laid down in Annex I.

2 Member States shall report the data and submit the quality check report concerning the implementation of Article 5(5) and (6) of Directive 1999/31/EC in the format laid down in Annex II.

3 The Commission shall publish the data reported by Member States unless as regards information included in the quality check reports a Member State provides a justified request to withhold the publication of certain data.

Article 4

Repeal

Decision 2000/738/EC is repealed.

Article 5

Transitional provision

The data concerning the implementation of Article 5(2) of Directive 1999/31/EC for reference years 2016 and 2017 shall be reported to the Commission by 31 December 2019.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Decision (EU) 2019/1885. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 6

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 6 November 2019.

For the Commission

Karmenu VELLA

Member of the Commission