Commission Implementing Decision (EU) 2019/1004 of 7 June 2019 laying down rules for the calculation, verification and reporting of data on waste in accordance with Directive 2008/98/EC of the European Parliament and of the Council and repealing Commission Implementing Decision C(2012) 2384 (notified under document C(2019) 4114) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2019/1004

of 7 June 2019

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(notified under document C(2019) 4114)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives[(1)], and in particular Articles 11a(9) and 37(7) thereof,

Whereas:

(1) Directive 2008/98/EC provides general calculation rules for the purpose of verifying whether the preparing for re-use and recycling targets for municipal waste for 2025, 2030 and 2035 laid down in points (c), (d) and (e) of Article 11(2) and in Article 11(3) of that Directive have been attained.

(2) The rules set out in Article 11a of Directive 2008/98/EC specify that, as regards recycling, waste that enters a recycling operation or waste that has achieved end of waste status is to be used for the calculation of the targets for 2025, 2030 and 2035. As a general rule, the recycled waste is to be measured at the point where the waste enters the recycling operation. However, Member States may use a derogation and measure municipal waste at the output of a sorting operation, provided that further losses due to treatment prior to the recycling operation are deducted and that the output waste is actually recycled.

(3) Municipal waste entering the recycling operation may still contain a certain amount of waste materials that are not targeted by the subsequent reprocessing but could not with reasonable efforts be removed by preliminary operations prior to the recycling operation. Member States should not be required to deduct such non-targeted materials for the purposes of the calculation of recycled municipal waste, provided that the materials are tolerated in the recycling operation and do not impede high-quality recycling.

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(4) In order to ensure uniform application of the calculation rules by all Member States, it is moreover necessary to establish, for the most common waste types and recycling processes, which waste materials should be included in the calculation in accordance with point (c) of Article 11a(1) of Directive 2008/98/EC (calculation points) and at which stage of the waste treatment they should be measured in accordance with Article 11a(2) of that Directive (measurement points).

(5) In order to ensure that the data to be reported on recycling of municipal waste are comparable, the calculation points established for the most common waste types and recycling processes should also apply to waste that has ceased to be waste as a result of a preparatory operation before being reprocessed.

(6) In order to ensure comparability of data on recycling of municipal waste reported by waste facilities in different Member States, it is necessary to set out more detailed rules on how the amounts of sorted waste should be taken into account for calculating the input to the recycling operation, and how the amounts of recycled municipal waste should be calculated in cases where waste treatment results not only in recycled materials, but also in fuels or other means to generate energy or in backfilling materials.

(7) With regard to the calculation of bio-waste separated and recycled at source, the actual measurement of the input to or the output of the recycling operation is not always feasible since such waste is commonly managed by individual households. Therefore, a sound common approach that ensures a high level of reliability of the reported data should be established.

(8) With regard to recycled metals separated after incineration of municipal waste, in order to ensure that only recycled metals are taken into account, a calculation methodology should be set out that establishes the metal content of the waste materials that are separated from the incineration bottom ash. Moreover, in order to ensure the relevance of the data, only metals originating from the incineration of municipal waste should be taken into account.

(9) The data on preparing for re-use and recycling of municipal waste to be reported in accordance with Article 11a of Directive 2008/98/EC is to be underpinned by an effective system of quality control and traceability of waste material streams. Member States should therefore be required to take measures to ensure high reliability and accuracy of the data collected, in particular by collecting data directly from economic operators and by increasingly using electronic registries for recording data on waste.

(10) Member States are to report data to the Commission on the implementation of Article 11(2) and Article 11(3) of Directive 2008/98/EC for each calendar year. They are also to submit to the Commission a quality check report in the format for reporting established by the Commission. That format should ensure that the reported information provides a sufficient basis for verifying and monitoring the attainment of the targets set out in Article 11(2) and Article 11(3) of Directive 2008/98/EC.

(11) As regards the target laid down in point (a) of Article 11(2) of Directive 2008/98/EC, Member States have to apply the calculation rules laid down in Commission Decision 2011/753/EU[(2)]. The calculation rules for the preparing for re-use and recycling of

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municipal waste laid down in Article 11a of Directive 2008/98/EC and in this Decision are consistent with those set out in Decision 2011/753/EU. In order to avoid double reporting, Member States should therefore have the possibility to use the reporting format established for the reporting of data on the targets laid down in points (c) to (e) of Article 11(2) and Article 11(3) of Directive 2008/98/EC to report data on the target laid down in point (a) of Article 11(2) of that Directive.

(12) Member States are to report data on mineral and synthetic lubrication and industrial oils and on waste oils in accordance with Article 37(4) of Directive 2008/98/EC for each calendar year in the format established by the Commission. That format should ensure that the data reported provide a sufficient basis for assessing the feasibility of adopting measures for the treatment of waste oils, including quantitative targets on the regeneration of waste oils and any further measures to promote the regeneration of waste oils, in accordance with Article 21(4) of Directive 2008/98/EC.

(13) For the purposes of reporting on the implementation of points (a) and (b) of Article 11(2) of Directive 2008/98/EC laying down targets for household and similar waste, and for construction and demolition waste, Member States are to use the formats established pursuant to Commission Implementing Decision C(2012) 2384[(3)]. The provisions of that Implementing Decision requiring Member States to submit triannual reports on the implementation of Directive 2008/98/EC have become obsolete. Therefore, Implementing Decision C(2012) 2384 should be repealed and replaced by the provisions set out in this Decision, which reflect the changes in the reporting requirements introduced in Directive 2008/98/EC by Directive (EU) 2018/851 of the European Parliament and of the Council[(4)]. In order to ensure continuity, transitional provisions should be adopted as regards the deadline for reporting the data concerning the implementation of points (a) and (b) of Article 11(2) for the reference years from 2016 to 2019.

(14) The rules for the calculation, verification and reporting of data concerning the implementation of points (c) to (e) of Article 11(2) and Article 11(3) of Directive 2008/98/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 point (a) of Article 11(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. Furthermore, to facilitate access to the uniform formats to report other data on waste under Directive 2008/98/EC, in particular data on construction and demolition waste and on mineral and synthetic lubrication and industrial oils and waste oils, those formats should also be included in this Decision. The methodology to establish average loss rates for the waste materials removed from sorted waste by further preliminary treatment prior to recycling will be subject to a separate Commission Delegated Decision.

(15) 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:

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Article 1

Definitions

For the purposes of this Decision, the following definitions shall apply:

(a) 'amount' means mass measured in tonnes;

(b) 'targeted materials' means municipal waste materials that are reprocessed in a given recycling operation into products, materials or substances that are not waste;

(c) 'non-targeted materials' means waste materials that are not reprocessed in a given recycling operation into products, materials or substances that are not waste;

(d) 'preliminary treatment' means any treatment operation that municipal 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 preparatory operations to remove non-targeted materials and to ensure high-quality recycling;

(e) 'calculation point' means the point where municipal 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 as a result of a preparatory operation before being reprocessed;

(f) '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;

(g) 'municipal bio-waste separated and recycled at source' means municipal bio-waste that is recycled at the place where it is produced by the persons who produce it.

Article 2

Calculating municipal waste that is prepared for re-use pursuant to Article 11a(1) of Directive 2008/98/EC

The amount of municipal waste prepared for reuse shall only include the products or the components of products that, following checking, cleaning or repairing operations, can be re-used without further sorting or pre-processing. The parts of those products or of those components of products that have been removed during repairing operations may be included in the amount of municipal waste prepared for re-use.

Article 3

Calculating recycled municipal waste pursuant to Article 11a(1), Article 11a(2) and Article 11a(5) of Directive 2008/98/EC

1 The amount of recycled municipal waste shall be the amount of municipal waste at the calculation point. The amount of municipal 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.

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2 Calculation points applicable to certain waste materials and certain recycling operations are specified in Annex I.

3 Where municipal waste materials cease to be waste at the calculation points specified in Annex I, the amount of those materials shall be included in the amount of recycled municipal waste.

4 Where the measurement point relates to the output of a facility that sends municipal waste for recycling without further preliminary treatment, or to the input to a facility where municipal waste enters the recycling operation without further preliminary treatment, the amount of sorted municipal waste that is rejected by the recycling facility shall not be included in the amount of recycled municipal waste.

5 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 municipal waste reported by that facility.

6 Where municipal waste generated by 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 municipal waste originating from a given Member State shall be identified using appropriate methods, such as electronic registries and sampling surveys. Where 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 municipal waste originating from a given Member State.

7 Where municipal 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 municipal waste recycled with the exception of metals separated and recycled after incineration of municipal waste. Metals incorporated in the mineral output of the co-incineration process of municipal waste shall not be reported as recycled.

8 Where municipal waste materials enter recovery operations whereby those materials are not principally used either as fuel or other means to generate energy, or 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 4

Calculating recycled municipal bio-waste pursuant to Article 11a(4) of Directive 2008/98/EC

1 The amount of recycled municipal bio-waste entering aerobic or anaerobic treatment shall only include materials that actually undergo aerobic or anaerobic treatment and shall exclude all materials, including biodegradable material, which are mechanically removed during or after the recycling operation.

2 As from 1 January 2027, Member States may count municipal bio-waste as recycled only if it is:

a separately collected at source;