Commission Implementing Decision (EU) 2019/665 of 17 April 2019 amending Decision 2005/270/EC establishing the formats relating to the database system pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste (notified under document C(2019) 2805) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2019/665

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amending Decision 2005/270/EC establishing the formats relating to the database system pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste

(notified under document C(2019) 2805)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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

Whereas:

(1) Directive 94/62/EC, as amended by Directive (EU) 2018/852 of the European Parliament and of the Council[(2)] lays down general calculation rules for the attainment of the packaging waste recycling targets for 2025 and 2030. It requires Member States to report to the Commission data on the implementation of the recycling targets for each calendar year in accordance with a format established by the Commission.

(2) Commission Decision 2005/270/EC[(3)] should be amended to bring its provisions in line with the new rules in Directive 94/62/EC as regards the calculation of the attainment of the targets, laid down in Article 5(2) regarding the possibility to take account of reusable sales packaging, in Article 5(3) regarding wooden packaging repaired for reuse and in Article 6a, as well as the changes to Article 12 on reporting.

(3) The calculation rules for the attainment of the packaging and packaging waste targets for 2025 and 2030 established in Article 6a(1) and (2) of Directive 94/62/EC clarify that only waste that enters a recycling operation or waste that has achieved end of waste status should be used for the calculation of the recycling target and, as a general rule, the measurement of waste should be at the input to the recycling operation. In order to ensure uniform application of the calculation rules and comparability of data, the calculation points for the main packaging materials and recycling operations should be specified.

(4) With a view to ensuring harmonised reporting on metals separated after incineration of packaging waste and high quality recycling, it is necessary to establish a common methodology for the calculation of the amount of those metals. The methodology

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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.

(5) According to Article 6a(3) and (8) of Directive 94/62/EC the data calculated and reported must be underpinned by an effective system of quality control and traceability of packaging waste material streams. To that end, 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 as referred to in Article 35(4) of Directive 2008/98/EC of the European Parliament and of the Council[(4)] and technical specifications applied to sorted waste.

(6) The formats to be used by the Member States for reporting data in accordance with Article 12(3a) of Directive 94/62/EC should take account of the rules regarding the reporting on the recycling targets for packaging and on reusable packaging laid down in Directive 94/62/EC.

(7) The formats for reporting on reusable packaging should take into account the 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.

(8) 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

Decision 2005/270/EC is amended as follows:

(1) Article 1 is replaced by the following:

Article 1

This Decision establishes the formats for reporting data pursuant to Article 12 of Directive 94/62/EC, as well as the rules for the calculation, verification and reporting of data pursuant to that Directive, as regards the following:

(a) attaining an adjusted level of the recycling targets referred to in points (f) to (i) of Article 6(1) of Directive 94/62/EC by taking account of reusable packaging pursuant to Article 5(2) of that Directive;

(b) taking account of repair for reuse of wooden packaging pursuant to Article 5(3) of Directive 94/62/EC;

(c) compliance with the targets set in in points (f) to (i) of Article 6(1) of Directive 94/62/EC;

(d) quality check and the measures taken pursuant to Article 6a(3) and (8) of Directive 94/62/EC.;

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(2) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. 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:

a "targeted materials" means packaging waste materials that are reprocessed in a given recycling operation into products, materials or substances that are not waste;

b "non-targeted materials" means, for the purposes of the calculation of the recycling targets set in points (f) to (i) of Article 6(1) of Directive 94/62/EC, waste materials that are not reprocessed in a given recycling operation into products, materials or substances that are not waste;

c "preliminary treatment" means any treatment operation that packaging waste materials undergo before submission to the recycling operation whereby those 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;

d "calculation point" means the point where packaging 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;

e "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;

f "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;

g "a system to reuse packaging" means organisational, technical or financial arrangements which ensure that reusable packaging performs multiple rotations.;

(b) in paragraph 2, the first subparagraph is deleted;

(3) Article 3 is amended as follows:

(a) in paragraph 3, the first sentence is replaced by the following:

3. For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC, packaging made of different materials which cannot be separated by hand shall be reported under the predominant material by weight.;

(b) in paragraph 4, the first sentence is replaced by the following:

4. For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC, the weight of recovered or recycled packaging waste shall be the input of

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packaging waste to an effective recovery or recycling process. If the output of the sorting plant is sent to effective recycling or recovery processes without significant losses, it is acceptable to consider this output to be the weight of the recovered or recycled packaging waste.;

(4) Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC, packaging waste exported out of the Union shall be counted as recovered or recycled only if there is sound evidence that the recovery and/or recycling took place under conditions that are broadly equivalent to those prescribed by the relevant Union legislation.;

(b) paragraph 3 is replaced by the following:

3. For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC, packaging waste generated in another Member State or outside the Union which is sent for recovery or recycling to a Member State shall not be counted as recovered or recycled in the Member State to which this packaging waste was sent.;

(5) Article 5 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the first subparagraph is replaced by the following:

1. For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC, the weight of recovered or recycled packaging waste shall be measured using a natural humidity rate of the packaging waste comparable to the humidity rate of equivalent packaging put on the market.;

(ii) the fourth subparagraph is replaced by the following:

Significant corrections shall be reported in the descriptions regarding the data compilation in the data quality check report.;

(b) paragraph 2 is amended as follows:

(i) the first subparagraph is replaced by the following:

2. For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC, the weight of recovered packaging shall, as far as is practical, exclude non-packaging materials collected together with the packaging waste.;

(ii) the fourth subparagraph is replaced by the following:

Significant corrections shall be reported in the descriptions regarding the data compilation in the data quality check report.;

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(6) Article 6 is replaced by the following:

Article 6

For the purposes of calculating and verifying attainment of the targets set in points (a) to (e) of Article 6(1) of Directive 94/62/EC, the provisions on recovery in Articles 3, 4 and 5 of this Decision shall apply *mutatis mutandis* to packaging waste incinerated at waste incineration plants with energy recovery.;

(7) the following Articles 6a to 6f are inserted:

Article 6a

1 For the purposes of attaining an adjusted level of the recycling targets set in points (f) to (i) of Article 6(1) of Directive 94/62/EC by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system to reuse packaging, as provided for in Article 5(2) of Directive 94/62/EC, the amount of reusable sales 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.

2 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. That 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.

Article 6b

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 6c

1 For the purposes of calculating and verifying compliance with the recycling targets set in points (f) to (i) of Article 6(1) of Directive 94/62/EC, the following shall apply:

a The amount of recycled packaging waste shall be the amount of waste at the calculation point. The amount of packaging 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.

The calculation points applicable to certain packaging waste materials and certain recycling operations are specified in Annex II.

b Where the measurement point relates to the output of a facility that sends packaging waste for recycling without further preliminary treatment, or to the input of a facility where packaging waste enters the recycling operation