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**COMMISSION IMPLEMENTING REGULATION (EU) .../...**

**of XXX**

**establishing the form for the statements relating to the own resource based on non-recycled plastic packaging waste pursuant to Council Regulation (EU, Euratom) 2021/770**

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.*

# COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

## **establishing the form for the statements relating to the own resource based on non-recycled plastic packaging waste pursuant to Council Regulation (EU, Euratom) 2021/770**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU, Euratom) 2021/770 of 30 April 2021 on the calculation of the own resource based on plastic packaging waste that is not recycled, on the methods and procedure for making available that own resource, on the measures to meet cash requirements, and on certain aspects of the own resource based on gross national income<sup>1</sup>, and in particular Article 5(6) thereof,

After consulting the committee established by Article 39 of Directive 2008/98/EC of the European Parliament and of the Council<sup>2</sup>,

Whereas:

- (1) Pursuant to Article 5(5) of Regulation (EU, Euratom) 2021/770, Member States should send to the Commission statistical data on the weight in kilograms of generated and recycled plastic packaging waste, as well as on the calculation of the amount of the own resource based on non-recycled plastic packaging waste.
- (2) Data on plastic packaging waste generation and recycling constitute the basis for calculating the national contributions to the general budget of the Union. Therefore, it is necessary to reinforce the comparability, reliability and exhaustiveness of those data.
- (3) In order to guarantee the comparability, reliability and exhaustiveness of data between the Member States, it is appropriate to lay down detailed rules concerning the data to be contained in the statements to be provided to the Commission.
- (4) Directive 94/62/EC of the European Parliament and of the Council<sup>3</sup> allows for reporting placed-on-the-market data as generated packaging waste. However, this method of data reporting might lead to differently calculated amounts of waste across Member States, and therefore to less comparable data between Member States using the ‘placed-on-the-market approach’ and Member States using the ‘waste analysis approach’.
- (5) It is necessary to establish uniform conditions on data reporting so that all Member States report the information about plastic packaging waste in comparable terms, in order to ensure their equal treatment during the verification of the data and the applicable methodology for the purpose of the plastic own resource. Therefore, the

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<sup>1</sup> OJ L 165, 11.5.2021, p. 15.

<sup>2</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

<sup>3</sup> Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

calculations methodology set out in Commission Decision 2005/270/EC<sup>4</sup> should be further detailed.

- (6) When using the placed-on-the-market approach to estimate the amount of plastic packaging waste generated, placed-on-the-market data should be complemented with correction factors in order to cover for all plastic packaging waste generated on a Member State market, to ensure the reliability and accuracy of the reported data.
- (7) The amount of plastic packaging waste generated should be determined with the two available approaches in order to have a sound estimate, calculated in a comparable way for all Member States.
- (8) In order to monitor changes to the data provided, it is essential that, when Member States revise a previous statement they indicate which data was changed and explain the reasons for the differences at the same time that the revised data is submitted.
- (9) In case differences with plastic packaging waste data reported pursuant to Directive 94/62/EC exist, Member States should also explain the reasons for the differences,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Subject matter**

This Regulation establishes the form for the statements relating to the own resource based on non-recycled plastic packaging waste.

#### *Article 2*

##### **Definitions**

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

- (1) 'waste' means waste as defined in Article 3(1) of Directive 2008/98/EC;
- (2) 'separately collected' means the amount of waste collected through the separate collection as defined in Article 3(11) of Directive 2008/98/EC;
- (3) 'recycled' means the amount of waste treated by recycling as defined in Article 3(17) of Directive 2008/98/EC;
- (4) 'plastic' means plastic as defined in Article 3(1a) of Directive 94/62/EC;
- (5) 'packaging' means packaging as defined in Article 3(1) of Directive 94/62/EC;
- (6) 'reusable packaging' means reusable packaging as defined in Article 3(2a) of Directive 94/62/EC;
- (7) 'packaging waste' means packaging waste as defined in Article 3(2) of Directive 94/62/EC;
- (8) 'calculation point' means calculation point as defined in Article 2(1)(d) of and Annex II to Decision 2005/270/EC;

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<sup>4</sup> Commission Decision 2005/270/EC of 22 March 2005 establishing the formats relating to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ L 86, 5.4.2005, p. 6).

- (9) ‘online marketplace’ means online marketplace as defined in Article 2(17) of Directive 2011/83/EU of the European Parliament and of the Council<sup>5</sup>;
- (10) ‘plastic packaging waste generated’ means the amount of plastic packaging, including plastic components of composite and other packaging, that becomes waste in a Member State in a calendar year, expressed in kilograms;
- (11) ‘plastic packaging waste recycled’ means the amount of plastic packaging waste, including plastic components of composite and other packaging, at the calculation point, expressed in kilograms;
- (12) ‘producer responsibility organisation’ means an organisation implementing extended producer responsibility obligations on behalf of producers of products;
- (13) ‘placing on the market’ means any supply of a product for the first time for distribution, consumption or use on a Member State market in the course of a commercial activity, whether in return for payment or free of charge;
- (14) ‘placed-on-the-market approach’ means a method to estimate plastic packaging waste generated based on placing on the market data from producer responsibility organisations and/or other sources; the data from those sources shall be complemented, where relevant and applicable, with the estimated amounts for the following:
- (a) free-riders,
  - (b) units below the *de minimis* threshold,
  - (c) self-compliers,
  - (d) after-placed-on-the-market exports,
  - (e) online trade,
  - (f) private imports and exports,
  - (g) reusable packaging placed on the market for the first time,
  - (h) any other estimation;
- (15) ‘waste analysis approach’ means a method to estimate the total annual amount of plastic packaging waste generated by combining the data of the separately collected (plastic) packaging waste with data on mixed municipal waste based on a waste composition analysis no older than four years, and with any other relevant data on waste, including industrial and commercial plastic packaging waste;
- (16) ‘free-rider’ means a producer or distributor placing on the market plastic packaging or packaged products who does not report to a producer responsibility organisation or a public authority, nor otherwise taking financial responsibility or financial and organisational responsibility for the management of the plastic packaging waste; or reports a smaller amount than actually placed on the market;
- (17) ‘*de minimis*’ means a minimum threshold that can be defined by the Member States, below which reporting is not required towards a producer responsibility organisation;

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<sup>5</sup> Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

- (18) ‘self-complier’ means a producer taking financial responsibility or financial and organisational responsibility for the management of the plastic packaging waste, and therefore is not required to report towards a producer responsibility organisation;
- (19) ‘after-placed-on-the-market exports’ means packaged products and/or packaging exported into another Member State or into a third country after having been placed on the market in one Member State;
- (20) ‘online trade’ means trade in goods within the Union achieved by electronic means;
- (21) ‘private imports’ means packaging of products imported by a natural person for own final use from another Member State from a brick-and-mortar store, or from a third country from a brick-and-mortar store or via an online marketplace;
- (22) ‘private exports’ means packaging of products exported by a natural person for own final use to another Member State, or to a third country from a brick-and-mortar store;
- (23) ‘reusable packaging placed on the market for the first time’ means the first supply of reusable packaging filled with a product for distribution, consumption or use on a Member State market in the course of a commercial activity.

### *Article 3*

#### **Annual statements**

1. The annual statements referred to in Article 5(5) of Regulation (EU, Euratom) 2021/770 shall contain statistical data on the weight of plastic packaging waste generated and recycled and provide the calculation of the amount of the own resource based on non-recycled plastic packaging waste. The annual statements shall serve as supporting documents for the Commission control and supervision of the own resource based on plastic packaging waste.
2. The following approaches shall be acceptable for estimating the plastic packaging waste generated:
  - (a) placed-on-the-market approach;
  - (b) waste analysis approach.
3. Calculations based on the two approaches referred to in points (a) and (b) shall be adjusted to ensure comparability, reliability and exhaustiveness of the results.
4. Member States shall determine estimates from the two approaches referred to in paragraph 2, points (a) and (b), and provide a single estimate of waste generated by balancing the available results, in order to use all available basic source data underlying the different approaches to the compilation of waste generation in an effective manner.
5. Any difference between the data obtained by the two approaches referred to in paragraph 2, points (a) and (b) shall be explained in detail according to the format set out in table 3 of Annex I.
6. In addition to the statistical data, the annual statements shall contain, if applicable, explanations of the following:
  - (a) methodological changes;

- (b) revisions of previously reported statistical data;
- (c) any difference between the plastic packaging waste data reported by 30 June pursuant to Directive 94/62/EC and the statistical data reported by 31 July the same year pursuant to Regulation (EU, Euratom) 2021/770, besides differences from transforming kilograms into tonnes.

The explanations shall be provided according to the format set out in Annex II.

#### *Article 4*

##### **Data structure**

1. The statistical data in the annual statements shall follow the structure set out in table 1 of Annex I.
2. The calculation of the amount of the own resource based on non-recycled plastic packaging waste shall be included in table 2 of Annex I.
3. A detailed breakdown of the statistical data shall be provided in accordance with table 3 of Annex I.
4. The statements for the first reporting year shall contain the statistical data for 2021.

#### *Article 5*

##### **Transmission of the statements and revisions**

1. The Member States shall transmit electronically to the Commission (Eurostat) the annual statements for the year two years before the current year ('n-2').
2. The transmission of the annual statements referred to in paragraph 1 shall be done no later than 31 July of each year.
3. Any revisions of the data for previous years shall be communicated to the Commission (Eurostat) by transmitting the annual statement again, together with explanations for the changes made.

#### *Article 6*

##### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*  
*The President*  
*[...]*